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PROCEEDINGS AND DEBATES OF THE *109th* CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Monday, May 9, 2005*

The House met at noon and was called to order by the Speaker pro tempore (Mr. WOLF).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 9, 2005.

I hereby appoint the Honorable FRANK R. WOLF to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Dr. Barry C. Black, Chaplain, United States Senate, offered the following prayer:

O God, who redeems our lives and snatches us from the power of death, help us to see that in spite of our best plans for today, Your purposes will prevail. Teach us to submit to Your unstoppable providence, knowing that You desire to prosper us and give us success. Remind us that when we help those on life's margins, we lend to You.

Accompany the Members of the House of Representatives today in their challenging work. Give them the security of Your spirit as You protect them from harm. Shine the warmth of Your presence upon them during their moments of uncertainty. Lord, answer them from Your holy heaven and rescue them by Your great might.

We pray this in Your powerful name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT AS MEMBERS TO THE HELPING TO ENHANCE THE LIVELIHOOD OF PEOPLE (HELP) AROUND THE GLOBE COMMISSION

The SPEAKER pro tempore. Pursuant to section 637(d)(1) of the HELP Commission Act (22 U.S.C. 2394b) and the order of the House of January 4, 2005, the Chair announces that on Friday, May 6, 2005, the Speaker appointed the following members on the part of the House to the Helping to Enhance the Livelihood of People (HELP) Around the Globe Commission:

Mr. Robert H. Michel, Washington, D.C;

Mrs. Jennifer Dunn, Virginia;

Mr. William C. Lane, Virginia;

Mr. Nicholas Eberstadt, Virginia.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m. tomorrow for morning hour debates.

There was no objection.

Accordingly (at 12 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, May 10, 2005, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1886. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Bacillus thuringiensis VIP3A Protein and the Genetic Material Necessary for its Production; Temporary Exemption From the Requirement of a Tolerance [OPP-2005-0083; FRL-7706-7] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1887. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Trifluralin; Pesticide Tolerance [OPP-2004-0142; FRL-7710-9] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1888. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Maine; Low Emission Vehicle Program [R01-OAR-2004-ME-0004; A-1-FRL-7900-6] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1889. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Maryland; Clarification of Visible Emissions Exception Provisions [RME-OAR-2005-MD-0002; FRL-7904-2] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1890. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revision Establishing the Western Virginia VOC and NO_X Emissions Control Area, and Providing the Enabling Authority for NO_X RACT Determination in the Area [R03-OAR-2005-VA-0002; FRL-7904-9] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1891. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Virginia; Minor Revisions to the Fugitive Dust and Waiver Requirements [R03-OAR-2005-VA-0003; FRL-7905-9] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1892. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

of Implementation Plans: Wallula, Washington PM10 Nonattainment Area; Serious Area Plan for Attainment of the Annual and 24-Hour PM10 Standards [R10-OAR-2004-WA-0001; FRL-7094-7] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1893. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plan; Wisconsin [R05-OAR-2004-WI-0001; FRL-7901-2] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1894. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Plan for the Control of Designated Pollutants; Maine; Total Reduced Sulfur From Existing Kraft Pulp Mills [R01-OAR-2004-ME-0002; A-1-FRL-7903-9] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1895. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Priorities List for Uncontrolled Hazardous Waste Sites [FRL-7903-7] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1896. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revision to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District and San Joaquin Valley Unified Air Pollution Control Districts [R09-OAR-2005-CA-01; FRL-7900-3] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1897. A letter from the Director, Office of White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1898. A letter from the Director, Office of White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1899. A letter from the Director, Office of White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1900. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1901. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1902. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1903. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1904. A letter from the General Counsel, Office of Management and Budget, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1905. A letter from the Chief Justice, Supreme Court of the United States, transmitting amendments to the Federal Rules of Criminal Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2072; (H. Doc. No. 109–22); to the Committee on the Judiciary and ordered to be printed.

1906. A letter from the Chief Justice, Supreme Court of the United States, transmitting amendments to the Federal Rules of Civil Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2072; (H. Doc. No. 109–23); to the Committee on the Judiciary and ordered to be printed.

1907. A letter from the Chief Justice, Supreme Court of the United States, transmitting amendments to the Federal Rules of Appellate Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2072; (H. Doc. No. 109–24); to the Committee on the Judiciary and ordered to be printed.

1908. A letter from the Chief Justice, Supreme Court of the United States, transmitting amendments to the Federal Rules of Bankruptcy Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2075; (H. Doc. No. 109–25); to the Committee on the Judiciary and ordered to be printed.

1909. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Rules of Practice in FAA Civil Penalty Actions — received May 5, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1910. A letter from the Secretary, Federal Maritime Commission, transmitting the Commission's final rule — Update of Existing and Addition of New Filing Fees [Docket No. 04-11] (RIN: 3072-AC27) received March 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

TIME LIMITATION OF REFERRED BILL PURSUANT TO RULE XII

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

[The following action occurred on May 6, 2005]

H.R. 742. Referral to the Committee on the Judiciary extended for a period ending not later than May 20, 2005.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII,

Mr. PICKERING introduced a bill (H.R. 2206) to amend the Public Health Service Act to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research; which was referred to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS TO PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 47: Mr. Sodrel, Mr. Conaway, Mr. Burton of Indiana, Mr. Johnson of Illinois, and Mr. McIntyre.

H.R. 98: Mr. Royce.

H.R. 222: Mr. McCaul of Texas.

H.R. 250: Mr. Upton and Mr. Gillmor.

H.R. 371: Mr. Lewis of Kentucky.

H.R. 442: Mr. Hall.

H.R. 503: Ms. Zoe Lofgren of California and Mr. Wynn.

H.R. 752: Mr. Lewis of Georgia, Mr. Rangel, and Mr. Davis of Florida.

H.R. 820: Mr. Doggett.

H.R. 887: Mr. Platts and Mr. Holden.

H.R. 1245: Mr. Davis of Alabama, Mr. Bonner, Mr. Dreier, Mr. Cole of Oklahoma, Mr. Clay, Mr. King of New York, Mr. English of Pennsylvania, Mr. Gutknecht, Mrs. Cubin, Mr. Herger, and Mr. Langevin.

H.R. 1335: Mr. Norwood, Mr. Jones of North Carolina, and Mr. Cummings.

H.R. 1363: Mr. Gillmor.

H.R. 1378: Mr. Hulshof.

H.R. 1496: Mr. Moran of Kansas.

H.R. 1636: Mrs. Christensen and Mrs. Lowey.

H.R. 1671: Mr. Filner, Mr. Paul, and Mr. Payne.

H.R. 1674: Mr. Shays and Mr. Reichert.

H.R. 1749: Mr. Butterfield.

H.R. 1957: Mr. McCrery, Mr. Jones of North Carolina, and Mr. Hayes.

H.R. 2003: Mr. Higgins.

H.R. 2043: Mr. Foley, Mr. Issa, Mr. Fattah, and Mr. Moran of Virginia.

H. Res. 245: Mr. Holt, Mr. Neal of Massachusetts, Mr. Chandler, Mr. Higgins, Mr. Olver, Ms. McCollum of Minnesota, Ms. Herseth, Ms. Wasserman Schultz, Mr. Delahunt, and Mr. Doggett.

SENATE—*Monday, May 9, 2005*

The Senate met at 2 p.m. and was called to order by the Honorable RICHARD BURR, a Senator from the State of North Carolina.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Our God, Creator of all life, we come in thankfulness because You have loved us through all the days of our lives. We find peace in the knowledge that You know us and accept us as we are. Thank You for enabling us to run and not be weary, to walk and not faint. Keep us always in Your care.

Bless our Senators. Forgive them when they make mistakes and give them comfort when they feel downhearted. Keep them from selfishness. Give them wisdom and courage to live each day as Your children and as brothers and sisters to each other.

God, bless our Nation, drive back the forces of evil and release the powers of goodness throughout our land.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable RICHARD BURR led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 9, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD BURR, a Senator from the State of North Carolina, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BURR thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will shortly resume consideration of the highway bill. There are a couple of Members desiring to speak on other subjects prior to going back to the highway legislation, and we will accommodate those statements. I will have a brief statement. The Democrat leader has a statement, as well.

Chairman INHOFE will be managing the highway bill today. As we announced prior to the recess, we expect a vote this evening at approximately 5:30 p.m. That vote will be in relation to an amendment on the highway bill. Several Senators have indicated they would be available today to offer amendments. We hope to schedule one of those for a vote this evening.

We are now beginning our second week of work on the highway bill. The managers have patiently waited for Members to come to the Senate to offer their amendments. I am concerned about the pace of the bill. We need to finish the bill this week. I put our colleagues on notice that we will use cloture if necessary to bring this bill to conclusion.

Having said that, be prepared for full sessions to consider and dispose of highway amendments over the next few days. As I think about it, I want to make it clear to our Members, we will be voting throughout this week, including Friday.

With respect to the emergency supplemental appropriations bill, that should now be at the desk. Our expectation is to begin debate on that conference report this evening. I hope any Member who wants to speak will stay this evening for debate in order to schedule a vote on the emergency supplemental appropriations conference report sometime tomorrow, hopefully early tomorrow. I will be consulting further with the Democrat leader on the exact timing but, again, we want to vote as early as possible on Tuesday so we can get back to the highway bill.

I thank our colleagues in advance for their help on these two important measures.

Mr. REID. Mr. President, if I could make a brief comment on the highway bill: I agree with the distinguished leader that we need to move forward on this bill. I have been advised over the last several days, and had a couple calls this morning, that they are having problems with the transit section of the bill. Senators SHELBY and SARBANES want a little different formula than is in the bill. They are working on that now as we speak. I hope they can get that worked out. A significant amount of work has gone into the bill not only by members of the Environment and Public Works Committee and the Banking Committee, which has jurisdiction over transit, but also by the Finance Committee. It is a very complicated bill.

I underscore what the distinguished Republican leader said. It is my understanding that Senators BAUCUS and GRASSLEY are going to lay down an amendment today. I hope everyone would offer their amendments on this bill. I have had a lot of comments from Members saying they have concerns about what is in the bill. This is an opportunity to lay down the amendments. We have been told by the distinguished Republican leader today that if there is no progress on this bill he is going to file cloture. This is the highway bill. This is not a bill where cloture will not be invoked. There is wide-ranging support for this bill.

I hope everyone follows the admonition the Republican leader just gave and be ready with amendments because, if we wind up waiting much longer, we will not have an opportunity to do that.

The ACTING PRESIDENT pro tempore. The majority leader.

JUDICIAL NOMINATIONS

Mr. FRIST. Mr. President, 4 years ago today President Bush nominated Miguel Estrada to the District of Columbia Circuit Court of Appeals. His nomination should have gone smoothly. The American Bar Association pronounced him highly qualified, a rating my colleagues on the other side of the aisle once called the gold standard. He clerked for a Supreme Court Justice and worked in both the Bush and Clinton administrations.

The Honduran immigrant then won top honors at Columbia University and Harvard Law School. Miguel Estrada epitomized the American dream. But Miguel Estrada's nomination never received an up-or-down vote. A minority of Senators used the filibuster to stop the Senate from exercising its constitutional duty to advise and consent.

Senators supporting his nomination made seven attempts to bring his nomination to a vote. Each time the effort failed. Finally, after enduring 2 years of obstruction, Miguel Estrada withdrew his name from consideration.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Unfortunately, today marks the fourth anniversary of another candidate whose nomination is, likewise, being blocked. Priscilla Owen, who has served on the Texas Supreme Court for 10 years, has earned the praise of both Republicans and Democrats. Judge Owen won reelection to the Texas bench with 84 percent of the vote and the endorsement of every major newspaper in the State.

Former justice Raul Gonzalez, a Democrat, says:

> I found her to be apolitical, extremely bright, diligent in her work, and of the highest integrity. I recommend her for confirmation without reservation.

Still, a minority of Senators is using the filibuster to stop this Senate from exercising its constitutional duty to advise and consent, to vote up or down, to vote yes or no, to vote, confirm or reject.

This campaign of obstruction is unprecedented. Before Miguel Estrada, the Senate had never denied a judicial nominee with majority support an up-or-down vote. In the last Congress, the President submitted 34 appeals court nominees to the Senate. Ten of those nominees continue to be blocked. Each has been rated "qualified" or "well-qualified" by the American Bar Association, each has the majority support of the Senate, and each would be confirmed if brought to the Senate floor to a vote.

Meanwhile, the other side threatens to shut down the Senate and obstruct government itself if it does not get its way. Instead of thoughtful deliberation and debate, a small minority is attempting to change 225 years of constitutional history. Former Senate majority leader Bob Dole is correct when he says:

> By creating a new threshold for the confirmation of judicial nominees, the Democratic minority has abandoned the tradition of mutual self-restraint that has long allowed the Senate to function.

Precedent has been replaced with partisanship, and respect for the separation of powers tossed aside.

Now, 12 of the 16 court of appeals vacancies have been officially declared judicial emergencies. The Department of Justice tells us that the delay caused by these vacancies is complicating their ability to prosecute criminals. The Department also reports that due to the delay in deciding immigration appeals, it cannot quickly deport illegal aliens who are convicted murderers, rapists, and child molesters. Additionally, there are notoriously long delays in deciding habeas petitions, meaning that both victims' families and prisoners often wait years before getting final resolution on murder convictions.

All of this obstruction must stop. It is hurting the nominees. It is hurting the Senate. It is hurting the American people.

For most of the 20th century the same party controlled the White House and the Senate. Yet until the last Congress, no minority ever denied a judicial nominee with majority support an up-or-down vote. They treated judicial nominees fairly. They respected the Senate's role in the appointments process designed by the Framers.

Before the recess, I came to the Senate to offer a compromise. That proposal was simple: Appeals court judicial nominees should get a fair, open, and exhaustive debate, and then they should get an up-or-down vote. Whether on the floor or in committee, it is time for judicial obstruction to end no matter which party controls the White House or the Senate.

Senate tradition is comprised of shared values based on civility and respect for the Constitution. I sincerely hope that Senate tradition can be restored. It is a matter of fairness. It is a matter of honor. It is our constitutional duty to give these nominees a vote.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senate minority leader is recognized.

JUDICIAL NOMINATIONS

Mr. REID. Mr. President, of the initial Bush nominees, the 10 or 11 we are talking about today, 8 have been confirmed; only 3 were not. Of course, one of those, Miguel Estrada, has not been renominated. Another, Terrence Boyle, has never been reported by the Judiciary Committee, even after 4 years of Republican control. So only one of the initial nominees, Priscilla Owen, is currently on the calendar.

I think the Democrats have been responsible and reasonable in exercising advice and consent regarding this initial nominee.

Regarding Priscilla Owen, she served on the Texas Supreme Court with the President's lawyer, Alberto Gonzales, who is now the Attorney General. Judge Gonzales wrote that several of Judge Owen's opinions were acts of unconscionable activism.

I am concerned the Senate is heading toward an unnecessary showdown over judicial nominations. One of the Hill newspapers recently reported that my distinguished friend, the majority leader, is under enormous pressure from right-wing groups to trigger the so-called nuclear option. So many of our colleagues, Democrats and Republicans, have contacted me and, I am sure, the majority leader, saying: Let's try to work something out. They want to avert this damaging confrontation because it would be bad for the Senate and bad for the country. So we need to take every step we can to avoid this confrontation.

We are prepared to be reasonable even with respect to these controversial nominations that are now before the Senate. But it seems that the White House, and maybe the Senate leadership, will not give the Senate a chance to put this issue behind us.

It is important to understand that this manufactured crisis has been forced upon the Senate by the White House. During President Bush's first term, the Senate confirmed 205 of his judicial nominations and turned back only 10. This is a significant, strong percentage—more than 95 percent.

The President could have accepted that success and avoided confrontation by choosing not to resubmit the names of those who were rejected. Instead, the President sent back 7 of the 10 nominees the Senate declined to confirm, including: the very controversial nominations of Priscilla Owen, whom I briefly commented about; William Myers, who, by the way, is the first nominee to the Federal bench that American Indians have ever opposed; William Pryor; Janice Rogers Brown; and Henry Saad.

In fact, this whole crisis is really about five people. I have mentioned the five. Of the 10 previously rejected nominees, 3 were not renominated, and 2 are tied up in a separate controversy over the Sixth Circuit involving procedural matters. So we are talking only, I repeat, about 5 judges, 5 out of the 218. But this historically high percentage the President has obtained, creating one of the lowest vacancy rates in the entire history of the Federal judiciary, is not good enough for some. They have to have it all.

Meanwhile, the President has failed to send us new nominations. In the more than 4 months since he was sworn in to a second term, the President has sent the Senate only one new judicial nomination. Other than that one nominee to the District Court of Nevada, Brian Sandoval, every single one of the President's judicial nominees has been here before. I have said to everyone who will listen that Senate Democrats will be careful and judicious in the use of our procedural rights. I have said that judicial filibusters will continue to be rare. So why doesn't the White House test our willingness to be reasonable by sending new nominees who we can consider anew and fresh, instead of old nominees who have run into trouble before?

It is clear that the White House would rather pick fights than pick judges. One reason the White House will not send new judges to the Senate is that they do not want to give Senate Democrats a chance to show we are reasonable. They do not want the confirmation rate to increase from 95 percent to 96 or 98 percent. They want to paint us as obstructionists. But the facts are that the judicial confirmation rate this year is 100 percent and that there has not been a single filibuster of the four nominees the majority leader has brought before the Senate this year. But the radicals on the far right do not want to give us an opportunity to continue that cooperation because it would undercut their argument justifying the nuclear option. Maybe the White House wants to force the nuclear option on the Senate because it wants to clear the way for a Supreme Court nominee, because they are afraid the person they will submit is not going to be reasonable.

There are lots of reasonable people around. There are Members sitting in this Senate today who could be a Supreme Court nominee of President Bush. They do not want a David Souter, a Republican, or an Anthony Kennedy, a Republican, or a Sandra Day O'Connor, a Republican, or a Ruth Bader Ginsberg, or a Stephen Breyer.

So, Mr. President, I want a chance to prove that Senate Democrats are reasonable. There is a nominee on the Executive Calendar named Thomas Griffith. Mr. Griffith is a controversial nominee to an important appellate court. But if he is brought before the Senate, I believe he will be confirmed. He is the former Senate legal counsel. He was here during the impeachment proceedings. His nomination to the DC Circuit was reported from the Judiciary Committee by a 14-to-4 vote. Ranking Member LEAHY and other Senators who opposed Griffith were concerned, among other things, that he had failed to obtain a license to practice law in either the District of Columbia or Utah during the time he was working as a lawyer in those jurisdictions.

A number of Democrats will vote against confirmation on the floor, for these reasons and other reasons. But we on this side know the difference between opposing nominees and blocking nominees. We will oppose bad nominees, but we will only block unacceptable nominees. Democrats will use extended debate responsibly, and there is no cause for the majority to break the rules and 217 years of Senate traditions to take that right away. Mr. Smith should still be able to come to Washington, with either a Democratic or Republican Senate.

I emphasize that Mr. Griffith is nominated to the DC Circuit Court of Appeals. This is the most important appellate court, separate and apart from the Supreme Court. Republicans say that our 95-percent confirmation rate is not relevant because many of the 208 judges we have confirmed are district court nominees—trial court judges, not appellate court judges. Well, here is a nominee to the most important Federal appellate court in the country, with the exception of the Supreme Court, and we are prepared to move forward. So I ask, do we get extra credit that this nominee is to the DC Court of Appeals?

Let me note that this same courtesy was not extended to President Clinton's nominees to the DC Circuit. Republicans held up the nomination of Justice Department official Merrick Garland for years before finally confirming him.

President Clinton then nominated two distinguished lawyers to the court: Elena Kagan, now dean of the Harvard Law School, and Allen Snyder, a partner in the law firm of Hogan & Hartson and a former clerk to Chief Justice Rehnquist. Both of these nominations were buried in the Judiciary Committee and were never given an up-or-down vote in committee or on the Senate floor.

I have heard my Republican friends say so many times this year that nominees are entitled to an up-or-down vote. I would defy them to explain why Kagan and Snyder were denied votes on the Senate floor and why 69 Clinton nominees were buried and lost in the judiciary committee. But we want to move forward. To demonstrate our good will, we want to move forward on a controversial nominee to the DC Circuit. I want the majority leader to know that Democrats are prepared to enter into a unanimous consent agreement to move to the Griffith nomination. Under this unanimous consent agreement, we would proceed to the Griffith nomination immediately upon disposition of the supplemental appropriations bill. We would then have up to 10 hours of debate on that nomination, equally divided. Following that debate, we would be willing to have an up-or-down vote on this controversial nominee to the DC Circuit.

Let's take a step away from the precipice. Let's arrive at this step and have a decision made on Griffith and then move on. Let's try cooperation rather than confrontation, which seems to be the hallmark of what we have been doing here lately.

I just remind everyone: This has been a pretty good year for work being done in the Senate. My friend, the distinguished Presiding Officer, served in the House of Representatives where you can ram things through the House. If you are in the majority there, things go very quickly. But that is not how it works in the Senate. So we have been very fortunate this year to move legislation—important, landmark legislation, legislation that many of my colleagues on my side of the aisle did not especially like: class action legislation, bankruptcy legislation.

We have done a lot of work here. We are going to do the supplemental appropriations bill. We have finished the budget. We have done a lot of work. We are on the highway bill. So I would think we should move forward. I say to those people who are interested in moving forward and who are interested in cooperation rather than confrontation, let us move forward on a unanimous consent request—which I would be happy to propound at a subsequent time, or the majority leader could do it—to move forward on Griffith. We want 5 hours on our side to talk about this man. They could have whatever time they want on their side. And we would move forward on an up-or-down vote on a DC Circuit Court of Appeals judge. I would think that would get us down the road to doing work that needs to be done in the Senate.

Mr. LEAHY. Mr. President, will the Senator yield on that point?

Mr. REID. I would be happy to yield to the distinguished ranking member of the Judiciary Committee.

Mr. LEAHY. Is it my understanding, Mr. President, the distinguished Democratic leader is saying he is prepared to ask consent to move forward on the nomination of Tom Griffith to the DC Circuit?

Mr. REID. I answer my friend: the answer is yes, even though this man is a controversial nominee. I know my distinguished friend, the senior Senator from Vermont, has on a number of occasions criticized this nomination. I have mentioned already a number of the reasons, including his practice of law without a license in a couple of different jurisdictions. But I have stated that I would be willing to move forward on this nomination. We would have adequate time on our side—up to 5 hours—to talk about the merits or demerits of this gentleman, and the majority could have whatever time they wanted. We would move to an up-or-down vote on this man. I think this would be an appropriate way to move forward and—again, I repeat for the third time—have in this body cooperation rather than confrontation.

Mr. LEAHY. Mr. President, if the Senator will yield further for a question, the Senator has stated he realizes Mr. Griffith practiced law illegally, first in one jurisdiction for 3 or 4 years, then in a second jurisdiction for 3 or 4 years, but that he is the President's choice for going on the DC Circuit.

I am sure the Senator is aware that during the last administration, several nominees for that same seat were blocked by pocket filibusters by the Republicans—one was Elana Kagan, who is now the dean of the Harvard Law School. Another was Allen Snyder, a former Supreme Court law clerk to Chief Justice Rehnquist.

I voted against Mr. Griffith because I felt on the second highest court of the land it is not a good example to have a person, whatever his other qualifications might be, who was so cavalier as to practice law illegally in two different jurisdictions.

I ask the Senator, is the Senator aware I did work with the distinguished Chairman of the committee, Senator SPECTER, to allow the hearing to go forward with Mr. Griffith and to allow a vote to go forward without delay in the committee? While I voted against Mr. Griffith because of the practice of law, primarily, and while, I felt concern that Chief Justice Rehnquist's former law clerk and Dean Kagan were blocked by the Republican pocket filibuster, I ask the leader if he understands that I will certainly have no objection nor do I know of any Democrat who would object to moving forward and having a real debate and the up-or-down vote that was denied to a Democratic President's nominees? Does the Senator understand that not withstanding the fact that I would vote against that nominee, I would support him bringing this nomination forward? I suspect he would get a majority of the votes in the Senate.

Mr. REID. Let me say to my friend through the Chair, there is no question that Elana Kagan is qualified—she is the dean of the No. 1 rated law school in the country, No. 1. Yale and Stanford come close, but Harvard is the No. 1 law school in the country. She is the dean of that school. But the Republicans controlled the Judiciary Committee, and they would not allow this woman to come to this floor.

I would love to have had her on the floor so somebody could have filed a cloture motion. I would have loved to vote on that, but they would not even bring that nomination to the floor for a vote. They would not let it come to a vote in the committee, because this woman was eminently qualified, not only by her legal experience and her education, but by her demeanor and personal attitude toward the law. So she would have been really good for the second highest court in the land.

And I say about the other person——

Mr. LEAHY. Allen Snyder.

Mr. REID. Allen Snyder, this man clerked for Chief Justice Rehnquist. Again, there was not even the courtesy of having a vote in the committee. They come to the floor and cry crocodile tears about up-or-down votes. We would have taken a cloture vote on either one of these people. But they were unwilling to bring this person before the committee or the floor.

So I say to my friend, you are absolutely right, there is a different standard now than there was. We are bringing people to the court. They say there has not been an up-or-down vote. There has been a vote. Every one of President Bush's nominees has come before the Senate for a vote. And I think it is on 69 different occasions that President Clinton had a nominee turned down on even a hearing in the Judiciary Committee, even a vote in the Judiciary Committee, let alone coming to the floor.

So my distinguished friend is absolutely right.

Mr. LEAHY. Mr. President, I ask the distinguished leader through the Chair——

The ACTING PRESIDENT pro tempore. If the Senator from Vermont would suspend for a second. The Chair would remind both the Senators that Senators may yield time for the purposes of a question only.

Mr. LEAHY. I am posing a question.

Mr. REID. I am happy to yield to my friend for a question.

Mr. LEAHY. I would ask if the Senator would yield for the purpose of a question. When we talk about votes, 40 is the threshold on filibusters. Of course, the Senate sets the rules. The Senate could say: You require 95 votes. Or it could say: You require 2 votes. There is nothing magic about 50, 40, 60, or anything else. But be that as it may, I would ask, through the Chair, whether the Senator from Nevada is aware of numerous instances in which Democrats have proceeded to debate and vote on the President's nominees against which there were more than 40 negative votes—I can think of three significant judicial nominations where there were 41 Democratic votes against allowing them to go forward: Timothy Tymkovich was confirmed to the Eighth Circuit although 41 Senators voted against him; Jeffrey Sutton was confirmed to the Sixth Circuit although 41 Senators voted against him; J. Leon Holmes was confirmed to the district court in Arkansas although 46 Senators from both parties voted against him. In addition, Senate Democrats proceeded to debate and vote on the controversial nomination of former Attorney General Ashcroft, who was confirmed although 42 Senators voted against his confirmation; Ted Olson, who was confirmed to be Solicitor General although 47 Senators voted against his confirmation; Victor Wolski, who was confirmed to the Court of Claims although 43 Senators voted against his confirmation.

Most recently, a number of us voted for cloture on the nomination of Stephen Johnson to head the EPA. He was confirmed with only 61 votes in support. I was one of those who voted for cloture so we could go forward with the President's nomination.

Was the Senator from Nevada aware of all those?

Mr. REID. Mr. President, the answer is yes. As I said earlier, we know the difference between opposing nominees and blocking nominees. I believe this is the time to put all of this behind us. Eight years of President Clinton, four years of President Bush, let's move forward. That is what this proposal is all about. Let's move forward. After we finish that, let's see where we are and see what else we can do. I think it is time to move forward. Again, I have no problem distinguishing between what happened to the 69 Clinton would-be judges who never showed up, never saw the light of day, and all those we have dealt with in the normal process in the 4 years President Bush has been President.

We have been very selective in those we have opposed. We think we are right on every one of them. Hindsight will tell.

This whole dispute is over 5 judges, 5 out of 218. It seems that people of goodwill can agree, as my distinguished friend from Nebraska Senator HAGEL indicated this weekend on television, when he said: We should be able to work this out. We should. The world is watching us. We should not be changing the rules by breaking the rules. We should not do that. I hope the distinguished Senator from Tennessee, the majority leader, my friend, will accept the gesture of goodwill we have made. It is a step in the right direction. I hope we can let bygones be bygones and move forward.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Inhofe amendment No. 567, to provide a complete substitute.

Salazar amendment No. 581 (to amendment No. 567), to modify the percentage of apportioned funds that may be used to address needs relating to off-system bridges.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Mr. President, I ask unanimous consent to speak as in morning business.

Mr. LEAHY. Reserving the right to object—I will not object—I ask unanimous consent to follow the Senator from Texas as in morning business.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Reserving the right to object, would the distinguished Senator from Texas give us a general outline of how long he is going to speak.

Mr. CORNYN. Mr. President, I think maybe 15 minutes.

Mr. REID. Just so we have a general idea. I ask unanimous consent then that the normal 10-minute rule be waived for the distinguished Senator from Texas and that he have up to 15 minutes to speak as in morning business.

Mr. LEAHY. And that I then be recognized for the same amount of time.

The ACTING PRESIDENT pro tempore. The minority leader is reminded there is no 10-minute rule.

Mr. REID. There is no 10-minute rule unless it is ordered.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. REID. We have no morning business today?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. REID. I amend my request to ask unanimous consent that the Senator from Texas be recognized for 15 minutes and the Senator from Vermont be recognized for 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Texas.

NOMINATION OF PRISCILLA OWEN

Mr. CORNYN. Mr. President, 4 years ago, the President nominated Texas Supreme Court Justice Priscilla Owen to serve on the United States Court of Appeals for the Fifth Circuit. Justice Owen is an exceptional jurist, a devoted public servant, and an extraordinary Texan. Yet after 4 years, she still awaits an up-or-down vote on the floor of the Senate. Four years today and we are still waiting for a vote.

Although a bipartisan majority of the Senate stands ready to confirm this outstanding nominee, a partisan minority obstructs the process and refuses to allow that vote on her nomination. What is more, the partisan minority now insists, for the first time in history, that she must be supported by a supermajority of 60 Senators rather than the constitutional standard and the Senate tradition of majority vote.

I know Justice Owen personally, having served with her on the Texas Supreme Court for 3 years. She is a distinguished jurist and public servant who has excelled at virtually everything she has set out to do. She was a top graduate of Baylor Law School at the remarkable age of 23 and scored the top score on the Texas bar exam. She entered the legal profession at a time when relatively few women did. After a distinguished record in private practice, she reached the pinnacle of the Texas bar, the Texas Supreme Court. In doing so, she was supported by a larger percentage of Texans than any of her colleagues during her last election, receiving around 84 percent of the vote, after enjoying the endorsement of virtually every newspaper in Texas. She has been honored as the Baylor Young Lawyer of the Year and the Baylor University Outstanding Alumna.

Priscilla Owen enjoys significant bipartisan support. Three Democratic judges on the Texas Supreme Court and a bipartisan group of 15 presidents of the State Bar of Texas support her nomination.

The Houston Chronicle, in September of 2000, called Owen "[c]learly academically gifted," stating that she "has the proper balance of judicial experience, solid legal scholarship and real-world know-how to continue to be an asset on the high court."

The Dallas Morning News wrote in support of Owen on September 24, 2002:

> She has the brainpower, the experience and temperament to serve ably on an appellate court.

The Washington Post wrote on July 24, 2002:

> She should be confirmed. Justice Owen is indisputably well qualified.

Lori Ploeger, Justice Owen's former law clerk, wrote in a letter to Senator LEAHY on June 27, 2002:

> During my time with her, I developed a deep and abiding respect for her abilities, her work ethic, and, most importantly, her character. Justice Owen is a woman of integrity who has profound respect for the rule of law and our legal system. She takes her responsibilities seriously and carries them out diligently and earnestly.

Ms. Ploeger continued:

> Justice Owen is a role model for me and for other women attorneys in Texas.

Mary O'Reilly, a lifetime member of the NAACP and a Democrat, in a letter to Senator DIANNE FEINSTEIN, dated August 14, 2002, wrote:

> I met Justice Owen in January of 1995, while working with her on the Texas Supreme Court Gender Neutral Task Force . . . I worked with Justice Owen on Family Law 2000, an important state-wide effort initiated in part by Justice Owen . . . In the almost eight years I have known Justice Owen, she has always been refined, approachable, even-tempered and intellectually honest.

Priscilla Owen is not just intellectually capable and legally talented; she is also a fine human being with a big heart. The depth of her humanity and compassion is revealed through her significant free legal work and community activity.

Priscilla has spent much of her life devoting time and energy in service of her community. She has worked to ensure that all citizens are provided access to justice as the court's representative on the Texas Supreme Court Mediation Task Force and to statewide committees, as well as in her successful efforts to prompt the Texas legislature to provide millions of dollars per year in legal services for the poor. She was instrumental in organizing a group Ms. O'Reilly spoke of known as Family Law 2000 which seeks to find ways to educate parents about the effect divorce can have on children and seeks to lessen the negative impacts it has on them. She also teaches Sunday school at St. Barnabas Episcopal Mission in Austin, TX, where she is an active member.

It is plain from these and so many other examples that Justice Owen is a fine person and a distinguished leader in the legal community. One would think that after 4 long years, she would be afforded the simple justice of an up-or-down vote. I remain optimistic. While I know the Democratic leader has offered a UC to consider the nomination of one of the justices currently being filibustered, I don't see why that same principle would not apply to all of the justices, and we would just say that any nominee of any President, whether they be Republican or Democrat, where a bipartisan majority stands ready to confirm them, should receive that up-or-down vote on the Senate floor. I remain hopeful the current 4-year violation of long-term Senate tradition, the imposition of this new supermajority requirement, will be laid aside in the interest of proceeding with the people's business, a job my colleagues and I were elected to faithfully execute.

For more than 200 years, it was a job that we did indeed execute. Senators from both sides exercised mutual restraint and did not abuse the privilege of debate out of respect for two coequal branches of government—the executive that has the constitutional right to choose his or her nominees and an independent judiciary. Indeed, until 4 years ago, colleagues on both sides of the aisle have consistently opposed the use of the filibuster to prevent nominees from receiving an up-or-down vote where they clearly had bipartisan majority support.

Senator KENNEDY, the distinguished senior Senator from Massachusetts, said in 1998:

> Nominees deserve a vote. If our . . . colleagues don't like them, vote against them. But don't just sit on them—that is obstruction of justice.

And Senator LEAHY, the distinguished ranking member of the Judiciary Committee, who was just on the floor, said in 1998:

> I have stated over and over again on the floor that I would refuse to put an anonymous hold on any judge; that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported; that I felt the Senate should just do its duty.

I could not agree more with these comments made by Senator LEAHY and Senator KENNEDY. But today we are doing a disservice to this fine nominee in our failure to afford her that up-or-down vote that they advocated a few short years ago. The new requirement this partisan minority is now imposing, that nominees won't be confirmed without support of 60 Senators, is, by their own admission, wholly unprecedented in Senate history.

The reason for this is simple: The case for opposing this fine nominee is so weak that using a double standard and changing the rules is the only way they can defeat her nomination. What is more, they know it, too.

Before her nomination got caught up in this partisan fight, the ranking Democrat on the Judiciary Committee predicted that Justice Owen would be swiftly confirmed. On the day of the announcement of the first group of nominees, 4 years ago, including Owen, he said he was "encouraged" and that "I know them well enough that I would assume they would all go right through."

Notwithstanding the change of attitude by the partisan minority, this gridlock is not really about Priscilla Owen, certainly not about Priscilla

Owen the person. Indeed, just a few weeks ago, the Democratic leader announced that Senate Democrats would give Justice Owen an up-or-down vote, albeit only if other nominees were defeated or withdrawn or simply thrown overboard.

Obviously, this debate is not about principle. It is all about politics. It is shameful. Any fair examination of Justice Owen's record demonstrates how unconvincing the critics' arguments are.

For example, Justice Owen is accused of ruling against injured workers, against those seeking relief from employment discrimination, and other sympathetic parties on some occasions. Never mind, however, that good judges such as Judge Owen do their best to follow the law regardless of which party will win and which party will lose. Never mind that many of her criticized rulings were unanimous or near unanimous decisions of a nine-member Texas Supreme Court. Never mind that many of these rulings simply followed Federal precedent authored and agreed to by appointees of Presidents Carter and Clinton or by other Federal judges unanimously confirmed by the Senate. Never mind that judges often disagree, especially when the law is ambiguous and requires careful and difficult interpretation.

The Democratic leader raised the frequent objection and that is criticized Justice Owen for attempting to interpret and enforce a popular Texas law requiring parental notification before a minor can obtain an abortion. Her opponents allege that in one parental notification case, then-Justice Alberto Gonzales accused her of judicial activism. That charge is untrue. I read myself the opinions again this weekend and the charge is simply untrue. Gonzales did not accuse Owen of judicial activism. Not once did he say Justice Owen was guilty of judicial activism. To the contrary, he never mentioned her name or her opinion in the opinion the critics cite.

Furthermore, our current Attorney General has since testified under oath that he never accused Owen of any such thing. What is more, the author of the parental notification law in question supports Justice Owen, as does the pro-choice Democratic law professor who was appointed to the Texas Supreme Court's advisory committee to implement that law. In other words, Owen simply did "what good appellate judges do every day. If this is activism, then any judicial interpretation of a statute's terms is judicial activism."

Mr. President, I ask unanimous consent this letter be printed in the RECORD at the close of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1).

Mr. CORNYN. The American people know a controversial ruling when they see one, be it the redefinition of a traditional institution such as marriage, the expulsion of the Pledge of Allegiance, and other expressions of faith from the public square, the elimination of the "three strikes and you're out" law, and other penalties for convicted criminals, or the forced removal of military recruiters from college campuses. Justice Owen's rulings fall nowhere near this standard or category. There is a whole world of difference between struggling to interpret the ambiguous expressions of a legislature and refusing to obey a legislature's directives altogether.

It is clear Justice Owen deserves the broad bipartisan and enthusiastic support she obviously enjoys across the political spectrum. It is equally clear her opposition comes only from a narrow band on the far left fringes of that political spectrum. If the Senate were merely to observe 200 years of consistent Senate and constitutional tradition dating back to our Founders, there would be no question about her ability to be confirmed. She would be sitting on the Fifth Circuit Court of Appeals.

Legal scholars across the political spectrum have long concluded what we in this body know instinctively, and that is to change the rules of confirmation as a partisan minority has done badly politicizes the judiciary and hands over control of the judiciary to special interest groups. One Professor Michael Gerhardt, who advises Senate Democrats on judicial confirmation, has written that a supermajority requirement for confirming judges would be "problematic, because it creates a presumption against confirmation, shifts the balance of power to the Senate, and enhances the power of special interests."

DC Circuit Judge Harry Edwards, a respected Carter appointee, has written that the Constitution forbids the Senate from imposing a supermajority rule for confirmation. After all, otherwise, "the Senate, acting unilaterally, could thereby increase its own power at the expense of the President" and "essentially take over the appointment process from the President." Judge Edwards thus concluded that "the framers never intended for the Congress to have such unchecked authority to impose supermajority voting requirements that fundamentally change the nature of our democratic process."

Mr. President, I think I have about 5 more minutes of my remarks. I ask unanimous consent that I be given an additional 5 minutes and the Senator from Vermont be given the same.

Mr. LEAHY. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CORNYN. I thank the Chair. I thank the Senator from Vermont.

Georgetown Law Professor Mark Tushnet has written that "the Democrats' filibuster is a repudiation of a settled preconstitutional understanding." He has also written, "There's a difference between the use of the filibuster to derail a nomination and the use of other Senate rules—on scheduling, on not having a floor vote without prior committee action, etc.—to do so. All those other rules can be overridden by a majority of the Senate whereas the filibuster cannot be overridden in that way. A majority of the Senate could ride herd on a rogue Judiciary Committee chair who refused to hold a hearing on some nominee; it can't do that with respect to a filibuster."

Georgetown Law Professor Susan Bloch has condemned supermajority voting requirements for confirmation, arguing that they would allow the Senate to "upset the carefully crafted rules concerning appointment of both executive officials and judges and to unilaterally limit the power the Constitution gives the President in the appointment process. This, I believe, would allow the Senate to aggrandize its own rules and would unconstitutionally distort the balance of powers established by the Constitution."

In summary, the record is clear. The Senate tradition has always been majority vote, at least up until the last 4 years. The desire by some to alter that Senate tradition has been roundly condemned by legal experts across the political spectrum. And now the 100 Members of this body have a decision to make. Do we accept this dramatic and dangerous departure from 200 years of Senate precedent or do we work to restore the tried and true Senate tradition and practice?

I know the majority leader and, indeed, the Democratic leader have been working trying to find a way. I prefer, though, a way that would allow our nominees, all nominees, whether they be Republican or Democrat, to receive an up-or-down vote where a majority of the Senate stands ready to confirm them. I believe we should choose collaboration over contention any day of the week, if possible. But bipartisanship is a two-way street. Both sides must agree to certain fundamental principles and the most fundamental principle is fairness. Fairness means the same rules apply, the same standards, whether the President is a Republican or Democrat. But bipartisanship is difficult when long-held understandings and the willingness to abide by basic agreements and principles have unraveled so badly. When fairness falters, bipartisanship, too, will fail.

So I ask my colleagues what are we to do when these basic principles, commitments, and understandings have been so badly trampled upon? What are we to do when nominees are attacked for doing their jobs, when they are attacked for following precedents adopted and agreed to by Presidents Carter and Clinton, and when they are singled out for rulings agreed to by a unanimous, or near unanimous court? What are we to do when these nominees are demonized and caricatured beyond recognition, when they are condemned as unqualified while at the same time they are deemed unanimously well qualified by organizations Democrats used to revere? What are we to do when Senate and constitutional traditions are abandoned for the first time in more than two centuries, when both sides once agreed nominees should never be blocked by filibuster and then one side denies the existence of that very agreement, when their interpretation of Senate tradition changes based on who is in the Oval Office?

It is time to fix the broken judicial confirmation process. It is time to end the blame game and fix the problem and move on. And it is time to end the wasteful and unnecessary delay in the process of selecting judges that hurts our justice system and harms all Americans.

Mr. President, I thank the Chair. I thank my colleague from Vermont and yield the floor.

EXHIBIT 1

SOUTHERN METHODIST UNIVERSITY,
Dallas, TX, May 3, 2005.

Re Priscilla Owen

Senator JOHN CORNYN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR CORNYN: I write in support of the nomination of Priscilla Owen to the United States Court of Appeals for the Fifth Circuit. I write as a law professor who specializes in constitutional law. I write as a pro-choice Texan, who is a political independent and has supported many Democratic candidates. And I write as a citizen who does not want the abortion issue to so dominate the political debate that good and worthy judicial candidates are caught in its cross hairs, no matter where they stand on the issue.

Justice Owen deserves to be appointed to the Fifth Circuit. She is a very able jurist in every way that should matter. She is intelligent, measured, and approaches her work with integrity and energy. She is not a judicial activist. She does not legislate from the bench. She does not invent the law. Nothing in her opinions while on the Texas Supreme Court could possibly lead to a contrary conclusion, including her parental notification opinions. I suspect that Priscilla Owen's nomination is being blocked because she is perceived as being anti-choice on the abortion issue.

This perception stems, I believe, from a series of opinions issued by the Texas Supreme Court in the summer of 2000 interpreting the Texas statute that requires parental notification prior to a minor having an abortion. The statute also provides for what is called a "judicial bypass" to parental notification. Justice Owen wrote several concurring and dissenting opinions during this time. She has been criticized for displaying judicial activism and pursuing an anti-choice agenda in these opinions. This criticism is unfair for two reasons.

First, the Texas statute at issue in these cases contains many undefined terms. Further, the statutory text is not artfully drafted. I was a member of the Texas Supreme Court's Advisory Committee that drafted rules in order to help judges when issuing decisions under this parental notification statute. My involvement in this process made it clear to me that in drafting the parental notification statute, the Texas Legislature ducked the hard work of defining essential terms and placed on the Texas courts a real burden to explicate these terms through case law.

Moreover, the statute's legislative history is not useful because it provides help to all sides of the debate on parental notification. Several members of the Texas Legislature wanted a very strict parental notification law that would permit only infrequent judicial bypass of this notification requirement. But several members of the Texas Legislature were on the other side of the political debate. These members wanted no parental notification requirement, and if one were imposed, they wanted courts to have the power to bypass the notification requirement easily. The resulting legislation was a product of compromise with a confusing legislative history.

In her decisions in these cases, Justice Owen asserts that the Texas Legislature wanted to make a strong statement supporting parental rights. She is not wrong in making these assertions. There is legislative history to support her. Personally, I agree with the majority in these cases. But I understand Justice Owen's position and legal reasoning. It is based on sound and clear principles of statutory construction. Her decisions do not demonstrate judicial activism. She did what good appellate judges do every day. She looked at the language of the statute, the legislative history, and then decided how to interpret the statute to obtain what she believed to be the legislative intent.

If this is activism, then any judicial interpretation of a statute's terms is judicial activism. Justice Owen did not invent the legislative history she used to reach her conclusion, just as the majority did not invent their legislative history. We ask our judges to make hard decisions when we give them statutes to interpret that are not well drafted. We cannot fault any of these judges who take on this task so long as they do this work with rigor and integrity. Justice Owen did exactly this.

Second, we must be mindful that the decisions for which she is being criticized had to do with abortion law. I do not know if Justice Owen is pro-choice or not, but it does not matter to me. I am pro-choice as I stated before, but I would not want anyone placed on the bench who would look at abortion law decisions only through the lens of being pro-choice. Few categories of judicial decisions are more difficult than those dealing with abortion. A judge has to consider the fact that the fetus is a potential human, and this potential will be ended by an abortion. All judges, including those who are pro-choice, must honor the spiritual beauty that is potential human life and should grieve its loss. But a judge has other important human values to consider in abortion cases. A judge also has to consider whether a woman's independence and rights may well be unconstitutionally compromised by the arbitrary application of the law. All this is further compounded when a minor is involved who is contemplating an abortion. I want judges who will make decisions in the abortion area with a heavy heart and who, therefore, will make sure of the legal reasoning that supports such decisions.

I think the members—all the members—of the Texas Supreme Court did exactly this when they reached their decisions in the parental notification cases. I was particularly struck by the eloquence of Justice Owen when she discussed the harm that may come to a minor from having an abortion. She recognized that the abortion decision may haunt a minor for all her life, and her parents should be her primary guides in making this decision. Surely, those of us who are pro-choice have not come to a point where we would punish a judge who considers such harm as an important part of making a decision on parental notification, especially when legislative history supports the fact that members of the Texas Legislature wanted to protect the minor from this harm. As a pro-choice woman, I applaud the seriousness with which Justice Owen looked at this issue.

If I thought Justice Owen was an agenda-driven jurist I would not support her nomination. Our founders gave us a great gift in our system of checks and balances. The judicial branch is part of that system, and it is imperative that it be respected and seen as acting without bias or predilection, especially since it is not elected. Any agenda-driven jurist—no matter the issue—threatens the honor accorded the courts by the American people. This is not Priscilla Owen. So even though I suspect Justice Owen is more conservative than I am and even though I disagree with some of her rulings, this does not change the reality that she is an extremely well-qualified nominee who should be confirmed.

It would be unfair to place Priscilla Owen in the same category with other nominees who, in my opinion, are judicial activists and who I do not support. Some of these other nominees appear to want to dismantle programs and policies based on a political or economic agenda not supported by legal analysis or constitutional history. They appear to want to push their views on the country while sitting on the bench. Priscilla Owen should not be grouped with them. Justice Owen possesses exceptional qualities that have made and will make her a great judge. I strongly urge her confirmation.

Sincerely,

LINDA S. EADS,
Associate Professor of Law.

Mr. WYDEN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Vermont is recognized under unanimous consent.

Mr. LEAHY. Mr. President, I understand the Senator from Oregon wishes to make a unanimous consent request.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak in morning business after the distinguished Senator from Vermont has completed his remarks.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. CORNYN. Reserving the right to object, I would ask the Senator through the Chair whether he would agree Senator LOTT be recognized to speak after the Senator from Oregon on the same basis. He also apparently wishes to come to the floor and speak.

The ACTING PRESIDENT pro tempore. Would the Senator so modify his request.

Mr. WYDEN. I would modify my request, Mr. President, that after the distinguished Senator from Vermont has completed his remarks, I would be next for 20 minutes, and the Senator from Mississippi, Mr. LOTT, would come after me.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Vermont.

Mr. LEAHY. Mr. President, could the Senate always be so agreeable in moving things along, we in the country would be better off.

I listened to this discussion of nuclear option and judges and all that. It may seem arcane. There is nothing in the Constitution that says 50 votes or 40 votes or 60 votes or 80 votes. It is up to the rules of the Senate. It is when the rules are either reviewed or ignored that you have a problem. As I mentioned earlier today, when President Clinton was in office, the Republicans used the rules to say if one Republican, one objected, then you would not have a vote on the nominee. 61 of President Clinton's nominees for judgeships were not allowed to move because one Republican objected. Actually a couple hundred of his executive nominations, by the same token, because one Republican objected. So there they are requiring 100 votes to confirm somebody.

So you wonder when you are talking about a tiny handful of judges—and no President in history, from George Washington on, has ever gotten all judges through the Senate—why there is so much attention on this. I was thinking about it and I thought, you know, this all began about 4 years ago when we started talking about this. Four years ago things were a lot different in this country. Let's look at the differences.

In the last 4 years—and maybe this is why they would rather talk about judges instead of talking about what's going on—in the last 4 years under President Bush, unemployment has gone up 26 percent. During this same time, this last 4 years, the price of gas has gone up 57 percent. You can hold hands with all the Saudi princes you want, but it has still gone up. The number of uninsured in this country has gone up 10 percent. The budget deficit has gone up $50 billion. Actually, President Bush inherited the largest budget surplus of any President in the history of the United States. President Clinton had followed the Reagan and Bush administrations, which tripled the national debt and created huge deficits. President Clinton's administration not only balanced the budget, but created a surplus, and started paying down the debt. President Bush inherited the largest surplus of any President in our whole history and he has turned it into the largest deficit.

Then there is the trade deficit. That has gone up 69 percent. I mention these things that have gone up under the Bush Presidency. Obviously they don't want to talk about it. It means the Saudis and the Chinese, Japanese, Koreans, and others who are holding our debt thus influence our foreign policy. We will not just be holding hands with Saudi princes, we will probably be holding hands with everybody from all these other countries, too, so they do not call our IOUs.

During those 4 years, unemployment has gone up by 26 percent, the price of gas has gone up by 57 percent, the number of uninsured Americans has gone up by 10 percent, the budget deficit has increased by $350 billion, and the trade deficit has gone up by 69 percent. But there is one indicator that has shown improvement: the number of judicial vacancies has dropped 48 percent.

So why are they complaining they are not getting enough judges? During those 4 years of President Bush's Presidency, the number of judicial vacancies has gone way down because we confirmed so many judges. In fact, 4 years ago, the vacancy rate in our Federal courts was nearly 10 percent, and now it is around 5 percent. Mr. President, 95 percent of the Federal judiciary is filled. Most people would consider 95 percent a pretty good record.

I remember talking with President Bush 4 years ago. I said: You might get 90, 95 percent of your judges through. He thought that was pretty good. He wished he had a record like that when he owned a baseball team.

Four years ago today, I went to the White House in a gesture of cooperation to hear the President announce his first judicial nominations. Some criticized me for going, but I said I wanted to help. The President, during his campaign, said he wanted to be a uniter, not a divider, and now was the time to do so, and I said I would help.

Unfortunately, that is not what President Bush had in mind. The nominations he announced that spring day 4 years ago were largely controversial, confrontational choices. Typically, when a President—Republican or Democrat—selects nominations to the circuit courts, he consults at length with home State Senators and the Senate leadership to be sure those selected will be considered favorably by the Senate. This President has not done that. In fact, President Clinton, his predecessor, and his White House Counsel and staff were in regular contact with the Republican leadership. Senator HATCH talked in his book about how much President Clinton consulted with the Republicans.

Instead, here my Republican colleagues say: No, we do not want the checks and balances of the Senate; we do not want an independent, nonpartisan judiciary; we are going to put a Republican stamp on the judiciary.

Remember, the Federal judiciary should not be Democratic or Republican, it should be independent and free of political pressure.

They say: No, we cannot do that. We will break all the rules possible and make sure that we get rid of checks and balances.

This effort by the Republicans also, of course, belies what has happened. Back 4 years ago in June, with the change in the Senate, I became chairman of the Senate Judiciary Committee. Even though it was already June and the Republicans had been in charge since the beginning of the year, there had not been a single judicial nomination hearing held on President Bush's nominations. I inherited what seemed to be an impossibly large number of 110 vacancies. There were so many because, of course, there had been pocket filibusters of over 60 of President Clinton's nominations. But we worked hard, and in 17 months we were able to whittle that number down to 60 vacancies.

Incidentally, it is interesting that with the Republican majority, look how the vacancies skyrocketed in the judiciary. The Democrats came in and they shot down. Now, of course, they are heading back up under Republican leadership.

It takes a lot of work to lower the number of vacancies. I held hearings during recess periods and confirmed President Bush's nominees. Senator Daschle and I received a deadly anthrax attack, so deadly that people who touched the outside of the envelopes of letters addressed to us that we were supposed to open were killed. They were murdered, and we still held the hearings. We held hearings in the aftermath of the 9/11 attacks when the airlines were shut down. We had a nominee volunteer to drive from Mississippi to Washington to be included in a hearing I was holding. We had the anthrax attacks, the PATRIOT Act, and all the rest, and we kept on going, and in 17 months we confirmed 100 of President Bush's judges.

The Republicans took nearly twice as long when they were in control to confirm the same number of judges for President Bush. They say we are the ones holding things up? They ought to be ashamed of themselves. Maybe they ought to work as hard as we did to get them through. In fact, when Congress adjourned last December, there were only 27 vacancies out of 875 Federal judgeships, the lowest number in over a generation. In President Bush's first term, 204 judges were confirmed—more than confirmed in either of President Clinton's two terms, more than during the term of the President's father, more than in Ronald Reagan's first term when he had a Republican Senate. We confirmed a couple more nominees before we broke a week ago, and the distinguished Democratic leader has suggested we bring up another one of President Bush's nominees for a vote.

We have seen the talking points that have come out from the Republicans. They say we are holding up Thomas Griffith. The record is clear that I have—we have objected to him. After all, he did practice law illegally for 4 years in one jurisdiction and practiced law illegally in another jurisdiction, and the President wants to put him on the second highest court in the land. We said that should be an impediment. In any other administration, it would be an impediment. They want to go forward with him. The record is equally clear that I do not intend to support a filibuster of this nomination.

The distinguished Democratic leader said: Fine, bring him up. We will give you a time agreement and vote on it. He will either be confirmed or will not be confirmed. If he is confirmed, it shows what the standards are of this administration.

We can look at all the people turned down on the other side, but we never heard this complaint. We are prepared to move forward on Mr. Griffith's nomination despite the fact that the Republicans pocket filibustered 61 of President Clinton's nominees, even though those nominees included the current dean of Harvard Law School, a former attorney general from Iowa, a former clerk to Chief Justice Rehnquist, women, men, Hispanics, African Americans, and many others.

We heard talks about Judge Owen this afternoon. One of her opinions was criticized by Alberto Gonzales when he served on the Texas Supreme Court. However, we held a hearing for her, a very fair hearing. The Senator from California, Mrs. FEINSTEIN, conducted it. It was acknowledged by both Republicans and Democrats as being totally fair. She was voted down in the committee, and for the first time in history, a nominee voted down in committee was resubmitted by the President.

This is not a time to be breaking the rules of the Senate. The rules are there because we want a check and balance. That is all we are saying. For example, a home State newspaper of one of the nominees referred to a speech she gave recently that sounded as if it came from an Islamic jihadist, a very activist judge, who believes that child labor laws, minimum wage laws, even Social Security represent something wrong in this country. I am not really sure that is the sort of person we want on the bench making decisions about child labor laws, Social Security, and minimum wage.

Let's forget this end justifies the means. Let the Senate be what it always has been: A check and balance, whether it is a Democratic President or Republican President, a real check and balance but an honest one.

Do away with anonymous holds. I said that before. Do away with the secret one-person filibuster. I know the distinguished Senator from Oregon has spoken consistently that way, I believe from the very first day he entered this great body. Do away with the anonymous holds. Do away with those things, but follow the Senate rules. Do not violate the rules. Do not let us, those who are supposed to judge the judges, break our own laws and our own rules.

As I have noted, 4 years ago today, on May 9, 2001, I went to the White House in a gesture of cooperation to hear the President announce his first judicial nominations. Some criticized me for going, but I wanted to indicate my willingness to work with the new President. After all, during the campaign he had told the American people he wanted to be a uniter, not a divider. He had lost the popular vote in a much-disputed 2000 election, and the country was deeply divided. I hoped that he would be a President who would understand the need to work across the aisle and to bring people together and to consult with both Democratic and Republican Senators. I thought that judicial nominations, particularly those to the important circuit courts where Republicans had prevented almost two dozen of President Clinton's qualified and moderate nominees from being considered, would be a good place to start.

Unfortunately, that was not what President Bush had in mind. The nominations that President Bush announced that spring day, years ago, were largely controversial, confrontational choices. Although I was then the Ranking Democratic Member of the Senate Judiciary Committee, and was soon to become the Committee's Chair, the White House had not reached out to discuss any of these controversial nominees beforehand. By and large, home-state Senators had not been consulted about the nominees, nor had any sort of bipartisan, independent group of attorneys or legal scholars. That was the President's choice and has, unfortunately, remained his way of identifying and selecting nominees to be lifetime judicial appointments to the federal bench. This White House appears to rely on a tight circle of Federalist Society members, Republican Party activists and law professors steeped in ideology. This President has nominated what may be the most ideological-driven group of nominees ever presented to the Senate at one time.

Typically, when a President selects nominations to the circuit courts, he consults at length with home-state Senators and the Senate leadership to ensure that those selected will be considered favorably by the Senate and confirmed. That has not been the true with this Administration. By way of example, I cannot recall a single occasion during which this President picked up the phone to discuss these judicial nominations during the entire four and a half years that he has been President—not at the beginning of his Administration, not during the 17 months that I chaired the Senate Judiciary Committee, and not since.

That stands in sharp contrast to traditional practice dating back to George Washington and, in particular, to the manner in which President Clinton had worked with Senator HATCH when he was the Ranking Minority Member of the Senate Judiciary Committee or its Chair. Not only were President Clinton, his White House Counsel and his staff in regular contact with Senator HATCH and his staff; with respect to the most important nominations, the President and he had direct, meaningful consultation. In his book, "Square Peg," for example, Senator HATCH wrote that he "had several opportunities to talk privately with President Clinton about a variety of issues, especially judicial nominations."

He described how, when the first Supreme Court vacancy arose during the Clinton presidency in 1993, "it was not a surprise when the President called to talk about the appointment and what he was thinking of doing." Senator HATCH went on to describe that the President was thinking of nominating someone who would require a "tough, political battle" but that he advised President Clinton to consider other candidates.

According to his book, Senator HATCH suggested then-D.C. Circuit Judge Ruth Bader Ginsburg, as well as then-First Circuit Judge Stephen Breyer. They were nominated to fill the vacancies that arose on the Supreme Court in 1993 and 1994. Both were approved by the Senate with strong, bipartisan support. Justice Ginsburg was confirmed by a vote on 96–3. Justice Breyer was confirmed by a vote of 87–9.

That sort of consultation did not occur before this President's initial nominations were made 4 years ago, and I am sorry it did not.

Sadly, this lack of consultation was not just the situation for these first nominations, it has continued to this day. Senate Democrats have not stopped trying to offer the advice called for by the Constitution and have never stopped being available to help in the selection process. Just a few weeks ago, on April 11, the Democratic Leader and I wrote to the President offering to help with the more than two dozen current judicial vacancies for which the President has not yet sent a nomination to the Senate. We urged him to disavow the "nuclear option" in favor of working with us to identify consensus judicial candidates who could be confirmed easily and who would be fair, impartial judges that would preserve the independence of the judiciary. The number of current judicial vacancies without a nominee has since risen to 29. It is now May, we are more than a third of the way through the year, and the President has still sent only one new judicial nomination to the Senate all year. Meanwhile almost a month has passed and Senator REID and I have yet to receive the courtesy of a reply to our offer to help and to work together. Unilateralism has become their standard operating practice, and abuse of power has become increasingly common. Indeed, to this day I have yet to meet, talk to or even receive a telephone call from the President's new White House Counsel. The go-it-alone conduct of this Administration makes clear that this President has little use of the Senate's role in the constitutional process of selecting federal judges.

Under pressure from the White House, over the last 2 years, the former Republican chairman of the Judiciary Committee led Senate Republicans in breaking with longstanding precedent and Senate tradition. With the Senate and the White House under control of the same political party we have witnessed Committee rule after Committee rule broken or misinterpreted away. The Framers of the Constitution warned against the dangers of such factionalism, undermining the structural separation of powers. Republicans in the Senate have utterly failed to defend this institution's role as a check on the President in the area of nominations. It surely weakens our constitutional design of checks and balances.

As I have detailed elsewhere, the list of broken rules and precedents is long—from the way that home-state Senators were treated, to the way hearings were scheduled, to the way the Committee questionnaire was unilaterally altered, to the way the Judiciary Committee's historic protection of the minority by Committee Rule IV was repeatedly violated. In the last Congress, the Republican majority of the Judiciary Committee destroyed virtually every custom and courtesy that had been used throughout Senate history to help create and enforce cooperation and civility in the confirmation process.

We suffered through 3 years during which Republican staff stole Democratic files off the Judiciary computers during what has been a "by any means necessary" approach. Their approach to our rules and precedents follows their own partisan version of the Golden Rule, which is that "he with the gold, rules." That has not been helpful to the process, the Senate or the country. It is as if those currently in power believe that that they are above our constitutional checks and balances and that they can reinterpret any treaty, law, rule, custom or practice they do not like or they find inconvenient.

Some of these interpretations are so contrary to well-established understandings that it is like we have fallen down the rabbit hole in "Alice in Wonderland." I am reminded that the imperious Queen of Hearts rebuked Alice for having insufficient imagination to believe contradictory things, saying that some days she had believed six impossible things before breakfast. I have seen things I thought impossible on the Judiciary Committee during the last few years, things impossible to square with the past practices of Committee and the history of the Senate. Our Committee is entrusted by the Senate to help determine whether judicial nominees will follow the law. It is unfortunate that the Committee that judges the judges has not followed its own rules but has bent or broken them to achieve a predetermined result.

Under our Constitution, the Senate has an important role in the selection of our judiciary. The brilliant design of our Founders established that the first two branches of government would work together to equip the third branch to serve as an independent arbiter of justice. As columnist George Will once wrote:

> A proper constitution distributes power among legislative, executive and judicial institutions so that the will of the majority can be measured, expressed in policy and, for the protection of minorities, somewhat limited.

The structure of our Constitution and our own Senate rules of self-governance are designed to protect minority rights and to encourage consensus. Despite the razor-thin margin of recent elections, the majority party is not acting in a measured way but in complete disregard for the traditions of bipartisanship that are the hallmark of the Senate. It has acted to ignore precedents and reinterpret longstanding rules to its advantage. This practice of might makes right is wrong.

Now the White House's hand-picked majority leader seems intent on removing the one Senate protection left for the minority, the protection of debate in accordance with the longstanding tradition of the Senate and its Standing Rules. In order to remove the last remaining vestige of protection for the minority, the Republican majority is poised to break the Senate Rules and end the filibuster with the votes of the barest of majorities. They seem intent on doing this to force through the Senate this President's most controversial and divisive judicial nominees.

As the Reverend Martin Luther King wrote in his famous Letter from a Birmingham Jail: "Let us consider a more concrete example of just and unjust laws. An unjust law is a code that a numerical or power majority group compels a minority group to obey but does not make binding on itself. This is difference made legal. By the same token, a just law is a code that a majority compels a minority to follow and that it is willing to follow itself. This is sameness made legal." Fair process is a fundamental component of the American system of law. If we cannot have a fair process in these halls or in our courts, how will the resulting decisions be viewed? If the rule of law is to mean anything it must mean that it applies to all equally.

In the last Congress, I am sorry to report that the rule of law was broken, spindled and mutilated to serve the interests of President George W. Bush and his party. No man and no party should be above the law. That has been one of the strengths of our democracy. Our country was born in reaction to the autocracy and corruption of King George, and we must not forget our roots as a nation of both law and liberty. The best guarantee of liberty is the rule of law, meaning that the decisions of government are not arbitrary and that rules are not discretionary or enforced to help one side and then ignored to aid another. James Madison, one of the Framers of our Constitution, warned in Federalist Number 47 of the very danger that is threatening our great nation, a threat to our freedoms from within:

> [The] accumulation of all powers legislative, executive and judiciary in the same hands . . . may justly be pronounced the very definition of tyranny.

Our freedoms as Americans are the fruit of too much sacrifice to have the rules broken in the United States Senate by a party colluding with the White House to try to appoint loyalists to courts who have been chosen with the hope that they will re-interpret precedents and overturn the very laws that have protected our most fundamental rights as Americans. The American people deserve better than we have seen with the destruction of rule after rule by a majority willing to sacrifice the role of the Senate as a check and balance in order to aid a President determined to pack the federal courts.

How does the record of judicial confirmations for President George W. Bush compare to administrations before his? Very well. In President Bush's first term, the 204 judges confirmed were more than were confirmed in either of President Clinton two terms, more than during the term of this President's father, and more than in Ronald Reagan's first term when he was being assisted by a Republican majority in the Senate. With the four judges confirmed so far this year, the total number of confirmations of this President's judicial nominees has risen to 208. It would rise further and faster yet, if the White House would only work with us to identify qualified, consensus nominees for the 29 current vacancies without a nominee. The President has sent only one new nominee to the Senate so far this year, and it is already May. If the President wanted to pick judges instead of fights, he could work with us rather than divide us.

And what happened to those 11 nominees the President started us off with 4 years ago? Considering the strong ideological bent of this group, the President has been quite successful. One has been withdrawn from consideration and 8 of the remaining 10 have been confirmed, 80 percent. The confirmations of Clinton circuit court nominees during his second term, from 1997–2000, while a Republican Senate majority was in control, were nowhere near as successful. Over those 4 years 35 of 51 Circuit Court nominees were confirmed, 69 percent.

If we looked at 1999 and 2000, the 106th Congress, the numbers are even worse. Fewer than half of the President's circuit court nominees were confirmed, 15 of 34. Outstanding and qualified nominees were never allowed a hearing, a committee vote or Senate consideration of any kind. These nominees include the current dean of the Harvard Law School, a former attorney general from Iowa, a former clerk to Chief Justice Rehnquist and many others—women, men, Hispanics, African Americans, a wide variety of qualified nominees.

So on this anniversary, let us understand that 8 of the 10 nominees we will hear complaints about have been confirmed.

With respect to the remaining two, I should note that in the years that Republicans held the Senate majority and Senator HATCH was the committee chair, Judge Terry Boyle was one of the very few nominees he chose not to consider. Thus, Judge Boyle is still before the Judiciary Committee. Senator SPECTER held a hearing on that controversial nomination and the committee is still receiving copies of Judge Boyle's unpublished opinions for its review.

The remaining nominee is one whose opinions were criticized by Alberto Gonzales when he served on the Texas Supreme Court with her. Indeed, many of her positions were too conservative and activist for her conservative Republican colleagues on the Texas Supreme Court. When I chaired the committee in 2002, in another gesture of good will, I proceeded on a number of controversial nominations in spite of the recent mistreatment of President Clinton's nominees. One of those hearings was for Priscilla Owen.

I was not required to schedule that hearing. I could have followed the example of my immediate predecessor and denied her consideration before the committee. It would have been a much easier path than the alternative I chose. Instead, I proceeded. Senator FEINSTEIN conducted the hearing in a fair manner. After the hearing, I then did something else that my predecessor as Chair so often did not: I proceeded to have the committee consider the nomination on its merits even though I knew I would not support it. The committee debated the nomination fairly and openly. Objections to her confirmation, based on her record as a Justice on the Texas Supreme Court, were aired and honestly debated. A vote was taken and instead of hiding behind anonymous holds or hidden blue slips, Senators put themselves on the record. The result was that the Owen nomination was rejected by a majority of the committee and not recommended to the Senate.

Since that time much of what has happened has been unprecedented. Despite the rejection of the nomination by the committee, the President resubmitted the nomination the next year. I do not believe that had ever been done before in our history. Then, on a party-line vote, Republicans forced the nomination to the floor. It was debated extensively and the Senate withheld its consent. After a series of cloture votes, cloture was not agreed upon in accordance with the rules of the Senate. Nonetheless, the President took further unprecedented action in, again, resubmitting the nomination to the Senate. That nomination is now pending, again, on the Senate Executive Calendar.

By any measure the President's first nominees were treated fairly. Judge Parker, Judge Shedd, Judge Clement, Judge Cook, Judge Sutton, Judge McConnell, Judge Gregory and Judge Roberts are each serving lifetime appointments on important circuit courts. The first slate of nominees has now all been accorded hearings. All but Judge Boyle have been considered by the Judiciary Committee. All but one of those has been confirmed.

This is no basis on which to break the rules of the Senate. This is not justification to end the Senate's role as a check and balance on the Executive. This is not reason for the majority to take the drastic and irreversible step of ending protection of the minority through the tradition of extended debate in the Senate.

The White House and the Senate Republican leadership's campaign for "nuclear option" seeks to end the role of the Senate serving as a check on the Executive. But that is precisely what the Constitution intends the Senate to provide. Supporters of an all-powerful Executive have gone so far as to seek to inject an unconstitutional religious test into the debate and to characterize those who oppose the most extreme of the President's nominees as "against people of faith" and to call for mass impeachments of judges and other measures to intimidate the judiciary. Our independent judiciary is an essential check on the political branches.

Pat Robertson says that he believes that federal judges are "a more serious threat to America than Al Qaeda and the September 11 terrorists" and "more serious than a few bearded terrorists who fly into buildings" and "the worst threat America has faced in 400 years—worse than Nazi Germany, Japan and the Civil War." This is the sort of incendiary rhetoric that is paving the way to the "nuclear option." It is wrong, it is destructive and it is short-sighted.

Chief Justice Rehnquist is right to refer to the federal judiciary as the crown jewel of our system of government. It is an essential check and balance, a critical source of protection of the rights of all Americans, including our religious freedoms. In "A Man For All Seasons" Sir Thomas More speaks about the rule of law and the need for its protections. When his family confronts him and demands that he break the law to get at the Devil, he replies:

> What would you do? Cut a great road through the law to get after the Devil? . . . And when the last law was down, and the Devil turned 'round on you, where would you hide, Roper, the laws all being flat?
>
> This country is planted thick with laws, from coast to coast, Man's laws, not God's! And if you cut them down . . . do you really think you could stand upright in the winds that would blow then?
>
> Yes, I'd give the Devil benefit of law, for my own safety's sake!

Our Federal judges are not the Devil and are not in the service of the Devil. Democratic Senators are not the Devil and are seeking to uphold the Senate as a check on the most extreme actions of the Executive. I pray that Republican Senators will think about that and reflect on the protections that our constitutional checks and balances provide. I trust that they will honor the protections of the minority that make this institution what it is. I hope that they will show the courage to protect the Senate and the minority that the senior Senator from Pennsylvania spoke about in his important statement a few weeks ago.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. WYDEN. Mr. President, as the Senate resumes debating the nuclear option for resolving the debate about judges, I would like to ask that the Senate pursue a conventional option, the disappearing art of bipartisanship. Rather than calling for breaking out the nuclear weapons, I believe the Senate should call for breaking out some bipartisanship, and I want to give an example this afternoon of what the possibilities could be for real bipartisanship in this area of judicial nominations.

When President Clinton was elected, even though I was a Member of the House, I was the senior Democrat in my State. So I was faced with the challenge then as a Member of the other body of working with two Senators with close to 60 years of experience in the Senate—Mark Hatfield and Bob Packwood. Both of them were extremely gracious in their efforts to work with me.

I created a formal judicial selection committee. I gave Senators Hatfield and Packwood representation on that committee. We worked together in a bipartisan way and my first selection was confirmed without controversy.

I continued that bipartisan selection committee when I was elected to serve in the Senate. Three of my recommendations are now serving on the

Federal bench thanks, in great measure, to the bipartisan cooperation of my friend and colleague Senator GORDON SMITH.

After President Bush was elected in 2000, Senator SMITH retained a similar bipartisan judicial selection process, and I was pleased to be able to assist him and the Bush administration in moving their nominee through the process.

Now our bipartisanship has been put to the test. In fact, twice, both with respect to myself and with respect to Senator SMITH, we had nominees who proved to be controversial to some Senators. In each case, the Senator in the minority party upheld his commitments and shepherded these individuals through the Senate. Doing tough bipartisan work at the front end of the judicial selection process, neither Senator SMITH nor I were pulled into a partisan squabble later on as the process went forward.

This is precisely the sort of bipartisan cooperation that is now missing between the White House and the Senate, and what is needed is more bipartisan conventional options for resolving this judicial debate and fewer nuclear threats.

It seems to me, going nuclear will change the Senate in a very dramatic way. I think it will make it harder, for example, to have breakthroughs in health care such as Senator HATCH helped me achieve when we passed the Health Care That Works for All Americans law. I think it is going to make it harder to have a bipartisan breakthrough to producing a new energy policy. If ever there was a red, white and blue issue for our country, it is getting a new bipartisan energy policy that would shake us free of our dependence on foreign oil.

As I held open community meetings last week at home in Pendleton, Irrigon, Monroe, Fossil, Tillamook, and throughout my home State, there were no rallies and citizens calling for the use of a nuclear option. There were an awful lot of people asking: What are you going to do about health care costs that are going through the stratosphere? And I talked to them about the efforts that I and Senator HATCH have put in place.

They wanted to know about what is going to be done to deal with crumbling roads. I see our friend from Oklahoma who would like to pull together a bipartisan bill to deal with our country's infrastructure.

So folks were talking about health care, creating jobs and a fresh energy policy. They know the only way the Senate is going to achieve any of that is through bipartisanship.

I also see the distinguished chairman of the Judiciary Committee, my friend Senator SPECTER. Today the Senate has a choice. Tomorrow or the next day there may not be a choice. I hope my colleagues will choose the conventional option we have been using in Oregon that Senator Hatfield and Senator Packwood assisted me with and that Senator GORDON SMITH has assisted me with. I hope we will choose what I call the Oregon conventional option and seek a renewed bipartisan commitment to resolving this matter.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Mississippi is to be recognized.

Mr. LOTT. Mr. President, parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state his inquiry.

Mr. LOTT. I have been in the cloakroom waiting for the opportunity to speak on the highway bill and to speak on behalf of the commerce safety portion of that highway bill. Are we now going to turn to the highway legislation?

The ACTING PRESIDENT pro tempore. We are on the highway legislation. We were under a unanimous consent request, with the Senator recognized to speak next.

Mr. LOTT. Mr. President, I am pleased this afternoon to talk about title VII of this very important Surface Transportation Improvement Act of 2005. I remind my colleagues that the highway and transportation legislation, TEA-21, that we passed back in 1998, effectively expired September of 2003—not 2004 but 2003. We are now on the sixth extension of this very important legislation. This week we need to complete action on this very important bill.

It is about building decent highways and bridges and transit authorities, but it is about more than that. If we do not have decent infrastructure, if we do not have decent highways and bridges, if we do not have transit capability, if we do not have border roads, we are not going to have economic development. Most importantly, and that is why I am here as the chairman of the Surface Transportation and Merchant Marine Subcommittee, safety provisions are not improved and extended. We should care an awful lot about this.

The safety portion of the legislation was reported out of the Commerce Committee, with the support of Chairman TED STEVENS and the ranking Democrat, who is referred to in our committee as cochairman, Senator INOUYE. It is bipartisan, and I believe it is very strong legislation.

I care about the safety portion of it, and maybe I care about the safety provisions more than some people because I have had a family tragedy myself that has affected my thinking on this. My father was killed in an automobile accident, without a seatbelt, involving alcohol, on a narrow, two-lane, hilly road. This section of this legislation would affect all of that. It would give additional incentives for States to do more to stop driving while under the influence of alcohol. It would give incentives for people to use seatbelts. It would improve our roads and bridges and widen our roads. So this is personal with me, and I care an awful lot about it.

Before I get to that section of the legislation, I want to talk about the broader perspective. When we look at history and at infrastructure and the ancient Roman Empire, many would say it was their advanced infrastructure and efficient highways that allowed them to build the empire that they had. That highway system was critical to the expansion and protection of their empire. It allowed rapid troop movement. It facilitated trade. It enabled ease of movement for diplomats and couriers. It provided rapid expansion of the Roman sphere of influence. It afforded military protection from invaders and facilitated communication between distant parts of the empire.

We do not want to replicate everything we saw in the Roman Empire, but it also is interesting to note that that empire eventually went away, and some people say it was partially attributable to the fact that they quit building the infrastructure; they let the country start decaying and the infrastructure go into disrepair. I think that is what we are beginning to experience in America.

One of the reasons why we have been able to continue to grow, do well, and move around this country is because of our infrastructure: highways, bridges, railroads and ports and harbors. The whole package is critical. It is what enables America to have our great system. Whether people are from Maine, Mississippi, California, Virginia, Florida or Washington, we have access to virtually all the same products, and it is because of our infrastructure.

On September 11 and in the days immediately following, we saw that our highways were absolutely critical to movement of goods and our people and that we need to have a balanced and complete infrastructure package. So it is time that we act. Our interstate system in America is 50 years old. States have been doing their part, but a lot of the States are struggling with their budgets and a lot of the highway departments have been living on these extensions. So we have lost an opportunity. We have lost ground.

Thirty-two percent of our major roads are in poor or mediocre condition, almost a third. Almost 30 percent of our Nation's bridges are structurally deficient and obsolete. Quite frankly, I am afraid where we are headed. If we do not do something about this, there will be a loss of the jobs that would have been generated, and it would contribute to the slowing down of our economy.

TEA-21 did an awful lot for our country, but it is time that we move to the next step. The U.S. Department of Transportation has said that for every $1 billion in Federal transportation infrastructure investment, 47,500 jobs would be created. So just think about that when looking at what is involved in this bill. We are talking about many thousands of jobs being created. We need to have this 5-year extension. In the general sense, I urge my colleagues to work together in a bipartisan way and work with the administration to get this legislation completed before this next extension expires.

The portion of the bill that I am directly responsible for is from the Commerce Committee, and it is the safety provisions that would be in the reauthorization. I will describe what is in this Safety Improvement Act of 2005. It is a comprehensive reauthorization of many of the Department of Transportation safety programs that we passed in 1998. It includes trucking and bus safety, highway and vehicle safety and hazardous material safety. The bill also includes provisions to protect consumers from fraud in the moving industry and to reauthorize the boat safety and sport fishing programs. It is designed to improve the safety of all of our constituents and its enactment will save lives and reduce injuries.

Just last month, the Department of Transportation released preliminary traffic fatality data for 2004. The good news is the fatality rate on our highways is down slightly, but that data still shows there is much to be done. The programs authorized in this bill are authorized to do that.

Through the leadership of Chairman STEVENS, we have met with all of the interested parties in business, labor, safety advocates, as well as State representatives. We made sure everybody had some input in the drafting of this legislation.

We still have to make note of the almost 18,000, or 56 percent, of the people who died last year in highway accidents were not wearing a seatbelt. The quickest and most effective way of increasing safety is to get people to wear their seatbelts. So we have included a program to give States incentive grants to pass primary seatbelt enforcement laws. Some people would like to turn this around and say if States do not pass the seatbelt acts, we are going to take money away from them. That sort of approach has been tried in the past. It did not work, and it will not work now.

I believe in States such as mine, with an incentive to pass these primary seatbelt laws, there is a good chance we would comply. But if we are told we are going to be punished if we do not, the odds are we will not. So we have drafted this in a way that I believe every State will strive to have significant increases in their safety numbers and a decline in the fatalities on their highways. So we will be supporting this provision in our part of the highway bill.

The data also shows that alcohol is a factor in almost 40 percent of all crashes. Funds are included for States to enforce drunk driving laws and include incentives to toughen their laws. These safety programs should have been authorized almost 2 years ago, but due to disputes we have not been able to improve our safety provisions, improve our safety incentives, and therefore some of the culpability for the amount and severity of accidents and the deaths should be placed at our doorsteps. We need to work with the States to ensure these programs make sense and they are carried out effectively. We should have funding levels that reflect the commitment that we are making to highways and to safety on our highways.

I hope the Senate will pass this legislation this week and that Congress will pass the final conference report this month so the States do not miss the summer's construction season.

I again thank my colleagues on both sides of the aisle for working with us to develop the safety provisions that will be included in the substitute package I believe the chairman will offer.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, we are overdue getting on the highway bill. We are preparing right now to offer a substitute amendment. We are prepared to do that, but Senator SPECTER had said he wanted to speak for a period of time as in morning business. He has been planning to do that, and I will yield 15 minutes to him for that purpose.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BOND. Mr. President, will the chairman yield? Mr. Chairman, we are ready. We are open to do business. There have been a great many discussions about the highway title. We have people ready to take those amendments who are ready to discuss those with our colleagues on the other side of the aisle to see which ones we can accept. Is it my understanding that we only have 3½ days to complete work on this very complex bill that covers not only the EPW section but commerce, finance, and the other sections? Is that correct?

Mr. INHOFE. That is my understanding. You remained here with me all last week inviting Members to bring their amendments down. We said we would be getting close. Who knows, we may even get a cloture vote, and then at the last minute hysteria will set in. Now is the time to bring them down and consider them.

Let me comment on the great work the chairman of the transportation subcommittee, Senator BOND, has done. We need to get to it now. This is probably very likely the most important single bill of this session.

Mr. BOND. I thank the chairman. I hope we can get on with it while our colleague is speaking. I hope other Members and staff will come to the floor and share their amendments and begin the discussion that is going to have to move very quickly if we are to finish this bill this week and stay on schedule to try to avoid another extension.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Pennsylvania is recognized for 15 minutes.

Mr. SPECTER. Mr. President, I thank the Chair for the recognition, but 15 minutes—if I could have the attention of the chairman of the committee, my colleague, Senator INHOFE? Fifteen minutes is insufficient. I had been seeking time since last week and had been assured by the floor staff that I could have 45 minutes starting at 3:10.

I understand the importance of the highway bill. I am here to talk about the constitutional or nuclear option in my capacity as chairman of the Judiciary Committee. I know the highway bill is important, and I have been pressing to bring it up, but the matter I wanted to speak on is perhaps of greater importance.

I had asked for 45 minutes and thought I might do it in 25, but it was reduced in a negotiating session with Senator INHOFE to 15, and I cannot do it in 15. So I will be back another time.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, in a few minutes it is our intention to bring up the substitute amendment, to have the pending amendment withdrawn and bring up the substitute amendment. We are not quite ready for that. We are waiting for a few things to be done in a few minutes. I think it will be worked out, but the managers' amendment is going to do a lot of things to offset some of the problems people had with the bill. When that time comes, we want a chance to go over it in detail and make this a reality.

The amendment is going to bring the total size of the bill up to $251 billion. This includes $199 billion for highways, $5.8 billion for highway safety, and $46.6 billion for mass transit. This amendment would add $6.8 billion in additional receipts to the highway account of the highway trust fund, all of which are offset in the amendment—also, thanks to the good work of Senator GRASSLEY and Senator BAUCUS of the Finance Committee. They have made a yeoman effort and have been able to have us increase this highway funding and have it paid for.

Highway funding would increase by $8.9 billion over the EPW-reported bill.

That is the bill that came out of our committee. It includes a 5.1-percent increase in both apportioned and allocated programs. It also increases the minimum rate of return to donor States to 91 percent immediately. Right now, as you know, it is 90.5 percent. It would raise it to 91 percent in 2006 through 2008. This increases the growth ceilings so more States get to 92 percent more quickly.

In other words, we are to go to 91 percent immediately, and in 2006, and then eventually all States will be at 92 percent in this period of time.

The donee States, the ones that are actually getting back an amount that is in excess of the amount that is paid in, they would have a guaranteed minimum growth rate being increased from 10 percent to 15 percent every year. The average growth rate increases from just under 25 percent to almost 31 percent.

The amendment also includes firewalls to ensure the highway trust fund dollars are spent on this Nation's transportation needs. There has been a problem over a long period of time. People have been very offended by the fact that these trust funds have been raided and somehow these moneys are diverted to other causes. Senator Bond and I, and I think the vast majority, and certainly 76 percent of this Senate, agree that we should have firewalls; we should protect that money and make sure it goes to highway spending.

Finally, the mass transit funding increased by $2.3 billion to $46.6 billion. This represents a dramatic increase in the transit share of the bill from 18.18 percent under TEA–21—that is what it was when we passed it 7 years ago—to 18.48 percent. The safety programs have increased, which Senator Lott has talked about in the purview of his committee. They have increased their funding over levels in S. 1072, last year's bill, which was funded at $318 billion.

Last year, during consideration of the $318 billion Transportation bill, the Senate voted 76 to 21 in favor of funding the highway bill at $255 billion, in mass transit at $56 billion. This vote should be even more of a resounding victory for adequate funding levels for transportation, especially considering this bill is funded at a lower level.

I remind my colleagues of the vote on the Talent amendment to this budget resolution which received over 80 votes from Senators who voted to support it.

This amendment gave flexibility to increase the funding for the bill as long as it was offset, which is exactly what Senators Grassley and Baucus have done in their portion of this amendment.

This is the amendment we do want to bring up. We are not quite ready to seek unanimous consent to bring it up.

I ask Senator Bond, the subcommittee chairman, if he seeks recognition now. Let me have him recognized. If he wants to yield to Senator Inouye, he can do that.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr. President, I was going to do what the chairman of the full committee said, but I see our friend from Hawaii is here. We have already had a discussion of the commerce title. I am happy to defer to my colleague from Hawaii.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

Mr. INOUYE. Mr. President, let me begin by thanking Surface Transportation and Merchant Marine Subcommittee Chairman Trent Lott and Commerce Committee Chairman Ted Stevens for their efforts to develop a consensus, bipartisan bill to reauthorize highway safety and boating safety programs under the Commerce Committee's jurisdiction.

Together, with the help of other members of our committee, including Senators Mark Pryor, Jay Rockefeller, Conrad Burns, Byron Dorgan, Frank Lautenberg, and Barbara Boxer, we have crafted legislation that advances the safety of all motorists on our Nation's highways.

Our committee considered the Surface Transportation Safety Improvement Act of 2005 on April 14 and reported this measure without amendment.

Our national highway transportation network is a tremendous national asset and a first-class system. It allows us the freedom to travel and fosters economic growth. The benefits of mobility that our highways provide, however, come with a staggering cost of injury, property destruction, and death.

Recent safety trends indicate that the dangers of operating a vehicle on this network are still disturbingly high. According to the National Highway Traffic Safety Administration, highway fatalities and injuries increased from 42,643 in 2003 to 42,800 in 2004. Large truck crash fatalities increased by 3.7 percent from 4,986 in 2003 to 5,169 in 2004.

To put these numbers in context, the United States suffered more than 58,000 casualities during the entire Vietnam War. We are now losing nearly 43,000 Americans on our highways every year.

As we consider ways to improve the infrastructure and operation of our highways, we must do more to increase the safety of cars and trucks, and their drivers.

The Commerce Committee's section of H.R. 3 incorporates many of the administration's recommendations, and those of safety advocates, regarding auto and truck safety, as well as the safety of hazardous materials transportation. The bill also strengthens consumer protections for those who entrust their belongings to a moving company, and provides more robust, predictable funding for boating safety and sport fish restoration programs.

We have been at loggerheads with the administration over the funding levels needed to improve our transportation system for more than a year. I am hopeful that these disagreements can be resolved so that we may finalize this important safety bill this session. I support more resources for all of our surface transportation programs and believe that we should seek funding closer to the levels that a majority of this chamber supported last year.

If we do provide additional funding, a pro-rata share should be allocated to our Nation's transportation safety programs.

The Commerce Committee's titles of the highway bill have received broad support by incorporating many initiatives proposed by the administration, industry, and safety advocates. However, we are always searching for ways to improve the bill and to reduce the risk of death and injuries on our Nation's highways.

I encourage those who might have amendments to offer to the Commerce Committee's titles to come forward so that we may work to incorporate these requests, to the extent possible.

I urge my fellow Senators to support the significant safety provisions contained within our section. The safety of the traveling public depends on it.

Mr. President, I request unanimous consent to have printed in the Record a document which summarizes each of the bill's key provisions.

There being no objection, the material was ordered to be printed in the Record, as follows:

Summary of Commerce Committee Titles

TITLE 1—MOTOR CARRIER SAFETY

Title 1 of our bill focuses on truck and bus safety. The Federal Motor Carrier Safety Administration (FMCSA) is the federal agency responsible for truck safety through strong enforcement of safety regulations, targeting high-risk motor carriers and commercial motor vehicle drivers. While much progress has been made in motor carrier safety, accidents involving large trucks remain a significant safety and economic concern. To improve truck safety, our bill:

Reauthorizes the Motor Carrier Safety Assistance Program (MCSAP) for the years 2006 through 2009 at an average annual funding level of $200 million, more than double the Transportation Equity Act (TEA 21) level, and consistent with the Administration's proposal. Grants from this program are distributed via formula to states to enforce motor carrier safety rules and regulations.

Provides $20 million to modernize the Commercial Driver's License Information System (CDLIS). This system is the primary method for tracking the safety and qualification of truck and bus drivers. The funding will be used to modernize an outdated computer system and will help efforts to prevent truckers from holding multiple driver's licenses.

Updates the medical program for commercial drivers in the wake of several high-profile truck accidents that raised concerns about the current process. The bill establishes a Medical Review Board to recommend standards for the physical examinations of commercial drivers and a registry for qualified medical examiners. Medical examiners who perform the exams are required to receive training to be listed on the registry.

Replaces the current Single State Registration System (SSRS) with a new system that requires truckers to register in only one state, while preserving state revenues collected through the current system.

Improves the maintenance and safety of intermodal chassis. For many years, there has been a dispute about who should be responsible for the safety of truck trailers, known as intermodal chassis, that are owned by railroad and steamship companies, but are hauled by truckers. The bill contains provisions, agreed to by the trucking, railroad, and steamship companies, that delineates responsibility for safety among the various parties.

Requires the FMCSA to provide outreach and training to ensure that states are properly enforcing operating authority requirements for foreign commercial vehicles. It also requires a study of whether current or future Canadian and Mexican truck fleets that operate or are expected to operate in the United States meet U.S. truck safety standards.

TITLE II—HIGHWAY AND VEHICULAR SAFETY

This title reauthorizes highway safety programs designed to reduce deaths and injuries resulting from motor vehicle crashes. These programs are administered by the National Highway Traffic Safety Administration (NHTSA), which was established by the Highway Safety Act of 1970. To improve highway safety, our bill:

Provides $700 million a year in grants to states to increase seat belt use and reduce drunk driving. Grants are awarded to states that enact primary seat belt laws and enact specific strategies to combat drunk driving.

Provides $24 million a year for national advertising campaigns to increase seat belt use known as the "Click-It-Or-Ticket" campaign, and to reduce drunk driving. These advertising campaigns purchased at the national level are complimented by states coordinating police enforcement at the local level.

Provides substantial funding for NHTSA to conduct research on reducing traffic deaths and injuries. States rely on this research to target safety strategies in the most cost-effective way.

Requires NHTSA to issue a rule by 2009 that requires automobiles sold in the United States to have new stability control technologies that reduce the likelihood of rollover crashes, better door locks to reduce the likelihood of passenger ejection in a rollover crash, and stronger roofs to protect occupants in a rollover crash.

Requires NHTSA to issue a rule by 2008 that sets new safety standards for automobiles sold in the United States to better protect occupants in a side-impact crash.

Requires window stickers on new cars to display safety "star" ratings in a similar manner that gas mileage is displayed on window stickers.

TITLE III—HAZARDOUS MATERIALS TRANSPORTATION SAFETY

Title III of our bill is designed to improve the safety and security of the transportation of hazardous materials. The hazardous materials (HAZMAT) transportation safety programs, now administered by the Pipeline and Hazardous Materials Safety Administration (PHMSA), have gone unauthorized since 1998. In 2004, there were 14,515 HAZMAT incidents, resulting in 8 deaths and 206 injuries and in the aftermath of recent HAZMAT accidents in South Carolina and heightened security concerns in this new era of global terrorism, reauthorization of these programs is a Committee priority. Title III:

Reauthorizes the Department of Transportation's (DOT) HAZMAT safety programs at $25 million in FY 2005, $29 million in FY 2006, and $30 million for each fiscal year from FY 2007-2009.

Provides $21,800,000 annually for community HAZMAT planning and training grants and allows states flexibility to use some of their planning money for training programs as needed. Additionally, the bill provides $4 million annually for HAZMAT "train the trainer" grants, and allows these funds to be used to train HAZMAT employees directly.

Requires Mexican and Canadian commercial motor vehicle operators transporting HAZMAT in the U.S. to undergo a background check similar to those for U.S. HAZMAT drivers. Additionally, the bill improves current HAZMAT background check procedures and requires a study on background check capacity.

Increases civil penalties to up to $100,000 for HAZMAT violations that result in severe injury or death and raises the minimum penalties for violations related to training.

Authorizes $5 million for FY 2005-2009 for the Operation Respond Emergency Information System to improve the real time delivery of information about HAZMAT in transportation to first responders.

Authorizes the Secretary of Transportation to establish a program of random inspections to determine the extent to which undeclared HAZMAT is transported in commerce through U.S. points of entry. It also creates a HAZMAT research cooperative through the National Academy of Sciences' Transportation Research Board.

Streamlines federal responsibilities for ensuing the safety of food shipments. Primary responsibility is transferred from DOT to the Department of Health and Human Services (HHS) which would set practices to be followed by shippers, carriers, and others engaged in food transport. Highway and railroad safety inspectors would be trained to spot threats to food safety and to report possible contamination.

TITLE IV—HOUSEHOLD GOODS

The purpose of Title IV is to provide greater protection to consumers entrusting their belongings to a moving company. While most of movers operate reputable businesses, a small number of "rogue" movers continue to defraud thousands of consumers annually. The oversight of the interstate household goods moving industry is the responsibility of the Federal Motor Carrier Safety Administration (FMCSA). FMCSA is tasked with issuing regulations, conducting oversight activities, and taking enforcement actions on consumer complaints that have averaged about 3,000 per year since 2001. Title IV:

Allows a state authority that enforces state consumer protection laws and State Attorneys General to enforce federal laws and regulations governing the transportation of household goods in interstate commerce.

Authorizes a penalty, of not less than $10,000, for a broker who provides an estimate to a shipper before entering into an agreement with a carrier to move the shipper's goods. A $10,000 penalty and up to a 24-month suspension of registration are authorized also for failure to give up possession of a shipper's household goods, and if convicted, that person shall be fined or imprisoned for up to five years.

Authorizes the Secretary of Transportation to register a person to provide transportation of household goods only after that person meets certain requirements. In addition, the bill authorizes a penalty, of not less than $25,000, for carriers and brokers who transport household goods but do not register with DOT.

Codifies existing regulations that require a carrier to give up possession of the household goods provided the shipper pays the mover 100% of a binding estimate of the charges or 110% of a non-binding estimate of the charges. The bill permits a carrier to charge only a prorated amount for the partial delivery of a shipment in the case of a lost or damaged shipment, and limits the amount of impracticable charges that must be paid upon delivery.

Establishes that a carrier is liable for the pre-determined total value of goods shipped unless otherwise authorized by the shipper. The current standard liability is at a rate of 60 cents per pound of a consumer's goods.

Directs the Secretary of Transportation to modify existing regulations to require a carrier's or broker's website to provide certain information. In addition, the Secretary would be required to establish a system and database for complaints and solicitation of State information regarding the number and type of complaints about a carrier. The bill directs the carrier to provide the shipper information about their rights.

TITLE V—AQUATIC RESOURCES TRUST FUND REAUTHORIZATION

Title V reauthorizes activities funded by two of the Nation's most effective "user-pay, user-benefit" programs—the Sport Fish Restoration Fund, administered by the Fish and Wildlife Service, and the Recreational Boating Safety Fund, administered by the U.S. Coast Guard. These programs constitute the "Wallop-Breaux" program, which is funded through the Aquatic Resources Trust Fund. This reauthorization will allow continued funding of programs that benefit boating safety, coastal wetland protection and restoration and sportfish restoration, as well as Clean Vessel Act grants that help to keep our waterways clean. The title is supported by a large coalition of recreational and boating groups, who are members of the American League of Anglers and Boaters.

As our nation's coastal population and tourism industry grows, these coastal programs are more popular than ever. But boating safety is also vitally important. State programs are nearly 100% funded through the Boating Safety fund, which allows state law enforcement to perform boating safety patrols, as well as train recreational boaters. The presence of these law enforcement boats on the water not only benefits recreational boaters, but also helps meet Coast Guard needs and enforce port security. Title V:

Renames the Trust Fund the Sport Fish Restoration and Boating Trust Fund, and eliminates the separate Boating Safety Account.

Reauthorizes the Marine Sanitary Devices pump-out program, the Boating Infrastructure Grant Program, and Outreach programs.

Increases the Boating Safety Grants to a three-to-one match, the same match as the Sport Fish Restoration grants.

Funds most of the programs on a percentage basis, which provides both simplicity and fairness. Conforming changes to the Internal Revenue Code will be included in the sections offered by the Finance Committee.

Annual revenues to the Fund total approximately $500 million, but the amounts vary from year to year. Under the new agreement, all programs will share in the rise and fall of these revenues, less the $9 million set aside for administration, and the $3 million set aside for multi-state grants. Title V establishes the following funding shares for the Trust Fund programs:

Sport Fish Restoration, 57% (including 15% for Boating Access); Boating Safety Grants, 18.5%; Coastal Wetlands Act, 18.5%; Boating Infrastructure, 2.0%; Outreach, 2.0%; Clean Vessel Act, 2.0%.

The growing popularity of recreational boating and fishing has created safety, environmental, and access needs that have been addressed successfully by the Recreational Boating Safety and Sport Fish Restoration programs. The Trust Fund program reauthorizations and funding adjustments contained in Title V are important for the safety of boaters, the continued enjoyment of fishermen, and improvement of our coastal areas and waterways.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr. President, I thank my colleague from Hawaii. I am hoping we can get started on this bill as quickly as possible because this time during this week has been set aside for the bill with all of the titles—EPW, commerce, finance—and we have a very complex bill. We need to work on these amendments right away.

There is discussion about holds on both sides. I hope if anybody has a problem with the bill they will come down and work with us and not hold up the bill because we cannot do our job and get this measure passed if we are blocked from bringing it up by people phoning in their holds.

I would like to have any Member who has a problem to talk to our staffs, realize there are lots of things that many people want to change, but that is what this whole process is about. We are trying to craft a bill that has been reported out of several different committees. Our highway title has been out there for 10 days, and everyone has had a chance to work on it. We have cleared numerous amendments on both sides of the aisle to take care of needs that various Members have. We cannot get this bill completed if people phone in holds and say: No, we are not going to let you go to the floor. It is very important that Members come down. This is going to be a very difficult bill.

Mr. LOTT. Will the Senator yield?

Mr. BOND. I am happy to yield.

Mr. LOTT. What is the present situation that would block the Senate from moving forward with this legislation and amendments being offered? Can't you just ask consent to go to the legislation?

Mr. BOND. My understanding from the cloakrooms is there are Members who have phoned in their concerns about moving to it.

Mr. LOTT. Mr. President, if the Senator will further yield, who is the cloakroom—is he a Senator? This is highway legislation that has been held up for 2½ years that is causing people to get killed, that is keeping us from creating jobs.

The Senator from Missouri and the Senator from Oklahoma and all other Senators trying to manage this legislation have been very effective, very helpful of everyone, very considerate, but it is time we get this legislation going. The very idea that a Senator on Monday afternoon is calling in here or hiding out in his office or calling from some airport saying they object to us going to this legislation—I would like for them to explain that to their constituents. The Senate has been playing around long enough this year delaying everything, slow-walking everything.

By the way, this is not partisan; it is on both sides. This legislation is critical. It is time the Senate starts acting as a Senate instead of a kindergarten. I hope the Senators will give the consent this Senator from Missouri needs to get on this legislation and get it out of here. If we do not, our constituents are going to know who is the problem and why we are not getting this job done. It is time we get some Senators by the nape of the neck and tell them to put up or shut up because this legislation is critical. It is time to get it done. We ought to be having votes on amendments this afternoon. The very idea of Senators hiding in their offices saying, I am not ready, or I don't want to come, or I object—get over here and legislate and start acting like adults.

I thank the Senator from Missouri for yielding to me for that calm expression of concern.

Mr. BOND. I certainly hope the Senator from Mississippi feels better. I feel better because he has expressed my sentiments very clearly. We have been waiting 2⅓ years to have this bill in the Senate, and we have plenty to work on. I hope we are ready to move forward.

I will add to what the chairman of the EPW committee, my colleague from Oklahoma, has said. Recognize that last year during the consideration of the Transportation bill, the Senate voted 76 to 21 in favor of funding the highway bill at $255 billion, mass transit at $56 billion. This vote was a strong signal that the Members of the Senate believe we need to spend more dollars for safety, for our economy, for jobs, for our long-term growth and future on highways.

We did adopt in this budget resolution the provision presented by my colleague, Senator TALENT, and the Senator from Michigan, to give the Finance Committee the opportunity to increase funding for the bill as long as it was properly offset, and 80 Senators voted in support of it. That is exactly what the chairman and the ranking member, Senators GRASSLEY and BAUCUS, have done in their amendment.

I urge we support this amendment because we are still going to be short of where we were last time. No one is going to be able to get, for their particular areas of interest, their particular priorities, the same amount of money that would have been available under $318 billion. This measure does increase the funding somewhat over the figure written into the budget, but it is in pursuant to the provision included in the transportation section of the highway bill that there could be an add-on.

I hope people will see this is a critical time to move forward on this measure. If there are people who have amendments, I hope they will be ready to come forward.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. DURBIN. Will the Senator yield?

Mr. INHOFE. Yes, I yield for a question.

Mr. DURBIN. Just for a question.

I came to the Senate and heard Senator LOTT. He was exasperated and frustrated. He said Members were not offering amendments, so I came to the Senate quickly to find out the extent of it.

Would the Senator from Oklahoma clarify, is it not true that we now have, in effect, a new bill—about 1,000 pages, the substitute—that is being copied now and being shared for the first time? Members who seek to amend the bill should at least be given a chance to review this new version of the bill so their amendments are in order.

Mr. INHOFE. I respond to the Senator from Illinois, I am not sure what was shared with all the Democrats. I do know that Senator JEFFORDS and Senator BAUCUS—we have been working together. They are the ranking members of the subcommittee and whole committee. We have done this jointly. This has been done all together. Whether that was shared with all the Members, I have no way of knowing.

Mr. DURBIN. If the Senator will yield, I share the sentiment and understand his frustration 3 years into this process still trying to come up with a bill. I want to see this done as quickly as possible. I will urge the staff that is now reviewing this new substitute amendment—some are just seeing it for the first time—to move quickly and to urge all colleagues on both sides, Democrats and Republicans, to bring their amendments to the floor and let's get on with it.

I say to the Senator, I understand his feelings, and if it is in the form of a question, does the Senator believe he is deserving of my empathy?

Mr. INHOFE. I thank the Senator from Illinois.

I remind the Senator, as chairman of this committee I went first to Illinois before going anywhere else to have a field hearing, which we had in Chicago and went over some of the needs. They made it very clear to me that there are needs in Illinois, and the Senators from Illinois are very anxious to get this bill under consideration.

Again, the only frustration I have on amendments is that for 4 days last week we talked about this, begging people to bring down amendments.

The Senator from Illinois knows as well as I know what could very well happen: we could get into a cloture situation where then we would be out of time.

It seems as if it is the nature of the Senate that you just do not do anything until you have to do it. Now you have to do it. So we want them to come down. It is our hope now to get to the managers' substitute. We are not in a position to quite do that yet; however, we can certainly entertain amendments and have amendments discussed and lined up. Then we can talk about the necessity of having this bill. That is essentially what we are doing right now.

I can assure the Senator from Mississippi, his frustration is no greater than mine because I will have people stop and talk to me about amendments—fine, bring them down; let's discuss them—and they do not show up. That is what we want to make sure happens.

I think the Senator from Illinois is right. We are on our sixth extension now. We worked on this bill for 2 years prior to the time we brought it to the floor last year. So this has been a 3-year process. My concern is if we end up just getting another extension, we are not going to get anything done that really needs to be done. If we are concerned about doing something for donor States, we are not going to do it with an extension because it is going to be the same thing as we have been having under TEA–21 as of 7 years ago.

If our concern is about the Safety Corps, the Senator from Mississippi is right. It is his committee that deals with the Safety Corps programs. Certainly the State of Oklahoma is high on the list of deaths on the highways. We have to get this done.

I suggest it is a matter of life and death that we get a bill because if we operate off of extensions, we are not going to do anything to improve safety on the highways. The Senator from Mississippi made that very clear. We are not going to have any real streamlining of environmental reviews. We have some good elements in this bill that are going to be able to help us build roads faster with less money than we could on an extension. If we are operating on an extension and do not have a bill, we are not going to have any increase in our ability to have innovative financing thereby giving the States more tools.

What we have tried to do in this bill is to give a lot more of the power back to the States. It has been my belief, and I think shared by most members of my committee, that the closer you get to home, the more people are aware of their specific needs. There are a lot of people who have some excellent ideas on innovative financing that the States are going to be able to do. This is in the bill.

The Safe Routes to School Program—the Senator from Vermont is very much interested in that. It is one that is handled in this bill. However, if we go on an extension, extension No. 7, we are not going to have the Safe Routes to School Program.

The States are considered to have uncertainty. We have come back from about a 7-day recess. I talked to our people, our highway people, our department of transportation in Oklahoma, and they cannot have any kind of planning for any kind of certainty as to knowing what is going to happen in the next year and the year after that and for the next five years unless we pass this bill. They are begging, pleading: Why can't you get this done because it has to be done in order for us to plan for the future.

I am particularly concerned about this because as to bridges, for example, in my State of Oklahoma, we are dead last in the Nation in terms of the condition of our bridges. And we cannot get anything done and plan for the future unless we get a bill.

There are a lot of people in a lot of States who are concerned about the borders program. It is critical to the border States that are dealing with the NAFTA traffic. This bill deals with that. With an extension, it is not going to happen. If we do not do this bill, we will have a delay in the establishment of this national commission to explain new ways to fund transportation.

I can tell you we have not done it any differently than when Dwight D. Eisenhower was President of the United States. He came along and recognized a problem in our transportation system as a result of the problem he had during World War II in moving troops and equipment around. Looking at our transportation system, the first thing he did when he became President of United States was to set up a National Highway Program and get it started. We have been funding our roads and our highways and our improvements and our bridges and infrastructure the same as we did during the Eisenhower administration. The bill sets up a national commission to go over some creative types of changes in funding where we can do a better job.

Right now, we are looking at the consideration, shortly, of the managers' amendment. If we do, it has been reported that even that amount, which is higher than the amount that was reported out of my committee, is going to do nothing more than just maintain what we have today. It is not really going to provide anything new. So we need to recognize that.

I have to say this, too. There are a lot of different philosophies that are represented in this Chamber. I am one of the most conservative Members. Yet there are some areas where conservatives do spend more money, and one is in infrastructure, which is what we are supposed to be doing here. We do not want to delay this national commission we set up in this legislation. I believe it is time to make a change for the better.

With the bill, we have increased the opportunity to address the chokepoints for intermodal transportation. This is kind of interesting. People do not realize this is not just a roads bill. This is an intermodal bill that considers chokepoints between channels and railroads and roads. We deal with that. It is an intermodal bill. A lot of people are not aware of the fact that in my State of Oklahoma, we are actually navigable. We have a navigation channel. This bill deals with the chokepoints between rail, road, water, and other air transportation.

And there is the firewall. If there is one thing that has bothered me over the years I have been on this committee—I have been on this committee for 11 years; and before that, in the other body, I was on the Transportation Committee for 8 years, so that is 19 years. During that time, when I have gone back to my State, the thing people are offended by is that there are always raids on the highway trust fund.

People have their own programs, they may be good programs, but they try to go in and get money out of the highway trust fund to support those programs. We have seen this happen over and over again in establishing policies in the Senate, that they highway fund it. How should we fund it? Let's fund it with transportation funds.

I believe that is a moral issue.

When the American people go to the pump, they do not mind paying a tax, but when they find out that tax is not going to highway construction and highway improvements and highway maintenance and intermodal transportation, they are understandably very nervous and very offended.

We have the firewall protection of the highway trust fund to make sure that these trust funds are not going to be vulnerable to raids in order to pay for other programs. I know there are a lot of people who feel they are not as excited about the way the formula was put together. I would like to say something about that. This is significant.

There are two ways to do a highway bill. I know one of the ways that was a little more prevalent in the other body was to come up with projects. You have 435 Members who have projects of significance. Instead, we believe that decisions on the priority of expenditure of transportation dollars should be made at the local level. In other words, it is easy to come up here and pass something and go home and say: Look what I got for you; I am bringing this home.

What we prefer is to have an equitable distribution of moneys that come into the highway trust fund to go back to the States and then let the States make these decisions. If there are States that don't want to do this, that is fine. But in the State of Oklahoma, I can assure you the closer to the people at home, the better the decisions. The people in the eight transportation districts in my State of Oklahoma are far better informed on the needs and priorities of where money should be spent on transportation than they are here in Washington. There are a lot of people who think that no decision is a good decision that is made in Washington. I don't agree with that.

We have a different way of doing it than the other body. We have a formula. Our formula takes everything into consideration. We are talking about interstate lane miles; vehicle miles traveled on the interstate; the contributions to the highway trust fund; the lane miles and principal arteries, excluding the interstate VMT on principal arteries; surface transportation programs; total lane miles—all these things are considered—the Bridge Replacement and Rehabilitation Program; we have rankings to see what is really nationwide that should be attributed to this. Certainly, I am a little bit prejudiced, being from Oklahoma where our bridges are in the worst shape of any of the 50 States. We are going to correct that, and we can correct that with this bill.

We have congestion mitigation, air quality improvement programs, and these are very significant. These are the things that come in under the formula that goes out to the States. We have the Recreational Trails Program. We know all about that. We take into consideration low-income States. There are some States that are lower income States, and the people are not really able to pay for quite as much as some other States. We have low-population States, but they still have to have roads. Consequently, that has to be a part of the formula. We have low population density States. Some States have much higher fatalities than other States. That tells you they need to do something. The SAFETEA core program is in this base bill and will be continued. If we get around to the managers' amendment, then we will have something in there. Guaranteed minimum growth, you have to have some consideration in there because there are States that are growing very rapidly. Some States are on the other side.

We have donor States, donee States. These are things that are considered. A lot of people realize we have many States, including my State of Oklahoma, that are donor States. In other words, we don't get back as much money as we send to Washington to go into the highway trust fund. In TEA-21, we put in a minimum figure of 90.5 percent. In the bill we had last year, it would bring all these donee States all the way up to 95. That was good, but it took $318 billion over 6 years to do that. We were not able to get it out of conference.

By the way, as the Senator from Missouri said, that bill passed the Senate by 76 to 21. That gives you an idea. If we get the bill up here, all we have to do is get by all these procedures, and we will pass a bill. It will take into consideration all the things I mentioned. This is not just a political table. In fact, politics didn't enter into it. We don't have projects in this Senate bill. The House bill does. When we go to conference, we are going to iron those things out, and we are going to come out with a good bill. But you can't do that until you get all the amendments in and get a vote.

I encourage Members to offer their amendments and to discuss the highway bill. I know there are some Members who were requesting time for that purpose.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I see the floor manager of the highway bill.

Mr. INHOFE. Will the Senator yield for a question?

Mr. KENNEDY. I will.

Mr. INHOFE. It is my understanding you want to speak as in morning business.

Mr. KENNEDY. Yes.

Mr. INHOFE. Can you hold it to, say, 25 minutes?

Mr. KENNEDY. Yes.

Mr. INHOFE. I further ask unanimous consent that the time you take be the time, following you, given to Senator SPECTER, who is wanting to have about that amount of time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. INHOFE. It is my understanding then that the Senator from Massachusetts will go for 25 minutes. Then the Senator from Pennsylvania will go for 25 minutes.

The ACTING PRESIDENT pro tempore. That was the Chair's understanding.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the floor manager. This is very important legislation, enormously important to my State as other States. We need the kinds of investments in our roads and bridges to ensure their safety and security and that they will continue to be the vital avenues for an expanding and growing economy. I look forward to working with the committee.

IRAQ SUPPLEMENTAL

I appreciate having the opportunity to address the Senate on what I anticipate will be the matter that will be before the Senate later this evening and through tomorrow, and that is the Iraq supplemental conference report. As I mentioned, I expect that it will be laid down in the next few hours, and I expect there will be a final resolution of this sometime tomorrow.

I welcome the opportunity to address some of the important provisions that are included in the conference report and bring them to the attention of our colleagues and to the American people.

I intend to support the Iraq spending bill. Although I disagree strongly with some of the bill's provisions, these funds are clearly needed for our troops. All of us support our troops. We obviously want to do all we can to see that they have proper equipment, vehicles, and everything else they need to protect their lives as they carry out their missions. It is scandalous that the administration has kept sending them into battle in Iraq without proper equipment. No soldier should be sent into battle unprotected. No parent should have to go in desperation to the local Wal-Mart to buy armor plates and mail them to their sons and daughters serving in Iraq.

Our military is performing brilliantly under enormously difficult circumstances, and we need to give them our support—not just from our words but from our pockets, too. One aspect of this bill that I am particularly proud of is the increased funding for humvees for our troops on patrol in Iraq. The Bayh-Kennedy amendment adds additional funds to keep production at increased levels. Some opponents claim that the Army already had enough armed humvees and objected to any further increase. But a front-page article in the New York Times, on April 25, told us the troop side of the real need for more armor and the difference it can make.

Company E, a Marine Corps unit based at Camp Pendleton, returned from 6 months in Ramadi last year, and its members were so frustrated with this problem that they decided to tell their story. They did not have enough armored vehicles. Thirteen of the twenty-one marines from Company E who were killed in Iraq had been riding in humvees that failed to protect them from bullets or bombs. They saw problems up close.

A year ago, eight of them were killed when their humvees were ambushed on the way to aid another unit under fire. The cargo section of the humvee where the troops were riding did not even have hillbilly armor to protect them from the blast. They were totally unprotected. As one marine described the attack: All I saw was sandbags, blood, and dead bodies. There was no protection in the back.

Captain Kelly Royer, Company E's unit commander, asked his superiors when he would be getting more armored humvees. He was told that additional armor had not been requested and that there were production constraints.

Another marine says they complained about the shortages every day to anybody we could. They told us they were listening, but we did not see it.

These marines on the front line knew the armor meant the difference between life and death, the difference between an essential mission and a suicide mission. They were desperate to get more armor. Day after day they saw the brutal consequences of the Pentagon's incompetence and delay.

The lessons learned from the war in Iraq are said to help us in future conflicts, but for all forces facing death every day, the future was yesterday. In fact, the Marines are requesting funds for the coming fiscal year to develop and produce new armored vehicles to avoid these deadly threats.

The need is so clear that the request was submitted under the Marine Corps Urgent Universal Needs Statement which was created to streamline the acquisition process and get equipment to the field faster. They have a plan to meet the future need, but what about the urgent need today?

We do not have the luxury of time to wait for these new vehicles to roll off a future assembly line. The need for armored humvees is now. The hillbilly armor they scavenge for and add to their unprotected humvees does not provide adequate protection.

The Army says of the new requirement approved this month, none of it is designated for the Marine Corps. The Pentagon refuses to make this a top priority. They continue to drag their feet.

In a report to Congress this month, the Government Accounting Office describes month after month of mismanagement by the Pentagon in supplying the armored humvees our troops urgently need to carry out their missions and stay alive.

The GAO report found the Army still had no long-term plan to increase the number of armored humvees. The war in Iraq has been going on for 2 full years. Our troops are under fire every day, and the Pentagon still does not have a plan to protect them.

I have in my hand an April 2005 GAO report, "Defense Logistics Agency, Actions Needed to Improve Availability of Critical Items during Current and Future Operations." On page 123, it states that there two primary causes for the shortages of uparmored vehicles and add-on armor kits. First, a decision was made to pace production rather than use the maximum available capacity.

This is the General Accounting Office in their report of April of this year.

Second, the funding allocations did not keep up with rapidly increasing requirements.

That is the General Accounting Office about whether we need to have more uparmored humvees and whether we have to give it a higher priority and whether there is a need in Iraq today. Our troops are under fire every day, and the Pentagon still does not have a plan to protect them.

In a briefing prepared by marines for Congress, they specifically state, in their vehicle hardening strategy, that "funding assistance is required to achieve optimum levels of armor protection."

The GAO report clearly points out that the Pentagon's bureaucratic mentality infected its decisions. They tried to solve the problem in a slow and gradual manner instead of solving it quickly. As the GAO report states, there were two primary causes for the shortages: "First, a decision was made to pace production." Translated into layman's language, that means there was not a sense of urgency by the Pentagon. That is what "pace production" means. And then "rather than use the maximum available capacity" means they didn't get off their tail and increase production. And "Second, funding allocations did not keep up with rapidly increasing requirements."

I am going to come to the statements by the responsible DOD officials before the Armed Services Committee on which I serve.

It is equally obvious that in addition to the bureaucratic mentality of the Pentagon, their cakewalk mentality is also a major part of the problem. Week after week, month after month they refuse to believe that the insurgency will continue. They want to believe it will soon be over. They do not feel they need to waste dollars on armored humvees that soon will not be needed in Iraq. So month after month, our troops keep paying with their lives. The light the Pentagon sees at the end of the tunnel turns out to be the blinding flash of another roadside bomb exploding under another unprotected humvee in Iraq.

They cannot even get their story right. Armor Holdings, the company that makes the armored humvee, told my office recently that its current contract with the Army will actually mean sharp cutbacks in production. Right now, they produce 550 armored humvees a month. Their contract reduces that number to 239 in June, zero in July and then back to 40 in August and 71 in September. The company is now negotiating for slightly higher levels of production in June, July, and August, but it still expects to decrease production to 71 by September.

What possible justification can there be for the Pentagon to slow down current production so drastically in the months ahead when armored humvees are so urgently needed? The Pentagon keeps saying: We will work it out. On nine different occasions, we have asked the Pentagon for their requirements for humvees, and nine times they have been wrong. Nine times they have made their presentation before the Armed Services Committee, and nine times they have been wrong in underestimating the importance of needs, and American service men and women have been paying with their lives.

This bill tells the Department of Defense that we will not let them get it wrong for a tenth time. For the sake of our troops, Congress acted and the Pentagon should not ignore it. The contract should be amended immediately to obtain the maximum possible production of armored humvees for the months ahead. Our troops are waiting for an answer, and their lives depend on it.

Another important part of this bill will be the periodic report it requires on the progress our forces are making in Iraq. Our military is performing brilliantly under enormously difficult circumstances, but they do not want, and the American people do not want, an open-ended commitment. After all the blunders that took us into war, we need to be certain that the President has a strategy for success.

The $5.7 billion in this bill for training Iraqi security forces is a key element of a successful strategy to stabilize Iraq and withdraw American forces. The report will provide the straight answer that we have not had before about how many Iraqi security forces are adequately trained and equipped.

We are obviously making progress, but it is far from clear how much. The American people deserve an honest assessment that provides the basic facts, but that is not what we have been given so far.

According to a GAO report in March, U.S. Government agencies do not report reliable data on the extent to which Iraqi security forces are trained and equipped. There it is, March: The General Accounting Office says U.S. Government agencies do not report reliable data on the extent to which the Iraqi security forces are trained and equipped.

The American people do not know the answer. When they do not know, it means pretty clearly that they are not getting the kind of training and priority they should, and the longer it takes to train them the longer American servicemen are going to be over there risking their lives.

The report goes on to say that the Departments of State and Defense no longer report on the extent to which Iraqi security forces are equipped with their required weapons, vehicles, communications, equipment, and body armor. Imagine that. According to the General Accounting Office, the Departments of State and Defense no longer report on the extent to which the Iraqi security forces are equipped with their required weapons, vehicles, communications, equipment, and body armor.

It is clear from the administration's own statements that they are using the notorious fuzzy math tactic to avoid an honest appraisal.

On February 4, 2004, Secretary Rumsfeld said:

> We have accelerated the training of Iraqi security forces, now more than 200,000 strong.

A year later, on January 19, 2005, Secretary of State Condoleezza Rice said:

> We think the number right now is somewhere over 120,000.

On February 3, 2005, in response to questions from Senator LEVIN at a Senate Armed Services Committee hearing, GEN Richard Myers, Chairman of the Joint Chiefs of Staff, conceded that only 40,000 Iraqi security forces are actually capable. He said:

> 48 deployable (battalions) around the country, equals about 40,000, which is a number that can go anywhere and do anything.

Obviously, we need a better accounting of how much progress is being made to train and equip effective Iraqi security forces.

The President's commitment to keep American troops in Iraq as long as it takes and not a day longer is not enough for our soldiers and their loved ones. They deserve a clearer indication of what lies ahead, and so do the American people. I am encouraged that the administration is finally being required by this bill to tell Congress how many U.S. troops will be necessary in Iraq through the end of 2006. The American people, and especially our men and women in uniform, and their families, deserve to know how much real progress is being made in training Iraqi troops and how long our forces will be in Iraq. Hopefully, the administration will submit these reports in good faith and not attempt to classify this vital information.

Those are two of the major provisions that I think require support for this legislation. There was an additional provision that I support that I will mention briefly, and then I will conclude in mentioning a provision which I find very unacceptable, troublesome, and unworkable.

The provision that was added by Senator MIKULSKI, the H-2B visas for seasonal workers, which I had the opportunity to join with her, remains in this legislation, and it will make a great deal of difference. It will be a lifeline for small family businesses in my State on Cape Cod and many other firms that rely overwhelmingly on seasonal workers to meet their heavy summer needs. Many use the programs year after year because it is the only way to legally fill temporary and seasonal positions when no American workers are available. Without this amendment, they would be out of luck this summer, and many will be out of business.

This is a short-term solution to the current visa crisis. The bill is a 2-year fix, and without it many businesses will be forced to shut their doors. I appreciate the support of our colleagues on this issue. It will help many hardworking small businesses and industries across the country.

Unfortunately, not all the immigration provisions included in the bill have this kind of broad support. Included in the conference agreement are the so-called REAL ID immigration provisions that are highly controversial, harmful, and unnecessary. The Intelligence Reform Act we approved overwhelmingly last year provides real border security solutions. The so-called REAL ID bill added by the House to this spending bill contains controversial provisions we rejected last year and likely would have rejected again if we had had a chance to debate them on the Senate floor. They are a false solution on border security, and they serve no purpose except to push an anti-immigrant agenda. More than ever we need to take the time to get border security reform right as opposed to pushing through legislation to meet the demands of anti-immigrant extremists. The stakes are simply too great.

In addition to the numerous substantive problems with the REAL ID, the process through which they have been forced into this conference report is flawed and unacceptable. The Republican leadership in the House and Senate shut Democrats out of the conference negotiations. Why? Because the House bill has controversial provisions that have questionable support in the Senate and with the American people. Strongarm tactics are offensive and do a great deal of disservice to the important issues of our time. The White House too, once rejected these provisions, yet, they now support them. What important issues will the White House flip-flop on next?

Those who pushed through these REAL ID provisions continue to say that loopholes exist in our immigration and asylum laws that are being exploited by terrorists. They claim these provisions will close them. In fact, they do nothing to improve national security and leave other big issues unresolved.

They want us to believe that its changes will keep terrorists from being granted asylum. But current immigration laws already bar persons engaged in terrorist activity from asylum. Before they receive asylum, all applicants must also undergo extensive security checks, covering all terrorist and criminal databases at the Department of Homeland Security, the FBI, and the CIA.

Asylum seekers will find no refuge. Battered women and victims of stalking will be forced to divulge their addresses in order to get driver's licenses, potentially endangering their lives. Many Americans will have other problems with their driver's license. All legal requirements, including labor laws, can now be waived to build a wall. For the first time since the Civil War, habeas corpus will be prohibited. The REAL ID provisions contain other broad and sweeping changes to laws that go to the core of our national identity.

Each year, countless refugees are forced to leave their countries, fleeing persecution. America has always been a haven for those desperate for such protection. At the very beginning of our history, the refugee Pilgrims seeking religious freedom landed on Plymouth Rock. Ever since, we have welcomed refugees, and it has made us a better Nation. Refugees represent the best of American values. They have stood alone, at great personal cost, against hostile governments for fundamental principles like freedom of speech and religion. We have a responsibility to examine our asylum policies carefully, to see that they are fair and just.

But, the REAL ID bill tramples this noble tradition and will be devastating for legitimate asylum-seekers fleeing persecution. It will make it more difficult for victims fleeing serious human rights abuses to obtain asylum and safety, and could easily lead to their return to their persecutors.

Another section of conference report contains a provision that would complete the U.S.-Mexico border fence in San Diego. But it goes much farther than that. It gives the Department of Homeland security unprecedented and unchecked authority to waive all legal requirements necessary to build such fences, not only in San Diego, but anywhere else along our 2,000 mile border with Mexico and our 4,000 mile border with Canada. Building such fences will cost hundreds of millions of dollars, and they still will not stop illegal immigration. What we need are safe and legal avenues for immigrants to come here and work, not more walls.

A major additional problem in the REAL ID provisions is that it could result in the deportation even of long-time legal permanent residents, for lawful speech or associations that occurred 20 years ago or more. It raises the burden of proof to nearly impossible levels in numerous cases.

A person who made a donation to a humanitarian organization involved in tsunami relief could be deported if the organization or any of its affiliates was ever involved in violence. The burden would be on the donor to prove by clear and convincing evidence that he knew nothing about any of these activities. The spouse and children of a legal permanent resident could also be deported too based on such an accusation, because of their relationship to the donor.

The provision could be applied retroactively, so that a permanent resident who had once supported the lawful, nonviolent work of the African National Congress in South Africa, Sinn Fein in Northern Ireland, the Northern Alliance in Afghanistan, or the Contras in Nicaragua would be deportable. It would be no defense to show that the only support was for lawful nonviolent activity. It would be no defense to show that the United States itself supported some of these groups.

The driver's license provisions do not make us safer either. Let me explain what these provisions really do. They repeal a section of the Intelligence Reform Act which sets up a process for States and the Federal Government to work together to establish Federal standards for driver's licenses and identification cards. Progress is already being made to implement these important measures, but this bill replaces them with highly problematic and burdensome requirements. The National Conference of State Legislatures says that these provisions are "unworkable, unproven, costly mandates that compel States to enforce Federal immigration policy rather than advance the paramount objective of making State-issued identity documents more secure and verifiable."

Indeed, it is a costly unfunded mandate on the States. The CBO estimate on the implementation of the driver's license provisions is $20 million over a 5-year period to reimburse States for complying with the legislation. But, that is not all; the provisions require States to participate in an interstate database that would share information at a cost of $80 million over 3 years.

The driver's license provisions do nothing to address the threat of terrorists or to address legitimate security concerns. It would not have prevented a single 9/11 hijacker from obtaining a driver's license, or a single terrorist from boarding a plane. All 13 hijackers could have obtained licenses or IDs under this proposal, and foreign terrorists can always use their passports to travel.

The result of these restrictive driver's license provisions will be raised insurance rates, higher numbers of fatalities on America's roadways, and an increased black market for false and fraudulent documents. The REAL ID actually undercuts the original purpose of traffic safety. It is better to have licensed, insured, and trained drivers on our roads.

Preventing immigrants from obtaining driver's licenses undermines national security by pushing people into the shadows and fueling the black market for fraudulent identification documents.

The REAL ID provisions do nothing to combat the threat of terrorists or to deal with legitimate security concerns. They have taken away precious time that could have been used to address genuine pressing issues.

Hundreds of organizations across the political spectrum continue to oppose this legislation. A broad coalition of religious, immigrant, human rights, civil liberties and state groups have expressed their own strong opposition.

In these difficult times for our country, we know that the threat of terrorism has not ended, and we must do all we can to enact genuine measures to stop terrorists before they act, and to see that law enforcement officials have the full support they need. The provisions of the REAL ID bill in the conference report today will not improve these efforts. They will not make us safer or prevent terrorism. They are an invitation to gross abuses, and a false solution to national and border security.

The REAL ID bill with its controversial provisions should have been considered by the Senate through debate and discussion, not attached to a critical piece of legislation needed by our troops.

I urge the Senate to get serious about immigration reform that will make genuine improvements where they are needed, and not in the piecemeal fashion that is contained in this report.

This bill also provides nearly $12 million to remedy a crisis in off-site judicial security for our Federal judges. With this bill, we have taken a small, but necessary step toward increasing security for the distinguished men and women of our country who have been appointed to the courts. In the wake of the recent murders of the husband and mother of Federal Judge Joan Lefkow at her home in Chicago, and the courtroom killings in Atlanta, it is clear we must do more to enhance judicial security. This is a matter of the highest urgency.

The tragic deaths of Judge Lefkow's family demonstrate that judges may be safe inside the walls of our wellguarded courthouses, but they are vulnerable to disgruntled litigants in other places, even in their own homes. In, fact, security in the homes of judges has long been a concern for the Judicial Conference, the principal decision-making group for the Federal courts. Sadly, three judges had previously been killed in their homes: Judge John Wood of Texas, in 1979; Judge Richard Daronco of New York, in 1988; and Judge Robert Vance, of Alabama, in 1989.

The vast majority of threats are received from people who are angry with the outcome of a case in court. In the 10 years since the first world trade center bombing, the Federal judiciary has handled an increasing number of "high threat" matters.

Judge Lefkow was the victim of an act of domestic terrorism stemming from what should have been a routine civil matter. Matthew Hale, the leader of a White Supremacist group known as the World Church of the Creator, was convicted in April 2004 of soliciting an undercover FBI informant to murder Judge Lefkow in retaliation for her ruling against him in a trademark dispute. This example highlights the environment in which our Federal judges toil every day.

The Marshals Service, underfunded and understaffed as it is, struggles to keep up with security needs in the new high-risk age, but there is no reason why our judges should continue to remain so vulnerable 16 years after Judge Vance was killed in his home. We need to stand up for an independent judiciary. We can do so by providing the funds to make their homes safe.

There were provisions in this legislation to do that. It says something about the nature of our dialog here when we have to provide the kind of extraordinary additional security to judges because of the nature of the political dialog. Words have consequences. Words have results. Words have meanings. The idea that individuals in responsible positions continue to threaten members of the judiciary too often can result in serious consequences to those judicial members. We have attempted to provide some additional security to protect those individuals. The best protection would be for more restraint on the part of those who talk about an independent judiciary.

Mr. President, I ask unanimous consent that an article dated April 25, 2005, from the New York Times be printed in the RECORD.

There being no objection, it was so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 25, 2005]

BLOODIED MARINES SOUND OFF ABOUT WANT OF ARMOR AND MEN

(By Michael Moss)

On May 29, 2004, a station wagon that Iraqi insurgents had packed with C-4 explosives blew up on a highway in Ramadi, killing four American marines who died for lack of a few inches of steel.

The four were returning to camp in an unarmored Humvee that their unit had rigged with scrap metal, but the makeshift shields rose only as high as their shoulders, photographs of the Humvee show, and the shrapnel from the bomb shot over the top. "The steel was not high enough," said Staff Sgt. Jose S. Valerio, their motor transport chief, who along with the unit's commanding officers said the men would have lived had their vehicle been properly armored. "Most of the shrapnel wounds were to their heads."

Among those killed were Rafael Reynosa, a 28-year-old lance corporal from Santa Ana, Calif., whose wife was expecting twins, and Cody S. Calavan, a 19-year-old private first class from Lake Stevens, Wash., who had the Marine Corps motto, Semper Fidelis, tattooed across his back.

They were not the only losses for Company E during its six-month stint last year in Ramadi. In all, more than one-third of the unit's 185 troops were killed or wounded, the highest casualty rate of any company in the war, Marine Corps officials say.

In returning home, the leaders and Marine infantrymen have chosen to break an institutional code of silence and tell their story, one they say was punctuated not only by a lack of armor, but also by a shortage of men and planning that further hampered their efforts in battle, destroyed morale and ruined the careers of some of their fiercest warriors.

The saga of Company E, part of a lionized battalion nicknamed the Magnificent Bastards, is also one of fortitude and ingenuity. The marines, based at Camp Pendleton in southern California, had been asked to rid the provincial capital of one of the most persistent insurgencies, and in enduring 26 firefights, 90 mortar attacks and more than 90 homemade bombs, they shipped their dead home and powered on. Their tour has become legendary among other Marine units now serving in Iraq and facing some of the same problems.

"As marines, we are always taught that we do more with less," said Sgt. James S. King, a platoon sergeant who lost his left leg when he was blown out of the Humvee that Saturday afternoon last May. "And get the job done no matter what it takes." The experiences of Company E's marines, pieced together through interviews at Camp Pendleton and by phone, company records and dozens of photographs taken by the marines, show they often did just that. The unit had less than half the troops who are now doing its job in Ramadi, and resorted to making dummy marines from cardboard cutouts and camouflage shirts to place in observation posts on the highway when it ran out of men. During one of its deadliest firefights, it came up short on both vehicles and troops. Marines who were stranded at their camp tried in vain to hot-wire a dump truck to help rescue their falling brothers. That day, 10 men in the unit died. Sergeant Valerio and others had to scrounge for metal scraps to strengthen the Humvees they inherited from the National Guard, which occupied Ramadi before the marines arrived. Among other problems, the armor the marines slapped together included heavier doors that could not be latched, so they "chicken winged it" by holding them shut with their arms as they traveled.

"We were sitting out in the open, an easy target for everybody," Cpl. Toby G. Winn of Centerville, Tex., said of the shortages. "We complained about it every day, to anybody we could. They told us they were listening, but we didn't see it." The company leaders say it is impossible to know how many lives may have been saved through better protection, since the insurgents became adept at overcoming improved defenses with more powerful weapons. Likewise, Pentagon officials say they do not know how many of the more than 1,500 American troops who have died in the war had insufficient protective gear. But while most of Company E's work in fighting insurgents was on foot, the biggest danger the men faced came in traveling to and from camp: 13 of the 21 men who were killed had been riding in Humvees that failed to deflect bullets or bombs. Toward the end of their tour when half of their fleet had become factory-armored, the armor's worth became starkly clear. A car bomb that the unit's commander, Capt. Kelly D. Royer, said was at least as powerful as the one on May 29 showered a fully armored Humvee with shrapnel, photographs show. The marines inside were left nearly unscathed.

Captain Royer, from Orangevale, Calif., would not accompany his troops home. He was removed from his post six days before they began leaving Ramadi, accused by his superiors of being dictatorial, records show. His defenders counter that his commanding style was a necessary response to the extreme circumstances of his unit's deployment.

Company E's experiences still resonate today both in Iraq, where two more marines were killed last week in Ramadi by the continuing insurgency, and in Washington, where Congress is still struggling to solve the Humvee problem. Just on Thursday, the Senate voted to spend an extra $213 million to buy more fully armored Humvees. The Army's procurement system, which also supplies the Marines, has come under fierce criticism for underperforming in the war, and to this day it has only one small contractor in Ohio armoring new Humvees.

Marine Corps officials disclosed last month in Congressional hearings that they were now going their own way and had undertaken a crash program to equip all of their more than 2,800 Humvees in Iraq with stronger armor. The effort went into production in November and is to be completed at the end of this year.

Defense Department officials acknowledged that Company E lacked enough equipment and men, but said that those were problems experienced by many troops when the insurgency intensified last year, and that vigorous efforts had been made to improve their circumstances.

Lt. Gen. James N. Mattis of Richland, Wash., who commanded the First Marine Division to which Company E belongs, said he had taken every possible step to support Company E. He added that they had received more factory-armored Humvees than any other unit in Iraq.

"We could not encase men in sufficiently strong armor to deny any enemy success," General Mattis said. "The tragic loss of our men does not necessarily indicate failure—it is war."

TROUBLE FROM THE START

Company E's troubles began at Camp Pendleton when, just seven days before the unit left for Iraq, it lost its first commander. The captain who led them through training was relieved for reasons his supervisor declined to discuss. "That was like losing your quarterback on game day," said First Sgt. Curtis E. Winfree.

In Kuwait, where the unit stopped over, an 18-year-old private committed suicide in a chapel. Then en route to Ramadi, they lost the few armored plates they had earmarked for their vehicles when the steel was borrowed by another unit that failed to return it. Company E tracked the steel down and took it back.

Even at that, the armor was mostly just scrap and thin, and they needed more for the unarmored Humvees they inherited from the Florida National Guard.

"It was pitiful," said Capt. Chae J. Han, a member of a Pentagon team that surveyed the Marine camps in Iraq last year to document their condition. "Everything was just slapped on armor, just homemade, not armor that was given to us through the normal logistical system."

The report they produced was classified, but Captain Royer, who took over command of the unit, and other Company E marines say they had to build barriers at the camp—a former junkyard—to block suicide drivers, improve the fencing and move the toilets under a thick roof to avoid the insurgent shelling. Even some maps they were given to plan raids were several years old, showing farmland where in fact there were homes, said a company intelligence expert, Cpl. Charles V. Lauersdorf, who later went to work for the Defense Intelligence Agency. There, he discovered up-to-date imagery that had not found its way to the front lines.

Ramadi had been quiet under the National Guard, but the Marines had orders to root out an insurgency that was using the provincial capital as a way station to Falluja and Baghdad, said Lt. Col. Paul J. Kennedy, who oversaw Company E as the commander of its Second Battalion, Fourth Marine Regiment. Before the company's first month was up, Lance Cpl. William J. Wiscowiche of Victorville, Calif., lay dead on the main highway as its first casualty. The Marine Corps issued a statement saying only that he had died in action. But for Company E, it was the first reality check on the constraints that would mark their tour.

SWEEPING FOR BOMBS

A British officer had taught them to sweep the roads for bombs by boxing off sections and fanning out troops into adjoining neighborhoods in hopes of scaring away insurgents poised to set off the bombs. "We didn't have the time to do that," said Sgt. Charles R. Sheldon of Solana Beach, Calif. "We had to clear this long section of highway, and it usually took us all day." Now and then a Humvee would speed through equipped with an electronic device intended to block detonation of makeshift bombs. The battalion, which had five companies in its fold, had only a handful of the devices, Colonel Kennedy said. Company E had none, even though sweeping roads for bombs was one of its main duties. So many of the marines, like Corporal Wiscowiche, had to rely on their eyes. On duty on March 30, 2004, the 20-year-old lance corporal did not spot the telltale three-inch wires sticking out of the dust until he was a few feet away, the company's leaders say. He died when the bomb was set off.

"We had just left the base," Corporal Winn said. "He was walking in the middle of the road, and all I remember is hearing a big explosion and seeing a big cloud of smoke."

The endless task of walking the highways for newly hidden I.E.D.'s, or improvised explosive devices, "was nerve wracking," Corporal Winn said, and the company began using binoculars and the scopes on their rifles to spot the bombs after Corporal Wiscowiche was killed.

"Halfway through the deployment marines began getting good at spotting little things," Sergeant Sheldon added. "We had marines riding down the road at 60 miles an hour, and they would spot a copper filament sticking out of a block of cement." General Mattis said troops in the area now have hundreds of the electronic devices to foil the I.E.D.'s.

In parceling out Ramadi, the Marine Corps leadership gave Company E more than 10 square miles to control, far more than the battalion's other companies. Captain Royer said he had informally asked for an extra platoon, or 44 marines, and had been told the battalion was seeking an extra company. The battalion's operations officer, Maj. John D. Harrill, said the battalion had received sporadic assistance from the Army and had given Company E extra help. General Mattis says he could not pull marines from another part of Iraq because "there were tough fights going on everywhere."

Colonel Kennedy said Company E's area was less dense, but the pressure it put on the marines came to a boil on April 6, 2004, when the company had to empty its camp—leaving the cooks to guard the gates—to deal with three firefights.

Ten of its troops were killed that day, including eight who died when the Humvee they were riding in was ambushed en route to assist other marines under fire. That Humvee lacked even the improvised steel on the back where most of the marines sat, Company E leaders say.

"All I saw was sandbags, blood and dead bodies," Sergeant Valerio said. "There was no protection in the back." Captain Royer said more armor would not have even helped. The insurgents had a .50-caliber machine gun that punched huge holes through its windshield. Only a heavier combat vehicle could have withstood the barrage, he said, but the unit had none. Defense Department officials have said they favored Humvees over tanks in Iraq because they were less imposing to civilians. The Humvee that trailed behind that day, which did have improvised armor, was hit with less powerful munitions, and the marines riding in it survived by hunkering down. "The rounds were pinging," Sergeant Sheldon said. "Then in a lull they returned fire and got out."

Captain Royer said that he photographed the Humvees in which his men died to show to any official who asked about the condition of their armor, but that no one ever did. Sergeant Valerio redoubled his effort to fortify the Humvees by begging other branches of the military for scraps. "How am I going to leave those kids out there in those Humvees," he recalled asking himself.

The company of 185 marines had only two Humvees and three trucks when it arrived, so just getting them into his shop was a logistical chore, Sergeant Valerio said. He also worried that the steel could come loose in a blast and become deadly shrapnel. For the gunners who rode atop, Sergeant Valerio stitched together bulletproof shoulder pads into chaps to protect their legs.

"That guy was amazing," First Sgt. Bernard Coleman said. "He was under a vehicle when a mortar landed, and he caught some in the leg. When the mortar fire stopped, he went right back to work."

A CAPTAIN'S FATE

Lt. Sean J. Schickel remembers Captain Royer asking a high-ranking Marine Corps visitor whether the company would be getting more factory-armored Humvees. The official said they had not been requested and that there were production constraints, Lieutenant Schickel said.

Recalls Captain Royer: "I'm thinking we have our most precious resource engaged in combat, and certainly the wealth of our nation can provide young, selfless men with what they need to accomplish their mission. That's an erudite way of putting it. I have a much more guttural response that I won't give you." Captain Royer was later relieved of command. General Mattis and Colonel Kennedy declined to discuss the matter. His first fitness report, issued on May 31, 2004, after the company's deadliest firefights, concluded, "He has single-handedly reshaped a company in sore need of a leader; succeeded in forming a cohesive fighting force that is battle-tested and worthy." The second, on Sept. 1, 2004, gave him opposite marks for leadership. "He has been described on numerous occasions as 'dictatorial,'" it said. "There is no morale or motivation in his marines." His defenders say he drove his troops as hard as he drove himself, but was wrongly blamed for problems like armor. "Captain Royer was a decent man that was used for a dirty job and thrown away by his chain of command," Sergeant Sheldon said.

Today, Captain Royer is at Camp Pendleton contesting his fitness report, which could force him to retire. Company E is awaiting deployment to Okinawa, Japan. Some members have moved to other units, or are leaving the Marines altogether. "I'm checking out," Corporal Winn said. "When I started, I wanted to make it my career. I've had enough."

Mr. KENNEDY. Mr. President, I yield the remainder of my time.

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may proceed as in morning business for as much time as I may consume.

Mr. INHOFE. Reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, a few minutes ago we had an agreement that we would allow the Senator from Massachusetts to speak up to 25 minutes as in morning business and that the Senator would follow him with the same amount of time. That is what we would intend to do. We thought that would be satisfactory to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, may I proceed then?

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. INHOFE. I object, yes.

The ACTING PRESIDENT pro tempore. Objection is heard. The Senator is recognized under the previous order to speak for 25 minutes.

Mr. INHOFE. That is correct.

The ACTING PRESIDENT pro tempore. As in morning business.

JUDICIAL NOMINATIONS

Mr. SPECTER. Mr. President, I have sought recognition to urge my colleagues to explore ways to avoid a Senate vote on the nuclear, or constitutional, option. It is anticipated that we may vote this week or this month to reduce from 60 to 51 the number of votes to invoke cloture or cut off debate on judicial nominations. If the Senate roll is called on that vote, it will be one of the most important in the history of this institution.

The fact is that all or almost all Senators want to avoid the crisis. I have repeatedly heard colleagues on both sides of the aisle say it is a matter of saving face. But as yet we have not found the formula to do so.

I suggest the way to work through the current impasse is to proceed to bring to the floor circuit nominees, one by one, for up-or-down votes. There are at least five and perhaps as many as seven pending circuit nominees who could be confirmed or at least voted up or down. If the straitjacket of party loyalty were removed by the Democrats, even more might be confirmed.

As a starting point, it is important to acknowledge that both sides, Democrats and Republicans, have been at fault. Both sides claim they are victims and that their party's nominees have been treated worse than the other's. Both sides cite endless statistics. I have heard so many numbers spun in so many different ways that even my head is spinning. I think even Benjamin Disraeli, the man who coined the phrase, "there are lies, damned lies, and statistics," would be amazed at the creativity employed by both sides in contriving the numbers in this debate.

The history of Senate practices has demonstrated that in the last 2 years of President Reagan's administration and through 4 years of the administration of President George Herbert Walker Bush, the Democrats slowed down the nomination process. When we Republicans won the 1994 elections and gained the Senate majority, we exacerbated the pattern of delay and blocking nominees. Over the course of President Clinton's presidency, the average number of days for the Senate to confirm judicial nominees increased for district nominees as well as for circuit nominees. That was followed by the filibuster of many qualified judicial nominees by the Democrats following the 2002 elections. In an unprecedented move, President Bush responded by making, for the first time in the Nation's history, two recess appointments of nominees who had been successfully filibustered by the Democrats. That impasse was then broken when President Bush agreed to refrain from further recess appointments.

Against this background of bitter and angry recriminations, with each party serially trumping the other to get even, or to dominate, the Senate now faces dual threats—one called the filibuster and the other the constitutional or nuclear option, which rivals the United States-Union of Soviet Socialist Republic confrontation of mutually assured destruction. Both situations are accurately described by the acronym MAD.

We Republicans are threatening to employ the option to require only a majority vote to end filibusters. The Democrats are threatening to retaliate by stopping the Senate agenda on all matters except national security and homeland defense. Each ascribes to the other the responsibility for blowing the place up. This gridlock occurs at a time when we expect a U.S. Supreme Court vacancy within the next few months. If the filibuster would leave an eight-person Court, we could expect many 4-to-4 votes, since the Court now often decides cases with a 5-to-4 vote. A Supreme Court tie vote would render the Court dysfunctional, leaving in effect circuit court decisions with many splits among the circuits. So the rule of law would be suspended on many major issues.

In moving in the Judiciary Committee to select nominees for floor action, in my capacity as Chairman I have first selected William Myers because two Democrats had voted in the 108th Congress not to filibuster him, and one candidate for the Senate in 2004, since elected, made a campaign statement that he would vote to end the Myers filibuster and to confirm him. Adding those three votes to 55 Republicans, we were within striking distance to reach 60 or more.

I carefully examined Myers' record. Noting that he had opposition from some groups such as the Friends of the Earth and the Sierra Club, it was nonetheless my conclusion that his environmental record was satisfactory, or at least not a disqualifier, as detailed in my statement at the Judiciary Committee executive session on March 17 of this year. To be sure, critics could pick at the Myers record as they could at any Senator's record, but overall Myers was, in my opinion, worthy of confirmation.

I then set out to solicit others' views on Myers, including ranchers, loggers, miners, and farmers. In those quarters I found a significant enthusiasm for Myers' confirmation, so I urged those groups to have their members contact Senators who might be swing votes. I then followed up with personal talks to many of those Senators and found several prospects to vote for cloture. Then the screws of party loyalty were applied and tightened and the prospects for obtaining the additional few votes to secure cloture vanished.

I am confident if the party pressure had not been applied, the Myers filibuster would have ended and he would have been confirmed. That result could still be obtained if the straitjacket of party loyalty were removed on the Myers nomination.

Informally, but authoritatively, I have been told the Democrats will not filibuster Thomas Griffith or Judge Terrence Boyle. Griffith is on the calendar now awaiting floor action, and Boyle is on the next agenda for committee action. Both could be confirmed by the end of this month.

There are no objections to three nominees from the State of Michigan for the Sixth Circuit—Richard Griffin, David McKeague, and Susan Bakke Neilson—but their confirmations are being held up because of objections to a fourth nominee. I urge my Democratic colleagues to confirm the three uncontested Michigan Sixth Circuit nominees and fight out the remaining fourth vacancy and Michigan District Court vacancies on another day. The Michigan Senators do make a valid point on the need for consultation on the other Michigan vacancies, and that can be accommodated.

In the exchange of offers and counteroffers between Senator FRIST, the majority leader, and Senator HARRY REID, the Democratic leader, Democrats have made an offer to avoid a vote on the nuclear or constitutional option by confirming one of the four filibustered judges—Priscilla Owen, Janice Rogers Brown, William Pryor, or William Myers—with a choice to be selected by Republicans. An offer to confirm any one of those four nominees is in reality an explicit concession that each is qualified for the court, and they are being held hostage as pawns in a convoluted chess game which has spiraled out of control.

If the Democrats believe each is qualified, a deal for confirmation for any one of them is repugnant to the basic democratic principle of individual fair and equitable treatment and further violates Senators' oath on the constitutional confirmation process. Such dealmaking would further confirm public cynicism about what goes on in Washington behind closed doors.

Instead, let the Senators consider each of the four without the constraints of party line voting. Let us revert to the tried and tested method of evaluating each nominee individually.

By memorandum dated April 7, I circulated an analysis of Texas Supreme Court Justice Priscilla Owen's records demonstrating she was not hostile to Roe v. Wade and that her decisions were based on solid judicial precedence. No one has challenged that legal analysis.

Similarly, I distributed a memorandum containing an analysis of Judge William Pryor's record since he has been sitting on the Eleventh Circuit. It shows a pattern by Judge Pryor of concern to protect the rights of those often overlooked in the legal system. Similarly, no one has refuted that analysis.

California Supreme Court Justice Janice Rogers Brown has been pilloried for her speeches. If political or judicial officials were rejected for provocative or extreme ideas and speeches, none of us would hold public office. The fact is, the harm to the Republic, at worst, by confirmation of all pending circuit court nominees, is infinitesimal compared to the harm to the Senate, whichever way the vote would turn out, on the nuclear or constitutional option.

None of these circuit judges could make new law because all are bound and each one has agreed on the record to follow U.S. Supreme Court decisions. While it is frequently argued that Supreme Court decisions are in many cases final because the Supreme Court grants certiorari in so few cases, the circuit courts sit in panels of three so that no one of these nominees could unilaterally render an unjust decision since at least one other circuit judge on the panel must concur.

While it would be naive to deny that "quid pro quo" and "logrolling" are not frequent congressional practices, those approaches are not the best way to formulate public policy or make governmental decisions. The Senate has a roadmap to avoid "nuclear winter" in a principled way. Five of the controversial judges can be brought up for up-or-down votes on this state of the record. The others are entitled to individualized treatment on the filibuster issue. It may be that the opponents of one or more of these judges may persuade a majority of Senators that confirmation should be rejected. A group of Republican moderates has, with some frequency, joined Democrats to defeat a party-line vote. The President has been explicit in seeking up-or-down votes as opposed to commitments on confirmations.

The Senate has arrived at this confrontation by exacerbation as each side has ratcheted up the ante in delaying and denying confirmation to the other party's Presidential nominees. A policy of consultation/conciliation could diffuse the situation.

This has already been offered by the Democrats informally, signaling their intentions not to filibuster Griffith or Boyle, and by offering no objections to the three Michigan nominees. Likewise, it has been reported that Senator REID has privately told Republicans he does not intend to block votes on any Supreme Court nominee except in extreme cases. A public statement of confirmation with an amplification on what constitutes "extreme case" could go a long way to diffusing the situation.

Senator SCHUMER praised White House Counsel Gonzales during his confirmation hearings for times in which now-Attorney General Gonzales consulted with Senator SCHUMER on President Bush's judicial nominees affecting the State of New York. On April 11 of this year, a nominee pushed by Senator SCHUMER, Paul Crotty, was confirmed for the federal court in New York. Both New Jersey Senators, Senators TORRICELLI and CORZINE, approved all five district court nominations for their State in the 107th Congress. And in that Congress, Florida's Democratic Senators, BOB GRAHAM and BILL NELSON, appointed representatives to a commission which recommended federal judges to President Bush. President Bush recently nominated Minority Leader HARRY REID's pick for the District Court for the District of Nevada.

So there have been some significant signs of consultation and conciliation by the Republicans on choices by Democratic Senators.

I have reason to believe the President is considering consultation with the Michigan Senators on some federal judicial vacancies in their state and perhaps beyond.

One good turn deserves another. If one side realistically and sincerely takes the high ground, there will be tremendous pressure on the other side to follow suit. So far, the offers by both sides have been public relations maneuvers to appear reasonable to avoid blame and place it elsewhere. Meanwhile, the far left and far right are urging each side to shun compromise. "Pull the trigger," one side says. "Filibuster forever," the other side retorts. Their approaches would lead to extreme judges at each end of the political spectrum as control of the Senate inevitably shifts from one party to another.

The Senate today stands on the edge of an abyss. Institutions such as our Senate are immortal but not invulnerable. If we fail to step back from the abyss, we will descend into a dark protracted era of divided partisanship. But if we cease this aimless and endless game of political chicken, we could restore the Senate to its rightful place as the world's greatest deliberative body. That will require courage, courage from each Senator, courage to think and act with independence.

Our immortal Senate is depending on that courage. Now the question remains as to whether we have it.

Since the United States and the Union of Soviet Socialist Republics avoided the nuclear confrontation in the Cold War by concessions and confidence-building measures, why couldn't Senators do the same by crossing the aisle in the spirit of compromise?

As a result of the time constraints, I have abbreviated the oral presentation of this statement. I ask unanimous consent the full text be printed at the conclusion of this statement, including my statement which I now make that the text is necessarily repeated to a substantial extent of what I have delivered orally, but it is included so that a full text may be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Mr. SPECTER. Mr. President, I seek recognition to urge my colleagues to explore ways to avoid a Senate vote on the nuclear or constitutional option. It is anticipated that we may vote this week or this month to reduce from 60 to 51 the number of votes required to invoke cloture or cut off debate on judicial nominations. If the Senate roll is called on that vote, it will be one of the most important in the history of this institution.

The fact is that all, or almost all, Senators want to avoid the crisis. I have had many conversations with my Democratic colleagues about the filibuster of judicial nominees. Many of them have told me that they do not personally believe it is a good idea to filibuster President Bush's judicial nominees. They believe that this unprecedented use of the filibuster does damage to this institution and to the prerogatives of the President. Yet despite their concerns, they gave in to party loyalty and voted repeatedly to filibuster Federal judges in the last Congress.

Likewise, there are many Republicans in this body who question the wisdom of the constitutional or nuclear option. They recognize that such a step would be a serious blow to the rights of the minority that have always distinguished this body from the House of Representatives. Knowing that the Senate is a body that depends upon collegiality and compromise to pass even the smallest resolution, they worry that the rule change will impair the ability of the institution to function.

I have repeatedly heard colleagues on both sides of the aisle say it is really a matter of saving "face"; but, as yet, we have not found the formula to do so. I suggest the way to work through the current impasse is to proceed to bring to the floor circuit nominees one by one for up or down votes. There are at least five and perhaps as many as seven pending circuit nominees who could be confirmed; or, at least voted up or down. If the straightjacket of party loyalty were removed, even more might be confirmed.

For the past 4 months since becoming Chairman of the Judiciary Committee, my first priority has been to process the nominees through committee to bring them to the floor. As a starting point, it is important to acknowledge that both sides, Democrats and Republicans, have been at fault. Both sides claim that they are the victims and that their party's nominees have been treated worse than the other's. Both sides cite endless statistics. I have heard so many numbers spun so many different ways that my head is spinning. I think even Benjamin Disraeli, the man who coined the phrase, "there are lies, damned lies and statistics," would be amazed at the creativity employed by both sides in contriving numbers in this debate.

In 1987, upon gaining control of the Senate and the Judiciary Committee, the Democrats denied hearings to seven of President Reagan's circuit court nominees and denied floor votes to two additional circuit court nominees. As a result, the confirmation rate for Reagan's circuit nominees fell from 89 percent prior to the Democratic takeover to 65 percent afterwards. While the confirmation rate decreased, the length of time it took to confirm judges increased. From the Carter administration through the first 6 years of the Reagan administration, the length of the confirmation process for both district and circuit court seats consistently hovered at approximately 50 days. For Reagan's final Congress, however, the number doubled to an average of 120 days for these nominees to be confirmed.

The pattern of delay and denial continued through 4 years of President George H.W. Bush's administration. President Bush's lower court nominees waited, on average, 100 days to be confirmed, which was about twice as long as had historically been the case. The Democrats also denied committee hearings for more nominees. President Carter had 10 nominees who did not receive hearings. For President Reagan, the number was 30. In the Bush Sr. administration the number jumped to 58.

When we Republicans won the 1994 election and gained the Senate majority, we exacerbated the pattern of delaying and blocking nominees. Over the course of President Clinton's presidency, the average number of days for the Senate to confirm judicial nominees increased even further to 192 days for district court nominees and 262 days for circuit court nominees. Through blue slips and holds, 60 of President Clinton's nominees were blocked. When it became clear that the Republican-controlled Senate would not allow the nominations to move forward, President Clinton withdrew 12 of those nominations and chose not to re-nominate 16.

After the 2002 elections, with control of the Senate returning to Republicans, the Democrats resorted to the filibuster on ten circuit court nominations, which was the most extensive use of the tactic in the Nation's history. The filibuster started with Miguel Estrada, one of the most talented and competent appellate lawyers in the country. The Democrats followed with filibusters against nine other circuit court nominees. During the 108th Congress, there were 20 cloture motions on 10 nominations. All 20 failed.

To this unprecedented move, President Bush responded by making, for the first time in the Nation's history, two recess appointments of nominees who had been successfully filibustered by the Democrats. That impasse was broken when President Bush agreed to refrain from further recess appointments.

Against this background of bitter and angry recriminations, with each party serially trumping the other party to "get even" or, really, to dominate, the Senate now faces dual threats, one called the filibuster and the other the constitutional or nuclear option, which rival the US/USSR confrontation of mutually assured destruction. Both situations are accurately described by the acronym "MAD."

We Republicans are threatening to employ the constitutional or nuclear option to require only a majority vote to end filibusters. The Democrats are threatening to retaliate by obstructing the Senate on a host of matters. Each ascribes to the other the responsibility for "blowing the place up."

The gridlock occurs at a time when we expect a United States Supreme Court vacancy within the next few months. If a filibuster would leave an 8 person court, we could expect many 4 to 4 votes since the Court now often decides cases with 5 to 4 votes. A Supreme Court tie vote would render the Court dysfunctional, leaving in effect the circuit court decision with many splits among the circuits, so the rule of law would be suspended on many major issues.

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Informally, but authoritatively, I have been told that the Democrats will not filibuster Thomas Griffith or Judge Terrence Boyle. Griffith is on the Senate calendar awaiting floor action, and Boyle is on the next agenda for committee action. Both could be confirmed by mid-May.

There are no objections to three nominees from the State of Michigan for the Sixth Circuit: Richard Griffin, David McKeague and Susan Bakke Neilson; but their confirmations are held up because of objections to a fourth nominee. I urge my Democratic colleagues to confirm the three uncontested Michigan Sixth Circuit nominees and fight out the Fourth Circuit vacancy and Michigan district court vacancies on another day. The Michigan Senators make a valid point on the need for consultation on the other Michigan vacancies and that can be accommodated.

In the exchange of offers and counteroffers between Sen. FRIST, majority leader and Sen. HARRY REID, the Democrat leader, Democrats have made an offer to avoid a vote on the nuclear or constitutional option by confirming one of the four filibustered judges: Priscilla Owen, Janice Rogers Brown, William Pryor, or William Myers with the choice to be selected by Republicans.

An offer to confirm any one of the those four nominees is an explicit concession that each is qualified for the court and that they are being held hostage as pawns in a convoluted chess game which has spiraled out of control. If the Democrats really believe each is unqualified, a "deal" for confirmation for anyone of them is repugnant to the basic democratic principle of individual, fair, and equitable treatment and violates Senators' oaths on the constitutional confirmation process. Such "deal-making" confirms public cynicism about what goes on behind Washington's closed doors.

Instead, let the Senate consider each of the four without the constraints of party line voting. Let us revert to the tried and tested method of evaluating each nominee individually. By memorandum dated April 7, 2005, I circulated an analysis of Texas Supreme Court Justice Priscilla Owen's record demonstrating she was not hostile to Roe vs. Wade and that her decisions were based on solid judicial precedent. No one has challenged that legal analysis.

By memorandum dated January 12, 2005, I distributed an analysis of decisions by Judge William Pryor that shows his concern to protect the rights of those often overlooked in the legal system. Similarly, no one has refuted that analysis. California Supreme Court Justice Janice Rogers Brown has been pilloried for her speeches. If political or judicial officials were rejected by provocative/extreme ideas in speeches, none of us would hold public office.

The fact is that the harm to the Republic, at worst, by the confirmation of all pending circuit court nominees is infinitesimal compared to the harm to the Senate, whichever way the vote would turn out, on the nuclear or constitutional option. None of these circuit judges could make new law because all are bound, and each one agreed on the record, to follow U.S. Supreme Court decisions. While it is frequently argued that circuit court opinions are in many cases final because the Supreme Court grants certiorari in so few cases, circuit courts sit in panels of three so that no one of these nominees can unilaterally render an unjust decision since at least one other circuit judge on the panel must concur.

While it would be naïve to deny that the "quid pro quo" and "logrolling" are not frequent congressional practices, those approaches are not the best way to formulate public policy or make governmental decisions. The Senate has a roadmap to avoid "nuclear winter" in a principled way. Five of the controversial judges can be brought up for up-or-down votes on this state of the record. The others are entitled to individualized treatment on the filibuster issue.

It may be that the opponents of one or more of these judges may persuade a majority of Senators that confirmation should be rejected. A group of Republican moderates has, with some frequency, joined Democrats to defeat a party line vote. The President has been explicit in seeking up-or-down votes as opposed to commitments on confirmations.

The Senate has arrived at this "confrontation by exacerbation" as each side ratcheted up the ante in delaying and denying confirmation to the other party's Presidential nominees. A policy of conciliation/consultation could diffuse the situation. This has already been offered by the Democrats, informally signaling their intentions not to filibuster Griffith or Boyle. Likewise, it has been reported that Senator REID has privately told Republicans that he doesn't intend to block votes on any Supreme Court nominees, except in extreme cases. A public statement with an amplification of what constitutes an "extreme case" could go a long way.

Sen. SCHUMER praised White House Counsel Gonzales's consultation with him on President Bush's judicial nominees. On April 11, 2005, the President's nominee for the U.S. District Court for the Southern District of New York, Paul Crotty, supported by Senator SCHUMER, was confirmed. Both New Jersey Senators, Bob Torricelli and Jon Corzine, approved all five district court nominations for their state in the 107th Congress. In the 107th Congress, Florida's Democratic Senators, BOB GRAHAM and BILL NELSON, appointed representatives to a commission which recommended Federal judges to President Bush.

President Bush recently nominated Minority Leader HARRY REID's pick for the U.S. District Court for the District of Nevada. I have reason to believe the President is considering consultation with the Michigan Senators on some Federal judicial vacancies in their State and perhaps beyond.

One good turn deserves another. If one side realistically and sincerely takes the high ground, there will be tremendous pressure on the other side to follow suit. So far, the offers by both sides have been public relations maneuvers to appear reasonable to avoid blame and place it elsewhere.

Meanwhile, the far left and the far right are urging each side to shun compromise: pull the trigger; filibuster forever. Their approaches would lead to extreme judges at each end of the political spectrum as control of the Senate inevitably shifts from one party to the other.

The Senate today stands on the edge of the abyss. Institutions like the Senate are immortal but not invulnerable. If we fail to step back from the abyss, we will descend into a dark, protracted era of divisive partisanship. But if we cease this aimless game of political chicken, we can restore the Senate to its rightful place as the world's greatest deliberative body. That will require courage. Courage from each senator. Courage to think and act with independence. Our immortal Senate is depending on our courage. Do we have it?

Since the U.S. and USSR avoided a nuclear confrontation in the Cold War by concessions and confidence-building measures, why couldn't Senators do the same by crossing the aisle in the spirit of compromise.

Mr. SPECTER. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NELSON of Florida. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 581, WITHDRAWN

Mr. NELSON of Florida. Mr. President, on behalf of Senator SALAZAR, I ask unanimous consent that amendment No. 581 be withdrawn.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Florida is recognized.

(The remarks of Mr. NELSON of Florida pertaining to the introduction of S. 980 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. NELSON of Florida. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

AMENDMENT NO. 600 TO AMENDMENT NO. 567

Mr. TALENT. Mr. President, I have an amendment at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. TALENT], for himself, and Mr. DODD, proposes an amendment numbered 600 to amendment No. 567.

Mr. TALENT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require notice regarding the criteria for small business concerns to participate in Federally funded projects)

At the end of subtitle H of title I, add the following:

SEC. 18 . NOTICE REGARDING PARTICIPATION OF SMALL BUSINESS CONCERNS.

The Secretary of Transportation shall notify each State or political subdivision of a State to which the Secretary of Transportation awards a grant or other Federal funds of the criteria for participation by a small business concern in any program or project that is funded, in whole or in part, by the Federal Government under section 155 of the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (15 U.S.C. 567g).

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mr. TALENT. Mr. President, I wish to take a few minutes to discuss this amendment which I am offering with Senator DODD. It has been accepted by the managers on both sides, and I am grateful for that.

The amendment is the next step in lifting a very significant burden off minority contractors around the country who want to do business with the Government. Very simply, it would direct the Secretary of Transportation to inform State and local governments that receive Federal dollars through the highway bill of a new law, a law that provides that minority contractors who have already been certified as 8(a) contractors under Federal law are automatically certified under State law as minority contractors on any contract that is funded in whole or in part by Federal dollars. Let me explain the background.

As Senators know, the 8(a) Program is one of the programs that small businesses use to get certified as a minority contractor in doing business with the Federal Government. State and local governments have similar certifications for doing business as a minority contractor with their governments. This has presented a serious obstacle for minority small businesses that want to do business or take advantage of goals or setaside programs because they have in the past been required to get additional certifications at both the State and local levels after already having been certified under the Federal Government's 8(a) Program. As a result, countless small minority-owned businesses have spent thousands and thousands of dollars and countless hours getting certified at the State and local levels just to learn that the contracting opportunity they originally sought was, by the time they were certified, no longer open.

In short, getting multiple certifications at the State and local levels after you have already done it at the Federal level is a time-consuming, expensive, and unnecessary process that in the past has left many highly qualified minority small business contractors shut out from the competition of Government contracts. So last year, I added an amendment on the JOBS bill that provides that section 8(a) contractors, those who have already been certified on the Federal level, are automatically certified as minority contractors in any State or local program funded in whole or in part by Federal dollars.

I have already heard from small businesses from Missouri and around the country. I am pleased to report this provision is saving minority small business people thousands of dollars and many hours and a lot of headaches. In many cases, it is making it possible for them to participate in programs and projects that they would not have been able to participate in in the past without maneuvering through the obstacles of getting additional State or local certifications. Now we need to get the word out about the new law.

So today, the amendment of Senator DODD and myself directs the Secretary of Transportation to inform State and local governments of the new law that prohibits them from requiring federally certified 8(a) minority firms from obtaining State and local certifications on any State or local project that receives Federal funding.

This amendment is the natural followup to last year's law. It should not cost money. It has the support of minority small business associations around the country. I am pleased that it has majority and minority support on the Senate floor, and I am very pleased that the handlers on both sides of the aisle have accepted the amendment.

I thank the National Black Chamber of Commerce, the United States Hispanic Chamber of Commerce, as well as the Hispanic Chamber of Greater Kansas City, the Minority Business Council of St. Louis, and the Hispanic Chamber of Metropolitan St. Louis for their continued support in providing 8(a) contractors equal access to all projects receiving Federal funding.

I also want to thank the Senator from Connecticut for his work and effort on behalf of the amendment and his continued leadership on behalf of small business issues. I urge the Senate to adopt the amendment. I understand that the handlers are desirous of a rollcall vote so I ask for the yeas and nays on the amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The minority leader.

Mr. REID. Mr. President, what was the request?

The ACTING PRESIDENT pro tempore. Ordering the yeas and nays.

Mr. TALENT. My understanding was that the handlers wanted the yeas and nays on the amendment. I will withdraw the request if that is not the case.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. I ask unanimous consent that at 5:30 this evening the Senate proceed to a vote in relation to the Talent amendment, with the time equally divided until the vote and no second-degree amendments in order to the amendment prior to the vote.

The ACTING PRESIDENT pro tempore. Is there an objection?

Mr. REID. Reserving the right to object.

The ACTING PRESIDENT pro tempore. The minority leader.

Mr. REID. I have no problem voting on this Talent amendment. I am disappointed that we have not been able to clear a resolution expressing support for the withdrawal of troops from Georgia. The President is there today. I am so glad he is visiting Georgia. I was there with a bipartisan congressional delegation a few weeks ago, and I repeat I am disappointed we could not do this while he is in country.

The leaders of Georgia would be so ecstatic if we could do this. In Georgia, there are leftovers from the Soviet Union military bases that are controlled by Russians, that are staffed by Russians. They will not leave that little country of Georgia. We have to do what we can in exerting influence to get Russia to pull their troops out of this little country. I hope the majority will look this resolution over and that it can be approved in the immediate future. It would have tremendous significance with our President being there at this present time.

So I have no objection to the request by my friend from Oklahoma.

The ACTING PRESIDENT pro tempore. The minority leader withdraws his reservation.

Without objection, the unanimous consent request is agreed to.

The Senator from Missouri.

Mr. BOND. Mr. President, I rise to express my support for the effort that my colleague from Missouri is making. When the Senator from Missouri was in the House, he was chairman of the House Small Business Committee when I was chairman of the Senate Small Business Committee. We took great pride in the tremendous contribution that small business made to our State, both in terms of the jobs they produced as well as the tremendous boost that the small businesses were able to provide to our productive sector.

Again, I commend the Senator from Missouri for the action he took last year to make sure that these minority small business contractors could be qualified. This will go a long way toward easing the procedure to make sure that minority small business operations have a chance to get in on the work of the highway bill. It is very important that we move forward with our highway construction, and having the minority small businesses providing jobs in their community and representing the communities that will be served is a very worthy goal.

This small measure would have a big impact. So I urge the adoption of this amendment.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. INHOFE. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

All time has expired. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Mississippi (Mr. COCHRAN), the Senator from Wyoming (Mr. ENZI), the Senator from Arizona (Mr. KYL), the Senator from Arizona (Mr. MCCAIN), and the Senator from Alaska (Ms. MURKOWSKI).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Minnesota (Mr. DAYTON), the Senator from North Dakota (Mr. DORGAN), the Senator from Iowa (Mr. HARKIN), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The PRESIDING OFFICER (Mr. CORNYN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 116 Leg.]

YEAS—89

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
DeMint
DeWine
Dodd
Dole
Domenici
Durbin
Ensign
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McConnell
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—11

Alexander
Biden
Cochran
Dayton
Dorgan
Enzi
Harkin
Kyl
McCain
Murkowski
Sarbanes

The amendment (No. 600) was agreed to.

The PRESIDING OFFICER. The Senator from Ohio.

MORNING BUSINESS

Mr. DEWINE. Mr. President, I ask unanimous consent that there now be a period of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

60TH ANNIVERSARY OF END OF WWII IN EUROPE

Mr. DEWINE. Mr. President, yesterday was the 60th anniversary of the end of World War II in Europe. It was also, of course, Mother's Day. My speechwriter Ann O'Donnell shared a letter with me her grandfather wrote that is a fitting remembrance of both occasions. It is a letter from a young Army private, 12th Armored Division, named Glenn H. Waltner. Stationed in Germany at the time, he wrote to his mother, Mrs. J. J. Waltner in Freeman, SD.

The letter is postmarked 60 years ago today, May 9, 1945, though it was written, actually, on May 3, 1945. It reads as follows:

> Dearest Mother,
>
> Mother's Day is only a short time away again. Since we cannot be together, I'm taking this opportunity to thank you for being my mother. You've always been all that any son could ever ask a mother to be—kind, patient, loving, considerate, and forgiving. Though Mother's Day comes but once yearly, don't think you're not appreciated the other [days of the year]. I thank God daily for the privilege of having been your son.
>
> [I] am well—have been moving so swiftly and far that mail still hasn't reached us, nor can we mail letters often. Shaved today for the first time in a long while and haven't had my hair cut for months, I guess. Hear peace rumors daily, but apparently, the Germans don't know a thing about it.
>
> Happy Mother's Day—Love from your son, Glenn.

Mr. President, I imagine that many hundreds of letters just like this went out 60 years ago to mothers all across our country. Letters went out as they waited patiently, praying for the safe return of their dear, beloved sons serving overseas during the war. Fortunately, just a few short days after this particular letter was written, the rumors about peace did become a reality as Hitler's Germany surrendered to Allied forces, bringing to an end almost 6 years of brutal, bloody battle and an unparalleled threat to mankind in the Nazi's attempt to destroy the Jewish race.

When I think about all those who served during World War II, I am reminded of a famous speech in William Shakespeare's play "Henry V." The title character attempts to rally his men with a St. Crispin Day speech, a moving appeal to soldiers facing a vastly superior French force. Shakespeare's Henry assures his men of their place in history, creating the bond that links them all. An excerpt from that speech reads as follows:

> And Crispin Crispian shall ne'er go by,
> From this day to the ending of the world,
> But we in it shall be remember'd;
> We few, we happy few, we band of brothers.

Stephen Ambrose, of course, in his book, "Band of Brothers," also wrote about this fraternal bond that connects all warriors to one another. Ambrose documented the journey of the men of Easy Company, E Company, 506th Regiment, 101st Airborne Division, through their journey through World War II. While the men of the 506th seem at times lost in the confusion and tragedy of war, Ambrose ends his book with a poignant reflection on what they encountered during the war. He wrote as follows:

> They found combat to be ugliness, destruction, and death, and hated it. Anything was better than the blood and carnage, the grime and filth, the impossible demands made on the body—anything, that is, except letting down their buddies. They also found in combat the closest brotherhood they ever knew. They found selflessness. They found they could love the other guy in their foxhole more than themselves. They found that in war, men who love life would give their lives for them.

Over the last couple of years, my staff and I have had the great privilege of getting to know a group of World War II veterans who, like the men of Easy Company, are, indeed, a band of brothers. They are a band of selfless, patriotic, quiet heroes who to this day, 60 years after the end of the war, remain in close contact, staying in touch with one another and their families through e-mails, newsletters, and reunions. They also, to this day, continue to remember and honor those in their company who never made it home, those who were killed during the fighting, those who will remain as they were at the time frozen in their youth.

I am speaking about the men of Company K, the most decorated company in the 409th Regiment of the 103rd Infantry Division, 6th Corps of the 7th Army. The men of K Company, however, are not unique. The bonds they share and the sacrifices they made are no different than the bonds and the sacrifices of all those who served in World War II together.

Two years ago at this time, I spoke about the 58th anniversary of V-E Day and specifically about K Company. Since that time, my staff and I have heard from many of the surviving members of K Company and their families. We have learned a great deal about what so many men and women went through both during and after the war.

I must say the connection my office and I have established with the members of K Company, soldiers who saw battle in Germany, France, and Austria, has been one of the most rewarding experiences I have had during my entire time in Congress.

One of the members of K Company is my dad, Richard DeWine. In talking to both my mother and my father this past weekend about the end of the fighting in Europe 60 years ago, they remember vividly what happened, where they were 60 years ago yesterday. My mother remembers riding on a firetruck during an impromptu celebration in my parents' hometown of Yellow Springs, OH. She remembers that celebration after the announcement was made of the German surrender.

My dad, half a world away at the time, remembers spending the night before in a foxhole near Innsbruck, Austria, the night before the surrender. And he, like PVT Glenn Waltner who wrote in his letter to his mother, my dad also heard rumors that the war was nearing an end. My dad says the rumors were all over the place. But nevertheless, my dad stayed awake that night in that foxhole fearing that the enemy would attack. He remembers thinking he saw German soldiers coming towards them.

The next morning, and later when he talked to his comrades, his buddies, when he compared notes with them, they thought the same thing, that the Germans were coming after them, coming towards them. Yet they never attacked that night, thank Heavens.

My dad says when the war did end the next day, he can still remember groups of German troops surrendering, and then when he and his K Company buddies went into Innsbruck, quite shortly thereafter he remembers the people of Innsbruck throwing flowers at them as they rode into Innsbruck.

My parents' recollections and the letter I read on the Senate floor from Glenn Waltner are just a couple of examples of the many stories we all have heard about those who fought during World War II. It is through the stories of those who served over half a century ago that we continue to learn about history, about humanity, and about the sacrifices that were made by our parents, grandparents, those who made the sacrifices. Sixty years later, we continue to learn from all those who served in World War II. We continue to learn about honor, respect, loyalty, humility, and sacrifice.

I thank each of them for what they did, what they did for each one of us, and what they did for our country and what they did for the world, what they did over 60 years ago.

They fought so that we could know peace, so that we could remain free. They will never be forgotten.

I thank the Chair, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROTECTING THE INDEPENDENCE OF THE COURTS

Mr. BAUCUS. Mr. President, inscribed on the Justice Department building are the words: "No free government can survive that is not based on the supremacy of law."

Aristotle said: "Where the laws are not supreme, there demagogues spring up."

And Balzac wrote: "The soul of liberty is love of law."

It is a free and independent judiciary that ensures the supremacy of law. It is a free and independent judiciary that guards against the demagogue. It is a free and independent judiciary that protects the soul of liberty.

As Montesquieu wrote in The Spirit of the Laws: "There is no liberty if the judiciary power be not separated from the legislative and the executive."

And as George Washington wrote to John Jay in 1789, when Washington invited Jay to be Chief Justice: "The Supreme Court must be recognized as the keystone of our political fabric."

The effort by some to abridge the Senate's role in the confirmation of judges is nothing less than an effort to diminish the independence of the judiciary. That is the bottom line.

The Senate's rules and its paramount value of unlimited debate are central to preserving that independence of the judiciary. The Senate's involvement in the confirmation of judges helps to ensure that nominees have the support of a broad political consensus. The Senate's involvement helps to ensure that the President cannot appoint extreme nominees. The Senate's involvement helps to ensure that judges are more independent.

The Framers wanted the courts to be an independent branch of government, helping to exercise the Constitution's intricate system of checks and balances. The Senate's involvement in the confirmation of judges helps to ensure that the judiciary can be that more independent branch. And that independence of the judiciary, in turn, helps to ensure the protection of personal rights and liberties.

Just witness the Bill of Rights and the Constitution and the degree to which the court protects the Bill of Rights against improper encroachment by the legislative branch and in some cases by the executive branch.

The current fight over allowing the President to more easily gain confirmation of Supreme Court Justices and Appellate Court judges recalls another such effort by a President to affect the independence of the judiciary. It was in 1937, when President Franklin Roosevelt tried to pack the Supreme Court.

Roosevelt's effort to pack the Court failed in 1937 because enough Senators from his own party stood up to their President. They stood up for the Constitution that they loved.

One of those Senators was Montana's Burton K. Wheeler.

Until then, Burt Wheeler, a Democrat, had been an ardent champion of New Deal causes. But that changed with Roosevelt's effort to pack the Court.

In his book about Lyndon Johnson, Master of the Senate, the historian Robert Caro recounts what happened:

> Burton K. Wheeler of Montana, long a leader in Senate fights for liberal causes, was coming to see that the Court plan implied an alteration in the whole balance of governmental power in favor of the White House. What, he wondered, would come next? He refused to fight for this cause. Wheeler was a senator other senators followed. Roosevelt sent his aide Thomas G. Corcoran to him with an offer. Its details would be a matter of dispute; at a very minimum, Wheeler would be allowed to give 'advice' on the nominations of two of the six justices. Wheeler had accepted other offers from Corcoran before, but he refused to do so on the Court-packing plan. 'I'm going to fight it with everything I've got,' he told Corcoran. The President hurriedly invited his old friend Burt to dine at the White House that evening; the Senator replied that the President had better 'save the plate for someone who persuaded more easily'.

And on the Senate floor, Senator Wheeler said:

> I am saying to the Senator now that those connected with the administration have said that they wanted six men upon the Supreme Court whom they could trust, that they wanted men on the Court who would decide cases as they wanted them to be decided. That is the issue. It can be camouflaged as much as one wants to attempt to camouflage it, but the truth is that it is impossible to get away from the fact that this is a proposal to make the Supreme Court of the United States subservient to the executive branch of government.

Similar words could be said about the current effort to abridge the Senate's involvement in securing the independence of the Court. There are those connected with the current effort who want people "on the Court who would decide cases as they want them to be decided." And it is impossible to deny that the effect of the current proposal would be "to make the Supreme Court of the United States [more] subservient to the executive branch of government."

There is no doubt about it. That is the intent. That is the result.

On the Senate floor, Senator Wheeler also said:

> I say the step proposed is one of the most dangerous ever suggested, and it will set the most dangerous precedent of which I can conceive. You can bring political pressure to bear on me, you can say, 'You you have to go along because of the fact that the administration wants it.' You can say that the privilege of appointing postmasters will not be accorded me; you can say that I will get no more projects for my State, worthy or unworthy; you can say what you please; but I say to Mr. Farley [the Postmaster General and Chairman of the Democratic National Committee] and to everyone else that, so far as I am concerned, I will vote against this proposal because it is morally wrong, morally unsound. It is a dangerous precedent,

> . . . it gets us nowhere, it is an expedient, it is a stopgap and dictatorial, and so far as I am concerned, if I am the only man in the Senate to do so, I shall vote against it.

Once again, similar words could be said about the current effort to abridge the Senate's involvement in securing the independence of the Court. "[T]he step proposed is one of the most dangerous ever suggested." "[I]t will set the most dangerous precedent . . . ." "[I]t is morally wrong, morally unsound." "[I]t gets us nowhere . . . ." "[A]nd so far as I am concerned, if I am the only man in the Senate to do so, I shall vote against it."

I only hope that enough Senators from the majority will have the courage that Burt Wheeler had, to stand up to their President, and stop this effort to undermine our Nation's cherished checks and balances.

In the latter half of the 19th Century, James Bryce was the Ambassador of the United Kingdom to the United States. In 1888, he wrote of America's independent judiciary:

> The Supreme Court is the living voice of the Constitution . . . . It is the guarantee of the minority who, when threatened by the impatient vehemence of the majority, can appeal to this permanent law, finding the interpreter and enforcer thereof in a Court set high above the assaults of faction.

For two centuries, the Senate's rules have protected the rights of the minority party, Democrats and Republicans alike, and thereby protected the independence of the judiciary. After two centuries, it would be a mistake to change those rules.

As the Senior Senator from Tennessee, the Majority Leader, wrote in a forward to a book published last year entitled Senate Procedure and Practice, and I quote:

> [A]bove all, together the Senate's rules and practices form a whole. It is a whole that faithfully reflects the Framer's design and ambition for the body. It is a whole that remains true to the Senate's two paramount values: unlimited debate and minority rights.

"[U]nlimited debate and minority rights."

That is what the leader wrote just a year ago: unlimited debate is one of the paramount values in the Senate's rules. Minority rights is the other one.

"[U]nlimited debate" allows Senators to protect "minority rights." The Senate's rules help to protect the independent judiciary. The Senate's rules help to ensure that no one party has absolute power. The Senate's rules help to give effect to the Framer's conception of checks and balances to protect the rule of law.

John Locke wrote in The Second Treatise on Government:

> Wherever law ends, tyranny begins.

John F. Kennedy said:

> Law is the strongest link between man and freedom.

And the Greek philosopher Heraclitus of Ephesus wrote:

> The people should fight for their law as for their city wall.

I urge my Colleagues on the other side of the aisle to fight for this city wall. I urge them to defend the independence of the judiciary. One hallmark that sets the United States apart from most countries in the world is a strong, independent judiciary: not bullied by the legislative branch, not bullied by the executive branch; an independent judiciary.

I urge my colleagues to defend that independence and I urge them to reject this effort to overturn the Senate's rules.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS—Continued

Mr. INHOFE. Mr. President, I ask unanimous consent that we resume the highway bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 567 WITHDRAWN

Mr. INHOFE. Mr. President, I ask unanimous consent that the pending substitute amendment be withdrawn.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment is withdrawn.

AMENDMENT NO. 605

(Purpose: To provide a complete substitute)

Mr. INHOFE. Mr. President, I now send a substitute amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 605.

Mr. INHOFE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, finally, after much laboring, this massive new substitute, or managers' amendment, is before us.

This reflects the tremendous amount of work our staffs have done over the recess as well as the many long weeks and months our committees worked on it. It is not what anybody would say is a perfect bill. Everybody would like more money, and many would like more money in different places. But given the constraints under which we operated, this is the best we have been able to produce. Obviously, we hope that after the Senate may complete action on the supplemental, which I understand may be coming up, we would like to move as quickly as we can on this bill.

The leadership on both sides has told us they want to finish the bill by this week. That is an ambitious schedule but, frankly, the current extension of the highway transportation bill runs out at the end of this month. The only hope we have of meeting that deadline and getting a bill to the President is to get it to conference this week. The conference is going to be difficult because of the different approach taken by the House than the approach we have taken.

The approach we have taken, and the EPW Committee, on highway funds is one of bipartisan cooperation, to use formulas to assure that the highway money goes to States on the various indicators of need built into the formulas. I happen to think the formulas undercut the crossroads of the United States. I will be showing, when people talk about needs in other areas, a map by the U.S. Department of Transportation showing the level of heavy traffic on the roads in America. It is no surprise that that heavy traffic goes right through the middle of America, through Oklahoma, Missouri, Illinois, Indiana. We are the crossroads States. We are not doing as well in our States as many of the other States that are asking for more money.

When people say they want more money, my response is: I do, too. But we have attempted to follow the pattern established in previous formulas. And if people want to change it, I have some changes I would like to make as well and include the crossroads where the traffic is the heaviest and where, in my State and in Oklahoma, we now recognize the fact that deaths caused by inadequate highways is a legitimate concern for a bill called SAFETEA.

I am delighted, through the leadership of Senator INHOFE and the cooperation and leadership of our colleagues on the other side of the aisle, Senator JEFFORDS, Senator BAUCUS, Senator REID, who worked very closely with me on the last highway bill, we brought our section to the floor as well as the sections from the other committees. We look forward as soon as we can to going back to work on it. We would ask any of our colleagues who have amendments, particularly to our section, you have had a chance to look at it, we have had a chance to work on it. I hope we can move quickly because the time will be short and the bill is important.

With that, I thank the chairman of our committee and yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the senior Senator from Missouri. He has worked tirelessly, as chairman of the Subcommittee on Transportation of the Environment and Public Works Committee. You always hear that working with Senators is like herding cats. I think we have learned that on this bill. It is very difficult. Of course, by the very nature of the Senate, one person can hold things up. But I don't think there is anything this year we are going to be dealing with that is more important than our highway reauthorization bill.

Last year we passed a good bill out of committee. We were unable to get it out of conference last year. This year I am sure that situation will change.

As we work on it this week, I agree it is an ambitious schedule to get it done, but I am anticipating we are going to have to at some point file cloture. I would certainly tell any of the staff and Members who might be listening that we are open for business. We now have the substitute amendment on the floor so we know what we are working with. We would ask them to bring their amendments down. We can't do anything with an amendment unless we see it, unless we have it before us.

I know what is going to happen if we don't do that. When we come up against some deadlines, trying to get this passed out of here at the end of the week, people are going to be saying they didn't have time. You have time now. We are waiting for you. We want you to bring them down.

The substitute amendment we adopted has some changes in it. We did increase some highway funding by $8.9 billion. That would be the highway funding portion. That was over the EPW bill that we passed out of the committee that we chair. And it includes a 5.1-percent increase in both the apportioned and allocated programs. It also includes the minimum rate of return for donor States to 91 percent and working up to 92 percent. This is not as ambitious as it was last year, but last year we were dealing with a bill that was $318 billion over a 6-year period. This is going to be about 251 over the remaining 5 years of the 6-year reauthorization.

Last year's bill, the donee status was improved more dramatically so that for States such as my State of Oklahoma and the State of the Presiding Officer, we would have that up to a minimum of 95 percent. That means we would get back at least 95 percent of that which is collected in our respective States. We can't quite do that with the smaller amount, but certainly it is enhanced a little bit with the amendment we just agreed to consider.

So we have a lot in here, and they are going to be a part of this bill. Again, the only thing that needs to be done right now is for amendments to be brought to the floor. By the way, Senator BOND is right when he says there are a lot of Members who are not happy, and they won't have enough money in their States. I am not happy about the amount of money in Oklahoma. There was a lot of compromising over a 3-year period to get us where we are today. However, if you are not happy, offer an amendment. We will consider it and we will vote on it. That is what the process is all about.

We have a lot to be done in the next 4 days. We expect that we are going to be doing it. We are encouraging people to come down with their amendments.

I chair the EPW committee, but we also have some titles in here by the Banking Committee, the Commerce Committee, and the Finance Committee. We have been talking to those chairmen. I believe they are ready. So we could entertain amendments on any of these sections or any of the titles of the bill.

MORNING BUSINESS

Mr. INHOFE. Mr. President, I ask unanimous consent that we go into a period of morning business with each Senator permitted to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

SERGEANT ROBERT J. "JASON" GORE

Mr. GRASSLEY. Mr. President, I rise today to recognize a fellow Iowan who has fallen in service to his country. SGT. Robert J. "Jason" Gore of Nevada, IA, was killed on April 21, when insurgents shot down his helicopter. Jason had already completed one tour in Iraq before he began his tour as a security guard for Blackwater USA. He was only 23 years old and is survived by a mother, father, brother, and grandparents.

Jason grew in Nevada, IA, and chose to attend St. John's Northwestern Military Academy for his last 2 years of high school. Sergeant Gore excelled there in academics, athletics, and leadership, and he was described as a kind young man with a purpose-driven life and a great enthusiasm for the opportunity to serve in the military.

Sergeant Gore's patriotism for his country and zeal for life must be recognized and appreciated today and in days to come. In his honor, I urge all Americans to contemplate their love for this great country and to think about the patriotic ideals which Jason held in such high esteem. In memory of his life and his great sacrifice so willingly made, we are called to rekindle in ourselves the fiery devotion and enthusiasm of SGT. Robert J. Gore. I offer my condolences to the family and friends of Jason who have felt this loss most deeply. Today, their son, brother, grandson, and friend stands as a beacon of enduring patriotism, deserving of emulation by all Americans.

CARE COORDINATION

Mr. KENNEDY. Mr. President, I welcome this opportunity to call the attention of my colleagues to the important issue of improving the coordination of health care for the Nation's senior citizens. As we all know, large numbers of senior citizens receive health care and treatment from several different physicians. In fact, more than half the patients with serious chronic conditions have three or more different physicians.

Too often, a physician seen by a patient is not aware of the tests and prescriptions that other physicians have ordered for the same patient. The result is that the patient receives care that is often duplicative, and may actually be harmful.

We need new ideas on improving care coordination for patients—particularly for senior citizens.

The Boston Globe recently published a thoughtful article by Lois Quam, CEO of the Ovations division of UnitedHealth Group, describing new initiatives to improve the quality of health services provided to senior citizens. It includes a number of worthwhile recommendations, and I urge my colleagues to take the time to read it carefully. We can clearly do better, much better, in this important area of health care.

I ask unanimous consent that the article "Rx For Medicare" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Mar. 11, 2005]

RX FOR MEDICARE

(By Lois Quam)

Social Security reform will dominate politics and be the subject of much debate for months to come. However, failure to address rising healthcare costs, by changing the way Medicaid and Medicare-funded care is delivered, could undermine efforts to ensure financial security for many retirees.

Over the next 75 years, the government is expected to pay more than $27 trillion in healthcare benefits promised to seniors seven times its Social Security obligations for that period. Further, a recent analysis by Urban Institute researchers suggests that by 2040, typical seniors might have to spend approximately one-fifth of their Social Security benefits on Medicare premiums.

Simply cutting funds for federal healthcare programs would be shortsighted and potentially devastating to millions of older Americans, including more than 960,000 in Massachusetts. A better way to control costs while improving the quality of healthcare is to rethink the traditional models for delivering care.

Chronically ill patients with five or more medical conditions made up only 20 percent of all Medicare beneficiaries in 2004 but accounted for more than two-thirds of the program's $302 billion in costs. In any single year, such patients are likely to fill up to 20 separate prescriptions, visit emergency rooms a dozen times or more, and require hospitalization at least five times. Too often these patients must make sense of an array of confusing, even conflicting, information. This fragmentation of care can lead to poor health outcomes that are unnecessarily costly and draining for patients and physicians alike. We can reduce this burden by organizing our resources more efficiently and effectively.

The traditional Medicare and Medicaid fee-for-service systems are structured primarily to provide acute care, not to meet the needs of the chronically ill. These latter patients require comprehensive management of their health, emphasizing coordination of multiple treatments, health maintenance, and prevention of disease. While there has not been any effort to implement a care model of this kind on a national scale, many smaller programs have already demonstrated this approach's value in reducing costs and improving care.

For example, On Lok SeniorHealth, a community-based organization in San Francisco, provides seniors with a complete program of health services preventive, acute, and rehabilitative care along with home healthcare, social services, and such personal assistance as meal delivery, transportation, and help with prescriptions. On Lok's patients report better overall health and fewer acute-care needs and hospitalizations than comparable groups of Medicare beneficiaries.

I have also seen the impact of this care model at my own company. Our Evercare plans identify the most costly, at-risk patients and deliver care within a system of careful monitoring and management. At the heart of this system are practitioners who coordinate multiple services, facilitate communication between providers and patients, and ensure integration of treatments.

Evercare is also working with Massachusetts to ensure this kind of care is brought to seniors living in nursing homes, as well as to home-based elderly and disabled. The Massachusetts Senior Care Options program provides enrollees with hands-on medical care coordination as well as home care support services, such as outfitting the home for special needs, housekeeping, transportation to physicians' offices, and meals.

Again, there is evidence that the model can reduce costly, redundant services while improving patient care. Federally commissioned studies of Evercare programs in several states showed that they slashed hospitalizations in half while gaining a 97 percent satisfaction rating from participating families. The Centers for Medicare and Medicaid Services point to Evercare as the model for the Special Needs Plans included in the Medicare Modernization Act of 2003. In Texas, another program using this model saved more than $100 million in two years and improved seniors' access to services.

The long-term survival of Medicaid and Medicare may depend on the wide adoption of this approach, whether it is offered by private companies such as Ovations or not-for-profit programs like On Lok. We have an opportunity to do so for the chronically ill within the framework of the Medicare Modernization Act's Special Needs plans. However, both the public and private sectors need to do a much better job of analyzing the effectiveness of alternative-care models and applying evidence-based lessons on a nationwide basis.

By working together, public and private leaders have the opportunity to improve the quality of life for more than 41 million older Americans and conserve Medicare resources. This issue also affects younger generations, who must have the security of knowing that their parents, and then they themselves, will be well cared for as they age. But we need to move quickly, beginning this year. If we wait until Washington deals with Social Security and other issues on its agenda, we may simply run out of time.

NOMINATION OF JOHN BOLTON

Mr. WARNER. Mr. President, I rise today in support of the nomination of John Bolton, the President's nominee for U.S. representative to the United Nations with the rank of Ambassador.

The President, together with his principal Cabinet officers, has put together an extraordinary national security team. John Bolton will be a valuable addition to this team.

The President and his Secretary of State, Condoleezza Rice, have expressed their confidence that John Bolton has the experience and skills to represent the United States at the United Nations and to carry out the President's priorities to strengthen and reform the U.N. I concur in the confidence they placed in the nominee.

John Bolton has had a long and distinguished career in public service and in the private sector. Most recently, he has served for the past 4 years as the Under Secretary of State for Arms Control and International Security Affairs. In that capacity, Secretary Bolton worked to build a coalition of over 60 countries to help combat the spread of weapons of mass destruction through the Proliferation Security Initiative, PSI. He was a leader in creating the G8 Global Partnership to, in effect, "multilateralize" the Nunn-Lugar nuclear threat reduction concept by inviting other nations to join the United States in helping to eliminate and safeguard dangerous weapons and technologies which remain in the countries of the former Soviet Union.

Previously, John Bolton has served as Assistant Secretary of State for International Organization Affairs, as an Assistant Attorney General in the Department of Justice, and many years ago he held several senior positions in the Agency for International Development. He has also had a distinguished legal career in the private sector.

Mr. Bolton has at times advocated or represented controversial positions which have sparked controversy. But he has done so with a frankness and assertiveness that demonstrate his strongly held beliefs. As this committee, and later the full Senate, considers this nomination, we should keep in mind the words of Secretary Rice: "The President and I have asked John Bolton to do this work because he knows how to get things done. He is a tough-minded diplomat, he has a strong record of success and he has a proven track record of effective multilteralism . . . John, you have my confidence and that of the President."

Given the enormity of problems facing the U.N. today, we have an obligation to send a strong-minded individual to help constructively to solve these problems and to regain the confidence of the American people in the continuing need for the U.N.

I share the President's and the Secretary's expectation that John Bolton will faithfully represent the United States' interests and enthusiastically advance the President's goal of making the United Nations a stronger, more effective international organization.

PRAYER AT SCHOOL BOARD MEETINGS

Mr. VITTER. Mr. President, last Thursday was designated as a National Day of Prayer. I began the day at a prayer breakfast with the people of Tangipahoa, LA, whose school board was recently the subject of a Federal court ruling against prayer at board meetings.

This February 24 ruling, by U.S. District Court Judge Ginger Berrigan of New Orleans, was filed by an unnamed individual with the backing of the American Civil Liberties Union. The purpose of the lawsuit was to stop prayers at Tangipahoa Parish School Board meetings.

In her ruling against the school board, Judge Berrigan said:

> [i]n officially promoting a religious practice at its governmental meetings, the board is doing what its schools and teachers cannot do, favor religion over non-religion and endorse particular religious faiths.

If this ruling stands, school boards in other parts of Louisiana as well as school boards across the country could be subjected to similar lawsuits.

Many have joined me in criticizing this February 24 ruling, including the Democratic Governor of Louisiana, Kathleen Blanco, who called for the school board to appeal the decision to the Fifth Circuit Court of Appeals. As stated by Governor Blanco:

> I believe that such prayers are entirely appropriate, constitutional, and in keeping with a practice in our nation that dates back to the Continental Congress.

I could not agree more with that statement, and I am delighted that the school board on May 1, 2005 voted unanimously to appeal the district court's ruling.

To me, this February 24 ruling seems like another attempt by Federal courts to legislate from the bench—especially when you consider that other lawmaking bodies are allowed to hold prayer. Here in the Senate, we routinely open with a prayer, as does the U.S. House of Representatives and as do State legislatures across the Nation.

In 1983, the U.S. Supreme Court held, in the case of Marsh v. Chambers, that the practice of opening legislative sessions with prayer has become part of the fabric of our society. To invoke divine guidance on a public body entrusted with making the laws is not a violation of the Establishment Clause, but rather is simply an acknowledgement of beliefs widely held among the American people, said the Court.

Voluntary prayer in elected bodies should not be limited to prayer in State legislatures and Congress. School boards are deliberative bodies of adults. They are similar to a legislature in that they are elected by the people, act in the public interest, and are open to the public for voluntary attendance.

And let's not forget that this Nation was founded on the principle of freedom of religion. Not freedom from religion but freedom of religion. The Framers intended that the U.S. Constitution would bar the Government from enacting any law that favors one religious denomination over another, not prevent any mention of religion or reference to God in civic dialogue. The Framers recognized that freedom to practice religion and to express religious thought is a fundamental and alienable right belonging to all Americans.

The ACLU, which backed this lawsuit against the school board, has criticized those of us who have called for the school board to appeal the district court ruling. I do not share the ACLU's opinion, and more importantly, the people of Louisiana do not share the ACLU's opinion.

It is a fact that Americans often turn to their elected officials for relief, especially after being rebuffed by courts. As stated by the nonpartisan Congressional Research Service:

> With regard to religious liberty, the origin and growth of an individual's right to believe or not believe, and the safeguarding of that right, have occurred almost entirely outside the courtroom. The regular political process has protected the religious freedom of minorities as well as and often better than the courts.

In short, it is not unusual for Congress to advance religious liberty beyond what is available from the judiciary.

On April 29 I introduced a resolution, S. Res. 132, expressing the United States Senate's support for the practice of prayer at the beginning of school board meetings. U.S. Congressman BOBBY JINDAL has introduced a similar measure in the U.S. House of Representatives.

I want to take this opportunity to thank Mr. COBURN, Mr. GRASSLEY, and Mr. DEMINT for their cosponsorship of S. Res. 132. I urge my other colleagues to support this resolution, which recognizes that prayer before school board meetings is a protected act in accordance with fundamental principles upon which this Nation was founded.

SUPPORTING RESPONSIBLE GUN STORAGE LEGISLATION

Mr. LEVIN. Mr. President, two separate accidental shootings in Detroit on April 22 of this year left one 13-year-old boy dead and a 9-year-old boy critically wounded. These tragedies should remind us again that much more must be done to prevent access to guns by children.

According to published reports, both of these shootings involved children playing with guns inside their own homes. In both cases, the guns accidentally discharged and shot the victim in the head. In reference to the accidental shooting of the 9-year-old boy, Lieutenant James Tolbert of the Detroit Police Department commented, "This is an unfortunate and needless incident that would have been prevented if people would make sure that a weapon in the home is secure and out of reach." In addition, Lieutenant Tolbert suggested that similar shootings could be prevented through the use of trigger locks or the storage of ammunition separate from the gun.

Recent research supports Lieutenant Tolbert's suggestions. A study published in the Journal of the American Medical Association found that the application of responsible gun storage measures can significantly reduce the risk of unintentional shooting or suicide by minors using a gun. According to the study, when ammunition in the home is locked up, the risk of such injuries is reduced by 61 percent. Simply storing ammunition separately from the gun reduces such occurrences by more than 50 percent.

According to the Brady Campaign to Prevent Gun Violence, teenagers and children are involved in more than 10,000 accidental shootings in which close to 800 people die each year. Reducing the number of accidental shootings involving children and teenagers requires that commonsense gun storage measures be adopted.

During the 108th Congress, I joined with 69 of my colleagues in voting for Senator BOXER's trigger lock amendment. Senator BOXER's amendment would have required that all handguns sold by a dealer come with a child safety device, such as a lock, a lock box, or technology built into the gun itself that would increase the security of the weapon while in storage. Although the underlying gun industry immunity bill to which this amendment was attached was later defeated, the support for Senator BOXER's proposal is clear.

Requiring that guns be stored in a responsible manner could have prevented many of the accidental shootings we have seen in Detroit and around the country. I am hopeful that Congress will work to limit children's access to guns so that fewer families will have to endure the loss of their child because of a preventable accident.

HONORING IOWA FINALISTS WE THE PEOPLE: THE CITIZEN AND THE CONSTITUTION NATIONAL COMPETITION

Mr. GRASSLEY. Mr. President, I rise to congratulate the students from Central Academy in Des Moines, IA who recently participated in the We the People: The Citizen and the Constitution national finals in Washington, DC The annual competition is the culmination of the students' extensive study of the American system of constitutional democracy. The team from Central Academy won the State competition, earning the honor of representing Iowa in the national finals from April 30 through May 2, 2005. I am also proud to say that they won a unit award for their impressive performance on unit 3.

Unfortunately, I was in Iowa during the national finals this year so I was unable to meet with the students from Iowa as I customarily do. However, I am always impressed by how knowledgeable and politically astute the students are who have been through this program and I understand this year's group of students was no exception. I know Iowans can be very proud to have had them representing Iowa.

The We the People: The Citizen and the Constitution program is run by the Center for Civic Education with the help of federal funding. The program provides an excellent curriculum and valuable professional development opportunities for teachers, giving students a solid grounding in the history, philosophy, and practice of our American system of constitutional democracy. The result is young people who are more politically aware, more engaged, and more equipped to be good citizens.

In closing, I would like to recognize the Central Academy students who participated in this program, Emily Burney, Julia Busiek, Kate Conlow, Tim Di Iulio, Jon Hill, Lisa Jefferson, Alix Lifka-Reselman, Phillip Miller, Ben Miller-Todd, David Nolan, Caroline Rendon, Andrew Tatge, Erin Turner, Emily Varn, and their teacher, Michael Schaffer. They can all be very proud of their knowledge and accomplishments. I would also like to recognize the We the People district coordinator, Ivette Bender, and the state coordinator for Iowa, Linda Martin, for their hard work and dedication to the We the People program.

NOMINATION OF STEVEN JOHNSON TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

Mr. FEINGOLD. Mr. President, I would like to briefly discuss my vote in favor of cloture on the nomination of Stephen Johnson to be the Administrator of the Environmental Protection Agency EPA. I have always believed that the President should be granted significant deference in selecting his Cabinet and close advisers. Unlike judicial nominees, the EPA Administrator will serve for 4 years at the President's discretion.

Furthermore, the President made a good choice. Stephen Johnson, who has served the country for 24 years as a career EPA employee, is a well-qualified nominee who enjoys broad public support. When his nomination was considered by the Senate Environment and Public Works Committee this spring, the committee approved his nomination by a vote of 17–1. He will serve the country well as Administrator of the EPA.

I share my colleagues' concerns about the administration's refusal to provide the Senate Environment and Public Works Committee with EPA's analysis of the clean air bills pending before the Senate. I am proud to cosponsor Senator JEFFORDS' Clean Power Act, and I believe that the administration's Clear Skies proposal is woefully inadequate. I agree that the information Senator CARPER has requested from EPA is vitally important to evaluate the differing clean air regulation proposals. EPA's refusal to turn over its analysis indicates that its own data do not lend support to the Clear Skies initiative. Disclosure of Government data to the public is a cornerstone of our democracy, and this administration has continually attempted to avoid congressional oversight. I implore Mr. Johnson, on his first day as EPA Administrator, to turn over these documents to the Senator CARPER and Senator JEFFORDS. To restore credibility to the agency that is supposed to safeguard human health and the environment, Administrator Johnson should release this information immediately.

Nonetheless, I do not believe that the administration's refusal to provide this information should stand in the way of this qualified nominee leading the Nation's Environmental Protection Agency.

SOUTH MOUNTAIN PEACE ACTION

Mr. LAUTENBERG. Mr. President, I rise today to praise a group of my constituents working toward the noble goal of peace. This group is called South Mountain Peace Action, and its members are active in Maplewood and South Orange, NJ. Peace Action members have circulated a petition in their community about the war in Iraq. The petition was signed by more than 1,200 concerned New Jerseyans, so I think it is important for Congress to take note of their actions.

The Peace Action petition discusses the staggering costs of the Iraq War, both in terms of American lives and taxpayer dollars. As of today, more than 1,600 American troops have died and nearly 12,000 have been wounded in action. We have now lost over 50 people with ties to New Jersey. I have attended several funerals for New Jersey's fallen soldiers, and each funeral is a difficult, emotional experience. I have also been to Walter Reed Army Hospital and I have seen firsthand the debilitating injuries suffered by our troops.

The taxpayer costs of the war are also staggering. So far, the war and reconstruction of Iraq have cost more than $200 billion, and the spigot of taxpayer funds continues to run. Originally, Secretary of Defense Donald Rumsfeld told us that war in Iraq would cost "under $50 billion," but due to a lack of planning and terrible decisions by the Bush administration, the costs are skyrocketing.

This war is tainted by the faulty information that the President provided the Nation and the world about Saddam Hussein's supposed stockpile of weapons of mass destruction. But our troops are there and we must support them. And, in my view, we must work to stabilize Iraq and bring our troops home as soon as possible.

Thanks to groups such as Peace Action, our communities are speaking up about the costs of this war. I hope that their activism will bring positive results for our Nation and for our troops in Iraq and their families.

ADDITIONAL STATEMENTS

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

TRIBUTE TO KIP JANVRIN

● Mr. HARKIN. Mr. President, I rise today to honor a native Iowan and a remarkable athletic champion, Kip Janvrin. Late last month, just 3 months shy of his 40th birthday, he accomplished the amazing feat of winning the decathlon at the Drake Relays for the 15th time. Overall, Kip has finished 85 of the 88 decathlons he has entered since 1983. He has won 38 of them, which is a world record.

The Drake Relays are one of the Nation's most prestigious track and field events, held each spring at Drake Stadium in Des Moines. This year, the 96th annual Drake Relays, Kip took the field for the last time in an event, the decathlon, that he has dominated at Drake for 22 years.

Over the years, the words Drake Relays and Kip Janvrin have become virtually synonymous. From Jesse Owens to Wilma Rudolph, Gwen Torrance, Carl Lewis and Michael Johnson, the Drake Relays have seen almost all of the great Olympians in track and field. But one Olympian, Kip Janvrin, has been a dominant presence for more than two decades, competing in what is arguably the most grueling and demanding event in all of sports.

If the cheers at Drake are especially loud for Kip, it is because he is a native son of Iowa, raised in Panora and a graduate of Simpson College in Indianola. It is fitting that the last year for the original Drake Stadium will also be the last year that this American original competes in the Relays.

Kip is one of the top-ranked decathletes in the world, and he is the oldest active U.S. competitor in this extraordinarily demanding event. The decathlon is a 10-event competition which takes place over 2 days. It includes the 100-meter dash, long jump, shot put, high jump, 400 meter dash, 110 meter hurdles, discus, pole vault, javelin and 1,500 meter run. Kip began competing in the decathlon in 1983, and quickly excelled in all 10 events.

While attending Simpson College, Kip competed many times in the Drake Relays. His first victory came in 1987. His 15 championships at the Drake Relays are the most by any athlete in the history of that event. In 1998, he was inducted into the Drake Relays Hall of Fame. During his years at Simpson, he earned three NCAA titles in the decathlon, and two more NCAA titles in individual events. He was inducted into the Simpson Hall of Fame in 1998, and the NCAA Division III Track and Field Hall of Fame in 2004.

Kip's accomplishments are nothing short of amazing. He holds the world records in career victories, in scores over 7,000 points, and in consecutive finishes. He also holds the world record for the double decathlon, a demanding event involving every event in track and field, except for the marathon and walks.

Kip won the decathlon at the 1995 Pan American Games. As a member of the U.S. Olympic team at the 2000 Games in Sydney, Australia, he was the oldest decathlete ever to compete for the United States. In 2001, he won the decathlon at the USA Outdoor Championships. Last year, Kip came in second at the Drake Relays, the first time in 9 years that he did not come in first. However, Kip took the loss in stride, because the victor was his protégé, Travis Goepfert, also a native of Panora, IA.

Kip is currently in his 15th year as co-head coach at Central Missouri State University in Warrensburg. He and his wife, Teresa, have two sons, Jaxon, age 9, and Mason, age 7.

So as Kip Janvrin savors a victory in his final Drake Relays, I extend my congratulations and best wishes. With his self discipline, his commitment to excellence, and his enormous human decency, he represents Iowa at its very best. Win or lose, he has always been a true champion.●

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

CELEBRATION OF SEX DIFFERENCES IN HEALTH AWARENESS DAY

• Mr. HARKIN. Mr. President, May 8 to 14 is National Women's Health Week and a time that we should take a careful look at the state of women's health in this country and in particular look at the lack of equality that still exist for women in access to health care. I have long been concerned about the status of women's health care policies in the United States. That is why I have supported several bills and policy changes to improve women's health status.

For too long, the Federal Government failed to recognize the health differences between men and women. For example, for many years clinical trials run by the Food and Drug Administration, FDA, often excluded women. As a result, safety and efficacy standards failed to take into account the physiological differences between men and women. That is why I have worked with the FDA to increase the number of women included in these important clinical trials.

One way to ensure that we continue to make steady improvements on women's health issues is to ensure that our public health agencies work in a coordinated manner to consider the public health impact on women of a range of health issues. We can accomplish this goal by passing the Women's Health Offices Act, which statutorily establishes Offices of Women's Health at all of our public health agencies.

While we have made progress we need to continue efforts to focus on the fact that women's health research is key to the future of improving and saving more lives. As a result of such research, death rates have decreased for women with tumors of the cervix, breast, uterus, and ovary. Quality of life has also improved for cancer patients through the development of less invasive surgical techniques, organ-sparing treatments, and better control of pain and nausea related to chemotherapy.

Women's health is an issue I take very seriously. My two sisters both had breast cancer and died of the disease, in a time before regular mammograms and improved treatment methods were widely used or available.

I believe that we must work together in a bipartisan manner to refashion our health care system so that all Americans, especially women, have access to the high quality care they deserve at an affordable price.•

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

TRIBUTE TO INTERNS

• Mr. HARKIN. Mr. President, today I extend my appreciation to my spring 2005 class of interns: Sarah Krantz, Matt Hill, Lauryn Douglas, Matt Drake, Stephanie Strasko, John Anderson, Ben Taylor, Stacey Shin and Kathryn Anderson. Each of them has been of tremendous assistance to me and to the people of Iowa over the past several months.

Since I was first elected to the Senate in 1984, my office has offered internships to young Iowans and other interested students. Through their work in the Senate, our interns have not only seen the legislative process, but also personally contributed to our Nation's democracy.

It is with much appreciation that I recognize Sarah, Matt, Lauryn, Matt, Stephanie, John, Ben, Stacey and Kathryn for their hard work this spring. It has been a delight to watch them take on their assignments with enthusiasm and hard work. I am very proud to have worked with each of them. I hope they take from their spring a sense of pride in what they have been able to accomplish, as well as an increased interest in public service and our democratic system and process.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE DURING ADJOURNMENT

ENROLLED JOINT RESOLUTIONS SIGNED

Under authority of the order of the Senate of January 4, 2005, the Secretary of the Senate, on May 4, 2005, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled joint resolutions:

H.J. Res. 19. Joint Resolution providing for the appointment of Shirley Ann Jackson as a citizen regent of the Board of Regents of the Smithsonian Institution.

H.J. Res. 20. Joint Resolution providing for the appointment of Robert P. Kogod as a citizen regent of the Board of Regents of the Smithsonian Institution.

Under the authority of the order of January 4, 2005, the enrolled joint resolutions were signed by the Acting President pro tempore (Mr. WARNER) during the adjournment of the Senate, on May 4, 2005.

MESSAGE FROM THE HOUSE

At 2:03 p.m., a message from the House of Representatives, delivered by Ms. Niland, one its reading clerks, announced that the House has agreed to the concurrent resolution (S. Con. Res. 29) providing for a conditional adjournment or recess of the Senate, without amendment.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 127. Concurrent resolution calling on the Government of the Federal Republic of Nigeria to transfer Charles Ghankay Taylor, former President of the Republic of Liberia, to the Special Court for Sierra Leone to be tried for war crimes, crimes against humanity, and other serious violations of international humanitarian law.

The message further announced that the House has agreed to the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1082. An act to designate the facility of the United States Postal Service located at 120 East Illinois Avenue in Vinita, Oklahoma, as the "Francis C. Goodpaster Post Office Building".

H.R. 1185. An act to reform the Federal deposit insurance system, and for other purposes.

H.R. 1542. An act to designate the facility of the United States Postal Service located at 695 Pleasant Street in New Bedford, Massachusetts, as the "Honorable Judge George N. Leighton Post Office Building".

H.J. Res. 47. Joint resolution increasing the statutory limit on the public debt.

The message also announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditions construction of the San Diego border fence, and for other purposes.

The message further announced that pursuant to section 101(f)(3) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 1320b-19), the Minority Leader appoints the following member on the part of the House of Representatives to the Ticket to Work and Work Incentives Advisory Panel: Ms. Loretta Goff of New York.

The message also announced that pursuant to 44 U.S.C. 2702, and the order of the House of January 4, 2005, the Speaker reappoints the following member on the part of the House of Representatives to the Advisory Committee on the Records of Congress: Mr. Timothy J. Johnson or Minnetonka, Minnesota.

The message further (42 U.S.C. 1975 note), the order of the House of January 4, 2005, and upon the recommendation of the Minority Leader, the Speaker reappoints the following member on the part of the House of Representatives to the Commission on Civil Rights for a six year term expiring May 3, 2011: Mr. Michael Yaki of San Francisco, California.

The message also announced that pursuant to 44 U.S.C. 2702, and the order of the House of January 4, 2005, the Minority Leader appoints the following member on the part of the House of Representatives to the Advisory Committee on the Records of Congress: Dr. Joseph Cooper of Maryland.

MEASURES REFERRED

The following bills and joint resolution were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1082. An act to designate the facility of the United States Postal Service located at 120 East Illinois Avenue in Vinita, Oklahoma, as the "Francis C. Goodpaster Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 1185. An act to reform the Federal deposit insurance system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 1542. An act to designate the facility of the United States Postal Service located at 695 Pleasant Street in New Bedford, Massachusetts, as the "Honorable Judge George N. Leighton Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

H.J. Res. 47. Joint resolution increasing the statutory limit on the public debt; to the Committee on Finance.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 975. A bill to provide incentives to increase research by private sector entities to develop medical countermeasures to prevent, detect, identify, contain, and treat illnesses, including those associated with biological, chemical, nuclear, or radiological weapons attack or an infectious disease outbreak, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 981. A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2018. A communication from the Special Trustee for American Indians, Department of the Interior, transmitting, a draft bill entitled "Individual Indian Money Account Pool Adjustment Act of 2005" received on May 4, 2005; to the Committee on Indian Affairs.

EC–2019. A communication from the Secretary of the Interior, transmitting, pursuant to law, the Department's Annual Report for Fiscal Year 2004 entitled "Outer Continental Shelf Lease Sales: Evaluation of Bidding Results"; to the Committee on Energy and Natural Resources.

EC–2020. A communication from the Secretary of Energy, transmitting, a report of proposed legislation relative to the amendment of section 161k of the Atomic Energy Act of 1954, received on May 4, 2005; to the Committee on Energy and Natural Resources.

EC–2021. A communication from the Administrator, Small Business Administration, transmitting, pursuant to law, a report of a violation of the Antideficiency Act; to the Committee on Appropriations.

EC–2022. A message from the President of the United States, transmitting, pursuant to law, a report relative to the District of Columbia Appropriations Act of 2005; to the Committee on Appropriations.

EC–2023. A communication from the Associate Attorney General, Department of Justice, transmitting, pursuant to law, a report on certain activities pertaining to the Freedom of Information Act (FOIA); to the Committee on the Judiciary.

EC–2024. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Department of Justice transmitting, pursuant to law, the report of a rule entitled "Schedules of Controlled Substances: Placement of Zopiclone into Schedule IV" (Docket No. DEA-262F) received on May 3, 2005; to the Committee on the Judiciary.

EC–2025. A communication from the White House Liaison and Executive Director, White House Commission on the National Moment of Remembrance, transmitting, pursuant to law, the third Annual Report of the White House Commission on the National Moment of Remembrance; to the Committee on the Judiciary.

EC–2026. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Office of the Police Corps and Law Enforcement Education Calendar Year 2003 Annual Report; to the Committee on the Judiciary.

EC–2027. A communication from the Chief Counsel, Foreign Claims Settlement Commission of the United States, Department of Justice, transmitting the annual report for 2004; to the Committee on the Judiciary.

EC–2028. A communication from the Chief Executive Officer, Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, the Federal Prison Industries, Inc. Fiscal Year 2004 Annual Report; to the Committee on the Judiciary.

EC–2029. A communication from the Secretary, Judicial Conference of the United States, transmitting, a draft of proposed legislation entitled "Federal Courts Jurisdiction Clarification Act of 2005"; to the Committee on the Judiciary.

EC–2030. A communication from the Chairman, United States Sentencing Commission, transmitting, pursuant to law, the report on amendments to federal sentencing guidelines, policy statements and official commentary; to the Committee on the Judiciary.

EC–2031. A communication from the Chief Judge, United States Court of Federal Claims, transmitting, pursuant to law, a report relative to J.L. Simmons, Inc. v. United States; to the Committee on the Judiciary.

EC–2032. A communication from the Deputy Assistant Attorney General, Office of Legal Policy, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Preservation of Biological Evidence under 18 U.S.C. 3600A" ((OAG 109) (RIN1105–AB10)) received on May 3, 2005; to the Committee on the Judiciary.

EC–2033. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six month periodic report on the national emergency with respect to Sudan that was declared in Executive Order 13067; to the Committee on Banking, Housing, and Urban Affairs.

EC–2034. A communication from the Chairman, Appraisal Subcommittee, Federal Financial Institutions Examination Council, transmitting, pursuant to law, the 2004 Annual Report of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council; received on May 3, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2035. A communication from the Assistant Secretary, Division of Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Certain Broker-Dealers Deemed Not To Be Investment Advisers" (RIN3235–AH78) received on May 3, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2036. A communication from the Deputy Secretary, Office of the General Counsel, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Adjustments to Civil Monetary Penalty Amounts" received on May 3 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2037. A communication from the General Council, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (44 CFR 65) received on May 3, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2038. A communication from the General Council, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" ((44 CFR 64) (Docket No. FEMA–7861)) received on May 3, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2039. A communication from the Director, Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Presumption of Sound Condition: Aggravation of a Disability by Active Service" (RIN2900–AL90) received on May 3, 2005; to the Committee on Veterans' Affairs.

EC-2040. A communication from the Director, Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Elimination of Copayment for Smoking Cessation Counseling" (RIN2900-AM11) received on May 3, 2005; to the Committee on Veterans' Affairs.

EC-2041. A communication from the Director, Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Loan Guaranty: Hybrid Adjustable Rate Mortgages" (RIN2900-AL54) received on May 3, 2005; to the Committee on Veterans' Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BURNS:

S. 977. A bill to include claims for injuries and death due to exposure during certain time periods from fallout emitted during the Government's above-ground nuclear tests in Nevada that exposed individuals who lived in the downwind affected area in the State of Montana; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SANTORUM (for himself and Mr. DEMINT):

S. 978. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the purchase of qualified health insurance, and for other purposes; to the Committee on Finance.

By Mr. AKAKA:

S. 979. A bill to strengthen United States capabilities to secure sealed sources of nuclear materials from terrorists; to the Committee on Energy and Natural Resources.

By Mr. NELSON of Florida:

S. 980. A bill to provide state and local governments with financial assistance that will increase their ability and effectiveness in monitoring convicted sex offenders by developing and implementing a program using global positioning systems to monitor convicted sexual offenders or sexual predators released from confinement; to the Committee on the Judiciary.

By Mr. DURBIN (for himself, Ms. MIKULSKI, Mr. ALLEN, Ms. LANDRIEU, Mr. LEAHY, Mr. SARBANES, Mr. BINGAMAN, Mr. LAUTENBERG, and Mr. KERRY):

S. 981. A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred; read the first time.

By Ms. COLLINS:

S. 982. A bill to suspend temporarily the duty on certain rayon staple fibers; to the Committee on Finance.

By Mr. DEMINT:

S. 983. A bill to amend the National Labor Relations Act to protect employer rights; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. CANTWELL (for herself, Ms. COLLINS, Mr. AKAKA, Mr. BAUCUS, Mr. WARNER, Mr. DURBIN, and Ms. SNOWE):

S. Res. 133. A resolution recognizing the 13th Annual National Association of Letter Carriers Food Drive; to the Committee on the Judiciary.

By Mr. SMITH (for himself and Mr. BIDEN):

S. Res. 134. A resolution expressing the sense of the Senate regarding the massacre at Srebrenica in July 1995; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. ALLARD, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 98, a bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 103

At the request of Mr. TALENT, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 173

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 173, a bill to amend title XVIII of the Social Security Act to provide adequate coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare program that have received an organ transplant.

S. 185

At the request of Mr. NELSON of Florida, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 331

At the request of Mr. JOHNSON, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 331, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 380

At the request of Ms. COLLINS, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 380, a bill to amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children.

S. 420

At the request of Mr. KYL, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 420, a bill to make the repeal of the estate tax permanent.

S. 432

At the request of Mr. ALLEN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 432, a bill to establish a digital and wireless network technology program, and for other purposes.

S. 438

At the request of Mr. ENSIGN, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 471

At the request of Mr. SPECTER, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 471, a bill to amend the Public Health Service Act to provide for human embryonic stem cell research.

S. 484

At the request of Mr. WARNER, the names of the Senator from Georgia (Mr. ISAKSON), the Senator from South Carolina (Mr. GRAHAM), the Senator from Illinois (Mr. DURBIN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 558

At the request of Mr. REID, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 558, a bill to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt.

S. 602

At the request of Ms. MIKULSKI, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 602, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 633

At the request of Mr. JOHNSON, the names of the Senator from Arizona (Mr. McCAIN), the Senator from Mississippi (Mr. LOTT), the Senator from California (Mrs. FEINSTEIN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 637

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 637, a bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes.

S. 642

At the request of Mr. FRIST, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 642, a bill to support certain national youth organizations, including the Boy Scouts of America, and for other purposes.

S. 681

At the request of Mr. HATCH, the names of the Senator from Maine (Ms. COLLINS) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 681, a bill to amend the Public Health Service Act to establish a National Cord Blood Stem Cell Bank Network to prepare, store, and distribute human umbilical cord blood stem cells for the treatment of patients and to support peer-reviewed research using such cells.

S. 757

At the request of Mr. CHAFEE, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Iowa (Mr. HARKIN), the Senator from Washington (Mrs. MURRAY), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Mississippi (Mr. COCHRAN), the Senator from Ohio (Mr. DEWINE), the Senator from Virginia (Mr. WARNER), the Senator from Minnesota (Mr. COLEMAN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Minnesota (Mr. DAYTON), the Senator from Delaware (Mr. BIDEN), the Senator from Ohio (Mr. VOINOVICH), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Arizona (Mr. McCAIN) were added as cosponsors of S. 757, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 758

At the request of Mr. ALLEN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 758, a bill to amend the Internal Revenue Code of 1986 to ensure that the federal excise tax on communication services does not apply to internet access service.

S. 760

At the request of Mr. INOUYE, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 760, a bill to amend the Public Health Service Act to provide a means for continued improvement in emergency medical services for children.

S. 774

At the request of Mr. BUNNING, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 774, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits.

S. 784

At the request of Mr. THOMAS, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 784, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes.

S. 798

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 798, a bill to amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces who is serving on active duty in support of a contingency operation or who is notified of an impending call or order to active duty in support of a contingency operation, and for other purposes.

S. 799

At the request of Mr. KENNEDY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 799, a bill to amend the Public Health Service Act to provide for the coordination of Federal Government policies and activities to prevent obesity in childhood, to provide for State childhood obesity prevention and control, and to establish grant programs to prevent childhood obesity within homes, schools, and communities.

S. 809

At the request of Mr. LAUTENBERG, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 809, a bill to establish certain duties for pharmacies when pharmacists employed by the pharmacies refuse to fill valid prescriptions for drugs or devices on the basis of personal beliefs, and for other purposes.

S. 895

At the request of Mr. DOMENICI, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 895, a bill to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe affordable, and reliable water supply to rural residents.

S. 914

At the request of Mr. ALLARD, the names of the Senator from Colorado (Mr. SALAZAR) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 914, a bill to amend the Public Health Service Act to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research.

S. 918

At the request of Mr. OBAMA, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from Iowa (Mr. HARKIN), the Senator from Colorado (Mr. SALAZAR) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 918, a bill to provide for Flexible Fuel Vehicle (FFV) refueling capability at new and existing refueling station facilities to promote energy security and reduction of greenhouse gas emissions.

S. 927

At the request of Mr. CORZINE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 927, a bill to amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the medicare program.

S.J. RES. 15

At the request of Mr. BROWNBACK, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S.J. Res. 15, a joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

S. CON. RES. 11

At the request of Mr. SESSIONS, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. Con. Res. 11, a concurrent resolution honoring the Tuskegee Airmen for their bravery in fighting for our freedom in World War II, and for their contribution in creating an integrated United States Air Force.

S. CON. RES. 19

At the request of Mr. CHAMBLISS, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. Con. Res. 19, a concurrent resolution expressing the sense of the Congress regarding the importance of life insurance and recognizing and supporting National Life Insurance Awareness Month.

S. CON. RES. 30

At the request of Mr. DURBIN, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. Con. Res. 30, a concurrent resolution to express the sense of Congress concerning the provision of health insurance coverage to all Americans.

S. RES. 86

At the request of Mr. HAGEL, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Res. 86, a resolution designating August 16, 2005, as "National Airborne Day".

S. RES. 116

At the request of Mrs. DOLE, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. Res. 116, a resolution commemorating the life, achievements, and contributions of Frederick C. Branch.

S. RES. 131

At the request of Mr. SALAZAR, his name was added as a cosponsor of S. Res. 131, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

S. RES. 132

At the request of Mr. VITTER, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. Res. 132, a resolution expressing support for prayer at school board meetings.

AMENDMENT NO. 580

At the request of Mr. VOINOVICH, the names of the Senator from Colorado (Mr. SALAZAR) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of amendment No. 580 intended to be proposed to H.R. 3, a bill Reserved.

AMENDMENT NO. 588

At the request of Mr. VOINOVICH, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of amendment No. 588 intended to be proposed to H.R. 3, a bill Reserved.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURNS:

S. 977. A bill to include claims for injuries and death due to exposure during certain time periods form fallout emitted during the Government's aboveground nuclear tests in Nevada that exposed individuals who lived in the downwind affected area in the State of Montana; to the Committee on Health, Education, Labor, and Pensions.

Mr. BURNS. Mr. President, in Montana, when someone does something to hurt someone else, they make it right. Not just because it is the right thing to do, but because in this State we shoot straight and take responsibility for our actions that's why I'm working to bring some of that Montana ethic to Washington to get the Federal Government to make amends for actions that have caused too many Montanans great pain and suffering.

Nuclear testing in Nevada during the 1950's threw blooms of radioactive Iodine-131, I-131, high into the atmosphere. Those who were affected are sometimes referred to as "Down Winders" because the wind carried the poisonous iodine north to Montana where gravity finally kicked in and the radioactive material settled to the ground. It eventually got into the milk supply—one of the primary sources of Iodine 131—and disproportionately affected milk drinkers. And who drinks milk? Children and babies, who are the most vulnerable in society.

Iodine-131 is absorbed by the thyroid—the organ of the body that uses iodine to produce important hormones. It can take between 20 and 40 years, but eventually the damage caused by Iodine-131 manifests itself as thyroid cancer. I've had cancer, and I understand the physical, mental and emotional pain that follows this terrible disease. I know the pain, and it is time that the government made right the harm it has caused to people in my State of Montana.

In 1990, the Radiation Exposure Compensation Act or RECA was signed into law. This measure provided financial compensation for victims living downwind of the Nevada Test Site to the tune of $50,000 per person. The law covered select counties in Nevada, Utah and Arizona. Later, this Act was amended to include compensation for uranium miners in Washington, Oregon, Idaho, Wyoming, North Dakota, South Dakota, Utah, Colorado, Arizona, New Mexico and Texas.

However, Montana, with 15 of the 25 counties with the highest dosage, Meagher, Broadwater, Beaverhead, Jefferson, Powell, Judith Basin, Madison, Fergus, Gallatin, Petroleum, Lewis and Clark, Blaine, Silver Bow, Chouteau and Deer Lodge, single most affected county in the United States, Meagher, is the only State in the affected region to receive no RECA compensation at all. If that doesn't sound right, it's because it's not.

Montanans have experienced unbelievably high rates of thyroid cancer. Between 1989 and 2003, the national rate of thyroid cancer increased by 38 percent. In that same timeframe, Montana's rate increased by a whopping 127 percent. And yet, Montana is the only State in the region that is excluded from RECA. In 2000, the rate of reported thyroid cancer in Montana was 17.5 times greater than the national rate. And yet, Montana is the only State in the region that is excluded from RECA.

On April 28, 2005, at the request of Congress, a report was released by the National Academy of Sciences. The 500-page report confirms the inadequacy of current RECA compensation. Most importantly, it supports the fact that Montana was one of the worst affected States. The fact is that folks in Montana were involuntarily subjected to increased risk of injury and disease in order to serve the national security interests of the United States. Moreover, they deserve our compassion and support. I strongly encourage my colleagues to support the expansion of RECA to my State of Montana.

By Mr. AKAKA:

S. 979. A bill to strengthen United States capabilities to secure sealed sources of nuclear materials from terrorists; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, I rise today to introduce the Safe Storage of Radiological Materials Act of 2005 to prevent sealed radioactive sources, which can be used to create "dirty bombs," from getting into the hands of terrorists. This bill is similar to S. 1045, the Low-Level Radioactive Waste Act, which I introduced in 2003.

Since September 11, 2001, the Congress has faced the challenge of anticipating where the next attack on the United States will come from and in what form it will come. It is important to weigh where to invest precious security resources, knowing everything can't be protected. Many vulnerabilities deserve serious attention. Some can be addressed with relative ease.

Thousands of unwanted sealed radioactive sources are currently held by the private sector, research institutions, and medical laboratories where these sources are generally unprotected and accessible. An April 2003 report I requested from the Government

Accountability Office, GAO, entitled "Nuclear Proliferation: DOE Action Needed to Ensure Continued Recovery of Unwanted Sealed Radioactive Sources," stated that "if these sealed sources fell into the hands of terrorists, they could be used as simple and crude but potentially dangerous radiological weapons, commonly called dirty bombs." Most experts agree that it would not require much scientific expertise or funding to cobble together a dirty bomb from radioactive material. In other words, the required materials are accessible and the assembly is relatively rudimentary.

The GAO report focused on greater-than-class-C, GTCC, sealed sources. GTCC radiological sources are the "high end" of the continuum of low-level radioactive waste. Class A, B, and C wastes can generally be disposed of at existing commercial disposal facilities. But wastes that exceed the Nuclear Regulatory Commission's criteria for Class C, known as greater-than-class-C wastes, are potent enough that they cannot be disposed of at existing facilities. While GTCC wastes are not as dangerous as high-level radioactive waste and therefore are not considered the highest security priority, they are the most potent of low level waste and necessitate progressively more stringent disposal requirements.

The Low-Level Radioactive Waste Policy Amendments of 1985, P.L. 99-240, required the Department of Energy, DOE, to provide a facility for disposing of all GTCC radioactive waste, including GTCC sealed sources that are no longer utilized by their owners. GAO found that little to no work had been done to designate a permanent disposal site. Although DOE has said that the facility will be up and running by 2007, it seems unlikely as they have only just begun the necessary environmental impact statement process.

In 1999, DOE created the Off-Site Source Recovery Project, OSRP, to recover unwanted GTCC sealed sources and temporarily house them at the Department of Energy's Los Alamos National Laboratory. According to GAO testimony before the Senate Energy Committee in September 2004, approximately 10,000 GTCC sealed sources from about 160 sites across the U.S. had been recovered to date. However, approximately 8,000 sources still remained in insecure facilities at the time of the hearing.

The job is not done, but the National Nuclear Security Administration (NNSA), the division within DOE responsible for the U.S. Radiological Threat Reduction, USRTR, previously the OSRP, has made great strides. Since I first introduced S. 1045, the Low Level Radioactive Waste Act, in May 2003, the prioritization of off-site recovery of GTCC sources has heightened. DOE received a $10 million supplemental for the program in 2003 and the President's fiscal year 06 budget proposes funding the USRTR at $12.75 million, up 69 percent from the fiscal year 05 enacted level of $7.54 million.

Earlier this month, NNSA called to let me know it intended to remove 100 sources of cobalt-60, which is GTCC, from the University of Hawaii.

The University had been trying to get DOE, the owners of the material, to dispose of the sources for years. The radioactive material was used in an irradiator and loaned to the University back in the 1960s for agricultural research. I am grateful that NNSA stepped up its recovery of unneeded radiological sources and helped to relieve the burden of guarding potentially dangerous material from the University administration.

The progress made by NNSA, while appreciated and laudable, is nonetheless a first step. Without the designation of a permanent disposal facility for GTCC waste, DOE will run out of temporary storage space. The Department already encountered problems finding a place to store strontium-90, cesium-137, and plutonium-239, all GTCC sources that have unique storage requirements. A permanent disposal facility that can accommodate all GTCC waste must be identified.

The Safe Storage of Radiological Materials Act of 2005 would require DOE to report to Congress on the current situation and future plans for disposal alternatives for GTCC radioactive waste and the cost and schedule to complete an environmental impact statement and record of decision on a permanent disposal facility for GTCC radioactive wastes. My bill would also require DOE to provide Congress with a plan for the short-term recovery of GTCC radioactive waste until a permanent facility is available. This legislation parallels the recommendations of the April 2003 GAO report, and I believe enactment of this bill is critical to securing sealed sources of nuclear material.

Twenty years is too long to wait for an agency to do its job. I urge my colleagues to support this important piece of legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 979

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Safe Storage of Radiological Materials Act of 2005".

SEC. 2. DISPOSAL OF CERTAIN LOW-LEVEL RADIOACTIVE WASTE.

(a) FINDINGS.—Congress finds that—

(1) according to the report of the National Commission on Terrorist Attacks Upon the United States, more than 2 dozen terrorist groups, including al Qaeda, are pursuing chemical, biological, radiological, and nuclear materials;

(2) according to the report of the National Commission on Terrorist Attacks Upon the United States, the United States is a prime target for weapons made with chemical, biological, radiological, and nuclear materials;

(3) the Department of Energy estimates that about 10,000 sealed sources of greater-than-Class C low-level radioactive waste (as defined in section 61.55 of title 10, Code of Federal Regulations) will become unwanted and will have to be disposed of through the Department of Energy by 2010;

(4) the Department of Energy—

(A) does not have adequate resources or storage facilities to recover and store all unwanted sources of greater-than-Class C low-level radioactive waste; and

(B) has not identified a permanent disposal facility;

(5) a report by the Government Accountability Office entitled "Nuclear Proliferation: DOE Action Needed to Ensure Continued Recovery of Unwanted Sealed Radioactive Sources" states that "[t]he small size and portability of the sealed sources make them susceptible to misuse, improper disposal, and theft. If these sealed sources fell into the hands of terrorists, they could be used as simple and crude but potentially dangerous radiological weapons, commonly called dirty bombs."; and

(6) the Government Accountability Office report further states that "[c]ertain sealed sources are considered particularly attractive for potential use in producing dirty bombs because, among other things, they contain more concentrated amounts of nuclear material known as 'greater-than-Class-C material.' "

(b) RESPONSIBILITY FOR ACTIVITIES TO PROVIDE STORAGE FACILITY.—The Secretary of Energy shall provide to Congress official notification of the final designation of an entity within the Department of Energy to have the responsibility of completing activities needed to provide a facility for safely disposing of all greater-than-Class C low-level radioactive waste.

(c) REPORTS AND PLANS.—

(1) REPORT ON PERMANENT DISPOSAL FACILITY.—

(A) PLAN REGARDING COST AND SCHEDULE FOR COMPLETION OF EIS AND ROD.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy, in consultation with Congress, shall submit to Congress a report containing an estimate of the cost and a proposed schedule to complete an environmental impact statement and record of decision for a permanent disposal for greater-than-Class C radioactive waste.

(B) ANALYSIS OF ALTERNATIVES.—Before the Secretary of Energy makes a final decision on the disposal alternative or alternatives to be implemented, the Secretary of Energy shall—

(i) submit to Congress a report that describes all alternatives under consideration, including all information required in the comprehensive report making recommendations for ensuring the safe disposal of all greater-than-Class C low-level radioactive waste that was submitted by the Secretary to Congress in February 1987; and

(ii) await action by Congress.

(2) SHORT-TERM PLAN FOR RECOVERY AND STORAGE.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a plan to ensure the continued recovery and storage of greater-than-Class C low-level radioactive sealed sources that pose a security threat until a permanent disposal facility is available.

(B) CONTENTS.—The plan shall address estimated cost, resource, and facility needs.

By Mr. NELSON of Florida:

S. 980. A bill to provide state and local governments with financial assistance that will increase their ability and effectiveness in monitoring convicted sex offenders by developing and implementing a program using global positioning systems to monitor convicted sexual offenders or sexual predators released from confinement: to the Committee on the Judiciary.

Mr. NELSON of Florida. Mr. President, I commend the leadership.

I rise to address the Senate on the subject of sexual predators. We have certainly had our fill of these people who prey on children in the State of Florida. The Nation has recently joined Florida in mourning the deaths of two young girls murdered by registered sex offenders. In March, an attacker walked in to—

Mr. INHOFE. Will the Senator yield for a question?

Mr. NELSON of Florida. Certainly.

Mr. INHOFE. Could I inquire as to how long you would like to address the Senate in morning business.

Mr. NELSON of Florida. About 5 minutes.

I thank the distinguished Senator from Oklahoma. I know this is a subject that he is quite concerned with. The Nation was gripped with the news of this sexual predator who walked into the unlocked home of a 9-year-old, Jessica Lunsford, in Homossassa, FL, took her from her bed—I want the Senator from Oklahoma to listen to the emotion in my voice. He walked into her unlocked home, took her from her bed, raped her, and then buried her alive. The man who is charged is a registered sex offender, previously convicted of molesting a minor, but law enforcement had lost track of him. In fact, he was living within 150 feet of Jessica Lunsford.

To add insult to injury, he was working at an elementary school.

Unfortunately, it did not stop there. About a month later, 13-year-old Sarah Lunde was abducted from her home in Rushkin, FL, and she was murdered. Her confessed killer is her mother's ex-boyfriend, who is also a convicted sex offender.

In our State alone, we have over 30,000 registered sex offenders, and there are more than 300,000 nationwide. The Bureau of Justice Statistics has provided data showing that 70 percent of all the men in prison for a sex crime were men whose victim was a child.

In 2003, the Justice Department published a report on recidivism rates of sex offenders, and it has produced some disturbing statistics. The Department of Justice tracked 9,691 male sex offenders released from 15 State prisons, including Florida. They tracked them for a 3–year period and found that 40 percent of the sex offenders who re-offended did so within the first year, and within 3 years of their release from prison, 5.3 percent of those sex offenders were rearrested for another sex crime. Is this beginning to tell us a story? Half of the sex offenders tracked in this study included men who molested children, and within the first 3 years of their release from prison, 3.3 percent of these convicts were rearrested for another sex crime against a child.

In the wake of the two recent tragedies in Florida, of Jessica Lunsford and Sarah Lunde, the State legislature passed a law that will provide tougher sentences for child sex offenders, and aid law enforcement in effectively monitoring those sex offenders. This law will require sex offenders, released back into our communities, to wear a bracelet that will have a global positioning system track them.

I applaud the initiative by our State, and I believe now there ought to be an appropriate Federal response to be supportive of the States and local governments that want to address this problem. The technology is there, but it is expensive. To be effective, tough laws on these sexual predators of children must be properly funded, and I believe it is worth properly funding them to protect our children.

Today I am introducing this bill, the Sexual Predator Effective Monitoring Act, which will provide $30 million in grants to States that establish programs under their State law to get tougher on child sex offenders released back into a community and to get tougher on them with more effective monitoring and tracking. This bill directs the Attorney General to award grants to those States to assist them in carrying out programs to outfit sexual offenders with an ankle bracelet that will track them using global positioning systems.

In the first year, I am suggesting that this bill offer $10 million in grants. In the second year, $20 million, and then we would have to come back and readdress the issue. The Attorney General then would be directed to issue a report so we could go on with future extension of the bill. There are no silver bullets to stop these sexual predators from preying on our children, but I believe tough laws, such as the new Florida statute, are going to go a long way in preventing these sexual offenders from reoffending.

Nine-year-old Jessica Lunsford's confessed rapist and murderer was living only within 150 feet of her home, but law enforcement officers did not know where he was because he failed to notify them of his changed address. Law enforcement also did not know he was working in a nearby elementary school, nor did the school know they had a registered sex offender on school property.

GPS monitoring systems, when properly used, will assist law enforcement in knowing where these child sex offenders are and preventing them from going into restricted areas like elementary schools. We owe it to our children to do all we can to make sure that we keep them safe. That is why I am introducing this bill today.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 980

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sexual Predator Effective Monitoring Act of 2005".

SEC. 2. FINDINGS.

Congress finds that—

(1) in recent years we have seen multiple cases of convicted sexual offenders serving probation abducting and murdering young children;

(2) several states have begun the development and implementation of outfitting convicted sexual offenders with Global Positioning Systems to track their movements while on probation;

(3) the employment of these devices will assist law enforcement in tracking the movements and location of probationers in real time to within 10 ft. of their location;

(4) Global Positioning System tracking will permit law enforcement to ensure that convicted sex offenders do not go to areas restricted according to the terms of their probation;

(5) Global Positioning Systems will serve to deter sexual predators from re-offending as they will know that their movements are monitored and tracked by law enforcement; and

(6) in the event that a convicted sexual offender commits an additional sex offense while on probation and monitored with a Global Positioning System, the Global Positioning System technology will aid law enforcement in the investigation of these crimes by quickly determining the location of sexual offenders within the area of the suspected crime.

SEC. 3. SEXUAL PREDATOR MONITORING PROGRAM.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Attorney General is authorized to award grants and contracts to State and local governments to assist such States and local governments in—

(A) carrying out programs to outfit sexual offenders with electronic monitoring units; and

(B) the employment of law enforcement officials necessary to carry out such programs.

(2) DURATION.—The Secretary shall award grants under this Act for a period not to exceed 3 years.

(b) APPLICATION.—

(1) IN GENERAL.—Each State or local government desiring a grant under this Act shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this Act is sought; and

(B) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this Act.

SEC. 4. PROPORTIONAL SHARE.

The Attorney General shall ensure that each State with eligible programs receives a proportional share of funding under this Act based on the total number of eligible States and the population of sex offenders to be monitored with global positioning systems in those States.

SEC. 5. DEFINITION.

In this Act, the term "sexual offender" means an offender 18 years of age or older who commits a sexual offense against a minor.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $10,000,000 for fiscal year 2006 and $20,000,000 for fiscal year 2007 to carry out this Act.

(b) REPORT.—Not later than April 1, 2007, the Attorney General shall report to Congress—

(1) assessing the effectiveness and value of this Act; and

(2) making recommendations for continuing funding and the appropriate levels for such funding.

By Mr. DEMINT:

S. 983. A bill to amend the National Labor Relations Act to protect employer rights; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEMINT. Mr. President, I rise today to introduce the Truth in Employment Act, a bill I previously introduced in the House of Representatives to stem the harm done to companies by salting, a union tactic that is causing material economic damage to small businesses everyday in this country.

There is a basic disagreement over the definition of salting. While union supporters and the NLRB have defined the term as the "placing of union members on non-union job sites for the purpose of organizing," it has been widely documented that the true motivation of many salts is simply to increase the cost of doing business for non-union contractors, regardless of the wishes of the employer's bona fide employees.

Salting is much more than someone seeking employment for the purpose of union organizing. It is an attempt to interfere with business operations, harass employees, and cause economic harm through illegal activities and frivolous legal complaints against employers. Union organizers who fail to convince employees to organize will use salting to shut down non-union companies, often going to extreme lengths, including preventing deliveries to job sites and destroying building supplies.

In my own State of South Carolina, salting has resulted in the loss of hundreds of jobs. In Sumter, South Carolina, the Yuasa Exide battery plant was targeted by a union.

Union salts infiltrated the plant, and when employees there did not unionize, the union retaliated by sabotaging product, causing work slow downs, making verbal threats and threatening phone calls, and putting nails in people's tires. Union leaders threatened to shut down the plant and they did just that. Six hundred and fifty people were laid off because the Yuasa Exide plant could not afford the increased cost to the business of defending itself and its employees from the union salting campaign. Yuasa Exide, which was the first tenant in Sumter's industrial park, had been there since 1965 and provided high-tech, good-paying jobs in a rural area, was forced to close its doors because of salting.

The impacts of salting are felt by many. Companies see increased costs from having to defend themselves against labor relations complaints as well as lost hours of productivity from having to fight these charges. Consumers are impacted by salting when they experience increased costs and higher prices. Moreover, Federal agencies spend untold sums to investigate claims that are later found to be without merit, forcing taxpayers to effectively subsidize union activity.

To put it bluntly, salting is a job killer. At a time when we are working in Congress to enact policies which will spur job growth and ensure future economic prosperity, salting abuses stand directly in the way of these goals. We can no longer allow American jobs to suffer at the hands of Washington labor bosses.

To prevent salting abuses from causing more harm to employers, I am introducing the Truth in Employment Act which amends section 8(a) of the National Labor Relations Act (NLRA) to make clear that an employer is not required to hire any person who seeks a job in order to promote interests unrelated to those of the employer. This bill in no way infringes upon any rights or protections otherwise accorded employees under the NLRA. Employees will continue to enjoy their right to organize. The bill merely seeks to alleviate the legal pressures imposed upon employers to hire individuals whose overriding purpose for seeking the job is to disrupt the employer's workplace or otherwise inflict economic harm designed to put the employer out of business. This bill in no way infringes upon any rights or protections otherwise accorded employees under the NLRA, or any other employment statute.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 983

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Truth in Employment Act of 2005".

SEC. 2. FINDINGS.

Congress finds that:

(1) An atmosphere of trust and civility in labor-management relationships is essential to a productive workplace and a healthy economy.

(2) The tactic of using professional union organizers and agents to infiltrate a targeted employer's workplace, a practice commonly referred to as "salting" has evolved into an aggressive form of harassment not contemplated when the National Labor Relations Act was enacted and threatens the balance of rights which is fundamental to our system of collective bargaining.

(3) Increasingly, union organizers are seeking employment with nonunion employers not because of a desire to work for such employers but primarily to organize the employees of such employers or to inflict economic harm specifically designed to put nonunion competitors out of business, or to do both.

(4) While no employer may discriminate against employees based upon the views of employees concerning collective bargaining, an employer should have the right to expect job applicants to be primarily interested in utilizing the skills of the applicants to further the goals of the business of the employer.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining;

(2) to preserve the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act; and

(3) to alleviate pressure on employers to hire individuals who seek or gain employment in order to disrupt the workplace of the employer or otherwise inflict economic harm designed to put the employer out of business.

SEC. 4. PROTECTION OF EMPLOYER RIGHTS.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended by adding after and below paragraph (5) the following:

"Nothing in this subsection shall be construed as requiring an employer to employ any person who seeks or has sought employment with the employer in furtherance of other employment or agency status.".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 133—RECOGNIZING THE 13TH ANNUAL NATIONAL ASSOCIATION OF LETTER CARRIERS FOOD DRIVE

Ms. CANTWELL (for herself, Ms. COLLINS, Mr. AKAKA, Mr. BAUCUS, Mr. WARNER, Mr. DURBIN, and Ms. SNOWE) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 133

Whereas in 2003, 3,900,000 men, women, and children went hungry every day, a troubling statistic that has steadily increased in recent years;

Whereas 23,000,000 men and women and more than 9,000,000 children rely on food banks to survive every year;

Whereas in 1992, the National Association of Letter Carriers recognized this crisis and began the "Stamping Out Hunger" national food drive;

Whereas 1,400 National Association of Letter Carriers branches in more than 10,000 cities in all 50 States have collected millions of pounds of food every year since 1992;

Whereas in 2004, the National Association of Letter Carriers collected a record-breaking 70,900,000 pounds of food;

Whereas the National Association of Letter Carriers provides desperately needed resources to food banks in the spring and summer months, the time when donations levels are at their lowest;

Whereas the National Association of Letter Carriers has created much needed bridges between its hard working members, residents in their communities, and those in need;

Whereas the National Association of Letter Carriers Food Drive will take place on May 14, 2005;

Whereas the National Association of Letter Carriers will send nearly 150,000,000 postcards to postal customers to urge donations for the Food Drive; and

Whereas letter carriers will be collecting food, as well as mail, at mailboxes across the country, performing their daily job, and collecting food for the hungry, come rain or shine: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the members of the National Association of Letter Carriers for their hard work on behalf of the millions of people who go hungry each day; and

(2) encourages the people of the United States to follow the example of the members of the National Association of Letter Carriers by donating food to local food banks and participating in the National Association of Letter Carriers Food Drive on May 14, 2005, by placing nonperishable food by their mailboxes.

SENATE RESOLUTION 134—EXPRESSING THE SENSE OF THE SENATE REGARDING THE MASSACRE AT SREBRENICA IN JULY 1995

Mr. SMITH (for himself and Mr. BIDEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 134

Whereas, in July 1995, thousands of men and boys who had sought safety in the United Nations-designated "safe area" of Srebrenica in Bosnia and Herzegovina under the protection of the United Nations Protection Force (UNPROFOR) were massacred by Serb forces operating in that country;

Whereas, beginning in April 1992, aggression and ethnic cleansing perpetrated by Bosnian Serb forces, while taking control of the surrounding territory, resulted in a massive influx of Bosniaks seeking protection in Srebrenica and its environs, which the United Nations Security Council designated a "safe area" in Security Council Resolution 819 on April 16, 1993;

Whereas the UNPROFOR presence in Srebrenica consisted of a Dutch peacekeeping battalion, with representatives of the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, and the humanitarian medical aid agency Medecins Sans Frontiers (Doctors Without Borders) helping to provide humanitarian relief to the displaced population living in conditions of massive overcrowding, destitution, and disease;

Whereas Bosnian Serb forces blockaded the enclave early in 1995, depriving the entire population of humanitarian aid and outside communication and contact, and effectively reducing the ability of the Dutch peacekeeping battalion to deter aggression or otherwise respond effectively to a deteriorating situation;

Whereas, beginning on July 6, 1995, Bosnian Serb forces attacked UNPROFOR outposts, seized control of the isolated enclave, held captured Dutch soldiers hostage and, after skirmishes with local defenders, ultimately took control of the town of Srebrenica on July 11, 1995;

Whereas an estimated one-third of the population of Srebrenica, including a relatively small number of soldiers, made a desperate attempt to pass through the lines of Bosnian Serb forces to the relative safety of Bosnian-held territory, but many were killed by patrols and ambushes;

Whereas the remaining population sought protection with the Dutch peacekeeping battalion at its headquarters in the village of Potocari north of Srebrenica but many of these individuals were randomly seized by Bosnian Serb forces to be beaten, raped, or murdered;

Whereas Bosnian Serb forces deported women, children, and the elderly in buses, held Bosniak males over 16 years of age at collection points and sites in northeastern Bosnia and Herzegovina under their control, and then summarily murdered and buried the captives in mass graves;

Whereas approximately 20 percent of Srebrenica's total population at the time—at least 7,000 and perhaps thousands more—was murdered;

Whereas the United Nations and its member states have largely acknowledged their failure to take actions and decisions that could have deterred the assault on Srebrenica and prevented the subsequent massacre, including the lengthy report issued by the Government of the Netherlands on April 10, 2002, entitled "Srebrenica, a 'safe' area—Reconstruction, background, consequences and analyses of the fall of a safe area";

Whereas Bosnian Serb forces, hoping to conceal evidence of the massacre at Srebrenica, subsequently moved corpses from initial mass grave sites to many secondary sites scattered throughout parts of northeastern Bosnia and Herzegovina under their control;

Whereas the massacre at Srebrenica was among the worst of many horrible atrocities to occur in the conflict in Bosnia and Herzegovina from April 1992 to November 1995, during which the policies of aggression and ethnic cleansing pursued by Bosnian Serb forces with the direct support of authorities in the Federal Republic of Yugoslavia (Serbia and Montenegro) ultimately led to the displacement of more than 2,000,000 people, an estimated 200,000 killed, tens of thousands raped or otherwise tortured and abused, and the innocent civilians of Sarajevo and other urban centers repeatedly subjected to shelling and sniper attacks;

Whereas Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide, done at Paris December 9, 1948, and entered into force January 12, 1951, defines genocide as "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) imposing measures intended to prevent births within the group; (e) forcibly transferring children of the group to another group";

Whereas, on May 25, 1993, the United Nations Security Council adopted Security Council Resolution 827, establishing the world's first international war crimes tribunal, the International Criminal Tribunal for the former Yugoslavia (ICTY), based in The Hague, the Netherlands, and charging the ICTY with responsibility for investigating and prosecuting individuals suspected of committing war crimes, genocide, crimes against humanity, and grave breaches of the 1949 Geneva Conventions on the territory of the former Yugoslavia since 1991;

Whereas numerous members of the Bosnian Serb forces and political leaders at various levels of responsibility have been indicted for grave breaches of the 1949 Geneva Conventions, violations of the laws or customs of war, crimes against humanity, genocide, and complicity in genocide associated with the massacre at Srebrenica, some of whom have been tried and sentenced while others, including Radovan Karadzic and Ratko Mladic, remain at large; and

Whereas the international community, including the United States, has continued to provide personnel and resources, including through direct military intervention, to prevent further aggression and ethnic cleansing, to negotiate and help ensure the full implementation of the General Framework Agreement for Peace in Bosnia and Herzegovina, initialled at Dayton, Ohio, November 21, 1995, and done at Paris December 14, 1995, including cooperation with the International Criminal Tribunal for the former Yugoslavia: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the thousands of innocent people murdered at Srebrenica in Bosnia and Herzegovina in July 1995, along with all individuals who were victimized during the conflict and genocide in Bosnia and Herzegovina from 1992 to 1995, should be solemnly remembered and honored;

(2) the policies of aggression and ethnic cleansing as implemented by Serb forces in Bosnia and Herzegovina from 1992 to 1995 meet the terms defining the crime of genocide in Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide, done at Paris December 9, 1948, and entered into force January 12, 1951;

(3) foreign nationals, including United States citizens, who have risked, and in some cases lost, their lives in Bosnia and Herzegovina while working toward peace should be solemnly remembered and honored;

(4) the United Nations and its member states should accept their share of responsibility for allowing the Srebrenica massacre and genocide to occur in Bosnia and Herzegovina from 1992 to 1995 by failing to take sufficient, decisive, and timely action, and the United Nations and its member states should constantly seek to ensure that this failure is not repeated in future crises and conflicts;

(5) it is in the national interest of the United States that those individuals who are responsible for war crimes, genocide, crimes against humanity, and grave breaches of the 1949 Geneva Conventions committed in Bosnia and Herzegovina should be held accountable for their actions;

(6) all persons indicted by the International Criminal Tribunal for the former

Yugoslavia (ICTY) should be apprehended and transferred to The Hague without further delay, and all countries should meet their obligations to cooperate fully with the ICTY at all times; and

(7) the United States should continue to support—

(A) the independence and territorial integrity of Bosnia and Herzegovina;

(B) peace and stability in southeastern Europe as a whole; and

(C) the right of all people living in southeastern Europe, regardless of national, racial, ethnic or religious background—

(i) to return to their homes and enjoy the benefits of democratic institutions, the rule of law, and economic opportunity; and

(ii) to know the fate of missing relatives and friends.

Mr. SMITH: Mr. President, I rise today to mark a solemn anniversary. Ten years ago this July, thousands of Bosnian Muslims sought safety from the brutal ethnic cleansing campaign conducted by Bosnian Serb forces in the small town of Srebrenica. This was supposed to be a "Safe Area," a space designated and protected by the United Nations as a place of refuge. Instead, it became the site of the worst case of genocide in Europe since World War II.

I am pleased to submit a resolution today, along with my colleague Senator BIDEN, which recognizes this somber anniversary. The resolution also reiterates our support for the need to bring to justice those who perpetrated this crime against humanity.

In June 1995, after three years of war, the Bosnian Serbs launched a brutal attack against the Muslim enclave of Srebrenica. In what was an incomprehensible and fatal error, United Nations Protection Force (UNPROFOR) had collected weapons from the Bosnian Muslims in return for its designation of Srebrenica as a safe area. This rendered the population even more vulnerable to the Bosnian Serb assault.

The presence of the U.N. soldiers and the confiscation of the Muslims' arms was supposed to deter a Bosnian Serb attack by removing any semblance of provocation. But the Bosnian Serbs struck anyway and the UNPROFOR troops were unable to assist the Muslim population they had placed at such disadvantage.

The Bosnian Serbs easily overtook the city, deporting women, children, and the elderly in buses. Bosniak men older than 16 were rounded up and held at collection points in northeastern Bosnia. Here they were summarily murdered and buried in mass graves.

At least 7,000 Bosnian Muslims, 20 percent of Srebrenica's total population at the time, were murdered. A similar enclave at Zepa, allegedly protected by the United Nations force, fell to the Serb onslaught two weeks later.

After learning of the genocide committed by the Nazis during the second World War, the world made a promise: We said "never again." Yet 50 years later on the European continent, men and boys were murdered solely because they were Muslim.

So as we look back and remember a decade later, we must learn from the mistakes that were made at Srebrenica. We should ensure that those responsible are held accountable for their actions. We should continue to support the independence and territorial integrity of Bosnia and Herzegovina and peace and stability in southeastern Europe as a whole. We should support the right of all people living in the region, regardless of national, racial, ethnic or religious background, to return to their homes and enjoy the benefits of democratic institutions, the rule of law, and economic opportunity. We should encourage all efforts to determine the fate of all those still missing.

And finally, we should solemnly remember and honor all those that were victims of the massacre at Srebrenica.

AMENDMENTS SUBMITTED AND PROPOSED

SA 597. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 3, Reserved; which was ordered to lie on the table.

SA 598. Mr. LIEBERMAN (for himself, Mr. DODD, Mr. LAUTENBERG, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 599. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 600. Mr. TALENT (for himself and Mr. DODD) proposed an amendment to amendment SA 567 proposed by Mr. INHOFE to the bill H.R. 3, supra.

SA 601. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 602. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 603. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 604. Mr. DURBIN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 605. Mr. INHOFE proposed an amendment to the bill H.R. 3, supra.

TEXT OF AMENDMENTS

SA 597. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 401, strike lines 3 through 13 and insert the following:

(e) SELECTION CRITERIA.—The Secretary shall only select projects for corridors that—

(1) have significant levels or increases in truck and traffic volume relating to international freight movement;

(2) connect to at least 1 international terminus or inland port; and

(3)(A) traverse at least 3 States; or

(B) are identified by section 115(c) of the Intermodal Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat 2032).

SA 598. Mr. LIEBERMAN (for himself, Mr. DODD, Mr. LAUTENBERG, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 120(a)(1) of title 23, United States Code (as amended by section 1301), insert "a bridge project or" before "a project to add".

In section 144 of title 23, United States Code (as amended by section 1807(a)(9)), strike subsection (r) and insert the following:

"(r) FEDERAL SHARE.—

"(1) IN GENERAL.—Except as provided under paragraph (2), the Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under section 120(d).

"(2) INTERSTATE SYSTEM.—The Federal share of the cost of a project on the Interstate System payable from funds made available to carry out this section shall be the share applicable under section 120(a).".

SA 599. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 510(a)(4)(D) of title 23, United States Code (as amended by section 2101(a)), strike clause (i) and insert the following:

"(i) Southwest Bridge Research Center, comprising New Mexico State University and the Oklahoma Transportation Center.".

SA 600. Mr. TALENT (for himself and Mr. DODD) proposed an amendment to amendment SA 567 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18___. NOTICE REGARDING PARTICIPATION OF SMALL BUSINESS CONCERNS.

The Secretary of Transportation shall notify each State or political subdivision of a State to which the Secretary of Transportation awards a grant or other Federal funds of the criteria for participation by a small business concern in any program or project that is funded, in whole or in part, by the Federal Government under section 155 of the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (15 U.S.C. 567g).

SA 601. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 66, strike line 13 and all that follows through page 81, line 8, and insert the following:

(b) National Surface Transportation Policy Study Commission.—

(1) Establishment.—There is established a commission to be known as the "Next Generation National Surface Transportation Policy Study Commission" (referred to in this section as the "Commission").

(2) Membership.—

(A) Composition.—The Commission shall be composed of 12 members, of whom—

(i) 1 member shall be the Secretary, who shall serve as Chairperson;

(ii) 3 members shall be appointed by the President;

(iii) 2 members shall be appointed by the Speaker of the House of Representatives;

(iv) 2 members shall be appointed by the minority leader of the House of Representatives;

(v) 2 members shall be appointed by the majority leader of the Senate; and

(vi) 2 members shall be appointed by the minority leader of the Senate.

(B) Qualifications.—Members appointed under paragraph (1)—

(i) shall include individuals representing State and local governments, metropolitan planning organizations, transportation-related industries, academic and technical institutions, and public interest organizations involved with scientific, regulatory, economic, and environmental transportation activities; and

(ii) shall be balanced geographically to the extent consistent with maintaining the highest level of expertise on the Commission.

(C) Date of appointments.—The appointment of a member of the Commission shall be made not later than 120 days after the date of establishment of the Commission.

(D) Terms.—A member shall be appointed for the life of the Commission.

(E) Vacancies.—A vacancy on the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled in the same manner as the original appointment was made.

(F) Initial meeting.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(G) Meetings.—The Commission shall meet at the call of the Chairperson.

(H) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(I) Vice chairperson.—The Commission shall select a Vice Chairperson from among the members of the Commission.

(3) Duties.—

(A) In general.—The Commission shall—

(i) conduct a complete and comprehensive investigation and study of—

(I) the current condition and future needs of the surface transportation system; and

(II) a comprehensive study of alternatives to replace or to supplement the fuel tax as the principal revenue source to support the Highway Trust Fund and suggest new or alternative sources of revenue to fund the needs of the surface transportation system over at least the next 30 years;

(B) develop a conceptual plan, with alternative approaches, for the future to ensure that the surface transportation system will continue to serve the needs of the United States, including specific recommendations regarding design and operational standards, Federal policies, and legislative changes;

(C) consult with the Secretary and the Secretary of the Treasury in conducting the study to ensure that the views of the Secretaries concerning essential attributes of Highway Trust Fund revenue alternatives are considered;

(D) consult with representatives of State departments of transportation and metropolitan planning organizations and other key interested stakeholders in conducting the study to ensure that—

(i) the views of the stakeholders on alternative revenue sources to support State transportation improvement programs are considered; and

(ii) any recommended Federal financing strategy takes into account State financial requirements; and

(E) based on the study, make specific recommendations regarding—

(i) actions that should be taken to develop alternative revenue sources to sup port the Highway Trust Fund; and

(ii) the time frame for taking those actions.

(4) Related work.—To the maximum extent practicable, the study shall build on related work that has been completed by—

(A) the Secretary of Transportation;

(B) the Secretary of Energy;

(C) the Transportation Research Board, including the findings, conclusions, and recommendations of the recent study conducted by the Transportation Research Board on alternatives to the fuel tax to support highway program financing; and

(D) other entities and persons.

(5) Surface transportation needs.—With respect to surface transportation needs, the investigation and study shall specifically address—

(A) the current condition and performance of the Interstate System (including the physical condition of bridges and pavements and operational characteristics and performance), relying primarily on existing data sources;

(B) the future of the Interstate System, based on a range of legislative and policy approaches for 15-, 30-, and 50-year time periods;

(C) the expected demographics and business uses that impact the surface transportation system;

(D) the expected use of the surface transportation system, including the effects of changing vehicle types, modes of transportation, fleet size and weights, and traffic volumes;

(E) desirable design policies and standards for future improvements of the surface transportation system, including additional access points;

(F) the identification of urban, rural, national, and interregional needs for the surface transportation system;

(G) the potential for expansion, upgrades, or other changes to the surface transportation system, including—

(i) deployment of advanced materials and intelligent technologies;

(ii) critical multistate, urban, and rural corridors needing capacity, safety, and operational enhancements;

(iii) improvements to intermodal linkages;

(iv) security and military deployment enhancements;

(v) strategies to enhance asset preservation; and

(vi) implementation strategies;

(H) the improvement of emergency preparedness and evacuation using the surface transportation system, including—

(i) examination of the potential use of all modes of the surface transportation system in the safe and efficient evacuation of citizens during times of emergency;

(ii) identification of the location of critical bottlenecks; and

(iii) development of strategies to improve system redundancy, especially in areas with a high potential for terrorist attacks;

(I) alternatives for addressing environmental concerns associated with the future development of the surface transportation system;

(J) the evaluation and assessment of the current and future capabilities for conducting system-wide real-time performance data collection and analysis, traffic monitoring, and transportation systems operations and management; and

(K) a range of policy and legislative alternatives for addressing future needs for the surface transportation system.

(6) Financing.—With respect to financing, the study shall address specifically—

(A) the advantages and disadvantages of alternative revenue sources to meet anticipated Federal surface transportation financial requirements;

(B) recommendations concerning the most promising revenue sources to support long-term Federal surface transportation financing requirements;

(C) development of a broad transition strategy to move from the current tax base to new funding mechanisms, including the time frame for various components of the transition strategy;

(D) recommendations for additional research that may be needed to implement recommended alternatives; and

(E) the extent to which revenues should reflect the relative use of the highway system.

(7) Financing recommendations.—In developing financing recommendations under this subsection, the Commission shall consider—

(A) the ability to generate sufficient revenues from all modes to meet anticipated long-term surface transportation financing needs;

(B) the roles of the various levels of government and the private sector in meeting future surface transportation financing needs;

(C) administrative costs (including enforcement costs) to implement each option;

(D) the expected increase in nontaxed fuels and the impact of taxing those fuels;

(E) the likely technological advances that could ease implementation of each option;

(F) the equity and economic efficiency of each option;

(G) the flexibility of different options to allow various pricing alternatives to be implemented; and

(H) potential compatibility issues with State and local tax mechanisms under each alternative.

(8) Technical advisory committee.—The Secretary shall establish a technical advisory committee, in a manner consistent with the Federal Advisory Committee Act (5 U.S.C. App.), to collect and evaluate technical input from—

(A) the Department of Defense;

(B) appropriate Federal, State, and local officials with responsibility for transportation;

(C) appropriate State and local elected officials;

(D) transportation and trade associations;

(E) emergency management officials;

(F) freight providers;

(G) the general public; and

(H) other entities and persons determined to be appropriate by the Secretary to ensure a diverse range of views.

(9) Report and Recommendations.—Not later than September 30, 2007, the Commission shall submit to Congress a final report that contains—

(A) a detailed statement of the findings and conclusions of the Commission; and

(B) the recommendations of the Commission for such legislation and administrative actions as the Commission considers to be appropriate.

(10) Powers of the Commission.—

(A) Hearings.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(B) Information from Federal Agencies.—

(i) In General.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this section.

(ii) Provision of Information.—On request of the Chairperson of the Commission, the head of a Federal agency shall provide the requested information to the Commission.

(C) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(D) Donations.—The Commission may accept, use, and dispose of donations of services or property.

(11) Commission Personnel Matters.—

(A) Members.—A member of the Commission shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(B) Contractors.—The Commission may enter into contracts with an appropriate organizations, agencies, and entities to conduct the study required under this section, under the strategic guidance of the Commission.

(C) Administrative Support.—On the request of the Commission, the Administrator of the Federal Highway Administration shall provide to the Commission, on a reimbursable basis, the administrative support and services necessary for the Commission to carry out the duties of the Commission under this section.

(D) Detail of Personnel.—

(i) In General.—On the request of the Commission, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department to the Commission to assist the Commission in carrying out the duties of the Commission under this section.

(ii) Civil Service Status.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(12) Cooperation.—The staff of the Secretary shall cooperate with the Commission in the study required under this section, including providing such nonconfidential data and information as are necessary to conduct the study.

(13) Relationship to Other Law.—

(A) In General.—Except as provided in subparagraphs (B) and (C), funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code. (B) FEDERAL SHARE.—The Federal share of the cost of the study and the Commission under this section shall be 100 percent.

(B) Availability.—Funds made available to carry out this section shall remain available until expended.

(14) Definition of Surface Transportation System.—In this subsection, the term "surface transportation system" includes—

(A) the National Highway System;

(B) the Interstate System;

(C) the strategic highway network;

(D) congressional high priority corridors;

(E) intermodal connectors;

(F) freight facilities;

(G) navigable waterways;

(H) mass transportation;

(I) freight and intercity passenger rail infrastructure and facilities; and

(J) surface access to airports.

(15) Authorization of Appropriations.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $2,679,245 for fiscal year 2005.

(16) Termination.—

(A) In General.—The Commission shall terminate on the date that is 180 days after the date on which the Commission submits the report of the Commission under paragraph (10).

(B) Records.—Not later than the date of termination of the Commission under subparagraph (A), all records and papers of the Commission shall be delivered to the Archivist of the United States for deposit in the National Archives.

SA 602. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . NEBRASKA CUSTOM HARVESTERS LENGTH EXEMPTION.

Section 31112(c) of title 49, United States Code, is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(5) Nebraska may allow the operation of commercial motor vehicle combinations that are not longer than 81 feet, 6 inches, and are only used for harvesting wheat, soybeans, and milo on a contract basis for agricultural producers during the harvest months for such crops (as defined by the State of Nebraska).".

SA 603. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1803 and insert the following:

SEC. 1803. DESIGN-BUILD CONTRACTING.

(a) In General.—Section 112(b) of title 23, United States Code, is amended by striking paragraph (3) and inserting the following:

"(3) Design-build Contracting.—

"(A) Design-build Contract.—In this section, the term 'design-build contract' means an agreement that provides for design and construction of a project by a contractor, regardless of whether the agreement is in the form of a design-build contract, a franchise agreement, or any other form of contract approved by the Secretary.

"(B) Contracts.—A State transportation department or local transportation agency may—

"(i) use design-build contracts for development of projects under this chapter; and

"(ii) award those contracts using any procurement process permitted by applicable State and local law.

"(C) Limitation on Work to Be Performed Under Design-build Contracts.—

"(i) In General.—Except as provided in clause (ii) and subject to subparagraph (D), prior to compliance by the parties to a design-build contract with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332)—

"(I) a State transportation department or local transportation agency may award a design-build contract under this paragraph and conduct other actions under a design-build contract; and

"(II) the Secretary may concur in the award of, and any actions taken under, the design-build contract.

"(ii) Exception.—The final design of permanent improvements shall not commence under a design-build contract awarded under this paragraph before compliance by the parties to the design-build contract with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"(D) Project Authorization.—A design-build contract may be awarded under this paragraph prior to compliance described in subparagraph (C)(ii) only—

"(i) upon request by the appropriate State transportation department or local transportation agency;

"(ii) with the concurrence of the Secretary in issuing the procurement documents and awarding the contract (including in amending any such document or contract); and

"(iii) if authorization for projects to be carried out under the contract will be provided after that compliance has occurred.

"(E) Effect of Concurrence.—Concurrence by the Secretary under subparagraph (D)(ii) shall be considered to be a preliminary action that does not affect the environment.".

(b) Regulations.—Not later than 90 days after the date of enactment of this Act, the Secretary shall promulgate revised regulations under section 1307(c) of the Transportation Equity Act for the 21st Century (23 U.S.C. 112 note) that—

(1) permit a State transportation department or local transportation agency to use any procurement process permitted by applicable State and local law in awarding design-build contracts, including allowing unsolicited proposals, negotiated procurements, and multiple requests for final proposals (except that the Secretary may require reasonable justification to be provided for any sole source procurement or multiple requests for final proposals);

(2) may include best-practice guidelines;

(3) do not preclude State transportation departments and local transportation agencies from allowing proposers to include alternative technical concepts in their base proposals; and

(4) prior to compliance by the parties to a design-build contract with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), if the design-build contractor is not authorized to proceed with final design

of permanent improvements prior to that compliance, do not preclude—

(A) State transportation departments and local transportation agencies from issuing a request for a proposal document, proceeding with award of a design-build contract, or issuing a notice to proceed with preliminary design work under such a contract; or

(B) concurrence in those actions by the Secretary.

SA 604. Mr. DURBIN (for himself and Ms. Collins) submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . CONSERVE BY BICYCLING PROGRAM.

(a) Definitions.—In this section:

(1) Program.—The term "program" means the Conserve by Bicycling Program established by subsection (b).

(2) Secretary.—The term "Secretary" means the Secretary of Transportation.

(b) Establishment.—There is established within the Department of Transportation a program to be known as the "Conserve by Bicycling Program".

(c) Projects.—

(1) In general.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) Requirements.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(D) maximize bicycle facility investments;

(E) demonstrate methods that may be used in other regions of the United States; and

(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) Cost sharing.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from State or local sources.

(d) Energy and Bicycling Research Study.—

(1) In general.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) Components.—The study shall—

(A) document the results or progress of the pilot projects under subsection (b);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

(e) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $6,200,000, to remain available until expended, of which—

(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);

(2) $300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

(3) $750,000 shall be used to carry out subsection (d).

SA 605. Mr. INHOFE proposed an amendment to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005".

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. General definitions.
Sec. 3. Definitions for title 23.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

Sec. 1101. Authorization of appropriations.
Sec. 1102. Obligation ceiling.
Sec. 1103. Apportionments.
Sec. 1104. Equity bonus programs.
Sec. 1105. Revenue aligned budget authority.

Subtitle B—New Programs

Sec. 1201. Infrastructure performance and maintenance program.
Sec. 1202. Future of surface transportation system.
Sec. 1203. Freight transportation gateways; freight intermodal connections.
Sec. 1204. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction and maintenance.
Sec. 1205. Designation of Interstate Highways.
Sec. 1206. State-by-State comparison of highway construction costs.

Subtitle C—Finance

Sec. 1301. Federal share.
Sec. 1302. Transfer of highway and transit funds.
Sec. 1303. Transportation Infrastructure Finance and Innovation Act Amendments.
Sec. 1304. State infrastructure banks.
Sec. 1305. Public-private partnerships pilot program.

Subtitle D—Safety

Sec. 1401. Highway safety improvement program.
Sec. 1402. Operation lifesaver.
Sec. 1403. License suspension.
Sec. 1404. Bus axle weight exemption.
Sec. 1405. Safe routes to schools program.
Sec. 1406. Purchases of equipment.
Sec. 1407. Workzone safety.
Sec. 1408. Worker injury prevention and free flow of vehicular traffic.
Sec. 1409. Open container requirements.
Sec. 1410. Safe intersections.

Subtitle E—Environmental Planning and Review

Chapter 1—Transportation Planning

Sec. 1501. Integration of natural resource concerns into State and metropolitan transportation planning.
Sec. 1502. Consultation between transportation agencies and resource agencies in transportation planning.
Sec. 1503. Integration of natural resource concerns into transportation project planning.
Sec. 1504. Public involvement in transportation planning and projects.
Sec. 1505. Project mitigation.

Chapter 2—Transportation Project Development Process

Sec. 1511. Transportation project development process.
Sec. 1512. Assumption of responsibility for categorical exclusions.
Sec. 1513. Surface transportation project delivery pilot program.
Sec. 1514. Parks, recreation areas, wildlife and waterfowl refuges, and historic sites.
Sec. 1515. Regulations.

Chapter 3—Miscellaneous

Sec. 1521. Critical real property acquisition.
Sec. 1522. Planning capacity building initiative.
Sec. 1523. Intermodal passenger facilities.

Subtitle F—Environment

Sec. 1601. Environmental restoration and pollution abatement; control of invasive plant species and establishment of native species.
Sec. 1602. National scenic byways program.
Sec. 1603. Recreational trails program.
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SEC. 2. GENERAL DEFINITIONS.

In this Act:

(1) DEPARTMENT.—The term "Department" means the Department of Transportation.

(2) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 3. DEFINITIONS FOR TITLE 23.

Section 101 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) DEFINITIONS.—In this title:

"(1) APPORTIONMENT.—The term 'apportionment' includes an unexpended apportionment made under a law enacted before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005.

"(2) CARPOOL PROJECT.—

"(A) IN GENERAL.—The term 'carpool project' means any project to encourage the use of carpools and vanpools.

"(B) INCLUSIONS.—The term 'carpool project' includes a project—

"(i) to provide carpooling opportunities to the elderly and individuals with disabilities;

"(ii) to develop and implement a system for locating potential riders and informing the riders of carpool opportunities;

"(iii) to acquire vehicles for carpool use;

"(iv) to designate highway lanes as preferential carpool highway lanes;

"(v) to provide carpool-related traffic control devices; and

"(vi) to designate facilities for use for preferential parking for carpools.

"(3) CONSTRUCTION.—

"(A) IN GENERAL.—The term 'construction' means the supervision, inspection, and actual building of, and incurring of all costs incidental to the construction or reconstruction of a highway, including bond costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments and costs incurred by the State in performing Federal-aid project related audits that directly benefit the Federal-aid highway program.

"(B) INCLUSIONS.—The term 'construction' includes—

"(i) locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration);

"(ii) resurfacing, restoration, and rehabilitation;

"(iii) acquisition of rights-of-way;

"(iv) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

"(v) elimination of hazards of railway grade crossings;

"(vi) elimination of roadside obstacles;

"(vii) improvements that directly facilitate and control traffic flow, such as—

"(I) grade separation of intersections;

"(II) widening of lanes;

"(III) channelization of traffic;

"(IV) traffic control systems; and

"(V) passenger loading and unloading areas;

"(viii) capital improvements that directly facilitate an effective vehicle weight enforcement program, such as—

"(I) scales (fixed and portable);

"(II) scale pits;

"(III) scale installation; and

"(IV) scale houses;

"(ix) improvements directly relating to securing transportation infrastructures for detection, preparedness, response, and recovery;

"(x) operating costs relating to traffic monitoring, management, and control;

"(xi) operational improvements; and

"(xii) transportation system management and operations.

"(4) COUNTY.—The term 'county' includes—

"(A) a corresponding unit of government under any other name in a State that does not have county organizations; and

"(B) in those States in which the county government does not have jurisdiction over highways, any local government unit vested with jurisdiction over local highways.

"(5) FEDERAL-AID HIGHWAY.—

"(A) IN GENERAL.—The term 'Federal-aid highway' means a highway eligible for assistance under this chapter.

"(B) EXCLUSIONS.—The term 'Federal-aid highway' does not include a highway classified as a local road or rural minor collector.

"(6) FEDERAL-AID SYSTEM.—The term 'Federal-aid system' means any of the Federal-aid highway systems described in section 103.

"(7) FEDERAL LANDS HIGHWAY.—The term 'Federal lands highway' means—

"(A) a forest highway;

"(B) a recreation road;

"(C) a public Forest Service road;

"(D) a park road;

"(E) a parkway;

"(F) a refuge road;

"(G) an Indian reservation road; and

"(H) a public lands highway.

"(8) FOREST HIGHWAY.—The term 'forest highway' means a forest road that is—

"(A) under the jurisdiction of, and maintained by, a public authority; and

"(B) is open to public travel.

"(9) FOREST ROAD OR TRAIL.—

"(A) IN GENERAL.—The term 'forest road or trail' means a road or trail wholly or partly within, or adjacent to, and serving National Forest System land that is necessary for the protection, administration, use, and development of the resources of that land.

"(B) INCLUSIONS.—The term 'forest road or trail' includes—

"(i) a classified forest road;

"(ii) an unclassified forest road;

"(iii) a temporary forest road; and

"(iv) a public forest service road.

"(10) FREIGHT TRANSPORTATION GATEWAY.—

"(A) IN GENERAL.—The term 'freight transportation gateway' means a nationally or regionally significant transportation port of entry or hub for domestic and global trade or military mobilization.

"(B) INCLUSIONS.—The term 'freight transportation gateway' includes freight intermodal and Strategic Highway Network connections that provide access to and from a port or hub described in subparagraph (A).

"(11) HIGHWAY.—The term 'highway' includes—

"(A) a road, street, and parkway;

"(B) a right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure, sign, guardrail, and protective structure, in connection with a highway; and

"(C) a portion of any interstate or international bridge or tunnel (including the approaches to the interstate or international bridge or tunnel, and such transportation facilities as may be required by the United States Customs Service and the Bureau of Citizenship and Immigration Services in connection with the operation of an international bridge or tunnel), the cost of which is assumed by a State transportation department.

"(12) HIGHWAY SAFETY IMPROVEMENT PROJECT.—The term 'highway safety improvement project' means a project that meets the requirements of section 148.

"(13) INDIAN RESERVATION ROAD.—

"(A) IN GENERAL.—The term 'Indian reservation road' means a public road that is located within or provides access to an area described in subparagraph (B) on which or in which reside Indians or Alaskan Natives that, as determined by the Secretary of the Interior, are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.

"(B) AREAS.—The areas referred to in subparagraph (A) are—

"(i) an Indian reservation;

"(ii) Indian trust land or restricted Indian land that is not subject to fee title alienatioh without the approval of the Federal Government; and

"(iii) an Indian or Alaska Native village, group, or community.

"(14) INTERSTATE SYSTEM.—The term 'Interstate System' means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in section 103(c).

"(15) MAINTENANCE.—

"(A) IN GENERAL.—The term 'maintenance' means the preservation of a highway.

"(B) INCLUSIONS.—The term 'maintenance' includes the preservation of—

"(i) the surface, shoulders, roadsides, and structures of a highway; and

"(ii) such traffic-control devices as are necessary for safe, secure, and efficient use of a highway.

"(16) MAINTENANCE AREA.—The term 'maintenance area' means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

"(17) NATIONAL FOREST SYSTEM ROAD OR TRAIL.—The term 'National Forest System road or trail' means a forest road or trail that is under the jurisdiction of the Forest Service.

"(18) NATIONAL HIGHWAY SYSTEM.—The term 'National Highway System' means the Federal-aid highway system described in section 103(b).

"(19) OPERATING COSTS FOR TRAFFIC MONITORING, MANAGEMENT, AND CONTROL.—The term 'operating costs for traffic monitoring, management, and control' includes—

"(A) labor costs;

"(B) administrative costs;

"(C) costs of utilities and rent;

"(D) costs incurred by transportation agencies for technology to monitor critical transportation infrastructure for security purposes; and

"(E) other costs associated with transportation systems management and operations and the continuous operation of traffic control, such as—

"(i) an integrated traffic control system;

"(ii) an incident management program; and

"(iii) a traffic control center.

"(20) OPERATIONAL IMPROVEMENT.—

"(A) IN GENERAL.—The term 'operational improvement' means—

"(i) a capital improvement for installation or implementation of—

"(I) a transportation system management and operations program;

"(II) traffic and transportation security surveillance and control equipment;

"(III) a computerized signal system;

"(IV) a motorist information system;

"(V) an integrated traffic control system;

"(VI) an incident management program;

"(VII) equipment and programs for transportation response to manmade and natural disasters; or

"(VIII) a transportation demand management facility, strategy, or program; and

"(ii) such other capital improvements to a public road as the Secretary may designate by regulation.

"(B) EXCLUSIONS.—The term 'operational improvement' does not include—

"(i) a resurfacing, restorative, or rehabilitative improvement;

"(ii) construction of an additional lane, interchange, or grade separation; or

"(iii) construction of a new facility on a new location.

"(21) PARK ROAD.—The term 'park road' means a public road (including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles) that is located within, or provides access to, an area in the National Park System with title and maintenance responsibilities vested in the United States.

"(22) PARKWAY.—The term 'parkway' means a parkway authorized by an Act of Congress on land to which title is vested in the United States.

"(23) PROJECT.—The term 'project' means—

"(A)(i) an undertaking to construct a particular portion of a highway; or

"(ii) if the context so implies, a particular portion of a highway so constructed; and

"(B) any other undertaking eligible for assistance under this title.

"(24) PROJECT AGREEMENT.—The term 'project agreement' means the formal instrument to be executed by the Secretary and recipient of funds under this title.

"(25) PUBLIC AUTHORITY.—The term 'public authority' means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

"(26) PUBLIC FOREST SERVICE ROAD.—The term 'public Forest Service road' means a classified forest road—

"(A) that is open to public travel;

"(B) for which title and maintenance responsibility is vested in the Federal Government; and

"(C) that has been designated a public road by the Forest Service.

"(27) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—The term 'public lands development roads and trails' means roads and trails that the Secretary of the Interior determines are of primary importance for the development, protection, administration, and use of public lands and resources under the control of the Secretary of the Interior.

"(28) PUBLIC LANDS HIGHWAY.—The term 'public lands highway' means—

"(A) a forest road that is—

"(i) under the jurisdiction of, and maintained by, a public authority; and

"(ii) open to public travel; and

"(B) any highway through unappropriated or unreserved public land, nontaxable Indian land, or any other Federal reservation (including a main highway through such land or reservation that is on the Federal-aid system) that is—

"(i) under the jurisdiction of, and maintained by, a public authority; and

"(ii) open to public travel.

"(29) PUBLIC ROAD.—The term 'public road' means any road or street that is—

"(A) under the jurisdiction of, and maintained by, a public authority; and

"(B) open to public travel.

"(30) RECREATIONAL ROAD.—The term 'recreational road' means a public road—

"(A) that provides access to a museum, lake, reservoir, visitors center, gateway to a major wilderness area, public use area, or recreational or historic site; and

"(B) for which title is vested in the Federal Government.

"(31) REFUGE ROAD.—The term 'refuge road' means a public road—

"(A) that provides access to or within a unit of the National Wildlife Refuge System or a national fish hatchery; and

"(B) for which title and maintenance responsibility is vested in the United States Government.

"(32) RURAL AREA.—The term 'rural area' means an area of a State that is not included in an urban area.

"(33) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(34) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia; and

"(C) the Commonwealth of Puerto Rico.

"(35) STATE FUNDS.—The term 'State funds' includes funds that are—

"(A) raised under the authority of the State (or any political or other subdivision of a State); and

"(B) made available for expenditure under the direct control of the State transportation department.

"(36) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means the department, agency, commission, board, or official of any State charged by the laws of the State with the responsibility for highway construction.

"(37) TERRITORIAL HIGHWAY SYSTEM.—The term 'territorial highway system' means the system of arterial highways, collector roads, and necessary interisland connectors in American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands that have been designated by the appropriate Governor or chief executive officer of a territory, and approved by the Secretary, in accordance with section 215.

"(38) TRANSPORTATION ENHANCEMENT ACTIVITY.—The term 'transportation enhancement activity' means, with respect to any project or the area to be served by the project, any of the following activities as the activities relate to surface transportation:

"(A) Provision of facilities for pedestrians and bicycles.

"(B) Provision of safety and educational activities for pedestrians and bicyclists.

"(C) Acquisition of scenic easements and scenic or historic sites (including historic battlefields).

"(D) Scenic or historic highway programs (including the provision of tourist and welcome center facilities).

"(E) Landscaping and other scenic beautification.

"(F) Historic preservation.

"(G) Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals).

"(H) Preservation of abandoned railway corridors (including the conversion and use of the corridors for pedestrian or bicycle trails).

"(I) Control and removal of outdoor advertising.

"(J) Archaeological planning and research.

"(K) Environmental mitigation—

"(i) to address water pollution due to highway runoff; or

"(ii) reduce vehicle-caused wildlife mortality while maintaining habitat connectivity.

"(L) Establishment of transportation museums.

"(39) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

"(A) IN GENERAL.—The term 'transportation systems management and operations' means an integrated program to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

"(B) INCLUSIONS.—The term 'transportation systems management and operations' includes—

"(i) regional operations collaboration and coordination activities between transportation and public safety agencies; and

"(ii) improvements to the transportation system such as traffic detection and surveillance, arterial management, freeway management, demand management, work zone management, emergency management, electronic toll collection, automated enforcement, traffic incident management, roadway weather management, traveler information services, commercial vehicle operations, traffic control, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations.

"(40) URBAN AREA.—The term 'urban area' means—

"(A) an urbanized area (or, in the case of an urbanized area encompassing more than 1 State, the portion of the urbanized area in each State); and

"(B) an urban place designated by the Bureau of the Census that—

"(i) has a population of 5,000 or more;

"(ii) is not located within any urbanized area; and

"(iii) is located within boundaries that—

"(I) are fixed cooperatively by responsible State and local officials, subject to approval by the Secretary; and

"(II) encompass, at a minimum, the entire urban place designated by the Bureau of the Census (except in the case of cities in the State of Maine and in the State of New Hampshire).

"(41) URBANIZED AREA.—The term 'urbanized area' means an area that—

"(A) has a population of 50,000 or more;

"(B) is designated by the Bureau of the Census; and

"(C) is located within boundaries that—

"(i) are fixed cooperatively by responsible State and local officials, subject to approval by the Secretary; and

"(ii) encompass, at a minimum, the entire urbanized area within a State as designated by the Bureau of the Census.".

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code—

(A) $6,017,113,333 for fiscal year 2005;

(B) $6,258,525,160 for fiscal year 2006;

(C) $6,276,479,750 for fiscal year 2007;

(D) $6,589,235,166 for fiscal year 2008; and

(E) $6,685,150,152 for fiscal year 2009.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of that title—

(A) $7,316,858,660 for fiscal year 2005;

(B) $7,606,591,948 for fiscal year 2006;

(C) $7,628,384,160 for fiscal year 2007;

(D) $8,007,988,062 for fiscal year 2008; and

(E) $8,124,348,085 for fiscal year 2009.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of that title—

(A) $5,171,723,801 for fiscal year 2005;

(B) $5,365,009,649 for fiscal year 2006;

(C) $5,349,259,875 for fiscal year 2007;

(D) $5,647,754,080 for fiscal year 2008; and

(E) $5,729,786,635 for fiscal year 2009.

(4) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title—

(A) $7,588,497,988 for fiscal year 2005;

(B) $7,878,361,598 for fiscal year 2006;

(C) $7,900,976,158 for fiscal year 2007;

(D) $8,294,904,735 for fiscal year 2008; and

(E) $8,415,808,100 for fiscal year 2009.

(5) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title—

(A) $2,051,899,502 for fiscal year 2005;

(B) $2,124,435,995 for fiscal year 2006;

(C) $2,130,535,073 for fiscal year 2007;

(D) $2,236,776,417 for fiscal year 2008; and

(E) $2,269,463,235 for fiscal year 2009.

(6) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under section 148 of that title—

(A) $1,253,007,425 for fiscal year 2005;

(C) $1,291,977,089 for fiscal year 2006;

(D) $1,305,007,731 for fiscal year 2007;

(E) $1,369,468,771 for fiscal year 2008; and

(F) $1,389,408,993 for fiscal year 2009.

(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 170 of that title, $552,048,803 for each of fiscal years 2005 through 2009.

(8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of that title, $56,140,557 for each of fiscal years 2005 through 2009.

(9) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title—

(i) $305,054,403 for fiscal year 2005;

(ii) $328,520,126 for fiscal year 2006;

(iii) $351,985,849 for fiscal year 2007;

(iv) $375,451,572 for fiscal year 2008; and

(v) $398,917,296 for fiscal year 2009.

(B) RECREATION ROADS.—For recreation roads under section 204 of that title, $46,931,447 for each of fiscal years 2005 through 2009.

(C) PARK ROADS AND PARKWAYS.—For park roads and parkways under section 204 of that title—

(i) $290,974,969 for fiscal year 2005; and

(ii) $300,361,258 for each of fiscal years 2006 through 2009.

(D) REFUGE ROADS.—For refuge roads under section 204 of that title, $29,158,868 for each of fiscal years 2005 through 2009.

(E) PUBLIC LANDS HIGHWAYS.—For Federal lands highways under section 204 of that title, $281,588,679 for each of fiscal years 2005 through 2009.

(F) SAFETY.—For safety under section 204 of that title, $37,545,157 for each of fiscal years 2005 through 2009.

(10) MULTISTATE CORRIDOR PROGRAM.—For the multistate corridor program under section 171 of that title—

(A) $124,987,840 for fiscal year 2005;

(B) $145,819,146 for fiscal year 2006;

(C) $166,650,453 for fiscal year 2007;

(D) $187,481,760 for fiscal year 2008; and

(E) $208,313,066 for fiscal year 2009.

(11) BORDER PLANNING, OPERATIONS, AND TECHNOLOGY PROGRAM.—For the border planning, operations, and technology program under section 172 of that title—

(A) $124,987,840 for fiscal year 2005;

(B) $145,819,146 for fiscal year 2006;

(C) $166,650,453 for fiscal year 2007;

(D) $187,481,760 for fiscal year 2008; and

(E) $208,313,066 for fiscal year 2009.

(12) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of that title—

(A) $32,852,013 for fiscal year 2005;

(B) $33,790,642 for fiscal year 2006;

(C) $34,729,270 for fiscal year 2007; and

(D) $36,606,528 for each of fiscal years 2008 and 2009.

(13) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—For carrying out

the infrastructure performance and maintenance program under section 139 of that title $0 for fiscal year 2004.

(14) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 147 of that title, $56,916,300 for each of fiscal years 2005 through 2009.

(15) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—For the Commonwealth of Puerto Rico highway program under section 173 of that title—

(A) $136,101,195 for fiscal year 2005;

(B) $139,855,711 for fiscal year 2006;

(C) $144,548,855 for fiscal year 2007;

(D) $150,180,629 for fiscal year 2008; and

(E) $152,996,516 for fiscal year 2009.

(16) PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.—For the public-private partnerships pilot program under section 109(c)(3) of that title, $9,386,289 for each of fiscal years 2005 through 2009.

(17) DENALI ACCESS SYSTEM.—For the Denali Access System under section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277), $28,158,868 for each of fiscal years 2005 through 2009.

(18) DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.—For planning and construction activities authorized under the Delta Regional Authority, $75,090,314 for each of fiscal years 2005 through 2009.

(19) INTERMODAL PASSENGER FACILITIES.—For intermodal passenger facilities under subchapter III of chapter 55 of title 49, United States Code, $9,386,289 for each of fiscal years 2005 through 2009.

SEC. 1102. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Subject to subsections (g) and (h), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

(1) $34,263,000,000 for fiscal year 2005;

(2) $38,924,000,000 for fiscal year 2006;

(3) $39,352,000,000 for fiscal year 2007;

(4) $41,304,000,000 for fiscal year 2008; and

(5) $42,007,000,000 for fiscal year 2009.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations under or for—

(1) section 125 of title 23, United States Code;

(2) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);

(3) section 9 of the Federal-Aid Highway Act of 1981 (Public Law 97–134; 95 Stat. 1701);

(4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (Public Law 97–424; 96 Stat. 2119);

(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 198);

(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027);

(7) section 157 of title 23, United States Code (as in effect on June 8, 1998);

(8) section 105 of title 23, United States Code (as in effect for fiscal years 1998 through 2003, but only in an amount equal to $639,000,000 for each of those fiscal years);

(9) Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 107) or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used; and

(10) section 105 of title 23, United States Code (but, for each of fiscal years 2005 through 2009, only in an amount equal to $639,000,000 per fiscal year).

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2005 through 2009, the Secretary—

(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for—

(A) amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code;

(B) programs funded from the administrative takedown authorized by section 104(a)(1) of title 23, United States Code; and

(C) amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;

(2) shall not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

(3) shall determine the ratio that—

(A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2); bears to

(B) the total of the sums authorized to be appropriated for the Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (9) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(10) for the fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2);

(4) shall distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2), for section 14501 of title 40, United States Code, so that the amount of obligation authority available for that section is equal to the amount determined by multiplying—

(A) the ratio determined under paragraph (3);. by

(B) the sums authorized to be appropriated for that section for the fiscal year;

(5) shall distribute among the States the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than to programs to which paragraph (1) applies), by multiplying—

(A) the ratio determined under paragraph (3); by

(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

(6) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraphs (4) and (5), for Federal-aid highway and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than $639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

(A) amounts authorized to be appropriated for the programs that are apportioned to each State for the fiscal year; bear to

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned to all States for the fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2005 through 2009—

(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

(2) redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to contract authority for transportation research programs carried out under—

(A) chapter 5 of title 23, United States Code; and

(B) title II of this Act.

(2) EXCEPTION.—Obligation authority made available under paragraph (1) shall—

(A) remain available for a period of 3 fiscal years; and

(B) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

(1) IN GENERAL.—Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2005 through 2009, the Secretary shall distribute to the States any funds that—

(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, in the fiscal year due to the imposition of any obligation limitation for the fiscal year.

(2) RATIO.—Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (c)(6).

(3) AVAILABILITY.—Funds distributed under paragraph (1) shall be available for any purpose described in section 133(b) of title 23, United States Code.

(g) SPECIAL RULE.—Obligation authority distributed for a fiscal year under subsection (c)(4) for the provision specified in subsection (c)(4) shall—

(1) remain available until used for obligation of funds for that provision; and

(2) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(h) ADJUSTMENT IN OBLIGATION LIMIT.—

(1) IN GENERAL.—A limitation on obligations imposed by subsection (a) for a fiscal year shall be adjusted by an amount equal to the amount determined in accordance with section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) for the fiscal year.

(2) DISTRIBUTION.—An adjustment under paragraph (1) shall be distributed in accordance with this section.

(i) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRATIVE EXPENSES.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

(1) $436,462,453 for fiscal year 2005;

(2) $450,541,887 for fiscal year 2006;

(3) $464,621,321 for fiscal year 2007;

(4) $478,700,755 for fiscal year 2008; and

(5) $492,780,189 for fiscal year 2009.

(j) NATIONAL HIGHWAY SYSTEM COMPONENT.—Section 104(b)(1) of title 23, United States Code, is amended by striking "$36,400,000" and insert "$46,931,447".

SEC. 1103. APPORTIONMENTS.

(a) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—Section 104 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary of Transportation for administrative expenses of the Federal Highway Administration—

"(A) $436,462,453 for fiscal year 2005;

"(B) $450,541,887 for fiscal year 2006;

"(C) $464,621,321 for fiscal year 2007;

"(D) $478,700,755 for fiscal year 2008; and

"(E) $492,780,189 for fiscal year 2009.

"(2) PURPOSES.—The funds authorized by this subsection shall be used—

"(A) to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2; and

"(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system.

"(3) AVAILABILITY.—The funds made available under paragraph (1) shall remain available until expended.".

(2) CONFORMING AMENDMENTS.—Section 104 of title 23, United States Code, is amended—

(A) in the matter preceding paragraph (1) of subsection (b), by striking "the deduction authorized by subsection (a) and";

(B) in the first sentence of subsection (e)(1), by striking ", and also" and all that follows through "this section"; and

(C) in subsection (i), by striking "deducted" and inserting "made available".

(b) METROPOLITAN PLANNING.—Section 104(f) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) SET-ASIDE.—On October 1 of each fiscal year, the Secretary shall set aside 1.5 percent of the funds authorized to be appropriated for the Interstate maintenance, national highway system, surface transportation, congestion mitigation and air quality improvement, highway safety improvement, and highway bridge programs authorized under this title to carry out the requirements of section 134.";

(2) in paragraph (2), by striking "per centum" and inserting "percent";

(3) in paragraph (3)—

(A) by striking "The funds" and inserting the following:

"(A) IN GENERAL.—The funds"; and

(B) by striking "These funds" and all that follows and inserting the following:

"(B) UNUSED FUNDS.—Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135."; and

(4) by adding at the end the following:

"(6) FEDERAL SHARE.—Funds apportioned to a State under this subsection shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program would be best served without the match.".

(c) ALASKA HIGHWAY.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking "1998 through 2002" and inserting "2005 through 2009".

SEC. 1104. EQUITY BONUS PROGRAM.

(a) IN GENERAL.—Section 105 of title 23, United States Code, is amended to read as follows:

"§ 105. Equity bonus program

"(a) PROGRAM.—

"(1) IN GENERAL.—Subject to subsections (c) and (d), for each of fiscal years 2005 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of the total apportionments for the fiscal year for the programs specified in paragraph (2) that is less than the percentage calculated under subsection (b).

"(2) SPECIFIC PROGRAMS.—The programs referred to in subsection (a) are—

"(A) the Interstate maintenance program under section 119;

"(B) the national highway system program under section 103;

"(C) the bridge program under section 144;

"(D) the surface transportation program under section 133;

"(E) the highway safety improvement program under section 148;

"(F) the congestion mitigation and air quality improvement program under section 149;

"(G) metropolitan planning programs under section 104(f) (other than planning programs funded by amounts provided under the equity bonus program under this section);

"(H) the infrastructure performance and maintenance program under section 139;

"(I) the equity bonus program under this section;

"(J) the Appalachian development highway system program under subtitle IV of title 40;

"(K) the recreational trails program under section 206;

"(L) the safe routes to schools program under section 150;

"(M) the rail-highway grade crossing program under section 130; and

"(N) the border planning, operations, technology, and capacity program under section 172.

"(b) STATE PERCENTAGE.—

"(1) IN GENERAL.—The percentage referred to in subsection (a) for each State shall be—

"(A) 92 percent of the quotient obtained by dividing—

"(i) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available; by

"(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year; or

"(B) for a State with a total population density of less than 20 persons per square mile, as reported in the decennial census conducted by the Federal Government in 2000, a total population of less than 1,000,000, as reported in that decennial census, a median household income of less than $35,000, as reported in that decennial census, or a State with a fatality rate during 2002 on Interstate highways that is greater than 1 fatality for each 100,000,000 vehicle miles traveled on Interstate highways, the greater of—

"(i) the percentage under paragraph (1); or

"(ii) the average percentage of the State's share of total apportionments for the period of fiscal years 1998 through 2003 for the programs specified in paragraph (2).

"(2) SPECIFIC PROGRAMS.—The programs referred to in paragraph (1)(B)(ii) are (as in effect on the day before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005)—

"(A) the Interstate maintenance program under section 119;

"(B) the national highway system program under section 103;

"(C) the bridge program under section 144;

"(D) the surface transportation program under section 133;

"(E) the recreational trails program under section 206;

"(F) the high priority projects program under section 117;

"(G) the minimum guarantee provided under this section;

"(H) revenue aligned budget authority amounts provided under section 110;

"(I) the congestion mitigation and air quality improvement program under section 149;

"(J) the Appalachian development highway system program under subtitle IV of title 40; and

"(K) metropolitan planning programs under section 104(f).

"(c) SPECIAL RULES.—

"(1) MINIMUM COMBINED ALLOCATION.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 115 percent of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2).

"(2) NO NEGATIVE ADJUSTMENT.—Notwithstanding subsection (d), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

"(3) MINIMUM SHARE OF TAX PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding subsection (d), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than the percentage specified in subparagraph (B) of the percentage share of the State of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

"(B) PERCENTAGES.—The percentages referred to in subparagraph (A) are—

"(i) for fiscal year 2005, 90.5 percent;

"(ii) for each of fiscal years 2006 through 2008, 91 percent; and

"(iii) for fiscal year 2009, 92 percent.

"(d) LIMITATION ON ADJUSTMENTS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if—

"(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceed

"(B) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2).

"(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B) are—

"(A) for fiscal year 2005, 124 percent;

"(B) for fiscal year 2006, 128 percent;

"(C) for fiscal year 2007, 131 percent;

"(D) for fiscal year 2008, 137 percent; and

"(E) for fiscal year 2009, 250 percent.

"(e) PROGRAMMATIC DISTRIBUTION OF FUNDS.—The Secretary shall apportion the amounts made available under this section so that the amount apportioned to each State under this section for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be apportioned under this section by the proportion that—

"(1) the amount of funds apportioned to each State for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) for a fiscal year; bears to

"(2) the total amount of funds apportioned to each State for all such programs for the fiscal year.

"(f) METRO PLANNING SET ASIDE.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section for each of fiscal years 2005 through 2009.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105 and inserting the following:

"105. Equity bonus program."

SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY.

Section 110 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraphs (1) and (2), by striking "2000" and inserting "2006";

(B) in paragraph (1), by inserting "(as in effect on September 30, 2002)" after "(2 U.S.C. 901(b)(2)(B)(ii)(I)(cc))"; and

(C) in paragraph (2)—

(i) by striking "If the amount" and inserting the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), if the amount";

(ii) by inserting "(as in effect on September 30, 2002)" after "(2 U.S.C. 901(b)(1)(B)(ii)(I)(cc)";

(iii) by striking "the succeeding" and inserting "that";

(iv) by striking "and the motor carrier safety grant program"; and

(v) by adding at the end the following:

"(B) LIMITATION.—No reduction under subparagraph (A) shall be made for a fiscal year if, as of October 1 of the fiscal year, the cash balance in the Highway Trust Fund (other than the Mass Transit Account) exceeds $6,000,000,000.";

(2) in subsection (b)(1), by striking subparagraph (A) and inserting the following:

"(A) the sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for each of the Federal-aid highway and highway safety construction programs (other than the equity bonus program) and for which funds are allocated from the Highway Trust Fund by the Secretary under this title and the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005; bears to";

(3) in subsection (c), by inserting "the highway safety improvement program," after "the surface transportation program,"; and

(4) by striking subsections (e), (f), and (g).

Subtitle B—New Programs

SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

"§ 139. Infrastructure performance and maintenance program

"(a) ESTABLISHMENT.—The Secretary shall establish and implement an infrastructure performance and maintenance program in accordance with this section.

"(b) ELIGIBLE PROJECTS.—A State may obligate funds allocated to the State under this section only for projects eligible under the Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

"(1) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements and hurricane evacuation routes on the Federal-aid system; or

"(2) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion or through transportation systemic changes to manage or ameliorate congestion.

"(c) PERIOD OF AVAILABILITY.—

"(1) OBLIGATION WITHIN 180 DAYS.—

"(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

"(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

"(2) OBLIGATION BY END OF FISCAL YEAR.—

"(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

"(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

"(d) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—

"(1) IN GENERAL.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

"(A) withdraw—

"(i) any funds allocated to a State under this section that remain unobligated; and

"(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005; and

"(B) reallocate the funds and redistribute the obligation authority to those States that—

"(i) have fully obligated all amounts allocated under this section for the fiscal year; and

"(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

"(2) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall be adjusted as a result of the allocation of funds under this subsection.

"(e) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 138 the following:

"139. Infrastructure performance and maintenance program.".

SEC. 1202. FUTURE OF SURFACE TRANSPORTATION SYSTEM.

(a) DECLARATION OF POLICY.—Section 101 of title 23, United States Code, is amended—

(1) by striking "(b) It is hereby declared to be" and inserting the following:

"(b) DECLARATION OF POLICY.—

"(1) ACCELERATION OF CONSTRUCTION OF FEDERAL-AID HIGHWAY SYSTEMS.—Congress declares that it is";

(2) in the second paragraph, by striking "It is hereby declared" and inserting the following:

"(2) COMPLETION OF INTERSTATE SYSTEM.—Congress declares"; and

(3) by striking the last paragraph and inserting the following:

"(3) TRANSPORTATION NEEDS OF 21ST CENTURY.—Congress declares that—

"(A) it is in the national interest to preserve and enhance the surface transportation system to meet the needs of the United States for the 21st Century;

"(B) the current urban and long distance personal travel and freight movement demands have surpassed the original forecasts and travel demand patterns are expected to change;

"(C) continued planning for and investment in surface transportation is critical to ensure the surface transportation system adequately meets the changing travel demands of the future;

"(D) among the foremost needs that the surface transportation system must meet to provide for a strong and vigorous national economy are safe, efficient, and reliable—

"(i) national and interregional personal mobility (including personal mobility in rural and urban areas) and reduced congestion;

"(ii) flow of interstate and international commerce and freight transportation; and

"(iii) travel movements essential for national security;

"(E) special emphasis should be devoted to providing safe and efficient access for the type and size of commercial and military vehicles that access designated National Highway System intermodal freight terminals;

"(F) it is in the national interest to seek ways to eliminate barriers to transportation investment created by the current modal structure of transportation financing;

"(G) the connection between land use and infrastructure is significant;

"(H) transportation should play a significant role in promoting economic growth, improving the environment, and sustaining the quality of life; and

"(I) the Secretary should take appropriate actions to preserve and enhance the Interstate System to meet the needs of the 21st Century.".

(b) NATIONAL SURFACE TRANSPORTATION POLICY STUDY COMMISSION.—

(1) ESTABLISHMENT.—There is established a commission to be known as the "National Surface Transportation Policy Study Commission" (referred to in this subsection as the "Commission").

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Commission shall be composed of 12 members, of whom—

(i) 1 member shall be the Secretary, who shall serve as Chairperson;

(ii) 3 members shall be appointed by the President;

(iii) 2 members shall be appointed by the Speaker of the House of Representatives;

(iv) 2 members shall be appointed by the minority leader of the House of Representatives;

(v) 2 members shall be appointed by the majority leader of the Senate; and

(vi) 2 members shall be appointed by the minority leader of the Senate.

(B) QUALIFICATIONS.—Members appointed under paragraph (1)—

(i) shall include individuals representing State and local governments, metropolitan planning organizations, transportation-related industries, academic and technical institutions, and public interest organizations involved with scientific, regulatory, economic, and environmental transportation activities; and

(ii) shall be balanced geographically to the extent consistent with maintaining the highest level of expertise on the Commission.

(C) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 120 days after the date of establishment of the Commission.

(D) TERMS.—A member shall be appointed for the life of the Commission.

(E) VACANCIES.—A vacancy on the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled in the same manner as the original appointment was made.

(F) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(G) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(H) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(I) VICE CHAIRPERSON.—The Commission shall select a Vice Chairperson from among the members of the Commission.

(3) DUTIES.—

(A) IN GENERAL.—The Commission shall—

(i) conduct a complete and comprehensive investigation and study of—

(I) the current condition and future needs of the surface transportation system; and

(II) a comprehensive study of alternatives to replace or to supplement the fuel tax as the principal revenue source to support the Highway Trust Fund and suggest new or alternative sources of revenue to fund the needs of the surface transportation system over at least the next 30 years;

(B) develop a conceptual plan, with alternative approaches, for the future to ensure that the surface transportation system will continue to serve the needs of the United States, including specific recommendations regarding design and operational standards, Federal policies, and legislative changes;

(C) consult with the Secretary and the Secretary of the Treasury in conducting the study to ensure that the views of the Secretaries concerning essential attributes of Highway Trust Fund revenue alternatives are considered;

(D) consult with representatives of State departments of transportation and metropolitan planning organizations and other key interested stakeholders in conducting the study to ensure that—

(i) the views of the stakeholders on alternative revenue sources to support State transportation improvement programs are considered; and

(ii) any recommended Federal financing strategy takes into account State financial requirements; and

(E) based on the study, make specific recommendations regarding—

(i) actions that should be taken to develop alternative revenue sources to sup port the Highway Trust Fund; and

(ii) the time frame for taking those actions.

(4) RELATED WORK.—To the maximum extent practicable, the study shall build on related work that has been completed by—

(A) the Secretary of Transportation;

(B) the Secretary of Energy;

(C) the Transportation Research Board, including the findings, conclusions, and recommendations of the recent study conducted by the Transportation Research Board on alternatives to the fuel tax to support highway program financing; and

(D) other entities and persons.

(5) SURFACE TRANSPORTATION NEEDS.—With respect to surface transportation needs, the investigation and study shall specifically address—

(A) the current condition and performance of the Interstate System (including the physical condition of bridges and pavements and operational characteristics and performance), relying primarily on existing data sources;

(B) the future of the Interstate System, based on a range of legislative and policy approaches for 15-, 30-, and 50-year time periods;

(C) the expected demographics and business uses that impact the surface transportation system;

(D) the expected use of the surface transportation system, including the effects of changing vehicle types, modes of transportation, fleet size and weights, and traffic volumes;

(E) desirable design policies and standards for future improvements of the surface transportation system, including additional access points;

(F) the identification of urban, rural, national, and interregional needs for the surface transportation system;

(G) the potential for expansion, upgrades, or other changes to the surface transportation system, including—

(i) deployment of advanced materials and intelligent technologies;

(ii) critical multistate, urban, and rural corridors needing capacity, safety, and operational enhancements;

(iii) improvements to intermodal linkages;

(iv) security and military deployment enhancements;

(v) strategies to enhance asset preservation; and

(vi) implementation strategies;

(H) the improvement of emergency preparedness and evacuation using the surface transportation system, including—

(i) examination of the potential use of all modes of the surface transportation system in the safe and efficient evacuation of citizens during times of emergency;

(ii) identification of the location of critical bottlenecks; and

(iii) development of strategies to improve system redundancy, especially in areas with a high potential for terrorist attacks;

(I) alternatives for addressing environmental concerns associated with the future development of the surface transportation system;

(J) the evaluation and assessment of the current and future capabilities for conducting system-wide real-time performance data collection and analysis, traffic monitoring, and transportation systems operations and management; and

(K) a range of policy and legislative alternatives for addressing future needs for the surface transportation system.

(6) FINANCING.—With respect to financing, the study shall address specifically—

(A) the advantages and disadvantages of alternative revenue sources to meet anticipated Federal surface transportation financial requirements;

(B) recommendations concerning the most promising revenue sources to support long-term Federal surface transportation financing requirements;

(C) development of a broad transition strategy to move from the current tax base to new funding mechanisms, including the time frame for various components of the transition strategy;

(D) recommendations for additional research that may be needed to implement recommended alternatives; and

(E) the extent to which revenues should reflect the relative use of the highway system.

(7) FINANCING RECOMMENDATIONS.—In developing financing recommendations under this subsection, the Commission shall consider—

(A) the ability to generate sufficient revenues from all modes to meet anticipated long-term surface transportation financing needs;

(B) the roles of the various levels of government and the private sector in meeting future surface transportation financing needs;

(C) administrative costs (including enforcement costs) to implement each option;

(D) the expected increase in nontaxed fuels and the impact of taxing those fuels;

(E) the likely technological advances that could ease implementation of each option;

(F) the equity and economic efficiency of each option;

(G) the flexibility of different options to allow various pricing alternatives to be implemented; and

(H) potential compatibility issues with State and local tax mechanisms under each alternative.

(8) TECHNICAL ADVISORY COMMITTEE.—The Secretary shall establish a technical advisory committee, in a manner consistent with the Federal Advisory Committee Act (5 U.S.C. App.), to collect and evaluate technical input from—

(A) the Department of Defense;

(B) appropriate Federal, State, and local officials with responsibility for transportation;

(C) appropriate State and local elected officials;

(D) transportation and trade associations;

(E) emergency management officials;

(F) freight providers;

(G) the general public; and

(H) other entities and persons determined to be appropriate by the Secretary to ensure a diverse range of views.

(9) REPORT AND RECOMMENDATIONS.—Not later than September 30, 2007, the Commission shall submit to Congress a final report that contains—

(A) a detailed statement of the findings and conclusions of the Commission; and

(B) the recommendations of the Commission for such legislation and administrative actions as the Commission considers to be appropriate.

(10) POWERS OF THE COMMISSION.—

(A) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(B) INFORMATION FROM FEDERAL AGENCIES.—

(i) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this section.

(ii) PROVISION OF INFORMATION.—On request of the Chairperson of the Commission, the head of a Federal agency shall provide the requested information to the Commission.

(C) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(D) DONATIONS.—The Commission may accept, use, and dispose of donations of services or property.

(11) COMMISSION PERSONNEL MATTERS.—

(A) MEMBERS.—A member of the Commission shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(B) CONTRACTORS.—The Commission may enter into contracts with an appropriate organizations, agencies, and entities to conduct the study required under this section, under the strategic guidance of the Commission.

(C) ADMINISTRATIVE SUPPORT.—On the request of the Commission, the Administrator of the Federal Highway Administration shall provide to the Commission, on a reimbursable basis, the administrative support and services necessary for the Commission to carry out the duties of the Commission under this section.

(D) DETAIL OF PERSONNEL.—

(i) IN GENERAL.—On the request of the Commission, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department to the Commission to assist the Commission in carrying out the duties of the Commission under this section.

(ii) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(12) COOPERATION.—The staff of the Secretary shall cooperate with the Commission in the study required under this section, including providing such nonconfidential data and information as are necessary to conduct the study.

(13) RELATIONSHIP TO OTHER LAW.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(B) FEDERAL SHARE.—The Federal share of the cost of the study and the Commission under this section shall be 100 percent.

(C) AVAILABILITY.—Funds made available to carry out this section shall remain available until expended.

(14) DEFINITION OF SURFACE TRANSPORTATION SYSTEM.—In this subsection, the term "surface transportation system" includes—

(A) the National Highway System;

(B) the Interstate System;

(C) the strategic highway network;

(D) congressional high priority corridors;

(E) intermodal connectors;

(F) freight facilities;

(G) navigable waterways;

(H) mass transportation;

(I) freight and intercity passenger rail infrastructure and facilities; and

(J) surface access to airports.

(15) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $2,815,886 for fiscal year 2005.

(16) TERMINATION.—

(A) IN GENERAL.—The Commission shall terminate on the date that is 180 days after the date on which the Commission submits the report of the Commission under paragraph (10).

(B) RECORDS.—Not later than the date of termination of the Commission under subparagraph (A), all records and papers of the Commission shall be delivered to the Archivist of the United States for deposit in the National Archives.

SEC. 1203. FREIGHT TRANSPORTATION GATEWAYS; FREIGHT INTERMODAL CONNECTIONS.

(a) FREIGHT TRANSPORTATION GATEWAYS.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following:

"§ 325. Freight transportation gateways

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—The Secretary shall establish a freight transportation gateways program to improve productivity, security, and safety of freight transportation gateways, while mitigating congestion and community impacts in the area of the gateways.

"(2) PURPOSES.—The purposes of the freight transportation gateways program shall be—

"(A) to facilitate and support multimodal freight transportation initiatives at the State and local levels in order to improve freight transportation gateways and mitigate the impact of congestion on the environment in the area of the gateways;

"(B) to provide capital funding to address infrastructure and freight operational needs at freight transportation gateways;

"(C) to encourage adoption of new financing strategies to leverage State, local, and private investment in freight transportation gateways;

"(D) to facilitate access to intermodal freight transfer facilities; and

"(E) to increase economic efficiency by facilitating the movement of goods.

"(b) STATE RESPONSIBILITIES.—

"(1) PROJECT DEVELOPMENT PROCESS.—Each State, in coordination with metropolitan planning organizations, shall ensure that intermodal freight transportation, trade facilitation, and economic development needs are adequately considered and fully integrated into the project development process, including transportation planning through final design and construction of freight-related transportation projects.

"(2) FREIGHT TRANSPORTATION COORDINATOR.—

"(A) IN GENERAL.—Each State shall designate a freight transportation coordinator.

"(B) DUTIES.—The coordinator shall—

"(i) foster public and private sector collaboration needed to implement complex solutions to freight transportation and freight transportation gateway problems, including—

"(I) coordination of metropolitan and statewide transportation activities with trade and economic interests;

"(II) coordination with other States, agencies, and organizations to find regional solutions to freight transportation problems; and

"(III) coordination with local officials of the Department of Defense and the Department of Homeland Security, and with other organizations, to develop regional solutions to military and homeland security transportation needs; and

"(ii) promote programs that build professional capacity to better plan, coordinate, integrate, and understand freight transportation needs for the State.

"(c) INNOVATIVE FINANCE STRATEGIES.—

"(1) IN GENERAL.—States and localities are encouraged to adopt innovative financing strategies for freight transportation gateway improvements, including—

"(A) new user fees;

"(B) modifications to existing user fees, including trade facilitation charges;

"(C) revenue options that incorporate private sector investment; and

"(D) a blending of Federal-aid and innovative finance programs.

"(2) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States and localities with respect to the strategies.

"(d) INTERMODAL FREIGHT TRANSPORTATION PROJECTS.—

"(1) USE OF SURFACE TRANSPORTATION PROGRAM FUNDS.—A State may obligate funds apportioned to the State under section 104(b)(3) for publicly-owned intermodal freight transportation projects that provide community and highway benefits by addressing economic, congestion, system reliability, security, safety, or environmental issues associated with freight transportation gateways.

"(2) ELIGIBLE PROJECTS.—A project eligible for funding under this section—

"(A) may include publicly-owned intermodal freight transfer facilities, access to the facilities, and operational improvements for the facilities (including capital investment for intelligent transportation systems), except that projects located within the boundaries of port terminals shall only include the surface transportation infrastructure modifications necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port; and

"(B) may involve the combining of private and public funds.".

(b) ELIGIBILITY FOR SURFACE TRANSPORTATION PROGRAM FUNDS.—Section 133(b) of title 23, United States Code, is amended by inserting after paragraph (11) the following:

"(12) Intermodal freight transportation projects in accordance with section 325(d)(2).".

(c) FREIGHT INTERMODAL CONNECTIONS TO NHS.—Section 103(b) of title 23, United States Code, is amended by adding at the end the following:

"(7) FREIGHT INTERMODAL CONNECTIONS TO THE NHS.—

"(A) FUNDING SET-ASIDE.—Of the funds apportioned to a State for each fiscal year under section 104(b)(1), an amount determined in accordance with subparagraph (B) shall only be available to the State to be obligated for projects on—

"(i) National Highway System routes connecting to intermodal freight terminals identified according to criteria specified in the report to Congress entitled 'Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals' dated May 24, 1996, referred to in paragraph (1), and any modifications to the connections that are consistent with paragraph (4);

"(ii) strategic highway network connectors to strategic military deployment ports; and

"(iii) projects to eliminate railroad crossings or make railroad crossing improvements.

"(B) DETERMINATION OF AMOUNT.—The amount of funds for each State for a fiscal year that shall be set aside under subparagraph (A) shall be equal to the greater of—

"(i) the product obtained by multiplying—

"(I) the total amount of funds apportioned to the State under section 104(b)(1); by

"(II) the percentage of miles that routes specified in subparagraph (A) constitute of the total miles on the National Highway System in the State; or

"(ii) 2 percent of the annual apportionment to the State of funds under 104(b)(1).

"(C) EXEMPTION FROM SET-ASIDE.—For any fiscal year, a State may obligate the funds otherwise set aside by this paragraph for any project that is eligible under paragraph (6) and is located in the State on a segment of the National Highway System specified in paragraph (2), if the State certifies and the Secretary concurs that—

"(i) the designated National Highway System intermodal connectors described in subparagraph (A) are in good condition and provide an adequate level of service for military vehicle and civilian commercial vehicle use; and

"(ii) significant needs on the designated National Highway System intermodal connectors are being met or do not exist.".

(d) FEDERAL SHARE PAYABLE.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

"(m) INCREASED FEDERAL SHARE FOR CONNECTORS.—In the case of a project to support a National Highway System intermodal freight connection or strategic highway network connector to a strategic military deployment port described in section 103(b)(7), except as otherwise provided in section 120, the Federal share of the total cost of the project shall be 90 percent.".

(e) LENGTH LIMITATIONS.—Section 31111(e) of title 49, United States Code, is amended—

(1) by striking "The" and inserting the following:

"(1) IN GENERAL.—The"; and

(2) by adding at the end the following:

"(2) LENGTH LIMITATIONS.—In the interests of economic competitiveness, security, and intermodal connectivity, not later than 3 years after the date of enactment of this paragraph, States shall update the list of those qualifying highways to include—

"(A) strategic highway network connectors to strategic military deployment ports; and

"(B) National Highway System intermodal freight connections serving military and commercial truck traffic going to major intermodal terminals as described in section 103(b)(7)(A)(i).".

(f) CONFORMING AMENDMENT.—The analysis of chapter 3 of title 23, United States Code, is amended by adding at the end the following:

"325. Freight transportation gateways.".

SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL AND MAINTENANCE FACILITIES; COORDINATION OF FERRY CONSTRUCTION AND MAINTENANCE.

(a) IN GENERAL.—Section 147 of title 23, United States Code, is amended to read as follows:

"§ 147. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction and maintenance

"(a) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

"(1) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

"(2) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats and ferry terminals and maintenance facilities under this subsection shall be 80 percent.

"(3) ALLOCATION OF FUNDS.—The Secretary shall give priority in the allocation of funds under this subsection to those ferry systems, and public entities responsible for developing ferries, that—

"(A) carry the greatest number of passengers and vehicles;

"(B) carry the greatest number of passengers in passenger-only service; or

"(C) provide critical access to areas that are not well-served by other modes of surface transportation.

"(b) NON-CONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $46,931,447 for each fiscal year to carry out this section.

"(2) AVAILABILITY.—Notwithstanding section 118(a), funds made available under paragraph (1) shall not be available in advance of an annual appropriation.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147 and inserting the following:

"147. Construction of ferry boats and ferry terminal and maintenance facilities.".

(2) Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

SEC. 1205. DESIGNATION OF INTERSTATE HIGHWAYS.

(a) DESIGNATION OF DANIEL PATRICK MOYNIHAN INTERSTATE HIGHWAY.—

(1) DESIGNATION.—Interstate Route 86 in the State of New York, extending from the Pennsylvania border near Lake Erie through Orange County, New York, shall be known and designated as the "Daniel Patrick Moynihan Interstate Highway".

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway referred to in paragraph (1) shall be deemed to be a reference to the Daniel Patrick Moynihan Interstate Highway.

(b) DESIGNATION OF AMO HOUGHTON BYPASS.—

(1) DESIGNATION.—The 3-mile segment of Interstate Route 86 between the interchange of Interstate Route 86 with New York State Route 15 in the vicinity of Painted Post, New York, and the interchange of Interstate Route 86 with New York State Route 352 in the vicinity of Corning, New York, shall be known and designated as the "Amo Houghton Bypass".

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway referred to in paragraph (1) shall be deemed to be a reference to the Amo Houghton Bypass.

SEC. 1206. STATE-BY-STATE COMPARISON OF HIGHWAY CONSTRUCTION COSTS.

(a) COLLECTION OF DATA.—

(1) IN GENERAL.—The Administrator of the Federal Highway Administration (referred to in this section as the "Administrator") shall collect from States any bid price data that is necessary to make State-by-State comparisons of highway construction costs.

(2) DATA REQUIRED.—In determining which data to collect and the procedures for collecting data, the Administrator shall take into account the data collection deficiencies identified in the report prepared by the General Accounting Office numbered GAO-04-113R.

(b) REPORT.—

(1) IN GENERAL.—The Administrator shall submit to Congress an annual report on the bid price data collected under subsection (a).

(2) INCLUSIONS.—The report shall include—

(A) State-by-State comparisons of highway construction costs for the previous fiscal year (including the cost to construct a 1-mile road segment of a standard design, as determined by the Administrator); and

(B) a description of the competitive bidding procedures used in each State; and

(C) a determination by Administrator as to whether the competitive bidding procedures described under subparagraph (B) are effective.

(c) INNOVATIVE AND COST-EFFECTIVE MATERIALS.—The Secretary shall encourage and provide incentives to States to make maximum use of innovative and cost-effective materials and products in highway construction.

Subtitle C—Finance

SEC. 1301. FEDERAL SHARE.

Section 120 of title 23, United States Code, is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Except as otherwise provided in this chapter, the Federal share payable on account of any project on the Interstate System (including a project to add high occupancy vehicle lanes and a project to add auxiliary lanes but excluding a project to add any other lanes) shall be 90 percent of the total cost of the project.";

(2) in subsection (b)—

(A) by striking "Except as otherwise" and inserting the following:

"(1) IN GENERAL.—Except as otherwise";

(B) by striking "shall be—" and all that follows and inserting "shall be 80 percent of the cost of the project."; and

(C) by adding at the end the following:

"(2) STATE-DETERMINED LOWER FEDERAL SHARE.—In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under paragraph (1).";

(3) by striking subsection (d) and inserting the following:

"(d) INCREASED FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share payable under subsection (a) or (b) may be increased for projects and activities in each State in which is located—

"(A) nontaxable Indian land;

"(B) public land (reserved or unreserved);

"(C) a national forest; or

"(D) a national park or monument.

"(2) AMOUNT.—

"(A) IN GENERAL.—The Federal share for States described in paragraph (1) shall be increased by a percentage of the remaining cost that—

"(i) is equal to the percentage that—

"(I) the area of all land described in paragraph (1) in a State; bears to

"(II) the total area of the State; but

"(ii) does not exceed 95 percent of the total cost of the project or activity for which the Federal share is provided.

"(B) ADJUSTMENT.—The Secretary shall adjust the Federal share for States under subparagraph (A) as the Secretary determines necessary, on the basis of data provided by the Federal agencies that are responsible for maintaining the data.".

SEC. 1302. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

Section 104 of title 23, United States Code, is amended by striking subsection (k) and inserting the following:

"(k) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

“(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—

“(A) IN GENERAL.—Subject to subparagraph (B), funds made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49.

“(B) NON-FEDERAL SHARE.—The provisions of this title relating to the non-Federal share shall apply to the transferred funds.

“(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—Funds made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

“(3) TRANSFER OF HIGHWAY FUNDS TO OTHER FEDERAL AGENCIES.—

“(A) IN GENERAL.—Except as provided in clauses (i) and (ii) and subparagraph (B), funds made available under this title or any other Act that are derived from Highway Trust Fund (other than the Mass Transit account) may be transferred to another Federal agency if—

“(i)(I) an expenditure is specifically authorized in Federal-aid highway legislation or as a line item in an appropriation act; or

“(II) a State transportation department consents to the transfer of funds;

“(ii) the Secretary determines, after consultation with the State transportation department (as appropriate), that the Federal agency should carry out a project with the funds; and

“(iii) the other Federal agency agrees to accept the transfer of funds and to administer the project.

“(B) ADMINISTRATION.—

“(i) PROCEDURES.—A project carried out with funds transferred to a Federal agency under subparagraph (A) shall be administered by the Federal agency under the procedures of the Federal agency.

“(ii) APPROPRIATIONS.—Funds transferred to a Federal agency under subparagraph (A) shall not be considered an augmentation of the appropriations of the Federal agency.

“(iii) NON-FEDERAL SHARE.—The provisions of this title, or an Act described in subparagraph (A), relating to the non-Federal share shall apply to a project carried out with the transferred funds, unless the Secretary determines that it is in the best interest of the United States that the non-Federal share be waived.

“(4) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—

“(A) IN GENERAL.—Subject to subparagraphs (B) through (D), the Secretary may, at the request of a State, transfer funds apportioned or allocated to the State to another State, or to the Federal Highway Administration, for the purpose of funding 1 or more specific projects.

“(B) ADMINISTRATION.—The transferred funds shall be used for the same purpose and in the same manner for which the transferred funds were authorized.

“(C) APPORTIONMENT.—The transfer shall have no effect on any apportionment formula used to distribute funds to States under this section or section 105 or 144.

“(D) SURFACE TRANSPORTATION PROGRAM.—Funds that are apportioned or allocated to a State under subsection (b)(3) and attributed to an urbanized area of a State with a population of over 200,000 individuals under section 133(d)(2) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

“(5) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for the projects are transferred under this subsection.”.

SEC. 1303. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT AMENDMENTS.

(a) DEFINITIONS.—Section 181 of title 23, United States Code, is amended—

(1) in paragraph (3), by striking “category” and “offered into the capital markets”;

(2) by striking paragraph (7) and redesignating paragraphs (8) through (15) as paragraphs (7) through (14) respectively;

(3) in paragraph (8) (as redesignated by paragraph (2))—

(A) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(B) by striking subparagraph (D) and inserting the following:

“(D) a project that—

“(i)(I) is a project for—

“(aa) a public freight rail facility or a private facility providing public benefit;

“(bb) an intermodal freight transfer facility;

“(cc) a means of access to a facility described in item (aa) or (bb);

“(dd) a service improvement for a facility described in item (aa) or (bb) (including a capital investment for an intelligent transportation system); or

“(II) comprises a series of projects described in subclause (I) with the common objective of improving the flow of goods;

“(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements; and

“(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port.”; and

(4) in paragraph (10) (as redesignated by paragraph (2)) by striking “bond” and inserting “credit”.

(b) DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.—Section 182 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1) and (2) and inserting the following:

“(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter.

“(2) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary shall submit a project application to the Secretary.”;

(B) in paragraph (3)(A)—

(i) in clause (i), by striking “$100,000,000” and inserting “$50,000,000”; and

(ii) in clause (ii), by striking “50” and inserting “20”; and

(C) in paragraph (4)—

(i) by striking “Project financing” and inserting “The Federal credit instrument”; and

(ii) by inserting before the period at the end the following: “that also secure the project obligations”; and

(2) in subsection (b)—

(A) in paragraph (1), by striking “criteria” the second place it appears and inserting “requirements”; and

(B) in paragraph (2)(B), by inserting “(which may be the Federal credit instrument)” after “obligations”.

(c) SECURED LOANS.—Section 183 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “of any project selected under section 182.” at the end;

(ii) in subparagraphs (A) and (B), by inserting “of any project selected under section 182” after “costs” ; and

(iii) in subparagraph (B), by striking the semicolon at the end and inserting a period; and

(B) in paragraph (4)—

(i) by striking “funding” and inserting “execution”; and

(ii) by striking “rating,” and all that follows and inserting a period;

(2) in subsection (b)—

(A) by striking paragraph (2) and inserting the following:

“(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed the lesser of—

“(A) 33 percent of the reasonably anticipated eligible project costs; or

“(B) the amount of the senior project obligations.”;

(B) in paragraph (3)(A)(i), by inserting “that also secure the senior project obligations” after “sources”; and

(C) in paragraph (4), by striking “marketable”; and

(3) in subsection (c)—

(A) by striking paragraph (3);

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(C) in paragraph (3) (as redesignated by subparagraph (B))—

(i) in subparagraph (A), by striking “during the 10 years”; and

(ii) in subparagraph (B)(ii), by striking “loan” and all that follows and inserting “loan.”.

(d) LINES OF CREDIT.—Section 184 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (3), by striking “interest, any debt service reserve fund, and any other available reserve” and inserting “interest (but not including reasonably required financing reserves)”;

(B) in paragraph (4), by striking “marketable United States Treasury securities as of the date on which the line of credit is obligated” and inserting “ United States Treasury securities as of the date of execution of the line of credit agreement”; and

(C) in paragraph (5)(A)(i), by inserting “that also secure the senior project obligations” after “sources”; and

(2) in subsection (c)—

(A) in paragraph (2)—

(i) by striking “scheduled”;

(ii) by inserting “be scheduled to” after “shall”; and

(iii) by striking “be fully repaid, with interest,” and inserting “to conclude, with full repayment of principal and interest,”; and

(B) by striking paragraph (3).

(e) PROGRAM ADMINISTRATION.—Section 185 of title 23, United States Code, is amended to read as follows:

“§ 185. Program administration

“(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instruments made available under this subchapter.

“(b) FEES.—The Secretary may establish fees at a level to cover all or a portion of the costs to the Federal government of servicing the Federal credit instruments.

“(c) SERVICER.—

"(1) IN GENERAL.—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

"(2) DUTIES.—The servicer shall act as the agent for the Secretary.

"(3) FEE.—The servicer shall receive a servicing fee, subject to approval by the Secretary.

"(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.".

(f) FUNDING.—Section 188 of title 23, United States Code, is amended to read as follows:

"§ 188. Funding

"(a) FUNDING.—

"(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $122,021,761 for each of fiscal years 2005 through 2009.

"(2) ADMINISTRATIVE COSTS.—Of amounts made available under paragraph (1), the Secretary may use for the administration of this subchapter not more than $1,877,258 for each of fiscal years 2005 through 2009.

"(3) COLLECTED FEES AND SERVICES.—In addition to funds provided under paragraph (2)—

"(A) all fees collected under this subchapter shall be made available without further appropriation to the Secretary until expended, for use in administering this subchapter; and

"(B) the Secretary may accept and use payment or services provided by transaction participants, or third parties that are paid by participants from transaction proceeds, for due diligence, legal, financial, or technical services.

"(4) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

"(b) CONTRACT AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this subchapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit investment.

"(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.".

(g) REPEAL.—Section 189 of title 23, United States code, is repealed.

(h) CONFORMING AMENDMENTS.—The analysis for chapter 1 of title 23, United States Code, is amended—

(1) by striking the item relating to section 185 and inserting the following:

"185. Program administration.";

and

(2) by striking the item relating to section 189.

SEC. 1304. STATE INFRASTRUCTURE BANKS.

Section 1511(b)(1)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 181 note; 112 Stat. 251) is amended by striking "Missouri," and all that follows through "for the establishment" and inserting "Missouri, Rhode Island, Texas, and any other State that seeks such an agreement for the establishment".

SEC. 1305. PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.

Section 109(c) of title 23, United States Code, is amended by adding at the end the following:

"(3) PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.—

"(A) IN GENERAL.—The Secretary may undertake a pilot program to demonstrate the advantages of public-private partnerships for critical capital development projects, including highway, bridge, and freight intermodal connector projects authorized under this title.

"(B) PROJECTS.—In carrying out the program, the Secretary shall—

"(i) select not less than 10 qualified public-private partnership projects that are authorized under applicable State and local laws; and

"(ii) use funds made available to carry out the program to provide to sponsors of the projects assistance for development phase activities described in section 181(1)(A), to enhance project delivery and reduce overall costs.".

Subtitle D—Safety

SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

(a) SAFETY IMPROVEMENT.—

(1) IN GENERAL.—Section 148 of title 23, United States Code, is amended to read as follows:

"§ 148. Highway safety improvement program

"(a) DEFINITIONS.—In this section:

"(1) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'highway safety improvement program' means the program carried out under this section.

"(2) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

"(A) IN GENERAL.—The term 'highway safety improvement project' means a project described in the State strategic highway safety plan that—

"(i) corrects or improves a hazardous road location or feature; or

"(ii) addresses a highway safety problem.

"(B) INCLUSIONS.—The term 'highway safety improvement project' includes a project for—

"(i) an intersection safety improvement;

"(ii) pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition);

"(iii) installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians;

"(iv) installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents;

"(v) an improvement for pedestrian or bicyclist safety;

"(vi)(I) construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings;

"(II) construction of a railway-highway crossing safety feature; or

"(III) the conduct of a model traffic enforcement activity at a railway-highway crossing;

"(vii) construction of a traffic calming feature;

"(viii) elimination of a roadside obstacle;

"(ix) improvement of highway signage and pavement markings;

"(x) installation of a priority control system for emergency vehicles at signalized intersections;

"(xi) installation of a traffic control or other warning device at a location with high accident potential;

"(xii) safety-conscious planning;

"(xiii) improvement in the collection and analysis of crash data;

"(xiv) planning, integrated, interoperable emergency communications, equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety;

"(xv) installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of motorists and workers), and crash attenuators;

"(xvi) the addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife; or

"(xvii) installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones.

"(3) SAFETY PROJECT UNDER ANY OTHER SECTION.—

"(A) IN GENERAL.—The term 'safety project under any other section' means a project carried out for the purpose of safety under any other section of this title.

"(B) INCLUSION.—The term 'safety project under any other section' includes a project to—

"(i) promote the awareness of the public and educate the public concerning highway safety matters (including motorcyclist safety); or

"(ii) enforce highway safety laws.

"(4) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'State highway safety improvement program' means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(f).

"(5) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term 'State strategic highway safety plan' means a plan developed by the State transportation department that—

"(A) is developed after consultation with—

"(i) a highway safety representative of the Governor of the State;

"(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

"(iii) representatives of major modes of transportation;

"(iv) State and local traffic enforcement officials;

"(v) persons responsible for administering section 130 at the State level;

"(vi) representatives conducting Operation Lifesaver;

"(vii) representatives conducting a motor carrier safety program under section 31104 or 31107 of title 49;

"(viii) motor vehicle administration agencies; and

"(ix) other major State and local safety stakeholders;

"(B) analyzes and makes effective use of State, regional, or local crash data;

"(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;

"(D) considers safety needs of, and high-fatality segments of, public roads;

"(E) considers the results of State, regional, or local transportation and highway safety planning processes;

"(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

"(G) is approved by the Governor of the State or a responsible State agency; and

"(H) is consistent with the requirements of section 135(f).

"(b) PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

"(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

"(c) ELIGIBILITY.—

"(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

"(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

"(B) produces a program of projects or strategies to reduce identified safety problems;

"(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

"(D) submits to the Secretary an annual report that—

"(i) describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

"(ii) contains an assessment of—

"(I) potential remedies to hazardous locations identified;

"(II) estimated costs associated with those remedies; and

"(III) impediments to implementation other than cost associated with those remedies.

"(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

"(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

"(B) based on the analysis required by subparagraph (A)—

"(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users; and

"(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;

"(C) adopt strategic and performance-based goals that—

"(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

"(ii) focus resources on areas of greatest need; and

"(iii) are coordinated with other State highway safety programs;

"(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

"(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

"(ii) includes all public roads;

"(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users; and

"(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

"(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

"(ii) identify opportunities for preventing the development of such hazardous conditions; and

"(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

"(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

"(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

"(d) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

"(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

"(B) as provided in subsection (e), for other safety projects.

"(2) USE OF OTHER FUNDING FOR SAFETY.—

"(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

"(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

"(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

"(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 25 percent of the amount of funds made available under this section for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan.

"(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

"(f) REPORTS.—

"(1) IN GENERAL.—A State shall submit to the Secretary a report that—

"(A) describes progress being made to implement highway safety improvement projects under this section;

"(B) assesses the effectiveness of those improvements; and

"(C) describes the extent to which the improvements funded under this section contribute to the goals of—

"(i) reducing the number of fatalities on roadways;

"(ii) reducing the number of roadway-related injuries;

"(iii) reducing the occurrences of roadway-related crashes;

"(iv) mitigating the consequences of roadway-related crashes; and

"(v) reducing the occurrences of roadway-railroad grade crossing crashes.

"(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

"(3) TRANSPARENCY.—The Secretary shall make reports under subsection (c)(1)(D) available to the public through—

"(A) the Internet site of the Department; and

"(B) such other means as the Secretary determines to be appropriate.

"(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in such reports, surveys, schedules, lists, or other data.

"(g) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds made available under this section shall be 90 percent.

"(h) FUNDS FOR BICYCLE AND PEDESTRIAN SAFETY.—A State shall allocate for bicycle and pedestrian improvements in the State a percentage of the funds remaining after implementation of sections 130(e) and 150, in an amount that is equal to or greater than the percentage of all fatal crashes in the State involving bicyclists and pedestrians.

"(i) ROADWAY SAFETY IMPROVEMENTS FOR OLDER DRIVERS AND PEDESTRIANS.—For each of fiscal years 2005 through 2009, $23,465,723 is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for projects in all States to improve traffic signs and pavement markings in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled 'Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA-RD-01-103)' and dated October 2001.".

(2) ALLOCATIONS OF APPORTIONED FUNDS.—Section 133(d) of title 23, United States Code, is amended—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(C) in paragraph (2) (as redesignated by subparagraph (B))—

(i) in the first sentence of subparagraph (A)—

(I) by striking "subparagraphs (C) and (D)" and inserting "subparagraph (C)"; and

(II) by striking "80 percent" and inserting "90 percent";

(ii) in subparagraph (B), by striking "tobe" and inserting "to be";

(iii) by striking subparagraph (C);

(iv) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(v) in subparagraph (C) (as redesignated by clause (iv)), by adding a period at the end; and

(D) in paragraph (4)(A) (as redesignated by subparagraph (B)), by striking "paragraph (2)" and inserting "paragraph (1)".

(3) ADMINISTRATION.—Section 133(e) of title 23, United States Code, is amended in each of paragraphs (3)(B)(i), (5)(A), and (5)(B) of subsection (e), by striking "(d)(2)" each place it appears and inserting "(d)(1)".

(4) CONFORMING AMENDMENTS.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148 and inserting the following:

"148. Highway safety improvement program.".

(B) Section 104(g) of title 23, United States Code, is amended in the first sentence by striking "sections 130, 144, and 152 of this title" and inserting "sections 130 and 144".

(C) Section 126 of title 23, United States Code, is amended—

(i) in subsection (a), by inserting "under" after "State's apportionment"; and

(ii) in subsection (b)—

(I) in the first sentence, by striking "the last sentence of section 133(d)(1) or to section 104(f) or to section 133(d)(3)" and inserting "section 104(f) or 133(d)(2)"; and

(II) in the second sentence, by striking "or 133(d)(2)".

(D) Sections 154, 164, and 409 of title 23, United States Code, are amended by striking "152" each place it appears and inserting "148".

(b) Apportionment of Highway Safety Improvement Program Funds.—Section 104(b) of title 23, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting after "Improvement program," the following: "the highway safety improvement program,"; and

(2) by adding at the end the following:

"(5) Highway safety improvement program.—

"(A) In general.—For the highway safety improvement program, in accordance with the following formula:

"(i) 25 percent of the apportionments in the ratio that—

"(I) the total lane miles of Federal-aid highways in each State; bears to

"(II) the total lane miles of Federal-aid highways in all States.

"(ii) 40 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

"(iii) 35 percent of the apportionments in the ratio that—

"(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

"(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

"(B) Minimum apportionment.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.".

(c) Elimination of Hazards Relating to Railway-Highway Crossings.—

(1) Funds for railway-highway crossings.—Section 130(e) of title 23, United States Code, is amended by inserting before "At least" the following: "For each fiscal year, at least $187,725,786 of the funds authorized and expended under section 148 shall be available for the elimination of hazards and the installation of protective devices at railway-highway crossings.".

(2) Biennial reports to congress.—Section 130(g) of title 23, United States Code, is amended in the third sentence—

(A) by inserting "and the Committee on Commerce, Science, and Transportation," after "Public Works"; and

(B) by striking "not later than April 1 of each year" and inserting "every other year".

(3) Expenditure of funds.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

"(k) Expenditure of Funds.—Funds made available to carry out this section shall be—

"(1) available for expenditure on compilation and analysis of data in support of activities carried out under subsection (g); and

"(2) apportioned in accordance with section 104(b)(5).".

(d) Transition.—

(1) Implementation.—Except as provided in paragraph (2), the Secretary shall approve obligations of funds apportioned under section 104(b)(5) of title 23, United States Code (as added by subsection (b)) to carry out section 148 of that title, only if, not later than October 1 of the second fiscal year after the date of enactment of this Act, a State has developed and implemented a State strategic highway safety plan as required under section 148(c) of that title.

(2) Interim period.—

(A) In general.—Before October 1 of the second fiscal year after the date of enactment of this Act and until the date on which a State develops and implements a State strategic highway safety plan, the Secretary shall apportion funds to a State for the highway safety improvement program and the State may obligate funds apportioned to the State for the highway safety improvement program under section 148 for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(B) No strategic highway safety plan.—If a State has not developed a strategic highway safety plan by October 1 of the second fiscal year after the date of enactment of this Act, but certifies to the Secretary that progress is being made toward developing and implementing such a plan, the Secretary shall continue to apportion funds for 1 additional fiscal year for the highway safety improvement program under section 148 of title 23, United States Code, to the State, and the State may continue to obligate funds apportioned to the State under this section for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(C) Penalty.—If a State has not adopted a strategic highway safety plan by the date that is 2 years after the date of enactment of this Act, funds made available to the State under section 1101(6) shall be redistributed to other States in accordance with section 104(b)(3) of title 23, United States Code.

SEC. 1402. OPERATION LIFESAVER.

Section 104(d)(1) of title 23, United States Code, is amended—

(1) by striking "subsection (b)(3)" and inserting "subsection (b)(5)"; and

(2) by striking "$500,000" and inserting "$563,177".

SEC. 1403. LICENSE SUSPENSION.

Section 164(a) of title 23, United States Code, is amended by striking paragraph (3) and inserting the following:

"(3) License suspension.—The term 'license suspension' means—

"(A) the suspension of all driving privileges of an individual for the duration of the suspension period; or

"(B) a combination of suspension of all driving privileges of an individual for the first 90 days of the suspension period, followed by reinstatement of limited driving privileges requiring the individual to operate only motor vehicles equipped with an ignition interlock system or other device approved by the Secretary during the remainder of the suspension period.".

SEC. 1404. BUS AXLE WEIGHT EXEMPTION.

Section 1023 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; 105 Stat. 1951) is amended by striking subsection (h) and inserting the following:

"(h) Over-the-Road Bus and Public Transit Vehicle Exemption.—

"(1) In general.—The second sentence of section 127 of title 23, United States Code (relating to axle weight limitations for vehicles using the Dwight D. Eisenhower System of Interstate and Defense Highways), shall not apply to—

"(A) any over-the-road bus (as defined in section 301 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12181)); or

"(B) any vehicle that is regularly and exclusively used as an intrastate public agency transit passenger bus.

"(2) State action.—No State or political subdivision of a State, or any political authority of 2 or more States, shall impose any axle weight limitation on any vehicle described in paragraph (1) in any case in which such a vehicle is using the Dwight D. Eisenhower System of Interstate and Defense Highways.".

SEC. 1405. SAFE ROUTES TO SCHOOLS PROGRAM.

(a) In General.—Subchapter I of chapter I of title 23, United States Code, is amended by inserting after section 149 the following:

"§ 150. Safe routes to schools program

"(a) Definitions.—In this section:

"(1) Primary and secondary school.—The term 'primary and secondary school' means a school that provides education to children in any of grades kindergarten through 12.

"(2) Program.—The term 'program' means the safe routes to schools program established under subsection (b).

"(3) Vicinity of a school.—The term 'vicinity of a school' means the area within 2 miles of a primary or secondary school.

"(b) Establishment.—The Secretary shall establish and carry out a safe routes to school program for the benefit of children in primary and secondary schools in accordance with this section.

"(c) Purposes.—The purposes of the program shall be—

"(1) to enable and to encourage children to walk and bicycle to school;

"(2) to encourage a healthy and active lifestyle by making walking and bicycling to school safer and more appealing transportation alternatives; and

"(3) to facilitate the planning, development, and implementation of projects and activities that will improve safety in the vicinity of schools.

"(d) Eligible Recipients.—A State shall use amounts apportioned under this section to provide financial assistance to State, regional, and local agencies that demonstrate an ability to meet the requirements of this section.

"(e) Eligible Projects and Activities.—

"(1) Infrastructure-related projects.—

"(A) In general.—Amounts apportioned to a State under this section may be used for the planning, design, and construction of infrastructure-related projects to encourage walking and bicycling to school, including—

"(i) sidewalk improvements;

"(ii) traffic calming and speed reduction improvements;

"(iii) pedestrian and bicycle crossing improvements;

"(iv) on-street bicycle facilities;

"(v) off-street bicycle and pedestrian facilities;

"(vi) secure bicycle parking facilities;

"(vii) traffic signal improvements; and

“(viii) pedestrian-railroad grade crossing improvements.

“(B) LOCATION OF PROJECTS.—Infrastructure-related projects under subparagraph (A) may be carried out on—

“(i) any public road in the vicinity of a school; or

“(ii) any bicycle or pedestrian pathway or trail in the vicinity of a school.

“(2) BEHAVIORAL ACTIVITIES.—

“(A) IN GENERAL.—In addition to projects described in paragraph (1), amounts apportioned to a State under this section may be used for behavioral activities to encourage walking and bicycling to school, including—

“(i) public awareness campaigns and outreach to press and community leaders;

“(ii) traffic education and enforcement in the vicinity of schools; and

“(iii) student sessions on bicycle and pedestrian safety, health, and environment.

“(B) ALLOCATION.—Of the amounts apportioned to a State under this section for a fiscal year, not less than 10 percent shall be used for behavioral activities under this paragraph.

“(f) FUNDING.—

“(1) SET ASIDE.—Before apportioning amounts to carry out section 148 for a fiscal year, the Secretary shall set aside and use $65,704,024 to carry out this section.

“(2) APPORTIONMENT.—Amounts made available to carry out this section shall be apportioned to States in accordance with section 104(b)(5).

“(3) ADMINISTRATION OF AMOUNTS.—Amounts apportioned to a State under this section shall be administered by the State transportation department.

“(4) FEDERAL SHARE.—Except as provided in sections 120 and 130, the Federal share of the cost of a project or activity funded under this section shall be 90 percent.

“(5) PERIOD OF AVAILABILITY.—Notwithstanding section 118(b)(2), amounts apportioned under this section shall remain available until expended.”.

(b) CONFORMING AMENDMENTS.—The analysis for subchapter I of chapter 1 of title 23, United States Code is amended by inserting after the item relating to section 149 the following:

“150. Safe routes to school program.”.

SEC. 1406. PURCHASES OF EQUIPMENT.

(a) IN GENERAL.—Section 152 of title 23, United States Code is amended to read as follows:

“§ 152. Purchases of equipment

“(a) IN GENERAL.—Subject to subsection (b), a State carrying out a project under this chapter shall purchase device, tool or other equipment needed for the project only after completing and providing a written analysis demonstrating the cost savings associated with purchasing the equipment compared with renting the equipment from a qualified equipment rental provider before the project commences

“(b) APPLICABILITY.—This section shall apply to—

“(1) earth moving, road machinery, and material handling equipment, or any other item, with a purchase price in excess of $75,000; and

“(2) aerial work platforms with a purchase price in excess of $25,000.”.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 152 and inserting the following:

“152. Purchases of equipment.”.

SEC. 1407. WORKZONE SAFETY.

Section 358(b) of the National Highway System Designation Act of 1995 (109 Stat. 625) is amended by adding at the end the following:

“(7) Recommending all federally-assisted projects in excess of $15,000,000 to enter into contracts only with work zone safety services contractors, traffic control contractors, and trench safety and shoring contractors that carry general liability insurance in an amount not less than $15,000,000.

“(8) Recommending federally-assisted projects the costs of which exceed $15,000,000 to include work zone intelligent transportation systems that are—

“(A) provided by a qualified vendor; and

“(B) monitored continuously.

“(9) Recommending federally-assisted projects to fully fund not less than 5 percent of project costs for work zone safety and temporary traffic control measures, in addition to the cost of the project, which measures shall be provided by a qualified work zone safety or traffic control provider.

“(10) Ensuring that any recommendation made under any of paragraphs (7) through (9) provides for an exemption for applicability to a State, with respect to a project or class of projects, to the extent that a State notifies the Secretary in writing that safety is not expected to be adversely affected by nonapplication of the requirement to the project or class of projects.”.

SEC. 1408. WORKER INJURY PREVENTION AND FREE FLOW OF VEHICULAR TRAFFIC.

Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations—

(1) to decrease the probability of worker injury;

(2) to maintain the free flow of vehicular traffic by requiring workers whose duties place the workers on, or in close proximity to, a Federal-aid highway (as defined in section 101 of title 23, United States Code) to wear high-visibility clothing; and

(3) to require such other worker-safety measures for workers described in paragraph (2) as the Secretary determines appropriate.

SEC. 1409. OPEN CONTAINER REQUIREMENTS.

Section 154 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

“(c) TRANSFER OF FUNDS.—

“(1) IN GENERAL.—The Secretary shall withhold the applicable percentage for the fiscal year of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b), if a State has not enacted or is not enforcing a provision described in subsection (b), as follows:

“For:	**The applicable percentage is:**
Fiscal year 2008	2 percent.
Fiscal year 2009	2 percent.
Fiscal year 2010	2 percent.
Fiscal year 2011 and each subsequent fiscal year	2 percent.

“(2) RESTORATION.—If (during the 4-year period beginning on the date the apportionment for any State is reduced in accordance with this subsection) the Secretary determines that the State has enacted and is enforcing a provision described in subsection (b), the apportionment of the State shall be increased by an amount equal to the amount of the reduction made during the 4-year period.”.

SEC. 1410. SAFE INTERSECTIONS.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

“§ 39. Traffic signal preemption transmitters

“(a) OFFENSES.—

“(1) SALE.—A person who knowingly sells a traffic signal preemption transmitter in or affecting interstate or foreign commerce to a person who is not acting on behalf of a public agency or private corporation authorized by law to provide fire protection, law enforcement, emergency medical services, transit services, maintenance, or other services for a Federal, State, or local government entity, shall, notwithstanding section 3571(b), be fined not more than $10,000, imprisoned not more than 1 year, or both.

“(2) USE.—A person who makes unauthorized use of a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 6 months, or both.

“(b) DEFINITIONS.—In this section, the following definitions apply:

“(1) TRAFFIC SIGNAL PREEMPTION TRANSMITTER.—The term ‘traffic signal preemption transmitter’ means any mechanism that can change or alter a traffic signal's phase time or sequence.

“(2) UNAUTHORIZED USE.—

“(A) IN GENERAL.—The term ‘unauthorized use’ means use of a traffic signal preemption transmitter by a person who is not acting on behalf of a public agency or private corporation authorized by law to provide fire protection, law enforcement, emergency medical services, transit services, maintenance, or other services for a Federal, State, or local government entity.

“(B) EXCEPTION.—The term ‘unauthorized use’ does not apply to use of a traffic signal preemption transmitter for classroom or instructional purposes.”.

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

“39. Traffic signal preemption transmitters.”.

Subtitle E—Environmental Planning and Review

CHAPTER 1—TRANSPORTATION PLANNING

SEC. 1501. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO STATE AND METROPOLITAN TRANSPORTATION PLANNING.

(a) METROPOLITAN PLANNING.—Section 134(f) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D)—

(i) by inserting after “environment” the following: “(including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species)”; and

(ii) by inserting before the semicolon the following: “(including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the metropolitan area)”; and

(B) in subparagraph (G), by inserting “and efficient use” after “preservation”;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

“(2) SELECTION OF FACTORS.—After soliciting and considering any relevant public comments, the metropolitan planning organization shall determine which of the factors described in paragraph (1) are most appropriate for the metropolitan area to consider.”.

(b) Statewide Planning.—Section 135(c) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D)—

(i) by inserting after "environment" the following: "(including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species)"; and

(ii) by inserting before the semicolon the following: "(including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the State)"; and

(B) in subparagraph (G), by inserting "and efficient use" after "preservation";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) Selection of projects and strategies.—After soliciting and considering any relevant public comments, the State shall determine which of the projects and strategies described in paragraph (1) are most appropriate for the State to consider.".

SEC. 1502. CONSULTATION BETWEEN TRANSPORTATION AGENCIES AND RESOURCE AGENCIES IN TRANSPORTATION PLANNING.

(a) In General.—Section 134(g) of title 23, United States Code, is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(B) by inserting after subparagraph (A) the following:

"(B) Mitigation activities.—

"(i) In general.—A long-range transportation plan shall include a discussion of—

"(I) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

"(II) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(ii) Consultation.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.";

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(3) by inserting after paragraph (3) the following:

"(4) Consultation.—

"(A) In general.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

"(B) Issues.—The consultation shall involve—

"(i) comparison of transportation plans with State conservation plans or with maps, if available;

"(ii) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(iii) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.".

(b) Improved Consultation During State Transportation Planning.—

(1) In general.—Section 135(e)(2) of title 23, United States Code, is amended by adding at the end the following:

"(D) Consultation, comparison, and consideration.—

"(i) In general.—The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for—

"(I) land use management;

"(II) natural resources;

"(III) environmental protection;

"(IV) conservation; and

"(V) historic preservation.

"(ii) Comparison and consideration.—Consultation under clause (i) shall involve—

"(I) comparison of transportation plans to State and tribal conservation plans or maps, if available;

"(II) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(III) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.".

(2) Additional requirements.—Section 135(e) of title 23, United States Code, is amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) Mitigation activities.—

"(A) In general.—A long-range transportation plan shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetlands, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(B) Consultation.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

"(5) Transportation strategies.—A long-range transportation plan shall identify transportation strategies necessary to efficiently serve the mobility needs of people.".

SEC. 1503. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO TRANSPORTATION PROJECT PLANNING.

Section 109(c)(2) of title 23, United States Code, is amended—

(1) by striking "consider the results" and inserting "consider—

"(A) the results";

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(B) the publication entitled 'Flexibility in Highway Design' of the Federal Highway Administration;

"(C) 'Eight Characteristics of Process to Yield Excellence and the Seven Qualities of Excellence in Transportation Design' developed by the conference held during 1998 entitled 'Thinking Beyond the Pavement National Workshop on Integrating Highway Development with Communities and the Environment while Maintaining Safety and Performance'; and

"(D) any other material that the Secretary determines to be appropriate.".

SEC. 1504. PUBLIC INVOLVEMENT IN TRANSPORTATION PLANNING AND PROJECTS.

(a) Metropolitan Planning.—

(1) Participation by interested parties.—Section 134(g)(5) of title 23, United States Code (as redesignated by section 1502(a)(1)), is amended—

(A) by striking "Before approving" and inserting the following:

"(A) In general.—Before approving"; and

(B) by adding at the end the following:

"(B) Methods.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

"(i) hold any public meetings at convenient and accessible locations and times;

"(ii) employ visualization techniques to describe plans; and

"(iii) make public information available in electronically accessible format and means, such as the World Wide Web.".

(2) Publication of long-range transportation plans.—Section 134(g)(6)(i) of title 23, United States Code (as redesignated by section 1502(a)(1)), is amended by inserting before the semicolon the following: ", including (to the maximum extent practicable) in electronically accessible formats and means such as the World Wide Web".

(b) Statewide Planning.—

(1) Participation by interested parties.—Section 135(e)(3) of title 23, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B) Methods.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

"(i) hold any public meetings at convenient and accessible locations and times;

"(ii) employ visualization techniques to describe plans; and

"(iii) make public information available in electronically accessible format and means, such as the World Wide Web.".

(2) Publication of long-range transportation plans.—Section 135(e) of title 23, United States Code (as amended by section 1502(b)(2)), is amended by adding at the end the following:

"(8) Publication of long-range transportation plans.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.".

SEC. 1505. PROJECT MITIGATION.

(a) Mitigation for National Highway System Projects.—Section 103(b)(6)(M) of title 23, United States Code, is amended—

(1) by inserting "(i)" after "(M); and

(2) by adding at the end the following:

"(ii) State habitat, streams, and wetlands mitigation efforts under section 155.".

(b) Mitigation for Surface Transportation Program Projects.—Section 133(b)(11) of title 23, United States Code, is amended—

(1) by inserting "(A)" after "(11)"; and

(2) by adding at the end the following:

"(B) State habitat, streams, and wetlands mitigation efforts under section 155.".

(c) State Habitat, Streams, and Wetlands Mitigation Funds.—Section 155 of title 23, United States Code, is amended to read as follows:

"§ 155. State habitat, streams, and wetlands mitigation funds

"(a) Establishment.—A State should establish a habitat, streams, and wetlands mitigation fund (referred to in this section as a 'State fund').

"(b) Purpose.—The purpose of a State fund is to encourage efforts for habitat, streams, and wetlands mitigation in advance of or in conjunction with highway or transit projects to—

"(1) ensure that the best habitat, streams, and wetland mitigation sites now available are used; and

"(2) accelerate transportation project delivery by making high-quality habitat, streams, and wetland mitigation credits available when needed.

"(c) Funds.—A State may deposit into a State fund part of the funds apportioned to the State under—

"(1) section 104(b)(1) for the National Highway System; and

"(2) section 104(b)(3) for the surface transportation program.

"(d) Use.—

"(1) In general.—Amounts deposited in a State fund shall be used (in a manner consistent with this section) for habitat, streams, or wetlands mitigation related to 1 or more projects funded under this title, including a project under the transportation improvement program of the State developed under section 135(f).

"(2) Endangered species.—In carrying out this section, a State and cooperating agency shall give consideration to mitigation projects, on-site or off-site, that restore and preserve the best available sites to conserve biodiversity and habitat for—

"(A) Federal or State listed threatened or endangered species of plants and animals; and

"(B) plant or animal species warranting listing as threatened or endangered, as determined by the Secretary of the Interior in accordance with section 4(b)(3)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(3)(B)).

"(3) Mitigation in closed basins.—

"(A) In general.—A State may use amounts deposited in the State fund for projects to protect existing roadways from anticipated flooding of a closed basin lake, including—

"(i) construction—

"(I) necessary for the continuation of roadway services and the impoundment of water, as the State determines to be appropriate; or

"(II) for a grade raise to permanently restore a roadway the use of which is lost or reduced, or could be lost or reduced, as a result of an actual or predicted water level that is within 3 feet of causing inundation of the roadway in a closed lake basin;

"(ii) monitoring, studies, evaluations, design, or preliminary engineering relating to construction; and

"(iii) monitoring and evaluations relating to proposed construction.

"(B) Reimbursement.—The Secretary may permit a State that expends funds under subparagraph (A) to be reimbursed for the expenditures through the use of amounts made available under section 125(c)(1).

"(e) Consistency With Applicable Requirements.—Contributions from the State fund to mitigation efforts may occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations).".

(d) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 155 and inserting the following:

"155. State habitat, streams, and wetlands mitigation funds.".

CHAPTER 2—TRANSPORTATION PROJECT DEVELOPMENT PROCESS

SEC. 1511. TRANSPORTATION PROJECT DEVELOPMENT PROCESS.

(a) In General.—Chapter 3 of title 23, United States Code (as amended by section 1203(a)), is amended by inserting after section 325 the following:

"§ 326. Transportation project development process

"(a) Definitions.—In this section:

"(1) Agency.—The term 'agency' means any agency, department, or other unit of Federal, State, local, or federally recognized tribal government.

"(2) Environmental impact statement.—The term 'environmental impact statement' means a detailed statement of the environmental impacts of a project required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(3) Environmental review process.—

"(A) In general.—The term 'environmental review process' means the process for preparing, for a project—

"(i) an environmental impact statement; or

"(ii) any other document or analysis required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)

"(B) Inclusions.—The term 'environmental review process' includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(4) Project.—The term 'project' means any highway or transit project that requires the approval of the Secretary.

"(5) Project sponsor.—The term 'project sponsor' means an agency or other entity (including any private or public-private entity), that seeks approval of the Secretary for a project.

"(6) State transportation department.—The term 'State transportation department' means any statewide agency of a State with responsibility for transportation.

"(b) Process.—

"(1) Lead agency.—

"(A) In general.—The Department of Transportation shall be the lead Federal agency in the environmental review process for a project.

"(B) Joint lead agencies.—Nothing in this section precludes another agency from being a joint lead agency in accordance with regulations under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(C) Concurrence of project sponsor.—The lead agency may carry out the environmental review process in accordance with this section only with the concurrence of the project sponsor.

"(2) Request for process.—

"(A) In general.—A project sponsor may request that the lead agency carry out the environmental review process for a project or group of projects in accordance with this section.

"(B) Grant of request; public notice.—The lead agency shall—

"(i) grant a request under subparagraph (A); and

"(ii) provide public notice of the request.

"(3) Effective date.—The environmental review process described in this section may be applied to a project only after the date on which public notice is provided under subparagraph (B)(ii).

"(c) Roles and Responsibility of Lead Agency.—With respect to the environmental review process for any project, the lead agency shall have authority and responsibility to—

"(A) identify and invite cooperating agencies in accordance with subsection (d);

"(B) develop an agency coordination plan with review, schedule, and timelines in accordance with subsection (e);

"(C) determine the purpose and need for the project in accordance with subsection (f);

"(D) determine the range of alternatives to be considered in accordance with subsection (g);

"(E) convene dispute-avoidance and decision resolution meetings and related efforts in accordance with subsection (h);

"(F) take such other actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the project; and

"(G) prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is completed in accordance with this section and applicable Federal law.

"(d) Roles and Responsibilities of Cooperating Agencies.—

"(1) In general.—With respect to a project, each Federal agency shall carry out any obligations of the Federal agency in the environmental review process in accordance with this section and applicable Federal law.

"(2) Invitation.—

"(A) In general.—The lead agency shall—

"(i) identify, as early as practicable in the environmental review process for a project, any other agencies that may have an interest in the project, including—

"(I) agencies with jurisdiction over environmentally-related matters that may affect the project or may be required by law to conduct an environmental-related independent review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project; and

"(II) agencies with special expertise relevant to the project;

"(ii) invite the agencies identified in clause (i) to become cooperating agencies in the environmental review process for that project; and

"(iii) grant requests to become cooperating agencies from agencies not originally invited.

"(B) Responses.—The deadline for receipt of a response from an agency that receives an invitation under subparagraph (A)(ii)—

"(i) shall be 30 days after the date of receipt by the agency of the invitation; but

"(ii) may be extended by the lead agency for good cause.

"(3) Declining of invitations.—A Federal agency that is invited by the lead agency to participate in the environmental review process for a project shall be designated as a cooperating agency by the lead agency, unless the invited agency informs the lead agency in writing, by the deadline specified in the invitation, that the invited agency—

"(A) has no jurisdiction or authority with respect to the project;

"(B) has no expertise or information relevant to the project; and

"(C) does not intend to submit comments on the project.

"(4) Effect of designation.—Designation as a cooperating agency under this subsection shall not imply that the cooperating agency—

"(A) supports a proposed project; or

"(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.

"(5) Designations for categories of projects.—

"(A) IN GENERAL.—The Secretary may invite other agencies to become cooperating agencies for a category of projects.

"(B) DESIGNATION.—An agency may be designated as a cooperating agency for a category of projects only with the consent of the agency.

"(6) CONCURRENT REVIEWS.—Each Federal agency shall, to the maximum extent practicable—

"(A) carry out obligations of the Federal agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to carry out those obligations; and

"(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

"(e) DEVELOPMENT OF FLEXIBLE PROCESS AND TIMELINE.—

"(1) COORDINATION PLAN.—

"(A) IN GENERAL.—The lead agency shall establish a coordination plan, which may be incorporated into a memorandum of understanding, to coordinate agency and public participation in and comment on the environmental review process for a project or category of projects.

"(B) WORKPLAN.—

"(i) IN GENERAL.—The lead agency shall develop, as part of the coordination plan, a workplan for completing the collection, analysis, and evaluation of baseline data and future impacts modeling necessary to complete the environmental review process, including any data, analyses, and modeling necessary for related permits, approvals, reviews, or studies required for the project under other laws.

"(ii) CONSULTATION.—In developing the workplan under clause (i), the lead agency shall consult with—

"(I) each cooperating agency for the project;

"(II) the State in which the project is located; and

"(III) if the State is not the project sponsor, the project sponsor.

"(C) SCHEDULE.—

"(i) IN GENERAL.—The lead agency shall establish as part of the coordination plan, after consultation with each cooperating agency for the project and with the State in which the project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the project.

"(ii) FACTORS FOR CONSIDERATION.—In establishing the schedule, the lead agency shall consider factors such as—

"(I) the responsibilities of cooperating agencies under applicable laws;

"(II) resources available to the cooperating agencies;

"(III) overall size and complexity of a project;

"(IV) the overall schedule for and cost of a project; and

"(V) the sensitivity of the natural and historic resources that could be affected by the project.

"(D) CONSISTENCY WITH OTHER TIME PERIODS.—A schedule under subparagraph (C) shall be consistent with any other relevant time periods established under Federal law.

"(E) MODIFICATION.—The lead agency may—

"(i) lengthen a schedule established under subparagraph (C) for good cause; and

"(ii) shorten a schedule only with the concurrence of the affected cooperating agencies.

"(F) DISSEMINATION.—A copy of a schedule under subparagraph (C), and of any modifications to the schedule, shall be—

"(i) provided to all cooperating agencies and to the State transportation department of the State in which the project is located (and, if the State is not the project sponsor, to the project sponsor); and

"(ii) made available to the public.

"(2) COMMENTS AND TIMELINES.—

"(A) IN GENERAL.—A schedule established under paragraph (1)(C) shall include—

"(i) opportunities for comment, deadline for receipt of any comments submitted, deadline for lead agency response to comments; and

"(ii) except as otherwise provided under paragraph (1)—

"(I) an opportunity to comment by agencies and the public on a draft or final environmental impact statement for a period of not more than 60 days longer than the minimum period required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(II) for all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of not more than the longer of—

"(aa) 30 days after the final day of the minimum period required under Federal law (including regulations), if available; or

"(bb) if a minimum period is not required under Federal law (including regulations), 30 days.

"(B) EXTENSION OF COMMENT PERIODS.—The lead agency may extend a period of comment established under this paragraph for good cause.

"(C) LATE COMMENTS.—A comment concerning a project submitted under this paragraph after the date of termination of the applicable comment period or extension of a comment period shall not be eligible for consideration by the lead agency unless the lead agency or project sponsor determines there was good cause for the delay or the lead agency is required to consider significant new circumstances or information in accordance with sections 1501.7 and 1502.9 of title 40, Code of Federal Regulations.

"(D) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project, or 180 days after the date on which an application was submitted for the permit or license, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

"(i) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

"(ii) every 60 days thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

"(3) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law (including a regulation).

"(f) DEVELOPMENT OF PROJECT PURPOSE AND NEED STATEMENT.—

"(1) IN GENERAL.—With respect to the environmental review process for a project, the purpose and need for the project shall be defined in accordance with this subsection.

"(2) AUTHORITY.—The lead agency shall define the purpose and need for a project, including the transportation objectives and any other objectives intended to be achieved by the project.

"(3) INVOLVEMENT OF COOPERATING AGENCIES AND THE PUBLIC.—Before determining the purpose and need for a project, the lead agency shall solicit for 30 days, and consider, any relevant comments on the draft statement of purpose and need for a proposed project received from the public and cooperating agencies.

"(4) EFFECT ON OTHER REVIEWS.—For the purpose of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other law requiring an agency that is not the lead agency to determine or consider a project purpose or project need, such an agency acting, permitting, or approving under, or otherwise applying, Federal law with respect to a project shall adopt the determination of purpose and need for the project made by the lead agency.

"(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.

"(6) CONTENTS.—

"(A) IN GENERAL.—The statement of purpose and need shall include a clear statement of the objectives that the proposed project is intended to achieve.

"(B) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter existing standards for defining the purpose and need of a project.

"(7) FACTORS TO CONSIDER.—The lead agency may determine that any of the following factors and documents are appropriate for consideration in determining the purpose of and need for a project:

"(A) Transportation plans and related planning documents developed through the statewide and metropolitan transportation planning process under sections 134 and 135.

"(B) Land use plans adopted by units of State, local, or tribal government (or, in the case of Federal land, by the applicable Federal land management agencies).

"(C) Economic development plans adopted by—

"(i) units of State, local, or tribal government; or

"(ii) established economic development planning organizations or authorities.

"(D) Environmental protection plans, including plans for the protection or treatment of—

"(i) air quality;

"(ii) water quality and runoff;

"(iii) habitat needs of plants and animals;

"(iv) threatened and endangered species;

"(v) invasive species;

"(vi) historic properties; and

"(vii) other environmental resources.

"(E) Any publicly available plans or policies relating to the national defense, national security, or foreign policy of the United States.

"(g) DEVELOPMENT OF PROJECT ALTERNATIVES.—

"(1) IN GENERAL.—With respect to the environmental review process for a project, the alternatives shall be determined in accordance with this subsection.

"(2) AUTHORITY.—The lead agency shall determine the alternatives to be considered for a project.

"(3) INVOLVEMENT OF COOPERATING AGENCIES AND THE PUBLIC.—

"(A) IN GENERAL.—Before determining the alternatives for a project, the lead agency shall solicit for 30 days and consider any relevant comments on the proposed alternatives received from the public and cooperating agencies.

"(B) ALTERNATIVES.—The lead agency shall consider—

"(i) alternatives that meet the purpose and need of the project; and

"(ii) the alternative of no action.

"(C) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter the existing standards for determining the range of alternatives.

"(4) EFFECT ON OTHER REVIEWS.—Any other agency acting under or applying Federal law with respect to a project shall consider only the alternatives determined by the lead agency.

"(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.

"(6) FACTORS TO CONSIDER.—The lead agency may determine that any of the following factors and documents are appropriate for consideration in determining the alternatives for a project:

"(A) The overall size and complexity of the proposed action.

"(B) The sensitivity of the potentially affected resources.

"(C) The overall schedule and cost of the project.

"(D) Transportation plans and related planning documents developed through the statewide and metropolitan transportation planning process under sections 134 and 135 of title 23 of the United States Code.

"(E) Land use plans adopted by units of State, local, or tribal government (or, in the case of Federal land, by the applicable Federal land management agencies).

"(F) Economic development plans adopted by—

"(i) units of State, local, or tribal government; or

"(ii) established economic development planning organizations or authorities.

"(G) environmental protection plans, including plans for the protection or treatment of—

"(i) air quality;

"(ii) water quality and runoff;

"(iii) habitat needs of plants and animals;

"(iv) threatened and endangered species;

"(v) invasive species;

"(vi) historic properties; and

"(vii) other environmental resources.

"(H) Any publicly available plans or policies relating to the national defense, national security, or foreign policy of the United States.

"(h) PROMPT ISSUE IDENTIFICATION AND RESOLUTION PROCESS.—

"(1) IN GENERAL.—The lead agency, the project sponsor, and the cooperating agencies shall work cooperatively, in accordance with this section, to identify and resolve issues that could—

"(A) delay completion of the environmental review process; or

"(B) result in denial of any approvals required for the project under applicable laws.

"(2) LEAD AGENCY RESPONSIBILITIES.—

"(A) IN GENERAL.—The lead agency, with the assistance of the project sponsor, shall make information available to the cooperating agencies, as early as practicable in the environmental review process, regarding—

"(i) the environmental and socioeconomic resources located within the project area; and

"(ii) the general locations of the alternatives under consideration.

"(B) BASIS FOR INFORMATION.—Information about resources in the project area may be based on existing data sources, including geographic information systems mapping.

"(3) COOPERATING AGENCY RESPONSIBILITIES.—

"(A) IN GENERAL.—Based on information received from the lead agency, cooperating agencies shall promptly identify to the lead agency any major issues of concern regarding the potential environmental or socioeconomic impacts of a project.

"(B) MAJOR ISSUES OF CONCERN.—A major issue of concern referred to in subparagraph (A) may include any issue that could substantially delay or prevent an agency from granting a permit or other approval that is needed for a project, as determined by a cooperating agency.

"(4) ISSUE RESOLUTION.—On identification of a major issue of concern under paragraph (3), or at any time upon the request of a project sponsor or the Governor of a State, the lead agency shall promptly convene a meeting with representatives of each of the relevant cooperating agencies, the project sponsor, and the Governor to address and resolve the issue.

"(5) NOTIFICATION.—If a resolution of a major issue of concern under paragraph (4) cannot be achieved by the date that is 30 days after the date on which a meeting under that paragraph is convened, the lead agency shall provide notification of the failure to resolve the major issue of concern to—

"(A) the heads of all cooperating agencies;

"(B) the project sponsor;

"(C) the Governor involved;

"(D) the Committee on Environment and Public Works of the Senate;

"(E) the Committee on Transportation and Infrastructure of the House of Representatives; and

"(F) the Council on Environmental Quality.

"(i) PERFORMANCE MEASUREMENT.—

"(1) PROGRESS REPORTS.—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review process.

"(2) MINIMUM REQUIREMENTS.—The program shall include, at a minimum—

"(A) the establishment of criteria for measuring consideration of—

"(i) State and metropolitan planning, project planning, and design criteria; and

"(ii) environmental processing times and costs;

"(B) the collection of data to assess performance based on the established criteria; and

"(C) the annual reporting of the results of the performance measurement studies.

"(3) INVOLVEMENT OF THE PUBLIC AND COOPERATING AGENCIES.—

"(A) IN GENERAL.—The Secretary shall biennially conduct a survey of agencies participating in the environmental review process under this section to assess the expectations and experiences of each surveyed agency with regard to the planning and environmental review process for projects reviewed under this section.

"(B) PUBLIC PARTICIPATION.—In conducting the survey, the Secretary shall solicit comments from the public.

"(j) ASSISTANCE TO AFFECTED FEDERAL AND STATE AGENCIES.—

"(1) IN GENERAL.—The Secretary may approve a request by a State or recipient to provide funds made available under this title for a highway project, or made available under chapter 53 of title 49 for a mass transit project, to agencies participating in the coordinated environmental review process established under this section in order to provide the resources necessary to meet any time limits established under this section.

"(2) AMOUNTS.—Such requests under paragraph (1) shall be approved only—

"(A) for such additional amounts as the Secretary determines are necessary for the affected Federal and State agencies to meet the time limits for environmental review; and

"(B) if those time limits are less than the customary time necessary for that review.

"(k) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

"(1) JUDICIAL REVIEW.—Nothing in this section shall affect the reviewability of any final Federal agency action in any United States district court or State court.

"(2) SAVINGS CLAUSE.—Nothing in this section shall affect—

"(A) the applicability of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental statute; or

"(B) the responsibility of any Federal officer to comply with or enforce such a statute.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 325 (as added by section 1203(f)) the following:

"326. Transportation project development process.".

(2) Section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232) is repealed.

(c) EXISTING ENVIRONMENTAL REVIEW PROCESS.—Nothing in this section affects any existing State environmental review process, program, agreement, or funding arrangement approved by the Secretary under section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232; 23 U.S.C. 109 note).

SEC. 1512. ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1511(a)), is amended by inserting after section 326 the following:

"§ 327. Assumption of responsibility for categorical exclusions

"(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

"(1) IN GENERAL.—The Secretary may assign, and a State may assume, responsibility for determining whether certain designated activities are included within classes of action identified in regulation by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

"(2) SCOPE OF AUTHORITY.—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary and only for types of activities specifically designated by the Secretary.

"(3) Criteria.—The criteria under paragraph (2) shall include provisions for public availability of information consistent with section 552 of title 5 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(b) Other Applicable Federal Laws.—

"(1) In general.—If a State assumes responsibility under subsection (a), the Secretary may also assign and the State may assume all or part of the responsibilities of the Secretary for environmental review, consultation, or other related actions required under any Federal law applicable to activities that are classified by the Secretary as categorical exclusions, with the exception of government-to-government consultation with Indian tribes, subject to the same procedural and substantive requirements as would be required if that responsibility were carried out by the Secretary.

"(2) Sole responsibility.—A State that assumes responsibility under paragraph (1) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.

"(c) Memoranda of Understanding.—

"(1) In general.—The Secretary and the State, after providing public notice and opportunity for comment, shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which the assignments are made, including establishment of the circumstances under which the Secretary would reassume responsibility for categorical exclusion determinations.

"(2) Term.—A memorandum of understanding—

"(A) shall have term of not more than 3 years; and

"(B) shall be renewable.

"(3) Acceptance of jurisdiction.—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.

"(4) Monitoring.—The Secretary shall—

"(A) monitor compliance by the State with the memorandum of understanding and the provision by the State of financial resources to carry out the memorandum of understanding; and

"(B) take into account the performance by the State when considering renewal of the memorandum of understanding.

"(d) Termination.—The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State.

"(e) State Agency Deemed To Be Federal Agency.—A State agency that is assigned a responsibility under a memorandum of understanding shall be deemed to be a Federal agency for the purposes of the Federal law under which the responsibility is exercised.".

(b) Conforming Amendment.—The analysis for chapter 3 of title 23, United States Code (as amended by section 1511(b)), is amended by inserting after the item relating to section 326 the following:

"327. Assumption of responsibility for categorical exclusions.".

SEC. 1513. SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM.

(a) In General.—Chapter 3 of title 23, United States Code (as amended by section 1512(a)), is amended by inserting after section 327 the following:

"§ 328. Surface transportation project delivery pilot program

"(a) Establishment.—

"(1) In general.—The Secretary shall carry out a surface transportation project delivery pilot program (referred to in this section as the 'program').

"(2) Assumption of responsibility.—

"(A) In general.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to 1 or more highway projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) Additional responsibility.—If a State assumes responsibility under subparagraph (A)—

"(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific project; but

"(ii) the Secretary may not assign—

"(I) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506); or

"(II) any responsibility imposed on the Secretary by section 134 or 135.

"(C) Procedural and substantive requirements.—A State shall assume responsibility under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.

"(D) Federal responsibility.—Any responsibility of the Secretary not explicitly assumed by the State by written agreement under this section shall remain the responsibility of the Secretary.

"(E) No effect on authority.—Nothing in this section preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, under applicable law (including regulations) with respect to a project.

"(b) State Participation.—

"(1) Number of participating states.—The Secretary may permit not more than 5 States (including the State of Oklahoma) to participate in the program.

"(2) Application.—Not later than 270 days after the date of enactment of this section, the Secretary shall promulgate regulations that establish requirements relating to information required to be contained in any application of a State to participate in the program, including, at a minimum—

"(A) the projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

"(B) verification of the financial resources necessary to carry out the authority that may be granted under the program; and

"(C) evidence of the notice and solicitation of public comment by the State relating to participation of the State in the program, including copies of comments received from that solicitation.

"(3) Public notice.—

"(A) In general.—Each State that submits an application under this subsection shall give notice of the intent of the State to participate in the program not later than 30 days before the date of submission of the application.

"(B) Method of notice and solicitation.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the State.

"(4) Selection criteria.—The Secretary may approve the application of a State under this section only if—

"(A) the regulatory requirements under paragraph (2) have been met;

"(B) the Secretary determines that the State has the capability, including financial and personnel, to assume the responsibility; and

"(C) the head of the State agency having primary jurisdiction over highway matters enters into a written agreement with the Secretary described in subsection (c).

"(5) Other federal agency views.—If a State applies to assume a responsibility of the Secretary that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency before approving the application.

"(c) Written Agreement.—A written agreement under this section shall—

"(1) be executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for highway construction;

"(2) be in such form as the Secretary may prescribe;

"(3) provide that the State—

"(A) agrees to assume all or part of the responsibilities of the Secretary described in subsection (a);

"(B) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State;

"(C) certifies that State laws (including regulations) are in effect that—

"(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

"(ii) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and

"(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed.

"(d) Jurisdiction.—

"(1) In general.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.

"(2) Legal standards and requirements.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the Secretary had the Secretary taken the actions in question.

"(3) Intervention.—The Secretary shall have the right to intervene in any action described in paragraph (1).

"(e) Effect of Assumption of Responsibility.—A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in subsection (i).

"(f) Limitations on Agreements.—Nothing in this section permits a State to assume any rulemaking authority of the Secretary under any Federal law.

"(g) AUDITS.—

"(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c)(1) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—

"(A) semiannual audits during each of the first 2 years of State participation; and

"(B) annual audits during each subsequent year of State participation.

"(2) PUBLIC AVAILABILITY AND COMMENT.—

"(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.

"(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the Secretary shall respond to public comments received under subparagraph (A).

"(h) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.

"(i) TERMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the program shall terminate on the date that is 6 years after the date of enactment of this section.

"(2) TERMINATION BY SECRETARY.—The Secretary may terminate the participation of any State in the program if—

"(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

"(B) the Secretary provides to the State—

"(i) notification of the determination of noncompliance; and

"(ii) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

"(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by Secretary.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code (as amended by section 1512(b)), is amended by inserting after the item relating to section 327 the following:

"328. Surface transportation project delivery pilot program.".

SEC. 1514. PARKS, RECREATION AREAS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.

(a) PROGRAMS AND PROJECTS WITH DE MINIMIS IMPACTS.—

(1) TITLE 23.—Section 138 of title 23, United States Code, is amended—

(A) in the first sentence, by striking "It is hereby" and inserting the following:

"(a) DECLARATION OF POLICY.—It is"; and

(B) by adding at the end the following:

"(b) DE MINIMIS IMPACTS.—

"(1) REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) or (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

"(B) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

"(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

"(i) the transportation program or project will have no adverse effect on the historic site; or

"(ii) there will be no historic properties affected by the transportation program or project;

"(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation, if participating in the consultation); and

"(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

"(3) PARKS, RECREATION AREAS, AND WILDLIFE AND WATERFOWL REFUGES.—With respect to parks, recreation areas, and wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (including public notice and opportunity for public review and comment), that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

"(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.".

(b) CLARIFICATION OF EXISTING STANDARDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall (in consultation with affected agencies and interested parties) promulgate regulations that clarify the factors to be considered and the standards to be applied in determining the prudence and feasibility of alternatives under section 138 of title 23 and section 303 of title 49, United States Code.

(2) REQUIREMENTS.—The regulations—

(A) shall clarify the application of the legal standards to a variety of different types of transportation programs and projects depending on the circumstances of each case; and

(B) may include, as appropriate, examples to facilitate clear and consistent interpretation by agency decisionmakers.

(c) IMPLEMENTATION STUDY.—

(1) IN GENERAL.—The Secretary shall—

(A) conduct a study on the implementation of this section and the amendments made by this section; and

(B) commission an independent review of the study plan and methodology, and any associated conclusions, by the Transportation Research Board of the National Academy of Sciences.

(2) COMPONENTS.—In conducting the study, the Secretary shall evaluate—

(A) the processes developed under this section and the amendments made by this section and the efficiencies that may result;

(B) the post-construction effectiveness of impact mitigation and avoidance commitments adopted as part of projects conducted under this section and the amendments made by this section; and

(C) the quantity of projects with impacts that are considered de minimis under this section and the amendments made by this section, including information on the location, size, and cost of the projects.

(3) REPORT REQUIREMENT.—The Secretary shall prepare—

(A) not earlier than the date that is 3 years after the date of enactment of this Act, a report on the results of the study conducted under this subsection; and

(B) not later than March 1, 2010, an update on the report required under subparagraph (A).

(4) REPORT RECIPIENTS.—The Secretary shall—

(A) submit the report, review of the report, and update required under paragraph (3) to—

(i) the appropriate committees of Congress;

(ii) the Secretary of the Interior; and

(iii) the Advisory Council on Historic Preservation; and

(B) make the report and update available to the public.

SEC. 1515. REGULATIONS.

Except as provided in section 1513, not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations necessary to implement the amendments made by chapter 1 and this chapter.

CHAPTER 3—MISCELLANEOUS

SEC. 1521. CRITICAL REAL PROPERTY ACQUISITION.

Section 108 of title 23, United States Code, is amended by adding at the end the following:

"(d) CRITICAL REAL PROPERTY ACQUISITION.—

"(1) IN GENERAL.—Subject to paragraph (2), funds apportioned to a State under this title may be used to pay the costs of acquiring any real property that is determined to be critical under paragraph (2) for a project proposed for funding under this title.

"(2) REIMBURSEMENT.—The Federal share of the costs referred to in paragraph (1) shall be eligible for reimbursement out of funds apportioned to a State under this title if, before the date of acquisition—

"(A) the Secretary determines that the property is offered for sale on the open market;

"(B) the Secretary determines that in acquiring the property, the State will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.); and

"(C) the State determines that immediate acquisition of the property is critical because—

"(i) based on an appraisal of the property, the value of the property is increasing significantly;

"(ii) there is an imminent threat of development or redevelopment of the property; and

"(iii) the property is necessary for the implementation of the goals stated in the proposal for the project.

"(3) APPLICABLE LAW.—An acquisition of real property under this section shall be considered to be an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

"(4) ENVIRONMENTAL REVIEW.—

"(A) IN GENERAL.—A project proposed to be conducted under this title shall not be conducted on property acquired under paragraph (1) until all required environmental reviews for the project have been completed.

"(B) EFFECT ON CONSIDERATION OF PROJECT ALTERNATIVES.—The number of critical acquisitions of real property associated with a project shall not affect the consideration of project alternatives during the environmental review process.

"(5) PROCEEDS FROM THE SALE OR LEASE OF REAL PROPERTY.—Section 156(c) shall not apply to the sale, use, or lease of any real property acquired under paragraph (1).".

SEC. 1522. PLANNING CAPACITY BUILDING INITIATIVE.

Section 104 of title 23, United States Code, is amended by adding at the end the following:

"(m) PLANNING CAPACITY BUILDING INITIATIVE.—

"(1) IN GENERAL.—The Secretary shall carry out a planning capacity building initiative to support enhancements in transportation planning to—

"(A) strengthen the processes and products of metropolitan and statewide transportation planning under this title;

"(B) enhance tribal capacity to conduct joint transportation planning under chapter 2;

"(C) participate in the metropolitan and statewide transportation planning programs under this title; and

"(D) increase the knowledge and skill level of participants in metropolitan and statewide transportation.

"(2) PRIORITY.—The Secretary shall give priority to planning practices and processes that support—

"(A) the transportation elements of homeland security planning, including—

"(i) training and best practices relating to emergency evacuation;

"(ii) developing materials to assist areas in coordinating emergency management and transportation officials; and

"(iii) developing training on how planning organizations may examine security issues;

"(B) performance-based planning, including—

"(i) data and data analysis technologies to be shared with States, metropolitan planning organizations, local governments, and nongovernmental organizations that—

"(I) participate in transportation planning;

"(II) use the data and data analysis to engage in metropolitan, tribal, or statewide transportation planning;

"(III) involve the public in the development of transportation plans, projects, and alternative scenarios; and

"(IV) develop strategies to avoid, minimize, and mitigate the impacts of transportation facilities and projects; and

"(ii) improvement of the quality of congestion management systems, including the development of—

"(I) a measure of congestion;

"(II) a measure of transportation system reliability; and

"(III) a measure of induced demand;

"(C) safety planning, including—

"(i) development of State strategic safety plans consistent with section 148;

"(ii) incorporation of work zone safety into planning; and

"(iii) training in the development of data systems relating to highway safety;

"(D) operations planning, including—

"(i) developing training of the integration of transportation system operations and management into the transportation planning process; and

"(ii) training and best practices relating to regional concepts of operations;

"(E) freight planning, including—

"(i) modeling of freight at a regional and statewide level; and

"(ii) techniques for engaging the freight community with the planning process;

"(F) air quality planning, including—

"(i) assisting new and existing nonattainment and maintenance areas in developing the technical capacity to perform air quality conformity analysis;

"(ii) providing training on areas such as modeling and data collection to support air quality planning and analysis;

"(iii) developing concepts and techniques to assist areas in meeting air quality performance timeframes; and

"(iv) developing materials to explain air quality issues to decisionmakers and the public; and

"(G) integration of environment and planning.

"(3) USE OF FUNDS.—The Secretary shall use amounts made available under paragraph (4) to make grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local agency, federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education for research, program development, information collection and dissemination, and technical assistance.

"(4) SET-ASIDE.—

"(A) IN GENERAL.—On October 1 of each fiscal year, of the funds made available under subsection (a), the Secretary shall set aside $3,754,515 to carry out this subsection.

"(B) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using funds made available under subparagraph (A) shall be 100 percent.

"(C) AVAILABILITY.—Funds made available under subparagraph (A) shall remain available until expended.".

SEC. 1523. INTERMODAL PASSENGER FACILITIES.

(a) IN GENERAL.—Chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

§5571. Policy and purposes

"(a) DEVELOPMENT AND ENHANCEMENT OF INTERMODAL PASSENGER FACILITIES.—It is in the economic interest of the United States to improve the efficiency of public surface transportation modes by ensuring their connection with and access to intermodal passenger terminals, thereby streamlining the transfer of passengers among modes, enhancing travel options, and increasing passenger transportation operating efficiencies.

"(b) GENERAL PURPOSES.—The purposes of this subchapter are to accelerate intermodal integration among North America's passenger transportation modes through—

"(1) ensuring intercity public transportation access to intermodal passenger facilities;

"(2) encouraging the development of an integrated system of public transportation information; and

"(3) providing intercity bus intermodal passenger facility grants.

§5572. Definitions

"In this subchapter—

"(1) 'capital project' means a project for—

"(A) acquiring, constructing, improving, or renovating an intermodal facility that is related physically and functionally to intercity bus service and establishes or enhances coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, seaports, and the National Highway System, such as physical infrastructure associated with private bus operations at existing and new intermodal facilities, including special lanes, curb cuts, ticket kiosks and counters, baggage and package express storage, employee parking, office space, security, and signage; and

"(B) establishing or enhancing coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, and the National Highway System through an integrated system of public transportation information.

"(2) 'commuter service' means service designed primarily to provide daily work trips within the local commuting area.

"(3) 'intercity bus service' means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available and may include package express service, if incidental to passenger transportation, but does not include air, commuter, water or rail service.

"(4) 'intermodal passenger facility' means passenger terminal that does, or can be modified to, accommodate several modes of transportation and related facilities, including some or all of the following: intercity rail, intercity bus, commuter rail, intracity rail transit and bus transportation, airport limousine service and airline ticket offices, rent-a-car facilities, taxis, private parking, and other transportation services.

"(5) 'local governmental authority' includes—

"(A) a political subdivision of a State;

"(B) an authority of at least one State or political subdivision of a State;

"(C) an Indian tribe; and

"(D) a public corporation, board, or commission established under the laws of the State.

"(6) 'owner or operator of a public transportation facility' means an owner or operator of intercity-rail, intercity-bus, commuter-rail, commuter-bus, rail-transit, bus-transit, or ferry services.

"(7) 'recipient' means a State or local governmental authority or a nonprofit organization that receives a grant to carry out this section directly from the Federal government.

"(8) 'Secretary' means the Secretary of Transportation.

"(9) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

"(10) 'urban area' means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

"§5573. Assurance of access to intermodal passenger facilities

"Intercity buses and other modes of transportation shall, to the maximum extent practicable, have access to publicly funded intermodal passenger facilities, including those passenger facilities seeking funding under section 5574.

"§5574. Intercity bus intermodal passenger facility grants

"(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants under this section to recipients in financing a capital project only if the Secretary finds that the proposed project is justified and has adequate financial commitment.

"(b) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

"(c) Share of Net Project Costs.—A grant shall not exceed 50 percent of the net project cost, as determined by the Secretary.

"(d) Regulations.—The Secretary may promulgate such regulations as are necessary to carry out this section.

"§ 5575. Funding

"(a) Highway Account.—

"(1) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $9,386,289 for each of fiscal years 2005 through 2009.

"(2) The funding made available under paragraph (1) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

"(b) Period of Availability.—Amounts made available under subsection (a) shall remain available until expended.".

(b) Conforming Amendment.—The chapter analysis for chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

Sec.
"5571. Policy and Purposes.
"5572. Definitions.
"5573. Assurance of access to intermodal facilities.
"5574. Intercity bus intermodal facility grants.
"5575. Funding.".

Subtitle F—Environment

SEC. 1601. ENVIRONMENTAL RESTORATION AND POLLUTION ABATEMENT; CONTROL OF INVASIVE PLANT SPECIES AND ESTABLISHMENT OF NATIVE SPECIES.

(a) Modification to NHS/STP for Environmental Restoration, Pollution Abatement, and Invasive Species.—

(1) Modifications to national highway system.—Section 103(b)(6) of title 23, United States Code, is amended by adding at the end the following:

"(Q) Environmental restoration and pollution abatement in accordance with section 165.

"(R) Control of invasive plant species and establishment of native species in accordance with section 166.".

(2) Modifications to surface transportation program.—Section 133(b) of title 23, is amended by striking paragraph (14) and inserting the following:

"(14) Environmental restoration and pollution abatement in accordance with section 165.

"(15) Control of invasive plant species and establishment of native species in accordance with section 166.".

(b) Eligible Activities.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 165. Eligibility for environmental restoration and pollution abatement

"(a) In General.—Subject to subsection (b), environmental restoration and pollution abatement to minimize or mitigate the impacts of any transportation project funded under this title (including retrofitting and construction of storm water treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341, 1342)) may be carried out to address water pollution or environmental degradation 'caused wholly or partially by a transportation facility.

"(b) Maximum Expenditure.—In a case in which a transportation facility is undergoing reconstruction, rehabilitation, resurfacing, or restoration, the expenditure of funds under this section for environmental restoration or pollution abatement described in subsection (a) shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration of the facility.

"§ 166. Control of invasive plant species and establishment of native species

"(a) Definitions.—In this section:

"(1) Invasive plant species—The term 'invasive plant species' means a nonindigenous species the introduction of which causes or is likely to cause economic or environmental harm or harm to human health.

"(2) Native plant species.—The term 'native plant species' means, with respect to a particular ecosystem, a species that, other than as result of an introduction, historically occurred or currently occurs in that ecosystem.

"(b) Control of Species.—

"(1) In general.—In accordance with all applicable Federal law (including regulations), funds made available to carry out this section may be used for—

"(A) participation in the control of invasive plant species; and

"(B) the establishment of native species;

if such efforts are related to transportation projects funded under this title.

"(2) Included activities.—The participation and establishment under paragraph (1) may include—

"(A) participation in statewide inventories of invasive plant species and desirable plant species;

"(B) regional native plant habitat conservation and mitigation;

"(C) native revegetation;

"(D) elimination of invasive species to create fuel breaks for the prevention and control of wildfires; and

"(E) training.

"(3) Contributions.—

"(A) In general.—Subject to subparagraph (B), an activity described in paragraph (1) may be carried out concurrently with, in advance of, or following the construction of a project funded under this title.

"(B) Condition for activities conducted in advance of project construction.—An activity described in paragraph (1) may be carried out in advance of construction of a project only if the activity is carried out in accordance with all applicable requirements of Federal law (including regulations) and State transportation planning processes.".

(c) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1406(b)), is amended by adding at the end the following:

"165. Eligibility for environmental restoration and pollution abatement.
"166. Control of invasive plant species and establishment of native species.".

SEC. 1602. NATIONAL SCENIC BYWAYS PROGRAM.

(a) In General.—Section 162 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "the roads as" and all that follows and inserting "the roads as—

"(A) National Scenic Byways;

"(B) All-American Roads; or

"(C) America's Byways.";

(B) in paragraph (3)—

(i) by striking "To be considered" and inserting the following:

"(A) In general.—To be considered";

(ii) in subparagraph (A) (as designated by clause (i))—

(I) by inserting ", an Indian tribe, " after "nominated by a State"; and

(II) by inserting ", an Indian scenic byway," after "designated as a State scenic byway"; and

(iii) by adding at the end the following:

"(B) Nomination by Indian tribes.—An Indian tribe may nominate a road as a National Scenic Byway under subparagraph (A) only if a Federal land management agency (other than the Bureau of Indian Affairs), a State, or a political subdivision of a State does not have—

"(i) jurisdiction over the road; or

"(ii) responsibility for managing the road.

"(C) Safety.—Indian tribes shall maintain the safety and quality of roads nominated by the Indian tribe under subparagraph (A)."; and

(C) by adding at the end the following:

"(4) Reciprocal notification.—States, Federal land management agencies, and Indian tribes shall notify each other regarding nominations under this subsection for roads that—

"(A) are within the jurisdictional boundary of the State, Federal land management agency, or Indian tribe; or

"(B) directly connect to roads for which the State, Federal land management agency, or Indian tribe is responsible.";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting "and Indian tribes" after "provide technical assistance to States";

(ii) in subparagraph (A), by striking "designated as" and all that follows and inserting "designated as—

"(i) National Scenic Byways;

"(ii) All-American Roads;

"(iii) America's Byways;

"(iv) State scenic byways; or

"(v) Indian scenic byways; and"; and

(iii) in subparagraph (B), by inserting "or Indian" after "State";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "Byway or All-American Road" and inserting "Byway, All-American Road, or 1 of America's Byways";

(ii) in subparagraph (B)—

(I) by striking "State-designated" and inserting "State or Indian"; and

(II) by striking "designation as a" and all that follows and inserting "designation as—

"(i) a National Scenic Byway;

"(ii) an All-American Road; or

"(iii) 1 of America's Byways; and"; and

(iii) in subparagraph (C), by inserting "or Indian" after "State";

(3) in subsection (c)—

(A) in paragraph (1), by inserting "or Indian" after "State";

(B) in paragraph (3)—

(i) by inserting "Indian scenic byway," after "improvements to a State scenic byway,"; and

(ii) by inserting "Indian scenic byway," after "designation as a State scenic byway,"; and

(C) in paragraph (4), by striking "passing lane,"; and

(4) in subsection (e), by inserting "or Indian tribe" after "State".

(b) Research, Technical Assistance, Marketing, and Promotion.—Section 162 of title 23, United States Code, is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(2) by inserting after subsection (c) the following:

"(d) Research, Technical Assistance, Marketing, and Promotion.—

"(1) In general.—The Secretary may carry out technical assistance, marketing, market research, and promotion with respect to State Scenic Byways, National Scenic Byways, All-American Roads, and America's Byways.

"(2) Cooperation, grants, and contracts.—The Secretary may make grants to, or enter into contracts, cooperative agreements, and other transactions with, any Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, or person, to carry out projects and activities under this subsection.

"(3) Funds.—The Secretary may use not more than $1,877,258 for each fiscal year of funds made available for the National Scenic Byways Program to carry out projects and activities under this subsection.

"(4) Priority.—The Secretary shall give priority under this subsection to partnerships that leverage Federal funds for research, technical assistance, marketing and promotion."; and

(3) in subsection (g) (as redesignated by paragraph (1)), by striking "80 percent" and inserting "the share applicable under section 120, as adjusted under subsection (d) of that section".

SEC. 1603. RECREATIONAL TRAILS PROGRAM.

(a) Recreational Trails Program Formula.—Section 104(h)(1) of title 23, United States Code, is amended—

(1) by striking "Whenever" and inserting the following:

"(A) In general.—In any case in which";

(2) by striking "research and technical assistance under the recreational trails program and for administration of the National Recreational Trails Advisory Committee" and inserting "research, technical assistance, and training under the recreational trails program"; and

(3) by striking "The Secretary" and inserting the following:

"(B) Contracts and agreements.—The Secretary".

(b) Recreational Trails Program Administration.—Section 206 of title 23, United States Code, is amended—

(1) in subsection (d)—

(A) by striking paragraph (2) and inserting the following:

"(2) Permissible uses.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—

"(A) maintenance and restoration of recreational trails;

"(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;

"(C) purchase and lease of recreational trail construction and maintenance equipment;

"(D) construction of new recreational trails, except that, in the case of new recreational trails crossing Federal land, construction of the trails shall be—

"(i) permissible under other law;

"(ii) necessary and recommended by a statewide comprehensive outdoor recreation plan that is—

"(I) required under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.); and

"(II) in effect;

"(iii) approved by the administering agency of the State designated under subsection (c)(1)(A); and

"(iv) approved by each Federal agency having jurisdiction over the affected land, under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including—

"(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(II) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.); and

"(III) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

"(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;

"(F) assessment of trail conditions for accessibility and maintenance;

"(G) use of trail crews, youth conservation or service corps, or other appropriate means to carry out activities under this section;

"(H) development and dissemination of publications and operation of educational programs to promote safety and environmental protection, as those objectives relate to the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training, but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and

"(I) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year to carry out this section."; and

(B) in paragraph (3)—

(i) in subparagraph (D), by striking "(2)(F)" and inserting "(2)(I)"; and

(ii) by adding at the end the following:

"(E) Use of youth conservation or service corps.—A State shall make available not less than 10 percent of the apportionments of the State to provide grants to, or to enter into cooperative agreements or contracts with, qualified youth conservation or service corps to perform recreational trails program activities.";

(2) in subsection (f)—

(A) in paragraph (1)—

(i) by inserting "and the Federal share of the administrative costs of a State" after "project"; and

(ii) by striking "not exceed 80 percent" and inserting "be determined in accordance with section 120";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "80 percent of" and inserting "the amount determined in accordance with section 120 for"; and

(ii) in subparagraph (B), by inserting "sponsoring the project" after "Federal agency";

(C) by striking paragraph (5);

(D) by redesignating paragraph (4) as paragraph (5);

(E) by inserting after paragraph (3) the following:

"(4) Use of recreational trails program funds to match other Federal program funds.—Notwithstanding any other provision of law, funds made available under this section may be used to pay the non-Federal matching share for other Federal program funds that are—

"(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

"(B) expended on a project that is eligible for assistance under this section."; and

(F) in paragraph (5) (as redesignated by subparagraph (D)), by striking "80 percent" and inserting "the Federal share as determined in accordance with section 120"; and

(3) in subsection (h)—

(A) in paragraph (1), by inserting after subparagraph (B) the following:

"(C) Planning and environmental assessment costs incurred prior to project approval.—A project funded under any of subparagraphs (A) through (H) of subsection (d)(2) may permit preapproval planning and environmental compliance costs incurred not more than 18 months before project approval to be credited toward the non-Federal share in accordance with subsection (f)."; and

(B) by striking paragraph (2) and inserting the following:

"(2) Waiver of highway program requirements.—A project funded under this section—

"(A) is intended to enhance recreational opportunity;

"(B) is not considered to be a highway project; and

"(C) is not subject to—

"(i) section 112, 114, 116, 134, 135, 138, 217, or 301 of this title; or

"(ii) section 303 of title 49.".

SEC. 1604. EXEMPTION OF INTERSTATE SYSTEM.

Subsection 103(c) of title 23, United States Code, is amended by adding at the end the following:

"(5) Exemption of interstate system.—

"(A) In general.—Except as provided in subparagraph (B), the Interstate System shall not be considered to be a historic site under section 303 of title 49 or section 138 of this title, regardless of whether the Interstate System or portions of the Interstate System are listed on, or eligible for listing on, the National Register of Historic Places.

"(B) Individual elements.—A portion of the Interstate System that possesses an independent feature of historic significance, such as a historic bridge or a highly significant engineering feature, that would qualify independently for listing on the National Register of Historic Places, shall be considered to be a historic site under section 303 of title 49 or section 138 of this title, as applicable.".

SEC. 1605. STANDARDS.

Section 109 of title 23, United States Code, is amended by striking subsection (p) and inserting the following:

"(p) Context Sensitive Design.—

"(1) In general.—The Secretary shall encourage States to design projects funded under this title that—

"(A) allow for the preservation of environmental, scenic, or historic values;

"(B) ensure the safe use of the facility;

"(C) provide for consideration of the context of the locality;

"(D) encourage access for other modes of transportation; and

"(E) comply with subsection (a).

"(2) Approval by secretary.—Notwithstanding subsections (b) and (c), the Secretary may approve a project described in paragraph (1) for the National Highway System if the project is designed to achieve the criteria specified in that paragraph.".

SEC. 1606. USE OF HIGH OCCUPANCY VEHICLE LANES.

Section 102 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) High Occupancy Vehicle Lane Passenger Requirements.—

"(1) Definitions.—In this subsection:

"(A) Responsible agency.—The term 'responsible agency' means—

"(i) a State transportation department;

"(ii) a local agency in a State that is responsible for transportation matters; and

"(iii) a public authority, or a public or private entity designated by a State, to collect a toll from motor vehicles at an eligible toll facility.

"(B) Seriously degraded.—The term 'seriously degraded', with respect to a high occupancy vehicle lane, means, in the case of a high occupancy vehicle lane, the minimum average operating speed, performance threshold, and associated time period of the high occupancy vehicle lane, calculated and determined jointly by all applicable responsible agencies and based on conditions unique to the roadway, are unsatisfactory.

"(2) Requirements.—

"(A) In general.—Subject to subparagraph (B), for each State, 1 or more responsible agencies shall establish the occupancy requirements of vehicles operating on high occupancy vehicle lanes.

"(B) Minimum number of occupants.—Except as provided in paragraph (3), an occupancy requirement established under subparagraph (A) shall—

"(i) require at least 2 occupants per vehicle for a vehicle operating on a high occupancy vehicle lane; and

"(ii) in the case of a high occupancy vehicle lane that traverses an adjacent State, be established in consultation with the adjacent State.

"(3) Exceptions to HOV occupancy requirements.—

"(A) Motorcycles.—For the purpose of this subsection, a motorcycle—

"(i) shall not be considered to be a single occupant vehicle; and

"(ii) shall be allowed to use a high occupancy vehicle lane unless a responsible agency—

"(I) certifies to the Secretary the use of a high occupancy vehicle lane by a motorcycle would create a safety hazard; and

"(II) restricts that the use of the high occupancy vehicle lane by motorcycles.

"(B) Low emission and energy-efficient vehicles.—

"(i) Definition of low emission and energy-efficient vehicle.—In this subparagraph, the term 'low emission and energy-efficient vehicle' means a vehicle that—

"(I) meets Tier II emission levels established in regulations promulgated by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year; and

"(I)(aa) is certified by the Administrator of the Environmental Protection Agency, in consultation with the manufacturer, to have achieved not less than a 50-percent increase in city fuel economy or not less than a 25-percent increase in combined city-highway fuel economy relative to a comparable vehicle that is an internal combustion gasoline fueled vehicle (other than a vehicle that has propulsion energy from onboard hybrid sources); or

"(bb) is a dedicated alternative fueled vehicle under section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

"(ii) Comparable vehicle determination.—Not later than 180 days after the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005, the Administrator of the Environmental Protection Agency, in accordance with section 32908(b) of title 49, United States Code, shall establish guidelines and procedures for making the vehicle comparisons and performance calculations described in clause (i)(I)(aa).

"(iii) HOV lane performance.—

"(I) In general.—The responsible agency may not permit qualifying low emission and energy-efficient vehicles that do not meet applicable occupancy requirements (as determined by the responsible agency) to use high occupancy vehicle lanes if the performance of the lanes is seriously degraded.

"(II) Management.—In managing the use of high occupancy vehicle lanes by low emission and energy efficient vehicles that do not meet applicable occupancy requirements, the responsible agency may increase the percentages described in clause (i)(I)(aa).

"(iv) Exemption for low emission and energy-efficient vehicles.—A responsible agency may permit qualifying low emission and energy-efficient vehicles that do not meet applicable occupancy requirements (as determined by the responsible agency) to use high occupancy vehicle lanes if the responsible agency—

"(I) establishes a program that addresses how those qualifying low emission and energy-efficient vehicles are selected and certified;

"(II) establishes requirements for labeling qualifying low emission and energy-efficient vehicles (including procedures for enforcing those requirements);

"(III) continuously monitors, evaluates, and reports to the Secretary on performance; and

"(IV) imposes such restrictions on the use on high occupancy vehicle lanes by vehicles that do not satisfy established occupancy requirements as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

"(C) Tolling of vehicles.—

"(i) In general.—A responsible agency may permit vehicles, in addition to the vehicles described in paragraphs (A), (B), and (D) that do not satisfy established occupancy requirements, to use a high occupancy vehicle lane only if the responsible agency charges those vehicles a toll.

"(ii) Applicable authority.—In imposing a toll under clause (i), a responsible agency shall—

"(I) be subject to section 129;

"(II) establish a toll program that addresses ways in which motorists may enroll and participate in the program;

"(III) develop, manage, and maintain a system that will automatically collect the tolls from covered vehicles;

"(IV) continuously monitor, evaluate, and report on performance of the system;

"(V) establish such policies and procedures as are necessary—

"(aa) to vary the toll charged in order to manage the demand for use of high occupancy vehicle lanes; and

"(bb) to enforce violations; and

"(VI) establish procedures to impose such restrictions on the use of high occupancy vehicle lanes by vehicles that do not satisfy established occupancy requirements as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

"(D) Designated public transportation vehicles.—

"(i) Definition of designated public transportation vehicle.—In this subparagraph, the term 'designated public transportation vehicle' means a vehicle that—

"(I) provides designated public transportation (as defined in section 221 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12141)); and

"(II)(aa) is owned or operated by a public entity; or

"(bb) is operated under a contract with a public entity.

"(ii) Use of high occupancy vehicle lanes.—A responsible agency may permit designated public transportation vehicles that do not satisfy established occupancy requirements to use high occupancy vehicle lanes if the responsible agency—

"(I) requires the clear and identifiable labeling of each designated public transportation vehicle operating under a contract with a public entity with the name of the public entity on all sides of the vehicle;

"(II) continuously monitors, evaluates, and reports on performance of those designated public transportation vehicles; and

"(III) imposes such restrictions on the use of high occupancy vehicle lanes by designated public transportation vehicles as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

"(E) HOV lane management, operation, and monitoring.—

"(i) In general.—A responsible agency that permits any of the exceptions specified in this paragraph shall comply with clauses (ii) and (iii).

"(ii) Performance monitoring, evaluation, and reporting.—A responsible agency described in clause (i) shall establish, manage, and support a performance monitoring, evaluation, and reporting program under which the responsible agency continuously monitors, assesses, and reports on the effects that any vehicle permitted to use a high occupancy vehicle lane under an exception under this paragraph may have on the operation of—

"(I) individual high occupancy vehicle lanes; and

"(II) the entire high occupancy vehicle lane system.

"(iii) Operation of HOV lane or system.—A responsible agency described in clause (i) shall limit use of, or cease to use, any of the exceptions specified in this paragraph if the presence of any vehicle permitted to use a high occupancy vehicle lane under an exception under this paragraph seriously degrades the operation of—

"(I) individual high occupancy vehicle lanes; and

"(II) the entire high occupancy vehicle lane system.".

SEC. 1607. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

(a) In General.—Section 217 of title 23, United States Code, is amended—

(1) in subsection (a), by inserting "pedestrian and" after "safe";

(2) in subsection (e), by striking "bicycles" each place it appears and inserting "pedestrians or bicyclists";

(3) by striking subsection (f) and inserting the following:

"(f) Federal Share.—The Federal share of the construction of bicycle transportation facilities and pedestrian walkways, and for carrying out nonconstruction projects relating to safe pedestrian and bicycle use, shall be determined in accordance with section 120(b).";

(4) by redesignating subsection (j) as subsection (k);

(5) by inserting after subsection (i) the following:

"(j) Bicycle and Pedestrian Safety Grants.—

"(1) In general.—The Secretary shall select and make grants to a national, nonprofit organization engaged in promoting bicycle and pedestrian safety—

"(A) to operate a national bicycle and pedestrian clearinghouse;

"(B) to develop information and educational programs regarding walking and bicycling; and

"(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.

"(2) Funding.—The Secretary may use funds set aside under section 104(n) to carry out this subsection.

"(3) Applicability of title 23.—Funds authorized to be appropriated to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under section 104, except that the funds shall remain available until expended."; and

(6) in subsection (k) (as redesignated by paragraph (4))—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following:

"(4) Shared use path.—The term 'shared use path' means a multiuse trail or other path that is—

"(A) physically separated from motorized vehicular traffic by an open space or barrier, either within a highway right-of-way or within an independent right-of-way; and

"(B) usable for transportation purposes (including by pedestrians, bicyclists, skaters, equestrians, and other nonmotorized users).".

(b) Reservation of Funds.—Section 104 of title 23, United States Code (as amended by section 1522), is amended by adding at the end the following:

"(n) Bicycle and Pedestrian Safety Grants.—On October 1 of each of fiscal years 2005 through 2009, the Secretary, after making the deductions authorized by subsections (a) and (f), shall set aside $469,314 of the remaining funds apportioned under subsection (b)(3) for use in carrying out the bicycle and pedestrian safety grant program under section 217.".

SEC. 1608. IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.

Section 111 of title 23, United States Code, is amended by adding at the end the following:

"(d) Idling Reduction Facilities in Interstate Rights-of-Way.—

"(1) In general.—Notwithstanding subsection (a), a State may—

"(A) permit electrification or other idling reduction facilities and equipment, for use by motor vehicles used for commercial purposes, to be placed in rest and recreation areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System in the State, so long as those idling reduction measures do not—

"(i) reduce the existing number of designated truck parking spaces at any given rest or recreation area; or

"(ii) preclude the use of those spaces by trucks employing alternative idle reduction technologies; and

"(B) charge a fee, or permit the charging of a fee, for the use of those parking spaces actively providing power to a truck to reduce idling.

"(2) Purpose.—The exclusive purpose of the facilities described in paragraph (1) (or similar technologies) shall be to enable operators of motor vehicles used for commercial purposes—

"(A) to reduce idling of a truck while parked in the rest or recreation area; and

"(B) to use installed or other equipment specifically designed to reduce idling of a truck, or provide alternative power for supporting driver comfort, while parked.".

SEC. 1609. TOLL PROGRAMS.

(a) Interstate System Reconstruction and Rehabilitation Pilot Program.—Section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212)—

(1) is amended—

(A) in paragraph (1)—

(i) by striking "The Secretary" and inserting "Notwithstanding section 301, the Secretary"; and

(ii) by striking "that could not otherwise be adequately maintained or functionally improved without the collection of tolls";

(B) in paragraph (2), by inserting after the first sentence the following: "One such facility shall be located in Virginia.";

(C) in paragraph (3), by striking subparagraph (C) and inserting the following:

"(C) An analysis demonstrating that financing the reconstruction or rehabilitation of the facility with the collection of tolls under this pilot program is the most efficient, economical, or expeditious way to advance the project."; and

(D) in paragraph (4)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the State's analysis showing that financing the reconstruction or rehabilitation of a facility with the collection of tolls under the pilot program is the most efficient, economical, or expeditious way to advance the project;";

(ii) by striking subparagraph (B) and inserting the following:

"(B) the facility needs reconstruction or rehabilitation, including major work that may require replacing sections of the existing facility on new alignment;";

(iii) by striking subparagraph (C); and

(iv) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively;

(2) is redesignated as subsection (d) of section 129 of title 23, United States Code, and moved to appear at the end of that section; and

(3) by striking "of title 23, United States Code" each place it appears.

(b) Fast and Sensible Toll (FAST) Lanes Program.—Section 129 of title 23, United States Code (as amended by subsection (a)(2)), is amended by adding at the end the following:

"(e) Fast and Sensible Toll (FAST) Lanes Program.—

"(1) Definitions.—In this subsection:

"(A) Eligible toll facility.—The term 'eligible toll facility' includes—

"(i) a facility in existence on the date of enactment of this subsection that collects tolls;

"(ii) a facility in existence on the date of enactment of this subsection that serves high occupancy vehicles;

"(iii) a facility modified or constructed after the date of enactment of this subsection to create additional tolled capacity (including a facility constructed by a private entity or using private funds); and

"(iv) in the case of a new lane added to a previously non-tolled facility, only the new lane.

"(B) Nonattainment area.—The term 'nonattainment area' has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).

"(2) Establishment.—Notwithstanding sections 129 and 301, the Secretary shall permit a State, public authority, or a public or private entity designated by a State, to collect a toll from motor vehicles at an eligible toll facility for any highway, bridge, or tunnel, including facilities on the Interstate System—

"(A) to manage high levels of congestion;

"(B) to reduce emissions in a nonattainment area or maintenance area; or

"(C) to finance the expansion of a highway, for the purpose of reducing traffic congestion, by constructing 1 or more additional lanes (including bridge, tunnel, support, and other structures necessary for that construction) on the Interstate System.

"(3) Limitation on use of revenues.—

"(A) Use.—

"(i) In general.—Toll revenues received under paragraph (2) shall be used by a State, public authority, or private entity designated by a State, for—

"(I) debt service for debt incurred on 1 or more highway or transit projects carried out under this title or title 49;

"(II) a reasonable return on investment of any private financing;

"(III) the costs necessary for proper operation and maintenance of any facilities under paragraph (2) (including reconstruction, resurfacing, restoration, and rehabilitation); or

"(IV) if the State, public authority, or private entity annually certifies that the tolled facility is being adequately operated and maintained, any other purpose relating to a highway or transit project carried out under this title or title 49.

"(B) Requirements.—

"(i) Variable price requirement.—A facility that charges tolls under this subsection may establish a toll that varies in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

"(ii) HOV variable pricing requirement.—The Secretary shall require, for each high occupancy vehicle facility that charges tolls under this subsection, that the tolls vary in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

"(iii) HOV passenger requirements.—In addition to the exceptions to the high occupancy vehicle passenger requirements established under section 102(a)(2), a State may permit motor vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes as part of a variable toll pricing program established under this subsection.

"(C) Agreement.—

"(i) In general.—Before the Secretary may permit a facility to charge tolls under this subsection, the Secretary and the applicable State, public authority, or private entity designated by a State shall enter into an agreement for each facility incorporating the conditions described in subparagraphs (A) and (B).

"(ii) Termination.—An agreement under clause (i) shall terminate with respect to a facility upon the decision of the State, public authority, or private entity designated by a State to discontinue the variable tolling program under this subsection for the facility.

"(iii) Debt.—

"(I) In general.—If there is any debt outstanding on a facility at the time at which the decision is made to discontinue the program under this subsection with respect to the facility, the facility may continue to charge tolls in accordance with the terms of the agreement until such time as the debt is retired.

"(II) NOTICE.—On retirement of the debt of a tolled facility, the applicable State, public authority, or private entity designated by a State shall provide notice to the public of that retirement.

"(D) LIMITATION ON FEDERAL SHARE.—The Federal share of the cost of a project on a facility tolled under this subsection, including a project to install the toll collection facility shall be a percentage, not to exceed 80 percent, determined by the applicable State.

"(4) ELIGIBILITY.—To be eligible to participate in the program under this subsection, a State, public authority, or private entity designated by a State shall provide to the Secretary—

"(A) a description of the congestion or air quality problems sought to be addressed under the program;

"(B) a description of—

"(i) the goals sought to be achieved under the program; and

"(ii) the performance measures that would be used to gauge the success made toward reaching those goals; and

"(C) such other information as the Secretary may require.

"(5) AUTOMATION.—Fees collected from motorists using a FAST lane shall be collected only through the use of noncash electronic technology that optimizes the free flow of traffic on the tolled facility.

"(6) INTEROPERABILITY.—

"(A) RULE.—

"(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall promulgate a final rule specifying requirements, standards, or performance specifications for automated toll collection systems implemented under this section.

"(ii) DEVELOPMENT.—In developing that rule, which shall be designed to maximize the interoperability of electronic collection systems, the Secretary shall, to the maximum extent practicable—

"(I) seek to accelerate progress toward the national goal of achieving a nationwide interoperable electronic toll collection system;

"(II) take into account the use of noncash electronic technology currently deployed within an appropriate geographical area of travel and the noncash electronic technology likely to be in use within the next 5 years; and

"(III) seek to minimize additional costs and maximize convenience to users of toll facility and to the toll facility owner or operator.

"(B) FUTURE MODIFICATIONS.—As the state of technology progresses, the Secretary shall modify the rule promulgated under subparagraph (A), as appropriate.

"(7) REPORTING.—

"(A) IN GENERAL.—The Secretary, in cooperation with State and local agencies and other program participants and with opportunity for public comment, shall—

"(i) develop and publish performance goals for each FAST lane project;

"(ii) establish a program for regular monitoring and reporting on the achievement of performance goals, including—

"(I) effects on travel, traffic, and air quality;

"(II) distribution of benefits and burdens;

"(III) use of alternative transportation modes; and

"(IV) use of revenues to meet transportation or impact mitigation needs.

"(B) REPORTS TO CONGRESS.—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

"(i) not later than 1 year after the date of enactment of this subsection, and annually thereafter, a report that describes in detail the uses of funds under this subsection in accordance with paragraph (8)(D); and

"(ii) not later than 3 years after the date of enactment of this subsection, and every 3 years thereafter, a report that describes any success of the program under this subsection in meeting congestion reduction and other performance goals established for FAST lane programs.

"(8) FUNDING.—

"(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out pre-implementation studies and post-implementation evaluations of projects planned or implemented under this subsection $10,324,918 for each of fiscal years 2005 through 2009.

"(B) AVAILABILITY.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds were authorized.

"(C) CONTRACT AUTHORITY.—Funds authorized to be appropriated under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter, except that the Federal share of the cost of any project carried out under this subsection and the availability of funds authorized by this paragraph shall be determined in accordance with this subsection.

"(D) PROGRAM PROMOTION.—Notwithstanding any other provision of this section, the Secretary shall use an amount not to exceed 2 percent of the funds made available under subparagraph (A)—

"(i) to make grants to promote the purposes of the program under this subsection;

"(ii) to provide technical support to State and local governments or other public or private entities involved in implementing or considering FAST lane programs; and

"(iii) to conduct research on variable pricing that will support State or local efforts to initiate those pricing requirements.

"(E) EFFECT ON OTHER APPORTIONMENTS AND ALLOCATIONS.—Revenues collected from tolls established under this subsection shall not be taken into account in determining the apportionments and allocations that any State or transportation district within a State shall be entitled to receive under or in accordance with this chapter.

"(9) COMPLIANCE.—The Secretary shall ensure that any project or activity carried out under this section complies with requirements under section 106 of this title and section 307 of title 49.

"(10) VOLUNTARY USE.—Nothing in this subsection requires any highway user to use a FAST lane.

"(11) ENVIRONMENTAL REQUIREMENTS.—Nothing in this subsection affects any environmental requirement applicable to the construction or operation of an eligible toll facility under this title or any other provision of law.".

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 1012 of the Intermodal Surface Transportation Efficiency Act (23 U.S.C. 149 note; 105 Stat. 1938; 112 Stat. 211) is amended by striking subsection (b).

(2) CONTINUATION OF PROGRAM.—Notwithstanding the amendment made by paragraph (1), the Secretary shall monitor and allow any value pricing program established under a cooperative agreement in effect on the day before the date of enactment of this Act to continue.

SEC. 1610. FEDERAL REFERENCE METHOD.

(a) IN GENERAL.—Section 6102 of the Transportation Equity Act for the 21st Century (42 U.S.C. 7407 note; 112 Stat. 464) is amended by striking subsection (e) and inserting the following:

"(e) FIELD STUDY.—Not later than 2 years after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Administrator shall—

"(1) conduct a field study of the ability of the $PM_{2.5}$ Federal Reference Method to differentiate those particles that are larger than 2.5 micrometers in diameter;

"(2) develop a Federal reference method to measure directly particles that are larger than 2.5 micrometers in diameter without reliance on subtracting from coarse particle measurements those particles that are equal to or smaller than 2.5 micrometers in diameter;

"(3) develop a method of measuring the composition of coarse particles; and

"(4) submit a report on the study and responsibilities of the Administrator under paragraphs (1) through (3) to—

"(A) the Committee on Commerce of the House of Representatives; and

"(B) the Committee on Environment and Public Works of the Senate.".

SEC. 1611. ADDITION OF PARTICULATE MATTER AREAS TO CMAQ.

(a) IN GENERAL.—Section 104(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "ozone or carbon monoxide" and inserting "ozone, carbon monoxide, or fine particulate matter ($PM_{2.5}$)";

(B) by striking clause (i) and inserting the following:

"(i) 1.0, if at the time of apportionment, the area is a maintenance area;";

(C) in clause (vi), by striking "or" after the semicolon; and

(D) in clause (vii)—

(i) by striking "area as described in section 149(b) for ozone," and inserting "area for ozone (as described in section 149(b) or for PM-2.5"; and

(ii) by striking the period at the end and inserting a semicolon;

(2) by adding at the end the following:

"(viii) 1.0 if, at the time of apportionment, any county that is not designated as a nonattainment or maintenance area under the 1-hour ozone standard is designated as nonattainment under the 8-hour ozone standard; or

"(ix) 1.2 if, at the time of apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone or carbon monoxide, but is an area designated nonattainment under the PM-2.5 standard.";

(3) by striking subparagraph (C) and inserting the following:

"(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or clause (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.”;

(4) by redesignating subparagraph (D) and (E) as subparagraphs (E) and (F) respectively; and

(5) by inserting after subparagraph (C) the following:

“(D) ADDITIONAL ADJUSTMENT FOR PM 2.5 AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone or carbon monoxide, or both as described in section 149(b), any county within the area was also designated under the PM-2.5 standard as a nonattainment or maintenance area, the weighted nonattainment or maintenance area population of those counties shall be further multiplied by a factor of 1.2.”.

(b) CONFORMING AMENDMENT.—Section 149(c)(2) of title 23, United States Code, is amended by striking “104(b)(2)(D)” and inserting “104(b)(2)(E)”.

SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.

(a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended—

(1) in the matter preceding paragraph (1)(A), by inserting “or is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7401 et seq.),” after “1997,”;

(2) in paragraph (4), by striking “or” at the end;

(3) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

“(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel; or

“(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment.”.

(b) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking “for any project eligible under the surface transportation program under section 133.” and inserting the following: “for any project in the State that—

“(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

“(B) is eligible under the surface transportation program under section 133.”; and

(2) in paragraph (2), by striking “for any project in the State eligible under section 133.” and inserting the following: “for any project in the State that—

“(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

“(B) is eligible under the surface transportation program under section 133.”.

(c) RESPONSIBILITY OF STATES.—

(1) IN GENERAL.—Each State shall be responsible for ensuring that subrecipients of Federal funds within the State under section 149 of title 23, United States Code, have emission reduction strategies for fleets that are—

(A) used in construction projects located in nonattainment and maintenance areas; and

(B) funded under title 23, United States Code.

(2) EMISSION REDUCTION STRATEGIES.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall develop a nonbinding list of emission reduction strategies and supporting technical information for each strategy, including—

(A) contract preferences;

(B) requirements for the use of anti-idling equipment;

(C) diesel retrofits; and

(D) such other matters as the Administrator of the Environmental Protection Agency, in consultation with the Secretary, determine to be appropriate.

(3) USE OF CMAQ FUNDS.—A State may use funds made available under this title and title 23, United States Code, for the congestion mitigation and air quality program under section 149 of title 23, United States Code, to ensure the deployment of the emission reduction strategies described in paragraph (1).

SEC. 1613. IMPROVED INTERAGENCY CONSULTATION.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

“(g) INTERAGENCY CONSULTATION.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emission reductions from proposed congestion mitigation and air quality improvement programs and projects.”.

SEC. 1614. EVALUATION AND ASSESSMENT OF CMAQ PROJECTS.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

“(h) EVALUATION AND ASSESSMENT OF PROJECTS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate and assess a representative sample of projects funded under the congestion mitigation and air quality program to—

“(A) determine the direct and indirect impact of the projects on air quality and congestion levels; and

“(B) ensure the effective implementation of the program.

“(2) DATABASE.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects.

“(3) CONSIDERATION.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall consider the recommendations and findings of the report submitted to Congress under section 1110(e) of the Transportation Equity Act for the 21st Century (112 Stat. 144), including recommendations and findings that would improve the operation and evaluation of the congestion mitigation and air quality improvement program under section 149.”.

SEC. 1615. SYNCHRONIZED PLANNING AND CONFORMITY TIMELINES, REQUIREMENTS, AND HORIZON.

(a) METROPOLITAN PLANNING.—

(1) DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.—Section 134(g)(1) of title 23, United States Code, is amended by striking “periodically, according to a schedule that the Secretary determines to be appropriate,” and inserting “every 4 years (or more frequently, in a case in which the metropolitan planning organization elects to update a transportation plan more frequently) in areas designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)), and in areas that were nonattainment that have been redesignated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)), with a maintenance plan under section 175A of that Act (42 U.S.C. 7505a), or every 5 years (or more frequently, in a case in which the metropolitan planning organization elects to update a transportation plan more frequently) in areas designated as attainment (as defined in section 107(d) of that Act (42 U.S.C. 7407(d))),”.

(2) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—Section 134(h) of title 23, United States Code, is amended—

(A) in paragraph (1)(D), by striking “2 years” and inserting “4 years”; and

(B) in paragraph (2)(A), by striking “3-year” and inserting “4-year”.

(3) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—Section 135(f)(1)(A) of title 23, United States Code, is amended by inserting after “program” the following: “(which program shall cover a period of 4 years and be updated every 4 years)”.

(4) FINAL REGULATIONS.—Not later than 18 months after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary shall promulgate regulations that are consistent with the amendments made by this subsection.

(b) SYNCHRONIZED CONFORMITY DETERMINATION.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended—

(1) in paragraph (2)—

(A) by striking “(2) Any transportation plan” and inserting the following:

“(2) TRANSPORTATION PLANS AND PROGRAMS.—Any transportation plan”;

(B) in subparagraph (C)(iii), by striking the period at the end and inserting a semicolon;

(C) in subparagraph (D)—

(i) by striking “Any project” and inserting “any transportation project”; and

(ii) by striking the period at the end and inserting “; and”; and

(D) by adding at the end the following:

“(E) the appropriate metropolitan planning organization shall redetermine conformity of existing transportation plans and programs not later than 2 years after the date on which the Administrator—

“(i) finds a motor vehicle emissions budget to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2004);

“(ii) approves an implementation plan that establishes a motor vehicle emissions budget, if that budget has not yet been used in a conformity determination prior to approval; or

“(iii) promulgates an implementation plan that establishes or revises a motor vehicle emissions budget.”;

(2) in paragraph (4)(B)(ii), by striking “but in no case shall such determinations for transportation plans and programs be less frequent than every 3 years; and” and inserting “but the frequency for making conformity determinations on updated transportation plans and programs shall be every 4 years, except in a case in which—

“(I) the metropolitan planning organization elects to update a transportation plan or program more frequently; or

“(II) the metropolitan planning organization is required to determine conformity in accordance with paragraph (2)(E); and”;

(3) in paragraph (4)(B)—

(A) in clause (ii), by striking “and” at the end;

(B) in clause (iii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(iv) address the effects of the most recent population, economic, employment, travel, transit ridership, congestion, and induced travel demand information in the development and application of the latest travel and emissions models."; and

(4) by adding at the end the following:

"(7) CONFORMITY HORIZON FOR TRANSPORTATION PLANS.—

"(A) IN GENERAL.—For the purposes of this section, a transportation plan in a nonattainment or maintenance area shall be considered to be a transportation plan or a portion of a transportation plan that extends for the longest of the following periods:

"(i) The first 10-year period of any such transportation plan.

"(ii) The latest year in the implementation plan applicable to the area that contains a motor vehicle emission budget.

"(iii) The year after the completion date of a regionally significant project, if the project requires approval before the subsequent conformity determination.

"(B) EXCEPTION.—In a case in which an area has a revision to an implementation plan under section 175A(b) and the Administrator has found the motor vehicle emissions budgets from that revision to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2004), or has approved the revision, the transportation plan shall be considered to be a transportation plan or portion of a transportation plan that extends through the last year of the implementation plan required under section 175A(b).

"(8) DEFINITIONS.—In this subsection:

"(A) REGIONALLY SIGNIFICANT PROJECT.—

"(i) IN GENERAL.—The term 'regionally significant project' means a transportation project that is on a facility that serves a regional transportation need, including—

"(I) access to and from the area outside of the region;

"(II) access to and from major planned developments, including new retail malls, sports complexes, or transportation terminals; and

"(III) most transportation terminals.

"(ii) PRINCIPAL ARTERIALS AND FIXED GUIDEWAYS.—The term 'regionally significant project' includes, at a minimum—

"(I) all principal arterial highways; and

"(II) all fixed guideway transit facilities that offer an alternative to regional highway travel.

"(iii) ADDITIONAL PROJECTS.—The interagency consultation process and procedures described in section 93.105(c) of title 40, Code of Federal Regulations (as in effect on October 1, 2004), shall be used to make determinations as to whether minor arterial highways and other transportation projects should be considered 'regionally significant projects'.

"(iv) EXCLUSIONS.—The term 'regionally significant project' does not include any project of a type listed in sections 93.126 or 127 of title 40, Code of Federal Regulations (as in effect on October 1, 2004).

"(B) SIGNIFICANT REVISION.—The term 'significant revision' means—

"(i) with respect to a regionally significant project, a significant change in design concept or scope to the project; and

"(ii) with respect to any other kind of project, a change that converts a project that is not a regionally significant project into a regionally significant project.

"(C) TRANSPORTATION PROJECT.—The term 'transportation project' includes only a project that is—

"(i) a regionally significant project; or

"(ii) a project that makes a significant revision to an existing project.".

SEC. 1616. TRANSITION TO NEW AIR QUALITY STANDARDS.

Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by striking paragraph (3) and inserting the following:

"(3) METHODS OF CONFORMITY DETERMINATION BEFORE BUDGET IS AVAILABLE.—

"(A) IN GENERAL.—Until such time as a motor vehicle emission budget from an implementation plan submitted for a national ambient air quality standard is determined to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2004), or the submitted implementation plan is approved, conformity of such a plan, program, or project shall be demonstrated, in accordance with clauses (i) and (ii) and as selected through the consultation process required under paragraph (4)(D)(i), with—

"(i) a motor vehicle emission budget that has been found adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2004), or that has been approved, from an implementation plan for the most recent prior applicable national ambient air quality standard addressing the same pollutant; or

"(ii) other such tests as the Administrator shall determine to ensure that—

"(I) the transportation plan or program—

"(aa) is consistent with the most recent estimates of mobile source emissions;

"(bb) provides for the expeditious implementation of transportation control measures in the applicable implementation plan; and

"(cc) with respect to an ozone or carbon monoxide nonattainment area, contributes to annual emissions reductions consistent with sections 182(b)(1) and 187(a)(7); and

"(II) the transportation project—

"(aa) comes from a conforming transportation plan and program described in this subparagraph; and

"(bb) in a carbon monoxide nonattainment area, eliminates or reduces the severity and number of violations of the carbon monoxide standards in the area substantially affected by the project.

"(B) DETERMINATION FOR A TRANSPORTATION PROJECT IN A CARBON MONOXIDE NONATTAINMENT AREA.—A determination under subparagraph (A)(ii)(II)(bb) may be made as part of either the conformity determination for the transportation program or for the individual transportation project taken as a whole during the environmental review phase of transportation project development.".

SEC. 1617. REDUCED BARRIERS TO AIR QUALITY IMPROVEMENTS.

Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) (as amended by section 1615(b)(4)) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

"(8) SUBSTITUTION FOR TRANSPORTATION CONTROL MEASURES.—

"(A) IN GENERAL.—Transportation control measures that are specified in an implementation plan may be replaced or added to the implementation plan with alternate or additional transportation control measures if—

"(i) the substitute measures achieve equivalent or greater emissions reductions than the control measure to be replaced, as demonstrated with an analysis that is consistent with the current methodology used for evaluating the replaced control measure in the implementation plan;

"(ii) the substitute control measures are implemented—

"(I) in accordance with a schedule that is consistent with the schedule provided for control measures in the implementation plan; or

"(II) if the implementation plan date for implementation of the control measure to be replaced has passed, as soon as practicable after the implementation plan date but not later than the date on which emission reductions are necessary to achieve the purpose of the implementation plan;

"(iii) the substitute and additional control measures are accompanied with evidence of adequate personnel, funding, and authority under State or local law to implement, monitor, and enforce the control measures;

"(iv) the substitute and additional control measures were developed through a collaborative process that included—

"(I) participation by representatives of all affected jurisdictions (including local air pollution control agencies, the State air pollution control agency, and State and local transportation agencies);

"(II) consultation with the Administrator; and

"(III) reasonable public notice and opportunity for comment; and

"(v) the metropolitan planning organization, State air pollution control agency, and the Administrator concur with the equivalency of the substitute or additional control measures.

"(B) ADOPTION.—After carrying out subparagraph (A), a State shall adopt the substitute or additional transportation control measure in the applicable implementation plan.

"(C) NO REQUIREMENT FOR EXPRESS PERMISSION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not be contingent on there being any provision in the implementation plan that expressly permits such a substitution or addition.

"(D) NO REQUIREMENT FOR NEW CONFORMITY DETERMINATION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not require—

"(i) a new conformity determination for the transportation plan; or

"(ii) a revision of the implementation plan.

"(E) CONTINUATION OF CONTROL MEASURE BEING REPLACED.—A control measure that is being replaced by a substitute control measure under this paragraph shall remain in effect until the substitute control measure is adopted by the State pursuant to subparagraph (B).

"(F) EFFECT OF ADOPTION.—Adoption of a substitute control measure shall constitute rescission of the previously applicable control measure.".

SEC. 1618. AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.

(a) IN GENERAL.—Section 319 of the Clean Air Act (42 U.S.C. 7619) is amended—

(1) by striking the section heading and all that follows through "after notice and opportunity for public hearing" and inserting the following:

"SEC. 319. AIR QUALITY MONITORING.

"(a) IN GENERAL.—After notice and opportunity for public hearing"; and

(2) by adding at the end the following:

"(b) AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.—

"(1) DEFINITION OF EXCEPTIONAL EVENT.—In this section:

"(A) IN GENERAL.—The term 'exceptional event' means an event that—

"(i) affects air quality;

“(ii) is not reasonably controllable or preventable;

“(iii) is—

“(I) a natural event; or

“(II) an event caused by human activity that is unlikely to recur at a particular location; and

“(iv) is determined by the Administrator through the process established in the regulations promulgated under paragraph (2) to be an exceptional event.

“(B) EXCLUSIONS.—The term ‘exceptional event’ does not include—

“(i) stagnation of air masses or meteorological inversions;

“(ii) a meteorological event involving high temperatures or lack of precipitation; or

“(iii) air pollution relating to source noncompliance.

“(2) REGULATIONS.—

“(A) PROPOSED REGULATIONS.—Not later than March 1, 2006, after consultation with Federal land managers and State air pollution control agencies, the Administrator shall publish in the Federal Register proposed regulations governing the review and handling of air quality monitoring data influenced by exceptional events.

“(B) FINAL REGULATIONS.—Not later than 1 year after the date on which the Administrator publishes proposed regulations under subparagraph (A), and after providing an opportunity for interested persons to make oral presentations of views, data, and arguments regarding the proposed regulations, the Administrator shall promulgate final regulations governing the review and handling or air quality monitoring data influenced by an exceptional event that are consistent with paragraph (3).

“(3) PRINCIPLES AND REQUIREMENTS.—

“(A) PRINCIPLES.—In promulgating regulations under this section, the Administrator shall follow—

“(i) the principle that protection of public health is the highest priority;

“(ii) the principle that timely information should be provided to the public in any case in which the air quality is unhealthy;

“(iii) the principle that all ambient air quality data should be included in a timely manner, an appropriate Federal air quality database that is accessible to the public;

“(iv) the principle that each State must take necessary measures to safeguard public health regardless of the source of the air pollution; and

“(v) the principle that air quality data should be carefully screened to ensure that events not likely to recur are represented accurately in all monitoring data and analyses.

“(B) REQUIREMENTS.—Regulations promulgated under this section shall, at a minimum, provide that—

“(i) the occurrence of an exceptional event must be demonstrated by reliable, accurate data that is promptly produced and provided by Federal, State, or local government agencies;

“(ii) a clear causal relationship must exist between the measured exceedances of a national ambient air quality standard and the exceptional event to demonstrate that the exceptional event caused a specific air pollution concentration at a particular air quality monitoring location;

“(iii) there is a public process for determining whether an event is exceptional; and

“(iv) there are criteria and procedures for the Governor of a State to petition the Administrator to exclude air quality monitoring data that is directly due to exceptional events from use in determinations by the Environmental Protection Agency with respect to exceedances or violations of the national ambient air quality standards.

“(4) INTERIM PROVISION.—Until the effective date of a regulation promulgated under paragraph (2), the following guidance issued by the Administrator shall continue to apply:

“(A) Guidance on the identification and use of air quality data affected by exceptional events (July 1986).

“(B) Areas affected by PM–10 natural events, May 30, 1996.

“(C) Appendices I, K, and N to part 50 of title 40, Code of Federal Regulations.”.

SEC. 1619. CONFORMING AMENDMENTS.

Section 176(c)(4) of the Clean Air Act (42 U.S.C. 7506(c)(4) is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (D) through (F), respectively;

(2) by striking “(4)(A) No later than one year after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate” and inserting the following:

“(4) CRITERIA AND PROCEDURES FOR DETERMINING CONFORMITY.—

“(A) IN GENERAL.—The Administrator shall promulgate, and periodically update,”;

(3) in subparagraph (A)—

(A) in the second sentence, by striking “No later than one year after such date of enactment, the Administrator, with the concurrence of the Secretary of Transportation, shall promulgate” and inserting the following:

“(B) TRANSPORTATION PLANS, PROGRAMS, AND PROJECTS.—The Administrator, with the concurrence of the Secretary of Transportation, shall promulgate, and periodically update,”; and

(B) in the third sentence, by striking “A suit” and inserting the following:

“(C) CIVIL ACTION TO COMPEL PROMULGATION.—A civil action”; and

(4) by striking subparagraph (E) (as redesignated by paragraph (1)) and inserting the following:

“(E) INCLUSION OF CRITERIA AND PROCEDURES IN SIP.—Not later than 2 years after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the procedures under subparagraph (A) shall include a requirement that each State include in the State implementation plan criteria and procedures for consultation in accordance with the Administrator's criteria and procedures for consultation required by subparagraph (D)(i).”.

SEC. 1620. HIGHWAY STORMWATER DISCHARGE MITIGATION PROGRAM.

(a) HIGHWAY STORMWATER MITIGATION PROJECTS.—Section 133(d) of title 23, United States Code (as amended by section 1401(a)(2)(B)), is amended by adding at the end the following:

“(5) HIGHWAY STORMWATER DISCHARGE MITIGATION PROJECTS.—Of the amount apportioned to a State under section 104(b)(3) for a fiscal year, 2 percent shall be available only for projects and activities carried out under section 167.”.

(b) HIGHWAY STORMWATER DISCHARGE MITIGATION PROGRAM.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1601(a)), is amended by adding at the end the following:

“§ 167. Highway stormwater discharge mitigation program

“(a) DEFINITIONS.—In this section:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

“(2) ELIGIBLE MITIGATION PROJECT.—The term ‘eligible mitigation project’ means a practice or technique that—

“(A) improves stormwater discharge water quality;

“(B) attains preconstruction hydrology;

“(C) promotes infiltration of stormwater into groundwater;

“(D) recharges groundwater;

“(E) minimizes stream bank erosion;

“(F) promotes natural filters;

“(G) otherwise mitigates water quality impacts of highway stormwater discharges, improves surface water quality, or enhances groundwater recharge; or

“(H) reduces flooding caused by highway stormwater discharge.

“(3) FEDERAL-AID HIGHWAY AND ASSOCIATED FACILITY.—The term ‘Federal-aid highway and associated facility’ means—

“(A) a Federal-aid highway; or

“(B) a facility or land owned by a State (or political subdivision of a State) that is directly associated with the Federal-aid highway.

“(4) HIGHWAY STORMWATER DISCHARGE.—The term ‘highway stormwater discharge’ means stormwater discharge from a Federal-aid highway, or a Federal-aid highway and associated facility, that was constructed before the date of enactment of this section.

“(5) HIGHWAY STORMWATER DISCHARGE MITIGATION.—The term ‘highway stormwater discharge mitigation’ means—

“(A) the reduction of water quality impacts of stormwater discharges from Federal-aid highways or Federal-aid highways and associated facilities; or

“(B) the enhancement of groundwater recharge from stormwater discharges from Federal-aid highways or Federal-aid highways and associated facilities.

“(6) PROGRAM.—The term ‘program’ means the highway stormwater discharge mitigation program established under subsection (b).

“(b) ESTABLISHMENT.—The Secretary shall establish a highway stormwater discharge mitigation program—

“(1) to improve the quality of stormwater discharge from Federal-aid highways or Federal-aid highways and associated facilities; and

“(2) to enhance groundwater recharge.

“(c) PRIORITY OF PROJECTS.—For projects funded from the allocation under section 133(d)(6), a State shall give priority to projects sponsored by a State or local government that assist the State or local government in complying with the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

“(d) GUIDANCE.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Administrator, shall issue guidance to assist States in carrying out this section.

“(2) REQUIREMENTS FOR GUIDANCE.—The guidance issued under paragraph (1) shall include information concerning innovative technologies and nonstructural best management practices to mitigate highway stormwater discharges.”.

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1601(b), is amended by inserting after the item relating to section 166 the following:

“167. Highway stormwater discharge mitigation program.”.

SEC. 1621. FUNDS FOR REBUILDING FISH STOCKS.

Section 105 of the Miscellaneous Appropriations and Offsets Act, 2004 (Division H of the Consolidated Appropriations Act, 2004 (Public Law 108–199)) is repealed.

SEC. 1622. FEDERAL PROCUREMENT OF RECYCLED COOLANT.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the President shall conduct a review of Federal procurement policy of off-site recycled coolant.

(b) ELEMENTS.—In conducting the review under subsection (a), the President shall consider recycled coolant produced from processes that—

(1) are energy efficient;

(2) generate no hazardous waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903));

(3) produce no emissions of air pollutants;

(4) present lower health and safety risks to employees at a plant or facility; and

(5) recover at least 97 percent of the glycols from used antifreeze feedstock.

Subtitle G—Operations

SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.

(a) SURFACE TRANSPORTATION PROGRAM ELIGIBILITY.—Section 133(b) of title 23, United States Code (as amended by section 1601(a)(2)), is amended by adding at the end the following:

"(16) Regional transportation operations collaboration and coordination activities that are associated with regional improvements, such as traffic incident management, technology deployment, emergency management and response, traveler information, and regional congestion relief.

"(17) RUSH HOUR CONGESTION RELIEF.—

"(A) IN GENERAL.—Subject to subparagraph (B), a State may spend the funds apportioned under this section to reduce traffic delays caused by motor vehicle accidents and breakdowns on highways during peak driving times.

"(B) USE OF FUNDS.—A State, metropolitan planning organization, or local government may use the funds under subparagraph (A)—

"(i) to develop a region-wide coordinated plan to mitigate traffic delays caused by motor vehicle accidents and breakdowns;

"(ii) to purchase or lease telecommunications equipment for first responders;

"(iii) to purchase or lease towing and recovery services;

"(iv) to pay contractors for towing and recovery;

"(v) to rent vehicle storage areas adjacent to roadways;

"(vi) to fund service patrols, equipment, and operations;

"(vii) to purchase incident detection equipment;

"(viii) to carry out training.".

(b) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM ELIGIBILITY.—Section 149(b)(5) of title 23, United States Code, is amended by inserting "improve transportation systems management and operations," after "intersections,".

(c) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

(1) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1620(b)), is amended by adding at the end the following:

"§ 168. Transportation systems management and operations

"(a) IN GENERAL.—The Secretary shall carry out a transportation systems management and operations program to—

"(1) ensure efficient and effective management and operation of transportation systems through collaboration, coordination, and real-time information sharing at a regional and Statewide level among—

"(A) managers and operators of major modes of transportation;

"(B) public safety officials; and

"(C) the general public; and

"(2) manage and operate transportation systems in a coordinated manner to preserve the capacity and maximize the performance of transportation facilities for travelers and carriers.

"(b) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary may carry out activities to—

"(A) encourage managers and operators of major modes of transportation, public safety officials, and transportation planners in urbanized areas that are responsible for conducting the day-to-day management, operations, public safety, and planning of transportation facilities and services to collaborate on and coordinate, on a regional level and in a continuous and sustained manner, improved transportation systems management and operations; and

"(B) encourage States to—

"(i) establish a system of basic real-time monitoring for the surface transportation system; and

"(ii) provide the means to share the data gathered under clause (i) among—

"(I) highway, transit, and public safety agencies;

"(II) jurisdictions (including States, cities, counties, and metropolitan planning organizations);

"(III) private-sector entities; and

"(IV) the general public.

"(2) ACTIVITIES.—Activities to be carried out under paragraph (1) include—

"(A) developing a regional concept of operations that defines a regional strategy shared by all transportation and public safety participants with respect to the manner in which the transportation systems of the region should be managed, operated, and measured;

"(B) the sharing of information among operators, service providers, public safety officials, and the general public; and

"(C) guiding, in a regionally-coordinated manner and in a manner consistent with and integrated into the metropolitan and statewide transportation planning processes and regional intelligent transportation system architecture, the implementation of regional transportation system management and operations initiatives, including—

"(i) emergency evacuation and response;

"(ii) traffic incident management;

"(iii) technology deployment; and

"(iv) traveler information systems delivery.

"(c) COOPERATION.—In carrying out the program under subsection (a), the Secretary may assist and cooperate with other Federal agencies, State and local governments, metropolitan planning organizations, private industry, and other interested parties to improve regional collaboration and real-time information sharing between managers and operators of major modes of transportation, public safety officials, emergency managers, and the general public to increase the security, safety, and reliability of Federal-aid highways.

"(d) GUIDANCE; REGULATIONS.—

"(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary may issue guidance or promulgate regulations for the procurement of transportation system management and operations facilities, equipment, and services, including—

"(A) equipment procured in preparation for natural disasters, disasters caused by human activity, and emergencies;

"(B) system hardware;

"(C) software; and

"(D) software integration services.

"(2) CONSIDERATIONS.—In developing the guidance or regulations under paragraph (1), the Secretary may consider innovative procurement methods that support the timely and streamlined execution of transportation system management and operations programs and projects.

"(3) FINANCIAL ASSISTANCE.—The Secretary may authorize the use of funds made available under section 104(b)(3) to provide assistance for regional operations collaboration and coordination activities that are associated with regional improvements, such as—

"(A) traffic incident management;

"(B) technology deployment;

"(C) emergency management and response;

"(D) traveler information; and

"(E) congestion relief.".

(2) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1620(c)), is amended by adding at the end:

"168. Transportation systems management and operations.".

SEC. 1702. REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1701(c)(1)), is amended by adding at the end the following:

"§ 169. Real-time system management information program

"(a) IN GENERAL.—The Secretary shall carry out a real-time system management information program to—

"(1) provide a nationwide system of basic real-time information for managing and operating the surface transportation system;

"(2)(A) identify long-range real-time highway and transit monitoring needs; and

"(B) develop plans and strategies for meeting those needs;

"(3) provide the capability and means to share the basic real-time information with State and local governments and the traveling public; and

"(4) provide the nationwide capability to monitor, in real-time, the traffic and travel conditions of major highways in the United States, and to share that information with State and local governments and the traveling public, to—

"(A) improve the security of the surface transportation system;

"(B) address congestion problems;

"(C) support improved response to weather events; and

"(D) facilitate the distribution of national and regional traveler information.

"(b) DATA EXCHANGE FORMATS.—Not later than 1 year after the date of enactment of this section, the Secretary shall establish data exchange formats to ensure that the data provided by highway and transit monitoring systems (including statewide incident reporting systems) can readily be exchanged between jurisdictions to facilitate the nationwide availability of information on traffic and travel conditions.

"(c) STATEWIDE INCIDENT REPORTING SYSTEM.—Not later than 2 years after the date of enactment of this section, or not later than 5 years after the date of enactment of this section if the Secretary determines that adequate real-time communications capability will not be available within 2 years after the date of enactment of this section, each State shall establish a statewide incident reporting system to facilitate the real-time electronic reporting of highway and transit incidents to a central location for use in—

"(1) monitoring an incident;

"(2) providing accurate traveler information on the incident; and

"(3) responding to the incident as appropriate.

"(d) Regional ITS Architecture.—

"(1) In general.—In developing or updating regional intelligent transportation system architectures under section 940.9 of title 23, Code of Federal Regulations (or any successor regulation), States and local governments shall address—

"(A) the real-time highway and transit information needs of the State or local government, including coverage, monitoring systems, data fusion and archiving, and methods of exchanging or sharing information; and

"(B) the systems needed to meet those needs.

"(2) Data exchange formats.—In developing or updating regional intelligent transportation system architectures, States and local governments are encouraged to incorporate the data exchange formats developed by the Secretary under subsection (b) to ensure that the data provided by highway and transit monitoring systems can readily be—

"(A) exchanged between jurisdictions; and

"(B) shared with the traveling public.

"(e) Eligible Funding.—Subject to project approval by the Secretary, a State may—

"(1) use funds available to the State under section 505(a) to carry out activities relating to the planning of real-time monitoring elements; and

"(2) use funds apportioned to the State under paragraphs (1) and (3) of section 104(b) to carry out activities relating to the planning and deployment of real-time monitoring elements.".

(b) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1701(c)(2)), is amended adding at the end the following:

"169. Real-time system management information program.".

SEC. 1703. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

Section 112(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (A), by striking "title 40" and all that follows through the period and inserting "title 40.";

(2) by striking subparagraph (B);

(3) by redesignating subparagraphs (C) through (F) as subparagraphs (B) through (E), respectively; and

(4) by striking subparagraph (G).

SEC. 1704. DESIGNATION OF TRANSPORTATION MANAGEMENT AREAS.

(a) Funding.—Section 134(d)(3)(C)(ii) of title 23, United States Code, is amended by striking subclause (II) and inserting the following:

"(II) Funding.—In addition to funds made available to the metropolitan planning organization for the Lake Tahoe Region under this title and chapter 53 of title 49, 1 percent of all funds distributed under section 202 shall be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.".

(b) Special Designation.—For the purpose of any applicable program under title 23, United States Code, the city of Norman, Oklahoma, shall be considered to be part of the Oklahoma City urbanized area.

Subtitle H—Federal-Aid Stewardship

SEC. 1801. FUTURE INTERSTATE SYSTEM ROUTES.

Section 103(c)(4)(B) of title 23, United States Code, is amended—

(1) in clause (ii), by striking "12" and inserting "20"; and

(2) in clause (iii)—

(A) in subclause (I), by striking "in the agreement between the Secretary and the State or States"; and

(B) by adding at the end the following:

"(III) Existing agreements.—An agreement described in clause (ii) that is entered into before the date of enactment of this subparagraph shall be deemed to include the 20-year time limitation described in that clause, regardless of any earlier construction completion date in the agreement.".

SEC. 1802. STEWARDSHIP AND OVERSIGHT.

(a) In General.—Section 106 of title 23, United States Code, is amended—

(1) by striking subsection (e) and inserting the following:

"(e) Value Engineering Analysis.—

"(1) Definition of value engineering analysis.—

"(A) In general.—In this subsection, the term 'value engineering analysis' means a systematic process of review and analysis of a project, during the concept and design phases, by a multidisciplined team of persons not involved in the project, that is conducted to provide recommendations such as those described in subparagraph (B) for—

"(i) providing the needed functions safely, reliably, and at the lowest overall cost;

"(ii) improving the value and quality of the project; and

"(iii) reducing the time to complete the project.

"(B) Inclusions.—The recommendations referred to in subparagraph (A) include, with respect to a project—

"(i) combining or eliminating otherwise inefficient use of costly parts of the original proposed design for the project; and

"(ii) completely redesigning the project using different technologies, materials, or methods so as to accomplish the original purpose of the project.

"(2) Analysis.—The State shall provide a value engineering analysis or other cost-reduction analysis for—

"(A) each project on the Federal-Aid System with an estimated total cost of $25,000,000 or more;

"(B) a bridge project with an estimated total cost of $20,000,000 or more; and

"(C) any other project the Secretary determines to be appropriate.

"(3) Major projects.—The Secretary may require more than 1 analysis described in paragraph (2) for a major project described in subsection (h).

"(4) Requirements.—Analyses described in paragraph (1) for a bridge project shall—

"(A) include bridge substructure requirements based on construction material; and

"(B) be evaluated—

"(i) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

"(ii) using an analysis of life-cycle costs and duration of project construction."; and

(2) by striking subsections (g) and (h) and inserting the following:

"(g) Oversight Program.—

"(1) Program.—

"(A) In general.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds made available under this title.

"(B) Minimum requirements.—At a minimum, the program shall monitor and respond to all areas relating to financial integrity and project delivery.

"(2) Financial integrity.—

"(A) Financial management systems.—

"(i) In general.—The Secretary shall perform annual reviews of the financial management systems of State transportation departments that affect projects approved under subsection (a).

"(ii) Review areas.—In carrying out clause (i), the Secretary shall use risk assessment procedures to identify areas to be reviewed.

"(B) Project costs.—The Secretary shall—

"(i) develop minimum standards for estimating project costs; and

"(ii) periodically evaluate practices of the States for—

"(I) estimating project costs;

"(II) awarding contracts; and

"(III) reducing project costs.

"(C) Responsibility of the States.—

"(i) In general.—Each State shall be responsible for ensuring that subrecipients of Federal funds within the State under this section have—

"(I) sufficient accounting controls to properly manage the Federal funds; and

"(II) adequate project delivery systems for projects approved under this section.

"(ii) Review by Secretary.—The Secretary shall periodically review monitoring by the States of those subrecipients.

"(3) Project delivery.—The Secretary shall—

"(A) perform annual reviews of the project delivery system of each State, including analysis of 1 or more activities that are involved in the life cycle of a project; and

"(B) employ risk assessment procedures to identify areas to be reviewed.

"(4) Specific oversight responsibilities.—Nothing in this section discharges or otherwise affects any oversight responsibility of the Secretary—

"(A) specifically provided for under this title or other Federal law; or

"(B) for the design and construction of all Appalachian development highways under section 14501 of title 40 or section 170 of this title.

"(h) Major Projects.—

"(1) In general.—Notwithstanding any other provision of this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of $1,000,000,000 or more, and recipients for such other projects as may be identified by the Secretary, shall submit to the Secretary for each project—

"(A) a project management plan; and

"(B) an annual financial plan.

"(2) Project management plan.—A project management plan shall document—

"(A) the procedures and processes that are in effect to provide timely information to the project decisionmakers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and

"(B) the role of the agency leadership and management team in the delivery of the project.

"(3) Financial plan.—A financial plan shall—

"(A) be based on detailed estimates of the cost to complete the project; and

"(B) provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

"(i) Other Projects.—A recipient of Federal financial assistance for a project under this title that receives **$100,000,000** or more in Federal assistance for the project, and that is not covered by subsection (h), shall prepare, and make available to the Secretary at the request of the Secretary, an annual financial plan for the project.".

(b) CONFORMING AMENDMENTS.—

(1) Section 114(a) of title 23, United States Code, is amended—

(A) in the first sentence by striking "highways or portions of highways located on a Federal-aid system" and inserting "Federal-aid highway or a portion of a Federal-aid highway"; and

(B) by striking the second sentence and inserting "The Secretary shall have the right to conduct such inspections and take such corrective action as the Secretary determines to be appropriate.".

(2) Section 117 of title 23, United States Code, is amended—

(A) by striking subsection (d); and

(B) by redesignating subsections (e) through (h) as subsections (d) through (g), respectively.

(c) SHARING FRAUD MONETARY RECOVERIES.—

(1) IN GENERAL.—Section 307 of title 49, United States Code, is amended to read as follows:

"§ 307. Sharing fraud monetary recoveries

"(a) IN GENERAL.—Notwithstanding any other provision of law—

"(1) monetary judgments accruing to the Federal Government from judgments in Federal criminal prosecutions and civil judgments pertaining to fraud in highway and transit programs shall be shared with the State or local transit agency involved; and

"(2) the State or local transit agency shall use the funds for transportation infrastructure and oversight activities relating to programs authorized under title 23 and this title.

"(b) AMOUNT.—The amount of recovered funds to be shared with an affected State or local transit agency shall be—

"(1) determined by the Attorney General, in consultation with the Secretary; and

"(2) considered to be Federal funds to be used in compliance with other relevant Federal transportation laws (including regulations).

"(c) FRAUDULENT ACTIVITY.—Subsection (a) shall not apply in any case in which a State or local transit agency is found by the Attorney General, in consultation with the Secretary, to have been involved or negligent with respect to the fraudulent activities.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 49, United States Code, is amended by striking the item relating to section 307 and inserting the following:

"307. Sharing fraud monetary recoveries.".

SEC. 1803. DESIGN-BUILD CONTRACTING.

Section 112(b)(3) of title 23, United States Code, is amended by striking subparagraph (C) and inserting the following:

"(C) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter (including intermodal projects) for which the Secretary has approved the use of design-build contracting under criteria specified in regulations promulgated by the Secretary.".

SEC. 1804. PROGRAM EFFICIENCIES—FINANCE.

(a) ADVANCE CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by redesignating subsections (a)(2), (a)(2)(A), and (a)(2)(B) as subsections (c), (c)(1), and (c)(2), respectively, and indenting appropriately;

(3) by striking "(a) CONGESTION" and all that follows through subsection (a)(1)(B);

(4) by striking subsection (b); and

(5) by inserting after the section heading the following:

"(a) IN GENERAL.—The Secretary may authorize a State to proceed with a project authorized under this title—

"(1) without the use of Federal funds; and

"(2) in accordance with all procedures and requirements applicable to the project other than those procedures and requirements that limit the State to implementation of a project—

"(A) with the aid of Federal funds previously apportioned or allocated to the State; or

"(B) with obligation authority previously allocated to the State.

"(b) OBLIGATION OF FEDERAL SHARE.—The Secretary, on the request of a State and execution of a project agreement, may obligate all or a portion of the Federal share of the project authorized under this section from any category of funds for which the project is eligible.".

(b) OBLIGATION AND RELEASE OF FUNDS.—Section 118 of title 23, United States Code, is amended by striking subsection (d) and inserting the following:

"(d) OBLIGATION AND RELEASE OF FUNDS.—

"(1) IN GENERAL.—Funds apportioned or allocated to a State for a particular purpose for any fiscal year shall be considered to be obligated if a sum equal to the total of the funds apportioned or allocated to the State for that purpose for that fiscal year and previous fiscal years is obligated.

"(2) RELEASED FUNDS.—Any funds released by the final payment for a project, or by modifying the project agreement for a project, shall be—

"(A) credited to the same class of funds previously apportioned or allocated to the State; and

"(B) immediately available for obligation.

"(3) NET OBLIGATIONS.—Notwithstanding any other provision of law (including a regulation), obligations recorded against funds made available under this section shall be recorded and reported as net obligations.".

SEC. 1805. SET-ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.

Section 118(c)(1) of title 23, United States Code, is amended—

(1) by striking "$50,000,000" and all that follows through "2003" and inserting "$93,862,893 for each of fiscal years 2005 through 2009"; and

(2) by striking "Transportation Equity Act for the 21st Century" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005".

SEC. 1806. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) FEDERAL SHARE PAYABLE.—

(1) IN GENERAL.—Section 120(k) of title 23, United States Code, is amended—

(A) by striking "Federal-aid highway"; and

(B) by striking "section 104" and inserting "this title or chapter 53 of title 49".

(2) TECHNICAL REFERENCES.—Section 120(l) of title 23, United States Code, is amended by striking "section 104" and inserting "this title or chapter 53 of title 49".

(b) PAYMENTS TO FEDERAL AGENCIES FOR FEDERAL-AID PROJECTS.—Section 132 of title 23, United States Code, is amended—

(1) by striking the first 2 sentences and inserting the following:

"(a) IN GENERAL.—In a case in which a proposed Federal-aid project is to be undertaken by a Federal agency in accordance with an agreement between a State and the Federal agency, the State may—

"(1) direct the Secretary to transfer the funds for the Federal share of the project directly to the Federal agency; or

"(2) make such deposit with, or payment to, the Federal agency as is required to meet the obligation of the State under the agreement for the work undertaken or to be undertaken by the Federal agency.

"(b) REIMBURSEMENT.—On execution of a project agreement with a State described in subsection (a), the Secretary may reimburse the State, using any available funds, for the estimated Federal share under this title of the obligation of the State deposited or paid under subsection (a)(2)."; and

(2) in the last sentence, by striking "Any sums" and inserting the following:

"(c) RECOVERY AND CREDITING OF FUNDS.—Any sums".

(c) ALLOCATIONS.—Section 202 of title 23, United States Code, is amended—

(1) in subsection (a), by striking "(a) On October 1" and all that follows through "Such allocation" and inserting the following:

"(a) ALLOCATION BASED ON NEED.—

"(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate sums authorized to be appropriated for the fiscal year for forest development roads and trails according to the relative needs of the various national forests and grasslands.

"(2) PLANNING.—The allocation under paragraph (1)";

(2) by striking subsection (b) and inserting the following:

"(b) ALLOCATION FOR PUBLIC LANDS HIGHWAYS.—

"(1) PUBLIC LANDS HIGHWAYS.—

"(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 33⅓ percent of the sums authorized to be appropriated for that fiscal year for public lands highways among those States having unappropriated or unreserved public lands, or nontaxable Indian lands or other Federal reservations, on the basis of need in the States, respectively, as determined by the Secretary, on application of the State transportation departments of the respective States.

"(B) PREFERENCE.—In making the allocation under subparagraph (A), the Secretary shall give preference to those projects that are significantly impacted by Federal land and resource management activities that are proposed by a State that contains at least 3 percent of the total public land in the United States.

"(2) FOREST HIGHWAYS.—

"(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 66⅔ percent of the funds authorized to be appropriated for public lands highways for forest highways in accordance with section 134 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 202 note; 101 Stat. 173).

"(B) PUBLIC ACCESS TO AND WITHIN NATIONAL FOREST SYSTEM.—In making the allocation under subparagraph (A), the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through—

"(i) renewable resource and land use planning; and

"(ii) assessments of the impact of that planning on transportation facilities.";

(3) in subsection (c)—

(A) by striking "(c) On" and inserting the following:

"(c) PARK ROADS AND PARKWAYS.—

"(1) IN GENERAL.—On"; and

(B) by adding at the end the following:

"(2) PRIORITY.—

"(A) DEFINITION OF QUALIFYING NATIONAL PARK.—In this paragraph, the term "qualifying national park" means a National Park that is used more than 1,000,000 recreational visitor days per year, based on an average of the 3 most recent years of available data from the National Park Service.

"(B) PRIORITY.—Notwithstanding any other provision of law, with respect to funds authorized for park roads and parkways, the Secretary shall give priority in the allocation of funds to projects for highways that—

"(i) are located in, or provide access to, a qualifying National Park; and

"(ii) were initially constructed before 1940.

"(C) PRIORITY CONFLICTS.—If there is a conflict between projects described in subparagraph (B), the Secretary shall give highest priority to projects that—

"(i) are in, or that provide access to, parks that are adjacent to a National Park of a foreign country; or

"(ii) are located in more than 1 State;";

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the paragraph heading, by striking "1999" and inserting "2005"; and

(ii) by striking "1999" and inserting "2005";

(B) in paragraph (2)—

(i) in the paragraph heading, by striking "2000" and inserting "2005";

(ii) in subparagraphs (A), (B), and (D), by striking "2000" each place it appears and inserting "2005";

(iii) in subparagraph (B), by striking "1999" each place it appears and inserting "2005"; and

(iv) by adding at the end the following:

"(E) TRANSFERRED FUNDS.—

"(i) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and available for immediate use by, the eligible Indian tribes, in accordance with the formula for distribution of funds under the Indian reservation roads program under section 204.

"(ii) USE OF FUNDS.—Notwithstanding any other provision of this section, funds available to Indian tribes for Indian reservation roads shall be expended on projects identified in a transportation improvement program approved by the Secretary.";

(C) in paragraph (3)—

(i) in subparagraph (A), by striking "under this title" and inserting "under this chapter and section 125(e)"; and

(ii) by adding at the end the following:

"(C) FEDERAL LANDS HIGHWAY PROGRAM DEMONSTRATION PROJECT.—

"(i) IN GENERAL.—The Secretary shall establish a demonstration project under which all funds made available under this chapter for Indian reservation roads and for highway bridges located on Indian reservation roads as provided for in subparagraph (A) shall be made available, on the request of an affected Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), contracts and agreements for the planning, research, engineering, and construction described in that subparagraph.

"(ii) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (B), all funds for Indian reservation roads and for highway bridges located on Indian reservation roads to which clause (i) applies shall be paid without regard to the organizational level at which the Federal lands highway program has previously carried out the programs, functions, services, or activities involved.

"(iii) SELECTION OF PARTICIPATING TRIBES.—

"(I) PARTICIPANTS.—

"(aa) IN GENERAL.—In addition to Indian tribes or tribal organizations that, as of the date of enactment of this subparagraph, are contracting or compacting for any Indian reservation road function or program, for each fiscal year, the Secretary may select up to 15 Indian tribes from the applicant pool described in subclause (II) to participate in the demonstration project carried out under clause (i).

"(bb) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or activity to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of becoming part of the applicant pool under subclause (II).

"(cc) FUNDING.—An Indian tribe participating in the pilot program under this subparagraph shall receive funding in an amount equal to the sum of the funding that the Indian tribe would otherwise receive in accordance with the funding formula established under the other provisions of this subsection, and an additional percentage of that amount equal to the percentage of funds withheld during the applicable fiscal year for the road program management costs of the Bureau of Indian Affairs under subsection (f)(1).

"(II) APPLICANT POOL.—The applicant pool described in this subclause shall consist of each Indian tribe (or consortium) that—

"(aa) has successfully completed the planning phase described in subclause (IV);

"(bb) has requested participation in the demonstration project under this subparagraph through the adoption of a resolution or other official action by the tribal governing body; and

"(cc) has demonstrated financial stability and financial management capability in accordance with subclause (III) during the 3-fiscal-year period immediately preceding the fiscal year for which participation under this subparagraph is being requested.

"(III) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purpose of subclause (II), evidence that, during the 3-year period referred to in subclause (II)(cc), an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required stability and capability.

"(IV) PLANNING PHASE.—

"(aa) IN GENERAL.—An Indian tribe (or consortium) requesting participation in the demonstration project under this subparagraph shall complete a planning phase that shall include legal and budgetary research and internal tribal government and organization preparation.

"(bb) ELIGIBILITY.—An Indian tribe (or consortium) described in item (aa) shall be eligible to receive a grant under this subclause to plan and negotiate participation in a project described in that item.

"(V) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall submit to Congress a report describing the implementation of the demonstration project and any recommendations for improving the project."; and

(D) in paragraph (4)—

(i) in subparagraph (B)—

(I) by striking "(B) RESERVATION.—Of the amounts" and all that follows through "to replace," and inserting the following:

"(B) FUNDING.—

"(i) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available for Indian reservation roads for each fiscal year, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $14,079,433 for each of fiscal years 2005 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,"; and

(II) by adding at the end the following:

"(ii) AVAILABILITY.—Funds made available to carry out this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1."; and

(ii) by striking subparagraph (D) and inserting the following:

"(D) APPROVAL REQUIREMENT.—

"(i) IN GENERAL.—Subject to clause (ii), on request by an Indian tribe or the Secretary of the Interior, the Secretary may make funds available under this subsection for preliminary engineering for Indian reservation road bridge projects.

"(ii) CONSTRUCTION AND CONSTRUCTION ENGINEERING.—The Secretary may make funds available under clause (i) for construction and construction engineering after approval of applicable plans, specifications, and estimates in accordance with this title."; and

(5) by adding at the end the following:

"(f) ADMINISTRATION OF INDIAN RESERVATION ROADS.—

"(1) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, for any fiscal year, not more than 6 percent of the contract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs under this title shall be used to pay the expenses incurred by the Bureau in administering the Indian reservation roads program (including the administrative expenses relating to individual projects associated with the Indian reservation roads program).

"(2) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribe or tribal organization may approve plans, specifications, and estimates and commence road and bridge construction under the Transportation Equity Act for the 21st Century (Public Law 105-178) or the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 that is funded through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribe or tribal organization—

"(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

"(B) obtains the advance review of the plans and specifications from a licensed professional that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

"(C) provides a copy of the certification under subparagraph (B) to the Assistant Secretary for Indian Affairs.".

(d) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting "refuge roads, recreation roads," after "parkways,";

(2) by striking subsection (b) and inserting the following:

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Funds available for public lands highways, recreation roads, park roads and parkways, forest highways, and Indian reservation roads shall be used by the

Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of transportation planning, research, engineering, operation and maintenance of transit facilities, and construction of the highways, roads, parkways, forest highways, and transit facilities located on public land, national parks, and Indian reservations.

"(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a construction contract or other appropriate agreement with—

"(A) a State (including a political subdivision of a State); or

"(B) an Indian tribe.

"(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

"(A) Indian labor may be used, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

"(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

"(4) FEDERAL EMPLOYMENT.—No maximum on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

"(5) AVAILABILITY OF FUNDS.—Funds available under this section for each class of Federal lands highway shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highway.

"(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation road program to finance the Indian technical centers authorized under section 504(b)."; and

(3) in subsection (k)(1)—

(A) in subparagraph (B)—

(i) by striking "(2), (5)," and inserting "(2), (3), (5),"; and

(ii) by striking "and" after the semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(D) maintenance of public roads in national fish hatcheries under the jurisdiction of the United States Fish and Wildlife Service;

"(E) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

"(F) maintenance and improvement of recreational trails (except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year).".

(e) MAINTENANCE OF INDIAN RESERVATION ROADS.—Section 204(c) of title 23, United States Code, is amended by striking the second and third sentences and inserting the following: "Notwithstanding any other provision of this title, of the amount of funds allocated for Indian reservation roads from the Highway Trust Fund, not more than 25 percent may be expended for the purpose of maintenance, excluding road sealing, and shall not be subject to any limitation. The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations. The Secretary shall ensure that funding made available under this subsection for maintenance of Indian reservation roads for each fiscal year is supplementary to and not in lieu of any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.".

(f) SAFETY.—

(1) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (c)(5)), is amended by adding at the end the following:

"(g) SAFETY.—Subject to paragraph (2), on October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for the fiscal year for safety as follows:

"(1) 12 percent to the Bureau of Reclamation.

"(2) 18 percent to the Bureau of Indian Affairs.

"(3) 17 percent to the Bureau of Land Management.

"(4) 17 percent to the Forest Service.

"(5) 7 percent to the United States Fish and Wildlife Service.

"(6) 17 percent to the National Park Service.

"(7) 12 percent to the Corps of Engineers.".

(2) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended by inserting "safety projects or activities," after "refuge roads," each place it appears.

(3) USE OF FUNDING.—Section 204 of title 23, United States Code, is amended by adding at the end the following:

"(l) SAFETY ACTIVITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for safety under this title shall be used by the Secretary and the head of the appropriate Federal land management agency only to pay the costs of carrying out—

"(A) transportation safety improvement activities;

"(B) activities to eliminate high-accident locations;

"(C) projects to implement protective measures at, or eliminate, at-grade railway-highway crossings;

"(D) collection of safety information;

"(E) transportation planning projects or activities;

"(F) bridge inspection;

"(G) development and operation of safety management systems;

"(H) highway safety education programs; and

"(I) other eligible safety projects and activities authorized under chapter 4.

"(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

"(A) a State;

"(B) a political subdivision of a State; or

"(C) an Indian tribe.

"(3) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 4601-12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.".

(g) RECREATION ROADS.—

(1) AUTHORIZATIONS.—Section 201 of title 23, United States Code, is amended in the first sentence by inserting "recreation roads," after "public lands highways,".

(2) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (f)(1)), is amended by adding at the end the following:

"(h) RECREATION ROADS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), on October 1 of each fiscal year, the Secretary, after completing the transfer under subsection 204(i), shall allocate the sums authorized to be appropriated for the fiscal year for recreation roads as follows:

"(A) 8 percent to the Bureau of Reclamation.

"(B) 9 percent to the Corps of Engineers.

"(C) 13 percent to the Bureau of Land Management.

"(D) 70 percent to the Forest Service.

"(2) ALLOCATION WITHIN AGENCIES.—Recreation road funds allocated to a Federal agency under paragraph (1) shall be allocated for projects and activities of the Federal agency according to the relative needs of each area served by recreation roads under the jurisdiction of the Federal agency, as indicated in the approved transportation improvement program for each Federal agency.".

(3) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended—

(A) in the first sentence, by inserting "recreation roads," after "Indian reservation roads,"; and

(B) in the fourth sentence, by inserting ", recreation roads," after "Indian roads".

(4) USE OF FUNDING.—Section 204 of title 23, United States Code (as amended by subsection (e)(3)), is amended by adding at the end the following:

"(m) RECREATION ROADS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for recreation roads under this title shall be used by the Secretary and the Secretary of the appropriate Federal land management agency only to pay the cost of—

"(A) maintenance or improvements of existing recreation roads;

"(B) maintenance and improvements of eligible projects described in paragraph (1), (2), (3), (5), or (6) of subsection (h) that are located in or adjacent to Federal land under the jurisdiction of—

"(i) the Department of Agriculture; or

"(ii) the Department of the Interior;

"(C) transportation planning and administrative activities associated with those maintenance and improvements; and

"(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within Federal land described in subparagraph (B).

"(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

"(A) a State;

"(B) a political subdivision of a State; or

"(C) an Indian tribe.

"(3) NEW ROADS.—No funds made available under this section shall be used to pay the cost of the design or construction of new recreation roads.

"(4) COMPLIANCE WITH OTHER ENVIRONMENTAL LAWS.—A maintenance or improvement project that is funded under this subsection, and that is consistent with or has been identified in a land use plan for an area under the jurisdiction of a Federal agency, shall not require any additional environmental reviews or assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

"(A) the Federal agency that promulgated the land use plan analyzed the specific proposal for the maintenance or improvement project under that Act; and

"(B) as of the date on which the funds are to be expended, there are—

"(i) no significant changes to the proposal bearing on environmental concerns; and

"(ii) no significant new information.

"(5) Exception.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 460l–12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.".

(h) Conforming Amendments.—

(1) Sections 120(e) and 125(e) of title 23, United States Code, are amended by striking "public lands highways," each place it appears and inserting "public lands highways, recreation roads,".

(2) Sections 120(e), 125(e), 201, 202(a), and 203 of title 23, United States Code, are amended by striking "forest development roads" each place it appears and inserting "National Forest System roads".

(3) Section 202(e) of title 23, United States Code, is amended by striking "Refuge System," and inserting "Refuge System and the various national fish hatcheries,".

(4) Section 204 of title 23, United States Code, is amended—

(A) in subsection (a)(1), by striking "public lands highways," and inserting "public lands highways, recreation roads, forest highways,"; and

(B) in subsection (i), by striking "public lands highways" each place it appears and inserting "public lands highways, recreation roads, and forest highways".

(5) Section 205 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

"§ 205. National Forest System roads and trails";

and

(B) in subsections (a) and (d), by striking "forest development roads" each place it appears and inserting "National Forest System roads".

(6) The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 205 and inserting the following:

"205. National Forest System roads and trails.".

(7) Section 217(c) of title 23, United States Code, is amended by inserting "refuge roads," after "Indian reservation roads,".

SEC. 1807. HIGHWAY BRIDGE PROGRAM.

(a) In General.—Section 144 of title 23, United States Code, is amended—

(1) by striking the section heading and all that follows through subsection (a) and inserting the following:

"§ 144. Highway bridge program

"(a) Congressional Statement.—Congress finds and declares that it is in the vital interest of the United States that a highway bridge program be established to enable States to improve the condition of their bridges through replacement, rehabilitation, and systematic preventative maintenance on highway bridges over waterways, other topographical barriers, other highways, or railroads at any time at which the States and the Secretary determine that a bridge is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.";

(2) by striking subsection (d) and inserting the following:

"(d) Participation in Program.—

"(1) In general.—On application by a State to the Secretary for assistance in replacing or rehabilitating a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c), the Secretary may approve Federal participation in—

"(A) replacing the bridge with a comparable bridge; or

"(B) rehabilitating the bridge.

"(2) Specific kinds of rehabilitation.—On application by a State to the Secretary for assistance in painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or applying calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or application of acetate or sodium acetate/formate or such anti-icing or de-icing composition to, the structure.

"(3) Eligibility.—

"(A) In general.—Except as provided in subparagraph (B), the Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based on the number of unsafe highway bridges in the State.

"(B) Preventative maintenance.—A State may carry out a project for preventative maintenance on a bridge, seismic retrofit of a bridge, or installation of scour countermeasures to a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section.";

(3) in subsection (e)—

(A) in the third sentence, by striking "square footage" and inserting "area";

(B) in the fourth sentence—

(i) by striking "by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services, and,"; and

(ii) by striking "1997" and inserting "2003"; and

(C) in the seventh sentence, by striking "the Federal-aid primary system" and inserting "Federal-aid highways";

(4) by striking subsections (f) and (g) and inserting the following:

"(f) Set Asides.—

"(1) Discretionary bridge program.—

"(A) In general.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of fiscal years 2005 through 2009, all but $140,794,340 shall be apportioned as provided in subsection (e).

"(B) Availability.—The $140,794,340 referred to in subparagraph (A) shall be available at the discretion of the Secretary, except that not to exceed $23,465,723 of that amount shall be available only for projects for the seismic retrofit of bridges.

"(C) Set asides.—For fiscal year 2005, the Secretary shall provide—

"(i) $46,931,446 to the State of Nevada for construction of a replacement of the federally-owned bridge over the Hoover Dam in the Lake Mead National Recreation Area; and

"(ii) $46,931,446 to the State of Missouri for construction of a structure over the Mississippi River to connect the city of St. Louis, Missouri, to the State of Illinois.

"(2) Off-system bridges.—

"(A) In general.—Not less than 15 percent of the amount apportioned to each State in each of fiscal years 2005 through 2009 shall be expended for projects to replace, rehabilitate, perform systematic preventative maintenance or seismic retrofit, or apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or install scour countermeasures to highway bridges located on public roads, other than those on a Federal-aid highway, or to complete the Warwick Intermodal Station (including the construction of a people mover between the Station and the T.F. Green Airport).

"(B) Reduction of expenditures.—The Secretary, after consultation with State and local officials, may, with respect to the State, reduce the requirement for expenditure for bridges not on a Federal-aid highway if the Secretary determines that the State has inadequate needs to justify the expenditure.";

(5) in subsection (i)—

(A) in paragraph (3), by striking "and";

(B) in paragraph (4), by striking the period at the end and inserting "; and";

(C) by striking "Such reports" and all that follows through "to Congress."; and

(D) by adding at the end the following:

"(5) biennially submit such reports as are required under this subsection to the appropriate committees of Congress simultaneously with the report required by section 502(g).";

(6) in the first sentence of subsection (n), by striking "all standards" and inserting "all general engineering standards";

(7) in subsection (o)—

(A) in paragraph (3)—

(i) by striking "title (including this section)" and inserting "section"; and

(ii) by inserting "200 percent of" after "shall not exceed"; and

(B) in paragraph (4)(B)—

(i) in the second sentence, by inserting "200 percent of" after "not to exceed"; and

(ii) in the last sentence, by striking "title" and inserting "section";

(8) by redesignating subsections (h) through (q) as subsections (g) through (p), respectively; and

(9) by adding at the end the following:

"(q) Continuation of Annual Materials Report on New Bridge Construction and Bridge Rehabilitation.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Secretary shall publish in the Federal Register a report describing construction materials used in new Federal-aid bridge construction and bridge rehabilitation projects.

"(r) Federal Share.—The Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.".

(b) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 144 and inserting the following:

"144. Highway bridge program.".

SEC. 1808. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1702(a)), is amended by adding at the end the following:

"§ 170. Appalachian development highway system

"(a) Apportionment.—

"(1) In general.—The Secretary shall apportion funds made available under section 1101(7) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of

2005 for fiscal years 2005 through 2009 among States based on the latest available estimate of the cost to construct highways and access roads for the Appalachian development highway system program prepared by the Appalachian Regional Commission under section 14501 of title 40.

"(2) AVAILABILITY.—Funds described in paragraph (1) shall be available to construct highways and access roads under chapter 145 of title 40.

"(b) APPLICABILITY OF TITLE.—Funds made available under section 1101(7) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for the Appalachian development highway system shall be available for obligation in the same manner as if the funds were apportioned under this chapter, except that—

"(1) the Federal share of the cost of any project under this section shall be determined in accordance with subtitle IV of title 40; and

"(2) the funds shall remain available until expended.".

(b) CONFORMING AMENDMENTS.—

(1) USE OF TOLL CREDITS.—Section 120(j)(1) of title 23, United States Code is amended by inserting "and the Appalachian development highway system program under subtitle IV of title 40" after "(other than the emergency relief program authorized by section 125".

(2) ANALYSIS.—The analysis of chapter 1 of title 23, United States Code (as amended by section 1702(b)), is amended by adding at the end the following:

"170. Appalachian development highway system.".

SEC. 1809. MULTISTATE CORRIDOR PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by 1808(a)), is amended by adding at the end the following:

"§ 171. Multistate corridor program

"(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall carry out a program to—

"(1) support and encourage multistate transportation planning and development; and

"(2) facilitate transportation decisionmaking and coordinate project delivery involving multistate corridors.

"(b) ELIGIBLE RECIPIENTS.—A State transportation department and a metropolitan planning organization may receive and administer funds provided under this section.

"(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for multistate highway and multimodal planning studies and construction.

"(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—

"(1) STUDIES.—All studies funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135.

"(2) CONSTRUCTION.—All construction funded under this program shall be consistent with section 133(b)(1).

"(e) SELECTION CRITERIA.—The Secretary shall select studies and projects to be carried out under the program based on—

"(1) the existence and significance of signed and binding multijurisdictional agreements;

"(2) endorsement of the study or project by applicable elected State and local representatives;

"(3) prospects for early completion of the study or project; or

"(4) whether the projects to be studied or constructed are located on corridors identified by section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2032).

"(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

"(1) encourage and enable States and other jurisdictions to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

"(2) give priority to studies or projects that emphasize multimodal planning, including planning for operational improvements that—

"(A) increase—

"(i) mobility;

"(ii) freight productivity;

"(iii) access to marine or inland ports;

"(iv) safety and security (including improvements to emergency evacuation routes); and

"(v) reliability; and

"(B) enhance the environment.

"(g) FEDERAL SHARE.—Except as provided in section 120, the Federal share of the cost of a study or project carried out under the program, using funds from all Federal sources, shall be 80 percent.

"(h) APPLICABILITY.—Funds authorized to be appropriated under section 1101(10) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under this chapter.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(b)) is amended by adding at the end the following:

"171. Multistate corridor program.".

SEC. 1810. BORDER PLANNING, OPERATIONS, TECHNOLOGY, AND CAPACITY PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(a)), is amended by adding at the end the following:

"§ 172. Border planning, operations, technology, and capacity program

"(a) DEFINITIONS.—In this section:

"(1) BORDER STATE.—The term 'border State' means any of the States of Alaska, Arizona, California, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New Mexico, New York, North Dakota, Texas, Vermont, and Washington.

"(2) PROGRAM.—The term 'program' means the border planning, operations, technology, and capacity program established under subsection (b).

"(b) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish and carry out a border planning, operations, technology, and capacity improvement program to support coordination and improvement in bi-national transportation planning, operations, efficiency, information exchange, safety, and security at the international borders of the United States with Canada and Mexico.

"(c) ELIGIBLE ACTIVITIES.—

"(1) IN GENERAL.—The Secretary shall make allocations under the program for projects to carry out eligible activities described in paragraph (2) at or near international land borders in border States.

"(2) ELIGIBLE ACTIVITIES.—A border State may obligate funds apportioned to the border State under this section for—

"(A) highway and multimodal planning or environmental studies;

"(B) cross-border port of entry and safety inspection improvements, including operational enhancements and technology applications;

"(C) technology and information exchange activities; and

"(D) right-of-way acquisition, design, and construction, as needed—

"(i) to implement the enhancements or applications described in subparagraphs (B) and (C);

"(ii) to decrease air pollution emissions from vehicles or inspection facilities at border crossings; or

"(iii) to increase highway capacity at or near international borders.

"(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—

"(1) IN GENERAL.—Each project funded under the program shall be carried out in accordance with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135.

"(2) REGIONALLY SIGNIFICANT PROJECTS.—To be funded under the program, a regionally significant project shall be included on the applicable transportation plan and program required by sections 134 and 135.

"(e) PROGRAM PRIORITIES.—Border States shall give priority to projects that emphasize—

"(1) multimodal planning;

"(2) improvements in infrastructure; and

"(3) operational improvements that—

"(A) increase safety, security, freight capacity, or highway access to rail, marine, and air services; and

"(B) enhance the environment.

"(f) MANDATORY PROGRAM.—

"(1) IN GENERAL.—For each fiscal year, the Secretary shall allocate among border States, in accordance with the formula described in paragraph (2), funds to be used in accordance with subsection (d).

"(2) FORMULA.—Subject to paragraph (3), the amount allocated to a border State under this paragraph shall be determined by the Secretary, as follows:

"(A) 25 percent in the ratio that—

"(i) the average annual weight of all cargo entering the border State by commercial vehicle across the international border with Canada or Mexico, as the case may be; bears to

"(ii) the average annual weight of all cargo entering all border States by commercial vehicle across the international borders with Canada and Mexico.

"(B) 25 percent in the ratio that—

"(i) the average trade value of all cargo imported into the border State and all cargo exported from the border State by commercial vehicle across the international border with Canada or Mexico, as the case may be; bears to

"(ii) the average trade value of all cargo imported into all border States and all cargo exported from all border States by commercial vehicle across the international borders with Canada and Mexico.

"(C) 25 percent in the ratio that—

"(i) the number of commercial vehicles annually entering the border State across the international border with Canada or Mexico, as the case may be; bears to

"(ii) the number of all commercial vehicles annually entering all border States across the international borders with Canada and Mexico.

"(D) 25 percent in the ratio that—

"(i) the number of passenger vehicles annually entering the border State across the international border with Canada or Mexico, as the case may be; bears to

"(ii) the number of all passenger vehicles annually entering all border States across the international borders with Canada and Mexico.

“(3) DATA SOURCE.—

“(A) IN GENERAL.—The data used by the Secretary in making allocations under this subsection shall be based on the Bureau of Transportation Statistics Transborder Surface Freight Dataset (or other similar database).

“(B) BASIS OF CALCULATION.—All formula calculations shall be made using the average values for the most recent 5-year period for which data are available.

“(4) MINIMUM ALLOCATION.—Notwithstanding paragraph (2), for each fiscal year, each border State shall receive at least ½ of 1 percent of the funds made available for allocation under this paragraph for the fiscal year.

“(g) FEDERAL SHARE.—Except as provided in section 120, the Federal share of the cost of a project carried out under the program shall be 80 percent.

“(h) OBLIGATION.—Funds made available under section 1101(11) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 to carry out the program shall be available for obligation in the same manner as if the funds were apportioned under this chapter.

“(i) INFORMATION EXCHANGE.—No individual project the scope of work of which is limited to information exchange shall receive an allocation under the program in an amount that exceeds $500,000 for any fiscal year.

“(j) PROJECTS IN CANADA OR MEXICO.—A project in Canada or Mexico, proposed by a border State to directly and predominantly facilitate cross-border vehicle and commercial cargo movements at an international gateway or port of entry into the border region of the State, may be constructed using funds made available under the program if, before obligation of those funds, Canada or Mexico, or the political subdivision of Canada or Mexico that is responsible for the operation of the facility to be constructed, provides assurances satisfactory to the Secretary that any facility constructed under this subsection will be—

“(1) constructed in accordance with standards equivalent to applicable standards in the United States; and

“(2) properly maintained and used over the useful life of the facility for the purpose for which the Secretary allocated funds to the project.

“(k) TRANSFER OF FUNDS TO THE GENERAL SERVICES ADMINISTRATION.—

“(1) STATE FUNDS.—At the request of a border State, funds made available under the program may be transferred to the General Services Administration for the purpose of funding 1 or more specific projects if—

“(A) the Secretary determines, after consultation with the State transportation department of the border State, that the General Services Administration should carry out the project; and

“(B) the General Services Administration agrees to accept the transfer of, and to administer, those funds.

“(2) NON-FEDERAL SHARE.—

“(A) IN GENERAL.—A border State that makes a request under paragraph (1) shall provide directly to the General Services Administration, for each project covered by the request, the non-Federal share of the cost of each project described in subsection (f).

“(B) NO AUGMENTATION OF APPROPRIATIONS.—Funds provided by a border State under subparagraph (A)—

“(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and

“(ii) shall be—

“(I) administered in accordance with the procedures of the General Services Administration; but

“(II) available for obligation in the same manner as if the funds were apportioned under this chapter.

“(C) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds provided for projects under subparagraph (A).

“(3) DIRECT TRANSFER OF AUTHORIZED FUNDS.—

“(A) IN GENERAL.—In addition to allocations to States and metropolitan planning organizations under subsection (c), the Secretary may transfer funds made available to carry out this section to the General Services Administration for construction of transportation infrastructure projects at or near the border in border States, if—

“(i) the Secretary determines that the transfer is necessary to effectively carry out the purposes of this program; and

“(ii) the General Services Administration agrees to accept the transfer of, and to administer, those funds.

“(B) NO AUGMENTATION OF APPROPRIATIONS.—Funds transferred by the Secretary under subparagraph (A)—

“(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and

“(ii) shall be—

“(I) administered in accordance with the procedures of the General Services Administration; but

“(II) available for obligation in the same manner as if the funds were apportioned under this chapter.

“(C) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds transferred under subparagraph (A).”.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(b)), is amended by adding at the end the following:

“172. Border planning, operations, technology, and capacity program.”.

SEC. 1811. PUERTO RICO HIGHWAY PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1810(a)), is amended by adding at the end the following:

“§ 173. Puerto Rico highway program

“(a) IN GENERAL.—The Secretary shall allocate funds authorized by section 1101(15) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for each of fiscal years 2005 through 2009 to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

“(b) APPLICABILITY OF TITLE.—

“(1) IN GENERAL.—Amounts made available by section 1101(15) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 shall be available for obligation in the same manner as if such funds were apportioned under this chapter.

“(2) LIMITATION ON OBLIGATIONS.—The amounts shall be subject to any limitation on obligations for Federal-aid highway and highway safety construction programs.

“(c) TREATMENT OF FUNDS.—Amounts made available to carry out this section for a fiscal year shall be administered as follows:

“(1) APPORTIONMENT.—For the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b) and 144, for each program funded under those sections in an amount determined by multiplying—

“(A) the aggregate of the amounts for the fiscal year; by

“(B) the ratio that—

“(i) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

“(ii) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

“(2) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each section referred to in paragraph (1) shall be deemed to be required to be apportioned to Puerto Rico under that section for purposes of the imposition of any penalty under this title and title 49.

“(3) EFFECT ON ALLOCATIONS AND APPORTIONMENTS.—Subject to paragraph (2), nothing in this section affects any allocation under section 105 and any apportionment under sections 104 and 144.”.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1810(b)), is amended by adding at the end the following:

“173. Puerto Rico highway program.”.

SEC. 1812. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(a)), is amended by adding at the end the following:

“§ 174. National historic covered bridge preservation

“(a) DEFINITION OF HISTORIC COVERED BRIDGE.—In this section, the term ‘historic covered bridge’ means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

“(b) HISTORIC COVERED BRIDGE PRESERVATION.—Subject to the availability of appropriations, the Secretary shall—

“(1) collect and disseminate information on historic covered bridges;

“(2) conduct educational programs relating to the history and construction techniques of historic covered bridges;

“(3) conduct research on the history of historic covered bridges; and

“(4) conduct research on, and study techniques for, protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

“(c) GRANTS.—

“(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out 1 or more historic covered bridge projects described in paragraph (2).

“(2) ELIGIBLE PROJECTS.—A grant under paragraph (1) may be made for a project—

“(A) to rehabilitate or repair a historic covered bridge; or

“(B) to preserve a historic covered bridge, including through—

“(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

“(ii) installation of a system to prevent vandalism and arson; or

“(iii) relocation of a bridge to a preservation site.

“(3) AUTHENTICITY REQUIREMENTS.—A grant under paragraph (1) may be made for a project only if—

“(A) to the maximum extent practicable, the project—

"(i) is carried out in the most historically appropriate manner; and

"(ii) preserves the existing structure of the historic covered bridge; and

"(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

"(4) FEDERAL SHARE.—Except as provided in section 120, the Federal share of the cost of a project carried out with a grant under this subsection shall be 80 percent.

"(d) FUNDING.—There is authorized to be appropriated to carry out this section $13,140,805 for each of fiscal years 2005 through 2009, to remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(b)), is amended by adding at the end the following:

"174. National historic covered bridge preservation.".

SEC. 1813. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1812(a)), is amended by adding at the end the following:

"§ 175. Transportation and community and system preservation program

"(a) ESTABLISHMENT.—The Secretary shall establish a comprehensive program to facilitate the planning, development, and implementation of strategies by States, metropolitan planning organizations, federally-recognized Indian tribes, and local governments to integrate transportation, community, and system preservation plans and practices that address the goals described in subsection (b).

"(b) GOALS.—The goals of the program are to—

"(1) improve the efficiency of the transportation system in the United States;

"(2) reduce the impacts of transportation on the environment;

"(3) reduce the need for costly future investments in public infrastructure;

"(4) provide efficient access to jobs, services, and centers of trade; and

"(5) examine development patterns, and to identify strategies, to encourage private sector development patterns that achieve the goals identified in paragraphs (1) through (4).

"(c) ALLOCATION OF FUNDS FOR IMPLEMENTATION.—

"(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to carry out projects to address transportation efficiency and community and system preservation.

"(2) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

"(A) have instituted preservation or development plans and programs that—

"(i) meet the requirements of this title and chapter 53 of title 49, United States Code; and

"(ii)(I) are coordinated with State and local adopted preservation or development plans;

"(II) are intended to promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment; or

"(III) are intended to promote innovative private sector strategies.

"(B) have instituted other policies to integrate transportation and community and system preservation practices, such as—

"(i) spending policies that direct funds to high-growth areas;

"(ii) urban growth boundaries to guide metropolitan expansion;

"(iii) 'green corridors' programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

"(iv) other similar programs or policies as determined by the Secretary;

"(C) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment;

"(D) examine ways to encourage private sector investments that address the purposes of this section; and

"(E) propose projects for funding that address the purposes described in subsection (b)(2).

"(3) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this subsection, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

"(4) USE OF ALLOCATED FUNDS.—

"(A) IN GENERAL.—An allocation of funds made available to carry out this subsection shall be used by the recipient to implement the projects proposed in the application to the Secretary.

"(B) TYPES OF PROJECTS.—The allocation of funds shall be available for obligation for—

"(i) any project eligible for funding under this title or chapter 53 of title 49, United States Code; or

"(ii) any other activity relating to transportation and community and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement—

"(I) transit-oriented development plans;

"(II) traffic calming measures; or

"(III) other coordinated transportation and community and system preservation practices.

"(d) FUNDING.—

"(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $46,931,447 for each of fiscal years 2005 through 2009.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under this chapter.".

(b) ELIGIBLE PROJECTS.—Section 133(b) of title 23, United States Code (as amended by section 1701(a)), is amended by adding at the end the following:

"(18) Transportation and community system preservation to facilitate the planning, development, and implementation of strategies of metropolitan planning organizations and local governments to integrate transportation, community, and system preservation plans and practices that address the following:

"(A) Improvement of the efficiency of the transportation system in the United States.

"(B) Reduction of the impacts of transportation on the environment.

"(C) Reduction of the need for costly future investments in public infrastructure.

"(D) Provision of efficient access to jobs, services, and centers of trade.

"(E) Examination of development patterns, and identification of strategies to encourage private sector development patterns, that achieve the goals identified in subparagraphs (A) through (D).

"(19) Projects relating to intersections, including intersections—

"(A) that—

"(i) have disproportionately high accident rates;

"(ii) have high levels of congestion, as evidenced by—

"(I) interrupted traffic flow at the intersection; and

"(II) a level of service rating, issued by the Transportation Research Board of the National Academy of Sciences in accordance with the Highway Capacity Manual, that is not better than 'F' during peak travel hours; and

"(iii) are directly connected to or located on a Federal-aid highway; and

"(B) improvements that are approved in the regional plan of the appropriate local metropolitan planning organization.".

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1812(b)), is amended by adding at the end the following:

"175. Transportation and community and system preservation pilot program.".

SEC. 1814. PARKING PILOT PROGRAMS.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1813(a)), is amended by adding at the end the following:

"§ 176. Parking pilot programs

"(a) COMMERCIAL TRUCK PARKING PILOT PROGRAM.—

"(1) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a pilot program to address the shortage of long-term parking for drivers of commercial motor vehicles on the National Highway System.

"(2) ALLOCATION OF FUNDS.—

"(A) IN GENERAL.—The Secretary shall allocate funds made available under this subsection to States, metropolitan planning organizations, and local governments.

"(B) CRITERIA.—In allocating funds under this subsection, the Secretary shall give priority to an applicant that—

"(i) demonstrates a severe shortage of commercial vehicle parking capacity on the corridor to be addressed;

"(ii) consults with affected State and local governments, community groups, private providers of commercial vehicle parking, and motorist and trucking organizations; and

"(iii) demonstrates that the project proposed by the applicant is likely to have a positive effect on highway safety, traffic congestion, or air quality.

"(3) USE OF ALLOCATED FUNDS.—

"(A) IN GENERAL.—A recipient of funds allocated under this subsection shall use the funds to carry out the project proposed in the application submitted by the recipient to the Secretary.

"(B) TYPES OF PROJECTS.—Funds under this subsection shall be available for obligation for projects that serve the National Highway System, including—

"(i) construction of safety rest areas that include parking for commercial motor vehicles;

"(ii) construction of commercial motor vehicle parking facilities that are adjacent to commercial truck stops and travel plazas;

"(iii) costs associated with the opening of facilities (including inspection and weigh stations and park-and-ride facilities) to provide commercial motor vehicle parking;

"(iv) projects that promote awareness of the availability of public or private commercial motor vehicle parking on the National Highway System, including parking in connection with intelligent transportation systems and other systems;

"(v) construction of turnouts along the National Highway System for commercial motor vehicles;

"(vi) capital improvements to public commercial motor vehicle truck parking facilities closed on a seasonal basis in order to allow the facilities to remain open year-around; and

"(vii) improvements to the geometric design at interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

"(4) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this subsection.

"(5) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be consistent with section 120.

"(6) FUNDING.—

"(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $9,386,289 for each of fiscal years 2005 through 2009.

"(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter.

"(b) CORRIDOR AND FRINGE PARKING PILOT PROGRAM.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—In cooperation with appropriate State, regional, and local governments, the Secretary shall carry out a pilot program to provide corridor and fringe parking facilities.

"(B) PRIMARY FUNCTION.—The primary function of a corridor and fringe parking facility funded under this subsection shall be to provide parking capacity to support car pooling, van pooling, ride sharing, commuting, and high occupancy vehicle travel.

"(C) OVERNIGHT PARKING.—A State may permit a facility described in subparagraph (B) to be used for the overnight parking of commercial vehicles if the use does not foreclose or unduly limit the primary function of the facility described in subparagraph (B).

"(2) ALLOCATION OF FUNDS.—

"(A) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States.

"(B) CRITERIA.—In allocating funds under this subsection, the Secretary shall give priority to a State that—

"(i) demonstrates demand for corridor and fringe parking on the corridor to be addressed;

"(ii) consults with affected metropolitan planning organizations, local governments, community groups, and providers of corridor and fringe parking; and

"(iii) demonstrates that the project proposed by the State is likely to have a positive effect on ride sharing, traffic congestion, or air quality.

"(3) USE OF ALLOCATED FUNDS.—

"(A) IN GENERAL.—A recipient of funds allocated under this subsection shall use the funds to carry out the project proposed in the application submitted by the recipient to the Secretary.

"(B) TYPES OF PROJECTS.—Funds under this subsection shall be available for obligation for projects that serve the Federal-aid system, including—

"(i) construction of corridor and fringe parking facilities;

"(ii) costs associated with the opening of facilities;

"(iii) projects that promote awareness of the availability of corridor and fringe parking through the use of signage and other means;

"(iv) capital improvements to corridor and fringe parking facilities closed on a seasonal basis in order to allow the facilities to remain open year-around; and

"(v) improvements to the geometric design on adjoining roadways to facilitate access to, and egress from, corridor and fringe parking facilities.

"(4) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this subsection.

"(5) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be consistent with section 120.

"(6) FUNDING.—

"(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $9,386,289 for each of fiscal years 2005 through 2009.

"(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1813(c)), is amended by adding at the end the following:

"176. Parking pilot programs.".

SEC. 1815. INTERSTATE OASIS PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

"§ 177. Interstate oasis program

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, in consultation with the States and other interested parties, the Secretary shall—

"(1) establish an Interstate oasis program; and

"(2) develop standards for designating, as an Interstate oasis, a facility that—

"(A) offers—

"(i) products and services to the public;

"(ii) 24-hour access to restrooms; and

"(iii) parking for automobiles and heavy trucks; and

"(B) meets other standards established by the Secretary.

"(b) STANDARDS FOR DESIGNATION.—The standards for designation under subsection (a) shall include standards relating to—

"(1) the appearance of a facility; and

"(2) the proximity of the facility to the Interstate System.

"(c) ELIGIBILITY FOR DESIGNATION.—If a State elects to participate in the interstate oasis program, any facility meeting the standards established by the Secretary shall be eligible for designation under this section.

"(d) LOGO.—The Secretary shall design a logo to be displayed by a facility designated under this section.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1814(b)), is amended by adding at the end the following:

"177. Interstate oasis program.".

SEC. 1816. TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.

Section 204 of title 23, United States Code (as amended by section 1806(f)(4)), is amended by adding at the end the following:

"(n) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, regulation, policy, or guideline, an Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe assumes the responsibilities of the State for—

"(A) Indian reservation roads; and

"(B) roads providing access to Indian reservation roads.

"(2) TRIBAL-STATE AGREEMENTS.—Agreements entered into under paragraph (1)—

"(A) shall be negotiated between the State and the Indian tribe; and

"(B) shall not require the approval of the Secretary.

"(3) ANNUAL REPORT.—Effective beginning with fiscal year 2005, the Secretary shall prepare and submit to Congress an annual report that identifies—

"(A) the Indian tribes and States that have entered into agreements under paragraph (1);

"(B) the number of miles of roads for which Indian tribes have assumed maintenance responsibilities; and

"(C) the amount of funding transferred to Indian tribes for the fiscal year under agreements entered into under paragraph (1).".

SEC. 1817. NATIONAL FOREST SYSTEM ROADS.

Section 205 of title 23, United States Code, is amended by adding at the end the following:

"(e) PASSAGES FOR AQUATIC SPECIES.—Of the amounts made available for National Forest System roads, $14,079,433 for each fiscal year shall be used by the Secretary of Agriculture to pay the costs of facilitating the passage of aquatic species beneath roads in the National Forest System, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate.".

SEC. 1818. TERRITORIAL HIGHWAY PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by striking section 215 and inserting the following:

"§ 215. Territorial highway program

"(a) DEFINITIONS.—In this section:

"(1) PROGRAM.—The term 'program' means the territorial highway program established under subsection (b).

"(2) TERRITORY.—The term 'territory' means the any of the following territories of the United States:

"(A) American Samoa.

"(B) The Commonwealth of the Northern Mariana Islands.

"(C) Guam.

"(D) The United States Virgin Islands.

"(b) PROGRAM.—

"(1) IN GENERAL.—Recognizing the mutual benefits that will accrue to the territories and the United States from the improvement of highways in the territories, the Secretary may carry out a program to assist each territorial government in the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors, that is—

"(A) designated by the Governor or chief executive officer of each territory; and

"(B) approved by the Secretary.

"(2) FEDERAL SHARE.—The Secretary shall provide Federal financial assistance to territories under this section in accordance with section 120(h).

"(c) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—To continue a long-range highway development program, the Secretary may provide technical assistance to the governments of the territories to enable the territories to, on a continuing basis—

"(A) engage in highway planning;

"(B) conduct environmental evaluations;

"(C) administer right-of-way acquisition and relocation assistance programs; and

"(D) design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors.

"(2) FORM AND TERMS OF ASSISTANCE.—Technical assistance provided under paragraph (1), and the terms for the sharing of information among territories receiving the technical assistance, shall be included in the agreement required by subsection (e).

"(d) NONAPPLICABILITY OF CERTAIN PROVISIONS.—

"(1) IN GENERAL.—Except to the extent that provisions of chapter 1 are determined by the Secretary to be inconsistent with the needs of the territories and the intent of the program, chapter 1 (other than provisions of chapter 1 relating to the apportionment and allocation of funds) shall apply to funds authorized to be appropriated for the program.

"(2) APPLICABLE PROVISIONS.—The specific sections of chapter 1 that are applicable to each territory, and the extent of the applicability of those section, shall be identified in the agreement required by subsection (e).

"(e) AGREEMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (3), none of the funds made available for the program shall be available for obligation or expenditure with respect to any territory until the Governor or chief executive officer of the territory enters into a new agreement with the Secretary (which new agreement shall be entered into not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005), providing that the government of the territory shall—

"(A) implement the program in accordance with applicable provisions of chapter 1 and subsection (d);

"(B) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—

"(i) appropriate for each territory; and

"(ii) approved by the Secretary;

"(C) provide for the maintenance of facilities constructed or operated under this section in a condition to adequately serve the needs of present and future traffic; and

"(D) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

"(2) TECHNICAL ASSISTANCE.—The new agreement required by paragraph (1) shall—

"(A) specify the kind of technical assistance to be provided under the program;

"(B) include appropriate provisions regarding information sharing among the territories; and

"(C) delineate the oversight role and responsibilities of the territories and the Secretary.

"(3) REVIEW AND REVISION OF AGREEMENT.—The new agreement entered into under paragraph (1) shall be reevaluated and, as necessary, revised, at least every 2 years.

"(4) EXISTING AGREEMENTS.—With respect to an agreement between the Secretary and the Governor or chief executive officer of a territory that is in effect as of the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005—

"(A) the agreement shall continue in force until replaced by a new agreement in accordance with paragraph (1); and

"(B) amounts made available for the program under the agreement shall be available for obligation or expenditure so long as the agreement, or a new agreement under paragraph (1), is in effect.

"(f) PERMISSIBLE USES OF FUNDS.—

"(1) IN GENERAL.—Funds made available for the program may be used only for the following projects and activities carried out in a territory:

"(A) Eligible surface transportation program projects described in section 133(b).

"(B) Cost-effective, preventive maintenance consistent with section 116.

"(C) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.

"(D) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.

"(E) Studies of the economy, safety, and convenience of highway use.

"(F) The regulation and equitable taxation of highway use.

"(G) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.

"(2) PROHIBITION ON USE OF FUNDS FOR ROUTINE MAINTENANCE.—None of the funds made available for the program shall be obligated or expended for routine maintenance.

"(g) LOCATION OF PROJECTS.—Territorial highway projects (other than those described in paragraphs (1), (3), and (4) of section 133(b)) may not be undertaken on roads functionally classified as local.".

(b) CONFORMING AMENDMENTS.—

(1) ELIGIBLE PROJECTS.—Section 103(b)(6) of title 23, United States Code, is amended by striking subparagraph (P) and inserting the following:

"(P) Projects eligible for assistance under the territorial highway program under section 215.".

(2) FUNDING.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking "to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands" and inserting "for the territorial highway program authorized under section 215".

(3) ANALYSIS.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 215 and inserting the following:

"215. Territorial highway program.".

SEC. 1819. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.

Section 322 of title 23, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "Not later than" and inserting the following:

"(1) INITIAL SOLICITATION.—Not later than"; and

(B) by adding at the end the following:

"(2) ADDITIONAL SOLICITATION.—Not later than 1 year after the date of enactment of this paragraph, the Secretary may solicit additional applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.";

(2) in subsection (e), by striking "Prior to soliciting applications, the Secretary" and inserting "The Secretary";

(3) in subsection (h)(1)—

(A) in subparagraph (A), by striking clause (i) and inserting the following:

"(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $14,079,434 for each of fiscal years 2005 through 2009."; and

(B) in subparagraph (B), by striking clause (i) and inserting the following:

"(i) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

"(I) $375,451,572 for fiscal year 2005;

"(II) $389,531,006 for fiscal year 2006;

"(III) $398,917,296 for fiscal year 2007;

"(IV) $408,303,585 for fiscal year 2008; and

"(V) $422,383,019 for fiscal year 2009."; and

(4) by striking subsection (i).

SEC. 1820. DONATIONS AND CREDITS.

Section 323 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (c), by inserting ", or a local government from offering to donate funds, materials, or services performed by local government employees," after "services"; and

(2) striking subsection (e).

SEC. 1821. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, II, and VI of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) DEFINITIONS.—In this section:

(1) SMALL BUSINESS CONCERN.—

(A) IN GENERAL.—The term "small business concern" has the meaning given the term under section 3 of the Small Business Act (15 U.S.C. 632).

(B) EXCLUSION.—The term "small business concern" does not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals that has average annual gross receipts over the preceding 3 fiscal years in excess of $18,308,420, as adjusted by the Secretary for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning given the term under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated under that section, except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this section.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in subsection (a) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this section. Such minimum uniform criteria shall include on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(e) COMPLIANCE WITH COURT ORDERS.—Nothing in this section limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act, if the entity or person is prevented, in whole or in part, from complying with subsection (a) because a Federal court issues a final order in which the court finds that the requirement of subsection (a), or the program established under subsection (a), is unconstitutional.

SEC. 1822. [RESERVED.]

SEC. 1823. PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.

Section 133(e)(5) of title 23, United States Code, is amended by adding at the end the following:

"(D) Priority for pedestrian and bicycle facility enhancement projects.—The Secretary shall encourage States to give priority to pedestrian and bicycle facility enhancement projects that include a coordinated physical activity or healthy lifestyles program.".

SEC. 1824. THE DELTA REGIONAL AUTHORITY.

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

"§ 178. Delta Region transportation development program

"(a) In General.—The Secretary shall carry out a program to—

"(1) support and encourage multistate transportation planning and corridor development;

"(2) provide for transportation project development;

"(3) facilitate transportation decisionmaking; and

"(4) support transportation construction.

"(b) Eligible Recipients.—A State transportation department or metropolitan planning organization may receive and administer funds provided under the program.

"(c) Eligible Activities.—The Secretary shall make allocations under the program for multistate highway and transit planning, development, and construction projects.

"(d) Other Provisions Regarding Eligibility.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by section 134 and 135.

"(e) Selection Criteria.—The Secretary shall select projects to be carried out under the program based on—

"(1) whether the project is located—

"(A) in an area that is part of the Delta Regional Authority; and

"(B) on the Federal-aid system;

"(2) endorsement of the project by the State department of transportation; and

"(3) evidence of the ability to complete the project.

"(f) Program Priorities.—In administering the program, the Secretary shall—

"(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

"(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—

"(A) increase the mobility of people and goods;

"(B) improve the safety of the transportation system with respect to catastrophic—

"(i) natural disasters; or

"(ii) disasters caused by human activity; and

"(C) contribute to the economic vitality of the area in which the project is being carried out.

"(g) Federal Share.—Amounts provided by the Delta Regional Authority to carry out a project under this section shall be applied to the non-Federal share required by section 120.

"(h) Availability of Funds.—Amounts made available to carry out this section shall remain available until expended.".

(b) Conforming Amendment.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1814(b)), is amended by adding at the end the following:

"178. Delta Region transportation development program.".

SEC. 1825. MULTISTATE INTERNATIONAL CORRIDOR DEVELOPMENT PROGRAM.

(a) Establishment.—The Secretary shall establish a program to develop international trade corridors to facilitate the movement of freight from international ports of entry and inland ports through and to the interior of the United States.

(b) Eligible Recipients.—State transportation departments and metropolitan planning organizations shall be eligible to receive and administer funds provided under the program.

(c) Eligible Activities.—The Secretary shall make allocations under this program for any activity eligible for funding under title 23, United States Code, including multistate highway and multistate multimodal planning and project construction.

(d) Other Provisions Regarding Eligibility.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code.

(e) Selection Criteria.—The Secretary shall only select projects for corridors—

(1) that have significant levels or increases in truck and traffic volume relating to international freight movement;

(2) connect to at least 1 international terminus or inland port;

(3) traverse at least 3 States; and

(4) are identified by section 1105(c) of the Intermodal Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032).

(f) Program Priorities.—In administering the program, the Secretary shall—

(1) encourage and enable States and other jurisdictions to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

(2) give priority to studies that emphasize multimodal planning, including planning for operational improvements that increase mobility, freight productivity, access to marine ports, safety, and security while enhancing the environment.

(g) Federal Share.—The Federal share required for any study carried out under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter I of title 23, United States Code.

SEC. 1826. AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.

Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended by striking "$1,500,000 for each of fiscal years 1998 through 2003" and inserting "$1,800,000 for each of fiscal years 2005 through 2009".

SEC. 1827. VALUE PRICING PILOT PROGRAM.

Section 1012(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended in the first sentence by striking "The Secretary" and inserting "For fiscal year 2005 and each fiscal year thereafter, the Secretary".

SEC. 1828. CREDIT TO STATE OF LOUISIANA FOR STATE MATCHING FUNDS.

(a) In General.—The Secretary may provide a credit to the State of Louisiana in an amount equal to the cost of any planning, engineering, design, or construction work carried out by the State on any project that the Secretary determines is in accordance with the project numbered 202 under section 1602 of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 256).

(b) Eligibility of Credit.—The credit shall be eligible for use for any future payment relating to the completion of a project described in subsection (a) that is required by the State under title 23, United States Code.

SEC. 1829. APPROVAL AND FUNDING FOR CERTAIN CONSTRUCTION PROJECTS.

(a) In General.—Not later than 30 days after the date of receipt by the Secretary of a construction authorization request from the State transportation department for the State of Georgia for project number STP-189-1(15)CT 3 in Gwinnett County, Georgia, the Secretary shall—

(1) approve the project; and

(2) reserve such Federal funds available to the Secretary as are necessary to carry out the project.

(b) Conformity Determination.—

(1) In general.—Approval, funding, and implementation of the project referred to in subsection (a) shall not be subject to the requirements of part 93 of title 40, Code of Federal Regulations (or successor regulations).

(2) Regional emissions.—Notwithstanding paragraph (1), all subsequent regional emission analyses required by section 93.118 or 93.119 of title 40, Code of Federal Regulations (or successor regulations), shall include the project.

Subtitle I—Technical Corrections

SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.

(a) Letting of Contracts.—Section 112 of title 23, United States Code, is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

(b) Fringe and Corridor Parking Facilities.—Section 137(a) of title 23, United States Code, is amended in the first sentence by striking "on the Federal-aid urban system" and inserting "on a Federal-aid highway".

SEC. 1902. CLARIFICATION OF DATE.

Section 109(g) of title 23, United States Code, is amended in the first sentence by striking "The Secretary" and all that follows through "of 1970" and inserting "Not later than January 30, 1971, the Secretary shall issue".

SEC. 1903. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.

(a) In General.—Section 154 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209) is—

(1) transferred to title 23, United States Code;

(2) redesignated as section 321;

(3) moved to appear after section 320 of that title; and

(4) amended by striking the section heading and inserting the following:

"§ 321. Signs identifying funding sources".

(b) Conforming Amendment.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 320 the following:

"321. Signs identifying funding sources.".

SEC. 1904. INCLUSION OF BUY AMERICA REQUIREMENTS IN TITLE 23.

(a) IN GENERAL.—Section 165 of the Highway Improvement Act of 1982 (23 U.S.C. 101 note; 96 Stat. 2136) is—

(1) transferred to title 23, United States Code;

(2) redesignated as section 313;

(3) moved to appear after section 312 of that title; and

(4) amended by striking the section heading and inserting the following:

"§313. Buy America".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 312 the following:

"313. Buy America.".

(2) Section 313 of title 23, United States Code (as added by subsection (a)), is amended—

(A) in subsection (a), by striking "by this Act" the first place it appears and all that follows through "of 1978" and inserting "to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title";

(B) in subsection (b), by redesignating paragraph (4) as paragraph (3);

(C) in subsection (d), by striking "this Act," and all that follows through "Code, which" and inserting "the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title that";

(D) by striking subsection (e); and

(E) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

SEC. 1905. TECHNICAL AMENDMENTS TO NONDISCRIMINATION SECTION.

Section 140 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "subsection (a) of section 105 of this title" and inserting "section 135";

(B) in the second sentence, by striking "He" and inserting "The Secretary";

(C) in the third sentence, by striking "where he considers it necessary to assure" and inserting "if necessary to ensure"; and

(D) in the last sentence—

(i) by striking "him" and inserting "the Secretary" and

(ii) by striking "he" and inserting "the Secretary";

(2) in subsection (b)—

(A) in the first sentence, by striking "highway construction" and inserting "surface transportation"; and

(B) in the second sentence—

(i) by striking "as he may deem necessary" and inserting "as necessary"; and

(ii) by striking "not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and";

(3) in the second sentence of subsection (c)—

(A) by striking "subsection 104(b)(3) of this title" and inserting "section 104(b)(3)"; and

(B) by striking "he may deem"; and

(4) in the heading of subsection (d), by striking "AND CONTRACTING".

TITLE II—TRANSPORTATION RESEARCH

Subtitle A—Funding

SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) SURFACE TRANSPORTATION RESEARCH.—

(A) IN GENERAL.—For carrying out sections 502, 503, 506, 507, 508, and 511 of title 23, United States Code—

(i) $198,050,704 for fiscal year 2005;

(ii) $201,805,220 for fiscal year 2006;

(iii) $204,621,107 for fiscal year 2007;

(iv) $206,498,365 for fiscal year 2008; and

(v) $209,314,252 for fiscal year 2009.

(B) SURFACE TRANSPORTATION-ENVIRONMENTAL COOPERATIVE RESEARCH PROGRAM.—For each of fiscal years 2005 through 2009, the Secretary shall set aside $18,772,579 of the funds authorized under subparagraph (A) to carry out the surface transportation-environmental cooperative research program under section 507 of title 23, United States Code.

(2) TRAINING AND EDUCATION.—For carrying out section 504 of title 23, United States Code—

(A) $26,281,610 for fiscal year 2005;

(B) $27,220,239 for fiscal year 2006;

(C) $28,158,868 for fiscal year 2007;

(D) $29,097,497 for fiscal year 2008; and

(E) $30,036,126 for fiscal year 2009.

(3) BUREAU OF TRANSPORTATION STATISTICS.—For the Bureau of Transportation Statistics to carry out section 111 of title 49, United States Code, $26,281,610 for each of fiscal years 2005 through 2009.

(4) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—For carrying out sections 524, 525, 526, 527, 528, and 529 of title 23, United States Code—

(A) $115,451,358 for fiscal year 2005;

(B) $118,267,245 for fiscal year 2006;

(C) $121,083,132 for fiscal year 2007;

(D) $123,899,019 for fiscal year 2008; and

(E) $126,714,906 for fiscal year 2009.

(5) UNIVERSITY TRANSPORTATION CENTERS.—For carrying out section 510 of title 23, United States Code $42,238,302 for each of fiscal years 2005 through 2009.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a)—

(1) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using the funds shall be the share applicable under section 120(b) of title 23, United States Code, as adjusted under subsection (d) of that section (unless otherwise specified or otherwise determined by the Secretary); and

(2) shall remain available until expended.

(c) ALLOCATIONS.—

(1) SURFACE TRANSPORTATION RESEARCH.—Of the amounts made available under subsection (a)(1)—

(A) $25,342,981 for each of fiscal years 2005 through 2009 shall be available to carry out advanced, high-risk, long-term research under section 502(d) of title 23, United States Code;

(B) $10,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out the long-term pavement performance program under section 502(e) of that title;

(C) $5,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out the high-performance concrete bridge research and technology transfer program under section 502(i) of that title, of which $750,000 for each fiscal year shall be used by the Secretary to carry out demonstration projects involving the use of ultra-high-performance concrete with ductility;

(D) $5,000,000 for each of fiscal years 2005 through 209 shall be made available to carry out the high-performing steel bridge research and technology transfer program under section 502(k) of title 23, United States Code;

(E) $5,000,000 for each of fiscal years 2005 through 2009 shall be made available to carry out research on asphalt used in highway pavements;

(F) $5,000,000 for each of fiscal years 2005 through 2009 shall be made available to carry out research on concrete pavements;

(G) $5,000,000 for each of fiscal years 2005 through 2009 shall be made available to carry out research on alternative materials;

(H) $2,000,000 for each of fiscal years 2005 through 2009 shall be made available to carry out research on aggregates used in highway pavements;

(I) $3,000,000 for each of fiscal years 2005 through 2009 shall be made available for further development and deployment of techniques to prevent and mitigate alkali silica reactivity;

(J) $1,500,000 for fiscal year 2005 shall be remain available until expended for asphalt and asphalt-related reclamation research at the South Dakota School of Mines; and

(K) $2,500,000 for each of fiscal years 2005 through 2009 shall be made available to carry out section 502(f)(3) of title 23, United States Code.

(2) TECHNOLOGY APPLICATION PROGRAM.—Of the amounts made available under subsection (a)(1), $56,317,736 for each of fiscal years 2005 through 2009 shall be available to carry out section 503 of title 23, United States Code.

(3) TRAINING AND EDUCATION.—Of the amounts made available under subsection (a)(2)—

(A) $11,732,862 for fiscal year 2005, $12,202,176 for fiscal year 2006, $12,671,491 for fiscal year 2007, $13,140,805 for fiscal year 2008, and $13,610,119 for fiscal year 2009 shall be available to carry out section 504(a) of title 23, United States Code (relating to the National Highway Institute);

(B) $14,079,434 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(b) of that title (relating to local technical assistance); and

(C) $2,815,887 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(c)(2) of that title (relating to the Eisenhower Transportation Fellowship Program).

(4) INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.—Of the amounts made available under subsection (a)(1), $469,314 for each of fiscal years 2005 through 2009 shall be available to carry out section 506 of title 23, United States Code.

(5) NEW STRATEGIC HIGHWAY RESEARCH PROGRAM.—For each of fiscal years 2005 through 2009, to carry out section 509 of title 23, United States Code, the Secretary shall set aside—

(A) $14,079,434 of the amounts made available to carry out the interstate maintenance program under section 119 of title 23, United States Code, for the fiscal year;

(B) $17,833,949 of the amounts made available for the National Highway System under section 101 of title 23, United States Code, for the fiscal year;

(C) $12,202,176 of the amounts made available to carry out the bridge program under section 144 of title 23, United States Code, for the fiscal year;

(D) $18,772,579 of the amounts made available to carry out the surface transportation program under section 133 of title 23, United States Code, for the fiscal year;

(E) $4,693,145 of the amounts made available to carry out the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code, for the fiscal year; and

(F) $2,815,887 of the amounts made available to carry out the highway safety improvement program under section 148 of title 23, United States Code, for the fiscal year.

(6) COMMERCIAL VEHICLE INTELLIGENT TRANSPORTATION SYSTEM INFRASTRUCTURE PROGRAM.—Of the amounts made available under subsection (a)(4), not less than $28,158,868 for each of fiscal years 2005 through 2009 shall be available to carry out section 527 of title 23, United States Code.

(d) TRANSFERS OF FUNDS.—The Secretary may transfer—

(1) to an amount made available under paragraphs (1), (2), or (4) of subsection (c), not to exceed 10 percent of the amount allocated for a fiscal year under any other of those paragraphs; and

(2) to an amount made available under subparagraphs (A), (B), or (C) of subsection (c)(3), not to exceed 10 percent of the amount allocated for a fiscal year under any other of those subparagraphs.

SEC. 2002. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by section 2001(a) shall not exceed—

(1) $408,491,420 for fiscal year 2005;
(2) $416,000,453 for fiscal year 2006;
(3) $422,570,857 for fiscal year 2007;
(4) $428,202,637 for fiscal year 2008; and
(5) $434,773,037 for fiscal year 2009.

SEC. 2003. NOTICE.

(a) NOTICE OF REPROGRAMMING.—If any funds authorized for carrying out this title or the amendments made by this title are subject to a reprogramming action that requires notice to be provided to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, notice of that action shall be concurrently provided to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(b) NOTICE OF REORGANIZATION.—On or before the 15th day preceding the date of any major reorganization of a program, project, or activity of the Department of Transportation for which funds are authorized by this title or the amendments made by this title, the Secretary shall provide notice of the reorganization to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

Subtitle B—Research and Technology

SEC. 2101. RESEARCH AND TECHNOLOGY PROGRAM.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended to read as follows:

"CHAPTER 5—RESEARCH AND TECHNOLOGY

"SUBCHAPTER I—SURFACE TRANSPORTATION

"Sec.
"501. Definitions.
"502. Surface transportation research.
"503. Technology application program.
"504. Training and education.
"505. State planning and research.
"506. International highway transportation outreach program.
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"SUBCHAPTER I—SURFACE TRANSPORTATION

"§ 501. Definitions

"In this subchapter:

"(1) FEDERAL LABORATORY.—The term 'Federal laboratory' includes—

"(A) a Government-owned, Government-operated laboratory; and

"(B) a Government-owned, contractor-operated laboratory.

"(2) SAFETY.—The term 'safety' includes highway and traffic safety systems, research, and development relating to—

"(A) vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics;

"(B) accident investigations;

"(C) integrated, interoperable emergency communications;

"(D) emergency medical care; and

"(E) transportation of the injured.

"§ 502. Surface transportation research

"(a) IN GENERAL.—

"(1) RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—The Secretary may carry out research, development, and technology transfer activities with respect to—

"(A) all phases of transportation planning and development (including new technologies, construction, transportation systems management and operations development, design, maintenance, safety, security, financing, data collection and analysis, demand forecasting, multimodal assessment, and traffic conditions); and

"(B) the effect of State laws on the activities described in subparagraph (A).

"(2) TESTS AND DEVELOPMENT.—The Secretary may test, develop, or assist in testing and developing, any material, invention, patented article, or process.

"(3) COOPERATION, GRANTS, AND CONTRACTS.—

"(A) IN GENERAL.—The Secretary may carry out this section—

"(i) independently;

"(ii) in cooperation with—

"(I) any other Federal agency or instrumentality; and

"(II) any Federal laboratory; or

"(iii) by making grants to, or entering into contracts, cooperative agreements, and other transactions with—

"(I) the National Academy of Sciences;

"(II) the American Association of State Highway and Transportation Officials;

"(III) planning organizations;

"(IV) a Federal laboratory;

"(V) a State agency;

"(VI) an authority, association, institution, or organization;

"(VII) a for-profit or nonprofit corporation;

"(VIII) a foreign country; or

"(IX) any other person.

"(B) COMPETITION; REVIEW.—All parties entering into contracts, cooperative agreements or other transactions with the Secretary, or receiving grants, to perform research or provide technical assistance under this section shall be selected, to the maximum extent practicable and appropriate—

"(i) on a competitive basis; and

"(ii) on the basis of the results of peer review of proposals submitted to the Secretary.

"(4) TECHNOLOGICAL INNOVATION.—The programs and activities carried out under this section shall be consistent with the surface transportation research and technology development strategic plan developed under section 508(c).

"(5) FUNDS.—

"(A) SPECIAL ACCOUNT.—In addition to other funds made available to carry out this section, the Secretary shall use such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose.

"(B) USE OF FUNDS.—The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this section.

"(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(1) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

"(A) non-Federal entities (including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State); and

"(B) Federal laboratories.

"(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

"(3) FEDERAL SHARE.—

"(A) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

"(B) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

"(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this chapter.

"(c) CONTENTS OF RESEARCH PROGRAM.—The Secretary shall include as priority areas of effort within the surface transportation research program—

“(1) the development of new technologies and methods in materials, pavements, structures, design, and construction, with the objectives of—

“(A)(i) increasing to 50 years the expected life of pavements;

“(ii) increasing to 100 years the expected life of bridges; and

“(iii) significantly increasing the durability of other infrastructure;

“(B) lowering the life-cycle costs, including—

“(i) construction costs;

“(ii) maintenance costs;

“(iii) operations costs; and

“(vi) user costs.

“(2) the development, and testing for effectiveness, of nondestructive evaluation technologies for civil infrastructure using existing and new technologies;

“(3) the investigation of—

“(A) the application of current natural hazard mitigation techniques to manmade hazards; and

“(B) the continuation of hazard mitigation research combining manmade and natural hazards;

“(4) the improvement of safety—

“(A) at intersections;

“(B) with respect to accidents involving vehicles run off the road; and

“(C) on rural roads;

“(5) the reduction of work zone incursions and improvement of work zone safety;

“(6) the improvement of geometric design of roads for the purpose of safety;

“(7) the examination of data collected through the national bridge inventory conducted under section 144 using the national bridge inspection standards established under section 151, with the objectives of determining whether—

“(A) the most useful types of data are being collected; and

“(B) any improvement could be made in the types of data collected and the manner in which the data is collected, with respect to bridges in the United States;

“(8) the improvement of the infrastructure investment needs report described in subsection (g) through—

“(A) the study and implementation of new methods of collecting better quality data, particularly with respect to performance, congestion, and infrastructure conditions;

“(B) monitoring of the surface transportation system in a system-wide manner, through the use of—

“(i) intelligent transportation system technologies of traffic operations centers; and

“(ii) other new data collection technologies as sources of better quality performance data;

“(C) the determination of the critical metrics that should be used to determine the condition and performance of the surface transportation system; and

“(D) the study and implementation of new methods of statistical analysis and computer models to improve the prediction of future infrastructure investment requirements;

“(9) the development of methods to improve the determination of benefits from infrastructure improvements, including—

“(A) more accurate calculations of benefit-to-cost ratios, considering benefits and impacts throughout local and regional transportation systems;

“(B) improvements in calculating life-cycle costs; and

“(C) valuation of assets;

“(10) the improvement of planning processes to better predict outcomes of transportation projects, including the application of computer simulations in the planning process to predict outcomes of planning decisions;

“(11) the multimodal applications of Geographic Information Systems and remote sensing, including such areas of application as—

“(A) planning;

“(B) environmental decisionmaking and project delivery; and

“(C) freight movement;

“(12) the development and application of methods of providing revenues to the Highway Trust Fund with the objective of offsetting potential reductions in fuel tax receipts;

“(13) the development of tests and methods to determine the benefits and costs to communities of major transportation investments and projects;

“(14) the conduct of extreme weather research, including research to—

“(A) reduce contraction and expansion damage;

“(B) reduce or repair road damage caused by freezing and thawing;

“(C) improve deicing or snow removal techniques;

“(D) develop better methods to reduce the risk of thermal collapse, including collapse from changes in underlying permafrost;

“(E) improve concrete and asphalt installation in extreme weather conditions; and

“(F) make other improvements to protect highway infrastructure or enhance highway safety or performance;

“(15) the improvement of surface transportation planning;

“(16) environmental research;

“(17) transportation system management and operations; and

“(18) any other surface transportation research topics that the Secretary determines, in accordance with the strategic planning process under section 508, to be critical.

“(d) ADVANCED, HIGH-RISK RESEARCH.—

“(1) IN GENERAL.—The Secretary shall establish and carry out, in accordance with the surface transportation research and technology development strategic plan developed under section 508(c) and research priority areas described in subsection (c), an advanced research program that addresses longer-term, higher-risk research with potentially dramatic breakthroughs for improving the durability, efficiency, environmental impact, productivity, and safety (including bicycle and pedestrian safety) aspects of highway and intermodal transportation systems.

“(2) PARTNERSHIPS.—In carrying out the program, the Secretary shall seek to develop partnerships with the public and private sectors.

“(3) REPORT.—The Secretary shall include in the strategic plan required under section 508(c) a description of each of the projects, and the amount of funds expended for each project, carried out under this subsection during the fiscal year.

“(e) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

“(1) AUTHORITY.—The Secretary shall continue, through September 30, 2009, the long-term pavement performance program tests, monitoring, and data analysis.

“(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

“(A) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

“(B) analyze the data obtained in carrying out subparagraph (A); and

“(C) prepare products to fulfill program objectives and meet future pavement technology needs.

“(3) CONCLUSION OF PROGRAM.—

“(A) SUMMARY REPORT.—The Secretary shall include in the strategic plan required under section 508(c) a report on the initial conclusions of the long-term pavement performance program that includes—

“(i) an analysis of any research objectives that remain to be achieved under the program;

“(ii) an analysis of other associated longer-term expenditures under the program that are in the public interest;

“(iii) a detailed plan regarding the storage, maintenance, and user support of the database, information management system, and materials reference library of the program;

“(iv) a schedule for continued implementation of the necessary data collection and analysis and project plan under the program; and

“(v) an estimate of the costs of carrying out each of the activities described in clauses (i) through (iv) for each fiscal year during which the program is carried out.

“(B) DEADLINE; USEFULNESS OF ADVANCES.—The Secretary shall, to the maximum extent practicable—

“(i) ensure that the long-term pavement performance program is concluded not later than September 30, 2009; and

“(ii) make such allowances as are necessary to ensure the usefulness of the technological advances resulting from the program.

“(f) SEISMIC RESEARCH.—The Secretary shall—

“(1) in consultation and cooperation with Federal agencies participating in the National Earthquake Hazards Reduction Program established by section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704), coordinate the conduct of seismic research;

“(2) take such actions as are necessary to ensure that the coordination of the research is consistent with—

“(A) planning and coordination activities of the Director of the Federal Emergency Management Agency under section 5(b)(1) of that Act (42 U.S.C. 7704(b)(1)); and

“(B) the plan developed by the Director of the Federal Emergency Management Agency under section 8(b) of that Act (42 U.S.C. 7705b(b)); and

“(3) in cooperation with the Center for Civil Engineering Research at the University of Nevada, Reno, carry out a seismic research program—

“(A) to study the vulnerability of the Federal-aid highway system and other surface transportation systems to seismic activity;

“(B) to develop and implement cost-effective methods to reduce the vulnerability; and

“(C) to conduct seismic research and upgrade earthquake simulation facilities as necessary to carry out the program.

“(g) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

“(1) IN GENERAL.—Not later than July 31, 2005, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

“(A) estimates of the future highway and bridge needs of the United States; and

“(B) the backlog of current highway and bridge needs.

“(2) COMPARISON WITH PRIOR REPORTS.—Each report under paragraph (1) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the previous biennial reports.

“(h) SECURITY RELATED RESEARCH AND TECHNOLOGY TRANSFER ACTIVITIES.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary, in consultation with the Secretary of Homeland Security, with key stakeholder input (including State transportation departments) shall develop a 5-year strategic plan for research and technology transfer and deployment activities pertaining to the security aspects of highway infrastructure and operations.

“(2) COMPONENTS OF PLAN.—The plan shall include—

“(A) an identification of which agencies are responsible for the conduct of various research and technology transfer activities;

“(B) a description of the manner in which those activities will be coordinated; and

“(C) a description of the process to be used to ensure that the advances derived from relevant activities supported by the Federal Highway Administration are consistent with the operational guidelines, policies, recommendations, and regulations of the Department of Homeland Security; and

“(D) a systematic evaluation of the research that should be conducted to address, at a minimum—

“(i) vulnerabilities of, and measures that may be taken to improve, emergency response capabilities and evacuations;

“(ii) recommended upgrades of traffic management during crises;

“(iii) integrated, interoperable emergency communications among the public, the military, law enforcement, fire and emergency medical services, and transportation agencies;

“(iv) protection of critical, security-related infrastructure; and

“(v) structural reinforcement of key facilities.

“(3) SUBMISSION.—On completion of the plan under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

“(A) a copy of the plan developed under paragraph (1); and

“(B) a copy of a memorandum of understanding specifying coordination strategies and assignment of responsibilities covered by the plan that is signed by the Secretary and the Secretary of Homeland Security.

“(i) HIGH-PERFORMANCE CONCRETE BRIDGE RESEARCH AND TECHNOLOGY TRANSFER PROGRAM.—In accordance with the objectives described in subsection (c)(1) and the requirements under sections 503(b)(4) and 504(b), the Secretary shall carry out a program to demonstrate the application of high-performance concrete in the construction and rehabilitation of bridges.

“(j) BIOBASED TRANSPORTATION RESEARCH.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) $12,000,000 for each of fiscal years 2005 through 2009 equally divided and available to carry out biobased research of national importance at the National Biodiesel Board and at research centers identified in section 9011 of Public Law 107–171.

“(k) HIGH-PERFORMING STEEL BRIDGE RESEARCH AND TECHNOLOGY TRANSFER PROGRAM.—In accordance with the objectives described in subsection (c)(1) and the requirements under sections 503(b)(4) and 504(b), the Secretary shall carry out a program to demonstrate the application of high-performing steel in the construction and rehabilitation of bridges.

“§ 503. Technology application program

“(a) TECHNOLOGY APPLICATION INITIATIVES AND PARTNERSHIPS PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary, in consultation with interested stakeholders, shall develop and administer a national technology and innovation application initiatives and partnerships program.

“(2) PURPOSE.—The purpose of the program shall be to significantly accelerate the adoption of technology and innovation by the surface transportation community.

“(3) APPLICATION GOALS.—

“(A) ESTABLISHMENT.—Not later than 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary, in consultation with the Surface Transportation Research Technology Advisory Committee, State transportation departments, and other interested stakeholders, shall establish, as part of the surface transportation research and technology development strategic plan under section 508(c), goals to carry out paragraph (1).

“(B) DESIGN.—Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits, with respect to transportation systems, in the areas of efficiency, safety, reliability, service life, environmental protection, and sustainability.

“(C) STRATEGIES FOR ACHIEVEMENT.—For each goal, the Secretary, in cooperation with representatives of the transportation community, such as States, local governments, the private sector, and academia, shall use domestic and international technology to develop strategies and initiatives to achieve the goal, including technical assistance in deploying technology and mechanisms for sharing information among program participants.

“(4) INTEGRATION WITH OTHER PROGRAMS.—The Secretary shall integrate activities carried out under this subsection with the efforts of the Secretary to—

“(A) disseminate the results of research sponsored by the Secretary; and

“(B) facilitate technology transfer.

“(5) LEVERAGING OF FEDERAL RESOURCES.—In selecting projects to be carried out under this subsection, the Secretary shall give preference to projects that leverage Federal funds with other significant public or private resources.

“(6) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts to foster alliances and support efforts to stimulate advances in transportation technology.

“(7) REPORTS.—The results and progress of activities carried out under this section shall be published as part of the annual transportation research report prepared by the Secretary under section 508(c)(5).

“(8) ALLOCATION.—To the extent appropriate to achieve the goals established under paragraph (3), the Secretary may further allocate funds made available to carry out this section to States for use by those States.

“(b) INNOVATIVE SURFACE TRANSPORTATION INFRASTRUCTURE RESEARCH AND CONSTRUCTION PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish and carry out a program for the application of innovative material, design, and construction technologies in the construction, preservation, and rehabilitation of elements of surface transportation infrastructure.

“(2) GOALS.—The goals of the program shall include—

“(A) the development of new, cost-effective, and innovative materials;

“(B) the reduction of maintenance costs and life-cycle costs of elements of infrastructure, including the costs of new construction, replacement, and rehabilitation;

“(C) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

“(D) the development of engineering design criteria for innovative products and materials for use in surface transportation infrastructure;

“(E) the development of highway bridges and structures that will withstand natural disasters and disasters caused by human activity; and

“(F) the development of new, nondestructive technologies and techniques for the evaluation of elements of transportation infrastructure.

“(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

“(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—

“(i) States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations, to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials and methods; and

“(ii) States, to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of elements of surface transportation infrastructure that demonstrate the application of innovative materials and methods.

“(B) APPLICATIONS.—

“(i) IN GENERAL.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

“(ii) APPROVAL.—The Secretary shall select and approve an application based on whether the proposed project that is the subject of the application would meet the goals described in paragraph (2).

“(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to—

“(A) ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties, as specified by the Secretary; and

“(B) encourage the use of the information and technology.

“(5) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.

“§ 504. Training and education

“(a) NATIONAL HIGHWAY INSTITUTE.—

“(1) IN GENERAL.—The Secretary shall—

“(A) operate, in the Federal Highway Administration, a National Highway Institute (referred to in this subsection as the ‘Institute’); and

“(B) administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

“(2) DUTIES OF THE INSTITUTE.—In cooperation with State transportation departments, industries in the United States, and national or international entities, the Institute shall develop and administer education and training programs of instruction for—

“(A) Federal Highway Administration, State, and local transportation agency employees;

“(B) regional, State, and metropolitan planning organizations;

“(C) State and local police, public safety, and motor vehicle employees; and

“(D) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

“(3) COURSES.—

“(A) IN GENERAL.—The Institute shall—

“(i) develop or update existing courses in asset management, including courses that include such components as—

“(I) the determination of life-cycle costs,

“(II) the valuation of assets;

“(III) benefit-to-cost ratio calculations; and

“(IV) objective decisionmaking processes for project selection; and

“(ii) continually develop courses relating to the application of emerging technologies for—

“(I) transportation infrastructure applications and asset management;

“(II) intelligent transportation systems;

“(III) operations (including security operations);

“(IV) the collection and archiving of data;

“(V) expediting the planning and development of transportation projects; and

“(VI) the intermodal movement of individuals and freight.

“(B) ADDITIONAL COURSES.—In addition to the courses developed under subparagraph (A), the Institute, in consultation with State transportation departments, metropolitan planning organizations, and the American Association of State Highway and Transportation Officials, may develop courses relating to technology, methods, techniques, engineering, construction, safety, maintenance, environmental mitigation and compliance, regulations, management, inspection, and finance.

“(C) REVISION OF COURSES OFFERED.—The Institute shall periodically—

“(i) review the course inventory of the Institute; and

“(ii) revise or cease to offer courses based on course content, applicability, and need.

“(4) ELIGIBILITY; FEDERAL SHARE.—The funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be available for expenditure by the State transportation department for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

“(5) FEDERAL RESPONSIBILITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State, and local transportation (including highway) agencies authorized under this subsection may be provided—

“(i) by the Secretary, at no cost to the States and local governments, if the Secretary determines that provision at no cost is in the public interest; or

“(ii) by the State, through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

“(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international or foreign entities, and individuals shall pay the full cost of any education and training (including the cost of course development) received by the agencies, entities, and individuals, unless the Secretary determines that payment of a lesser amount of the cost is of critical importance to the public interest.

“(6) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

“(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

“(B) exercise the authority of the Institute independently or in cooperation with any—

“(i) other Federal or State agency;

“(ii) association, authority, institution, or organization;

“(iii) for-profit or nonprofit corporation;

“(iv) national or international entity;

“(v) foreign country; or

“(vi) person.

“(7) COLLECTION OF FEES.—

“(A) IN GENERAL.—In accordance with this subsection, the Institute may assess and collect fees to defray the costs of the Institute in developing or administering education and training programs under this subsection.

“(B) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

“(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

“(ii) persons and entities to whom education or training is provided under this subsection.

“(C) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

“(D) USE.—All fees collected under this subsection shall be used, without further appropriation, to defray costs associated with the development or administration of education and training programs authorized under this subsection.

“(8) RELATION TO FEES.—The funds made available to carry out this subsection may be combined with or held separate from the fees collected under—

“(A) paragraph (7);

“(B) memoranda of understanding;

“(C) regional compacts; and

“(D) other similar agreements.

“(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

“(1) AUTHORITY.—The Secretary shall carry out a local technical assistance program that will provide access to surface transportation technology to—

“(A) highway and transportation agencies in urbanized areas;

“(B) highway and transportation agencies in rural areas;

“(C) contractors that perform work for the agencies; and

“(D) infrastructure security.

“(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services to—

“(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

“(i) develop and expand expertise in road and transportation areas (including pavement, bridge, concrete structures, intermodal connections, safety management systems, intelligent transportation systems, incident response, operations, and traffic safety countermeasures);

“(ii) improve roads and bridges;

“(iii) enhance—

“(I) programs for the movement of passengers and freight; and

“(II) intergovernmental transportation planning and project selection; and

“(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

“(B) develop technical assistance for tourism and recreational travel;

“(C) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems (particularly the promotion of regional cooperation);

“(D) operate, in cooperation with State transportation departments and universities—

“(i) local technical assistance program centers designated to provide transportation technology transfer services to rural areas and to urbanized areas; and

“(ii) local technical assistance program centers designated to provide transportation technical assistance to tribal governments; and

“(E) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

“(c) RESEARCH FELLOWSHIPS.—

“(1) GENERAL AUTHORITY.—The Secretary, acting independently or in cooperation with other Federal agencies and instrumentalities, may make grants for research fellowships for any purpose for which research is authorized by this chapter.

“(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—The Secretary shall establish and implement a transportation research fellowship program, to be known as the ‘Dwight David Eisenhower Transportation Fellowship Program’, for the purpose of attracting qualified students to the field of transportation.

“§ 505. State planning and research

“(a) IN GENERAL.—Two percent of the sums apportioned to a State for fiscal year 2005 and each fiscal year thereafter under sections 104 (other than subsections (f) and (h)) and 144 shall be available for expenditure by the State, in consultation with the Secretary, only for—

“(1) the conduct of engineering and economic surveys and investigations;

“(2) the planning of—

“(A) future highway programs and local public transportation systems; and

“(B) the financing of those programs and systems, including metropolitan and statewide planning under sections 134 and 135;

“(3) the development and implementation of management systems under section 303;

“(4) the conduct of studies on—

“(A) the economy, safety, and convenience of surface transportation systems; and

“(B) the desirable regulation and equitable taxation of those systems;

“(5) research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, and maintenance of highway, public transportation, and intermodal transportation systems;

“(6) the conduct of studies, research, and training relating to the engineering standards and construction materials for surface transportation systems described in paragraph (5) (including the evaluation and accreditation of inspection and testing and the regulation of and charging for the use of the standards and materials); and

“(7) the conduct of activities relating to the planning of real-time monitoring elements.

“(b) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

“(1) IN GENERAL.—Subject to paragraph (2), not less than 25 percent of the funds subject to subsection (a) that are apportioned to a State for a fiscal year shall be expended by the State for research, development, and technology transfer activities that—

“(A) are described in subsection (a); and

“(B) relate to highway, public transportation, and intermodal transportation systems.

“(2) WAIVERS.—The Secretary may waive the application of paragraph (1) with respect to a State for a fiscal year if—

“(A) the State certifies to the Secretary for the fiscal year that total expenditures by the State for transportation planning under sections 134 and 135 will exceed 75 percent of the funds described in paragraph (1); and

“(B) the Secretary accepts the certification of the State.

“(3) NONAPPLICABILITY OF ASSESSMENT.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

“(c) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds subject to subsection (a) shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.

“(d) ADMINISTRATION OF SUMS.—Funds subject to subsection (a) shall be—

“(1) combined and administered by the Secretary as a single fund; and

“(2) available for obligation for the period described in section 118(b)(2).

“(e) ELIGIBLE USE OF STATE PLANNING AND RESEARCH FUNDS.—A State, in coordination with the Secretary, may obligate funds made available to carry out this section for any purpose authorized under section 506(a).

“§506. International highway transportation outreach program

“(a) ESTABLISHMENT.—The Secretary may establish an international highway transportation outreach program—

“(1) to inform the United States highway community of technological innovations in foreign countries that could significantly improve highway transportation in the United States;

“(2) to promote United States highway transportation expertise, goods, and services in foreign countries; and

“(3) to increase transfers of United States highway transportation technology to foreign countries.

“(b) ACTIVITIES.—Activities carried out under the program may include—

“(1) the development, monitoring, assessment, and dissemination in the United States of information about highway transportation innovations in foreign countries that could significantly improve highway transportation in the United States;

“(2) research, development, demonstration, training, and other forms of technology transfer and exchange;

“(3) the provision to foreign countries, through participation in trade shows, seminars, expositions, and other similar activities, of information relating to the technical quality of United States highway transportation goods and services;

“(4) the offering of technical services of the Federal Highway Administration that cannot be readily obtained from private sector firms in the United States for incorporation into the proposals of those firms undertaking highway transportation projects outside the United States, if the costs of the technical services will be recovered under the terms of the project;

“(5) the conduct of studies to assess the need for, or feasibility of, highway transportation improvements in foreign countries; and

“(6) the gathering and dissemination of information on foreign transportation markets and industries.

“(c) COOPERATION.—The Secretary may carry out this section in cooperation with any appropriate—

“(1) Federal, State, or local agency;

“(2) authority, association, institution, or organization;

“(3) for-profit or nonprofit corporation;

“(4) national or international entity;

“(5) foreign country; or

“(6) person.

“(d) FUNDS.—

“(1) CONTRIBUTIONS.—Funds available to carry out this section shall include funds deposited by any cooperating organization or person into a special account of the Treasury established for this purpose.

“(2) ELIGIBLE USES OF FUNDS.—The funds deposited into the account, and other funds available to carry out this section, shall be available to cover the cost of any activity eligible under this section, including the cost of—

“(A) promotional materials;

“(B) travel;

“(C) reception and representation expenses; and

“(D) salaries and benefits.

“(3) REIMBURSEMENTS FOR SALARIES AND BENEFITS.—Reimbursements for salaries and benefits of Department of Transportation employees providing services under this section shall be credited to the account.

“(e) REPORT—For each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the destinations and individual trip costs of international travel conducted in carrying out activities described in this section.

“§507. Surface transportation-environmental cooperative research program

“(a) IN GENERAL.—The Secretary shall establish and carry out a surface transportation-environmental cooperative research program.

“(b) CONTENTS.—The program carried out under this section may include research—

“(1) to develop more accurate models for evaluating transportation control measures and transportation system designs that are appropriate for use by State and local governments (including metropolitan planning organizations) in designing implementation plans to meet Federal, State, and local environmental requirements;

“(2) to improve understanding of the factors that contribute to the demand for transportation;

“(3) to develop indicators of economic, social, and environmental performance of transportation systems to facilitate analysis of potential alternatives;

“(4) to meet additional priorities as determined by the Secretary in the strategic planning process under section 508; and

“(5) to refine, through the conduct of workshops, symposia, and panels, and in consultation with stakeholders (including the Department of Energy, the Environmental Protection Agency, and other appropriate Federal and State agencies and associations) the scope and research emphases of the program.

“(c) PROGRAM ADMINISTRATION.—The Secretary shall—

“(1) administer the program established under this section; and

“(2) ensure, to the maximum extent practicable, that—

“(A) the best projects and researchers are selected to conduct research in the priority areas described in subsection (b)—

“(i) on the basis of merit of each submitted proposal; and

“(ii) through the use of open solicitations and selection by a panel of appropriate experts;

“(B) a qualified, permanent core staff with the ability and expertise to manage a large multiyear budget is used;

“(C) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and

“(D) there is no duplication of research effort between the program established under this section and the new strategic highway research program established under section 509.

“(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsections (b) and (c) as the Secretary determines to be appropriate.

“§508. Surface transportation research technology deployment and strategic planning

“(a) PLANNING.—

“(1) ESTABLISHMENT.—The Secretary shall—

“(A) establish, in accordance with section 306 of title 5, a strategic planning process that—

“(i) enhances effective implementation of this section through the establishment in accordance with paragraph (2) of the Surface Transportation Research Technology Advisory Committee; and

“(ii) focuses on surface transportation research funded through paragraphs (1), (2), (4), and (5) of section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, taking into consideration national surface transportation system needs and intermodality requirements;

“(B) coordinate Federal surface transportation research, technology development, and deployment activities;

“(C) at such intervals as are appropriate and practicable, measure the results of those activities and the ways in which the activities affect the performance of the surface transportation systems of the United States; and

“(D) ensure, to the maximum extent practicable, that planning and reporting activities carried out under this section are coordinated with all other surface transportation planning and reporting requirements.

“(2) SURFACE TRANSPORTATION RESEARCH TECHNOLOGY ADVISORY COMMITTEE.—

“(A) Establishment.—Not later than 90 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary shall establish a committee to be known as the ‘Surface Transportation Research Technology Advisory Committee’ (referred to in this section as the ‘Committee’).

“(B) Membership.—The Committee shall be composed of 12 members appointed by the Secretary—

“(i) each of which shall have expertise in a particular area relating to Federal surface transportation programs, including—

“(I) safety;

“(II) operations;

“(III) infrastructure (including pavements and structures);

“(IV) planning and environment;

“(V) policy; and

“(VI) asset management; and

“(ii) of which—

“(I) 3 members shall be individuals representing the Federal Government;

“(II) 3 members—

“(aa) shall be exceptionally qualified to serve on the Committee, as determined by the Secretary, based on education, training, and experience; and

“(bb) shall not be officers or employees of the United States;

“(III) 3 members—

“(aa) shall represent the transportation industry (including the pavement industry); and

“(bb) shall not be officers or employees of the United States; and

“(IV) 3 members shall represent State transportation departments from 3 different geographical regions of the United States.

“(C) Meetings.—The advisory subcommittees shall meet on a regular basis, but not less than twice each year.

“(D) Duties.—The Committee shall provide to the Secretary, on a continuous basis, advice and guidance relating to—

“(i) the determination of surface transportation research priorities;

“(ii) the improvement of the research planning and implementation process;

“(iii) the design and selection of research projects;

“(iv) the review of research results;

“(v) the planning and implementation of technology transfer activities and

“(vi) the formulation of the surface transportation research and technology deployment and deployment strategic plan required under subsection (c).

“(E) Authorization of appropriations.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this paragraph $187.726 for each fiscal year.

“(b) Implementation.—The Secretary shall—

“(1) provide for the integrated planning, coordination, and consultation among the operating administrations of the Department of Transportation, all other Federal agencies with responsibility for surface transportation research and technology development, State and local governments, institutions of higher education, industry, and other private and public sector organizations engaged in surface transportation-related research and development activities; and

“(2) ensure that the surface transportation research and technology development programs of the Department do not duplicate other Federal, State, or private sector research and development programs.

“(c) Surface Transportation Research and Technology Deployment Strategic Plan.—

“(1) In general.—After receiving, and based on, extensive consultation and input from stakeholders representing the transportation community and the Surface Transportation Research Advisory Committee, the Secretary shall, not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, complete, and shall periodically update thereafter, a strategic plan for each of the core surface transportation research areas, including—

“(A) safety;

“(B) operations;

“(C) infrastructure (including pavements and structures);

“(D) planning and environment;

“(E) policy; and

“(F) asset management.

“(2) Components.—The strategic plan shall specify—

“(A) surface transportation research objectives and priorities;

“(B) specific surface transportation research projects to be conducted;

“(C) recommended technology transfer activities to promote the deployment of advances resulting from the surface transportation research conducted; and

“(D) short- and long-term technology development and deployment activities.

“(3) Review and submission of findings.—The Secretary shall enter into a contract with the Transportation Research Board of the National Academy of Sciences, on behalf of the Research and Technology Coordinating Committee of the National Research Council, under which—

“(A) the Transportation Research Board shall—

“(i) review the research and technology planning and implementation process used by Federal Highway Administration; and

“(ii) evaluate each of the strategic plans prepared under this subsection—

“(I) to ensure that sufficient stakeholder input is being solicited and considered throughout the preparation process; and

“(II) to offer recommendations relevant to research priorities, project selection, and deployment strategies; and

“(B) the Secretary shall ensure that the Research and Technology Coordinating Committee, in a timely manner, informs the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the findings of the review and evaluation under subparagraph (A).

“(4) Responses of secretary.—Not later than 60 days after the date of completion of the strategic plan under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives written responses to each of the recommendations of the Research and Technology Coordinating Committee under paragraph (3)(A)(ii)(II).

“(d) Consistency With Government Performance and Results Act of 1993.—The plans and reports developed under this section shall be consistent with and incorporated as part of the plans developed under section 306 of title 5 and sections 1115 and 1116 of title 31.

“§ 509. New strategic highway research program

“(a) In General.—The National Research Council shall establish and carry out, through fiscal year 2009, a new strategic highway research program.

“(b) Basis; Priorities.—With respect to the program established under subsection (a)—

“(1) the program shall be based on—

“(A) National Research Council Special Report No. 260, entitled ‘Strategic Highway Research’; and

“(B) the results of the detailed planning work subsequently carried out to scope the research areas through National Cooperative Research Program Project 20–58.

“(2) the scope and research priorities of the program shall—

“(A) be refined through stakeholder input in the form of workshops, symposia, and panels; and

“(B) include an examination of—

“(i) the roles of highway infrastructure, drivers, and vehicles in fatalities on public roads;

“(ii) high-risk areas and activities associated with the greatest numbers of highway fatalities;

“(iii) the roles of various levels of government agencies and non-governmental organizations in reducing highway fatalities (including recommendations for methods of strengthening highway safety partnerships);

“(iv) measures that may save the greatest number of lives in the short- and long-term;

“(v) renewal of aging infrastructure with minimum impact on users of facilities;

“(vi) driving behavior and likely crash causal factors to support improved countermeasures;

“(vii) reduction in congestion due to nonrecurring congestion;

“(viii) planning and designing of new road capacity to meet mobility, economic, environmental, and community needs;

“(3) the program shall consider, at a minimum, the results of studies relating to the implementation of the Strategic Highway Safety Plan prepared by the American Association of State Highway and Transportation Officials; and

“(4) the research results of the program, expressed in terms of technologies, methodologies, and other appropriate categorizations, shall be disseminated to practicing engineers as soon as practicable for their use.

“(c) Program Administration.—In carrying out the program under this section, the National Research Council shall ensure, to the maximum extent practicable, that—

“(1) the best projects and researchers are selected to conduct research for the program and priorities described in subsection (b)—

“(A) on the basis of the merit of each submitted proposal; and

“(B) through the use of open solicitations and selection by a panel of appropriate experts;

“(2) the National Research Council acquires a qualified, permanent core staff with the ability and expertise to manage a large research program and multiyear budget;

“(3) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and

“(4) there is no duplication of research effort between the program established under this section and the surface transportation-environment cooperative research program established under section 507 or any other research effort of the Department.

“(d) National Academy of Sciences.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to research, technology, and technology transfer described in subsections (b) and (c) as the Secretary determines to be appropriate.

"(e) Report on Implementation of Results.—

"(1) In general.—Not later than October 1, 2007, the Secretary shall enter into a contract with the Transportation Research Board of the National Academy of Sciences under which the Transportation Research Board shall complete a report on the strategies and administrative structure to be used for implementation of the results of new strategic highway research program.

"(2) Components.—The report under paragraph (1) shall include, with respect to the new strategic highway research program—

"(A) an identification of the most promising results of research under the program (including the persons most likely to use the results);

"(B) a discussion of potential incentives for, impediments to, and methods of, implementing those results;

"(C) an estimate of costs that would be incurred in expediting implementation of those results; and

"(D) recommendations for the way in which implementation of the results of the program under this section should be conducted, coordinated, and supported in future years, including a discussion of the administrative structure and organization best suited to carry out those responsibilities.

"(3) Consultation.—In developing the report, the Transportation Research Board shall consult with a wide variety of stakeholders, including—

"(A) the American Association of State highway Officials;

"(B) the Federal Highway Administration; and

"(C) the Surface Transportation Research Technology Advisory Committee.

"(4) Submission.—Not later than February 1, 2009, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the report under this subsection.

"§ 510. University transportation centers

"(a) Centers.—

"(1) In general.—During fiscal year 2005, the Secretary shall provide grants to 40 nonprofit institutions of higher learning (or consortia of institutions of higher learning) to establish centers to address transportation design, management, research, development, and technology matters, especially the education and training of greater numbers of individuals to enter into the professional field of transportation.

"(2) Distribution of centers.—Not more than 1 university transportation center (or lead university in a consortia of institutions of higher learning), other than a center or university selected through a competitive process, may be located in any State.

"(3) Identification of centers.—The university transportation centers established under this section shall—

"(A) comply with applicable requirements under subsection (c); and

"(B) be located at the institutions of higher learning specified in paragraph (4).

"(4) Identification of groups.—For the purpose of making grants under this subsection, the following grants are identified:

"(A) Group A.—Group A shall consist of the 10 regional centers selected under subsection (b).

"(B) Group B.—Group B shall consist of the following:

"(i) [______________].
"(ii) [______________].
"(iii) [______________].
"(iv) [______________].
"(v) [______________].
"(vi) [______________].
"(vii) [______________].
"(viii) [______________].
"(ix) [______________].
"(x) [______________].
"(xi) [______________].

"(C) Group C.—Group C shall consist of the following:

"(i) [______________].
"(ii) [______________].
"(iii) [______________].
"(iv) [______________].
"(v) [______________].
"(vi) [______________].
"(vii) [______________].
"(viii) [______________].
"(ix) [______________].
"(x) [______________].
"(xi) [______________].

"(D) Group D.—Group D shall consist of the following:

"(i) [______________].
"(ii) [______________].
"(iii) [______________].
"(iv) [______________].
"(v) [______________].
"(vi) [______________].
"(vii) [______________].
"(viii) [______________].

"(b) Regional Centers.—

"(1) In general.—Not later than September 30, 2005, the Secretary shall provide to nonprofit institutions of higher learning (or consortia of institutions of higher learning) grants to be used during the period of fiscal years 2005 through 2009 to establish and operate 1 university transportation center in each of the 10 Federal regions that comprise the Standard Federal Regional Boundary System.

"(2) Selection of regional centers.—

"(A) Proposals.—In order to be eligible to receive a grant under this subsection, an institution described in paragraph (1) shall submit to the Secretary a proposal, in response to any request for proposals that shall be made by the Secretary, that is in such form and contains such information as the Secretary shall prescribe.

"(B) Request schedule.—The Secretary shall request proposals once for the period of fiscal years 2005 and 2006 and once for the period of fiscal years 2007 through 2009.

"(C) Eligibility.—Any institution of higher learning (or consortium of institutions of higher learning) that meets the criteria described in subsection (c) (including any institution identified in subsection (a)(4)) may apply for a grant under this subsection.

"(D) Selection criteria.—The Secretary shall select each recipient of a grant under this subsection through a competitive process on the basis of—

"(i) the location of the center within the Federal region to be served;

"(ii) the demonstrated research capabilities and extension resources available to the recipient to carry out this section;

"(iii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems;

"(iv) the demonstrated ability of the recipient to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program; and

"(v) the strategic plan that the recipient proposes to carry out using funds from the grant.

"(E) Selection process.—In selecting the recipients of grants under this subsection, the Secretary shall consult with, and consider the advice of—

"(i) the Research and Special Programs Administration;

"(ii) the Federal Highway Administration; and

"(iii) the Federal Transit Administration.

"(c) Center Requirements.—

"(1) In general.—With respect to a university transportation center established under subsection (a) or (b), the institution or consortium that receives a grant to establish the center—

"(A) shall annually contribute at least $250,000 to the operation and maintenance of the center, except that payment by the institution or consortium of the salary required for transportation-related faculty and staff for a period greater than 90 days may not be counted against that contribution;

"(B) shall have established, as of the date of receipt of the grant, undergraduate or graduate programs in—

"(i) civil engineering;

"(ii) transportation engineering;

"(iii) transportation systems management and operations; or

"(iv) any other field significantly related to surface transportation systems, as determined by the Secretary; and

"(C) not later than 120 days after the date on which the institution or consortium receives notice of selection as a site for the establishment of a university transportation center under this section, shall submit to the Secretary a 6-year program plan for the university transportation center that includes, with respect to the center—

"(i) a description of the purposes of programs to be conducted by the center;

"(ii) a description of the undergraduate and graduate transportation education efforts to be carried out by the center;

"(iii) a description of the nature and scope of research to be conducted by the center;

"(iv) a list of personnel, including the roles and responsibilities of those personnel within the center; and

"(v) a detailed budget, including the amount of contributions by the institution or consortium to the center; and

"(D) shall establish an advisory committee that—

"(i) is composed of a representative from each of the State transportation department of the State in which the institution or consortium is located, the Department of Transportation, and the institution or consortia, as appointed by those respective entities;

"(ii) in accordance with paragraph (2), shall review and approve or disapprove the plan of the institution or consortium under subparagraph (C); and

"(iii) shall, to the maximum extent practicable, ensure that the proposed research to be carried out by the university transportation center will contribute to the national highway research and technology agenda, as periodically updated by the Secretary, in consultation with stakeholders representing the highway community.

"(2) Peer review.—

"(A) In general.—The Secretary shall require peer review for each report on research carried out using funds made available for this section.

"(B) Purposes of peer review.—Peer review of a report under this section shall be carried out to evaluate—

"(i) the relevance of the research described in the report with respect to the strategic plan under, and the goals of, this section;

"(ii) the research covered by the report, and to recommend modifications to individual project plans;

"(iii) the results of the research before publication of those results; and

"(iv) the overall outcomes of the research.

"(C) INTERNET AVAILABILITY.—Each report under this section that is received by the Secretary shall be published—

"(i) by the Secretary, on the Internet website of the Department of Transportation; and

"(ii) by the University Transportation Center.

"(3) APPROVAL OF PLANS—A plan of an institution or consortium described in paragraph (1)(C) shall not be submitted to the Secretary until such time as the advisory committee established under paragraph (1)(D) reviews and approves the plan.

"(4) FAILURE TO COMPLY.—If a recipient of a grant under this subsection fails to submit a program plan acceptable to the Secretary and in accordance with paragraph (1)(C)—

"(A) the recipient shall forfeit the grant and the selection of the recipient as a site for the establishment of a university transportation center; and

"(B) the Secretary shall select a replacement recipient for the forfeited grant.

"(5) APPLICABILITY.—This subsection does not apply to any research funds received in accordance with a competitive contract offered and entered into by the Federal Highway Administration.

"(d) OBJECTIVES.—Each university transportation center established under subsection (a) or (b) shall carry out—

"(1) undergraduate or graduate education programs that include—

"(A) multidisciplinary coursework; and

"(B) opportunities for students to participate in research;

"(2) basic and applied research, the results and products of which shall be judged by peers or other experts in the field so as to advance the body of knowledge in transportation; and

"(3) an ongoing program of technology transfer that makes research results available to potential users in such form as will enable the results to be implemented, used, or otherwise applied.

"(e) MAINTENANCE OF EFFORT.—To be eligible to receive a grant under this section, an applicant shall—

"(1) enter into an agreement with the Secretary to ensure that the applicant will maintain total expenditures from all other sources to establish and operate a university transportation center and related educational and research activities at a level that is at least equal to the average level of those expenditures during the 2 fiscal years before the date on which the grant is provided;

"(2) provide the annual institutional contribution required under subsection (c)(1); and

"(3) submit to the Secretary, in a timely manner, for use by the Secretary in the preparation of the annual research report under section 508(c)(5) of title 23, an annual report on the projects and activities of the university transportation center for which funds are made available under section 2001 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 that contains, at a minimum, for the fiscal year covered by the report, a description of—

"(A) the goals of the center;

"(B) the educational activities carried out by the center (including a detailed summary of the budget for those educational activities);

"(C) teaching activities of faculty at the center;

"(D) each research project carried out by the center, including—

"(i) the identity and location of each investigator working on a research project;

"(ii) the overall funding amount for each research project (including the amounts expended for the project as of the date of the report);

"(iii) the current schedule for each research project; and

"(iv) the results of each research project through the date of submission of the report, with particular emphasis on results for the fiscal year covered by the report; and

"(E) overall technology transfer and implementation efforts of the center.

"(f) PROGRAM COORDINATION.—The Secretary shall—

"(1) coordinate the research, education, training, and technology transfer activities carried out by recipients of grants under this section; and

"(2) establish and operate a clearinghouse for, and disseminate, the results of those activities.

"(g) FUNDING.—

"(1) NUMBER AND AMOUNT OF GRANTS.—The Secretary shall make the following grants under this subsection:

"(A) GROUP A.—For each of fiscal years 2005 through 2009, the Secretary shall make a grant in the amount of $938,629 to each of the institutions in group A (as described in subsection (a)(4)(A)).

"(B) GROUP B.—The Secretary shall make a grant to each of the institutions in group B (as described in subsection (a)(4)(B)) in the amount of—

"(i) $375,452 for fiscal year 2005; and

"(ii) $563,177 for each of fiscal years 2006 and 2007.

"(C) GROUP C.—For each of fiscal years 2005 through 2007, the Secretary shall make a grant in the amount of $938,629 to each of the institutions in group C (as described in subsection (a)(4)(C)).

"(D) GROUP D.—For each of fiscal years 2005 through 2009, the Secretary shall make a grant in the amount of $1,877,258 to each of the institutions in group D (as described in subsection (a)(4)(D)).

"(E) LIMITED GRANTS FOR GROUPS B AND C.—For each of fiscal years 2008 and 2009, of the institutions classified in groups B and C (as described in subsection (a)(4)(B)), the Secretary shall select and make grants in an amount totaling $37,545,924 to not more than 15 institutions.

"(2) USE OF FUNDS—

"(A) IN GENERAL.—Of the funds made available for a fiscal year to a university transportation center established under subsection (a) or (b)—

"(i) not less than $250,000 shall be used to establish and maintain new faculty positions for the teaching of undergraduate, transportation-related courses;

"(ii) not more than $500,000 for the fiscal year, or $1,000,000 in the aggregate, may be used to construct or improve transportation-related laboratory facilities; and

"(iii) not more than $300,000 for the fiscal year may be used for student internships of not more than 180 days in duration to enable students to gain experience by working on transportation projects as interns with design or construction firms.

"(B) FACILITIES AND ADMINISTRATION FEE.—Not more than 10 percent of any grant made available to a university transportation center (or any institution or consortium that establishes such a center) for a fiscal year may be used to pay to the appropriate nonprofit institution of higher learning any administration and facilities fee (or any similar overhead fee) for the fiscal year.

"(3) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available under this subsection shall remain available for obligation for a period of 2 years after September 30 of the fiscal year for which the funds are authorized.

"§511. Multistate corridor operations and management

"(a) IN GENERAL.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements to promote regional cooperation, planning, and shared project implementation for programs and projects to improve transportation system management and operations.

"(b) INTERSTATE ROUTE I–95 CORRIDOR COALITION TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

"(1) IN GENERAL.—The Secretary shall make grants under this subsection to States to continue intelligent transportation system management and operations in the Interstate Route I–95 corridor coalition region initiated under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240).

"(2) FUNDING.—Of the amounts made available under section 2001(a)(4) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary shall use to carry out this subsection—

"(A) $9,386,289 for fiscal year 2005; and

"(B) $11,263,547 for each of fiscal years 2006 through 2009.

"§512. Transportation analysis simulation system

"(a) CONTINUATION OF TRANSIMS DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary shall continue the deployment of the advanced transportation model known as the 'Transportation Analysis Simulation System' (referred to in this section as 'TRANSIMS') developed by the Los Alamos National Laboratory.

"(2) REQUIREMENTS AND CONSIDERATIONS.—In carrying out paragraph (1), the Secretary shall—

"(A) further improve TRANSIMS to reduce the cost and complexity of using the TRANSIMS;

"(B) continue development of TRANSIMS for applications to facilitate transportation planning, regulatory compliance, and response to natural disasters and other transportation disruptions; and

"(C) assist State transportation departments and metropolitan planning organizations, especially smaller metropolitan planning organizations, in the implementation of TRANSIMS by providing training and technical assistance.

"(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available to carry out this section—

"(1) to further develop TRANSIMS for additional applications, including—

"(A) congestion analyses;

"(B) major investment studies;

"(C) economic impact analyses;

"(D) alternative analyses;

"(E) freight movement studies;

"(F) emergency evacuation studies;

"(G) port studies; and

"(H) airport access studies;

"(2) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments, and metropolitan planning organizations with responsibility for travel modeling;

"(3) develop methods to simulate the national transportation infrastructure as a single, integrated system for the movement of individuals and goods;

"(4) provide funding to State transportation departments and metropolitan planning organizations for implementation of TRANSIMS.

"(c) ALLOCATION OF FUNDS.—Of the funds made available to carry out this section for each fiscal year, not less than 15 percent shall be allocated for activities described in subsection (b)(3).

"(d) FUNDING.—Of the amounts made available under section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for each of fiscal years 2005 through 2009, the Secretary shall use $893,082 to carry out this section.

"(e) AVAILABILITY OF FUNDS.—Funds made available under this section shall be available to the Secretary through the Transportation Planning, Research, and Development Account of the Office of the Secretary.".

(b) OTHER UNIVERSITY FUNDING.—No university (other than university transportation centers specified in section 510 of title 23, United States Code (as added by subsection (a)) shall receive funds made available under section 2001 to carry out research unless the university is selected to receive the funds—

(1) through a competitive process that incorporates merit-based peer review; and

(2) based on a proposal submitted to the Secretary by the university in response to a request for proposals issued by the Secretary.

(c) CONFORMING AMENDMENT.—Section 5505 of title 49, United States Code, is repealed.

SEC. 2102. STUDY OF DATA COLLECTION AND STATISTICAL ANALYSIS EFFORTS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATION.—The term "Administration" means the Federal Highway Administration.

(2) BOARD.—The term "Board" means the Transportation Research Board of the National Academy of Sciences.

(3) BUREAU.—The term "Bureau" means the Bureau of Transportation Statistics.

(4) DEPARTMENT.—The term "Department" means the Department of Transportation.

(5) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(b) PRIORITY AREAS OF EFFORT.—

(1) STATISTICAL STANDARDS.—The Secretary shall direct the Bureau to assume the role of the lead agency in working with other agencies of the Department to establish, by not later the date that is 1 year after the date of enactment of this Act, statistical standards for the Department.

(2) STATISTICAL ANALYSIS EFFORT.—

(A) IN GENERAL.—The Bureau shall provide to the Secretary, on an annual basis, an overview of the level of effort expended on statistical analyses by each agency within the Department.

(B) DUTY OF AGENCIES.—Each agency of the Department shall provide to the Bureau such information as the Bureau may require in carrying out subparagraph (A).

(3) NATIONAL SECURITY.—The Bureau shall—

(A) conduct a study of the ways in which transportation statistics are and may be used for the purpose of national security; and

(B) submit to the Transportation Security Administration recommendations for means by which the use of transportation statistics for the purpose of national security may be improved.

(4) MODERNIZATION.—The Bureau shall develop new protocols for adapting data collection and delivery efforts in existence as of the date of enactment of this Act to deliver information in a more timely and frequent fashion.

(c) STUDY.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall provide a grant to, or enter into a cooperative agreement or contract with, the Board for the conduct of a study of the data collection and statistical analysis efforts of the Department with respect to the modes of surface transportation for which funds are made available under this Act.

(2) PURPOSE.—The purpose of the study shall be to provide to the Department information for use by agencies of the Department in providing to surface transportation agencies and individuals engaged in the surface transportation field higher quality, and more relevant and timely, data, statistical analyses, and products.

(3) CONTENT.—The study shall include—

(A) an examination and analysis of the efforts, analyses, and products (with respect to usefulness and policy relevance) of the Bureau as of the date of the study, as compared with the duties of the Bureau specified in subsections (c) through (f) of section 111 of title 49, United States Code;

(B) an examination and analysis of data collected by, methods of data collection of, and analyses performed by, agencies within the Department; and

(C) recommendations relating to—

(i) the future efforts of the Department in the area of surface transportation with respect to—

(I) types of data collected;

(II) methods of data collection;

(III) types of analyses performed; and

(IV) products made available by the Secretary to the transportation community and Congress;

(ii) the means by which the Department may cooperate with State transportation departments to provide technical assistance in the use of data collected by traffic operations centers; and

(iii) duplication of efforts within the Department, including ways in which—

(I) the duplication may be reduced or eliminated; and

(II) each agency of the Department may cooperate with, and complement the efforts of, the others.

(4) CONSULTATION.—In conducting the study, the Board shall consult with such stakeholders, agencies, and other entities as the Board considers to be appropriate.

(5) REPORT.—Not later than 1 year after the date on which a grant is provided, or a cooperative agreement or contract is entered into, for a study under paragraph (1)—

(A) the Board shall submit to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a final report on the results of the study; and

(B) the results of the study shall be published—

(i) by the Secretary, on the Internet website of the Department; and

(ii) by the Board, on the Internet website of the Board.

(6) IMPLEMENTATION OF RESULTS.—The Bureau shall, to the maximum extent practicable, implement any recommendations made with respect to the results of the study under this subsection.

(7) COMPLIANCE.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the study under this subsection.

(B) NONCOMPLIANCE.—If the Comptroller General of the United States determines that the Bureau failed to conduct the study under this subsection, the Bureau shall be ineligible to receive funds from the Highway Trust Fund until such time as the Bureau conducts the study under this subsection.

(d) CONFORMING AMENDMENTS.—Section 111 of title 49, United States Code, is amended—

(1) by redesignating subsection (k) as subsection (m);

(2) by inserting after subsection (j) the following:

"(k) ANNUAL REPORT.—

"(1) IN GENERAL.—For fiscal year 2005 and each fiscal year thereafter, the Bureau shall prepare and submit to the Secretary an annual report that—

"(A) describes progress made in responding to study recommendations for the fiscal year; and

"(B) summarizes the activities and expenditure of funds by the Bureau for the fiscal year.

"(2) AVAILABILITY.—The Bureau shall—

"(A) make the report described in paragraph (1) available to the public; and

"(B) publish the report on the Internet website of the Bureau.

"(3) COMBINATION OF REPORTS.—The report required under paragraph (1) may be included in or combined with the Transportation Statistics Annual Report required by subsection (j).

"(l) EXPENDITURE OF FUNDS.—Funds from the Highway Trust Fund (other than the Mass Transit Account) that are authorized to be appropriated, and made available, in accordance with section 2001(a)(3) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 shall be used only for the collection and statistical analysis of information relating to surface transportation systems."; and

(3) in subsection (m) (as redesignated by subparagraph (A)), by inserting "surface transportation" after "sale of".

SEC. 2103. CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.

(a) ESTABLISHMENT.—The Secretary shall establish the centers for surface transportation excellence described in subsection (b) to promote high-quality outcomes in support of strategic national programs and activities, including—

(1) the environment;

(2) operations;

(3) surface transportation safety;

(4) project finance; and

(5) asset management.

(b) CENTERS.—The centers for surface transportation excellence referred to in subsection (a) are—

(1) a Center for Environmental Excellence to provide technical assistance, information sharing of best practices, and training in the use of tools and decision-making processes to assist States in planning and delivering environmentally-sound surface transportation projects;

(2) a Center for Operations Excellence to provide support for an integrated and coordinated national program for implementing operations in planning and management (including standards development) for the transportation system in the United States;

(3) a Center for Excellence in Surface Transportation Safety to implement a program of support for State transportation departments, including—

(A) the maintenance of an Internet site to provide critical information on safety programs;

(B) the provision of technical assistance to support a lead State transportation department for each of the safety emphasis areas (as identified by the Secretary); and

(C) the provision of training and education to enhance knowledge of personnel of State transportation departments in support of safety highway goals;

(4) a Center for Excellence in Project Finance—

(A) to provide support to State transportation departments in the development of finance plans and project oversight tools; and

(B) to develop and offer training in state-of-the-art financing methods to advance projects and leverage funds; and

(5) a Center for Excellence in Asset Management to develop and conduct research, provide training and education, and disseminate information on the benefits and tools for asset management.

(c) PROGRAM ADMINISTRATION.—

(1) IN GENERAL.—Before funds authorized under this section for fiscal years 2005 through 2009 are obligated, the Secretary shall review and approve a multiyear strategic plan to be submitted by each of the centers.

(2) TIMING.—The plan shall be submitted before the beginning of fiscal year 2005 and, subsequently, shall be annually updated.

(3) CONTENT.—The plan shall include—

(A) a list of research and technical assistance projects and objectives; and

(B) a description of any other technology transfer activities, including a summary of training efforts.

(4) COOPERATION AND COMPETITION.—

(A) IN GENERAL.—The Secretary shall carry out this section by making grants to, or entering into contracts, cooperative agreements, and other transactions with—

(i) the National Academy of Sciences;

(ii) the American Association of State Highway and Transportation Officials;

(iii) planning organizations;

(iv) a Federal laboratory;

(v) a State agency;

(vi) an authority, association, institution, or organization; or

(vii) a for-profit or nonprofit corporation.

(B) COMPETITION; REVIEW.—All parties entering into contracts, cooperative agreements, or other transactions with the Secretary, or receiving grants, to perform research or provide technical assistance under this section shall be selected, to the maximum extent practicable—

(i) on a competitive basis; and

(ii) on the basis of the results of peer review of proposals submitted to the Secretary.

(5) NONDUPLICATION.—The Secretary shall ensure that activities conducted by each of the centers do not duplicate, and to the maximum extent practicable, are integrated and coordinated with similar activities conducted by the Federal Highway Administration, the local technical assistance program, university transportation centers, and other research efforts supported with funds authorized by this title.

(d) ALLOCATIONS.—

(1) IN GENERAL.—For each of fiscal years 2005 through 2009, of the funds made available under section 2001(a)(1)(A), the Secretary shall set aside $9,386,289 to carry out this section.

(2) ALLOCATION OF FUNDS.—Of the funds made available under paragraph (1)—

(A) 20 percent shall be allocated to the Center for Environmental Excellence established under subsection (b)(1);

(B) 30 percent shall be allocated to the Center for Operations Excellence established under subsection (b)(2);

(C) 20 percent shall be allocated to the Center for Excellence in Surface Transportation Safety established under subsection (b)(3);

(D) 10 percent shall be allocated to the Center for Excellence in Project Finance established under subsection (b)(4); and

(E) 20 percent shall be allocated to the Center for Excellence in Asset Management established under subsection (b)(5).

(3) APPLICABILITY OF TITLE 23.—Funds made available under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be 100 percent.

SEC. 2104. MOTORCYCLE CRASH CAUSATION STUDY GRANTS.

(a) GRANTS.—The Secretary shall provide grants for the purpose of conducting a comprehensive, in-depth motorcycle crash causation study that employs the common international methodology for in-depth motorcycle accident investigation of the Organization for Economic Cooperation and Development.

(b) FUNDING.—Of the amounts made available under section 2001(a)(3), $1,407,943 for each of fiscal years 2005 and 2006 shall be available to carry out this section.

SEC. 2105. TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM.

Section 5117(b) of the Transportation Equity Act for the 21st Century (112 Stat 449; 112 Stat. 864; 115 Stat. 2330) is amended by striking paragraph (3) and inserting the following:

"(3) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—

"(A) DEFINITIONS.—In this paragraph:

"(i) CONGESTED AREA.—The term 'congested area' means a metropolitan area that experiences significant traffic congestion, as determined by the Secretary on an annual basis.

"(ii) DEPLOYMENT AREA.—The term 'deployment area' means any of the metropolitan areas of Baltimore, Birmingham, Boston, Chicago, Cleveland, Dallas/Ft. Worth, Denver, Detroit, Houston, Indianapolis, Las Vegas, Los Angeles, Miami, New York/Northern New Jersey, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Salt Lake, San Diego, San Francisco, St. Louis, Seattle, Tampa, and Washington, District of Columbia.

"(iii) METROPOLITAN AREA.—

"(I) IN GENERAL.—The term 'metropolitan area' means any area that—

"(aa) has a population exceeding 300,000; and

"(bb) meets criteria established by the Secretary in conjunction with the intelligent vehicle highway systems corridors program.

"(II) INCLUSIONS.—The term 'metropolitan area' includes a major transportation corridor serving a metropolitan area.

"(iv) ORIGINAL CONTRACT.—The term 'original contract' means the Department of Transportation contract numbered DTTS 59-99-D-00445 T020013.

"(v) PROGRAM.—The term 'program' means the 2-part intelligent transportation infrastructure program carried out under this paragraph.

"(vi) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means—

"(I) a State transportation department (as defined in section 101 of title 23, United States Code); and

"(II) a designee of a State transportation department (as so defined) for the purpose of entering into contracts.

"(vii) UNCOMMITTED FUNDS—The term 'uncommitted funds' means the total amount of funds that, as of the date that is 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, remain uncommitted under the original contract.

"(B) INTELLIGENT TRANSPORTATION INFRASTRUCTURE PROGRAM.—

"(i) IN GENERAL.—The Secretary shall carry out a 2-part intelligent transportation infrastructure program in accordance with this paragraph to advance the deployment of an operational intelligent transportation infrastructure system, through measurement of various transportation system activities, to simultaneously—

"(I) aid in transportation planning and analysis; and

"(II) make a significant contribution to the ITS program under this title.

"(ii) OBJECTIVES.—The objectives of the program shall be—

"(I) to build or integrate an infrastructure of the measurement of various transportation system metrics to aid in planning, analysis, and maintenance of the Department of Transportation, including the build-out, maintenance, and operation of greater than 40 metropolitan area systems with a total cost of not to exceed $2,000,000 for each metropolitan area;

"(II) to provide private technology commercialization initiatives to generate revenues that will be reinvested in the intelligent transportation infrastructure system;

"(III) to aggregate data into reports for multipoint data distribution techniques; and

"(IV) with respect to part I of the program under subparagraph (C), to use an advanced information system designed and monitored by an entity with experience with the Department of Transportation in the design and monitoring of high-reliability, mission-critical voice and data systems.

"(C) PART I.—

"(i) IN GENERAL.—In carrying out part I of the program, the Secretary shall permit the entity to which the original contract was awarded to use uncommitted funds to deploy intelligent transportation infrastructure systems that have been accepted by the Secretary—

"(I) in accordance with the terms of the original contract; and

"(II) in any deployment area, with the consent of the State transportation department for the deployment area.

"(ii) APPLICABLE CONDITIONS.—The same asset ownership, maintenance, fixed price contract, and revenue sharing model, and the same competitively selected consortium leader, as were used for the deployment of intelligent transportation infrastructure systems under the original contract before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 shall apply to each deployment carried out under clause (i).

"(iii) DEPLOYMENT IN CONGESTED AREAS.—If the entity referred to in clause (i) is unable to commit the uncommitted funds by deploying intelligent transportation infrastructure systems in deployment areas, as determined by the Secretary, the entity may deploy the systems in accordance with this paragraph in 1 or more congested areas, with the consent of the State transportation departments for the congested areas.

"(D) PART II.—

"(i) IN GENERAL.—In carrying out part II of the program, the Secretary shall award, on a competitive basis, contracts for the deployment of intelligent transportation infrastructure systems that have been accepted by the Secretary in congested areas, with the consent of the State transportation departments for the congested areas.

"(ii) REQUIREMENTS.—The Secretary shall award contracts under clause (i)—

"(I) for individual congested areas among entities that seek to deploy intelligent transportation infrastructure systems in the congested areas; and

"(II) on the condition that the terms of each contract awarded requires the entity deploying the intelligent transportation infrastructure system to ensure that the deployed system is compatible (as determined by the Secretary) with systems deployed in other congested areas under this paragraph.

"(iii) PROVISIONS IN CONTRACTS.—The Secretary shall require that each contract for the deployment of an intelligent transportation infrastructure system under this subparagraph contain such provisions relating to asset ownership, maintenance, fixed price, and revenue sharing as the Secretary considers to be appropriate.

"(E) USE OF FUNDS FOR UNDEPLOYED SYSTEMS.—

"(i) IN GENERAL.—If, under part I or part II of the program, a State transportation department for a deployment area or congested area does not consent by the later of the date that is 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, or another date determined jointly by the State transportation department and the deployment area or congested area, to participate in the deployment of an intelligent transportation infrastructure system in the deployment area or congested area, upon application by any other deployment area or congested area that has consented by that date to participate in the deployment of such a system, the Secretary shall supplement the funds made available for each of the deployment areas or congested areas submitting the application by using for that purpose the funds not used for deployment of the system in the nonparticipating deployment area or congested area.

"(ii) NO INCLUSION IN COST LIMITATION.—Costs paid using funds provided through a supplementation under clause (i) shall not be considered in determining the limitation on maximum cost described in subparagraph (F)(ii).

"(F) FEDERAL SHARE; LIMITS ON COSTS OF SYSTEMS FOR METROPOLITAN AREAS.—

"(i) FEDERAL SHARE.—Subject to clause (ii), the Federal share of the cost of any project or activity carried out under the program shall be 80 percent.

"(ii) LIMIT ON COSTS OF SYSTEM FOR EACH METROPOLITAN AREA.—

"(I) IN GENERAL.—Not more than $2,000,000 may be provided under this paragraph for deployment of an intelligent transportation infrastructure system for a metropolitan area.

"(II) FUNDING UNDER EACH PART.—A metropolitan area in which an intelligent transportation infrastructure system is deployed under part I or part II of the program under subparagraph (C) or (D), respectively, including through a supplementation of funds under subparagraph (E), may not receive any additional deployment under the other part of the program.

"(G) USE OF RIGHTS-OF-WAY.—

"(i) IN GENERAL.—An intelligent transportation system project described in this paragraph or paragraph (6) that involves privately-owned intelligent transportation system components and is carried out using funds made available from the Highway Trust Fund shall not be subject to any law (including a regulation) of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been used for planning, design, construction, or maintenance for the project, if the Secretary determines that such use is in the public interest.

"(ii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph affects the authority of a State or political subdivision of a State—

"(I) to regulate highway safety; or

"(II) under sections 253 and 332(c)(7) of the Communications Act of 1934 (47 U.S.C. 253, 332(c)(7)).

"(H) FUNDING.—

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out subparagraph (D) $4,465,409 for each fiscal year.

"(ii) ADDITIONAL AMOUNTS.—In addition to the amounts authorized to be appropriated under this subparagraph, funds made available under title II of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005, and titles 23 and 49, United States Code, for projects and activities the objectives of which are consistent with the objectives described in subparagraph (B)(ii), may be used to carry out part II of the program under subparagraph (D).

"(iii) AVAILABILITY; NO REDUCTION OR SETASIDE.—Amounts made available by this subparagraph—

"(I) shall remain available until expended; and

"(II) shall not be subject to any reduction or setaside.

"(iv) NO EFFECT ON PREVIOUSLY COMMITTED FUNDS.—Nothing in this paragraph affects any funds committed under the original contract before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005.

"(v) CONTRACT AUTHORITY.—Except as provided in subparagraph (F)(i), funds authorized to be appropriated under this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.".

Subtitle C—Intelligent Transportation System Research

SEC. 2201. INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code (as amended by section 2101), is amended by adding at the end the following:

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM

"§ 521. Finding

"Congress finds that continued investment in architecture and standards development, research, technical assistance for State and local governments, and systems integration is needed to accelerate the rate at which intelligent transportation systems—

"(1) are incorporated into the national surface transportation network; and

"(2) as a result of that incorporation, improve transportation safety and efficiency and reduce costs and negative impacts on communities and the environment.

"§ 522. Goals and purposes

"(a) GOALS.—The goals of the intelligent transportation system research and technical assistance program include—

"(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade—

"(A) to meet a significant portion of future transportation needs, including public access to employment, goods, and services; and

"(B) to reduce regulatory, financial, and other transaction costs to public agencies and system users;

"(2) the acceleration of the use of intelligent transportation systems to assist in the achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles, with particular emphasis on decreasing the number and severity of collisions;

"(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments in achieving national environmental goals;

"(4) accommodation of the needs of all users of surface transportation systems, including—

"(A) operators of commercial vehicles, passenger vehicles, and motorcycles;

"(B) users of public transportation users (with respect to intelligent transportation system user services); and

"(C) individuals with disabilities; and

"(5)(A) improvement of the ability of the United States to respond to emergencies and natural disasters; and

"(B) enhancement of national security and defense mobility.

"(b) PURPOSES.—The Secretary shall carry out activities under the intelligent transportation system research and technical assistance program to, at a minimum—

"(1) assist in the development of intelligent transportation system technologies;

"(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for full consideration in the transportation planning process;

"(3) improve regional cooperation, interoperability, and operations for effective intelligent transportation system performance;

"(4) promote the innovative use of private resources;

"(5) assist State transportation departments in developing a workforce capable of developing, operating, and maintaining intelligent transportation systems;

"(6) maintain an updated national ITS architecture and consensus-based standards while ensuring an effective Federal presence in the formulation of domestic and international ITS standards;

"(7) advance commercial vehicle operations components of intelligent transportation systems—

"(A) to improve the safety and productivity of commercial vehicles and drivers; and

"(B) to reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements;

"(8) evaluate costs and benefits of intelligent transportation systems projects;

"(9) improve, as part of the Archived Data User Service and in cooperation with the Bureau of Transportation Statistics, the collection of surface transportation system condition and performance data through the use of intelligent transportation system technologies; and

"(10) ensure access to transportation information and services by travelers of all ages.

"§ 523. Definitions

"In this subchapter:

"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'commercial vehicle information systems and networks' means the information systems and communications networks that support commercial vehicle operations.

"(2) COMMERCIAL VEHICLE OPERATIONS.—

"(A) IN GENERAL.—The term 'commercial vehicle operations' means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods (including hazardous materials) and passengers.

"(B) INCLUSIONS.—The term 'commercial vehicle operations', with respect to the public sector, includes—

"(i) the issuance of operating credentials;

"(ii) the administration of motor vehicle and fuel taxes; and

"(iii) roadside safety and border crossing inspection and regulatory compliance operations.

"(3) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term 'intelligent transportation infrastructure' means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

"(4) INTELLIGENT TRANSPORTATION SYSTEM.—The term 'intelligent transportation system' means electronics, photonics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

"(5) NATIONAL ITS ARCHITECTURE.—The term 'national ITS architecture' means the common framework for interoperability adopted by the Secretary that defines—

"(A) the functions associated with intelligent transportation system user services;

"(B) the physical entities or subsystems within which the functions reside;

"(C) the data interfaces and information flows between physical subsystems; and

"(D) the communications requirements associated with the information flows.

"(6) STANDARD.—The term 'standard' means a document that—

"(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

"(B) may—

"(i) support the national ITS architecture; and

"(ii) promote—

"(I) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

"(II) interoperability among intelligent transportation system technologies implemented throughout the States.

"§ 524. General authorities and requirements

"(a) SCOPE.—Subject to this subchapter, the Secretary shall carry out an ongoing intelligent transportation system research program—

"(1) to research, develop, and operationally test intelligent transportation systems; and

"(2) to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

"(b) POLICY.—Intelligent transportation system operational tests and projects funded under this subchapter shall encourage, but not displace, public-private partnerships or private sector investment in those tests and projects.

"(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system research and technical assistance program in cooperation with—

"(1) State and local governments and other public entities;

"(2) the private sector;

"(3) Federal laboratories (as defined in section 501); and

"(4) colleges and universities, including historically black colleges and universities and other minority institutions of higher education.

"(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system research program, the Secretary, as appropriate, shall consult with—

"(1) the Secretary of Commerce;

"(2) the Secretary of the Treasury;

"(3) the Administrator of the Environmental Protection Agency;

"(4) the Director of the National Science Foundation; and

"(5) the Secretary of Homeland Security.

"(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

"(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation system management and operations (including intelligent transportation systems) within metropolitan and statewide transportation planning processes.

"(g) INFORMATION CLEARINGHOUSE.—The Secretary shall—

"(1) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subchapter; and

"(2) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

"(h) ADVISORY COMMITTEES.—

"(1) IN GENERAL.—In carrying out this subchapter, the Secretary—

"(A) may use 1 or more advisory committees; and

"(B) shall designate a public-private organization, the members of which participate in on-going research, planning, standards development, deployment, and marketing of ITS programs, products, and services, and coordinate the development and deployment of intelligent transportation systems in the United States, as the Federal advisory committee authorized by section 5204(h) of the Transportation Equity Act for the 21st Century (112 Stat. 454).

"(2) FUNDING.—Of the amount made available to carry out this subchapter, the Secretary may use $1,407,943 for each fiscal year for advisory committees described in paragraph (1).

"(3) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee described in paragraph (1) shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(i) PROCUREMENT METHODS.—The Secretary shall develop and provide appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of deployment and procurement for intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including innovative and nontraditional methods such as Information Technology Omnibus Procurement (as developed by the Secretary).

"(j) EVALUATIONS.—

"(1) GUIDELINES AND REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall issue revised guidelines and requirements for the evaluation of operational tests and other intelligent transportation system projects carried out under this subchapter.

"(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by—

"(i) parties to any such test; or

"(ii) any other formal evaluation carried out under this subchapter.

"(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish evaluation funding levels based on the size and scope of each test that ensure adequate evaluation of the results of the test or project.

"(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test or program assessment activity under this subchapter shall not be subject to chapter 35 of title 44.

"§ 525. National ITS Program Plan

"(a) IN GENERAL.—

"(1) UPDATES.—Not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary, in consultation with interested stakeholders (including State transportation departments) shall develop a 5-year National ITS Program Plan.

"(2) SCOPE.—The National ITS Program Plan shall—

"(A) specify the goals, objectives, and milestones for the research and deployment of intelligent transportation systems in the contexts of—

"(i) major metropolitan areas;

"(ii) smaller metropolitan and rural areas; and

"(iii) commercial vehicle operations;

"(B) specify the manner in which specific programs and projects will achieve the goals, objectives, and milestones referred to in subparagraph (A), including consideration of a 5-year timeframe for the goals and objectives;

"(C) identify activities that provide for the dynamic development, testing, and necessary revision of standards and protocols to promote and ensure interoperability in the implementation of intelligent transportation system technologies, including actions taken to establish standards; and

"(D) establish a cooperative process with State and local governments for—

"(i) determining desired surface transportation system performance levels; and

"(ii) developing plans for accelerating the incorporation of specific intelligent transportation system capabilities into surface transportation systems.

"(b) REPORTING.—The National ITS Program Plan shall be transmitted and biennially updated as part of the surface transportation research and technology development strategic plan developed under section 508(c).

"§ 526. National ITS architecture and standards

"(a) IN GENERAL.—

"(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—In accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national ITS architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

"(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national ITS architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

"(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.

"(b) PROVISIONAL STANDARDS.—

"(1) IN GENERAL.—If the Secretary finds that the development or selection of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard—

"(A) after consultation with affected parties; and

"(B) by using, to the maximum extent practicable, the work product of appropriate standards development organizations.

"(2) CRITICAL STANDARDS.—If a standard identified by the Secretary as critical has not been adopted and published by the appropriate standards development organization by the date of enactment of this subchapter, the Secretary shall establish a provisional standard—

"(A) after consultation with affected parties; and

"(B) by using, to the maximum extent practicable, the work product of appropriate standards development organizations.

"(3) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) or (2) shall—

"(A) be published in the Federal Register; and

"(B) remain in effect until such time as the appropriate standards development organization adopts and publishes a standard.

"(c) WAIVER OF REQUIREMENT TO ESTABLISH PROVISIONAL CRITICAL STANDARD.—

"(1) IN GENERAL.—The Secretary may waive the requirement under subsection (b)(2) to establish a provisional standard if the Secretary determines that additional time would be productive in, or that establishment of a provisional standard would be counterproductive to, the timely achievement of the objectives identified in subsection (a).

"(2) NOTICE.—The Secretary shall publish in the Federal Register a notice that describes—

"(A) each standard for which a waiver of the provisional standard requirement is granted under paragraph (1);

"(B) the reasons for and effects of granting the waiver; and

"(C) an estimate as to the date on which the standard is expected to be adopted through a process consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783).

"(3) WITHDRAWAL OF WAIVER.—

"(A) IN GENERAL.—The Secretary may withdraw a waiver granted under paragraph (1) at any time.

"(B) NOTICE.—On withdrawal of a waiver, the Secretary shall publish in the Federal Register a notice that describes—

"(i) each standard for which the waiver has been withdrawn; and

"(ii) the reasons for withdrawing the waiver.

"(d) CONFORMITY WITH NATIONAL ITS ARCHITECTURE.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund conform to the national ITS architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

"(2) DISCRETION OF SECRETARY.—The Secretary may authorize exceptions to paragraph (1) for projects designed to achieve specific research objectives outlined in—

"(A) the National ITS Program Plan under section 525; or

"(B) the surface transportation research and technology development strategic plan developed under section 508(c).

"(3) EXCEPTIONS.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subchapter.

"§ 527. Commercial vehicle information systems and networks deployment

"(a) DEFINITIONS.—In this section:

"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'commercial vehicle information systems and networks' means the information systems and communications networks that provide the capability to—

"(A) improve the safety of commercial vehicle operations;

"(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

"(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

"(D) enhance the safe passage of commercial vehicles across the United States and across international borders; and

"(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

"(2) COMMERCIAL VEHICLE OPERATIONS.—

"(A) IN GENERAL.—The term 'commercial vehicle operations' means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods (including hazardous materials) and passengers.

"(B) INCLUSIONS.—The term 'commercial vehicle operations', with respect to the public sector, includes—

"(i) the issuance of operating credentials;

"(ii) the administration of motor vehicle and fuel taxes; and

"(iii) the administration of roadside safety and border crossing inspection and regulatory compliance operations.

"(3) CORE DEPLOYMENT.—The term 'core deployment' means the deployment of systems in a State necessary to provide the State with—

"(A) safety information exchange to—

"(i) electronically collect and transmit commercial vehicle and driver inspection data at a majority of inspection sites;

"(ii) connect to the Safety and Fitness Electronic Records system for access to—

"(I) interstate carrier and commercial vehicle data;

"(II) summaries of past safety performance; and

"(III) commercial vehicle credentials information; and

"(iii) exchange carrier data and commercial vehicle safety and credentials information within the State and connect to Safety and Fitness Electronic Records system for access to interstate carrier and commercial vehicle data;

"(B) interstate credentials administration to—

"(i)(I) perform end-to-end (including carrier application) jurisdiction application processing, and credential issuance, of at least the International Registration Plan and International Fuel Tax Agreement credentials; and

"(II) extend the processing to other credentials, including intrastate, titling, oversize or overweight requirements, carrier registration, and hazardous materials;

"(ii) connect to the International Registration Plan and International Fuel Tax Agreement clearinghouses; and

"(iii)(I) have at least 10 percent of the transaction volume handled electronically; and

"(II) have the capability to add more carriers and to extend to branch offices where applicable; and

"(C) roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of 1 fixed or mobile inspection site and to replicate the screening at other sites.

"(4) EXPANDED DEPLOYMENT.—The term 'expanded deployment' means the deployment of systems in a State that—

"(A) exceed the requirements of a core deployment of commercial vehicle information systems and networks;

"(B) improve safety and the productivity of commercial vehicle operations; and

"(C) enhance transportation security.

"(b) PROGRAM.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

"(1) improve the safety and productivity of commercial vehicles and drivers; and

"(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

"(c) PURPOSE.—It is the purpose of the program to advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

"(d) CORE DEPLOYMENT GRANTS.—

"(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.

"(2) ELIGIBILITY.—To be eligible for a core deployment grant under this subsection, a State shall—

"(A) have a commercial vehicle information systems and networks program plan and a top level system design approved by the Secretary;

"(B) certify to the Secretary that the commercial vehicle information systems and networks deployment activities of the State (including hardware procurement, software and system development, and infrastructure modifications)—

"(i) are consistent with the national intelligent transportation systems and commercial vehicle information systems and networks architectures and available standards; and

"(ii) promote interoperability and efficiency, to the maximum extent practicable; and

"(C) agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that the systems of the State conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks.

"(3) AMOUNT OF GRANTS.—The maximum aggregate amount a State may receive under this subsection for the core deployment of commercial vehicle information systems and networks may not exceed $2,500,000, including funds received under section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for the core deployment of commercial vehicle information systems and networks.

"(4) USE OF FUNDS.—

"(A) IN GENERAL.—Subject to subparagraph (B), funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks.

"(B) REMAINING FUNDS.—An eligible State that has completed the core deployment of commercial vehicle information systems and networks, or completed the deployment before core deployment grant funds are expended, may use the remaining core deployment grant funds for the expanded deployment of commercial vehicle information systems and networks in the State.

"(e) EXPANDED DEPLOYMENT GRANTS.—

"(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made core deployment grants under subsection (d), the Secretary may make grants to each eligible State, on request, for the expanded deployment of commercial vehicle information systems and networks.

"(2) ELIGIBILITY.—Each State that has completed the core deployment of commercial vehicle information systems and networks shall be eligible for an expanded deployment grant.

"(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States in an amount that does not exceed $1,000,000 for each State.

"(4) USE OF FUNDS.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.

"(f) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.

"(g) FUNDING.—Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner and to the same extent as if the funds were apportioned under chapter 1, except that the funds shall remain available until expended.

"§ 528. Research and development

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems, and other similar activities that are necessary to carry out this subchapter.

"(b) PRIORITY AREAS.—Under the program, the Secretary shall give priority to funding projects that—

"(1) assist in the development of an interconnected national intelligent transportation system network that—

"(A) improves the reliability of the surface transportation system;

"(B) supports national security;

"(C) reduces, by at least 20 percent, the cost of manufacturing, deploying, and operating intelligent transportation systems network components;

"(D) could assist in deployment of the Armed Forces in response to a crisis; and

"(E) improves response to, and evacuation of the public during, an emergency situation;

"(2) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems with goals of—

"(A) reducing metropolitan congestion by 5 percent by 2010;

"(B) ensuring that a national, interoperable 511 system, along with a national traffic information system that includes a user-friendly, comprehensive website, is fully implemented for use by travelers throughout the United States by September 30, 2010; and

"(C)(i) improving incident management response, particularly in rural areas, so that rural emergency response times are reduced by an average of 10 minutes; and

"(ii) subject to subsection (d), improving communication between emergency care providers and trauma centers;

"(3) address traffic management, incident management, transit management, toll collection, traveler information, or highway operations systems;

"(4) conduct operational tests of the integration of at least 3 crash-avoidance technologies in passenger vehicles;

"(5) incorporate human factors research, including the science of the driving process;

"(6) facilitate the integration of intelligent infrastructure, vehicle, and control technologies;

"(7) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

"(8) as determined by the Secretary, will improve the overall safety performance of vehicles and roadways, including the use of real-time setting of speed limits through the use of speed management technology;

"(9) examine—

"(A) the application to intelligent transportation systems of appropriately modified existing technologies from other industries; and

"(B) the development of new, more robust intelligent transportation systems technologies and instrumentation;

"(10) develop and test communication technologies that—

"(A) are based on an assessment of the needs of officers participating in a motor carrier safety program funded under section 31104 of title 49;

"(B) take into account the effectiveness and adequacy of available technology;

"(C) address systems integration, connectivity, and interoperability challenges; and

"(D) provide the means for officers participating in a motor carrier safety program funded under section 31104 of title 49 to directly assess, without an intermediary, current and accurate safety and regulatory information on motor carriers, commercial motor vehicles and drivers at roadside or mobile inspection facilities;

"(11) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

"(12) improve sensing and wireless communications that provide real-time information regarding congestion and incidents;

"(13) develop and test high-accuracy, lane-level, real-time accessible digital map architectures that can be used by intelligent vehicles and intelligent infrastructure elements to facilitate safety and crash avoidance (including establishment of national standards for an open-architecture digital map of all public roads that is compatible with electronic 9-1-1 services);

"(14) encourage the dual-use of intelligent transportation system technologies (such as wireless communications) for—

"(A) emergency services;

"(B) road pricing; and

"(C) local economic development; and

"(15) advance the use of intelligent transportation systems to facilitate high-performance transportation systems, such as through—

"(A) congestion-pricing;

"(B) real-time facility management;

"(C) rapid-emergency response; and

"(D) just-in-time transit.

"(c) OPERATIONAL TESTS.—Operational tests conducted under this section shall be designed for—

"(1) the collection of data to permit objective evaluation of the results of the tests;

"(2) the derivation of cost-benefit information that is useful to others contemplating deployment of similar systems; and

"(3) the development and implementation of standards.

"(d) FEDERAL SHARE.—The Federal share of the costs of operational tests under subsection (a) shall not exceed 80 percent.

"§ 529. Use of funds

"(a) IN GENERAL.—For each fiscal year, not more than $5,000,000 of the funds made available to carry out this subchapter shall be used for intelligent transportation system outreach, public relations, displays, tours, and brochures.

"(b) APPLICABILITY.—Subsection (a) shall not apply to intelligent transportation system training, scholarships, or the publication or distribution of research findings, technical guidance, or similar documents.".

(b) CONFORMING AMENDMENT.—Title V of the Transportation Equity Act for the 21st Century is amended by striking subtitle C (23 U.S.C. 502 note; 112 Stat. 452).

TITLE III—RECREATIONAL BOATING SAFETY PROGRAMS

SEC. 3001. SHORT TITLE.

This title may be cited as the "Sport Fishing and Recreational Boating Safety Act".

SEC. 3002. AMENDMENT OF FEDERAL AID IN FISH RESTORATION ACT.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes," approved August 9, 1950 (64 Stat. 430; 16 U.S.C. 777 et seq.).

SEC. 3003. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—Section 3 (16 U.S.C. 777b) is amended—

(1) by striking "the succeeding fiscal year." in the third sentence and inserting "succeeding fiscal years."; and

(2) by striking "in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport and recreation." and inserting "to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States, as provided for in section 4(c).".

(b) Conforming Amendments.—

(1) In general.—Section 3 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777b) is amended in the first sentence—

(A) by striking "Sport Fish Restoration Account" and inserting "Sport Fish Restoration Trust Fund"; and

(B) by striking "that Account" and inserting "that Trust Fund, except as provided in section 9504(c) of the Internal Revenue Code of 1986".

(2) Effective date.—The amendments made by paragraph (1) take effect on October 1, 2004.

SEC. 3004. DIVISION OF ANNUAL APPROPRIATIONS.

Section 4 (16 U.S.C. 777c) is amended—

(1) by striking subsections (a) through (c) and redesignating subsections (d) through (g) as subsections (b) through (e), respectively;

(2) by inserting before subsection (b) (as redesignated by paragraph (1)), the following:

"(a) In General.—For fiscal years 2004 through 2009, the balance of each annual appropriation made in accordance with the provisions of section 3 of this title remaining after the distributions are made for administrative expenses and other purposes under section 4(b) and for multistate conservation grants under section 14 shall be distributed as follows:

"(1) Coastal wetlands.—18.5 percent to the Secretary of the Interior for distribution as provided in the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3951 et seq.).

"(2) Boating safety.—18.5 percent to the Secretary of Homeland Security for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(3) Clean vessel act.—2 percent to the Secretary of the Interior for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

"(4) Boating infrastructure.—2 percent to the Secretary of the Interior for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

"(5) National outreach and communications.—2 percent to the Secretary of the Interior for the National Outreach and Communications Program under section 8(d) of this title. Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary for that program may be expended by the Secretary under subsection (c).";

(3) in subsection (b)(1) (as redesignated by paragraph (1)), by striking subparagraph (A) and inserting the following:

"(A) Set-aside.—For fiscal year 2006 and each subsequent fiscal year, before making a distribution under subsection (a), the Secretary of the Interior may use not more than the available amount specified in subparagraph (B) for the fiscal year for expenses of administration incurred in the implementation of this chapter, in accordance with this section and section 9.";

(4) in subsection (c) (as redesignated by paragraph (1)), by striking the subsection heading and all that follows through the colon in the first sentence and inserting the following:

"(c) Apportionment Among States.—For fiscal year 2006 and each subsequent fiscal year, after the distribution, transfer, use, and deduction under subsection (b), and after deducting amounts for grants under section 14, the Secretary of the Interior shall apportion 57 percent of the balance of each annual appropriation among the several States in the following manner:";

(5) by striking "per centum" each place it appears in subsection (c) (as redesignated by paragraph (1)) and inserting "percent";

(6) in paragraph (1) of subsection (e) (as redesignated by paragraph (1)), by striking "subsections (a), (b)(3)(A), (b)(3)(B), and (c)" and inserting "paragraphs (1), (3), (4), and (5) of subsection (a)"; and

(7) by adding at the end the following:

"(f) Transfer of Certain Funds.—Amounts available under paragraphs (3) and (4) of subsection (a) that are unobligated by the Secretary after 3 fiscal years shall be transferred to the Secretary of Homeland Security and shall be expended for State recreational boating safety programs under section 13106(a) of title 46, United States Code.".

SEC. 3005. MAINTENANCE OF PROJECTS.

Section 8 (16 U.S.C. 777g) is amended—

(1) by striking "in carrying out the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation." in subsection (b)(2) and inserting "to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States under section 4(c)."; and

(2) in subsection (d)(3), by striking "subsection (c) or (d) of section 4" and inserting "section 4(a)(5) or section 4(b)".

SEC. 3006. BOATING INFRASTRUCTURE.

Section 7404(d)(1) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g-1(d)(1)) is amended by striking "section 4(b)(3)(B)" and inserting "section 4(a)(4)".

SEC. 3007. REQUIREMENTS AND RESTRICTIONS CONCERNING USE OF AMOUNTS FOR EXPENSES FOR ADMINISTRATION.

Section 9 (16 U.S.C. 777h) is amended—

(1) by striking "section 4(d)(1)" in subsection (a) and inserting "section 4(b)"; and

(2) by striking "section 4(d)(1)" in subsection (b)(1) and inserting "section 4(b)".

SEC. 3008. PAYMENTS OF FUNDS TO AND COOPERATION WITH PUERTO RICO, THE DISTRICT OF COLUMBIA, GUAM, AMERICAN SAMOA, THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.

Section 12 (16 U.S.C. 777k) is amended by striking "in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation." and inserting "to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States under section 4(b) of this title.".

SEC. 3009. MULTISTATE CONSERVATION GRANT PROGRAM.

Section 14 (16 U.S.C. 777m) is amended—

(1) by striking so much of subsection (a) as precedes paragraph (2) and inserting the following:

"(a) In General.—

"(1) Amount for grants.—For fiscal year 2004 and each subsequent fiscal year, not more than $3,000,000 of each annual appropriation made in accordance with the provisions of section 3 of this title shall be distributed to the Secretary of the Interior for making multistate conservation project grants in accordance with this section.";

(2) by striking "section 4(e)" each place it appears in subsection (a)(2)(B) and inserting "section 4(c)"; and

(3) by striking "Of the balance of each annual appropriation made under section 3 remaining after the distribution and use under subsections (a), (b), and (c) of section 4 for each fiscal year and after deducting amounts used for grants under subsection (a)—" in subsection (e) and inserting "Of amounts made available under section 4(b) for each fiscal year—".

TITLE IV—SOLID WASTE DISPOSAL

SEC. 4001. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) In General.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following:

"SEC. 6005. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

"(a) Definitions.—In this section:

"(1) Agency head.—The term 'agency head' means—

"(A) the Secretary of Transportation; and

"(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

"(2) Cement or concrete project.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

"(A) involves the procurement of cement or concrete; and

"(B) is carried out in whole or in part using Federal funds.

"(3) Recovered mineral component.—The term 'recovered mineral component' means—

"(A) ground granulated blast furnace slag;

"(B) coal combustion fly ash;

"(C) blast furnace slag aggregate; and

"(D) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

"(b) Implementation of Requirements.—

"(1) In general.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

"(2) Priority.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

"(3) Conformance.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

"(c) Full Implementation Study.—

"(1) In general.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

"(2) Matters to be addressed.—The study shall—

"(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;

"(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and

"(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

"(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

"(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

"(3) Report.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to Congress a report on the study.

"(d) Additional Procurement Requirements.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the release of the report in accordance with subsection (c)(3), take additional actions authorized under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

"(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

"(2) eliminate barriers identified under subsection (c).

"(e) Effect of Section.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).".

(b) Table of Contents Amendment.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 6004 the following:

"Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.".

SEC. 4002. USE OF GRANULAR MINE TAILINGS.

(a) In General.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) (as amended by section 4001(a)) is amended by adding at the end the following:

"SEC. 6006. USE OF GRANULAR MINE TAILINGS.

"(a) Mine Tailings.—

"(1) In general.—Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Transportation and heads of other Federal agencies, shall establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as 'chat', for—

"(A) cement or concrete projects; and

"(B) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

"(2) Requirements.—In establishing criteria under paragraph (1), the Administrator shall consider—

"(A) the current and previous uses of granular mine tailings as an aggregate for asphalt; and

"(B) any environmental and public health risks and benefits derived from the removal, transportation, and use in transportation projects of granular mine tailings.

"(3) Public participation.—In establishing the criteria under paragraph (1), the Administrator shall solicit and consider comments from the public.

"(4) Applicability of criteria.—On the establishment of the criteria under paragraph (1), any use of the granular mine tailings described in paragraph (1) in a transportation project that is carried out, in whole or in part, using Federal funds, shall meet the criteria established under paragraph (1).

"(b) Effect of Sections.—Nothing in this section or section 6005 affects any requirement of any law (including a regulation) in effect on the date of enactment of this section.".

(b) Conforming Amendment.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section 4001(b)) is amended by adding after the item relating to section 6005 the following:

"Sec. 6006. Use of granular mine tailings.".

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) Short Title.—This title may be cited as the "Highway Reauthorization and Excise Tax Simplification Act of 2005".

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Trust Fund Reauthorization

SEC. 5101. EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUNDS.

(a) Extension of Taxes.—

(1) In general.—The following provisions are each amended by striking "2005" each place it appears and inserting "2011":

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1) (relating to certain alcohol fuels).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(f) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) Floor stocks refunds.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "2005" each place it appears and inserting "2011", and

(B) by striking "2006" each place it appears and inserting "2012".

(b) Extension of Certain Exemptions.—The following provisions are each amended by striking "2005" and inserting "2011":

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(h) (relating to termination of exemptions for highway use tax).

(c) Extension of Transfers of Certain Taxes.—

(1) In general.—Paragraphs (1), (2), and (4)(D)((iii) of subsection (b) and subsection (c)(3) of section 9503 (relating to the Highway Trust Fund) are each amended—

(A) by striking "2005" each place it appears and inserting "2011", and

(B) by striking "2006" each place it appears and inserting "2012".

(2) Motorboat and small-engine fuel tax transfers.—

(A) In general.—Paragraphs (4)(A)(i) and (5)(A) of section 9503(c) are each amended by striking "2005" and inserting "2011".

(B) Conforming amendments to land and water conservation fund.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-11(b)) is amended—

(i) by striking "2003" and inserting "2009", and

(ii) by striking "2004" each place it appears and inserting "2010".

(d) Extension and Expansion of Expenditures From Trust Funds.—

(1) Highway trust fund.—

(A) Highway account.—Paragraph (1) of section 9503(c) is amended—

(i) in the matter before subparagraph (A), by striking "June 1, 2005" and inserting "October 1, 2009",

(ii) by striking "or" at the end of subparagraph (J),

(iii) by striking the period at the end of subparagraph (K) and inserting ", or",

(iv) by inserting after subparagraph (K) the following new subparagraph:

"(L) authorized to be paid out of the Highway Trust Fund under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005.", and

(v) in the matter after subparagraph (L), as added by clause (iv), by striking "Surface Transportation Extension Act of 2004, Part V" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005".

(B) Mass transit account.—Paragraph (3) of section 9503(e) is amended—

(i) in the matter before subparagraph (A), by striking "June 1, 2005" and inserting "October 1, 2009",

(ii) by striking "or" at the end of subparagraph (H),

(iii) by inserting "or" at the end of subparagraph (I),

(iv) by inserting after subparagraph (I) the following new subparagraph:

"(J) Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005,", and

(v) in the matter after subparagraph (J), as added by clause (iv), by striking "Surface Transportation Extension Act of 2004, Part V" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005".

(C) Exception to Limitation on Transfers.—Subparagraph (B) of section 9503(b)(6) is amended by striking "June 1, 2005" and inserting "October 1, 2009".

(D) Expenditures for Highway Use Tax Evasion Projects.—Section 9503(c) is amended by adding at the end the following new paragraph:

"(6) Highway use tax evasion projects.—From amounts available in the Highway Trust Fund, there is authorized to be expended—

"(A) for the period beginning with fiscal year 2006 and ending with fiscal year 2009 to the Internal Revenue Service—

"(i) $120,000,000 for enforcement of fuel tax compliance, including the pre-certification of tax-exempt users, and

"(ii) $80,000,000 for the excise fuel information reporting system, of which $40,000,000 shall be allocated to the excise summary terminal activity reporting system, and

"(B) for each of the fiscal years 2006, 2007, 2008, and 2009 to the Federal Highway Administration, $50,000,000 to be allocated $1,000,000 to each State to combat fuel tax evasion on the State level.".

(2) Aquatic resources trust fund.—

(A) Sport fish restoration account.—Paragraph (2) of section 9504(b) is amended by striking "Surface Transportation Extension Act of 2004, Part V" each place it appears and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005".

(B) Exception to Limitation on Transfers.—Paragraph (2) of section 9504(d) is amended by striking "June 1, 2005" and inserting "October 1, 2009".

(e) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5102. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

(a) In General.—Section 9503(d) (relating to adjustments for apportionments) is amended—

(1) by striking "24-month" in paragraph (1)(B) and inserting "48-month", and

(2) by striking "2 years' " in the heading for paragraph (3) and inserting "4 years' ".

(b) Measurement of Net Highway Receipts.—Section 9503(d) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) Measurement of net highway receipts.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

"(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

"(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

SEC. 5201. MODIFICATION OF GAS GUZZLER TAX.

(a) Uniform Application of Tax.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

(b) Effective Date.—The amendment made by this section shall take effect on October 1, 2005.

SEC. 5202. EXCLUSION FOR TRACTORS WEIGHING 19,500 POUNDS OR LESS FROM FEDERAL EXCISE TAX ON HEAVY TRUCKS AND TRAILERS.

(a) In General.—Subsection (a) of section 4051 (relating to imposition of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) Exclusion for tractors weighing 19,500 pounds or less.—The tax imposed by paragraph (1) shall not apply to tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer if such tractor has a gross vehicle weight of 19,500 pounds or less (as determined under regulations prescribed by the Secretary).".

(b) Effective Date.—The amendments made by this section shall apply to sales after September 30, 2005.

SEC. 5203. EXEMPTION FOR EQUIPMENT FOR TRANSPORTING BULK BEDS OF FARM CROPS FROM EXCISE TAX ON RETAIL SALE OF HEAVY TRUCKS AND TRAILERS.

(a) In General.—Section 4053 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new paragraph:

"(9) Equipment for transporting bulk beds of farm crops.—Any box, container, receptacle, bin, or other similar article the length of which does not exceed 26 feet, which is mounted or placed on an automobile truck, and which is sold to a person who certifies to the seller that—

"(A) such person is actively engaged in the trade or business of farming, and

"(B) the primary use of the article is to haul to and on farms bulk beds of farm crops grown in connection with such trade or business.".

(b) Recapture of Tax Upon Resale or Nonexempt Use.—Section 4052 (relating to definitions and special rules) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Imposition of Tax on Sales, Etc., Within 2 Years of Equipment for Transporting Bulk Beds of Farm Crops Purchased Tax-Free.—

"(1) In general.—If—

"(A) no tax was imposed under section 4051 on the first retail sale of any article described in section 4053(9) by reason of its exempt use, and

"(B) within 2 years after the date of such first retail sale, such article is resold by the purchaser or such purchaser makes a substantial nonexempt use of such article,

then such sale or use of such article by such purchaser shall be treated as the first retail sale of such article for a price equal to its fair market value at the time of such sale or use.

"(2) Exempt use.—For purposes of this subsection, the term 'exempt use' means any use of an article described in section 4053(9) if the first retail sale of such article is not taxable under section 4051 by reason of such use.".

(b) Effective Date.—The amendments made by this section shall apply to sales after September 30, 2005.

PART II—AQUATIC EXCISE TAXES

SEC. 5211. ELIMINATION OF AQUATIC RESOURCES TRUST FUND AND TRANSFORMATION OF SPORT FISH RESTORATION ACCOUNT.

(a) Simplification of Funding for Boat Safety Account.—

(1) In general.—Section 9503(c)(4) (relating to transfers from Trust Fund for motorboat fuel taxes) is amended—

(A) by striking "Fund—" and all that follows through "shall be transferred" in subparagraph (B) and inserting "Fund which is attributable to motorboat fuel taxes shall be transferred",

(B) by striking subparagraph (A), and

(C) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(2) Conforming amendments.—

(A) Subparagraph (B) of section 9503(c)(4), as redesignated by paragraph (1)(C), is amended—

(i) by striking "Account" in the heading thereof and inserting "and Boating Trust Fund",

(ii) by striking "or (B)" in clause (ii), and

(iii) by striking "account in the Aquatic Resources" and inserting "and Boating".

(B) Paragraph (5) of section 9503(c) is amended by striking "Account in the Aquatic Resources" in subparagraph (A) and inserting "and Boating".

(b) Merging of Accounts.—

(1) In general.—Subsection (a) of section 9504 is amended to read as follows:

"(a) Creation of Trust Fund.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Sport Fish Restoration and Boating Trust Fund'. Such Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(4), section 9503(c)(5), or section 9602(b).".

(2) Conforming amendments.—

(A) Subsection (b) of section 9504, as amended by section 5001 of this Act, is amended—

(i) by striking "Account" in the heading thereof and inserting "and Boating Trust Fund",

(ii) by striking "Account" both places it appears in paragraphs (1) and (2) and inserting "and Boating Trust Fund", and

(iii) by striking "account" both places it appears in the headings for paragraphs (1) and (2) and inserting "and boating trust fund".

(B) Subsection (d) of section 9504, as amended by section 5001 of this Act, is amended—

(i) by striking "Aquatic Resources" in the heading thereof,

(ii) by striking "any Account in the Aquatic Resources" in paragraph (1) and inserting "the Sports Fish Restoration and Boating", and

(iii) by striking "any such Account" in paragraph (1) and inserting "such Trust Fund".

(C) Subsection (e) of section 9504 is amended by striking "Boat Safety Account and Sport Fish Restoration Account" and inserting "Sport Fish Restoration and Boating Trust Fund".

(D) Section 9504 is amended by striking "**AQUATIC RESOURCES**" in the heading thereof and inserting "**SPORT FISH RESTORATION AND BOATING**".

(E) The item relating to section 9504 in the table of sections for subchapter A of chapter 98 is amended by striking "aquatic resources" and inserting "sport fish restoration and boating".

(c) Phaseout of Boat Safety Account.—Subsection (c) of section 9504 is amended to read as follows:

"(c) Expenditures From Boat Safety Account.—Amounts remaining in the Boat Safety Account on October 1, 2005, and amounts thereafter credited to the Account under section 9602(b), shall be available, without further appropriation, for making expenditures before October 1, 2010, to carry out the purposes of section 15 of the Dingell-Johnson Sport Fish Restoration Act (as in effect on the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005). For purposes of section 9602, the Boat Safety Account shall be treated as a Trust Fund established by this subchapter.".

(d) Effective Date.—The amendments made by this section shall take effect on October 1, 2005.

SEC. 5212. REPEAL OF HARBOR MAINTENANCE TAX ON EXPORTS.

(a) In General.—Subsection (d) of section 4462 (relating to definitions and special rules) is amended to read as follows:

"(d) Nonapplicability of Tax to Exports.—The tax imposed by section 4461(a) shall not apply to any port use with respect to any commercial cargo to be exported from the United States.".

(b) Conforming Amendments.—

(1) Section 4461(c)(1) is amended by adding "or" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(2) Section 4461(c)(2) is amended by striking "imposed—" and all that follows through "in any other case," and inserting "imposed".

(c) Effective Date.—The amendments made by this section shall take effect before, on, and after the date of the enactment of this Act.

SEC. 5213. CAP ON EXCISE TAX ON CERTAIN FISHING EQUIPMENT.

(a) In General.—Paragraph (1) of section 4161(a) (relating to sport fishing equipment) is amended to read as follows:

"(1) Imposition of tax.—

"(A) In general.—There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.

"(B) Limitation on tax imposed on fishing rods and poles.—The tax imposed by subparagraph (A) on any fishing rod or pole shall not exceed $10.".

(b) Conforming Amendments.—Section 4161(a)(2) is amended by striking "paragraph (1)" both places it appears and inserting "paragraph (1)(A)".

(c) Effective Date.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2005.

PART III—AERIAL EXCISE TAXES

SEC. 5221. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS AND EXEMPTION FOR FIXED-WING AIRCRAFT ENGAGED IN FORESTRY OPERATIONS.

(a) No Waiver by Farm Owner, Tenant, or Operator Necessary.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

"(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.".

(b) Exemption Includes Fuel Used Between Airfield and Farm.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

"In the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.".

(c) Exemption From Tax on Air Transportation of Persons for Forestry Purposes Extended to Fixed-Wing Aircraft.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

"(f) Exemption for Certain Uses.—No tax shall be imposed under subsection (a) or (b) on air transportation—

"(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

"(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.".

(d) Effective Date.—The amendments made by this section shall apply to fuel use or air transportation after September 30, 2005.

SEC. 5222. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) In General.—Section 4261(e)(1)(B) (defining rural airport) is amended—

(1) by inserting "(in the case of any airport described in clause (ii)(III), on flight segments of at least 100 miles)" after "by air" in clause (i), and

(2) by striking "or" at the end of subclause (I) of clause (ii), by striking the period at the end of subclause (II) of clause (ii) and inserting ", or", and by adding at the end of clause (ii) the following new subclause:

"(III) is not connected by paved roads to another airport.".

(b) Effective Date.—The amendments made by this section shall take effect on October 1, 2005.

SEC. 5223. EXEMPTION FROM TAXES ON TRANSPORTATION PROVIDED BY SEAPLANES.

(a) In General.—Section 4261 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) Exemption for Seaplanes.—No tax shall be imposed by this section or section 4271 on any air transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur have not received and are not receiving financial assistance from the Airport and Airways Trust Fund.".

(b) Effective Date.—The amendments made by this section shall apply to transportation beginning after September 30, 2005.

SEC. 5224. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) In General.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: "For purposes of this section, an aircraft shall not be considered as operated on an established line at any time during which such aircraft is being operated on a flight the sole purpose of which is sightseeing.".

(b) Effective Date.—The amendment made by this section shall apply with respect to transportation beginning after September 30, 2005, but shall not apply to any amount paid before such date for such transportation.

PART IV—TAXES RELATING TO ALCOHOL

SEC. 5231. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON PRODUCERS AND MARKETERS OF ALCOHOLIC BEVERAGES.

(a) Repeal of Occupational Taxes.—

(1) In general.—The following provisions of part II of subchapter A of chapter 51 (relating to occupational taxes) are hereby repealed:

(A) Subpart A (relating to proprietors of distilled spirits plants, bonded wine cellars, etc.).

(B) Subpart B (relating to brewer).

(C) Subpart D (relating to wholesale dealers) (other than sections 5114 and 5116).

(D) Subpart E (relating to retail dealers) (other than section 5124).

(E) Subpart G (relating to general provisions) (other than sections 5142, 5143, 5145, and 5146).

(2) Nonbeverage domestic drawback.—Section 5131 is amended by striking ", on payment of a special tax per annum,".

(3) Industrial use of distilled spirits.—Section 5276 is hereby repealed.

(b) Conforming Amendments.—

(1)(A) The heading for part II of subchapter A of chapter 51 and the table of subparts for such part are amended to read as follows:

"PART II—MISCELLANEOUS PROVISIONS

"Subpart A. Manufacturers of stills.
"Subpart B. Nonbeverage domestic drawback claimants.
"Subpart C. Recordkeeping and registration by dealers.
"Subpart D. Other provisions.".

(B) The table of parts for such subchapter A is amended by striking the item relating to part II and inserting the following new item:

"Part II. Miscellaneous provisions.".

(2) Subpart C of part II of such subchapter (relating to manufacturers of stills) is redesignated as subpart A.

(3)(A) Subpart F of such part II (relating to nonbeverage domestic drawback claimants) is redesignated as subpart B and sections 5131 through 5134 are redesignated as sections 5111 through 5114, respectively.

(B) The table of sections for such subpart B, as so redesignated, is amended—

(i) by redesignating the items relating to sections 5131 through 5134 as relating to sections 5111 through 5114, respectively, and

(ii) by striking "and rate of tax" in the item relating to section 5111, as so redesignated.

(C) Section 5111, as redesignated by subparagraph (A), is amended—

(i) by striking "**AND RATE OF TAX**" in the section heading,

(ii) by striking the subsection heading for subsection (a), and

(iii) by striking subsection (b).

(4) Part II of subchapter A of chapter 51 is amended by adding after subpart B, as redesignated by paragraph (3), the following new subpart:

"Subpart C—Recordkeeping and Registration by Dealers

"Sec. 5121. Recordkeeping by wholesale dealers.
"Sec. 5122. Recordkeeping by retail dealers.
"Sec. 5123. Preservation and inspection of records, and entry of premises for inspection.
"Sec. 5124. Registration by dealers.".

(5)(A) Section 5114 (relating to records) is moved to subpart C of such part II and inserted after the table of sections for such subpart.

(B) Section 5114 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.",

and

(ii) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) WHOLESALE DEALERS.—For purposes of this part—

"(1) WHOLESALE DEALER IN LIQUORS.—The term 'wholesale dealer in liquors' means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

"(2) WHOLESALE DEALER IN BEER.—The term 'wholesale dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

"(3) DEALER.—The term 'dealer' means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

"(4) PRESUMPTION IN CASE OF SALE OF 20 WINE GALLONS OR MORE.—The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.".

(C) Paragraph (3) of section 5121(d), as so redesignated, is amended by striking "section 5146" and inserting "section 5123".

(6)(A) Section 5124 (relating to records) is moved to subpart C of part II of subchapter A of chapter 51 and inserted after section 5121.

(B) Section 5124 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.",

(ii) by striking "section 5146" in subsection (c) and inserting "section 5123", and

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) RETAIL DEALERS.—For purposes of this section—

"(1) RETAIL DEALER IN LIQUORS.—The term 'retail dealer in liquors' means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

"(2) RETAIL DEALER IN BEER.—The term 'retail dealer in beer' means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

"(3) LIMITED RETAIL DEALER.—The term 'limited retail dealer' means any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

"(4) DEALER.—The term 'dealer' has the meaning given such term by section 5121(c)(3).".

(7) Section 5146 is moved to subpart C of part II of subchapter A of chapter 51, inserted after section 5122, and redesignated as section 5123.

(8) Subpart C of part II of subchapter A of chapter 51, as amended by paragraph (7), is amended by adding at the end the following new section:

"SEC. 5124. REGISTRATION BY DEALERS.

"Every dealer who is subject to the recordkeeping requirements under section 5121 or 5122 shall register with the Secretary such dealer's name or style, place of residence, trade or business, and the place where such trade or business is to be carried on. In case of a firm or company, the names of the several persons constituting the same, and the places of residence, shall be so registered.".

(9) Section 7012 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) For provisions relating to registration by dealers in distilled spirits, wines, and beer, see section 5124.".

(10) Part II of subchapter A of chapter 51 is amended by inserting after subpart C the following new subpart:

"Subpart D—Other Provisions

"Sec. 5131. Packaging distilled spirits for industrial uses.
"Sec. 5132. Prohibited purchases by dealers.".

(11) Section 5116 is moved to subpart D of part II of subchapter A of chapter 51, inserted after the table of sections, redesignated as section 5131, and amended by inserting "(as defined in section 5121(c))" after "dealer" in subsection (a).

(12) Subpart D of part II of subchapter A of chapter 51 is amended by adding at the end the following new section:

"SEC. 5132. PROHIBITED PURCHASES BY DEALERS.

"(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits for resale from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

"(b) LIMITED RETAIL DEALERS.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.

"(c) PENALTY AND FORFEITURE.—

"For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.".

(13) Subsection (b) of section 5002 is amended—

(A) by striking "section 5112(a)" and inserting "section 5121(c)(3)",

(B) by striking "section 5112" and inserting "section 5121(c)",

(C) by striking "section 5122" and inserting "section 5122(c)".

(14) Subparagraph (A) of section 5010(c)(2) is amended by striking "section 5134" and inserting "section 5114".

(15) Subsection (d) of section 5052 is amended to read as follows:

"(d) BREWER.—For purposes of this chapter, the term 'brewer' means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e).".

(16) The text of section 5182 is amended to read as follows:

"For provisions requiring recordkeeping by wholesale liquor dealers, see section 5112, and by retail liquor dealers, see section 5122.".

(17) Subsection (b) of section 5402 is amended by striking "section 5092" and inserting "section 5052(d)".

(18) Section 5671 is amended by striking "or 5091".

(19)(A) Part V of subchapter J of chapter 51 is hereby repealed.

(B) The table of parts for such subchapter J is amended by striking the item relating to part V.

(20)(A) Sections 5142, 5143, and 5145 are moved to subchapter D of chapter 52, inserted after section 5731, redesignated as sections 5732, 5733, and 5734, respectively, and amended by striking "this part" each place it appears and inserting "this subchapter".

(B) Section 5732, as redesignated by subparagraph (A), is amended by striking "(except the tax imposed by section 5131)" each place it appears.

(C) Paragraph (2) of section 5733(c), as redesignated by subparagraph (A), is amended by striking "liquors" both places it appears and inserting "tobacco products and cigarette papers and tubes".

(D) The table of sections for subchapter D of chapter 52 is amended by adding at the end the following:

"Sec. 5732. Payment of tax.
"Sec. 5733. Provisions relating to liability for occupational taxes.
"Sec. 5734. Application of State laws.".

(E) Section 5731 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(21) Subsection (c) of section 6071 is amended by striking "section 5142" and inserting "section 5732".

(22) Paragraph (1) of section 7652(g) is amended—

(A) by striking "subpart F" and inserting "subpart B", and

(B) by striking "section 5131(a)" and inserting "section 5111".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2008, but shall not apply to taxes imposed for periods before such date.

SEC. 5232. MODIFICATION OF LIMITATION ON RATE OF RUM EXCISE TAX COVER OVER TO PUERTO RICO AND VIRGIN ISLANDS.

(a) IN GENERAL.—Section 7652(f)(1) (relating to limitation on cover over of tax on distilled spirits) is amended by inserting ", and $13.50 in the case of distilled spirits brought into the United States after December 31, 2005, and before January 1, 2007" after "2006".

(b) SPECIAL RULE.—

(1) IN GENERAL.—After December 31, 2005, and before January 1, 2007, the Commonwealth of Puerto Rico shall make a Conservation Trust Fund transfer from the

treasury of Puerto Rico within 30 days from the date of each cover overpayment to such treasury under section 7652(e) of the Internal Revenue Code of 1986.

(2) CONSERVATION TRUST FUND TRANSFER.—

(A) IN GENERAL.—For purposes of this subsection, the term "Conservation Trust Fund transfer" means a transfer to the Puerto Rico Conservation Trust Fund of an amount equal to 50 cents per proof gallon of the taxes imposed under section 5001 or section 7652 of such Code on distilled spirits that are covered over to the treasury of Puerto Rico under section 7652(e) of such Code.

(B) TREATMENT OF TRANSFER.—Each Conservation Trust Fund transfer shall be treated as principal for an endowment, the income from which to be available for use by the Puerto Rico Conservation Trust Fund for the purposes for which the Trust Fund was established.

(C) RESULT OF NONTRANSFER.—

(i) IN GENERAL.—Upon notification by the Secretary of the Interior that a Conservation Trust Fund transfer has not been made by the Commonwealth of Puerto Rico, the Secretary of the Treasury shall, except as provided in clause (ii), deduct and withhold from the next cover overpayment to be made to the treasury of Puerto Rico under section 7652(e) of such Code an amount equal to the appropriate Conservation Trust Fund transfer and interest thereon at the underpayment rate established under section 6621 of such Code as of the due date of such transfer. The Secretary of the Treasury shall transfer such amount deducted and withheld, and the interest thereon, directly to the Puerto Rico Conservation Trust Fund.

(ii) GOOD-CAUSE EXCEPTION.—If the Secretary of the Interior finds, after consultation with the Governor of Puerto Rico, that the failure by the Commonwealth of Puerto Rico to make a required transfer was for good cause, and notifies the Secretary of the Treasury of the finding of such good cause before the due date of the next cover overpayment following the notification of nontransfer, then the Secretary of the Treasury shall not deduct the amount of such nontransfer from any cover overpayment.

(3) PUERTO RICO CONSERVATION TRUST FUND.—For purposes of this subsection, the term "Puerto Rico Conservation Trust Fund" means the fund established pursuant to a Memorandum of Understanding between the United States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.

SEC. 5233. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

"SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.

"(a) IN GENERAL.—For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

"(1) in the case of—

"(A) any eligible wholesaler, the number of cases of bottled distilled spirits—

"(i) which were bottled in the United States, and

"(ii) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

"(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State or political subdivision thereof, or an agency of either, on which title has not passed on an unconditional sale basis, and

"(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

"(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term 'eligible wholesaler' means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State or political subdivision thereof, or an agency of either.

"(c) AVERAGE TAX-FINANCING COST.—

"(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

"(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

"(3) DEEMED FEDERAL EXCISE TAX PER CASE.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CASE.—The term 'case' means 12 80-proof 750-milliliter bottles.

"(2) NUMBER OF CASES IN LOT.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19), and inserting ", plus", and by adding at the end the following new paragraph:

"(20) the distilled spirits credit determined under section 5011(a).".

(c) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following new item:

"Sec. 5011. Income tax credit for average cost of carrying excise tax.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after September 30, 2005.

SEC. 5234. QUARTERLY EXCISE TAX FILING FOR SMALL ALCOHOL EXCISE TAXPAYERS.

(a) IN GENERAL.—Subsection (d) of section 5061 (relating to time for collecting tax on distilled spirits, wines, and beer) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) TAXPAYERS LIABLE FOR TAXES OF NOT MORE THAN $50,000.—

"(A) IN GENERAL.—In the case of any taxpayer who reasonably expects to be liable for not more than $50,000 in taxes imposed with respect to distilled spirits, wines, and beer under subparts A, C, and D for the calendar year and who was liable for not more than $50,000 in such taxes in the preceding calendar year, the last day for the payment of tax shall be the 14th day after the last day of the calendar quarter during which the action giving rise to the imposition of such tax occurs.

"(B) NO APPLICATION AFTER LIMIT EXCEEDED.—Subparagraph (A) shall not apply to any taxpayer for any portion of the calendar year following the first date on which the aggregate amount of tax due under subparts A, C, and D from such taxpayer during such calendar year exceeds $50,000, and any tax under such subparts which has not been paid on such date shall be due on the 14th day after the last day of the semimonthly period in which such date occurs.

"(C) CALENDAR QUARTER.—For purposes of this paragraph, the term 'calendar quarter' means the three-month period ending on March 31, June 30, September 30, or December 31.".

(b) CONFORMING AMENDMENT.—Section 5061(d)(6), as redesignated by subsection (a), is amended by striking "paragraph (4)" and inserting "paragraph (5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to quarterly periods beginning on and after January 1, 2006.

PART V—SPORT EXCISE TAXES

SEC. 5241. CUSTOM GUNSMITHS.

(a) SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.—Section 4182 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SMALL MANUFACTURERS, ETC.—

"(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any pistol, revolver, or firearm described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than an aggregate of 50 of such articles during the calendar year.

"(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2005.

(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.

Subtitle C—Miscellaneous Provisions

SEC. 5301. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the "Commission").

(b) FUNCTION.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations;

(3) develop and review legislative proposals with respect to motor fuel taxes;

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations to the President and Congress regarding—

(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation—Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

(B) At least 1 representative from the Federation of State Tax Administrators.

(C) At least 1 representative from any State department of transportation.

(D) 2 representatives from the highway construction industry.

(E) 6 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).

(F) 1 representative from the retail fuel industry.

(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.

(2) TERMS.—Members shall be appointed for the life of the Commission.

(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) FUNDING.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.

(e) CONSULTATION.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

(f) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) TERMINATION.—The Commission shall terminate as of the close of September 30, 2009.

SEC. 5302. NATIONAL SURFACE TRANSPORTATION INFRASTRUCTURE FINANCING COMMISSION.

(a) ESTABLISHMENT.—There is established a National Surface Transportation Infrastructure Financing Commission (in this section referred to as the "Commission"). The Commission shall hold its first meeting within 90 days of the appointment of the eighth individual to be named to the Commission.

(b) FUNCTION.—

(1) IN GENERAL.—The Commission shall, with respect to the period beginning on the date of the enactment of this Act and ending before 2016—

(A) make a thorough investigation and study of revenues flowing into the Highway Trust Fund under current law, including the individual components of the overall flow of such revenues;

(B) consider whether the amount of such revenues is likely to increase, decline, or remain unchanged, absent changes in the law, particularly by taking into account the impact of possible changes in public vehicular choice, fuel use, or travel alternatives that could be expected to reduce or increase revenues into the Highway Trust Fund;

(C) consider alternative approaches to generating revenues for the Highway Trust Fund, and the level of revenues that such alternatives would yield;

(D) consider highway and transit needs and whether additional revenues into the Highway Trust Fund, or other Federal revenues dedicated to highway and transit infrastructure, would be required in order to meet such needs; and

(E) study such other matters closely related to the subjects described in the preceding subparagraphs as it may deem appropriate.

(2) PREPARATION OF REPORT.—Based on such investigation and study, the Commission shall develop a final report, with recommendations and the bases for those recommendations, indicating policies that should be adopted, or not adopted, to achieve various levels of annual revenue for the Highway Trust Fund and to enable the Highway Trust Fund to receive revenues sufficient to meet highway and transit needs. Such recommendations shall address, among other matters as the Commission may deem appropriate—

(A) what levels of revenue are required by the Federal Highway Trust Fund in order for it to meet needs to maintain and improve the condition and performance of the Nation's highway and transit systems;

(B) what levels of revenue are required by the Federal Highway Trust Fund in order to ensure that Federal levels of investment in highways and transit do not decline in real terms; and

(C) the extent, if any, to which the Highway Trust Fund should be augmented by other mechanisms or funds as a Federal means of financing highway and transit infrastructure investments.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members, appointed as follows:

(A) 7 members appointed by the Secretary of Transportation, in consultation with the Secretary of the Treasury.

(B) 2 members appointed by the Chairman of the Committee on Ways and Means of the House of Representatives.

(C) 2 members appointed by the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.

(D) 2 members appointed by the Chairman of the Committee on Finance of the Senate.

(E) 2 members appointed by the Ranking Minority Member of the Committee on Finance of the Senate.

(2) QUALIFICATIONS.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals knowledgeable in the fields of public transportation finance or highway and transit programs, policy, and needs, and may include representatives of interested parties, such as State and local governments or other public transportation authorities or agencies, representatives of the transportation construction industry (including suppliers of technology, machinery and materials), transportation labor (including construction and providers), transportation providers, the financial community, and users of highway and transit systems.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(e) FUNDING.—Funding for the Commission shall be provided by the Secretary of the Treasury and by the Secretary of Transportation, out of funds available to those agencies for administrative and policy functions.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail any of the personnel of that department or agency to the Commission to assist in carrying out its duties under this section.

(g) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(h) REPORT.—Not later than 2 years after the date of its first meeting, the Commission shall transmit its final report, including recommendations, to the Secretary of Transportation, the Secretary of the Treasury, and the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(i) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (h). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

SEC. 5303. EXPANSION OF HIGHWAY TRUST FUND EXPENDITURE PURPOSES TO INCLUDE FUNDING FOR STUDIES OF SUPPLEMENTAL OR ALTERNATIVE FINANCING FOR THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—From amounts available in the Highway Trust Fund, there is authorized to be expended for 2 comprehensive studies of supplemental or alternative funding sources for the Highway Trust Fund—

(1) $1,000,000 to the Western Transportation Institute of the College of Engineering at Montana State University for the study and report described in subsection (b), and

(2) $16,500,000 to the Public Policy Center of the University of Iowa for the study and report described in subsection (c).

(b) STUDY OF FUNDING MECHANISMS.—Not later than December 31, 2006, the Western Transportation Institute of the College of Engineering at Montana State University shall report to the Secretary of the Treasury and the Secretary of Transportation on a study of highway funding mechanisms of other industrialized nations, an examination of the viability of alternative funding proposals, including congestion pricing, greater reliance on tolls, privatization of facilities, and bonding for construction of added capacity, and an examination of increasing the rates of motor fuels taxes in effect on the date of the enactment of this Act, including the indexation of such rates.

(c) STUDY ON FIELD TEST OF ONBOARD COMPUTER ASSESSMENT OF HIGHWAY USE TAXES.—Not later than December 31, 2011, the Public Policy Center of the University of Iowa shall direct, analyze, and report to the Secretary of the Treasury and the Secretary of Transportation on a long-term field test of an approach to assessing highway use taxes based upon actual mileage driven by a specific vehicle on specific types of highways by use of an onboard computer—

(1) which is linked to satellites to calculate highway mileage traversed,

(2) which computes the appropriate highway use tax for each of the Federal, State, and local governments as the vehicle makes use of the highways, and

(3) the data from which is periodically downloaded by the vehicle owner to a collection center for an assessment of highway use taxes due in each jurisdiction traversed. The components of the field test shall include 2 years for preparation, including selection of vendors and test participants, and 3-year testing period.

SEC. 5304. DELTA REGIONAL TRANSPORTATION PLAN.

(a) STUDY.—The Delta Regional Authority shall conduct a study of the transportation assets and needs in the States of Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee which comprise the Delta region.

(b) REGIONAL STRATEGIC TRANSPORTATION PLAN.—Upon completion of the study required under subsection (a), the Delta Regional Authority shall establish a regional strategic transportation plan to achieve efficient transportation systems in the Delta region. In developing the regional strategic transportation plan, the Delta Regional Authority shall consult with local planning and development districts, local and regional governments, metropolitan planning organizations, State transportation entities, and Federal transportation agencies.

(c) ELEMENTS OF STUDY AND PLAN.—The study and plan under this section shall include the following transportation modes and systems: transit, rail, highway, interstate, bridges, air, airports, waterways, and ports.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Delta Regional Authority $500,000 for each of the fiscal years 2005 and 2006 to carry out the purposes of this section, to remain available until expended.

SEC. 5305. BUILD AMERICA CORPORATION.

(a) ESTABLISHMENT OF BUILD AMERICA CORPORATION.—There is established a nonprofit corporation, to be known as the "Build America Corporation". The Build America Corporation is not an agency or establishment of the United States Government. The purpose of the Corporation is to issue Build America bonds. The Corporation shall be subject, to the extent consistent with this section, to the laws of the State of Delaware applicable to corporations not for profit.

(b) USE OF BUILD AMERICA BOND PROCEEDS.—The proceeds from the sale of any Build America bonds issued by the Build America Corporation as authorized by subsection (a) may be used to fund any qualified project.

(c) QUALIFIED PROJECTS.—For purposes of this section—

(1) IN GENERAL.—With respect to any Build America bonds issued by the Build America Corporation as authorized by subsection (a), the term "qualified project" means any—

(A) qualified highway project,

(B) qualified public transportation project, and

(C) congestion relief project,

proposed by 1 or more States and approved by the Build America Corporation, which meets the requirements under subparagraphs (A), (B), and (C) of paragraph (5).

(2) QUALIFIED HIGHWAY PROJECT.—The term "qualified highway project" means a project for highway facilities or other facilities which are eligible for assistance under title 23, United States Code.

(3) QUALIFIED PUBLIC TRANSPORTATION PROJECT.—The term "qualified public transportation project" means a project for public transportation facilities or other facilities which are eligible for assistance under title 49, United States Code.

(4) CONGESTION RELIEF PROJECT.—The term "congestion relief project" means an intermodal freight transfer facility, freight rail facility, freight movement corridor, intercity passenger rail facility, intercity bus facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such approvals, the Secretary of Transportation shall—

(A) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

(B) give preference to projects with national or regional significance, including any projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(5) ADDITIONAL REQUIREMENTS FOR QUALIFIED PROJECTS.—For purposes of paragraph (1)—

(A) COSTS OF QUALIFIED PROJECTS.—The requirement of this subparagraph is met if the costs of the qualified project funded by Build America bonds only relate to capital investments and do not include any costs relating to operations, maintenance, or rolling stock.

(B) APPLICABILITY OF FEDERAL LAW.—The requirement of this subparagraph is met if the requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds are applied to—

(i) funds made available under Build America bonds for similar qualified projects, and

(ii) similar qualified projects assisted by the Build America Corporation through the use of such funds.

(C) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—The requirement of this subparagraph is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

SEC. 5306. INCREASE IN DOLLAR LIMITATION FOR QUALIFIED TRANSPORTATION FRINGE BENEFITS.

(a) IN GENERAL.—Section 132(f)(2) (relating to limitation on exclusion) is amended—

(1) by striking "$100" in subparagraph (A) and inserting "$155", and

(2) by striking "$175" in subparagraph (B) and inserting "$200".

(b) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—Subparagraph (A) of section 132(f)(6) (relating to inflation adjustment) is amended—

(1) by striking the last sentence,

(2) by striking "1999" and inserting "2008", and

(3) by striking "1998" and inserting "2007".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 5307. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) STUDY.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels for the highway motor fuels excise taxes,

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall—

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) REPORT.—Not later than January 1, 2007, the Secretary of the Treasury shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 5308. TAX-EXEMPT FINANCING OF HIGHWAY PROJECTS AND RAIL-TRUCK TRANSFER FACILITIES.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 (relating to exempt facility bond) is amended by striking "or" at the end of paragraph (13), by striking the period at the end of paragraph (14), and by adding at the end the following:

"(15) qualified highway facilities, or

"(16) qualified surface freight transfer facilities.".

(b) Qualified Highway Facilities and Qualified Surface Freight Transfer Facilities.—Section 142 is amended by adding at the end the following:

"(m) Qualified Highway and Surface Freight Transfer Facilities.—

"(1) Qualified highway facilities.—For purposes of subsection (a)(15), the term 'qualified highway facilities' means—

"(A) any surface transportation project which receives Federal assistance under title 23, United States Code (as in effect on the date of the enactment of this subsection), or

"(B) any project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible and which receives Federal assistance under such title 23.

"(2) Qualified surface freight transfer facilities.—For purposes of subsection (a)(16), the term 'qualified surface freight transfer facilities' means facilities for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities directly related to such transfers) which receives Federal assistance under either title 23 or title 49, United States Code (as in effect on the date of the enactment of this subsection).

"(3) National limitation on amount of tax-exempt financing for facilities.—

"(A) National limitation.—There is a national highway and surface freight transfer facilities bond limitation for each calendar year. Such limitation is $130,000,000 for 2005, $750,000,000 for 2006, 2007, 2008, and 2009, $1,870,000,000 for 2010, $2,000,000,000 for 2011, 2012, 2013, 2014, and 2015, and zero thereafter.

"(B) Enforcement of national limitation.—An issue shall not be treated as an issue described in subsection (a)(15) or (a)(16) if the aggregate face amount of bonds issued pursuant to such issue for any calendar year (when added to the aggregate face amount of bonds previously issued by all States as part of issues described in subsections (a)(15) and (a)(16) for such calendar year) exceeds the national highway and surface freight transfer facilities bond limitation for such calendar year.

"(C) Allocation by secretary of transportation.—The Secretary of Transportation shall allocate the amount described in subparagraph (A) among projects for qualified highway facilities and qualified surface freight transfer facilities in such manner as the Secretary determines appropriate.

"(4) Expenditure of proceeds.—An issue shall not be treated as an issue described in subsection (a)(15) or (a)(16) unless at least 95 percent of the net proceeds of the issue is expended for projects described in paragraph (3)(C) within the 5-year period beginning on the date of issuance. If at least 95 percent of such net proceeds is not expended with such 5-year period, an issue shall be treated as continuing to meet the requirements of this paragraph if the issuer uses all unspent proceeds of the issue to redeem bonds of the issue within 90 days after the end of such 5-year period. The Secretary, at the request of the issuer, may extend such 5-year period if the issuer establishes that any failure to meet such period is due to circumstances beyond the control of the issuer.".

(c) Exemption From General State Volume Caps.—Paragraph (3) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by striking "or (14)" and all that follows through the end of the paragraph and inserting "(14), (15), or (16) of section 142(a), and".

(d) Effective Date.—The amendments made by this section apply to bonds issued after the date of the enactment of this Act.

Subtitle D—Fuels-related Technical Corrections

SEC. 5401. FUELS-RELATED TECHNICAL CORRECTIONS.

(a) Amendments Related to Section 301 of the American Jobs Creation Act of 2004.—Section 6427 is amended—

(1) by striking subsection (f), and

(2) by striking subsection (o) and redesignating subsection (p) as subsection (o).

(b) Amendments Related to Section 853 of the American Jobs Creation Act of 2004.—

(1) Subparagraph (C) of section 4081(a)(2) is amended by striking "for use in commercial aviation" and inserting "for use in commercial aviation by a person registered for such use under section 4101".

(2) So much of paragraph (2) of section 4081(d) as precedes subparagraph (A) is amended to read as follows:

"(2) Aviation fuels.—The rates of tax specified in clauses (ii) and (iv) of subsection (a)(2)(A) shall be 4.3 cents per gallon—".

(3) Section 6421(f)(2) is amended—

(A) by striking "noncommercial aviation (as defined in section 4041(c)(2))" in subparagraph (A) and inserting "aviation which is not commercial aviation (as defined in seciton 4083(b))", and

(B) by striking "aviation which is not noncommercial aviation" in subparagraph (B) and inserting "commercial aviation".

(c) Amendment Related to Section 9005 of the Transportation Equity Act for the 21st Century.—The last sentence of paragraph (2) of section 9504(b) is amended by striking "subparagraph (B)", and inserting "subparagraph (C)".

(d) Effective Dates.—

(1) American jobs creation act of 2004.—The amendments made by subsections (a) and (b) shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which they relate.

(2) Transportation equity act for the 21st century.—The amendment made by subsection (c) shall take effect as if included in the provision of the Transportation Equity Act for the 21st Century to which it relates.

Subtitle E—Revenue Offset Provisions

PART I—GENERAL PROVISIONS

SEC. 5501. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.

(a) In General.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) In general.—The Secretary", and

(2) by adding at the end the following new paragraph:

"(2) Treatment of contingent payment convertible debt.—

"(A) In general.—In the case of a debt instrument which—

"(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

"(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed-rate debt instrument shall be applied as if the regulations require that such comparable yield be determined by reference to a noncontingent fixed-rate debt instrument which is convertible into stock.

"(B) Special rule.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.".

(b) Cross Reference.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

"For the treatment of contingent payment convertible debt, see section 1275(d)(2).".

(c) Effective Date.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

SEC. 5502. FRIVOLOUS TAX SUBMISSIONS.

(a) Civil Penalties.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) Civil Penalty for Frivolous Tax Returns.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) Civil Penalty for Specified Frivolous Submissions.—

"(1) Imposition of penalty.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) Specified frivolous submission.—For purposes of this section—

"(A) Specified frivolous submission.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) Specified submission.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) Opportunity to withdraw submission.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) Listing of Frivolous Positions.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) Reduction of Penalty.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) Penalties in Addition to Other Penalties.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) Treatment of Frivolous Requests for Hearings Before Levy.—

(1) Frivolous requests disregarded.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) Frivolous Requests for Hearing, Etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) Preclusion from raising frivolous issues at hearing.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) Statement of grounds.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) Treatment of Frivolous Requests for Hearings Upon Filing of Notice of Lien.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) Treatment of Frivolous Applications for Offers-in-Compromise and Installment Agreements.—Section 7122 is amended by adding at the end the following new subsection:

"(e) Frivolous Submissions, Etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) Effective Date.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 5503. INCREASE IN CERTAIN CRIMINAL PENALTIES.

(a) In General.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking "Any person who—" and inserting "(a) In General.—Any person who—", and

(2) by adding at the end the following new subsection:

"(b) Increase in Monetary Limitation for Underpayment or Overpayment of Tax Due to Fraud.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.".

(b) Increase in Penalties.—

(1) Attempt to evade or defeat tax.—Section 7201 is amended—

(A) by striking "$100,000" and inserting "$500,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "5 years" and inserting "10 years".

(2) Willful failure to file return, supply information, or pay tax.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking "Any person" and inserting the following:

"(a) In General.—Any person", and

(ii) by striking "$25,000" and inserting "$50,000",

(B) in the third sentence, by striking "section" and inserting "subsection", and

(C) by adding at the end the following new subsection:

"(b) Aggravated Failure To File.—

"(1) In general.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

"(A) 'felony' for 'misdemeanor',

"(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

"(C) '10 years' for '1 year'.

"(2) Failure described.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years and the aggregated tax liability for such period is at least $100,000.".

(3) Fraud and false statements.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking "$100,000" and inserting "$500,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "3 years" and inserting "5 years".

(c) Effective Date.—The amendments made by this section shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.

SEC. 5504. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(a) Determination of Penalty.—

(1) In general.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) Applicable taxpayer.—For purposes of this subsection—

(A) In general.—The term "applicable taxpayer" means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has not signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003-11 or voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) Authority to waive.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the trade or business of the taxpayer.

(C) Issues raised.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(b) Definitions and Rules.—For purposes of this section—

(1) Applicable penalty.—The term "applicable penalty" means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) Fees and expenses.—The Secretary of the Treasury may retain and use an amount not in excess of 25 percent of all additional interest, penalties, additions to tax, and fines collected under this section to be used for enforcement and collection activities of the Internal Revenue Service. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this paragraph.

(c) Report by Secretary.—The Secretary shall each year conduct a study and report to Congress on the implementation of this section during the preceding year, including statistics on the number of taxpayers affected by such implementation and the amount of interest and applicable penalties asserted, waived, and assessed during such preceding year.

(d) Effective Date.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if, as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

SEC. 5505. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) Limitation on Exception From PFIC Rules for United States Shareholders of Controlled Foreign Corporations.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

"Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).".

(b) Effective Date.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after March 2, 2005, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

SEC. 5506. DECLARATION BY CHIEF EXECUTIVE OFFICER RELATING TO FEDERAL ANNUAL CORPORATE INCOME TAX RETURN.

(a) In General.—The Federal annual tax return of a corporation with respect to income shall also include a declaration signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary of the Treasury may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the corporation has in place processes and procedures that ensure that such return complies with the Internal Revenue Code of 1986 and that the chief executive officer was provided reasonable assurance of the accuracy of all material aspects of such return. The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851 of such Code).

(b) Effective Date.—This section shall apply to Federal annual tax returns for taxable years ending after the date of the enactment of this Act.

SEC. 5507. TREASURY REGULATIONS ON FOREIGN TAX CREDIT.

Section 901 (relating to taxes of foreign countries and of possessions of United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Regulations.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.".

SEC. 5508. WHISTLEBLOWER REFORMS.

(a) In General.—Section 7623 (relating to expenses of detection of underpayments and fraud, etc.) is amended—

(1) by striking "The Secretary" and inserting "(a) In General.—The Secretary",

(2) by striking "and" at the end of paragraph (1) and inserting "or",

(3) by striking "(other than interest)", and

(4) by adding at the end the following new subsections:

"(b) Awards to Whistleblowers.—

"(1) In general.—If the Secretary proceeds with any administrative or judicial action described in subsection (a) based on information brought to the Secretary's attention by an individual, such individual shall, subject to paragraph (2), receive as an award at least 15 percent but not more than 30 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action. The determination of the amount of such award by the Whistleblower Office shall depend upon the extent to which the individual substantially contributed to such action.

"(2) Award in case of less substantial contribution.—

"(A) In general.—In the event the action described in paragraph (1) is one which the Whistleblower Office determines to be based principally on disclosures of specific allegations (other than information provided by the individual described in paragraph (1)) resulting from a judicial or administrative hearing, from a governmental report, hearing, audit, or investigation, or from the news media, the Whistleblower Office may award such sums as it considers appropriate, but in no case more than 10 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action, taking into account the significance of the individual's information and the role of such individual and any legal representative of such individual in contributing to such action.

"(B) Nonapplication of paragraph where individual is original source of information.—Subparagraph (A) shall not apply if the information resulting in the initiation of the action described in paragraph (1) was originally provided by the individual described in paragraph (1).

"(3) Reduction in or denial of award.—If the Whistleblower Office determines that the claim for an award under paragraph (1) or (2) is brought by an individual who planned and initiated the actions that led to the underpayment of tax or actions described in subsection (a)(2), then the Whistleblower Office may appropriately reduce such award. If such individual is convicted of criminal conduct arising from the role described in the preceding sentence, the Whistleblower Office shall deny any award.

"(4) Appeal of award determination.—Any determination regarding an award under paragraph (1), (2), or (3) shall be subject to the filing by the individual described in such paragraph of a petition for review with the Tax Court under rules similar to the rules under section 7463 (without regard to the amount in dispute) and such review shall be subject to the rules under section 7461(b)(1).

"(5) Application of this subsection.—This subsection shall apply with respect to any action—

"(A) against any taxpayer, but in the case of any individual, only if such individual's gross income exceeds $200,000 for any taxable year subject to such action, and

"(B) if the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed $20,000.

"(6) Additional rules.—

"(A) No contract necessary.—No contract with the Internal Revenue Service is necessary for any individual to receive an award under this subsection.

"(B) Representation.—Any individual described in paragraph (1) or (2) may be represented by counsel.

"(C) Award not subject to individual alternative minimum tax.—No award received under this subsection shall be included in gross income for purposes of determining alternative minimum taxable income.

"(c) Whistleblower Office.—

"(1) In general.—There is established in the Internal Revenue Service an office to be known as the 'Whistleblower Office' which—

"(A) shall at all times operate at the direction of the Commissioner and coordinate and consult with other divisions in the Internal Revenue Service as directed by the Commissioner,

"(B) shall analyze information received from any individual described in subsection (b) and either investigate the matter itself or assign it to the appropriate Internal Revenue Service office,

"(C) shall monitor any action taken with respect to such matter,

"(D) shall inform such individual that it has accepted the individual's information for further review,

"(E) may require such individual and any legal representative of such individual to not disclose any information so provided,

"(F) in its sole discretion, may ask for additional assistance from such individual or any legal representative of such individual, and

"(G) shall determine the amount to be awarded to such individual under subsection (b).

"(2) Funding for office.—There is authorized to be appropriated $10,000,000 for each fiscal year for the Whistleblower Office. These funds shall be used to maintain the Whistleblower Office and also to reimburse other Internal Revenue Service offices for related costs, such as costs of investigation and collection.

"(3) Request for assistance.—

"(A) In general.—Any assistance requested under paragraph (1)(F) shall be under the direction and control of the Whistleblower Office or the office assigned to investigate the matter under subparagraph (A). To the extent the disclosure of any returns or return information to the individual or legal representative is required for the performance of such assistance, such disclosure shall be pursuant to a contract entered into between the Secretary and the recipients of such disclosure subject to section 6103(n). No individual or legal representative whose assistance is so requested may by reason of such request represent himself or herself as an employee of the Federal Government.

"(B) Funding of assistance.—From the amounts available for expenditure under subsection (b), the Whistleblower Office may, with the agreement of the individual described in subsection (b), reimburse the costs incurred by any legal representative of such individual in providing assistance described in subparagraph (A).

"(d) Report by Secretary.—The Secretary shall each year conduct a study and report to Congress on the use of this section, including—

"(1) an analysis of the use of this section during the preceding year and the results of such use, and

"(2) any legislative or administrative recommendations regarding the provisions of this section and its application.".

(b) Effective Date.—The amendments made by this section shall apply to information provided on or after the date of the enactment of this Act.

SEC. 5509. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) In General.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

"(f) Fines, Penalties, and Other Amounts.—

"(1) In general.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

"(2) Exception for amounts constituting restitution.—Paragraph (1) shall not apply to any amount which—

"(A) the taxpayer establishes constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, and

"(B) is identified as restitution in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

"(3) Exception for amounts paid or incurred as the result of certain court orders.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

"(4) Certain nongovernmental regulatory entities.—An entity is described in this paragraph if it is—

"(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

"(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

"(5) Exception for taxes due.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.".

(b) Effective Date.—The amendment made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SEC. 5510. FREEZE OF INTEREST SUSPENSION RULES WITH RESPECT TO LISTED TRANSACTIONS.

(a) In General.—Paragraph (2) of section 903(d) of the American Jobs Creation Act of 2005 is amended to read as follows:

"(2) Exception for reportable or listed transactions.—

"(A) In general.—The amendments made by subsection (c) shall apply with respect to interest accruing after October 3, 2004.

"(B) Special rule for certain listed transactions.—

"(i) In general.—Except as provided in clause (ii) or (iii), in the case of any listed transaction, the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

"(ii) Participants in settlement initiatives.—Clause (i) shall not apply to a listed transaction if, as of May 9, 2005—

"(I) the taxpayer is participating in a published settlement initiative which is offered by the Secretary of the Treasury or his delegate to a group of similarly situated taxpayers claiming benefits from the listed transaction, or

"(II) the taxpayer has entered into a settlement agreement pursuant to such an initiative with respect to the tax liability arising in connection with the listed transaction.

Subclause (I) shall not apply to the taxpayer if, after May 9, 2005, the taxpayer withdraws from, or terminates, participation in the initiative or the Secretary or his delegate determines that a settlement agreement will not be reached pursuant to the initiative within a reasonable period of time.

"(iii) Closed transactions.—Clause (i) shall not apply to a listed transaction if, as of May 9, 2005—

"(I) the assessment of all Federal income taxes for the taxable year in which the tax liability to which the interest relates arose is prevented by the operation of any law or rule of law, or

"(II) a closing agreement under section 7121 has been entered into with respect to the tax liability arising in connection with the listed transaction.".

(b) Effective Date.—The amendment made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

SEC. 5511. MODIFICATIONS OF EFFECTIVE DATES OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) Repeal of Exception for Qualified Transportation Property.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by striking paragraphs (1) and (2) and by redesignating paragraphs (3) and (4) as paragraphs (1) and (2).

(b) Effective Date.—The amendments made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SEC. 5512. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) In General.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) General Rules.—For purposes of this subtitle—

"(1) Mark to market.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

"(2) Recognition of gain or loss.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

"(3) Exclusion for certain gain.—

"(A) In general.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(B) Cost-of-living adjustment.—

"(i) In general.—In the case of an expatriation date occurring in any calendar year after 2005, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2004' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) Rounding rules.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

"(4) Election to continue to be taxed as United States citizen.—

"(A) In general.—If a covered expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

"(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

"(B) Requirements.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(C) Election.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) Election To Defer Tax.—

"(1) In general.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

"(2) Determination of tax with respect to property.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

"(3) Termination of postponement.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph

(4), unless the taxpayer corrects such failure within the time specified by the Secretary).

“(4) SECURITY.—

“(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

“(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

“(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

“(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

“(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

“(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

“(7) INTEREST.—For purposes of section 6601—

“(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

“(B) section 6621(a)(2) shall be applied by substituting ‘5 percentage points’ for ‘3 percentage points’ in subparagraph (B) thereof.

“(c) COVERED EXPATRIATE.—For purposes of this section—

“(1) IN GENERAL.—Except as provided in paragraph (2), the term ‘covered expatriate’ means an expatriate.

“(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

“(A) the individual—

“(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

“(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

“(B)(i) the individual’s relinquishment of United States citizenship occurs before such individual attains age 18½, and

“(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

“(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

“(1) EXEMPT PROPERTY.—This section shall not apply to the following:

“(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

“(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

“(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

“(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

“(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

“(ii) an amount equal to the present value of the expatriate’s nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

“(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

“(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan’s behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

“(D) APPLICABLE PLANS.—This paragraph shall apply to—

“(i) any qualified retirement plan (as defined in section 4974(c)),

“(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

“(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

“(e) DEFINITIONS.—For purposes of this section—

“(1) EXPATRIATE.—The term ‘expatriate’ means—

“(A) any United States citizen who relinquishes citizenship, and

“(B) any long-term resident of the United States who—

“(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

“(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

“(2) EXPATRIATION DATE.—The term ‘expatriation date’ means—

“(A) the date an individual relinquishes United States citizenship, or

“(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

“(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

“(A) the date the individual renounces such individual’s United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

“(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

“(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

“(D) the date a court of the United States cancels a naturalized citizen’s certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

“(4) LONG-TERM RESIDENT.—The term ‘long-term resident’ has the meaning given to such term by section 877(e)(2).

“(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES’ INTERESTS IN TRUST.—

“(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

“(A) the individual shall not be treated as having sold such interest,

“(B) such interest shall be treated as a separate share in the trust, and

“(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

“(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

“(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual’s share in the trust.

“(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

“(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

“(i) paragraph (1) and subsection (a) shall not apply, and

“(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

“(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

“(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

“(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

“(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

“(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

“(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

"(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

"(1) IMPOSITION OF LIEN.—

"(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

"(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

"(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

"(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

"(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

"(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

"(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

"(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

"(A) the gift, bequest, devise, or inheritance is—

"(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

"(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

"(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.".

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(49) TERMINATION OF UNITED STATES CITIZENSHIP.—

"(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

"(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.".

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

"(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).".

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(21) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).".

(B) SAFEGUARDS.—Section 6103(p)(4) (relating to safeguards) is amended by striking "or (20)" each place it appears and inserting "(20), or (21)".

(3) EFFECTIVE DATES.—The amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(h) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005.".

(2) Section 2107 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.".

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

"(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.".

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after the date of the enactment of this Act.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after the date of the enactment of this Act, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 5513. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking "If" and inserting:

"(1) TREBLE DAMAGES.—If", and

(C) by adding at the end the following new paragraph:

"(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).".

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting "OR PUNITIVE DAMAGES" after "LAWS".

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

"SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

"Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.".

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

"(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.".

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 91. Punitive damages compensated by insurance or otherwise.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 5514. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE C CORPORATIONS.

(a) IN GENERAL.—Section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) ALLOCATIONS TO CERTAIN CORPORATE PARTNERS.—If a C corporation is a partner in a partnership—

"(A) the corporation's allocable share of indebtedness and interest income of the partnership shall be taken into account in applying this subsection to the corporation, and

"(B) if a deduction is not disallowed under this subsection with respect to any interest expense of the partnership, this subsection shall be applied separately in determining whether a deduction is allowable to the corporation with respect to the corporation's allocable share of such interest expense.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after the date of the enactment of this Act.

SEC. 5515. PROHIBITION ON DEFERRAL OF GAIN FROM THE EXERCISE OF STOCK OPTIONS AND RESTRICTED STOCK GAINS THROUGH DEFERRED COMPENSATION ARRANGEMENTS.

(a) IN GENERAL.—Section 83 (relating to property transferred in connection with performance of services) is amending by adding at the end the following new subsection:

"(i) PROHIBITION ON ADDITIONAL DEFERRAL THROUGH DEFERRED COMPENSATION ARRANGEMENTS.—If a taxpayer exchanges—

"(1) an option to purchase employer securities—

"(A) to which subsection (a) applies, or

"(B) which is described in subsection (e)(3), or

"(2) employer securities or any other property based on employer securities transferred to the taxpayer,

for a right to receive future payments, then, notwithstanding any other provision of this title, there shall be included in gross income for the taxable year of the exchange an amount equal to the present value of such right (or such other amount as the Secretary may by regulations specify). For purposes of this subsection, the term 'employer securities' includes any security issued by the employer.".

(b) CONTROLLED GROUP RULES.—Section 414(t)(2) is amended by inserting "83(i)," after "79,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any exchange after the date of the enactment of this Act.

PART II—ECONOMIC SUBSTANCE DOCTRINE

SEC. 5521. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) Treatment of fees and foreign taxes.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) Special rules for transactions with tax-indifferent parties.—

"(A) Special rules for financing transactions.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) Artificial income shifting and basis adjustments.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) Definitions and special rules.—For purposes of this subsection—

"(A) Economic substance doctrine.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) Tax-indifferent party.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) Exception for personal transactions of individuals.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) Treatment of lessors.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

"(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

"(I) depreciation,

"(II) any tax credit, or

"(III) any other deduction as provided in guidance by the Secretary, and

"(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) Other common law doctrines not affected.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.".

(b) Effective Date.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 5522. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) Imposition of Penalty.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) Reduction of Penalty for Disclosed Transactions.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) Noneconomic Substance Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) Noneconomic substance transaction.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) Rules Applicable to Compromise of Penalty.—

"(1) In general.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) Applicable rules.—The rules of paragraphs (2) and (3) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) Coordination With Other Penalties.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) Cross References.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).".

(b) Coordination With Other Understatements and Penalties.—

(1) The second sentence of section 6662(d)(2)(A) is amended by inserting "and without regard to items with respect to which a penalty is imposed by section 6662B" before the period at the end.

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting "and noneconomic substance transaction understatements" after "reportable transaction understatements" both places it appears,

(B) in paragraph (2)(A), by inserting "and a noneconomic substance transaction understatement" after "reportable transaction understatement",

(C) in paragraph (2)(B), by inserting "6662B or" before "6663",

(D) in paragraph (2)(C)(i), by inserting "or section 6662B" before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting "and section 6662B" after "This section",

(F) in paragraph (3), by inserting "or noneconomic substance transaction understatement" after "reportable transaction understatement", and

(G) by adding at the end the following new paragraph:

"(4) Noneconomic substance transaction understatement.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).".

(3) Subsection (e) of section 6707A is amended—

(A) by striking "or" at the end of subparagraph (B), and

(B) by striking subparagraph (C) and inserting the following new subparagraphs:

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction, or

"(D) is required to pay a penalty under section 6662(h) with respect to any transaction and would (but for section 6662A(e)(2)(C)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c) or under section 6662B.".

(c) Clerical Amendment.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.".

(d) Effective Date.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 5523. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) In General.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking "attributable" and all that follows and inserting the following: "attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).", and

(2) by inserting "and Noneconomic Substance Transactions" in the heading thereof after "Transactions".

(b) Effective Date.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

PART III—IMPROVEMENTS IN EFFICIENCY AND SAFEGUARDS IN INTERNAL REVENUE SERVICE COLLECTION

SEC. 5531. WAIVER OF USER FEE FOR INSTALLMENT AGREEMENTS USING AUTOMATED WITHDRAWALS.

(a) In General.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following:

"(e) Waiver of User Fees for Installment Agreements Using Automated Withdrawals.—In the case of a taxpayer who enters into an installment agreement in which automated installment payments are agreed to, the Secretary shall waive the fee (if any) for entering into the installment agreement.".

(b) Effective Date.—The amendments made by this section shall apply to agreements entered into on or after the date which is 180 days after the date of the enactment of this Act.

SEC. 5532. TERMINATION OF INSTALLMENT AGREEMENTS.

(a) In General.—Section 6159(b)(4) (relating to failure to pay an installment or any other tax liability when due or to provide requested financial information) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (E), and by inserting after subparagraph (B) the following:

"(C) to make a Federal tax deposit under section 6302 at the time such deposit is required to be made,

"(D) to file a return of tax imposed under this title by its due date (including extensions), or".

(b) Conforming Amendment.—The heading for section 6159(b)(4) is amended by striking "Failure to pay an installment or any other tax liability when due or to provide requested financial information" and inserting "Failure to make payments or deposits or file returns when due or to provide requested financial information".

(c) Effective Date.—The amendments made by this section shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 5533. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS-IN-COMPROMISE.

(a) In General.—Section 7122(b) (relating to record) is amended by striking "Whenever a compromise" and all that follows through "his delegate" and inserting "If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion".

(b) Conforming Amendments.—Section 7122(b) is amended by striking the second and third sentences.

(c) Effective Date.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.

SEC. 5534. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.

(a) In General.—Section 7122 (relating to compromises), as amended by this Act, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) Rules for Submission of Offers-in-Compromise.—

"(1) Partial payment required with submission.—

"(A) Lump-sum offers.—

"(i) In general.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of amount of such offer.

"(ii) Lump-sum offer-in-compromise.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

"(B) Periodic payment offers.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment and each proposed installment due during the period such offer is being evaluated for acceptance and has not been rejected by the Secretary. Any failure to make a payment required under the preceding sentence shall be deemed a withdrawal of the offer-in-compromise.

"(2) Rules of application.—

"(A) Use of payment.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

"(B) No user fee imposed.—Any user fee which would otherwise be imposed under this section shall not be imposed on any offer-in-compromise accompanied by a payment required under this subsection.".

(b) Additional Rules Relating to Treatment of Offers.—

(1) Unprocessable offer if payment requirements are not met.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking "; and" at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) any offer-in-compromise which does not meet the requirements of subsection (c) shall be returned to the taxpayer as unprocessable.".

(2) Deemed acceptance of offer not rejected within certain period.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(g) Deemed Acceptance of Offer Not Rejected Within Certain Period.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer (12 months for offers-in-compromise submitted after the date which is 5 years after the date of the enactment of this subsection). For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken in to account in determining the expiration of the 24-month period (or 12-month period, if applicable).".

(c) Effective Date.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

SEC. 5535. JOINT TASK FORCE ON OFFERS-IN-COMPROMISE.

(a) In General.—The Secretary of the Treasury shall establish a joint task force—

(1) to review the Internal Revenue Service's determinations with respect to offers-in-compromise, including offers which raise equitable, public policy, or economic hardship grounds for compromise of a tax liability under section 7122 of the Internal Revenue Code of 1986,

(2) to review the extent to which the Internal Revenue Service has used its authority to resolve longstanding cases by forgoing penalties and interest which have accumulated as a result of delay in determining the taxpayer's liability,

(3) to provide recommendations as to whether the Internal Revenue Service's evaluation of offers-in-compromise should include—

(A) the taxpayer's compliance history,

(B) errors by the Internal Revenue Service with respect to the underlying tax, and

(C) wrongful acts by a third party which gave rise to the liability, and

(4) to annually report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (beginning in 2006) regarding such review and recommendations.

(b) Members of Joint Task Force.—The membership of the joint task force under subsection (a) shall consist of 1 representative each from the Department of the Treasury, the Internal Revenue Service Oversight Board, the Office of the Chief Counsel for the Internal Revenue Service, the Office of the Taxpayer Advocate, the Office of Appeals, and the division of the Internal Revenue Service charged with operating the offer-in-compromise program.

(c) Report of National Taxpayer Advocate.—

(1) In general.—Clause (ii) of section 7803(c)(2)(B) (relating to annual reports) is amended by striking "and" at the end of subclause (X), by redesignating subclause (XI) as subclause (XII), and by inserting after subclause (X) the following new subclause:

"(XI) include a list of the factors taxpayers have raised to support their claims for offers-in-compromise relief, the number of such offers submitted, accepted, and rejected, the number of such offers appealed, the period during which review of such offers have remained pending, and the efforts the Internal Revenue Service has made to correctly identify such offers, including the training of employees in identifying and evaluating such offers.".

(2) Effective date.—The amendment made by paragraph (1) shall apply to reports in calendar year 2006 and thereafter.

Subtitle F—Additional Revenue Provisions

PART I—GENERAL PROVISIONS

SEC. 5601. SUSPENSION OF TRANSFERS FROM HIGHWAY TRUST FUND FOR CERTAIN REPAYMENTS AND CREDITS.

(a) In General.—Section 9503(c)(2)(A) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended—

(1) by striking "July 1, 2006" in clause (i) and inserting "July 1, 2012",

(2) by striking "October 1, 2005" in the matter following clause (i)(III) and inserting "April 1, 2005, or for periods ending after September 30, 2009, and before October 1, 2011", and

(3) by striking "October 1, 2005" in clause (ii) and inserting "April 1, 2005, or used after September 30, 2009, and before October 1, 2011".

(b) Effective Date.—The amendments made by this section shall apply to amounts paid for which no transfer has been made before April 1, 2005.

SEC. 5602. TEMPORARY DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) In General.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by this Act, is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) section 4064 (relating to gas guzzler tax),".

(b) Temporary Period for Dedication.—Section 9503(b)(4) (relating to certain taxes not transferred to Highway Trust Fund) is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) section 4064 with respect to taxes imposed after September 30, 2009,".

(c) Effective Date.—The amendments made by this section shall apply to taxes imposed on and after July 1, 2005.

PART II—PROVISIONS TO COMBAT FUEL FRAUD

SEC. 5611. TREATMENT OF KEROSENE FOR USE IN AVIATION.

(a) All Kerosene Taxed at Highest Rate.—

(1) In general.—Section 4081(a)(2)(A) (relating to rates of tax) is amended by adding "and" at the end of clause (ii), by striking ", and" at the end of clause (iii) and inserting a period, and by striking clause (iv).

(2) Exception for use in aviation.—Subparagraph (C) of section 4081(a)(2), as amended by this Act, is amended to read as follows:

"(C) Taxes imposed on fuel used in aviation.—In the case of kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in aviation, the rate of tax under subparagraph (A)(iii) shall be—

"(i) in the case of use for commercial aviation by a person registered for such use under section 4101, 4.3 cents per gallon, and

"(ii) in the case of use for aviation not described in clause (i), 21.8 cents per gallon.".

(3) Conforming amendments.—

(A) Sections 4081(a)(3)(A) and 4082(b) are amended by striking "aviation-grade" each place it appears.

(B) Section 4081(a)(4) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(C)(i)".

(C) The heading for paragraph (4) of section 4081(a) is amended by striking "AVIATION-GRADE".

(D) Section 4081(d)(2), as amended by this Act, is amended by striking so much as precedes subparagraph (A) and inserting the following:

"(2) Aviation fuels.—The rates of tax specified in subsections (a)(2)(A)(ii) and (a)(2)(C)(ii) shall be 4.3 cents per gallon—".

(E) Subsection (e) of section 4082 is amended—

(i) by striking "aviation-grade",

(ii) by striking "section 4081(a)(2)(A)(iv)" and inserting "section 4081(a)(2)(A)(iii)", and

(iii) by striking "Aviation-Grade Kerosene" in the heading thereof and inserting "Kerosene Removed Into an Aircraft".

(b) Reduced Rate for Use of Certain Liquids in Aviation.—

(1) In general.—Subsection (c) of section 4041 (relating to imposition of tax) is amended—

(A) by striking "aviation-grade kerosene" in paragraph (1) and inserting "any liquid other than aviation gasoline",

(B) by striking "aviation-grade kerosene" in paragraph (2) and inserting "liquid other than aviation gasoline",

(C) by striking paragraph (3) and inserting the following new paragraph:

"(3) Rate of tax.—The rate of tax imposed by this subsection shall be 21.8 cents per gallon (4.3 cents per gallon with respect to any sale or use for commercial aviation).", and

(D) by striking "Aviation-Grade Kerosene" in the heading thereof and inserting "Certain Liquids Used in Aviation".

(2) Partial refund of full rate.—

(A) In general.—Paragraph (2) of section 6427(l) (relating to nontaxable uses of diesel fuel, kerosene and aviation fuel) is amended to read as follows:

"(2) Nontaxable use.—For purposes of this subsection, the term 'nontaxable use' means any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax.".

(B) Refunds for noncommercial aviation.—Section 6427(l) (relating to nontaxable uses of diesel fuel, kerosene and aviation fuel) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) Refunds for kerosene used in noncommercial aviation.—

"(A) In general.—In the case of kerosene used in aviation not described in paragraph (4)(A) (other than any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iii) as does not exceed the rate specified in section 4081(a)(2)(C)(ii).

"(B) Payment to ultimate, registered vendor.—The amount which would be paid under paragraph (1) with respect to any kerosene shall be paid to the ultimate vendor of such kerosene, if such vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(3) Conforming amendments.—

(A) Section 4041(a)(1)(B) is amended by striking the last sentence.

(B) The heading for subsection (l) of section 6427 is amended by striking ", Kerosene and Aviation Fuel" and inserting "and Kerosene".

(C) Section 4082(d)(2)(B) is amended by striking "section 6427(l)(5)(B)" and inserting "section 6427(l)(6)(B)".

(D) Section 6427(i)(4)(A) is amended—

(i) by striking "paragraph (4)(B) or (5)" both places it appears and inserting "paragraph (4)(B), (5), or (6)", and

(ii) by striking "subsection (b)(4) and subsection (l)(5)" in the last sentence and inserting "subsections (b)(4), (l)(5), and (l)(6)".

(E) Paragraph (4) of section 6427(l) is amended—

(i) by striking "aviation-grade" in subparagraph (A),

(ii) by striking "section 4081(a)(2)(A)(iv)" and inserting "section 4081(a)(2)(iii)",

(iii) by striking "aviation-grade kerosene" in subparagraph (B) and inserting "kerosene used in commercial aviation as described in subparagraph (A)", and

(iv) by striking "AVIATION-GRADE KEROSENE" in the heading thereof and inserting "KEROSENE USED IN COMMERCIAL AVIATION".

(F) Section 6427(l)(6)(B), as redesignated by paragraph (2)(B), is amended by striking "aviation-grade kerosene" and inserting "kerosene used in aviation".

(c) Transfers From Highway Trust Fund of Taxes on Fuels Used in Aviation to Airport and Airway Trust Fund.—

(1) In general.—Section 9503(c) (relating to expenditures from Highway Trust Fund), as amended by this Act, is amended by adding at the end the following new paragraph:

"(7) Transfers from the trust fund for certain aviation fuel taxes.—The Secretary shall pay from time to time from the Highway Trust Fund into the Airport and Airway Trust Fund amounts (as determined by the Secretary) equivalent to the taxes received on or after October 1, 2005, and before October 1, 2011, under sections 4041 and 4081 with respect to fuels used in a nontaxable use (as described in section 6427(l)(2)(B)) to the extent such amounts exceed the amounts paid with respect to such use under paragraphs (4) and (5) of section 6427(l).".

(2) Conforming amendments.—

(A) Section 9502(a) is amended by striking "appropriated or credited to the Airport and Airway Trust Fund as provided in this section or section 9602(b)" and inserting "appropriated, credited, or paid into the Airport and Airway Trust Fund as provided in this section, section 9503(c)(7), or section 9602(b)".

(B) Section 9502(b)(1) is amended—

(i) by striking "subsections (c) and (e) of section 4041" in subparagraph (A) and inserting "section 4041(c)", and

(ii) by striking "and aviation-grade kerosene" in subparagraph (C) and inserting "and kerosene to the extent attributable to the rate specified in section 4081(a)(2)(C)".

(C) Section 9503(b) is amended by striking paragraph (3).

(d) Effective Date.—The amendments made by this section shall apply to fuels or liquids removed, entered, or sold after September 30, 2005.

SEC. 5612. REPEAL OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) In General.—Subparagraph (A) of section 6427(l)(6) (relating to registered vendors to administer claims for refund of diesel fuel or kerosene sold to farmers and State and local governments), as redesignated by section 5611, is amended to read as follows:

"(A) In general.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.".

(b) Conforming Amendment.—The heading of paragraph (6) of section 6427(l), as so redesignated, is amended by striking "FARMERS AND".

(c) Effective Date.—The amendments made by this section shall apply to sales after September 30, 2005.

SEC. 5613. REFUNDS OF EXCISE TAXES ON EXEMPT SALES OF FUEL BY CREDIT CARD.

(a) Gasoline.—

(1) In general.—Paragraph (4) of section 6416(a) (relating to condition to allowance) is amended—

(A) by inserting "except as provided in subparagraph (B)," after "For purposes of this subsection," in subparagraph (A),

(B) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) Credit card issuer.—For purposes of this subsection, if the sale of gasoline described in subparagraph (A) (determined without regard to the registration status of the ultimate vendor) is made by means of a credit card issued to the ultimate purchaser, paragraph (1) shall not apply and the person extending the credit to the ultimate purchaser shall be treated as the person (and the only person) who paid the tax, but only if such person—

"(i) is registered under section 4101, and “(ii) has established, under regulations prescribed by the Secretary, that such person—

“(I) has not collected the amount of the tax from the person who purchased such article, or

“(II) has obtained the written consent from the ultimate purchaser to the allowance of the credit or refund, and

“(iii) has so established that such person—

“(I) has repaid or agreed to repay the amount of the tax to the ultimate vendor,

“(II) has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or

“(III) has otherwise made arrangements which directly or indirectly assure the ultimate vendor of reimbursement of such tax.”,

(C) by striking “subparagraph (A)” in subparagraph (C), as redesignated by paragraph (2), and inserting “subparagraph (A) or (B)”,

(D) by inserting “or credit card issuer” after “vendor” in subparagraph (C), as so redesignated, and

(E) by inserting “OR CREDIT CARD ISSUER” after “VENDOR” in the heading thereof.

(2) Conforming amendment.—Section 6416(b)(2) is amended by adding at the end the following new sentence: “Subparagraphs (C) and (D) shall not apply in the case of any tax imposed on gasoline under section 4081 if the requirements of subsection (a)(4) are not met.”

(b) Diesel Fuel or Kerosene.—Paragraph (6) of section 6427(l) (relating to nontaxable uses of diesel fuel and kerosene), as redesignated by section 5611, is amended—

(1) by striking “The amount” in subparagraph (C) and inserting “Except as provided in subparagraph (D), the amount”, and

(2) by adding at the end the following new subparagraph:

“(D) Credit card issuer.—For purposes of this paragraph, if the sale of any fuel described in subparagraph (A) (determined without regard to the registration status of the ultimate vendor) is made by means of a credit card issued to the ultimate purchaser, the Secretary shall pay to the person extending the credit to the ultimate purchaser the amount which would have been paid under paragraph (1) (but for subparagraph (A) or (B)), but only if such person meets the requirements of clauses (i), (ii), and (iii) of section 6416(a)(4)(B).”.

(c) Conforming Penalty Amendments.—

(1) Section 6206 (relating to special rules applicable to excessive claims under sections 6420, 6421, and 6427) is amended—

(A) by striking “Any portion” in the first sentence and inserting “Any portion of a refund made under section 6416(a)(4) and any portion”,

(B) by striking “payments under sections 6420” in the first sentence and inserting “refunds under section 6416(a)(4) and payments under sections 6420”,

(C) by striking “section 6420” in the second sentence and inserting “section 6416(a)(4), 6420”, and

(D) by striking “**SECTIONS 6420, 6421, AND 6427**” in the heading thereof and inserting “**CERTAIN SECTIONS**”.

(2) Section 6675(a) is amended by inserting “section 6416(a)(4) (relating to certain sales of gasoline),” after “made under”.

(3) Section 6675(b)(1) is amended by inserting “6416(a)(4),” after “under section”.

(4) The item relating to section 6206 in the table of sections for subchapter A of chapter 63 is amended by striking “sections 6420, 6421, and 6427” and inserting “certain sections”.

(d) Effective Date.—The amendments made by this section shall apply to sales after December 31, 2005.

SEC. 5614. ADDITIONAL REQUIREMENT FOR EXEMPT PURCHASES.

(a) State and Local Governments.—

(1) Subparagraph (C) of section 6416(b)(2) (relating to specified uses and resales) is amended to read as follows:

“(C) sold to a State or local government for the exclusive use of a State or local government (as defined in section 4221(d)(4) and certified as such by the State) or sold to a qualified volunteer fire department (as defined in section 150(e)(2) and certified as such by the State) for its exclusive use;”.

(2) Section 4041(g)(2) (relating to other exemptions) is amended by striking “or the District of Columbia” and inserting “the District of Columbia, or a qualified volunteer fire department (as defined in section 150(e)(2)) (and certified as such by the State or the District of Columbia)”.

(b) Nonprofit Educational Organizations.—

(1) Section 6416(b)(2)(D) is amended by inserting “(as defined in section 4221(d)(5) and certified to be in good standing by the State in which such organization is providing educational services)” after “organization”.

(2) Section 4041(g)(4) is amended_

(A) by inserting “(certified to be in good standing by the State in which such organization is providing educational services)” after “organization” the first place it appears, and

(B) by striking “use by a” and inserting “use by such a”.

(c) Effective Date.—The amendments made by this section shall apply to sales after December 31, 2005.

SEC. 5615. REREGISTRATION IN EVENT OF CHANGE IN OWNERSHIP.

(a) In General.—Section 4101(a) (relating to registration) is amended by adding at the end the following new paragraph:

“(4) Reregistration in event of change in ownership.—Under regulations prescribed by the Secretary, a person (other than a corporation the stock of which is regularly traded on an established securities market) shall be required to reregister under this section if after a transaction (or series of related transactions) more than 50 percent of ownership interests in, or assets of, such person are held by persons other than persons (or persons related thereto) who held more than 50 percent of such interests or assets before the transaction (or series of related transactions).”.

(b) Conforming Amendments.—

(1) Civil penalty.—Section 6719 (relating to failure to register) is amended—

(A) by inserting “or reregister” after “register” each place it appears,

(B) by inserting “OR REREGISTER” after “REGISTER” in the heading for subsection (a), and

(C) by inserting “**OR REREGISTER**” after “**REGISTER**” in the heading thereof.

(2) Criminal penalty.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended—

(A) by inserting “or reregister” after “register”,

(B) by inserting “or reregistration” after “registration”, and

(C) by inserting “**OR REREGISTER**” after “**REGISTER**” in the heading thereof.

(3) Clerical amendments.—The item relating to section 6719 in the table of sections for part I of subchapter B of chapter 68 and the item relating to section 7232 in the table of sections for part II of subchapter A of chapter 75 are each amended by inserting “or reregister” after “register”.

(c) Effective Date.—The amendments made by this section shall apply to actions, or failures to act, after the date of the enactment of this Act.

SEC. 5616. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) In General.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

“(4) Transmission of data.—Pursuant to paragraph (2), not later than 1 year after the date of enactment of this paragraph, the Secretary of Homeland Security, after consultation with the Secretary of the Treasury, shall establish an electronic data interchange system through which the United States Customs and Border Protection shall transmit to the Internal Revenue Service information pertaining to cargoes of any taxable fuel (as defined in section 4083 of the Internal Revenue Code of 1986) that the United States Customs and Border Protection has obtained electronically under its regulations adopted in accordance with paragraph (1). For this purpose, not later than 1 year after the date of enactment of this paragraph, all filers of required cargo information for such taxable fuels (as so defined) must provide such information to the United States Customs and Border Protection through such electronic data interchange system.”.

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5617. REGISTRATION OF DEEP-DRAFT VESSELS.

In applying section 4101 of the Internal Revenue Code of 1986 on and after the date of the enactment of this Act, the Secretary of the Treasury shall require the registration under such section of every operator of a vessel described in section 4042(c)(1) of such Code.

SEC. 5618. TAXATION OF GASOLINE BLENDSTOCKS AND KEROSENE.

With respect to fuel entered or removed after September 30, 2005, the Secretary of the Treasury shall, in applying section 4083 of the Internal Revenue Code of 1986—

(1) prohibit the nonbulk entry or removal of any gasoline blend stock without the imposition of tax under section 4081 of such Code, and

(2) include mineral spirits in the definition of kerosene.

SEC. 5619. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) In General.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: “Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.”.

(b) Conforming Amendments.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: “Paragraph (3) shall not apply to the sale of a liquid for delivery into a fuel tank of a motor vehicle which is shipped or driven out of the United States.”.

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting “or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)” after “section 4101”.

(c) Effective Date.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

SEC. 5620. PENALTY WITH RESPECT TO CERTAIN ADULTERATED FUELS.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6720A. PENALTY WITH RESPECT TO CERTAIN ADULTERATED FUELS.

"(a) IN GENERAL.—Any person who knowingly transfers for resale, sells for resale, or holds out for resale any liquid for use in a diesel-powered highway vehicle or a diesel-powered train which does not meet applicable EPA regulations (as defined in section 45H(c)(3)), shall pay a penalty of $10,000 for each such transfer, sale, or holding out for resale, in addition to the tax on such liquid (if any).

"(b) PENALTY IN THE CASE OF RETAILERS.—Any person who knowingly holds out for sale (other than for resale) any liquid described in subsection (a), shall pay a penalty of $10,000 for each such holding out for sale, in addition to the tax on such liquid (if any).".

(b) DEDICATION OF REVENUE.—Paragraph (5) of section 9503(b) (relating to certain penalties) is amended by inserting "6720A," after "6719,".

(c) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6720A. Penalty with respect to certain adulterated fuels.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any transfer, sale, or holding out for sale or resale occurring after the date of the enactment of this Act.

TITLE VI—PUBLIC TRANSPORTATION

SEC. 6001. SHORT TITLE.

This title may be cited as the "Federal Public Transportation Act of 2005".

SEC. 6002. AMENDMENTS TO TITLE 49, UNITED STATES CODE; UPDATED TERMINOLOGY.

(a) AMENDMENTS TO TITLE 49.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(b) UPDATED TERMINOLOGY.—Except for sections 5301(f), 5302(a)(7), and 5315, chapter 53, including the chapter analysis, is amended by striking "mass transportation" each place it appears and inserting "public transportation".

SEC. 6003. POLICIES, FINDINGS, AND PURPOSES.

(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—Section 5301(a) is amended to read as follows:

"(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—It is in the economic interest of the United States to foster the development and revitalization of public transportation systems, which are coordinated with other modes of transportation, that maximize the efficient, secure, and safe mobility of individuals and minimize environmental impacts.".

(b) GENERAL FINDINGS.—Section 5301(b)(1) is amended—

(1) by striking "70 percent" and inserting "two-thirds"; and

(2) by striking "urban areas" and inserting "urbanized areas".

(c) PRESERVING THE ENVIRONMENT.—Section 5301(e) is amended—

(1) by striking "an urban" and inserting "a"; and

(2) by striking "under sections 5309 and 5310 of this title".

(d) GENERAL PURPOSES.—Section 5301(f) is amended—

(1) in paragraph (1)—

(A) by striking "improved mass" and inserting "improved public"; and

(B) by striking "public and private mass transportation companies" and inserting "public transportation companies and private companies engaged in public transportation";

(2) in paragraph (2)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public and private mass transportation companies" and inserting "public transportation companies and private companies engaged in public transportation";

(3) in paragraph (3)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public or private mass transportation companies" and inserting "public transportation companies or private companies engaged in public transportation"; and

(4) in paragraph (5), by striking "urban mass" and inserting "public".

SEC. 6004. DEFINITIONS.

Section 5302(a) is amended—

(1) in paragraph (1)—

(A) in subparagraph (G)(i), by inserting "including the intercity bus and intercity rail portions of such facility or mall," after "transportation mall,";

(B) in subparagraph (G)(ii), by inserting ", except for the intercity bus portion of intermodal facilities or malls," after "commercial revenue-producing facility";

(C) in subparagraph (H)—

(i) by striking "and" after "innovative" and inserting "or"; and

(ii) by striking "or" after the semicolon at the end;

(D) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

"(J) crime prevention and security, including—

"(i) projects to refine and develop security and emergency response plans; or

"(ii) projects to detect chemical or biological agents in public transportation;

"(K) conducting emergency response drills with public transportation agencies and local first response agencies or security training for public transportation employees, except for expenses relating to operations; or

"(L) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter.";

(2) by redesignating paragraphs (8) through (17) as paragraphs (9) through (18), respectively;

(3) by striking paragraph (7) and inserting the following:

"(7) MASS TRANSPORTATION.—The term 'mass transportation' means public transportation.

"(8) MOBILITY MANAGEMENT.—The term 'mobility management' means a short-range planning or management activity or project that does not include operating public transportation services and—

"(A) improves coordination among public transportation providers, including private companies engaged in public transportation;

"(B) addresses customer needs by tailoring public transportation services to specific market niches; or

"(C) manages public transportation demand.";

(4) by amending paragraph (11), as redesignated, to read as follows:

"(11) PUBLIC TRANSPORTATION.—The term 'public transportation' means transportation by a conveyance that provides local regular and continuing general or special transportation to the public, but does not include school bus, charter bus, intercity bus or passenger rail, or sightseeing transportation.";

(5) in subparagraphs (A) and (E) of paragraph (16), as redesignated, by striking "and" each place it appears and inserting "or"; and

(6) by amending paragraph (18), as redesignated, to read as follows:

"(18) URBANIZED AREA.—The term 'urbanized area' means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an 'urbanized area' by the Secretary of Commerce.".

SEC. 6005. METROPOLITAN TRANSPORTATION PLANNING.

Section 5303 is amended to read as follows:

"§ 5303. Metropolitan transportation planning

"(a) DEFINITIONS.—As used in this section and in section 5304, the following definitions shall apply:

"(1) CONSULTATION.—A 'consultation' occurs when 1 party—

"(A) confers with another identified party in accordance with an established process;

"(B) prior to taking action, considers the views of the other identified party; and

"(C) periodically informs that party about action taken.

"(2) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means the geographic area determined by agreement between the metropolitan planning organization and the Governor under subsection (d).

"(3) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' means the Policy Board of the organization designated under subsection (c).

"(4) NONMETROPOLITAN AREA.—The term 'nonmetropolitan area' means any geographic area outside all designated metropolitan planning areas.

"(5) NONMETROPOLITAN LOCAL OFFICIAL.—The term 'nonmetropolitan local official' means any elected or appointed official of general purpose local government located in a nonmetropolitan area who is responsible for transportation services for such local government.

"(b) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives described in section 5301(a), each metropolitan planning organization, in cooperation with the State and public transportation operators, shall develop transportation plans and programs for metropolitan planning areas of the State in which it is located.

"(2) CONTENTS.—The plans and programs developed under paragraph (1) for each metropolitan planning area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(4) PLANNING AND PROJECT DEVELOPMENT.—The metropolitan planning organization, the State Department of Transportation, and the appropriate public transportation provider shall agree upon the approaches that will be used to evaluate alternatives and identify transportation improvements that address the most complex problems and pressing transportation needs in the metropolitan area.

"(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area—

"(A) by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) STRUCTURE.—Each metropolitan planning organization designated under paragraph (1) that serves an area identified as a transportation management area shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

"(C) appropriate State officials.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

"(A) to develop plans and programs for adoption by a metropolitan planning organization; and

"(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—The designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

"(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the existing planning area population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area) as appropriate to carry out this section.

"(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

"(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Office of Management and Budget.

"(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

"(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of the Federal Public Transportation Act of 2005 shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in accordance with paragraph (5).

"(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—If an urbanized area is designated after the date of enactment of this paragraph in a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established in accordance with subsection (c)(1);

"(B) shall encompass the areas described in paragraph (2)(A);

"(C) may encompass the areas described in paragraph (2)(B); and

"(D) may address any nonattainment identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

"(e) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

"(2) INTERSTATE COMPACTS.—States are authorized—

"(A) to enter into agreements or compacts with other States, which agreements or compacts are not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

"(3) LAKE TAHOE REGION.—

"(A) DEFINITION.—In this paragraph, the term 'Lake Tahoe region' has the meaning given the term 'region' in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96-551 (94 Stat. 3234).

"(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

"(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

"(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5304.

"(C) INTERSTATE COMPACT.—

"(i) IN GENERAL.—Subject to clause (ii) and notwithstanding subsection (c), to carry out the transportation planning process required by this section, California and Nevada may designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governor of the State of California, the Governor of the State of Nevada, and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area), or in accordance with procedures established by applicable State or local law.

"(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

"(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

"(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of title 23 and this chapter, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

"(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

"(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

"(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23.

"(f) COORDINATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans required by this section.

"(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a transportation improvement funded from the highway trust fund is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans regarding the transportation improvement.

"(3) INTERREGIONAL AND INTERSTATE PROJECT IMPACTS.—Planning for National Highway System, commuter rail projects, or other projects with substantial impacts outside a single metropolitan planning area or State shall be coordinated directly with the affected, contiguous, metropolitan planning organizations and States.

"(4) COORDINATION WITH OTHER PLANNING PROCESSES.—

"(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to coordinate its planning process, to the maximum extent practicable, with those officials responsible for other types of planning activities that are affected by transportation, including State and local land use planning, economic development, environmental protection, airport operations, housing, and freight.

"(B) OTHER CONSIDERATIONS.—The metropolitan planning process shall develop transportation plans with due consideration of, and in coordination with, other related planning activities within the metropolitan area. This should include the design and delivery of transportation services within the metropolitan area that are provided by—

"(i) recipients of assistance under this chapter;

"(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

"(iii) recipients of assistance under section 204 of title 23.

"(g) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—The goals and objectives developed through the metropolitan planning process for a metropolitan planning area under this section shall address, in relation to the performance of the metropolitan area transportation systems—

"(A) supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency, including through services provided by public and private operators;

"(B) increasing the safety of the transportation system for motorized and nonmotorized users;

"(C) increasing the security of the transportation system for motorized and nonmotorized users;

"(D) increasing the accessibility and mobility of people and for freight, including through services provided by public and private operators;

"(E) protecting and enhancing the environment (including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species), promoting energy conservation, and promoting consistency between transportation improvements and State and local land use planning and economic development patterns (including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the metropolitan area);

"(F) enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight, including through services provided by public and private operators;

"(G) promoting efficient system management and operation; and

"(H) emphasizing the preservation and efficient use of the existing transportation system, including services provided by public and private operators.

"(2) SELECTION OF FACTORS.—After soliciting and considering any relevant public comments, the metropolitan planning organization shall determine which of the factors described in paragraph (1) are most appropriate to consider.

"(3) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.

"(h) DEVELOPMENT OF TRANSPORTATION PLAN.—

"(1) IN GENERAL.—

"(A) REQUIREMENT.—Each metropolitan planning organization shall develop a transportation plan for its metropolitan planning area in accordance with this subsection, and update such plan—

"(i) not less frequently than once every 4 years in areas designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)), and in areas that were nonattainment that have been redesignated as attainment, in accordance with paragraph (3) of such section, with a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a); or

"(ii) not less frequently than once every 5 years in areas designated as attainment, as defined in section 107(d) of the Clean Air Act.

"(B) COORDINATION FACTORS.—In developing the transportation plan under this section, each metropolitan planning organization shall consider the factors described in subsection (f) over a 20-year forecast period.

"(C) FINANCIAL ESTIMATES.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

"(2) MITIGATION ACTIVITIES.—

"(A) IN GENERAL.—A transportation plan under this subsection shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

"(3) CONTENTS.— A transportation plan under this subsection shall be in a form that the Secretary determines to be appropriate and shall contain—

"(A) an identification of transportation facilities, including major roadways, transit, multimodal and intermodal facilities, intermodal connectors, and other relevant facilities identified by the metropolitan planning organization, which should function as an integrated metropolitan transportation system, emphasizing those facilities that serve important national and regional transportation functions;

"(B) a financial plan that—

"(i) demonstrates how the adopted transportation plan can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan;

"(iii) recommends any additional financing strategies for needed projects and programs; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if approved by the Secretary and reasonable additional resources beyond those identified in the financial plan were available;

"(C) operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods;

"(D) capital investment and other strategies to preserve the existing metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs; and

"(E) proposed transportation and transit enhancement activities.

"(4) CONSULTATION.—

"(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

"(B) ISSUES.—The consultation shall involve—

"(i) comparison of transportation plans with State conservation plans or with maps, if available;

"(ii) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(iii) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

"(5) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

"(6) APPROVAL OF THE TRANSPORTATION PLAN.—Each transportation plan prepared by a metropolitan planning organization shall be—

"(A) approved by the metropolitan planning organization; and

"(B) submitted to the Governor for information purposes at such time and in such manner as the Secretary may reasonably require.

"(i) PARTICIPATION BY INTERESTED PARTIES.—

"(1) DEVELOPMENT OF PARTICIPATION PLAN.—Not less frequently than every 4 years, each metropolitan planning organization shall develop and adopt a plan for participation in the process for developing the metropolitan transportation plan and programs by—

"(A) citizens;

"(B) affected public agencies;

"(C) representatives of public transportation employees;

"(D) freight shippers;

"(E) providers of freight transportation services;

"(F) private providers of transportation;

"(G) representatives of users of public transit;

"(H) representatives of users of pedestrian walkways and bicycle transportation facilities; and

"(I) other interested parties.

"(2) CONTENTS OF PARTICIPATION PLAN.—The participation plan—

"(A) shall be developed in a manner the Secretary determines to be appropriate;

"(B) shall be developed in consultation with all interested parties; and

"(C) shall provide that all interested parties have reasonable opportunities to comment on—

"(i) the process for developing the transportation plan; and

"(ii) the contents of the transportation plan.

"(3) METHODS.—The participation plan shall provide that the metropolitan planning organization shall, to the maximum extent practicable—

"(A) hold any public meetings at convenient and accessible locations and times;

"(B) employ visualization techniques to describe plans; and

"(C) make public information available in electronically accessible format and means, such as the World Wide Web.

"(4) CERTIFICATION.—Before the metropolitan planning organizations approve a transportation plan or program, each metropolitan planning organization shall certify that it has complied with the requirements of the participation plan it has adopted.

"(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT AND UPDATE.—

"(A) IN GENERAL.—In cooperation with the State and affected operators of public transportation, a metropolitan planning organization designated for a metropolitan planning area shall develop a transportation improvement program for the area.

"(B) PARTICIPATION.—In developing the transportation improvement program, the metropolitan planning organization, in cooperation with the Governor and any affected operator of public transportation, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i).

"(C) UPDATES.—The transportation improvement program shall be updated not less than once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

"(D) FUNDING ESTIMATE.—In developing the transportation improvement program, the metropolitan planning organization, operators of public transportation, and the State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

"(E) PROJECT ADVANCEMENT.—Projects listed in the transportation improvement program may be selected for advancement consistent with the project selection requirements.

"(F) MAJOR AMENDMENTS.—Major amendments to the list described in subparagraph (E), including the addition, deletion, or concept and scope change of a regionally significant project, may not be advanced without—

"(i) appropriate public involvement;

"(ii) financial planning;

"(iii) transportation conformity analyses; and

"(iv) a finding by the Federal Highway Administration and Federal Transit Administration that the amended plan was produced in a manner consistent with this section.

"(2) INCLUDED PROJECTS.—

"(A) PROJECTS UNDER CHAPTER 1 OF TITLE 23 AND THIS CHAPTER.—A transportation improvement program developed under this section for a metropolitan area shall include the projects and strategies within the metropolitan area that are proposed for funding under chapter 1 of title 23 and this chapter.

"(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan transportation improvement program.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not regionally significant shall be grouped in 1 line item or identified individually in the metropolitan transportation improvement program.

"(3) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—Except as otherwise provided under subsection (k)(4), the selection of federally funded projects in metropolitan planning areas shall be carried out, from the approved transportation plan—

"(i) by the State, in the case of projects under chapter 1 of title 23 or section 5308, 5310, 5311, or 5317 of this title;

"(ii) by the designated recipient, in the case of projects under section 5307; and

"(iii) in cooperation with the metropolitan planning organization.

"(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, a project may be advanced from the transportation improvement program in place of another project in the same transportation improvement program without the approval of the Secretary.

"(4) PUBLICATION REQUIREMENTS.—

"(A) PUBLICATION OF TRANSPORTATION IMPROVEMENT PROGRAM.—A transportation improvement program involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including, to the maximum extent practicable, in electronically accessible formats and means, such as the World Wide Web.

"(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding 4 years shall be published or otherwise made available for public review by the cooperative effort of the State, transit operator, and the metropolitan planning organization. This listing shall be consistent with the funding categories identified in the transportation improvement program.

"(C) RULEMAKING.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations specifying—

"(i) the types of data to be included in the list described in subparagraph (B), including—

"(I) the name, type, purpose, and geocoded location of each project;

"(II) the Federal, State and local identification numbers assigned to each project;

"(III) amounts obligated and expended on each project, sorted by funding source and transportation mode, and the date on which each obligation was made; and

"(IV) the status of each project; and

"(ii) the media through which the list described in subparagraph (B) will be made available to the public, including written and visual components for each of the projects listed.

"(k) TRANSPORTATION MANAGEMENT AREAS.—

"(1) REQUIRED IDENTIFICATION.—The Secretary shall identify each urbanized area with a population of more than 200,000 individuals as a transportation management area.

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Transportation plans and programs for a metropolitan planning area serving a transportation management area shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

"(3) CONGESTION MANAGEMENT SYSTEM.—

"(A) IN GENERAL.—The transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and this chapter through the use of travel demand reduction and operational management strategies.

"(B) PHASE-IN SCHEDULE.—The Secretary shall establish a phase-in schedule that provides for full compliance with the requirements of this section not later than 1 year after the identification of transportation management areas under paragraph (1).

"(4) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (except for projects carried out on the National Highway System and projects carried out under the bridge program or the interstate maintenance program) or under this chapter shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects on the National Highway System carried out within the boundaries of a metropolitan planning area serving a transportation management area and projects carried out within such boundaries under the bridge program or the interstate maintenance program under title 23 shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall—

"(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with Federal law; and

"(ii) subject to subparagraph (B), certify, not less frequently than once every 4 years in nonattainment and maintenance areas (as defined under the Clean Air Act) and not less frequently than once every 5 years in attainment areas (as defined under such Act), that the requirements of this paragraph are met with respect to the metropolitan planning process.

"(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

"(i) the transportation planning process complies with the requirements of this section and all other applicable Federal law; and

"(ii) a transportation plan and a transportation improvement program for the metropolitan planning area have been approved by the metropolitan planning organization and the Governor.

"(C) PENALTY FOR FAILING TO CERTIFY.—

"(i) WITHHOLDING PROJECT FUNDS.—If the metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold any funds otherwise available to the metropolitan planning area for projects funded under title 23 and this chapter.

"(ii) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under clause (i) shall be restored to the metropolitan planning area when the metropolitan planning process is certified by the Secretary.

"(D) REVIEW OF CERTIFICATION.—In making a certification under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

"(*l*) ABBREVIATED PLANS FOR CERTAIN AREAS.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and transportation improvement program for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, after considering the complexity of transportation problems in the area.

"(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

"(m) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Notwithstanding any other provisions of title 23 or this chapter, Federal funds may not be advanced for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) for any highway project that will result in a significant increase in carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

"(2) APPLICABILITY.—This subsection applies to any nonattainment area within the metropolitan planning area boundaries determined under subsection (d).

"(n) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project that is not eligible under title 23 or this chapter.

"(o) AVAILABILITY OF FUNDS.—Funds set aside under section 104(f) of title 23 or section 5308 of this title shall be available to carry out this section.

"(p) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 6006. STATEWIDE TRANSPORTATION PLANNING.

Section 5304 is amended to read as follows:

"§5304. Statewide transportation planning

"(a) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To support the policies described in section 5301(a), each State shall develop a statewide transportation plan (referred to in this section as a "Plan") and a statewide transportation improvement program (referred to in this section as a "Program") for all areas of the State subject to section 5303.

"(2) CONTENTS.—The Plan and the Program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing the Plan and the Program shall—

"(A) provide for the consideration of all modes of transportation and the policies described in section 5301(a); and

"(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—Each State shall—

"(1) coordinate planning under this section with—

"(A) the transportation planning activities under section 5303 for metropolitan areas of the State; and

"(B) other related statewide planning activities, including trade and economic development and related multistate planning efforts; and

"(2) develop the transportation portion of the State implementation plan, as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

"(c) INTERSTATE AGREEMENTS.—States may enter into agreements or compacts with other States for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

"(d) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for the consideration of projects, strategies, and implementing projects and services that will—

"(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

"(B) increase the safety of the transportation system for motorized and nonmotorized users;

"(C) increase the security of the transportation system for motorized and nonmotorized users;

"(D) increase the accessibility and mobility of people and freight;

"(E) protect and enhance the environment (including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species), promote energy conservation, promote consistency between transportation improvements and State and local land use planning and economic development patterns, and improve the quality of life (including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the State);

"(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

"(G) promote efficient system management and operation; and

"(H) emphasize the preservation and efficient use of the existing transportation system.

"(2) SELECTION OF PROJECTS AND STRATEGIES.—After soliciting and considering any relevant public comments, the State shall determine which of the projects and strategies described in paragraph (1) are most appropriate.

"(3) MITIGATION ACTIVITIES.—

"(A) IN GENERAL.—A transportation plan under this subsection shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

"(4) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor described in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a Plan, a Program, a project or strategy, or the certification of a planning process.

"(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider—

"(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

"(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

"(3) coordination of Plans, Programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

"(f) STATEWIDE TRANSPORTATION PLAN.—

"(1) DEVELOPMENT.—Each State shall develop a Plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN PLANNING AREAS.—The Plan shall be developed for each metropolitan planning area in the State in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

"(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

"(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

"(i) IN GENERAL.—The Plan shall be developed, as appropriate, in consultation with State and local agencies responsible for—

"(I) land use management;

"(II) natural resources;

"(III) environmental protection;

"(IV) conservation; and

"(V) historic preservation.

"(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve—

"(I) comparison of transportation plans to State conservation plans or maps, if available;

"(II) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(III) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

"(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the Plan, the State shall—

"(A) provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed Plan; and

"(B) to the maximum extent practicable—

"(i) hold any public meetings at convenient and accessible locations and times;

"(ii) employ visualization techniques to describe plans; and

"(iii) make public information available in electronically accessible format and means, such as the World Wide Web.

"(4) MITIGATION ACTIVITIES.—

"(A) IN GENERAL.—A Plan shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetlands, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

"(5) TRANSPORTATION STRATEGIES.—A Plan shall identify transportation strategies necessary to efficiently serve the mobility needs of people.

"(6) FINANCIAL PLAN.—The Plan may include a financial plan that—

"(A) demonstrates how the adopted Plan can be implemented;

"(B) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Plan;

"(C) recommends any additional financing strategies for needed projects and programs; and

"(D) may include, for illustrative purposes, additional projects that would be included in the adopted Plan if reasonable additional resources beyond those identified in the financial plan were available.

"(7) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects described in paragraph (6)(D).

"(8) EXISTING SYSTEM.—The Plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

"(9) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each Plan prepared by a State shall be published or otherwise made available, including, to the maximum extent practicable, in electronically accessible formats and means, such as the World Wide Web.

"(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—Each State shall develop a Program for all areas of the State.

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN PLANNING AREAS.—With respect to each metropolitan planning area in the State, the Program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

"(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the Program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

"(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Program shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the Program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transit, representatives of users of pedestrian walkways and bicycle transportation facilities, and other interested parties with a reasonable opportunity to comment on the proposed Program.

"(4) INCLUDED PROJECTS.—

"(A) IN GENERAL.—A Program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

"(B) LISTING OF PROJECTS.—

"(i) IN GENERAL.—The Program shall cover a minimum of 4 years, identify projects by year, be fiscally constrained by year, and be updated not less than once every 4 years.

"(ii) PUBLICATION.—An annual listing of projects for which funds have been obligated in the preceding 4 years in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

"(C) INDIVIDUAL IDENTIFICATION.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

"(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project included in the list described in subparagraph (B) shall be—

"(i) consistent with the Plan developed under this section for the State;

"(ii) identical to the project or phase of the project as described in each year of the approved metropolitan transportation improvement program; and

"(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

"(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The Program shall not include a project, or an identified phase of a project, unless full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(F) FINANCIAL PLAN.—The Program may include a financial plan that—

"(i) demonstrates how the approved Program can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Program;

"(iii) recommends any additional financing strategies for needed projects and programs; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

"(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

"(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects described in subparagraph (F)(iv).

"(ii) REQUIRED APPROVAL BY THE SECRETARY.—A State shall not include any project from the illustrative list of additional projects described in subparagraph (F)(iv) in an approved Program without the approval of the Secretary.

"(H) PRIORITIES.—The Program shall reflect the priorities for programming and expenditures of funds, including transportation and transit enhancement activities, required by title 23 and this chapter, and transportation control measures included in the State's air quality implementation plan.

"(5) PROJECT SELECTION FOR AREAS WITH FEWER THAN 50,000 INDIVIDUALS.—

"(A) IN GENERAL.—Each State, in cooperation with the affected nonmetropolitan local officials with responsibility for transportation, shall select projects to be carried out in areas with fewer than 50,000 individuals from the approved Program (excluding projects carried out under the National Highway System, the bridge program, or the interstate maintenance program under title 23 or sections 5310 and 5311 of this title).

"(B) CERTAIN PROGRAMS.—Each State, in consultation with the affected nonmetropolitan local officials with responsibility for transportation, shall select, from the approved Program, projects to be carried out in areas with fewer than 50,000 individuals under the National Highway System, the bridge program, or the Interstate maintenance program under title 23 or under sections 5310 and 5311 of this title.

"(6) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—A Program developed under this subsection shall be reviewed and based on a current planning finding approved by the Secretary not less frequently than once every 4 years.

"(7) PLANNING FINDING.—Not less frequently than once every 4 years, the Secretary shall determine whether the transportation planning process through which Plans and Programs are developed are consistent with this section and section 5303.

"(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, a project included in the approved Program may be advanced in place of another project in the program without the approval of the Secretary.

"(h) FUNDING.—Funds set aside pursuant to section 104(i) of title 23 and section 5308 of this title shall be available to carry out this section.

"(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT SYSTEMS.—For purposes of this section and section 5303, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management system under section 5303(i)(3) if the Secretary determines that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of section 5303.

"(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary under this section, regarding a metropolitan or statewide transportation plan or the Program, shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 6007. TRANSPORTATION MANAGEMENT AREAS.

Section 5305 is repealed.

SEC. 6008. PRIVATE ENTERPRISE PARTICIPATION.

Section 5306 is amended—

(1) in subsection (a)—

(A) by striking "5305 of this title" and inserting "5308"; and

(B) by inserting ", as determined by local policies, criteria, and decision making," after "feasible";

(2) in subsection (b) by striking "5303-5305 of this title" and inserting "5303, 5304, and 5308"; and

(3) by adding at the end the following:

"(c) REGULATIONS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations describing how the requirements under this chapter relating to subsection (a) shall be enforced.".

SEC. 6009. URBANIZED AREA FORMULA GRANTS.

(a) TECHNICAL AMENDMENTS.—Section 5307 is amended—

(1) by striking subsections (h), (j) and (k); and

(2) by redesignating subsections (i), (l), (m), and (n) as subsections (h), (i), (j), and (k), respectively.

(b) DEFINITIONS.—Section 5307(a) is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(A) an entity designated, in accordance with the planning process under sections 5303, 5304, and 5306, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 that are attributable to transportation management areas designated under section 5303; or"; and

(2) by adding at the end the following:

"(3) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a Federal transit program grant indirectly through a recipient, rather than directly from the Federal Government.".

(c) GENERAL AUTHORITY.—Section 5307(b) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The Secretary of Transportation may award grants under this section for—

"(A) capital projects, including associated capital maintenance items;

"(B) planning, including mobility management;

"(C) transit enhancements;

"(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000; and

"(E) operating costs of equipment and facilities for use in public transportation in a portion or portions of an urbanized area with a population of at least 200,000, but not more than 225,000, if—

"(i) the urbanized area includes parts of more than 1 State;

"(ii) the portion of the urbanized area includes only 1 State;

"(iii) the population of the portion of the urbanized area is less than 30,000; and

"(iv) the grants will not be used to provide public transportation outside of the portion of the urbanized area.";

(2) by amending paragraph (2) to read as follows:

"(2) SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2007.—

"(A) INCREASED FLEXIBILITY.—The Secretary may award grants under this section, from funds made available to carry out this section for each of the fiscal years 2005 through 2007, to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000, as determined by the 2000 decennial census of population if—

"(i) the urbanized area had a population of less than 200,000, as determined by the 1990 decennial census of population;

"(ii) a portion of the urbanized area was a separate urbanized area with a population of less than 200,000, as determined by the 1990 decennial census of population;

"(iii) the area was not designated as an urbanized area, as determined by the 1990 decennial census of population; or

"(iv) a portion of the area was not designated as an urbanized area, as determined by the 1990 decennial census, and received assistance under section 5311 in fiscal year 2002.

"(B) MAXIMUM AMOUNTS IN FISCAL YEAR 2005.—In fiscal year 2005—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than the amount the portion of the area received under section 5311 for fiscal year 2002.

"(C) MAXIMUM AMOUNTS IN FISCAL YEAR 2006.—In fiscal year 2006—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less 50 percent of the amount the portion of the area received under section 5311 for fiscal year 2002.

"(D) MAXIMUM AMOUNTS IN FISCAL YEAR 2007.—In fiscal year 2007—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 25 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 25 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 25 percent of the amount the portion of the area received under section 5311 in fiscal year 2002."; and

(3) by striking paragraph (4).

(d) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d)(1) is amended—

(1) in subparagraph (A), by inserting ", including safety and security aspects of the program" after "program";

(2) in subparagraph (E), by striking "section" and all that follows and inserting "section, the recipient will comply with sections 5323 and 5325;";

(3) in subparagraph (H), by striking "sections 5301(a) and (d), 5303-5306, and 5310(a)-(d) of this title" and inserting "subsections (a) and (d) of section 5301 and sections 5303 through 5306";

(4) in subparagraph (I) by striking "and" at the end;

(5) in subparagraph (J), by striking the period at the end and inserting "; and"; and

(6) by adding at the end the following:

"(K) if located in an urbanized area with a population of at least 200,000, will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for transit enhancement activities described in section 5302(a)(15).".

(e) GOVERNMENT'S SHARE OF COSTS.—Section 5307(e) is amended—

(1) by striking the first sentence and inserting the following:

"(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall cover 80 percent of the net project cost.";

(2) by striking "A grant for operating expenses" and inserting the following:

"(2) OPERATING EXPENSES.—A grant for operating expenses";

(3) by striking the fourth sentence and inserting the following:

"(3) REMAINING COSTS.—The remainder of the net project cost shall be provided in cash from non-Federal sources or revenues derived from the sale of advertising and concessions and amounts received under a service agreement with a State or local social service agency or a private social service organization."; and

(4) by adding at the end the following: "The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42

U.S.C. 603(a)(5)(C)(vii)) shall not apply to the remainder.".

(f) UNDERTAKING PROJECTS IN ADVANCE.—Section 5307(g) is amended by striking paragraph (4).

(g) RELATIONSHIP TO OTHER LAWS.—Section 5307(k), as redesignated, is amended to read as follows:

"(k) RELATIONSHIP TO OTHER LAWS.—

"(1) APPLICABLE PROVISIONS.—Sections 5301, 5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333 and 5335 apply to this section and to any grant made under this section.

"(2) INAPPLICABLE PROVISIONS.—

"(A) IN GENERAL.—Except as provided under this section, no other provision of this chapter applies to this section or to a grant made under this section.

"(B) TITLE 5.—The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15 of title 5, any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable.".

SEC. 6010. PLANNING PROGRAMS.

(a) IN GENERAL.—Section 5308 is amended to read as follows:

"§ 5308. Planning programs

"(a) GRANTS AUTHORIZED.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, make agreements with other departments, agencies, or instrumentalities of the Government, or enter into contracts with private nonprofit or for-profit entities to—

"(1) develop transportation plans and programs;

"(2) plan, engineer, design, and evaluate a public transportation project; or

"(3) conduct technical studies relating to public transportation, including—

"(A) studies related to management, planning, operations, capital requirements, and economic feasibility;

"(B) evaluations of previously financed projects;

"(C) peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners; and

"(D) other similar and related activities preliminary to, and in preparation for, constructing, acquiring, or improving the operation of facilities and equipment.

"(b) PURPOSE.—To the extent practicable, the Secretary shall ensure that amounts appropriated pursuant to section 5338 to carry out this section and sections 5303, 5304, and 5306 are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

"(c) METROPOLITAN PLANNING PROGRAM.—

"(1) ALLOCATIONS TO STATES.—

"(A) IN GENERAL.—The Secretary shall allocate 80 percent of the amount made available under subsection (g)(3)(A) to States to carry out sections 5303 and 5306 in a ratio equal to the population in urbanized areas in each State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census of population.

"(B) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the total amount allocated under this paragraph.

"(2) AVAILABILITY OF FUNDS.—A State receiving an allocation under paragraph (1) shall promptly distribute such funds to metropolitan planning organizations in the State under a formula—

"(A) developed by the State in cooperation with the metropolitan planning organizations;

"(B) approved by the Secretary of Transportation;

"(C) that considers population in urbanized areas; and

"(D) that provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section.

"(3) SUPPLEMENTAL ALLOCATIONS.—

"(A) IN GENERAL.—The Secretary shall allocate 20 percent of the amount made available under subsection (g)(3)(A) to States to supplement allocations made under paragraph (1) for metropolitan planning organizations.

"(B) ALLOCATION FORMULA.—Amounts under this paragraph shall be allocated under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities in complex metropolitan planning areas under sections 5303, 5304, and 5306.

"(d) STATE PLANNING AND RESEARCH PROGRAM.—

"(1) IN GENERAL.—The Secretary shall allocate amounts made available pursuant to subsection (g)(3)(B) to States for grants and contracts to carry out sections 5304, 5306, 5315, and 5322 so that each State receives an amount equal to the ratio of the population in urbanized areas in that State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census.

"(2) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the amount allocated under this subsection.

"(3) REALLOCATION.—A State may authorize part of the amount made available under this subsection to be used to supplement amounts available under subsection (c).

"(e) PLANNING CAPACITY BUILDING PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a Planning Capacity Building Program (referred to in this subsection as the "Program") to support and fund innovative practices and enhancements in transportation planning.

"(2) PURPOSE.—The purpose of the Program shall be to promote activities that support and strengthen the planning processes required under this section and sections 5303 and 5304.

"(3) ADMINISTRATION.—The Program shall be administered by the Federal Transit Administration in cooperation with the Federal Highway Administration.

"(4) USE OF FUNDS.—

"(A) IN GENERAL.—Appropriations authorized under subsection (g)(1) to carry out this subsection may be used—

"(i) to provide incentive grants to States, metropolitan planning organizations, and public transportation operators; and

"(ii) to conduct research, disseminate information, and provide technical assistance.

"(B) GRANTS, CONTRACTS, COOPERATIVE AGREEMENTS.—In carrying out the activities described in subparagraph (A), the Secretary may—

"(i) expend appropriated funds directly; or

"(ii) award grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local governmental authority, association, nonprofit or for-profit entity, or institution of higher education.

"(f) GOVERNMENT'S SHARE OF COSTS.—Amounts made available to carry out subsections (c), (d), and (e) may not exceed 80 percent of the costs of the activity unless the Secretary of Transportation determines that it is in the interest of the Government not to require State or local matching funds.

"(g) ALLOCATION OF FUNDS.—Of the amounts made available under section 5338(b)(2)(B) for fiscal year 2006 and each fiscal year thereafter to carry out this section—

"(1) $5,000,000 shall be allocated for the Planning Capacity Building Program established under subsection (e);

"(2) $20,000,000 shall be allocated for grants under subsection (a)(2) for alternatives analyses required by section 5309(e)(2)(A); and

"(3) of the remaining amount—

"(A) 82.72 percent shall be allocated for the metropolitan planning program described in subsection (d); and

"(B) 17.28 percent shall be allocated to carry out subsection (b).

"(h) REALLOCATIONS.—Any amount allocated under this section that has not been used 3 years after the end of the fiscal year in which the amount was allocated shall be reallocated among the States.".

(b) CONFORMING AMENDMENT.—The item relating to section 5308 in the table of sections for chapter 53 is amended to read as follows:

"5308. Planning programs.".

SEC. 6011. CAPITAL INVESTMENT PROGRAM.

(a) SECTION HEADING.—The section heading of section 5309 is amended to read as follows:

"§ 5309. Capital investment grants".

(b) GENERAL AUTHORITY.—Section 5309(a) is amended—

(1) in paragraph (1)—

(A) by striking "(1) The Secretary of Transportation may make grants and loans" and inserting the following:

"(1) GRANTS AUTHORIZED.—The Secretary may award grants";

(B) in subparagraph (A), by striking "alternatives analysis related to the development of systems,";

(C) by striking subparagraphs (B), (C), (D), and (G);

(D) by redesignating subparagraphs (E), (F), and (H) as subparagraphs (B), (C), and (D), respectively;

(E) in subparagraph (C), as redesignated, by striking the semicolon at the end and inserting ", including programs of bus and bus-related projects for assistance to subrecipients which are public agencies, private companies engaged in public transportation, or private nonprofit organizations; and"; and

(F) in subparagraph (D), as redesignated—

(i) by striking "to support fixed guideway systems"; and

(ii) by striking "dedicated bus and high occupancy vehicle";

(2) by amending paragraph (2) to read as follows:

"(2) GRANTEE REQUIREMENTS.—

"(A) GRANTEE IN URBANIZED AREA.—The Secretary shall require that any grants awarded under this section to a recipient or subrecipient located in an urbanized area shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

"(B) GRANTEE NOT IN URBANIZED AREA.—The Secretary shall require that any grants awarded under this section to a recipient or subrecipient not located in an urbanized area shall be subject to the same terms, conditions, requirements, and provisions as a recipient or subrecipient of assistance under section 5311.

"(C) SUBRECIPIENT.—The Secretary shall require that any private, nonprofit organization that is a subrecipient of a grant awarded under this section shall be subject to the same terms, conditions, requirements, and provisions as a subrecipient of assistance under section 5310.

"(D) STATEWIDE TRANSIT PROVIDER GRANTEES.—A statewide transit provider that receives a grant under this section shall be subject to the terms, conditions, requirements, and provisions of this section or section 5311, consistent with the scope and purpose of the grant and the location of the project."; and

(3) by adding at the end the following:

"(3) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the findings required under this subsection.".

(c) DEFINED TERM.—Section 5309(b) is amended to read as follows:

"(b) DEFINED TERM.—As used in this section, the term 'alternatives analysis' means a study conducted as part of the transportation planning process required under sections 5303 and 5304, which includes—

"(1) an assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea;

"(2) sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under this section;

"(3) the selection of a locally preferred alternative; and

"(4) the adoption of the locally preferred alternative as part of the long-range transportation plan required under section 5303.".

(d) GRANT REQUIREMENTS.—Section 5309(d) is amended to read as follows:

"(d) GRANT REQUIREMENTS.—The Secretary may not approve a grant for a project under this section unless the Secretary determines that—

"(1) the project is part of an approved transportation plan and program of projects required under sections 5303, 5304, and 5306; and

"(2) the applicant has, or will have—

"(A) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;

"(B) satisfactory continuing control over the use of the equipment or facilities; and

"(C) the capability and willingness to maintain the equipment or facilities.".

(e) MAJOR CAPITAL INVESTMENT PROJECTS OF $75,000,000 OR MORE.—Section 5309(e) is amended to read as follows:

"(e) MAJOR CAPITAL INVESTMENT PROJECTS OF $75,000,000 OR MORE.—

"(1) FULL FUNDING GRANT AGREEMENT.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving not less than $75,000,000 under this subsection for a new fixed guideway capital project that—

"(A) is authorized for final design and construction; and

"(B) has been rated as medium, medium-high, or high, in accordance with paragraph (5)(B).

"(2) DETERMINATIONS.—The Secretary may not award a grant under this subsection for a new fixed guideway capital project unless the Secretary determines that the proposed project is—

"(A) based on the results of an alternatives analysis and preliminary engineering;

"(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost-effectiveness, operating efficiencies, economic development effects, and public transportation supportive land use patterns and policies; and

"(C) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct the project, and maintain and operate the entire public transportation system, while ensuring that the extent and quality of existing public transportation services are not degraded.

"(3) EVALUATION OF PROJECT JUSTIFICATION.—In making the determinations under paragraph (2)(B) for a major capital investment grant, the Secretary shall analyze, evaluate, and consider—

"(A) the results of the alternatives analysis and preliminary engineering for the proposed project;

"(B) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

"(C) the direct and indirect costs of relevant alternatives;

"(D) factors such as—

"(i) congestion relief;

"(ii) improved mobility;

"(iii) air pollution;

"(iv) noise pollution;

"(v) energy consumption; and

"(vi) all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;

"(E) reductions in local infrastructure costs achieved through compact land use development and positive impacts on the capacity, utilization, or longevity of other surface transportation assets and facilities;

"(F) the cost of suburban sprawl;

"(G) the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

"(H) population density and current transit ridership in the transportation corridor;

"(I) the technical capability of the grant recipient to construct the project;

"(J) any adjustment to the project justification necessary to reflect differences in local land, construction, and operating costs; and

"(K) other factors that the Secretary determines to be appropriate to carry out this chapter.

"(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—

"(A) IN GENERAL.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

"(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

"(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

"(iii) local resources are available to recapitalize and operate the overall proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels, while ensuring that the extent and quality of existing public transportation services are not degraded.

"(B) EVALUATION CRITERIA.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—

"(i) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

"(ii) existing grant commitments;

"(iii) the degree to which financing sources are dedicated to the proposed purposes;

"(iv) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

"(v) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project, provided that if the Secretary gives priority to financing projects that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

"(5) PROJECT ADVANCEMENT AND RATINGS.—

"(A) PROJECT ADVANCEMENT.—A proposed project under this subsection shall not advance from alternatives analysis to preliminary engineering or from preliminary engineering to final design and construction unless the Secretary determines that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements.

"(B) RATINGS.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the results of the alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by regulation.

"(6) APPLICABILITY.—This subsection shall not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2005.

"(7) RULEMAKING.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations on the manner by which the Secretary shall evaluate and rate projects based on the results of alternatives analysis, project justification, and local financial commitment, in accordance with this subsection.

"(8) POLICY GUIDANCE.—

"(A) PUBLICATION.—The Secretary shall publish policy guidance regarding the new starts project review and evaluation process—

"(i) not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005; and

"(ii) each time significant changes are made by the Secretary to the new starts project review and evaluation process and criteria, but not less frequently than once every 2 years.

"(B) PUBLIC COMMENT AND RESPONSE.—The Secretary shall—

"(i) invite public comment to the policy guidance published under subparagraph (A); and

"(ii) publish a response to the comments received under clause (i).".

(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN $75,000,000.— Section 5309(f) is amended to read as follows:

“(f) Major Capital Investment Projects of Less Than $75,000,000.—

“(1) Project construction grant agreement.—

“(A) In general.—The Secretary shall enter into a project construction grant agreement, based on evaluations and ratings required under this subsection, with each grantee receiving less than $75,000,000 under this subsection for a new fixed guideway or corridor improvement capital project that—

“(i) is authorized by law; and

“(ii) has been rated as medium, medium-high, or high, in accordance with paragraph (3)(B).

“(B) Contents.—

“(i) In general.—An agreement under this paragraph shall specify—

“(I) the scope of the project to be constructed;

“(II) the estimated net cost of the project;

“(III) the schedule under which the project shall be constructed;

“(IV) the maximum amount of funding to be obtained under this subsection;

“(V) the proposed schedule for obligation of future Federal grants; and

“(VI) the sources of non-Federal funding.

“(ii) Additional funding.—The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

“(C) Full funding grant agreement.—An agreement under this paragraph shall be considered a full funding grant agreement for the purposes of subsection (g).

“(2) Selection process.—

“(A) Selection criteria.—The Secretary may not award a grant under this subsection for a proposed project unless the Secretary determines that the project is—

“(i) based on the results of planning and alternatives analysis;

“(ii) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and

“(iii) supported by an acceptable degree of local financial commitment.

“(B) Planning and alternatives.—In evaluating a project under subparagraph (A)(i), the Secretary shall analyze and consider the results of planning and alternatives analysis for the project.

“(C) Project justification.—In making the determinations under subparagraph (A)(ii), the Secretary shall—

“(i) determine the degree to which local land use policies are supportive of the public transportation project and the degree to which the project is likely to achieve local developmental goals;

“(ii) determine the cost effectiveness of the project at the time of the initiation of revenue service;

“(iii) determine the degree to which the project will have a positive effect on local economic development;

“(iv) consider the reliability of the forecasts of costs and ridership associated with the project; and

“(v) consider other factors that the Secretary determines to be appropriate to carry out this subsection.

“(D) Local financial commitment.—For purposes of subparagraph (A)(iii), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

“(3) Advancement of project to development and construction.—

“(A) In general.—A proposed project under this subsection may not advance from the planning and alternatives analysis stage to project development and construction unless—

“(i) the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements; and

“(ii) the metropolitan planning organization has adopted the locally preferred alternative for the project into the long-range transportation plan.

“(B) Evaluation.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as high, medium-high, medium, medium-low, or low, based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required under this subsection.

“(4) Impact report.—

“(A) In general.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2005, the Federal Transit Administration shall submit a report on the methodology to be used in evaluating the land use and economic development impacts of non-fixed guideway or partial fixed guideway projects to—

“(i) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

“(ii) the Committee on Transportation and Infrastructure of the House of Representatives.

“(B) Contents.—The report submitted under subparagraph (A) shall address any qualitative and quantitative differences between fixed guideway and non-fixed guideway projects with respect to land use and economic development impacts.

“(5) Regulations.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.”.

(g) Full Funding Grant Agreements.—Section 5309(g)(2) is amended by adding at the end the following:

“(C) Before and after study.—

“(i) In general.—Each full funding grant agreement shall require the applicant to conduct a study that—

“(I) describes and analyzes the impacts of the new start project on transit services and transit ridership;

“(II) evaluates the consistency of predicted and actual project characteristics and performance; and

“(III) identifies sources of differences between predicted and actual outcomes.

“(ii) Information collection and analysis plan.—

“(I) Submission of plan.—Applicants seeking a full funding grant agreement shall submit a complete plan for the collection and analysis of information to identify the impacts of the new start project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

“(II) Contents of plan.—The plan submitted under subclause (I) shall provide for—

“(aa) the collection of data on the current transit system regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

“(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

“(cc) collection of data on the transit system 2 years after the opening of the new start project, including analogous information on transit service levels and ridership patterns and information on the as-built scope and capital costs of the new start project; and

“(dd) analysis of the consistency of predicted project characteristics with the after data.

“(D) Collection of data on current system.—To be eligible for a full funding grant agreement, recipients shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed new start project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

“(E) Public private partnership pilot program.—

“(i) Authorization.—The Secretary may establish a pilot program to demonstrate the advantages of public-private partnerships for certain fixed guideway systems development projects.

“(ii) Identification of qualified projects.—The Secretary shall identify qualified public-private partnership projects as permitted by applicable State and local enabling laws and work with project sponsors to enhance project delivery and reduce overall costs.”.

(h) Government Share of Net Project Cost.—Section 5309(h) is amended to read as follows:

“(h) Government Share of Adjusted Net Project Cost.—

“(1) In general.—The Secretary shall estimate the net project cost based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities.

“(2) Adjustment for completion under budget.—The Secretary may adjust the final net project cost of a major capital investment project evaluated under subsections (e) and (f) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

“(3) Maximum government share.—

“(A) In general.—A grant for the project shall be for 80 percent of the net project cost, or the net project cost as adjusted under paragraph (2), unless the grant recipient requests a lower grant percentage.

“(B) Exceptions.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

“(i) the Secretary determines that the net project cost of the project is not more than 10 percent higher than the net project cost estimated at the time the project was approved for advancement into preliminary engineering; and

“(ii) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.

“(4) Other sources.—The costs not funded by a grant under this section may be funded from—

“(A) an undistributed cash surplus;

“(B) a replacement or depreciation cash fund or reserve; or

“(C) new capital, including any Federal funds that are eligible to be expended for transportation.

“(5) PLANNED EXTENSION TO FIXED GUIDEWAY SYSTEM.—In addition to amounts allowed under paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the Secretary determines that only non-Federal funds were used and that the purchase was made for use on the extension. A refund or reduction of the costs not funded by a grant under this section may be made only if a refund of a proportional amount of the grant is made at the same time.

“(6) EXCEPTION.—The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to amounts allowed under paragraph (4).”.

(i) LOAN PROVISIONS AND FISCAL CAPACITY CONSIDERATIONS.—Section 5309 is amended—

(1) by striking subsections (i), (j), (k), and (l);

(2) by redesignating subsections (m) and (n) as subsections (i) and (j), respectively;

(3) by striking subsection (o) (as added by section 3009(i) of the Federal Transit Act of 1998); and

(4) by redesignating subsections (o) and (p) as subsections (k) and (l), respectively.

(j) ALLOCATING AMOUNTS.—Section 5309(i), as redesignated, is amended to read as follows:

“(i) ALLOCATING AMOUNTS.—

“(1) FISCAL YEAR 2005.—Of the amounts made available or appropriated for fiscal year 2005 under section 5338(a)(3)—

“(A) $1,437,829,600 shall be allocated for projects of not less than $75,000,000 for major capital projects for new fixed guideway systems and extensions of such systems under subsection (e) and projects for new fixed guideway or corridor improvement capital projects under subsection (f);

“(B) $1,204,684,800 shall be allocated for capital projects for fixed guideway modernization; and

“(C) $669,600,000 shall be allocated for capital projects for buses and bus-related equipment and facilities.

“(2) IN GENERAL.—Of the amounts made available or appropriated for fiscal year 2006 and each fiscal year thereafter for grants under this section pursuant to subsections (b)(4) and (c) of section 5338—

“(A) the amounts appropriated under section 5338(c) shall be allocated for major capital projects for—

“(i) new fixed guideway systems and extensions of not less than $75,000,000, in accordance with subsection (e); and

“(ii) projects for new fixed guideway or corridor improvement capital projects, in accordance with subsection (f); and

“(B) the amounts made available under section 5338(b)(4) shall be allocated for capital projects for buses and bus-related equipment and facilities.

“(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(K) for fiscal year 2006 and each fiscal year thereafter shall be allocated in accordance with section 5337.

“(4) PRELIMINARY ENGINEERING.—Not more that 8 percent of the allocation described in paragraphs (1)(A) and (2)(A) may be expended on preliminary engineering.

“(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A), $10,400,000 shall be available in each of the fiscal years 2005 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals.

“(6) BUS AND BUS FACILITY GRANTS.—

“(A) CONSIDERATIONS.—In making grants under paragraphs (1)(C) and (2)(B), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

“(B) PROJECTS NOT IN URBANIZED AREAS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

“(C) INTERMODAL TERMINALS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than $75,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.”.

(k) REPORTS.—Section 5309 is amended by inserting at the end the following:

“(m) REPORTS.—

“(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—

“(A) IN GENERAL.—Not later than the first Monday of February of each year, the Secretary shall submit a report on funding recommendations to—

“(i) the Committee on Transportation and Infrastructure of the House of Representatives;

“(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(iii) the Subcommittee on the Departments of Transportation, Treasury, Housing and Urban Development, The Judiciary, District of Columbia, and Independent Agencies of the Committee on Appropriations of the House of Representatives; and

“(iv) the Subcommittee on Transportation, Treasury, and General Government of the Committee on Appropriations of the Senate.

“(B) CONTENTS.—The report submitted under subparagraph (A) shall contain—

“(i) a proposal on the allocation of amounts to finance grants for capital investment projects among grant applicants;

“(ii) a recommendation of projects to be funded based on—

“(I) the evaluations and ratings determined under subsection (e) and (f); and

“(II) existing commitments and anticipated funding levels for the subsequent 3 fiscal years; and

“(iii) detailed ratings and evaluations on each project recommended for funding.

“(2) TRIANNUAL REPORTS ON PROJECT RATINGS.—

“(A) IN GENERAL.—Not later than the first Monday of February, the first Monday of June, and the first Monday of October of each year, the Secretary shall submit a report on project ratings to—

“(i) the Committee on Transportation and Infrastructure of the House of Representatives;

“(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(iii) the Subcommittee on the Departments of Transportation, Treasury, Housing and Urban Development, The Judiciary, District of Columbia, and Independent Agencies of the Committee on Appropriations of the House of Representatives; and

“(iv) the Subcommittee on Transportation, Treasury, and General Government of the Committee on Appropriations of the Senate.

“(B) CONTENTS.—Each report submitted under subparagraph (A) shall contain—

“(i) a summary of the ratings of all capital investment projects for which funding was requested under this section;

“(ii) detailed ratings and evaluations on the project of each applicant that had significant changes to the finance or project proposal or has completed alternatives analysis or preliminary engineering since the date of the latest report; and

“(iii) all relevant information supporting the evaluation and rating of each updated project, including a summary of the financial plan of each updated project.

“(3) BEFORE AND AFTER STUDY REPORTS.—Not later than the first Monday of August of each year, the Secretary shall submit a report containing a summary of the results of the studies conducted under subsection (g)(2) to—

“(A) the Committee on Transportation and Infrastructure of the House of Representatives;

“(B) the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(C) the Subcommittee on the Departments of Transportation, Treasury, Housing and Urban Development, The Judiciary, District of Columbia, and Independent Agencies of the Committee on Appropriations of the House of Representatives; and

“(D) the Subcommittee on Transportation, Treasury, and General Government of the Committee on Appropriations of the Senate.

“(4) CONTRACTOR PERFORMANCE ASSESSMENT REPORT.—

“(A) IN GENERAL.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2005, and each year thereafter, the Secretary shall submit a report analyzing the consistency and accuracy of cost and ridership estimates made by each contractor to public transportation agencies developing major investment projects to the committees and subcommittees listed under paragraph (3).

“(B) CONTENTS.—The report submitted under subparagraph (A) shall compare the cost and ridership estimates made at the time projects are approved for entrance into preliminary engineering with—

“(i) estimates made at the time projects are approved for entrance into final design;

“(ii) costs and ridership when the project commences revenue operation; and

“(iii) costs and ridership when the project has been in operation for 2 years.

“(5) ANNUAL GOVERNMENT ACCOUNTABILITY OFFICE REVIEW.—

“(A) REVIEW.—The Comptroller General of the United States shall conduct an annual review of the processes and procedures for evaluating and rating projects and recommending projects and the Secretary's implementation of such processes and procedures.

“(B) REPORT.—Not later than 90 days after the submission of each report required under paragraph (1), the Comptroller General shall submit a report to Congress that summarizes the results of the review conducted under subparagraph (A).

“(6) CONTRACTOR PERFORMANCE INCENTIVE REPORT.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit a report to the committees and subcommittees listed under paragraph (3) on the suitability of allowing contractors to public transportation agencies that undertake major capital investments under this section to receive performance incentive awards if a project is completed for less than the original estimated cost.”.

(*l*) RESTRICTIONS ON USE OF BUS CATEGORY FUNDS FOR FIXED GUIDEWAY PROJECTS.—Funds provided to grantees under the bus and bus facility category for fixed guideway ferry and gondola projects in the Department of Transportation and Related Agencies Appropriations Acts for any of fiscal years 1998 through 2005, or accompanying committee reports, that remain available and unobligated may be used for fixed guideway projects under this section.

SEC. 6012. NEW FREEDOM FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

(a) In General.—Section 5310 is amended to read as follows:

"§ 5310. New freedom for elderly persons and persons with disabilities

"(a) General Authority.—

"(1) Authorization.—The Secretary may award grants to a State for capital public transportation projects that are planned, designed, and carried out to meet the needs of elderly individuals and individuals with disabilities, with priority given to the needs of these individuals to access necessary health care.

"(2) Acquisition of public transportation services.—A capital public transportation project under this section may include acquiring public transportation services as an eligible capital expense.

"(3) Administrative costs.—A State may use not more than 15 percent of the amounts received under this section to administer, plan, and provide technical assistance for a project funded under this section.

"(b) Allotments Among States.—

"(1) In general.—From amounts made available or appropriated in each fiscal year under subsections (a)(1)(C)(iv) and (b)(2)(D) of section 5338 for grants under this section, the Secretary shall allot amounts to each State under a formula based on the number of elderly individuals and individuals with disabilities in each State.

"(2) Transfer of funds.—Any funds allotted to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

"(3) Reallocation of funds.—A State receiving a grant under this section may reallocate such grant funds to—

"(A) a private nonprofit organization;

"(B) a public transportation agency or authority; or

"(C) a governmental authority that—

"(i) has been approved by the State to coordinate services for elderly individuals and individuals with disabilities;

"(ii) certifies that nonprofit organizations are not readily available in the area that can provide the services described under this subsection; or

"(iii) will provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act.

"(c) Government Share.—

"(1) Maximum.—

"(A) In general.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

"(B) Exception.—A State described in section 120(d) of title 23 shall receive an increased Government share in accordance with the formula under that section.

"(2) Remaining costs.—The costs of a capital project under this section that are not funded through a grant under this section—

"(A) may be funded from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

"(B) may be derived from amounts appropriated to or made available to any Federal agency (other than the Department of Transportation, except for Federal Lands Highway funds) that are eligible to be expended for transportation.

"(3) Exception.—For purposes of paragraph (2), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

"(d) Grant Requirements.—

"(1) In general.—A grant recipient under this section shall be subject to the requirements of a grant recipient under section 5307 to the extent the Secretary determines to be appropriate.

"(2) Certification requirements.—

"(A) Fund transfers.—A grant recipient under this section that transfers funds to a project funded under section 5336 in accordance with subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private nonprofit providers of services under this section.

"(B) Project selection and plan development.—Each grant recipient under this section shall certify that—

"(i) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

"(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

"(C) Allocations to subrecipients.—Each grant recipient under this section shall certify that allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

"(e) State Program of Projects.—

"(1) Submission to secretary.—Each State shall annually submit a program of transportation projects to the Secretary for approval with an assurance that the program provides for maximum feasible coordination between transportation services funded under this section and transportation services assisted by other Federal sources.

"(2) Use of funds.—Each State may use amounts made available to carry out this section to provide transportation services for elderly individuals and individuals with disabilities if such services are included in an approved State program of projects.

"(f) Leasing Vehicles.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the needs of elderly individuals and individuals with disabilities.

"(g) Meal Delivery for Homebound Individuals.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

"(h) Transfers of Facilities and Equipment.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

"(i) Fares Not Required.—This section does not require that elderly individuals and individuals with disabilities be charged a fare.".

(b) Conforming Amendment.—The item relating to section 5310 in the table of sections for chapter 53 is amended to read as follows:

"5310. New freedom for elderly persons and persons with disabilities.".

SEC. 6013. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

(a) Definitions.—Section 5311(a) is amended to read as follows:

"(a) Definitions.—As used in this section, the following definitions shall apply:

"(1) Recipient.—The term 'recipient' means a State or Indian tribe that receives a Federal transit program grant directly from the Federal Government.

"(2) Subrecipient.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.".

(b) General Authority.—Section 5311(b) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Grants authorized.—Except as provided under paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

"(A) public transportation capital projects;

"(B) operating costs of equipment and facilities for use in public transportation; and

"(C) the acquisition of public transportation services.";

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following:

"(2) State program.—

"(A) In general.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

"(B) Submission to secretary.—Each State shall annually submit the program described in subparagraph (A) to the Secretary.

"(C) Approval.—The Secretary may not approve the program unless the Secretary determines that—

"(i) the program provides a fair distribution of amounts in the State; and

"(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.";

(4) in paragraph (3), as redesignated—

(A) by striking "(3) The Secretary of Transportation" and inserting the following:

"(3) Rural transportation assistance program.—

"(A) Establishment.—The Secretary";

(B) by striking "make" and inserting "use not more than 2 percent of the amount made available to carry out this section to award"; and

(C) by adding at the end the following:

"(B) Data collection.—

"(i) Report.—Each grantee under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

"(I) total annual revenue;

"(II) sources of revenue;

"(III) total annual operating costs;

"(IV) total annual capital costs;

"(V) fleet size and type, and related facilities;

"(VI) revenue vehicle miles; and

"(VII) ridership."; and

(5) by adding after paragraph (3) the following:

"(4) Of the amount made available to carry out paragraph (3)—

"(A) not more than 15 percent may be used to carry out projects of a national scope; and

"(B) any amounts not used under subparagraph (A) shall be allocated to the States.".

(c) APPORTIONMENTS.—Section 5311(c) is amended to read as follows:

"(c) APPORTIONMENTS.—

"(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338, the following amounts shall be apportioned for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

"(A) $8,000,000 for fiscal year 2006.

"(B) $10,000,000 for fiscal year 2007.

"(C) $12,000,000 for fiscal year 2008.

"(D) $15,000,000 for fiscal year 2009.

"(2) REMAINING AMOUNTS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338 that are not apportioned under paragraph (1)—

"(A) 20 percent shall be apportioned to the States in accordance with paragraph (3); and

"(B) 80 percent shall be apportioned to the States in accordance with paragraph (4).

"(3) APPORTIONMENTS BASED ON LAND AREA IN NONURBANIZED AREAS.—

"(A) IN GENERAL.—Subject to subparagraph (B), each State shall receive an amount that is equal to the amount apportioned under paragraph (2)(A) multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

"(B) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under this paragraph.

"(4) APPORTIONMENTS BASED ON POPULATION IN NONURBANIZED AREAS.—Each State shall receive an amount equal to the amount apportioned under paragraph (2)(B) multiplied by the ratio of the population of areas other than urbanized areas in that State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.".

(d) USE FOR ADMINISTRATIVE, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended—

(1) by striking "AND TECHNICAL ASSISTANCE.—(1) The Secretary of Transportation" and inserting ", PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary";

(2) by striking "to a recipient"; and

(3) by striking paragraph (2).

(e) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—

(1) in paragraph (1)—

(A) by striking "(1)" and inserting the following:

"(1) IN GENERAL.—"; and

(B) by striking "after September 30, 1993,"; and

(2) in paragraph (2)—

(A) by striking "A State" and inserting "After consultation with affected intercity bus service providers, a State"; and

(B) by striking "of Transportation".

(f) GOVERNMENT SHARE OF COSTS.—Section 5311(g) is amended to read as follows:

"(g) GOVERNMENT SHARE OF COSTS.—

"(1) MAXIMUM GOVERNMENT SHARE.—

"(A) CAPITAL PROJECTS.—

"(i) IN GENERAL.—Except as provided under clause (ii), a grant awarded under this section for any purpose other than operating assistance may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

"(ii) EXCEPTION.—A State described in section 120(d) of title 23 shall receive a Government share of the net capital costs in accordance with the formula under that section.

"(B) OPERATING ASSISTANCE.—

"(i) IN GENERAL.—Except as provided under clause (ii), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(ii) EXCEPTION.—A State described in section 120(d) of title 23 shall receive a Government share of the net operating costs equal to 62.5 percent of the Government share provided for under subparagraph (A)(ii).

"(2) OTHER FUNDING SOURCES.—Funds for a project under this section that are not provided for by a grant under this section—

"(A) may be provided from—

"(i) an undistributed cash surplus;

"(ii) a replacement or depreciation cash fund or reserve;

"(iii) a service agreement with a State or local social service agency or a private social service organization; or

"(iv) new capital; and

"(B) may be derived from amounts appropriated to or made available to a Government agency (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

"(3) USE OF GOVERNMENT GRANT.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

"(4) EXCEPTION.—For purposes of paragraph (2)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(c)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.".

(g) WAIVER CONDITION.—Section 5311(j)(1) is amended by striking "but the Secretary of Labor may waive the application of section 5333(b)" and inserting "if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees".

SEC. 6014. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

(a) IN GENERAL.—Section 5312 is amended—

(1) by amending subsection (a) to read as follows:

"(a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary may make grants, contracts, cooperative agreements, or other transactions (including agreements with departments, agencies, and instrumentalities of the United States Government) for research, development, demonstration or deployment projects, or evaluation of technology of national significance to public transportation that the Secretary determines will improve public transportation service or help public transportation service meet the total transportation needs at a minimum cost.

"(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.

"(3) SAVINGS PROVISION.—This subsection does not limit the authority of the Secretary under any other law.";

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) and (e) as (b) and (c), respectively.

(4) in subsection (b)(2), as redesignated, by striking "other agreements" and inserting "other transactions"; and

(5) in subsection (c)(2), as redesignated, by striking "public and private" and inserting "public or private".

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5312 is amended to read as follows:

"§5312. Research, development, demonstration, and deployment projects".

(2) TABLE OF SECTIONS.—The item relating to section 5312 in the table of sections for chapter 53 is amended to read as follows:

"5312. Research, development, demonstration, and deployment projects.".

SEC. 6015. TRANSIT COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Section 5313 is amended—

(1) by striking subsection (b);

(2) in subsection (a)—

(A) in paragraph (1), by striking "(1) The amounts made available under paragraphs (1) and (2)C)(ii) of section 5338(c) of this title" and inserting "The amounts made available under subsections (a)(5)(C)(iii) and (b)(2)(G)(i) of section 5338"; and

(B) in paragraph (2), by striking "(2)" and inserting the following:

"(b) GOVERNMENT ASSISTANCE.—"; and

(3) by amending subsection (c) to read as follows:

"(c) GOVERNMENT SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Government share consistent with such benefit.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5313 is amended to read as follows:

"§5313. Transit cooperative research program".

(2) TABLE OF SECTIONS.—The item relating to section 5313 in the table of sections for chapter 53 is amended to read as follows:

"5313. Transit cooperative research program.".

SEC. 6016. NATIONAL RESEARCH PROGRAMS.

(a) IN GENERAL.—Section 5314 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) AVAILABILITY OF FUNDS.—The Secretary may use amounts made available under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338 for grants, contracts, cooperative agreements, or other transactions for the purposes described in sections 5312, 5315, and 5322.";

(B) in paragraph (2), by striking "(2) Of" and inserting the following:

"(2) ADA COMPLIANCE.—From";

(C) by amending paragraph (3) to read as follows:

"(3) SPECIAL DEMONSTRATION INITIATIVES.—The Secretary may use not more than 25 percent of the amounts made available under paragraph (1) for special demonstration initiatives, subject to terms that the Secretary determines to be consistent with this chapter. For a nonrenewable grant of not more than $100,000, the Secretary shall provide expedited procedures for complying with the requirements of this chapter.";

(D) in paragraph (4)—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(E) by adding at the end the following:

"(6) MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.—

"(A) GRANTS AUTHORIZED.—The Secretary may award demonstration grants, from funds made available under paragraph (1), to eligible entities to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

"(B) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this paragraph if the entity—

"(i) meets the conditions described in section 501(c)(3) of the Internal Revenue Code of 1986; or

"(ii) is an agency of a State or unit of local government.

"(C) USE OF FUNDS.—Grant funds received under this paragraph may be used to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

"(D) APPLICATION.—

"(i) IN GENERAL.—Each eligible entity desiring a grant under this paragraph shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

"(ii) SELECTION OF GRANTEES.—In awarding grants under this paragraph, the Secretary shall give preference to eligible entities from communities with—

"(I) high incidence of renal disease; and

"(II) limited access to dialysis facilities.

"(E) RULEMAKING.—The Secretary shall issue regulations to implement and administer the grant program established under this paragraph.

"(F) REPORT.—The Secretary shall submit a report on the results of the demonstration projects funded under this paragraph to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives."; and

(2) by amending subsection (b) to read as follows:

"(b) GOVERNMENT SHARE.—If there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other transaction financed under subsection (a) or section 5312, 5313, 5315, or 5322, the Secretary shall establish a Government share consistent with such benefit.".

(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION; ALTERNATIVE FUELS STUDY.—Section 5314 is amended by adding at the end the following:

"(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

"(1) ESTABLISHMENT.—The Secretary shall award grants to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

"(2) ELIGIBILITY.—An organization shall be eligible to receive the grant under paragraph (1) if the organization—

"(A) focuses significantly on serving the needs of the elderly;

"(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

"(C) has affiliates in a majority of the States;

"(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

"(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

"(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

"(A) gather best practices from throughout the country and provide such practices to local communities that are implementing senior transportation programs;

"(B) work with teams from local communities to identify how they are successfully meeting the transportation needs of senior and any gaps in services in order to create a plan for an integrated senior transportation program;

"(C) provide resources on ways to pay for senior transportation services;

"(D) create a web site to publicize and circulate information on senior transportation programs;

"(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

"(F) administer the demonstration grant program established under paragraph (4).

"(4) GRANTS AUTHORIZED.—

"(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

"(i) local transportation organizations;

"(ii) State agencies;

"(iii) units of local government; and

"(iv) nonprofit organizations.

"(B) USE OF FUNDS.—Grant funds received under this paragraph may be used to—

"(i) evaluate the state of transportation services for senior citizens;

"(ii) recognize barriers to mobility that senior citizens encounter in their communities;

"(iii) establish partnerships and promote coordination among community stakeholders, including public, not-for-profit, and for-profit providers of transportation services for senior citizens;

"(iv) identify future transportation needs of senior citizens within local communities; and

"(v) establish strategies to meet the unique needs of healthy and frail senior citizens.

"(C) SELECTION OF GRANTEES.—The Secretary shall select grantees under this subsection based on a fair representation of various geographical locations throughout the United States.

"(5) ALLOCATIONS.—From the funds made available for each fiscal year under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338, $3,000,000 shall be allocated to carry out this subsection.

"(d) ALTERNATIVE FUELS STUDY.—

"(1) STUDY.—The Secretary shall conduct a study of the actions necessary to facilitate the purchase of increased volumes of alternative fuels (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) for use in public transit vehicles

"(2) SCOPE OF STUDY.—The study conducted under this subsection shall focus on the incentives necessary to increase the use of alternative fuels in public transit vehicles, including buses, fixed guideway vehicles, and ferries.

"(3) CONTENTS.—The study shall consider—

"(A) the environmental benefits of increased use of alternative fuels in transit vehicles;

"(B) existing opportunities available to transit system operators that encourage the purchase of alternative fuels for transit vehicle operation;

"(C) existing barriers to transit system operators that discourage the purchase of alternative fuels for transit vehicle operation, including situations where alternative fuels that do not require capital improvements to transit vehicles are disadvantaged over fuels that do require such improvements; and

"(D) the necessary levels and type of support necessary to encourage additional use of alternative fuels for transit vehicle operation.

"(4) RECOMMENDATIONS.—The study shall recommend regulatory and legislative alternatives that will result in the increased use of alternative fuels in transit vehicles.

"(5) REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit the study completed under this subsection to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives".

(c) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading for section 5314 is amended to read as follows:

"§ 5314. National research programs".

(2) TABLE OF SECTIONS.—The item relating to section 5314 in the table of sections for chapter 53 is amended to read as follows:

"5314. National research programs.".

SEC. 6017. NATIONAL TRANSIT INSTITUTE.

(a) Section 5315 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) ESTABLISHMENT.—The Secretary shall award grants to Rutgers University to conduct a national transit institute.

"(b) DUTIES.—

"(1) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established pursuant to subsection (a) shall develop and conduct training programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

"(2) TRAINING PROGRAMS.—The training programs developed under paragraph (1) may include courses in recent developments, techniques, and procedures related to—

"(A) intermodal and public transportation planning;

"(B) management;

"(C) environmental factors;

"(D) acquisition and joint use rights of way;

"(E) engineering and architectural design;

"(F) procurement strategies for public transportation systems;

"(G) turnkey approaches to delivering public transportation systems;

"(H) new technologies;

"(I) emission reduction technologies;

"(J) ways to make public transportation accessible to individuals with disabilities;

"(K) construction, construction management, insurance, and risk management;

"(L) maintenance;

"(M) contract administration;

"(N) inspection;

"(O) innovative finance;

"(P) workplace safety; and

"(Q) public transportation security."; and

(2) in subsection (d), by striking "mass" each place it appears.

SEC. 6018. BUS TESTING FACILITY.

Section 5318 is amended—

(1) in subsection (a)—

(A) by striking "ESTABLISHMENT.—The Secretary of Transportation shall establish one facility" and inserting "IN GENERAL.—The Secretary shall maintain 1 facility"; and

(B) by striking "established by renovating" and inserting "maintained at"; and

(2) in subsection (d), by striking "section 5309(m)(1)(C) of this title" and inserting "paragraphs (1)(C) and (2)(B) of section 5309(i)".

SEC. 6019. BICYCLE FACILITIES.

Section 5319 is amended by striking "5307(k)" and inserting "5307(d)(1)(K)".

SEC. 6020. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT PROJECT.

Section 5320 is repealed.

SEC. 6021. CRIME PREVENTION AND SECURITY.

Section 5321 is repealed.

SEC. 6022. GENERAL PROVISIONS ON ASSISTANCE.

Section 5323 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

"(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

"(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

"(C) just compensation under State or local law will be paid to the company for its franchise or property."; and

(B) in paragraph (2), by striking "(2)" and inserting the following:

"(2) LIMITATION.—";

(2) by amending subsection (b) to read as follows:

"(b) NOTICE AND PUBLIC HEARING.—

"(1) IN GENERAL.—An application for a grant under this chapter for a capital project that will substantially affect a community, or the public transportation service of a community, shall include, in the environmental record for the project, evidence that the applicant has—

"(A) provided an adequate opportunity for public review and comment on the project;

"(B) held a public hearing on the project if the project affects significant economic, social, or environmental interests;

"(C) considered the economic, social, and environmental effects of the project; and

"(D) found that the project is consistent with official plans for developing the urban area.

"(2) CONTENTS OF NOTICE.—Notice of a hearing under this subsection—

"(A) shall include a concise description of the proposed project; and

"(B) shall be published in a newspaper of general circulation in the geographic area the project will serve.";

(3) by amending subsection (e) to read as follows:

"(e) NEW TECHNOLOGY.—A grant for financial assistance under this chapter for new technology, including innovative or improved products, techniques, or methods, shall be subject to the requirements of section 5309 to the extent the Secretary determines to be appropriate.";

(4) in subsection (f)—

(A) by striking "(1)" and inserting the following:

"(1) IN GENERAL.—";

(B) by striking paragraph (2);

(C) by striking "This subsection" and inserting the following:

"(2) EXCEPTIONS.—This subsection; and

(D) by adding at the end the following:

"(3) PENALTY.—If the Secretary determines that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar the applicant, authority, or operator from receiving Federal transit assistance in an amount the Secretary determines to be appropriate.";

(5) in subsection (g), by striking "103(e)(4) and 142 (a) or (c)" each place it appears and inserting "133 and 142";

(6) by amending subsection (h) to read as follows:

"(h) TRANSFER OF LANDS OR INTERESTS IN LANDS OWNED BY THE UNITED STATES.—

"(1) REQUEST BY SECRETARY.—If the Secretary determines that any part of the lands or interests in lands owned by the United States and made available as a result of a military base closure is necessary for transit purposes eligible under this chapter, including corridor preservation, the Secretary shall submit a request to the head of the Federal agency supervising the administration of such lands or interests in lands. Such request shall include a map showing the portion of such lands or interests in lands, which is desired to be transferred for public transportation purposes.

"(2) TRANSFER OF LAND.—If 4 months after submitting a request under paragraph (1), the Secretary does not receive a response from the Federal agency described in paragraph (1) that certifies that the proposed appropriation of land is contrary to the public interest or inconsistent with the purposes for which such land has been reserved, or if the head of such agency agrees to the utilization or transfer under conditions necessary for the adequate protection and utilization of the reserve, such land or interests in land may be utilized or transferred to a State, local governmental authority, or public transportation operator for such purposes and subject to the conditions specified by such agency.

"(3) REVERSION.—If at any time the lands or interests in land utilized or transferred under paragraph (2) are no longer needed for public transportation purposes, the State, local governmental authority, or public transportation operator that received the land shall notify to the Secretary, and such lands shall immediately revert to the control of the head of the Federal agency from which the land was originally transferred.";

(7) in subsection (j)(5), by striking "Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 1914)" and inserting "Federal Public Transportation Act of 2005";

(8) by amending subsection (*l*) to read as follows:

"(*l*) RELATIONSHIP TO OTHER LAWS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter, if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal transit program.";

(9) in subsection (m), by adding at the end the following: "Requirements to perform preaward and postdelivery reviews of rolling stock purchases to ensure compliance with subsection (j) shall not apply to private nonprofit organizations or to grantees serving urbanized areas with a population of fewer than 1,000,000.";

(10) in subsection (*o*), by striking "the Transportation Infrastructure Finance and Innovation Act of 1998" and inserting "subchapter II of chapter 1 of title 23"; and

(11) by adding at the end the following:

"(p) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a recipient of assistance under section 5307 or 5309, may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

"(2) REIMBURSEMENT BY SECRETARY.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient established pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307 or 5309.";

"(q) PROHIBITED USE OF FUNDS.—Grant funds received under this chapter may not be used to pay ordinary governmental or nonproject operating expenses.".

SEC. 6023. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.

(a) IN GENERAL.—Section 5324 is amended to read as follows:

"§ 5324. Special provisions for capital projects

"(a) REAL PROPERTY AND RELOCATION SERVICES.—Whenever real property is acquired or furnished as a required contribution incident to a project, the Secretary shall not approve the application for financial assistance unless the applicant has made all payments and provided all assistance and assurances that are required of a State agency under sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4630 and 4655). The Secretary must be advised of specific references to any State law that are believed to be an exception to section 301 or 302 of such Act (42 U.S.C. 4651 and 4652).

"(b) ADVANCE REAL PROPERTY ACQUISITIONS.—

(1) IN GENERAL.—The Secretary may participate in the acquisition of real property for any project that may use the property if the Secretary determines that external market forces are jeopardizing the potential use of the property for the project and if—

"(A) there are offers on the open real estate market to convey that property for a use that is incompatible with the project under study;

"(B) there is an imminent threat of development or redevelopment of the property for a use that is incompatible with the project under study;

"(C) recent appraisals reflect a rapid increase in the fair market value of the property;

"(D) the property, because it is located near an existing transportation facility, is likely to be developed and to be needed for a future transportation improvement; or

"(E) the property owner can demonstrate that, for health, safety, or financial reasons, retaining ownership of the property poses an undue hardship on the owner in comparison to other affected property owners and requests the acquisition to alleviate that hardship.

"(2) ENVIRONMENTAL REVIEWS.—Property acquired in accordance with this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

"(3) LIMITATION.—The Secretary shall limit the size and number of properties acquired under this subsection as necessary to avoid any prejudice to the Secretary's objective evaluation of project alternatives.

"(4) EXEMPTION.—An acquisition under this section shall be considered an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

"(c) RAILROAD CORRIDOR PRESERVATION.—

"(1) IN GENERAL.—The Secretary may assist an applicant to acquire railroad right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

"(2) ENVIRONMENTAL REVIEWS.—Railroad right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

"(d) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

"(1) IN GENERAL.—The Secretary may not approve an application for financial assistance for a capital project under this chapter unless the Secretary determines that the project has been developed in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary's findings under this paragraph shall be made a matter of public record.

"(2) COOPERATION AND CONSULTATION.—In carrying out section 5301(e), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.".

(b) CONFORMING AMENDMENT.—The item relating to section 5324 in the table of sections for chapter 53 is amended to read as follows:

"5324. Special provisions for capital projects.".

SEC. 6024. CONTRACT REQUIREMENTS.

(a) IN GENERAL.—Section 5325 is amended to read as follows:

"§ 5325. Contract requirements

"(a) COMPETITION.—Recipients of assistance under this chapter shall conduct all procurement transactions in a manner that provides full and open competition as determined by the Secretary.

"(b) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—

"(1) IN GENERAL.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services.

"(2) ADDITIONAL REQUIREMENTS.—When awarding a contract described in paragraph (1), recipients of assistance under this chapter shall comply with the following requirements:

"(A) Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in part 31 of title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation).

"(B) A recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

"(C) After a firm's indirect cost rates are accepted under subparagraph (B), the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment, and shall not be limited by administrative or de facto ceilings.

"(D) A recipient requesting or using the cost and rate data described in subparagraph (C) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided by the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

"(c) EFFICIENT PROCUREMENT.—A recipient may award a procurement contract under this chapter to other than the lowest bidder if the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.

"(d) DESIGN-BUILD PROJECTS.—

"(1) DEFINED TERM.—As used in this subsection, the term 'design-build project'—

"(A) means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build an operable segment of a public transportation system that meets specific performance criteria; and

"(B) may include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

"(2) FINANCIAL ASSISTANCE FOR CAPITAL COSTS.—Federal financial assistance under this chapter may be provided for the capital costs of a design-build project after the recipient complies with Government requirements.

"(e) ROLLING STOCK.—

"(1) ACQUISITION.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

"(A) with a party selected through a competitive procurement process; or

"(B) based on—

"(i) initial capital costs; or

"(ii) performance, standardization, life cycle costs, and other factors.

"(2) MULTIYEAR CONTRACTS.—A recipient procuring rolling stock with Federal financial assistance under this chapter may make a multiyear contract, including options, to buy not more than 5 years of requirements for rolling stock and replacement parts. The Secretary shall allow a recipient to act on a cooperative basis to procure rolling stock under this paragraph and in accordance with other Federal procurement requirements.

"(f) EXAMINATION OF RECORDS.—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, and papers, including contracts, related to a project for which a grant is made under this chapter.

"(g) GRANT PROHIBITION.—A grant awarded under this chapter may not be used to support a procurement that uses an exclusionary or discriminatory specification.

"(h) BUS DEALER REQUIREMENTS.—No State law requiring buses to be purchased through in-State dealers shall apply to vehicles purchased with a grant under this chapter.

"(i) AWARDS TO RESPONSIBLE CONTRACTORS.—

"(1) IN GENERAL.—Federal financial assistance under this chapter may be provided for contracts only if a recipient awards such contracts to responsible contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement.

"(2) CRITERIA.—Before making an award to a contractor under paragraph (1), a recipient shall consider—

"(A) the integrity of the contractor;

"(B) the contractor's compliance with public policy;

"(C) the contractor's past performance, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(m)(4); and

"(D) the contractor's financial and technical resources.".

(b) CONFORMING AMENDMENTS.—Chapter 53 is amended by striking section 5326.

SEC. 6025. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—Section 5327(a) is amended—

(1) in paragraph (11), by striking "and" at the end;

(2) in paragraph (12), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(13) safety and security management.".

(b) LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—Section 5327(c) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The Secretary may not use more than 1 percent of amounts made available for a fiscal year to carry out any of sections 5307 through 5311, 5316, or 5317, or a project under the National Capital Transportation Act of 1969 (Public Law 91–143) to make a contract to oversee the construction of major projects under any of sections 5307 through 5311, 5316, or 5317 or under that Act."; and

(2) in paragraph (2)—

(A) by striking "(2)" and inserting the following:

"(2) OTHER ALLOWABLE USES.—"; and

(B) by inserting "and security" after "safety".

SEC. 6026. PROJECT REVIEW.

Section 5328 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1) When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant" and inserting the following:

"(1) ALTERNATIVES ANALYSIS.—The Secretary shall cooperate with an applicant undertaking an alternatives analysis under subsections (e) and (f) of section 5309";

(B) in paragraph (2)—

(i) by striking "(2)" and inserting the following:

"(2) ADVANCEMENT TO PRELIMINARY ENGINEERING STAGE.—"; and

(ii) by striking "is consistent with" and inserting "meets the requirements of";

(C) in paragraph (3)—

(i) by striking "(3)" and inserting the following:

"(3) RECORD OF DECISION.—";

(ii) by striking "of construction"; and

(iii) by adding before the period at the end the following: "if the Secretary determines that the project meets the requirements of subsection (e) or (f) of section 5309"; and

(D) by striking paragraph (4); and

(2) by striking subsection (c).

SEC. 6027. INVESTIGATIONS OF SAFETY AND SECURITY RISK.

(a) IN GENERAL.—Section 5329 is amended to read as follows:

"§5329. Investigation of safety hazards and security risks

"(a) IN GENERAL.—The Secretary may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

"(b) SUBMISSION OF CORRECTIVE PLAN.—If the Secretary establishes that a safety hazard or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.

"(c) WITHHOLDING OF FUNDS.—Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.

"(d) PUBLIC TRANSPORTATION SECURITY.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall enter into a memorandum of understanding with the Secretary of Homeland Security to define and clarify the respective roles and responsibilities of the Department of Transportation and the Department of Homeland Security relating to public transportation security.

"(2) CONTENTS.—The memorandum of understanding described in paragraph (1) shall—

"(A) establish national security standards for public transportation agencies;

"(B) establish funding priorities for grants from the Department of Homeland Security to public transportation agencies;

"(C) create a method of coordination with public transportation agencies on security matters; and

"(D) address any other issues determined to be appropriate by the Secretary and the Secretary of Homeland Security.".

(b) CONFORMING AMENDMENT.—The item relating to section 5329 in the table of sections for chapter 53 is amended to read as follows:

"5329. Investigation of safety hazards and security risks.".

SEC. 6028. STATE SAFETY OVERSIGHT.

(a) IN GENERAL.—Section 5330 is amended—

(1) by amending the heading to read as follows:

"§5330. Withholding amounts for noncompliance with State safety oversight requirements";

(2) by amending subsection (a) to read as follows:

"(a) APPLICATION.—This section shall only apply to—

"(1) States that have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and

"(2) States that are designing rail fixed guideway public transportation systems that will not be subjected to regulation by the Federal Railroad Administration.";

(3) in subsection (d), by striking "affected States" and inserting the following: "affected States—

"(1) shall ensure uniform safety standards and enforcement; or

"(2)"; and

(4) in subsection (f), by striking "Not later than December 18, 1992, the" and inserting "The".

(b) CONFORMING AMENDMENT.—The item relating to section 5330 in the table of sections for chapter 53 is amended to read as follows:

"5330. Withholding amounts for noncompliance with State safety oversight requirements.".

SEC. 6029. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Section 1993 of title 18, United States Code, is amended—

(1) by striking "mass" each place it appears and inserting "public";

(2) in subsection (a)(5), by inserting "controlling," after "operating"; and

(3) in subsection (c)(5), by striking "5302(a)(7) of title 49, United States Code," and inserting "5302(a) of title 49.".

(b) CONFORMING AMENDMENT.—The table of contents for chapter 97 of title 18, United States Code is amended by amending the item related to section 1993 to read as follows:

"1993. Terrorist attacks and other acts of violence against public transportation systems.".

SEC. 6030. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.

Section 5331 is amended—

(1) in subsection (a)(3), by inserting before the period at the end the following: "or sections 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or other Federal agency"; and

(2) in subsection (f), by striking paragraph (3).

SEC. 6031. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333(b) is amended—

(1) in paragraph (3), by striking the period at the end and inserting ": *Provided*, That—

"(A) the protective period shall not exceed 4 years; and

"(B) the separation allowance shall not exceed 12 months."; and

(2) by adding at the end the following:

"(4) An arrangement under this subsection shall not guarantee continuation of employment as a result of a change in private contractors through competitive bidding unless such continuation is otherwise required under subparagraph (A), (B), or (D) of paragraph (2).

"(5) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and amendments to existing assistance agreements, shall be certified without referral.

"(6) Nothing in this subsection shall affect the level of protection provided to freight railroad employees.".

SEC. 6032. ADMINISTRATIVE PROCEDURES.

Section 5334 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "5309–5311 of this title" and all that follows and inserting "5309 through 5311:";

(B) in paragraph (9), by striking "and" at the end;

(C) in paragraph (10), by striking the period at the end and inserting "; and"; and

(D) by inserting at the end the following:

"(11) issue regulations as necessary to carry out the purposes of this chapter.";

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively;

(3) by adding after subsection (a) the following:

"(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

"(1) IN GENERAL.—Except as directed by the President for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate—

"(A) the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter; or

"(B) the rates, fares, tolls, rentals, or other charges prescribed by any public or private transportation provider.

"(2) COMPLIANCE WITH AGREEMENT.—Nothing in this subsection shall prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement."; and

(4) in subsection (j)(1), as redesignated, by striking "carry out section 5312(a) and (b)(1) of this title" and inserting "advise and assist the Secretary in carrying out section 5312(a)".

SEC. 6033. REPORTS AND AUDITS.

Section 5335 is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) in paragraph (1), by striking "(1)"; and

(B) in paragraph (2), by striking "(2) The Secretary may make a grant under section 5307 of this title" and inserting the following:

"(b) REPORTING AND UNIFORM SYSTEMS.—The Secretary may award a grant under section 5307 or 5311".

SEC. 6034. APPORTIONMENTS OF APPROPRIATIONS FOR FORMULA GRANTS.

Section 5336 is amended—

(1) by striking subsections (d), (h), and (k);

(2) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(3) by redesignating subsection (i) and (j) as subsection (h) and (i) respectively;

(4) by adding before subsection (b), as redesignated, the following:

"(a) APPORTIONMENTS.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(vi) and (b)(2)(L) of section 5338—

"(1) there shall be apportioned, in fiscal year 2006 and each fiscal year thereafter, $35,000,000 to certain urbanized areas with populations of less than 200,000 in accordance with subsection (k); and

"(2) any amount not apportioned under paragraph (1) shall be apportioned to urbanized areas in accordance with subsections (b) through (d).";

(5) in subsection (b), as redesignated—

(A) by striking "Of the amount made available or appropriated under section 5338(a) of this title" and inserting "Of the amount apportioned under subsection (a)(3)"; and

(B) in paragraph (2), by striking "subsections (b) and (c) of this section" and inserting "subsections (c) and (d)";

(6) in subsection (c)(2), as redesignated, by striking "subsection (a)(2) of this section" and inserting "subsection (b)(2)";

(7) in subsection (d), as redesignated, by striking "subsection (a)(2) of this section" and inserting "subsection (b)(2)";

(8) in subsection (e)(1), by striking "subsections (a) and (h)(2) of section 5338 of this

title" and inserting "subsections (a) and (b) of section 5338";

(9) in subsection (g), by striking "subsection (a)(1) of this section" each place it appears and inserting "subsection (b)(1)"; and

(10) by adding at the end the following:

"(j) SMALL TRANSIT INTENSIVE CITIES FACTORS.—The amount apportioned under subsection (a)(1) shall be apportioned to urbanized areas as follows:

"(1) The Secretary shall calculate a factor equal to the sum of revenue vehicle hours operated within urbanized areas with a population of between 200,000 and 1,000,000 divided by the sum of the population of all such urbanized areas.

"(2) The Secretary shall designate as eligible for an apportionment under this subsection all urbanized areas with a population of under 200,000 for which the number of revenue vehicle hours operated within the urbanized area divided by the population of the urbanized area exceeds the factor calculated under paragraph (1).

"(3) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the product of the population of that urbanized area and the factor calculated under paragraph (1).

"(4) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the difference between the number of revenue vehicle hours within that urbanized area less the amount calculated in paragraph (3).

"(5) Each urbanized area qualifying for an apportionment under paragraph (2) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for that urbanized area under paragraph (4) divided by the sum of the amounts calculated under paragraph (4) for all urbanized areas qualifying for an apportionment under paragraph (2).

"(k) STUDY ON INCENTIVES IN FORMULA PROGRAMS.—

"(1) STUDY.—The Secretary shall conduct a study to assess the feasibility and appropriateness of developing and implementing an incentive funding system under sections 5307 and 5311 for operators of public transportation.

"(2) REPORT.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit a report on the results of the study conducted under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) CONTENTS.—The report submitted under subparagraph (A) shall include—

"(i) an analysis of the availability of appropriate measures to be used as a basis for the distribution of incentive payments;

"(ii) the optimal number and size of any incentive programs;

"(iii) what types of systems should compete for various incentives;

"(iv) how incentives should be distributed; and

"(v) the likely effects of the incentive funding system.".

SEC. 6035. APPORTIONMENTS FOR FIXED GUIDEWAY MODERNIZATION.

Section 5337 is amended—

(1) in subsection (a), by striking "for each of fiscal years 1998 through 2003"; and

(2) by striking "section 5336(b)(2)(A)" each place it appears and inserting "section 5336(c)(2)(A)".

SEC. 6036. AUTHORIZATIONS.

Section 5338 is amended to read as follows:

"§ 5338. Authorizations

"(a) FISCAL YEAR 2005.—

"(1) FORMULA GRANTS.—

"(A) TRUST FUND.—For fiscal year 2005, $3,499,927,776 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $499,989,824 for fiscal year 2005 to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

"(i) $4,811,150 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

"(ii) $6,894,400 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

"(iii) $94,526,689 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

"(iv) $173,040,330 shall be available to provide financial assistance for other than urbanized areas under section 5311;

"(v) $3,325,048,327 shall be available to provide financial assistance for urbanized areas under section 5307;

"(vi) $49,600,000 shall be available to provide financial assistance for buses and bus facilities under section 5309; and

"(vii) $345,996,704 shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311.".

"(2) JOB ACCESS AND REVERSE COMMUTE.—

"(A) TRUST FUND.—For fiscal year 2005, $108,500,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note).

"(B) GENERAL FUND.—In addition to the amounts made available under paragraph (A), there are authorized to be appropriated $15,500,000 for fiscal year 2005 to carry out section 3037 of the Transportation Equity Act of the 21st Century (49 U.S.C. 5309 note).

"(3) CAPITAL PROGRAM GRANTS.—

"(A) TRUST FUND.—For fiscal year 2005, $2,898,100,224 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $414,014,176 for fiscal year 2005 to carry out section 5309.

"(4) PLANNING.—

"(A) TRUST FUND.—For fiscal year 2005, $63,364,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5308.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $9,052,000 for fiscal year 2005 to carry out section 5308.

"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

"(i) 82.72 percent shall be allocated for metropolitan planning under section 5308(c); and

"(ii) 17.28 percent shall be allocated for State planning under section 5308(d).

"(5) RESEARCH.—

"(A) TRUST FUND.—For fiscal year 2005, $47,740,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $6,820,000 for fiscal year 2005 to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

"(C) ALLOCATION OF FUNDS.—Of the funds made available or appropriated under this paragraph—

"(i) not less than $3,968,000 shall be available to carry out programs of the National Transit Institute under section 5315;

"(ii) not less than $5,208,000 shall be available to carry out section 5311(b)(2);

"(iii) not less than $8,184,000 shall be available to carry out section 5313; and

"(iv) the remainder shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

"(6) UNIVERSITY TRANSPORTATION RESEARCH.—

"(A) TRUST FUND.—For fiscal year 2005, $5,208,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5505 and 5506.

"(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated $744,000 for fiscal year 2005 to carry out sections 5505 and 5506.

"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

"(i) $1,984,000 shall be available for grants under 5506(f)(5) to the institution identified in section 5505(j)(3)(E), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005;

"(ii) $1,984,000 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(A), as in effect on the date specified in clause (i); and

"(iii) $1,984,000 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(F), as in effect on the date specified in subclause (I).

"(C) SPECIAL RULE.—Nothing in this paragraph shall be construed to limit the transportation research conducted by the centers receiving financial assistance under this section.

"(7) ADMINISTRATION.—

"(A) TRUST FUND.—For fiscal year 2005, $67,704,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334.

"(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated $9,672,000 for fiscal year 2005 to carry out section 5334.

"(8) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(A) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available under paragraph (1)(A), (2)(A), (3)(A), (4)(A), (5)(A), (6)(A), or (7)(A) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

"(B) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance under paragraph (1)(B), (2)(B), (3)(B), (4)(B), (5)(B), (6)(B), or (7)(B) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

"(9) AVAILABILITY OF AMOUNTS.—Amounts made available or appropriated under paragraphs (1) through (6) shall remain available until expended.".

"(b) FORMULA GRANTS AND RESEARCH.—

"(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5309, 5310 through 5316, 5322, 5335, 5340, and 5505 of this title, and sections 3037 and 3038 of the Federal Transit Act of 1998 (112 Stat. 387 et seq.)—

"(A) $6,443,600,000 for fiscal year 2006;

"(B) $6,709,644,000 for fiscal year 2007;

"(C) $7,276,707,000 for fiscal year 2008; and

"(D) $7,737,026,000 for fiscal year 2009.

"(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1) for each fiscal year—

"(A) 0.092 percent shall be available for grants to the Alaska Railroad under section 5307 for improvements to its passenger operations;

"(B) 1.75 percent shall be available to carry out section 5308;

"(C) 2.05 percent shall be available to provide financial assistance for job access and reverse commute projects under section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note);

"(D) 3.00 percent shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

"(E) 0.125 percent shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

"(F) 6.25 percent shall be available to provide financial assistance for other than urbanized areas under section 5311;

"(G) 0.89 percent shall be available to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, university research centers under section 5505, and national research programs under sections 5312, 5313, 5314, and 5322, of which—

"(i) 17.0 percent shall be allocated to carry out transit cooperative research programs under section 5313;

"(ii) 7.5 percent shall be allocated to carry out programs under the National Transit Institute under section 5315, including not more than $1,000,000 to carry out section 5315(a)(16);

"(iii) 11.0 percent shall be allocated to carry out the university centers program under section 5505; and

"(iv) any funds made available under this subparagraph that are not allocated under clauses (i) through (iii) shall be allocated to carry out national research programs under sections 5312, 5313, 5314, and 5322;

"(H) $25,000,000 shall be available for each of the fiscal years 2006 through 2009 to carry out section 5316;

"(I) there shall be available to carry out section 5335—

"(i) $3,900,000 in fiscal year 2006;

"(ii) $4,200,000 in fiscal year 2007;

"(iii) $4,600,000 in fiscal year 2008; and

"(iv) $5,000,000 in fiscal year 2009;

"(J) 6.25 percent shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311; and

"(K) 22.0 percent shall be allocated in accordance with section 5337 to provide financial assistance under section 5309(i)(3); and

"(L) any amounts not made available under subparagraphs (A) through (K) shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307.

"(3) UNIVERSITY CENTERS PROGRAM.—

"(A) ALLOCATION.—Of the amounts allocated under paragraph (2)(G)(iii), $1,000,000 shall be available in each of the fiscal years 2006 through 2009 for Morgan State University to provide transportation research, training, and curriculum development.

"(B) REQUIREMENTS.—The university specified under subparagraph (A) shall be considered a University Transportation Center under section 510 of title 23, and shall be subject to the requirements under subsections (c), (d), (e), and (f) of such section.

"(C) REPORT.—In addition to the report required under section 510(e)(3) of title 23, the university specified under subparagraph (A) shall annually submit a report to the Secretary that describes the university's contribution to public transportation.

"(4) BUS GRANTS.—In addition to the amounts made available under paragraph (1), there shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309(i)(2)(B)—

"(A) $864,101,000 for fiscal year 2006;

"(B) $899,778,000 for fiscal year 2007;

"(C) $975,823,000 for fiscal year 2008; and

"(D) $1,037,552,000 for fiscal year 2009.

"(c) MAJOR CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(i)(2)(A)—

"(1) $1,503,299,000 for fiscal year 2006;

"(2) $1,565,367,000 for fiscal year 2007;

"(3) $1,697,663,000 for fiscal year 2008; and

"(4) $1,805,057,000 for fiscal year 2009.

"(d) ADMINISTRATION.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334—

"(1) $89,000,000 for fiscal year 2006;

"(2) $92,675,000 for fiscal year 2007;

"(3) $100,507,000 for fiscal year 2008; and

"(4) $106,865,000 for fiscal year 2009.

"(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(1) MASS TRANSIT ACCOUNT FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(1), (b)(4), or (d) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

"(2) APPROPRIATED FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (c) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated in advance for such purpose by an Act of Congress.

"(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (b) and (c) shall remain available until expended.".

SEC. 6037. APPORTIONMENTS BASED ON GROWING STATES FORMULA FACTORS.

(a) IN GENERAL.—Chapter 53 is amended by adding at the end the following:

"§5340. Apportionments based on growing States and high density State formula factors

"(a) DEFINITION.—In this section, the term 'State' shall mean each of the 50 States of the United States.

"(b) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(b)(2)(J), the Secretary shall apportion—

"(1) 50 percent to States and urbanized areas in accordance with subsection (c); and

"(2) 50 percent to States and urbanized areas in accordance with subsection (d).

"(c) GROWING STATE APPORTIONMENTS.—

"(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under subsection (b)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

"(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

"(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

"(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

"(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (2)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

"(d) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (b)(2) shall be apportioned as follows:

"(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

"(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to—

"(A) the total land area of the State (in square miles); multiplied by

"(B) 370; multiplied by

"(C)(i) the population of the State in urbanized areas; divided by "(ii) the total population of the State.

"(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

"(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

"(5) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

"(A) IN GENERAL.—The Secretary shall apportion amounts apportioned to each State under paragraph (4) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the population of all urbanized areas in that State divided by the total population of that State.

"(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (a) shall be apportioned to that State and added to the amount made available for grants under section 5311.

"(6)' APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (5)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (5)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended by adding at the end the following:

"5340. Apportionments based on growing States and high density States formula factors.".

SEC. 6038. JOB ACCESS AND REVERSE COMMUTE GRANTS.

Section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "means an individual" and inserting the following: "means—

"(A) an individual"; and

(ii) by striking the period at the end and inserting "; or

"(B) an individual who is eligible for assistance under the State program of Temporary Assistance to Needy Families funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et. seq.) in the State in which the recipient of a grant under this section is located."; and

(B) in paragraph (2), by striking "development of" each place it appears and inserting "development and provision of";

(2) in subsection (i), by amending paragraph (2) to read as follows:

"(2) COORDINATION.—

"(A) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

"(B) CERTIFICATION.—A recipient of funds under this section shall certify that—

"(i) the project has been derived from a locally developed, coordinated public transit human services transportation plan; and

"(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.";

(3) by amending subsection (j) to read as follows:

"(j) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—

"(A) URBANIZED AREAS.—A grant awarded under this section to a public agency or private company engaged in public transportation in an urbanized area shall be subject to the all of the terms and conditions to which a grant awarded under section 5307 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(B) OTHER THAN URBANIZED AREAS.—A grant awarded under this section to a public agency or a private company engaged in public transportation in an area other than urbanized areas shall be subject to all of the terms and conditions to which a grant awarded under section 5311 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(C) NONPROFIT ORGANIZATIONS.—A grant awarded under this section to a private nonprofit organization shall be subject to all of the terms and conditions to which a grant made under section 5310 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(2) SPECIAL WARRANTY.—

"(A) IN GENERAL.—Section 5333(b) of title 49, United States Code, shall apply to grants under this section if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees.

"(B) WAIVER.—The Secretary may waive the applicability of the Special Warranty under subparagraph (A) for private non-profit recipients on a case-by-case basis as the Secretary considers appropriate."; and

(4) by striking subsections (k) and (l).

SEC. 6039. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.

(a) SECTION HEADING.—The section heading for section 3038 of the Federal Transit Act of 1998 (49 U.S.C. 5310 note), is amended to read as follows:

"SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.".

(b) FUNDING.—Section 3038(g) of the Federal Transit Act of 1998 (49 U.S.C. 5310 note) is amended to read as follows:

"(g) FUNDING.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(iii) and (b)(2)(E) of section 5338 of title 49, United States Code—

"(1) 75 percent shall be available, and shall remain available until expended, for operators of over-the-road buses, used substantially or exclusively in intercity, fixed-route over-the-road bus service, to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses; and

"(2) 25 percent shall be available, and shall remain available until expended, for operators of over-the-road bus service not described in paragraph (1), to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses.".

(b) CONFORMING AMENDMENT.—The item relating to section 3038 in the table of contents for the Transportation Equity Act for the 21st Century (Public Law 105-178) is amended to read as follows:

"Sec. 3038. Over-the-road bus accessibility program.".

SEC. 6040. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS.

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

"§5316. Alternative transportation in parks and public lands

"(a) IN GENERAL.—

"(1) AUTHORIZATION.—

"(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may award a grant or enter into a contract, cooperative agreement, interagency agreement, intraagency agreement, or other transaction to carry out a qualified project under this section to enhance the protection of America's National Parks and public lands and increase the enjoyment of those visiting the parks and public lands by ensuring access to all, including persons with disabilities, improving conservation and park and public land opportunities in urban areas through partnering with state and local governments, and improving park and public land transportation infrastructure.

"(B) CONSULTATION WITH OTHER AGENCIES.—To the extent that projects are proposed or funded in eligible areas that are not within the jurisdiction of the Department of the Interior, the Secretary of the Interior shall consult with the heads of the relevant Federal land management agencies in carrying out the responsibilities under this section.

"(2) USE OF FUNDS.—A grant, cooperative agreement, interagency agreement, intraagency agreement, or other transaction for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

"(b) DEFINITIONS.—In this section, the following definitions shall apply:

"(1) ELIGIBLE AREA.—The term 'eligible area' means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

"(A) a unit of the National Park System;

"(B) a unit of the National Wildlife Refuge System;

"(C) a recreational area managed by the Bureau of Land Management; and

"(D) a recreation area managed by the Bureau of Reclamation.

"(2) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means a Federal agency that manages an eligible area.

"(3) ALTERNATIVE TRANSPORTATION.—The term 'alternative transportation' means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service.

"(4) QUALIFIED PARTICIPANT.—The term 'qualified participant' means—

"(A) a Federal land management agency; or

"(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

"(5) QUALIFIED PROJECT.—The term 'qualified project' means a planning or capital project in or in the vicinity of an eligible area that—

“(A) is an activity described in section 5302, 5303, 5304, 5308, or 5309(a)(1)(A);

“(B) involves—

“(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

“(ii) the deployment of alternative transportation vehicles that introduce innovative technologies or methods;

“(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

“(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

“(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

“(F) is any other alternative transportation project that—

“(i) enhances the environment;

“(ii) prevents or mitigates an adverse impact on a natural resource;

“(iii) improves Federal land management agency resource management;

“(iv) improves visitor mobility and accessibility and the visitor experience;

“(v) reduces congestion and pollution (including noise pollution and visual pollution); or

“(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

“(c) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

“(1) technical assistance in alternative transportation;

“(2) interagency and multidisciplinary teams to develop Federal land management agency alternative transportation policy, procedures, and coordination; and

“(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

“(d) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year under section 5338(b)(2)(H) to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

“(2) ADDITIONAL AMOUNTS.—Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this title or any other provision of law.

“(3) MAXIMUM AMOUNT.—No qualified project shall receive more than 12 percent of the total amount made available to carry out this section under section 5338(b)(2)(H) for any fiscal year.

“(e) PLANNING PROCESS.—In undertaking a qualified project under this section—

“(1) if the qualified participant is a Federal land management agency—

“(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

“(i) the metropolitan planning provisions under section 5303 of this title;

“(ii) the statewide planning provisions under section 5304 of this title; and

“(iii) the public participation requirements under section 5307(e); and

“(B) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

“(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

“(A) comply with the metropolitan planning provisions under section 5303 of this title;

“(B) comply with the statewide planning provisions under section 5304 of this title;

“(C) comply with the public participation requirements under section 5307(e) of this title; and

“(D) consult with the appropriate Federal land management agency during the planning process.

“(f) COST SHARING.—

“(1) The Secretary, in cooperation with the Secretary of the Interior, shall establish the agency share of net project cost to be provided under this section to a qualified participant.

“(2) In establishing the agency share of net project cost to be provided under this section, the Secretary shall consider—

“(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

“(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

“(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

“(D) the clear and direct benefit to the qualified participant; and

“(E) any other matters that the Secretary considers appropriate to carry out this section.

“(3) Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the non-agency share of the net project cost of a qualified project.

“(g) SELECTION OF QUALIFIED PROJECTS.—

“(1) The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

“(2) In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

“(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

“(B) the location of the qualified project, to ensure that the selected qualified projects—

“(i) are geographically diverse nationwide; and

“(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

“(C) the size of the qualified project, to ensure that there is a balanced distribution;

“(D) the historical and cultural significance of a qualified project;

“(E) safety;

“(F) the extent to which the qualified project would-

“(i) enhance livable communities;

“(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

“(iii) reduce congestion; and

“(iv) improve the mobility of people in the most efficient manner; and

“(G) any other matters that the Secretary considers appropriate to carry out this section, including—

“(i) visitation levels;

“(ii) the use of innovative financing or joint development strategies; and

“(iii) coordination with gateway communities.

“(h) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

“(1) When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

“(A) the qualified participant applies for the payment;

“(B) the Secretary approves the payment; and

“(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

“(2)(A) The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

“(B) The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

“(C) The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

“(i) RELATIONSHIP TO OTHER LAWS.—

“(1) SECTION 5307.—A qualified participant under this section shall be subject to the requirements of sections 5307 and 5333(a) to the extent the Secretary determines to be appropriate.

“(2) OTHER REQUIREMENTS.—A qualified participant under this section is subject to any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

“(3) PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is not less than $25,000,000—

“(A) the qualified project shall, to the extent the Secretary considers appropriate, be carried out through a full funding grant agreement, in accordance with section 5309(g); and

“(B) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

“(i) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

"(j) Coordination of Research and Deployment of New Technologies.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other transactions for research, development, and deployment of new technologies in eligible areas that will—

"(A) conserve resources;

"(B) prevent or mitigate adverse environmental impact;

"(C) improve visitor mobility, accessibility, and enjoyment; and

"(D) reduce pollution (including noise pollution and visual pollution).

"(2) The Secretary may request and receive appropriate information from any source.

"(3) Grants, cooperative agreements, contracts or other transactions under paragraph (1) shall be awarded from amounts allocated under subsection (c)(1).

"(k) Innovative Financing.—A qualified project receiving financial assistance under this section shall be eligible for funding through a state infrastructure bank or other innovative financing mechanism available to finance an eligible project under this chapter.

"(l) Reports.—

"(1) In general.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit a report on the allocation of amounts made available to assist qualified projects under this section to—

"(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(B) the Committee on Transportation and Infrastructure of the House of Representatives.

"(2) Annual and supplemental reports.—The report required under paragraph (1) shall be included in the report submitted under section 5309(m).".

(b) Conforming Amendments.—The table of sections for chapter 53 is amended by inserting after the item relating to section 5315 the following:

"5316. Alternative transportation in parks and public lands.".

SEC. 6041. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (c) of section 5338 of title 49, United States Code, shall not exceed—

(1) $7,646,336,000 for fiscal year 2005;

(2) $8,900,000,000 for fiscal year 2006;

(3) $9,267,464,000 for fiscal year 2007;

(4) $10,050,700,000 for fiscal year 2008; and

(5) $10,686,500,000 for fiscal year 2009.

SEC. 6042. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 2004.

(a) In General.—Notwithstanding any other provision of law, the Secretary shall reduce the total apportionments and allocations made for fiscal year 2005 to each grant recipient under section 5338 of title 49, United States Code, by the amount apportioned to that recipient pursuant to section 8 of the Surface Transportation Extension Act of 2004 part V (118 Stat. 1154).

(b) Fixed Guideway Modernization Adjustment.—In making the apportionments described in subsection (a), the Secretary shall adjust the amount apportioned for fiscal year 2005 to each urbanized area for fixed guideway modernization to reflect the apportionment method set forth in 5337(a) of title 49, United States Code.

SEC. 6043. DISADVANTAGED BUSINESS ENTERPRISE.

Section 1821(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 shall apply to all funds authorized or otherwise made available under this title.

TITLE VII—SURFACE TRANSPORTATION SAFETY IMPROVEMENT

SEC. 7001. SHORT TITLE.

This title may be cited as the "Surface Transportation Safety Improvement Act of 2005".

SEC. 7002. AMENDMENT OF UNITED STATES CODE.

(a) Amendment of Title 49.—Except as otherwise specifically provided, whenever in this title (other than in chapter 1 of subtitle B) an amendment is expressed in terms of an amendment to a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(b) Amendment of Title 23.—Except as otherwise expressly provided, whenever in chapter 1 of subtitle B of this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 23, United States Code.

Subtitle A—Motor Carrier Safety

CHAPTER 1—MOTOR CARRIERS

SEC. 7101. SHORT TITLE.

This chapter may be cited as the "Motor Carrier Safety Reauthorization Act of 2005".

SEC. 7102. CONTRACT AUTHORITY.

Authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out this chapter shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first. Approval by the Secretary of a grant with funds made available under this chapter imposes upon the United States Government a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.

SEC. 7103. AUTHORIZATION OF APPROPRIATIONS.

(a) Administrative Expenses.—Section 31104 is amended by adding at the end the following:

"(i) Administrative expenses.—

"(1) There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

"(A) $211,400,000 for fiscal year 2006,

"(B) $217,500,000 for fiscal year 2007,

"(C) $222,600,000 for fiscal year 2008, and

"(D) $228,500,000 for fiscal year 2009,

of which $6,800,000 shall be available for each fiscal year to make grants to, or execute contracts with, States, local governments, or other persons for the commercial vehicle analysis reporting system, with the Federal share payable under any such grant to be 100 percent.

"(2) The funds authorized by this subsection shall be used for personnel costs; administrative infrastructure; rent; information technology; programs for research and technology, information management, regulatory development (including a medical review board and rules for medical examiners), performance and registration information system management, and outreach and education; other operating expenses and similar matters; and such other expenses as may from time to time become necessary to implement statutory mandates not funded from other sources.

"(3) The amounts made available under this section shall remain available until expended.".

(b) Grant Programs.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the following Federal Motor Carrier Safety Administration programs:

(1) Border enforcement grants under section 31107 of title 49, United States Code—

(A) $33,000,000 for fiscal year 2006;

(B) $34,000,000 for fiscal year 2007;

(C) $35,000,000 for fiscal year 2008; and

(D) $36,000,000 for fiscal year 2009.

(2) Performance and registration information system management grant program under 31109 of title 49, United States Code, $4,000,000 for each of fiscal years 2006 through 2009.

(3) Commercial driver's license and driver improvement program grants under section 31318 of title 49, United States Code—

(A) $23,000,000 for fiscal year 2006;

(B) $23,000,000 for fiscal year 2007;

(C) $24,000,000 for fiscal year 2008; and

(D) $25,000,000 for fiscal year 2009.

(4) For carrying out the commercial vehicle information systems and networks deployment program established under section 31151 of title 49, United States Code, $25,000,000 for each of fiscal years 2006 through 2009.

(c) Motor Carrier Safety Account.—Funds made available under subsection (a) shall be administered in the account established in the Treasury entitled "Motor Carrier Safety Operations and Program 69–8159–0–7–401" and the funds made available under subsection (b) shall be administered in the account established in the Treasury entitled "Motor Carrier Safety Grants 69–8158–0–7–401".

(d) Period of Availability.—The amounts made available under subsection (b) of this section shall remain available until expended.

SEC. 7104. HIGH RISK CARRIER COMPLIANCE REVIEWS.

From the funds authorized by section 31104(i)(1) of title 49, United States Code, the Secretary of Transportation shall ensure that compliance reviews are completed on motor carriers that have demonstrated through performance data that they pose the highest safety risk. At a minimum, compliance reviews shall be conducted whenever a motor carrier is rated as category A or B for 2 consecutive months.

SEC. 7105. OVERDUE REPORTS, STUDIES, AND RULEMAKINGS.

(a) Requirement for Completion.—Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a schedule for the completion of the following reports, studies, and rulemaking proceedings:

(1) Motor Carrier Replacement Information and Registration System, section 103, ICC Termination Act of 1995.

(2) General Jurisdiction Over Freight Forwarder Service, section 13531, ICC Termination Act of 1995.

(3) Performance-based CDL Testing, section 4019, Transportation Equity Act for the Twenty-First Century.

(4) Improved Flow of Driver History Pilot Program, section 4022, Transportation Equity Act for the Twenty-First Century.

(5) Employee Protections, section 4023, Transportation Equity Act for the Twenty-First Century.

(6) Federal Motor Carrier Safety Administration 2010 Strategy, section 104, Motor Carrier Safety Improvement Act of 1999.

(7) New Motor Carrier Entrant Requirements, section 210, Motor Carrier Safety Improvement Act of 1999.

(8) Certified Motor Carrier Safety Auditors, section 211, Motor Carrier Safety Improvement Act of 1999.

(9) Medical Certificate, section 215, Motor Carrier Safety Improvement Act of 1999.

(10) Truck Crash Causation Study, section 224, Motor Carrier Safety Improvement Act of 1999.

(b) FINAL RULE REQUIRED.—Unless specifically otherwise permitted by law, rulemaking proceedings shall be considered completed for purposes of this section only when the Secretary has issued a final rule and the docket for the rulemaking proceeding is closed or the rulemaking proceeding is withdrawn or terminated and the docket closed without further action.

(c) SCHEDULE FOR COMPLETION.—The Secretary shall transmit a revised schedule, indicating progress made in completing the reports, studies, and rulemaking proceedings reported under subsection (a) every 6 months after the first such report under subsection (a) until they are completed. The Inspector General of the Department of Transportation shall monitor whether the schedule is being met and report periodically to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on progress made in completing the reports, studies, and rulemaking proceedings.

(e) COMPLETION OF NEW RULEMAKING PROCEEDINGS.—Nothing in this section delays or changes the deadlines specified for new reports, studies, or rulemaking mandates contained in this chapter.

(f) REPORT OF OTHER AGENCY ACTIONS.—Within 12 months after the date of enactment of this Act, the Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure a report on the status of the following projects:

(1) Rescinding the current regulation which prohibits truck and bus drivers from viewing television and monitor screens while operating commercial vehicles.

(2) Consolidating Out-Of-Service Criteria regulations enforced by the Federal Motor Carrier Safety Administration.

(3) Revision of the safety fitness rating system of motor carriers.

(4) Amendment of Federal Motor Carrier Safety Administration rules of practice for conducting motor carrier administrative proceedings, investigations, disqualifications, and for issuing penalties.

(5) Requiring commercial drivers to have a sufficient functional speaking and reading comprehension of the English language.

SEC. 7106. AMENDMENTS TO THE LISTED REPORTS, STUDIES, AND RULEMAKING PROCEEDINGS.

In addition to completing the reports, studies, and rulemaking proceedings listed in section 7105(a), the Secretary of Transportation shall—

(1) cause the Interim Final Rule addressing New Motor Carrier Entrant Requirements to be amended so as to require that a safety audit be immediately converted to a compliance review and appropriate enforcement actions be taken if the safety audit discloses acute safety violations by the new entrant; and

(2) ensure that Federal motor carrier safety regulations that apply to interstate operations of commercial motor vehicles designed to transport between 9 and 15 passengers (including the driver) apply to all interstate operations of such carries regardless of the distance traveled.

SEC. 7107. MOTOR CARRIER SAFETY GRANTS.

(a) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—

(1) Section 31102 is amended—

(A) by striking "activities by fiscal year 2000;" in subsection (b)(1)(A) and inserting "activities for commercial motor vehicles of passengers and freight;";

(B) by striking "years before December 18, 1991;" in subsection (b)(1)(E) and inserting "years;";

(C) by striking "and" after the semicolon in subsection (b)(1)(S);

(D) by striking "personnel." in subsection (b)(1)(T) and inserting "personnel;";

(E) adding at the end of subsection (b)(1) the following:

"(U) ensures that inspections of motor carriers of passengers are conducted at stations, terminals, border crossings, or maintenance facilities, except in the case of an imminent or obvious safety hazard;

"(V) provides that the State will include in the training manual for the licensing examination to drive a non-commercial motor vehicle and a commercial motor vehicle, information on best practices for driving safely in the vicinity of commercial motor vehicles and in the vicinity of non-commercial vehicles, respectively; and

"(W) provides that the State will enforce the registration requirements of section 13902 by suspending the operation of any vehicle discovered to be operating without registration or beyond the scope of its registration."; and

(F) by striking subsection (c) and inserting the following:

"(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—A State may use amounts received under a grant under subsection (a) of this section for the following activities:

"(1) If the activities are carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Government or State commercial motor vehicle safety regulations—

"(A) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States; and

"(B) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle.

"(2) Documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations against non-commercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles.".

(2) Section 31103(b) is amended—

(A) by inserting "(1)" after "ACTIVITIES.—"; and

(B) by adding at the end the following:

"(2) NEW ENTRANT MOTOR CARRIER AUDIT FUNDS.—From the amounts designated under section 31104(f)(4), the Secretary may allocate new entrant motor carrier audit funds to States and local governments without requiring a matching contribution from such States or local governments.".

(3) Section 31104(a) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 31102:

"(1) Not more than $193,620,000 for fiscal year 2006.

"(2) Not more than $197,490,000 for fiscal year 2007.

"(3) Not more than $201,440,000 for fiscal year 2008.

"(4) Not more than $205,470,000 for fiscal year 2009.".

(4) Section 31104(f) is amended by striking paragraph (2) and inserting the following:

"(2) HIGH-PRIORITY ACTIVITIES.—The Secretary may designate up to $15,000,000 for each of fiscal years 2006 through 2009 from amounts available for allocation under paragraph (1) for States, local governments, and organizations representing government agencies or officials for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations, including activities and projects that are national in scope, increase public awareness and education, or demonstrate new technologies, and will reduce the number and rate of accidents involving commercial motor vehicles. The amounts designated under this paragraph shall be allocated by the Secretary to State agencies, local governments, and organizations representing government agencies or officials that use and train qualified officers and employees in coordination with State motor vehicle safety agencies. The Secretary shall establish safety performance criteria to be used to distribute high priority program funds. At least 80 percent of the amounts designated under this paragraph shall be awarded to State agencies and local government agencies.

"(3) NEW ENTRANT AUDITS.—The Secretary shall designate up to $29,000,000 of the amounts available for allocation under paragraph (1) for audits of new entrant motor carriers conducted pursuant to 31144(f). The Secretary may withhold such funds from a State or local government that is unable to use government employees to conduct new entrant motor carrier audits, and may instead utilize the funds to conduct audits in those jurisdictions.

"(4) CDLIS MODERNIZATION.—The Secretary may designate up to $2,000,000 for fiscal year 2006 and up to $6,000,000 for fiscal years 2007 through 2009 from amounts available for allocation under paragraph (1) for commercial driver's license information system modernization under section 31309(f).".

(b) GRANTS TO STATES FOR BORDER ENFORCEMENT.—Section 31107 is amended to read as follows:

"§ 31107. Border enforcement grants

"(a) GENERAL AUTHORITY.—From the funds authorized by section 7103(b)(1) of the Motor Carrier Safety Reauthorization Act of 2005, the Secretary may make a grant in a fiscal year to a State that shares a border with another country for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(b) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 State or Federal fiscal years before October 1, 2005.".

(c) NONCOMPLIANCE WITH CDL REQUIREMENTS.—Section 31314 is amended by inserting "up to" after "withhold" in subsections (a) and (b).

(d) CONFORMING AMENDMENTS.—(1) The chapter analysis for chapter 311 is amended—

(A) by striking the item relating to Subchapter I, and inserting the following:

"SUBCHAPTER I—GENERAL AUTHORITY
AND STATE GRANTS";

and

(B) by striking the item relating to section 31107, and inserting the following:

"31107. Border enforcement grants.".

(2) Subchapter I of chapter 311 is amended by striking the subchapter heading and inserting the following:

"SUBCHAPTER I—GENERAL AUTHORITY
AND STATE GRANTS"

SEC. 7108. TECHNICAL CORRECTIONS.

(a) JURISDICTION OF COURT OF APPEALS OVER COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS AND MOTOR CARRIER SAFETY.—Section 2342(3)(A) of title 28, United States Code, is amended by striking "subtitle IV" and inserting "subtitle IV, subchapter III of chapter 311, chapter 313, or chapter 315".

(b) JUDICIAL REVIEW.—Section 351(a) is amended to read as follows:

"(a) JUDICIAL REVIEW.—An action of the Secretary of Transportation in carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670; 80 Stat. 931), or an action of the Administrator of the Federal Railroad Administration, Federal Motor Carrier Safety Administration, or the Federal Aviation Administration in carrying out a duty or power specifically assigned to the Administrator by that Act, may be reviewed judicially to the same extent and in the same way as if the action had been an action by the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer or assignment.".

(c) AUTHORITY TO CARRY OUT CERTAIN TRANSFERRED DUTIES AND POWERS.—Section 352 is amended to read as follows:

"§ 352. Authority to carry out certain transferred duties and powers

"In carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670; 80 Stat. 931), the Secretary of Transportation and the Administrators of the Federal Railroad Administration, the Federal Motor Carrier Safety Administration, and the Federal Aviation Administration have the same authority that was vested in the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer. An action of the Secretary or Administrator in carrying out the duty or power has the same effect as when carried out by the department, agency, or instrumentality.".

(d) TRANSFER OF PROVISION.—

(1) Section 345 of Public Law 104-59 is transferred to subchapter III of chapter 311 of title 49, United States Code, redesignated as section 31149, and inserted after section 31148 as section 31149. Section 31149, as transferred by the preceding sentence, is amended—

(A) by conforming the section heading to the style and format of the section headings in chapter 311 of title 49, United States Code;

(B) by striking "of title 49, United States Code," in subsection (a)(1), subsection (a)(5), and subsection (e)(4); and

(C) by striking subsection (f).

(2) The chapter analysis for chapter 311 is amended by inserting after the item relating to section 31148 the following:

"31149. Exemptions from requirements relating to commercial motor vehicles and their operators.".

(e) ELIMINATION OF COMMODITY AND SERVICE EXEMPTIONS.—

(1) Section 13506(a) is amended—

(A) by striking paragraphs (6), (11), (12), (13), and (15);

(B) by redesignating paragraphs (7), (8), (9), (10), and (14) as paragraphs (6), (7), (8), (9) and (10), respectively;

(C) by inserting "or" after the semicolon in paragraph (9), as redesignated; and

(D) striking "13904(d); or" in paragraph (10), as redesignated, and inserting "14904(d).".

(2) Section 13507 is amended by striking "(6), (8), (11), (12), or (13)" and inserting "(6)".

SEC. 7109. PENALTY FOR DENIAL OF ACCESS TO RECORDS.

Section 521(b)(2) is amended by adding at the end the following:

"(E) COPYING OF RECORDS AND ACCESS TO EQUIPMENT, LANDS, AND BUILDINGS.—A motor carrier subject to chapter 51 of subtitle III, a motor carrier, broker, or freight forwarder subject to part B of subtitle IV, or the owner or operator of a commercial motor vehicle subject to part B of subtitle VI of this title who fails to allow the Secretary, or an employee designated by the Secretary, promptly upon demand to inspect and copy any record or inspect and examine equipment, lands, buildings and other property in accordance with sections 504(c), 5121(c), and 14122(b) of this title shall be liable to the United States for a civil penalty not to exceed $500 for each offense, and each day the Secretary is denied the right to inspect and copy any record or inspect and examine equipment, lands, buildings and other property shall constitute a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed $5,000. It shall be a defense to such penalty that the records did not exist at the time of the Secretary's request or could not be timely produced without unreasonable expense or effort. Nothing herein amends or supersedes any remedy available to the Secretary under sections 502(d), 507(c), or other provision of this title.".

SEC. 7110. MEDICAL PROGRAM.

(a) IN GENERAL.—Subchapter III of chapter 311, as amended by section 7108(d) of this chapter, is amended by adding at the end the following:

"§ 31150. Medical program

"(a) MEDICAL REVIEW BOARD.—

"(1) ESTABLISHMENT AND FUNCTION.—The Secretary of Transportation shall establish a Medical Review Board to provide the Federal Motor Carrier Safety Administration with medical advice and recommendations on driver qualification medical standards and guidelines, medical examiner education, and medical research.

"(2) COMPOSITION.—The Medical Review Board shall be appointed by the Secretary and shall consist of 5 members selected from medical institutions and private practice. The membership shall reflect expertise in a variety of specialties relevant to the functions of the Federal Motor Carrier Safety Administration.

"(b) CHIEF MEDICAL EXAMINER.—The Secretary shall appoint a chief medical examiner who shall be an employee of the Federal Motor Carrier Safety Administration according to the SL schedule.

"(c) MEDICAL STANDARDS AND REQUIREMENTS.—

"(1) IN GENERAL.— The Secretary, with the advice of the Medical Review Board and the chief medical examiner, shall—

"(A) establish, review, and revise—

"(i) medical standards for applicants for and holders of commercial driver's licenses that will ensure that the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely;

"(ii) requirements for periodic physical examinations of such operators performed by medical examiners who have successfully completed training in physical and medical examination standards and are listed on a national registry maintained by the Department of Transportation; and

"(B) issue certificates to such holders and applicants that have been found, upon examination, to be physically qualified to operate a commercial motor vehicle and to meet applicable medical standards unless the authority to issue certificates has been delegated to medical examiners under subparagraph (d)(2) of this section;

"(C) require each holder of a commercial driver's license or learner's permit who operates a commercial vehicle in interstate commerce to have a current valid medical certificate;

"(D) conduct periodic reviews of a select number of medical examiners on the national registry to ensure that proper examinations of applicants and holders are being conducted;

"(E) develop, as appropriate, specific courses and materials for medical examiners listed in the national registry established under this section, and require those medical examiners to complete specific training, including refresher courses, to be listed in the registry;

"(F) require medical examiners to transmit the name of the applicant and numerical identifier, as determined by the Administrator, for any completed medical examination report required under section 391.43 of title 49, Code of Federal Regulations, electronically to the Chief Medical Examiner on monthly basis; and

"(G) periodically review a representative sample of the medical examination reports associated with the name and numerical identifiers of applicants transmitted under subparagraph (F) for errors, omissions, or other indications of improper certification.

"(2) MONITORING PERFORMANCE.—The Secretary shall investigate patterns of errors or improper certification by a medical examiner. If the Secretary finds that a medical examiner has issued a medical certificate to an applicant or holder who fails to meet the applicable standards at the time of the examination, such a medical examiner may be removed from the registry and the medical certificate of the applicant or holder may be deemed void.

"(d) National Registry of Medical Examiners.—The Secretary, through the Federal Motor Carrier Safety Administration—

"(1) shall establish and maintain a current national registry of medical examiners who are qualified to perform examinations and issue medical certificates;

"(2) shall delegate to those examiners the authority to issue such certificates upon successfully completing the required training;

"(3) shall remove from the registry the name of any medical examiner that fails to meet or maintain the qualifications established by the Secretary for being listed in the registry or otherwise does not meet the requirements of this section or regulation issued there under; and

"(4) shall accept as valid only medical certificates issued by persons on the national registry of medical examiners.

"(e) Regulations.—The Secretary is authorized to promulgate such regulations as may be necessary to carry out this section.".

(b) Medical Examiners.—Section 31136(a)(3) is amended to read as follows:

"(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely, and the periodic physical examinations required of such operators are performed by medical examiners who have received training in physical and medical examination standards and are listed on a national registry maintained by the Department of Transportation; and".

(c) Definition of Medical Examiner.—Section 31132 is amended—

(1) by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) 'medical examiner' means an individual licensed, certified, or registered in accordance with regulations issued by the Federal Motor Carrier Safety Administration as a medical examiner.".

(d) Funding.—Amounts made available pursuant to section 31104(i)(1) of title 49, United States Code, shall be used by the Secretary to carry out section 31150 of title 49, United States Code.

(e) Conforming Amendment.—The chapter analysis for chapter 311, as amended by section 7108(d) of this chapter, is amended by inserting after the item relating to section 31149 the following:

"31150. Medical program".

(f) Effective Date.—The amendment made by subsection (a) shall take effect 1 year after the date of enactment of this Act.

SEC. 7111. OPERATION OF COMMERCIAL MOTOR VEHICLES BY INDIVIDUALS WHO USE INSULIN TO TREAT DIABETES MELLITUS.

(a) Revision of Final Rule.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall revise the final rule to allow individuals who use insulin to treat their diabetes to operate commercial motor vehicles in interstate commerce. The revised final rule shall provide for the individual assessment of applicants who use insulin to treat their diabetes and who are, except for their use of insulin, otherwise qualified under the Federal Motor Carrier Safety Regulations. The revised final rule shall be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305 note) and shall conclude the rulemaking process in the Federal Motor Carrier Safety Administration docket relating to qualifications of drivers with diabetes.

(b) No History of Driving While Using Insulin Required for Qualification.—The Secretary may not require individuals to have experience operating commercial motor vehicles while using insulin in order to qualify to operate a commercial motor vehicle in interstate commerce.

(c) History of Diabetes Control.—The Secretary may require an individual to have used insulin for a minimum period of time and demonstrated stable control of diabetes in order to qualify to operate a commercial motor vehicle in interstate commerce. Any such requirement, including any requirement with respect to the duration of such insulin use, shall be consistent with the findings of the expert medical panel reported in July 2000 in "A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate Commercial Motor Vehicles in Interstate Commerce as Directed by the Transportation Equity Act for the 21st Century".

(d) Applicable Standard.—The Secretary shall ensure that individuals who use insulin to treat their diabetes are not held to a higher standard than other qualified commercial drivers, except to the extent that limited operating, monitoring, or medical requirements are deemed medically necessary by experts in the field of diabetes medicine.

SEC. 7112. FINANCIAL RESPONSIBILITY FOR PRIVATE MOTOR CARRIERS.

(a) Transportation of Passengers.—

(1) Section 31138(a) is amended to read as follows:

"(a) General Requirement.—The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers by motor vehicle in the United States between a place in a State and—

"(1) a place in another State;

"(2) another place in the same State through a place outside of that State; or

"(3) a place outside the United States.".

(2) Section 31138(c) is amended by adding at the end the following:

"(4) The Secretary may require a person, other than a motor carrier as defined in section 13102(12) of this title, transporting passengers by motor vehicle to file with the Secretary the evidence of financial responsibility specified in subsection (c)(1) of this section in an amount not less than that required by this section, and the laws of the State or States in which the person is operating, to the extent applicable. The extent of the financial responsibility must be sufficient to pay, not more than the amount of the financial responsibility, for each final judgment against the person for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property, or both.".

(b) Transportation of Property.—Section 31139 is amended—

(1) by striking so much of subsection (b) as precedes paragraph (2) and inserting the following:

"(b) General Requirements and Minimum Amount.—

"(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property by motor vehicle in the United States between a place in a State and—

"(A) a place in another State;

"(B) another place in the same State through a place outside of that State; or

"(C) a place outside the United States.";

(2) by aligning the left margin of paragraph (2) of subsection (b) with the left margin of paragraph (1) of that subsection (as amended by paragraph (1) of this subsection); and

(3) by redesignating subsection (c) through (g) as subsections (d) through (h), respectively, and inserting after subsection (b) the following:

"(c) Filing of Evidence of Financial Responsibility.—The Secretary may require a motor private carrier, as defined in section 13102 of this title, to file with the Secretary the evidence of financial responsibility specified in subsection (b) of this section in an amount not less than that required by this section, and the laws of the State or States in which the motor private carrier is operating, to the extent applicable. The amount of the financial responsibility must be sufficient to pay, not more than the amount of the financial responsibility, for each final judgment against the motor private carrier for bodily injury to, or death of, an individual resulting from negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property, or both.".

SEC. 7113. INCREASED PENALTIES FOR OUT-OF-SERVICE VIOLATIONS AND FALSE RECORDS.

(a) Section 521(b)(2)(B) is amended to read as follows:

"(B) Recordkeeping and Reporting Violations.—A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person—

"(i) who does not make that report, does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, or does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed $10,000; or

"(ii) who knowingly falsifies, destroys, mutilates, or changes a required report or record, knowingly files a false report with the Secretary, knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each violation, if any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.".

(b) Section 31310(i)(2) is amended to read as follows:

"(2) The Secretary shall prescribe regulations establishing sanctions and penalties related to violations of out-of-service orders by individuals operating commercial motor vehicles. The regulations shall require at least that—

"(A) an operator of a commercial motor vehicle found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 180 days and liable for a civil penalty of at least $2,500;

"(B) an operator of a commercial motor vehicle found to have committed a second violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 2 years and not more than 5 years and liable for a civil penalty of at least $5,000;

"(C) an employer that knowingly allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be liable for a civil penalty of not more than $25,000; and

"(D) an employer that knowingly and willfully allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall, upon conviction, be subject for each offense to imprisonment for a term not to exceed 1 year or a fine under title 18, United States Code, or both.".

SEC. 7114. INTRASTATE OPERATIONS OF INTERSTATE MOTOR CARRIERS.

(a) Subsection (a) of section 31144 is amended to read as follows:

"(a) IN GENERAL.—The Secretary shall—

"(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident record of an owner or operator operating in interstate commerce and the accident record and safety inspection record of such owner or operator in operations that affect interstate commerce within the United States, and in Canada and Mexico if the owner or operator also conducts operations within the United States;

"(2) periodically update such safety fitness determinations;

"(3) make such final safety fitness determinations readily available to the public; and

"(4) prescribe by regulation penalties for violations of this section consistent with section 521.".

(b) Subsection (c) of section 31144 is amended by adding at the end the following:

"(5) TRANSPORTATION AFFECTING INTERSTATE COMMERCE.—Owners or operators of commercial motor vehicles prohibited from operating in interstate commerce pursuant to paragraphs (1) through (3) of this section may not operate any commercial motor vehicle that affects interstate commerce until the Secretary determines that such owner or operator is fit.".

(c) Section 31144 is amended by redesignating subsections (d), (e), and the second subsection (c) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following:

"(d) DETERMINATION OF UNFITNESS BY A STATE.—If a State that receives Motor Carrier Safety Assistance Program funds pursuant to section 31102 of this title determines, by applying the standards prescribed by the Secretary under subsection (b) of this section, that an owner or operator of commercial motor vehicles that has its principal place of business in that State and operates in intrastate commerce is unfit under such standards and prohibits the owner or operator from operating such vehicles in the State, the Secretary shall prohibit the owner or operator from operating such vehicles in interstate commerce until the State determines that the owner or operator is fit.".

SEC. 7115. AUTHORITY TO STOP COMMERCIAL MOTOR VEHICLES.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§39. Commercial motor vehicles required to stop for inspections

"(a) A driver of a commercial motor vehicle, as defined in section 31132(1) of title 49, shall stop and submit to inspection of the vehicle, driver, cargo, and required records when directed to do so by an authorized employee of the Federal Motor Carrier Safety Administration, Department of Transportation, at or in the vicinity of an inspection site. The driver shall not leave the inspection site until authorized to do so by an authorized employee.

"(b) A driver of a commercial motor vehicle, as defined in subsection (a), who knowingly fails to stop for inspection when directed to do so by an authorized employee of the Federal Motor Carrier Safety Administration at or in the vicinity of an inspection site, or leaves the inspection site without authorization, shall be fined under this title or imprisoned not more than 1 year, or both.".

(b) AUTHORITY OF FMCSA.—Chapter 203 of title 18, United States Code, is amended by adding at the end the following:

"§3064. Powers of Federal Motor Carrier Safety Administration

"Authorized employees of the Federal Motor Carrier Safety Administration may direct a driver of a commercial motor vehicle, as defined in 49 U.S.C. 31132(1), to stop for inspection of the vehicle, driver, cargo, and required records at or in the vicinity of an inspection site.".

(c) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 38 the following:

"39. Commercial motor vehicles required to stop for inspections.".

(2) The chapter analysis for chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3063 the following:

"3064. Powers of Federal Motor Carrier Safety Administration.".

SEC. 7116. REVOCATION OF OPERATING AUTHORITY.

Section 13905(e) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) PROTECTION OF SAFETY.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary—

"(A) may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with requirements of the Secretary pursuant to section 13904(c) or 13906 of this title, or an order or regulation of the Secretary prescribed under those sections; and

"(B) shall revoke the registration of a motor carrier that has been prohibited from operating in interstate commerce for failure to comply with the safety fitness requirements of section 31144 of this title.";

(2) by striking "may suspend a registration" in paragraph (2) and inserting "shall revoke the registration"; and

(3) by striking paragraph (3) and inserting the following:

"(3) NOTICE; PERIOD OF SUSPENSION.—The Secretary may suspend or revoke under this subsection the registration only after giving notice of the suspension or revocation to the registrant. A suspension remains in effect until the registrant complies with the applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes the suspension.".

SEC. 7117. PATTERN OF SAFETY VIOLATIONS BY MOTOR CARRIER MANAGEMENT.

(a) IN GENERAL.—Section 31135 is amended—

(1) by inserting "(a) IN GENERAL.—" before "Each"; and

(2) by adding at the end the following:

"(b) PATTERN OF NON-COMPLIANCE.—If an officer of a motor carrier engages in a pattern or practice of avoiding compliance, or masking or otherwise concealing non-compliance, with regulations on commercial motor vehicle safety prescribed under this subchapter, the Secretary may suspend, amend, or revoke any part of the motor carrier's registration under section 13905 of this title.

"(c) REGULATIONS.—Within 1 year after the date of enactment of the Motor Carrier Safety Reauthorization Act of 2005, the Secretary shall by regulation establish standards to implement subsection (b).

"(d) DEFINITIONS.—In this section:

"(1) MOTOR CARRIER.—The term 'motor carrier' has the meaning given the term in section 13102(12) of this title.

"(2) OFFICER.—The term 'officer' means an owner, director, chief executive officer, chief operating officer, chief financial officer, safety director, vehicle maintenance supervisor, and driver supervisor of a motor carrier, regardless of the title attached to those functions, and any person, however designated, exercising controlling influence over the operations of the motor carrier.".

(b) CROSS-REFERENCE.—Section 13902(a)(1)(B) is amended to read as follows:

"(B) any safety regulations imposed by the Secretary, the duties of employers and employees established by the Secretary under section 31135, and the safety fitness requirements established by the Secretary under section 31144; and".

SEC. 7118. MOTOR CARRIER RESEARCH AND TECHNOLOGY PROGRAM.

(a) IN GENERAL.—Section 31108 is amended to read as follows:

"§31108. Motor carrier research and technology program

"(a) RESEARCH, TECHNOLOGY, AND TECHNOLOGY TRANSFER ACTIVITIES.—

"(1) The Secretary of Transportation shall establish and carry out a motor carrier and motor coach research and technology program. The Secretary may carry out research, development, technology, and technology transfer activities with respect to—

"(A) the causes of accidents, injuries and fatalities involving commercial motor vehicles; and

"(B) means of reducing the number and severity of accidents, injuries and fatalities involving commercial motor vehicles.

"(2) The Secretary may test, develop, or assist in testing and developing any material, invention, patented article, or process related to the research and technology program.

"(3) The Secretary may use the funds appropriated to carry out this section for training or education of commercial motor vehicle safety personnel, including, but not limited to, training in accident reconstruction and detection of controlled substances or other contraband, and stolen cargo or vehicles.

"(4) The Secretary may carry out this section—

"(A) independently;

"(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

"(C) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, any Federal laboratory, State agency, authority, association, institution, for-profit or non-profit corporation, organization, foreign country, or person.

"(5) The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs under this section.

"(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(1) To advance innovative solutions to problems involving commercial motor vehicle and motor carrier safety, security, and efficiency, and to stimulate the deployment of emerging technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

"(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, and sole proprietorships that are incorporated or established under the laws of any State; and

"(B) Federal laboratories.

"(2) In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

"(3)(A) The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

"(B) All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware or software development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

"(4) The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(c) AVAILABILITY OF AMOUNTS.—The amounts made available under section 7103(a) of the Motor Carrier Safety Reauthorization Act of 2005 to carry out this section shall remain available until expended.

"(d) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under section 7103(a) of the Motor Carrier Safety Reauthorization Act of 2005 to carry out this section imposes upon the United States Government a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 311 is amended by striking the item relating to section 31108, and inserting the following:

"31108. Motor carrier research and technology program.".

SEC. 7119. INTERNATIONAL COOPERATION.

(a) IN GENERAL.—Chapter 311 is amended by inserting at the end the following:

"Subchapter IV—Miscellaneous

"§ 31161. International cooperation

"The Secretary is authorized to use funds appropriated under section 31104(i) of this title to participate and cooperate in international activities to enhance motor carrier, commercial motor vehicle, driver, and highway safety by such means as exchanging information, conducting research, and examining needs, best practices, and new technology.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 311 is amended by adding at the end the following:

"SUBCHAPTER IV—MISCELLANEOUS

"31161. International cooperation.".

SEC. 7120. PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT.

(a) IN GENERAL.—Section 31106(b) is amended—

(1) by striking paragraphs (2) and (3) and inserting the following:

"(2) DESIGN.—The program shall link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems and shall be designed to enable a State to—

"(A) determine the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

"(B) deny, suspend, or revoke the commercial motor vehicle registrations of a motor carrier or registrant that has been issued an operations out-of-service order by the Secretary.

"(3) CONDITIONS FOR PARTICIPATION.—The Secretary shall require States, as a condition of participation in the program, to—

"(A) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under subsection (a)(4);

"(B) possess the authority to impose sanctions relating to commercial motor vehicle registration on the basis of a Federal safety fitness determination; and

"(C) cancel the motor vehicle registration and seize the registration plates of an employer found liable under section 31310(i)(2)(C) of this title for knowingly allowing or requiring an employee to operate a commercial motor vehicle in violation of an out-of-service order."; and

(2) by striking paragraph (4).

(b) PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT GRANTS.—

(1) Subchapter I of chapter 311, as amended by section 7118 of this chapter, is further amended by adding at the end the following:

"§ 31109. Performance and Registration Information System Management

"(a) IN GENERAL.—From the funds authorized by section 7103(b)(2) of the Motor Carrier Safety Reauthorization Act of 2005, the Secretary may make a grant in a fiscal year to a State to implement the performance and registration information system management requirements of section 31106(b).

"(b) AVAILABILITY OF AMOUNTS.—Amounts made available to a State under section 7103(b)(2) of the Motor Carrier Safety Reauthorization Act of 2005 to carry out this section shall remain available until expended.

"(c) SECRETARY'S APPROVAL.—Approval by the Secretary of a grant to a State under section 7103(b)(2) of the Motor Carrier Safety Reauthorization Act of 2005 to carry out this section is a contractual obligation of the Government for payment of the amount of the grant.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 311 is amended by inserting after the item relating to section 31108 the following:

"31109. Performance and Registration Information System Management.".

SEC. 7121. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.

(a) IN GENERAL.—Subchapter III of chapter 311, as amended by section 7110, is amended by adding at the end the following:

"§ 31151. Commercial vehicle information systems and networks

"(a) IN GENERAL.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

"(1) improve the safety and productivity of commercial vehicles; and

"(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

"(b) PURPOSE.—The program shall advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

"(c) CORE DEPLOYMENT GRANTS.—

"(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.

"(2) ELIGIBILITY.—To be eligible for a core deployment grant under this section, a State—

"(A) shall have a commercial vehicle information systems and networks program plan and a system design approved by the Secretary;

"(B) shall certify to the Secretary that its commercial vehicle information systems and networks deployment activities, including hardware procurement, software and system development, and infrastructure modifications, are consistent with the national intelligent transportation systems and commercial vehicle information systems and networks architectures and available standards, and promote interoperability and efficiency to the extent practicable; and

"(C) shall agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that its systems conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks.

"(3) AMOUNT OF GRANTS.—The maximum aggregate amount a State may receive under this section for the core deployment of commercial vehicle information systems and networks may not exceed $2,500,000.

"(4) USE OF FUNDS.—Funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks. Eligible States that have either completed the core deployment of commercial vehicle information systems and networks or completed such deployment before core deployment grant funds are expended may use the remaining core deployment grant funds for the expanded deployment of commercial vehicle information systems and networks in their State.

"(d) EXPANDED DEPLOYMENT GRANTS.—

"(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made core deployment grants under subsection (c) of this section, the Secretary may make grants to each eligible State, upon request, for the expanded deployment of commercial vehicle information systems and networks.

"(2) ELIGIBILITY.—Each State that has completed the core deployment of commercial vehicle information systems and networks is eligible for an expanded deployment grant.

"(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States, but not to exceed $1,000,000 per State.

"(4) USE OF FUNDS.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.

"(e) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall not exceed 50 percent. The total Federal share of the cost of a project payable from all eligible sources shall not exceed 80 percent.

"(f) AVAILABILITY OF FUNDS.—Funds authorized to be appropriated under section 7103(b)(4) of the Motor Carrier Safety Reauthorization Act of 2005 shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended.

"(g) DEFINITIONS.—In this section:

"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'commercial vehicle information systems and networks' means the information systems and communications networks that provide the capability to—

"(A) improve the safety of commercial vehicle operations;

"(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

"(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

"(D) enhance the safe passage of commercial vehicles across the United States and across international borders; and

"(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

"(2) COMMERCIAL VEHICLE OPERATIONS.—The term 'commercial vehicle operations'—

"(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers; and

"(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

"(3) CORE DEPLOYMENT.—The term 'core deployment' means the deployment of systems in a State necessary to provide the State with the following capabilities:

"(A) SAFETY INFORMATION EXCHANGE.—Safety information exchange to—

"(i) electronically collect and transmit commercial vehicle and driver inspection data at a majority of inspection sites;

"(ii) connect to the Safety and Fitness Electronic Records system for access to interstate carrier and commercial vehicle data, summaries of past safety performance, and commercial vehicle credentials information; and

"(iii) exchange carrier data and commercial vehicle safety and credentials information within the State and connect to Safety and Fitness Electronic Records for access to interstate carrier and commercial vehicle data.

"(B) INTERSTATE CREDENTIALS ADMINISTRATION.—Interstate credentials administration to—

"(i) perform end-to-end processing, including carrier application, jurisdiction application processing, and credential issuance, of at least the International Registration Plan and International Fuel Tax Agreement credentials and subsequently extend this processing to other credentials, including intrastate, titling, oversize/overweight, carrier registration, and hazardous materials;

"(ii) connect to the International Registration Plan and International Fuel Tax Agreement clearinghouses; and

"(iii) have at least 10 percent of the transaction volume handled electronically, and have the capability to add more carriers and to extend to branch offices where applicable.

"(C) ROADSIDE SCREENING.—Roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of 1 fixed or mobile inspection sites and to replicate this screening at other sites.

"(4) EXPANDED DEPLOYMENT.—The term 'expanded deployment' means the deployment of systems in a State that exceed the requirements of an core deployment of commercial vehicle information systems and networks, improve safety and the productivity of commercial vehicle operations, and enhance transportation security.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 311 is amended by inserting after the item relating to section 31150 the following:

"31151. Commercial vehicle information systems and networks".

SEC. 7122. OUTREACH AND EDUCATION.

(a) IN GENERAL.—The Secretary of Transportation, through the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration, may undertake outreach and education initiatives, including the "Share the Road Safely" program, that will reduce the number of highway accidents, injuries, and fatalities involving commercial motor vehicles.

(b) STUDY.—The Comptroller General shall update the Government Accountability Office's evaluation of the "Share the Road Safely" program to determine if it has achieved reductions in the number and severity of commercial motor vehicle crashes, including reductions in the number of deaths and the severity of injuries sustained in these crashes, and shall report its updated evaluation to Congress no later than June 30, 2006.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of fiscal years 2006 through 2009 to carry out this section—

(1) $1,000,000 for the Federal Motor Carrier Safety Administration; and

(2) $3,000,000 for the National Highway Traffic Safety Administration.

SEC. 7123. FOREIGN COMMERCIAL MOTOR VEHICLES.

(a) OPERATING AUTHORITY ENFORCEMENT ASSISTANCE FOR STATES.—Within 180 days after the date of enactment of this Act, the Federal Motor Carrier Safety Administration shall conduct outreach and provide training as necessary to State personnel engaged in the enforcement of Federal Motor Carrier Safety Administration safety regulations to ensure their awareness of the process to be used for verification of the operating authority of motor carriers, including buses, and to ensure proper enforcement when motor carriers are found to be in violation of operating authority requirements. The Inspector General of the Department of Transportation may periodically assess the implementation and effectiveness of the training and outreach program.

(b) STUDY OF FOREIGN COMMERCIAL MOTOR VEHICLES.—

(1) REVIEW.—Within 1 year after the date of enactment of this Act, the Federal Motor Carrier Safety Administration shall conduct a review to determine the degree to which Canadian and Mexican commercial motor vehicles, including buses, currently operating or expected to operate, in the United States comply with the Federal Motor Vehicle Safety Standards.

(2) REPORTS.—Within 1 year after the date of enactment of this Act, the Adminstrator shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing the findings and conclusions of the review. Within 4 months after the report is transmitted to the Committees, the Inspector General of the Department of Transportation shall provide comments and observations to the Committees on the scope and methodology of the review.

SEC. 7124. PRE-EMPLOYMENT SAFETY SCREENING.

(a) IN GENERAL.—Subchapter III of chapter 311, as amended by section 7121, is amended by adding at the end the following:

"§31152. Pre-employment safety screening

"(a) IN GENERAL.—The Secretary of Transportation shall provide companies conducting pre-employment screening services for the motor carrier industry electronic access to—

"(1) commercial motor vehicle accident report information contained in the Motor Carrier Management Information System; and

"(2) all driver safety violations contained in the Motor Carrier Management Information System.

"(b) ESTABLISHMENT.—Prior to making information available to such companies under subsection (a), the Secretary shall—

"(1) ensure that any information released is done in accordance with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and all applicable Federal laws;

"(2) require the driver applicant's written consent as a condition of releasing the information;

"(3) ensure that the information made available to companies providing pre-employment screening services is not released to any other unauthorized company or individual, unless expressly authorized or required by law; and

"(4) provide a procedure for drivers to remedy incorrect information in a timely manner.

"(c) DESIGN.—To be eligible to have access to information under subsection (a), a company conducting pre-employment screening services for the motor carrier industry shall utilize a screening process—

"(1) that is designed to assist the motor carrier industry in assessing an individual driver's crash and safety violation history as a pre-employment condition;

"(2) the use of which is not mandatory; and

"(3) which is used only during the pre-employment assessment of a driver-applicant.".

(b) Conforming Amendment.—The chapter analysis for chapter 311, as amended by section 7121, is amended by inserting after the item relating to section 31151 the following:

"31152. Pre-employment safety screening.".

SEC. 7125. CLASS OR CATEGORY EXEMPTIONS.

(a) In General.—The Secretary of Transportation may grant exemptions for categories or classes of drivers of commercial motor vehicles not required to hold a commercial driver's license under section 31301(4) of title 49, United States Code, from compliance in whole or in part with a regulation issued under chapter 315 of title 49, United States Code, or with regulations issued under section 31502 of that title governing hours of service if the Secretary determines that it is in the public interest to grant the exemption and that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption subject to such conditions as the Secretary may impose. An exemption may be granted for no longer than 2 years from its initial approval date and may be renewed upon application to the Secretary.

(b) Authority to Revoke Exemption.—The Secretary shall immediately revoke an exemption if—

(1) the exemption has resulted in a lower level of safety than was maintained before the exemption was granted; or

(2) continuation of the exemption would not be consistent with the goals and objectives of that chapter or section 31136, as the case may be.

(c) Requests for Exemption.—

(1) Interim final rule.—Not later than 180 days after the date of enactment of this Act, the Secretary shall specify by interim final rule the procedures by which an exemption for a category or class of drivers may be requested under this section. The rule shall, at a minimum, require the motor carrier or other entity requesting the exemption to provide the following information:

(A) The provisions from which the motor carrier or other entity requests exemption.

(B) The reason for which the exemption is requested.

(C) The time period during which the requested exemption would apply.

(D) An analysis of the safety impacts the requested exemption may cause.

(E) The specific countermeasures the motor carrier or other entity will undertake to ensure an equivalent or greater level of safety than would be achieved absent the requested exemption.

(F) The benefits to be derived from the exemption.

(2) Final rule.—Not later than 2 years after the date of enactment of this Act, and after notice and an opportunity for comment, the Secretary shall promulgate a final rule specifying the procedures by which an exemption for a category or class of drivers may be requested under this section.

(d) Notice and Comment.—

(1) Upon receipt of a request.—Upon receipt of an exemption request, the Secretary shall publish in the Federal Register a notice explaining the request that has been filed and shall give the public an opportunity to inspect the safety analysis and any other relevant information known to the Secretary and to comment on the request. This subparagraph does not require the release of information protected by law from public disclosure.

(2) Upon granting a request.—Upon granting a request for exemption, the Secretary shall publish in the Federal Register the name of the motor carrier or other entity granted the exemption, the provisions from which the category or class of vehicles will be exempt, the effective period, and all terms and conditions of the exemption.

(3) After denying a request.—After denying a request for exemption, the Secretary shall publish in the Federal Register the name of the motor carrier or other entity denied the exemption, the category or class of vehicles for which the exemption was requested, and the reasons for such denial. The Secretary may meet the requirement of this subparagraph by periodically publishing in the Federal Register the names of motor carriers or other entities denied exemptions, the categories or classes of vehicles for which the exemption was requested, and the reasons for such denials.

(e) Applications To Be Dealt with Promptly.—The Secretary shall grant or deny an exemption request after a thorough review of its safety implications, but in no case later than 90 days after the filing date of such request.

(f) Terms and Conditions.—The Secretary shall establish terms and conditions for each exemption to ensure that it will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The Secretary shall monitor the implementation of the exemption to ensure compliance with its terms and conditions.

(g) Notification of State Compliance and Enforcement Personnel.—Before granting a request for exemption, the Secretary shall notify State safety compliance and enforcement personnel, including roadside inspectors, and the public that a motor carrier or other entity will be operating pursuant to an exemption and any terms and conditions that will apply to the exemption.

(h) Preemption of State Rules.—During the time period that an exemption is in effect under this section, no State shall enforce any law or regulation that conflicts with or is inconsistent with the exemption with respect to the category or class of vehicles to which the exemption applies.

SEC. 7126. DECALS.

The Commercial Vehicle Safety Alliance may not restrict the sale of any inspection decal to the Federal Motor Carrier Safety Administration unless the Administration fails to meet its responsibilities under its memorandum of understanding with the Alliance (other than a failure due to the Administration's compliance with Federal law).

SEC. 7127. ROADABILITY.

(a) Inspection, Repair and Maintenance of Intermodal Equipment.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Secretary, after providing notice and opportunity for comment, shall issue regulations establishing a program to ensure that intermodal equipment used to transport intermodal containers is safe and systematically maintained.

(2) Intermodal equipment safety regulations.—The Secretary shall promulgate regulations under this section as a subpart of the regulations of the Federal Motor Carrier Safety Administration of the Department of Transportation.

(3) Contents.—The regulations issued under this section shall include, at a minimum—

(A) a requirement to identify intermodal equipment providers responsible for the inspection and maintenance of intermodal equipment that is interchanged or intended for interchange to motor carriers in intermodal transportation;

(B) a requirement to match intermodal equipment readily to an intermodal equipment provider through a unique identifying number;

(C) a requirement that an intermodal equipment provider identified under the requirement of subparagraph (A) systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, intermodal equipment described in subparagraph (A) that is intended for interchange with a motor carrier;

(D) a requirement to ensure that each intermodal equipment provider identified under the requirement of subparagraph (A) maintains a system of maintenance and repair records for such equipment;

(E) requirements that—

(i) a specific list of intermodal equipment components or items be identified for the visual or audible inspection of which a driver is responsible before operating the equipment over the road; and

(ii) the inspection be conducted as part of the Federal requirement in effect on the date of enactment of this Act that a driver be satisfied that the components are in good working order before operating the equipment over the road;

(F) a requirement that a facility at which an intermodal equipment provider regularly makes equipment available for interchange have an operational process and space readily available for a motor carrier to have an equipment defect identified pursuant to subparagraph (E) repaired or the equipment replaced prior to departure;

(G) a provision that establishes a program for the evaluation and audit of compliance by intermodal equipment providers with applicable Federal Motor Carrier Safety Administration regulations;

(H) a provision that—

(i) establishes a civil penalty structure consistent with section 521(b) of title 49, United States Code, for intermodal equipment providers that fail to attain satisfactory compliance with applicable regulations; and

(ii) prohibits intermodal equipment providers from placing intermodal equipment in service on the public highways to the extent such providers or their equipment are found to pose an imminent hazard;

(I) a provision that establishes a process by which motor carriers and agents of motor carriers may request the Federal Motor Carrier Safety Administration to undertake an investigation of an intermodal equipment provider identified under the requirement of subparagraph (A) that is alleged to be not in compliance with the regulations established pursuant to this section;

(J) a provision that establishes a process by which equipment providers and agents of equipment providers may request the Federal Motor Carrier Safety Administration to undertake an investigation of a motor carrier that is alleged to be not in compliance with applicable Federal motor carrier safety regulations;

(K) a provision that establishes a process by which drivers or motor carriers are required to report any actual damage or defect in the intermodal equipment of which the driver or motor carrier is aware at the time the intermodal equipment is returned to the equipment provider;

(L) a requirement that any actual damage or defect identified in the process established under subparagraph (K) be repaired before the equipment is made available for interchange to a motor carrier, and that repairs of equipment made pursuant to the requirements of this subparagraph and reports made pursuant to subparagraph (K) process be documented in the maintenance records for such equipment; and

(M) a procedure under which motor carriers, drivers and intermodal equipment providers may seek correction of their safety records through the deletion from those records of violations of safety regulations attributable to deficiencies in the intermodal chassis or trailer for which they should not have been held responsible.

(4) DEADLINE FOR RULEMAKING PROCEEDING.—Within 120 days after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding for regulations under this section.

(b) JURISDICTION OF DEPARTMENT OF TRANSPORTATION.—Section 31136 is amended by adding at the end the following:

"(g) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—The Secretary or an employee of the Department of Transportation designated by the Secretary may inspect intermodal equipment, and copy related maintenance and repair records for such equipment, on demand and display of proper credentials.

"(h) OUT-OF-SERVICE UNTIL REPAIR.—Any intermodal equipment that is determined under this section to fail to comply with applicable safety regulations may be placed out of service and may not be used on a public highway until the repairs necessary to bring such equipment into compliance have been completed. Repairs of equipment taken out of service shall be documented in the maintenance records for such equipment.".

(c) PREEMPTION OF STATE LAWS.—

(1) IN GENERAL.—Section 31141 is amended by adding at the end the following:

"(h) PREEMPTION GENERALLY.—Except as otherwise authorized by law and as provided in subsection (i), a law, regulation, order, or other requirement of a State, a political subdivision of a State, or a tribal organization, is preempted if such law, regulation, order, or other requirement exceeds or is inconsistent with a requirement imposed under or pursuant to this chapter.

"(i) PRE-EXISTING STATE REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State requirement for the periodic inspection of intermodal chassis by intermodal equipment providers that was in effect on January 1, 2005, shall remain in effect only until the date on which requirements prescribed under section 7127 of the Surface Transportation Safety Improvement Act of 2005 take effect.

"(2) NON-PREEMPTION DETERMINATIONS.—

"(A) IN GENERAL.—A State requirement described in paragraph (1) is not preempted by a Federal requirement prescribed under section 7127 of that Act if the Secretary determines that the State requirement is as effective as the Federal requirement and does not unduly burden interstate commerce.

"(B) APPLICATION REQUIRED.—Subparagraph (A) applies to a State requirement only if the State applies to the Secretary for a determination under this paragraph with respect to the requirement before the date on which requirements prescribed under section 7127 of that Act take effect. The Secretary shall make a determination with respect to any such application within 6 months after the date on which the Secretary receives the application.

"(C) AMENDED STATE REQUIREMENTS.—Any amendment to a State requirement not preempted under this subsection because of a determination by the Secretary under subparagraph (A) may not take effect unless—

"(i) it is submitted to the Secretary before the effective date of the amendment; and

"(ii) the Secretary determines that the amendment would not cause the State requirement to be less effective than the Federal requirement and would not unduly burden interstate commerce.

(2) CONFORMING AMENDMENT.—Section 31141(c)(1) is amended by striking "The Secretary" the first place it appears and inserting "Except as provided by subsection (h), the Secretary".

(d) DEFINITIONS.—In this section:

(1) INTERMODAL EQUIPMENT.—The term "intermodal equipment" means trailing equipment that is used in the intermodal transportation of freight over public highways in interstate commerce (as defined in section 31132 of title 49, United States Code), including trailers and chassis.

(2) INTERMODAL EQUIPMENT INTERCHANGE AGREEMENT.—The term "Intermodal equipment interchange agreement" means the Uniform Intermodal Interchange and Facilities Access Agreement or any other written document executed by an intermodal equipment provider or its agent and a motor carrier or its agent, the primary purpose of which is to establish the responsibilities and liabilities of both parties with respect to the interchange of the intermodal equipment.

(3) INTERMODAL EQUIPMENT PROVIDER.—The term "intermodal equipment provider" means any person that interchanges intermodal equipment with a motor carrier pursuant to a written interchange agreement or has a contractual responsibility for the maintenance of the intermodal equipment.

(4) INTERCHANGE.—The term "interchange"—

(A) means the act of providing intermodal equipment to a motor carrier pursuant to an Intermodal equipment interchange agreement for the purpose of transporting the equipment for loading or unloading by any person or repositioning the equipment for the benefit of the equipment provider; but

(B) does not include the leasing of equipment to a motor carrier for primary use in the motor carrier's freight hauling operations.

SEC. 7128. MOTOR CARRIER REGULATIONS.

(a) IN GENERAL.—Section 31149, as amended by section 7108(d), is further amended—

(1) by striking paragraph (1) of subsection (a) and inserting the following:

"(1) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Regulations prescribed by the Secretary under sections 31136 and 31502 of this title regarding maximum driving and on-duty time for drivers used by motor carriers shall not apply during planting and harvest periods, as determined by each State, to drivers transporting agricultural commodities or farm supplies for agricultural purposes in a State if such transportation is limited to an area within a 100 air mile radius from the source of the commodities or the distribution point for the farm supplies.";

(2) by adding at the end of subsection (e) the following:

"(7) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means any agricultural commodity, non-processed food, feed, fiber, or livestock (including livestock as defined in section 602 of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471) and insects).

"(8) FARM SUPPLIES FOR AGRICULTURAL PURPOSES.—The term 'farm supplies for agricultural purposes' means products directly related to the growing or harvesting of agricultural commodities during the planting and harvesting seasons within each State, as determined by the State, and livestock feed at any time of the year.".

(b) REGULATIONS FOR MOVIE PRODUCTION SITES.—Notwithstanding sections 31136 and 31502 of title 49, United States Code, and any other provision of law, the maximum daily hours of service for an operator of a commercial motor vehicle providing transportation of property or passengers to or from a theatrical or television motion picture production site located within a 100 air mile radius of the work reporting location of such operator shall be those in effect under the regulations in effect under those sections on April 27, 2003.

(c) UTILITY SERVICE VEHICLES.—Section 31149(a)(4) (as so transferred) is amended to read as follows:

"(4) OPERATORS OF UTILITY SERVICE VEHICLES.—

"(A) INAPPLICABILITY OF FEDERAL REGULATIONS.—Such regulations may not apply to a driver of a utility service vehicle.

"(B) PROHIBITION ON STATE REGULATIONS.—A State, a political subdivision of a State, an interstate agency, or other entity consisting of 2 or more States, shall not enact or enforce any law, rule, regulation, or standard that imposes requirements on a driver of a utility service vehicle that are similar to the requirements contained in such regulations.";

(2) by striking "Nothing" in subsection (b) and inserting "Except as provided in subsection (a)(4), nothing"; and

(3) by striking "paragraph (2)" in the first sentence of subsection (c) and inserting "an exemption under paragraph (1), (2), or (4)".

SEC. 7129. VEHICLE TOWING.

(a) STATE LAWS RELATING TO VEHICLE TOWING.—Section 14501(c) is amended by adding at the end the following:

"(5) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prevent a State from requiring that, in the case of vehicles towed from private property without the consent of the owner or operator of the vehicle, towing companies have prior written authorization from the property owner or lessee (or an employee or agent thereof), or that such owner or lessee (or an employee or agent thereof) be present at the time the vehicle is towed from the property, or both.".

(b) PREDATORY TOW TRUCK OPERATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in conjunction with other appropriate Federal agencies, shall—

(1) conduct a review of Federal, State and local regulation of the tow truck industry before the date of enactment of the ICC Termination Act of 1995; and

(2) conduct a study to identify issues related to the protection of the rights of consumers who are towed, to establish the scope and geographic reach of any such issues identified, and to identify potential remedies for those issues.

CHAPTER 2—UNIFIED CARRIER REGISTRATION

SEC. 7131. SHORT TITLE.

This chapter may be cited as the "Unified Carrier Registration Act of 2005".

SEC. 7132. RELATIONSHIP TO OTHER LAWS.

Except as provided in section 14504 of title 49, United States Code, and sections 14504a and 14506 of title 49, United States Code, as added by this chapter, this chapter is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law.

SEC. 7133. INCLUSION OF MOTOR PRIVATE AND EXEMPT CARRIERS.

(a) PERSONS REGISTERED TO PROVIDE TRANSPORTATION OR SERVICE AS A MOTOR CARRIER OR MOTOR PRIVATE CARRIER.—Section 13905 is amended by—

(1) redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

(2) inserting after subsection (a) the following:

"(b) PERSON REGISTERED WITH SECRETARY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any person having registered with the Secretary to provide transportation or service as a motor carrier or motor private carrier under this title, as in effect on January 1, 2005, but not having registered pursuant to section 13902(a) of this title, shall be deemed, for purposes of this part, to be registered to provide such transportation or service for purposes of sections 13908 and 14504a of this title.

"(2) EXCLUSIVELY INTRASTATE OPERATORS.—Paragraph (1) does not apply to a motor carrier or motor private carrier (including a transporter of waste or recyclable materials) engaged exclusively in intrastate transportation operations.".

(b) SECURITY REQUIREMENT.—Section 13906(a) is amended by—

(1) redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) inserting the following:

"(2) SECURITY REQUIREMENT.—Not later than 120 days after the date of enactment of the Unified Carrier Registration Act of 2005, any person, other than a motor private carrier, registered with the Secretary to provide transportation or service as a motor carrier under section 13905(b) of this title shall file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than required by sections 31138 and 31139 of this title.".

(c) TERMINATION OF TRANSITION RULE.—Section 13902 is amended—

(1) by adding at the end of subsection (d) the following:

"(3) TERMINATION.—This subsection shall cease to be in effect on the transition termination date."; and

(2) by redesignating subsection (f) as subsection (g), and inserting after subsection (e) the following:

"(f) MODIFICATION OF CARRIER REGISTRATION.—

"(1) IN GENERAL.—On and after the transition termination date, the Secretary—

"(A) may not register a motor carrier under this section as a motor common carrier or a motor contract carrier;

"(B) shall register applicants under this section as motor carriers; and

"(C) shall issue any motor carrier registered under this section after that date a motor carrier certificate of registration that specifies whether the holder of the certificate may provide transportation of persons, household goods, other property, or any combination thereof.

"(2) PRE-EXISTING CERTIFICATES AND PERMITS.—The Secretary shall redesignate any motor carrier certificate or permit issued before the transition termination date as a motor carrier certificate of registration. On and after the transition termination date, any person holding a motor carrier certificate of registration redesignated under this paragraph may provide both contract carriage (as defined in section 13102(4)(B) of this title) and transportation under terms and conditions meeting the requirements of section 13710(a)(1) of this title. The Secretary may not, pursuant to any regulation or form issued before or after the transition termination date, make any distinction among holders of motor carrier certificates of registration on the basis of whether the holder would have been classified as a common carrier or as a contract carrier under—

"(A) subsection (d) of this section, as that section was in effect before the transition termination date; or

"(B) any other provision of this title that was in effect before the transition termination date.

"(3) TRANSITION TERMINATION DATE DEFINED.—In subsection (d) and this subsection, the term 'transition termination date' means the first day of January occurring more than 12 months after the date of enactment of the Unified Carrier Registration Act of 2005.".

(d) CONFORMING AMENDMENTS.—

(1) CAPTION OF SECTION 13906.—The section caption for section 13906 is amended by inserting "**motor private carriers,**" after "**motor carriers,**".

(2) CHAPTER ANALYSIS.—The chapter analysis for chapter 139 is amended by striking the item relating to section 13906 and inserting the following:

"13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders.".

SEC. 7134. UNIFIED CARRIER REGISTRATION SYSTEM.

(a) Section 13908 is amended to read as follows:

"§ 13908. Registration and other reforms

"(a) ESTABLISHMENT OF UNIFIED CARRIER REGISTRATION SYSTEM.—The Secretary, in cooperation with the States, representatives of the motor carrier, motor private carrier, freight forwarder and broker industries, and after notice and opportunity for public comment, shall issue within 1 year after the date of enactment of the Unified Carrier Registration Act of 2005 regulations to establish, an online, Federal registration system to be named the Unified Carrier Registration System to replace—

"(1) the current Department of Transportation identification number system, the Single State Registration System under section 14504 of this title;

"(2) the registration system contained in this chapter and the financial responsibility information system under section 13906; and

"(3) the service of process agent systems under sections 503 and 13304 of this title.

"(b) ROLE AS CLEARINGHOUSE AND DEPOSITORY OF INFORMATION.—The Unified Carrier Registration System shall serve as a clearinghouse and depository of information on, and identification of, all foreign and domestic motor carriers, motor private carriers, brokers, and freight forwarders, and others required to register with the Department, including information with respect to a carrier's safety rating, compliance with required levels of financial responsibility, and compliance with the provisions of section 14504a of this title. The Secretary shall ensure that Federal agencies, States, representatives of the motor carrier industry, and the public have access to the Unified Carrier Registration System, including the records and information contained in the System.

"(c) PROCEDURES FOR CORRECTING INFORMATION.—Not later than 60 days after the effective date of this section, the Secretary shall prescribe regulations establishing procedures that enable a motor carrier to correct erroneous information contained in any part of the Unified Carrier Registration System.

"(d) FEE SYSTEM.—The Secretary shall establish, under section 9701 of title 31, a fee system for the Unified Carrier Registration System according to the following guidelines:

"(1) REGISTRATION AND FILING EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for new registrants shall as nearly as possible cover the costs of processing the registration and conducting the safety audit or examination, if required, but shall not exceed $300.

"(2) EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for filing evidence of financial responsibility pursuant to this section shall not exceed $10 per filing. No fee shall be charged for a filing for purposes of designating an agent for service of process or the filing of other information relating to financial responsibility.

"(3) ACCESS AND RETRIEVAL FEES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the fee system shall include a nominal fee for the access to or retrieval of information from the Unified Carrier Registration System to cover the costs of operating and upgrading the System, including the personnel costs incurred by the Department and the costs of administration of the Unified Carrier Registration Agreement.

"(B) EXCEPTIONS.—There shall be no fee charged—

"(i) to any agency of the Federal Government or a State government or any political subdivision of any such government for the access to or retrieval of information and data from the Unified Carrier Registration System for its own use; or

"(ii) to any representative of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder (as each is defined in section 14504a of this title) for the access to or retrieval of the individual information related to such entity from the Unified Carrier Registration System for the individual use of such entity.

"(e) APPLICATION TO CERTAIN INTRASTATE OPERATIONS.—Nothing in this section requires the registration of a motor carrier, a motor private carrier of property, or a transporter of waste or recyclable materials operating exclusively in intrastate transportation not otherwise required to register with the Secretary under another provision of this title.".

SEC. 7135. REGISTRATION OF MOTOR CARRIERS BY STATES.

(a) TERMINATION OF REGISTRATION PROVISIONS.—Section 14504 is amended by adding at the end the following:

"(d) TERMINATION OF PROVISIONS.—Subsections (b) and (c) shall cease to be effective on the first January 1st occurring more than 12 months after the date of enactment of the Unified Carrier Registration Act of 2005.".

(b) UNIFIED CARRIER REGISTRATION SYSTEM PLAN AND AGREEMENT.—Chapter 145 is amended by inserting after section 14504 the following:

"§ 14504a. Unified carrier registration system plan and agreement

"(a) DEFINITIONS.—In this section and section 14506 of this title:

"(1) COMMERCIAL MOTOR VEHICLE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'commercial motor vehicle' has the meaning given the term in section 31101 of this title.

"(B) EXCEPTION.—With respect to motor carriers required to make any filing or pay any fee to a State with respect to the motor carrier's authority or insurance related to operation within such State, the term ‘commercial motor vehicle’ means any self-propelled vehicle used on the highway in commerce to transport passengers or property for compensation regardless of the gross vehicle weight rating of the vehicle or the number of passengers transported by such vehicle.

“(2) Base-State.—

“(A) In general.—The term ‘Base-State’ means, with respect to the Unified Carrier Registration Agreement, a State—

“(i) that is in compliance with the requirements of subsection (e); and

“(ii) in which the motor carrier, motor private carrier, broker, freight forwarder or leasing company maintains its principal place of business.

“(B) Designation of base-state.—A motor carrier, motor private carrier, broker, freight forwarder or leasing company may designate another State in which it maintains an office or operating facility as its Base-State in the event that—

“(i) the State in which the motor carrier, motor private carrier, broker, freight forwarder or leasing company maintains its principal place of business is not in compliance with the requirements of subsection (e); or

“(ii) the motor carrier, motor private carrier, broker, freight forwarder or leasing company does not have a principal place of business in the United States.

“(3) Intrastate fee.—The term ‘intrastate fee’ means any fee, tax, or other type of assessment, including per vehicle fees and gross receipts taxes, imposed on a motor carrier or motor private carrier for the renewal of the intrastate authority or insurance filings of such carrier with a State.

“(4) Leasing company.—The term ‘leasing company’ means a lessor that is engaged in the business of leasing or renting for compensation motor vehicles without drivers to a motor carrier, motor private carrier, or freight forwarder.

“(5) Motor carrier.—The term ‘motor carrier’ has the meaning given the term in section 13102(12) of this title, but shall include all carriers that are otherwise exempt from the provisions of part B of this title pursuant to the provisions of chapter 135 of this title or exemption actions by the former Interstate Commerce Commission under this title.

“(6) Participating state.—The term ‘participating state’ means a State that has complied with the requirements of subsection (e) of this section.

“(7) SSRS.—The term ‘SSRS’ means the Single State Registration System in effect on the date of enactment of the Unified Carrier Registration Act of 2005.

“(8) Unified carrier registration agreement.—The terms ‘Unified Carrier Registration Agreement’ and ‘UCR Agreement’ mean the interstate agreement developed under the Unified Carrier Registration Plan governing the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers, freight forwarders and leasing companies pursuant to this section.

“(9) Unified carrier registration plan.—The terms ‘Unified Carrier Registration Plan’ and ‘UCR Plan’ mean the organization of State, Federal and industry representatives responsible for developing, implementing and administering the Unified Carrier Registration Agreement.

“(10) Vehicle registration.—The term ‘vehicle registration’ means the registration of any commercial motor vehicle under the International Registration Plan or any other registration law or regulation of a jurisdiction.

“(b) Applicability of Provisions to Freight Forwarders.—A Freight forwarder that operates commercial motor vehicles and is not required to register as a carrier pursuant to section 13903(b) of this title shall be subject to the provisions of this section as if a motor carrier.

“(c) Unreasonable Burden.—For purposes of this section, it shall be considered an unreasonable burden upon interstate commerce for any State or any political subdivision of a State, or any political authority of 2 or more States—

“(1) to enact, impose, or enforce any requirement or standards, or levy any fee or charge on any interstate motor carrier or interstate motor private carrier in connection with—

“(A) the registration with the State of the interstate operations of a motor carrier or motor private carrier;

“(B) the filing with the State of information relating to the financial responsibility of a motor carrier or motor private carrier pursuant to sections 31138 or 31139 of this title;

“(C) the filing with the State of the name of the local agent for service of process of a motor carrier or motor private carrier pursuant to sections 503 or 13304 of this title; or

“(D) the annual renewal of the intrastate authority, or the insurance filings, of a motor carrier or motor private carrier, or other intrastate filing requirement necessary to operate within the State, if the motor carrier or motor private carrier is—

“(i) registered in compliance with section 13902 or section 13905(b) of this title; and

“(ii) in compliance with the laws and regulations of the State authorizing the carrier to operate in the State pursuant to section 14501(c)(2)(A) of this title

except with respect to—

“(I) intrastate service provided by motor carriers of passengers that is not subject to the preemptive provisions of section 14501(a) of this title,

“(II) motor carriers of property, motor private carriers, brokers, or freight forwarders, or their services or operations, that are described in subparagraphs (B) and (C) of section 14501(c)(2) and section 14506(c)(3) or permitted pursuant to section 14506(b) of this title, and

“(III) the intrastate transportation of waste or recyclable materials by any carrier); or

“(2) to require any interstate motor carrier or motor private carrier to pay any fee or tax, not proscribed by paragraph (1)(D) of this subsection, that a motor carrier or motor private carrier that pays a fee which is proscribed by that paragraph is not required to pay.

“(d) Unified Carrier Registration Plan.—

“(1) Board of directors.—

“(A) Governance of plan.—The Unified Carrier Registration Plan shall be governed by a Board of Directors consisting of representatives of the Department of Transportation, Participating States, and the motor carrier industry.

“(B) Number.—The Board shall consist of 15 directors.

“(C) Composition.—The Board shall be composed of directors appointed as follows:

“(i) Federal motor carrier safety administration.—The Secretary shall appoint 1 director from each of the Federal Motor Carrier Safety Administration's 4 Service Areas (as those areas were defined by the Federal Motor Carrier Safety Administration on January 1, 2005), from among the chief administrative officers of the State agencies responsible for overseeing the administration of the UCR Agreement.

“(ii) State agencies.—The Secretary shall appoint 5 directors from the professional staffs of State agencies responsible for overseeing the administration of the UCR Agreement in their respective States. Nominees for these 5 directorships shall be submitted to the Secretary by the national association of professional employees of the State agencies responsible for overseeing the administration of the UCR Agreement in their respective States.

“(iii) Motor carrier industry.—The Secretary shall appoint 5 directors from the motor carrier industry. At least 1 of the appointees shall be an employee of the national trade association representing the general motor carrier of property industry.

“(iv) Department of transportation.—The Secretary shall appoint the Deputy Administrator of the Federal Motor Carrier Safety Administration, or such other presidential appointee from the United States Department of Transportation, as the Secretary may designate, to serve as a director.

“(D) Chairperson and vice-chairperson.—The Secretary shall designate 1 director as Chairperson and 1 director as Vice-Chairperson of the Board. The Chairperson and Vice-Chairperson shall serve in such capacity for the term of their appointment as directors.

“(E) Term.—In appointing the initial Board, the Secretary shall designate 5 of the appointed directors for initial terms of 3 years, 5 of the appointed directors for initial terms of 2 years, and 5 of the appointed directors for initial terms of 1 year. Thereafter, all directors shall be appointed for terms of 3 years, except that the term of the Deputy Administrator or other individual designated by the Secretary under subparagraph (C)(iv) shall be at the discretion of the Secretary. A director may be appointed to succeed himself or herself. A director may continue to serve on the Board until his or her successor is appointed.

“(2) Rules and regulations governing the UCR agreement.—The Board of Directors shall issue rules and regulations to govern the UCR Agreement. The rules and regulations shall—

“(A) prescribe uniform forms and formats, for—

“(i) the annual submission of the information required by a Base-State of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder;

“(ii) the transmission of information by a Participating State to the Unified Carrier Registration System;

“(iii) the payment of excess fees by a State to the designated depository and the distribution of fees by the depository to those States so entitled; and

“(iv) the providing of notice by a motor carrier, motor private carrier, broker, freight forwarder, or leasing company to the Board of the intent of such entity to change its Base-State, and the procedures for a State to object to such a change under subparagraph (C) of this paragraph;

“(B) provide for the administration of the Unified Carrier Registration Agreement, including procedures for amending the Agreement and obtaining clarification of any provision of the Agreement;

"(C) provide procedures for dispute resolution that provide due process for all involved parties; and

"(D) designate a depository.

"(3) Compensation and expenses.—Except for the representative of the Department of Transportation appointed pursuant to paragraph (1)(D), no director shall receive any compensation or other benefits from the Federal Government for serving on the Board or be considered a Federal employee as a result of such service. All Directors shall be reimbursed for expenses they incur attending duly called meetings of the Board. In addition, the Board may approve the reimbursement of expenses incurred by members of any subcommittee or task force appointed pursuant to paragraph (5). The reimbursement of expenses to directors and subcommittee and task force members shall be based on the then applicable rules of the General Service Administration governing reimbursement of expenses for travel by Federal employees.

"(4) Meetings.—

"(A) In general.—The Board shall meet at least once per year. Additional meetings may be called, as needed, by the Chairperson of the Board, a majority of the directors, or the Secretary.

"(B) Quorum.—A majority of directors shall constitute a quorum.

"(C) Voting.—Approval of any matter before the Board shall require the approval of a majority of all directors present at the meeting.

"(D) Open meetings.—Meetings of the Board and any subcommittees or task forces appointed pursuant to paragraph (5) of this section shall be subject to the provisions of section 552b of title 5.

"(5) Subcommittees.—

"(A) Industry advisory subcommittee.—The Chairperson shall appoint an Industry Advisory Subcommittee. The Industry Advisory Subcommittee shall consider any matter before the Board and make recommendations to the Board.

"(B) Other subcommittees.—The Chairperson shall appoint an Audit Subcommittee, a Dispute Resolution Subcommittee, and any additional subcommittees and task forces that the Board determines to be necessary.

"(C) Membership.—The chairperson of each subcommittee shall be a director. The other members of subcommittees and task forces may be directors or non-directors.

"(D) Representation on subcommittees.—Except for the Industry Advisory Subcommittee (the membership of which shall consist solely of representatives of entities subject to the fee requirements of subsection (f) of this section), each subcommittee and task force shall include representatives of the Participating States and the motor carrier industry.

"(6) Delegation of authority.—The Board may contract with any private commercial or non-profit entity or any agency of a State to perform administrative functions required under the Unified Carrier Registration Agreement, but may not delegate its decision or policy-making responsibilities.

"(7) Determination of fees.—

"(A) Recommendation by board.—The Board shall recommend to the Secretary the initial annual fees to be assessed carriers, leasing companies, brokers, and freight forwarders pursuant to the Unified Carrier Registration Agreement. In making its recommendation to the Secretary for the level of fees to be assessed in any Agreement year, and in setting the fee level, the Board and the Secretary shall consider—

"(i) the administrative costs associated with the Unified Carrier Registration Plan and the Agreement;

"(ii) whether the revenues generated in the previous year and any surplus or shortage from that or prior years enable the Participating States to achieve the revenue levels set by the Board; and

"(iii) the parameters for fees set forth in subsection (f)(1).

"(B) Setting fees.—The Secretary shall set the initial annual fees for the next Agreement year and any subsequent adjustment of those fees—

"(i) within 90 days after receiving the Board's recommendation under subparagraph (A); and

"(ii) after notice and opportunity for public comment.

"(8) Liability protections for directors.—No individual appointed to serve on the Board shall be liable to any other director or to any other party for harm, either economic or non-economic, caused by an act or omission of the individual arising from the individual's service on the Board if—

"(A) the individual was acting within the scope of his or her responsibilities as a director; and

"(B) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the right or safety of the party harmed by the individual.

"(9) Inapplicability of federal advisory committee act.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Unified Carrier Registration Plan or its committees.

"(10) Certain fees not affected.—This section does not limit the amount of money a State may charge for vehicle registration or the amount of any fuel use tax a State may impose pursuant to the International Fuel Tax Agreement.

"(e) State Participation.—

"(1) State plan.—No State shall be eligible to participate in the Unified Carrier Registration Plan or to receive any revenues derived under the Agreement, unless the State submits to the Secretary, not later than 3 years after the date of enactment of the Unified Carrier Registration Act of 2005, a plan—

"(A) identifying the State agency that has or will have the legal authority, resources, and qualified personnel necessary to administer the Unified Carrier Registration Agreement in accordance with the rules and regulations promulgated by the Board of Directors of the Unified Carrier Registration Plan; and

"(B) containing assurances that an amount at least equal to the revenue derived by the State from the Unified Carrier Registration Agreement shall be used for motor carrier safety programs, enforcement, and financial responsibility, or the administration of the UCR Plan and UCR Agreement.

"(2) Amended plans.—A State may change the agency designated in the plan submitted under this subsection by filing an amended plan with the Secretary and the Chairperson of the Unified Carrier Registration Plan.

"(3) Withdrawal of plan.—If a State withdraws, or notifies the Secretary that it is withdrawing, the plan submitted under this subsection, then the State may no longer participate in the Unified Carrier Registration Agreement or receive any portion of the revenues derived under the Agreement. The Secretary shall notify the Chairperson upon receiving notice from a State that it is withdrawing its plan or withdrawing from the Agreement.

"(4) Termination of eligibility.—If a State fails to submit a plan to the Secretary as required by paragraph (1) or withdraws its plan under paragraph (3), the State shall be prohibited from subsequently submitting or resubmitting a plan or participating in the Agreement.

"(5) Provision of plan to chairperson.—The Secretary shall provide a copy of each plan submitted under this subsection to the initial Chairperson of the Board of Directors of the Unified Carrier Registration Plan not later than 90 days of appointing the Chairperson.

"(f) Contents of Unified Carrier Registration Agreement.—The Unified Carrier Registration Agreement shall provide the following:

"(1) Determination of fees.—

"(A) Fees charged motor carriers, motor private carriers, or freight forwarders in connection with the filing of proof of financial responsibility under the UCR Agreement shall be based on the number of commercial motor vehicles owned or operated by the motor carrier, motor private carrier, or freight forwarder. Brokers and leasing companies shall pay the same fees as the smallest bracket of motor carriers, motor private carriers, and freight forwarders.

"(B) The fees shall be determined by the Secretary based upon the recommendation of the Board under subsection (d)(7).

"(C) The Board shall develop no more than 6 and no less than 4 brackets of carriers by size of fleet.

"(D) The fee scale shall be progressive and use different vehicle ratios for each bracket of carrier fleet size.

"(E) The Board may ask the Secretary to adjust the fees within a reasonable range on an annual basis if the revenues derived from the fees—

"(i) are insufficient to provide the revenues to which the States are entitled under this section; or

"(ii) exceed those revenues.

"(2) Determination of ownership or operation.—Commercial motor vehicles owned or operated by a motor carrier, motor private carrier, or freight forwarder shall mean those commercial motor vehicles registered in the name of the motor carrier, motor private carrier, or freight forwarder or controlled by the motor carrier, motor private carrier, or freight forwarder under a long term lease during a vehicle registration year.

"(3) Calculation of number of commercial motor vehicles owned or operated.—The number of commercial motor vehicles owned or operated by a motor carrier, motor private carrier, or freight forwarder for purposes of paragraph (1) of this subsection shall be based either on the number of commercial motor vehicles the motor carrier, motor private carrier, or freight forwarder has indicated it operates on its most recently filed MCS–150 or the total number of such vehicles it owned or operated for the 12-month period ending on June 30 of the year immediately prior to the each registration year of the Unified Carrier Registration System. Commercial motor vehicles used exclusively in the intrastate transportation of property, waste, or recyclable material may not be included in determining the number of commercial motor vehicles owned or operated by a motor carrier or motor private carrier for purposes of paragraph (1) of this subsection.

"(4) Payment of fees.—Motor carriers, motor private carriers, leasing companies, brokers, and freight forwarders shall pay all fees required under this section to their Base-State pursuant to the UCR Agreement.

"(g) PAYMENT OF FEES.—Revenues derived under the UCR Agreement shall be allocated to Participating States as follows:

"(1) A State that participated in the Single State Registration System in the last SSRS registration year ending before the date of enactment of the Unified Carrier Registration Act of 2005 and complies with the requirements of subsection (e) of this section is entitled to receive a portion of the UCR Agreement revenues generated under the Agreement equivalent to the revenues it received under the SSRS in the last SSRS registration year ending before the date of enactment of the Unified Carrier Registration Act of 2005, as long as the State continues to comply with the provisions of subsection (e).

"(2) A State that collected intrastate registration fees from interstate motor carriers, interstate motor private carriers, or interstate exempt carriers and complies with the requirements of subsection (e) of this section is entitled to receive an additional portion of the UCR Agreement revenues generated under the Agreement equivalent to the revenues it received from such interstate carriers in the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2005, as long as the State continues to comply with the provisions of subsection (e).

"(3) States that comply with the requirements of subsection (e) of this section but did not participate in SSRS during the last SSRS registration year ending before the date of enactment of the Unified Carrier Registration Act of 2005 shall be entitled to an annual allotment not to exceed $500,000 from the UCR Agreement revenues generated under the Agreement as long as the State continues to comply with the provisions of subsection (e).

"(4) The amount of UCR Agreement revenues to which a State is entitled under this section shall be calculated by the Board and approved by the Secretary.

"(h) DISTRIBUTION OF UCR AGREEMENT REVENUES.—

"(1) ELIGIBILITY.—Each State that is in compliance with the provisions of subsection (e) shall be entitled to a portion of the revenues derived from the UCR Agreement in accordance with subsection (g).

"(2) ENTITLEMENT TO REVENUES.—A State that is in compliance with the provisions of subsection (e) may retain an amount of the gross revenues it collects from motor carriers, motor private carriers, brokers, freight forwarders and leasing companies under the UCR Agreement equivalent to the portion of revenues to which the State is entitled under subsection (g). All revenues a Participating State collects in excess of the amount to which the State is so entitled shall be forwarded to the depository designated by the Board under subsection (d)(2)(D).

"(3) DISTRIBUTION OF FUNDS FROM DEPOSITORY.—The excess funds collected in the depository shall be distributed as follows:

"(A) Excess funds shall be distributed on a pro rata basis to each Participating State that did not collect revenues under the UCR Agreement equivalent to the amount such State is entitled under subsection (g), except that the sum of the gross UCR Agreement revenues collected by a Participating State and the amount distributed to it from the depository shall not exceed the amount to which the State is entitled under subsection (g).

"(B) Any excess funds held by the depository after all distributions under subparagraph (A) have been made shall be used to pay the administrative costs of the UCR Plan and the UCR Agreement.

"(C) Any excess funds held by the depository after distributions and payments under subparagraphs (A) and (B) shall be retained in the depository, and the UCR Agreement fees for motor carriers, motor private carriers, leasing companies, freight forwarders, and brokers for the next fee year shall be reduced by the Secretary accordingly.

"(i) ENFORCEMENT.—

"(1) CIVIL ACTIONS.—Upon request by the Secretary of Transportation, the Attorney General may bring a civil action in a court of competent jurisdiction to enforce compliance with this section and with the terms of the Unified Carrier Registration Agreement.

"(2) VENUE.—An action under this section may be brought only in the Federal court sitting in the State in which an order is required to enforce such compliance.

"(3) RELIEF.—Subject to section 1341 of title 28, the court, on a proper showing—

"(A) shall issue a temporary restraining order or a preliminary or permanent injunction; and

"(B) may issue an injunction requiring that the State or any person comply with this section.

"(4) ENFORCEMENT BY STATES.—Nothing in this section—

"(A) prohibits a Participating State from issuing citations and imposing reasonable fines and penalties pursuant to applicable State laws and regulations on any motor carrier, motor private carrier, freight forwarder, broker, or leasing company for failure to—

"(i) submit documents as required under subsection (d)(2); or

"(ii) pay the fees required under subsection (f); or

"(B) authorizes a State to require a motor carrier, motor private carrier, or freight forwarder to display as evidence of compliance any form of identification in excess of those permitted under section 14506 of this title on or in a commercial motor vehicle.

"(j) APPLICATION TO INTRASTATE CARRIERS.—Notwithstanding any other provision of this section, a State may elect to apply the provisions of the UCR Agreement to motor carriers and motor private carriers subject to its jurisdiction that operate solely in intrastate commerce within the borders of the State.".

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 145 is amended by inserting after the item relating to section 14504 the following:

"14504a. Unified carrier registration system plan and agreement".

SEC. 7136. IDENTIFICATION OF VEHICLES.

(a) IN GENERAL.—Chapter 145 is amended by adding at the end the following:

"§ 14506. Identification of vehicles

"(a) RESTRICTION ON REQUIREMENTS.—No State, political subdivision of a State, interstate agency, or other political agency of 2 or more States may enact or enforce any law, rule, regulation standard, or other provision having the force and effect of law that requires a motor carrier, motor private carrier, freight forwarder, or leasing company to display any form of identification on or in a commercial motor vehicle, other than forms of identification required by the Secretary of Transportation under section 390.21 of title 49, Code of Federal Regulations.

"(b) EXCEPTION.—Notwithstanding paragraph (a), a State may continue to require display of credentials that are required—

"(1) under the International Registration Plan under section 31704 of this title;

"(2) under the International Fuel Tax Agreement under section 31705 of this title;

"(3) in connection with Federal requirements for hazardous materials transportation under section 5103 of this title; or

"(4) in connection with the Federal vehicle inspection standards under section 31136 of this title.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 145 is amended by inserting after the item relating to section 14505 the following:

"14506. Identification of vehicles".

SEC. 7137. USE OF UCR AGREEMENT REVENUES AS MATCHING FUNDS.

Section 31103(a) is amended by inserting "Amounts generated by the Unified Carrier Registration Agreement, under section 14504a of this title and received by a State and used for motor carrier safety purposes may be included as part of the State's share not provided by the United States." after "United States Government.".

SEC. 7138. FACILITATION OF INTERNATIONAL REGISTRATION PLANS AND INTERNATIONAL FUEL TAX AGREEMENTS.

(a) IN GENERAL.—Chapter 317 is amended by adding at the end the following:

"§31708. Facilitation of international registration plans and international fuel tax agreements

"The Secretary may provide assistance to any State that is participating in the International Registration Plan and International Fuel Tax Agreement, as provided in sections 31704 and 31705, respectively, and that serves as a base jurisdiction for motor carriers that are domiciled in Mexico, to assist the State with administrative costs resulting from serving as a base jurisdiction for motor carriers from Mexico.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 317 of title 49, United States Code, is amended by adding at the end the following:

"31708. Facilitation of international registration plans and international fuel tax agreements.".

SEC. 7139. IDENTITY AUTHENTICATION STANDARDS.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1824(a)), is amended by adding at the end the following:

"§ 179. Identity authentication standards

"(a) DEFINITION OF INFORMATION-BASED IDENTITY AUTHENTICATION.—In this section, the term 'information-based identity authentication' means the determination of the identity of an individual, through the comparison of information provided by a person, with other information pertaining to that individual with a system using scoring models and algorithms.

"(b) STANDARDS.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Homeland Security and the Federal Motor Carrier Safety Administration, shall promulgate regulations establishing minimum standards for State departments of motor vehicles regarding the use of information-based identity authentication to determine the identity of an applicant for a commercial driver's license, or the renewal, transfer or upgrading, of a commercial driver's license.

"(c) MINIMUM STANDARDS.—The regulations shall, at a minimum, require State departments of motor vehicles to implement, and applicants for commercial driver's licenses, (or the renewal, transfer, or upgrading of commercial driver's licenses), to comply with, reasonable procedures for operating an information-based identity authentication program before issuing, renewing, transferring, or upgrading a commercial driver's license.

"(d) KEY FACTORS.—In promulgating regulations under this section, the Secretary shall require that an information-based identity authentication program carried out under this section establish processes that—

"(1) use multiple sources of matching information;

"(2) enable the measurement of the accuracy of the determination of an applicant's identity;

"(3) support continuous auditing of compliance with applicable laws, policies, and practices governing the collection, use, and distribution of information in the operation of the program; and

"(4) incorporate industry best practices to protect significant privacy interests in the information used in the program and the appropriate safeguarding of the storage of the information.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1824(b)), is amended by adding at the end the following:

"179. Identity authentication standards.".

SEC. 7140. OFF-DUTY TIME FOR DRIVERS OF COMMERCIAL VEHICLES.

Paragraph (2) of section 31149(a), as transferred by section 7108, is amended by adding at the end the following: "No additional off-duty time for a driver of such a vehicle shall be required in order for the driver to operate the vehicle.".

CHAPTER 3—COMMERCIAL DRIVER'S LICENSES

SEC. 7151. CDL TASK FORCE.

(a) IN GENERAL.—The Secretary of Transportation shall convene a task force to study and address current impediments and foreseeable challenges to the commercial driver's license program's effectiveness and measures needed to realize the full safety potential of the commercial driver's license program. The task force shall address such issues as State enforcement practices, operational procedures to detect and deter fraud, needed improvements for seamless information sharing between States, effective methods for accurately sharing electronic data between States, adequate proof of citizenship, updated technology, and timely notification from judicial bodies concerning traffic and criminal convictions of commercial driver's license holders.

(b) MEMBERSHIP.—Members of the task force should include State motor vehicle administrators, organizations representing government agencies or officials, members of the Judicial Conference, representatives of the trucking industry, representatives of labor organizations, safety advocates, and other significant stakeholders.

(c) REPORT.—Within 2 years after the date of enactment of this Act, the Secretary, on behalf of the task force, shall complete a report of the task force's findings and recommendations for legislative, regulatory, and enforcement changes to improve the commercial driver's license program. The Secretary shall promptly transmit the report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(d) FUNDING.—From the funds authorized by section 7103(b)(3) of this subtitle, $200,000 shall be made available for each of fiscal years 2006 and 2007 to carry out this section.

SEC. 7152. CDL LEARNER'S PERMIT PROGRAM.

Chapter 313 is amended—

(1) by striking "time." in section 31302 and inserting "license, and may have only 1 learner's permit at any time.";

(2) by inserting "and learners' permits" after "licenses" the first place it appears in section 31308;

(3) by striking "licenses." in section 31308 and inserting "licenses and permits.";

(4) by redesignating paragraphs (2) and (3) of section 31308 as paragraphs (3) and (4), respectively, and inserting after paragraph (1) the following:

"(2) before a commercial driver's license learner's permit can be issued to an individual, the individual must pass a written test on the operation of a commercial motor vehicle that complies with the minimum standards prescribed by the Secretary under section 31305(a) of this title:";

(5) by inserting "or learner's permit" after "license" each place it appears in paragraphs (3) and (4), as redesignated, of section 31308; and

(6) by inserting "or learner's permit" after "license" each place it appears in section 31309(b).

SEC. 7153. GRANTS TO STATES FOR COMMERCIAL DRIVER'S LICENSE IMPROVEMENTS.

(a) IN GENERAL.—Chapter 313 is amended by adding at the end the following:

"§ 31318. Grants for commercial driver's license program improvements

"(a) GENERAL AUTHORITY.—From the funds authorized by section 7103(b)(3) of the Motor Carrier Safety Reauthorization Act of 2005, the Secretary may make a grant to a State, except as otherwise provided in subsection (e), in a fiscal year to improve its implementation of the commercial driver's license program, providing the State is making a good faith effort toward substantial compliance with the requirements of section 31311 and this section. The Secretary shall establish criteria for the distribution of grants and notify the States annually of such criteria.

"(b) CONDITIONS.—Except as otherwise provided in subsection (e), a State may use a grant under this section only for expenses related to its commercial driver's license program, including, but not limited to, computer hardware and software, publications, testing, personnel, training, and quality control. The grant may not be used to rent, lease, or buy land or buildings. The Secretary shall give priority to grants that will be used to achieve compliance with the requirements of the Motor Carrier Safety Improvement Act of 1999. The Secretary may allocate the funds appropriated for such grants in a fiscal year among the eligible States whose applications for grants have been approved, under criteria established by the Secretary.

"(c) MAINTENANCE OF EXPENDITURES.—Except as otherwise provided in subsection (e), the Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for the operation of the commercial driver's license program will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years before October 1, 2005.

"(d) GOVERNMENT SHARE.—Except as otherwise provided in subsection (e), the Secretary shall reimburse a State, from a grant made under this section, an amount that is not more than 80 percent of the costs incurred by the State in a fiscal year in implementing the commercial driver's license improvements described in subsection (b). In determining those costs, the Secretary shall include in-kind contributions by the State.

"(e) HIGH-PRIORITY ACTIVITIES.—

"(1) The Secretary may make a grant to a State agency, local government, or organization representing government agencies or officials for the full cost of research, development, demonstration projects, public education, or other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions or designed to address national safety concerns and circumstances.

"(2) The Secretary may designate up to 10 percent of the amounts made available under section 7103(b)(3) of the Motor Carrier Safety Reauthorization Act of 2005 in a fiscal year for high-priority activities under subsection (e)(1).

"(f) EMERGING ISSUES.—The Secretary may designate up to 10 percent of the amounts made available under section 7103(b)(3) of the Motor Carrier Safety Reauthorization Act of 2005 in a fiscal year for allocation to a State agency, local government, or other person at the discretion of the Secretary to address emerging issues relating to commercial driver's license improvements.

"(g) APPORTIONMENT.—Except as otherwise provided in subsections (e) and (f), all amounts available in a fiscal year to carry out this section shall be apportioned to States according to a formula prescribed by the Secretary.

"(h) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—On October 1 of each fiscal year or as soon after that date as practicable, the Secretary may deduct, from amounts made available under section 7103(b)(3) of the Motor Carrier Safety Reauthorization Act of 2005 for that fiscal year, up to 0.75 percent of those amounts for administrative expenses incurred in carrying out this section in that fiscal year.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 313 is amended by inserting the following after the item relating to section 31317:

"31318. Grants for commercial driver's license program improvements.".

SEC. 7154. MODERNIZATION OF CDL INFORMATION SYSTEM.

(a) INFORMATION SYSTEM MODERNIZATION ACCOUNT.—Section 31309 of title 49, United States Code, is amended—

(1) by striking "The Secretary" in the last sentence and inserting "Except as provided in subsection (e), the Secretary"; and

(2) by adding at the end the following:

"(e) INFORMATION SYSTEM MODERNIZATION ACCOUNT.—

"(1) ESTABLISHMENT.—The Secretary of Transportation shall establish an account to be known as the Information System Modernization Account within the Department of Transportation.

"(2) CREDITS.—Fees collected for any fiscal year beginning after fiscal year 2006 under subsection (d) by the Secretary of Transportation, or an organization that represents the interests of the States, in excess of the costs of operating the information system in that fiscal year shall be and credited to the Information System Modernization Account.

"(3) USE OF FUNDS.—Amounts credited to the Information System Modernization Account shall be available exclusively for the purpose of modernizing the information system under subsection (f). At the end of fiscal year 2008, the Inspector General of the Department of Transportation shall complete an assessment of whether the fees collected in excess of the costs of operating the information system are property credited to the Information System Modernization Account.".

(b) MODERNIZATION PLAN.—Section 31309 of title 49, United States Code, is further amended by adding at the end the following:

"(f) MODERNIZATION PLAN.—

"(1) IN GENERAL.—The Secretary shall develop a comprehensive plan for modernization of the information system that—

"(A) complies with applicable Federal information technology security standards;

"(B) provides for the electronic exchange of all information including the posting of convictions;

"(C) contains self auditing features to ensure that data is being posted correctly and consistently by the States;

"(D) integrates the commercial driver's license and the medical certificate; and

"(E) provides a schedule for modernization of the system.

"(2) COMPETITIVE CONTRACTING.—The Secretary may use non-Federal entities selected by an open, merit-based, competitive process to develop and implement the modernization plan.

"(3) STATE PARTICIPATION.—

"(A) DEADLINE.—The Secretary shall establish a date by which each State must convert to the new information system.

"(B) FUNDING.—A State may use funds made available under section 31318 of this title to develop or modify its system to be compatible with the modernized information system developed by the Secretary under this subsection.".

(c) BASELINE AUDIT.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Inspector General of the Department of Transportation, shall perform a baseline audit of the information system maintained under section 31309 of title 49, United States Code. The audit shall include—

(1) an assessment of the validity of data in the information system on a State-by-State basis;

(2) an assessment of the extent to which convictions are validly posted on a driver's record;

(3) recommendations to the Secretary of Transportation on how to update the baseline audit annually to ensure that any shortcomings in the information system are addressed, and a methodology for conducting the update; and

(4) identification, on a State-by-State basis, of any actions that the Inspector General finds necessary to improve the integrity of data collected by the system and to ensure the proper posting of convictions.

Subtitle B—Highway and Vehicular Safety

SEC. 7201. SHORT TITLE.

This subtitle may be cited as the "Highway and Vehicular Safety Reauthorization Act of 2005".

CHAPTER 1—HIGHWAY SAFETY GRANT PROGRAM

SEC. 7211. SHORT TITLE.

This chapter may be cited as the "Highway Safety Grant Program Reauthorization Act of 2005".

SEC. 7212. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNTS FOR FISCAL YEARS 2006 THROUGH 2009.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to the Secretary of Transportation for the National Highway Traffic Safety Administration the following:

(1) To carry out the Highway Safety Programs under section 402 of title 23, United States Code, $209,217,985 in fiscal year 2006, $210,224,035 in fiscal year 2007, $221,906,185 in fiscal year 2008, and $226,969,685 in fiscal year 2009.

(2) To carry out the Highway Safety Research and Outreach Programs under section 403 of title 23, United States Code, $141,852,000 in fiscal year 2006, $142,323,000 in fiscal year 2007, $141,560,000 in fiscal year 2008, and $141,952,000 in fiscal year 2009.

(3) To carry out the Occupant Protection Programs under section 405 of title 23, United States Code, $149,667,110 in fiscal year 2006, $149,787,000 in fiscal year 2007, $149,509,185 in fiscal year 2008, and $149,006,000 in fiscal year 2009.

(4) To carry out the Demonstration Programs related to older drivers, law enforcement, and motorcycle training under section 406 of title 23, United States Code, $7,400,000 in each of fiscal years 2006 through 2009.

(5) To carry out the Emergency Medical Services Program under section 407A of title 23, United States Code, $5,000,000 in each of fiscal years 2006 through 2009.

(6) To carry out the Impaired Driving Program under section 410 of title 23, United States Code, $115,721,000 in fiscal year 2006, $129,065,000 in fiscal year 2007, $134,819,000 in fiscal year 2008, and $147,615,000 in fiscal year 2009.

(7) To carry out the State Traffic Safety Information System Improvements under section 412 of title 23, United States Code, $45,000,000 in each of fiscal years 2006 through 2009.

(8) To carry out chapter 303 of title 49, United States Code, $4,000,000 for each of fiscal years 2006 through 2009, to be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(9) To pay administrative and related operating expenses under section 402, section 405, section 406, section 407A, section 410, section 412, section 413, and section 414 of title 23, United States Code, and section 223 of the Highway Safety Grant Program Reauthorization Act of 2005, $17,868,000 for fiscal year 2006, $18,150,000 for fiscal year 2007, $18,837,000 for fiscal year 2008, and $19,350,000 for fiscal year 2009.

(b) PROHIBITION ON OTHER USES.—Except as otherwise provided in this chapter, the amounts allocated from the Highway Trust Fund for programs provided for in chapter 4 of title 23, United States Code, shall only be used for such programs and may not be used by States or local governments for construction purposes.

(c) PROPORTIONAL INCREASES.—For each fiscal year from 2006 through 2009, if revenue to the Highway Trust Fund increases above the amounts for each such fiscal year assumed in the fiscal year 2006 joint budget resolution, then the amounts made available in such year for the programs in sections 402, 403, 405, and 410 shall increase by the same percentage. If revenue to the Highway Trust Fund for a fiscal year is lower than the amounts for such fiscal year assumed in the fiscal year 2006 joint budget resolution, then the amounts authorized to be made available in such year for those programs shall not decrease.

SEC. 7213. HIGHWAY SAFETY PROGRAMS.

(a) PROGRAMS TO BE INCLUDED.—

(1) MOTOR VEHICLE AIRBAGS PUBLIC AWARENESS.—Section 402(a)(2) is amended by striking "vehicles and to increase public awareness of the benefit of motor vehicles equipped with airbags" and inserting "vehicles,".

(2) AGRESSIVE DRIVING.—Section 402(a) is further amended—

(A) by redesignating clause (6) as clause (8);

(B) by inserting after "involving school buses," at the end of clause (5) the following: "(6) to reduce aggressive driving and to educate drivers about defensive driving, (7) to reduce accidents resulting from fatigued and distracted drivers, including distractions arising from the use of electronic devices in vehicles,"; and

(C) by inserting "aggressive driving, distracted driving," after "school bus accidents,".

(3) ADMINISTRATION OF STATE PROGRAMS.—Section 402(b)(1) is amended—

(A) by striking "and" after the semicolon in subparagraph (C);

(B) by striking "State." in subparagraph (D) and inserting "State; and"; and

(C) by adding at the end the following:

"(E) provide satisfactory assurances that the State will implement activities in support of national highway safety priorities and performance goals, including—

"(i) mobilizations, including high visibility enforcement and paid media, in support of efforts to improve occupant protection and reduce impaired driving;

"(ii) sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;

"(iii) an annual statewide safety belt use survey in accordance with criteria established by the Secretary for the measurement of State safety belt use rates to ensure that the measurements are accurate and representative;

"(iv) development of statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources;

"(v) effective efforts to adopt Model Minimum Uniform Crash Criteria and National Emergency Medical System Information System data elements; and

"(vi) safety priority programs identified by the Secretary based on national data trends unless a State can demonstrate with data that any such safety priority program is not a matter of significant concern in its jurisdiction.

(b) APPORTIONMENT.—

(1) TRIBAL GOVERNMENT PROGRAMS.—Section 402(c) is amended—

(A) by striking the second sentence; and

(B) by striking "three-fourths of 1 percent" and inserting "2 percent".

(c) LAW ENFORCEMENT CHASE TRAINING.—Section 402 is amended by adding at the end the following:

"(l) LIMITATION RELATING TO LAW ENFORCEMENT VEHICULAR PURSUIT TRAINING.—No State may receive any funds available for fiscal years after fiscal year 2007 for programs under this chapter until the State submits to the Secretary a written statement that the State actively encourages all relevant law enforcement agencies in that State to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are in effect on the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2005, or as revised and in effect after that date as determined by the Secretary.

"(m) CONSOLIDATION OF GRANT APPLICATIONS.—The Secretary shall establish an approval process by which a State may apply for all grants included under this chapter through a single application with a single annual deadline. The Bureau of Indian Affairs shall establish a similarly simplified process for applications from Indian tribes.".

SEC. 7214. HIGHWAY SAFETY RESEARCH AND OUTREACH PROGRAMS.

(a) REVISED AUTHORITY AND REQUIREMENTS.—Section 403 is amended to read as follows:

"§403. Highway safety research and development

"(a) AUTHORITY OF THE SECRETARY.—The Secretary is authorized to use funds appropriated to carry out this section to—

"(1) conduct research on all phases of highway safety and traffic conditions, including accident causation, highway or driver characteristics, communications, and emergency care;

"(2) conduct ongoing research into driver behavior and its effect on traffic safety;

"(3) conduct research on, launch initiatives to counter, and conduct demonstration projects on fatigued driving by drivers of motor vehicles and distracted driving in such vehicles, including the effect that the use of electronic devices and other factors deemed relevant by the Secretary have on driving;.

"(4) conduct training or education programs in cooperation with other Federal departments and agencies, States, private sector persons, highway safety personnel, and law enforcement personnel;

"(5) conduct research on, and evaluate the effectiveness of, traffic safety countermeasures, including seat belts and impaired driving initiatives;

"(6) conduct research on, evaluate, and develop best practices related to driver education programs, including driver education curricula, instructor training and certification, program administration and delivery mechanisms, and make recommendations for harmonizing driver education and multistage graduated licensing systems;

"(7) conduct research, training, and education programs related to older drivers; and

"(8) conduct demonstration projects.

"(b) NATIONWIDE TRAFFIC SAFETY CAMPAIGNS.—

"(1) REQUIREMENT FOR CAMPAIGNS.—The Administrator of the National Highway Traffic Safety Administration shall establish and administer a program under which at least 2 high-visibility traffic safety law enforcement campaigns will be carried out for the purposes specified in paragraph (2) in each of years 2006 through 2009.

"(2) PURPOSE.—The purpose of each law enforcement campaign is to achieve either or both of the following objectives:

"(A) Reduce alcohol-impaired or drug-impaired operation of motor vehicles.

"(B) Increase use of seat belts by occupants of motor vehicles.

"(3) ADVERTISING.—The Administrator may use, or authorize the use of, funds available under this section to pay for the development, production, and use of broadcast and print media advertising in carrying out traffic safety law enforcement campaigns under this subsection. Consideration shall be given to advertising directed at non-English speaking populations, including those who listen, read, or watch nontraditional media.

"(4) COORDINATION WITH STATES.—The Administrator shall coordinate with the States in carrying out the traffic safety law enforcement campaigns under this subsection, including advertising funded under paragraph (3), with a view to—

"(A) relying on States to provide the law enforcement resources for the campaigns out of funding available under this section and sections 402, 405, and 410 of this title; and

"(B) providing out of National Highway Traffic Safety Administration resources most of the means necessary for national advertising and education efforts associated with the law enforcement campaigns.

"(5) ANNUAL EVALUATION.—The Secretary shall conduct an annual evaluation of the effectiveness of such initiatives.

"(6) FUNDING.—The Secretary shall use $24,000,000 in each of fiscal years 2006 through 2009 for advertising and educational initiatives to be carried out nationwide in support of the campaigns under this section.

"(c) INTERNATIONAL COOPERATION.—

"(1) AUTHORITY.—The Administrator of the National Highway Traffic Safety Administration may participate and cooperate in international activities to enhance highway safety.

"(2) AMOUNT FOR PROGRAM.—Of the amount available for a fiscal year to carry out this section, $200,000 may be used for activities authorized under paragraph (1).".

(b) SPECIFIC RESEARCH PROGRAMS.—

(1) REQUIRED PROGRAMS.—The Secretary shall conduct research under section 403 of title 23, United States Code, on the following:

(A) EFFECTS OF USE OF CONTROLLED SUBSTANCES.—A study on the effects of the use of controlled substances on driver behavior to determine—

(i) methodologies for measuring driver impairment resulting from use of the most common controlled substances (including the use of such substances in combination with alcohol); and

(ii) effective and efficient methods for training law enforcement personnel to detect or measure the level of impairment of a driver who is under the influence of a controlled substance by the use of technology or otherwise.

The Secretary may develop model State legislation based on research conducted under this subparagraph.

(B) ON-SCENE MOTOR VEHICLE COLLISION CAUSATION.—A nationally representative study to collect on-scene motor vehicle collision data, and to determine crash causation, for which the Secretary shall enter into a contract with the National Academy of Sciences to conduct a review of the research, design, methodology, and implementation of the study.

(C) TOLL FACILITIES WORKPLACE SAFETY.—A study on the safety of highway toll collection facilities, including toll booths, conducted in cooperation with State and local highway safety organizations to determine the safety of highway toll collection facilities for the toll collectors who work in and around such facilities and to develop best practices that would be of benefit to State and local highway safety organizations. The study shall consider—

(i) any problems resulting from design or construction of facilities that contribute to the occurrence of vehicle collisions with the facilities;

(ii) the safety of crosswalks used by toll collectors in transit to and from toll booths;

(iii) the extent of the enforcement of speed limits at and in the vicinity of toll facilities;

(iv) the use of warning devices, such as vibration and rumble strips, to alert drivers approaching toll facilities;

(v) the use of cameras to record traffic violations in the vicinity of toll facilities;

(vi) the use of traffic control arms in the vicinity of toll facilities;

(vii) law enforcement practices and jurisdictional issues that affect safety at and in the vicinity of toll facilities; and

(viii) data (which shall be collected in conducting the research) regarding the incidence of accidents and injuries at and around toll booth facilities.

(2) TIME FOR COMPLETION OF STUDIES.—The studies conducted in subparagraphs (A), (B), and (C) of paragraph (1) may be conducted in concert with other Federal departments and agencies with relevant expertise. The Secretary shall submit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the progress of each study conducted under this subsection.

(3) REPORTS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a report on the studies to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(4) RESEARCH ON DISTRACTED, INATTENTIVE, AND FATIGUED DRIVERS.—In conducting research under section 403(a)(3) of title 23, United States Code, the Secretary shall carry out not less than 2 demonstration projects to evaluate new and innovative means of combating traffic system problems caused by distracted, inattentive, or fatigued drivers. The demonstration projects shall be in addition to any other research carried out under this subsection.

(5) PEDESTRIAN SAFETY.—

(A) IN GENERAL.—The Secretary of Transportation shall—

(i) produce a comprehensive report on pedestrian safety that builds on the current level of knowledge of pedestrian safety countermeasures by identifying the most effective advanced technology and intelligent transportation systems, such as automated pedestrian detection and warning systems (infrastructure-based and vehicle-based), road design, and vehicle structural design that could potentially mitigate the crash forces on pedestrians in the event of a crash; and

(ii) include in the report recommendations on how new technological developments could be incorporated into educational and enforcement efforts and how they could be integrated into national design guidelines developed by the American Association of State Highway and Transportation Officials.

(B) DUE DATE.—The Secretary shall complete the report not less than 2 years after the date of enactment of this Act and transmit a copy of the report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(6) STUDY ON REFUSAL OF INTOXICATION TESTING.—

(A) REQUIREMENT FOR STUDY.—In addition to studies under section 403 of title 23, United States Code, the Secretary of Transportation shall carry out a study of the frequency with which persons arrested for the offense of operating a motor vehicle under the influence of alcohol and persons arrested for the offense of operating a motor vehicle while intoxicated refuse to take a test to determine blood alcohol concentration levels and the effect such refusals have on the ability of States to prosecute such persons for those offenses.

(B) CONSULTATION.—In carrying out the study under this paragraph, the Secretary shall consult with the Governors of the States, the States' Attorneys General, and the United States Sentencing Commission.

(C) REPORT.—

(i) REQUIREMENT FOR REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(ii) CONTENT.—The report shall include any recommendation for legislation, including any recommended model State legislation, and any other recommendations that the Secretary considers appropriate for implementing a program designed to decrease the occurrence refusals by arrested persons to submit to a test to determine blood alcohol concentration levels.

SEC. 7215. NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE TECHNICAL CORRECTION.

Section 404(d) is amended by striking "Commerce" and inserting "Transportation".

SEC. 7216. OCCUPANT PROTECTION GRANTS.

(a) IN GENERAL.—Section 405 is amended to read as follows:

"§ 405. Safety belt performance grants

"(a) IN GENERAL.—The Secretary of Transportation shall make grants to States in accordance with the provisions of this section to encourage the enactment and enforcement of laws requiring the use of safety belts in passenger motor vehicles.

"(b) GRANTS FOR ENACTING PRIMARY SAFETY BELT USE LAWS.—

"(1) IN GENERAL.—The Secretary shall make a single grant to each State that either—

"(A) enacts for the first time after December 31, 2002, and has in effect and is enforcing a conforming primary safety belt use law for all passenger motor vehicles; or

"(B) in the case of a State that does not have such a primary safety belt use law, has a State safety belt use rate for each of the 2 calendar years immediately preceding the fiscal year of a grant of 90 percent or more, as measured under criteria determined by the Secretary.

"(2) AMOUNT.—The amount of a grant available to a State in fiscal year 2006 or in a subsequent fiscal year under paragraph (1) of this subsection is equal to 500 percent of the amount apportioned to the State for fiscal year 2003 under section 402(c) of this title.

"(3) JULY 1 CUT-OFF.—For the purpose of determining the eligibility of a State for a grant under paragraph (1)(A), a primary safety belt use law enacted after June 30th of any year shall—

"(A) not be considered to have been enacted in the Federal fiscal year in which that June 30th falls; but

"(B) be considered as if it were enacted after the beginning of the next Federal fiscal year.

"(4) SHORTFALL.—If the total amount of grants provided for by this subsection for a fiscal year exceeds the amount of funds available for such grants for that fiscal year, then the Secretary shall make grants under this subsection to States in the order in which—

"(A) the primary safety belt use law came into effect; or

"(B) the State's safety belt use rate was 90 percent or more for 2 consecutive calendar years (as measured by criteria determined by the Secretary),

whichever first occurs.

"(5) CATCH-UP GRANTS.—The Secretary shall make a grant to any State eligible for a grant under this subsection that did not receive a grant for a fiscal year because of the application of paragraph (4), in the next fiscal year if the State's primary safety belt use law remains in effect or its safety belt use rate is 90 percent or more for the 2 consecutive calendar years preceding such next fiscal year (subject to paragraph (4)).

"(c) GRANTS FOR PRE-2003 LAWS.—To the extent that amounts made available for any of fiscal years 2006 through 2009 exceed the total amounts to be awarded under subsection (b) for the fiscal year, including amounts to be awarded for catch-up grants under subsection (b)(5), the Secretary shall make a single grant to each State that enacted, has in effect, and is enforcing a primary safety belt use law for all passenger motor vehicles that was in effect before January 1, 2003. The amount of a grant available to a State under this subsection shall be equal to 250 percent of the amount of funds apportioned to the State under section 402(c) of this title for fiscal year 2003. The Secretary may award the grant in up to 4 installments over a period of 4 fiscal years beginning with fiscal year 2006.

"(d) ALLOCATION OF UNUSED GRANT FUNDS.—The Secretary shall make additional grants under this section of any amounts available for grants under this section that, on July 1, 2009, are neither obligated nor expended. The additional grants made under this subsection shall be allocated among all States that, as of that date, have enacted, have in effect, and are enforcing primary safety belt laws for all passenger motor vehicles. The allocations shall be made in accordance with the formula for apportioning funds among the States under section 402(c) of this title.

"(e) USE OF GRANT FUNDS.—

"(1) IN GENERAL.—Subject to paragraph (2), a State may use a grant under this section for any safety purpose under this title or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including—

"(A) intersection improvements;

"(B) pavement and shoulder widening;

"(C) installation of rumble strips and other warning devices;

"(D) improving skid resistance;

"(E) improvements for pedestrian or bicyclist safety;

"(F) railway-highway crossing safety;

"(G) traffic calming;

"(H) the elimination of roadside obstacles;

"(I) improving highway signage and pavement marking;

"(J) installing priority control systems for emergency vehicles at signalized intersections;

"(K) installing traffic control or warning devices at locations with high accident potential;

"(L) safety-conscious planning; and

"(M) improving crash data collection and analysis.

"(2) SAFETY ACTIVITY REQUIREMENT.—Notwithstanding paragraph (1), the Secretary shall ensure that at least $1,000,000,000 of amounts received by States under this section are obligated or expended for safety activities under this chapter.

"(3) SUPPORT ACTIVITY.—The Secretary or his designee may engage in activities with States and State legislators to consider proposals related to safety belt use laws.

"(f) CARRY-FORWARD OF EXCESS FUNDS.—If the amount available for grants under this section for any fiscal year exceeds the sum of the grants made under this section for that fiscal year, the excess amount and obligational authority shall be carried forward and made available for grants under this section in the succeeding fiscal year.

"(g) FEDERAL SHARE.—The Federal share payable for grants under this subsection is 100 percent.

"(h) PASSENGER MOTOR VEHICLE DEFINED.—In this section, the term 'passenger motor vehicle' means—

"(1) a passenger car,

"(2) a pickup truck,

"(3) a van, minivan, or sport utility vehicle,

with a gross vehicle weight rating of less than 10,000 pounds.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 4 is amended by striking the item relating to section 405 and inserting the following:

"405. Safety belt performance grants".

SEC. 7217. OLDER DRIVER SAFETY; LAW ENFORCEMENT TRAINING.

(a) IN GENERAL.—Section 406 is amended to read as follows:

"§ 406. Older driver safety; law enforcement training

"(a) IMPROVING OLDER DRIVER SAFETY.—

"(1) IN GENERAL.—Of the funds made available under this section, the Secretary shall allocate $2,000,000 in each of fiscal years 2006 through 2009 to conduct a comprehensive research and demonstration program to improve traffic safety pertaining to older drivers. The program shall—

"(A) provide information and guidelines to assist physicians and other related medical personnel, families, licensing agencies, enforcement officers, and various public and transit agencies in enhancing the safety of older drivers;

"(B) improve the scientific basis of medical standards and screenings strategies used in the licensing of all drivers in a non-discriminatory manner;

"(C) conduct field tests to assess the safety benefits and mobility impacts of different driver licensing strategies and driver assessment and rehabilitation methods;

"(D) assess the value and improve the safety potential of driver retraining courses of particular benefit to older drivers; and

"(E) conduct other activities to accomplish the objectives of this section.

"(2) FORMULATION OF PLAN.—After consultation with affected parties, the Secretary shall formulate an older driver traffic safety plan to guide the design and implementation of this program. The plan shall be submitted to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation within 1 year after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2005.

"(b) LAW ENFORCEMENT TRAINING.—

"(1) REQUIREMENT FOR PROGRAM.—The Administrator of the National Highway Traffic Safety Administration shall carry out a program to train law enforcement personnel of each State and political subdivision thereof in police chase techniques that are consistent with the police chase guidelines issued by the International Association of Chiefs of Police.

"(2) AMOUNT FOR PROGRAM.—Of the amount available for a fiscal year to carry out this section, $200,000 shall be available for carrying out this subsection.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 4 is amended by striking the item relating to section 406 and inserting the following:

"406. Older driver safety; law enforcement training".

SEC. 7218. EMERGENCY MEDICAL SERVICES.

(a) FEDERAL COORDINATION AND ENHANCED SUPPORT OF EMERGENCY MEDICAL SERVICES.—Chapter 4 is amended by inserting after section 407 the following:

"§ 407A. Federal coordination and enhanced support of emergency medical services

"(a) FEDERAL INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES.—

"(1) ESTABLISHMENT.—The Secretary of Transportation and the Secretary of Homeland Security, through the Under Secretary for Emergency Preparedness and Response, shall establish a Federal Interagency Committee on Emergency Medical Services. In establishing the Interagency Committee, the Secretary of Transportation and the Secretary of Homeland Security through the Under Secretary for Emergency Preparedness and Response shall consult with the Secretary of Health and Human Services.

"(2) MEMBERSHIP.—The Interagency Committee shall consist of the following officials, or their designees:

"(A) The Administrator, National Highway Traffic Safety Administration.

"(B) The Director, Preparedness Division, Emergency Preparedness and Response Directorate, Department of Homeland Security.

"(C) The Administrator, Health Resources and Services Administration, Department of Health and Human Services.

"(D) The Director, Centers for Disease Control and Prevention, Department of Health and Human Services.

"(E) The Administrator, United States Fire Administration, Emergency Preparedness and Response Directorate, Department of Homeland Security.

"(F) The Director, Center for Medicare and Medicaid Services, Department of Health and Human Services.

"(G) The Undersecretary of Defense for Personnel and Readiness.

"(H) The Director, Indian Health Service, Department of Health and Human Services.

"(I) The Chief, Wireless Telecom Bureau, Federal Communications Commission.

"(J) A representative of any other Federal agency identified by the Secretary of Transportation or the Secretary of Homeland Security through the Under Secretary for Emergency Preparedness and Response, in consultation with the Secretary of Health and Human Services, as having a significant role in relation to the purposes of the Interagency Committee.

"(K) A State Emergency Medical Services Director.

"(3) PURPOSES.—The purposes of the Interagency Committee are as follows:

"(A) To ensure coordination among the Federal agencies involved with State, local, tribal, or regional emergency medical services and 9-1-1 systems.

"(B) To identify State, local, tribal, or regional emergency medical services and 9-1-1 needs.

"(C) To recommend new or expanded programs, including grant programs, for improving State, local, tribal, or regional emergency medical services and implementing improved emergency medical services communications technologies, including wireless 9-1-1.

"(D) To identify ways to streamline the process through which Federal agencies support State, local, tribal or regional emergency medical services.

"(E) To assist State, local, tribal or regional emergency medical services in setting priorities based on identified needs.

"(F) To advise, consult, and make recommendations on matters relating to the implementation of the coordinated State emergency medical services programs.

"(4) ADMINISTRATION.—The Administrator of the National Highway Traffic Safety Administration, in cooperation with the Director, Preparedness Division, Emergency Preparedness and Response Directorate, Department of Homeland Security, shall provide administrative support to the Interagency Committee, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.

"(5) LEADERSHIP.—The members of the Interagency Committee shall select a chairperson of the Committee annually.

"(6) MEETINGS.—The Interagency Committee shall meet as frequently as is determined necessary by the chairperson of the Committee.

"(7) ANNUAL REPORTS.—The Interagency Committee shall prepare an annual report to Congress on the Committee's activities, actions, and recommendations.

"(b) COORDINATED NATIONWIDE EMERGENCY MEDICAL SERVICES PROGRAM.—

"(1) PROGRAM REQUIREMENT.—The Secretary of Transportation, acting through the Administrator of the National Highway Traffic Safety Administration, shall coordinate with officials of other Federal departments and agencies, and may assist State and local governments and emergency medical services organizations (whether or not a firefighter organization), private industry, and other interested parties, to ensure the development and implementation of a coordinated nationwide emergency medical services program that is designed to strengthen transportation safety and public health and to implement improved emergency medical services communication systems, including 9-1-1.

"(2) COORDINATED STATE EMERGENCY MEDICAL SERVICES PROGRAM.—Each State shall establish a program, to be approved by the Secretary, to coordinate the emergency medical services and resources deployed throughout the State, so as to ensure—

"(A) improved emergency medical services communication systems, including 9-1-1;

"(B) utilization of established best practices in system design and operations;

"(C) implementation of quality assurance programs; and

"(D) incorporation of data collection and analysis programs that facilitate system development and data linkages with other systems and programs useful to emergency medical services.

"(3) ADMINISTRATION OF STATE PROGRAMS.—The Secretary may not approve a coordinated State emergency medical services program under this subsection unless the program—

"(A) provides that the Governor of the State is responsible for its administration through a State office of emergency medical services that has adequate powers and is suitably equipped and organized to carry out such program and coordinates such program with the highway safety office of the State; and

"(B) authorizes political subdivisions of the State to participate in and receive funds under such program, consistent with a goal of achieving statewide coordination of emergency medical services and 9-1-1 activities.

"(4) FUNDING.—

"(A) USE OF FUNDS.—Funds authorized to be appropriated to carry out this subsection shall be used to aid the States in conducting coordinated emergency medical services and 9-1-1 programs as described in paragraph (2).

"(B) APPORTIONMENT.—

"(i) APPORTIONMENT FORMULA.—The funds shall be apportioned as follows: 75 percent in the ratio that the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 percent in the ratio that the public road mileage in each State bears to the total public road mileage in all States. For the purpose of this subparagraph, a 'public road' means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year prior to the year in which the funds are apportioned and shall be certified by the Governor of the State and subject to approval by the Secretary.

"(ii) MINIMUM APPORTIONMENT.—The annual apportionment to each State shall not be less than ½ of 1 percent of the total apportionment, except that the apportionment to the Secretary of the Interior on behalf of Indian tribes shall not be less than ¾ of 1 percent of the total apportionment, and the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than ¼ of 1 percent of the total apportionment.

"(5) APPLICABILITY OF CHAPTER 1.—Section 402(d) of this title shall apply in the administration of this subsection.

"(6) FEDERAL SHARE.—The Federal share of the cost of a project or program funded under this subsection shall be 80 percent.

"(7) APPLICATION IN INDIAN COUNTRY.—

"(A) USE OF TERMS.—For the purpose of application of this subsection in Indian country, the terms 'State' and 'Governor of the State' include the Secretary of the Interior and the term 'political subdivisions of the State' includes an Indian tribe.

"(B) INDIAN COUNTRY DEFINED.—In this subsection, the term 'Indian country' means—

"(i) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent and including rights-of-way running through the reservation;

"(ii) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

"(iii) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

"(c) STATE DEFINED.—In this section, the term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Secretary of the Interior on behalf of Indian tribes.

"(d) CONSTRUCTION WITH RESPECT TO DISTRICT OF COLUMBIA.—In the administration of this section with respect to the District of Columbia, a reference in this section to the Governor of a State shall refer to the Mayor of the District of Columbia.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 4 is amended by inserting after the item relating to section 407 the following:

"407A. Federal coordination and enhanced support of emergency medical services.".

SEC. 7219. REPEAL OF AUTHORITY FOR ALCOHOL TRAFFIC SAFETY PROGRAMS.

(a) REPEAL.—Section 408 is repealed.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 4 is amended by striking the item relating to section 408.

SEC. 7220. IMPAIRED DRIVING PROGRAM.

(a) MAINTENANCE OF EFFORT.—Section 410(a)(2) is amended by striking "the Transportation Equity Act for the 21st Century" and inserting "the Highway Safety Grant Program Reauthorization Act of 2005".

(b) REVISED GRANT AUTHORITY.—Section 410 is amended—

(1) by striking paragraph (3) of subsection (a) and redesignating paragraph (4) as paragraph (3); and

(2) by striking subsections (b) through (f) and inserting the following:

"(b) PROGRAM-RELATED ELIGIBILITY REQUIREMENTS.—To be eligible for a grant under this section, a State shall—

"(1) for fiscal year 2006 or 2007, carry out 4 of the programs required under subsection (c);

"(2) for fiscal year 2008 or 2009, carry out 5 of the programs required under subsection (c); and

"(3) for any such fiscal year—

"(A) comply with the additional requirements set forth in subsection (d) with respect to such programs and activities; and

"(B) comply with any additional requirements of the Secretary.

"(c) STATE PROGRAMS AND ACTIVITIES.—To qualify for a grant under this subsection, a State shall select programs from among the following:

"(1) CHECK-POINT, SATURATION PATROL PROGRAM.—

"(A) A State program to conduct a series of high-visibility, Statewide law enforcement campaigns in which law enforcement personnel monitor for impaired driving, either through use of sobriety check-points or saturation patrols, on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of the motor vehicles are driving while under the influence of alcohol or controlled substances that meets the requirements of subparagraphs (B) and (C).

"(B) A program meets the requirements of this subparagraph only if a State organizes the campaigns in cooperation with related periodic national campaigns organized by the National Highway Traffic Safety Administration, but this subparagraph does not preclude a State from initiating sustained high-visibility, Statewide law enforcement campaigns independently of the cooperative efforts.

"(C) A program meets the requirements of this subparagraph only if, for each fiscal year, a State demonstrates to the Secretary that the State and the political subdivisions of the State that receive funds under this section have increased, in the aggregate, the total number of impaired driving law enforcement activities at high incident locations, as described in subparagraph (A) (or any other similar activity approved by the Secretary), initiated in such State during the preceding fiscal year by a factor that the Secretary determines meaningful for the State over the number of such activities initiated in such State during the preceding fiscal year, which shall not be less than 5 percent.

"(2) PROSECUTION AND ADJUDICATION PROGRAM.—A State prosecution and adjudication program under which—

"(A) judges and prosecutors are actively encouraged to prosecute and adjudicate cases of defendants who repeatedly commit impaired driving offenses by reducing the use of State diversion programs, or other means that have the effect of avoiding or expunging a permanent record of impaired driving in such cases;

"(B) the courts in a majority of the judicial jurisdictions of the State are monitored on the courts' adjudication of cases of impaired driving offenses; or

"(C) annual Statewide outreach is provided for judges and prosecutors on innovative approaches to the prosecution and adjudication of cases of impaired driving offenses that have the potential for significantly improving the prosecution and adjudication of such cases.

"(3) IMPAIRED OPERATOR INFORMATION SYSTEM.—

"(A) A State impaired operator information system that—

"(i) tracks drivers who are arrested or convicted for violation of laws prohibiting impaired operation of motor vehicles;

"(ii) includes information about each case of an impaired driver beginning at the time of arrest through case disposition, including information about any trial, plea, plea agreement, conviction or other disposition, sentencing or other imposition of sanctions, and substance abuse treatment;

"(iii) provides—

"(I) accessibility to the information for law enforcement personnel Statewide and for United States law enforcement personnel; and

"(II) linkage for the sharing of the information and of the information in State traffic record systems among jurisdictions and appropriate agencies, court systems and offices of the States;

"(iv) shares information with the National Highway Traffic Safety Administration for compilation and use for the tracking of impaired operators of motor vehicles who move from State to State; and

"(v) meets the requirements of subparagraphs (B), (C), and (D) of this paragraph, as applicable.

"(B) A program meets the requirements of this subparagraph only if, during fiscal years 2006 and 2007, a State—

"(i) assesses the system used by the State for tracking drivers who are arrested or convicted for violation of laws prohibiting impaired operation of motor vehicles;

"(ii) identifies ways to improve the system, as well as to enhance the capability of the system to provide information in coordination with impaired operator information systems of other States; and

"(iii) develops a strategic plan that sets forth the actions to be taken and the resources necessary to achieve the identified improvements and to enhance the capability for coordination with the systems of other States.

"(C) A program meets the requirements of this subparagraph only if, in each of fiscal years 2008 and 2009, a State demonstrates to the Secretary that the State has made substantial and meaningful progress in improving the State's impaired operator information system, and makes public a report on the progress of the information system.

"(4) IMPAIRED DRIVING PERFORMANCE.—The percentage of fatally-injured drivers with 0.08 percent or greater blood alcohol concentration in the State has decreased in each of the 2 most recent calendar years for which data are available.

"(5) SELF-SUSTAINING IMPAIRED DRIVING PREVENTION PROGRAM.—A program under which a significant portion of the fines or surcharges collected from individuals who are fined for operating a motor vehicle while under the influence of alcohol are returned to communities for comprehensive programs for the prevention of impaired driving.

"(6) LAWS FOR HIGH RISK DRIVERS.—A law that establishes stronger sanctions or additional penalties for individuals convicted of operating a motor vehicle while under the influence of alcohol whose blood alcohol concentration is 0.15 percent or more than for individuals convicted of the same offense but with a lower blood alcohol concentration. For purposes of this paragraph, the term 'additional penalties' includes—

"(A) a 1-year suspension of a driver's license, but with the individual whose license is suspended becoming eligible after 45 days of such suspension to obtain a provisional driver's license that would permit the individual to drive—

"(i) only to and from the individual's place of employment or school; or

"(ii) only an automobile equipped with a certified alcohol ignition interlock device; and

"(B) a mandatory assessment by a certified substance abuse official of whether the individual has an alcohol abuse problem that includes the possibility of a referral to counseling if the official determines that such a referral is appropriate.

"(7) IMPAIRED DRIVING COURTS.—

"(A) IN GENERAL.—A program to consolidate and coordinate impaired driving cases into courts that specialize in impaired driving cases, with the emphasis on tracking and processing offenders of impaired driving laws, (hereinafter referred to as DWI courts) that meets the requirements of this paragraph.

"(B) CHARACTERISTICS.—A DWI Court is a distinct function performed by a court system for the purpose of changing the behavior of alcohol or drug dependent offenders arrested for driving while impaired. A DWI Court can be a dedicated court with dedicated personnel, including judges, prosecutors and probation officers. A DWI court may be an existing court system that serves the following essential DWI Court functions:

"(i) A DWI Court performs an assessment of high-risk offenders utilizing a team headed by the judge and including all criminal justice stakeholders (prosecutors, defense attorneys, probations officers, law enforcement personnel and others) along with alcohol/drug treatment professionals.

"(ii) The DWI Court team recommends a specific plea agreement or contract for each offender that can include incarceration, treatment, and close community supervision. The agreement maximizes the probability of rehabilitation and minimizes the likelihood of recidivism.

"(iii) Compliance with the agreement is verified with thorough monitoring and frequent alcohol testing. Periodic status hearings assess offender progress and allow an opportunity for modifying the sentence if necessary.

"(C) ASSESSMENT.—In the first year of operation, the States shall assess the number of court systems in its jurisdiction that are consistently performing the DWI Court functions.

"(D) PLAN.—In the second year of operation, the State shall develop a strategic plan for increasing the number of courts performing the DWI function.

"(E) PROGRESS.—In subsequent years of operation, the State shall demonstrate progress in increasing the number of DWI Courts and in increasing the number of high-risk offenders participating in and successfully completing DWI Court agreements.

"(d) USES OF GRANTS.—Grants made under this section may be used for programs and activities described in subsection (c) and to defray the following costs:

"(1) Labor costs, management costs, and equipment procurement costs for the high-visibility, Statewide law enforcement campaigns under subsection (c)(1).

"(2) The costs of the training of law enforcement personnel and the procurement of technology and equipment, such as and including video equipment and passive alcohol sensors, to counter directly impaired operation of motor vehicles.

"(3) The costs of public awareness, advertising, and educational campaigns that publicize use of sobriety check points or increased law enforcement efforts to counter impaired operation of motor vehicles.

"(4) The costs of public awareness, advertising, and educational campaigns that target impaired operation of motor vehicles by persons under 34 years of age.

"(5) The costs of the development and implementation of a State impaired operator information system described in subsection (c)(3).

"(6) The costs of operating programs that result in vehicle forfeiture or impoundment or license plate impoundment.

"(e) ADDITIONAL AUTHORITIES FOR CERTAIN AUTHORIZED USES.—

"(1) COMBINATION OF GRANT PROCEEDS.—Grant funds used for a campaign under subsection (d)(3) may be combined, or expended in coordination, with proceeds of grants under section 402 of this title.

"(2) COORDINATION OF USES.—Grant funds used for a campaign under paragraph (3) or (4) of subsection (d) may be expended—

"(A) in coordination with employers, schools, entities in the hospitality industry, and nonprofit traffic safety groups; and

"(B) in coordination with sporting events and concerts 'and other entertainment events.

"(f) FUNDING.—

"(1) IN GENERAL.—Grant funding under this section shall be allocated among States that meet the eligibility criteria in subsection (b) on the basis of the apportionment formula that applies for apportionments under section 402(c) of this title.

"(2) HIGH FATALITY-RATE STATES.—A State that is among the 10 States with the highest impaired driving-related fatality rates for the calendar year immediately preceding the fiscal year in which the grant may be made shall be eligible for a grant under this section if the State meets the requirements of subsection (g). A State that receives a grant based upon its eligibility under this paragraph may also receive a grant under subsection (b) if it meets the eligibility requirements of that subsection.

"(g) USE OF FUNDS BY HIGH FATALITY-RATE STATES.—

"(1) REQUIRED USES.—At least ½ of the amounts allocated to States under subsection (f)(2) shall be used for the program described in subsection (c)(1).

"(2) REQUIREMENT FOR PLAN.—A State receiving an allocation of grant funds under subsection (f)(2) shall expend those funds only after receiving approval from the Administrator of the National Highway Traffic Safety Administration for a plan regarding such expenditures.

"(h) DEFINITIONS.—In this section:

"(1) IMPAIRED OPERATOR.—The term 'impaired operator' means a person who, while operating a motor vehicle—

"(A) has a blood alcohol content of 0.08 percent or higher; or

"(B) is under the influence of a controlled substance.

"(2) IMPAIRED DRIVING-RELATED FATALITY RATE.—The term 'impaired driving-related fatality rate' means the rate of alcohol-related fatalities, as calculated in accordance with regulations which the Administrator of the National Highway Traffic Safety Administration shall prescribe.".

(c) NHTSA TO ISSUE REGULATIONS.—Not later than 12 months after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2005, the National Highway Traffic Safety Administration shall issue guidelines to the States specifying the types and formats of data that States should collect relating to drivers who are arrested or convicted for violation of laws prohibiting the impaired operation of motor vehicles.

SEC. 7221. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.

(a) GRANT PROGRAM AUTHORITY.—Chapter 4 is amended by adding at the end the following:

"§ 412. State traffic safety information system improvements

"(a) GRANT AUTHORITY.—Subject to the requirements of this section, the Secretary shall make grants of financial assistance to eligible States to support the development and implementation of effective programs by such States to—

"(1) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;

"(2) evaluate the effectiveness of efforts to make such improvements;

"(3) link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data; and

"(4) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States and enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

"(b) FIRST-YEAR GRANTS.—

"(1) ELIGIBILITY.—To be eligible for a first-year grant under this section in a fiscal year, a State shall demonstrate to the satisfaction of the Secretary that the State has—

"(A) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems;

"(B) completed or updated, within the preceding 5 years, an assessment or an audit of the highway safety data and traffic records system of the State; and

"(C) developed a multiyear highway safety data and traffic records system strategic plan that addresses existing deficiencies in the State's highway safety data and traffic records system, is approved by the highway safety data and traffic records coordinating committee, and—

"(i) specifies how existing deficiencies in the State's highway safety data and traffic records system were identified;

"(ii) prioritizes, on the basis of the identified highway safety data and traffic records system deficiencies, the highway safety data and traffic records system needs and goals of the State, including the activities under subsection (a);

"(iii) identifies performance-based measures by which progress toward those goals will be determined; and

"(iv) specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan.

"(2) GRANT AMOUNT.—Subject to subsection (d)(3), the amount of a first-year grant to a State for a fiscal year shall be the higher of—

"(A) the amount determined by multiplying—

"(i) the amount appropriated to carry out this section for such fiscal year, by

"(ii) the ratio that the funds apportioned to the State under section 402 of this title for fiscal year 2003 bears to the funds apportioned to all States under such section for fiscal year 2003; or

"(B) $300,000.

"(c) SUCCESSIVE YEAR GRANTS.—

"(1) ELIGIBILITY.—A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State, to the satisfaction of the Secretary—

"(A) certifies that an assessment or audit of the State's highway safety data and traffic records system has been conducted or updated within the preceding 5 years;

"(B) submits an updated multiyear plan that meets the requirements of subsection (b)(1)(C);

"(C) certifies that its highway safety data and traffic records coordinating committee continues to operate and supports the multiyear plan;

"(D) specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan;

"(E) demonstrates measurable progress toward achieving the goals and objectives identified in the multiyear plan; and

"(F) includes a current report on the progress in implementing the multiyear plan.

"(2) GRANT AMOUNT.—Subject to subsection (d)(3), the amount of a year grant made to a State for a fiscal year under this subsection shall equal the higher of—

"(A) the amount determined by multiplying—

"(i) the amount appropriated to carry out this section for such fiscal year, by

"(ii) the ratio that the funds apportioned to the State under section 402 of this title for fiscal year 2003 bears to the funds apportioned to all States under such section for fiscal year 2003; or

"(B) $500,000.

"(d) ADDITIONAL REQUIREMENTS AND LIMITATIONS.—

"(1) MODEL DATA ELEMENTS.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements that are useful for the observation and analysis of State and national trends in occurrences, rates, outcomes, and circumstances of motor vehicle traffic accidents. In order to be eligible for a grant under this section, a State shall submit to the Secretary a certification that the State has adopted and uses such model data elements, or a certification that the State will use grant funds provided under this section toward adopting and using the maximum number of such model data elements as soon as practicable.

"(2) DATA ON USE OF ELECTRONIC DEVICES.—The model data elements required under paragraph (1) shall include data elements, as determined appropriate by the Secretary in consultation with the States and with appropriate elements of the law enforcement community, on the impact on traffic safety of the use of electronic devices while driving.

"(3) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures maintained by such State in the 2 fiscal years preceding the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2005.

"(4) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in subsection (a) may not exceed 80 percent.

"(5) LIMITATION ON USE OF GRANT PROCEEDS.—A State may use the proceeds of a grant received under this section only to implement the program described in subsection (a) for which the grant is made.

"(e) APPLICABILITY OF CHAPTER 1.—Section 402(d) of this title shall apply in the administration of this section.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 4 is amended by adding at the end the following:

"412. State traffic safety information system improvements.".

SEC. 7222. NHTSA ACCOUNTABILITY.

(a) IN GENERAL.—Chapter 4, as amended by section 7221, is amended by adding at the end the following:

"§ 413. Agency accountability

"(a) TRIENNIAL STATE MANAGEMENT REVIEWS.—At least once every 3 years the National Highway Traffic Safety Administration shall conduct a review of each State highway safety program. The review shall include a management evaluation of all grant programs partially or fully funded under this title. The Administrator shall provide review-based recommendations on how each State may improve the management and oversight of its grant activities and may provide a management and oversight plan.

"(b) RECOMMENDATIONS BEFORE SUBMISSION.—In order to provide guidance to State highway safety agencies on matters that should be addressed in the State highway safety program goals and initiatives as part of its highway safety plan before the plan is submitted for review, the Administrator shall provide data-based recommendations to each State at least 90 days before the date on which the plan is to be submitted for approval.

"(c) STATE PROGRAM REVIEW.—The Administrator shall—

"(1) conduct a program improvement review of any State that does not make substantial progress over a 3-year period in meeting its priority program goals; and

"(2) provide technical assistance and safety program requirements to be incorporated in a State's highway safety plan for any goal not achieved.

"(d) REGIONAL HARMONIZATION.—The Administration and the Inspector General of the Department of Transportation shall undertake a State grant administrative review of the practices and procedures of the management reviews and program reviews conducted by Administration regional offices and formulate a report of best practices to be completed within 180 days after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2005.

"(e) BEST PRACTICES GUIDELINES.—

"(1) UNIFORM GUIDELINES.—The Administrator shall issue uniform management review guidelines and program review guidelines based on the report under subsection (d). Each regional office shall use the guidelines in executing its State administrative review duties.

"(2) PUBLICATION.—The Administrator shall make the following documents available via the Internet upon their completion:

"(A) The Administrator's management review guidelines and the program review guidelines.

"(B) State highway safety plans.

"(C) State annual accomplishment reports.

"(D) The Administration's Summary report of findings from Management Reviews and Improvement Plans.

"(3) REPORTS TO STATE HIGHWAY SAFETY AGENCIES.—The Administrator may not make a plan, report, or review available under paragraph (2) that is directed to a State highway safety agency until after it has been submitted to that agency.

"(f) GENERAL ACCOUNTING OFFICE REVIEW.—The General Accounting Office shall analyze the effectiveness of the National Highway Traffic Safety Administration's oversight of traffic safety grants by determining the usefulness of the Administration's advice to the States regarding grants administration and State activities, the extent to which the States incorporate the Administration's recommendation into their highway safety plans and programs, and improvements that result in a State's highway safety program that may be attributable to the Administration's recommendations. Based on this analysis, the General Accounting Office shall submit a report by not later than the end of fiscal year 2008 to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 4, as amended by section 7221, is amended by inserting after the item relating to section 412 the following:

"413. Agency accountability.".

SEC. 7223. GRANTS FOR IMPROVING CHILD PASSENGER SAFETY PROGRAMS.

(a) IN GENERAL.—The Secretary of Transportation shall establish a program to provide grants to States to assist in the enactment and enforcement of laws implementing Anton's Law (49 U.S.C. 30127 note).

(b) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall make a grant to each State that, as determined by the Secretary, enacts or has enacted, has in effect, and is enforcing a law requiring that children riding in passenger motor vehicles (as defined in section 405(f)(4)) of title 23, United States Code, who are too large to be secured in a child safety seat be secured in a child restraint (as defined in section 7(1) of Anton's Law (49 U.S.C. 30127 note)) that meets requirements prescribed by the Secretary under section 3 of Anton's Law.

(2) YEAR IN WHICH FIRST ELIGIBLE.—

(A) EARLY QUALIFICATION.—A State that has enacted a law described in paragraph (1) that is in effect before October 1, 2005, is first eligible to receive a grant under subsection (a) in fiscal year 2006.

(B) SUBSEQUENT QUALIFICATION.—A State that enacts a law described in paragraph (1) that takes effect after September 30, 2005, is first eligible to receive a grant under subsection (a) in the first fiscal year beginning after the date on which the law is enacted.

(3) CONTINUING ELIGIBILITY.—A State that is eligible under paragraph (1) to receive a grant may receive a grant during each fiscal year listed in subsection (f) in which it is eligible.

(4) MAXIMUM NUMBER OF GRANTS.—A State may not receive more than 4 grants under this section.

(c) GRANT AMOUNT.—Amounts available for grants under this section in any fiscal year shall be apportioned among the eligible States on the basis of population.

(d) USE OF GRANT AMOUNTS.—

(1) IN GENERAL.—Of the amounts received by a State under this section for any fiscal year—

(A) 50 percent shall be used for the enforcement of, and education to promote public awareness of, State child passenger protection laws; and

(B) 50 percent shall be used to fund programs that purchase and distribute child booster seats, child safety seats, and other appropriate passenger motor vehicle child restraints to indigent families without charge.

(2) REPORT.—Within 60 days after the State fiscal year in which a State receives a grant under this section, the State shall transmit to the Secretary a report documenting the manner in which grant amounts were obligated or expended and identifying the specific programs supports by grant funds. The report shall be in a form prescribed by the Secretary and may be combined with other State grant reporting requirements under this chapter.

(e) DEFINITION OF CHILD SAFETY SEAT.—The term "child safety seat" means any device (except safety belts (as such term is defined in section 405(f)(6)) of title 23, United States Code, designed for use in a motor vehicle (as such term is defined in section 405(f)(4) of that title) to restrain, seat, or position a child who weighs 50 pounds or less.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation—

(1) $18,000,000 for fiscal year 2006;

(2) $20,000,000 for fiscal year 2007;

(3) $25,000,000 for fiscal year 2008; and

(4) $30,000,000 for fiscal year 2009.

SEC. 7224. MOTORCYCLIST SAFETY TRAINING AND MOTORIST AWARENESS PROGRAMS.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, as amended by section 7222, is amended by adding at the end the following:

"§ 414. Motorcyclist safety training and motorist awareness programs

"(a) DEFINITIONS.—In this section:

"(1) MOTORCYCLIST SAFETY TRAINING.—The term 'motorcyclist safety training' means any formal program of instruction that—

"(A) provides accident avoidance and other safety-oriented operational skills to motorcyclists, including innovative training opportunities to meet unique regional needs; and

"(B) is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State Motorcycle Safety Administrator or a motorcycle advisory council appointed by the Governor of the State.

"(2) MOTORIST AWARENESS.—The term 'motorist awareness' means individual or collective motorist awareness of—

"(A) the presence of motorcycles on or near roadways; and

"(B) safe driving practices that avoid injury to motorcyclists, bicyclists, and pedestrians.

"(3) MOTORIST AWARENESS PROGRAM.—The term 'motorist awareness program' means any informational or public awareness program designed to enhance motorist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State Motorcycle Safety Administrator or, in the absence of a State Administrator, a motorcycle advisory council appointed by a Governor of the State.

"(4) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia; and

"(C) the Commonwealth of Puerto Rico.

"(b) ELIGIBILITY.—Not later than 90 days after the date of enactment of this section and on September 1 of each fiscal year thereafter, based on a letter of certification provided by the Governor of each State, the Secretary shall develop and publish a list of States that, as of the date of publication of the list, have established motorcyclist safety training programs and motorist awareness programs, including information that indicates—

"(1) the level of base funding provided for each such program for the applicable fiscal year; and

"(2) whether the level of base funding provided for each such program for the applicable fiscal year was increased, decreased, or maintained from the level of funding provided for the program for the previous fiscal year.

"(c) ALLOCATION.—Not later than 120 days after the date of enactment of this section, on October 1 of each fiscal year, the Secretary shall allocate to each State for which the base funding allocated for motorcyclist safety training and motorist awareness programs was not less than the amount allocated for the previous year, not less than $100,000, to be used only for motorcyclist safety training and motorist awareness programs, including—

"(1) improvements to motorcyclist safety training curricula;

"(2) improvements in program delivery to both urban and rural areas, including—

"(A) procurement or repair of practice motorcycles;

"(B) instructional aides; and

"(C) mobile training units;

"(3) an increase in the recruitment or retention of motorcyclist safety training instructors certified by a State Motorcycle Safety Administrator or motorcycle advisory council appointed by the Governor; and

"(4) public awareness, public service announcements, and other outreach programs to enhance motorist awareness, such as the 'share-the-road' safety messages developed in subsection (f).

"(d) CONTRACTS WITH ORGANIZATIONS.—The Secretary may enter into an agreement with an organization that is recommended by and represents the interests of State Motorcycle Safety Administrators to review, determine, and disseminate a description of best practices in motorcycle safety training and motorist awareness, and to recommend such practices, to State administrators, governors, State legislative bodies, and chief licensing officers of States.

"(e) AUTHORIZATION OF APPROPRIATIONS.—From funds available to carry out section 406 of this title, $5,200,000 shall be made available for each of fiscal years 2006 through 2009 to carry out this section.

"(f) SHARE-THE-ROAD MODEL LANGUAGE.—Not later than 1 year after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2005, the Secretary, in consultation with the Administrator of the Natinoal Highway Traffice Safety Administration, shall develop and provide to the States model language for use in traffic safety education courses, driver's manuals, and other driver's training materials instructing the drivers of motor vehicles on the importance of sharing the roads safely with motorcyclists.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 4 of title 23, United States Code, as amended by section 7222, is amended by adding at the end the following:

"414. Motorcyclist safety training and motorist awareness programs.".

CHAPTER 2—SPECIFIC VEHICLE SAFETY-RELATED RULINGS

SEC. 7251. VEHICLE ROLLOVER PREVENTION AND CRASH MITIGATION.

(a) IN GENERAL.—Subchapter II of chapter 301 is amended by adding at the end the following:

"§ 30128. Vehicle rollover prevention and crash mitigation

"(a) IN GENERAL.—The Secretary shall initiate rulemaking proceedings, for the purpose of establishing rules or standards that will reduce vehicle rollover crashes and mitigate deaths and injuries associated with such crashes for motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds.

"(b) ROLLOVER PREVENTION.—One of the rulemaking proceedings initiated under subsection (a) shall be to establish performance criteria to reduce the occurrence of rollovers consistent with stability enhancing technologies. The Secretary shall issue a proposed rule in this proceeding by rule by October 1, 2006, and a final rule by April 1, 2009.

"(c) OCCUPANT EJECTION PREVENTION.—

"(1) IN GENERAL.—The Secretary shall also initiate a rulemaking proceeding to establish performance standards to reduce complete and partial ejections of vehicle occupants from outboard seating positions. In formulating the standards the Secretary shall consider various ejection mitigation systems. The Secretary shall issue a final rule under this paragraph no later than October 1, 2009.

"(2) DOOR LOCKS AND DOOR RETENTION.—The Secretary shall complete the rulemaking proceeding initiated to upgrade Federal Motor Vehicle Safety Standard No. 206, relating to door locks and door retention, no later than 30 months after the date of enactment of this Act.

"(d) PROTECTION OF OCCUPANTS.—One of the rulemaking proceedings initiated under subsection (a) shall be to establish performance criteria to upgrade Federal Motor Vehicle Safety Standard No. 216 relating to roof strength for driver and passenger sides. The Secretary may consider industry and independent dynamic tests that realistically duplicate the actual forces transmitted during a rollover crash. The Secretary shall issue a proposed rule by December 31, 2005, and a final rule by July 1, 2008.

"(e) DEADLINES.—If the Secretary determines that the deadline for a final rule under this section cannot be met, the Secretary shall—

"(1) notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce and explain why that deadline cannot be met; and

"(2) establish a new deadline.".

SEC. 7252. SIDE-IMPACT CRASH PROTECTION RULEMAKING.

The Secretary of Transportation shall complete a rulemaking proceeding under chapter 301 of title 49, United States Code, to establish a standard designed to enhance passenger motor vehicle occupant protection, in all seating positions, in side impact crashes. The Secretary shall issue a final rule by July 1, 2008.

SEC. 7253. TIRE RESEARCH.

Within 2 years after the date of enactment of this Act, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on research conducted to address tire aging. The report shall include a summary of any Federal agency findings, activities, conclusions, and recommendations concerning tire aging and recommendations for potential rulemaking regarding tire aging.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 301 is amended by inserting after the item relating to section 30127 the following:

"30128. Vehicle accident ejection protection".

SEC. 7254. VEHICLE BACKOVER AVOIDANCE TECHNOLOGY STUDY.

(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall conduct a study of effective methods for reducing the incidence of injury and death outside of parked passenger motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds attributable to movement of such vehicles. The Administrator shall complete the study within 1 year after the date of enactment of this Act and report its findings to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce not later than 15 months after the date of enactment of this Act.

(b) SPECIFIC ISSUES TO BE COVERED.—The study required by subsection (a) shall—

(1) include an analysis of backover prevention technology;

(2) identify, evaluate, and compare the available technologies for detecting people or objects behind a motor vehicle with a gross vehicle weight rating of not more than 10,000 pounds for their accuracy, effectiveness, cost, and feasibility for installation; and

(3) provide an estimate of cost savings that would result from widespread use of backover prevention devices and technologies in motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds, including savings attributable to the prevention of—

(A) injuries and fatalities; and

(B) damage to bumpers and other motor vehicle parts and damage to other objects.

SEC. 7255. NONTRAFFIC INCIDENT DATA COLLECTION.

(a) IN GENERAL.—In conjunction with the study required in section 7254, the National Highway Traffic Safety Administration shall establish a method to collect and maintain data on the number and types of injuries and deaths involving motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds in non-traffic incidents.

(b) DATA COLLECTION AND PUBLICATION.—The Secretary of Transportation shall publish the data collected under subsection (a) no less frequently than biennially.

SEC. 7256. SAFETY BELT USE REMINDERS.

(a) BUZZER LAW.—

(1) IN GENERAL.—Section 30124 is amended—

(A) by striking "not" the first place it appears; and

(B) by striking "except" and inserting "including".

(2) CONFORMING AMENDMENT.—Section 30122 is amended by striking subsection (d).

(b) STUDY OF SAFETY BELT USE TECHNOLOGIES.—The Secretary of Transportation shall conduct a review of safety belt use technologies to evaluate progress and to consider possible revisions in strategies for achieving further gains in safety belt use. The Secretary shall complete the study by July 1, 2008.

SEC. 7257. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.

(a) SAFETY LABELING REQUIREMENT.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended—

(1) by striking "and" after the semicolon in subsection (e);

(2) by inserting "and" after the semicolon in subsection (f)(3);

(3) by striking "(3)." in subsection (f)(4) and inserting "(3);"; and

(4) by adding at the end the following:

"(g) if 1 or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that—

"(1) includes a graphic depiction of the number of stars, or other applicable rating, that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion indicating the maximum possible safety rating;

"(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests);

"(3) contains information describing the nature and meaning of the crash test data presented and a reference to additional vehicle safety resources, including http://www.safecar.gov; and

"(4) is presented in a legible, visible, and prominent fashion and covers at least—

"(A) 8 percent of the total area of the label; or

"(B) an area with a minimum length of 4 ½ inches and a minimum height of 3 ½ inches; and

"(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.".

(b) REGULATIONS.—Not later than January 1, 2006, the Secretary of Transportation shall issue regulations to implement the labeling requirements under subsections (g) and (h) of section 3 of the Automobile Information Disclosure Act, as added by subsection (a).

(c) APPLICABILITY.—The labeling requirements under subsections (g) and (h) of section 3 of such Act (as added by subsection (a)), and the regulations prescribed under subsection (b), shall apply to new automobiles delivered on or after—

(1) September 1, 2006, if the regulations under subsection (b) are prescribed not later than August 31, 2005; or

(2) September 1, 2007, if the regulations under subsection (b) are prescribed after August 31, 2005.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation, to accelerate the testing processes and increasing the number of vehicles tested under the New Car Assessment Program of the National Highway Traffic Safety Administration—

(1) $15,000,000 for fiscal year 2006;
(2) $8,134,065 for fiscal year 2007;
(3) $8,418,760 for fiscal year 2008;
(4) $8,713,410 for fiscal year 2009; and
(5) $9,018,385 for fiscal year 2010.

SEC. 7258. POWER WINDOW SWITCHES.

The Secretary of Transportation shall upgrade Federal Motor Vehicle Safety Standard 118 to require that power windows in motor vehicles not in excess of 10,000 pounds have switches that raise the window only when the switch is pulled up or out. The Secretary shall issue a final rule implementing this section by April 1, 2007.

SEC. 7259. 15-PASSENGER VAN SAFETY.

(a) TESTING.—

(1) IN GENERAL.—The Secretary of Transportation shall require the testing of 15-passenger vans as part of the rollover resistance program of the National Highway Traffic Safety Administration's new car assessment program.

(2) 15-PASSENGER VAN DEFINED.—In this subsection, the term "15-passenger van" means a vehicle that seats 10 to 14 passengers, not including the driver.

(b) PROHIBITION OF PURCHASE, RENTAL, OR LEASE OF NONCOMPLYING 15-PASSENGER VANS FOR SCHOOL USE.—Section 30112(a) is amended—

(1) by inserting "(1)" before "Except as provided"; and

(2) by adding at the end the following:

"(2) Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a school or school system may not purchase or lease a new 15-passenger van if it will be used significantly by, or on behalf of, the school or school system to transport preprimary, primary, or secondary school students to or from school or an event related to school, unless the 15-passenger van complies with the motor vehicle standards prescribed for school buses and multifunction school activity buses under this title. This paragraph does not apply to the purchase or lease of a 15-passenger van under a contract executed before the date of enactment of the Surface Transportation Safety Improvement Act of 2005.".

(c) PENALTY.—Section 30165(a) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2) SCHOOL BUSES.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), the maximum amount of a civil penalty under this paragraph shall be $10,000 in the case of—

"(i) the manufacture, sale, offer for sale, introduction or delivery for introduction into interstate commerce, or importation of a school bus or school bus equipment (as those terms are defined in section 30125(a) of this title) in violation of section 30112(a)(1) of this title; or

"(ii) a violation of section 30112(a)(2) of this title.

"(B) RELATED SERIES OF VIOLATIONS.—A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by that section. The maximum penalty under this paragraph for a related series of violations is $15,000,000.".

SEC. 7260. UPDATED FUEL ECONOMY LABELING PROCEDURES.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency shall, as appropriate and in consultation with the Administrator of the National Highway Traffic Safety Administration, update and revise the process used to determine fuel economy values for labeling purposes as set forth in sections 600.209-85 and 600.209.95 (40 C.F.R. 600.209-85 and 600.209.95) to take into consideration current factors such as speed limits, acceleration rates, braking, variations in weather and temperature, vehicle load, use of air conditioning, driving patterns, and the use of other fuel consuming features. The Administrator shall use existing emissions test cycles and, or, updated adjustment factors to implement the requirements of this subsection.

(b) DEADLINE.—The Administrator of the Environmental Protection Agency shall promulgate a notice of proposed rulemaking by December 31, 2005, and a final rule within 18 months after the date on which the Administrator issues the notice.

(c) REPORT.—Three years after issuing the final rule required by subsection (b) and every 3 years thereafter the Administrator of the Environmental Protection Agency shall reconsider the fuel economy labeling procedures required under subsection (a) to determine if the changes in the factors require revisting the process. The administrator shall report to the Senate Committee on Commerce, Science and Transportation and to the House of Representatives Committee on Energy and Commerce on the outcome of the reconsideration process.

SEC. 7261. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation to carry out this chapter and chapter 301 of title 49, United States Code—

(1) $136,000,000 for fiscal year 2006;
(2) $142,800,000 for fiscal year 2007;
(3) $149,900,000 for fiscal year 2008; and
(4) $157,400,000 for fiscal year 2009.

Subtitle C—Hazardous Materials

SEC. 7301. SHORT TITLE.

This subtitle may be cited as the "Hazardous Material Transportation Safety and Security Reauthorization Act of 2005".

CHAPTER 1—GENERAL AUTHORITIES ON TRANSPORTATION OF HAZARDOUS MATERIALS

SEC. 7321. PURPOSE.

The text of section 5101 is amended to read as follows:

"The purpose of this chapter is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce.".

SEC. 7322. DEFINITIONS.

Section 5102 is amended as follows:

(1) COMMERCE.—Paragraph (1) is amended—

(A) by striking "or" after the semicolon in subparagraph (A);

(B) by striking the "State." in subparagraph (B) and inserting "State; or"; and

(C) by adding at the end the following:

"(C) on a United States-registered aircraft.".

(2) HAZMAT EMPLOYEE.—Paragraph (3) is amended—

(A) by inserting "on a fulltime, part time, or temporary basis" after "employed" in subparagraph (A)(i);

(B) by redesignating clause (ii) of subparagraph (A) as clause (iii) and inserting after clause (i) the following:

"(ii) is self-employed (including an owner-operator of a motor vehicle, vessel, or aircraft) transporting hazardous material in commerce; and";

(C) by inserting "such full time, part time, or temporary" in clause (iii) of subparagraph (A), as redesignated, after "course of";

(D) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

(E) by inserting "on a full time, part time, or temporary basis" after "employed" in subparagraph (B), as redesignated; and

(F) by striking clause (ii) of subparagraph (B), as redesignated, and inserting the following:

"(ii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce;".

(3) HAZMAT EMPLOYER.—Paragraph (4) is amended to read as follows:

"(4) 'hazmat employer' means a person—

"(A) who—

"(i) employs or uses at least 1 hazmat employee on a full time, part time, or temporary basis, or

"(ii) is self-employed (including an owner-operator of a motor vehicle, vessel, or aircraft) transporting hazardous material in commerce, and

"(B) who—

"(i) transports hazardous material in commerce,

"(ii) causes hazardous material to be transported in commerce, or

"(iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce, and

includes a department, agency, or instrumentality of the United States Government, or an authority of a State, political subdivision of a State, or Indian tribe, carrying out an activity described in subparagraph (B).".

(4) IMMINENT HAZARD.—Paragraph (5) is amended by inserting "relating to hazardous material" after "of a condition".

(5) MOTOR CARRIER.—Paragraph (7) is amended to read as follows:

"(7) 'motor carrier'—

"(A) means a motor carrier, motor private carrier, and freight forwarder as those terms are defined in section 13102 of this title; but

"(B) does not include a freight forwarder, as so defined, if the freight forwarder is not performing a function relating to highway transportation.".

(6) NATIONAL RESPONSE TEAM.—Paragraph (8) is amended—

(A) by striking "national response team" both places it appears and inserting "National Response Team"; and

(B) by striking "national contingency plan" and inserting "National Contingency Plan".

(7) PERSON.—Paragraph (9)(A) is amended by striking "offering" and all that follows and inserting "that—

"(i) offers hazardous material for transportation in commerce;

"(ii) transports hazardous material to further a commercial enterprise; or

"(iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce; but".

(8) SECRETARY OF TRANSPORTATION.—Section 5102 is further amended—

(A) by redesignating paragraphs (11), (12), and (13), as paragraphs (12), (13), and (14), respectively; and

(B) by inserting after paragraph (10) the following:

"(11) 'Secretary' means the Secretary of Transportation except as otherwise provided.".

SEC. 7323. GENERAL REGULATORY AUTHORITY.

(a) REFERENCE TO SECRETARY OF TRANSPORTATION.—Section 5103(a) is amended by striking "of Transportation".

(b) DESIGNATING MATERIAL AS HAZARDOUS.—Section 5103(a) is further amended—

(1) by striking "etiologic agent" and all that follows through "corrosive material," and inserting "infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material,"; and

(2) by striking "decides" and inserting "determines".

(c) REGULATIONS FOR SAFE TRANSPORTATION.—Section 5103(b)(1)(A) is amended to read as follows:

"(A) apply to a person who—

"(i) transports hazardous material in commerce;

"(ii) causes hazardous material to be transported in commerce;

"(iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce;

"(iv) prepares or accepts hazardous material for transportation in commerce;

"(v) is responsible for the safety of transporting hazardous material in commerce;

"(vi) certifies compliance with any requirement under this chapter; or

"(vii) misrepresents whether such person is engaged in any activity under clause (i) through (vi) of this subparagraph; and".

(d) TECHNICAL AMENDMENT REGARDING CONSULTATION.—Section 5103 is amended—

(1) by striking subsection (b)(1)(C); and

(2) by adding at the end the following:

"(c) CONSULTATION.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary of Transportation.".

SEC. 7324. LIMITATION ON ISSUANCE OF HAZMAT LICENSES.

(a) REFERENCE TO SECRETARY OF TRANSPORTATION.—Section 5103a is amended by striking "of Transportation" each place it appears in subsections (a)(1), (c)(1)(B), and (d) and inserting "of Homeland Security".

(b) COVERED HAZARDOUS MATERIALS.—Section 5103a(b) is amended by striking "with respect to—" and all that follows and inserting "with respect to any material defined as hazardous material by the Secretary for which the Secretary requires placarding of a commercial motor vehicle transporting that material in commerce.".

(c) RECOMMENDATIONS ON CHEMICAL OR BIOLOGICAL MATERIALS.—Section 5103a is further amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following:

"(c) RECOMMENDATIONS ON CHEMICAL AND BIOLOGICAL MATERIALS.—The Secretary of Health and Human Services shall recommend to the Secretary any chemical or biological material or agent for regulation as a hazardous material under section 5103(a) of this title if the Secretary of Health and Human Services determines that such material or agent is a threat to the national security of the United States.".

(d) CONFORMING AMENDMENT.—Section 5103a(a)(1) is amended by striking "subsection (c)(1)(B)," and inserting "subsection (d)(1)(B),".

SEC. 7325. BACKGROUND CHECKS FOR DRIVERS HAULING HAZARDOUS MATERIALS.

(a) FOREIGN DRIVERS.—

(1) IN GENERAL.—No commercial motor vehicle operator registered to operate in Mexico or Canada may operate a commercial motor vehicle transporting a hazardous material in commerce in the United States until the operator has undergone a background records check similar to the background records check required for commercial motor vehicle operators licensed in the United States to transport hazardous materials in commerce.

(2) DEFINITIONS.—In this subsection:

(A) HAZARDOUS MATERIALS.—The term "hazardous material" has the meaning given that term in section 5102(2) of title 49, United States Code.

(B) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle" has the meaning given that term by section 31101 of title 49, United States Code.

(b) OTHER DRIVERS.—

(1) EMPLOYER NOTIFICATION.—Within 90 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security for Transportation Security shall develop and implement a process for the notification of a hazmat employer (as defined in section 5102(4) of title 49, United States Code), if appropriate considering the potential security implications, designated by an applicant seeking a threat assessment under part 1572 of title 49, Code of Federal Regulations, if the Transportation Security Administration, in an initial notification of threat assessment or a final notification of threat assessment, served on the applicant determines that the applicant does not meet the standards set forth in section 1572.5(d) of title 49, Code of Federal Regulations.

(2) RELATIONSHIP TO OTHER BACKGROUND RECORDS CHECKS.—

(A) ELIMINATION OF REDUNDANT CHECKS.—An individual with respect to whom the Transportation Security Administration—

(i) has performed a security threat assessment under part 1572 of title 49, Code of Federal Regulations, and

(ii) has issued a notification of no security threat under section 1572.5(g) of that title,

is deemed to have met the requirements of any other background check that is equivalent to, or less stringent than, the background check performed under section 5103a of title 49, United States Code, that is required for purposes of any Federal law applicable to transportation workers.

(B) DETERMINATION BY ASSISTANT SECRETARY.—Within 30 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall initiate a rulemaking proceeding, including notice and opportunity for comment, that sets forth the background checks and other similar security or threat assessment requirements applicable to transportation workers under Federal law to which subparagraph (A) applies.

(C) FUTURE RULEMAKINGS.—The Assistant Secretary shall make a determination under the criteria established under subparagraph (B) with respect to any rulemaking proceeding to establish or modify required background checks for transportation workers initiated after the date of enactment of this Act.

(c) APPEALS PROCESS FOR MORE STRINGENT STATE PROCEDURES.—If a State establishes standards for applicants for a hazardous materials endorsement to a commercial driver's license that, as determined by the Secretary of Homeland Security, are more stringent than the standards set forth in section 1572.5(d) of title 49, Code of Federal Regulations, then the State shall also provide an appeals process similar to the process provided under section 1572.141 of title 49, Code of Federal Regulations, by which an applicant denied a hazardous materials endorsement to a commercial driver's license by that State may appeal that denial in a manner substantially similar to, and to the same extent as, an individual who received an initial notification of threat assessment under part 1572 of that title.

(d) Clarification of Term Defined in Regulations.—The term "severe transportation security incident", as defined in section 1572.3 of title 49, Code of Federal Regulations, does not include a work stoppage or other nonviolent employee-related action resulting from an employer-employee dispute. Within 30 days after the date of enactment of this Act, the Secretary of Homeland Security shall modify the definition of that term to reflect the preceding sentence.

(e) Background Check Capacity.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall transmit a report by October 1, 2005, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Homeland Security on the implementation of fingerprint-based security threat assessments and the adequacy of fingerprinting locations, personnel, and resources to accomplish the timely processing of fingerprint-based security threat assessments for individuals holding commercial driver's licenses who are applying to renew hazardous materials endorsements.

SEC. 7326. REPRESENTATION AND TAMPERING.

(a) Representation.—Section 5104(a) is amended—

(1) by striking "a container," and all that follows through "packaging) for" and inserting "a package, component of a package, or packaging for"; and

(2) by striking "the container" and all that follows through "packaging) meets" and inserting "the package, component of a package, or packaging meets".

(b) Tampering.—Section 5104(b) is amended—

(1) by striking "A person may not" and inserting "No person may"; and

(2) by inserting "component of a package, or packaging," after "package," in paragraph (2).

SEC. 7327. TRANSPORTING CERTAIN MATERIAL.

Section 5105 is amended by striking subsection (d).

SEC. 7328. HAZMAT EMPLOYEE TRAINING REQUIREMENTS AND GRANTS.

(a) Reference to Secretary of Transportation.—Section 5107 is amended by striking "of Transportation" each place it appears in subsections (a), (b), (c) (other than in paragraph (1)), (d), and (f).

(b) Training Grants.—Section 5107(e) is amended—

(1) by striking "section 5127(c)(3)" and inserting "section 5128(b)(1) of this title"; and

(2) by inserting "and, to the extent determined appropriate by the Secretary, grants for such instructors to train hazmat employees" after "employees" in the first sentence thereof.

SEC. 7329. REGISTRATION.

(a) Reference to Secretary of Transportation.—Section 5108 is amended by striking "of Transportation" each place it appears in subsections (a), (b) (other than following "Department"), (d), (e), (f), (g), (h), and (i).

(b) Persons Required To File.—

(1) Requirement to file.—Section 5108(a)(1)(B) is amended by striking "class A or B explosive" and inserting "Division 1.1, 1.2, or 1.3 explosive material".

(2) Authority to require to file.—Section 5108(a)(2)(B) is amended to read as follows:

"(B) a person designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce.".

(3) No transportation without filing.—Section 5108(a)(3) is amended by striking "fabricate," and all that follows through "package or" and inserting "design, manufacture, fabricate, inspect, mark, maintain, recondition, repair, or test a package, container packaging component, or".

(c) Form and Content of Filings.—Section 5108(b)(1)(C) by striking "the activity." and inserting "any of the activities.".

(d) Filing.—Section 5108(c) is amended to read as follows:

"(c) Filing.—Each person required to file a registration statement under subsection (a) of this section shall file the statement in accordance with regulations prescribed by the Secretary.".

(e) Fees.—Section 5108(g)(1) is amended by striking "may establish," and inserting "shall establish,".

(f) Relationship to Other Laws.—Section 5108(i)(2)(B) is amended by inserting "an Indian tribe," after "subdivision of a State,".

(g) Registration and Annual Fees.—

(1) Reduction in cap.—Section 5108(g)(2)(A) is amended by striking "$5,000" and inserting "$3,000".

(2) Rulemaking.—Any rule, regulation, or order issued by the Secretary of Transportation under which the assessment, payment, or collection of fees under section 5108(g) of title 49, United States Code, was suspended or terminated before the date of enactment of this Act is declared null and void effective 30 days after such date of enactment. Beginning on the 31st day after such date of enactment, the fee schedule established by the Secretary and set forth at 65 Federal Register 7297 (as modified by the rule set forth at 67 Federal Register 58343) shall take effect and apply until such time as it may be modified by a rulemaking proceeding.

(3) Planning and training grants.—Notwithstanding any other provision of law to the contrary, including any limitation on the amount of grants authorized by section 5116 of title 49, United States Code, not contained in that section, the Secretary shall make grants under that section from the account established under section 5116(i) to reduce the balance in that account over the 4 fiscal year period beginning with fiscal year 2006, but in no fiscal year shall the grants distributed exceed the level authorized by section 5116 of title 49, United States Code.

SEC. 7330. SHIPPING PAPERS AND DISCLOSURE.

(a) Reference to Secretary of Transportation.—Section 5110(a) is amended by striking "of Transportation".

(b) Disclosure Considerations and Requirements.—Section 5110 is amended—

(1) by striking "under subsection (b) of this section." in subsection (a) and inserting "in regulations.";

(2) by striking subsection (b); and

(3) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(c) Retention of Papers.—Subsection (d) of section 5110, as redesignated by subsection (b)(3) of this section, is amended to read as follows:

"(d) Retention of Papers.—

"(1) Shippers.—The person who provides the shipping paper under this section shall retain the paper, or an electronic format of it, for a period of 3 years after the date that the shipping paper is provided to the carrier, with the paper or electronic format to be accessible through the shipper's principal place of business.

"(2) Carriers.—The carrier required to keep the shipping paper under this section, shall retain the paper, or an electronic format of it, for a period of 1 year after the date that the shipping paper is provided to the carrier, with the paper or electronic format to be accessible through the carrier's principal place of business.

"(3) Availability to government agencies.—Any person required to keep a shipping paper under this subsection shall, upon request, make it available to a Federal, State, or local government agency at reasonable times and locations.".

SEC. 7331. RAIL TANK CARS.

(a) Repeal of Requirements.—Section 5111 is repealed.

(b) Clerical Amendment.—The chapter analysis for chapter 51 is amended by striking the item relating to section 5111.

SEC. 7332. UNSATISFACTORY SAFETY RATINGS.

(a) In General.—The text of section 5113 is amended to read as follows:

"A violation of section 31144(c)(3) of this title shall be considered a violation of this chapter, and shall be subject to the penalties in sections 5123 and 5124 of this title.".

(b) Conforming Amendments.—The first subsection (c) of section 31144 is amended—

(1) by striking "sections 521(b)(5)(A) and 5113" in paragraph (1) and inserting "section 521(b)(5)(A) of this title"; and

(2) by adding at the end of paragraph (3) "A violation of this paragraph by an owner or operator transporting hazardous material shall be considered a violation of chapter 51 of this title, and shall be subject to the penalties in sections 5123 and 5124 of this title.".

SEC. 7333. TRAINING CURRICULUM FOR THE PUBLIC SECTOR.

(a) In General.—Section 5115(a) is amended to read as follows:

"(a) In General.—In coordination with the Director of the Federal Emergency Management Agency, the Chairman of the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Secretaries of Labor, Energy, and Health and Human Services, and the Director of the National Institute of Environmental Health Sciences, and using existing coordinating mechanisms of the National Response Team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee, the Secretary shall maintain a current curriculum of lists of courses necessary to train public sector emergency response and preparedness teams in matters relating to the transportation of hazardous material.".

(b) Requirements.—Section 5115(b) is amended—

(1) by striking "developed" in the matter preceding paragraph (1) and inserting "maintained"; and

(2) by striking "under other United States Government grant programs" in paragraph (1)(C) and all that follows and inserting "with Federal assistance; and".

(c) Training on Compliance With Legal Requirements.—Section 5115(c)(3) is amended by striking "Association." and inserting

"Association or by any other voluntary organization establishing consensus-based standards that the Secretary considers appropriate.".

(d) Distribution and Publication.—Section 5115(d) is amended—

(1) by striking "national response team—" and inserting "National Response Team—"; and

(2) by striking "publish a list" in paragraph (2) and all that follows and inserting "publish and distribute the list of courses maintained under this section, and of any programs utilizing such courses.".

SEC. 7334. PLANNING AND TRAINING GRANTS; EMERGENCY PREPAREDNESS FUND.

(a) Reference to Secretary of Transportation.—Section 5116 is amended by striking "of Transportation" each place it appears in subsections (a), (b), (c), (d), (g), and (i).

(b) Government Share of Costs.—Section 5116(e) is amended by striking the second sentence.

(c) Monitoring and Technical Assistance.—Section 5116(f) is amended by striking "national response team" and inserting "National Response Team".

(d) Delegation of Authority.—Section 5116(g) is amended by striking "Government grant programs" and inserting "Federal financial assistance programs".

(e) Emergency Preparedness Fund.—

(1) Name of fund.—Section 5116(i) is amended by inserting after "an account" the following: "(to be known as the 'Emergency Preparedness Fund')".

(2) Publication of emergency response guide.—Section 5116(i) is further amended—

(A) by striking "collects under section 5108(g)(2)(A) of this title and";

(B) by striking "and" after the semicolon in paragraph (2);

(C) by redesignating paragraph (3) as paragraph (4); and

(D) by inserting after paragraph (2) the following:

"(3) to publish and distribute an emergency response guide; and".

(3) Conforming amendment.—Section 5108(g)(2)(C) is amended by striking "the account the Secretary of the Treasury establishes" and inserting "the Emergency Response Fund established".

(f) Reports.—Section 5116(k) is amended—

(1) by striking the first sentence and inserting "The Secretary shall make available to the public annually information on the allocation and uses of the planning grants allocated under subsection (a), training grants under subsection (b), and grants under subsection (j) of this section and under section 5107 of this title."; and

(2) by striking "Such report" in the second sentence and inserting "The information".

SEC. 7335. SPECIAL PERMITS AND EXCLUSIONS.

(a) Special Permits and Exclusions.—

(1) In general.—Section 5117(a)(1) is amended by striking "the Secretary of Transportation may issue" and all that follows through "in a way" and inserting "the Secretary may issue, modify, or terminate a special permit authorizing variances from this chapter, or a regulation prescribed under section 5103(b), 5104, 5110, or 5112 of this title, to a person performing a function regulated by the Secretary under section 5103(b)(1) of this title in a way".

(2) Duration.—Section 5117(a)(2) is amended to read as follows:

"(2) A special permit under this subsection—

"(A) shall be effective when first issued for not more than 2 years; and

"(B) may be renewed for successive periods of not more than 4 years each.".

(b) References to Special Permits.—Section 5117 is further amended—

(1) by striking "an exemption" each place it appears and inserting "a special permit";

(2) by striking "the exemption" each place it appears and inserting "the special permit"; and

(3) by striking "exempt" in subsection (e) and inserting "granted a variance".

(c) Conforming and Clerical Amendments.—

(1) Conforming amendment.—The heading of section 5117 is amended to read as follows:

"§ 5117. Special permits and exclusions"

(2) Clerical amendment.—The chapter analysis for chapter 51 is amended by striking the item relating to section 5117 and inserting the following:

"5117. Special permits and exclusions.".

(3) Subsection heading.—The heading for subsection (a) of section 5117 is amended by striking "Exempt" and inserting "Issue Special Permits".

(d) Repeal of Section 5118.—

(1) Section 5118 is repealed.

(2) The chapter analysis for chapter 51 is amended by striking the item relating to section 5118 and inserting the following:

"5118. Repealed.".

SEC. 7336. UNIFORM FORMS AND PROCEDURES.

The text of section 5119 is amended to read as follows:

"(a) In General.—The Secretary may prescribe regulations to establish uniform forms and regulations for States on the following:

"(1) To register and issue permits to persons that transport or cause to be transported hazardous material by motor vehicles in a State.

"(2) To permit the transportation of hazardous material in a State.

"(b) Uniformity in Forms and Procedures.—In prescribing regulations under subsection (a) of this section, the Secretary shall develop procedures to eliminate discrepancies among the States in carrying out the activities covered by the regulations.

"(c) Limitation.—The regulations prescribed under subsection (a) of this section may not define or limit the amount of any fees imposed or collected by a State for any activities covered by the regulations.

"(d) Effective Date.—

"(1) In general.—Except as provided in paragraph (2) of this subsection, the regulations prescribed under subsection (a) of this section shall take effect 1 year after the date on which prescribed.

"(2) Extension.—The Secretary may extend the 1-year period in subsection (a) for an additional year for good cause.

"(e) State Regulations.—After the regulations prescribed under subsection (a) of this section take effect under subsection (d) of this section, a State may establish, maintain, or enforce a requirement relating to the same subject matter only if the requirement is consistent with applicable requirements with respect to such activity in the regulations.

"(f) Interim State Programs.—Pending the prescription of regulations under subsection (a) of this section, States may participate in the program of uniform forms and procedures recommended by the Alliance for Uniform Hazmat Transportation Procedures.".

SEC. 7337. HAZARDOUS MATERIALS TRANSPORTATION SAFETY AND SECURITY.

The text of section 5121 is amended to read as follows:

"(a) General Authority.—

"(1) To carry out this chapter, the Secretary may investigate, conduct tests, make reports, issue subpoenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities.

"(2) Except as provided in subsections (c) and (d) of this section, the Secretary shall provide notice and an opportunity for a hearing before issuing an order directing compliance with this chapter, a regulation prescribed under this chapter, or an order, special permit, or approval issued under this chapter.

"(b) Records, Reports, Property, and Information.—A person subject to this chapter shall—

"(1) maintain records, make reports, and provide property and information that the Secretary by regulation or order requires; and

"(2) make the records, reports, property, and information available for inspection when the Secretary undertakes an inspection or investigation.

"(c) Inspections and Investigations.—

"(1) A designated officer or employee of the Secretary may—

"(A) inspect and investigate, at a reasonable time and in a reasonable way, records and property relating to a function described in section 5103(b)(1) of this title;

"(B) except for packaging immediately adjacent to the hazardous material contents, gain access to, open, and examine a package offered for or in transportation when the officer or employees has an objectively reasonable and articulable belief that the package may contain hazardous material;

"(C) remove from transportation a package or related packages in a shipment offered for or in transportation for which—

"(i) such officer or employee has an objectively reasonable and articulable belief that the package may pose an imminent hazard; and

"(ii) such officer or employee contemporaneously documents such belief in accordance with procedures set forth in regulations prescribed under subsection (e) of this section;

"(D) gather information from the offeror, carrier, packaging manufacturer or tester, or other person responsible for a package or packages to ascertain the nature and hazards of the contents of the package or packages;

"(E) as necessary under terms and conditions prescribed by the Secretary, order the offeror, carrier, or other person responsible for a package or packages to have the package or packages transported to an appropriate facility, opened, examined, and analyzed; and

"(F) when safety might otherwise be compromised, authorize properly qualified personnel to assist in activities carried out under this paragraph.

"(2) An officer or employee acting under the authority of the Secretary under this subsection shall display proper credentials when requested.

"(3) In instances when, as a result of an inspection or investigation under this subsection, an imminent hazards is not found to exist, the Secretary shall, in accordance with procedures set forth in regulations prescribed under subsection (e) of this section, assist the safe resumption of transportation of the package, packages, or transport unit concerned.

"(d) Emergency Orders.—

"(1) If, upon inspection, investigation, testing, or research, the Secretary determines that a violation of a provision of this chapter, or a regulation prescribed under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or an opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

"(2) The action of the Secretary under paragraph (1) of this subsection shall be in a written emergency order that—

"(A) describes the violation, condition, or practice that constitutes or is causing the imminent hazard;

"(B) states the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed; and

"(C) describes the standards and procedures for obtaining relief from the order.

"(3) After taking action under paragraph (1) of this subsection, the Secretary shall provide for review of the action under section 554 of title 5 if a petition for review is filed within 20 calendar days of the issuance of the order for the action.

"(4) If a petition for review of an action is filed under paragraph (3) of this subsection and the review under that paragraph is not completed by the end of the 30-day period beginning on the date the petition is filed, the action shall cease to be effective at the end of such period unless the Secretary determines, in writing, that the imminent hazard providing a basis for the action continues to exist.

"(5) In this subsection, the term 'out-of-service order' means a requirement that an aircraft, vessel, motor vehicle, train, railcar, locomotive, other vehicle, transport unit, transport vehicle, freight container, potable tank, or other package not be moved until specified conditions have been met.

"(e) REGULATIONS.—The Secretary shall prescribe in accordance with section 553 of title 5 regulations to carry out the authority in subsections (c) and (d) of this section.

"(f) FACILITY, STAFF, AND REPORTING SYSTEM ON RISKS, EMERGENCIES, AND ACTIONS.—

"(1) The Secretary shall—

"(A) maintain a facility and technical staff sufficient to provide, within the United States Government, the capability of evaluating a risk relating to the transportation of hazardous material and material alleged to be hazardous;

"(B) maintain a central reporting system and information center capable of providing information and advice to law enforcement and firefighting personnel, and other interested individuals, and officers and employees of the United States Government and State and local governments on meeting an emergency relating to the transportation of hazardous material; and

"(C) conduct a continuous review on all aspects of transporting hazardous material to decide on and take appropriate actions to ensure safe transportation of hazardous material.

"(2) Paragraph (1) of this subsection shall not prevent the Secretary from making a contract with a private entity for use of a supplemental reporting system and information center operated and maintained by the contractor.

"(g) GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.—The Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency, or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the Department of State), an educational institution, or other appropriate entity—

"(1) to expand risk assessment and emergency response capabilities with respect to the security of transportation of hazardous material;

"(2) to enhance emergency communications capacity as deemed necessary by the Secretary, including the use of integrated, interoperable emergency communications technologies where appropriate;

"(3) to conduct research, development, demonstration, risk assessment and emergency response planning and training activities; or

"(4) to otherwise carry out this chapter.

"(h) REPORTS.—

"(1) The Secretary shall, once every 2 years, submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a comprehensive report on the transportation of hazardous material during the preceding 2 calendar years. Each report shall include, for the period covered by such report—

"(A) a statistical compilation of the accidents, incidents, and casualties related to the transportation of hazardous material during such period;

"(B) a list and summary of applicable Government regulations, criteria, orders, and special permits;

"(C) a summary of the basis for each special permit issued;

"(D) an evaluation of the effectiveness of enforcement activities relating to the transportation of hazardous material during such period, and of the degree of voluntary compliance with regulations;

"(E) a summary of outstanding problems in carrying out this chapter, set forth in order of priority; and

"(F) any recommendations for legislative or administrative action that the Secretary considers appropriate.

"(2) Before December 31, 2007, and every 3 years thereafter, the Secretary, through the Bureau of Transportation Statistics and in consultation with other appropriate Federal departments and agencies, shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the transportation of hazardous material in all modes of transportation during the preceding 3 calendar years. Each report shall include, for the period covered by such report—

"(A) a summary of the hazardous material shipments, deliveries, and movements during such period, set forth by hazardous materials type, by tonnage and ton-miles, and by mode, both domestically and across United States borders; and

"(B) a summary of shipment estimates during such period as a proxy for risk.

"(i) SECURITY SENSITIVE INFORMATION.—

"(1) If the Secretary determines that particular information may reveal a vulnerability of a hazardous material to attack during transportation in commerce, or may facilitate the diversion of hazardous material during transportation in commerce for use in an attack on people or property, the Secretary may disclose such information, on the condition that such information may not be released to the public without prior authorization by the Secretary, only—

"(A) to the owner, custodian, offeror, or carrier of such hazardous material;

"(B) to an officer, employee, or agent of the United States Government, or a State or local government, including volunteer fire departments, concerned with carrying out transportation safety laws, protecting hazardous material in the course of transportation in commerce, protecting public safety or national security, or enforcing Federal law designed to protect public health or the environment; or

"(C) in an administrative or judicial proceeding brought under this chapter, under other Federal law intended to protect public health or the environment, or under other Federal law intended to address terrorist actions or threats of terrorist actions.

"(2) The Secretary may make determinations under paragraph (1) of this subsection with respect to categories of information in accordance with regulations prescribed by the Secretary.

"(3) A release of information pursuant to a determination under paragraph (1) of this subsection shall not be treated as a release of such information to the public for purposes of section 552 of title 5.".

SEC. 7338. ENFORCEMENT.

(a) REFERENCE TO SECRETARY OF TRANSPORTATION.—Section 5122(a) is amended by striking "of Transportation".

(b) GENERAL.—Section 5122(a) is further amended—

(1) by striking "chapter or a regulation prescribed or order" in the first sentence and inserting "chapter, a regulation prescribed under this chapter, or an order, special permit, or approval"; and

(2) by striking the second sentence and inserting "In an action under this subsection, the court may award appropriate relief, including a temporary or permanent injunction, civil penalties under section 5123 of this title, and punitive damages.".

(c) IMMINENT HAZARDS.—Section 5122(b)(1)(B) is amended by striking "ameliorate" and inserting "mitigate".

SEC. 7339. CIVIL PENALTIES.

(a) PENALTY.—Section 5123(a) is amended—

(1) in paragraph (1)—

(A) by striking "regulation prescribed or order issued" and inserting "regulation, order, special permit, or approval issued"; and

(B) by striking "$25,000" and inserting "$32,500";

(2) by redesignating paragraph (2) as paragraph (4); and

(3) by inserting after paragraph (1) the following:

"(2) If the Secretary finds that a violation under paragraph (1) results in death, serious illness, or severe injury to any person, the Secretary may increase the amount of the civil penalty for such violation to not more than $100,000.

"(3) If the violation is related to training, paragraph (1) shall be applied by substituting '$450' for '$250'.".

(b) REFERENCE TO SECRETARY OF TRANSPORTATION.—Section 5123(b) is amended by striking "of Transportation".

(c) HEARING REQUIREMENT.—Section 5123(b) is amended by striking "chapter or a regulation prescribed" and inserting "chapter, a regulation prescribed under this chapter, or an order, special permit, or approval issued".

(d) CIVIL ACTIONS TO COLLECT.—Section 5123(d) is amended by striking "section." and inserting "section and any accrued interest on the civil penalty as calculated in accordance with section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705). In the civil action, the amount and appropriateness of the civil penalty shall not be subject to review.".

(e) EFFECTIVE DATE.—(1) The amendments made by subsections (b) and (c) of this section shall take effect on the date of the enactment of this Act, and shall apply with respect to violations described in section

5123(a) of title 49, United States Code (as amended by this section), that occur on or after that date.

(2) The amendment made by subsection (d) of this section shall apply with respect to civil penalties imposed on violations described in section 5123(a) of title 49, United States Code (as amended by this section), which violations occur on or after the date of the enactment of this Act.

SEC. 7340. CRIMINAL PENALTIES.

(a) In General.—Section 5124 is amended—

(1) by inserting "(a) In General.—" before "A person"; and

(2) by striking "chapter or a regulation prescribed or order" and inserting "chapter, a regulation prescribed under this chapter, or an order, special permit, or approval".

(b) Additional Matters.—Section 5124 is further amended by adding at the end the following:

"(b) Aggravated Violations.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation prescribed, or an order, special permit, or approval issued, under this chapter, who thereby causes the release of hazardous material shall be fined under title 18, imprisoned for not more than 20 years, or both.

"(c) Separate Violations.—A separate violation occurs for each day the violation, committed by a person who transports or causes to be transported hazardous material, continues.".

SEC. 7341. PREEMPTION.

(a) Reference to Secretary of Transportation.—Section 5125(b)(2) is amended by striking "of Transportation".

(b) Purposes.—Section 5125 is amended—

(1) by redesignating subsections (a), (b), (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), (f), (g), and (h), respectively;

(2) by inserting before subsection (b), as so redesignated, the following:

"(a) Purposes.—The Secretary shall exercise the authority in this section—

"(1) to achieve uniform regulation of the transportation of hazardous material;

"(2) to eliminate rules that are inconsistent with the regulations prescribed under this chapter; and

"(3) to otherwise promote the safe and efficient movement of hazardous material in commerce.";

(3) by striking subsection (g), as redesignated; and

(4) by redesignating subsection (h), as redesignated, as subsection (g).

(c) General Preemption.—Section 5125(b), as redesignated by subsection (b)(1) of this section, is further amended by striking "General.—Except as provided in subsection (b), (c), and (e)" and inserting "Preemption Generally.—Except as provided in subsections (c), (d), and (f)".

(d) Substantive Differences.—Section 5125(c), as so redesignated, is further amended—

(1) in the matter preceding subparagraph (A) of paragraph (1), by striking "subsection (c)" and inserting "subsection (d)";

(2) by striking subparagraph (E) of paragraph (1) and inserting the following:

"(E) the designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce."; and

(3) by striking "prescribes after November 16, 1990. However, the" in paragraph (2) and inserting "prescribes. The".

(e) Decisions on Preemption.—Section 5125(e), as so redesignated, is further amended by striking "subsection (a), (b)(1), or (c) of this section." in the first sentence and inserting "subsection (b), (c)(1), or (d) of this section or section 5119(b) of this title.".

(f) Waiver of Preemption.—Section 5125(f), as so redesignated, is further amended by striking "subsection (a), (b)(1), or (c) of this section." and inserting "subsection (b), (c)(1), or (d) of this section or section 5119(b) of this title.".

(g) Standards.—Section 5125 is further amended by adding at the end the following:

"(h) Application of Each Preemption Standard.—Each standard for preemption in subsection (b), (c)(1), or (d) of this section, and in section 5119(b) of this title, is independent in its application to a requirement of a State, political subdivision of a State, or Indian tribe.

"(i) Non-Federal Enforcement Standards.—This section does not apply to any procedure, penalty, required mental state, or other standard utilized by a State, political subdivision of a State, or Indian tribe to enforce a requirement applicable to the transportation of hazardous material.".

SEC. 7342. RELATIONSHIP TO OTHER LAWS.

Section 5126 is amended—

(1) by striking "or causes to be transported hazardous material," in subsection (a) and inserting "hazardous material, or causes hazardous material to be transported,";

(2) by striking "manufactures," and all that follows through "or sells" in subsection (a) and inserting "designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented";

(3) by striking "must" in subsection (a) and inserting "shall";

(4) by striking "manufacturing," in subsection (a) and all that follows through "testing" and inserting "designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing"; and

(5) by striking "39." in subsection (b)(2) and inserting "39, except in the case of an imminent hazard.".

SEC. 7343. JUDICIAL REVIEW.

(a) In General.—Chapter 51 is amended—

(1) by redesignating section 5127 as section 5128; and

(2) by inserting after section 5126 the following:

"§ 5127. Judicial review

"(a) Filing and Venue.—Except as provided in section 20114(c) of this title, a person adversely affected or aggrieved by a final action of the Secretary under this chapter may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals of the United States for the circuit in which the person resides or has a principal place of business. The petition shall be filed not more than 60 days after the action of the Secretary becomes final.

"(b) Procedures.—When a petition on a final action is filed under subsection (a) of this section, the clerk of the court shall immediately send a copy of the petition to the Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued as provided in section 2112 of title 28.

"(c) Authority of Court.—The court in which a petition on a final action is filed under subsection (a) of this section has exclusive jurisdiction, as provided in subchapter II of chapter 5 of title 5 to affirm or set aside any part of the final action and may order the Secretary to conduct further proceedings.

"(d) Requirement for Prior Objections.—In reviewing a final action under this section, the court may consider an objection to the final action only if—

"(1) the objection was made in the course of a proceeding or review conducted by the Secretary; or

"(2) there was a reasonable ground for not making the objection in the proceeding.".

(b) Clerical Amendment.—The chapter analysis for chapter 51 is amended by striking the item relating to section 5127 and inserting the following:

"5127. Judicial review.

"5128. Authorization of appropriations.".

SEC. 7344. AUTHORIZATION OF APPROPRIATIONS.

Section 5128, as redesignated by section 7343 of this chapter, is amended to read as follows:

"§ 5128. Authorization of appropriations

"(a) General.—In order to carry out this chapter (except sections 5107(e), 5108(g), 5112, 5113, 5115, 5116, and 5119 of this title), the following amounts are authorized to be appropriated to the Secretary:

"(1) For fiscal year 2005, not more than $24,940,000.

"(2) For fiscal year 2006, not more than $29,000,000.

"(3) For each of fiscal years 2007 through 2009, not more than $30,000,000.

"(b) Emergency Preparedness Fund.—There shall be available from the Emergency Preparedness Fund under section 5116(i) of this title, amounts as follows:

"(1) To carry out section 5107(e) of this title, $4,000,000 for each of fiscal years 2005 through 2009.

"(2) To carry out section 5115 of this title, $200,000 for each of fiscal years 2005 through 2009.

"(3) To carry out sections 5116(a) and (b) of this title, $21,800,000 for each of fiscal years 2005 through 2009, to be allocated as follows:

"(A) $5,000,000 to carry out section 5116(a).

"(B) $7,800,000 to carry out section 5116(b).

"(C) Of the amount provided for by this paragraph in excess of the suballocations in subparagraphs (A) and (B)—

"(i) 35 percent shall be used to carry out section 5116(a), and

"(ii) 65 percent shall be used to carry out section 5116(b),

except that the Secretary may increase the proportion to carry out section 5116(b) and decrease the proportion to carry out section 5116(a) if the Secretary determines that such reallocation is appropriate to carry out the intended uses of these funds as described in the applications submitted by States and Indian tribes.

"(4) To carry out section 5116(f) of this title, $150,000 for each of fiscal years 2005 through 2009.

"(5) To carry out section 5116(i)(4) of this title, $150,000 for each of fiscal years 2005 through 2009.

"(6) To carry out section 5116(j) of this title, $1,000,000 for each of fiscal years 2005 through 2009.

"(7) To publish and distribute an emergency response guidebook under section 5116(i)(3) of title 49, United States Code, $750,000 for each of fiscal years 2005 through 2009.

"(c) Section 5121 Reports.—There are authorized to be appropriated to the Secretary of Transportation for the use of the Bureau of Transportation Statistics such sums as may be necessary to carry out section 5121(h) of this title.".

"(d) CREDIT TO APPROPRIATIONS.—The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, political subdivision of a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, political subdivision, Indian tribe, or other authority or entity.

"(e) AVAILABILITY OF AMOUNTS.—Amounts available under subsections (a) and (b) of this section shall remain available until expended.".

SEC. 7345. ADDITIONAL CIVIL AND CRIMINAL PENALTIES.

(a) TITLE 49 PENALTIES.—Section 46312 is amended—

(1) by striking "part—" in subsection (a) and inserting "part or chapter 51 of this title—"; and

(2) by inserting "or chapter 51 of this title" in subsection (b) after "under this part".

(b) TITLE 18 PENALTIES.—Section 3663(a)(1)(A) of title 18, United States Code, is amended by inserting "5124," before "46312,".

SEC. 7346. TECHNICAL CORRECTIONS.

(a) HIGHWAY ROUTING OF HAZARDOUS MATERIAL.—The second sentence of section 5112(a)(1) is amended by striking "However, the Secretary of Transportation" and inserting "The Secretary".

(b) AIR TRANSPORTATION OF IONIZING RADIATION MATERIAL.—Section 5114(b) is amended by striking "of Transportation".

(c) INTERNATIONAL UNIFORMITY OF STANDARDS AND REQUIREMENTS.—Section 5120 is amended by striking "of Transportation" each place it appears in subsections (a), (b), and (c)(1).

CHAPTER 2—OTHER MATTERS

SEC. 7361. ADMINISTRATIVE AUTHORITY FOR PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION.

Section 108 is amended by adding at the end the following:

"(h) ADMINISTRATIVE AUTHORITIES.—

"(1) GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.—The Administrator may enter into grants, cooperative agreements, and other transactions with Federal agencies, State and local government agencies, other public entities, private organizations, and other persons—

"(A) to conduct research into transportation service and infrastructure assurance; and

"(B) to carry out other research activities of the Administration.

"(2) LIMITATION ON DISCLOSURE OF CERTAIN INFORMATION.—

"(A) LIMITATION.—If the Administrator determines that particular information developed in research sponsored by the Administration may reveal a systemic vulnerability of transportation service or infrastructure, such information may be disclosed only to—

"(i) a person responsible for the security of the transportation service or infrastructure;

"(ii) a person responsible for protecting public safety; or

"(iii) an officer, employee, or agent of the Federal Government, or a State or local government, who, as determined by the Administrator, has need for such information in the performance of official duties.

"(B) TREATMENT OF RELEASE.—The release of information under subparagraph (A) shall not be treated as a release to the public for purposes of section 552 of title 5.".

SEC. 7362. MAILABILITY OF HAZARDOUS MATERIALS.

(a) NONMAILABILITY GENERALLY.—Section 3001 of title 39, United States Code, is amended—

(1) by redesignating subsection (n) as subsection (o); and

(2) by inserting after subsection (m) the following:

"(n)(1) Except as otherwise authorized by law or regulations of the Postal Service under section 3018 of this title, hazardous material is nonmailable.

"(2) In this subsection, the term 'hazardous material' means a substance or material designated by the Secretary of Transportation as hazardous material under section 5103(a) of title 49.".

(b) MAILABILITY.—

(1) IN GENERAL.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"§ 3018. Hazardous material

"(a) IN GENERAL.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mails.

"(b) PROHIBITIONS.—No person may—

"(1) mail or cause to be mailed hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

"(2) mail or cause to be mailed hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which hazardous material may be mailed; or

"(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

"(A) is represented, marked, certified, or sold by such person for use in the mailing of hazardous material; and

"(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of hazardous material.

"(c) CIVIL PENALTY.—

"(1) IN GENERAL.—A person who knowingly violates this section or a regulation prescribed under this section shall be liable to the Postal Service for—

"(A) a civil penalty of at least $250, but not more than $100,000, for each violation;

"(B) the costs of any clean-up associated with such violation; and

"(C) damages.

"(2) KNOWING ACTION.—A person acts knowingly for purposes of paragraph (1) when—

"(A) the person has actual knowledge of the facts giving rise to the violation; or

"(B) a reasonable person acting in the circumstances and exercising reasonable care would have had that knowledge.

"(3) KNOWLEDGE OF STATUTE OR REGULATION NOT ELEMENT OF OFFENSE.—Knowledge of the existence of a statutory provision or Postal Service regulation is not an element of an offense under this subsection.

"(4) SEPARATE VIOLATIONS.—

"(A) VIOLATIONS OVER TIME.—A separate violation under this subsection occurs for each day hazardous material, mailed or cause to be mailed in noncompliance with this section, is in the mail.

"(B) SEPARATE ITEMS.—A separate violation under this subsection occurs for each item containing hazardous material that is mailed or caused to be mailed in noncompliance with this section.

"(d) HEARINGS.—The Postal Service may determine that a person has violated this section or a regulation prescribed under this section only after notice and an opportunity for a hearing.

"(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty for a violation of this section, the Postal Service shall consider—

"(1) the nature, circumstances, extent, and gravity of the violation;

"(2) with respect to the person who committed the violation, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue in business;

"(3) the impact on Postal Service operations; and

"(4) any other matters that justice requires.

"(f) CIVIL ACTIONS TO COLLECT.—

"(1) IN GENERAL.—In accordance with section 4409(d) of this title, a civil action may be commenced in an appropriate district court of the United States to collect a civil penalty, clean-up costs, and damages assessed under subsection (c).

"(2) LIMITATION.—In a civil action under paragraph (1), the validity, amount, and appropriateness of the civil penalty, clean-up costs, and damages covered by the civil action shall not be subject to review.

"(3) COMPROMISE.—The Postal Service may compromise the amount a civil penalty, clean-up costs, and damages assessed under subsection (c) before commencing a civil action with respect to such civil penalty, clean-up costs, and damages under paragraph (1).

"(g) CIVIL JUDICIAL PENALTIES.—

"(1) IN GENERAL.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or a regulation prescribed under this section.

"(2) RELIEF.—The court in a civil action under paragraph (1) may award appropriate relief, including a temporary or permanent injunction, civil penalties as determined in accordance with this section, or punitive damages.

"(3) CONSTRUCTION.—A civil action under this subsection shall be in lieu of civil penalties for the same violation under subsection (c)(1)(A).

"(h) DEPOSIT OF AMOUNTS COLLECTED.—Amounts collected under this section shall be deposited into the Postal Service Fund under section 2003 of this title.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"3018. Hazardous material.".

(c) CONFORMING AMENDMENT.—Section 2003(b) of title 39, United States Code, is amended—

(1) by striking "and" after the semicolon in paragraph (7);

(2) by striking "purposes." in paragraph (8) and inserting "purposes; and"; and

(3) by adding at the end the following:

"(9) any amounts collected under section 3018 of this title.".

SEC. 7363. CRIMINAL MATTERS.

Section 845(a)(1) of title 18, United States Code, is amended by striking "which are regulated" and all that follows and inserting "that is subject to the authority of the Departments of Transportation and Homeland Security;".

SEC. 7364. CARGO INSPECTION PROGRAM.

(a) IN GENERAL.—The Secretary of Transportation may establish a program of random inspections of cargo at points of entry into the United States for the purpose of determining the extent to which undeclared hazardous material is being offered for transportation in commerce through such points of entry.

(b) INSPECTIONS.—Under the program under subsection (a)—

(1) an officer of the Department of Transportation who is not located at a point of entry into the United States may select at random cargo shipments at points of entry into the United States for inspection; and

(2) an officer or employee of the Department may open and inspect each cargo shipment so selected for the purpose described in subsection (a).

(c) COORDINATION.—The Secretary of Transportation shall coordinate any inspections under the program under subsection (a) with the Secretary of Homeland Security.

(d) DISPOSITION OF HAZARDOUS MATERIALS.—The Secretary of Transportation shall provide for the appropriate handling and disposition of any hazardous material discovered pursuant to inspections under the program under subsection (a).

SEC. 7365. INFORMATION ON HAZMAT REGISTRATIONS.

The Administrator of the Department of Transportation's Research and Special Programs Administration shall—

(1) transmit current hazardous material registrant information to the Federal Motor Carrier Safety Administration to cross reference the registrant's Federal motor carrier registration number; and

(2) notify the Federal Motor Carrier Safety Administration immediately, and provide a registrant's United States Department of Transportation identification number to the Administration, whenever a new registrant registers to transport hazardous materials as a motor carrier.

SEC. 7366. REPORT ON APPLYING HAZARDOUS MATERIALS REGULATIONS TO PERSONS WHO REJECT HAZARDOUS MATERIALS.

Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall complete an assessment of the costs and benefits of subjecting persons who reject hazardous material for transportation in commerce to the hazardous materials laws and regulations. In completing this assessment, the Secretary shall—

(1) estimate the number of affected employers and employees;

(2) determine what actions would be required by them to comply with such laws and regulations; and

(3) consider whether and to what extent the application of Federal hazardous materials laws and regulations should be limited to—

(A) particular modes of transportation;

(B) certain categories of employees; or

(C) certain classes or categories of hazardous materials.

SEC. 7367. NATIONAL FIRST RESPONDER TRANSPORTATION INCIDENT RESPONSE SYSTEM.

(a) IN GENERAL.—The Secretary of Transportation shall provide funding to the Operation Respond Institute to design, build, and operate a seamless first responder hazardous materials incident detection, preparedness, and response system.

(b) OREIS EXPANSION.—

(1) IN GENERAL.—The system designed, built, and operated by the Institute shall include an expansion of the Operation Respond Emergency Information System.

(2) FUNCTIONALITY.—The Secretary may require that the system designed by the Operation Respond Institute function across multiple transportation modes.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $5,000,000 for each of fiscal years 2005 through 2009.

SEC. 7368. HAZARDOUS MATERIAL TRANSPORTATION PLAN REQUIREMENT.

(a) IN GENERAL.—Subpart I of part 172 of the Department of Transportation's regulations (49 C.F.R. 172.800 et seq.), or any subsequent Department of Transportation regulation in pari materia, does not apply to the surface transportation activities of a farmer that are—

(1) in direct support of the farmer's farming operations; and

(2) conducted within a 150-mile radius of those operations.

(b) FARMER DEFINED.—In this section, the term "farmer" means a person—

(1) actively engaged in the production or raising of crops, poultry, livestock, or other agricultural commodities; and

(2) whose gross receipts from the sale of such agricultural commodities or products do not exceed $500,000 annually.

SEC. 7369. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) TRACK STANDARDS.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(A) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

(B) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(C) establish a program to review continuous welded rail joint bar inspection data from railroads and Administration track inspectors periodically.

(2) Whenever the Administration determines that it is necessary or appropriate the Administration may require railroads to increase the frequency of inspection, or improve the methods of inspection, of joint bars in continuous welded rail.

(b) TANK CAR STANDARDS.—The Federal Railroad Administration shall—

(1) validate a predictive model to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions within 1 year after the date of enactment of this Act; and

(2) initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars within 18 months after the date of enactment of this Act.

(c) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Within 1 year after the date of enactment of this Act the Federal Railroad Administration shall conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989. Within 6 months after completing that analysis the Administration shall—

(1) establish a program to rank those cars according to their risk of catastrophic fracture and separation;

(2) implement measures to eliminate or mitigate this risk; and

(3) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure setting forth the measures implemented.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Railroad Administration $1,000,000 for fiscal year 2006 to carry out this section, such sums to remain available until expended.

SEC. 7370. HAZARDOUS MATERIALS COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation $2,000,000 for each of fiscal years 2005 through 2009 to develop and administer a hazardous materials cooperative research program.

(b) GOVERNANCE.—The Secretary of Transportation shall establish an independent governing board to select projects and studies to be carried out under the hazardous materials cooperative research program. The Board shall be comprised of one voting representative from the following:

(1) The Federal Aviation Administration.

(2) The Federal Motor Carrier Administration.

(3) The Federal Transit Administration.

(4) The Federal Railroad Administration.

(5) The Maritime Administration.

(6) The Research and Innovative Technology Administration.

(7) The Pipeline and Hazardous Materials Safety Administration.

(8) The Department of Homeland Security.

(9) The Department of Energy.

(10) The Environmental Protection Agency.

(11) A State department of transportation.

(12) A State emergency management agency.

(13) A nonprofit organization representing emergency responders.

(14) A hazmat employer.

(15) A nonprofit organization representing hazmat employees.

(16) A hazardous materials shipper.

(17) A hazardous materials manufacturer.

(18) An organization representing the hazardous materials manufacturing industry.

(19) A research university or research institution.

(20) Additional representatives as the Secretary considers appropriate.

(c) RESEARCH STUDIES.—Under the cooperative research program, the governing board shall select cooperative research studies of hazardous materials transportation that are cross-cutting in nature and that consider issues not adequately addressed by existing Federal or private sector research programs. Priority shall be given to research studies that will yield results immediately applicable to risk analysis and mitigation or that will strengthen the ability of first responders to respond to incidents and accidents involving transportation of hazardous materials.

(d) SPECIAL RULES REGARDING STUDIES.—

(1) SAFETY AND SECURITY.—The purpose of at least one of the studies to be conducted under the cooperative research program shall be—

(A) to provide an assessment of opportunities for integrating and supplementing safety and security measures for hazardous materials transportation;

(B) to identify areas where safety and security measures currently utilized in the transportation of hazardous materials conflict or complement one another;

(C) to outline a comprehensive approach to hazardous materials transportation that effectively incorporates safety and security procedures;

(D) to produce a model of reasonable State and local risk response and management plans that effectively address safety and security of hazardous materials transportation; and

(E) to provide an assessment of the need and feasibility of substituting less lethal substances than toxic inhalation hazards in the manufacturing process.

(2) PERFORMANCE DATA FOR BULK CONTAINERS.—The purpose of at least one of the studies to be conducted under the research program shall be to provide—

(A) an analysis of, and recommendations for, the design and funding of a nationwide system capable of collecting and analyzing performance data from bulk containers involved in transportation accidents; and

(B) recommendations that can be used to develop conditional release probabilities for various container design specifications (by transport mode).

(3) PACKAGING REQUIREMENTS.—The purpose of at least one of the studies to be conducted under the research program shall be to provide an analysis of recommendations on appropriate packaging requirements for those hazardous materials that are most frequently involved in release incidents.

(4) ROUTING.—The purpose of at least one of the studies to be conducted under the research program shall be to identify the components that could comprise a model of risk and consequence analysis in rail and highway transportation and that can be used to facilitate decisionmaking regarding the routing of hazardous materials shipments and the development of regulations regarding mandatory routing decisions.

(5) RESPONSE COVERAGE.—The purpose of at least one of the studies to be conducted under the research program shall be to provide an assessment of the quality of response coverage for hazardous materials incidents, including cost-effective strategies for improving response capabilities and making recommendations on systematic approaches that could be used to allocate government funding to enhance response capability.

(e) IMPLEMENTATION.—The Secretary of Transportation shall make grants to, and enter a cooperative agreement with, the National Academy of Sciences to carry out activities under this Act.

(f) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the effectiveness of the program in meeting the needs of government and the private sector for cooperative research on hazardous materials transportation.

(g) DEFINITIONS.—In this section, the terms 'hazmat employer' and 'hazmat employee' have the meaning given those terms in section 5102 of title 49, United States Code.

CHAPTER 3—SANITARY FOOD TRANSPORTATION

SEC. 7381. SHORT TITLE.

This chapter may be cited as the "Sanitary Food Transportation Act of 2005".

SEC. 7382. RESPONSIBILITIES OF THE SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) UNSANITARY TRANSPORT DEEMED ADULTERATION.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

"(i) NONCOMPLIANCE WITH SANITARY TRANSPORTATION PRACTICES.—If the food is transported under conditions that are not in compliance with the sanitary transportation practices prescribed by the Secretary under section 416.".

(b) SANITARY TRANSPORTATION REQUIREMENTS.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

"SEC. 416. SANITARY TRANSPORTATION PRACTICES.

"(a) DEFINITIONS.—In this section:

"(1) BULK VEHICLE.—The term 'bulk vehicle' includes a tank truck, hopper truck, rail tank car, hopper car, cargo tank, portable tank, freight container, or hopper bin, and any other vehicle in which food is shipped in bulk, with the food coming into direct contact with the vehicle.

"(2) TRANSPORTATION.—The term 'transportation' means any movement in commerce by motor vehicle or rail vehicle.

"(b) REGULATIONS.—The Secretary shall by regulation require shippers, carriers by motor vehicle or rail vehicle, receivers, and other persons engaged in the transportation of food to use sanitary transportation practices prescribed by the Secretary to ensure that food is not transported under conditions that may render the food adulterated.

"(c) CONTENTS.—The regulations shall—

"(1) prescribe such practices as the Secretary determines to be appropriate relating to—

"(A) sanitation;

"(B) packaging, isolation, and other protective measures;

"(C) limitations on the use of vehicles;

"(D) information to be disclosed—

"(i) to a carrier by a person arranging for the transport of food; and

"(ii) to a manufacturer or other person that—

"(I) arranges for the transportation of food by a carrier; or

"(II) furnishes a tank vehicle or bulk vehicle for the transportation of food; and

"(E) recordkeeping; and

"(2) include—

"(A) a list of nonfood products that the Secretary determines may, if shipped in a bulk vehicle, render adulterated food that is subsequently transported in the same vehicle; and

"(B) a list of nonfood products that the Secretary determines may, if shipped in a motor vehicle or rail vehicle (other than a tank vehicle or bulk vehicle), render adulterated food that is simultaneously or subsequently transported in the same vehicle.

"(d) WAIVERS.—

"(1) IN GENERAL.—The Secretary may waive any requirement under this section, with respect to any class of persons, vehicles, food, or nonfood products, if the Secretary determines that the waiver—

"(A) will not result in the transportation of food under conditions that would be unsafe for human or animal health; and

"(B) will not be contrary to the public interest.

"(2) PUBLICATION.—The Secretary shall publish in the Federal Register any waiver and the reasons for the waiver.

"(e) PREEMPTION.—

"(1) IN GENERAL.—No State or political subdivision of a State may directly or indirectly establish or continue in effect, as to any food in interstate commerce, any authority or requirement concerning transportation of food that is not identical to an authority or requirement under this section.

"(2) APPLICABILITY.—This subsection applies to transportation that occurs on or after the effective date of the regulations promulgated under subsection (b).

"(f) ASSISTANCE OF OTHER AGENCIES.—The Secretary of Transportation, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the heads of other Federal agencies, as appropriate, shall provide assistance on request, to the extent resources are available, to the Secretary for the purposes of carrying out this section.".

(c) INSPECTION OF TRANSPORTATION RECORDS.—

(1) REQUIREMENT.—Section 703 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 373) is amended—

(A) by striking the section heading and all that follows through "For the purpose" and inserting the following:

"SEC. 703. RECORDS.

"(a) IN GENERAL.—For the purpose"; and

(B) by adding at the end the following:

"(b) FOOD TRANSPORTATION RECORDS.—A shipper, carrier by motor vehicle or rail vehicle, receiver, or other person subject to section 416 shall, on request of an officer or employee designated by the Secretary, permit the officer or employee, at reasonable times, to have access to and to copy all records that the Secretary requires to be kept under section 416(c)(1)(E).".

(2) CONFORMING AMENDMENT.—Subsection (a) of section 703 of the Federal Food, Drug, and Cosmetic Act (as designated by paragraph (1)(A)) is amended by striking "carriers," and inserting "carriers, except as provided in subsection (b)".

(d) PROHIBITED ACTS.—

(1) RECORDS INSPECTION.—Section 301(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended by inserting "416," before "504," each place it appears.

(2) UNSAFE FOOD TRANSPORTATION.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

"(hh) NONCOMPLIANCE WITH SANITARY TRANSPORTATION PRACTICES.—The failure by a shipper, carrier by motor vehicle or rail vehicle, receiver, or any other person engaged in the transportation of food to comply with the sanitary transportation practices prescribed by the Secretary under section 416.".

SEC. 7383. DEPARTMENT OF TRANSPORTATION REQUIREMENTS.

Chapter 57, is amended to read as follows:

"CHAPTER 57—SANITARY FOOD TRANSPORTATION

"Sec.
"5701. Food transportation safety inspections.

"§ 5701. Food transportation safety inspections

"(a) INSPECTION PROCEDURES.—

"(1) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture, shall—

"(A) establish procedures for transportation safety inspections for the purpose of identifying suspected incidents of contamination or adulteration of—

"(i) food in violation of regulations promulgated under section 416 of the Federal Food, Drug, and Cosmetic Act;

"(ii) meat subject to detention under section 402 of the Federal Meat Inspection Act (21 U.S.C. 672); and

"(iii) poultry products subject to detention under section 19 of the Poultry Products Inspection Act (21 U.S.C. 467a); and

"(B) train personnel of the Department of Transportation in the appropriate use of the procedures.

"(2) APPLICABILITY.—The procedures established under paragraph (1) of this subsection shall apply, at a minimum, to Department of

Transportation personnel that perform commercial motor vehicle or railroad safety inspections.

"(b) NOTIFICATION OF SECRETARY OF HEALTH AND HUMAN SERVICES OR SECRETARY OF AGRICULTURE.—The Secretary of Transportation shall promptly notify the Secretary of Health and Human Services or the Secretary of Agriculture, as applicable, of any instances of potential food contamination or adulteration of a food identified during transportation safety inspections.

"(c) USE OF STATE EMPLOYEES.—The means by which the Secretary of Transportation carries out subsection (b) of this section may include inspections conducted by State employees using funds authorized to be appropriated under sections 31102 through 31104 of this title.".

SEC. 7384. EFFECTIVE DATE.

This chapter takes effect on October 1, 2005.

CHAPTER 4—HOUSEHOLD GOODS MOVERS

SEC. 7401. SHORT TITLE.

This chapter may be cited as the "Household Goods Mover Oversight Enforcement and Reform Act of 2005".

SEC. 7402. DEFINITIONS.

In this chapter, the terms "carrier", "household goods", "motor carrier", "Secretary", and "transportation" have the meaning given such terms in section 13102 of title 49, United States Code.

SEC. 7403. PAYMENT OF RATES.

Section 13707(b) is amended by adding at the end the following:

"(3) SHIPMENTS OF HOUSEHOLD GOODS.—

"(A) IN GENERAL.—A carrier providing transportation for a shipment of household goods shall give up possession of the household goods transported at the destination upon payment of—

"(i) 100 percent of the charges contained in a binding estimate provided by the carrier;

"(ii) not more than 110 percent of the charges contained in a nonbinding estimate provided by the carrier; or

"(iii) in the case of a partial delivery of the shipment, the prorated percentage of the charges calculated in accordance with subparagraph (B).

"(B) CALCULATION OF PRORATED CHARGES.—For purposes of subparagraph (A)(iii), the prorated percentage of the charges shall be the percentage of the total charges due to the carrier as described in clause (i) or (ii) of subparagraph (A) that is equal to the percentage of the weight of that portion of the shipment delivered to the total weight of the shipment.

"(C) POST-CONTRACT SERVICES.—Subparagraph (A) does not apply to additional services requested by a shipper after the contract of service is executed that were not included in the estimate.

"(D) IMPRACTICABLE OPERATIONS.—Subparagraph (A) does not apply to impracticable operations, as defined by the applicable carrier tariff, except that the charges collected at delivery for such operations shall not exceed 15 percent of all other charges due at delivery. Any remaining charges due shall be paid within 30 days after the carrier presents its freight bill.".

SEC. 7404. HOUSEHOLD GOODS CARRIER OPERATIONS.

Section 14104(b) is amended—

(1) by striking "135, upon request of a prospective shipper, may provide" in paragraph (1) and inserting " 135 shall provide";

(2) by striking "services." the first place it appears in paragraph (1) and inserting "services in accordance with the requirements of sections 375.401, 375.403, 375.405, and 375.213 of title 49, Code of Federal Regulations, as those requirements were in effect on the date of enactment of the Surface Transportation Safety Improvement Act of 2005 or may thereafter be revised.";

(3) by redesignating paragraph (2) as paragraph (4); and

(4) by inserting after paragraph (1) the following:

"(2) OTHER INFORMATION.—At the time that a motor carrier provides the written estimate required by paragraph (1), the motor carrier shall provide the shipper a copy of the Department of Transportation publication FMCSA-ESA-03-005 (or its successor edition or publication) entitled 'Ready to Move?'. Before the execution of a contract for service, a motor carrier shall provide the shipper a copy of the Department of Transportation publication OCE 100, entitled 'Your Rights and Responsibilities When You Move' required by section 375.2 of title 49, Code of Federal Regulations (or any corresponding similar regulation).

"(3) BINDING AND NONBINDING ESTIMATES.—The written estimate required by paragraph (1) may be either binding or nonbinding. The written estimate shall be based on a visual inspection of the household goods if the household goods are located within a 50-mile radius of the location of the carrier's household goods agent preparing the estimate. The Secretary may not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and related services.".

SEC. 7405. LIABILITY OF CARRIERS UNDER RECEIPTS AND BILLS OF LADING.

Section 14706(f) is amended—

(1) by resetting the text as a paragraph indented 2 ems from the left margin and inserting "(1) IN GENERAL.—" before "A carrier"; and

(2) by adding at the end, the following:

"(2) FULL VALUE PROTECTION OBLIGATION.—Unless the carrier receives a waiver in writing under paragraph (3), a carrier's maximum liability for household goods that are lost, damaged, destroyed, or otherwise not delivered to the final destination is an amount equal to the replacement value of such goods, subject to a maximum amount equal to the declared value of the shipment, subject to rules issued by the Surface Transportation Board and applicable tariffs.

"(3) APPLICATION OF RATES.—The released rates established by the Board under paragraph (1) (commonly known as 'released rates') shall not apply to the transportation of household goods by a carrier unless the liability of the carrier for the full value of such household goods under paragraph (2) is waived in writing by the shipper.".

SEC. 7406. ARBITRATION REQUIREMENTS.

(a) OFFERING SHIPPERS ARBITRATION.—Section 14708(a) is amended by inserting before the period at the end the following: "and to determine whether carrier charges, in addition to those collected at delivery, must be paid by the shipper for transportation and services related to the transportation of household goods".

(b) THRESHOLD FOR BINDING ARBITRATION.—Section 14708(b)(6) is amended by striking "$5,000" each place it appears and inserting "$10,000".

(c) DEADLINE FOR DECISION.—Section 14708(b)(8) is amended—

(1) by striking "and"; and

(2) by inserting after "for damages" the following: ", and an order requiring the payment of additional carrier charges".

(d) ATTORNEY'S FEES TO SHIPPERS.—Section 14708(d)(3) is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B) (as so redesignated) the following:

"(A) the shipper was not advised by the carrier during the claim settlement process that a dispute settlement program was available to resolve the dispute;"

(e) REVIEW AND REPORT ON DISPUTE SETTLEMENT PROGRAMS.—

(1) REVIEW AND REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall complete a review of the outcomes and the effectiveness of the programs carried out under title 49, United States Code, to settle disputes between motor carriers and shippers and submit a report on the review to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall describe—

(A) the subject of, and amounts at issue in, the disputes;

(B) patterns in disputes or settlements;

(C) the prevailing party in disputes, if identifiable; and

(D) any other matters the Secretary considers appropriate.

(2) REQUIREMENT FOR PUBLIC COMMENT.—The Secretary shall publish notice of the review required by paragraph (1) and provide an opportunity for the public to submit comments on the effectiveness of such programs. Notwithstanding any confidentiality or nondisclosure provision in a settlement agreement between a motor carrier and a shipper, it shall not be a violation of that provision for a motor carrier or shipper to submit a copy of the settlement agreement, or to provide information included in the agreement, to the Secretary for use in evaluating dispute settlement programs under this subsection. Notwithstanding anything to the contrary in section 552 of title 5, United States Code, the Secretary may not post on the Department of Transportation's electronic docket system, or make available to any requester in paper or electronic format, any information submitted to the Secretary by a motor carrier or shipper under the preceding sentence. The Secretary shall use the settlement agreements or other information submitted by a motor carrier or shipper solely to evaluate the effectiveness of dispute settlement programs and shall not include in the report required by this subsection the names, or other identifying information concerning, motor carriers or shippers that submitted comments or information under this subsection.

SEC. 7407. ENFORCEMENT OF REGULATIONS RELATED TO TRANSPORTATION OF HOUSEHOLD GOODS.

(a) NONPREEMPTION OF INTRASTATE TRANSPORTATION OF HOUSEHOLD GOODS.—Section 14501(c)(2)(B) is amended by inserting "intrastate" before "transportation".

(b) ENFORCEMENT OF FEDERAL LAW WITH RESPECT TO INTERSTATE HOUSEHOLD GOODS CARRIERS.—

(1) IN GENERAL.—Chapter 147 is amended by adding at the end the following:

"§ 14710. Enforcement of Federal laws and regulations with respect to transportation of household goods

"(a) ENFORCEMENT BY STATES.—Notwithstanding any other provision of this title, a State authority may enforce the consumer protection provisions that apply to individual shippers, as determined by the Secretary of Transportation, of this title that are related to the delivery and transportation of household goods in interstate commerce. Any fine or penalty imposed on a carrier in a proceeding under this subsection shall, notwithstanding any provision of law to the contrary, be paid to and retained by the State.

"(b) Notice.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

"(c) Enforcement Assistance Outreach Plan.—The Federal Motor Carrier Safety Administration shall implement an outreach plan to enhance the coordination and effective enforcement of Federal laws and regulations with respect to transportation of household goods between and among Federal and State law enforcement and consumer protection authorities. The outreach shall include, as appropriate, local law enforcement and consumer protection authorities.

"(d) State Authority Defined.—The term 'State authority' means an agency of a State that has authority under the laws of the State to regulate the intrastate movement of household goods.

"§ 14711. Enforcement by State attorneys general

"(a) In General.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the consumer protection provisions that apply to individual shippers, as determined by the Secretary of Transportation, of this title that are related to the delivery and transportation of household goods in interstate commerce, or regulations or orders of the Secretary or the Board thereunder, or to impose the civil penalties authorized by this part or such regulation or order, whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a carrier or broker providing transportation subject to jurisdiction under subchapter I or III of chapter 135 of this title, or a foreign motor carrier providing transportation registered under section 13902 of this title, that is engaged in household goods transportation that violates this part or a regulation or order of the Secretary or Board, as applicable, promulgated under this part.

"(b) Notice.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

"(c) Authority To Intervene.—Upon receiving the notice required by subsection (b), the Secretary or Board may intervene in such civil action and upon intervening—

"(1) be heard on all matters arising in such civil action; and

"(2) file petitions for appeal of a decision in such civil action.

"(d) Construction.—For purposes of bringing any civil action under subsection (a), nothing in this section shall prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(e) Venue; Service of Process.—In a civil action brought under subsection (a)—

"(1) the venue shall be a Federal judicial district in which—

"(A) the carrier, foreign motor carrier, or broker operates;

"(B) the carrier, foreign motor carrier, or broker was authorized to provide transportation at the time the complaint arose; or

"(C) where the defendant in the civil action is found;

"(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

"(3) a person who participated with a carrier or broker in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

"(f) Enforcement of State Law.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a criminal statute of such State.".

(c) Individual Shipper Defined.—Section 13102 is amended by redesignating paragraphs (12) through (24) as paragraphs (13) through (25) and by inserting after paragraph (11) the following:

"(12) Individual shipper.—The term 'individual shipper' means any person who—

"(A) is the shipper, consignor, or consignee of a household goods shipment;

"(B) is identified as the shipper, consignor, or consignee on the face of the bill of lading;

"(C) owns the goods being transported; and

"(D) pays his or her own tariff transportation charges.".

(c) Conforming Amendment.—The analysis for chapter 147 is amended by inserting after the item relating to section 14709 the following:

"14710. Enforcement of Federal laws and regulations with respect to transportation of household goods.
"14711. Enforcement by State attorneys general.".

SEC. 7408. WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.

(a) In General.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a working group of State attorneys general, State authorities that regulate the movement of household goods, and Federal and local law enforcement officials for the purpose of developing practices and procedures to enhance the Federal-State partnership in enforcement efforts, exchange of information, and coordination of enforcement efforts with respect to interstate transportation of household goods and making legislative and regulatory recommendations to the Secretary concerning such enforcement efforts.

(b) Consultation.—In carrying out subsection (a), the working group shall consult with industries involved in the transportation of household goods, the public, and other interested parties.

SEC. 7409. INFORMATION ABOUT HOUSEHOLD GOODS TRANSPORTATION ON CARRIERS' WEBSITES.

Not later than 1 year after the date of enactment of this Act, the Secretary shall modify the regulations contained in part 375 of title 49, Code of Federal Regulations, to require a motor carrier or broker that is subject to such regulations and that establishes (or has established) and maintains a website to prominently display on the website—

(1) the number assigned to the motor carrier or broker by the Department of Transportation;

(2) the OCE 100 publication referred to in section 14104(b)(2) of title 49, United States Code; and

(3) in the case of a broker, a list of all motor carriers providing transportation of household goods used by the broker and a statement that the broker is not a motor carrier providing transportation of household goods.

SEC. 7410. CONSUMER COMPLAINTS.

(a) Requirement for Database.—Subchapter II of chapter 141 is amended by adding at the end the following:

"§ 14124. Consumer complaints

"(a) Establishment of System and Database.—The Secretary of Transportation shall—

"(1) establish a system to—

"(A) file and log a complaint made by a shipper that relates to motor carrier transportation of household goods; and

"(B) to solicit information gathered by a State regarding the number and type of complaints involving the interstate transportation of household goods;

"(2) establish a database of such complaints; and

"(3) develop a procedure—

"(A) to provide public access to the database, subject to section 522a of title 5;

"(B) to forward a complaint, including the motor carrier bill of lading number, if known, related to the complaint to a motor carrier named in such complaint and to an appropriate State authority (as defined in section 14710(c) in the State in which the complainant resides; and

"(C) to permit a motor carrier to challenge information in the database.

"(b) Summary to Congress.—The Secretary shall transmit a summary each year of the complaints filed and logged under subsection (a) for the preceding calendar year to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.".

(b) Conforming Amendment.—The analysis for chapter 141 is amended by inserting after the item relating to section 14123 the following:

"14124. Consumer complaints.".

SEC. 7411. REVIEW OF LIABILITY OF CARRIERS.

(a) Review.—Not later than 1 year after the date of enactment of this Act, the Surface Transportation Board shall complete a review of the current Federal regulations regarding the level of liability protection provided by motor carriers that provide transportation of household goods and revise such regulations, if necessary, to provide enhanced protection in the case of loss or damage.

(b) Determinations.—The review required by subsection (a) shall include a determination of—

(1) whether the current regulations provide adequate protection;

(2) the benefits of purchase by a shipper of insurance to supplement the carrier's limitations on liability;

(3) whether there are abuses of the current regulations that leave the shipper unprotected in the event of loss and damage to a shipment of household goods; and

(4) whether the section 14706 of title 49, United States Code, should be modified.

SEC. 7412. CIVIL PENALTIES RELATING TO HOUSEHOLD GOODS BROKERS.

Section 14901(d) is amended—

(1) by resetting the text as a paragraph indented 2 ems from the left margin and inserting "(1) IN GENERAL.—" before "If a carrier"; and

(2) by adding at the end the following:

"(2) ESTIMATE OF BROKER WITHOUT CARRIER AGREEMENT.—If a broker for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title makes an estimate of the cost of transporting any such goods before entering into an agreement with a carrier to provide transportation of household goods subject to such jurisdiction, the broker is liable to the United States for a civil penalty of not less than $10,000 for each violation.

"(3) UNAUTHORIZED TRANSPORTATION.—If a person provides transportation of household goods subject to jurisdiction under subchapter I of chapter 135 this title or provides broker services for such transportation without being registered under chapter 139 of this title to provide such transportation or services as a motor carrier or broker, as the case may be, such person is liable to the United States for a civil penalty of not less than $25,000 for each violation.".

SEC. 7413. CIVIL AND CRIMINAL PENALTY FOR FAILING TO GIVE UP POSSESSION OF HOUSEHOLD GOODS.

(a) IN GENERAL.—Chapter 149 is amended by adding at the end the following:

"§ 14915. Penalties for failure to give up possession of household goods

"(a) CIVIL PENALTY.—Whoever is found to have failed to give up possession of household goods is liable to the United States for a civil penalty of not less than $10,000. Each day a carrier is found to have failed to give up possession of household goods may constitute a separate violation. If such person is a carrier or broker, the Secretary may suspend the registration of such carrier or broker under chapter 139 of this title for a period of not less than 12 months nor more than 36 months. The force and effect of such suspension of a carrier or broker shall extend to and include any carrier or broker having the same ownership or operational control as the suspended carrier or broker.

"(b) CRIMINAL PENALTY.—Whoever has been convicted of having failed to give up possession of household goods shall be fined under title 18 or imprisoned for not more than 5 years, or both.

"(c) FAILURE TO GIVE UP POSSESSION OF HOUSEHOLD GOODS DEFINED.—For purposes of this section, the term 'failed to give up possession of household goods' means the knowing and willful failure, in violation of a contract, to deliver to, or unload at, the destination of a shipment of household goods that is subject to jurisdiction under subchapter I or III of chapter 135 of this title, for which charges have been estimated by the motor carrier providing transportation of such goods, and for which the shipper has tendered a payment described in clause (i), (ii), or (iii) of section 13707(b)(3)(A) of this title.".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

"14915. Penalties for failure to give up possession of household goods.".

SEC. 7414. PROGRESS REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the progress being made in implementing the provisions of this chapter.

SEC. 7415. ADDITIONAL REGISTRATION REQUIREMENTS FOR MOTOR CARRIERS OF HOUSEHOLD GOODS.

Section 13902(a) is amended—

(1) by striking paragraphs (2) and (3);

(2) by redesignating paragraph (4) as paragraph (5) and inserting after paragraph (1) the following:

"(2) ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS TRANSPORTATION.—Notwithstanding paragraph (1), the Secretary may register a person to provide transportation of household goods (as defined in section 13102(10) of this title) only after that person—

"(A) provides evidence of participation in an arbitration program and provides a copy of the notice of that program as required by section 14708(b)(2) of this title;

"(B) identifies its tariff and provides a copy of the notice of the availability of that tariff for inspection as required by section 13702(c) of this title;

"(C) provides evidence that it has access to, has read, is familiar with, and will observe all laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage; and

"(D) discloses any relationship involving common stock, common ownership, common management, or common familial relationships between that person and any other motor carrier, freight forwarder, or broker of household goods within the past 3 years.

"(3) CONSIDERATION OF EVIDENCE; FINDINGS.—The Secretary shall consider, and, to the extent applicable, make findings on any evidence demonstrating that the registrant is unable to comply with any applicable requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2).

"(4) WITHHOLDING.—If the Secretary determines that a registrant under this section does not meet, or is not able to meet, any requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2), the Secretary shall withhold registration."; and

(3) by adding at the end of paragraph (5), as redesignated, "In the case of a registration for the transportation of household goods (as defined in section 13102(10 of this title), the Secretary may also hear a complaint on the ground that the registrant fails or will fail to comply with the requirements of paragraph (2) of this subsection.".

Subtitle E—Sportfishing and Recreational Boating Safety

SEC. 7501. SHORT TITLE.

This subtitle may be cited as the "Sportfishing and Recreational Boating Safety Act of 2005".

CHAPTER 1—FEDERAL AID IN SPORT FISH RESTORATION ACT AMENDMENTS

SEC. 7511. AMENDMENT OF FEDERAL AID IN SPORT FISH RESTORATION ACT.

Except as otherwise expressly provided, whenever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 et seq.).

SEC. 7512. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 3 (16 U.S.C. 777b) is amended—

(1) by striking "the succeeding fiscal year." in the third sentence and inserting "succeeding fiscal years."; and

(2) by striking "in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport and recreation." and inserting "to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States, as provided for in section 4(c).".

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The first sentence of section 3 (16 U.S.C. 777b) is amended—

(A) by striking "Sport Fish Restoration Account" and inserting "Sport Fish Restoration and Boating Trust Fund"; and

(B) by striking "that Account" and inserting "that Trust Fund, except as provided in section 9504(c) of the Internal Revenue Code of 1986".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 2005.

SEC. 7513. DIVISION OF ANNUAL APPROPRIATIONS.

Section 4 (16 U.S.C. 777c) is amended—

(1) by striking subsections (a) through (c) and redesignating subsections (d), (e), (f), and (g) as subsections (b), (c), (d), and (e), respectively;

(2) by inserting before subsection (b), as redesignated by paragraph (1), the following:

"(a) IN GENERAL.—For fiscal years 2006 through 2020, the balance of each annual appropriation made in accordance with the provisions of section 3 remaining after the distributions for administrative expenses and other purposes under subsection (b) and for multistate conservation grants under section 14 shall be distributed as follows:

"(1) COASTAL WETLANDS.—18.5 percent to the Secretary of the Interior for distribution as provided in the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3951 et seq.).

"(2) BOATING SAFETY.—18.5 percent to the Secretary of Homeland Security for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(3) CLEAN VESSEL ACT.—2.0 percent to the Secretary of the Interior for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

"(4) BOATING INFRASTRUCTURE.—2.0 percent to the Secretary of the Interior for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g-1(d)).

"(5) NATIONAL OUTREACH AND COMMUNICATIONS.—2.0 percent to the Secretary of the Interior for the National Outreach and Communications Program under section 8(d) of this Act. Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary for that program may be expended by the Secretary under subsection (c) of this section.";

(3) by striking (b)(1)(A), as redesignated by paragraph (1), and inserting the following:

"(A) SET-ASIDE.—For a fiscal year after fiscal year 2005, the Secretary of the Interior may use no more than the amount specified in subparagraph (B) for the fiscal year for expenses of administration incurred in the implementation of this Act, in accordance with this section and section 9. The amount specified in subparagraph (B) for a fiscal year may not be included in the amount of the annual appropriation distributed under subsection (a) for the fiscal year.";

(4) by striking "Secretary of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), (c), and (d), respectively, and after deducting amounts used for grants under section 14,

shall apportion the remainder” in subsection (c), as redesignated by paragraph (1), and inserting “Secretary, for a fiscal year after fiscal year 2005, after the distribution, transfer, use and deduction under subsection (b), and after deducting amounts used for grants under section 14 of this title, shall apportion 57 percent of the balance”;

(5) by striking “per centum” each place it appears in subsection (c), as redesignated by paragraph (1), and inserting “percent”;

(6) by striking “subsections (a), (b)(3)(A), (b)(3)(B), and (c)” in paragraph (1) of subsection (e), as redesignated by paragraph (1), and inserting “paragraphs (1), (3), (4), and (5) of subsection (a)”; and

(7) by adding at the end the following:

“(f) TRANSFER OF CERTAIN FUNDS.—Amounts available under paragraphs (3) and (4) of subsection (a) that are unobligated by the Secretary of the Interior after 3 fiscal years shall be transferred to the Secretary of Homeland Security and shall be expended for State recreational boating safety programs under section 13106(a) of title 46, United States Code.”.

SEC. 7514. MAINTENANCE OF PROJECTS.

Section 8 (16 U.S.C. 777g) is amended—

(1) by striking “in carrying out the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation.” in subsection (b)(2) and inserting “to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States under section 4(c).”; and

(2) by striking “subsection (c) or (d)” in subsection (d)(3) and inserting “subsection (a)(5) or subsection (b)”.

SEC. 7515. BOATING INFRASTRUCTURE.

Section 7404(d)(1) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)(1)) is amended by striking “section 4(b)(3)(B) of the Act entitled ‘An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes,’ approved August 9, 1950, as amended by this Act,” and inserting “section 4(a)(4) of the Dingell-Johnson Sport Fish Restoration Act”.

SEC. 7516. REQUIREMENTS AND RESTRICTIONS CONCERNING USE OF AMOUNTS FOR EXPENSES FOR ADMINISTRATION.

Section 9 (16 U.S.C. 777h) is amended—

(1) by striking “section 4(d)(1)” in subsection (a) and inserting “section 4(b)”; and

(2) by striking “section 4(d)(1)” in subsection (b)(1) and inserting “section 4(b)”.

SEC. 7517. PAYMENTS OF FUNDS TO AND COOPERATION WITH PUERTO RICO, THE DISTRICT OF COLUMBIA, GUAM, AMERICAN SAMOA, THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.

Section 12 (16 U.S.C. 777k) is amended by striking “in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation.” and inserting “to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States under section 4(b) of this Act.”.

SEC. 7518. MULTISTATE CONSERVATION GRANT PROGRAM.

Section 14 (16 U.S.C. 777m) is amended—

(1) by striking so much of subsection (a) as precedes paragraph (2) and inserting the following:

“(a) IN GENERAL.—

“(1) AMOUNT FOR GRANTS.—For each fiscal year after fiscal year 2005, not more than $3,000,000 of each annual appropriation made in accordance with the provisions of section 3 shall be distributed to the Secretary of the Interior for making multistate conservation project grants in accordance with this section.”;

(2) by striking “section 4(e)” each place it appears in subsection (a)(2)(B) and inserting “section 4(c)”; and

(3) by striking “Of the balance of each annual appropriation made under section 3 remaining after the distribution and use under subsections (a), (b), and (c) of section 4 for each fiscal year and after deducting amounts used for grants under subsection (a)—” in subsection (e) and inserting “Of amounts made available under section 4(b) for each fiscal year—”.

SEC. 7519. EXPENDITURES FROM BOAT SAFETY ACCOUNT.

The Act is amended by adding at the end the following:

“SEC. 15. EXPENDITURES FROM BOAT SAFETY ACCOUNT.

“The following amounts in the boating safety account under section 9504(c) of the Internal Revenue Code of 1986 shall be made available without further appropriation and shall be distributed as follows:

“(1) In fiscal year 2006, $28,155,000 shall be distributed—

“(A) under section 4 of this Act in the following manner:

“(i) $11,200,000 to be added to funds available under subsection (a)(2) of that section;

“(ii) $1,245,000 to be added to funds available under subsection (a)(3) of that section;

“(iii) $1,245,000 to be added to funds available under subsection (a)(4) of that section;

“(iv) $1,245,000 to be added to funds available under subsection (a)(5) of that section; and

“(v) $12,800,000 to be added to funds available under subsection (b) of that section; and

“(B) under section 14 of this Act, $420,000, to be added to funds available under subsection (a)(1) of that section.

“(2) In fiscal year 2007, $22,419,000 shall be distributed—

“(A) under section 4 of this Act in the following manner:

“(i) $8,075,000 to be added to funds available under subsection (a)(2) of that section;

“(ii) $713,000 to be added to funds available under subsection (a)(3) of that section;

“(iii) $713,000 to be added to funds available under subsection (a)(4) of that section;

“(iv) $713,000 to be added to funds available under subsection (a)(5) of that section; and

“(v) $11,925,000 to be added to funds available under subsection (b) of this Act; and

“(B) under section 14 of this Act, $280,000 to be added to funds available under subsection (a)(1) of that section.

“(3) In fiscal year 2008, $17,139,000 shall be distributed—

“(A) under section 4 of this Act in the following manner:

“(i) $6,800,000 to be added to funds available under subsection (a)(2) of that section;

“(ii) $333,000 to be added to funds available under subsection (a)(3) of that section;

“(iii) $333,000 to be added to funds available under subsection (a)(4) of that section;

“(iv) $333,000 to be added to funds available under subsection (a)(5) of that section; and

“(v) $9,200,000 to be added to funds available under subsection (b) of that section; and

“(B) under section 14 of this Act, $140,000, to be added to funds available under subsection (a)(1) of that section.

“(4) In fiscal year 2009, $12,287,000 shall be distributed—

“(A) under section 4 of this Act in the following manner:

“(i) $5,100,000 to be added to funds available under subsection (a)(2) of that section;

“(ii) $48,000 to be added to funds available under subsection (a)(3) of that section;

“(iii) $48,000 to be added to funds available under subsection (a)(4) of that section;

“(iv) $48,000 to be added to funds available under subsection (a)(5) of that section; and

“(v) $6,900,000 to be added to funds available under subsection (b) of that section; and

“(B) under section 14 of this Act, $143,000, to be added to funds available under subsection (a)(1) of that section.

“(5) In fiscal year 2010, all remaining funds in the Account shall be distributed under section 4 of this Act in the following manner:

“(A) one-third to be added to funds available under subsection (b); and

“(B) two-thirds to be added to funds available under subsection (h).”.

CHAPTER 2—CLEAN VESSEL ACT AMENDMENTS

SEC. 7531. GRANT PROGRAM.

Section 5604(c)(2) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

CHAPTER 3—RECREATIONAL BOATING SAFETY PROGRAM AMENDMENTS

SEC. 7551. STATE MATCHING FUNDS REQUIREMENT.

Section 13103(b) of title 46, United States Code, is amended by striking “one-half” and inserting “75 percent”.

SEC. 7552. AVAILABILITY OF ALLOCATIONS.

Section 13104(a) of title 46, United States Code, is amended—

(1) by striking “2 years” in paragraph (1) and inserting “3 years”; and

(2) by striking “2-year” in paragraph (2) and inserting “3-year”.

SEC. 7553. AUTHORIZATION OF APPROPRIATIONS FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.

Section 13106 of title 46, United States Code, is amended—

(1) by striking “section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b))”in subsection (a)(1) and inserting “subsections (a)(2) and (f) of section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)(2) and (f))”;

(2) by striking “not less than one percent and” in subsection (a)(2);

(3) in subsection (c)(1)—

(A) by striking “Secretary of Transportation under paragraph (5)(C) of section 4(b)” and inserting “Secretary under subsection (a)(2) of section 4”;

(B) by striking “(16 U.S.C. 777c(b))” and inserting “(16 U.S.C. 777c(a)(2)”;

(C) by striking “$3.333,336” and inserting “not more than 5 percent”;

(D) by striking “$1,333,336” and inserting “not less than $2,000,000”; and

(4) by striking “until expended.” in subsection (c)(3) and inserting “during the 2 succeeding fiscal years. Any amount that is unexpected or unobligated at the end of the 3-year period during which it is available shall be withdrawn by the Secretary and allocated to the States in addition to any other amounts available for allocation in the fiscal year in which they are withdrawn or the following fiscal year.”.

SEC. 7554. MAINTENANCE OF EFFORT FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.

(a) IN GENERAL.—Chapter 131 of title 46, United States Code, is amended by inserting after section 13106 the following:

“§ 13107. Maintenance of effort for State recreational boating safety programs

“(a) IN GENERAL.—The amount payable to a State for a fiscal year from an allocation under section 13103 of this chapter shall be reduced if the usual amounts expended by the State for the State's recreational boating safety program, as determined under section 13105 of this chapter, for the previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years immediately preceding that previous fiscal year. The reduction shall be proportionate, as a percentage, to the amount by which the level of State expenditures for such previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years immediately preceding that previous fiscal year.

“(b) REDUCTION OF THRESHOLD.—If the total amount available for allocation and distribution under this chapter in a fiscal year for all participating State recreational boating safety programs is less than such amount for the preceding fiscal year, the level of State expenditures required under subsection (a) of this section for the preceding fiscal year shall be decreased proportionately.

“(c) WAIVER.—

“(1) IN GENERAL.—Upon the written request of a State, the Secretary may waive the provisions of subsection (a) of this section for 1 fiscal year if the Secretary determines that a reduction in expenditures for the State's recreational boating safety program is attributable to a non-selective reduction in expenditures for the programs of all Executive branch agencies of the State government, or for other reasons if the State demonstrates to the Secretary's satisfaction that such waiver is warranted.

“(2) 30-DAY DECISION.—The Secretary shall approve or deny a request for a waiver not later than 30 days after the date the request is received.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 131 of title 46, United States Code, is amended by inserting after the item relating to section 13106 the following:

“13107. Maintenance of effort for State recreational boating safety programs.”.

Subtitle F—Miscellaneous Provisions

SEC. 7601. OFFICE OF INTERMODALISM.

(a) IN GENERAL.—Section 5503 is amended—

(1) by inserting “Amounts reserved under section 5504(d) not awarded to .States as grants may be used by the Director to provide technical assistance under this subsection.” after “organizations.” in subsection (e);

(2) by redesignating subsection (f) as subsection (h), and inserting after subsection (e) the following:

“(f) National Intermodal System Improvement Plan—

“(1) IN GENERAL.—The Director, in consultation with the advisory board established under section 5502 of this title and other public and private transportation interests, shall develop a plan to improve the national intermodal transportation system. The plan shall include—

“(A) an assessment and forecast of the national intermodal transportation system's impact on mobility, safety, energy consumption, the environment, technology, international trade, economic activity, and quality of life in the United States;

“(B) an assessment of the operational and economic attributes of each passenger and freight mode of transportation and the optimal role of each mode in the national intermodal transportation system;

“(C) a description of recommended intermodal and multi-modal research and development projects;

“(D) a description of emerging trends that have an impact on the national intermodal transportation system;

“(E) recommendations for improving intermodal policy, transportation decisionmaking, and financing to maximize mobility and the return on investment of Federal spending on transportation;

“(F) an estimate of the impact of current Federal and State transportation policy on the national intermodal transportation system; and

“(G) specific near and long-term goals for the national intermodal transportation system.

“(2) PROGRESS REPORTS.—The Director shall submit an initial report on the plan to improve the national intermodal transportation system 2 years after the date of enactment of the Surface Transportation Safety Improvement Act of 2005, and a follow-up report 2 years after that, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The progress report shall—

“(A) describe progress made toward achieving the plan's goals;

“(B) describe challenges and obstacles to achieving the plan's goals;

“(C) update the plan to reflect changed circumstances or new developments; and

“(D) make policy and legislative recommendations the Director believes are necessary and appropriate to achieve the goals of the plan.

“(3) PLAN DEVELOPMENT FUNDING.—Such sums as may be necessary from the administrative expenses of the Research and Innovative Technology Administration shall be reserved each year for the purpose of completing and updating the plan to improve the national intermodal transportation plan.

“(g) IMPACT MEASUREMENT METHODOLOGY; IMPACT REVIEW.—The Director and the Director of the Bureau of Transportation Statistics shall jointly—

“(1) develop, in consultation with the modal administrations, and State and local planning organizations, common measures to compare transportation investment decisions across the various modes of transportation; and

“(2) formulate a methodology for measuring the impact of intermodal transportation on—

“(A) the environment;

“(B) public health and welfare;

“(C) energy consumption;

“(D) the operation and efficiency of the transportation system;

“(E) congestion, including congestion at the Nation's ports; and

“(F) the economy and employment.”.

SEC. 7602. CAPITAL GRANTS FOR RAIL LINE RELOCATION PROJECTS.

(a) ESTABLISHMENT OF PROGRAM.—

(1) PROGRAM REQUIREMENTS.—Chapter 201 of title 49, United States Code, is amended by adding at the end of subchapter II the following:

“§ 20154. Capital grants for rail line relocation projects

“(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall carry out a grant program to provide financial assistance for local rail line relocation projects.

“(b) ELIGIBILITY.—A State is eligible for a grant under this section for any construction project for the improvement of the route or structure of a rail line passing through a municipality of the State that—

“(1) either—

“(A) is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, community quality of life, or economic development in the municipality; or

“(B) involves a lateral or vertical relocation of any portion of the rail line within the municipality to avoid a closing of a grade crossing or the construction of a road underpass or overpass; and

“(2) meets the costs-benefits requirement set forth in subsection (c).

“(c) COSTS-BENEFITS REQUIREMENT.—A grant may be awarded under this section for a project for the relocation of a rail line only if the benefits of the project for the period equal to the estimated economic life of the relocated rail line exceed the costs of the project for that period, as determined by the Secretary considering the following factors:

“(1) The effects of the rail line and the rail traffic on motor vehicle and pedestrian traffic, safety, community quality of life, and area commerce if the rail line were not so relocated.

“(2) The effects of the rail line, relocated as proposed, on motor vehicle and pedestrian traffic, safety, community quality of life, and area commerce.

“(3) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

“(d) CONSIDERATIONS FOR APPROVAL OF GRANT APPLICATIONS.—In addition to considering the relationship of benefits to costs in determining whether to award a grant to an eligible State under this section, the Secretary shall consider the following factors:

“(1) The capability of the State to fund the rail line relocation project without Federal grant funding.

“(2) The requirement and limitation relating to allocation of grant funds provided in subsection (e).

“(3) Equitable treatment of the various regions of the United States.

“(e) ALLOCATION REQUIREMENTS.—

“(1) GRANTS NOT GREATER THAN $20,000,000.—At least 50 percent of all grant funds awarded under this section out of funds appropriated for a fiscal year shall be provided as grant awards of not more than $20,000,000 each.

“(2) LIMITATION PER PROJECT.—Not more than 25 percent of the total amount available for carrying out this section for a fiscal year may be provided for any 1 project in that fiscal year.

“(f) FEDERAL SHARE.—The total amount of a grant awarded under this section for a rail line relocation project shall be equal to a percentage of the shared costs of the project, as determined under subsection (g)(4).

“(g) NON-FEDERAL SHARE.—

“(1) PERCENTAGE.—A State or other non-Federal entity shall pay at least 10 percent of the shared costs of a project that is funded in part by a grant awarded under this section.

“(2) FORMS OF CONTRIBUTIONS.—The share required by paragraph (1) may be paid in cash or in kind.

“(3) IN-KIND CONTRIBUTIONS.—The in-kind contributions that are permitted to be counted under paragraph (2) for a project for a State or other non-Federal entity are as follows:

“(A) A contribution of real property or tangible personal property (whether provided by the State or a person for the State).

"(B) A contribution of the services of employees of the State or other non-Federal entity, calculated on the basis of costs incurred by the State or other non-Federal entity for the pay and benefits of the employees, but excluding overhead and general administrative costs.

"(C) A payment of any costs that were incurred for the project before the filing of an application for a grant for the project under this section, and any in-kind contributions that were made for the project before the filing of the application, if and to the extent that the costs were incurred or in-kind contributions were made, as the case may be, to comply with a provision of a statute required to be satisfied in order to carry out the project.

"(4) FEDERAL PERCENTAGE; COSTS NOT SHARED.—

"(A) IN GENERAL.—The Secretary shall determine the percentage of the shared costs of a project eligible for a grant under this section, which may not exceed 90 percent of those costs, after considering—

"(i) the level of participation by the State, local government, and private sector participation in the project; and

"(ii) the relative public and private benefits excepted to be derived from the project.

"(B) COSTS NOT SHARED.—For the purposes of subsection (f) and this subsection, the shared costs of a project in a municipality do not include any cost that is defrayed with any funds or in-kind contribution that a source other than the municipality makes available for the use of the municipality without imposing at least 1 of the following conditions:

"(i) The condition that the municipality use the funds or contribution only for the project.

"(ii) The condition that the availability of the funds or contribution to the municipality is contingent on the execution of the project.

"(C) DETERMINATIONS OF THE SECRETARY.—The Secretary shall determine the amount of the costs, if any, that are not shared costs under this paragraph and the total amount of the shared costs. A determination of the Secretary shall be final.

"(h) MULTISTATE AGREEMENTS TO COMBINE AMOUNTS.—Two or more States (not including political subdivisions of States) may, pursuant to an agreement entered into by the States, combine any part of the amounts provided through grants for a project under this section if—

"(1) the project will benefit each of the States entering into the agreement; and

"(2) the agreement is not a violation of a law of any such State.

"(i) REGULATIONS.—The Secretary shall prescribe regulations for carrying out this section.

"(j) DEFINITIONS.—In this section:

"(1) CONSTRUCTION.—The term 'construction' means the supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a project described under subsection (b)(1) or (2) of this section, including bond costs and other costs relating to the issuance of bonds or other debt financing instruments and costs incurred by the State in performing project related audits, and includes—

"(A) locating, surveying, and mapping;

"(B) track installment, restoration and rehabilitation;

"(C) acquisition of rights-of-way;

"(D) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

"(E) elimination of obstacles; and

"(G) and other activities defined by the Secretary.

"(2) STATE.—The term 'State' includes, except as otherwise specifically provided, a political subdivision of a State.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for use in carrying out this section $350,000,000 for each of the fiscal years 2006 through 2009.".

(2) CLERICAL AMENDMENT.—The chapter analysis for such chapter is amended by adding at the end the following:

"20154. Capital grants for rail line relocation projects.".

(b) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than April 1, 2006, the Secretary of Transportation shall issue temporary regulations to implement the grant program under section 20154 of title 49, United States Code, as added by subsection (a). Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of a temporary regulation under this subsection or of any amendment of such a temporary regulation.

(2) FINAL REGULATIONS.—Not later than October 1, 2006, the Secretary shall issue final regulations implementing the program.

SEC. 7603. REHABILITATION AND IMPROVEMENT FINANCING.

(a) DEFINITIONS.—Section 102(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 802(7)) is amended to read as follows:

"(7) 'railroad' has the meaning given that term in section 20102 of title 49, United States Code; and".

(b) GENERAL AUTHORITY.—Section 502(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(a)) is amended by striking "Secretary may provide direct loans and loan guarantees to State and local governments," and inserting "Secretary shall provide direct loans and loan guarantees to State and local governments, agreements or interstate compacts consented to by Congress under section 410(a) of Public Law 105-134 (49 U.S.C. 24101 nt),".

(c) PRIORITY PROJECTS.—Section 502(c) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(c) is amended—

(1) by striking "or" after the semicolon in subsection (5);

(2) by striking "areas." in subsection (6) and inserting "areas; or"; and

(3) by adding at the end the following:

"(7) enhance service and capacity in the national rail system.".

(d) EXTENT OF AUTHORITY.—Section 502(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)) is amended—

(1) by striking "$3,500,000,000" and inserting "$6,000,000,000";

(2) by striking "$1,000,000,000" and inserting "$3,000,000,000"; and

(3) by adding at the end "The Secretary shall not establish any limit on the proportion of the unused amount authorized under this subsection that may be used for 1 loan or loan guarantee.".

(e) COHORTS OF LOANS.—Section 502(f) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(f)) is amended—

(1) by striking "and" after the semicolon in subparagraph (D) of paragraph (1);

(2) by redesignating subparagraph (E) of paragraph (1) as subparagraph (F);

(3) by inserting adding after subparagraph (D) of paragraph (1) the following:

"(E) the size and characteristics of the cohort of which the loan or loan guarantee is a member; and"; and

(4) by adding at the end of paragraph (4) "A cohort may include loans and loan guarantees. The Secretary shall not establish any limit on the proportion of a cohort that may be used for 1 loan or loan guarantee.".

(f) CONDITIONS OF ASSISTANCE.—

(1) ASSURANCES.—Section 502(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended—

(A) by inserting "(1)" before "The Secretary";

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C); and

(C) by adding at the end the following:

"(2) The Secretary shall not require an applicant for a direct loan or loan guarantee under this section to provide collateral. Any collateral provided or thereafter enhanced shall be valued as a going concern after giving effect to the present value of improvements contemplated by the completion and operation of the project. The Secretary shall not require that an applicant for a direct loan or loan guarantee under this section have previously sought the financial assistance requested from another source.

"(3) The Secretary shall require recipients of direct loans or loan guarantees under this section to comply with—

"(A) the standards of section 24312 of title 49, United States Code, as in effect on September 1, 2002, with respect to the project in the same manner that the National Railroad Passenger Corporation is required to comply with such standards for construction work financed under an agreement made under section 24308(a) of that title, and

"(B) the protective arrangements established under section 504 of this Act,

with respect to employees affected by actions taken in connection with the project to be financed by the loan or loan guarantee.".

(2) TECHNICAL CORRECTION.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended by striking "offered;" in subsection (f)(2)(A) and inserting "offered, if any;".

(g) TIME LIMIT FOR APPROVAL OR DISAPPROVAL.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended by adding at the end the following:

"(i) TIME LIMIT FOR APPROVAL OR DISAPPROVAL.—Not later than 90 days after receiving a complete application for a direct loan or loan guarantee under this section, the Secretary shall approve or disapprove the application.

"(j) CONSTRUCTION PROJECTS.—

"(1) IN GENERAL.—For loans involving construction projects that require more than one year to complete, the Secretary shall establish a repayment schedule requiring payments to commence not later than the sixth anniversary date of the original loan issuance.

"(2) ADDITIONS.—The Secretary shall add to the outstanding balance of the loan on the first anniversary date of the original loan issuance on which payments are made, the product of (A) the loan principal, (B) the annual rate of interest on the loan, and (C) the number of years payments were deferred under the repayment schedule.".

(h) INTEREST RATE.—Paragraph (1) of section 822(e) the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(e)) is amended to read as follows:

"(l) Direct Loans.—For Class III railroads, as defined by the Surface Transportation Board, the Secretary shall require interest to be paid on a direct loan made under this section at a rate not more than 3 percentage points below the yield on marketable United States Treasury securities of a maturity similar to the maturity of the loan on the date on which the loan agreement was executed.".

(i) Fees and Charges.—Section 503 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 823) is amended by adding at the end the following new subsection:

"(l) Fees and Charges.—Except as provided in this title, the Secretary may not assess any fees, including user fees, or charges in connection with a direct loan or loan guarantee provided under section 502.".

(j) Substantive Criteria and Standards.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation shall publish in the Federal Register and post on the Department of Transportation website the substantive criteria and standards used by the Secretary to determine whether to approve or disapprove applications submitted under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822). The Secretary of Transportation shall ensure adequate procedures and guidelines are in place to permit the filing of complete applications within 30 days of such publication.

SEC. 7604. REPORT REGARDING IMPACT ON PUBLIC SAFETY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) Study.—The Secretary of Transportation shall, in consultation with State and local government officials, conduct a study of the impact of blocked highway-railroad grade crossings on the ability of emergency responders to perform public safety and security duties.

(b) Report on the Impact of Blocked Highway-Railroad Grade Crossings on Emergency Responders.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit the results of the study and recommendations for reducing the impact of blocked crossings on emergency response to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 7605. FIRST RESPONDER VEHICLE SAFETY PROGRAM.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Administrator of the National Highway Traffic Safety Administration, shall—

(1) develop and implement a comprehensive program to promote compliance with State and local laws intended to increase the safe and efficient operation of first responder vehicles;

(2) compile a list of best practices by State and local governments to promote compliance with the laws described in paragraph (1);

(3) analyze State and local laws intended to increase the safe and efficient operation of first responder vehicles; and

(4) develop model legislation to increase the safe and efficient operation of first responder vehicles.

(b) Partnerships.—The Secretary may enter into partnerships with qualified organizations to carry out this section.

(c) Public Outreach.—The Secretary shall use a variety of public outreach strategies to carry out this section, including public service announcements, publication of informational materials, and posting information on the Internet.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal year 2006 to carry out this section.

TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS

SEC. 8101. SENSE OF THE SENATE ON OVERALL FEDERAL BUDGET.

It is the sense of the Senate that—

(1) comprehensive statutory budget enforcement measures, the jurisdiction of which lies with the Senate Budget Committee and Senate Governmental Affairs Committee, should—

(A) be enacted this year; and

(B) address all areas of the Federal budget, including discretionary spending, direct spending, and revenues; and

(2) special allocations for transportation should be included in that context.

SEC. 8102. DISCRETIONARY SPENDING CATEGORIES.

(a) Definitions.—

(1) Highway category.—Section 250(c)(4)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)(B)) is amended—

(A) by striking "Transportation Equity Act for the 21st Century" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005"; and

(B) by adding at the end the following:

"(v) 69-8158-0-7-401 (Motor Carrier Safety Grants).

"(vi) 69-8159-0-7-401 (Motor Carrier Safety Operations and Programs).".

(2) Mass transit category.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)) is amended by striking subparagraph (C) and inserting the following:

"(C) Mass transit category.—The term 'mass transit category' means the following budget accounts, or portions of the accounts, that are subject to the obligation limitations on contract authority provided in the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 or for which appropriations are provided in accordance with authorizations contained in that Act:

"(i) 69-1120-0-1-401 (Administrative Expenses).

"(ii) 69-1134-0-1-401 (Capital Investment Grants).

"(iii) 69-8191-0-7-401 (Discretionary Grants).

"(iv) 69-1129-0-1-401 (Formula Grants).

"(v) 69-8303-0-7-401 (Formula Grants and Research).

"(vi) 69-1127-0-1-401 (Interstate Transfer Grants—Transit).

"(vii) 69-1125-0-1-401 (Job Access and Reverse Commute).

"(viii) 69-1122-0-1-401 (Miscellaneous Expired Accounts).

"(ix) 69-1139-0-1-401 (Major Capital Investment Grants).

"(x) 69-1121-0-1-401 (Research, Training and Human Resources).

"(xi) 69-8350-0-7-401 (Trust Fund Share of Expenses).

"(xii) 69-1137-0-1-401 (Transit Planning and Research).

"(xiii) 69-1136-0-1-401 (University Transportation Research).

"(xiv) 69-1128-0-1-401 (Washington Metropolitan Area Transit Authority).".

(b) Highway Funding Revenue Alignment.—Section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) is amended—

(1) in clause (i)—

(A) by inserting "for each of fiscal years 2006 through 2009" after "submits the budget";

(B) by inserting "the obligation limitation and outlay limit for" after "adjustments to"; and

(C) by striking "provided in clause (ii)(I)(cc)." and inserting the following: "follows:

"(I) OMB shall take the actual level of highway receipts for the year before the current year and subtract the sum of the estimated level of highway receipts in clause (iii), plus any amount previously calculated under clauses (i)(II) and (ii) for that year.

"(II) OMB shall take the current estimate of highway receipts for the current year and subtract the estimated level of highway receipts in clause (iii) for that year.

"(III) OMB shall—

"(aa) take the sum of the amounts calculated under subclauses (I) and (II) and add that amount to the obligation limitation set forth in section 8103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates; and

"(bb) after making the calculation under item (aa), adjust the obligation limitation set forth in section 8103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for the budget year by adding the amount calculated under subclauses (I) and (II).";

(2) by striking clause (ii) and inserting the following:

"(ii) When the President submits the supplementary budget estimates for each of fiscal years 2006 through 2009 under section 1106 of title 31, United States Code, OMB's Mid-Session Review shall include adjustments to the obligation limitation and outlay limit for the highway category for the budget year and each outyear as follows:

"(I) OMB shall take the most recent estimate of highway receipts for the current year (based on OMB's Mid-Session Review) and subtract the estimated level of highway receipts in clause (iii) plus any amount previously calculated and included in the President's Budget under clause (i)(II) for that year.

"(II) OMB shall—

"(aa) take the amount calculated under subclause (I) and add that amount to the amount of obligations set forth in section 8103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates; and

"(bb) after making the calculation under item (aa), adjust the amount of obligations set forth in section 8103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for the budget year by adding the amount calculated under subclause (I)."; and

(3) by adding at the end the following:

"(iii) The estimated level of highway receipts for the purpose of this subparagraph are—

"(I) for fiscal year 2005, $34,163,000,000;

"(II) for fiscal year 2006, $36,972,000,000;

"(III) for fiscal year 2007, $38,241,000,000;

"(IV) for fiscal year 2008, $39,432,000,000; and

"(V) for fiscal year 2009, $40,557,000,000.

"(iv) In this subparagraph, the term "highway receipts" means the governmental receipts and interest credited to the highway account of the Highway Trust Fund.".

(c) CONTINUATION OF SEPARATE SPENDING CATEGORIES.—For the purpose of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(c)), the discretionary spending limits for the highway category and the mass transit category shall be—

(1) for fiscal year 2005—

(A) $33,657,000,000 for the highway category; and

(B) $6,844,000,000 for the mass transit category;

(2) for fiscal year 2006—

(A) $37,086,000,000 for the highway category; and

(B) $5,989,000,000 for the mass transit category;

(3) for fiscal year 2007—

(A) $40,192,000,000 for the highway category; and

(B) $7,493,000,000 for the mass transit category;

(4) for fiscal year 2008—

(A) $41,831,000,000 for the highway category; and

(B) $8,479,000,000 for the mass transit category; and

(5) for fiscal year 2009—

(A) $42,883,000,000 for the highway category; and

(B) $9,131,000,000 for the mass transit category.

(d) ADDITIONAL ADJUSTMENTS.—Section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)) is amended—

(1) in subparagraph (C)—

(A) in clause (i), by striking "fiscal years 2000, 2001, 2002, or 2003," and inserting "each of fiscal years 2006, 2007, 2008, and 2009,"; and

(B) in clause (ii), by striking "2002 and 2003" and inserting "2008 and 2009"; and

(2) in subparagraph (D)—

(A) in clause (i)—

(i) by striking "1999" and inserting "2005";

(ii) by striking "2000 through 2003" and inserting "2006 through 2009"; and

(iii) by striking "section 8103 of the Transportation Equity Act for the 21st Century" and inserting "section 6102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005"; and

(B) in clause (ii), by striking "2000, 2001, 2002, or 2003" and inserting "2006, 2007, 2008, and 2009".

SEC. 8103. LEVEL OF OBLIGATION LIMITATIONS.

(a) HIGHWAY CATEGORY.—For the purpose of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)), the level of obligation limitations for the highway category is—

(1) for fiscal year 2005, $35,154,000,000;

(2) for fiscal year 2006, $40,110,000,000;

(3) for fiscal year 2007, $40,564,000,000;

(4) for fiscal year 2008, $42,544,000,000; and

(5) for fiscal year 2009, $43,281,000,000.

(b) MASS TRANSIT CATEGORY.—For the purpose of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)), the level of obligation limitations for the mass transit category is—

(1) for fiscal year 2005, $7,609,000,000;

(2) for fiscal year 2006, $8,902,000,000;

(3) for fiscal year 2007, $9,367,000,000;

(4) for fiscal year 2008, $10,171,000,000; and

(5) for fiscal year 2009, $10,502,000,000.

For the purpose of this subsection, the term "obligation limitations" means the sum of budget authority and obligation limitations.

PRIVILEGE OF THE FLOOR

Mr. LOTT. Mr. President, I ask unanimous consent that Susan Kirinich, a detailee of the Senate Committee on Commerce Science and Transportation from the National Highway Traffic Safety Administration be granted the privilege of the floor for the duration of the consideration of H.R. 3.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following fellows and interns of the Democratic staff of the Finance Committee be allowed on the Senate Floor for the duration of the debate on the Transportation Reauthorization Bill.

Brian Townsend,
Cuong Huynh,
Richard Litsey,
Jorlie Cruz,
Waylon Mathern,
Emily Meeker,
Rob Grayson.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—S. 975

Mr. McCONNELL. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The Senator is correct. The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:

A bill (S. 975) to provide incentives to increase research by private sector entities to develop medical countermeasures to prevent, detect, identify, contain, and treat illnesses, including those associated with a biological, chemical, nuclear, or radiological weapons attack or an infectious disease outbreak, and for other purposes.

Mr. McCONNELL. In order to place the bill on the calendar under the provisions of rule XIV, I object to proceeding further.

The PRESIDING OFFICER. Objection is heard, and the bill will be placed on the calendar.

MEASURE READ THE FIRST TIME—S. 981

Mr. McCONNELL. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The legislative clerk read as follows:

A bill (S. 981) to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

Mr. DURBIN. Mr. President, it is with some measure of frustration that I rise to again introduce the Reservist Pay Security Act. This bill allows members of the National Guard and Reserve who are Federal employees to maintain their normal salary when called to active duty by having Federal agencies make up the difference between their military pay and what they would have earned at their Federal civilian job.

This is not a radical concept. Many of the major employers in America offer a similar benefit for their employees in the Guard and Reserve who are mobilized and, due to lower military pay, suffer a loss of income. Companies such as Ford, General Motors, IBM, 3M and, in my own State of Illinois, Sears, as well as the Illinois State government and that of 23 other States provide this same exact security for their workers.

Why do they do this? For two reasons: First, These employers are patriotic members of American society who want to step up and do their part for the country while it is engaged in a war. Second, they want to send a clear message to their employees that they are valued where they work and that the organization is looking forward to their return. The Department of Defense operates a highly respected program known as Employer Support for the Guard and Reserve, or ESGR, which pays tribute to more than 900 such patriotic employers.

It is nothing less than shameful that the largest employer in America, the United States Federal Government, is not on that list because we do not provide a similar benefit for our employees in the Guard and Reserve.

I must note, however, that my colleagues in the Senate have generally recognized this and have joined me to correct this situation by passing the Reservist Pay Security Act. In October 2003, the Senate approved, by a vote of 96 to 3, my amendment to S. 1689, the supplemental appropriations for 2004. In June of 2004, it was agreed to by a voice vote as an amendment to S. 2400, the National Defense Authorization Act for 2005. Most recently, on April 13, the Senate passed this needed measure as an amendment to the supplemental appropriations bill for 2005. That was the third time this measure has passed the Senate. In each of those instances, this measure has been dropped in conference with our colleagues in the

House of Representatives. It is unfortunate that some of our colleagues fail to appreciate the need to pass this bill.

The Senate knows this is important. The Reserve Officers Association knows that it is important. The National Guard Association of the United States knows that it is important. The Enlisted Association of the National Guard of the United States knows that it is important. And I can assure you that we in the Senate will not give up on this matter.

Today I introduce this measure with my colleagues, Senators MIKULSKI, ALLEN, LANDRIEU, LEAHY, LAUTENBERG, KERRY, SARBANES, and BINGAMAN. This bill is identical to the Reservist pay amendment to the supplemental with the exception that this measure provides a mechanism for possible retroactive payments for those who have served since October 11, 2002.

Of the nearly 1.2 million members of the National Guard and Reserves, some 120,000—approximately 10 percent—are also Federal employees. As of January 2005, more than 43,000 Federal employees had been activated since September 11, 2001. More than 17,000 are currently on active duty.

Income loss hurts Reserve component retention. Of the top 10 reasons cited for leaving the National Guard/Reserve, income loss was No. 4, trailing only family burden, deployment frequency and deployment length.

This measure has not been scored by CBO. Funds would likely come from existing appropriations. In addition to my own State of Illinois, 23 other State governments have similar salary continuation laws for State employees: Alabama, Alaska, California, Connecticut, Delaware, Florida, Kansas, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, and Wyoming. Most of these States report that this has required no additional appropriations. The differential was paid from funds already appropriated for government employee pay. With the exception of any retroactive payments, that would be true of our measure as well.

Reservists bring to military service their civilian professional skills and provide their civilian employers with the expertise and experience they have gained in the Armed Forces. This adds value to America.

Last year, the Senate Governmental Affairs Committee saw the value of supporting our citizen soldiers and reported this measure to the floor, but it did not see action as a free-standing bill before the Congress adjourned. I hope we can make it as a freestanding bill or as an amendment on some other legislation this year.

Our bottom line is simply this: Federal employees should not lose income when mobilized for extended duty in the National Guard and Reserve. Major American employers already protect their workers from such loss. It is time for the Federal Government to support our troops by doing the same.

Mr. McCONNELL. Mr. President, I now ask for its second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard, and the bill will be read for the second time on the next legislative day.

NATIONAL CYSTIC FIBROSIS AWARENESS MONTH

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of and the Senate now proceed to S. Res. 115.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 115) designating May 2005 as "National Cystic Fibrosis Awareness Month".

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 115) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 115

Whereas cystic fibrosis, characterized by chronic lung infections and digestive disorders, is a fatal lung disease;

Whereas cystic fibrosis is 1 of the most common genetic diseases in the United States and 1 for which there is no known cure;

Whereas more than 10,000,000 Americans are unknowing carriers of the cystic fibrosis gene and individuals must have 2 copies to have the disease;

Whereas 1 of every 3,500 babies born in the United States is born with cystic fibrosis;

Whereas newborn screening for cystic fibrosis has been implemented by 12 States and facilitates early diagnosis and treatment which improves health and longevity;

Whereas the Centers for Disease Control and Prevention and the Cystic Fibrosis Foundation recommend that all States consider newborn screening for cystic fibrosis;

Whereas approximately 30,000 people in the United States have cystic fibrosis, many of them children;

Whereas the average life expectancy of an individual with cystic fibrosis is in the mid-thirties, an improvement from a life expectancy of 10 years in the 1960s, but still unacceptably short;

Whereas prompt, aggressive treatment of the symptoms of cystic fibrosis can extend the lives of people who have the disease;

Whereas recent advances in cystic fibrosis research have produced promising leads in gene, protein, and drug therapies beneficial to people who have the disease;

Whereas this innovative research is progressing faster and is being conducted more aggressively than ever before, due in part to the establishment of a model clinical trials network by the Cystic Fibrosis Foundation;

Whereas the Cystic Fibrosis Foundation marks its 50th year in 2005, continues to fund a research pipeline for more than 2 dozen potential therapies, and funds a nationwide network of care centers that extend the length and the quality of life for people with cystic fibrosis, but lives continue to be lost to this disease every day; and

Whereas education of the public on cystic fibrosis, including the symptoms of the disease, increases knowledge and understanding of cystic fibrosis and promotes early diagnosis: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 2005 as "National Cystic Fibrosis Awareness Month";

(2) calls on the people of the United States to promote awareness of cystic fibrosis and actively participate in support of research to control or cure cystic fibrosis, by observing the month with appropriate ceremonies and activities; and

(3) supports the goals of—

(A) increasing the quality of life for individuals with cystic fibrosis by promoting public knowledge and understanding in a manner that will result in earlier diagnoses;

(B) encouraging increased resources for research; and

(C) increasing levels of support for people who have cystic fibrosis and their families.

PROFESSIONAL BOXING AMENDMENTS ACT OF 2005

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 72, S. 148.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 148) to establish a United States Boxing Commission to administer the Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 148) was read the third time and passed, as follows:

S. 148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Professional Boxing Amendments Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of Professional Boxing Safety Act of 1996.
Sec. 3. Definitions.

Sec. 4. Purposes.
Sec. 5. United States Boxing Commission approval, or ABC or commission sanction, required for matches.
Sec. 6. Safety standards.
Sec. 7. Registration.
Sec. 8. Review.
Sec. 9. Reporting.
Sec. 10. Contract requirements.
Sec. 11. Coercive contracts.
Sec. 12. Sanctioning organizations.
Sec. 13. Required disclosures by sanctioning organizations.
Sec. 14. Required disclosures by promoters and broadcasters.
Sec. 15. Judges and referees.
Sec. 16. Medical registry.
Sec. 17. Conflicts of interest.
Sec. 18. Enforcement.
Sec. 19. Repeal of deadwood.
Sec. 20. Recognition of tribal law.
Sec. 21. Establishment of United States Boxing Commission.
Sec. 22. Study and report on definition of promoter.
Sec. 23. Effective date.

SEC. 2. AMENDMENT OF PROFESSIONAL BOXING SAFETY ACT OF 1996.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.).

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 2 (15 U.S.C. 6301) is amended to read as follows:

"SEC. 2. DEFINITIONS.

"In this Act:

"(1) COMMISSION.—The term 'Commission' means the United States Boxing Commission.

"(2) BOUT AGREEMENT.—The term 'bout agreement' means a contract between a promoter and a boxer that requires the boxer to participate in a professional boxing match for a particular date.

"(3) BOXER.—The term 'boxer' means an individual who fights in a professional boxing match.

"(4) BOXING COMMISSION.—The term 'boxing commission' means an entity authorized under State or tribal law to regulate professional boxing matches.

"(5) BOXER REGISTRY.—The term 'boxer registry' means any entity certified by the Commission for the purposes of maintaining records and identification of boxers.

"(6) BOXING SERVICE PROVIDER.—The term 'boxing service provider' means a promoter, manager, sanctioning body, licensee, or matchmaker.

"(7) CONTRACT PROVISION.—The term 'contract provision' means any legal obligation between a boxer and a boxing service provider.

"(8) INDIAN LANDS; INDIAN TRIBE.—The terms 'Indian lands' and 'Indian tribe' have the meanings given those terms by paragraphs (4) and (5), respectively, of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703).

"(9) LICENSEE.—The term 'licensee' means an individual who serves as a trainer, corner man, second, or cut man for a boxer.

"(10) MANAGER.—The term 'manager' means a person other than a promoter who, under contract, agreement, or other arrangement with a boxer, undertakes to control or administer, directly or indirectly, a boxing-related matter on behalf of that boxer, including a person who is a booking agent for a boxer.

"(11) MATCHMAKER.—The term 'matchmaker' means a person that proposes, selects, and arranges for boxers to participate in a professional boxing match.

"(12) PHYSICIAN.—The term 'physician' means a doctor of medicine legally authorized to practice medicine by the State in which the physician performs such function or action and who has training and experience in dealing with sports injuries, particularly head trauma.

"(13) PROFESSIONAL BOXING MATCH.—The term 'professional boxing match' means a boxing contest held in the United States between individuals for financial compensation. The term 'professional boxing match' does not include a boxing contest that is regulated by a duly recognized amateur sports organization, as approved by the Commission.

"(14) PROMOTER.—The term 'promoter'—

"(A) means the person primarily responsible for organizing, promoting, and producing a professional boxing match; but

"(B) does not include a hotel, casino, resort, or other commercial establishment hosting or sponsoring a professional boxing match unless—

"(i) the hotel, casino, resort, or other commercial establishment is primarily responsible for organizing, promoting, and producing the match; and

"(ii) there is no other person primarily responsible for organizing, promoting, and producing the match.

"(15) PROMOTIONAL AGREEMENT.—The term 'promotional agreement' means a contract, for the acquisition of rights relating to a boxer's participation in a professional boxing match or series of boxing matches (including the right to sell, distribute, exhibit, or license the match or matches), with—

"(A) the boxer who is to participate in the match or matches; or

"(B) the nominee of a boxer who is to participate in the match or matches, or the nominee is an entity that is owned, controlled or held in trust for the boxer unless that nominee or entity is a licensed promoter who is conveying a portion of the rights previously acquired.

"(16) STATE.—The term 'State' means each of the 50 States, Puerto Rico, the District of Columbia, and any territory or possession of the United States, including the Virgin Islands.

"(17) SANCTIONING ORGANIZATION.—The term 'sanctioning organization' means an organization, other than a boxing commission, that sanctions professional boxing matches, ranks professional boxers, or charges a sanctioning fee for professional boxing matches in the United States—

"(A) between boxers who are residents of different States; or

"(B) that are advertised, otherwise promoted, or broadcast (including closed circuit television) in interstate commerce.

"(18) SUSPENSION.—The term 'suspension' includes within its meaning the temporary revocation of a boxing license.

"(19) TRIBAL ORGANIZATION.—The term 'tribal organization' has the same meaning as in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).".

(b) CONFORMING AMENDMENT.—Section 21 (15 U.S.C. 6312) is amended to read as follows:

"SEC. 21. PROFESSIONAL BOXING MATCHES CONDUCTED ON INDIAN LANDS.

"(a) IN GENERAL.—Notwithstanding any other provision of law, a tribal organization may establish a boxing commission to regulate professional boxing matches held on Indian land under the jurisdiction of that tribal organization.

"(b) STANDARDS AND LICENSING.—A tribal organization that establishes a boxing commission shall, by tribal ordinance or resolution, establish and provide for the implementation of health and safety standards, licensing requirements, and other requirements relating to the conduct of professional boxing matches that are at least as restrictive as—

"(1) the otherwise applicable requirements of the State in which the Indian land on which the professional boxing match is held is located; or

"(2) the guidelines established by the United States Boxing Commission.

"(c) APPLICATION OF ACT TO BOXING MATCHES ON TRIBAL LANDS.—The provisions of this Act apply to professional boxing matches held on tribal lands to the same extent and in the same way as they apply to professional boxing matches held in any State.".

SEC. 4. PURPOSES.

Section 3(2) (15 U.S.C. 6302(2)) is amended by striking "State".

SEC. 5. UNITED STATES BOXING COMMISSION APPROVAL, OR ABC OR COMMISSION SANCTION, REQUIRED FOR MATCHES.

(a) IN GENERAL.—Section 4 (15 U.S.C. 6303) is amended to read as follows:

"SEC. 4. APPROVAL OR SANCTION REQUIREMENT.

"(a) IN GENERAL.—No person may arrange, promote, organize, produce, or fight in a professional boxing match within the United States unless the match—

"(1) is approved by the Commission; and

"(2) is held in a State, or on tribal land of a tribal organization, that regulates professional boxing matches in accordance with standards and criteria established by the Commission.

"(b) APPROVAL PRESUMED.—

"(1) IN GENERAL.—For purposes of subsection (a), the Commission shall be presumed to have approved any match other than—

"(A) a match with respect to which the Commission has been informed of an alleged violation of this Act and with respect to which it has notified the supervising boxing commission that it does not approve;

"(B) a match advertised to the public as a championship match;

"(C) a match scheduled for 10 rounds or more; or

"(D) a match in which 1 of the boxers has—

"(i) suffered 10 consecutive defeats in professional boxing matches; or

"(ii) has been knocked out 5 consecutive times in professional boxing matches.

"(2) DELEGATION OF APPROVAL AUTHORITY.—Notwithstanding paragraph (1), the Commission shall be presumed to have approved a match described in subparagraph (B), (C), or (D) of paragraph (1) if—

"(A) the Commission has delegated its approval authority with respect to that match to a boxing commission; and

"(B) the boxing commission has approved the match.

"(3) KNOCKED-OUT DEFINED.—Except as may be otherwise provided by the Commission by rule, in paragraph (1)(D)(ii), the term 'knocked out' means knocked down and unable to continue after a count of 10 by the referee or stopped from continuing because of a technical knockout.".

(b) CONFORMING AMENDMENT.—Section 19 (15 U.S.C. 6310) is repealed.

SEC. 6. SAFETY STANDARDS.

Section 5 (15 U.S.C. 6304) is amended—

(1) by striking "requirements or an alternative requirement in effect under regulations of a boxing commission that provides equivalent protection of the health and safety of boxers:" and inserting "requirements:";

(2) by adding at the end of paragraph (1) "The examination shall include testing for infectious diseases in accordance with standards established by the Commission.";

(3) by striking paragraph (2) and inserting the following:

"(2) An ambulance continuously present on site.";

(4) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and inserting after paragraph (2) the following:

"(3) Emergency medical personnel with appropriate resuscitation equipment continuously present on site."; and

(5) by striking "match." in paragraph (5), as redesignated, and inserting "match in an amount prescribed by the Commission.".

SEC. 7. REGISTRATION.

Section 6 (15 U.S.C. 6305) is amended—

(1) by inserting "or Indian tribe" after "State" the second place it appears in subsection (a)(2);

(2) by striking the first sentence of subsection (c) and inserting "A boxing commission shall, in accordance with requirements established by the Commission, make a health and safety disclosure to a boxer when issuing an identification card to that boxer.";

(3) by striking "should" in the second sentence of subsection (c) and inserting "shall, at a minimum,"; and

(4) by adding at the end the following:

"(d) Copy of Registration and Identification Cards To Be Sent to Commission.—A boxing commission shall furnish a copy of each registration received under subsection (a), and each identification card issued under subsection (b), to the Commission.".

SEC. 8. REVIEW.

Section 7 (15 U.S.C. 6306) is amended—

(1) by striking "that, except as provided in subsection (b), no" in subsection (a)(2) and inserting "that no";

(2) by striking paragraphs (3) and (4) of subsection (a) and inserting the following:

"(3) Procedures to review a summary suspension when a hearing before the boxing commission is requested by a boxer, licensee, manager, matchmaker, promoter, or other boxing service provider which provides an opportunity for that person to present evidence.";

(3) by striking subsection (b); and

(4) by striking "(a) Procedures.—".

SEC. 9. REPORTING.

Section 8 (15 U.S.C. 6307) is amended—

(1) by striking "48 business hours" and inserting "2 business days";

(2) by striking "bxoing" and inserting "boxing"; and

(3) by striking "each boxer registry." and inserting "the Commission.".

SEC. 10. CONTRACT REQUIREMENTS.

Section 9 (15 U.S.C. 6307a) is amended to read as follows:

"SEC. 9. CONTRACT REQUIREMENTS.

"(a) In General.—The Commission, in consultation with the Association of Boxing Commissions, shall develop guidelines for minimum contractual provisions that shall be included in each bout agreement, boxer-manager contract, and promotional agreement. Each boxing commission shall ensure that these minimal contractual provisions are present in any such agreement or contract submitted to it.

"(b) Filing and Approval Requirements.—

"(1) Commission.—A manager or promoter shall submit a copy of each boxer-manager contract and each promotional agreement between that manager or promoter and a boxer to the Commission, and, if requested, to the boxing commission with jurisdiction over the bout.

"(2) Boxing commission.—A boxing commission may not approve a professional boxing match unless a copy of the bout agreement related to that match has been filed with it and approved by it.

"(c) Bond or Other Surety.—A boxing commission may not approve a professional boxing match unless the promoter of that match has posted a surety bond, cashier's check, letter of credit, cash, or other security with the boxing commission in an amount acceptable to the boxing commission.".

SEC. 11. COERCIVE CONTRACTS.

Section 10 (15 U.S.C. 6307b) is amended—

(1) by striking paragraph (3) of subsection (a);

(2) by inserting "OR ELIMINATION" after "MANDATORY" in the heading of subsection (b); and

(3) by inserting "or elimination" after "mandatory" in subsection (b).

SEC. 12. SANCTIONING ORGANIZATIONS.

(a) In General.—Section 11 (15 U.S.C. 6307c) is amended to read as follows:

"SEC. 11. SANCTIONING ORGANIZATIONS.

"(a) Objective Criteria.—Within 1 year after the date of enactment of the Professional Boxing Amendments Act of 2005, the Commission shall develop guidelines for objective and consistent written criteria for the rating of professional boxers based on the athletic merits and professional record of the boxers. Within 90 days after the Commission's promulgation of the guidelines, each sanctioning organization shall adopt the guidelines and follow them.

"(b) Notification of Change in Rating.—A sanctioning organization shall, with respect to a change in the rating of a boxer previously rated by such organization in the top 10 boxers—

"(1) post a copy, within 7 days after the change, on its Internet website or home page, if any, including an explanation of the change, for a period of not less than 30 days;

"(2) provide a copy of the rating change and a thorough explanation in writing under penalty of perjury to the boxer and the Commission;

"(3) provide the boxer an opportunity to appeal the ratings change to the sanctioning organization; and

"(4) apply the objective criteria for ratings required under subsection (a) in considering any such appeal.

"(c) Challenge of Rating.—If, after disposing with an appeal under subsection (b)(3), a sanctioning organization receives a petition from a boxer challenging that organization's rating of the boxer, it shall (except to the extent otherwise required by the Commission), within 7 days after receiving the petition—

"(1) provide to the boxer a written explanation under penalty of perjury of the organization's rating criteria, its rating of the boxer, and the rationale or basis for its rating (including a response to any specific questions submitted by the boxer); and

"(2) submit a copy of its explanation to the Association of Boxing Commissions and the Commission for their review.".

(b) Conforming Amendments.—Section 18(e) (15 U.S.C. 6309(e)) is amended—

(1) by striking "Federal Trade Commission." in the subsection heading and inserting "United States Boxing Commission"; and

(2) by striking "Federal Trade Commission," in paragraph (1) and inserting "United States Boxing Commission,".

SEC. 13. REQUIRED DISCLOSURES BY SANCTIONING ORGANIZATIONS.

Section 12 (15 U.S.C. 6307d) is amended—

(1) by striking the matter preceding paragraph (1) and inserting "Within 7 days after a professional boxing match of 10 rounds or more, the sanctioning organization, if any, for that match shall provide to the Commission, and, if requested, to the boxing commission in the State or on Indian land responsible for regulating the match, a written statement of—";

(2) by striking "will assess" in paragraph (1) and inserting "has assessed, or will assess,"; and

(3) by striking "will receive" in paragraph (2) and inserting "has received, or will receive,".

SEC. 14. REQUIRED DISCLOSURES BY PROMOTERS AND BROADCASTERS.

Section 13 (15 U.S.C. 6307e) is amended—

(1) by striking "**PROMOTERS.**" in the section caption and inserting "**PROMOTERS AND BROADCASTERS.**";

(2) by striking so much of subsection (a) as precedes paragraph (1) and inserting the following:

"(a) Disclosures to Boxing Commissions and the Commission.—Within 7 days after a professional boxing match of 10 rounds or more, the promoter of any boxer participating in that match shall provide to the Commission, and, if requested, to the boxing commission in the State or on Indian land responsible for regulating the match—";

(3) by striking "writing," in subsection (a)(1) and inserting "writing, other than a bout agreement previously provided to the commission,";

(4) by striking "all fees, charges, and expenses that will be" in subsection (a)(3)(A) and inserting "a written statement of all fees, charges, and expenses that have been, or will be,";

(5) by inserting "a written statement of" before "all" in subsection (a)(3)(B);

(6) by inserting "a statement of" before "any" in subsection (a)(3)(C);

(7) by striking the matter in subsection (b) following "Boxer.—" and preceding paragraph (1) and inserting "Within 7 days after a professional boxing match of 10 rounds or more, the promoter of the match shall provide to each boxer participating in the bout or match with whom the promoter has a bout or promotional agreement a statement of—";

(8) by striking "match;" in subsection (b)(1) and inserting "match, and that the promoter has paid, or agreed to pay, to any other person in connection with the match;"; and

(9) by adding at the end the following:

"(d) Required Disclosures by Broadcasters.—

"(1) In general.—A broadcaster that owns the television broadcast rights for a professional boxing match of 10 rounds or more shall, within 7 days after that match, provide to the Commission—

"(A) a statement of any advance, guarantee, or license fee paid or owed by the broadcaster to a promoter in connection with that match;

"(B) a copy of any contract executed by or on behalf of the broadcaster with—

"(i) a boxer who participated in that match; or

"(ii) the boxer's manager, promoter, promotional company, or other representative or the owner or representative of the site of the match; and

"(C) a list identifying sources of income received from the broadcast of the match.

"(2) COPY TO BOXING COMMISSION.—Upon request from the boxing commission in the State or Indian land responsible for regulating a match to which paragraph (1) applies, a broadcaster shall provide the information described in paragraph (1) to that boxing commission.

"(3) CONFIDENTIALITY.—The information provided to the Commission or to a boxing commission pursuant to this subsection shall be confidential and not revealed by the Commission or a boxing commission, except that the Commission may publish an analysis of the data in aggregate form or in a manner which does not disclose confidential information about identifiable broadcasters.

"(4) TELEVISION BROADCAST RIGHTS.—In paragraph (1), the term 'television broadcast rights' means the right to broadcast the match, or any part thereof, via a broadcast station, cable service, or multichannel video programming distributor as such terms are defined in section 3(5), 602(6), and 602(13) of the Communications Act of 1934 (47 U.S.C. 153(5), 602(6), and 602(13), respectively).".

SEC. 15. JUDGES AND REFEREES.

(a) IN GENERAL.—Section 16 (15 U.S.C. 6307h) is amended—

(1) by inserting "(a) LICENSING AND ASSIGNMENT REQUIREMENT.—" before "No person";

(2) by striking "certified and approved" and inserting "selected";

(3) by inserting "or Indian lands" after "State"; and

(4) by adding at the end the following:

"(b) CHAMPIONSHIP AND 10-ROUND BOUTS.—In addition to the requirements of subsection (a), no person may arrange, promote, organize, produce, or fight in a professional boxing match advertised to the public as a championship match or in a professional boxing match scheduled for 10 rounds or more unless all referees and judges participating in the match have been licensed by the Commission.

"(c) ROLE OF SANCTIONING ORGANIZATION.—A sanctioning organization may provide a list of judges and referees deemed qualified by that organization to a boxing commission, but the boxing commission shall select, license, and appoint the judges and referees participating in the match.

"(d) ASSIGNMENT OF NONRESIDENT JUDGES AND REFEREES.—A boxing commission may assign judges and referees who reside outside that commission's State or Indian land.

"(e) REQUIRED DISCLOSURE.—A judge or referee shall provide to the boxing commission responsible for regulating a professional boxing match in a State or on Indian land a statement of all consideration, including reimbursement for expenses, that the judge or referee has received, or will receive, from any source for participation in the match. If the match is scheduled for 10 rounds or more, the judge or referee shall also provide such a statement to the Commission.".

(b) CONFORMING AMENDMENT.—Section 14 (15 U.S.C. 6307f) is repealed.

SEC. 16. MEDICAL REGISTRY.

The Act is amended by inserting after section 13 (15 U.S.C. 6307e) the following:

"SEC. 14. MEDICAL REGISTRY.

"(a) IN GENERAL.—The Commission shall establish and maintain, or certify a third party entity to establish and maintain, a medical registry that contains comprehensive medical records and medical denials or suspensions for every licensed boxer.

"(b) CONTENT; SUBMISSION.—The Commission shall determine—

"(1) the nature of medical records and medical suspensions of a boxer that are to be forwarded to the medical registry; and

"(2) the time within which the medical records and medical suspensions are to be submitted to the medical registry.

"(c) CONFIDENTIALITY.—The Commission shall establish confidentiality standards for the disclosure of personally identifiable information to boxing commissions that will—

"(1) protect the health and safety of boxers by making relevant information available to the boxing commissions for use but not public disclosure; and

"(2) ensure that the privacy of the boxers is protected.".

SEC. 17. CONFLICTS OF INTEREST.

Section 17 (15 U.S.C. 6308) is amended—

(1) by striking "enforces State boxing laws," in subsection (a) and inserting "implements State or tribal boxing laws, no officer or employee of the Commission,";

(2) by striking "belong to," and inserting "hold office in," in subsection (a);

(3) by striking the last sentence of subsection (a); and

(4) by striking subsection (b) and inserting the following:

"(b) BOXERS.—A boxer may not own or control, directly or indirectly, an entity that promotes the boxer's bouts if that entity is responsible for—

"(1) executing a bout agreement or promotional agreement with the boxer's opponent; or

"(2) providing any payment or other compensation to—

"(A) the boxer's opponent for participation in a bout with the boxer;

"(B) the boxing commission that will regulate the bout; or

"(C) ring officials who officiate at the bout.".

SEC. 18. ENFORCEMENT.

Section 18 (15 U.S.C. 6309) is amended—

(1) by striking "(a) INJUNCTIONS.—" in subsection (a) and inserting "(a) ACTIONS BY ATTORNEY GENERAL.—";

(2) by inserting "any officer or employee of the Commission," after "laws," in subsection (b)(3);

(3) by inserting "has engaged in or" after "organization" in subsection (c);

(4) by striking "subsection (b)" in subsection (c)(3) and inserting "subsection (b), a civil penalty, or"; and

(5) by striking "boxer" in subsection (d) and inserting "person".

SEC. 19. REPEAL OF DEADWOOD.

Section 20 (15 U.S.C. 6311) is repealed.

SEC. 20. RECOGNITION OF TRIBAL LAW.

Section 22 (15 U.S.C. 6313) is amended—

(1) by inserting "**OR TRIBAL**" in the section heading after "**STATE**"; and

(2) by inserting "or Indian tribe" after "State".

SEC. 21. ESTABLISHMENT OF UNITED STATES BOXING COMMISSION.

(a) IN GENERAL.—The Act is amended by adding at the end the following:

"TITLE II—UNITED STATES BOXING COMMISSION

"SEC. 201. PURPOSE.

"The purpose of this title is to protect the health, safety, and welfare of boxers and to ensure fairness in the sport of professional boxing.

"SEC. 202. UNITED STATES BOXING COMMISSION.

"(a) IN GENERAL.—The United States Boxing Commission is established as a commission within the Department of Commerce.

"(b) MEMBERS.—

"(1) IN GENERAL.—The Commission shall consist of 3 members appointed by the President, by and with the advice and consent of the Senate.

"(2) QUALIFICATIONS.—

"(A) IN GENERAL.—Each member of the Commission shall be a citizen of the United States who—

"(i) has extensive experience in professional boxing activities or in a field directly related to professional sports;

"(ii) is of outstanding character and recognized integrity; and

"(iii) is selected on the basis of training, experience, and qualifications and without regard to political party affiliation.

"(B) SPECIFIC QUALIFICATIONS FOR CERTAIN MEMBERS.—At least 1 member of the Commission shall be a former member of a local boxing authority. If practicable, at least 1 member of the Commission shall be a physician or other health care professional duly licensed as such.

"(C) DISINTERESTED PERSONS.—No member of the Commission may, while serving as a member of the Commission—

"(i) be engaged as a professional boxer, boxing promoter, agent, fight manager, matchmaker, referee, judge, or in any other capacity in the conduct of the business of professional boxing;

"(ii) have any pecuniary interest in the earnings of any boxer or the proceeds or outcome of any boxing match; or

"(iii) serve as a member of a boxing commission.

"(3) BIPARTISAN MEMBERSHIP.—Not more than 2 members of the Commission may be members of the same political party.

"(4) GEOGRAPHIC BALANCE.—Not more than 2 members of the Commission may be residents of the same geographic region of the United States when appointed to the Commission. For purposes of the preceding sentence, the area of the United States east of the Mississippi River is a geographic region, and the area of the United States west of the Mississippi River is a geographic region.

"(5) TERMS.—

"(A) IN GENERAL.—The term of a member of the Commission shall be 3 years.

"(B) REAPPOINTMENT.—Members of the Commission may be reappointed to the Commission.

"(C) MIDTERM VACANCIES.—A member of the Commission appointed to fill a vacancy in the Commission occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that unexpired term.

"(D) CONTINUATION PENDING REPLACEMENT.—A member of the Commission may serve after the expiration of that member's term until a successor has taken office.

"(6) REMOVAL.—A member of the Commission may be removed by the President only for cause.

"(c) EXECUTIVE DIRECTOR.—

"(1) IN GENERAL.—The Commission shall employ an Executive Director to perform the administrative functions of the Commission under this Act, and such other functions and duties of the Commission as the Commission shall specify.

"(2) DISCHARGE OF FUNCTIONS.—Subject to the authority, direction, and control of the Commission the Executive Director shall carry out the functions and duties of the Commission under this Act.

"(d) GENERAL COUNSEL.—The Commission shall employ a General Counsel to provide legal counsel and advice to the Executive Director and the Commission in the performance of its functions under this Act, and to carry out such other functions and duties as the Commission shall specify.

"(e) STAFF.—The Commission shall employ such additional staff as the Commission considers appropriate to assist the Executive Director and the General Counsel in carrying out the functions and duties of the Commission under this Act.

"(f) COMPENSATION.—

"(1) MEMBERS OF COMMISSION.—

"(A) IN GENERAL.—Each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

"(B) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

"(2) EXECUTIVE DIRECTOR AND STAFF.—The Commission shall fix the compensation of the Executive Director, the General Counsel, and other personnel of the Commission. The rate of pay for the Executive Director, the General Counsel, and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

"SEC. 203. FUNCTIONS.

"(a) PRIMARY FUNCTIONS.—The primary functions of the Commission are—

"(1) to protect the health, safety, and general interests of boxers consistent with the provisions of this Act; and

"(2) to ensure uniformity, fairness, and integrity in professional boxing.

"(b) SPECIFIC FUNCTIONS.—The Commission shall—

"(1) administer title I of this Act;

"(2) promulgate uniform standards for professional boxing in consultation with the Association of Boxing Commissions;

"(3) except as otherwise determined by the Commission, oversee all professional boxing matches in the United States;

"(4) work with the boxing commissions of the several States and tribal organizations—

"(A) to improve the safety, integrity, and professionalism of professional boxing in the United States;

"(B) to enhance physical, medical, financial, and other safeguards established for the protection of professional boxers; and

"(C) to improve the status and standards of professional boxing in the United States;

"(5) ensure, in cooperation with the Attorney General (who shall represent the Commission in any judicial proceeding under this Act), the chief law enforcement officer of the several States, and other appropriate officers and agencies of Federal, State, and local government, that Federal and State laws applicable to professional boxing matches in the United States are vigorously, effectively, and fairly enforced;

"(6) review boxing commission regulations for professional boxing and provide assistance to such authorities in meeting minimum standards prescribed by the Commission under this title;

"(7) serve as the coordinating body for all efforts in the United States to establish and maintain uniform minimum health and safety standards for professional boxing;

"(8) if the Commission determines it to be appropriate, publish a newspaper, magazine, or other publication and establish and maintain a website consistent with the purposes of the Commission;

"(9) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5, United States Code, at rates the Commission determines to be reasonable; and

"(10) promulgate rules, regulations, and guidance, and take any other action necessary and proper to accomplish the purposes of, and consistent with, the provisions of this title.

"(c) PROHIBITIONS.—The Commission may not—

"(1) promote boxing events or rank professional boxers; or

"(2) provide technical assistance to, or authorize the use of the name of the Commission by, boxing commissions that do not comply with requirements of the Commission.

"(d) USE OF NAME.—The Commission shall have the exclusive right to use the name 'United States Boxing Commission'. Any person who, without the permission of the Commission, uses that name or any other exclusive name, trademark, emblem, symbol, or insignia of the Commission for the purpose of inducing the sale or exchange of any goods or services, or to promote any exhibition, performance, or sporting event, shall be subject to suit in a civil action by the Commission for the remedies provided in the Act of July 5, 1946 (commonly known as the 'Trademark Act of 1946'; 15 U.S.C. 1051 et seq.).

"SEC. 204. LICENSING AND REGISTRATION OF BOXING PERSONNEL.

"(a) LICENSING.—

"(1) REQUIREMENT FOR LICENSE.—No person may compete in a professional boxing match or serve as a boxing manager, boxing promoter, or sanctioning organization for a professional boxing match except as provided in a license granted to that person under this subsection.

"(2) APPLICATION AND TERM.—

"(A) IN GENERAL.—The Commission shall—

"(i) establish application procedures, forms, and fees;

"(ii) establish and publish appropriate standards for licenses granted under this section; and

"(iii) issue a license to any person who, as determined by the Commission, meets the standards established by the Commission under this title.

"(B) DURATION.—A license issued under this section shall be for a renewable—

"(i) 4-year term for a boxer; and

"(ii) 2-year term for any other person.

"(C) PROCEDURE.—The Commission may issue a license under this paragraph through boxing commissions or in a manner determined by the Commission.

"(b) LICENSING FEES.—

"(1) AUTHORITY.—The Commission may prescribe and charge reasonable fees for the licensing of persons under this title. The Commission may set, charge, and adjust varying fees on the basis of classifications of persons, functions, and events determined appropriate by the Commission.

"(2) LIMITATIONS.—In setting and charging fees under paragraph (1), the Commission shall ensure that, to the maximum extent practicable—

"(A) club boxing is not adversely effected;

"(B) sanctioning organizations and promoters pay comparatively the largest portion of the fees; and

"(C) boxers pay as small a portion of the fees as is possible.

"(3) COLLECTION.—Fees established under this subsection may be collected through boxing commissions or by any other means determined appropriate by the Commission.

"SEC. 205. NATIONAL REGISTRY OF BOXING PERSONNEL.

"(a) REQUIREMENT FOR REGISTRY.—The Commission shall establish and maintain (or authorize a third party to establish and maintain) a unified national computerized registry for the collection, storage, and retrieval of information related to the performance of its duties.

"(b) CONTENTS.—The information in the registry shall include the following:

"(1) BOXERS.—A list of professional boxers and data in the medical registry established under section 114 of this Act, which the Commission shall secure from disclosure in accordance with the confidentiality requirements of section 114(c).

"(2) OTHER PERSONNEL.—Information (pertinent to the sport of professional boxing) on boxing promoters, boxing matchmakers, boxing managers, trainers, cut men, referees, boxing judges, physicians, and any other personnel determined by the Commission as performing a professional activity for professional boxing matches.

"SEC. 206. CONSULTATION REQUIREMENTS.

"The Commission shall consult with the Association of Boxing Commissions—

"(1) before prescribing any regulation or establishing any standard under the provisions of this title; and

"(2) not less than once each year regarding matters relating to professional boxing.

"SEC. 207. MISCONDUCT.

"(a) SUSPENSION AND REVOCATION OF LICENSE OR REGISTRATION.—

"(1) AUTHORITY.—The Commission may, after notice and opportunity for a hearing, suspend or revoke any license issued under this title if the Commission finds that—

"(A) the license holder has violated any provision of this Act;

"(B) there are reasonable grounds for belief that a standard prescribed by the Commission under this title is not being met, or that bribery, collusion, intentional losing, racketeering, extortion, or the use of unlawful threats, coercion, or intimidation have occurred in connection with a license; or

"(C) the suspension or revocation is necessary for the protection of health and safety or is otherwise in the public interest.

"(2) PERIOD OF SUSPENSION.—

"(A) IN GENERAL.—A suspension of a license under this section shall be effective for a period determined appropriate by the Commission except as provided in subparagraph (B).

"(B) SUSPENSION FOR MEDICAL REASONS.—In the case of a suspension or denial of the license of a boxer for medical reasons by the Commission, the Commission may terminate the suspension or denial at any time that a physician certifies that the boxer is fit to participate in a professional boxing match. The Commission shall prescribe the standards and procedures for accepting certifications under this subparagraph.

"(3) PERIOD OF REVOCATION.—In the case of a revocation of the license of a boxer, the revocation shall be for a period of not less than 1 year.

"(b) INVESTIGATIONS AND INJUNCTIONS.—

"(1) AUTHORITY.—The Commission may—

"(A) conduct any investigation that it considers necessary to determine whether any person has violated, or is about to violate, any provision of this Act or any regulation prescribed under this Act;

"(B) require or permit any person to file with it a statement in writing, under oath or otherwise as the Commission shall determine, as to all the facts and circumstances concerning the matter to be investigated;

"(C) in its discretion, publish information concerning any violations; and

"(D) investigate any facts, conditions, practices, or matters to aid in the enforcement of the provisions of this Act, in the prescribing of regulations under this Act, or in securing information to serve as a basis for recommending legislation concerning the matters to which this Act relates.

"(2) Powers.—

"(A) In general.—For the purpose of any investigation under paragraph (1) or any other proceeding under this title—

"(i) any officer designated by the Commission may administer oaths and affirmations, subpoena or otherwise compel the attendance of witnesses, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records the Commission considers relevant or material to the inquiry; and

"(ii) the provisions of sections 6002 and 6004 of title 18, United States Code, shall apply.

"(B) Witnesses and evidence.—The attendance of witnesses and the production of any documents under subparagraph (A) may be required from any place in the United States, including Indian land, at any designated place of hearing.

"(3) Enforcement of subpoenas.—

"(A) Civil action.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may file an action in any district court of the United States within the jurisdiction of which an investigation or proceeding is carried out, or where that person resides or carries on business, to enforce the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records. The court may issue an order requiring the person to appear before the Commission to produce records, if so ordered, or to give testimony concerning the matter under investigation or in question.

"(B) Failure to obey.—Any failure to obey an order issued by a court under subparagraph (A) may be punished as contempt of that court.

"(C) Process.—All process in any contempt case under subparagraph (A) may be served in the judicial district in which the person is an inhabitant or in which the person may be found.

"(4) Evidence of criminal misconduct.—

"(A) In general.—No person may be excused from attending and testifying or from producing books, papers, contracts, agreements, and other records and documents before the Commission, in obedience to the subpoena of the Commission, or in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of that person may tend to incriminate the person or subject the person to a penalty or forfeiture.

"(B) Limited immunity.—No individual may be prosecuted or subject to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning the matter about which that individual is compelled, after having claimed a privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

"(5) Injunctive relief.—If the Commission determines that any person is engaged or about to engage in any act or practice that constitutes a violation of any provision of this Act, or of any regulation prescribed under this Act, the Commission may bring an action in the appropriate district court of the United States, the United States District Court for the District of Columbia, or the United States courts of any territory or other place subject to the jurisdiction of the United States, to enjoin the act or practice, and upon a proper showing, the court shall grant without bond a permanent or temporary injunction or restraining order.

"(6) Mandamus.—Upon application of the Commission, the district courts of the United States, the United States District Court for the District of Columbia, and the United States courts of any territory or other place subject to the jurisdiction of the United States, shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this Act or any order of the Commission.

"(c) Intervention in Civil Actions.—

"(1) In general.—The Commission, on behalf of the public interest, may intervene of right as provided under rule 24(a) of the Federal Rules of Civil Procedure in any civil action relating to professional boxing filed in a district court of the United States.

"(2) Amicus filing.—The Commission may file a brief in any action filed in a court of the United States on behalf of the public interest in any case relating to professional boxing.

"(d) Hearings by Commission.—Hearings conducted by the Commission under this Act shall be public and may be held before any officer of the Commission. The Commission shall keep appropriate records of the hearings.

"SEC. 208. NONINTERFERENCE WITH BOXING COMMISSIONS.

"(a) Noninterference.—Nothing in this Act prohibits any boxing commission from exercising any of its powers, duties, or functions with respect to the regulation or supervision of professional boxing or professional boxing matches to the extent not inconsistent with the provisions of this Act.

"(b) Minimum Standards.—Nothing in this Act prohibits any boxing commission from enforcing local standards or requirements that exceed the minimum standards or requirements promulgated by the Commission under this Act.

"SEC. 209. ASSISTANCE FROM OTHER AGENCIES.

"Any employee of any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality may be detailed to the Commission, upon the request of the Commission, on a reimbursable or nonreimbursable basis, with the consent of the appropriate authority having jurisdiction over the employee. While so detailed, an employee shall continue to receive the compensation provided pursuant to law for the employee's regular position of employment and shall retain, without interruption, the rights and privileges of that employment.

"SEC. 210. REPORTS.

"(a) Annual Report.—The Commission shall submit a report on its activities to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce each year. The annual report shall include—

"(1) a detailed discussion of the activities of the Commission for the year covered by the report; and

"(2) an overview of the licensing and enforcement activities of the State and tribal organization boxing commissions.

"(b) Public Report.—The Commission shall annually issue and publicize a report of the Commission on the progress made at Federal and State levels and on Indian lands in the reform of professional boxing, which shall include comments on issues of continuing concern to the Commission.

"(c) First Annual Report on the Commission.—The first annual report under this title shall be submitted not later than 2 years after the effective date of this title.

"SEC. 211. INITIAL IMPLEMENTATION.

"(a) Temporary Exemption.—The requirements for licensing under this title do not apply to a person for the performance of an activity as a boxer, boxing judge, or referee, or the performance of any other professional activity in relation to a professional boxing match, if the person is licensed by a boxing commission to perform that activity as of the effective date of this title.

"(b) Expiration.—The exemption under subsection (a) with respect to a license issued by a boxing commission expires on the earlier of—

"(1) the date on which the license expires; or

"(2) the date that is 2 years after the date of the enactment of the Professional Boxing Amendments Act of 2005.

"SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—There are authorized to be appropriated for the Commission for each fiscal year such sums as may be necessary for the Commission to perform its functions for that fiscal year.

"(b) Receipts Credited as Offsetting Collections.—Notwithstanding section 3302 of title 31, United States Code, any fee collected under this title—

"(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

"(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

"(3) shall remain available until expended.".

(b) Conforming Amendments.—

(1) PBSA.—The Professional Boxing Safety Act of 1996, as amended by this Act, is further amended—

(A) by amending section 1 to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) Short Title.—This Act may be cited as the 'Professional Boxing Safety Act'.

"(b) Table of Contents.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Definitions.

"TITLE I—PROFESSIONAL BOXING SAFETY

"Sec. 101. Purposes.
"Sec. 102. Approval or sanction requirement.
"Sec. 103. Safety standards.
"Sec. 104. Registration.
"Sec. 105. Review.
"Sec. 106. Reporting.
"Sec. 107. Contract requirements.
"Sec. 108. Protection from coercive contracts.
"Sec. 109. Sanctioning organizations.
"Sec. 110. Required disclosures to State boxing commissions by sanctioning organizations.
"Sec. 111. Required disclosures by promoters and broadcasters.
"Sec. 112. Medical registry.
"Sec. 113. Confidentiality.
"Sec. 114. Judges and referees.

"Sec. 115. Conflicts of interest.
"Sec. 116. Enforcement.
"Sec. 117. Professional boxing matches conducted on Indian lands.
"Sec. 118. Relationship with State or Tribal law.

"TITLE II—UNITED STATES BOXING COMMISSION

"Sec. 201. Purpose.
"Sec. 202. United States Boxing Commission.
"Sec. 203. Functions.
"Sec. 204. Licensing and registration of boxing personnel.
"Sec. 205. National registry of boxing personnel.
"Sec. 206. Consultation requirements.
"Sec. 207. Misconduct.
"Sec. 208. Noninterference with boxing commissions.
"Sec. 209. Assistance from other agencies.
"Sec. 210. Reports.
"Sec. 211. Initial implementation.
"Sec. 212. Authorization of appropriations.";

(B) by inserting before section 3 the following:

"TITLE I—PROFESSIONAL BOXING SAFETY";

(C) by redesignating sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, and 22 as sections 101 through 118, respectively;

(D) by striking subsection (a) of section 113, as redesignated, and inserting the following:

"(a) IN GENERAL.—Except to the extent required in a legal, administrative, or judicial proceeding, a boxing commission, an Attorney General, or the Commission may not disclose to the public any matter furnished by a promoter under section 111.";

(E) by striking "section 13" in subsection (b) of section 113, as redesignated, and inserting "section 111";

(F) by striking "9(b), 10, 11, 12, 13, 14, or 16," in paragraph (1) of section 116(b), as redesignated, and inserting "107, 108, 109, 110, 111, or 114,";

(G) by striking "9(b), 10, 11, 12, 13, 14, or 16" in paragraph (2) of section 116(b), as redesignated, and inserting "107, 108, 109, 110, 111, or 114";

(H) by striking "section 17(a)" in subsection (b)(3) of section 116, as redesignated, and inserting "section 115(a)";

(I) by striking "section 10" in subsection (e)(3) of section 116, as redesignated, and inserting "section 108"; and

(J) by striking "of this Act" each place it appears in sections 101 through 120, as redesignated, and inserting "of this title".

(2) COMPENSATION OF MEMBERS.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Members of the United States Boxing Commission.".

SEC. 22. STUDY AND REPORT ON DEFINITION OF PROMOTER.

(a) STUDY.—The United States Boxing Commission shall conduct a study on how the term "promoter" should be defined for purposes of the Professional Boxing Safety Act.

(b) HEARINGS.—As part of that study, the Commission shall hold hearings and solicit testimony at those hearings from boxers, managers, promoters, premium, cable, and satellite program service providers, hotels, casinos, resorts, and other commercial establishments that host or sponsor professional boxing matches, and other interested parties with respect to the definition of that term as it is used in the Professional Boxing Safety Act.

(c) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the study conducted under subsection (a). The report shall—

(1) set forth a proposed definition of the term "promoter" for purposes of the Professional Boxing Safety Act; and

(2) describe the findings, conclusions, and rationale of the Commission for the proposed definition, together with any recommendations of the Commission, based on the study.

SEC. 23. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) 1-YEAR DELAY FOR CERTAIN TITLE II PROVISIONS.—Sections 205 through 212 of the Professional Boxing Safety Act of 1996, as added by section 21(a) of this Act, shall take effect 1 year after the date of enactment of this Act.

ORDERS FOR TUESDAY, MAY 10, 2005

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 tomorrow, Tuesday, May 10.

I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period for morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee and the final 30 minutes under the control of the Democratic leader or his designee; provided that following morning business, the Senate begin consideration of the conference report to accompany H.R. 1268, the Iraq-Afghanistan supplemental appropriations bill.

I further ask consent that the Senate recess from 12:30 to 2:15 for the weekly party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Tomorrow, following morning business, the Senate will begin consideration of the supplemental appropriations conference report. Several Members have indicated a desire to speak on the conference report. I encourage anyone who wishes to speak to contact the managers at this time. It is my expectation that we will be able to lock in a short time agreement tomorrow morning. Senators should therefore expect a vote on the conference report by early afternoon.

For the remainder of the week, we will continue consideration of the highway bill. The managers will work through amendments, and we expect to make good progress on the bill during the day tomorrow. Again, it is my intention to finish the bill by the end of the week. Senators who wish to offer amendments should inform the bill managers as soon as possible. So rollcall votes in relation to amendments to the highway bill will be expected tomorrow afternoon as well.

ORDER FOR ADJOURNMENT

Mr. McCONNELL. Mr. President, I understand there is one more Member coming over who would like to speak. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order after the remarks of Senator LAUTENBERG, who I believe is on his way, for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. In my capacity as a Senator from Louisiana, I ask unanimous consent that the quorum call be dispensed with.

Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate is adjourned until 9:45 a.m. tomorrow.

Thereupon, the Senate, at 7:10 p.m., adjourned until Tuesday, May 10, 2005, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate May 9, 2005:

NATIONAL CREDIT UNION ADMINISTRATION

RODNEY E. HOOD, OF NORTH CAROLINA, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR A TERM EXPIRING APRIL 10, 2009, VICE DENNIS DOLLAR, RESIGNED.

DEPARTMENT OF COMMERCE

JOHN J. SULLIVAN, OF MARYLAND, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE, VICE THEODORE WILLIAM KASSINGER, RESIGNED.

DEPARTMENT OF ENERGY

JILL L. SIGAL, OF WYOMING, TO BE ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS), VICE RICK A. DEARBORN.

DEPARTMENT OF THE INTERIOR

R. THOMAS WEIMER, OF COLORADO, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR, VICE PATRICIA LYNN SCARLETT.

DEPARTMENT OF STATE

JAMES M. DERHAM, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUATEMALA.

ROBERT JOHANN DIETER, OF COLORADO, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BELIZE.

ZALMAY KHALILZAD, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO IRAQ.

RODOLPHE M. VALLEE, OF VERMONT, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF

THE UNITED STATES OF AMERICA TO THE SLOVAK REPUBLIC.

DEPARTMENT OF VETERANS AFFAIRS

JAMES PHILIP TERRY, OF VIRGINIA, TO BE CHAIRMAN OF THE BOARD OF VETERANS' APPEALS FOR A TERM OF SIX YEARS, VICE ELIGAH DANE CLARK, TERM EXPIRED.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED. FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

CHARLES W. HOWELL, OF WASHINGTON
PATRICIA L. RADER, OF MARYLAND

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS TWO, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

KAREN R. HUNTER, OF TENNESSEE
TERESA L. MCGHIE, OF NEVADA
KIM ANNE ROBINSON, OF PENNSYLVANIA
MONICA SMITH, OF NEW YORK
LITTLETON WALTER TAZEWELL, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

REED J. AESCHILIMAN, OF WASHINGTON
JIM NELSON BARNHART, JR., OF GEORGIA
ROBERT MICHAEL BIRKENES, OF WEST VIRGINIA
DAVID G. BROWN, OF MARYLAND
CARYLE CAMMISA, OF MARYLAND
LAURIE DE FREESE, OF VIRGINIA
NATASHA M. DE MARCKEN, OF MINNESOTA
ELIZABETH A. DRABANT, OF VIRGINIA
AMR H. ELATTAR, OF CALIFORNIA
MERVYN ELLIS, OF NEW YORK
ANDREW J. KARAS, OF CONNECTICUT
SEPIDEH KEYVANSHAD, OF ILLINOIS
REBECCA LATORRACA, OF THE DISTRICT OF COLUMBIA
JO LESSER OLTHETEN, OF ARIZONA
CATIE LOTT, OF WASHINGTON
SANDRA K. MINKEL, OF NEVADA
STEVEN GEHALE OLIVE, OF FLORIDA
JOHN D. SMITH-SREEN, OF FLORIDA
SUNIL SEBASTIAN XAVIER, OF CALIFORNIA
BRIAN S. CONKLIN, OF CALIFORNIA
DANIEL LEE DRIGGERS, OF TEXAS
JILL DIANE KELLEY, OF FLORIDA
KIMBERLY ANNE ROSEN, OF PENNSYLVANIA
RYAN G. WASHBURN, OF FLORIDA
SHIRLEY D. HOFFMAN, OF VIRGINIA
JOANN FELDMAN LAWRENCE, OF FLORIDA
WILLIAM M. PATTERSON, OF VIRGINIA
ROBERT M. PEDRAZA, OF TEXAS

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

BISOLA OJIKUTU, OF WASHINGTON

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED: CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

DINAH M. MCDOUGALL, OF TEXAS

DEPARTMENT OF STATE

AMANDA MARGARET ANDERSON, OF VIRGINIA
GARY B. APPLEGARTH, OF THE DISTRICT OF COLUMBIA
JOHN W. BARBIAN, OF WISCONSIN
MARISA W. BARTHEL, OF VIRGINIA
PAMELA BENTLEY, OF THE DISTRICT OF COLUMBIA
THEODOR T. BIERSCHENK, OF VIRGINIA
SAAD SYED BOKHARI, OF COLORADO
MATTHEW HAWES BOLAND, OF NEW JERSEY
AMY M. CANNING, OF NEW YORK
MELISSA CARLSON, OF THE DISTRICT OF COLUMBIA
DAVID RAY CAUDILL, JR., OF OHIO
JEREMY H. CHEN, OF MARYLAND
KRISTEN MAREE CLEARY, OF NEW YORK
ERIC M. COLLINGS, OF VIRGINIA
RICHARD D. CRANDELL, OF VIRGINIA
MYCA R. CRAVEN, OF WASHINGTON
ADAM NELSON DAVIS, OF MINNESOTA
CARLISLE RAGLAND DAVIS III, OF NEW YORK
THOMAS COLLEY EATON, OF VIRGINIA
JOSEPH W. ELLIS, OF VIRGINIA
BRIAN S. EUBANK, OF VIRGINIA
GREGORY A. FLOYD, OF CALIFORNIA
YURI K. FOREHAND, OF MARYLAND
NEWTON JEFFREY GASKILL, OF TEXAS
MATILDA F. GAWF, OF TEXAS
ATHEENA RENEE GEIGER, OF MARYLAND
LOREN B. GIALLANELLA, OF MASSACHUSETTS
MICHAEL J. GREER, OF TEXAS
ROBERT C. HANSEN, JR., OF NORTH CAROLINA
BETH ANN BOWDEN HERBOLICH, OF ARIZONA
JERRY W. HILL, JR., OF WEST VIRGINIA
MICHELLE L. HOYT, OF VIRGINIA
WILLIAM F. HURST, OF VIRGINIA
MELODY A. HUSLAGE, OF FLORIDA
RYAN B. HUSTON, OF VIRGINIA
SARAH ELIZABETH HUTCHISON, OF VIRGINIA
ERIK C. JORGENSEN, OF VIRGINIA
SCOTT D. JUDAH, OF MARYLAND
KRISTEN M. KATZER, OF MARYLAND
R. DAVID KITCHEN, OF VIRGINIA
JEFFREY M. KLEM, OF VIRGINIA
JENNIFER G. KOELM, OF VIRGINIA
LISA SHIH-YUN LIAO, OF NEW YORK
TYLER A. LONG, OF VIRGINIA
JENNIFER L. LUDDERS, OF IDAHO
DIANA J. LUTS, OF VIRGINIA
SUZANNE S. MCGUIRE, OF VIRGINIA
GRETCHEN M. MCKEEVER, OF VIRGINIA
RORY JAMES MCLAREN, OF VIRGINIA
SAMUEL S. MIKHELSON, OF NEW JERSEY
KEITH A. MOLCHANY, OF VIRGINIA
DANIEL R. MYERS, OF OREGON
TRACY J. NABER, OF COLORADO
JENNIFER NEHEZ, OF FLORIDA
STEVEN E. OCONE, OF VIRGINIA
DERIC T. OLSCHNER, OF VIRGINIA
LEKSHMI V. PANIKER, OF VIRGINIA
JAMI L. PAPA, OF PENNSYLVANIA
AMANDA E. PERCIVAL, OF WASHINGTON
MICHELE LOUISE PETERSEN, OF VIRGINIA
JOHN E. REEVES, OF VIRGINIA
GEORGE CHARLES SALMOIRAGHI, OF VIRGINIA
SUSAN SAPP, OF VIRGINIA
LINDA SILVERMAN, OF WISCONSIN
SCOTT EDWARD SOMMERS, OF ILLINOIS
KIM MARIE STEENBERG, OF THE DISTRICT OF COLUMBIA
PAUL STEVENSON, OF NEW YORK
MATTHEW R. STOKES, OF CALIFORNIA
J. CHRISTIAN TERRY, OF VIRGINIA
CELIA THOMPSON, OF TEXAS
DEANNA L. THOMPSON, OF VIRGINIA
JONATHAN C. TURLEY, OF GEORGIA
MARK ANDREW TURNER, OF NEW HAMPSHIRE
WAYNE C. VANDERPOOL, OF VIRGINIA
CHRISTOPHER DANIEL VOGT, OF COLORADO
BRENDAN D. WALSH, OF VIRGINIA
ANDREW JONATHAN WEBSTER-MAIN, OF WASHINGTON
RHONDA WELLS, OF FLORIDA
KAREN K. WIEBELHAUS, OF VIRGINIA
PAULA CHRISTIE WIKLE, OF FLORIDA
DAPHNE T. WILLIAMSON, OF VIRGINIA
TRENT NICHOLAS WILSON, OF THE DISTRICT OF COLUMBIA
COLIN H. WOOD, OF THE DISTRICT OF COLUMBIA
AMY ELIZABETH WUEBBELS, OF ARIZONA
HECTOR U. ZUCCOLOTTO, OF THE DISTRICT OF COLUMBIA

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. KEVIN P. CHILTON, 6603

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL DANA T. ATKINS, 1173
BRIGADIER GENERAL TED F. BOWLDS, 8694
BRIGADIER GENERAL PHILIP M. BREEDLOVE, 5587
BRIGADIER GENERAL DAVID E. CLARY, 9098
BRIGADIER GENERAL DAVID M. EDGINGTON, 5942
BRIGADIER GENERAL DELWYN R. EULBERG, 8929
BRIGADIER GENERAL DAVID S. GRAY, 6354
BRIGADIER GENERAL WENDELL L. GRIFFIN, 7494
BRIGADIER GENERAL IRVING L. HALTER, JR., 3411
BRIGADIER GENERAL KEVIN J. KENNEDY, 0042
BRIGADIER GENERAL JOHN C. KOZIOL, 4047
BRIGADIER GENERAL WILLIAM T. LORD, 1920
BRIGADIER GENERAL ARTHUR B. MORRILL III, 9005
BRIGADIER GENERAL LARRY D. NEW, 2557
BRIGADIER GENERAL RICHARD Y. NEWTON III, 8008
BRIGADIER GENERAL ALLEN G. PECK, 1135
BRIGADIER GENERAL JEFFREY R. RIEMER, 4731
BRIGADIER GENERAL ERIC J. ROSBORG, 2128
BRIGADIER GENERAL DAVID J. SCOTT, 6307
BRIGADIER GENERAL MARK D. SHACKELFORD, 8403
BRIGADIER GENERAL JOHN T. SHERIDAN, 8566
BRIGADIER GENERAL GREGORY L. TREBON, 3693
BRIGADIER GENERAL JOHNNY A. WEIDA, 0541
BRIGADIER GENERAL ROY M. WORDEN, 4884

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. NEIL DIAL, 2600

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. ROBERT R. BLACKMAN, JR., 0141

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) MARK A. HUGEL, 9650

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) THOMAS K. BURKHARD, 8249

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) DONNA L. CRISP, 1255

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) MICHAEL S. ROESNER, 8965

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) DAVID J. VENLET, 0404

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) BRUCE W. CLINGAN, 5808
REAR ADM. (LH) DERWOOD C. CURTIS, 9914
REAR ADM. (LH) PETER H. DALY, 8726
REAR ADM. (LH) KENNETH W. DEUTSCH, 9948
REAR ADM. (LH) MARK T. EMERSON, 8886
REAR ADM. (LH) JEFFREY L. FOWLER, 7245
REAR ADM. (LH) GARRY E. HALL, 1756
REAR ADM. (LH) LEENDERT R. HERING, SR., 4873
REAR ADM. (LH) ALAN B. HICKS, 8932
REAR ADM. (LH) STEPHEN E. JOHNSON, 2239
REAR ADM. (LH) CARL V. MAUNEY, 8015
REAR ADM. (LH) BERNARD J. MCCULLOUGH III, 4147
REAR ADM. (LH) MICHAEL H. MILLER, 6300
REAR ADM. (LH) ALLEN G. MYERS, 2554
REAR ADM. (LH) JOSEPH A. WALSH, 7361
REAR ADM. (LH) MELVIN G. WILLIAMS, JR., 9480
REAR ADM. (LH) JAMES A. WINNEFELD, JR., 5212

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. CAROL M. POTTENGER, 3454

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. NATHAN E. JONES, 9123

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203

To be rear admiral (lower half)

CAPT. ALBERT GARCIA III, 3459

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND AS PERMANENT PROFESSOR, UNITED STATES AIR FORCE ACADEMY, UNDER TITLE 10, U.S.C., SECTIONS 9333(B) AND 9336(A):

To be colonel

MICHAEL E. VAN VALKENBURG, 2336

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 531:

To be colonel

CATHERINE D SCHOONOVER, 0438

To be lieutenant colonel

PHILIP K ABBOTT, 7802
KENNETH L BUHOLTZ, 3626
KELLY N CAMPBELL, 8749
WILLIAM T CEARLEY, 6580

JONATHAN M CROSBY, 7812
KAREN M EGGERT, 7746
ROBERT S KEATING, 8047
GARY E REISENWITZ, 6924
ROBERT B ROBBINS, 8415
VICTOR J SARNA, 9763
CHARLES W SCHIEFFER, 6391
SHERRILL R SINK, 8533
FRANCIS J SMITH, JR, 7572
STEPHEN M TOBIN, 4334

To be major

ELIZABETH M ADAMS, 2437
HOLTORF R ALONSO, 2946
WILLIAM J BARNETT, 8743
PAUL G BELOBRAJDIC, 5580
THOMAS M BISCHOF, 7201
MICHAEL A BOEHME, 0043
ADRIAN T BOGART III, 9812
RONALD L BOLTON, JR, 7490
WILLIAM W BOUCHER, 3977
ROBERT J BRINKMANN, 5238
MICHAEL G CHAPPELL, 3725
EDWIN J CRUZ, 8914
DOUGLAS J DAVIDS, 1636
BRADLEY K DREYER, 4444
RONNY E ECHELBERGER, 6315
JEFFREY K ERRON, 5044
RODNEY D FAUST, 5579
KARL L FRANKE, 8173
GREG W GAUNTLETT, 0937
KATHERINE J GRAEF, 2715
PETER J HABIC, 8936
JOSEPH A HARVEY, 8118
DOUGLAS C HOENIG, 1345
CLIFFORD M HOPPMAN, 1995
ROBERT F JEAN, 6166
MONROE C JONES, 4645
LAWRENCE D KATZ, 6536
GARY W KING, 2627
JOHN S KING, 0786
MICHAEL K KING, 3482
EDWARD M LAWSON, 7830
FRANK W MAUDIE, 0493
MICHAEL C MCCALL, 5604
MICHAEL C MCCURRY II, 8227
JOEL W MILLER, 6554
RUSSELL S MILLER, 1280
THOMAS B MURPHREE, 4464
WILLIAM J NOONAN, JR, 6927
QUINCY E NORMAN, 1331
JOYCE M OAKLEY, 9799
DORT B PAYNE, 5541
LAHN M PITCHFORD, 3845
KAREN L PUSCHUS, 0613
RUSSELL N REILING, JR, 2906
DINO J SARRACINO, 6134
BRUCE T SHATTUCK, 1720
DAVID P SHINES, 9206
CHRISTOPHER P SLYMAN, 1650
ROCCIE A SOSCIA, 9343
BERNHARD SPOERRI, 8209
TROY D STEBBINS, 8177
JOAN T SWEENY, 1260
JACQUELINE R TREGRE, 5489
KEVIN J WARREN, 9052
ANDREW K WATSON, 8858
LISA M WEIDE, 8994
FREDERICK P WELLMAN, 8133
PAUL D WERNER, 0943
THOMAS N WHITAKER, 1828
VINCENT M YZNAGA, 7277

EXTENSIONS OF REMARKS

IN HONOR OF THE DEDICATION OF THE GERALD SCHOENFELD AND BERNARD B. JACOBS THEATRES ON BROADWAY

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 9, 2005

Mr. NADLER. Mr. Speaker, I rise today to congratulate Gerald Schoenfeld and, posthumously, Bernard B. Jacobs on the occasion of the dedication of the Schoenfeld and Jacobs Theatres on Broadway. For over 20 successful years, Schoenfeld and Jacobs ran the Shubert Organization, America's oldest professional theatre company, as Chairman and President. With today's dedication, they are being honored with one of Broadway's most cherished and esteemed accolades.

Over the last 103 years, the Shubert Organization has owned hundreds of theatres and produced hundreds of plays and musical. Since the 1980s, the company's ticketing service has grown to become the leading ticket provider in New York City's thriving theatre industry. Founded at the end of the 19th century, three brothers, Sam, Lee and Jacob J. Shubert, from Syracuse, New York, founded the organization. Today, the Shubert Organization owns and/or operates 16 Broadway theatres and one Off-Broadway theatre in New York City, as well as theatres in Boston, Philadelphia, and Washington, DC.

Bernard B. Jacobs was born in New York City in 1916. In his long career on Broadway, he produced hundreds of plays, and was nominated for and won numerous Tony Awards. In 1996, the Shubert Organization lost its beloved and much admired President, and he was posthumously honored with the Special Tony Award for Lifetime Achievement in 1997.

Today, the Shubert Organization continues to thrive under the chairmanship of Gerald Schoenfeld. Schoenfeld was born in New York in 1924, and in his career has enjoyed tremendous success on Broadway. He is also deeply committed to the betterment of the City of New York, and is an active participant in civic affairs. Schoenfeld, with his former colleague, has produced hundreds of successful plays, and his been nominated for and won dozens of Tony Awards.

Under the leadership of Schoenfeld and Jacobs, the Shubert Organization was reorganized into the powerhouse it is today. Over the past three decades, the organization has dedicated its energies and resources to a long-term campaign for the revitalization of the American theatre. Its many projects have included the refurbishment of all Shubert playhouses, devoted participation in civic and community affairs, and a continuing effort to rehabilitate the Times Square Theatre District.

Today, May 9, 2005, I am pleased to join the Schoenfeld and Jacobs families, along with Hugh Jackman, Dame Edna Everage, and the cast of the Broadway hit "Avenue Q" as the Shubert Organization dedicates the Gerald Schoenfeld and Bernard B. Jacobs Theatres.

For their commitment to the theatre, their passion for the arts, and their efforts to better the lives of all New Yorkers, I congratulate and honor the Shubert Organization, and specifically Gerald Schoenfeld, and Bernard B. Jacobs, here today.

HONORING LESLIE BURGER

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, May 9, 2005

Mr. HOLT. Mr. Speaker, I rise today to congratulate Leslie Burger, who was recently elected president of the American Library Association. Ms. Burger will serve for two years, as president-elect from July 2005 through June 2006, and then will take over as president of the ALA until 2007.

The American Library Association is a Chicago-based organization with more than 64,000 members. Established in 1876, the ALA offers leadership for the development, promotion, and improvement of libraries and librarians, to advance learning and guarantee access to information for everyone.

Leslie Burger is well prepared to serve as president of the ALA. She received a master's degree in organizational behavior from the University of Hartford, and a master's in library science from the University of Maryland—College Park, following graduation from Southern Connecticut State College. During her already accomplished career, she has continually fought to enhance and modernize libraries. Through her work at the Library Development Solutions, a firm which she founded over 10 years ago she has been a leader in integrating technology and developing new programs to keep libraries around the country up to date.

Leslie has been the director of the Princeton Public Library since 1999 in my district in New Jersey. Leslie was instrumental in securing funding for a new library in Princeton which opened over a year ago. She is a tireless worker in raising support (and funds) for the new building and services for the library. She has spent time working the "front line" of the library, where she works with patrons of all ages. She has reached out to underserved individuals by implementing new programs such as computer instruction in multiple languages and diverse cultural programming. Leslie also served as president of the New Jersey Library Association from 2001–2002.

Leslie has great plans for the future of the ALA. She hopes to improve salaries for librarians and other library workers, as well as modernize libraries so they are well equipped for the new technologies of the 21st century. She plans to fight against proposed library closings and cutbacks and extend the Campaign for America's Libraries. As president of ALA, she will ensure equal access for all individuals to library services and continue to develop diverse educational programming for patrons.

Leslie Berger has worked hard providing important services to residents of Central New Jersey. I am sure all my colleagues join me in congratulating Leslie Berger on her election as president of the American Library Association. I have no doubt that she will continue to be a great advocate for libraries and library workers nationwide.

HONORING THE CONTRIBUTIONS OF MRS. WILLIE STEPHENITCH

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 9, 2005

Mr. PORTER. Mr. Speaker, I rise today to honor the contributions of Mrs. Willie Stephenitch to the State of Nevada. Mrs. Stephenitch has been recently named one of eight national recipients of the "Making a Difference" award by the Bureau of Land Management. Mrs. Stephenitch has volunteered for Friends of Red Rock Canyon for many years and has been instrumental in preserving the Red Rock Canyon National Conservation Area for future generations.

Some examples of the hands-on approach Mrs. Stephenitch has taken include extensive educational outreach regarding Red Rock Canyon; the design and development of "Trash Bash Day," a semi-annual clean-up event; and aiding in the coordination of Red Rock Canyon's annual "Tortoise Trot" trail run.

Red Rock Canyon is one of Nevada's crown jewels, and I thank Mrs. Stephenitch for her hard work and dedication in helping to increase community awareness and involvement for the protection of this area. Her enthusiasm and love for public lands has been felt by thousands of area residents and visitors and should serve as an example for Americans to live by.

Thank you for your hard work, Mrs. Stephenitch.

CHRISTY REID

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 9, 2005

Mr. OTTER. Mr. Speaker, I rise today to draw the attention of the House of Representatives to an individual from my district whose

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

creativity and vision have brought due accolades to both herself and the great State of Idaho.

Christy Reid was chosen out of the Nation of fifth graders as the winner of the National Arbor Day Poster Contest. Her beautiful artwork will now represent the National Arbor Day Foundation all year long. She has been honored in our home state of Idaho, in Nebraska City—the home of Arbor Day—as well as in Washington, DC.

Not only is Christy's artistic talent on display in the posters, but she also had the honor of planting a tree in the National Botanical Gardens. As this tree grows, surely so will Christy's talent and her excellent representation of the many things that Idaho has to offer. I hope the House will join me in acknowledging Christy's achievement.

MOURNING THE PASSING OF REPRESENTATIVE JOE. E. MORENO, TEXAS STATE HOUSE OF REPRESENTATIVES—DISTRICT 143

HON. AL GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 9, 2005

Mr. AL GREEN of Texas. Mr. Speaker, my heart is heavy as I pause today to pay tribute to my colleague and an outstanding public servant, Joe Moreno who died tragically this past Friday, May 6, 2005.

A native of Houston, Texas, Mr. Moreno represented District 143 in the Texas State House for more than seven years after being elected with overwhelming grassroots support in November, 1998. A graduate of St. Thomas High School, he attended St. Thomas University and Texas Southern University. His unexpected death leaves a huge void in the lives of all of us who knew and respected him. As a dedicated community activist, Representative Moreno will be remembered as a champion who never wavered in his commitment to improving the lives of his constituents. An active member of the Resurrection Catholic Church, the Harris County Tejano Democrats and the League of United Latin American Citizens Council, Joe was awarded the prestigious title of "Legislator of the Year" in 2003 in recognition of his skills as a Member of the State House of Representatives.

Mr. Speaker, throughout his career, Representative Moreno has been honored by the Coalition of Texans with Disabilities, the East Harris County Manufacturing Association, the Houston Gulf Coast Chapter of the Labor Council for Latin American Advancement and the Hispanic Contractor's Association of the Greater Houston Area, Inc. During the 79th Legislative Session, he served on the Juvenile Justice and Family Issues Committee as well as the Borders and International Affairs Committee.

Finally, Mr. Speaker, this is a sad day, and I hope my colleagues will join me in saluting Joe Moreno, a pillar of the community whose contributions will not be forgotten.

THE INTERWOVEN VALUES OF FREEDOM AND MARKETS

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 9, 2005

Mr. MANZULLO. Mr. Speaker, in today's times, we often find that the principle values and activities of the United States are under attack. Too few defenses are offered against such attacks, even if they question the very fundamentals of how we live and work. It is therefore helpful and encouraging to see when someone takes this responsibility seriously. Here are some thoughts of Professor Michael R. Czinkota of Georgetown University who professes his belief on how to advance the cause of freedom.

ON FREEDOM AND INTERNATIONAL MARKETING

(By Michael R. Czinkota)

THE ISSUE OF FREEDOM

You may ask what freedom has to do with international marketing. Freedom is about options. If there is no alternative, there is no freedom. A true alternative provides the opportunity to make a decision, to exercise virtue. In the blaze of the klieg lights, it is easy to make the "right" decision. That's not an exercise in virtue, because real alternatives are effectively removed. The true selection among alternatives takes place in the darkness of night when nobody is looking.

The focus and aim of international marketing is on crossing borders. The goal is to provide more than one choice for customers, letting them pick from a selection of options in order to maximize their satisfaction. International marketing does so in all comers of the globe, the glamorous ones as well as in the small and remote ones where the efforts are not seen by others. By operating both in the limelight and also well outside of it, international marketing offers the freedom to exercise virtue both to the seller and the buyer—be it in decisions of supplying or purchasing, pricing or selecting.

Another key dimension of freedom is not to confine, allowing people to go outside of the box. As a concept, freedom knows no international boundaries. But national borders usually are the box where business and government find their limits. Such borders are a mere point of transition for international marketing. The discipline thrives on understanding of how to successfully cross national borders, on coping with the differences once the crossing is done, and on profitably reconciling any conflicts.

International marketing contains the freedom of almost unlimited growth potential. Activities confined to domestic borders may well run into limits of expansion. International market opportunities relax these limits quickly. Instead of restrictions, the international marketing paradigm encourages the stripping away of restraints: instead of limitations, there is the encounter of opportunity.

Freedom also means not being forced to do something one does not want to do (Hayek, 1971). There are economic migration pressures that force people to move from their rural homes into urban areas or from their developing countries into industrialized ones. Industrialized nations, in turn, speak about immigration pressure. For both sides, little if any freedom is involved here. Most individuals who do the moving would much rather stay home but cannot afford to do so due to economic exigencies. The recipient countries might not want to welcome the migrants but do so in response to political and humanitarian pressures. International marketing may have been part of what triggered some of these migrations, but it also can be instrumental in stemming the tide. It can provide the economic opportunity for individuals at home so that they need not migrate. Thus, it lets individuals become productive contributors to the global economy free from pressures to shift locations.

When the long-standing rivalry between socialism and market orientation was resolved, market forces and the recognition of demand and supply directly affected human rights and the extent of freedom. With all humility and gratefulness we can conclude: Markets were right! In country after country, market forces have demonstrated typically greater efficiency and effectiveness in their ability to satisfy the needs of people.

International marketing has been instrumental in stimulating these newly emerging market forces. In spite of complaints about the slowness of change, the insufficiency of wealth redistribution, and the inequities inherent in societal upheavals, a large majority of participants in market-oriented changes are now better off than they were before. Without the transition provided by international marketing, these changes would not have come about that swiftly.

THE COST OF FREEDOM

One keeps healing about the large segment of the world population that is poor and therefore supposedly excluded from any international marketing efforts; the World Bank's former president called them the 3 billion $2–a-day poor (Wolfensohn, 2001). By contrast, international marketers see them as an attractive $6 billion-a-day opportunity for valuable exchanges!

What's more is that international marketing provides the opportunity to acquire resources without the deployment of force. Why fight if you can trade? Countries that have been historic enemies such as France, England and Germany are now all united in their close collaboration through international marketing. (Farmer, 1987) The field is, therefore, at the very least contributing to freedom from war while providing additional choices for consumption.

But the cost of freedom is rising. Terms like free trade or free choice are misleading since they all come with a price, which international marketers pay in terms of preparing their shipments, scrutinizing their customers, and conforming to government regulations.

We all are paying a higher price due to global terrorism. As freedom suffers, so does international marketing. In most instances, terrorism is not an outgrowth of choice but rather the lack of it. Terrorists may succeed in reducing the freedom of others but not in increasing their own. Who is typically most affected by terrorist acts? Attacks aimed at businesses, such as the infamous bombings of U.S. franchises abroad, do not bring big corporations to their knees. The local participants, the local employees, the local investors, and the local customers are affected most. Who can protect themselves against such attacks and who can afford to protect targets? Only the more wealthy countries and companies can. They have the choice of where to place their funds, with whom to trade, and whether to hold the enemy at bay through a security bubble created by changing business fornlats via exporting or franchising. The poor players do not have choices. The local firms, the nations with economies in development, and the poor customers continue to be exposed to further acts of terrorism with very limited indigenous ability to influence events.

But international marketing can enable the disenfranchised to develop alternatives. Multinational firms can invest in the world's poorest markets and increase their own revenue while reducing poverty. With support from shareholders and the benefit of good governance, international marketers can, and should, continue in their role as social change agents. The discipline has value maximization at its heart. If it is worthwhile to fulfill the needs of large segments of people, even at low margins, then it will be done. International marketers after all have as their key desire the creation of new customers and suppliers and they are delighted when, in fulfillment of their aims, they can bring about freedom from extremes of hunger, sickness, and intolerance.

VALUE AND FREEDOM

In a global setting, freedom can take on many dimensions. Privileges and obligations that are near and dear to some may well be cheap and easily disposed of by others. The views of one society may differ from views held in other regions of the world. Such differences then account for misunderstandings, surprises, and long-term conflicts.

There are two value dimensions at work here, both of them highly relevant to international marketing. One may be circumscribed as the freedom and values of a market economy. To make them work governmental, managerial, and corporate virtue, vision, and veracity are required. Unless the world can believe in what institutions and their leaders say and do, it will be difficult to forge a global commitment between those doing the marketing and the ones being marketed to. It is therefore of vital interest to the proponents of freedom and international marketing to ensure that corruption, bribery, lack of transparency, and poor governance are exposed for their negative effects in any setting or society. The main remedy will be the collaboration of the global policy community in agreeing on what constitutes transgressions and swift punishment of the culprits involved, so that market forces can work free from distortion.

A second and even more crucial issue is the value system we use in making choices. Some years ago, the Mars Climate Orbiter mission failed spectacularly as a result of the use of different values by the mission navigation teams. One team was using metric units and the other used the English system of measurement. This mistake caused the orbiter to get too close to the atmosphere, where it was destroyed ("NASA's Metric Confusion," 1999).

There are major differences among what people value around the world. Contrasts include togetherness next to individuality, cooperation next to competition, modesty next to assertiveness, and self-effacement next to self-actualization. Often, global differences in value systems keep us apart and result in spectacularly destructive differences. How we value a life, for example, can be crucial in terms of how we treat individuals. What value we place on family, work, leisure time, or progress has a substantial effect on how we see and evaluate each other.

Cultural studies tell us that there are major differences between and even within nations. International marketing, through its linkages via goods, services, ideas, and communications, can achieve important assimilations of value systems. On the consumer side, new products offer international appeal and encourage similar activities around the world: many of us wear denim, dance the same dances, and eat pizza and sushi (Marquardt & Reynolds, 1994). It has been claimed that local product offerings help define people and provide identity and that it is the local idiosyncrasies that make people beautiful (Johansson, 2004). Some even offer the persistence of the specific breakfast habits of the English and the French as evidence of local immutability in the face of globalization (de Mooij, 1998). Yet, we should remember that values are learned, not genetically implanted. As life's experiences grow more international and more similar, so do values. Therefore, every time international marketing forges a new linkage in thinking, new progress is made in shaping a greater global commonality in values. It may well be that international marketing's ability to align global values which makes it easier for countries, companies, and individuals to build bridges between them, may eventually become the field's greatest gift to the world.

A JOINED OCCURRENCE

How do freedom and international marketing match with today's discontent so forcefully expressed by the disgruntlement of the anti-globalists? Many claim that never before in history has there been so much evidence about such strong opposition to globalization and to Americans as harbingers of international marketing.

Perhaps those making such claims are sadly mistaken. In looking at other "globalizers" in world history, such as the Vikings, the Mongols, the Tatars, and the Romans, there probably was both intellectual and physical opposition (or do we really believe that everybody enjoyed Genghis Khan?). But protest was never allowed to become very vocal, or to engage in repeated, large demonstrations or widespread pamphleteering. Due to rather harsh policies of dealing with the opposition, very few records of such resistance are available today. Consequently, comparisons with past events are difficult to make and are likely to be highly inaccurate.

Today's news is good. The nations, institutions and individuals around the world are increasingly accepting freedom as the key foundation of the good life. We are discovering that international marketing, both as a discipline and as an activity is very closely interwoven with freedom—some even call it essential. It is the freedom Thomas Aquinas saw as the means to human excellence and happiness (Weigel, 2001) which international marketing helps us reach. In reciprocal causality, freedom causes and facilitates international marketing, while international marketing is a key support of the cause of freedom. A productive symbiosis at work!

IN RECOGNITION OF JOSEPH STEFANI

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 9, 2005

Mr. CARDOZA. Mr. Speaker, it is with the greatest respect and sincerity that I rise today to honor the late Mr. Joseph Stefani. Known to many as simply "Papa Joe," he was an endearing friend, a successful businessman and beloved member of our community in Merced, California. At the age of 92, Joseph Stefani passed away on Saturday, April 16, 2005.

Joseph Stefani, a life-long resident of Merced, was the son of Italian immigrants Carlo and Annunziata Stefani. He was born October 28, 1912 on his parents' 20-acre farm on Franklin Road. He attended and graduated from Franklin Grammar School, and then continued on to Merced High School. However, before he was able to graduate, the Great Depression forced Joe to leave school in order to earn money to help pay property taxes on the family's farm.

Soon after leaving school to work as a grocery clerk, Joe was hired at the Workingmen's Clothing Store in downtown Merced. After only four years of learning the business, and at the young age of only 24, Joe opened his own store—Stefani's Sport Shop on June 1, 1936. With a lifetime of success and happiness ahead of them, Joe married his first love, Mary Gonella Stefani on February 5, 1938. In the years following, the Stefani's business expanded and prospered. They eventually opened an additional store in the Merced Mall, and in the neighboring communities of Atwater and Los Banos. After 51 years as a downtown merchant, Joe reluctantly retired in 1987. In addition to creating and maintaining a successful business, Joe and Mary created a beautiful family of three children, Bob, Larry and Kathleen.

Throughout his life, Joe Stefani remained committed to the growth of Merced and dedicated his time to countless civic and business committees including the Merced Downtown Improvement Association, and the Merced Chamber of Commerce. He was a member of the Downtown Rotary Club for more than fifty years and was a Paul Harris Fellow. His service to the community continued up to the time of his passing, as he was currently a member of many organizations including the Merced Elks Lodge, and the Italian Catholic Federation. Throughout his entire life, Joe was a devout Catholic and an active member of Our Lady of Mercy/St. Patrick's Parish. He was instrumental in the building of a new Our Lady of Mercy School which opened in 1956, and in the building of St. Patrick's Catholic Church in the 1990's. During his life he had the distinct honor of a personal audience with Pope John Paul II which serves as further evidence of his lifelong commitment to his church.

Joe was preceded in death by his beloved wife Mary, his son Bob, and his brother Angelo Stefani. He is survived by his son Larry and daughter Kathleen, both of Merced, his sister Mary Lucich of Merced, his sister Caroline Cugia of Concord, 11 grandchildren, 11 great-grandchildren, and numerous nieces and nephews.

Mr. Speaker, it is my honor and privilege to join the community of Merced in recognizing Joseph "Papa Joe" Stefani. Our community benefits greatly from the example he set throughout his lifetime of service as a successful businessman who dedicated his life to his community, his family, and his faith.

COMMENDING SUPERINTENDENT BARBARA WEST

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 9, 2005

Ms. McCOLLUM of Minnesota. Mr. Speaker, I rise to commend Barbara West, the superintendent of Voyageurs National Park, as she prepares to leave Minnesota for America's southwest. I thank her for her hard work and know that she will be missed, not only as one who has dedicated her life to preserving our nation's natural treasures, but as a friend.

Voyageurs National Park is one of the crown jewels in our national park system. It contains four large lakes covering forty percent of the park with a series of beautiful islands for one to explore. Voyageurs was named for the French-Canadian canoemen who traveled these waters in their birch-bark canoes. The park's waterways were an important stretch of the "voyageurs' highway" from the Great Lakes into the interior of the western United States and Canada.

With grace and confidence, Superintendent West has done an outstanding job of overseeing and protecting this area so future generations can enjoy its history and beauty. Minnesotans and visitors to our state have benefited from her stewardship of the park and her dedication to community and our natural resources.

Superintendent West, thank you for your years of service. I, along with many who treasure and love our national parks, wish you the very best in your new assignment at the Chaco Culture National Historic Park in New Mexico.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 10, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 11

9 a.m.

Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings to examine the Gynecologic Cancer Education and Awareness Act of 2003, to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.
SD–G50

Armed Services
Strategic Forces Subcommittee
Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for Fiscal Year 2006.
SR–222

9:30 a.m.

Indian Affairs
To hold an oversight hearing to examine Federal recognition of Indian tribes.
SD–106

Judiciary
Business meeting to consider pending calendar business.
SD–226

10 a.m.

Commerce, Science, and Transportation
To hold hearings to examine issues relating to spyware.
SR–253

Appropriations
Defense Subcommittee
To hold hearings to examine the proposed budget estimates for fiscal year 2006 for the Missile Defense Program.
SD–192

Energy and Natural Resources
To hold hearings to examine S. 895, to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe affordable, and reliable water supply to rural residents.
SD–366

Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings to examine issues relating to ALS (Lou Gehrig's Disease).
SD–G50

Armed Services
Personnel Subcommittee
Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for Fiscal Year 2006.
SR–232A

10:30 a.m.

Appropriations
Legislative Branch Subcommittee
To hold hearings to examine the proposed budget estimates for fiscal year 2006 for the Government Printing Office, the Congressional Budget Office, and the Office of Compliance.
SD–116

11:30 a.m.

Armed Services
Readiness and Management Support Subcommittee
Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for Fiscal Year 2006.
SR–222

2 p.m.

Health, Education, Labor, and Pensions
Bioterrorism and Public Health Preparedness Subcommittee
To hold hearings to examine 21st century biological threats.
SD–430

Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 100, to authorize the exchange of certain land in the State of Colorado, S. 235 and H.R. 816, bills to direct the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada, S. 404, to make a technical correction relating to the land conveyance authorized by Public Law 108–67, S. 741, to provide for the disposal of certain Forest Service administrative sites in the State of Oregon, S. 761, to rename the Snake River Birds of Prey National Conservation Area in the State of Idaho as the Morley Nelson Snake River Birds of Prey National Conservation Area in honor of the late Morley Nelson, an international authority on birds of prey, who was instrumental in the establishment of this National Conservation Area, and H.R. 486, to provide for a land exchange involving private land and Bureau of Land Management land in the vicinity of Holloman Air Force Base, New Mexico, for the purpose of removing private land from the required safety zone surrounding munitions storage bunkers at Holloman Air Force Base.
SD–366

2:30 p.m.

Armed Services
Closed business meeting to markup the proposed National Defense Authorization Act for Fiscal Year 2006.
SR–222

Foreign Relations
European Affairs Subcommittee
To hold hearings to examine the United States-European Union regulatory cooperation on emerging technologies.
SD–419

Intelligence
To hold a closed briefing on certain intelligence matters.
SH–219

MAY 12

9:30 a.m.

Armed Services
Closed business meeting to continue markup of the proposed National Defense Authorization Act for Fiscal Year 2006.
SR–222

Judiciary
Business meeting to consider pending calendar business.
SD–226

Appropriations
Transportation, Treasury, the Judiciary, and Housing and Urban Development, and Related Agencies Subcommittee
To hold hearings to examine the proposed budget estimates for fiscal year 2006 for the National Railroad Passenger Corporation (Amtrak).
SD–138

10 a.m.
Commerce, Science, and Transportation
To hold hearings to examine S. 967, to amend the Communications Act of 1934 to ensure that prepackaged news stories contain announcements that inform viewers that the information within was provided by the United States Government.
SR–253

Foreign Relations
Business meeting to consider the nominations of John Robert Bolton, of Maryland, to be the U.S. Representative to the United Nations, with the rank and status of Ambassador, and the U.S. Representative in the Security Council of the United Nations, and to be U.S. Representative to the Sessions of the General Assembly of the United Nations during his tenure of service as U.S. Representative to the United Nations.
SD–419

Veterans' Affairs
To hold hearings to examine issues relating to the planning, providing, and paying for veterans' long-term care.
SR–418

2 p.m.
Appropriations
Commerce, Justice, Science and Related Agencies Subcommittee
To hold hearings to examine the proposed budget estimates for fiscal year 2006 for the National Aeronautics and Space Administration (NASA).
SD–192

Appropriations
State, Foreign Operations, and Related Programs Subcommittee
To hold hearings to examine the proposed budget estimates for fiscal year 2006 for the Department of State and foreign operations.
SD–124

2:30 p.m.
Intelligence
Closed business meeting to consider pending intelligence matters.
SH–219

3 p.m.
Aging
To hold hearings to examine the threat of HIV affecting people over fifty.
SH–216

4 p.m.
Judiciary
To hold hearings to examine pending executive nominations.
SD–226

MAY 13

9:30 a.m.
Armed Services
Closed business meeting to continue markup of the proposed National Defense Authorization Act for Fiscal Year 2006.
SR–222

MAY 17

9:30 a.m.
Homeland Security and Governmental Affairs
Investigations Subcommittee
To resume hearings to examine the United Nations' Oil-for-Food Program, the illegal surcharges paid on Iraqi oil sales, and the nature and extent of the 2003 Khor al-Amaya incident.
SD–562

10 a.m.
Agriculture, Nutrition, and Forestry
Business meeting to consider the nominations of Thomas C. Dorr, of Iowa, to be Under Secretary of Agriculture for Rural Development, and to be a Member of the Board of Directors of the Commodity Credit Corporation.
SR–328A

Health, Education, Labor, and Pensions
Retirement Security and Aging Subcommittee
To hold hearings to examine the Older Americans Act.
SD–430

MAY 18

9:30 a.m.
Indian Affairs
To hold oversight hearings to examine issues relating to the taking of land into trust.
Room to be announced

Judiciary
To hold hearings to examine issues relating to protecting the judiciary at home and in the courthouse.
SD–226

10 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider the proposed Workforce Investment Act Amendments of 2005, and pending nominations.
SD–430

MAY 19

1 p.m.
Foreign Relations
International Economic Policy, Export and Trade Promotion Subcommittee
To hold hearings to examine the proposed Climate Change Technology Deployment in Developing Countries Act.
SD–419

MAY 24

2 p.m.
Health, Education, Labor, and Pensions
Education and Early Childhood Development Subcommittee
To hold hearings to examine issues relating to American history.
SD–430

3 p.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine money laundering and terror financing issues in the Middle East.
SD–538

MAY 25

10 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the U.S. Grain Standards Act.
SR–328A

Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

MAY 26

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine issues relating to the 21st century workplace.
SD–430

SEPTEMBER 20

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.
345 CHOB

POSTPONEMENTS

MAY 11

9:30 a.m.
Judiciary
To hold an oversight hearing to examine the effectiveness of the Federal Bureau of Investigation's translation program.
SD–226

SENATE—*Tuesday, May 10, 2005*

The Senate met at 9:45 a.m. and was called to order by the Honorable DAVID VITTER, a Senator from the State of Louisiana.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Savior, lead us today as a shepherd. Guide our lives and inspire our hearts. May the talents gathered here on Capitol Hill help in the awesome task of bringing healing to our world.

Strengthen our lawmakers as they deal with unintended needs and unsolved problems. Make them eager to lift burdens and ready to respond in service to humanity.

Help each of us to feel a bit of the responsibility for the challenges that hang heavy over our land. In Your unfailing love, give us the wisdom to follow the leading of Your powerful providence.

Blessed be Your Name forever. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DAVID VITTER led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, May 10, 2005.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID VITTER, a Senator from the State of Louisiana, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. VITTER thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will have a 1-hour period of morning business with time equally divided between the majority and minority. Following that time, the Senate will proceed to the emergency supplemental appropriations conference report. Chairman COCHRAN will manage time on our side. We hope to reach shortly a consent to limit the time necessary on the conference report. We have not had many requests for time on our side. We hope to have a reasonable period of debate prior to the vote. It looks as if the vote will occur sometime this afternoon after the policy lunch recess. We will be recessing for the policy luncheons from 12:30 to 2:15 today.

Once we complete the supplemental appropriations, we will return to the highway bill. Chairman INHOFE has been encouraging Senators to offer their amendments. I join him in that statement. Senators should not delay in offering those amendments. Please come to the floor as soon as reasonable to offer those amendments. We want to finish the highway bill this week. Again, I advise Members that the clock is ticking on this bill.

I expect rollcall votes later today on amendments to the bill. As always, we will notify all Senators as the votes are scheduled.

MIDDLE EAST VISIT

Mr. FRIST. Mr. President, last week, I had the opportunity to travel throughout the Middle East. My stops included Israel, the West Bank, Jordan, Lebanon, and Egypt. It was a fascinating and illuminating trip for me.

We saw firsthand many of the challenges facing that region. I came away with a much greater appreciation for the remarkable developments we have witnessed in that part of the world in recent months: The elections in the Palestinian Authority, the Cedar revolution in Lebanon, and the significant reforms taking place in Egypt. Progress and democracy are on the march.

Our first stop was in Jerusalem where we had the chance to explore the rich history of the old city, the heart of three of the world's major religions. We visited the Church of the Holy Sepulcher, the Temple Mount, the Western Wall. We had the opportunity to witness the site that is familiar to anyone who travels to that wonderful city of faiths. People were practicing their beliefs side by side, ways that in many ways are very different. That gives real confidence for the future when you experience it. I was truly overwhelmed, once again, by the old city's holiness and sense of history.

We met with several Israeli political leaders. Senator LIEBERMAN and I met with Prime Minister Ariel Sharon. Much of our discussion focused on that roadmap. The Prime Minister discussed with us his courageous decision to withdraw from the Gaza Strip. We discussed all of the contentious issues, issues such as those surrounding settlements. We discussed the importance of coordinating the withdrawal from the Gaza Strip with the Palestinians in order to ensure stability in the Gaza Strip and to ensure security in the Gaza Strip after the withdrawal. A lot of attention was placed on the withdrawal out of the Gaza Strip wherever we moved throughout the Middle East. I believe the Prime Minister's Gaza disengagement plan is a bold step. It is a historic step.

The success of his plan, however, will ultimately depend on the Palestinians' ability to stop terrorist acts, to strengthen democratic institutions, to provide security and to deliver tangible benefits to the Palestinian people. The Palestinian people have great expectations. It will be up to their government to deliver tangible benefits to open their world to something that is concrete but more importantly, to hope for the future.

We also met with former Cabinet member Natan Sharansky; Knesset speaker Reuven Rivlin, and foreign affairs and defense committee chairman Yuval Steinitz. All three of these individuals were opposed to the withdrawal from the Gaza Strip. They are all gravely concerned about the militarization of the Sinai and weapons smuggling from the south up into Gaza. It was important to hear their views on these critical matters. I share their concern.

The withdrawal plan is understandably controversial and difficult for many families living in the Gaza Strip. I also believe withdrawal is a crucial step toward securing a lasting peace in that part of the world.

Our discussion confirmed my belief that the withdrawal must be coordinated with the Palestinian Authority so that the Palestinian Authority can prevent attacks against Israel and make tangible progress toward the roadmap.

Right now, there is an opening for huge progress. Both sides have the opportunity to build the trust that will be necessary for negotiations on what we all know will be the most controversial issues. Both sides have to fulfill their obligations.

To begin, Palestinians must dismantle the terrorist groups and stop

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

all terrorist attacks against Israel. For the Israelis, it is critical to halt settlement activity and expansion. Much more will need to be done as we move along the roadmap.

In our conversation with Prime Minister Sharon, we also discussed our mutual concern about Iran's nuclear ambitions. We agree that a nuclear-armed Iran poses a threat to Israel, the region, to Europe, and to the United States. In my view, the United States must support the work of our European allies to end diplomatically Iran's nuclear ambitions. Failing that, we must take the issue directly to the United Nations Security Council for action.

A final meeting was with Finance Minister and former Prime Minister Benjamin Netanyahu. He is working hard to ease the tax burden in order to stimulate his country's economy. He has made remarkable progress. His plan is gaining success. The Israeli economy right now is growing. The economic output, in fact, is growing at a robust annual rate of 4 percent. If he is able to make further reforms, I believe we can expect continued and possibly even better growth in the future.

As a physician, at most of these stops I take a few hours off to go to a hospital or a clinic where I have a little picture or window of the realities of what is going on in the country. I meet with doctors, nurses, and patients and ask them questions very directly. I went to the Hadassah Hospital, where I had not been, in Jerusalem. It is a large tertiary care hospital supported by a number of individuals in the United States. We toured the trauma unit, unique anywhere in the world in that it has seen more suicide attack victims than any trauma unit. In fact, they were telling me that there have been 32 suicide attacks in the last 3 years. Each of these suicide attacks—really, never thought about a decade ago there at the hospital—involved on average about 80 injured people; each one, on average, killing about 10 individuals. From an observer's standpoint, it points to the reality of what has gone on in that part of the world over the last 4 years.

We also talked a lot about the potential for biological attack as well as chemical attack and their preparedness from the hospital facility standpoint.

All in all, my trip to Jerusalem confirmed my confidence in the strength of our very special relationship with Israel and the need for continued American support for this vital friend and ally. Israel stands for what America stands for. Ultimately, it is up to the Israelis and the Palestinians to meet face to face and make the difficult decisions that will lead to peace.

My meetings with Israel's leaders reinforce my belief they are willing to take the difficult steps. I will continue to do what I can to support them in their efforts.

In closing, tomorrow I will speak very briefly on my trip to the West Bank. I do believe peace can be achieved. I look forward to sharing with my colleagues some of the observations and the lessons I have learned in my interactions with the people in the Middle East.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Democratic leader or his designee.

The Senator from Utah is recognized.

JUDICIAL NOMINATIONS

Mr. HATCH. Mr. President, yesterday marked the fourth anniversary of President Bush's first judicial nominations, a group of 11 highly qualified men and women nominated to the U.S. courts of appeals.

As I said in the East Room at the White House on May 9, 2001: I hope the Senate will at least treat these nominees fairly. Many of our Democratic colleagues instead chose to follow their minority leader's order issued days after President Bush took office, to use "whatever means necessary" to defeat judicial nominees the minority does not like.

While the previous 3 Presidents saw their first 11 appeals court nominees confirmed in an average of just 81 days, today, 1,461 days later, 3 of those original nominees have not even received a vote, let alone been confirmed. Three have withdrawn.

In 2003, the minority opened a new front in the confirmation conflict by using filibusters to defeat majority-supported judicial nominees. This morning I will briefly address the top 10 most ridiculous judicial filibuster defenses. Time permits only brief treatment, but it was difficult to limit the list to 10.

No. 10 is the claim that these filibusters are part of Senate tradition. Calling something a filibuster, even if you repeat it over and over, does not make it so. These filibusters block confirmation of majority-supported judicial nominations by defeating votes to invoke cloture or end debate. Either these filibusters happened before or they did not.

Let me take the evidence offered by filibuster proponents at face value. Let me refer to these two charts. These two charts list some representative examples of what Democrats repeatedly claim is filibuster precedence. The Senate confirmed each of these nominations. As ridiculous as it sounds, filibuster proponents claim, with a straight face, by the way, that confirming these past nominations justifies refusing to confirm nominations today.

Some examples are more ridiculous than others. Stephen Breyer is on the Democrats' list of filibusters, suggesting that the Senate treated his nomination the way Democrats are treating President Bush's nominations today. The two situations could not be more different. Even though President Carter nominated now-Justice Breyer but then attorney Breyer, law professor Breyer, in November 1980, after losing his bid for reelection—that is when he nominated him—and after Democrats lost control of the Senate, we voted to end debate and overwhelmingly confirmed Stephen Breyer just 26 days after his nomination. And I had a lot to do with that. The suggestion that confirming the Breyer nomination for the party losing its majority now justifies filibustering nominations for the party keeping its majority is, well, just plain ridiculous.

No. 9 on the list of the most ridiculous filibuster defenses is that they are necessary, they say, to prevent one-party rule from stacking the Federal bench. Now, if you win elections, you say the country has chosen its leadership. If you lose, you complain about one-party rule. When your party controls the White House, the President appoints judges. When the other party controls the White House, the President stacks the bench—at least that seems to be the attitude.

Our Democratic colleagues say we should be guided by how the Democratic Senate handled Franklin Roosevelt's attempt to pack the Supreme Court. It is true that FDR's legislative proposal to create new Supreme Court seats failed, and without a filibuster, I might add. But as it turned out, packing the Supreme Court required only filling the existing seats. President Roosevelt packed the Court all right, by appointing no less than eight Justices in 6 years—more than any President, except George Washington himself.

This chart is an answer to FDR's court packing without a filibuster. Now, let me just make some points. As the chart shows, during the 75th, 76th, and 77th Congresses, when President Roosevelt made those nominations, Democrats outnumbered Republicans by an average of 70 Democrats to 20 Republicans. Now, that is one-party rule. Yet the Senate confirmed those Supreme Court nominees in an average of just 13 days, one of them on the very day it was made and six of them without even a rollcall vote. That is not because filibustering judicial nominations was difficult. In fact, our cloture rule did not then apply to nominations. A single Member of that tiny, beleaguered Republican minority could have filibustered these nominations and attempted to stop President Roosevelt from packing the Supreme Court—just a single Member could have.

The most important number on this chart is the number right at the bottom: the number of filibusters against President Roosevelt's nominees—zero.

No. 8 on this list is the claim that without the filibuster the Senate would be a patsy, nothing but a rubberstamp for the President's judicial nominations. To paraphrase a great Supreme Court Justice: If simply stating this argument does not suffice to refute it, our debate about these issues has achieved terminal silliness. Being on the losing side does not make one a rubberstamp.

For all of these centuries of democratic government, have we seen only winners and rubberstamps? Was the famous tag line for ABC's Wide World of Sports "the thrill of victory and the agony of rubberstamping"? Democrats did not start filibustering judicial nominations until the 108th Congress. Imagine the history books describing the previous 107 Senates as the great rubberstamp Senates. Did Democrats rubberstamp the Supreme Court nomination of Clarence Thomas in 1991 since they did not use the filibuster? That conflict lasting several months and concluding with that 52-to-48 confirmation vote did not look like a rubberstamp to me.

Some modify this ridiculous argument by saying this applies when one party controls both the White House and the Senate. They make the stunning observation that Senators of the President's party are likely to vote for his nominees. The assistant minority leader, Senator DURBIN, recently said, for example, that Republican Senators are nothing but "lapdogs" for President Bush.

Pointing at others can be dangerous because you have a few fingers pointing back at yourself. Counting both unanimous consent or rollcall votes, more than 37,500 votes were cast here on the Senate floor on President Clinton's judicial nominations. Only 11 of them, just a teeny, tiny, three one-hundredths of 1 percent, were "no" votes from Democrats—only 11 of 37,500. Were they just rubberstamping lapdogs in supporting President Clinton?

The Constitution assigns the same roles to the President and the Senate no matter which party the American people put in charge of which end of Pennsylvania Avenue.

In the 1960s, the Democrats were in charge, yet Minority Leader Everett Dirksen refused to filibuster judicial nominees of Presidents Kennedy or Johnson. Was he just a rubberstamp?

In the 1970s, the Democrats were in charge, yet Minority Leader Howard Baker refused to filibuster President Carter's judicial nominees. Was he just a rubberstamp?

In the 1980s, the Republicans were in charge, yet Minority Leader Robert Byrd did not filibuster President Reagan's judicial nominees. Was he just a rubberstamp?

And a decade ago, the Democrats were again in charge, yet Minority Leader Bob Dole refused to filibuster President Clinton's judicial nominees. Was he a rubberstamp?

To avoid being a rubberstamp, one need only fight the good fight, win or lose.

No. 7 on the list of most ridiculous judicial filibuster defenses is that these filibusters are necessary to preserve our system of checks and balances. That is an argument we have heard from the other side.

Mr. President, any civics textbook explains that what we call "checks and balances" regulates the relationship between the branches of Government. The Senate's role of advice and consent checks the President's power to appoint judges, and we exercise that check when we vote on his judicial nominations.

The filibuster is about the relationship between the majority and minority in the Senate, not about the relationship between the Senate and the President. It actually interferes with being a check on the President's power by preventing the Senate from exercising its role of advice and consent at all.

Former Majority Leader Mike Mansfield once explained that by filibustering judicial nominations, individual Senators presume what he called "great personal privilege at the expense of the responsibilities of the Senate as a whole, and at the expense of the constitutional structure of the federal government."

In September 1999, the Senator from Massachusetts, Mr. KENNEDY, expressed the same view when he said:

> It is true that some Senators have voiced concerns about these nominations. But that should not prevent a roll call vote which gives every Senator the opportunity to vote "yes" or "no."

Those were the words of our colleague from Massachusetts, Senator KENNEDY: Give every Senator the opportunity to vote yes or no.

That was then; this is now.

In case anyone needs further clarification on this point, I ask unanimous consent that the definition of "checks and balances" from two sources, "congressforkids.net" and "socialstudieshelp.com," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> Definition of checks and balances from www.congressforkids.org.
>
> "By creating three branches of government, the delegates built a 'check and balance' system into the Constitution."
>
> Definition of checks and balances from www.socialstudieshelp.com.
>
> "In this system the government was to be divided into three branches of government, each branch having particular powers. Not only does each branch of the government have particular powers, each branch has certain powers of the other branches."

Mr. HATCH. No. 6 on the list is that these filibusters are necessary to prevent appointment of extremists.

What our Democratic colleagues call "extreme" the American Bar Association calls "qualified." In fact, all three of the appeals court nominees chosen 4 years ago who have been denied confirmation received the ABA's highest "well qualified" rating. Now, that was the gold standard under the Democrats when Clinton was President. The same Democrats who once called the ABA rating the gold standard for evaluating judicial nominees now disregard it and call these people extreme.

Did 76 percent of Californians vote to keep an extremist on their supreme court when they voted to retain Justice Janice Rogers Brown, an African-American woman, a sharecroppers' daughter, who fought her way all the way up to the Supreme Court of California?

Did 84 percent of all Texans and every major newspaper in the State support an extremist when they reelected Justice Priscilla Owen to the Texas Supreme Court—84 percent?

The Associated Press reported last Friday that the minority leader reserves the right to filibuster what he calls "extreme" Supreme Court nominees. Now, that is quite an escape hatch, if you will, since the minority already defines any nominee it does not like as "extreme." This is simply a repackaged status quo masquerading as reform.

If Senators want to dismiss as an extremist any judicial nominee who does not think exactly as they do, that certainly is their right. That is, however, a reason for voting against a confirmation, not for refusing to vote at all. As our former colleague, Tom Daschle, said:

> I find it simply baffling that a Senator would vote against even voting on a judicial nominee.

No. 5 on this list of most ridiculous judicial filibuster defenses is the claim that these filibusters are about free speech and debate. If Senators cannot filibuster judicial nominations, some say, the Senate will cease to exist, and we will be literally unable to represent our constituents.

The same men who founded this Republic designed this Senate without the ability to filibuster anything at all. A simple majority could proceed to vote on something after sufficient debate. Among those first Senators were

Oliver Ellsworth of Connecticut, who later served on the Supreme Court, as well as Charles Carroll of Maryland and Richard Henry Lee of Virginia, who had signed the Declaration of Independence. When they ran for office, did they know that they would be unable to represent their States because they would be unable to filibuster?

These filibusters are about defeating judicial nominations, not debating them. The minority rejects every proposal for debating and voting on nominations it targets for defeat.

In April 2003, my colleague from Utah, Senator BENNETT, asked him, the minority leader, how many hours Democrats would need to debate a particular nomination. Now, just take a look at chart 4. His response spoke volumes:

> [T]here is not a number [of hours] in the universe that would be sufficient.

Let me just refer to chart 5.

Later that year, he said:

> We would not agree to a time agreement . . . of any duration.

Let me go to chart 6. Just 2 weeks ago, the minority leader summed up what really has been the Democrats' position all along:

> This has never been about the length of the debate.

He is right about that. This has always been about defeating nominations, not debating them. If our Democratic colleagues want to debate, then let us debate. The majority leader said we will give 100 hours for each of these nominees. Let's debate them. Let us do what Democrats once said was the purpose of debating judicial nominations. As my colleague from California, Senator BOXER, put it in January 1998:

> [L]et these names come up, let us have debate, let us vote.

No. 4 on the list is that returning to Senate tradition regarding floor votes on judicial nominations would amount to breaking the rules to change the rules. As any consultant worth even a little salt will tell you, that is a catchy little phrase. The problem is that neither of its catchy little parts is true.

The constitutional option, which would change judicial confirmation procedure through the Senate voting to affirm a parliamentary ruling, would neither break nor change Senate rules. While the constitutional option has not been used to break our rules, it has been used to break filibusters.

On January 4, 1995, the Senator from West Virginia, the distinguished Senator, Mr. BYRD, described how, in 1977, when he was majority leader, he used this procedure to break a filibuster on a natural gas bill. Now, I have genuine affection and great respect for the Senator from West Virginia, and he knows that. But let me just refer to chart 7. Since I would not want to describe his repeated use of the constitutional option in a pejorative way, let me use his own words. Here is what he said back in 1995, the distinguished Senator from West Virginia:

> I have seen filibusters. I have helped to break them. There are few Senators in this body who were here [in 1977] when I broke the filibuster on the natural gas bill. . . . I asked Mr. Mondale, the Vice President, to go please sit in the chair; I wanted to make some points of order and create some new precedents that would break these filibusters. And the filibuster was broken—back, neck, legs, and arms. . . . So I know something about filibusters. I helped to set a great many of the precedents that are on the books here.

Well, he certainly did. I was here. And using the constitutional option today to return to Senate tradition regarding judicial nominations would simply use the precedents the distinguished Senator from West Virginia put on the books.

No. 3 on the list of most ridiculous judicial filibuster defenses is that the constitutional option is unprecedented, or should we call it the Byrd option. In 1977, 1979, and 1987, the then majority leader, Senator BYRD, secured a favorable parliamentary ruling through a point of order and a majority of Senators voted to affirm it. He did this even when the result he sought was inconsistent with the text of our written rules.

In 1980, he used a version of the same procedure to limit nomination-related filibusters. Majority Leader BYRD made a motion for the Senate to vote to go into executive session and proceed to consider a specific nomination. At the time, the first step was not debatable but the second step was debatable. A majority of Senators voted to overturn a parliamentary ruling disallowing the procedural change Majority Leader BYRD wanted.

Let me refer to chart 8. Seven of these Senators serve with us today, and their names appear on this chart. They can explain for themselves how voting against restricting nomination-related filibusters today is consistent with voting to restrict them in 1980. As you can see, they are illustrious colleagues.

No. 2 on the list is that preventing judicial filibusters will doom legislative filibusters. As you know, there are two calendars in the Senate. One is the legislative calendar. I would fight to my death to keep the filibuster alive on the legislative calendar to protect the minority. But then there is the executive calendar, which is partly the President's in the sense that he has the power of appointment and nomination and sends these people up here and expects advice and consent from the Senate. Advice we give. Consent we have not given in the case of these nominees who have been filibustered, or so-called filibustered.

No. 2 on the list is that preventing judicial filibusters, they claim, will doom legislative filibusters. That's pure bunk. Our own Senate history shows how ridiculous this argument really is. Filibusters became possible by dropping the rule allowing a simple majority to proceed to a vote. The legislative filibuster developed, the judicial filibuster did not. What we must today limit by rule or ruling we once limited by principle or self-restraint—for 214 years, that is. The filibuster is an inappropriate obstacle to the President's judicial appointment power but an appropriate tool for exercising our own legislative power. I cannot fathom how returning to our tradition regarding judicial nominations will somehow threaten our tradition regarding legislation. The only threat to the legislative filibuster and the only votes to abolish have come from the other side of the aisle. In 1995, 19 Senators, all Democrats, voted against tabling an amendment to our cloture rule that would prohibit all filibusters of legislation as well as nominations. As this chart shows, nine of those Senators still serve with us and their names are right here on this chart.

I voted then against the Democrats' proposal to eliminate the legislative filibuster, and I oppose eliminating it today. The majority leader, Senator FRIST, also voted against the Democrats' proposal to eliminate the legislative filibuster. In fact, that was his first vote as a new Member of this body. I joined him in recommitting ourselves to protecting the legislative filibuster. I urge my friends on the other side, the Democrats, to follow the example of our colleague from California, Senator BOXER, who recently said that she has changed her position, that she no longer wants to eliminate the legislative filibuster.

In 1995, USA Today condemned the filibuster as "a pedestrian tool of partisans and gridlock meisters."

The New York Times said the filibuster is "the tool of the sore loser." I hope these papers will reconsider their position and support the legislative filibuster.

The No. 1 most ridiculous judicial filibuster defense is that those wanting to filibuster Republican nominees today opposed filibustering Democratic nominees only a few years ago. In a letter dated February 4, 1998, for example, the leftwing urged confirmation of Margaret Morrow to the U.S. District Court for the Central District of California. They urged us to "bring the nomination to the Senate, ensure that it received prompt, full and fair consideration, and that a final vote on her nomination is scheduled as soon as possible." Groups signing this letter included the Alliance for Justice, Leadership Conference on Civil Rights, and People for the American Way. As we all know, these leftwing groups today lead the grassroots campaign behind these filibusters that would deny this same treatment to President Bush's nominees. Their position has changed as the party controlling the White House has changed.

Let me make it easy for the "hypocrite patrol" to check out my position on the Morrow nomination. In the February 11, 1998, CONGRESSIONAL RECORD, on page S640, three pages before that letter from the leftwing groups appears, I opened the debate on the Morrow nomination by strongly urging my fellow Senators to support it. We did, and she is, today, a sitting Federal judge, as I believe she should be. The same Democrats who today call for filibusters called for up-or-down votes when a Democrat was in the White House.

Let me refer to chart 10 here. I will just give some illustrations. In 1999, my dear friend from California, Senator FEINSTEIN, a person I have great love and respect for, a Member of the Senate Judiciary Committee, said of the Senate:

> It is our job to confirm these judges. If we don't like them, we can vote against them.

She said:

> A nominee is entitled to a vote. Vote them up, vote them down.

Let me go to chart 11. Another committee member, Senator SCHUMER, properly said in March 2000:

> The President nominates and we are charged with voting on the nominees.

He was right.

Let me refer to chart 12. I have already quoted the Senator from California, Senator BOXER once, but in 2000 she said that filibustering judicial nominees:

> . . . would be such a twisting of what cloture really means in these cases. It has never been done before for a judge, as far as we know—ever.

I appreciate what another member of the Judiciary Committee, Senator KOHL, said in 1997:

> Let's breathe life back into the confirmation process. Let's vote on the nominees who have already been approved by the Judiciary Committee.

Well, let me go to chart 14. The Senator from Iowa, Senator HARKIN, who fought so strongly against the legislative filibuster in 1995, said, 5 years later, about the judicial filibuster:

> If they want to vote against them, let them vote against them. But at least have a vote.

The same view comes from three former Judiciary Committee chairmen, members of the Democratic leadership. Let me refer to chart No. 15. A former committee chairman, Senator BIDEN, said in 1977 that every judicial nominee is entitled:

> To have a shot to be heard on the floor and have a vote on the floor.

Former chairman, Senator EDWARD KENNEDY, said in 1998:

> If Senators don't like them, vote against them. But give them a vote.

And my immediate predecessor as chairman, Senator LEAHY, said a year later, judicial nominees are:

> entitled to a vote, aye or nay.

Now, the assistant minority leader, Senator DURBIN, had urged the same thing in September 1998:

> Vote the person up or down.

Vote the person up or down.

Finally, Mr. President, the minority leader, Senator REID, expressed in March 2000 the standard that I hope we can reestablish:

> Once they get out of committee, bring them down here and vote up or down on them.

The majority leader, Senator FRIST, recently proposed a plan to accomplish precisely this result. But the minority leader dismissed it as—I want to quote this accurately now—

> A big fat wet kiss to the far right.

I never thought voting on judicial nominations was a far-right thing to do.

These statements speak for themselves. Do you see a pattern here? The message at one time seems to be let us debate and let us vote. That should be the standard, no matter which party controls the White House or the Senate.

Mr. President, as I close, let me summarize these 10 top most ridiculous judicial filibusters in this way. Blocking confirmation of majority-supported judicial nominations by defeating cloture votes is unprecedented. In the words of the current Judiciary Committee chairman, Senator SPECTER:

> What Democrats are doing here is really seeking a constitutional revolution.

We must turn back that revolution. No matter which party controls the White House or Senate, we should return to our tradition of giving judicial nominations reaching the Senate floor an up-or-down vote. Full, fair, and vigorous debate is one of the hallmarks of this body, and it should drive how we evaluate a President's judicial nominations.

Honoring the Constitution's separation of power, however, requires that our check on the President's appointment power not highjack that power altogether. This means debate must be a means to an end rather than an end in itself. Senators are free to vote against the nominees they feel extreme, but they should not be free to prevent other Senators from expressing a contrary view or advising and consenting. In this body, we govern ourselves with parliamentary rulings as well as by unwritten rules. The procedure of a majority of Senators voting to sustain a parliamentary ruling has been used repeatedly to change Senate procedure without changing Senate rules, even to limit nomination-related filibusters.

I have tried to deal with the substance of our filibuster proponents' arguments, albeit with some humor and maybe a touch of sarcasm. A few days ago, as the Salt Lake Tribune reported, the minority leader was in my State:

> . . . stopping just short of calling Utah Senator ORRIN HATCH a hypocrite.

That is at least how the newspaper described it. That is not what I consider to be a substantive argument. Perhaps those who dismiss their opponents as liars, losers, or lap dogs have nothing else to offer in this debate. Yet debate we must, and then we must vote.

Mr. President, how much remaining time do I have?

The ACTING PRESIDENT pro tempore. The Senator has 1 minute remaining.

Mr. HATCH. Let me just make this point. We confirmed, in 6 years of Republican control of the Senate, 377 judges for President Clinton. That was five less than the all-time confirmation champion Ronald Reagan. All of these people who are up have well-qualified ratings from the ABA, all had a bipartisan majority to support them. What is wrong with giving them an up-or-down vote and retaining 214 years of Senate tradition? What is wrong with that? I think it is wrong to try and blow up that tradition the way it is being done.

With that, I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHUMER. Will the Chair advise as to how much time remains on this side?

The ACTING PRESIDENT pro tempore. One-half hour remains on the Senator's side.

RULES OF THE SENATE

Mr. SCHUMER. Mr. President, I yield myself such time as I may consume.

As the Senate convenes this week, we stand on the edge of dramatic change. Change is usually a good thing, but the change that the other side is trying to invoke is not a good thing. We all know it. Most Americans know it. Most Democrats know it. Most Republicans know it. Even most Senators on the other side know it. Yet they are torn because of a small group way out of the mainstream. The same people who believe their message, which may come from the heavens, dictates to them what is right for everybody else seem to be in control. It is a crucial time for America. The age-old checks and balances that are at the center of this Republic, at the center of our Constitution, are hanging at the precipice.

It is the Senate where the Founding Fathers established a repository of checks and balances. It is not like the

House of Representatives where the majority leader or the Speaker can snap his fingers and get what he wants. Here we work many times by unanimous consent where you need all 100 Senators to go along. In some instances, we work where 67 votes are needed, in some with 60, and in most with 51. But the reason we don't always work by majority rule is very simple. On important issues, the Founding Fathers wanted—and they were correct in my judgment—that the slimmest majority should not always govern. When it comes to vital issues, that is what they wanted.

The Senate is not a majoritarian body. My good friend from Utah spoke. He represents about two million people in Utah. I represent 19 million in New York State. We have the same vote. You could have 51 votes for a judge on this floor that represents 21 percent of the American people. So the bottom line is very simple. This has not always been a 50.1 to 49.9 body. It has been a body that has had to work by its rules and by the Founding Fathers' intent. Even when you are in the majority, you have to reach out and meet not all, not most, but some of the concerns of the minority.

I understand why my colleague from Utah would get up and make such ridiculous arguments. He is torn. He knows this is wrong. Most of the Members on the other side of the aisle know it is wrong. Some have had the guts—a handful—to say no. Some have had the strength to resist the calls of that extreme group or groups. Some are true believers. But some, and my guess is my friend from Utah is one of those, know it is wrong but decide: I am going along anyway.

When my friend from Utah lists the 10 most ridiculous arguments against keeping the filibuster and says checks and balances is a ridiculous argument, please. I care a great deal about my friend from Utah. He is a fine man. We are friends. We have worked together on many things. But he has more respect for the Constitution than to say checks and balances is a ridiculous argument. He knows darn well that a 51-to-49 vote does away with certain kinds of checks and balances.

When my friend from Utah talks about no extremists, it seems to me the very same people who are calling the shots are the people who said that judges are worse than terrorists. That seems pretty extreme to me. That is the type of person importuning my friend from Utah.

Another one said: Judges, in their black robes, are like the Ku Klux Klan in their white robes. These are officials of the American Government, most of whom now are Republicans. Sixty percent of the court of appeals are Republican appointees. Seven of the nine Supreme Court members are Republican appointees.

When my friend from Utah doesn't think those statements are extreme and listens to the solution that people who make those statements prescribe, what else can one conclude than that he is sort of tying himself in a pretzel to try and make an argument that he must know in his heart is wrong.

Unprecedented? Well, it was my good friend from Utah who played a leading role in blocking a large number of the Clinton judges. He will say it wasn't by filibuster. The American people are a lot smarter than that. Whether it is by not bringing them up for a vote in committee or by requiring that they get 60 votes to choke off debate on the floor, the effect is the same. The President, the incumbent, is denied his choice. By the way, that is how our Senate has functioned.

The President, when he gets 51.5 percent, as George Bush did, or even when he gets over 65 percent, as Franklin Roosevelt did in 1936, shouldn't always get his way with every single judge.

He says that this will not doom the legislative filibuster, that that is an absurd argument. A year ago, if we would have heard that the Republican majority was considering having the Vice President sit in the chair and rule by fiat his own interpretation of the Constitution, coming out of nowhere because the Constitution doesn't mention any of this, certainly a narrow reading wouldn't allow us to address this issue from the Constitution, and he says that we will rule by fiat from the Chair and there should be no more filibusters of judges, even though that has been allowed for 200 years, even though it was done in 2000 by our colleagues on the Republican side of the aisle for Ms. Berzon and Mr. Paez, and then he is saying, well, it is absurd that we do it for other things. I say this: Allow them to do it for judges today, they will do it for Social Security tomorrow. The same exact procedure could be used to block filibusters of legislation and of every single other thing that comes before this body. There is no difference. The Constitution doesn't mention the word "filibuster."

I don't know where it is divined in the heads of some of my colleagues from the other side of the aisle: It says it is for judges, but not for legislation. That is an activist reading of the Constitution if you ever heard one.

The bottom line is simple: We are appealing to those Members of the other side of the aisle who, unlike my friend from Utah, have thus far resisted the entreaties of the hard, hard, hard right, who have resisted the entreaties of the narrow few who are way out there and say to them: Have strength, have courage.

The basic makeup of our Senate is at stake. The checks and balances that Americans prize are at stake. The idea of bipartisanship, where you have to come together and can't just ram everything through because you have a narrow majority, is at stake. The very things we treasure and love about this grand Republic are at stake.

I, for one, am saddened by what is happening. I, for one, am surprised at what is happening. I, for one, hope and pray that it will not come to this. But I assure my colleagues, at least speaking for this Senator from New York, I will do everything I can to prevent the nuclear option from being invoked not for the sake of myself or my party but for the sake of this great Republic and its traditions.

I yield the remaining time to my colleague from Illinois, our great whip.

Mr. DURBIN. Mr. President, how much time remains in morning business?

The ACTING PRESIDENT pro tempore. There is 19 minutes 30 seconds.

Mr. DURBIN. If I might make an inquiry of my colleague from New Jersey, if he is going to seek recognition, I want to be sure and leave enough time for him to speak.

Mr. CORZINE. Mr. President, I believe 10 minutes, maybe a little bit less.

Mr. DURBIN. If the Chair would advise me when there are 10 minutes remaining, I will yield the remaining time to the Senator from New Jersey.

Let me first thank my colleague from New York for his excellent statement. Senator SCHUMER and I serve on the Senate Judiciary Committee. It is a committee where judges are initially considered. It is a tough assignment. When I came to the Senate from the House, I knew I would be voting on legislation, but more so in the Senate, you vote on people. That is a tougher call because it isn't in black and white. It isn't a matter of compromising, taking half of this and a quarter of the other. It is a question of making a judgment about a person. I find that a little more difficult—a lot more difficult, to be honest—and when it comes to judges, even more complicated because you aren't just putting a person in a temporary position. You are saying: Based on your life to this point, we are prepared to put you on the Federal bench for the rest of your natural life and trust your judgment that you will do the right thing by the Constitution and the American people.

Overwhelmingly, we find whether the President is a Democrat or Republican, the Senate says: Fine, we approve. The nominee is a good person. We will go forward.

What has happened here is interesting. We have, so far with President Bush in the White House, considered on the floor of the Senate 218 nominees by President Bush for the Federal judiciary. The President has that power. The Senate has the power to advise—that is, review and consider—and consent, if it chooses. Out of the 218 names sent by

President Bush to the floor of the Senate, we have approved 208 of those names. So we are at a point now where we have 10 out of those 218 who have not been approved. More than 95 percent of the President's nominees have been approved.

You would say to yourself: This President is doing well. Whether he sends us conservatives of one stripe or the other, the Senate has approved them. We have sent them to the bench to lifetime appointments.

The President, after his reelection, comes to the Congress and says: That is not good enough. I want them all. I want every single one of them. I don't believe I should be held to the standard that every other President has been held to.

What is that standard? It is not just a simple majority vote. The Senate is a different place. It was created by the Constitution as a different institution. States large and small have the same number of Senators. States large and small send Senators to the Chamber, men and women who have the authority under our rules to demand an extraordinary vote.

People on the outside say: When I go to the city council meeting, it is a majority vote. When I go to the garden club, it is a majority vote. Why isn't it a majority vote in the Senate?

Because the Senate is a different place. When the Founding Fathers wrote the Constitution, they said the Senate, more than any institution in the Government of America, will be a place that respects and recognizes the rights of a minority.

For those who follow classic movies, Jimmy Stewart in "Mr. Smith Goes to Washington," one Senator, idealistic and determined, took to the floor of the Senate and started a speech and, frankly, finally crumbled because he was so tired and had to end his speech. But he demonstrated the reality of the Senate, that one Senator, regardless of where they are from, a State large or small, regardless if they are the only Senator who holds that point of view, can stand up and argue that point of view. That was built into our Constitution, certainly into the tradition of the Senate. That is why 10 of President Bush's nominees have not been approved because, in this situation, they couldn't find 60 Senators who would stand up and say: Stop the debate, vote on that nominee. That is the rule of the Senate.

President Bush has said: I want to change it, to change the rules of the Senate in the middle of the game. I want to go after this whole concept of the power of the Senate, the power of checks and balances, I want more power in the White House, I want more power in the Presidency. That is not new. Presidents throughout history have always said they wanted more power than they had. Usually, the Congress stood up to them and said no.

The Constitution is more important than any single President. Thomas Jefferson, when he was elected to his second term, came to the Senate and said: I want the power to remove those Federalist judges from the Supreme Court; They disagree with my political philosophy; I want to get rid of them.

His own party said: No, President Jefferson. As important as you are, as much as we agree with you, the Constitution and traditions of the Senate are more important. And they voted him down.

President Roosevelt, one of our greatest Presidents, in the beginning of his second term, with the power of the national mandate behind him, said to the Senate: Do something about that damnable Supreme Court that won't approve my New Deal. Allow me to put more Justices on the Court until I can have my way politically.

His political body in this Senate said: Mr. President, we are Democrats, we respect you, we voted for you, we are for the New Deal, but you are wrong. You cannot come to us and ask for more Presidential power at the expense of the Constitution, at the expense of Senate traditions and values. They turned him down.

Look what happens today. President Bush, fresh from a victory of 51.5 percent in this election, comes to this body and says: I want more power in the Presidency.

What does he hear from his own party in the Senate? Sadly, it is: Whatever you want, Mr. President.

Mickey Edwards, a former Congressman from Oklahoma, who was quoted in the Washington Post this morning, gets it right. He said what amazes him about this debate is that Congress isn't standing up for its own constitutional responsibilities and rights. Congress is acquiescing in this effort by the President to take on more power so that he cannot be questioned and challenged when he puts people on the Federal bench for a lifetime.

Mr. President, I will submit for the RECORD a list of over 50 newspapers that have endorsed President Bush in 2000, 2004, or both, and have said that the President is wrong when it comes to this effort to increase Presidential power in the White House.

I ask unanimous consent to have that printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Albuquerque Journal [NM], The Albuquerque Tribune [NM], The Arizona Republic [Phoenix], Arkansas Democrat & Gazette, Austin American-Statesman [TX], Bangor Daily News [ME], Birmingham Post Herald [AL], Chicago Tribune, The Cincinnati Enquirer [OH], and The Cincinnati Post [OH].

The Clarion-Ledger [Jackson, MS], Columbia Daily Tribune [MO], The Commercial Appeal [Memphis, TN], Contra Costa Times [CA], Corpus Christi Caller-Times [TX], Courier-Post [Camden, NJ], The Daily Camera [CO], The Dallas Morning News [TX], and The Day [New London, CT].

The Denver Post, Easton Star-Democrat [MD], Fort Worth Star Telegram [TX], The Grand Island Independent [NE], The Hartford Courant [CT], The Herald [Bradenton, FL], Houston Chronicle [TX], The Idaho Statesman, The Indianapolis Star [IN], and Journal Star [Peoria, IL].

Kalamazoo Gazette [MI], The Knoxville News-Sentinel [TN], La Crosse Tribune [WI], Lincoln Journal Star [NE], Loveland Daily-Reporter Herald [CO], The Morning Call [Allentown, PA], The Muskegon Chronicle [MI], Muskogee Daily Phoenix & Times-Democrat [OK], New Haven Register [CT], and The News Leader [Staunton, VA].

The Omaha World-Herald [NE], The Oregonian, Orlando Sentinel [FL], The Oshkosh Northwestern [WI], The Palladium-Item [IN], The Plain Dealer [Cleveland, OH], Poughkeepsie Journal [NY], Quad City Times [Davenport, IA], The Record [Troy, NY], and Salt Lake Tribune.

San Antonio Express-News [TX], Savannah Morning News [GA], Seattle Times [WA], San Diego Union Tribune, The State [Columbia, SC], The Tri-City Herald [WA], Ventura County Star [CA], The Wichita Eagle [KS], Winston-Salem Journal [NC], and York Daily Record [PA].

Mr. DURBIN. Mr. President, let me tell you, I listen to the talk shows, and I hear people say that until these judicial nominees were challenged with extended debate or filibuster, it never happened before. I will also submit for the RECORD, for the third time, this chart which shows on 11 or 12 different occasions when a filibuster was invoked on judicial nominees throughout history, including Supreme Court Justices. This is not new, not novel. It is certainly not earth shattering. It has happened before.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

History of Filibusters and Judges

Prior to the start of the George W. Bush administration in 2001, the following 11 judicial nominations needed 60 (or more) votes—cloture—in order to end a filibuster:

1881: Stanley Matthew to be a Supreme Court Justice

1968: Abe Fortas to be Chief Justice of the Supreme Court (cloture required 2/3 of those voting)

1971: William Rehnquist to be a Supreme Court Justice (cloture required 2/3 of those voting)

1980: Stephen Breyer to be a Judge on the First Circuit Court of Appeals

1984: J. Harvie Wilkinson to be a Judge on the Fourth Circuit Court of Appeals

1986: Sidney Fitzwater to be a Judge for the Northern District of Texas

1986: William Rehnquist to be Chief Justice of the Supreme Court

1992: Edward Earl Carnes, Jr. to be a Judge on the Eleventh Circuit Court of Appeals

1994: H. Lee Sarokin to be a Judge on the Third Circuit Court of Appeals

1999: Brian Theadore Stewart to be a Judge for the District of Utah

2000: Richard Paez to be a Judge on the Ninth Circuit Court of Appeals

2000: Marsha Berzon to be a Judge on the Ninth Circuit Court of Appeals

Because of a filibuster, cloture was filed on the following two judicial nominations, but was later withdrawn:

1986: Daniel Manion to be a Judge on the Seventh Circuit Court of Appeals Senator Biden told then Majority Leader Bob Dole that "he was ready to call off an expected filibuster and vote immediately on Manion's nomination."—Congressional Quarterly Almanac, 1986.

1994: Rosemary Barkett to be a Judge on the Eleventh Circuit Court of Appeals ". . . lacking the votes to sustain a filibuster, Republicans agreed to proceed to a confirmation vote after Democrats agreed to a day-long debate on the nomination."—Congressional Quarterly Almanac, 1994.

Following are comments by Republicans during the filibuster on the Paez and Berzon nominations in 2000, confirming that there was, in fact, a filibuster:

". . . it is no secret that I have been the person who has filibustered these two nominations, Judge Berzon and Judge Paez."—Senator Bob Smith, March 9, 2000

"So don't tell me we haven't filibustered judges and that we don't have the right to filibuster judges on the floor of the Senate. Of course we do. That is our constitutional role."—Senator Bob Smith, March 7, 2000

"Indeed, I must confess to being somewhat baffled that, after a filibuster is cut off by cloture, the Senate could still delay a final vote on the nomination."—Senator Orrin Hatch, March 9, 2000, when a Senator offered a motion to indefinitely postpone the Paez nomination after cloture had been invoked

In 2000, during consideration of the Paez nomination, the following Senator was among those who voted to continue the filibuster:

Senator Bill Frist—Vote #37, 106th Congress, Second Session, March 8, 2000.

Mr. DURBIN. Mr. President, let me tell you something else that troubles me. How much time do I have?

The ACTING PRESIDENT pro tempore. Almost 12 minutes.

Mr. DURBIN. So I will be notified in 2 minutes.

There is something more at stake here that is even more important than the power of the President and the tradition of the Senate, and that is the independence of the judiciary. You cannot turn on the television or radio without hearing from some special interest group criticizing the Federal judiciary. I have been critical of individual decisions. I can point to some, including one that was made in the State of Florida in 2000. But to come to the floor and say let's get rid of the people making the decisions, take the power of Congress and control the judiciary, that is a mistake. An independent, fair, and balanced judiciary is critical for America.

When I hear Members of Congress and special interest groups saying they want to use this nuclear option, the power of Congress, to take control of the Federal judiciary, I am concerned. That is a power grab far beyond violating the traditions and rules of the Senate. It says they are going to try to show control and exert authority over a branch of the Government which has always been independent.

I will submit a transcript of a program on May 1 from "This Week With George Stephanopolous." It is an interview with Pat Robertson.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[ABC News Transcripts, May 1, 2005]

THIS WEEK WITH GEORGE STEPHANOPOULOS

PAT ROBERTSON INTERVIEW

President George W. Bush, United States: "Role of religion in our society, I view religion as a personal matter. I think a person ought to be judged on how he or she lives his life, lives her life, and that's how I've tried to live my life through example. Faith plays an important part in my life individually, but I don't ascribe a person's opposing my nominations to an issue of faith."

George Stephanopoulos, ABC News: (Off Camera) That was President Bush in his prime time press conference Thursday night talking about religion and public life and now for more on this I'm joined from Virginia Beach by reverend Pat Robertson. Good morning reverend Robertson.

Pat Robertson, Chairman, Christian Broadcasting Network: Good morning, George.

George Stephanopoulos: (Off Camera) You know, the president seemed to be putting some distance between himself and people like you, allies like you who have cast this battle over judges in more religious terms. Do you now accept the president's belief that those who want to preserve the filibuster for judges are not fighting against people of faith?

Pat Robertson: George, I've never said that. I've said some things about the judges, but I think this filibuster thing strictly is an attempt to please the People for the American Way and the ultra left. I think the Democrats are catering to them, but, you know, in the entire history of the United States of America, there has never been a judge who has been refused a.vote when there was a majority of Senators willing to vote for his confirmation, never in history. This filibuster in the last two years is unprecedented in our history.

George Stephanopoulos: (Off Camera) But, sir, you have described this in pretty, this whole battle in pretty apocalyptic terms. You've said that Liberals are engaged in an all-out assault on Christianity, that Democrats will appoint judges who don't share our Christian values and will dismantle Christian culture, and that the out-of-control judiciary, and this was in your last book "Courting Disaster" is the most serious threat America has faced in nearly 400 years of history, more serious than al Qaeda, more serious than Nazi Germany and Japan, more serious than the Civil War?

Pat Robertson: George, I really believe that. I think they are destroying the fabric that holds our nation together. There is an assault on marriage. There's an assault on human sexuality, as Judge Scalia said, they've taken sides in the culture war and on top of that if we have a democracy, the democratic processes should be that we can elect representatives who will share our point of view and vote those things into law.

George Stephanopoulos: (Off Camera) But, sir, let me just stop you there. How can you say that these judges are a more serious threat than Islamic terrorists who slammed into the World Trade Center?

Pat Robertson: It depends on how you look at culture. If you look over the course of a hundred years, I think the gradual erosion of the consensus that's held our country together is probably more serious than a few bearded terrorists who fly into buildings. I think we're going to control al Qaeda. I think we're going to get Osama bin Laden. We won in Afghanistan. We won in Iraq, and we can contain that. But if there's an erosion at home, you know, Thomas Jefferson warned about a tyranny of an oligarchy and if we surrender our democracy to the tyranny of an oligarchy, we've made a terrible mistake.

George Stephanopoulos: (Off Camera) You know, President Bush at that press conference also said that he believes you're equally American whether you're Christan, Muslim, or Jew, and I wonder if you fully accept that, because in the past, you've said that you believe that only Christians and Jews are qualified to serve in the government. Is that still your belief?

Pat Robertson: Well, you know, Thomas Jefferson, who was the author of the Declaration of Independence said he wouldn't have any atheists in his cabinet because atheists wouldn't swear an oath to God. That was Jefferson and we have never had any Muslims in the cabinet. I didn't say serve in government. I said in my cabinet if I were elected president, and I think a president has a right to take people who share his point of view, and I would think that would be . . .

George Stephanopoulos: (Off Camera) Well, wait a second. Let me just stop you there. 'Cause in your book "The New World Order" you wrote, "'How dare you maintain that those who believe in the Judeo-Christian values are better qualified to govern America than Hindus or Muslims.' My simple answer is, 'yes, they are.'" Does that mean no Hindu and Muslim judges?

Pat Robertson: Right now, I think people who feel that there should be a jihad against America, read what the Islamic people say. They divide the world into two spheres, Dar al Islam Dar al Harb. The Dar al Islam are those who've submitted to Islam, Dar al Harb are those who are in the land of war and they have said in the Koran there's a war against all the infidels. So do you want somebody like that sitting as a judge? I wouldn't.

George Stephanopoulos: (Off Camera) So I take it then the answer to the question is that you believe that only Christians and Jews are qualified to serve in the Federal judiciary?

Pat Robertson: Um, I'm not sure I'd make such a broad, sweeping statement, but I just feel that those who share the philosophy of the founders of this nation, who assent to the principles of the Declaration of Independence, who assent to the principles that underlie the constitution, such people are the ones that should be judges, and the thing that I'm opposed to about judges is the thought that this is a living document that can be manipulated at the will of five out of nine judge, nonelected judges. It's the tyranny of an oligarchy that I'm concerned about.

George Stephanopoulos: (Off Camera) You said also that you believe Democrats appoint judges who "don't share our Christian values" and will "dismantle Christian culture." Sc do you believe that Justice Breyer and Justice Ginsburg, who were appointed by President Clinton, are trying to dismantle Christian culture?

Pat Robertson: Justice Ginsburg served as a general counsel for the American Civil Liberties Union, ACLU. That was founded, as you probably know, by about three members of the Communist Internationale. Their leader, Baldwin, said that he wanted to be a Communist and wanted to make this . . .

George Stephanopoulos: (Off Camera) So she's a Communist?

Pat Robertson: He was. He said, it's in my book. I mean, he said it. He made a declaration. He said I want to make America a workers' state, breed Communists.

George Stephanopoulos: (Off Camera) But I was asking about Justice Ginsburg. And you now seem to be trying to equate her with these Communists.

Pat Robertson: Well, she was the general counsel for this organization whose purpose right now is to rid religion from the public square. That's they are announced. We've had Nadine Strasser down here to our university in a debate. She's a very pleasant lady but that's what she said was her avowed goal, to take all religion from the public square. That's their initiative and Justice Ginsburg served as their general counsel, so . . .

George Stephanopoulos: (Off Camera) Let's turn to some broader issues. You spoke at the beginning of the year on "The 700 Club" and said that you had been praying and God had given you some predictions about President Bush's second term. Let me show you that.

Pat Robertson: What I heard was that Bush is now positioned to have victory after victory. He'll have Social Security reform passed, that he'll have tax reform passed, that he'll have conservative judges on the courts.

George Stephanopoulos: (Off Camera) So that's what you heard on January 3rd. Do you think you might have misinterpreted?

Pat Robertson: No, I think he's got a winning hand on Social Security, George, despite what Nancy Pelosi says. The Social Security, as you know is going into deficit in 2018. It's not 2042 or '52. What they've been doing is taking a surplus of the money that we all pay into Social Security and they've used it to fund the Federal deficit and there is no trust fund. That's an illusion and it's going into deficit. There won't be any more excess for the Federal Government in 2018. We're hitting into a crisis mode and I think the president as far as younger workers concerned, he has a winning hand, and I think the Democrats are holding on to something that Franklin Delano Roosevelt did in the '30s and they look like a bunch of mossbacks. It is time they, they, they, they get some new ideas. You said it right when you were interviewing her.

George Stephanopoulos: (Off Camera) You know reverend Robertson, the God you describe is taking a very active direct role in our lives. One of the earlier clips we showed, said, you had Him saying I am removing justices from the supreme court and I'm just wondering why does a God who is so involved in our daily life, so directly involved allow something like a tsunami to kill several hundred thousand people in Asia?

Pat Robertson: I don't think He reverses the laws of nature. The reason for that tsunami was the shifting of tectonic plates in the Indian Ocean. I don't think He changes the magma in volcanoes and I don't think He changes the wind currents to bring about hurricanes, so I don't attribute that to God or His lack or otherwise but in terms of human affairs I do think he answers prayer and I think there have been literally millions of people praying for a change in the supreme court. The people of faith in this country feel they're on a tyranny and they see their liberties taken away from them and they've been beseeching God, fasting and praying for years, so I think he hears and answers their prayers.

George Stephanopoulos: (Off Camera) You know, let's look ahead to 2008. The jockeying has already begun and of all the candidates looking for the nomination on the Republican side, which one do you believe is best positioned to get the support of religious conservatives like you?

Pat Robertson: You know, it's really hard to pick a winner right now. There's an outstanding Senator from Kansas who I think would be looking for it. He certainly represents the . . .

George Stephanopoulos: (Off Camera) Sam Brownback?

Pat Robertson: Brownback, he's a super guy. I think George Allen from Virginia was a distinguished governor, he's a distinguished senator and head of the senatorial campaign committee and won some significant victories. He is a very attractive guy and would make a tremendous president. So there are a couple. I don't know who else is out there jockeying, I'm sure Karl Rove has a candidate that he hasn't told us about.

George Stephanopoulos: (Off Camera) You didn't mention Bill Frist. I'm surprised about that.

Pat Robertson: Uh, Bill is a wonderfully compassionate human being. He is a humanitarian. He goes on medical missions. He is a delightful person. I just don't see him as a future president. And I think he said he didn't want to run for president. Maybe I'm putting words in his mouth.

George Stephanopoulos: (Off Camera) I think he's looking at it. Let me ask you one other question on that and then I'll let you go.

Pat Robertson: Okay.

George Stephanopoulos: (Off Camera) If the party chooses a moderate like John McCain or Rudy Giuliani, do you think religious conservatives will split off and form a third party movement?

Pat Robertson: I don't think so. Rudy is a very good friend of mine and I think he did a super job running the City of New York and I think he'd make a good president. I like him a lot, although he doesn't share all of my particular points of view on social issues. He's a very dedicated Catholic and he is a great guy. McCain I'd vote against under any circumstance.

George Stephanopoulos: (Off Camera) Reverend Robertson, thank you very much.

Pat Robertson: Okay, thank you.

George Stephanopoulos: (Off Camera) The roundtable is next. George Will, Terry Moran, and Linda Douglass weigh in on the president's first 100 days, and in "The Funnies" it's Laura's turn.

Laura Bush, First Lady: I was a librarian who spent 12 hours a day in the library, yet somehow I met George.

Mr. DURBIN. Mr. President, this is a strident voice among some in this country who came out and said he believed that the real threat to America was not terrorism but men and women wearing judicial robes. He thought that was a much greater threat. That gives you an idea of the extreme rhetoric. We cannot let this happen. Whether the Democrats are in control or out of control, whether Republicans control today or tomorrow is secondary. We all swear to uphold the Constitution.

I will yield the floor to my colleague from New Jersey at this point. I hope those following this debate will consider the constitutional issues at stake.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey is recognized.

Mr. CORZINE. Mr. President, I also believe we must defend the independence of the judiciary, and I think the comments of both the Senator from Illinois and the Senator from New York regarding this subject are ones that need to be understood and need to be brought forward on the floor as we consider the potential for what I believe is changing the basic nature of how our courts are put together and their independence.

GENOCIDE IN DARFUR

Mr. CORZINE. Mr. President, this morning I rise to speak about the tragedy and human crisis—yes, the genocide—in Darfur, Sudan, and the failure of our Nation to do everything we can do to stop the killing and save the lives of the well over 2 million people who are displaced in Darfur. Just a few weeks ago on the Senate floor, we passed the Darfur Accountability Act offered by Senator BROWNBACK and myself, an amendment to the supplemental appropriations bill which we will be voting on, and I will be supporting today, or in the next several days as it comes out of conference.

The Darfur Accountability Act provided the tools and sets out the policies needed to confront this grave humanitarian crisis that exists in the Sudan. It also had broad bipartisan support and 30 cosponsors from both sides of the aisle.

It passed by unanimous consent on the floor of the Senate. Yet, inexplicably, the amendment was stripped from the bill in conference—all of it, including support for African Union forces, the call for a military no-fly zone, the extension of the arms embargo to the Government of Sudan, and the authority to freeze the assets and deny visas to those responsible for genocide and crimes against humanity. Even the Senate's statement that the atrocities in Sudan are genocide was removed.

Mr. President, I find it hard to comprehend how these policies, which hold the possibility of saving thousands, if not hundreds of thousands of lives, could be opposed by the House, the administration, or whoever. Sadly, the people of Darfur will be paying for the indifference and, in turn, we will be ignoring the values of the American people who hold us accountable for calling genocide what it is and pushing to stop it.

The contrast between our words and deeds seems to grow almost by the hour. Just today, in Georgia, President Bush stated:

> We are living in historic times when freedom is advancing, from the Black Sea to the Caspian, and to the Persian Gulf and beyond.

I guess that is not happening in the Sudan. At the same time we are challenging autocrats around the world, it seems we are seeking accommodation with what I consider a barbarous government in Sudan.

At the same time we are saying we are standing with those who stand for freedom, we are turning our backs on the human rights of the people of Darfur. It is not enough to say that because the Sudanese Government shows some signs of cooperation on some fronts, this justifies our turning our backs on that Government's criminal attacks on their own people. It sounds almost like a speech I heard over the weekend. How can we ignore our own values when it comes to Africa? Is not every human life of equal worth?

One of this generation's great moral voices, Elie Wiesel, understood that our values are universal. Speaking on Darfur last year, he asked:

> How can a citizen of a free country not pay attention? How can anyone, anywhere, not feel outraged? How can a person, whether religious or secular, not be moved by compassion? And above all, how can anyone who remembers remain silent?

Mr. President, I just returned from the region. Unfortunately, the Government of Sudan denied me the visa that I needed to visit the camps inside Sudan. Instead, I went to Chad, where there are about 200,000 displaced refugees from Darfur.

What do the Sudanese have to hide? Why would they prevent a U.S. Senator from visiting. In the camp I visited in Chad, I received reports of continued attacks on civilians, as well as a growing fear of an imminent humanitarian crisis afflicting the 2 million displaced Darfurians. But it is when monitors are denied access, when there are no reports, that the atrocities are always the most grave and can continue.

We need transparency. This is not about one Senator. The Sudanese have obstructed access by African Union monitors. Human rights advocates and journalists have been denied entry. Humanitarian organizations have been harassed and, when they actually get there, some have actually been killed.

We need to shine a light on this problem. I visited some of the victims last week in eastern Chad. Here is a picture of some of the folks in one of the camps. Hundreds of these men and women desperately want to go home. They were in Chad because of the brutal violence in their own country, brought on by the Sudanese Government. They were chased from their villages. None of them felt safe to return. None of them would return.

This sentiment matches what we hear in Darfur, where we were last fall. Hundreds of thousands of civilians were in these IDP camps, approaching 2 million. Meanwhile, the Darfur refugees in Chad are barely getting by. I can tell you that the conditions are difficult. U.N. agencies and humanitarian organizations are doing everything they can, a heroic job of getting assistance to these camps. But I have to tell you, there is a serious shortfall between a quality of life that is just sustainable and reality. The terrain in eastern Chad is dry, infertile and, frankly, the environment is bleak. It barely supports the Chadians who live in the area. There is not enough water and certainly limited amounts of food. It needs to change.

That is why we need to speak out and we have to be forceful. That is why one of the provisions in the Darfur Accountability Act I think is most important, and that is the appointment of a special envoy.

Mr. President, stopping genocide is a moral challenge that requires courage and resources. But it also requires attention every day—real diplomatic engagement to make sure we are moving the ball forward in this process. In Chad, I met with President Deby and also with members of the joint commission—Chadians engaged in diplomatic negotiations between the Government of Sudan and the Darfur rebels. We met with the rebels themselves. People want peace. We met with people in the African Union in Addis Ababa, Ethiopia.

Bringing these players together—not to mention the parties in the north-south agreement in Sudan, the EU, NATO, and U.N. Security Council members—is a full time job. It needs the attention of an individual to make sure that those negotiations don't go adrift. We need that attention now. It is critical. The Darfur Accountability Act asked for this, encouraged this, and it is not happening. It is not sufficient enough to have a one-time trip by the Deputy Secretary of State to Sudan to think that we are paying enough attention or putting on enough pressure. In fact, we don't have an ambassador in the Sudan. We don't have an official representative to the African Union. We need to be paying attention. That is why Senator BROWNBACK and myself offered the amendment to the supplemental. That is why we have asked for additional funding, some of which was included in the supplemental, and I am grateful for the fact that Senators DEWINE and BROWNBACK, DURBIN, LEAHY, and OBAMA were able to provide $50 million more for the African Union. But some of the humanitarian assistance was pulled back for reasons allocated to other difficult places that also demand need.

It is essential if we are going to stop this killing, stop the genocide, that we react now, that we pay attention, that we do the things that will allow the African Union's deployment to be successful—only 2,200 people in an area the size of France. We need to have a minimum of 6,000, maybe as many as 10,000. That mission needs to be financed. The supplemental was where we could do much of this. Some of that we stepped back from.

Our values as a nation and our national security require us to speak up and confront these problems.

The ACTING PRESIDENT pro tempore. All time in morning business has now expired.

Mr. CORZINE. I thank the Presiding Officer. I hope my colleagues will consider this legislation when we bring it back to the floor. It needs to be fought for.

I thank the Chair. I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR DEFENSE, THE GLOBAL WAR ON TERROR, AND TSUNAMI RELIEF ACT, 2005—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of the conference report to accompany H.R. 1268, which the clerk will report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1268), making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of conferees on the part of both Houses.

The ACTING PRESIDENT pro tempore. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of May 3, 2005.)

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, the Senate now has under consideration the conference report to accompany H.R. 1268, the fiscal year 2005 emergency supplemental appropriations bill. This bill was requested by the President to carry forward the spending and accounts of the Department of Defense, the Department of State, and other agencies and departments of the Government through the remainder of this fiscal year which will end on September 30.

The bill was passed in the Senate on April 21, and we began conference discussions with our colleagues from the other body on April 27. A bipartisan majority of the conferees reconciled differences between the two bills and reached agreement on the provisions of a conference report on Tuesday, May 3.

The House approved the conference report on May 5 by a rollcall vote of 368 to 58. The conference agreement provides a total of $82.041 billion, slightly less than the President's request of $82.042 billion. Almost $76 billion in emergency supplemental appropriations is provided to the Department of Defense to cover the costs of continuing the operations in Iraq and Afghanistan.

Title II of the conference agreement provides $4.128 billion for international programs and assistance for reconstruction and the war on terror. Title III provides $1.184 billion for domestic programs in the war on terror. And title IV provides $907 million in relief for the Indian Ocean tsunami disaster.

Finally, division B of the conference agreement carries the House-passed REAL ID Act and other provisions relating to immigration issues.

This conference agreement embodies a genuine compromise between the two bodies on legislation that is of utmost importance to our troops who are deployed in the war on terror and for our allies around the world. It is supported by the administration, and I hope the bill, as reflected in the conference report, will receive bipartisan support in the Senate.

We are pleased to have the benefit of comments by other members of the committee or Senate to explain specific provisions of this conference agreement. We are prepared to try to respond to any questions that any Senators may have about the provisions of the conference report, and we will be hopeful, however, that the Senate will proceed with some dispatch to the approval of the conference report because it is an urgent supplemental appropriations conference report. The funds provided in this conference report are urgently needed by our forces in the field and by our State Department for accounts that have been depleted in connection with programs administered by that Department.

The administration is urging that we act quickly, and I hope we will not unnecessarily prolong consideration of the conference agreement in the Senate but respond enthusiastically with the challenge from the administration to act with dispatch on this conference report.

Mr. President, before I yield the floor, if I may have one more moment of indulgence from the Senator from California, on behalf of the majority leader, I ask unanimous consent that there be 3 hours and 15 minutes of debate under the control of the ranking member and 1½ hours of debate under the control of the chairman; provided further that following the use or yielding back of time, the Senate proceed to a vote on adoption of the conference report, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mrs. FEINSTEIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, the distinguished chairman of the Appropriations Committee had indicated that I would be able to speak as in morning business, that he would not object. My concern is, with the time, if I will, in fact, have the time to complete my remarks.

Mr. COCHRAN. Mr. President, I have no objection to the Senator speaking as in morning business.

Mrs. FEINSTEIN. For such time as I may consume.

Mr. COCHRAN. I do not want her to talk forever.

Mrs. FEINSTEIN. No, it will not be forever.

Mr. COCHRAN. How long does the Senator expect to talk?

Mrs. FEINSTEIN. Probably a half hour.

Mr. COCHRAN. I have no objection, and I have no objection with that being done in spite of the agreement we have reached on the time for debate of the supplemental.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Mississippi? Without objection, it is so ordered.

The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the chairman of the Appropriations Committee for his graciousness. I am pleased to serve on that committee. He has been nothing but fair always. That is very much appreciated. I would like to indicate my support for the supplemental appropriations. I do have concerns about the inclusion of the REAL ID Act in this bill, largely because it is the Judiciary Committee that is the committee of jurisdiction, and this very complicated act has not had the opportunity of a hearing or discussions or markup by members of that committee. That having been said, it is my intent to vote for the emergency supplemental.

I wish to speak during the remainder of my time on the so-called nuclear option and the majority leader's intention to remove the ability of the minority party to filibuster judicial nominations.

JUDICIAL NOMINATIONS

Mr. President, I speak today as a member of the Judiciary Committee for the past 12 years. In this capacity, I have worked with Members from both sides of the aisle and on nominations from both Democratic and Republican Presidents. In all, I voted to confirm 573 judges and have voted no on the Senate floor on 5 and voted against cloture on 11.

I evaluate each candidate on a case-by-case basis and thoroughly examine their writings, opinions, statements, temperament, and character. The fact that Federal judges are lifetime appointments weighs heavily. They do not come and go with an administration, as do Cabinet appointments. Rather, they cannot be removed from the bench except in extremely rare circumstances. In fact, in our Government's over 200-year history, only 11 Federal judges have been impeached, and of those, only 2 since 1936.

Over the years, we have had heated debates and strong disagreements over judicial nominees; however, that debate is what ensures the Senate confirms the best qualified candidates.

I am deeply troubled when our legitimate differences over an individual's qualifications to be given a lifetime appointment to the Federal bench become reduced to inflammatory rhetoric. I am even more concerned when rhetoric turns into open discussion about breaking Senate rules and turning the Senate into a body where might makes right.

I am here today because some Members on the other side of the aisle have decided that despite a constitution that is renowned worldwide and used as a model for emergent democracies, despite a confirmation rate of 95 percent of President Bush's judicial nominees, and despite the other pressing priorities that the American people want us to address, that the time has come to unravel our Government's fundamental principle of checks and balances. The majority has decided the time has come to unravel the Senate's traditional role of debate and that the time has come to break the rules and discard Senate precedent.

I am very concerned about this strategy. It is important to remember that once done, once broken, it will be hard to limit and hard to reverse. In fact, just last month, Senator COLEMAN stated on CNN:

> The President has a right to make appointments. They are not to be filibustered. They deserve an up-or-down vote. That's true for any kind of appointee, whether it's Under Secretary of State or a judge.

And this is exactly my point. First, the rules would be broken with regard to judicial nominees, then it is executive branch nominees, then it is legislation, and then the Senate has no rules at all and simply becomes a replication of the House of Representatives.

Every Thursday morning, I have a constituent breakfast, and at that breakfast I describe the difference between the House and the Senate based on something George Washington once said, that the House moves rapidly, is controlled totally by the party in power, and is akin to a cup of coffee. You drink your coffee out of the cup, but if it is too hot, you pour it into the saucer to cool it. And that is the Senate, the greatest so-called deliberative body on Earth, a place that fosters debate, often unlimited, and is basically based on the fact that no legislation is better than bad legislation. So the Senate by design was created to be a very different house than is the House of Representatives.

The strategy of a nuclear option will turn the Senate into a body that could have its rules broken or changed at any time by a majority of Senators unhappy with any position taken by the minority. As I said, this is not the Senate envisioned by our Founding Fathers, and it is not the Senate in which I have been proud to serve for the past 12 years.

I think it is important to take a look at history, as others have done, to understand the context of where this debate is rooted. The Founding Fathers and our early Pilgrims were escaping a tyrannical government where the average man, the common man, often did not have a voice and was often left without any say in its laws that governed him and his family. In response, these men specifically embedded language in the Constitution to provide checks and balances so that inherent in our Government's design would be conflict and compromise, and it is precisely these checks and balances that have served to guarantee our freedoms for over 200 years.

When you read the Federalist Papers, discussions at the Constitutional Convention, and about the experience of America's first President, it is clear the Senate was never intended to be a rubberstamp. While it is often difficult to discern the original intent of a constitutional provision, the records of the Convention address the role of the Senate in the selection of Federal judges with unusual clarity.

Both the text of the appointments clause of the Constitution and the debates over its adoption strongly suggest that the Senate was expected to play an active and independent role in determining who should sit on the Nation's judiciary.

Throughout its deliberations, the Convention contemplated that the National Legislature in some form or another would play a substantial role in the selection of Federal judges. As a matter of fact, on May 29, 1787, the Convention began its work on the Constitution by taking up the Virginia plan, which provided:

> That a National Judiciary be established . . . to be chosen by the National Legislature.

Under this plan, the President was to have no role at all. One week later, James Madison modified the proposal so that the power of appointing judges would be given exclusively to the Senate rather than to the legislature as a whole. This motion was adopted without any objection. So the Senate had the entire authority.

Then less than 2 weeks before the Convention's work was done, for the first time the committee's draft provided that the President should have a role in the selection of judges.

However, giving the President the power to nominate judges was not seen as ousting the Senate from a central role. Governor Morris of Pennsylvania paraphrased the new provision as one giving the Senate the power to appoint judges nominated to them by the President. In other words, it was considered the Senate was the nomination body and the President simply recommended judges to the Senate.

The Convention, having repeatedly and decisively rejected the idea that the President should have the exclusive power to select judges, could not possibly have intended to reduce the Senate to a rubber stamp, but rather it created a strong Senate role to protect the independence of the judiciary. In fact, Alexander Hamilton, considered the strongest defender of Presidential power, emphasized that the President would be required to have his choice for the bench submitted to an independent body for debate, a decision, and a vote, not simply an affirmation. He clarified the necessary involvement of the Senate in Federalist No. 77 by writing:

> . . . if by influencing the President be meant restraining him, this is precisely what must have been intended.

Here is the emergence of a check, a balance, a leveling impact on the power of appointment, which is not to be unbridled.

In 1776, John Adams also wrote on the specific need for an independent judiciary and checks and balances. He said:

> The dignity and stability of government in all its branches, the morals of the people and every blessing of society, depends so much upon an upright and skillful administration of justice, that the judicial power ought to be distinct from both the legislative and executive, and independent upon both, that so it may be a check upon both, as both should be checked upon that . . . [The judges'] minds should not be distracted with jarring interests; they should not be dependent upon any man or body of men.

So it is clear, when examining the creation of our Constitution, that the Federal judiciary was specifically designed to be an independent, nonpartisan third branch, and the Senate was meant to play an active role in the selection process.

In addition, the experience of President Washington in appointing judges illustrates that from the outset the Senate took an active role in evaluating judicial nominees. In 1795, President George Washington nominated John Rutledge to be Chief Justice. Soon after his nomination, Rutledge assailed the newly negotiated and popular Jay Treaty with Britain. Even as Rutledge functioned as Acting Chief Justice, the Senate debated his nomination for 5 months, and in December 1795 the body rejected him 14 to 10, illustrating from the first administration that the Senate has always enjoyed a strong prerogative to confirm or reject nominees.

Now, use of procedural delays throughout history has prevented nominees from receiving an up-or-down vote. The claim that it is unprecedented to filibuster judicial nominations is simply untrue. In 1881, Republicans held a majority of seats in the Senate but were unable to end a filibuster to preclude a floor vote on President Rutherford B. Hayes's nomination of Senator Stanley Matthews to the Supreme Court. Matthews was renominated by incoming President James Garfield, and after a bitter debate in the Senate, was confirmed by a vote of 24 to 23. This has been described as the first recorded instance in which the filibuster was clearly and unambiguously deployed to defeat a judicial nomination.

Then, as has been stated on the Senate floor, there was the 1968 GOP-led filibuster against President Lyndon B. Johnson's nomination of Abe Fortas to be Chief Justice of the United States. At the time, a page 1 Washington Post story declared: "Fortas Debate Opens With a Filibuster."

The article read:

> A full-dress Republican-led filibuster broke out in the Senate yesterday against a motion to call up the nomination of Justice Abe Fortas for Chief Justice.

So here are two specific examples of Republican-led filibusters against judicial appointments.

Last Congress, the Congressional Research Service reported that filibusters and cloture votes have been required to end debate on numerous judicial appointments. CRS reported that since 1980, cloture motions have been filed on 14 court of appeals and district court nominations. We all know a cloture vote is another kind of filibuster. It is the kind of filibuster where one does not have to stand up on the floor, but it takes the same 60 votes to close off debate. Moreover, cloture petitions were necessary in 2000 to obtain votes on the nominations of both Richard Paez and Marsha Berzon to the Ninth Circuit after Republican opponents repeatedly delayed action on them, for over 4 years in the case of Paez.

In fact, at the time, Republican Senator Bob Smith openly declared he was leading a filibuster against Richard Paez and he described Senator SESSIONS as a member of his filibuster coalition.

In addition to using the filibuster and other procedural delays, Republicans have publicly pronounced the importance of these rules and their own desire to delay or block the confirmation of judges. As recently as 1996, Senator LOTT stated:

> The reason for the lack of action on the backlog of Clinton nominations was his steadily ringing office phone saying "No more Clinton Federal judges."

In 1996, Senator CRAIG said:

> There is a general feeling . . . that no more nominations should move. I think you'll see a progressive shutdown.

In 1994, Senator HATCH stated that the filibuster is "one of the few tools that the minority has to protect itself and those the minority represents."

How soon they forget. Recent Republican practices using anonymous holds allowing a single Senator, not 41, to prevent a hearing or a vote on a judicial nominee, in effect, has created a filibuster of one. All told, during the last administration, more than 60 judicial nominees suffered this fate. This practice was recently commented on in the Chicago Tribune which said:

> In addition, there are lots of congressional practices that defy majority rule. Under President Clinton, when Republicans controlled the Senate, they didn't have to use the filibuster to bottle up judicial nominations. The Judiciary Committee simply refused to send them to the floor for a vote.

That is true. I know. I was there. Remembering this history is important, not to point fingers or justify a tit-for-tat policy; instead, it is important to recall that Senate rules have been used throughout our history by both parties to implement a strong Senate role and ensure that Presidents do not attempt to weaken the independence of the judiciary.

The history is not new, and these examples have been cited by my colleagues in other contexts, and therefore, those on the other side have responded to the history. I believe it is important to address the differences that the other side is trying to draw.

Some have argued that the nomination by President Hayes of Senator Matthews of Ohio was not a filibuster because there was no cloture vote. This is true, however, a procedural delay denying a nominee confirmation to a court still has the result blocking a nomination. Trying to make a distinction about the procedures used to deny a nominee confirmation is a distinction without a difference.

As for the nomination of Abe Fortas—colleagues on the other side of the aisle have made various arguments including: that's only one isolated example; it was a Supreme Court, not a Circuit Court nominee; or Fortas' nomination was withdrawn after a failed cloture vote showed he did not have majority support and therefore its not the same situation.

Miguel Estrada and Carolyn Kuhl both withdrew their nominations after failed cloture votes, however both were used as examples of filibusters by Democrats.

Our colleagues have argued that the delays to the nominations of Richard Paez and Marsha Bershon do not count because in the end they were confirmed. This ignores that it took over four years to confirm both nominees. In addition, if a party attempts to filibuster a nomination, or legislation, and it is eventually passed that does not mean it is not a filibuster. It simply means that the filibuster or refusal to grant cloture cannot be sustained. That has happened to both parties in a variety of situations. However, failure does not undo the effort.

Finally, as to the other Clinton Administration nominees—the response given is that their nominations weren't defeated by a cloture vote on the floor. In essence the argument is because different procedural rules were used to defeat a nomination, it doesn't count. On its face, this argument doesn't hold water. To the nominee whether their confirmation failed because of a "hold" in Committee, or a failed cloture vote, the result is the same—they are not sitting on the bench.

Dozens of Clinton's nominees were "pocket filibustered" by as little as one Senator who, in secret, prevented the nominees from receiving a hearing in Committee, or a mark-up, or a floor vote. One Senator without debate or reason has stopped many Clinton nominees.

The question I have is whether the public interest is better served by one hidden filibuster without explanation, or 41 Senators debating publicly and refusing publicly to confirm the nominee. Clearly, it is the later.

I would like to go over a few nominees from the last administration who have been filibustered by Republicans, and filibustered successfully on many occasions by as little a number as one Republican; filibustered in a way that it was secret; filibustered in a way that the individual never received a hearing or a markup in Judiciary or a vote on the Senate floor. Then I would like an answer to the question, which is better, a filibuster by 40 Members on the floor openly declared, publicly debating, discussing an individual's past speeches, an individual's temperament, character, opinions, or a filibuster in secret when one does not know who or why?

I begin with Clarence Sundram. Clarence Sundram was the chairman of the New York Commission for the Mentally Disabled. He was nominated on September 29, 1995. He had hearings on July 31, 1996, and June 25, 1997. There was no committee vote. There was no floor vote. His nomination was simply killed in committee by a filibuster of one or two, or the chairman's decision not to bring the nomination to the floor. He was supported by both home State Senators Moynihan and D'Amato. On seven occasions, Senator LEAHY spoke on the Senate floor urging that a vote be taken on Sundram, but no vote was ever taken.

James A. Beaty, Jr., was nominated to the U.S. Court of Appeals for the Fourth Circuit on December 22, 1995, and renominated on January 7, 1997. He did not receive a hearing and was not voted on in committee. His nomination languished for more than 1,000 days, almost 3 years without any action being taken. He was nominated by President Clinton to be a judge on the U.S. District Court for the Middle District of North Carolina. He was finally confirmed by the Senate in 1994.

Before that, he spent 13 years as a judge in the North Carolina Superior Court. He was blocked by Senator Helms. On November 21, 1998, National Journal reported that Senator Helms wanted President Clinton to name to the Fourth Circuit one of the Senator's proteges, Terrence W. Boyle, whose nomination to that bench was killed when the Democrats ruled the Senate and George Bush was President, but the Clinton White House refused and Senator Helms made it clear that President Clinton would not get Beaty confirmed until he nominated Boyle.

Then Senator Helms supported Beaty when he was nominated for his current position as a U.S. district court judge. But this shows how things worked, where one person could deny a nomination.

Then there is Helene White from the State of Michigan. She was nominated to the U.S. Court of Appeals for the Sixth Circuit on January 7, 1997, and renominated on January 26, 1999, and renominated for a third time on January 3, 2001. She did not receive a hearing or a committee vote during the pendency of her nomination. She had waited for a Senate Judiciary Committee hearing for 4 years, longer than any other judicial nominee in history, according to the Associated Press. She had been a judge on the Michigan Court of Appeals. She served as a Wayne County circuit judge for nearly 10 years. She sat on the Common Pleas Court for the city of Detroit and served on the board of directors of the Michigan legal services. President Clinton thanked her for hanging in there through an ordeal that no one should have to endure. It is my understanding Senator LEVIN, one of the Michigan Senators, supported her. Senator Abraham waited 2 years before turning in his blue slip, and after turning in the blue slip did not endorse Ms. White. That, again, is how things worked. One person—not 41 people on the floor debating but 1 person—in secret holding up a nominee. That is just as much a filibuster, and even more effective a filibuster.

Jorge Rangel was nominated to the U.S. Court of Appeals for the Fifth Circuit on July 24, 1997. He did not receive a hearing or a vote in committee. He was a partner in Rangel & Chriss, a Corpus Christi law firm, and specialized in personal injury, libel, and general media litigation. He was presiding judge of the 347th District Court in Nueces County from October of 1983 to June of 1985, and a former assistant professor of law at the University of Houston. He was originally recommended to the White House by Senator Bob Krueger, but removed his name from consideration because, according to a July 25, 1997 Dallas Morning News article, he was then a member of the American Bar Association Panel that reviews federal court nominees, which made him ineligible. He was subsequently nominated after he was no longer on the ABA panel, at which time, Texas Monthly has reported, he was blocked by his two home state Senators. So, two persons there.

Barry Goode was nominated to the U.S. Court of Appeals for the Ninth Circuit in 1998, renominated January 26, 1999, and renominated a third time on January 3, 2001, just before President Clinton left office—three tries. He waited for 2½ years without a hearing or a vote in committee. He was a partner at the time at the San Francisco law firm of McCutchen, Doyle, Brown & Enersen. He had practiced law since 1974. He was an adjunct professor of environmental law at the University of San Francisco and served 2 years as special assistant to Senator Adlai E. Stevenson III. The ABA rated him as qualified. He was supported by both myself and Senator BOXER. The reason for the block was an anonymous Republican who, to this day, is not known. Senator LEAHY spoke at least eight times on the Senate floor, urging that Goode's nomination be considered, but a filibuster of one, hidden, in secret, nobody knowing who it was, essentially killed this nomination.

Legrome Davis was nominated to the U.S. District Court for the Eastern District of Pennsylvania on July 30, 1998, and renominated on January 26, 1999. He did not receive a hearing or a vote from the Judiciary Committee during the nearly 2½ years his nomination was pending. President Bush renominated Davis to the same court at Senator SPECTER's request on January 23, 2002, and he was finally confirmed by a unanimous vote of the Senate on April 18, 2002. But the point was he was stopped for nearly 2½ years by an unknown individual.

Lynnette Norton was nominated to the U.S. District Court for the Western District of Pennsylvania on April 29, 1998, and renominated on January 26, 1999. She did not receive a hearing or a vote in committee during the more than 2½ years her nomination was pending. She died suddenly in March 2002 of a cerebral aneurysm. It is my understanding Senator SPECTER supported Norton. Senator SANTORUM, I believe, did not return the blue slip. According to a November 18, 1999 article in the Philadelphia Inquirer, a hold was placed on Ms. Norton's nomination.

H. Alston Johnson was nominated to the U.S. Court of Appeals for the Fifth Circuit on April 22, 1999, and renominated on January 4, 2001. Despite waiting over a year and a half, he did not receive a hearing or a vote in committee. His nomination was withdrawn by President Bush on March 19, 2001. He was supported by both home State Senators, Senators Breaux and LANDRIEU. According to articles in the Baton Rouge Advocate on July 10, 2000, and January 8, 2001, it is my understanding an individual Senator blocked his nomination from proceeding, even though both Republicans and Democrats appeared willing to confirm him.

James E. Duffy, Jr. was nominated to the U.S. Court of Appeals for the Ninth Circuit on June 17, 1999, and renominated on January 3, 2001. He did not receive a hearing or vote in committee. He is from Honolulu, had been a litigator for his entire legal career, been a partner in the Honolulu law firm of Fujiyama, Duffy, and Fujiyama since 1975. He was former president of both the Hawaii State Bar and the Hawaii Trial Lawyers Association. He would have been the first active Hawaii member of the Ninth Circuit Court of Appeals in 15 years, despite rules that at least 1 judge must sit in each of the States within the Ninth Circuit. He was unanimously rated as well qualified. He was supported by both Hawaii Senators. There has been no explanation forthcoming of who blocked his progress. Again, a secret hold, one person. Two home State Senators supporting this individual and the individual does not go forward. That is as much a filibuster as anything going on on the floor at this time.

Elena Kagan was nominated to the U.S. District Court of Appeals for the District of Columbia on June 17, 1999. She did not receive a vote or a hearing in committee. She is currently the dean of Harvard Law School. She was a visiting professor at Harvard Law School, former domestic adviser to President Bill Clinton when she was nominated. She was special counsel to the Senate Judiciary Committee during the confirmation hearings of Ruth Bader Ginsburg. She served as Associate Counsel to the President from 1995 to 1996, and Deputy Assistant to the President for Domestic Policy, and Deputy Director of the Domestic Policy Council from 1997 to 1999. Prior to that she was professor of law at the University of Chicago, tenured. She worked at the Washington, DC, law firm of Williams and Connolly, and she clerked for U.S. Supreme Court Justice Thurgood Marshall. A substantial majority of the ABA rated her qualified. A minority rated her well qualified. It is my understanding three Senators argued that the DC Circuit did not need any more judges, an argument that had been used to delay the confirmation of Judge Merrick Garland between 1995 and 1997.

See, this was another thing that was happening during that time. Let me just say it like it was. Vacancies on the DC Circuit—a critical and important circuit because it reviews all of the administrative appeals—were purposely kept open, preventing President Clinton from filling that circuit, to have more openings for the next President. Here three Senators kept this very qualified and very distinguished nominee from receiving a vote or a hearing on the committee. Again, a secret, hidden filibuster.

And, nevertheless, Senate Republicans supported the nomination by President Bush of Miguel Estrada to the same circuit court in 2002.

James Wynn was nominated to the U.S. Court of Appeals for the Fourth Circuit on August 5, 1999, and renominated on January 3, 2001. As you can see, President Clinton made one last try before he left office. He did not receive a hearing or a vote in committee. President Bush withdrew Judge Wynn's nomination on March 19, 2001. He was a judge on the North Carolina Court of Appeals and had previously served on the North Carolina Supreme Court. When nominated, he was a Navy reservist in the JAG corps of the U.S. Navy with the rank of captain. He served as the ABA's first African-American chair of the Appellate Judges Conference whose membership includes over 600 Federal and State appellate judges. He was on the board of governors of the American Judicature Society and was a vice president of the North Carolina Bar Association. He was an executive board member of the Uniform State Laws Commission and a drafter of the Revised Uniform Arbitration Act, Uniform Tort Apportionment Act, and proposed Genetic Discrimination Act. He was rated qualified by the ABA screening committee. Senator Edwards supported him. The Associated Press, on December 29, 2000, reported that Senator Helms blocked Judge Wynn. One person blocks a distinguished jurist, a filibuster of one, and not a word said.

Kathleen McCree-Lewis was nominated to the U.S. Court of Appeals for the Sixth Circuit Court on September 16, 1999, and renominated on January 3, 2001. She did not receive a hearing or a vote in committee during the more than a year her nomination was pending. She was a distinguished appellate attorney with Dykema Gossett, one of the largest law firms in Michigan. She had been active in the Michigan bar from 1996 to 1999. She chaired the rules advisory committee of the U.S. Court of Appeals for the Sixth Circuit. From 1992 to 1995, she cochaired the appellate practice committee of the ABA section of litigation. From 1987 to 1998, she was editor of the Sixth Circuit section of the Appellate Practice Journal and is a life member of the Sixth Circuit Judicial Conference. She was president of the American Academy of Appellate Lawyers. She would have been the first African-American woman to serve on the Sixth U.S. Circuit Court of Appeals. She was rated by the ABA as well qualified. On March 21, 2001, the Detroit Free Press reported that she was blocked by one of her home State Senators, namely Senator Abraham. Let me quote the Detroit Free Press. McCree-Lewis never "got a hearing in the Senate, thanks to Abraham's epic obstructionism."

Now on January 8, 2001, the Detroit Free Press reported:

> The Senate has been obscenely obstructionist in blocking President Bill Clinton's judicial nominations. Former Senator Spencer Abraham did nothing to help shepherd Michigan Court of Appeals Judge Helene White and Detroit attorney Kathleen McCree Lewis through the system.

Again, filibuster of one, in secret, with no floor debate.

Enrique Moreno was nominated to the U.S. District Court of Appeals for the Fifth Circuit on September 16, 1999, and renominated January 3, 2001.

He did not receive a hearing or a vote in committee. At the time of his nomination, Moreno had a longstanding and diverse legal practice in El Paso, working on both civil and criminal law. In the civil area, he represented both plaintiffs and defendants, representing both large business clients and also individuals, advocating their civil rights. In a survey of State judges, he was rated as one of the top trial attorneys in El Paso. A native of Chihuahua, he came to El Paso as a small child, son of a retired carpenter and a seamstress.

The ABA committee unanimously rated him as well qualified.

In November of 2000, Texas Monthly reported that he was blocked by both home State Senators, again without a hearing or a vote in the Judiciary Committee.

Allen Snyder was nominated to the U.S. Court of Appeals for the DC Circuit on September 22, 1999. He did receive a committee hearing on May 10, 2000. His nomination, though, was not voted on by the committee.

At the time of his nomination, he was a longtime partner and chairman of litigation practice at the DC law firm Hogan & Hartson. At Hogan & Hartson, he represented Netscape Communications Corporation in the landmark Microsoft antitrust case.

He was a former law clerk to Chief Justice William Rehnquist. The ABA unanimously rated him well qualified. He served as chair of the Committee on Admissions and Grievances of the U.S. Court of Appeals for the District of Columbia, as secretary and executive committee member of the Board of Governors of the District of Columbia Bar, and on the board of the Washington Council of Lawyers. It is my understanding his nomination was blocked by two Judiciary Committee Senators. No reason was given.

Kent Markus was nominated to the U.S. Court of Appeals for the Sixth Circuit on February 9, 2000. He did not receive a hearing or a vote in committee. He was the director of the Dave Thomas Center for Adoption Law and visiting professor at Capital University Law School at the time of his nomination. He served in numerous high-level legal positions within the Department of Justice, including counselor to the Attorney General, Deputy Chief of Staff for the Office of the Attorney General, and Acting Assistant Attorney General for the Office of Legislative Affairs.

He also served as first assistant attorney general and chief of staff for the Ohio Attorney General's Office.

His nomination was supported by 14 past presidents of the Ohio State Bar Association, including Democrats, Republicans, and Independents; more than 80 Ohio law school deans; prominent Ohio Republicans; the National District Attorneys Association; and the National Fraternal Order of Police.

The ABA unanimously rated him as qualified.

Both Senators DEWINE and VOINOVICH returned blue slips. He was blocked by one Senator—a filibuster of one, all hidden, all quiet.

Bonnie Campbell was nominated to the U.S. Court of Appeals for the Eighth Circuit on March 2, 2000, and renominated on January 3, 2001. Her hearing was on May 25, 2000. The nomination was never voted on by the Judiciary Committee.

She served for 4 years as Iowa's Attorney General. She is the only woman to have held that office in her State, and she wrote what became a model statute on antistalking for States around the country.

She was selected by President Clinton in 1995 to head the Justice Department's newly created Violence Against Women Office. She emerged as a national leader for her work to bring victims' rights reforms to the country's criminal justice system.

In 1997, Time magazine named her one of the 25 most influential people in America. Praising her for bringing "rock-solid credibility" to her job, Time called Campbell the "force behind a grass-roots shift in the way Americans view the victims—and perhaps more important, the perpetrators—of crimes against women."

She oversaw a $1.6 billion program to provide resources to communities for training judges, prosecutors, and police. She was chosen to serve on the President's Interagency Council on Women, chaired by former First Lady HILLARY RODHAM CLINTON. She also headed the Justice Department's Working Group on Trafficking.

According to a statement given by Senator LEAHY to the Judiciary Committee on January 22, 2004, she was blocked by a secret Republican hold from ever getting committee or Senate consideration. Apparently, just one Senator. She had a hearing, as I said, but she never had a vote.

Roger Gregory was nominated to the U.S. Court of Appeals for the Fourth Circuit on June 30, 2000, and was renominated on January 3, 2001. He was a recess appointee of President Clinton at the end of the 106th Congress. He did not receive a hearing or a vote.

On March 19, 2001, President Bush withdrew his nomination. He was subsequently renominated by President Bush on May 9, 2001, and confirmed July 20, 2001, by a 93-to-1 vote.

According to former Senator Chuck Robb, on October 3, 2000:

> Despite the well-documented need for another judge on this court, and despite Mr. Gregory's stellar qualifications, the Judiciary Committee has stubbornly refused to even grant Mr. Gregory the courtesy of a hearing.

I know Senator WARNER supported this judge.

Again, this just goes to show that we are having a major flap because 41 people feel strongly, are willing to come to the floor, and willing to debate a nominee, and all of a sudden the world is going to come to an end, when for years and years and years one or two or three Members of the Senate could prevent a hearing or a markup in the Judiciary Committee or an individual even being brought to the floor.

Which would the public prefer? I would hope it would be a discussion on the floor of the Senate. I would hope it would be laying out the case against the individual, as has been done with every one of the ten—only ten; in all of President Bush's terms, only ten—when in President Clinton's term there were 60, and one or two, in secret, kept that individual from being brought to the floor of the Senate and voted on.

Well, let me continue. John Bingler was nominated to the U.S. District Court for the Western District of Pennsylvania on July 21, 1995, and renominated on July 31, 1997. He did not receive a hearing or a vote either time he was nominated.

After waiting more than 2 years without any action on his nomination, he withdrew on February 12, 1998.

Since 1971, he has practiced law with the Pittsburgh firm of Thorp, Reed & Armstrong. He served for 6 years as chair of the firm's litigation department.

From 1970 to 1971, he was the public safety director for the city of Pittsburgh. He served for 3 years as an assistant U.S. attorney in Pittsburgh where he prosecuted Federal criminal cases, and for 2 years he was an attorney for the Civil Rights Division of the Department of Justice. He served a 3-year tour of duty in the U.S. Navy. He was rated unanimously as well qualified by the ABA.

On October 16, 1997, the Pittsburgh-Post Gazette reported that one of the two home State Senators held up his nomination for 2 years, allowing neither a hearing nor a vote, and I do not believe it was the chairman of the committee.

Bruce Greer was nominated to the U.S. District Court for the Southern District of Florida on August 1, 1995. He did not receive a hearing and he was never voted on by the committee. His nomination was withdrawn on May 13, 1996. At the time of his nomination, he was the president of the Miami law firm of Greer, Homer & Bonner, where he has a civil litigation practice.

Senator Bob Graham supported him. Senator Connie Mack's position is not known. It is my understanding the Wall Street Journal published a lengthy editorial on July 17, 1996, that made no direct allegations against Greer, but made a case for guilt by association implying that, because Mr. Greer represented unsavory defendants, he was soft on crime.

The Columbia Journalism Review reported that the day after the editorial appeared, the chairman came to the floor to denounce judges who are soft on crime and, shortly afterward, Mr. Greer received word that he would not be receiving a hearing. So Bruce Greer was denied even a hearing to see if the allegations were true.

That is what has happened, ladies and gentlemen.

Leland Shurin was nominated to the U.S. District Court for the Western District of Missouri on April 4, 1995. He did not receive a hearing and was never voted on in committee. His nomination was withdrawn at his request, because of inaction, on September 5, 1995.

He was an executive committee member and partner at the law firm of McDowell, Rice & Smith, in Kansas City, where he maintained a general practice doing plaintiff and defense litigation. He was very active in the community.

He was rated as qualified by the ABA committee. He told the Kansas City Star:

> I had the sense that my confirmation is being delayed. No one could give me a clear date when anything could be done. I've sat around for two years. I can't keep doing it.

One has to come to grips with whether this was a fair process, whether this was even as fair as what is happening today. I believe no way, no how was this a fair process. I have been one who has believed that the blue slip should be done away with, that there should be no anonymous holds, and that every appointee should be given a hearing and a vote in the committee. That does not mean that we should change the rules of the Senate to prevent, in extreme cases, the ability of the minority to register a strong point of view, when the minority of one has historically been allowed to register a strong point of view secretly and, in fact, kill a nominee.

Sue Ellen Myerscough was nominated to the U.S. District Court for the Central District of Illinois on October 11, 1995. She did not receive a hearing or a vote in committee. She was an Illinois State circuit court judge. She was an associate circuit court judge. She worked in law firms in Springfield. She formerly clerked for U.S. District Judge Harold Baker. A substantial majority of the ABA committee rated her as well qualified, while a minority rated her as qualified.

She was supported by both Senator Paul Simon and Senator Carol Moseley-Braun at the time. In 1997, Senator DICK DURBIN stated in the State Journal-Register that he believed "Judge Myerscough was caught up in a Federal stall."

On September 27, 1996, the State Journal-Register reported that Senator Simon said he believed the reason was a matter of partisanship, not because of any controversy or problems with her qualifications. Senator Simon said he escorted Myerscough for individual meetings with Senator HATCH and other members of the panel but had "not had a single member of the committee tell me he or she couldn't vote for her."

This is what has happened. So I have a hard time understanding why we are where we are today.

Charles Stack was nominated to the U.S. Court of Appeals for the Eleventh Circuit on October 27, 1995. He received a hearing before the committee on February 28, 1996, but did not receive a vote in committee.

According to the May 11, 1996, Miami Herald, he came under intense attack from then-Presidential candidate Bob Dole, and he withdrew his nomination on May 13, 1996.

Cheryl Wattley, nominated to the U.S. District Court for the Northern District of Texas on December 12, 1995, did not receive a hearing or vote in committee. The Dallas Morning News reported in 1996 that she was supported by both home State Senators. Again, no reason—probably filibustered because one or two or three didn't like her for one reason or another.

Michael Schattman, nominated to the U.S. District Court for the Northern District of Texas, December 19, 1995, and renominated on March 21, 1997, did not receive a hearing, was not voted on in committee. His nomination at his request was withdrawn on July 1998 after 2½ years of inaction by the committee. This man was a Texas State district court judge in Fort Worth. He had previously been a county court judge. And to add insult to injury, because of the lengthy delay in the nomination process, the February 11, 1998 edition of the NewsHour with Jim Lehrer reported that he lost his State court judgeship. He was unanimously rated as qualified. Again, this is the hidden filibuster of this body.

J. Rich Leonard, was nominated to the U.S. Court of Appeals for the Fourth Circuit, on December 22, 1995, did not receive a hearing or a vote in committee. Subsequently, he was nominated to the District Court for the Eastern District of North Carolina on March 24, 1999. Again, he did not receive a hearing or a vote. In total, this gentleman waited over 2.5 years before the committee for the two nominations without ever receiving a hearing or a vote. He was a judge on the U.S. Bankruptcy Court for the Eastern District of North Carolina at the time of his nomination by President Clinton. He was rated as well qualified. Again, my information is that one Senator blocked both of his nominations.

I see there are others waiting. I will be brief. But let me list some of the others.

Robert Freedberg was nominated to the U.S. District Court for the Eastern District of Pennsylvania, April 23, 1998. He never received a hearing. He was a judge on Northampton County's Court of Common Pleas. He is a former prosecutor. The January 28, 1999 Allentown Morning Call reported that he was blocked by one Senator.

Robert Raymar, nominated to the U.S. Court of Appeals for the Third Circuit, did not receive a hearing. His nomination expired at the end of the session. Former deputy attorney general for the State of New Jersey, member of the New Jersey Executive Commission on Ethical Standards. He was rated as qualified. He was supported by both State Senators. One person filibustered this individual in committee. He didn't receive a hearing or a vote.

James Lyons, nominated to the U.S. Court of Appeals for the Tenth Circuit, did not receive a hearing or a vote, and withdrew after it became clear he would not receive a hearing or a vote. He was a longtime senior trial partner at the Denver law firm of Rothberger, Johnson & Lyons, special advisor to the President of the United States and the Secretary of State for economic initiatives in Ireland and Northern Ireland. He couldn't get a hearing. He was adjudged well qualified by the ABA.

I don't see where anybody is concerned about these injustices, and that is what they were—real injustices.

John Snodgrass was nominated to the U.S. District Court, Northern District of Alabama, September 22, 1994, renominated January 11, 1995. He did not receive a hearing or a committee vote. His nomination was withdrawn on September 5, 1995.

Anabelle Rodriguez was nominated to the U.S. District Court for the District of Puerto Rico, January 26, 1996, renominated March 21, 1997. A committee hearing was held on October 1 of 1998, but a vote was never held on her nomination during the nearly 3 years her nomination was pending. What were the reasons for this block? On October

8, 1998, the Associated Press reported that her supporters said she was opposed by Puerto Rico's prostatehood Governor and congressional representative because she is a backer of the island's current status as a U.S. commonwealth, and there was apparently some overwhelming bipartisan opposition.

Why not vote? If what is being said now has been true and par for the course, why not vote?

Lynne Lasry was nominated for the Southern District of California but did not receive a hearing or a vote. After one year of inaction, the nomination was withdrawn in 1998.

James Klein was nominated to the U.S. District Court for the District of Columbia, January 27, 1998, renominated March 25, 1999, and did not receive a hearing or committee vote during the 3 years that he was pending.

Patricia Coan was nominated to the U.S. District Court for the District of Colorado, May 27, 1999. She did not receive a hearing or committee vote in the year and a half that her nomination was pending. The May 21, 2000 Denver Post reported that one Senator blocked her nomination.

Dolly Gee was nominated to the District Court for the Central District of California, May 22, 1999. She did not receive a hearing or committee vote in the year and a half that her nomination was pending.

Fred Woocher was nominated to the U.S. District Court for the Central District of California, received a hearing on November 10, 1999, but was not voted on by the committee despite waiting for a year after his hearing.

Steven Bell was nominated to the U.S. District Court for the Northern District of Ohio but did not receive a hearing or vote in committee for more than a year that his nomination was pending.

Rhonda Fields was nominated to District Court for the District of Columbia on November 17, 1999, no hearing, no vote.

Robert Cindrich was nominated to the U.S. Court of Appeals, Third Circuit, February 9, 2000, no hearing, no vote.

David Fineman was nominated to the U.S. District for the Eastern District of Pennsylvania on March 9, 2000, no hearing, no vote.

Linda Riegle was nominated to the U.S. District for the District of Nevada on April 25, 2000, no hearing, no vote in committee.

Ricardo Morado was nominated to the U.S. District for the Southern District of Texas on May 11, 2000, no hearing, no vote.

Stephen Orlofsky was nominated to the U.S. Court of Appeals, Third Circuit, May 25, 2000, no hearing, no vote.

Gary Sebelius was nominated to the U.S. District for the District of Kansas on June 6, 2000, no hearing, no vote.

Kenneth Simon was nominated to the U.S. District for the Northern District of Alabama on June 6, 2000, no hearing, no vote.

John S.W. Lim was nominated to the U.S. District for the District of Hawaii on June 8, 2000, no hearing, no vote.

And there are those, you might say, that came under the Thurmond rule. There is sort of an informal practice that in the last few months of a President's tenure, the hearings do not go forward. Again, that is not a rule; it is a practice.

Christine Arguello, nominated to the U.S. Court of Appeals, Tenth Circuit, on July 27, 2000.

Andre Davis, nominated to the U.S. Court of Appeals, Fourth Circuit, on October 6, 2000.

Elizabeth Gibson, nominated to the U.S. Court of Appeals, Fourth Circuit, on October 26, 2000.

David Cercone, nominated to the U.S. District Court for the Western District of Pennsylvania on July 27, 2000.

Harry Litman, nominated to the U.S. District Court for the Western District of Pennsylvania on July 27, 2000.

Valerie Couch, nominated to the U.S. District Court for the Western District of Oklahoma on September 7, 2000.

Marian Johnston, nominated to the U.S. District Court for the Eastern District of California on September 7, 2000.

Steve Achelpohl, nominated to the U.S. District Court for the District of Nebraska on September 12, 2000.

Richard Anderson nominated to the U.S. District Court for the District of Montana on September 13, 2000.

Stephen Lieberman, nominated to the U.S. District Court for the Eastern District of Pennsylvania on September 14, 2000.

And, Melvin Hall, nominated to the U.S. District Court for the Western District of Oklahoma on October 3, 2000.

What I have tried to show today is that there is a certain amount of hypocrisy in what is going on today. The opposition cannot have any concern about one Clinton nominee or dozens of Clinton nominees who received no hearing, no markup, no floor vote, but suddenly they are upset because 41 of us in public, eight of us in committee, vote no and believe that our views are strong enough and substantive enough to warrant a debate on the floor of the Senate in the true tradition of the Senate. And bingo, we are going to have a change in the rules to prevent that from happening. Nobody is talking about changing the rules so one person can't filibuster; one person can't, on a pique or because they don't like the individual, condemn that individual.

I can tell you, because I have been on this committee for 12 years, I have had people call me and say: Look, I have three children. I have to know what is going to happen to me. I try to get information, can't get that information.

I ask the majority of this body, is that fair? Do you not feel aggrieved? Or is that OK because it was a different President of a different party? I don't think so. I think what is sauce for the goose is sauce for the gander. I pointed out two uses of filibusters for judicial appointments by Republicans, one in 1881 and one in 1968.

Mr. COCHRAN. Mr. President, will the Senator yield for a question?

Mrs. FEINSTEIN. I certainly will.

Mr. COCHRAN. Mr. President, I am curious to know when the Senator plans to complete her remarks. At the beginning of her remarks, she assured the Senate that she would take about 30 minutes. We are on the conference report on the supplemental appropriations bill which is an urgent supplemental bill. We have about 4 hours divided among Senators on both sides to complete debate. I don't want to push the Senate into the evening hours, if we are going to have a prolonged discussion of this issue when we thought it was going to be 30 minutes. It is almost an hour now.

Mrs. FEINSTEIN. I appreciate the Senator's forbearance. He is a true gentleman. Out of respect for him and for the institution, I will conclude my remarks.

During the reorganization of the Senate in 2000, Senators Daschle and LEAHY worked to make the nominations process more fair and public. This refining forced Senators opposed to a nomination to be held accountable for their positions. They could not hide behind a cloak of secrecy. This step also wiped out many of the procedural hurdles that have been used to defeat nominations. So many of the tools used by Republicans in the past, and referred to as a way to draw distinctions with a public cloture vote are no longer available. This historical record is important, yet it is too often lost in our debates.

I also believe it is useful to examine the current state of judicial nominations, and what has actually occurred in this body during President Bush's tenure: 208 judges confirmed out of 218; 95 percent of President Bush's judges have been confirmed; the Senate has confirmed 35 circuit court nominees; recently, the Judiciary Committee reported out 2 District Court and 1 Circuit Court nominees; today, there are only 4 judicial nominations on the Senate calendar waiting for a vote; and there are only 45 total vacancies, both district and circuit courts, and 29 do not have nominations submitted.

What do these numbers mean? There are more judges today sitting on the federal bench than in any previous presidency. The Senate has confirmed more judges for President Bush than in President Reagan's first term, his father's only term, or President Clinton's second term.

The Senate confirmed more circuit court judicial nominees than in Reagan's or Clinton's first term. When Democrats were in the majority in 2001, there were 110 vacancies and by the end of the 108th Congress and President Bush's first term, the number had plummeted to 27—the lowest level of vacancies since the Reagan era.

Of the 8 nominees reported out of committee this year, four have already been confirmed. One, Thomas Griffith, is waiting a vote, and the remaining three are controversial nominees who were defeated last Congress: William Myers, Priscilla Owen, and Janice Rogers Brown.

In addition, President Bush has sent the Senate but one new judicial nomination this year. Brian Sandoval of Nevada is the only new judicial nomination sent to the Senate in the first five months of this year. He has bipartisan support from his home State Senators and appears to be a consensus nominee.

Again, what do these numbers mean? They mean there is no crisis on the federal bench that justifies the so-called nuclear option as some of my Republican colleagues contend.

To me, the record I just described and the reasons for opposing these limited number of nominees doesn't lead to the conclusion that the Senate should be discussing breaking our own institutional rules and unraveling the checks and balances established by our Constitution.

Some have described this debate as a strategy to change the rules. Changing the rules is not only unacceptable, but in this case it is inaccurate as well. The nuclear option is a strategy to break the rules. This isn't just my assessment; it's the conclusion drawn by the Senate Parliamentarian and the Congressional Research Service.

Last week, press reports reiterated that Senator REID had been assured by the Parliamentarian that if the Republicans go through with this strategy they would "have to overrule him, because what they are doing is wrong."

The Congressional Research Service concluded in a recent report that to employ these tactics the Senate would have to "overturn previous precedent." "Proceedings of this kind, it is argued, would both break old precedent and establish new Senate precedents. Eventually such a plan might even result in changes in Senate rules, while circumventing the procedures prescribed by Senate rules."

So, shortly, the Senate will likely be faced with a preemptive strike to break the rules. The term preemptive strike seems appropriate when there are only three controversial judges waiting for a vote—judges who were previously defeated last Congress and have drawn strong opposition.

This is a move to wipe out 200 years of precedent when this Senate has only been in session for just over 4 months, when this President has had over 200 judges confirmed, and when the Judiciary Committee reported favorably a controversial circuit court judge who was not voted on last Congress, but was renominated. This appears to me to be an escalation that is unwarranted in the reality of what has actually occurred and is happening in this session.

I find it ironic that while our country fights abroad to establish democracy, to promote checks and balances, and institute wide representation of all people in government; here at home our leadership is attempting to erode those very protections in our own government. What kind of message are we sending? "Do as I say, not as I do"?

This debate over judicial nominees is a debate about privacy, women's rights, civil rights, clean environment, access to healthcare and education; retirement security—we may not all agree, but the beauty of our country is the freedom to disagree, to debate, and to require compromise because no one party has the corner on the market of good ideas and solutions—and no party has the corner on the market of political power.

Democrats held the House majority for over 50 years, and now Republicans have been in the majority for over a decade. Democrats held the White House for eight years, now the Republicans will have occupied the White House for eight years. Neither party will always be right when it comes to the best policies for our country, and neither party will always be in power.

There are many urgent problems the Senate needs to be focused on and Americans' want us to focus on: the war in Iraq; protecting our homeland; addressing the high cost of prescription drugs; alleviating rising gas prices; ensuring our social security system is stable and working; and reducing the federal deficit.

I am troubled that instead today we are spending much of our time on political posturing gone too far—on a strategy to unravel our constitutional checks and balances.

Cold War commentator Walter Lippman once said, "In making the great experiment of governing people by consent rather than by coercion, it is not sufficient that the party in power should have a majority. It is just as necessary that the party in power should never outrage the minority." And today, we are outraged.

I would hope that the majority would not choose to unravel that foundation over a small handful of nominees. I would hope we would continue to honor the tradition of our democracy. I would hope the President will urge others in his party to walk away from this nuclear strategy. And I know if the shoe was on the other foot, I would not advocate breaking Senate rules and precedent.

Regardless of how this debate continues to unfold, I remain committed to evaluating each candidate on a case by case basis, and I will continue to ensure that judicial nominees are treated fairly and even-handedly, but I will not fail to raise concerns or objections when there are legitimate issues that need to be discussed.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, before I make my remarks on the supplemental appropriations conference report, I commend my friend and colleague from California. As we have come to expect, her presentation was thorough, comprehensive, factually and historically accurate. Much in the debate that has occurred around the so-called nuclear option has been heated. It has been rhetorical. It has been filled with opinion. It has been, unfortunately, often devoid of either historical or factual content. I personally appreciate greatly the Senator from California putting into the RECORD these very carefully created remarks based on facts. I hope no matter what happens with this debate—and obviously, I hope the Senate comes to its senses and realizes that we owe an obligation to the Constitution and the country—historians will be able to look back and read the very impressive statement of the Senator from California and know what the facts were. I personally express my appreciation to her.

Mr. DORGAN. Will the Senator from New York yield for a question?

Mrs. CLINTON. Yes.

Mr. DORGAN. Mr. President, I ask unanimous consent that I be recognized at 2:15 for 15 minutes to discuss the supplemental. Senator BYRD is the ranking member on the Appropriations Committee. If he is here and wishes to speak at that time, I will yield the floor to him. In the absence of that, I ask consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

Mrs. CLINTON. Mr. President, I rise to address the emergency supplemental appropriations conference report. When the vote occurs, it is likely to be, if not unanimous, very close to being unanimous. And why? Because this conference report contains the funding that is needed by our brave troops in Iraq and Afghanistan. It contains funding to provide necessary resources to equip our troops and to do the military construction that is necessary. I will vote for this conference report. But I want to record some serious reservations about this process. First, the emergency supplemental appropriations process is destined to be just that. It is a way to fund unforeseen emergencies outside of the usual budgetary process.

Unfortunately, once again, we are funding the cost of the military in Iraq, Afghanistan, and elsewhere, as well as a legitimate emergency, such as the tsunami relief provisions in the bill, through an emergency. I am privileged to sit on the Senate Armed Services Committee, which is responsible for presenting the authorization for the budget for the Department of Defense, and during several of our hearings over the last several months, I, among a number of my colleagues on both sides of the aisle, have asked our civilian and military leadership from the Department of Defense how they explain the fact that once again the costs for Iraq and Afghanistan are not in the budget; they are in the emergency supplemental.

Many of these costs perhaps were genuine emergencies, but many others are not. I would not argue with many of the decisions made because I am well aware of the importance of recapitalizing our equipment, building back up our stores of arms that have been decreased through necessary action. But a good budgeting process would take all of that into account. Having this supplemental, unfortunately, with the big title "emergency" over it appears to be an effort to rush things through to avoid congressional oversight and scrutiny. Obviously, a bill that is going to provide funding for the young men and women wearing the uniform of our country, in harm's way every single hour of every day, is going to command broad bipartisan and public support, as it should. But that doesn't, in my opinion, in any way mitigate against what should be the necessity of an orderly process, an appropriations process subject to the give and take of opinion and fact, and argument and reason and evidence, and then the presentation of a budget that includes the expenses that are necessary for our military.

I regret deeply that we are, once again, seeing an emergency bill being pushed through the Senate, as it was pushed through the House last week, when instead we should be having an orderly process looking at these matters within the budget and making decisions based on that process.

During the Armed Services Committee hearing on this supplemental request, a number of my colleagues asked why projects that ordinarily are included in the regular Department of Defense budget were being shifted to the supplemental. I really was quite taken aback when the military leadership said they didn't know, that they were just told they should put it out for the supplemental. The civilian leadership present at the hearing could not offer a much better explanation. So it is regrettable that we are making these important, literally life-and-death decisions once again in an emergency supplemental as opposed to the regular budget.

Also, it is regrettable that the administration is not providing a proper accounting of how funds are being spent in Iraq. According to recent reports, Government auditors found that American officials rushed to start small building projects in a large area of Iraq during 2003 and 2004. They did not keep the required records that would tell us how they spent $89.4 million in cash. They cannot account for at least $7.2 million more. This is a very serious question. If we are appropriating this money and we are sending it for both military and reconstruction purposes to Iraq, we have a right to expect that records will be kept so we can determine whether it is being spent in the appropriate manner.

We have also heard that millions of dollars of Iraqi reconstruction funds that have been appropriated have also not been spent. A large reason for that is security. But why come back for more money when we cannot spend the money we have already appropriated? It is heartbreaking to me that there is so little oversight from this Congress with respect to this administration. There are no rigorous hearings being held to determine whether we are spending money correctly, how it is being spent, where all of the cash is going. The first time I flew into Iraq, I flew from Kuwait to Baghdad on a C-130. The back of it was loaded with cash—dollars. They were being taken into Baghdad to be spent for God knows what, and there is no accountability.

It is remarkable that this Congress, at this important moment in American history, is not exercising its constitutional oversight responsibilities. During the Second World War, Harry Truman, a Democratic President, with a Democratic Congress, held hearings about where money was going in World War II. In the 1960s, Senator Fulbright, with a Democratic President and a Democratic Congress, held hearings about our policies and actions in Vietnam. We have a Republican President, a Republican Congress—hear no evil, see no evil, speak to evil; we don't want to know. Questions are not asked—at least publicly. People have no idea where this money is going, who is getting it, and how it is being spent. These emergency supplementals have even less oversight than the typical budget, which in this Congress is practically nothing.

So while we continue to spend billions and billions of American taxpayer dollars, we don't see the requisite accountability occurring in this body to determine whether we are spending them appropriately.

I am also deeply concerned that on an emergency supplemental to fund our troops and fund the relief disaster in southeast Asia because of the tsunami, we are being asked to vote on something called "REAL ID." It is a provision meant to, in the supporters' argument, make our country safer. How do we know? We haven't had hearings about it in the Senate. We have not even had debate about it in the Senate. I joined with Senator FEINSTEIN to try to prevent immigration proposals from being tacked onto the supplemental. But we all know why that happened—because the administration backed up the House Republican leadership to give them an opportunity to put the so-called REAL ID on a must-pass piece of legislation: namely, legislation to fund our troops. So without debate, without committee hearings, without process, we have the so-called REAL ID in this emergency supplemental.

I am outraged that the Republican leadership, first in the House and now, unfortunately, in the Senate, would put this seriously flawed act into this emergency supplemental bill for our troops in Afghanistan and Iraq. Emergency legislation designed to provide our troops the resources they need to fight terrorism on the front lines is not the place for broad, sweeping immigration reform. That is what REAL ID is. There may be parts of it that we could agree on if we ever had a chance to debate it. Other parts go too far and don't fulfill the purpose of making our country more secure.

I am in total agreement with those who argue that we need to address our immigration challenges, and we are still not doing what we should to fulfill the demands of homeland security. I think they go hand-in-hand. If we cannot secure our borders, we cannot secure our homeland. Everybody knows we are not securing our borders. Who are we kidding? We need a much tougher, smarter look at these issues. But instead we are taking a piece of legislation passed by the House, jammed into supplemental emergency appropriations for our troops, and we are going to up-end the way we do driver's licenses throughout our country, and we are going to claim we have now made America safer.

I think that is a false claim. I regret deeply that we are rushing to pass this emergency bill with this so-called REAL ID in it. We need to reform our immigration laws. We need to make our borders more secure. But we need a debate about how we are going to do that. Isn't it somewhat interesting to everyone in this Chamber that the richest, smartest country with the best technology in the world cannot secure its borders? Why would that be? Well, part of the reason is because there are many people, particularly to our south, who are desperate for a better chance. They literally risk their lives to come here. Part of it is because we have a lot of employers who want to employ them. So they know if they get here, they will have a job. We are not having a public national debate about this because, if we were, we would have to point fingers at these employers who pick up illegal immigrants every single day on street corners throughout

America, or who sign them up to work in dangerous factories with very little health and safety regulation.

So come on, let's not kid ourselves. We have a serious security and immigration problem. But we are not addressing it by jamming this provision about driver's licenses into our emergency appropriations. We need to make our borders more secure. I have introduced legislation 3 years in a row to have a northern border coordinator. I met with both Secretary Ridge and Secretary Chertoff. We don't know who is in charge of the northern border. Trying to figure out who is responsible for the northern border is like playing "Where is Waldo." we cannot figure that out. We are not taking simple steps to rationalize our bureaucracy in Washington, to find out what our holes are and how they can be plugged, what policies would work if we were actually serious about improving security.

The REAL ID Act also gives total control to the Secretary of Homeland Security to waive legal requirements that stand in the way of constructing barriers and roads along the border. The only check is limited judicial review. This is quite a tremendous grant of authority to one person in our Government. I am sure there are some reasons why we would want to expedite a process to try to have better security along our borders. But to give this unchecked responsibility to the Secretary, with limited judicial review—that is a slippery slope, my friends. We are sliding further and further toward absolute power and the removal of our checks and balances.

We also have to figure out how we are going to deal with the changes in asylum rules that are in REAL ID. I am very proud of the fact that our country has always welcomed asylum-seekers and refugees. There is a city in New York, Utica, which is known as one of the most welcoming places for refugees in the entire country. I am so proud of the people of Utica. They have taken in Bosnians, Kosovars, Somalians, all kinds of refugees—people who could not stay in their home country and were desperate for some place of refuge. Under these new rules, we will see whether America remains the place of welcome, whether we fulfill our obligations to our fellow men and women.

I hope that the failure of having a process with respect to REAL ID, the continuing use of the supplemental appropriations route for funding our troops, which avoids the budget process, will at some point come to an end because the majority will no longer tolerate it. This is not good for any of us—to have these kinds of processes that really turn our constitutional system upside down.

In the meantime, we need to send a message that we are able to have national debates about sensitive issues, to debate judicial nominations on the floor, using the rules that have really stood the test of time and been good for the Senate and our country. We don't always win, but the Senate was devised to protect minority rights. I represent a State of 19 million people. The Presiding Officer represents a much smaller State. He and I are equal. That is the whole idea behind the setup of the Senate.

Finally, let's be sure that we do not piecemeal reform immigration—I use the word "reform" advisedly—that we have the kind of debate and comprehensive reform that is so needed. I bet every one of the offices of my colleagues is faced with what my office confronts every single day. We do lots of casework. There are a lot of people who came here legally. They cannot get their relatives into this country. They cannot reunite their families. I want to have a reform that really provides benefits for legal immigrants.

Mr. President, I hope we can deal with these issues in a better way that really reflects the best of the Senate going forward.

The PRESIDING OFFICER. The Senator from Mississippi.

UNANIMOUS CONSENT REQUEST—COMMITTEE MEETINGS

Mr. COCHRAN. Mr. President, before the Chair announces the recess for the policy luncheons, I have eight unanimous consent requests for committees to meet during today's session of the Senate. They have the approval of the majority and minority leaders. I ask unanimous consent that these requests be agreed to and the requests be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR DEFENSE, THE GLOBAL WAR ON TERROR, AND TSUNAMI RELIEF ACT, 2005—CONFERENCE REPORT—Continued

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I believe, by unanimous consent, I am to be recognized at 2:15 for 15 minutes.

I allocate 2½ minutes of that time to the Senator from Wisconsin, Mr. KOHL.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin.

Mr. KOHL. Mr. President, although I will vote for this conference report, I feel obliged to alert my colleagues to a serious flaw. This bill does not provide enough international food aid. And if emerging reports are correct, I fear we are about to enter a spring and summer of agony in some of the poorest parts of the world.

This situation troubles me a great deal. Here we are, the strongest nation on Earth, and we are rightfully appropriating funds to maintain that strength. But with enormous strength comes a moral obligation to respond appropriately to pain and suffering. This bill fails to respond appropriately.

When the supplemental was first considered in this body, Senator DEWINE and I and others offered an amendment to provide a total of $470 million for PL-480 food aid. That may sound like a lot to some, but it totaled merely six-tenths of 1 percent of the total spending in the bill.

Mr. President, $346 million of our amendment was intended to meet the U.S. share of world-wide food emergency needs as already identified by the U.S. Government. Another $12 million was slated to restore Food for Peace resources diverted to address the tsunami. Finally, $112 million was intended to restore food aid development projects that the United States has already pledged to other countries this year.

It troubles me, and it should trouble everyone here, that we may not be able to deliver on those pledges. What a disturbing message that sends to the rest of the world. It says that while we may talk a good game on food aid, you cannot be too sure just where we stand when the going gets tough.

The numbers in our amendment were not pulled out of thin air. They were the result of close analysis of the world situation. In light of new reports from Ethiopia, I worry that even the amounts included in our original amendment may have been, in fact, too conservative.

Sadly, the conference reduced the food aid total to $240 million, a level that is well below a split with the level proposed by the administration and adopted by the House.

I ask unanimous consent that an alert I received from several faith-based organizations about the situation in Ethiopia be printed into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FLASH ALERT FROM JRP MEMBERS

ADDIS ABABA, ETHIOPIA—APRIL 2005

The three Churches and two Church-related agencies (Ethiopian Orthodox Church, Ethiopian Catholic Church, Ethiopian Evangelical Church Mekane Yesus, Catholic Relief Services and Lutheran World Federation) who make up the ecumenical Joint Relief Partnership feel compelled to bring to the public's attention a situation that if not immediately addressed in a forceful manner will bring about widespread disaster resulting in untold suffering and death for a number of people—a number that is rapidly approaching the 8–10 million mark of Ethiopian people at risk in 2005.

This humanitarian situation has thus far received little international attention for a variety of reasons, which in addition to the reluctance of the Ethiopian Government to advertise it are the following: Severe drought conditions. The late start-up of the Ethiopian government's national Productive Safety Net Program (PSNP) which is meant to provide multi-year support to over 5 million chronically food insecure people. The lack of adequate resources to provide food and non-food assistance to 3.1 million acute food insecure people.

Drought Conditions: The current reality is that the early belg rains (February/March) have failed in many areas, including East and West Hararghe and Arsi zones of Oromiya, parts of Southern Nations Nationalities and Peoples (SNNP) and parts of Tigray. The situation is severe, with many pocket areas showing high levels of global acute and severe acute malnutrition in children under 5. As an example, reports from the Disaster Prevention and Preparedness Commission (DPPC) indicate that large numbers of severely malnourished children are entering one hospital in East Hararghe from three woredas seriously affected by malnutrition.

There are rising and alarming levels of distress migration in certain areas, water is particularly scarce in some areas and cereal prices are high.

Delays in Productive Safety Net Program (PSNP): This is a program designed to overcome people's dependence on food assistance. While this is an important step, continued robust response to emergency conditions is critical to ensure the success of more developmentally oriented programs. Unfortunately, this program, which was meant to begin in January 2005, didn't start until late March in most areas of the country and, in some areas, still has not begun. Without going into details of why this foul-up occurred, the fact is that people targeted under the PSNP have, in most cases, not yet received the planned assistance and there are now deteriorating health conditions, especially in women and children. Many of the chronically food insecure now face acute conditions, themselves.

Poor Resourcing of 2005 Appeal: Current figures indicate that 66% of food needs are pledged and only 10% of non-food needs. It must be noted, however, that this includes an un-guaranteed WFP pledge. With the number of people requiring assistance continually increasing, the level of resources required is certain to increase significantly. While 66% sounds promising, it should be noted that, using current assessments going on, this figure may not adequately represent the real need.

Among the reasons for the low level of resources are: Donor attention being focused on other emergencies (Darfur and tsunami), greater emphasis being placed within the country on PSNP rather than ongoing emergency needs, pressure to demonstrate that the country is moving away from annual Emergency Appeals, misleading recent WFP/FAO crop assessment suggesting a 25% increase in yield over last year, and traditional food donors having their own constraints.

Unless commitments o food and non-food items are made immediately, the JRP will not be able to pre-position food in the most severely affected areas prior to the rainy season which starts in June because of poor road conditions at that time. This will lead to further setbacks and great loss of life.

It is with the above in mind, that the JRP is appealing to its traditional Partners to bring this situation to the world's attention and to act as promptly as possible.

With every best wish, we remain, the JRP Members:

ETHIOPIAN ORTHODOX CHURCH,
ETHIOPIAN CATHOLIC CHURCH,
ETHIOPIAN EVANGELICAL CHURCH MEKANE YESUS,
CATHOLIC RELIEF SERVICES,
LUTHERAN WORLD FEDERATION.

Mr. KOHL. This situation is not going to go away. I have grave fears that images coming out of places such as Ethiopia in the coming months may reveal a tragedy unfolding before our very eyes. And what is most troubling is that this may be a tragedy that we could have helped avoid.

I will soon be sending a letter to the President encouraging him to consider other emergency authorities to address this dire situation. Specifically, we will ask him to utilize the Bill Emerson Humanitarian Trust to address this pain and suffering. I urge all my colleagues to join us in sending this message to the President.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I commend my colleague from Wisconsin. I agree with all he has described. I think this is a really important issue and increased food aid is critically important. So I appreciate him being here.

I will speak for a moment about this $82 billion supplemental bill. Most of it is to restore accounts in the U.S. Army and other military installations or military organizations because that money was not in the budget. We had asked last year that it be put in the appropriations process so that it could be considered. We know that we are going to spend money in Iraq and Afghanistan, but the administration, year after year, does not put any money in for these accounts and then comes back with an emergency request later.

It is a fiction that is being created. We know this is costing money every single month. I guess the reason to do it on an emergency basis is so that nobody has to pay for it. This is $82 billion not paid for, just emergency, stack it on top of the debt and say to the troops: Go to Iraq, serve your country, do your duty and, by the way, when you come back we will have the debt waiting for you, so you have served in Iraq and you can also come back and pay for the cost of that. That does not make any sense to me.

We had a small provision on the issue of government spending when this bill was before the Senate, and I want to talk about it for a moment. It dealt with the appointment of an independent counsel in 1995 that was to investigate the allegation that a Cabinet official lied about payments he had made to his mistress. So an independent counsel was formed 10 years ago. That independent counsel was to investigate Mr. Cisneros, a man who I may have met in 1993 or 1994 and have not seen since. In any event, an independent counsel was appointed to investigate whether he lied about payments he had made to a mistress. Ten years ago, that independent counsel started working and spending money. In 1999, Mr. Cisneros, the subject of the investigation, pleaded guilty to a misdemeanor. In 2001, 2 years later, the President pardoned him. So 10 years ago the independent counsel was formed, 6 years ago the subject of the investigation pleaded guilty, and 4 years ago the subject of the investigation was pardoned by the President.

This independent counsel is still in business and still spending money. In the last 6 months, the independent counsel has spent nearly $1.3 million. I offered an amendment, that the Senate passed, which says, tell them to finish by June and shut down. In fact, 2 years ago, the three-judge panel which supervises this independent counsel told him to wrap it up, and get it done. This independent counsel has now spent $21 million over 10 years, and so we offered an amendment that said, shut it down.

The Senate accepted it. It went to conference and it was pulled out. So the independent counsel still spends money.

The Wall Street Journal wrote an editorial saying this was some nefarious amendment designed to try and protect some information that exists deep in the bowels about some scandal with the Internal Revenue Service—typical political sludge coming from the editorial page of the Wall Street Journal. Then we have the same sludge offered by Mr. Novak in his column, I believe it was last Thursday, suggesting there is something else going on here.

Well, let me just say this: If we have enough money to have independent counsels continuing to be paid 6 years after the subject of their investigation pled guilty, and 4 years after they were pardoned, it is a high-water mark for bad judgment. It is unbelievable. All it describes to me, with respect to Mr. Novak and the folks who believe we should keep spending this money, is that even waste has a constituency, in some cases a very aggressive constituency.

We really need to save the taxpayers' money, and this is an unbelievable waste of the taxpayers' money.

Let me ask how much time I have remaining.

The PRESIDING OFFICER. Eleven minutes.

JUDICIAL NOMINATIONS

Mr. DORGAN. Robert Fulghum wrote a book entitled simply, "All I Really Need to Know I Learned in Kindergarten." Many have read that book. Some of it is, of course, wash your hands, share, be nice to others. One, of course, is to tell the truth. That simple kindergarten lesson is lost in some cases and particularly in the media wars that go on over significant issues.

I brought to the floor today some advertisements that are being run across the country in support of those who in this Senate Chamber are prepared to exercise what is called a self-described "nuclear option" by the majority. What is their nuclear option? Well, they are in kind of a snit. They do not get all of the judges approved—just over 95 percent of the judges sent to us by the President. Now, because not every single judge has been approved by the Senate, the majority party is out of sorts, cranky, upset, and sufficiently so that they and the groups from outside this Chamber have decided what they ought to do is violate the rules of the Senate in order to change the rules of the Senate.

Let me just point out what is happening as they lead up to this so-called nuclear option where they violate the rules of the Senate. They are creating their own fiction. The President, by the Constitution, has the right to nominate Federal judges who will sit for a lifetime on the Federal bench. We have a separate responsibility to advise and consent. The President sends a name down, and we say yes or no.

This President, George W. Bush, has sent 218 names of people he wants to serve for a lifetime on the Federal bench. We have approved 208 of them. Because they have not gotten approval for all of them, they have decided they want to violate the rules of the Senate in order to change the rules of the Senate.

Let me give an example of one of the 10, Janice Rogers Brown. Here is what she says, and I am quoting her directly:

> Senior citizens blithely cannibalize their grandchildren because they have a right to get as much free stuff as the political system will permit them to extract.

One does not have to be a rocket scientist to understand what this means. This is somebody whose philosophy believes that there is something inherently wrong with Social Security and Medicare. It is the old folks living off the rest of the country.

I do not know, maybe it is a person who does not know senior citizens, has not visited a nursing home, does not understand what it is like to work without very much money, without resources, and wonder what their retirement is going to be like.

Do I want this person sitting on the Federal bench? No. Am I pleased that I participated in saying, no, this person should not sit on the Federal bench? One can bet their life I am.

There are groups that are advertising in our States, and they are saying this is an attack on people of faith if we do not support these judges, or it is an attack on a minority.

Here is a religious organization that is running ads in States:

> . . . Never before has the political minority hijacked democracy in this way. . . .

This religious organization says, in paid political advertising:

> . . . Senate Democrats have abused the rules . . .

Another religious organization states:

> . . . Never before in history have judges with majority support been denied a vote by the misuse of the filibuster rule. . . .

Well, there are Ten Commandments and they can be found in the 20th chapter of Exodus. I suggest to those who throw around this issue of faith, those organizations that call themselves religious organizations and want to buy political ads and then not tell the truth in the ads, that they refer to the 20th chapter of Exodus and the ninth commandment, thou shalt not bear false witness. There are Ten Commandments, not nine. Do not skip the ninth when getting involved in this discussion.

The least that is owed to the American people is the truth, and it is simply not true that the minority in the Senate has abused the rules, or has hijacked democracy. That is simply not true.

The facts are that we have supported 208 of 218 nominees sent to us by this President. The facts are that the 60-vote requirement to get cloture in this Chamber is a requirement that has existed for a long time, and it is a requirement that is healthy for this Chamber. It is protective of the minority, whether it be Republican or Democrat. It is what requires compromise. Compromise is a good thing.

There are some in this Chamber who think that no one should ever compromise. If one party runs the White House, the Senate and the House, they ought to have it their way all the time, and if they do not get it their way, they have a right to be angry and to change the rules of the Senate even if they violate the rules to do it.

There is a way to change the rules of the Senate. It takes 67 votes. I hope the 67 votes is not in dispute.

The majority has concocted a scheme by which with 51 votes they will change or attempt to change the rules of the Senate with something they mislabel as the nuclear option.

This is something that disserves the interests of the Senate and the American people. We have very serious problems with health care costs. We have problems with the cost of prescription drugs. We have jobs moving overseas in unlimited quantity. We have trade deficits, the largest in the history of this country. We have serious energy problems, and guess what, we have a majority that has their nose bent out of shape because there are 10 judges out of 218 who somehow did not make it, and that is an affront to a majority that insists that they have it their way all the time. I didn't take Latin because I was in a high school senior class of nine, but I think the term "totus porcus" might just best describe what the majority party believes it is due on these issues. They want it all—the whole hog—right now. If they do not get it, they are prepared to go to the ultimate length that they describe as the nuclear option.

My hope is that in the coming days, heads will clear, and they will rethink this approach. Both parties will be in the minority at some point. Both parties have been and will be in the future at some point. I believe any majority party, whether it be a Democratic Party or a Republican Party, that decides to break the rules to change the rules will rue the day that happens.

I came here because I want to work in a constructive way on public policy. I hope we can continue to do that. But I read the Constitution again and again and understand what it says. It says this Government of ours works when we work together. The 60-vote majority in the Senate I know is nettlesome. I know it gets under people's skin. But it is what has always distinguished this Senate from other bodies. It is what requires compromise. It says to a President—any President, Republican or Democratic President—when you send a name down here for a lifetime appointment to the bench, it ought to be a name that reflects some semblance of compromise; and we have approved 208 of them. One of them I regret we approved. I voted against that one, by the way, a candidate for a lifetime appointment on the court who has written that he believes women are subservient to men. I do not think that person belongs on the bench, but the person made it through here. The fact is, 208 of them are now serving for a lifetime on the Federal bench, which I think is extraordinary cooperation. I believe we have the lowest vacancy rate on the Federal bench that we have had for 15 years or more.

It is profoundly disappointing to see what is going on around the country with a massive amount of money going to the television and radio stations, some by religious organizations, neck deep in politics, saying you know what the minority party is doing in the Senate is hijacking democracy and engaging in mischief, abusing the rules and so on and so forth. I again say to them that is, in my judgment, bearing false witness. They ought to know it.

Let's have a real debate—a thoughtful debate, not a thoughtless debate—about how we proceed to address the major issues affecting America. Yes, the major issues: health care, trade, jobs, energy—the sort of things that determine what kind of life our kids and grandkids are going to have, what kind of opportunity they are going to have.

When they sit around the supper table at night as a family, what are the things people talk about? They talk about. Do I have a good job? Does it pay well? Does it have benefits? Can I care for my family with this income? Do Grandpa and Grandma have access to decent health care? Do we live in a safe neighborhood? Do we breathe air that is quality air and drink healthy water that is not going to injure our health? These are the kinds of things that are important to people. Do we send our kids to schools we are proud of? Yet, are we debating that on the floor of the Senate? No. No, regrettably not. That is not the central set of issues we are debating.

We are now debating this so-called nuclear option. Why? Because out of 218 names sent to us by the President asking for a lifetime appointment to the Federal courts, we have approved only 208. We have approved only over 95 percent, and that is a problem for the majority.

A majority will not long remain a majority if it does not understand the requirement that all of us have to work together: to compromise, to tell the truth, and to do what is best for this country.

Mr. President, let me ask how much time I have remaining.

The PRESIDING OFFICER. Three seconds.

Mr. DORGAN. Mr. President, let me go much longer. I am sorry, for 3 seconds let me thank my colleagues.

This is the time to be controlled on our side by consent, if I might read it into the record? My guess is it will go back and forth: Senator BYRD, 20 minutes; Senator REID, 15 minutes; Senator SALAZAR, 15 minutes: Senator CORZINE, 10 minutes; Senator OBAMA, 10 minutes, Senator LIEBERMAN, 10 minutes; Senator LEAHY, 15 minutes: Senator DURBIN, 1 hour, 10 minutes of that to go to Senator MURRAY; and Senator FEINGOLD, 10 minutes.

Let me ask by consent to understand that is the progress on our side, understanding it would be interspersed with Republican speakers.

Mr. COCHRAN. Reserving the right to object, let me ask the Senator, if I may, does the total of that amount of time exceed the amount under the order that your side of the aisle has been granted, or is it less than that?

Mr. DORGAN. Mr. President, I am told this is within the time that has been granted.

Mr. COCHRAN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I am here to talk about the supplemental appropriations bill. While the Senator from North Dakota is here—he is one of the best speakers in the Senate. He can take a story, tell it, and be clear about what he is saying. He has spoken eloquently about the need for a compromise. I will suggest one to him. I suggested it 2 years ago when I came to the Senate and heard the debate about Judge Estrada. I said at that time that, even if a Democratic President were elected, that I would never vote to filibuster his nomination. In other words, I would always vote to give a President of the United States a fair up-or-down vote on the floor of the Senate on his or her nominee.

I have repeated my pledge to do that on this floor several different times, and, I would say to my friend from North Dakota, if he would get 8 or 10 Democrats to make the same pledge, there would not be any filibuster. There would be no need for a rules change. We could talk about gas prices, we could talk about schools, and we could talk about the war in Iraq. So that spirit of compromise is there.

I was not here during whatever went on before, and, whatever it was, I wish it had not gone on. What I can remember, going back to 1967, which is when I came to this body as a legislative aide even before the President pro tempore was a Senator, is that all during that time this tactic was not used to deny a President an up-or-down vote on his judicial nominees. The only possible argument during that time was the case of Abe Fortas in 1968, and that was a little different.

But put all that to the side, the "who shot John" or "who didn't shoot John." If several on that side and several on this side would simply say, as a way of avoiding this train wreck, that we would pledge right now, during our time here, always to vote to give a President an up-or-down vote on his or her judicial nominees, then there would be no need for a rules change, and we could go on to our other business.

Mr. DORGAN. Will the Senator yield?

Mr. ALEXANDER. I will be happy to.

Mr. DORGAN. Let me just observe, because the Senator mentioned me, my point of supporting the 60-vote threshold is that is what requires compromise. The very presence of the filibuster is what requires compromise. Otherwise you do not have any incentive to compromise, be it the executive branch relative to the legislative branch. That was not my point. It wasn't that we should find a way to allow the nuclear option to exist without changing the rules of the Senate.

Mr. ALEXANDER. Mr. President, I appreciate my friend's point. May I make my remarks now?

The PRESIDING OFFICER. The Senator is recognized.

Mr. ALEXANDER. Mr. President, the supplemental appropriations bill is going to come up. We are going to vote on it. I commend the chairman of the committee for accomplishing what is a difficult job—getting a body that operates by unanimous consent to agree on something and moving it through.

The purpose of the bill is to support the men and women who are fighting in Iraq and Afghanistan. I was there about a month ago. There are so many Tennesseans in Kuwait and Afghanistan and Iraq that it seemed like a Tennessee homecoming. There are literally thousands there—the postmasters of Winfield and Rob Camp. The President of the Rotary Club in Lexington, a physician, just came home. The editor of the newspaper in Dyersburg, two deputy sheriffs from my home county, the superintendent of schools from Athens—these are people in the Reserves or in the National Guard with mortgages and families and jobs, with money and insurance issues at home. They are fighting for us. Some are dying, and they are risking their lives every day. Of course I want to vote to spend every penny we need to spend to support them and to keep them safe.

Once we set forward on a mission, on a military mission, we should have the stomach to see it all the way through to the end in a success strategy, not an exit strategy, and to support the American men and women whom we ask to go.

That does not stop me from objecting and expressing my disappointment to two provisions in the bill. One is the so-called REAL ID Act. Actually, unlike a lot of legislation we pass here, this is well named. This really is a national identification card for the United States of America for the first time in our history. We have never done this before, and we should not be doing it without a full debate. This REAL ID provision turns 190 million driver's licenses, which are now ineffective ID cards, into more effective national identification cards. To add insult to injury, we have also slapped State governments with the bill for them.

I strongly object to this. When I was Governor of Tennessee, I vetoed our State ID card twice because I thought it was an infringement on civil liberties. I thought that driver's licenses are for driving. If we need an ID card, we should have an ID card. The legislature overruled me. I actually had to get one of those cards myself in order to get into the White House, so I lost that battle. So I am very reluctant for this country to have a national ID card. But I reluctantly concluded that, after 9/11, we have to have one and that we ought to be thinking about what would be the best kind of ID card.

I believe the right way to consider that is when we are dealing with comprehensive legislation on immigration, which I hope we do this year, and tackle that problem and the best way to do it. Is the best way to do it to turn the driver's licenses examiners in all the States of the country issuing 190 million driver's licenses into CIA agents? I don't know what it is like in Ohio or other States, but in Tennessee the driver's licenses examiners by and large are there for the purpose of figuring out whether you can parallel park and to take your picture. They are not trained to tell whether you are an al-Qaida terrorist. They are not trained in order to review four different documents and then look at 10,000, maybe 20,000 different databases around the country.

I wonder whether it is even the right approach, in terms of having a national ID card, to rely on driver's licenses. Maybe we should be relying on passports. That has been an efficient system in this country. Or maybe even better, and I suspect this would be better, we should turn the Social Security card—which is directly related to work, which is the subject of the discussion and most of the concern about immigration—into a more definite kind of identification.

But no; instead, without one single hearing in the Senate about a national ID card—which we might not, under our Constitution, even be able to require to be presented to a law enforcement officer—we just pass one, and then we send the bill to the States.

Here we are, a Republican Congress who got elected in 1994 promising to end unfunded mandates—and the Senator in the chair was one of the leaders in doing that—and what do we do, we come up with this big idea, pass it, hold a press conference, and send the bill to the Governors. We do that time after time after time, and we should not be doing that. That is not the way our system works.

It is possible that some Governor may look at this and say: Wait a minute, who are these people in Washington telling us what to do with our driver's licenses and making us pay for them, too? We will just use our own licenses for certifying drivers, and Congress can create its own ID card for people who want to fly and do other Federal things. And if Congress doesn't do that, then we will give out the home telephone numbers of all the Congressmen and let the people—of California, say—call everybody up here and say, "why did you keep me off the airplane when I needed to get somewhere?"

That is what we have done. We have just assumed that every single State will want to ante up, turn its driver's licenses examiners into CIA agents, and pay hundreds of millions of dollars to do an almost impossible task over the next 3 years.

We did that without any recognition in this legislation that we are not the State government, we are the Federal Government, and, if we want a national ID card, we should be creating a Federal ID card. If we want the States to create one, we should talk to them about it, and then we should pay for it.

So in the end, the States will pay the costs. In the end, the States will listen to the complaints from citizens who are going to be standing in long lines while they search for four kinds of identification; the driver's license examiner tries to connect with thousands of databases, which they have no capacity to do today. The States will take the blame when somebody uses a driver's license inappropriately.

The REAL ID Act has been structured in such a way that it is not technically an unfunded mandate, but anybody listening to this debate knows it violates the spirit of our promises in 1994 and 1995 not to do this anymore.

So I intend to offer an amendment at the appropriate time that will have two main points, but the overall point is to have the Federal Government pay for the cost of this new requirement that the States have no choice but to accept. It will allow States to submit documentation to the Department of Homeland Security of what the costs are, and it will establish a process to pay the annual increase in those costs.

I wish we had done this in a different way. I think we should have honestly faced the fact that we now need some sort of national identification card. I say that reluctantly because, as I said, I vetoed even a State card. But times have changed. But to do this without a hearing and without our tradition of respect for civil liberties and our respect for federalism, I think is wrong.

Mr. President, if I may take 2 more minutes, I would like to express my disappointment with one other provision. This conference report says we do not trust President Bush in dealing with the Palestinian Territory. Here we are, a Republican Congress, at least by a majority, with a Republican President who is leading a lot of the world to freedom, who is just returning from a triumphant visit to Georgia—a great beacon—who has taken the courageous step of trying to help solve the Middle East problems, and we are saying: Mr. President, we are going to appropriate money to help with the emerging democracy in the Palestinian Territory, but we do not trust you to spend the money.

That is what this provision does. The Senate did not vote that way. The Senate voted another way. The Senate voted to give the President the right to waive the authority, giving the President the right to decide, in effect, who got the money.

The reason I think the provision makes so little sense is because we are going to turn around and say in a few weeks, as the Israelis pull out of the Gaza Strip, Who is responsible for security there? We are going to expect the Palestinian Authority to be responsible for security there. Who is responsible for feeding some of the poorest people in the world? We are going to expect the Palestinian Authority to be responsible for that.

If we are going to hold the Palestinian Authority responsible, the President might want to give them the money. Arafat is dead. There is a new finance minister there who has impressed all of us on a bipartisan basis.

He was born in Palestine, lived here, and got his degree at the University of Texas. He is doing things in a way that is open. He has earned the confidence of people all over the Middle East. He is taking control of the money. And if he stopped doing that, the President could stop giving him the money.

But why in the world would the Congress show such a lack of respect to the President of the United States, in the middle of a peace process, by saying: "No, Mr. President, we do not trust you to make a decision about what to do with the money that we appropriate for the Palestinian Authority or to help the Palestinian Territory emerge as a democracy"?

So I am very disappointed by that as well. And there is other money that has been authorized this year that does give the President that authority. I hope in future conferences and in future debates and discussions we recognize that Arafat is dead, there is hopefully a democracy emerging, and there is a finance minister there who is making public accounting of all the money. He is direct depositing money for the troops. He is publicly advertising it through bids. He has impressed his neighbors, and he has impressed all of us who have visited with him on a bipartisan basis. I hope we keep that in mind as we consider this issue.

Thank you, Mr. President, for the time.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from West Virginia.

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. Twenty minutes.

Mr. BYRD. Twenty minutes. Mr. President, I yield myself such time as I may consume within that 20-minute limitation.

I again thank Chairman THAD COCHRAN for his patience in the processing of this supplemental appropriations bill when it came before the Senate. He was especially patient during the Senate consideration in seeing that all who wanted to offer amendments were afforded the opportunity to be heard.

The members of the Appropriations Committee have had a longstanding sense of cooperation, comity, and civility. There is always give and take, live and let live, on both sides of the aisle. And that was the same with regard to the Senate processing of this supplemental. Everybody did not get everything he or she wanted in this supplemental, but Members were treated fairly in a bipartisan manner.

However, when it came to processing the supplemental in conference, several members were severely disappointed that the conference was recessed subject to the call of the Chair. As a result, several Senators were precluded from offering their motions and their amendments.

A number of Members on this side of the aisle have expressed disappointment that the conference did not have any open debate on the immigration provisions, including the REAL ID legislation, that found their way into the bill, and that neither the majority nor the minority of the Senate Appropriations Committee participated in the formulation of the REAL ID immigration provisions.

These REAL ID provisions were formulated behind closed doors by the House and Senate Republican leadership. After the conference had recessed subject to the call of the Chair, a 55-page modified version of the REAL ID authorizing legislation was laid into the conference report.

It was simply grafted onto the emergency supplemental appropriations bill that provides funding for our military operations and our troops, without debate or participation by the conferees. I do not fault the chairman of the Appropriations Committee. This was not his doing. This was done by the House and Senate Republican leadership.

The bill totals approximately $82 billion, which comes in at about $1 million below the request. Virtually the entire bill is designated as an emergency, thus increasing the deficit.

Department of Defense totals $75.9 billion, $0.9 billion above the request.

International assistance totals $4.1 billion, which is $1.5 billion below the request, but it grew in conference to levels $866 million more than the House and $42 million more than the Senate.

Border security funding totals $450 million of new emergency spending. This compares to my conference motion to include $665 million for border security. In order to increase the size of the border security effort, staff identified $100 million of low priority homeland security funds to use as offsets, bringing the total package to $550 million.

Despite having taken credit for improving security on our borders when he signed the Intelligence Reform Act in December, the President requested no actual funding for border security. My initiative, with the support of Homeland Security Subcommittee Chairman JUDD GREGG and Senator LARRY CRAIG, will result in 500 more Border Patrol agents, 218 new immigration investigators and detention officers, 1,950 more detention beds, 170 support personnel, and funds for training and housing the new personnel.

Many of the President's requests for expanded flexibilities were substantially reduced in the Senate bill and sustained in conference.

The President's request for $5 billion transfer authority for Defense Department funds contained in the supplemental bill was reduced to $3 billion.

In combination, under the conference report, the Secretary of Defense has transfer authority in fiscal year 2005 of $10.7 billion, down from a total of $14.7 billion requested.

The President's request for authority to spend contributions to the Defense Cooperation Account in fiscal year 2005, without subsequent approval by the Congress, was rejected as it should have been.

The President's request for a $200 million slush fund, entitled the Global War on Terrorism, GWOT, Fund, under the control of Secretary of State Condoleezza Rice, was rejected as it should have been.

The President's request for a $200 million "Solidarity Fund" for the Secretary of State, under Peacekeeping Operations, to reimburse coalition partners—such as, Poland, Ukraine, Lithuania, Hungary, and Bulgaria—for defense costs, was approved at a level of $230 million, of which $30 million can be used for GWOT-type activities. However, the act requires consultation and notification of the Congress prior to using the money.

The conference report includes language that I authored prohibiting executive branch agencies from creating prepackaged news stories unless the agency clearly identifies that the story was created and funded by an executive agency. It troubles me greatly that there has been a proliferation of executive branch agencies creating so-called news stories and then distributing them without identifying the story as having been produced with the taxpayer's money. We trust the media to provide us with independent sources of information, not biased news stories produced by executive branch agencies, at whose expense, taxpayer expense.

On February 17, 2005, the Government Accountability Office issued a legal opinion to the executive agencies stating that such prepackaged news stories violated the law. Regrettably, on March 11, 2005, the Office of Management and Budget issued a memorandum to agency heads specifically contradicting the opinion of the Government Accountability Office.

This conference report "confirms the opinion of the Government Accountability Office dated February 17, 2005." I am pleased that the conferees and now the Congress have agreed to this clear message that taxpayer dollars should not be used to create prepackaged news stories unless the story includes a clear message that the story was created by a Federal agency and paid for by taxpayer dollars.

I was also pleased that the conferees agreed to my sense of the Senate language on budgeting for the war in Iraq. The conference report says that the President should submit a budget amendment for fiscal year 2006 by September 1, 2005, and should include funds in his fiscal year 2007 budget for the war when it is transmitted in February.

Congress has now appropriated over $210 billion. That is $210 for every minute since Jesus Christ was born. Think of that. Congress has now appropriated over $210 billion in four different emergency supplementals for the war in Iraq. That is a lot of money, and it is your money, $210 billion. It is your money, Mr. and Mrs. Taxpayer, your money. Two hundred ten billion dollars for the war in Iraq, and there is no end in sight.

We should not continue to fund the war through ad hoc emergency supplemental bills that are funneled through the Congress quickly when our troops are running out of funding.

The conference report also includes my proposed 3-month extension of the Abandoned Mines Land Program. Last fall, I offered, and the Congress approved, a 9-month extension of the program in order to give the authorizing committees time to act. Unfortunately, since last fall, the authorizers have held no hearings and considered no bills on the matter. So once again I urge the authorizing committees to approve this legislation that is important to West Virginia and important to all other coal-producing States.

Finally, I thank the staff on both sides of the aisle. On the majority side, I thank Keith Kennedy, Clayton Heil, Les Spivey, Sid Ashworth, Paul Grove, Rebecca Davies, and all of the others. On my own side, the minority side, I thank that man from Notre Dame, our minority staff director, Terry Sauvain. I thank his very able deputy, Charles "Chuck" Kieffer. These are two the likes of which you will never see again. I also thank Charlie Houy, Tim Rieser, B.G. Wright, Chad Schulken, and all of the others on the minority side who worked the long hours—I mean long hours—to assist Senators in the production of the final conference report.

Mr. President, there were some problems in conference, most notably the recessing at the call of the Chair and not returning, which left some of our members unable to offer motions. During the recess, 55 pages of modified REAL ID immigration legislation were inserted into the conference report, sight unseen, by the conferees. Now, can you imagine that? That would not have happened when I was chairman of the Appropriations Committee. That would not have happened when I was majority leader of the Senate. I will tell you, I don't blame our chairman or any committee members for this situation, but I do acknowledge that there were problems.

Nevertheless, the conference report provides the necessary funds for our troops in the field in Iraq, Afghanistan, and elsewhere. I will always support money for our troops, may God bless them. I support them. We must support our troops, our men and women. They didn't ask to go there. They are doing their duty. They are answering the call. I do not support the policies that sent them there. I did not support it in the beginning. I did not vote to authorize this President or any other President to use the military of this country as he might see fit. I did not cast my vote there. I never, at any time, believed that Saddam Hussein, for whom I did not carry any brief—or the country of Iraq posed a national security threat to our country. I said so then, I say it now, and I believe that. So I did not vote for the policies that sent them there and keep them there. There is no end in sight. It bleeds our country of money and blood. No, I don't support that policy, and I didn't support it when the President sent our men and women there. But I do support the troops. I support them and will always support the troops of our country—may God bless them.

Nevertheless, the conference report, as I say, does provide the necessary funds for our troops in the field in Iraq, Afghanistan, and elsewhere. I supported the war in Afghanistan because there was al-Qaida. Al-Qaida attacked us. Al-Qaida invaded our country when it toppled the Twin Towers, and struck the Pentagon, and drove a plane into the ground in Pennsylvania. I supported that war. But there are two wars, the one in Afghanistan and the second war in Iraq—a country which did not invade our country, a country which did not strike our country, and a country which posed no security threat to our country.

But that is neither here nor there when it comes to our troops. That is something else. We will support our troops. I thank the Chairman for his excellent work, for his cooperation and fine leadership in our Committee, and for his support of the troops likewise. I urge the adoption of the conference report.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, as Senators know, there is time for debate of the conference report, for Senators to come over and speak, if they so choose, about the provisions of this bill and the effort we have made to meet the challenge the President has laid before us, and that is to produce a bill that provides funding for support for our troops and other officials from the State Department and other agencies who are engaged in operations in Iraq and Afghanistan and in the global war on terror. The majority of the money provided in this legislation is for those purposes.

I am pleased the committee was able to restrain the temptation that always exists to add money that was over and above the request made by the President. The fact of the matter is that this committee showed discipline and commitment to fiscal restraint. We brought a bill back in the initial stages of this process that was below the request made by the President and that was below the request provided in the House-passed bill.

Our Senate Appropriations Committee reported legislation providing funding that was lower than either one of those documents. In conference with the House, we did resolve differences. There was give and take. Both sides had their opportunity to speak. We met on two separate occasions with our Senate conferees, joining representatives from the House in a wide range of discussion. Nobody was cut off when they wanted to discuss the issues or offer alternatives to provisions of the House-passed bill. The REAL ID provision that has come up, which some have complained about, was not a product of the Senate's action. It was put into the bill on the House side, but it was in conference. Because that legislation contained immigration issues and the identification issue, there were those in the Senate who offered germane amendments on the broad, general subject of immigration policy, guest worker provisions, quotas, workers who could come from foreign countries into the United States. The Senate will remember that we have debated several amendments on those subjects. We approved some and we rejected some.

In conference with the House, a majority of the conferees of the Senate worked with a majority of the conferees in the House to get a compromise conference report. That has been brought back to the House now and passed by a substantially overwhelming margin, 368 to 40-something, as I recall.

The Senate is prepared to wind up debate in a matter of an hour or two, under the order that has been entered. I hope the Senate will give support to this conference report and overwhelmingly approve it. It reflects strict discipline in the appropriations process, but at the same time it provides the funds needed for those who are engaged in the important operations in Iraq and Afghanistan to safeguard the security of our country and to promote democracy and help ensure a safer world. I am hopeful the Senate will approve the conference report.

I am prepared to yield the floor. Seeing no Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I was curious when I put in the suggestion that a quorum be present as to how time would be charged under the time that is being used now under the quorum call.

The PRESIDING OFFICER. The quorum call is charged to the Senator who suggests the absence of a quorum.

Mr. COCHRAN. Mr. President, since there are no Senators on either side present, I ask unanimous consent that the time be charged equally between both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I believe under the order the Senator from Vermont has some time reserved.

The PRESIDING OFFICER. Yes, 15 minutes.

Mr. LEAHY. I thank the Chair. I will use part of it.

I am voting for the supplemental, but I have grave misgivings about the President's policy in Iraq, the enormous strain it is putting on our Armed Forces, the horrific toll of the insurgency on innocent Iraqis, but especially the lack of a credible exit strategy.

We tried to get legislative language considered that would link the training and equipping of Iraqi security forces to the phased withdrawal of our troops. That made sense. As we train them and they are able to take over responsibility for security, we should withdraw our troops. The White House would not even consider this. I suspect had the White House asked our troops in the field or the American people, they would say that is what they want. It is also what most Iraqis want.

I am voting for the supplemental because I am concerned about our troops, many who were sent to fight and some of whom have died—as we understand from the press, even though we could not get this from the administration—without the proper armor. I opposed their deployment to Iraq, and I want to see them return home as quickly as possible, but in the meantime, I want them to have the best protection and equipment. They were sent into harm's way by the order of the Commander in Chief, and they should be protected as well as they can be.

There are other reasons I am voting for the supplemental, but I want to mention one in particular. There is a provision which I sponsored and Senators BOXER and FEINSTEIN of California cosponsored which designates the program to assist innocent Iraqi victims of the military operations as the Marla Ruzicka Iraqi War Victims Fund.

This program, and one like it in Afghanistan, was inspired by Marla Ruzicka of Lakeport, CA. She died on April 16, 2005, at the age of only 28, from a car bomb in Baghdad. Marla's colleague and friend, Faiz Ali Salem, also died in that attack, both were on a mission of mercy.

I first met Marla 3 years ago. She worked closely with me and my staff, especially Tim Rieser of my Appropriations Committee staff, from the day after she arrived in Washington in 2002 until the day she died. In fact, Tim received e-mails and photographs of her holding a child she had helped that came in just hours before she was killed.

She was an extraordinarily courageous, determined young woman. She brought hope and cheer to everyone she met, from our military to people who were suffering from the ravages of the war. But she did it especially for the families of Afghan and Iraqi civilians who were killed or wounded as a result of the military operations. She felt passionately that part of being an American is to acknowledge those who have suffered and help their families piece their lives back together.

Who would not agree with that? By showing them a compassionate face of America, she not only gave them hope, she helped overcome some of the anger and resentment many felt toward our great country.

Over 90 percent of the casualties of World War I were soldiers. That changed in World War II. And since then, it is overwhelmingly civilians who suffer the casualties.

Rosters are kept of the fallen soldiers, as they should be, but no official record is kept or made public of the civilians who died. That is wrong. It denies those victims the dignity of being counted, the respect of being honored, and it also prevents their families from receiving the help they need.

In her young life, Marla forced us to face the consequences of our actions in ways that few others have. Even more importantly, she made us do something about it. She brought both parties in this Chamber together to help. What she did in Afghanistan and Iraq by the time she was 28, the end of her short life, was an achievement of a lifetime, far more than most people do in a much longer life.

This Saturday, from 2 to 4 in the afternoon, I am going to host a gathering in the Senate caucus room in the Russell Building so that anyone who is interested can learn more about Marla's work and the U.S. Government programs she inspired. I hope we can discuss ways for all of us to continue the campaign on behalf of innocent victims of conflict.

I thank my colleagues on both sides of the aisle for supporting naming this program after her. I want the work she started to continue. I doubt that we will see another person quite so remarkable as Marla, but I have to think there are a lot of other Americans who would want help if we give them the support they need.

I see the distinguished Senator from Connecticut in the Chamber. I reserve the remainder of my time and yield the floor to him.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to support the supplemental appropriations bill. I do so because it supports the men and women of the American military, in my opinion the greatest fighting force in the history of the world. I say that, really having thought about it. It supports them in their efforts to advance the cause of freedom and to protect the security of every American by what they are doing to fight terrorism and terrorists in Iraq and Afghanistan.

I do want to note, however, my strong objections to House provisions known as the REAL ID Act that have been included in the conference report. The REAL ID Act will repeal ID security provisions enacted with overwhelming bipartisan support last year at the urging of the 9/11 Commission and place them with rigid and unworkable Federal mandates on State government for the issuance of driver's licenses, long exclusively a matter of State law.

The conference report from the House also includes punitive immigration provisions we rejected last year and that have no place on an emergency spending bill. In my opinion, our Nation is safer if we continue to implement the protections we passed last December rather than allow an ideological debate over immigration policy to derail those initiatives so vital to the war against terrorism.

Notwithstanding my strong objections to the REAL ID components of the conference report, I strongly support the report and I do so based particularly on a visit I was able to make last week to Iraq, the third I have been privileged to make in the last 10 months. I am back feeling we are at a tipping point and it is moving in the right direction in Iraq. It requires the sustained, strong, and visible American support that is expressed in this supplemental appropriations.

There is no doubt that the recent spate of suicide bombings has riveted the media's attention and as a result the attention of the American people, but I assure my colleagues those suicide bombings and those suicide bombers are a small, though devastating, part of life in Iraq today. They have got to be understood in context.

I come back from Iraq seeing it this way: There are more than 25 million people in Iraq. Eight million of them came out in the face of terrorist threats to vote for self-governance on January 30 of this year. They have stood up a government which is impressive and inclusive. Their military is gaining strength and self-sufficiency every day. There are 25 million on one side wanting to live a better, freer life. On the other side are the insurgents, the terrorists, the enemy, variously estimated at 10,000 to 12,000, some would say less.

For as long as I can remember as a member of the Senate Armed Services Committee in briefings we have received and on previous trips to Iraq when I have asked who are these insurgents, every other time I have been told most of them are former regime elements, leftovers from Saddam Hussein who want to go back into power and stop this new government, particularly a government which represents the majority of people in Iraq, Shi'a Muslims, to take power.

Then I was always told a minority is terrorists who are people associated with Zarqawi and al-Qaida. This time it began to turn around and that is a very significant development.

I was informed that the number of former regime elements, the number of Iraqi Sunni Muslims involved in the insurgency, is dropping. In fact, some of them have begun to reach out to come over to the other side because they see the future tipping in another direction. However, there is an increase in the movement into Iraq of foreign terrorists. Sometimes they are people recruited over the Internet, recruited at religious sites, coming into Iraq usually from Syria for as short as a day before they are strapped with bombs, sent in a vehicle aimed at a crowd of Iraqis in a marketplace, sent to be in a line of Iraqis ready to enlist in the Iraqi military or in the police force, who then blow themselves up.

What I am saying is there is a historic transformation going on in Iraq that already has and, if it can continue to go with our support, will resonate throughout the Arab world. I know that as the American people every night see only the suicide bombings, they begin to lose hope about what is happening in Iraq. I appeal to the American people to understand that those bombings, as devastating as they are, are the result of the fanatical work of a minority of people, the same people who attacked us on September 11, 2001—same attitude, same mindset, same hatred. If we diminish our support for our presence in Iraq today for the Iraqis who want so desperately to find a better life and govern themselves, we will have lost a moment of historic opportunity and we will ultimately pay the price for it ourselves.

I had the opportunity to meet with the new leadership of Iraq, the new President of Iraq, Jalal Talabani, a Kurdish leader for decades, who many of us have met and come to know, a good man, a strong man. I sat with him and realized this is the duly elected successor to the brutal, murdering dictator Saddam Hussein. It is a miracle, something that neither he nor I, nor most of us, and particularly the Iraqi people, could have imagined just a few years ago. President Talabani deserves our support.

I met with the new Prime Minister, Ibrahim al-Jaafari. I never met him before. He is a good man. I found him to be thoughtful, strong, clear, very religious, very inclusive. Neither the Shi'a nor the Kurds who suffered terribly under Saddam—and one might understand the human instinct for revenge—have yielded to it. They have reached out to the Sunnis. We have not seen it in the papers and on the TV, but they are reaching out to bring them into the Government to try to create a leadership by consensus that will assure a better future for the Iraqi people.

I want to say a final word about the American military. As I said at the outset, it is the finest in the world. It deserves our support. The election, the negotiations with the Sunnis, the increasing capability of the Iraqi military, all bring Iraq to a tipping point in the right direction. It is historic. The American military understands what is going on. I had the privilege, over the last 16 years, to visit many of our men and women in uniform around the world. I have never seen our military more proud of what they are doing, with morale higher, more skillful, better equipped to carry out the mission than they are carrying out. This bill helps them to do what we have asked them to do.

I want to say, finally, that we have to exploit this moment, this tipping point, and act aggressively with the Iraqi government to bring over more of the insurgents, thus isolating the foreign fighters, the terrorists, the al-Qaida/Zarqawi network people, and making it harder for them to move freely and resupply themselves.

This has really now become quite explicitly a war against the terrorist movement that struck us on September 11, 2001. That, to me, means moving aggressively to close the border with Syria to stop the flow of terrorists, and further help bring stability to Iraq. Operation Matador, now in its third day in Iraq near the Syrian border, is the kind of sustained military effort we need. Our pride, our prayers, our gratitude go out to the Marines and others in the American military who have advanced Operation Matador with such remarkable success.

Our engagement in Iraq is crucial. It is in the best bipartisan traditions of American foreign policy that run from Woodrow Wilson to George W. Bush, with a lot of good Democratic and Republican Presidents in between. This supplemental supports that policy. It advances the cause of freedom. It protects American security. It supports the American men and women who are performing so valiantly and constructively. I urge its adoption. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, today I will cast my vote in support of the conference report on the 2005 supplemental appropriations bill for Iraq, Afghanistan, and tsunami relief. I do so despite my strong objections to the administration's policy of continuing to fund our military operations in Iraq and Afghanistan through emergency supplemental bills. These needs should be addressed in the regular budget request so that they can actually be paid for, not placed on the tab of the American people so that debt can pile up. But the fact remains that our troops on the ground need timely support, and I will cast my vote to see that they get it, and the victims of the horrifying 2004 tsunami in South and Southeast Asia are provided with some meaningful relief and assistance.

I am pleased that the conferees retained my amendment to make it easier for the families of injured servicemembers to travel to the bedsides of their loved ones. I am disappointed that a sunset provision was added to this common-sense measure, and I will continue fighting to ensure that the benefits to military families provided by my amendment become permanent.

My vote in support of this conference report also comes with serious reservations because it contains the extremely troublesome immigration and driver's license provisions of the REAL ID Act, which the House passed as an amendment to this bill.

I strongly support efforts to curb illegal immigration and to prevent terrorists from entering our country to do harm. But as we work to secure our borders and protect our Nation from future terrorist attacks, we must also respect the need for refugees, foreign workers, family members, students, businesspeople, visitors, and others who wish to come to our Nation legally.

The REAL ID Act is a big step in the wrong direction. The new restrictions on immigration in the REAL ID Act are not necessary to protect national security. Rather, they will only serve to create serious and unjustified hardships for people fleeing persecution and for other non-citizens.

Not only that, but the Senate has had no opportunity to consider the REAL ID Act. It is astounding that Congress would enact these significant immigration changes without the United States Senate ever having held a hearing on them, without the Judiciary Committee ever having considered them, and without Senators ever having taken a vote specifically on those reforms or having had an opportunity to offer amendments. Obviously these issues are too important to address them in such a truncated way. Congressional leaders have no business tacking these very significant and controversial changes to immigration law onto an unrelated, must-pass appropriations bill. Clearly, this process was used because these changes could not pass the Senate on their own merit. They had to be added to legislation that contains vital funding for our troops in Iraq.

What has happened to the legislative process? I know that some in the other body, and some in the Senate as well, have very strong feelings about these immigration provisions. But strong feelings do not justify abusing the power of the majority and the legislative process in this way. I strongly object to this tactic.

Let me explain a few of my concerns with the REAL ID Act. First, this conference report will make it even harder for those fleeing persecution to seek asylum in this country. These changes to asylum law are simply unnecessary. As any attorney who handles asylum cases can tell you, asylum cases are already extremely difficult to prove. In fact, only about 30 percent of asylum applications are granted today. Those seeking asylum in the United States already undergo the highest level of security checks of all foreign nationals who enter this country, and the provisions in this bill will result, I am sure, in the rejection of legitimate applications without making us any safer.

The asylum provisions of the REAL ID Act were improved somewhat in conference, and I greatly appreciate the work Senator BROWNBACK did to make changes to the House-passed version. But the changes do not go far enough to adequately protect asylum seekers. This bill will have real effects on real people—people who will be sent back to countries where they or their families may be harmed or even killed because of their political or religious beliefs.

There are also provisions in this bill that would further restrict judicial review in immigration proceedings. This is not the time to downgrade the judicial branch's longstanding role as a check on the abuse of executive branch power, particularly in light of some of the administration's unprecedented actions since September 11, 2001. Non-citizens have borne the burden of many of the administration's egregious civil liberties violations that have occurred since September 11. I believe that we can fight terrorism without compromising our civil liberties. Making it harder for non-citizens to seek judicial review in immigration proceedings is sending exactly the wrong message about the need to respect the Constitution and basic human rights.

The REAL ID provisions in the conference report also have potentially serious environmental implications. One section of the conference report allows the Secretary of Homeland Security to waive all laws that he deems necessary to allow expeditious construction of barriers at the border. Let me repeat that: The Secretary can waive any and all laws that he wishes in order to construct these barriers. I guess that could include labor and safety laws, but certainly it means that environmental regulations can be waived, at the sole discretion of the Secretary.

I also want to address the driver's license title of the conference report. This title of the REAL ID Act is particularly unfortunate because it repeals provisions of the Intelligence Reform and Terrorism Prevention Act, which we just passed a few months ago, and replaces them with the unworkable mandates that Congress rejected when debating the intelligence reform legislation. The intelligence reform bill required a negotiated rulemaking process to develop minimum identification standards, a process that is already under way and has included State governments, the Departments of Homeland Security and Transportation, law enforcement, industry representatives, privacy advocates, and immigration groups.

They all had a seat at the table under the intelligence reform bill. In fact, they met for 3 full days just a few weeks ago. This process would have, in all likelihood, resulted in sensible, realistic standards for driver's licenses to improve security.

Instead, the REAL ID Act mandates a long list of expensive and inflexible requirements for the states, some of which could have serious unintended consequences.

Let me give you an example that demonstrates why we should not be rushing these provisions into law. A variety of States, either by law or policy, have address confidentiality programs that permit law enforcement officers, judges, or domestic violence victims to list something other than their home address on the face of their driver's license. They are required to provide their home address to the DMV, but it is not actually printed on the license. This is an important security measure to protect public officials and victims of violence from individuals who wish to do them harm.

The REAL ID Act would override these protections by mandating that a person's home address be printed on the face of the driver's license itself. Had the Senate Judiciary Committee had an opportunity to review this bill, I feel confident we could have addressed this issue in a more nuanced way, and certainly the process now underway that this bill will short-circuit would have taken into account the legitimate public safety interest allowing some people to not list their actual addresses.

The intelligence reform bill struck the right balance by setting up a mechanism to help improve the security of State identification cards, while also ensuring that States and other interested parties would have input into the process of determining minimum identification standards. I am very disappointed that the REAL ID Act is overriding this ongoing process with costly and unrealistic requirements that leave States with little discretion.

On top of all this, the REAL ID Act prohibits the issuance of State driver's licenses to undocumented aliens. States should be the ones to decide whether, in the interests of public safety, they wish to issue driver's licenses to undocumented aliens. The reality is, there are millions of undocumented workers in the Nation. States could reasonably decide, just as Wisconsin has, that from a law enforcement and public safety perspective it is better to ensure that these individuals have been tested on their driving skills, have obtained insurance, and are readily identifiable, rather than to force them to drive illegally.

While I am extremely concerned about the effects these REAL ID provisions are going to have on noncitizens and on already cash-strapped State governments, I do want to note one bright stop in the immigration landscape of this bill. That is the provision that addresses the shortage of H–2B visas for temporary, seasonal workers. The cap for H–2B visas was reached just 3 months into the 2005 fiscal year, in January, which meant that employers in Northern States, such as Wisconsin whose tourism, landscaping, and other seasonal industries get started later in the year, have been unable to hire workers using H–2B visas.

Senator MIKULSKI and Senator GREGG worked tirelessly to ensure that this provision was enacted into law in time to help employers who need workers this year, and I do commend them for their efforts. I have been proud to cosponsor their H–2B legislation, and I am very pleased this is about to become law. Unlike the REAL ID bill, this provision had overwhelming bipartisan support in the Senate and quick congressional action was definitely needed.

Mr. President, I will vote for this legislation because our Armed Forces need the funds it provides, but I strongly object to the inclusion of the REAL ID Act in the conference report. Those who support these provisions have prevailed only because they were willing to upend the legislative process to achieve their ends. I certainly regret that, and I think many of us will come to regret that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I rise today to briefly discuss the conference report to the emergency supplemental appropriations bill, which we hope to adopt later today.

First, I thank my colleague from Mississippi, Senator COCHRAN, for the good work he has done. I plan to support adoption of this conference report. There are certainly a number of programs that will benefit greatly from passage of this bill. It is the right thing to do.

I must say, though, there are a few areas, which I will discuss in a moment, where I do not think we have gone quite far enough.

First, let's talk about the most important thing. Of course, that is the money that will go to support our soldiers. That is really why we are here. That is the most important provision in the bill. Let me talk about a couple of specific items that will aid our soldiers.

This bill includes Senator CRAIG's amendment, which I cosponsored, to provide an immediate payment—it ranges from $25,000 to $100,000—to those who have suffered traumatic injuries on active duty, such as the loss of an arm or leg or the loss of their hearing or sight.

The bill also includes my second-degree amendment to Senator CRAIG's amendment making this provision retroactive to October 7, 2001. This second-degree amendment I offered will ensure the coverage of soldiers who have been injured in Iraq, injured in Afghanistan, those soldiers who many of us have seen or talked to who are currently recuperating at Walter Reed, Bethesda, or other hospitals around our Nation, as well as those who have left the hospital and are learning to live with their injuries.

This amendment would help service members, such as Army SSG Justin Shellhammer, whom I spoke to today on the phone. Justin Shellhammer is a courageous young man, someone of whom we can all be very proud. I talked to him on the phone this morning. He is excited he is going to get a leg this afternoon. He told me about how his recuperation has been coming along and what his prospects are. When you talk to someone like him, your heart goes out to him. But, frankly, you feel great admiration for him and how courageous he is.

I am also pleased this bill includes an additional $150 million for the procurement of up-armored humvees. Many of us on the Senate floor and in the House have supported, for a long period of time, increases in funding for this program. It is an important program. There is a critical need for these vehicles in Iraq and Afghanistan and here in the United States where they are used for training.

Quite simply, these vehicles have saved the lives of hundreds if not thousands of service men and women and enabled them to complete their mission.

Just a few moments ago, I talked about the fact that there are some items that should have been included in the bill that are not. I am, frankly, a little disappointed.

The conference report does not provide the death gratuity increase that we provided to all Active-Duty deaths. This bill increases the death gratuity to $100,000—and that is a very good thing—to the families of those who have died in service to our country. But the language in the bill that came out of conference provides only for deaths that occur in a combat zone or those that are "combat-related." I think that is much too narrow. I think it is a shame. I think it is too bad that is what the conference did.

If we do not apply the death gratuity increase to all Active-Duty deaths—which is what we should have done—we will not be covering a number of individuals who die while carrying out their orders, who die in service to our country. Their families will not be covered. For example, we will not cover the family of a service member who gets into a fatal car accident carrying out very specific orders to deliver files from one side of his home base to another, in service to his country. His family will not get that death benefit.

We also will not cover the death of a service member who gets into a fatal accident en route to a conference he or she was ordered to attend. And it will not even cover a military police officer guarding the gates of one of our domestic bases who may fall from heat stroke. I do not think that is right. I think that was a mistake the conference made.

As I have done since the beginning of this Congress, I will continue, as I know others will, to work to expand the applicability of this critical benefit.

I must say, I was also disappointed that we were unable to pass an extended TRICARE Prime medical benefit for children of decreased service members. Under current law, the dependent child of a deceased service member receives medical benefits under TRICARE Prime for 3 years at no cost. But following that period, the dependent children may continue to receive TRICARE Prime, but they must pay for that benefit at the retiree dependent premium rate, available to children under the age of 21 or 23 if they are enrolled in school. Also, after 3 years, when a dependent child's military parent dies, and if that family elects to pay the premium and stay enrolled, even if they pay that premium, that child would move down on the food chain, so to speak, in terms of the availability of services and priority. I do not think that is right. I think we need to correct that.

What that means is that if there is a doctor's appointment opening, and your parent is alive, and your parent is continuing to serve, you get preference over a child whose parent was killed in Iraq or Afghanistan. Now, do we really think that is right? I do not think so. I do not think there is any person on this floor or in the Senate who would say that is right.

This is simply not fair. I don't think any Member of the Senate who really understands this would say that is right. My amendment, which was not included in this bill, would have changed that by putting surviving children of service members killed in service in the same position—no better but no worse—as if their parent would have lived and continued to serve in the military. It would have put them in no better position but, rather, in the same position, and they would continue to receive TRICARE Prime at no cost until they became an adult.

I wish to let my colleagues know that I plan to continue this debate and to try to get this in the Defense authorization bill. This is a matter of simple fairness. It is the right thing to do. So this discussion will continue this week and in the weeks ahead.

Let me turn to another topic that this bill addresses, and that is humanitarian assistance. I believe we did a pretty good job in this bill—again, I congratulate the chairman—as many essential priorities were funded. Because of what the chairman did and what others did, many people will be fed, many people will be helped maybe not at the level I would have liked in some cases, but we did a pretty good job.

One country that certainly needs assistance in this supplemental is Haiti. Haiti is embarking on a road to attempt to move toward democracy. They have had a very troubled past, a troubled present. Its current history is troubled. They are facing elections this year.

I thank Chairman COCHRAN and Senator BINGAMAN, Chairman McCONNELL, and all the conferees who supported my efforts to include emergency money for Haiti. Haiti needs election assistance and security. This bill provides $20 million for election assistance this year, for police training and for public works programs. All this money is urgently needed. I will be working closely with the U.S. Agency for International Development to ensure this money flows quickly into Haiti.

Another troubled spot in this world is Darfur. Again, I congratulate the chairman for his work. Senator CORZINE offered an amendment. Senator CORZINE has been a true champion in this area. I congratulate him. He offered an amendment, of which I was the lead cosponsor, regarding Darfur. I thank him for his efforts and commitment to helping end the crisis in the region. The final conference report provides $50 million to support the African Union to stop the genocide in Darfur. Again, I thank Senator McCONNELL and Senator LEAHY for their good work in this area as well.

The conference report also provides an additional $90 million for international disaster and family assistance to help ensure humanitarian aid flows to Darfur and other African crises. We are looking at genocide in Darfur. We are staring it down, and we cannot afford to blink. It is only right that this bill contains funding for this crisis.

Finally, I thank Senator KOHL for his efforts to help increase our U.S. food aid. I worked with Senator KOHL. I was his lead cosponsor on his amendment, which the Senate passed, to include $470 million in food aid to cover known worldwide aid shortages. Again, I thank Senator COCHRAN for his good work in this area.

The conference report, unfortunately, contains only $240 million. This money will help, but it is not at the level the Senate had provided. This is not enough to cover existing shortfalls, much less new emergencies or worsening conditions in places such as Ethiopia. Last year, 300,000 children in Ethiopia died of malnutrition. This year, the situation is worse, with drought destroying crops in large parts of the country. The people of Ethiopia will avoid the starvation that is on the horizon only if we act. That means remaining open to the possibility of using the Bill Emerson Humanitarian Trust and other tools in our food aid arsenal. We must understand that it is not only Ethiopia where we have a crisis: we have crises all over the world with regard to food aid. We simply do not have enough food.

I am proud to be joining Senator KOHL in sending a letter to the President asking him to look at the Bill Emerson Trust as we enter the summer season that so often results in food shortages, not just in Ethiopia but around the world. I again commend Senator KOHL for his commitment to end hunger around the world.

There are good parts to the conference report we are passing today. It provides immediate and necessary help that our soldiers need to do their job. It provides our injured service men and women with care that they desperately need. It provides money for Haiti and Darfur, other African crises. However, frankly, we could have done more. Legislation, though, is never perfect. We simply need to continue to work together to address issues that are not fixed in this legislation.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Democratic whip.

Mr. DURBIN. Mr. President, it is my understanding that under the previous order, I will be recognized for up to 1 hour.

The PRESIDING OFFICER. That is correct, of which 10 minutes will be yielded to the Senator from Washington.

Mr. DURBIN. Mr. President, I yield 10 minutes to the Senator from Washington, Mrs. MURRAY.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I rise to talk about the supplemental appropriations bill we are considering which funds our military activities in Iraq and Afghanistan. Overall, I support this bill. We do need to get the money out to our troops. But I am here today because I have several concerns about what it leaves out and how it was put together.

I have to say I am particularly troubled that I and other Senators were denied a promised opportunity to debate and vote on some very controversial immigration changes that have been attached to this bill.

First, let me say, I know how important the funding is to our troops overseas. In March, I traveled with the Senator from Illinois and several others on a bipartisan trip to Iraq and met with troops from the State of Washington. To a person, each of them was a dedicated professional who was putting duty above their personal well-being. They need our support, and they deserve every resource our grateful Nation can provide.

As I have said before, I am the daughter of a disabled World War II veteran. I represent hundreds of thousands of Washington State veterans and military families. I support every dollar in this aid bill to help our troops protect themselves and complete successfully the dangerous mission we have assigned them. But I am concerned that when all of these new veterans come home and need medical care, they are going to be pushed into a VA system that does not have medical staff, facilities, or the funding needed to care for them. That is exactly why I was on the Senate floor fighting to include within the supplemental the critical cost of war, and that is taking care of our Nation's veterans.

I am disappointed that Republicans in the Senate have decided that funding for veterans care is not an emergency and not a priority. By denying that there is a crisis at the VA, they are simply ignoring our responsibility to fully provide for the men and women who are risking their lives for our freedom. Our veterans, our military, and our future recruits deserve better. Taking care of our veterans is part of the cost of having a great military. It is a real disservice that we have not taken care of that funding within this bill.

I am here today because I am also very troubled by how far-reaching and unrelated immigration rules got attached to this bill without a vote and without an opportunity to debate. The REAL ID provision has ramifications for privacy, for States rights, and for immigration policy. I am disappointed that it has been rammed through as an attachment to a desperately needed bill that funds our troops. Frankly, a lot of us are kind of scratching our heads about how this REAL ID provision ended up in this conference report. I know I didn't vote for it. I know there wasn't even a discussion of it in conference, but somehow it is included in a must-pass bill.

Mr. President, I served on the conference committee, and I want to share with my colleagues exactly what happened in that conference committee so they will understand why the sudden appearance of the REAL ID provision is so surprising to many of us.

When the conference committee met, the chairman gave assurances to the minority that we would be able to vote on several provisions when the conference met again. But that conference never met again, leaving no opportunity for the minority party to vote, much less to strike these provisions.

I want to share with the Senate the specifics. In our second meeting of the conference committee, Senator DURBIN, who is now on the Senate floor, asked Chairman COCHRAN for his assurance that we would get a chance to vote on these immigration changes, and other open items as well, before the supplemental was sent to the floor.

In fact, I want to read a portion of the transcript of that meeting. This discussion took place on Thursday, April 28.

Senator DURBIN said:

> I would also like to say to my colleagues, if this bill contains—as I believe it does—the REAL ID Act, I would like a vote on that so that we can be on the record on an issue that has never been brought before committee in the Senate.
>
> My question to you is this, Mr. Chairman: There have been times when conference committees of this magnitude have recessed and never been heard from again. The next thing we find is a conference committee report on the floor on a take it or leave it basis.
>
> Can we have your assurance that we will return for votes on amendments such as those we have debated today and those that I have mentioned?

Senator COCHRAN's response to Senator DURBIN:

> Senator, I would be glad to make the assurance that if there is work to be done, if there are open items to be considered, that we can consider those in conference. I am not prepared to make a commitment as to when that will be. I don't want to lead you to believe that I am going to surreptitiously or in secret reach an agreement on the other side without consulting all the conferees on the Senate side.
>
> I think everyone in this conference has a right to participate in this discussion and I wouldn't want to cut off anybody's right to participate.

Mr. President, I have worked closely with Senator COCHRAN for many years, and I do know him to be a man of his word. But to me, what that exchange meant, sitting there in that conference, was that we would have an opportunity to vote on the REAL ID provision, but that never happened. To me, that was wrong.

The REAL ID provision will have dramatic and far-reaching changes and puts an unfunded mandate on many States. Yet it was never brought before a Senate committee, and it was never voted on in the conference.

That is exactly why I did not sign the final conference report, which is very unusual for me. I did not sign it because I believe the process was flawed and we were denied an opportunity to debate and discuss these immigration changes before they were brought to the floor as part of a must-pass bill.

Mr. President, we are all very concerned about security, but this received very little debate. Before Congress mandates these kinds of changes, we should have a more informed debate. In fact, it begs the question, why was this added to a must-pass bill without a debate? Probably because it could not withstand a rigorous and open public debate. We should have that, and I am disappointed that the majority denied us that opportunity.

I also want to note today the irony that the Senate is about to allow a technical fix to immigration-related language that was included in the supplemental, which I agree needs to be fixed; but the Democrats in the conference committee were not provided any opportunity to fix any other immigration provision.

I want to reiterate my frustration with how the REAL ID Act was included and that we were not given the same consideration regarding that language.

Mr. President, the REAL ID provision has some unique impacts for my home State. This section on immigration is particularly troubling to me because Washington State has proactively enacted several laws to protect the privacy of Washington State residents.

While I understand the needs for increased security, I don't think Washington State laws should be completely overridden by this provision, especially without ever having had the chance for debate and discussion on it.

We know this bill is going to pass. Our troops need the funding it includes. I am already working with communities and officials across Washington State to help find a way to implement these new requirements. I will continue, once this is passed, to push the administration to now provide the funding necessary to make these changes without piling new burdens onto our already cash-strapped State.

Mr. President, it is really unfortunate that at a time when we should be focusing on the needs of our troops and our veterans, the majority party is using the supplemental aid bill as a vehicle to legislate on subjects that have not received the debate and attention they deserve. But at the end of the day, we know we cannot afford to fail in our missions abroad. With hundreds of thousands of troops sacrificing every day in Iraq and Afghanistan, I will support this supplemental bill, and I will continue to work to fight for their care as they return home.

I thank my colleague from Illinois for yielding me time and allowing me to express my frustration on how this part of the bill was put in without anybody able to discuss it in conference committee.

I yield the floor.

The PRESIDING OFFICER. The Democratic whip is recognized.

Mr. DURBIN. Mr. President, I thank the Senator for her statement with which I agree. This is called an emergency supplemental. It is the nature of an emergency supplemental that it funds things that were unanticipated, such as natural disasters and military operations that we didn't anticipate. That is the nature of an emergency supplemental. Yet, when you look at it, at the real nature of this bill, there is no emergency or unexpected element here. This is funding the third year of a war in Iraq.

Did we expect to be gone from Iraq by this time? I don't think anybody suggested that. Yet the administration continues to bring the funding of our troops into the Congress on an emergency basis. Why would they do that? Why would they not put it through the ordinary appropriations process? There are two good reasons. First, it isn't added to the national debt each year. The President can say, when he presents his budget, that we are close to being in balance. In fact, we are not even close. We have the largest deficit in the history of the United States of America under the Bush administration. You have to add this to it. This is a real cost to the American taxpayers, to our Government. But by putting it in separately, it is a little sleight of hand, so that you don't add the $81 billion to the actual cost.

Secondly, if this went through the ordinary appropriations process, there would be hearings and questions would be raised—questions I would like to raise after I visited Iraq with the Senator from Washington. Why, in a third year of the war, are we still trying to find armor plating for humvees and trucks to protect our troops? Why, in the third year of the war, after giving every dollar the administration asked for, don't we have protective body armor for all of our soldiers? Why, in the third year of the war, don't we have the most modern helmets and firearms that our troops need to be safe, to perform their mission and come home?

Hard questions. I might also like to ask a few questions about some of the major contractors who are being paid for this war. Millions, if not billions, of dollars are going to companies on no-bid contracts. You know the names. Halliburton leads the list. I will tell you this. It is considered entirely inappropriate in Congress to raise the question about whether Halliburton has been paid too much or improperly. You just don't ask those questions around here. Those are things which Congress has no business asking about, according to the Republican majority. Those are questions that would be asked if this appropriations bid went through the regular process.

Instead, it comes to us as an emergency. We don't have time to talk about it or to ask any questions. They say: Come on now, the troops are at risk. Let's pass the bill and get it over with.

That is what we face every year. The majority knows that even those of us who voted against the use of force resolution for the invasion of Iraq have said we are going to vote for the money for the troops. If it were my son or daughter, my brother, or someone in my family whose life is at risk in Iraq, whether I agree with the way we went into the war is irrelevant. I am going to give those soldiers, marines, and our other Armed Forces every penny they need to perform their mission and come home safely. We can debate the policy and whether we are going to make the mistake we made in Vietnam, where our policy debate turned into a debate at the expense of our troops. And so the administration and the Republican majority take advantage of it. They pushed this bill through on a take-it-or-leave-it emergency basis, and they say do not ask any hard questions. We do not want to talk about armor for humvees. We do not want to talk about Halliburton. Take it or leave it.

That is sad. Yet in their hurry to bring this bill to the floor, they load it up with things that are not related to the war in Iraq. We heard what the Senator from Washington said. There is a major change in the law in this bill about the issuance of driver's licenses in the United States of America. Why in the world is that in this bill, the emergency bill for the troops? I think she has made it clear.

Let me give a little background. If we were fair, we would not call this the emergency supplemental appropriations for the fiscal year ending September 30; we would call this the Larry Lindsey memorial bill. Why? Because Larry Lindsey happened to be the Budget Director under President Bush who made a big mistake. When we invaded Iraq, Mr. Lindsey predicted the war would cost somewhere between $100 billion and $200 billion. Mr. Lindsey was dismissed from his job as a result of suggesting the war might cost that much money.

And remember Deputy Defense Secretary Paul Wolfowitz? They asked him: How will we pay for the war in Iraq? He assured us in open testimony that Iraqi oil money would pay for the reconstruction, and at one remarkable Senate hearing, Defense Secretary Donald Rumsfeld even predicted Iraqi tourism dollars would help finance the new Iraq.

Fast forward to today. With the Senate's passage this week of this bill, American taxpayers would have committed nearly $300 billion for the wars in Iraq and Afghanistan. We are still waiting for that tourism money, we are still waiting for that Iraqi oil money, and Mr. Lindsey is now in civilian life for suggesting the war might cost a third of what it has actually cost.

That is the reality, and there is no end in sight. We are not going to delay passage of this bill; there is too much at stake. Mr. President, 150,000 American soldiers rely on our prompt action on this bill, and it will pass here today, as it should.

Let me speak about some elements of this bill I think should be part of the record. Democrats are going to support this bill not only because it helps the troops, because it does fund some true emergencies. There is $900 million in emergency relief for the victims of the South Asia tsunami, one of the greatest natural disasters in modern memory, and $400 million for humanitarian assistance in the Darfur region of Sudan. If this genocide in Darfur is not an emergency, what is? Unfortunately, what is missing from Darfur accountability passed by the Senate is seeking justice and security for the victims of this campaign of murder, rape, and destruction.

I am also going to vote for this bill because it does include a provision which I added on the Senate floor reaffirming America's commitment to not engage in torture or other forms of cruel, inhuman, or degrading treatment of prisoners of war or other detainees. I believe reaffirming this longstanding American commitment to this fundamental standard of international law and decency will help restore our credibility and our moral standing in a world which questions what happened at Abu Ghraib and Guantanamo. As many military experts have told us, it will also reduce the chance that American military personnel, when captured, would be tortured.

The bill contains $5.7 billion to train Iraqi troops. Six or 7 weeks ago when I was in Baghdad, they showed us a handful, a dozen of these troops who were in an exercise. I am not a military expert. I do not know if they were real soldiers. I do not know if they were really trained, but thank goodness there is some effort underway to try to replace American soldiers with Iraqi soldiers.

It also contains crucial requirements that progress and training be monitored and measured, language Senator KENNEDY, Senator LEVIN, Senator BYRD, and I worked hard to preserve. It is not enough for high-ranking administration officials to assure us that 130,000 Iraqi troops have been trained when only a small fraction are actually ready to fight, or when tens of thousands of U.S.-trained Iraqi police officers have gone AWOL. We cannot find them. Knowing how many Iraqi troops are ready to defend the nation will give us a better idea of when we can bring our troops home, and the sooner the better.

I thank the chairman and ranking member for working with us on the troop training and torture amendments, some of the reasons I will vote for this bill.

The final conference report does include other issues that trouble me when it comes to our troops. I have been trying for almost 3 years to make certain that Federal Government employees who are members of the Guard and Reserve and who are activated to serve overseas do not find themselves facing extraordinary financial hardships. In the Pentagon, we go to businesses across America and say: If you want to be a patriotic business, if you want to show your love of America, show your love for the men in the Guard and Reserve, and the women as well, and if they are activated, help their families; cover them with health insurance, if you can; make up the difference in pay, if you can. And many of them have stepped forward and said: We are going to do it. In fact, almost 1,000 different corporations and units of government—State and local—have said we are going to stand behind those Guard and Reserve families. They are making enough of a sacrifice, they are putting their lives on the line, and we will stand behind the families who stay home so that soldier, worried about his life, does not have to worry about the mortgage payment. We even have a Web site sponsored by our Federal Government saluting these great companies for standing behind our Guard and Reserve, as we should.

But let me let you in on a secret. There is one major employer in America that refuses to stand behind the Guard and Reserve. There is one major employer that employs 10 percent of the Guard and Reserve in America, 1 out of 10, that refuses to make up the difference in pay. Who could that employer be? It is the U.S. Government.

The Federal Government refuses to make up the difference in pay for these soldiers and marines in our country. How can we possibly explain that? We are praising companies and other governments that stand behind their people while we fail to do the same.

So on three different occasions, I offered an amendment on the floor, and it was adopted, which said we will stand behind the Guard and Reserve. We will make up the difference in pay, just as other companies do. Take a look at the companies that have done their patriotic duty. They are big names: Sears and Roebuck, out of my State of Illinois, IBM, General Motors, United Parcel Service, Ford, 24 State governments. But not the U.S. Federal Government. And, Mr. President, do you know what the problem is? Every time we pass it on the floor, so many Members race up here to vote for it, saying: Oh, we are all for the men and women in uniform; God bless them; give me a flag to wave; we are all with them. And then as soon as it gets in conference committee, they strip it. Year after year they take out this protection for Federal employees who are literally risking their lives today in the Guard and Reserve.

According to a recent survey made by the Defense Department, 51 percent of the Guard and Reserve members suffer a loss of income during long periods of active duty. Three-quarters of Guard and Reserve members surveyed cited income as one of the major reasons they were leaving the service. We know recruiting is down, retention is under pressure, and yet we refuse to make up the difference in pay for 1 of every 10 Guard and Reserve.

Today, 17,000 Federal employees are activated. To date, 36,000 have been activated and deactivated. So large numbers of men and women are affected by this amendment. And in the darkness of the conference, after the doors are closed, when the press has left, when nobody is watching, they take out this protection for Federal employees.

The lead sponsors of this provision are going to continue the effort with me. Senator BARBARA MIKULSKI of Maryland, and Senator GEORGE ALLEN, a Republican from Virginia, have joined me. Our measure is endorsed by the Reserve Officers Association, the Enlisted Association of the National Guard, and the National Guard Association of the United States.

The Congressional Budget Office and the Budget Committee staff studied our plan. They agree it would not add $1 to the budget because the cost of the affected workers' salaries is already included in the budget.

The last time the conferees met, I asked the chairman, Senator COCHRAN, for his assurance that the Republicans would not do what they have done in the past and kill this amendment without giving us a chance for an up-or-down vote in front of God and the world. I was given that assurance, but sadly it did not happen.

The conference committee recessed and disappeared and, unfortunately, we never had a chance to have an open vote on whether we would stand behind these Guard and Reserve members. That is unfortunate. I had hoped the assurance by the chairman would mean we would get that vote. It did not happen.

It appears the White House overrode anyone's intent to bring this measure up for consideration. Josh Bolton, the Director of the Office of Management and Budget, released a letter saying the White House opposed our reservist pay amendment because it would "increase costs and have a negative impact on morale and unit cohesion."

Think about that. The argument is that the soldiers under fire worrying from day to day whether they will be alive would compare pay stubs and have a general conversation about how much money are you getting from your employer, how much are you receiving, as if they would care. Those units go into battle together to protect their lives. I do not think they resented that one soldier in that unit had help because he happened to be an employee of Sears, another soldier because he happened to be an employee of one of the 23 State and local governments. They are not going to hold that against their fellow soldiers. That is going to undermine morale? They have to say: You are lucky; I happen to work for the Federal Government, and I get no help. I come here and risk my life, and this amendment is defeated in the darkness of a conference committee every single year.

That argument is just nonsense.

What message are we sending to conscientious employers? Unfortunately, the wrong message: Do as we say, not as we do. Listen to the Federal Government, listen to the Members of Congress with all their patriotic speeches, and then watch as we deep-six this provision year after year. It is an unfortunate message to some of the best men and women in America who risk their lives for our freedom.

We also wanted to push for more veterans health services. Senator MURRAY of Washington offered a $2 billion amendment, and she said if the war is an emergency, treatment of the veterans of the war should be an emergency. We know that is true. We know these veterans come home with real needs.

I had hearings across my State on posttraumatic stress disorder. I have been around this business for a long time. I have never, ever witnessed what I did then. We had men and women coming in who had served in Iraq and returned, young men and women who risked their lives wearing the uniform of America. They are home now, but the war is still on their mind. For many of them, it is a destructive memory, things they saw and things they did which they cannot get out of their minds. They come back and finally realize they need a helping hand. They are estranged from their families. Their spouses are saying: That is not the same soldier who I sent over there. What happened to him?

They find themselves despondent, angry, unable to cope with ordinary life, turning on members of their family in anger, and they need help. Sadly, too many of them need help they cannot find at the veterans hospitals. So if we promise these men and women when they serve our country that we will stand behind them, should not the Veterans' Administration, the hospitals and clinics, be ready to stand behind them, when they come home, for their injuries, for this posttraumatic stress disorder? Is it too much to ask that we have family therapists who will work with spouses and children who have seen a different father or a different mother come home? I believe it is only reasonable.

Senator MURRAY led the way. She asked for $2 billion to be put in as an emergency for veterans hospitals and clinics. It was turned down on the Senate floor.

I am glad that the death gratuity is increased. Twelve thousand dollars for your life in service of your country? I am glad we have raised that to $100,000 tax free for spouses and children of those who die in service. It also increases from $250,000 to $400,000 the life insurance benefits that are available. There is one catch. In the Senate, we voted to increase these benefits for the families of all Active-Duty service members, but behind the closed doors of this conference committee which met in private and in secret, the Republicans changed the rules. They decided on their own, without a vote, without a discussion, to restrict the new death benefits and the new life insurance benefits only to families of service members who die in a combat zone. That simple geographical distinction, "in a combat zone," could disqualify about half of all families who have lost a loved one serving on active duty since the start of the war in Afghanistan. These families will not be eligible for the new benefits because the husbands and fathers, wives and mothers died outside of what is technically classified a combat zone. That is arbitrary, that is wrong, it is unfair. Whether a soldier dies in Iraq or training to go to Iraq, his sacrifice is equally great, the loss to his family equally devastating, and our Government owes an equal debt to his wife and children.

We have had testimony from those uniformed officials who appear before the Armed Services Committee and we ask them about this. Admiral John Nathman, Vice Chief of Naval Operations for the Navy, said: "They can't make that distinction. I don't think we should, either," in terms of who is dying in a combat zone and who is not.

General T. Michael Moseley, Air Force Vice Chief, said:

> I believe a death is a death, and I believe this should be treated that way. . . .

Sadly, these people were not listened to and, unfortunately, this bill does not provide the protection which our soldiers truly need and deserve.

Senator DEWINE and I, on a bipartisan basis, are lead sponsors of a bill to change that benefit and to make it fair. I certainly hope we can.

This bill also shortchanges our first front-line troops at home, the first responders. All across America, police, fire departments, and EMT squads are stretched thin. Many lack equipment. Many of them are not getting the HAZMAT and other specialized training they need. This bill does not contain one dollar, not one dime for first responders.

We have so few Border Patrol agents that vigilante groups such as the armed Minutemen have decided to take it upon themselves to patrol the borders of the United States. Yet this bill contains funds to hire only 500 new Border Patrol agents—not enough to do the job. New York City has 40,000 police officers. We have 10,000 border agents to secure the entire U.S.-Canadian and U.S.-Mexican borders, even with the new agents in this bill. The Republicans have argued we can afford to give a $35,000 tax break to a person who is earning over $1 million a year, but we cannot afford to hire 500 Border Patrol agents. Their priorities speak for themselves. Homeland security is not a job for armed volunteers; it is a job for professionals, and it ought to be a priority for this Congress.

Now let me speak for a moment to this REAL ID bill. This is a serious problem. If one is going to use a driver's license to prove their identity, wherever it may be—stopped by a highway patrolman or getting on an airplane—we need to make sure that driver's license is authentic.

We have 50 States with different standards for establishing one's identity. It is a serious problem, serious enough that when the 9/11 Commission report came out and we put together a bipartisan bill to respond to it, we included a provision in that bill that required the Federal Government and State governments to work together to come up with realistic, operable standards to prove identity for those who were applying for driver's licenses. We passed that bill overwhelmingly on a bipartisan basis. I was happy to be one of the cosponsors of that legislation and glad that the President signed it. Then Members of the House said: We do not agree with that cooperative process. We want to establish the standards on our own. We want to write them into law. And they created something called the REAL ID Act.

We did not have public hearings on the REAL ID Act. We did not invite in the Governors. We did not invite the State motor vehicle agencies. We did not have a conversation about an honest and realistic way to approach it. We were given this on a take-it-or-leave-it basis.

The American people deserve to know what they can look forward to under this REAL ID Act, which is part of this emergency supplemental. Some say that it is just simply going to keep illegal immigrants from obtaining driver's licenses. If that were the case, it would be a much different and much smaller bill.

Under this law, to get a driver's license in any State in America, one will need to present several pieces of identification. One has to provide a photo ID document or a non-photo document containing both the individual's full legal name and date of birth; and documentation of the individual's date of birth, Social Security number or the individual's non-eligibility for a Social Security number, and the name and address of the individual's principal residence.

Now there is a catch to this. One has to come into that driver's license station with that proof. What is it going to be? Well, they at least need a birth certificate, that is for sure, or something like it. They are also going to need some proof of their Social Security number. They are also going to need some proof of their residence. Now when they bring those documents in for their driver's license, the State employee whom they face, who is issuing the driver's license, cannot just accept them at face value; they have to take the documents and verify them with the agency that issued them. Until they verify them, a person cannot receive a driver's license.

Imagine if one is a naturalized American citizen who was born in the former Yugoslavia. You present your birth certificate to the clerk at the Department of Motor Vehicles. There are two big problems.

How is that clerk in Springfield, IL, at secretary of state Jesse White's motor vehicle facility, going to verify the authenticity of documents issued by a government that no longer exists? Good question. I do not know the answer.

There is another problem. The REAL ID Act says that the State cannot accept any foreign document other than an official passport. So, even if the clerk could verify the birth certificate, he cannot accept it.

Imagine you are the person behind the counter.

What are you going to do? With whom do you check? Whom do you call? And what do you do about the people standing in line waiting for their turn to put more documents on the desk?

If you think a trip to the Department of Motor Vehicles is a bad experience today, wait until the REAL ID takes effect. This is not necessarily going to make America any safer. It will make States poorer. The estimates are it will cost States about $500 million to $700 million, another unfunded mandate, and in return for this massive cost and inconvenience we will get, at best, marginal increases in security.

The States have 3 years to put this in place and, incidentally, if we find States that don't have it in place in 3 years, an interesting thing happens. No one's driver's license from a State that hasn't been certified to be in compliance can be used for Federal identification. And if it turns out the State of Illinois, at the end of 3 years, still does not have this together, what is going to happen? It means myself, as a resident from Illinois, presenting a driver's license at the airport, will be turned away. Illinois licenses are not accepted. That is what this bill says—without 1 minute of hearing in the Senate, without 1 minute of debate on the floor of the Senate.

This is an unworkable and unfunded mandate.

In a conference committee, I said to the chairman: I think we need a vote on this. I think members ought to be asked to stand up and explain why they are going to support this without any hearing, without any deliberation. I want to debate it, and I would like to have an official vote so we know where the Members of the Senate and the House stand on this proposal.

I believed that I had an assurance that I would receive it, but I didn't. Ultimately, the committee recessed. No votes were taken. It comes to us now as part of this funding for the troops on a take-it-or-leave-it basis. That is not a good way to legislate.

Let me also say I think this REAL ID is going to create hardships that are totally unnecessary. We can ascertain the identity, and we should, of the people applying for driver's licenses. But the way this was written is sadly not going to achieve that in the most efficient way. The REAL ID Act is another provision on which I wanted a vote, wanted a discussion, and wanted an open debate. Unfortunately, it did not occur.

Many Democrats, despite this provision, will still support this bill because we have said from the start we are going to stand behind our troops. I think the administration, the Republican leadership in Congress, is testing us. How many things can they load into this bill to force us to vote for something we are troubled with, and that is what it is all about. We all know this is not the way to pay for a war and it is not the way for Congress to operate. The late Larry Lindsey—I say "late" because he is no longer in public service—was fired for saying the war might cost $200 billion. Now we are up to $300 billion and counting. Sadly, too many of the important decisions on funding this war are still being made by one party behind closed doors.

We will pass this bill, Democrats will support it, but this has to be the end of it. We need to fix this broken process. The American people deserve better.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I thank the Senator from Illinois not only for the time but also for his eloquent statement about this legislation, and particularly the REAL ID bill.

The emergency supplemental bill we are considering today provides needed funding for our men and women in uniform who are engaged in combat operations in Afghanistan and in Iraq, as well as emergency assistance to the victims of the tsunami. This aid and assistance cannot wait because it is a demonstration of our Nation's good will towards those who have been devastated by natural disaster, and also our commitment to our soldiers in combat. These noble goals are unfortunately tainted, however, by the decision of the Republican leadership to include a controversial piece of legislation known as the REAL ID Act.

Senator DURBIN has gone into great detail to show how unwieldy it is and perhaps how unnecessary it is. There are other ways to more effectively and efficiently verify the identity of individuals.

Also, this kind of back-door legislating is symptomatic of the majority's near total disregard for the precedents and procedures of the Senate that have served our Nation so well and for so long. I hope the American people realize this maneuver is yet another example of the majority's desire to pass the most controversial legislation by sliding it into a bill which cannot be amended and is subject only to an up-or-down vote.

With no Senate debate, and very little review, the REAL ID Act makes significant and harmful changes to our Nation's immigration system, as well as our system of licensure of automobiles and drivers throughout the United States.

Like many, I believe immigration is an issue we cannot and should not ignore. However, the REAL ID Act is not the comprehensive immigration reform that we have gone far too long without. Instead, it vastly alters our Nation's established asylum procedures, placing the burden of proof on the applicants by requiring them to document their torture or persecution. Potential asylum seekers are already thoroughly investigated, and those suspected of engaging in terrorist activities are already prohibited from being granted asylum under our current system. Yet the REAL ID Act will make it increasingly difficult for those escaping political persecution and torture to seek refuge.

In addition, the REAL ID Act would suspend habeas corpus review of orders of removal for aliens in the United States. Essentially, this change eliminates the right of aliens facing deportation to ask the court to review their deportation, a right which the Supreme Court has already upheld. This provision will deny innocently detained aliens the opportunity to plead their case before a judge. This goes against the core principle upon which our Nation was founded.

It is unfortunate these unsound provisions will be enacted as part of this bill. It is my hope that in the very near future we will be able to have a national discussion on immigration in a comprehensive, thoughtful, and deliberate way that will provide real solutions to real problems. It is not possible to solve our immigration problems by simply removing those who seek legitimate help from our Nation, or by raising the bar for those who are immigrating here legally. As a nation of immigrants and a global leader on human rights, the inclusion of the REAL ID Act in this bill and in this manner is unacceptable, and I will work with like-minded colleagues to reverse this law.

I yield the remainder of my time to the Senator from Illinois.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum and ask unanimous consent the time under the quorum be charged equally to both sides.

The PRESIDING OFFICER (Mr. DEMINT). Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. OBAMA. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. OBAMA. Mr. President, I rise today to speak about the fiscal year 2005 emergency supplemental appropriations bill. Every day in Iraq and Afghanistan, the men and women of the U.S. Armed Forces risk their lives to defend ours. They are completing a mission they did not ask for and, in Iraq, a mission that is longer and more dangerous than they were ever told. Yet amid roadside explosions, insurgent attacks, and the loss of some of their closest friends, they wake up each day and do their jobs. They wake up each day and do whatever it takes to leave a democratic Iraq for a free Iraqi people.

This bill is a way for us to support these efforts. With its passage, I sincerely hope our troops will receive all the support and all the equipment they need to do their job. With its passage, I hope we do not hear any more stories about troops driving convoys with unarmored humvees, or about troops going into battle with armor their parents had to send them from home for their birthday. And I sincerely hope this money will be used to train more Iraqis to secure their own country so we can bring home our young people safe and secure.

I particularly thank the chairman and ranking member of the Appropriations Committee for working with me on several other emergency spending needs.

I say to Senator COCHRAN, I appreciate that this bill provides $25 million for the prevention of the avian flu. As some of you may have read, the number of cases in Southeast Asia is increasing, and there is serious concern that this virus could mutate and jump from continent to continent, potentially causing a pandemic that could kill millions of people. We have to work proactively to prevent such a pandemic, and I appreciate the support from the committee chairman as well as the administration on this issue.

Also included in the bill is an amendment I sponsored with my friend from South Carolina, Senator GRAHAM. This amendment will ensure that our injured service members who remain under medical care but are no longer hospitalized will not have to pay for their meals while receiving therapy. I thank the graciousness of Senator COCHRAN for adopting that amendment on the floor without debate.

I also joined with Senator DURBIN to address the security needs of our judiciary. As some of my colleagues know, a Federal judge in Illinois recently suffered a tragic loss, the murder of her mother and her husband. This bill provides necessary funding for the U.S. Marshal Service to step up its security for our Federal judges.

I commend all those who have been involved, including the chairman, for crafting a number of important measures in this bill. I wish that I could, without any further statement, simply say how proud I am of our troops and move on with the supplemental. Unfortunately, this bill also includes some immigration provisions, known as REAL ID, that cause me enormous concern. Although I will certainly vote for the conference report because of the good measures I have already discussed, it is important to state for the record my serious reservations about REAL ID.

Despite the fact that almost all of these immigration provisions are controversial, the Senate did not conduct a full hearing or debate on any one of them. While they may do very little to increase homeland security, they come at a heavy price for struggling State budgets and our values as a compassionate country. The driver's license provisions in REAL ID, for example, will cost an estimated $100 million over 5 years. States will have to bear the majority of these costs. At a time when budgets are tight, I don't think we should be outsourcing our homeland security to States that can't afford it.

The cost to our Nation's legacy as a refuge for asylum seekers is also heavy. Conferees were able to improve some aspects of REAL ID, including increasing the limit on the number of foreigners who can apply for asylum in the United States, but other provisions intended to eliminate fraudulent asylum applications may end up denying asylum to people who deserve to receive it.

These are costs that call for greater examination. As a sovereign country, we have the right to control and identify those who enter and exit. I have worked with my colleagues to support hundreds of millions of dollars for more Border Patrol agents to help exercise that right. But controlling immigration is a Federal responsibility—it always has been—and it should not come at the expense of State budgets or basic civil liberties. We should have more time to examine and debate the REAL ID provisions as part of comprehensive immigration reform.

These provisions, currently in the bill, are opposed by religious organizations, civil liberties groups, civil rights organizations, church groups, and hundreds of other groups. The legitimate concerns of these groups have not been properly aired in the Senate. I am aware of the fact that the REAL ID Act, despite what I say, despite my reservations, will become law. It will become law not because it is the right thing to do but because the House majority has abused its privilege to attach this unexamined bill to must-pass legislation. This is highly inappropriate, and I hope that all of the Senate will agree to highlight and correct the deficiencies of these immigration provisions in the year to come.

I yield the floor.

Ms. MIKULSKI. Mr. President, I support our troops and their families. I am behind them 100 percent. They deserve our gratitude, not just with words, but with deeds. This emergency supplemental appropriations bill helps us do just that.

The House and Senate have worked hard to respond to the President's request for additional funding to support our operations in Iraq and Afghanistan. We have provided more than $75 million in defense-related spending, including vital support to our soldiers and their families. We have also provided more than $6 billion in assistance to our friends and allies, including $681 million to aid in the recovery from last year's terrible tsunami in Indonesia.

We have provided a total of $17.4 billion to speed up the Army's purchase of trucks, additional up-armored humvees, and upgrades to Abrams tanks. There is also $1 billion for additional purchases of Army and Marine Corps trucks, tactical vehicles like humvees, night vision and other important protective equipment to keep our soldiers as safe as possible on the battlefield. We have also preserved support for the C130J aircraft, so vital to transporting troops and materiel around the world.

U.S. troops will stay in Iraq and Afghanistan long enough to ensure that those nations can defend themselves against chaos and terrorism. It is important that we provide training and equipment to prepare Iraqi and Afghan security forces to take over when American troops come home.

To do this, we have provided $7.0 billion to train security forces in Afghanistan and Iraq. There is also $1.78 billion for Afghan reconstruction and counternarcotics efforts. In addition to providing $7.7 million to support U.S. diplomatic and reconstruction efforts in Iraq, we have provided $20 million in assistance to Iraqi families who have been affected by coalition operations in Iraq.

We must do everything we can to care for soldiers when they are injured. I am very proud that we have provided an additional $211 million for the Defense Health program.

This funding also includes assistance to provide meal and telephone services for soldiers recuperating from injuries suffered in Iraq or Afghanistan. It also provides assistance for family members to travel to be with an injured service member recovering from combat injuries. To help soldiers with the enormous medical costs that can be associated with combat injuries, we have also made it possible for service members to get traumatic-injury protection as part of their military insurance package. This insurance rider can be worth as much as $100,000 to service members enrolled in the Servicemembers Group Life Insurance, SGLI, program. We have also made it available retroactively, to help out those soldiers and families already dealing with combat and combat-related injuries.

Mr. President, more than 1,700 service men and women have made the ultimate sacrifice in Iraq and Afghanistan. Part of the debt of gratitude we owe the families they leave behind is to ensure that they do not have to face a financial crisis while they are dealing with the loss of a loved one.

I am very proud that we have been able to help alleviate their burden, by increasing from $12,000 to $100,000 the fallen heroes compensation for family members of troops who make the ultimate sacrifice for our country. This benefit is applied retroactively, to include all service members who have died since the global war on terror began in October 2001. In addition, the family of a service member who has died will be allowed to remain in military housing for a year, rather than the six months currently allowed. We have also increased the life insurance benefit provided under the SGLI, from $250,000 to $400,000. This increase will also be applied retroactively to 2001.

I am disappointed that the conferees did not accept the advice of the Senate—and of the Chairman of the Joint Chiefs of Staff GEN Richard Myers—

and provide the fallen heroes compensation to families of all service members who die on active duty.

Instead, Congress has expanded all aspects of the current coverage to include those who die in designated combat zones and in combat-related activities, such as training. This is a good start, but I agree with General Myers that every family who loses a loved one on active duty deserves the gratitude of this nation and should benefit from the fallen heroes fund.

We also need to make sure that families receive the full amount of this compensation. Working closely with Senator GRASSLEY, I have taken steps to ensure that the full benefit will be tax free. Senator GRASSLEY has assured me that this important correction will be added to the next tax bill considered in the Senate.

We know that nearly 40 percent of the soldiers deployed today in Iraq and Afghanistan are citizen soldiers who come from the National Guard and Reserves. More than half of these will suffer a loss of income when they are mobilized, because their military pay is less than the pay from their civilian job. Many patriotic employers and state governments eliminate this pay gap by continuing to pay them the difference between their civilian and military pay.

I am very disappointed that this conference report does not include the Reservist Pay Security Act, which would ensure that the U.S. government also makes up for this pay gap for Federal employees who are activated in the Guard and Reserves. This legislation has passed the Senate three times, and three times it has been stripped out of the conference report. I will continue to work with my colleagues in the House and Senate to build support for this important provision to help our National Guard and Reserves.

Mr. President, Americans joined the world in mourning the loss of more than 150,000 victims of the Indian Ocean Tsunami last Christmas. Together, we prayed for the 7 million displaced survivors that God may give them the strength to persevere and overcome this, the largest natural disaster of our time.

But expressions of sympathy are not enough. As I said at the time of this terrible disaster, the United States must set the example and lead the world in the humanitarian effort of recovery and rebuilding. Congress has provided $656 million for the tsunami recovery and reconstruction fund to support on-going and long-term relief efforts, including programs aimed specifically at women and children in the affected areas. We have also provided $25 million for U.S. tsunami warning programs to help prevent future human disasters on the scale we have seen in Asia.

The people of Darfur continue to suffer the terrible effects of war in the Sudan. Congress has provided $248 million for humanitarian assistance to Darfur and $37 million for Sudan peace implementation assistance. We have also included $50 million to be made available to the African Union, for peacekeeping efforts in Darfur. Also, part of the $90 million provided for food aid and famine relief can be used to help improve conditions in Darfur.

Because it is just as important to support our communities at home as it is to support our troops in the field. I will continue to fight for responsible military budgets. For that reason, I joined the Senate's efforts to insist that the President fund our operations in Iraq and Afghanistan through the regular budget and appropriations process. After three years in Afghanistan and two years in Iraq, we should not be funding these operations as if they were surprise emergencies.

Unfortunately, because much of the funding included in this conference report has been designated as an "emergency," it will not count against our budget limits and instead just gets added to our ever-growing national debt.

This emergency supplemental is a Federal investment in supporting our troops and their families.

We support out troops by getting them the best equipment and the best protection we can provide. We support them by getting them the best health care available when they are injured in service to our Nation. And we support them by ensuring that their families do not face a financial crisis at the moment when they are grieving the loss of a soldier who has sacrificed everything for our country.

I am proud to vote yes for our troops and their families. I am also proud to vote yes because this bill contains important provisions to help small and seasonal businesses in the United States.

The emergency supplemental contains language that provides real relief to small businesses that need temporary seasonal workers by the summer. This emergency supplemental contains the language I offered on the floor of the Senate to temporarily solve the H2B visa shortage. It passed this body by a overwhelming bipartisan vote of 96-4 and was adopted by both House and Senate conferees to be part of the final bill.

I know that my colleagues on both sides of the aisle supported this amendment because it is a limited fix to the H2B worker shortage that many coastal states and resort states are facing. This solution is desperately and immediately needed by small and seasonal businesses throughout the country.

My amendment helps us keep American jobs, keep American companies open, and yet retain control of our borders

I am very proud that we were able to work together, House and Senate, Democrats and Republicans, to pass this measure. This bill was a simply fix, it was temporary and it does not get in the way of comprehensive reform

The amendment and the Save our Small and Seasonal Businesses Act on which it is modeled will help small business by doing three things:

No. 1, temporarily exempting good actor workers from the H2B cap, so employers apply for and name employees who have already been in U.S.:

No. 2, protecting against fraud in the H2B program: and

No. 3, providing a fair and balanced allocation system for H2B visas.

This amendment first and foremost protects American jobs.

It provides a short-term fix to the H2B visa cap which will only be in place through fiscal year 2006. It has four simple provisions:

One, it exempts returning seasonal workers from the cap for this year and next. That means that people who have worked here before and who have gone back home are the only ones who would be eligible. The exemption works this way—an employer requests a visa and lists the name of the returning worker on his petition. The employer must provide supporting documentation to the Department of Homeland Security or the State Department that the worker is a returning worker who has come to the United States in one of the 3 prior years under the H2B program.

This exemption does not exempt any new workers because employers must show that the worker was in the US previously in order for that worker to be exempt from the cap. Employers can petition for exempted workers at any time during the fiscal year—regardless of whether the cap on H–2B visas has been met or not. The legislation explicitly states that exempted workers are outside the cap.

The employer does not automatically get the exempted worker, they still must go through the whole DOL and DHS process before they can get exempted workers. That means that employers still must prove to the Department of Labor that they cannot find American workers to fill these jobs. Only then will DOL give them the ability to continue the application process and get the workers who they need through DHS and State. Employers will go through the whole process for new or returning workers. Returning workers will be exempt from but new workers will be subject to the cap.

This provision is both forward looking and retroactive back to the beginning of the fiscal year, or October 2004. That means that DHS will have to determine how many returning workers were admitted prior to the passage of this Act and open up those spaces to new workers. That makes it fair so that summer employers have the same bite at the apple that winter employers had. DHS estimates that between 30,000 and 35,000 workers are returning workers and they will be able to use the information they have in their databases and in coordination with the Department of State to ensure that spots that were counted in the cap and used by exempted workers will now be opened up for new workers to use so that summer employers can get their fair share.

This fix also has strong antifraud provisions to make sure that everyone is playing by the rules and that no one is misusing the program. And it gives DHS added teeth to prevent fraud and enforce our Nation's immigration laws. A $150 antifraud fee ensures that Government agencies processing the H-2B visas will get added resources to detect and prevent fraud. This money is added to an antifruad fund to give the Department of Homeland Security, the Department of State and the Department of Labor some added resources to train workers so that they can identify fraud in the program.

We also add strong new sanctions to the law. These sanctions are permanent and further strengthen DHS's enforcement power by allowing sanctions against those who have a significant misrepresentation of facts on a petition. We increase fines and allow DHS to bar violating employers from the H-2B program for up to 5 years. This section also sends a strong message to employers—don't play games with U.S. jobs. Our bill reserves the highest penalties for employer actions which harm U.S. workers.

We also make the system better by creating a fair allocation of visas. Under current law summer employers lose out because winter employers get all the visas. So our bill does two things: First, as I said above, we exempt returning workers from the cap, so returning workers don't count for the cap. But we also divide the cap between summer and winter. What that means is that of the 66,000 visas and we make 33,000 available from October thru March and 33,000 available from April thru September. Winter employers get half and summer employers get half. And we make this change permanent to make sure that even if comprehensive reform cannot be reached by 2006, then at least summer and winter employers are competing for the limited number of visas on a level playing field.

Finally, we give the Department of Homeland Security the ability to implement this law now, without having to issue regulations. That means that employers get real relief now. DHS has a limited exemption from the Administrative Procedure Act to implement the exemption section, the antifraud fees and also the allocation of visas section. These exemptions are to prevent any barriers or delay to the immediate implementation of those provisions.

So that is what this strong bipartisan legislation is all about. This is the language that 94 Senators in this body supported and that the House adopted into the emergency supplemental conference report.

Now we want to make sure that DHS can start its implementation immediately so I want to make sure that they are very clear about what the congressional intent of this legislation is:

Section 402 is intended to increase the number of H-2B admissions available for fiscal years 2005 and 2006. This legislation was drafted with the understanding that the preexisting USCIS method of implementing the H-2B limitation is based upon accepting for filing the number of petitions (only some of which name the specific workers) that is projected to result in the authorized number of admissions, with allowance made for an expected number of petitions that will be denied or revoked and of workers with approved petitions who will not apply for or qualify for visas or admission, based upon State Department information.

Consistent with this general methodology, and with the fact that USCIS has already received sufficient petitions for fiscal year 2005 to fill the cap and has not required any information to be provided as to whether the petitions were filed for "returning workers", it is intended that USCIS to make its best estimate as to the number of previously filed petitions that likely were for returning workers, based on State Department information, and accordingly to free up numbers for fiscal year 2005 to be available to otherwise qualified H-2B aliens, whether or not they are "returning workers."

In addition, H-2B workers will be available to petitioners identifying and certifying specific aliens to be returning workers. For fiscal year 2006, the number of new H-2B admissions available will be 66,000, plus any aliens for whom the certification and confirmation requirements of section 214(g)(9)(A), (B), and (C) of the Immigration and Nationality Act, as amended by this section, are met.

Specifically, Section 405 provides that the 66,000 limitation on H-2B admissions for fiscal year 2006 and thereafter will be administered as two half-year limitations of 33,000 each applicable to aliens subject to the overall 66,000 limitation, i.e, not including "returning workers." It is the intention of the supporters of the amendment that this provision be administered so as to give employers seeking workers for the second half of the year an opportunity to obtain them at least equivalent to that available to first semester employers.

Finally, section 407, is intended to allow this law to be implemented expeditiously. The intent was to make sure that the provisions of the Administrative Procedure Act, the Paperwork Reduction Act, and other laws relating to regulatory processes and forms—especially, but not limited to, any requirement to promulgate new rules—to the extent any such provisions might apply, should not pose a barrier in any way to the expeditious implementation of the provisions of this Act intended to give urgent and necessary relief to summer and seasonal employers and to apply the new fee provision in section 403. We therefore, provide the authority to the relevant departments to waive any such requirement that may otherwise delay such implementation.

It is a quick and simple legislative remedy with strong bi-partisan support. It fixes the problem now and takes small steps to prevent this drastic shortage in the future. It is immediate and achievable because DHS will start implementation once it is signed by the President. And more importantly, it does not exacerbate our immigration problems.

Mr. President, it is important that we continue to support the brave men and women who put their lives on the line both at home and abroad. But today, as I support funding for our troops I also stand opposed to the part of the emergency supplemental known as REAL ID.

This controversial and overly-broad provision has no place in an emergency spending bill. The changes to our immigration laws and the policies on asylum proposed by this legislation are major modifications that are contentious on both sides of the aisle. As it is written, this bill undermines both due process and the principles of fundamental fairness on which our immigration laws are based.

This legislation, plain and simple, is a drastic and unknown change. It is the type of change that both the House and the Senate should have deliberated on and given in-depth consideration to. The Senate has not had the opportunity to do that.

Just look at what this legislation does:

First, it increases the burdens on those seeking asylum in the United States and limits judicial review of some decisions. These are people who are often persecuted in their own countries and cannot produce the level of documentation or corroboration of their abuse that this bill requires.

Next, it permits the Department of Homeland Security to waive "all legal requirements" that interfere with the construction of roads or barriers along our borders. That means that the Secretary of Homeland Security can waive any State or Federal environmental, health and safety, civil rights, labor, or criminal law. And there is very limited ability of anyone to challenge these decisions. That means the Secretary has a tremendous amount of discretion to override existing laws and step all over State's rights.

It also limits judicial review of removal cases and discretionary decisions of agencies—that means an agency, not a judge, will have the final say.

And most notably, it creates national standards for identification cards that States must enforce. That means that States now must not only verify the many forms of identification that are required, but they are also responsible for keeping track of a drivers license holder's immigration status. That creates a huge increase in expenses for States and it also means that State officials, who have no background in immigration law, will be forced to enforce these complicated provisions. That's an unfunded mandate on States that are already in fiscal crisis.

Plain and simple REAL ID drastically changes immigration laws, limits access to the courts and due process, and places significant new costs and duties on local and State governments. The Senate should have had the ability to review, debate, and amend this provision before it became a permanent part of our Federal immigration law.

Now, I am the first to agree that we need strong and comprehensive immigration reform. We need to look at all the problems with protecting our borders and ensuring our safety. We need to make sure that the programs that work are updated and continued. We need to make sure that the programs that don't work are fixed so that we do not have porous borders. But we need to use regular order to do so.

The Senate must have the opportunity to consider comprehensive reform, not focus on piecemeal measures. And President Bush should lead the way in working with Congress and our allies for solutions that protect our borders. And for solutions that allow our rich history and tradition of immigration to continue. But these supposed solutions cannot come at the expense of our constitutional framework.

REAL ID is an unfunded mandate that is punitive. We do not know if any of the provisions will actually make us safer—we just know that they override States rights and undermine civil rights and civil liberties. I believe that it is our duty, as Members of the Senate, to balance national security interests with due process and constitutional rights, yet because we have not had hearings or been able to evaluate this change to our immigration law we do not know the extent of its impact.

REAL ID proposes several different and significant changes to our immigration laws, I believe that it is important for the Senate Judiciary Committee to have an opportunity to hold hearings and consider comprehensive legislation that looks at all areas of the law. Then the whole Senate should have the ability to fully debate the issue on the Senate floor.

I am disappointed that this controversial measure was added to this must pass legislation. We should be passing an emergency supplemental bill without the harmful REAL ID provision. And then we should turn our attention to real reform and the Senate should proceed to a thoughtful and comprehensive debate on immigration reform that protects our borders and our constitutional mandate.

Mr. BURNS. Mr. President, the attacks of September 11, 2001 reminded us all that national security is of the utmost importance. Since then, we have worked to ensure the safety of this country. Still, there are gaps in our immigration and identification systems that need attention. Those with ties to terrorist organizations should not be given asylum or permission to live in this country where they can do harm. Barriers on our borders should be enhanced to adequately protect our national security. Driver's licenses and personal ID cards should be secure, and should not be given to terrorists or those who are in this country illegally.

There are provisions to address each of these concerns in the REAL ID Act of 2005, which has been attached to the Emergency Supplemental Appropriations Act. I have expressed my reservations about possible unforeseen costs to my State of Montana that these provisions could impose, particularly the costs of changing the system of issuing driver's licenses. Ultimately, however, I firmly believe that the fundamental aspects of this bill will make Montana, a border State where homeland security is of paramount concern, and our country safer and more secure in this era where illegal immigration is out of control and the security of our identification systems continues to be lacking. I am confident that any remaining funding issues can be worked out later in the implementation process. Our job now is to move forward, and make sure that these provisions are put into place with the best interest of this country in mind.

As I have said before, my State of Montana has one of the largest international borders. A lot of attention has been placed on border security lately, particularly on the northern border. I think we can all agree that the northern border has been historically understaffed and lacks the necessary infrastructure to adequately screen individuals seeking entry into the United States who wish to do us harm. I have always supported increasing the number of border patrol agents along Montana's northern border. It does not make sense for the Department of Homeland Security to heavily staff the southern borders while leaving large gaps wide open on the northern border. The end result is that those wanting to enter the United States illegally may focus on the less secured border regions of the north so that they may cross over undetected. Unfortunately, the grave threat of this happening along Montana's vast border remains a reality.

In view of this, during debate on the Emergency Supplemental Appropriations Act, I was a cosponsor of the Ensign amendment which was adopted that would increase the number of Border Patrol agents and provide funding for Border Patrol facilities. I am happy to report that the conferees reached a compromise that would provide $635 million for increased border security and enforcement; this includes $176 million to hire, train, equip, and support 500 Border Patrol agents and relieve current facility overcrowding. The supplemental also includes almost half a billion dollars for Immigration and Customs enforcement; $97.5 million of this would be used to hire and train additional criminal investigators and immigration enforcement agents.

I will always vote to protect our homeland and the safety of our citizens, and I encourage my colleagues to do the same as the Senate considers the supplemental for final passage.

Mr. KERRY. Mr. President, the Emergency Supplemental Appropriations bill for fiscal year 2005 is a vital piece of legislation. It provides $75.9 billion for the Department of Defense, nearly $4 billion for the Department of State, and billions more for military construction and other national priorities. It will come as no surprise to anyone that Congress will pass this bill with an overwhelming majority. Instead, we should be asking what took so long.

The administration continues to play games with the funding of the war on terror and the war in Iraq. These aren't inside-the-beltway issues. Every day the administration resists bringing forward an accurate and reasonable accounting of our future needs in Iraq, it complicates the way the Department of Defense conducts business.

In recent weeks, the Pentagon has been forced to shuffle $1.1 billion to cover Army shortfalls while the Department of Defense waits for the President to sign the supplemental into law. That $1.1 billion came out of Navy, Air Force, Marine Corps and Army National Guard personnel accounts. That is a dangerous way to conduct business.

As we pass this legislation, I urge the President to heed the advice of so many Senators who believe that he must better reflect the costs of war in his regular defense budgets and simply be straight with the American people about the ongoing costs of operations in Iraq and elsewhere. Our troops shouldn't have to wait for the gear and equipment they need to do their jobs well, to win the peace in Iraq, to bring the terrorists to justice in Afghanistan and around the world, and to come home.

This bill takes some important steps toward the Military Family Bill of

Rights which we have talked about for many months. It increases to $400,000 the life insurance coverage available to service members, and raises the death gratuity to $100,000 for those who die in combat and in combat-related incidents, including training. It also extends to 1 year the length of time widows and children of military personnel may remain in military housing. Together, these provisions are important affirmations of the Congress' support for the men and women of the American military and their families. I thank the House-Senate conferees for including those provisions.

I regret that the House-Senate Conferees struck a provision that the Senate added to pay an equal death gratuity to the survivors of all service members killed while on active duty, regardless of the circumstances. This policy was supported by 75 Senators in a floor vote. It was supported by the House in its version of the legislation. And it is supported by the uniformed leadership of the military. It is clear that the civilian leadership at the Pentagon, led by Secretary Rumsfeld, opposed it. While they have succeeded in striking the provision from this supplemental legislation, I will continue to work with my colleagues, many of whom have worked on this issue for some time, for its enactment.

While I support this bill overall, I have serious concerns about the attachment of the REAL ID Act to the conference report. This legislation creates new hurdles for legitimate asylum seekers, allows the government to waive environmental laws to build physical barriers on the border, and forces an unfunded mandate on the States. This legislation did not have so much as a hearing in the U.S. Senate. Such legislation should be considered in committee and before the full Senate, rather than being attached to an emergency spending bill. It is my hope that the Senate will work to amend the most damaging provisions of the REAL ID Act as soon as possible.

I am pleased that the conference report includes the "Save our Small and Seasonal Businesses Act" which makes changes to the H-2B visa program. This provision will provide great relief to many small businesses in Massachusetts that count on foreign workers to keep their seasonal businesses open.

Mr. President, I would also like to thank the conferees for addressing potentially damaging anti-small business language in this bill which would have allowed small business subcontracts at the Department of Energy to be counted as prime contracts and capped all small business contracting goals at 23 percent. Section 6023 had strong bipartisan opposition from members of the Small Business Committees and from other members concerned about protecting small business federal contracting. The compromise language included in Section 6022 of the final version of this bill lays out a process for the Small Business Administration and the Department of Energy to expand small business contracting.

The compromise requires the Small Business Administration and the Department of Energy to develop a Memorandum of Understanding, MOU, on a methodology for measuring the achievement of awarding prime contracts and subcontracts to small businesses. It is my understanding that MOU will in no way count the subcontracts awarded by DOE's management and operations contractors towards DOE's prime contracting goal. Section 6022 also requires DOE and SBA to conduct a joint study of changes at DOE that would encourage greater opportunities for small business contracting, and it includes temporary relief for local small firms that are facing undue burdens as a result of contracts being broken out from large, bundled management and operations contracts.

Mr. President, the Department of Energy has the worst small business utilization record of all Federal agencies. This compromise is an opportunity to address the growing challenges facing small firms as a result of contract bundling, the need for greater diligence by the administration in its effort to meet the 23 percent government-wide minimum goal for small business contracting, and the need for greater management and oversight by the Department of Energy of the contracting dollars being awarded by the Agency. I hope the administration will use this opportunity to improve small business contracting at the DOE and will draw on the conclusions of the ongoing studies being released by the GAO to address the current shortfalls in small business prime contracting and subcontracting oversight. As the ranking member of the Committee on Small Business and Entrepreneurship, I am committed to working with the other committees of jurisdiction, including the Energy Committee, to ensure that DOE and SBA do not undermine the intent of Section 6022 by using this compromise language to prevent small businesses from receiving their fair share of DOE prime contracts.

Mr. BINGAMAN. I rise today in support of H.R. 1268, the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief.

First, while this bill addresses many areas of concern, it is primarily focused on providing the American military sufficient funds for its mission to aid Afghanistan in creating a strong and stable nation and to ensure the security necessary to rebuild Iraq.

Provisions in the bills to support American soldiers and their families, such as increasing the death benefit gratuity for soldiers killed this year to $100,000 and providing all members of the armed forces with free meals and phone service, are the right thing to do. We will no longer force men and women who volunteered to serve in one of the most dangerous environments to recuperate without the support of loved ones while charging them for their meals. Other important provisions, such as providing more money to combat the effectiveness of improvised explosive devices, or IED's, and providing $150 million for the purchase of up-armored humvees, will serve to protect Americans already operating in combat zones. The biggest danger to Americans in uniform remains the IED; by using funds to both prevent the IED from exploding and then ensuring that those that do go off near a humvee are defended against, I can safely say that we are working toward the ultimate goal of mitigating the largest source of American casualties.

I was also happy to see that the bill also requires reports on the status of training for both the Afghan and Iraqi security forces, so that the American public is not given arbitrary numbers of successfully trained soldiers and policemen without an understanding of their capabilities. Just as importantly, the bill states that the President should submit an appropriate budget amendment for FY 2006 by September 1, 2005.

There are also some very important, non-military, provisions in this legislation, nearly all of which I co-sponsored when it came to the floor. All will contribute significantly to the establishment of increased stability in regions throughout the world. For example, the United States has done far too little to stop the genocide and atrocities that continue to occur in Darfur, Sudan. This legislation specifically dedicates $50 million to support efforts by the African Union to bring a halt to the violence and another $90 million in humanitarian assistance for refugees in the region. The United States has hardly anything at all to create a stable and viable government in Haiti, this in spite of the fact that the country is only miles from our shore. This legislation provides $20 million to assist in efforts at institution-building, law enforcement, and democracy promotion.

Significantly, this legislation is the only vehicle available for disaster assistance to the countries affected by the tsunami in the Indian Ocean. I need not remind anyone that this was likely the most catastrophic natural event in recent history, with nearly 200,000 people in eight countries dying in just a few hours. Over 100,000 are still missing. Thousands had their homes, family, and livelihoods swept away. The cost in dollars is easily in the hundreds of billions.

It is imperative that the United States step up to the plate and assist in repair and reconstruction. We have pledged almost a billion dollars to this effort, and this legislation provides an initial $656 million to help people get back on their feet. A substantial portion of the funding is directed toward repairing replacing essential services—roads and highways, telecommunications and energy infrastructure, and water and food distribution systems, and so on. But portions of the funding are dedicated to other critical issues that will allow these countries to get back to baseline—programs designed to assist women with new economic opportunities now that they have lost the provider in their families, programs designed to assist individuals with mental or physical disabilities as a result of the tsunami, programs designed to protect orphaned children from violence and exploitation and reunify them with extended or immediate families, programs to provide loans, business advice and training in job skills so new sources of income and new businesses are developed; and programs to stop the spread of disease, including avian flu.

This bill provides funding for many important causes which I fully support. But let me take a few moments to discuss a few provisions about which I have significant concerns.

First, the conference committee removed a provision that I had included in the Senate version of the bill that would have helped Federal courts cover costs associated with the substantial increase in immigration related cases filed as a result of recent border enforcement efforts. I strongly support efforts to enhance our border security—indeed, I cosponsored an amendment to this bill that was offered by Senator ROBERT BYRD that provided funding to hire an additional 500 border patrol agents and have consistently voted to allocate additional resources to secure our Nation's border. However, we must also consider the impact that these enforcement measures are having on our Nation's courts, especially in districts along the border region. Since 1995, immigration cases in the 5 southwestern border districts—the District of Arizona, District of New Mexico, Southern District of California, and Southern and Western Districts of Texas—have grown approximately 828 percent. In 2003, overall immigration filings in U.S. District Courts jumped 22 percent, and in 2004 they jumped 11 percent. Of these cases, 69 percent came from these 5 districts.

We can't just fund the enforcement side without considering what will happen to these individuals once they are detained. This approach not only places a tremendous burden on our courts, but it also threatens our national security by limiting the ability of the courts and probation services to provide adequate case oversight.

Second, the REAL ID Act, which was attached to the bill by the House of Representatives, was included in the final version of the bill. Although the conference committee made several minor modifications to lessen the impact of these provisions, I remain strongly opposed to this section of the bill. The REAL ID Act never received a hearing in the Senate and Republicans on the conference committee refused to consult with their Democrat counterparts on this language. The bill make it more difficult for legitimate asylum applicants to obtain a safe haven in the United States and authorizes the Secretary of Homeland Security to waive all legal requirements which could impede the construction of a fence along the border with Mexico. It also repeals provisions of the recently-passed Intelligence Reform and Terrorism Prevention Act of 2004, which implemented the recommendations of the 9/11 Commission. Specifically, the intelligence reform bill charged the Department of Transportation, in consultation with the States, with promulgating "minimum standards" for State driver's licenses in order to prevent fraud or abuse. Without enhancing our national security, the REAL ID Act repeals this section and replaces it with a system that will be extremely difficult and costly for States to implement. I know that these provisions will have a significant impact on my home State of New Mexico, and it is my hope that Congress will be able to revisit this legislation in the near future.

Thus, while there are some aspects of this supplemental request that remain troubling to me and many of my Senate colleagues, I know that by supporting this bill we are working to create a more peaceful and stable world community and meet more of the needs of our brave soldiers serving in Iraq and Afghanistan.

Mr. DODD. Mr. President, I will vote for the conference report because I believe we have few higher priorities than the safety and well-being of our troops deployed in harm's way. This legislation is critical to the war efforts in Iraq and Afghanistan, providing funding to purchase life-saving armor, replenishing stocks of spare parts and ammunition, and increasing the government's financial support for the families of America's fallen heroes.

Probably one of the most significant provisions in this legislation is the $308 million added above what the President proposed to ensure that more humvees deployed in combat are adequately armored. Just as in the previous 2 years, I have been deeply troubled by continuing shortfalls in the administration's plans for outfitting our troops with the protection they need. Over 1,600 U.S. troops have been killed in Iraq since the beginning of the war in March 2003. And rarely a day goes by that one does not hear about an improvised explosive device or roadside bomb seriously injuring an American there. This conference report is a step in the right direction to better prepare our troops for these threats, but more always needs to be done to ensure greater security for our soldiers, sailors, airmen, and marines. We owe it to them to make sure they have the resources to protect themselves as best they can.

And we owe it to their families here at home to make sure that their sacrifices are so honored. This bill also authorizes the Department of Defense to increase to $500,000 the amount that can be paid to surviving families of deceased servicemen and women. In addition, this bill rightly includes traumatic injury insurance of up to $100,000 for military personnel seriously wounded in action. These provisions are the least we as Americans can provide to the families of our men and women in uniform who are giving so much to our Nation.

Not all of this bill directly pertains to our troops deployed in Iraq and Afghanistan, however. And while I support many of these provisions, there are some sections that give me pause. On the positive side, I am pleased by the conference committee's decision to retain the amendment put forth by Senator WARNER to stop the Navy from downsizing its aircraft carrier fleet. We must retain the ability to quickly project power around the globe, particularly as emerging powers in Central and East Asia amass powerful fleets in direct challenge to U.S. Naval supremacy. And this amendment rightly puts the brakes on the administration's efforts to cut too deeply into our Navy's critical assets.

In terms of homeland security, this bill adds an additional $450 million over the President's proposal for more border security and customs agents. I support these additional resources and am pleased the conferees included them in this bill.

But this bill is not perfect. Indeed, I have some serious concerns about provisions that are included in the conference report before us. I also have concerns that certain important issues are not addressed by this bill.

First, I am greatly disappointed that the conferees decided to include the majority of the text that makes up a bill called the REAL ID Act. There are many troubling provisions in this language—virtually the same language that Republican members of the House tried to push through as part of last year's intelligence reform legislation. At that time, the 9/11 Commission opposed its inclusion. And the Senate managers of the bill prevented it from being included in conference.

But now, the vast majority of the REAL ID language has been included in the conference report before us. Although I do not sit on the Senate Judiciary Committee, I am concerned that this package of provisions was never debated within that panel. I would note that an effort to include the language in the Senate version of the emergency supplemental was withdrawn after bipartisan opposition to its inclusion.

This bill's REAL ID provisions, among other things, would require State departments of motor vehicles to verify documents used to obtain drivers licenses. This is an unfunded mandate—the language included in this bill does not specifically appropriate any amount for this purpose. Reportedly, the National Conference of State Legislatures estimates that REAL ID will cost States between $500 million and $700 million over 5 years to implement. Many States are already dealing with budget shortfalls. What impact will this additional financial have on States' abilities to provide basic services for their residents?

These licensing regulations also raise privacy issues, as DMVs will gain access to much private information. All Americans, when renewing or obtaining a new license, will be subject to these provisions. Certainly, some reform with respect to identification documents might be needed. But this partisan and hasty approach is not the right way to do it—especially when State governments are currently working to establish reasonable standards for reform that can be implemented. These are only two of the many troubling provisions of the REAL ID language, which deal with issues as far reaching as eligibility for asylum in the U.S. and border security.

I also have concerns about issues that were left out of this bill. For example, this bill does not include language addressing the practice of renditions—the process whereby the U.S. has reportedly transferred foreign prisoners, detainees, or combatants to other countries for interrogation purposes. Often, the countries to which these people have been transferred are known to practice torture. Yet, few specifics are known about the practice of renditions.

Nor does this bill address important issues of accountability, such as the extension of the lifespan of the Special Inspector General for Iraq Reconstruction, or the SIGIR. The SIGIR has performed admirably, but its doors will be closed years before it can complete its task of accounting for all American taxpayer money devoted to the reconstruction of Iraq. Senator FEINGOLD filed an amendment that would have fixed this problem. Unfortunately, the Republican leadership failed to support his efforts, and the amendment was ruled non-germane—even though the SIGIR had originally been created and its authority subsequently extended as part of an emergency supplemental bill.

All in all, this bill is a mixed bag. But it contains critically important provisions to support our troops—specifically, it will help provide some of the equipment our troops need in order to finish their jobs safely. Moreover, it will help further the process of training Iraqi Army and police forces so that U.S. troops can finish their jobs and come home. I believe that it is incumbent upon this body to swiftly pass this spending bill. That is why I intend to support it when it comes to a vote.

Mr. CHAFEE. Mr. President, today the Senate considers the conference report on the President's emergency supplemental appropriations bill. Unfortunately, the REAL ID Act which had been attached in the House bill was included in the final measure.

The REAL ID Act should have been debated as a part of comprehensive immigration reform. By attaching REAL ID to a must pass spending measure, the critical process of vetting the bill in committee was circumvented and an opportunity for discussion and debate, which is essential for effective legislation, was denied.

There are many concerns I have with REAL ID in addition to the process used to bring it to the floor. First, the measure is an unfunded mandate to the States. Furthermore, unless every State complies, the Federal Government will have to mandate the creation of a national ID. Between the creation of a new database and approval system, training for DMV workers, and struggling State budgets, REAL ID will impose real costs.

More importantly, a database of this type will open up many privacy concerns and there must be security safeguards in place to prevent the gathered information from being obtained inappropriately.

Many States, including Rhode Island, have already passed legislation setting their own requirements for driver's license recipients. The Federal Government should not impinge upon the States' ability to decide who can and cannot drive on their roads, especially without the funding to support the idea. REAL ID will put more drivers on the road without licenses and without insurance.

I am also concerned about another provision of the REAL ID Act that would allow for the waiver of all laws—Federal, State, and local—to build barriers and roads at our borders. As a strong advocate of environmental protection, I am troubled about blanket waivers from environmental laws like the Endangered Species Act and the National Environmental Policy Act.

The REAL ID Act, at its best, should be a catalyst for discussion of comprehensive immigration reform. That discussion cannot take place in a forum primarily devoted to quickly releasing funds for our troops around the world and veterans returning home.

Ms. CANTWELL. Mr. President, the emergency supplemental appropriations conference report before us today is a critically important piece of legislation. This bill will ensure that our troops in Iraq, who put their lives on the line for us every day, are properly equipped and protected. It provides vital funds to support the emergence of a free Afghanistan, and it provides much-needed funding for tsunami relief.

I am supporting this conference report even though I strongly oppose the REAL ID provisions that are also included. The REAL ID Act is a complete overhaul of our immigration laws that would, amongst other things, impose complicated new driver's license requirements on States, make it harder for refugees at risk of persecution to be granted asylum, and suspend all environmental laws along the U.S. border.

This language will result in the most significant changes to our immigration policy in 10 years. While we have long recognized the need for comprehensive immigration reform, this debate has no business taking place as part of an emergency spending bill. Legislation of this importance deserves to be the subject of focused study and serious debate. Passing REAL ID without careful consideration is reckless, irresponsible, and a disservice to the American people.

Mr. SCHUMER. Mr. President, in this post-9/11 world, it has never been so important to work seriously and carefully on efforts to enhance our border security.

We in New York are particularly cognizant of the need for comprehensive efforts to make our borders, our ports, our critical infrastructure, and our airports as secure as possible. Like no other place in America, like no other place in the world, New Yorkers I represent know what terrorism looks like, feels like, and costs to our communities, the economy and our psyches.

It is crystal clear to almost everyone that there are many questions that need to be answered about how we secure our borders. As a member of the Judiciary Committee and a Senator from New York, an enormous amount of my time and energy is devoted to just those questions. And indeed, I don't think we are doing enough to secure our borders. But sneaking drastic changes to our immigration laws into a must-pass measure supporting our troops is not the way to address these issues.

Opinions are mixed about how effective the REAL ID bill will be in enhancing national security. But regardless of what you might think about the merits of the bill itself—I, for instance, have serious concerns regarding the impact of its asylum provisions—this is an issue that requires serious debate. Instead, the Republican leadership has completely bypassed the committee process and slipped this controversial and complicated proposal into the emergency supplemental bill, which we will have to approve because it provides the necessary support of our men and women serving in Iraq and Afghanistan as well as the vital relief for the tsunami victims abroad.

Immigrants have built New York and this country from the bottom up. Our country was founded by and made stronger by the hard work of immigrants from all different countries, cultures, religions and races. I marvel how our new immigrants remake our land, making it a better place, even as they become new Americans. Just think of how many recent, and expectant immigrants now serve in our Armed Forces, some of whom have made the ultimate sacrifice for our Nation in Iraq and Afghanistan. I am proud that New York is still an epicenter for immigrants. Just like my ancestors came over from Europe many decades ago, the new generations of people just like us are beginning to take root, making our country, our economy, and our culture that much stronger and diverse.

So any bill that makes such dramatic changes to our immigration laws should be looked at carefully and considered judiciously. We must never bend in our determination to secure our borders and protect our Nation from harm. But nor can we forget what makes our Nation great. These debates and decisions must be reasoned debates, not take-it-or-leave-it ultimatums strategically devised for partisan political benefit.

There are provisions in this bill, for instance, that will make it harder for people persecuted on the basis of their race, religion, national origin, or gender abroad to pursue asylum and the American dream.

There are other provisions that would allow bail bondsmen to play judge and determine which immigrants are dangers to the community.

These are major changes to our laws, and we have a system to debate, discuss and vote on such changes. No bill raising so many questions on issues of such fundamental importance should escape an honest debate in the Senate. I urge my Republican colleagues to rethink this strategy and allow the Senate to do its work the right way.

Mr. BROWNBACK. Mr. President, I am pleased that we are voting on the final passage of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005.

I commend my colleagues, especially Chairman COCHRAN, for working diligently to see that the Senate act quickly to address the needs of our troops in Iraq and Afghanistan and emergency humanitarian needs worldwide. Americans everywhere are grateful for the efforts of our troops who fight on the front lines of the war on terror. They have made personal sacrifices for the liberty of all Americans, and we must support them by providing them with the very best equipment.

The conference report includes much needed funding for humanitarian assistance in areas of the world devastated by famine, disaster and war.

I am especially pleased that we have provided $90 million for international disaster and famine assistance for Darfur. Sudan and other African countries including Ethiopia, Liberia, Uganda, and the Democratic Republic of Congo. The situation in Sudan remains dire and there are several other countries in the region that will also greatly benefit from these funds.

The conference report also includes necessary peacekeeping dollars that will address the security needs of millions of oppressed people. First, it provides $50 million in funding for the African Union mission in Darfur. It is the experience of many on the ground in Darfur that atrocities do not occur when AU troops are present, and this funding should facilitate an expansion of their mission. I thank my colleagues, Senators CORZINE, DEWINE, DURBIN, LEAHY and MCCONNELL for their tireless work to get this money included in the bill. Security is paramount to ensuring an end to the violence that persists in Sudan, killing an estimated 15,000 people per month.

Second, the conference report directs $680 million to general peacekeeping operations in other war-torn areas worldwide. The United States contributions to these missions are important to security and stability on a global level.

I commend the inclusion of $5 million for assisting internally displaced persons in Afghanistan and $120.4 million for migration and refugee assistance for worldwide refugee protection and for the President to meet his goals for refugee admissions this year.

While all of these earmarks will provide much needed protection and assistance to the world's poorest and oppressed people, I am extremely disappointed that the Darfur accountability amendment was stripped in conference. The amendment which was included by the Senate, would have placed targeted sanctions in the form of a travel ban and asset freezes on individuals who are committing war crimes and crimes against humanity in Darfur. It would also have directed the administration to pursue certain policies at the U.N., including multilateral sanctions and an arms embargo against Sudan as well as the establishment of a no-fly zone over Darfur.

I appreciate my Senate colleagues' support of this measure and look forward to working together to move this as stand-alone legislation in the near future. It is my hope that the administration will publicly address their concerns with this bill so that we may move swiftly to enact the very important provisions that will help alleviate the ongoing genocide.

I am also disappointed that such sweeping immigration provisions were included in this bill without adequate debate or scrutiny. What concerned me most of all about the REAL ID bill is that it undermines America's moral authority by turning away legitimate asylum seekers fleeing tyranny. This language was added based on a claim that our asylum system can be used by terrorists to enter the country. This is not the case.

However, I would like to thank my colleague Chairman SPECTER for working diligently to successfully soften some of the harsher language in the asylum provisions. As originally drafted, the REAL ID Act would have created significant and additional barriers for refugees fleeing persecution to obtain asylum.

REAL ID would have greatly increased a refugees' burden of proof to establish their eligibility for asylum. At the whim of an immigration judge's discretion, refugees would be required to produce corroborative evidence of their claims of persecution or prove that the central intent of their persecutors was to punish them for their race, religion or political beliefs even in cases where the refugee's testimony was already credible.

The facts are quite obvious: persecutors are not going to issue official documents explaining their actions. In addition, proving the mindset of those who carry out killings, torture and other abuse is next to impossible. Even if this were possible, those who flee a country often times don't have time to gather up the proper documentation they may later need in an American immigration court.

The incorporated revisions would make an immigration judge take into account the totality of the circumstances when evaluating an applicants claim and would not be able to discard a claim for subjective reasons.

I want to clarify that the triers of fact must consider all relevant factors and base any adverse credibility determinations on a consideration of all of those factors. The findings must be reasonable. It would not be reasonable to find a lack of credibility based on inconsistencies, inaccuracies or falsehoods that do not go to the heart of the asylum claim without other evidence that the asylum applicant is attempting to deceive the trier of fact.

I also understand that when assessing demeanor, triers of fact must take into consideration the individual circumstances of the asylum applicant, such as his or her cultural background, educational background, gender, state of mind, history of trauma, and other factors.

I remain concerned about how the asylum provisions will affect the adjudication of claims by children. Adjudicators cannot realistically hold these children to the same burden of proof and standards of persuasion as adult asylum-seekers. For example, children reasonably cannot be expected to pinpoint a central motive of persecution and provide corroborating evidence of their persecution.

I conclude by pointing out that applications for asylum have fallen from 140,000 to just over 30,000 per year, and the numbers of those who are actually granted asylum has fallen to about 10,000 per year. Individuals fleeing persecution must already meet a high burden of proof and undergo intensive security measures to obtain asylum. While I recognize the importance of security in the post-9/11 environment, I am committed to ensuring legitimate asylum-seekers a haven without imposing unrealistic barriers.

In addition to the asylum revisions, I am extremely pleased that we were able to secure the repeal of the arbitrary 1,000 annual cap placed on refugees fleeing coercive population control. This, along with the lifting of the asylum adjustment cap, will enable those who have fled persecution, including forced abortions, to become legal permanent residents and enjoy the security and benefits that go along with that status.

The importance of the supplemental bill is not to be understated. Our troops are valiantly protecting human freedoms and deserve our support. The humanitarian crises around the world resulting from natural disasters such as the tsunami, and resulting from human rights atrocities such as genocide, cannot be ignored by a country such as ours. I thank my colleagues for working to get this bill to the President.

IRAQ SECURITY FORCES FUND

Mr. DURBIN. Mr. President, an important component of this $82 billion Emergency Supplemental Appropriations conference agreement is the $5.7 billion appropriated for the Iraq Security Forces Fund. I commend Senators STEVENS and INOUYE, the chairman and ranking member of the Defense Appropriations Subcommittee, for their efforts in securing the full budget request for this important effort. Security must be a high priority in Iraq. The sooner the Iraqis develop their own capacity to stabilize and secure their country, the sooner our men and women in uniform can come home to their families.

An important part of security in Iraq involves communications systems. The deployment of an Advanced First Responders Network, AFRN, throughout Iraq will begin to address the current lack of mission-critical public-safety communications capabilities. The AFRN system, when deployed throughout Iraq, will allow for focused coordination of security planning and execution, rapid data collection and analysis of changing security threats, rapid coordination and deployment of security assets to address threats, effective planning to reduce/prevent future security threats, and a more secure environment that will foster democracy and economic development.

The AFRN infrastructure in Iraq has been designed to address needs throughout the country, including border regions and pipelines. However, additional funding is needed to meet this objective.

Mr. President, I would like to inquire of the chairman and the ranking member, Senators STEVENS and INOUYE, whether continued funding of the AFRN could be a qualified activity within the $5.7 billion included in the conference agreement for the Iraq Security Forces Fund?

Mr. STEVENS. Mr. President, I thank the Senator from Illinois for this question. Yes, I believe that funding for the AFRN could be an eligible activity within the funding we are providing in the Iraq Security Forces Fund. I cannot guarantee the Senator any particular level of funding will be provided, but I do agree with him that continued work on the AFRN is important.

Mr. INOUYE. I concur fully with the chairman.

Mr. DURBIN. I thank Senators STEVENS and INOUYE for their insight into this matter.

AUSTRALIAN NATIONALS

Mr. KYL. Mr. President, will the Senate Majority Leader yield for a question?

Mr. FRIST. I would be happy to yield.

Mr. KYL. I thank the distinguished Senate Majority Leader. I am pleased to see that the Frist Amendment, adopted by the Senate during consideration of the supplemental appropriations bill, is included in this conference report. The Frist Amendment creates a new E–3 visa sub-classification for Australian nationals. I would be grateful if Senator FRIST would clarify a couple of technical points relating to his amendment. It is my understanding that the E–3 visa would not be limited to employment that is directly related to international trade and investment, as are the E–1 and E–2 visas. Could the Senator confirm that this is his intention?

Mr. FRIST. I thank Senator KYL for his question. He is correct in his understanding that the E–3 visa would not be limited to employment that is directly related to international trade and investment. To qualify for an E–3 visa, an Australian national must be seeking employment in a "specialty occupation," as that term is defined in the Immigration and Nationality Act, and the U.S. employer must have obtained a certified labor attestation from the Department of Labor. In other respects, such as visa application procedures, periods of admission, dependent admissions, and spousal work authorizations, the rules applicable to the new E–3 visa will be the same as for other E visa holders currently. Also, Australian nationals will continue to have access to all existing categories of visas to which they are currently entitled.

Mr. KYL. I thank the Senate Majority Leader for these few points of clarification.

Ms. COLLINS. Mr. President, I rise today in support of this urgently needed funding for our soldiers, sailors, airmen and Marines fighting around the world. Specifically, I would like to thank my colleague and friend from Mississippi, the distinguished chairman of the Appropriations Committee, Senator COCHRAN, for his commitment to our Nation's Armed Forces.

I particularly want to express my support for the provision dealing with DD(X) destroyers. This bill includes a critical provision to prohibit the use of funds by the Navy in conducting a "one shipyard" acquisition strategy to procure next-generation DD(X) destroyers.

The Navy serves not only as a central pillar of our Nation's military strategy, but also as a symbol of American strength abroad. It is crucial that not only do we have the most capable fleet, but also that we have sufficient numbers of ships . . . and shipbuilders . . . to meet our national security requirements.

Unfortunately, the Navy has proposed to radically change the acquisition strategy for DD(X) destroyers in such a manner as to ensure that there is only one shipyard involved in major surface combatant production. If implemented, the Navy's ill-advised proposal to go forward with a "one shipyard" competition for DD(X) between General Dynamics' Bath Iron Works in Bath, ME, and Northrop Grumman Ship Systems in Pascagoula, MS, would jeopardize our national security and our industrial capacity.

We need to move forward with DD(X) at both shipyards, as originally planned. Holding a competition will inevitably delay DD(X) acquisition and increase the costs to taxpayers.

The fleet needs the capabilities of a DD(X) destroyer that will provide sustained, offensive, and precise firepower at long ranges to support forces ashore and to conduct independent attacks against land targets. These systems will provide a naval or joint task force commander with the multimission flexibility to destroy a wide variety of land targets while simultaneously countering maritime threats.

Moreover, DD(X) will take advantage of advanced stealth technologies, which will render it significantly less detectable and more survivable to enemy attack than the current class of ships. It will also operate with significantly smaller crews than current destroyers.

Conducting a competition for these ships, or implementing a "one shipyard" acquisition strategy further exacerbates the decline in America's shipbuilding employment that has shrunk by an overwhelming 75 percent since the late 1980s.

This supplemental appropriations bill continues to build upon the work many of my colleagues and I during the past several months to thwart the Navy's attempt to have only one shipyard capable of building DD(X)s. On March 1, I joined 19 of my Senate colleagues, in concert with Senator LOTT, to send a letter to President Bush expressing our strong opposition to any "winner take all" competition for DD(X).

We all agreed that any instability or delay in the DD(X) program at this time could lead to the permanent exodus of skilled men and women from the last remaining shipyards that produce our complex surface combatants. Construction of surface combatants at a single shipyard would affect the Navy's ability to keep costs lower in the long term.

The recently-passed Senate budget resolution included a sense of the Senate on the acquisition DD(X) that correctly emphasized that the national security of the United States is best served by a competitive industrial base consisting of at least two shipyards capable of constructing major surface combatants.

The Congress has spoken very loudly, and very clearly on this rapid change in direction. It is in our national interest to have two major surface combatant shipyards. This appropriations bill is good for the Navy, good for our shipbuilders, and good for our Nation.

I urge my colleagues to support this legislation and funding for our men and women in uniform serving around the world.

Mrs. FEINSTEIN. Mr. President, I will vote to support the conference report on H.R. 1268, the fiscal year 2005 Supplemental Appropriations bill, although I have serious reservations about the process that was used to attach the REAL ID Act to legislation urgently needed to ensure our troops are adequately funded.

I am voting for this legislation because it provides needed support to our troops in combat, additional border patrol agents to secure our porous frontiers, vital relief to areas affected by the recent tsunami in the Indian Ocean, and important disaster relief here at home.

My colleagues have noted that this legislation funds important needs for our military, from additional up-armored humvees to increased death benefits for those who have lost their lives in service to our Nation in Iraq and Afghanistan.

I agree with my colleagues that it is vital that we get these resources to our men and women in uniform without delay.

However, I have serious concerns about the process by which controversial immigration provisions were attached to the bill.

And I want to again express my opposition to the inclusion of the REAL ID Act—despite the negotiated changes during conference—because an emergency supplemental is not the place for the Congress to enact substantive immigration provisions.

The REAL ID provisions included in this legislation will bring about significant legal and policy changes in the areas of asylum law, judicial review, deportation of individuals alleged links to terrorist activities, driver's licenses and the border fence.

And while I recognize that there were modifications to the REAL ID Act during conference—including provisions relating to bounty hunters—we are still talking major changes to our immigration laws and I don't believe the Senate was given adequate opportunity to review, consider, debate and amend these issues.

Any voices of opposition to the REAL ID Act were all but silenced. I was a member of the conference committee, but I was not able to see the final language until the bill was ready to be filed and it was too late to do anything. Essentially, the minority was shut out of the conference negotiations on this bill.

The REAL ID Act wasn't the only immigration language added to this bill in which the Democrats were shut out.

For instance, the Republican leadership added language at the eleventh hour, postcloture, which creates a new temporary worker program for 10,500 Australian workers.

So each year now we will see an influx of 10,500 Australian workers, along with their families. Assuming that each of these professional workers brings their spouse and child, in reality we could be seeing an increase of 31,500 individuals each year—in addition to the other categories of professional workers, such as H-1B and L-1 workers.

At what point do we stop creating special carve outs for different groups of people or different countries? And after Australia, what country is going to come to us and ask for special exceptions to our immigration laws?

I am pleased that the conference committee came to a reasonable compromise on the issue of funding additional Border Patrol agents. The conference report makes available $635 million to address understaffing at our borders.

While this is a reduction from the amount provided by the Senate, it will provide for 500 new Border Patrol agents, 50 additional Immigration and Customs enforcement investigators, 168 detentions officers, as well as needed support staff and construction of additional detention space.

This is a good start toward meeting the goals of the Intelligence Reform and Terrorism Prevention Act, which authorizes the hiring of 2,000 new Border Patrol agents. That goal was developed in concert with the recommendations of the 9/11 Commission.

I look forward to working with my colleagues on the Homeland Security Appropriations Subcommittee to ensure that next year we continue to hire additional agents to secure our borders. Unfortunately, President Bush's budget for fiscal year 2006 only provides for 210 additional agents, which is simply not enough.

I would like to briefly comment on the military construction portion of this legislation. The House and Senate conferees included $1.128 billion to support military construction projects worldwide.

This includes $250 million for projects requested by the Army in Alaska, Colorado, Georgia, Kansas, New York, North Carolina, and Texas, to support Army modernization.

The bill also includes $647 million for the Army to support the global war on terror—$38.5 million for projects in Afghanistan, $40.4 million for a prison and security fence in Cuba, $479 million for projects in Iraq, and an additional $39 million for the design of these projects.

In addition, there is $140 million included in the bill to support the Marine Corps Force Structure Review Group to alleviate the overall stress on the Marine Corps produced by deployments related to the global war on terrorism. These projects are located in California, North Carolina, and Djibouti.

The bill includes $141 million to support Air Force projects in Central Command—$31 million for Afghanistan, $58 million for projects in Iraq, $1.4 million for the United Arab Emirates, $42.5 million for Uzbekistan, and an additional $8 million for the design of these projects.

Let me turn to an issue that is of particular importance to me and to my State—and that is preventing and fighting wildfires that have struck the West with increasing regularity and intensity in recent years.

As many of my colleagues know, southern California was hit this winter with unusually heavy rain storms that caused severe flooding—at this point it is the second wettest winter in Los Angeles since records have been kept.

These storms dumped 70 to 90 inches of rain in parts of southern California that include several national forests, causing flooding, debris flows, and mudslides which destroyed or damaged more than 90 percent of the roads in four National Forests: Angeles National Forest; Cleveland National Forest; Los Padres National Forest; and San Bernardino National Forest.

The conference report provides $24.39 million in capital improvement and maintenance funding to the Forest Service to repair those roads. This funding will make it possible to repair roads that are vital to firefighting efforts for thousands of acres in these forests.

We all know about the disastrous wildfires that burned in southern California in 2003. Fires burned 739,597 acres, destroyed 3,631 homes, and killed 24 people, according to the California Department of Forestry.

San Bernardino Forest Supervisor Gene Zimmerman told my staff that he has never seen the grass grow as high as it has this year, and it is starting to turn brown—which means it could burn later this year.

Here is the biggest difference from 2003: right now, firefighters cannot get in to the forests to contain fires. The Forest Service estimates that 2.3 million acres of National Forest System lands are inaccessible to ground-based fire vehicles.

The Forest Service tells me that they need to begin work immediately on roads to allow access for the 2005 fire season. They already have contractors working and will add to their contracts as funding is available. They have done the necessary damage assessments to enable immediate start up of work.

With the $24 million in this conference report, the Forest Service can open the majority of roads to accommodate fire apparatus by July and August, which is still the early part of this year's fire season.

I thank Chairman COCHRAN, Senator BYRD, Interior Subcommittee Chairman BURNS and Senator DORGAN, as well as their able staffs for helping to secure this funding in the Senate bill.

I also thank House Chairman LEWIS for working with us in the conference committee on an issue that is crucial to preventing a repeat of the devastating fires our State suffered in 2003.

I want to briefly highlight one last issue that is important to me, and I believe to the prospects for peace in the Middle East.

This conference report includes a provision that I offered to provide legal authority for a Federal agency, the Overseas Private Investment Corporation, OPIC, to receive $10 million to help bolster economic and infrastructure development in the Gaza Strip.

OPIC is combining forces with private organizations to build a $250 million loan fund that would be aimed at microfinance, small business, corporate and mortgage lending to deserving businesses, firms and entities in the Gaza Strip and West Bank.

A meeting is being held this coming week in London among the various loan fund participants to continue sorting out appropriate financial and legal mechanisms for distributing these funds.

As the group moves forward, this $10 million subsidy will play a crucial role in extending OPIC political risk guarantees for loans to deserving Palestinian business recipients and I was pleased to assist in this process.

On a larger scale, as we begin the process of Gaza disengagement, we need to help provide the Palestinians with real economic hope—not continued frustration about the lack of jobs and exports.

The lack of agreed mechanisms to coordinate disengagement, developing an agreed concept on how Palestinian security forces will take over areas evacuated by Israeli defense forces, and permitting greater freedom of movement, between Gaza and the West Bank, to assist with rehabilitation efforts are just a few areas of concern.

I hope the $150 million provided by this conference report will contribute to framing key security and economic arrangements that allow Gaza disengagement to occur peacefully and not violently.

Although I am troubled by the inclusion of the REAL ID Act in this bill, the bottom line is that it provides necessary funding to our troops in Iraq and Afghanistan, as well as relief to countries struck by the Tsunami in the Indian Ocean and disasters here at home. It may not be perfect, but it gives vital financial support to those who badly need it.

Mrs. BOXER. Mr. President, I will vote in favor of the fiscal year 2005 Emergency Supplemental Appropriations conference report. This conference report contains important funding that gives our troops in Afghanistan and Iraq the equipment and support they need. It also provides additional resources to help train new Iraqi security forces that will help speed the return of our servicemen and women.

In March, I traveled to Iraq to witness firsthand our military operations. There is no doubt that the insurgency is strong and that our continuing presence in Iraq, without even a goal for leaving, is fueling it.

Therefore, our troops are in grave danger every day, as evidenced by the tragic number of dead and wounded. Since the beginning of the Iraq War, we have suffered more than 1,600 deaths and more than 12,000 wounded.

My trip to Iraq confirmed my fears that not enough is being done to protect our soldiers from the threat of roadside bombs. Roadside bombs are one of the leading causes of death in Iraq and are responsible for 70 percent of those personnel killed or wounded. That is why I am glad that the conference report provides $60 million to rapidly field electronic jammers that help prevent the detonation of roadside bombs. This is consistent with the Boxer amendment that was adopted on the floor during the Senate's consideration of the bill.

I am also pleased that the conference report provides $150 million in additional funding for up-armored Humvees. While this is not as much as provided by the Bayh amendment, it is still a step in the right direction.

I will vote for this conference report, but I do so with serious reservations about the lack of an exit strategy in Iraq and with additional reservations about the way the REAL ID Act was attached to this legislation.

The REAL ID Act contains sweeping changes to our immigration laws. These provisions were not included in the President's supplemental appropriations request, nor were they included in the Senate version of the bill that was approved last month.

But at the insistence of the Republican leadership in the House, this legislation was attached to the House version of the emergency supplemental bill and then rammed through conference without the participation of Democrats. The REAL ID Act will become law without discussion or debate in the Senate.

The REAL ID Act contains a provision that would require states to collect documents proving the date of birth, social security number, principal address, and lawful immigration status for any applicant seeking a driver's license or identification card that would be recognized by the Federal government. States would be required to keep these documents on hand for a minimum of 7 years, maintain this information on a database, and allow electronic access to all other states.

States are understandably concerned that they do not have the capability to meet this mandate. Privacy concerns have also been raised.

Unfortunately, we have not had the ability to fully investigate the privacy implications and other issues related to this provision. My State of California has worked for 3 years trying to find a workable solution to this issue. But in the Senate, the REAL ID Act did not even warrant a hearing. This is why the National Governors Association, the National Council of State Legislatures, and the American Association of Motor Vehicle Administrators all oppose this legislation.

The REAL ID Act also contains a troubling provision that allows the Secretary of Homeland Security to waive all legal requirements—including environmental laws—in order to build security fences along U.S. borders. Security fences can be built without waiving environmental laws.

So, while I will vote for this bill because it helps our brave and courageous troops, I am deeply distressed at the way Democrats were left out of all the immigration discussions.

Mr. LEAHY. Mr. President, I am dismayed that nearly all of the provisions of the REAL ID Act have been included in this conference report after closed-door negotiations between House and

Senate Republicans. Democratic conferees were excluded from these negotiations. Indeed, my staff specifically asked the conferees for the majority to be included in negotiations on these far-reaching provisions—which have never received Judiciary Committee consideration—but our request was ignored.

I oppose the inclusion of these provisions for a number of reasons. First and foremost, this is not the way we should be legislating comprehensive changes to our immigration laws. The Judiciary Committee never considered them. The Senate never voted on them when the supplemental appropriations bill was being debated. Indeed, Senator ISAKSON offered an amendment that included the text of REAL ID but then withdrew it, reportedly under pressure from his own leadership. Many of us believed the Senate would vote down the Isakson amendment, especially considering that six Republican Senators had joined six Democratic Senators in writing to the majority leader to oppose including REAL ID in the supplemental appropriations bill.

Second, I am concerned that the REAL ID Act will cause great hardship for asylum seekers. In the guise of preventing terrorists from obtaining asylum—which is forbidden under current law—this conference report raises the standard of proof for all asylum seekers. The REAL ID Act's asylum provisions are opposed by a wide variety of religious organizations from across the political spectrum, as well as advocates for refugees and asylees. The United States Conference of Catholic Bishops has said that the asylum provisions in REAL ID would "eviscerate the protection of asylum, thus preventing victims of persecution from receiving safe haven in the United States."

Third, this conference report includes the REAL ID Act's breathtaking waiver of Federal law. The Secretary of Homeland Security will now be empowered to waive any and all laws that may get in the way of the construction of fences or barriers at any United States border. The Secretary already has broad authority in this area, and to further increase it demonstrates a lack of concern both with environmental protection and the rule of law.

Fourth, the conference report repeals the minimum Federal standards for driver's licenses that Congress passed only last December in the intelligence reform bill, in response to the recommendations of the 9/11 Commission. The Bush administration said that it preferred the approach taken in the conference report to the approach favored by the House, which is contained in the REAL ID Act. The House approach, now included in this conference report, replaces the newly enacted minimum standards with Federal mandates that I fear will be unworkable. The administration and the States have already devoted substantial energy to implementing the existing standards, and this conference report may represent a step backwards in our security.

These new provisions will endanger the lives of victims of domestic violence, including U.S. citizens. Many States currently allow victims of abuse—who frequently are hiding from their abusers—to obtain driver's licenses that do not list their address. This conference report will require all licenses to bear the recipient's address; unfortunately, it contains no exception for victims of domestic abuse or stalking. If a victim of domestic abuse or stalking is forced to disclose her physical residence in order to get a Federally-approved driver's license, she risks the possibility that she and her children will be tracked down by their abuser. For women and children fleeing domestic abuse or stalking, the option to use an alternate address is not a matter of convenience or preference; it can be a matter of life or death. We must fix this residential address requirement when we reauthorize the Violence Against Women Act later this year by creating an exemption for victims of domestic abuse or stalking.

Fifth, the conference report would eliminate habeas corpus review for aliens who have received removal orders. We have not taken such a step in this country for more than a century, but we are taking it now, without the Senate even considering the measure.

Overall, the REAL ID provisions in this conference report need a much wider airing and consideration before enactment. Unfortunately, Republican conferees agreed to exclude the Democrats from consideration of these proposals and a group of Senate and House appropriators have agreed to change our immigration laws in profound ways.

On a much more favorable note, I am pleased that the conference report included, with minor modifications, the Senate-passed provision to provide relief to the small and seasonal businesses across our nation that rely on temporary foreign workers who come here on H-2B visas. I cosponsored the Senate amendment, offered by Senator MIKULSKI, to make additional visas available for aliens who wish to perform seasonal work in the United States. For the second year in a row, the statutory cap on such H-2B visas was met before businesses that need additional summer employees were even eligible to apply for visas. This has hurt businesses across the country, and this amendment will provide needed relief.

In Vermont, the main users of these visas are hotels, inns and resorts that have a busy summer season. I have heard from dozens of businesses in Vermont over the past year that have struggled mightily to manage without temporary foreign labor. I know that the Lake Champlain Chamber of Commerce, the Vermont Lodging & Restaurant Association and many small businesses in Vermont are vitally concerned and expect that similar associations and businesses in other States are, as well.

Indeed, a wide range of industries use these visas in other States. I imagine that nearly all Senators have heard from a constituent who has been harmed by the sudden shortage of H-2B visas, and fear that they will go out of business if Congress does not act to make more visas available.

The conference report does not raise the cap on the program, but rather allows those who had entered the U.S. in previous years through the H-2B program to return. These are, by definition, people who came to the U.S. legally and returned to their own countries as the law requires. The amendment also addresses the concerns some members have expressed about fraud.

I have been working to solve this crisis for more than a year. I joined last year with a substantial bipartisan coalition in introducing S.2252, the Save Summer Act of 2004. Senator KENNEDY was the lead sponsor of the bill, which had 18 cosponsors, including 8 Republicans. The bill would have added 40,000 visas for the current fiscal year, providing relief to those summer-oriented businesses that had never even had the opportunity to apply for visas. Unfortunately, that bill was opposed by a number of Republican Senators and never received a vote. Our constituents suffered the consequences, and I am gratified that we are prepared to provide relief.

Mr. JOHNSON. Mr. President, thousands of men and women are proudly serving in Iraq and Afghanistan. While the majority will return home to their loved ones, more than 1,700 have paid the ultimate sacrifice to their country, and nearly 13,000 have been wounded in action. Even after Iraq's historic elections in January, violence continues on a daily basis with no end in sight to the insurgency.

Today, the Senate is preparing to approve another massive supplemental appropriations request from the Bush administration to fund ongoing operations in Iraq and Afghanistan. The most recent request of $82 billion makes it the second largest supplemental appropriations measure Congress has ever passed and brings the total amount of appropriated funds to $275 billion.

I support this supplemental request because I firmly believe that Congress has an obligation to provide our troops with all the resources they need to complete their mission. While I am deeply troubled by the Bush administration's continued practice of funding our efforts in Iraq and Afghanistan through supplemental appropriations requests rather than the normal annual appropriations process, the bill contains too many important resources for our troops not to support it.

This bill includes additional funding above the President's request for essential items such as up-armored Army Humvees, add-on vehicle armor kits, night vision equipment, and radio jammers that disrupt remote-controlled bombs used by Iraqi insurgents. In addition, Congress recognizes the extraordinary sacrifices our soldiers are making in defense of freedom by increasing the amount of life insurance servicemembers can purchase, as well as the one-time death gratuity a soldier's surviving family members receives.

Having said that, I have deep concerns about this most recent supplemental request. For over 2 years, American soldiers have been shouldering most of the peace-keeping burden in Iraq. While no one dismisses the contributions being made by coalition members, once again, I ask President Bush to reach out to our allies so that our efforts in Iraq are truly an international effort. The entire world has much to gain by a secure and peaceful Iraq, and other nations should do their fair share because we ask even more of our brave men and women in uniform.

While I am supportive of quick action on funding for U.S. troops, I must express my strong opposition to the way the Republican leadership is forcing approval of far-reaching driver license legislation as part of this bill. There has been no real opportunity for debate of the "REAL ID" amendment. Its inclusion in this must-pass bill subverts the work of the Regulatory Negotiation Advisory Committee that was established in last year's intelligence overhaul bill to provide a thoughtful and carefully crafted approach to driver's license legislation. Because we are now faced with a conference report on emergency funding, no further amendments will be permitted and Senators must vote yes or no on the entire package.

The REAL ID amendment will saddle the States with a $500 million unfunded mandate over the next 5 years, while at the same time, complicating the issuing and re-issuing of drivers licenses. State employees will be required to assume the duties of the Federal Immigration and Naturalization Service at a time when States are already reeling from Federal cuts in Medicaid, education, and community development funding. With no opportunity for amendments or expert testimony, Congress is being required to establish what amounts to a national ID card. While the goal of establishing more secure driver's licenses in the post-9/11 world is vitally important, it should be the responsibility of the Advisory Committee. Forcing this ill-considered amendment past Congress on the back of an unrelated bill that provides needed funds for our troops is wrong and a disservice to the American people.

I am uncomfortable conducting Senate business in this manner, particularly when it comes to issues that affect the security of our personal identity. These provisions were attached to a vital appropriations bill before authorizing Senate committees of jurisdiction had an opportunity to properly scrutinize the content, conduct hearings, and pose questions to administration officials and other interested individuals. Even more astounding, Democrats were not included in negotiations to determine the immigration provisions of this bill.

On matters as important as immigration reform and homeland security, it is misguided and short-sighted to pass legislation in this ad hoc fashion. Forcing Senators to support funding for our troops by voting in favor of legislation they may oppose is not in the best interest of our country.

I have deep reservations about some of the provisions included in this bill, and I hope they can be reconsidered as measures apart from this supplemental bill. However, I will vote in favor of providing additional funds for our troops. Our first priority must be to ensure our troops have the necessary tools to finish their mission in Iraq and Afghanistan as swiftly and as safely as possible.

Ms. SNOWE. Mr. President, I rise today to address the provisions of the conference report to H.R. 1268, the Iraq and Afghanistan Emergency Supplemental Appropriations Act, concerning small business contracting at the Department of Energy.

As chair of the Senate Committee on Small Business and Entrepreneurship, I am concerned that, although the conference report did not contain a substantive change to the Small Business Act's prime contracts goaling requirements, it does contain a provision addressing small business contracting. I remain deeply disappointed that H.R. 1268, an emergency appropriations measure, includes targeted language dealing with the Department of Energy's small business contracting. Numerous groups and individuals, including the SBA Administrator and the SBA Chief Counsel for Advocacy, wrote to Congress in opposition to substantive changes to small business prime contracting goals.

As a result of inclusion of this provision, the Congressional small business committees prepared a joint statement to be submitted in both the House and the Senate. Chairman Manzullo of the House Small Business already filed this Statement in the House prior to the vote on the conference report for H.R. 1268. I ask unanimous consent to have printed in the Record the following statement.

There being no objection, the material was ordered to be printed in the Record, as follows:

Joint Statement Concerning Small Business Contracting Provisions in H.R. 1268

(By Senator Olympia J. Snowe, Chair of the Senate Committee on Small Business and Entrepreneurship, and Congressman Donald R. Manzullo, Chairman, House Committee on Small Business)

Section 6022 of H.R. 1268, as adopted in the Conference Report, H. Rep. 109-72, contains certain provisions concerning small business contracting at the Department of Energy. These provisions were inserted as a substitute for Section 6023 of the Senate version of H.R. 1268. Section 6023, among other things sought to amend the Small Business Act to authorize counting of small business subcontracts at the Department of Energy's large prime contractors for purposes of reporting small business prime contracting results. Because the substitute language was not adopted by Congress through regular legislative proceedings in the Senate Committee on Small Business and Entrepreneurship and the House Committee on Small Business but was adopted anew during the House-Senate conference, the committees of jurisdiction take this opportunity to provide guidance generally provided through their reports to Senators and Representatives prior to their vote on the Conference Report, and to affected Federal agencies prior to their implementation of the Conference Report if adopted.

In subsections 6022 (a) and (b), the language chosen to replace Section 6023 in the Conference Report directs the Department of Energy and the Small Business Administration to enter into a Memorandum of Understanding for reporting small business prime contracts and subcontracts at the Department of Energy. This replacement language does not change the Small Business Act's clear distinction between prime contracts and subcontracts, does not amend the statutory small business prime contracting goal requirements which are binding on the Department of Energy, and does not obviate Congressional and regulatory policies against contract bundling. This language does not repeal the President's Executive Order 13360 directing the Department of Energy to comply with its separate statutory prime contracting and subcontracting goals for awards to small businesses owned by service-disabled veterans. Any interpretation to the contrary would be unreasonable and contrary to Congressional intent.

In subsection 6022(c), the replacement language mandates a study of changes to management prime contracts at the Department of Energy to encourage small business prime contracting opportunities. The object of the study is to examine the feasibility of establishing a procurement agency relationship between the management prime contractors and the Department of Energy in accordance with the requirements of Federal procurement laws, Federal procurement regulations, the "Federal norm" of government contracting as recognized by the Comptroller General, and applicable judicial precedent such as U.S. West Communications, Inc. v. United States, 940 F.2d 622 (Fed. Cir. 1991).

Finally, in subsection 6022(d), the replacement language imposes certain requirements upon the Department of Energy concerning break-outs of services from large prime contracts for awards to small businesses. First, the Secretary of Energy is required to consider whether services performed have been previously provided by a small business concern. This requirement is for acquisition planning purposes only, and shall not be construed as imposing a restriction of any kind on the ability of the Department of Energy to break out its large prime contracts for award to small businesses. Congress recognizes that most of work currently contracted by the Department of Energy to its large prime contractors has never been historically performed by small businesses. However, this does not waive the application of the Small Business Act, the President's Executive Order 13360, or the President's initiative against contract bundling to the Department of Energy. Second, the Secretary of Energy is required to consider whether small business concerns are capable of performing under the contracts which are broken out for award. This requirement is simply a restatement of current statutory and regulatory requirements on contractor responsibility. Subsection (d)(2) directs the Secretary of Energy is required to—impose certain subcontracting requirements. As the text plainly indicates, this provision applies solely to small business prime contracts which were formerly small business subcontracts for services.

Mr. GREGG. Mr. President, I rise to discuss a few of my thoughts regarding the Iraq/Afghanistan supplemental appropriations bill that the Senate is expected to pass today. In particular, I wanted to discuss the bill's important provisions that would improve the H-2B visa program and provide timely relief for seasonal businesses in my State and across the country.

First, let me express my appreciation to my dear friend from Maryland, Senator MIKULSKI, who has been a tireless fighter for the seasonal employers in her State. She and I have worked together on this issue for several months, and I was proud to be the lead cosponsor of S. 352, the "Save Our Small and Seasonal Businesses Act of 2005." Our offices worked closely to draft this legislation, which was incorporated into the Iraq/Afghanistan supplemental appropriations bill when the Senate overwhelmingly approved Senator MIKULSKI's H-2B amendment on April 19, 2005 by a vote of 94-6. I am pleased that this legislation was also accepted in conference and will soon become law.

With the summer season soon upon us, I believe that the H-2B problem needs timely relief that is fair to all seasonal employers, and the Save Our Small and Seasonal Businesses Act will do exactly this. As most of us know, the 66,000 cap on H-2B visas was reached in early January; therefore, shutting out businesses that rely on H-2B workers in the spring and summer months. This seasonal inequity is unjustifiable, and therefore I am pleased that the H-2B provisions before us will divide the 66,000 cap so that 33,000 visas will be available for the first half of the fiscal year and the other 33,000 visas will be available for the second half of the fiscal year.

To provide timely and meaningful relief, the Save Our Small and Seasonal Businesses Act will also temporarily exempt returning H-2B workers from the statutory cap. For fiscal years 2005 and 2006, H-2B workers who had worked in the U.S. under an H-2B visa during the past three fiscal years will qualify for this exemption and will not be counted against the cap. Since the cap has already been hit for fiscal year 2005, the H-2B provisions in the supplemental appropriations bill will establish a "look back"—namely, they allow the Department of Homeland Security to estimate how many of the H-2B visas already issued for this fiscal year were given to returning workers. This is necessary to ensure that the Department can swiftly apply the exemption for fiscal year 2005 and free up visas under the cap for new H-2B workers for this summer season.

In addition, the Save Our Small and Seasonal Businesses Act will allow the Department of Homeland Security to waive the Administrative Procedure Act to avoid having to issue rules and go through other hurdles to implement the H-2B provisions before us. This is intended to give the Department the ability to swiftly accept H-2B petitions and implement the Save Our Small and Seasonal Businesses Act in a timely manner so that businesses can employ H-2B workers this summer.

As I stated earlier, I am pleased that Congress has finally acted to improve the H-2B program and provide timely relief for small and seasonal businesses. In my State, the H-2B program is of special concern to the tourist and logging industries, which are both important to the New Hampshire economy. For instance, in 2004 alone, New Hampshire's tourism industry generated $4 billion in revenues and nearly $140 million in rooms and meals taxes, which makes up about 25 percent of the State's total revenue stream. For a number of seasonal employers in my State, the short-term hiring needs and the nature of their businesses make it extremely difficult, if not impossible, to fully staff their positions with U.S. workers. H-2B workers therefore are the only lawful option to fulfill labor shortages when U.S. workers are not available.

The Save Our Small and Seasonal Businesses Act will help ensure that these seasonal employers can stay in business and use a program that has safeguards for U.S. workers. Moreover, as we try to reign in illegal immigration and bolster respect for our laws, I believe that Congress has shown wise judgment by passing this legislation. In addition to strengthening anti-fraud protections, these H-2B reforms will reward employers that follow the rules and will encourage the lawful hiring of temporary workers instead of the hiring of illegal aliens.

Some provisions of the Save Our Small and Seasonal Businesses Act are only temporary in nature and are intended to be a short-term fix. I recognize that significantly more work must be done to improve our immigration policies over the long term, including our guest worker programs. We can no longer accept having immigration laws that fail to bring about order along our borders and other points of entry or are ignored altogether. As such, Congress must re-double its efforts to pass comprehensive immigration reform legislation, and I look forward to working with my colleagues on this long needed effort.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I thank Chairman COCHRAN for his leadership on this important bill for our country, as well as ranking member BYRD.

I rise in support of H.R. 1268. I support it because it is a symbol of our compact with our troops and their families. I support it because it sends a signal of hope to other emerging democracies. And I support it despite some baffling decisions taken in the conference committee to strike key proposals to support our troops and their families.

Insurgent attacks in Iraq are on the rise. There were 45 per day in March, 60 per day in April, and the rate of attacks this month is topping that number. While down from the highs of the preelection violence, this spike does not suggest a weakened or retreating insurgency. Instead, it suggests a greater urgency is needed for even greater support for our troops.

Last month the Washington Post quoted an unnamed American official in our embassy in Baghdad as saying:

> My strong sense is that a lot of political momentum that was generated out of the successful election, which was sort of like a punch in the gut to the insurgents, has worn off.

In Colorado, we have seen Army units mobilizing for their second and third tours in Iraq; this nearly 2 years after we were assured that the mission there had been accomplished. So it is time that we get this assistance to our troops and to their families.

This bill includes $75.9 billion for the Department of Defense and an additional $450 million for increased border security. Those efforts cannot wait any longer. After having been needlessly delayed by the inclusion of extraneous provisions in the House of Representatives, we need to put these investments to work.

We also need to put the resources to work that are called for in this legislation beyond Iraq. That is why it is so important that the conference committee include the $5 million downpayment on America's investment in a strong and independent and democratic Lebanon, free from interference from Syria. We all remember the courageous protests in the streets of Beirut earlier this year. Yet despite this brave show of support for freedom, the President's supplemental included no funding for strengthening democracy in Lebanon. That would have been a missed opportunity, and I am delighted that the conference committee kept this funding in the conference report.

At the same time, we need to ensure that the enormous investment our taxpayers are making in this bill is invested carefully. We were all painfully familiar with the reports from Iraq of security personnel that received training only to turn and run when confronted with insurgents, or even the instances where personnel we paid to train turned their weapons on our own troops.

That is why I am so pleased the conference report includes the amendment I included during our debate in the Senate regarding the hundreds of millions of dollars we are investing in Afghan security forces. Like our successful efforts to invest increased resources in Colorado police officers when I served as Colorado State attorney general, my amendment simply says that we are prepared to pay to train Afghan forces, provided they are prepared to accept greater accountability and standards of excellence. That is the least the American people should expect, and I commend the conference committee for adopting that amendment.

I also want to comment on inadequacies that I see in the conference report. As a new Member of the Senate, I have to express my surprise at the partisan nature of the conference committee report itself. This is a shame because the rest of the country does not see supporting our troops as a partisan issue. It seems to me that in a time of war, we can do better than a conference committee that meets purely on partisan lines, better than a conference committee that cuts out proposals that passed this Chamber with overwhelming majorities, and better than a conference committee that inserts a proposal to overturn decades of American asylum policy, a policy that protects the world's most vulnerable people, even though a Senate committee has never reviewed that policy.

The conference report provides an increase in the fallen hero compensation to $100,000 for all combat-related deaths, similar to language proposed in the Senate committee. Regrettably, it omits the Kerry amendment, which I cosponsored and which was adopted by an overwhelming bipartisan majority of this body, that would have assured that all the families in the military who have died since 9/11 would be eligible to receive $100,000 in fallen hero compensation. Similarly, just as insurgent attacks began to spike, this conference report also omits much of the additional funding for up-armored humvees, overwhelmingly passed in the form of an amendment sponsored by Senator BAYH.

As we see more and more reservists and guards men and women deployed to Iraq, the conference report omits protections for these patriots and their families.

The amendment would have ensured that Federal employees who have been activated in the Guard or Reserves do not suffer any loss in salary as a result of their willingness to take on this patriotic assignment. I do not understand why the conference deleted the payment protections afforded these families by the Durbin amendment.

While the conference committee could not protect these important provisions for our troops and their families, somehow this conference, led by Members of the House of Representatives, did find time to include within this wartime supplemental a huge proposal that has never received a hearing in the Senate.

I will say this about the so-called REAL ID Act included in this bill: It does nothing to address the calls of many Coloradans for serious border strengthening.

It will not reduce the flow of undocumented immigrants who come to the United States. Instead, it will heap an unfunded mandate on the States, passing onto the States our duty to protect our borders. At the same time, it denies protection to refugees who come to this country seeking freedom from religious and political persecution.

Let's be clear what those protections are for. They are for the world's most vulnerable people who come to this country seeking freedom and safety from persecution. They include Christians fleeing persecution in Egypt, democracy activists fleeing violence in West Africa, and women fleeing abuse in Somalia. While the issue of immigration is an issue that necessarily deserves attention in our Nation's Capitol today, this is not the way to go.

Mr. President, it is time that we get the funding contemplated in this legislation to our troops. It has been delayed long enough. I intend to vote for it, and I hope my colleagues will do the same.

I yield the floor.

Mr. COCHRAN. Mr. President, I am pleased to see that Senators have endorsed the conference report in a bipartisan way. We appreciate the support that this is receiving. In every conference, there are always issues that arise that cannot be resolved to suit all Senators or all Members of the other body. But I must say to the Senate that this was a conference that was open, fair, and it allowed for the participation of all conferees, both parties in the Senate, and the same with the House. We had two sessions; one was in the Capitol over on the House side and another was on the Senate side in the Mansfield Room, where any Senator or any Member from the House who wanted to speak before the conference had the right to do so. In addition, Members had the opportunity to offer motions, amendments, or suggestions for the benefit of members of the conference.

I was very pleased to acknowledge, at the time, the important participation of the ranking member on the Democratic side in the Senate committee, Senator BYRD, who took an active role in the discussions, who offered a motion at one point to insist upon the position of the Senate in the conference. Other members could have done the same or argued against including any provision of the House-passed bill.

There has been some discussion today about the REAL ID provision. I didn't think that was a wonderful idea myself. It was not included in the Senate bill. It was a House provision. But the House Members insisted that it be included in the conference report. Anyone who wanted to resist that had an opportunity to argue against it or to offer a motion that the Senate insist upon its position that it not be included. No Senator elected to do that.

I didn't know how many meetings were going to be required of the conference. I had no idea what the House would do in terms of insisting on provisions in this bill as that conference began. I was, frankly, surprised that we didn't have but two meetings of the conference. I expected that we would have other meetings. But the House didn't think it was important or necessary, and I got the impression that there were going to be no more meetings but only after the second meeting had concluded. Members of the committee continued to discuss issues with House conferees, and we finally reached agreement.

I think this is a good conference report. It is a reasonable compromise between the two bills that were passed by the House and the Senate. We didn't get everything we wanted in the conference with the House; neither did the House get everything they wanted in conference with our Senate conferees. But I think this is a fair conference report. It reflects a commitment to support the President, to provide funding that is needed for military operations in Iraq and Afghanistan. It is an urgent supplemental bill, and it ought to be passed today by the Senate. I am confident that it will be.

I appreciate very much the assistance and the affirmative way members of our conference worked to ensure that we could get a conference report that would be adopted by the Senate. I think we have accomplished that goal.

I am proud of the work that was done by the members of our staffs. They worked very, very hard in the preparation of the conference report that is before the Senate today. I especially want to thank our staff director, Keith Kennedy; Terry Sauvain, his counterpart on the Democratic side; Chuck

Keiffer on the Democratic side, who also worked very hard; Charlie Houy, who has been a stalwart member of the staff of the Defense Appropriations Subcommittee for many years; Rebecca Davies on the Homeland Security Appropriations Committee; Sid Ashworth, the clerk of the Defense Appropriations Subcommittee. Senator STEVENS, chairman of that subcommittee and former chairman of the full committee, was enormously influential in this conference. I have been very grateful for his support and assistance. I also thank Clayton Heil, counsel to our Senate Committee on Appropriations, who has been very helpful as well. And there are others.

Mr. President, I appreciate the assistance of other Senators on the full Committee on Appropriations. We had strong support in the signing of the conference report. It has been a bipartisan achievement. It is not a partisan bill, and we appreciate the fact that it is not.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time under the quorum be charged equally to each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CARPER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER. Mr. President, in a time of war, nothing is more important than making sure that our fighting men and women have what they need to do their jobs well. It is with our troops in mind that I will vote in favor of this supplemental appropriations conference report.

Having said that, I do have some major concerns about how this bill has been put together and how the Congress has conducted its business with respect to such emergency spending requests over the past several years.

Thousands of brave Americans have been serving our country in war zones since shortly after that fateful day of September 11, 2001. But 4 years later, the President and those of us in this Congress continue to refuse to budget for these wartime expenses. Rather than incorporating the costs of the operations in Iraq and Afghanistan in the budget, these important expenditures continue to be tagged as "emergency spending." Emergency spending should be reserved, in my view, for unforeseen needs.

We know, however, that the need for additional funding for our campaigns in Iraq and Afghanistan is something we should expect and be able to budget for. Unfortunately, this is not new for this Congress or for the Bush administration. This is, I believe, the fourth consecutive time that funding for military operations in Iraq and in Afghanistan have been requested outside the regular budgeting and appropriations process.

By not taking into consideration the costs of these supplemental requests, which we all know are coming, the President and the Congress can more easily fudge the true nature of our Federal deficits and what our spending assumptions will be over the foreseeable future. In other words, by keeping the spending out of the budget, the President and this Congress can paint a fiscal picture that is, frankly, rosier than reality.

Contrast, if you will, what we are doing today with what we did during the Vietnam conflict, the conflict I served in and I know others of us did as well. After one supplemental appropriations in 1966, President Johnson and later President Nixon included the cost of our military operations in Vietnam in their annual budget requests, not in emergency supplemental after emergency supplemental. They requested them in their annual budget request. That approach was the right approach. Whether people approved of the war in Vietnam and our involvement there, at least the approach of budgeting for it was appropriate. I believe we owe it to the American people, who are very aware of the cost and nature of our operations, to be upfront about the true state of our country's finances.

To make a second point, there have been times in the last several years when the House has passed a bill, the Senate has passed a bill, we convene a conference committee, and the House and Senate, Democrats and Republicans, have a full and open opportunity to participate in that conference committee.

Concerns have been raised. I think the chairman of this committee is, quite frankly, as fairminded a person as I know. It is a real joy to serve with him. I have said it to him privately and I will say it to him publicly. But I have heard reports back from those who felt they did not have opportunity extended to them to actually offer amendments in committee that they felt they had been assured they would have a chance to offer. That is a matter of concern to me and I think it would be if the shoe were on the other foot.

Third subject, REAL ID. There was an amendment I alluded to offered by Senator DURBIN that passed the Senate. It passed the Senate 99 to 0. The amendment would have helped to compensate Federal employees who were called to active duty who were making more money as a Federal employee than they were after they had been activated to active duty. We passed by a 99-to-0 vote a provision that said we should make up the shortfall in those instances. That particular amendment that was passed by a 99-to-0 vote was left out of the conference report. I know other items were never considered by the Senate. A prime example of that is the controversial REAL ID proposal somehow did find its way into the legislation. As I recall, we never had a chance on the Senate floor to even discuss the REAL ID issue. It was not part of our supplemental bill. Yet when the final bill comes up, we are looking at 55 pages of new immigration law that this body has never debated and which was inserted at the behest of the House Republican leadership.

I have a serious concern about whether these immigration provisions make sense. I know some feel they do, but I have some real concerns. The REAL ID Act, for example, would repeal the driver's license standards framework we created last year in the Intelligence Reform Act, which is based on the recommendations made unanimously by the 9/11 Commission. In place of the 9/11 Commission framework, REAL ID would create an entirely new and expensive Federal standard for the issuance of driver's licenses but provide no funding to my State, Mississippi, South Carolina, or any other State, for that matter. As a former Governor, I believe such unfunded mandates should not be considered lightly.

Furthermore, I have heard from a number of constituents in my own State who are concerned that the bill would make it more difficult for those fleeing religious persecution to gain asylum, while allowing the Secretary of Homeland Security to waive all laws in order to build a fence along our borders.

In this post-9/11 world we know it is vital to ensure security not only along our borders but also within our Nation. However, instead of thoroughly considering homeland security and immigration reform measures, the House has hastily tacked on legislation that could have potential negative consequences for the Latino and other immigrant communities in my State and across our country. I think we should have had a proper debate to ensure that this legislation would actually protect our Nation and make us more secure.

The last thing I want to mention deals with Israel and the peace process there. I returned from that part of the world about 5 weeks ago, convinced there is an opening, a possibility, however difficult to achieve, that Israelis and Palestinians may find common ground; that the Palestinians finally have a chance to end up with a homeland of their own and to live side by side in a separate state, in a geographical area with the Israelis, who would have peaceful and secure borders and reasonable economic and diplomatic relations with their Arab neighbors.

I came back and called Secretary Rice and said, we ought to be putting as much energy and time and attention into trying to forge a final compromise, a final peaceful resolution, in Israel. To the extent we can do that between the Palestinians and the Israelis, we would probably do more to reduce the ability of terrorists to raise money, to reduce the ability of terrorists to recruit new terrorists, to reduce their ability to convince people in some kind of unholy jihad to go out and blow themselves up and kill a lot of innocent people.

If the United States can somehow emerge from a peace process in the Middle East and Israel and be seen as the honest broker in helping the Israelis and the Palestinians get to a fair and peaceful permanent resolution, we would do more to set back the terrorists and end the war on terrorism, to make us safer in this country, to make people safer in Israel, in Palestinian-controlled areas, to make people safer in Iraq and Afghanistan as well.

When I was in Israel, I had the opportunity to travel to Ramallah. During that trip, we were behind a flatbed truck. As that truck went from Israeli-controlled territory into the West Bank, it had to go through a checkpoint. At the checkpoint, literally everything on the flatbed truck had to be removed and moved on to another flatbed truck in order to make sure there was not contraband, explosives or something there that would represent an endangerment to other people.

One of the best ways to ensure that terrorists still have plenty of places from which to recruit new terrorists in that part of the world is to ensure that the rate of unemployment in Palestinian-controlled areas remains at about 50 percent. It is in our interest, it is in the interest of the Israelis, it certainly is in the interest of Palestinians who want peace and a better life, for us to help bring down the rate of unemployment.

The way to do that is not to have trucks go from one part of that area to stop at a checkpoint and offload on to a new truck. There has to be a free flow of people and a free flow of goods, a free flow of commerce in that part of the world in order to help get the Palestinian economy up and on its feet and to bring down unemployment.

My parents used to say to me, an idle mind is the devil's workshop. Well, people who do not have anything to do with their time are also prime for being recruited as terrorists. To the extent we can help bring down the unemployment rate in the Palestinian communities, we also bring down the likelihood they are going to be recruited to become terrorists.

In the bill that passed the Senate, there is a provision for some $200 million to support Palestinian political, economic, and security reforms. As we have gone through the process in conference, roughly the same amount of money has emerged, and it is not going directly to the Palestinian Authority. A portion of that, maybe $50 million, will end up going to the Government of Israel as they try to create high-security checkpoints which would allow that truck I talked about earlier to go through a high-tech security checkpoint and not have to be offloaded. It would enable people to move freely who are trying to get a job or going to a job from Palestinian areas to Israeli areas or vice versa, without being impeded from doing that, or having to spend hours trying to get through a checkpoint.

At the same time, we have the ability through the technology of today to stop the terrorists. People who are carrying contraband or explosives or stuff that will enable them to hurt other people can be stopped at these checkpoints. There is money in this bill that would enable the Israelis to help build terminals, checkpoints for folks to pass through, Palestinians or Israelis, for that matter, to reduce the likelihood of terrorist incidents that will grow out of that movement of people, and to better ensure that goods and services in commerce can move about freely. So that is a good thing.

There are some who will quarrel with whether the money should have gone directly to the Palestinian Authority or whether it is more appropriate to go through other organizations that we call NGOs. I am not going to get into that argument.

I say to my friend from Mississippi, we may have a chance later on—maybe in the Foreign Affairs appropriations bill or the foreign operations bill—to come back and revisit this issue and decide whether, given the reforms that are being made in the Palestinian Authority through reduced corruption, to tamp down on terrorism within organizations such as Hamas, we may have the opportunity to come back and decide whether to allocate some additional money later this year to strengthen the position of President Abbas and to reward positive behavior on his behalf and that of other Palestinians.

So those are points I wanted to make. I am going to recap them again very briefly. First, the concern as we go forward for us to take as an example the budgeting approach used by earlier administrations, Democrat and Republican, President Johnson, President Nixon, at least in terms of funding the Vietnam war. After the first emergency supplemental appropriation, fiscal year 1966, they said we are going to make part of our regular budget request moneys to support that war effort. Again, we ought to do the same thing now going forward.

Second, I call on our Republican friends to remember the Golden Rule, to treat other people the way we want to be treated. As we go forward in these conference committees, to the extent we treat people fairly from our side, some day when we are in the majority—and some day we will be—more likely we will end up with a situation where the minority, in that case the Republicans, will be treated fairly, too.

On REAL ID, it will be interesting to see what the States come up with in response to these unfunded mandates. I don't like unfunded mandates. I never liked them as a Governor. I don't like it now. Whenever we in Washington figure out that we ought to tell the States and local governments how to spend the money, we don't provide the money. We tell them how to raise the money, or not raise the money, but we do not provide an offset. That is a slippery slope. I think we are on that slippery slope with respect to this REAL ID provision.

Finally, on the Palestinian peace initiative, I think it is important to promote investments in the Palestinian areas to get their economy moving again, and it is important we help fund security measures that enable the free flow of commerce, of people and goods in and out of the Palestinian areas so they can reduce their unemployment rates and reduce the threats of terrorism.

With that having been said, I am going to stop here. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I want to speak as to how I am going to vote. Clearly, the necessity of funding for all of our troops requires a "yes" vote on this legislation. I gladly do that. I do want to express my concerns about this so-called REAL ID part that was put in in the dead of night, without the notification that was promised to the minority and without the informing of all the various Senators who were part of the conference committee. This is not the way we should be doing legislation. It ought to be in the full light of day. That is why they refer to making legislation is like making sausage—you don't know what all is in it.

With regard to this REAL ID Act, the concern that I have is that we are going to have an invasion of people's privacy without having carefully considered it through committee hearings and through full debate of the issue. For something that is as important to so many Americans as a driver's license, we are going to start on the road of the invasion of privacy. I do not think this is the way to establish what is, in effect, the first step for a national identification card. I don't think this is the way to do it, in the dead of night, by stealth and sleight of hand.

Second, I think Senators are going to get an earful if they are starting to get the rumblings that I am getting from constituents in my State. When most people find out they have to haul out a birth certificate when they go down to reestablish their driver's license, it is going to cause a great inconvenience, especially to the senior citizens of this country. I think Senators are going to get an earful.

Third, I am quite concerned about the implication that this is going to have on the rights and protections of minorities. Is this the beginning, portending certain discriminations because of minorities?

Obviously, this is a must-pass piece of legislation. It is funding the war effort. It is funding our troops. We are all going to vote for it, and we will pass it. But we should not have something that is so important to the privacy rights of Americans added to a bill like this in this secretive way.

I wanted my comments made very clearly on the record.

I yield the floor.

Mr. President, I have something else as long as we are in a holding pattern. What is the pleasure of the majority leader? Does he want to go on and call for the vote or does he want to have some more time before the vote, in which I will speak on another subject?

Mr. FRIST. Mr. President, I have not talked to the Democratic leader, but I think if we are about ready to vote, then what I might do is go ahead and do my statement in the interest of time, unless there is something just burning that the distinguished Senator from Florida has to say. I will go ahead and do my statement and then—if the Democratic leader is available?

Mr. NELSON of Florida. I will tell the Senator that I have something that is really burning because they are trying to drill for oil off the coast of Florida. But I am going to yield to the majority leader and to his wishes so he can expedite the process and the vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I apologize for Senators having to wait for me. I want to begin by saying I support this legislation. I commend the work of the managers of the bill, Senator COCHRAN and Senator BYRD. I understand how essential this bill is to our troops who are risking their lives and, of course, to the tsunami victims who are struggling to rebuild their lives.

The conference report, though, comes up short on two issues: Iraq and, of course, immigration—short of what the world rightly expects from the most free nation in the world, and short of what Americans should expect from their elected leaders is what is written all over this conference report.

Starting with Iraq, the Chairman of the Joint Chiefs of Staff recently said that the insurgency is as strong today as it was a year ago. The recent upsurge in violence and unrest in Iraq seems to bear out that remarkable and very troubling conclusion. Yet the administration acts as if the situation in Iraq is essentially under control and the remaining difficulties are Iraq's problems.

The unfortunate truth seems to be that more than 2 years after President Bush declared the end of major combat operations—remember "mission accomplished"—Iraq has a limited capacity to defend itself or govern itself.

Even worse, the administration has no real plan to help Iraq acquire that capacity. As much as the President may want to dump Iraq's problems on the new Iraqi Government, his administration has a responsibility to our troops and the Iraqi people to help address these problems and to inform Congress how he plans to do so.

I would underscore that this supplemental appropriations bill should not have had to come before this body at this time. It should have been in our regular budget. This war is ongoing. There is no reason to do it in this way.

I have supported and the Senate passed an amendment crafted by Senators DURBIN, LEVIN, and KENNEDY requiring the administration to inform us of its efforts and plans for securing and stabilizing Iraq. Unfortunately, Republican conferees dropped the important amendment from the text of this bill.

As troubled as I am by the Republican majority's actions on Iraq, I am perhaps more disturbed by what they decided to do on immigration, and how they went about it.

Republicans tacked the so-called REAL ID immigration legislation onto this emergency supplemental that is to provide funding for our troops. REAL ID imposes dramatic new burdens on the States and substantially alters the immigration and asylum laws in ways that this Nation may soon come to regret the action taken by this body.

For the House to self-righteously say that on appropriations bills they will allow no authorizing legislation, people can always waive this REAL ID—this is the mother of all authorizing legislation on an appropriations bill.

This REAL ID Act makes reckless and unwise changes to our laws with respect to the environment, refugees, judicial review and, most of all, States rights. It is essentially anti-immigrant legislation couched in the language of antiterrorism. The Wall Street Journal, not the bastion of the so-called liberal press, said the changes made by REAL ID "have long occupied the wish list of anti-immigration lawmakers and activists." That is the Wall Street Journal.

REAL ID will make it much more difficult for individuals fleeing persecution to seek asylum in the United States, will sharply reduce the ability of the Federal courts to rein in overzealous or ill-willed administration officials, and will give the Secretary of Homeland Security unprecedented authority to waive environmental and other laws.

REAL ID could compromise the privacy of American citizens, create long lines at local DMVs, and make it harder for States and the Federal Government to keep track of who is in our country. In short, REAL ID may make us less rather than more safe.

As troubling as what the majority did on immigration is the way they went about it. Republicans tacked on REAL ID knowing full well immigration issues had nothing to do, as I have said before, with the underlying legislation and that REAL ID had never, ever been considered in the Senate, either in the Judiciary Committee, the committee of jurisdiction, I believe, or on the Senate floor.

Compounding matters, House and Senate Republican conferees went behind closed doors without Democrats and included a modified version of REAL ID.

What so troubles me is that the Republicans have the votes. They are in the majority. They had the majority in the conference. But they refused to have up-or-down votes so the public could see what they were doing. They had the ability to turn down every amendment we offered, but they were unwilling to do that.

They rejected a bipartisan plea to give REAL ID and other immigration issues the time and attention they deserved, and limited opportunities for opponents of REAL ID to offer motions to strike or change what they agreed to.

As a result of the Republicans' decision to incorporate REAL ID and their abuse of the process, most Democratic conferees either refused to sign the conference report or did so while taking strong exception to the REAL ID provision.

I am also disappointed about the White House's role in this matter. For years now, the administration has been talking about the need to reform immigration laws. Remember the big trip President Bush made, when he was first elected, to meet with President Fox in Mexico? They have been talking about the need for reform, so law-abiding, hard-working immigrants can find work in this country, help our economy grow, and support their families here and back, mostly, in Mexico. Since this legislation will hurt hundreds of thousands of the very people the administration professes to be concerned about, I would have expected the President to oppose it. Unfortunately, he chose not to do so.

The best thing we could do for our security would be to enact comprehensive and effective immigration reform so we can gain control once again over our borders and focus our limited resources on terrorists and criminals.

Senator FRIST has indicated he is willing to set aside time for a separate debate about immigration later this year, and I know he will follow through on that. That is what he said he would do. The Senate and the American people deserve time to consider this issue and time to revisit many of this legislation's most problematic provisions.

Finally, I think our ability to succeed in Iraq should have received much greater attention in this bill, and immigration should have been dealt with more thoughtfully and thoroughly in a subsequent legislative vehicle. Our troops and taxpayers are expecting solutions and leadership from the President and the Congress. The world is expecting this Nation to live up to some of the lofty immigration rhetoric espoused by the administration early on. I regret the majority acted in this fashion. I look forward to opportunities to revisit these unwise decisions.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, in a few minutes we will vote on the President's war and tsunami supplemental request. I take this opportunity to thank Chairman THAD COCHRAN, as well as Senator BYRD, for their leadership on behalf of our men and women in uniform. This is one of the first major appropriations for Senator COCHRAN under his chairmanship of the full committee, and I do congratulate him for a job superbly done. I also thank Senator STEVENS and Senator INOUYE. I am confident we have a bill that will shortly be overwhelmingly supported on both sides of the aisle.

The legislation before us is absolutely critical to winning the war on terror. It provides $75.9 billion in support of our troops who are out in the field in Iraq and Afghanistan courageously hunting down the enemy, helping rebuild these countries, and spreading freedom and democracy.

We are indebted to our soldiers, and this legislation reflects our deep commitment to their readiness, to their safety, to their families' well-being.

This weekend, U.S. troops launched a major counterinsurgency offensive in western Iraq near the Syrian border. This region has become an infamous smuggling route and sanctuary for foreign jihadists. So far, our troops have killed over 100 of the terrorists, and they continue to press the enemy back.

Meanwhile, this weekend, our military announced the capture of a top Zarqawi associate, Amar Zubaydi. He was apprehended in a raid on his home last Thursday. Zubaydi is an extremely dangerous man. He is believed responsible for multiple car bombings across Baghdad, as well as the attack on the Abu Ghraib prison last month which wounded 44 U.S. troops and 13 detainees. Authorities also discovered he was planning the assassination of a top Iraqi Government official.

The good news is he is now in custody where he can no longer wreak his havoc. Military sources tell us Zubaydi's capture has provided invaluable insights into the Zarqawi wing of the al-Qaida network.

This arrest, along with the capture of Ghassan Amin in late April and Abu Farraj al-Libbi in Pakistan last week, further tightens the noose. Indeed, we intercepted a note by one of their colleagues complaining of the group's low morale.

Osama bin Laden and al-Zarqawi will be brought to justice, just as Saddam and his henchmen now sit in prison. Our brave men and women in uniform and their colleagues across the U.S. Government are risking their lives and working hard every day to bring that moment ever closer.

I urge my fellow Senators to pass the supplemental swiftly so we can get this support to our military men and women in the field—and also, I should add, to the victims of the December tsunami tragedy. The war supplemental includes nearly $880 million in relief funds to help people in countries devastated by that deadly wave.

Furthermore, it includes nearly $630 million to increase security at our borders by hiring 500 new border agents and tightening our driver's license ID requirements.

America is leading the war on terror, and we are making great progress. As this supplemental appropriations demonstrates, we are a strong Nation, and we are a compassionate Nation.

I look forward to an overwhelmingly bipartisan vote on this critical legislation in a few moments. Our troops and our fellow citizens are depending on it.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. FRIST. Mr. President, we yield back the time on our side.

Mr. CONRAD. Mr. President, I yield back our time as well.

The PRESIDING OFFICER. All time has expired.

The question is on adoption of the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 117 Leg.]

YEAS—100

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

The conference report was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

CORRECTING THE ENROLLMENT OF H.R. 1268

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Con. Res. 31, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 31) to correct the enrollment of H.R. 1268.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 31) was agreed to, as follows:

S. CON. RES. 31

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of H.R. 1268, an Act making emergency supplemental appropriations for the fiscal year ending September 30, 2005, and for other purposes, the Clerk of the House of Representatives is hereby authorized and directed to correct section 502 of title V of division B so that clause (ii) of section 106(d)(2)(B) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note), as amended by such section 502, reads as follows:

"(ii) MAXIMUM.—The total number of visas made available under paragraph (1) from unused visas from the fiscal years 2001 through 2004 may not exceed 50,000.".

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Inhofe amendment No. 605, to provide a complete substitute.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SARBANES. Will the Senator yield?

Mr. SHELBY. I yield to my colleague from Maryland.

Mr. SARBANES. Mr. President, I ask unanimous consent that I be permitted to follow the Senator from Alabama, after he completes his statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I rise tonight to speak in support of the Federal Public Transportation Act of 2005. We know it as the Transportation bill. This bill was marked up in the committee on Banking, Housing, and Urban Affairs on March 17 and reported out with a unanimous vote.

I am proud of this legislation which was crafted on a bipartisan basis with cooperation from the distinguished Senator from Maryland, Mr. SARBANES, the committee's ranking member and former chairman.

The Federal Public Transportation Act of 2005 provides record growth for public transportation. The funding authorized in this bill will provide for significant improvements to and expansion of the Nation's transportation infrastructure. I am pleased to be working with my colleagues, Chairman INHOFE from the Environment and Public Works Committee, and Chairman STEVENS from the Commerce, Science and Transportation Committee.

I want to thank my friends from the Finance Committee, Senators GRASSLEY and BAUCUS, for working so diligently to identify additional money for public transportation. Thanks to their efforts the Banking Committee's transit title provides record growth for transportation, $53.8 billion overhis is an increase in the share of transit funding over TEA–21 and I am confident that this money will be helpful in meeting surface transportation needs across the country.

Public transportation services are often the only form of transportation available to many citizens. These services provide mobility to the millions of Americans who cannot, for various reasons, use an automobile. More than 80 million Americans cannot drive or do not have access to a car.

Further, senior citizens are the fastest growing segment of the U.S. population. Many of them require access to public transportation in order to maintain their independence and to access vital healthcare services.

Today, the American public transportation industry consists of nearly 6,000 transit systems in both urban and rural areas. These transportation agencies operate a diverse array of vehicles, including subways, buses, light rail, commuter railroads, ferries, vans, cable cars, aerial tramways, and taxis.

According to the Texas Transportation Institute's 2005 Urban Mobility Report, congestion costs over $63 billion, more than 3.7 billion hours of delay and 2.3 billion gallons of excess fuel annually. The average driver loses more than a week of work each year sitting in gridlock. The same report finds that without public transportation, there would be 1 billion more hours of delay. The report also finds that public transportation reduces the cost of congestion by about $20 billion per year.

Public transportation investments help create employment and sustain economic health. The Department of Transportation has estimated that for every $1 billion in Federal highway and transit investment, 47,500 jobs are created or sustained.

The Transportation Equity Act for the 21st Century, TEA–21, expired on September 30, 2003, and has temporarily been extended through May 31, 2005. The delay in providing a long-term authorization has had a significant impact on State and local governments which have been unable to develop long-term programs for funding. Public transportation represents an important part of the Nation's transportation infrastructure, which by its nature, requires long-term planning and project development. Delays in funding have resulted in project delays which ultimately increase costs and postpone the benefits which projects are designed to produce. The impact is particularly significant in States with short construction seasons since planning must be done well in advance of contracting for construction. Therefore, the committee has responded and taken action to reauthorize the public transportation title of TEA–21 in order to continue the Federal Government's critical role in public transit programs.

This bill accomplishes three important policy goals. It creates funding flexibility, increases accountability, and improves the performance and efficiency of the transit programs in the United States.

The bill creates several new formulas to better address growing transit needs. A "rural low density" formula is created to allow for transit services in sparsely populated areas where employment centers and health care are great distances apart. A "growing states" formula is created to allow communities with populations projected to grow significantly in the coming years to put in place needed transportation infrastructure. A "transit intensive cities" formula is created to address the needs of small communities where the level of transit service exceeds what their population-based formula would provide for. Finally, our bill also creates a "high density" formula to provide additional funding for States with transit needs that are particularly great because they have transit systems in extremely urban areas with high utilization rates.

The bill increases the accountability within the transit program. It rewards transit agencies which deliver projects that are on time, on budget, and provide the benefits that they promised. Further, this bill allows communities to consider more cost-effective, flexible solutions to their transportation needs by opening up eligibility within the New Starts program to non-fixed guideway projects seeking less than $75 million in New Starts funds. With this change, other solutions can be fostered, such as bus rapid transit, which is more flexible than rail at a fraction of the cost.

Finally, the bill seeks to improve the performance and efficiency of transit systems nationwide. It provides incentives for the coordination of human service transportation activities in order to eliminate duplication and overlap. It increases the focus on safety and security needs within transit systems to help insulate them against terrorist attacks. It also enhances the role of the private sector in providing public transportation in an effort to reduce cost and to improve service.

The Federal Public Transportation Act is very good legislation. The funding made available by this bill and the policy initiatives contained in the bill will dramatically improve the public transportation program to help Americans with their mobility needs in both urban and rural areas nationwide.

I commend this bill to the Senate and ask my colleagues for their support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise to join my able and distinguished colleague from Alabama, the chairman of the Senate Banking, Housing, and Urban Affairs Committee, in strong support of the Federal Public Transportation Act of 2005, which has been incorporated into the pending amendment which was offered yesterday by Senator INHOFE, the chairman of the Environment and Public Works Committee.

The Federal Public Transportation Act was reported out by the Banking Committee earlier this year, and, I might add, by a unanimous voice vote. Moreover, although the funding level provided in this bill is lower than in the one we passed last year, the program structure and policy decisions reflected in this bill are almost identical to those included in S. 1072, the Safe, Accountable, Flexible, and Efficient Transportation Act, SAFETEA, which passed the Senate last year with overwhelming bipartisan support.

At the very outset, I express my appreciation to Chairman SHELBY who worked tirelessly on the development of this legislation last year, reaching across the aisle in a cooperative manner to develop a transit bill that will begin to address the urgent needs faced by communities all across the country.

I also want to acknowledge the leadership of the Environment and Public Works Committee, Chairman INHOFE and Ranking Member JEFFORDS; and the Finance Committee Chairman GRASSLEY and Ranking Member BAUCUS, for their efforts to move this very important bill forward.

As has already been observed in this debate, SAFETEA did not emerge from conference last year, regrettably, due in large part to the unwillingness of the administration to support the kind of significant investment needed to meet our pressing transit and highway needs. As a result, we have had to pass six short-term extensions of the previous transportation legislation, TEA-21. The uncertainty inherent in these short-term extensions hinders our State and local partners in their efforts to meet the daily challenges of maintaining our transportation infrastructure and planning for improvements.

I want to express my appreciation to a number of colleagues who worked to provide additional resources for transportation beyond what was reported out by the various committees earlier this year. A higher level of investment is essential if we are to keep up with the increasing demand along our entire transportation network.

I want to say a few words about the transit title, which was supported by every member of the Banking Committee. Over the last several years, the Banking Committee and its Housing and Transportation Subcommittee, under the leadership first of Senator REED of Rhode Island and then more recently of Senator ALLARD of Colorado, has held a series of hearings on the Federal transit program and its contribution to reducing congestion, strengthening our national economy, and improving our quality of life.

Over the course of those hearings, we heard testimony from dozens of witnesses, including Secretary of Transportation Norman Mineta, Federal Transit Administrator Jenna Dorn, representatives of transit agencies from around the country, mayors, business and labor leaders, environmentalists, economic development experts, and transit riders themselves. Virtually all of the witnesses agreed that the investment that had been made under TEA-21 contributed to a renaissance for transit in this country. In fact, transit ridership is up 23 percent since 1995, and is still increasing, even faster than the growth in highway use.

Transit plays a critical role in our efforts to combat congestion. My able colleague, the Chairman of the Committee, Senator SHELBY, made reference to a study released just this week by the Texas Transportation Institute, talking about the tremendous cost to the Nation in lost time and wasted fuel because of congestion—people simply stuck in traffic.

We heard testimony at our hearings about many other important benefits of transit as well. For example, the U.S. Chamber of Commerce testified that $1 billion of capital investment in transit creates almost 50,000 jobs. Moreover, the economic development benefits of transit are becoming more and more apparent as new systems come into service. For example, we heard testimony from one of the county commissioners in Dallas that over $1 billion had been invested in private development along Dallas's existing and future light rail lines, raising nearby property values and supporting thousands of jobs.

We heard from a representative of BellSouth that his company had decided to relocate almost 10,000 employees from scattered sites in suburban Atlanta to three downtown buildings near the MARTA rail stations because, as he put it, transit "saves employees time. It saves employees money. It saves wear and tear on the employees' spirit."

Transit benefits the economy in other ways as well. For example, transit investments in one community can have repercussions in many areas around the country. The president of the American Public Transportation Association, Bill Millar, who has testified before the Senate on a number of occasions, pointed out that when one locality builds a rail system or develops its bus system, the manufacturing or the assembly of those rail cars and buses may well be done in a different jurisdiction. So one has to keep in mind when considering the economic benefits of transit, it is not only the area that is upgrading its transit system that benefits. That area will invariably spend its money on a whole range of supplies and services which are produced elsewhere in the country. As Mr. Millar said:

> While the Federal money would appear to be going one place, the impact of that money tends to go very far and wide.

Of course, transit is about more than our economic life. It is also about our quality of life. During our hearings, we heard a great deal about the importance of transit to our senior citizens, our young people, the disabled, and others who rely on transit for their daily mobility needs. Several of our witnesses observed that the increased investment in transit and paratransit services under the previous bill provided the crucial link between home and a job, school, or a doctor's office, for millions of people who otherwise might not have been able to participate fully in the life of their community. Further, we saw after 9/11 how transit can be an important lifeline in other respects, as well. We had very moving testimony during our hearings about the efforts made by transit operators on that day to move tens of thousands of people quickly and safely out of our city centers.

As a result of transit's many benefits, the demand for transit is continuing to increase all across the Nation. Small towns, rural areas, suburban jurisdictions, and large cities, are all struggling to keep up with the need to provide safe and reliable transit service for their citizens. The Department of Transportation has estimated that very significant sums will be needed to maintain the condition and performance of transit systems across the country.

The transit title authorizes $53.8 billion in transit investment. I am frank to say I believe that the transit needs of the nation would justify even more, but I am pleased to say that under this bill transit will see a significant increase in funding over TEA-21. A strong transit program is essential to our efforts to improve our citizens' mobility and strengthen our national economy.

I want to take just a moment or two to highlight some of the most important features of the amendment before us with respect to transit.

The amendment provides for growth in both the urban and rural formula program, with added emphasis placed on the rural program. The committee was sensitive to the needs of the rural areas of our country, and the rural program will see significant growth in order to help States with large rural areas provide the services their residents need.

The bill also provides increased funding in the Fixed Guideway Modernization Program. This funding is very important to helping cities with older rail systems, which in some cases were built almost a century ago, make the investments needed to preserve those highly successful systems, which literally move millions of people every working day.

The New Starts program, which helps communities make their first major investment in transit as well as expand existing systems, also grows under this bill. The New Starts program will enable communities to address their mobility and development needs with transit investment and to gain the benefits of transit that exist elsewhere in the country.

Furthermore, the amendment maintains the existing 80 percent Federal match on new starts transit projects, and thus continues the parity that has existed between the local match requirement for highway and transit projects. This is a very important factor in ensuring that the investment decision at the local level is not weighted in one direction or the other because of a more favorable local match requirement. Mayor McCory of Charlotte, NC, made this point in one of our hearings when he observed that:

> There's a strong need to keep the program 80–20, as we do for other forms of transportation, including roads. That does send a strong message that transit is as important as our road network.

The bill makes a significant change in the new starts program by allowing new starts funding to be used for the first time to fund transit projects that do not operate along a fixed guideway, as long as the project is seeking less than $75 million in Federal funds. There are only a few examples of such projects currently operating in the Nation, and I hope to work with the Federal Transit Administration to ensure that the FTA develops an appropriate quantitative methodology for evaluating the costs and benefits of such projects, particularly as they relate to land use and economic development impacts.

As we begin to experiment with different forms of transit service, we must be careful not to adversely impact FTA's highly competitive and successful process for moving projects through the New Starts Program.

While the bill preserves the general structure of TEA-21, several new formulas are included to target transit funds more directly to those States and cities with extraordinary transportation needs. The bill includes a new growth and density formula. The growth portion will distribute funds to all States based on their expected future population, and the density portion will provide funding to those States whose populations are above a certain density threshold.

The bill also includes an incentive tier to reward small transit-intensive cities, those cities with a population between 50,000 and 200,000 which provide higher than average amounts of transit service. The funds distributed under these new formulas will help communities address their unique transportation needs.

The bill includes a requirement that metropolitan planning organizations development a public participation plan to ensure that public transportation employees, affected community members, users of public transportation, freight shippers, private sector providers—all the interested parties concerned about the transportation infrastructure—have an opportunity to participate in the transportation plan approval process.

Transportation investments are among the most important decisions made at the local level. I firmly believe all interested parties should have an opportunity to contribute to this process. Our transportation infrastructure is central to making our economy and, indeed, our society work day to day. That is why this is such a critical and important piece of legislation.

Finally, I am pleased that the legislation includes a new Transit in Parks Program to help national parks and other public lands find alternative transportation solutions to the traffic problems they are now facing. This is a program the administration supports. It has very strong bipartisan support in the Senate. It is an effort to address the problem of overcrowding that has come with increased visitation to our national parks and other public lands. In some cases people must wait in long lines to get into a national park, or they get to the entrance and find they are turned back because the park's roads and parking lots are at capacity.

TEA–21 required the Department of Transportation to conduct a study of alternative transportation needs in our national parks and other public lands, and that study confirmed that the parks are ready and willing to develop transit alternatives. This legislation will help the parks make investments in traditional public transit, such as shuttle buses or trolleys, or other types of public transportation appropriate to the park setting, such as waterborne transportation or bicycle and pedestrian facilities.

In closing, let me note that there are a number of other provisions in the legislation that modify previous aspects of the transit programs, but for the most part the committee's intention was not to enact major changes to a program that has worked well.

The committee put a great deal of effort into developing a package that would recognize the various types of transit needs across the Nation. Of course, as with any program with limited resources, no one gets as much as they would like. But given the framework within which the committee had to work, I think we have responded fairly and rationally to the needs that have been expressed to us. All in all, I think this is a balanced package, which I am pleased to commend to my colleagues.

This bill provides essential support to our local and State partners in their efforts to combat congestion and pollution and to ensure that their citizens can access safe and reliable transit services. It is no exaggeration to say this is essential legislation for the future strength and vitality of our economy and of our society, and I urge my colleagues to support it.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. Thune). The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask unanimous consent I be allowed to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. Mr. President, reserving the right to object, and I will not object, I would like to have the Senator add to his unanimous consent request that following his remarks we return to the bill H.R. 3, as amended, for consideration of amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. Stevens are printed in today's Record under "Morning Business.")

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I want to discuss a transportation bill that has been several years and several congressional sessions in the making. For a very long time now, Senator Baucus and I have worked with the various authorizing committees to prudently fund the highway and transit programs. Of course, this has not been an easy process. But last year, we found a way to fund the programs in a way that enabled every State of the Union to bring home more money for needed transportation, particularly for highways. Let me repeat that because it is important. Every Member of the Senate, including those who complained about our funding mechanism, did better under our plan last year.

This year we face a different set of challenges. There are conflicts that arose in last year's conference that are still with us. The conflicts spring from three principles that have proven very difficult to reconcile. I will lay out those conflicts.

The first principle is to get a highway bill that is an improvement over current policy. That is where overwhelming majorities are in both the House and the Senate. We need adequate funding for our transportation infrastructure. We need to do our best to meet the job, economic development, and transportation needs of the country. The authorizers say improved policy requires more trust fund money.

The second principle from conference is deficit reduction. President Bush has rightly put deficit reduction as a key objective in general and applied it to the highway program in particular. Toward that end, the administration has pegged spending at $284 billion in spending over the applicable period.

In conference, the House brought forward a third principle. They made it clear that they would not accept the use of general fund offsets to prevent deficit increases because of the highway bill.

Over the last several years it has been frustrating to see some Members advance all these principles without acknowledging the inherent conflict. They say: Senator GRASSLEY, we need more money for my State for roads or transit. At the same time, these same Members would say: Senator GRASSLEY, why are you paying for it in this way or that way?

So to any complainers, I issue the challenge that I issued last year: If you complain about the additional money that the Finance Committee has found for your State, explain to me how you would do it differently. Would you forgo that money for your State? If you have an alternative, explain to me how you would find the votes for your method of financing. I issued that challenge last year, and somehow I didn't get any takers. I expect complaints again this year despite the smaller numbers involved and don't expect anyone to take me up on the challenge.

Whether folks want to admit it, as we begin floor debate and conference on this bill, it will become increasingly apparent that these three principles conflict. As one who has tried and continues to try to enact a highway bill into law, I have worked very hard to grow trust fund revenues in a way that doesn't increase the deficit or require general fund offsets. While we were able to devise a floor amendment that grows the trust fund without increasing the deficit, we were not able to do so without the use of any general fund offsets. We did get 40 percent of the way there using additional fuel fraud compliance measures. We are filling in most of the $5 billion gap with a small version of the refund proposal which the administration included in its fiscal year 2006 budget.

Finance Committee investigations reveal that many of the refunds are based in fraud, and these steps will contribute to our efforts to close the tax gap. A very small amount of that gap is also bridged by changes to gas guzzler tax administration. We are still awaiting progress on additional fuel fraud measures and loophole closures and plan to fill in the $5 billion gap in conference. In the meantime, we are using other general fund offsets to do that.

Almost none of these general fund offsets are new, as nearly all were included in the Senate-passed JOBS bill last year. Two notable provisions have been added. One of those provisions is intended to improve the administration of the Internal Revenue Service's offer-in-compromise program. The second involves a leasing tax shelter abuse in the transportation sector that we refer to by the acronym SILOs. These were the schemes that allowed big corporations to claim tax deductions for bridges, pipelines, and subways that are paid for with taxpayer dollars but with no risk for the leasing company.

Congress passed the JOBS bill last fall and outlawed these SILOs but not without concessions to the interests of shelter promoters. Under that bill, SILO shelter promoters got more than a year to get their deals-in-process approved by the Department of Transportation. And, of course, I believe that is an outrage. We exerted great effort in Congress to shut down this abuse, but the transition relief in the JOBS bill is a sop to shelter promoters and an insult to American taxpayers. This amendment will end that abuse now, not a year from now.

In committee, we marked up in alignment with the President's $284 billion figure. That was the deal the authorizing committees and this committee made with Leader FRIST to get the bill to the floor. In our Finance Committee markup, I indicated my intent to work on the floor with Senator BAUCUS, the Senate leadership, and authorizers to grow the trust fund revenues in a manner that does not negatively impact the deficit. I believe we have incorporated a Finance Committee amendment that does just that.

I also understand and agree with the House position that we should not mix general fund offsets and trust fund resources. To that end, I want the Senate to know that I commit to working further so that no general fund offsets are required to maintain a sufficient trust fund for the conference agreement.

At the markup, I also asked and I continue to ask the administration to shift its focus away from the top-line $284 billion number and toward the principle of deficit reduction. The bill before the Senate, including our recently added amendment to grow trust fund receipts, is paid for in its entirety principally by cracking down abuse and closing loopholes. In fact, this bill, as currently drafted, actually contributes positively and substantially towards deficit reduction.

I reemphasize that an exclusive focus on the top-line spending number viewed outside of a deficit reduction context will only lead to a repeat of last fall's conference gridlock. Gridlock in conference won't resolve the gridlock on our Nation's highways. So I ask all the key players at each end of Pennsylvania Avenue to focus on main street and work toward a fiscally responsible highway bill.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I wish to make one comment. We are on the bill, and I compliment Senators GRASSLEY and BAUCUS for the great work they have done. We have put together a good bill, and it is necessary to go out to the proper committee, the Finance Committee, to see what we can do to enhance this bill and make it a little bit more robust. They have done a great job, and I compliment them on that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I am very pleased to join in offering the substitute amendment to this bill. This bill is called SAFETEA. It culminates many months of hard work. I commend the chairman, Chairman INHOFE, and Senator BOND, chairman of the transportation subcommittee, and especially the chairman and ranking member of the full committee, Senator GRASSLEY and Senator JEFFORDS, for their hard work.

I especially thank my good friend, Senator GRASSLEY. He is a good man. He is good to work with. He is pragmatic, practical, he cares, he wants good solutions, and he wants to advance the ball. The people of Iowa are very lucky to have him as their Senator. Senator HARKIN is another great Senator from Iowa, but I particularly enjoy working with Senator GRASSLEY. We have a strong working relationship and it means a lot to me personally.

This legislation is critical for Montana and also for the country as a whole. I cannot think of any other legislation that would have such a substantial effect on our Nation's economy. The current transportation program expired in September 2003. Since then, regrettably, Congress has had to enact extensions. We could not come up with a solid 6-year bill. We have had six extensions to the highway program—the most extensions in the history of the program.

Frankly, in addition to all of the substantive good provisions of the bill, it is very important to enact a full 5-year bill rather than going down the road with more and more extensions. The current extension expires at the end of this month, about 3 weeks from now. If we fail to meet the deadline, the program lapses and States will no longer receive their funds. We should not let that happen. We can and should do our work right away. We have already seen an entire construction season go by without a long-term bill. In Montana, we have a very short construction season. Winter weather prevents us from working on our roads all year long. We cannot afford any more delays.

Because Congress has not acted, States are letting fewer bids; it is that simple. Because Congress has not acted, contractors, suppliers, and other construction businesses have less business. Transportation projects are very complex. Any bumps along the way only compound them over time.

Another extension is not a solution. We need to act; we need to act right away. We should act on this bill and head to conference. By approving the substitute amendment and adding funding to the bill, we can speed the process to complete the conference.

While I supported reporting this bill out of the Environment and Public Works Committee because of a commitment made by others to the Republican leader, it was with the firm understanding I would offer an amendment to make substantial improvements to this bill, working in conjunction with other Senators.

That is why we are here today offering this important amendment, which is part of the underlying bill, to increase the authorization and spending levels in this bill.

Chairman GRASSLEY and I have been working for 3 years to develop the financing for the Transportation bill. It is not a simple task. I am pleased to say the chairman and I have proposed a package that does several things.

First, we shore up the highway trust fund to ensure solvency during the life of this bill by providing over $7 billion in additional receipts during the authorization period.

Second, using these receipts, we increase investments in this Nation's infrastructure by $8.9 billion for the highway program and $2.3 billion for the transit program.

Third, we fully pay for the additional highway spending in this amendment. Repeating that, we fully pay for highway spending in this amendment. We do so in a responsible manner.

Let me take a couple moments to comment on the misperceptions and, frankly, outright distortions that I have heard about this amendment.

First, we do not raise gas taxes in this amendment. I will repeat that. We do not raise gasoline taxes.

We can increase resources to the highway trust fund without raising taxes. It is that simple. Don't be fooled by the hysteria of some who flatout oppose more funding for transportation and will say almost anything to defeat our efforts.

I have also heard people say this amendment transfers general fund money to the highway trust fund. That, too, mischaracterizes our proposal.

The other day, Secretary of Transportation Mineta made a very interesting statement. When he described our amendment to raise the investment in transportation, he said: "There is a dark cloud looming on the horizon."

But when his own Department estimated the unmet transportation needs in this country, the Transportation Department said there are more than $325 billion in unmet needs. That figure grows each and every day that we forego maintenance of the transportation system.

This amendment is no dark cloud. Rather, adopting this amendment will part the clouds that others have created over this bill and allow the sun to shine on this bill.

Let me lay out the facts.

The President's 2006 budget submission increased the funding proposed for this bill: While I believe that those levels are still artificially low, I want to acknowledge that effort.

Two efforts by the Finance Committee made possible the President's increased funding in its February budget. The administration's reliance on these developments then makes its criticism of this amendment now ring hollow.

The first reason the President was able to increase his highway funding request was the Finance Committee's work last year on fuel fraud and the ethanol credit.

The President's budget proposal depends on the increased dollars from the fuel fraud provisions and the volumetric ethanol credit that Congress enacted as part of the JOBS Act last year.

Over the years, the Senate spent many hours debating the merits of ethanol incentives. I believe the incentives are good agricultural policy and good energy policy.

But whether you favor the incentives or not, last year, Congress broadly agreed that the highway trust fund should not bear the burden of that subsidy. The volumetric ethanol tax credit in the JOBS bill eliminated that problem, and we do so here again today.

The Finance Committee also developed proposals to reduce fuel tax evasion. We tightened the rules for fuel transfers and increased penalties for noncompliance with the tax laws.

When Senator GRASSLEY and I first introduced the ethanol changes and fuel fraud provisions, we heard some of the same comments and criticisms we hear today.

Yet enactment of these provisions has added more than $17 billion to the highway trust fund for the years 2005 through 2009. The President and the House could not have funded their current $284 billion proposals without those dollars.

Second, the President's 2006 budget submission also included what some call "the refund proposal." This provision relates to the amount currently refunded to States, cities, and schools that are exempt from paying the Federal gas tax.

States, cities, and schools do not pay the Federal fuel tax. They are exempt. That is appropriate. They should be. Right now, when a State, city, or school fills its vehicle with taxed fuel, the organization is entitled to get a refund of the Federal excise tax. They get that refund.

Currently, the general fund pays that refund. Then the highway trust fund repays the general fund. That doesn't make sense.

All we are saying in this amendment is that the highway trust fund should not have to reimburse the general fund for the amount of the refund. It is that simple. Those are vehicles traveling on the highways. We do not raise taxes on State and local governments, not one penny.

Vehicles used by State and local governments still cause the same wear and tear on our roads as vehicles owned by entities that pay Federal gas taxes. So the highway trust fund should not have to bear the burden of the exemption.

Some in the administration, and others, call this an "accounting gimmick." That is flatly not the case. The administration uses the same refund mechanism to pay for the President's Transportation bill.

If it was not an "accounting gimmick" in February, when the President submitted his budget, then it is not an "accounting gimmick" for Congress to use the same mechanism now. It is not a gimmick anyway.

In addition to the elements contained in the President's budget, let me briefly describe the other provisions that increase receipts in the highway trust fund.

The amendment will increase collections of present-law fuel taxes. The amendment will improve tax compliance with respect to blend stocks used in gasoline.

The proposal prevents the blending of untaxed chemicals with gasoline by imposing the Federal excise tax when blendstocks are removed from the bulk system.

We make sure that kerosene used on the highways is taxed as diesel fuel, and we improve the rules for tax-free fuel purchases by requiring appropriate certification that an entity is exempt from the fuel taxes.

The amendment also dedicates the gas-guzzler tax to the highway trust fund. Today this transportation excise tax goes to the general fund. That does not make any sense. It belongs in the highway trust fund. After all, these are vehicles that travel on the highways. It belongs in the highway trust fund with the rest of the Federal excise taxes that are imposed on vehicles and fuels. This proposal does not take current dollars out of the general fund, but when the guzzler tax is paid in the future, it will go to the highway trust fund.

The amendment maintains the integrity of the highway trust fund. The highway program will be paid entirely by transportation excise taxes to the highway trust fund. But because more transportation taxes will now rightfully go to the highway trust fund, there will be a gap to fill in the general fund.

We make the general fund whole by including revenue-raisers that are not related to highways. These are good policy loophole closers. Everybody would want to vote for these regardless, just standing alone. They are the sort of provisions the Senate has passed before.

All in all, it is a win-win situation. This bill pays for highways legitimately and replenishes the general fund legitimately.

On April 27, the majority leader stood on the Senate floor and said this about the Transportation bill:

> I am confident by working together we can get this done, and we can demonstrate reasonable fiscal restraint.

At the Finance Committee markup, I made that same statement that we would be responsible in this new funding amendment. We have done that. We have been responsible.

I commend my colleagues who voted for the Talent-Wyden amendment to this year's budget resolution. That amendment firmly stated that new receipts to the highway trust fund should be available and spent in this bill. Eighty-one of us supported that amendment. That is an overwhelming majority of the Senate supporting additional transportation funding in this bill, all paid for.

Mr. President, I say to my colleagues, this amendment provides the funding they voted for in the budget resolution. Each of the 81 Senators who supported the budget resolution amendment should support this new money.

Why are we working so hard to increase the funding in this bill? Let me explain why we have not just given in and gone along.

Every billion dollars in infrastructure investment creates nearly 47,500 jobs—every billion dollars. That is important. Over the life of the bill, we will sustain more than 2 million good-paying jobs.

Highway jobs are jobs that stay in the United States. You cannot export highway jobs. You cannot outsource highway jobs. They are not shipped overseas. This bill will affect all Americans whether they build the road or drive on the road.

Our economy could sure use a boost, and one certain way is to produce jobs through this bill. It is a jobs bill.

This bill is an economic engine for my State of Montana. The last Transportation bill, TEA-21, provided more than $1.2 billion in my State and helped sustain more than 11,000 jobs. With the increased funding in this substitute amendment, Montana and every other State in the country will receive a much needed increase in economic growth and development, all paid for.

This amendment will also allow us to make some modest changes to the formulas in the SAFETEA bill. We made changes for both donor and donee States. For the donee States, we have increased the guaranteed funding from 110 percent of TEA-21 levels up to 115 percent each year of the bill—each and every year. From a 110-percent increase to a 115-percent increase—that is for the donee States.

For the donor States, we have provided funding to bring every donor State to 91 cents on the dollar beginning in 2006, with an additional guarantee of 92 cents in 2009.

I know this is not what everybody wanted, but we have limited funds. We cannot do everything for everyone. I hope that as this debate continues, my colleagues will understand the very difficult task of drafting a national formula. We must work together. Prior transportation bills have never been partisan fights. It is very important. There is no such thing as a Republican road or a Democratic road; they are American roads.

I remember fondly working with Senator Daniel Patrick Moynihan on ISTEA in 1991. We had good debates on the future of transportation policy. He had such vision, and ISTEA reflected that vision.

In 1998, I worked closely with two dear friends developing TEA-21—the late Senator John Chafee of Rhode Island and Senator JOHN WARNER of Virginia. We worked side by side through many long nights and hours of discussions. Each of us brought a different perspective to the table. I represented the needs of rural and Western and Midwestern States. Senator Chafee represented the Northeastern States, and Senator WARNER represented the donor States, generally Southern States. Each of us recognized that with a national transportation program, we had to balance the needs of each constituency. I believe we put together a good product in TEA-21. Was it perfect? Of course not, but it moved our country forward. Did I get everything I wanted for my State? No. We did not get to write legislation in a vacuum. We had to work together.

The bill before us is balanced. We have worked hard to balance the needs of the various States, each with different interests but with a common purpose. We have worked hard to balance the needs of highways and transit. It is time for us to finish the job. We have substantial differences with the House. We need to get this bill to conference so we can iron those differences out.

Legislating is the art of compromise. I have been fortunate to represent the people of Montana in this Capitol for the last 30 years. In that time, I have worked on hundreds of pieces of legislation that have become law. To craft these measures, I have worked with Members on both sides of the aisle—with Members on my side and Members of the other side—because, after all, we all are Senators. I have not received everything I wanted. I have had to give a little bit. That is what we all do around here. We are a nation of 50 States with different needs. I hope my colleagues will continue to work with us on the Senate floor with that in mind. There are small States, there are large States, there are urban States, there are rural States, there are donor States, and there are donee States. We have done our very best to balance the various needs.

Our ability to address many of the outstanding issues depends on the added funding this amendment provides. We could not balance them without this added funding. Without additional funding in this bill, we cannot make further changes. It is that simple.

To my friends who have come to me over these past weeks asking for more money for their States, I simply say: Now is the time to stand and be counted. Now is the time to complete action on this bill and invest in our future. Let us not allow gridlock in Congress to cause gridlock on the main streets of America. Let us adopt this amendment and provide the funding our transportation system needs. Let us move this bill to help get our economy moving.

Mr. President, I again thank all those concerned. I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I know there are a number of my colleagues waiting to speak this evening. I assure them I will take a minute and then yield the floor.

CLOTURE MOTION

Mr. McCONNELL. Mr. President, I send a cloture motion to the desk on the pending substitute.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending substitute to Calendar No. 69, H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Bill Frist, James Inhofe, David Vitter, Thad Cochran, Norm Coleman, Jim DeMint, Richard Shelby, Orrin Hatch, Kit Bond, Chuck Grassley, Pete Domenici, Jim Talent, Richard G. Lugar, John Thune, Bob Bennett, George Allen, Mitch McConnell.

Mr. McCONNELL. Mr. President, I now send a cloture motion to the desk on the underlying bill.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate to Calendar No. 69, H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Bill Frist, James Inhofe, David Vitter, Thad Cochran, Norm Coleman, Jim

DeMint, Richard Shelby, Orrin Hatch, Kit Bond, Chuck Grassley, Pete Domenici, Jim Talent, Richard G. Lugar, John Thune, Bob Bennett, George Allen, Mitch McConnell.

Mr. MCCONNELL. Mr. President, I say to all of our colleagues that votes on these cloture motions will occur on Thursday. Before we adjourn tonight, there will be additional information on the balance of the schedule for the week.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator from Montana for his comments and a very excellent explanation as to how the Finance Committee is coming up with some more money to try to make this a better bill.

Senator JEFFORDS and I have been trying to get people to come down with amendments for several days now. We are pleased that Senator Hutchinson and Senator NELSON of Nebraska have an amendment. It is one to which we have agreed, but there may be others who want to be heard on it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 617 TO AMENDMENT NO. 605

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself, Mr. NELSON of Nebraska, Mr. BURNS, Mr. SHELBY, Mr. PRYOR, and Mr. GRAHAM, proposes an amendment numbered 617.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the number of facilities at which the Secretary may collect tolls in the State of Virginia)

On page 250, strike lines 17 through 19 and insert the following:

(B) by striking paragraph (2) and inserting the following:

"(2) LIMITATION.—The Secretary may permit the collection of tolls under this subsection on 1 facility in the State of Virginia.";

Mrs. HUTCHISON. Mr. President, this is an amendment that is going to try to take away the right of States to put tolls on interstate highways that have already been paid for and built by the taxpayers of our country. Recently, there has been a renewed interest in expanding opportunities to toll our Nation's interstate highway system. The interstate system was conceived and built with Federal tax dollars, so tolling interstates amounts to double taxation.

Today, I, along with Senators NELSON of Nebraska, SHELBY, BURNS, AND PRYOR, offer an amendment which simply repeals a provision from the previous highway bill, TEA-21, the Interstate System Reconstruction and Rehabilitation Pilot Program, which is known as the interstate tolling program, which is fundamentally unfair to taxpayers.

I have said if local communities and States want to come together and build a toll road, they should be able to do it. In these situations, the taxpayers know what they are getting into. Many times a vote is required to issue bonds, but at any rate the taxpayers can hold the elected officials accountable. To allow unelected transportation officials to simply install a toll booth on facilities already paid for by Federal tax dollars is unacceptable.

Tolling existing highways will also increase the number of drivers on the free roads, resulting in greater congestion and more accidents. Studies show that drivers will choose to bypass the tolls by driving on local, small roads. We also know that tolls on existing interstates will produce substantial diversion of truck traffic to other roads, and our rural roads are not equipped to handle significant truck traffic.

In Ohio, traffic tripled on US–20 after toll increases on the Ohio Turnpike. Unfortunately, fatal accidents on US–20 are now 17 times more common than those on the turnpike. In response, Ohio's Department of Transportation decided to lower the tolls, even though the action did reduce the revenues for the State.

A recent study predicted that a 25-cent-per-mile toll on an interstate would cause nearly half the trucks to divert to other routes. This is an understandable economic decision for trucking companies considering that truckers' profit margins average 2 to 4 cents per mile and the rising price of gasoline has already affected profitability. Technology already exists to help truckers and other drivers evade tolls in a cost-effective manner. It does not make sense to invest in tolls that people will not pay.

Tolling interstates would reduce the safety of nearby local roads, degrade the quality of life in neighboring areas, and hurt the economy. Eighty percent of the Nation's goods travel by truck, and they will travel more slowly and expensively if tolls are imposed on interstates.

The Federal Government collects taxes to fund the Federal interstate highway system. The States should not have the right to come in and impose another tax via a toll. The idea of tolling Texas highways is more concerning to me because the Federal highway program has treated my home State pretty poorly. Texas is the single largest donor State over the program's 50 years of history. We have the most highway miles of any State and our drivers have contributed billions to other States to enable them to build their portion of the Federal highway network.

In this bill, we will get a 91-cent return. It is better than the previous 5 years, but I am going to continue to work for parity. I have always defended States rights, but the flexibility to toll interstates has a clear effect on interstate commerce and fundamental fairness. If Arkansas, for example, decided to toll I-40, all deliveries coming into or out of Texas on I-40 would be subject to that toll. In effect, Texas businesses and citizens would be taxed for using that highway. As a donor State, our taxes have already helped to finance it. So it is clear from the studies that tolling an interstate will shift traffic to other roads and potentially to other States.

These States would not share in the toll revenue but would bear the brunt of the costs for more accidents on their roads, more traffic, pollution, and added highway maintenance and expansion costs. I cannot support a program which could shift new traffic and related burdens to our State and others.

The underlying SAFETEA bill establishes a commission to explore alternative sources of transportation revenue. The commission should be allowed to complete its work before we start experimenting with tolls or any other alternative.

At the request of Senator WARNER, we have modified the amendment to limit the interstate tolling program to the Commonwealth of Virginia. The senior Senator from Virginia and the State's congressional delegation have been working with Virginia's Department of Transportation for more than 3 years on the I–81 project. Virginia is the only State with an active application pending before the U.S. Department of Transportation. While I disagree with implementing this program, I am willing to defer to Senator WARNER on the need to allow Virginia to finish its application and have therefore agreed to this modification.

I am going to defer to the Senator from Nebraska, who is one of the cosponsors of the bill. I hope we will be able to pass this amendment. It is very important that the taxpayers of America know they are going to have the opportunity to use this interstate system their tax dollars for 50 years have gone to build.

The purpose of having an interstate system was so we would have seamless transportation into all of our States and it is very important we keep those highways that have already been built free highways for the citizens who have already paid for them. I urge the support of my colleagues.

I defer to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I thank my colleague from Texas, Senator PRYOR, and others for supporting and cosponsoring this legislation, which I think is extremely important. There are several points that need to be made about it. One is to point out what it does not do. It does not prevent tolling. Tolling on new construction and on additional construction on existing highways will be continued to be permitted. What it does do, as a matter of fairness, is it stops the equivalent of double taxation on existing highways already paid for by the Federal gas tax and in many cases State gas tax dollars.

What this will avoid having is an additional tax now put on those highways in the name and in the form of a toll, perhaps a little less ominous sounding than a tax. If one looks at the net effect of putting a toll on an already paid-for stretch of highway, it amounts to an additional tax, in this case double taxation.

The second point that is important to make about this bill is it is a matter of highway safety. All studies will indicate very clearly that if there is a choice between a toll road and a nontoll road, it is most likely that truckers and other drivers will seek to use that nontoll road. In many cases, that is not going to present a matter of safety, but in all too many cases it will redirect traffic and reroute traffic to older, smaller, and less capable roads of handling that additional traffic. That not only will be a burden for the roads and will deteriorate the roads at a faster rate than was originally planned in their construction, but it will also raise the amount of traffic in many cases on two-lane highways or smaller highways and will increase the safety factor. I think it is pretty clear that we would ordinarily not take away the right of a State to do this. But under these circumstances, where we are allowing tolling of existing lanes on the Interstate Highway System, that is bad policy and it is absolutely unfair.

This amendment does not affect the State's ability to finance new construction using tolls, as perhaps some thought. But it does affect the right to do it in the case of existing highways.

I urge my colleagues to support this amendment. We worked out the questions that have been raised with respect to the State of Virginia. We believe that has now been handled, and this legislation should pass as part of this important bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I understand there is no further debate on the amendment. I see the Senator from Texas wishing to urge the adoption of this amendment. We have no objection. It is a good amendment and I urge its passage.

The PRESIDING OFFICER. Is there further debate?

Mrs. HUTCHISON. I thank my colleague from Nebraska for being a cosponsor of the amendment. My colleague, Senator NELSON, signed on very early, as did Senator BURNS. I really appreciate that.

Mr. President, I urge the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 617) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mrs. HUTCHISON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I ask unanimous consent I may proceed as in morning business for the next 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BURNS and Mr. BAUCUS are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise in support of the Safe Accountable, Flexible and Efficient Transportation Act of 2005 and the cloture motion that was filed this evening.

First, I commend Senators INHOFE, JEFFORDS, BOND, BAUCUS, GRASSLEY, SHELBY, SARBANES, STEVENS and INOUYE and their staffs for their hard work and strong leadership in putting together a bipartisan bill. As a member of the Environmental and Public Works Committee, I am pleased to have been a part of this effort.

In the last Congress, I was a conferee for the bill and we worked in a bipartisan fashion, but we were unable to get the bill across the finish line. To expedite the process this year, this bill is essentially the same language that the Senate passed the last time around with the support of 76 Senators. The only difference is the numbers have been adjusted to reflect a lower spending level.

I call on the President and my colleagues in both the House and the Senate to work expeditiously to get this bill enacted into law as soon as possible.

We have serious needs to our aging infrastructure. The deterioration of our Nation's transportation system is impacting our economy, the environment, and the welfare of the American people. Passage of a transportation bill cannot be delayed any further due to these needs and the numerous jobs it creates. It is simply too important to our Nation in terms of its benefits to our economy and environment and to a safe and equitable transportation system.

A new substitute amendment was added to this bill yesterday which increases the total guaranteed Federal investment in highway and transit funds to $251 billion, about an $11 billion increase. I am pleased that the Finance Committee, under the leadership of Senators GRASSLEY and BAUCUS, was able to fully offset this increase so as not to increase the debt, as Senator GRASSLEY spoke so eloquently about it earlier today.

It is my understanding the bill remains budget neutral. I think it is important that everyone understand that. It is budget neutral because many of these offsets were included in the Senate-passed version of the JOBS bill last year. They passed the Senate but were taken out in the conference committee on the JOBS bill, so they are available to us as offsets in this bill.

Second, offsets are included in the bill which go after the proliferation of abusive tax shelters used by individuals and corporations and include increased criminal fines and penalties for those committing those abuses.

Additionally, these offsets include efforts to target fuel tax evasion schemes to ensure that additional money is available to properly fund the highway bill.

In 1998, the Transportation Equity Act for the 21st Century, TEA–21, was enacted, increasing the Federal investment in highways and transit by nearly 40 percent. This bill increases funding over TEA–21 by about 35 percent. Now, people will hear those numbers, and they will think: Wow, that is an enormous increase in spending. But listen to some of these facts.

While the total funding is still well below what I and several of my colleagues think is appropriate and necessary, I support this bill because it represents a compromise between the Senate-passed bill last Congress and the level the President has requested. I commend the managers of the bill for their hard work in finding this middle ground.

As I mentioned, this legislation is modest, given the need. It falls far short of the level that would improve and even maintain our Nation's highway system. Frankly, the bill that passed last Congress was not enough, either.

According to the Federal Highway Administration's 2002 Conditions and Performance Report, $106.9 billion is needed every year through 2020. It is needed to maintain and improve our highways and bridges. And just to maintain the system, $75.9 billion is needed annually through 2020.

This bill contains $199 billion in guaranteed funding for highways for 5 years. This is only an average of about $36.5 billion annually, which is $70.4 billion below what is needed to improve and $38.8 billion below what is needed to maintain the system. So this is not some gigantic porkbarrel ripoff legislation. It is a modest attempt to meet the needs we have in our country.

Additionally—and I will go into this more later—I would have liked donor States to get back more of each dollar they put in the highway trust fund. However, the inadequate funding pales in comparison to the need to pass a bill now. TEA–21 expired on September 30, 2003. That was 19 months ago, and we are still trying to get a bill done. This program has been operating under a total of six short-term extensions, and the next extension expires at the end of this month.

Our States and our workers cannot afford for us to simply pass another extension. We cannot pass another extension. State contract awards for the 2005 spring and summer construction season are going out to bid. If we fail to enact a bill by the end of this month, States will not know what to expect in Federal funding, potentially delaying many projects.

According to a survey conducted by the American Association of State Highway Transportation Officials, another extension could mean the loss of over 90,000 jobs and $2.1 billion in project delays.

This is the most significant jobs bill we will pass this Congress. We have an opportunity with this bill not only to improve and repair our crumbling highways and bridges but to create good-paying jobs at the same time.

The transportation construction industry generates more than $200 billion in economic activity and helps sustain 2.5 million jobs in the United States each year. According to the U.S. Department of Transportation, every $1 billion invested in highway construction creates 47,500 jobs and generates more than $2 billion in economic activity. This economic activity includes $500 million in new orders for the manufacturing sector that is so desperately needed in my State.

AASHTO estimates that over the next 5 years, the highway portion of this bill would create about 518,000 jobs nationally and 23,000 jobs in the State of Ohio. Perhaps even more importantly, let me reiterate that the failure to pass this bill could cause the loss of 90,000 jobs across the country.

It is also estimated that every dollar invested in the Nation's highway system generates $5.70 in economic benefits, including reduced delays, improved safety, and reduced vehicle operating costs. This is a 6-to-1 return on investment. It has a synergistic effect on so many parts of our economy.

Ohio's "just in time" economy cannot afford any further delays in passing this bill, as transportation congestion seriously threatens our competitiveness. Our aging infrastructure is also impacting people in their pocketbooks. Nationwide, 162,000 bridges are structurally deficient or functionally obsolete, and 160,000 miles of highway pavement are in poor or mediocre condition. Americans pay $49 billion a year in extra vehicle repairs and operating costs due to road conditions. This is an average of $255 per driver in the United States of America.

Americans also pay due to increased congestion and poor road conditions. The average urban rush-hour driver spends almost 62 additional hours a year stuck in traffic—62 additional hours a year stuck in traffic. Vehicles caught in stop-and-go traffic emit far more emissions than they do without frequent acceleration and breaking. Traffic congestion is also responsible for 5.7 billion gallons of wasted gasoline every year. Wasted fuel and lost productivity due to traffic congestion costs the U.S. economy nearly $70 billion annually. So this issue of highway construction, repair, and maintenance has a dramatic impact on the quality of life of our fellow Americans.

It not only costs our economy and environment, but also lives. Nearly 43,000 people were killed on America's roads in 2003. Poor road conditions were a factor in one-third of those fatalities. In Ohio, 1,277 people were killed on roads in 2003, and the number increased to 1,285 in 2004. The Federal Government predicts highway fatalities will grow to nearly 52,000 by 2009, absent any new Federal investment in highway safety. Studies report that every $1 billion invested in road improvements since 1950 has helped prevent 1,400 premature deaths and nearly 50,000 injuries, as well as helped save over $2 billion in health care, insurance, lost wages, and productivity costs.

If we continue to ignore the upkeep and allow the deterioration of our infrastructure, we risk disruptions in commerce and reduced protection for public safety, health, and the environment.

This bill is extremely important to my State, which has one of the largest surface transportation networks in the country. There are 60 public transit systems serving 58 of Ohio's 88 counties. This is a statistic that I am sure my fellow Ohioans are not aware of. In 2003, these systems made approximately 135 million trips. Ohio has the Nation's fourth largest rural transportation program, the fifth largest bus fleet, the ninth most transit vehicle miles traveled, and the tenth highest overall ridership in the Nation.

The American Public Transportation Association estimates that for every $10 million spent, 310 jobs are created, and $30 million in business sales is generated. For transit, Ohio will receive $884 million, which is about $220 million more, or a 33-percent increase over TEA–21.

In terms of highways, Ohio has the Nation's seventh largest highway network, fifth highest volume of traffic, fourth largest interstate highway network, and the second largest inventory of bridges in the country.

Under TEA–21, Ohio received a 23-percent increase in highway funding. This bill will provide Ohio with $7.7 billion, which is about $1.91 billion more, or a 33-percent increase over TEA–21.

Throughout my career, I have been working to ensure that Ohio receives its fair share of highway funding. Through the 1990s, we moved from receiving less than 80 percent of our contributions to the highway trust fund to 90.5 percent under TEA–21.

This is, again, one of my top priorities for reauthorization.

Early this year, along with 19 cosponsors, Senator CARL LEVIN and I introduced legislation, the Highway Funding Equity Act of 2005, to increase donor States' minimum rate of return to 95 percent. It has been a pleasure to lead this effort on behalf of the SHARE—States' Highway Alliance for Real Equity—coalition in the Senate. This bill increases the guaranteed share for all donor States to 92 percent by 2009. While it is not the 95 percent we sought, I recognize that it is a compromise, and the Ohio Department of Transportation has told me it is sufficient.

First and foremost, ODOT has made it clear they need a bill with an increased level of investment signed into law as soon as possible. I hope all of my colleagues have the same kind of pressure being put on them by their respective DOT directors. The bill increases funding by 35 percent over TEA–21. In order to get it enacted before the extension at the end of the month expires, the bill must be passed this week.

Second, Ohio needs to no longer be penalized for consuming ethanol-blended fuel. That is one of the issues we worked on during the last several years. Because we are a high ethanol user and because of the fact that money didn't go into the highway trust fund, we were losing about $140 million a year. I cosponsored language last Congress, written by Senator GRASSLEY, to transfer 2.5 cents of the Federal tax on ethanol-blended fuel from the general fund of the Treasury to the highway account of the highway trust fund and to replace the 5.2 cents per gallon reduced tax rate for ethanol-blended fuel with a tax credit.

Fortunately, we were able to make these changes last Congress in the JOBS bill which means $400 million in increased funding for Ohio over the life of this bill.

Our Department of Transportation has informed me they need a 91-percent rate of return to meet Ohio's transportation goals over the life of this bill. Again, this bill takes us to 92 percent. Because of this, our Ohio Department of Transportation will be able to move forward with their Jobs and Progress Plan, a $5 billion, 10-year Ohio construction program dedicated to Ohio's most pressing congestion, safety, and rural access needs. This plan is possible because Ohio approved a State motor vehicle fuel tax increase in 2003 to provide half of the funding. This new construction program in Ohio will employ approximately 3,950 construction workers directly and another 9,850 indirect highway jobs. The citizens of Ohio should be proud of the fact that they reached into their pockets to increase their gas tax so Ohio will be a leader in this country in responding to its highway needs.

The Ohio Jobs in Progress Plan is going to help finance several major projects throughout the State, including a $350 million project to rebuild I-75 in Dayton, a $400 million project to begin rebuilding the central viaduct or, as we in Cleveland call it, "dead man's curve," and a $600 million project to improve the I-70/I-71 split in Columbus. It also includes investments in high crash locations and the freight corridors such as U.S. 24 and U.S. 30 in northwest Ohio.

In addition, the bill provides funding for $202 million worth of projects that ODOT has ready to go but no funding. The 128 projects on the shelf range from major reconstruction to traffic signals.

Finally, I have a few comments about the environmental planning and project delivery provisions of this bill. As chairman of the Clean Air, Climate Change, and Nuclear Safety Subcommittee, and the past chairman of the Transportation and Infrastructure Subcommittee, I understand full well the importance and significance of the overlap between highway planning and air quality.

As requested by Federal, State, and local officials, this bill makes important improvements to the conformity process by synchronizing planning and conformity timelines and requirements. It also modifies the Congestion Mitigation and Air Quality Improvement Program, called CMAQ, to include nonattainment areas for the new ozone and particulate matter standards. EPA has designated about 500 counties in this Nation as in nonattainment, including 33 counties in Ohio. These areas will need all the help they can get to attain the new standards, and the CMAQ Program will help to pay for those things that need to be done.

While these are two areas in which I believe we made progress, I believe we could have done more with the metropolitan and statewide planning and transportation project delivery provisions in this bill. As a former Governor, I was frustrated at how long it took to do a highway project from the beginning to the end. As Senator, I have wanted to do something meaningful on this issue since I was chairman of the Subcommittee on Transportation and Infrastructure. While I was chairman, I held a number of oversight hearings on the implementation of the streamlining provisions included in TEA-21. Although I have not introduced any amendments on this matter, I look forward to continuing to work with my colleagues on this issue as this bill moves forward. It takes too long to build a highway in the United States.

I do want to mention an area where I think we have made good progress. This is with the section 4(f) provisions of the bill. Last Congress, I proposed an amendment on this after working with a bipartisan and diverse group to develop a compromise such as the National Trust for Historic Preservation, the American Association of State Highway and Transportation Officials. I am pleased these provisions are included in this bill as the process has caused more delay in my State than any other planning or environmental review requirement. This is a requirement of Federal law in terms of where you can put a highway, in terms of areas that involve historical places or parks and so forth. As a result of that, it has slowed down our ability to move forward with highway construction.

As I mentioned, the 4(f) reforms are a true compromise—not far enough for some and perhaps too far for others. I have numerous examples of this cumbersome process. I will not go into them tonight.

I urge my colleagues who have concerns with these provisions to contact me so I can discuss the problem and how we reach a balanced solution.

I urge my colleagues to support the bill and the cloture motion filed on it. The current surface transportation authorization expires at the end of the month. We have to get this bill out of the Senate now. I urge my colleagues to work to achieve that, get it into conference, get it done, get it passed, get the President to sign it, and let's make sure that what APTA predicts doesn't happen, and that is, if we don't get this bill passed, we are going to lose 90,000 jobs.

Mrs. FEINSTEIN. Mr. President, I would like to take a few minutes today to talk about the Transportation reauthorization bill before us and why I believe it is necessary to pass a transportation bill before the authorization ends on May 31, 2005.

The Transportation reauthorization bill is a jobs bill. According to the U.S. Department of Transportation, each $1 billion in new infrastructure investment creates 47,500 new jobs: 26,500 of these are directly related to construction, engineering, contracting, and other on-site employees, and 21,000 are indirect jobs resulting from the spending associated with the investment.

Improving our transportation infrastructure is one of the critical things we can do to create jobs.

My State, California, needs a robust transportation bill to help clean the air, ease congestion on the roads, and create jobs. However, I do have some concerns about this bill.

As a representative of a donor State, I am extremely disappointed that so many States are still being asked to give more than they receive in Federal transportation dollars. I believe that this bill does not adequately address the problems of donor States like my State of California.

California currently has a 90.5 percent rate of return. In other words, for every dollar California sends to Washington, it gets back only 90 ½ cents for maintenance and improvement of our highways.

Transportation is the backbone of California's economy. Our seaports handle about half of all cargo that comes into the United States, and the State is also home to two of the nation's busiest ports—Los Angeles/Long Beach and Oakland.

Three-quarters of all goods shipped from California's ports are now transported by truck along California's roads.

We need our roads to be equipped to handle the flow of these goods and the truck traffic that comes with it.

Regrettably, these roads are in desperate need of repair. More than 70 percent of California's major local and State road miles are rated in poor or mediocre condition-compared with a national average of 28 percent—and 38 percent of the State's overpasses and bridges are structurally deficient or functionally obsolete.

As a result, California's 21 million motorists pay an average of $555 each, or a total of $12 billion, in extra vehicle operating costs annually. These costs include wasted fuel, pothole damage, and shortened vehicle lifespan.

At the same time, travel on California's roads nearly doubled between 1980 and 2000, while the population increased only 42 percent.

We are all familiar with pictures of California's gridlock—cars sitting on our freeways, moving at a snail's pace.

The facts bear out the images. Out of the top five congested urban areas in the Nation, California has three. Los Angeles is the most congested, followed by San Francisco-Oakland. San Diego is the fifth most congested area in the country.

In LA County, 85 percent of freeway lane miles are congested, and Los Angeles motorists waste 177 hours a year per driver.

Traffic congestion in California costs motorists $20.7 billion annually in lost time and fuel. And with rising fuel costs, that total is only going to increase.

I am also concerned with the Senate bill's changes to the Congestion Management and Air Quality Improvement Program, or CMAQ. The CMAQ formula currently apportions funds to states based on the severity of ozone and carbon monoxide pollution. The Senate bill proposes to change the formula so that CMAQ awards to areas with ozone pollution, regardless of the severity of that pollution.

The Los Angeles Metropolitan Transit Authority, LAMTA, estimates that this "one-size fits all" approach could cost California as much as $160 million in CMAQ grants over 4 years.

This change is a huge problem for California. California has six non-attainment areas for air quality, and 70 percent of the State in the reformulated gasoline program because our air is so dirty.

In addition, according to a study by the American Lung Association in 2004, nine of the twenty smoggiest cities in the United States are located in my home State, California.

California needs the CMAQ funds to pay for highway enhancements to ease the flow of traffic and reduce the amount of time trucks and cars are idling and spewing pollution into the air.

California also relies heavily on public transportation, and the bill needs to adequately fund mass transit programs.

California has some of the largest regional transportation systems in the country including Bay Area Rapid Transit—BART, CalTrain—the rail service between San Francisco and San Jose, and Metrolink—Southern California's regional transit system.

These programs help reduce the number of cars on the road, which in turn, reduces air pollution, and decreases the amount of time my constituents have to spend commuting every day.

Californians are facing a serious dilemma. Without adequate Federal highway dollars, local communities will not be able to eliminate bottlenecks on highways and make necessary air quality improvements. As a result, they will remain out of conformity with Federal air quality regulations, and will lose even more Federal highway dollars. This is a never-ending cycle and has failed to make any strides in helping reduce our air pollution.

That is why I support toll roads as an option to provide the needed revenue to make improvements to our roads. I am pleased that the Senate bill includes a toll road pilot program and hope that the program is flexible enough to allow the State to use the tolls to meet its goods movement infrastructure needs.

I would also ask the Environment and Public Works Committee to consider an amendment that would allow tolling revenue in extreme non-attainment areas to be used to mitigate air quality impacts that are imposed upon those communities by heavy duty trucks moving goods from California's ports to areas throughout the country.

I am also pleased that the bill will allow hybrid vehicles access to high occupancy vehicle—HOV—lanes. Without this authorization, California and other States, such as Arizona, Virginia, Colorado, and Georgia will lose their Federal highway dollars by implementing their own State laws to allow hybrids to access these lanes.

This provision would increase traffic mobility and also serves as an important incentive to get more hybrids on the road, an innovative solution to reduce our dependence on oil.

I would like to thank the Commerce Committee for including language in the bill that would require the Department of Transportation to conduct a study of predatory towing practices. Tow truck companies act without any local, State or Federal regulation. While most are good actors, there are a few that have taken advantage of the lack of regulation to prey on consumers. This has become a huge problem throughout California, and in other areas including Virginia and Arizona. This study will determine the impact of predatory towing practices and propose potential remedies to dealing with them.

While I have concerns about the fairness of the funding formulas, I also realize that without a transportation bill, California's communities will lack the money they need to plan major infrastructure projects. As a result, I plan to support this bill and hope that the conferees will keep in mind the needs of the donor States such as California.

Mr. HARKIN. Mr. President, I would like the RECORD to indicate that yesterday I was necessarily absent for the vote on the Talent amendment to the Highway bill, but had I been present I would have voted in favor of the amendment.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent to proceed in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOHN BOLTON

Mr. SESSIONS. Mr. President, there have been a lot of complaints lately over John Bolton, the President's nominee to be United States Ambassador to the United Nations.

Mr. Bolton is an excellent choice for this position, as both his experience and leadership qualities prove. He graduated from Yale Law School, joined a prestigious firm, one of the country's great law firms, Covington & Burling. He worked there until 1981. He began his career in public service at the U.S. Agency for International Development, first as general counsel, then as assistant administrator for program and policy coordination. This was good training for him for his potential future role with the U.N.

From 1985 to 1989, he was an assistant attorney general in the U.S. Department of Justice. I got to know him at that time because I was a U.S. attorney in Alabama when he served in the Department of Justice in the prestigious office of legal counsel. From 1989 to 1993, he was again involved in international organizational issues when he served as Assistant Secretary of State for international organizational affairs. Mr. Bolton was confirmed by the Senate for both of those positions.

From 1993 to 1999, he was again in private practice, as a partner with the law firm of Lerner, Reed, Bolton, and McManus. In 2001, he became Under Secretary of State for Arms Control and International Security. I believe he was confirmed once again in that position by the Senate.

This was excellent experience for him. He dealt with issues relating to world security. Some say Mr. Bolton does not believe in the United Nations, multilateralism, and diplomacy. That statement is false.

The President of the United States recently stated in a television interview that he asked Bolton if he supported the U.N. before he, the President, agreed to nominate him. Mr. Bolton answered that he did. Despite what others have been alleging, the facts show—and Mr. Bolton has proven time and again—that he believes in the U.N. That is why he has been such an effective advocate for honest diplomacy and an effective U.N.

For example, he was a pioneer in helping to construct the G-8 global partnership to help keep secure dangerous technologies and materials, and to help stop the spread of dangerous weapons throughout the world. This global initiative will provide $20 billion through 2012 to achieve these goals of making the world a safer place, by working with other nations.

Mr. Bolton was the President's point man in designing the Proliferation Security Initiative, the PSI. Over 60 nations are now working together, coordinated by John Bolton, to share intelligence, and are taking action to stop the transfer of dangerous weapons throughout the world. He has even done pro bono work for the U.N. in Africa, giving of his time for free to help those in need.

He also worked closely and effectively with the U.N. when he served as Assistant Secretary of State in the State Department for International Organizations, from 1989 to 1992.

He has been instrumental in galvanizing U.N. agencies such as the IAEA, the International Atomic Energy Agency, to take concrete steps to actually make the world safer from weapons of mass destruction—not just to talk about it, but to do something about it. Isn't that effective multilateral leadership? I certainly think so.

He was the driving force in the U.N. Security Council Resolution 1540 to get countries to take meaningful steps to stop the spread of dangerous weapons.

He has clearly been instrumental in both diplomacy and multilateralism and has proven to be an advocate of a United Nations that fulfills its potential, its calling, to make the world safer, and to help people throughout the world develop to their fullest.

He will not, however, be an enabler of a dysfunctional U.N. John Bolton has supported reform within the U.N. to help make it a better organization. This reform effort should not be misconstrued as opposition to the U.N. but, rather, as constructive and effective criticism. When parents discipline their children, it is not because they don't support them or believe in them. In fact, it is exactly the opposite. Good parents set guidelines and high standards for their children to guide them in life and to make them more responsible adults. If you love your children, you want them to reach their highest and best potential. That is exactly what John Bolton has done with the U.N.

He has not come out against the U.N. He has not vehemently opposed the U.N., as some of my colleagues would have you believe. He has worked within the system to advocate reform in an effort to better the organization, to ensure that U.N. programs achieve their intended purpose.

Under Bolton's leadership at the United Nations, when he served as Assistant Secretary of State in the administration of the elder George Bush, the U.N. General Assembly repealed, by a vote of 111 to 25, a resolution that described Zionism as a form of racism. Resolution 3379 originally passed in 1975—72 votes for, 35 against—decreeing that Zionism was a form of racism. Sixty-seven percent of the nations at that time voted for it. It was widely recognized as a sad day for the U.N. Secretary of State Condoleezza Rice described Bolton as the "principal architect" of the 1991 reversal of that resolution. Bolton recently referred to resolution 3379 as "the greatest stain on the U.N.'s reputation" and called its reversal "one highlight of my professional career."

Thomas M. Boyd, a fine former official in the Department of Justice who was Mr. Bolton's deputy when he was Assistant Attorney General in the U.S. Department of Justice, described the situation this way in a recent editorial in the Boston Globe:

> Starting in the summer of 1991 and continuing well into the early fall, Bolton arrived at his office early each morning and began calling ambassadors around the world, as well as here in Washington, one by one, each time using his keen mind and reputation for bluntness to their full effect. Citing from memory Senator Moynihan's November 10, 1975, contention that "the United States declares that it does not acknowledge, and will not abide by, it will never acquiesce in this infamous act." Bolton refused to accept their excuses and their schedule conflicts and called repeatedly until he talked on multiple occasions to virtually every ambassador whose country would be called upon to cast a vote. In time, his perseverance began to winnow down the naysayers.

As a direct result of this effort, the hate-ridden resolution was overwhelmingly repealed on December 16, 1991. Let me point out an important aspect of this story. As Mr. Boyd noted, many in the State Department told him he should not pursue the repeal, that it could not be done, and that it wasn't worth the effort. But because John Bolton is a man of integrity, conviction, courage, and determination, he didn't see it that way. He didn't follow the advice of the professional bureaucrats and the State Department officials who said it could not be done. Instead, he worked tirelessly to do something that some people thought could not be done. He did the right thing, and he should be saluted for that. There is, indeed, a strength of character that is to be noted here.

A terrible wrong had been righted with this repeal, and Mr. Bolton had not only shown his skill in diplomacy, but his determination to do what is right. Isn't that what good diplomacy is? It is not just seeing if you can get along and agree with everybody's ideas, but holding forth good ideals, good values, fighting for them, and actually winning people over to vote for the right thing. That is what good diplomacy is, what leadership is—not blindly going along with people's ideas whether they are correct or not. He is a good man, a courageous man, who will make a tremendous ambassador to the U.N.

John Bolton realizes the benefits possible to the world through an effective U.N., and for that reason he has worked hard to make sure it stays a credible organization. You cannot blame him for being concerned about the United Nations. I certainly am. With the numerous allegations of corruption at the U.N., we need a frank and aggressive ambassador leading the American efforts there.

Last month, the Washington Times reported that two senior investigators with the U.N. committee probing corruption in the Oil for Food Program have resigned in protest. These investigators believe the report that cleared Kofi Annan of meddling in the $64 billion operation was too soft on the Secretary General.

The investigators believed the so-called independent inquiry committee, which was appointed by Secretary General Kofi Annan in April of 2004, played down findings critical of Mr. Annan when it released an interim report in late March relating to his son. This scandal has only gotten more complicated this week as it now seems that one of the investigators has turned over potentially incriminating evidence against Kofi Annan to a House congressional committee.

This scandal has been described by some as the greatest scandal in the history of the world. Scandals such as these undermine the United Nations. They distract it from its intended purpose of promoting international peace and security. These scandals and mismanagement waste money that could be used for peacekeeping, medical care, economic development, and education in poor countries around the world. This money might help prevent hostilities, famine, and revolutions that disrupt these areas of the globe.

We need a U.S. ambassador to the U.N. who has both diplomacy and tenacity as leadership qualities. Mr. Bolton has both of these qualities.

One of my esteemed colleagues has alleged that Mr. Bolton blocked certain information from going to Secretary Powell and Secretary Rice. There is no basis for this claim. Richard Boucher, the spokesman for the State Department, has expressly refuted the allegation, calling it "silly" and stating that "nothing of that type occurred."

Another colleague said Mr. Bolton tried to skew weapons of mass destruction intelligence on Iraq, Syria, and Cuba. Again, false.

In every instance, whether talking about Iraq's weapons of mass destruction program, Cuba's biological weapons, or Syria's weapons program, Mr. Bolton's speeches were cleared by the U.S. intelligence community; that is, he submitted his comments to the intelligence community for them to review to make sure nothing he said was incorrect. They cleared those speeches. There is no evidence whatsoever that Mr. Bolton skewed anything. The allocations are false.

On the contrary, there are scores of highly credible individuals who testify to his honesty and excellent candidacy for the position. For instance, I have a letter from former Prime Minister Margaret Thatcher to John Bolton expressing her strong support for Mr. Bolton. It is fitting that she should support John Bolton, particularly in light of the comments that he is too tough, too outspoken, too frank, too blunt. Those same criticisms were made about Lady Thatcher in 1975, earning her the nickname the Iron Lady. She embraced that nickname, famously asserting:

> If you lead a country like Britain, a strong country, a country which has taken a lead in world affairs in good times and in bad, a country that is always reliable, then you have to have a touch of iron about you.

She was absolutely right, and the same holds true in this case. If our ambassador is going to represent the world's great superpower in the United Nations, an organization, unfortunately, that has been riddled with corruption and strong opposition by certain members to the values we hold dear, he must have a touch of iron about him, and he does.

Say what you will about John Bolton, weakness is not one of his weaknesses.

I ask unanimous consent that the letter from Lady Thatcher be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAY 4, 2005.

Hon. JOHN R. BOLTON,
Undersecretary of State for Arms Control and International Security.

DEAR JOHN: I am writing this letter in order to let you know how strongly I support your nomination as U.S. ambassador to the United Nations. On the basis of our years of friendship, I know from experience the great qualities you will bring to that demanding post.

To combine, as you do, clarity of thought, courtesy of expression and an unshakable commitment to justice is rare in any walk of life. But it is particularly so in international affairs. A capacity for straight talking rather than peddling half-truths is a strength and not a disadvantage in diplomacy. Particularly in the case of a great power like America, it is essential that people know where you stand and assume that you mean what you say. With you at the UN, they will do both. Those same qualities are also required for any serious reform of the United Nations itself, without which cooperation between nations to defend and extend liberty will be far more difficult.

I cannot imagine anyone better fitted to undertake these tasks than you.

All good wishes;
Yours ever,
MARGARET.

Mr. SESSIONS. Mr. President, this letter of April 5, 2005, is signed by 13 giants of American diplomacy, including five Secretaries of State and two Secretaries of Defense in support of John Bolton. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Washington, DC, April 5, 2005.

Senator RICHARD G. LUGAR,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We write to urge that the Senate act expeditiously to confirm John Bolton as our ambassador to the United Nations. This is a moment when unprecedented turbulence at the United Nations is creating momentum for much needed reform. It is a moment when we must have an ambassador in place whose knowledge, experience, dedication and drive will be vital to protecting the American interest in an effective, forward-looking United Nations.

In his position as Undersecretary of State, John Bolton has taken the lead in strengthening international community approaches to the daunting problem of the proliferation of nuclear and other weapons of mass destruction (WMD). As a result of his hard work, intellectual as well as operational, the G-8 has supported U.S. proposals to strengthen safeguards and verification at the International Atomic Energy Agency and the Proliferation Security Initiative was launched and established within three months—a world speed record in these complex, multilateral matters. Moreover, Secretary Bolton led the successful effort to complete the negotiation of UN Security Council Resolution 1540, adopted unanimously in April, 2004. UN 1540 called on member states to criminalize the proliferation of WMD—which it declared to be a threat to international peace and security—and to enact strict export controls.

Secretary Bolton, like the Administration, has his critics, of course. Anyone as energetic and effective as John is bound to encounter those who disagree with some or even all of the Administration's policies. But the policies for which he is sometimes criticized are those of the President and the Department of State which he has served with loyalty, honor and distinction.

Strong supporters of the United Nations understand the challenges it now faces. With his service as assistant secretary of state for international organizations, where he was instrumental in securing the repeal of the repugnant resolution equating Zionism with racism, and as undersecretary for arms control and international security, we believe John Bolton will bring great skill and energy to meeting those challenges.

Sincerely yours,

Hon. David Abshire, former Assistant Secretary of State, Hon. Kenneth Adelman, former Director, Arms Control Disarmament Agency, Hon. Richard Allen, former Assistant to the President for National Security, Hon. James Baker, former Secretary of State, Hon. Frank Carlucci, former Secretary of Defense, Hon. Lawrence Eagleburger, former Secretary of State, Hon. Al Haig, former Secretary of State, Ambassador Max Kampelman, former Ambassador and Head of the U.S. Delegation to the Negotiations with the Soviet Union on Nuclear and Space Arms, Ambassador Jeane Kirkpatrick, former Ambassador to the United Nations, Hon. Henry Kissinger, former Secretary of State, Hon. James Schlesinger, former Secretary of Defense, Hon. George Shultz, former Secretary of State, Hon. Helmut Sonnenfeldt, former Counselor, Department of State.

Mr. SESSIONS. Mr. President, for over three decades, John Bolton has had an effective working relationship with foreign governments, international institutions, nongovernmental organizations, and the private sector. He is a man who gets results. As Secretary Rice said:

> The President has nominated John Bolton because he gets things done.

That is exactly what we need for the U.N. ambassador. John Bolton is the man for the job.

Mr. President, I am proud to support him, and I do believe his nomination will be moving forward this week. I think this Senate should promptly move to confirm him in this important position.

60TH ANNIVERSARY OF V-E DAY

Mr. STEVENS. Mr. President, this past Sunday, the 8th of May, marked the 60th anniversary of the Allied victory in Europe during World War II. I have come to the floor today to honor those who served in that war and to mention our colleagues who answered the call of duty then.

When I first came to the Senate, I think more than half of the Senate had served in World War II. There are few of us left who served during that war, and in the Senate only five: Senator AKAKA, Senator INOUYE, Senator LAUTENBERG, Senator WARNER, and myself.

That war was an enormous effort that involved our Nation's total manpower. Sixteen million Americans answered the call to serve, and more than 400,000 of them gave what Lincoln once called "the last full measure of devotion."

Here at home, Americans of all walks of life supported the war effort. Children collected rubber, tin, and steel. Families rationed food and gasoline. And women, in unprecedented numbers, took their place in industry and produced the tools that enabled us to win the war. They joined fields which had once been closed to them, and they never looked back.

When I went into the service, as most of my generation did, I was fortunate to do what I wanted to do, which was to fly. Sixty years ago, for those of us who served, every day was a milestone. Every day marked another step toward victory.

Today, we only recognize a handful of those days: Pearl Harbor Day, D-day, V-J Day, and V-E Day—which is what I speak of today.

There were so many who stepped forward when our country needed us, who sacrificed on the battlefield and here at home so we could win that war. It was a time defined by heroism, and it is hard to single out any one person who did heroic things. But I am here to remind the Senate that my friend, Senator INOUYE, was a hero.

In military history there is a select group of men who have suffered grave injuries on the battlefield, continued their military careers, and gone on to further greatness. Horatio Nelson, Joshua Chamberlain, and John Bell Hood are all men who were tested on and off the battlefield, and their legacies endure.

Among these men, Senator DAN INOUYE stands out because he overcame so much more just to become a soldier and waited so long to have his heroism officially recognized with the Congressional Medal of Honor.

It is hard to sum up my respect and admiration for my great colleague and friend from Hawaii. Our friendship has spanned many decades now, and we call each other truly brothers. We are brothers. I can think of no man I respect more.

Last month, Senator REID came to the floor to honor Senator INOUYE's service during World War II, also. Senator REID said:

> Dan Inouye is a step above all of us.

I agree with Senator REID. As a World War II veteran, I am here to salute DAN INOUYE. His courage and bravery and sense of duty are an inspiration to not only his Senate colleagues, but I feel to all Americans. In a time when men made the extraordinary seem ordinary, DAN INOUYE stood out as a hero among men.

I would like to read part of the citation for action that resulted in Senator INOUYE's Congressional Medal of Honor. Senator INOUYE was recognized for valor in combat in the Italian campaign in a battle just 17 days before V-E Day. The citation says:

> With complete disregard for his personal safety, Second Lieutenant Inouye crawled up the treacherous slope to within five yards of the nearest machine gun and hurled two grenades, destroying the emplacement. Before the enemy could retaliate, he stood up and neutralized a second machine gun nest. Although wounded by a sniper's bullet, he continued to engage other hostile positions at close range until an exploding grenade shattered his right arm.

Despite the intense pain, he refused evacuation and continued to direct his platoon until enemy resistance was broken and his men were again deployed in defensive positions. In the attack, 25 enemy soldiers were killed and eight others captured. By his gallant, aggressive tactics and by his indomitable leadership. Second Lieutenant INOUYE enabled his platoon to advance through formidable resistance, and was instrumental in the capture of the ridge. Second Lieutenant INOUYE's extraordinary heroism and devotion to duty are in keeping with the highest traditions of military service and reflect great credit on him, his unit, and the United States Army.

On the battlefield and in Congress, DAN INOUYE has faithfully served our country, his state of Hawaii, and the men and women of the military.

It is men such as DAN INOUYE who inspired the phrase the "Greatest Generation." I hope we remember all of them today.

I thank the Chair.

Mr. BURNS. Mr. President, yesterday we introduced a bill that would bring relief to some of the folks in my State of Montana. As you know, in the 1950s, nuclear testing was held in Nevada. Of course, from this testing, there was some radiation drift. The major source of this radiation comes from nuclear explosions from a Nevada test site, which is located about 65 miles north of Las Vegas.

In studies by the National Cancer Institute, and a report that was recently released by the National Academy of Sciences, we find that the State of Montana was left out of any compensation that was given to victims of downwind exposure to radiation. In fact, according to the National Cancer Institute, certain areas of Montana have been exposed to the highest dose, ranging from 12 rads to 16 rads. The National Cancer Institute's charts give you some idea of the effects of the nuclear test site in Nevada. Of course, up in our part of the country, we fall victim to southwesterly winds. If you notice, my State of Montana shows up with more darker red areas on the chart than any other region of the United States, which means that we received some of the highest doses of radiation.

Montana is home to 15 of the 25 counties with the highest radiation dosage nationwide and the county receiving the highest dose in the country is Meagher County, MT.

Individuals who were affected from this nuclear testing are often called downwinders—because the wind carried the poisonous Iodine-131 north, when the gravity finally kicked in and it settled to the ground. People can be exposed to radiation from nuclear testing fallout through external radiation like a plume or a cloud passing over a region. They can also be exposed by radioactivity deposited on the ground and remaining there for long periods of time, or by the internal exposure to radioactivity that accumulates in the body from inhalation or ingestion of plants, meat or milk. Milk is the primary source of Iodine-131 and disproportionately affects milk drinkers. Who drinks milk? Children and babies who are the most vulnerable of our society.

This discussion leads us to the topic of thyroid cancer. The thyroid gland will absorb about 30 percent of radioactive Iodine-131 in the human body. Thyroid cancer is slow in development as it takes 10 to 40 years to manifest itself. This means that radiation exposure in the late 1950s might not manifest as cancer until the 1990s.

This chart compares the rates of thyroid cancer nationwide and in my state of Montana. Between years 1989 and 2003, the rate of thyroid cancer diagnosis nationwide increased by 38 percent. At the same time, the thyroid cancer rate in my State of Montana increased by a whopping 127 percent.

The 1990 Radiation Exposure Compensation Act and RECA Amendments of 2000 offer lump-sum payments of $50,000 to civilians who were living in States deemed as downwind from the nuclear testing in Nevada and who contracted a specific type of cancer. States where downwinders can currently receive compensation include Nevada, Utah, and Arizona. It is important to note that Montana was not included under this law. Yet a report just released by the National Academy of Sciences shows that Montana received the highest radiation dosage.

Accordingly, a most recent study on this issue shows the absorbed radiation dose to the thyroid of a person born in 1948 who resided for the entire period in Montana is 250 milligrays. This dosage is higher than most, if not all, regions presently eligible for compensation under RECA.

My bill, S. 977, would allow Montanans who were adversely affected by this nuclear testing to be counted among those folks currently eligible to receive $50,000 in compensation. Those eligible for $50,000 would also receive compensation in the form of free medical treatments for the diseases they have contracted from the exposure.

The fact is, Montanans were involuntarily subjected to increased risk of injury and disease in order to serve the national security interests of the United States, and they deserve our compassion and our support.

I strongly encourage my colleagues to support S. 977, to expand RECA to victims in the State of Montana.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank my colleague from Montana for doing something about this problem. It is a huge problem. He has identified it. He has some solutions, he has some ideas, and we will work with him, as I am sure other Senators will in States also affected by this problem. I compliment him for raising the issue and finding a solution.

ADLER PLANETARIUM'S 75TH ANNIVERSARY

Mr. DURBIN. Mr. President, on Thursday, May 12, 2005, the Adler Planetarium, the first planetarium in America and in the Western Hemisphere, will mark its 75th anniversary.

Max Adler recognized a need to exhibit artifacts from the history of astronomy to the public, and so he founded the Adler Planetarium and Astronomy Museum in 1930. Originally, it housed a collection of about 500 astronomical, navigational, and mathematical instruments that would become the foundation for Alder's History of Astronomy Collection. Today, this collection has grown to almost 2000 astronomical artifacts dating from the 12th to the 20th centuries. Included in this collection is the world's oldest known window sundial from 1529; a telescope made by William Herschel, the astronomer who discovered Uranus; and a collection of rare books comprising more than 2000 volumes, some of which were printed before the 1500s.

Over the past 75 years, the Adler's history has been marked by several milestones. In 1933, light from the star Arcturus was successfully converted into electrical signals that turned on the lights for the opening ceremonies of the 1933 Century of Progress Exposition. In 1964, the Adler Planetarium partnered with the National Science Foundation and began offering the Astro-Science Workshop, a program designed to challenge Chicago area high school students who demonstrate an exceptional aptitude for science.

In 1999, the Adler Planetarium underwent renovations that produced the Sky Pavilion, a 60,000 square-foot glass-enclosed addition that includes five new exhibit galleries and a café overlooking the lakefront and the Chicago skyline. The highlight of this renovation is the StarRider Theater, which, through the use of state-of-the-art computer projection technologies and a sophisticated audience participation system, creates a 3–D virtual reality experience for all those who visit.

Earlier this year, the Adler Planetarium was selected by NASA as the education partner for the Interstellar Boundary Explorer mission to be launched in 2008. This mission will examine the characteristics of the region of space between the solar system and deep space where the solar wind protects Earth and the rest of the solar system from cosmic radiation.

I know that my colleagues join me in congratulating the Adler Planetarium on this important day. I hope all who are involved with the Planetarium will take pride in their important work as they celebrate this anniversary, and I wish them continued success in the years to come.

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS ROBERT W. MURRAY JR.

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Westfield. Robert Murray, 21 years old, died on April 29 when a bomb exploded beside his vehicle during a reconnaissance mission in Tal Afar. With his entire life before him, Robert risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

After graduating from Westfield High School in 2002, Robert attended Indiana State University where he studied aviation management. He was a licensed pilot and a musician who decided to join the Army because of family history and a sense of patriotism and duty after the tragic events of 9/11. Friends and colleagues remember him as a determined and well-liked individual with a good sense of humor. His mother Katrina Murray released a statement praising her son's heroism, saying, "From an early age, Robert wanted to enter the military. This was the path he chose, and I want to honor his choice by remembering him as a hero who served his country proudly and made the ultimate sacrifice. He will be missed by our entire family and his many friends. He brought so much joy and laughter." I stand here today to express the same sentiments of pride in this young Hoosier and gratitude for his sacrifices and for those made by the Murray family on behalf of our country.

Robert was killed while serving his country in Operation Iraqi Freedom. He was assigned to the 2nd Squadron, 3rd Armored Cavalry Regiment, based in Fort Carson, CO. This brave young soldier leaves behind his father Robert W. Murray Sr. his mother Katrina and his two sisters.

Today, I join Robert's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Robert, a memory that will burn brightly during these continuing days of conflict and grief.

Robert was known for his dedication to his family and his love of country. Today and always, Robert will be remembered by family members, friends, and fellow Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Robert's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Robert's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Robert W. Murray, Jr. in the official record of the Senate for his service to this country and for his profound commitment to freedom, democracy, and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Robert's can find comfort in the words of the prophet Isaiah, who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Robert.

PRIVATE FIRST CLASS DARREN DEBLANC

Mr. BAYH. Mr. President, I also rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Evansville. Darren DeBlanc, 20 years old, died on April 29 when a roadside bomb exploded during his patrol in Baghdad. With his entire life before him, Darren risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

A 2003 graduate of Reitz High School, Darren was only 2 weeks away from returning home to Evansville when this tragedy occurred. In March, he had been decorated for his bravery in Iraq with a Purple Heart, after surviving an earlier bomb attack. Darren had a carefully laid plan for his life: he intended to finish his 3-year commitment to the Army, then take classes in law enforcement in the hopes of boosting his application to join the Evansville police force with his brother. Friends and family recount that he was an outgoing, driven, and personable young man with a promising future ahead of him. His mother Judy Woolard told a local television station, "I know if he is looking down on us, he is very proud with the way his life ended because if he was to go, this was the way, trying to help other people." I stand here today to express Indiana's gratitude for Darren's sacrifices and for those made by his family on behalf of our country.

Darren was killed while serving his country in Operation Iraqi Freedom. He was assigned to the 10th Mountain Division, based out of Fort Drum, New York. This brave young soldier leaves behind his father Michael DeBlanc, Sr., his mother Judy Woolard, and his older brother Michael DeBlanc, Jr.

Today, I join Darren's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Darren, a memory that will burn brightly during these continuing days of conflict and grief.

Darren was known for his dedication to his family and his love of country. Today and always, Darren will be remembered by family members, friends and fellow Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Darren's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Darren's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Darren DeBlanc in the official record of the Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Darren's can find comfort in the words of the prophet Isaiah, who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Darren.

WOMEN'S HEALTH OFFICE ACT

Ms. SNOWE. Mr. President, this is National Women's Health Week, and it is certainly fitting to take stock of both our successes in promoting women's health while looking at the challenges ahead.

Historically, women's health care needs have been poorly understood. While the obvious differences between the sexes are indisputable, it was assumed that those differences had limited implications, resulting in women being systematically excluded from health research studies. Too often, only men were studied and considered the health care "norm" for both genders.

Of course, for a few diseases such as ovarian or breast cancer, the study of women was an absolute requirement. However, for so many others, women were excluded. Sometimes we heard that it would cost more to include women in trials because more participants would need to be enrolled—since research results would need to be analyzed separately for both men and women. That certainly sounds like a recognition that men and women can differ quite substantially.

As researchers have looked, they have found so many times where a single difference between the sexes has so many other ramifications for health and disease. For example, because every child is genetically unique and different from both parents, childbearing requires the ability of a woman to have periods of lowered immunity in her reproductive tract. This is also a major contributor to her susceptibility to gynecologic infections, and it helps explain why women are much more susceptible to sexually transmitted diseases. This is critical knowledge when one is trying to protect women from HIV and that knowledge simply must be reflected in strategies for protecting women.

Remember that men and women differ genetically—that was obvious from our earliest study of genetics . . . an entire chromosome is different. As we learn more about the human genome, and how genes interact, we doubtless will discover more differences which must be reflected in health decisions. There can be no doubt that whenever we fail to see women properly represented in health research, we risk causing major harm. One recent example is so notable.

When one federally funded study examined the ability of aspirin to prevent heart attacks in 20,000 medical doctors, all of whom were men, physicians were left to assume that the protective effect may apply to women as well. So for years physicians have been left to assume that aspirin had the same effect in women but we simply didn't know. Yet we do know that the pattern of heart disease in women is different than in men. Heart disease develops a bit later about 10 years later. Despite this, heart disease kills more women than men, more than either breast or ovarian cancer! So in March of this year when we finally learned that aspirin does not have the same effect in women as in men, we saw more evidence that assuming there is no difference between men and women is no substitute for conducting proper research.

Sex differences in health are so numerous. Osteoporosis is far more common in women—as is depression. While women have the ability to modulate our immunity to bear a child, it is ironic that we suffer far more autoimmune disease than men. For example, 9 of 10 lupus sufferers are women! Drugs and alcohol affect us differently from men as well even a woman's response to anesthesia is different than a man's. So one can see it is a critical problem when we fail to discover such differences. It compromises the quality of health care for more than half of all Americans!

Many of us have worked for years to achieve equal representation of women in health research. Since 1990 when the Society for Women's Health Research was founded, we have had a voice to help us in our effort to promote the inclusion of women in health care research, and to educate all of us about sex differences in health and disease. The Society is to be commended for its tireless efforts to increase our understanding of sex differences.

Today we know that equity does not yet exist in health care, and we have a long way to go. Progress has been made—we have seen an Office of Women's Health established at the NIH, and the research at the Institutes has reflected that representation. In fact, we see that not only women but also children and minorities are being better represented in health research today.

I introduced the Women's Health Office Act to help address the sex-based disparities in research and policy. This legislation provides permanent authorization for offices of women's health in five Federal agencies: the Department of Health and Human Services; the Centers for Disease Control and Prevention; the Agency for Healthcare Research and Quality; the Health Resources and Services Administration; and the Food and Drug Administration. Currently, only two women's health offices in the Federal Government have statutory authorization: the Office of Research on Women's Health at the National Institutes of Health and the Office for Women's Services within the Substance Abuse and Mental Health Services Administration.

With some offices established, but not authorized, the needs of women could be compromised without the consent of Congress. We must create statutory authority for these offices, to ensure that health policy flows from fact, not assumption. Improving the health of American women requires a far greater understanding of women's health needs and conditions, and ongoing evaluation in the areas of research, education, prevention, treatment and the delivery of services and passage of this legislation will help ensure that.

I call on my colleagues to join me in supporting this legislation, which will ensure better health for our mothers, our sisters, our daughters, here and abroad.

Thank you, Mr. President.

NATIONAL HEPATITIS B AWARENESS WEEK

Mrs. FEINSTEIN. Mr. President, I rise today to recognize the week of May 9, 2005 as National Hepatitis B Awareness Week.

I thank Senator SANTORUM, who introduced this resolution with me, as well as Senators SPECTER, STABENOW, INOUYE, and DURBIN who cosponsored it.

In the United States today, more than 1.25 million Americans are infected with hepatitis B. Chronic hepatitis B is often called a "silent disease" because more than two-thirds of patients infected with the disease have no symptoms or their symptoms go unrecognized.

Chronic hepatitis B infection is a potentially life threatening disease that may lead to cirrhosis of the liver, liver failure and liver cancer. More than half a million people worldwide die each year from primary liver cancer, and up to 80 percent of primary liver cancers are caused by chronic hepatitis B. In the United States, more than one million people have developed chronic hepatitis B infection and more than 5,000 Americans die from hepatitis B and hepatitis B-related liver complications each year.

Despite these alarming statistics, however, it is estimated that only a small percentage of chronic hepatitis B patients are currently receiving treatment for their disease. Approximately 15 to 40 percent of chronically infected hepatitis B patients will develop liver disease due to long-term exposure. Of chronic hepatitis B patients who develop cirrhosis, almost half of them may die within five years because of the high risk of liver cancer associated with the progression of the disease.

Upon closer examination of hepatitis B, researchers have found alarmingly disproportionate rates of infection among Asian Pacific Islanders and African Americans. In the U.S., as many as one out of ten Asian Pacific Islanders Americans are chronically infected with the hepatitis B virus.

California has initiated a number of programs to ensure that we are working to stop the transmission of Hepatitis B through vaccine programs and disease management programs intended to make living with the disease more comfortable.

I recognize the Association of Asian Pacific Community Health Organizations, AAPCHO, which is based in Oakland, CA, and the partners across the country with whom they are working to demystify and educate citizens about hepatitis B.

During National Hepatitis B Awareness Week, the "AIM for the B: Awareness, Involvement and Mobilization for Chronic Hepatitis B" campaign will consist of a series of local awareness forums and educational roundtables featuring doctors, patients and families and patient advocates. Two will be held in California—one in San Francisco and one in San Jose—in addition to various other sites around the country to raise awareness and open the dialogue about chronic hepatitis B, prevention, disease management, and future advances.

It is my hope that National Hepatitis B Awareness Week will raise the profile of hepatitis B, facilitate open dialogue about what we can do in our families and communities to stop the transmission of this disease and arm ourselves with the knowledge to fight back against hepatitis B.

We possess the weapons to combat hepatitis B, including vaccination and treatment. For those infected, treatment options exist that are designed to stop the progression of liver disease and reduce liver damage. As we recognize National Hepatitis B Awareness Week, I encourage Americans who may be at risk for chronic hepatitis B to get tested for the disease, and physicians and patients to understand there is a large group of patients who do need treatment right now.

I ask my colleagues to join me in recognizing the great strides made in hepatitis B awareness and treatment and acknowledge the ongoing battle during National Hepatitis B Awareness Week.

IN MEMORY OF MIGUEL CONTRERAS

Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to my friend and fellow Californian Miguel Contreras, secretary-treasurer of the Los Angeles County Federation of Labor, AFL–CIO who died suddenly of a heart attack on Friday, May 6 at the age of 52.

Working families and the Latino community lost a great champion with the passing of Miguel Contreras.

As the son of migrant farmworkers Miguel also labored in the agriculture fields of California. Yet through his passion to ensure equity and fairness for workers, Miguel advanced to become one of the premier leaders in the local, State, and national labor movement.

As a young man Miguel worked with Cesar Chavez of the United Farm Workers Union to organize farm workers to secure improved working conditions and better wages.

In 1996, Miguel became the executive secretary-treasurer of the Los Angeles County Federation of Labor, AFL–CIO.

Under his leadership the Los Angeles County Federation of Labor grew to become a powerful voice for working men and women of Los Angeles County.

Miguel was the driving force behind the transformation of an organization that went from a union of 125,000 members to a multi-ethnic coalition of union workers now nearly 800,000 strong.

Through his leadership Miguel led a union-sponsored grass roots political drive that played a significant role in deciding the outcome of five Los Angeles congressional seats and countless state and local races.

Miguel tirelessly spent his life working to empower others, no matter their station in life.

While Miguel Contreras may be remembered most for his tenacity as a labor leader and role model for the Latino community, his efforts to secure a better future for American workers everywhere will live on.

My deepest sympathy goes out to his wife Maria Elena Durazo and their two sons, Michael and Mario.

Mrs. BOXER. Mr. President, I am deeply saddened to inform you of the passing of Miguel Contreras, secretary-treasurer for the Los Angeles County Federation of Labor, AFL–CIO. I would like to take a few moments to recognize the many important accomplishments of Miguel Contreras and the tremendous impact he made on the labor movement.

Miguel led the Los Angeles County Federation of Labor for nearly a decade. During his tenure, he continuously fought for the rights of laborers, and did so with great success. Through his guidance and leadership, The Los Angeles County Federation of Labor entered a period of unprecedented advancement and success.

Miguel Contreras was a man with humble beginnings. The son of farm workers, he began working in the fields of California's Central Valley at a very young age. With his early exposure to the difficult life of a farm worker, he quickly joined the ranks of political activists in labor as a volunteer with the United Farm Workers of America. He stood with Cesar Chavez and the UFW during their national grape boycott, and continued the fight for workers for the remaining years of his life.

In 1996, Miguel Contreras became the first Latino to win the post of secretary-treasurer for the Los Angeles County Federation of Labor, AFL–CIO—comprising 350 local unions and more than 800,000 members. Under his leadership, The Los Angeles County Federation of Labor had seen phenomenal growth. He coordinated many successful labor rights victories including the labor dispute of 2000 when 8,500 janitors from Service Employees International Union, SEIU, Local 1877 fought for and won a higher standard of living and better working conditions.

Fighting for the rights of laborers was at the core of Miguel Contreras' beliefs, an attribute which made him a great leader for laborers throughout the State of California. He cared about regular people and timelessly worked for their welfare.

I invite all of my colleagues to join me and the many mourning members of the labor community in recognizing and honoring Miguel Contreras for his guidance and life-long effort in fighting to improve the lives of laborers. He is survived by his wife Maria Elena Durazo and two sons, Michael and Mario.

RECOGNIZING LISA GUILLERMIN GABLE

Mr. ALLEN. Mr. President, I am pleased today to recognize and thank Ambassador Lisa Guillermin Gable of Virginia for her valued leadership as the United States Commissioner General to the 2005 World Exposition in Aichi, Japan.

The World Expo 2005 features national pavilions from 125 participating countries. Under the leadership of Ambassador Gable, the not-for-profit and privately funded organization, Aichi USA 2005, has successfully designed and built the U.S. Pavilion, which will be open to the public in Nagoya, Japan, through September 25, 2005. The showcase at the United States' pavilion honors America's first diplomat and innovator, Benjamin Franklin. The pavilion showcase promotes America's core values of hope, optimism, enterprise and freedom.

Under Ambassador Gable's stewardship, the U.S. Pavilion and related cultural activities were successfully and fully funded with 100 percent non-Federal financing. The hard work of this distinguished resident of the Commonwealth of Virginia will help promote U.S. economic development by fostering business relationships between Japan and the many participating countries and state sponsors.

I express my appreciation and thanks to Ambassador Lisa Guillermin Gable, U.S. Commissioner General to the World Expo, as named by President George W. Bush, for leading the way in making possible the United States' participation in the first world's fair of the 21st Century.

26 YEARS OF DEDICATED FEDERAL SERVICE

Mr. CRAPO. Mr. President, as Members of Congress, we have the unique opportunity to participate in special exchange programs in which talented individuals from other branches of government can work temporarily in our offices as legislative fellows or detailees. These initiatives promote efficiency in the business of government by developing mutually beneficial relationships between the executive and legislative branches of government.

As Members, we have the opportunity to meet these experts and benefit from their insight, knowledge and experience. One such expert in my office just celebrated 26 years of service to the USDA Forest Service. Kenneth Karkula is currently serving a 1-year fellowship in my office through the Brookings Institute. Building on his extensive experience, he has made invaluable contributions to several issues important to Idaho in the area of natural resources, the environment and energy. In the short time since his arrival, he has become an invaluable asset to my staff, filling in during recent permanent staff vacancies and being willing to do whatever is asked of him.

Ken is on detail from his position as National Concessions Program Manager for the Forest Service. His public service career started when he fought wildland fires in the late 1970s to the mid-1980s. He then served as a District Resource Staff Officer in Arizona and New Mexico and, in 1992, moved to the position of Forest Recreation Staff Officer in Lake Tahoe, CA. In 1996, he took his current position at the USDA Forest Service Headquarters, a tremendous culmination of many hard-working years. Ken's knowledge of U.S. environmental and Federal land management policies, coupled with his experience in on-the-ground implementation of these policies over the years, gives him a unique and critical perspective of Federal land management issues that benefit me as I help explore updating and enhancing decades-old environmental policies and practices.

I congratulate Ken on his many years of successful work and dedication to the American public.

ADDITIONAL STATEMENTS

IN RECOGNITION OF THE NEW ISLAMIC CENTER OF AMERICA

• Mr. LEVIN. Mr. President, I would like to take this opportunity to pay tribute to The Islamic Center of America, one of the first Islamic institutions in North America. On May 12, the Center will celebrate the completion of its new mosque complex in Dearborn, which will have the distinction of being the largest mosque in the United States. The festivities will continue with a grand banquet to be held on May 14. These events will bring together Muslims, as well as many others, from Michigan and around the country.

The Islamic Center of America traces its origin to the 1940s when Muslim immigrants from Lebanon and Syria began settling in Detroit and thus sought to bring a religious leader from the Middle East to the Detroit area to serve their community. A young author and scholar, Imam Mohammed Jawas Chirri, was the choice, arriving from Lebanon in February 1949. When the newly-formed Islamic Center Foundation Society was established in 1954, Imam Chirri became its new leader and soon after they decided to build a new religious center.

In his efforts to raise funds for the new center, Imam Chirri visited Egypt in 1959 and successfully secured support for the project. The Society purchased land owned by the Ford Motor Company located on Joy Road and Greenfield in Detroit. On September 20, 1963, the Islamic Center of America first opened its doors. The building consisted of a large domed prayer room, lecture hall, kitchen, offices, and two classrooms. Following the opening of the mosque, families of the Islamic Center began to move into the area. By 1967, the Center had already outgrown this space. Additional classrooms, an enlarged social hall, and a minaret were added to serve the growing membership.

In 1997, Imam Hassan Al-Qazwini, his wife and their three children moved from California to Detroit to join The Islamic Center of America. Under his leadership and guidance, the Center has continued to flourish. Outgrowing the location on Joy Road, the Center began construction of a new religious center on Ford Road in Dearborn in 1999, near the Center's existing grade school, the Muslim American Youth Academy. The new mosque, which is located along a stretch of Ford Road that is home to several churches, including St. Sarkis Armenian Apostolic Church, St. Clement Ohridski Orthodox Church, Warrendale Community Church, St. Thomas Aquinas Roman Catholic Church, and Prince of Peace Lutheran Church, which is also home to People of the Book Arab Christian Church, will be the largest in the United States. At an estimated cost of between $8,000,000 and $10,000,000, the new mosque complex will accommodate 1,000 individuals at prayer time, and will house a large auditorium, social hall, and 14 additional rooms for the school.

I know my colleagues join me in congratulating The Islamic Center of America on this significant achievement and in recognizing its many years of service to the Muslim American community in Michigan.•

TRIBUTE TO DR. GERALD "CARTY" MONETTE

• Mr. CONRAD. Mr. President, I rise to pay tribute to an extraordinary scholar, leader, and friend, Dr. Gerald "Carty" Monette.

For more than 30 years, Dr. Monette, a member of the Turtle Mountain Band of Chippewa, has been a leader in the tribal college movement nationwide, and more specifically, at Turtle Mountain Community College in Belcourt, ND. When the college opened its doors on the reservation in 1972, Dr. Monette served as its director, and in 1978 he assumed the presidency of the institution.

During his tenure, Dr. Monette spearheaded an incredible transformation of the college with an added result of his determination being a remarkable increase in the ability of all American Indians to gain access to higher education opportunities. In 1973, under his leadership, Turtle Mountain Community College joined with five other tribal colleges to create the American Indian Higher Education Consortium—AIHEC—to provide a support network for member institutions. Today, AIHEC is composed of tribal colleges and universities located in 13 States, serving American Indian students from over 250 federally recognized tribes.

Prior to the opening of Turtle Mountain Community College, those living on the reservation had no access to higher education. Unemployment and high school dropout rates were both very high. The college started from very humble beginnings, offering its first courses on the third floor of an abandoned Catholic convent, with less than 60 students and only three full-time faculty members. Today, it has grown to serve over 650 students, with more than 150 courses and 65 full- and part-time faculty members, which is due in large part to Dr. Monette's dedication and leadership.

One of the many highlights of Dr. Monette's professional life was realization of his vision for a new campus for the college. He led the effort to secure the needed funds to construct the facility, which is located on a 123-acre site. The 105,000 square-foot facility includes state-of-the-art technology, general classroom space, science and engineering labs, a library, learning resource center, and a gymnasium. This beautiful new campus stands as a shining testament to Dr. Monette's untiring dedication to the cause of increasing access to postsecondary opportunities in Indian Country.

Under Dr. Monette's leadership, Turtle Mountain Community College also expanded from an institution of higher learning to one of the community's pillars of economic development and opportunity through the creation of the Center for New Growth and Economic Development. Working with tribal leadership, the center has embarked on several projects to strengthen the community's ability to grow and become more economically independent. Some of the many projects taken on by the center include a very successful wind energy program, a review of the tribe's constitution, a school reform initiative designed to improve student performance, and a program to reintroduce traditional Native American foods into the diets of tribal members, which will yield tremendously positive health benefits.

Dr. Monette has been a true agent of positive change in the lives of thousands of students who have passed through Turtle Mountain Community College during his tenure. He has been a true champion for higher education and a powerful national advocate for the tribal colleges. His passion is infectious, and he has motivated everyone to reach to their goals no matter how small or large.

Dr. Monette has dedicated his life's work to the greater good. After 27 years as president of Turtle Mountain Community College, he has decided to commence his well-deserved retirement, but he leaves behind a lasting legacy that will stand for many generations. We owe Dr. Monette a debt of gratitude, and I wish him and his family all the very best.•

HONORING HAMILTON SOUTHEASTERN HIGH SCHOOL

• Mr. BAYH. Mr. President, today I pay tribute to an extraordinary class of students from Hamilton Southeastern High School in Fishers. These outstanding young Hoosiers competed against 50 other schools from across the Nation and won honorable mention as one of the top ten finalists in the We the People: The Citizen and the Constitution national finals in Washington, D.C.

The motivation displayed by these students will no doubt lead them along the path to becoming some of our country's future leaders.

It is my honor to enter the names of Ryan Arnold, Natasha Arora, Kelsey Buckingham, Ricardo Doriott, Eddie Gillham, Worthe Holt III, Carolyn Homer, Kyle Lymberopoulos, Ashley Martin, Michael Matern, Allison Nimtz, Alex Orlowski, Laura Peregrim, Jennifer Wardell, Brian White and Marissa Wills in the official RECORD of the Senate for their remarkable understanding of the fundamental ideals and values of American government.

I also want to take a moment to salute Jill Baisinger, these students' teacher, for her clear commitment to encouraging the curiosity and development of our Hoosier youth and furthering their understanding of American Government.•

A TRIBUTE TO DR. GERALD "CARTY" MONETTE

• Mr. DORGAN. Mr. President, my colleagues have often heard me speak on this floor about tribal colleges that provide higher education to the residents of this country's Indian reservations. For over 30 years, these institutions have brought hope and opportunity to thousands of students who otherwise would not have had the chance to seek an education beyond high school.

There is a reason why the Nation's tribal colleges consistently manage to achieve more with less than any other educational institutions in the United States—talented and committed leadership. One of those leaders, Dr. Gerald "Carty" Monette, has been part of the tribal college movement since its inception. As the president of Turtle Mountain Community College since 1978, he has seen his institution grow from a handful of students gathering in an abandoned convent and a series of trailers in Belcourt, ND, to an enrollment of 650 meeting in a state-of-the-art building in a setting that reflects the sacred grounds of the Turtle Mountain Band of Chippewa.

Dr. Monette's modest and self-effacing manner belies a strong and determined leader who has inspired hundreds of graduates of Turtle Mountain Community College. He had an early understanding of the ... relationship between education, economic development, and community partnerships. As a result, the college today boasts the Center for New Growth that is a regional center for economic development; he wanted the College to have energy independence and today there is a wind and geothermal energy center at the College.

Not only has Dr. Monette been a leader at Turtle Mountain, he has been a national leader as one of the founders of the American Indian Higher Education Consortium, AIHEC, and has served several terms as presidents of the consortium. AIHEC has been the heart and soul of the tribal college movement and under Dr. Monette's leadership it began an aggressive telecommunications initiative that is enhancing communities throughout Indian country.

As Dr. Monette prepares to apply his leadership and vision to other educational pursuits, I wish him and his wife, Dr. Loretta DeLong, a Turtle Mountain Community College graduate, the very best. He has left a lasting legacy for his fellow members of the Turtle Mountain Band of Chippewa and their children. We join them honoring this exceptional man.•

THE MISSOURI MERCHANTS AND MANUFACTURERS ASSOCIATION 25TH ANNIVERSARY

• Mr. BOND. Mr. President, I rise today to pay a special tribute to the Missouri Merchants and Manufacturers Association. I am very pleased to recognize this organization for its 25 years of superior service to the Missouri business community.

The Missouri Merchants and Manufacturers Association was formed in 1980. With hard work and untiring commitment, the MMMA has grown into a strong, well respected voice in the legislative process representing over 5,000 small and mid-sized businesses across the State of Missouri. It is actively involved in educating MMMA members and serving as an advocate on State legislative issues impacting businesses.

While Governor of Missouri, I found that the MMMA's active involvement in State legislative issues provided a vital resource. As chairman of the Committee on Small Business, I highly value the insights they have shared on numerous issues of great importance to America's business. MMMA is a vital link in spearheading the causes of small business.

Over the past 25 years the MMMA has been instrumental in repealing the Merchants and Manufacturers Inventory Tax. The association has assisted in the passage of more than 35 bills in addition to winning three lawsuits before the Missouri Supreme Court. Collectively the MMMA's achievements have saved small and medium sized businesses more than $400 million.

The quality individuals that comprise the MMMA epitomize the kind of dedication, work ethic and ideals necessary to meet the ongoing challenges and demands of the business community. Their leadership has influenced passage of important legislation and provided dependable resources in many court cases to benefit employers. The Missouri Merchants and Manufacturers Association celebrated its 25th anniversary on January 7, 2005. It is my great pleasure to congratulate the MMMA for this significant accomplishment.•

HONORING RIVERSIDE MAYOR RON LOVERIDGE

• Mrs. BOXER. Mr. President, I rise today to recognize the leadership and service of Ronald O. Loveridge, mayor of the city of Riverside. Mayor Loveridge has been honored as the 2005 Distinguished Citizen of the Inland Empire by the Inland Empire Council of Boy Scouts of America.

As mayor of the city of Riverside, Ron Loveridge lends his time and leadership to many organizations committed to the vitality and progress of his community. Last year, he served the State of California as president of the League of Cities. Among the organizations that have honored him for his impressive record of service are the American Planning Association, the California Preservation Foundation, the United Way, and the Youth Service Center.

In addition to his thoughtful leadership as mayor, Ron Loveridge has given the city of Riverside his personal commitment for 40 years. A professor of political science at the University of California, Riverside, since 1965, Dr. Ron Loveridge has used his knowledge and expertise to enrich students' understanding of and interest in the inner workings of local government. He has provided a model of conscientious citizenship, volunteering his time to advance the endeavors of the Riverside Arts Foundation, the Riverside County Philharmonic, and the Dickens Festival.

In 1998, Mayor Ron Loveridge was meeting with council members and staff in City Hall when a man entered and shot his gun several times. Given the circumstances, it is a miracle that no one was killed. Mayor Loveridge was hit in the back of the neck, the bullet just missing his spinal cord. I met with him just after the shooting and was amazed at his grace and good will following such an event. He has gone on to lead his city in a similar manner, always showing grace and good will even in the toughest of times.

I applaud Ronald Loveridge for his lifetime of public service and am pleased to invite you to join me in congratulating him as he is honored as the Boy Scouts of America Inland Empire Council's 2005 Distinguished Citizen of the Inland Empire.•

RECOGNIZING THE 75TH ANNIVERSARY OF VFW POST 1881

• Mr. THOMAS. Mr. President, I would like to take a few moments today to recognize a very special milestone that will take place in my home State in the coming days. On June 18, 2005, the Veterans of Foreign Wars Post 1881 in Cheyenne, WY will celebrate its 75th anniversary. In 1930, veterans Harry Leon and Earnest Lissner founded VFW Post 1881. With 69 members and 7 honorary members, the first meeting was conducted in a private home in Cheyenne. After a series of moves and 32 years later, VFW Post 1881 established and built its permanent facility at 2816 East 7th Street in 1962.

Since its founding, Post 1881 has grown in membership and has become a lasting positive fixture in the community. The veterans of the Post are a strong pillar of family support for the Active-Duty, Reserve and Guard personnel of F.E. Warren Air Force Base and the State of Wyoming. The members of VFW Post 1881 remain dedicated to our older and ailing veterans with a large contingency of volunteers who visit patients in the VA Medical Center in Cheyenne and Veterans Homes in Buffalo, Wyoming and Scottsbluff, NE. They are strong supporters of the Army Junior Reserve Officer Training Corps, and through private fundraising efforts have built two outstanding softball fields for the Cheyenne Thunder Girls Softball Association. As an exclusive project of the Post, these dedicated veterans offer new American flags to local businesses and individuals at no cost to replace frayed and damaged flags, while properly disposing of the exchanged flags. The Post's Ladies Auxiliary carries on numerous projects benefiting the environment and the community, and independently raises funds for homeless and hospitalized veterans. So it is a distinct honor to come before the Senate and congratulate the veterans of VFW Post 1881 on their 75th Anniversary. I thank them for their dedicated service to their fellow veterans and community and wish them continued success for many more years to come.•

MESSAGE FROM THE HOUSE

At 2:42 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 366. An act to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to strengthen and improve programs under that Act.

MEASURES REFERRED

The following bill was read the second time and referred as indicated:

S. 981. A bill to ensure that a Federal employee who takes leave without pay in order to perform services as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred; to the Committee on Homeland Security and Governmental Affairs.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 989. A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2042. A communication from the Inspector General, Selective Service System, transmitting, pursuant to law, a semi-annual report relative to the Selective Service System's compliance with the Inspector General Act of 1978; to the Committee on Homeland Security and Governmental Affairs.

EC–2043. A communication from the Acting Director, Office of Personnel Management, transmitting, pursuant to law, a report entitled "Chief Human Capital Officers Council Fiscal Year 2004"; to the Committee on Homeland Security and Governmental Affairs.

EC–2044. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "NARA Facility Locations and Hours" (RIN3095–AB47) received on May 5, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2045. A communication from the Senior Procurement Executive, National Aeronautics and Space Administration, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Federal Acquisition Circular 2005–03" (FAC 2005–03) received on May 3, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2046. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–70, "Carver 2000 Low-Income and Senior Housing Project Temporary Amendment Act of 2005"; to the Committee on Homeland Security and Governmental Affairs.

EC–2047. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–69, "Finance and Revenue Technical Corrections Temporary Amendment Act of 2005"; to the Committee on Homeland Security and Governmental Affairs.

EC–2048. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–68, "Fiscal Year 2005 Operating Cash Reserve Allocation Temporary Act of 2005"; to the Committee on Homeland Security and Governmental Affairs.

EC–2049. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–67, "Closing, Dedication, and Designation of Public Streets and Alleys in Squares 5246, 5272, 5273, 5276, 5277, 5279, 5280, and 5281, S.O. 02–4088 Act of 2005"; to the Committee on Homeland Security and Governmental Affairs.

EC–2050. A communication submitted jointly from the Secretary of Energy and the Secretary of Agriculture, transmitting, pursuant to law, a report entitled "Biomass Research and Development Initiative for Fiscal Year 2003"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2051. A communication from the Acting Administrator, Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "7 CFR Part 1770, Accounting Requirements for RUS Telecommunications Borrowers" (RIN0572–AB77) received on May 4, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2052. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Dimethenamid: Pesticide Tolerance" (FRL No. 7713–4) received on May 8, 2005; to the

Committee on Agriculture, Nutrition, and Forestry.

EC–2053. A communication from the Chairman, Farm Credit Administration, transmitting, pursuant to law, the report of a rule entitled “Borrower Rights” (RIN3052–AC24) received on May 3, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2054. A communication from the Acting Administrator, Agriculture Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Olives Grown in California; Increased Assessment Rate” (Docket No. FV05–932–1 FR) received May 4, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2055. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Add Malaysia to List of Regions in Which Highly Pathogenic Avian Influenza Subtype H5N1 is Considered to Exist” (APHIS Docket No. 04–091–1) received on May 4, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2056. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled “Brucellosis in Swine; Add Florida to List of Validated Brucellosis-Free States” (APHIS Docket No. 05–009–1) received on May 4, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2057. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the national emergency with respect to Syria that was declared in Executive Order 13338 of May 11, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–2058. A communication from the General Counsel, Office of the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled “Conversion of Insured Credit Unions to Mutual Savings Banks” (12 CFR Part 708a) received on May 8, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2059. A communication from the Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting, pursuant to law, the Egypt Economic Report for 2004; to the Committee on Foreign Relations.

EC–2060. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–2061. A communication from the U.S. Global AIDS Coordinator, Department of State, transmitting, pursuant to law, a report entitled “Engendering Bold Leadership: The President's Emergency Plan for AIDS Relief”; to the Committee on Foreign Relations.

EC–2062. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of an interim rule entitled “Aliens Inadmissible Under the Immigration and Nationality Act—Unlawful Voters” ((RIN1400–AC04) (22 CFR Part 40)) received on May 3, 2005; to the Committee on Foreign Relations.

EC–2063. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled “Cuban Emigration Policies”; to the Committee on Foreign Relations.

EC–2064. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled “The Operation of the Enterprise for the Americas Facility and the Tropical Forest Conservation Act”; to the Committee on Foreign Relations.

EC–2065. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled “Tobacco Prevention and Control Activities in the United States, 2000–2002”; to the Committee on Health, Education, Labor, and Pensions.

EC–2066. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled “Fiscal Year 2004 Medical Device User Fee and Modernization Act Financial Report”; to the Committee on Health, Education, Labor, and Pensions.

EC–2067. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled “Performance Improvement 2004: Evaluation Activities of the U.S. Department of Health and Human Services”; to the Committee on Health, Education, Labor, and Pensions.

EC–2068. A communication from the Chair, Barry M. Goldwater Scholarship and Excellence in Education Foundation, transmitting, pursuant to law, the Annual Report of the activities of the Goldwater Foundation; to the Committee on Health, Education, Labor, and Pensions.

EC–2069. A communication from the Railroad Retirement Board, transmitting a report of proposed legislation relative to the Railroad Retirement Act; to the Committee on Health, Education, Labor, and Pensions.

EC–2070. A communication from the Director, Office of White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary, received on May 4, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2071. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Color Additives Certification; Increase in Fees for Certification Services” (Docket No. 2005N–0077) received on May 3, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2072. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Food Additives Permitted for Direct Addition to Food for Human Consumption; Glycerol Ester of Gum Rosin” (Docket No. 2003F–0471) received on May 3, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2073. A communication from the Regulations Coordinator, Office for Civil Rights, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Amending the Regulations Governing Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, Sex, and Age to Conform to the Civil Rights Restoration Act of 1987” (RIN0991–AB10) received on May 8, 2005; to the Committee on Health, Education, Labor, and Pensions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions:

Report to accompany S. 250, a bill to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act (Rept. No. 109–65).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. SNOWE:

S. 984. A bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. CLINTON (for herself, Ms. Snowe, Mr. Johnson, and Mr. Cochran):

S. 985. A bill to establish kinship navigator programs, to establish kinship guardianship assistance payments for children, and for other purposes; to the Committee on Finance.

By Mr. NELSON of Nebraska:

S. 986. A bill to authorize the Secretary of Education to award grants for the support of full-service community schools, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. McCAIN (for himself and Mr. Dorgan):

S. 987. A bill to restore safety to Indian women; to the Committee on Indian Affairs.

By Mr. SESSIONS (for himself, Mr. Ensign, Mr. Martinez, Mr. Cornyn, Mr. Allen, Mr. Hatch, Mrs. Hutchison, Mr. Lott, Mr. Isakson, Mr. Cochran, Mr. Bunning, Mr. Burns, Mr. Coburn, Mr. Chambliss, Mr. Inhofe, Mr. Enzi, Mr. Crapo, Mr. Craig, Mr. Graham, Mr. Vitter, Mr. Thune, Mr. Alexander, Mr. Sununu, and Mr. Allard):

S. 988. A bill to permanently repeal the estate and generation-skipping transfer taxes; to the Committee on Finance.

By Mr. DURBIN (for himself and Ms. Mikulski):

S. 989. A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred; read the first time.

By Mr. LIEBERMAN (for himself and Mr. Dodd):

S. 990. A bill to provide a grant program to support the establishment and operation of Teachers Professional Development Institutes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself, Mr. Durbin, Mr. Harkin, and Mr. Akaka):

S. 991. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to limit the availability of benefits under an employer's nonqualified deferred compensation plans in the event that any of the employer's defined benefit pension plans are subjected to a distress or PBGC termination in connection with bankruptcy reorganization or a conversion to a cash balance plan, to provide appropriate funding restrictions in connection with the maintenance of nonqualified deferred compensation plans, and to provide for appropriate disclosure with respect to nonqualified deferred compensation plans; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN:

S. 992. A bill to amend the Tariff Act of 1930 to eliminate the consumptive demand exception relating to the importation of goods made with forced labor; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 993. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on amounts received under certain insurance policies in which certain exempt organizations hold an interest; to the Committee on Finance.

By Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. LEAHY, Mr. BROWNBACK, Mr. OBAMA, Ms. MURKOWSKI, and Mr. ALEXANDER):

S.J. Res. 18. A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. INHOFE (for himself, Mr. BOND, Mr. BAUCUS, and Mr. JEFFORDS):

S. Res. 135. A resolution congratulating the National Asphalt Pavement Association on its 50th anniversary and recognizing the contributions of members of the Association to the United States; considered and agreed to.

By Mrs. HUTCHISON:

S. Con. Res. 31. A concurrent resolution to correct the enrollment of H.R. 1268; considered and agreed to.

ADDITIONAL COSPONSORS

S. 21

At the request of Ms. COLLINS, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 21, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 45

At the request of Mr. LEVIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 45, a bill to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes.

S. 151

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 151, a bill to amend title 38, United States Code, to require an annual plan on outreach activities of the Department of Veterans Affairs.

S. 224

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 224, a bill to extend the period for COBRA coverage for victims of the terrorist attacks of September 11, 2001.

S. 260

At the request of Mr. INHOFE, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 260, a bill to authorize the Secretary of the Interior to provide technical and financial assistance to private landowners to restore, enhance, and manage private land to improve fish and wildlife habitats through the Partners for Fish and Wildlife Program.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 337

At the request of Mr. GRAHAM, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 337, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service, to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes.

S. 347

At the request of Mr. NELSON of Florida, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 347, a bill to amend titles XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care operations and legal rights for care near the end of life, to promote advance care planning and decision-making so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

S. 365

At the request of Mr. COLEMAN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 365, a bill to amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign centers and programs for the treatment of victims of torture, and for other purposes.

S. 372

At the request of Mr. LEAHY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 372, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literacy, musical, artistic, or scholarly compositions created by the donor.

S. 380

At the request of Ms. COLLINS, the names of the Senator from Indiana (Mr. BAYH) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 380, a bill to amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children.

S. 392

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 392, a bill to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

S. 441

At the request of Mr. SANTORUM, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 441, a bill to amend the Internal Revenue Code of 1986 to make permanent the classification of a motorsports entertainment complex.

S. 467

At the request of Mr. DODD, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 484

At the request of Mr. WARNER, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 515

At the request of Mr. BYRD, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 515, a bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Youth Challenge Program, and for other purposes.

S. 520

At the request of Mr. SHELBY, the names of the Senator from Colorado (Mr. ALLARD), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 520, a bill to limit the jurisdiction of Federal courts in certain cases and promote federalism.

S. 558

At the request of Mr. REID, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of S. 558, a bill to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt.

S. 576

At the request of Mr. BYRD, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 576, a bill to restore the prohibition on the commercial sale and slaughter of wild free-roaming horses and burros.

S. 601

At the request of Mr. CONRAD, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 601, a bill to amend the Internal Revenue Code of 1986 to include combat pay in determining an allowable contribution to an individual retirement plan.

S. 603

At the request of Ms. LANDRIEU, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 603, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 619

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 619, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 621

At the request of Mr. CONRAD, the names of the Senator from New York (Mrs. CLINTON) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 621, a bill to amend the Internal Revenue Code of 1986 to permanently extend the 15-year recovery period for the depreciation of certain leasehold improvements.

S. 627

At the request of Mr. HATCH, the names of the Senator from Wyoming (Mr. THOMAS), the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CRAPO) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 627, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 647

At the request of Mrs. LINCOLN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 647, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 650

At the request of Mr. LUGAR, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 650, a bill to amend the Clean Air Act to increase production and use of renewable fuel and to increase the energy independence of the United States, and for other purposes.

S. 675

At the request of Mr. DORGAN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 675, a bill to reward the hard work and risk of individuals who choose to live in and help preserve America's small, rural towns, and for other purposes.

S. 722

At the request of Mr. SANTORUM, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 722, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 737

At the request of Mr. CRAIG, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 737, a bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

S. 751

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 751, a bill to require Federal agencies, and persons engaged in interstate commerce, in possession of data containing personal information, to disclose any unauthorized acquisition of such information.

S. 770

At the request of Mr. LEVIN, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 770, a bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act.

S. 784

At the request of Mr. THOMAS, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 784, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes.

S. 792

At the request of Mr. DORGAN, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 792, a bill to establish a National sex offender registration database, and for other purposes.

S. 806

At the request of Mr. CRAIG, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 806, a bill to amend title 38, United States Code, to provide a traumatic injury protection rider to servicemembers insured under section 1967(a)(1) of such title.

S. 811

At the request of Mr. DURBIN, the names of the Senator from Illinois (Mr. OBAMA), the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. LUGAR) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 811, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the birth of Abraham Lincoln.

S. 843

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 843, a bill to amend the Public Health Service Act to combat autism through research, screening, intervention and education.

S. 859

At the request of Mr. SANTORUM, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 859, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 936

At the request of Mr. LEAHY, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 936, a bill to ensure privacy for e-mail communications.

S. 962

At the request of Mr. BAUCUS, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 962, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued to finance certain energy projects, and for other purposes.

S. 967

At the request of Mr. LAUTENBERG, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 967, a bill to amend the Communications Act of 1934 to ensure that prepackaged news stories contain announcements that inform viewers that the information within was provided by the United States Government, and for other purposes.

S. RES. 33

At the request of Mr. LEVIN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. Res. 33, a resolution urging the Government of Canada to end the commercial seal hunt.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 984. A bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Ms. SNOWE. Mr. President, I rise today to speak on the issue of currency policies and to offer a bill, the Fair Currency Practices Act of 2005, that will address key concerns regarding the Treasury Department's statutory review and reporting requirements on currency manipulation. In particular, this bill strengthens Treasury's hand in addressing currency manipulation, including the current practices of countries such as China.

Through the practice of pegging its currency to the dollar, China artificially maintains the yuan, at 8.28 per dollar. While economists differ over the extent that China's currency is undervalued, it is often estimated to be undervalued by as much as fifteen to forty percent, rendering Chinese manufactured goods cheaper in the U.S.—and U.S. manufactured goods more expensive in China.

China's deliberate and unfair currency practices have contributed to our Nation's trade deficit with China, reaching a record $162 billion last year. The yuan's undervaluation has had a profound impact on our Nation's manufacturing sector—particularly on U.S. manufacturing employment.

As Chair of the Senate Committee on Small Business and Entrepreneurship, Co-Chair of the Senate Task Force on Manufacturing, and a Senator from a State with a rich history in manufacturing, I am keenly aware of this issue's importance. Indeed, our manufacturers—who are integral to our economic security and national defense—unjustifiably struggle to compete with countries that disregard their international obligations.

The U.S.-China Economic and Security Review Commission released a report today, which focuses on China's exchange rate problem. In the report, the Commission notes that foreign exchange markets are sending clear signals that China should revalue its yuan, and that in recent years all major currencies have adjusted upward with the exception of China's. The Commission explains that an appreciation of foreign currencies is needed to help correct the U.S. current account deficit.

In the report, the Commission discusses the value of improving the process by which the Treasury Department assesses and reports upon the issue of foreign countries' currency manipulation. The legislation that I offer today, which is cosponsored by Senator DOLE, makes substantial improvements to that process.

Chair MANZULLO, my counterpart in the House of Representatives is offering this bill today in the House. I thank him for his leadership on issues affecting our Nation's small businesses, and particularly for his efforts on behalf of our Nation's manufacturers.

Specifically, the legislation amends the Exchange Rates and Economic Policy Coordination Act of 1988, to clarify that a country is manipulating its currency if it is engaged in "protracted large-scale intervention in one direction in the exchange market."

The legislation also amends the 1988 Act to eliminate the necessity that a country have both a material global current account surplus and a significant bilateral trade surplus with the United States, before the Secretary of the Treasury is required to enter into negotiations with the offending country to end its unfair practices. The change requires such negotiations if there is either a material global current account surplus or a significant bilateral trade surplus with the United States.

Currently, the Treasury Department, the International Monetary Fund, and others rely largely upon suspect Chinese data in determining China's trade balance with other countries. The legislation's final provision instructs the Treasury Department to undertake an exercise examining China's trade surplus. The investigation would include an analysis of why China's reported trade surplus with the U.S. and other countries differs from that reported by China's trading partners. The legislation requires that the Treasury Department submit a report of its investigation to Congress.

Representative MANZULLO and I will continue to collaborate on addressing unfair currency practices by offending countries. We Are both well aware of the negative effects these practices have on our Nation's small businesses. One of our combined efforts commissioned a General Accounting Office study which examined issues related to foreign government manipulation of world currency markets. That study is expected to be released soon.

As in the past, I will continue to strive to draw greater attention to the effects of China's currency practices and to find solutions that enable our domestic industries to compete on a level and fair playing field.

I ask unanimous consent that the text of the bill and that a section-by-section summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 984

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Currency Practices Act of 2005".

SEC. 2. AMENDMENTS RELATING TO INTERNATIONAL FINANCIAL POLICY.

(a) BILATERAL NEGOTIATIONS.—Section 3004(b) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5304(b)) is amended in the second sentence by striking "and (2)" and inserting "or (2)".

(b) DEFINITION OF MANIPULATION.—Section 3006 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5306) is amended by adding at the end the following:

"(3) MANIPULATION OF RATE OF EXCHANGE.—For purposes of this Act, a country shall be considered to be manipulating the rate of exchange between its currency and the United States dollar if there is a protracted large-scale intervention in one direction in the exchange markets. The Secretary may find that a country is manipulating the rate of exchange based on any other factor or combination of factors.".

(c) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Treasury shall undertake an examination, and submit a report to Congress, regarding the trade surplus of the People's Republic of China. The Secretary shall examine why the trade surplus with the United States and other countries reported by the People's Republic of China differs from the trade surplus reported by the other countries. The report shall also quantify the differences between the trade surplus reported by the United States and other countries and what is reported by the People's Republic of China.

LEGISLATION ADDRESSING CHINA'S CURRENCY MANIPULATION

Background: The Exchange Rates and International Economic Policy Coordination Act of 1998 (the 1998 Act) requires that Treasury regularly make a determination of whether countries are manipulating the rate of exchange between their currency and the U.S. dollar for purposes of preventing effective balance of payments adjustments or gaining an unfair competitive advantage in international trade. If the Secretary of Treasury considers that such manipulation is occurring with respect to countries that (1) have material global current account surpluses; and (2) have significant bilateral trade surpluses with the United States, the Secretary is required to take action to initiate negotiations with such foreign countries on an expedited basis.

Section 1—Short Title—This Act will be known as the Fair Currency Practices Act of 2005.

Section 2—Amendments Relating to International Financial Policy.

(a)—Amends the Trade Act to eliminate the necessity that a country have both a material global current account surplus AND a significant bilateral trade surplus with the United States, before the Secretary of the Treasury is required to enter into negotiations with the offending country to end its unfair practices. The change requires such negotiations if there is either a material global current account surplus *OR* a significant bilateral trade surplus with the United States.

Reasoning: Under current law, even if manipulation was found, Treasury would not be required to act unless the offending country has a significant bilateral trade surplus with the U.S. AND a material global current account surplus. The U.S.-China Economic and Security Review Commission recommended in its 2004 Report to Congress that the material global current account surplus condition not be required.

(b)—Amends the 1988 Act to clarify that a country engaged in "protracted large-scale intervention in one direction in the exchange market" is manipulating its currency. This language derives from the International Monetary Fund's (IMF) Principles for Fund Surveillance Over Exchange Rate Policies.

Reasoning: Treasury repeatedly fails to make a determination that China is manipulating its currency and the Trade Act does not specifically define "manipulating." This provision clarifies that a country engaged in "protracted large-scale intervention in one direction in the exchange market" is manipulating its currency. The provision does not preclude the Secretary of Treasury from finding a country to be manipulating its rate of exchange based on any other factor or combination of factors.

(c)—Requires that Treasury undertake an examination of China's trade surplus and report on its findings. The Department of Treasury should investigate why China's reported trade surplus with the U.S. and other countries differs from that reported by the trading partner countries. The report should quantify these differences so that policy makers will be better able to understand the facts behind China's trade surplus.

Reasoning: Treasury and the IMF use official Chinese statistics when determining China's global current account and trade balances. China's global current account and trade balance statistics differ markedly from the aggregate statistics of its trading partners. This results in an inaccurate depiction of China's true surplus, which is presumably much larger than reported by China.

By Mrs. CLINTON (for herself, Ms. SNOWE, Mr. JOHNSON, and Mr. COCHRAN):

S. 985. A bill to establish kinship navigator programs, to establish kinship guardianship assistance payments for children, and for other purposes; to the Committee on Finance.

Mrs. CLINTON. Mr. President, I rise today to re-introduce the Kinship Caregiver Support Act with my friend and colleague, Senator OLYMPIA SNOWE. I would like to acknowledge Senators TIM JOHNSON and THAD COCHRAN who are original co-sponsors of this legislation.

Over the weekend, America celebrated Mother's Day, a special day when we honored our mothers, whose love and nurturing sustains us throughout our lives. Mother's Day offers a wonderful opportunity to honor the millions of mothers who offer the gifts of love and nurturing for children in need. They give so much to the most vulnerable among us, and too often they go unnoticed and unthanked. Many of these women earn the title of Mother not through biology, but by their unconditional love for children.

In New York alone, more than 500,000 children are cared for by non-parent relative caregivers. Nationwide, grandparents head 4.5 million households and other relatives head another 1.5 million households. Linda James of Rochester, NY is one such mother. She became a second-time mother at the age of 41 when her granddaughter Jasmine was born prematurely and her daughter, Jasmine's mother, was unable to care for her daughter. When the hospital needed authorization to perform an emergency operation on tiny Jasmine, Linda stepped in and assumed responsibility. Since that day, Linda has been Jasmine's only resource for stability and happiness.

Over time, Linda, like many relative caregivers, faced many challenges as she tried to raise Jasmine. Simple tasks such as enrolling her in school and securing health insurance were daunting because she had trouble finding basic information about how to approach the process. Linda made many sacrifices to ensure Jasmine's success, even taking a leave of absence from her job so she could give Jasmine the constant medical attention she required, but she often felt like the cards were stacked against her. Emotionally, physically, and financially, the experience of raising little Jasmine was nothing short of exhausting.

Kinship caregivers like Linda are often the best chance for a loving and stable childhood for the children in their care, but Federal law does little to support these families. In fact, unless a child's parents relinquish their parental rights, and the relative caregivers become adoptive parents, kinship caregivers are no different from strangers in the eyes of Federal law.

In these sad cases, children often linger in foster care unnecessarily while a stable, permanent, loving option is overlooked.

That is why Senator SNOWE and I are introducing The Kinship Caregiver Support Act. This proposal will provide relative caregivers with the information and assistance they need to thrive as non-traditional families. This bill will link kinship families with localized information about the services and support available to them. By creating one-stop centers for kinship caregivers, this bill will provide essential support that will keep these families afloat. This legislation will also allow States to use their Federal foster care funds to provide kinship caregiver assistance payments for children languishing in foster care while a kinship caregiver stands ready to step in.

At this time of year, when we remember and honor our mothers, let us also remember the contributions that unconventional mothers make, mothers who each and every day go above and beyond the call of duty to help some of the most vulnerable of our children.

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 987. A bill to restore safety to Indian women; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, today I am introducing "The Restoring Safety to Indian Women Act" and I look forward to working with the Committee on the Judiciary to ensure that the provisions of this bill are given consideration, particularly as the reauthorization of the Violence Against Women Act moves forward. I also wish to thank Senator BYRON DORGAN for cosponsoring this legislation and for his dedication to addressing the health and welfare needs of Indian tribes.

This legislation creates a new Federal criminal offense authorizing Federal prosecutors to charge repeat domestic violence offenders before they seriously injure or kill someone and to use tribal court convictions for domestic violence for that purpose. It authorizes the creation of tribal criminal history databases to document these convictions and protection orders for use by all law enforcement. The bill authorizes BIA and tribal officers to make arrests for domestic violence assaults committed outside of their presence and would authorizes a comprehensive study of domestic violence in Indian Country to determine its impact to Indian tribes.

The 1994 Violence Against Women Act has had a tremendous impact on raising the national awareness of domestic violence and providing communities, including Indian tribes, the resources to respond to the devastating impact of domestic violence. National studies show that one in four women are victims of domestic violence. Since 1999, the Department of Justice has issued various studies which report that Indian women experience the highest rates of domestic violence compared to all other groups in the United States. These reports state that one out of every three Indian women are victims of sexual assault; that from 1979 to 1992, homicide was the third leading cause of death of Indian females between the ages of 15 to 34 and that 75 percent of those deaths were committed by a family member or acquaintance. These are startling statistics that require our close examination and a better understanding of how to prevent and respond to domestic violence in Indian Country.

Domestic violence is a national problem and not one that is unique to Indian Country. Yet, due to the unique status of Indian tribes, there are obstacles faced by Indian tribal police, Federal investigators, tribal and Federal prosecutors and courts that impede their ability to respond to domestic violence in Indian Country. This bill is intended to remove these obstacles at all levels and to enhance the ability of each agency to respond to acts of domestic violence when they occur.

The division of criminal jurisdiction between Federal and tribal law enforcement and prosecutors working in Indian Country present challenges. For example, Federal prosecutors prosecute acts of domestic violence in Indian Country using the Assault or, unfortunately, the Murder statutes in the Major Crimes Act. These statutes require the prosecutor to prove beyond a reasonable doubt that the victim was disfigured, suffered a serious risk of death or was killed before these felony charges can be filed. Meanwhile, the research has shown that perpetrators of domestic violence become increasingly more violent over time. Under the existing statutory scheme, these perpetrators may escape felony charges until they seriously injure or kill someone.

This bill would create a new Federal offense aimed at the habitual domestic violence offender and allow tribal court convictions to count for purposes of Federal felony prosecution when the perpetrator has at least two separate Federal, State or tribal convictions for crimes involving assault, sexual abuse or a violent felony against a spouse or intimate partner. This provision is similar to many state laws that apply a felony penalty to an individual who commits multiple offenses. It will empower Indian tribal prosecutors and courts to document domestic violence cases at the local level and give federal prosecutors the ability to intervene in the cycle of violence by charging repeat offenders before they seriously injure or kill someone.

The bill would also encourage the use of existing grants authorized by the Violence Against Women Act to create tribal criminal history databases for use by Indian tribes and tribal, State and Federal law enforcement agencies to document final convictions, stay away orders and orders of protection issued by tribal courts. As I understand it, no such database exists today. This database would be used solely as a law enforcement and court tracking tool. It would enable tribal, State and Federal law enforcement officers to determine whether an individual is a habitual domestic violence offender and therefore subject to the felony crime described above. It also would enhance the implementation of the criminal provisions that already exist in the Violence Against Women Act.

All manner of law enforcement agencies report that responding to domestic violence disturbances are among the most dangerous situations that a police officer faces. Therefore, many States have enacted immediate arrest or removal policies that enable responding officers to diffuse these dangerous situations. Currently, the primary law enforcement authority for Indian tribes, the BIA police, are only authorized to make an arrest without a warrant for an offense committed in Indian Country if the offense is committed in the presence of the officer or the offense is a felony. This legislation would expand the authority of the BIA police, and tribal police agencies that derive their arrest authority by contract with the BIA, to make an arrest without a warrant for a domestic violence offense when the officer has reasonable grounds to believe the person arrested committed the offense. This arrest authority will enable a responding officer to diffuse the dangerous situation by arresting the perpetrator. This will go a long way toward improving public safety for both the officer and the domestic violence victim.

Finally, while the national data on the rates of violence affecting Indian women are astounding, we do not know the full extent to which Indian women residing in Indian Country are impacted by domestic violence or the impact of domestic violence on Indian tribes. For example, we know that nationally, domestic violence costs $4.1 billion each year for direct medical and mental health services and in my own State of Arizona, last year, police received approximately 100,000 domestic violence calls, but we do not know the extent to which tribal prevention programs, law enforcement, court or medical intervention resources are similarly impacted. Therefore, this bill would require that a comprehensive study be done on the scope of the domestic violence problem in Indian Country.

I look forward to working with my colleagues on the Indian Affairs Committee and the Judiciary Committee to ensure that these statistics become a record of the past. I urge my colleagues to support this important legislation.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 987

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Restoring Safety to Indian Women Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) national studies indicate that Indian women experience domestic and sexual assaults at a far greater rate than other groups of women in the national population;

(2) there is relatively little data on the rate of domestic violence perpetrated upon Indian women in Indian country or the costs associated with responding to acts of domestic violence in Indian country;

(3) Indian tribes have criminal jurisdiction to prosecute Indians who commit violations of tribal law;

(4) the Federal Government has jurisdiction to prosecute specific enumerated crimes that arise in Indian country under section 1153 of title 18, United States Code (commonly known as the Major Crimes Act);

(5) the Major Crimes Act does not include provisions to provide Federal prosecutors the ability to prosecute domestic violence assaults unless they rise to the level of serious bodily injury or death;

(6) national studies conducted by law enforcement organizations show that domestic violence disturbance calls are the most dangerous situations and pose the highest risk to responding law enforcement officers;

(7) the limited arrest authority of the Bureau of Indian Affairs and Indian tribal law enforcement agencies impacts the ability of law enforcement to properly respond to acts of domestic violence; and

(8) Federal and tribal prosecutors and law enforcement services are hampered in their efforts to address domestic violence by the lack of available criminal history information for tribal ordinance offenders.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To obtain data on the rates of domestic violence perpetrated upon Indian women in Indian country.

(2) To close existing gaps in Federal criminal laws to enable Federal, State, and tribal law enforcement, prosecution agencies, and courts to address incidents of domestic violence.

(3) To address the public safety concerns experienced by tribal police officers that arise in responding to incidents of domestic violence.

(4) To prevent the serious injury or death of Indian women subject to domestic violence.

SEC. 4. DEFINITIONS.

In this Act:

(1) ATTORNEY GENERAL.—The term "Attorney General" means the Attorney General of the United States.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Department of the Interior.

(3) INDIAN TRIBE.—The term "Indian Tribe" has the same meaning as in section 4 of the Indian Self-determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 5. DOMESTIC VIOLENCE HABITUAL OFFENDER.

Chapter 7 of title 18, United States Code, is amended by adding at the end the following:

"§117. Domestic assault by a habitual offender

"(a) Any person who commits a domestic assault within the special maritime and territorial jurisdiction of the United States or Indian country and who has a final conviction on at least two separate prior occasions in Federal, State, or Indian tribal court proceedings for offenses that would be, if subject to Federal jurisdiction—

"(1) any assault, sexual abuse, or serious violent felony against a spouse or intimate partner; or

"(2) an offense under chapter 110A,

shall be fined under this title, imprisoned for a term of not more than 5 years, or both, except that if substantial bodily injury results from a violation under this section, the offender shall be imprisoned for a term of not more than 10 years.

"(b) For purposes of this section—

"(1) the term 'domestic assault' means an assault committed by a current or former spouse, parent, child, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, parent, child, or guardian, or by a person similarly situated to a spouse, parent, child, or guardian of the victim;

"(2) the term 'final conviction' means the final judgment on a verdict of finding of guilty, a plea of guilty, or a plea of nolo contendere, but does not include a final judgment which has been expunged by pardon, reversed, set aside, or otherwise rendered void;

"(3) the term 'order of protection' has the meaning given to such term by section 2265(b);

"(4) the term 'serious violent felony' has the meaning given to such term by section 3559(c)(2)(F);

"(5) the term 'State' has the meaning given to such term by section 3559(c)(2)G);

"(6) the term 'substantial bodily injury' has the meaning given to such term by section 113(b)(1); and

"(7) the term 'sexual abuse' has the meaning given to such term by section 2242.".

SEC. 6. ENHANCED ARREST AUTHORITY.

Section 4 of the Indian Law Enforcement Reform Act (25 U.S.C. 2803) is amended—

(1) in paragraph (2)(A), by striking ", or" and inserting "; or"; and

(2) in paragraph (3)—

(A) in subparagraph (A), by striking ", or" and inserting a semi-colon;

(B) in subparagraph (B), by adding "or" at the end; and

(C) by adding at the end the following:

"(C)(i) the offense is a misdemeanor offense of domestic violence (as defined in section 117 of title 18, United States Code); and

"(ii) the employee has reasonable grounds to believe that the person to be arrested has committed, or is committing, the offense;".

SEC. 7. CRIMINAL RECORDS DATABASE PILOT PROJECT.

(a) IN GENERAL.—The Attorney General shall make grants available pursuant to section 2001(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) to Indian tribes for the development of tribal criminal history databases to document final convictions of tribal domestic violence court adjudications, orders of protection, stay away orders, and such other domestic violence criminal history.

(b) REQUIREMENTS.—A database developed under subsection (a) shall include—

(1) final convictions by a tribal court order;

(2) orders of protection that are currently in effect and meet the requirements of section 2265(b) of title 18, United States Code;

(3) a means to provide tribal, Federal, and State law enforcement agencies with access to the information in the database; and

(4) safeguards to prevent the dissemination of the information contained therein for other than a criminal justice or law enforcement purpose.

SEC. 8. STUDY OF DOMESTIC VIOLENCE IN INDIAN COUNTRY.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary, the Director of the Indian Health Service, and Indian tribes, shall conduct a study on the incidents of domestic violence in Indian country.

(b) CONTENTS.—The study conducted under subsection (a) shall—

(1) determine the extent of domestic violence in Indian country and its causes; and

(2) identify obstacles to—

(A) the prevention of incidents of domestic violence;

(B) the appropriate response to incidents of domestic violence;

(C) adequate treatment for victims of domestic violence; and

(D) criminal prosecution of domestic violence offenders.

(c) REPORT .—Not later than 1 year after the date of enactment of this Act, the Attorney General shall transmit to Congress a report regarding the study conducted under this section. This report shall include recommendations, including legislative recommendations, to address domestic violence in Indian country.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 9. CONFORMING AMENDMENTS.

Section 2001(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) is amended—

(1) in paragraph (10), by striking "and" after the semicolon;

(2) in paragraph (11), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(12) to develop tribal domestic violence criminal history databases for use by Indian tribal courts and tribal, State, and Federal law enforcement officers engaged in a law enforcement function".

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 990. A bill to provide a grant program to support the establishment and operation of Teachers Professional Development Institutes; to the Committee on Health, Education, Labor, and Pensions.

Mr. LIEBERMAN. Mr. President, I rise today to introduce, along with my colleague from Connecticut, Mr. DODD, legislation that will bolster the content and pedagogical knowledge of our K-12 teacher workforce. This measure provides resources and incentives to enlist college and university faculties in partnerships with public school districts throughout the Nation in an effort to strengthen public school instruction.

My proposal will establish, over the next five years, forty new Teacher Professional Development Institutes in locales throughout the Nation. Based on the model which has been operating at Yale University and the City of New Haven for over 25 years, Teacher Professional Development Institutes consist of partnerships between one or more institutions of higher education and local, economically disadvantaged public school systems. These Institutes will strengthen the present teacher workforce by giving participants an opportunity to gain more sophisticated content knowledge and instructional skills, and will provide them a chance to develop—in conjunction with their Institute colleagues—practical curriculum units that they can implement in their classrooms and share with their schools and districts.

Since 1978, the Yale-New Haven Institute has offered five to seven thirteen-session seminars each year, led by Yale faculty, on topics that teachers have selected to enhance their teaching mastery. To begin the process, teacher representatives from the Institute solicit teachers throughout the school district for ideas on how to help meet their perceived needs—for example, improving content area knowledge, preparing instructional materials, managing the classroom, or addressing accountability standards. As a consensus emerges regarding seminar content, the Institute director identifies and enlists university faculty members with the appropriate expertise, interest, and desire to lead the seminar. Because the topics are ultimately determined by the teachers who participate, seminars offer content which teachers believe is pertinent, valuable, and practical for both themselves and their students.

It is, in fact, the cooperative and emergent nature of the Institute seminar planning process that ensures its success—rigorous topical instruction and relevant materials are provided based on participants' self-identified needs. Granted the opportunity to examine and act on their own skills and knowledge, teachers gain a sense of self-sufficiency, and are more enthusiastic about their participation. Teachers gain further confidence as they practice using the materials they obtain and develop among their peers, ensuring that the experience not only increases their subject-matter proficiency, but also provides immediate hands-on active learning materials that can be transferred to the classroom. In short, by allowing teachers to determine the seminar subjects and providing them the resources to develop curricula relevant to their classroom and their students, the Institutes empower teachers. Teachers are the front line—they are the interface between the educational system and the students it aspires to shape and inform—and they know what should be done to improve their schools and increase student achievement. The Teacher Professional Development Institutes promote this philosophy.

From 1999–2002, the Yale-New Haven Teachers Institute conducted a National Demonstration Project to create comparable Institutes at four diverse sites with large concentrations of disadvantaged students. These demonstration projects were located in Pittsburgh, PA; Houston, TX; Albuquerque, NM; and Santa Ana, CA. Based on the success of that Project, the Institute has launched the Yale National Initiative—a long-term endeavor to establish exemplary Teachers Institutes in states throughout the nation, just as the legislation I have introduced would do.

Follow-up evaluations have garnered encouraging reactions from teachers who have participated both in the Yale-New Haven Institute and in the demonstration Institutes. These data strongly support the conclusions that virtually all teachers felt substantially strengthened in their mastery of content knowledge and that they developed increased expectations for students' achievement. Further, because of their personal involvement in the course selection and curriculum development process, teacher participants have found these seminars to be especially relevant and useful in their classroom practices—in fact, ninety-five percent of all participating teachers reported them to be beneficial. Finally, study results have found that these Institutes foster teacher leadership, develop supportive teacher networks, heighten university faculty commitments to improving K-12 public education, and create more positive partnerships between school districts and institutions of higher education—something I believe is essential to improving students' readiness for college.

Several studies assert that teacher quality is the single most important school-related factor in determining student achievement. Accordingly, the No Child Left Behind Act requires a "highly qualified" teacher to be in every classroom by the end of the 2005-2006 academic year. Effective teacher professional development programs that focus on content area and pedagogical knowledge are proven means of enhancing the success of classroom teachers and helping to meet the "highly qualified" criteria. Yet, a 2003 Government Accountability Office Report on Teacher Quality found that many state and local school districts view shortcomings in their current professional development practices as a significant barrier to meeting this requirement. These local agencies are looking for innovative, research-proven alternatives to their current programs, and this is precisely what Teacher Professional Development Institutes will provide.

Nationwide, projects developed to conform to the Yale-New Haven Institute model have proven to be successful in providing innovative teacher professional development. Virtually all teacher participants felt substantially strengthened in their mastery of content knowledge and their teaching skills. My proposal would open this opportunity to many more urban teachers and would provide high quality professional development to educators and policy makers throughout the Nation. In this way, we can set high standards for effective teacher professional development as we have done for student achievement outcomes.

I ask unanimous consent that the text of the Teachers Professional Development Institutes Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 990

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEACHERS PROFESSIONAL DEVELOPMENT INSTITUTES.

Title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.) is amended by adding at the end the following:

"PART C—TEACHERS PROFESSIONAL DEVELOPMENT INSTITUTES

"SEC. 241. SHORT TITLE.

"This part may be cited as the 'Teachers Professional Development Institutes Act'.

"SEC. 242. FINDINGS AND PURPOSE.

"(a) FINDINGS.—Congress makes the following findings:

"(1) Ongoing, subject-specific teacher professional development is essential to improved student learning.

"(2) The No Child Left Behind Act of 2001 calls for a highly qualified teacher in every core-subject classroom; attaining this goal will require innovative and effective approaches to improving the quality of teaching.

"(3) The Teachers Institute Model is an innovative and proven approach that encourages collaboration between urban school teachers and university faculty. The model focuses on teachers' continuing academic preparation and on the personal and collaborative application of their studies in their classrooms, schools, and districts.

"(4) The Teachers Institute Model has a proven record, as demonstrated by the success of a 3-year national demonstration pilot project (referred to in this part as the 'National Demonstration Project') in several United States cities.

"(b) PURPOSE.—The purpose of this part is to provide Federal assistance to support the establishment and operation of Teachers Professional Development Institutes for local educational agencies that serve significant low-income populations in States throughout the Nation—

"(1) to improve student learning; and

"(2) to enhance the quality of teaching by strengthening the subject matter mastery and pedagogical skills of current teachers through continuing teacher preparation.

"SEC. 243. DEFINITIONS.

"In this part:

"(1) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved.

"(2) SIGNIFICANT LOW-INCOME POPULATION.—The term 'significant low-income population' means a student population of which not less than 25 percent are from families with incomes below the poverty line.

"(3) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(4) TEACHERS PROFESSIONAL DEVELOPMENT INSTITUTE.—The term 'Teachers Professional Development Institute' means a partnership or joint venture between or among 1 or more institutions of higher education, and 1 or more local educational agencies serving a significant low-income population, which partnership or joint venture—

"(A) is entered into for the purpose of improving the quality of teaching and learning through collaborative seminars designed to enhance both the subject matter and the pedagogical resources of the seminar participants; and

"(B) works in collaboration to determine the direction and content of the collaborative seminars.

"SEC. 244. GRANT AUTHORITY.

"(a) IN GENERAL.—The Secretary is authorized—

"(1) to award grants to Teachers Professional Development Institutes to encourage the establishment and operation of Teachers Professional Development Institutes; and

"(2) to provide technical assistance, either directly or through existing Teachers Professional Development Institutes, to assist local educational agencies and institutions of higher education in preparing to establish and in operating Teachers Professional Development Institutes.

"(b) SELECTION CRITERIA.—In selecting a Teachers Professional Development Institute for a grant under this part, the Secretary shall consider—

"(1) the extent to which the proposed Teachers Professional Development Institute will serve a community with a significant low-income population;

"(2) the extent to which the proposed Teachers Professional Development Institute will follow the Understandings and Necessary Procedures that have been developed following the National Demonstration Project;

"(3) the extent to which the local educational agency participating in the proposed Teachers Professional Development Institute has a high percentage of teachers who are unprepared or under prepared to teach the core academic subjects the teachers are assigned to teach; and

"(4) the extent to which the proposed Teachers Professional Development Institute will receive a level of support from the community and other sources that will ensure the requisite long-term commitment for the success of a Teachers Professional Development Institute.

"(c) CONSULTATION.—

"(1) IN GENERAL.—In evaluating applications under subsection (b), the Secretary may request the advice and assistance of existing Teachers Professional Development Institutes.

"(2) STATE AGENCIES.—If the Secretary receives 2 or more applications for new Teachers Professional Development Institutes that propose serving the same State, the Secretary shall consult with the State educational agency regarding the applications.

"(d) FISCAL AGENT.—For the purpose of this part, an institution of higher education participating in a Teachers Professional Development Institute shall serve as the fiscal agent for the receipt of grant funds under this part.

"(e) LIMITATIONS.—A grant under this part—

"(1) shall be awarded for a period not to exceed 5 years; and

"(2) shall not exceed 50 percent of the total costs of the eligible activities, as determined by the Secretary.

“SEC. 245. ELIGIBLE ACTIVITIES.

“(a) IN GENERAL.—A Teachers Professional Development Institute that receives a grant under this part may use the grant funds—

“(1) for the planning and development of applications for the establishment of Teachers Professional Development Institutes;

“(2) to provide assistance to existing Teachers Professional Development Institutes established during the National Demonstration Project to enable the Teachers Professional Development Institutes—

“(A) to further develop existing Teachers Professional Development Institutes; or

“(B) to support the planning and development of applications for new Teachers Professional Development Institutes;

“(3) for the salary and necessary expenses of a full-time director to plan and manage such Teachers Professional Development Institute and to act as liaison between the participating local educational agency and institution of higher education;

“(4) to provide suitable office space, staff, equipment, and supplies, and to pay other operating expenses for the development and maintenance of Teachers Professional Development Institutes;

“(5) to provide stipends for teachers participating in collaborative seminars in the sciences and humanities, and to provide remuneration for those members of the higher education faculty who lead the seminars; and

“(6) to provide for the dissemination through print and electronic means of curriculum units prepared in conjunction with Teachers Professional Development Institutes seminars.

“(b) TECHNICAL ASSISTANCE.—The Secretary may use not more than 50 percent of the funds appropriated to carry out this part to provide technical assistance to facilitate the establishment and operation of Teachers Professional Development Institutes. For the purpose of this subsection, the Secretary may contract with existing Teachers Professional Development Institutes to provide all or a part of the technical assistance under this subsection.

“SEC. 246. APPLICATION, APPROVAL, AND AGREEMENT.

“(a) IN GENERAL.—To receive a grant under this part, a Teachers Professional Development Institute shall submit an application to the Secretary that—

“(1) meets the requirement of this part and any regulations under this part;

“(2) includes a description of how the Teachers Professional Development Institute intends to use funds provided under the grant;

“(3) includes such information as the Secretary may require to apply the criteria described in section 244(b);

“(4) includes measurable objectives for the use of the funds provided under the grant; and

“(5) contains such other information and assurances as the Secretary may require.

“(b) APPROVAL.—The Secretary shall—

“(1) promptly evaluate an application received for a grant under this part; and

“(2) notify the applicant within 90 days of the receipt of a completed application of the Secretary's approval or disapproval of the application.

“(c) AGREEMENT.—Upon approval of an application, the Secretary and the Teachers Professional Development Institute shall enter into a comprehensive agreement covering the entire period of the grant.

“SEC. 247. REPORTS AND EVALUATIONS.

“(a) REPORT.—Each Teachers Professional Development Institute receiving a grant under this part shall report annually on the progress of the Teachers Professional Development Institute in achieving the purpose of this part and the purposes of the grant.

“(b) EVALUATION AND DISSEMINATION.—

“(1) EVALUATION.—The Secretary shall evaluate the activities funded under this part and submit an annual report regarding the activities to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.

“(2) DISSEMINATION.—The Secretary shall broadly disseminate successful practices developed by Teachers Professional Development Institutes.

“(c) REVOCATION.—If the Secretary determines that a Teachers Professional Development Institute is not making substantial progress in achieving the purpose of this part and the purposes of the grant by the end of the second year of the grant under this part, the Secretary may take appropriate action, including revocation of further payments under the grant, to ensure that the funds available under this part are used in the most effective manner.

“SEC. 248. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this part—

“(1) $4,000,000 for fiscal year 2006;

“(2) $5,000,000 for fiscal year 2007;

“(3) $6,000,000 for fiscal year 2008;

“(4) $7,000,000 for fiscal year 2009; and

“(5) $8,000,000 for fiscal year 2010.”.

By Mr. KENNEDY (for himself, Mr. DURBIN, Mr. HARKIN, and Mr. AKAKA):

S. 991. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to limit the availability of benefits under an employer's nonqualified deferred compensation plans in the event that any of the employer's defined benefit pension plans are subjected to a distress or PBGC termination in connection with bankruptcy reorganization or a conversion to a cash balance plan, to provide appropriate funding restrictions in connection with the maintenance of nonqualified deferred compensation plans, and to provide for appropriate disclosure with respect to nonqualified deferred compensation plans; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, the Pension Fairness and Full Disclosure Act we are introducing today is urgently needed to end the nightmare that the current pension system is becoming for millions of families across the Nation.

Thousands of flight attendants and machinists from United Airlines have suffered heavily in pay and job security in recent years, and now they're losing their pensions, too. Yet corporate CEO's are still receiving bonuses worth millions of dollars a year.

This nightmare is happening to workers all across America. Companies are cutting employees' pensions by switching to cash balance plans, or even going into bankruptcy. But executive retirement is still going through the roof. A recent report found over 20 percent of America's top 500 largest companies have promised pensions worth more than $1 million a year for their CEOs.

President Bush has said that what is good for the top floor is good for the shop floor. It's wrong for it to be business as usual on the top floor when so much pain is spreading on the shop floor.

Polaroid in Massachusetts filed for bankruptcy in 2001 and terminated its pension plan in 2002. Its pension plan was underfunded by over $300 million dollars. Thousands of retirees had their benefits cut when the Pension Benefit Guaranty Corporation took over. Yet the principal executives of the company received millions of dollars in bonuses. Last week, the company was sold again, and the chairman and CEO received golden parachutes of nearly $10 million each.

The bill we are introducing will end that injustice. It prohibits companies from lining executives' pockets and ignoring commitments to rank-and-file workers. It will require companies to inform employees about executive compensation.

These changes are long overdue. It's an issue of basic fairness, and only Congress can solve this.

By Mr. HARKIN:

S. 992. A bill to amend the Tariff Act of 1930 to eliminate the consumptive demand exception relating to the importation of goods made with forced labor; to the Committee on Finance.

Mr. HARKIN. Mr. President, today, I am proposing to strike the consumptive demand clause from Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307). Section 307 prohibits the importation of any product or good produced with forced or indentured labor including forced or indentured child labor.

The consumptive demand clause creates an exception to this prohibition. Under the exception, if a product is not made in the United States, and there is a demand for it, then a product made with forced or indentured child labor may be imported into this country.

Let us be clear: forced or indentured labor means work which is extracted from any person under the menace of penalty for nonperformance and for which the worker does not offer himself voluntarily. Let us be really clear: this means slave labor. In the case of children, it means child slavery.

Some examples of goods that are made with child slave labor include cocoa beans, hand-knotted carpets, beedis, which are small Indian cigarettes, soccer balls and cotton.

Throughout my Senate career, I have worked to reduce the use of forced child labor worldwide.

In 2003, my staff was invited by Customs to meet with field agents on Section 307 to discuss what appropriations were needed to enforce the statute. At the meeting, the field agents reported that the consumptive demand clause was an obstacle to their ability to enforce the law that is supposed to prevent goods made with slave labor from being imported into the United States.

The consumptive demand clause is outdated. Since this exception was enacted in the 1930s, the U.S. has taken numerous steps to stop the scourge of child slave labor. Most notably, the United States has ratified International Labor Organization's Convention 182 to Prohibit the Worst forms of Child Labor. Currently, 152 other countries have also ratified this ILO Convention.

Retaining the consumptive clause contradicts our international commitments to eliminate abusive child labor. Maintaining the consumptive demand clause says to the world that the United States justifies the use of slave labor, if US consumers need an item not produced in this country. There should be no exception to a fundamental stand against the use of slave labor. it is my hope that Congress will act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 992

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GOODS MADE WITH FORCED OR INDENTURED LABOR.

(a) IN GENERAL.—The second sentence of section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended by striking "; but in no case" and all that follows to the end period.

(b) EFFECTIVE DATE.—The amendment made by this section applies to goods entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 993. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on amounts received under certain insurance policies in which certain exempt organizations hold an interest; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, the bill imposes an excise tax, equal to 100 percent of the acquisition costs, on the taxable acquisition of any interest in an applicable insurance contract. An applicable insurance contract is any life insurance, annuity or endowment contract in which both an applicable exempt organization and any person that is not an applicable exempt organization have, directly or indirectly, held an interest in the contract (whether or not the interests are held at the same time).

An applicable exempt organization generally includes an organization that is exempt from Federal income tax by reason of being described in section 501(c)(3) (including one organized outside the United States), a government or political subdivision of a government, and an Indian tribal government.

The bill provides that an interest in an applicable insurance contract includes any right with respect to the contract, whether as an owner, beneficiary, or otherwise. An indirect interest in a contract includes an interest in an entity that, directly or indirectly, holds an interest in the contract.

Exceptions apply under the bill. An exception is provided if each person (other than the exempt organization) with an interest in the contract has an insurable interest in the insured person independent of any interest of the exempt organization. Another exception is provided if each person, other than an exempt organization, has an interest solely as a named beneficiary. An exception is also provided for a person, other than the exempt organization, with an interest as a trust beneficiary, if the beneficiary designation is purely gratuitous, or with an interest as a trustee who holds in a fiduciary capacity for an applicable exempt organization or another permitted beneficiary.

The bill provides reporting rules requiring an applicable exempt organization or other person that makes a taxable acquisition of an applicable insurance contract to file a return showing required information. A statement is required to be furnished to each person whose taxpayer identification information is required to be reported on the return. Penalties apply for failure to file the return or furnish the statement, including, in the case of intentional disregard of the return filing requirement, a penalty equal to the amount of the excise tax that has not been paid with respect to the items required to be included on the return.

The bill is effective for contracts issued after May 3, 2005. The bill requires reporting of existing life insurance, endowment and annuity contracts issued on or before that date, in which an applicable exempt organization holds an interest and which would be treated as an applicable insurance contract under the bill. This reporting is required within one year after the date of enactment.

By Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. LEAHY, Mr. BROWNBACK, Mr. OBAMA, Ms. MURKOWSKI, and Mr. ALEXANDER):

S.J. Res. 18. A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003; to the Committee on Finance.

Mr. MCCONNELL. Mr. President, along with my colleagues from California, Arizona, Vermont, Kansas and Illinois, I come to the floor to introduce legislation to renew sanctions against the illegitimate and repressive State Peace and Development Council (SPDC) in Burma.

I do not intend today to recount the litany of abuses committed by the military junta in Rangoon against the Burmese people and their neighbors given the extensive documentation of these violations by credible sources, including the U.S. Department of State, the United Nations and numerous nongovernmental organizations, my colleagues are undoubtedly familiar with many of the SPDC's heinous crimes—from the production and trafficking of illicit drugs, to the use of rape as a weapon of war against ethnic minority women and girls and the forced conscription of children into military service.

Instead, I urge my colleagues to act quickly—as we have in the past—in considering and passing the renewal of sanctions, which include an import ban on Burmese goods and visa restrictions on officials from the SPDC and affiliated organizations.

We must act quickly as the SPDC poses an immediate danger to the entire region, whether through the trafficking of illicit drugs, the unchecked spread of HIV/AIDS, or the forced movement of people who seek refuge and safety in neighboring countries.

There is no more definitive expression of support for democracy and human rights—for solidarity with those struggling for freedom—than an import ban. As Archbishop Desmond Tutu has eloquently pointed out on several occasions, sanctions worked in South Africa, and they can work in Burma, too.

We must act resolutely as the junta continues to imprison those who nonviolently struggle for freedom and justice, including Nobel laureate and Burmese democracy leader Daw Aung San Suu Kyi. Burma has a rising prisoner of conscience population, with over 1,300 political prisoners. I renew my call that Suu Kyi and other prisoners of conscience be immediately and unconditionally released.

Just last month, the European Union renewed sanctions against the SPDC that restrict members of the junta and their families from entering the EU, and bans EU companies from doing business in Burma. While I applaud this action, I call upon the EU and other multilateral organizations, including the United Nations, to do more in support of freedom in Burma.

Specifically, the EU, along with the United States, should not participate in any Association of Southeast Asian Nations (ASEAN) related meetings should the SPDC assume chairmanship of that Association next year. It is worth noting that some ASEAN member states are now publicly discussing the junta's possible leadership with growing concern. This increased attention—and a growing chorus for political reform in Burma in the region by likeminded lawmakers—is also appreciated.

Finally, while I welcome UN Secretary-General Kofi Annan's personal comments in support of freedom in Burma, the time for talk is over. The UN must act on Burma—in New York. It is past time for the UN to discuss and debate the myriad threats Burma poses to the region. What are they waiting for?

The people of Burma must know that they have no better friends in this body than Senators FEINSTEIN, McCAIN, LEAHY, BROWNBACK and OBAMA. There is an unofficial Burma Caucus in the Senate, and I am proud to stand shoulder-to-shoulder with my dedicated colleagues on this issue.

To them—and to Suu Kyi and all who nonviolently struggle for freedom in Burma—I say "we will prevail."

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 18

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress approves the renewal of the import restrictions contained in section 3(a)(1) of the Burmese Freedom and Democracy Act of 2003.

Mrs. FEINSTEIN. Mr. President, I rise today in support of a resolution introduced by myself, Senator McCONNELL, Senator LEAHY, Senator McCAIN, Senator BROWNBACK, and Senator OBAMA to renew the sanctions imposed on Burma by the Burmese Freedom and Democracy Act of 2003.

Last year, in response to the failure by the military junta—the State Peace and Development Council, SPDC—to take any meaningful steps towards restoring democracy and releasing Nobel Peace Prize winner and National League for Democracy, NLD, leader Aung San Suu Kyi, Congress overwhelmingly renewed a complete ban on all imports from Burma for another year.

One year later, it is clear that Rangoon has once again failed to make "substantial and measurable progress" toward putting Burma on a irreversible path of national reconciliation and democracy.

Suu Kyi remains under house arrest. On her 60th birthday on June 19, 2005, she will have spent a total of 2,523 days in detention.

NLD Vice Chairman Tin Oo has also remained in custody since May 2003. And 1,400 political prisoners are still in jail.

The military junta's "road map" to democracy and national convention to draft a new constitution has produced no timetable for restoring democracy and shut out the participation of Suu Kyi and the NLD, the legitimate winners of the 1990 elections.

The United Nations Commission on Human Rights passed a resolution last month highlighting continued human rights abuses by Rangoon including "extrajudicial killings," rape, torture, sex trafficking and forced labor.

And let us not forget that Congress passed the original "Burmese Freedom and Democracy Act of 2003" in response to a brutal coordinated assault by progovernment paramilitary thugs on Suu Kyi and other members of the NLD. Is anyone surprised that no one has been brought to justice for these crimes?

The generals who run the country have shown a remarkable ability to ignore the demands of their own people and the international community. The simple truth is that as long as the SPDC remains in power the democratic hopes and aspirations of the Burmese people will continue to be denied.

Now is not the time to let the sanctions expire and try to "engage" the military junta.

Doing so without any meaningful steps toward democracy taken by Rangoon would only serve to bolster the regime's campaign against democratic government, the rule of law, and basic human rights.

I point out that the democratic movement in Burma continues to support sanctions against the SPDC. We must give them more time to effect change in Burma.

Let us not fall into the trap of thinking true representative democracy cannot come to Burma and the Burmese people. I agree with Deputy Secretary of State Robert Zoellick when he said recently:

> What we see throughout the world, even in places where people don't expect it, like the Middle East, is a process of openness and democracy. There's no reason it can't happen in Burma as well.

As champions of freedom and respect for human rights, we must stand in solidarity with Suu Kyi, the people of Burma, and the international community in once again calling on the SPDC to release Suu Kyi, relinquish power, and respect the 1990 elections. Archbishop Desmond Tutu has rightly said:

> As long as [Suu Kyi] remains under house arrest, none of us is truly free.

In the face of human rights abuses and terror, approximately 300,000 Burmese citizens have already defied the military junta and signed their names on a petition calling for true democratic change in Burma. We must back their courage. I urge my colleagues to support the resolution.

Mr. McCAIN. Mr. President, I would like to thank Senators McCONNELL and FEINSTEIN for their efforts to renew again the sanctions contained in the 2003 Burmese Freedom and Democracy Act. I am proud to join along with Senators LEAHY, BROWNBACK, and OBAMA as sponsors of this resolution.

As we take action to renew this legislation, the situation inside Burma grows ever dimmer. The military junta in that country controls the population through a campaign of violence and terror, and the lack of freedom and justice there is simply appalling. The Burmese regime has murdered political opponents, used child soldiers and forced labor, and employed rape as a weapon of war. Political activists remain imprisoned, including elected members of parliament, and Aung San Suu Kyi remains a captive.

Aung San Suu Kyi's courageous and steadfastness in the face of tyranny inspires me and, I believe, every individual who holds democracy dear. Because she stands for freedom, this heroic woman has endured attacks, arrest, captivity, and untold sufferings at the hands of the regime. Burma's rulers fear Aung San Suu Kyi because of what she represents—peace, freedom and justice for all Burmese people. The thugs who run the country have tried to stifle her voice, but they will never extinguish her moral courage. Her leadership and example shine brightly for the millions of Burmese who hunger for freedom and for those of us outside Burma who seek justice for its people.

The work of Aung San Suu Kyi and the members of the National League for Democracy must be the world's work. We must continue to press the junta until it is willing to negotiate an irreversible transition to democratic rule. The Burmese people deserve no less. And I see encouraging signs that the world is no longer content to sit on the sidelines.

The U.S. Congress has been in the forefront, and we stepped up our pressure significantly in 2003 with the Burmese Freedom and Democracy Act. In doing so, we took active steps to pressure the military junta, and we sent a signal to the Burmese people that they are not forgotten—that the American people care about their freedom and will stand up for justice in their country.

Now the Europeans and the countries of Southeast Asia are finally stepping up their own pressure. While they can and should do more, the signs are encouraging. I have recently seen a report that 78 Thai senators have sponsored a motion opposing Burma's chairmanship of ASEAN, scheduled for next year. Similar moves by governments of other Southeast Asian nations suggest that opposition to Burma's rotation is becoming widespread, as it should—ASEAN's credibility would crumble under Burmese leadership. A unified message from all ASEAN countries that Burma's behavior is simply unacceptable would make clear to its leaders that they cannot practice repression forever.

For our part, I support today the joint resolution that will renew the import restrictions—sanctions that are supported by the National League for Democracy. These restrictions must remain until Burma embarks on a true path of reconciliation—a process that must include the NLD and Burmese ethnic minorities.

The picture today in Burma is tragically clear. So long as a band of thugs rules Burma, its people will never be free. They will remain mired in poverty and suffering, cut off from the world, with only their indomitable spirit to keep them moving forward. With our action today, we will support this spirit.

Mr. BROWNBACK. Mr. President, I rise with several of my colleagues to speak about the importance of the renewal of the Burma sanctions. I also wish to speak candidly about the Burmese Military Junta's continued oppression of their people through rape, torture and other severe human rights abuses.

As the world's only imprisoned Nobel Peace Prize recipient, Aung San Suu Kyi continues to inspire the democracy movement and seek support for their peaceful cause. It has been reported that the National League for Democracy has collected more than 300,000 signatures on a petition calling for change in the country. Those who sign are actively putting their lives in danger by publicly stating that they seek democratic change and some 1,400 political prisoners are locked up for supporting human rights and democracy.

The human rights abuses in Burma continue daily against ethnic minorities, political activists and others who simply suffer as innocent bystanders. A 2002 Human Rights Watch report found that Burma has nearly 70,000 child soldiers in its army, more than any other country in the world. Up to 2 million people have been forced to flee the country as refugees and migrants and the burning of villages continues in eastern Burma, especially in the Karen and Karenni states. Last year I drew to your attention a report titled "Shattering Silences", in which the Karen Women's Organization carefully investigated and recorded the Burmese military regime's use of rape as a weapon of war against ethnic minority women, revealing a shockingly brutal and callous practice.

For the past two years, I have joined my colleagues in reauthorizing the Burmese Freedom and Democracy Act, which bans mainly textile and garment imports from Burma. When I chaired the East Asia and Pacific Subcommittee I held a hearing on this very subject. In that hearing I spoke about the importance of a multilateral isolation policy. I urge my colleagues to consider the strides that have been made in just two years of promoting such a policy.

In a major and important move, the European Union, in October 2004, followed the lead of the United States and significantly strengthened its sanctions on Burma, including a ban on investments in enterprises of the ruling regime and a strengthened visa ban. The EU also pledged to join the United States in opposing loans to Burma's regime from the International Monetary Fund and World Bank. The European Parliament passed a resolution calling "on the UN Security Council to address the situation in Burma as a matter of urgency." Additionally, 289 members of the British parliament tabled a motion calling on the UN Security Council to address the situation in Burma.

After both houses of Congress passed resolutions in October 2004 calling on the UN Security Council to address the situation in Burma, the parliament of Australia followed suit. The Australian motion called on the government to, "support the Burmese National League for Democracy's call for the UN Security Council to convene a special session to consider what further measures the UN can take to encourage democratic reform and respect for human rights in Burma."

Support at the United Nations is growing as well. Burma was one of only a few countries on which resolutions were passed by the United Nations Commission on Human Rights. This was led by the European Union with strong support from the United States as well as support from Japan. The resolution strongly condemned what it called "the systematic ongoing violation of human rights" in Burma.

There has been unprecedented action on Burma within ASEAN. Whereas in the past ASEAN refused to even comment on what it deemed Burma's "internal affairs", many members of the organization are now publicly pressuring Burma to step aside as the chair of the association in 2006.

The tough approach maintained by the United States towards Burma, including import sanctions and a possible boycott of 2006 meetings, is for the first time encouraging many Asian nations to rethink whether the Burmese regime should assume the rotating chairmanship. There is widespread belief within the leadership of ASEAN countries that Burma has failed to deliver on its promises to the region.

In all of the above-mentioned instances, the strong stand of the United States has influenced countries around the world. The movement at the EU, UN, and within ASEAN is unprecedented. We must keep up the tough pressure by the United States.

I urge my colleagues to reauthorize the sanctions as a strong and clear signal that the United States will not support this brutal regime and their continued oppression of activists and minorities.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 135—CONGRATULATING THE NATIONAL ASPHALT PAVEMENT ASSOCIATION ON ITS 50TH ANNIVERSARY AND RECOGNIZING THE CONTRIBUTIONS OF MEMBERS OF THE ASSOCIATION TO THE UNITED STATES

Mr. INHOFE (for himself, Mr. BOND, Mr. BAUCUS, and Mr. JEFFORDS) submitted the following resolution; which was considered and agreed to:

S. RES. 135

Whereas in 2005, the National Asphalt Pavement Association (incorporated on May 17, 1955, as the National Bituminous Concrete Association) celebrates its 50th anniversary;

Whereas the members of the National Asphalt Pavement Association play a key role in strengthening the economy of the United States and promoting the mobility of citizens of the United States by providing hot-mix asphalt used in the construction of the 41,000-mile Interstate Highway System and other highways, streets, roads, parking lots, and airports;

Whereas the National Asphalt Pavement Association has focused on continually improving the quality of asphalt pavement by establishing a quality improvement program;

Whereas the National Asphalt Pavement Association has facilitated technology transfer and advanced new asphalt pavement technologies through partnerships, scanning tours, publications, and presentations;

Whereas the National Asphalt Pavement Association, through members of the Association, has fostered and encouraged young people to pursue careers in civil engineering by establishing the National Asphalt Pavement Association Research and Education Foundation to provide scholarships, sponsor educational exhibitions, and fund research of national significance relating to hot-mix asphalt;

Whereas the National Asphalt Pavement Association, through members of the Association, endowed the National Center for Asphalt Technology, the world's premier institution for asphalt research, and continues to fund the activities of the Center; and

Whereas the National Asphalt Pavement Association will continue to contribute to research to ensure that the Interstate Highway System will be designed and constructed for perpetual use in order to meet the growing economic and national security needs of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the National Asphalt Pavement Association on its 50th anniversary; and

(2) recognizes and celebrates the achievements of the members of the National Asphalt Pavement Association for their contributions to the economic well-being of the citizens of the United States.

SENATE CONCURRENT RESOLUTION 31—TO CORRECT THE ENROLLMENT OF H.R. 1268

Mrs. HUTCHISON submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 31

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of H.R. 1268, an Act making emergency supplemental appropriations for the fiscal year ending September 30, 2005, and for other purposes, the Clerk of the House of Representatives is hereby authorized and directed to correct section 502 of title V of division B so that clause (ii) of section 106(d)(2)(B) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note), as amended by such section 502, reads as follows:

"(ii) MAXIMUM.—The total number of visas made available under paragraph (1) from unused visas from the fiscal years 2001 through 2004 may not exceed 50,000.".

AMENDMENTS SUBMITTED AND PROPOSED

SA 606. Mr. CORZINE (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table.

SA 607. Mrs. HUTCHISON (for herself, Mr. NELSON of Nebraska, Mr. BURNS, Mr. PRYOR, and Mr. SHELBY) submitted an amendment intended to be proposed by her to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 608. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 609. Mr. DEWINE (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 610. Mr. FEINGOLD (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 611. Mr. ALLEN (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 612. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 613. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 614. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 615. Mr. SCHUMER (for himself, Mr. KENNEDY, Mrs. CLINTON, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 616. Mrs. CLINTON (for herself, Mr. SCHUMER, Mr. CRAIG, and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 617. Mrs. HUTCHISON (for herself, Mr. NELSON of Nebraska, Mr. BURNS, Mr. SHELBY, Mr. PRYOR, and Mr. GRAHAM) proposed an amendment to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra.

SA 618. Mr. HARKIN (for himself, Mr. KENNEDY, Mr. OBAMA, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS—(CORRECTION)

SA 605. On page 8927 of the RECORD of May 9, 2005, Vol. 151, No. 59, correct the amount shown under "(c) MAJOR CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(i)(2)(A)—"(3) . . ." to read "$1,697,663,000 for fiscal year 2008; and . . ."

TEXT OF AMENDMENTS

SA 606. Mr. CORZINE (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

After section 1703, insert the following:

SEC. 17 . LETTING OF CONTRACTS.

Section 112 of title 23, United States Code, is amended by adding at the end the following:

"(g) EFFECT OF SECTION.—Nothing in this section prohibits a State from enacting a law or issuing an order that limits the amount that an individual that is a party to a contract with a State agency under this section may contribute to a political campaign.".

At the end of subtitle G in title I, add the following:

SEC. 17 . DUTIES OF THE SECRETARY OF TRANSPORTATION.

Section 5323(h) of title 49, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and identing appropriately;

(2) by striking "A grant or loan" and inserting the following:

"(1) IN GENERAL.—A grant or loan"; and

(3) by adding at the end the following:

"(2) PROCUREMENT REQUIREMENTS.—The enactment of a law or issuance of an order by a State that limits the amount of money that may be contributed to a political campaign by an individual doing business with a grantee shall be considered to be in accordance with Federal competitive procurement requirements.".

SA 607. Mrs. HUTCHISON (for herself, Mr. NELSON of Nebraska, Mr. BURNS, Mr. PRYOR, and Mr. SHELBY) submitted an amendment intended to be proposed by her to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1609(a) and insert the following:

(a) INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM.—Section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212) is repealed.

SA 608. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GRANT PROGRAM FOR COMMERCIAL DRIVER TRAINING.

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a program for making grants to commercial driver training schools and programs for the purpose of providing financial assistance to entry level drivers of commercial vehicles (as defined in section 31301 of title 49, United States Code).

(b) FEDERAL SHARE.—The Federal share of the cost for which a grant is made under this section shall be 80 percent.

(c) FUNDING.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the purpose of carrying out this section $5,000,000 for each of the fiscal years 2006 through 2009.

SA 609. Mr. DEWINE (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PRESIDENTIAL COMMISSION ON ALCOHOL-IMPAIRED DRIVING.

(a) FINDINGS.—Congress finds that—

(1) there has been considerable progress over the past 25 years in reducing the number and rate of alcohol-related highway fatalities;

(2) the National Highway Traffic Safety Administration projects that fatalities in alcohol-related crashes declined in 2004 for the second year in a row;

(3) in spite of this progress, an estimated 16,654 Americans died in 2004, in alcohol-related crashes;

(4) these fatalities comprise 39 percent of the annual total of highway fatalities;

(5) about 250,000 are injured each year in alcohol-related crashes;

(6) the past 2 years of decreasing alcohol-related fatalities follows a 3-year increase;

(7) drunk driving is the Nation's most frequently committed violent crime;

(8) the annual cost of alcohol-related crashes is over $100,000,000,000, including $9,000,000,000 in costs to employers;

(9) a Presidential Commission on Drunk Driving in 1982 and 1983 helped to lead to substantial progress on this issue; and

(10) these facts point to the need to renew the national commitment to preventing these deaths and injuries.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that, in an effort to further change the culture of alcohol impaired driving on our Nation's highways, the President should consider establishing a Presidential Commission on Alcohol-Impaired Driving—

(1) comprised of—

(A) representatives of State and local governments, including state legislators;

(B) law enforcement;

(C) traffic safety experts, including researchers;

(D) victims of alcohol-related crashes;

(E) affected industries, including the alcohol, insurance, and auto industries;

(F) the business community;

(G) labor;

(H) the medical community;

(I) public health; and

(J) Members of Congress; and

(2) that not later than September 30, 2006, would—

(A) conduct a full examination of alcohol-impaired driving issues; and

(B) make recommendations for a broad range of policy and program changes that would serve to further reduce the level of deaths and injuries caused by drunk driving.

SA 610. Mr. FEINGOLD (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 179(a) of title 23, United States Code (as added by section 7139(a)), insert "previously verified as accurate" after "other information".

In section 179(a) of title 23, United States Code (as added by section 7139(a)), strike "with a system using scoring models and algorithms".

In section 179(d)(1) of title 23, United States Code (as added by section 7139(a)), strike "use multiple sources" and insert "ensure accurate sources".

In section 179(d)(3) of title 23, United States Code (as added by section 7139(a)), strike "and" at the end.

In section 179(d) of title 23, United States Code (as added by section 7139(a)), strike paragraph (4) and insert the following:

"(4) incorporate a comprehensive program ensuring administrative, technical, and physical safeguards to protect the privacy and security of means of identification (as defined in section 1028(d) of title 18, United States Code), against unauthorized and fraudulent access or uses;

"(5) impose limitations to ensure that any information containing means of identification transferred or shared with third-party vendors for the purposes of the information-based identity authentication described in this section is only used by the third-party vendors for the specific purposes authorized under this section;

"(6) include procedures to ensure accuracy and enable applicants for commercial driver's licenses who are denied licenses as a result of the information-based identity authentication described in this section, to appeal the determination and correct information upon which the comparison described in subsection (a) is based;

"(7) ensure that the information-based identity authentication described in this section—

"(A) can accurately assess and authenticate identities; and

"(B) will not produce a large number of false positives or unjustified adverse consequences;

"(8) create penalties for knowing use of inaccurate information as a basis for comparison in authenticating identity; and

"(9) adopt policies and procedures establishing effective oversight of the information-based identity authentication systems of State departments of motor vehicles.".

SA 611. Mr. ALLEN (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 7216(a) of the bill and insert the following:

(a) IN GENERAL.—Section 405 is amended to read as follows:

"§405. Safety belt performance grants

"(a) IN GENERAL.—The Secretary of Transportation shall award grants to States in accordance with the provisions of this section to encourage the use of safety belts in passenger motor vehicles.

"(b) GRANTS FOR SAFETY BELT USE.—

"(1) IN GENERAL.—The Secretary shall make a single grant to each State that has a State safety belt use rate for the immediately preceding calendar year of 85 percent or more, as measured by the National Center for Statistics and Analysis.

"(2) AMOUNT.—The amount of a grant available to a State in fiscal year 2006 or in a subsequent fiscal year under paragraph (1) of this subsection is equal to 500 percent of the amount apportioned to the State for fiscal year 2003 under section 402(c).

"(3) SHORTFALL.—If the total amount of grants provided for by this subsection for a fiscal year exceeds the amount of funds available for such grants for that fiscal year, then the Secretary shall make grants under this subsection to States in the order in which the State's safety belt use rate was 85 percent or more for 2 consecutive calendar years, as measured by .the National Center for Statistics and Analysis.

"(4) CATCH-UP GRANTS.—The Secretary shall award a grant to any State eligible for a grant under this subsection that did not receive a grant for a fiscal year because its safety belt use rate is 85 percent or more for the calendar year preceding such next fiscal year.

"(c) ALLOCATION OF UNUSED GRANT FUNDS.—The Secretary shall award additional grants under this section from any amounts available for grants under this section that, as of July 1, 2009, are neither obligated nor expended. The additional grants awarded under this subsection shall be allocated among all States that, as of July 1, 2009, have a seatbelt usage rate of 85 percent for the previous calendar year. The allocations shall be made in accordance with the formula for apportioning funds among the States under section 402(c).

"(d) USE OF GRANT FUNDS.—

"(1) IN GENERAL.—Subject to paragraph (2), a State may use a grant awarded under this section for any safety purpose under this title or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including—

"(A) intersection improvements;

"(B) pavement and shoulder widening;

"(C) installation of rumble strips and other warning devices;

"(D) improving skid resistance;

"(E) improvements for pedestrian or bicyclist safety;

"(F) railway-highway crossing safety;

"(G) traffic calming;

"(H) the elimination of roadside obstacles;

"(I) improving highway signage and pavement marking;

"(J) installing priority control systems for emergency vehicles at signalized intersections;

"(K) installing traffic control or warning devices at locations with high accident potential;

"(L) safety-conscious planning;

"(M) improving crash data collection and analysis; and

"(N) increasing road or lane capacity.

"(2) SAFETY ACTIVITY REQUIREMENT.—Notwithstanding paragraph (1), the Secretary shall ensure that at least $1,000,000,000 of amounts received by States under this section are obligated or expended for safety activities under this chapter.

"(e) CARRY-FORWARD OF EXCESS FUNDS.—If the amount available for grants under this section for any fiscal year exceeds the sum of the grants awarded under this section for that fiscal year, the excess amount and obligational authority shall be carried forward and made available for grants under this section in the succeeding fiscal year.

"(f) FEDERAL SHARE.—The Federal share payable for grants awarded under this section is 100 percent.

"(g) DEFINITION.—In this section, the term 'passenger motor vehicle' means—

"(1) a passenger car;

"(2) a pickup truck; or

"(3) a van, minivan, or sport utility vehicle, with a gross vehicle weight rating of less than 10,000 pounds.".

SA 612. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18___. DESIGNATION OF HIGH DESERT CORRIDOR AS HIGH PRIORITY CORRIDOR.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by adding at the end the following:

"(46) The High Desert Corridor/E–220 from Los Angeles, California to Las Vegas, Nevada via Palmdale and Victorville, California.".

SA 613. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18___. DESIGNATION OF ECONOMIC LIFELINE CORRIDOR AS HIGH PRIORITY CORRIDOR.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by adding at the end the following:

"(46) The Economic Lifeline Corridor along I–15 and I–40 in California, Arizona, and Nevada, including I–215 south from near San Bernardino to Riverside and State Route 91 from Riverside to its intersection with I–15 near Corona in California.".

SA 614. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18 . DESIGNATION OF CROSS VALLEY CONNECTOR AS HIGH PRIORITY CORRIDOR.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by adding at the end the following:

"(46) The Cross Valley Connector linking Interstate 5 and State Route 14 in Santa Clarita Valley, California.".

SA 615. Mr. SCHUMER (for himself, Mr. Kennedy, Mrs. Clinton, and Mr. Levin) submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 628, line 23, strike "$155" and insert "$155 ($170 for 2007, $185 for 2008 and $200 for 2009 and thereafter)".

On page 629, line 5, strike "2008" and insert "2009".

On page 629, line 7, strike "2007" and insert "2008".

SA 616. Mrs. CLINTON (for herself, Mr. Schumer, Mr. Craig, and Mr. Crapo) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 357, line 5, strike "and".

On page 357, line 8, strike the period at the end and insert "; and".

On page 357, between lines 8 and 9, insert the following:

"(3) support the planning, development, and construction of high priority corridors identified by section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2032).

On page 357, strike lines 12 through 14 and insert the following:

"(c) Eligible Activities.—The Secretary shall make allocations under this program for—

"(1) multistate highway and multimodal planning studies and construction; and

"(2) coordinated planning, development, and construction of high priority corridors identified by section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2032).

SA 617. Mrs. HUTCHISON (for herself, Mr. Nelson of Nebraska, Mr. Burns, Mr. Shelby, Mr. Pryor, and Mr. Graham) proposed an amendment to amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

On page 250, strike lines 17 through 19 and insert the following:

(B) by striking paragraph (2) and inserting the following:

"(2) Limitation.—The Secretary may permit the collection of tolls under this subsection on 1 facility in the State of Virginia.";

SA 618. Mr. HARKIN (for himself, Mr. Kennedy, Mr. Obama, and Mr. Carper) submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. ___. NONMOTORIZED TRANSPORTATION SAFETY.

Section 120(c) of title 23, United States Code, is amended—

(1) in the first sentence, by striking "The Federal" and inserting the following:

"(1) In general.—The Federal"; and

(2) by adding at the end the following:

"(2) Statement of policy by state transportation departments.—

"(A) In general.—Each State transportation department shall adopt a statement of policy ensuring that the needs and safety of all road users (including the need for pedestrian and bicycle safety) are fully integrated into the planning, design, operation and maintenance of the transportation system of the State transportation department.

"(B) Basis.—In the case of bicycle and pedestrian safety, the statement of policy shall be based on the design guidance on accommodating bicyclists and pedestrians of the Federal Highway Administration adopted in February 2000.

"(C) Reports.—Not later 1 year after the date of enactment of this paragraph, and each year thereafter, the Secretary shall submit to Congress a report on the statements of policy adopted under this paragraph.

"(3) Nonmotorized transportation goal.—

"(A) In general.—The Secretary shall take such actions as are necessary to, to the maximum extent practicable, increase the percentage of trips made by foot or bicycle while simultaneously reducing crashes involving bicyclists and pedestrians by 10 percent, in a manner consistent with the goals of the national bicycling and walking study conducted during 1994.

"(B) Administration.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall establish such baseline and completion dates as are necessary to carry out subparagraph (A).

"(4) Research for nonmotorized users.—

"(A) Findings.—Congress finds that—

"(i) it is in the national interest to meet the goals of the national bicycling and walking study by the completion date established under paragraph (3)(B);

"(ii) research into the safety and operation of the transportation system for nonmotorized users is inadequate, given that almost 1 in 10 trips are made by foot or bicycle and 1 in 8 traffic fatalities involves a bicyclist or pedestrian; and

"(iii) inadequate data collection, especially on exposure rates and infrastructure needs, are hampering efforts to improve bicycle and pedestrian safety and use to meet local transportation needs.

"(B) Allocation of research funds for nonmotorized users.—

"(i) In general.—The Secretary shall submit to Congress an annual report on the percentage of research funds that are allocated (for the most recent fiscal year for which data are available) to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users—

"(I) by the Department of Transportation; and

"(II) by State transportation departments.

"(ii) National cooperative highway research program.—The Transportation Research Board of the National Academy of Sciences shall submit to Congress an annual report on the percentage of research funds under the National Cooperative Highway Research Program that are allocated (for the most recent fiscal year for which data are available) to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users.

"(iii) Department of transportation allocation.—Effective beginning with the third full fiscal year that begins after the date of enactment of this paragraph, the Secretary shall allocate at least 10 percent of the research funds that are allocated by the Department of Transportation for each fiscal year to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users.

"(5) Metropolitan planning organizations.—

"(A) Bicycle/pedestrian coordinators.—A metropolitan planning organization that serves a population of 200,000 or more shall designate a bicycle/pedestrian coordinator to coordinate bicycle and pedestrian programs and activities carried out in the area served by the organization.

"(B) Certification.—A metropolitan planning organization described in subparagraph (A) shall certify to the Secretary, as part of the certification review, that—

"(i) the needs of bicyclists and pedestrians (including people of all ages, people who use wheelchairs, and people with vision impairment) have been adequately addressed by the long-range transportation plan of the organization; and

"(ii) the bicycle and pedestrian projects to implement the plan in a timely manner are included in the transportation improvement program of the organization.

"(C) Long-range transportation plans.—

"(i) In general.—Except as provided in clause (ii), a metropolitan planning organization described in subparagraph (A) shall develop and adopt a long-range transportation plan that—

"(I) includes the most recent data available on the percentage of trips made by foot and by bicycle in each jurisdiction;

"(II) includes an improved target level for bicycle and pedestrian trips; and

"(III) identify the contribution made by each project under the transportation improvement program of the organization toward meeting the improved target level for trips made by foot and bicycle.

"(ii) Application.—Clause (i) does not apply to a metropolitan planning organization that adopts the design guidance described in paragraph (3)(B) for all transportation projects carried out by the organization.

"(D) Local jurisdictions.—A metropolitan planning organization described in subparagraph (A) shall work with local jurisdictions that are served by the organization to maximize the efforts of the local jurisdictions to include sidewalks, bikepaths, and road intersections that maximize bicycle and pedestrian safety in the local transportation systems of the local jurisdictions.".

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, May 11, 2005, at 9:30 a.m. in room 106 of the Dirksen Senate Office Building to conduct an Oversight Hearing on Federal Recognition of Indian Tribes.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, May 10, 2005, at 2:30 p.m., on Identity Theft.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Continued Oversight of the USA PATRIOT Act" on Tuesday, May 10, 2005 at 9:30 a.m. in Dirksen Senate Office Building Room 226.

Panel I: The Honorable Larry E. Craig, United States Senator, R–ID, The Honorable Richard J. Durbin, United States Senator, D–IL.

Panel II: The Honorable Bob Barr, Former Member of Congress, Chairman, Patriots to Restore Checks and Balances, Atlanta, GA; David Cole, Professor of Law, Georgetown University Law Center, Washington, DC; Daniel P. Collins, Partner, Munger, Tolles & Olsen LLP, Los Angeles, CA; James X. Dempsey, Executive Director, Center for Democracy & Technology, Washington, DC; Andrew C. McCarthy, Attorney and Senior Fellow, The Foundation for the Defense of Democracies, Washington, DC; Suzanne E. Spaulding, Managing Director, The Harbour Group, LLC, Washington, DC.

The PRESIDING OFFICER. Without objections it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 10, 2005, at 2:30 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AIRLAND

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Airland be authorized to meet during the session of the Senate on Tuesday, May 10, 2005, at 3:30 p.m. in closed session to mark up the Airland Programs and provisions contained in the National Defense Authorization Act for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMPLOYMENT AND WORKPLACE SAFETY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Employment and Workplace Safety be authorized to hold a hearing during the session of the Senate on Tuesday, May 10, 2005, at 2 p.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on National Parks be authorized to meet during the session of the Senate on Tuesday, May 10, 2005, at 2:30 p.m.

The purpose of the hearing is to review the National Park Service's funding needs for administration and management of the National Park System.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Seapower be authorized to meet during the session of the Senate on Tuesday, May 10, 2005 at 2:30 p.m. in closed session to mark up the Seapower programs and provisions contained in the National Defense Authorization Act for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THREATS AND CAPABILITIES

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities be authorized to meet during the session of the Senate on Tuesday, May 10, 2005 at 5 p.m. in closed session to mark up the emerging threats and capabilities programs and provisions contained in the National Defense Authorization Act for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BAUCUS. I ask unanimous consent the following fellows of the Finance Committee be granted the privilege of the floor for the duration of the debate on the Transportation reauthorization bill: Mary Baker and Stuart Sirkin.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNIZING THE 13TH ANNUAL NATIONAL ASSOCIATION OF LETTER CARRIERS FOOD DRIVE

Mr. SESSIONS. Mr. President, on behalf of the leader, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 133, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 133) recognizing the 13th Annual National Association of Letter Carriers Food Drive.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc that the motions to reconsider be laid upon the table en bloc and that any statements relating to the resolution be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 133) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 133

Whereas in 2003, 3,900,000 men, women, and children went hungry every day, a troubling statistic that has steadily increased in recent years;

Whereas 23,000,000 men and women and more than 9,000,000 children rely on food banks to survive every year;

Whereas in 1992, the National Association of Letter Carriers recognized this crisis and began the "Stamping Out Hunger" national food drive;

Whereas 1,400 National Association of Letter Carriers branches in more than 10,000 cities in all 50 States have collected millions of pounds of food every year since 1992;

Whereas in 2004, the National Association of Letter Carriers collected a record-breaking 70,900,000 pounds of food;

Whereas the National Association of Letter Carriers provides desperately needed resources to food banks in the spring and summer months, the time when donations levels are at their lowest;

Whereas the National Association of Letter Carriers has created much needed bridges between its hard working members, residents in their communities, and those in need;

Whereas the National Association of Letter Carriers Food Drive will take place on May 14, 2005;

Whereas the National Association of Letter Carriers will send nearly 150,000,000 postcards to postal customers to urge donations for the Food Drive; and

Whereas letter carriers will be collecting food, as well as mail, at mailboxes across the country, performing their daily job, and collecting food for the hungry, come rain or shine: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the members of the National Association of Letter Carriers for their hard work on behalf of the millions of people who go hungry each day; and

(2) encourages the people of the United States to follow the example of the members of the National Association of Letter Carriers by donating food to local food banks and participating in the National Association of Letter Carriers Food Drive on May 14, 2005, by placing nonperishable food by their mailboxes.

50TH ANNIVERSARY OF THE NATIONAL ASPHALT PAVEMENT ASSOCIATION

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 135, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resoluton (S. Res. 135) congratulatng the National Asphalt Pavement Association on its 50th anniversary and recognizing the contributions of members of the Association to the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. INHOFE. Mr. President, I wish to speak about S. Res. 135 which recognizes the outstanding accomplishments of the National Asphalt Pavement Association, NAPA, as it celebrates it 50th Anniversary on May 17, 2005. I am joined by my colleagues, Senators BOND, JEFFORDS and BAUCUS. NAPA is the only national association that exclusively represents an industry comprised of 1,500 asphalt companies nationwide, employing over 300,000 men and women.

Today when we think of highways and roads, we think of the cars and trucks that use these facilities. We think of the agricultural products being shipped from farm to market, or packages being shipped from factories right to our homes. We think of mothers picking up their children after school, and families taking trips to the beach during the summer. Of course, we also think of commutes to and from work.

What I have just described is our American economy in motion, and none of it would be possible without quality highway pavements of which asphalt is one. Just 50 years ago, the country faced a transportation crisis. In 1955, it was not easy to travel from city to city because the Interstate Highway System did not exist. The roads were unsafe, slow, and difficult to use. Traveling from city to city, which today could be done in hours took days.

In the early 20th century, asphalt pavements helped get America out of the mud. In the latter half of that century, the new Interstate Highway System improved our mobility and helped sustain our country's economic growth. The Interstate Highway System's pavements literally were the foundation upon which the United States and her people were able to emerge as the leaders of the world.

It was no accident that NAPA was formed just as the Federal-Aid Highway Act of 1956 was winding its way through Congress. The industry was challenged by the need to construct long lasting pavements that could meet the tougher standards of the Interstate Highway System. In rising to that challenge, the first ambitious program announced by the association was the Quality Improvement Program. Ever since then, dedication to helping its members deliver the best quality asphalt pavement has been a top priority.

I am very proud of the fact that the late John W. Kelly, of the firm Amis & Kelly Construction Company in Oklahoma City, was one of the founding fathers of NAPA. From 1958 to 1960, John W. Kelly served as the second president of the Association. NAPA has also enjoyed 50 years of strong partnership with the Oklahoma Asphalt Pavement Association which was formed in 1952.

I congratulate NAPA and its members for 50 years of leadership and involvement in constructing a world-class road system.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 135) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 135

Whereas in 2005, the National Asphalt Pavement Association (incorporated on May 17, 1955, as the National Bituminous Concrete Association) celebrates its 50th anniversary;

Whereas the members of the National Asphalt Pavement Association play a key role in strengthening the economy of the United States and promoting the mobility of citizens of the United States by providing hot-mix asphalt used in the construction of the 41,000-mile Interstate Highway System and other highways, streets, roads, parking lots, and airports;

Whereas the National Asphalt Pavement Association has focused on continually improving the quality of asphalt pavement by establishing a quality improvement program;

Whereas the National Asphalt Pavement Association has facilitated technology transfer and advanced new asphalt pavement technologies through partnerships, scanning tours, publications, and presentations;

Whereas the National Asphalt Pavement Association, through members of the Association, has fostered and encouraged young people to pursue careers in civil engineering by establishing the National Asphalt Pavement Association Research and Education Foundation to provide scholarships, sponsor educational exhibitions, and fund research of national significance relating to hot-mix asphalt;

Whereas the National Asphalt Pavement Association, through members of the Association, endowed the National Center for Asphalt Technology, the world's premier institution for asphalt research, and continues to fund the activities of the Center; and

Whereas the National Asphalt Pavement Association will continue to contribute to research to ensure that the Interstate Highway System will be designed and constructed for perpetual use in order to meet the growing economic and national security needs of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the National Asphalt Pavement Association on its 50th anniversary; and

(2) recognizes and celebrates the achievements of the members of the National Asphalt Pavement Association for their contributions to the economic well-being of the citizens of the United States.

HONORING TUSKEGEE AIRMEN FOR THEIR BRAVERY IN FIGHTING FOR OUR FREEDOM IN WORLD WAR II

Mr. SESSIONS. I ask unanimous consent that the Armed Services Committee be discharged from further consideration of H. Con. Res. 26, and the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res 26) honoring the Tuskegee Airmen for their bravery in fighting for our freedom in World War II, and for their contribution in creating an integrated United States Air Force.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SESSIONS. I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 26) was agreed to.

The preamble was agreed to.

Mr. SESSIONS. Mr. President, I note that I am extremely proud, as all of our Nation is, of the Tuskegee Airmen. Recently, I had the privilege to be in Iraq and visit the airbase where the unit, still known as the Tuskegee Airmen, was deployed. They had their banners up and it was an honor to be with them. Their heritage of excellence lives on.

CALLING ON GOVERNMENT OF FEDERAL REPUBLIC OF NIGERIA TO TRANSFER CHARLES GHANKAY TAYLOR, FORMER PRESIDENT OF REPUBLIC OF LIBERIA, TO SPECIAL COURT FOR SIERRA LEONE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 127, which we received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 127) calling on the Government of the Federal

Republic of Nigeria to transfer Charles Ghankay Taylor, former President of the Republic of Liberia, to the Special Court for Sierra Leone to be tried for war crimes against humanity, and other serious violations of international humanitarian law.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SESSIONS. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 127) was agreed to.

The preamble was agreed to.

MEASURE READ THE FIRST TIME—S. 989

Mr. SESSIONS. I understand there is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 989) to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

Mr. SESSIONS. I now ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will receive its second reading on the next legislative day.

MEASURE PLACED ON THE CALENDAR—S. 981

Mr. SESSIONS. I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:

A bill (S. 981) to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

The PRESIDING OFFICER. There being no objection to further proceeding, the bill will be referred to the appropriate committee.

ORDERS FOR WEDNESDAY, MAY 11, 2005

Mr. SESSIONS. Mr. President, on behalf of the leader, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, May 11. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee and the final 30 minutes under the control of the majority leader or his designee; provided that following morning business, the Senate resume consideration of H.R. 3, the highway bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SESSIONS. On behalf of the leader, I have the following announcement. Tomorrow, following morning business, the Senate will resume consideration of the highway bill. We need to make significant progress on the highway bill during tomorrow's session. Moments ago, cloture was filed on the pending substitute and the underlying bill. This will allow a full day of consideration tomorrow, and if cloture is invoked on Thursday, there will be an additional 30 hours available for consideration. Therefore we expect votes throughout the day on Wednesday. Also, in accordance with rule XXII, all first-degree amendments should be filed by 1 p.m. tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SESSIONS. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:24 p.m., adjourned until Wednesday, May 11, 2005, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, May 10, 2005*

The House met at 12:30 p.m.

MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of January 4, 2005, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority leader, the minority leader or the minority whip limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Missouri (Mr. SKELTON) for 5 minutes.

CONGRESSIONAL REFORM OF INTELLIGENCE COMMUNITY OVERSIGHT

Mr. SKELTON. Mr. Speaker, I rise today to speak about the importance of our national intelligence capability and what we in Congress must do to improve it.

Just a few weeks ago, the Commission on Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, the Robb-Silverman Commission, issued its report. One of the many charges leveled by the commission against the intelligence community, perhaps the most damning, is the intelligence community collects far too little information on many of the issues we care about most.

As the commission also points out, without information, analysis turns to guesswork. The state of the affairs in our intelligence community is alarming, dangerous and frankly unacceptable.

Within the span of 2 years, the United States has had two very obvious and public examples of intelligence failures. The September 11, 2001 terrorist attacks, and the dead wrong conclusions reached about Iraq's weapons of mass destruction programs.

The 9/11 Commission took the first step in identifying what ails the intelligence community, by pointing out that it's a community in name only. It needs centralized direction and coordination. The intelligence reform bill Congress enacted last year establishes a director of national intelligence and tries to address this problem.

I also believe that Congress did not challenge the intelligence community aggressively enough before we invaded Iraq, either in the issue of weapons of mass destruction, or the likely aftermath of the invasion. We, in Congress must help the intelligence community move beyond the cold war mentality and focus more effectively on the challenges we face from the proliferation of weapons of mass destruction, and from al-Qaeda and other terrorist groups within global reach.

But, beyond fixing the intelligence community, Congress needs to get its own house in order. We must do a better job of oversight of the intelligence community. Restoring effective and constructive Congressional oversight should be a top bipartisan priority in the 109th Congress. I believe there will be value in putting together a bicameral, bipartisan select committee like the Joint Economic Committee or the Joint Committee on Atomic Energy of the past, to take a hard look at how Congress should reform itself to better perform oversight of our intelligence.

In my view, the House and the Senate need similar structures to handle intelligence matters, so that the budget requests, legislative referrals and conferences between the two bodies on authorizations and appropriations are handled logically and simply and without disconnection or disfunction.

How would such a select committee work? Membership could be appointed by the leadership on both sides from committees that deal with intelligence matters now. The committee could garner input from various groups including the intelligence community, other governmental organizations such as CRO, CBO and GAO, and from outside groups such as think tanks, former Members of Congress, and experts in the field.

Moreover, botl the 9/11 Commission and the Robb-Silverman Commission made suggestions about how Congress should reform itself to do a better job with intelligence issues. These recommendations should be explored in depth. There are a number of fundamental questions that should be rethought: Which committee should have jurisdiction and oversight responsibilities for intelligence matters? Should there be a separate intelligence appropriations subcommittee? Should intelligence responsibility in Congress continue to be divided along programmatic lines, the JMIP, the TIARA, and the NIP? Should the current Select Committee on Intelligence be made permanent?

Mr. Speaker, these are not partisan questions, and they should not be addressed in a partisan fashion. I believe that for the sake of our own national security we must avoid a partisan blame game. We should focus on how to fix the intelligence community that is still reeling from its public failures and struggling to digest organizational reforms that we have already enacted.

At the same time, Congress must restore its own effective and constructive oversight over intelligence matters. I think a bicameral, bipartisan select committee could rise above the partisan and turf tensions that exist, and I urge Leader PELOSI and Speaker HASTERT to strongly consider this option as a way to improve the system.

In the final analysis, the intelligence community, the administration and the Congress must work all together to ensure that we can meet the intelligence challenges we face in the coming years. We must get this right.

RECOGNIZING THE CONTRIBUTIONS OF RAFAEL DIAZ-BALART

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from California (Mr. DREIER) is recognized during morning hour debates for 5 minutes.

Mr. DREIER. Mr. Speaker, it is with a great deal of sadness that I rise today to report to our colleagues of the passing of the father of our two very distinguished colleagues, the gentlemen from Florida (Mr. LINCOLN DIAZ-BALART) and (Mr. MARIO DIAZ-BALART).

Rafael Diaz-Balart passed away last Friday after a brief illness of about 3 weeks. And he was one of the most incredible men I ever had the privilege of knowing.

I will say that, as we all know, the Diaz-Balart family has long been great champions of the cause of freedom and democracy in Cuba. And the greatest champion was the father, Rafael Diaz-Balart.

He had a very, very distinguished and varied career. He served as the majority leader in the Cuban House of Representatives, during the time of the Cuban Republic. Later, from exile, he founded the White Rose Party to fight the communist dictatorship.

He served 14 years as a Costa Rican diplomat, and was a legal advisor to the Spanish Government. He always continued to do everything that he possibly could to encourage the cause of democracy and freedom in his homeland.

He is an individual who was extraordinarily dedicated to his family. He

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

had four wonderful sons. And I had the chance to talk to our two colleagues just last Friday shortly after he passed away. And I was struck with some of the things that were said.

As I said, it was a brief illness. And the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) told me that his father said to the doctors, whom he had just met, he said, "It was worth getting sick just to have the chance to meet you wonderful guys."

And the gentleman from Florida (Mr. MARIO DIAZ-BALART) said to me that our father taught us how to live, and now he has taught us how to die. And I will say that for me personally it will be a great loss, because I had the opportunity to spend many wonderful times with Rafael Diaz-Balart, and I know that we all, as we think of his passing and the wonderful life that he led, will redouble our efforts to ensure that his dream of freedom and democracy finally come about for the Cuban people.

RECOGNIZING THE SIXTIETH ANNIVERSARY OF THE END OF WORLD WAR II

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. Mr. Speaker, on May 8, 2005, we will mark the 60th anniversary of the end of World War II. So I rise today to honor the men and women that did their duty in this war to comfort the families that lost loved ones.

World War II was truly a world war conflict, spread across the globe, and it is estimated that some 50 million people died as a result. The impact of the war was felt everywhere. Men and woman from every walk of life were encouraged to do their bit for the war effort, and they responded magnificently.

It is hard to imagine the relief and joy that those who had lived through the war experienced when at last the war finally ended. Veterans remember ripping the blackout curtains from their windows, turning on their lights, and sharing with their family, friends and neighbors or complete strangers their joy at hearing the news that the war was over.

However, we should remember that for many, the end of the war came over a period of months. For those who were serving in the Far East and their loved ones, the war continued long after the victory celebrations that are etched in our popular memory. World War II extracted a terrible toll, most brutally in terms of the dreadful human cost in dead, injured and of course disabled.

Year after year of sacrifice and uncertainty, of making do and going without, left its mark on each and every Nation. But it also helped forge an attitude of never again.

The images we see of people celebrating the end of the war are people shaking off their recent past and looking forward to a better peaceful future. As we look back on these images, we might stop to reflect upon not only the debt that we owe them, but to consider too the responsibility for the future that we have inherited.

As we look towards the future we look towards democracy. President Bush's trip to Europe, in particular the Soviet Union, exemplified his strong push towards his foreign policy agenda of spreading democracy. As we look towards the future today, President Bush also looked towards the past in remembrance of World War II.

He connected the struggles against Nazi and Communist tyranny in the part of the world to his own campaign to bring democracy to the Middle East. In an effort to encourage President Putin to acknowledge past national mistakes he said, "In regard to our occupation of the Middle East, we will not repeat the mistakes of other generations, appeasing or excusing tyranny, and sacrificing freedom in the vain pursuit of stability. We have learned our lesson. No one's life is expendable. In the long run our security and our true stability depends upon the freedom of others."

It is a remarkable statement that the President issued. It is this freedom, the freedom and benefits of a democratic Nation that President Bush is trying to encourage people to reflect on. His scheduled stop in Latvia was a way of easing his participation into Monday's anniversary celebration in Moscow's Red Square.

But, of course, a trip like this reopened old wounds between Moscow and the Baltic States, which of course were absorbed into the Soviet Union in 1940 after the secret Molotov-Ribbentrop deal between Hitler and Joseph Stalin in 1939.

The agreement provided for Soviet occupation of Estonia, Latvia, part of Finland and later Lithuania in return for Nazi Germany's control over most of Poland. As President Bush looked back on the history of the Soviet Union, he tried to compare the United States' past mistakes to that of the Soviet Union.

President Bush noted that lengthy and difficult journey for us here in the United States for democracy, with our own civil war that we struggled through. As we look to the future, it is essential to remember the past and the mistakes we made as a Nation, and other Nations should do the same.

World War II embodies what certain mistakes can result in. Sixty years ago, millions of Europeans were suffering from homelessness or having been released from captivity or expelled as part of an act of vengeance.

So thousands of Americans and American families were left with a gapping hole, as they had lost loved ones in the battles during World War II. It is today that we make a stand and seek to liberalize other nations and encourage freedom and democracy throughout the world.

Mr. Speaker, I would like to praise President Bush for his statements that were made in Europe this week and again honor the lives of millions of soldiers that fought for the end of the war, World War II.

RECESS

The SPEAKER pro tempore (Mr. KUHL of New York). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 47 minutes p.m.), the House stood in recess until 2 p.m.

☐ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. KOLBE) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Eternal Father of our freedom and our salvation, hear the prayers of Your people across this Nation. With them we pray as one for the Members of Congress who gather today to attend the work of the people You lay upon their shoulders.

Fill them with wisdom and prudence that all their efforts on behalf of the needy and the forsaken may bring them satisfaction in their labors. And enkindle renewed hope for those who are in most need of Your mercy.

Make of them true leaders who live beyond self-interest and serve their brothers and sisters in this land of promise. To You, our God and Father, we commend this Nation, and we ultimately place all our trust in You, now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) come forward and lead the House in the Pledge of Allegiance.

Ms. EDDIE BERNICE JOHNSON of Texas led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 148. An Act to establish a United States Boxing Commission to administer the Act, and for other purposes.

U.S. HOUSE OF REPRESENTATIVES SCORING VICTORIES ON EVERY FRONT

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Mr. Speaker, ever since the terrorist attacks of September 11, 2001, punctured both our national security and our national economy, the House has responded on both fronts. We have worked tirelessly to both secure our homeland and defeat our terrorist enemies around the world, and we have worked with equal determination to secure our economy, helping it to grow and create jobs over the last 3½ years.

These two missions, economic prosperity and military victory, are so intertwined that it could be said that winning the war on terror is America's top economic priority, while growing our economy is a wartime necessity. Both prongs of our agenda are succeeding, Mr. Speaker.

Last week, the Department of Labor reported that 274,000 jobs were created in April, far more than economists predicted, while unemployment came in at just 5.2 percent. Meanwhile, the Congressional Budget Office reported that the deficit projection for the first 7 months of the fiscal year is $50 billion lower than previously estimated. The deficit is going down. New home sales grew 12.2 percent over last year, and the overall economy grew at 3.1 percent for the first quarter of 2005. The economy is strong, it continues to grow, and that strength and growth make it possible for us to meet the needs of our military and conquer the challenges of the war on terror.

Last week, Mr. Speaker, we built on those successes by passing President Bush's emergency supplemental war budget with strong bipartisan support. And at the same time, offensive operations in the Iraqi and Afghani theaters have netted our troops significant victories over the last week. Dozens of terrorists and insurgents have been captured, and our intelligence gatherers continue to close the noose around our enemies.

Our continued success around the world enhances our security here at home, where this week we will add to that momentum by taking up a bill to reform the way that the Federal Government funds our first responders.

Under the new bill, firefighters, police, and emergency medical personnel will get the money they need via a streamlined funding system. That will help bolster our homeland security and national preparedness, which will further protect our economy, which will, in turn, continue to support our war effort.

All of these priorities are of a kind, Mr. Speaker: homeland security, national security, and economic strength; and this week, the House will score victories on every front.

U.S. NEEDS TO GET OUT OF IRAQ

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, the administration is closing defense bases here at home and building new bases in Iraq. There is no money to maintain some defense installations here, but there is $270 billion and counting for establishing a permanent presence in Iraq. The Armed Forces ranks are depleted. Enlistment is falling off. So the administration is hard at work privatizing the war, having hired about 20,000 so-called contractors, mercenaries, to do work that used to be done by the military.

A member of the new private army in Iraq may make as much as 10 times more than what an enlisted soldier makes, and private companies making billions from the Iraq war will no doubt be quick to make political contributions to make sure the war keeps going. Our Reservist and National Guard units are fortifying a mission to which they should have never been called.

Iraq has turned into a tragedy. What is even more tragic is the thinking that says, Well, we are there; now we need to stay and finish the job.

Mr. Speaker, we need to get out. The sooner the better. And we need to hold accountable those whose lies sent our soldiers there at the cost of many American lives and the lives of innocent Iraqis.

RECOGNIZING THE WOMEN OF TOMORROW MENTOR AND SCHOLARSHIP PROGRAM

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize an outstanding group from my congressional district, south Florida, the Women of Tomorrow Mentor and Scholarship Program: its founder, Jennifer Valoppi; its sponsor, NBC Channel 6; and, of course, their board of directors, Don Browne, Katherine Fernandez-Rundle, Donna Feldman, Judge Judy Kreeger, Marita Srebnick, and Sherry Williams, for their steadfast commitment to the women of our south Florida community.

Women of Tomorrow is a mentor and scholarship program designed to guide, to inspire, and to help at-risk young women achieve their true potential through education, job training, resume-building, and skill development.

We as a society have a profound obligation to enrich the lives of all of our citizens, and Women of Tomorrow fulfills that obligation by encouraging young women to achieve their dreams and embrace their true dignity.

I am proud of all of those who are associated with Women of Tomorrow for their continuing efforts to improving the lives of south Florida's youth.

ADDRESSING GANG VIOLENCE

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to speak about the increasing problem of gang violence.

Since 2001, we have seen drastic budget cuts in youth violence prevention. At-risk kids need support and a place to go after school. They need the fundamental tools to make good choices.

Instead of funding these programs, the Congress has chosen to lock them up and throw away the key.

Mr. Speaker, what kind of message is this, and the bill that we are going to take up this week, giving to our at-risk youth? We must provide at-risk youth with a path to succeed, not a path to prison.

Our police forces are doing a very outstanding job, most especially in Dallas, Texas. However, prosecuting criminals is not enough. We also need to work on preventing future violence.

I am a strong supporter of law enforcement, but I do believe in prevention. It is less costly.

HONORING THE CITY OF STATESVILLE, NORTH CAROLINA

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, it is with great pride that I rise today to honor the city of Statesville for being selected Top Micropolitan of the Year by Site Selection Magazine.

Statesville is a dynamic town located in the foothills of North Carolina at the intersections of Interstate 77 and 40. This charming city is characterized by beautiful buildings, historic homes, clean air, a pleasant weather climate, terrific quality of life, and incredibly friendly people. It has been named by Site Selection Magazine as the number one small town in America for attracting new industry.

Agriculture thrives in Statesville, as does business, technology, and manufacturing. The Statesville Airport is the home base of many NASCAR teams that are based in Iredell County. Because of the wide variety of industries in Statesville, the town is known for its outstanding economic development and widely skilled local workforce.

By being selected Top Micropolitan, Statesville has demonstrated that there is no better place to live or work than northwest North Carolina. I am proud to represent Statesville and all of the other great cities located in the Fifth Congressional District.

FILIBUSTER SHOULD NOT STAND IN THE WAY OF NOMINEES

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, it is kind of hard to see justice served in this Nation when our Federal bench has vacancies on it. That is why the President has put forward a number of highly qualified, highly skilled people to serve on the Federal bench.

However, Senate Democrats do not like these judges. They have conspired to block judges using the filibuster. That means a nominee requires the approval not of 51 Senators, which the Constitution requires, a majority; but 60 Senators, a supermajority.

So Republicans would like to restore the tradition of the Senate approving the President's judicial nominations by requiring an up-or-down vote. This is called the Constitutional Option, because it empowers Senators to vote on judicial nominees, up or down. The rule change will apply only to judicial nominees.

It actually has been used before by Democrats. In 1995, 19 currently serving Democratic Senators voted to end all filibusters, and Senator ROBERT BYRD has tried to amend use of the filibuster several times.

As long as there is a Senate, there will be a filibuster and other delaying tactics available to thwart the majority and legislation. But as long as the Constitution directs the Senate to vote on judicial nominees, the filibuster will not stand in the way.

SUPPORTING JANICE ROGERS BROWN ON HER NOMINATION TO THE DISTRICT OF COLUMBIA CIRCUIT COURT OF APPEALS

(Mr. DANIEL E. LUNGREN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I rise in support of the nomination to the D.C. Circuit Court of Appeals of Janice Rogers Brown.

In the discussion over the filibuster, much has been lost with respect to the individuals who have been nominated, that is, who they are as real people.

Janice Rogers Brown is an outstanding member of the California Supreme Court. As attorney general of the State of California, I had the opportunity to review her record and on two occasions to vote to put her on the appellate court and then on the California Supreme Court.

She has worked in various different areas in the legal field. One of the outstanding periods of her work was as legal affairs secretary to Governor Pete Wilson, who on many occasions commented on the outstanding job she did for him, the tremendous legal mind she had, and the ability for her to listen to all sides and then come to a considered opinion.

Mr. Speaker, in the effort to resolve the problem in the other body, I hope that Janice Rogers Brown will not be left behind. She is an outstanding candidate, someone who would do well to serve on the District of Columbia Circuit Court of Appeals, and someone who has had an outstanding record as a member of the California Supreme Court.

BIOMEDICAL RESEARCH BIGGER AND BETTER IN TEXAS

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, being from Texas, I am frequently asked, are things truly bigger in Texas? And the answer, of course, is yes. As you work your way down that list of cattle farms and oil wells, put a big checkmark next to biomedical research.

Mr. Speaker, in the State of Texas, the 15 members of the University of Texas system in the year 2004 contributed almost $13 billion to the economy of the State. They created over 111,000 jobs between them.

Now, one of six medical research institutions in Texas is the University of Texas Southwestern Medical School. Back in World War II when Baylor College of Medicine left for Houston, the University of Texas Southwestern Medical School was started in an abandoned Army barracks; and from those humble beginnings, they have become a powerhouse in medical education, patient care, and research.

Mr. Speaker, the University of Texas Southwestern Medical School boasts four Nobel Laureates. They have a new medical research tower which is being completed, and advances in medical imaging are going to be housed in that tower, as well as a new alliance for cellular signaling, to investigate how cells talk to each other will be housed in that building. With the acquisition of Zale Lipshy Hospital and St. Paul Hospital and the historic association with Parkland Memorial Hospital, the University of Texas Southwestern Medical School has a total package.

So biomedical research, not only bigger, but better in Texas.

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PRISONER REENTRY

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, on yesterday, I had the delightful experience of attending the very first meeting of the commission just established by the Governor of Illinois to look seriously at the whole question of prisoner re-entry, what to do with the 35,000, 36,000 people returning home from prison in our State. I want to commend the Governor of Illinois for his farsighted vision in looking at one of the pernicious problems facing urban America. We look forward to some productive action coming from that commission. Mr. Governor, I thank you.

ROTARY INTERNATIONAL DAY

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Mr. Speaker, today I rise in support of H. Res. 142, celebrating and honoring Rotary International with a day of recognition.

As a Rotary member and past president of my hometown club, I can attest to the remarkable accomplishments of Rotary International, which was founded over 100 years ago, the world's first service club, and is now one of the largest nonprofit service organizations in the world. "Service above Self," the club's motto, has inspired members to provide humanitarian assistance and promote international good will. Rotary International funds club projects and sponsors volunteers around the community and worldwide. In 1985, Rotary International launched Polio Plus and spearheaded efforts to immunize the children of the world against polio. Since then, polio cases have dropped 99 percent, and the world now stands on the threshold of eradicating this dreaded disease.

Mr. Speaker, Rotarians live by the 4-way test: Is it the truth? Is it fair to all concerned? Will it build good will and better friendships? And will it be beneficial to all concerned?

Would not we all be better off if we adopted this creed? Congratulations Rotary International.

THE UNITED NATIONS

(Mr. GOHMERT asked and was given permission to address the House for 1 minute.)

Mr. GOHMERT. Mr. Speaker, I do applaud the comments being a Rotarian. Rotary International has done a great deal.

But I rise today because, yesterday, we heard and read news reports of the United Nations efforts to keep secret the very information with which it should have been most forthcoming. At a time when the United Nations' reputation for trust, justice, fairness and following its own rules is at an all time low, it should be doing everything it can to bring information to light, whether it is good or bad.

However, this United Nations and apparently its leader has far more guilty culpability than many of us ever suspected. The United Nations' leadership seems united in one thing: Do not let people discover the truth. The U.N. leadership, if it spent half the time lining the fabric of freedom as it is alleged to have done in lining the pockets of his family and friends, we would not have these problems.

If the U.N. is going to cover up the wrongs it has done from those who pay for the U.N., then it is high time we cover our U.S. bank account from them. We are literally paying them to hire guns, to hide information from us. Organized crime is said to have cleaners that come in and clean up after illegal activity. Sounds like the Secretary General himself has full-time cleaners on his staff.

It is time to hold the U.N. accountable.

TAX CUTS

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, at the end of last week, we got reports of an unanticipated surge in revenues to the Federal Treasury. Many people on this House Floor from the other side of the aisle for a long period of time decried the prospects of the Bush tax cuts, saying that they would take our economy right into the tank and ensure that we would never be able to balance the Federal budget.

Well, the fact of the matter is, Democrats and Republicans alike now talk about the need to focus on fiscal responsibility and turning the corner on the massive Federal deficit that we have. The single most important thing that we can do is to make sure that the economy is growing.

And we, by virtue of putting into place the tax cuts in the last 3 years, have actually dramatically increased through those tax cuts by 29 percent the flow of revenues to the Federal Treasury, beyond what had been anticipated. Our policy of making sure that we grow the economy is critically important.

Another component of that will be passage of the Central American Free Trade Agreement, which we will be voting on in the not-too-distant future. It is critically important that we keep this pro-growth agenda moving so that we can, in fact, have the revenues we need to balance the budget.

COMMUNICATION FROM CHAIRMAN OF JOINT COMMITTEE ON THE LIBRARY

The SPEAKER pro tempore (Mr. KOLBE) laid before the House the following communication from the Honorable BOB NEY, Chairman of the Joint Committee on the Library:

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON THE LIBRARY,
Washington, DC, May 6, 2005.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
H-232 The Capitol, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Public Law 101-696 Section 801 (40 USC para. 188a(b)) the Chairman of the Joint Committee on the Library is provided a position on the Capitol Preservation Commission.

I am appointing Mr. JOHN MICA of Florida to be my designee as provided for in Public Law 101-696 section 801 (40 USC para. 188a(c)).

Thank you for your attention to this matter.

Sincerely,

BOB NEY,
Chairman, Joint Committee on the Library.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

CHARLES "PETE" CONRAD ASTRONOMY AWARDS ACT

Mr. ROHRABACHER. Mr. Speaker. I move to suspend the rules and pass the bill (H.R. 1023) to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles "Pete" Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories.

The Clerk read as follows:

H.R. 1023

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Charles 'Pete' Conrad Astronomy Awards Act".

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(2) the term "amateur astronomer" means an individual whose employer does not provide any funding, payment, or compensation to the individual for the observation of asteroids and other celestial bodies, and does not include any individual employed as a professional astronomer;

(3) the term "Minor Planet Center" means the Minor Planet Center of the Smithsonian Astrophysical Observatory;

(4) the term "near-Earth asteroid" means an asteroid with a perihelion distance of less than 1.3 Astronomical Units from the Sun; and

(5) the term "Program" means the Charles "Pete" Conrad Astronomy Awards Program established under section 3.

SEC. 3. PETE CONRAD ASTRONOMY AWARD PROGRAM.

(a) IN GENERAL.—The Administrator shall establish the Charles "Pete" Conrad Astronomy Awards Program.

(b) AWARDS.—The Administrator shall make awards under the Program based on the recommendations of the Minor Planet Center.

(c) AWARD CATEGORIES.—The Administrator shall make one annual award, unless there are no eligible discoveries or contributions, for each of the following categories:

(1) The amateur astronomer or group of amateur astronomers who in the preceding calendar year discovered the intrinsically brightest near-Earth asteroid among the near-Earth asteroids that were discovered during that year by amateur astronomers or groups of amateur astronomers.

(2) The amateur astronomer or group of amateur astronomers who made the greatest contribution to the Minor Planet Center's mission of cataloguing near-Earth asteroids during the preceding year.

(d) AWARD AMOUNT.—An award under the Program shall be in the amount of $3.000.

(e) GUIDELINES.—(1) No individual who is not a citizen or permanent resident of the United States at the time of his discovery or contribution may receive an award under this Act.

(2) The decisions of the Administrator in making awards under this Act are final.

(f) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ROHRABACHER) and the gentleman from Colorado (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ROHRABACHER).

GENERAL LEAVE

Mr. ROHRABACHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1023, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROHRABACHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, during my recent tenure as chairman of the Subcommittee on Space and Aeronautics of the Committee on Science, one of my top priorities was to mitigate the threat posed by near-Earth objects. The hearings of our subcommittee have revealed that monitoring and tracking near-Earth objects, that is, NEOs, such as comets and asteroids, not only advance astronomy but are critical to identifying the near-Earth objects that may threaten the Earth.

Mr. Speaker, just as recently as last December, an asteroid 350 yards in diameter, named 2004 MN4, was discovered to have an orbit that will take it less than one-tenth of the distance from here to the moon. That is right in the region of where our artificial satellites are, and that will happen in the year 2029.

According to NASA JPL and the Minor Planet Center at the Smithsonian Astrophysical Observatory, several additional close encounters are possible in the next decade or two, and thus, we have one coming very close soon. And we have some that are predicted shortly thereafter. The hazard associated with such an asteroid hitting this planet is fairly well known. It could flatten an area the size of Texas or perhaps Colorado, I would say to the gentleman from Colorado (Mr. UDALL), or Tennessee or any of the other States and cause significant tsunami damage to coast lines throughout the world.

We cannot assess the risk or likelihood of such an event unless we know what is out there. Accounts of asteroids passing close to the earth have raised public awareness of the possibility that one day one of these objects could hit the earth with potential catastrophic consequences. Given the vast number of asteroids and comets that inhabit the Earth's neighborhood, greater efforts for tracking and monitoring these objects is critical.

This is why I authored H.R. 1023, the Charles "Pete" Conrad Astronomy Awards Act. This bill is strongly supported by NASA, the Smithsonian Institute and our colleagues across the aisle. This is truly a bipartisan effort. I thank them all. H.R. 1023 authorizes the NASA administrator to give one award each year to the amateur astronomer or group of amateur astronomers who discover the intrinsically brightest near-Earth asteroid among the near-Earth asteroids discovered in that preceding year by amateur astronomers. Another award will go to the amateur astronomer or group of amateur astronomers who made the greatest contribution during the preceding year to the Minor Planet Center's catalog of known asteroids. The recipients of the awards will receive $3,000, and it is limited to U.S. citizens or permanent residents.

This bill is a tribute to Pete Conrad for his tremendous contributions to our country, to the world and to the aerospace community over four decades. Pete Conrad was a pilot, an explorer, an entrepreneur of the highest caliber. He was a friend of mine who lived in Huntington Beach. He commanded *Apollo XII*, and during that mission, he became the third man to walk on the moon. He saw space as a place to get to and to explore and to do business. Space exploration and commercialization is what he was all about. It was his job to explore the moon and to get to know the heavens better. He then worked to develop a new spacecraft and a new space transportation system. That is when I got to know him the best, a few years ago.

An interesting aside, the analysis of an orbiting object identified by an amateur astronomer, and that is just recently, suggests that instead of a near-Earth object being an asteroid, what was identified were the remains of the Saturn V rocket, third stage, which most likely came from Pete Conrad's Apollo mission.

So I find no better way to honor Pete Conrad, who died just a few years ago tragically in a motorcycle accident, than to establish this annual astronomy award for future asteroid discoveries in his name. He always wanted people to be looking up. He always wanted people to be positive. He was a can-do American with a very positive spirit, American spirit. He, in fact, exemplified the American spirit more than any person I have ever met. He was often remembered of course not only for his walk on the moon but his historic description of the moon landing and also, I might add, his historic description of the take off of his rocket, which was, "whoopee". Well, that was the Pete Conrad we knew. And he was excited about life and excited about technology as expanding the horizons of our people and the safety of this planet.

Films like Armageddon and Deep Impact of a few years ago excited large audiences, but it is vital for all of us to realize that this is not just the movies we are talking about. This is not science fiction. We all know that Earth's moons and other planetary objects are covered with impact craters. Most people have heard of the dinosaur extinction theory or perhaps seen a picture of this meteor and crater in Arizona suggesting that the craters on the moon and these other places could well have had serious impact on the Earth and may well have that impact in the future. However remote the possibility of a near-Earth object striking the Earth and causing a worldwide calamity, no matter how obscure or how remote that is, there is a calculable threat, and we should know what that threat is.

And while the asteroid that is believed to have killed the dinosaurs is estimated to have occurred many many years ago and will only occur once every 100 years, smaller, yet still hazardous asteroids could impact Earth much more frequently. For example, the destructive force of an asteroid that struck Siberia in 1908 was roughly equal to a 10-mega-ton blast of TNT.

Ironically, if we look at asteroids from the perspective of our national goals in space, they offer us not just a threat that we are looking at but also a unique opportunity. This is one reason that we should be tracking these asteroids, because in terms of pure science, asteroids are good geological time capsules from the era when our solar system was formed. Even better, they are orbiting mines for metal, for materials and other resources that can be possibly used to build large structures in space without having to carry up the materials to build those structures from the Earth. So far, NASA has surveyed 650 asteroids. But this is a fraction of the projected total population of asteroids and near-Earth objects. What needs to be done now is to fully understand near-Earth objects and the potential threat and, yes, the potential use that they could pose for the world.

In closing, asteroids deserve a lot more attention from the scientific community and from the American people. The first step to tracking them and tracking sizable near-Earth objects is H.R. 1023, and it is a modest step. But what we are doing is mobilizing the amateurs and the young people and the private sector, if you will, and students throughout the country to look up and enlisting them in this effort. Nothing could be better for encouraging young people to get involved in the space program, to have them involved in trying to win this award and looking out into the heavens and identifying what they see. I would suggest that this small award will have an enormous impact on the number of young people that are involved in astrology and thus involved in America's space program.

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I would urge my colleagues to vote for H.R. 1023 which will encourage young people, in particular, as I say, to look up; and let us all as we pass this bill remember Pete Conrad and the great space entrepreneurs and the great space explorers that are leading the way for the next generations of Americans which will go a long way towards filling and fulfilling the legacy left by Pete Conrad.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of Colorado. Mr. Speaker, I yield myself such time as I may consume. I rise today with my good friend, the gentleman from California (Mr. ROHRABACHER), to speak in favor of H.R. 1023, the Charles "Pete" Conrad Astronomy Awards Act.

This bill is a thoughtful measure that establishes an awards program to encourage efforts by amateur astronomers to detect and catalog near-Earth asteroids.

As the gentleman from California (Mr. ROHRABACHER) pointed out, near-Earth asteroids are of interest for a number of reasons. Scientifically, they provide a window into the earliest days of the solar system. Some of the near-Earth asteroids are also thought to contain valuable minerals and ores that could be mined by future generations. Finally, there is a growing consensus that near-Earth asteroids have impacted the Earth at various times in its history, resulting in widespread extinction of animals and plants. For that reason alone, I think it makes very good sense to learn more about these objects.

NASA, of course, has been conducting research on asteroids and comets for a long time. I agree with the gentleman from California (Mr. ROHRABACHER) that the amateur astronomy community offers an important additional source of observations. Moreover, as one who is very interested in promoting science education and outreach, I believe that H.R. 1023 offers a constructive, low-cost way of stimulating public interest in astronomy.

I want to congratulate the gentleman from California (Mr. ROHRABACHER) on his initiative. I think it is a sensible measure. I urge my colleagues to suspend the rules and pass H.R. 1023.

Mr. Speaker, I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me note that there are a lot of people who poo-pooed this idea of near-Earth objects and said, you are just trying to scare people, or whatever. And after the movie "Deep Impact" and such, that maybe this is some sort of scare tactic or you are trying to get attention by talking about something, a threat that is so minuscule that why should we worry about it.

Well, several years ago, I chaired a hearing into the near-Earth object issue, and one of the witnesses who was poo-pooing this idea and downplaying the risk suggested that the chances of me dying from this near-Earth object striking the Earth were the same chances that I would have of going to Las Vegas and having a royal straight flush. And it was a shocking thing for him to tell me that because, Mr. Speaker, I did go to Las Vegas once and had a royal straight flush and it was amazing.

I said that happened to me, and the fact is that, yes, it is unlikely that people will get royal straight flushes and it is unlikely that we will have near-Earth objects destroying all of humankind, but we should nevertheless be prepared if there is a possible way to avert a catastrophe by having knowledge of a near-Earth object heading in our direction.

Also, as the gentleman from Colorado (Mr. UDALL) described, if near-Earth objects are coming close to the Earth, they pose a great opportunity for us as well as create a threat if they were headed towards us. We should be prepared, number one, to try to alter the course if it is a dangerous course towards the Earth of a near-Earth object; but we should also be prepared to take advantage of the potential if there is a near-Earth object coming near the Earth to utilize it for a number of things like mining or studying the nature of the universe.

With this said, I cannot think of a better tribute to Pete Conrad who fought in World War II and who protected our country but also moved on and made great contributions to his country through the space program than to have this, as a civilian. I might add, in a civilian entrepreneur mentality that Pete exemplified. All of these are encompassed in this bill: safety and prosperity and accomplishment.

With that said, I ask my colleagues to join me in voting for this Pete Conrad bill, H.R. 1023.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of Colorado. Mr. Speaker, I yield myself such time as I may consume.

I will be brief. I just want to second what the gentleman from California (Mr. ROHRABACHER) has outlined here, that the Earth has been hit over geologic times by a number of asteroids and bodies outside the orbit of the Earth. And it would be a smart thing for us to do to better understand the potential impacts and effects.

Secondly, I just wanted to lend my voice to those of us here who admired Pete Conrad and think this is a very suitable way to keep his legacy alive and to inspire, particularly young people, as we have discussed here today, to go into this exciting world of astronomy and space exploration. Pete Conrad is a shining example of that.

It is with pride and excitement that I want to acknowledge the efforts of the gentleman from California (Mr. ROHRABACHER). I urge all the Members to vote for this important piece of legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise as a strong supporter of H.R. 1023, a bill that authorizes the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles 'Pete' Conrad, who was an astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories. Let me thank my colleague on the Science committee, Mr. ROHRABACHER for introducing this resolution and seeing it through for final passage. This resolution honors the scientific contributions of the past, while also recognizing the scientific discoveries of the future.

Known for his sense of humor and infectious grin, Charles P. Conrad, as commander of the Apollo 12 mission, was the third person to walk on the moon. Not a tall man, Conrad stepped down onto the lunar surface in November of 1969 and cheerfully commented, "Whoopie! Man, that may have been a small one for Neil, but that's a long one for me." Born June 2nd, 1930 in Philadelphia, Pennsylvania, he graduated from Princeton University in 1953 and went on to become a Navy test pilot. Selected as a NASA astronaut in 1962, Conrad in 1965 went on his first space flight—the endurance record setting Gemini 5 mission. His final space flight was to Skylab in 1973.

Unfortunately, Conrad died from injuries in a motorcycle accident on Thursday, July 8, 1999. Today, we have a chance to ensure that his legacy lives on. In addition, we have the opportunity to recognize the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories. This is indeed a worthwhile resolution because it allows us to celebrate a great man of science and recognize the amateur astronomer of today. So, I urge my colleagues to support this meaningful legislation.

Mr. CALVERT. Mr. Speaker, I appreciate my colleague, Congressman DANA ROHRABACHER, introducing this important legislation honoring our late California constituent, Charles "Pete" Conrad, for his remarkable achievements in spaceflight as well as his contribution to the U.S. aerospace industry. Pete was a great American and this is a tribute to his contributions to space and to science.

Pete Conrad was an individual who was always pushing the envelope with an exuberance that matched his animated personality and sense of humor. Pete's first flights were in the Gemini program, where he established both the record for endurance and for altitude in space. Then, as the commander of *Apollo XII*, he became the third man to walk on the Moon—to which he exclaimed in his typical enthusiastic manner, "Whoopie! Man, that may have been a small one for Neil, but it's a long one for me." His final National Aeronautics and Space Administration mission was a commander of Skylab II, the first United States space station.

Once he left the Astronaut Corps, Pete delved into what was then the nascent aerospace industry. He worked to sell the industry to the American people and to excite them on the possibilities of the return to and the colonization of the Moon, the development of single-stage-to-orbit vehicles, and in the exploration of the solar system. During this time, Pete stayed with his love of anything that would go fast—airplanes, helicopters, cars and motorcycles. He raced helicopters across the country; he raced airplanes in air shows; and he raced motorcycles in local races. Tragically, he died from injuries resulting from a motorcycle accident in 1999 and at the age of 69 in Ojai, CA.

This bill, which honors Pete Conrad and is a tribute to his wife Nancy, encourages young people to get involved in astronomy by offering prizes to amateurs for their contributions to astronomy by either discovering the brightest near-Earth object or by the cataloging of near Earth objects. What better way to get our children interested in science and in paying tribute to this great American.

Mr. UDALL of Colorado. Mr. Speaker, I yield back the balance of my time.

Mr. ROHRABACHER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLBE). The question is on the motion offered by the gentleman from California (Mr. ROHRABACHER) that the House suspend the rules and pass the bill, H.R. 1023.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EXPRESSING SUPPORT OF THE HISTORIC MEETING OF THE ASSEMBLY TO PROMOTE THE CIVIL SOCIETY IN CUBA

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 193) expressing support to the organizers and participants of the historic meeting of the Assembly to Promote the Civil Society in Cuba on May 20, 2005, in Havana.

The Clerk read as follows:

H. RES. 193

Whereas Fidel Castro's terrorist regime has continued to repress all attempts by the Cuban people to bring democratic change to Cuba and denies universally recognized liberties, including freedom of speech, association, movement, and the press;

Whereas thousands of political prisoners are currently imprisoned by Fidel Castro's totalitarian regime;

Whereas in March 2003 Fidel Castro carried out a massive, island wide crackdown on members of Cuba's pro-democracy movement, under which pro-democracy activists were arrested, subjected to "summary trials", and sentenced to up to 28 years in prison for their pro-democracy activities;

Whereas the Department of State's 2004 Country Reports on Human Rights Practices, in referring to Castro's Cuba, states: "Members of the security forces and prison officials continued to beat and abuse detainees and prisoners, including human rights activists. . . . Prison conditions remained harsh and life threatening, and the Government restricted medical care to some prisoners as a method of control. Prisoners died in jail due to lack of medical care.";

Whereas on May 20, 1902, the Republic of Cuba obtained its independence;

Whereas in the spirit of Jose Marti, many of the future leaders of a free Cuba have called for a meeting of the Assembly of the Civil Society in Cuba, an organization that consists of over 360 opposition and civil society organizations in Cuba;

Whereas on May 20, 2005, the Assembly to Promote the Civil Society in Cuba seeks to convene an historic meeting in Havana on the 103rd anniversary of Cuban Independence;

Whereas the Assembly to Promote the Civil Society in Cuba will focus on bringing democracy and liberty to the enslaved island of Cuba;

Whereas the Assembly to Promote the Civil Society in Cuba is led by three courageous pro-democracy opponents of the Castro regime—Martha Beatriz Roque Cabello, Felix Bonne Carcasses, and Rene Gomez Manzano;

Whereas organizers and participants are convening a meeting of the Assembly to Promote the Civil Society in Cuba at great risk to themselves and their families; and

Whereas President George W. Bush stated in his second inaugural address on January 20, 2005: "All who live in tyranny and hopelessness can know: the United States will not ignore your oppression, or excuse your oppressors. When you stand for your liberty, we will stand with you. Democratic reformers facing repression, prison, or exile can know: America sees you for who you are—the future leaders of your free country.": Now, therefore, be it

Resolved, That the House of Representatives—

(1) extends its support and solidarity to the organizers and participants of the historic meeting of the Assembly to Promote the Civil Society in Cuba on May 20, 2005, in Havana;

(2) urges the international community to support the Assembly's mission to bring democracy to Cuba;

(3) urges the Administration and international community to actively oppose any attempts by the Castro regime to repress or punish the organizers and participants of the Assembly; and

(4) shares the pro-democracy ideals of the Assembly to Promote the Civil Society in Cuba and believes that this Assembly and others will hasten the day of freedom and democracy for the people of Cuba.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Florida (Mr. WEXLER) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 193.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Resolution 193, and I commend the gentleman from Florida (Mr. MARIO DIAZ-BALART) for writing this important measure and bringing it to the floor. I would like to also thank the gentleman from Illinois (Mr. HYDE) and the ranking member of the Committee on International Relations, the gentleman from California (Mr. LANTOS), as well as the House leadership, for helping us bring this resolution to the floor in such an expeditious manner.

Mr. Speaker, even the most violent and repressive dictatorships cannot extinguish freedom when it lives in people's hearts, and Cuba is no exception. The dictator Fidel Castro has always used fear to keep himself and his cronies in power.

Two years ago, the tyrant again attempted to silence the cries for liberty and democracy that emanate from every corner of the Cuban gulag. He arrested over 75 dissidents and sentenced them to prison terms each up to 25 years. What were their crimes? Simply daring to exercise their fundamental freedoms, for daring to be free men and women.

These 75 are just some of the most recent ones. There are many more Cuban prisoners of conscience who languish in squalid jail cells. However, Mr. Speaker, all of Cuba is an island prison; and today we rise to commend and support the activities of Cuba's peaceful internal opposition.

On May 20, Cuba's democratic opposition will convene in an Assembly to Promote the Civil Society in Cuba. This historic meeting will discuss ways to bring democracy and liberty to the nation of Cuba, which has suffered under a brutal dictatorship for more than four decades. May 20, 2005, will also mark the 103rd anniversary of the Cuban Republic, of Cuba's birth as a free nation.

Yet the Cuban opposition is determined to correct this injustice and reclaim their rights as free people in a free, democratic, and sovereign nation. The May 20th Assembly to Promote Civil Society in Cuba is an important step toward the fulfillment of this goal.

Martha Beatriz Roque Cabello, Felix Bonne Carcasses, and Rene Gomez Manzano and many others are the organizers of this landmark meeting. Despite the risks and the constant threats that the dictator holds over their heads, they are living examples to their countrymen of courage and determination, of how to follow in the footsteps of Pope John Paul, II, and be not afraid.

Just recently, a group of young Cubans held an essay contest focusing on a democratic transition in Cuba. One of the finalists, Edgar Lopez Moreno, struck a chord that doubtless resonates with the vast majority of his countrymen. He wrote: "After 46 years of political ostracism and imposition by the Communist Party and its maximum leader, today the process of transition to democracy on the island is closer than ever."

The winds of freedom are behind the Cuban opposition. The just nature of their cause has given them wings. Soon democracy will take flight in Cuba. Soon the Cuban people will free themselves from the grip of this dictator, but they need our help. They need our support, and it begins here and now.

I urge my colleagues to stand with these brave Cubans by joining me in voting for the resolution of the gentleman from Florida (Mr. MARIO DIAZ-BALART) today.

Mr. Speaker, I reserve the balance of my time.

Mr. WEXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this resolution. Mr. Speaker, I too want to commend the gentleman from Illinois (Mr. HYDE) and the ranking member, the gentleman from California (Mr. LANTOS), for facilitating consideration of this resolution. I also want to thank my good friend, the gentleman from Florida (Mr. MARIO DIAZ-BALART), the sponsor of this resolution, and the gentleman from New Jersey (Mr. MENENDEZ), the ranking Democrat on the Subcommittee on the Western Hemisphere, for his never-ending battle for human rights in Cuba.

Mr. Speaker, 2 weeks ago on the House floor, we chastised the Cuban regime for its inexcusable continued detention of political dissidents, many of whom are jailed because of their conviction to seek freedom and democracy in Cuba. Unfortunately, there is no indication from Castro that he ever plans to implement political and economic reforms that would give hope to the approximately 11 million citizens on the island who have suffered for far too long.

Many internationally recognized human rights groups like Amnesty International and Human Rights Watch have denounced Castro's brutal dictatorship over the years and called for reforms, the release of political prisoners, and urged the totalitarian government to respect basic human freedoms.

This year the Human Rights Commission called attention to the injustices which continue to be inflicted upon those innocent individuals who toil in Castro's prisons. Undeterred, thousands of brave Cubans have sought to bring about political change through opposition and civil society organizations which are loosely coordinated by the Assembly of the Civil Society in Cuba.

The assembly is planning a historic meeting next week on the 103rd anniversary of Cuban independence. Mr. Speaker, I would like to encourage the organizers of the meeting of the assembly to include in the meeting political dissidents who may disagree with them about whether to engage officials within Castro's government on the transition process, in particular, the supporters of the Varela Project, a grassroots, non-violent, citizens' movement in Cuba that seeks fundamental political change by petitioning the Cuban government for a referendum on reform according to that country's constitution.

These groups should feel as though they are welcome within the broader coalition that opposes Castro's policies. Regardless of which groups of political activists attend the assembly, I am concerned that Castro's henchmen will once again try to suppress dissent through the use of force. As a result, I strongly concur with the sentiment expressed in the resolution urging the administration and the international community to stand ready to respond to such an atrocity.

This resolution demonstrates our unequivocal commitment to stand shoulder to shoulder with the Cuban people if such an unjustified response were to occur. As a result, Mr. Speaker, I strongly urge my colleagues to support House Resolution 193.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. MARIO DIAZ-BALART), the author of the resolution.

☐ 1445

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I want to thank the gentlewoman from Florida, also my dear friend the gentleman from Florida (Mr. WEXLER) from West Palm Beach.

Today, Congress is supporting these brave individuals in Cuba who, despite all of the dangers, are standing up for freedom, are standing up for democracy, from within Cuba, from within that totalitarian island.

The three main organizers, Martha Beatriz Roque Cabello, Felix Bonne Carcasses, and Rene Gomez Manzano, all three of which have suffered prison time by the Cuban dictatorship, are standing up because they know that the answer to the problems that the Cuban people face is simply just one: It is freedom, total, absolute freedom.

That entails the release of all political prisoners. It entails political parties. It entails freedom of press. It entails free elections, and they are standing up from within Cuba and with many other hundreds of their countrymen who are standing up, having this event on May 20 to express their sentiment and also to prepare and work for a free Cuba.

This resolution, Mr. Speaker, extends and supports solidarity to the organizers and to the participants of the Assembly to Promote the Civil Society, which again is on May 20 in Havana.

It urges the international community to support the assembly of these heroes that are standing up for freedom despite the risk.

It urges the administration and also the international community, Mr. Speaker, to oppose any attempts by Castro's terrorist regime to punish or repress the organizers and the participants.

It obviously shares, also, Mr. Speaker, the pro-democracy ideals of the assembly.

The commissions, Mr. Speaker, that these individuals are working with are hard to believe. The Department of State's 2004 Country Reports on Human Rights Practices, referring to the Castro regime, states the following:

"Members of the security forces and prison officials continued to beat and abuse detainees and prisoners, including human rights activists. Prison conditions remained harsh and life threatening, and the government restricted medical care to some prisoners as a method of control. Prisoners died in jail due to lack of medical care."

President Bush said, Mr. Speaker, in his second inaugural address, and I am quoting him now, "All who live in tyranny and hopelessness can know: The United States will not ignore your oppression or excuse your oppressors. When you stand for your liberty, we will stand with you."

The Cuban people are standing tall, Mr. Speaker, for their freedom. Today, by voting for this resolution, the United States Congress stands with them, lets them know that they are not alone, that despite all the risks, despite the horrendous conditions that they are facing on a day-to-day basis, the United States Congress stands with them, admires them and supports what they are doing.

Cuba will be free because of the efforts of the heroic Cuban people, and it is wonderful, Mr. Speaker, to see that the Congress of the United States, once again, is supporting the Cuban people in their efforts, in their struggle to be free.

Mr. WEXLER. Mr. Speaker, I yield as much time as he may consume to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART).

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I thank the distinguished gentleman from south Florida (Mr. WEXLER) for the time.

This resolution is very important because it continues the very important, historic tradition begun here in this Congress, by this Congress in April of 1898 when, after a century of fighting by the people of Cuba for the independence of Cuba, the United States, because of the Congress of the United States, came out in support of Cuban independence. In April of 1898, this Congress passed what is very well-known in Cuban history, the joint resolution that recognized that Cuba is and of right ought to be free and independent. So this Congress began a tradition in April of 1898 that continues to this day, a tradition in support of the right of the Cuban people to be free.

For the last 46 years, the Cuban people unfortunately have been under the boot of a totalitarian dictatorship that, while it has perhaps been the most inept, certainly one of the most inept of the Communist dictatorships in having achieved the systematic, utter destruction of what was one of the most prosperous economies in this hemisphere; in that sense, it has been absolutely inept. In terms of totalitarian control, it has been quite effective, and it maintains an absolute, intense oppression over the Cuban people to this day.

My colleagues have mentioned the onslaught of 2 years ago that was condemned by a resolution offered by the gentleman from New Jersey (Mr. MENENDEZ) a few weeks ago, and it was condemned by this House, the absolute campaign, if you will, of the march of 2003 that arrested dozens and dozen and dozens, almost 100 pro-democracy leaders and threw them in prison, but the campaign continues.

The campaign of oppression and intimidation, beginning in January of this year, the totalitarian Communist regime in Cuba has begun a systematic campaign of ethnic cleansing. Hundreds of young people, mostly young men, 95 percent of whom are black, have been rounded up and thrown in prisons beginning in January of this year in what the dictator calls Operation Containment, containment of the young people.

Now, this assembly was organized, as has been mentioned by my distinguished colleagues, by Martha Beatriz Roque Cabello and Felix Bonne Carcasses and Rene Gomez Manzano, is an important, historic development. There are some people who now say that we must reject the subterfuge seeking to attack this assembly, that they have not invited all pro-democracy groups. All pro-democracy groups, the organizers of this assembly have invited all individuals and organizations within Cuba who support democracy. Some say then they have not been invited. In fact, they have been invited, but that is not the problem of the organizer. That is the problem of somebody else, very important.

This is an important, extremely valiant effort that over 360 civil society groups, pro-democracy groups within the island have called for, and they seek to meet on May 20. So what this Congress today is saying is: We support you. We know what you are doing. We know the courage that it entails to say, within a totalitarian state, that a meeting will be held in support of freedom and democracy and free elections and the legalization of political parties and freedom of religion and freedom of the press and freedom of expression. Within the totalitarian state, to say that there will be a meeting engaged in such discussion is really a heroic act, and so today, what we are saying is that we recognize that, and we support you.

Simply to end, Mr. Speaker, as I commend the gentleman from Florida (Mr. MARIO DIAZ-BALART) for having brought forth this resolution today in such an important and timely manner, I simply want to read the names of some of the thousands of political prisoners who cannot have their voices heard. Obviously, they all deserve to be heard, but I would like to read some of their names.

It is my privilege and honor to serve in this Congress with my brother Mario, where there are two brothers who are serving in prison in Cuba simply because they came out publicly in support of freedom and democracy. One brother, Jose Daniel Ferrer Garcia, was sentenced to 25 years in the gulag for his support of democracy. The other one, Luis Enrique Ferrer Garcia, was sentenced to 28 years in the gulag because he supports democracy.

Someone who I admire very much, I have followed his long and distinguished fight for freedom for many years, has been languishing since 1990, mostly in solitary. His name is Jorge Luis Garcia Perez, also known Antunez. He was sentenced to 18 years because, ever since he was in high school, he said he favors democracy and rejects totalitarianism, and so he has suffered the consequences since then.

Juan Carlos Herrera Acosta, 20 years in the gulag.

Diosdado Gonzalez Marrero, 20 years in the gulag.

Felix Navarro Rodriguez, 25 years.

Prosperso Gainza Aguero, 25 years.

Hector Maseda Gutierrez, 20 years.

Claro Sanchez Altarriba, 15 years.

Victor Rolando Arroyo, 26 years.

And perhaps the best known, certainly someone who is a symbol of resistance, character, dignity, as all these men and women are, Dr. Oscar Elias Biscet, 25 years.

There are thousands, Mr. Speaker, of men and women like this, many, by the way, charged with what they call in the totalitarian system common crimes, like seeking to leave, seeking to flee to freedom. That is a common crime. So the regime does not even recognize them as political prisoners. There are thousands of political prisoners in Cuba such as these men whose names I have read. We owe them our solidarity.

Today, we are expressing our solidarity, and specifically through this resolution, our solidarity with the meeting convened for May 20, which will seek to develop ways to hasten what is inevitable, and that is an end to the totalitarian nightmare and the commencement of the dawn of freedom.

Mr. MACK. Madam Speaker, I rise to express my strong support for this resolution—sponsored by my distinguished friend and neighbor, Mr. MARIO DIAZ-BALART of Florida—which recognizes the upcoming Assembly To Promote Civil Society in Cuba.

I am proud to associate myself with causes that seek to increase freedom, security, and prosperity for people throughout the world. On May 20th, we will mark Cuban Independence Day. This is the day Cuba proclaimed to the world its sovereignty and independence. Sadly, freedom for the Cuban people was short-lived. The world stood by as Cuba lost its liberty and slipped into the abyss of authoritarian rule and the clutches of Fidel Castro's thuggish regime.

Madam Speaker, today Cuba is a lonely island nation separated by 90 miles from the greatest beacon of freedom the world has ever known—the United States. Many in Cuba thirst for the waters of liberty, only to see those yearnings suppressed by a brutal dictator.

America has always stood for freedom, and always will. Under the leadership of President George W. Bush, we have endeavored to spread liberty to the Middle East and throughout the world. It is past time to shine the light of freedom on the despotic regimes in our own backyard.

Madam Speaker, I strongly support the right of the Cuban people to live in a free and democratic society. I am confident that the Assembly To Promote Civil Society in Cuba will help spark the flame of liberty on the island and the rest of the Americas. I urge my colleagues to stand for liberty and to champion the spirit of freedom for the people of Cuba.

Mr. MENENDEZ. Madam Speaker, I am proud to join a bipartisan group of original cosponsors of this resolution which supports the development of democracy and civil society in Cuba. As you know, on May 20th, opposition leaders are organizing a historic Assembly on the 103rd Anniversary of Cuban independence.

In this momentous meeting of 365 irdependent organizations, Cuba will hear a dialogue of freedom and progress. This Assembly will continue a discussion—from within Cuba—of how to begin the process of reconstructing a democratic culture, promoting civil society, combating poverty, and establishing labor rights. They are Cuba's bravest and brightest—they are Cuba's future.

Who among us would not be supportive of the right to peaceful assembly and public discourse? That is what this resolution and Cuban civil society is calling for on May 20th.

As we learned in a Western Hemisphere Subcommittee hearing early this year, the organizers and the participants in this event are risking their personal freedom for the freedom of the Cuban people.

This resolution makes it clear that we oppose any attempt by the Castro regime to repress or punish the organizers and participants of the Assembly, as Castro has done with so many others who have spoken out against repression. News reports indicate that Cuban dissidents who are choosing to participate in the Assembly are already being harassed.

This past April 20th—not even a month ago—three of these dissidents took the time to speak to many of us about their situation. They told of the beatings, detentions, interrogations, harassment and political slander which they and other dissidents are being subjected to as the Cuban regime continues to try to repress and de-legitimize their struggle for freedom.

And let us not forget the crackdown on human rights two years ago, when Castro arrested 75 dissidents, subjected them to summary trials, and sentenced them to long jail terms. Many of the prisoners, along with other prisoners of conscience, spent over a year in solitary confinement. Some have been deprived of adequate medical treatment, and reports from Cuba detail beatings and harassment.

Clearly, the Castro regime has no respect for the Universal Declaration of Human Rights, which states in Article 4 that, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

That is why I am proud of my resolution that passed with bipartisan support condemning Castro's brutal crackdown and demanding that the Cuban regime immediately release all political prisoners, legalize all political parties, labor unions, and the press, and hold free and fair elections.

On that day, we came together from both sides of the aisle, to stand together for a universal cause, human rights, and to celebrate the strength and perseverance of the Cuban people.

That is why I urge all of my colleagues to support this resolution. This resolution says again that we stand behind those who risk repression and harassment to bring freedom to their long-suffering people.

It says that the international community is watching Castro, and that we will not accept the abuses of human and civil rights that the Castro regime employs so indifferently.

And it says that we believe in the Assembly and the ability of a group of individuals with a strong faith in democracy to free their people from a tyrant's restrictive grasp.

To my brothers and sisters who suffer in Castro's jails, under his regime, to their families and friends both here in the United States and in Cuba, to the leaders and participants in the Assembly to Promote Civil Society in Cuba, and to the Cuban people, I say that Castro's days are numbered. Over a hundred years ago, the Cuban people won the battle against brutality and oppression and fought for their freedom. I have no doubt that we will win again. I look forward to that day, which is coming soon, when on May 20, our independence day, we will all celebrate a free and democratic Cuba.

I urge my colleagues to vote "yes" on this resolution.

Mr. SMITH of New Jersey. Madam Speaker, I rise in strong support of H. Res. 193, which expresses support for the courageous advocates of freedom in Cuba, who are gathering ten days from now in Havana for the first Assembly to Promote the Civil Society conference which will focus on bringing democracy, liberty, and the rule of law to this enslaved island.

Madam Speaker, in recent years, this House has overwhelmingly passed numerous resolutions condemning the egregious human rights violations of the Castro regime. These violations, which have been continually cited through comprehensive, compelling reports, include the pervasive use of torture and vicious beatings of political prisoners. We know that this year the UN Convention on Human Rights in Geneva also passed a resolution condemning the government of Cuba's deplorable human rights record.

Today, we celebrate those brave Cubans who have been undaunted by Castro's reign of terror and who continue to speak out fearlessly for freedom in Cuba. Mr. Speaker, I note that on March 3, three of the main organizers of the Assembly to Promote the Civil Society testified via telephone at a joint hearing I chaired with the Africa, Global Human Rights, and International Operation Subcommittee and the Western Hemisphere Subcommittee. The hearing was appropriately entitled "Year Two of Castro's Brutal Crackdown on Dissidents."

The three who spoke at this hearing were Martha Beatriz Roque, an internationally renowned Cuban economist; Felix Bonne, a Cuban engineering professor; and Rene Gomez Manzano, a Cuban attorney. All three have spent time in Cuba's prisons for their pro-democracy activities and co-authored a book, "The Homeland Belongs to Us." The courage they demonstrated through testifying was truly inspiring and they provided a tremendous witness of the desire of the Cuban people to be free.

Martha Beatriz Roque was arrested in the now infamous March 2003 crackdown of Cuba's bravest and brightest were rounded up, paraded before kangaroo courts on trumped up charges and given harsh prison sentences with sickening speed. She was sentenced to 20 years in prison but released in July of 2004 because of poor health. In an interview after her release, Roque said: "I leave prison without having accepted any sort of conditions. I am a dissident and I will remain one."

Madam Speaker, we gather today in support of Roque, Bonne, Manzano, and these other brave leaders as they prepare for this historic event. I have been invited to participate in the Assembly to Promote the Civil Society and sent my visa application through the Department of State to Cuba through the US Interest Section.

Madam Speaker, I note that in March of 2003, I also requested to travel to Cuba along with my colleague, Congressman FRANK WOLF, but we were denied visas. This is a regime that has strongly advocated for trade and travel with the United States, and yet the government of Cuba would not give visas to two Members of Congress, each of whom have served in the House of Representatives for nearly 25 years.

What do they hide? What do they fear?

I hope that the Cuban government will allow me to travel. I hope to be with the brave leaders of freedom in Cuba on this day of peaceful advocacy. The world will be watching next week Madam Speaker, and I hope that the regime will allow this event to take place. If they fail to do so, they will continue to experience alienation from the world community.

Our hopes and prayers are with the brave leaders of the Assembly to Promote the Civil Society next week. I urge my colleagues to strongly support this resolution that supports the brave advocates for freedom in Cuba.

Mr. WEXLER. Madam Speaker, I yield back the balance of our time.

Ms. ROS-LEHTINEN. Madam Speaker. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. CAPITO). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 193.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. ROS-LEHTINEN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SUPPORTING GOALS AND IDEALS OF A ROTARY INTERNATIONAL DAY

Ms. ROS-LEHTINEN. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 142) supporting the goals and ideals of a "Rotary International Day" and celebrating and honoring Rotary International on the occasion of its centennial anniversary.

The Clerk read as follows:

H. RES. 142

Whereas Rotary International, founded on February 23, 1905, in Chicago, Illinois, is the world's first service club and one of the largest nonprofit service organizations;

Whereas there are more than 1.2 million Rotary International club members comprised of professional and business leaders in more than 31,000 clubs in more than 165 countries;

Whereas the Rotary International motto, "Service Above Self", inspires members to provide humanitarian service, meet high ethical standards, and promote international good will;

Whereas Rotary International funds club projects and sponsors volunteers with community expertise to provide medical supplies, health care, clean water, food production, job training, and education to millions in need, particularly in developing countries;

Whereas in 1985, Rotary International launched Polio Plus and spearheaded efforts with the World Health Organization, Centers for Disease Control and Prevention, and the United Nations Children's Fund ("UNICEF") to immunize the children of the world against polio;

Whereas polio cases have dropped by 99 percent since 1988, and the world now stands on the threshold of eradicating the disease;

Whereas Rotary International is the largest privately-funded source of international scholarships in the world and promotes international understanding through scholarships, exchange programs, and humanitarian grants;

Whereas since 1947, more than 35,000 students from 110 countries have studied abroad as Rotary Ambassadorial Scholars;

Whereas Rotary International's Group Study Exchange program has helped more than 46,000 young professionals explore career fields in other countries;

Whereas 8,000 secondary school students each year experience life in another country through Rotary International's Youth Exchange Program;

Whereas over the past five years, members throughout all fifty States of Rotary International have hosted participants in Open World, a program sponsored by the Library of Congress, and therefore have earned the honor of serving as Open World's most outstanding host;

Whereas there are approximately 400,000 Rotary International club members in more than 7,700 clubs throughout the United States sponsoring service projects to address critical issues such as poverty, health, hunger, illiteracy, and the environment in their local communities and abroad; and

Whereas February 23, 2005, would be an appropriate date to observe Rotary International Day: Now, therefore, be it;

Resolved, That the House of Representatives—

(1) supports the goals and ideals of a "Rotary International Day" to celebrate the centennial anniversary of Rotary International; and

(2) recognizes Rotary International for 100 years of service to improving the human condition in communities throughout the world.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

☐ 1500

GENERAL LEAVE

Ms. ROS-LEHTINEN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include extraneous material on the resolution under consideration, H. Res. 142.

The SPEAKER pro tempore (Mrs. CAPITO). Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Madam Speaker, I yield myself such time as I may consume.

As a member of the Committee on Government Reform, and as one of the 73 cosponsors, I am pleased to rise in support of House Resolution 142 that honors Rotary International on the occasion of its centennial anniversary.

Rotary is a global organization of business and professional leaders that provide humanitarian services and works to provide good will and peace in the world. The organization boasts approximately 1.2 million members, called Rotarians, who belong to more than 31,000 Rotary clubs currently located in 167 countries. The efforts of Rotary clubs encourage high ethical standards in all vocations.

Rotary International was founded on February 23, 1905, in Chicago, Illinois, in the hometown and the district of my colleague, the gentleman from Illinois (Mr. DAVIS). It became the world's first club devoted to public service and quickly grew into one of the largest nonprofit service organizations.

Today, there are nearly 400,000 Rotarians in the U.S. Membership provides the opportunity to make a difference within communities by working with each other and with local humanitarian and business leaders. A person can even learn about and become involved in international issues through Rotary programs.

Madam Speaker, next month, I understand that the Rotary will be hosting a great celebration in Chicago to mark its hundredth anniversary, and it will be from June 18 to June 22. On this occasion, the 2005 Rotary International convention will be a great event, and we wish the best to the Rotary and all Rotarians in their festivities.

Madam Speaker, I congratulate the distinguished gentlewoman from Illinois (Ms. SCHAKOWSKY) for her benevolence in advancing such a worthy resolution. I congratulate Rotary International for 100 years of tremendous service to our Nation and to the world.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield such time as she may consume to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Madam Speaker, I thank the gentleman for yielding me this time.

As the author of this legislation, and with the honor of representing the Ninth Congressional District of Illinois, home to the headquarters of Rotary International, I rise in strong support of House Resolution 142, a bill marking 100 years of service to humanity by Rotarians around the world. I am so happy that the other body, under the leadership of our Illinois Senator, RICHARD DURBIN, also passed an identical resolution.

I want to thank the chairman and ranking member of the Committee on Government Reform for their assistance in moving this bill to the floor, and my colleague, the gentleman from Illinois (Mr. KIRK), for his support of this legislation.

The celebration of Rotary's centennial will culminate in the place where it all began, Chicago, during the organization's upcoming convention to be held in mid-June. There, Rotarians from all over the world will mark 100 years of service to humanity and to rededicate themselves to Rotary's ongoing mission of service above self.

Rotary International was founded on February 23, 1905, in Chicago, Illinois. It is the world's first service club and one of the largest nonprofit service organizations in the world. Rotary provides humanitarian services, encourages high ethical standards in all vocations, and helps build good will and peace in the world.

Approximately 1.2 million Rotarians belong to more than 31,000 Rotary clubs located in 167 countries. Approximately 400,000 Rotarians belong to clubs throughout the United States and in virtually every congressional district. The world's Rotary clubs meet weekly and are nonpolitical, nonreligious, and open to all cultures, all races, and all creeds.

The main objective of Rotary is service in the community, in the workplace, and throughout the world. Rotarians develop community service projects that address many of today's most critical issues, such as children at risk, poverty and hunger, the environment, illiteracy, and violence. They also support programs for youth, educational opportunities, and international exchanges for students, teachers and other professionals, and vocational career development.

The Rotary motto of "Service Above Self" is an example for all humanity, and certainly one for the Members of this body. Today, Rotarians are united in a campaign for the global eradication of polio. In the 1980s, Rotarians raised $240 million to immunize the children of the world. By the end of 2005, the Polio Plus program will have contributed $500 million to this cause. Rotary has provided an army of volunteers to promote and assist at national immunization days in polio endemic countries around the world.

In 2000, I had the privilege of traveling to India with President Clinton and happened to be there on a weekend when Rotary was doing immunizations of children in India against polio. Along with many coalition partners, the Rotarians succeeded in immunizing approximately 125 million people in a weekend. Imagine the kind of volunteer effort it took for such a massive campaign and for such great results.

Due in large part to Rotary's efforts, the number of polio cases has fallen from an estimated 350,000 in 1988 to less than 1,300 in 2004, a more than 99 percent decline in reported cases. More than 200 countries and territories are polio-free.

From the launch of the global initiative in 1988 to the eradication target date of 2005, five million people who would otherwise have been paralyzed will be walking because they have been immunized against polio. It is my hope that today we will not only pass this resolution but that we will also dedicate ourselves to meeting Rotary International's call for adequate funding for the fight against polio in 2006.

Rotary is seeking a total of $106.4 million for the polio eradication efforts of the CDC and $32 million for the polio eradication activities of USAID. This Congress should support Rotary's great work by providing those needed funds.

Rotary International shares the mission that drives so many of us in this body. Rotary International promotes world understanding through international and humanitarian service programs and educational and cultural exchanges. It is supported solely by volunteer contributions from Rotarians and others who share its vision of a better world. Since 1947, the foundation has awarded more than $1.1 billion in humanitarian and educational grants.

Again, I want to urge my colleagues to join me in passing this legislation in honoring the work and members of Rotary International for 100 years of service to humanity and for their role in improving the world. I hope over the next 100 years Rotary's membership will continue to grow and its great service will continue.

Ms. ROS-LEHTINEN. Madam Speaker, I am pleased to yield such time as she may consume to my distinguished colleague, the gentlewoman from the State of Tennessee (Mrs. BLACKBURN), who is also a Rotarian.

Mrs. BLACKBURN. Madam Speaker, I thank the gentlewoman from Florida for yielding me this time, and I want to commend the gentlewoman from Illinois for her fine work on this piece of legislation, and I would like to encourage my colleagues to all join me in supporting House Resolution 142 and honoring the goals and the ideals of Rotary International and Rotary International Day on their hundredth anniversary. It is a wonderful organization.

Growing up, I learned that giving back to your community should be a goal that each and every one of us would have. And with its "Service Above Self" motto, Rotary International truly is living up to that standard of giving back. As an active Rotarian, I have had the opportunity to participate in so many events, programs, and projects that have been carried out by my Rotary club and by other Rotary clubs in my congressional district in Tennessee.

The gentlewoman from Illinois spoke a little about some of those projects, and it does not matter if you are in Nashville or Memphis or Clarksville, or anywhere in the Seventh District of Tennessee or around our great State, you are going to see that Rotary clubs are making a difference in each and every kind of project, from immunizations for children, which is a worldwide project for Rotaries, and then to things like the National Rotary Club, supporting the Boys and Girls Club and Second Harvest Food Bank, and providing scholarships. Also, in Memphis, they have awarded thousands of dollars in small grants to teachers who are working to improve literacy in that great city.

I want to send my thanks to the 1.2 million Rotary club members who are working to make that difference in communities around the globe, and I want to commend our international Rotarians who are now in 165 different countries for their commitment to service above self and improving the quality of life for each and every man and woman.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume. It is with great pleasure I join with my colleagues and friends in support of H. Res. 142, supporting the goals and ideals of a Rotary International Day and celebrating and honoring Rotary International on the occasion of its centennial celebration.

Rotary International is one of the most well-known and respected service organizations in the world. What many people do not know, however, is that the organization began in 1905, when Paul Harris, a Chicago attorney, invited three friends to a meeting: Silvester Schiele, a coal dealer; Hiram Shorey, a merchant tailor; and Gustavus Loehr, a mining engineer. All four men gathered in Loehr's business office in room 711 of the Unity Building at 127 North Dearborn, in my district of downtown Chicago. They discussed Harris' idea that business leaders should meet periodically to enjoy camaraderie and to enlarge their circle of business and professional acquaintances.

The club met weekly. Membership was limited to one representative from each business and profession. And though the men did not use the term "rotary" that night, that gathering is commonly regarded as the first Rotary club meeting. The name Rotary was suggested later by Paul Harris, as meetings were rotated from one office in the early days of the organization to another.

As the Rotary club began to grow nationwide, the focus of the club expanded from simply serving the professional and social needs of its club members to trying to address the problems that existed in their communities. Since its inception, Rotary International has been a source of inspiration to people all over the world. In 1945, 49 Rotary members served in 29 delegations to the United Nations Charter Conference. Today, the Rotary club is still an active participant in several United Nations programs.

In addition to their commitment to diplomacy, Rotarians have taken the lead on many international crises. In 1985, they made a commitment to immunize all of the world's children for polio. To this day, Rotary is the largest private-sector contributor to the global polio eradication program.

As we honor Rotary International for their profound contributions to our world, I am pleased to say that the organization continues to grow. Today, 1.2 million Rotarians belong to 31,000 Rotary clubs in 166 countries.

Madam Speaker, I would also like to take this moment to thank my colleague, the gentlewoman from Illinois (Ms. SCHAKOWSKY), for her leadership in bringing this important legislation to the floor. I would also like to thank the members of the Rotary club for serving our communities and helping to make the world a better place for all of us to live in.

Madam Speaker, I have no additional requests for time, and I yield back the balance of my time.

Ms. ROS-LEHTINEN. Madam Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from the State of Illinois (Mr. KIRK), who is also a Rotarian.

Mr. KIRK. Madam Speaker, I thank the gentlewoman for yielding me this time; and I commend my colleague, the gentlewoman from Illinois (Ms. SCHAKOWSKY), for offering this resolution commending Rotary on its anniversary, headquartered in Evanston, Illinois, on Chicago's North Shore.

In 1905, in Chicago, Illinois attorney Paul Harris invited three friends to dinner. He envisioned a new kind of group of professionals that would meet to cultivate their civic ties. The group met regularly, became the Rotary Club of Chicago, and changed its focus to community service.

We have come a long way since 1905. Now, with 400,000 Rotarians, like the Highland Park Morning Rotary Club that I belong to, and over 7,000 clubs throughout the United States, they are fighting poverty and hunger and illiteracy and working to support the environment. But Rotary should be known especially for one project, Polio Plus.

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It is with this privately funded and organized group that dedicated itself to wiping out a disease from the face of the planet, building on the precedent of wiping out smallpox. Rotary chose to wipe out polio which crippled our President Roosevelt and many other Americans. With this massive immunization program, joined in with the United Nations and the U.S. Government, Rotary's vision has now led us to a world where 99 percent of polio has been eradicated. In just a few years' time, Rotary is going to give a great gift to the world. It is a world without polio. It embodies Rotary's motto, Service Above Self, giving a victory and a gift to all future generations.

The House here commends Rotary and I commend my colleague for bringing this, headquartered on Chicago's North Shore, embodying the great American civic spirit.

Ms. JACKSON-LEE of Texas. Madam Speaker, I am pleased to be here today to support the goals and ideals of Rotary International Day. The Rotary Foundation has led the Global Effort to eradicate polio by vaccinating every child in the world. They have sent scholars, teachers and tradesmen from every nation to every nation to serve as ambassadors of goodwill to promote peace and understanding. They are leaders in their community, in business and in government. They are entrepreneurs that further the American economy and American ideals, and I thank them.

In my own district of Houston Texas, the Rotary Club of Gulfway-Hobby Airport engages in a number of charitable projects throughout the year. Founded on January 22, 1951, the South Houston Rotary Club was organized that night and was off and running with George Washington Christy being installed as the first president. Gulfway-Hobby Airport Rotary Club, over this 50 years plus time span, has been one of the most active, "Service Above Self" clubs in District 5890.

Their biggest charitable event is called Challenge Air and is held annually. The Rotary Club, with the support of the local aviation community provides pilots, airplanes, food, and gifts for wheelchair bound students. Held on a weekend, the students are given the opportunity to visit the hanger of one of the fixed base operators at Hobby Airport and then are taken for flights over Houston in private planes.

In addition, the Gulfway-Hobby Airport Rotary Club hosts a New Years Eve Party at Golden Age Manor Nursing Home and provides $8,000–$16,000 in academic scholarships awarded to local high school graduates.

Organizations such as these are invaluable to our communities, and we must do what we can to support and encourage their activities.

Mr. ISSA. Madam Speaker, I rise today in support of House Resolution 142, Supporting the Goals and Ideals of a "Rotary International Day", and celebrating and honoring Rotary International on the occasion of its centennial anniversary.

Since 1905 when the first Rotary Club was founded in Chicago by Paul Harris, Rotarians have been dedicated to the principle of "Service above Self." Though this principle has been embodied in various ways and mottos throughout Rotary's history, this ethic of service has always been rooted at the core of the organization and in the hearts of Rotarians throughout the world. Today 1.2 million Rotarians put service above self in more than 30,100 Clubs in over 160 countries.

In 1985 Rotary International launched PolioPlus, a program to immunize all the world's children against polio by the centennial anniversary of Rotary's founding. To date, the PolioPlus program has committed more than $500 million to the protection of more than two billion children in 122 countries. These funds are providing much needed polio vaccine, operational support, medical personnel, laboratory equipment and educational materials for health workers and parents.

With its community-based network worldwide, Rotary is the volunteer arm of the global partnership dedicated to eradicating polio. Rotary volunteers assist in vaccine delivery, social mobilization, logistical help and other services which cannot be quantified in dollars alone.

From the earliest days of the organization, Rotarians were concerned with promoting high ethical standards in their professional lives. One of the world's most widely printed and quoted statements of business ethics is The Four-Way Test, which was created in 1932 by Rotarian Herbert J. Taylor. Rotarians challenge themselves in their daily lives to ask the following four questions of the things they think, say or do: 1. Is it the truth? 2. Is it fair to all concerned? 3. Will it build goodwill and better friendships? 4. Will it be beneficial to all concerned?

In the forty-ninth Congressional district alone Rotary International is represented by the Rotary Clubs of Vista, Bonsall, Fallbrook, Oceanside, Valley Center, Perris, Murrieta, Temecula, Temecula Sunrise, Sun City—Menifee and Lake Elsinore.

Rotary is among the finest of organizations and I join in celebrating with all Rotarians the one hundredth anniversary of their founding and wish them another one hundred years of success.

Mrs. CHRISTENSEN. Madam Speaker, as an original cosponsor, I rise in strong support of H. Res. 142 to support the goals and ideals of 'Rotary International Day' and to celebrate and honor Rotary International on the occasion of its centennial anniversary.

Rotary began in my district, the U.S. Virgin Islands with what was called non-district clubs. The first non-district club to receive a charter was The Rotary Club of St. Thomas in 1957, followed by The Rotary Club of St. Croix in 1958 and from their inception they emphasized their commitment of Service Above Self.

Rotary West of St. Croix for example has provided (5) $1,000 scholarship for graduating seniors from St. Croix high schools for over 25 years. They have also donated over 350 wheelchairs to residents of St. Croix and Haiti, and provided over 3 trailers loads of dry goods to the residents of Grenada in the wake of the disaster they suffered last year. Just this past March, they presented a $10,000 check to Juan Luis Hospital to help the facility purchase an EEG machine.

On St. Thomas, three 2004 graduates of the Ivanna Eudora Kean High School were given full four-year scholarship awards to attend the University of the Virgin Islands, thanks to Rotary Club of St. Thomas East. St. Thomas' Rotary East works closely with students at Eudora Kean, its adopted school, year-round and at the end of the year it awards up to four scholarships to deserving graduates. With Rotary International in its 100th year, each club is mandated to create a special project. For its Centennial project, Rotary East created a tropical arboretum with the help of Kean students, planting 100 trees on the school's campus concentrating on native species, such as pink cedar and sea grape trees.

Madam Speaker, I am pleased that Rotary International and the U.S. Coalition for the Eradication of Polio have chosen to recognize me as a 2003 Rotary "Congressional Champion of Polio Eradication. The drive to eradicate polio has been one of the largest private-public sector initiatives ever organized. Rotary International has been working since 1985 to help eradicate polio from the world and it is now possible. They have mobilized tens of thousands of Rotarians to work together with their national ministries of health, UNICEF and the World Health Organization, and with health providers at the grassroots level in thousands of communities. By the time polio has been eradicated, Rotary International will have expended more than $500 million of its own money on the effort.

I am pleased to support H. Res. 142 and applaud Rotary International for all of their good work in service to their community. I urge my colleagues to support passage of the resolution.

Mr. SKELTON. Madam Speaker, let me take this means to congratulate Rotary International on the occasion of its centennial anniversary.

The world's first service club, the Rotary Club of Chicago, was formed on February 23, 1905, by Paul P. Harris. Through the years, Rotary's popularity has spread across the nation and the world and its mission has expanded well beyond serving the professional interests of local chapters.

Rotary has been instrumental in pooling resources to assist communities in need across the world. In 1985, Rotary made an historic commitment to immunize all of the world's children against polio. Working in partnership with nongovernmental organizations and national governments, Rotary is the largest private-sector contributor to the global polio eradication campaign. In fact, in 2005, Rotarians joined with representatives from global health networks to mark the 50th anniversary of the declaration of Dr. Jonas Salk's polio vaccine as safe and effective.

Rotary has also worked to meet the changing needs of society, addressing critical problems surrounding illiteracy, world hunger, and at risk children.

Madam Speaker, I have visited countless Rotary Clubs throughout Missouri's Fourth Congressional District. On each occasion, I am humbled by the hard work and friendly spirit of the community leaders who belong to this organization.

I congratulate them on 100 years of community service and I urge my colleagues to support H. Res. 142.

Mr. REYES. Madam Speaker, I rise today in support of H. Res. 142, a resolution supporting the goals and ideals of a "Rotary International Day" and celebrating and honoring Rotary International on the occasion of its centennial anniversary.

Today we commemorate the 100th anniversary of Rotary International and express our appreciation for the organization's service to our congressional districts, including my district of El Paso, Texas. Rotary International's service also extends to people around the globe, with 1.2 million Rotarians at 31,000 Rotary clubs in 167 countries.

The El Paso Rotary Club has served my district since 1914. Mr. Frank Hoy, President of the El Paso Rotary Club, leads a group of 300 members that conducts many important activities throughout the year that are of great benefit to our community. I am pleased to be participating in their annual Independence Day parade again this year.

Madam Speaker, I sincerely congratulate Rotary International and the El Paso Rotary Club on this important occasion, and I thank them for their continued service to the 16th District of Texas, our Nation, and the world.

Mr. SHAYS. Madam Speaker, I rise in support of H. Res. 142, supporting the goals and ideals of a "Rotary International Day" and celebrating and honoring Rotary International on the occasion of its centennial anniversary.

On Rotary International's 100th anniversary, we celebrate their extraordinary contributions to communities around the world. A worldwide organization of business and professional leaders, Rotary provides humanitarian service, encourages high ethical standards in all vocations, and helps build goodwill and peace in the world.

This extraordinary organization is the world's first service club and one of the largest nonprofit service organizations. Dedicated to their motto "Service Above Self," Rotary has maintained their focus on service. In fact, to celebrate their 100th Anniversary, Rotary designated April 2005 "Centennial Service Above Self Volunteer Month." Each club member wasencouraged to volunteer at least 10 hours of personal time in service to others, focusing on meeting community needs, lending vocational expertise, and assisting communities abroad.

As Co-Chair of the Congressional National Service Caucus, I am grateful for Rotary's commitment to our communities. Approximately 1.2 million Rotarians belong to more than 31,000 Rotary clubs, which fund club projects and sponsor volunteers to provide medical supplies, health care, clean water, food production, job training, and education to millions in need, particularly in developing countries.

I am proud to have Rotary International Clubs in 14 towns in my District, including Bridgeport, Darien, Fairfield, Greenwich, Byram-Cos Cob, Derby-Shelton, Monroe, New Canaan, Norwalk, Ridgefield, Seymour-Oxford, Trumbull, Westport and Wilton.

I congratulate Rotary International and its members on the occasion of their centennial celebration and urge passage of this resolution.

Ms. BORDALLO. Madam Speaker, I rise today in support of H. Res. 142, a resolution commending the goals and ideals of Rotary International as it celebrates its 100th anniversary. Rotary International is a network of professionals who have pooled their talents in pursuit of improving the communities in which they live. I also commend the four Rotary International clubs on Guam that have provided leadership and set a high standard for service that is very much appreciated by our community.

As America's first service organization, Rotary International embraces the ideal of providing for the wellbeing of the community before self. Today, Rotary International continues to expand its reach across continents to foster international understanding, and is now active in one hundred sixty-seven countries. One of Rotary International's current initiatives, the Polio Plus program, will immunize children throughout the world against polio. Since the implementation of Polio Plus, the Rotary International has, in cooperation with other multinational organizations such as the United Nations World Health Organization, managed to reduce the number of polio cases worldwide by ninety-nine percent. Other successful humanitarian endeavors include bringing treatment for preventing blindness to indigent patients in the Philippines, building schools in Turkey, and providing educational fellowships and grants for young people.

Rotary International has dedicated significant resources to funding its fellowship and scholarship programs for citizens interested in studying abroad and pursuing scholarly work in global conflict resolution. Educational and community outreach to young citizens are examples of Rotary International's commitment to fostering international understanding and its belief that the virtue of volunteerism will provide positive change in the world at-large.

I would like to commend Rotary International for its service to the international community and continued efforts to assist underserved populations of the world. Its vision of global understanding and commitment to service are truly noble core values. I also want to specifically congratulate the Rotary International clubs established in Guam, as well as their respective club presidents, for the hard work and commitment to community service that they have demonstrated over the years. They are: Dr. Ron McNinch, Tumon Bay; Mr. Mike Perrin, Guam; Mr. Curtis Dancoe, Guam Sunrise; and Mr. Lee Yudin, Northern Guam. I also want to extend my appreciation to the Assistant District Governor for the Pacific Basin Group, George Benoit.

Today we honor the Rotary International organization, which embodies the principle that we must, as individuals, strive for goals greater than our own self interest. Through community service, we can help form a world that is a better place to live for all of us. Congratulations to Rotary International. To the Rotary Club of Guam, the Rotary Club of Tumon Bay, the Rotary Club of Guam Sunrise and the Rotary Club of Northern Guam, thank you very much for all you have done to promote community values in Guam.

Mr. EMANUEL. Madam Speaker, I rise today in strong support of H. Res. 142, honoring Rotary International on the occasion of the organization's one hundred year anniversary. I am proud to note that the Rotary Club was founded in 1905 by Paul P. Harris in my hometown of Chicago, Illinois. Over the past century, the Rotary Club has grown into one of the largest nonprofit organizations in the world.

Rotary's Membership includes 1.2 million professional and business leaders who belong to 31,000 clubs in over 165 countries. These members adhere to the Rotary's motto, "Service Above Self," through community service projects, high moral conduct, and promotion of international good will.

In 1985, Rotary International launched PolioPlus, an effort to immunize the children of the world against Polio. Rotary's efforts in conjunction with the WHO, CDC and UNICEF have nearly eradicated the disease, reducing worldwide incidence from 350,000 cases in 1988 to 1,266 cases in 2004. By the end of 2005, PolioPlus will have donated over $500 million to this remarkable effort. Since its inception in 1947, the Rotary Foundation has awarded over $1.1 billion in humanitarian and educational grants, focusing on international humanitarian service programs and educational and cultural exchanges.

The scholarship program established by Rotary International is the largest privately-funded source of international scholarships in the world. Through this program, 8,000 secondary school students have studied abroad, 35,000 students have participated in the Rotary Ambassadorial Scholars program, and 46,000 young professionals have explored careers in other countries.

Next month, over 37,000 members representing 150 countries will attend the 2005 Centennial Rotary International Convention in Chicago as apart of the greatest celebration in Rotary's history. On behalf of the people of Chicago, I would like to welcome these members to the birthplace of their organization.

Madam Speaker, I congratulate Rotary International and all of its members worldwide for their impressive accomplishments over the past one hundred years in the areas of community service, Polio eradication and international exchange. I look forward to another hundred years of commendable service to the country and the world.

Mr. UDALL of Colorado. Madam Speaker, I rise in strong support of this resolution.

As the resolution notes, Rotary was founded in Chicago, Illinois, on 23 February 1905, and Rotarians now have set an example of a full century of service to their communities.

But Rotary is more than history. Today there are more than 400,000 Rotarians in the United States and more than 1.2 million Rotarians in over 32,000 clubs in 166 nations throughout the world—including 20 clubs in Colorado's 2nd Congressional District alone.

Rotarians provide tangible demonstrations of the power of their ideal and motto of "Service Above Self" by their efforts around the world toward elimination of diseases and the improvement of health as well as the provision of potable water and education for all. And over the years, through The Rotary Foundation, they have provided generously for undertakings that have improved the condition of people in all parts of the world.

In particular, Rotary International and its members have provided essential support toward the eradication of polio, measles, and other diseases, including donations of more than $600 million toward this cause, and have provided vaccines for immunizing over 2 billion children in the world. And in addition, Rotary Clubs annually provide tens of millions of dollars of local and global humanitarian support through grants, the services of Rotary Volunteers and matching grants.

In the field of education, Rotary Clubs collectively are among the largest private provider of scholarships in the history of the world, annually providing scholarships to tens of thousands of students. Also, Rotary International has sent over 200,000 students on Youth Exchange programs that foster understanding of people throughout the world as well as the development of leaders who go on to serve society. And Rotary International has provided $80 million to promote Group Study Exchanges of over 42,000 young adults for extended visits to other countries and to the United States where they learn, teach and create deep relationships, understanding and appreciation for different cultures.

So, it is very appropriate for Congress, through this resolution, to recognize Rotary International and Rotarians in every State and around the world as they commemorate and celebrate Rotary's centennial and to encourage them to work for even greater success in their second century of service.

Ms. ROS-LEHTINEN. Madam Speaker, again, I am pleased to be associated with House Resolution 142. I urge all of my distinguished colleagues to support its adoption.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. CAPITO). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 142.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. ROS-LEHTINEN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

AUTHORIZING USE OF CAPITOL GROUNDS FOR GREATER WASHINGTON SOAP BOX DERBY

Mr. DENT. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 86) authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

The Clerk read as follows:

H. CON. RES. 86

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZATION OF SOAP BOX DERBY RACES ON CAPITOL GROUNDS.

The Greater Washington Soap Box Derby Association (in this resolution referred to as the "Association") shall be permitted to sponsor a public event, soap box derby races, on the Capitol Grounds on June 18, 2005, or on such other date as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate may jointly designate.

SEC. 2. CONDITIONS.

The event to be carried out under this resolution shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board; except that the Association shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. STRUCTURES AND EQUIPMENT.

For the purposes of this resolution, the Association is authorized to erect upon the Capitol Grounds, subject to the approval of the Architect of the Capitol, such stage, sound amplification devices, and other related structures and equipment as may be required for the event to be carried out under this resolution.

SEC. 4. ADDITIONAL ARRANGEMENTS.

The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements that may be required to carry out the event under this resolution.

SEC. 5. ENFORCEMENT OF RESTRICTIONS.

The Capitol Police Board shall provide for enforcement of the restrictions contained in section 5104(c) of title 40, United States Code, concerning sales, advertisements, displays, and solicitations on the Capitol Grounds, as well as other restrictions applicable to the Capitol Grounds, with respect to the event to be carried out under this resolution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. DENT) and the gentlewoman from Pennsylvania (Ms. SCHWARTZ) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Madam Speaker, I yield myself such time as I may consume.

House Concurrent Resolution 86 authorizes the use of the Capitol Grounds for the 64th annual Greater Washington Soap Box Derby to take place on June 18, 2005.

Dating back to 1933, when a newspaper photographer witnessed three local boys racing engine-less cars down a neighborhood hill, the soap box derby has become an example of classic Americana. Over the years, the idea to hold a neighborhood race has grown from a local race where competitors raced anything with wheels to win a trophy to a nationwide extravaganza complete with three soap box divisions, official sponsors and the opportunity to travel and win college scholarships.

More importantly, however, is the work that goes into these soap box racers. Building a racer gives children valuable experience working with their hands and challenging their minds, learning about aerodynamics, craftsmanship and attention to detail. With three divisions and races all over the world, there is a place for everyone to try their hand at soap box building.

It took several years for this hobby to catch on in Washington, D.C., but after more than seven decades of racing, the tradition of the Greater Washington Soap Box Derby continues to encourage youth between the ages of 8 and 17 to develop their building, design and creativity skills. The winners of each division will represent the Washington, D.C., metropolitan area in the National Soap Box Derby to be held in Akron, Ohio, on July 30, 2005.

The races will take place on Constitution Avenue between Delaware Avenue and Third Street, Northwest, and will be free of charge to the public. The resolution also authorizes the Architect of the Capitol, the Capitol Police Board and the Greater Washington Soap Box Derby Association, the sponsor of the event, to negotiate the necessary arrangements for carrying out the event in complete compliance with the rules and regulations governing the use of the Capitol Grounds. The sponsor assumes responsibility for all expenses and liabilities related to the event. I support the resolution and urge my colleagues to join me in support.

Madam Speaker, I reserve the balance of my time.

Ms. SCHWARTZ of Pennsylvania. Madam Speaker, I am very pleased to stand here on behalf of the Committee on Transportation and Infrastructure that has jurisdiction over this legislation.

Madam Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. HOYER), the sponsor of this legislation who, each year, has offered this resolution and has been a strong supporter of the soap box derby.

Mr. HOYER. Madam Speaker, I thank the distinguished gentlewoman from Pennsylvania for yielding time, and I thank her for her leadership on bringing this bill to the floor. I thank the gentleman from Pennsylvania as well on getting this bill to the floor early. The gentlewoman from Pennsylvania, I know, has worked with us on so many different matters. I thank her very much for making sure this happens.

Madam Speaker, for the 15th straight year, I am proud to sponsor the resolution allowing the Greater Washington Soap Box Derby Association to hold its annual race on the grounds of the United States Capitol. They could not do so without this legislation. H. Con. Res. 86 authorizes the Architect of the Capitol and the Capitol Police Board to work with the Greater Washington Soap Box Derby Association to ensure that all the necessary arrangements are made to conduct this race in complete compliance with the rules and regulations governing the use of the Capitol Grounds. The 64th annual Greater Washington Soap Box Derby will be held on Saturday, June 18.

Since 1991, the Greater Washington Soap Box Derby Association has held its race on the Capitol Grounds. Each year, it attracts over 50 racers, both boys and girls, ranging in age from 8 to 17. These young people work very hard to build their own gravity-powered race cars from a kit provided by the All-American Soap Box Derby program. What a great name, All-American Soap Box Derby, because it is, of course, true that like apple pie and motherhood, soap box derby rings so true to all Americans. Participating in the soap box derby provides contestants with an opportunity to learn basic building skills and a sense of accomplishment. Racers are divided into three divisions, stock, super stock and masters. The local winner of each division automatically qualifies to compete with racers from around the world in the All-American soap box derby. This year's race will be held on July 30 in Akron, Ohio, where every year since 1936, except during World War II, young people have gathered to race.

The festivities in Akron begin when the racers receive a police escort into town and conclude in the winner's circle with the awarding of scholarships and merchandise. In between, the racers and their families participate in a whirlwind of activities that leave them with enduring friendships and memories that I am sure will last a lifetime.

Madam Speaker, I am honored that all three of last year's winners of the Greater Washington Soap Box Derby were from my congressional district from the Washington competition: Haley Luense of Accokeek, Robbie Reuss of Waldorf and Robert McDaniel of Bowie. They were not winners of the national competition but they were participants and did well.

Madam Speaker, this event has been called and I quote, the greatest amateur racing event in the world. There may be a dispute on that from time to time, but it is a wonderful opportunity for our children from the District of Columbia, Maryland and Virginia to venture into the world of engineering while experiencing the spirit of competition.

Therefore, Madam Speaker, I urge all my colleagues to join with me and the other original cosponsors, the gentleman from Virginia (Mr. WOLF), the gentleman from Virginia (Mr. MORAN), the gentlewoman from the District of Columbia (Ms. NORTON), the gentleman from Maryland (Mr. WYNN) and the gentleman from Maryland (Mr. VAN HOLLEN) in supporting this resolution. Again, I thank the gentlewoman from Pennsylvania for her leadership in assuring that this bill gets to the floor in a timely fashion so that we will be ready for June 18.

Ms. SCHWARTZ of Pennsylvania. Madam Speaker, I yield myself such time as I may consume.

I am delighted to join with the gentleman from Maryland (Mr. HOYER), the gentleman from Virginia (Mr. WOLF), the gentleman from Virginia (Mr. MORAN), the gentleman from Maryland (Mr. WYNN) and the gentleman from Maryland (Mr. VAN HOLLEN) in support of House Concurrent Resolution 86. In particular, I do want to acknowledge the efforts of the gentleman from Maryland (Mr. HOYER) who has consistently been a champion for his constituents in ensuring that this event take place each year.

House Concurrent Resolution 86 authorizes the use of the Capitol Grounds for the Greater Washington Soap Box Derby. On June 18, 2005, youngsters from the greater Washington area who are between 9 and 16 will test the principles of aerodynamics as they race down Constitution Avenue in their soap box vehicles that they have designed and constructed.

Madam Speaker, many hundreds of volunteers donate considerable time supporting the event and providing families with a fun-filled day, which is quickly becoming a tradition in the Washington, D.C., area. The event has grown in popularity, and Washington is now known as one of the outstanding race cities in the Nation. Consistent with all events using the Capitol Grounds, this event is open to the public and free of charge. The organizers will work with the Capitol Hill Police and the Office of the Architect. I support House Concurrent Resolution 86 and urge support of this resolution.

Madam Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the Committee on Transportation and Infrastructure.

Mr. OBERSTAR. Madam Speaker, the annual soap box derby is one of the most constructive activities that the Congress can support in behalf of young people and truly for families. As the gentleman from Maryland (Mr. HOYER) has already explained and as the gentleman from Pennsylvania (Mr. DENT) has explained, constructing these vehicles brings together families, brings out the creative instincts of young people, gives them an opportunity to innovate and to produce a product in which they have ownership and which takes a great deal of time and which brings families together. Supporting the annual soap box derby, we are doing something truly constructive for families, for the Nation's capital young people and for young people across America.

Ms. SCHWARTZ of Pennsylvania. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DENT. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. DENT) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 86.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING USE OF CAPITOL GROUNDS FOR DISTRICT OF COLUMBIA SPECIAL OLYMPICS LAW ENFORCEMENT TORCH RUN

Mr. DENT. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 135) authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run.

The Clerk read as follows:

H. CON. RES. 135

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZATION OF USE OF CAPITOL GROUNDS FOR D.C. SPECIAL OLYMPICS LAW ENFORCEMENT TORCH RUN.

On June 10, 2005, or on such other date as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate may jointly designate, the 2005 District of Columbia Special Olympics Law Enforcement Torch Run (in this resolution referred to as the "event") may be run through the Capitol Grounds as part of the journey of the Special Olympics torch to the District of Columbia Special Olympics summer games.

SEC. 2. RESPONSIBILITY OF CAPITOL POLICE BOARD.

The Capitol Police Board shall take such actions as may be necessary to carry out the event.

SEC. 3. CONDITIONS RELATING TO PHYSICAL PREPARATIONS.

The Architect of the Capitol may prescribe conditions for physical preparations for the event.

SEC. 4. ENFORCEMENT OF RESTRICTIONS.

The Capitol Police Board shall provide for enforcement of the restrictions contained in section 5104(c) of title 40, United States Code, concerning sales, advertisements, displays, and solicitations on the Capitol Grounds, as well as other restrictions applicable to the Capitol Grounds, in connection with the event.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. DENT) and the gentlewoman from Pennsylvania (Ms. SCHWARTZ) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Madam Speaker, I yield myself such time as I may consume.

House Concurrent Resolution 135 authorizes the use of the Capitol Grounds for the 20th annual District of Columbia Special Olympics Law Enforcement Torch Run to take place on June 10, 2005. The Special Olympics is an international organization dedicated to using athletics to impact the lives of children and adults with intellectual disabilities. Funds raised through projects like the Law Enforcement Torch Run make it possible for athletes with disabilities to train and compete year round.

The Special Olympics offers something that is seldom offered to these individuals. It creates an environment where persons with disabilities are fully accepted, encouraged and empowered. Through training and competition, Special Olympics athletes grow mentally and physically, improving their physical fitness and motor skills and ultimately gaining greater self-confidence. With more than 85,000 law enforcement officers carrying the flame across 35 nations, the 2004 Special Olympics Law Enforcement Torch Run raised more than $20.5 million. This event has historically been the largest and most successful Special Olympics grassroots fundraiser and awareness vehicle, and with the authorization of House Concurrent Resolution 135, we will ensure its continued success.

The sponsors of the event will work with the Architect of the Capitol and the United States Capitol Police to comply with all the applicable regulations relating to the use of the Capitol Grounds and will assume responsibility for all expenses and liabilities related to the event.

☐ 1530

I encourage my colleagues to join the law enforcement community in supporting the Special Olympics and join me in supporting this resolution.

Madam Speaker, I reserve the balance of my time.

Ms. SCHWARTZ of Pennsylvania. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this event needs little introduction. 2005 marks the 38th anniversary of the District Special Olympics. The torch relay event is a traditional part of the opening ceremonies for the Special Olympics, which will take place at Gallaudet University in the District of Columbia. This event has become a highlight on Capitol Hill and is an integral part of the Special Olympics.

In the early 1960s, Eunice Kennedy Shriver started a day camp for people with mental retardation, and the Special Olympics were born. The games help mentally challenged individuals gain confidence and self-esteem through friendly competition in a supportive environment.

Today, more than 1 million children and adults with special needs participate in the Special Olympics programs worldwide. Here in our Nation's capital, approximately 2,500 Special Olympians compete in dozens of events each year, and they are cheered on by their family members and friends. This inspirational event is due in large part to the efforts of thousands of volunteers from the greater Washington, D.C. area. And these individuals deserve our thanks and our assistance.

I enthusiastically support this resolution and the very worthwhile endeavor of the Special Olympics. I urge support for House Concurrent Resolution 135.

Madam Speaker, I reserve the balance of my time.

Mr. DENT. Madam Speaker, I reserve the balance of my time.

Ms. SCHWARTZ of Pennsylvania. Madam Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR), ranking member on the Committee on Transportation and Infrastructure.

Mr. OBERSTAR. Madam Speaker, I thank the gentlewoman for yielding me this time and, again, the committee for bringing this concurrent resolution to the House floor, as is our annual responsibility, to authorize the use of the Capitol grounds for the Special Olympic Law Enforcement Torch Run.

The gentlewoman and the gentleman from Pennsylvania (Mr. DENT), representing the majority, have well explained the purpose of the Special Olympics and the Torch Run. But I just want to take a moment to pay tribute to Sarge Shriver, who for so many years has been the inspiration behind, and the organizational force of, the Special Olympics. It really has become synonymous with Sarge Shriver. This event, which has become so widely admired, so greatly appreciated, has just made an enormous difference for young, middle-aged and older mentally disabled persons, reinforcing their self-confidence, building self-esteem, and improving the quality of their health as they prepare for and participate in the Special Olympics.

From time to time on Sunday I see Sarge Shriver at our Lady of Mercy Parish where I participate in mass when I am in the Washington Area. It just pains me as I see Sarge Shriver overcome by the mental ravages of Alzheimer's. Even with this dreadful disease he certainly functions well, and his body is strong, and his mind is clear. But one can see the ravages of this dreaded ailment. And for one who has given so much to so many people for so many years, it just brings home to me every time I see him this enormous contribution that he has made so selflessly over the many years.

Eunice Shriver, who took over the Kennedy family initiative on behalf of the mentally disabled, played a strong, forceful role in my hometown with the publisher of our hometown newspaper, Veda Ponikvar, in building and commissioning the Range Center for the mentally retarded, bringing people who have been neglected, held in homes, shut away in closets and downstairs rooms and attics and bringing them out into the world and giving them an opportunity for self-esteem, for self-confidence, to learn skills, to be productive members of our community.

And so across the country, those who have been helped by the Shriver family and the Kennedy inspiration for the programs to support those with mental disabilities, the Special Olympics stands out as the premier activity nationwide to give respect, recognition, full membership in society to those not so fortunate as the rest of us.

Ms. SCHWARTZ of Pennsylvania. Madam Speaker, I yield back the balance of my time.

Mr. DENT. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. CAPITO). The question is on the motion offered by the gentleman from Pennsylvania (Mr. DENT) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 135.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE

Mr. DENT. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 136) authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service.

The Clerk read as follows:

H. CON. RES. 136

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE.

(a) IN GENERAL.—The Grand Lodge of the Fraternal Order of Police and its auxiliary (in this resolution referred to as the "sponsor") shall be permitted to sponsor a public event, the 24th annual National Peace Officers' Memorial Service (in this resolution referred to as the "event"), on the Capitol Grounds, in order to honor the law enforcement officers who died in the line of duty during 2004.

(b) DATE OF EVENT.—The event shall be held on May 15, 2005, or on such other date as the Speaker of the House of Representatives and the Committee on Rules and Administration of the Senate jointly designate.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—Under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board, the event shall be—

(1) free of admission charge and open to the public; and

(2) arranged not to interfere with the needs of Congress.

(b) EXPENSES AND LIABILITIES.—The sponsor shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. EVENT PREPARATIONS.

Subject to the approval of the Architect of the Capitol, the sponsor is authorized to erect upon the Capitol Grounds such stage, sound amplification devices, and other related structures and equipment, as may be required for the event.

SEC. 4. ENFORCEMENT OF RESTRICTIONS.

The Capitol Police Board shall provide for enforcement of the restrictions contained in section 5104(c) of title 40, United States Code, concerning sales, advertisements, displays, and solicitations on the Capitol Grounds, as well as other restrictions applicable to the Capitol Grounds, in connection with the event.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. DENT) and the gentlewoman from Pennsylvania (Ms. SCHWARTZ) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, House Concurrent Resolution 136 authorizes the use of the Capitol grounds for the annual National Peace Officers' Memorial Service to take place on May 15, 2005. The Grand Lodge of the Fraternal Order of Police and its auxiliary are the sponsors wishing to honor some of America's bravest men and women. The memorial service will honor the 154 Federal, State, and local law enforcement officers who made the ultimate sacrifice while protecting their communities in 2004.

I would especially like to recognize the seven peace officers killed in the line of duty in 2004 from my home State of Pennsylvania.

This is the 24th time that this event has been held on the grounds of the Capitol. This memorial service is part of National Police Week, which was created by law in 1962; and this year begins today and continues until May 15.

Police Week draws officers, their families, and the survivors of fallen officers from around the country and includes such events as the Blue Mass at St. Patrick's Catholic Church, a candlelight vigil at the National Law Enforcement Memorial, and a police unity tour featuring officers and historic vehicles.

This event begins at noon on Sunday and, following the ceremony on the Capitol grounds, will continue with a procession to the Law Enforcement Memorial followed by a wreath-laying ceremony.

I encourage my colleagues to attend this much-deserved memorial service to honor those who are on the front lines, protecting the communities we live in, and work to serve.

Madam Speaker, I reserve the balance of my time.

Ms. SCHWARTZ of Pennsylvania. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, House Concurrent Resolution 136 authorizes the use of the Capitol grounds for the 24th annual National Peace Officers' Memorial Service, a most solemn and respectful public event honoring our Nation's brave civil servants. The event, scheduled for May 15, will be coordinated by the Office of the Architect of the Capitol and the Capitol Hill Police.

This is a fitting tribute to the Federal, State, and local police officers who gave their lives while protecting our families, our homes, and our places of work. This year, 153 names will be added to the memorial wall, including nine women who were killed in the line of duty. These fallen heroes served an average of 12 years in law enforcement, with some serving as many as 40 years. Others, like one 20-year-old officer, had only just begun what he had hoped would be years of service to his community.

On average, one officer is killed in this country every other day, and approximately 23,000 are injured every year. And thousands more are assaulted while on duty. In 2004, seven law enforcement officers from the State of Pennsylvania were killed in the line of duty.

In the early morning hours of March 19, Philadelphia City Pretrial Warrant Supervisor Joseph LeClaire was shot and killed while serving an arrest warrant in West Germantown to a man who had failed to appear in court during two trials, one for a drug charge, the second for a rape case. Officers Vincent Disandra and Carlo Delborrello were also shot and wounded during the encounter.

Shortly after 11 a.m. on March 31 in Bradford County, Deputy Sheriffs Christopher Burgert, who was 30, and Michael Vankuren, 36, were shot and killed while trying to serve two warrants to a man living in Wells Township.

In the early morning of April 20, Sergeant James Miller, a 28-year veteran of the Upper Dublin Police Department, died when his police vehicle rolled over during an accident.

And Police Chief Douglas Shertzer, a 23-year veteran of his department, was killed in a motorcycle accident on the morning of May 11 while en route to begin his patrol.

Patrolman Michael Wise II of Reading City Police Department was shot in the line of duty on the night of June 5 while searching for a murder suspect.

And, finally, Elk Lick Township Police Chief Sheridan Caton, 60, was killed in a head-on collision while responding to a request for a backup from a neighboring police department. The driver of the second vehicle was charged with driving while under the influence.

These public servants are sorely missed; and they deserve our deepest respect, and their families have our most sincere sympathies.

In October, 1962, President Kennedy declared May 15 as National Peace Officers' Memorial Day so that we could come together to honor the service and sacrifice of our Nation's law enforcement officers. This year's ceremony is the 24th anniversary of this memorial service. Consistent with all Capitol Hill events, the memorial service will be free and open to the public.

I support the resolution and urge my colleagues to join me in supporting this tribute to our fallen police officers and peace officers.

Ms. MILLENDER-McDONALD. Madam Speaker, I join my colleagues in support of the concurrent resolution. On May 15, 2005, America will observe National Peace Officers' Memorial Day and hold the National Memorial Service. We commemorate this day each year to honor the heroes of law enforcement who have lost their lives in the line of duty. As the Ranking Democrat on the Committee on House Administration, which has jurisdiction over the U.S. Capitol Police, the Library of Congress Police, and the Government Printing Office Police, this year's observance has additional significance for me. On this occasion, I rise to offer the tribute of the Californians I have the honor to represent, and my Committee's, as well as my own.

The need for such a memorial day arose in the earliest days of our republic. Since America's first line-of-duty death was recorded in 1792, more than 16,500 men and women have fallen, including three Capitol Police officers, one in 1984, and two in 1998. Nationwide, 153 officers died in the line of duty last year, 13 of them in California, according to the National Law Enforcement Officers Memorial Fund. Thus, in 2004, somewhere in the United States a law-enforcement officer fell in the line of duty ever 57 hours.

I wish it were not so, Madam Speaker. We all wish it were not so. But at least 35 have already fallen in 2005, and still others will follow. If anyone among us could do anything to prevent even one more law-enforcement officer's death, we would surely do it. I certainly hope that this Congress, every state legislature, and every other policymaking body will do everything possible to prevent more such deaths.

Madam Speaker, as we pause on this year's National Peace Officers' Memorial Day to reflect upon the sacrifices made by the valiant men and women of law enforcement who have given their lives for our communities, let us resolve to cherish their memory on May 15 and every day. Let us also honor the brave men and women now working across this land who may, at any moment of any shift, give their lives to make us safe. Let us resolve to show them our respect and gratitude every day of the year. I urge all Members to vote for the resolution.

Mr. OBERSTAR. Madam Speaker, I rise in support of H. Con. Res. 136, to authorize use of the Capitol Grounds for the National Peace Officers' Memorial Service on May 15, 2005.

In October 1962, President Kennedy proclaimed May 15th as National Peace Officers' Memorial Day. Each year on this date we, as a Nation, have an opportunity to honor the devotion with which peace officers perform their daily task of protecting our families, co-workers, friends, and each of us. The 2005 event marks the 24th anniversary of the Capitol Hill event. In the post September 11th environment, the work of selfless police and firemen has become our model of courage and moral strength.

There are approximately 700,000 sworn law enforcement officers serving the American public today. Officers work for states, counties, U.S. territories, federal enforcement, military police, and corrections departments. Ten percent of law enforcement officers are women.

During 2004, 153 peace officers were killed in the line of duty; of those killed, nine were women. The average age of those killed in the line of duty was 37 years.

It is most fitting and proper to honor the lives, sacrifices, and public service of these brave men and women. I urge support for H. Con. Res. 136.

Mr. COSTELLO. Madam Speaker, I rise today in support of H. Con. Res. 136, a resolution that honors and celebrates the 24th Annual National Peace Officers' Memorial Service Observance Day on May 15, 2005. As a former police officer, I salute those law enforcement officials who died in the line of duty in 2004 and continue to honor those police officers who gave their lives in past years. As a member of the Congressional Law Enforcement Caucus, I strongly support critical funding for programs, such as the Community Oriented Policing Services (COPS) program, to hire additional police officers and help law enforcement acquire the latest crime-fighting technologies. I will continue to be a strong supporter of the law enforcement community and will advocate on behalf of public safety in Congress. I urge my colleagues to support this resolution.

Ms. McCOLLUM of Minnesota. Madam Speaker, I rise to support the many police and peace officers across this country who have made the ultimate sacrifice to keep our families and our communities safe, and to lend my support to H. Con. Res. 136, which authorizes the use of the Capitol Grounds for the National Peace Officers' Memorial Service.

During this year's service, on May 15, our nation will honor one more fallen hero from Minnesota's Capital City. Last week my community was stunned and saddened by the death of St. Paul Police Sgt. Gerald Vick, who was killed in an act of senseless violence in the line of duty. Sgt. Vick knew well the dangers of his job, yet he exemplified the great bravery and selfless commitment of our city's finest.

After graduating from St. Paul's police academy in 1989, Sgt. Vick's career had "upward mobility," written all over it, according to the city's former chief of police. His personnel file was filled with approving letters from the chief. Sgt. Vick went above and beyond to protect our community and keep it a safe and healthy place to raise a family, After being promoted to sergeant in 1999 where he could have taken a much safer desk job, he only wanted to get back on the streets to the part of the job he love the most—working with the community.

Twice Sgt. Vick was awarded the St. Paul Police Department's highest honor, the Medal of Valor. The first time was in 1990 when he saved an infant from a burning building, then again in 1997 when he shot and killed an armed robbery suspect who pulled a gun on him. Sgt. Vick served for 16 years on the Saint Paul police force and was a true public servant. Jerry died on May 6, 2005 protecting the community—the job he loved so much. He will be deeply missed by his family, his friends, and his fellow officers.

I wish to express my sincere condolences as well as my thoughts and prayers to all those who loved and worked with Sgt. Gerald Vick.

Ms. SCHWARTZ of Pennsylvania. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DENT. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. DENT) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 136.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DENT. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Concurrent Resolution 86, House Concurrent Resolution 135, and House Concurrent Resolution 136, the matters just considered by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 5:30 p.m. today.

Accordingly (at 3 o'clock and 44 minutes p.m.), the House stood in recess until approximately 5:30 p.m.

☐ 1740

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BOOZMAN) at 5 o'clock and 40 minutes p.m.

PERSONAL PRIVILEGE

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER pro tempore. On the basis of House Report 109-51 and certain media coverage thereof, the gentlewoman may rise to a question of personal privilege under rule IX.

The gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 1 hour.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

I rise today, Mr. Speaker, because I believe in the integrity of this House, the specialness of this House, and the specialness of my colleagues.

I also believe that this time that I will have to share with my colleagues and to share with the American people is a moment for us to be able to move forward and not to recount or to go back over a pathway that is not productive.

A few weeks ago we were discussing legislation that of its very name is extremely controversial. In the course of that legislation, H.R. 748, the Child Interstate Abortion Notification Act, CIANA, the debate was vigorous; and I know that in this Congress we have had our differences of opinion as it relates to the question of choice, the ninth amendment, the right to privacy, and, in this instance, the question of parental consent.

It is interesting to note that those of us who may side on the position of choice and the right to privacy recognize the intensity and the questions being raised about children who are put in harm's way, whether or not that means that a child without counsel, because of some tragedy in her life, has to seek an abortion.

The vigorousness of the debate centered around the idea of the enormous range of differences of opinion expressed by different States. I think they are equally divided, 23, 22, 27, some States having no provisions for parental consent as it relates to a child securing an abortion, some States having a very complicated process with judicial review, and some States having a medium process.

The debate in the Committee on the Judiciary by members on my side of the aisle really centered and focused on the structure of the legislation that seemingly would close the door shut on a child that would seek counsel beyond the parent in this very troubling time in their life. It also sought to clarify whether an innocent bystander who could provide a mode of transportation might, in fact, be held criminally liable under this particular law. So there were a number of amendments being offered that would hopefully clarify this very difficult question.

Mr. Speaker, this is a time when passions rise high, temperatures rise high as well. As I said, there is a vigorous disagreement about this question of abortion and even more vigorous when it involves a child who is under the age of majority.

☐ 1745

So there were a number of amendments offered by my colleagues, one offered that, in particular the description of the amendment simply offered by the gentleman from New York (Mr. NADLER), allowed an adult who could be prosecuted under the bill go to a Federal court and seek a waiver to the State's parental notice laws if this remedy was not available.

Subsequently, there was a House Report, 109-51, and in that report, a series of amendments were described in particular to give license to sexual predators. May I repeat that again, Mr. Speaker, to give license to sexual predators.

I started out by saying, and I do intend to follow that charge that I have made, that this is an effort to go forward, to be able to highlight a mistake, an indiscretion, a pathway that hopefully we will not return to and allow us to heal on our own, if you will, but also to cite that this is not the way to run the People's House.

That amendment simply stated that it allowed an adult who could be prosecuted under the bill to go to the Federal District Court and seek a waiver to the State's parental notice laws. Remember I started out, Mr. Speaker, by saying State parental notice laws are varying around the Nation. It was ultimately written to suggest that that particular gentleman from New York had an amendment that would have created an additional layer of Federal Court review that could be used by sexual predators to escape conviction under the bill. It suggested that that roll call, that particular amendment, was defeated 11 to 16.

Subsequently, there was another amendment by the gentleman from New York to exempt a grandparent or adult sibling from the criminal and civil provisions in the bill, again, simply stated as plain as can be. And, by the way, Mr. Speaker, though I am not intending to challenge legislation that has already been passed on the floor of the House, albeit I disagree with it vigorously in terms of the restraints it puts on the interaction between a child and confidante, a trusted adult who can help steer them in the right direction, let me just suggest this was a constructive amendment because it was to give the child an ability to consult with someone that may be out of the pipeline and be out of the child's distress area, meaning we have never looked at the point that possibly the parent could be the predator or could be engaged in incest. All of these are terrible things to discuss, but in a responsible debate, these were the considerations why these amendments were authored.

Ultimately, that amendment to allow a grandparent or sibling to confide or that child to confide in that particular adult or that particular sibling, adult sibling, it was described by the gentleman's amendment, was described as having exempted sexual predators from prosecution under the bill and suggested that it was defeated in a roll call vote.

Subsequently, the gentleman from Virginia offered an amendment to protect innocent bystanders who might have someone take their mode of transportation, a taxicab, a bus or other mode of transportation, not knowing who they are carrying, and ultimately caught up in the legislation and be prosecuted. So this was to exempt innocent bus drivers, taxicab drivers and others who would be transporting individuals, and, again, the amendment was described as exempting sexual predators.

A subsequent amendment that limited liability to the person committing the offense in the first degree was ultimately described and suggested that it would aid and abet criminals.

Then an amendment that I offered, the amendment was to exempt clergy, godparents, aunts, uncles or first cousins from the penalties in the bill, again to give a young woman a greater latitude of who to seek comfort and counsel from, and ultimately, that amendment was described, "Ms. JACKSON-LEE offered an amendment that would have exempted sexual predators from prosecution under the bill if they were clergy, godparents, aunts, uncles or first cousins of a minor."

Then, Mr. Speaker, though I had two separate amendments, one a GAO study that would have determined whether this particular legislation was necessary and whether or not the confusion of the States with different bases of determining parental consent, whether or not that created an added problem, the description in House Report 109–51 just lumped them all together, which reads, "that would require a study by the Government Accounting Office."

So, in essence, Mr. Speaker, my amendment was described as exempting clergy, godparents, aunts, uncles or first cousins of a minor and suggesting that I was exempting sexual predators. And then, adding insult to injury, if I might use a phrase, that I then wanted a GAO study. Completely wrong. Complete misconstruing of the amendment and of the intent.

So we had a vote last week that ultimately wound up correcting the language in some form. It did not, however, distinguish that I had two amendments and did not ask for a study of sexual predators who happened to be godparents, clergy, aunts, uncles or first cousins.

First of all, might I say in the prosecution of this particular entity, I do not believe that any prosecutor worth his or her salt would allow this legislation to exempt an individual who happened to be a relative who happened to be a sexual predator. There is no basis in the bill. And if that was the case, then it means that the parents, the very underlying crux of the bill, parental consent, it means that the bill also protects parents that are sexual predators if you follow that line of reasoning.

So, Mr. Speaker, this is an attempt to have us go forward and not backwards. The amendments were very clear on their face. The amendments stood alone: "The General Accounting Office shall conduct a study detailing the impact of the number of unsafe and illegal abortions performed on minors who would be affected by this law."

You see, Mr. Speaker, I have lived through a time when women went to back alleys, and a coat hanger was a medical device. So I thought it was appropriate that if we were going to pass a legislative initiative that we thought would help secure young lives, then we needed to have a study that would determine whether or not it was in fact securing them or endangering them. And the idea, of course, was to suggest that we needed to find out more about the impact of this legislation.

This ultimately got construed, I do not know how, as a GAO study of sexual predators. This is not a nice word to say on the floor of the House, because as we have seen the rash of attacks on our children, two young babies killed just in the last 24 hours; little precious Danielle having been determined and identified decapitated a couple of years ago; as cochair of the Congressional Children's Caucus, we were briefed by Alonzo Washington on that tragic case; the cases in Florida, the cases in Texas.

No one wants to promote the extending of any criminal exemptions for the likes of those who prey on our children. Nowhere in this GAO study would that say that. And might I say that the war against sexual predators and child predators and child sexual predators is a bipartisan war. It is not a frivolous desire of any of us to stand up against those heinous actors that will go against our children. I would not in the least be hesitant to stand alongside of any Member in this body and know full well of their undying commitment to weed out, ferret out, prosecute and incarcerate those individuals with the most evil intent to do harm to our children.

That is why a number of Members took to the floor of the House to express such outrage; not because we do not accept the fact that there could be mistakes. There are politics in this House, games that are played at all times. There is vigorous debate on the question of choice, parental consent. But it was the very fact that something so sacred, our children, could fall victim to such a divide.

As we went to the Committee on Rules we would hope it would have been cleared up through that matter. Let me also just cite the other Jackson-Lee amendment that was plain and simple, the prohibitions of this section do not apply with respect to conduct by clergy, godparents, aunts, uncles or first cousins, simply to say that they could stand in place, for example, if there was some Achilles heel, some failure in the parental structure, that this child needed to go outside of the family home. A simple process; no more, no less.

So, we had hoped that there would have been some solution to this in the Committee on Rules. As I indicated, this report was filed Thursday, April 21, and the accompanying report was 109–51.

The point that should be part of the rules of this House that I hope that we will as we go forward make really part of our institutional fabric is that House reports from now on or from last Thursday on should describe recorded votes with objective, non-argumentative captions.

The Committee on the Judiciary majority cannot do that in House Report 109–51 by captioning the five amendments that I mentioned with remarks that would suggest that we are harboring, that we are kowtowing, playing to sexual predators.

The opportunity that was given, Mr. Speaker, to address this question in the Committee on Rules was troubling, because questions were posed as to why such language was utilized.

Might I say as an aside, Mr. Speaker, you realize that the House reports and my colleagues realize the House reports are used in history. They are used by historians and political scientists, students, researchers of all kinds, policymakers. They are used to tell the story of America. That is why we rise to the floor of the House and raise our voices and consent and dissent. That is why we pay tribute to Americans on this floor. That is why, each morning, we say the Pledge of Allegiance, and the chaplain or one who has been so designated offers a word of prayer. It is for all of America to reflect and read. It is a document that leaves a legacy that 2 days from now or 5 weeks or 1 year or 10 years from now cannot be changed.

So, to ask the question why, or to suggest to my colleagues that I only stand here today to remind you that if we can find any sense of unity in this very fractured Nation and divided House and Senate, I would simply ask that it be adhering to the rules of this body and the simple reporting of the work we do here every day.

The reason why, again, I would cite this as an important request and one that I hope the correction of last week will not be simply the correction of that time, but it will be embedded that we try and work not to do it again, is because when we get on this floor, Mr. Speaker, and there are words that are not befitting or becoming of the debate, albeit the Member did not intend any wrongdoing or missteps, but because someone else found those words to be inappropriate, we have a procedure called to take the words down. Why do we do that? We do that to protect the integrity of this record.

□ 1800

And I think that is the right thing to do. In the furor of debate, sometimes we step beyond the pale. We are committed, we are passionate, we believe in what we are standing for, and we are Americans. We stand in debate with our eyes on the Flag of the United States and the words "In God We Trust." This Nation's underpinnings allow us to do so. But when sometimes in the heat of debate words flare, we are allowed, and some will ask, that the words be taken down. And in the course of the debate and the vote occurs, there is a procedure to address that issue. That means that we care about the integrity of this process and the written word that will then be there for thousands and thousands and millions and millions and years and years to be reviewed. We are owed that kind of respect.

So this statement today should not be considered an effort to recount or repeat. It is, hopefully, an effort in a moment, of evenhandedness, to suggest that this kind of mischaracterization not take place anymore in the committees of the House, the final reporting, and/or the Committee on Rules, and that we strictly stick to the conciseness and integrity of the process which is a nonargumentative, objective reporting of the work of an individual Member.

And certainly, Mr. Speaker, words such as "predator" and "sexual predator" and "child predator," to be thrown in the direction of Members who leave their homes and their jurisdictions every day in the backdrop of some heinous criminal act, maybe affecting their own constituents, maybe some child law.

Because as I was driving on the freeway yesterday in Texas, because of the AMBER Alert that all of the Members of this House were willing to support, there unfortunately was a highlight of another kidnapped child from New Mexico, possibly on the run into Texas, not knowing whether there was an issue of sexual predator or child predator. It was a kidnapped child, a child that was vulnerable.

So it is not something that I personally take lightly, and I would just suggest that the gentleman from New York and the gentleman from Virginia who raised their voices, I would think that their integrity also is well-known, and that to associate their work with that definition is one that is enormously frightening.

This clarification is used as well when you can find that the entity or the act or the actions have subjected you to public ridicule. Well, a story is a story, Mr. Speaker, and this was written about. So that will not be able to be taken down. There will be articles that would suggest that amendments by the named persons exempted sexual predators. We cannot go back to that. We cannot pull that down. That is in the annals of news that will be able to be researched.

So, frankly, I thought it was enormously important that this misdeed be called again to the attention of my colleagues. Why? Because I hope going forward we will not do it again.

Allow me to quote from the ranking member of the Committee on Rules who said that it was not indicated how this was brought to our attention. The Committee on Rules discovered yesterday that the Committee on the Judiciary report on this very bill, which was authored by the majority staff, contained amendment summaries which had been rewritten by committee staff for the sole purpose of distorting the original intent of the authors. So, in essence, no one contacted our offices to be able to determine whether or not we actually intended that exemption, meaning as the report was being written. If it had not been for the staff of the Committee on Rules, we would not have had the opportunity to clear the air.

I do want to pay tribute to the Committee on Rules in this instance, Republicans and Democrats, who listened to our protest, if you will. And frankly, Mr. Speaker, I had hoped and thought that that matter could be resolved there in the Committee on Rules. The response of the majority of the Committee on Rules is to stand by it, or they stood by those amendments as they were described. It appeared as stated by the ranking member that the representations being made in the Committee on Rules is that one, the majority stood by it; and, two, that the alterations to our amendments were deliberate. When asked again why such an out-of-the-ordinary approach was taken, the majority responded and suggested that it was the tone of the debate that caused such to be done. Because we oppose the legislation, the "got-you" game was being played.

Mr. Speaker, that is why I rise today, because I would like to have today, May 10, 2005, really be the last, last day that we would entertain such actions. No matter how vigorous the debate in opposition, how be it that we would step away from the integrity of this House, the respect for the three branches of government and do as was done. The exact quote, as I understand, and I repeat it here, the majority offered to say, "You don't like what we wrote about your amendments, and we don't like what you said about the bill."

Mr. Speaker, that can take us all over the map. That is why we are in this place. That is why a President of the United States can stand with the Georgian people and talk about democracy and hold his head up high, because we are allowed to stand on the floor and vigorously disagree in a manner where we will not be punished.

So I would ask as we go forward that this kind of tone, this kind of approach not be utilized. I do not know what you would call it, but I certainly know that it has no place here.

So the resolution that was offered and debated on asked for a number of actions. I think now I should applaud one of the actions. In the emergency supplemental in the rules that were passed last week, the opportunity was taken to clarify the amendments. I am not sure whether or not any formal apology was made; but I imagine, Mr. Speaker, that when the record is corrected, we have received a response that addresses the historical record of this body. So it serves no purpose to ask for an apology today. I do think we were a little bit off our mark, and I would hope that having not asked for an apology and having not received it and seeking only the straightforward clarification, that will be the approach that we will take. One, that we will be allowed to debate in this body, whether it be in committee or on the floor, and vigorously disagree, and that in that disagreement, there will be no punishment.

The only factor that we should have as the test of whether we are right or wrong or whether or not we prevail is that vote. And, in many instances, the majority, now in control of the House, the Senate, the Supreme Court, the executive, by one party, prevails. In the instance of the Committee on the Judiciary, in this occasion on these amendments, the majority prevailed.

The minority, however, felt passion about the amendments and, in fact, believes that they were right; and I personally believe that two amendments, one to do a study of the negative impact of this legislation, if it might occur, or what dangerous procedures might occur of this legislation, where would a child seek to go because they were fearful of getting parental consent, that was a sincere amendment to get important facts. And giving a child the opportunity to talk to godparents or aunts and uncles or cousins, clergy or grandparents was not sinister; it was simply to protect lives.

So I would hope that that would be where we would divide on our beliefs, our reasons for the legislation; not on how we talked about a bill. For there have been many legislative initiatives that have had vigorous talk, and Members have agreed and disagreed about the vigorous talk. But the only criteria for prevailing or not prevailing is that vote, not a characterization by someone else that you are the leader of exempting sexual predators. Saying it over and over again, of course, may cause some to cringe, and it is not my intent, Mr. Speaker, but I think clarification is very important.

And in the course of the battle of that particular legislation, you can be assured as it was being debated, if the glimpses of the words that were gotten were only that it was something to do with sexual predators, that just muddies the water of the good intentions that you might be having and the intent of what you wrote in that amendment.

It would almost be like those who are abhorring drug cartels and drug dealers, that if they were to have an amendment dealing with a GAO study, determining the extent of drug cartels' influence in the United States or the growth of drug cartels between 1990 and 2005, and all of a sudden it was characterized as an amendment for the GAO to promote drug dealership and drug cartels, you would not want to hear that on the floor; but it certainly would be the complete opposite of your intent, and it would have mischaracterized the debate where you were standing and trying to determine whether some legislation promoted drug cartels more so than broke them up.

The Constitution allows us the opportunity for three branches of government, and I think that this country is unique because of it, very unique. In its uniqueness, we have checks and balances. The checks and balances do not purge into the inner workings of each body. So we are the holder of our own records. And it leaves little room sometimes in another body to go and complain about the workings of one specific body, particularly the words that are spoken.

□ 1815

And so there are no other grounds or no other opportunities to clear the air other than to seek this personal privilege. Mr. Speaker, I hope that in the course of this discussion, it was not rendered in anger or anguish. It was simply rendered to say that what occurred deserved the greater attention of this body and that it was on the brink of abuse, and the sadness is that we had to rise to the floor more than once before it was ultimately corrected in the waning hours of last week's legislative session. Does that speak well of us? It does not. The Rules Committee is a place where we ferret out rules. Our respective committees is a place where we vigorously oversee legislation and provide our input and insight and our thought processes to do what is right. I would venture to say there has not been one committee hearing and markup where some Member promoted the criminal elements that would do harm to America. And if any thought came to the mind of a colleague that that was the intent of that Member, I would assure you that the best approach of that particular colleague would be to query that Member in that committee room. None of us were queried about the question of the intent of our amendments, whether or not they had to do with predators, child sexual predators, sexual predators. No one was queried. And therefore, the interpretation that was attributed to us was purposeful. And here on this floor, the same courtesy should be extended. And if you are misunderstood, if you misspeak, from the integrity again of this record that would be for all to see, someone should query you and give you the opportunity to correct your words, or in the alternative, when the height of the debate is so furious there is a challenge by someone at some point, that the words be called out.

There are a lot of papers here, Mr. Speaker, because I am looking at this debate that went on, and so I will not add to some of the accusations that were made in the debate going back and forth. I am simply going to conclude by asking, again, that it not ever be done again and asking that we respect the individual rights of Members to defend and represent their constituents and to offer vigorous debate, both consent and dissent, and as well the right to vigorously disagree on a legislative initiative. If we can hold to those tenets and the idea of the Constitution, which I hold very dear, which I will read briefly into the record, "the sacred rights of mankind", a statement by Alexander Hamilton, 1775, "are not to be rummaged for among old parchments or musty records. They are written as with a sunbeam on the whole volume of human nature by the hand of the divinity itself and can never be erased or obscured by mortal power."

Of course, this is high language to talk about the rights bestowed upon mankind, humankind, that they are not found in paper. And this quote is correct.

But one thing is right as well, Mr. Speaker, is that although all is not said and done on the written word, it certainly is a parallel to our rights, because we look to a written document for our rights. We look to the written word. We look to the Madison papers to determine our rights. And therefore, the written word is extremely important.

We have had our say on this, and I hope that it has been a deliberate statement. We will do work in the Judiciary Committee in the coming days and weeks and months. We will have many opportunities to vigorously disagree.

I might say, Mr. Speaker, we have had many opportunities to agree. And I expect that we will find common ground throughout the days and weeks and months, Democrats and Republicans, around issues of importance to the Nation. But when we use this document to exercise our job and to debate vigorously and disagree, we should not be cited for what we have said about a bill, or punished because we have said something about a bill that others would not agree with.

Our final act will hopefully be one that is respectful of this House and of this place. To the Judiciary Committee Members as we gather on a daily basis, weekly basis, I believe they will all agree that we have the right to disagree and to debate vigorously in the committee, in the Rules Committee and on this floor.

Again, Mr. Speaker, I close by saying I hope never again, never again.

Mr. Speaker, I rise to raise a point of personal privilege under rule IX, clause 1 of the House Rules. This point, as did the point raised by my colleague on the Judiciary Committee from New York, Mr. NADLER, relates to the malreporting by the Republican Leadership of the Committee on the Judiciary with respect to H.R. 748, the Child Interstate Abortion Notification Act of 2005.

While I appreciate the efforts of the Chairman of the Judiciary Committee for having filed a supplemental report (part 2 of House Report 109–51), I must raise this point of personal privilege nonetheless in order to emphasize the fact that the accuracy and the veracity of House committee reports carries tremendous weight and implications for the reputation, professional record, and personal life of Members of Congress.

Again, while the supplemental report to 109–51 makes some corrections to the mistakes made in Part 1, the report still contains an inaccurate representation of the amendments that I, Representative SHEILA JACKSON LEE, offered in committee on April 13, 2005 in room 2141 of Rayburn. I offered two amendments en bloc that read as such:

Amendment No. 1, designated as DL–005,

Page 3, after line 2, insert the following:

"(3) The prohibitions of this section do not apply with respect to conduct by clergy, godparents, aunts, uncles, or first cousins."

Amendment No. 2, designated as DL–006,

Add at the end the following:

SEC. 4. STUDY BY THE GENERAL ACCOUNTING OFFICE.

The General Accounting Office shall conduct a study detailing the impact of the number of unsafe and illegal abortions performed on minors who would be affected by this law, and report to Congress the results of that study within 1 year of the enactment of this Act.

Again, while I offered these amendments en bloc, they were separate and distinct amendments. The Supplemental Report, page 2 states that:

> Ms. JACKSON LEE offered an amendment that would have exempted from the Act any clergy, godparents, aunts, uncles, or first cousins, and would require a study by the Government Accounting Office (emphasis added). This combination of the two distinct amendments give an inaccurate representation of the amendments that I offered during Committee and therefore, muddled the import of the very substantive amendment on which I joined my colleagues during our debate of the bill on the Floor on April 27, 2005.

I would like to cite the insightful and sagacious words of my colleague, the distinguished ranking member of the Committee on Rules on April 27, 2005 on this matter:

> There is no question that we can debate and disagree over the impact the bill can have. We can argue over the impact the bill can have. We can argue over how well it has been written or what language it should include to be more effective; but regardless of the way the debate turns out, the caption on the top of that bill or amendment serves to instruct the American people as to what the original intent of the legislation was.
>
> It serves as an unbiased reading on what the amendment aims to accomplish. To falsify and rewrite that description as a political attack is not only unprecedented; it is fundamentally dishonest and an abuse of the power given to the majority by the American people and their votes.

As my colleague stated, the amendments "instruct the American people as to what the original intent . . . was." It took a resolution of privilege introduced by the Ranking Member JOHN CONYERS, a point of personal privilege, and a wealth of time and debate before the Committee on Rules to move the leadership of the Committee on Rules to even tender an action to redress the problem. The lack of accuracy in the supplemental report just underscores and reiterates the initial mal-intent to commit a malfeasance.

Under rule IX, paragraph (1) of the House Rules, Mr. NADLER justifiably asserted his point because not only his but my "rights and reputation" have been offended by the conduct of the Chairman in publishing House Report 109–51. To reiterate, the language used in pages 45–49 patently malreported and maligned the authors of amendments to H.R. 748, the Child Interstate Abortion Notification Act of 2005.

On May 3, 2005, the ranking member of the Committee on the Judiciary led debate on his resolution of privilege, H. Res. 253 that concerned the ways in which the act of the Chairman of the Judiciary Committee negatively affected the "rights of the House collectively, its safety, dignity, and the integrity of its proceedings."

So too, was this resolution properly and justifiably introduced because, in that case, the privileges of "dignity" and "the integrity of [the House's] proceedings" have been patently violated. To purposefully misreport the good-faith amendments that have been offered by Members of this venerable House debases the nature and trustworthiness of the House Report.

After this debacle, Members will still have to scan committee reports with a fine-toothed comb—not for substantive value, but for accuracy and veracity of their reporting value. This is the diminution of the dignity of the process. This is the diminution of the integrity of the House.

The American people must be made aware that we, the authors of the amendments on pages 45–49 of House Report 109–51 do not associate ourselves with the misreported portions thereof.

House Report 109–51 not only improperly made negative inferences as to the import and intent of my amendments, and the supplemental report still combines two distinct and separately-offered amendments into one.

In terms of the personal privileges violated by the report, the misreporting—and the malreporting of the amendments offered by my colleagues Mr. SCOTT, Mr. NADLER, and me affected our rights, reputation and conduct. As founder and chair of the Congressional Children's Caucus, a report that cites an amendment offered by me that would exempt sexual predators from liability is at the very least offensive.

My constituents and the constituents of my colleagues do read House Reports, and the nefarious language that the chairman avers as representative of his true intentions should be highlighted as contrary to the ideals on which this House, this Government, and this Nation were established.

[From the U.S. Fed News, Apr. 26, 2005]

HOUSE REPUBLICANS: ARROGANCE UNCHECKED

WASHINGTON, DC.—Rep. Louise M. Slaughter, D–NY (28th CD), issued the following statement:

Rep. Louise M. Slaughter (D–NY–28), Ranking Member of the House Committee on Rules, delivered the attached statement on the House Floor this morning regarding the gross abuse of power by Chairman James Sensenbrenner and the Majority on the Judiciary Committee this week.

Chairman Sensenbrenner and his staff rewrote the captions of five Democratic Amendments to distort their meaning and intent in the Judiciary Committee Report on H.R. 748. The goal of the distortion was to clearly suggest that the amendments were written to protect the rights of sexual predators, which is absolutely false.

Rep. Slaughter stated during her floor speech, ". . . to falsely rewrite the intent of an amendment submitted by another member, to intentionally distort its description as being designed to protect sexual predators, is no different than accusing a fellow member of Congress as being apologists for sexual predators themselves. That is in effect what the Chairman of the Judiciary Committee has done here . . ."

The "Sensenbrenner Standard" is a Clear Abuse of Power.

Chairman Sensenbrenner maintains that he was justified in changing the captions, because the language of the amendments did not expressly provide exceptions for grandmothers and grandfathers who also happen to be sexual predators. But the ridiculousness of this argument is easily apparent.

The amendments didn't have language that expressly included the possibility that the grandparents may be terrorists either, but that doesn't mean it is not still illegal to be a terrorist. In fact, there are an infinite number of possible exceptions that would have to be expressly addressed in every single amendment or bill offered if this new standard were properly utilized. This is called the "Sensenbrenner Standard."

For example, the tax cuts which passed this last Congress do not include specific exceptions for sexual predators. If the "Sensenbrenner standard were properly applied, it should be renamed the "Sexual Predator Tax Relief Act".

Likewise, the Small Business Bill of Rights, which the House is considering today, would be renamed the "Sexual Predator Bill of Rights," as there are, no doubt, sexual predators who own small businesses in America which are not specifically excluded in this legislation.

"For Republicans to deem it their right to falsify and distort the work of other Members of Congress is the height of arrogance and another abuse of power," states Congresswoman Slaughter. She added "The Sensenbrenner Standard is a dishonest and offensive Republican tactic that further damages the waning credibility of this government. Mr. Sensenbrenner and the Republican leadership of this body owe an apology to the Democratic Members of Congress whom they have maligned."

The following amendments were offered and voted down by recorded votes in the Judiciary Committee markup of H.R. 748–The Child Interstate Abortion Notification Act (CIANA):

The following chart demonstrates how Judiciary Committee Republicans blatantly mischaracterized these amendments in their official committee report on the bill. This is in a public document containing the legislative history of this bill:

Description of Amendment: (1) A Nadler amendment allows an adult who could be prosecuted under the bill to go to a Federal district court and seek a waiver to the state's parental notice laws if this remedy is not available in the state court. (no 11–16)

Amendment description in House Report 109–51: Roll Call No. 1. Mr. Nadler offered an amendment that would have created an additional layer of Federal court review that could be used by sexual predators to escape conviction under the bill. By a roll call vote of 11 yeas to 16 nays, the amendment was defeated.

Description of amendment: (2) A Nadler amendment to exempt a grandparent or adult sibling from the criminal and civil provisions in the bill (no 12-19)

Amendment description in House Report 109–51: Roll Call No. 2. Mr. Nadler offered an amendment that would have exempted sexual predators from prosecution under the bill if they were grandparents or adult siblings of a minor. By a roll call vote of 12 yeas to 19 nays, the amendment was defeated.

Description of amendment: (3) A Scott amendment to exempt cab drivers, bus drivers and others in the business transportation profession from the criminal provisions in the bill (no 13-17)

Amendment description in House Report 109–51: Roll Call No. 3. Mr. Scott offered an amendment that would have exempted sexual predators from prosecution if they are taxicab drivers, bus drivers, or others in the business of professional transport. By a roll call vote of 13 yeas to 17 nays, the amendment was defeated.

Description of amendment: (4) A Scott amendment that would have limited criminal liability to the person committing the offense in the first degree (no 12–18)

Amendment description in House Report 109–51: Roll Call No. 4. Mr. Scott offered an amendment that would have exempted from prosecution under the bill those who aid and abet criminals who could be prosecuted under the bill. By a roll call vote of 12 yeas to 18 nays, the amendment was defeated.

Description of amendment: (5) A Jackson-Lee amendment to exempt clergy, godparents, aunts, uncles or first cousins from the penalties in the bill (no 13–20)

Amendment description in House Report 109–51: Roll Call No. 5. Ms. Jackson-Lee offered an amendment that would have exempted sexual predators from prosecution under the bill if they were clergy, godparents, aunts, uncles, or first cousins of a minor, and would require a study by the Government Accounting Office. By a roll call vote of 13 yeas to 20 nays, the amendment was defeated.

Text of Rep. Slaughter's Floor Speech:

". . . but I want to talk for a minute about another abuse which has occurred in this chamber, a personal affront to three of our colleagues I have never witnessed in my near twenty years serving in this House.

The Rules Committee discovered yesterday that the Judiciary Committee Report on this very bill, which was authored by the Majority Staff, contained amendment summaries which had been rewritten by committee staff for the sole purpose of distorting the original intent of the authors.

This Committee' Report took liberty to mischaracterize and even falsify the intent of several amendments offered in Committee by Democratic Members of this body.

At least five amendments to this bill, which were designed to protect the rights of family members and innocent bystanders from prosecution under this bill, were rewritten as amendments designed to protect sexual predators from prosecution and were then included in the committee report as if that was the original intent of the authors.

The thing is, sexual predators were not mentioned anywhere in any of these amendments.

These amendments were no more about sexual predators then they were about terrorists or arsonists or any other criminal class in our society. These amendments were about the .rights of grandmothers and siblings and clergy and innocent bystanders.

I asked the Chairman of the Judiciary Committee about this deception yesterday afternoon at the Rules Committee hearing.

And instead of decrying what I certainly expected would be revealed as a mistake by an overzealous staffer . . . The Chairman stood by those altered amendment descriptions. He made very clear to the Rules Committee that the alterations to these members' amendments were deliberate.

When pressed as to why his committee staff took such an unprecedented action, the Chairman immediately offered up his own anger over the manner in which Democrats had chosen to debate and oppose this unfortunate piece of legislation we have before us today.

In fact . . . He said, and I quote . . . "You don't like what we wrote about your amendments, and we don't like what you said about our bill."

To falsely rewrite the intent of an amendment submitted by another member, to intentionally distort its description as being designed to protect sexual predators, is no different than accusing a fellow member of Congress as being an apologist for sexual predators themselves.

That is in effect what the Chairman of the Judiciary Committee has done here, with all deliberation.

And he has ensured that these amendment descriptions will be encapsulated in the record for all time by including those unfair and incorrect amendment summaries in the Committee report.

This is a new low for this chamber Mr. Speaker.

This is a clearly dishonest, unethical attack on the credibility and character of another member. And sadly, it is just the latest in a pattern of unethical and abusive tactics employed by this Majority.

How incredibly arrogant is this majority . . . that they believe they have the right to tamper with official congressional documents for their own political purposes?

How unbelievably arrogant is the leadership of this Congress . . . that they would force their own politicized interpretation of another member's work upon this body and upon the American people, in an official committee report?

The Majority's actions are not only an affront to all members of this house, but they are also an affront to the American people.

There is no question that we can debate and disagree over the impact a bill will have.

We can argue over how well it has been written or what language it should include to be more effective. But regardless of how that debate turns out, the caption on the top of that bill or amendment serves to instruct the American people as to what original intent of that legislation was.

It serves as an unbiased reading on what that amendment aims to accomplish.

To falsify and rewrite that description as a political attack, is not only unprecedented, it is fundamentally dishonest and it is an abuse of the power given to the Majority by the American people.

And' I have no doubts Mr. Speaker, no doubts, that unless the Congressional Record is amended to reflect the true captions of these amendments, then we will surely see these erroneous captions again in the form of campaign attack mail pieces.

In fact, when we pressed last night in the Rules Committee to have the record amended to reflect the honest and accurate captions that belong on those amendments, we were defeated on a party line vote.

So now, these honorable and hardworking Members of Congress will be forever branded in the official record as having offered amendments which were designed to protect sexual predators, when nothing, nothing could be further from the truth.

Mr. Speaker, I have often heard the Chairman of the Rules Committee as well as other Republicans talk about the loss of civility in this chamber.

But perhaps they will be the last to realize, that in order to regain some of that lost civility, they need look no further than their own abusive, unethical and arrogant administration of this House of Representatives."

The following amendments were offered and voted down by recorded votes in the Judiciary Committee markup of H.R. 748—The Child Interstate Abortion Notification Act (CIANA):

The Judiciary Committee Republicans blatantly mischaracterized these amendments in their official committee report on the bill. This is in a public document containing the legislative history of this bill.

Description of amendment	Amendment description in House Report 109–51
(1) a Nadler amendment allows an adult who could be prosecuted under the bill to go to a Federal district court and seek a waiver to the state's parental notice laws if this remedy is not available in the state court (no 11–16).	Rollcall No. 1. Mr. Nadler offered an amendment that would have created an additional layer of Federal court review that could be used by sexual predators to escape conviction under the bill. By a rollcall vote of 11 yeas to 16 nays, the amendment was defeated.
(2) a Nadler amendment to exempt a grandparent or adult sibling from the criminal and civil provisions in the bill (no 12–19).	Rollcall No. 2. Mr. Nadler offered an amendment that would have exempted sexual predators from prosecution under the bill if they were grandparents or adult siblings of a minor. By a rollcall vote of 12 yeas to 19 nays, the amendment was defeated.
(3) a Scott amendment to exempt cab drivers, bus drivers and others in the business transportation profession from the criminal provisions in the bill (no 13–17).	Rollcall No. 3. Mr. Scott offered an amendment that would have exempted sexual predators from prosecution if they are taxicab drivers, bus drivers, or others in the business of professional transport. By a rollcall vote of 13 yeas to 17 nays, the amendment was defeated.
(4) a Scott amendment that would have limited criminal liability to the person committing the offense in the first degree (no 12–18).	Rollcall No. 4. Mr. Scott offered an amendment that would have exempted from prosecution under the bill those who aid and abet criminals who could be prosecuted under the bill. By a rollcall vote of 12 yeas to 18 nays, the amendment was defeated.
(5) a Jackson-Lee amendment to exempt clergy, godparents, aunts, uncles or first cousins from the penalties in the bill (no 13–20).	Rollcall No. 5. Ms. Jackson-Lee offered an amendment that would have exempted sexual predators from prosecution under the bill if they were clergy, godparents, aunts, uncles, or first cousins of a minor, and would require a study by the Government Accountability Office. By a rollcall vote of 13 yeas to 20 nays, the amendment was defeated.

Ms. PELOSI. Mr. Speaker, I thank the gentlewoman from Texas, Ms. JACKSON-LEE, for her courage in bringing this personal privilege before the House.

The very fact that this Member has been mistreated should cause all of us deep concern. It is wrong and unacceptable.

The fact that a report is being supplemented by the Chairman with significant and startling changes attests to the fact that the Majority knew that the original report was wrongly and inappropriately filed. But that does not resolve the matter—an apology is owed to Ms. JACKSON-LEE by the Chairman of the Judiciary Committee.

I know that the distinguished Chairman, for whom I have great respect, would like to call it a drafting dispute or return to a discussion on the merits of the bill.

In fact, I would think that the Chairman of the Judiciary would be sensitive to the treatment of committee reports and would share my view that committee reports should not be misused to hurt a Member, given that the distinguished Chairman was the cosponsor of a resolution in 1983 regarding the alteration of committee reports, a matter of seriousness that was ultimately investigated by the Ethics Committee.

This issue is about fundamental respect for our democracy, for the dignity of the House, and for the integrity of the proceedings of this body. It is about how we treat each other, and it is about trust and the betrayal of that trust.

The bounds of trust that we need to function in this Body are weakened even further by this sorry and disgusting chapter. What the leadership of the Committee on the Judiciary did is just another extension of the abuse of power of the Republican majority in both Chambers of the Congress of the United States.

What they are doing with the filibuster in the other body is to try to silence the Minority and break the rules. They are using any means to justify their partisan agenda to the far right, even if it violates the rules, the Constitution, and fundamental decency and trust.

Here in the House, there is an attempt to disregard the rules that protect us all, corrupt the integrity of our proceedings, and demean not only the dignity of this House, but going so far as to demean individual Members.

There is an attempt to limit the voice of the Minority, reducing the opportunity for Members to speak on the floor, and offer substitutes and amendments.

Comity and trust between the Majority and the Minority are essential and must be encouraged. That is why the Republican Leadership has an obligation to come here right now on the floor and disavow this disgraceful behavior.

There is no need for this kind of misbehavior and abuse by the Majority. We should follow the rules of this House and treat each other with the proper respect.

To preserve the trust that the American people place in us, the Republican leadership in this House must pledge that this travesty will never happen again.

GENERAL LEAVE

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my question of personal privilege today.

The SPEAKER pro tempore (Mr. BOOZMAN). Is there objection to the request of the gentlewoman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H. Res. 193, by the yeas and nays;

H. Res. 142, by the yeas and nays.

EXPRESSING SUPPORT OF THE HISTORIC MEETING OF THE ASSEMBLY TO PROMOTE THE CIVIL SOCIETY IN CUBA

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 193.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 193, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 392, nays 22, answered "present" 1, not voting 18, as follows:

[Roll No. 162]

YEAS—392

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Fattah
Feeney
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Saxton
Schakowsky
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Watt
Waxman
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—22

Conyers
Farr
Hinchey
Jones (OH)
Kilpatrick (MI)
Kucinich
Lee
McDermott
McKinney
Meeks (NY)
Miller, George
Olver
Paul
Payne
Rangel
Serrano
Stark
Towns
Udall (NM)
Velázquez
Waters
Woolsey

ANSWERED "PRESENT"—1

Moore (WI)

NOT VOTING—18

Berkley
Costello
Dingell
Ferguson
Gutierrez
Hastings (FL)
Hulshof
Keller
Lantos
Larson (CT)
Millender-McDonald
Musgrave
Otter
Sanders
Schiff
Tierney
Weiner
Wilson (SC)

☐ 1851

Ms. LEE, Mr. FARR, Mr. UDALL New Mexico and Mrs. JONES of Ohio changed their vote from "yea" to "nay."

Ms. SCHAKOWSKY changed her vote from "nay" to "yea."

Ms. MOORE of Wisconsin changed her vote from "yea" to "present."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SUPPORTING GOALS AND IDEALS OF A ROTARY INTERNATIONAL DAY

The SPEAKER pro tempore (Mr. PEARCE). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 142.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 142, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 413, nays 0, not voting 20, as follows:

[Roll No. 163]

YEAS—413

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Saxton
Schakowsky
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—20

Bachus
Berkley
Conyers
Dingell
Frank (MA)
Gilchrest
Gutierrez
Harris
Hastings (FL)
Hulshof
Lantos
Larson (CT)
Millender-McDonald
Musgrave
Otter
Sanders
Schiff
Tierney
Weiner
Wilson (SC)

☐ 1909

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Mr. Speaker, I would like to submit this statement for the RECORD and regret that I could not be present today, Tuesday, May 10, 2005, to vote on rollcall vote Nos. 162 and 163 due to a family medical emergency.

Had I been present, I would have voted: "Yea" on rollcall vote No. 162 on H. Res. 193—expressing support to the organizers and participants of the historic meeting of the Assembly to Promote the Civil Society in Cuba on May 20, 2005, in Havana; "yea" on rollcall vote No. 163 on H. Res. 142—supporting the goals and ideals of a "Rotary International Day" and celebrating and honoring Rotary International on the occasion of its centennial anniversary.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PEARCE). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ASSAULT WEAPONS BAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

Mrs. MCCARTHY. Mr. Speaker, last Saturday's New York Times revealed that since the expiration of the Federal ban on assault weapons there have been no real boom in sales of the weapons at American gun stores. Opponents of the ban seized the opportunity to say the ban was ineffective. However, I think these statistics prove that assault weapons have absolutely no practical purpose except to kill human beings.

Many Members of the House have told me the assault weapons ban is an affront on our second amendment rights, but the public never saw the assault weapons ban as an infringement on their second amendment rights. Last September, a Dallas newspaper ran a poll indicating that 78 percent of Texas gun owners supported keeping the ban in place. And nobody takes their second amendment rights more seriously than Texas gun owners. So nobody should be surprised that the sales of these weapons are so low.

However, some people are buying these weapons. They may intend to use these guns in crimes; and because of our pre-9/11 gun laws, these people could possibly be aligned with our enemies in the war on terror. It is time for this Congress to finally be proactive when it comes to gun safety and gun laws. We cannot wait for another Columbine before we address how easy it is for criminals and terrorists to legally purchase these hand-held weapons of mass destruction.

We need commonsense gun laws that allow law-abiding citizens to purchase guns for sport and self-defense, but ensure that those criminals with felonies and terrorist backgrounds cannot arm themselves. We need a new stronger assault weapons ban.

One of the things that I certainly will be working for is the large-capacity clips.

□ 1915

There are many that will say, Well, it doesn't matter how many clips you have. But if you see what these clips can do, especially against our police officers, it is something that we should not allow, certainly in this country. The only ones that should be allowed to own them are our police officers and certainly our military.

Resourceful criminals still found a way to obtain illegal weapons. However, the ban made these weapons more expensive. And because they became more expensive, we saw that gangs were not buying these guns. I think that is one of the reasons why it worked.

Tomorrow we are going to be voting on an anti-gang bill. We see our police officers on the front line against these gangs all the time. During the 10 years that the ban was in place, crimes involving banned weapons dropped by 60 percent, so we do know that it was working. Nearly every police organization in this country supported the assault weapons ban and wants to make sure that we try and get it in place again. When the men and women on the front lines in the war on gangs and crime in this country say they want assault weapons banned, we should listen.

This week we are celebrating or mourning those police officers that were killed in this last past year. Every year it seems that the numbers are growing. We should be doing more to protect our police officers that try to protect us on a daily basis. However, we need to improve on the shortfalls of the old ban, namely, magazines as I have mentioned that hold more than 10 rounds.

Personally, I remember going back to 1993 when there was a shooting on the Long Island Railroad and my husband was one of those killed. The person that was doing the shooting had clips of 15 and more bullets. Every one of those bullets made its mark, killing a number of people and injuring many, my husband dying and my son certainly being injured. If we had a clip that was only 10, 15 people might not have been injured or killed. I think that is important.

The only Americans who should be allowed to have these weapons are soldiers and police officers, as I have said. Using one of these weapons with these clips in your home would certainly take down an intruder, but the bullets are flying. Come on, let us use some common sense. They would be flying all over the place. You could be hitting your neighbor. Why do we need clips that are more than 10? As I said, our police officers should have them, but it will probably be when we see these gangs buying the large capacity clips, that is when we will have outrage here.

Mr. Speaker, it is time to stop listening to the NRA's rhetoric and start listening to common sense. We should be working together. The whole idea is to make sure that people are safe. No legislation that anyone is trying to do that I am aware of is taking away the right of someone to own a gun. We certainly should make it harder for those criminals, those terrorists that are out there at gun shows buying guns, criminals and gangs buying guns illegally. We can do a better job.

Mr. Speaker, I hope in the next several weeks that we will see legislation come down. I certainly will work on it.

ORDER OF BUSINESS

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent to take my special order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

HONORING THE PASSING OF RAFAEL DIAZ-BALART

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, it is with a heavy heart and many fond memories that I stand here today to honor the life and invaluable legacy of Dr. Rafael Diaz-Balart. As a prominent attorney and elected official in his native land of Cuba, Rafael quickly rose to the position of majority leader in the Cuban Republic's House of Representatives before Fidel Castro illegally seized power in the 1959 Communist revolution.

As majority leader, Rafael warned his legislative colleagues of Castro's desire of absolute power, a desire that would be achieved by any means necessary. In a prophetic speech, Rafael said in the legislature of Castro's thugs, "They do not want peace. They do not want a national solution. They do not want democracy or elections or fraternity. Fidel Castro and his group seek only one thing, power, and total power at that. And they want to achieve that power through violence, so that their total power will enable them to destroy every vestige of the constitution and law in Cuba, to institute the most cruel, most barbaric tyranny, a tyranny that would teach the people the true meaning of tyranny."

How sadly correct Rafael Diaz-Balart was so many years ago. Vigilantly opposed to the Communist tyranny and oppression that had taken hold of his country, Dr. Diaz-Balart and his family fled the island. Shortly after leaving Cuba, he founded the White Rose Party, an organization dedicated to fighting against Castro's dictatorial regime and restoring democracy and liberty in Cuba. In addition, his testimony to the United States Senate in 1960 alerted the Nation to the dangers of Castro's government. In his testimony, Rafael provided evidence of Castro's oppression and his abuse of the political dissidents as well as the global threat of communism.

He, like my father Enrique Ros and so many others who fled Cuba due to Castro's dictatorial regime in these four decades, dreamed of a free Cuba, a country where human rights would once again be respected, where political prisoners would be freed, where a democratic multiparty political system would flourish and a free market economy would thrive, thus allowing the Cuban people and their foreign economic partners to own their own businesses and to prosper.

A passionate and dedicated leader, Rafael was a relentless defender of human rights. He along with so many other human rights activists brought Cuba's ongoing human rights violations to the attention of the United States Government, to the attention of the American people and, indeed, to the international community. In addition, Rafael demonstrated his ability to fight not only for the Cuban and the Cuban-American community but for all oppressed people throughout the world. His determination and his resoluteness have guided me in my own career as a public servant from my beginnings in the Florida State legislature to my current position in the United States Congress. I was inspired by his endless commitment to the Cuban people and to all individuals living under dictatorial rule.

His sons Rafael, Jose, Lincoln and Mario continue this legacy of promoting peace, liberty and the rule of law, a legacy that began with Rafael Diaz-Balart, Sr., the namesake of Florida International University's college of law. Perhaps Rafael's strongest political legacy is the one that he has passed on to his children and to his grandchildren, especially his sons Jose and Rafael and our esteemed colleagues serving with us in the U.S. House of Representatives, Congressmen LINCOLN and MARIO DIAZ-BALART.

I am privileged to have known and to have worked closely with Rafael and the Diaz-Balart family throughout my professional career as a legislator. Together with them, I will continue to promote a free and democratic Cuba and democracy throughout the world.

Mr. Speaker, I rise today in honor of Dr. Rafael Diaz-Balart, who was a wonderful friend, a loving husband, a dedicated father and one of the most outstanding members of our Florida community. My thoughts and my prayers go out to his family during this difficult time. He will be sorely missed by all.

ORDER OF BUSINESS

Mr. EMANUEL. Mr. Speaker, I ask unanimous consent to take my special order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

LOBBYING REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, in the past few months and days, a constant stream of headlines has opened the public's eye to the relationship between lawmakers and lobbyists and what goes on in this town and how we make our laws. Professional lobbyists have become a virtual "back office" for Congress and Congressmen, serve as travel agents, employment agencies and authors of legislation. In the past 6 years, lobbying expenditures have more than doubled to $3 billion annually, nearly twice as much as we spend on campaigns. That is what they spend trying to influence the type of legislation we have. Whether it is on pharmaceutical legislation, prescription drugs, whether it is on the tax legislation, whether it is on energy legislation, the amount spent by lobbyists has doubled trying to influence the Members of Congress.

Yet while the number of professional lobbyists and their fees have increased, only one in five lobbyists required to register actually does. Of the 250 top lobbying firms, 210 have failed to file one or more of the necessary documents. The bottom line is that the special interests benefit from weak reporting, nonexistent oversight and toothless penalties while the credibility of the United States Congress, this entire institution and the Members who serve in it, suffers.

We have had in the past debates about campaign finance reform and proper debates about the relationship between donors and congressional candidates. It is time now to have a debate and pass legislation about the relationship between professional lobbyists and Members of Congress. The last major lobbying reforms were over 10 years ago. It is time to update our laws to reflect the explosive growth and increasing influence of professional lobbyists on this institution, the people's House.

For all those reasons, the gentleman from Massachusetts (Mr. MEEHAN), the gentleman from Maryland (Mr. VAN HOLLEN) and I have introduced the Lobbying and Ethics Reform Act. Our bill creates a code of official conduct for Congress. This code of conduct would close the revolving door by requiring former Members and staff to wait 2 years before coming back to lobby the institution they had worked at prior. The bill also ends the practice of lobbyists serving as congressional travel agents by arranging lavish junkets for Members. Our bill would require congressional travel to conform to expense guidelines similar to those of other government employees, so it is actually the work that trip is intended to do and work on that trip rather than it becoming a lavish vacation and a working trip in name only. We also require lobbyists to disclose their past connections, previous Hill employers and financial activities on a public database.

The Meehan-Emanuel bill increases the penalties for failing to comply with the Lobbying Disclosure Act. It also creates a bipartisan House task force to recommend ways to reinvigorate ethics oversight and enforcement. It would require the Government Accountability Office to report twice a year on the state of oversight and enforcement.

Mr. Speaker, the gavel of this institution when it comes down should mark the opening of the people's House, not the auction house. Unless we reform the relationship between lobbyists and Members of Congress, we cannot restore the public's faith in the people's House. We are suffering from a systematic problem requiring an institutional solution.

Legislation here that we produced in the last Congress, the pharmaceutical industry spent $154 million lobbying Members of Congress. When we were working on the reimportation legislation of pharmaceutical products, there were two lobbyists for every Member of Congress. The prescription drug bill was passed in a year in which lobbyists for the pharmaceutical industry was one of the biggest spenders on lobbying Members of Congress ended up resulting in an additional $150 billion of profits for the pharmaceutical industry over a 10-year period of time.

Just the other day, we voted, this Congress, on an energy bill, a badly needed bill that did not deal with gas prices at the pump and yet gave tax credits, the public's tax money, to the wealthiest corporations who are making the biggest profits. Even the President acknowledged that it was wrong. Why? Because this institution is being lobbied by members that have the right to have their voices heard but not the right to have their voices literally drowning out the public's voice and individuals who vote for us.

It is time for this institution and the Members of Congress of both parties to come together, change the way professional lobbyists relate to Members of Congress, how they relate to the institution, whether there is a revolving door that goes from here, you go to a place of employment and whether you have in fact the transparency and the disclosure that is required, because in truth this is the whole cloud that exists, exists over all the institution. It requires all of us to work on dealing with this.

Mr. Speaker, we have a duty to ensure that the voices of the American people are not drowned out by the voices of the professional lobbyists working the halls of Congress. Only through lobbying reform can we restore the integrity of the Congress and retain the people's trust. We work on important issues here but not so important that it must literally push out the other voices. There is time and again, whether it is dealing with the pharmaceutical industry, the corporate tax bill, the energy bill, other pieces of legislation, you can mark literally the amount of money spent by the lobbying community and the type of legislation this institution passes.

When that gavel goes down, it is intended to open the people's House, not the auction house.

EXCHANGE OF SPECIAL ORDER TIME

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take the time of the gentleman from Indiana (Mr. BURTON).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

IN SUPPORT OF LIEUTENANT PANTANO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I have discussed at length how, a year ago in Iraq, a Marine second lieutenant, Ilario Pantano, made a split-second battlefield decision to shoot two Iraqi insurgents who refused to follow his orders to stop their movement toward him.

Two and a half months later a sergeant under his command, who never even saw the shooting and who was earlier demoted by Pantano for his lack of leadership abilities, accused him of murder. Now Lieutenant Pantano is facing a possible court-martial for two premeditated murders, a charge that can be punished by death.

Two weeks ago, the Marines held an article 32 hearing on the case. Now the hearing officer has received an extension until Friday to determine his recommendation about whether this should move forward to a court-martial.

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Mr. Speaker, I stand here tonight, as I have many other nights, in support of Lieutenant Pantano. I have always maintained the innocence of Lieutenant Pantano, and I believe the hearing produced information that should conclusively prove his innocence.

During the hearing, it became clear that Sergeant Coburn, who accused Lieutenant Pantano of these actions, was not a credible witness. This sergeant has been demoted for his lack of leadership; and even while testifying, he was forced to admit that he recently disobeyed orders about publicly discussing this case. News reports from hearings recounted that during his testimony, Sergeant Coburn said "I don't know" or "I can't remember" over 50 times. It is inconceivable to me that these charges can move forward when the primary witness is someone who did not actually see the shooting and whose testimony was riddled with contradictory statements.

Mr. Speaker, I have heard from so many people across this Nation who want this Marine exonerated. Like me, they believe he should never have been charged in the first place.

I have the utmost confidence and faith in the United States Marine Corps that in the next few days they will do what is the right thing by correcting this mistake and dismissing all charges against Lieutenant Pantano. I fear that if Lieutenant Pantano faces a court-martial for his actions, there may come a time when some other Marine, soldier, sailor, or airman will pause to second guess his or her decision and those few seconds may mean the difference between life and death for them.

Mr. Speaker, we cannot send the wrong message to our men and women in uniform. To instill doubt into the minds of our Nation's defenders places their lives and the security of our Nation in jeopardy.

I certainly hope that the Article 32 proceedings will finally bring out the truth in this case and bring closure to Lieutenant Pantano's family so that they may move forward with their lives.

By all accounts Lieutenant Pantano was an exceptional Marine. During the Article 32 hearing, many of those who served under him testified to his leadership ability and their sense of comfort and safety under his command. I pray that this week the hearing officer will recommend dismissal of all charges so that Marines can welcome back one of their finest officers and so Lieutenant Pantano may return to the Corps he loves so much.

Mr. Speaker, I continue to ask my colleagues to research this case and consider supporting House Resolution 167, my resolution to support Lieutenant Pantano as he faces this battle. And I encourage all of the Members to also visit his mother's Web site at www.defendthedefenders.org. I repeat: www.defendthedefenders.org, and learn more about this fine young Marine. I would be proud to call him my son or son-in-law.

I close, Mr. Speaker, by asking God to please bless the Pantano family and ask God to please bless all of our men and women in uniform and their families. And I ask God to please continue to bless America.

ABU GHRAIB SCANDAL: WHERE DOES THE BUCK STOP?

The SPEAKER pro tempore (Mr. MARCHANT). Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I rise tonight to discuss a vital issue that has not received nearly as much attention as it should, and that is the full accountability of those responsible for the prison abuse at Abu Ghraib prison in Iraq and likely other abuses in other locations.

Last week, 1 year after the shocking pictures of prisoner abuse became public, a military judge declared a mistrial in the case against Private First Class Lynndie England, and I emphasize private first class.

England, one of just a few enlisted personnel charged in the case, attempted to plead guilty in order to receive a more lenient sentence. But Judge James Pohl threw her guilty plea out and the court-martial after determining that Private England could not have realized her actions were wrong. Maybe that is because exactly 1 year ago today, Private England told the media that she was ordered by her superiors to pose naked with Iraqi prisoners at Abu Ghraib prison.

The case has more questions about Abu Ghraib than it answers, Mr. Speaker. Who was really in charge at Abu Ghraib prison? Who ordered the torture, abuse, humiliation of those prisoners? Why have only a few enlisted personnel, and very low-ranking ones at that, and one Reservist officer been punished? What was the real chain of command? Were contractors involved at any point? And how did their involvement compromise the normal chain of command?

According to the Christian Science Monitor, a study by the Army Inspector General, not yet released but reported last week by the media, has exonerated all senior Army officers in Iraq and elsewhere. How about that? Exonerated them all, except the single brigadier general in charge of U.S. prison facilities in Iraq. Why does the Pentagon refuse to look up the chain of command, only trying to place blame at those at the very bottom? Does anyone really believe that these soldiers acted on their own?

The Philadelphia Inquirer editorialized: "No one at the top . . . is blamed for wrongdoing," even though the "climate was fostered from the top down that tolerated, even encouraged, the abuse at Abu Ghraib."

In February, 2004, the International Red Cross released a report detailing dozens of serious human rights violations that occurred in Iraq between just March and November of 2003, including electrocution, forced nudity, and other lewd sex acts, forcing detainees to wear hoods and more.

Who should be held accountable? First, Secretary of Defense Donald Rumsfeld. He is at the top of my list. Personally authorized similar abusive interrogation techniques for prisoners held in Guantanamo Bay, Cuba, including the use of dogs for intimidation, the removal of clothing, the hooding of prisoners, and "noninjurious physical contact." He ordered several prisoners in Iraq, though not at Abu Ghraib, to be hidden from the International Red Cross so the organization could not monitor their treatment. Are we supposed to believe that such actions at Abu Ghraib were a mere coincidence and not orchestrated by anyone who had the power to order from the top down?

How about Lieutenant General Ricardo Sanchez? He is second on my list. Two Army investigations, one of which he stated he "failed to ensure proper staff oversight" of Abu Ghraib, but he has yet to be officially sanctioned, punished, or charged.

Third, Major General Geoffrey Miller. According to the Center for American Progress, he was sent to Abu Ghraib to "Gitmoize" the place. Under his command, the International Committee of the Red Cross found interrogation techniques at Guantanamo "tantamount to torture."

Fourth, White House Counsel Alberto Gonzales. When he served in that capacity, he advised President Bush that laws prohibiting torture do "not apply to the President's detention and interrogation of enemy combatants" and an interrogation tactic only constituted torture if it resulted in death, organ failure, or serious impairment of bodily functions.

And last, but surely not least, President George Bush. The President is not last on this list for no reason. Harry Truman proudly proclaimed "The buck stops here." It would seem this Commander in Chief believes the buck stops far before the Pentagon, White House, or Oval Office.

Mr. Speaker, why is Congress receiving more information on these atrocities from the news media than the President or the Department of Defense? It is because they are a part of the culture of abuse that starts with loose slogans like "Bring 'em on." It sends that signal down the chain of command. They were not only operating in an atmosphere created, fostered, and encouraged by top echelon officials at the White House. They were propelled by that very behavior.

Mr. Speaker, I include my remaining remarks in the RECORD.

This Congress ought to ask for the truth.

Mr. Speaker, I rise today to discuss a vital issue that has not received nearly as much attention as it should—the full accountability of those responsible for the prison abuse scandal at Abu Ghraib prison in Iraq and likely other abuses at other locations.

Last week, 1 year after the shocking pictures of prisoner abuse became public, a Military Judge declared a mistrial in the case against Private First Class Lynndie England.

England, one of just a few enlisted personnel charged in the case, attempted to plead guilty in order to receive a more lenient sentence, Judge James Pohl, a Colonel, however threw out her guilty plea and the court martial after determining that Pvt. England could not have realized her actions were wrong.

Maybe that is because exactly 1 year ago today Pvt. England told the media that she was ordered by her superiors to pose naked with Iraqi prisoners at Abu Ghraib prison.

This case raises more questions about Abu Ghraib than it answers, Mr. Speaker.

Who was really in charge at Abu Ghraib prison? Who ordered the torture abuse/humiliation of these prisoners? Why have only a few enlisted personnel and one Reservist officer been punished? What was the chain of command? Were contractors involved and did their involvement skirt the normal chain of command?

According to the Christian Science Monitor, "for punishment, the military has issued either criminal or administrative charges against 125 soldiers and officers related to 350 cases in Iraq and Afghanistan. It's a different story with senior military officers, however. A study by the Army inspector general—not yet released but reported last week by the media—has exonerated all senior Army officers in Iraq and elsewhere except the brigadier general in charge of US prison facilities in Iraq."

Why does the Pentagon refuse to look up the chain of command to thoroughly investigate and charge high-level military and administration officials, instead focusing efforts on low-ranking enlisted personnel?

Does anyone believe that these soldiers acted on their own? That they purposely perpetrated acts that the Pentagon's own report (prepared by General Antonio Taguba) defined as "sadistic, blatant and wanton criminal abuse."

The Philadelphia Inquirer correctly editorialized "no one at the top—not military officers, certainly not Pentagon civilians—is blamed for wrongdoing. Never mind that a climate was fostered from the top down that tolerated, even encouraged, the abuse at Abu Ghraib."

In February 2004, the International Red Cross released a report detailing dozens of serious human rights violations that occurred in Iraq between just March and November of 2003. The report maintains some of the abuse was "tantamount to torture" and that methods included threats of electrocution, forced nudity and other lewd sex acts, forcing detainees to wear hoods and more.

WHO SHOULD BE HELD ACCOUNTABLE?

First, Secretary Donald Rumsfeld is at the top of my list. Secretary Rumsfeld, according to numerous reports, personally authorized similar abusive interrogation techniques for prisoners held in Guantanamo Bay, Cuba, including the use of dogs for intimidation, the removal of clothing, the hooding of prisoners, and "non-injurious physical contact." He also ordered several prisoners in Iraq, not at Abu Ghraib to be hidden from the International Red Cross so that the organization couldn't monitor their treatment. Now, however, we are supposed to believe that such actions at Abu Ghraib were a mere coincidence and not orchestrated by anyone?

Second, Lt. General Ricardo Sanchez: Despite two Army investigations, one of which stated he "failed to ensure proper staff oversight" of Abu Ghraib, he has yet to be officially sanctioned, punished or charged. Moreover, as the Washington Post reported this week, "Army intelligence officials in Iraq developed and circulated "wish lists" of harsh interrogation techniques they hoped to use on detainees in August 2003, including tactics such as low-voltage electrocution, blows with phone books and using dogs and snakes—suggestions that some soldiers believed spawned abuse and illegal interrogations." General Sanchez is known to have approved these rules of interrogation.

Third, Major General Geoffrey Miller: According to the Center for American Progress: "a Guantanamo commander, Maj. Gen. Geoffrey Miller, was sent to Abu Ghraib to "Gitmoize" it. Under his command, the International Committee of the Red Cross found interrogation techniques at Guantanamo Bay are "tantamount to torture." "Harsh methods" used at the prison include forced enemas, sleep deprivation and chaining prisoners to chairs and leaving them "to soil themselves." Just weeks after he visited Iraq, the now-infamous abuse occurred at Abu Ghraib.

Fourth, White House Counsel Alberto Gonzalez: Gonzales was instrumental in shaping U.S. policy on the interrogation of prisoners. In the now infamous 1/25/02 memo to the president he wrote, "the war against terrorism is a new kind of war" and "this new paradigm renders obsolete Geneva's strict limitations on questioning of enemy prisoners and renders quaint some of its provisions." Gonzalez also advised President Bush that laws prohibiting torture do "not apply to the President's detention and interrogation of enemy combatants" and an interrogation tactic only constituted torture if it resulted in "death, organ failure, or serious impairment of body functions."

Last but surely not least, President George W. Bush: The President is not last on this list for no reason, Mr. Speaker. Harry Truman proudly proclaimed "the Buck Stops Here." It would seem this Commander in Chief believes the buck stops far before that Pentagon, White House or Oval Office.

Mr. Speaker, why is Congress receiving more information on these atrocities from the news media than the President, his staff or the Department of Defense on? Moreover, why does he refuse to acknowledge that either he or his immediate advisers are primarily responsible for the culture of abuse "Bring em on" spawned by their reinvention of prisoner interrogation policies?

Privates and Corporals in the Army Guard and Reserves are not responsible for the atrocities at Abu Ghraib and elsewhere. They were only operating in an atmosphere created, fostered and encouraged by top echelon at the Pentagon and White House.

Why are we not pursuing those truly responsible for these crimes? Harry Truman would fully assume the role of Commander in Chief—not just troop deployment but troop deportment and frankly, the truth.

[From the Register-Guard, May 9, 2005]

GO HIGHER ON ABU GHRAIB: TOP OFFICIALS SHOULDN'T ESCAPE RESPONSIBILITY

Sooner or later, Pfc. Lynndie England will be convicted for her role in abusing and humiliating Iraqi prisoners at the infamous Abu Ghraib prison in Iraq.

Anyone tempted to shed tears over the prospect of the young Army reservist spending time behind bars need only remember the photographs that showed England leering as she pointed to the genitals of a male captive, and as she led a naked prisoner around by a leash.

These images shamed both U.S. critics and supporters of the U.S. invasion. They also had a devastating impact on American efforts to win support in Iraq and throughout the Middle East for the occupation and democratization of Iraq.

It was neither surprising nor upsetting then to learn Friday that the government plans to file new charges against England, whose guilty plea was tossed out and her court martial canceled earlier in the week. A military judge, Col. James Pohl, declared a mistrial after Pvt. Charles A. Graner Jr., a former guard at Abu Ghraib, testified that the photos were taken for training purposes. That testimony undermined England's admission that she knew her actions were wrong and her acceptance of responsibility.

But England and the the few other enlisted men and women who have faced courts martial in the scandal should not be the only ones to pay a price for what happened at Abu Ghraib. High-level military and administration officials must not be allowed to escape responsibility for a scandal that is far more of their making than of low-ranking soldiers. So far, Brig. Gen. Janis Karpinski, an Army reservist who formerly ran U.S. prisons in Iraq, is the only high-level officer to be disciplined, and she rightly regards herself as a scapegoat.

Congress, which abandoned its oversight role during the invasion and its bloody aftermath, should demand an investigation by a bipartisan independent commission similar to the Sept. 11 commission.

Instead of starting at the bottom, as the military's whitewashes have done, the panel should start at the top with Defense Secretary Donald Rumsfeld, who failed to plan for postwar Iraq and then failed to adjust his plans after the insurgency began. Rumsfeld is the reason why there were insufficient numbers of prison guards in Iraq and why they had inadequate training and murky guidelines. Rumsfeld also made the decision to authorize harsh interrogation techniques for detainees at Guantanamo Bay and then to apply those methods in Iraq.

Next on the list should be Attorney General Alberto Gonzales, who three years ago prepared a legal opinion stating that Geneva Conventions protections for detainees in Afghanistan were "obsolete." That opinion, along with his endorsement of the harsh interrogation methods, contributed to the abuses at Abu Ghraib. Also high on the list should be Lt. Gen. Ricardo Sanchez, the former commander of U.S. forces in Iraq, who cleared the use of interrogation techniques in Iraq that violated Geneva Conventions.

The judge in England's case dismissed charges against her because of testimony indicating others were to blame. England should face justice. But the civilian and military leaders who sent her to Iraq and who bear larger responsibility for the illegal and immoral abuses that occurred there should be held accountable as well.

[From the Daytona Beach News-Journal, May 10, 2005]

ABU GHRAIB WHITEWASH

On Nov. 4, 2003, Manadel al-Jamadi was found dead in the showers of Abu Ghraib prison outside Baghdad. Al-Jamadi was a detainee who, according to a Navy SEAL testifying in a military court a year later, had probably been beaten by interrogators the night before. Several soldiers posed for pictures besides the body, grinning and with their thumbs up. Five months later CBS broadcast those images and many more, including those of naked Iraqi prisoners forced into human pyramids by their captors, of prisoners leashed like animals or terrorized by dogs and to the seeming entertainment of their American captors.

Whether American soldiers abused detainees "for their own amusement," as Pfc. Lynndie England put it to a military court last week; whether they did it as part of a systematic policy of abuse designed to "soften" detainees for interrogation; or whether the whole thing was "an over-hyped story," as The Wall Street Journal called it two weeks ago, the scandal shattered what little credibility the American occupation of Iraq was clinging to when it happened. The hope, at the time, was that the United States would show the world that it was different, that it would be accountable.

"Watch America. Watch how we deal with this," then-Secretary of State Colin Powell said almost a year ago in a commencement speech at Wake Forest University. "Watch how a nation such as ours will not tolerate such actions. . . . The world will see that we are still a nation with a moral code that defines our national character."

There was reason to hope. But at the time, Powell and others believed that al-Jamadi's death was the only one on the military's prison watch in Iraq and Afghanistan and that abuse was limited to a few bad apples. It turned out that al-Jamadi's death was, indeed, the only one—at Abu Ghraib. In March, the Pentagon conceded that it was investigating 25 other inmate deaths it has classified as homicides in American custody in Iraq and Afghanistan since 2002. If that many inmates have been killed in prisons and detention centers under American supervision in the two countries, it is unlikely that the beatings, the abuses, the tortures that lead to such homicides would be limited to a few bad apples.

Yet that's the upshot of 11 investigations and reports of what went wrong. Some of the reports judged the Pentagon severely and called for corrective action and punishments. But it was up to the Army to act, because President Bush refused to give anyone else authority to do more than advise.

So the Army judged (and protected) its own. The Army has cleared four of the top five officers overseeing prisons in Iraq. It isn't clear whether it has investigated officers supervising prisons in Afghanistan (with at least two reported inmate deaths) or Guantanamo Bay. Of 353 cases of abuse the Army investigated (the number alone belies any suggestion of a limited problem), 225 are closed. Of 124 soldiers who faced disciplinary action, virtually all were the small fry of enlisted personnel. While 17 have been thrown out of the Army, seven low-ranked soldiers have faced punishment that range anywhere from forfeiting half a month's pay to—in one case—10 years in prison. One general, Janis Karpinski, was demoted and given a written reprimand. She was in charge of Abu Ghraib prison.

That's it. That's where U.S. accountability ends. Condoleezza Rice, Powell's successor at the State Department, told Europeans during her visit a few weeks ago that "bad things happened at Abu Ghraib that, as the president said, make us sick to our stomach. But the real test of a democratic country is how one deals with those." The sickening test result is the scandal has been lumped on the back of just a few lowly soldiers.

CAFTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, today more than 400 union workers and Members of Congress gathered in front of the United States Capitol delivering a united message: vote "no" on the Central American Free Trade Agreement.

This week, the presidents of Central America and the Dominican Republic are touring the Nation on a United States Chamber of Commerce-funded junket, pushing the Central American Free Trade Agreement. They are traveling to Miami and Los Angeles. They are going to Albuquerque and to my State, Cincinnati, Ohio, attempting to convince the American people and the American press that CAFTA is good for their countries and for their people.

Unfortunately, these leaders are not telling the whole story. Like our own President, they try to convince us that CAFTA will lift up low-income workers in Central America and that CAFTA will create jobs here in the United States. What they have not said is that CAFTA does nothing to ensure enforcement of labor provisions in their own countries. What they have not said is that the combined purchasing power of the CAFTA nations, the combined purchasing power of the CAFTA nations, is equal to that of Columbus, Ohio; or Memphis, Tennessee; or Orlando, Florida. In other words, people in Guatemala and Honduras and Nicaragua and El Salvador and Costa Rica cannot afford to buy the steel produced in Pennsylvania. They cannot afford to buy cars made in Ohio. They cannot afford to buy textiles and apparel from North Carolina and South Carolina and Georgia. They cannot afford to buy software from Northern California or Oregon or the State of Washington.

With all due respect, Mr. Speaker, to the Central American leaders, what they are not saying and what millions of us know already is that millions of their workers in Central America, like tens of millions of American workers, do not support the Central American Free Trade Agreement. What their leaders will not tell the American people, what their leaders will not share with reporters covering their junket, is that 8,000 Guatemalan workers protested against CAFTA in March. Two of them lost their lives when government forces attacked the crowds.

We have not heard Central American leaders mention the literally tens of thousands of El Salvadorans who protested CAFTA in 2002. They do not mention the 18,000 letters sent last year by Honduran workers to their Honduran Congress decrying this dysfunctional cousin of the North American Free Trade Agreement. The Central American leaders do not mention the 10,000 people who protested CAFTA 1½ years ago in Nicaragua. They do not tell us about the 30,000 CAFTA protestors in Costa Rica just last fall. Hundreds of thousands of workers have protested CAFTA in more than 45 demonstrations in these six Central American countries.

Opposition to CAFTA here in the United States has been equally stalwart. More than a year has passed since President Bush signed CAFTA. Every other trade agreement the President has brought to Congress has been voted on within 6 or 7 weeks. This has been 11½ months since the President signed it because there is so much opposition from American workers, from American educators, from American social service organizations, from Americans of both parties. Instead of supporting the President on CAFTA, overwhelming numbers of Republicans and Democrats in this body and across the country have come out against the agreement.

Last month, two dozen Democrats and Republicans in Congress joined more than 150 business groups and labor organizations echoing a united message: vote "no" on the Central American Free Trade Agreement.

Under NAFTA, the North American Free Trade Agreement, the U.S. has lost more than 1 million jobs. Under NAFTA the promise of a thriving middle class in Mexico was never realized.

Under NAFTA, just like every other trade agreement, the administration, the corporate leaders make the same promises. They promise more manufacturing jobs in the United States. They promise growth in industry in the United States. They promise more exports from the United States. But it never happens that way.

The definition of insanity is repeating the same action over and over and over again and expecting a different result. We have heard these same promises about CAFTA, about NAFTA, about trade with China, about the World Trade Organization. We have heard these same promises over and over and over again, and the American people understand the promises simply do not work.

Now the President and his big business allies are hoping that bringing these Central American leaders on their Chamber of Commerce junket can help deliver support for an agreement that, frankly, as we look across this Chamber, is dead on arrival. Right now the U.S. Chamber of Commerce is hosting a reception for the visiting dignitaries, these six presidents, rewarding them for their lobbying efforts this week. Right now the leaders of these countries are raising their toasts to their corporate sponsors.

Mr. Speaker, there can be no more delay. We must throw out this failed agreement and renegotiate the Central American Free Trade Agreement.

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SMART AND VETERANS MENTAL HEALTH

The SPEAKER pro tempore (Mr. MARCHANT). Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, we recently passed the conference report on yet another supplemental appropriations bill for the war in Iraq, bringing the total amount of taxpayer money being spent on this ill-conceived, built-on-lies war to over $300 billion. The longer we keep funding this irresponsible effort, the more harm we are doing, not just to the people of Iraq but also to our very own troops.

The New England Journal of Medicine recently reported that as many as one out of four veterans of the wars in Afghanistan and Iraq treated at VA hospitals in the past 16 months were diagnosed with mental disorders. Alarmingly, this number has been steadily rising, and we can only guess how many soldiers do not come forward to get help because of the stigma that is associated with mental illnesses.

Post-traumatic stress disorder, also known as PTSD, is the most common disorder seen in returning soldiers and has been diagnosed in 10 percent of returning soldiers at VA hospitals. Other mental disorders that are being seen are drug or alcohol abuse, depression and anxiety disorders. Also phobias and panic are part of the whole diagnosis.

These are the hidden scars that young men and women who serve in combat are left with when they return home. While mental and emotional problems cannot be seen as easily as a physical wound, they are just as debilitating.

Large numbers of veterans from Iraq and Afghanistan are coming home, and they are showing up in our homeless population in numbers that have not been seen since the end of the Vietnam War. This is a shameful epidemic, and we must work to confront it before it is too late.

Serving in a combat zone not only affects soldiers but also their families. When service members come home, they face a real challenge in learning how to readjust to civilian life, often taking a toll on relationships with family members and sometimes leading to even more mental and emotional problems.

Every time we send our young men and women into combat, we are asking them to make a huge sacrifice for the rest of us. Their lives and their health are the real follow-up costs to any war. That is why I have introduced H. Con. Res. 35, asking for the immediate withdrawal of troops from Iraq. Thirty-three other Members of Congress have signed my resolution with me, because we know that the longer we keep our troops in harm's way, fighting a war of occupation, the higher the costs in human lives. Coupled with that bill, I am also reintroducing legislation to support a SMART security platform for the 21st century.

SMART stands for Sensible, Multilateral American Response to Terrorism. SMART treats war as an absolute last resort. It fights terrorism with stronger intelligence and multilateral partnerships. It controls the spread of weapons of mass destruction with a renewed commitment to nonproliferation, and it aggressively invests in the development of impoverished nations, with an emphasis on women's health and women's education.

We must take a smarter approach to our foreign policy and homeland security measures. The sacrifices made by our soldiers are so great. We should be asking them to make sacrifices only after careful and thoughtful deliberation, not rushing to war on unreliable intelligence and on personal grudges. We must take careful and measured steps when putting lives on the line, something that the Bush administration has not done.

As we work to protect those who protect us, instead of throwing our money into an ill-advised war, we must commit first to keeping our troops well equipped with safety gear and modern equipment, and we must provide them with real and comprehensive health care, including mental health support services, when they come home.

Mr. Speaker, war has long-lasting effects on those who serve. Let us work to ensure that we limit those effects by using our troops only when we must and treating them with the dignity they deserve when they return.

CORRECTING AMERICAN FISCAL PROBLEMS AND PRESERVING SOCIAL SECURITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes as the designee of the minority leader.

Mr. MEEK of Florida. Mr. Speaker, once again, it is an honor to come before this House of Representatives. I can tell you that this 30-Something Working Group, Mr. Speaker, that our Democratic leader, the gentlewoman from California (Ms. PELOSI), has designated this time every week for the 30-Something Working Group to come to the floor to not only speak to the Members but also have an opportunity to share good information in general with the American people, and that is why we are here, to represent them, Mr. Speaker.

I want to say, in the last several weeks, we have been talking about the issue of Social Security. I can tell you that Social Security is not only at the forefront of the agenda in this Congress but also has been promoted throughout this Nation as being in a state of crisis, which it is not.

So, tonight, the 30-Something Working Group, we have asked a member of our caucus to come, the ranking member of the Committee on the Budget, the gentleman from South Carolina (Mr. SPRATT), to come to talk to us a little bit about this double whammy that the American people will be going through because of the push of privatization of Social Security and the irresponsible spending by the majority side and also by the present administration.

This whole debate is about helping future generations. This whole debate is about making sure that we keep our end of the deal to the American people. I can tell you, keeping our end of the deal to the American people is saying we are going to do what we said we are going to do from the beginning, Mr. Speaker, and it is important. But I believe when misinformation or inaccurate information is given to the American people and to some Members of this House, it jeopardizes our commitment to keeping our end of the deal.

What I mean by "our end of the deal," for those individuals that have paid into Social Security over the years, and they are looking forward to the security of Social Security being there for them at the benefit level to where it is now, I think it is very, very important that we do not let those Americans down.

I want to make sure that not only the Members of this House but everyone understands that Social Security will be solvent for the next 47 to 50 years at the present benefit level of where it is right now. Forty-eight million Americans who need the survivor benefits, retirees or individuals eligible for Social Security at this point will receive 100 percent of the benefits they are receiving now. On average, they receive $955 of monthly benefits from Social Security. Thirty-three million Americans are retired that are in that 48 million, and a large number of those Americans would be living under the poverty line if it was not for Social Security. So when we start talking about privatization of Social Security, it is a very dangerous thing and something that we should not play around with at all.

I am proud that Democrats on this side of the aisle, and I would even say some of my Republican friends, believe in strengthening Social Security without slashing benefits that Americans have earned and making sure that private accounts are not a part of the Social Security debate or reality, because there is strong evidence, not hearsay, strong evidence of major benefit cuts to Americans that are counting on Social Security.

I think it is also important, Mr. Speaker, that the Members understand that, once we can get to the point that we stop insisting on private accounts, when it really does not add up for the individual that is receiving Social Security or that will receive Social Security, I think we can get on to not only a serious discussion but action in dealing with the question of Social Security.

We should not increase the debt by some $5 trillion and gamble on the future of Social Security. I think the American people deserve better. I think the American people demand better, and I think the American people will continue to pay very close attention to what is being said and what is not being said in this discussion about Social Security.

I do not believe that Members of this House or the other body will take a vote where they are going to make a career decision on a gamble on Social Security privatization. It is not at that point to where one has to gamble with the retirement of so many Americans. Social Security is there to make sure that it is a guarantee for men and women that have worked in this country.

So, tonight, we are going to talk about the budget, the $26,000-plus that every American owes to the Federal debt, and tonight, we are going to, if I could use the word, cross-pollinate, Mr. Speaker, Social Security privatization philosophy and the reality of the ever-growing deficit, that it seems that this Congress is out of control of continuing to add on to the debt without any plan whatsoever, no real realistic plan, in making sure that we take down the debt for future generations. So I think that is very, very important.

Now, some individuals will say, Well, what is the Democratic plan? Well, I would like to know what is the Republican plan? Some of my good friends in this Chamber are Republicans and want to know the Republican plan.

I would say, the Republican leadership plan, because I do not want to generalize, because I feel there are Members in this Chamber that have a genuine argument and concern when they see statistics that are given by notable organizations and even by some of our Federal Government organizations that are saying that there going to be major benefit cuts if we go to privatization, to the point that where even individuals who do not enroll in private accounts are going to receive cuts. That is not fair.

So that is the reason why we come to this floor, week after week, the 30-Something Working Group, along with others, to be able to talk about this issue.

Now, tonight only are we going to have the gentleman from Ohio (Mr. RYAN), who is always here, Mr. Speaker, and Ms. WASSERMAN SCHULTZ, and we have one of our 30-Something Working Group members, the gentleman from the Great State of Alabama (Mr. DAVIS), who will come before this great House to be a part of this discussion, along with our ranking member on the Committee on the Budget, the Democratic ranking member of the Committee on the Budget and a part of the Democratic leadership team in dealing with the issue of the deficit and the budget and responsible spending and also making sure that we do the right thing.

I would like to yield some time to the gentleman from South Carolina (Mr. SPRATT). As you go to the well there, I want to just let you know how much I appreciate not only the hard work that you have been doing but the fact that you have joined us here, the 30-Something Working Group. I know you have been really given to not only the Democratic Caucus but informing the Congress on what we are doing and what we are not doing.

I would like to say to the distinguished gentleman from Alabama (Mr. DAVIS), feel free to be part of this, also a member of the Committee on the Budget.

Mr. SPRATT. Mr. Speaker, I thank the gentleman for yielding. Let me say, I enjoyed serving here with your mother, and she has every right to be proud of the service her son is rendering here. He was well raised.

The young in this country, and you fellows are young by my reckoning, have a right to be concerned about the course that our government, the Federal Government, is taking under President Bush. Obviously, we have a huge problem with our own budget, our budget deficit.

President Bush enjoyed an advantage that practically no President in modern times has enjoyed. He came to office with a surplus that his economists projected to be $5.6 trillion between 2000 and 2011, over a 10-year period of time, an unprecedented surplus.

It was not just a projected surplus. The year before the year 2000, the last fiscal year of the Clinton administration, the United States Government ran a surplus of $236 billion.

□ 2000

That was the context, the fiscal context in which President Bush came to office.

Today, when we closed the books on September 30, 2004, that fiscal year, we had a deficit of $412 billion. OMB is still predicting a deficit this year, even bigger. But CBO has some good news. They tell us that revenues are coming in at a faster clip; and they are hopeful that deficit will be coming down to $350 billion. But $350 billion is only something to cheer in the context of deficits that have been running at a level of $412 billion, the highest level deficits in our history, and we went there in just 5 short years.

What we are effectively doing, I say this to the young people of America whom my colleagues represent, is leaving our children and grandchildren the tab for fighting a war, letting them pay for the lion's share of it by simply adding it to the national debt. We are adding to national entitlements. We are cutting taxes, above all, and then borrowing to pay for the revenues we give up by the tax cuts and letting our children pick up the tab, pay the bill.

I often go to civic clubs; and I tell them, there is clearly a fiscal problem for the United States Government's budget, because the more we borrow, the more interest we have to pay and, pretty soon, debt service begins to eclipse accounts in the budget, like education, that are critically important. But in addition to that, this is a moral problem. It is a moral problem when we shove these mountains of debt off on to our children and grandchildren. That surely is what we are doing.

Quickly, let me just show my colleagues what we have here. This chart, which has its own mountains, shows us where President Clinton started in 1993, at a deficit of $290 billion. On the floor of this House, by one vote, we passed the Clinton budget in 1993, one vote; and every year thereafter the bottom line of the budget got better, better and better, to the point where we had, as I mentioned a minute ago, a surplus of $236 billion in the year 2000. Since the election of Mr. Bush in 2001, the budget has gone down and down and down every year; the bottom line of the budget has gotten worse to the point where we had a record deficit of $412 billion last year.

Now, the Committee on the Budget and President Bush both tell us we have a plan. We have a plan that will cut that budget deficit in half over the next 5 years. Well, we can cut a budget deficit in half when we leave out some of the biggest items that we are likely to face over the next 5 years.

One of those is the cost of eventually dealing with the alternative minimum tax. More and more taxpayers are having to pay the AMT instead of the regular tax; and when that problem is finally fixed, it will have to be politically an inevitability, because it will, by 2010, affect 30 million tax filers. We will have to fix it. CBO says the 10-year cost in revenues lost to fix the AMT so that it only applies to the upper bracket taxpayers for whom it was intended is $642 billion in lost revenues.

Then there is the cost of our troops in Afghanistan and Iraq. We just passed an $82 billion supplemental. There is not a dime in the President's budget after 2005 for the cost of those troops; and CBO, the Congressional Budget Office, has said we need to have some kind of national estimation of what it is likely to cost to keep those troops there, assuming that they will be gradually redeploying. So they said, let us assume that there will be 40,000 troops, 20,000 in Afghanistan, 20,000 in the theater around Iraq for the next 6, 7, 8 years. Their calculation is $384 billion. That cost is left out of the President's budget.

So major items have been left out. We have gone back and put in items that are not contentious, not controversial, but politically realistic; and we can see from this chart that the deficit does get a bit better, because the economy gets better; but 10 years from now, we have a deficit of $621 billion; $621 billion.

Mr. MEEK of Florida. Mr. Speaker, I think it is important not only that the Members understand, but the American people also understand. I mean, the gentleman is the second most senior member on the Committee on Armed Services; and I think that the gentleman is in the right position on the Committee on the Budget, that this is Iraq, the early years. I mean, this is going to be a long-term commitment of the United States. We are there; we are going to be there for some time. The coalition is getting smaller. We need to make sure that we provide for these men and women and their families back here.

So I just wanted to say that so that the Members understand that we have an overall responsibility, but some of the things that the gentleman is showing us here on this chart of the realities that are obviously coming in the future and, on top of that, the Social Security issue, is going to be a train wreck in the making, if not already there.

Mr. SPRATT. Mr. Speaker, we can see it coming down the track. This chart depicts it as graphically as we can make it. The deficit never rises below, never falls below $350 billion, and rises to $621 billion. Tally that up and we will see a mountain of debt added over the next 10 years, and then we have to pay debt service, we have to pay the interest on that debt; and that debt service begins to encroach upon other necessities, other critical priorities of the government like education, like health care.

So this is why we are concerned, the gentleman and I, and we, we are leaving to the next generation this legacy of debt. Surely, surely this generation of Americans, like every generation, which has strived to leave their children a better life, a better world, a better economy, does not want to be remembered for leaving our children and grandchildren a mountainous legacy of debt; but that is the course we are on right now.

Let me stop there so that we can yield to the gentleman from Alabama (Mr. DAVIS).

Mr. DAVIS of Alabama. Mr. Speaker, I thank my colleagues for yielding to me. Let me begin by thanking my colleagues and my friend, the gentleman from South Carolina (Mr. SPRATT), the ranking Democrat on the Committee on the Budget. The gentleman from Florida (Mr. MEEK) and I have only served with the gentleman from South Carolina (Mr. SPRATT) in the Congress for a very short period of time, but the gentleman has been such a stalwart on this issue during the time that we have been in Congress.

This is not a subject that necessarily just jumps out at people as an exciting or sexy subject, but it is so important to our country to talk about the problem and the consequences from our debt and our deficit. There is no one who has been more of a stalwart in this institution than the gentleman from South Carolina, and I certainly thank him. As well, I welcome the person who will follow me tonight, the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) who has, in a very short period of time, just since January, already distinguished herself as one of the ablest and most intelligent Members of this institution; and we are thankful to have her here this evening.

I know that the gentleman from Florida (Mr. MEEK) was in my district very recently, in Selma, Alabama, with me during March of this year when we commemorated the march across the Edmund Pettis Bridge; and the day after that march, I had a town hall meeting in that same city, Selma, and the purpose of the town hall meeting was to talk about Social Security and our country's future. There was a moment at the end of the town hall meeting that I want to share with the Chamber of that night, because I think it is so illustrative of the challenge that we are facing.

There was a young woman who was about 19. She said she was a college freshman, and she stood up and she asked me and the panelists a question, and her question was something like this: she said, young people today, and younger workers today are paying into a Social Security system that may not be around or may not be around in its current, robust form for us young people. So she asked the question, why do we have to pay at all? Why do we as young people, she said, have to even pay into a system that may not be there for us?

When I heard that young lady make those comments, two things occurred to me. The first one is that we have fallen a ways in this country if our young people today are full of cynicism and not idealism; if our young people today are wondering why we have to meet our burdens instead of wondering why we cannot meet greater burdens, something has happened to us that is wrong.

There was another thing that occurred to me.

Sometimes I think in this Chamber we have the illusion that we are arguing about money. We have the illusion that we are arguing about line items in a budget, that we are arguing simply about techniques of accounting. That young lady's comment made me realize we are arguing about something far more fundamental in this Chamber every day, and I would define it this way: exactly what do we owe each other? Are we obligated to each other, or are we cut off from each other's common destinies? That is what this political debate is about, and I hope that is what the American people understand this debate to be about.

As we saddle future generations with debt, as we saddle future generations with the consequences of tax cuts that we could not afford, as we saddle future generations with our mistaken fiscal choices, it is a retreat from the politics of obligation; it is a retreat from the idea that we are connected to each other and each other's fate and each other's destiny.

Increasingly what I fear is that we are entering a world where the only morality that we recognize in our public space is the morality of the marketplace. The gentleman from South Carolina touched on that. He talked about morality, and that word should not be in any way omitted from this conversation, because the morality of the marketplace is a very narrow morality. It says that to whom much is given, much will continue to be given. It says that the strong shall have the opportunity to get stronger, and it says that other than a little bit of sympathy and a little bit of charity for which we get a tax write-off, we do not owe a whole lot to the other people in our society.

I think that if we are to be true to the legacy of this institution and true to the people in this country, that we need a broader public morality than this narrow morality of the marketplace. We need a public morality, a way of talking in the public square about what we owe each other, what we owe our veterans, what we owe our young people, what we owe our working families, what we owe our college students, what we owe our disabled workers, what we owe all of the people who may not sit in the circle of prosperity today, but who desperately want to do so and want to have a chance to sit there tomorrow.

The budget resolution that we voted on 2 weeks ago and, essentially, we voted on it 2 months before that, because it did not change a lot from the House version to the final resolution passed by both Houses, it is a document that I think does not meet our best moral impulses; it does not meet our best impulses about what we owe each other as a community.

The gentleman from South Carolina and others have detailed on this floor and elsewhere the cuts to veterans, the cuts to our young people, the cuts to all kinds of commitments and obligations that we have to our environment, to our workforce development system in this country; but once again, the stakes are broader. Because what this budget does is to slowly but surely begin to walk away from the idea of national commitment and national obligation. It slowly but surely begins to walk away from the idea of community.

I make these final two sets of points before I yield to the gentlewoman from Florida tonight. I happen to think that we do have an obligation to get our fiscal house in order; there is no question about that. We cannot sustain these deficits; we cannot sustain this debt. It is unconscionable the President wants to add to it with his Social Security plan. It is unconscionable that the President does not have a long-range plan to pull us back from deficit.

But this is what is the real moral rub, I think, for a lot of us. So often in the last 4 years, the Bush administration and our friends and colleagues on the other side of the aisle, the Republican side, have asked sacrifice, but they only do it of some of the people. John F. Kennedy, whom I admired greatly, and whom I know the mother of the gentleman from Florida (Mr. MEEK) admired and whom I know you admired a great deal, when he was inaugurated, he spoke on the idea of sacrifice and the idea of common burden and obligation. He did not speak of a sacrifice that falls only on working families who need Medicaid in Tennessee and Mississippi and Alabama. He did not speak of the sacrifice that falls only on veterans whose premiums do not need to go up. He did not speak of a sacrifice that falls only on families who are needing section 8 housing and do not want the program gutted. He did not simply speak of burdens and obligations that fall on the weakest of us.

I listened to the discussion that happened in the hour before us tonight, and the eloquence of the gentleman from Illinois (Mr. EMANUEL) on who has power in this Chamber, who has power in this institution. It is increasingly the most well-off among us, the most narrow-minded among us who are committed to a very narrow pursuit of the private interest. That is a full-scale retreat, with guns blazing, from the idea of what we owe each other as a people and as a community.

So if our country is going to move forward, I say to the gentleman from Florida, and if we are going to move forward and become what I think that we can be, we have to return to this idea that we do owe each other something more than sympathy, that we do owe each other a commitment to building a financial future that will work for our children. We owe each other a commitment toward a true and enduring retirement security for our seniors. We owe our young people a commitment and an investment in their skills; and, finally, we owe our country a way of talking about politics and a way of talking about our expenses and our expenditures, a conversation and a dialogue that somehow draws us together.

The final point that I will make tonight is, and so often I see this when I go back to town hall meetings in my district, last night I was in Choctaw County, Alabama in Butler, and so many people are frustrated when they see us arguing about things that do not matter to them.

□ 2015

We have been here for 4 months, and we have had a pretty busy schedule. We have voted on all of probably one really truly important piece of legislation this year, and that was the budget. We have had a lot of distractions, and we will keep having distractions on the floor.

But the people are so frustrated that we are angry at each other over things that do not matter in their lives, and they want us to repair to a higher standard. So I thank the gentleman from Florida (Mr. MEEK) for being here tonight. Again, I thank the gentleman from South Carolina (Mr. SPRATT) for his leadership and his wisdom. And I would be happy if the gentleman from Florida (Mr. MEEK) will yield to my good friend, the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Mr. Speaker, first, let me say what a pleasure it is to have the gentleman from South Carolina (Mr. SPRATT) join us for our 30-something working group. I have to tell you, as the freshman in the group, and the person who has been here for the shortest tenure, one of the most incredible experiences I have had is to have the opportunity to learn from the gentleman from South Carolina (Mr. SPRATT) and especially the inner workings of the budget and to be able to absorb the expertise, at least attempt to absorb the expertise that the gentleman has been able to provide this country with your leadership. So I cannot thank the gentleman enough for that.

And I really want to pick up on what the gentleman from Alabama was saying because this really is, the budget is a statement of our values. It is our values versus the Republican leadership values. And it really is probably the most comprehensive expression of the direction that we believe the country should go in and the priorities that we have in our caucus versus the priorities that they have.

And, you know, it is interesting, look at the group of us assembled here tonight. I do not think that you could have a more eclectic group of Members than the Members assembled here. I represent a district, Miami Beach, Ft. Lauderdale and Hollywood. The gentleman represents Alabama. The gentleman from Florida (Mr. MEEK) and I share communities. And the gentleman from South Carolina (Mr. SPRATT) represents, you know, a district in South Carolina. The gentleman from Ohio (Mr. RYAN) is here with us tonight. We could not have more diversity in our caucus and more diversity represented here tonight.

And if you look at the homogeneity on their side of the aisle, even when they do not have homogeneity in their caucus, they walk in lock step. They fall in line. They do what they are told. And that is regardless of the fact that they have crafted a budget that clearly says to the American people: We do not care. We do not care about you. We do not care about making sure that your children have a quality education. We do not care about making sure that if your child is sick that you can afford to take them to the doctor. They have engaged, at least since I have been here and that I have been able to note, in slash-and-burn politics.

I mean, the thing that I think is the most interesting is that, over the time that I have been involved in public service, you know, we are constantly trying to figure out, and the American public, people, I think, are trying to figure out, how do you define a Republican, and how do you define a Democrat?

And I think that the budget document that they have put forward is probably the best expression of how you define what it means to be a Republican. And clearly, what it means to be a Republican is to balloon the deficit, cause the Nation to go further and further into debt, mortgage our children's future, cut health care, cut education, both in the lower grades as well as student loans.

And if you look at our budget document that the gentleman from South Carolina (Mr. SPRATT) put together, it also is an expression of our values and the direction that we would take the country. Our budget document, as crafted by the gentleman from South Carolina and the other Budget Committee Members would bring the budget into balance by 2012. It would make sure that we do not cut the programs that are the most important to the American people.

What are our priorities? Education, health care, making sure that we can improve the quality of people's lives and making the world a better place as opposed to improving the bottom line of the pocketbooks of the wealthiest Americans. I mean, that is essentially what the ultimate goal was, clearly, of the Republican budget document. And I think it is important that we help lay that distinction out in front of the American people so that, over the course of the next 18 to 22 months, they can make a decision as to whether we want to continue to move in the radical direction that they are taking this country or if we want to get things back on track.

Mr. MEEK of Florida. I thank the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ). I thought the gentlewoman and the gentleman from Alabama (Mr. DAVIS) shared some really good comments.

I see that the gentleman from South Carolina (Mr. SPRATT) has a board there that he wants to share with us, and I know the gentleman has some comments based on our comments.

Mr. SPRATT. We have a number of different deficits. One is the Social Security deficit. The actuaries at the Social Security Administration tell us that the shortfall in Social Security funding over the next 70 years is $3.7 trillion.

What Mr. Bush is now proposing as a purported solution to that is to allow workers to divert 4 percentage points off their payroll tax, one-third of their payroll taxes into private or personal accounts and away from the Social Security trust fund. This will have enormous consequences.

First of all, everyone can see that it is counterintuitive. If you have got a trust fund which is $3.7 trillion, do you resolve that problem by diverting a third of the revenues away from that fund, so that you virtually double, and then some, the shortfall in the account?

That does not square with anybody's understanding of how to resolve this problem. But it is of particular concern for younger Americans, because they will be paying substantial sums into Social Security, and they may get, unless the reform being discussed is done differently from what the President proposes, the worst they will get out of Social Security. Thus far, Social Security, every generation would say, has been a success story. It has made the fabric of America a better country, a better society.

A lot of young people walk up to me, I would say to the gentleman from Florida (Mr. MEEK), and they say: I do not ever think I will see my Social Security or at least nothing like what is promised to me. I am paying in big bucks, 12.4 percentage points of my gross income, after accounting for what my employer also pays. And I do not ever think I will see what I am contributing come back to me.

And I tell them all, Social Security is not just a retirement plan. Social Security is also a plan particularly for younger families. As a matter of fact, 37 percent of those on Social Security today drawing benefits are younger Americans who are disabled or have had a family member, a breadwinner, die, or they are the dependents of these particular beneficiaries of Social Security.

Social Security provides the equivalent for, let us say, a young couple, age 27, two children, it provides the equivalent of $403,000 in term life insurance. And for those who become disabled, nobody thinks he will, but many do; for those who become disabled, it provides $353,000 in disability insurance, which would be hard to buy in the individual market. And that is not to mention Medicare, which comes with the Social Security disability. Yes, sir.

Mr. MEEK of Florida. If I may, I just want to ask a question, because I think this pie chart really paints the picture, literally. People think that this Social Security debate, some people do, feel that it is just about people that are already retired, and they are concerned about their retirement. Yes, valid point. They should be concerned because we do know, and you were a Member of the 108th Congress and many congresses before that. The President stood in the well there and shared with us, if you are over 55 you do not have anything to worry about.

But I remember vividly in the 108th Congress, when we talked about the prescription drug benefit plan, they said it would be $350 billion only, and now we know it is $724 billion and probably climbing as it relates to costs.

But disabled workers, that can happen any time in your lifetime.

Mr. SPRATT. And it does. One in seven workers ends up on disability before retirement

Mr. MEEK of Florida. And that is Social Security. And what we do know, and I hope that you would get an opportunity to talk about, the President's plan cuts benefits twice on one of the charts that I know you have there, to let the American people know that and also Members know that when you go to privatization that you lose benefits. I mean, that is what the record is reflecting right now. And I think it is important that everyone understands what is happening.

Mr. SPRATT. This chart shows it as graphically as we can express it. There are two claws impinging on Social Security under the President's proposal. First of all, most Americans do not understand this, but when you go to retire, if you have elected to put money into a private account, the first thing you will have to do before Social Security computes your benefits is pay Social Security back. That private account, that ownership account, is really a loan from the Social Security Administration. You have to pay back, upon retirement, every dollar you have diverted into a private account plus interest at 3 percent over the rate of inflation. That means that there will be a significant privatization tax which gets bigger and bigger over time, depending on how many years you are in the work force.

In addition to that, there is another factor buried in all the detail which is critically important because it changes the nature of Social Security. And that is that basic benefit computation will be free formulated. Let me express that differently.

Today, when you go to retire, the clerk at Social Security takes all your earnings from age 14 onward, takes the highest 35 years, averages those, brings them up to a present value, and then, each year, the amount of income that you can get is dependent upon a formula that is used to derive what is called the PIA, the primary insurance amount. You get 92 percent of the first $627. You get 30 percent of the next $3,779, and you get 15 percent of everything else. That is complicated.

But the net result of that is that lower-income workers tend to get more, a better deal out of Social Security than the higher-income workers do. It has this effect to it that makes it a social insurance plan and not just a retirement plan.

If you change the way that benefit is indexed every year, which the President proposes to do. Today that basic benefit will be indexed and changed according to the rate of inflation and wages in our economy.

The President wants to change it to price inflation. That is economic talk. But it is critically important in a practical sense because, over a 70-year period of time, it will slash in half the basic benefit to which you are entitled from Social Security. And this chart shows it right here.

Someone who is retiring in 2075, born in 2010, a couple of years from now, 42 percent of his accumulated benefit in his private investment account will have to be paid back to Social Security; 56 percent of the remaining amount will be diminished by the recalculation, the reformulation which President Bush is proposing. So we have what is left that this chart shows. You start out with the big blue bar, all along here. That is scheduled benefits under Social Security.

The green amount beneath that shows the traditional Social Security benefit to which you are entitled; in 2015, it makes up most of your benefit. But by 2045, about half of your benefit is traditional Social Security, and half is in your private account.

When you get to the 70th year, almost all of your benefit is coming out of the private account, and only a small part, this little green tip down here, is coming from traditional Social Security. So we are going to ask you, the young people of today, the families that are 30-something with kids, raising them, to continue paying that 12.4 percent in the traditional Social Security; only to get this in the way of traditional benefits out of it. It is going to change the nature of the program in ways that cannot even be fully anticipated.

Mr. DAVIS of Alabama. Mr. Speaker, let me follow up on the comment that the gentleman from South Carolina (Mr. SPRATT) just made, because a lot of very reasonable people, as you know, believe that this scenario you described is not accidental. It is not just a byproduct of the President's strategy, but it is, indeed, the President's strategy, to turn Social Security, which is a universal benefit that the American people collectively pay into, to transform it from that world into a world, frankly, where it looks like a conventional welfare program, a program where very poor people receive a benefit from it and the rest of the population receives very little.

Now, what happens to those kinds of programs? Number one, the Republicans cut them every year. They do not fare very well in this budget process. If you look at the programs that we have in this country that we fund out of our sense of charity, Section 8, walking away from it, housing, dealing with the disabled and mentally ill, all the programs that we fund out of our altruism, unfortunately, those are the programs that are getting cut. I do not believe that this is an accident, that the Republican party and President of the United States are taking this plan that has worked enormously well and refashioning it into a program where, frankly, people will have less of a stake in paying into it.

The second observation, I would say to the gentleman from Florida (Mr. MEEK), is that it is indisputable that Social Security is the most successful government program in the last hundred years in terms of its ability to move people from the margins of life to a state of security. When Social Security was passed in 1938, 52 percent of the seniors in this country lived in poverty.

□ 2030

Today that number is down to 9 percent.

If every other government program had been as effective in reducing poverty, there probably would not be more than 20 or 25 Republicans here because we would have won the whole political debate. This has been an extraordinarily successful program and part of the reason it has been successful is the stake that we all have in its benefit.

I make one other point tonight. A lot of our colleagues on the other side of the aisle say, well, you Democrats have been criticizing our proposals. Why do you not come forward with a better and stronger plan for saving Social Security, and never mind that the President has no plan to make it solvent, why do you all not come to the table with one?

There is a part of this debate that we should not miss tonight. Part of the reason that we are expecting a gap in Social Security financing, a shortfall in Social Security financing, is because of this administration's estimates of slow growth in the next 30 to 40 years. And a Republican Party that used to pride itself on economic optimism even in the face of no evidence has now become the party of slow growth. They tell us that our productivity will inch around at a rate of around 1.9 percent for the next 30 years, or our growth rate will be around 2.1 percent.

What is the reason that they project slow productivity and slow growth? The major reason is because right now in our country the gap between skilled and unskilled workers is more pronounced today in the middle of the first decade of the 21st century than it was in the early 1970s and the late 1960s.

In other words, the gap between the people who know how to do the work in this country and who are trained to do and those who are not so lucky or so fortunate is greater than ever.

That is creating an albatross on our whole economy. And if we are serious about tackling the Social Security problem, we have got to come up with a growth strategy. We have got to come up with a strategy to close that gap between skilled and unskilled workers. And the extraordinary thing about this budget is that it cuts money for workforce development. It cuts out programs like Upwards Bound and TRIO that take at-risk kids and give them a leg up. It cuts economic development programs. It cuts all of the things that would narrow and close down the gaps that exist in American life.

In other words, at a time when we ought to be investing more in our future, we are investing less. Once again it takes us back to the point that the gentlewoman made about the fundamental definitional divide between these parties.

President Clinton who grew 22 million jobs in his Presidency understood that when you spend money on education, when you spend money on worker training, when you spend money on developing skills you are making investments. And those investments reap an enormous return for this generation and the next one.

So I say in conclusion before I take my leave tonight that if we are to deal with this problem of Social Security having a shortfall over the next 30-some years, if we are to deal with these gaps that exist in our skilled and unskilled workers that lead to the slow growth the administration promises us, we need a different set of priorities. We need to remember the value of expenditures that are investments.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, what I wanted to do is take off from what the gentleman from Alabama (Mr. DAVIS) was saying because the President started out this debate 4 months ago following the election saying that Social Security is in crisis, that Katie bar the door, we have to do something, we have to do something now; and if we do not, then the world will essentially come to an end.

Now, he has gradually backed off that and you do not hear the word "crisis" out of the President anymore. You hear more along the lines of what we have been saying which is there is a problem that needs addressing; and we have been saying that because you have the strength of a 70-year safety net in place, that we should not be irresponsible about how we reform it. We should not be irresponsible by slashing a gaping hole in that safety net through which millions of people would fall.

And because this is the 30-something Working Group, I have often pointed out that when we talk to our friends, our peers who are also members of our generation, I know I ask my friends if they think that Social Security will be there for them when they retire. I am 38. The gentleman from Florida (Mr. MEEK) is 38, and we have friends who do not believe that Social Security will be there. Yet, if we look at the numbers, all the reliable numbers, the ones right from the Social Security Administration, the first instance that we have even a concern about whether or not we are going to be taking in as much as we are paying out is 2041.

Well, I will be 74 years old in 2041. And if you are using the more reasonable, non-Dooms Day numbers, it is more likely that 2051 is when we begin to approach a problem. I will be 84 years old. Now, that is about 20 years past normal retirement, so the sky is not falling.

There is a problem and a responsible government will recognize that problem and take the time to make the changes that we need to make without throwing out the baby with the bath water.

Mr. SPRATT. Mr. Speaker, following up on what the gentlewoman has said, this chart spells it out, it is a little busy, but the President and others who are claiming there is a crisis point in 2017, 2018 as a pivotal year, that is the year when incoming dedicated revenues will be exceeded by outgoing scheduled benefits. But Social Security at that point in time, the trust fund will be sitting on a reserve, a cache of U.S. Treasury bonds equal to $4.7 trillion. The interest on those Treasury bonds will not only continue to ensure benefits in full; they will actually add to the surplus, the corpus of the trust fund, so that in the year 2027, $6.5 trillion will be in that cache of Treasury bonds held by the trustees of Social Security.

Now, at that point in time the interest income will no longer be adequate to fully cover the benefits outgoing, but with $6.5 trillion in Treasury bonds, by redeeming those bonds the system is assuredly solvent until 2041.

As the gentlewoman just said, the actuaries of Social Security are paid to be conservative. They are paid to be very, very cautious and they are. The rate of growth they are assuming is a very, very modest rate of growth. We do not want to be fools, so we take a very conservative view of things. But the CBO has taken a slightly more realistic view of the future and they say, we think you will make it to 2052. We think the system then will be able to pay out 78 cents on the dollar, not fully but substantially, and after that something in the range of 78 cents on the dollar.

So the system is faced with problems down the road, but we have got time to fix them. The sooner the better; and if we fix them right, we will not have a problem.

I was here in 1983. Social Security really was in trouble in 1983. Some forecasted that it would scrape bottom, run dry in the retirement trust fund in July of 1983. President Reagan got together with Tip O'Neill and the leadership of the Senate. We appointed a truly bipartisan representative board. You had Mr. Greenspan at one end. Claude Pepper at the other end. Dan Moynihan here. Jim Baker there. They got together and they came up with a menu of different choices to which every stakeholder contributed something. And the result was the system was made assuredly solvent for the next 60 years.

That can be done again. There is no reason we cannot do it again, and everybody then can breathe easily. But you cannot do it and incorporate these private accounts which are carved out of Social Security and make the shortfall today twice as large as it actually is.

Ms. WASSERMAN SCHULTZ. What I wanted to bring out was exactly what the gentleman was talking about. We have a problem that needs to be addressed. But we can not throw our Nation's retirement security, our constituents' retirement security, to the whims of the stock market and then add insult to injury by saying that we are going to adjust their benefits based on the price index as opposed to their wages, because obviously wages grow more quickly than prices do.

So their benefits are going to be cut both through the indexing and through the privatization and on top of that will add to the deficit.

This is about the most irresponsible proposal that I have ever heard of.

Mr. MEEK of Florida. Mr. Speaker, if I can, before we walk too far away, before we walk too far away from what the gentleman said, the fact that he was here in 1983. I will tell you how this argument works.

In 1983 I was in high school. I was a senior. The gentleman is still a good man. I was a senior in high school. And we know in that year it took a lot of leadership because there was a big Democratic majority here in this House and in the other body across the hall. There was a Republican in the White House, but on behalf of the American people, and there was a true crisis and the gentleman described it. And I just happen to have the vote here.

Here in the House it was 243 people that voted for it, voted for that bipartisan proposal. It took leadership in this House and in the White House, and that is what it will take in this debate. In the other body, we had 58 of our colleagues down the hall, 58 of them voting for it at the time.

That was a bipartisan bill. It was not something that was one sided, and that is what is wrong with this debate now.

I want to make sure that Members and the American people understand. If we were in the majority, we, Democrats, that it would be a bipartisan approach because many folks do not understand, well, why are they talking about it? Why do they not just do it?

Well, we want to do it. The gentlewoman from California (Ms. PELOSI), our Democratic leader, wants to do it. The gentleman from New York (Mr. RANGEL), the ranking member on the Committee on Ways and Means, want to see a bipartisan approach. But that is not happening right now, and that is the reason so many things are happening to the American people in this debate.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman from South Carolina (Mr. SPRATT) for being here and raising the intellectual level of this debate that we usually have.

Mr. Speaker, I had a town hall meeting last night on Social Security in Green, Ohio, just south of Akron. And it was 2 or 3 to 1 against any kind of privatization.

There was one point I wanted to share tonight. There was a woman who was there who said she was actually for the private accounts until she, I think, found out a little bit more about them. The 4 percent that the President says that you can divert and put into a private account, she made $19,000 a year. Now, 4 percent of her income, of $19,000 a year, is never going to be enough for her to be able to retire on.

And there was a gentleman who was there who said that he made 30-some thousand dollars a year his whole life, never any more; he did not have any money to put extra into these personal accounts. What he would have put in, he went back and did the math, would have never worked out to him receiving the kind of money that he would have been able to get through Social Security.

So it may sound good that you are making a lot of money every year that, hey, I will get a little extra and put that in the market too. But what about those people who are struggling now more than ever, making 19, 20, 25, $30,000 a year. Four percent of that is peanuts to say that you will be able to retire on.

So as we have this debate about the personal accounts, I think it is very important for us to recognize that diverting 4 percent of your Social Security taxes into this is never going to be enough for this to retire on.

☐ 2045

That was really the only point I wanted to make here. I want to thank the gentleman for joining us. Throughout, since I have been here, he has been the guru on the budget. We all follow his lead. So I thank him very much.

Mr. MEEK of Florida. Mr. Speaker, we have about 3 minutes left. So if the gentleman from South Carolina (Mr. SPRATT) wants to make some closing comments, he can.

Mr. SPRATT. Mr. Speaker, there is one thing we have not spoken about. We have talked about the budget deficit. We did not speak about the trade deficit, $666 billion, also an encumbrance we are leaving our children. We did not talk about the jobs deficit. In the last recession, 2.5 million manufacturing jobs, the best of our jobs, were lost, that have not come back. Service jobs have but not manufacturing jobs.

One of the solutions to all of this has got to be education. We have got to have a workforce that is educated as never before in American history, adaptable, keen, intelligent, quantitative, and if we look at the budget the President sent us for the first time since 1988, a President of the United States requested less for spending on education than we are currently spending at the present time.

He wipes out vocational education, $1.3 billion. Wipes out the drug free schools. Wipes out GEAR UP for underprivileged kids who want to get a college education. Wipes out Even Start. Wipes out educational technology.

There are some plusses and puts and takes so that a lot of these do not come out on the bottom line, but when we consider everything, this is the least forthcoming education request at a time when education was never needed as much as it is now. So we have got an education deficit as well.

That is why we are out here tonight, to talk about the 20-somethings and the 30-somethings and what they can expect for the future of America. We have got deficits, which means that we are leaving negative legacies in numerous different areas that we have got to reverse, we have got to undo, and it starts with the budget. We simply cannot keep stacking up mountains of debt which we shove off into the future for our children to pay.

Mr. MEEK of Florida. I thank the gentleman from South Carolina (Mr. SPRATT). I yield to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I just appreciate the gentleman from South Carolina's (Mr. SPRATT) and the gentleman from Florida's (Mr. MEEK) leadership and the opportunity for us to help explain to our generation what the ramifications will be if the President's proposal goes through. I think it is real important that we plug the Web site, and the gentleman from Florida (Mr. MEEK) has it up here on the board.

Mr. MEEK of Florida. We even want e-mails from Members, but definitely from the American people and others. 30somethingdems@mail.house.gov is our e-mail address. We always look forward to receiving e-mails.

As we close, I just want to not only commend the gentleman from South Carolina (Mr. SPRATT) for his leadership but for the leadership of this Democratic Caucus here in the 109th Congress and the 108th Congress, which I have served in, and presently serving in the 109th, for standing up and saying what is right, making sure that we watch out for future generations; just for the charts that are being generated out of the gentleman from South Carolina's (Mr. SPRATT) committee staff and from the gentleman, I tell the American people and also I tell Members of the majority side, if it is about defense, then 44 percent of our debt is owned by foreign countries, up drastically since President Bush has taken office.

This chart that the gentleman showed dealing with retired workers of 62.8 percent that is dealing with Social Security, that the benefits they are receiving, 13 percent of workers that have disabilities. I mean, these are real issues that are facing families in America right now, and this is a moral issue as the gentleman mentioned.

Spouses with children, 10.1 percent, and survivor benefits, the highest outside of retired workers, 14.1 percent. These are individuals that their loved ones, mothers and fathers, have passed on, and they are living on the benefits that they left behind. Sometimes that is all they had to leave. The most shocking chart that the gentleman provided to all of us here is how the benefit structure goes down, 34,587 cut.

I want to thank the gentlewoman from California (Ms. PELOSI), the Democratic leader, once again for allowing us to have this time.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1544, FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS ACT OF 2005

Mr. SESSIONS (during the Special Order of Mr. MEEK of Florida) from the Committee on Rules submitted a privileged report (Rept. No. 109–77) on the resolution (H. Res. 269) providing for consideration of the bill (H.R. 1544) to provide faster and smarter funding for first responders, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1279, GANG DETERRENCE AND COMMUNITY PROTECTION ACT OF 2005

Mr. SESSIONS (during the Special Order of Mr. MEEK of Florida) from the Committee on Rules submitted a privileged report (Rept. No. 109–76) on the resolution (H. Res. 268) providing for consideration of the bill (H.R. 1279) to amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals and for other purposes, which was referred to the House Calendar and ordered to be printed.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1268) "An Act Making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes."

The message also announced that the Senate has agreed to without amendment concurrent resolutions of the House of the following titles:

H. Con. Res. 26. Concurrent resolution honoring the Tuskegee Airmen for their bravery in fighting for our freedom in World War II, and for their contribution in creating an integrated United States Air Force.

H. Con. Res. 127. Concurrent resolution calling on the Government of the Federal Republic of Nigeria to transfer Charles Ghankay Taylor, former President of the Republic of Liberia, to the Special Court for Sierra Leone to be tried for war crimes, crimes against humanity, and other serious violations of international humanitarian law.

The message also announced that the Senate has agreed to a concurrent resolution of the following title:

S. Con. Res. 31. Concurrent resolution to correct the enrollment of H.R. 1268.

EDUCATION IN THE UNITED STATES

The SPEAKER pro tempore (Mr. MARCHANT). Under the Speaker's announced policy of January 4, 2005, the gentleman from Delaware (Mr. CASTLE) is recognized for 60 minutes as the designee of the majority leader.

Mr. CASTLE. Mr. Speaker, I am pleased to be here. I am pleased to follow the 30-Somethings, although I am a little bit old for them. I think the gentleman from South Carolina (Mr. SPRATT) might be a little bit old for that as well, but I want to talk about a different subject matter, as interesting as Social Security is, and I will share time with the gentleman from Michigan (Mr. EHLERS), my distinguished friend, on this subject which is essentially dealing with education in the United States of America and the Federal role in education which is frankly largely not understood by everybody who deals in education in this country. Perhaps we can bring a little bit of light to that.

The starting point here is really the Elementary and Secondary Education Act, which is right now 40 years of age. It was 40 years ago last month that President Lyndon B. Johnson signed what we know as ESEA, the Elementary and Secondary Education Act, into law, and the core mission of that Act when he signed it into law 40 years ago and was really one of the times the Federal Government has really got involved in education was to help disadvantaged students improve academically, certainly a laudatory goal I think as far as any of us are concerned.

We have now enacted No Child Left Behind, and many people refer to that as if it is something separate and different and new. What it really is, a lot of the elements of the Elementary and Secondary Education Act with an overlay of some additional requirements as far as standards and assessments are concerned.

President Johnson, when announcing his plans for the Great Society touted the goal of an end to poverty and racial injustice. When addressing education specifically he said, The Great Society is a place where every child can find knowledge to enrich his mind and to enlarge his talent.

The ESEA arguably triggered the most significant Federal role in elementary and secondary education. When he did sign that Act into law, President Johnson explained that, "By passing this bill, we bridge the gap between helplessness and hope for more than 5 million educationally deprived children."

So where are we now some 40 years later as we look at No Child Left Behind? Well, progress has been made since the enactment of the ESEA, and sometimes, it is hard to measure that, but I think by any standards, if you look at the various aspects of that Act, we can certainly claim that there has been progress. Nearly 4 decades later, however, poor and minority children still lag well behind the education curve. It obviously has been through a lot of cycles, kids going first through 12th grade in that 40 years.

In fact, a huge gap still remains when it comes to ensuring that all kids are actually learning. No Child Left Behind built upon numerous reauthorizations of the Elementary and Secondary Education Act and was driven to eradicate this problem and to ensure that every student will not only have access but will also receive a quality education.

The Federal Government has spent more than $300 billion on K-through-12 education since 1965, which was the date of enactment of the Elementary and Secondary Education Act. Yet that significant academic achievement gap that I referred to between disadvantaged students and their more affluent peers still exists in key subjects, such as reading and math.

According to the recent national data on this subject, by the time African-American students reach eighth grade, only 12 percent can read proficiently, and only 7 percent are proficient in math. Nationally the achievement gap between Hispanic and Caucasian fourth graders is 29 percentage points.

We have allowed ourselves to believe that some children are simply beyond our reach. No Child Left Behind is rooted in the belief, a different belief, that all students, regardless of race, background, income, geography or disability, can learn and must be given the chance to do so.

In the true spirit of President Johnson's vision, and like many other laws that passed during the Great Society, we are helping all students.

As Brent Staples recently wrote in the New York Times, No Child Left Behind happens to be the best hope of guaranteeing black and Latino children a chance at equal education. Its core requirements that States educate minority children to the same standards as white children breaks a century old tradition of educational unfairness.

I think that captures that as well as it can be captured in a short sentence or two.

For the past 3 years, the Federal Government, States, school districts, parents and especially students have been dedicated to reforms that ensure no child is limited. We are engaged as a Nation in a continuing dialogue about our public education system. Despite the often unfavorable tone, the fact remains that people outside the education community are focused on reforms established by No Child Left Behind. No Child Left Behind has its skeptics, and change is never easy.

Many have complained that the Department of Education has been inflexible with implementation. This has not, however, been the case. The U.S. Department of Education continues to not only be an important voice in helping to implement the law but an ear to some of these negative accounts.

Some of that flexibility I have put on this chart, which I have to my left, that they have undertaken, particularly in the last 2 years.

The first of these is flexibility on testing students with disabilities. It has been shown that some of these students simply are unable to stay up at a class level with other students, and some flexibility was introduced in order to address that, mainly in the percentage of children who would be exempted from the testing.

Flexibility on testing students with language barriers: Again, there are demands that the kids be able to master the English language and be able to test in that language eventually, but we are seeing the need for some slowdown there.

Flexibility for rural schools on high-quality teachers: High-quality teachers mean basically teachers who are proficient in the subject matter which they are teaching, and obviously, if you are a math teacher, you are proficient in math. You studied math or history or English or whatever it may be; you studied that particular subject. But obviously it is not always that easy, particularly in rural areas, particularly for teachers who are teaching more than one subject, that they be highly qualified in that area. So some latitude has been issued as far as that is concerned.

Flexibility of student attendance issues: Some of the attendance numbers were high, demanding some flexibility, although not much, was introduced in that particular category.

Flexibility toward raising student achievement, a new path for No Child Left Behind, and again, that is an important subject in terms of where we are going to advance as far as No Child Left Behind is concerned.

So the Department, I think, has been a lot more flexible than anyone has really given it credit for in terms of what they have done. They continue to review this, and some say, Well, what is happening in the Congress of the United States?

We, in the Congress, will look at this again, not this year or next year but the year after that in what we call reauthorization. So, in the meantime, the Department of Education is doing its job, and we are preparing to do our job as far as the reauthorization is concerned to make sure that this program works.

The bottom line is that students realize that there are standards in place now in all 50 of our States. There are assessments in the form of testing in place in all of our States, and probably, this will eventually go on as a matter of fact to high school, as well as the grades which it is in now, in a more formal sense than it does at this point.

Mr. Speaker, most recently, Secretary Spellings, who is now our Secretary of Education, by the way, and, I think, doing a splendid job, announced a set of guiding principles to help States implement No Child Left Behind while taking their unique situations into consideration.

I know my State, which is the State of Delaware, is that we have had a couple of submittals of different plans that have been accepted, and there has been a great deal of flexibility as far as the States are concerned, but these principles include ensuring students are learning, making the school system accountable, ensuring information is accessible and parental options are available and improving the quality of teachers. To me, it is pretty hard to fight these things. To me, that makes a heck of lot of sense in terms of educating the young people of America.

If a State is meeting all of these principles, the Department will take that into account when discussing amendments to State accountability plans. This approach, if carried out fairly and in the true intent of the law, could help some issues that have been raised throughout the implementation process.

So this is being looked at. These demands are being made. In a moment, I am going to return to this and talk about the funding and talk about some of the student test scores and how they are doing better now than they were before as we understand the difficulty of the greater demands which are there but of making absolutely sure that that is translated into help for our children across the United States of America.

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Before I do that, Mr. Speaker, I want to yield to my good friend, the gentleman from Michigan (Mr. EHLERS). I must just say this: my colleague has a scientific background. He is, I hate to use the word fanatic, but I can almost use it in this case, because when it comes to math and science, there is no person probably in the history of this Congress that has been more of an advocate for this than he has. And by an advocate, he goes out to see if there are laws he can change, speeches he can make, writings he can pursue in order to shift policies. And he has made a difference as far as that is concerned. He has been a stalwart friend of mine and a stalwart friend of, I think, everybody in education. He has been on the Committee on Education and the Workforce with me for a number of years now, and so it is always a pleasure to work with him.

So at this time I will yield to him, Mr. Speaker.

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding to me and for the glowing introduction. I would return the compliment, and the gentleman from Delaware has done a superb job of chairing the subcommittee dealing with education. I appreciate his efforts. He deals primarily with K–12 education and is largely responsible for all the good things that we have done and that he has been talking about.

My first comment is simply one I have to get off my chest, because I heard so many falsehoods about this last year during the campaign when individuals were asserting over and over and over that we Republicans had passed No Child Left Behind, but we had not provided funding for it. That is just utter nonsense. If you look at the history of what the appropriations were from the Federal Government for K–12 education before No Child Left Behind was passed and what they have been after, it is clear that there is a huge difference.

I believe my colleague will probably discuss that later and show a graph which shows how rapidly it has increased under the Republicans. Republicans are the true friends of education and have been for years; and this is a dramatic demonstration of it, increasing 148 percent in our funding over a short number of years.

Now that I have that off my chest, I will talk about math and science education. The No Child Left Behind bill contains some provisions which were not in there before, and that is that students not only will be tested on reading but also on math and science. They are being tested on mathematics right now to find out how well they are learning and how much they are learning. In the year 2007–2008, for the first time, they will be tested on science. And States are, as we speak, drawing up requirements, standards that the students must meet, and they are developing appropriate tests for those standards.

Now, why is math and science so important? A lot of people think, well, it is great if you want to be a doctor or an engineer or a scientist, fine, take math and science. But if you do not want to be any of those, why bother? Well, I will tell you why it is important. Because the jobs of the future are simply going to require that the individuals applying for those jobs have an understanding of the basic principles of science and mathematics. It is that straightforward.

I can give a good example of that just in my personal experience. Last year, I was driving down the highway and listening to National Public Radio, and they were doing a story about grease monkeys, or what used to be called grease monkeys, mechanics who work on cars. In the course of doing the story, they interviewed a service manager of a dealership and asked, what do you look for when you hire a new mechanic? He said, first of all, they have to have had high school algebra and high school physics.

That was amazing to me, because when I graduated from high school many years ago, those who were planning to become mechanics did not take physics or algebra because they did not need it. They were planning to be mechanics, so why bother taking it. But the world has changed. The cars back then had no computers under the hood. Today, there are literally hundreds of microchips under the hood of every car. And anyone who wishes to be a mechanic had better understand how to do the diagnostics, how to read the curves and graphs the diagnostic equipment displays. And so that is just one example out of many.

My district has a lot of manufacturing, as does much of Michigan; and when I tour those factories, it is a different world today. The people who work on those machines understand math and science. And if they do not, they will not get that job. They are making good money, $60,000 or $70,000 a year. But they earn it because they have studied hard to learn math and science, and they have learned it well.

Our country in the future is going to need good technicians, good mathematicians, good scientists, good engineers, but also good factory workers, because the jobs in the factories are changing. Jobs in retail are changing. Jobs in many areas of life are changing, and we have to do a better job than we have been.

How have we been doing compared to other countries? The Third International Mathematics and Science Study, which occurred a number of years ago, was very revealing. In the United States, the fourth grade was a little below average in mathematics. By eighth grade, we were way below average. By high school, our students, our high school students compared to those of other industrialized countries were second from the last.

Now, I have never regarded America as a Nation to be second from the bottom. I have never regarded our Nation to be average. We should be better than average. But our students are not performing in mathematics.

A similar test for physics was even worse. We were dead last of all industrialized nations in high school physics. More recent tests bear the same trend out. We are just not meeting the needs of the future. We are not competing with other nations. We are losing ground to them.

A lot of people say, why do kids really need it? Well, I talked about the jobs of the future, but let me outline that it is more than just that. We need scientists and engineers to provide the kind of innovation that will keep jobs here. We constantly complain about jobs going to China, to Mexico, to Thailand, and to India. Why are they going there? It is not just the different wage rate. It is the fact that they have highly trained scientists and engineers, whereas in America, engineering enrollments have gone down steadily for the past 20 years, just starting to come up the last couple of years.

In China, they went from producing far fewer engineers than we do to producing more than four times as many engineers every year as we do, and they are beginning to innovate. They are beginning to develop new products. They are developing new factories, and we are falling behind in that.

But there are other reasons to teach math and science. Consumers today need to know when they are in the marketplace, they have to know something about science to read all the labels on materials and understand what there is in these foods and what is in these products they are buying, whether they are safe or not, and how do you read the labels, the content labels and the warnings.

Also, voters have to know. Today, with referenda, particularly in California, they frequently have referenda on things such as the environment. Last election they had one on stem cells. How are the people supposed to vote on these if they know nothing about math and science?

Math and science also produces thinkers and learners. It is a different learning process to learn math and science. I hear this a lot from people: oh, it is so hard. Do our kids really have to take it? Or, I just could not get math when I was in school. I hear this over and over. What they fail to recognize is that math and science require a different mode of thought because science uses a different mode of inquiry. I do not think it is any harder than anything else, but it is a different way of learning, something most students have not experienced before if they have not had good math and science education in the first eight grades.

I recall a case where I was teaching a student when I was a professor at the University of California at Berkeley.

She came in with a total mental block. This was the most elementary physics course in the department, Physical Science 10. She said, I cannot get this stuff. I cannot get it. I cannot get it. And I worked and worked with her, and spent hours with her; and finally she saw the light and learned how to think properly. I had not heard from her for years after she left my class. When I came to Congress, I got a little note from her. She is now the director of a laboratory in Wisconsin. So even someone who felt they had no hope of passing learned how to learn, and from then on it was good.

But also we have other reasons for it. Economic security. The better jobs go to those who understand math and science. National security. The Rudman Report of a few years ago made the most striking statement I have heard, and that is that the greatest danger our Nation faces beyond nuclear war is the fact our students are not able to compete in the world market and, therefore, we are facing dramatic problems in our Nation if we do not improve.

Now, what can we do about this? Everyone always blames the teachers first. I have worked with teachers in the classroom for some 30 years. I have gone in the classrooms, I have taught myself. I have taught the teachers how to teach students, and I will not say a bad word about the teachers. Because all the teachers I worked with earnestly wanted to do a better job of teaching. The problem is they had not been taught math or science properly. They had not been taught how to teach it properly, and they just felt it was hopeless. They did not know where to start, what could they do.

So I believe our role as the Federal Government is to provide training opportunities, both preservice and inservice training for teachers, teaching them math and science, but also how to teach math and science. In addition to that, we need improved curricula that really teaches science the way it should be taught.

The way to teach science is by doing it, not by talking about it; and that we have to get across. Because the kids love science if it is taught by doing it. They love doing the experiments. They love figuring it out. But if they have to just sit and read a book and memorize all the terms of science, it is not going to appeal to them, and they will not learn what science is all about.

So we need inquiry-centered curricula. We need hands-on curricula, where kids actually use materials and work with them; but it also has to be based on the concepts of science. Too often education programs emphasize either inquiry or they emphasize the hands-on approach or they emphasize concepts, and they all argue with each other about what approach to take. To me the answer is simple: it is all of them. You combine all of those and develop curricula that really meet the needs of the kids, keep them excited and interested, and also provide the teacher training so the teachers can teach those courses.

We are facing a crisis because of this. But there is another reason: India and China. Almost 20 years ago, India made the decision that the only way they were going to compete in the world today is by developing strong backgrounds in math and science, and they had a unique way of doing it. They set up an institute of science, mathematics, theoretical physics, and all these things, similar to MIT and Harvard combined, and set that as the goal for every child in the nation to achieve. And it really worked. All the parents wanted their kids to go to that school. It was the best school in India, and arguably one of the best in the world. So the parents wanted their kids to go. They made sure they studied math and science hard.

Now, obviously, not all of them made it; but in the process of trying, many of them ended up learning enough math and science so that when they got to the university, they could study more math and science and choose one of many different careers.

In conclusion, let me just say that we live in a very competitive global economy. If we are serious about competing in this global economy, we have to make certain that we work smarter. And to do that we have to make sure that our kids are smarter: that they learn the right things in school; that they are fit for the job market of the future; that we can compete with these other nations and beat them at their own game, and that we can maintain our strong economy in the face of this global competition.

With that, Mr. Speaker, I am pleased to yield back to the gentleman from Delaware, and I thank him for accommodating me for such a lengthy discourse.

□ 2115

Mr. CASTLE. Mr. Speaker, I thank the gentleman from Michigan for his continuing and abiding interest in this subject. I am afraid sometimes the rest of us do not take as much note of it as he does. Perhaps we had a little trouble with the math and science ourselves, I guess. But I understand how important that is. Every time I talk to companies, to people who come into Delaware looking to locate in Delaware, they make a big fuss about that. We happen to have more Ph.D.'s per capita than any other county in the country in New Castle County. As a result of that, there is a great deal of interest in research in our area. I understand the importance of this. We need to sell the message to a lot of people out there. The gentleman from Michigan is the one who really helps sell it.

Mr. EHLERS. If the gentleman will yield, I want to thank the gentleman for his comments. It just reminded me of something I often say to students when I am in high schools. I tell them, Look, you have a choice: You can either be a nerd, or you can end up working for a nerd. Which would you rather be? That is what it is likely to come down to in the future because, if you do not understand math and science, you are not going to have a really quality job.

Mr. CASTLE. I thank the gentleman for all his help in this area. He touched on something that I want to turn to now with these charts because some of the strongest criticism that we have heard concerning No Child Left Behind has been with respect to the funding, specifically the Federal Government's role in funding the Elementary and Secondary Education Act.

If we look carefully at these charts, we begin to get the true picture of what is happening in the funding. Let me go through it word by word. Education Funding, Discretionary Appropriation Increases, Fiscal Year 1996 to Fiscal Year 2005. This is what the Federal Government has done for the funding of education. Although it says the Department of Education here, this money basically flows through to our States and school districts throughout this country. Federal funding for education has more than doubled over the past 9 years. Under the final fiscal year 2005 appropriations bill, discretionary funding for the Department of Education climbed from $23 billion in fiscal year 1996 to $57 billion for fiscal year 2005. That is an increase of 148 percent. That is a tremendous increase. We are talking about 15 percent, and maybe the math comes in handy here, 15 percent or more on an annualized basis. Most costs of living, when you measure it in government programs, is just that; it is cost of living. Usually it is 2 or 3 percent. So the Federal Government has stepped forward and said, We are going to make a larger commitment to education, and we have done that in the course of the last 9 years. I do not have the chart here to show this, but I would be willing to put a lot of money on the fact that the States and the local school districts have not been able to keep up with this particular pace of funding that has gone into education.

Just one more chart while we are looking at these charts, and that is funding for programs under the No Child Left Behind Act, a 40 percent increase in 5 years, showing that, in the last 5 years since No Child Left Behind, we have also had very significant increases as far as No Child Left Behind is concerned to help with those programs. These are programs, by the way, which were being put into place by most of the States and most of the school districts in this country even before No Child Left Behind came along. I am very dubious of any argument saying the Federal Government has not done its share as far as that is concerned. I am discouraged, frankly, by States and organizations that focus more on the funding levels than on what the law is supposed to ultimately be providing to students, which is a quality education and the opportunity for future success. Many even argue that it is an unfunded mandate, that it is impossible for schools to implement the law at the funding levels provided by Washington, D.C.; This is a disingenuous argument at the very best.

The nonpartisan Government Accountability Office, which you may know as GAO, released a report in May 2004 which discredits comments that No Child Left Behind is an unfunded mandate. The GAO reviewed more than 500 different statutes and regulations enacted in 2001 and 2002 and officially concluded No Child Left Behind is not an unfunded mandate. Even more clear are the significant increases in Federal funding of Elementary and Secondary Education Act programs since the enactment of No Child Left Behind as was shown by those charts. According to the U.S. Department of Education, Federal funding for programs encompassed by No Child Left Behind has increased $17.4 billion, as I indicated, representing a 40 percent increase in just 3 years. Included in this number is title I funding for disadvantaged students and schools, which is funded at $12.7 billion in fiscal year 2005, an increase of 45 percent since No Child Left Behind was signed into law. That is significant, because that is the money that is going to the schools that have the most low-income children in their schools.

It should also be noted that, in 1994, President Bill Clinton signed the Improving America's Schools Act, a reauthorization of the ESEA, that required States to develop standards and aligned assessments for all students. Districts were required to identify schools not making adequate yearly progress and take steps to improve them. Bill Clinton, 1994.

This makes two important points. First, States across the country should already have been implementing accountability systems similar to what is required under No Child Left Behind. The previous reauthorization included many of the same provisions, just without the necessary teeth to ensure compliance. Second, during that time, Congress did not appropriate the same levels as were authorized in the act. Democrats funded education in the same manner when they controlled Congress and the White House.

Yes, raising the student achievement levels are difficult and expensive. The fact remains that the Congress has been funding the program. States and organizations should not be avoiding their responsibilities to students on the back of a failed funding argument.

The hard work and dedication of those implementing No Child Left Behind is clear, and we can all agree with the law's goals. We are beginning to see results. Many educators across the country have stepped up to the plate. New test results for the 2003–2004 school year show students are posting high math and reading scores on States' tests. For example, in my home State of Delaware, scores have improved in three out of four grade levels in all three subjects tested, reading, writing and math. Fifth grade reading performance in Delaware climbed to 85 percent, a seven percentage point increase from last year. In Ohio, fourth grade math scores improved from 58 percent last year to 66 percent this year. Additionally, according to the Chicago Tribune, students in every grade level posted increased scores on statewide reading and math tests in the 2003–2004 school year. Finally, according to a 2004 study by the Council of Great City Schools, the achievement gap is narrowing in both reading and math between African-American and Caucasian and Hispanic and Caucasian students in our Nation's inner city schools, and they attribute the positive change in part to No Child Left Behind.

We must also recognize that the job is not done. We must see to it that all children are receiving a quality education. No Child Left Behind is a step in this direction, and we must stay the course. Any attempts to change the system would play into the hands of those who support the status quo, effectively preserving a failed system that does not ask if children are learning.

CHINA

The SPEAKER pro tempore (Mr. JINDAL). Under the Speaker's announced policy of January 4, 2005, the gentleman from Ohio (Mr. RYAN) is recognized for 60 minutes.

Mr. RYAN of Ohio. Mr. Speaker, I appreciate the opportunity here to address the House on an issue that I think has become more and more pertinent to the American people and to the American economy. One issue that I hear about almost as much as I hear about the Social Security issue back home in my district, which is northeast Ohio, I hear about the issue of China. We cannot, I do not think, speak of any kind of economic recovery in the United States of America or talk about providing middle-class people with high-wage, high-paying jobs until we figure out the issue of China. I am going to have a brief discussion here tonight and show some charts just to kind of outline what has been happening here in the United States of America.

Quite frankly, I feel like it was an issue that was not discussed enough in the last presidential election. I feel like this is an issue that the American people want the politicians that are here in Washington, D.C., in this Chamber and leaders in government to talk about, and we have not been. Hopefully, with some legislation that I have offered with the gentleman from California (Mr. HUNTER), the China Currency Manipulation Act, this issue will become and come to the forefront of American politics. I just want to share with the American people some statistics, some charts that I think help outline exactly what has been happening.

This first chart here is the State crisis. It outlines here how many manufacturing jobs have been lost in the United States from June of 1998 to February 2005. As you can see, the red States here have lost more than 20 percent of the manufacturing that they have in their States. You can see the red from Maine, mostly in the Northeast-Midwest quadrant, Ohio, Michigan. Ohio lost 216,000 manufacturing jobs. Then between 15 and 20 percent of manufacturing jobs lost are in the deep blue or the deep purple, Georgia, Florida, Texas, New Mexico, Arizona, California, between 15 and 20 percent of manufacturing. These are the high-wage, high-paying jobs that have health care, that have a good retirement, that have a good pension. These are the kind of jobs that drive the middle class forward. And these are the kind of jobs and the kind of companies in Ohio and elsewhere that pay taxes, that workers pay taxes. They vote for school levies. They vote for mental health levies. They vote for library levies. They vote for all the things that are needed to help lift up local communities. What has happened because of this crisis that we have here, local communities are beginning to suffer. They are not able to pass the police and fire levy because the 216,600 workers who no longer work in a high-wage manufacturing jobs are left to go to Wal-Mart, are left to go to Super K or Kohl's and make very little money without health care benefits. If we think that we are going to maintain the kind of prestigious global power that we are today and hopefully will continue to be, there is no way we can do this by replacing General Motors with Wal-Mart or replacing Wal-Mart for General Electric. That is not going to be a great America in the 21st century. This graph, this billboard here, illustrates that point.

And so the issue of China inevitably comes up, and how are we going to deal with it? Because we know, whether you are the owner of a small machine shop or a mold shop or in some light manufacturing, it is the Chinese goods that are coming into the United States that are helping wipe out the manufacturing that is here now. What is happening is the Chinese are manipulating their currency, and they are manipulating their currency to the rate of 40 cents on the dollar.

I have a factory back at home. They make tubing when you put up the sprinkler systems in industrial facilities and commercial facilities. It is called Wheatland Tube. Wheatland Tube has been a great company and still is. They have invested over $8 million in the United States over the past few years. Their product is competing with a Chinese product. The Chinese are shipping their tubes into the United States. When the Chinese product, fully assembled, completely at the end of the manufacturing process, when it arrives in the United States of America, that Chinese tube is the same cost as the raw materials that Wheatland Tube has to buy. Wheatland Tube has not even begun the process of making their tubes. But the Chinese tubes have already been manufactured and produced, arrive in the United States less than the cost or the same cost as the raw materials for the United States company.

☐ 2130

How can the United States company compete with that? It cannot, and that is why the United States in the previous billboard looked like it did.

This is a graph that has the U.S. annual trade with China. This line here, the gold line with the blue dots going up, is imports. These are Chinese products coming into the United States, and it goes up to $200 billion in 2004. And we can see where it was in the mid-1980s and early 1990s, and it slowly began to rise.

The exports, what we are shipping to the Chinese, is this blue line, coming straight across. We are not able to increase our exports. And the funny thing is, if the Members remember back when we were signing all these trade agreements in the 1990s, when we were talking about we have to open up markets and we have to export products from the United States so that other people will buy them and we will make them here and we will ship them off and it will be great, that has not happened with the Chinese.

We were told when we signed PNTR, Permanent Normal Trade Relations with China, most favored nation trade status with the Chinese, we were told there is 1.3 billion people in China, we want to sell our products to the Chinese. It has not happened. It simply has not happened. These are the goods we are importing, these in the blue line is what we are exporting, and it is not working out. And when we look at the top 15 exports from the United States to China, three are either waste or scrap products, three of the 15. Four of the 15 are raw materials or agricultural products, and six of the 15 are parts, which basically means we are exporting parts, raw materials, scrap, to China, which are manufactured there and shipped back only to be imported here in the United States.

The gold bars are the trade numbers with China, the deficit that we have, $162 billion trade deficit with the Chinese. We are importing $162 billion more than we are exporting to the Chinese. They are wiping out the middle class in the United States of America because of our trade policies here and because we are allowing the Chinese to manipulate their currency.

Now, if the currency situation was fixed in China, if they were not gaining a 40 cents on the dollar advantage, Chinese products that were made in China, the price would go up; and if the price goes up and they still try to ship it to the United States, our goods here would be more competitive, and then the Chinese would have currency that had more value so that when we shipped products, when we exported products to China, our prices coming from the U.S. would actually be cheaper to the Chinese consumers.

And the Chinese agreed, when they came into the World Trade Organization, that they were going to be fair brokers and they wanted to be a part of the global system. And we are not seeing much action by the Chinese. And, quite frankly, we need to be firmer here in the United States. And that is why the gentleman from California (Chairman HUNTER) and I, along with the gentleman from Wisconsin (Chairman SENSENBRENNER), who signed on to our legislation, the gentleman from Illinois (Chairman MANZULLO), AFL–CIO, China Currency Coalition, a lot of the small business trade groups, this is not a Republican or Democrat issue. This is an American issue. This is an American issue. And if we do not fix it, there is not going to be a middle class in the United States of America, and we are going to continue to see some of the older industrial cities and industrial areas in our country continue to struggle. Whether it is the county funding, police and fire, schools, we are not going to be able to survive.

This is a startling, stunning chart. This is the U.S. trade balance in goods. The U.S. trade balance in goods. The goods deficit which covers manufactured products hit a record $651 billion in 2004. And from 1998 to 2004, a $421 billion jump, just in these few years, from 1998. These are the hardcore manufacturing products which contribute to job loss here in the United States: steel, supply chains for all of the major corporations that have moved and have altered the trade balance with the Chinese to the tune of $651 billion.

So we have to ask ourselves, why do we continue down a road where we are losing, we are losing this battle? And I do not know about anyone else, but I keep score, and when we are losing, we need to stop doing what we are doing and fix it and apply the pressure to the Chinese that we need to apply until they fix at least their currency problem that is cheating everyone else who is trying to buy their products and in the U.S. up to 40 cents on the dollar. They are cheating.

And the reason this is so urgent for the United States of America to act now and not wait 10 years from now, not take the slow, diplomatic process that we have been taking, the reason it is so imperative is right now we are buying all their products. Right now we are consuming all of the Chinese products. They need us now. They need us now. And when they need us, that is when we have leverage to move.

Now, we also need to balance our budget because the Chinese are helping fund our $500 billion deficit. So we ought to do our job here. But at the same time, we need to recognize what the U.S.-China Commission said and told Congress, submitted a report. First it said that the overall trade situation with the Chinese had an overall negative impact on the United States, overall negative. A bipartisan commission, people from the Reagan administration, people from the Clinton and Carter administrations, totally bipartisan.

The Chinese trade has overall negative implications on the United States. That is scary enough. But they went on to say that we have about a decade in the United States, about a decade, to fix this problem because at some point we are not going to be consuming as much as we are, because we are not going to have the kind of money here that we have now. We are not going to have the kind of wealth to be buying if we continue to go down this road. If jobs that pay $50,000 or $60,000 are getting replaced by jobs that are paying $30,000 or $35,000 without health care benefits, there is only so much we can consume, and that is what is happening. The jobs replacing the jobs that are leaving are $10,000 to $12,000 less a year without health care benefits.

So how are we going to keep up? And what the U.S.-China Commission has told us is that we have about a decade and we had better fix it now. And that is why this is so urgent. That is why we see bills, the Schumer-Graham bill in the Senate, talking about putting on 27 percent tariffs on Chinese goods coming into this country to try to stem some of this tide that is coming in, or whether it is the WTO-compliant Ryan-Hunter bill that is gaining a lot of support here in this Chamber because Members are beginning to recognize that this is a real problem in the country.

Our bill does not violate any of the WTO rules. It is compliant with the World Trade Organization, which I am not exactly thrilled with the World Trade Organization. I do not like the way they operate. I do not think it is a democratic body. I think it rubber stamps decisions for multinational companies. There is no doubt about it. But what happens a lot here is someone will put a bill up that will say put 27 percent tariffs or 30 percent tariffs on Chinese goods and a lot of people in this body will say that is not WTO compliant, so we will not even look at it.

So the gentleman from California (Chairman HUNTER) and I went out of our way with a lot of very smart people to compose a bill that is WTO compliant because we want to get over that first hurdle. And we have because we have a good bill, and that is why it is gaining the kind of steam it is gaining. WTO compliant. And it allows the President to recognize currency manipulation for what it is, and that is a subsidy; and so it should be seen as any other kind of subsidy that other countries give in order to ship products into our country and hurt us domestically.

Currency manipulation is no different. If we are gaining 40 cents on the dollar, then that is subsidy; and it is no different than any other kind of subsidy. And our bill gives the President the tools he needs. We want to work with the administration. We have got three Chairs of Republican committees on this bill with the AFL–CIO, with the China Currency Coalition, with a tremendous amount of trade groups, mostly Republican small business owners. This is not a Democrat or Republican issue. And it is time for us in Congress to get the guts we need to make this happen because it is hurting average people in the country.

This is the U.S. manufacturing employment from January of 1999 to March of 2005. And we can see here that in January of 1991 we were at about 17.3 million jobs, manufacturing jobs; and we hit the recession in the early 1990s and we came out of it and peaked out in 1998–1999 at over 17.6 million manufacturing jobs. Not too bad. And then we peaked off in the end of the century; and when we hit January of 2001, here comes the downward slide, from 17.6 million in 1999 all the way down to under about 14.3 million jobs in March of 2005.

Look at this slide in U.S. manufacturing. And, again, it is the manufacturing jobs that are the jobs that have the high wages. They are the jobs that pay a decent wage, a real wage. They are the jobs that provide health care. These are the shops that are part of communities all over the country. These are not the big multinationals who can have the wherewithal to pick up and go over to China and ship the products back. These are the people who live in our communities who donate to the church. They are the small business owner who would donate to the school and give that little extra and the workers who had solid work can work overtime and contribute to their union and to their church and to the civic organizations in local communities, which would be the tax base that supported a lot of the local community.

□ 2145

We have all been there. In Northeast Ohio, it seems like it happens all too much, where a local company that has been in your community for 100 years, or 50 years or 60 years, all of a sudden cannot compete anymore. Then the county and the city and the local school district loses hundreds of thousands of dollars, and the crunch, the squeeze on the people in that community continues, and it ultimately results in a weaker United States of America.

Just a few final charts here.

We were told MFN, PNTR, NAFTA. Now we want to pass CAFTA here, which I do not think is going to make it. Now we are being told here in the U.S., and we were told all throughout the nineties, we are going to sign these trade agreements, and it is going to be really great, because the low wage jobs are going to go to the other countries and we are going to keep all the high-tech, high-wage jobs here in the United States and it is going to be a panacea here. Everyone is going to have a good job and work with their brains and not with their hands, and it is going to be great.

This is the total trade balance in advanced technology products. These are the millions of U.S. dollars. We had in the early nineties a surplus of millions and millions of U.S. dollars, all throughout the early nineties, throughout the mid-nineties into the late-nineties, and then we began the decline. These are advanced technology products. These are the things that appear in the computers. These are the things that appear in your cars, that you do not really know how they work, in airplanes, in televisions. We are losing this too.

We were told we were going to win on these. We are still losing on that too to the tune of millions and millions of dollars in deficits in the United States of America. This is a trend we need to begin to turn around, or our kids are going to be left with a country that is not as strong as it should be.

So we have been told, as the gentleman from South Carolina (Mr. SPRATT) said about an hour ago in this very Chamber as we were talking about a lack of job creation and more or less tied to Social Security, the key in the United States of America, if we are going to compete, is we are in the process of creating a new economy and we do not really know what it is. We want to help with the Chinese and we need to fix the currency manipulation problem, and I think we are applying a lot of pressure to the Chinese now with some of the legislation we have here. Hopefully they will be able to do it on their own and we will not have to implement the kind of reforms here in the U.S. to give the President the power to do that. We want that done.

But, at the same time here at home, we cannot talk about our trade issues, we cannot talk about China, without fixing the problem here at home. We need healthy and educated students in the United States of America who have access to a quality education in any school in the country, because that is the only way that they are going to move themselves forward, that is the only way they are going to be able to lift themselves out of poverty, that is the only way that these communities are going to be able to create and generate enough wealth, enough wealth, to be able to fund their schools and provide for libraries and all the different sorts of services that need to be funded. So we need to focus on education, as well as dealing with the China currency manipulation issue.

This is the budget the President submitted on education. Fifty appropriations will be below current services in the billions of dollars with that budget. You can see there are cuts of $2.5 billion in 2006, $6.2 billion in 2007, and then the same and even greater in 2008, 2009, and, by 2010, cuts of $11.9 billion in the various education programs.

Something the 30–Something Group and I have been working on for a good many years now is college tuition and the Pell Grant. The Pell Grant, when it started, would account for 80 percent of a student's college tuition, 80 percent. Today a Pell Grant accounts for a little over 40 percent of a student's college tuition. An average student graduates with over $20,000 in loans.

Here is what we are doing, the outpaced college tuition compared to what the Pell Grant is. Here is the Pell Grant minimum award, here in light purple, the Pell Grant maximum award in the navy blue, and then the average cost of tuition and fees in a four-year public college setting.

You can see how much it outpaces that, so this grant here no longer meets the need of what the average college student needs in order to go to school and get an education and allow them to compete.

So we have our work cut out for us. I commend to the American people this week's Newsweek, May 9 and the title, "China's Century, a Special Report." "China's Century."

The reason this is so urgent for us is not because America is perfect and not that America does not make mistakes, because we have, and we have articulated many of them on the floor here over the years, and we will continue to make mistakes. But when the question comes as to who will lead the world in the 21st century, will it be the Chinese? Will it be a Communist regime that is currently manipulating their currency?

Will it be a Communist regime that is spending mass amounts on their military budget? Is it the Communist regime that has no concern for worker rights? Is it the Communist regime that has no concern for the environment? Is it the Communist regime that has no concern for human rights? Is it going to be the Communist regime that has no concern for religious freedom? Is it going to be the Communist regime that will promote and implement a policy of forced abortions on their own citizens?

Or will it be the United States of America? Will it be the country that has promoted the middle-class, the country that does stand for freedom? We have many warts, but we do promote democracy. There are disagreements on how we go about it, but this is a democratically elected body here of human beings, of American citizens who make human mistakes. But this is a lot better, and this country is best to lead the world in the 21st century, not a Communist regime who has no concern for the human rights of other citizens.

That is what is at stake here in this whole debate. We could talk about currency manipulation and trade and funding and all these different political issues, but the bottom line with this whole situation is who is going to lead the world in the 21st century? If you want it to be the United States of America, we better use this window of opportunity to play tough with the Chinese; to tell them to fix their currency manipulation, or face the consequences.

This body needs to provide the President with the tools that he needs to be tough with the Chinese and force them to fix this issue, and then we come back home and we fix and fund and implement education reform and funding for education and funding for health for young children and young students all over the country, and let us get ready to go to battle in the 21st century with healthy, educated kids who have an opportunity at schools all over the country, with access to the arts and speech and debate and drama and music and foreign languages.

We can do it, but we have got to make it a priority and we have got to make it a goal. And this all starts, Mr. Speaker, with making sure the Chinese, if they want to participate in the global economy, they do it in a fair way. They agreed to play fair, and now they are cheating.

This body is primed to act, and we are going to act. It is going to start with facing down the currency manipulation problem and not allowing the Chinese to cheat to the tune of 40 cents on the dollar.

CONSTITUTIONAL GUIDELINES FOR SUPREME COURT DECISIONS

The SPEAKER pro tempore (Mr. JINDAL). Under the Speaker's announced policy of January 4, 2005, the gentleman from Texas (Mr. POE) is recognized for 60 minutes.

Mr. POE. Mr. Speaker, "I solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and I will faithfully discharge the duties of the office of which I am about to enter, so help me God."

Mr. Speaker, this is the judicial oath that justices of the United States Supreme Court take to uphold America's Constitution, the sacred manuscript our Nation was established upon, the foundation of who we are.

Yet, Mr. Speaker, some of the same justices who preside over the highest court in our land are systematically unraveling the threads of the very Constitution they vowed to protect. In what amounts to a most disturbing development, the United States Supreme Court continues to flirt with the temptations of foreign court decisions and the lure of opinions of international organizations. They do this in the interpretation of our American Constitution.

Mr. Speaker, this trend is terribly troubling. Has the Supreme Court lost its way?

As a former Texas judge for over 22 years, having heard 25,000 criminal cases, I took the same oath as our Supreme Court justices, to uphold the United States Constitution. Never once did I make a decision based upon the way they do things in other countries. My oath was to our Constitution, not to the Constitution of the member countries of the European Union, such as France. America should not confer with the decisions of any of the hundreds of foreign powers on our planet. As Anthony Scalia, our justice on the Supreme Court has said, "those decisions are irrelevant in the United States."

In 1776, amidst a revolution, our forefathers signed the Declaration of Independence which stated brazenly and boldly the 13 colonies desire to dissolve political bonds with England. In this document, Mr. Speaker, Thomas Jefferson penned among the list of grievances against King George the following statement: He said of King George, "He has combined with others to subject us to a jurisdiction foreign to our Constitution and unacknowledged by our laws."

Mr. Speaker, 10,000 to 14,000 patriots over the course of 8 years in the American War of Independence spilled their blood or died to secure liberty for us and safeguard our constitutional rights.

□ 2200

The purpose was to sever ties with England forever. Then, in 1812, the British invaded the United States again. The British still wanted America to be subject to the King and their ways. They burned this very city, including our Capitol. President Madison and his wife, Dolly, fled Washington, D.C. in the damp darkness of the dreadful night to escape the invaders. The British were determined to retake this free Nation of America and this very soil on which I stand today. Americans defeated the British a second time to make them understand that we will not do things the English way.

Now, justices in this land of America, across the street from this very Capitol, use British court decisions and European thought in interpreting our Constitution. What the British could not accomplish by force, our Supreme Court has surrendered to them voluntarily. Has the Supreme Court handed over our sovereign Constitution to other nations? Mr. Speaker, has the Supreme Court lost its way?

The Constitution is the basis for who we are, what we believe, and what our values are. My colleagues will notice, Mr. Speaker, the oath our judges take is to the Constitution; not to the government, not to the President. It is to the Constitution. That is because the Constitution is the supreme authority of the land. It is our identity. It is our path to justice for all Americans.

The Framers of the Constitution made clear their vision for the Federal judiciary. Named in Article III behind both of the other branches of government, the Founders intended a court system with a narrow scope and restricted authority. As Alexander Hamilton explained in one of the Federalist Papers, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the Constitution, because it will be the least in its capacity to annoy or injure them. He states that the judicial branch is, beyond comparison, the weakest of the three departments of power.

Mr. Hamilton continued in his Federalist Papers, the executive dispenses the honors, holds the sword of the community. The legislature commands the purchases, prescribes the rules by which the duties and the rights of every citizen are regulated. The judiciary, on the contrary, has no influence over either the sword or the purchases, no discretion, either of the strength or the wealth of the society, and can take no active resolution whatsoever. It may truly be said to have neither force nor will, but just judgment.

Mr. Hamilton was wrong. History now reveals that the Supreme Court has become the most powerful of all the branches of government, although it was intended to be the weakest. And the people of this country cannot hold them accountable for their actions. Nonetheless, Mr. Speaker, an alarming number of judges deem the Constitution a bendable document, more like a catalog of suggestions rather than the rule of law; a set of elastic principles which, at the end of the day, can be easily interchanged with the judge's own personal policy and emotional agenda. As one author on the topic of our judges has put it, they see their role limited only by the boundaries of their imaginations.

And in the case of consulting foreign statutes to determine rulings here in the United States, a majority of our nine Supreme Court Justices even encourage it. Justice Sandra Day O'Connor, for example, has said that although international law and the law of other nations are rarely binding on decisions in the United States and its courts, conclusions reached by other countries and by the international community should, at times, constitute persuasive authority in American courts.

Well, Mr. Speaker, if they are rarely binding, who decides when they are binding? Is this arbitrary justice? My question is, when do foreign court decisions matter, and when do they not matter? Do our judges pick and choose foreign decisions that they like and ignore those they personally do not like? Do they pick and choose to get a desired result?

Mr. Speaker, this is constitutional chaos. In one of her books where she shares her reflections on being a Supreme Court Justice, she goes on to say that she believes American judges and lawyers can benefit from broadening their horizons. I know from my experience, she says, at the Supreme Court that we often have much to learn from other jurisdictions. We Supreme Court Justices will find ourselves looking more frequently to decisions of constitutional courts, especially common law courts that have struggled with the same constitutional questions that we have. International law is no longer a specialty; it is vital if judges are to faithfully discharge their duties.

Mr. Speaker, all judges, all lawyers in the United States take oaths to faithfully discharge their duties to the United States Constitution. None of us took an oath to faithfully discharge international law and the duty to international law. Has the Supreme Court, Mr. Speaker, lost its way?

Another judge on our Supreme Court, Justice Ginsberg, also subscribes to the importance of international jurisprudence on the Court. She thinks the premise is wrong that you only look to your friends. She has asked why, if judges are free to consult commentary, restatements, treaties, writings of law professors, law students and law reviews, they should not analyze an opinion from, get this, the Supreme Court of Canada, the Constitutional Court of South Africa, the German Constitutional Court, or the European Court of Human Rights. In her view, the United States judiciary will be poor if we do not both share our experience with and learn from legal systems with values and a commitment to democracy similar to our own.

On a C-SPAN broadcast last month, another Justice, sympathetic to the use of international law and foreign court decisions, indicated that the Supreme Court is faced with more and more cases in which the laws of other countries apply. Where there is disagreement is how to use the law of other nations where we have some of those very open-ended interpretations of the word "liberty," and interpretations of the phrase "cruel and unusual punishment." This Justice believes it is appropriate in some instances to look to how other foreign courts may have decided similar issues. I ask, Mr. Speaker, what difference does it make how they do things in lands far, far away?

In 2002, Justice Paul Stevens in Thompson v. Oklahoma raised global norms regarding a particular type of punishment in his opinions. He states the conclusion that it would offend civilized standards of decency to execute a person who was less than 16 years of age at the time of his or her offense is consistent with the views that have been expressed by respected professional organizations, by other nations that share Anglo-American heritage, by leading members of the Western European Community, the American Bar Association, the American Law Institute, who have all formally expressed opposition to the death penalty for juveniles.

Although the death penalty has not been entirely abolished, he says, in the United Kingdom or New Zealand, in neither of these countries may a juvenile be executed. The death penalty has been abolished in West Germany, France, Portugal, the Netherlands, and all Scandinavian countries, and is available only for exceptional crimes such as treason in Canada, Italy, Spain, and Switzerland. He concludes by saying, juvenile executions are also prohibited in the Soviet Union.

Mr. Speaker, regardless of how we feel about the execution of juveniles, the question, Mr. Speaker, is not what they do in the Soviet Union, but what does the United States Constitution say about this issue. Has the Supreme Court, once again, lost its way?

The same year, in Atkins v. Virginia, the Court once again looked to foreign courts; and while only 13 years earlier our Supreme Court decided that decisions of foreign courts were not to enter into the determination of sentencing in the United States, the Supreme Court did the judicial flip-flop. Justice Stevens concluded in this case that there is a national consensus in reaching his opinion. Does this mean the end justifies the means?

In the footnotes explaining his decision, the Justices indicated they looked to briefs filed by religious groups, psychologists, polling data, and a brief offered by the European Union, a brief that was used eventually as blanket consensus, the voice of the global community at large. Well, what about the Constitution? Why not use the Constitution as our guide and only guide in making decisions by the Supreme Court?

But, Mr. Speaker, perhaps the most egregious perpetrator of citing foreign court opinions is Justice Kennedy. Mr. Kennedy continues to write decisions hardly based on the Constitution, but on international law. Which law is he beholden to? Is the Constitution not sufficient for him? In 2003, in a high-profile case involving my home State of Texas, the case of Lawrence v. Texas, Justice Kennedy referred to international standards in the Court's consideration of Texas laws. Revealing the Court's reliance on the views of a wider civilization, the majority opinion was inspired by previous rulings of the European Court of Human Rights. Well, who put the European Court of Human Rights in charge of us?

This year, in March, Roper v. Simmons, writing for a 5–4 majority, Supreme Court Justice Kennedy wrote, we have established the propriety and affirmed the necessity of referring to the evolving standards of decency that mark the progress of a maturing society to determine what punishments are so disproportionate as to be cruel and unusual. In making this decision, the majority judges looked to foreign lands to interpret what cruel and unusual means in our Constitution. In dissenting, Justice Scalia, Chief Justice William Rehnquist, and Justice Thomas, on the other hand, said they do not believe that approval of other nations and people should buttress our commitment to American principles any more than disapproval by other nations and people should weaken that commitment.

Mr. Speaker, I realize the Constitution is an old document, well over 200 years; but this idea of "evolving standards of decency" is simply ridiculous. Values are timeless. American values are timeless. American standards are timeless, and they are in the Constitution.

The list of decisions against our Constitution, Mr. Speaker, is a deep cavern of vile destruction. Other verdicts handed down by the Supreme Court include citations of legal opinions from foreign courts in Jamaica, India, and the ultimate beacon of justice, Zimbabwe. Mr. Speaker, has the Supreme Court lost its way?

Let me give my colleagues an analogy. If, as a judge, I had a thief, a shoplifter appear before me who had stolen many times before and I ordered that his hand be chopped off in the public square, I suspect his attorney would object, saying, this violates the constitutional provision of cruel and unusual punishment in the eighth amendment. While the attorney would be correct based upon our Constitution, my response could well be, well, Mr. Lawyer, they chop hands off in other countries for this type of crime, so since other countries do it and they find it logical, I will accept these foreign courts in making my decisions.

Mr. Speaker, in Texas, I would have been removed from the bench for such nonsense. So why do we tolerate our Supreme Court using this same rationale going to foreign courts in their decisionmaking?

Mr. Speaker, these controversial decisions that have emerged from our Supreme Court have prompted a growing contingent of former judges in this body to join me in signing a letter to the Senate Committee on the Judiciary. I, along with my fellow gentlemen from Texas, (Mr. CARTER) (Mr. HALL) (Mr. GOHMERT), as well as the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Alabama (Mr. ADERHOLT), all former judges in their respective States, have urged our Senate colleagues to consider a nominee's allegiance to the United States Constitution and the sovereignty of the United States when imparting their advice and consent role in the Presidential appointment process in our Senate.

When any court in the United States, Mr. Speaker, begins to permit foreign sentiments to ooze into its rulings and opinions, it dangerously weakens our sovereignty. These irresponsible allowances erode our unique political identity and the sound traditions upon which American law is established. From the mere founding of our country, our laws and courts have respected and honored the sovereignty of the United States and the supremacy of our Constitution.

My colleagues will notice, Mr. Speaker, I am not discussing or criticizing the results of the Supreme Court decisions and their holdings.

□ 2215

I have been careful not to comment on the results of these numerous cases where the Supreme Court reaches out to foreign courts to make their decision. While somewhat relevant, since these decisions are the law of the land, the complaint is the process and method by which the Supreme Court makes decisions. The use of foreign courts, emotions, personal opinions, result-oriented decisions, personal agendas, feelings and the opinions of focus groups is, as Justice Scalia says, totally irrelevant. The only thing that matters is the Constitution.

Unfortunately, we now seem to have some jurists in our Supreme Court who have lost their way, their balance. They have forsaken the process founded by our forefathers. They are disregarding boundaries etched into the foundation of our Constitution.

Justice Scalia may be one of the last strongholds we have against judicial tyranny in today's Supreme Court. He understands the importance in honoring the original meaning of the constitution, that it is the supreme law of the land. He rightly maintains that foreign pronouncements are totally irrelevant when it comes to our courts and our Supreme Court in making their decisions.

Mr. Speaker, this is not a partisan issue. It is an issue of who will stand with the Constitution and who will stand with foreign courts.

I urge my colleagues in both chambers to support measures that aim to curb the way our Supreme Court makes its decisions, that they should be responsible to the Constitution of the United States.

As Thomas Jefferson, author of the Declaration of Independence, warned in an August 18, 1821, letter to a friend, Charles Hammond, a lawyer who argued before the Supreme Court, he says, that is Mr. Jefferson: The germ of dissolution of our Federal Government is in the Federal judiciary, working like gravity by night and day, gaining a little today, a little tomorrow, advancing its noiseless step like a thief over the field of jurisdiction until all shall be usurped.

Mr. Jefferson was a prophet of what has become judicial anarchy. Some northeastern legal scholars, intellectual elites that sit in cigar-filled rooms agree with the ultimate decisions of the Supreme Court justices, justices that use these foreign laws, because they like the results.

But I warn these folks, the Supreme Court may not always make decisions you agree with, and they may betray you by ignoring the Constitution and citing foreign laws that create a different result than you wish. Then you will cry: Return to the Constitution; return to our sacred scripture. When your cries are made to our courts, you may too find no one is listening.

As guardians of the Constitution, Mr. Speaker, as champions of the separation of power, as accountants of the system of checks and balances, as the stewards of this legislative branch, we must implore our judiciary, our Supreme Court justices to reject the seduction of comparable side glances as they interpret the laws of this land.

I ask the Supreme Court to come back home, home to the Constitution and reject the lustful temptation of foreign countries and their laws.

I yield to the gentleman from Iowa (Mr. KING) such time as he must desire to speak on this very issue.

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman from Texas (Mr. POE), the judge, for the opportunity to say a few words about the future of this country, the history of this country and our beloved Constitution, and appreciate this opportunity to be here on this floor tonight.

As I watched the development here and the transition of history, and I am 55 years into this life, a little over a half a century, and I was raised with a deep and abiding love and respect for our Constitution and for the rule of law, the fact that a law existed meant that the judgment of the people had spoken. And according to the strong directive of my father, I was to then adhere to that law and adhere to that Constitution. And if I did not like the language that was there and the intent of the Constitution or the law, it was my job to step forward as a citizen of the United States and seek to change it; not to ignore it, not to amend it in a fashion that did not have the will of the people in support of it.

And so, today, Mr. Speaker, we have gone to this point where I look back upon this transition, this transition that has taken place over the 55 years of my life and the 45 or so years that I have paid attention to what is going on in the United States of America, and I have watched a dramatic transition take place within the judicial branch of government.

And I want to acknowledge at the beginning of this discussion, the gentleman from Texas (Mr. POE) will know this, that I had the privilege to sit down and have lunch with a group of Supreme Court justices today, and I very much appreciate them and the other justices that joined them. It was a very, very good gesture on their part to reach out and open up a dialogue and give us an opportunity to speak about and discuss the disagreements that we have between the legislative branch and the judicial branch of government.

It is a natural tension that exists between these three branches of government, and this legislative branch of government, which clearly has its duties to write the laws; the executive branch of government which has its duties to execute those laws, enforce those laws; and the judicial branch of government whose job it is to interpret the laws, interpret the Constitution. It is a natural tension that exists, and it will go on as long as this is a great country. And it is a great country.

And I want to compliment the justices of the Supreme Court for being part of this effort to open the dialogue and give us an opportunity to discuss our differences. And I look forward to those opportunities to continue to sit down and have those discussions, and I will take advantage of that.

But I have to say here tonight that I have watched a transition over the last 55 years or so of my lifetime. And I would go back to a case that would be about 1963, Murray v. Curlett, and that was the case when Madeline Murray O'Hare became the most hated woman in America, and she successfully went to the United States Supreme Court and removed prayer from the public schools.

That, Mr. Speaker, I believe started us down the path, down the path of bowing to the judicial branch of government, maybe the last time that the American public really questioned and challenged the decisions that were made over across the street in the Supreme Court building.

This country has accepted those decisions because they believe that they do not understand the Constitution well enough to second guess a judge, and they do not understand the letter or the congressional intent of the law well enough to second guess a judge's decision to overturn the clear directive and intent of Congress. That has happened time after time after time.

And we have seen justice after justice reach out into foreign law, reach into foreign law to find a conclusion that suits their intent and their belief of how this country ought to be shaped and how it ought to be formed. Murray v. Curlett, prayer out of the public, schools started us down a slippery slope, a fast and slippery slide down into an abyss which I do not know how we swim out of it.

And I asked this question, and I have asked it of the Chief Justice directly, and that is, in case after case after case, we have seen decisions made by which we cannot recognize the Constitution any longer. One of those cases would be the affirmative action cases that were before the Supreme Court I believe it was a year ago last April 19. And in those cases, I sat and listened to that. I went to hear profound constitutional arguments. And where would you go in the world to hear profound constitutional arguments except in the chambers of the United States Supreme Court? There is no higher calling and no higher standard for constitutional arguments.

And yet as I listened that day, I heard one, one constitutional argument, actually relatively profound. The case had to do with affirmative action. Chief Justice Scalia asked the question of the Michigan attorneys: If we rule against you and it results in one minority in your school, 100 percent minorities in your school or no minorities in your school, what possible constitutional difference can that make?

Now, the answer was long. But it was not clear. The question is clear to me. He directed that question directly back to the Constitution, which is where the entire oral argument should have focused. And yet it happens less and less as I hear these arguments before the Supreme Court because there is an entire industry that has been built up on trying to analyze the particular personal viewpoints of each of the justices. There is quite a history there to analyze, and quite an industry that has been built up around that.

But the arguments that go to the Constitution itself are ever diminished year by year, case by case, to the point where I believe that the courts have, because of stare decisis, because of the belief that once a decision is made, they should honor that decision of the previous court, not overturn the decision of the previous court. I could name you exceptions.

Stare decisis says that the Supreme Court is painting themselves into a legal corner. And on the other side of that room is the doorway back to the Constitution. But unless that paint dries, they cannot get back out the door. And as long as they respect stare decisis, this respect for a decision that is made by the previous decision of the court, the paint never dries, and they are trapped further and further into a corner that prohibits them from going back to the Constitution.

And so if you cannot get back to the Constitution, on what do you base your decisions? Well, foreign law. Foreign law is a nice and convenient decision that can be made. I have a list of some of these here, Mr. Speaker, and it is quite an interesting list. Justice Breyer, in his dissent, and I always give credit for dissent, Knight v. Florida 1999, A growing number of courts outside the United States courts that accept or assume the lawfulness of the death penalty have held that lengthy delay in administering a lawful death penalty renders ultimate execution inhuman, degrading or unusually cruel.

Sounds a lot like some of the language in our Constitution. But how could a lengthy delay in administering a death penalty change the ultimate result of that?

If locking someone up in prison for an extended period of time is cruel and inhuman, then would we not have to then release everyone that is in our prisons?

And in the case of Pratt v. Attorney General of Jamaica, for example, the privy council considered whether Jamaica lawfully could execute two prisoners held for 14 years after sentencing. The council noted that Jamaican law authorized the death penalty, and the United Nations Committee on Human Rights has written that capital punishment is not, per se, unlawful under the human rights covenant; Jamaican law, the United Nation's Committee on Human Rights.

And then the Supreme Court of India has held that an appellate court which itself has authority to sentence must take account of delay when deciding whether to impose the death penalty. This cited by the Supreme Court of the United States, Jamaican law, European, United Nations Committee on Human Rights, Indian law, the Supreme Court of Zimbabwe, and I quote, the Supreme Court of Zimbabwe, after surveying holdings of many foreign courts concluded that delays of 5 and 6 years were inordinate and constituted torture or inhumane or degrading punishment or other such treatment. Reference to the Zimbabwe law.

This proclivity for citing foreign law, when there is a clear directive to adhere to the Constitution and we have nothing else that directs us as Members of Congress as Members, of the executive branch who are sworn in or as Members of the United States Supreme Court, we take the same oath to the Constitution of the United States. And this Constitution is written and drafted and ratified by the people of this country. We shall never have another.

There is not another circumstance in history that could be reconstructed by anyone in this Chamber, by anyone in this city or anyone in this country that I know that could go back and say, well, if we lost this Constitution, we would just construct another one. We would find a way to get together in the blue zones and in the red zones of America, and we would draft up a Constitution that was living and breathing, and it would be a document that better fit the day of our age, and it would be something that would protect the interests of the minority against the tyranny of the majority, or the rights of the minority against the will of the majority. By the way, what protects the constitutional rights of the majority against the whims of the court?

And so, today, we have gone in my lifetime from a belief that this foundational document of the Constitution, which I carry in my pocket every single day, this Constitution that I believe is our covenant with our Founding Fathers, our guarantee of rights and our guarantee of freedom, that clearly spells out the responsibilities of each branch of government.

And, by the way, you can read this document through and through and through again. There is nothing in there that says separate but equal branches of government. It clearly lays out the responsibilities of each branch of government and, when read, gives the Congress the responsibility to be the final decision-maker on the courts themselves.

And so, Mr. Speaker, I propose that we, as a Congress, have an obligation, an obligation to defend this Constitution, an obligation to speak our minds when we disagree with the decisions of the court, but make a logical and a rational and a constitutional argument for our side, and call upon the Chief Justice and the Supreme Court to adhere to this Constitution, to adhere to their oath of office, to adhere to the laws of this land and to reject the directive that they might think they get when they travel to other lands, that intercedes with other ideas, other concepts, other cultures.

We separated ourselves from Great Britain for a good reason 200 and some years ago, and it was because we did not want to be Western Europe, and we did not want to be Jamaica, and we did not want to be Zimbabwe. We want to be a nation of free people, free people governed by a Constitution that a free people have ratified, not governed by foreign law.

And what is predictable about this foreign law? How can a citizen of this country aspire to move forward and invest capital and invest time and effort and build this future and be a good citizen of the United States of America when they do not know when a decision might come down from the Supreme Court that says, oops, there was a law over here in Zimbabwe; maybe there was a law in Ghana. Maybe there was a law in Costa Rica. Maybe there was a law in Russia, Israel, Belarus, anywhere.

□ 2230

How can we have predictability in our Constitution and our law if the courts can cite whatever, as the judge from Texas said, whatever might suit their whim of the moment?

So I believe we have to adhere back to this Constitution because we have migrated from its meaning. And even though the courts found in Murray v. Curlett that there was this separation of the church and State that was created there, took prayer out of the public schools. And by the way, I do not believe the Constitution calls for that for a minute. Once that decision was made and the letter of the Constitution and the intent of the Founding Fathers was ignored and we began to migrate away from the Constitution itself, we started down that slippery slope.

So is this Constitution what our Founding Fathers believed it should be? Did the Framers draft this Constitution to protect the rights of the minority against the will of the majority, protect the rights of humanity against all forces whatsoever? They believed that this constitutional framework was for the gentleman and for me and for everyone in this country. But it has changed. And there are a number of people, in fact, I believe a growing number of people, that believe this Constitution no longer means what it says; that it is a living, breathing document, that nine Justices, a majority of nine Justices, five of them unaccountable to the people, should direct this society and this civilization.

But it is the vision of our Founding Fathers that those elected by the people should direct this examination and that the Judges should be ruling upon the letter and the intent of the Constitution, the letter and the intent of the law. And that is as far as it goes.

If this Constitution does not mean what it says, then what purpose does it have? It is either a living, breathing document that is flexible and can be malleable and can be shaped by any Justice that happens to have the good fortune to be appointed to the bench, or those words written on this document in my jacket are sacred and they are meant to be amended only by the people then whose description is in the Constitution itself.

It is a living, breathing document or we are originalists that believe in the original intent of this Constitution. If it is changed, if it is not, what it says, it means, then what does, Mr. Speaker, protect the rights of the minority against the will of the majority? What protects all of our rights as citizens? What preserves this great country if it can be shaped by the whim of the Judges?

This Constitution is either what I believe it is, and that is not a living, breathing document, but a document that is fixed for all time unless we amend it. And if it is not that, then the courts have turned it into an artifact of history, just a transitional document to get us from 1789 until today, where we could turn over the future of this country to the people in the robes that make those decisions. And if we do that, then we might as well board this place up and hand it over to the courts for their staff because there will not be any function for this legislature any longer.

I thank the gentleman for yielding to me. I appreciate the gentleman's contribution to this cause.

Mr. POE. Mr. Speaker, I want to thank the gentleman from Iowa (Mr. KING) for his dedication to the Constitution, to making sure that the Members of this body are committed to that and reminding the Supreme Court that they have an obligation to that Constitution.

Mr. Speaker, I yield to the gentleman from Texas (Mr. GOHMERT), a former judge, a former appellate judge from east Texas. The east Texas folks kind of think maybe a little differently than the Supreme Court does on using foreign law to make decisions that are binding on the rest of us. I yield to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Speaker, I thank the gentleman from Texas (Mr. POE), the former judge from Houston.

I thank the gentleman from Iowa (Mr. KING). I thought those were very profound comments.

Mr. Speaker, I heard the gentleman from Texas (Mr. POE) mention something earlier and this was also touched on by the gentleman from Iowa (Mr. KING), but regarding the beginning of this Nation and how we had separated ourselves from Europe, particularly in the War For Independence that began with the 1776 Declaration of Independence and how we won that war and we separated ourselves. And then of course the Articles of Confederation did not work, and then 1789 we did have this wonderful Constitution.

I had also heard the gentleman say we won yet again, the battle with the British in the War of 1812. As the gentleman mentioned, here where we are standing and actually back in Statuary Hall as it is now, that was the old House Chamber and the British came up and they burned it, and actually the middle part burned. It was wooden. And the gentleman mentioned that we had defeated them. We ran them out after they burned much of Washington. I would like to expand on that.

I had thought, an old history major like me, I thought our American forces rallied and drove the British out in 1814 after they burned much of the town. But apparently the American forces were in such disarray they were in no situation where they could have allied and defeated the British at that time. We had some help at that point.

It turns out the night they set what is now Statuary Hall and the old Senate Chamber on fire, there was a big rain storm that came that put out the fire that kept the fire from completely destroying the building which left enough that they could work from afterward.

It was not American troops the next day and after that drove the British troops out. But as it turns out there was an incredible wind storm that arose. And it was of such force and such magnitude, it is given credit for killing 30 British troops. It knocked British cannons off their mounts. It created a great deal of confusion. It played a part in the accidental explosion of the British gunpowder statutes. It created such chaos the British fled on their own because of those acts of nature.

Well, as you know, insurance companies would call those acts of God, and I would tend to agree with them. Those were acts of God. I would like to think the Americans rallied. They could not do it. There was a higher power involved. But when we look at this issue, the gentleman took the oath to the Constitution. I took an oath to support and defend the Constitution. I took that same oath when I went into the United States Army. I spent 4 years on active duty.

It is worth noting in a letter to Abigail Adams dated September 11, 1804, Thomas Jefferson was very concerned after the decision in Marbury v. Madison; he cautioned that judicial review would lead to a form of despotism. Judicial review is not a power explicitly granted in the U.S. Constitution. But in Marbury v. Madison, the court inferred this power based on the fact that Constitution is the supreme law of the land. But judges should always remember that the Constitution itself is the supreme law of this land and that each judge should never forget their oath to uphold the supreme law of the land and not be citing the law from other jurisdictions, from other lands that have nothing to do with our Constitution.

I tell you that Justice Scalia is an amazing intellect. In the Roper v. Simmons case, I do not take issue here with the outcome of the case, but for our purposes I would like to take issue and I think it is critical we take issue with the methodology in arriving at their opinion. And Justice Scalia did that in his dissent on behalf of himself and Chief Justice Rehnquist and also Justice Thomas.

He said this, this is just an excerpt, "In urging approval of a Constitution that gave life tenured judges the power to nullify laws enacted by the people's representative, Alexander Hamilton assured the citizens of New York that there was little risk in this since 'the judiciary has neither force nor will but merely judgment.'"

That is from the Federalist No. 78, page 465.

Hamilton had in mind a traditional judiciary "bound down by strict rules and precedents which served to define and point their duty in every particular case that comes before them."

Bound down indeed, says Scalia. What a mockery today's opinion makes of Hamilton's expectation, announcing the Court's conclusion that the meaning of our Constitution has changed over the past 15 years. Not, mind you, that this Court's decision 15 years ago was wrong, but that the Constitution has changed.

The Court reaches this implausible result by purporting to revert not to the original meaning of either amendment, but to "the evolved standards of decency" of our national society.

It then finds, and this is Scalia still talking, it then finds on a flimsiest of grounds that a national consensus which could not be perceived in our people's laws barely 15 years ago now solidly exists. Worst still, the Court says in so many words that what our people's laws say about the issue does not in the last analysis matter. This is Scalia still quoting:

"In the end our own judgment will be brought to bear on the question of acceptability of the death penalty under the eighth amendment."

Now, the Court has thus proclaimed itself the sole arbiter of our Nation's moral standards, and in the course of discharging that awesome responsibility, purports to take guidance from the views of foreign courts and legislatures. Because I do not believe that the meaning of our eighth amendment, any more than the meaning of other provisions of our Constitution should be determined by the subjective views of five members of this Court and like-minded foreigners, I dissent.

This is Justice Scalia.

Similarly, in Roper, Justice O'Connor called on the Court to substitute basically its own moral judgment for "the judgment of the nations' legislatures."

The majority, however, persists in imposing its will on the States and backs its decision up by citing the mandates of foreign legislatures.

The usurpation of the voice of the people began roughly with New York v. Lochner, and the word Lochnerization has since been used to describe cases in which the judiciary overrides the democratic law-making authority and imposes its own morality, or in some cases lack of morality, on the people.

Lochner was a 1905 case that has since been overruled; but in this case, the Supreme Court told the New York legislature it could not regulate certain items.

So this usurpation continued with Roe v. Wade and again most recently in Lawrence v. Texas.

Now, as the gentleman from Iowa (Mr. KING) had mentioned, there was a very nice lunch today. And the Supreme Court was very gracious in reaching out and having members of the Committee on the Judiciary. There were Senators. There were some of us from the House Committee on the Judiciary. There was a few staff members. And we heard from Justice Stevens, Justice O'Connor, Justice Breyer, Justice Kennedy and Justice Souter.

I would say those are very, very hard-working, well-meaning Justices. But good intentions are not enough. We know from history itself when we think about the words "this means peace in our time," Chamberlain had the best of intentions. He meant well. He thought he was doing what was best for the world, and what he was doing was giving homage and helping a tyrant like Hitler. And so good intentions simply are not enough.

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That oath must be upheld. So that is why I do take issue with the rationale in these cases. These are fine judges, but they have gone astray when they venture out beyond their oath and neglect that from which they have sworn to uphold.

If I might, one of the most frustrating things in this body has been the way people can play fast and loose with what is real, absolute truth. The Constitution is truth. The Constitution does not change. It should not just go flittering here and there, depending on the whims of the Court.

Just like I heard prior to us coming in, the prior presentation about Social Security, and I could not help but note when there was talk of, well, in 2017 these old Republicans, they are talking about it is going bankrupt, and that is just all a facade of sorts, basically paraphrasing. Then the words were said, but it is actually in 2017 when there is more cash going out than comes in. We fall back on these trillions of dollars that are in cash bonds that will continue to earn interest. Cash sounds like there is cash there. There is nothing there. There are IOUs. There are Federal IOUs, and to say they will continue to draw interest, they stick more IOUs in there and say there is your interest. That is just so disingenuous. It is so misleading, and even though I really believe those people saying those things have the best of intentions, they are doing great harm to the Nation by misleading.

In the same way, the Court has the best of intentions. They mean well. They think they are doing this great service. They go to the different seminars and they speak in different places, and they hear these different things from other people who maybe look down on our laws for this or our laws for that. That has nothing to do with our Constitution.

I really appreciate the gentleman from Texas (Mr. POE) yielding to me to say some of these things that are so overwhelming in my heart and soul, as I look to the days ahead. I know they trouble my colleague greatly and I know that both of us came from the same school, if you are going to legislate, by golly, take off the robe, come off the bench, run for the legislature and if, God willing, you get elected, then you can come legislate. I agreed with you on that. We did the same thing. We are here, and hopefully America will help bring the justices back to reality, and the reality is they took an oath to support and defend the Constitution.

So I appreciate that time, and let me just say, there has been a lot of misleading information saying that some people, by their comments, they are doing great harm and inciting violence. I tell you what, as a judge I know you were tough and I was, too. Anybody that threatens, attempts to use force, attempts to use violence of any kind, they need to go to prison when it comes to our courts.

That is why we are pushing the bill to make the sentences even tougher for anybody that is involved in that, but by golly, our Constitution promised us that First Amendment right to freedom of speech. Neither the Supreme Court nor anybody else should restrict what the Constitution and the Bill of Rights has granted to us. God willing, they will not and America will not let them do it in a nonviolent way.

I thank the gentleman for yielding.

Mr. POE. Mr. Speaker, I want to thank the gentleman from Texas (Mr. GOHMERT) for his kind words and for his insight into this important issue.

Mr. Speaker, as most Americans go about being concerned about jobs, Social Security, the environment, health care, crime, outsourcing, all of those things are important. Many of those issues will eventually end up in our courts. Some of those cases will find their way to the Supreme Court, and while this issue is somewhat complex, it is not that difficult to understand.

The Constitution is the Bible for our democracy. Words mean something, Mr. Speaker, and the words of the Constitution are words that we must live by, that we must stand by and that we must defend.

I hope that most Americans, regardless of who they are, what their political beliefs are, understand that our Constitution came about because of sacrifices of Americans, many of whom we will never know the names of, that fought first in the War of Independence and numerous wars after that, because we are a unique land, Mr. Speaker. We are a unique people, Mr. Speaker, and the pinnacle of our uniqueness is the Constitution of the United States.

Every public official in this country, school board members, police officers, city councilmen, firefighters, members of the State legislatures, judges throughout our entire Nation and Members of this body took an oath to uphold and defend the Constitution of the United States. That is who our oath and our allegiance is made to, and all we are asking, Mr. Speaker, is that the Supreme Court come back home, follow their oath, be beholden to the United States Constitution and not to foreign countries.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LARSON of Connecticut (at the request of Ms. PELOSI) for today and the balance of the week on account of a family medical emergency.

Ms. MILLENDER-MCDONALD (at the request of Ms. PELOSI) for today and May 11 on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mrs. MCCARTHY, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

(The following Members (at the request of Ms. ROS-LEHTINEN) to revise and extend their remarks and include extraneous material:)

Ms. ROS-LEHTINEN, for 5 minutes, today and May 11 and 12.

Ms. FOXX, for 5 minutes, May 11.

Mr. GUTKNECHT, for 5 minutes, May 16 and 17.

Mr. GINGREY, for 5 minutes, May 11.

Mr. OSBORNE, for 5 minutes, May 11.

Mr. BURTON of Indiana, for 5 minutes, today and May 11 and 12.

Mr. PRICE of Georgia, for 5 minutes, May 11 and 12.

Mr. MCHENRY, for 5 minutes, May 11, 12, and 13.

Mr. JONES of North Carolina, for 5 minutes, today and May 11 and 12.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 148. An act to establish a United States Boxing Commission to administer the Act, and for other purposes; to the Committee on Education and the Workforce; in addition to the Committee on Energy and Commerce for a period to the subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADJOURNMENT

Mr. POE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 52 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 11, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1911. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Asian Longhorned Beetle; Removal of Regulated Areas [Docket No. 05-011-1] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1912. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — West Indian Fruit Fly; Regulated Articles [Docket No. 04-127-1] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1913. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Tuberculosis in Cattle and Bison; State and Zone Designations; California [Docket No. 05-010-1] received April 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1914. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Commuted Traveltime [Docket No. 04-108-1] received April 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1915. A letter from the Regulatory Contact, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting the Department's final rule — Export Inspection and Weighing Waiver for High Quality Specialty Grains Transported in Containers (RIN: 0580-AA87) received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1916. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule — Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2005-2006 Marketing Year [Docket No. FV05-985-1 FR] received March 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1917. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule — Fluid Milk Promotion Order [Docket No. DA-04-04] received March 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1918. A letter from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule — Beef Promotion and Research; Reapportionment [Docket No. LS-04-09] received March 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1919. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Tobacco Transition Payment Program (RIN: 0560-AH30) received April 7, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1920. A letter from the Acting Chairman, Nuclear Regulatory Commission, transmitting in accordance with the provisions of Section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017), Section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and Section 108 of the Inspector General Act of 1988 (31 U.S.C. 105(a)(25)), proposed legislation which authorizes appropriations for FY 2006; to the Committee on Energy and Commerce.

1921. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan (Transmittal No. DDTC 096-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1922. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Iraq (Transmittal No. DDTC 001-05), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1923. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1924. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1925. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1926. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

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1928. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1929. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1930. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1931. A letter from the Director of Government Affairs, National Endowment for the Arts, transmitting a report documenting the Endowment's FY 2004 usage of Category Rating Human Rescource flexibility, pursuant to 5 U.S.C. 3319(d); to the Committee on Government Reform.

1932. A letter from the Chief Executive Officer, Neighborhood Reinvestment Corporation, transmitting the FY 2004 Annual Program Performance Report, prepared in accordance with the provisions of The Government Performance and Results Act of 1993; to the Committee on Government Reform.

1933. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Upper Mississippi River, Fort Madison, Iowa [CGD08-05-018] (RIN: 1625-AA09) received May 5, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1934. A letter from the Deputy Assistant Counsel, Department of Transportation, transmitting the Department's final rule — Use of Locomotive Horns at Highway-Rail Grade Crossings [Docket No. FRA-1999-6439, Notice No. 16] (RIN: 2130-AA71) received April 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1935. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Frivolous Arguments regarding Waiver of Social Security Benefits Used to Avoid Tax (Rev. Rul. 2005-17) received March 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1936. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2005-23) received March 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1937. A letter from the Acting Chief, Regulations and Publications Branch, Internal Revenue Service, transmitting the Service's final rule — Time and Manner of Making Section 163(d)(4)(B) Election to Treat Qualified Dividend Income as Investment Income [TD 9191] (RIN: 1545-BD16) received March 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1037. A bill to make technical corrections to title 17, United States Code (Rept. 109–75). Referred to the Committee of the Whole House on the State of the Union.

Mr. GINGREY: Committee on Rules. House Resolution 268. Resolution providing for consideration of the bill (H.R. 1279) to amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, and for other purposes (Rept. 109–76). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 269. Resolution providing for the consideration of the bill (H.R. 1544) to provide faster and smarter funding for first responders, and for other purposes (Rept. 109–77). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HOYER:

H.R. 2207. A bill to authorize the Secretary of Education to award grants for the support of full-service community schools, and for other purposes; to the Committee on Education and the Workforce.

By Mr. MANZULLO:

H.R. 2208. A bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Financial Services, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McINTYRE:

H.R. 2209. A bill to require the Secretary of Agriculture to prepare an annual report specifying the number of permanent and temporary non-Federal employees for local offices of the Farm Service Agency that will be needed to efficiently and effectively handle the workload generated by recurring and anticipated agriculture programs administered by the Farm Service Agency and the funding levels necessary to support such workforce, and for other purposes; to the Committee on Agriculture.

By Mr. BACA (for himself, Mr. Cleaver, and Mr. Brown of Ohio):

H.R. 2210. A bill to require combination 3-point safety belts on certain school buses, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. CAPUANO (for himself, Mr. Sessions, Mr. Bass, Mr. Bradley of New Hampshire, Mr. Frank of Massachusetts, Mr. Lynch, Mr. McGovern, Mr. Manzullo, Mr. Meehan, Mr. Michaud, Mr. Neal of Massachusetts, and Mr. Pascrell):

H.R. 2211. A bill to limit liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 for service station dealers with respect to the release or threatened release of recycled oil; to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COBLE:

H.R. 2212. A bill to extend the temporary suspension of duty on Trinexapac-Ethyl; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 2213. A bill to suspend temporarily the duty on formulations of Prosulfuron; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 2214. A bill to suspend temporarily the duty on formulations of triasulfuron and dicamba; to the Committee on Ways and Means.

By Mr. COBLE:

H.R. 2215. A bill to suspend temporarily the duty on formulations of triasulfuron; to the Committee on Ways and Means.

By Mr. COX (for himself, Mr. Lantos, Ms. Ros-Lehtinen, Mr. Saxton, Mr. Weller, Mr. Schiff, and Mr. Ackerman):

H.R. 2216. A bill to develop and deploy technologies to defeat Internet jamming; to the Committee on International Relations.

By Mr. ENGEL (for himself and Mr. Owens):

H.R. 2217. A bill to amend the Consumer Product Safety Act to confirm the Consumer Product Safety Commission's jurisdiction over child safety devices for handguns, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ENGLISH of Pennsylvania:

H.R. 2218. A bill to amend title XVIII of the Social Security Act to adjust the fee for collecting specimens for clinical diagnostic laboratory tests under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GERLACH:

H.R. 2219. A bill to ensure that, during time of war and in another country, the United States does not detain a United States citizen unless the United States first ensures that the citizen's fundamental rights to information, counsel, and communication are protected; to the Committee on the Judiciary.

By Ms. HART:

H.R. 2220. A bill to suspend temporarily the duty on Pontamine Green 2B; to the Committee on Ways and Means.

By Ms. HART:

H.R. 2221. A bill to extend the duty suspension on Mesamoll; to the Committee on Ways and Means.

By Ms. HART:

H.R. 2222. A bill to suspend temporarily the duty on Bayderm Bottom 10 UD; to the Committee on Ways and Means.

By Ms. HART:

H.R. 2223. A bill to suspend temporarily the duty on Bayderm Finish DLH; to the Committee on Ways and Means.

By Ms. HART:

H.R. 2224. A bill to suspend temporarily the duty on Levagard DMPP; to the Committee on Ways and Means.

By Ms. HART:

H.R. 2225. A bill to suspend temporarily the duty on Bayderm Bottom DLV; to the Committee on Ways and Means.

By Ms. HART:

H.R. 2226. A bill to suspend temporarily the duty on certain ethylene-vinyl acetate copolymers; to the Committee on Ways and Means.

By Ms. HART:

H.R. 2227. A bill to extend the duty suspension on ortho-phenylphenol; to the Committee on Ways and Means.

By Ms. HART:

H.R. 2228. A bill to extend the duty suspension on Iminodisuccinate; to the Committee on Ways and Means.

By Mr. HUNTER (for himself, Mr. CUNNINGHAM, Mr. LEWIS of California, and Mr. ISSA):

H.R. 2229. A bill to amend title 36 of the United States Code to ensure that memorials commemorating the service of the United States Armed Forces may contain religious symbols, and for other purposes; to the Committee on Resources.

By Mr. KING of New York (for himself and Ms. SCHAKOWSKY):

H.R. 2230. A bill to direct the Secretary of Transportation to issue regulations to reduce the incidence of child injury and death occurring inside or outside of motor vehicles, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. LOWEY (for herself and Mrs. MYRICK):

H.R. 2231. A bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer; to the Committee on Energy and Commerce.

By Mr. MENENDEZ:

H.R. 2232. A bill to amend title 18, United States Code, to provide minimum mandatory penalties for certain public-corruption-related offenses; to the Committee on the Judiciary.

By Mr. GEORGE MILLER of California (for himself, Ms. SCHAKOWSKY, Mr. SANDERS, Mr. HINCHEY, Ms. LINDA T. SÁNCHEZ of California, Mr. CUMMINGS, Mr. OWENS, Mr. CONYERS, Mr. DOGGETT, Mr. BROWN of Ohio, Mr. PAYNE, Mr. PALLONE, Mr. VAN HOLLEN, Mrs. MCCARTHY, Ms. SOLIS, Mr. GRIJALVA, Mr. ABERCROMBIE, Mr. LYNCH, Mr. STARK, Ms. WOOLSEY, Mr. TIERNEY, Mr. ANDREWS, Mrs. DAVIS of California, Mr. HINOJOSA, and Mr. BISHOP of New York):

H.R. 2233. A bill to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to limit the availability of benefits under an employer's nonqualified deferred compensation plans in the event that any of the employer's defined pension plans are subjected to a distress or PBGC termination in connection with bankruptcy reorganization or a conversion to a cash balance plan, to provide appropriate funding restrictions in connection with the maintenance of nonqualified deferred compensation plans, and to provide for appropriate disclosure with respect to nonqualified deferred compensation plans; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MURPHY (for himself and Mr. KENNEDY of Rhode Island):

H.R. 2234. A bill to authorize the Secretary of Health and Human Services to make health information technology grants, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE:

H.R. 2235. A bill to amend the Federal Food, Drug, and Cosmetic Act to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented; to the Committee on Energy and Commerce.

By Mr. PALLONE:

H.R. 2236. A bill to establish a comprehensive program to ensure the safety of food products intended for human consumption which are regulated by the Food and Drug Administration; to the Committee on Energy and Commerce.

By Mr. PALLONE:

H.R. 2237. A bill to help protect the public against the threat of chemical attacks; to the Committee on Energy and Commerce, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PASCRELL (for himself, Mr. PAYNE, Mr. ALLEN, Mr. OWENS, Mr. MORAN of Virginia, Mr. KIND, Mr. REYES, Ms. NORTON, Mr. MEEKS of New York, Mr. TOWNS, Ms. ROS-LEHTINEN, and Mr. LANGEVIN):

H.R. 2238. A bill to establish a grant program to provide comprehensive eye examinations and necessary follow up treatment to children, and for other purposes; to the Committee on Energy and Commerce.

By Mr. RAMSTAD (for himself, Mr. HERGER, Mr. SAM JOHNSON of Texas, Mr. ENGLISH of Pennsylvania, Mr. FOLEY, and Mr. CANTOR):

H.R. 2239. A bill to amend the Internal Revenue Code of 1986 to reduce the recognition period for built-in gains for subchapter S corporations; to the Committee on Ways and Means.

By Mr. SANDERS (for himself, Mr. KUCINICH, Ms. CORRINE BROWN of Florida, Mr. OWENS, Mrs. CHRISTENSEN, Mr. PAYNE, Mr. MCGOVERN, and Mr. ABERCROMBIE):

H.R. 2240. A bill to provide assistance for the development of indoor disease prevention and health promotion centers in urban and rural areas throughout the United States; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAXTON:

H.R. 2241. A bill to suspend temporarily the duty on Lewatit; to the Committee on Ways and Means.

By Mr. SAXTON:

H.R. 2242. A bill to extend the temporary suspension of duty on certain ion-exchange resins; to the Committee on Ways and Means.

By Mr. SPRATT:

H.R. 2243. A bill to extend the temporary suspension of duty on 2,6 Dichlorotoluene; to the Committee on Ways and Means.

By Mr. SPRATT:

H.R. 2244. A bill to suspend temporarily the duty on Glyoxylic Acid 50%; to the Committee on Ways and Means.

By Mr. SPRATT:

H.R. 2245. A bill to suspend temporarily the duty on paraChlorophenol; to the Committee on Ways and Means.

By Mrs. TAUSCHER:

H.R. 2246. A bill to suspend temporarily the duty on allethrin; to the Committee on Ways and Means.

By Mrs. MYRICK (for herself, Mr. HAYES, and Mr. WATT):

H. Con. Res. 148. Concurrent resolution recognizing the 230th anniversary of the Mecklenburg Declaration of Independence, which was the first proclamation issued by American colonists calling for complete separation of the American colonies from the British Crown; to the Committee on Government Reform.

By Mr. MARSHALL:

H. Res. 270. A resolution providing for consideration of the bill (H.R. 303) to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation for the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Ms. JACKSON-LEE of Texas introduced a bill (H.R. 2247) for the relief of Jen-Hui Tsai; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 22: Mr. NORWOOD, Mr. CARDIN, and Mr. BASS.

H.R. 23: Mr. LARSON of Connecticut, Mr. OWENS, Mr. ANDREWS, and Mr. KING of Iowa.

H.R. 36: Mr. BERRY, Mr. REHBERG, and Mr. MOORE of Kansas.

H.R. 37: Mr. PENCE.

H.R. 98: Mr. GALLEGLY.

H.R. 127: Mr. ABERCROMBIE.

H.R. 128: Mr. BISHOP of Georgia, Ms. DELAURO, Mr. SKELTON, Mr. MILLER of North Carolina, Mr. GONZALEZ, and Ms. SCHAKOWSKY.

H.R. 136: Mr. HALL and Mr. FORBES.

H.R. 176: Mr. CALVERT.

H.R. 190: Mr. COX.

H.R. 197: Mr. EDWARDS.

H.R. 278: Mr. GINGREY.

H.R. 280: Mr. PASCRELL.

H.R. 282: Ms. SOLIS, Mr. OWENS, Mr. WU, Mr. BISHOP of Georgia, Mr. TURNER, Mr. CONAWAY, Mr. GERLACH, Mr. COSTELLO, Mr. KINGSTON, Mr. REHBERG, Mr. COOPER, Mr. GONZALES, Mr. BARRETT of South Carolina, Mr. BROWN of South Carolina, Mr. DAVIS of Florida, and Ms. SLAUGHTER.

H.R. 292: Ms. BERKLEY.

H.R. 302: Ms. HARMAN and Mr. REYES.

H.R. 328: Ms. LINDA T. SÁNCHEZ of California, Mr. DEFAZIO, and Ms. HARMAN.

H.R. 373: Mr. LANGEVIN and Mr. NADLER.

H.R. 389: Mr. POE.

H.R. 438: Mr. CARDOZA.

H.R. 530: Mr. BISHOP of Utah.

H.R. 533: Mr. GEORGE MILLER of California.

H.R. 554: Mr. GILLMOR.

H.R. 556: Mr. McCAUL of Texas and Mr. REICHERT.

H.R. 558: Mr. PASCRELL, Mr. ETHERIDGE, Mr. KING of Iowa, and Ms. ZOE LOFGREN of California.

H.R. 581: Mr. OWENS and Mr. TOM DAVIS of Virginia.

H.R. 676: Mr. GEORGE MILLER of California, Ms. WOOLSEY, Mr. OWENS, Mr. CLAY, Mr. McGOVERN, Mr. PAYNE, and Ms. BALDWIN.

H.R. 759: Mrs. TAUSCHER.

H.R. 762: Mr. SANDERS.

H.R. 763: Mr. SANDERS.

H.R. 778: Mr. COX.

H.R. 791: Ms. LEE, Mr. BRADY of Pennsylvania, Ms. HERSETH, and Mr. CLYBURN.

H.R. 800: Mr. KIND, Mr. JOHNSON of Illinois, Mr. McINTYRE, Mr. MICA, and Mr. McCOTTER.

H.R. 807: Mr. CROWLEY.

H.R. 810: Ms. GINNY BROWN-WAITE of Florida.

H.R. 819: Mr. CROWLEY.

H.R. 820: Mr. McCAUL of Texas.

H.R. 867: Mr. OWENS and Mrs. MALONEY.

H.R. 869: Mr. PAYNE.

H.R. 880: Mr. SANDERS and Mr. DICKS.

H.R. 917: Mr. BRADY of Pennsylvania.

H.R. 920: Mrs. NORTHUP.

H.R. 937: Mrs. CAPPS, Ms. WASSERMAN SCHULTZ, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FATTAH, Mrs. CHRISTENSEN, and Mr. McGOVERN.

H.R. 946: Mr. SANDERS.

H.R. 952: Mr. NADLER.

H.R. 988: Mr. GILLMOR.

H.R. 997: Mr. WELDON of Florida, Mr. STEARNS, and Mr. SHAYS.

H.R. 999: Mr. SMITH of New Jersey, Mr. EVANS, and Mr. BOSWELL.

H.R. 1002: Mr. HOSTETTLER.

H.R. 1020: Mr. SCHWARZ of Michigan, Ms. SLAUGHTER, Mr. WEXLER, and Mr. NORWOOD.

H.R. 1029: Mr. DOGGETT.

H.R. 1125: Mr. ALLEN.

H.R. 1139: Mr. ETHERIDGE.

H.R. 1150: Mr. BOUSTANY.

H.R. 1153: Mr. BAIRD and Mr. CARNAHAN.

H.R. 1157: Ms. LORETTA SANCHEZ of California.

H.R. 1166: Mr. GEORGE MILLER of California.

H.R. 1184: Mr. SNYDER.

H.R. 1204: Ms. SOLIS, Ms. NORTON, Mr. KIRK, Mr. WAXMAN, Mr. WYNN, Mr. PRICE of North Carolina, Mr. GONZALEZ, and Mr. COOPER.

H.R. 1222: Mr. CLEAVER, Mr. SANDERS, and Mr. BRADY of Pennsylvania.

H.R. 1225: Ms. SCHAKOWSKY.

H.R. 1226: Mr. KENNEDY of Minnesota.

H.R. 1237: Mr. MENENDEZ.

H.R. 1246: Mr. TOWNS, Mr. SNYDER, Mrs. McCARTHY, and Mr. MORAN of Virginia.

H.R. 1262: Mr. MILLER of Florida and Mr. SCHIFF.

H.R. 1276: Mr. KANJORSKI.

H.R. 1293: Mr. CUMMINGS.

H.R. 1300: Mr. DAVIS of Illinois.

H.R. 1307: Mr. PAYNE and Mr. PALLONE.

H.R. 1310: Ms. SCHAKOWSKY.

H.R. 1316: Mr. LEWIS of Kentucky, Mr. WELDON of Florida, Ms. ROS-LEHTINEN, and Mr. POE.

H.R. 1351: Mr. MENENDEZ and Mr. KIND.

H.R. 1355: Mr. CARTER, Mr. BURGESS, Mr. MANZULLO, Mr. TERRY, Mr. CONAWAY, Mr. GORDON, Mr. JINDAL, Mr. REICHERT, and Mr. STEARNS.

H.R. 1357: Mr. LINDER.

H.R. 1373: Mr. WEXLER, Mr. TERRY, Mr. RANGEL, Ms. WOOLSEY, Mr. PAUL, Mrs. DAVIS of California, and Mr. FORTENBERRY.

H.R. 1379: Mr. CALVERT, Mr. DOYLE, and Ms. HART.

H.R. 1380: Mr. HOSTETTLER and Mr. HOEKSTRA.

H.R. 1390: Mr. AL GREEN of Texas.

H.R. 1409: Mr. REICHERT, Mr. FILNER, and Mr. SPRATT.

H.R. 1424: Ms. SCHWARTZ of Pennsylvania, Mr. VISCLOSKY, Mr. MARKEY, Ms. SCHAKOWSKY, Mr. UDALL of Colorado, and Mrs. DAVIS of California.

H.R. 1426: Mr. TIAHRT and Mr. OBERSTAR.

H.R. 1428: Mr. WALSH.

H.R. 1445: Mr. EDWARDS and Mr. OWENS.

H.R. 1474: Mr. WU and Mrs. JOHNSON of Connecticut.

H.R. 1492: Mr. LAHOOD, Mr. CARDIN, Mr. GONZALEZ, Mr. PALLONE, Ms. DEGETTE, Mr. SHERMAN, Mr. OWENS, Mr. TOWNS, Ms. MILLENDER-McDONALD, Ms. WATSON, Mr. CROWLEY, Mr. CUMMINGS, Mr. GEORGE MILLER of California, Mrs. JONES of Ohio, Mr. SNYDER, Mr. MATHESON, Mr. LEVIN, Mr. BECERRA, Mr. NUNES, and Mr. BURTON of Indiana.

H.R. 1498: Mrs. DAVIS of California, Mr. SOUDER, Mr. McCOTTER, Mr. NEY, Mr. WAMP, Mr. BURTON of Indiana, Mr. McGOVERN, Mr. WESTMORELAND, Mr. McHUGH, and Mr. PRICE of Georgia.

H.R. 1499: Mr. WEXLER.

H.R. 1505: Mr. CAMP, Mr. KENNEDY of Minnesota, Mr. SMITH of Texas, Mr. CONAWAY, and Mr. CANNON.

H.R. 1508: Mr. CARNAHAN.

H.R. 1509: Mr. MEEK of Florida.

H.R. 1510: Mrs. CAPITO, Mr. REHBERG, and Mr. RAMSTAD.

H.R. 1526: Mr. TIERNEY, Mr. LANTOS, and Mr. FILNER.

H.R. 1547: Mr. NORWOOD.

H.R. 1554: Ms. DEGETTE.

H.R. 1575: Ms. SLAUGHTER and Mr. ROGERS of Kentucky.

H.R. 1578: Mr. CARDIN, Mr. STARK, Mrs. CAPITO, and Ms. HOOLEY.

H.R. 1591: Mrs. MILLER of Michigan, Mr. LEVIN, Mr. MICHAUD, and Mrs. TAUSCHER.

H.R. 1592: Mrs. MILLER of Michigan, Mr. ABERCROMBIE, and Ms. BORDALLO.

H.R. 1602: Mr. ROYCE.

H.R. 1620: Mrs. MALONEY.

H.R. 1633: Mr. CALVERT, Mr. REYES, and Mr. OWENS.

H.R. 1664: Mr. GREEN of Wisconsin.

H.R. 1671: Mr. CUELLAR, Mr. ORTIZ, and Mr. PRICE of Georgia.

H.R. 1678: Mr. McCAUL of Texas.

H.R. 1688: Mr. WAXMAN.

H.R. 1690: Mr. OLVER and Mr. HASTINGS of Florida.

H.R. 1696: Ms. BALDWIN, Mr. HASTINGS of Florida, Mr. CUELLAR, Mr. SABO, Mr. GENE GREEN of Texas, Mr. McGOVERN, Mr. GONZALEZ, Ms. BERKLEY, Mr. SANDERS, Mr. SCHIFF, Ms. DEGETTE, Mr. KENNEDY of Rhode Island, Mr. FRANK of Massachusetts, and Mr. EDWARDS.

H.R. 1707: Mr. CUNNINGHAM, Mr. SHAYS, Mr. TOWNS, Mr. HINCHEY, Mr. FARR, Mr. GRIJALVA, Mr. LANTOS, and Mr. UDALL of Colorado.

H.R. 1708: Mr. MENENDEZ.

H.R. 1736: Mr. MILLER of North Carolina.

H.R. 1746: Mr. KENNEDY of Minnesota.

H.R. 1751: Mr. BOUSTANY, Mr. WILSON of South Carolina, Mr. KUHL of New York, Mr. CHABOT, Mr. DANIEL E. LUNGREN of California, and Mr. CONAWAY.

H.R. 1770: Mr. McCAUL of Texas and Mr. DREIER.

H.R. 1776: Mr. BISHOP of Utah, Mr. COX, and Mr. PENCE.

H.R. 1806: Mr. LANGEVIN.

H.R. 1816: Mr. MANZULLO, Mr. BARTLETT of Maryland, Ms. GRANGER, and Mr. HOSTETTLER.

H.R. 1849: Mr. CUMMINGS, Mr. PRICE of Georgia, Mr. FARR, Ms. JACKSON-LEE of Texas, Mr. DAVIS of Kentucky, and Mr. SNYDER.

H.R. 1872: Mr. GUTKNECHT and Mr. BOUSTANY.

H.R. 1898: Mr. FOLEY and Mr. DANIEL E. LUNGREN of California.

H.R. 1985: Mrs. JO ANN DAVIS of Virginia.

H.R. 2018: Mr. SAXTON.

H.R. 2037: Ms. WASSERMAN SCHULTZ.

H.R. 2045: Mr. BURTON of Indiana, Mr. HOSTETTLER, Mr. VISCLOSKY, and Mr. GILLMOR.

H.R. 2049: Mr. GOODE and Mr. TANCREDO.

H.R. 2073: Mr. CAPUANO, Mr. ABERCROMBIE, and Mr. CLAY.

H.R. 2074: Mr. GRIJALVA, Ms. BORDALLO, Mrs. JONES of Ohio, Mr. BRADY of Pennsylvania, Mr. ABERCROMBIE, Mr. RYAN of Ohio, Mr. FILNER, and Mrs. DAVIS of California.

H.R. 2087: Mr. THOMPSON of California, Mr. CONYERS, Mr. SABO, Ms. CARSON, Mr. LANTOS, and Mr. HASTINGS of Florida.

H.R. 2122: Mr. LANTOS and Mr. ABERCROMBIE.

H.R. 2131: Mr. MORAN of Virginia and Mr. DAVIS of Florida.

H.R. 2134: Mr. McDERMOTT.

H.R. 2184: Ms. EDDIE BERNICE JOHNSON of Texas and Mrs. McCARTHY.

H.R. 2193: Mr. PASTOR.

H.R. 2205: Mr. RYAN of Ohio.

H.J. Res. 7: Mr. WICKER.

H.J. Res. 10: Mrs. DRAKE, Mr. FOLEY, Mr. PENCE, Mr. NUSSLE, Mr. SESSIONS, Mr. GOODLATTE, Mr. RENZI, Mr. WHITFIELD, Mr. CARTER, Mr. NORWOOD, Mr. CANNON, and Mr. PRICE of Georgia.

H.J. Res. 12: Mr. JACKSON of Illinois, Mr. CUELLAR, Mr. BACA, Mrs. DAVIS of California, Mr. BUTTERFIELD, Ms. CORRINE BROWN of Florida, Mr. BROWN of Ohio, Mr. DELAHUNT, Mr. CLEAVER, Mr. BERMAN, Mr. ABERCROMBIE, Mr. CARDIN, Mr. CONYERS, Mr. BAIRD, Mr. HASTINGS of Florida, Mr. McDERMOTT, Mr. FARR, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LARSEN of Washington, Mr. FALEOMAVAEGA, Ms. JACKSON-LEE of Texas, Mr. HONDA, Mr. McGOVERN, Mr. KUCINICH, Mr. OWENS, Mr. RANGEL, Mr. WEINER, Mr. VAN HOLLEN, Mr. THOMPSON of Mississippi, Mr. LANTOS, Ms. MILLENDER-McDONALD, Mr. NADLER, Ms. LINDA T. SÁNCHEZ of California, Mr. RYAN of Ohio, Ms. WATSON, Mr. WEXLER, Mr. KENNEDY of Rhode Island, Ms. LEE, Mr. TOWNS, Mr. DICKS, Mr. LEWIS of Georgia, Mr. MENENDEZ, Mr. GEORGE MILLER of California, Mr. RUPPERSBERGER, Ms. KILPATRICK of Michigan, and Mr. MICHAUD.

H.J. Res. 22: Mr. HEFLEY.

H. Con. Res. 71: Mr. McGOVERN and Mr. CROWLEY.

H. Con. Res. 76: Mrs. DRAKE and Mr. CULBERSON.

H. Con. Res. 85: Mr. REICHERT and Mr. RAMSTAD.

H. Con. Res. 89: Mr. FILNER and Mr. PORTER.

H. Con. Res. 90: Mr. KILDEE, Mr. COSTELLO, Mr. GONZALEZ, Mr. McDERMOTT, Mr. LEVIN, Mr. SANDERS, and Ms. ZOE LOFGREN of California.

H. Con. Res. 105: Mr. WEINER, Mr. ACKERMAN, Mr. MICHAUD, Ms. KILPATRICK of Michigan, Mr. ENGEL, Mr. SCOTT of Virginia, Ms. SCHAKOWSKY, Mr. KENNEDY of Rhode Island, Mr. WILSON of South Carolina, Mr. LEWIS of California, and Mr. CULBERSON.

H. Con. Res. 133: Mr. SCHIFF, Mr. GEORGE MILLER of California, Mr. McDERMOTT, Mr. LANTOS, Mr. REYES, Mr. ISRAEL, Mr. GRIJALVA, Mr. CASE, Mr. FARR, Mr. KUCINICH, Mr. MEEHAN, Mr. BLUMENAUER, Mr. PALLONE, Mr. DEFAZIO, Ms. BALDWIN, Mr. BAIRD, Ms. WOOLSEY, Mr. FRANK of Massachusetts, Mr. GONZALEZ, and Mr. FALEOMAVAEGA.

H. Con. Res. 138: Mr. MCGOVERN.

H. Con. Res. 144: Mr. GORDON, Mr. KENNEDY of Minnesota, Mr. CALVERT, Mr. BERKLEY, and Mr. PALLONE.

H. Con. Res. 145: Mr. GREEN of Wisconsin, Mr. CROWLEY, Mr. DOGGETT, Ms. BALDWIN, Mr. SANDERS, Mr. LIPINSKI, Mr. KIND, Mrs. TAUSCHER, Ms. MCCOLLUM of Minnesota, Mr. BURTON of Indiana, and Mr. BOUCHER.

H. Res. 116: Mr. GRIJALVA.

H. Res. 121: Mr. BOREN

H. Res. 123: Ms. ZOE LOFGREN of California.

H. Res. 142: Mrs. BLACKBURN.

H. Res. 146: Mr. GOHMERT, and Mr. HOSTETTLER.

H. Res. 245: Mr. CLYBURN, Mr. KUCINICH, Mr. HASTINGS of Florida, Mr. RANGEL, and Mr. BACA.

H. Res. 251: Mr. COSTA, and Mr. SCHWARZ of Michigan.

H. Res. 252: Mr. SKELTON, Mr. OBERSTAR, Mrs. MILLER of Michigan, Mr. TURNER, Mr. SHUSTER, Mr. MEEKS of New York, Mr. NEAL of Massachusetts, Mr. HOLDEN, Mr. WHITFIELD, and Mr. BURTON of Indiana.

H. Res. 266: Mr. CUNNINGHAM, Mr. RAMSTAD, and Mrs. MCCARTHY.

EXTENSIONS OF REMARKS

A PROCLAMATION HONORING MR. AND MRS. JAY McDOUGAL

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. NEY. Mr. Speaker:

Whereas, Jay and Sarah McDougal were united in marriage April 23, 2005 in Marietta, Ohio; and

Whereas, Jay and Sarah McDougal have dedicated their lives to each other; and

Whereas, Jay and Sarah McDougal shared their wedding day with family and friends; and

Whereas, Jay and Sarah McDougal have illustrated the love and commitment necessary to live a long and beautiful life together.

Therefore, I join with their family, friends, and the entire 18th Congressional District of Ohio in congratulating Jay and Sarah McDougal on the occasion of their marriage.

IN HONOR OF CHARLOTTE FRAAS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. GEORGE MILLER of California. Mr. Speaker, it is with the deepest sorrow that I rise to honor a woman who gave so much to the Congress, to children and students in America, to her family and friends, and to me as a trusted aide and friend.

Charlotte Fraas died today after a long battle with brain cancer. She leaves behind her loving and devoted husband Phil, her two beautiful and smart teenage children, Paul and Katie, her dogs, and many close friends at the Congressional Research Service and across the country.

Charlotte, full of grace and beauty, has left us her spirit to keep. In the pain and sorrow of her untimely death, we have the memory of her wonderful life to hold.

Charlotte was my legislative director for two years, between 1993 and 1995. And she was a class act.

There are many important skills a good congressional aide must possess—being smart, well-informed, good at writing and speaking, and so forth. But there is another quality that is rarer but especially important—being able to tell your boss that he or she might be wrong. Charlotte could do that. With a quick glance she could let me know whether I was on track, or off, and would be ready with an alternative.

Charlotte was instrumental in my work on so many issues, including Social Security, higher education, education for children with disabilities, but most importantly on the reauthorization of the Elementary and Secondary Education Act. Her knowledge of the history of the law and the details of the issues involved in the reauthorization was outstanding. She was dedicated to getting it right. And she did so with such grace and class.

She was really a star.

After she left my office, Charlotte worked briefly for the Department of Education under President Clinton and then became the head of government affairs for the American Federation of Teachers where I continued to appreciate Charlotte's professionalism.

But the bulk of her career—more than 20 years—was spent at the Congressional Research Service at the U.S. Library of Congress, providing expert analysis and assistance to Members of Congress from both sides of the aisle and to their committees and personal staff.

Charlotte had a distinguished career of active engagement in and in support of the legislative process while at the Congressional Research Service. She received numerous "outstanding" performance ratings, very infrequently awarded in the Service. Charlotte was unusually productive during her career at CRS. The CRS archives contain over 200 reports and substantive, confidential memoranda that she prepared over the period of 1970 to 1993. Her CRS reports were not only numerous but also of the highest quality. For example, Section management used Charlotte's work as a model for other analysts. She was also highly respected by her colleagues and was frequently chosen by her peers, as well as by management, to lead team efforts.

Charlotte worked in a wide variety of issue areas, beginning her career with responsibilities in the topics of veterans and the G.I. Bill, immigration and refugees, and crime, especially juvenile justice/delinquency. She was the lead CRS analyst supporting congressional consideration of the Refugee Act of 1980. However, during most of her career at CRS, Charlotte was a specialist in education policy, serving as CRS's lead analyst on two of the largest, most complicated, and significant education assistance programs.

For many years Charlotte was the lead CRS analyst in the major and complex area of education for students with disabilities. This legislation—then called the Education of the Handicapped Act and now known as the Individuals with Disabilities Education Act—has myriad complex, and sometimes controversial, provisions aimed at improving educational opportunities for all students with disabilities. Charlotte was the lead analyst in this area during the 1980s, supporting congressional consideration of the Education of the Handicapped Act amendments of 1983 (P.L. 98–199) and the Education of the Handicapped Act Amendments of 1986 (P.L. 99–457). Her work was especially helpful to Congress as it considered legislation to expand assistance to include infants and toddlers with disabilities.

For the last several years of her service at CRS, Charlotte was the lead analyst on major programs of the Higher Education Act, the primary source of federal aid to postsecondary education. In the mid-1980s, she lead a CRS team that prepared a groundbreaking series of analyses of the relationships between federal aid programs and the growing for-profit sector of postsecondary education. She was responsible for and especially productive in preparing high quality analyses of the increasingly important higher education student loan programs. These are the most wide-ranging and complex forms of federal aid to education at any level. In particular, she lead the Service's support of congressional debates on student loans during consideration of the Higher Education Amendments of 1986 (P.L. 99–498) and the Higher Education Amendments of 1992 (P.L. 102–325). In the early 1990s she prepared ground-breaking analyses of the highly charged issues associated with the Administration proposal to replace or supplement federally guaranteed loans with direct loans.

Charlotte also supported congressional deliberations in a number of other education-related policy areas. For example, she was the lead CRS analyst on aid to libraries from late 1970s to mid-1980s and particularly supported congressional consideration of the Library Services and Construction Act amendments of 1983.

In addition to her numerous written analyses, during her CRS career Charlotte communicated her policy analyses through multiple consultations, briefings, and testimony in committee hearings; for example, she testified before the House Budget Committee on student loan issues before the House Budget Committee in 1991. Charlotte was one of the most articulate analysts that CRS has had. Other analysts sought her advice about how to approach any number of issues, even those outside her immediate areas of expertise. She understood the impact that analysis could bring to bear on social issues and enabled congressional committees to understand the policy dimensions involved in decisions that came before them.

In all of her work, Charlotte exhibited the highest level of professionalism in serving the Congress on some of the most politically charged issues in education policy. In her career at CRS, she exemplified the best that CRS has to offer the Congress, a consummate professional analyst doing work of the highest caliber on sensitive, difficult issues critical to the Nation's well-being.

Her great achievements at CRS were certainly supported and encouraged by close friends and colleagues, including Angela Evans, Wayne Riddle, Carol O'Shaughnessy, Karen Spar, Joe Richardson, Richard Price, Jim Stedman and Margot Schenet.

In the end, the cancer was too great for even Charlotte's power. But as a testament to the rich life she led, she spent the last weeks of her life in a hospice in Alexandria, Virginia, being visited by one friend and family member

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

after another. The staff at the hospice remarked at how many friends Charlotte had.

To her family, I offer my thanks for giving us Charlotte for the time we had her. The members of my staff in Washington and California and at the Committee on Education and the Workforce join me in sending our deep condolences to her family and friends. We will keep you in our thoughts, just as we will hold Charlotte in our prayers and memories at this saddest of times and forever.

A PROCLAMATION HONORING CHOLENE ESPINOZA ON HER 40TH BIRTHDAY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. NEY. Mr. Speaker:

Whereas, Cholene Espinoza is celebrating her 40th Birthday today; and

Whereas, Cholene Espinoza has been a positive influence on those individuals who have been fortunate to meet her; and

Whereas, Cholene Espinoza has exemplified a love for her family and friends and must be commended for her dedication to helping others.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in congratulating Cholene Espinoza as she celebrates her 40th Birthday.

HONORING THE VAN VANDALS

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. HENSARLING. Mr. Speaker, today I would like to honor the Van Vandals boy's basketball team who won the Texas 3A High School Basketball Championship on March 11, 2005. In their first trip to the state finals in 63 years, the Vandals beat Graham High School to return home with the state championship trophy. The victory capped off an outstanding season for the Vandals with an impressive record of 38–2.

I would like to recognize teammates Grant McMillan, Kacey McCauley, Cory Foster, Beau Garland, Marcus Brown, Cody Huffman, Dalvin Davis, Duncan McFarland, Brandon Roberts, Chris Gossett, Andrew Thompson, Kenny Ghormley, Jeramie Calhoun, Wade Mackey, as well as Head Coach Jerry Cassell and Assistant Coaches Jeff Hutchins and Rick Jones.

As the congressional representative of the families, coaches, and supporters of the Van Vandals, it is my pleasure to recognize their tremendous victory and outstanding season. This is an accomplishment that these young men will remember for the rest of their lives.

TRIBUTE TO LLOYD CUTLER

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. CONYERS. Mr. Speaker, I rise in tribute to a friend and champion of democracy, Lloyd Cutler. Sadly, Lloyd passed away this past Sunday.

His accomplishments are too numerous to list. Serving as Counsel to two presidents and founding a distinguished law firm are just two of the feats he is known for. But Lloyd was more than just the Washington insider he is often portrayed as and his legacy extends far beyond the highest levels of our government; his connections to Presidents did not diminish his resolve to fight for the rights of all Americans.

At President Kennedy's request, he founded and co-chaired the Lawyers' Committee for Civil Rights Under Law and developed the organization's mission to engage private lawyers in securing equal justice for all minorities and races in our nation. Indeed, it was because of Lloyd's efforts that many of those arrested for protesting segregation decades ago received legal representation.

He also never wavered in his commitment to the preservation of our democracy anytime the strength of our democracy came into question. After the tragedy of September 11, he was a welcome co-chair of the Continuity of Government Commission. After the 2000 elections, he led the National Commission on Federal Election Reform to ensure no American would be denied the right to vote.

What many may not know is that even as a young man, Lloyd was not content to sit by the sidelines in times of trouble. As a newly minted lawyer, he left a high-profile New York law firm at the start of World War II to enlist in the Army. Time and time again, the pattern has repeated itself; where others saw challenges and setbacks to our country, Lloyd saw another opportunity to serve.

He was a model of civility and bipartisanship that almost seems anachronistic in today's strident debates. It has been said that cooler heads prevail; it must be true because Lloyd accomplished so much.

LIEUTENENT GENERAL BRIAN A. ARNOLD—A CAREER OF SERVICE

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Ms. HARMAN. Mr. Speaker, commanding the Space and Missiles System Center at the Los Angeles Air Force Base, the Nation's leading supplier of military space technology, is an accomplishment in itself. Leading the base to an unprecedented 41 consecutive successful launches is nothing short of historic. LTG Brian A. Arnold, a 34-year veteran of the United States Air Force, has achieved this record over the past 4 years.

As Base Commander, the three star General has managed the entire spectrum of the Air Force's missile and satellite systems—from research and design to the command, control and launch of these systems.

General Arnold's record of success is more than a statistical anomaly. His organization is responsible for providing cutting edge space technology to the warfighter by creating transformational technologies like the Evolved Expendable Launch Vehicle; the Space-Based Infrared System; military communication satellites; the Navstar Global Positioning System; intercontinental ballistic missile programs; the Defense Meteorological Satellite Program; and many other emerging systems critically important to the warfighter.

Leading more than 6,500 employees nationwide, with an annual budget of $10 billion and an active program portfolio of $60 billion, General Arnold has established SMC as the Nation's leading center of excellence for military space acquisition.

Under his stewardship, the El Segundo base has built a record of excellence translating directly to a more cost-effective military and a safer America.

Before becoming a guiding force in space procurement, General Arnold spent the majority of his career as a pilot in FB–111 and B–52 aircraft, serving with distinction as a squadron commander, wing commander and subunified commander.

Fortunately, General Arnold's retirement from the Los Angeles Air Force Base does not mean that he is leaving the South Bay, as he and his delightful wife Tina will be residing in San Pedro, a part of my Congressional District.

I join the airmen and airwomen at the Los Angeles Air Force Base, as well as countless space program team members, in thanking General Arnold for his outstanding leadership as Base Commander and distinguished service in the war against terrorism.

A PROCLAMATION HONORING BRUCE RATNER ON HIS 60TH BIRTHDAY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. NEY. Mr. Speaker:

Whereas, Bruce Ratner is celebrating his 60th birthday with family and friends; and

Whereas, Bruce Ratner is a positive influence on all persons in his life, leading by example; and

Whereas, Bruce Ratner has exemplified a love for his family, and must be commended for his dedicated service to the community.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in congratulating Bruce Ratner as he celebrates his 60th birthday.

HONORING FILER ELEMENTARY SCHOOL'S PARTICIPANTS IN THE "50 MILE BIG WALK"

HON. MICHAEL K. SIMPSON

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. SIMPSON. Mr. Speaker, I rise today to pay tribute to a dedicated group of Filer Elementary School students, teachers, parents and volunteers who will be participating in a fifty mile walk between the Malad Gorge State Park and Filer, Idaho.

Each day this week, the fourth grade class of Filer Elementary School will walk 10 miles along the Snake River Canyon, following the same path crossed over 150 years ago by settlers migrating west on the Oregon trail. These students have been training for months for this big week where they will literally be taking school out on the road. By participating in a physical challenge that is attainable through goal setting, hard work and perseverance, these students redefine their personal potential far beyond what they once thought possible.

While the students journey through Southern Idaho, they will learn about and identify the large melon shaped boulders along the Snake River Canyon that were formed 15,000 years ago. They will also learn about the hardships faced by the first settlers in whose footsteps they are following. Much like Lewis and Clark, every evening the students will record their impressions in a journal. These journals become a reflection of the transformation that takes place within these children during this memorable week.

Over the past 10 years, more than 1,000 students, teachers, parents and volunteers have completed the "50 Mile Big Walk" The students come to understand that if you can walk 50 miles when you are in fourth grade, there isn't anything in life you can't do if you set a goal, work hard and help others along the way.

Mr. Speaker, I would like to congratulate everyone involved in the "50 Mile Big Walk" and commend them on their hard work and dedication. To the walkers, I want you to know that I will be thinking of you and wishing you well every step of the way. Thank you, Filer Elementary School for being an inspiration to us all.

HONORING THE LIFE OF ALVARO AGUIRRE

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. PORTER. Mr. Speaker, I rise today to pay tribute to the life and achievements of Mr. Alvaro Aguirre. A lifelong educator and member of the Latin Chamber, Las Vegas, Nevada, 74, Mr. Aguirre passed away peacefully the morning of Friday, April 22, 2005. Born to Arturo Aguirre Matheu and Marta Diaz Raphael on December 22, 1930, in Guatemala City, Guatemala, Alvaro moved to the United States when he was 17 years of age, graduated from San Mateo Junior College, with a degree in Biochemistry from the University of California at Berkeley. He later completed his doctoral studies in Animal Nutrition at the University of Florida.

Alvaro taught at Harvard Project Escuela Agricola Panamericana in Honduras, and served as the professor of the College of Biological Sciences as well as president of the National University of Guatemala San Carlos regional campus system. He served on the team at the Nutritional Institute of Central America and Panama, credited with creating INCAPARINA, a food substitute for indigent people. Additionally, he was active in the Lions International in Guatemala, having served as president of the Quetzaltenango Club.

Alvaro spent his life as an educator and academic counselor. As a bilingual counselor, he helped thousands of Nevada students, prior to his retirement from the Clark County School District. His dedication to providing the youth of southern Nevada with the finest of educations commends us to look to Alvaro as a role model and personification of the value of education.

Alvaro was a loving husband, father, brother, grandfather and friend. My sympathies go out to those who survive him: his loving wife, Eugenia, sons, Alvaro, Jr., Luis Pedro; Aldo Adrian and Hernan, and daughters Rita and Eugenia Maria. Alvaro was blessed with many grandchildren, living in Las Vegas, New Mexico and in Guatemala.

I join the community in thanking Alvaro Aguirre for his dedication, commitment and hard work on behalf of so many communities all across the American continent. Our thoughts and prayers are with his family. I urge all of my colleagues to heed the example set by this extraordinary individual in his devotion to providing education to our most vulnerable children.

COMMENDING THE HEROISM AND VALOR OF THE UNITED STATES NAVY'S CARRIER AIR GROUP 83

HON. MARK FOLEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. FOLEY. Mr. Speaker, today I rise to recognize and commend the heroism and valor of the United States Navy's Carrier Air Group 83. During World War II, Navy Carrier Air Group 83 was responsible for the identification of, and subsequent successful attacks on, the Japanese midget submarine base on an island off Okinawa before the invasion by Allied forces in April 1945. Carrier Air Group 83 also attacked and contributed to the sinking of the Japanese battleship *Yamato* in April 1945.

Carrier Air Group 83 was specifically commended by the commander of the United States Tenth Army for close air support strikes in support of operations on Okinawa in April 1945, and continued to perform those missions in an exemplary manner through May 1945. In addition, Air Group 83 engaged in attacks against the Kure naval facility and the Japanese battleship *Nagato* in July 1945.

Carrier Air Group 83 is credited with the destruction of over 220 Japanese aircraft in aerial combat and over 75 aircraft on the ground during the months of March to August 1945, a critical contribution to Allied victory over the Empire of Japan in the Pacific Theater during World War II. All Americans should know of and commend the heroism and valor of Navy Carrier Air Group 83 and the contribution of that Air Group and its personnel to the defeat of Japan in the Pacific Theater during World War II.

A PROCLAMATION HONORING KAREN RANUCCI ON HER 50TH BIRTHDAY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. NEY. Mr. Speaker:

Whereas, Karen Ranucci is celebrating her 50th Birthday with friends and family; and

Whereas, Karen Ranucci has experienced many accomplishments in all aspects her life; and

Whereas, Karen Ranucci has exemplified love for her family and friends and must be applauded for her devotion to her loved ones.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in congratulating Karen Ranucci as she celebrates her 50th Birthday.

HONORING DENVER PUBLIC SCHOOLS SUPERINTENDENT JERRY WARTGOW

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. UDALL of Colorado. Mr. Speaker, I rise today to honor Denver Public Schools (DPS) Superintendent Jerry Wartgow, an exceptional leader in our Colorado education community. Dr. Wartgow will leave his post as superintendent on June 1st of this year.

For four years, Superintendent Wartgow has worked tirelessly to improve education in Colorado by closing the achievement gap between minority and non-minority students, raising accountability standards, promoting innovative reform and building a strong relationship between the school district and the city.

Before coming to DPS, Dr. Wartgow was President Emeritus at Colorado Community College and Occupational Education System. He was also the President and Chief Executive Officer for International Training and Education Alliance. Dr. Wartgow holds a PhD from the University of Denver, a Masters Degree of Education from the University of Hawaii, a Bachelor of Science from the University of Wisconsin, and has done post-doctoral work at the East-West Center in Honolulu and Harvard University in Boston.

Denver Public Schools is the second largest school district in Colorado—with an extraordinarily diverse student body—and with a long history of serious challenges that have included teacher strikes, racial and ethnic divisions and difficult budget choices. Jerry has faced each of these challenges head on with characteristic innovation and enthusiasm. Through his leadership a progressive new professional compensation plan will be brought to Denver voters in November 2005. This program, "ProComp," will give teachers financial incentives for student achievement. His vision, compassion and tenacity allowed him to forge alliances between parents, students, teachers and school districts to both raise standards for Colorado kids and to provide teachers the professional opportunities they deserve.

While certainly much work remains to be done, Jerry Wartgow's leadership throughout his tenure as superintendent of DPS has paved a formidable path for the future of education in Colorado. He is widely respected in the community and has set a high bar for his successor. I ask my colleagues to join me in thanking Jerry Wartgow for his enormous contribution to the Colorado education community.

HONORING BEAUMONT, TEXAS MAYOR EVELYN LORD

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. POE. Mr. Speaker, I rise today to honor a sterling individual in my Southeast Texas District—the Mayor of Beaumont—Mrs. Evelyn Lord.

Following an over-two-decade-long tradition of service to Jefferson County, she will step down from office on May 17th. Through the years, Mayor Lord has left an indelible imprint on the Beaumont community and while she is entitled to a well-deserved break, she undoubtedly will be missed.

Mayor Lord began her legacy in local government in 1980 when she was elected to the first of two terms on the Beaumont City Council. Her plans to run for office in 1984 were cut short when her husband and close confidant, Sam, was transferred to Northern Ireland by his employer. Towards the end of 1988, however, she returned to Beaumont and was elected mayor two years later. Mayor Lord then served two successful terms and retired in 1994.

At a critical juncture in the City's history, she was encouraged to return to public life and in 2002 was once again elected to the mayorship. Only when she was certain that the City was on the path to healing did she decide to forego a fifth term as Mayor.

During her tenure, Mayor Lord remained keenly aware of the unique threats that the Beaumont area could face in a post-September 11 environment. Accordingly, she shepherded the efforts to develop a distinct homeland security plan for Southeast Texas, which has served as a model state-wide. And, realizing that quality of life issues are often the basis for community revitalization, she spearheaded the creative charge to improve Beaumont's park system through public-private partnerships.

Demonstrating the high regard in which she is held among her peers, Mayor Lord was elected to the Board of Directors of the United States Conference of Mayors and served in such key positions as Chair of the organization's Arts and Recreation Standing Committee and as a member of its Homeland Security Task Force.

Even before she came to Beaumont, Mayor Lord was a committed public servant wherever Sam's career opportunities led them. She was elected as a State Senator in the State of Delaware and served as an Administrative Assistant to a County Judge in Kentucky. In Beaumont, she served with distinction in many capacities, including Vice President of Texas Commerce Bank and as Chairwoman of the Texas State Spindletop Centennial Commission.

Finally, few charitable organizations in Beaumont have escaped Mayor Lord's helping hand, highlighted by her work at the United Way, Texas Energy Museum, Boy Scouts, Julie Rogers "Gift of Life" Program, Chamber of Commerce, and Community Partners for Children.

Mayor Lord's leadership at Beaumont City Hall will always be remembered and her accomplishments will be felt throughout the community for years to come. Nonetheless, I am confident that she will not disappear from public life entirely and I join all of those in Texas' Second Congressional District in wishing her and Sam the best as they enter this exciting new phase of their lives.

As Margaret Thatcher once said, "Success is having a flair for the thing that you are doing; knowing that is not enough, that you have got to have hard work and a sense of purpose." Mayor Lord . . . she has that, Mr. Speaker.

RECOGNIZING AMANDA BLAKELY

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. HENSARLING. Mr. Speaker, today, I would like to recognize the outstanding achievement of Amanda Blakely of Crandall, Texas, who was recently named the winner of the 37th Annual Robert F. Kennedy Journalism Award.

Amanda, who is a graduating senior from Crandall High School is the High School Print Winner for her work, "Ms. Mary and the Big Blue House." Her work takes readers into the home of foster parents Mike and Mary Brooks through moving interviews with three teenagers who have been placed in their care by the Texas Children's Protective Services.

The Robert F. Kennedy Journalism Awards honor outstanding reporting of problems of the disadvantaged. RFK Journalism Award winners have covered such diverse issues as child abuse, juvenile crime, bank redlining and discrimination against people living with AIDS. Past winners of this prestigious award include Diane Sawyer of ABC, The Chicago Tribune, The Washington Post, National Public Radio, and CBS's "60 Minutes."

This is the second major national journalism award for Amanda. In November 2003, Bob Scheiffer presented Amanda with the Ryan White Foundation National Journalist Award at the Journalism Educators Association Convention in Washington, DC. Amanda has also received national honors from the Los Angeles Times in August of 2004.

Award-winning work and journalism must run in Amanda's genes. In 1988, her late grandmother, Jannette Cox, of Athens, Texas, was honored by both the Texas House and Senate as well as by United States Congressman Jim Chapman for her work with the Athens Creative Center. Amanda's grandfather, John H. Cox, now a journalist for the Cedar Creek Pilot, once was assigned to cover former Texas Governor, now President, George W. Bush for the Jacksonville Daily Progress.

As Congressman for the Fifth Congressional District of Texas, I would like to recognize Amanda and congratulate her grandparents, along with her parents Gerald and Lynda Blakely, for her outstanding accomplishment.

A PROCLAMATION HONORING LIZZY RATNER ON HER 30TH BIRTHDAY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. NEY. Mr. Speaker:

Whereas, Lizzy Ratner is celebrating her 30th Birthday today; and

Whereas, Lizzy Ratner has been and continues to be a positive influence on all persons fortunate to meet her; and

Whereas, Lizzy Ratner has shown love for her family and friends and must be commended for her dedication to these relationships.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in congratulating Lizzy Ratner as she celebrates her 30th Birthday.

HONORING THE CONTRIBUTIONS OF PAIGE COLLIER, HEMPHILL ELEMENTARY SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the many accomplishments of Paige Collier, Hemphill Elementary School Teacher of the Year.

Paige Collier did not always know she would be a schoolteacher. She took a personality test at the age of seventeen that told her that her ideal career would be as a motivational speaker. She doubted this was right for her, but, at the assurance of her friends, she realized she did possess an ability to inspire others.

Paige has since used this ability to be an outstanding elementary school teacher. She cites several elements that contribute to her teaching ability: a passion to love and serve people, a devotion to putting children first, and the desire to continuously learn and grow.

Paige contributes to her school community in many ways. She organizes an annual Storybook Festival and mentors her fellow teachers, caring for their students as if they were her own. Yet her greatest accomplishment remains the connections she establishes within her own classroom.

I am honored to recognize Paige Collier as the Hemphill Elementary School Teacher of the Year. Her dedication to her students and her passion to serve her community are a shining example to all teachers.

A SPECIAL TRIBUTE TO J. RUSSELL KEITH IN RECOGNITION OF HIS SERVICE TO OHIO'S STATE EMPLOYMENT RELATIONS BOARD

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to a friend and ally of the public employers and employees of the State of Ohio. Since 1994, J. Russell Keith has served as General Counsel for the State Employment Relations Board. As he prepares to depart the Board after nearly eleven years of dedicated service, the many state employers and employees of Ohio's Fifth Congressional District offer our thanks.

As General Counsel, J. Russell Keith has provided legal direction to SERB as its members work to protect the rights of the public sector, which includes nearly 365,000 public employees under Ohio Revised Code 4117. For more than a decade, Russ has worked tirelessly to craft thoughtful and fair labor law for Ohio's public sector. As an accomplished attorney, Russ has been a determined advocate for the people of Ohio.

Mr. Speaker, the General Counsel to SERB has many responsibilities. One must provide legal support for the Board, draft and issue unfair labor practice complaints, oversee the Investigations Section, supervise the Hearings and Representation Sections, and assist Board members in the preparation of opinions and orders. Under his leadership, decisions were seldom appealed and rarely reversed. In addition to serving as General Counsel, on two occasions J. Russell Keith also lent his formidable management skills as Acting Executive Director of SERB. While his responsibilities have been substantial, Russ has performed superbly and served the people of the State of Ohio admirably.

Throughout Russ's accomplished career, he has enjoyed a broad range of legal experiences. After graduating from Capital University Law School, Russ served as an Attorney/Law Clerk for Ohio's Fourth District Court of Appeals. Later, Russ quickly became Chief Legal Counsel to the Ohio Bureau of Employment Services where he directed a legal program affecting nearly 230,000 Ohio employers.

The consummate professionalism with which J. Russell Keith has served the people of the State of Ohio by crafting evolving state labor decisions, primarily on issues of bargaining, deserves the highest commendation. His proficiency as General Counsel, leadership as Acting Executive Director, and compassion as a friend of all Ohioans will be sorely missed upon his departure from the State Employment Relations Board.

Mr. Speaker, I ask my colleagues to join me in paying special tribute to J. Russell Keith in recognition of his superlative administrative service to Ohio's State Employment Relations Board. On behalf of the people of the Fifth District of Ohio, I am proud to recognize his many accomplishments. We wish Russ and his family all the best as we salute one of Ohio's finest citizens.

REMARKS ON WILLIAM CLAY FORD, SR'S RETIREMENT FROM FORD MOTOR COMPANY'S BOARD OF DIRECTORS

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. McCOTTER. Mr. Speaker, I rise today to honor William Clay Ford, Sr. for 57 years of dedicated service as a member of Ford Motor Company's Board of Directors. He has served on the Board with distinction for over half of Ford Motor Company's history of almost 102 years. As the only surviving grandson of the late Henry Ford and father of the current chairman, he uniquely links Ford's past and future.

Mr. Ford has had a long and distinguished career of service to Ford Motor Company. He was elected to the Board in 1948, a year before his graduation from Yale University. When the Design Committee of Ford's Policy and Strategy Committee was formed in 1957, Mr. Ford became its first chairman, a post he held until 1989.

In 1978, Mr. Ford was elected chairman of the Executive Committee and appointed a member of the Office of the Chief Executive. From 1980 until 1989, he served as vice chairman of the Board. From 1987 until 1995, he served as chairman of the Finance Committee, one of the most vital positions on the Board.

Mr. Ford served the Company as an employee from 1949 until 1989. He held a variety of executive positions including vice president and general manager of the Continental Division. In 1956, Mr. Ford assumed responsibility for corporate product planning and design. Throughout his career, he oversaw the design and development of a number of classic vehicles, including the Continental Mark II, a worthy successor to the Continentals designed by his father, Edsel Ford. The Mark II is considered by many to be one of the most beautiful personal luxury cars ever built.

Mr. Speaker, I ask my colleagues to join me in honoring Mr. William Clay Ford, Sr. as he retires from the Ford Motor Company Board of Directors and in wishing him the best of luck as he becomes Director Emeritus.

HONORING THE CONTRIBUTIONS OF SHERRY FRANCE, BARTON MIDDLE SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the accomplishments of Sherry France, Barton Middle School Teacher of the Year.

Sherry France was inspired to teach by her grandmother, who taught grades one through twelve in a one-room school house in rural Virginia. A high school art teacher sparked her interest in teaching art, and after attending Radford College, she began her career.

Some of Sherry's fondest memories come from former students who have since become architects, designers, and artists. Sherry has set up a website that is updated regularly with samples of her class projects. The site offers students a chance to have their work available for their families and friends to see.

Sherry France strives to teach her students how to see what is beyond the surface. She believes that if you expect the highest quality, your students will surprise you.

It is my privilege to acknowledge Sherry France, Barton Middle School Teacher of the Year. Her passion and love of teaching have been a blessing to her community.

HONORING THE LIFE OF HARRIS COUNTY PRECINCT 4 CONSTABLE DEPUTY FRANK "SCOTT" CLABORN

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. BRADY of Texas. Mr. Speaker, I rise today to honor the life and memory of Harris County Precinct 4 Constable Deputy Frank "Scott" Claborn who was killed by a drunk driver while escorting a road construction truck in Harris County, Texas on February 19, 2004. Claborn and his family reside in Magnolia, Texas in the Eighth Congressional District.

Deputy Claborn and 13 other Texas Law Enforcement Officers will be honored at the National Law Enforcement Officers Memorial in Washington, DC, on May 15, 2005.

Deputy Claborn's wife of 16 years, Paula Claborn and her 11-year-old son Tanner will remember a husband and father whose devotion and love of family was unsurpassed.

Paula's father, David Hill, the highly respected and loved constable for Montgomery County Precinct 5, told a reporter in the days following the accident that, "He (Scott) was one of the best fathers I have ever seen. I could not have handpicked a better son-in-law."

Praise for Claborn also came from his fellow officers and colleagues, some of whom he had worked with for 14 years. One remarked that he was very kind, never complained, and always had a smile on his face.

Like many law enforcement officers Claborn worked extra jobs to supplement his regular income. His son, Tanner has juvenile diabetes. The extra work, like escorting the construction vehicle the night he was killed, helped augment the cost of the $6,000 insulin pump Tanner needed. Tanner, bright and popular young man, was released from the hospital just 3 days before his father lost his life. The drunk driver had a blood alcohol level three times over the legal limit.

Deputy Claborn's sacrifice touched many lives in the Houston region. The 100 Club of Houston pledged $10,000 as a college scholarship for Tanner. The Harris County Precinct 4 Constable's Victims Assistance Unit set up a memorial fund to help pay for medical bills and other expenses. The Magnolia Community has rallied to the family's side.

The Claborn family and hundreds of others will gather in our Nation's Capital to honor the lives and memories of the men and women who devoted their careers and laid down their lives to make our communities safer.

It is so fitting that a memorial to these officers, like Scott Claborn, who patrolled neighborhoods and safeguarded communities from across the country be located in Washington. It is because of their faithful duty that American citizens enjoy the liberties and freedoms others are left only to dream about.

Mr. Speaker, I know this family. They are wonderful people who love their family, their God and their Country. I ask you to join me in saluting the thousands of law enforcement officers on patrol every day on our streets and consider the sacrifice they and their families routinely render.

EXPRESSING CONDOLENCES TO THE FAMILY OF LATE CONGRESSMAN PETER W. RODINO, JR.

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Ms. PELOSI. Mr. Speaker, I rise to express our heartfelt condolences to the family of the late Congressman Peter W. Rodino, Jr. of New Jersey and my sorrow on his passing.

A man of integrity and humility, Congressman Peter Rodino was a great American who served our nation with great dignity and honor. He was truly a historic figure and consequential leader who changed the course of our history for the better.

By conducting the Watergate impeachment hearings with fairness, Peter Rodino ensured that the rule of law prevailed during one of the gravest Constitutional crises in our history.

As the Washington Post noted, he spoke before this House when the Watergate impeachment hearings began and said: "Whatever the result, whatever we learn or conclude, let us now proceed with such care and decency and thoroughness and honor that the vast majority of the American people, and their children after them, will say: 'That was the right course. There was no other way.'"

He did all that and more. His contribution was inestimable.

Americans will be forever grateful for his courage and for his defense of the Constitution.

Though most renowned for the service he rendered during the Watergate impeachment hearings, Peter Rodino also left a lasting imprint as a distinguished Chairman of the House Judiciary Committee and author of significant legislation, ranging from civil rights to immigration reform to protecting consumers.

He was a main sponsor of the Civil Rights Act of 1966 and authored the extension to the Voting Rights Act in 1982. He reformed immigration quotas and promoted fair housing laws. And he was one of the authors of the Hart-Scott-Rodino Act that protects consumers by preventing anticompetitive mergers.

He was a legislative and legal giant whose work continues to have a profound impact on the lives of Americans.

Peter Rodino's 4 decades of service in Congress can be exemplified by the words of the Constitution that he did so much to protect and defend: "to form a more perfect Union, establish Justice . . . and secure the blessings of liberty to ourselves and our posterity."

Peter Rodino's passing is a personal loss to me. I was honored to have served with him, and he was always very kind to me.

He was a great source of pride and inspiration to all of us in the Italian-American community.

I hope his wife Joy and his children take comfort in the prayers and thoughts of the many whom he inspired and served. We will miss him greatly.

HONORING THE CONTRIBUTIONS OF LISA DELAND, TOBIAS INTERNATIONAL ELEMENTARY SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the many accomplishments of Lisa DeLand, Tobias International Elementary School Teacher of the Year.

Lisa DeLand became a teacher nine years ago, after obtaining a Bachelor of Science and Associates Degree in foreign language at the University of Texas at Austin. To this day, she says she still considers it "going to school" instead of "going to work."

Throughout her tenure, Lisa has worked on several district and campus committees, served as liaison between campus and superintendent's office, been a member of the campus leadership team, and acted as PTA representative.

Lisa works with a wide variety of students: some average learners, some gifted students, and some with special needs. This has compelled her to find a common thread with which to tie together the learning process in her classroom. Her own curiosity and love of learning have enabled her to bring a level of fun to the classroom that allows all of her students to participate in the learning process.

I am honored to recognize Lisa DeLand as the Tobias International Elementary School Teacher of the year. Her love of learning and dedication to her students are a true asset to both the school and the community.

IN SUPPORT OF THE FAIR CURRENCY PRACTICES ACT OF 2005

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. MANZULLO. Mr. Speaker, a country that manipulates its currency for the purposes of gaining an advantage in foreign markets violates many of the basic rules of the international monetary system established after World War II. However, despite repeated evidence that numerous countries are not letting market forces determine the value of their currency, our nation's laws set an extremely high threshold for us to take any effective action against other nations that intervene heavily in currency markets. The main purpose of the Fair Currency Practices Act of 2005 is to give our government agencies the tools they need to effectively combat illegal foreign government intervention in the global currency markets, particularly those efforts that are specifically designed to boost their local economy at the expense of the workers of the United States.

The Fair Currency Practices Act of 2005 has three key provisions. The first would alter the criteria by which the Treasury Department is required to enter into negotiations with foreign countries that it labels as currency manipulators. The second would further clarify the working definition of manipulation under the Exchange Rates and International Economic Policy Coordination Act of 1998. Finally, the Fair Currency Practices Act of 2005 would instruct the U.S. Treasury Department to undertake an extensive examination of China's trade surplus, with particular attention paid to China's suspect trade data, and report on its findings.

Current law requires that Treasury regularly make a determination of whether countries are manipulating the rate of exchange between their currency and the U.S. dollar for purposes of preventing effective balance of payments adjustments or gaining an unfair competitive advantage in international trade. If The Secretary of Treasury considers that such manipulation is occurring with respect to countries that (1) have material global current account surpluses and (2) have significant bilateral trade surpluses with the United States, the Secretary is required to take action to initiate negotiations with such foreign countries on an expedited basis. The Fair Currency Practices Act of 2005 amends the 1988 Omnibus Trade Act by eliminating the necessity that a country has both a significant bilateral trade surplus with the United States and a material global current account surplus, before the Secretary of the Treasury is required to enter into negotiations with the offending country to end its unfair practices. The change requires such negotiations if there is either a significant bilateral trade surplus with the United States or a material global current account surplus.

Under current law, even if manipulation is found, Treasury is not required to act unless the offending country has both a significant bilateral trade surplus with the U.S. and a material global current account surplus. Treasury repeatedly fails to make a determination that certain countries, most notably China, are manipulating their currency. The 1988 Trade Act unfortunately does not specifically define "manipulating." The Fair Currency Practices Act of 2005 clarifies that a country engaged in "protracted large-scale intervention in one direction in the exchange market" is manipulating its currency. However, the Fair Currency Practices Act of 2005 does not preclude the Secretary of Treasury from finding a country to be manipulating its rate of exchange based on any other factor or combination of factors.

Finally, the bill addresses a problem with the way Treasury determines China's global current account and trade balances. Currently, the U.S. Treasury Department and the International Monetary Fund (IMF) use official Chinese statistics, which differ markedly from the aggregate statistics of its trading partners. This results in an inaccurate depiction of China's true surplus, which is presumably much larger than reported by China. The Fair Currency Practices Act of 2005 requires that Treasury undertake an examination of China's trade surplus and report to the Congress on why China's reported trade surpluses differ from those reported by its trading partner countries.

Mr. Speaker, all nations, most particularly China, must let the free markets determine the value of their currency, not use government resources to artificially depress the value of a nation's currency to boost their economic growth. This scheme costs U.S. manufacturers billions of dollars in lost exports and decreased market share in the U.S. each year while putting American workers on the unemployment lines. We all know the specific problems in dealing with China—in 2004, the U.S. trade deficit with China reached a record level of $162 billion, the highest with any country in U.S. history. Yet, while China's economy has certainly grown and strengthened in recent years, China's currency has been tightly pegged to the U.S. dollar ever since 1994. Most economists believe that China's currency is overvalued at between 15 to 40 percent, making U.S. goods much more expensive in China and Chinese goods in the U.S. much more attractive to buy (at the expense of similarly-made U.S. products), contributing to as much as 25 percent of our bilateral trade deficit. China is long due for a correction in its currency value to reflect its global economic prowess. Americans stand ready to compete with anyone in the world. But the competition must be fair. The Fair Currency Practices Act of 2005 will give our government the tools necessary to hold all nations of the world accountable for currency manipulation (not just China) and level the playing field for our workers.

CONGRATULATING IRVIN LEVIN ON HIS RETIREMENT

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. KENNEDY of Rhode Island. Mr. Speaker, today I rise with my Rhode Island colleague, Congressman JIM LANGEVIN, in recognition and tribute to a distinguished Rhode Islander, Irvin Levin. Many of Irv's colleagues in the real estate and insurance business will miss him as he retires, and Rhode Islanders all over the state have been touched by his leadership in the business community, in government, and in his community.

Irvin Levin was born on July 21, 1915 in Providence, Rhode Island and is truly a member of our nation's Greatest Generation. He lived through the Great Depression, served his country honorably with the Army during World War II, and came back to help build America to the great country and society it is today.

Receiving his real estate license in 1959, Mr. Levin's practice was widely respected by his colleagues and valued by his clients, as his numerous honors and awards can attest. He was twice recognized as Realtor of the Year by the Greater Providence Board of Realtors, and he was honored as the Rhode Island Realtor of the Year in 1993. His colleagues elevated him to the President of the Rhode Island Association of Realtors in 1990.

Yet even while managing a successful real estate practice, Irv still found time to represent his community and fight for a better Rhode Island. Irv represented Cranston and the citizens of the 27th District of Rhode Island for 20 years. While in the General Assembly, Irv was Vice Chairman of the House Corporations Committee. Drawing upon his own record of military service and insights as a veteran, Irv chaired the Joint Committee on Veterans Affairs. In 1991, Irv retired from the Assembly as its Dean, the longest serving Member, but he continued his work in public service.

Irv later served as President of the Greater Cranston Chamber of Commerce. Irv continued to fight for his fellow veterans: serving on the Rhode Island Advisory Board of Veterans Affairs, leading the advocacy efforts of the Jewish War Veterans, and later serving as President of the United Veterans Council of Rhode Island.

I'm deeply honored to have served with Irv Levin during his years in the Rhode Island General Assembly and to honor him today on the floor of House of Representatives as he retires. His combination of community involvement, civic leadership, and business acumen sets of model for others to follow in the future and Rhode Island is deeply grateful for his years of service.

HONORING THE CONTRIBUTIONS OF ELM GROVE ELEMENTARY SCHOOL TEACHER OF THE YEAR CATHERINE S. ROGERS

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the accomplishments of Catherine S. Rogers, Elm Grove Elementary School Teacher of the Year.

Catherine Rogers first realized she wanted to be a teacher when she was a student in the second grade. She stapled her finger while hanging papers on the bulletin board, trying to be just like her teacher. Catherine was a teacher's assistant while in high school, volunteered in low-income schools while in college, and later served as a Teaching Fellow while getting her Masters in Education at Texas State University.

Catherine credits her mother with teaching her the importance of putting her heart and soul into the school and the students. She feels that teaching is more than lectures and homework; teaching requires a willingness to become an important part of the life of each student.

Catherine says that teaching is her "heart and soul," and she loves learning new things from her colleagues, parents, and students every day.

I am honored to recognize Catherine S. Rogers as the Elm Grove Elementary School Teacher of the Year. Her enthusiasm and joy for teaching are invaluable to both her school and her community.

RECOGNIZING THE BUFFALO DRUG TREATMENT COURT

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. HIGGINS. Mr. Speaker, in December 1995, the Buffalo Drug Treatment Court was established. The Buffalo Drug Treatment Court is recognized as a national mentor court and training site, providing the focus and leadership for community-wide, anti-drug systems, bringing together criminal justice, treatment, education and other community partners in the fight against drug abuse and criminality. The Honorable Thomas P. Amodeo, Buffalo City Court Chief Judge, and the Honorable Robert T. Russell, Jr., Presiding Judge of the Buffalo Drug Treatment Court are dedicated to the principle of restorative justice. They, along with their community partners in treatment and rehabilitation services, recognize the value of fair justice for the non-violent substance abuse offenders. The Buffalo Drug Treatment Court combines intensive judicial supervision, mandatory substance abuse treatment, on-site drug testing and escalating incentives and sanctions to break the cycle of drug addiction and its concomitant crime and societal harm. The Buffalo Drug Court Alumni Association is composed of graduates of the Buffalo Drug Court Program who provide ongoing exchange, support, assistance and volunteer service for those who have successfully completed the Drug Treatment Court. In recognition of all Buffalo Drug Court Graduates, the Buffalo Drug Court Alumni Association and the Buffalo Drug Treatment Court are coming together to sponsor a luncheon honoring the Treatment Counselors and Community on May 12, 2005. This celebration of Buffalo Drug Court is symbolic of the care, compassion and spirit of Buffalo, and the hope we have for our community and our citizens.

HONORING THE CONTRIBUTIONS OF ABIGAIL HERNANDEZ, LEHMAN HIGH SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the many accomplishments of Abigail Hernandez, Lehman High School Teacher of the Year.

Abigail Hernandez is a graduate of Southwest Texas State University, where she received a BS in mathematics with a teaching certification. She is currently working on a Masters in mathematics education, but she has no interest in leaving the field of teaching.

Her parents were part of the first generation of high school graduates from Goliad, Texas, the town where she was raised. Although they never had the opportunity to attend college, they instilled the importance of a good education in Abigail. She began her career as a tutor of algebra, offering her peers assistance free of charge.

Now a high school algebra and geometry teacher, Abigail Hernandez continues her tireless efforts to educate those around her by encouraging her students to speak out and take risks. She is currently being honored as the Lehman High School Teacher of the Year.

I am honored to recognize the accomplishments of such an industrious and hardworking teacher. Her passion for teaching enriches the lives of her whole community.

HAIL TO CLAIRE E. SANTORO, PRESIDENTIAL SCHOLAR

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. CLAY. Mr. Speaker, I rise today to honor an outstanding young American, Claire E. Santoro, of University City, Missouri, who was recently designated as a Presidential Scholar. This honor distinguishes Ms. Santoro as one of our Nation's most accomplished high school seniors.

Presidential scholars are selected for their accomplishments in academics and the arts, as well as for their leadership skills, community service and civic contributions. Seventeen-year-old Ms. Santoro is among 141 presidential scholars who will be honored next month in a ceremony in Washington, DC.

Among her many accomplishments, Ms. Santoro has played varsity field hockey and soccer for four years. She is a member of the National Honor Society, the mock trial team and is in charge of the dance chorus for her school's spring musical.

This spring Claire will graduate from University City High School, in St. Louis County. Next fall she will attend Brown University in Providence, Rhode Island, where she intends to study educational policy and environmental issues. I have also been informed that her academic success has been inspired by a most important teacher, Ms. Roberta L. Steward.

Mr. Speaker, I am very proud to commend Ms. Santoro on her many fine achievements. By all accounts, she is a major source of pride to herself, her family, her school and the residents of the 1st Congressional District. I wish her every continued success in the future.

TRIBUTE TO MR. GEORGE POOLE

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. MILLER of Florida. Mr. Speaker, I was saddened to learn recently of the passing of Mr. George Poole, a distinguished senior manager with the Department of Veterans Affairs' Insurance Service. VA's Insurance Service has long been recognized as one of the finest-managed organizations within the federal government, due in no small measure to Mr. Poole and his commitment to our servicemembers, veterans, and their survivors.

Few Americans can match George's years of devoted service to country. He began his public career by serving in the United States Air Force from 1964 through 1968. Following his honorable discharge, he received bachelor and law degrees, taking full advantage of the VA-administered GI Bill. Who can doubt that his military service and studies made possible by the GI Bill inspired him to pursue a career dedicated to helping fellow veterans. This dedication translated into a distinguished 28-year career with the VA's Insurance Service, where he served from 1977 until his death April 27th.

While it is difficult to highlight just one of his many accomplishments, surely his creation and development of the Insurance Service's "Special Outreach" effort warrants particular mention. This outreach involves matching insurance participation and disability reports from various sources to identify recently separated, seriously injured veterans who have not taken advantage of VA's life insurance programs. Based on the efforts of George and his staff, over $96 million in insurance proceeds have been provided to veterans' survivors. Few among us have had such a dramatic and positive impact on the lives of so many others.

Mr. Poole was always available to provide invaluable research, data, and program explanations to the members and staff of the House Committee on Veterans' Affairs—often on short notice. As such, his expertise and professional manner were essential to the Committee when crafting bipartisan legislation.

Mr. Speaker, as Chairman of the Subcommittee on Disability Assistance and Memorial Affairs, the subcommittee with jurisdiction over VA's insurance programs, I extend my sincere condolences to Mr. Poole's wife, Denise; his two sons, Todd and Corey; his granddaughter, Madeline; and his equally dedicated coworkers at the VA Regional Office and Insurance Center in Philadelphia.

HONORING THE CONTRIBUTIONS OF CHRIS SMITH, HAYS CONSOLIDATED HIGH SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the exhaustive contributions of Chris Smith, Hays Consolidated High School Teacher of the Year.

Chris began his career as a youth minister, and soon teaching became a passion. As a Math teacher, he surprised his coworkers by successfully pairing Special Education students with honors students to work on joint projects in the computer lab. Many of his students improved as much as 15 points on the Math TAKS over the last 2 years.

Yet for Chris Smith, the true judgment of his accomplishments is self-imposed. He strives to be a classroom entertainer, a friend, a father figure, and sometimes a teacher as well. His greatest asset is to positively change the course of another person's life.

Chris demonstrates to his students that they are each special and important. He endeavors to mold his students into adults that enjoy life, love to laugh, and will create a positive impact on one another.

It is my privilege to acknowledge Chris Smith, the Hays Consolidated School Teacher of the Year. Chris's passion and love of teaching sets a shining example for all in his community.

RECOGNIZING THE JIMMY STEWART MUSEUM OF INDIANA, PA

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. SHUSTER. Mr. Speaker, I rise today to recognize with great pride the Jimmy Stewart Museum of Indiana, Pennsylvania, in honor of the 10th anniversary of its opening. Honoring the life of a motion picture icon and American patriot, the Jimmy Stewart Museum preserves all aspects of Indiana, Pennsylvania's favorite son.

While most Americans remember Jimmy Stewart as idealistic Jefferson Smith in Mr. Smith Goes to Washington, watching him go toe-to-toe with Katherine Hepburn in The Philadelphia Story, and welcoming George Bailey into their homes every year at Christmas to find out why exactly It's A Wonderful Life, the people of Indiana proudly remember him as a good neighbor and citizen dedicated to his beloved hometown where his family resided for generations.

It is for this reason they came together to develop the Jimmy Stewart Museum which became a community effort in every sense of the words. While modesty initially shied Jimmy Stewart himself away from the idea of such a project, he came to understand the economic benefits the museum could produce for the area. With the creation of the Jimmy Stewart

Foundation in 1994 the project catapulted into action with local volunteers, financial backers, and even a local architect who designed the facility pro-bono. Not only would the museum improve the economy of the community, it would improve the morale and incorporate a spirit of generosity to everyone who became involved with the museum and its efforts.

The Jimmy Stewart Museum, located directly across from the site of his father's hardware store, opened to the public on May 20, 1995, Stewart's 87th birthday. Since then it has welcomed tens of thousands of visitors from all over the world to view an extensive collection of personal, local, and film industry memorabilia. Included in the collection is the Oscar awarded to Stewart for his Best Actor performance in The Philadelphia Story, as well as particular emphasis on his service to his country during WWII where he served as a bomber pilot in the European Theater and retired with the rank of brigadier general.

While the contributions of Jimmy Stewart to both community and the arts are undeniably deserved, the recognition for those who had the foresight and determination to preserve the memory of such an extraordinary life must not go unnoticed. Notable supporters Nick and Nina Clooney and comedian Rich Little generously donate their time to assist in the efforts of keeping the museum at its best. The museum is a true testament to the character of Indiana and I am proud of the devotion the town has shown towards their favorite son and subsequently to each other in the creation of this museum.

Mr. Speaker, I congratulate the Jimmy Stewart Museum on its 10th Anniversary and offer my genuine best wishes for many prosperous years to come.

IN HONOR OF SANFORD WALKE, PURPLE HEART RECIPIENT

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Mr. Sanford Walke of Hernando Beach, FL. A chief engineer in the Army during World War II, Mr. Walke received the Purple Heart for his heroic actions in battle.

Mr. Walke was in the Army from November 1942 through November 1945, serving during World War II in the European Theatre. Assigned to the 398th Bomb Group—8th Air Force, Mr. Walke was a chief engineer on a B17.

On a flight to Germany on July 8, 1944, Mr. Walke's plane was shot down over France. The last one to jump out of the plane, Mr. Walke's parachute had a missing panel that made him fall to the ground faster than would normally occur. Ironically, the parachute malfunction saved his life because the enemy on the ground was shooting at him the entire time, but was unable to accurately target his fall.

Mr. Walke was taken as a prisoner of war and held in a German prison camp. Months later, he and 2,000 other POW's walked for 75 days and 500 miles on a forced march before he was able to escape with another British soldier. They were hiding in a barn in a German village when British tanks rolled in and took over the town. The British took care of him from there until he was able to reunite with Americans.

Mr. Speaker, true American heroes like Sanford Walke should be honored for their service to our Nation and for their commitment and sacrifices in battle. I am honored to present Mr. Walke with his long-overdue Purple Heart. He is truly one of America's greatest generation.

HONORING THE CONTRIBUTIONS OF JANET CAROL PATTERSON, WALLACE MIDDLE SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the contributions of Janet Carol Patterson, Wallace Middle School Teacher of the Year.

From a young age, Janet expressed the desire to work with young people, helping out with youth groups at her church. Her interest stemmed from a desire to have a positive influence on the lives of the children in her community.

Janet sees her greatest accomplishments through the successes of her students. She is proud to offer inspiration each year, encouraging her students to believe in themselves and always do their best.

Janet Carol Patterson has taught Language Arts in the Hays CISD school district for 24 years. Among her numerous contributions and accomplishments, she values the relationships she has developed with her students the most. She has been described as "a teacher who leaves an imprint on her students' hearts," and a "second mom." Janet greets her students at the door with a handshake, and endeavors to open their hearts, as well as their minds.

I am honored to acknowledge Janet Carol Patterson, Wallace Middle School Teacher of the year. Her hard work and dedication enrich the lives of everyone in her community.

THE PENSION FAIRNESS AND FULL DISCLOSURE ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. GEORGE MILLER of California. Mr. Speaker, I rise today to introduce "The Pension Fairness and Full Disclosure Act," legislation to end the gross discrepancies between the way the retirement packages of a company's rank and file employees and top-executives are treated.

Executive compensation packages often provide lavish golden parachutes that are hidden from employees, shareholders, and regulators. Employees are told the company has little choice but to cut their pay and benefits, while being kept in the dark about the fortunes that companies shower on executives who have presided over the company's failure.

In fact, extensive executive packages are often increased at the very same time their employees' pensions are cut. As employees are asked to give back benefits they have earned, executives are often padding their own retirement packages. The executives who make the critical decisions to save or scrap employee pension plan rarely share the pain of their decisions—but are perversely rewarded for cutting company liabilities to their workers.

My legislation brings greater equity to the private pension system by requiring full disclosure of executive compensation packages to employees, and by linking the benefits in executive compensation plans to those of the rank-and-file for whom these executives bear responsibility.

A 2003 Executive Excess report by United for a Fair Economy found that the median pay for executives at the 30 companies with the most underfunded pension plans in 2002 was $5.9 million, or 59 percent higher than the median pay for executives at the typical large company. These 30 companies had a combined $131 billion pension deficit in 2002, but paid their executives a combined $352 million.

While the underfunding threatened employee pensions, 19 of these executives saw their pay rise, and 10 saw their pay more than double in 2002. The executive pensions themselves are exorbitant. A review of 2004 proxy statements from 500 large companies by Corporate Library for the New York Times revealed that 113 chief executives could expect retirement benefits of more than $1 million per year. At least 31 would see $2 million or more per year. A list of some of the more recent and well-publicized outrages on how executive plans and rank-and-file plans are treated is attached to this letter.

"The Pension Fairness and Full Disclosure Act" makes overdue changes in pension law to end these grotesque disparities in the way the retirement security of employees and executives are treated.

Corporations that file for Chapter 11 bankruptcy and shift unfunded pension liabilities to the Pension Benefit Guaranty Corporation (PBGC), or convert their traditional pension plans to cash balance plans in a way that does not protect older workers, would not be permitted to increase executive deferred compensation for directors and officers for a 5-year period without incurring a 100 percent excise tax.

Corporations with underfunded rank-and-file pension plans would be prohibited from providing any funding for executive pension plans unless and until their rank-and-file plans are at least 75% funded.

Corporations would have to disclose the full value of their executive compensation plans when they move to terminate the plans in bankruptcy or make amendments to the plan to freeze benefits or reduce future accruals.

For far too long, some companies have irresponsibly rewarded their executives while unfairly cutting or eliminating their employees' pensions. I invite my colleagues to join me in supporting and passing "The Pension Fairness and Full Disclosure Act."

RECOGNIZING THE CAREER AND RETIREMENT OF MRS. JOSEPHINE POSHARD, TEACHER, AT CARTERVILLE, COMMUNITY UNIT SCHOOL DISTRICT NO. 5 IN CARTERVILLE, ILLINOIS

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing the career and retirement of Mrs. Josephine (Jo) Poshard, third grade teacher at the Carterville Community Unit School District No. 5, in Carterville, Illinois.

Mrs. Poshard has devoted 32 years to educating the youth of Southern Illinois, serving as a teacher, cheerleading sponsor, choral director and yearbook sponsor. She has been the third grade teacher at the Carterville Community Unit School District No. 5 for the past 20 years. During that time, in addition to her devoted education of the students in her classroom, Mrs. Poshard has served on numerous committees and in many capacities. One of her most significant extra-curricular contributions has been as Team Leader of the Math School Improvement Plan. Through her leadership, the school has consistently excelled on the Illinois Standard Achievement Test.

Mrs. Poshard graduated from Southern Illinois University at Carbondale with University Honors. While at Southern Illinois University, she was asked to join Alpha Lambda Delta, a national society that honors academic achievement.

Mrs. Poshard began her teaching career at Thompsonville High School in Thompsonville, Illinois. She taught four sections of English as well as Journalism, Girls' Physical Education and she was the Cheerleading sponsor.

After 3 years at St. Elmo Junior High School and a year as a substitute teacher in several community schools, Mrs. Poshard accepted a position as first grade teacher at the New Simpson Hill School District at Tunnel Hill. While at New Simpson Hill, Mrs. Poshard earned certification for Gifted and Talented students and implemented the Gifted program at her school. With this new program, she was teaching gifted students in grades four through eight while also teaching first grade.

In 1984, Mrs. Poshard brought her years of experience and dedication to Carterville Community Unit School District No. 5, in Carterville, Illinois, as a third grade teacher. She has served that community by guiding, molding and enriching the lives of the boys and girls entrusted to her care from 1984 until her retirement this year.

Mrs. Poshard has demonstrated her dedication to her chosen profession of teaching in numerous ways. She has consistently devoted an average of 50 to 60 hours a week to her job, refusing to be absent unless she was extremely ill. She applies the same expectation of excellence to herself that she does to her students. The real measure of Mrs. Poshard's success lies in the accomplishments of her students. Even though she is retiring at the end of this school year, Mrs. Poshard's influence will live on in the lives of the over 1,000 students she has taught over 32 years.

Mrs. Poshard is married to one of our former colleagues, the Honorable Glenn Poshard, and lives in Murphysboro, Illinois.

Mr. Speaker, I ask my colleagues to join me in an expression of appreciation to Mrs. Josephine Poshard for her years of dedicated service to education and to wish her the very best in the future.

SUPPORT TAIWAN'S INCLUSION INTO THE WORLD HEALTH ORGANIZATION

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. BURTON of Indiana. Mr. Speaker, I rise today in strong support of Taiwan's application for observer status as a "Health Entity" for next week's annual World Health Organization (WHO) Assembly in Geneva, Switzerland, and to respectfully encourage other international organizations to more actively engage Taiwan in their activities.

Even though Taiwan was a founding member of WHO, every May, for the past eight years, when the World Health Assembly meets to consider the acceptance of new members to the WHO, it systematically denies Taiwan access to the global health organization. Even with last year's support from the United States and Japan, Taiwan—among the leaders in Asia in important health indicators, such as life expectancy and infant mortality—was once again rejected.

Regardless of the fact that the World Health Assembly has routinely allowed observers to participate in the activities of the Organization, including the Sovereign Military Order of Malta, the Holy See, and even the Palestine Liberation Organization; regardless of the fact that Taiwan's population of almost 23,000,000 people is greater than that of ¾ of the member states already in the World Health Organization; regardless of the fact that Taiwan has repeatedly expressed a willingness to assist financially and technically in international aid and health activities supported by the WHO; and, regardless of the fact that direct and unobstructed participation in international health cooperation forums and programs is beneficial for all parts of the world, especially today with the great potential for the cross-border spread of various infectious diseases such as the human immunodeficiency virus (HIV), tuberculosis, and malaria, our European Union colleagues continue to shortsightedly side with China and exclude Taiwan.

Unfortunately, this political and diplomatic dance has had a real world cost in terms of Taiwanese lives lost during outbreaks of life threatening diseases, including Severe Acute Respiratory Syndrome (SARS) and the enterovirus epidemic in 1998. The SARS and avian influenza outbreaks should remind all of us that disease knows no boundaries and reinforce the importance of allowing all people access to the World Health Organization. As the pace of globalization quickens, the spread of infectious disease will only accelerate.

Not only will the Taiwanese benefit from membership in the WHO through engagement with the international community in the common pursuit of raising the quality of public health and providing for the welfare of its citizens, but so will their neighbors throughout the Asia Pacific region, indeed the world, through interoperability, pooled resources, and the sharing of technical expertise. I firmly believe that Taiwan's inclusion in the WHO will help ensure global health safety and our own national security by allowing all WHO countries to more comprehensively and quickly coordinate global efforts to combat deadly outbreaks of diseases and any future epidemics.

Mr. Speaker, the people of Taiwan deserve the same level of public health as the citizens of every nation on earth, and I stand in support of their continued desire and commitment to be included in the WHO. I urge all of my colleagues to join me in encouraging the United States delegation in Geneva to stand in strong support of Taiwan's application for inclusion into the World Health Organization.

HONORING THE CONTRIBUTIONS OF KRISTI JACKSON, FUENTES ELEMENTARY SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the many accomplishments of Kristi Jackson, Fuentes Elementary School Teacher of the Year.

Kristi Jackson was inspired to become a teacher by her mother, a devoted teacher herself, who taught Kristi to do the job wholeheartedly and with a great deal of compassion and a sense of humor. Kristi now teaches at the same school as her mother, joining her in their shared goal of watching their students become successful in the classroom and beyond.

Kristi Jackson is taking her mother's work a step further, answering her call to develop teacher leadership through empowerment and encouragement learned from her principal. Kristi also feels that it is her most important contribution to instill a love of reading in her students, the same love of reading she has had herself ever since her mother read her bedtime stories as a child.

Kristi hopes one day that the walls of her classroom expand beyond her students, to include all the teachers and students of her school.

I am honored to recognize Kristi Jackson as the Fuentes Elementary School Teacher of the Year. Her love for her students and fellow teachers is a credit to her school and her community.

SEX DIFFERENCES IN HEALTH AWARENESS DAY

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Ms. SLAUGHTER. Mr. Speaker, as part of National Women's Health Week, the Society for Women's Health Research is recognizing today as "Sex Differences in Health Awareness Day." The intent of this day is to draw attention to the biological health differences between women and men. I am proud to reflect on this issue, and I strongly believe the importance of this day cannot be overstated.

It is true, scientists have long known about the anatomical differences between men and women. However, only within the past decade has the scientific community begun to investigate and uncover significant biological and physiological differences between men and women. From genes to behavior, women and men are now gaining greater knowledge of their unique differences. As a result, they are able to better achieve optimal healthcare.

The Society for Women's Health Research has led efforts to shed light on the distinctions in women's health. Through the Society's tireless persistence on behalf of women's health, they have engaged and supported the scientific community to investigate these dissimilarities. Over the last fifteen years, the Society has worked to ensure that women are included in clinical trials and that the analysis of research include sex differences at all levels. I commend the Society for Women's Health Research for its tireless efforts to increase understanding of sex differences and to improve the health of women.

One health issue that affects women very differently than men is cancer. In fact, every 6.4 minutes, a woman in the U.S. is diagnosed with a form of gynecologic cancer. This year, 28,000 American women are expected to die from gynecologic cancers. For example, ovarian cancer is a gynecologic cancer, and it is the fourth leading cause of cancer deaths among women in the United States. It kills more women than all other gynecologic cancers combined. The incidence of ovarian cancer has actually increased over several years. Up from 1 in 70 women in past years, ovarian cancer now occurs in 1 in 57 women. In comparison, prostate cancer mortality rates peaked in 1991 and have since decreased by about 33 percent, while deaths from ovarian cancer have risen. According to the American Cancer Society, ovarian cancer deaths rose by almost 20 percent in just one year from 2003 to 2004. While 25,500 women will be diagnosed with ovarian cancer this year, more than 16,000 women will die from the disease, including over 1,000 women in New York State.

Although there is only a 25 percent five-year survival rate when ovarian cancer is diagnosed in the later stages, if the cancer is caught before it has spread outside the ovaries, there is a greater than 90 percent survival rate of five years. However, the sad reality is that only 24 percent of ovarian cancer is caught early. Even more frustrating, early detection and treatment of ovarian cancer is oftentimes hindered due to lack of understanding by both women and their healthcare providers. Most women and healthcare professionals think ovarian cancer is asymptomatic, but new studies indicate that ovarian cancer does have symptoms, even in the early stage of the disease. Reliable screening tests do not exist for the early detection of ovarian cancer and a Pap smear only checks for cervical cancer. However, a bimanual pelvic exam, a Ca125 blood test, or a transvaginal ultrasound can help rule out ovarian cancer, but only if women and their doctors are aware of these options. With women's lives at stake, we clearly need to do a better job of educating women and, especially, their physicians, so that early detection of ovarian cancer becomes the norm.

In my district, the Buffalo-based Roswell Park Cancer Institute, RPCI, and the University of Rochester Medical Center, URMC, are supporting many research efforts on ovarian cancer. As a member of the Gynecologic Oncology Group, RPCI participates in most national trials to improve the prevention, detection and treatment of gynecologic cancers. They also collaborate in the Ovarian Cancer Early Detection Program sponsored by the National Cancer Institute. RPCI is evaluating the anti-angiogenesis factor IM862 in the treatment of recurrent ovarian carcinoma. Through the Gilda Radner Familial Ovarian Cancer Registry, RCPI collects data on familial ovarian cancer. RPCI continues to research glycoproteins and tumor markers in ovarian cancer. Researchers at the URMC are investigating tumor suppression gene identification for ovarian cancer and are conducting several phase III trials to identify treatments for women with ovarian cancer.

Despite the critical work of RPCI and URMC, ovarian cancer research and education continues to be significantly under-funded compared to other cancers. In the last 10 years, funding for prostate cancer, has increased 20 fold, while funding for ovarian cancer has only increased 2.5 percent. Not surprisingly, there has been substantial progress in prostate cancer detection and treatment, while achievements in ovarian cancer research continue to lag far behind. According to the Ovarian Cancer National Alliance, $37 million in outstanding ovarian cancer proposals will not been funded in 2005 due to limited resources.

Ovarian cancer is one example of the disparities women face in health research, prevention, and treatment. While progress has been made in some areas in recent years, there is still much more we must do to improve women's health. We need additional resources and we need Congressional action. I am pleased to be a cosponsor of H.R. 1245, also known as Johanna's Law. This legislation will authorize a federal campaign for gynecologic cancer education designed to improve early detection. It is one important step in closing the healthcare gap between men and women, and it should be enacted without delay.

As we celebrate National Women's Health Week and the achievements made to improve the health and well being of women, I urge my colleagues to take a moment to reflect on the differences in health between men and women and encourage us to make a much stronger commitment to promoting women's health in this country.

SEX DIFFERENCES ON HEALTH AWARENESS DAY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mrs. MALONEY. Mr. Speaker, I rise today in recognition of Sex Differences in Health Awareness Day.

Scientists have long known of the anatomical differences between the sexes, but we also know that diseases and drugs can affect men and women differently.

Thanks to the efforts of the Society for Women's Health Research over the last fifteen years to mandate that women be included in clinical trials and that analysis of research include sex differences at all levels, from genes to behavior, women and men are now gaining greater knowledge of their unique differences and optimal health care.

Sex differences have been found everywhere from the composition of bone matter and the experience of pain to the metabolism of certain drugs and the rate of brain activity.

Through sex-based biology research, the study of biological and physiological differences between men and women, scientists have discovered many differences between men and women in terms of their health.

For example:

Heart disease kills 500,000 American women each year—over 50,000 more women than men—and strikes women, on average, ten years later than men.

Three out of four people suffering from autoimmune diseases, such as multiple sclerosis, rheumatoid arthritis, and lupus, are women.

Lung cancer is the leading cancer killer of American women, causing an estimated 25 percent of cancer deaths in women in 2004. Several studies have indicated that compared to men, women who smoke are more likely to develop lung cancer at a younger age and at lower levels of exposure to cigarette smoke.

HIV/AIDS is the fourth leading cause of death for women aged 35–44, and the sixth leading cause of death for women aged 25–34 in the United States. The efficiency of male-to-female infection of HIV is more than two times higher than that of female-to-male infection.

Women are two to three times more likely than men to suffer from depression.

Women comprise 80 percent of the population suffering from osteoporosis.

Women are two times more likely than men to contract a sexually transmitted disease.

Until the 1990s, biomedical research was firmly rooted in the male model—the belief that male biology (outside of the reproductive system) was representative of the species and that where female biology differed from male biology, it was "atypical" or "anomalous."

Change occurred in the early 1990s to address the dearth of knowledge about female biology caused by the lack of inclusion of women in clinical research studies due to policies and practices seeking to protect the fetus from harm should a study participant become pregnant.

Now that women are included in clinical research, much has been discovered about how different women are from men.

Research on women's health can both improve and save lives. As a result of such research, death rates have decreased for women with tumors of the cervix, breast, uterus, and ovary due to advances in detection and treatment, such as the development of a cervical cancer vaccine. Quality of life has also improved for cancer patients through the development of less invasive surgical techniques, organ-sparing treatments, and better control of pain and nausea related to chemotherapy.

Additionally, research on women's health can lead to less expensive treatments and cost-saving prevention strategies. For example, the total economic value to Americans from reductions in mortality from cardiovascular disease, which strikes 50,000 more women than men each year, averaged $1.5 trillion annually between 1970 and 1990.

Most recently, scientists have discovered significant information with respect to the leading role the X chromosome plays in the lives of both women and men. Therefore, women's health research is critical to all of us.

While progress has been made in recent years, there is still much more that Congress can do to improve women's health. The Office of Research on Women's Health, ORWH, in the Office of the Director at NIH must be fully funded so that it can continue supporting the expansion and funding of peer-reviewed Specialized Centers of Research on Sex and Gender Factors Affecting Women's Health, SCOR, and the Building Interdisciplinary Research Careers in Women's Health, BIRCWH, programs.

ORWH has taken the critical long-term lead in partnering with various NIH institutes and centers to advance research on women's health and on sex and gender factors, resulting in the following developments: the prevention of cervical cancer with an HPV vaccine; decreasing cardiovascular disease in middle-aged women by preventing recurrent episodes of depression; basic science advances in systemic Lupus Erythematosis research; and discovery of bone loss acceleration before the final menstrual period leading to an important finding related to osteosporosis-related fractures.

In addition, I urge Congress to pass legislation that I have introduced with Representative PRYCE, H.R. 949, the Women's Health Office Act, a bill to provide permanent authorization for existing offices of women's health in five federal agencies: the Department of Health and Human Services; the Centers for Disease Control and Prevention; the Agency for Healthcare Research and Quality; the Health Resources and Services Administration; and the Food and Drug Administration. This will allow these offices to carry out their important work without facing underfunding, understaffing, or elimination in the future.

Congress should further encourage NIH to update and modify its guidelines to actively promote sex differences research at all levels, including basic research in cell and tissue culture, development and study of appropriate animal models, and in early stage clinical research.

I would like to commend the Society for Women's Health Research for its research about the differences between men's and women's health needs.

HONORING DR. GERALD "CARTY" MONETTE

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. POMEROY. Mr. Speaker, I rise today to honor a colleague and dear friend of mine as he retires as President of the Turtle Mountain Community College in my state of North Dakota. I have had the privilege of knowing Dr. "Carty" Monette since first being elected to Congress in 1992 and have seen firsthand the leadership and devoted service he has provided in developing the College into the strong institution that it is today.

Dr. Monette has been with the Turtle Mountain Community College ever since its inception in 1973. He served his first five years as College Director before becoming President in 1978. During his tenure, he oversaw the College's growth from a young, fledging institution to a nationally-recognized leader in tribally-controlled post-secondary education. Not only has Dr. Monette lead the way in helping the College achieve excellence, but his efforts have also truly enhanced the entire community in Belcourt, North Dakota. After 27 great years, he will be difficult to replace.

I know that Dr. Monette will be sorely missed by all who have known his dedication to the Turtle Mountain Band of Chippewa in North Dakota and American Indians across the nation. I offer him my congratulations and best wishes for his continued success and happiness in his well-earned retirement years.

HONORING THE CONTRIBUTIONS OF NADINE HOGAN, BUDA ELEMENTARY SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the many accomplishments of Nadine Hogan, Buda Elementary School Teacher of the Year.

Nadine Hogan is a self-described "crooked flyer." She achieved a Masters degree in Accounting, going through the motions of higher education because she felt it was what she was "supposed" to do. Nadine always loved children, and wanted to help those "flying crooked." After graduate school, she spent time working as a therapist with children in foster care.

In 1999, she responded to an urgent call for additional teachers. She became a Special Educator because there were children who needed help, help she knew she could provide. Nadine Hogan can always get a child ready to learn by focusing on life lessons students can apply to every facet of their education.

Students have a high regard for Nadine because of the "fun" they have in her classes. She loves her kids, and she loves her job.

I am honored to recognize the Nadine Hogan as the Buda Elementary School Teacher of the Year. Her hard work and passion have left a lasting contribution with each of her students.

HONORING ZEE FERRUFINO AND KBNO RADIO

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. UDALL of Colorado. Mr. Speaker, I rise today to honor a great Colorado businessman and community leader, Zee Ferrufino. Mr. Ferrufino is the owner and CEO of Latino Communications which is the parent company to KBNO 1280AM Radio in Denver.

KBNO "Que Bueno" has long been the leader in Denver's Hispanic radio market reaching over half a million people in the Denver metro area. Recently, for the first time in its history, KBNO ranked #1 among adults aged 18–44. All of this—in spite of my occasional appearance on the radio speaking in broken Spanish!

Zee doesn't attribute the success of KBNO simply to the growth in Colorado's Hispanic community, though he acknowledges that is certainly a component. As a successful businessman, he recognizes the importance that the strong purchasing power of the Hispanic community has played in elevating the success of Spanish radio. He points out that in 1990, there were about 2,000 Hispanic-owned businesses, by the year 2000 that number had jumped to 30,000, and in ten years it is expected to increase to 60,000. It is increasingly critical for the mainstream media to adjust to these changing market forces. Zee has long-recognized this trend and has remained ahead of the curve.

In addition to being a successful Colorado businessman for several decades, Zee is a prominent community leader. In 1997, former Colorado Governor Dick Lamm presented him with the "Americans by Choice" award and in 1983 he was given the "Outstanding Business Person" by the Minority Business and Professional Directory. In addition, he was the recipient of the Small Business Administration's Advocate of the Year Award and the Daniel Ritchie Ethics in Business Award. He was also selected by former Colorado Governor Roy Romer to serve on the International Business Development Committee.

Zee has been a leading advocate in the Hispanic community working diligently on issues of importance like education, economic development and civil rights. More than that, he is a role model not only for young Hispanics, but for anyone who has dreams of success and the fortitude to carry out those dreams. I ask my colleagues to join with me in honoring a great American success story, KBNO Radio, and Zee Ferrufino.

Que bueno!

IN HONOR OF ASIAN PACIFIC AMERICAN HERITAGE MONTH

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Ms. ESHOO. Mr. Speaker, I rise today joining my many colleagues in celebrating and observing Mayas Asian Pacific American Heritage month. Nearly 17 percent of my constituents in California's 14th Congressional District self-identify as being of Asian, Hawaiian or Pacific Islander descent and it's an honor to join them in a celebration of their heritage and culture.

Since the early 1800's, Asian and Pacific Islander Americans have played a crucial role in the development of our Nation. From the building of the transcontinental railroads, to the heroic contributions during the Civil War, to the sacrifices made by those wrongfully imprisoned in internment camps during World War II, Asian Americans have made lasting contributions to all facets of American society. I have a great appreciation for the broad ethnic mosaic which makes our country great, and it's especially important this month that we recognize and pay tribute to the contributions of the Asian and Pacific Islander American community to our country.

I'm proud to work with my colleagues to address issues of special concern to the Asian and Pacific Islander American community: protecting Social Security, ensuring equal access to healthcare, providing for a quality education, and safeguarding civil rights. These are the principles that reflect this year's theme of "Liberty and Freedom for All."

I want to particularly pay tribute to three fallen heroes in the Asian and Pacific Islander American community this year: my dear friend and colleague Representative Bob Matsui, Dr. John B. Tsu, and Fred Korematsu. These extraordinary men stood for equality, justice, and freedom for all Americans and I join my colleagues in remembering their unparalleled legacies.

It would be impossible to name every single extraordinary Asian American in California's 14th Congressional District, but I do want to recognize some of the outstanding community leaders, elected officials and activists I'm proud to call my constituents and friends: Alice Bulos, State Chair of the Filipino Caucus; Yamei Lee, leader and activist within the Taiwanese Community; Karyl Matsumoto, member of the South San Francisco City Council; the late Cpl. Burnrok Lee, a Sunnyvale resident who lost his life serving our country in Iraq; the late Iris Chang, author of "The Rape of Nanking"; Jessica Yu, Academy Award winner for the documentary film "Breathing Lessons"; Margaret Abe-Koga, former member of the Santa Clara County Board of Education; Paul Fong, professor of political science at Evergreen Valley College and a local business owner; Randy Okamura, SBC's director of Regulatory and Constituency Relations for California; Michael Chang, former city of Cupertino councilmember; Dean Chu, mayor of the city of Sunnyvale; Otto Lee, city of Sunnyvale councilmember; Homer Tong, chemistry teacher at De Anza College and member of the Fremont Union High School District Board of Trustees; Pearl Cheng, former president and current member of the Cupertino Union School District Board of Trustees; Joyce Iwasaki, Director of Community Affairs for Sugimura & Associates Architects, founder of the Ed Iwasaki Memorial Fund Scholarship Project and the Midori Kai Professional Women's Group; Patrick Kwok, mayor of the city of Cupertino; Kris Wang, city of Cupertino councilmember; Arthur Fong, recipient of a Lifetime Achievement Award from Avenidas who has endowed scholarships at Stanford and UC Berkeley and has also focused on philanthropic support for health care and the Palo Alto Medical Foundation; Yoriko Kishimoto, city of Palo Alto councilmember; Aileen Kao, city of Saratoga councilmember; Jerry Yang, CEO of Yahoo, Inc.; Kathryn Ho, member of the Fremont Union High School District Board of Trustees; Mark Shu, vice president of Hambrecht & Quist Asia; Talin Shu, president of Hambrecht & Quist Asia; T.N. Ho, member of the Santa Clara County Board of Education; Ben Liao, member of the Cupertino Union School District Board of Trustees; Hsing Kung, President and CEO of Pine Photonics Communications; Ken Fong, CEO of CloneTech; David Mineta, member of the Jefferson Union High School District Board of Trustees and associate director of Asian American Recovery Services for San Mateo County; Karen Leong Clancy, member of the Belmont-Redwood Shores School District Board of Trustees; Judge Erica R. Yew, Santa Clara County Superior Court; Margaret M. Abe, community leader and activist and 2004 recipient of the Norman Y. Mineta Lifetime Achievement Award; Cynthia Chang, member of the Los Gatos-Saratoga Joint Union High School District Board of Trustees; Yoshihiro Uchida, president of Uchida Enterprises, Inc. and community leader; Nancy Hatamiya, chief of staff to Assemblymember Pedro Naba with over 15 years of public service; Lon Hatamiya, secretary of the California Technology, Trade and Commerce Agency; Alfred Chuang, founder, president and CEO of BEA Systems; Emily Cheng, first female Chinese American mayor of a city in the Bay Area, Los Altos Hills; and Art Takahara, former mayor and councilmember of the city of Mountain View and CEO of De Anza Manufacturing Services.

IN HONOR OF MARGARET HUMMER MAY

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. FARR. Mr. Speaker, I rise to honor the life and memory of Margaret Hummer May, a devoted wife, mother, teacher and political activist. She spent her life working to make her community a better place to live in. Margaret is survived by her 5 children, Monica May, Irene Lawler, Robert P. May, Theresa May Duggan, and Joanne May White as well as her 7 grandchildren and 6 great-grandchildren.

Before meeting her late husband, James T. May, she received a Bachelor's Degree with honors from the University of Utah and served as Home Service Director of the Salt Lake Chapter of the Red Cross. Margaret and James lived in Alisal and Salinas for over 50 years where she was involved at Sacred Heart Church and volunteered for the State Mental Health Program. She eventually received her teaching credentials from UC Santa Cruz and taught in bilingual pre-schools in the Salinas Elementary School District.

Margaret was devoted to the ideals of social justice and world peace which is apparent though her political activism as well as through her numerous volunteer activities. Margaret showed her dedication to her community through her involvement in local politics. As a lifelong Democrat, she was an active member of the Democratic Women's Club of Monterey County and she also worked for various political campaigns.

Mr. Speaker, please join me in honoring this amazing woman. Our community has lost a dedicated public servant but her legacy will live on through all she has achieved.

HONORING THE CONTRIBUTIONS OF MARY ARIZPE, KYLE ELEMENTARY SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 10, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the extensive contributions of Mary Arizpe, Kyle Elementary School Teacher of the Year.

Mary Arizpe began her teaching career at seven by "grading" her siblings' pictures in a coloring book. She advanced her budding career by helping out in her mother's Special Education classes. Following the birth of her children, Mrs. Arizpe began baby sitting, and was lauded by friends because she didn't just watch the children—she taught them as well.

Mary began her career teaching a class of two-year-olds. The children's excitement was contagious, and she was amazed at how much she enjoyed her job.

Mary Arizpe teaches her students to like, if not love school. In her classroom, hugs and praise are given freely in a climate of acceptance where all students can feel happy and successful. She believes teaching these traits in early schooling prepares her students to weather any future challenges they might encounter.

I am privileged to acknowledge Mary Arizpe, the Kyle Elementary School Teacher of the Year. Through her passion and love of teaching, Mrs. Arizpe provides her community with an abundance of excellent leadership.

HOUSE OF REPRESENTATIVES—*Wednesday, May 11, 2005*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. SIMPSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 11, 2005.

I hereby appoint the Honorable MICHAEL K. SIMPSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Daniel P. Gallagher, Pastor, Edon Church of Christ, Edon, Ohio, offered the following prayer:

O Lord, God of heaven and earth, there is no God like You. Your mercy and grace continue to shower down on Your servants, those of this great building who serve this Nation's people, a Nation started not by accident but by Your providence and watch care.

I ask of You, Lord, to help guide these men and women to make decisions that will make this country better and stronger, not just in the physical sense but in the spiritual as well. Help these leaders to keep their eyes focused on Your desires to make this country what You intended her to be when You first brought people to its shores to be a "light on a hill" for all the world to see. But, Father, may the world not see the might of this country but the Almighty, who is our Watchman. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Georgia (Mr. PRICE) come forward and lead the House in the Pledge of Allegiance.

Mr. PRICE of Georgia led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

A SPECIAL TRIBUTE TO DANIEL PATRICK GALLAGHER ON THE OCCASION OF HIS SERVICE AS GUEST CHAPLAIN TO THE UNITED STATES HOUSE OF REPRESENTATIVES

(Mr. GILLMOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to a truly wonderful friend of the Fifth Congressional District of Ohio. Daniel P. Gallagher is currently the minister at Edon Church of Christ in Edon, Ohio. Today the House was honored to open our legislative session by the inspirational words of Daniel as our guest chaplain.

To his soldiers at Valley Forge, our Nation's Founding Father George Washington proclaimed, "To the distinguished character of patriot, it should be our highest glory to add the more distinguished character of Christian." Today, before our House could again open and continue to work the will of the people, we paused, and we paused, as we have each morning since the Continental Congress, to give thanks and ask for strength.

We have had a chaplain since 1789, and as Guest Chaplain, Daniel Gallagher continues the great tradition by offering his leadership and guidance to this institution.

Through Reverend Gallagher's opening prayer today, the Village of Edon has extended its arms and offered their prayers to those elected to serve them.

Williams County, Ohio is proud to claim the Village of Edon and its nearly one thousand citizens. The county borders both the States of Michigan and Indiana. This wonderful area of Ohio produces great crops for consumption, machines for production and the toys which deliver upon us the joyful sounds of children laughing. Williams County and the Village of Edon provide the fruit of life to our Nation and today it has sent us its shepherd.

Mr. Speaker, I ask my colleagues to join me in paying special tribute to Daniel P. Gallagher as we give thanks for his inspiring words. On behalf of the people of the Fifth District of Ohio, I am proud to recognize his faith and service. We wish Daniel and his family the best as we salute one of Ohio's finest citizens.

NEW FOCUS TO BRING OUR TROOPS HOME

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, congressional Democrats are so sure that we will win back the Congress in 2006 on the Social Security issue that many have stopped challenging the administration on the war on Iraq: Let us take the war off the table as an issue and focus on other issues.

It is not a new strategy. It was pursued by congressional Democrats in 2002 when our leadership supported the war in Iraq. We lost. It was furthered in 2004 when our nominee supported the war. We lost. We lost a chance to regain the Congress and take back the White House, and the American people lost a chance for a new start. Why? Because we did not challenge the central vulnerability of the administration that led this country into war, into a war based on lies and misrepresentations.

Democrats' failure to challenge the war represents a failure of the two-party system. For the Democrats to become politically viable in 2006 and 2008, we must take on this administration on the War on Iraq, not giving them more money to keep the war going. We must move to cut off funds, to bring our troops home, to get out of Iraq, to make those who lied to us to get us into war accountable, to hold them accountable in the courts.

THEY WILL NOT JUST DIE ANYWAY

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, some time this summer, the House will vote on a bill to allow Federal funds to be used to destroy embryos stored at IVF clinics in order to harvest their stem cells. Those voting for this legislation will say that these are leftover embryos. They will say they are going to be killed anyway.

Well, they are wrong. Only 2.8 percent of embryos in IVF clinics have been set aside for research; the rest are destined for implantation or adoption.

But, we do not need to kill these embryos to do stem cell research. Stem cells can be taken from many adult sources: fatty tissue, spleen, liver, sinus, bone marrow, just to name a few. These are called adult stem cells.

Adult stem cell research is currently treating 58 diseases successfully. Embryonic stem cell research is treating none: 58, adult stem cell; zero, embryonic stem cell. If there were no ethical alternative, which there is, if we applied "they are going to die anyway"

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

rationale to other areas of research, it would justify such things as harvesting organs from death-row inmates and from terminally ill patients.

We should support adult stem cell research, not embryonic.

UNITED AIRLINES DEFAULT REMINDS US OF NEED TO PRESERVE SOCIAL SECURITY

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, today we are given a stark reminder of what is at stake in this debate about Social Security.

Yesterday, United Airlines unloaded their pension plan for their 100,000-plus employees onto the taxpayer, resulting in benefits being cut up to 40 percent. Now, go ask those United Airlines' employees what they think of Social Security as part of their retirement.

Earlier this year, US Airways unloaded their pension plan on the taxpayers, cutting benefits up to 50 percent. Go ask those U.S. Airways' employees what they think of Social Security.

It may come as a shock to some, but the American people like the security that comes with Social Security. That is what this debate is about. For United Airlines' employees, U.S. Airways' employees, the steel industry before them and probably the auto industry coming next, Social Security is the linchpin to their retirement security. They reject the idea of doing to Social Security what just happened to their private plan, where they put their personal and employer-based savings. It is now on the roulette table, and benefits are being cut by 40 percent.

The fact is, that is what this debate is, for two-thirds of seniors and 40 percent of widows rely on Social Security as their only retirement. Mr. Speaker, this debate is more than about the solvency of Social Security; it is about retirement security for every American.

FILIBUSTER OF JUDICIAL NOMINEES ILL-SERVES AMERICA

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, blocking confirmation of judges by a minority in the Senate ill-serves the American people.

Filibustering judges is not part of the Constitution; it is not even part of the old Senate rules. The Constitution is clear on what is required of the Senate and its responsibility under the Advice and Consent Clause as it applies to judicial nominations: Majority support. Never has a nominee with clear majority support been denied an up-or-down vote.

Four vacancies continue to exist in the Sixth Circuit Court of Appeals where my district of Cincinnati is contained. One of those vacancies could have been filled by Judge Richard Griffin whose nomination has been pending for 145 days, 145 days. Judge Griffin has the support of his colleagues and individuals such as former President Gerald Ford. He has been rated by the American Bar Association as "well qualified," a rating that has historically secured a nominee's confirmation, but not anymore.

If the Senate wants to amend the Constitution, it should do so as provided by our Founding Fathers, not by the threats of a minority to shut the place down if they do not get their way.

TRIBUTE TO MIGUEL CONTRERAS

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise today to pay tribute to Miguel Contreras, who died unexpectedly on Friday, May 6, 2005.

As executive-secretary treasurer of the Los Angeles County Federation of Labor and a vice president of the California Labor Federation, Miguel was a staunch champion for working families in Los Angeles and throughout our Nation. His leadership reenergized our Nation's labor movement.

Miguel began his life working in the fields of southern California alongside his immigrant parents. After meeting Cesar Chavez, he became active in the United Farm Workers Union.

Under Miguel's leadership, union membership in the Los Angeles County area grew by more than 125,000, creating a powerful voice for working families. Miguel led successful organizing campaigns for janitors and bus drivers, among others.

In a lifetime dedicated to service of working men and women, Miguel Contreras touched many lives, including my own. It was Miguel who encouraged and supported my run for executive-secretary treasurer of the Orange County Federation of Labor. I became the first Latina to head a federation, so I jokingly described myself as Miguel Contreras in high heels. I want to thank him for being a great role model and teaching me many of life's invaluable lessons.

Miguel was not only a friend and a mentor to me, but more importantly, he was a remarkable labor leader, activist, community spokesman, power broker, husband and father, and he will be sorely missed.

PROMOTING FREEDOM AND DEMOCRACY IN EUROPE

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I would like to say welcome back, Mr. President, from your historic trip to Europe.

As a former military officer and a high school history teacher, I thank and appreciate the Soviet Union and the Russian people for their sacrifice in helping to win World War II.

Some would justifiably argue that the Russians carried the lion's burden in Europe, both in sacrifice and materiel. However, as much as we thank the Russian people for their sacrifice, we must also remember the five decades of totalitarian regime that ruled over five of the Eastern European Block countries, those that we call the former captive nations. Loss of liberty, freedom, rule of law, executions, deportations and Russification was imposed on many countries. By the President book-ending his trip with a visit to Latvia and Georgia, we should know that old animosities can be put aside and a new Europe can emerge, one that promotes freedom and democracy and the rule of law.

NEW AXIS OF EVIL

(Mr. CROWLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CROWLEY. Mr. Speaker, we all know about the axis of evil. Iran and North Korea's pursuit of nuclear weapons is frightening, and we need to do everything we can do to stop it.

But now there is a new axis of evil, apparently, and it starts right here in Washington. The axis of evil for this administration is bull's-eye, square one, the United States Senate and the 45 members of its minority. Because while not yet a nuclear State, that is exactly what the Republicans want to make it by eliminating the filibuster rule.

Not only does the Republican Party demonstrate yet again that when they do not get their way, they do not believe in playing fair, they want to change the rules. When they cannot change the rules, their leadership bullies judges and pushes legislation that has no business being in the United States Congress and is left best to the States. When that does not work, they eliminate the voice of the minority and appoint, for lifetime appointments, to the Federal and supreme Court.

Let us remember that Democrats in the United States Senate combined represent more Americans than do their Republican colleagues.

We have a proud history of an independent judiciary and checks and balances. That is something that Iran and North Korea cannot say. If Bill Frist gets his way, it is something we will not be able to say, either.

ISRAEL INDEPENDENCE DAY

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, today we mark Israel Independence Day.

Israel has stood as a symbol of perseverance and courage for the entire world from its birth in 1948. It has struggled constantly to maintain its independence and to ensure its survival amidst military attacks from hostile neighbors and prolonged terrorist campaigns. Even while at war, Israel's democracy and its vibrant, diverse and free society has remained strong. Its doors have been opened to victims of persecution and intolerance around the world. It has been said that the strength of a nation is determined by the caliber of its people, and there is perhaps no better example of this than the State of Israel and the Israeli people.

Today, as the State of Israel marks its 57th anniversary, we reiterate our commitment to its security and its stability.

I extend my best wishes and congratulations to the Israeli people and to the Jewish Nation.

REPUBLICAN CHANGE OF FILIBUSTER RULE IS ABUSE OF POWER

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, Republicans have become so arrogant with their absolute power here in Washington that whenever they do not get their way, they try to change the rules of the game. In January, House Republicans ignored protocol and weakened the ethics rules in order to protect one of their leaders, and now Senate Republicans are preparing to change the filibuster rule which has been in place beyond anyone's memory.

Republicans say Senate Democrats are preventing President Bush's judicial appointments from taking the bench, but let us set the record straight.

During President Bush's first 4 years in office, the Senate confirmed 204 of his 214 nominees; that is a 95 percent confirmation rate.

□ 1015

The Senate has been so productive in approving Bush's nominees that the Federal court vacancy rate is at its lowest point in 15 years.

Mr. Speaker, the filibuster has been used by Democrats and Republicans for 200 years to protect the rights of the minority party. After 2 centuries, it would be a mistake and an extreme abuse of power by Senate Republicans to change the rules now and eliminate this important check and balance.

EMPLOYEE PENSION PRESERVATION AND TAXPAYER PROTECTION ACT

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Mr. Speaker, did you hear the news this morning? The U.S. Bankruptcy Court allowed United Airlines to default, to end four pension plans. They will be transferred to the Federal Pension Benefit Guarantee Corporation and ultimately the American taxpayer. Unless Congress acts, other major airlines will follow the same path and end their pension plans, the cost of which will ultimately be borne by the taxpayers. We need to act now. Hard-working taxpayers are already on the line for nearly $10 billion in unfunded pension liabilities from just two airlines that are in bankruptcy.

There is a solution: H.R. 2106. This bill limits taxpayer liability and allows responsible companies to manage their pension liabilities. It makes certain that airline carriers meet their current obligations with no subsidy from the Federal Government, the taxpayers.

Mr. Speaker, when major airlines file for bankruptcy, taxpayers lose, employees are out of jobs, retirements are jeopardized, and the economy suffers.

We should act now on behalf of the American taxpayer. More bankruptcy headlines are coming unless we move responsibly, and I ask my colleagues to join me in this important and vital matter to save jobs, retirements, and taxpayer money. Support H.R. 2106.

PULITZER PRIZE WINNERS FROM OHIO

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, I stand today to announce and commend the 2005 winners of the Pulitzer Prize and take particular notice that four of this year's winners are graduates of Ohio's public State universities.

Walter Bogdanich, with the New York Times, won the Pulitzer for National Reporting, getting a master's degree in journalism from Ohio State.

Julia Keller, with the Chicago Tribune, won the Pulitzer for Feature Writing after earning a doctoral degree in English from Ohio State.

Nick Anderson, with the Louisville Courier-Journal, won the Pulitzer for Editorial Cartooning after graduating from Ohio State with a degree in political science.

And of course I am most proud of my wife, Connie Schultz, of the Plain Dealer in Cleveland who won the Pulitzer for Commentary. She graduated from Kent State with a degree in journalism and was editor of the Daily Kent Stater.

The Pulitzer defines excellence in journalism, and it is personally gratifying to me that Ohio's public universities helped these talented individuals achieve this extraordinary honor.

DR. CALVIN R. FREMLING

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, the Mississippi River is called the Father of Waters.

I rise today to honor the work of Dr. Calvin R. Fremling of Winona, Minnesota. For nearly 50 years, Dr. Fremling has been a student of the Mississippi River. He has shared his passion as a teacher, researcher, historian, and photographer.

He received his bachelor's degree in biology and physical science from St. Cloud State University in 1951 and his Ph.D. in zoology from Iowa State University in 1959. After brief service as a teacher in Motley High School and with the U.S. Army's Ecological Research Unit, he returned to SCSU to earn his master's degree in biology.

Dr. Fremling then joined the faculty at Winona State University where he taught and conducted research for 32 years until his retirement in 1991. He just released his book, "Immortal River: The Upper Mississippi River in Ancient and Modern Times." The book is a record of lifetime of work dedicated to protecting the ecology of the Mississippi River.

I thank Dr. Fremling for his work with one of our national treasures and for his commitment to our young people.

SCHOOL BUS SAFETY AND THE SECURE ACT OF 2005

(Mr. CLEAVER asked and was given permission to address the House for 1 minute.)

Mr. CLEAVER. Mr. Speaker, I rise to offer my condolences to the victims and their families of Tuesday's school bus accident in Liberty, Missouri, just north of my district in Kansas City. That tragic accident killed two adults and injured 23 children, some critically. The tragic accident of which I speak, Mr. Speaker, has generated a great deal of trauma in our community, understandably, because these injuries could easily have been prevented had the school bus in question been equipped with safety belts. Over 23 million children ride school buses every day, and almost none of them are equipped with seatbelts. While no one anticipates a tragedy like that which occurred in Liberty, we do owe it to our children to do all we can to ensure their safety while traveling to and from school.

Yesterday, the gentleman from California (Mr. BACA), my good friend and colleague, introduced the SECURE Act to equip school buses with safety belts. By supporting this common sense measure, we can help ensure that our children's ride to school and their safety is assured. I have cosponsored the SECURE Act, and I urge all Members to do the same.

ECONOMIC GROWTH

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, I rise today to share good news with the American people.

Last week, the Bureau of Labor Statistics announced that 274,000 new jobs were created in April. That means the economy has created nearly 3.5 million jobs since May 2003. We have seen steady job gains for each of the last 23 months, and more Americans are working than ever before.

Another indicator which shows that we are on the road to recovery is home sales. A recent report by the Commerce Department indicates sales of new homes grew by 12.2 percent in March to the highest level in the history of the Nation's housing market.

Clearly, the economy's growth is a direct result of the pro-growth agenda of the President and this Republican Congress.

By encouraging fiscal responsibility in the budget and passing pro-growth bills such as the Death Tax Repeal and the Bankruptcy Bill, Republican Members continue to show their commitment to America's economy.

However, there is still work to do to continue to grow the economy and get more Americans working. I look forward to continue working with the President to find ways to lower the prices we pay at the pump and will continue to urge my colleagues in the Senate to pass the energy bill that would put more than 500,000 Americans to work.

WAKE-UP CALL FOR AMERICA

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is a simple pronouncement this morning. This is a wake-up call for America. In today's headlines we have: "United gets okay to drop pension funds." Earned pension funds, earned benefits now on the chopping block of America.

I have great concern for America's airlines, and I will work with them as we have worked in the past after 9/11 to shore them up. But is it not a shame that America cannot invest in its pension fund and believe when it is time for retirement that fund will be there?

Wake up America. Social Security is now falling to the same axe. This President wants to cut your benefits, the major social safety net of Americans. An invested process is now under siege.

We think it is a divided question. It is not a divided question. It is a question for the middle class. It is a question for working Americans. It is a question that Democrats have stood fast. We will not see Social Security denied or destroyed. And wake up America, because the pensions of America are now under the vulnerable chopping block that anybody who needs a dime or a dollar will go into your pension fund, whether you are a private corporation or the public sector. Wake up America.

SOCIAL SECURITY REFORM

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, with the specter of fiscal collapse facing our children and grandchildren's public retirement, Social Security reform is an idea whose time has come. And President Bush, never one to flinch from a good fight, is to be commended for taking it on.

Social Security reform means keeping its promise in tact for seniors and all who choose to remain in the system. But Social Security reform also means offering a better deal to younger Americans in the form of voluntary personal accounts.

And we can do it all, Mr. Speaker, without raising taxes on working families, small businesses and family farms. So let us get on with it. Let the House lead on Social Security reform. If the House goes first, we will produce a reform that is consistent with the President's vision for a 21st century public retirement system.

SENATE FILIBUSTER

(Ms. WATSON asked and was given permission to address the House for 1 minute.)

Ms. WATSON. Mr. Speaker, the Republican Congress and Republican President are overcome with power, so much so that they want to fundamentally change our Nation's government into one where a single political party in power holds total control.

And how do the Republicans want to lay claim to absolute power? In order to break down the separation of powers and ram through their appointees to the judicial branch, the President and the Republican leadership want to eliminate a 200-year-old American rule that permits the Senate the right to extend debate in the confirmation of Presidential nominees.

Mr. Speaker, the role of the Senate in the confirmation of Presidential nominees is a central element of our democracy. The confirmation process underscores our Founding Fathers' commitment to the separation of powers and their abhorrence of simple majority rule. It provides for essential checks and balances to ensure we remain a Nation ruled by laws and not just by men.

We do not need a monarchy. We need to preserve our Republic.

CENTER FOR RESPONSIBILITY AND ETHICS IN WASHINGTON

(Mr. MCHENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCHENRY. Mr. Speaker, there is a lot of talk by groups in Washington, D.C. about ethics, making sure that Members of Congress hold to the highest standards of ethical conduct.

It is good stuff. But one of these groups concerned about ethics, the Center for Responsibility and Ethics in Washington, is not the nonpartisan entity we may have thought. The Center for Responsibility and Ethics in Washington, CREW, Mr. Speaker, is a partisan group with a partisan political agenda.

According to The Wall Street Journal, board members of the group, including a former Clinton White House pollster, have contributed over $340,000 to left-wing causes in the past 4 years.

The group's director has said, "Since I started, the main thing I want to do was to go after Tom DeLay. DeLay is my top target."

This group is concerned about ethics, Mr. Speaker? No, I do not think so. It is about partisan politics. And they only have one agenda, and that is to file complaints against Republicans.

Mr. Speaker, as someone new to Washington, I am not used to this Washington, D.C. parlor game of dirty tricks. This is about politics, Mr. Speaker, not about ethics.

SOCIAL SECURITY CRISIS

(Mr. CANTOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CANTOR. Mr. Speaker, I rise today to discuss the crisis in Social Security. The current system in place is based on demographics in America that are reflective of 1935, not 2005.

Currently, 45 percent of senior citizens rely on Social Security as their sole source of income. We, in this House, will not let them down. We also cannot lose sight of our goal, though, to preserve Social Security for our children and our grandchildren.

Our goal in this Congress, as leaders, is to help real people, not engage in political posturing. It is our duty as public servants to ensure a strong and solvent program. For today's seniors and those nearing retirement, the system should not change. But we owe those younger workers across America and our future generations more than just a stopgap fix. We owe them the best system that we can provide to suit their needs in their golden years.

SENATE FILIBUSTER

(Mr. LEWIS of Goergia asked and was given permission to address the House for 1 minute.)

Mr. LEWIS of Georgia. Mr. Speaker, what does it profit a man to gain the whole world and lose his soul? Mr. Speaker, what does it profit one political party to rule this government with an iron fist and destroy the foundation our Founding Fathers built? This is the central question we are asking the Senate Republican conference today.

It is unreal. It is unbelievable that Senators sworn to uphold the Constitution would end filibusters on judicial nominations. This is not only a grab by one party to dominate every branch of American Government. It is a choke hold on the voices of millions of American voters. Where is our honor? Where is our honesty? Where is our respect for the American people who place their trust in all of us, not one political party?

Mr. Speaker, I thought the principles of American democracy stood for something. I hope the Senate Republican leadership will not fall for this miscarriage of justice.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken later in the day.

□ 1030

CORRECTING THE ENROLLMENT OF H.R. 1268

Mr. LEWIS of California. Mr. Speaker, I move to suspend the rules and concur in the Senate Concurrent Resolution (S. Con. Res. 31) to correct the enrollment of H.R. 1268.

The Clerk read as follows:

S. CON. RES. 31

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of H.R. 1268, an Act making emergency supplemental appropriations for the fiscal year ending September 30, 2005, and for other purposes, the Clerk of the House of Representatives is hereby authorized and directed to correct section 502 of title V of division B so that clause (ii) of section 106(d)(2)(B) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note), as amended by such section 502, reads as follows:

"(ii) MAXIMUM.—The total number of visas made available under paragraph (1) from unused visas from the fiscal years 2001 through 2004 may not exceed 50,000.".

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to the rule, the gentleman from California (Mr. LEWIS) and the gentleman from Wisconsin (Mr. OBEY) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the resolution instructs the enrolling clerk to correct a provision in division B of the Emergency Supplemental Appropriations conference report that was drafted incorrectly.

The conference agreement included a provision to make available an additional pool of permanent resident visas only for nurses and physical therapists.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, ordinarily, on a piece of legislation like this, there would be virtually no debate and it would be passed routinely, but I think, for the good of the House, we ought to review exactly what we are doing here and why we are here doing it.

As you know, last month, the supplemental appropriations for Iraq and other purposes was passed by the House and then passed by the Senate. On the Senate floor, the Senate saw fit to adopt an amendment, the purpose of which was to increase the number of visas for nurses by 50,000. That is what it supposedly did.

Now, after that was adopted on the Senate floor, the bill was conferenced. It passed this House some time ago, and the conference passed the Senate yesterday.

Today, we are here with this concurrent resolution, and what does this concurrent resolution do? It raises the number of visas for nursing by 50,000. Why do we have to chew the same cud twice? Why are we here doing today what we thought had been done much earlier?

I think it is very simple. We are here because the normal processes, the normal democratic processes of the House and the Senate have not been followed. We are here because, in an attempt to solve a debate within the Republican Caucus, extraneous material was added to the Iraqi supplemental which had no business being on that bill in the first place.

What essentially happened is that after this amendment was adopted by the other body, the leadership of the majority party then essentially took away from the Committee on Appropriations the ability to deal with all of these immigration-related issues.

Now, who dealt with them? I am, frankly, not sure, but I think it was Senator FRIST's staff, and I think it was the leadership staff in this House. But we are not sure because it all happened behind some closed door. I am not sure what room it was in. But it happened somewhere, some place in River City.

So now, we are here correcting that mistake. Why am I making a Federal case out of something like this? Well, it is very simple. The history of Congress has been written for decades, and each decade some scholar has noted that Congress works principally in committee. Woodrow Wilson wrote his great piece on the organization of Congress, making the point that Congress really ran in committees. We are here today because that committee system has been corrupted.

What has happened is that we have ignored the fact that the reason for the committee system in the first place has been so that the House could use the specialized knowledge that people develop on each and every committee and put that knowledge to work in the consideration of every bill that goes through this House. Under normal processes, the Committee on Appropriations would have been dealing with all matters that were attached in the appropriations bill.

Under normal processes, Senator HUTCHISON should have been allowed to have access to the language before it was arbitrarily attached to this bill. But when people tried to find out what was happening on immigration and other issues, they were told it is being taken care of. It is being taken care of.

Well, it certainly was.

Mr. Speaker, I simply take this time to make the point that there is a purpose for creating committees. There is a purpose for vetting these issues through the committee of jurisdiction because, through the years, committees learn their business. But when the normal business is side-tracked, when everyone except the powers on high are excluded from the rooms where decisions are being made, then you are going to have mistakes being made because nobody is smart enough to know everything about everything, despite what some people in the leadership in both the Senate and House seem to feel. Occasionally, the omnipotent can make a mistake. And if the committee process is followed, our chances of making those mistakes would be minimized.

So all I want to say, Mr. Speaker, is that I am sure mistakes like this will occur in the future. And this is no great Earth-shaking matter, but I felt it appropriate to use this opportunity to point out that the House is continuing to day-by-day, as far as I am concerned, corrupt the processes of the House by having the House evolve into a system in which a few staff people somewhere on Capitol Hill make all of the decisions, and then the other committees are told, Just do what you are told. Get rid of it. Move it on. After all, we have got to run the trains on time. It does not matter what is in them, but we have got to run the trains on time.

So that is why we are here today, Mr. Speaker. I hope we could all take a lesson from this.

Mr. LEWIS of California. Mr. Speaker, I yield 4 minutes to the gentleman from Indiana (Mr. HOSTETTLER).

Mr. HOSTETTLER. Mr. Speaker, I thank the chairman of the Committee on Appropriations for yielding me time.

Mr. Speaker, today I rise in opposition to S. Con. Res. 31. In the attempt to correct an error in drafting, this concurrent resolution would allow for 50,000 new green cards reserved for nurses and physical therapists. Green card status is permanent resident status. Accompanying spouses and minors also will be given permanent resident status and will not be counted against the 50,000 cap.

If this concurrent resolution is passed, it will give 50,000 nursing and physical therapist jobs away to foreign workers and will be giving even more jobs away to accompanying spouses, as those with permanent resident status are granted work permits.

The argument that the current drafting of the supplemental "recaptures unused employment-based visas" from the past 2 years is false, since any employment-based visas that are not used are given up to meet the family-based visa quota for that year.

A recent study by the Center for Immigration Studies found that "there is little evidence that immigrants take only jobs Americans don't want."

Another recent study conducted by the Center for Labor Market Studies at Northeastern University says that "there is little empirical support for the notion that new immigrants are taking large numbers of jobs that American workers refuse to accept. There is direct competition between new immigrants and native-born workers for most of these jobs."

At a hearing I held last week as the Chairman of the Subcommittee on Immigration, Border Security and Claims, the minority witness, Dr. Holzer, testified that, due to cost containment in certain fields, "10 to 15 percent jobs in the United States potentially on the high end could face competition from engineers and computer programmers and others in India and China and other parts of the world."

If you have any nursing or physical therapy students in your district, consider that those students who will be graduating this spring will have to compete with 50,000 foreign nurses and physical therapists who will likely work for lower wages. We will have to answer to our constituent nurses and physical therapists who cannot find a job due to the influx of foreign workers in this field.

Also, if we pass this concurrent resolution for nurses and physical therapists, who will be the next workers that we will displace? Will we add 50,000 more new visas to each supplemental, driving more and more domestic American-born workers out of a job?

Today, I ask my colleagues to support their constituents, American workers who are in the fields of nursing and physical therapy, and vote against this concurrent resolution.

Mr. OBEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, we now find ourselves in an even more interesting situation. The gentleman from Indiana (Mr. HOSTETTLER) has just raised some substantive concerns about the bill, and those ought to be responded to.

The problem is that, because of the way this has been handled, because you had a matter that was not under the jurisdiction of the Committee on Appropriations essentially dumped into an appropriations bill, this issue is not going to be dealt with on the substantive level.

The issues raised by the gentleman might be very legitimate, but they should be debated in the forum in which they are supposed to be debated, and that is the Committee on the Judiciary. Instead, we have the Committee on Appropriations which is supposed to focus on budgets here dealing with a legal issue about which our committee has no particular expertise. So, once again, the process by which the bill is being considered today changes the House from being what it is supposed to be, which is the greatest deliberative body in the world, to a poor imitation of Daffy Duck.

I again would urge that we give greater consideration to normal order around here if we do not want to rapidly descend into being the laughingstock of the country.

Mr. Speaker, I yield back the balance of my time.

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since this change is merely a technical item in nature, I urge swift adoption of this resolution so we can expedite enrollment of the bill and get it to the President for his signature today.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. LEWIS) that the House suspend the rules and concur in the Senate Concurrent Resolution, S. Con. Res. 31.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 1279, GANG DETERRENCE AND COMMUNITY PROTECTION ACT OF 2005

Mr. GINGREY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 268 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 268

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1279) to amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1045

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Georgia (Mr. GINGREY) is recognized for 1 hour.

Mr. GINGREY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this is a structured rule providing for consideration of H.R. 1279, the Gang Deterrence and Community Protection Act of 2005. The rule provides 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

It waives all points of order against consideration of the bill. It provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary, and now printed in the bill, shall be considered as an original bill for the purpose of amendment, and it makes in order only those amendments printed in the Committee on Rules report accompanying this resolution.

It provides that the amendments printed in the report may be offered only in the order printed in the report, may be offered only by a Member designated in the report, and shall be considered as read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

It waives all points of order against the amendment printed in the report, and it provides one motion to recommit, with or without instructions.

Mr. Speaker, it is time for Congress to get tough on gang activity. If we can get tough on drugs and if we can get tough on identity theft, terrorism, child abduction, we can get tough on gangs by creating the tools to put gang members behind bars and get them off the streets.

Gang activity is a real problem, a continuously growing problem. All cities with a population of more than 250,000 people have reported gang activity. Best estimates indicate that there are at least 750,000 gang members in the United States. They represent the ills of our society with links to drug trade, human trafficking, identity theft, assault and murder. Gang members continue to break our laws, reject rehabilitation efforts, and they are branching out beyond our cities into suburban and, yes, even rural, communities.

Mr. Speaker, we cannot solve our problems by simply throwing around money, nor can we simply categorize gang activity as isolated incidents. We cannot eliminate gangs by prosecuting incident by incident. We need to enforce our laws in language gang members can understand: you do the crime; you do the time.

With the support of the Fraternal Order of Police, the National Sheriffs' Association, the National Association of Police Officers and many other, more specialized, law enforcement organizations, H.R. 1279, the Gang Deterrence and Community Protection Act of 2005, will make the necessary changes to prosecute gang criminals.

The Gang Deterrence and Community Protection Act designates high-intensity gang areas, and it authorizes funds to combat their illegal activity for special State and Federal enforcement task forces. It authorizes $20 million per year over 5 years to help States hire prosecutors, purchase technology, purchase equipment, and train law enforcement.

Most importantly, it increases penalties to deter violent gang crimes such as murder, rape, kidnapping, and assault. The penalties include death or life imprisonment for murder, 30 years for kidnapping or rape, and 20 years for assault. In addition, this legislation includes juvenile justice reform to ensure that adult crimes, with adult motives, are prosecuted with adult penalties.

The Gang Deterrence and Community Protection Act would give the Attorney General discretion on whether or not to try a juvenile in Federal court as an adult if they are 16 or 17 years old. Mr. Speaker, let me be clear, this legislation does not and will not apply adult standards to anyone younger than 16.

According to the Department of Justice "Homicide Trends Report," between 1976 and 2002 one out of every three murders were committed by a juvenile for gang-related reasons. That means 16- and 17-year-olds are making adult, criminal decisions that equal tragedy for our neighbors and our friends.

More than half the States have enacted laws that mandate the prosecution of juveniles as adults for certain violent crimes, most notably murder. My own State of Georgia has laws that give prosecutors discretion on whether to treat juveniles as adults involving violent and repeat offenses.

Children by the legal definition making adult criminal decisions affect everyone. We need to pass strong anti-gang laws to help prevent troubled teenagers from becoming violent gang members.

As gangs spread and grow, we are seeing more drug activity. These are not simply high schoolers caught with marijuana. We are seeing gangs produce and trade dangerous drugs such as methamphetamine and cocaine. For example, in February, the Atlanta police, United States Drug Enforcement, the MCS Drug Task Force and other law enforcement agencies discovered Georgia's first "superlab" in my district, in Smyrna, Georgia, the 11th. With 39 pounds of meth crystal and 250 gallons of the drug in liquid form, one mistake could have destroyed an entire neighborhood.

By strengthening laws against gangs, we are helping fight the supply side of our war against drugs. Gangs are not just a city threat when they jeopardize suburban neighborhoods.

Mr. Speaker, gang activity is as important to the war on crime today as the battles against organized crime in the 1960s and 1970s. This legislation goes beyond national gangs like the Bloods and the Crips and would actually make progress in breaking down membership before these smaller gangs expand into a national nightmare.

Like our war against terrorism, our law enforcement on the State, local, and national levels need to communicate, to share intelligence, and to share resources. We need stronger sentencing to deter crime, and we need to identify potential hot spots before they become major problems.

With passage of the rule, and the underlying bill, we will have the power to take back our communities.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Georgia (Mr. GINGREY), my colleague, for yielding me the customary 30 minutes.

Mr. Speaker, let me begin by saying that every single Member of this House is concerned about gang violence in our communities and throughout our country, and every single Member of this House is dedicated to trying to make our communities and our Nation safer. However, some of us want to pass not a press release but tough legislation that will indeed make our communities safer.

So, Mr. Speaker, I rise today in strong opposition to H.R. 1279, the so-called Gang Deterrence and Community Protection Act. It is bad policy wrapped in a bad bill that will simply not do the job the sponsors claim it will do.

Do not let the title of the bill fool Members. It has nothing to do with deterrence or community protection. This bill does nothing to address the causes of gang activity. Instead, its primary purposes include unjustifiable punishment and ineffective enforcement of the law.

The bill unjustifiably expands death penalty provisions, removes judicial discretion over transferring juveniles to the adult court system, and imposes ineffective mandatory minimum sentencing.

Mr. Speaker, Time magazine focused on the spike in gang activity in Los Angeles in the September 3, 2001, edition. In that story, Father Greg Boyle, a Catholic priest who worked in a gang-infested area of East Los Angeles, said that California's anti-gang strategy, which has been copied across the country, "is bankrupt. You have the three strikes law and jail and so on, but you can't terrify a kid into being hopeful about his future."

The following quote is even more telling: "We don't need new laws. We have a penal code a foot thick. You can't just work gangs with police suppression. You need prevention and intervention programs, too." Mr. Speaker, that statement was not made by a social worker or community activist. No, Mr. Speaker, it came from Sergeant Wes McBride, founder of the California Gang Investigators Association and a 28-year veteran of anti-gang policing.

After reading this legislation, it is clear to me that this bill will do nothing to deter gang activity and, instead, will sentence American youth to lives of crime and violence instead of proactively intervening in our communities to prevent our children and our youngsters from joining gangs in the first place.

This legislation contains several provisions that unjustifiably expand the Federal death penalty. Despite numerous studies that have documented both the exposure of innocent individuals to the death penalty system and its discriminatory nature, the proponents of this bill want to make this already-flawed system worse.

Mr. Speaker, let me say this clearly. I am opposed to the death penalty. I do not believe the death penalty deters future crimes. It has been proven that the death penalty unfairly targets minorities. It has also been proven that innocent people have been sent to death row and have been put to death. Inclusion of the death penalty in this bill is wrong and should be stripped out.

Since 1973, 119 innocent people have been released from Death Row. A study performed by the Criminal Justice Reform Education Fund reported that over two-thirds of all capital convictions and sentences between 1973 and 1995 were reversed because of serious error during trial or sentencing. How can we expand the death penalty system, especially to include juveniles, when it is proven to be faulty, discriminatory, and not an effective deterrent to violent behavior?

Let me remind my colleagues that President Bush signed the Justice for All Act into law on October 30, 2004. This law, which was approved overwhelmingly by this body, improved the fallibility of the death penalty system by making DNA technology available to our criminal justice system in order to improve its ability to exonerate the innocent, as well as identify and convict the guilty. However, the important provisions in the Justice For All Act that would improve the fallibility of the death penalty system are not even being funded. As if that were not bad enough, the bill before us today would actually create new death penalty provisions.

In effect, Mr. Speaker, with this bill, we are adding more death penalty cases to an already-broken system that is desperately in need of repair. By not funding the protections provided under the Justice for All Act and by expanding the death penalty to new cases, this bill makes the death penalty system worse, not better.

Another provision that I strongly disagree with is the transferring of juveniles to the adult court system. Research performed by the Department of Justice has shown that youths tried as adults are more likely to commit a greater number of crimes upon release and that these crimes will be violent. Youths sent to prison with adults end up victims of rape, assault and become high repeat offenders. When these prisoners are released and attempt to reenter society, what are their options? It is most likely they will pick up where they left off and contribute once again to the cycle of gangs and violence.

Moving a youth into the adult court system and prison system will not reduce the amount of youth crime and gang activity. If anything, it will make it worse.

□ 1100

Another flawed aspect of H.R. 1279 is its emphasis on mandatory minimum sentencing. Mandatory minimum sentencing will not prevent youths from joining gang or reduce violent crime among youths. Mandatory minimums were originally created to decrease the disparity in sentencing of like offenders. However, the Judicial Conference of the United States and the U.S. Sentencing Commission has found mandatory minimums "require sentencing courts to impose the same sentence on offenders when sound policy and common sense call for reasonable differences in punishment." In other words, judges are prevented from assessing what type of punishment fits the crime.

Removing sentencing power from judges and shifting discretion to prosecutors will not prevent any youth from joining a gang, committing his first crime or becoming a repeat offender. In fact, this is exactly what the U.S. Supreme Court concluded in January when it ruled to allow Federal judges to deviate from sentencing guidelines. I submit, Mr. Speaker, that this bill's host of harsh mandatory sentences is directly in defiance of the Supreme Court ruling.

Mr. Speaker, we know that intervention programs work in the majority of cases. For the most violent and dangerous individuals, we already have laws on the books that address these actions. But we have a real chance through prevention and intervention programs to make a difference in the lives of these young people. Instead of expanding death penalty provisions and trying juveniles as adults, we need to address the problem of youth crime and violence through early intervention and treatment methods. Programs like Head Start and the Job Corps have proven to be an effective means of deterring crime.

Studies of Head Start demonstrate that $3 is saved for every $1 spent on the program by reducing the future cost of crime, remedial education and welfare. This is clearly more cost effective than spending $9 billion over the next 10 years for prison bed construction and inmate upkeep, which happens to be the cost impact of H.R. 1279 estimated by the Sentencing Commission.

Job Corps programs deter crime by guiding at-risk youths and adults to getting a job or full-time study. About 75 percent of Job Corps participants move on to a full-time job or study and are one-third less likely to be arrested than nonparticipants. This approach makes sense as a crime deterrent, and it is also economically beneficial.

Youth crime and gangs are an issue in many cities around the country. In my home city of Worcester, Massachusetts, I helped coordinate a community-wide forum this past fall to address the issue of gang violence. Local police, city government officials, the district attorney, the sheriff's office, and hundreds of individuals were among the attendees. Also participating in this event was the Boston Ten Point Coalition, a nationally recognized leadership foundation whose mission is to reach out to at-risk youth and gang members in hopes of reducing violence in the community.

One particular item the Coalition discussed was the Adopt-A-Gang program, in which city churches keep their doors open and serve as a support center for troubled youth. The churches work with local law enforcement to communicate messages of nonviolence and zero tolerance for crime to these youths. And I am happy to say that the churches of the city of Worcester, along with the city government, the police department and local businesses are currently working with the Coalition to implement this program.

Hands-on, coordinated efforts like the Adopt-A-Gang program are how youth crime can be deterred, not through codification of a so-called gang-buster bill like H.R. 1279. Early prevention programs like Head Start reduce crime; expansion of death penalty provisions will not. Recruitment efforts by Job Corps deter gangs; prosecuting young people as adults will not. Collaborative interventions like Adopt-A-Gang program protect our community; mandatory minimum sentencing will not.

Mr. Speaker, none of the provisions in this bill have proven to be effective ways of dealing with gangs and violent youth behavior. Instead of taking a comprehensive approach to the problem, H.R. 1279's "punishment first, prevention last" methodology does not dedicate any efforts toward early intervention, education or rehabilitation.

Ask any cop. Aggressive policing alone will never break the cycle of gang violence. However, one of the things this bill also does not address is the shortage of police officers across the country. The Federal Government is cutting the COPS program. Local communities all across this country are laying off police officers at a time when we should be increasing the number of police who are on our streets. Intervention and preventive programs like Head Start, Job Corps and the Ten Point Coalition are crucial to any hopes of deterring gangs.

Mr. Speaker, for the past decade, this House has worked in a bipartisan manner to effectively draft and pass comprehensive juvenile justice legislation. This bill is a sharp break with that tradition. Getting tough should mean passing legislation that works, not just passing legislation that sounds tough.

Mr. Speaker, finally, let me just say that 16 Democratic amendments were not made in order by the Committee on Rules last night. Why? I have no idea. According to our schedule, we are going to be done today by around 4 p.m. Surely it is not because we do not have the time to be able to debate some of these important amendments.

This is the kind of legislation where people from different communities, from urban areas and from rural areas who are dealing with this issue of gang violence have important ideas. They brought them forward in the Committee on Rules last night. Yet, last night, the Committee on Rules said to 16 Democrats that you will be shut out of this debate. I do not think that is the way we should be discussing a bill like this.

So, Mr. Speaker, I would ask my colleagues to oppose H.R. 1279 and oppose the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. GINGREY. Mr. Speaker, I yield myself such time as I may consume to clarify and to remind my colleagues on the other side, who are suggesting we should be adding more social programs to this legislation, that this is not a social programs bill. It is a law enforcement bill. If they would like to work with the chairman of the Committee on the Judiciary to craft a bill that would authorize arts and craft classes for gang members, certainly they can do that.

I would also like to mention that we currently have spent over the past 4 years, 2001 to 2004, over $2.1 billion on juvenile social programs aimed at prevention. And even with $2.1 billion, we have continued to see this dramatic rise in gang violence.

Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. FORBES), the distinguished author of the bill and member of the Committee on the Judiciary.

Mr. FORBES. Mr. Speaker, it is with a great deal of pride that I rise today to support both this rule and the underlying bill and to point out to my good friend on the other side that this is a bipartisan bill, and it is a bill that is designed to reach a major problem in our country today, which is the rise of violent gang crime.

When I listen to some of our opponents talk about this bill, they always use the term "antisocial behavior," and I can tell you from studying gangs for over 10 years, it is not antisocial behavior that we are talking about. Let me, Mr. Speaker, tell you what we are talking about. We are talking about machete attacks, witness intimidation, extortion, cold-blooded assassination, rapes, cutting off people's fingers, cutting off their arms, cutting off their heads.

But what concerns me the most, Mr. Speaker, is the metamorphosis I have seen in violent gang activity across our country. First of all, there has been a huge change in numbers. My good friend from Georgia mentioned earlier that, as we sit here and debate this bill, there is probably between 750,000 to 850,000 gang members in the United States. To put that in perspective, if they were an army from a foreign country, it would be the sixth largest army in the world. And that is not waiting to get in our borders, but already here.

Their violence has increased enormously. In some of these gangs, in order to be able to get in, if you are a woman, you have to be raped in, for 30 minutes by six different individuals. If you are a male, you have to be either beaten in or, to some of the gangs, you have to murder somebody to get into the gang.

And they have become national and international in scope. No longer are we talking about the old Jets and Sharks from West Side Story; we are talking about gangs that are across the country that have boards of directors outside the prisons, boards of directors inside the prisons, and they are ordering violent activity. They may be in Los Angeles, but they are ordering the violence in another part of the country.

Their recruitment is now reaching as low as the elementary schools, and their motivation to join is no longer just a fear or a want to belong to something. Today, many people feel if they do not join the gang, they will be beaten or intimidated by the gang. So it is the presence of the gang and the fear and intimidation of the gang that is drawing them there.

Also, one of the things that concerns us most is that many of these gangs have become the most proficient smugglers of individuals and weapons in the country, and it is a small linkage between the gang activity that we are seeing and their connection with organized terrorist activity.

What this bill says is that, if you join a violent criminal gang and you commit a gang crime, you will go to jail for a long time, or you will help us bring down that network. What this bill says is that, if you are a gang leader, you can no longer order violence in one part of the country by a 16- or 17-year old and expect to go scot-free, because the Federal, State and local government is coming after you. It also says that we are going to use the combined strength of the Federal, State and local government to protect citizens in our own borders from the domestic terror they face from gangs.

Mr. Speaker, I would suggest that if this bill fails, we might as well put a sign on a billboard that says "Coming to a neighborhood near you soon," because that is the growth we are seeing in violent gangs.

My good friend just raised in his opposition to the bill the support of the California Gang Investigators Association. They support this bill. The Fraternal Order of Police supports this bill. The National Latino Peace Officers Association supports this bill. The National Association of Police Organizations supports this bill. The major chiefs of law enforcement departments across the country support this bill. The National Troopers Coalition supports this bill.

Mr. Speaker, I hope we will support this bill and make it into law and protect our citizens.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume to respond to my colleague by saying that all the groups he has mentioned, and so many more, also support the COPS program, too, which the President has cut by $40 million. We can talk all we want about using all this harsh rhetoric, but the bottom line is, there are laws already on the books if you commit a violent crime in this country. Right now, if you commit a murder, you will go to jail.

One of the things that is most troubling to me as we talk about how we make our communities safer, there is no talk about the fact that we are cutting funds for our local police departments. We need more police on the streets. That is not the only answer here, but clearly, the answer is not cutting the COPS program, which the Republican majority in this House is doing, and the President has suggested in his budget.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I have worked with gangs at home in conjunction with our police department, and there is a way to start prevention. I recognize that the crimes that have been mentioned here this morning are crimes that should be punished. I believe if you do the crime, you do the time. But I also believe that you can prevent this with young people.

I dialogued with members of a gang several years ago, shortly after I heard that the people are coming from Los Angeles to start gangs. And in dialoguing with these young people, I first had to understand what they were saying. That gang activity has been converted to something positive because I encouraged it. I said, Stay together but do not do crime stuff, do things positive. That is what they have done. They have even run people for office. You have got to not give up on young people.

Americans deserve a bill that would successfully combat gang activity and violence. This bill does fall short of that. This bill fails to address the root of the problem. Even though law enforcement is vital, we must try to prevent gang activities before they occur. Prevention programs can save many lives and many dollars. It is a lot cheaper to prevent all this crime and prevent them going to jail and for them to stay in school.

Of the $50 million appropriated in this bill, not one penny goes toward prevention. You can call it play. You can call it anything you want. But in-school and after-school prevention programs successfully teach young people the skills they need to combat peer pressure. They target environmental risk factors by teaching young people conflict resolution skills, cultural sensitivity and the negative aspects of gang life, if it is violent.

These young people want to be a part of something, and it might as well be a positive experience. We must stop the violence at the source. If we do not put forth that activity, that is when it gravitates to what he just discussed. We must give our young people a path to success not just a path to prison.

Mr. GINGREY. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule and the underlying legislation. I want to congratulate my colleagues, the gentleman from Georgia (Mr. GINGREY), for his management of this rule; and the gentleman from Virginia (Mr. FORBES) for the hard work that he has put into this effort.

It is amazing, as we listened to those numbers that the gentleman from Virginia (Mr. FORBES) used, talking about the fact that this would be the sixth largest army on the face of the earth, between three-quarters of a million and 850,000 gang members, 21,500 gangs out there; the fact that it has become such an international entity.

□ 1115

It is clear that we need to do everything that we can to take action.

Mr. Speaker, I believe that this rule will provide us with an opportunity to do just that. At the close of his statement, the gentleman from Massachusetts (Mr. MCGOVERN) bemoaned the fact that we do not have enough amendments to be made in order by Democrats. The fact of the matter is the gentlewoman who just spoke, my very good friend from Dallas (Ms. EDDIE BERNICE JOHNSON), is going to have an amendment made in order under this rule.

The gentleman from Texas (Mr. CUELLAR) is going to have an amendment made in order under this rule. The gentlewoman from California (Ms. WATSON) is going to have two amendments made in order under this rule. The gentleman from Virginia (Mr. SCOTT) who is sitting here on the floor along with the gentlewoman from California (Ms. WATERS) is going to have an amendment made in order under this rule.

The fact is six of the 10 amendments that are going to be made in order under this rule are being offered by members of the minority, creating an opportunity for us to consider a wide range of alternatives in dealing with what everyone acknowledges is an extraordinarily serious problem.

I want to take a moment to talk about three other amendments that are made in order under this rule that are very important, and I urge support for those amendments. They are being offered by the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Georgia (Mr. NORWOOD). The fact is many of the problems that are gang-related stem from an issue which we have just begun to deal with by passing the REAL ID Act and that has to do with the problem of illegal immigration. We know when we look at the number of gang-related homicides that have taken place in Southern California in the last 5 years, in the county where I live, Los Angeles, we have had 307 gang-related homicides. And now the number of those murders is spilling over into San Bernardino County.

One of the things that we found, tragically, is that much of this is directly related to the problem of illegal immigration. An overwhelming majority of the people who come into this country illegally, Mr. Speaker, come here for one reason and one reason only and that is to feed their families, to make sure that they can make a better life for their families. But of the remaining 2 percent who come in, tragically many of them have been perpetrating crime and tragically they are attracted to gangs.

As was said earlier by the gentleman from Virginia (Mr. FORBES), many of these gangs are managed from inside of prisons, outside of prisons, boards of directors, and there is an international component to this which must be addressed. So I will say that the amendment of the gentleman from Virginia (Mr. GOODLATTE), which I think is a very good one, will actually call for an additional 5 years of incarceration if, in fact, the gang member, the criminal, is found to be here illegally.

One of the things we need to make sure that we do, Mr. Speaker, is that as we increase that level of incarceration for that illegal immigrant felon, it is essential that we make sure the Federal Government provide the resources for that incarceration. That is something that must be done. It is done under the State Criminal Alien Assistance Program, the SCAAP program; and we have to make sure that we provide those resources there, but it is correct and very important for us to do what we can to ensure that those people who are here illegally and perpetrate crimes against our fellow citizens are penalized for that.

I believe we have a very good piece of legislation here. It will help us turn the corner on what is a very serious problem. We also need to do everything that we can to, as has been pointed out by a number of people, train and provide incentive and create opportunity for young people so they are not attracted to the gang life and a life of crime.

Mr. Speaker, I urge my colleagues' support of this very fair and balanced rule and, as I said, urge support for the underlying measure and urge support for the Goodlatte amendment and the two Norwood amendments.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I always enjoy listening to the distinguished chairman of the Committee on Rules, the gentleman from California (Mr. DREIER). He mentions that a handful of Democratic amendments were made in order, and I guess we all should be grateful on this side of the aisle because usually we get shut out totally. But the fact of the matter is 16 Democratic amendments were not made in order. Sixteen amendments have been shut out from this debate. If this issue was so important, and it is important, then why can we not take the time to debate all the various ideas? As I said, according to the schedule, we may be out of here at 4 o'clock today. I am willing to stay until 5, or even until 6 or even until 7 to give these other people an opportunity to have their concerns voiced on this floor.

We all represent communities, unfortunately, that have been touched by gang violence. All of us have dealt with community leaders, with our local police, in trying to figure out how best to deal with this violence. We all have good ideas. I think, especially on an issue like this, as many people who have these ideas should be able to bring them to the floor and to be able to debate them. But, unfortunately, 16 amendments have been totally blocked from consideration on this bill.

Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. I thank the gentleman for yielding me this time.

Mr. Speaker, if you listen to the debate, you might not think it is illegal to use a machete to chop somebody's hand off or to, last night, gang-rape a handicapped child in the park, murder for hire, cold-blooded murders. You might not think those are illegal. In most jurisdictions in the country, certainly in the jurisdictions that I represent, it is already illegal to take a machete and chop somebody's hand off, and I have not heard complaints from the local police that they need a new Federal law to help deal with those crimes.

Mr. Speaker, this bill was introduced just about 2 months ago, incidentally the same day that a juvenile justice coalition released just another study showing how trying more juveniles as adults will actually increase crime. The rule, of course, does not allow us to address that issue, where juveniles, the marginal juveniles, the ones not now tried as adults in State court, would be tried as adults under this legislation. I have not seen any study that contradicts them, but all of the studies I have seen show that that will actually increase the crime rate because when they are tried as adults, they are also locked up with adult criminals and come out worse than they went in.

No amendments in this rule are allowed to address the death penalty, which has been shown to be racially discriminatory, which has been shown to have no effect on crime and shown to be so inappropriate that the Supreme Court with seven Republican appointees sitting on the court ruled that, for juveniles, the death penalty was unconstitutional. We have not had an opportunity under the rule to address that, not even the fact that under the bill you can have a capital prosecution for accidents, accidental actions. It does not require an intent to kill someone. It could have been an accident. There was no amendment allowed for that.

There is no amendment to allow the little money in the bill to go to local law enforcement. Virtually all of the money goes to Federal law enforcement. If you are going to have an effect on gangs, the money ought to go to where the gangs are actually fought, on the local.

Mr. Speaker, we have not had the amendments to actually address the kinds of problems that are in the bill. It came out at the last minute. My colleague from Virginia has mentioned all the people supporting it. I know one letter we received talked about the need for all of the money in the bill going to law enforcement and help get the money for law enforcement in the bill to the localities, and you look in the bill and there is no money. It is all for Federal law enforcement, Federal prosecution. Virtually nothing for local law enforcement. If you look at the title of the bill, you think you are doing something. In fact, you are doing nothing.

Mr. Speaker, the impact of this bill is going to round up a few low-level people committing little crimes, some even misdemeanors, and they will be getting 5- and 10-year mandatory minimum sentences. If we are going to do something about crime, if you ask anybody that knows what they are talking about what to do about juvenile crime, they will tell you prevention and early intervention. Keep the kids out of trouble and if they get in trouble to begin with, get them right back on track. There is no money in here for prevention.

We have heard a crack about arts and crafts for gang members. Let me tell you something. Arts and crafts for gang members will do more to reduce juvenile crime and gang membership than the provisions in this bill, and everybody knows it.

I have got to admit that the sound bites and slogans are stronger on the other side, but all of the studies show that this bill would do virtually nothing to reduce juvenile crime and is certainly not an effective use of the taxpayers' money if your goal is to actually reduce crime. You need to put the money into prevention and early intervention. We lead the world in incarceration already. If you are going to get any more crime reduction out of the next dollar we are going to spend, it ought to go into prevention and early intervention to keep the kids out of trouble: 850,000 kids are not going to come out of gangs because we pass this legislation. They are in gangs now because they have nothing to do in the afternoon. We need to defeat this bill and do something serious about juvenile crime.

Mr. GINGREY. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Virginia who just spoke is a brilliant lawyer, and I know he is not missing any points; but I want to say it is very important that the rest of our colleagues understand, we know that all of these crimes mentioned here today are illegal. But the point is, this bill addresses the dismantling of the systems that support gangs, and I think it is very important that we keep that in mind.

Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. REICHERT), 8 years King County sheriff and 30 years as a police officer.

Mr. REICHERT. Mr. Speaker, as the Congressman said, I have 33 years of law enforcement experience. In fact, up until January 3 of this year, I was a cop. One of the things I know about cops is that they need all kinds of tools, and we do need police officers on the street; but one of the most important things that cops want is to know that their community supports them, local, State, and Federal.

Mr. Speaker, we are here today to talk about a very serious problem. Across the country we are seeing a resurgence of organized crime sprawling into our towns and our neighborhoods. Gangs are becoming a magnet for youth, as they long to belong to something. This is hardly the team we want our children to join.

Gang violence in America is not a sudden problem. It has been a part of urban life for years, offering an aggressive definition and identity to those seeking a place to belong in the chaos of a large metropolitan area. However, as gangs gain momentum and invade smaller communities, it is time to take a more serious and focused approach. The gentleman from Virginia (Mr. FORBES) addresses this critical problem today in the Gang Deterrence and Community Protection Act of 2005.

Prior to being elected to sheriff, as I said, I served 33 years as a cop. I have worked with prostitutes, drug dealers, and gang bangers for that length of time. My colleagues in the sheriff's office and I actively fought to curb the growth and influence of gangs. I know not only in my home State of Washington but across the country, law enforcement officers recognize gangs for the serious threat they are to our community.

I believe in taking problems head on, not running away. You evaluate the facts, you make a decision, and then you see the solution through. We have recognized the consequence of letting this situation go forward for far too long. It is dangerous to all Americans. Whether a gang currently has a presence in our hometowns or not, we need to take a careful look at where this issue is headed and stop the influence of gangs before it spirals out of control and out of our hands.

The United States Department of Justice cites that there are currently 25,000 active gangs in 3,000 jurisdictions across this country; 25,000 gangs. That equals 750,000 gang members. If growth continues, we could be looking at 1 million gang members across the country in only a few years. These groups are a funnel to criminal activities, allowing a central point to encourage violence and a family that preaches drug trafficking, murder, theft, prostitution, and rape. In fact, street gangs are the primary distributor of illegal drugs in the United States.

Mr. Speaker, I am a man of faith who believes deeply in family and responsibility. Our obligation is to American families and communities. We need to look out for their futures. We need to direct our youth towards a path of success and progress as productive members of society looking towards a better country. We cannot afford to lose those talented youths in our community to a life on the street with drugs and a gang hierarchy whose form of discipline is violence.

Mr. Speaker, I applaud the gentleman from Virginia's efforts to deter gangs across the country and urge my colleagues to support the rule and vote for final passage later today.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Washington just said that our local law enforcement would appreciate the support of the Federal Government.

□ 1130

I could not agree with him more. Then why are we cutting community policing programs? I mean it does not make any sense to me. And why did the Committee on Rules last night deny the gentleman from Massachusetts (Mr. CAPUANO) and the gentleman from New York (Mr. WEINER) the right to offer an amendment that reauthorizes the Community Oriented Policing Services, the COPS program for fiscal year 2006. 2008? That was denied. We could have had a vote on the floor today on that amendment and a full debate, and that was denied in the Committee on Rules.

The gentleman from New York (Mr. CROWLEY) had an amendment that would require that the purchase of firearms, ammunition and explosives to be made in person and to require records to be kept on how the purchases were made. The reason why this is an important amendment because more and more we find out that gangs are purchasing weapons over the internet. Yet that was not even made in order. I know the gun lobby does not like that amendment, but even so, if we want to make sure that gang members have a more difficult time getting access to firearms, we certainly should have debated that amendment.

The gentlewoman from Texas (Ms. JACKSON-LEE) had an amendment that would make it illegal to transfer a firearm to any individual that the Federal Government has designated as a suspected or known gang member or terrorist. I am trying to find where the controversy is with that amendment. Yet the Committee on Rules would not allow that amendment to be made in order on the floor today.

The gentlewoman from Texas (Ms. JACKSON-LEE), the gentleman from Virginia (Mr. SCOTT), the gentleman from Massachusetts (Mr. DELAHUNT), and the gentlewoman from California (Ms. WATERS) had an amendment that strikes the section of the bill that allows the Attorney General to charge as adults those juveniles who commit violent crimes and are at least 16 years old. We can disagree on whether or not juveniles should be tried as adults, but, nonetheless, it is an important enough issue that we should have debated it on the floor here today and let Members decide that. And yet that was not made in order.

The gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) had an amendment that establishes funding for prevention and intervention programs for the suppression of youth and gang violence. That was deemed to not be made in order.

The gentleman from California (Mr. SCHIFF), the gentleman from California (Mr. CARDOZA), the gentlewoman from California (Ms. WATSON), and the gentlewoman from California (Ms. LINDA T. SÁNCHEZ) had an amendment that authorizes the expansion and the enhancement of law enforcement and community-based prevention and intervention programs targeting criminal street gangs, gang members and at-risk youth. That was ruled out of order by the Committee on Rules. I mean, I can go on and on and on. There are really good ideas here, and yet, for whatever reason, the Committee on Rules last night said they are not going to have their day on the House floor. And I do not understand why, and nobody who has spoken on the other side has explained to me why those amendments were not made in order, not even the Chairman of the Committee on Rules. We have the time. This is an important issue. These amendments should have been made in order. And, quite frankly, I think it is a disgrace and does a great disservice to a lot of people in this country who care about this issue that these Members were denied their right to offer these amendments.

Mr. Speaker, I reserve the balance of my time.

Mr. GINGREY. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. FORBES), the bill's author.

Mr. FORBES. Mr. Speaker, I think, if one is around here long enough, they get to the point where they do not believe they could be shocked by anything. But when I heard the other side a while ago say that they believe that giving arts and crafts to violent gang members will do more to deter crime than empowering law enforcement agents and locking up gang members in jail, that, I have to admit, still shocks me.

Mr. Speaker, I include for the RECORD a letter from the National Latino Peace Officers Association, which supports all the provisions of this bill and asks that this bill be passed; from the Fraternal Order of Police that supports this bill and asks that it be passed; from the National Association of Police Organizations, which supports this bill and asks that it be passed; from the National Sheriffs' Association, which supports the provisions of this bill and asks that it be passed; from the Law Enforcement Alliance of America, which supports the provisions of this bill and asks that it be passed; from the National Troopers Coalition; from the California Gang Investigators Association; from the Los Angeles Deputy Sheriffs office; and from the Major County Sheriffs' Association.

And, Mr. Speaker, we will have a lot more as the day goes on.

MAJOR COUNTY SHERIFF'S ASSOCIATION,
Alexandria, Virginia, April 20, 2005.
HON. JAMES SENSENBRENNER, Jr.,
House of Representatives, Committee on the Judiciary, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: On behalf of the Major County Sheriffs' Association, I am writing to express our support for H.R. 1279, the "Gang Deterrence and Community Protection Act of 2005." This much needed legislation takes a necessary step toward addressing the growing epidemic of gang violence that is affecting our entire nation and has even stretched into some of our most rural communities.

The Department of Justice estimates there are currently over 25,000 gangs and over 750,000 gang members who are active in more than 3,000 jurisdictions across the United States. Gang activity has been directly linked to the narcotics trade, human trafficking, identification documentation falsification and the use of firearms to commit deadly shootings.

H.R. 1279 would address the growing problem of gang violence by creating a rational strategy to identify, apprehend and prosecute gangs across the nation. Specifically, the bill would provide for the designation of High Intensity Gang Areas (HIGAs) to identify, target and eliminate violent gangs in areas where gang activity is particularly prevalent.

The bill would also create a statute to prosecute criminal gangs similar to the Racketeer Influenced and Corrupt Organizations statute (RICO) that has proven so effective against organized crime, and would provide more than $385 million over the next five years in grants to support Federal, State, and local law enforcement efforts against violent gangs, and to coordinate law enforcement agencies' efforts to share intelligence and jointly prosecute violent gangs.

Finally, under H.R. 1279, several categories of gang-related offense would be subject to mandatory minimum sentences of at least 30 years in prison for cases of kidnapping, aggravated sexual assault or maiming.

The "Gang Deterrence and Community Protection Act of 2005" is a comprehensive piece of legislation that addresses both the enforcement and prosecution aspects of the battle against gang violence.

Thank you for your time and attention, as well as your continued support of law enforcement.

Sincerely,
SHERIFF MICHAEL J. BOUCHARD,
MCSA Vice President—Legislative Affairs.
SHERIFF JAMES A. KARNES,
MCSA President.

ASSOCIATION FOR
LOS ANGELES DEPUTY SHERIFFS, INC.,
Los Angeles, California, April 20, 2005.

Re H.R. 1179—Support; H.R. 1518—Support

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, House Judiciary Committee, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: On behalf of the members of the Association for Los Angeles Deputy Sheriffs (ALADS), which represents over 7,000 deputy sheriffs and district attorney investigators in Los Angeles County. I am writing in support of H.R. 1279, The Gang Deterrence and Community Protection Act of 2005, and H.R. 1528, Defending America's Most Vulnerable: Safe Access to Drug Treatment and Child Protection Act of 2005.

H.R. 1279, The Gang Deterrence and Community Protection Act of 2005 not only designates high intensity gang areas and authorizes funds to combat gang activity, it creates a new gang prosecution statute; increases penalties for violent gang crimes; and limits a criminal street gang to a group or association of three or more individuals that commit two or more gang crimes.

H.R. 1528, Defending America's Most Vulnerable: Safe Access to Drug Treatment and Child Protection Act of 2005, provides for sound statutory reforms of ineffective antidrug laws designed to protect children.

ALADS strongly supports both H.R. 1279, and H.R. 1528.

Sincerely,

ROY L. BURNS,
President.

CALIFORNIA GANG
INVESTIGATORS ASSOCIATION,
Huntington Beach, CA, April 25, 2005.

Hon. F. JAMES SENSENBRENNER,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE SENSENBRENNER: Mr. Chairman, as President of the California Gang Investigators Association (CGIA) I am writing to offer the support of the Association for H.R. 1279, The Gang Deterrence and Community Protection Act of 2005 and H.R. 1528, Defending America's Most Vulnerable: Safe Access to Drug Treatment and Child Protection Act of 2005. The Association supports the legislative effort to curb gang violence and the associated criminal drug networks that goes hand-in-hand with street gang activity. We have supported the efforts of Senators Hatch and Feinstein in their anti-gang efforts and stand ready to be of any assistance we can be in your committee's efforts to obtain the same goals.

Street gangs continue to spread their unique brand of urban terrorism across our nation. Not only have they become prevalent in most urban inner cities, but have become a scourge in our rural communities as well, presenting a threat to this nation's bread basket. As I travel around this country lecturing to these communities it seems their primary concern for their personal safety is not from some foreign terrorist but their greatest fear is of the local street gangs. Hundreds upon hundreds of Americans are slain every year by street gangs, and thousands more injured.

This legislation provides new law which will aid in this struggle, not only attacking the gangs but with its companion bill, begins to focus on their drug business as well.

If our association can be of any further assistance to you please feel free to contact me.

Sincerely yours,

WESLEY D. MCBRIDE,
President.

NATIONAL TROOPERS COALITION,
Green Bay, WI.

Re H.R. 1279—Gang Deterrence and Community Protection Act of 2005

Hon. F. JAMES SENSENBRENNER, JR.,
Chair, House Judiciary Committee,
House of Representatives, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: As Chairman of the National Troopers Coalition, (NTC) I am writing to express our support for H.R. 1279, Gang Deterrence and Community Protection Act of 2005. The NTC represents over 40,000 state troopers and highway patrolmen throughout the United States.

We urge you to continue your work on fighting Gang Violence in America; we support all of the provisions contained in H.R. 1279.

Our members continue to deal with increased gang crimes and violence, as we have for years. The provisions of H.R. 1279, that in part deal with increased penalties, clarification of definitions, and increased resources and appropriations will greatly aid us and our law enforcement counterparts with gang investigations, deterrence and prevention.

Accordingly, on behalf of our members, we fully support and urge passage of H.R. 1279.

Sincerely,

CASEY L. PERRY,
Chairman, National Troopers Coalition.

THE LAW ENFORCEMENT
ALLIANCE OF AMERICA,
Falls Church, Va., April 19, 2005.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, House Judiciary Committee,
House of Representatives, Washington DC.

DEAR CHAIRMAN SENSENBRENNER: On behalf of the more than 75,000 Members and Supporters of the Law Enforcement Alliance of America (LEAA), I am writing to express our strong support for the Gang Deterrence and Community Protection Act of 2005 (H.R. 1279). This legislation provides law enforcement and prosecutors with much needed tools to combat the growing organized threat of violence from criminal street gangs.

Today's gang violence problem is not one of neighborhoods, but increasingly an interstate and even international operation involving highly structured and extremely violent criminal enterprises. H.R. 1279 recognizes this growing menace and provides a much needed response.

By providing state and local law enforcement with the additional resources to pursue such criminals and giving prosecutors additional tools to punish such criminals. H.R. 1279 offers a significant opportunity to make an impact in the fight against violent crime. I respectfully ask for your support for this much needed federal initiative. If you have any questions about LEAA's position on H.R. 1279 or any other matter, feel free to have your staff contact our Legislative Director, Kevin Watson at (703) 847-2677.

Sincerely,

JAMES J. FOTIS,
Executive Director.

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, Virginia, April 19, 2005.

Hon. F. JAMES SENSENBRENNER, Jr.,
House of Representatives, Committee on the Judiciary, Washingtn, DC.

DEAR CHAIRMAN SENSENBRENNER: I am writing on behalf of the National Sheriffs' Association and the 3,087 sheriffs across the country to express our full support for H.R. 1279, the "Gang Deterrence and Community Protection Act of 2005." This much needed legislation takes a necessary step toward addressing the growing epidemic of gang violence that is affecting our entire nation and has even stretched into some of our most rural communities.

The Department of Justice estimates there are currently over 25,000 gangs and over 750,000 gang members who are active in more than 3,000 jurisdictions across the United States. Gang activity has been directly linked to the narcotics trade, human trafficking, identification documentation falsification and the use of firearms to commit deadly shootings.

H.R. 1279 would effectively address the growing problem of gang violence by creating a rational strategy to identify, apprehend, and prosecute gangs across the nation. Specifically, the bill would provide for the designation of High Intensity Gang Areas (HIGAs) to identify, target and eliminate violent gangs in areas where gang activity is particularly prevalent.

The bill would also create a statute to prosecute criminal gangs similar to the Racketeer Influenced and Corrupt Organizations statute (RICO) that has proven so effective against organized crime, and would provide more than $385 million over the next five years in grants to support Federal, State, and local law enforcement efforts against violent gangs, and to coordinate law enforcement agencies' efforts to share intelligence and jointly prosecute violent gangs.

Finally, under H.R. 1279, several categories of gang-related offense would be subject to mandatory minimum sentences of at least 30 years in prison for cases of kidnapping, aggravated sexual assault or maiming.

The "Gang Deterrence and Community Protection Act of 2005" is a comprehensive piece of legislation that addresses both the enforcement and prosecution aspects of the battle against gang violence.

The National Sheriffs' Association and its member sheriffs fully endorse H.R. 1279 and thank you for your continued support of law enforcement.

Sincerely,

THOMAS N. FAUST,
Executive Director.

NATIONAL ASSOCIATION OF
POLICE ORGANIZATIONS, INC.
Washington, D.C., April 15, 2005.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Judiciary Committee, House of Representatives, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: On behalf of the National Association of Police Organizations (NAPO), representing 236,000 rank-and-file police officers from across the United States, I would like to thank you for introducing the "Gang Deterrence and Community Protection Act of 2005," and advise you of our support for the legislation. If enacted, this legislation will greatly assist state and local law enforcement in their efforts against gang expansion and violence.

Recent studies on gangs have estimated that over 25,000 different gangs, comprising over 750,000 members are active across the United States. 100 percent of all cities larger than 250,000 have reported gang activity. Compounding this problem, gangs have been directly linked to narcotics trade, human trafficking, identification document falsification, violent maiming, assault and murder, and the use of firearms to commit deadly shootings. The "Gang Deterrence and Community Protection Act" works to reduce gang violence by designating High Intensity Gang Areas (HIGAs) and authorizing $20 million per year over five years to combat gang activity. It also creates a new gang prosecution statute focusing on street gangs and increases the penalties for violent gang crimes, strengthening prosecutors' ability to combat gang activities.

NAPO looks forward to fighting for this legislation's passage and I thank you for your continued support of law enforcement. If you have any questions, please feel free to contact me, or NAPO's Legislative Assistant, Andrea Mournighan, at (202) 842–4420.

Sincerely

WILLIAM J. JOHNSON,
Executive Director.

GRAND LODGE,
FRATERNAL ORDER OF POLICE,
Washington, DC, April 4, 2005.

Hon. J. RANDY FORBES,
House of Representatives, Washington, D.C.

DEAR REPRESENTATIVE FORBES: I am writing on behalf of the members of the Fraternal Order of Police to advise you of our strong support for H.R. 1279, the "Gang Deterrence and Community Protection Act of 2005."

This legislation will attack the growing problem of criminal gang activity by providing increased Federal funding, almost $390 million, to support Federal, State and local law enforcement efforts to combat gang activity. The bill aims to facilitate greater cooperation between law enforcement officers and prosecutors at every level of government by providing for the designation of certain locations as "high intensity interstate gang activity areas." This strategy, modeled after the High Intensity Drug Trafficking Area (HIDTA) program, will enable law enforcement in these designated areas to build successful multijurisdictional efforts targeting criminal street gangs using Federal funds. Law enforcement agencies in these designated areas will be able to call on Federal resources to hire additional State and local prosecutors and purchase technology to increase their abliity to identify and prosecute violent offenders.

The legislation also creates new criminal gang prosecution offenses and enhances existing gang and violent crime penalties to deter and punish illegal gang activity. The bill would also allow 16-year olds to be charged as adults in Federal court for crimes of violence.

We believe that our nation's law enforcement officers can be more effective at fighting the menace of criminal gangs if they have the necessary resources that this legislation provides. I want to commend you for your leadership on this issue. If I can be of any further help on this or any other issue, please do not hesitate to contact me or Executive Director Jim Pasco through my Washington office.

Sincerely.

CHUCK CANTERBURY,
Nationl President.

APRIL 18, 2005

Re Gang Deterrence and Community Protection Act H.R. 1279

Hon. F. JAMES SENSENBRENNER, Jr.,
Chair, House Judiciary Committee, House of Representatives, Washington, D.C.

DEAR REPRESENTATIVE SENSENBRENNER: As the House Judiciary Committee continues its work on Gang Violence in America, on behalf of the National Latino Peace Officers Association (NLPOA), we support all of the provisions contained in H.R. 1279 and urge the Committee to adopt all of the provisions to strengthen federal law enforcement's capabilities on combating the growing gang violence in America:

18 U.S.C. 521 Criminal Street Gang Prosecutions, increasing the penalty for such criminal acts on behalf of a criminal gang;

Defining Gang Crime for federal prosecution;

Increased Penalties for Racketeering Crimes on behalf of the criminal gangs;

Modification of the Definition of a Crime of Violence; and

Increasing Resources and Appropriations in the newly defined High Intensity Interstate Gang Activity Areas.

NLPOA members have dealt with gang crimes and gang violence for the last 32 years and are experts in this arena; with respect to gang investigations, deterrence, and prevention. The NLPOA recognizes that many gangs are more sophisticated and have more resources than local police departments. Designating federal resources through increase penalties and federal task forces will help Keep America Safe!

Sincerely,

FELIPE A. ORTIZ,
NLPOA National President.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

What shocks me is that we have people who get up and talk about the importance of supporting our local law enforcement officials, and at the same time, we are supporting budgets that cut money to our local law enforcement agencies.

Mr. Speaker, I include for the RECORD a letter from the National Council of La Raza opposing this bill. I also include for the RECORD a statement that has been signed by the American Bar Association, the American Civil Liberties Union, Chamber of Commerce of the United States, the Children's Defense Fund, the Commission on Social Action of Reform Judaism, Leadership Conference on Civil Rights, the National Urban League, Murder Victims' Families for Human Rights, the NAACP, the National Federation of Independent Business, and the United States Conference on Catholic Bishops, all in opposition to this legislation. I also include for the RECORD, Mr. Speaker, a letter that has been signed by the President of Catholic Charities USA, also opposed to this legislation. And I include for the RECORD, so that it is there, the 16 amendments that the majority of the Committee on Rules decided to not make in order today on this important legislation.

NATIONAL COUNCIL OF LA RAZA,
Washington, DC, May 9, 2005.

Re Oppose provisions in the "gang buster bill" H.R. 1279 that prosecute youth as adults and impose mandatory minimum sentences.

DEAR MEMBER OF CONGRESS: On behalf of the National Council of La Raza (NCLR), the largest national Latino civil rights organization in the U.S., I urge you to oppose provisions contained in the "Gang Deterrence and Community Protection Act of 2005" (H.R. 1279) which is on the suspension calendar this week. Please be advised that NCLR will recommend that votes relevant to the Latino community and final passage of the bill be included in the National Hispanic Leadership Agenda Congressional Scorecard.

The Latino community is directly affected by gang violence, consequently NCLR is committed to finding a solution to combat it; however, the approach in H.R. 1279 is ineffective, irresponsible and simplistic, given that it does nothing to get to the root causes of the problem, and it further exacerbate youth violent behavior. H.R. 1279 will if enacted into law, would have a disparate impact on Latino youth and their families. This bill would undermine overall public safety, given that it imposes excessively severe measures aimed at only punishing and not reforming youth violent behavior. Specifically, NCLR strongly opposes two provisions—the prosecution and transfer of youth into the adult system and the inclusion of various mandatory minimum sentences for a broad category of offenses that are labeled "gang crimes" and numerous other offenses.

Section 115 of the bill allows for the prosecution and transfer of youth into the adult system. The latest research shows that transferring youth to adult status is a failed public policy approach, resulting in the opposite of what this bill is purporting to do. It will increase—not decrease—youth violence. The research shows that young people prosecuted as adults, compared to those prosecuted as juveniles, are more likely to: (a) commit a greater number of crimes upon release; (b) commit more violent crimes upon release; and (c) commit crimes sooner upon release. The research also shows that youth held in adult facilities, compared to youth held in juvenile facilities, are five times as likely to be sexually assaulted by other inmates, twice as likely to be beaten by staff, 50% more likely to be assaulted with a weapon, and eight times as likely to commit suicide.

With these kinds of risks, it does not make sense for the House to pursue legislation that includes the power to prosecute juveniles as adults in federal court for activities that the states are already well-equipped—indeed, better-equipped—to handle than the federal system. Also, putting the transfer decision at the sole discretion of a prosecutor, not a judge as the law currently requires, violates the most basic principles of due process and fairness.

Section 103 of the bill includes and expands mandatory minimum sentences for a broad category of offenses that are deemed "gang crime." Under this bill, the mandatory minimum sentences for these crimes range: from 5 to 30 years. Although the offenses are serious and individuals who are convicted should be properly held accountable, mandatory sentences often prevent judges from determining the appropriate punishment. When judges are restricted by mandatory sentences, they cannot assess an individuals culpability during the crime or other factors that have bearing on recidivism, thus resulting in inappropriate sentences.

Although mandatory minimums were intended to reduce the racial disparities that were associated with indeterminate sentencing, in practice they exacerbate and mask such disparities by shifting discretion from the judge to the prosecutor. Prosecutors retain the power to plea bargain by offering defendants plea agreements that avoid the mandatory penalty. Studies have shown that this discretion results in a disparity in sentencing outcomes based largely on race and quality of defense attorney. According to testimony from the U.S. Sentencing Commission, in 1999, 39% of those receiving mandatory sentences were Hispanic, 38% were African American, and 23% were White. Hipanics comprised 44% of those subject to five-year mandatory sentences in 1999, 37% of the ten-year mandatory sentences, 20% of the 20-year mandatory sentences, and 8% of the mandatory life sentences. The reality for African American defendants is even bleaker.

NCLR respectfully asks you to oppose legislation that prosecutes and transfers youth into the adult system and that includes and expands mandatory minimum sentences. These provisions will only exacerbate youth violent behavior, at a time when data from the FBI's Uniform Crime reporting program that breaks down the age of people arrested for serious offenses in 2003 showed that the number of people under 18 arrested declined by 30%. Instead, NCLR calls for a comprehensive research—based approach that gets at the root causes of youth violence—which includes but is not limited to prevention, treatment, and effective alternatives to incarceration. If you have any questions please contact Angela Arboleda, NCLR Civil Rights Policy Analyst, at (202) 776-1789.

Sincerely,

JANET MURGUIA,
President and CEO.

JUNE 2, 2004.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We write to express our strong concern about the unintended consequences that will result from Section 206 of The Gang Prevention and Effective Deterrence Act of 2003—S. 1735. Although Section 206 has been removed from the bill by amendment, we understand discussions are underway to reinsert it.

Section 206 would change the general definition of a crime of violence to require only a "substantial risk of . . . injury to a person or property," and not physical force. Violence, however, is commonly defined as physical force. Thus, removing the "physical force" requirement from crimes of violence undermines the purpose of having a special category of heinous crimes.

Moreover, this new definition would broaden crimes of violence to include a number of regulatory violations targeted at businesses. For example, felony violations of environmental statutes, such as the Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act, which criminalize violations of both statutory and regulatory requirements, could be deemed crimes of violence. In many cases, these violations are "technical" in nature, including recordkeeping, reporting, training, etc. and have very low criminal intent standards. With a mere "knowing" violation—which requires neither knowledge by the defendant of the underlying regulations or the law nor an intention to violate the law—a business and its officers and employees are especially vulnerable to criminal penalties. If conviction under the particular statute can result in a 1-year prison sentence, thus making it a felony, and if the violation risked injury to a person or the property of another, under the proposed new definition the violation would be a violent crime.

This designation serves as a trigger for a host of consequences, including longer sentences under the federal sentencing guidelines, and a doubling of the statute of limitations. The current statute of limitations for all environmental crimes is five years from the date the violation occurred. As a crime of violence, the statute of limitations would be the greater of either ten years from the occurrence or eight years from discovery of the alleged violation. In addition, conviction of any crime that is labeled a "crime of violence" under this proposed statute brings deportation without right of appeal for legal immigrants working for a company, and potential federal money laundering charges, which can result in substantial asset forfeiture.

While we certainly recognize that these consequences were not the intent of this legislation, this provision could have an unjust impact on business. We ask that you give serious consideration our concerns as you continue to work on this issue. Thank you for your attention to this very important matter.

Sincerely,

Chamber of Commerce of the United States.
Association of Oil Pipe Lines.
National Petrochemical & Refiners Association.
National Association of Manufacturers.
Interstate Natural Gas Association of America.
Business Civil Liberties, Inc.
American Chemistry Council.

No. 25 Capuano/Weiner: The amendment reauthorizes the Community Oriented Policing Services (COPS) program for FY2006–FY2008.

No. 26 Crowley: The amendment requires that the purchase of firearms, ammunition and explosives to be made in person and requires records to be kept on how the purchases were made.

No. 23 Jackson Lee: The amendment would make it illegal to transfer a firearm to any individual that the Federal government has designated as a suspected or known gang member or terrorist. It also establishes a system that would assist any individual who is wrongly included on such a list to have his or her name removed.

No. 24 Jackson Lee/Scott/Delahunt/Waters: The amendment strikes the section of the bill that allows the Attorney General to charge as adults those juveniles who commit violent crimes and are at least 16 years old.

No. 15 Eddie Bernice Johnson: The amendment establishes funding for prevention and intervention programs for the suppression of youth and gang violence.

No. 2 Schiff/Cardoza/Watson/Linda Sanchez: The amendment authorizes the expansion and enhancement of law enforcement and community-based prevention and intervention programs targeting criminal street gangs, gang members, and at-risk youth.

No. 21 Waters: The amendment creates a "Gang Exit Program" to facilitate the reentry of ex-gang members into society. This program would provide relocation programs, educational programs, special student loans, and housing to ex-gang members.

OTHERS

No. 14 Davis (IL): The amendment strikes the provision in the bill that calls for a minimum mandatory 10 year jail term.

No. 12 Davis (IL): This amendment would strike section 110 and preserve language in current law regarding venue in capital cases.

No. 13 Davis (IL): The amendment strikes the section of the bill that gives the Attorney General the discretion to charge as adults juveniles who commit violent crimes and are at least 16 years old.

No. 22 Jackson Lee: The amendment clarifies that the defendant, and not just a member of the gang, must have committed criminal activity related to the capital case in the jurisdiction where the prosecutor seeks to bring the charge.

No. 16 Eddie Bernice Johnson: The amendment establishes funding for regional databases that track gang activity in high intensity gang areas. These databases contain critical information on gangs, gang members, firearms, criminal activities and histories, vehicles, and other fields of information necessary to investigators in solving gang related crimes.

No. 7 Scott: The amendment makes application of the death penalty under the bill contingent upon appropriation of the authorized levels to protect innocence under Title IV of the "Justice For All Act of 2004."

No. 8 Scott: The amendment restricts the application of the death penalty to intentional acts of the defendant.

No. 9 Scott: The amendment strikes section 115, which gives the Attorney General authority to prosecute certain juveniles without court assessment or review.

No. 10 Scott: The amendment uses the $57.5 million authorized in the bill for 94 new U.S. Attorneys to go, instead, to local law enforcement to prevent and reduce the formation or continuation of juvenile gangs and the use and sale of illegal drugs by juveniles.

No. 11 Scott: The amendment modifies the definition of a "gang crime" so that only the more serious violent offenses are included.

MAY 6, 2005.

DEAR REPRESENTATIVE: On behalf of the United States Conference of Catholic Bishops and Catholic Charities USA, we urge you to oppose provisions in H.R. 1279, Gang Deterrence and Community Protection Act of 2005, the (Gang Bill) that would expand the use of the death penalty, treat juveniles as adults and impose mandatory minimum sentences.

First, we strongly oppose any provision in the bill that would expand the use of the death penalty. As you may be aware, the bishops of the United States oppose the use of the death penalty. Catholic teaching on capital punishment is clear, "If bloodless means are sufficient to defend human lives against an aggressor and to protect public order and the safety of persons, public authority should limit itself to such means, because they better correspond to the concrete conditions of the common good and are more in conformity to the dignity of the human person" (Catechism of the Catholic Church).

Secondly, we urge you to eliminate any provisions in the legislation that would result in the expanded "transfer" or "waiver" of youth to the adult criminal system and/or placing an additional number of youth in adult correctional facilities. While there is no question that violent and dangerous youth need to be confined for our safety and theirs, we cannot support provisions that treat children as though they are equal to adults. As we stated in our 2000 pastoral statement on criminal justice, we believe that placing juveniles in the adult court system is not a solution to reducing gang activity.

We bishops cannot support policies that treat young offenders as though they are adults. The actions of the most violent youth leave us shocked and frightened and therefore they should be removed from society until they are no longer dangerous. But society must never respond to children who have committed crimes as though they are somehow equal to adults—fully formed in conscience and fully aware of their actions. Placing children in adult jails is a sign of failure, not a solution. (Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice, November 15, 2000).

Additionally, removing youth from state juvenile justice systems greatly reduces their chances of receiving necessary treatment and intervention programs. Unlike state systems around the country, the federal system does not have any specialized programs or facilities to accommodate young people or to a address the root problems, such as abuse, that these children are experiencing at home or on the streets. This emphasis on swift punishment rather than effective treatment and intervention demonstrates a fundamental misunderstanding of the street gang culture and is tantamount to giving up on our children—something that our faith tradition teaches we should never do. Rather, we believe the challenge as responsible adults is to create a fairer and more effective youth justice system, where there is a balance between prevention, treatment and intervention that gives young people a chance to make better choices. Unfortunately, we believe several provisions in H.R. 1279 do not rise to the challenge.

Finally, we urge you to oppose language in the bill that includes and expands mandatory minimum sentences for a broad category of offenses that are deemed gang crime. In the Gang Bill, the mandatory minimum sentences for gang related crimes range from five to thirty years. Although the offenses are serious and individuals who are convicted ought to be properly held accountable, rigid sentencing formulations could prevent judges from properly assessing an individual's culpability during the crime or other factors that have bearing on recidivism, thus sometimes resulting in harsh and inappropriate sentences. From our experience, arbitrarily expanding mandatory minimum sentences does nothing to deter youth gang violence and we urge you to oppose any such provisions.

Thank you for your consideration of this very important issue. Should you have any questions or comments, please do not hesitate to contact Mr. Andrew Rivas in our office of Social Development and World Peace, 202-541-3190, *arivas@usccb.org*, or Ms. Lucreda Cobbs at Catholic Charities USA, 703-549-1390, *lcobbs@catholiccharitiesusa.org*. With every good wish, we are

Faithfully yours,
Most Reverend Nicholas DiMarzio,
Diocese of Brooklyn, Chairman, Domestic Policy Committee, United States Conference of Catholic Bishops.
REV. LARRY SNYDER,
President, Catholic Charities USA.

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, May 9, 2005.

DEAR REPRESENTATIVE: Oppose the ineffective policies proposed in H.R. 1279, the Gang Deterrence and Community Protection Act of 2005.

Representative Randy Forbes (R-VA) has introduced H.R.1279, the Gang Deterrence and Community Protection Act of 2005 ("Gang bill"). The Gang bill could subject innocent people to the death penalty, creates numerous discriminatory mandatory minimum sentences, could result in wrongfully convictions based on unreliable evidence, and creates more serious juvenile offenders by incarcerating children in adult prisons. H.R. 1279 is scheduled for a vote on the House Boor on Wednesday, May 11, 2005, we strongly urge you to oppose this legislation.

Congress should not expand the Federal death penalty until it ensures innocent people are not on death row.

Expansion of the federal death penalty undermines the very reforms that were enacted in last year's Justice for All Act (P.L. 108-405), which addressed some systemic problems with the federal death penalty. H.R. 1279 would create several new offenses and make them punishable by the death penalty as well as increase the penalty for several existing federal offenses to the possibility of a death sentence.

The death penalty is in need of reform, not expansion. According to the Death Penalty Information Center, 119 prisoners on death row have now been exonerated. Chronic problems, including inadequate defense counsel and racial disparities, plague the death penalty system in the United States. The expansion of the death penalty potential for gang crimes creates an opportunity for more arbitrary application of the death penalty. States continue to address the systemic problems with the administration of the death penalty by implementing reform and moratorium efforts, while the federal government, in H.R. 1279, is moving to expand the death penalty in lieu of enacting or implementing reforms on the federal level.

In addition to expanding the number of federal death penalty crimes, Section 110 of the bill expands venue in capital cases to the point that any location even tangentially related to the crime could be the site of a trial. Studies of the federal death penalty show that a person prosecuted in Texas is much more likely to be charged, tried and sentenced to death in a capital case than a person who is prosecuted for the same crime in Massachusetts. This bill will exacerbate these geographic inequities that exist in the federal death penalty system. The wide range of discretion in both what to charge and where to bring the charge will give prosecutors tremendous latitude to forum shop. This broad discretion will increase the racial and geographic disparities already at play in the federal death penalty.

People could be convicted of a "gang" crime even if they are not members of a gang.

This bill would impose severe penalties for a collective group of three or more people who commit "gang" crimes. Even more disconcerting is that a person could receive the death penalty for the illegal participation in what would be considered a "criminal street gang" while having no idea or intention of being a part of a so-called "gang." H.R. 1279 revises the already broad definition of "criminal street gang" to an even more ambiguous standard of a formal or informal group or association of three (3) or more people who commit two (2) or more "gang" crimes. The number of people required to form a gang decreases from five (5) people in an ongoing group under current law to three (3) people who could just be associates or casual acquaintances under this proposed legislation.

Under the Gang bill a "continuing series" of crimes does not have to be established to charge a person with a gang crime. Presently, the government has to establish that criminal street gangs engaged "within the past five (5) years in a continuing series of offenses." The continuing series of offenses under current law is essential to preserving the concept of gang activity that the law is trying to target, i.e. criminal activity that has some type of connection to a tight knit group of people. This broader definition of gang crime in H.R. 1279 would result in people being convicted of "gang" crimes that are neither ongoing in nature nor connected to each other, and could occur 10, 15 or 20 years apart.

H.R. 1279 further erodes federal judges' sentencing discretion by proposing harsher mandatory minimum sentences.

This legislation further erodes the sentencing discretion of judges by imposing mandatory minimums that would result in unfair and discriminatory prison sentences. Many of the enhanced gang penalties in this bill are mandatory minimum sentences or death. Mandatory minimum sentences deprive judges of the ability to impose sentences that fit the particular offense and offender. Although in theory mandatory minimums were created to address disparate sentences that resulted from indeterminate sentencing systems, in reality they shift discretion from the judge to the prosecutor. Prosecutors hold all the power over whether a defendant gets a plea bargain in order for that defendant to avoid the mandatory sentence. It is not clear what standards (if any) prosecutors use to offer plea bargains, therefore only a few defendants get the benefit of avoiding the mandatory sentence. This creates unfair and inequitable sentences for people who commit similar crimes, thus contributing to the very problem mandatory minimums were created to address.

H.R. 1279 jeopardizes a person's right to a fair trial and creates the possibility that innocent people would be held for long periods of time prior to a trial.

Innocent people could be convicted of crimes they did not commit if the statute of limitations is extended as proposed in this legislation. The Gang bill proposes to extend the statute of limitations for non-capital crimes of violence. Generally, the statute of limitations for non-capital federal crimes is five (5) years after the offense is committed. This bill would extend that limitation for crimes of violence to 15 years after the offense was committed or the continuing offense was completed. For example, if a violent crime was committed in 2005, but a person was not indicted until 2020, that individual could be charged with a crime 15 years later. In 2020, 15 years after the crime, alibi witnesses could have disappeared or died, other witnesses' memories would have faded and evidence may be unreliable. The use of questionable evidence could affect a person's ability to defend themselves against charges and to receive a fair trial.

Shifting the burden of proof for pretrial detention in some cases involving guns could result in serious injustices and interfere with an accused person's defense. This legislation would create a rebuttal presumption against bail for people accused of certain firearms offenses during the commission of serious drug crimes. A person who is presumed innocent and has not been found guilty of any crime could be held for months or years without the government having made any showing that he or she is dangerous or a flight risk. Making it more difficult for an accused person to be released on bail prior to trial hinders a defendant's ability to assist their defense lawyer with investigating the facts of the case and preparing their defense.

Children would be put in Federal prison with little opportunity for education or rehabilitation.

Under the Gangs bill, more children will become hardened criminals after being tried in federal court and incarcerated in adult prisons. Currently under federal law, when the government recommends trying a juvenile as an adult in federal court various factors must be considered by the court before deciding whether the criminal prosecution of a young person is in the interest of justice. These factors include the age, social background, and the intellectual development and psychological maturity of the child. H.R. 1279 would give the prosecutor the discretion to determine when to try a young person in federal court as an adult, if the juvenile is 16 years of age or older and commits a crime of violence.

The decision by a prosecutor to try a juvenile as an adult cannot be reviewed by a judge under this legislation. This unreviewable process of transferring youth to adult federal court is particularly troubling when juveniles are not routinely prosecuted in the federal system and there are no resources or facilities to address the needs of youth. The federal government should continue to let states deal with juveniles in their family court systems that were created to address the needs and provide services to young people. Furthermore, a 1996 study showed that youth transferred to adult court in Florida were a third more likely to re-offend than those sent to the juvenile justice system for the same crime and with similar prior records. Of the youth in this study who committed new crimes, those sent to adult court reoffended at twice the rate of those sent to juvenile court. This research emphasizes the need for juveniles to be held accountable in the juvenile justice system, which has more resources to address the problems that cause children to come to the attention of the court system.

While efforts to address gang crime are very important to maintaining public safety, this legislation proposes to confront crime at the expense of the right to a fair trial, at the risk of convicting innocent people and unnecessary exposure to the death penalty. H.R. 1279 will not solve the problem of gang crime in this country, thus members should oppose this bill when the House of Representatives votes on Wednesday, May 11, 2005.

Sincerely,

GREG NOJEIM,
Acting Director.
JESSELYN MCCURDY,
Legislative Counsel.

VOTE WEDNESDAY, MAY 11—OPPOSE HR. 1279 "THE GANG DETERRENCE AND COMMUNITY PROTECTION ACT." INEFFECTIVE AND COSTLY FEDERAL INTRUSION IN STATE LAW ENFORCEMENT

FEDERALIZES TRADITIONAL STATE CRIMES WITHOUT JUSTIFICATION

H.R. 1279 would federalize all state felonies if related to a "criminal street gang" and a host of state violent offenses (whether or not gang-related), thereby significantly expanding the current list of over 4,000 federal crimes (according to a recent Federalist Society report). Traditional state jurisdiction over juvenile matters also would be undermined.

This approach will skew traditional federal law enforcement priorities, undercut the superior efforts of the states to deal with violent crimes and juvenile offenders, and may exceed constitutional limits on federal power.

Even the conservative Heritage Foundation, in recent testimony to Congress, recommended enforcing existing laws rather than passing new ones. Existing federal statutes—including RICO, Continuing Criminal Enterprise and drug trafficking statutes—have been used to prosecute and severely punish gang members, and these laws are more than adequate to prosecute any gang-related offenses that warrant federal intervention.

PROMOTES WIDELY DISCREDITED APPROACHES TO GANG AND YOUTH CRIME

H.R. 1279 does nothing to promote proven effective programs for dealing with criminal street gangs and youth crimes, such as family and school-based interventions and mentoring programs. The Heritage Foundation provided recent testimony on what measures Congress should support to address the gang problem—including fostering stable neighborhoods, providing after-school activities, and improving local economies—and H.R. 1279 does none of these things.

H.R. 1279 would result in more youth being prosecuted as adults in the federal system despite research showing that youth transferred to the adult criminal justice system are more likely to re-offend than similarly situated youth who remain in the juvenile justice system.

As the Judicial Conference of the United States has stated, "primary responsibility for prosecuting juveniles has traditionally been reserved for the states," and "the federal criminal justice system has little experience and few resources" for juvenile defendants.

EXACERBATES RACIAL DISPARITIES AND OTHER SIGNIFICANT FLAWS IN THE CRIMINAL JUSTICE SYSTEM

H.R. 1279 expands three criminal justice policies—mandatory minimum sentences, capital punishment, and youth transfer to adult prosecution—that are discriminatory towards minority communities.

Attached to the new federal crimes are 24 new mandatory minimum sentences, which will transfer sentencing power from judges to prosecutors, prescribe unconscionably severe sentences, and increase unwarranted disparity, including racial disparity. Similarly, H.R. 1279 indiscriminately raises penalties for a wide variety of offenses that have nothing to do with street gangs, ranging from carjacking to regulatory violations (*e.g.*, Clean Water Act).

H.R. 1279 attaches the death penalty to a variety of traditional state crimes and allows prosecutors to forum shop, expanding this error-prone and discriminatory system and flouting community standards regarding the appropriateness of the death penalty for certain crimes.

SOME ORGANIZATIONS OPPOSING H.R. 1279

American Bar Association. American Civil Liberties Union.

Chamber of Commerce of the United States.

Children's Defense Fund.

Commission on Social Action of Reform Judaism.

Leadership Conference on Civil Rights.

National Urban League.

Murder Victims' Families for Human Rights NAACP.

National Council of La Raza.

National Federation of Independent Business.

United States conference of Catholic Bishops.

For more information, including a full list of opposing organizations, go to *www.nacdl.org/Gangs*.

Mr. McGOVERN. Mr. Speaker, I reserve the balance of my time.

Mr. GINGREY. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I will be asking Members to vote "no" on the previous question. If the previous question is defeated, I will amend the rule to allow the House to consider the Capuano-Weiner amendment on the COPS program. This amendment was offered in the Committee on Rules last night but was defeated on a straight party-line vote. This amendment will reauthorize the Community Oriented Policing Services, the COPS program, for the next 3 years. The COPS program, created as a result of the Violent Crime Control and Law Enforcement Act of 1994, focuses on crime prevention at the local level. This program puts law enforcement professionals on the streets and assigns them a beat so they can build mutually beneficial relationships with the people that they serve. By earning the trust of members of their community and making those individuals invest in their own safety, community policing makes law enforcement more efficient and makes America safer.

Mr. Speaker, if we are really serious about stopping the growing gang problem that is occurring in this country, we need to start at the local level, and we need to include prevention as well as enforcement. I know of no better program to meet this worthy goal than the COPS program.

Members should be aware that a "no" vote will not prevent consideration of the gang deterrence bill and it will not affect any of the amendments that are in order under this rule. But a "no" vote will allow us to add this important amendment that is one of our most effective tools in the war against violence.

Mr. Speaker, as I said at the beginning, if we are truly interested in dealing with the gang problem in this country, we need to do more than pass legislation that sounds tough. We need to have legislation that is tough, that will do the job. We need to do more than a press release here.

I urge my colleagues to vote "no" on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately prior to the vote on the previous question.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. McGOVERN. Mr. Speaker, I yield back the balance of my time.

Mr. GINGREY. Mr. Speaker, I yield myself such time as I may consume.

As we bring debate on this rule to a close, I must stress the importance of strengthening our communities' efforts against gang crime. Like other forms of organized crime, gangs are at the center of drug violence, identity theft, bank robberies and many of the deadly shootings we read about in the local papers. We need to act in one strong voice to indicate that our laws have a purpose, that our prosecutors and law enforcement officers mean business. Gangs are a national problem, and they will not go away by simply putting them into an arts and crafts program or opening up a gymnasium to let them play midnight basketball. We can prevent the formation of gangs by strengthening our families, and we can deter their crimes by breaking their organization and putting them in jail. Gangs are no longer simply found in the largest cities but have made their way into our rural and suburban communities as well.

Gangs are a problem which need a resolution because the cost is in human lives. One of the more important aspects of the Gang Deterrence and Community Protection Act is mandatory minimum sentencing. With mandatory sentencing, law enforcement will gain leverage over the lower-level gang members, leverage that will put pressure on a gang member to "roll over" on their leadership. With cooperation comes the ability to take down an entire gang network, which is the desired effect of this legislation. If there is no threat of doing hard time, there is no incentive to cooperate with law enforcement investigators. In fact, minimal sentencing of much shorter time is often viewed by low-level 16- and 17-year-old gang members as a badge of honor, so-called "earning your bones." They come out of prison in 6 months to 2 years and move up the gang chain of command. Plain and simple, mandatory minimum penalties are an important piece in protecting the public from violent gangs by taking down the system that supports them.

Mr. Speaker, mandatory sentencing, this is not a new concept. In fact, the Child Abduction Prevention Act of 2002 contained 20-year mandatory minimums for child abductions and earned the support of 178 Democrats at final passage. Mandatory minimum sentences were part of the 2003 PROTECT Act, which passed this body by a vote of 400 to 25. The Identity Theft Penalty Enhancement Act contained mandatory minimum sentences, and it passed on suspension. An amendment to the intelligence bill that contained mandatory minimum sentencing to assure appropriate penalties for serious offenses such as possession of atomic, biological and chemical weapons passed 385 to 30. Mandatory minimum sentencing has been widely supported by this House and I believe works to deter crime. Getting tough on crime requires tough and uniform enforcement. We cannot afford to relent in our efforts to deter gang crime and enforce our laws. We need to address this problem while we have the opportunity and before it grows further out of control. We need to invest in new technology, unify our intelligence and strengthen our sentencing so law enforcement will have the tools to get gangs off the street.

Mr. Speaker, I urge support for this rule and passage of the underlying bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to express my disappointment with the structured rule that has been set forth for debate on H.R. 1279 the "Gang Deterrence and Community Protection Act of 2005." This bill among other things, could subject innocent people to the death penalty, creates numerous discriminatory mandatory minimum sentences, could result in wrongful convictions based on unreliable evidence, and creates more serious juvenile offenders by incarcerating children in adult prisons. These are very serious issues. Issues that warrant extensive debate and the opportunity to fix these problems before the negative impact is felt. The current rule does not allow for such debate.

Before concluding, I feel it is important that I briefly mention my three amendments that were not ruled in order. My first amendment would have removed Section 110 of the bill. As written in the bill, a prosecutor could bring a capital case in a district that had only a limited connection with a crime. My amendment would have clarified that the defendant must have committed criminal activity related to the capital case in the jurisdiction where the prosecutor seeks to bring the charge. In essence, it would have stopped forum shopping which is currently allowed under the bill.

My second amendment would have deleted Section 115 of the bill which deals with the transfer of juveniles to adult courts. More specifically, the amendment would have prevented the transferring of juveniles from juvenile courts to adult courts when a juvenile has committed an act, which if committed by an adult, would be a felony. If this section is allowed to remain in the bill, more children will become hardened criminals after being tried in federal court and incarcerated in adult prisons. Currently under federal law, when the government recommends trying a juvenile as an adult in federal court various factors must be considered by the court before deciding whether the criminal prosecution of a young person is in the interest of justice. These factors include the age, social background, and the intellectual development and psychological maturity of the child.

The decision by a prosecutor to try a juvenile as an adult cannot be reviewed by judge under this legislation. This unreviewable process of transferring youth to adult federal court is particularly troubling when juveniles are not routinely prosecuted in the federal system and there are no resources or facilities to address the needs of youth.

My third amendment was very straightforward. It would have closed the glaring loophole which currently exists in our federal gun laws by making it illegal to transfer a firearm to any individual that the federal government has designated as a suspected or known gang member or terrorist. As many of you know, under current law, neither suspected nor actual membership in a gang or terrorist organization is a sufficient ground, in and of itself, to prevent the purchase of a dangerous firearm. In fact, according to a recently released GAO report, over the course of a nine-month span last year, a total of fifty-six (56) firearm purchase attempts were made by individuals designated as known or suspected gang members or terrorists by the federal government. In forty-seven (47) of those cases, state and federal authorities were forced to permit such transactions to proceed because officials were unable to find any disqualifying information, such as a prior felony conviction or court-determined 'mental defect'. Thus, producing a situation whereby suspected or known gang members were, and continue to be, free to obtain as many guns as they desire.

In closing, these are all very important amendments and were aimed at fixing many of the problems associated with H.R. 1279. Despite the structured rule, I hope my colleagues on both sides will realize the importance of this bill and give it the time and attention it deserves.

The material previously referred to by Mr. MCGOVERN is as follows:

PREVIOUS QUESTION FOR H. RES. 268—RULE ON H.R. 1279: THE GANG DETERRENCE & COMMUNITY PROTECTION ACT OF 2005

At the end of the resolution, add the following:

"SEC. 2. Notwithstanding any other provision of this resolution the amendment specified in section 3 shall be in order as though printed after the amendment numbered 10 in the report of the Committee on Rules if offered by Representative Capuano of Massachusetts or Representative Weiner of New York or a designee. That amendment shall be debatable for 30 minutes equally divided and controlled by the proponent and an opponent.

SEC. 3. The amendment referred to in section 2 is as follows:

At the end of the bill, add the following new section:

SEC. 2 . AUTHORIZATION AND CHANGE OF COPS PROGRAM TO SINGLE GRANT PROGRAM.

(a) IN GENERAL.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended—

(1) by amending subsection (a) to read as follows:

"(a) GRANT AUTHORIZATION.—The Attorney General shall carry out a single grant program under which the Attorney General makes grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia for the purposes described in subsection (b).";

(2) by striking subsections (b) and (c);

(3) by redesignating subsection (d) as subsection (b), and in that subsection—

(A) by striking "ADDITIONAL GRANT PROJECTS.—Grants made under subsection (a) may include programs, projects, and other activities to—" and inserting "USES OF GRANT AMOUNTS.—The purposes for which grants made under subsection (a) may be made are—";

(B) by redesignating paragraphs (1) through (12) as paragraphs (6) through (17), respectively;

(C) by inserting before paragraph (5) (as so redesignated) the following new paragraphs:

"(1) rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment in community-oriented policing;

"(2) hire and train new, additional career law enforcement officers for deployment in community-oriented policing across the Nation;

"(3) procure equipment, technology, or support systems, or pay overtime, to increase the number of officers deployed in community-oriented policing;

"(4) improve security at schools and on school grounds in the jurisdiction of the grantee through—

"(A) placement and use of metal detectors, locks, lighting, and other deterrent measures;

"(B) security assessments;

"(C) security training of personnel and students;

"(D) coordination with local law enforcement; and

"(E) any other measure that, in the determination of the Attorney General, may provide a significant improvement in security;

"(5) pay for officers hired to perform intelligence, anti-terror, or homeland security duties exclusively;"; and

(D) by amending paragraph (9) (as so redesignated) to read as follows:

"(8) develop new technologies, including interoperable communications technologies, modernized criminal record technology, and forensic technology, to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime and to train law enforcement officers to use such technologies;";

(4) by redesignating subsections (e) through (k) as subsections (c) through (i), respectively;

(5) in subsection (c) (as so redesignated) by striking "subsection (i)" and inserting "subsection (g)"; and

(6) by adding at the end the following new subsection:

"(j) MATCHING FUNDS FOR SCHOOL SECURITY GRANTS.—Notwithstanding subsection (i), in the case of a grant under subsection (a) for the purposes described in subsection (b)(4)—

"(1) the portion of the costs of a program provided by that grant may not exceed 50 percent;

"(2) any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection; and

"(3) the Attorney General may provide, in the guidelines implementing this section, for the requirement of paragraph (1) to be waived or altered in the case of a recipient with a financial need for such a waiver or alteration.".

(b) CONFORMING AMENDMENT.—Section 1702 of title I of such Act (42 U.S.C. 3796dd-1) is amended in subsection (d)(2) by striking "section 1701(d)" and inserting "section 1701(b)".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of such Act (42 U.S.C. 3793(a)(11)) is amended—

(1) in subparagraph (A) by striking clause (i) and all that follows through the period at the end and inserting the following:

"(i) $1,007,624,000 for fiscal year 2006;

"(ii) $1,027,176,000 for fiscal year 2007; and

"(iii) $1,047,119,000 for fiscal year 2008."; and

(2) in subparagraph (B)—

(A) by striking "section 1701(f)" and inserting "section 1701(d)"; and

(B) by striking the third sentence.

Mr. GINGREY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McGOVERN. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 227, nays 198, not voting 8, as follows:

[Roll No. 164]

YEAS—227

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—198

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—8

Berkley
Goode
Hastings (FL)
Hyde
Larson (CT)
Millender-McDonald
Moran (VA)
Musgrave

RECESS

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Pursuant to clause 12(b) of rule I, the House will stand in emergency recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 5 minutes p.m.), the House stood in emergency recess subject to the call of the Chair.

□ 1335

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at 1 o'clock and 35 minutes p.m.

PROVIDING FOR CONSIDERATION OF H.R. 1279, GANG DETERRENCE AND COMMUNITY PROTECTION ACT OF 2005

The SPEAKER pro tempore. The House is continuing the vote on ordering the previous question on House Resolution 268. Members will have 15 additional minutes to continue to record votes on this question. Members who previously recorded their votes may confirm their votes during this period.

This 15-minute vote on ordering the previous question will be followed by a 5-minute vote on adoption of the resolution, if ordered.

□ 1353

Messrs. WYNN, CUMMINGS and DINGELL and Ms. LORETTA SANCHEZ of California changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMENDING THE U.S. CAPITOL POLICE AND SERGEANT AT ARMS OFFICE

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, as we all now know, a short time ago a small aircraft invaded the National Capital air space. The command structure for both the U.S. Capitol and the White House tracked this plane before making a decision to evacuate the Capitol complex at approximately 12:04 p.m.

At the time of the evacuation, Mr. Speaker, the House of Representatives was in the midst of a roll call vote and the House Chamber was ordered cleared in the middle of that vote. In addition to the Members of the House, the Capitol was filled with a number of foreign dignitaries, tourists, certainly staff and congressional pages. The Capitol Police led a rapid, yet orderly, evacuation for all of these people, as well as those who were in the House office buildings.

Mr. Speaker, I just want to commend the Capitol Police and the Sergeant at Arms Office for a job well done. We were all part of that evacuation. It was orderly. The Capitol and the office buildings were evacuated in record time. It went relatively smoothly. I have heard little or no complaints about the evacuation.

I also want to especially commend the employees of this House, those in the office buildings as well as in the Capitol. Everybody evacuated quickly and calmly, and it was a very good operation.

It is unfortunate that we have to live in these times where we have to evacuate the Capitol complex; but we are very pleased and proud of the Capitol Police, of their orderliness under very extreme conditions, their politeness and their calmness and reserve in the way they evacuated these buildings.

From a personal note, as I was going out of the Capitol complex, the Capitol Police were on station and were deployed in a very professional manner. They were acting in a very professional manner and moved people along in a very rapid manner. So in the event that we do have a catastrophe, many lives would be saved; and we greatly appreciate that.

I also want to say as a side note, Mr. Speaker, that a lot of times we treat these Capitol Police as furniture. Because they are so good at their job, we often do not notice them. I would hope that Members of the House and employees of the House would congratulate each and every officer that they may come across over the next few days and thank them for the good job that they have done. They deserve it. We appreciate their protection, and we appreciate their professionalism.

Mr. Speaker, I feel much safer in the hands of the Capitol Police today than I did yesterday, and I greatly appreciate them.

I also have to point out that there are Capitol Police that are stationed in this building even in the event of a catastrophe, and they showed great courage to stand their posts, knowing that something bad may happen to this building or the office buildings. They do not leave the building. That is incredible courage that we should honor, and we appreciate that courage and that honor. You have to extend that to their families, because their families also know that they are standing in this building with an eventual catastrophe coming and standing their posts like the courageous men and women that they are.

So we greatly appreciate what they have done, the way they have protected the buildings and, most importantly, the people that work in these buildings. You just cannot say enough for how the House appreciates their service.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentlewoman from California, the distinguished minority leader.

□ 1400

Ms. PELOSI. Mr. Speaker, I, too, want to sing the praises of our Capitol Police and the Sergeant at Arms Mr. Livingood for the expeditious manner in which the Capitol was evacuated earlier today. Thank heavens it was not necessary; better safe than sorry.

But I think that the evacuation took place with dignity in record time and with respect for all in the Capitol, not only the Members of Congress but, very importantly, the tourists who are here, our visitors, the press who covers us, our employees who work here in the Capitol and the office buildings and, of course, the Capitol Police.

Thank you to the Capitol Police. Because of you, Americans or people visiting from overseas can come to this Capitol because of your courage with the confidence that they will be safe. Because of you, this evacuation was conducted in a manner of full cooperation from all who participated. Because of their confidence in you, when you gave the signal, everyone moved exactly the way you wanted them to.

Mr. Speaker, I would also like to add my appreciation to our national security apparatus and all that that involves, for having those airplanes in the air immediately to escort that Cessna to another place. We do not know the full story about it, or I do not anyway, yet, but I do think that they are to be commended for the speed with which they made us safe.

This Capitol is a symbol of freedom throughout the world. And today, I think that the balance between freedom and security was well-demonstrated, and certainly that was because, again, of the professionalism, as our colleague said, and the courage of the Capitol Police, Mr. Livingood and our national security apparatus.

With that, Mr. Speaker, I know that the gentleman from Illinois (Mr. HASTERT) shares our views; I do not know if he can even speak from the chair, but I have heard the gentleman express his appreciation individually and personally to them, too, and I want to add my voice to that.

Mr. DELAY. Mr. Speaker, reclaiming my time, I appreciate the words of the Minority Leader, and she is absolutely right on. I just would finish by saying, people need to realize, because there are already critics on television, it is amazing; but people need to realize that very serious decisions have to be made in times like these: A decision to scramble the jets, a decision to shoot the flares, a decision to shoot the plane down or not and a decision to evacuate the building when that plane is only 3 to 4 minutes away from this building. Those are very critical decisions that have to be made, and we appreciate the people that have made those decisions and made them properly and protected the lives and property of the Capitol.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1279 to be considered shortly.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

GANG DETERRENCE AND COMMUNITY PROTECTION ACT OF 2005

The SPEAKER. Pursuant to House Resolution 268 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1279.

☐ 1403

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1279) to amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, and for other purposes, with Mrs. MILLER of Michigan in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in support of H.R. 1279, the Gang Deterrence and Community Protection Act of 2005. This bill is a forward-looking and comprehensive approach to a growing national threat: violent and vicious criminal gangs in our communities.

According to the last National Youth Gang Survey, there are now between 750,000 and 850,000 gang members in our country. Every city in the country with a population of 250,000 or more has reported gang activity. There are over 25,000 gangs in more than 3,000 jurisdictions in the United States.

Criminal gangs are no longer just a local problem. In recent years, gangs have become nationally-organized criminal syndicates. They are disciplined criminal enterprises with leaders, managers and employees, with training and structured associations, many of which are now international in scope. They are dedicated to enriching themselves through criminal activity and terrorizing our communities. The law-abiding public and State and local law enforcement have sent us a strong message: Act now and stop the scourge of violence in our communities.

This legislation has four broad and significant purposes. First, the bill authorizes the creation of anti-gang task forces that will bring together Federal, State and local law enforcement to conduct complex and significant gang prosecutions and provide a national infrastructure for the sharing of gang information nationwide. Second, the bill creates a new gang crime statute, akin to the RICO statute, that addresses specific techniques and criminal strategies used by the gangs. Third, the bill increases penalties and clarifies several existing statutes for crimes typically committed by gangs. Fourth, the bill adopts a limited measure to permit Federal prosecutors to charge 16- and 17-year-olds in Federal court without going through a lengthy and outdated transfer procedure. Current law has hindered law enforcement efforts to incapacitate violent 16- and 17-year-old gang members in aggravated crimes of violence.

I would like to underscore one important aspect of this bill. It adopts new mandatory minimum penalties that address the seriousness of violent crimes committed by gang members. For kidnapping, maiming and aggravated sexual abuse, gang members will be subject to a 30-year mandatory minimum. For assaults resulting in serious bodily injury; that is, nearly killing or permanently disabling a person, gang members will face a mandatory minimum of 20 years, and for all other gang crimes, gang members will face a 10-year mandatory minimum penalty.

The mandatory minimums contained in this legislation are carefully tailored to deter and disrupt violent gang activity as swiftly as possible. These mandatory minimum penalties reflect Congress's duty to ensure that violent gang members are consistently and fairly incarcerated. Further, prosecutors and law enforcement will tell you that in the absence of mandatory guidelines, such penalties are the only way to secure the cooperation of lower-level gang members who have critical information about the tightly-knit gang structure and gang crimes to testify and cooperate against higher-level gang members who typically insulate themselves from the day-to-day criminal activity. Gang members who wish to avoid the mandatory minimum penalty can do so by freely and willingly deciding to cooperate against other gang members.

Madam Chairman, I wish to take a minute to underscore the support for this measure from law enforcement, and by that, I mean the brave men and women who are on the streets every day putting their lives on the line to fight the gang epidemic in our country. Since this measure was introduced, we have received strong letters of support from organizations representing State and local law enforcement agencies across our country, including the Fraternal Order of Police, the National Sheriffs Association, the National Association of Police Officers, the National Latino Peace Officers Association, the National Troopers Coalition, the Major County Chief Association, the Law Enforcement Alliance of America, the Association For Los Angeles Deputy Sheriffs, the District Attorney for New Orleans, the California Gang Investigators Association and the International Union of Police Associations.

When law enforcement speaks with such a clear and unanimous voice, we have a duty to listen, to act now and to give their members the tools and resources they need to fight and win this battle on behalf of America's law-abiding citizens.

I want to thank my two colleagues, the gentleman from Virginia (Mr. FORBES) and the gentleman from Virginia (Mr. WOLF) for their strong and committed leadership on this issue. They have dedicated both time and effort to H.R. 1279 and should be commended for their focus on combating this disturbing national trend.

I urge my colleagues to support this vital public safety legislation. Tough, determinate sentencing policies have worked to reduce crime in the last 20 years, and now, we are facing a new challenge. Gang violence is a growing national scourge that requires a tough and measured response. Stiff penalties and additional resources to law enforcement will send a clear and unmistakable message to the violent criminal gang members that their conduct will no longer be tolerated.

I urge my colleagues to support this legislation.

Madam Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Madam Chairman, I rise in opposition to the bill, and I yield myself such time as I may consume.

Madam Chairman, it is unfortunate that we are again debating how to reduce juvenile crime and violence. Rather than following through on the proven crime and violence prevention techniques that work, we are back to tough-talking sound byte policies that have been proven to not only fail to reduce crime but actually increase crime, waste taxpayers' money and discriminate against minorities. Seven years ago, it was the Violent Youth Predator Act. Now it is the "Gang Busters" bill, with the same array of poll-tested sound bytes: trying more juveniles as adults and mandatory minimum sentences. The bill includes mandatory life or death penalties, even for unintentional acts.

This bill is in no way like the bill we developed a few years ago on a bipartisan basis to address youth crime and violence following the dark days following the Columbine school shootings. That bill was cosponsored by all of the members of the Subcommittee on Crime and was based on combined wisdom and expertise of law enforcement, juvenile court judges, administrators, researchers, criminologists and juvenile justice advocates along with the entire political spectrum.

All of the Hastert-Gephardt Task Force members called witnesses to let us know what we should do to reduce crime and violence amongst juveniles. Not a single one of those witnesses said we needed to add more Federal mandatory minimum sentences. Not one mentioned the death penalty. Not one said anything about trying more juveniles as adults. Not one. The fully bipartisan bill we developed from recommendations of those experts was full of collaborative efforts between Federal, State, and local officials aimed at addressing the problems caused by young people and addressing them early, focused on prevention and keeping them out of trouble to begin with. And when they first get in trouble, intervene early and provide sufficient sanctions and services to get them back on the straight and narrow. Further, if they do come back, hit them with graduated sanctions and services to the extent required to address the problem, including keeping them away from or getting them out of gang activities. At that time, as now, we can try juveniles as adults as early as 13-years old and sentence them with harsh sentences when they commit serious, violent offenses, both at the Federal as well as the State level.

So make no mistake about it: The children affected by this bill will be those children whose roles in gang crimes are minor or fringe, because we are already trying youth who commit serious violent offenses as adults and locking them up for long periods of time. It is the lesser offenders, the children who get in fist fights, committing misdemeanors, who will be subject to the 10-year, mandatory minimum numbers in this bill. Those who commit murder or rape or chop off hands with machetes or even conspire to do that are already subject to life sentences. So the 10-year mandatory minimums will be the friends who get in fights.

Madam Chairman, we already lock up more people than anywhere on earth: 714 per 100,000, way above whatever is in second place, way above the national average of 100 per 100,000. In fact, whereas there is 1 out of 63 white youth 25- to 29-years old in jail today, we lock up one out of every 8 African-American youth in jail today. This bill, with all of its discriminatory policies, will only add to that disparity. And for what? A long line of studies conducted by the Department of Justice and crime researchers have consistently told us that treating more juveniles as adults will increase crime and violence.

□ 1415

The Coalition of Juvenile Justice study, "Childhood on Trial," coincidentally released the same day as this bill was introduced, covers thousands of cases over a long period of time and confirmed that adult treatment of more juveniles increases crime and violence and is discriminatory in its application. That is primarily because if the judge finds a person guilty in adult court, his only possibilities are lock the child up with adults or let them walk on probation or parole. If they get locked up with adults, they will obviously come out worse than they went in. And so the studies show that if we increase the number of juveniles tried as adults we will not only increase crime, but we will increase violent crime.

Now, this bill not only includes provisions to try more juveniles as adults. It also includes more mandatory minimums. We know from all of the credible research, mandatory minimum sentences are the most costly and least effective way to address crime. As compared to intelligent approaches, like having the worst offenders get the most time and lesser offenders get less time, or drug treatment for drug-addicted offenders, mandatory minimum sentences have been shown to waste money and discriminate against minorities. That is why the Federal Judicial Conference has told us time and time again that mandatory minimum sentences violate common sense.

We also know that the death penalty is not only flawed, but is disproportionately applied to minorities and the poor. It also does not reduce crime. Some 199 people have been freed from Death Row over the last 10 years because they were innocent of the crimes for which they received the death penalty. Now, until we fund the innocence protection provisions we passed last year, we should not be passing new death penalties.

But unfortunately, despite all of our agreement and progress, we have failed in the most important aspect of our prior work, and that is to provide adequate funding for the initiatives that we passed. The most money we have ever been able to get appropriated for the juvenile justice bills was $55 million a year, about one-tenth of what was necessary. We are, in fact, cutting funding for these programs in our budget, and also cutting money for local law enforcement. And this bill provides nothing for prevention, nothing for early intervention, and virtually nothing in the bill goes to local law enforcement. It all goes to Federal prosecution and incarceration. Instead, almost $400 million in the bill will go to the Federal prosecutors and possibly billions to locking up people under the long mandatory minimum sentences.

Madam Chairman, we have a choice in crime policy. We can play politics, or we can reduce crime. And we know what to do to reduce crime. All the researchers have told us. In fact, a few weeks ago I met with some students at Monument High School in South Boston, Massachusetts, and I told them about this upcoming hearing we were having on the gang bill, and I asked them what did they think needed to be done to keep kids out of gangs. They said, kids join gangs for reputation, protection, to feel wanted, to have friends, and to get money. And what is needed to prevent them from joining gangs was ample recreation for boys as well as girls, jobs and internships for training and money, and assistance to allow their families to live in decent homes.

Recently, I met with law enforcement officials in my district, and they had similar advice. Neither group said anything about the need for more mandatory minimums, trying more juveniles as adults, or new death penalties. None of them asked us to waste money on these programs.

But we took their advice a few years ago and actually started the process for doing what was necessary to reduce crime: prevention and early intervention. But we did not finish the job of funding the programs. We should fund juvenile justice prevention programs, early intervention programs, and local law enforcement instead of passing this bill.

Madam Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Madam Chairman, I yield 4 minutes to the principal author of this bill, the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Madam Chairman, I want to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for his leadership in this area and for bringing this bill to the floor.

I rise today in support of this bipartisan bill, H.R. 1279, the Gang Deterrence and Community Protection Act of 2005. And in the limited time that I have, I just want to raise three points. The first point is that throughout the debate today, you will hear two different worlds described about gangs. One world they will describe in gangs will be talking about antisocial behavior and fist fights. If you think that is what we are concerned about with gangs, then we should not be here today at all talking about this bill.

But the true world, when you talk about gangs, are that you are having a rise in gangs in the United States where today, as we debate this bill, there are between 750,000 and 850,000 gang members within our borders. If it was a foreign army, it would be the sixth largest army in the world. And these are the acts in the real gang world: machete attacks, witness intimidation, extortion, murder of Federal agents, rape, cutting off arms, fingers and individuals' heads.

So the second point is, why can we not just deal with these acts with current State laws? Well, this chart shows just one member of one gang and all of the activities that he had in traveling around the United States. Today, these gangs have become national and international in scope; and if we want to truly deal with gangs, there is only one way to do it: you have got to bring down the gang networks and the gang leaders. And this bill will do that.

Now, our friends who are opposed to this bill say let us just deal with it crime by crime and individual by individual. And that works if it is just an individual committing a crime, because once you get that person and put them in jail, the crime stops. But when you are talking about gangs, when you deal with just one crime from a lower-tier person in that gang and you get that person and prosecute him, 20 different acts were never caught. And when you get that one person from a gang and it is an organized effort, 20 more spring up in their place.

We need a system to bring together teams of Federal, State, and local law enforcement so that we can go after that network and bring them down. And I would just ask you to look at a single situation where local or State law enforcement has been able to reach up to these national and international gangs and bring down the gang network.

The other thing that I want to say that you will see today, and we heard it earlier, and I was absolutely shocked when I heard it, but the opponents of this bill literally said on the floor earlier this morning that giving arts and crafts to criminal gang members who committed violent crimes would do more than the provisions of this bill, which is to lock them up and to empower law enforcement to go after them.

And I want to just say, because you hear a lot of talk about people who met with a group of students here, or maybe a group of people over here, this is a list that the chairman read out earlier of virtually every major law enforcement organization in the United States who supports the provisions of this bill and realizes if we do not pass this bill and bring down the gang networks, you might as well put a big billboard out that says, "Coming soon to a neighborhood near you," because that is what is going to happen with the rapid rise of these gangs.

And I hope that this House will stand up today, will vote to give law enforcement the tools they need, and that we will go after these networks and bring them down.

Mr. SCOTT of Virginia. Madam Chairman, I yield myself 1 minute just to say, first of all, that my distinguished colleague from Virginia and I will be working together later this week if they try to close any military bases. But on this bill we, unfortunately, have to disagree.

First of all, Madam Chairman, murder, rape, kidnapping are already illegal in every State. Interstate gang members can be caught by RICO and organized crime, continuing criminal enterprise. FBI is already working on that. But this bill contains a provision that fist fights can subject young people to 10-year mandatory minimums.

The after-school programs that have been disparaged are the kinds of things that will actually reduce gang involvement. You can disparage them by calling it arts and crafts for gang members. But if you ask the researchers what will actually make a difference, it is those after-school programs to give the kids constructive things to do with their time.

Madam Chairman, I yield 4 minutes to the gentleman from California (Mr. SCHIFF), a former prosecutor.

Mr. SCHIFF. Madam Chairman, in February of this year, I introduced bipartisan legislation with the gentlewoman from California (Mrs. BONO), the Gang Prevention and Effective Deterrence Act of 2005. The Schiff-Bono bill represents a comprehensive effort to increase gang prosecution and prevention efforts in order to crack down on criminal street gangs. The bill is virtually identical to bipartisan legislation that was reported out of the Senate Judiciary Committee in the 108th Congress and has since been reintroduced by Senators FEINSTEIN, HATCH, KYL, CORNYN, and GRASSLEY.

Madam Chairman, the bipartisan Schiff-Bono anti-gang bill had three core objectives. First, it created a RICO-like statute specifically tailored to street gangs in order to bring these networks down in the same way we bring down organized crime through RICO. Second, our legislation increased a host of gang and violent crime penalties in order to deter and punish illegal street gangs. And finally the Schiff-Bono bill included important funding for prevention and intervention efforts in order to attack the gang problem at its roots.

The sponsor of the bill before us today has spent much time on highlighting the groups that have supported his bill. The Schiff-Bono and Feinstein-Hatch bills are also endorsed by these groups and a host of other law enforcement organizations. With all due respect to my colleague from Virginia on the opposite side of the aisle, the most significant difference between the bill I introduced prior to the bill that is now before us is that all of the prevention funding in the Senate bill and in my own bipartisan bill has been stripped out of the anti-gang measure, and all we are left with is the deterrence.

Unfortunately, Madam Chairman, the committee leadership rejected the opportunity to address this national problem in a bipartisan fashion. Instead, the majority introduced the bill before us today after our bill was introduced that essentially increases the same penalties that our bill increases, but instead via mandatory minimums. The bill also remarkably cuts out the bipartisan provisions devoted to expanding and enhancing community-based and law enforcement prevention and intervention programs targeting criminal street gangs, gang members, and at-risk youth.

These prevention and intervention provisions are largely law enforcement in nature. And, Madam Chairman, I want to point out these provisions that have been stripped out of my bill that are in the present form in this bill have the support of law enforcement. Law enforcement does not support removing those from the legislation. They are also part of the bipartisan bill in the Senate sponsored, as I mentioned, by Senators HATCH, FEINSTEIN, CORNYN, GRASSLEY, and KYL. Members from both sides of the aisle recognize that a complete approach to addressing the problem of criminal street gangs must include prevention and intervention measures that attack the problem at its roots.

Yes, we need deterrence as my bill provided. But we need prevention as well. And, unfortunately, I think it is quite clear that this body is no longer in the business of legislating, but rather of leveraging. The legislation before us today is merely an attempt to leverage the Senate. It will not come back in this form, and I intend to oppose it today in the hopes that we will get a better bill coming back from the Senate, as I am confident we will.

Madam Chairman, when I took office in the California State Senate, I introduced a host of anti-crime measures as, indeed, I have done here.

At the same time, I realized then, as I realize now, that we also have to take steps to intervene immediately and address juvenile crime at its roots and try to prevent young people from getting into trouble. And this, I think, is the fundamental issue before us. We can pay now, or we can pay later. A small amount to preventive funding that we invest now saves us a lot on the back end.

Madam Chairman, in my home State of California, when we incarcerate a juvenile, it costs us $90,000 a year. Investing a small amount on the front end in time-tested and true programs that keep kids out of trouble makes infinite sense, both in terms of dollars saved and in terms of lives saved.

And my hope, Madam Chairman, because my amendment to restore this funding was not allowed by the Rules Committee, we were not allowed to put it to my colleagues on the House floor for a vote, I hope, Madam Chairman, it comes back from the Senate in a form that we can both support on both sides of the aisle.

Mr. SENSENBRENNER. Madam Chairman, I yield myself 30 seconds. Madam Chairman, I deeply respect the arguments that have been advanced by the gentleman from California (Mr. SCHIFF). He put forth his proposal in committee, and it was defeated on a rollcall vote of 3 ayes to 22 noes. So the Schiff proposal did not even carry a majority of the Democratic members in the committee, let alone the Republican members.

Madam Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. WOLF), who is also a sponsor of this bill.

Mr. WOLF. Madam Chairman, let me begin by thanking the gentleman from Virginia (Mr. FORBES) for doing this. And every Member of this House on both sides should thank the gentleman. And I thank the chairman and the staff of the Judiciary Committee for moving this legislation.

March issue of Newsweek: "They are a violent force in 33 States and counting. The most dangerous gang in America, MS-13."

They killed 10 people in Northern Virginia. And I will tell the gentleman from Los Angeles, they have killed a number of people out in your area too.

There was a Washington Post editorial about this and a story where it talks about a young parent. The eldest son, age 15, was sitting on the steps of a nearby apartment with two friends when he was gunned down. The friends were wounded, but survived. The son was killed almost instantly. The mother remarked, we moved here to get away from the gangs.

The brutality of these gangs. They took Brenda Paz, who was in the Witness Protection Program down to the Shenandoah Valley and slashed her throat to where her neck was cut all the way almost through, and stabbed her 16 times.

☐ 1430

They prey on the poor. They prey on the poor in the inner cities. They prey on the poor in Culmore. I have said, the people of Culmore and the people of the inner city have just as much right to live in the upscale neighborhoods where they may not be.

This is a good bill. And when we protect the most vulnerable in our society, we protect everybody. I have talked to the community in different areas of my district and in Culmore through this region. They live in fear. And I say whether you have been in this country for 50 years and are wealthy or whether you have been here for 50 hours and you live in an area where you are trying to work your way out, you deserve the right to be protected. And the bill by the gentleman from Virginia (Mr. FORBES) protects the poor.

This bill protects those who are being preyed upon. And I hope and I pray, on behalf of Brenda Paz who was stabbed 16 times and the families that live in Culmore and the families that live out in L.A. and the families that live in Houston, and the families that live throughout the State of Virginia that are suffering with this, that this bill passes overwhelmingly and goes on to the Senate, and they pass it so we can finally get relief, not for the wealthy but for those who live in Culmore and the inner city, who, up until this time, have been forgotten by this institution.

Finally, with the Forbes bill, this will do more to help them.

Mr. SCOTT of Virginia. Madam Chairman, I yield myself 30 seconds.

If the bill passes or does not pass, it will still be illegal to stab someone 16 times. What we ought to be looking at are the kinds of initiatives that will reduce the chances that that will happen again.

Giving a 10-year mandatory minimum for a second offense fist fight is not going to reduce the chance that someone will be stabbed 16 times when you are not funding any of the programs that are desperately needed to actually reduce juvenile crime.

Madam Chairman, I yield 1 minute to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Madam Chairman, I thank the gentleman for yielding me time.

I want to respond very briefly to the chairman's point. I have the greatest respect for my chairman as well.

Yes, it is true that the Feinstein-Hatch amendment that I offered in committee did not enjoy broad support on either side of the aisle. Some on my side of the aisle thought the sentencing enhancements in this bipartisan legislation were too strong and could not support it. But the other amendment, Madam Chairman, that I offered that would simply reinstate all the preventive funding, all of the proactive funding in the bill, that was rejected by every Republican member of the committee. Not a single GOP member of the Committee on the Judiciary would support the prevention funding in committee. And we do not have the ability to raise that issue on the House floor.

It is my earnest hope, however, that in conference with the Senate, which I hope will insist that we not only have a back-end strategy for dealing with the crime problem of gangs but that we have a front-end strategy as well and that we will have the chance to address this again in conference committee, and that funding will be restored.

Mr. SENSENBRENNER. Madam Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Madam Chairman, I rise in strong support of H.R. 1279, the Gang Deterrence and Community Protection Act of 2005. I want to thank the distinguished gentleman from Virginia (Mr. FORBES) for his hard work on this very critical issue. I also want to thank the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER) for his leadership in this area as well.

Gang violence is taking over too many of our communities. What was once thought to be an urban problem has now moved into many suburban and even rural areas, leaving virtually every community and every child in them vulnerable. Sadly, too many children are turning their backs on beneficial extra-curricular activities and turning to the world of guns and drugs and violent activity in order to gain entry into or move up or just maintain status in a gang.

In order to gain entry into these things, this legislation is absolutely critical. And for those who have avoided being seduced by gang life, they are too often held hostage in their homes for fear of being the next victim or the unfortunate one who may witness a gang act and who may later be called upon to testify, and they are often times in fear of their life when that happens.

In my district, the first district of Ohio which includes the City of Cincinnati, the 22 homicides that have occurred as of March put the city on pace to exceed the record number, 75 homicides that occurred back in 2003. Many of our city officials and law enforcement point toward gang activity centered on drug trafficking as the source of this increase.

We cannot allow gangs to control our communities. We must give law enforcement the tools to fight back. H.R. 1279 would help to accomplish this in two ways: It would establish new stronger gang and violent criminal penalties as well as strengthen existing ones to deter the acts of violence commonly associated with these gangs. Most importantly, H.R. 1279 gives our communities the resources to attack the gang problem from all levels.

H.R. 1279 ensures that local State and national law enforcement work together to stop gangs and to make our communities finally safe as they ought to be. Our communities cannot fight gangs alone.

I would strongly urge my colleagues to support this important piece of legislation to ensure that we have a coordinated effort in all levels of government. I want to again thank the gentleman from Virginia (Mr. FORBES) for his leadership in this area.

Mr. SCOTT of Virginia. Madam Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. INGLIS).

Mr. INGLIS of South Carolina. Madam Chairman, I thank the gentleman for yielding me time.

I rise reluctantly because rarely do I oppose a majority bill. In this case, however, as I expressed in the Committee on the Judiciary, I think there are three problems with the bill: First, it federalizes State crimes. Second, it spends too much money. Third, it has mandatory minimums.

I voted for mandatory minimums a number of times in my previous time in Congress, and then I had 6 years out, six years out to talk with people in the community, to talk with judges. And during that time, I became very uncomfortable with our approach about mandatory minimums.

We have sentencing guidelines. The idea of those guidelines is to have a coherent system of sentencing, some method of figuring out how heinous one crime is compared to another. And then Congress comes along and slaps on mandatory minimums on top of that framework, doing violence to the framework of a sentencing guideline system. I think it is a mistake.

Like I say, I voted for them in the past. I will not do it again. I am inclined to say, let us have a sentencing guideline system that works. Let us not, because of some political considerations, rise and go after say crack cocaine as opposed to powdered cocaine and end up with perverse results, which is somebody rotting in jail because they smoked the wrong kind of cocaine. It is an unjust result. It is something we should resolve in this body to avoid.

I think we have an opportunity to improve this bill. I will be supporting some of the amendments the gentleman from Virginia (Mr. SCOTT) will be offering. It is another opportunity to try to improve it.

I appreciate the gentleman yielding me time.

Mr. SENSENBRENNER. Madam Chairman, I yield 2 minutes to the gentleman from Texas (Mr. POE).

Mr. POE. Madam Chairman, I spent 22 years as a judge in Texas trying criminal cases, felonies; 22,000 felony cases came through my court. They dealt with everything from major theft to capital murder cases. And a lot of those cases were gang cases. And the people in this country who believe and think that gangs are not a problem are sorely mistaken.

It was the action operative of the gangs in the Houston area to use juveniles to commit serious crimes, violent crimes, because those very juveniles and these gang leaders knew that juveniles would be treated differently, as they were. These gangs would almost laugh at the criminal justice system because the juveniles would not face the same type of punishment as adults.

This portion of the bill that treats juveniles in some cases the same as adults is a good idea, because, in our country, victims continue to be discriminated against based on the age of offenders. Those days need to end, especially with gang members.

This is an important issue.

I, too, like the previous speakers are concerned about whether this is a States' rights issue or not. But gangs cross State lines. No longer are they just a local terrorist community. And they are terrorists, Madam Chairman. We, at this time, are engaged in a war against international terrorists. We need to be concerned about the street terrorists who roam our neighborhoods and commit violent crimes in the name of some type of gang.

A specific powerful enemy to the United States is the MS–13 gang. We need to be concerned about them because they are a terrorist group. They are gang members. So the first duty of government is to protect its citizens. We do that abroad. We need to do it against those street terrorists that live among us.

I support this bill.

Mr. SCOTT of Virginia. Madam Chairman, I yield 4½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Chairman, I thank the distinguished gentleman for yielding me time.

I rise to acknowledge, Madam Chairman, that gang violence poses a problem in America. Coming from the community that I come from in Houston, we have had some tough times with gang activities, and we have been successful in eliminating or steering young people away from that gang violence.

Just recently, of course, as the ranking member on the Subcommittee on Immigration, we have had hearings on the MS–13 gangs. And I reached out to my community in Houston to determine the influx of those gangs. Those gangs are particularly focused in South and Central America. Many of the individuals are undocumented aliens that become engaged in that activity in California and places along the border.

So I believe that we should have a comprehensive approach and look at this particular crisis, but at the same time, when I say comprehensive, I would suggest balanced.

The concern I have of H.R. 1279 is that the bill and the legislative approach is not balanced. From the early time of my career, I recall that we have on the Committee on the Judiciary reached out, those of us who were Democrats to reach out on this question of intervention. In fact, the first term that I was here, we did a national tour, if you will, national meetings of the Subcommittee on Crime.

My colleague who is now the ranking member joined me on that, the gentleman from Virginia (Mr. SCOTT), where we traveled across the Nation to talk about the importance of intervention on gang and juvenile crime activities. In fact, out of that came a legislative initiative, the aspect that I worked on was mental health intervention, mental health treatment, which we found to be very effective.

In fact, during that time, my late colleague, a very committed former Senator Paul Wellstone, who we tragically lost in an airplane crash, came to my district and visited the juvenile detention centers. We saw the sadness and the plight of those young men. Some, yes, had perpetrated heinous acts, and they were detained, or they were incarcerated. But we also saw the hopeless and those who did not have a good family situation, those who had no intervention, those who were not given the kind of educational structure that they needed.

This legislation unfortunately does not meet that balance-comprehensive test. For example, something that I find particularly troubling is the provision that the Attorney General can charge a juvenile 16-years old or older as an adult for certain violent crimes and prohibits judicial review of the Attorney General's decision.

This is not to suggest that that decision might not be confirmed or affirmed, but here we are talking about a 16-year old, and we do not know the circumstances of that violent act, the previous history of this 16-year old, and the Attorney General does not get subjected to the checks and balances of that the Constitution allows us to have, which is judicial review of that kind of difficult decision.

I cannot imagine, Madam Chairman, that we would have a bill that would not have those kind of protections.

I had an amendment that was not made in order in particular that dealt specifically with the question of illegal transfer of a firearm to any individual the Federal Government had designated as a suspected or known gang member or a terrorist. It established a system whereby any individual inadvertently included on the gang terror watch list may have his or her name removed. So there is a question of mistaken identity. There is a question of a big sweep and adding people's names to the list.

We saw that with the Pakistani registration lists after 9/11. Sweeping up large numbers of people from the Pakistani community, and as I understand, not one single person on that list was found to be a terrorist. And it was stopped when the Members of Congress raised their voices.

The mandatory sentencing, and I am delighted of the position of the gentleman from South Carolina (Mr. INGLIS), I think that this Congress should address that separately. And I have, in fact, written bills that have enhanced sentencing on particular notorious or vicious acts.

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I think that is appropriate; but a blanket, mandatory sentencing that does not deal with the fact that you are looking at juveniles, some U.S. citizens, some not, really begs the question.

So if we are going to look at terrorism, we are going to look at gang activity, we have to realize that still children are involved; and we must have this comprehensive approach, because we are already known as the world power with the largest number of Americans and others incarcerated. Yes, incarcerate those who have been tried and convicted fairly for heinous acts and other acts; but we have a record of incarcerating people for long, long years way beyond the time that it does anything other than pack the prisons and deny families of their loved ones and the ability of young people to be educated and to have an alternative life.

This bill leaves a lot to be desired, and I hope we can go back to the drawing boards and actually fix it and have a comprehensive approach to fighting gang violence and, of course, gang involvement.

Madam Chairman, I rise today in opposition to the legislation before the House today, H.R. 1279, the Gang Deterrence and Community Protection Act of 2005. As Founder and Chair of the Congressional Children's Caucus, I undoubtedly recognize the need for us to legislate to create protections from the danger and violence produced by gangs. However, before we haphazardly amend the law to add excessive and egregious mandatory minimums and other penalties that apply to groups of people or young groups of people, we must clearly define the acts that we seek to penalize. That is the essence of crafting law that is "narrowly tailored" and that does not suffer from overbreadth.

This bill is unnecessary because federal prosecutors have statutes such as the Continuing Criminal Enterprise (CCE) and Racketeer Influenced and Corrupt Organizations Act (RICO) to prosecute gang crime. Recent Supreme Court jurisprudence strongly suggests that this bill would exceed Congressional authority under the Commerce Clause.

H.R. 1279 unreasonably an unjustifiably removes judicial review of a prosecutor's decision to try a youth as an adult. Current law requires an in-depth review of multiple considerations by a federal judge of whether such a transfer is in the interest of justice. This policy is unwise and will increase federal prosecution of youth for minor offenses. Presently, in both federal and state courts, juveniles who commit the most serious violent crimes are almost certain to be transferred to adult court through use of a judicial waiver. In effecting transfer to adult court, judicial waivers, as opposed to legislative or prosecutorial waivers, are the most common type of waiver device used. That is, the juvenile court judge decides whether or not to waive jurisdiction to adult court. However, Section 115 of H.R. 1279 takes the waiver decision out of the judge's discretion.

As the Judicial Conference of the United States aptly suggests, Section 115 "could result in the federal prosecution of juveniles for myriad offenses." Equally alarming, the legislation removes the current prerequisite that the transferred child have a prior conviction for an offense that would be a serious violent felony if committed by an adult. Thus, a prosecutor could unilaterally decide to transfer a youthful offender with no prior criminal record who commits a simple drug trafficking offense, with no judicial review of whether such transfer serves the interests of justice. Moreover, a move toward federal prosecution causes us great concern because as the Judicial Conference acknowledges, "juvenile offenders require different and perhaps more extensive correctional and rehabilitative programs than adults and there is not a single, federal correctional facility to meet these needs."

H.R. 1279 simply takes the wrong approach. Instead of focusing on correctional and rehabilitative programs, it attempts to throw more youth in crowded adult prisons where these programs are lacking. H.R. 1279 reflects the politics of crime where you come up with a good slogan such as "the gang busters" bill and codify it. Until H.R. 1279, the Judiciary Committee had made great progress toward putting aside the politics of crime in favor of sound policy in the area of juvenile justice. I believe in fighting terrorism but not without a thoughtful approach.

AMENDMENTS THAT WERE NOT MADE IN ORDER

I would like to thank the gentleman from Massachusetts, Mr. MCGOVERN, for his austere words in support of the amendments that I offered at the Committee on Rules yesterday but were not made in order. These amendments were very substantive, as were those of my colleagues that were also denied debate.

My first amendment would have struck Section 10 of the bill. As written in the bill, a prosecutor could bring a capital case in a district that had only the most tangential connection with the crime. This amendment clarifies that the defendant must have committed criminal activity related to the capital case in the jurisdiction where the prosecutor seeks to bring the charge. For example, if a murder occurred in Massachusetts with a gun stolen from Mississippi, the homicide case could be prosecuted in Mississippi. This allows prosecutors to forum shop and pick the location where they think they are most likely to be able to obtain a death sentence.

Studies of the federal death penalty show that a person prosecuted in Texas is much more likely to be charged, tried, and sentenced to death in a capital case than a person who is prosecuted for the same crime in Massachusetts. This bill will exacerbate these geographic inequities that exist in the federal death penalty system. The wide range of discretion in both what to charge and where to bring the charge will give prosecutors tremendous latitude to forum shop. This broad discretion will increase the racial and geographic disparities already at play in the federal death penalty.

My second amendment would have struck Section 115 of the bill which deals with the transfer of juveniles to adult courts. More specifically, my amendment will prevent the transferring of juveniles from juvenile courts to adult courts when a juvenile has committed an act, which if committed by an adult, would be a felony. If this section is allowed to remain in the bill, more children will become hardened criminals after being tried in federal court and incarcerated in adult prisons. Currently under federal law, when the government recommends trying a juvenile as an adult in federal court various factors must be considered by the court before deciding whether the criminal prosecution of a young person is in the interest of justice. These factors include the age, social background, and the intellectual development and psychological maturity of the child.

The decision by a prosecutor to try a juvenile as an adult cannot be reviewed by a judge under this legislation. This unreviewable process of transferring youth to adult federal court is particularly troubling when juveniles are not routinely prosecuted in the federal system and there are no resources or facilities to address the needs of youth.

My third amendment would have closed a glaring loophole which currently exists in our federal gun laws by making it illegal to transfer a firearm to any individual that the federal government has designated as a suspected or known gang member or terrorist. As many of you know, under current law, neither suspected nor actual membership in a gang or terrorist organization is a sufficient ground, in and of itself, to prevent the purchase of a dangerous firearm. In fact, according to a recently released GAO report, over the course of a nine-month span last year, a total of fifty-six (56) firearm purchase attempts were made by individuals designated as known or suspected gang members or terrorists by the federal government.

In forty-seven (47) of those cases, state and federal authorities were forced to permit such transactions to proceed because officials were unable to find any disqualifying information, such as a prior felony conviction or court-determined 'mental defect'. Thus, producing a situation whereby suspected or known gang members were, and continue to be free to obtain as many guns as they desire.

Admittedly, section 114 of the underlying bill offers increased criminal penalties for the use of a firearm in a gang-related crime. However, "after the fact" criminal penalties are often of little use to victims and their loved ones. And, if we really want to curb this growing problem, we have to do something to prevent these individuals from gaining access to these dangerous weapons in the first place.

Madam Chairman, again, I oppose this legislation and urge my colleagues to join me.

Mr. SENSENBRENNER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I have been here for a number of years; and when you are against a bill, you can come up with a million and one reasons why the bill should not pass. We just heard some of that; but if we do not do anything, the killings are going to continue.

We can have a legitimate disagreement on mandatory minimum sentences, but I think there are some crimes that are so severe and eat away so much at the roots of our society and the fabric of our society that those who are convicted of those crimes ought to be locked up and locked up for sure, because only with a certain jail term are we going to be able to punish those who have killed people in the most brutal manner and deter those who might be thinking of doing it to others in our society.

I have here an April 26 story from the Associated Press, dateline, Houston: "Violent gang linked to nine Houston area killings." I am not going to read the whole story on the floor, but I am going to read one paragraph of this story to show that those who wish to delay this bill because it has a mandatory minimum or because it does not do enough social work are wrong:

"Harris County Sheriff's investigators arrested five members of Mara Salvatrucha," which is MS–13, "in connection with the shooting death of 18-month-old Alden Naquin, who was trapped in his car seat April 12 when a man opened fire on a car driven by his father, Ernest Naquin."

I think if someone is convicted of murdering an 18-month-old in that circumstance they ought to be locked away for sure and for a long time. I am sorry people disagree with that, but I hope that this bill passes.

Madam Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. FITZPATRICK).

Mr. FITZPATRICK of Pennsylvania. Madam Chairman, I thank the gentleman from Wisconsin for the time.

I rise today in strong support of H.R. 1279, and I commend the gentleman from Wisconsin (Chairman SENSENBRENNER) for his leadership in bringing this bill to the floor for a vote today.

Madam Chairman, gang violence is on the rise across the United States. Areas once thought safe harbors from crime are now under the threat of expanding gang violence.

My district is not home to a center city area. It is considered a suburban area. Bucks County is a quiet pastoral suburb of the city of Philadelphia, an area bordered by farms to the north, business centers to the south, residential areas to the west, and the Delaware River to the east. However, the majority of crime in my district takes place in a very small, concentrated area.

But the people of Bristol, Bucks County, are taking the lead in cleaning up their streets. The hard work of Don Billingsley and other neighbor leaders have made Bristol a shining example of the Department of Justice's Weed and Seed initiative to take back neighborhoods from crime. However, Bristol is under threat from gangs migrating from cities just across the river in New Jersey.

Madam Chairman, three things are needed to make sure gangs do not infiltrate areas like Bristol: people, money, and strong anti-crime laws. Well, in Bristol, we have the money and we have financial resources through the Weed and Seed program, but what we need are strong laws. H.R. 1279 is the bill that would dissuade gangs from taking up shop in my district.

Gang violence is an issue that must be dealt with immediately. The House Committee on the Judiciary reports that over 631 gang-related homicides occurred in 2001, perpetrated by an estimated 750,000 active gang members. Gangs are directly linked to narcotics trade, human trafficking, identification document fraud, violent maiming, assault and murder, and the use of firearms to commit deadly shootings; but the problem does not stop there.

Organized crime syndicates like the ultra-violent MS–13 have reportedly agreed to smuggle terrorists over our southern borders. This is now a homeland security issue.

H.R. 1279 will apply a RICO-type approach to prosecuting modern street gangs. At the heart of this bill are provisions that allow prosecutors to go after the gangs as an enterprise. Rather than trying to shoehorn such cases into the existing RICO statute, the new gang crime statute is narrowly tailored to address the specific problem of gangs. Gang investigations and prosecutions take time and resources, and those resources will be provided by this bill.

Organized crime, Madam Chairman, has been prosecuted in the same way with long and complex trials designed to take out a number of defendants in one single prosecution, and they were successful in ending their spread. Madam Chairman, let us give our police and prosecutors the freedom to end the spread of gang violence.

Mr. SCOTT of Virginia. Madam Chairman, I yield myself 1 minute.

Whether this bill passes or not, murder, rape, robbery will be illegal. People will be prosecuted. They will get time in jail. In fact, as I indicated before, for 15- to 19-year-old African Americans in this country, one out of eight are already in jail today. This bill, which will try more juveniles as adults, will not only increase the number in jail but will also increase the crime rate.

Mandatory minimums have been shown to be discriminatory and waste the taxpayers' money. The death penalty is discriminatory and does not do anything about crime. This bill will give 10 years mandatory minimums to second-offense fist fights, and that is not the kind of sentence that is going to do anything about these violent kinds of crimes that my colleagues are talking about. Ten years, mandatory minimum, second offense, fist fight.

Madam Chairman, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Chairman, let me add to the distinguished gentleman's commentary.

First of all, in the passage of the PATRIOT Act, if we are fearful of these gangs smuggling individuals over who do terrorist acts, the PATRIOT Act enhances sentencing on those engaging in terrorist acts.

That tragic incident in Texas, for example, in Houston, the information suggests that the dad was involved in gang activity that caused the, if you will, rising of the level of violence; but the good news is that the sheriff's department arrested those violent criminals.

This bill misses the point by providing a comprehensive approach to have intervention to be able to dissuade some of the young people of America away from the affinity and kinship of gangs. That is why the bill is wrong, and this is why it does not have a full comprehensive approach.

Mr. SENSENBRENNER. Madam Chairman, I yield myself 15 seconds.

Madam Chairman, I am sure that a social worker would have been able to convince the person who murdered the 18-month-old not to do it. If my colleagues believe that, vote "no." If not, vote "yes."

Madam Chairman, I yield 1½ minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Madam Chairman, I thank the esteemed chairman for yielding time to me, and Madam Chairman, I ask for this opportunity to say a few words in support of the bill that is before us and in compliments to the work done by the gentleman from Virginia who has announced to us that there is a number, the best estimate at 750,000 to 850,000, gang members in the United States.

When we think about the magnitude of that size number, 750,000 to 850,000, 75 to 100 percent, and a lot believe the number is very close to 100 percent, are illegal immigrants who have established a gang culture in the ethnic enclave that is a necessary result of illegal immigration. This ethnic enclave has created and fostered some of the worst gains we have ever seen in this country, people that cut off hands and arms and heads, people that have a network across this Nation that from a prison in California can order an execution on the streets of Virginia or from a prison in Virginia, order an execution in a prison in L.A. or on the streets of L.A.

That is what this culture has fostered; and that amount, that 850,000, that is roughly out of the 10 million illegal immigrants, that is about 8½ percent of the illegal population ends up in a gang. One in 12 people that come across the border illegally and stay here end up in a gang. By these numbers, it is an astonishing thing; and if we have 1.1 million that come across the southern border, these are the ones that stay here, calculate the numbers that turn out into gangs, the price to this society in hands and arms and heads.

Madam Chairman, I thank my colleague for this privilege to speak before this House.

Mr. SCOTT of Virginia. Madam Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ), a member of the Committee on the Judiciary.

Ms. LINDA T. SÁNCHEZ of California. Madam Chairman, I rise in opposition to H.R. 1279, the Gang Deterrence and Community Protection Act, because this bill fails to adequately deter youths from joining gangs and does not do enough to protect our communities.

This bill fails to create a much-needed, comprehensive approach to fighting our national gang epidemic. Instead of offering funding for proven intervention and prevention programs that effectively keep youths from joining gangs in the first place, this punitive bill simply imposes harsh and sweeping mandatory minimum sentences.

Locking up 16-year-olds for 10 years will not make gang crimes disappear. As any law enforcement officer will tell my colleagues, suppression is merely one of the avenues by which we can prevent gang violence. In fact, as many of my Democratic colleagues have repeatedly stressed, imposing mandatory minimums on youths often results in a greater likelihood of repeat, and more violent, offenses.

Prevention and intervention programs, on the other hand, have a proven track record of keeping kids out of gangs; but at the Committee on the Judiciary markup of this bill and in the Committee on Rules last night, amendments to include intervention and prevention programs in this bill were defeated along party-line votes.

I joined my colleagues, the gentleman from California (Mr. SCHIFF), the gentleman from California (Mr. CARDOZA), and the gentlewoman from California (Ms. WATSON), in submitting an amendment to expand the Project Safe Neighborhoods program, to authorize the Attorney General to make the FBI increase Safe Streets Initiative efforts, to reauthorize the Gang Resistance Education and Training Projects program and, more importantly, to double-funding for high-intensity interstate gang activity areas and require half of those funds to go to community-based anti-gang programs.

I know from personal knowledge that our amendment would have reduced gang activity nationwide because I have seen community-based programs work in my very own district.

The Gang Resistance in Paramount, or GRIP, program has been educating kids about the dangers of gang participation for years. I spent some time inside a fourth grade class inside of Paramount last year to see the GRIP program in action. I saw firsthand how the program caught the attention of the students, and it was amazing how the program engaged the students in learning and how quickly they saw the dangers in gangs.

I urge my colleagues to oppose H.R. 1279 and instead work towards a comprehensive approach.

Mr. SENSENBRENNER. Madam Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Madam Chairman, I rise this afternoon to support H.R. 1279, the Gang Deterrence and Community Protection Act.

I was pleased to work with the Committee on the Judiciary, and especially the gentleman from Virginia (Mr. FORBES), my good friend, to support the legislation on the floor today.

According to the Justice Department, there are currently over 25,000 gangs and over 750,000 gang members who are active across the United States. Gang activity has been directly linked to the proliferation of illegal drugs, human trafficking, and many other violent crimes.

The Gang Deterrence and Community Protection Act will authorize funds for joint Federal, State, and local gang investigation prosecution; create a statute to prosecute criminal gang enterprises similar to the existing RICO statute used to prosecute Federal racketeering; create mandatory minimum sentencing for gang and violent crimes; and fund gang investigation technology to allow law enforcement to act more efficiently.

Madam Chairman, many headlines of late have reflected on growing gang problems in heavily populated areas. Unfortunately, gang violence is also on the rise in rural areas, including my congressional district. The disturbing news that it is spreading through the Shenandoah Valley of Virginia is indeed disturbing. In fact, the FBI has recognized the existence of at least six separate gangs in the valley, some of which are responsible for at least two gang-related murders in the past 2 years.

Madam Chairman, acknowledging the reality that gangs are no longer limited solely to urban areas, I am pleased to join my colleagues to support this gangbusters legislation. This legislation will allow us to meet the increase in gang activity with resources sufficient to combat this scourge in our communities, and I urge my colleagues to support this important legislation.

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Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I cannot think of anybody who would want to see gangs deterred more. I cannot think of anybody who would want to see crime deterred more. I cannot think of many people who have had more experience living in inner-city communities, where there is a tremendous amount of poverty, deprivation and pestilence.

I want to see people who commit robbery, murder, rape, assaults, participate in mob action, all of them dealt with accordingly. And although I do not believe in capital punishment, I do believe that they have to be punished. I do not believe that mandatory minimums, that trying more children, more teenagers as adults, or changing venues and deciding what discretionary action individuals would be tried under is going to solve the problem. I think that we need to make sure that fairness is a part of justice.

Mr. Chairman, this bill frightens me. It scares me. I would hope that we would take it back, deal with it appropriately and bring a bill that we can agree on that punishes those who deserve to be punished but to demonstrate that we understand sensitivity and not put children in jail as adults.

Mr. SCOTT of Virginia. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

Mr. CONYERS. My colleagues, this is a measure that we should be able to identify the problem, study the data, and work together to craft a commonsense response to youth violence. But the measure before us has fatal flaws which authorizes trying more juveniles as adults and provides for more mandatory minimums and more death penalties. None of these things will correct and reduce the youth violence problem, but they will seriously harm our system of juvenile justice.

Now, the one thing that we should know before we go to a vote here is the organizations that have joined myself and the gentleman from Virginia (Mr. SCOTT), the ranking subcommittee member, and the gentleman from Illinois (Mr. DAVIS), who has worked tirelessly on this issue across the years with the Congressional Black Caucus. For instance, the Judicial Conference of the United States opposes this measure. The Sentencing Commission opposes this measure; the Alliance for Children and Families, the Children's Defense Fund, the Youth Law Center, the American Civil Liberties Union, the American Correctional Association, the Chamber of Commerce, the National Federation of Independent Businesses, the National Council of La Raza, the Presbyterian Church, and the Volunteers of America.

And let me tell my colleagues why these groups oppose this legislation. Because, first, they know that trying children as adults and transferring them to adult jails not only does not work, but it makes the situation more likely that they will commit crimes upon release. There are studies that back this up: that they will commit violent crimes upon release, and they will commit crimes sooner upon release. The Miami Herald study concluded that, since adult prisons are, in effect, often crime schools, sending a juvenile there increases by 35 percent the odds that they will commit another offense within a year of release.

Secondly, we know that mandatory minimums distort the sentencing process because the Judicial Conference and the Sentencing Commission have found that mandatory minimums "destroy honesty in sentencing by encouraging charge and fact plea bargains." Again, the legislation before us ignores these facts and creates numerous new mandatory minimums that will lead to far greater disparities and further discrimination.

At a time when we have more than 2.1 million Americans in prisons or jails, more than any Nation on the planet, and 10 percent of these individuals are already serving life sentences, it is difficult for reasonable legislators to see how more jail time for more youth can accomplish anything constructive.

Finally, we know now that the death penalty system in this country is incredibly prone to error. So I urge that the Members of this House return this measure to the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the opponents of this bill seem to zero in on two things. First of all, they are opposed to mandatory minimum sentences. People may have a philosophical disagreement on mandatory minimum sentences, but it seems to me that given the violence of gang activity, the number of murders, the number of maimings, that a mandatory minimum sentence is absolutely necessary to get these people off the streets if the twelve persons on the jury believe that that defendant has committed those crimes beyond a reasonable doubt.

The other thing we hear from the opponents is, they dust off the same old tired arguments that we need more and more spending on prevention programs, but no one has proven they work. Let us take a look at the facts. Violent crime rates over the last 30 years have dropped dramatically, by almost 50 percent. At the same time, tough new determinant sentencing schemes have been enacted by Congress, including mandatory minimums, truth-in-sentencing programs and other sentencing schemes where criminals go to jail for a specified period of time after their conviction. Prison populations have grown, and crimes have gone down. The logic is clear. We have to incarcerate and incapacitate the violent criminals in our society. We have done so and must continue to do so. This bill does that.

When we talk about spending more on prevention, consider these facts: Conservative estimates show that the Department of Justice has already spent over $2 billion, that is with a "B," of the taxpayers' dollars between fiscal years 2001 through 2004 on juvenile and gang prevention programs. From fiscal year 1999 through fiscal year 2005, Congress has appropriated $3.3 billion of the taxpayers' dollars for juvenile justice programs within the Department of Justice.

Have they worked? This is yet to be proven, because juvenile gang violence is on the rise. The percentage of homicides committed by gangs has risen, and the number of juveniles committing gang murders has also risen.

So let me say that, if $3.3 billion over the last 6 years in intervention and prevention programs has not turned around this type of crime when other crime has gone down, maybe the time to throw the book at those who are engaged in juvenile gang violence is at hand. That is why this bill ought to pass. I urge the membership to vote aye.

Mr. RUSH. Mr. Chairman, I rise against this H.R. 1279, the Gang Deterrence and Community Prosecution Act of 2005. I strongly believe in cooperation between Federal and State law enforcement to deter gang activities. However, this bill takes the wrong approach by imposing mandatory sentences, trying juveniles as adults and expanding the death sentence to new offenses.

I, myself, can appreciate the destruction that gang violence can impose on a community. In Chicago alone, there are estimated to be 70,000 to 100,000 gang members—compared with about 13,000 Chicago police officers. Several "super gangs" dominate: the Gangster Disciples, the Black Disciples, the Vice Lords, the Black P Stones, the Mickey Cobras, the Latin Kings, the Spanish Cobras, the Maniac Latin Disciples, and the Satan Disciples. Each of these gangs controlled large amounts of territory and have wreaked havoc on the Chicago community. Nevertheless, prevention and intervention is the key in deterring juvenile crime and gang activities, not discriminatory mandatory sentencing or unfettered prosecutorial discretion.

Study after study have shown that trying juveniles as adults does not reduce crime but increases crime, including violent crime. In addition, a better approach, as opposed to this ill-advised approach, would be to focus our energy on more programs for at risk youth such as Head Start, Job Corps and family focused intervention programs. Again, I rise against H.R. 1279, and urge my colleagues on both sides of the aisle to do the same.

Ms. SCHAKOWSKY. Mr. Chairman, I stand today in strong opposition to H.R. 1279, the so-called gang Deterrence and Community Protection Act. Despite its deceptive title, its primary purpose is to punish more young people as adults. This bill would expand the use of the death penalty, treat juveniles as adults and impose mandatory minimum sentences. The research conclusively shows that prosecuting young people as adults does not reduce youth crime. If Congress is serious about reducing youth violence, it should fund evidence-based programs that have proven effective.

Federal prosecutors are already armed with the Continuing Criminal Enterprise, CCE, and Racketeer Influences and Corrupt Organization Act, RICO, statutes to combat gang crimes. This bill would unnecessarily federalize a host of crimes currently and competently handled by the states; penalize even non-violent crimes and misdemeanors as crimes of violence, including garden variety State offenses like resisting arrest; expand without reason the definition of criminal street gang; unwisely leave to the sole discretion of the government the unreviewable decision to try juveniles as adults; impose unduly harsh and discriminatory mandatory minimum sentences; and expand the use of the federal death penalty to new offenses.

I agree that gang violence and youth crimes are serious concerns today. Unfortunately, this bill does nothing in the way of jobs or education for at-risk youth. Instead, this bill would lock up young people in adult prisons and take away judges' discretion to review on a case-by-case basis crimes committed by youth. Research shows that young people who are prosecuted as adults are more likely to commit a greater number of crimes upon release than youth who go through the juvenile justice system. Locking young people up in adult prisons will actually compromise public safety.

We know what works to prevent violent crime. Research demonstrates the effectiveness of focused family interventions such as family therapy and multidimensional treatment foster care. Certain school-based interventions such as the Bullying Prevention Program and the Project Towards No Drug Abuse, and careful monitoring programs such as Big Brothers Big Sisters of America have also proven effective. Instead of funding these programs whose empirical effectiveness can be demonstrated, supporters of this bill insist upon approaches that lack any evidence of actually deterring and reducing violent youth crime.

Furthermore, state juvenile justice systems are more appropriate and effective means for addressing youth offenses. Studies have shown that comprehensive, locally tailored strategies are the most effective in preventing gang and youth violence. Existing state legislation is more than adequate to comprehensively address youth violence—increased federalization of juvenile crime is not the answer.

The Judicial Conference of the United States, child advocacy groups, criminal justice groups, industry and business-oriented groups, religious, human rights and civil rights organizations all oppose this bill. It is the responsibility of Congress to the young people of this nation and to all citizens to ensure public safety. I urge my colleagues to reject H.R. 1279 because it would only exacerbate youth violence in the United States.

Mr. PAUL. Mr. Chairman, the Gang Deterrence and Community Protection Act, (H.R. 1279), is the latest example of Congress disregarding its constitutional limitations in the name of "getting tough on crime." Gang crime is certainly a serious issue in many parts of the country. However, unless criminal gangs are engaging in counterfeiting, treason, or piracy, the federal government has no jurisdiction over the criminal activities of gangs. In fact, by creating new federal crimes related to gang activities, but unrelated to one of the federal crimes enumerated in the Constitution, the new federal crimes and enhanced penalties in this bill usurp state and local authority.

H.R. 1279 broadly defines "criminal street gangs" and "gang activity." This is a major expansion of Federal criminal jurisdiction. Chief Justice William H. Rehnquist and former U.S. Attorney General Ed Meese, two men who no one has ever accused of being "soft on crime," have both warned that, although creating more Federal crimes may make politicians feel good, it is neither constitutionally sound nor prudent. Rehnquist has stated that, "[t]he trend to federalize crimes that traditionally have been handled in state courts . . . threatens to change entirely the nature of our federal system." Meese stated that Congress's tendency in recent decades to make federal crimes out of offenses that have historically been state matters has dangerous implications both for the fair administration of justice and for the principle that states are something more than mere administrative districts of a nation governed mainly from Washington.

Those who want the American criminal justice system to actually deliver justice should oppose H.R. 1279 because it imposes "mandatory minimum" sentences for certain gang-related crimes. Mandatory minimum sentences impose a "one-size-fits-all" formula in place of the discretion of a judge, or jury, to weigh all the circumstances surrounding an individual's crime and decide on an appropriate punishment. Taking away judicial discretion over sentencing may represent a legislative usurpation of areas properly left to the judiciary. I have long been critical of judicial usurpation of legislative functions, and have introduced legislation using Congress's constitutional powers to rein in the judiciary. However, I recognize that Congress must make sure it does not overstep its constitutional authority by imposing legislative solutions on matters best resolved by the judicial branch.

Mandatory minimums almost guarantee unjust sentences. Reverend Nicholas DiMarzio, Chairman of the Domestic Policy Committee of the United States Conference of Catholic Bishops, and Reverend Kerry Snyder, President of Catholic Charities USA, summed it up well in a letter to Congress opposing this bill: ". . . rigid sentencing formulations could prevent judges from properly assessing an individual's culpability during the crime of other factors that have bearing on recidivism, thus sometimes resulting in harsh and inappropriate sentences."

I am also concerned that removing authority over the prevention and punishment of gang crimes from state and local jurisdictions will prevent states and localities from coming up with innovative ways to prevent gang crimes. Gangs flourish for a multitude of reasons, and no federal "one-size-fits-all" program can address all the causes of gang crimes. States and localities should be left free to create the gang prevention and punishment programs that best meet their unique needs.

Supporters of this bill make a good point that federal money is being wasted on ineffective "prevention" programs like the infamous "midnight basketball" program. However, H.R. 1279 in no way reduces funding for ineffective prevention programs. Instead, it spends more taxpayer money on unconstitutional crime programs. The sponsors of this bill could have attempted to stop wasting taxpayer funds on programs such as midnight basketball by defunding such prevention programs and using the funds to pay for the new programs created by H.R. 1279.

Finally, I must oppose this bill because it expands the Federal death penalty. While I recognize that nothing in the Constitution forbids Federal, State, or local governments from imposing a death penalty, I have come to the conclusion that a consistent pro-life position requires opposition to any legislation imposing a Federal death penalty for unconstitutional Federal crimes. Mr. Speaker, I do not advocate Federal action to stop individual States from imposing a death penalty, I simply oppose compounding the damage done by creating new Federal crimes by making those crimes subject to a Federal death penalty.

H.R. 1279 exceeds Congress's constitutional authority by creating new Federal crimes, thus further burdening the already overwhelmed Federal judiciary system and taking another step toward upending our constitutional system by turning the States into administrative districts of the Federal Government. This bill also creates unwise mandatory minimum sentences, usurping the sentencing decisions of judges and juries. Finally, H.R. 1279 raises serious moral issues by expanding the use of the Federal death penalty. Therefore, I must oppose H.R. 1279 and urge my colleagues to do same.

Mr. CANTOR. Mr. Chairman, I rise today to express my strong support for H.R. 1279, the Gang Deterrence and Community Protection Act of 2005.

I have spoken with sheriffs and police chiefs back in my district and they tell me: we need to be ready; we need to learn how to confront these gangs. This legislation will do just that, it will provide local, State, and Federal law enforcement and legal authorities with personnel, equipment, and training needed to combat violent criminal gangs.

In Virginia, no urban area has gone unscarred by criminal gangs. Across Virginia, officials estimate that as many as 80 gangs totaling 30,000 members or more roam our city streets.

The Commonwealth's law enforcement and prosecutors will now have greater resources to combat violent criminal gang activity. We must act now, if we are to protect Virginia's families and communities.

I urge passage of this legislation.

Mr. SHAYS. Mr. Chairman, I rise in support of H.R. 1279, which will increase the prosecution of gangs and help prevent gang-related crimes.

Gang violence is a serious problem, and we need to address it with determination and creativity.

A recent rash of gang-related violence has left four injured and one person dead in the city of Norwalk this year. My own home town of Bridgeport has faced a tough gang problem for years. It is absolutely essential we have strong legislation on the books to send gang members who commit violent acts into jail and off our streets.

I want to stress, however, the importance of prevention programs to deter our vulnerable youth from turning to gangs to support. The mentoring program in the Norwalk Public School system, which will benefit from the recent Department of Education Federal grant we secured, plays a strong role in keeping kids off the streets. The bottom line is, while we need to make sure juvenile offenders understand the consequences of their actions and are punished for them, we need to make every effort to help youth who are at risk of becoming juvenile offenders.

Mentoring programs designed to reduce children's juvenile delinquency and involvement in gangs and provide positive relationships to help guide them during their school years are an invaluable way to break the cycle of gang membership before it begins. Incarceration will put criminals away but it won't save more kids from falling through the cracks and turning to a life of crime.

Mr. UDALL of Colorado. Mr. Chairman, I do not support this bill in its current form, and must vote against it.

Gang violence is real and serious. And there are already a wide range of Federal laws on the books that can be and are used to combat it. For example, Federal prosecutors are already armed with the Continuing Criminal enterprise, CCE, and Racketeer Influenced and Corrupt Organizations Act, RICO, statutes.

So, is there an urgent need to pass new legislation that "federalizes" criminal gang activity and pushes the Federal Government further into law enforcement that is now being handled by the states? I doubt it, and think a better approach would be to support state and local law enforcement directly.

I am also not convinced that it makes sense to further expand the definition of criminal street gang and to reclassify some misdemeanors as crimes of violence, as this bill would do, and I am particularly concerned about the provisions to establish new mandatory minimum sentences.

Violent and dangerous people, whether members of gangs or not, need to be securely confined. But our experience with mandatory minimum sentences shows they are ineffective in preventing crime, they distort the sentencing process, and result mainly in a considerable waste of taxpayers' money.

I think instead of adding new Federal laws, Congress would achieve better results by providing greater assistance to state and local law enforcement agencies and to prevention programs which can reduce the impetus for young people to join gangs.

The bill does include some provisions that I support, including those that will make it easier for law enforcement agencies to have access to information about people who are in the country illegally and are subject to deportation. However, I think that they are outweighed by the bill's defects and so I will vote against this measure.

Mr. BLUMENAUER. Mr. Chairman, I strongly believe that the United States should be doing more to reduce violent crimes, whether they are committed by gangs or individuals. I voted against the "Gang Deterrence and Community Protection Act of 2005" because it fails to address this problem and impairs our judicial system. H.R. 1279 increases penalties for non-violent crimes, while imposing mandatory minimum sentences and expanding the death penalty. These provisions do nothing to detour gang violence and limit judge's ability to impose sentences that fit the offense. Furthermore, the bill does not include early intervention programs or other preventative programs that could be successful in reducing gang violence. I am hopeful that Congress will work to pass legislation that addresses the core issues behind this serious problem.

Mr. HOLT. Mr. Chairman, I rise in opposition to H.R. 1279, the gang Deterrence and Community Protection Act. I am disappointed that the majority has chosen to address a very serious problem with unrealistic and potentially damaging solutions.

Gang activity is a very real and dangerous problem. In my own district, gangs pose a severe threat to the youth in many communities. Just yesterday, I spoke at length with a constituent whose son has suffered permanent and irreversible brain injury from a beating at the hands of a local gang.

There is much that Congress can and should do to help keep our youth out of gangs and strengthen our law enforcement efforts against gangs. Gangs are tough and gang members often do not respond to mild measures. We should increase the resources available to gang prevention, intervention, and suppression programs, such as the Juvenile Delinquency Protection Block Grant (JJDPBG). These programs have been very effective in helping youth make the correct decisions with regard to gang activity.

We should increase the resources available to our public schools. All too often, youth join gangs because they feel that it is the only option available to them. By helping our teachers, administrators, and school systems, we can show them other, more promising, options.

We should oppose the reduction or elimination of programs that put police officers on our streets. Since 1994, the Community Oriented Policing Services (COPS) program has funded 4,806 additional police officers and sheriffs deputies to prevent crime in New Jersey. It has allowed New Jersey to spend $45 million on crime-fighting technologies. We should be having a serious discussion about why this successful program warrants an 80 percent cut in the Republican budget for Fiscal Year 2006.

Unfortunately, this legislation proposes ineffective and damaging solutions to this serious problem. Mandatory minimum sentencing guidelines discount mitigating factors in crimes and are discriminatory towards people of color. It is time to give up the Congressional fascination with mandatory sentencing. It does not work. It may make the legislator feel good, but it hinders the judicial process, and most important it does not stop crime or deter criminals.

Also, diverting youth to the adult criminal justice system does nothing to deter crimes. In fact, youth tried and sentenced as adults are much more likely to commit violent crime after being released. Further, I am concerned that H.R. 1279 provides no exception for youth who have mental health problems and may not be competent to stand trial as adults.

I am happy that Congress is addressing this issue, which has affected so many communities across New Jersey and the country. Serious crimes like murder, assault, and rape at the hands of gangs and criminal enterprises clearly deserve our attention. However, this bill proposes solutions that do nothing to deter youth from gang membership or strengthen the law enforcement presence in our communities.

I urge my colleagues to oppose H.R. 1279.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise today in support of H.R. 1279, "The Gang Deterrence and Community Protection Act of 2005."

Northern Virginia is home to large Central American and Asian populations. I believe these groups bring a diversity and work ethic that enhances and benefits our region. Our diversity is one of our strengths.

Unfortunately, we have become increasingly aware of the gang element that sometimes attends these communities, and we are now fighting the spread of violent gang activity here in our neighborhoods.

Accounts of machete attacks and other violent murders have awoken my constituents to the dangers gangs present to all communities in Northern Virginia. In fact, law enforcement officials say there is a gang presence in every high school in Fairfax County. In the past, I have worked with my colleagues Frank Wolf and Jim Moran to direct federal resources for anti-gang activity to Northern Virginia. I have also traveled on numerous occasions to those Central American countries that serve as the breeding ground for MS–13 and other such gangs.

The legislation we are voting on today addresses one aspect of gang control. As our neighbors in El Salvador have learned, you can make all the arrests you want, but if you don't have the ability to effectively prosecute you actually exacerbate the problem. This legislation will help ensure that we do not have the same issue here in the United States.

The tough penalties set out by the bill will send a clear message that we intend to stop the menace of gang violence, and that those who challenge us will be dealt with harshly. We are also bolstering our commitment to law enforcement by providing them the resources they need to penetrate gangs and successfully put members behind bars.

Of course, if we are to ultimately be successful and effectively stem the expansion of gang activity, we need to take a comprehensive look at all strategies including law enforcement, international engagement, educational programs, social services and prevention. Law enforcement is one key component; however, without adequate attention to these other aspects, we will have a great deal of difficulty eradicating this epidemic.'

To that end, I plan to continue to work with my colleagues to provide adequate support for education and prevention efforts, outreach, and other proactive programs to deal with the problem at the source. In addition, as the chairman of the committee with jurisdiction over the Office of National Drug Control Policy, I intend to thoroughly investigate the tie between narcotrafficking and gang activity. I plan to travel again to both Colombia and El Salvador this month as part of this effort.

I also intend to meet with leaders of those countries to determine how the United States can better assist their efforts to stem the flow of gang members to the United States.

I look forward to continuing to work with my colleagues to address this serious challenge, and I again want to thank my friend Randy Forbes for taking the lead on this critical aspect of our fight.

Ms. SOLIS. Mr. Chairman, I rise today in opposition to H.R. 1279. This punitive bill does nothing to help fight and deter the root of the gang problem plaguing our neighborhoods. I represent communities that are afflicted with gang violence, and I know first hand the suffering that families have to go through as a result. I support a combined approach to the gang problem that encourages prevention, intervention and suppression.

This bill is filled with criminal sanctions that would only help exacerbate the gang problem. The legislation would federalize a host of crimes currently and competently handled by the states. It would also penalize even nonviolent drug dealing and some misdemeanors as crimes of violence. Without reason, the legislation expands the definition of criminal street gang. The bill imposes unduly harsh and discriminatory mandatory minimum sentences and expands the use of the federal death penalty to new offenses.

I strongly oppose the provision that allows the government sole discretion in deciding whether or not to try juveniles as adults. It is a proven fact that prosecuting children as adults increases, not decreases, crime. Study after study has shown that youth transferred to the adult criminal justice system are more likely to re-offend and to commit more serious crimes upon release than youth who remained in the juvenile system. At a time when the Bush administration has proposed huge cuts to programs that serve our youth, it is irresponsible to pass legislation that would only destabilize our communities and aggravate crime.

This bill is a simplistic approach to a complex problem that has its roots in the lack of a quality education and after school programs and negative influences from adults and broken families, among other problems. Our society must provide young people with meaningful alternatives that will draw them away from the gang lifestyle. We should not be soft on crime; my community has suffered for many years and we know how gang violence has scarred our families. That is why we must punish those who need to be punished while also remembering to give youth the opportunity to succeed in life. I support effective measures to combat gang-related crime and this bill completely fails to do that.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. LAHOOD). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gang Deterrence and Community Protection Act of 2005".

TITLE I—CRIMINAL LAW REFORMS AND ENHANCED PENALTIES TO DETER AND PUNISH ILLEGAL STREET GANG ACTIVITY AND RELATED CRIMINAL LAW REFORMS

SEC. 101. REVISION AND EXTENSION OF PENALTIES RELATED TO CRIMINAL STREET GANG ACTIVITY.

(a) IN GENERAL.—Chapter 26 of title 18, United States Code, is amended to read as follows:

"CHAPTER 26—CRIMINAL STREET GANGS

"Sec.

"521. Criminal street gang prosecutions.

"§ 521. Criminal street gang prosecutions

"(a) STREET GANG CRIME.—Whoever commits, or conspires, threatens or attempts to commit, a gang crime for the purpose of furthering the activities of a criminal street gang, or gaining entrance to or maintaining or increasing position in such a gang, shall, in addition to being subject to a fine under this title—

"(1) if the gang crime results in the death of any person, be sentenced to death or life in prison;

"(2) if the gang crime is kidnapping, aggravated sexual abuse, or maiming, be imprisoned for life or any term of years not less than 30;

"(3) if the gang crime is assault resulting in serious bodily injury (as defined in section 1365), be imprisoned for life or any term of years not less than 20; and

"(4) in any other case, be imprisoned for life or for any term of years not less than 10.

"(b) FORFEITURE.—

"(1) IN GENERAL.—The court, in imposing sentence on any person convicted of a violation of this section, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person shall forfeit to the United States such person's interest in—

"(A) any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the violation; and

"(B) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as a result of the violation.

"(2) APPLICATION OF CONTROLLED SUBSTANCES ACT.—Subsections (b), (c), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), and (p) of section 413 of the Controlled Substances Act (21 U.S.C. 853) shall apply to a forfeiture under this section as though it were a forfeiture under that section.

"(c) DEFINITIONS.—The following definitions apply in this section:

"(1) CRIMINAL STREET GANG.—The term 'criminal street gang' means a formal or informal group or association of 3 or more individuals, who commit 2 or more gang crimes (one of which is a crime of violence other than an offense punishable under subparagraphs (A), (B), or (C) of section 401(b)(1) of the Controlled Substances Act), in 2 or more separate criminal episodes, in relation to the group or association, if any of the activities of the criminal street gang affects interstate or foreign commerce.

"(2) GANG CRIME.—The term 'gang crime' means conduct constituting any Federal or State crime, punishable by imprisonment for more than one year, in any of the following categories:

"(A) A crime of violence.

"(B) A crime involving obstruction of justice, tampering with or retaliating against a witness, victim, or informant, or burglary.

"(C) A crime involving the manufacturing, importing, distributing, possessing with intent to distribute, or otherwise dealing in a controlled substance or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(D) Any conduct punishable under section 844 (relating to explosive materials), subsection (a)(1), (d), (g)(1) (where the underlying conviction is a violent felony (as defined in section 924(e)(2)(B) of this title) or is a serious drug offense (as defined in section 924(e)(2)(A))), (g)(2), (g)(3), (g)(4), (g)(5), (g)(8), (g)(9), (i), (j), (k), (n), (o), (p), (q), (u), or (x) of section 922 (relating to unlawful acts), or subsection (b), (c), (g), (h), (k), (l), (m), or (n) of section 924 (relating to penalties), section 930 (relating to possession of firearms and dangerous weapons in Federal facilities), section 931 (relating to purchase, ownership, or possession of body armor by violent felons), sections 1028 and 1029 (relating to fraud and related activity in connection with identification documents or access devices), section 1952 (relating to interstate and foreign travel or transportation in aid of racketeering enterprises), section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), or sections 2312 through 2315 (relating to interstate transportation of stolen motor vehicles or stolen property).

"(E) Any conduct punishable under section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) of the Immigration and Nationality Act.

"(3) AGGRAVATED SEXUAL ABUSE.—The term 'aggravated sexual abuse' means an offense that, if committed in the special maritime and territorial jurisdiction would be an offense under section 2241(a).

"(4) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(b) AMENDMENT RELATING TO PRIORITY OF FORFEITURE OVER ORDERS FOR RESTITUTION.—Section 3663(c)(4) of title 18, United States Code, is amended by striking "chapter 46 or chapter 96 of this title" and inserting "section 521, under chapter 46 or 96,".

(c) MONEY LAUNDERING.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting ", section 521 (relating to criminal street gang prosecutions)" before ", section 541".

SEC. 102. INCREASED PENALTIES FOR INTERSTATE AND FOREIGN TRAVEL OR TRANSPORTATION IN AID OF RACKETEERING.

(a) SUBSTANTIVE CHANGES TO OFFENSE.—Section 1952(a) of title 18, United States Code, is amended—

(1) so that the heading for the section reads as follows:

"§ 1952. Interstate or foreign commerce-related aid to racketeering";

(2) by inserting "(1)" after "(a)";

(3) by striking "travels" and all that follows through "intent to" and inserting ", in or affecting interstate or foreign commerce";

(4) by striking "(1) distribute" and inserting "(A) distributes";

(5) by striking "(2) commit" and inserting "(B) commits";

(6) by striking "(3) otherwise promote, manage, establish, carry on, or facilitate" and inserting "(C) otherwise promotes, manages, establishes, carries on, or facilitates"; and

(7) by striking "and thereafter" and all that follows through the end of the subsection and inserting the following:

"or attempts or conspires to do so, shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a violation of subparagraph (A) or (C) of paragraph (1), a fine under this title and imprisonment for not less than 5 nor more than 20 years; and

"(B) in the case of a violation of subparagraph (B) of paragraph (1), a fine under this title and imprisonment for not less than 10 nor more than 30 years, but if death results the offender shall be sentenced to death, or to imprisonment for any term of years or for life.".

(b) CLERICAL AMENDMENT.—The item relating to section 1952 in the table of sections at the beginning of chapter 95 of title 18, United States Code, is amended to read as follows:

"1952. Interstate or foreign commerce-related aid to racketeering.".

SEC. 103. AMENDMENTS RELATING TO VIOLENT CRIME.

(a) CARJACKING.—Section 2119 of title 18, United States Code, is amended—

(1) by striking ", with the intent to cause death or serious bodily harm" in the matter preceding paragraph (1);

(2) by inserting "or conspires" after "attempts" in the matter preceding paragraph (1);

(3) by striking "15" and inserting "20" in paragraph (1); and

(4) by striking "or imprisoned not more than 25 years, or both" and inserting "and imprisoned not less than 10 years nor more than 30 years" in paragraph (2).

(b) CLARIFICATION OF ILLEGAL GUN TRANSFERS TO COMMIT DRUG TRAFFICKING CRIME OR CRIMES OF VIOLENCE.—Section 924(h) of title 18, United States Code, is amended to read as follows:

"(h) Whoever, in or affecting interstate or foreign commerce, knowingly transfers a firearm, knowing or intending that the firearm will be used to commit, or possessed in furtherance of, a crime of violence or drug trafficking crime, shall be fined under this title and imprisoned not less than 5 years nor more than 20 years.".

(c) AMENDMENT OF SPECIAL SENTENCING PROVISION RELATING TO LIMITATIONS ON CRIMINAL ASSOCIATION.—Section 3582(d) of title 18, United States Code, is amended—

(1) by inserting "section 521 (criminal street gang prosecutions), in" after "felony set forth in";

(2) by striking "specified person, other than his attorney, upon" and inserting "specified person upon"; and

(3) by inserting "a criminal street gang or" before "an illegal enterprise".

(d) CONSPIRACY PENALTY.—Section 371 of title 18, United States Code, is amended by striking "five" and inserting "20".

SEC. 104. INCREASED PENALTIES FOR USE OF INTERSTATE COMMERCE FACILITIES IN THE COMMISSION OF MURDER-FOR-HIRE AND OTHER FELONY CRIMES OF VIOLENCE.

(a) IN GENERAL.—Section 1958 of title 18, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§1958. Use of interstate commerce facilities in the commission of murder-for-hire and other felony crimes of violence";

(2) in subsection (a), by inserting "or other crime of violence, punishable by imprisonment for more than one year," after "intent that a murder"; and

(3) in subsection (a), by striking "shall be fined" the first place it appears and all that follows through the end of such subsection and inserting the following:

"shall, in addition to being subject to a fine under this title

"(1) if the crime of violence or conspiracy results in the death of any person, be sentenced to death or life in prison;

"(2) if the crime of violence is kidnapping, aggravated sexual abuse (as defined in section 521), or maiming, or a conspiracy to commit such a crime of violence, be imprisoned for life or any term of years not less than 30;

"(3) if the crime of violence is an assault, or a conspiracy to assault, that results in serious bodily injury (as defined in section 1365), be imprisoned for life or any term of years not less than 20; and

"(4) in any other case, be imprisoned for life or for any term of years not less than 10.".

(b) Clerical Amendment.—The item relating to section 1958 in the table of sections at the beginning of chapter 95 of title 18, United States Code, is amended to read as follows:

"1958. Use of interstate commerce facilities in the commission of murder-for-hire and other felony crimes of violence.".

SEC. 105. INCREASED PENALTIES FOR VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

(a) Offense.—Section 1959(a) of title 18, United States Code, is amended to read as follows:

"(a) Whoever commits, or conspires, threatens, or attempts to commit, a crime of violence for the purpose of furthering the activities of an enterprise engaged in racketeering activity, or for the purpose of gaining entrance to or maintaining or increasing position in, such an enterprise, shall, unless the death penalty is otherwise imposed, in addition and consecutive to the punishment provided for any other violation of this chapter and in addition to being subject to a fine under this title—

"(1) if the crime of violence results in the death of any person, be sentenced to death or life in prison;

"(2) if the crime of violence is kidnapping, aggravated sexual abuse (as defined in section 521), or maiming, be imprisoned for life or any term of years not less than 30;

"(3) if the crime of violence is assault resulting in serious bodily injury (as defined in section 1365), be imprisoned for life or for any term of years not less than 20; and

"(4) in any other case, be imprisoned for life or for any term of years not less than 10.".

(b) Venue.—Section 1959 of title 18, United States Code, is amended by adding at the end the following: —

"(c) A prosecution for a violation of this section may be brought in—

"(1) the judicial district in which the crime of violence occurred; or

"(2) any judicial district in which racketeering activity of the enterprise occurred.".

SEC. 106. MURDER AND OTHER VIOLENT CRIMES COMMITTED DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME.

(a) In General.—Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end the following:

"MURDER AND OTHER VIOLENT CRIMES COMMITTED DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME

"Sec. 424. (a) In General.—Whoever commits, or conspires, or attempts to commit, a crime of violence during and in relation to a drug trafficking crime, shall, unless the death penalty is otherwise imposed, in addition and consecutive to the punishment provided for the drug trafficking crime and in addition to being subject to a fine under this title—

"(1) if the crime of violence results in the death of any person, be sentenced to death or life in prison;

"(2) if the crime of violence is kidnapping, aggravated sexual abuse (as defined in section 521), or maiming, be imprisoned for life or any term of years not less than 30;

"(3) if the crime of violence is assault resulting in serious bodily injury (as defined in section 1365), be imprisoned for life or any term of years not less than 20; and

"(4) in any other case, be imprisoned for life or for any term of years not less than 10.

"(b) Venue.—A prosecution for a violation of this section may be brought in—

"(1) the judicial district in which the murder or other crime of violence occurred; or

"(2) any judicial district in which the drug trafficking crime may be prosecuted.

"(c) Definitions.—As used in this section—

"(1) the term 'crime of violence' has the meaning given that term in section 16 of title 18, United States Code; and

"(2) the term 'drug trafficking crime' has the meaning given that term in section 924(c)(2) of title 18, United States Code.".

(b) Clerical Amendment.—The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 423, the following:

"Sec. 424. Murder and other violent crimes committed during and in relation to a drug trafficking crime.".

SEC. 107. MULTIPLE INTERSTATE MURDER.

(a) Offense.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§1123. Use of interstate commerce facilities in the commission of multiple murder

"(a) In General.—Whoever travels in or causes another (including the intended victim) to travel in interstate or foreign commerce, or uses or causes another (including the intended victim) to use the mail or any facility of interstate or foreign commerce, or who conspires or attempts to do so, with intent that 2 or more intentional homicides be committed in violation of the laws of any State or the United States shall, in addition to being subject to a fine under this title—

"(1) if the offense results in the death of any person, be sentenced to death or life in prison;

"(2) if the offense results is assault resulting in serious bodily injury (as defined in section 1365), be imprisoned for life or any term of years not less than 20; and

"(3) in any other case, be imprisoned for life or for any term of years not less than 10.

"(b) Definition.—The term 'State' means each of the several States of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.'.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1123. Use of interstate commerce facilities in the commission of multiple murder.".

SEC. 108. ADDITIONAL RACKETEERING ACTIVITY.

Section 1961(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting ", or would have been so chargeable if the act or threat had not been committed in Indian country (as defined in section 1151) or in any other area of exclusive Federal jurisdiction," after "chargeable under State law"; and

(2) in subparagraph (B), by inserting "section 1123 (relating to interstate murder)," after "section 1084 (relating to the transmission of gambling information),".

SEC. 109. EXPANSION OF REBUTTABLE PRESUMPTION AGAINST RELEASE OF PERSONS CHARGED WITH FIREARMS OFFENSES.

Section 3142 of title 18, United States Code, is amended—

(1) in subsection (e), in the matter following paragraph (3), by inserting "an offense under subsection (g)(1) (where the underlying conviction is a drug trafficking crime (as defined in section 924(c))), (g)(2), (g)(4), (g)(5), (g)(8), or (g)(9) of section 922, or a crime of violence," after "that the person committed"; and

(2) in subsection (g), by amending paragraph (1) to read as follows:

"(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence, or involves a controlled substance, firearm, explosive, or destructive devise;".

SEC. 110. VENUE IN CAPITAL CASES.

Section 3235 of title 18, United States Code, is amended to read as follows:

"§3235. Venue in capital cases

"(a) The trial for any offense punishable by death shall be held in the district where the offense was committed or in any district in which the offense began, continued, or was completed.

"(b) If the offense, or related conduct, under subsection (a) involves activities which affect interstate or foreign commerce, or the importation of an object or person into the United States, such offense may be prosecuted in any district in which those activities occurred.".

SEC. 111. STATUTE OF LIMITATIONS FOR VIOLENT CRIME.

(a) In General.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§3298. Violent crime offenses

"No person shall be prosecuted, tried, or punished for any noncapital felony, crime of violence, including any racketeering activity or gang crime which involves any crime of violence, unless the indictment is found or the information is instituted not later than 15 years after the date on which the alleged violation occurred or the continuing offense was completed.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"3298. Violent crime offenses.".

SEC. 112. MODIFICATION OF DEFINITION OF CRIME OF VIOLENCE.

Section 16(b) of title 18, United States Code, is amended to read as follows:

"(b) any other offense that is an offense punishable by imprisonment for more than one year and that, by its nature, involves a substantial risk that physical force may be used against the person or property of another, or is an offense punishable under subparagraphs (A), (B), or (C) of section 401(b)(1) of the Controlled Substances Act.".

SEC. 113. CLARIFICATION TO HEARSAY EXCEPTION FOR FORFEITURE BY WRONGDOING.

Rule 804(b)(6) of the Federal Rules of Evidence is amended to read as follows:

"(6) Forfeiture by Wrongdoing.—A statement offered against a party who has engaged *or acquiesced in wrongdoing, or who could reasonably foresee such wrongdoing would take place, if the wrongdoing was intended to, and did, procure the unavailability of the declarant as a witness.".*

SEC. 114. INCREASED PENALTIES FOR CRIMINAL USE OF FIREARMS IN CRIMES OF VIOLENCE AND DRUG TRAFFICKING.

(a) IN GENERAL.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1)(A)—

(A) by striking "shall" and inserting "or conspires to commit any of the above acts, shall, for each instance in which the firearm is used, carried, or possessed";

(B) in clause (i), by striking "5 years" and inserting "7 years"; and

(C) by striking clauses (ii) and (iii) and inserting the following:

"(ii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 15 years; and

"(iii) if the firearm is used to wound, injure, or maim another person, be sentenced to a term of imprisonment of not less than 20 years."; and

(2) by striking paragraph (4).

(b) CONFORMING AMENDMENT.—Section 924 of title 18, United States Code, is amended by striking subsection (o).

SEC. 115. TRANSFER OF JUVENILES.

The 4th undesignated paragraph of section 5032 of title 18, United States Code, is amended—,

(1) by striking "A juvenile" where it appears at the beginning of the paragraph and inserting "Except as otherwise provided in this chapter, a juvenile" ;

(2) by striking "as an adult, except that, with" and inserting "as an adult. With"; and

(3) by striking "However, a juvenile" and all that follows through "criminal prosecution." at the end of the paragraph and inserting "The Attorney General may prosecute as an adult a juvenile who is alleged to have committed an act after that juvenile's 16th birthday which if committed by an adult would be a crime of violence that is a felony, an offense described in subsection (d), (i), (j), (k), (o), (p), (q), (u), or (x) of section 922 (relating to unlawful acts), or subsection (b), (c), (g), (h), (k), (l), (m), or (n) of section 924 (relating to penalties), section 930 (relating to possession of firearms and dangerous weapons in Federal facilities), or section 931 (relating to purchase, ownership, or possession of body armor by violent felons). The decision whether or not to prosecute a juvenile as an adult under the immediately preceding sentence is not subject to judicial review in any court. In a prosecution under that sentence, the juvenile may be prosecuted and convicted as an adult for any other offense which is properly joined under the Federal Rules of Criminal Procedure, and may also be convicted as an adult of any lesser included offense.".

TITLE II—INCREASED FEDERAL RESOURCES TO DETER AND PREVENT AT-RISK YOUTH FROM JOINING ILLEGAL STREET GANGS

SEC. 201. DESIGNATION OF AND ASSISTANCE FOR "HIGH INTENSITY" INTERSTATE GANG ACTIVITY AREAS.

(a) DEFINITIONS.—In this section the following definitions shall apply:

(1) GOVERNOR.—The term "Governor" means a Governor of a State or the Mayor of the District of Columbia.

(2) HIGH INTENSITY INTERSTATE GANG ACTIVITY AREA.—The term "high intensity interstate gang activity area" means an area within a State that is designated as a high intensity interstate gang activity area under subsection (b)(1).

(3) STATE.—The term "State" means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(b) HIGH INTENSITY INTERSTATE GANG ACTIVITY AREAS.—

(1) DESIGNATION.—The Attorney General, after consultation with the Governors of appropriate States, may designate as high intensity interstate gang activity areas, specific areas that are located within 1 or more States.

(2) ASSISTANCE.—In order to provide Federal assistance to high intensity interstate gang activity areas, the Attorney General shall—

(A) establish criminal street gang enforcement teams, consisting of Federal, State, and local law enforcement authorities, for the coordinated investigation, disruption, apprehension, and prosecution of criminal street gangs and offenders in each high intensity interstate gang activity area;

(B) direct the reassignment or detailing from any Federal department or agency (subject to the approval of the head of that department or agency, in the case of a department or agency other than the Department of Justice) of personnel to each criminal street gang enforcement team;

(C) provide all necessary funding for the operation of the criminal street gang enforcement team in each high intensity interstate gang activity area; and

(D) provide all necessary funding for national and regional meetings of criminal street gang enforcement teams, and all other related organizations, as needed, to ensure effective operation of such teams through the sharing of intelligence, best practices and for any other related purpose.

(3) COMPOSITION OF CRIMINAL STREET GANG ENFORCEMENT TEAM.—The team established pursuant to paragraph (2)(A) shall consist of agents and officers, where feasible, from—

(A) the Federal Bureau of Investigation;

(B) the Drug Enforcement Administration;

(C) the Bureau of Alcohol, Tobacco, Firearms, and Explosives;

(D) the United States Marshals Service;

(E) the Directorate of Border and Transportation Security of the Department of Homeland Security;

(F) the Department of Housing and Urban Development;

(G) State and local law enforcement; and

(H) Federal, State, and local prosecutors.

(4) CRITERIA FOR DESIGNATION.—In considering an area for designation as a high intensity interstate gang activity area under this section, the Attorney General shall consider—

(A) the current and predicted levels of gang crime activity in the area;

(B) the extent to which violent crime in the area appears to be related to criminal street gang activity, such as drug trafficking, murder, robbery, assaults, carjacking, arson, kidnapping, extortion, and other criminal activity;

(C) the extent to which State and local law enforcement agencies have committed resources to—

(i) respond to the gang crime problem; and

(ii) participate in a gang enforcement team;

(D) the extent to which a significant increase in the allocation of Federal resources would enhance local response to the gang crime activities in the area; and

(E) any other criteria that the Attorney General considers to be appropriate.

(c) ADDITIONAL ASSISTANT U.S. ATTORNEYS.—The Attorney General is authorized to hire 94 additional Assistant United States attorneys to carry out the provisions of this section. Each attorney hired under this subsection shall be assigned to a high intensity interstate gang activity area.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $50,000,000 for each of the fiscal years 2006 through 2010 to carry out subsection (b); and

(2) $7,500,000 for each of the fiscal years 2006 through 2010 to carry out subsection (c).

SEC. 202. GRANTS TO STATE AND LOCAL PROSECUTORS TO COMBAT VIOLENT CRIME AND TO PROTECT WITNESSES AND VICTIMS OF CRIMES.

(a) IN GENERAL.—Section 31702 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13862) is amended —

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(5) to hire additional prosecutors to—

"(A) allow more cases to be prosecuted; and

"(B) reduce backlogs;

"(6) to fund technology, equipment, and training for prosecutors and law enforcement in order to increase accurate identification of gang members and violent offenders, and to maintain databases with such information to facilitate coordination among law enforcement and prosecutors; and

"(7) to fund technology, equipment, and training for prosecutors to increase the accurate identification and successful prosecution of young violent offenders.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 31707 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13867) is amended to read as follows:

"SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for each of the fiscal years 2006 through 2010 to carry out this subtitle.".

The Acting CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 109–76. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1, printed in House Report 109–76.

AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment made in order under the rule.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. SENSENBRENNER:

Page 4, lines 13 through 14, strike "under subparagraphs (A), (B), or (C)" and insert "under subparagraph (A), (B), or (C)".

Page 4, line 23, insert "(other than a crime of violence against the property of another)" before the period.

Page 7, line 10 through the matter after line 2, page 9, strike section 102 and insert the following:

SEC. 102. INCREASED PENALTIES FOR INTERSTATE AND FOREIGN TRAVEL OR TRANSPORTATION IN AID OF RACKETEERING.

Section 1952 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "perform" and all that follows through the end of the

subsection and inserting "perform an act described in paragraph (1), (2), or (3), or conspires to do so, shall be punished as provided in subsection (d)."; and

(2) by adding at the end following:

"(d) The punishment for an offense under subsection (a) is—

"(1) in the case of a violation of paragraph (1) or (3), a fine under this title and imprisonment for not less than 5 nor more than 20 years; and

"(2) in the case of a violation of paragraph (2), a fine under this title and imprisonment for not less than 10 nor more than 30 years, but if death results the offender shall be sentenced to death, or to imprisonment for any term of years or for life.".

Page 9, line 24, strike "drug trafficking crime," and insert "drug trafficking crime (as defined in subsection (c)(2)),".

Page 11, line 11, strike "this title" and insert "this title—".

Page 12, line 10, insert ", as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value from an enterprise engaged in racketeering activity, or" after "crime of violence".

Page 13, line 8, strike "following: —" and insert "following:".

Page 15, line 7, strike "423," and insert "423".

Page 16, line 1, strike "is assault resulting".

Page 19, line 8, strike "force may be used against" and insert "injury may result to".

Page 19, line 10, strike "subparagraphs (A), (B), or (C)" and insert "subparagraph (A), (B), or (C)".

Page 20, after line 17, insert the following new subsection and redesignate the succeeding subsection accordingly:

(b) CLARIFICATION OF BAN ON POSSESSION OF HANDGUNS BY JUVENILES.—Section 922(x)(3) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; or"; and

(3) by adding at the end the following:

"(E) the possession of a handgun or ammunition by a juvenile, while in the presence of a parent or guardian of the juvenile, if such parent or guardian, as the case may be, is not prohibited by Federal, State, or local law from possessing a firearm. ".

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentleman from Wisconsin, (Mr. SENSENBRENNER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

MODIFICATION TO AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I ask unanimous consent that my amendment be modified by the form that I have placed at the desk.

The Acting CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 1 offered by Mr. SENSENBRENNER: Strike that portion of the amendment which proposes to insert material on page 20.

The Acting CHAIRMAN. Is there objection to the modification offered by the gentleman from Wisconsin?

Mr. SCOTT of Virginia. Mr. Chairman, reserving the right to object, I would ask the gentleman to please explain the modification, if that is not part of his presentation.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. SCOTT of Virginia. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, the material that is on page 20 relates to a clarification of the ban on possession of hand guns by juveniles. It appears to me that the clarification does not clarify the statute. The best thing to do is to completely remove the clarification as was proposed, thus leaving the current law intact, which means that if a juvenile possesses a hand gun, he will have to have a written note stating that he is authorized to do so from his parent.

Mr. SCOTT of Virginia. Continuing my reservation of objection, Mr. Chairman, how does the modification change the original manager's amendment?

Mr. SENSENBRENNER. Mr. Chairman, if the gentleman will yield further, the original manager's amendment said if the parent accompanied the juvenile, the juvenile did not have to have the note. What this modification does is to require the juvenile to continue having the note.

Mr. SCOTT of Virginia. Mr. Chairman, I withdraw my reservation of objection.

The Acting CHAIRMAN. Is there objection to the modification offered by the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this manager's amendment to correct and clarify several provisions of the legislation. Let me briefly summarize the changes made by the amendment, as modified.

First, the amendment would exclude property crimes from the crime of violence definition of the gang crime statute created by this legislation. The purpose of this change is to ensure that the gang crime statute is applied as intended to dismantle and disrupt violent gangs and to prevent unintended application of the statute for property crimes.

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Second, the amendment would add conspiracies as a criminal violation and increase criminal penalties for any such violation under section 1952 of title 18, Interstate and Foreign Travel in Aid of Racketeering Enterprises.

Third, the manager's amendment would ensure that a portion of title 18 under existing law, which was inadvertently omitted from the introduced and reported versions of H.R. 1279, is not changed as a result of enacting this legislation.

Fourth, the amendment would clarify the crime of violence definition under section 16(b) of title 18 to include an act that by its nature creates a substantial risk that physical injury may result to a person or property of another.

I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I ask unanimous consent to seek the time in opposition although I am not opposed to the amendment.

The Acting CHAIRMAN (Mr. LAHOOD). Without objection, the gentleman from Virginia (Mr. SCOTT) is recognized for 5 minutes.

There was no objection.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 1 minute to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY. Mr. Chairman, I would like to thank the gentleman from Wisconsin for working with me on this section, section 922(x) which he just basically took out. I appreciate him working with us on that issue.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. I thank the gentleman for yielding me this time.

Mr. Chairman, addressing gang violence across this Nation is absolutely an important step so that people can feel safe in their communities and so that our youth will grow up to be productive, happy, satisfied adults. While I commend my colleagues on the other side of the aisle for addressing this important issue, I am deeply disappointed in their legislation.

Gang violence affects most communities across the United States. In fact, I represented the Sixth District of California, which is north of the Golden Gate Bridge from San Francisco. In my district, there is no exception. We too have gang violence. The largest city in my district, Santa Rosa, is increasingly faced with gang violence. Drive-by shootings are becoming so common that the newspapers no longer report the incidents on the front page.

Local communities must address this problem, no question; and Santa Rosa is working hard to do so. With the help of new State of California funding through Measure Zero, a sales tax that passed in the last go-around, the city is providing diversion programs that appeal to youth, such as after-school programs and increased recreational activities. Community leaders are finding more job opportunities for young people, and adults are mentoring them and exposing them to situations that are positive alternatives to gang life. Even the conservative think tank, Mr. Speaker, the Heritage Foundation, agrees that these are the best ways to curb gang violence.

This bill does not provide significant funding to States and local communities to build on their successful local programs. Rather, H.R. 1279 creates new death penalties, mandatory minimum sentences, and measures to prosecute children in adult court, in other words, applying adult punishment to young people. This is the wrong approach, and I cannot support it. I urge my colleagues to join me in opposing H.R. 1279 and insisting that we go back and prepare legislation with real workable solutions and alternatives to gang violence.

Mr. SCOTT of Virginia. Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER), as modified.

The amendment, as modified, was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 109–76.

AMENDMENT NO. 2 OFFERED BY MR. CUELLAR

Mr. CUELLAR. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. CUELLAR:

Page 26, after line 2, insert the following (and redesignate succeeding subsections accordingly):

(c) NATIONAL GANG INTELLIGENCE CENTER.—

(1) ESTABLISHMENT.—The Attorney General shall establish a National Gang Intelligence Center to be housed at and administered by the Federal Bureau of Investigation to collect, analyze, and disseminate gang activity information from—

(A) the Federal Bureau of Investigation;

(B) the Bureau of Alcohol, Tobacco, Firearms, and Explosives;

(C) the Drug Enforcement Administration;

(D) the Bureau of Prisons;

(E) the United States Marshals Service;

(F) the Directorate of Border and Transportation Security of the Department of Homeland Security;

(G) the Department of Housing and Urban Development;

(H) State and local law enforcement;

(I) Federal, State, and local prosecutors;

(J) Federal, State, and local probation and parole offices; and

(K) Federal, State, and local prisons and jails.

(2) INFORMATION.—The Center established under paragraph (1) shall make available the information referred to in paragraph (1) to—

(A) Federal, State, and local law enforcement agencies;

(B) Federal, State, and local corrections agencies and penal institutions; and

(C) Federal, State, and local prosecutorial agencies.

(3) ANNUAL REPORT.—The Center established under paragraph (1) shall annually submit to Congress a report on gang activity.

Page 26, line 10, strike "$50,000,000" and insert "$60,000,000".

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentleman from Texas (Mr. CUELLAR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. CUELLAR).

Mr. CUELLAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we all know that gangs are no longer just an urban problem. They affect every community. As law enforcement officials from big cities to small towns will tell you, to combat the problem we all need to work together, share information, and identify the issues that will help us strike at the heart of gang violence. My amendment gives us the means to do just that.

It would establish a national gang intelligence center at the FBI to help law enforcement officials across the country share information about gangs and gang members so that we can identify emerging problems before they take root. Last year, $10 million was appropriated for the center, an effort led by the gentleman from Virginia (Mr. WOLF), who has long been a strong supporter of law enforcement. My amendment would simply authorize the creation of the center.

Mr. Chairman, by helping law enforcement share information, we will be giving our police on the streets a powerful tool in the fight against violence and help them better protect our citizens.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CUELLAR. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I am pleased to support the gentleman's amendment. It provides an authorization for a program that already has been funded by the Committee on Appropriations. It is a good amendment. It helps the bill out. I urge Members to vote for it.

Mr. CUELLAR. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. CUELLAR).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 109–76.

AMENDMENT NO. 3 OFFERED BY MS. EDDIE BERNICE JOHNSON OF TEXAS

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. EDDIE BERNICE JOHNSON of Texas:

Page 26, after line 2, insert the following new subsection (and redesignate succeeding subsections accordingly):

(c) NATIONAL AND REGIONAL GANG ACTIVITY DATABASES.—

(1) DATABASES REQUIRED.—From amounts made available to carry out this section, the Attorney General shall establish—

(A) for each high intensity interstate gang activity area, a regional gang activity database; and

(B) a national gang activity database that replicates the information in the regional databases.

(2) DESCRIPTION.—Each regional gang activity database required by paragraph (1) shall—

(A) be designed to disseminate gang information to law enforcement agencies throughout the region;

(B) contain critical information on gangs, gang members, firearms, criminal activities, vehicles, and other information useful for investigators in solving gang-related crimes; and

(C) operate in a manner that enables law enforcement agencies to—

(i) identify gang members involved in crimes;

(ii) track the movement of gangs and members throughout the region;

(iii) coordinate police response to gang violence;

(iv) enhance officer safety;

(v) provide realistic, up to date figures and statistical data on gang crime and violence;

(vi) forecast trends and respond accordingly; and

(vii) more easily solve crimes and prevent violence.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Let me applaud the author and the ranking member and the Chair of this committee for addressing the issue of gangs. I do not agree with all of the approach, but I do agree we need to address the issue, and I rise today to speak about the creation of databases to track gang activity.

In addition to developing a solid gang prevention strategy, we must equip our law enforcement professionals with the tools to protect our communities. Recently, law enforcement in Dallas spoke to me regarding their desire to track gang activity. I work closely with the law enforcement divisions in my area, and they wanted a system that would allow them to easily access and share information on gang activity. I am offering an amendment that will do just that.

This database will contain critical information on gangs, gang members, firearms, criminal activities and histories, vehicles, and other fields of information necessary for investigators to solve gang-related crimes.

In addition, it will allow law enforcement to track the movement of gangs and members throughout the country, coordinate police response to gang violence, and enhance officer safety. This system is a fundamental step in combating future gang violence. I ask my colleagues for their support for this important amendment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. EDDIE BERNICE JOHNSON of Texas. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentlewoman for yielding. This is also a very good amendment. I would hope everybody would support it.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 109-76.

AMENDMENT NO. 4 OFFERED BY MS. WATSON

Ms. WATSON. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Ms. WATSON:

Page 26, after line 2, insert the following:

(5) CONSULTATION REQUIRED.—The Attorney General may not designate a high intensity interstate gang activity area without first consulting with and receiving comment from local elected officials representing communities within the State of proposed designation.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentlewoman from California (Ms. WATSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Chairman, I yield myself such time as I may consume.

I urge my colleagues to support the amendment. I would also like to thank my colleagues on the Committee on Rules for allowing me to bring this important issue to the floor today. This amendment would require the Attorney General to seek input from local elected officials before designating an area as a high-intensity interstate gang activity area. The bill currently only requires the Attorney General to consult Governors of the States. California is three States in one: and for a person like me who lives in South Los Angeles, right in the middle of a gang area, I would have a lot to tell about designating that gang area.

The underlying bill gives local communities no input. My amendment would simply require the Attorney General to seek input from local elected officials before designating an area as being a high-intensity gang area. This amendment is not intended to slow down the process of designation or give local officials veto power that supersedes the power of Federal and State officials. Rather, it lets the communities and the people that represent them have a voice in the decision-making.

Addressing the gang problem in our communities is an issue that requires all levels of government working together. Who knows better the problems facing these communities' constituents than the communities themselves? Reducing gang violence requires hands-on intervention and input from those most affected by gang violence.

These communities know, first-hand, the damage gang violence does in their neighborhoods everyday. Their opinions should be heard on the state and federal levels.

The communities affected by gang violence must have the chance to express their views before neighborhoods are classified as a High Intensity Gang Area. Local officials know better than anyone else what is occurring on a day to day basis in their jurisdictions. This amendment would allow participation on all levels of government in this designation process. Mr. Chairman, I urge my colleagues to support this amendment and allow local elected officials, in conjunction with federal and state officials, to have input on how their communities are branded as High Intensity Gang Areas.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. WATSON. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentlewoman for yielding. This also is a very good amendment. I would hope that the Committee would unanimously approve it.

Ms. WATSON. Mr. Chairman, I would hope the Members would support my amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. WATSON).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 109-76.

AMENDMENT NO. 5 OFFERED BY MS. WATSON

Ms. WATSON. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Ms. WATSON:

Page 26, after line 7, insert the following:

(d) ADDITIONAL BATFE INSPECTORS AND AGENTS.—The Attorney General, acting through the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, is authorized to hire 100 additional inspectors and 100 additional agents for the Bureau. Each inspector and agent hired under this subsection shall be assigned to a high intensity interstate gang activity area, for the purpose of assisting local law enforcement agencies to provide more accurate and complete reports to the Bureau of weapons used by gangs in the area.

Page 26, line 8, strike "(d)" and insert "(e)".

Page 26, line 11, strike "and".

Page 26, line 13, strike the period and insert "; and".

Page 26, after line 13, insert the following:

(3) $20,000,000 for each of the fiscal years 2006 through 2010 to carry out subsection (d).

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentlewoman from California (Ms. WATSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Chairman, I yield myself such time as I may consume.

This amendment would add 100 new inspectors and 100 new agents to the Bureau of Alcohol, Tobacco, Firearms, and Explosives. These inspectors and agents would be assigned to the new high-intensity interstate gang activity areas created by H.R. 1279.

As I mentioned, my congressional district is part of a high-crime area, and there is a gun shop in it that has sparked my attention in recent months. I have been working with BATFE to ensure that this shop does not become a source of gang weaponry in my district. One comment I have repeatedly heard from the bureau is that they simply do not have the personnel necessary to crack down on gun-law violators and keep guns out of the hands of violent gangs.

The lack of proper inspections and detailed reports on how guns get into the hands of gang members hampers the fight against these violent gangs. Congress must assist the bureau by allowing it to have an adequate amount of staff to accurately investigate how illegal guns are getting into our communities and make every effort to remove weapons from gang members' hands.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. WATSON. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentlewoman for yielding. She has got a second good amendment. I urge the Committee to approve it and allow her to leave batting 2 for 2.

Ms. WATSON. I thank the gentleman.

Mr. Chairman, reclaiming my time, I will just finish up.

These additional inspectors and agents are essential because they would be assigned to assist local law enforcement to cut off the supply of weapons and ammunition to gang members. This amendment would also help local law enforcement and the BATFE compile much-needed data on how weapons are obtained and used by gangs.

This amendment is not a gun control amendment; it is a law enforcement amendment. By improving our enforcement of existing gun laws, gang members will lose the dominating weaponry that permits gangs to outgun police and kill innocent people.

Mr. Chairman, I believe that we should make every effort to prevent gang members from obtaining their "Weapons of Mass Destruction." I urge my colleagues to support this amendment and help the Bureau of Alcohol, Tobacco, Firearms, and Explosives continue the assault on crime in our communities while cutting off the flow of guns to gang members.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. WATSON).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 6 printed in House Report 109-76.

AMENDMENT NO. 6 OFFERED BY MR. WYNN

Mr. WYNN. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. WYNN:

Page 22, after line 3, insert the following:

SEC. 116. PUBLICITY CAMPAIGN ABOUT NEW CRIMINAL PENALTIES.

The Attorney General is authorized to conduct media campaigns in those areas designated as high intensity interstate gang activity areas and those areas with existing and emerging problem with gangs, as needed, to educate individuals there about the changes in criminal penalties made by this Act, and to report to the Committee on the Judiciary of the House of Representatives the amount of expenditures and all other aspects of the media campaign.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentleman from Maryland (Mr. WYNN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Chairman, I yield myself such time as I may consume.

I think it is very laudable that we are taking up the issue of gun violence and gang violence. This is a problem that affects just about every community; and I think this bill, while I do not agree with all of its approaches, certainly has merit. It relies in significant part on mandatory minimum sentences. Some people will say we have gone too far. The point is with mandatory minimums, you have two aspects: one, the punitive aspect. We will get bad actors off the street. The second aspect is deterrence. People being aware of mandatory minimums will not, in fact, do the crime. In the instance of a 30-year mandatory minimum sentence for murder, for sexual assault, for maiming, this is designed to discourage people from engaging in this conduct.

My amendment would simply authorize the Attorney General to engage in a media campaign to let people know about these new mandatory minimums so that we can, in fact, have a deterrent effect.

☐ 1530

The deterrence requires a certain knowledge of the consequences of one's acts. By having a media campaign, we are in a position to let young people who may be either in a gang or contemplating joining a gang understand that, if they engage in a maiming, cutting off someone's arm, if they engage in an aggravated sexual assault, that they are facing a potential 30-year mandatory minimum sentence, the idea being that this mandatory minimum sentence would discourage the conduct. I think the media campaign contained and authorized under this amendment would further that goal. So I would ask for favorable consideration.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. WYNN. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, another good amendment has been offered, and I would urge the Committee to adopt that, and I thank the gentleman for offering it.

Mr. WYNN. Mr. Chairman, reclaiming my time, I thank the gentleman for his support.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. LAHOOD). The question is on the amendment offered by the gentleman from Maryland (Mr. WYNN).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 109-76.

AMENDMENT NO. 7 OFFERED BY MR. GOODLATTE

Mr. GOODLATTE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. GOODLATTE:

Page 22, after line 3, insert the following:

SEC. 116. CRIMES OF VIOLENCE AND DRUG CRIMES COMMITTED BY ILLEGAL ALIENS.

(a) OFFENSES.—Title 18, United States Code, is amended by inserting after chapter 51 the following new chapter:

"CHAPTER 52—ILLEGAL ALIENS

"Sec.

"1131. Enhanced penalties for certain crimes committed by illegal aliens.

"§1131. Enhanced penalties for certain crimes committed by illegal aliens

"Whoever, being an alien who is unlawfully present in the United States, commits, conspires or attempts to commit, a crime of violence (as defined in section 16) or a drug trafficking offense (as defined in section 924), shall be fined under this title and sentenced to not less than 5 years in prison. If the defendant was previously ordered removed under the Immigration and Nationality Act on the grounds of having committed a crime, the defendant shall be sentenced to not less than 15 years in prison . A sentence of imprisonment imposed under this section shall run consecutively to any other sentence of imprisonment imposed for any other crime.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 51 the following new item:

"52. Illegal aliens .... 1131".

SEC. 117. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO THE NCIC.—Not later than 180 days after the date of enactment of this Act, the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide the National Crime Information Center of the Department of Justice with such information as the Director may have on any and all aliens against whom a final order of removal has been issued, and any and all aliens who have signed a voluntary departure agreement. Such information shall be provided to the National Crime Information Center regardless of whether or not the alien received notice of a final order of removal and even if the alien has already been removed.

(b) INCLUSION OF INFORMATION IN THE NCIC DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

"(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States, regardless of whether or not the alien has received notice of the violation and even if the alien has already been removed; and".

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Virginia (Mr. SCOTT) each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume.

I rise to offer an amendment to crack down on gangs comprised of illegal aliens, such as MS-13, which Newsweek recently called "the most dangerous gang in America."

In my congressional district alone, we have recently witnessed a disturbing rise in the level of gang activity as well as the number of illegal aliens participating in this gang activity. The FBI has recognized the existence of at least six separate gangs in the Shenandoah Valley, with the largest being the notorious Salvadoran gang Mara Salvatrucha, or MS-13. MS-13 is known for such heinous crimes as shootings, rapes and machete attacks, among others, and is estimated to have over 1,500 members in northern and northwestern Virginia alone.

The number of gang members and violent criminals who are illegal aliens and who have been previously deported is staggering. Recently, at the Immigration, Border Security, and Claims Subcommittee, Commonwealth's Attorney Marsha Garst of Rockingham County, Virginia, testified that illegal aliens make up 50 percent of the membership of MS-13 and 75 percent of the membership of another gang in that area, Surenos 13.

According to the FBI, MS–13 is a highly sophisticated gang of illegal and previously deported aliens that is committed to national expansion in the United States and is built on a infrastructure which transports new members or previously deported members across our borders with the intention and plan to expand their activities into new communities and enrich themselves all at the expense of our communities and our law-abiding neighbors. Make no mistake about it: MS–13 is committed to a war by invading and taking over our communities, and deportation means nothing to them because they simply return to our country with yet another new identity, crossing our borders without any reservation and resuming their illegal activities, terrorizing our communities without fear of harsh punishment.

It is now time for us to disable MS–13 and its vicious cycle of violence. My amendment does just that. It gives law enforcement the ability to tack on more severe punishments rather than simply returning MS–13 members to El Salvador or other countries where they will turn around and sneak right across our borders once again. If faced with a choice of putting these gang members in jail or deporting them and having them return, the choice is clear: We must incarcerate them and bring freedom back to our neighborhoods.

The growth in illegal alien participation gangs is not limited to Virginia or just to MS–13. Across the Nation, the number of illegal aliens joining gangs and the number of gang members who have re-entered the country after deportation is alarming. According to the testimony of Heather MacDonald of the Manhattan Institute, a confidential California Department of Justice study reported in 1995 that 60 percent of the 20,000-strong "18th Street gang" in Southern California was illegal. Immigration and Customs Enforcement conservatively puts the number of illegal aliens in MS–13 as a majority. Sixty percent of the leadership of the "Colombia Lil' Cycos" gang, which uses murder and racketeering to control the drug market around Los Angeles' MacArthur Park, consisted of illegal aliens in 2002. And according to the Los Angeles Times, the Los Angeles Department arrests about 2,500 criminally convicted deportees annually. Let me make that clear: Annually, the Los Angeles Police Department estimates that 2,500 of the people that they arrest each year have already previously committed a crime and already previously been deported, and they have come back into the country, and 2,500 of them are arrested yet again.

My amendment would help to stop the entry and re-entry of gang members into the country by imposing strict penalties on illegal aliens who participate in gang activities and who have already shown they will commit violent crimes and drug-trafficking offenses. With stiff new penalties, we can deter these gang members from re-entering the United States with the intention of joining or resuming violent gang activities.

Specifically, my amendment would add 5 years of prison time to any sentence for violent crimes or drug-trafficking offenses when the violator is an illegal alien. It will also add 15 years of prison time to any such sentence if the illegal alien had been previously deported on the grounds of a criminal offense and had re-entered the country. In addition, the amendment would require the Department of Homeland Security to send all the names of individuals who are subject to deportation orders or who have signed voluntary deportation orders to the National Crime Information Center, the NCIC, so that information on illegal alien gang members can be more easily accessed.

We must shut down this revolving door of criminal illegal aliens. It is time to say to them, if they come here illegally and commit a gang crime, they will do the time. Our children and our communities deserve nothing less.

This amendment will give law enforcement additional tools in the fight against some of the most vicious gangs in America and will help deter violent criminals from entering the country to join gangs.

I urge my colleagues to support this commonsense amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to remind the House that it is already illegal to murder, rape, kidnap, cut off hands with machete attacks, conspiracy to do any of those acts. We lock people up for that. In fact, since we are talking about immigrants, one in 27 Hispanic males 25 to 29 are in jail today already. Those are crimes. They are doing the time. Also, for those who are crossing State lines and all that, we have RICO, Continuing Criminal Enterprise. That is already the law.

But this amendment just adds insult. And let us be clear: Second-offense fist fight by a bunch of kids, under the bill, is 10 years mandatory minimum. This adds 5 years to the 10-year mandatory minimum for second-offense fist fighting. I think that is excessive. If the fist fight deserves more time, the Sentencing Commission can deal with that. I would hope that we would defeat the amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Chairman, could I ask the distinguished author of this amendment if this idea occurred to him during the time that we considered the bill in the Committee on the Judiciary? Because I have never heard of this before.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, this is something that has been discussed since the committee acted and passed the legislation out, but we felt very strongly that this would be a good addition to the legislation because of the fact that so many of these gang members are illegal aliens who have reentered the country after already having been deported and having committed crimes earlier. Something needs to be done more than simple deportation when they come right back in and commit more crimes.

Mr. CONYERS. Mr. Chairman, reclaiming my time, but we are trying to get rid of criminals from coming into the country, and what the gentleman is doing in this amendment is keeping them in the country. In other words, deporting them is not good enough. We want to keep them in our prison systems, which now house more citizens, and now, we are adding noncitizens to the population of those incarcerated in America. And I have some reservations about piling it on. We have never talked about this position before in the subcommittee or full committee of the Committee on the Judiciary.

Mr. Chairman, I thank the gentleman for yielding me this time to make that observation.

Mr. GOODLATTE. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the fact of the matter is that this has a great deterrent effect. When the word gets out that they come back into this country and they get arrested after they have been deported and they are going to do serious time in the slammer, they are not as likely to come back. And with the efforts that are ongoing with the REAL ID Act, we are going to keep a lot of these people out of the country with that method, and we are going to find them when they come into the country and try to get driver's licenses. But when they do, they need to know that they are going to face serious time.

Mr. Chairman, I yield 2½ minutes to the gentleman from Virginia (Mr. WOLF), a real leader in the war against gangs in America.

Mr. WOLF. Mr. Chairman, I rise in support of this amendment. Let me read an article from the Washington Post. "In what officials suspect is the latest horror committed by gangs, 28 people, including six children, were killed December 24 when gunmen opened fire on a bus full of passengers near the northern Honduran city of San Pedro Sula." Twenty-eight individuals, six of them were children.

Another article said there was a request by the presidents of four Central American countries for help in gang battles. The request came as U.S. authorities revealed that they had issued an alert for the suspected mastermind of the killing of these 28 people near San Pedro Sula. The individual is a suspected member of the MS-13 gang and may have already entered the United States illegally.

The gentleman is right. That individual who was involved in the killing of 28 individuals in San Pedro Sula in Honduras was arrested in McAllen, Texas, coming back into the country after killing 28 people.

I think the gentleman's amendment is exactly right on target. There are many cases whereby they come back into the country and commit violent crimes after having committed violent crimes down in El Salvador. But 28 people in that little village in that town of San Pedro Sula, and then the man is arrested not in Honduras but up here in Texas.

With that, I just urge Members to strongly support the amendment. It is very good.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I rise in opposition to this amendment. And I am surprised that my friend would propose that we increase the amount of money that taxpayers are paying for incarceration to now expand it to illegal aliens who commit crimes, leave the country and come back in. Where are we going to get all of this money?

We have one of the highest incarceration rates of any nation in the entire world. And we are spending a disproportionate amount of money on incarceration.

I submit to my colleagues that I think deportation is the answer, but have they thought about the fact that they should place the responsibility on keeping these criminals out of the country on the heads of the leaders of those countries?

We go right along with the leaders of these countries on trade agreements, on foreign assistance, with all kinds of assistance to these governments.

I would submit to my colleagues that if they submit the name of everybody that they deport and they send them back and they say to the leaders of these countries, if these people come back, we are going to penalize you in one of several ways that we cooperate with you; again, we have so many ways that we provide assistance to other countries, and we have got to make them responsible for keeping their criminals at home.

So I do not like the idea that we have a problem and that we are deporting criminals, and they are coming back, and we are going to make the American people pay for it. Make those other governments pay for it. Do not end up in press conferences with this administration, the head of our government's Members of Congress, working out all kinds of arrangements with these governments to help them in so many ways, whether it is trade, foreign assistance or 909 other ways that we help them. Make them keep their criminals at home.

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Penalize them if they do not. Do not charge the American taxpayer.

Mr. GOODLATTE. Mr. Chairman, it is my pleasure to yield 1 minute to the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Chairman, I am sure the President of Honduras would have loved to have kept the person who killed the 26 people in his country there and tried him and punished him there; but the fact of the matter is, the borders are leaky. Some of us have been trying to ensure the security of the borders through various measures, like the REAL ID Act, which has been signed. I would hope that that concern would spread as we deal with other immigration matters such as the numbers of border patrol people that we need to put on the border.

I support this amendment because it creates enhanced penalties for illegal aliens or those ordered deported on the grounds of having committed a crime who subsequently commit a crime of violence or a drug-trafficking crime.

An illegal alien who commits a drug-trafficking crime or crime of violence would receive a consecutive sentence of 5 years, and an alien who previously has been deported for a crime and subsequently commits a crime of violence or a drug trafficking crime would receive a consecutive sentence of 15 years. In addition, the amendment would require the Department of Homeland Security to provide the National Crime Information Center with information on illegal aliens.

Mr. Chairman, I urge support of the amendment.

Mr. GOODLATTE. Mr. Chairman, I yield myself the balance of my time.

The gentleman from Virginia (Mr. WOLF) is exactly right, as is the chairman. Here we have a Los Angeles Times story: "Four presidents seek help in gang battle. Central American leaders say the groups pose a hemispheric threat augmented by U.S. deportation of criminals."

You cannot keep sending them back down there where they have no ability to handle them and they come right back up here and commit more crimes on our citizens. This is an important amendment that will give teeth to the message: do not come back in the United States. If you do, we are going to keep you in the slammer.

There are many, many examples of what illegal aliens have done. In Virginia, recent gang victims have been hacked by machetes and had fingers cut off. In May 2004, a 16-year-old boy in Fairfax County had several fingers chopped off in an attack by a machete-wielding assailant. A week later, a 17-year-old youth was shot dead in Herndon by an assailant on a bicycle. In July 17, 2003, in Shenandoah County, Virginia, MS-13 gang members violently murdered a 17-year-old pregnant Federal witness, Brenda Paz, before she could testify in a pending Federal trial in the Eastern District of Virginia against MS-13.

Send these guys to jail when they come back into this country after being deported. I urge my colleagues to support the amendment.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to remind the House that it is illegal to chop off fingers and you will be given more time than this bill will provide. Murdering 28 people is also already illegal, whether this bill passes or not.

But this amendment just adds insult to injury. If a child comes into the country because his parents snuck into the country to work, this bill, the underlying bill provides for a 10-year mandatory minimum for a fist -fight. This just adds 5 more years of insult.

I would hope we defeat the amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. LAHOOD). The question is on the amendment offered by the gentleman from Virginia (Mr. GOODLATTE).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. GOODLATTE. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. GOODLATTE) will be postponed.

The Acting CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 109-76.

AMENDMENT NO. 8 OFFERED BY MR. NORWOOD

Mr. NORWOOD. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. NORWOOD:

Page 22, line 3, insert the following:

SEC. 116. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO THE NCIC.—Not later than 180 days after the date of enactment of this Act, the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide the National Crime Information Center of the Department of Justice with such information as the Director may have on any and all aliens against whom a final order of removal has been issued, any and all aliens who have signed a voluntary departure agreement, and any and all aliens who have overstayed their visa. Such information shall be provided to the National Crime Information Center regardless of whether or not the alien received notice of a final order of removal and even if the alien has already been removed.

(b) INCLUSION OF INFORMATION IN THE NCIC DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

"(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States, regardless of whether or not the alien has received notice of the violation and even if the alien has already been removed; and".

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentleman from Georgia (Mr. NORWOOD) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the purpose of my amendment is to require the Department of Homeland Security within 6 months to get information on a number of types of criminal illegal aliens into the National Crime Information Center. This makes sense for law enforcement, it makes sense if you are going to go after the gang problem, and it even makes sense to address our illegal immigration problem.

The NCIC is a computerized index of criminal justice information available to the Federal, State, local law enforcement, and other criminal justice agencies. It is operational 24 hours a day, 365 days a year. This information helps apprehend fugitives, locates missing persons or property, and protects law enforcement officers. All records in NCIC are protected from unauthorized access.

Mr. Chairman, I would say to my colleagues, there should be no fear in using this database to get this vital information into the hands of law enforcement. It is a good system. It is a tested one.

Under my amendment, information on three types of aliens would be included in the National Crime Information Center: first, those aliens with a final order of removal issued against them. These are absconders who are flagrantly violating our laws.

Recent estimates, remember that word "estimates," recent estimates say that there are over 400,000 in our country today. Of this number, approximately 85,000 are criminal aliens. I do not mean jaywalkers either. I mean murderers, rapists, and pedophiles.

Second, there are those who signed a volunteer deportation order.

The third group, a very important group, are those who have overstayed their visas.

Essentially, we are dealing with those who our government says should not be here, those who have themselves said they should not be here, and those who are overstaying their permission to be here.

This first category, visa overstays, is the difference between the language in my amendment and that of the previous one offered by my good friend, the gentleman from Virginia (Mr. GOODLATTE), who incorporated much of my language into his good amendment; and I applaud him for that.

Lest my colleagues forget, this final category, those who overstay their visas, has given us some of the most heinous criminals recently. The chief planner of the 9/11 attacks, Mohammed Atta, overstayed his visa, along with a number of other hijackers.

Sheik Omar Rahman, the spiritual leader of the World Trade Center bombers and the plot to attack New York City landmarks, overstayed his visa, among other immigration violations.

Mahmud Abouhalima entered on a tourist visa in 1985, which expired in the spring of 1986. He was given permanent residence in 1988 as part of an amnesty for agriculture workers. There was no evidence, however, that he was ever an agriculture worker. He made several trips to Afghanistan where he received combat training. He was implicated as a lead organizer in the 1993 plots to bomb New York landmarks.

Mohammed Salameh entered on a 6-month tourist visa issued in Jordan in 1988. He should never have qualified for the visa by law as he fit the profile of intending immigrant. He rented the truck in the 1993 WTO bombing.

Eyad Ismoil entered on a student visa in 1989, left school after three semesters, violating the terms of his visa, and became an illegal alien. He later drove the World Trade Center van full of explosives.

More facts about visa overstays that might startle folks a little bit: at least 40 percent of the noncitizens who stay in the United States illegally, and perhaps more than half, did not sneak across the border. Visa overstays were described as a "disturbing and persistent problem" in a report by the Justice Department's Inspector General.

Now, here is the punch line. This was all written on November 8, 1998, in the Dallas Morning News, nearly 3 years before the attacks of 9/11, and approximately 6½ years ago. This visa overstay language is therefore key to this amendment and key to our safety and security.

This amendment is necessary. This language regarding visa overstays makes us safer. I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. SCOTT of Virginia. Mr. Chairman, I claim the time in opposition.

The Acting CHAIRMAN. The gentleman from Virginia is recognized for 5 minutes.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition because we have not studied this. This issue did not come before the committee. We do not know anything about the accuracy of the data that may be circulated. We do not know what it is going to cost. And we particularly do not know whether or not this is a good cost-effective way of providing homeland security. For example, this will do nothing to prevent an Oklahoma bombing, where the problem was domestic.

If we are going to spend money in homeland security, we ought to put it where it is most needed. We have not studied to determine whether this is the best use of the money or not. Therefore, Mr. Chairman, I would hope we would not pass this amendment.

Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, the gentleman is very kind.

Mr. Chairman, I will tell you the NCIC system works. After 6½ years, it is overdue time we tried to do something about the visas.

I will take just a minute to thank the chairman of the Committee on the Judiciary for a great bill. I appreciate so much his support in this, as well as the support of the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Virginia (Mr. WOLF) and all their good work. We are finally, finally trying to do something about this terrible problem of illegal immigrants.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I hope we defeat the amendment. As I said, it may or may not, we do not know, be a cost-effective use of the taxpayers' money.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. NORWOOD).

The amendment was agreed to

The Acting CHAIRMAN. It is now in order to consider amendment No. 9 printed in House Report 109–76.

AMENDMENT NO. 9 OFFERED BY MR. NORWOOD

Mr. NORWOOD. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. NORWOOD:

Page 22, after line 3, insert the following:

SEC. 116. STUDY.

The Attorney General and the Secretary of Homeland Security shall jointly conduct a study on the connection between illegal immigration and gang membership and activity, including how many of those arrested nationwide for gang membership and violence are aliens illegally present in the United States. The Attorney General and the Secretary shall report the results of that study to Congress not later than one year after the date of the enactment of this Act.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentleman from Georgia (Mr. NORWOOD) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I point to the previous amendment where we talked about estimates a little bit. Well, this is dealing with estimates. This amendment would simply require a study conducted jointly by the Department of Homeland Security and the Department of Justice on the link between illegal aliens and gang membership. Surprisingly, despite the overwhelming agreement from all parties that the two are linked, there is no comprehensive report anywhere that we can find on this topic. It is time for that to change.

Congressional testimony on April 13 of this year produced some important anecdotal evidence of the need of this sort of data. Before the Committee on the Judiciary Subcommittee on Immigration, Marsha Garst offered some statistics in relation to some problems in the Shenandoah Valley of Virginia. She indicated the gangs there are nearly 75 percent composed of illegal aliens. She also related that a number of the illegal alien gang members had been previously deported, proving that we are not doing our job on the borders.

A second witness at the same hearing was Heather MacDonald of the Manhattan Institute. She has research that is helpful to this subject, but somewhat out of date. She indicated that a confidential California Department of Justice study from 1995 said that 60 percent of the 20,000-member 18th Street Gang in Southern California are illegal. Also, that the leadership of the Colombian Lil' Cycos Gang, who control some markets in L.A., was about 60 percent illegal in 2002. ICE officials put the number of illegals among MS-13 members at simply "a majority."

We need to do better than just know "a majority." If you are not convinced, just listen to my friend and colleague, the gentleman from Indiana (Mr. HOSTETTLER), who is the Subcommittee on Immigration chairman. He indicated in his statement: "While there are an estimated 750,000 to 800,000 gang members in the Nation, there are no firm estimates on how many of these gang members are aliens and how many are citizens." His point should not go unaddressed.

So we again are saying today that our porous borders are a problem for our citizens. This time it is crime, sometimes deadly in our neighborhoods and streets. Despite this very clear link between gangs and illegal aliens, there is not a study that I located anywhere that addresses this issue.

□ 1600

I think that it is long past due for that to change.

People say that addicts have to first admit that they have a problem before they can move on and get help. This study is a good way for us to finally admit that we have a major problem and seek ways then to correct the problem. I hope that we will not take too long to seek that help, and I would be happy to assist with a solution, because it is an issue that I have worked on and been very interested in for a long time.

I urge my colleagues to adopt this amendment and help us finally get the facts about the nationwide scope of what we are dealing with in terms of illegal aliens and gang membership.

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I rise to claim the time in opposition, and I yield myself such time as I may consume.

I would just say, this is interesting timing of the amendment, because we just passed the Goodlatte amendment, and now we are going to study, I guess, whether or not we should have passed it because, as the gentleman from Georgia has indicated, we do not know the link between illegal aliens and gang membership, and so we have to study it. We just passed an amendment to add 5 years mandatory minimum to sentences if a couple of them get into a fist fight. So I guess it is nice to know whether we should have passed it or not, but I just want to point out that it is an interesting place to consider this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. NORWOOD. Mr. Chairman, in conclusion, I will simply say to my friend, the gentleman from Virginia (Mr. SCOTT) that this is not an amendment that justifies or does not justify the previous amendment. This is an effort to get the facts on what we already know. If you ride around at all, you do not have to go very far to determine what the problem is in this country.

I ask all of our colleagues on both sides of the aisle to vote to help protect this country from illegal immigrants.

Mr. Chairman, I yield back the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, allow me to shock the Members on the opposite side of the aisle and join with them in support of this amendment.

Mas vale tarde que nunca. It means, better late than never. And while my colleague here, the gentleman from Virginia (Mr. SCOTT), is absolutely correct, we have put the cart before the horse, I suppose it is never too late to try and correct our errors.

I do think that we should have been involved in studies a long time ago. We are basically forever speculating and coming up with anecdotes without a basis of facts for our decisions. So I am hopeful that we will get the support of our colleagues in this Congress so that we can study.

While this is limited to the link between illegal aliens and gang membership, we need more studies on gangs, period. We need to find out, number one, where the young people are coming from. What is it about gang membership that entices them to want to be a part of that gang? What are their parents like? Are they the children of those who are already incarcerated? If we had an opportunity to support them getting back into school, moving out of neighborhoods, et cetera, what would happen?

So, again, even though this is a little late in coming, I do support the amendment, and I ask for an aye vote.

Mr. NORWOOD. Mr. Chairman, will the gentlewoman yield?

Ms. WATERS. I yield to the gentleman from Georgia.

Mr. NORWOOD. Mr. Chairman, I would just like to thank the gentlewoman. I hope this will be, and I think it should have bipartisan support, and I am going to call for a vote, because I believe most of us will vote for this.

Ms. WATERS. Mr. Chairman, reclaiming the time. I would hope that the gentleman would also support the idea of a broader study on gangs, period, and that we could identify a number of areas to be looked at. Would the gentleman be interested in that at some point in time?

Mr. NORWOOD. Mr. Chairman, if the gentlewoman will yield, I am interested in doing anything I know we can do to stop gang violence in this country. It is time we brought it to an end, and of course, I am interested in anything about that that might head that off.

Ms. WATERS. Mr. Chairman, I thank the gentleman.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Having heard the distinguished views from my friend, the gentlewoman from California (Ms. WATERS) and the gentleman from Georgia (Mr. NORWOOD), I am convinced that the amendment is well taken, however misplaced in time. We should have considered this before the gentleman from Roanoke, Virginia, but as my colleague has said, better late than never.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. LAHOOD). The question is on the amendment offered by the gentleman from Georgia (Mr. NORWOOD).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. NORWOOD. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Georgia (Mr. NORWOOD) will be postponed.

The Acting CHAIRMAN. It is now in order to consider Amendment No. 10 printed in House report 109–76.

AMENDMENT NO. 10 OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Ms. WATERS:
Strike section 102.
Strike section 103.
Strike section 104.
Strike section 105.
Strike section 106.
Strike section 107.

The Acting CHAIRMAN. Pursuant to House Resolution 268, the gentlewoman from California (Ms. WATERS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I yield myself such time as I may consume.

I rise in support of my amendment. Mr. Chairman, the gentleman from Virginia (Mr. SCOTT) and I have offered an amendment that would strike all of the mandatory minimum sentences in H.R. 1279, the Gang Deterrence and Community Protection Act. The mandatory minimum sentencing requirements found in sections 102, 103, 104, 105, 106 and 107 are simply not the answer to gang deterrence.

Mr. Chairman, all of us know that mandatory minimum sentencing has not worked, and it does have a huge disproportionate impact on minorities. Just to name a few statistics, African-Americans only comprise 12 percent of the United States population; however, they comprise a staggering 58 percent of all prisoners incarcerated under Federal mandatory minimum sentences. There is something wrong with this picture.

Mandatory minimums are not even effective in deterring crime. Their only proven result is in driving up our prison populations, resulting in overcrowding and the need for the creation of more prisons. Increasing prison populations is not the solution to the prevention of crime in our communities, even communities infested with gang crime.

Mr. Chairman, mandatory minimums also impede on the role of our judges. We need to let judges be judges and ensure that they have the discretion to sentence criminal defendants in a manner that takes into account all of the facts and circumstances that are presented before them. Clearly, this must include an evaluation of any mitigating circumstances, such as the defendant's childhood experience, especially if the defendant is a juvenile; the mental state of the defendant; the role that the defendant played in the commission of the crime; the mental capacity of the defendant; the crime committed; whether force or a firearm was used during the commission of the crime; and whether a victim lost his or her life and was seriously maimed as a result of the crime. The mandatory minimums under H.R. 1279 would make it impossible for trial judges to fairly and fully evaluate the cases before them, because these sections overreach into the State court's authority and remove the judge's sentencing discretion.

Mr. Chairman, to be tough on gangs, we must focus more on gang crime prevention. We need to implement more effective prevention tactics that focus on both individuals at risk of joining gangs and on former gang members at risk of rejoining a gang after being released from prison. Also, educational and rehabilitation programs for communities with gangs that have a high crime rate need to be implemented. We should focus our attention on what works.

I urge all of my colleagues to please support my amendment and to strike all of the mandatory minimum sentences included in H.R. 1279.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 10 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

This amendment would essentially strip the bill of vital and necessary weapons that prosecutors and law enforcement need to win the war against violent gangs. In particular, and I ask that everyone pay close attention to this, the amendment would eliminate increased penalties and mandatory minimum penalties for the following crimes: interstate and foreign travel or transportation in aid of racketeering, carjacking and illegal gun transfers to drug traffickers or violent criminals, murder for hire or other felony crimes of violence, violent crimes in aid of racketeering activity, murder or other violent crimes committed by drug traffickers and multiple interstate murderers.

These people belong in jail. Just listen to the types of crimes that the mandatory minimums and enhanced penalties apply to.

When considering this amendment, it is important to recognize just how much of a problem gangs represent today. Just take the City of Chicago. The U.S. Attorney for Northern Illinois, Patrick Fitzgerald, testified and described the gang problem in Chicago: "It is easy to underestimate the grip that gangs have on some of our cities, but the sad reality is that their grip on urban life is lethal. First, the sheer number of gang members is staggering. In Chicago alone, there are estimated to be 70,000 to 100,000 gang members, compared with about 13,000 Chicago police officers. Several "super gangs" dominate: The Gangster Disciples, the Black Disciples, the Vice Lords, the Black P Stones, the Mickey Cobras, the Latin Kings, the Spanish Cobras, the Maniac Latin Disciples and the Satan Disciples. All of these gangs control large amounts of territory, engage in large-scale drug trafficking and use gun violence to control their territory and drug trade."

Unfortunately, my colleagues ignore the practical reality of this problem by trying to take away new and valuable tools for law enforcement and prosecutors such as mandatory minimum penalties.

U.S. Attorney Fitzgerald again explained, "It is important to maintain heavy penalties on gang members, particularly higher-echelon members and those engaging in violence, to deter violent activity and to leverage cooperation from gang members who are already conditioned to understand they will do some prison time but often cooperate when faced with heavier prison time. Cases against gangs proceed most effectively when the heavy penalties cause key members of the gang to work with authorities to dismantle the organization. Ultimately, severe sentencing of gang members results more quickly in greater freedom for the community victimized by the gangs."

Heavy penalties mean more cooperation to people on the fringes. Mandatory minimum penalties and heavier sentences result in more quickly and greater freedom for the community victimized by the gangs. This amendment is the anti-community freedom amendment and should be defeated.

Mr. Chairman, I reserve the balance of my time.

Ms. WATERS. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT), the ranking member of our subcommittee.

Mr. SCOTT of Virginia. Mr. Chairman, I want to remind Members of the

House that murders are already illegal. Intentional murder subjects you to either the death penalty or mandatory life. Racketeering and those other charges are illegal. The mandatory minimums in the bill apply to second-offense fist fights, and I guess if you are an illegal immigrant, you get an additional 5 years mandatory minimum.

If that is not enough, Mr. Chairman, we have already said that, for those 25 to 29 in the African-American community, 1 out of 8 are already in jail today. Apparently, that is not enough penalty, and we need to increase it.

The Sentencing Commission has studied the impact of mandatory minimum sentences and have found that they not only violate the entire purpose of the Sentencing Commission, but they are also applied in a racially discriminatory manner. We also have found, Mr. Chairman, that the Rand Corporation has studied mandatory minimums and found that it is not a cost-effective sentencing scheme. They found that compared to a more intelligent scheme where the more serious criminals get more time and less serious get less time, mandatory minimums are less effective in reducing crime. They are also much less effective than drug rehabilitation for drug penalties. So we have the Rand Corporation designating mandatory minimums as a waste of the taxpayers' money.

The Judicial Conference of the United States, the Chief Justice of the United States presiding, has written us a letter saying, not only that trying juveniles as adults is bad policy but also the mandatory minimums, and they have maintained opposition to mandatory minimums since 1953. They write: The reason is manifest. Mandatory minimums severely distort and damage the Federal sentencing system. Mandatory minimums undermine the sentencing guideline regime Congress so carefully established in the Sentencing Reform Act of 1984 by preventing the rational development of guidelines that reduce unwanted disparity and provide proportionality and fairness.

□ 1615

Mandatory minimums also destroy honesty in sentencing by encouraging charge and fact plea bargains. In fact, the U.S. Sentencing Commission has documented that mandatory minimums have the opposite of their intended effect. Far from fostering certainty in punishment, mandatory minimums result in unwarranted sentencing disparity.

Mandatory minimums also treat dissimilar offenders in a similar fashion, although these offenders can be quite different with respect to the seriousness of their conduct or their danger to society.

Finally, mandatory minimums require the sentencing court to impose the same sentence on offenders when sound policy and common sense call for reasonable differences and punishment. Accordingly, we respectfully request that the expansion of the Federal criminal justice system over juvenile offenders be seriously reconsidered, and that the mandatory minimum sentences provision in the bill be removed.

Mr. Chairman, that is exactly what this amendment does, and I would hope that the amendment would be adopted.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Chairman, I just wish today that we would hear the same passion for the victims of gang crimes as we have heard on the other side for those who commit violent gang crimes. You know, we have heard a lot about the cost of locking up violent gang criminals. But I have not heard a whole lot about the cost of leaving them in our neighborhoods to create more crimes and leave repeated paths of victims.

We just heard about common sense. Well, let me tell you about common sense. Common sense is that you are not going to stop these violent gang criminals by giving them a Popsicle and a hug. You stop them by getting them off the streets.

Let us make it clear that we do not believe there is any socially redeeming value for belonging to a violent criminal gang. What mandatory sentences do is they set out clearly a policy that we say, if you are going to belong to one of these gangs, you take the consequences; that if you commit one of these gang crimes, you are going to pay a price. You cannot just roll the dice.

Now, our opponents will tell you it is already illegal to do some of these acts. They miss the point. Our whole purpose is to keep those acts from being committed in the first place by getting rid of the gang networks. They believe, they have argued here the way you do that is by giving arts and crafts to members of these violent gangs. We just respectfully disagree.

We believe that the way you do it is by bringing down the criminal gang networks and the criminal gang leaders. Mandatory sentences do that by giving those individuals who commit gang crimes a choice. They can either spend a long time in jail, or they can help us bring down the networks that are praying on our communities.

Mr. Chairman, I hope we will reject this amendment and will pass the bill.

Ms. WATERS. Mr. Chairman, I yield 1½ minutes to the gentlewoman from New York (Ms. VELÁZQUEZ).

Ms. VELÁZQUEZ. Mr. Chairman, I rise in strong opposition to this bill, which offers no solution to our Nation's gang violence problem, and in support of the Waters-Scott amendment which strikes the mandatory sentences provisions.

Clearly, in many neighborhoods throughout our country, we have a gang violence problem. Yet dramatically increasing prison terms and failing to fund proven strategies to reduce youth violence is exactly what H.R. 1279 does.

Violence in gangs is a critical problem, persistent among low-income and minority communities. Today we see that 95 percent of the largest cities and 88 percent of the smaller cities are confronted with gang-related crimes. More and more younger kids are joining gangs. But no value of hope is given to these children seeking a way out of the gang activity. We must face this reality, rather than hide from it.

It seems to me that the only solution being offered by this legislation to our juveniles involved in gangs is locking them into a life path where there is no way out. Whatever happened to gang prevention programs, to the funding desperately needed for delinquency and intervention programs?

If we want to deter gang violence and protect our communities, we need to focus on effective and comprehensive solutions to address the root causes of youth violence, not simply punitive actions.

Mr. Chairman, passing this bill will do nothing to stem the tide of gang violence throughout this country. What this bill will do is worsen our youth's violent behavior by enslaving our youngsters into prison as an answer to one of this Nation's most critical problems, and that is no solution at all. I urge my colleagues to support the Waters-Scott amendment and to oppose the underlying bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. REICHERT).

Mr. REICHERT. Mr. Chairman, I am a cop. I wear a congressional pin, but I always will live and breathe and think like a cop.

I have worked the streets for 33 years. Up until January 3 of this year I was a police officer. In the early 1990s, gangs were a huge problem in this country; and we worked hard and passed local tough laws to address the gang issue. And we had success. The crackdown by cops across the Nation in the early 1990s did break the backs of gang activity. And today we need tough laws to continue fighting gang violence and the resurgence of gang activity.

These gangs today are more violent. They are committing murders, rapes, and robberies. Cops need tough laws to help them. They need to know that local governments, State governments, and the Federal Government is behind them with tough laws to help them break the backs of gangs.

A few years ago I lost a good friend, an officer who worked in the Seattle area. He stopped his police car, opened his car door, stood by the front of his police car, and was approached by three gang members. The job that night, the assignment that night by these gang bangers, kill a cop. And they did. They fired the bullet into the cop's head, and he died.

Mr. Chairman, I urge my colleagues to pass this bill and protect the lives of citizens of this great country.

Mr. Chairman, I am a cop. I wear a Congressional pin, but I will always think like a cop, live and breathe as a cop.

I have chased these gangs, I have worked to shut down these groups and these were not innocent children. I absolutely believe in protecting our children and giving them a chance, teaching them right from wrong and allowing them to make mistakes. I believe in doing that while they are young. We should be educating our children, teaching them responsibility and raising them to be better men and women than we are.

But I believe once that foundation has been laid, they are responsible for their actions. It is a harsh world and I have seen it first hand. I have watched young women turn to prostitution. I have picked them up from their beats and taken them to shelters and tried to help them find a way out of that life. I've had success too. But ultimately, they are responsible for themselves and their choices. I am a compassionate man, but I firmly believe that respect stems from responsibility. And no one—not you, me, not any of these youths in gangs are without responsibility.

The members of these gangs consciously choose to act out against their communities. They dispense the violence; no one forces them to do so. That type of influence is like a cancer. These gangs seep into young men and women and corrupt them. They erode the good of our neighborhoods and destroy lives. Our communities need to be safe. In order to be safe, we need to stop this cycle before it begins. Mandatory minimums enforce that gang members and their theft, prostitution, weapons and drugs will not be tolerated. They will be dealt with to the fullest extend of the law.

In May of 2001, Des Moines patrol officer Steve Underwood was shot to death and killed after approaching a car with four gang members on a late-night watch along Pacific Highway South. Shot to death simply in approaching the car, this is what we have progressed to.

Last night I spoke with King County's Gang Detective, Sheila Hatch. In the course of our conversation, she raised mandatory minimums. She said that the only way for our prosecutors to effectively go after gang leaders when the cops manage to bring them down is with a strong penalty. Our laws need to be effective to stop and make them think of consequence before they commit a crime. The cost of their crime sprees should not be simply an afterthought.

Mr. Chairman, we need mandatory minimums. I am telling you that first hand, as someone who worked on the streets to stop gangs. I urge my colleagues to vote "no" against the Waters-Scott amendment.

Ms. WATERS. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Chairman, if you kill a police officer you are going to get death or life without parole. If you make any murder in the Federal system you are looking at life. If you are talking about the impact of this bill, it is a 10-year mandatory minimum for second-offense fist fights.

We have been asked where our compassion is for the victims. We have got mandatory minimums where you already know that it violates common sense, it wastes the taxpayers money, it fails to do anything about reducing crime. That is what the studies have shown. Trying juveniles as adults we know increases crime.

That is a good question. Where is your compassion for the victims when you are actually increasing crime? We know what works to reduce crime. We know what polls well, and what we need to do is have some compassion for common sense and actually enact those provisions that will reduce crime.

We know that prevention and early intervention work. You know, you can make jokes about it; but we know what works and we know what polls well. If we are going to show some compassion for our victims, we ought to do something to actually reduce crime.

Ms. WATERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think it is important for me to say on behalf of most of the Members, if not all of the Members of the Congress of the United States of America, we are all against crime. We do not support criminals. We are indeed passionate about victims. We want hard-core criminals off the streets.

What we do not support is using this terrible issue to get your law and order credentials on. We do not want you using this issue on the backs of young people who may be victims of gangs rather than criminals themselves.

Let me just say this: we are against mandatory minimum sentencing because it takes away the discretion of the judge. The judge may give more time, given all of the facts. And, yes, they may give less time, given all of the facts.

We need to let judges be judges. We cannot sit here in the Congress of the United States and continue to take away the ability of judges to make decisions. So I stand here today with this amendment to say, let the judges make the decision.

You do not know if there is a kid who happens to live in a neighborhood that is infested with gang members and they must pretend to be in the gang in order to survive. Do you want that kid caught up in a situation where they are going to be given mandatory minimum sentencing, when they did not have an opportunity to have a judge understand what the extenuating circumstances were?

I do not think that is good legislating, nor is it good public policy. I would ask my colleagues to please support this amendment.

The Acting CHAIRMAN. The time of the gentlewoman from California (Ms. WATERS) has expired.

Ms. WATERS. Mr. Chairman, does the gentleman from Wisconsin (Mr. SENSENBRENNER) have any more time, because I wish to make a statement on this bill prior to the close of debate.

The Acting CHAIRMAN (Mr. LAHOOD). The gentleman from Wisconsin (Mr. SENSENBRENNER) has 2 minutes remaining.

Mr. SENSENBRENNER. Mr. Chairman, I am pleased to yield one of those minutes to my friend, the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, let me just say this. I am not going to allow my amendment to get caught up in the politics of the day. I know that there are people who are just salivating for this amendment to remain on the floor so they can catch Democrats voting for something that they will use in their campaigns.

Mr. DAVIS of Illinois. Mr. Chairman, I rise today in support of the Waters/Scott Amendment which strikes out all mandatory minimums in H.R. 1279. The mandatory minimums proscribed in this legislation will only result in many young people serving long sentences, at least ten years, based on the circumstances of rather than the crime itself. Perhaps it is no surprise that mandatory minimums have come under criticism for being discriminatory in nature.

The enormous monetary and human costs associated with incarceration simply outweigh the supposed benefits of the proposed legislation. It is well known that incarceration costs American taxpayers millions of dollars each year, what is not as widely known is that it also costs millions to reintegrate those released from prison back into society. Additionally, as suggested in the recent Booker decision, judges often refuse to hand down mandatory minimums if they feel that they are draconian. With the proposed changes, we may even see juries unwilling to convict an obviously guilty defendant if they know that doing so will result in ten years' imprisonment. Creating laws that are likely to go un-enforced will not foster faith in the criminal justice system or help take down gangs.

Mrs. CHRISTENSEN. Mr. Chairman, I rise in support of the Waters/Scott amendment to H.R. 1279, the Gang Deterrence and Community Protection Act of 2005. If the Waters/Scott amendment is defeated I would urge my colleagues to oppose the underlying bill because it broadens the definition of gangs and metes out even harsher punishments for offenses that already have very long sentences.

Mr. Chairman, the Scott/Waters amendment strikes those sections of the bill which set mandatory minimum sentences. I agree with the National Association for the Advancement of Colored People, (NAACP) who propose that by increasing the number of crimes that have mandatory minimum sentences, and stiffening those sentences, the bill will exacerbate the already troubling and offensive racial disparities in the criminal justice system.

According to Families Against Mandatory Minimums, such "sentences are bad regardless of the crime because they prevent judges from making distinctions between defendants and sentencing them according to their culpability. Instead, mandatory minimums impose one-size-fits-all sentencing, which guarantees injustices"

In my district the US Virgin Islands we are in the midst of gang violence amongst our young males. Over the years, through various preventative programs within our law enforcement community and amongst private organizations, we have seen a difference in behavior within our teen population as it pertains to conflict resolution. Prevention is truly the best cure in this situation not inflexible mandatory minimum sentences

I urge my colleagues to support the Waters/Scott amendment.

Ms. JACKSON-LEE of Texas. Mr Chairman, I rise in support of the Waters amendment. Terrorism is solved with intelligence, prevention not simple mandatory minimums.

Since the enactment of mandatory minimum sentencing for drug users, the Federal Bureau of Prisons budget increased by more than 2,016 percent, from two hundred twenty million dollars in 1986 to about four billion four hundred thirty seven million dollars in 2004.

African Americans comprise 12 percent of the United States population, 15 percent of drug users, 17 percent of cocaine users, but 33 percent of all Federal drug convictions and 57 percent of Federal cocaine convictions.

In 1986, before the mandatory minimums for crack cocaine offenses became effective, the average Federal offense for African Americans was 11 percent higher than whites. Following the implementation of mandatory drug sentencing laws, the average drug offense sentence for African Americans was 49 percent higher than whites.

Largely as a result of mandatory minimum sentencing statutes, there are now more than 2,100,000 persons in prison and almost 70 percent of the people behind bars in America are persons of color. African Americans made up 40 percent of the Federal prison population in August, 2003, up from 31 percent in 1986 before Federal mandatory minimums were enacted.

As a result of mandatory minimum sentencing statutes, particularly with respect to drug crimes, in 2001, the average Federal drug trafficking conviction was 72.7 months while the average Federal manslaughter sentence was 34.3 months the average assault sentence 37.7 months, and the average sexual abuse sentence 65.2 months.

In 1999, African Americans constituted 13 percent of drug users. In that same year, African Americans constituted 35 percent of drug arrests, 53 percent of drug convictions, and 58 percent of those in prison for drug Federal mandatory minimum sentences make African Americans more likely to be incarcerated and for longer periods than their white counterparts.

In the year 2000, 84.7 percent of crack cocaine cases were brought against African Americans even though, in that year, African Americans comprised only about 26.6 percent of crack users. Only 5.6 percent of crack cases that year were brought against Caucasians even they constituted 64.4 percent of crack users.

In the 20 years from 1981 to 2001, the sentenced portion of the Federal prison population grew from about 20,000 in 1981 to about 115,000 prisoners. During that same period, the percentage of drug offenders in Federal prison grew from 25 percent to almost 60 percent. Mandatory minimum sentences for drug crimes are the largest drivers of expanding prison populations.

Due to harsh sentencing guidelines, such as the 'three-strikes, you're out, provision', a disproportionate number of young black and Hispanic men are likely to be imprisoned for life under scenarios in which they are guilty of little more than a history of untreated addiction and several prior drug-related offenses . . . States will absorb the staggering cost of not only constructing additional prisons to accommodate increasing numbers of prisoners who will never be released but also warehousing them into old age.

We all know and are stunned by the staggering statistic cited in the September 2002 issue of the journal Racial Issues in Higher Education, that, at that time, there were more African American males in prison than in college. Mandatory minimums are driving this growth in federal prison populations.

Mandatory minimum drug sentences are also resulting in the disproportionate lengthy incarceration of young African American women. From 1986 (the year mandatory sentencing was enacted) to 1996, the number of women sentenced to state prison for drug crimes increased ten fold and has been the main element in the overall increase in the imprisonment of women. Ninety five percent of female arrests from 1985 to 1996 were drug related and over 80% of female prison inmates are incarcerated as a result of their association with abusive boyfriends.

Terrorism requires a more comprehensive approach along with major immigration reform not just mandatory minimums.

Ms. WATERS. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The Acting CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 7 offered by the gentleman from Virginia (Mr. GOODLATTE), amendment No. 9 offered by the gentleman from Georgia (Mr. NORWOOD).

The Chair will reduce to 5 minutes the time for the second electronic vote.

AMENDMENT NO. 7 OFFERED BY MR. GOODLATTE

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. GOODLATTE) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 266, noes 159, not voting 8, as follows:

[Roll No. 165]

AYES—266

Abercrombie
Aderholt
Akin
Alexander
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berry
Biggert
Bilirakis
Bishop (NY)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Case
Chabot
Chandler
Chocola
Coble
Cole (OK)
Conaway
Costa
Costello
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
Dent
Doolittle
Drake
Dreier
Duncan
Edwards
Emerson
Engel
English (PA)
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Gene
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Israel
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Moore (KS)
Moran (KS)
Murphy
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Saxton
Schiff
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Souder

Spratt
Stearns
Strickland
Sullivan
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOES—159

Ackerman
Allen
Andrews
Baca
Baldwin
Becerra
Berman
Bishop (GA)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Castle
Clay
Cleaver
Clyburn
Conyers
Cooper
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeGette
Delahunt
DeLauro
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Ehlers
Emanuel
Eshoo
Evans
Farr
Fattah
Filner
Flake
Ford
Frank (MA)
Gonzalez
Green, Al
Grijalva
Gutierrez
Hinchey
Hinojosa
Holt
Honda
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller (NC)
Miller, George
Mollohan
Moore (WI)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Price (NC)
Rahall
Rangel
Reyes
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schwartz (PA)
Scott (VA)
Serrano
Sherman
Smith (WA)
Solis
Stark
Stupak
Sweeney
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wynn

NOT VOTING—8

Berkley
Bishop (UT)
Hastings (FL)
Larson (CT)
Millender-McDonald
Moran (VA)
Musgrave
Wasserman Schultz

□ 1649

Messrs. SWEENEY, TIERNEY, CARNAHAN, UPTON, DOYLE and Mrs. MALONEY changed their vote from "aye" to "no."

Ms. SLAUGHTER, and Messrs. CASE, BISHOP of New York, STRICKLAND and INGLIS of South Carolina changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 9 OFFERED BY MR. NORWOOD

The Acting CHAIRMAN (Mr. LAHOOD). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Georgia (Mr. NORWOOD) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 395, noes 31, not voting 7, as follows:

[Roll No. 166]

AYES—395

Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murphy
Murtha
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Otter
Oxley
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Loretta
Sanders
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—31

Abercrombie
Ackerman
Baldwin
Conyers
Davis (IL)
Delahunt
Dingell
Filner
Grijalva
Gutierrez
Holt
Honda
Kilpatrick (MI)
Kucinich
Lee
Lewis (GA)
McDermott
McGovern
McKinney
Nadler
Oberstar
Olver
Owens
Pallone
Payne
Rangel
Sánchez, Linda T.
Schakowsky
Serrano
Solis
Stark

NOT VOTING—7

Berkley
Hastings (FL)
Larson (CT)
Millender-McDonald
Moran (VA)
Musgrave
Wasserman Schultz

□ 1658

Mr. PALLONE and Ms. KILPATRICK of Michigan changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1700

The Acting CHAIRMAN (Mr. LAHOOD). There being no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIRMAN. Accordingly, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. REHBERG) having assumed the chair, Mr. LAHOOD, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1279) to amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, and for other purposes, pursuant to House Resolution 268, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. TIERNEY

Mr. TIERNEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. TIERNEY. I am in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Tierney moves to recommit the bill H.R. 1279 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Page 22, after line 3, insert the following:

SEC. 116. PROHIBITION OF PROFITEERING.

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1037. War profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq

"(a) PROHIBITION.—

"(1) IN GENERAL.—Whoever, in any matter involving a contract or the provision of goods or services, directly or indirectly, in connection with the war, military action, or relief or reconstruction activities in Iraq, knowingly and willfully—

"(A) executes or attempts to execute a scheme or artifice to defraud the United States or Iraq;

"(B) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

"(C) makes any materially false, fictitious, or fraudulent statements or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; or

"(D) materially overvalues any good or service with the specific intent to excessively profit from the war, military action, or relief or reconstruction activities in Iraq;

shall be fined under paragraph (2), imprisoned not more than 20 years, or both.

"(2) FINE.—A person convicted of an offense under paragraph (1) may be fined the greater of—

"(A) $1,000,000; or

"(B) if such person derives profits or other proceeds from the offense, not more than twice the gross profits or other proceeds.

"(b) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

"(c) VENUE.—A prosecution for an offense under this section may be brought—

"(1) as authorized by chapter 211 of this title;

"(2) in any district where any act in furtherance of the offense took place; or

"(3) in any district where any party to the contract or provider of goods or services is located.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"1037. War profiteering and fraud relating to military .action, relief, and reconstruction efforts in Iraq.".

(b) CRIMINAL FORFEITURE.—Section 982(a)(2)(B) of title 18, United States Code, is amended by striking "or 1030" and inserting "1030, or 1037".

(c) MONEY LAUNDERING.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting the following: ", section 1037 (relating to war profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq)," after "liquidating agent of financial institution),".

Mr. TIERNEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. TIERNEY. Mr. Speaker, my motion to recommit is simple and straightforward and deserves the support of every Member of this body. It would amend the criminal code to prohibit defrauding the government in connection with the reconstruction efforts in Iraq.

My motion would make it clear that these outrageous and unpatriotic activities would be subject to prison time and monetary penalties. Every single dollar that is wasted because of corporate fraud or abuse in Iraq is one less dollar that can go to protect our troops, one less dollar for body armor, one less dollar for protective equipment that can save lives.

It is an unfortunate fact of life that, today, in Iraq, taxpayer funds are being routinely wasted by organized corporate criminals. The American taxpayer is being defrauded by a system of distributing funds that is totally unaccountable. This not only demeans and cheapens the sacrifices that our military and civilian personnel are making in Iraq, it endangers their lives.

Mr. Speaker, just last week, the House spent another $82 billion of taxpayer funds on the war. The cost of the war had already been over $200 billion. We also learned this week that the Pentagon auditors found that $212 million was paid to Kuwaiti and Turkish subcontractors for fuel the Pentagon auditors concluded was exorbitantly priced. Halliburton passed these payments onto the taxpayer.

That may be just the tip of the iceberg, as billions of dollars are being expended in Iraq with precious little accountability. While there are fraud statutes to protect against wasted tax dollars at home, none expressly prohibit war profiteering, and none expressly confer extraterritorial jurisdiction overseas, as my motion would do.

Against this backdrop, it is imperative that this Congress send a strong signal that we will not tolerate taxpayer rip-offs at the expense of our troops. I offer this amendment now because this bill before us is open ended as a crime bill. It not only deals with gangs but it amends the criminal laws on matters concerning hearsay, venues, statute of limitations and sentencing. It also authorizes new grants and databases, among other things. If we are going to do all of this, it certainly is appropriate that we also amend the criminal laws to combat blatant contract fraud in Iraq to protect our brave troops.

When concerns about wartime fraud were raised during World War II, President Roosevelt declared it was our duty to ensure that a few do not gain from the sacrifices of the many. Then, as now, our government cannot in good faith ask its people to sacrifice for reconstruction efforts that allow so many others to unfairly profit.

Mr. Speaker, I urge a "yes" vote on this commonsense motion to recommit.

Mr. FORBES. Mr. Speaker, I rise in opposition to the motion to recommit.

I thought I had heard everything this morning, Mr. Speaker, when, in the debate, we heard the opponents of this bill say that they felt that they could fight violent gang crime better by using arts and crafts than they could by locking up violent criminals, but I am shocked now that they are even bringing in Iraq.

If you look, Mr. Speaker, the Department of Justice, I am sure, is going to investigate the matters that are in this motion to recommit. There has not been a shred of evidence or testimony in any subcommittee or full committee about this bill related to anything in this motion to recommit. We have not heard a single discussion on it on the floor today. We have heard one poison pill after another to try to stop us from going after violent criminal gangs. There have even been amendments to try to offer loans to gang members, to give housing to violent gang members.

Mr. Speaker, it is time we stopped playing games with this bill and we pass it and go on to try to deal with these violent gangs. I want to remind the House that the Fraternal Order of Police, the National Association of Police Organizations, the National Sheriffs Association, the Major County Sheriffs Association, the Law Enforcement Alliance of America, National Troopers Coalition, Federal Criminal Investigators Association, California Gang Investigators Association, National Latino Peace Officers Association, the New Orleans District Attorney, the Los Angeles Deputy Sheriffs, and 63 chiefs of major police departments around the country support the bill as it is. I hope we will defeat the motion to recommit and pass H.R. 1279.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. TIERNEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage of the bill.

The vote was taken by electronic device, and there were—ayes 198, noes 227, not voting 8, as follows:

[Roll No. 167]

AYES—198

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—227

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—8

Berkley
Hastings (FL)
Larson (CT)
Meeks (NY)
Millender-McDonald
Moran (VA)
Musgrave
Wasserman Schultz

☐ 1725

Mr. GILLMOR changed his vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. REHBERG). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 279, nays 144, not voting 10, as follows:

[Roll No. 168]

YEAS—279

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Barrett (SC)
Barrow
Barton (TX)
Bass
Bean
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carter
Case
Castle
Chabot
Chandler
Chocola
Coble
Cole (OK)
Conaway
Costa
Costello
Cox
Cramer
Crenshaw
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Doyle
Drake
Dreier
Edwards
Emanuel
Emerson
English (PA)
Etheridge
Everett
Ferguson
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Herseth
Higgins
Hobson

Hoekstra
Holden
Hooley
Hoyer
Hulshof
Hunter
Hyde
Israel
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McHugh
McIntyre
McKeon
McMorris
Meek (FL)
Melancon
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore (KS)
Moran (KS)
Murphy
Murtha
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pascrell
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shaw
Shays
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Sodrel
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Watson
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—144

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Bartlett (MD)
Becerra
Berman
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Carnahan
Carson
Clay
Cleaver
Clyburn
Conyers
Cooper
Crowley
Cubin
Cummings
Davis (CA)
Davis (IL)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Duncan
Ehlers
Engel
Eshoo
Farr
Fattah
Filner
Flake
Frank (MA)
Garrett (NJ)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hensarling
Hinchey
Hinojosa
Holt
Honda
Hostettler
Inglis (SC)
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Larsen (WA)
LaTourette
Lee
Levin
Lewis (GA)
Lofgren, Zoe
Lowey
Lynch
Maloney
Manzullo
Markey
Matsui
McCollum (MN)
McDermott
McGovern
McHenry
McKinney
McNulty
Meehan
Menendez
Michaud
Miller, George
Mollohan
Moore (WI)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Paul
Payne
Pelosi
Pitts
Price (NC)
Rahall
Rangel
Rothman
Roybal-Allard
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Shadegg
Sherman
Sherwood
Smith (WA)
Snyder
Solis
Stark
Sweeney
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Velázquez
Wamp
Waters
Watt
Waxman
Weiner
Wexler
Woolsey

NOT VOTING—10

Berkley
Evans
Feeney
Hastings (FL)
Larson (CT)
Meeks (NY)
Millender-McDonald
Moran (VA)
Musgrave
Wasserman Schultz

□ 1735

Mr. SNYDER changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Mr. Speaker, I would like to submit this statement for the RECORD and regret that I could not be present today, Wednesday, May 11, 2005 to vote on rollcall vote Nos. 164, 165, 166, 167 and 168 due to a family medical emergency.

Had I been present, I would have voted: "no" on rollcall vote No. 164 on Ordering the Previous Question on H. Res. 268; "no" on rollcall vote No. 165—an amendment to H.R. 1279; "yea" on rollcall vote No. 166—an amendment to H.R. 1279; "yea" on rollcall vote No. 167 on the Motion to Recommit H.R. 1279 with instructions; and, "no" on rollcall vote No. 168 on passage of H.R. 1279—Gang Deterrence and Community Protection Act of 2005.

ABUSE OF POWER

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, the level of abuse in this House by the Republican Party has become an embarrassment. Instead of working on the pressing problems of this Nation, my colleagues on the other side of the aisle continue to push an agenda controlled and influenced by special interests.

According to a report released by the gentlewoman from New York (Ms. SLAUGHTER), the Committee on Rules' ranking Democrat, all of the major bills passed by the Republican Party in the 108th Congress were written with big business or special interests in mind. These interest groups do not look at what is best for the American people. They look at what is best for their bottom line. If the Republican Party is as compassionate as they profess to be, they would be writing legislation that protects workers from harm and even death, not dismantling OSHA in order to save big business money. They would be helping families get paid sick leave and family leave rather than focusing on rolling back family and medical leave protections to save businesses money on the backs of working people.

LET US FOCUS ON THE PEOPLE'S BUSINESS

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, to refute the comments of the previous speaker suggesting we are captives of special interests, that we are not doing the people's work, I will beg to differ.

I see a lot of progress here. But I also see a lot of name calling that I think is unfortunate and unnecessary. Pointing fingers, trying to catch each other in scandal does not bring honor to this House. So they can give their statements and they can give their quotes and they can make soundbytes, but the American public are worried about health insurance. They are worried about gas prices. They are worried about our soldiers in Iraq. They are worried about terrorism. And we should be working on that as Democrats and Republicans. But, instead, we sit here and make accusation, innuendo and create diatribe. We are much better than that.

We had an emergency evacuation today. We are on pins and needles based on the real terrorist threat that exists, and we are just becoming name callers.

So I urge all of us, both sides, to take a moment, pause and honestly focus on the people's business, not on trying to score cheap political points.

IN SUPPORT OF MEDICARE FOR ALL

Mr. KUCINICH. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER pro tempore (Mr. REHBERG). Without objection, the gentleman from Ohio is recognized for 1 minute.

There was no objection.

Mr. KUCINICH. Mr. Speaker, I want to agree with the gentleman from Florida that the American people are worried about many things including health care. And that is why I stand to ask the House for support on H.R. 676, a bill that will establish a U.S. national health insurance.

A Kaiser Foundation poll found that 64 percent of Americans favor expanding Medicare to all. The Deans of Harvard and Stanford Medical Schools, 13,000 doctors, including the former editor of the New England Journal of Medicine and two former Surgeons General now support Medicare for All.

By expanding Medicare to all, we will contain costs. Medicare boasts 3 percent overhead. In contrast, the Medicare HMOs, 15 to 30 percent overhead.

Medicare also has a much lower rate of spending increase than private health plans.

Medicare for All will make the U.S. more competitive. GM and Ford are losing money in competitive advantage because other developed countries have universal health care. Ontario now makes more cars than Detroit. Canadian GM, Ford and other auto manufacturers have sent a letter in support of their single-payer health care system as a result.

All over this country, Americans are looking for some help from the Congress of the United States on health care. It is time for us to come together, Democrats and Republicans alike, in defense of universal health care, Medicare for All.

HONORING MR. SANFORD WALKE, PURPLE HEART RECIPIENT

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Mr. Sanford Walke of Hernando Beach, Florida. He was the chief engineer in the army during World War II, and Mr. Walke recently was a person to whom I presented the Purple Heart for his heroic actions in battle.

On a flight over Germany on July 8, 1944, Mr. Walke's plane was shot down over France. The last one to jump out of the plane, he was forced to open his parachute over enemy territory. He was then taken as a Prisoner of War and held in a German prison camp. He was put on long and arduous marches until he was able to escape with another British soldier months later. The two soldiers were hiding in a barn in a German village when the British tanks rolled in and took over the town. Thankfully, the British took care of him until he was able to reunite with his American soldier buddies.

Mr. Speaker, true American heroes like Sanford Walke should be honored for their service to our Nation and for their commitment and sacrifices in battle.

COMMENDING CAPITOL POLICE AND OTHER PERSONNEL FOR THEIR PROFESSIONALISM IN EVACUATION

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, I want to, first of all, commend the Capitol Police and all the other personnel who did such a fantastic job when we had the evacuation earlier today.

It is never good, obviously, to have this kind of evacuation. But when we were kids in school, we had fire drills and things like that, and we wanted to see how well it was done. Today, it was done in a very professional way. And, thank God, it really was not a threat, but it is nice to know, when we need to leave, we can.

So I want to just take the time to thank the Capitol Police and to all the personnel who worked with us here in making sure the evacuation was smooth and nobody was hurt. Responding to the threat and the threat over the aerospace was swift. And I think all of us as people who work at the Capitol can sleep a little better tonight knowing that our very highly trained personnel really had things under hand. It again shows the American public why we all need to be prepared for terrorism and why this is a new world, and I think that we are meeting the task. Again, I want to thank all those concerned.

☐ 1745

TIME TO PROVIDE HEALTH CARE FOR ALL AMERICANS

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, the gentleman from Florida got up here and talked about the fact that we should work together as Democrats and Republicans. Let us have a little review of history, and I think the gentleman was here when it all happened.

In 1993 and 1994, President Clinton presented a health care plan for every American. The Republicans took the position that any plan run by the government was a bad one, and they took pride and bragged in the next election over the fact that they had killed the Clinton health care plan.

Now, 1994 is more than 10 years, and we have yet to see any proposal come out of the Republicans. Not a single member of the Republican caucus has been able to get a hearing or lay a bill before a committee. There are many of us who put bills before the Congress. The gentleman from Ohio (Mr. KUCINICH) put one forward, I put one forward, as did the gentleman from Michigan (Mr. CONYERS) and the gentleman from Michigan (Mr. DINGELL).

Where are the Republican proposals to do anything about the American people's health care problem? It is the number one cause of bankruptcy. It is time.

MAKING AMERICA MORE COMPETITIVE

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, Yogi Berra said that predictions are hard to make, especially when they are about the future. But that does not mean we should not look ahead. In fact, if you do sit down and think about what America is going to be like 5, 10, 20 years from now and how our economy is going to be in relationship to the rest of the world, I think we should all be very concerned.

Right now, China is in the beginning stages of trying to start an Asian Union, much like the European Union, where the yuan is the euro or the monetary means. They are trying to combine the people in Southeast Asia, which could make an economy of about 3 billion people. The European Union is now absorbing new European countries, plus they have a natural bond to the Islamic world based on their current immigration trends, and they could easily develop an economy of 1 billion people.

So if you look downstream, the very likely position for our economy could be third place, unless, unless, we change the environment here in America.

Last year we had a trade deficit of $671 billion and a Federal deficit. If we are going to bring jobs back to America, we have to change the environment by making our country more competitive.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. KUHL of New York). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SEEKING JUSTICE FOR VICTIMS OF SYRIAN OPPRESSION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, today I wish to call the attention of the Members to the important cause of defending the human rights of the Syrian people and holding the Syrian regime accountable for the most deplorable actions against its citizens.

Syria is an oppressor state in every sense. It brutally stifles its political dissidents and minority groups. It denies its ordinary citizens freedom of religion, of conscience and belief. It seeks to silence its people by preventing them from exercising their right of free speech. It discriminates against women, condoning violence and sexual assault against them.

The police continue to detain people arbitrarily, placing them in prisons and torturing them, using methods that seem to herald back to the return of the Middle Ages, stretching prisoners on racks or fracturing their spines on wheels.

Since 1963, Syria has ruled under emergency law, using the hollow excuse of Israel being a threat, and using that to suppress freedom, diversity of opinion, and equality between religions and between sexes.

About 600 Lebanese detainees have been languishing in Syrian jails since 1989. Those who have managed to escape bring harrowing stories with them that they have told to the international human rights community. They must be released immediately.

In an event that defies comprehension, in 1982, Rifaat al-Assad, the brother of then dictator Hafez al-Assad, turned his Soviet-made guns against the Syrian city of Hama. When the dust settled approximately a week later, the death toll of innocent civilians had reached 30,000 people.

The perpetrators of this massacre, including Rifaat al-Assad, who resides in Marbella, Spain, have received no punishment and live amid absolute luxury. Their comfortable lifestyle is an affront to the Syrian people and to all of humanity.

Another of the perpetrators to be held accountable is Ghazi Kanaan. He headed the military intelligence unit responsible for clearing the way for the massacre at Hama. He also later became the Syrian top intelligence man in Lebanon and reportedly built all of the intelligence units responsible for killing Lebanese Christians and imprisoning many other innocent Lebanese.

Bahjat Suleiman is the head of Unit 251 in the General Directorate of the Intelligence Services. Some of the crimes against the Syrian people were detailed in H. Con. Res. 18. This resolution, which I authored, was overwhelmingly adopted by my colleagues in the House, clearly illustrating our body's commitment to holding the Syrian dictatorship accountable for the systematic attacks against the Syrian population.

Inaction on our part is not an option. The cost of failing to address this grim reality sooner can be measured by the rising number of Syrian and Lebanese men and women that the Syrian Government has killed or tortured.

Today, the Syrian people, the dissidents and the peaceful opposition leaders, are poised to act. They are demanding that the Syrian Government release all prisoners of conscience and that it allow for the winds of reform to sweep through its corrupt system. U.S. policy must support the Syrian people, its dissidents, human rights activists, and pro-democracy advocates so that they, too, could free themselves from the shackles of tyrannical rule.

In that vein, I recently introduced the Lebanon and Syria Liberation Act that contains provisions calling for the establishment of a program of assistance to pro-democracy advocates and opposition groups in Syria and Lebanon. It also establishes a program to develop independent broadcasts into Syria and Lebanon to help promote freedom and democracy in both countries.

The act sends a message to the Syrian Government that the United States will not stand for its unacceptable behavior in violation of all moral and legal standards. This legislation, with its concrete measures to punish the Syrian regime, clearly demonstrates to the Syrian people that America stands with them in their efforts to free themselves from the shackles of tyranny and to help them build an open society based on democratic values and principles.

We must honor the brave men and women of Syria by acting to defend their right to live as free men and women. We must begin by ensuring that the Syrian regime and its leaders are made to pay for their crimes against the Syrian people. We must support efforts to seek justice for the victims of Syrian oppression.

HONORING THE LIFE OF CONGRESSMAN PETER RODINO, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PASCRELL) is recognized for 5 minutes.

Mr. PASCRELL. Mr. Speaker, on Saturday, May 7, I lost a friend, a constituent, and an inspiration. Many of you in this Chamber knew and worked with Peter Rodino, a former Congressman from Newark, New Jersey. For those who did not know him, you undoubtedly recall his service or have read about his life and illustrious career in public service.

Congressman Rodino is most well-known for the role he played in the impeachment hearings of President Richard Nixon. He demonstrated a dignified image of Congress at a time when cynicism characterized the public's view of our government. He upheld the integrity of this institution. He was himself a person of character.

Despite the important role that he played in the glamorous hearings, Congressman Rodino's real legacy is in the work that he did to further civil rights for all Americans. As the son of an Italian immigrant who grew up on the ethnically diverse streets of Newark, Congressman Rodino understood the importance of building bridges to unite ethnic communities.

He was determined to see women and Americans of all races and religions receive equal civil rights. In his role on the House Committee on the Judiciary, Congressman Rodino was instrumental in managing the Civil Rights Act of 1964 on the House floor, where it passed and was eventually signed into law by President Lyndon Johnson.

Congressman Rodino authored the Fair Employment Practices Amendment within the historic civil rights bill. He strived to advance the rights of women, immigrants, and disenfranchised ethnicities. He never forgot his own roots.

In 1971, Congressman Rodino passed legislation making Columbus Day a national holiday, providing millions of Italian Americans with a day to celebrate our proud heritage.

To establish an Italian American presence in Washington, Congressman Rodino worked to found the National Italian American Foundation, NIAF, and the Italian American Congressional Delegation. It is my honor to now cochair this delegation with the gentleman from Florida (Mr. MICA).

As an Italian American who also grew up in an ethnically diverse New Jersey city, I have admired Congressman Rodino's record as one who united people he represented. His career as a bridge builder has inspired a model on which I have based my actions as a representative of an ethnically diverse constituency.

This is the second time in 3 years, Mr. Speaker, that I have stood before the House of Representatives to express my condolences for the passing of a civil rights leader. In 2003, the Eighth Congressional District was unfortunate to lose the legendary Larry Doby.

I am honored to have represented these men who have molded the social milieu that America enjoys today. It is my hope that the passing of Congressman Peter Rodino will remind us of the legacy that he left behind and inspire us to apply his legacy to the legislation that we craft in this Chamber.

Mr. Speaker, next Monday we will have a mass and burial. Our condolences go to his family. He was a great, great American.

SECURING AMERICA'S BORDERS AND COMBATING ILLEGAL IMMIGRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Ms. FOXX) is recognized for 5 minutes.

Ms. FOXX. Mr. Speaker, I rise today to encourage my colleagues in this Congress to continue fighting illegal immigration in our great country.

My Republican colleagues were joined by 42 sensible Democrats to make great strides towards securing our borders by enacting the recommendations of the 9/11 Commission with the passage of the REAL ID Act. As a freshman Member of this House, I am honored to have played a role in that process.

However, Mr. Speaker, more still can and must be done to secure our borders and combat illegal immigration. The terrorist attacks on our homeland highlighted the potentially disastrous effects of porous borders and the need to bolster border security.

The problem of illegal immigration also has additional far-reaching, dangerous effects. Ultimately, it punishes all who follow the laws and processes of the United States.

Immigration affects virtually every aspect of life in America. I am happy to have supported the amendments of both the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Georgia (Mr. NORWOOD) to H.R. 1279 that just passed here today.

□ 1800

The Goodlatte amendment adds 5 years to any sentence for violent crime for drug trafficking when the offender is an illegal alien and adds 15 years to a sentence if the alien has previously been deported for a criminal offense and subsequently committed a crime of violence or drug trafficking. The amendment also requires the Homeland Security Department to give the National Crime Information Center the names of all individuals subject to deportation orders or who have signed voluntary deportation papers.

The Norwood amendment requires the Justice and Homeland Security Departments to conduct a joint study and to report to Congress within 1 year on the connection between illegal aliens and gang membership.

I was torn on voting for H.R. 1279 because of my concern for States' rights, but I was swayed in the end to vote for it because of the number of illegal aliens involved in gangs. With more than a million legal and illegal immigrants settling in the United States each year, a level higher than at any other time in our Nation's history, immigration has an impact on education, health care, Social Security, taxes, employment, the environment, crime and countless other areas of American life.

I sympathize with those who desperately wish to live the American dream here on American soil. I understand their desire for liberty, free markets and guaranteed rights. The demand for access to America is a resounding testament to the greatness of our Nation. However, immigration laws exist to provide the necessary steps for safe and legal entry into this country. We have an immigration process in place that simply must be followed.

Illegal immigration must be stopped, but we cannot and should not close our doors to those who wish to enter the country legally. We must increase our efforts at achieving closed borders with open guarded doors.

SMART SECURITY AND IRAQ PRISONER ABUSE

The SPEAKER pro tempore (Mr. KUHL of New York). Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, last week, the trial of low-level military officers involved in the Abu Ghraib prison scandal in Iraq reached a climactic turning point. Colonel James Pohl, the military judge trying PFC Private First Class Lyndie England declared a mistrial in the case. Now this case will have to be tried again from the very beginning.

England's case was thrown out after Private Charles Graner claimed that the photos of abuse at Abu Ghraib Prison were taken for training purposes. This claim contradicts England's guilty plea in which she accepted responsibility for her actions and admitted that she had acted outside the scope of military orders.

There is no shortage of evidence that England is guilty of having participated in the abuse of Iraqi prisoners which included subjecting the prisoners to forced nudity, savage beatings, electric shock and harassment by dogs. Some prisoners, as a matter of fact, died as a result of the abuse. Nor is there a question that the abuse of prisoners violates our American ethical and moral code. Red, the color of blood, is the color that resulted from the beating in Abu Ghraib Prison last year. But now yellow is the color of the high-ranking military and administration officials who are cowering behind junior soldiers, hoping to duck responsibility for setting up a culture supporting the use of torture in American-run prisons in Iraq.

The question is, who is responsible for the abuses at Abu Ghraib Prison? Charles Graner's testimony suggests that the prison abuse scandal extends much higher than we have previously been told. Yet, only low-ranking soldiers have been held accountable for these abuses. Why have prosecutors investigated from the bottom-up instead of going straight to the source to find out who condoned these abuses? Why is there such a denial of culpability at the highest levels of the government?

Mr. Speaker, we must get to the bottom of this scandal because not only were the events at Abu Ghraib brutally inhuman and contrary to the democratic ideals of our open government, they also have endangered the American people. At a time when the United States is courting the support of the Arab world, the last thing we need to do is engage in the same atrocious violence as the thugs and terrorists that we are opposing. The images of American soldiers violating Iraqi prisoners is no doubt a rallying call for all those who want an excuse to hate and attack the United States.

Fortunately, there is a better way than this. I have developed a SMART Security Platform for the 21st Century. SMART is a Sensible, Multilateral American Response to Terrorism, and it will help reinvigorate America's foreign policy by focusing on conflict prevention, on international diplomacy and on multilateralism. SMART security recognizes security threats and addresses them, but instead of conducting our policies behind closed doors and through the barrels of a gun, SMART pursues open diplomacy and regional security arrangements to achieve our democratic goals.

Indiscriminate violence will not address the threats we face, because most of the post-September 11 security threats require a softer touch. That is why SMART security calls for dramatic increases in development aid and debt relief for the world's poorest countries to reduce the destitute conditions that give rise to terrorism. And they will simultaneously increase educational opportunities for the world's poorest people. These programs will also help counter the image problem that America has cultivated around the world and particularly in the Middle East.

Instead of encouraging militaristic policies that give rise to events such as those at Abu Ghraib, SMART security encourages security through diplomacy. Perhaps, if the Bush administration had not been so keen on going into a misguided and illegal war, we could have utilized international diplomacy to encourage democracy in Iraq. Instead of fighting a war that has thus far cost the lives of more than 1,600 American soldiers, at least 24,000 Iraqi civilians, and of course, there are also more than 12,000 American soldiers who have been gravely wounded as a result of war.

Let us utilize the SMART approach to address the threats we face. I encourage all of my colleagues to support this important legislation which I am reintroducing next week.

HONORING THE SERVICE OF LIEUTENANT COLONEL FAYE KNODLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY. Mr. Speaker, with the 60th anniversary of World War II on all our minds, I thought it important to pay tribute to the proud veterans of the 11th District of Georgia and, indeed, America for the heroism that they displayed that has made possible the unprecedented freedom that we enjoy today. They deserve our gratitude and our full support.

One such veteran from Marietta, Georgia, is Lieutenant Colonel Faye Knodle. Colonel Knodle was drafted into the Army on December 2, 1942. He attended boot camp at Camp Beale, California, and in December 1943, he was moved to Camp Bowie, Texas, for combat training in preparation for combat duty in Europe.

Like the proud stories of so many brave Americans, Colonel Knodle hit Omaha Beach on June 10, 1944, D-Day plus 4, as a platoon sergeant in Patton's Third Army. Two days later, for his exemplary service, he received a battlefield commission from General Patton himself, raising him to the officer ranks. Knodle fought his way through France and Germany into the Ruhr Pocket.

He was later transferred to the 20th Armored Division and was assigned a section to free prisoners at Dachau. There he rejoined the Third Army and was part of the drive to Bavaria and the takeover of Hitler's hometown of Branau, Austria, on May 2, 1945. He became Commandant of Branau until July of 1945 when he received orders to return to the States in preparation for the invasion of Yokohama, Japan. He landed in the United States for a 30-day leave before reporting to Camp Cook, California, but before the end of that leave, the Japanese surrender was announced.

After serving in the Reserve component for 6 years, he was again called to active duty in November of 1951 and then served in various training roles in the 129th Division until he was discharged from service in 1965 as a Lieutenant Colonel, thus ending a distinguished 23-year military career.

Mr. Speaker, Colonel Knodle's story is just one of thousands that this brave generation shares. When they were young men, our Nation sent these brave soldiers off to foreign lands to battle the forces of evil, and they came back heroes, setting our Nation on a true course for greatness.

We have often heard them called the Greatest Generation, and I cannot think of a more fitting title for these brave men. By sharing their stories and remembering their sacrifices, we celebrate the freedom our country enjoys. As Ronald Reagan noted on the 40th anniversary of D-Day, "We will always remember, we will always be proud, we will always be prepared, so we may always be free."

ORDER OF BUSINESS

Mr. EMANUEL. Mr. Speaker, I ask unanimous consent to give my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

THE IRAQ WAR IS COSTING US OUR FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, this week, the Senate finally passed the latest of the Iraq war supplemental funding. The $82 billion package brings the war's total cost to date, both in Iraq and Afghanistan, to $300 billion. This month will be the 2-year anniversary of the President's speech on the U.S.S. *Lincoln* announcing, "mission accomplished."

So what has "mission accomplished" and $300 billion got us so far? We have defeated Saddam Hussein's regime, yet we find ourselves marred in an endless occupation. This past January, we witnessed a successful election in Iraq, yet progress on developing a functioning government has been slow at best. Terrorism and insurgency are as strong as ever and continue to be escalating at certain times. Today, we saw that in a very serious way with more than 79 Iraqis killed in a terrorist act. Over the weekend, we lost again a number of our fellow citizens, bringing the total of U.S. soldiers killed to nearly 1,600 and 12,000 wounded. The economy in Iraq is stalled. The civil society cannot form a consensus, and millions of Iraqis remain without the basic services and functions of a civil society and government.

Our brave men and women are fulfilling their obligation and their duty to the United States Armed Forces and continue to fight valiantly, but the battle has taken its toll. As I said, nearly 1,600 fellow citizens have been killed. These are brothers and sisters, sons and daughters, mothers and fathers, aunts and uncles and Little League coaches and members of churches and other parts of their community who will no longer be with us. And more than 12,000 soldiers have been wounded. The strain is so great that recruiters for the Armed Forces cannot meet their enlistment goals. Last month, the Army alone missed its recruitment goal by 42 percent. The Pentagon now says they are stretched so thin, it would be difficult for the Armed Forces to meet other obligations should they need to do so.

Mr. Speaker, Operation Iraqi Freedom was a war of choice, and as President Kennedy once said, to govern is to choose. One can only hope that this choice is the right choice. In fact, while we have been fighting in Iraq, North Korea multiple times over the last 2 years has crossed red lines that have existed through Democratic and Republican administrations and has flaunted those goals. While we have been tied down in Iraq, North Korea's situation has gotten far worse.

Mr. Speaker, every other President in the history of the United States, when this Nation has gone to war, has thought about America after the war: how to build an America on the shoulders of that military victory so that victory overseas is also a victory here at home; how to build a stronger America for tomorrow.

Abraham Lincoln during the Civil War not only envisioned reconstruction but he envisioned a transcontinental railroad, envisioned land-grant colleges. President Roosevelt lead the Nation through the Great Depression in World War II, and he then in the closing days thought of a GI Bill and, 11 months before the close of the war, signed a GI Bill into law, allowing millions to buy a home and receive a college education. President Eisenhower, in the days of the Korean War, envisioned an interstate highway system. President Kennedy, during the struggles of the Cold War and Vietnam, envisioned a man on the moon and saw that America could envision something greater. Every President in every Congress throughout our history during the days of a war has thought about how to bring that victory home and mean a victory for the American people, not just a military victory.

So what do we have in these days of the war in Iraq and Afghanistan? President Eisenhower envisioned an interstate highway system; we have a President who is talking about vetoing our highway bill.

□ 1815

President Roosevelt thought of a GI bill, thought how to build America after the war. This President has eliminated and canceled vocational training programs and cut Pell grants, as well as President Johnson, during the days of the Vietnam signed into law the Medicaid legislation. This President's budget cuts $10 billion from Medicaid. All this because we are sagged down having added in the last 4½ years a little over $2 trillion to the Nation's debt. Our dreams for America are limited now, and literally weighed down by a Nation, by a debt that has been accumulated over the years that we cannot see an America with not only an interstate highway system, but we should have a broadband system for all of America to move it electronically forward into the future. It is the debt that is weighing us down and this, unlike in past military victories, this country has not seen the victory overseas to bring it home and make sure that all of America is also victorious.

FUELS SECURITY ACT

The SPEAKER pro tempore (Mr. KUHL of New York). Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, I did not come here to speak about Iraq. I have been there three times and the last time was 3 weeks ago. And each time I have been very impressed by the morale and the attitude of our soldiers, and they consistently have asked me to do this. They said, you know, we see two wars. We see the one that is being fought on CNN, and that is true. That is a reality, the bombings. But we also see the war that we are fighting. Would you please occasionally go home and tell people about the good things that are happening in education and health care, economy and so on. And so it is a tough deal. It is tough. And yet there are some good things that are happening.

The reason I came over here tonight to speak was about the Fuels Security

Act, which has been introduced by the gentlewoman from South Dakota (Ms. HERSETH), the gentleman from Iowa (Mr. KING), and the gentleman from Minnesota (Mr. PETERSON).

As almost everyone in our country is aware, we have really suffered from high fuel prices over the last several months. And this has probably been the greatest drag we could possibly have on our economy at the present time. We are now nearly 60 percent dependent on foreign oil. And OPEC can influence the price of fuel here dramatically by either loosening or tightening their fuel supply. We recently saw that with our negotiations with Saudi Arabia. And so this is a very uncomfortable position for this country to be in.

An alternative to foreign oil is ethanol and biodiesel. Currently, 10 percent ethanol blends are roughly 10 to 15 cents a gallon cheaper at the pump than regular gasoline. We find that E 85, which is 85 percent ethanol, is 60 to 70 cents a gallon cheaper. So in my State, Nebraska, E 85 has been selling for about $1.60 a gallon, where other fuels have been $2.20 and $2.30.

Currently, 20 States produce ethanol, and that would include California and Kentucky, States that at one time we assumed would never be in the ethanol business. And as many people know, ethanol can be produced from biomass, even certain types of garbage. And I think eventually all 50 States probably will have some type of ethanol production of one kind or another.

In 2004 we produced 3.6 billion gallons of ethanol. This year, 2005, we will hit roughly 4.5 billion gallons. And the reason I am here tonight is that I want to make clear that people understand that the renewable fuel standard in the energy bill passed by the House and now sent over to the other body mandates that we go to 5 billion gallons of ethanol production by the year 2012. Well, we are going to be over 5 billion gallons next year, in 2006. And that is why we have introduced the Fuels Security Act. The Fuels Security Act proposes that we raise the ethanol allotment from 5 billion gallons to 8 billion gallons by 2012.

Increasing ethanol production will have several positive consequences and effects on the economy. Number one, it will lower the price of gasoline. Currently, the ethanol industry that we have in place today lowers the average price of a gallon of gasoline by 29 cents. So if somebody has been paying $2.20 at the pump, they would be paying about $2.50 if we took ethanol out of the picture.

Ethanol production raises the price of a bushel of corn by about 30 to 40 cents a bushel. As corn prices increase, farm payments decline. It is a countercylical effect. And so ethanol reduces the cost of the farm bill by an estimated $5.9 billion over 10 years, which will certainly be a benefit to the taxpayer. It will add $51 billion to farm income over 10 years. It will reduce the trade deficit by $64 billion between 2005 and 2012. And everyone knows that we are suffering from a very disadvantageous trade deficit at the present time.

We will add 243,000 jobs to our economy and reduce greenhouse gases by 7 million tons a year. So we think that biodiesel and ethanol is a very viable alternative. It reduces our dependence on foreign oil. And we would hope that the other body would consider including the Fuels Security Act in conference when and if they get the energy bill passed.

ABUSES OF POWER LOBBYING REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, absolute power corrupts, and over the last decade, the cozy relationships that have been created between House Republicans and powerful corporate lobbyists have led to lobbyists controlling what happens here on the House floor.

Earlier this year, the Republican majority rammed through weaker ethics rules to protect one of their leaders who has come under scrutiny because of his relationship with a lobbyist. Fortunately, the American people were not fooled by this stunt. They saw the new rules for what they were, nothing more than an attempt to protect a powerful Republican leader. Finally, after media and public outcry became too much for the Republican majority to endure, Republicans agreed to reinstate the old bipartisan ethics rules.

However, Mr. Speaker, it is important to remember that had the public been indifferent and had the Democrats on the Ethics Committee gone ahead and allowed the committee to organize under the weakened rules, today this House would be structured under ethics rules that would allow either side, Democrat or Republican, to shield its Members from scrutiny. Mr. Speaker, the Republican ethics reversal was good for this institution and good for the American public.

I wanted to say, though, Mr. Speaker, that lobbyists still have too much power within the Republican majority here on Capitol Hill. House Republicans turned to lobbyists from the pharmaceutical industry to write a prescription drug law that does nothing to help senior citizens with the skyrocketing prices of their prescriptions drugs. Republicans turned to lobbyists from the oil and gas industry to write an energy bill that does nothing to address the rising costs Americans pay at the pump. With each of these bills rewarding lobbyists with billions of dollars in tax breaks and government handouts, Republicans did absolutely nothing to help out middle-class Americans who continue to struggle to make ends meet.

I think it is time Congress rein in the power of Washington lobbyists. Last week the gentleman from Massachusetts (Mr. MEEHAN) and the gentleman from Illinois (Mr. EMANUEL) introduced legislation that would dramatically reform the way lobbyists do business in this town. The reform legislation would force lobbyists to publicly disclose who they meet, whether it is a Member of Congress or an administration official, and what issue they are lobbying about. If the news reports of the last 4 months have shown anything, it is that lobbyists work below the radar screen here in Washington, and it is time for that to change and this reform legislation to get a good start.

The gentleman from Massachusetts (Mr. MEEHAN) and the gentleman from Illinois (Mr. EMANUEL) want to bring a Republican on board to make their reform legislation bipartisan, but so far they have no takers. In fact, when the gentleman from Texas (Mr. DELAY), the majority leader, was asked about the reform legislation last week, his first response was to simply laugh. And then the gentleman from Texas (Mr. DELAY) responded, and I am quoting, "I am not interested in the water that they are carrying for some of these leftist groups."

Now, I would maintain that lobbying reform should not be a partisan issue. The majority leader should not stand in the way of any Republican who decides to sign on to the Meehan-Emanuel bill.

And could it be that the Republican leadership has become so cozy with Washington lobbyists that they do not want to see any lobbyist reform?

Mr. Speaker, 10 years ago the gentleman from Texas (Mr. DELAY) said right here on the House floor, and I am quoting, "The time has come that the American people know exactly what their representatives are doing here in Washington . . . are they feeding at the public trough, taking lobbyist paid vacations, getting wined and dined by special interests? Or are they working hard to represent their constituents? The people, the American people have a right to know."

Now, that is what the gentleman from Texas (Mr. DELAY) said, as I said, 10 years ago. But, Mr. Speaker, what has happened to the majority leader over the last 10 years that makes him sing a different tune today?

I think it is time this House support real lobbying reform, and it is time House Republicans seriously look at the ideas that the gentleman from Massachusetts (Mr. MEEHAN) and the gentleman from Illinois (Mr. EMANUEL) have put forward in their legislation.

EXCHANGE OF SPECIAL ORDER TIME

Mr. PRICE of Georgia. Mr. Speaker, I ask unanimous consent to take the time of the gentleman from Indiana (Mr. BURTON) at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

SCIENTIFIC MODEL FOR DECISION-MAKING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. PRICE) is recognized for 5 minutes.

Mr. PRICE of Georgia. Mr. Speaker, I appreciate the opportunity to address the House this evening and talk about an issue that is not Republican; it is not Democrat. It is an issue that may potentially affect every single citizen in our Nation.

When I ran for office as a physician, many folks in my district and in my family and in my practice asked me why? What on Earth do you want do that for? Why would a physician run for office?

Well, in addition to the feelings that most of us had, I suspect, about making a real difference, one of the things that attracted me to being a public servant, running for office, was the opportunity to bring the scientific model to decision-making in the world of public policy. As a physician, I was trained in the scientific model.

And what is that? That means that when you have a problem before you, like a patient who has a disease that you do not know about, that you work as hard as you can to identify that problem, and then you gain as much information about that problem as possible. And then you define specific solutions for the problem, and then you enact one of those solutions. You enact one of those treatment plans, if you will, and you measure the result, see where you are; and if you are not where you need to be, then you change what you are doing and move on so that you make modifications that are necessary so that you work toward that end goal.

Now, this is a classic model for doing all that is necessary and not more. It also allows for the greatest amount of critical thinking about any issue, not just scientific issues, but any issue; and if it is followed, it will result in the best outcome.

Now, the opportunity to bring this type of decision-making, what I call solution-making, to Congress is truly a great privilege. For if we do not address problems in this manner, then we are left with political battles where the argument that carries the day goes to the group with the most and greatest number of troops on their side, or with the side that has the most passion or the most emotion in their argument.

Now, there is nothing wrong with numbers, and there is nothing wrong with passion, and there is nothing wrong with emotion. It is just that they may not get you to the right solution.

And such is the case, I believe, with the issue of stem cell research. What is the problem? What is the problem that we are trying to address with stem cell research? Well, it is diseases. Patients have diseases and stem cells may be able to cure some of those diseases.

Stem cells are cells that when they are stimulated or encouraged, they may become other kinds of cells, many of which may be beneficial in the treatment of diseases.

And there are basically three types of stem cells. There are embryonic stem cells, those cells that come from an embryo, a human before it is born. There are cord or placental cells, those cells that are left over after the birth of a baby. And then there adult stem cells; and those cells, in spite of the fact that they are called adult, come from anybody that has been born.

Now, regardless of where you come down on this matter, which cells ought to be used, I think it can be said that no one can state that this issue is not full of ethical dilemmas. The beauty of this issue is that science, if you follow the science, we can avoid those ethical challenges. And the bonus is that they work.

If you take a peek at this poster here, what we have are adult stem cells. And there are all sorts of different adult stem cells. There are bone marrow and peripheral blood and hair and cells from your stomach or your GI tract or the placenta or the brain. All of those can result in a different kind of cell. You can get tendon from bone marrow. You can get nerves from peripheral blood cells. You can get heart cells from skeletal muscle cells. All of these kind of cells are available.

In addition to that, the adult stem cells that have been used and studied have actually shown great benefit in many different diseases, unlike embryonic cells to date. Adult stem cells have treated 43 different types of diseases from brain cancer to myasthenia gravis to stroke. So they work. A couple of examples, Parkinson's patient treated with his own adult stem cell continues to exhibit relief from 80 percent of his symptoms more than 6 years after his surgery. A phase 1 human clinical trial using this therapy is currently under way.

□ 1830

Umbilical cord cells were used to treat a South Korean woman who had been paralyzed, a spinal cord injury. She now is able to walk.

Dr. Denise Faustman, a leading diabetes researcher from Harvard has completely reversed end-stage juvenile diabetes in mice and has FDA approval to begin human clinical trials.

As we go through this discussion over the next number of weeks and months and years, frankly, I urge my colleagues to look anew, to look objectively at the issue of stem cell research. If we do, I believe that we can then all determine that we will work in a reasoned manner together to allow scientists and researchers to help the patients of our Nation.

A FREE AMERICAN

The SPEAKER pro tempore (Mr. KUHL of New York). Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, last night, the House passed House Resolution 193 as a suspension bill. For people who may not know, suspension bills are meant to be noncontroversial measures the House typically passes unanimously.

I voted no. Let me tell you why. Because it was a protest vote meant to encourage freedom and liberty for all Americans. Let us start with what it said.

H.R. 193 is a resolution that says in part, "expressing support to the organizers and participants of the historic meeting of the Assembly to Promote the Civil Society in Cuba on 20 May 2005 in Havana. Whereas, Fidel Castro's terrorist regime has continued to repress all attempts by Cuban people to bring democratic change to Cuba and denies universally recognized liberties, including freedom of speech, association, movement and the press."

I could go on but there is no need to. It is all right there in what I just read. We decry liberties denied Cubans while a Cuban-American in my city of Seattle is denied the right to go to Cuba to visit his son by the U.S. government.

Remember the grandstanding on Elian Gonzales? We wag our fingers at Fidel and shout about Cubans being denied liberty at every moment. Well, we are denying the right of an American to travel to Cuba for a few days to see his son. How hypocritical is that?

I am talking about the plight of Sergeant Carlos Lazo. He came to America from Cuba in the early 1990s floating on a raft in the ocean. He risked his life for a chance to come here. Talk about the quintessential story about risking everything to call America home. Carlos Lazo is the stuff of books and movies and news coverage. He wants none of it. He just wants to see his children in Cuba. And the United States government will not let him go.

Floating on the raft in the ocean, that is what Carlos Lazo did. That is about as courageous as it gets. So he arrives in America. He moves to the State of Washington. A man grateful to be alive, he determines to embrace his new country and do everything within his power to give back. He joins the Washington National Guard. Over a year ago, his unit dispatched to Iraq. Now Carlos serves his country in one of the most dangerous places in Iraq, Fallujah, as a medic. He serves on the ground in Iraq for a year.

When his duty is over, Carlos wants to go see his kids still in Cuba. Carlos goes to Miami, but he is denied the right to travel to Cuba. He is denied the right to board an airplane bound for Havana. He saw them in 2003, and he is told by the government: You cannot see them again until 2006. Three years.

Sergeant Lazo, who proudly served America, who risked his life to get here and risked his life to defend liberty, is now a man whose liberty has been denied. He cannot see his children in Cuba until the President lets him go.

When will Carlos be able to visit his children in Cuba? I ask that the Speaker, because the administration is in denial, call the White House. They want to perpetuate a bureaucracy and a failed policy, not assist an American who wants the sum total of what every parent wants, the right to see their kids.

The government has in place a policy which denies the basic liberties of an American hero, and we have not lifted one finger in this House to help Carlos Lazo. The Secretary of Defense is not interested in him. The White House is not interested in its citizen. The White House and this House are only interested in wagging fingers at Fidel Castro.

Carlos Lazo is a man who embodies everything Americans stand for, courage, determination, quiet thanks from a man grateful to have made a new life and a new home. And now Carlos is a man who cannot be united with his family. Carlos is a man who did not want to be anything but a quiet, grateful American and is forced to become a man in the spotlight, hoping someone will pay attention, hoping someone will let him see his kids.

H. Res. 193 is a suspension bill that would have us suspend disbelief. Carlos deserves the thanks of a grateful Nation and the immediate assistance of this administration and the Congress. We ought to add his name to H. Res. 193 so he can travel. We should do that and make a resolve that the United States of America, which sees itself as a beacon of liberty in the world, extend its support to Carlos Lazo and will facilitate his immediate travel to Cuba to be reunited with his kids.

Anything less than fighting and defending the liberty of Carlos Lazo from the State of Washington is the work of a Congress long on hyperbole and short on action in defense of liberty.

Mr. Speaker, call the Secretary of Defense before the day is out. I bet he is still in his office. Send Carlos Lazo to Cuba, to his sons in his former homeland, so he can be a free American.

If you want to make a real statement about what it means to be free, let one American be free, free to travel, free to be reunited with his children, free to show the people of Cuba, firsthand, what freedom means in this country.

Free to show Cubans firsthand that America does not have to prevent its citizens from leaving the country in order to keep them.

Mr. Speaker, use your office to intercede and let this House stand as a beacon of freedom and liberty for every American, not just some Americans.

So long as Carlos Lazo is forbidden from visiting his children in Cuba, America can only be known as the land where some are truly free and others are truly denied liberty.

Send Carlos Lazo to Cuba.

SUPPORTING LT. PANTANO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I have spoken at great lengths now about Second Lieutenant Ilario Pantano, a Marine who served our Nation bravely in both Gulf Wars and who now stands accused of murder for defending himself and this country.

Lt. Pantano's article 32 hearing ended 2 weeks ago, and now the investigating officer in the case, Major Mark Winn, is set to make his recommendation on the case to the Second Marine Division Commander, General Richard Huck, by Friday.

I stand here today to represent the thousands of people who have joined in my hope and prayers that, on Friday, Major Winn will recommend that all charges be dropped against Lt. Pantano.

Based on the facts of the case, the man who brought forth the allegations, Sergeant Coburn, is someone who did not see the shooting and who waited 2½ months to report the incident. I am convinced that this lieutenant should and will be exonerated of all charges.

I know that, during the hearing, both his Marine and civilian attorneys did an excellent job of proving the innocence of Lt. Pantano, and I have the utmost confidence in the system that the truth will prevail.

Mr. Speaker, I wholeheartedly believe that Lt. Pantano was doing his job when he found himself in an unfortunate situation where he needed to defend himself and his platoon members against the enemy.

Having met and interacted with Lt. Pantano and his family over the past few months, I have had the opportunity to get to know them well. I am certain that the man I have come to know is not a murderer. He is a dedicated Marine who loves his Corps, his country and his family.

Mr. Speaker, I put in a resolution, House Resolution 167, to support Lt. Pantano as he faces trial. I continue to urge my colleagues in the House to take some time to read my resolution and look into this situation for themselves.

Lt. Pantano's mother also has a website that I encourage people to visit. The address is www.defendthedefenders.org. I would like to repeat that, www.defendthedefenders.org.

Mr. Speaker, I close once again by asking that we do not send the wrong message to our men and women in uniform and cause them to second guess their decisions. I fear that instilling doubt into the minds of our Nation's defenders places their lives and the security of our Nation in jeopardy.

Mr. Speaker, I close by asking God to please bless Lt. Pantano and his family, and hopefully, on Friday, this decision will be to exonerate this wonderful lieutenant who loves his country. I also ask God to please bless our men and women in uniform and their families. I close by asking God to please bless America.

NATIONAL COVER THE UNINSURED WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to call attention to the fact that last week was the third annual National Cover the Uninsured Week.

The purpose of National Cover the Uninsured Week is to raise awareness of the problem of the uninsured and the need for reliable and affordable health care coverage. To this end, I shall briefly discuss the problem that we face as a Nation and call attention to some proposed movement towards solutions.

The challenge that we face as a Nation is grave. According to the U.S. Census Bureau, 45 million Americans lack health coverage, a figure which includes 8 million children. In my home State of Illinois, 1,800,000 individuals lacked health coverage in 2003. This problem is not merely one of numbers, statistics, charts and figures. It impacts real live people in every State in the Nation.

Families forced to pay high medical bills out of pocket are the same families that default on loans, are unable to save for their children's education and are forced into bankruptcy. Children who lack coverage are children who are unable to get necessary preventative care or treatment. Additionally, the problem is the enormous burden on health care providers who sometimes must charge those who are covered more in order to care for those lacking coverage, as they are mandated to do in emergency situations. This situation only fuels the ever-increasing cost of health care in this country.

Sadly, I know all too well that I have not just shed light on a previously unknown problem. My colleagues in the House have surely heard this many times before. However, all of our talk has yet to provide solutions.

Fortunately, three bills have been introduced that will help to alleviate this grave and well-documented problem: the Medicare Early Access Act, the Family Care Act and the Small Business Health Insurance Promotion Act.

Together, these bills will help to expand access to Medicare to younger workers, provide incentive to States to extend the State Children's Health Insurance Program, CHIP, to working parents and eligible children, and make it easier for small businesses to cover their employees. It is quite possible that enactment of these proposals would extend coverage to 20 million more Americans.

While this is less than half of the total number of America's uninsured population, it is certainly a step in the right direction. After all, even a journey of 1,000 miles must begin with a single step. But the real deal is, Mr. Speaker, we need a national health plan, single payer, with everybody in, nobody out. Health care is indeed a right and not a privilege. Every American should have it.

HONORING JAMES McCLAMMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE. Mr. Speaker, I rise today to salute an almost 80-year-old veteran from my southeast Texas district. A dedicated American, a charter member of the greatest generation, Private James McClammy this weekend finally received the honors due him after 60 years.

A bit of history is in order, Mr. Speaker. Private McClammy was born in Canton, Mississippi, in the mid-1920s. James McClammy grew up during the Great Depression. Times were tight, tough and hard.

Mr. Speaker, he was a depression baby, as he calls himself. His family moved to Poke County, Texas, just outside of Livingston. That is in the Piney Woods of deep east Texas. He was the son of a State highway worker. And although he lived in a peaceful country atmosphere, the world would soon be at war again.

This teenager would be like thousands of other Americans: he, too, would go off to war. With the outbreak of World War II, Mr. McClammy was drafted right out of high school. A strapping 18-year-old, he has answered that call with abiding courage. He began his basic training in the Lone Star State at Fort Sam in San Antonio and then in Camp Walters, Texas.

It is interesting to note, Mr. Speaker, that my dad about the same time was going through basic training at Camp Walters, Texas, and he, too, served in the great World War II in Europe.

At any event, Private McClammy later was sent to Fort Benning, Georgia, for jump school to complete airborne training. Following the D-Day landings, Private McClammy was assigned to the 501st Parachute Infantry Regiment, 101st Airborne Division's Easy Company and was deployed to Holland.

Having been a member of the famous Screaming Eagles for less than 4 months, this young private was about to experience a day he would never forget. It was Sunday the 17th, Mr. Speaker, a perfect Sunday in September of 1944. Private McClammy was one of more than 30,000 Americans and allied paratroopers involved in Operation Market Garden. They were charged with the important yet extremely perilous mission of descending into German-occupied Holland. Their objective was to secure the bridges across this occupied country's rivers so the allied forces could avoid the German defense line, the Siegfried line.

☐ 1845

One of these bridges was referred to in the military history as a Bridge Too Far. The 101st traveled swiftly northwards and into the lowlands of Germany. If their valiant jump attempts were successful, many believed the war could be over by Christmas, but this was not to be.

Private McClammy recalls the morning of the daylight jumps. He says, "My memory is not as good as it used to be, but it was a beautiful day and there was no enemy fire. Our goal was to capture and hold a bridge, a railroad bridge in Veghel, Holland, to prevent the German Army from seizing and destroying it. While the Germans were initially caught off guard by the airborne landings, they were by no stretch of the imagination defeated."

The jump into Holland was unlike any of Private McClammy's other jumps because there was no swinging around after his chute opened. Because they were so close, they jumped and almost immediately hit the ground. During the mission, Private McClammy's personal duties were clear: move forward, capture the bridge.

The Screaming Eagles 501st Regiment was led by Colonel Howard Johnson. With all of but one of his battalions descending as planned into the drop zone near Veghel, Colonel Johnson's men, including Private McClammy, marched steadfastly into the city where they successfully completed their mission and held and followed their orders: hold until relieved.

He says, "We held the bridge and then got relieved by another unit. It wasn't until later in the day that the enemy fire started." While he completed that day's work unscathed, the next week he was not as fortunate. On September 23, the Germans started shelling and they continued to shell.

Amidst an artillery barrage, a nearby shell explosion sent shrapnel flying into Private McClammy's hip. He was the sole survivor because three of his teenage friends, other members of the 101st, were killed in that attack. He was trapped for several days, and finally evacuated to a field hospital in Belgium where they operated on him.

He was then flown to a facility in England where he spent the remainder of September until early December recovering from his wound. At that point, he traveled on a crowded ship back to the United States where he boarded a train from South Carolina to Texas that stopped at various cities in the southern United States to drop off wounded veterans.

Private McClammy was discharged after the war and, like many of his band of brothers, never learned he had earned the Bronze Star for his action in World War II. It was only recently that a friend and fellow soldier from the Easy Company, Willie Ray Fox, brought this to his attention.

Mr. McClammy tried for 2 years to get his medal without success. In March, he contacted my Jefferson County office, and he was awarded those medals last week.

Mr. Speaker, I want to thank the military and members of my office for helping to find him those medals, and they were, Mr. Speaker, the World War II Victory Medal, the Combat Infantry Badge 1st Award, the Honorable Services Lapel Button, the World War II Parachutist Badge, the Purple Heart, and the Bronze Star.

We thank Private McClammy for his service. We thank him for being a good American. We thank him for his service.

As Shakespeare wrote many years ago about the band of brothers: "From this day to the ending of the world, but we in it shall be remembered—We few, we happy few, we band of brothers."

UNITED NATIONS REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. GARRETT) is recognized for 5 minutes.

Mr. GARRETT of New Jersey. Mr. Speaker, as we approach the 60th anniversary of the United Nations, it is appropriate that we look at its original mission and evaluate whether the United Nations has accomplished what it was set out to do.

The U.N. charter states in part that its purpose is to maintain international peace and security; to develop friendly relations among Nations; to achieve cooperation; and to promote and encourage respect for human rights. But, unfortunately, if we look at the U.N.'s record on these issues, we see that they have failed on every account.

Firstly, the U.N. has not maintained international peace and security. In fact, since 1945 there have been over 300 wars and over 22 million people have died in those wars. The only two times that the U.N. has ever supported intervening to stop hostilities was the Korean War, when the Soviet Union had boycotted the Security Council meeting, and the first Persian Gulf War.

In fact, the biggest threat to the civilized world today is terrorism, and the U.N. has failed throughout its existence to develop a clear definition of what terrorism is even.

Another main mission of the U.N. is to promote and encourage human rights and equal rights throughout the world. The U.N. Commission on Human Rights is the primary body to get that job done.

However, such countries as Cuba, Sudan and China, all of which have long histories of violating human rights, sit on that commission. In fact, several years ago, Libya, with its terrible human rights record, was selected to serve as chairman of that human rights commission.

In regards to the U.N. fulfilling its mission of solving international problems of an economic, social and cultural character, recent reports by the Heritage Foundation, the Freedom House, and The Wall Street Journal all indicated that a majority of the nations that are in the U.N. are neither politically nor economically free nations.

These general problems with the unaccountability of the U.N. lead me to one of the biggest problems and biggest scandals in the history of the U.N. and that is the Oil-for-Food scandal.

Right after the first Gulf War, this was put in place. The Oil-for-Food program was created to help those people in that country get the food and supplies that they needed. However, Saddam Hussein used the money to advance his own weapons and military programs as the poor people continued to be plagued by starvation and disease.

By allowing the corrupt Saddam Hussein regime to manipulate the Oil-for-Food program and bribe officials from other countries around the world, more than $21 billion was stolen by Hussein at the very expense of the people that the program was designed to help, the Iraqi poor.

The U.N. has continuously denied access to the papers that would help us to get to the bottom of this. That is perhaps one of the most troubling problems with the Oil-for-Food program, the lack of cooperation by the U.N., lack of cooperation to help us all get to the bottom of what really went on. They have denied us access to papers, and they have also denied us access to the people who were involved and shielded them from responsibility.

The U.N. claims to be addressing these concerns by establishing the Volker Commission to investigate the allegations. However, it has been stated by a member that Volker has close ties to the U.N. and also to Secretary General Annan, as well as other conflicts. He has been accused of downplaying Kofi Annan's involvement in the scandal in his most recent interim report, and it was just 2 weeks ago that two of his top investigators on that very commission resigned because they felt that the report was too soft on Annan.

Volker is continuing to block congressional investigations by demanding that those committees return relevant documents and not allowing the investigators that resigned to testify before Congress.

I think that this behavior by the U.N. and its investigating committee is totally indefensible and cannot be tolerated. Kofi Annan's complete lack of humility, contrition, and acknowledgement of any wrongdoing should be disappointing to the entire world; and it is for that reason that I support suspending all U.S. funding to the U.N. until they agree to cooperate fully with the ongoing investigations into the Oil-for-Food scandal.

Another ongoing scandal at the U.N. that has not received as much press is the human rights violations in the Congo. U.N. peacekeepers in the Congo stand accused of committing 150 major human rights violations. They are accused of raping and forcing prostitution on hundreds of refugees, many of them children. These barbaric acts raise serious questions of the ability of U.N. oversight on their very own peacekeepers.

The United States has contributed over $750 million towards that Congo peacekeeping mission since 2000. So the U.S. taxpayers at home, I believe, should know where their money is going and should know that the U.N. is doing its job to make sure that the people over there are protected.

All these problems that I have mentioned just now lead back to the very point that I am trying to make here tonight, that there is a lack of oversight and accountability by an international body that claims to represent the moral conscience of the world, and this should not be tolerated. As the largest financial contributor to the United Nations in the world, the United States is the one country in the best position to demand these reforms.

Tomorrow, we are expecting an extremely important vote to take place on the other side of the Capitol. A vote "yes" there will be a vote for U.N. reform, but a vote "no" will be a vote against U.N. reform. I certainly hope that that other body will vote in favor of U.N. reform.

SOCIAL SECURITY REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentlewoman from Kentucky (Mrs. NORTHUP) is recognized for 60 minutes as the designee of the majority leader.

GENERAL LEAVE

Mrs. NORTHUP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Kentucky?

There was no objection.

Mrs. NORTHUP. Mr. Speaker, tonight we are eager to talk about Social Security and to talk about what it means to this country, to our seniors, to those that are about to be seniors and to our younger generations, our children, our grandchildren who will support the system throughout their work years and to talk about new opportunities that exist in Social Security to make sure that Social Security is sustainable and solvent for their lives, just like it is for those who are seniors today.

I think we should start the discussion by inviting seniors today who currently receive benefits to stay tuned. There are many people that talk about Social Security, that remind seniors that whatever changes occur they are changes for those who are in the current workforce and that it will not change for today's seniors. Sometimes that sounds a little bit like saying to today's seniors that they are not needed when, in fact, they are badly needed in this discussion.

It has always been our seniors that have appreciated Social Security specifically, but also had a broad interest to reflect on what it means to them and how important it is for their children and grandchildren. Over the years, they have been the caretakers of a system to make sure that Social Security lasted beyond their generation and into the future, both for their children and grandchildren, but also for the good of this country.

We need our seniors today just like we have always needed our seniors. We need them to pay attention to this debate, to participate in it, to bring us their good ideas, and to remind us that it is just as important to them that their children and grandchildren have a secure and solvent system of Social Security available to them.

So I thank our seniors for their concern. I thank them for the fact that they raise the issue at public meetings, in letters to the editor, in the mall. All of the places that we visit, they remind us that Social Security is important and that they are listening and that they care about the issue.

I invite them to listen to the ideas about the changes, changes in this country, changes in the demographics, changes in the challenges, and to bring to us their ideas of how we can better improve Social Security, make it stronger and more secure for their children and grandchildren.

It would be hard to start such a discussion without starting with the difference in the demographics in this country and why they present to us new and different challenges than when Social Security began back in 1935 or when it was last changed back in the early 1980s.

So let us start there. When Social Security began, there were 40 workers supporting every retiree. Forty workers are a lot of workers, and for a little bit, all of those workers could pool and support the retirees that were currently in the system.

Not so long ago when we last changed Social Security, there were 12 workers in the system that supported every retiree; and so, again, it was a program where current workers could fairly easily support the retiring community.

Today, there are only three workers in the system for every retiree, and that means that every worker has to give considerably more to the system in order to make sure that we meet the needs of our retirees; and for our children when they start to retire, there will only be two workers in the system for every retiree.

☐ 1900

And so we are looking to improve the system, to strengthen the system, to make sure it is for our children, as they bear that responsibility, also an opportunity to strengthen the system itself and that it will be a system that they can then pass on to the generations behind them as a strong, solvent and sustainable program.

Mr. Speaker, my friend here, the gentleman from Minnesota (Mr. KLINE), is eager to talk about this issue and to share with me his perspective. I know he hears from his seniors. I know he hears from the young people in his district, and he understands the challenge that we face as the demographics change, and so I yield now to him.

Mr. KLINE. Mr. Speaker, I thank the gentlewoman from Kentucky (Mrs. NORTHUP) for yielding to me and I also thank her for her leadership on this issue.

I was just listening to her talk about the change in demographics, and I immediately sort of flashed back to a whole series of town hall meetings that I held in my district. I know many of my colleagues have done those, and one of the charts that I have put up in all of these town hall meetings is a graphic that shows very clearly the very issue that my friend from Kentucky was talking about. It is a chart that shows that, as late as 1950, there were 16 people working and paying social security taxes for each retiree. Sixteen for one, as late as 1950.

But, today, Mr. Speaker, as she so clearly pointed out, there are only three people working. And when my children, much less my four wonderful grandchildren, retire, there will be only two. That chart, when you put that on an easel and the folks attending the town hall meeting have a chance to look at that and absorb the impact, by the time I get to the point in the meeting where I ask all those attending how many of them think we need to do something, that we need to do something to strengthen Social Security, to fix Social Security, every hand goes up. I think it is inescapable.

It is interesting that, in my town hall meetings, most of them were designed to invite senior citizens to come into the meeting, and so the vast majority of the folks attending the meeting and engaging in the discussion were in fact seniors. Some of them had come at the urging of organizations like the AARP. But across the board, they look at the inescapable fact that we have fewer and fewer and fewer people working for each retiree, and also they realize the inescapable fact that we are just living longer.

If you look back to when Social Security started, under the urging of President Roosevelt, the average life expectancy was around 61. I know it changes if you are a man or if you are a woman and so forth, but the general life expectancy was about 61. By the way, retirement age was 65. A very interesting concept they had back then. But, today, the life expectancy is on the order of 77 years. And as we look at the retirement situation for my children and grandchildren, life expectancy is around 83 or 84 years. Clearly, we are living longer, we are having smaller families, and we are going to end up in the situation where the demographic changes in this country are going to put us in a position where there simply are not enough people working in order to provide the benefits for our retirees.

Now, in one moment, I will be happy to yield back to the gentlewoman, but it has been interesting to me as we have gone forward in the discussion in this debate how often some of us are accused of wanting to destroy Social Security or wreck Social Security or end Social Security or put something risky into the program that my mother, for example, my 84-year-old mother depends on, and that is Social Security. Now, I do not, I know the gentlewoman does not, and our colleagues do not want in any way to destroy Social Security and the very important benefits that so many of our seniors depend upon. So as we have gone forward in this discussion and certainly as we have looked at the many, many proposals, we track them in our office. And we are up to 13 identified proposals to do something about strengthening and saving Social Security. We look to make sure it is not going to do any harm and then underscore, as the gentlewoman said earlier, that all of us, I guess it is a sign of the times, all of us who were born before 1950 are not going to be affected.

The plans have been made. Folks are depending on the checks coming like this. And, frankly, we do not want to have anybody alarmed that there will be changes in the Social Security checks that they have come to expect. But in the long term, we are looking to strengthen the program, and we are just coming to grips with the demographics that she described that show we simply are not going to have enough people working and paying taxes to provide for retirees if we do not do something to strengthen the system.

With that, I yield back to the gentlewoman.

Mrs. NORTHUP. I thank the gentleman for his comments, Mr. Speaker. And, you know, the gentleman from Minnesota brought up the changes in demographics and not only the fact that there are fewer workers for every retiree but also the fact that we are living longer, and I think we all have to really celebrate that.

It used to be that the average age of death was when you were 61; you could not retire until you were 65. So forward looking, you did not have the hope of so many years of retirement and opportunity to live and travel and live a life full of opportunities to see your grandchildren grow and graduate from high school. So the changes in demographics are really something to celebrate, to appreciate and to recognize that it is to the benefit of all of us. But we have to make sure that the Social Security System supports those changes.

I see that my friend, the gentleman from Texas (Mr. CONAWAY) is here to join us in the discussion, and I want to welcome him and thank him for joining us. I will bet he is hearing many of the same discussions in Texas these days, and I yield to him now, Mr. Speaker, to comment about that.

Mr. CONAWAY. Mr. Speaker, I appreciate the gentlewoman's yielding to me and allowing me to visit with our colleagues tonight on a very important topic of Social Security reform, and I am indeed hearing a good bit about this.

Mr. Speaker, I am a CPA, an accountant, and I address problem solving by first deciding whether or not there is a problem. My colleagues tonight have presented a very good case for the fact that we do have a problem. Now, you can call it a crisis. You can call it a problem, or you can call it challenges. I think we should not get hung up on the descriptor; let us just simply look at the math.

A lot of what we do in Congress is based on things that are not quite as verifiable as the math associated with this issue. And you do not have to be a rocket scientist to understand the math, to have gone through the number of employees working versus the number of recipients and how that ratio is closing to get to two to one and the fact that in the law today is built in a 27 percent cut in those benefits in the year 2041, 2042. It is at that point that the trust system, the trust fund will have exhausted, and there is a cut in benefits at that point in time. I have a son that will be retiring at about that point in time, and I am not interested in him having a 27 percent cut in his benefits.

The other thing that I think each of us has to tell all of the seniors, and I have a mom and dad out there who are dependent upon Social Security, that your benefits are fixed. They will continue to grow under the existing laws. And my colleagues who are in the 55-and-up bracket, the same rules apply to you. Your initial benefit, that primary insurance amount that is talked about, is in the law now, and when you turn 62 or 65, then that number will be set, as you are expecting it to be set today, and it will continue to grow over your lifetime so that your benefits are assured.

Every single plan that is being discussed does absolutely nothing, repeat nothing, to affect those promised benefits. So once you have assured the folks that have retired and are near-term retirees, those people who have the least amount of time to react to whatever changes are made, that they are not going to be affected, then they should be on the side of those of us who want to change it, who want to put security in the Social Security for our children and grandchildren.

My colleague from Minnesota mentioned his four grandchildren. You know, the first liar never stands a chance. I have six grandchildren that I am very proud of. And I believe that the lifetime benefit, the lifetime annuity that is Social Security, that this country has put in place for 75 years, that has stood us in good stead for 75 years, is important for my parents. It is going to be important for me, but more important to me as a grandfather, it ought to be in place for my grandchildren and my children. And we have the opportunity now to address that and to put the security back in Social Security for our grandkids.

Another fact that is reasonably undeniable is that, each year we delay in whatever the fix is, whatever the compromises we make, whatever the solutions are, each year we delay that, we do a couple of things: One, we add $600 billion to the unfunded liabilities that are accumulating on the balance sheet of this country. The other thing that we do is we begin to narrow the options that we have to fix Social Security. Not only do we narrow those options, but we make whatever the fix is more extreme in those options that are available to us.

So in my mind, we do not have to argue it is a crisis or whatever. In my mind, we ought to be about fixing Social Security today, so that when we begin to face what I think is a much heavier problem and heavier lift, which is Medicare and Medicaid, we will have Social Security behind us and set for the foreseeable future, infinite horizon, whatever you want to talk about, that we have in fact put this behind us and are now working on those two very daunting challenges.

Some of the opposition that I hear, and most of that opposition until recently has been what I refer to as our outside voices; we have not had too many conversations using inside voices. Remember the kindergarten days, when you would come in off the playground, and the teacher would say, Let's begin to use our inside voices. We listen to each other better when we are using voices than when we are screaming at each other at the top of our lungs.

Recently, I participated in a meeting with some representatives from AARP and a couple of my Democratic colleagues and some of my Republican colleagues, including the gentlewoman from Kentucky (Mrs. NORTHUP). We sat in a room for about an hour and a half using inside voices, looking each other in the eye, trying to understand what the other person's position was, trying to understand how they see the problem, how they see the solutions and at the same time trying to convey to our colleagues as well as to the leadership of AARP, our positions and why we think our solutions are the ones that ought to be a part of the ongoing situation.

As I understand it, that may have been one of the first opportunities for Members of both sides of the aisle to sit and look at each other in a quiet environment and to talk. I think the last 30 minutes of that meeting is probably one of the most productive we have had anywhere, because everybody had kind of gone through the initial party-line rhetoric and got that out of our system, and then we began to talk seriously about how we see Social Security and this need for change.

Let me give one illustration. I mentioned I have six grandchildren. I cannot find one grandparent who would gather their, my number is six, did I mention I have six, three boys and three girls, gather their grandchildren up and take them down to their local banker and say, Mr. Local Banker, I want to borrow a lot of money that I want to spend on myself, and I want you to draw up the loan papers so that my six grandkids will pay that loan off. I am talking the money, but they have to pay it off. I do not find many grandparents on an individual basis that would do that to their own grandchildren. But, somehow, we collectively, as a society, think that is okay, because that is what we are doing, that exact same thing. We are writing checks that we cannot cash, that we are going to require our children and grandchildren to pay off.

And Social Security is in that mix. And so we should be very serious about this process of reforming it. I am excited that, tomorrow, as I understand it, we will begin to have hearings in the Committee on Ways and Means to begin to look at specific things. Until this point in time, the effort has been to try to convince each other that we do in fact have a problem that needs addressing and needs addressing now.

We are coming to the end of that stage, and now is the stage we begin to look at the individual solutions, adopt the ones that ought to stick with us and cull the ones that should not. So we are in the process of gathering all those good ideas up to see which ones fit. My guess is, it will be a multifaceted fix. There is no one single change or new policy that will fix Social Security. It is going to require a lot of pushing and shoving in a lot of different areas.

Two things, and then I will close and yield back. In my mind, personal savings accounts ought to be an integral part of whatever solutions we come up with. They are not a panacea. They do not in and of themselves fix this issue, but what they do address is a way to improve Social Security, to add an element of ownership to Social Security that we do not currently have.

If I work 40 years and die, there is a little bit of survivor benefits that go to my wife, but the bulk of what I have accumulated in terms of Social Security benefits forfeits back into the system. We can do a better system than that, and these personal savings accounts will add ownership-like issues to Social Security, which in my mind is an improvement to the overall system.

So I think that is important. And I have lost my second thought, so with that, I will yield back to my dear friend from Kentucky.

□ 1915

Mrs. NORTHUP. I am so impressed that the gentleman from Texas would tell us he has six grandchildren. My husband and I, after 36 years of marriage and six children, have one grandchild. I hope that I will catch you someday. They are the most blessed part of our lives and it is one of the things that makes us think long term as we consider public policy, what about our children, what about our grandchildren and hoping that their days are going to be as hopeful and filled with opportunity as our generations have been.

The gentleman from Georgia (Mr. GINGREY) has joined us. Welcome. Tell us what you are hearing in Georgia about Social Security.

Mr. GINGREY. I want to thank the gentlewoman from Kentucky (Mrs. NORTHUP) and, of course, the gentleman from Texas (Mr. CONAWAY) and the gentleman from Minnesota (Mr. KLINE). The gentleman from North Carolina (Mr. MCHENRY) is here, too. It is great to be here tonight to join with the team in talking about this. I did a quick count as we were talking about children and grandchildren. I think among the three of us, we have 15 children and 11 grandchildren. So it was really good particularly to hear the gentleman from Texas talking about our obligation to our children and our grandchildren. That is something that is so important, and it is an extremely important thing to mention tonight.

The problem that we have with Social Security, as has been pointed out by my colleagues, is a demographic problem. And thank God we are living longer today than folks did back in 1935 and 1936 when, as the gentlewoman from Kentucky (Mrs. NORTHUP) pointed out, the life expectancy was 61, 62 years old. You could not even get early benefits at that point. You had to be 65. So Social Security for the government was a pretty good deal. They were not really worried about the trust fund.

Unfortunately, Congresses over the last 70 years have spent the trust fund money. I will not say squandered it. Certainly they have not stolen it. They have spent the money on very worthwhile endeavors, whether it is K–12 education, higher ed, Head Start, veterans benefits, agriculture, you name your favorite Federal program. But now we are in a real bind and that trust fund is not there and even if it were, even if it were and we did nothing to change Social Security as we know it, we get to the year 2042 and if we do nothing, and the other side of the aisle basically so far is saying, hey, it's not a crisis, maybe it's a nuisance and let's try to ignore it and do nothing. If you do that, across the board, Social Security beneficiaries are going to receive 73 percent of that defined benefit plan, what we promised them; they would get 73 cents back on the dollar. That is just not acceptable.

One way to fix the system, of course, and we have talked about this, would be to change the way you calculate that first check. The way it has always been done has been based on average wages, and that is what our current 45 million-or-so Social Security beneficiaries, their initial check is based on average wages. Then, of course, there is a COLA, cost-of-living adjustment, every year.

One of the ways to fix this problem, to make sure that people get, the seniors who are continuing to receive their checks, would be to change the way we calculate the initial benefit for those who are not yet at retirement age and to go from that first check based on average wages to average prices. If we do that, then we will solve the Social Security solvency problem. But people who are not yet retired, who are approaching retirement, the younger workers, their initial check will be a benefit that is probably 30, 35 percent less than our current beneficiaries are receiving. They would continue to get a cost-of-living adjustment. That would fix the system.

What the President has said and what this majority is saying is, we can combine that with the option for our younger workers to invest in an individual personal account with up to 4 percent of the 12.4 percent FICA tax. That would be their money. It would be their account. They literally would have their name on it. It would enjoy the miracle of compound interest. And for somebody 25 years old, you would get 35 or 40 years' worth of compounding. At the end of the day, that is, at the point of their retirement, whether they take the early retirement at 62 or at their age of full retirement, the benefit they would accrue, and it could be as much as a total corpus of $250,000 in that individual personal account. That combined with their Social Security benefit check would mitigate a lot of that loss and they would get almost as much as the current retirees are receiving, or maybe even more depending on performance.

Basically, the President has said, Mr. Speaker, very clearly that anybody 55 years and older and current retirees would be completely held harmless from any loss in their benefit. They would continue to receive what they are getting. There would be no changes. And now the President has actually, Mr. Speaker, taken it a step further. A week or so ago in a press conference, President Bush for the first time introduced the idea of progressive indexing and basically said this: those workers, those younger workers who are at the lower level of income, their initial check at retirement would continue to be based on average wages, so that they would absolutely not suffer any loss in their benefit. Yet they would have that option, if they wanted to, to take a small portion of their account, up to 4 percent initially, and put it in an individual savings account. It would be guaranteed that they would not take any loss of benefit, but there would be the distinct possibility, if you think about and look at the stock market over any 10-year period of time since its inception, that the return on that investment in that individual account would compound, would grow, would enjoy the miracle of compounding and they would have a much larger benefit at the end of the day than they would if they had not chosen that option combined with Social Security as we know it.

I think the opportunity for us to come together in these late afternoon and evening sessions and talk to our colleagues on both sides of the aisle and make sure that they understand so they can go back into their districts and explain to their constituents, we each represent 630,000-or-so great Americans, those people back home are receiving a lot of misinformation. They are getting these automated phone calls, they are getting these direct mail pieces paid for by 527s and the unions and God knows who, and the well is being poisoned. These people need to know. They need the facts. They need some honesty.

I really appreciate the gentlewoman from Kentucky for giving us this opportunity to come together this evening and talk to our colleagues and make sure that they are listening and understand because we want what is fair and balanced; we want what is good for our parents and our grandparents, but we certainly want the best possible for our children and grandchildren.

Mrs. NORTHUP. I want to thank the gentleman from Georgia for joining us. I know you have talked at great length about this. You have worked so hard on it and talked to so many of your constituents, and you bring their wisdom and insights to us today. It is important that we talk about it. It is a very complicated issue, talk about calculation of benefits; but it is very hopeful. It is hopeful that workers who are more likely going to depend on this even more, most of all because they are maybe in the lower third of wages, that they are going to have nothing but better opportunities. They are going to get the full benefit of calculation and the possibility of a personalized account also. For those at the highest end, they will have the calculation that starts maybe less, but they will have the personalized account that can give them every bit of what they would have gotten under the old system.

So lower-income workers would have nothing but a better opportunity. Higher-income workers would be able to have about the same thing that they have under the current system. Yet there is a huge difference. The system would be sustainable and solvent for our children and grandchildren.

There are people, as you know, that keep talking about why we should not change anything, but I think the point tonight is the hope and opportunity that exists in today's proposals.

The gentleman from North Carolina (Mr. MCHENRY) has joined us. He is one of our youngest, but brightest, Members. He is a leader on this issue. He has spoken on it with such great wisdom. I thank him for joining us tonight.

Mr. MCHENRY. Mr. Speaker, I certainly appreciate the gentlewoman from Kentucky hosting this hour. It is a wonderful opportunity for us to discuss the most important issue that this Congress is bringing forward. The most lasting reform is the best reform, and that is what we need to look forward to with this challenge of reforming Social Security. The Member that preceded me speaking was the gentleman from Georgia (Mr. GINGREY) who has taken on this issue with gusto and also the gentleman from Texas (Mr. CONAWAY) who is one of the first Members of Congress that actually said, let's get all the people at the table, let's get Democrats and Republicans and let's sit down with the AARP and let's try to discuss solutions for this challenge of Social Security. It was a wonderful thing to try to get all these players at a table together to talk about this most important issue.

Social Security is a program that is in trouble. It is in trouble because of the changing demographics of our Nation. It was built upon the idea that workers working today would pay for retirees that are retired currently. It was a system where workers would be taxed to help pay the benefits of retirees. That works when you have a large number of workers and a small number of retirees, but the changing demographics of our Nation require us to act in order to sustain this program.

When Social Security was formed, there were 41 or 42 workers per one retiree. Today, there are only 3.3 workers per one retiree. Therefore, that system of taxing current workers in order to give a benefit to current retirees does not work with those numbers. It is not sustainable. What we need to look for is permanent solvency, lasting solvency, for this program of Social Security.

It has been a vital institution for our Nation over the last 70 years. It has helped many seniors be lifted up out of poverty. It has given a strong benefit to those that maybe are not able to work anymore. And it is a commitment that we have made as a great Nation to those that have put in their fair share into the system, those that have worked their whole life, played fair, paid into the system, and done what was right. We need to maintain that obligation that we have made, that previous generations in this country have made to seniors. This Republican Congress, this Republican House, this Republican President, have taken this issue on so that we can do good things for our seniors. We do not want to break Social Security. We want to make it stronger. The key way to make it stronger, the key way to create permanent, lasting solvency is through personal retirement accounts. That is the vital component for any reform. There are a couple of options that we can look at.

First some say, well, let's just raise taxes, and we can keep those benefits going. Or let's subject new income and new forms of taxation on the American people and small businesses, and we can keep the income stream going. That may work. That may work. But in order to make that obligation, in order to meet our current obligation, taxes would have to double on Social Security. Taxes would have to keep going up in order to keep that commitment going.

Others have said, Well, let's just cut some benefits. Again, that may be an opportunity for some to consider. It is something I reject. I do not think we need to cut benefits or raise taxes. I do not think they are the right way of achieving solvency.

Mr. KINGSTON. If the gentleman will yield, I think it is important to think in terms of Social Security, there are two problems. One is of generational fairness, which we can talk about a little bit later. The other one is solvency, which you have been discussing. We have dealt with the solvency issue by cutting benefits and raising taxes many times over the years. In fact, since 1937 we have raised the taxes on Social Security 20 different times. That is the amount of your money that is taken out of your paycheck by the Federal Government, that FICA tax that all these 23-year-olds getting out of college have their first job and they discover somebody named FICA is sharing in their efforts, their sweat equity.

□ 1930

But that started out, as the gentleman knows, 1 percent and 1 percent in 1937; employer 1 percent, employee 1 percent. In 1960, it was 3 percent, 3 percent. In 1978, 5 percent, 5 percent. Today, it is over 6 percent. We have done that 20 different times.

We have also cut benefits. In 1983, we actually raised the retirement age from 65 to 67. That is a benefit cut because, over one's lifetime in receiving benefits, if they have to wait 2 more years, that is a reduction of their benefit.

So we have done that traditional solution, short-term political fix, which gets most politicians through their next term. And I am glad to hear the gentleman say that we have got to look for a different way to work on the solvency issue.

Mrs. NORTHUP. Mr. Speaker, reclaiming my time, let me just point out that as recently as 1993, many of our colleagues across the aisle participated in raising taxes on Social Security benefits. So, previously, far more of the Social Security benefits were untaxed at any level. Today, far more of them are taxed, and they are taxed at a higher level because of the tax increase in 1993. Now, the way I think about it is, if we start taxing Social Security and we tax it at a higher level, that is a reduction in benefits.

So I am shocked to hear some of our colleagues talk about criticizing anything about benefits when, in fact, there was an enormous chunk of Social Security benefits that were retaken back from seniors starting in 1993 because of the tax increase.

Mr. MCHENRY. Mr. Speaker, will the gentlewoman yield?

Mrs. NORTHUP. I yield to the gentleman from North Carolina.

Mr. MCHENRY. Mr. Speaker, this goes to the heart of the problem. As the gentleman from Georgia (Mr. KINGSTON) and the gentlewoman from Kentucky (Mrs. NORTHUP) have said, the heart of the problem is solvency. We have a system that is going progressively more insolvent each day. As the baby boomers begin to retire in 2008, 2009, we have a problem. We do. So the gentleman from Georgia (Mr. KINGSTON) mentioned solvency. The way in the past that we have achieved solvency was by raising taxes, cutting benefits. I prefer to say cutting taxes. That is just in my heart. But in terms of what we are trying to achieve, they have said we can cut some benefits, we can raise some taxes, and we can achieve solvency. The demographics of our Nation have changed so much that we have to look for the third way in order to get a better return on our Social Security investment, and the only way we can do that, the only way we can do that, is through personal retirement accounts. Much like 401(K) plans or IRAs or even the Thrift Savings Plan that current government employees, including us, have the benefit of. So it is wonderful, but that also goes to the heart. The heart of this issue is generational fairness, and I think that is an interesting point.

Mr. KINGSTON. Mr. Speaker, will the gentlewoman yield?

Mrs. NORTHUP. I yield to the gentleman from Georgia.

Mr. KINGSTON. Mr. Speaker, I just wanted to say that the plans the gentleman from North Carolina is talking about are similar to mutual funds, which they, up here, are selling. But I wanted to mention this generational fairness issue because I think that is part of the kitchen table discussion, and I always say Social Security needs a kitchen table solution because, if we are talking with other seniors, we are not moving the ball down the road. If we are talking to college students, we are not moving the ball down the road. We have got to have Mom and Dad, grandparents and grandchildren at the kitchen table and say, What is fair? And this is why it is important: If one retired in 1980, they got all their benefits back. Every nickel that they paid into the system, they got it all back within 3 years. If one retired in 2003, it will take them 17 years.

And if the gentleman does not mind my getting personal, as I recall, his magic retirement age is 2041.

Mr. MCHENRY. Absolutely.

Mr. KINGSTON. Mr. Speaker, that is the year we cut benefits 27 percent unless we do something to protect and preserve the system. So for somebody like the gentleman who retires in 2041, it is going to take them probably 30 years. I do not know the mathematics. He may have figured it out, if he knows. But I know it will take him about 20 to 25 years at minimum to get all of his investment into it, and that means he can actually have a negative return; whereas there are a lot of people who have gotten a decent return out of Social Security, 5, 10 percent. But today, it is a 1 percent return, getting worse, and that is why there is a generational fairness.

My experience has been, when we talk to seniors and seniors who might even say, let us just raise taxes like we have in the past, we say, yes, but that does not solve the problem of the gentleman from North Carolina's (Mr. McHenry) friends. We are not worried about the gentleman from North Carolina, but we are going to worry about his friends. And the truth of the matter is when seniors say, Well, wait a second, you mean to tell me I have already gotten all my money back, but my kids will probably never get their money back? We say yes. Then we get into a real generational fairness. And that is why it is so important to have everybody at the kitchen table when we work on it.

Mr. McHENRY. Mr. Speaker, if the gentlewoman from Kentucky will continue to yield, I spoke with a group of seniors in Hickory, North Carolina just 2 weeks ago and discussed Social Security reform, and I said all the proposals that have been put forward in front of Congress, all the proposals, if we consider every one of them, no single proposal, none of them, will change their current benefits if they are 55 and older. So those that are retired today, they should not allow AARP to lie to them in order to say that their benefits are going to be cut because no change to this program will allow for benefit cuts of current retirees. That is a pledge that we have all made in this Congress and our President has made as well. So I think we have to, first of all, be honest about it and tell our seniors today, this is not going to change their check. Their check is going to be there. We have made that commitment to them. They have played by the rules. They have paid into the system. They have played fair. So we are going to honor our commitment to them. However, it is important for them, if they are retired today, in order to make sure that their children and grandchildren have the same benefit that they are currently receiving. They want to leave them in a better system.

And I spoke to these retirees. I was at the seniors' games, in fact, 300 members of our seniors community, and I discussed this. And they said, Wonderful. They are actually happy that we are trying to take on this challenge for younger workers while at the same time keeping our commitment to those that are at or near retirement age.

So it is wonderful that the gentleman brings up generational fairness because, as the youngest Member of Congress and someone who is eligible to retire in 2041, that is the date that even some of the left wing Senators on the other side of the building here even admit that, in 2041, the system goes insolvent. So I think it is important that we discuss this issue of generational fairness.

I want to maintain the commitment to my grandmother, but at the same time, I want to make sure that my generation has the same benefit of a strong, vibrant Social Security system, so that when I retire, it is there, and it is affordable and reasonable.

And with that, I certainly appreciate the Secretary of our Republican Conference allowing me to have this colloquy here on the floor.

Mr. KINGSTON. Mr. Speaker, will the gentlewoman yield?

Mrs. NORTHUP. I yield to the gentleman from Georgia.

Mr. KINGSTON. Mr. Speaker, I wanted to mention, if I can, that we met with the AARP, American Association for Retired People, the largest retirement group in America, and did it on a bipartisan basis. And the gentleman mentioned that the gentleman from Texas (Mr. Conaway) pulled that group together. One of the things I was glad to hear AARP say is, We admit there is a problem; there is a problem with Social Security. I can tell my colleagues, in Washington, that is a huge first step because, months ago, we were hearing, No, there is no problem, that the President is exaggerating. So let us say we have got a little bipartisan glimmer of hope here that there is a problem.

The next question might be then should we address it now or wait and punt for future Congresses and elections. AARP was a little more, Hey, it is probably right to discuss it now and try to get something done. The gentleman from Louisiana (Mr. McCrery) of the Committee on Ways and Means is going to start having hearings on it. In fact, I think he will this week, if I am not mistaken. Lots of hearings are good. Lots of thought, because, personally speaking, and I think I speak for my two colleagues, we do want Democrats at the table. We want this idea to say, Go into the meeting, but do not say these are my lines in the sand. Let us go into the meetings open minded.

Mr. McHENRY. Mr. Speaker, if the gentlewoman will continue to yield, I would like to add one further thing. I enjoyed the piece the gentleman put together on Social Security reform and actually outlining what we in the conservative side of the House want to do in order to achieve lasting reform, to have generational fairness, while at the same time maintaining our commitment to have a strong, vibrant Social Security system. And I certainly appreciate what he wrote in the newspaper today. It was a wonderful article, and I recommend those who are watching or hear us here today to take a look at that, to understand what we are going for here by reforming this vital system.

And I certainly appreciate the gentlewoman from Kentucky taking on this challenge and leading our public affairs team in the House on the Republican side in such a good, strong direction by getting the message out on the need for reform and the positive aspects of it as well.

So with that, I thank the gentlewoman from Kentucky (Mrs. Northup) for hosting this hour.

Mrs. NORTHUP. Mr. Speaker, I share my colleagues' concern about doing something now. The importance of it is easier to do it now because we can phase things in. We have opportunity and some time that we will not have if we wait until we are truly in a crisis.

But the crisis is coming on us very soon. The fact is baby boomers are going to retire starting in 2008, and then we will have a quick increase in the number of benefits, more people retiring and getting out of the workforce and basically fewer years in which to make any transitions.

One of the things that people say all the time that are on the "we do not have to do anything now" side is that they say we need to let the trust fund pay the benefits, all the money in the trust fund can pay the benefits up until a certain number of years. And, of course, the gentleman from Georgia (Mr. Kingston) knows there are no dollars in the trust fund. In fact, the trust fund never was meant to hold those dollars. They were meant to take in those dollars and lend them to the government.

Now, I suppose if we could bring back the Congress of 1945 and 1950 and 1955, we could ask them what their plans were for the year 2005, 2018, 2042. I suspect they would say that, as many times have happened, at that point, the need seemed to be to provide those additional revenues to the government. Again in 1967, when Congress changed the benefit scheme, they added increased taxes on an increased basis that they paid into Social Security. They needed it to fund the war in Vietnam and to fund the Great Society. And I guess if we could bring back those Congresses we could say, What do you mean by spending Social Security taxes on the Great Society and the war? But that has passed. And the fact is that those dollars were spent.

I will say, though, that any company that took money into some sort of trust fund where there were going to be payouts expected would have had to accrue the liabilities, and if those liabilities had been accrued, along with the dollars in the trust fund, today, we would have $10 billion of accrued liabilities in the liability side across from the trust fund. So even if we had not spent the trust fund, not we but the Congresses of the past, before we got here, not spent the trust fund, the liabilities would swamp the dollars that are in the trust fund.

So it is important to recognize that generations before us benefitted from the dollars that came into Social Security but then were paid out for other government programs. They funded the Great Society. They funded education benefits. They funded defense. Things that those generations believed were important. Our current seniors. And now the responsibility for our children, of course, is to continue to fund investments in education, Pell grants, medical research, our defense programs and, at the same time, assume the responsibility for Social Security.

The exciting thing is, when we put our heads together, we can figure this out. The sooner we do it, the less difficult it will be so that benefits stay strong and are available to our seniors in succeeding generations, so that our children and grandchildren, as they meet the responsibility of retirees that go before them, can also grow within Social Security a solvent and sustainable system that will support their generation and the workers that are behind them in the system.

So I know that the gentleman from Georgia (Mr. KINGSTON) shares my belief that this is a time of hope and opportunity. We need to seize the moment and to really get the best ideas together to tackle the problem and set this program on a long-term course of sustainability.

Mr. Speaker, I yield to the gentleman from Georgia (Mr. KINGSTON).

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Mr. KINGSTON. Mr. Speaker, I thank the gentlewoman for yielding.

I wanted to say I think there are some real opportunities here to address a number of the issues. The gentlewoman has mentioned the diversion of some of the Social Security surplus fund. Our Democrat colleague, the gentleman from Mississippi (Mr. TAYLOR), has a bill I am interested in, and that bill has to do with a constitutional amendment that says any proceeds in the Social Security trust fund have to actually be taken completely off budget.

It does not really say where it could be held, because the problem is if the Federal Government has all that surplus, where do they put it? Do they invest it, do they buy gold with it, do they bury it in the ground, do they put it in a vault somewhere? You hate to think of billions and billions of dollars not earning interest. But I think the gentleman from Mississippi (Mr. TAYLOR) has an interesting bill. I am looking at it.

I also tried to figure out how do you do the lockbox. We have worked to try to get some sort of lockbox passed in the House in the past, and I am not sure we should reopen it. I have had some discussions about it, and it always boils down to, okay, you have a lockbox. What do you do with the money? I am a believer that if you almost did nothing with it, you would be better off than what we are doing now.

But I think that part of the Social Security solution is we should have a real discussion on what do you do with the temporary surplus. I say "temporary surplus," because it will start to be gone in the year 2018, rapidly diminishing going to 2041.

But I think all these things, if we can get some bipartisan discussions going, I believe we will find some things we agree with the other party about.

The gentlewoman from Kentucky knows that when we sat down with the AARP and they showed us their set of core principles and we showed them our core principles, there was a lot of overlap. It was not perfect, ,but there was plenty to stay in the room and keep talking about.

Mrs. NORTHUP. Mr. Speaker, reclaiming my time, I agree that it was a very interesting discussion. I will say, and I know that our younger generation would appreciate this, that in the course of conversations, there was one person that said, Let me just ask you this for curiosity's sake: If we had to say to our children and grandchildren that because of confluence of things, the economy, America's leadership in the world, whatever, that we were able to pay better benefits to current retirees and those about to retire, but you are just unlucky and you are not going to have the same benefits and that is just going to be where you fall in history, would that be acceptable?

I think pretty much everybody in the room said that would not be acceptable, that that would not be something that any of us feel we could say to our children and grandchildren.

Now, the opportunity is that we do not have to; that at the same time we shoulder the responsibilities of those that have retired and those about to retire, and at the same time we meet our responsibilities to domestic programs, that by investing in Social Security, and, yes, taking it off budget so we do not spend the surplus, yes, allowing personalized accounts, yes, guaranteeing those in the lower one-third of income full calculations, like they have always had, and for those in higher levels, maybe they would have a combination of personalized accounts and a different calculation, that all of that can make the system solvent, sustainable, and also maintain benefits.

For those who think raising taxes is the answer, I think it is important to recognize that everything in this country, our domestic programs, Social Security's long-term solvency, depends on a growing and vibrant economy, and without that, this country will be in dire financial straits.

When you look at a country like France that has maintained retirees' benefits, but at the same time has done it purely by taxing more and more in more and more ways and at higher and higher levels, basically what they have done is create a society that is stale, that is not growing and is not able to provide the revenues they hoped the tax increases would bring.

Mr. KINGSTON. Mr. Speaker, if the gentlewoman would yield, I am glad the gentlewoman brought that up, because one of the things that is interesting, and I have traveled in some of the Eastern Bloc countries, and one thing that really amazes me when you talk to countries like Bulgaria or Lithuania, Latvia, Estonia, the Czech Republic, these countries that only 10 to 15 years ago were freed from Soviet oppression and they are now out experimenting with democracy and the rule of law, one of the things they realize is if you have absolute security for everybody in terms of government-sustained programs, then you do not have any work base and your economy does not move forward. You have done a lot of things at the cost of opportunity.

I think France is a miserable country in terms of an economic role model. I see a lot of these other countries that are really growing and making some huge changes and taking some bold steps.

I think one of the things we have to do is realize that decisions of 1937, do you want to still be driving a car and relying on communications or medical systems from 1937? Yet when it comes to social programs, we think a 1937 social model is the best thing in the world, the best we can do.

That is what bothers me. Because we are Americans. We should not fear. We should be able to be world leaders and not have to point to other countries and say, well, you know, look, this is what we want to do. We need to be braver and stronger and not become a nanny state.

Mrs. NORTHUP. Mr. Speaker, reclaiming my time, if today Social Security was just being designed, if we knew that people who get to be 65 are probably going to live 17 more years, if we knew that you were going to work a certain number of years and then you were going to be able to have a life expectancy that would go on for a number of years, you might have dreams of traveling, of going to visit your grandchildren, of staying in your home and being able to maintain it, all of those dreams would depend on an entirely different savings and retirement system than the system that was designed in 1945. You certainly would not design Social Security today like they designed it back in 1945.

So to just steadfastly refuse to concede that opportunities are better for Americans, there is a new paradigm in retirement that exists, there are new opportunities, and there is a new way of deriving benefits that grow the economy, that do not overencumber the workers that are still in the workforce, we would do that in a minute.

It is disappointing that we have not been able to move further in this discussion than we have. But as we all know, it takes a lot of discussion.

I am eager to hear from my seniors. I know the gentleman is. Even though things will not change for them, I think it is important that we continue to invite our seniors to the table because seniors have always not only protected Social Security for their current benefits, but been very eager to make sure that it was going to be there for their children and grandchildren.

I thank them for their continued investment in time and interest for that.

Mr. KINGSTON. If the gentlewoman will yield, I again want to say that we often get bogged down in the politics of the moment, the politics of the next election, the politics of the current 5 years or whatever; and we should be thinking in terms of the next generation rather than the next election.

But the other thing that I keep coming back to is because there are two issues, a solvency issue and a generational fairness issue, what my job assignment, my homework assignment is, when I have a town meeting I say to everybody, what I really want to ask you, sit down at the kitchen table with the parents, with the grandkids and the grandparents, and figure it out. Just see if you can find that balance.

I had one guy in a town meeting say, This is all about greed. All you have to do is increase the taxes 1 percent. He was 70 years old. He would not be paying taxes. The guy behind him was 30 years old and said, Sir, respectfully, I have to tell you that is not acceptable for me, because I am going to be the one paying.

Similarly, a lot of people think the golden arrow here is taking the cap off it. But if you take the cap off it, people get more benefits.

One thing to keep in mind, anytime you make it more expensive to hire an employee, then our folks are going to be going offshore with the jobs. We are already losing too many jobs offshore. Furthermore, there will be a lot of illegal aliens in America not paying into the system. I think part of Social Security should be tied into illegal immigration. It is actually not immigration if it is illegal; you are here as an illegal alien.

All of this stuff, we should get the best ideas of the Democrats and Republicans, throw them on the table, get the folks back home to say this is the direction we want, and that is what we are trying to accomplish here.

Mrs. NORTHUP. Mr. Speaker, reclaiming my time, I thank the gentleman for joining me tonight. The gentleman from Georgia (Mr. KINGSTON) is a leader in our conference and a leader on Social Security, and, of course, has long been appreciated for the ability to take very complicated issues and talk about them in ways that we all understand, and we can share and benefit from his insights.

I want to end tonight by saying that we are all more concerned about the next generation than the next election, and how much we appreciate our President, who from the day the last election was over did not forget that through that campaign he talked about the importance of taking on this tough issue, and did it so well and has been out talking to the American people. It is very refreshing to see somebody take on such a tough challenge and talk to the American people about it.

VOTE "NO" ON THE CENTRAL AMERICAN FREE TRADE AGREEMENT

The SPEAKER pro tempore (Mr. CONAWAY). Under the Speaker's announced policy of January 4, 2005, the gentleman from Ohio (Mr. BROWN) is recognized for 60 minutes as the designee of the minority leader.

Mr. BROWN of Ohio. Mr. Speaker, this evening I am joined by fellow House Members, the gentleman from Ohio (Mr. KUCINICH), the gentleman from Missouri (Mr. CARNAHAN), a freshman, and other House Members who will join us shortly as we talk a little bit about the Central American Free Trade Agreement. Some call it the Central American Free Labor Agreement, as we will soon see.

As you can see by this calendar, we are barely 2 weeks away from the deadline set by the House majority leader, the gentleman from Texas (Mr. DELAY), the most powerful Republican in the House of Representatives, for a vote. They plan a vote in this Chamber on the Central American Free Trade Agreement. This deadline coincides with the 1-year anniversary of when President Bush signed the agreement.

That does not seem like news, except for this: every trade agreement signed by the Bush administration in his 4½ years in office, every single trade agreement signed by the Bush administration has been voted on within 60 days of its signing. The President signs the agreement with Australia, with Singapore, with Chile, with Morocco; and this Congress votes on it right away, in large part because there is not huge opposition to the trade agreements.

This time, we are now at 347 days since Congress, since the President signed the Central American Free Trade Agreement. That is how long CAFTA has languished in Congress without a vote. Why? Because Democrats and Republicans alike, people on this side of the aisle, people on that side of the aisle, understand that the Central American Free Trade Agreement is dead on arrival in the House of Representatives.

Last month, two dozen Democrats and Republicans in Congress joined more than 150 business groups and labor organizations echoing a united message: vote "no" on the Central American Free Trade Agreement. Yesterday, just outside this building across the street, more than 400 union workers and Members of Congress again gathered in front of the U.S. Capitol to deliver a united message; vote "no" on the Central American Free Trade Agreement.

So Republican leaders in this House and the Bush administration understood they had a problem. On this day it will be 12 months, 1 year, since the President sent CAFTA to Congress. There is not the support in this country or this Congress for this trade agreement because people understand what it does to our Nation, what it does to our workers, what it does to our food safety, what it does to the environment.

So what did the Republican leaders and President Bush do? They brought the six presidents of these five Central American countries and the Dominican Republic, they brought these six presidents to the United States. In fact, the six presidents are touring our Nation on a United States Chamber of Commerce junket going around the country trying to convince the American people, the press, and the American Congress to vote for the Central American Free Trade Agreement.

They traveled to Miami. They went to Los Angeles, they went to Albuquerque, they came to my State of Ohio attempting to convince Americans this is a good idea.

The Bush administration has not been able to sell it. Business in this country has not been able to sell it. The free trade ideologues in this Congress who need your vote for every trade agreement, they have not been able to sell it.

So what is next? They bring the six presidents from Central America to come in. Unfortunately, these presidents are not telling the whole story. Like our own President, they tried to convince us that CAFTA will lift up low-income workers and that CAFTA will create jobs here at home.

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First of all, there is no truth to that. We have heard that on every trade agreement. But what they do not say about CAFTA, what they have not said is that the combined purchasing power of the CAFTA nations, the combined purchasing power is equal to that of Columbus, Ohio, or equal to that of Orlando, Florida, or equal to that of

Memphis, Tennessee. They do not discuss the fact that people in Central America, the Central American Free Trade Agreement, these six countries, they do not discuss the fact that they are not making enough money to buy cars made in Ohio; they are not making enough money to buy software made in Washington State or steel made in Pennsylvania, or textiles or apparel made in North Carolina or South Carolina or Georgia, or planes made in Washington State. Why? Because look at the average wage in these countries.

The average wage in the United States is $38,000. People who are making $38,000, the average wage, can usually own a car, oftentimes own a small home, at least rent an apartment, sometimes own a home. People making $38,000 a year are buying shoes. They are paying into Medicare. They are buying clothes. They are consumers. They are buying products. But look at the rest of the countries in the Central American Free Trade Agreement: Costa Rica, $9,000; Dominican Republic, average salary $6,000 a year; El Salvador, $4,800; Guatemala, $4,100; Honduras, $2,600; Nicaragua $2,300. They are not going to buy cars made in Ohio. They are not going to buy steel made in West Virginia. They are not going to buy software from Seattle. They are not going to buy textiles from North Carolina. What is this all about?

What this is about is for U.S. companies to offsource, outsource offshore, send offshore jobs to these low-income countries. They will set up factories in Nicaragua, so they will pay Nicaraguan pennies on the dollar to manufacture products to sell back into the United States. It will not raise their standard of living in Nicaragua; it will certainly hurt our standard of living in this country.

But let me for a moment share again, when these six presidents toured the United States, what they said and what they did not say. What they did not say, with all due respect to these Central American leaders, they did not tell us that NAFTA-CAFTA does nothing to ensure enforcement of labor provisions in their own country. They have not told reporters or the Congress or the public that more than 8,000 Guatemalan workers protested against CAFTA last month; two of them were killed by the police in Guatemala. They did not mention that tens of thousands of El Salvadorans who protested the Central American Free Trade Agreement a year-and-a-half ago. They do not mention the 18,000 letters sent last year by Honduran workers to the Honduran Congress protesting, decrying this dysfunctional cousin of NAFTA. They did not tell us about the 10,000 people who protested CAFTA in Nicaragua in 2003. They did not tell us about the 30,000 CAFTA protestors in Costa Rica just this past fall. Hundreds of thousands of workers in these six countries have protested in 50 demonstrations in the last 3 years saying that CAFTA is not good for those countries.

Before yielding to the gentleman from Ohio (Mr. KUCINICH), I want to sort of finish this story of the six presidents. The six presidents last night assembled in Washington in the midst of their travels around the United States to sell the American people on a bad trade agreement between us and them. The U.S. Chamber of Commerce hosted a reception for these visiting dignitaries rewarding them for their lobbying efforts. You can walk around the Capitol today and the last couple of days and you would see these presidents going from office to office to office trying to convince American Members of Congress that they should pass this trade agreement. But they were rewarded for their efforts at a very lavish reception at the U.S. Chamber of Commerce last night.

You can see these presidents raise their glasses, toasting these U.S., these large corporations in the country, thanking them for this tour; you can see these corporate CEOs raising their glasses, toasting these presidents of the six countries, thanking them for fighting for this trade agreement which will, more than anything, help these large businesses. I wondered if these CEOs and I wondered if these six presidents reflected on what happens to small businesses in Ohio and Michigan, those that do not want another failed trade agreement. I wondered if they thought about the family farms in North Carolina and Louisiana holding on for dear life. I wondered if they thought about those workers in Nicaragua and Costa Rica and Guatemala and El Salvador and Honduras and the Dominican Republic. I wondered if they thought about that when they were toasting, the CEOs were toasting the six presidents and the six presidents were toasting the CEOs. My guess is they did not.

Tonight, we are here in this Special Order to talk about CAFTA facts and the fact that CAFTA is dead on arrival and the fact, as I mentioned earlier, that we are now down to 16 days. It will be 1 year, and this deadline is approaching, 16 days until CAFTA is absolutely buried.

I yield to my friend from my neighboring district in Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I thank the gentleman. I want to say that the people of Ohio are proud of the gentleman and the work that he has done in challenging these unfair trade agreements. For me to have a chance to join the gentleman in this important challenge to CAFTA is a privilege, and I again want to commend the gentleman for the service that he has given to the people.

I want to focus for a moment on one particular impact of CAFTA, and that is the impact on the availability of generic drugs, something that is another issue that the gentleman has worked on.

While the Bush administration says that they understand the need for lower-cost medicines in developing countries, their actions demonstrate greater concern for protecting the extremely high profitability of leading pharmaceutical companies. In the trade talks that resulted in the Central American Free Trade Agreement, CAFTA, our government pressed for tighter restrictions on generic drugs in the Central American countries. The result will be higher prices for medicines and higher profits for the pharmaceutical industry paid for by some of the poorest people on earth.

CAFTA has been one of the Bush administration's highest priorities in international trade. As we know, it extends the NAFTA agreement to all of the Central American countries that happen to be small and poor. The CAFTA countries include Guatemala, Nicaragua, El Salvador, Costa Rica, Honduras, and the Dominican Republic. It was formally signed by the administration, and it awaits congressional votes, which is why we are here to appeal to the Members of Congress to think long and hard before they would even consider supporting CAFTA.

The Central American countries that would be affected by CAFTA have significant health problems. AIDS, for instance, is more prevalent in the CAFTA countries taken as a whole than in the United States. According to Dr. Manuel Munoz, the director of Medecins Sans Frontiere's AIDS treatment program in Honduras, "HIV/AIDS kills one person in Honduras every 2 hours, because the vast majority of people with HIV/AIDS cannot afford lifesaving AIDS medicines." Malaria and tuberculosis are also prevalent. As a result, the people of these countries need greater access to essential medicines. Yet, CAFTA will make access more difficult for most residents and impossible for too many of them.

CAFTA accomplishes this by imposing new restrictions on the use of pharmaceutical regulatory data that will have the effect of limiting the availability of generic drugs.

Pharmaceutical regulatory data is the result of studies of patent medicine's efficacy and safety. These studies are performed by the companies seeking approval and are often expensive to undertake. The data are submitted to the drug regulatory agency in the company's application for approval.

When a company seeks to manufacture a generic version of a patent medicine, it must typically show that its product is the chemical equivalent of the patent medicine and that it works in the body in the same way. The generic producer relies upon the drug regulatory agency's prior approval of the patent medicine to make its case of approval of the generic version.

What CAFTA does is it gives extra patent protections to the drug regulatory data, thereby excluding any other user from relying upon them. In other words, not only might a particular medicine be protected by a patent, but, additionally, the drug regulatory data for that medicine is protected by a patent. Even if the medicine's patent expires, generic manufacture could be restricted due to the additional patent on the use of regulatory data. According to Robert Weissman, an attorney specializing in international trade and pharmaceuticals, "if the generics cannot rely on approvals granted based on the brand-name data, in most cases, they simply will not enter the market. This is especially true in small size markets, as in Central America, where prospective revenues are limited."

Now, CAFTA was formally signed on May 28, 2004. It will only become law if Congress passes it. In 2002, the pharmaceutical industry gave over $29 million in political contributions; three-quarters of that was donated to the Republicans.

Recently, I am sure the gentleman is aware, the pharmaceutical companies have been expatriating their profits to avoid paying income taxes here in the United States. They really do not want to pay income taxes there, but they want to control the political process here and, by reference, in Central America with the help of these trade agreements. I am glad to join the gentleman from Ohio (Mr. BROWN) in urging the Members of Congress to oppose CAFTA. Not only is it bad for workers, not only is it bad for human rights, not only is it bad for the environment, but it is bad for people's health.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from Ohio. Think about what he just said. This agreement has made it even harder for the poorest people in this hemisphere; again, look at the income here. The United States average income, $38,000. The gentleman from Ohio (Mr. KUCINICH) mentioned Nicaragua, Guatemala, Honduras especially; their income is less than 10 percent of ours, literally, and they are forcing, because U.S. drug companies have convinced the United States Trade Representative's Office, appointed by the Bush administration, convinced them to squeeze the poorest people in the world even harder on paying for prescription drugs. I mean, it is just, when we talk about values, when we talk about morality, to do that to the poorest of the poor that need HIV drugs, that need malaria drugs, that need tuberculosis drugs, that need antibiotics, and they are going to end up paying more money because, in fact, the United States Trade Representative said to the government of one country, If you do not change your laws, the gentleman from Ohio (Mr. KUCINICH) talked about this and has talked about it before, if you do not change your laws, we are not going to allow you into the Central America Free Trade Agreement.

It is not like the drug industry does not have way too much power with the gentleman from Texas (Mr. DELAY) and with Republican leadership and in the White House here in this country, where people are paying two and three and four times what they ought to be paying for prescription drugs; now we are seeing that drug industry exert its power, helped by the U.S. Government, in the poorest countries in the Western Hemisphere.

Mr. KUCINICH. Mr. Speaker, when you carry this along to its conclusion, what we have is a condition where the people in the poorest countries cannot protect their health. So we are looking at their life expectancy beginning to decline, and one of the reasons is because they cannot afford the cost of the prescription drugs. And just as people here are held hostage by the pharmaceutical companies with the high cost of prescription drugs, imagine what it is like for these poor people in Central America, who are making a tenth, if that, of what we make in this country, and they are paying a high cost for prescription drugs because the pharmaceutical companies want these trade agreements which protect their patents and will not permit generics to get the help to people that need it the most.

Mr. BROWN of Ohio. Exactly right. I thank the gentleman.

As I said, Mr. Speaker, the gentleman from Missouri (Mr. CARNAHAN) has joined us. We are also joined by the gentlewoman from Illinois (Ms. SCHAKOWSKY), who has worked on trade agreements for years; and the gentlewoman from Ohio (Ms. KAPTUR), my colleague on the other side of the State bordering my district to the west, who has been involved in trade agreements probably longer and more aggressively and more assertively than I think any Member of this body; the gentleman from Missouri (Mr. CARNAHAN), a freshman who has taken this issue and run with it. I yield to the gentleman.

Mr. CARNAHAN. Mr. Speaker, it is great to be with the gentleman from Ohio on behalf of the great people of the State of Missouri that I am fortunate to represent. I want to rise tonight to add my voice in opposition to the Central American Free Trade Agreement.

I have several concerns with the agreement in its current form, not the least of which are the effects it will have on American workers and the middle class. Trade agreements like CAFTA enable American companies employing American workers to send multiple aspects of their business overseas. This in turn allows these companies to exploit cheap labor in developing countries and import their products back into the United States. The resulting problem is really twofold.

First, there are no real protections for the workers in the Central American countries, and second, it is yet another means to put American workers out of work. CAFTA's answer to protecting low-wage workers in Central America is a self-enforcement provision.

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This really is translated into a nonenforcement provision because it will not help these workers in any way. The countries involved in this agreement do not have the necessary legal framework in place to protect the basic and fundamental rights of working people. If we are going to enter into trade agreements with other countries, it is our responsibility to ensure we protect the basic rights of working people in those countries and here at home.

Mr. Speaker, the other glaring deficiency with CAFTA is it will essentially fire American workers. Approving this agreement will be a guarantee that more jobs will leave our country at the expense of our U.S. workforce. Because there are no labor protections in place in the Central American countries to ensure adequate wages, domestic companies can simply outsource their work to these countries at a low rate and leave our workers out.

I will not support any agreement that displaces American workers and does not support basic human rights. I want to urge my colleagues to oppose CAFTA in its current form.

I want to also mention the differences between these two markets, the U.S. market and the Central American market. The U.S. economy had a $10.5 trillion GDP in 2002. It is about 170 times the size of the economies in the Central American nations. It does not take a trade expert to see the economic mismatch between the U.S. and CAFTA nations.

The viability of Central American nations as trading partners is an important part of the administration's CAFTA sales pitch. That is why U.S. trade representatives said Central America offers "expanded markets for American producers and new opportunities for U.S. workers and manufacturers."

But take a look at the U.S. Conference of Mayors Metro Economies report released in 2003. It confirms the administration's CAFTA numbers do not add up. The combined economic output of CAFTA signatories, Costa Rica, Honduras, El Salvador, Nicaragua, Guatemala is about equal to that of Orlando, Florida, as the gentleman from Ohio (Mr. BROWN) mentioned earlier. This falls far short of what the projections are by the Bush administration.

These raw numbers are bad enough. Consider the fact that a typical Central American consumer earns only a small fraction of a typical American worker's wage, about $191 a month. It is clear that CAFTA's true objective is not to increase U.S. exports. Central American consumers cannot afford to buy American-made goods today. And CAFTA's inadequate labor provisions ensure they will be unable to afford American-made goods tomorrow. This agreement offers little or no economic opportunity for American workers and producers. The CAFTA model is really a recipe for disaster. Congress must devise a trade agreement to promote business development and jobs in the U.S.

CAFTA should help Central American workers earn enough to buy American-made products. It is time to rethink U.S. trade policy, to do what is right, not just for the big corporations, but what is right for workers, small business, communities, and the environment.

The President is on the wrong track. Congress must demand a smarter trade deal than the current CAFTA negotiation.

I thank the gentleman for leading this tonight, and it is good to be here with you and the other Members to speak out on this.

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend, the gentleman from Missouri (Mr. CARNAHAN), for his good work and his interest, both in protecting American jobs and his interest in fair play in Central America so workers there have their living standards raised rather than continue to stagnate, which is what these trade agreements have done.

We are also joined by the gentleman from Ohio (Mr. STRICKLAND).

I yield next to the gentlewoman from Ohio (Ms. KAPTUR) who, as I said, has been working on trade issues for her entire 23 years in this Congress.

Ms. KAPTUR. Mr. Speaker, that is the way it has turned out to be, and I want to thank the gentleman from Ohio (Mr. BROWN) for his great leadership and vision and taking this CAFTA fight to the American people. It is a great privilege also to join with the gentleman from Ohio (Mr. STRICKLAND), our esteemed colleague from south and southeastern Ohio, who I know will be adding remarks and great insight as the evening proceeds; the gentlewoman from Illinois (Ms. SCHAKOWSKY); the gentleman from Missouri (Mr. CARNAHAN); and we had the gentleman from Ohio (Mr. KUCINICH) from the Cleveland area here a little bit earlier.

It is really amazing to me when you have a trade agreement like NAFTA, that is so absolutely a failure, that now there is a new trade scheme, and they have got a name that rhymes with NAFTA. I just, I cannot believe it. I cannot believe they are over there. They have got a cookie-cutter system, and they are not paying attention to results.

If we look at the recent history of our country, going back to the mid-1970s, when the first so-called free trade agreement was signed, every single year the United States has begun to develop trade deficits. That means we ship out more jobs abroad than we create jobs here at home. And we end up taking our income and paying somebody else to do the work that we used to do, and we accumulate these growing trade deficits. And they get worse with every decade.

When NAFTA passed in the early 1990s, we actually had a trade surplus with Mexico, which immediately turned into a trade deficit; and with Canada we have doubled the deficit that we already had. When we signed the agreement with China, which those of us who were here voted against, we did not get any more jobs. We did not get any more income. All we got was more trade deficit. It is so deep America has never been in this kind of deep water before. In fact, this year the trade deficit will accumulate at over half a trillion dollars. America has never faced this kind of loss. So it is amazing to me that they name an agreement to rhyme with one of the biggest failures.

And here are some charts, I think, that tell a fuller story about what has happened with the NAFTA agreement. When NAFTA was signed in 1994, we had accumulated trade deficits with Canada; but then every succeeding year, they got deeper and deeper and deeper. So, with Canada, we have not really benefited.

And with Mexico, the surplus we had turned into a gigantic and growing deficit. And now what is happening with Mexico, of course, some of those jobs are being shifted to Latin America and to China. So NAFTA has been a negative.

And what has been going on in terms of the United States, just take the auto industry which is the primary category of deficit with Mexico. We were already getting imports from Mexico prior to NAFTA's signing. Now it is just an avalanche coming the other way. And what we predicted has come true. Mexico has turned into an export platform to the United States. And what we are doing is actually creating a world system where people work for poverty wages or starvation wages. We have high-productivity poverty rather than high-productivity prosperity.

And, finally, if one looks at the China agreement which has a relationship here because this is the same cookie-cutter approach that they are giving us with China, the deficits were growing, but then when permanent normal trade relations, if you can call an abnormal trade deficit normal, I have never understood the words they use. We are just hemorrhaging with China. And just one company alone, Wal-Mart, takes 10 percent of the exports that China sends around the world.

So my basic point here this evening is, why should we have more of the same? Why should we believe them when they say it is going to be all right?

And, indeed, I would like to place in the RECORD an article that was in the New York Times this week where the President of Costa Rica actually said he wants to postpone legislative review on this so-called CAFTA, which is an expansion of NAFTA, until an independent committee finds that it will not harm the poor. Well, it surely will harm the poor. And that is why, in nations like Mexico, we have historic demonstrations in Mexico City for example, of farmers, of peasants, of people just demonstrating and saying we cannot take it anymore; particularly in the countryside, the people are saying we cannot take it anymore.

So I want to thank my colleague for bringing this issue to light. I think we have to be careful of the administration and their efforts to try to come in here and try to buy votes and say, what kinds of transportation project do you like? Oh, how much do you want? Do you need a bridge? Which way do you want it to go, east west, up, down, you know, below the ocean floor? I mean, we will do it for you. What else do you need? Do you need a base? We are moving a few bases around. That is what happened during NAFTA at the very end. The American people would have won that debate, but it was bought. It was bought and sold. And now look at the negative yield that it has produced for the American people.

So I thank the gentleman from Ohio (Mr. BROWN) for highlighting this this evening. And it has been a pleasure to join my colleagues tonight.

[From the New York Times, May 10, 2005]

FREE TRADE PACT FACES TROUBLE IN CONGRESS

(By Elizabeth Becker)

WASHINGTON.—Social Security is not the administration's only economic initiative that is in trouble in Congress.

The current centerpiece of President Bush's trade agenda, the Central American Free Trade Agreement, is facing unusually united Democratic opposition as well as serious problems in overcoming well-entrenched special interest groups like sugar producers and much of the textile industry.

With record trade deficits, concerns about lost jobs and an overarching fear that the United States is losing out in the accelerated pace of global changes, the sentiment in Congress is shifting away from approving new free trade agreements.

"I don't like Cafta; I am not going to vote for it; and I will do whatever I can to kill it," said Senator HARRY REID of Nevada, the minority leader. "We are approaching a trillion-dollar trade deficit. We can't survive as a viable, strong country doing that."

Even more troubling to the administration, which says free trade agreements are critical components of any effort to enhance American global competitiveness, is the stance of Republicans like Senator SAXBY CHAMBLISS of Georgia, who wants to hold off on new bilateral trade agreements.

In a speech on the Senate floor and in a later opinion-page article in the newspaper The Hill, Senator CHAMBLISS said that even though his state is home to global companies like Coca-Cola, United Parcel Service and Georgia Pacific, he could no longer support bilateral trade agreements without being assured that "American industries and workers are truly benefiting from these agreements."

The trade deal, which was signed one year ago, involves a handful of tiny countries: Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. But its prospects for moving forward have been soured by larger questions about China's enormous economic power and whether it is playing by the rules of trade in protecting intellectual property rights, valuing its currency and calibrating the tide of its textile exports. Also playing into the situation are unmet expectations from the North American Free Trade Agreement.

The administration accuses the Democrats and other opponents of putting too much on the back of this trade deal, which would reduce tariffs for many American goods and, the White House says, improve the chances for democracy and free market economics in Latin America.

"Cafta can't be held captive to China or any other trade problem," said Commerce Secretary Carlos M. Gutierrez, who has been crisscrossing the country trying to sell the agreement since he took office in January.

The administration admits that even in this off-election year, when trade deals have the best chance of passage, it does not have the votes to pass this one.

With little sign of progress, both sides notched up the battle last week. President Bush announced that he would play host this week at a high-profile White House meeting. Since his first term, the Bush administration has promoted free trade agreements with Central America and throughout the Western Hemisphere as important components of its foreign policy.

"For too many decades," Secretary of State Condoleezza Rice said in a speech before the Council of the Americas, "U.S. policy toward Central America and the Dominican Republic has oscillated from engagement to disregard. With Cafta, with the permanent engagement that free trade brings, we can break this trend once and for all and we can demonstrate that the United States is committed to the success of all Latin American countries that embrace the challenge of democracy."

On the other side, centrist Democrats who normally vote for every new trade deal said they opposed Cafta. They said the administration had yet to outline a clear policy aimed at narrowing the $617 billion trade deficit. And they challenged the White House to write trade deals that reflected what they saw as the pressing challenges of globalization in the 21st century.

The administration characterizes most of these complaints as protectionism and hopes that Rob Portman, the new United States trade representative and a popular former member of Congress, will be able to smooth the debate and win votes to its side.

But Representative Benjamin L. Cardin of Maryland, the ranking Democrat on the Subcommittee on Trade of the House Ways and Means Committee, said in an interview that Cafta was too small a treaty to warrant such attention.

"Cafta will have a minor impact on our economy; we should be spending time on the big issues like China, agricultural subsidies," Mr. Cardin said. "If I were the administration, I would not like my trade agenda to be judged on Cafta."

Despite its small weight, many interest groups are deeply divided over Cafta. The Latino groups and politicians who oppose Cafta say that Nafta, the decade-old agreement with Mexico and Canada, failed to fulfill its promise.

Representative Hilda Solis, Democrat of California, who describes herself as the only member of Congress of Central American descent, said she opposed Cafta because of Nafta's record, which she said included 750,000 jobs lost in the United States and little progress in improving workers' rights in Mexico.

By contrast, Mr. Gutierrez, the commerce secretary, said Nafta was a strong selling point for Cafta.

"I've been associated with Mexico for almost four decades and Mexico is better than it has ever been," said Mr. Gutierrez, who started his career in that country after fleeing Cuba as a child. "It now has its lowest inflation rate, and its growth last year was 4.5 percent."

But questions about labor rights and lost jobs are staying at the forefront of the trade debate, not retreating. American labor unions say the accord demands better enforcement of existing labor laws in Central America without imposing real sanctions. The administration defends the labor provisions as groundbreaking.

Even the countries within Cafta have some noticeable divisions. The ambassadors to the United States from Cafta countries are traveling around the nation to try to persuade members of Congress to vote for the accord.

But Beatrice de Carrillo, El Salvador's human rights ombudswoman, said in an interview here that she opposed Cafta because it was not strong enough to stop the destruction of unions. And Costa Rica's president, Abel Pacheco, has said he wants to postpone legislative review until an independent committee finds that it will not harm the poor.

Mr. BROWN of Ohio. I thank my friend from Toledo, the gentlewoman from Ohio (Ms. KAPTUR). And the gentlewoman is exactly right. I have a chart just with the Mexico trade deficit. The gentlewoman talked about Canada, the U.S., all of this. And you can see, we went from a trade surplus when NAFTA was signed to this, over $40 billion.

And I look at the year that the gentleman from Ohio (Mr. STRICKLAND) and I were elected to Congress in 1992. The United States, and I do not want to bore people with numbers, but in 1992, the year we first ran, the United States had a $38 billion trade deficit with the world. That meant we bought $38 billion more than we exported. Last year we had a trade deficit of $620 billion.

Every trade agreement, as the gentlewoman from Ohio (Ms. KAPTUR) says, they promise the same thing. They say more growth in the United States, more jobs, more manufacturing, more exports to the United States if you pass this trade agreement. Every time Congress passes one, it gets worse. The trade deficit keeps growing. The job loss keeps increasing.

The definition of insanity is when you do the same thing over and over and over again and you expect a different outcome. They are asking us to do the same thing. So we can see these same numbers come with Central America by increasing, increasing, increasing, increasing deficits every year.

I would yield to my friend, the gentlewoman from Illinois (Ms. SCHAKOWSKY). I thank the gentlewoman for her leadership, especially on trade issues and jobs issues and health issues.

Ms. SCHAKOWSKY. I thank the gentleman from Ohio (Mr. BROWN), one of our best experts on trade. And in fact, the gentleman actually wrote the book, or at least a book on trade called "Myths of Free Trade," a book I am happy to have and learn a lot from. And I am pleased to join all my colleagues. It is interesting that, so far anyway, those of us who are here tonight are from the Midwest where we have seen so many of our manufacturing jobs lost since the passage of NAFTA over 10 years ago.

But, you know, I think as a people, as a Congress, certainly, we have to say why do we want free trade agreements? What is the purpose of trade agreements?

I think all of us here think that we know that there now is a global marketplace, that the goal of economic integration, when done in the right way, is not only inevitable but can actually be desirable. The question is who benefits from it? What are, who are the winners and who are the losers? And what is CAFTA for?

And, unfortunately, what we find is that the ordinary people of this country, and the ordinary people of the Central American countries now, the Dominican Republic and the Central American countries that are supposed to be part of CAFTA, it is the ordinary people, the everyday citizens, the hardworking people that are the losers, and the only ones who are the winners are corporations that really have no particular loyalty. They can pick up their capital, they can move their plants, as they did from Illinois. We lost about 100,000 jobs because of NAFTA. We saw a plant, a profitable plant, a Maytag plant, a nice manufacturing plant in Galesburg, Illinois, pick up and take with it over a thousand jobs. This was a plant that was actually making money. Why did it move? Because it could actually make more money by exploiting workers when they moved to Mexico.

In a trip that was in part organized by my colleague, the gentlewoman from Ohio (Ms. KAPTUR), I had the privilege of going to Ciudad Juarez last year, a town that is really in the metropolitan area of El Paso, Texas, separated by the Rio Grande River. And on one side of the river you have got workers who are looking for good jobs to support their families; and on the other side of the river, we see people who are working in the plants for American companies. And what we saw were workers who were actually, some of them, actually living in the packing crates of the products that they were manufacturing for the companies, the American companies that took those good-paying jobs and went to Mexico.

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Mr. STRICKLAND. Mr. Speaker, I had the privilege of being there with the gentlewoman, and I think we both really felt deeply in our hearts the pain as we talked with workers.

I remember one woman that we talked with who had children, and she told us she worked 9.5 hours a day, 5 days a week. She had 30 minutes during the day as a break, and her total take-home pay was $38 a week. And I just will never forget that woman and the fact that we have a government that has participated in that kind of what I would consider immoral situation where a working mother would work that hard and be compensated at that level. It is just pathetic.

Ms. SCHAKOWSKY. As the gentleman remembers, that woman had children who she could not afford to send to school. It costs money to send them to school, a modest amount of money by our standards but out of reach for her because she does not make the kind of income that even would allow her children to go to school or have adequate health care.

Is that the point of a free trade agreement?

The United States should and could lead the world by example through a trade policy that improves the lives of individuals and not just adds to the profits of the major corporations. We could and should benefit workers here in the United States and create and sustain jobs that help small- and middle-sized and family-owned businesses grow. And D.R. CAFTA, Dominican Republic CAFTA, is not going to accomplish those goals for us here, for our small companies, for our workers and is simply going to increase this race to the bottom so that, how cheap can we get labor?

I wanted to make a point about, are we really looking for markets in these Central American countries? Do we really believe that we are going to find people who are going to be buying our products? The combined purchasing power of the Central American nations in CAFTA is the same as Columbus, Ohio, or New Haven, Connecticut. The average salary of a Nicaraguan worker is $2,300 a year, $191 a month. Are they going to buy that car that is made in Ohio or in Michigan?

Ms. KAPTUR. Mr. Speaker, very briefly, we had visitors from two nations, El Salvador and Honduras in our community. Some of our church groups brought them in. These were young women workers in some of those textile plants down there. They held up t-shirts that they made for which they received 12 cents, and then we took them to stores in our community. They found the very same t-shirts on the rack, and they were priced at $20. And I remember the expressions on their faces. They could not believe it. And yet those that are brokering in their poverty wages and exacting high prices here, $20 for a t-shirt, are making enormous amounts of money off of this kind of bonded labor and control of our marketplace without proper government intervention.

So I also remember the gentlewoman from Chicago, Illinois (Ms. SCHAKOWSKY) when we were down in Ciudad Juarez, I can remember the tear coming down her cheek when she saw that family living in those packing crates. I can remember that. When it pierces your heart, you never forget it.

Ms. SCHAKOWSKY. Mr. Speaker, I do not want to monopolize this conversation. I do feel so strongly that, as the greatest country on the face of the Earth, the wealthiest country, the country that has the capacity to create jobs, to help people, to lift our own people and people around the world, to help lift them out of poverty, to set a standard that would at least work towards that goal. What a shame that we have before us a trade agreement that, as the gentlewoman said, my sister, the gentlewoman from Ohio (Ms. KAPTUR), just a repeat of NAFTA, and we know the devastating results both here in the United States and in Mexico and in Canada, that it did not do anything for us.

So I just am encouraged actually that we are seeing growing bipartisan opposition to this. Let us go back to the drawing board and come up with a real trade agreement that is going to achieve the goals that we want, that is going to be helpful to us and to our neighbors around the globe and certainly our closest neighbors here in Central America in the Dominican Republic.

Ms. KAPTUR. Mr. Speaker, if I could interject here, the company that the gentlewoman mentioned from Illinois, Galesburg, Maytag. I actually own Maytags. What happened to the workers from the Galesburg plant? Were they transferred? Did they get other jobs? Were they just without work?

Ms. SCHAKOWSKY. Mr. Speaker, you can imagine a fairly mid-sized, kind of small-town community, when a major employer like that leaves town, it does not just impact that business or those workers. It resonates throughout the community in a very negative way, and it is really hard to recover from that.

I want to say, just bringing a Wal-Mart to a community like that so you can buy really cheap products, is that our future in this country? That we will be able to buy imported goods? Flags made in China? T-shirts that are made for 12 cents? And that is not our future if we are going to continue to be a great country. So it hurt Galesburg. It is hurting communities all over our country.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentlewoman from Illinois (Ms. SCHAKOWSKY) and the gentlewoman from Ohio (Ms. KAPTUR). As we continue this conversation, when I listen to the gentlewomen talk about this, we all talked about the trade deficit, that it went from $38 billion to $620 billion, the trade deficit with Mexico going from a trade surplus to a trade deficit. Those are just numbers, and they make sense but they are just numbers.

When you hear the gentlewoman from Ohio (Ms. KAPTUR) ask about those families in Galesburg, these are not numbers. These are families that lose their job in Lorraine, Ohio, or in Portsmouth, Ohio, or in Chicago or Toledo. They lose their jobs. What it does to their families, often they lose their pensions with some of these companies. The schools have significantly fewer dollars to run. The police and fire departments are understaffed. All the kinds of things that are more likely, alcoholism, all that happens with the families in our country.

Then you talk about those families in, I have seen them in Mexico; I have seen them in Nicaragua; I have seen them several other places; these families that are working, often 8 to 10 hours a day, often 6 days a week making clothes for us.

I was with a family in Nicaragua. They get paid 23 cents for every pair of jeans they sew. The mother gets paid 23 cents for every jeans she sews that end up at Wal-Mart getting sold for between $25 and $30. I was at her home in Tipitapa, a little sprawling bedroom community as you would say in this country, but it is a series of shacks made out of packing materials form the plants they work for.

She was standing in this community home one day. I was talking to her, and she was holding her 3-year-old daughter who had hair down to about her shoulders, jet black hair, except that the bottom inch or two of her hair was sort of discolored. I asked somebody what that was about, and they said, probably this girl does not get enough protein because the parents cannot afford milk. The parents do not buy meat except for very special occasions because she is getting paid 23 cents for every pair of jeans.

So this trading system that these trade agreements bring us bring horrific poverty to the developing world where these people are working harder than maybe any of us, working 60 hours a week, not to mention how hard they have to work at home to do everything, getting to and from work on a bus that takes an hour and a half each way, and all the other things that happen to them.

Then you think of the pain it inflicts on our communities, our schools, our health care system, our police, our fire departments, the safety in our communities, on our families, on our self-respect. All of that.

We can talk numbers, and we can prove our case with these numbers, but all you have to do is look at people at both ends of the trade agreement and where they sit and how their lives go and what we are doing to them. And that is the story in so many ways.

Mr. STRICKLAND. Mr. Speaker, I want to thank the gentleman for yielding to me. It is terrific to have the gentlewoman from Illinois (Ms. SCHAKOWSKY) and my good friend and mentor, the gentlewoman from Ohio (Ms. KAPTUR) here.

I am glad this conversation is headed in the direction here this evening in which I think it is heading because we are moving away from the numbers. We are moving away from the charts, and we are starting to talk about the people. The people whose lives are affected by the decisions that are made by this administration and by those of us who serve in this body. And we hear a lot of talk today, and I am glad we do, about the need for morality in our government.

I think it is immoral for our government to support policies which benefit the richest people on the face of this Earth, many of them Americans, many of them from other countries that own or operate, manage those large multinational companies. I think there is a moral dimension here.

The gentlewoman from Ohio (Ms. KAPTUR) mentioned some church people who were engaged and involved in this. I think the churches in the United States of America should be concerned about CAFTA. I think they should be concerned about NAFTA. They should be concerned about human exploitation.

Now, many of us in this Chamber belong to different faiths. I happen to be a part of the Christian faith. And Jesus Christ said, As oft as ye have done it unto the least of these, you have done it unto me.

I think we have an obligation, those of us who do embrace faith, to let that faith express itself in the policies that we endorse as individual Members of Congress and also have that impact, the policies that are pursued by this country.

I think it is immoral, quite frankly, for us to enter into an agreement that results in the exploitation of poor Mexicans or poor people from Costa Rica or elsewhere. I think it is immoral for a working mother to be paid 12 cents for a garment that is ultimately sold for $20 or $25. And I ask myself, who is benefiting from such a policy? There is money involved. Someone is getting very rich. And yet it is a form of human exploitation.

So I wish our President and I wish leaders in this House would understand that there is a moral dimension to United States trade policies.

Ms. SCHAKOWSKY. Mr. Speaker, I just want to tell the gentleman that I was visited by a group of religious leaders from CAFTA countries who said exactly what the gentleman said. They said, we know that in many cases our governments are supporting this policy, but we represent the interests of the people in our countries, our parishioners, the people who come to us every Sunday and during the week. And we know they are really suffering, and we know that this trade agreement is just going to be license to further exploit those people and their poverty, not lift them out of the poverty.

And they were asking Members of Congress like myself to consider the people; and that is, the gentleman is right, we have to think about the faces. We have to think about the mothers and the fathers and the little children that suffer because of that and in our country, too, when those jobs are lost in our community.

Mr. STRICKLAND. Mr. Speaker, well, I represent a part of the Appellations region of Ohio. Every time I go home and I think my colleagues here have similar experiences. I talk to people who have lost their jobs. They have in many cases lost their health insurance. They have families. They may be 55, 57, 59 years of age. They have chronic health conditions.

What is happening to us as a country that we would be willing to just tolerate such conditions? It troubles me. It really troubles me. And I do believe, as I said to a reporter yesterday, he said, Congressman, tell me what is wrong with these trade agreements that you seem to be so against? And I said, They leave out the human dimension. They leave out concern for people.

Now, quite frankly, I do not believe Americans are willing to give up our middle class, to lose our standard of living, to participate in the exploitation of poor people around this world simply to get a pair of blue jeans at Wal-Mart for a couple of dollars cheaper than they may be able to get them than if they were made right here in the good old U.S. of A.

I believe the American people have different values than that. I think it is our leaders who need to question their values. I think it is the people who are benefiting, richly benefiting from these agreements, that ought to be called into question and their motives ought to be questioned.

And there is, I think, one word that pretty much summarizes what is the driving force behind NAFTA, behind the WTO, behind permanent trade relations with China and now this so-called CAFTA agreement. And it is greed. It is greed.

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How are we going to increase our own wealth or the wealth of our investors? If that is going to result in poor Mexicans or poor Americans being exploited, then I think our government has an obligation to stand up and speak out, change course. We are on the wrong course. I would say if I could talk with him, Mr. President, we are on the wrong course. We are on the wrong track. We need to reverse. We need to go back. We need to reevaluate the results of NAFTA.

As the gentlewoman from Ohio (Ms. KAPTUR) had said earlier, why in the world, given the results of NAFTA, would we pursue CAFTA? It is almost irrational.

Mr. BROWN of Ohio. Mr. Speaker, as I hear you talk and I think about what has happened with workers around the world, one of the great things about our economy, one of the great things about our country is if you work somewhere, if you work for General Motors or if you work for the local hardware store, if you are a teacher or if you are a nurse, you create value. You create either a profit for your company, wealth for your company. You create value if you are not working for a for-profit company.

Under our system, in part because of labor unions, in part because we have a democratic system, and in part because of our history and our traditions, you share in the wealth you create.

The lesson of these trade agreements you can go anywhere that we have these trade agreements. You can go to Mexico, Nicaragua and China, and you will notice that workers do not share in the wealth they create.

I heard the gentlewoman from Ohio (Ms. KAPTUR) talk about this years ago. The best example was you go to a General Motors plant in Mexico, and it looks just like a General Motors plant in Ohio except it is often newer. The technology is up to date. It is modern. The floors are clean. The workers are working hard. The difference between a Mexican auto plant and the American auto plant, the Mexican auto plant does not have a parking lot because the workers cannot afford to buy the cars they make.

You can go halfway around the world to Malaysia and go to a Motorola plant, and the workers cannot afford to buy the cell phones that they make. You can go back to this hemisphere, to Costa Rica, and go to a Disney plant.

The workers cannot afford to buy the Disney toys for their children that they make. You can go back halfway around the world to China and go to a Nike plant, and the workers cannot afford to buy the shoes that they make.

That is what these trade agreements have failed to do. So when a Nike worker in Oregon loses her job and a Nike job in China is created, that means that Nike worker in Oregon is no longer paying into Medicare, no longer paying into Social Security, no longer able to buy Nike, no longer able to buy a car, no longer able to do whatever. So the world has one fewer consumer. The world really is poorer. Nike is a little bit richer, but the world overall is poorer.

In China there is no real wealth created because they are not able to buy anything other than subsistence living and the community in Oregon, in Medford or whatever town, has less wealth.

My definition of successful trade is when the world's poorest workers can buy American products rather than just make products for Americans. Then we will know that our trade policies finally are working.

Once this deadline has expired, the President normally takes 2 months to pass a trade agreement. This one has taken 11.5 months. Republican leadership, the gentleman from Texas (Mr. DELAY), the most powerful Republican in the House, has said that we will vote on it by May 27. That will be roughly 1 year.

We need to go back, as the gentlewoman from Illinois (Ms. SCHAKOWSKY) said, and start again. I want a great trade agreement with Central America because I think we can write one that will lift their workers up so they will want to buy our products as we buy their products. We can do that. We need to start again.

So once the CAFTA countdown, we are at 16 days, something like that now, once that is past the end of this month, let us just go back to the drawing board and write a CAFTA that, number one, we can be proud of; number two, that will lift up workers in those countries and will help invigorate the middle class in this country. It is very possible to do that. It is just we do not have the will to do it.

Ms. SCHAKOWSKY. Mr. Speaker, if I could, it is bad enough I suppose that usually these workers are paid such low wages, but should those workers try to organize themselves into a union to try and stand up for better working conditions and better wages, we know that in those countries that human rights violations for people who want to form a union are rampant; and the problem with CAFTA is that it really does virtually nothing to protect those workers who want to organize.

We hear in CAFTA, ostensibly it requires enforcement of the local labor laws, both that may exist in the country. Of course, those could change, but even then the penalties are very, very weak. Violations of core labor standards cannot be taken to dispute resolution, and the commitment to enforce domestic labor laws is subject to remedies weaker than those available for commercial dispute.

So every time we put the rights of capital, the rights of intellectual property, the rights of the corporations up here and the rights of workers even to stand up for themselves to try and collectively bargain for better conditions or wages, and it is often at peril of their lives that they do that, not just job loss, but we find in many of those countries that it is very dangerous to be a labor organizer. You can find those people dead.

The other thing is we spend a lot of time around here talking about illegal immigration; and, again, if you think about it in human terms, people do not generally want to leave their homeland. They would prefer to stay there, the place where they are born, where their families live, where their ancestors are, where they have roots. Why do they leave those countries to come to the United States, to risk crossing that river, risk crossing that border? It is because they cannot make a living. They cannot provide any kind of a decent life for their family, and they are willing to do anything to do that and so they come here.

If we want to be able to protect our borders and to have good trade policies, then we have to look at things that will help to lift those workers in other countries so that they can prosper in their homelands.

Ms. KAPTUR. Mr. Speaker, if the gentleman would yield, I want to follow on that point because if one looks just at NAFTA and Mexico, and the inability when we were debating that to include provisions for those that were going to be displaced from their farms in Mexico, what is propelling U.S. immigration is NAFTA because every year now we have over 450,000 individuals from Mexico coming over our border, the vast majority illegal.

You say, well, why would they do that? Because they are in desperate circumstances. Desperation propels them, just as the gentlewoman from Illinois (Ms. SCHAKOWSKY) says. Imagine being willing to die going across the desert in Arizona to get here, a place you do not even know, and what is at the root of it?

The root of it is that their land is no longer productive. The big corporate interests down there buy imported corn, and these people were given no way of transitioning. They had a heartless government, and I think because they did, we might see the first massive historic change in Mexico's elections next year. I hope so, and I want to say to the gentleman from Portsmith, Ohio (Mr. STRICKLAND), when he talked about the churches and the synagogues and the temples and the mosques, they are doing some of the most important work in these trade agreements. They are trying to reach out to people, just like you said, and whether it is fair trade coffee or whether it is quilts or whatever they are buying, they are trying to bring it in and pay people a decent price for whatever that product is and to cut out these middle extortionists, I call them, people in the middle that are trading on that squalor and that exploitation.

Also to say that one of the greatest religious leaders I ever met said ultimately God's judgment would demand not just individual morality for us as persons, but in a rich and powerful Nation like America, justice of us as a Nation. So we are judged not just as persons within our own family, but the kind of society and country we create. We will be judged on many levels; and I think these trade agreements are, as you said, immoral because those who are the least among us are hurt the most.

I think of Norma McFadden from Dixon Ticonderoga in Sandusky, Ohio, who worked there her whole life and was about my age and then was told you get a pink slip, even though the company was profitable, and moved to Mexico. What happened to Norma? What happened to Norma was she could not afford health benefits because under the Federal program, COBRA, it costs about $800 a month. Well, she lost her job. She could not afford the $800 for COBRA. So at 55, 58 years of age, she went back to school to become a phlebotomist to learn how to take blood, and she had to drive to work in her old ramshackle car to try to go to school and ultimately tried to get a job at a hospital as a receptionist and just trying to tread water there in the years when really she should have some peace of mind because she has been a working woman her whole life, she has raised her family.

So, to me, these trade agreements are some of the most anti-life measures that I have ever seen. They hurt people all over our world, surely those in our country who just do not have another leg to stand on; and I think God will judge America very harshly for what we have done because we are in the power position in negotiating these agreements.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentlewoman from Ohio (Ms. KAPTUR), the gentleman from Ohio (Mr. STRICKLAND), the gentlewoman from Illinois (Ms. SCHAKOWSKY), the gentleman from Missouri (Mr. CARNAHAN), and the gentleman from Ohio (Mr. KUCINICH) earlier. I appreciate that human spiritual component.

I would close in an optimistic tone. The gentlewoman from Illinois (Ms. SCHAKOWSKY) talked about what happens with labor unions and human rights in Central America and in South America and in Mexico. Just hold up for a model what happened in Central and Eastern Europe in the last 20 years. The thrust of their equal rights movement came out of the labor movement, and flowing out of that labor movement came a much better way of life, came freedom, better economic security, more wealth for workers, all that we should be striving for. That is why labor standards for these workers in these trade agreements is so important.

As the CAFTA countdown comes, we are down to the last 16 days, it is pretty clear NAFTA will be dead on arrival. It is time at the end of May when we come back in June to start with a new trade agreement that will lift workers up and make us both spiritually and intellectually and in every other way proud of what we do.

ENERGY

The SPEAKER pro tempore (Mr. JINDAL). Under the Speaker's announced policy of January 4, 2005, the gentleman from Michigan (Mr. EHLERS) is recognized for 60 minutes.

Mr. EHLERS. Mr. Speaker, I am pleased to rise tonight with several of my colleagues to discuss an issue of great importance to our Nation, and I know that everyone that gets up here starts the same way, but this is a particularly important issue, one that the three of us wish to discuss as scientists, or those who have a great interest in science.

Tonight's topic is going to be energy. You have heard a lot about energy recently, worried about the gas prices, worried about the energy policy bill that we have worked on in the House and the Senate is now studying. Energy is extremely important, but what is most important to me when we are talking about energy or any other issue is to talk about the long-term effects because that is what the people hire us for. They elect us to come here and discuss and debate the future of this Nation, and it is very easy to forget that because we are always caught up in the instantaneous things we do, the stuff we have to get done today; but the people of this land, struggling every day to make a living, keep ends together, do not have the time to do the long-range thinking.

Corporate leaders are bound by their requirement to produce profits every quarter, to get the stock price up. It is up to us to really think about where this Nation is going and what is really important and what is likely to happen to it.

So I wish to approach this topic this evening to talk about our energy future, where are we now, what is energy like, what is going to happen in the future; and between the three of us discussing this this evening, I hope that we can enlighten our colleagues and others who are interested in the topic.

Let me begin by an introductory way just talking about energy and the nature of energy.

I happen to be a scientist, a physicist to be more precise; and I have been involved in energy studies for some 30 years, but also because of my background in physics, I have learned a lot about energy, and I would like to tap some of that knowledge to talk about some of the issues and point out some of the characteristics of energy.

First of all, energy is unique. Unique means there is nothing else like it. It is unique in several ways. Energy is our most basic natural resource.

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For one simple reason: Without it, we cannot use our other natural resources.

Now, let me give an example of that and to prove my point that energy is our most basic natural resource. If you would like to build something out of iron, suppose it is a car or a can or whatever, the first thing you have to do is dig the iron ore out of the ground. That takes energy. Then you have to transport the ore to the smelting plant and recover the iron out of the ore. Transportation takes energy. Smelting it takes energy. When you are finished with that, you transport it the rolling mill. That takes energy. And you roll it out into sheet steel so it is easier to work with. That takes energy. Then you transport it to the factory. That takes energy. Finally, you fabricate a car or something else out of it, and that takes a lot of energy. Finally, you transport the finished product to the consumer, which once again takes energy.

Notice that every step of the way you were using energy in order to use other natural resources. I could have picked any other natural resource, and the same thing would be true. So energy is our most basic natural resource. You must always remember that. But secondly, and perhaps even more important, energy is a non-recyclable resource. Once you use it, it is gone. Now, if we use up our iron, we could go mine our landfills. We can recover scrap iron, as we do already to a great extent, and we can recycle it over and over and over. There is only so much iron on this planet, but we can keep using it over and over and over, and we are not likely to run out. Its cost may go up, but it is still there.

But when you use energy, it is gone. When you fill your tank with gasoline and you drive it for a week and the tank is empty, the energy is all gone. It is used up. Where does it go? We know energy is conserved, but it can change form. All the energy from the petroleum you put in your car, from the gasoline you use, gets consumed and turned into heat energy, largely unusable heat energy. And eventually, that gets radiated out into space, and it is gone for us forever.

So these two important features define a great deal about energy and how we should treat it and how we should handle it. Finally, because of this, the price of energy affects our economy more than the price of almost any other resource, simply because when the price of energy goes up, that price gets added on to every step of the manufacturing process which I mentioned.

Let me mention some other characteristics of energy. Energy is intangible to most people. To me, as a scientist, it is very tangible. I have worked with energy so long I can almost touch it, feel it, taste it, et cetera. But to the average person, you cannot touch it. You cannot see it, unless it is light energy. You cannot feel it, unless it is heat energy. You cannot smell it, and you cannot taste it. So energy is intangible. To most people, the only tangible aspect of energy is the price at the gas pump or the utility bill at the end of the month.

Because energy is intangible, people tend not to understand it. They do not know how to use it properly. I have a saying I often use, and I even have a tie to match the color I am talking about, I wish energy were purple. Because if energy were purple and people could see it, their behavior would change. When they drive home from the store or from the church and drive up to their house in the middle of winter and see a purple haze oozing through the walls because of poor insulation, or purple rivulets around the windows or doors because they are leaking heat, they would say, Man, that is terrible; I have to insulate this house better. I have to seal up the windows and doors more. Because they do not see it, it is not purple so they cannot see it, they are not aware of this.

If you were driving down the highway and a little Toyota Prius or some other hybrid car goes by, something like the gentleman from Maryland (Mr. BARTLETT) drives, and he may discuss that a little later this evening, and this little Prius goes by, and there is just a little purple around it, because it does not use much energy; but then a Hummer or a large SUV goes by, and there is a purple cloud around it, if people could see it they would say, Hey, I am going to get a Prius or some other hybrid car and use less energy. So I wish energy was purple so it would be tangible to everyone. I think behaviors would change very quickly.

To show the importance of energy, I would like to point out that energy affects civilization in a very direct way because energy represents the ability to do work. That, in fact, is the definition of work in physics. Energy represents the ability to do work.

With the first use of nonhuman energy, in other words using animals to plow the fields and so forth, we had the agricultural revolution beginning. We talk about these big revolutions in the human history, and the agricultural revolution is a large one. There is no contention about that. But the agriculture revolution occurred only after we started using nonhuman energy, because people were not strong enough to really do a good job of pulling plows. Before they had plows that they could pull, people tried agriculture, and it never really succeeded until they discovered they could domesticate oxen or other animals and have them do their work, and then the agriculture revolution succeeded.

The next big step was again related to energy. You have heard of the industrial revolution, where we began using industry to manufacture things and to replace human labor. What did we use? Fossil fuels. Coal first and then oil and eventually natural gas. So the first use of nonanimal energy led to the industrial revolution. Once again, this indicates how important energy is to life on this planet and to civilization and to our economy.

I have drawn here on this chart a model for responsible energy use, trying to relate it to something that everyone understands. When you talk about your money, you go out and get a job because you need to eat, and you would like to have a house and a car. So you get a job, and you earn money. That is income. And most people in this country have to live within their income. That is what everyone aspires to. Sometimes, there are special needs, and you dip into your savings. And some are fortunate enough to inherit some money. So that is the model of individual use of money.

Now, you can look at energy the same way. If you look at the income of energy on our planet, most of it comes from solar energy. We talk a lot about using biomass. That is energy from the sun captured by plants, and we can try to retrieve the solar energy from that. Wind energy. Lots of efforts to build windmills and use wind energy. Once again, that energy comes from the sun because the sun differentially heats the atmosphere and that causes the wind to blow. How about hydropower? Huge dams generating lots of electricity for us. Once again, that is solar energy, because the sun evaporates the water off the oceans and the lakes, gets into the clouds and comes down as rain, collects behind the dams, and we use that energy. Waves are also related to solar energy, because that powers the wind, which generates the waves, and people have tried to extract that energy.

The only one on this list that is income energy but not from the sun is from the moon, and that is the tidal energy. And efforts have been made to tap that, but it is pretty tough to do and you do not get a lot of energy out of it.

What about the savings? Our savings account are all the fossil fuels; coal, oil and natural gas. Those are stored solar energy. That comes from plants which grew many, many, many, many years ago. Those plants eventually got covered up and over the years decayed and turned into coal, petroleum, natural gas.

Then there is wood, which is also a short-term savings account. Again, it is plant. It really could go up in biomass here, but trees live a long time, so I put it down here in our savings account because, normally, we do not use all that energy in our lifetime.

Finally, our inheritance, that is energy we inherited with this planet. Our universe and our planet were so beautifully created, and there are energy sources within the planet. There may be more than I have listed, but certainly geothermal energy. Heat energy within the earth can be used to drive power plants and already is in certain parts of California and other parts of the world. And nuclear energy. Nuclear energy is so long term, and it is basically there from the creation of the earth, so nuclear energy I would also classify as an inheritance.

Now, I would propose that when we are using energy, we should treat it the same way we do our money: try to live within our income. In other words, try to use as much as we can of the solar energy, lunar energy and so forth. Recognize we have to dip into our savings account, and so we can use the fossil fuels and wood for that, but not to the extent we are using it now so that we use it all up, unless we use that to develop new energy resources for our children and grandchildren.

And, finally, the inheritance. That is a long-term thing, but we do not want to depend totally on it. But certainly, that is there and that is a very promising thing to pursue.

Finally, I hope as a result of the discussion we have tonight that all of us in this Congress and all the people of this country will come to appreciate energy. It is my hope that a better understanding of energy will lead to a wiser use of it by our citizens. And so that is the theme of this hour's discussion we are going to have tonight.

Mr. Speaker, I have been joined by several colleagues, and next I would like to yield to my colleague, the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. I thank the gentleman from Michigan for yielding to me, Mr. Speaker, and I want to thank the gentleman from Michigan for the fascinating discussion mixed with science, history and a little poetry there, I think. Mr. Speaker, I hope many of our constituents across the country are listening to this most important topic.

My colleague, the gentleman from Michigan (Mr. EHLERS), began to speak about energy as not something that you can see or touch, and very few people think about that or think about where energy comes from. It comes from that fuel tank that you lift to fill your car. It comes from someone delivering it to your house. But I would suspect that many Americans and many of our colleagues here in the house feel that energy is a resource that will last forever.

I would like to pose a question tonight to follow on with what my colleague from Michigan was saying, and that is: Is energy infinite? Is energy a bottomless well? And if we look at the bottom of the bottomless well, what do we see?

If we are to have a cohesive energy policy in this country and in this world, in fact, we need to know what that is at the bottomless well, because I happen to think there is no bottom to the resource of energy. But we have to know what that is. What is that resource? What energy source can we rely upon for the unforeseeable future, for generations to come?

The modern world right now is dependent, the industrialized world and the new industrializing world are enormously dependent on an energy source known as fossil fuel. That is coal, natural gas and oil. We also know that the demand is increasing as the supply is diminishing, dramatically. The U.S. oil reserves peaked in 1970.

What is at the bottom of the bottomless well? I think it is initiative. It is ingenuity. It is intellect, and it is logic. Oil, or natural gas, is not at the bottomless well. Oil or natural gas or fossil fuel are finite, and they will not last forever. So we are in a transition period, because the demand is increasing dramatically, and the supply continues to decrease.

☐ 2115

The gentleman from Michigan gave us a history lesson about transitions from one energy source to another over a long period of time and showed how our cultures, our industry, our economy, and our cultures have changed. We know that coal in this country some time ago replaced wood and actually saved the forests. Coal was actually more efficient and better for burning or for heating in those earlier years because we stopped burning our forests. Our forests create habitat for wildlife; it is an environmental issue. So coal replaced wood. Oil supplemented coal and oil is more efficient than coal and it is actually cleaner burning. Natural gas supplemented oil. Natural gas is cleaner than oil.

If we looked at it a little bit closer from a chemist's perspective, we would show that there is more hydrogen in coal than there is in wood. There is more hydrogen in oil than in coal. There is more hydrogen in natural gas than there is in oil. So we are moving up the ladder of a better understanding of what sources of energy are important. But all of them are finite. And as our demand increases, our supply diminishes, and we need to begin to rethink our energy sources.

In 1910 if we look at Btus, British thermal units, if you buy a heater of almost any sort, it will have the number of Btus that it puts out, the energy output. If we are to measure Btus from the perspective of how many Btus the United States uses, what is our energy output, it is measured in quadrillion. If we looked in the year 1910 as an example of Btus, the United States burned 7 quadrillion Btus. That is a 1 with 15 zeros. Seven quadrillion Btus in 1910. If we looked at 1950, we burned 35 quadrillion Btus. If we looked in the year 2005, it is up to 100 quadrillion Btus.

The demand is increasing exponentially. In 1970, the year we peaked in our oil, we produced, the United States, 11 million barrels of oil a day. In 2004, we produced 5 million barrels a day. In 2005, we burn roughly 20 million barrels a day of oil. We import about two-thirds of our oil, and that will continue actually to worsen, and we have about 3 percent of the world's oil reserves, or less, and our demand is increasing while our supply is diminishing.

We are actually beginning to see the end of cheap oil in the United States. And burning this resource, burning oil, is not the best use of that resource. We use it, as the gentleman from Michigan said, for a whole range of things, for heating our homes, for air conditioning, for airplanes, for electric lights, for clothing, much of the clothing that we wear, for plastics, for fertilizers, for modern agriculture, for asphalt to maintain our roads. Can you imagine the interstate highway system if we did not have oil to make the asphalt to maintain those many millions of miles? Surgical devices, hip replacement, national defense, all of these things come from oil. It is an integral part of our economy.

Should we really be burning it as fast as we can, as if oil were at the bottom of the bottomless well? Are there other better uses for burning oil? There are. Can we improve our resources here in the United States with something other than fossil fuel? If we continue to rely on fossil fuel, we will never be energy independent and our security will be reduced because most of the oil we import right now comes from areas of the world that are not very stable.

We should begin to seriously think about three things and think of these three things in the way that we use our initiative, our ingenuity, and our intellect to understand what lies at the bottom of the bottomless well. The first thing is fuel efficiency. That is one of the first things we can actually do, tangible things we can do. We have the technology right now to double fuel efficiency. We should start immediately, because it takes about a decade before you see any results. We could save billions of dollars, reduce our trade deficit, save oil supplies so they last longer. The American Petroleum Institute estimates that we have 25 years of oil left with present demand. That is not with any increase in demand. Is demand going down? Will we burn less than 100 quadrillion Btus? I do not think so. What will we do about importing the millions of barrels of oil every day? So doubling our efficiency with oil and natural gas will spread these supplies longer and offer us that transition period between a new fuel economy that we desperately need.

The second thing are alternative fuels. The gentleman from Michigan (Mr. EHLERS) and I know the gentleman from Maryland (Mr. BARTLETT) will mention these. There is solar. It is a small piece, but it is a piece. There is wind. It is significant, but it is a small piece of the pie. There are biofuels, a whole range of biofuels from corn to soybeans to poplar trees, to certain grasses, to a range of things that we have already mentioned here tonight; but they are a small piece.

There is hydropower. There is hydrogen which does offer us some hope. It is not a fuel. You can produce it from solar, from wind, from nuclear, from coal. What we have here is a membrane; it excites the molecules and you produce electricity without combustion. But we do not have the technology to mass produce hydrogen to take the place of oil. There is methane from landfills and livestock. There is nuclear power, which is cleaner. The storage of fuel rods is difficult and also, even though it is nuclear, it is a finite source.

We have to start now to make the transition to a new energy source smooth and not disruptive. We must understand the dynamics of this from an economic standpoint, a geopolitical perspective, and cultural life-style.

The third thing is life-style. Our lives, our culture right now, dependent on fossil fuel, our lives are filled with things, things and more things. Look around your home. Where do these things come from? What are they made of? And how do they get delivered to us? The world is dependent on fossil fuel, mainly oil, to make those things, transport those things, and bring them to your home. We import them from all over the world. Oil is related to every aspect of production, distribution, marketing, and consumption of the products you get from megaretailers like Wal-Mart and Sears to McDonald's and Burger King. Our culture.

What will replace oil to keep this kind of economy ever expanding? We talk all the time about a growing economy. How will it expand without oil? We should start talking in terms of a dynamic, sustainable economy without oil. Without oil, our life-styles, in conclusion, our communities, are likely to be smaller and more compact. Our farms are likely to be smaller and more diverse. There will be fewer expanding suburbs wholly dependent upon the automobile. Solar, wind, biofuels can accommodate smaller communities. Nuclear at least for the time will be more significant.

But if we use what is at the bottom of the bottomless well, ingenuity, initiative and intellect, we will have cleaner energy sources, more jobs, drastically reduced trade deficits, more of our own goods will be produced here, a stable economy, more security.

What does the future hold for us? Look deeply at what is or should be at the bottom of the bottomless well. We need the time to transition to this new economy.

Mr. EHLERS. I thank the gentleman from Maryland for his perceptive comments and his poetic, almost philosophical, statements. I appreciate that.

I would just like to add one quick note. When you refer to photovoltaics, I just read an article a week or two ago on this. It is just astounding to me how fast the field has developed in the last few years. Let me just give one quote: We expect that by 2015, photovoltaics will be producing electricity at the cost of 6 cents per kilowatt hour. That is generally less than people are paying for their electricity at their home. And there are no transition costs because you can keep the photovoltaic unit right in your home generating electricity for your home. A friend of mine has built a house which is totally independent of outside energy using photovoltaics and other things. He lives 5 miles from the nearest power line. It works beautifully.

But the very interesting thing is that the prediction is that half of new U.S. electricity generation by 2025 will be produced by photovoltaics, replacing a lot of power plants. I was pleased when I read this. I thought, this fellow really knows what he is talking about. I got to the end and looked at the name. It is Mr. Al Compaan, professor at the University of Toledo and a former student of mine. I did not realize until I reached the end that he was one of my students.

We have approximately 30 minutes, and I have three more speakers so if each of them could limit themselves to 10 minutes or less, I would appreciate it. Next I am pleased to recognize the gentleman from South Carolina (Mr. INGLIS) who was with the Congress for 6 years, term-limited himself, very honorably, and has now returned to us having fulfilled that commitment.

Mr. INGLIS of South Carolina. I thank the gentleman for yielding. I am excited about the work that the gentleman from Michigan (Mr. EHLERS) is doing on the Science Committee and for the innovations that I think that we can together bring about and can encourage from here in the Congress. I am happy to be part of this Special

Order to talk about what could be part of our future.

In particular, the aspect that I want to focus on is cars and to have us think about what cars could be in the future. We are bound now by burning petroleum in our cars. We are bound to lethal accidents where people traveling at a high rate of speed end up being killed because cars crash together, blowouts on tires or whatever cause them to have crashes.

What I am excited about is imagining a completely different future, one that has smart cars, has fuels of the future; smart cars that know their position relative to other cars on the road by sensors and by automatic braking systems that take over for the driver, that make it so that a computer is actually driving the car. That for many people sounds like science fiction, but it really is not that far away.

I think it is very interesting that Bill Gates was here recently and spoke with members of the Intellectual Property Caucus and opined that it is not a question of if; it is a question of when we get smart cars. He said in the future, there will be no accidents. Of course, it might not be wise to bet against Bill Gates when it comes to technology issues. While we were waiting, a colleague of ours pointed out that if you had invested $10,000 in a company called Microsoft in 1980, it would be worth $25 million today. So it is not a good idea to bet against Bill Gates when it comes to technology.

What we have, I think, is the opportunity to dream that big, to think of a car totally differently, that it could run itself, that you get in it and it is not so much a steering wheel as it is a computer screen. Unless we think this is far away, think of the blue screen tracker system that is right now deployed in Iraq on the vehicles that we have got over there and so that our men and women know where they are, where their unit is, relative to other units. That is updated every few seconds. The technology, in other words, is not far away. It is on the ground right now in the blue screen tracker system, and it is not far away, in my opinion, for the car.

If you think about what that means, it means compression on the highways. It means that you do not have to have the spacing that we have now, where cars in order to be safe should be driving a fair distance from each other at 60 or 70 miles an hour. As it is, we have got to have a lot of asphalt on the ground to accommodate that many cars traveling at that rate of speed. But if they are smart cars, they can be within relatively few feet of each other, traveling at significant speeds but knowing where one is relative to the other.

That seems like science fiction, but consider this: a number of auto manufacturers, including BMW which makes X5s and Z4s in Spartanburg, South Carolina, are working on braking systems that actually take over the braking decision for the driver. BMW will release a car very soon that does just that. It has a braking system that decides for you when it should apply the brake and keeps you from hitting something.

So if you think about that, the breakthroughs that we are going to get in cars, the compression on the highways, braking systems that make those decisions for you, the ability to get in a car, program it to go somewhere, say from here to Baltimore, take your hands off the wheel, read the newspaper, the productivity gains in the economy are very exciting. There are some very exciting things there now. The key to that is a new energy system, too, one that hopefully will emit only water as you travel, say, from here to Baltimore. That is what the hydrogen economy could promise for us. That is why I am very excited about producing that hydrogen and figuring out how to store it and distribute it. Those are, of course, as I understand it, the three big challenges, producing it, storing it, and distributing it.

Producing it, as one of our colleagues just mentioned, could be in various ways.

□ 2130

Perhaps by concentrating enough energy from the sun, sunlight into a spot to reach temperatures to crack water. And I heard the gentleman from Michigan's (Mr. EHLERS) Special Order a week or so ago about nuclear, and we seem to be of the same opinion that nuclear seems to be one of the more promising ways at this point to crack water. A reactor built for that purpose cannot only generate electricity but can also generate the heat necessary to crack the water. And the beauty, of course, of that is, rather than cracking natural gas, which produces CO_2, cracking water would create no CO_2, and we would have this wonderful operation that creates electricity plus heat, cracks water, creates hydrogen, and we have got a stable source of fuel.

So production is crucial in envisioning this future that I am talking about here. Second is the ability to store it, to store this hydrogen. A lot of issues there about whether to try to store it in a gaseous state or whether to cool it and try to get it to a liquid state or whether to have some breakthroughs with metal hydrides and determine a way to store it in a solid state. Those are some areas that we need work on, and the gentleman from Michigan can add to that, I think.

And then the third area where we need breakthroughs is how to distribute it, how to set up either pipelines or some other system of distributing this fuel. If we can crack those things, get at producing, storing, and distributing hydrogen, I believe that we are going to be there, not forever away. One of our colleagues who is not so inclined to believe that this is all going to happen once told me, "Yes, that will work maybe for your grandchildren." Well, I think this is going to be here before my grandchildren, and it had better be because, as we have been hearing tonight, we are running out of this stuff called petroleum, and we have got a lot better things to do than burn it. We can make pharmaceuticals. We can make plastics. We can do a lot better things.

Mr. Speaker, I thank the gentleman for giving me the opportunity to share these dreams of the future that may seem like some watching dreamers, but that is how we got to the moon. That is how we get breakthroughs. We have got to be about it and here in the Congress fund it, fund good research on these things, spend good money to create these breakthroughs.

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. EHLERS. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments. And I particularly would like to emphasize a couple of things. First of all, many people tend to assume hydrogen is a new source of energy. It is not a source of energy because free hydrogen does not occur in nature. We have to produce it. And highlighting the needs, we have to develop means of production and storage and distribution, which includes transportation to the gas stations. It is going to be a real revolution. I would expect, by 2020, we will see a substantial number of those vehicles on the road. It is going to take a lot of hard work, but it will be worth it because they will be essentially pollution free, and if we produce the hydrogen using nuclear energy or solar energy, something other than petroleum, we will also be contributing to a cleaner atmosphere and get rid of the greenhouse gasses.

So I thank the gentleman very much for his contribution, and I am delighted to have him on the Committee on Science with me.

Mr. Speaker, next I yield to the gentleman from Tennessee (Mr. WAMP) who has Oakridge National Laboratories within his district and is very interested in science and particularly in energy, which is natural because the Oakridge Laboratories is a Department of Energy facility. So I am very anxious to hear what he has to add to the discussion this evening.

Mr. WAMP. Mr. Speaker, I thank the gentleman from Michigan (Mr. EHLERS) for yielding to me.

Let me say how encouraged I am that five senior Republicans would come together tonight to share different perspectives on the need to secure our energy sources in this country and to help bring the American people along to some of the reforms that are necessary, I think, to secure our future in the world and to create more opportunity. I believe that we have done a lot of good things on this side of the aisle, but I think that we have a whole lot left to be done. And before this energy bill gets back from conference, I think we all need to advocate for quite a few changes.

Let me say that energy and economic development are hand in hand. The gentleman from South Carolina invoked the name of Bill Gates. I would submit that the reason that we balanced the budget a few years ago for a few years in a row was not because we cut spending. We did hold the line on spending for like 3 consecutive years and kept the growth of spending below inflation. But it was because we actually led the world in a particular area of our export economy and information technology and we created such a robust U.S. economy that revenues surpassed expenses, and we balanced the budget. And I would challenge the country that the one great area that we can do that again, as we look over the next 10 to 15 years, is in what I call "entech," energy technologies. Because there are so many energy needs around the world as the population explodes, as third-world countries become industrialized, as people are more mobile, and this global economy that we all live and operate in is increasing the demand for energy, the whole world is looking to us for leadership. And it is an export potential in manufacturing that could lead to the most robust U.S. economy that could actually increase revenues so greatly, because we are so productive, and we are solving the world problems. We could balance the budget again. I do not believe, given today's needs, we can cut spending enough to balance the budget because of homeland security, because of entitlement spending. As a matter of fact, if we eliminate all of the nondefense discretionary funding, we still would have a deficit in this current fiscal year. So we have got to grow this economy, and energy technologies are the way to do it.

Energy, as we have heard already, is a source of many of our problems. But I have get got to tell my colleagues, energy is also the source of the solutions to a lot of our problems, and I am looking forward to the development of technologies. And when we look at this continuum, I love the combination of history and knowledge on energy, but think about the next 100 years and think back on the last 100 years. Man has only been flying a little more than 100 years. That ought to blow people's minds that, in less than 100 years, we can go from Kitty Hawk to people routinely being catapulted into space with a hydrogen system, catapult them into space. They stay out there for a period of time. They reenter the earth's atmosphere in a big ball of fire, and then they safely land and walk away. And except for two great tragedies with Challenger and Columbia, this became routine in less than 100 years. Where are we going to be with technology in the next 100 years? Children ought to look forward to their future. The Jetsons, which was a cartoon we watched, could very well be a reality within the next few decades.

Transportation, though, has to be at the forefront of the energy revolution in this country because two-thirds of the petroleum is used in the transportation sector, and as the gentleman from South Carolina so well articulated, we have got to look for solutions. I am encouraged by the development of hybrid vehicles. It is the bridge to the hydrogen economy as it develops, and right now, there are more and more automotive systems, cars and light trucks, that are moving to hybrid technologies, both foreign and domestic. And next year, the American consumer will have a host of options.

One of the things that I regretted about the energy bill, and I think several of our colleagues here on our side did not vote for the House version, and I believe we will be able to vote for the conference report when it comes back soon, because the House version did not include the tax incentives to stimulate renewables, alternative fuels, did not extend the tax credit for these hybrid vehicles. And, frankly, we have got people waiting in line, and we need to incentivize more of that so that the manufacturers will be encouraged to make them and consumers will be encouraged to buy them, and we did not do enough in that bill. As a matter of fact, here is what folks need to know, because I have met with President Bush recently and listened to him on this issue: When he sent his proposal over here, 72 percent of the tax incentives in his energy plan were for renewables and energy alternatives, and he really wanted to rachet this up. But, by the time the House got through with it, they had lowered that 72 percent to 6 percent and replaced a lot of the renewables and alternative energy sources with oil and gas. And when they asked the President what he thought about that he said. You do not need to incentivize oil and gas; $2.35 a gallon will incentivize oil and gas. They have got incentives. It is called the marketplace. We need to incentivize the alternatives to oil and gas.

And that is really what we are excited about here, and I believe, when the Senate finishes its work, brings this back, the Republicans in Congress and quite a few good Democrats will come together and pass an energy bill that really moves us towards these alternatives.

Let me tell my colleagues that I look to the private sector to see what they are doing because there is some division at DOE as to whether or not hydrogen is safe and if hydrogen is the solution, and there are still some question marks behind it. But GM and Shell, they do not just throw their money away. They are interested in the bottom line. And they now have 40 hydrogen fuel cell vehicles on the road, a permanent hydrogen station in New York City, a permanent hydrogen station here in Washington, D.C., to demonstrate what can be done.

The challenge, we have heard some of the challenges; another challenge is cost. These units cost $400,000 each. We have got to find ways to bring that cost down to a $40,000 or $50,000 each so that it is cost-effective for the American consumers to jump across this bridge to the hydrogen economy.

I have said that I believe our tax code is the best way to encourage and incentivize manufacturers and consumers to move towards these new sources of energy. Our energy independence, though, is a homeland security issue. I co-chair the Renewable Energy Caucus here in the House, and in the last Congress, we got over half the Members. It is very bipartisan; about 60 percent Democrats, 40 percent Republicans. Many of my colleagues here, I think all of them are members of it. It is so important that we do these things, but I also serve on the Homeland Security Subcommittee of the Committee on Appropriations. Our energy security is a top homeland security issue. As a matter of fact, former national security advisers all came together last month and signed a letter to the President of the United States saying that energy security is a crisis and that it is a national security issue and that we need to address it with the highest level of priority. And there are several crises floating around. We are spending a lot of time talking about them. In my view, this energy issue is right at the end of our nose in terms of a crisis. We have got to mobilize quickly so that we can secure our independence. I do not want to be reliant on the Middle East for petroleum for two-thirds of our transportation needs. And the sooner we act, the sooner we are going to be stable and secure. It is a very important national security and homeland security issue.

We talk about natural gas. The prices have spiked so quickly that now we look at photovoltaics. We look at solar panels for home construction, and because of the rise in natural gas prices, they become cost-effective to put them on their house early. They make solar energy panels in Memphis, Tennessee. Sharp Solar does. And in a lot of places that are cold in the winter, now where natural gas has gone to $7, I think, we can actually put in our building materials these energy-efficient technologies. Go to the National Renewable Energy Lab in Colorado and see the breakthroughs. One will be stunned as to how quickly, as the gentleman from Michigan (Mr. EHLERS) has said, these things are advancing. A host of things. Wind power, we are building more and more windmills in the Tennessee Valley. TVA has the green power switch option. More and more consumers are signing up for that. Pay a little more but know that they have got totally renewable energy coming into their home. It is a popular thing. And, frankly, Republicans leading with a national energy policy for the first time since the late 1970s are doing the right thing for the environment.

But that brings me to a problem we have, and that is in the electricity sector, the cleanest, most efficient electricity in this country is nuclear. In France, these people are very environmentally sensitive. They actually get it, and over 70 percent of the electricity in France is provided by nuclear, but they do prototype their design. They eliminate the margin of error, and they do the same thing over and over again. We need to do that here, and we need to go back into the nuclear business. We have the waste stream problems worked out with Yucca Mountain. We need to be bold enough to say, if we are going to secure our energy sources, and the main thing is there is absolutely no emissions with nuclear. We have clean air. We could actually participate in Kyoto if we would replace fossil with nuclear, and we are smart enough to do it. Dadgum, if the French are smart enough to do it, then we are smart enough to do it.

The House Republicans have a strong energy plan. By the time we finish, we are going to do extremely well. We have got several deliverables from renewable energy and energy efficiency, moving to the hydrogen economy, making sure that our electricity grid is reliable, expanding nuclear power and cleaning up the coal technologies in this country. I am proud to serve with these men and advocate for energy security. I believe we are going to actually send that bill to the President and do the right thing, grow the economy and hopefully ultimately have revenues pass expenses again.

□ 2145

Mr. EHLERS. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments, and I appreciate his words about the Jetsons. Both previous speakers mentioned we have to be smart with the smart cars of the future. I would say if we are not smart, we may end up like the Flintstones, instead of the Jetsons. So it is very important for us to do the long-term planning we need to in this body.

Also the gentleman mentioned the document from the Energy Future Coalition, which I also have. National security is a very, very important part of this discussion, and it really irritates me that we are financing our foes in the Middle East by sending all this money over there which they are diverting into instruments of war against us.

With that, I am pleased to recognize our final speaker of the day, another scientist, the gentleman from Maryland (Mr. BARTLETT), who is an expert on what is called "peak oil." In other words, we talked about the finiteness of the oil and natural gas supplies. The gentleman from Maryland (Mr. BARTLETT) is the expert, and he will explain that to us.

Mr. BARTLETT. Mr. Speaker, I really want to thank the gentleman for organizing this hour this evening.

The gentleman from Michigan (Mr. EHLERS) mentioned the energy future, and I have a chart here which looks at the past. If you understand how we have gotten here, why, you may be able to see the future a little better.

The gentleman mentioned the wood, and that is the brown line way down here. Then the gentleman mentioned coal. We transitioned, and the gentleman from Maryland (Mr. GILCHREST) mentioned that also. We transitioned to coal. You see that we got lots more energy out of coal than we got out of wood.

Then look at the energy that we get out of oil. Of course, as we look to the future, we need to find something that will at least come close to producing the kind of energy that we get from oil.

Our next slide relates to something the gentleman said about energy represents the ability to do work. Here we have a chart which lists the energy density in a variety of things that we get energy from.

To kind of put this in perspective, I would like to note that if we come down here to crude oil, I will give you some idea of the energy density of crude oil, one barrel of crude oil, 42 gallons, represents the energy from 25,000 man-hours of labor. That is about 12 man years of labor. That is the equivalent of having 12 people that work all year for you. And what will it cost you for that? $100 today, about $50 for the barrel of oil and maybe $50 to refine it and distribute it. So that is the kind of energy density that we get from fossil fuel.

Now, we are going to have to find something that comes close that that in the quantities we are using fossil fuels. We are talking about oil and gas. We use in our country 21 million barrels of oil a day. The rest of the world uses 63 million barrels of oil a day. That is 84 million barrels of oil a day total.

If you look here, you will see we did go to higher and higher energy density fuels. As we moved along, you can burn domestic refuge, and we ought to be doing that, by the way, instead of putting it in landfills. We ought to be burning that. Some are doing that. You get heat for the surrounding houses, you get electricity from it.

Brown coal, that is not very good coal. Straw, you can burn bailed straw, that is called biomass. There are lots of things you can do with biomass. In some parts of the world they burn dried dung. That also has lots of energy in it, about the same as wood.

Then we move to black coal, that is what we really mean by coal. You see coal has a higher energy density than wood. And here is coke and ethanol. Notice that ethanol has a lesser energy density than crude oil and diesel and petrol, that is what you put in your car. Naptha has a higher energy density, aviation fuel a still higher energy density, and natural gas, it was mentioned, the hydrogen content goes higher and higher in these so you get more energy out of it.

The gentleman from Michigan (Mr. EHLERS) mentioned the agricultural revolution. We have a chart here that looks at the agricultural revolution. This is a very interesting chart.

The top part of the chart shows how we get energy from petroleum, and it goes from petroleum clear down to gasoline and all of the energy inputs in the stages that are involved in doing that. You have to recover it. Here is the energy input that you need to recover it. You have to transport it. You have got to refine it. You have got to transport it again. And this is what you get from it, 1 million Btus of gasoline at the refueling station. And what did that cost you? It cost 1.23 million Btus. So about a fifth of all the energy you started with in petroleum now is gone in getting this gallon of gasoline.

Well, on the other side here we have now energy from ethanol, from corn. If you go down, we have to farm the corn, we have to produce it, we have to transport it, we have to produce it, we have to transport it again to where you are going to use it, and we still have the 1 million Btus, a little more than a gallon here, by the way, because it does not have the energy density of gasoline. But still we are making the equivalent 1 million Btus. Notice that that took 0.74 million Btus of fossil energy. The difference, of course, was the energy we got from the sun. So here we are capturing energy from the sun to make ethanol.

The bottom of this chart is really very interesting, because this points to a big problem that we face in this country particularly, and in the world in general, as the availability of fossil fuels winds down, because this is the total energy requirement that goes into a bushel of corn.

Notice the kind of energy that goes into that bushel of corn. Nearly half of it is nitrogen. That comes from natural gas. Before we learned how to get it from natural gas, the only place we got it from was barn yard manures or plants that put it in the soil in rotation farming or guano that we mine from bat caves and tropical islands.

Notice as we go around this pie, the input of oil. Here we have input hauling, that is oil. Water, that was moved probably with energy from fossil fuels. Chemicals, a lot of host chemicals are made from fossil fuels, an enormous petrochemical industry. Custom work. The fellow came in to do custom work, he used some oil. His tractor was made with oil. Natural gas. Electricity. Natural gas goes along with oil. Electricity could have been produced with natural gas or oil. Propane, again, a product of fossil fuels. Gasoline, diesel.

So far, almost everything here is the product of oil or oil itself, is it not? And then we get to some things we mine. We can mine phosphate, lime and potash, but it takes energy to mine those and that energy probably came from oil. So the food you eat in a very real sense is oil, is it not, because that is where the energy came from to produce that food.

Then you have the very interesting chart of income savings and inheritance, and I have a chart here that looks at some of the alternatives. These have been mentioned. We will just spent a couple of moments looking at these alternatives, because we have been talking about it this evening.

We have some finite resources and we need to husband those carefully. We need to use them only as we have to. Some of them will not be very valuable. Tar sands and oil shale may cost you almost as much to get the energy as you get out of the energy after you have gotten it. Coal, and I want to put a coal chart up here in just a moment, because that is a very interesting one. And then nuclear. Several of the speakers have mentioned nuclear this evening.

There are three kinds of ways you can get power from nuclear. Fusion, I hope we get there. If we get there we are home free, are we not? I think the odds of getting there are not all that good, so you better not bank on it, the same way you better not bank on solving your personal economic problems by winning the lottery. That would be nice too, but the odds are not real high that you are going to do it. Then there is the light water reactor, which we have, and then there is the breeder reactor, which we do not have, which we are certainly going to have to look at if we are going to be serious of getting nuclear energy.

Then there is a whole list of renewables here. These are the ones we really need to be focusing on. But the big challenge here is, and I want to put the last chart up, is to move so we can make do with the energy from these alternatives, because it is not going to be as available in as large a quantity or with the energy density of the fossil fuels. So I want to put up the last chart, and that is the chart that shows the things we need to be doing.

These are the kind of things we need to be doing. The first thing we need to be doing is voluntary conservation. Let me put up very quickly the chart that shows California. This is a really interesting one.

It shows that you do not have to depreciate the quality of life to useless energy. Californians use about 60 percent as much energy per person as in the rest of the country. It would be hard to argue they do not have a good lifestyle.

Let me put this down and look at the next one. The next thing we need to do, we need to organize voluntary conservation. If we can organize, we can do a little better job. Then this is with the government cuts in now. We need to have monetary incentives, some policies for volunteer conservation. We have to conserve to buy time so we can use the fossil fuels remaining, not only total fuel our present economy, to make the investment we need to make in these renewables so we will be able to sustain ourselves for the duration.

Then we need to go to efficiency. We have done a lot with efficiency. Your present refrigerator is at least twice as good as the one 20 years ago in terms of efficiency. Then again the government is involved, we need to have monetary incentives and policies for efficient technologies.

I would say to the gentleman from Michigan (Mr. EHLERS), we should have been moving down this path for the last 25 years, because in 1980 we knew absolutely moving down Hubbard's Peak. Tomorrow I think we have another opportunity in one of these special order hours to talk about this. We will be able to do this in more detail. I thank the gentleman for yielding to me and for organizing this hour this evening.

Mr. EHLERS. Mr. Speaker, reclaiming my time, I thank the gentleman from Maryland. The gentleman has given an excellent presentation. Unfortunately, we do not have time to go into details, but as the gentleman mentioned, I believe we have other time next week when we can do that. I look forward to hearing more from the gentleman about his field of expertise.

Mr. Speaker, I would also enter into the record a letter from the Energy Future Coalition which was sent to President George W. Bush along with some attached material which I think is very important for our colleagues to peruse and it will certainly be of interest to other people in this Nation.

I want to thank the four gentlemen who joined me here this evening, all of them are experts in different areas relating to energy. They have done an excellent job of presenting things, and I hope this clarifies the energy situation and sheds some light on our efforts to ensure that we advance energy efficiency, advance energy conservation, advance development of new sources of energy, and, in particular, in terms of the chart I used, let us get away from using our savings; let us get on to using our income and some of our inheritance so that we have a balanced economy in the future and a safer Nation.

'SET AMERICA FREE' A BLUEPRINT FOR U.S. ENERGY SECURITY

INTRODUCTION

Historically, the United States has pursued a three-pronged strategy for minimizing the vulnerabilities associated with its dependency on oil from unstable and/or hostile nations: diversifying sources of oil, managing inventory in a strategic petroleum reserve and increasing the efficiency of the transportation sector's energy consumption. In recent years, the focus has been principally on finding new and larger sources of petroleum globally.

Rapidly growing worldwide demand for oil, however, has had the effect of largely neutralizing this initiative, depleting existing reserves faster than new, economically exploitable deposits are being brought on line. Under these circumstances, diversification among such sources is but a stop-gap solution that can, at best, have temporary effect on oil supply and, hence, on national security. Conservation can help, but with oil consumption expected to grow by 60 percent over the next 25 years, conservation alone will not be a sufficient solution.

THE 'SET AMERICA FREE' PROJECT

Long-term security and economic prosperity requires the creation of a fourth pillar—technological transportation of the transportation sector through what might be called "fuel choice." By leading a multinational effort rooted in the following principles, the United States can immediately begin to introduce a global economy based on next-generation fuels and vehicles that can utilize them:

Fuel diversification: Today, consumers can choose among various octanes of gasoline, which accounts for 45 percent of U.S. oil consumption, or diesel, which accounts for almost another fifth. To these choices can and should promptly be added other fuels that are domestically produced, where possible from waste products, and that are clean and affordable.

Real world solutions: We have no time to wait for commercialization of immature technologies. The United States should implement technologies that exist today and are ready for widespread use.

Using existing infrastructure: The focus should be on utilizing competitive technologies that do not require prohibitive or, if possible, even significant investment in changing our transportation sector's infrastructure. Instead, "fuel choice" should permit the maximum possible use of the existing refueling and automotive infrastructure.

Domestic resource utilization: The United States is no longer rich in oil or natural gas. It has, however, a wealth of other energy sources from which transportation fuel can be safely, affordably and cleanly generated. Among them: hundreds of years worth of coal reserves, 25 percent of the world's total (especially promising with Integrated Gasification and Combined Cycle technologies); billions of tons a year of biomass, and further billions of tons of agricultural and municipal waste. Vehicles that meet consumer needs (e.g., "plug-in" hybrids), can also tap America's electrical grid to supply energy for transportation, making more efficient use of such clean sources of electricity as solar, wind, geothermal, hydroelectric and nuclear power.

Environmentally sensible choices: The technologies adopted should improve public safety and respond to the public's environmental land health concerns.

KEY ELEMENTS OF THE 'SET AMERICA FREE' PROJECT

Vehicles

Hybrid electric vehicles: There are already thousands of vehicles on America's roads that combine hybrid engines powered in an integrated fashion by liquid fuel-powered motors and battery-powered ones. Such vehicles increase gas-consumption efficiency by 30-40 percent.

Ultralight materials: At least two-thirds of fuel use by a typical consumer vehicle is caused by its weight. Thanks to advances in both metals and plastics, ultralight vehicles can be affordably manufactured with today's technologies and can roughly halve fuel consumption without compromising safety, performance or cost effectiveness.

"Plug-in" hybrid electric vehicles: Plug-in hybrid electric vehicles are also powered by a combination of electricity and liquid fuel. Unlike standard hybrids, however, plug-ins draw charge not only from the engine and captured braking energy, but also directly from the electrical grid by being plugged into standard electric outlets when not in use. Plug-in hybrids have liquid fuel tanks and internal combustion engines, so they do not face the range limitation posed by electric-only cars. Since fifty-percent of cars on the road in the United States are driven 20 miles a day or less, a plug-in with a 20-mile range battery would reduce fuel consumption by, on average, 85 percent. Plug-in hybrid electric vehicles can reach fuel economy levels of 100 miles per gallon of gasoline consumed.

Flexible fuel vehicles (FFVs): FFVs are designed to burn on alcohol, gasoline, or any mixture of the two. About four million FFV's have been manufactured since 1996. The only difference between a conventional car and a flexible fuel vehicle is that the latter is equipped with a different control chip and some different fittings in the fuel line to accommodate the characteristics of alcohol. The marginal additional cost associated with such FFV-associated changes is currently under $100 per vehicle. That cost would be reduced further as volume of FFVs increases, particularly if flexible fuel designs were to become the industry standard.

Flexible fuel/plug-in hybrid electric vehicles: If the two technologies are combined, such vehicles can be powered by blends of alcohol fuels, gasoline, and electricity. If a plug-in vehicle is also a FFV fueled with 80 percent alcohol and 20 percent gasoline, fuel economy could reach 500 miles per gallon of gasoline.

If by 2025, all cars on the road are hybrids and half are plug-in hybrid vehicles, U.S. oil imports would drop by 8 million barrels per day (mbd). Today, the United states imports 10 mbd and it is projected to import almost 20 mbd by 2025. If all of these cars were also flexible fuel vehicles, U.S. oil imports would drop by as much as 12 mbd.

Fuels

Fuel additives: Fuel additives can enhance combustion efficiency by up to 25 percent. They can be blended into gasoline, diesel and bunker fuel.

Electricity as a fuel: Less than 2 percent of U.S. electricity is generated from oil, so using electricity as a transportation fuel would greatly reduce dependence on imported petroleum. Plug-in hybrid vehicles would be charged at night in home garages—a time-interval during which electric utilities have significant excess capacity. The Electric Power Research Institute estimates that up to 30 percent of market penetration for plug-in hybrid electric vehicles with 20-mile electric range can be achieved without a need to install additional electricity-generating capacity.

Alcohol fuels: ethanol, methanol and other blends:

Ethanol (also known as grain alcohol) is currently produced in the U.S. from corn. The industry currently has a capacity of 3.3 billion gallons a year and has increased on the average of 25 percent per year over the past three years. Upping production would be achieved by continuing to advance the corn-based ethanol industry and by commercializing the production of ethanol from biomass waste and dedicated energy crops. P-Series fuel (approved by the Department of Energy in 1999) is a more energy-efficient blend of ethanol, natural gas liquids and ether made from biomass waste.

Methanol (also known as wood alcohol) is today for the most part produced from natural gas. Expanding domestic production can be achieved by producing methanol from coal, a resource with which the U.S. is abundantly endowed. The commercial feasibility of coal-to-methanol technology was demonstrated as part of the DOE's "clean coal" technology effort. Currently, methanol is being cleanly produced from coal for under 50 cents a gallon.

It only costs about $60,000 to add a fuel pump that serves one of the above fuels to an existing refueling station.

Non-oil based diesel: Biodiesel is commercially produced from soybean and other vegetable oils. Diesel can also be made from waste products such as tires and animal by-products, and is currently commercially produced from turkey offal. Diesel is also commercially produced from coal.

Policy Recommendations

Provide incentives to auto manufacturers to produce and consumers to purchase, hybrid vehicles, plug-in hybrid electric vehicles and FFVs across all vehicle models.

Provide incentives for auto manufacturers to increase fuel efficiency of existing, non-FFV auto models.

Conduct extensive testing of next-generation fuels across the vehicle spectrum to meet auto warranty and EPA emission standards.

Mandate substantial incorporation of plug-ins and FFVs into federal, state, municipal and covered fleets.

Provide investment tax incentives for corporate fleets and taxi fleets to switch to plug-ins, hybrids and FFVs.

Encourage gasoline distributors to blend combustion enhancers into the fuel.

Provide incentives for existing fueling stations to install pumps that serve all liquid fuels that can be used in the existing transportation infrastructure, and mandate that all new gas stations be so equipped.

Provide incentives to enable new players, such as utilities, to enter the transportation fuel market, and for the development of environmentally sound exploitation of non-traditional petroleum deposits from stable areas (such as Canadian tar sands).

Provide incentives for the construction of plants that generate liquid transportation fuels from domestic energy resources, particularly from waste, that can be used in the existing infrastructure.

Allocate funds for commercial scale demonstration plants that produce next-generation transportation fuels, particularly from waste products.

Implement federal, state, and local policies to encourage mass transit and reduce vehicle-miles traveled.

Work with other oil-consuming countries towards distribution of the above-mentioned technologies and overall reduction of reliance on petroleum, particularly from hostile and potentially unstable regions of the world.

A NEW NATIONAL PROJECT

In 1942, President Roosevelt launched the Manhattan Project to build an atomic weapon to be ready by 1945 because of threats to America and to explore the future of nuclear fission. The cost in today's prices was $20 billion. The outcome was an end to the war with Japan, and the beginning of a wide new array of nuclear-based technologies in energy, medical treatment, and other fields.

In 1962, President Kennedy launched the Man to the Moon Project to be achieved by 1969 because of mounting threats to U.S. and international security posed by Soviet space-dominance and to explore outer space. The cost of the Apollo program in today's prices would be well over $100 billion. The outcome was an extraordinary strategic and technological success for the United States. It engendered a wide array of spin-offs that improved virtually every aspect of modern life, including but not limited to transportation, communications, health care, medical treatment, food production and other fields.

The security of the United States, and the world, is no less threatened by oil supply disruptions, price instabilities and shortages. It is imperative that America provide needed leadership by immediately beginning to dramatically reduce its dependence on imported oil. This can be done by embracing the concepts outlined above with a focus on fuel choice, combined with concerted efforts at improving energy efficiency and the increased availability of energy from renewable sources.

The estimated cost of the "Set America Free" plan over the next 4 years is $12 billion. This would be applied in the following way: $2 billion for automotive manufacturers to cover one-half the costs of building FFV-capability into their new production cars (i.e., roughly 40 million cars at $50 per unit); $1 billion to pay for at least one of every four existing gas stations to add at least one pump to supply alcohol fuels (an estimated incentive of $20,000 per pump, new pumps costing approximately $60,000 per unit); $2 billion in consumer tax incentives to procure hybrid cars; $2 billion for automotive manufacturers to commercialize plug-in hybrid electric vehicles; $3 billion to construct commercial-scale demonstration plants to produce non-petroleum based liquid fuels (utilizing public-private cost-sharing partnerships to build roughly 25 plants in order to demonstrate the feasibility of various approaches to perform efficiently at full-scale production); and $2 billion to continue work on commercializing fuel cell technology.

Since no major, new scientific advances are necessary to launch this program, such funds can be applied towards increasing the efficiencies of the involved processes. The resulting return-on-investment—in terms of enhanced energy and national security, economic growth, quality of life and environmental protection—should more than pay for the seed money required.

Gary L. Bauer, President, American Values.

Milton Copulos, National Defense Council Foundation.

Congressman Eliot Engel.

Frank Gaffney, Center for Security Policy.

Bracken Hendricks, Apollo Alliance.

Col. (ret.) Bill Holmberg, American Council on Renewable Energy.

Anne Korin, Institute for the Analysis of Global Security.

Deron Lovaas, Natural Resources Defense Council.

Gal Luft, Institute for the Analysis of Global Security.

Cliff May, Foundation for the Defense of Democracies.

Hon. Robert C. McFarlane, Former National Security Advisor.

Daniel Pipes, Middle East Forum.

Professor Richard E. Smalley, 1996 Nobel Laureate in Chemistry.

Admiral James D. Watkins, Former U.S. Secretary of Energy.

Hon. R. James Woolsey, Former director of the CIA, Co-Chairman, Committee on the Present Danger.

Meyrav Wurmser, Hudson Institute.

ENERGY FUTURE COALITION
Washington, DC, March 24, 2005.

Hon. GEORGE W. BUSH, President of the United States,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As individuals with a deep commitment to our nation's security and well-being, we share our overriding concern for the protection of the United States. That is why we have come together to urge you and your Administration to focus anew on a matter that directly affects our national security: America's growing dependence on foreign oil.

We believe that: The United States' dependence on imported petroleum poses a risk to our homeland security and economic well-being. Increasing petroleum consumption by developing economies like China and India will exacerbate this risk. Some foreign interests have used oil revenues in ways that harm our national security. With only two percent of the world's oil reserves but 25 percent of current world consumption, the United States cannot eliminate its need for imports through increased domestic production along. An equivalent emphasis on demand-side measures—development and deployment of clean, domestic petroleum substitutes and increased efficiency in our transport system—is essential.

You have recognized the threat. As you said on the South Lawn on February 25, 2002, dependence on foreign oil "is a challenge to our economic security, because dependence can lead to price shocks and fuel shortages. And this dependence on foreign oil is a matter of national security. To put it bluntly, sometimes we rely upon energy sources from countries that don't particularly like us."

Mr. President, we agree. We are writing today to urge that the United States respond—as it has so ably to other national security challenges—with a focused, determined effort that accepts nothing less than success. To reduce the risk of an oil shock in a global market, we must reduce our use of foreign oil. We ask that you launch a major new initiative to curtail U.S. consumption through improved efficiency and the rapid development and deployment of advanced biomass, alcohol and other available petroleum fuel alternatives.

Most importantly, we believe that, to demonstrate our seriousness and resolve, this effort must be funded at a level proportionate with other priorities for our nation's defense. An investment of no more than $1 billion over the next five years, for example, would establish a domestic alternative fuels industry that could significantly reduce our consumption of foreign oil.

We do not know today what form a crisis over oil will take, but we know that a crisis is coming—one that could harm the United States. Action to prepare for that day will pay dividends for our national security, out international competitiveness, and our future prosperity. We respectfully urge that you call on the Congress to join you in supporting the funding and other strong measures needed to reduce our dependence on foreign oil, such as those set out in our enclosed Findings and Recommendations. As Sun Tzu wrote, "The art of war teaches us to rely not on the likelihood of the enemy's not coming, but on our own readiness to receive him."

Sincerely,

ROBERT C. MCFARLENE,
R. JAMES WOOLSEY,
FRANK J. GAFFNEY, Jr.,
C. BOYDEN GRAY,
TIMOTHY E. WIRTH.

Additional Signatories

Lt. Gen. John S. Caldwell, Jr., USA (Ret.).

Milton R. Copulos, National Defense Council Foundation.

Adm. William T. Crowe, Jr., USN (Ret.); former Chairman of the Joint Chiefs of Staff.

Hon. John H. Dalton, Former Secretary of the Navy.

Vice Adm. Robert F. Dunn, USN (Ret.).

Brig. Gen. Gordon Gayle, USMC (Ret.).

Hon. Sherri W. Goodman, Former Deputy Under Secretary of Defense.

Vice Adm. Lee Gunn, USN (Ret.); Institute for Public Research, Center for Naval Analysis.

David A. Harris, American Jewish Committee.

Hon. Gary Hart, Former U.S. Senator; Co-Chair, U.S. Commission on National Security for the 21st Century.

Rear Adm. Leland S. Kollmorgen, USN (Ret.).

Gen. Richard L. Lawson, USAF (Ret.); former President, National Mining Association.

Gal Luft, Institute for the Analysis of Global Security.

Lt. Gen. William R. Maloney, USMC (Ret.).

Clifford D. May, Foundation for the Defense of Democracies.

Vice Adm. Dennis V. McGinn, USN (Ret.).

Hon. William A. Nitze, The Gemstar Group.

John L. Peterson, The Arlington Institute.

Hon. Robert B. Pirie, Jr., Former Secretary of the Navy (acting).

Hon. John D. Podesta, Center for American Progress; former White House Chief of Staff.

The Hon. David Oliver, Jr., Former Principal Deputy Under Secretary of Defense for Acquisition, Technology and Logistics.

Hon. Joe R. Reeder, Former Under Secretary of the Army.

Maj. Gen. J. Milnor Roberts, USAR (Ret.).

Vice Adm. Richard H. Truly, USN (Ret.); former Director of the National Renewable Energy Laboratory.

Adm. James D. Watkins, USN (Ret.); former Secretary of Energy.

ENERGY FUTURE COALITION

THE NATIONAL SECURITY AND PETROLEUM DEPENDENCE PROJECT

Findings and Recommendations

Findings: U.S. dependence on foreign petroleum poses a serious risk to our national and homeland security as well as our economic well-being; Increasing petroleum consumption by developing economies like China and India will exacerbate this risk; Some foreign interests have used oil revenues to purchase destabilizing weapons or to support terrorism; With just 2 percent of the world's oil reserves and 25 percent of current world consumption, the U.S. cannot eliminate its need for imports through increased domestic production alone; equivalent demand-side measures are essential; Technologies exist today that can improve efficiency and produce clean, domestic petroleum substitutes; The cost of action is far smaller than the risk of inaction, and there is no excuse for further delay.

Recommendation:

1. It should be a top national security priority of the United States to significantly reduce its consumption of foreign oil through improved efficiency and the rapid substitution of advanced biomass, alcohol and other available alternative fuels, and this effort should be funded at a level proportionate with other priorities for the defense of the nation.

2. In addition to research and development, such investments should include tax credits and other incentives to encourage: (a.) Rapid production and consumer purchase of advanced vehicles like hybrids, plug-in hybrids and flexible fuel vehicles; (b.) Production of more efficient vehicles across all models; (c.) Construction of domestic facilities to produce alternative fuels from domestic resources; and (d.) Wide deployment of alternative liquid fuel options at existing fueling stations.

3. The Federal Government should consider mandating substantial incorporation of hybrids, plug-in hybrids and flexible fuel vehicles into federal, state, municipal and other government fleets.

PAYING TRIBUTE TO NATIONAL LAW ENFORCEMENT OFFICERS AND FIRST RESPONDERS

The SPEAKER pro tempore (Mr. FITZPATRICK of Pennsylvania). Under the Speaker's announced policy of January 4, 2005, the gentleman from Michigan (Mr. STUPAK) is recognized for 60 minutes.

Mr. STUPAK. Mr. Speaker, I thank you for the opportunity to say a few words tonight. I would like to change the subject from energy to the energy we see day in and day out on our Nation's streets, towns and communities and homes, and that is that this week is National Law Enforcement Week. I rise to pay tribute to our law enforcement officers and first responders who have so bravely protected and served our Nation, often putting their own lives at risk.

Since September 11, 2001, many in this Nation and this Congress have come to recognize the importance of the sacrifices made by men and women in law enforcement. As a former police officer with the Michigan State Police and the Escanaba City Police Department, as well as the founder and co-chair of the Law Enforcement Caucus, this week has special meaning to me.

The focus of this week will take place Friday evening, when 153 law enforcement officers killed in the line of duty in 2040 as well as 262 other officers killed in prior years will be formally added to the Peace Officers Memorial at the 2005 National Candlelight Vigil at the National Law Enforcement Memorial here in Washington, D.C.

The addition of these officers' names to the memorial is one way in which our Nation can commemorate its fallen heroes who have died in the line of duty. This week allows law enforcement officers and their families to gather together in one place and honor those who have lost their lives.

According to the National Law Enforcement Officers Memorial Fund, more than 16,656 Federal, State and local law enforcement men and women in the United States have been killed in the line of duty through 2004. In 2004, of the 153 fallen officers, sadly seven of these officers are from my home State of Michigan.

That is why it is especially important during this special week that we not only recognize the dedication of these officers, but also commit to providing our law enforcement officers with the resources they need to meet the daily challenges of their jobs, particularly at a time when we place greater demands on them to fight and prevent terrorism here all across America.

We can provide these resources only by fully funding important law enforcement grant programs that allow our local agencies to buy essential protective gear, hire the officers they need and obtain all the resources they need to make themselves and our communities safe.

Congress can provide these resources through grants, especially through the Community Oriented Police Services, or COPS Program, as we know it. This COPS Program was so successful that it helped to put 100,000 police officers on the street under President Clinton. It is critical that Congress continue to fully fund this program.

□ 2200

Unfortunately, the President's budget, which we really just recently passed, devastates the COPS program, requesting only $117.8 million for this important program. That is $381.2 million below last year's level. That is more than almost a 200, 300 percent cut in this program. The President's budget also zeroes out the Edward Byrne Memorial Justice Assistance grant program that provides funding for 19 different programs for counterdrug initiatives in rural communities for funding our jails, and 19 different programs to allow local law enforcement to do what is necessary in their communities to best serve and protect their people. These grants are used to administer, as I said, vital programs such as multi-jurisdictional drug enforcement teams, anti-drug education programs, treatment programs, staffing our jails, running investigative bureaus, and also all the way to alternative sentencing initiatives.

If enacted, the President's budget cuts will have far-reaching effects on our local law enforcement communities. Local drug enforcement teams are crucial to keeping our communities drug-free. If the Byrne grant programs are zeroed out, as they are required to be underneath our budget, they will be unable to hire officers needed to sustain their drug enforcement teams.

Let me tell my colleagues, when it comes to drug abuse, no community, urban or rural, is immune from this problem. To highlight how important these local teams are to our rural districts, there is a recent article in our local newspapers in my first congressional district of Michigan. On April 13, HUNT, or also known as the Huron Undercover Narcotics Teams seized 3,000 Oxycontin tablets from a home in the rural part of Presque Isle. This is just one example of the critical work these narcotic teams do day in and day out to keep drugs out of our communities and our schools.

This country's drug problems are not going to go away with this one bust. In fact, with the emergence of prescription drugs used and dealt illegally like Oxycontin, some would argue the problem is only getting worse. My question is, why are we zeroing out the funding that enables programs like HUNT, the Huron Undercover Narcotics Team, to exist and combat this problem that is only growing more severe.

Congress also needs to provide assistance to help regional law enforcement officers and first responders talk to each other in a time of emergency. It is called interoperability. My bill, H.R. 3370, the Public Safety Interoperability Act, would provide grants to local law enforcement agencies to modernize their communications systems and become interoperable. Interoperability of an officer's communications system would allow different police agencies in different jurisdictions to communicate with each other in time of crisis.

Currently, firefighters and law enforcement officials may not be able to talk to each other, even if they work in the same jurisdiction. The tragic events of September 11 only illustrates and highlights why it is so important that our law enforcement officials are fully able to talk to each other via interoperability. Mr. Speaker, 343 firefighters and 72 law enforcement officers lost their lives in the World Trade Center on September 11, and 121 of the brave firefighters lost their lives due to the fact that they were unable to talk to each other. No one could tell them to get out of the building.

When our first responders are confronted with an emergency situation, it is absolutely necessary that they are able to communicate with each other so they can fully assess the situation and how best to handle it. These are the kinds of resources and tools our first responders need. We need to do everything possible to ensure that our law enforcement officers that play an integral role in our Nation's antiterrorism efforts are fully interoperable and able to talk to each other, whether it is State, Federal, or local law enforcement, or first responders. Without interoperability, our public safety agencies face the challenge of being able to talk to each other when the emergency crisis strikes.

My State of Michigan is one of the leaders in its mission to build a communications network that allows its entire local and State public safety agencies the ability to talk with one another by radio, regardless of agency or jurisdiction. The network has right now 400 local and State agencies on it, but there are another 1,300 agencies that need to get on the network, and the main obstacle in reaching this goal is being able to get on the same network and talk to each other via the spectrum they need and the funding they need, which is why we have heard from national police and public safety organizations about the funding levels. If we tried to fund the whole Nation, it would cost about $10 billion, and that is what is needed to make this Nation's first responders interoperable or being able to talk to each other, regardless of the jurisdiction or agency they work for. But so far, it appears that only about $800 million in Federal grants have been provided for interoperability. Of this $800 million, we are not sure where the money all went to. In fact, how was it used? Was it used to buy radios? Were those radios able to talk to each other? Was it to upgrade systems, or was it just to study the problem? These are the questions we have asked on this floor of this House, because there is nothing more important to anyone in law enforcement than to be able to talk to each other to tell the situation they are in and ask for assistance if they so need it.

In fact, the independent 9/11 Commission actually held hearings in part to examine the communication gaps that actually occurred between law enforcement officers and public safety agencies and first responders during their response to the attack on the World Trade Center. What the Commission learned firsthand was that fire chiefs in the building lobbies, in the lobbies of the World Trade Center, knew little of the conditions upstairs, did not hear anything about what police officers and helicopters were seeing as they circled the World Trade Center. Earlier, Federal reports on the 9/11 emergency response concluded that the inability of these first responders to talk to each other, these first responders from different agencies to talk to one another was a key factor in the death, as I said earlier, of at least 121 firefighters. No one could tell them it was time to get out of the buildings, as it may fall upon them.

Since then, the Federal Government has called upon our States and local law enforcement officers and first responders to be even more vigilant and be prepared for possible attacks on terrorism, yet our public safety agencies continue to lack the ability to communicate with each other, between agencies and between jurisdictions. Firefighters cannot talk to police, local police cannot talk to State police, and so on and so on.

Despite the creation of the Department of Homeland Security and grant programs for first responders, program funding for modernizing their communications systems has fallen far short of the billions of dollars we need to make our Nation's public safety agencies interoperable. As I said earlier, approximately $800 million has been devoted to local public safety communications systems but, then, in 2004, no funding was provided at all. Again, even in the 2005 appropriations bill, not one dime went specifically to grants of interoperability. Why is it that we are always talking about the priority to make our communications system interoperable so we can talk to each other, but we are not providing the resources to get the job done?

Another question: Congress has provided more than $4.4 billion in first responder grants and to the States, but it appears no one knows how much of this grant money has been used for communications. I even asked my home State of Michigan. They have received some $120 million in the State formula Department of Homeland Security grants, but no one could tell me or my staff how much has been spent on communications systems and communications systems that were interoperable.

The bottom line is there is a lot of talk around here about interoperability, but no real reliable resources to help make this happen so agencies can talk to each other in times of disaster or, heaven help us, a terrorist attack.

As I said earlier, I have a bill that would help address this urgent need, and our bill, and it is a bipartisan bill, the Public Safety Interoperability Implementation Act, sets up a public safety communications trust fund in the U.S. Treasury to expeditiously move our Nation's public safety agencies into the modern day state of communications. In the short term, the trust fund will be funded by a three-year grant program funded through the traditional appropriations cycle providing up to $500 million a year in interoperability grants. The key is it has to be interoperability grants, to make your communications system in your jurisdiction so everyone, first responders, firefighters, paramedics, police officers can all talk to each other. In the long term, we provide a short-term and also a long-term solution; the funding for the trust fund will come from the sales of the spectrum conducted by the Federal Communications Commission. This bill dedicates 50 percent of the net revenue from future spectrum auctions to the trust fund. By dedicating funds from the sale of the spectrum, we would ensure that funding will be set aside no matter what happens in the annual appropriations process.

In a few weeks we expect a bill to come out of our Committee on Energy and Commerce for the sale of spectrum to move our televisions from the analogue system to more of a high-definition television, so we have to go to a different spectrum. That 800 megahertz spectrum is to be set aside for law enforcement. But then, they need the resources, law enforcement needs the resources to be able to put in the modern communications systems so they can all talk to each other. Whether you are in the upper or lower peninsula of Michigan, whether you are in Maryland or Washington, D.C., or Virginia, these jurisdictions, these first responders in these areas should be able to talk to each other.

Today we had an evacuation of the Capitol building and the office buildings here. I really wonder, could the Capitol Police talk to the Metropolitan Police? Could Metropolitan Police talk to subway police, could they talk to the Park Police, could they talk to the emergency people, could they talk to the ambulance drivers, could they talk to the fire department. They all responded, but could they talk to each other and communicate with each other to direct the resources, the manpower, the personnel we needed at the right time if it would have been a serious attack or threat here in our Nation's capital. I know in the Nation's capital from previous testimony, they have spent over $300 million on interoperability in the Washington, D.C. area. I also know that it is not fully operational and not all jurisdictions talk to each other. So we have some work to do. There is new technology out there now which will bring down the cost of interoperability, but we have to put forth the resources to bring this together.

It is clear, local agencies and the States cannot afford to do this on their own. It is clear specific funding will not be set aside in our current appropriations bill for this priority. It is time that we provide our first responders with the tools they need to do the job the Federal Government has called upon them to do, especially now during National Law Enforcement Week.

Mr. Speaker, when we talk about it, firefighters and law enforcement officials may not be able to communicate with each other even if they work in the same jurisdiction. As I said, the tragic events of September 11 certainly indicated why this is so important. We talk about the events of September 11 or the 150 some law enforcement officers who will be placed on the memorial wall who died here in the past year, and we need to do everything we can to ensure programs like the Thin Blue Line are fully funded.

The Thin Blue Line is a nonprofit, volunteer organization that assists and supports the families of injured or deceased officers of law enforcement agencies. Thin Blue Line began in Michigan and is now expanding throughout this Nation. Thin Blue Line volunteers assist families with applying for benefits, counseling, and answering their questions during the most difficult of circumstances. These officers have made the ultimate sacrifice in the line of duty, and their families deserve to be honored, respected, and supported in any way we can.

I am hopeful that we can continue as a Nation, as a Congress, and as citizens of this great Nation to show our commitment to law enforcement by supporting important funding needs, including showing our full support for the National Law Enforcement Officers Memorial. It is the least we can do for those individuals who put their life on the line each and every day.

Mr. Speaker, I want to dedicate this time to law enforcement officers and Law Enforcement Week. As I said, Sunday night, they will be putting the names of the officers who have fallen, 153 in the past year, plus 262 others killed in prior years, on a Peace Officers Memorial at the National Candlelight Vigil at the National Memorial here in Washington, D.C., and I hope during this next week while we are in and out of Washington, D.C., we take a moment to reflect upon those individuals who provided so much to us, people and individuals we often take for granted, our law enforcement officials throughout this great Nation.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MORAN of Virginia (at the request of Ms. PELOSI) for today.

Ms. WASSERMAN SCHULTZ (at the request of Ms. PELOSI) for today after noon.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. PASCREL, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

(The following Members (at the request of Mr. TIAHRT) to revise and extend their remarks and include extraneous material:)

Mr. POE, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, May 18.

Mr. TIAHRT, for 5 minutes, today.

Mr. GARRETT of New Jersey, for 5 minutes, today.

Mr. KING of Iowa, for 5 minutes, today.

Mr. FRANKS of Arizona, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, May 16, 17 and 18.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1268. An act making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on May 11, 2005 he presented to the President of the United States, for his approval, the following bill.

H.R. 1268. An act making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

ADJOURNMENT

Mr. STUPAK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 15 minutes p.m.), the House adjourned until tomorrow, Thursday, May 12, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1938. A letter from the Inspector General, Department of Agriculture, transmitting the Department's investigative report of the Forest Service (FS) fatalities that occurred in the Cramer Fire in the Salmon-Challis National Forest in Idaho on July 22, 2003, pursuant to Public Law 107-203; to the Committee on Agriculture.

1939. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Rear Admiral Evan M. Chanik, Jr., United States Navy, to wear the insignia of the grade of vice admiral in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

1940. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General Claude R. Kehler, United States Air Force, to wear the insignia of the grade of lieutenant general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

1941. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Rear Admiral Barry M. Costello, United States Navy, to wear the insignia of the grade of vice admiral in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

1942. A letter from the Director, Pentagon Renovation & Construction Program Office, Department of Defense, transmitting the fifteenth annual report on the Pentagon Renovation Program, pursuant to 10 U.S.C. 2674; to the Committee on Armed Services.

1943. A letter from the Deputy Secretary, Department of Defense, transmitting the semiannual report of the Inspector General for the period October 1, 2004 through March 31, 2005, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Armed Services.

1944. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule — Risk-Based Capital Standards; Trust Preferred Securities and the Definition of Capital [Regulations H and Y; Docket No. R-1193] received March 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1945. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-D-7563] received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1946. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1947. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-P-7642] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1948. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1949. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7873] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1950. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-B-7451] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1951. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Detemrinations — received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1952. A letter from the General Counsel/FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7871] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1953. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Eligibility of Adjustable Rate Mortgages [Docket No. FR-4946-I-01; HUD 2005-0004] (RIN: 2502-AI26) received April 7, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

1954. A letter from the Deputy Executive Director, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Benefits Payable on Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumption for Valuing and Paying Benefits — received April 7, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

1955. A letter from the Deputy Executive Director, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Electronic Filing — Annual Financial and Actuarial Information (RIN: 1212-AB01) received April 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

1956. A letter from the Secretary, Department of Energy, transmitting the fiftieth report outlining the status of Exxon and Stripper Well Oil Overcharge Funds as of September 30, 2004, satisfying the request set forth in the Conference Report accompanying the Department of Interior and Related Agencies Appropriations Act of 1988 (Public Law 100-202); to the Committee on Energy and Commerce.

1957. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the Commission's report entitled, "Report to Congress on Abnormal Occurrences: Fiscal Year 2004," pursuant to 42 U.S.C. 5848; to the Committee on Energy and Commerce.

1958. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to Israel for defense articles and services (Transmittal No. 05-10), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1959. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the activities of the United States Government departments and agencies relating to the prevention of nuclear proliferation between January 1 and December 31, 2004, pursuant to 22 U.S.C. 3281; to the Committee on International Relations.

1960. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to significant narcotics traffickers centered in Colombia that was declared in Executive Order 12978 of October 21, 1995; to the Committee on International Relations.

1961. A letter from the Chairman, Securities and Exchange Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act covering the calendar year 2004, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

1962. A letter from the Director, Regulatory Management Division, Department of Homeland Security, transmitting the Department's final rule — Classification of Certain Scientists of the Commonwealth of Independent States of the Former Soviet Union and the Baltic States as Employment Based Immigrants [CIS No. 2277-03; DHS-2004-0013] (RIN: 1615-AB14) received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1963. A letter from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting the 2003 Annual Report of the Office of the Police Corps and Law Enforcement Education, pursuant to Public Law 103–322, section 200113 of Title XX; to the Committee on the Judiciary.

1964. A letter from the Deputy Assistant Attorney General, Department of Justice, transmitting the Department's final rule — Preservation of Biological Evidence Under 18 U.S.C. 3600A [Docket No. OAG 109; A.G. Order 2762-2005] (RIN: 1105-AB10) received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1965. A letter from the General Counsel, Office of Justice Programs, Department of Justice, transmitting the Department's final rule — Government-Wide Debarment and Suspension (Nonprocurement) and Government-Wide Requirements for Drug-Free Workplace Grants [Docket No. OJP(OJP)-1306; AG Order No. 2759-2005] (RIN: 1121-AA57) received March 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1966. A letter from the Chief Financial Officer, Paralyzed Veterans of America, transmitting a copy of the annual audit report of the Paralyzed Veterans of America for the fiscal year 2004, pursuant to 36 U.S.C. 1166; to the Committee on the Judiciary.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. EVANS (for himself, Mr. Dingell, Mr. Filner, Mr. Gutierrez, Ms. Corrine Brown of Florida, Ms. Herseth, Mr. Strickland, Ms. Hooley, Mr. Reyes, Mr. Udall of New Mexico, Mr. Sherman, Mr. Pallone, Ms. Carson, Mr. Schiff, Mr. Holt, Mr. Davis of Florida, Mrs. Maloney, Mr. Serrano, Mrs. Jones of Ohio, Mr. Higgins, Mr. Grijalva, Mr. Moran of Virginia, and Mr. Conyers):

H.R. 2248. A bill to amend title 38, United States Code, to improve benefits under the Montgomery GI Bill by establishing an enhanced educational assistance program, by increasing the amount of basic educational assistance, by repealing the requirement for reduction in pay for participation in the program, by eliminating the time limitation for use of benefits under the program, by expanding the opportunities to transfer educational assistance benefits to dependents, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PORTER:

H.R. 2249. A bill to amend the Internal Revenue Code of 1986 to modify and make refundable the credit for expenses for household and dependent care services necessary for gainful employment; to the Committee on Ways and Means.

By Mr. GREEN of Wisconsin:

H.R. 2250. A bill to require the Attorney General to investigate allegations of violations of Federal criminal law regarding elections not later than 30 days after receiving the allegation, to amend the Help America Vote Act of 2002 to establish standards for the distribution of voter registration application forms and the handling of absentee ballots, to require individuals to produce photo identification as a condition of registering to vote or voting in elections for Federal office, and for other purposes; to the Committee on House Administration, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REYNOLDS (for himself, Mr. Pomeroy, Mr. Shaw, Mrs. Johnson of Connecticut, Mr. Herger, Mr. McCrery, Mr. Camp, Mr. Ramstad, Mr. Nussle, Mr. Sam Johnson of Texas, Mr. English of Pennsylvania, Mr. Hayworth, Mr. Weller, Mr. Hulshof, Mr. Lewis of Kentucky, Mr. Foley, Mr. Brady of Texas, Mr. Ryan of Wisconsin, Mr. Linder, Mr. Beauprez, Ms. Hart, Mr. Chocola, Mr. Cardin, Mr. Neal of Massachusetts, Mr. McNulty, Mr. Jefferson, Mr. Tanner, Mr. Thompson of California, Mr. Larson of Connecticut, Mr. Terry, Mr. Culberson, Mr. Gallegly, Mr. Dent, and Mr. Putnam):

H.R. 2251. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the proceeds from certain company-owned life insurance; to the Committee on Ways and Means.

By Ms. CORRINE BROWN of Florida:

H.R. 2252. A bill to suspend temporarily the duty on Permethrin; to the Committee on Ways and Means.

By Ms. CORRINE BROWN of Florida:

H.R. 2253. A bill to suspend temporarily the duty on Cyazofamid; to the Committee on Ways and Means.

By Ms. CORRINE BROWN of Florida:

H.R. 2254. A bill to suspend temporarily the duty on Cypermethrin; to the Committee on Ways and Means.

By Ms. CORRINE BROWN of Florida:

H.R. 2255. A bill to suspend temporarily the duty on on Flonicamid; to the Committee on Ways and Means.

By Ms. CORRINE BROWN of Florida:

H.R. 2256. A bill to suspend temporarily the duty on Zeta-Cypermethrin; to the Committee on Ways and Means.

By Mr. BURGESS (for himself, Ms. Berkley, and Mr. Sam Johnson of Texas):

H.R. 2257. A bill to amend title XVIII of the Social Security Act to expand coverage of bone mass measurements under part B of the Medicare Program to all individuals at clinical risk for osteoporosis; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DAVIS of Alabama (for himself, Mr. Cole of Oklahoma, Mr. Bachus, Mr. Rogers of Alabama, and Mr. Bonner):

H.R. 2258. A bill to prevent a severe reduction in the Federal medical assistance percentage determined for a State for fiscal year 2006; to the Committee on Energy and Commerce.

By Mr. DINGELL (for himself, Ms. Pelosi, Mr. Hoyer, Mr. Berry, Mr. Andrews, Mr. Rangel, Mr. George Miller of California, Mr. Brown of Ohio, Mr. Stark, Mr. Waxman, Mr. Markey, Mrs. Capps, Mr. Doyle, Mr. Rush, Ms. Solis, Mr. Davis of Florida, Mr. Gene Green of Texas, Ms. Schakowsky, Mr. Towns, Mr. Strickland, Mr. Pallone, Mr. Engel, Mr. Boucher, Ms. Eshoo, Ms. DeGette, Ms. McCollum of Minnesota, Mr. Tierney, Mr. Owens, Mrs. McCarthy, Mr. Holt, Mr. Kildee, Mr. Grijalva, Ms. Woolsey, Mrs. Davis of California, Mr. Nadler, Mr. Van Hollen, Mr. McNulty, Mr. Cummings, Mr. Schiff, Mr. Hinchey, Ms. Roybal-Allard, Mr. Honda, Mr. Abercrombie, Mr. Farr, Mr. Wexler, Mr. Brady of Pennsylvania, Mr. McDermott, Mr. McGovern, Mr. Moore of Kansas, Mr. Dicks, Mr. Clay, Mr. Kucinich, and Mr. Hastings of Florida):

H.R. 2259. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH of Pennsylvania:

H.R. 2260. A bill to suspend temporarily the duty on certain adsorbent resins; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2261. A bill to extend the suspension of duty on a certain ion exchange resin; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2262. A bill to extend the suspension of duty on a certain ion exchange resin; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2263. A bill to extend the suspension of duty on 10'10' Oxybisphenoxarsine; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2264. A bill to extend the suspension of duty on Copper 8-quinolinolate; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2265. A bill to extend the suspension of duty on a certain ion exchange resin; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2266. A bill to extend the suspension of duty on a certain ion exchange resin; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2267. A bill to suspend temporarily the duty on a certain ion exchange resin powder; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2268. A bill to suspend temporarily the duty on a certain ion exchange resin powder; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2269. A bill to extend the temporary suspension of duty on helium; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2270. A bill to suspend temporarily the duty on Desmodur E 14; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2271. A bill to suspend temporarily the duty on Desmodur IL; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2272. A bill to suspend temporarily the duty on Desmodur HL; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2273. A bill to suspend temporarily the duty on Desmodur VP LS 2253; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2274. A bill to suspend temporarily the duty on Desmodur R-E; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2275. A bill to suspend temporarily the duty on Walocel MW 3000 PFV; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2276. A bill to suspend temporarily the duty on TSME; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2277. A bill to suspend temporarily the duty on Walocel VP-M 20660; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2278. A bill to suspend temporarily the duty on Citral; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2279. A bill to suspend temporarily the duty on XAMA 2; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2280. A bill to suspend temporarily the duty on XAMA 7; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2281. A bill to suspend temporarily the duty on 2-Ethylhexyl 4-methoxycinnamate; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania:

H.R. 2282. A bill to suspend temporarily the duty on 4-Methoxybenzaldehyde; to the Committee on Ways and Means.

By Mr. FERGUSON:

H.R. 2283. A bill to provide for the extension of the New Jersey Coastal Heritage Trail into the Township of Woodbridge, New Jersey; to the Committee on Resources.

By Mr. FLAKE:

H.R. 2284. A bill to empower States with authority for most taxing and spending for highway programs and mass transit programs, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HARMAN:

H.R. 2285. A bill to extend the temporary suspension of duty on certain bags for toys; to the Committee on Ways and Means.

By Ms. HARMAN:

H.R. 2286. A bill to extend the temporary suspension of duty on cases for certain children's products; to the Committee on Ways and Means.

By Ms. HARMAN:

H.R. 2287. A bill to extend the temporary suspension of duty on certain children's products; to the Committee on Ways and Means.

By Ms. HARMAN:

H.R. 2288. A bill to suspend temporarily the duty on certain cases for toys; to the Committee on Ways and Means.

By Ms. HARMAN:

H.R. 2289. A bill to suspend temporarily the duty on certain cases for toys; to the Committee on Ways and Means.

By Mr. HENSARLING (for himself, Mr. Ryan of Wisconsin, Mr. Chocola, Mr. Cox, Mr. Akin, Mr. Barrett of South Carolina, Mr. Bartlett of Maryland, Mr. Beauprez, Mr. Bishop of Utah, Mrs. Blackburn, Mr. Brady of Texas, Mr. Burgess, Mr. Burton of Indiana, Mr. Cannon, Mr. Carter, Mr. Chabot, Mr. Cole of Oklahoma, Mrs. Cubin, Mr. Mario Diaz-Balart of Florida, Mr. English of Pennsylvania, Mr. Feeney, Mr. Flake, Ms. Foxx, Mr. Franks of Arizona, Mr. Garrett of New Jersey, Mr. Gingrey, Mr. Gohmert, Mr. Goode, Mr. Gutknecht, Ms. Hart, Mr. Herger, Mr. Hoekstra, Mr. Hostettler, Mr. Jindal, Mr. Sam Johnson of Texas, Mr. Jones of North Carolina, Mr. King of Iowa, Mr. Kline, Mr. Mack, Mr. McHenry, Mr. Miller of Florida, Mrs. Musgrave, Mrs. Myrick, Mr. Neugebauer, Mr. Norwood, Mr. Otter, Mr. Pence, Mr. Radanovich, Mr. Rohrabacher, Mr. Royce, Mr. Ryun of Kansas, Mr. Sessions, Mr. Shadegg, Mr. Souder, Mr. Tancredo, Mr. Turner, Mr. Westmoreland, Mr. Hayworth, and Mr. Bachus):

H.R. 2290. A bill to reform Federal budget procedures, to impose spending safeguards, to combat waste, fraud, and abuse, to account for accurate Government agency costs, and for other purposes; to the Committee on the Budget, and in addition to the Committees on Rules, Ways and Means, Appropriations, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HERSETH (for herself, Mr. Jefferson, Mr. Snyder, Ms. Berkley, Mr. Higgins, Mr. Nadler, Mr. Boucher, Mr. Moore of Kansas, Mr. Israel, Mr. Lewis of Georgia, Mr. Baird, Mr. Ross, Mr. Gene Green of Texas, Mr. Honda, Mr. Berry, Mr. Boswell, Mr. Clay, Mr. Gonzalez, Ms. Kaptur, Mr. Reyes, Mr. Ruppersberger, Mr. Hinojosa, Mr. Davis of Alabama, Mr. Thompson of California, Mr. Crowley, Mr. Meeks of New York, and Mr. Bishop of New York):

H.R. 2291. A bill to amend the Internal Revenue Code of 1986 to allow a business credit for qualified expenditures for medical professional malpractice insurance; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HINCHEY (for himself, Mr. Owens, Mr. Engel, Mr. Lynch, Mr. Crowley, Mr. McDermott, Mr. Kildee, Mr. Nadler, Mr. Brown of Ohio, Mr. Conyers, Mr. Clay, Mr. Wexler, Mr. Butterfield, Mr. Pallone, Mr. Chandler, Mrs. McCarthy, Mr. McNulty, Mr. Payne, Mr. Bishop of New York, Mr. Ross, Mr. Jefferson, Mr. McGovern, Mr. Sanders, Mr. Towns, Ms. DeGette, Mr. Wu, Mr. Rangel, Mr. Neal of Massachusetts, Ms. Linda T. Sánchez of California, Mr. Moore of Kansas, Mr. Ruppersberger, Mr. Snyder, Mr. Wynn, and Mr. Boucher):

H.R. 2292. A bill to provide for public library construction and modernization; to the Committee on Education and the Workforce.

By Mr. HOSTETTLER (for himself and Mr. Hunter):

H.R. 2293. A bill to provide special immigrant status for aliens serving as translators with the United States Armed Forces; to the Committee on the Judiciary.

By Mrs. JOHNSON of Connecticut (for herself and Ms. Foxx):

H.R. 2294. A bill to amend the Communications Act of 1934 to prohibit the use of autodialers for purposes of political solicitations, and for other purposes; to the Committee on Energy and Commerce.

By Mr. JONES of North Carolina:

H.R. 2295. A bill to prohibit a State from receiving Federal education funds unless the State has certain policies and procedures regarding the purchase or acquisition of library and classroom-based reference, instructional, and other print materials for use in elementary schools, and for other purposes; to the Committee on Education and the Workforce.

By Mrs. LOWEY:

H.R. 2296. A bill to amend the Internal Revenue Code of 1986 to protect the financial stability of activated members of the Ready-Reserve and National Guard while serving abroad; to the Committee on Ways and Means.

By Ms. McKINNEY:

H.R. 2297. A bill to establish the Arabia Mountain National Heritage Area, and for other purposes; to the Committee on Resources.

By Mr. GEORGE MILLER of California (for himself, Mr. Owens, Ms. Woolsey, Mr. Waxman, Mr. Holt, Mr. Lynch, Mr. Grijalva, Mr. Michaud, Mr. Van Hollen, Mr. Kildee, Ms. DeLauro, Mr. McGovern, Mr. Davis of Illinois, Mr. Evans, Ms. McCollum of Minnesota, Mr. Kucinich, Mr. Brown of Ohio, Mr. Payne, Ms. Watson, Mr. Weiner, Mr. Berman, Mr. Abercrombie, Mr. McDermott, Mr. Stark, and Mr. Tierney):

H.R. 2298. A bill to provide for labor recruiter accountability, and for other purposes; to the Committee on Education and the Workforce.

By Mr. PALLONE:

H.R. 2299. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish therapeutic equivalence requirements for generic drugs, and for other purposes; to the Committee on Energy and Commerce.

By Mr. RAHALL:

H.R. 2300. A bill to amend title 38, United States Code, to extend eligibility for pension benefits under laws administered by the Secretary of Veterans Affairs to veterans who served during certain periods of time in specified locations; to the Committee on Veterans' Affairs.

By Mr. RAHALL (for himself, Mr. Brown of Ohio, and Mr. Sanders):

H.R. 2301. A bill to amend title 38, United States Code, to extend eligibility for pension benefits under laws administered by the Secretary of Veterans Affairs to veterans who received an expeditionary medal during a period of military service other than a period of war; to the Committee on Veterans' Affairs.

By Mr. RAMSTAD:

H.R. 2302. A bill to extend the suspension of duty on certain 12-volt batteries; to the Committee on Ways and Means.

By Mr. RAMSTAD:

H.R. 2303. A bill to extend the suspension of duty on certain light absorbing photo dyes; to the Committee on Ways and Means.

By Mr. SNYDER:

H.R. 2304. A bill to provide for the payment of certain annuities under section 376 of title 28, United States Code, and for other purposes; to the Committee on the Judiciary.

By Mr. STRICKLAND:

H.R. 2305. A bill to ensure that the incarceration of inmates is not provided by private contractors or vendors and that persons charged or convicted of an offense against the United States shall be housed in facilities managed and maintained by Federal, State, or local governments; to the Committee on the Judiciary.

By Mr. STRICKLAND (for himself, Mr. DINGELL, Mr. CASE, Mr. GUTIERREZ, Mr. FILNER, Mr. BISHOP of Georgia, Ms. BORDALLO, Mr. CARDOZA, Mr. TOWNS, Mr. SALAZAR, Mr. BROWN of Ohio, Mrs. CHRISTENSEN, Ms. JACKSON-LEE of Texas, Mr. HOLDEN, Mr. WYNN, Mr. SHERMAN, Mr. HONDA, Ms. HERSETH, and Mr. RUPPERSBERGER):

H.R. 2306. A bill to amend title 38, United States Code, to improve programs of the Department of Veterans Affairs for outreach to veterans and their family members, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. UDALL of New Mexico:

H.R. 2307. A bill to amend the Internal Revenue Code of 1986 to treat certain payments made to the European Union in lieu of income taxes to a member of the European Union as income taxes paid to a foreign country for purposes of the foreign tax credit; to the Committee on Ways and Means.

By Mr. WELDON of Florida (for himself and Mr. DOYLE):

H.R. 2308. A bill to amend the Public Health Service Act to provide for clinical research support grants, clinical research infrastructure grants, and a demonstration program on partnerships in clinical research, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WILSON of South Carolina:

H.R. 2309. A bill to suspend temporarily the duty on Aniline 2.5 Di-sulphonic Acid; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 2310. A bill to suspend temporarily the duty on 1,4-Benzenedicarboxylic Acid, Polymer With N,N-Bis(2-Aminoethyl)-1,2-Ethanediamine, Cyclized, Me Sulfates; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 2311. A bill to extend the temporary suspension of duty on certain high-performance loudspeakers; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 2312. A bill to extend the temporary suspension of duty on certain R-core transformers; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 2313. A bill to suspend temporarily the duty on Sulfur Blue 7; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 2314. A bill to extend the suspension of duty on reduced vat blue 43; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 2315. A bill to extend the suspension of duty on sulfur black 1; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina:

H.R. 2316. A bill to suspend temporarily the duty on Diresul Brown GN Liquid Crude; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina (for himself, Ms. ROS-LEHTINEN, Mr. CANTOR, Mr. PENCE, Mr. ACKERMAN, Mr. GENE GREEN of Texas, Mr. HASTINGS of Florida, and Mr. LANTOS):

H. Con. Res. 149. Concurrent resolution recognizing the 57th anniversary of the independence of the State of Israel; to the Committee on International Relations.

By Mr. FERGUSON:

H. Con. Res. 150. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued in honor of the USS New Jersey and all those who served aboard her; to the Committee on Government Reform.

By Mr. EDWARDS:

H. Res. 271. A resolution providing for consideration of the bill (H.R. 808) to amend title 10, United States Code, to repeal the offset from surviving spouse annuities under the military Survivor Benefit Plan for amounts paid by the Secretary of Veterans Affairs as dependency and indemnity compensation; to the Committee on Rules.

By Ms. JACKSON-LEE of Texas (for herself, Mr. BURTON of Indiana, Mr. LANTOS, Ms. BERKLEY, Mrs. JONES of Ohio, Mr. CLYBURN, Mr. SHIMKUS, Mr. WELDON of Florida, Mr. BARTON of Texas, Ms. NORTON, Mr. HASTINGS of Florida, Mr. CROWLEY, Mr. WILSON of South Carolina, Ms. LEE, Mr. AL GREEN of Texas, Mr. WYNN, Mr. BISHOP of Georgia, Mr. MEEKS of New York, Mr. VAN HOLLEN, Mr. DAVIS of Illinois, Mr. STUPAK, Ms. WOOLSEY, Mr. JEFFERSON, Mr. LEWIS of Georgia, Mr. RANGEL, Mr. SERRANO, and Mr. PAYNE):

H. Res. 272. A resolution recognizing the historic steps India and Pakistan have taken toward achieving bilateral peace; to the Committee on International Relations.

By Mr. McCOTTER (for himself, Ms. ROS-LEHTINEN, Mr. ENGEL, Mr. COX, Mr. BURTON of Indiana, and Mr. SCHWARZ of Michigan):

H. Res. 273. A resolution urging the withdrawal of all Syrian forces from Lebanon, support for free and fair democratic elections in Lebanon, and the development of democratic institutions and safeguards to foster sovereign democratic rule in Lebanon; to the Committee on International Relations.

By Ms. LINDA T. SÁNCHEZ of California (for herself, Ms. SOLIS, Mrs. NAPOLITANO, Mr. GRIJALVA, Ms. LORETTA SANCHEZ of California, Mr. BECERRA, Ms. ROYBAL-ALLARD, Ms. HARMAN, Mr. BACA, Mr. SHERMAN, Ms. WATSON, Mr. BERMAN, Mr. HONDA, Mr. WAXMAN, Ms. ZOE LOFGREN of California, Mr. FILNER, and Mrs. CAPPS):

H. Res. 274. A resolution recognizing Miguel Contreras, on the occasion of his death, for his tireless work on behalf of immigrants and working people; to the Committee on Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mr. THOMPSON of California, Mr. WHITFIELD, and Mr. MURPHY.

H.R. 21: Mr. WYNN, Mr. FRANKS of Arizona, Mr. GIBBONS, Ms. ESHOO, Mr. WU, Mrs. CUBIN, Ms. CORRINE BROWN of Florida, Mr. HONDA, Mr. DOGGETT, Mr. Higgins, and Mr. LIPINSKI.

H.R. 22: Mr. BILIRAKIS and Mr. DOYLE.

H.R. 65: Mr. LANGEVIN.

H.R. 72: Mr. NEUGEBAUER and Mr. BOUSTANY.

H.R. 94: Mr. TURNER.

H.R. 97: Mr. SCHWARZ of Michigan and Mr. McCOTTER.

H.R. 98: Mrs. NAPOLITANO.

H.R. 111: Mr. SHAYS, Mr. TANNER, Ms. ROYBAL-ALLARD, Ms. WATSON, Mrs. CHRISTENSEN, Mr. WYNN, Ms. JACKSON-LEE of Texas, Mr. SALAZAR, Mr. BARRETT of South Carolina, Mr. MEEK of Florida, Ms. BERKLEY, and Mr. NADLER.

H.R. 136: Mr. PRICE of Georgia.

H.R. 239: Mr. BISHOP of Utah and Mr. MANZULLO.

H.R. 303: Mr. CARTER, Mr. HOLT, Mr. RYAN of Ohio, and Mr. McINTYRE.

H.R. 305: Mr. WALDEN of Oregon, Mr. GINGREY, and Mr. FERGUSON.

H.R. 378: Mr. LEWIS of Georgia.

H.R. 389: Mr. MURPHY.

H.R. 438: Ms. MATSUI and Mr. HONDA.

H.R. 500: Mr. BISHOP of Utah.

H.R. 530: Mr. FRANKS of Arizona.

H.R. 550: Mr. KANJORSKI.

H.R. 665: Mr. BERMAN, Mr. CARDOZA, and Mr. FILNER.

H.R. 669: Ms. MILLENDER-McDONALD, Mr. CHANDLER, and Mr. ROGERS of Kentucky.

H.R. 670: Ms. HARRIS and Ms. McCOLLUM of Minnesota.

H.R. 691: Mr. UDALL of Colorado, Mr. TIBERI, Mr. STUPAK, and Mr. HASTINGS of Washington.

H.R. 713: Mr. SCOTT of Georgia.

H.R. 799: Mr. LIPINSKI.

H.R. 810: Mr. OBEY.

H.R. 819: Mr. BOEHLERT.

H.R. 896: Mr. CAMP, Mr. COOPER, Mr. PALLONE, and Mr. BARTLETT of Maryland.

H.R. 897: Mr. KING of New York.

H.R. 909: Mr. GONZALEZ.

H.R. 930: Mr. BOYD, Mr. KUHL of New York, and Mr. McHUGH.

H.R. 939: Mr. CLEAVER, Mr. DAVIS of Alabama, and Mr. KILDEE.

H.R. 947: Mr. CANNON and Mr. ROGERS of Kentucky.

H.R. 963: Mr. FARR.

H.R. 970: Ms. SLAUGHTER.

H.R. 983: Ms. ZOE LOFGREN of California.

H.R. 1108: Mr. GENE GREEN of Texas, Ms. KAPTUR, Mr. STRICKLAND, Mr. BERMAN, Mr. McCOTTER, Mr. GOODE, and Mr. WEINER.

H.R. 1126: Mr. MILLER of North Carolina, Mrs. CAPPS, Ms. ROYBAL-ALLARD, and Mrs. KELLY.

H.R. 1131: Mr. SAXTON, Mr. KENNEDY of Minnesota, and Mr. TURNER.

H.R. 1132: Mr. WEXLER, Ms. DELAURO, Ms. JACKSON-LEE of Texas, and Mr. ROGERS of Michigan.

H.R. 1146: Mr. MILLER of Florida, and Ms. FOXX.

H.R. 1198: Mr. REYES.

H.R. 1217: Mr. SHAYS.

H.R. 1219: Mr. SULLIVAN.

H.R. 1227: Mr. UDALL of New Mexico, Mr. LAHOOD, Mr. DEFAZIO, Mr. MOORE of Kansas, and Ms. ROYBAL-ALLARD.

H.R. 1241: Mr. SCHWARZ of Michigan and Mr. CHOCOLA.

H.R. 1298: Mr. Reyes, Mr. Payne, Ms. McKinney, and Mrs. McCarthy.

H.R. 1322: Mr. Frank of Massachusetts, Mr. Holden, Mr. DeFazio, Mr. Wexler, Mrs. McCarthy, Mr. Kucinich, Mr. Hastings of Florida, and Mr. Weiner.

H.R. 1329: Mr. Blumenauer, Mr. George Miller of California, and Mr. DeFazio.

H.R. 1337: Mr. Nunes, Mr. Hayworth, Mrs. Wilson of New Mexico, and Mr. Camp.

H.R. 1353: Ms. Norton.

H.R. 1366: Mr. Edwards.

H.R. 1440: Ms. Zoe Lofgren of California.

H.R. 1448: Mr. Ehlers, Ms. Kilpatrick of Michigan, Mr. McCotter, Mr. Dingell, Mr. Kildee, Mr. Levin, Mr. Upton, Mr. Conyers, Mr. Hoekstra, Mr. Rogers of Michigan, and Mr. Knollenberg.

H.R. 1474: Mr. Conyers.

H.R. 1492: Mr. Schiff, Mr. Young of Alaska, and Ms. Herseth.

H.R. 1493: Mr. Porter.

H.R. 1498: Mr. Rogers of Kentucky, Mr. Jackson of Illinois, Mr. Kuhl of New York, Mr. Abercrombie, Mr. Sodrel, and Mr. Saxton.

H.R. 1499: Mr. Souder.

H.R. 1505: Mr. Barrow and Mr. Baker.

H.R. 1522: Mr. Rangel, Mr. McDermott, and Mr. Lantos.

H.R. 1553: Mr. Jindal and Mr. Cardoza.

H.R. 1566: Mrs. Blackburn.

H.R. 1585: Mr. Holden, Mr. Green of Wisconsin, and Mr. Goode.

H.R. 1589: Mr. Stark, Ms. Schakowsky, and Mr. Meeks of New York.

H.R. 1591: Ms. Zoe Lofgren of California, Ms. Bordallo, Ms. McCollum of Minnesota, Mrs. Maloney, Mr. English of Pennsylvania, and Mr. McGovern.

H.R. 1592: Mr. Rogers of Michigan.

H.R. 1607: Miss McMorris and Mr. Hayworth.

H.R. 1645: Mr. Fattah and Mr. Weldon of Pennsylvania.

H.R. 1658: Mr. Price of Georgia.

H.R. 1671: Mr. Skelton.

H.R. 1672: Ms. Schakowsky.

H.R. 1678: Mr. Green of Wisconsin.

H.R. 1696: Mr. Davis of Florida, and Mr. Obey.

H.R. 1714: Mr. Hall.

H.R. 1737: Mr. Delahunt, Ms. Schakowsky, and Ms. Ros-Lehtinen.

H.R. 1797: Mr. Inslee.

H.R. 1821: Mr. Forbes.

H.R. 1861: Ms. Schakowsky.

H.R. 1879: Mr. English of Pennsylvania.

H.R. 1954: Mr. Upton, Mr. Cummings, Mr. Towns, and Mr. Wolf.

H.R. 1956: Mr. Gallegly and Mr. Carter.

H.R. 1973: Mrs. Napolitano, Mr. Crowley, Mr. Frank of Massachusetts, Mrs. Christensen, Mr. Burton of Indiana, Mr. Waxman, and Mr. Payne.

H.R. 1994: Mr. Sanders, Ms. Eddie Bernice Johnson of Texas, and Mr. Hastings of Florida.

H.R. 2000: Ms. Eshoo.

H.R. 2047: Mr. Franks of Arizona.

H.R. 2074: Mr. Case.

H.R. 2089: Mr. Gerlach.

H.R. 2101: Mr. Hastings of Florida.

H.R. 2129: Ms. Schwartz of Pennsylvania.

H.R. 2233: Ms. Wasserman Schultz.

H. Con. Res. 76: Mr. Bilirakis.

H. Con. Res. 82: Mr. Poe.

H. Con. Res. 132: Mr. Miller of Florida.

H. Con. Res. 141: Mr. Wolf.

H. Con. Res. 144: Mr. Kirk, Mr. Gerlach, Mr. Neugebauer, Mr. Graves, and Mr. Rogers of Michigan.

H. Con. Res. 145: Mr. Gutierrez, Mr. Boehlert, Mr. Neal of Massachusetts, Mr. Kildee, Mr. DeFazio, Mr. Grijalva, Ms. Woolsey, Mr. Moran of Virginia, Mr. Honda, Ms. Lee, Mr. Chandler, Mr. Case, and Mr. Michaud.

H. Res. 67: Mr. McGovern, Mr. Towns, and Mr. Blumenauer.

H. Res. 155: Mr. Sanders.

H. Res. 175: Mr. Menendez.

H. Res. 199: Mr. Markey, Mr. McIntyre, Mr. Tancredo, Ms. Watson, and Ms. Eddie Bernice Johnson of Texas.

H. Res. 220: Mr. Holden, Mr. Pascrell, Mr. Reyes, Mr. Baker, Mr. Poe, and Mr. McDermott.

H. Res. 243: Mr. Souder, Mr. Bonner, Mrs. Miller of Michigan, Mr. Grijalva, Ms. Bordallo, Mr. Hastings of Florida, Mr. McIntyre, Mr. Israel, Mr. Inslee, Mr. Burton of Indiana, Mr. Rogers of Kentucky, and Mr. Upton.

H. Res. 252: Mr. Hostettler.

H. Res. 266: Mr. Dreier, Mr. King of New York, Mr. Skelton, Mr. Van Hollen, Mrs. Christensen, Ms. Kaptur, Mr. Shimkus, Mr. Green of Wisconsin, Mr. Salazar, Mr. Cardoza, Mr. McCaul of Texas, Mr. Costello, Mr. Royce, Mr. Lantos, Mr. McGovern, Ms. Kilpatrick of Michigan, Mr. McNulty, Mr. Neal of Massachusetts, Mr. Sessions, Mr. Udall of Colorado, Ms. Granger, Ms. Loretta Sanchez of California, Mr. Tancredo, and Mr. Saxton.

SENATE—*Wednesday, May 11, 2005*

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty and everlasting God, today we praise Your name for the gift of life. We could not have awakened this morning without Your power. Yet so often we take our breath and heartbeats for granted.

Forgive us when we lose our awe for the miracle of life and fail to do our part to protect and sustain it. Give us wisdom to take care of the temples of our bodies and may our souls prosper as we experience physical well-being.

Lord, strengthen our Senators today. Keep them open to a growing faith and a maturing set of convictions. Help them to do with faithfulness that which lies to their hands, so that they may finish their race with joy.

Make each of us willing to pay the price for freedom.

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 11, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BROWNBACK thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning after 60 minutes of morning business we will resume debate on the highway bill. As I announced on several occasions, this is the second week for consideration of the bill. It is our hope to complete work this week.

Last night, cloture motions were filed to the substitute and the bill in an effort to bring the bill to conclusion this week. Today, we will make additional progress on the bill prior to those cloture votes, which will occur on Thursday. If cloture is invoked, there could be up to 30 hours remaining for consideration of the pending substitute amendment. Therefore, Senators should have ample time for debate and amendments. I hope we will not use all of the time and we could finish the bill at the earliest possible point in time.

We expect a busy session for the remainder of the week as we continue to make progress on the highway bill.

MIDDLE EAST VISIT—WEST BANK

Mr. FRIST. Mr. President, over the recess last week, I had the opportunity to travel to Israel, the West Bank, Jordan, Lebanon, and Egypt. Yesterday, I reported on the Israel leg of my fact-finding mission. Today I will continue briefly with that discussion of some of my observations of the West Bank.

It was an invaluable experience. I and my entire group learned a tremendous amount about the Palestinian perspective. Following my meetings in Jerusalem, we made our way to Ramallah in the West Bank to meet with the leadership of the Palestinian Authority. As we drove toward the city, we could see from our windows that everyday life for Palestinians in the West Bank is, indeed, a struggle. We had to pass through multiple checkpoints, predominantly through the security barrier, the so-called fence, much of which is newly constructed.

As I learned on my visit to the Middle East, the fence has been, in truth, very successful in preventing terrorist attacks, although it was quite remarkable that you had to stop and be checked out before passing this fence, which sometimes you had to cross multiple times.

We could also see the toll the Intifada has taken on the lives of the Palestinian people. Streets were pockmarked, buildings were run down, and a pall hung over the landscape itself. It is clear the Palestinians need one thing; that is, hope—hope for the future, hope for a better life, hope for a more secure life. They need their economic services improved. They need their social services improved. They need to believe there will be tangible benefits from choosing dialog over violence.

This view was reinforced during my meeting with Palestinian Finance Minister Salam Fayyad. I learned from him that the unemployment rate in the West Bank is officially 27 percent, but it far exceeds that number. The people are suffering. That is why I strongly support President Bush's efforts to increase assistance to the Palestinian people. President Bush has pledged to help improve economic support programs and strengthen Palestinian democratic institutions.

The Finance Minister and I discussed President Bush's generous proposal to provide assistance to the Palestinian Authority. The Finance Minister agrees this assistance is crucial as President Abbas seeks to strengthen the mandate he earned in the January Palestinian elections.

From the Finance Minister's office we went on to the Presidential compound in Ramallah to meet with President Mahmoud Abbas. The meeting was constructive. The parties on all sides appear to appreciate the importance of a longstanding and meaningful dialog on ways to bring peace and security to the Middle East. We had a very open and candid discussion about the status of the peace process, the Palestinians' obligations under the roadmap, and the need for both sides to establish greater trust. In particular, we talked of the need to coordinate the Israeli withdrawal from the Gaza Strip so that the Palestinian Authority can reestablish a strong presence in that territory. This whole concept of coordination seemed and is so critical to that successful disengagement.

It is crucial that after that withdrawal the Palestinian Authority is able to strengthen its democratic institutions and maintain security and maintain law and order.

We discussed Israel's withdrawal from the Gaza Strip. I believe that is a courageous decision on the part of the Israelis. President Abbas expressed his concern over unilateral Israeli measures, stressing that progress toward peace should be made through dialog, bringing people together through negotiation and through coordination.

To that end, President Abbas expressed his commitment to dismantling the terrorist organizations and preventing terrorist attacks against Israel. This came up again and again. He conveyed to me his firm belief that

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

nonviolence is the path to a Palestinian State.

In our discussions it was evident that President Abbas is a serious leader, an elected leader, but also a leader who is in a very difficult situation. His election victory gave him a strong mandate to depart from his predecessor's legacy, Arafat's legacy, of violence and terrorism. But he must also compete for that popular support with violent factions such as Hamas that continue to reject peace with Israel, and at the same time they garner support among the people by providing social services to the people. That is what President Abbas faces.

I strongly believe it is, therefore, necessary that the United States continue to support President Abbas in his efforts to transform the Palestinian Authority's reputation for cronyism, corruption, and nontransparency. We need to actively help his administration reform and strengthen the Palestinian security and improve economic services. We must continue to support both economic and social services and offer a stable and peaceful alternative to the radicals that reject peace.

We also had the opportunity to talk with an independent Presidential candidate who lost in the election but garnered significant support—a physician, Dr. Mustafa Barghuti, who ran as an independent in the Presidential elections 5 months ago. He spoke of a need for a strong, viable, independent party to serve as an alternative to Hamas. Like President Abbas, he believes peace is the only path to an independent Palestinian State.

Dr. Barghuti took me on a tour of his medical relief prevention and diagnostic center for cardiovascular disease in Ramallah. It was quite impressive. It is a model he developed as a physician that he hopes, with the appropriate resources, he will be able to spread through the West Bank. We share that common bond of being physicians and had a great dialog on the importance of social services provided through health care to further build that support of this new government.

My experience in the West Bank in my meetings with the various leaders of the Palestinian Authority bolstered my belief that President Abbas is a genuine partner for peace in the Middle East. I also witnessed firsthand how the conflict has deeply affected the daily lives and routines of many Palestinians.

I take this opportunity to urge my colleagues to support President Abbas in his efforts to improve the lives of the Palestinian people and make their governing institutions more accountable and responsible to all. I am hopeful his nonviolent approach to relations with Israel will eventually lead to a viable, independent Palestinian State that is able to live side by side with Israel in peace and security for both.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the Democratic leader or his designee, and the last half of the time under the control of the majority leader or his designee.

The ACTING PRESIDENT pro tempore. The Senator from the great State of Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use on the Democratic side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NUCLEAR OPTION AND ABUSE OF POWER

Mr. KENNEDY. Mr. President, from its beginnings, America has stood for fairness, opportunity and justice. Generation after generation our Nation has been able, often with intense debates, to give greater meaning to these values in the lives of more and more of our citizens. We know today we are a better Nation when our democracy and our policies reflect these values. We are a stronger America when our actions respect those values for all our citizens especially those who are the backbone of America those—who work hard every day, who care for their families, and who love their country.

Fairness; opportunity; justice.

But what we have seen in recent years is a breach of these values in order to reward the powerful at the expense of average Americans.

Those in power passed massive tax breaks for the wealthy and shortchanged everyone else.

They granted sweetheart deals to Halliburton Corporation in Iraq while our troops went without armor.

They let the polluters write the pollution rules for our water and our air.

They let the oil industry write the energy policy in secret meetings in the White House.

Two weeks ago, over the opposition of every Democrat in the House and Senate, they forced through a Federal budget that preserves corporate tax loopholes at the expense of college aid, and slashes Medicaid for poor mothers to pay for tax breaks for millionaires.

They twisted arms for 3½ hours in the dead of night on the floor of the House to pass by a single vote a so-called Medicare reform that lavishes billions of dollars on HMOs and drug companies at the expense of senior citizens and the disabled.

They broke the ethics rules of the House of Representatives, then changed the rules to avoid investigation.

They want to break the promise of Social Security to our citizens by privatizing it, handing it over to Wall Street, and cutting benefits for middle-income Americans.

Their actions are a setback for the cause of fairness, opportunity and justice for all.

Now, Republican leaders want to break the Senate to get their way this time with the Nation's courts.

It's not as if the Senate has failed to confirm President Bush's nominations to the Federal courts. So far, we have approved 208 of his appointments and declined to approve only 10. We have blocked only the very, very few who are so far out of the mainstream that they have no place in our Federal judiciary. And yes, we have been willing to filibuster those nominees to protect America from their extremism.

Yet, Republican leaders now propose to scuttle the very Senate rules that have protected our constitution and our citizens for more than two centuries in a no-holds-barred crusade to give rightwing activist judges lifetime appointments to the Nation's courts.

They want to break the rules to put judges on our courts who are friendly to polluters and hostile to clean water and clean air.

They want to break the rules to put judges on the courts who are hostile to civil rights, hostile to disability rights, hostile to women's rights, and hostile to workers' rights.

They even want to break the rules to put judges on the bench who condone torture.

The Nation's Founders understood that those in power might believe that the rules most Americans live by don't apply to them. That is why they put in place a democracy that preserves our rights and freedoms through checks and balances. These checks and balances protect our mainstream values by preventing one party from arrogantly and unilaterally imposing its extreme views on the Nation.

The Constitution grants the President a check on Congress by allowing him to veto any measure that he believes crosses the line.

It establishes an independent judiciary of judges with lifetime appointments and irreducible salaries, so they will be immune to political pressures and can serve as a valuable check against illegal or unconstitutional actions by the President or Congress.

It gives the President and the Senate the shared duty of appointing qualified men and women to the courts, as a check against a President who tries to force his will on the courts.

The Founders deliberately designed the Senate to be a special additional check. It is smaller than the House. It has 6 year terms compared to 2 years for the House, and 4 for the President. Our terms are staggered, so that at least two-thirds of us are veterans of a previous Congress. We have unique powers over treaties, appointments, and impeachments. We have full power over our own rules, so that we can be more deliberate and deliberative in our action. The Senate was meant to check an overreaching Executive—or an overreaching House as well, and to resist the fads of public opinion. Over the centuries, we have repeatedly played this balancing and stabilizing role, especially when the independence of the judiciary was threatened by an overreaching Chief Executive.

Thomas Jefferson, at the peak of his popularity and with his party controlling Congress, pushed the Senate to remove a Supreme Court Justice whose decisions Jefferson disagreed with, but the Senate said "no."

Franklin Roosevelt tried to expand the Supreme Court, so that he could pack it with Justices who would support his views. Again, a Senate—a Senate under his party's control—said "no."

Richard Nixon, having lost one Supreme Court nomination battle to a bipartisan coalition, dared us to reject a second, even worse candidate. But a bipartisan Senate majority honored the Founders' trust by saying "no."

Throughout our history, the Senate, has structured its processes to reflect the unique powers entrusted to it. For such irreversible steps as conferring lifetime judicial authority on nominees for the bench, it has given the minority the ability to protect our republic from the combined tyranny of a willful executive branch and an equally willful and like-minded small majority of Senators. Thus the Senate's rules have allowed the minority to make itself heard as long as necessary to stimulate debate and compromise, and even to prevent actions that would undermine the balance of powers, or that a minority of Senators strongly oppose on principle. Especially with respect to appointments, as to which the Senate's "advice and consent" is a matter of constitutional prerogative, there has never been a constitutional right, or even a right under the Senate rules, to a floor vote on a nomination that would allow a bare majority to automatically rubberstamp the President's choice.

In fact, until 1917, the Senate had no limit on debate at all, and during that time countless nominees, including judges, not only failed to receive Senate consent, but failed to receive the up or down vote that some pretend has been available as a matter of right.

The cloture rule adopted in 1917 permitted debate to be ended on legislation if two-thirds of the Senate voted to do so, but that rule did not apply to Senate proceedings on nominations. In 1949, the rule was extended to all issues, including nominations. Still, there was no "right to an up-or-down vote on the floor" on a matter, because there remained many different ways to prevent it from ever reaching the floor.

In 1975, the two-thirds rule for cloture was reduced to three-fifths, but there was no change in the basic rule: the only floor vote you have "a right to" is a floor vote on cloture, and if you lose that vote, the matter does not go forward unless a later cloture vote succeeds or until the opponents are prepared to vote. That has been the consistent practice since the first cloture rule 88 years ago. Everyone knows that is the rule. It has been followed without exception in every Senate since then. We can argue—and most of us have—whether cloture should or should not be invoked on a particular matter. But if the majority is not large enough to win a cloture vote, it cannot move ahead to a final vote on that matter, including a nomination. That is what the rules say. That is what they have always said. And that rule has never been broken, especially when the issue is changing the Senate rules themselves, which still requires a two-thirds majority for cloture.

Just 19 years after the cloture rule was extended to nominations, Republicans in the Senate led a filibuster against a Supreme Court nomination, the nomination by President Johnson of Abe Fortas to be Chief Justice. The Senate Historian describes it accurately on the Senate website: "October 1, 1968: Filibuster Derails Supreme Court Appointment."

Some have tried to rewrite the history of that filibuster. But three of us know what happened in 1968 because we were Senators then. President Johnson was one of the best vote counters in our history. If you want to hear a master at work, just listen to his detailed discussion of Senate and House votes on President Johnson's tapes. Lyndon Johnson would not have sent the Fortas nomination to the Senate if he was not completely confident that a majority of the Senate would support the nomination. And in fact those of us who favored the nomination believed he had that support.

The Judiciary Committee reported the Fortas nomination favorably, but its Republican opponents, knowing that they still lacked the votes to defeat the nomination outright, launched a filibuster on the floor, attacking the nominee on a number of different fronts, in an effort to draw away his supporters. In the end, cloture failed, and President Johnson withdrew the nomination.

We may never know what the final vote would have been if there had been no filibuster. But there can be no doubt that what occurred was a filibuster of a Supreme Court nomination, and that the purpose of that Republican-led filibuster was to prevent an up-or-down vote on the nomination. Even though there may have been a majority in support of the nomination when the process started, under the Senate rules at that time there was no way for the majority to cut off the minority's right to continue debate unless two-thirds of the Senate voted to do so. As that cloture vote made clear, there would never be a floor vote on the nomination, unless its opponents ended their filibuster.

In fact the Senate has never allowed a bare majority to silence the minority on any bill or treaty or nomination, least of all on judicial nominees, whom the Framers were determined to keep independent, and whose independence was assured by the Senate's joint role in their appointment. The idea that we should relinquish any part of our power over judicial appointments, while leaving that power intact for nonjudicial nominations and for all legislation, is not only irrational, it is bizarrely backward.

Certainly, this is no time to reduce the ability of the Senate as a whole, and of individual Senators, to assure judicial independence. We need independent courts more than ever. We know that activist groups and their supporters in Congress are putting heavy and well-organized pressure on the courts. They want to restrict rights and liberties in the name of national security. They want to subordinate individual interests to powerful economic interests. They want to intrude Government into sacrosanct areas of family and religion. They want to reverse longstanding precedents that allow the Nation to realize its full potential.

When one political party controls all the levers of power in both the White House and Congress, and that party feels beholden to a narrow ideological portion of its base, the independence of the courts is more vital than ever. Despite its razor-thin victory in the all-important political campaign last year, following its especially narrow victory in the election in 2000, which was decided by a 5 to 4 vote in the Supreme Court, the Republican party evidently believes it has absolute power. House Republicans yield to the White House, bending House rules to the breaking point to give the President his way. The President has personally picked the majority leader of the Senate and through him seeks to impose unprecedented strict party discipline on Republican Senators.

Now, in a trial run for doing the same to the Supreme Court, the President wants to pack key appellate courts with activist ideological judges he knows could not possibly command a bipartisan consensus in the Senate. It is clear from their records and their resumes that they have been selected precisely because the most radical forces on the Republican right believe they will advance their ideological agenda on the bench.

In these circumstances, we as Senators have not only the right, but the obligation, to use every power at our disposal, within the Senate's rules and traditions, to focus the attention of the Senate and the Nation, and ultimately the President, on the overreaching abuse of power by the White House and the Republican majority. That is what our Senate powers and our Senate rules are meant to do. That is what checks and balances are all about. That is why the filibuster exists.

The Republican argument to the contrary is irrational, incomprehensible and hypocritical. They say that if we dare to use the well-established Senate rules to preserve the independence of the courts, then they are entitled to break the Senate rules to stop us. They assert—and this is the keystone of their argument—that we are abusing the filibuster by actually using it, even on a very few nominations. They seem to say it is permissible to filibuster if you already have a majority of Senators with you; that is, if you don't need to filibuster. But it is not permissible to filibuster if you are in the minority, which is, of course, the only time you need to filibuster. They say you are permitted to filibuster if you don't have the votes to prevent cloture, but are not permitted to do so if you do have the votes to prevent cloture. In short, their argument seems to be that you are allowed to filibuster only when you don't need it or can't make it stick. In a word, their argument is absurd.

The fact is, the Republicans showed in 1968 how the filibuster can be used to change minds when you don't start with enough votes, whether it is Senators' minds, citizens' minds, or just the President's mind.

During the Bush years, the filibuster has been used as an exceptional tool against a small number of judicial nominations—10 out of 218—in contrast to nearly 70 judicial nominations blocked from a floor vote by other Republican tactics during the Clinton administration.

But here is the most important reason the Republican arguments make no sense: It is the President, not the Senate, who determines how often the filibuster is used.

Whenever President Bush decides he would rather pick a fight than pick a judge, then he is likely to be creating the need to filibuster. There is no need for a filibuster if the President takes the "advice" of the Senate seriously, under the "advice and consent" clause of the constitution, when he nominates lifetime judges for important courts. President Clinton did so with Senator HATCH, the Republican chairman of the Senate Judiciary Committee at the time, on his nominations of Justice Ginsburg and Justice Breyer in the 1990s, and other Presidents have done so throughout history.

Those who do not like the filibuster should take their complaints to the other end of Pennsylvania Avenue, where the real responsibility lies.

The claim that filibustering judges is unconstitutional is without a shred of support in the Constitution or in history. The Republican leadership seems to be on the verge of abandoning that claim. The recent compromise suggested by Senator FRIST would allow the practice to continue for legislation, and for all Cabinet and other executive branch appointments, and even for lifetime Federal district judges. None of these categories is constitutionally distinguishable from Federal appellate court nominations and Supreme Court nominations under the Senate rules. If anything, Article III lifetime appellate judges deserve the filibuster's extra insulation from Executive abuse even more than short-term Cabinet and diplomatic appointments, let alone legislative actions that can be reversed by future legislation.

In short, neither the Constitution, nor Senate Rules, nor Senate precedents, nor American history, provide any justification for selectively nullifying the use of the filibuster.

Equally important, neither the Constitution nor the rules nor the precedents nor history provide any permissible means for a bare majority of the Senate to take that radical step without breaking or ignoring clear provisions of applicable Senate Rules and unquestioned precedents.

Here are some of the rules and precedents that the executive will have to ask its allies in the Senate to break or ignore, in order to turn the Senate into a rubber stamp for nominations:

First, they will have to see that the Vice President himself is presiding over the Senate, so that no real Senator needs to endure the embarrassment of publicly violating the Senate's rules and precedents and overriding the Senate parliamentarian, the way our presiding officer will have to do.

Next, they will have to break Paragraph 1 of Rule V, which requires 1 day's specific written notice if a Senator intends to try to suspend or change any rule.

Then they will have to break paragraph 2 of Rule V, which provides that the Senate rules remain in force from Congress to Congress, unless they are changed in accordance with the existing rules.

Then they will have to break paragraph 2 of Rule XXII, which requires a motion signed by 16 Senators, a 2-day wait and a three-fifths vote to close debate on the nomination itself.

They will also have to break Rule XXII's requirement of a petition, a wait, and a two-thirds vote to stop debate on a rules change.

Then, since they pretend to be proceeding on a constitutional basis, they will have to break the invariable rule of practice that constitutional issues must not be decided by the presiding Officer but must be referred by the Presiding officer to the entire Senate for full debate and decision.

Throughout the process they will have to ignore, or intentionally give incorrect answers to, proper parliamentary inquiries which, if answered in good faith and in accordance with the expert advice of the parliamentarian, would make clear that they are breaking the rules.

Eventually, when their repeated rule-breaking is called into question, they will blatantly, and in dire violation of the norms and mutuality of the Senate, try to ignore the minority leader and other Senators who are seeking recognition to make lawful motions or pose legitimate inquiries or make proper objections.

By this time, all pretense of comity, all sense of mutual respect and fairness, all of the normal courtesies that allow the Senate to proceed expeditiously on any business at all will have been destroyed by the preemptive Republican nuclear strike on the Senate floor.

To accomplish their goal of using a bare majority vote to escape the rule requiring 60 votes to cut off debate, those participating in this charade will, even before the vote, already have terminated the normal functioning of the Senate. They will have broken the Senate compact of comity, and will have launched a preemptive nuclear war. The battle begins when the perpetrators openly, intentionally and repeatedly, break clear rules and precedents of the Senate, refuse to follow the advice of the Parliamentarian, and commit the unpardonable sin of refusing to recognize the minority leader.

Their hollow defenses to all these points demonstrate the weakness of their case: They claim, "We are only breaking the rules with respect to judicial nominations; we promise not to do so on other nominations or on legislation." No one seriously believes that. Having used the nuclear option to salvage a handful of activist judges, they will not hesitate to use it to salvage some bill vital to the credit card industry, or the oil industry or the pharmaceutical industry, or Wall Street, or any other special interest. In other words, the Senate majority will always be able to get its way, and the Senate our Founders created will no longer exist. It will be an echo chamber to the House, where the tyranny of the majority is so rampant today.

Our Republican colleagues also claim that "Senate Democrats have previously used majority votes to change the rules", so they can do it too. That spurious claim depends entirely on a pseudo-scholarly article by two Republican staffers, who happen, unintentionally, to have provided enough facts to rebut the claim. As Senator BYRD and other experts on the rules have shown, the instances they rely on do not involve breaking the rules or changing the rules. They were narrow and minor interpretations to fill gaps in existing rules, but always consistent with the underlying rules and their purposes, and always in keeping with the regular procedures of the Senate. They never allowed debate on any nomination or bill to be cut off without the required cloture vote. The Nuclear Option, in contrast, involves major changes in the essence of key rules, without following the required procedures for changing the rules. In fact, even at the start of a new Congress, the one time when some of us thought the rules might be changed by a majority, the Senate has repeatedly and explicitly rejected the proposition that the rules can be changed without following the rules.

Why would our Republican colleagues try to do this? The simplest answer is that they will do it because they think they can get away with it. If enough Republicans accede to this raw exercise of unbridled power, and ignore the rules and traditions and comity and history and purpose of the Senate, and think they can pull it off and not be held accountable, then they will try it.

Obviously, their party is also being driven by an irresponsible fringe force that does not care about the credibility of their party or the institutional interests of the Senate or the future of our checks and balances form of government. They were the ones who compelled their leaders on both sides of the Hill to intrude in the tragic case of Terri Schiavo. The overwhelmingly hostile reaction to that fiasco should be enough to encourage the White House not to go down such paths again, especially after Stanley Birch, a conservative appointee of the first President Bush, on a conservative federal circuit court of appeals, excoriated Congress for its unconstitutional interference with the courts, and particularly excoriated Republican opponents of judicial activism for hypocritically pushing their own corrosive brand of judicial activism.

Sadly, with Dr. Frist's encouragement and support, the same rabble rousers recently accused us of blocking nominees because they are "people of faith," thus suggesting that the 208 judges whom we have not blocked are not "people of faith." Clearly these activist ideologues do not agree with the Founders about the need for judicial independence, for the separation of powers, or for the separation of church and state. They have no respect for history, no respect for checks and balances, and no respect for the role of the Senate. They simply want as many judges as possible who will follow their instructions.

Fortunately, the vast majority of Americans' share our commitment to basic fairness. They agree that there must be fair rules, that we should not unilaterally abandon or break those rules in the middle of the game, and that we should protect the minority's rights in the Senate.

Even in the darkest days of the government's failure to respond to the civil rights revolution, half a century ago, the Senate never tried to allow a bare majority to silence a substantial minority. Yet that is exactly what Republicans want to do now. There simply is no crisis which justifies such a drastic and destructive action.

Who are the nominees the Republican leadership wants confirmed so desperately that they are willing to resort to tactics like these? Obviously, they are doing it in anticipation of the battle soon to come over the nomination of the next Supreme Court Justice. The judges nominated so far who have been filibustered by the Senate show how truly appalling a Supreme Court nominee may be, if the President can avoid a filibuster.

President Bush has said he wants judges who will follow the law, not try to re-write it. But his actions tell a different story. The contested nominees have records that make clear they would push the agenda of a narrow far-right fringe, rather than protect rights important to all Americans.

Priscilla Owen, Janice Rogers Brown, William Myers, Terrence Boyle, and William Pryor would erase much of the country's hard-fought progress toward equality and opportunity. Their values—favoring big business over the needs of families, destroying environmental protections, and turning back the clock on civil rights—are not mainstream values.

As a Texas Supreme Court Justice, Priscilla Owen has shown clear hostility to fundamental rights, particularly on issues of major importance to workers, consumers, victims of discrimination, and women. Neither the facts, nor the law, nor established legal precedents, stop her from reaching her desired result.

Owen was elected to the Texas Supreme Court with donations from Enron and other big companies. She consistently rules against employees, and consumers who challenge corporate abuses. She bent the law in an attempt to deny relief for the family of a teenager, who was paralyzed after being thrown through the sun roof of the family car in an accident. She wanted to reverse a jury award for a woman whose insurance company wrongly denied her claim for coverage of heart surgery. She argued that the Texas Supreme Court should reinterpret a key civil rights law to make it harder for victims of discrimination to get relief.

It's not just Senate Democrats who question Justice Owen's record of judicial activism and her willingness to ignore the law. Even many newspapers that endorsed her campaign for the Texas Supreme Court now oppose her confirmation after seeing how poorly she served as a judge. The Houston Chronicle wrote that Justice Owen "too often contorts rulings to conform to her particular conservative outlook." The paper also noted that "It's saying something that Owen is a regular dissenter on a Texas Supreme Court made up mostly of other conservative Republicans."

The Austin American-Statesman wrote that she "seems all too willing to bend the law to fit her views." The San Antonio Express-News opposed her nomination, reminding us that "[w]hen a nominee has demonstrated a propensity to spin the law to fit philosophical beliefs, it is the Senate's right—and duty—to reject that nominee."

Her own colleagues on the conservative Texas Supreme Court have repeatedly accused her of the same thing. They clearly state that Justice Owen puts her own views above the law, even when the law is crystal clear. Justice Owen's former colleague on the Texas Supreme Court, our new Attorney General Alberto Gonzales, has said she was guilty of "an unconscionable act of judicial activism." Some claim that Attorney General Gonzales didn't mean this criticism. But this was no single, stray remark. To the contrary, both he and her other colleagues on the Texas Supreme Court have repeatedly noted that she ignores the law to reach her desired result.

In one case, Justice Gonzales held that Texas law clearly required manufacturers to be responsible when retailers sell their defective products. He wrote that Justice Owen's dissenting opinion would "judicially amend the statute" to let the manufacturers off the hook.

In a case in 2000, Justice Gonzales, joined by a majority of the Texas Supreme Court, upheld a jury award holding that the Texas Department of Transportation and the local transit authority were responsible for a deadly auto accident. They said that the result was required by the "plain meaning" of Texas law. Justice Owen dissented, claiming that Texas should be immune from these suits. Justice Gonzales again stated that her view misread the law, which he said was "clear and unequivocal."

In another case, Justice Gonzales joined a majority opinion that criticized Justice Owen for "disregarding the procedural limitations in the statute," and "taking a position even more extreme" than was argued by the defendant in the case.

In another case in 2000, private landowners tried to use a Texas law to exempt themselves from local environmental regulations. The court's majority ruled that the law was an unconstitutional delegation of legislative authority to private individuals. Justice Owen dissented, claiming that the majority's opinion "strikes a severe blow to private property rights." Justice Gonzales joined a majority opinion criticizing Justice Owen's view, stating that most of her opinion was "nothing more than inflammatory rhetoric which merits no response."

In another case, Justice Owen joined a partial dissent that would have limited the right to jury trials. The dissent was criticized by the other judges as a "judicial sleight of hand" to bypass the constraints of the Texas Constitution.

For the very important D.C. Circuit, the President has nominated another extreme right-wing candidate. Janice Rogers Brown's record on the California Supreme Court makes clear that—like Priscilla Owen—she's a judicial activist who will roll back basic rights. When she joined the California Supreme Court, the California State Bar Judicial Nominees Evaluation Commission had rated her "not qualified," and "insensitive to established legal precedent" when she served on the state court of appeals.

All Americans, wherever they live, should be concerned about such a nomination to this vital court, which interprets federal laws that protect our civil liberties, workers' safety, and our ability to breathe clean air and drink clean water in their communities. Only the D.C. Circuit can review the national air quality standards under the Clean Air Act and national drinking water standards under the Safe Drinking Water Act. This court also hears the lion's share of cases involving rights of employees under the Occupational Safety and Health Act and the National Labor Relations Act.

Yet Janice Rogers Brown's record shows a deep hostility to civil rights, to workers' rights, to consumer protection, and to a wide variety of governmental actions in many other areas—the very issues that predominate in the D.C. Circuit.

Perhaps most disturbing is the contempt she has repeatedly expressed for the very idea of democratic self-government. She has stated that "where government moves in, community retreats [and] civil society disintegrates." She has said that government leads to "families under siege, war in the streets." In her view, "when government advances . . . freedom is imperiled [and] civilization itself jeopardized."

She has criticized the New Deal, which gave us Social Security, the minimum wage, and fair labor laws. She's questioned whether age discrimination laws benefit the public interest. She's even said that "Today's senior citizens blithely cannibalize their grandchildren because they have a right to get as much 'free' stuff as the political system will permit them to extract." No one with these views should be confirmed to the Federal court and certainly not to the Federal court most responsible for cases affecting government action. It's no wonder that an organization seeking to dismantle Social Security is running ads supporting her nomination to the second most powerful court in the country.

Janice Rogers Brown has also written opinions that would undermine civil rights. She has held, for example, that the First Amendment prevents courts from granting injunctions against racial slurs in the workplace, even when those slurs are so pervasive that they create a hostile work environment in violation of Federal job discrimination laws. In other opinions, she has argued against allowing victims of age and race discrimination to obtain relief in state courts, or to obtain damages from administrative agencies for their pain and suffering. She has rejected binding precedent on the constitutional limits on an employer's ability to require employees to submit to drug tests.

President Bush has selected William Myers for the important Ninth Circuit Court of Appeals. Mr. Myers is a longtime mining and cattle industry lobbyist. He has compared Federal laws protecting the environment to "the tyrannical actions of King George" over the American colonies. He has denounced our environmental laws as "regulatory excesses." In the Interior Department, he served his corporate clients instead of the public interest. As Solicitor of Interior, he tried to give public land worth millions of dollars to corporate interests. He issued an opinion clearing the way for mining on land sacred to Native Americans, without consulting the tribes affected by his decision although he took the time to meet personally with the mining company that stood to profit from his opinion.

William Myers is a particularly inappropriate choice for the Ninth Circuit, which contains many of America's most precious natural resources and national parks, including the Grand Canyon and Yosemite National Park, and which is home to many Native American tribes. The Ninth Circuit decides many of the most important environmental disputes affecting America's natural heritage. It has a special role in safeguarding the cultural and religious heritage of the first Americans. It deserves an impartial judge who will deal fairly with environmental claims, not a mining company lobbyist clearly opposed to environmental protections. The Ninth Circuit needs judges who will respect Native American rights, not a judge the head of the National Congress of American Indians has called the "worst possible choice" for Native Americans.

The nomination of Terrence Boyle is still pending in the Judiciary Committee. By all appearances, he was chosen for his radical views, not his qualifications. His decisions as a trial judge have been reversed or criticized on appeal more than 150 times, far more than any other district judge nominated to a circuit court by President Bush. The Supreme Court unanimously reversed him in a voting rights case, in which Justice Clarence Thomas wrote that he had ignored established legal standards.

In fact, he has made serious mistakes in cases that matter most to Americans' daily lives. Time and again, the conservative Fourth Circuit has ruled that Judge Boyle improperly dismissed cases asking protection for individual rights, such as the right to free speech, or the right of free association, or the right to be free from discrimination, or the right to a fair and lawful sentence in a criminal case. It's no wonder that his nomination is opposed by a broad coalition of organizations nationally and in his home state of North Carolina representing law enforcement officers, workers, and victims of discrimination.

Last, but by no means least disturbing, the President has renominated William Pryor to the Court of Appeals for the Eleventh Circuit. Mr. Pryor is no true "conservative." He has pushed a radical agenda contrary to much of the Supreme Court's jurisprudence over the last forty years, and at odds with important precedents that have made our country a fairer nation.

Mr. Pryor has fought aggressively to undermine the power of Congress to protect civil rights and individual rights. He's tried to cut back on the Family and Medical Leave Act, the Americans with Disabilities Act, and the Clean Water Act. He's been contemptuously dismissive of claims of racial bias in the application of the death penalty. He's relentlessly advocated its use, even for persons with mental retardation. He's even ridiculed the current Supreme Court justices, calling them "nine octogenarian lawyers who happen to sit on the Supreme Court." He can't even get his facts right. Only two of the nine justices are 80 years old or older.

Mr. Pryor has criticized Section 5 of the Voting Rights Act, which helps ensure that all Americans can vote, regardless of their race or ethnic background. He's even called the Voting Rights Act, which has been repeatedly upheld by the Supreme Court, "an affront to federalism." His hostility to voting rights belongs in another era—not on a federal court. As Alabama's Attorney General, in a case involving a disabled man forced to crawl up the courthouse stairs to reach the courtroom, Mr. Pryor argued that the disabled have no fundamental right to attend their own public court proceedings. His nomination was rushed through the Committee despite serious questions about his ethics and even his candor before the Committee.

History will judge us harshly in the Senate if we don't stand tall against the brazen abuses of power demonstrated by these nominees. The issues at stake in these nominations go well beyond partisan division. The basic values of our society—whether we will continue to be committed to fairness and opportunity and justice for all—are at issue.

Many well-qualified, fair-minded nominees could be quickly confirmed if the Bush administration would give up its right-wing litmus test. Why, when there are so many qualified Republican attorneys, would the President choose nominees whose records raise so much doubt about whether they will follow the law? Why force an all-out battle over a few right-wing nominees, when the nation has so many more pressing problems, such as national security, the economy, education, and health care?

Our distinguished former colleagues, Republican Senator David Durenberger and Democratic Senator and Vice President Walter Mondale, recently urged the Senate to reject the nuclear option. They reminded us that "Our federal courts are one of the few places left where issues are heard and rationally debated and decided under the law."

Five words they used said it all—"let's keep it that way." To reach the goals important to the American people, let's reject the nuclear option, and respect the checks and balances that have served the Senate and the nation so well for so long.

The PRESIDING OFFICER. The time of the minority has expired.

The Senator from Nevada.

FILIBUSTER OF JUDICIAL NOMINEES

Mr. ENSIGN. Mr. President, I would like to think that if some of the finest and most respected jurists in our country's history were nominated today to sit on the Federal bench, their successful confirmation by the Senate would be guaranteed. I am talking about jurists such as Chief Justice John Marshall, Chief Justice Earl Warren, and Justice Oliver Wendell Holmes. Imagine where we would be today without their bright, insightful legal minds.

Unfortunately, in today's bitter and partisan atmosphere, I don't see how any of them would make it through this grueling, humiliating, and endless judicial nomination process. That is a disturbing thought. We must put an end to this mockery of our system before it becomes impossible to undo the damage.

I am sure a lot of Americans believe this is politics as usual. It is not. Filibustering of judicial nominations is an unprecedented intrusion into the long-standing practice of the Senate's approval of judges.

We have a constitutional obligation of advise and consent when it comes to judicial nominees. While there has always been debate about nominees, the filibuster has never been used in partisan fashion to block an up-or-down vote on someone who has the support of a majority of the Senate.

In our history, many nominees have come before us who have generated strenuous debate. Robert Bork and Clarence Thomas are two of what the other side would consider more controversial figures to be considered for a position on the Federal bench. It is important to note that both of these men, despite the strong feelings they generated from their supporters and their detractors, received an up-or-down vote. Now, sadly, due to the efforts of the Democrats in the Senate, the 214-year tradition of giving each Federal candidate for judge a solid "yea" or "nay" is at risk.

Senate tradition is not the only thing at risk here, though. The quality of our judiciary is at grave risk. It is and should continue to be an honor to be nominated to serve on the Federal bench. Nominees are aware of the rigorous process that goes along with their nomination—intense background checks and the opening of one's life history to the public. However, highly qualified and respected nominees do not sign on to being dragged through a bitter political battle. If we allow the filibustering of nominees to continue, I fear that those highly qualified candidates will decline to put themselves and their families through the abyss of this process. The American judicial system will be sorely hurt should this happen. And it already happened with Miguel Estrada, who was an outstanding nominee. We cannot afford to let this happen and let it continue.

I believe that anyone who has been nominated by the President and is willing to put his or her name forward and be subjected to the rigorous confirmation process deserves a straight up-or-down vote on his or her nomination in both committee and on the floor of the Senate. Guaranteeing that every judicial nominee receives an up-or-down vote is truly a matter of fairness. It doesn't mean that there is no debate or opportunity to disagree. It does mean fair consideration, debate, and a decision in a process that moves forward.

I say that today with the Republican President in the White House and a Republican majority in the Senate, but I know we will uphold the up-or-down vote when we eventually have Democrats back in control. That is because this is the fairest way to maintain the health of the judicial nomination process and the quality of our courts.

Our Founding Fathers set up a form of Government with three separate branches, and they were all very distinct. The current state of affairs in the Senate threatens the very balance of power. Although the up-or-down vote is critical to maintaining that balance, there is a need to reform the committee process as well. Each committee should discharge nominees, whether it is with a positive or a negative vote. But at some point, that nominee deserves to have a vote of the full Senate on the floor. The committee should not have the power to kill a nominee on its own.

I sincerely hope we can put an end to this crisis, judge judicial nominees on the basis of their character, qualifications, and experience, and return to fulfilling our constitutional duty.

I understand that the majority leader has just put forward a proposal to correct the unfair treatment of judges. Senator FRIST's proposal will ensure that each and every nominee will be treated fairly. It will ensure that each nominee will receive a fair up-or-down vote, whether a Republican President or a Democrat President nominates him or her.

I commend Senator FRIST for his leadership. His proposal ensures future nominees are treated fairly. I urge my colleagues to adopt Senator FRIST's proposal.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. VITTER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAPO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAPO. Mr. President, I would like to take a few moments to discuss the issue that seems to be the major topic of debate now in the Senate. It is that of the question of how we approach the nomination and confirmation of judges.

Frankly, I think that the level of hostility and the level of debate that has increased around this issue is becoming alarming to the American people—not so much necessarily because of their objection or concern about the various positions being taken but because of the concern about how the Senate is running, the question of whether we in the Senate are working on the business of the American people in a way that is in the best interest of public discourse, or whether the dynamic in the Senate is deteriorating into a highly partisan, highly personal, and highly difficult climate in which we are increasingly facing gridlock.

Mr. President, I would like to go back through the debate because a lot has been said about what the role of the filibuster is as we approach the issue of confirmation of judges. I believe it is important because, frankly, I notice in some of the advertising that is going on across the country right now that the argument being made seems to be that the filibuster was established in the Constitution by our Founding Fathers as one of the checks and balances of our system.

The reality is that from 1789 until 1806, the Senate did not have anything close to a filibuster. In fact, the Senate had the traditional motion for the previous question in its rules, which, for those who don't follow these things closely, meant that a majority could close debate on any issue when there was a motion to proceed to a vote. The majority could close the debate.

So, clearly, there is no mention of the filibuster in the Constitution and, clearly, until at least 1806 there was no possibility for utilization of the filibuster in the Senate. Even after 1806, when for other reasons the Senate eliminated the motion for the previous question, the idea of filibustering never really took hold in the Senate until much later. In fact, it was about the 1840s when a group of Senators realized that under the rules there was no way for them to be stopped from debating, and they basically started the idea of filibustering and approaching the management of issues in the Senate by utilization of the tool of filibustering—namely, refusing to stop debating and let the Senate move on to a vote.

Even though that practice started in the 1840s, it was used very sparingly and over the years really wasn't that big of a problem. When Senators tried it, they worked out issues they were raising, and issues were resolved. The Senate never really adopted a cloture rule until the 1917 timeframe. The cloture rule, for those who don't follow Senate procedure that closely, is the rule by which the Senate tries to stop a filibuster. It has been in different forms over the years, but in its current form—since 1917, it has evolved—it requires 60 votes in the Senate to adopt cloture, which means that we will then go into a process which will eventually wind down debate on a bill and move us to a point where we can vote on a matter. So even in 1917, when the original cloture rule was adopted, it didn't really mention judicial nominations, because at that point the Senate didn't really contemplate the use of the filibuster on judicial nominations.

The cloture rule was rewritten in 1949. At that time, it was expanded to include all matters which technically included judicial nominations. But even after 1949, filibusters were rarely, if ever, even tried on judicial nominations; and when they were tried on judicial nominations, with one exception, when both parties supported the filibuster, even when filibusters were tried on judicial nominations, they were stopped. Never, until this last Congress, the Congress previous to this, with that one exception I mentioned when both parties supported it, did the Senate support the utilization of a filibuster on the nomination of a judge.

In the last couple of years, we have seen an increasing and frequent utilization of filibusters for nominations on the judiciary. That is what brought us to this battle right now. The question the Senate is grappling with and which the American people, I believe, are justifiably very concerned about is, What should the role of the Senate be? What should the procedure of the Senate be when considering judicial nominations?

That takes us, in my opinion, back to the U.S. Constitution. In article II of the U.S. Constitution, which is the core around which this debate should focus, it provides that the President shall nominate and, by and with the advice and consent of the Senate, shall appoint judges of the Supreme Court and all other officers of the United States, which includes judges of the other courts. The President shall nominate and, by and with the advice and consent of the Senate, shall appoint. So the question there is, Does the Constitution absolutely prohibit a filibuster? No. Does the Constitution absolutely authorize filibusters? No. The Constitution simply says the President shall nominate and, by and with the advice and consent of the Senate, he shall appoint judges.

Our job now is to determine how to run the rules of the Senate in the closest accommodation to the spirit of the Constitution of the United States.

The question, as I see it, is, Does the Constitution contemplate that the President is entitled to a vote on his nominees? And if so, is that vote a majority vote or is it a vote of a supermajority, like 60, or two-thirds? It has been argued on the floor today that all the Constitution contemplates is some kind of a vote, whether it be a 60-vote supermajority, a two-thirds vote, or a majority vote, that the Senate can decide, but all the Constitution contemplates is some kind of a vote.

I disagree. I believe the Constitution contemplated that by a majority vote the Senate would give its advice and consent. I believe the best way to operate this Senate is to utilize the principle of advice and consent as one in which we should give the President an up-or-down vote on those nominees who are able to get sufficient support to get out of the Judiciary Committee to the floor of the Senate. As I say, historically, never, until the last Congress, has the Senate operated in any other way.

There are those who have tried filibusters, but never have just 41 Senators stood solidly together and said: No, we will not allow a nominee who has enough majority support to get to the floor of the Senate to have a vote.

There are those who are saying the President is trying to pack the Court and that the President is trying to change the dynamics of the judiciary with people who are out of the mainstream. Again, I do not believe anything could be further from the truth.

There has been a lot of debate on this floor over the last few weeks about these nominees, but let's look at a couple of these nominees to see what it is we are talking about.

One of the filibustered nominees is Justice Priscilla Owen. She has served on the Texas Supreme Court since 1995. In 2000, Justice Owen was overwhelmingly reelected to a second term on that court, receiving 84 percent of the public vote. I do not think that is out of the mainstream.

During her 2000 election bid, every major newspaper in Texas endorsed her. Before joining the supreme court, she was a partner with a well-respected Texas law firm, having practiced law for 17 years.

Justice Owen has significant bipartisan support in Texas, including three former Democratic judges on the Texas Supreme Court and a bipartisan group of 15 past presidents of the State bar of Texas.

Whether one agrees or disagrees with her philosophy, one cannot argue that she is not mainstream. In fact, a bipartisan group of 15 former presidents of the State bar of Texas—that bipartisan group about which I talked—states:

> Although we profess different party affiliations and span the spectrum of legal and policy issues, we stand united in affirming that Justice Owen is a truly unique and outstanding candidate to appointment to the Fifth Circuit [Court of Appeals].

They go on to say she has all the qualities to be a good independent judge.

Another who is being attacked is the Honorable Janice Rogers Brown, a nominee from the Supreme Court of California to be on the District of Columbia Circuit Court. In her 9 years on the California Supreme Court, Justice Brown has earned the reputation of being a brilliant and a fair justice who rules on the law.

Her nomination has received broad support from across the political spectrum, and she also stood for reelection in the California judicial system where she received 76 percent of the public vote in California the last time she was on the ballot, which belies the notion that she could be out of the mainstream.

She has dedicated over 25 years of her legal career to public service and she, too, is supported by a broad array of bipartisan jurists and legal scholars in her State.

Let me talk about one more, a nominee from my State, the State of Idaho, William Myers, who has been nominated to the Ninth Circuit Court of Appeals. Bill Myers is a former Solicitor of the Department of Interior and is a highly respected attorney who has extensive experience in the fields of natural resources, public lands, and environmental law. He actually was confirmed by this Senate by unanimous consent when he was confirmed to serve as Solicitor of the Department of Interior.

Before coming to the Department of Interior, he practiced at one of the most respected law firms in the Rocky Mountain region, and he has a rich history of service in public offices. He is a very avid outdoorsman and conservationist and has himself wide support from bipartisan interests. In fact, the former Democratic Governor of Idaho, Cecil Andrus, indicated he is one who deserves our support, has the integrity, judicial temperament, and experience to be a good judge.

Former Democratic Wyoming Governor Mike Sullivan, who also served as U.S. Ambassador to Ireland under the Clinton administration, endorsed Mr. Myers, saying he is "a thoughtful, well-grounded attorney who has reflected by his career achievements a commitment to excellence."

My point in reviewing these three candidates, because my time is limited today, is to show that although there is an argument that the President is trying to submit candidates who are not in the mainstream, the argument does not fit the facts. What is happening is President Bush is being denied the opportunity for even a vote on his nominees to be the judges on the various circuit courts of this country.

I think we ought to come back to the Constitution and to the initial question which I pose: What does the Constitution of the United States contemplate in terms of how the Senate should operate when it fills its role as providing advice and consent in the nomination and appointment of judges?

I think it is very important to note that what we are debating is not the elimination of the filibuster. We have an Executive Calendar and a legislative calendar in the Senate, and the proposal is to address the manner in which filibusters are utilized only on a portion of the Executive calendar. The Executive calendar is that part of our business in which the Senate deals under the Constitution with the executive business of the President with the Senate.

We are suggesting our rules should contemplate that when the Constitution gives the President business to conduct with the Senate and says the Senate should give its advice and consent on the President's nominations, the Senate's rules should not prohibit the President from getting a vote.

All we are asking, not that these nominations be all unanimously approved or automatically accepted, is the President get a vote up or down on his nominees.

It is my hope we will not have to get to the point where on the Senate floor we have a protracted and bitter battle. We have an opportunity to discuss these matters among ourselves and try to do what the American people expect of us, and that is to bring more comity to the Senate in our individual relations among each other.

I believe there is room for finding a compromise that can resolve this issue in a way that will bring dignity and respect to the Senate and will enable us to fulfill the spirit of what the Constitution contemplates when it says the Senate should provide its advice and consent to the nominations of the President.

Mr. President, I thank you for my time, and I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, how much time remains in morning business on this side?

The PRESIDING OFFICER. There is 6 minutes 25 seconds remaining.

Mr. BROWNBACK. Mr. President, I yield myself such of that time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I am going to follow on the presentation of my colleague from Idaho on the issue of judges because it is the pending issue before the Senate. We are on the highway bill, and it is important legislation, but this issue is what has captured the attention of this body, the executive branch, and people across the country: The problem of getting judges approved.

My colleague from Idaho well portrayed some of the nominees and what is taking place. I will point out a couple of common issues. I serve on the Judiciary Committee. We have had these individuals in front of us, in some cases, for 4 years. They are well known to this body, to the people here, and they have been fully vetted. The reason they are at this point in getting through is they are extremely well qualified. There may be philosophical differences with them, but if they are allowed to have a vote, they will be confirmed because they are well qualified. If they were not well qualified, if they were outside of the mainstream of judicial thought, they would not be confirmed and we would not be debating this issue.

We have the Democratic Party deciding: OK, we are going to stop them. Actually, they are well qualified and we cannot stop them on a majority vote; we are going to stop them on a filibuster and require a supermajority vote.

They have taken that tactic. It is unprecedented. They have taken that tactic which is within the rules of the Senate.

I want to point out what is going to happen if they persist in that tactic because then they put it back on us or the President to take action in response.

We can say we are not going to do anything, we are just going to let an unprecedented filibuster take over, to which a lot of us are saying that is not right, that is not our job. This may force the President to do a whole group of recess appointments, a right he has under the Constitution. He has been waiting for 4 years for some of these nominees. He would rather not do that, I am sure. I have not talked with him, but I am sure he would rather not do that. He can say: If you are not going to let my judges through, you are supposed to give advice and consent, and if you are not going to give advice and consent, then this is the action I have to take. Or it is going to force us to change the filibuster rule on the issue of judges because of the unprecedented use and requirement of a supermajority.

What I am pointing out is, while the Democrats can take this tactic, it is going to force a response which would be legal by a Republican majority in the Senate, by the President, but all of which is unsatisfactory and not right. We ought to be voting on these judges.

We have seen the numbers. I think if the numbers were not so extreme, we would not feel so forced into a corner, but the numbers are extreme. The Senate has accumulated the worst circuit court confirmation record in modern times, thanks to this partisan obstruction. Only 35 of President Bush's 52 circuit court nominees were confirmed, which is a confirmation rate of 67 percent. In comparison, President Johnson's confirmation record in his first term in office was 95 percent, as were 93 percent of President Carter's nominees.

The other side may point to the district court, the trier of fact, level of confirmations. Yes, those are there, but the circuit courts are the ones that get to review and interpret the law, and we are trying to get judges who will interpret and not write the laws.

A number of people are willing to allow judges to write laws. I am not one of those. That is our job. That is my constitutional role, that is my constitutional requirement, and the oath I took to the Constitution to write the laws and not to pass them off to the judiciary or to say: Well, it is too tough for us, let's let it pass through there.

Plus, what irritates so many people is the use of the judiciary in so many areas that are so personal and deeply felt within this society. People are saying this is not right, this is something that should come in front of legislative bodies. Maybe it will take several election cycles for the body politic to get in a position to resolve these issues, and that is fine, it should take time on these major issues before us.

Also, I do not want to just focus on the numbers. We should remember these nominees are not some sort of political prop. These are good people with careers and commitment to public service, the quality and depth of which is enviable.

Also, I note that a solid majority of people agree strongly with the President's position that he should pick judges who strictly interpret the law rather than legislating from the bench, what the judges think the law should be. Ignoring this mandate, some in this body, spurred on perhaps by outside interest groups, are threatening yet again to filibuster these judge nominees.

We are now embarking on a dangerous area if we talk about changing the role of the judiciary in this society and blocking nominees because they are going to stay with the interpretation of the law and not write law. I think we should be thinking long and hard before we go with judges and give a license for them to be more expansive in their role in the legislating arena. That is wrong. It is not in the Constitution. It is not the division of powers. We should have judges who strictly interpret. That is what these nominees are about and much of the base of this fight is about.

I urge my colleagues on the other side of the aisle to think about what they will force in response by this tactic, and there will be a response to this tactic. I do not think it is wise for this body to move toward that route.

I thank the Chair for this time. I yield the floor and yield back the remainder of time.

The PRESIDING OFFICER. The majority time has expired.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Inhofe amendment No. 605, to provide a complete Substitute.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, the highway bill which is presently before us comes to us pursuant to a budget agreement that was passed last Friday morning. In fact, I guess it was passed about 1 a.m. Friday morning. That budget agreement had in it language that said there would be $284 billion spent on highways under this highway agreement. It also had language in it referencing something which is called a reserve fund which essentially says if legitimate offsets could be found, and if they were determined to be legitimate by the chairman of the Budget Committee, then that number could be increased by the amount of those legitimate offsets.

Initially, when the bill was brought forward it was brought forward at $284 billion. It was brought out of committee at $284 billion. On Monday during the wrapup session, by unanimous consent, that bill, which had already been subject to a substitute, was hit with another substitute that had 1,300 pages in it. Within those 1,300 pages—and they are not absolutely sure of this number yet—somewhere in the vicinity of $11.5 billion of new spending out of the highway trust fund. That in and of itself was inconsistent with the budget resolution that had been passed last Friday in that it was $11.5 billion over that resolution and was therefore out of kilter relative to the allocation given to the committee, the Public Works Committee.

In addition, within those 1,300 pages which were submitted by substitute, by unanimous consent, on Monday night, one legislative day after the budget had been passed, were representations that the offsets had been placed in to pay for the $11.5 billion. There was no referral of those offsets to the Budget Committee as was required under the law that had just been passed on the prior legislative day in the reserve fund of that law. In fact, the offsets as represented first were offsets which would apply to the general fund, not to the highway fund, and therefore created a violation of the Budget Act. But second were offsets which do not pass what we might refer to as the "straight face" test. In other words, they were not legitimate offsets. In fact, one of the offsets which was referred to has been used 14 times in the last 2½ years—14 times. Yet it was referred to with a straight face, although I am sure there was a smile behind it, as a legitimate offset.

It would be humorous were it not for the fact that it adds a $11.5 billion burden to the taxpayers, which on the prior Friday we had said we were not going to do to the taxpayers. So the bill as presently pending under the substitute, as put forward on Monday night, the 1,300 pages which are so extensive that CBO, which is the scorekeeper around here, has even had trouble figuring out what is in it, that bill is presently in violation, or that substitute is in violation of the Budget Act. It is quite simply unequivocally, unquestionably a budget buster.

One must ask the very obvious question that when the Senate passes a budget on Friday of the legislative week, if on the Monday of the next week, which amounts to the next legislative day, if that next Monday you are going to by unanimous consent, late in the afternoon, during wrapup, put forward a substitute which includes in it a budget-busting expansion of spending with a euphemistic and illusory statement of offsets—self-serving, also, by the way—if we are at all serious as a Congress about disciplining ourselves when it comes to protecting the American taxpayer relative to the rate of growth of the Federal Government and Government expenditures. It would appear that if this substitute is allowed to survive in its present form, with this additional money being spent, which exceeds significantly what was agreed to in a budget that was passed the day before, the answer to that question would have to be, regrettably, no, we are not.

In addition to that problem, there is the issue of the President. Now, rolling the Budget Committee around here is sort of good entertainment, and it happens, unfortunately, too regularly. But rolling the President of the United States, and especially when the party of the President of the United States decides to roll the President of the United States, is something a little more significant. The President has said 284 is the number, the President has said even if there are offsets, 284 is the number and we are not going above that number. Yet a bill is reported to the floor that met that number with the clear, obvious understanding now that it was going to be gamed, that 284 number was going to be ignored. And now we have a bill that is probably 295, 296, maybe 300. We are just not sure. We are talking billions, folks, just to put it in context. That is not $296. That is $296 billion, which is a lot of money.

So the President has made it very clear—he has made it clear in his press conference, his administration has made it clear, the director of OMB has made it clear, and in an agreement with the House leadership there was a clear understanding the highway bill would spend $284 billion, not $296 billion, whether it was offset or not. Yet that position of the President is being—well, it is being more than ignored. It is being run over by a bulldozer or maybe a cement mixer or maybe a paver. But in any event it is being run over. And that seems a little bit inappropriate, slightly inappropriate to me. Since the President has decided to try to exercise some fiscal discipline, it would seem that we as a party that allegedly is a party of fiscal discipline would follow his lead rather than try to run him over.

So you have two problems. You have the problem of a Republican Senate running over a Republican President because we want to spend more money—or at least some Members of the Senate do—and then you have the Republican Senate running over the Republican budget because some members want to spend more money. Then you have this gamesmanship, I guess would be the best term for it, which occurred on Monday night when you take 1,300 pages and throw it in under unanimous consent and put in it language which raises spending by $11.5 billion and has these proposed offsets which do not pass the straight face test.

So you wonder about that and you have to ask yourself where are we really going if we can't even discipline ourselves on something like this. You have to remember this bill did not start out at 284. It started out 2 years ago at, I think it was 219, maybe it was 220, maybe it was 230. It was in that range. Then last year, through another sleight of hand dealing with the funding mechanism, we shifted—we didn't but some did—$15 billion or $18 billion—I do not recall exactly—out of the general account over to the highway account claiming that there was no revenue impact, that this was an offset, of course, putting an $18 billion hole in the general fund in exchange for covering up with the extra spending in the highway fund. Then that, with a couple other manipulations, got us up to this 284 number which means that we are already in the hole on this bill relative to the budget approximately $18 billion before this next exercise of adding $11.5 billion on top of it.

It is my obligation, obviously—I end up drawing the short straw around here by some degree by being Budget chairman, but it is an obligation I take on because somebody has to do it and it should be done—to be sort of the person who comes to the floor and says: What the heck are we doing? We pass a budget on Friday which says we are going to control spending, says we are going to limit highway spending to $284 billion, and then on Monday in wrapup, with 1,300 pages of obfuscation, there is thrown in $11.5 billion of new spending, and thrown in are a lot of illusory and baseless offsets. What the heck are we doing?

Well, in the context of what the heck are we doing, I have at least the right to make us vote on this, at least the right to say to my fellow colleagues, if you want to do it, do it in the open a little bit. The way we should have done it, of course, was the way it was originally structured. There should have been a straight up-or-down issue of whether, A, this additional $11.5 billion was a good idea to spend over the budget; or, B, properly offset. That is not now possible to do. I admit the folks who thought this out were creative and they structured it so that is no longer possible to do. It was possible to do on Monday until there was wrapup but not possible to do now. That is the way it got structured, so I am left with very few options.

Mr. President, I reserve the right to retain the floor for the purposes of discussing with the leader of the bill the timing on this next vote. Is it the leader's position that he would want to vote at 11:15?

Mr. INHOFE. Mr. President, in response to the distinguished chairman, yes, anytime after 11:15 and before 12 o'clock.

Mr. GREGG. Well, I will make the motion now and then ask we be in a quorum call until 11:15.

Mr. INHOFE. I would rather not do it because I will make a motion to waive after the Senator makes the point of order. That is debatable and I would like to make it.

Mr. GREGG. We can just set the vote at 11:15 and you can debate it.

Mr. INHOFE. Sure. That is fine.

Mr. GREGG. Mr. President, I ask unanimous consent that upon my making the point of order, should the chairman make a motion to waive that point of order, that vote be at 11:15 with the yeas and nays being considered as being ordered.

Mr. LAUTENBERG. Reserving the right to object, will the Senator repeat the unanimous consent request?

Mr. GREGG. I am asking that we move to this vote at 11:15, but if the Senator needs 5 minutes, we can make it 11:20.

Mr. LAUTENBERG. Make it 11:30. Then I would have no problem with it, and we will try to use time as quickly as we can.

Mr. GREGG. I would ask that the time be evenly divided.

Mr. LAUTENBERG. Yes. No objection.

Mr. INHOFE. Reserving the right to object.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. INHOFE. For clarification purposes, are we now talking about a vote at 11:30; is that correct?

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I believe I reserved the floor.

The PRESIDING OFFICER. The Senator from New Hampshire does have the floor. The Senator from New Hampshire is recognized.

Is there an objection to the vote occurring at 11:30 with the time equally divided? Is there any objection to that restated request?

Without objection, it is so ordered.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, I make a point of order that the pending substitute increases spending in excess of the allocation to the Committees on Environment and Public Works, Banking and Commerce. Therefore, I raise a point of order against the amendment pursuant to section 302(f) of the Budget Act.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I move to waive any relevant provisions of the Budget Act for the substitute and the bill.

Mr. GREGG. The yeas and nays have been ordered, as I understand it.

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. GREGG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, there can be honest differences of opinion. The way this has worked historically, and I have had the experience on this type of legislation for 19 years now, is that we come up with a bill. The bill we came up with is based on a formula. It is not a pork bill. It is a spending bill because it is a spending bill on infrastructure for America.

My job, and the job of the ranking leader, Senator JEFFORDS, is to come up with a bill that meets the infrastructure needs of America. Then we look to the Finance Committee to help us to find the funds to finance it. I am not about to pass judgment, as others appear to be readily willing to do, to cast disparaging remarks on the nature of the offsets or the nature of the product of the Finance Committee. I know we came up with a good bill. It is one that is not nearly as high, in terms of the amount of money that would be spent, as the needs. In fact, it has been looked at and evaluated that if we are to pass a bill, even at the $295 billion over the 6-year period, of which 5 years are remaining, that it would not even maintain what we have today.

I also want to correct something else because the very distinguished chairman of the Budget Committee is certainly knowledgeable in all of these areas. He talks about being conservative and talks about doing these things in a proper and appropriate way. Well, I would challenge anyone to match my conservative performance and credentials, and yet I have always said that when one comes to this body there are two areas where conservatives are big spenders. One is in national defense and one is in infrastructure. That is what we are supposed to be doing. We are supposed to be building the infrastructure and improving the infrastructure.

This bill is not just any type of bill that is coming along. This is a bill that is a matter of life and death. We put together a formula to determine how the distribution between the States should take place. In that formula, one of the elements is the mortality rate on the highways on a per capita basis. Now, if no one is concerned about the number of lives that are lost, quite frankly my

State of Oklahoma has more lives lost on the highway than the average State. Consequently, that is one of many determining factors in a formula. The formulas have factors for the donee States and the donor States, the number of miles and, I might even add to my friend from New Hampshire, even covered bridges.

This bill probably could be considered by most people as the most important bill we will have this entire year. It is probably the second largest bill we will have this entire year. It is one that lets us rebuild the infrastructure of America. We all have heard the statistics. There is no sense going over and plowing those fields again, but it is one also that is a huge jobs bill.

I am not one to say that WPA—actually the WPA looks pretty good now after a few years, but I do not look at Government as the ultimate employer. But when they talk about for each billion of new construction it provides 47,000 jobs, it is a huge jobs bill. It is very significant.

Many people are supporting this bill. There are Democrats, Republicans, liberals, conservatives. As a conservative Republican, I wholeheartedly support it. I support it at the higher level because I think that is what we are supposed to be doing.

I am sure there will be those who want to talk a little bit about the product of the Finance Committee. I know the ranking member of my committee, Senator JEFFORDS, wants to make a statement or two. We have between now and the next 25 minutes to discuss this. I just want to assure my friend, the chairman of the Budget Committee, I am very sincere, and I think we are doing the right thing. While I do not always agree wholeheartedly with the President, I do 99 percent of the time. In this case, I disagreed last year. Last year, when we came up with $318 billion, we should have passed that. I believe the Finance Committee was sincere when they said we had this covered, and it was something that I supported at that time. The President did not support it.

There are a lot of things we pass that I would like to debate and not pay for. This is not one of them. I feel very strongly that we should go ahead. Quite frankly, I do not think the number is high enough, but if this is all we can cover, then I am happy with that. The most important thing is we have to have a highway bill. We are on our sixth extension right now. The States are wondering what we are doing. They have no way of planning in advance. They cannot plan for the next 5 years. All they can do is say: We have another 6-month extension. What will we do for the next 6 months? Then we all miss the construction season. In States such as that of my friend from Vermont, a northern State, and the State of New Hampshire, we have already missed the majority of the construction season. So it is very important that we not continue with extensions and that we get this bill passed. To do this, we already have a cloture motion in effect. We need to get by this motion, and I think we will be doing that.

I yield to the ranking minority member.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise today in support of manager's package for the highway bill.

This package, which combines all four titles of the Safe, Accountable, Flexible, Efficient Transportation Equity Act, increases funding for our highways and transit systems by $11.2 billion.

I commend Senators GRASSLEY and BAUCUS for putting together a package that not only increase the resources for our States but does not add to the Federal deficit.

One cannot drive this highway bill on empty. Funding is its fuel, and we need to make sure this bill has a full tank when it leaves the Senate and heads to conference.

The White House argues that the financing of the manager's package is based on gimmicks.

To that I say nonsense.

If Senator GRASSLEY and Senator BAUCUS tell me it is paid for, then I believe them.

Frankly, compared to the funding levels in last year's highway bill, today's package is modest.

The President should be claiming victory and applauding our actions rather than threatening a veto.

This additional funding will mean we can make more roads safer, make sure more Americans face less traffic, and create more jobs.

This additional funding benefits every State, every city, every country and every town. This additional funding makes all the world of difference.

I would yield the floor at this time and offer the Senator from Arkansas such time as he desires to discuss the transportation bill.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, we do want to hear from the Senator from Arkansas, but in fairness, we should go back and forth. The chairman of the subcommittee, Senator BOND, wants to be heard first. Does the Senator from Vermont have an objection to that?

Mr. JEFFORDS. That is fine.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Missouri.

Mr. BOND. How much time do we have remaining?

The PRESIDING OFFICER. Six minutes for the proponents of the motion.

Mr. BOND. I ask that I be given 4 minutes of that, allowing 2 minutes for my colleague on the other side of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, we are once again asking for the support of our colleagues to raise the contract authority or budget authority in the highway bill. We said we were going to do this when we brought it to the floor. Eighty of our Members voted in the Budget Act to allow the Finance Committee to come in with additional resources, which they have done. There has been discussion about the legitimacy of the offsets and the Finance Committee actions. The Joint Tax Committee has scored it. That is the authoritative view. It does not add to the budget. The comments about this being a budget buster are absolutely wrong. These funds are paying for the money we add.

I will explain a little bit of complicated budgetary process. There are two things called the obligation limit, which is the amount that can be spent, the guaranteed amount. Traditionally, we have put a higher number into the bill for what we call budget authority, or what is called contract authority. That is because the highway departments cannot spend all of the money that they contract, and to enable them to spend the $283.9 billion guaranteed spending proposed by the President we have to have a higher contract or budget authority number.

This measure, which was added by the Finance Committee and which is now subject to the point of order, was designed to raise, with a fully offset amount, the spending so that we could provide additional funds for badly needed State roads.

Let me be clear. This amount that was added will enable us to bring all donor States up to 92 cents on the dollar by the end of the period. It will also guarantee those States which are at the bottom of the list in terms of increases to get at least a 15-percent increase. It is imperative that those who joined with us in the 80-vote majority to add the provision allowing the Finance Committee now reaffirm that they believe this money is necessary.

The additional money, contract or budget authority, will not be spent, the obligation limit will increase slightly, but we cannot spend the money the President said we should spend, the $283.9 billion, unless we increase the contract authority. Obviously, that's lots of confusion but that is where we are.

I urge my colleagues who understand, as the chairman and ranking member of the committee and my colleague Senator BAUCUS on the committee understand, we have to have this money for safety, for economic development, for continued growth and the health of our economy.

I yield the floor and reserve the remainder of our time for use by my colleague.

The PRESIDING OFFICER. Who yields time? The Senator from Arkansas.

Mr. PRYOR. Mr. President, I rise to offer my support for the motion to waive the budget point of order and also to support the efforts of the Senator from Oklahoma and urge my colleagues to also support those efforts. This legislation is 2 years overdue. I am very pleased we are finally making some headway on getting this done. Forcing our States to operate under the uncertainty caused by short-term extensions is no way to govern. We are now in the sixth extension, and it is my hope that we are able to complete our work in the Senate and complete the conference before the current extension expires at the end of the month.

I also thank Senator INHOFE, Senator BOND, Senator JEFFORDS, and Senator BAUCUS for their very hard work on this bill and all the time they have spent and their efforts in working in such a bipartisan way. I also thank Senator SHELBY and Senator SARBANES on the hours they have put in on the transit portion, and I thank Senators LOTT and INOUYE, as chairman and cochair of the Commerce Committee Subcommittee on Surface Transportation and Merchant Marine for their work on the safety portions of this bill.

Economic development is a very important part of any infrastructure development—we talked about that a little bit this morning already—but not at the expense of the safety of families. This bill enhances the safety of our roadways.

As a member of the Commerce Committee, I was very happy to have the opportunity to play a role in developing the safety titles. It is good legislation that will increase the safety of our highways for all Americans, and it is bipartisan legislation, developed with the input of safety groups, industry, the administration, as well as State and local officials.

Every great nation in the history of the world has flourished because of improvements to its infrastructure. If you look at the great periods of development and invention in the world, almost all of them have coincided with advances in transportation options, whether it is safely moving people, expanding trade, or increasing contact between cultures. My constituents remind me all the time about the importance of roads and relieving congestion and creating economic growth—virtually every time I go to Arkansas. Last week when I was there, people were asking me, when in the world are you going to get the highway bill done?

Our constituents are very smart. As I travel the State I hear the same four things over and over, and I believe they are right. They tell me the four things we must accomplish in this highway bill are, No. 1, we must produce a highway bill that addresses critical infrastructure needs that are not currently being met; No. 2, we must produce a highway bill to spur economic development and the creation of jobs.

How is my time doing, Mr. President?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PRYOR. I ask unanimous consent for 2 more minutes.

Mr. GREGG. Mr. President, I yield the Senator 2 minutes off of my time, even though he doesn't appear to be agreeing with me.

Mr. PRYOR. I will make it quick. I thank the Senator for yielding the time.

No. 3, we must produce a highway bill to increase the safety of our transportation system for American families and, No. 4, we must produce a highway bill that anticipates future needs.

I could go on and on about how important it is for job creation, which we talked about a few moments ago; about how much more congested our highways are today as opposed to 10 years ago, and how congested they will be in 20 years from now.

I offer my support and encourage my colleagues to support the efforts of Senator INHOFE and others as we go through this very important legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I want to take this opportunity to respond to the points raised to justify the budget point of order. The reason I want to do that now is because there are some things that are not clear about this legislation. I tried to make them clear in my remarks yesterday, but it is obvious that if they had been clear, there would not have been a budget point of order.

One of the points made by the chairman of the Budget Committee and other Members of the Senate is that the Senate highway bill is larger than the President's request. It was alleged that Senate authorizers "snuck in" a change in their substitute, without a separate vote, to increase the bill's level of funding above $284 billion. Senate budget staff is correct that the amendment on the Floor that is pending is larger in size than the bill requested by the President. Senate leadership, all authorizing committees, and the Finance Committee were well aware of this fact and made a determination to offer a substitute amendment in excess of the President's request. This makes perfect sense and, of course, is in keeping with separation of powers and the fact that the President, under our Constitution, proposes and the Congress, under the Constitution, disposes.

A majority of the Senate wishes to provide more infrastructure resources than the executive branch. The substitute bill, with increased funding, is completely offset or revenue-neutral. As a matter of fact, the bill contributes positively and substantially towards deficit reduction. As indicated in my statement yesterday, the administration and the budgeteers should focus on deficit reduction rather than on the top-line spending number. The Senate continues to offset legislation and, by so doing, exercises fiscal restraint, a fact being continuously ignored by some in this body.

Another point made is that provisions passed in the JOBS bill last October—sometimes referred to as FSC/ETI bill—signed by the President in October, that somehow the provisions we had in that bill relating to fuel fraud did not increase general fund receipts or even things dealing with other tax provisions did not increase general fund receipts. I speak of acronyms that we used last fall that may not be familiar to people now that we are by that legislation. But we constantly talked about the ethanol provisions with the acronym, VEETC, volumetric ethanol excise tax credit, and fuel fraud provisions that were enacted in the JOBS bill which other Members of this body have alleged, and I quote here, "have made the highway trust fund healthier by $2 to $3 billion annually only by definition, since merely moving around deck chairs has not changed the Federal Government's bottom line."

That is a serious accusation considering how careful we were over a period of months last year not only to work on the VEETC provisions to bring in money to the Federal Government that was fraudulently not being paid but also to make sure that we did it in a fiscally sound way.

This is my answer to that accusation. Last year the JOBS bill enacted ethanol and fuel fraud provisions that increased projected receipts to the highway trust fund by $17 billion during the period of the highway bill reauthorization, 2005 to 2009. These provisions were also included in last year's transportation bill but had to be enacted instead in the JOBS bill after it became clear that we would not get a conference agreement on the highway bill.

That is an unfair accusation that somehow all this work that we went through is just moving around deck chairs but has not changed the Federal Government's bottom line. Seventeen billion dollars coming in during that period of time, $17 billion, some of which was being fraudulently avoided.

Congress had good reasons to enact the ethanol changes in the JOBS bill. These changes helped to pay for a large bipartisan tax bill to provide tax relief to domestic American manufacturing. And these ethanol changes accompanied other energy incentives in that bill that had overwhelming support of both Chambers and both parties. Because of those ethanol changes, fuel excise tax receipts are now going into the highway trust fund. That means the Federal highway program now has more dollars available to it. It is just common sense. That is how trust fund accounting works.

It seems that some would now allow us to ignore those accounting rules. Some would like us to pretend that those new fuel tax dollars are not in the trust fund. You can't change what are just plain facts of life. These funds are in the highway trust fund.

This Congress should not pretend that a law enacted by a previous Congress did not happen. We are not using fuzzy arithmetic or fuzzy accounting. We are not just moving deck chairs around and not affecting the Government's bottom line. We are, in a very real way, affecting the Government's bottom line. And we are going to have, not only people who were avoiding paying taxes paying those taxes, but we are going to be able to have better transportation infrastructure, better highways by what we are doing. We should not ignore standard fund accounting rules because a minority of this Senate disagrees that taxes paid on a gallon of ethanol should not go into the highway trust fund.

The administration did not object to these provisions as part of the JOBS bill last October. The President signed that bill and now the administration's own transportation proposals rely on these new trust fund receipts that were developed in a bipartisan way by the Senate Finance Committee. The changes that we made in the JOBS Act made good sense, common sense, but that comes out also as good policy. They raised money for the highway trust fund.

We have every right—indeed, we have every obligation to the people who pay money into the road fund—to use those funds to improve America's highways.

If you don't use trust fund money for highways or for other transportation reasons, you should not be taxing it in the first place. But once it is taxed, those people who are fraudulently not paying that tax are guilty and should pay that tax. Our provisions do that.

Another claim by the Budget Committee is that the Finance Committee has not provided real offsets for increased burdens to the general fund. My colleague from New Hampshire, chairman of the Budget Committee, suggests that our bill offsets, including economic substance, are illusory. He is concerned that these offsets, which were also passed during the last Congress, will be dropped in conference.

Now, the Joint Committee on Taxation, as we all know—maybe some of us forget—is the official scorekeeper on tax matters in the Congress, not the Congressional Budget Office. The Finance Committee has provided tax law changes that have been scored by the Joint Committee on Taxation as fully offsetting any increased burden to the general fund. The Joint Committee on Taxation is the official scorekeeper for revenue provisions under the Congressional Budget Act. It is not the Senate Budget Committee that is the scorekeeper; it is the Joint Committee on Taxation. Section 201(g) of the Budget Act restricts the Congressional Budget Office in a manner in which it carries out its responsibilities related to revenue legislation. Section 201(g) provides, in pertinent part:

> For the purposes of revenue legislation, which is income, estate and gift, excise, and payroll taxes, considered or enacted in any session of Congress, the Congressional Budget Office shall use exclusively during that session of Congress revenue estimates provided to it by the Joint Committee on Taxation. During that session of Congress, such revenue estimates shall be transmitted by the Congressional Budget Office to any committee of the House of Representatives or the Senate requesting such estimates, and shall be used by such committees in determining such estimates.

This, then, should put to rest this debate about whether these offsets that are in my amendment and in Senator BAUCUS's amendment—that is a bipartisan amendment—are real. They have been scored by the Joint Committee on Taxation, the official scorekeeper under the Congressional Budget Act for revenue purposes.

I kind of think that maybe the Budget Committee is living in an ivory tower. It is particularly troubling that this nonsense attack—that the offsets are not real—comes from a committee that doesn't have to do any of the heavy lifting to find real offsets and real savings. But instead just find reasons to complain about some other committee's work. It must be nice to be able to just pick numbers out of thin air and try to claim the numbers are real or, in this instance, somehow not real; even though the Joint Committee on Taxation scores it as revenue-neutral, or better than revenue-neutral, as reducing the deficit. But it is the Finance Committee, not the Budget Committee, that actually has to do the hard work of finding, negotiating, and drafting the policies that can pass the Senate and create these real offsets.

Yesterday, I said 40 percent of the new funding is hard trust fund money. Of course, the Finance Committee gets no credit for that effort, no credit at all. It is a ridiculous charge. It is so easy to throw rocks around here. How about dealing with constructing policy instead of throwing rocks? I would like to see some of that.

The complaints we are hearing are from a committee that has no responsibility to find real numbers, real offsets, or real savings. It reminds me of an agricultural economist telling a farmer how to farm. I suggest that those who are sitting on the fence giving this farmer—and I am an Iowa farmer—stewardship advice about how to farm should get off the fence and get some dirt under their fingernails, and I will be happy to show them how to start the tractor. And I say this as a person who has been very loyal in my membership on the Budget Committee, as well as being chairman of the Finance Committee, because out of 48 amendments that were offered to destroy the budget that came out of the Budget Committee, I supported the chairman on 47 of the 48 amendments.

Now, the suggestion was also made that we have used these revenue raisers in the previous Congress. None of the offsets included in the highway substitute have passed the Senate this year as part of any other legislation. Even if that were the case, those additional anticipated revenues are available until they are passed by both Houses and enacted into law.

There seems to be an additional concern that the offsets used in this bill would not survive a conference with the House. As a person who worked for 8 years and 3 days—from when I first introduced the bankruptcy reform bill to when the President signed the bill a month ago—if I would have ever stopped because a bill passed the Senate but somehow didn't get to the President, we would never have a bankruptcy reform bill. But we passed that bill seven or eight different times—the conference report, plus original legislation through the Senate. How you get things done in the Senate is by sticking with it—just don't give up.

And we are doing that here. We continue to close corporate tax loopholes the same way. People on the Budget Committee are finding fault that we might pass the Senate and not get out of conference. That somehow means we are using a smokescreen. Let me suggest that on the JOBS bill last year, which I have already referred to several times in my remarks today, we passed through the Senate $39 billion of corporate tax loophole closers, and we ended up out of conference with $24 billion of that $39 billion. I don't think that is such a bad track record. If it had not been for the Senate and the bipartisan approach of the Finance Committee, we would not even have those $24 billion of loophole closers—money coming into the Federal Treasury. So you cannot just stop. Because these offsets, whether they be fraudulent use of tax dollars, nonpayment in a fraudulent way of gas tax money or other loophole closers—in all of these cases we have people finding ways to avoid paying their share of taxes that ought to be paid.

One has to keep at it. There is a constant game around here of lawyers, accountants, and investment bankers that like to game our Tax Code. It is pretty hard to keep ahead of them, but I am determined, and Senator BAUCUS is determined, to keep ahead of them. So I am not going to have anybody tell me we are not legitimate when we pass things through the Senate that maybe cannot survive conference because eventually they do survive conference, and eventually they are signed by the President.

The Senate cannot be subjected to the expectation of passage in the House as a standard for this body. The Senate has to focus on what is possible in the Senate, and differences will be resolved and reconciled with the other legislative body during the conference process.

As an additional point, I note it was Ways and Means Chairman BILL THOMAS, not the Senate Finance Committee, who first proposed codification of the economic substance doctrine, which is the largest revenue provision added in the substitute bill. I would also like to recite a little of the history of this matter so we will not presume that something maybe will not get through conference because maybe it did not get through conference last October, particularly when the chairman of the House Ways and Means Committee first brought up this issue.

The Senate Finance Committee began its work on tax shelter legislation in 1999. During the years 2000 and 2001, the Finance Committee released three discussion drafts to stimulate public comment on the closing of corporate tax shelters. None of these drafts contains codification of the economic substance doctrine that we are using in this amendment before the Senate right now as an offset. In May 2002, the Finance Committee reported out the Tax Shelter Transparency Act of 2002, which formed the basis for the tax shelter disclosure rules enacted in last fall's tax bill. The Tax Shelter Transparency Act did not contain codification of the economic substance doctrine.

In July of 2002, a mere 2 months after the Finance Committee reported out its bill, Chairman THOMAS laid down H.R. 5095, the American Competitiveness and Corporate Accountability Act of 2002. This bill would have repealed the FSC/ETI regime and used the proceeds for corporate international tax reform. It was also the first time the Ways and Means Committee dipped its toe into the waters of tax shelter closing legislation.

H.R. 5095 parroted the disclosure provisions of the bipartisan Senate Finance Committee-reported bill, but it went one step further—it called for codification of the economic substance doctrine. So where did folks get the idea around here that somehow economic substance doctrine codification is blue smoke, intended to mislead the Senate into believing that something is revenue-neutral when it is not because this bill is revenue-neutral as scored by the Joint Committee on Taxation.

As an aside, I remind my colleagues that this additional money comes out of the hide of tax shelter promoters and tax shelter participants, not out of the pockets of the honest middle-class working men and women of America. This is not phony money, as maybe we were led to believe. This is good tax policy.

In emphasizing that the Senate highway bill is bigger than that provided in the budget resolution, the following quote was used: "[i]t appears the Finance Committee floor amendments include provisions quite similar to those general fund transfers that were included in last year's Senate-passed bill. Such general fund transfers do nothing to offset the deficit effect of the increased spending in that amendment." I want to say why that is hogwash. The Members of this body have indicated, and will vote their intent on this issue in just a few moments, to spend more than was included in the Senate budget resolution. No procedural games, gimmicks, or end runs will be needed to prove this point. As the distinguished chairman of the Senate Budget Committee indicated repeatedly during the budget process, if there are 60 votes for something, then so be it, and clearly more than 60 members of the Senate are in agreement about this budget point of order.

But we do take issue with the fact that we were accused of sending an amendment to this Floor for consideration by 100 Members of the Senate that did nothing to offset the deficit effect of increased spending. The accusation is purely false and purposely misleading. Our substitute amendment replaced trust fund and general fund receipts and contributed substantially to the deficit reduction by more than $10 billion.

Finally, to those critics of the Senate Finance Committee title, I reissue the challenge I put to them yesterday, that obviously was not listened to. It is the same challenge from last year. If they do not like our Finance Committee title, come forward and tell us they do not want any new money for their State from this highway bill. Alternatively, if they want to keep their State's extra money, find another way to get there that will yield 60 votes. I issued the challenge last year, I issued the challenge yesterday, and I reissue that challenge this very hour.

Now, I did not get any takers last year, I did not get any takers yesterday, and I do not expect to get any takers today. So once again, it is easy to complain, but we are here to do the people's business and this amendment that came out of my committee is the people's business—it is financially responsible, doing things to close corporate tax loopholes, to be fair to middle-class working men and women, to get the job done basically of improving our highway and transportation infrastructure.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I say to the Senator from Iowa, the distinguished chairman of the Finance Committee, what a great job they have done. We imposed upon them the obligation or the duty of coming forth and coming up with a way to pay for a more robust bill. As I have said several times before, there are still other things we need to be doing, and even with the action that has been taken, it is not enough, but I understand he does now have it in a position where we are not increasing the deficit; that this is properly offset and I would almost believe those who oppose what he is doing are people who do not want the bill to start with.

We have been inviting people to come down with their amendments. I see the Senator from New Jersey is in the Chamber. I am anxious to get as many people down as possible and would encourage those Members who have amendments, keep in mind, the deadline for filing amendments is now behind us and we are operating under cloture right now. We need to have them get down and not wait until the last minute.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. What is the status of the time?

The PRESIDING OFFICER. The Senator has 13½ minutes.

Mr. GREGG. And the opposition?

The PRESIDING OFFICER. No time.

Mr. GREGG. Mr. President, to respond in part—and in whole, hopefully—to some of the points that have been made here, let me begin by saying I have an immense amount of respect for the chairman of the committee and for the Senator from Missouri, for the ranking Democrat on the committee, the Senator from Vermont, a neighbor who is retiring and who has done great service for our country and has decided to relax and go back to a beautiful State. Of course, he is going to go to New Hampshire to buy his goods because we don't have a sales tax, by the way. The chairman does exemplary work. He has been a tireless advocate, obviously, of trying to get this highway bill across the floor.

Honestly, I thought the Budget Committee had done its job when we went to the $284 billion number, which was a lot higher than where the President had started. I thought the President had done his job when he went to the $284 billion number as a compromise which was a lot higher than he started out. I think he was at $250 billion when he began this process. I thought we had reached agreement. Then Friday morning at 1 a.m., when we passed the budget, I was pretty sure we reached an agreement. The agreement was $284 billion.

Unfortunately, the amendment which showed up Monday night put a pretty big hole in that budget—$11.5 billion. As I have said earlier, we have to ask ourselves, why did we pass the budget on Friday to have the effect on the next legislative day—the next legislative day—to break the budget by $11.5 billion.

The Senator from Missouri says it is not a budget buster. I have to point out to the Senator from Missouri that yes, it is. That is what we are voting on. If it were not a budget buster, the Chair would not rule in my favor that it breaks the budget. That is what the motion is. The motion is this violates the Budget Act.

It violates the Budget Act on 2 counts. I am not taking the first count because that is a procedural battle. I am taking the second count, which is the substantive battle, which is that this amendment violates the Budget Act because it exceeds the allocation to the committee by $11.5 billion. So it is a budget buster. If it were not a budget buster, you would not have to waive the rule, you know, so let's not throw that straw dog out there.

And the offsets? I agreed with the chairman of the Finance Committee when he came to the floor last night and said, and I will quote:

> I also understand and agree with the House position that we should not mix general fund offsets and trust fund resources to that end.

I agree with that. But, yet, this amendment, this substitute, does exactly that. It takes money out of the general fund, moves it over to the trust fund, and then claims that the trust fund spending is offset by very illusory alleged revenue increases in the general fund, as I pointed out in my earlier statement. One of these revenue increases, the biggest one, has been used 14 times in the last 2½ years—14 times. How many times can you use a revenue increase?

We all know it is not a real revenue offset. We all know it is going to be dropped at conference. It has been dropped at conference every time it gets used; it gets used. It gets dropped, but the spending goes on. So as a practical matter the offsets, from the standpoint of the Budget Committee, do not plug the hole that is put in the budget, first because they do not apply to the trust fund which creates spending beyond the committee's allocation, and second because they exceed the general fund—they will not occur. I guess that's the best way to say it. They are not going to happen. The offsets are not going to happen.

Excuse me, I don't want to be excessive here: $700 million of the alleged $11.5 billion we deem to be legitimate offsets. They will occur.

But, independent of that, independent of whether this offset issue is real or not, and it is not real, by the way, the President—he is a Republican, he was just elected—reached an agreement with the House. He said, "I am going to let you spend $30 billion more than I really want to spend in this area," but he has said—having made that concession to our colleagues because he got pressure—we are going to hold the line at $284 billion. That is it. No more.

We all know that highways are important. We all know infrastructure is important. But we reached a consensus, first between the President and the House leadership. I agree, Senator INHOFE did not sign on to that idea, other than to bring a bill out at that number, but I agree, he is very forthright. He has always been committed to getting a higher number. But at least within the context of the greater party, the Republican Party, there was an agreement at $284 billion with the President of the United States. And then we confirmed that agreement last Friday with the budget for which 52 Republicans voted.

I am not expecting any votes on this issue from the other side of the aisle. During the budget process they proposed amendments which added $260 billion to the budget, so clearly the issue of controlling spending is not that high on their testing, on their schedule of agenda items. But it should be on ours. We have a President of our party say $284 billion is the number, and when that has been agreed to by a large membership of our party including, I believe, the majority leader in the Senate and the Speaker of the House, and when we confirm that agreement by passing a budget that says that is the number, we should stay with that number. It is what I would call common sense and probably appropriate action. That is why it is important, I believe, that we hold this number.

I respond to one other sidebar representation here—because it needs to be responded to but not because it is the essence of the debate—the question of the amendment that passed when we were marking up the budget, which had 80 votes, relative to how the additional highway spending would occur should additional highway spending be approved and be within the budget, called a trust fund. That trust fund had, as part of its structure, that if there was to be additional spending over $284 billion, it would have to be offset and it would have to come back to the Budget Committee so the Budget Committee could review it to determine whether the offsets were legitimate. That did not happen. The substitute occurred Monday night. We never saw it. It took us a long time to find it. It was 1,300 pages. People have been looking for a long time to find out exactly what it means. Even CBO is having a lot of trouble shaking it out. But we know we were never consulted on that number or how it was offset, which would have been the requirement under that reserve fund. Therefore, the representation that a vote on this waiver issue should be tied into your vote on that amendment issue is very hard to connect. In fact, the two pass in the night. There is no relationship between the vote that occurred in the budget debate and the vote on this waiver issue.

This waiver issue is very simple. The chairman of the committee has moved to waive a budget point of order because the bill as it is presently structured spends more than the budget that we passed on Friday night by $11.5 billion. It spends that much more than the budget passed.

The offsets, we believe, are illusory. I presume the Finance Committee will argue that they are not. But they have used them 14 times before, so I will leave it to the body to decide whether they are.

But independent of that issue, the offset issue, the simple fact is this amendment puts an $11.5 billion hole in what was an agreed-to number relative to the allocation, relative to what was going to be spent, relative to what the President thought was the understanding, and relative to what we had in our budget.

I see the majority leader is here. I yield the remainder of my time to the majority leader.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I know we will be voting here in a couple of minutes, but I did want to rise in support of the Budget Act point of order against the pending substitute to the highway bill. I do commend the chairman of the Budget Committee, Senator GREGG, for raising it.

We do need to exercise fiscal discipline in the Senate. This bill is a good example. We all want to pass a strong highway bill. It will benefit our economy and will create millions of jobs across the country. As I have said on the floor many times, it will contribute to safety on our highways. It is long overdue. The previous bill, TEA-21, expired in September of 2003 and on six occasions we have had to pass extensions. The current extension expires at the end of this month and we need to get this bill to conference as soon as possible, in my mind, so we can resolve what differences exist between the House and the Senate bill and so the President can sign it as soon as possible.

It should be clear to all of my colleagues the path to getting a bill signed into law will be smooth only if Congress stays within the spending parameters that have been laid out by the budget resolution we passed last month and by the President of the United States who must ultimately sign this bill.

The budget resolution, as Chairman GREGG has noted, allowed for transportation spending over a 6-year period of $283.9 billion. We passed that budget resolution here in the Senate a couple of weeks ago, on April 28.

In addition, the President of the United States has made it clear he will not sign a bill into law that spends more than the amount provided for in the budget resolution—$283.9 billion over 6 years. He made it clear publicly, privately, and in the statement of administration policy on this bill, which clearly states:

> Should the obligation or net authorization levels that will result from the final bill exceed these limits the President's senior advisers would recommend that he veto the bill.

Finally, I want to make clear that sustaining this budget point of order will not kill the highway bill. Another substitute would be offered that stays within the spending limits set forth in the budget resolution and by the President, just as the various titles reported out by the different committees of jurisdiction did.

I am convinced we can pass a good bill that addresses America's infrastructure needs, creates millions of new jobs, and can be signed into law by the President. We should move forward to do just that.

I yield the floor.

The PRESIDING OFFICER. All time is expired.

The yeas and nays have previously been ordered. The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Minnesota (Mr. COLEMAN).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted "yea."

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 76, nays 22, as follows:

[Rollcall Vote No. 118 Leg.]

YEAS—76

Akaka
Alexander
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Clinton
Cochran
Collins
Conrad
Corzine
Crapo
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Feinstein
Grassley
Harkin
Hatch
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Talent
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—22

Allard
Brownback
Chambliss
Coburn
Cornyn
Craig
DeMint
Ensign
Enzi
Feingold
Frist
Graham
Gregg
Hagel
Hutchison
Isakson
Kyl
McCain
McConnell
Sessions
Sununu
Thomas

NOT VOTING—2

Coleman
Dayton

The PRESIDING OFFICER. On this vote, the yeas are 76, the nays are 22. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to, and the point of order fails.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. INHOFE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Oklahoma.

Mr. INHOFE. Madam President, the vote that just took place is significant. We all realize that the Finance Committee has done their job. The Joint Tax Committee has verified that their work is good. They have found legitimate offsets. It is easy to say there are not, but there are. While it is very much a concern to everyone in terms of the budget and deficits, I am always ranked, certainly, as in the top five most conservative Members of this body. I can tell my colleagues, I would not vote for something that is going to increase the deficit. This is not increasing the deficit.

When we stop to think about what we are supposed to be doing in Washington, we talk about a lot of silly programs, but the two most important things on which you might say I am a big spender are, No. 1, defense and, No. 2, infrastructure. There is nothing more important that we will be voting on this year than this bill. We all know the reality that we need to get this to conference, and it was necessary to pass what we just agreed to in order to get it to conference.

I understand Senators CORZINE and LAUTENBERG are ready to offer an amendment.

I yield the floor.

Mr. GREGG. Madam President, unfortunately, I rise because I feel it is necessary to respond to the statements of the chairman of the Finance Committee which were made on this floor, both personal to me as chairman of the Budget Committee and to the staff of the Budget Committee, which I thought was an unfortunate decision.

Earlier we had a vote on waiving a point of order relative to whether this substitute, which is pending, was consistent with or is consistent with the budget we passed last Friday. Now, by definition that point of order would not have to have been waived if it was not well made. And by well made, I mean that the Chair would have ruled that this amendment, this substitute, did and does violate the budget resolution. The reason it violates the budget resolution, and I made this point earlier when I spoke, and I think I was accurate—in fact, I believe my comments this morning were entirely accurate, although they were represented to be inaccurate, regrettably—let me reiterate them. This budget resolution point of order lay because we went from a number of $284 billion—and this is the essence of the issue here—which was the agreed number, $284 billion—that is the number we agreed would be spent on the highway bill—we went from that number, under the substitute, to a number of $295 billion-plus. We don't know the final number because, quite honestly, there are so many pages in the amendment even CBO can't catch up with it, but we know it is at least $11.5 billion over the budget number, which was $284 billion.

This number, $284 billion, was not only a number which had been agreed to under the budget last week, it was a number that the President had said he wanted and on which the President had reached an agreement with the congressional leaders, the Speaker of the House and the majority leader. So it was not a number pulled out of thin air, nor was it a number that was not reached after a significant amount of consultation. It was, rather, a number which was reached after having considered what we could afford, what was coming into the trust fund, what was going out of the trust fund, and what could be afforded in this area of highway construction.

I think the representation was made, unfortunately, by the chairman of the Finance Committee, that the Budget Committee was acting irresponsibly, essentially—and that is my characterization; the words actually were a little stronger than that—when we raised the point of order, saying: Hey, listen, we passed a number at the number $284 billion, the President agreed with the majority leader and Speaker of the House that $284 was the number, and therefore we should stick to 284.

That is our job as a Budget Committee. I understand, certainly, the chairman of the Finance Committee chairs the most powerful committee in the Senate by far. The Appropriations Committee is competitive, but our jurisdiction, unfortunately, with the shift toward entitlement spending, has been lessened. It used to be the Appropriations Committee had about 60 percent of the Federal spending. Now it is about 30 percent. Finance has about 50 percent of the Federal spending because it has all the major entitlement accounts.

But we recognize—I certainly do as chairman of the Budget Committee—that the Finance Committee is one of the two most powerful committees in the Senate, of which the other one is not the Budget Committee. Certainly the Finance chairman has every right to come to the Senate floor and remind us of that, as he did. But it really isn't appropriate for him to come to the floor and suggest that we should not still do our job simply because we are not as powerful a committee as his; that our job should be basically we should stand out of the way and just be nice little folks who stand in the corner, and when the budget is getting run over by a powerful committee, just say: Hey, no, we don't get involved in that because we are not a powerful committee. The Budget Committee was not structured that way. The Budget Committee was actually structured to be sort of a conscience around here, a fiscal conscience of, What the heck are we doing?

Yes, we only got 22 votes, which shows maybe our conscience isn't all that strong. But, in any event, we have an obligation to raise the issues. So when we raise those issues, I think for the chairman of the Finance Committee to come down here and say, in terms which were most aggressive and most intense, that the Budget Committee was acting inappropriately and its staff was acting inappropriately, I just think that is misdirected. It does understand, but it doesn't acknowledge the fact that the Budget Committee exists. He is on the Budget Committee; I guess he knows it exists—as he mentioned. He has been a good supporter of the Budget Committee. I have never denied that. I have always said he was a good supporter of the Budget Committee. I respect him. I think he is one of the best chairman around here, as I think this chairman, the chairman of the Public Works Committee, is. I am constantly impressed by what the Senator from Oklahoma is able to do here. He is good, and I admire that, as is the chairman of the Finance Committee, and the chairman of the Finance Committee is not only very good but he works very hard, as the Senator from Oklahoma, to be bipartisan, which I think is important, too. I tried to do that when I chaired an authorizing committee. But still that doesn't mean that we should ignore the importance of this issue.

To get into the substance, to respond again to some of the points that have to be responded to—I am sorry they have to be responded to, but I do think they have to be responded to because the intensity of the argument that we were not accurate in raising this point of order is such that to let it just sit would be wrong. Again, I regret that I have to do this.

The point, to go back to the essence of the issue, was that the budget set at $284 billion the level of allocation for the highway bill. Under this amendment, that spending goes up to $295 billion-plus. That was the point of order.

As an ancillary to that discussion, we did get into the issue of just what has happened in the history of this highway bill. Yes, last year through the JOBS bill there was a finessing of the way money flows from account to account around here, so that the highway fund was given a lot more money at the expense of the general fund. I made reference to that.

I didn't mention ethanol, although the response spent a lot of time on ethanol. In fact, I specifically didn't mention ethanol because I know that tends to incite some Members around here. I just simply said last year about $15 billion ended up being moved out of general fund activity, or being laid off on the general fund, in exchange for giving the highway fund an extra $15 billion. And no matter how you account for it, we end up $15 billion short. That is just the way it is. The money gets spent on the highway proposal, and so we are $15 billion short.

The way it worked, to get specific, was that the subsidy to ethanol gasoline, which is about 5 cents a gallon which had been borne by the highway trust fund, was shifted over to the general fund, so the general fund ended up with about a $13 billion hit. The highway fund ended up with a $13 billion windfall, arguably.

Then there was about $2.5 billion which historically had gone, since 1993, from the gas tax into the general fund, because under the 1993 agreement there had been an agreement that the gas tax would be raised—I think by 5 cents—and it was agreed at that time that half of that would go to the highway fund to build roads and the other half would go to deficit reduction, and historically those moneys have stayed there for deficit reduction or in the general fund. So that money was taken out of the general fund and moved back to the highway fund. It was probably a legitimate decision, but it did cost us $2.5 billion or thereabouts. So that is where the number came from. I think it was an accurate statement. We were basically putting about a $13 billion hole in the general fund in order to get this bill up to the $284 billion level.

To go from the $284 billion level to the $295 billion level, which again created the point of order because that exceeded the allocation, the Finance Committee reported a bill which represented that they had offsets to pay for that difference. They said Joint Tax had scored it that way.

First off, I said the offsets were illusory. I believe they are illusory. But I also made the point that even if they are not illusory, it didn't matter because it still created the problem for the budget, which is that you exceeded the $284 billion. But I think it is hard to argue—and again I use the term it didn't pass the "straight face test"—to argue that an offset that has been used 14 times and failed 14 times is an offset that has much likelihood of success.

The chairman makes the point, and it is a legitimate point, that he is a stick-to-it guy and he is going to get this someday no matter what, and he is going to stick to it no matter what. I admire that. He is a stick-to-it guy. His work on the bankruptcy bill has been extraordinary. His work on a lot of bills around here has been extraordinary, and that is probably because he is dogged on some of this stuff. When he bites ahold of something, he stays with it, and that is impressive.

But I do think when folks are sitting back in the office, thinking about how to pay for this thing, and they came up with putting in the enterprise tax again after 14 attempts at using this item, that they knew the likelihood of that happening was very slim. So I think it was reasonable to say that number was illusory. But equally important, the representation that the Joint Tax Committee is the final arbiter of that question is something I believe has to be clarified, because that was the chairman's position.

So I think I would like to know the clarification of this. As chairman of the Budget Committee, I believe I have the right to know whether Joint Tax or the Budget Committee is the final arbiter of that because, as I understand it, under section 201(f), which was cited by the chairman of the Finance Committee, but not entirely:

> The Budget Committee of the Senate and the House shall determine all estimates with respect to scoring points of order and with respect to execution of purposes of this act.
>
> I ask a parliamentary inquiry of the Chair:

Who is the proper scorer of points of order relative to revenues and expenses?

The PRESIDING OFFICER. The Senator is entitled to an answer. Under the Congressional Budget Act of 1974, termination of points of order section 312, the Budget Committee determination for purposes of this title and title IV, the levels of measuring budget authority outlays, direct spending, new entitlement authority, and revenues for fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as applicable.

Mr. GREGG. I thank the Chair for that ruling. I hope that clarifies that point and responds, I believe, adequately to the points of the chairman of the Finance Committee that might not be the case.

Let me summarize. We made a point of order, a motion to waive was brought forward, the chairman of the Finance Committee, and the chairman of the Transportation and Public Works Committee were successful by an overwhelming vote and we lost.

I do not think that should lead to the chairman of the Committee on Finance coming to the Senate and suggesting the role of the Committee on the Budget in making these points is in some way inappropriate or irrelevant, that we should not take this effort to try to enforce a budget—especially when we passed the budget last week.

I admire, as I said, the Finance Committee chairman a great deal. I am sorry this misunderstanding has occurred. But I do believe I have an obligation as chairman of the Committee on the Budget to at least speak up on behalf of my staff, who has done an extraordinary job under fairly difficult circumstances.

In that context, for a more historical perspective on the highway bill, since this was cited by the chairman of the Committee on Finance, I ask unanimous consent to have printed in the RECORD the Informed Budgeteer statement which is a budget statement summarizing the history of the highway bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INFORMED BUDGETEER

As the May 31 expiration date of the latest extension of federal surface transportation programs rapidly approaches, the pressure is on the Senate to pass a reauthorization bill by the end of this month. The House passed its version of the bill (H.R. 3) last month.

The Senate bill is being considered on the floor, as the four committees with jurisdiction—Environment and Public Works (EPW), Banking, Commerce, and Finance—have each marked up their respective titles of the bill. The Banking, Commerce, and Finance titles are added on the floor to the bill reported by EPW.

There are several different metrics that participants in the legislative process are using to evaluate this bill besides "how much does each state get?"—is it more than the President's request, is there enough "money" in the highway trust fund, and does the budget resolution allow it?

Bigger than the President's Request?

The Senate-reported and House-passed bills are, in total, both consistent with the President's FY 2006 Budget request of $284 billion for transportation programs for FY 2004-2009, reflecting the informal conference agreement reached, but not enacted, last year.

End of story, right? . . . given this apparent coalescence around a $284 billion bill? Because the Administration drew a line in the sand most recently with a SAP threatening to veto anything above $284 billion (as well as anything creating a new federal borrowing mechanism), the Senate leadership insisted that the bill brought to the floor not breech that level. The authorizers' action, however, has only lived up to the letter, but not the spirit, of that admonition. Senate authorizers snuck in a change to their substitute, without a separate vote, to increase the bill's funding level above $284 billion. So the bill before the Senate currently exceeds the prescribed level by $10–$15 billion.

Affordable from the Highway Trust Fund? The latest CBO estimates indicate that revenue now credited to the highway trust fund is sufficient to support a $284 billion bill, mainly due to provisions in the American Jobs Creation Act (AJCA) of 2004 (P.L. 108-357), enacted in the closing days of the 108th Congress. But last summer the highway trust fund could not have supported a $284 billion bill. How can the highway trust fund all of a sudden have sufficient resources?

Last summer, the Senate faced the exact same pickle it does now. The Senate's highway spending appetite ($319 billion) was greater than the level of related federal revenues dedicated to highways and transit at that time. The Finance Committee had intended to pay for the additional spending through a combination of (1) brand new revenues from those who had been avoiding gasoline taxes (fuel fraud) and (2) shifting the incidence of revenues the government was already collecting (2.5 cents gas tax), or already not collecting (ethanol subsidy), between the general fund and the highway trust fund (general fund transfers).

To the extent that some proposed increases in highway trust fund spending were being justified on the concept of general fund transfers (which do not constitute new revenue to the federal government), that spending would have been a pure increase in the federal deficit. Because of bipartisan concern about such a deficit increase on the part of some of its members, the Finance Committee committed to offsetting some of the general fund transfers with unrelated (to highways) revenue raisers.

Such unrelated-but-real new revenues could have mitigated the deficit increase that would have otherwise resulted from the component of higher trust fund spending rationalized by magically "augmented" trust-fund balances. However, when the highway bill failed to emerge from conference last year, the fuel fraud and general fund transfer provisions were lifted out of S. 1072 and enacted separately in AJCA, without the accompanying additional offsets that had been promised by the Finance Committee.

It is true that the enacted fuel fraud provisions are now bringing a welcome $1 billion or so per year (that was not being collected before) to the federal government and the highway trust fund. But the enacted general fund transfers have made the highway trust fund "healthier" by about $2–3 billion annually only by definition, since merely moving around deck chairs has not changed the federal government's bottom line.

Nonetheless, because there is a new CBO baseline and a new Congress, highway spending proponents in the Senate only seem to notice that the highway trust fund will now support a higher level of spending than it did six months ago (even though gasoline consumption has not increased, and has probably decreased because of higher prices). They seem to forget that some of the spending that will be done on the strength of these general fund transfers was supposed to have been offset by real revenue increases.

Bigger than the Budget Resolution? The "reported" Senate transportation bill already exceeded the levels of contract authority allocated for 2006 (for the Banking Committee) and for the 2006–2010 period (for all three committees) by the FY 2006 budget resolution just adopted.

How can that be if the 2006 budget resolution assumes the $284-billion level? The oversimplified answer is that the budget resolution assumed the stream of contract authority associated with the H.R. 3 as passed by the House (because the House had completed its action, while the Senate had not finished reporting as the conference report on the budget resolution was being finalized). But the spread of the $284 billion across the years and over the different types of transportation spending (highways, transit, and safety) is different in the "reported" Senate bill, which means that the Senate bill does not fit an allocation based on the House bill. Therefore, a 60-vote point of order (under section 302(f)) applied against the "reported" bill.

Now that the bill has been increased by $10-$15 billion, a point of order applies against the $295–$300 billion bill. (Last year, a 302(f) point of order was raised against S. 1072 the Senate highway bill in the 108th Congress, but the Senate waived it by a vote of 72–24.)

Authorizers potentially could avoid a 302(f) point of order by employing the mechanism established in section 301 of the 2006 budget resolution, which anticipated that transportation spending demands would exceed the levels allocated by the resolution.

Section 301 says that if the Senate EPW, Banking, or Commerce Committee (Transportation and Infrastructure Committee in the House) reports a bill (or amendment thereto is offered) that provides new budget authority in excess of the budget resolution levels, the Budget Committee Chairman, may increase the allocation to the relevant committee "to the extent such excess is offset by . . . an increase in receipts" to the highway trust fund. Such legislation increasing receipts must be reported by the Finance Committee.

The Finance Committee once again has pledged to provide additional receipts to the highway trust fund to support higher spending on transportation programs, but the title of the bill reported by the Finance Committee does not include any offsets.

It appears that the Finance Committee's floor amendment includes provisions quite similar to those general-fund transfers that were included in last year's Senate-passed bill. Such general-fund transfers do nothing to offset the deficit effect of the increased spending in that amendment.

This year's Senate floor debate on the highway bill seems all too familiar, with proponents of higher spending on highway and transit programs potentially considering options that would partially "pay for" a larger bill by rearranging paper entries on the government's books rather than increasing resources collected by the federal government—the same as last year's debate. Now the Senate must decide whether to allow history to be repeated, a mere two weeks after it adopted a conference report on a budget resolution to enforce fiscal discipline at agreed-upon levels.

AN EMERGENCY, A SUPPLEMENTAL, OR AN EMERGENCY SUPPLEMENTAL?

While the Senate debated the Iraq supplemental two weeks ago, there was some confusion about the effect of emergency designations and the difference between regular and supplemental appropriations. Over the last four years, Congress has repeatedly approved funding outside the regular appropriations process in response to the wars in Afghanistan and Iraq and the war on terror. The funding has most often been in an emergency supplemental appropriation. Though emergency designations and supplementals are often discussed as if they are interchangeable terms, they are distinct concepts.

Supplemental appropriations. A supplemental appropriation is simply an appropriations bill other than the regular appropriations bills that the Congress must consider each fiscal year (most recently there were 13 such regular bills; for 2006 there are 12 in the Senate and 11 in the House). Neither a supplemental bill nor all items in it are necessarily designated as an emergency or even intended for purposes alleged to be emergencies. Simply providing funding through a supplemental appropriation does not trigger the "do not count" (for budgetary enforcement) treatment that an emergency designation provides. Each item in a supplemental must include an explicit emergency designation to receive "do not count" status.

Supplemental appropriations are required when, after the regular appropriations are enacted for the year, new events or information requires adjustments to the previously appropriated amounts. Supplementals are also useful for purposes that are known to be temporary because a supplemental provides a discrete and therefore optically severable amount of money that could discourage those amounts from becoming part of and enlarging regular appropriations in future years.

Emergency designations. Emergency designations are attached to individual accounts (and may even be attached to tax provisions or direct spending items in authorization bills), and can be used in any appropriations bill, either regular or supplemental. When a provision is designated as an emergency, the Budget Committee does not count the spending in that line item against the enforceable levels in the budget resolution. Contrary to popular misconception, the emergency spending still counts toward total federal spending and the deficit; it is only not counted for Congressional enforcement purposes.

The appropriate use of an emergency designation in the Senate is most recently articulated in section 402(b) of the Conference Report on the 2006 Budget Resolution, which is the source of the authority to not count emergencies for purposes of budgetary enforcement. Section 402 (and its predecessors in the 2004 and 2005 budget resolutions) have required that the report accompanying any bill with emergency spending to explain the manner in which the spending is sudden, urgent, pressing, a compelling need requiring immediate action, unforeseen, unpredictable, unanticipated and temporary. To date, this requirement has been ignored.

However, whether the emergency point of order applies does not depend on whether this reporting requirement has been fulfilled or on any evaluation of whether the emergency item actually meets the criteria. Instead, the emergency point of order automatically applies to any non-defense spending item that has an emergency designation. Defense emergencies are exempt from the point of order. The existence of the point of order allows any Senator to use the "eye-of-the-beholder" test to confront the rest of the Senate with the issue of whether a non-defense item meets the emergency criteria and warrants an emergency designation so that it does not count for enforcement.

If the point of order is raised against a non-defense emergency designation in either a pending bill or amendment, supporters of the spending can move to waive the point of order, which requires 60 votes. If the point of order is sustained, the emergency designation is struck and the spending in the bill or amendment is then counted against the 302(a) allocation and other appropriate levels. If the committee is already at or above its allocation (this is the case for fiscal year 2005), the amendment or bill then faces a 60-vote 302(f) point of order.

Baseline treatment. While the concepts are not interchangeable, a commonality between emergency spending and supplemental appropriations is their treatment in the CEO baseline. Whether in a regular or supplemental appropriation (and regardless of the presence of an emergency designation), every discretionary spending item appropriated for the current fiscal year is assumed by CBO to continue on, adjusted for inflation, in the subsequent fiscal years for baseline purposes. Statutory rules for constructing the baseline mandate this treatment, and CBO has no discretion to pick and choose which discretionary items may be recurring versus a one-time only expenditure.

The Budget Committees are not required to use the CBO baseline as the basis for constructing the budget resolution. But in practice, the Budget Committees use their discretion to adopt an alternate baseline in only limited circumstances. Removing what the Committees view as temporary spending from the baseline is an instance where the Committees occasionally make adjustments to the CBO baseline. However, CBO's 2006 baseline (issued in March 2005) did not include appropriations for Iraq and Afghanistan because a 2005 supplemental has not been enacted, so no baseline adjustment was necessary in this year's budget resolution.

TRANSPORTATION BILL COMPARISONS TOTALS FOR 2004–2009

[$ IN BILLIONS]

	Pres. FY06 budget	House passed (109th)	Senate reported (109th)	Senate passed (108th)
EPW—Highways	227	225	226	256
Banking—Transit	40	42	43	47
Commerce—Safety	6	6	6	7
Subtotal, Contract Auth.	273	273	275	310
Authorized Discretionary Transit BA	9	11	9	10
Highway Emerg. Relief Supplemental	2	n/a	n/a	n/a
Advertised Bill Total	284	284	284	319

In FY 2005, $2 billion was appropriated from the highway trust fund for the Federal-aid highway emergency relief program to provide funds to repair damage from the 2004 hurricanes and to clear the backlog of emergency relief program requests. The Administration includes this funding in its revised reauthorization proposal, but the House and Senate proposals do not.

NOTE: Totals may not add due to rounding.

Mr. GREGG. Those points having been made, I acknowledge defeat on this point. I admire, as I said, the chairman of the committee for being a successful chairman who knows how to get things done around here. We may disagree on occasion, but my admiration for him certainly does not abate in any way because of those disagreements. In fact, my respect grows. But do not expect we will disappear. We were not wilting violets around here on the Committee on the Budget. We will continue to try to make points on the points of order we think are appropriate.

Mr. INHOFE. Madam President, before the chairman of the Committee on the Budget leaves, there are some areas where an honest disagreement can take place. One is on the idea that if we try to establish a policy in this country that addresses something that is an emotional need or desire of any of these Members and it has nothing to do with transportation, that should not be borne on the backs of the highway trust fund.

We talk about the ethanol provision which I opposed, but nonetheless we had that, the Senator is right, and the cost of that. If they want to pay for it, let them pay for it out of the general fund. Why should the highway trust fund be paying for policies?

And the same is true on the deficit reduction. I stood in the Senate at that time that took place saying I was for deficit reduction but not on the backs of the highway trust fund. The reason I say that is because I have considered this to be somewhat of a moral issue. People go to the pump and they pay tax for gasoline. There is an assumption, as wrong as it is, that money should go to repairing roads and highways and bridges. I do disagree in that respect.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Madam President, I ask unanimous consent that the pending amendment be set aside so the Senate may consider amendment No. 606.

The PRESIDING OFFICER. There is no amendment pending.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. The Chair declares the Senate in recess subject to the call of the Chair.

Thereupon, at 12:02 p.m., the Senate recessed until 1:02 p.m. and reassembled when called to order by the Presiding Officer (Mr. DEMINT).

The PRESIDING OFFICER. The majority leader is recognized.

CAPITOL SECURITY THREAT

Mr. FRIST. Mr. President, we had a short recess for about an hour because of a security threat that, by now, has been covered well in the media. I wish to take this opportunity to thank the Capitol Police and the various assistants throughout the Capitol because when we have that sort of alert, which comes very quickly, very unexpectedly while we are in session here, but at the same time this huge Capitol Building with literally hundreds and thousands of people working in this complex having to stop and evacuate in an orderly way is a real challenge.

So I thank everybody, including our guests, because at the same time we have all of us who are working here in this Capitol structure, there are guests visiting throughout the Capitol. Everybody left in an orderly way and in a way that was safe and calm. As far as I have heard in talking with the Sergeant at Arms, there were no injuries. When you have that sort of rapid departure, that is always a risk.

Our Capitol Police, Sergeant at Arms, and the Secretary of the Senate all responded in a way that we can all be proud of. Most importantly, the offending aircraft is now on the ground, and the pilot and whoever else was in the plane are being questioned.

Now I am happy to turn to the Democratic leader.

Mr. REID. Mr. President, I am grateful that the distinguished Republican leader would come to the floor of the Senate and acknowledge the people who look after us every day. The training of our Capitol Police force is exceptionally good. I was with them, as was the distinguished Republican leader, and I am amazed at their professionalism as they took us away.

I am an alumni of different universities, a proud lawyer, and a number of other things I have had the good fortune of working with over a number of years, but I am an alumni of the Capitol Police. I am very proud of that. I recognize that the work I did those many years ago as a Capitol policeman pales in comparison to the problems that face this beautiful building of the American people.

I am so confident that we have the best police force in the world here on Capitol Hill. They have to deal with bomb threats and all kinds of chemical problems. The Republican leader, who is a doctor, worked through the anthrax problem; I wasn't involved with that. But they are experts at that. They are aware of anything that is going on in the world regarding terrorism because of these evil people from around the world. This is, if not the No. 1 target, one of the top targets.

I appreciate and commend and applaud the majority leader for coming here immediately and recognizing these people who look after us every day. Every day, we see them standing around doors, and they don't appear to be working real hard, but it is on days such as this that they earn their pay over and over again. I am glad and happy that I had the experience to be a Capitol policeman, and I look forward to continually being protected, along with the American public, in this great building by these wonderful men and women.

The PRESIDING OFFICER. The majority leader is recognized.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS—Continued

Mr. FRIST. Mr. President, due to the recess, I ask unanimous consent that notwithstanding rule XXII, all first-degree amendments to the highway bill must be filed at the desk no later than 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, regular order.

AMENDMENT NO. 606 TO AMENDMENT NO. 605

The PRESIDING OFFICER. The clerk will report the amendment that was sent up just before the recess.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. CORZINE], for himself, and Mr. LAUTENBERG, proposes an amendment numbered 606.

Mr. INHOFE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To establish the effect of a section of the United States Code relating to the letting of contracts on individual contributions to political campaigns, and to require the Secretary of Transportation to consider State laws that limit political contributions to be in accordance with competitive procurement requirements)

After section 1703, insert the following:

SEC. 17___. LETTING OF CONTRACTS.

Section 112 of title 23, United States Code, is amended by adding at the end the following:

"(g) EFFECT OF SECTION.—Nothing in this section prohibits a State from enacting a law or issuing an order that limits the amount that an individual that is a party to a contract with a State agency under this section may contribute to a political campaign.".

At the end of subtitle G in title I, add the following:

SEC. 17___. DUTIES OF THE SECRETARY OF TRANSPORTATION.

Section 5323(h) of title 49, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and identing appropriately;

(2) by striking "A grant or loan" and inserting the following:

"(1) IN GENERAL.—A grant or loan"; and

(3) by adding at the end the following:

"(2) PROCUREMENT REQUIREMENTS.—The enactment of a law or issuance of an order by a State that limits the amount of money that may be contributed to a political campaign by an individual doing business with a grantee shall be considered to be in accordance with Federal competitive procurement requirements.".

Mr. INHOFE. May I inquire of the Senator about how long he will be taking for his opening remarks?

Mr. CORZINE. I thank the Senator from Oklahoma for his courtesy. I suspect that my statement will be somewhere in the neighborhood of 10 minutes and Senator LAUTENBERG an additional 5 minutes.

Mr. INHOFE. I ask unanimous consent that at the completion of the remarks of the senior Senator from New Jersey, the junior Senator be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey is recognized.

Mr. CORZINE. Mr. President, I once again thank the Senator from Oklahoma.

Before I begin, I echo the remarks of the majority leader and minority leader congratulating and thanking the members of the Capitol Police for their efforts in protecting all of us, which they so ably do day in and day out. It is a testimony to their forethought that we were so efficiently able to move from the Capitol and protect folks. We are blessed with their efforts. I also thank the Sergeant at Arms and the Secretary of the Senate for their efforts and look forward to saying "thank you" personally to all of the individuals involved.

I think I have asked that the pending amendment be set aside and we move to amendment No. 606, if I am not mistaken. Is that correct?

The PRESIDING OFFICER (Mr. ISAKSON). Amendment No. 606 is the pending question.

Mr. CORZINE. Mr. President, I rise today with my colleague, Senator LAUTENBERG, who will be joining me in a minute, to offer an amendment to the SAFETEA Act, S. 732. Our amendment addresses a serious problem where Federal highway and mass transit contracts are awarded by States, those situations where Federal money and State money are intermixed in contracting administered by the State. These contracts are often or can be influenced, either by perception or reality, by political contributions. The Government contracting issue I am speaking of is commonly known as "pay to play."

To address this issue in situations where States administer these contracts with both Federal and State money or where Federal money is administered by the State, Senator LAUTENBERG and I are offering this amendment to allow States to set contracting rules that limit campaign contributions by contracting providers. This is something that has been in Federal law for over 50 years where there are straight Federal contracts. Unfortunately, there have been far too many cases across the country where in these circumstances businesses have made contributions to public officials or campaign committees and then expected to influence the awarding of Government contracts. It is not an attractive situation.

Last year, two Governors lost their careers in public service due to pay-to-play scandals in their States. Other high-profile instances of pay-to-play corruption have occurred across the Nation, particularly in my home State where, on a bipartisan basis, our State legislators and Governors have reacted. But this is not unique to New Jersey. It has gone from New Jersey to California, from Philadelphia to Los Angeles and beyond. The problem is widespread and needs to be addressed.

Corrupt practices of pay-to-play have serious implications for the public. They have the effect of limiting competition in many ways because those who give political contributions then get the edge on those who might want to compete to do the business. They often reduce the quality of infrastructure projects—I will talk about a couple of situations that we see, particularly in my home State—and they lower the confidence of the public in elected officials and in public service in general.

Finally, and most important—this certainly is the case in my State—they raise the cost of doing business for the government and ultimately to the taxpayer.

This practice is often more like legalized bribery than I think any of us would like to admit, and it results in a corruption tax that all citizens end up bearing. So I think there is a reason to make sure that we act.

I regret to say this disease has really impacted my State of New Jersey. It is something that, unfortunately, has infected both sides of the aisle in the State, both parties. It really needs to be addressed.

Just last month, dozens of local public officials—and I mean dozens, both Democrats and Republicans in one of our counties—were indicted for soliciting or taking bribes from people doing business with their towns, and it was often in conjunction with political contributions. Sadly, New Jersey taxpayers have been hit with this hidden corruption tax, higher costs of doing business in our State, and I think it needs to be moved against.

Our Governor, with bipartisan support in both Houses, was able to institute a serious pay-to-play ban that requires that any political contribution be less than $300 from anyone who wants to do business with the State. It is a straightforward, easy situation.

Honestly, time after time we have had the public trust broken in this contracting procedure, where Federal and State funds have been misused. We had a motor vehicle inspection contract where there was only one bidder. It was a cost-plus contract that ended up being over $200 million above cost. It ended up costing the Federal Government and the State a lot more than was necessary. Again, it is a corruption tax. We have had other places—the EZ-Pass toll collection system—where politically favored vendors were able to win no-bid contracts. It seems to me we need to make sure we put competition on a level playing field. That is what this amendment is all about.

Fortunately, New Jersey and several other States, as I suggested, have, on a bipartisan basis, addressed this issue. It is about contracting law, however, not campaign finance. It is setting the rules for who has the ability to bid. Unfortunately, the Department of Transportation recently informed the State of New Jersey that these commonsense limits may not apply to highway or mass transit contracts that use Federal funds. The Department of Transportation argued that it might limit competition when, in fact, I do not understand how limiting the amount of a campaign contribution has anything to do with whether someone is going to qualify to participate in a contracting bid. The State is now seeking an injunction in the Federal courts and there will be all kinds of litigation about this over a period of time. Whether it gets overruled or not, I think it is appropriate to institute the possibility that, if a State legislature wants to take the stand that they would like to set rules for contracting, on contracts they administer, they have the ability to do it.

I think this is important, both for promoting competition but also for ensuring that there is clarity and confidence in the public bidding process, not only in my State but in a number of other States which have also bought into these kinds of rules. It is really a cross-section across the country in various places.

I have here a series of States—Illinois, Kentucky, Ohio, West Virginia, South Carolina—a number of places. These are States, as shown in the light green, that already have bills before their State legislatures. There are an enormous number of local jurisdictions that have also done it: Los Angeles, San Francisco, Oakland, Chicago—24 jurisdictions in my own State of New Jersey.

We think this is an important States rights issue. We should be able to enact laws that fight corruption without interference from the Federal Government. I hope we will look at this in a context that we want to make sure that what would work in those individual States is actually attended to.

Banning pay-to-play is consistent with current Federal practice when it is only Federal contracts that are being awarded. The Government already bans pay-to-play for Federal contracts that are awarded directly.

The Securities and Exchange Commission, along with a municipal rulemaking board, prevents pay-to-play when Government bond issues are at stake—again, a contracting issue, not a campaign contribution rule. In fact, I was instrumental and involved in this as an employer on Wall Street 10 years ago, to ban contributions from bond underwriters because it interfered too regularly with the overall process.

We think we can make a difference. These rules have worked when they have been instituted. They certainly have in the bond underwriting business, and they have Federal rules. The Federal Government is refusing to allow States such as New Jersey to enact similar contract reforms. I think this is an important step going forward.

I want to clarify something about this amendment. We are not establishing a Federal pay-to-play rule in Federal highway contracting. Some of the opponents would have you believe that. Those rules are already set by the Federal Government. It is merely respecting the rights of the State to establish and maintain their own State contracting practices. It only impacts contributions to State-level candidates, not Federal-level candidates. Federal campaign finance laws are in no way affected.

This commonsense measure has the support of a number of groups that work to protect the integrity of government spending: Public Citizen, Common Cause, the Brennan Center for Justice.

I ask unanimous consent to have letters of endorsement from these groups printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE CAMPAIGN LEGAL CENTER,
Washington, DC, May 5, 2005.

Re Safe-TEA/TEA-LU Highway Bill and the Government Contracting Reform Amendment

DEAR SENATOR: The Campaign Legal Center strongly urges you to support the Government Contracting Reform Amendment to the Safe-TEA/TEA-LU Highway Bill, which protects the right of states to enact and enforce "pay to play" laws.

For more than 50 years federal law has prohibited political contributions to federal candidates from federal government contractors. In recent years, state and local governments around the nation have followed Congress' lead by enacting similar "pay to play" laws to protect the integrity of the procurement process.

The right of states to enact and enforce "pay to play" laws has recently come under threat. Late in 2004, the Federal Highway Administration determined that a New Jersey State Executive Order limiting the size of political contributions from government contractors to state candidates violates federal law competitive bidding requirements.

established by 23 U.S.C. §112, for state highway construction contracts involving federal funds.

This Federal Highway Administration action affects not only New Jersey, but also threatens enforcement of similar "pay to play" laws in Kentucky, Ohio, South Carolina and West Virginia. Further, the Highway Administration action curtails the right of other states around the nation to enact their own "pay to play" laws.

The Government Contracting Reform Amendment sponsored by Senators Corzine and Lautenberg amends 23 U.S.C. §112, which establishes the competitive bidding requirement for contracts involving federal highway funds, to state that "Nothing in this section prohibits a State from enacting a law or issuing an order that limits the amount that an individual that is a party to a contract with a State agency under this section may contribute to a political campaign."

Similarly, the Government Contracting Reform Amendment amends 49 U.S.C. §5323, which establishes general provisions for the award of contracts involving mass transportation funds, to make clear that state "pay to play" laws "shall be considered to be in accordance with Federal competitive procurement requirements."

State laws restricting political contributions from government contractors are consistent with, and advance the purposes of, the federal law contracting requirements for highway and transit funds. Competitive bidding requirements, and reasonable restrictions on contributions from contractors who do business with the government, both advance the government's interest in avoiding real and apparent political corruption and preserving the integrity of the contracting process.

We urge you to support the Corzine-Lautenberg Government Contracting Reform Amendment to the pending Safe-TEA/TEA-LU Highway Bill, to protect states' rights to enact and enforce "pay to play" laws.

Sincerely,

MEREDITH MCGEHEE,
PAUL S. RYAN.

BRENNAN CENTER FOR JUSTICE
AT NYU SCHOOL OF LAW,
New York, NY, April 27, 2005.

Re Safe-TEA Act of 2005 and the Corzine pay-to-play amendment

U.S. Senate,
Washington, DC.

DEAR SENATORS: I write on behalf of The Brennan Center for Justice to support Senator Jon Corzine's "pay-to-play" reform protection amendment to S. 732, the "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005." Since its inception in 1995, the Center's Democracy Program has been working in the area of campaign finance reform on federal, state, and local levels. We believe that the amendment is important for ensuring that states maintain the flexibility to choose effective tools for protecting the integrity of government contracting.

Systems for government contract bidding have long sought to satisfy the laudable and compatible goals of contracting with low-cost and ethical bidders. For example, current federal law regarding state transportation projects that use federal money provides that "[c]ontracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility." 23 U.S.C. §112(b)(1) (emphasis added). Federal law expressly charges the state transportation department with establishing the criteria of responsibility. 23 C.F.R. §635.114(a).

Several recent scandals regarding government contracting in New Jersey prompted New Jersey to establish a criterion of responsibility for government contracting, which prohibited the state from contracting with an entity that has contributed to a candidate for or holder of the office of Governor, or to any State or county political party committee, within certain time frames. See New Jersey Executive Order 134 (September 22, 2004). The executive order explicitly stated that "the growing infusion of funds donated by business entities into the political process at all level of government has generated widespread cynicism among the public that special interest groups are 'buying' favors from elected officeholders." Id. Courts have recognized that contributions from government contractors present a severe risk of engendering corruption or the appearance of corruption, and thus have generally upheld "pay to play" contribution bans. See, e.g., Blount v. SEC, 61 F.3d 938,944-48 (D.C. Cir. 1995) (upholding constitutionality of SEC regulations that prohibit municipal finance underwriters from making campaign contributions to politicians who award government underwriting contracts); Casino Ass'n of Louisiana v. State, 820 So. 2d 494 (La. 2002), cert. denied, 529 U.S. 1109 (2003) (upholding ban on contributions from riverboat and land-based casinos); Gwinn v. State Ethics Comm'n, 426 S.E.2d 890 (Ga. 1993) (upholding ban on contributions by insurance companies to candidates for Commissioner of Insurance).

Recent action by the Federal Highway Administration, however, has threatened to strip New Jersey and other states of their capacity to determine criteria of responsibility, undermining legitimate state efforts to protect against corruption, or the appearance thereof, in government contracting. The FHA took the unprecedented position that it would not authorize federal funds for use in New Jersey transportation contracts because of Executive Order 134. The FHA took this position even in light of the scandals in New Jersey, and despite the facts that (1) all bidders would have notice of New Jersey's responsibility criteria and (2) contracting awards still would be granted to the lowest bidder. The State of New Jersey is challenging the FHA's position in court. In the meantime, however, New Jersey was forced to rescind much of its executive order since it, like most states, significantly relies on federal funding for many of its transportation contracts. No state should be forced to compromise legitimate and well-grounded efforts to protect the integrity of its government in order to receive federal transportation funds.

The FHA's position could also undermine the FHA's goal of awarding contracts only to responsible bidders and may risk actual, or the appearance of, corruption in the process of choosing bidders. Without rules prohibiting "pay to play" arrangements, states may deem entities "responsible" not because they have displayed any objective characteristics of responsibility, but rather because they have made contributions to government officials. Federal ethical standards should provide a floor beneath which a state may not go, but federal law should not be used to restrict a state from implementing stricter ethical standards that it deems necessary to protect the integrity of its government.

Senator Corzine's amendment proposes that a provision be added to the Safe-Tea Act of 2005 stating that "[n]othing in this section may be construed to prohibit a state from enacting a law or issuing an order that limits the amount of money an individual, who is doing business with a state agency for a federal-aid highway project, may contribute to a political campaign." For all the reasons discussed above, we urge you to adopt the amendment to ensure that federal highway funding provisions are not wrongly interpreted to permit interference with state efforts to both prevent corruption or the appearance thereof and restore public confidence in its government.

Sincerely,

SUZANNE NOVAK.

PUBLIC CITIZEN, COMMON CAUSE,
PUBLIC CAMPAIGN, DEMOCRACY 21,
CENTER FOR CIVIC RESPONSIBILITY,
April 28, 2005.

Re Safe-TEA Act of 2005 and the Corzine pay-to-play amendment.

DEAR SENATOR: Next week you will be considering the "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005" (Safe-TEA Act). Public Citizen, Common Cause, Democracy 21, Public Campaign and the Center for Civic Responsibility urge the Senate to adopt the Corzine "pay-to-play" amendment to the bill respecting states" rights to address the problem of corruption in government contracting.

Sen. Jon Corzine's amendment proposes that a sentence be included in the Safe-TEA Act, as was done in the House version of the bill, allowing states to implement a very narrow and limited reform of government contracting procedures: restricting potential government contractors from making large campaign contributions while negotiating a government contract to those responsible for awarding the contract.

Known as "pay-to-play," many state and local governments are being burdened by the all-too-common practice of a business entity making campaign contributions to a public official with the hope of gaining a lucrative government contract. This practice of attempting to skew the awarding of government contracts in favor of large campaign contributors has taken a serious toll on public confidence in state and local governments across the nation.

Last year, two governors in one week—Gov. George Ryan of Illinois (once considered for a Nobel Peace Prize) and Gov. John Rowland of Connecticut—lost their careers in public service due to pay-to-play scandals. A trial is currently underway in the City of Philadelphia concerning corruption charges in the awarding of government contracts with some members of Mayor John Street's administration. Similar scandals have recently racked California, Hawaii, New Jersey, and the City of Los Angeles.

Unfortunately, the Federal Highway Administration (FHWA) has decided to make it difficult, if not impossible, for states to address this serious problem. For example, the FWHA has decided to punish New Jersey for reforming its contracting system by withholding federal highway funds from the state. We believe you will agree with us that this federal intervention is unjustified and counterproductive. That is why we urge you to support language that makes clear that states have the right to ensure that their contracting procedures conform to the highest ethical standards and offer the best value for taxpayers.

New Jersey Gov. Richard Codey reluctantly suspended the state's pay-to-play rules for competitive bid contracts pending the outcome of a court challenge to the FHWA decision. [New Jersey v. Mineta] "This is a temporary measure forced on us by the federal government," Codey said. "I am not happy about it. In making this necessary, the federal government is dead wrong, but I cannot jeopardize nearly $1 billion in federal transportation funds."

The FHWA has placed itself in the odd position of imposing its preference for a disclosure-only regime on states and localities that have decided a stronger pay-to-play policy is necessary to address their problems of corruption in government contracting. As the FHWA memorandum opines: ". . . the disclosure of lobbying and political contribution efforts for the year preceding a contract bid is a reasonable means to meet the DOT's Common Rule requirement that the city assure that its contract award system performs without conflict of interest. This is distinct from a provision that actually excludes those making otherwise legal contributions from competing for a contract."[2]

Many state, local and non-governmental jurisdictions strongly disagree with the FHWA: disclosure is necessary but not sufficient to end actual or apparent corruption in government contracting. Instead, New Jersey and four other states, the federal government and the Securities and Exchange Commission, along with dozens of local jurisdictions, have opted for a narrowly-tailored system of contribution restrictions on government contractors, in addition to disclosure requirements, as a more effective means to curtail pay-to-play abuses.

Sen. Corzine has introduced the pay-to-play protection amendment before you this week, which would add to the Safe-TEA Act: "Nothing in this section prohibits a State from enacting a law or issuing an order that limits the amount that an individual that is a party to a contract with a State agency under this section may contribute to a political campaign."

Pay-to-play restrictions are far from draconian measures. They are a narrow remedy that focus exclusively on a specific problem. Pay-to-play restrictions are easy for the business community to live with—the SEC's Rule G–37 championed by former SEC Chair Arthur Levitt, which served as a role model for New Jersey's pay-to-play policy, has not resulted in draining the pool of bond bidders—and pay-to-play restrictions are limited in scope and constitutional.

The Federal Highway Administration may believe it knows better than the states how to address their problems of actual and perceived corruption in government contracting, but the FHWA has not yet had to suffer the consequences of corruption scandals that the states have faced. The Senate should join the House and include this amendment to the Safe-TEA Act of 2005 allowing the states the authority to assure their citizens that contracts are awarded on merit.

For more information, please contact Craig Holman, Public Citizen, at 202-454-5182.

Respectfully Submitted.

Mr. CORZINE. Mr. President, I also want to note the House of Representatives included a similar measure in its version of the Transportation bill. It was a bipartisan amendment sponsored by New Jersey colleagues, FRANK LOBIONDO, a Republican, and BILL PASCRELL, a Democrat. This was passed unanimously, the same language, by the House.

In my view, this is an imperative step to allow States to have better control and more transparency and honesty in their contracting processes. I think it will move to save money for our States and put in place a greater sense of credibility for the public when it deals with its oversight of public contracting. I think we owe the taxpayers this, and I urge my colleagues to support the Corzine-Lautenberg amendment. We should join the House, in my view, in instituting this ability for States to control their own contracting process.

I yield the floor.

I understand my colleague, Senator LAUTENBERG, along with our other colleagues who left the Senate at the time of the recess, will be returning to speak to this amendment. I will yield the floor, but I would appreciate it if we could reserve the right of Senator LAUTENBERG, upon his arrival, to come back and be next on the queue to speak.

The PRESIDING OFFICER. Is the Senator asking unanimous consent in a formal request?

Is there objection to the Senator's request to allow Senator LAUTENBERG the ability to speak when he returns to the Capitol?

Mr. BOND. I would amend that request to say, when I am finished speaking, Senator LAUTENBERG may speak.

The PRESIDING OFFICER. Is there objection? Is there objection to the request as modified? Without objection, it is so ordered.

The Senator from Missouri.

Mr. BOND. Mr. President, there are a number of things that need to be cleared up as we consider this amendment. First, the Senator from New Jersey has mentioned that several States have their own pay-to-play restrictions. But according to the Federal Highway Administration, those States are ones that are restricting contributions where there are not competitive bids. They are talking about no-bid contracts.

I do not doubt that New Jersey has had problems with no-bid contracts. I will leave it to my colleagues to discuss some of those problems. What we are talking about is changing the competitive bid system so that one State can opt out of a mandate that the Federal Government has imposed. That mandate is, when using Federal aid to highway dollars, you have to bid it competitively because when we as national taxpayers are funding projects, then we have a right to see that they are done on a competitive-bid basis, to make sure that the Federal taxpayers get the best bargain for their money.

The name of my colleague, the other Senator from New Jersey, is attached to the amendment. I find it interesting that his reputation is one of sanctioning and penalizing States that do not conform to Federal laws, so it was alarming to me to see this amendment from the New Jersey Senators that will exempt them from complying with Federal regulations. In my State there are a lot of things our chosen Representatives, the people who serve Missouri in the Missouri General Assembly, choose not to do. There are various mandates that impose burdens on our State that will limit its ability to get funds. If we are going down the road of exempting our States from mandates of the Federal Government on Federal highway aid dollars, I think the Missouri General Assembly and the Missouri Governor would pass along to me quite a number of mandates they wish to have taken off of their backs.

We just passed another mandate to take $900 million out of the highway trust fund to pay for storm water improvements for local governments. I think that is an unfortunate mandate; it was adopted by a very close vote. I hope we will be able to revisit it. But when you start exempting a State from the competitive bid contracts to allow them to impose their own campaign finance laws through the Federal highway aid system, that, to me, does not seem to be a proper use of the Federal highway tax dollars. We have a right to expect that we get the best bargain for the money and that is through competitive bids.

This amendment, as I read it, limits competition and changes the current Federal process. Political contributions have absolutely no effect on the selection of Federal aid highway projects because, unless otherwise approved by the Secretary, construction projects are awarded only on the basis of the lowest responsive bid that meets the established criteria, based on the State's department of transportation engineering estimates.

Very simply put, unless the Secretary of Transportation waives it, you have to take what the State Department of transportation has put together in its request for bids, and make the best bid complying with that, that is responsive, at the lowest price.

That does not offer opportunities for corruption. There may be people in New Jersey and other States who find other ways to corrupt the system. I do not deny that. I think they should be punished. But there is no reason, in my view, to repeal the competitive bid standards. If States want to regulate their State projects by limiting competition, by all means, they should be free to do it.

If it is a State contract, States can put in anything they want. There are other States, as I mentioned earlier, that currently have pay-to-play laws in place, but there are four States that have pay-to-play laws, two of which—Ohio and South Carolina—only apply to no-bid contracts having no effect on highway and transit projects because these are let under the competitive low-bid method.

I believe the Senators from New Jersey think they are being singled out by the Federal Highway Administration as Kentucky and West Virginia have similar pay-to-play laws—but both Kentucky and West Virginia have exceptions to their provisions. Kentucky excludes contracts awarded competitively on the basis of the lowest and best bid, while West Virginia's exception is the restriction that only applies during negotiation and performance of the contract.

These provisions are clearly different from what the Senators from New Jersey seek for their State. To open the process in other States, we do not need to have Federal aid highway dollars used as a means of changing campaign finance laws or changing the competitive bid process which gives us the best bid on the projects that are funded with Federal dollars.

I don't want to see State laws preempting Federal laws, but if we are going to go down that road, as I said, I have a number of amendments, and I would certainly ask support for all the areas that Missouri wants to exempt from some of the mandates, many of which I think are unnecessary from the Federal Highway Administration laws.

At this point, I urge my colleagues not to support this amendment because it provides a very different standard which New Jersey is attempting to use in its award of competitive-bid contracts.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. If I might ask the Senator from Missouri, if he has read the New Jersey legislation, in no way by my reading of that legislation does it supersede the competitive bidding requirement.

Mr. INHOFE. Will the Senator yield?

Mr. CORZINE. Yes.

Mr. INHOFE. Mr. President, I ask unanimous consent, notwithstanding rule XXII, all first-degree amendments to the highway bill must be filed at the desk no later than 3 o'clock. We are extending it from 2 o'clock to 3 o'clock because of the evacuation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORZINE. I see the Senator from Missouri is no longer in the Senate, but I make very clear the amendment Senator LAUTENBERG and I are proposing in no way undermines the standard that there need be competitive bids in the Federal highway funds or in Federal funds that mix both State and Federal dollars.

This is about contracting rules that would encourage competition, not discourage competition. I believe if we were put side to side with Kentucky and West Virginia, we would find the New Jersey contracting rules are parallel. We would find this is one of the reasons the House unanimously agreed to this because it is an additional step that in no way undermines the standards that exist by the Federal Government.

Again, it reflects the desires of the State legislature and the Governor to have stronger, stricter rules on contracts administered by the State.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I start by commending the chairman of the Environment and Public Works Committee for his work on behalf of getting the funding raised for the Transportation bill.

It is critical. There is not a State that would not like to see more money for highways, transit or whatever else they do—perhaps even for long-distance rail service.

The manager of the bill, the chairman of the committee, had to wrestle with not only his conscience, but colleagues who felt differently. There were over 20 "no" votes. I wonder if those Senators would forgo the extra money that resulted from the increase in the size of the bill. Perhaps that could be polled.

I thank my colleague, Senator CORZINE, for generating this amendment which I share in sponsoring to ensure integrity in highway contracting. My friend and colleague from New Jersey has always fought against corruption in public activities and contracting. I am proud to stand and fight alongside him to make sure every State has the right to make choices about how it conducts its campaign financing laws and how it looks to better management of the process so corruption is avoided. That is what this is about.

One has to look at the bill. It is relatively simple. Frankly, I thought it would be something that could be accepted on its face by unanimous consent. There is no punitive measure in here.

I understand our colleague from Missouri said I was big on sanctions. How right he is. I am big on sanctions. We raised the drinking age to 21. When our colleague, Senator DOLE, was the Secretary of Transportation under President Reagan, we sanctioned States who did not put that into law.

Guess what the outcome is. Twenty thousand young people have been saved over the last 21 years. That is what the sanctions did. Would it be better to not have sanctions and have the freedom for the teens to get on the highway and kill themselves? I don't think so. It worked. We tried the carrot. But there were not enough carrots to take care of it, so we had to use the stick. That is what you do. That is what the red lights are for. It is a stick. It says: Do not cross over when traffic is going the other way, et cetera.

We are a nation of laws. That is what the structure of our society is. There are sanctions against those who would try to buy a gun permit when they are spousal abusers. There are sanctions. They go to prison. Yes, I like that kind of sanction.

When we look at what we are trying to do, unfortunately, the U.S. Chamber of Commerce says it should not happen, it reduces competition. Nothing could be further from the truth because now the little guys who, in their judgment, make a campaign contribution—we foster that notion around here: Contribute if you can. Contribute even if you cannot, we sometimes say. But it happens. Money flows. So we say to some small contractor or some attorney or some engineer who has a two-person business: Well, maybe there is an exemption for small business. But, on balance, they are saying the smaller companies cannot make a contribution because then they would be barred from competing. Competing with the big guys? It is outrageous.

So this amendment fixes a problem in Federal highway law that actually prevents States from taking effective steps to curb contracting abuses.

Earlier this year, the Federal Highway Administration withheld some $250 million in highway funding from the State of New Jersey. It had already been allocated. What happened? We had to change the law. We had to open a loophole so people could contribute, even though our Governor at the time and the legislature agreed: No, we should not permit it. I am not defending it. I am saying I defend States rights. And many of the people here, particularly our friends on the other side, defend States rights. I think the State ought to be able to decide whether it wants to clean up the campaign finance laws.

Spokesmen for the FHWA said a State contracting rule designed to prevent actual and potential corruption was "inconsistent" with current Federal law. I do not know where they get that one.

What had New Jersey done? The State had simply banned certain large political contributions by recipient of State contracts. Its mission was to ensure fairness and transparency in the contracting process, and our State ought to be commended for it. Instead, New Jersey was punished for exercising its own judgment. The Governor signed it. The legislature passed it, the Governor signed it, and it became law. Why cannot we do that?

The relevant Federal law, section 112 of the highway title, calls for competitive bidding. The administration has taken the strict view that if some bidders are excluded, that could limit competition. Would we say that in the vetting of a company's executive leader, if he had a criminal past and they did not make a contribution, it would be all right? No, it certainly would not be all right for that company to start doing State business. But the fact is, if the playing field is tilted toward one company, there is no true competition. Maybe the big guys can afford to do that. They can rule the roost. But that is what our State wants to protect against.

States should not have to choose between receiving Federal highway dollars they need and restoring public confidence in the Government contracting process. What an anomaly we had here a little while ago. We had people voting to increase highway spending when it is threatened that the President is going to veto it, and we are way over the limit the White House proposed for the highway bill. Seventy some Senators said: Oh, yes? Impose limits? Well, we are not going to stick with your limits. We are going to raise the limits because our States need bridges and highway fixing and investments in transportation. That is what we want—70 some Senators. So it was not all Democrats. It was a mix.

It is hypocritical to continue to prohibit States from taking effective measures to maintain the integrity of their contracting process. Federal law already prohibits political contributions from Federal Government contractors. So why shouldn't States be allowed to do it, if they want to—one State by itself, any State that wants to do it? This amendment simply allows States to enact similar reforms when they so choose.

The House of Representatives has already approved a similar provision in its version of the transportation bill. I ask my colleagues to support this amendment to promote good Government, to promote competition. It is a vote for States rights, and a vote against corruption in public contracting.

Once again, I commend my colleague from New Jersey, Senator CORZINE, for his initiative.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Missouri.

Mr. TALENT. Mr. President, I thank the Chair for recognizing me.

I want to take a few minutes, if I can, to pause from this debate on the amendment to make a few comments about the underlying highway bill. I wanted to have a chance to do this when we debated the motion to waive the budget point of order, but I was not able to do so because of the unanimous consent agreement that limited time for debate.

So I thought I would do it now because I am very grateful to my friends, the managers of this bill on both sides of the aisle, Senator JEFFORDS and Senator INHOFE, my good friend and a zealous worker for better transportation infrastructure, Senator BOND and, of course, Senators GRASSLEY and BAUCUS for their amendment which we adopted earlier increasing the size of this highway bill. I thought it was important that those of us who feel strongly about this come down and say so.

We have a problem with transportation infrastructure. The problem is getting to be so big that awareness of it has penetrated even here in Washington. But everybody in America, at least everybody in Missouri I talk to, already knows about it, and has known about it for a very long time. Because they have to drive on these roads. They have to use the rail and the transit. For them, it is not an abstract question of public policy. For them, it is a question of getting where they need to go, to do what they need to do, safely and on time, to make this country run. It is getting harder and harder because the roads are no good.

I am going to try to contain my frustration about this issue. It is hard because this is not rocket science. A lot of the issues we confront here are very difficult.

This really isn't that difficult. We know how to build roads. We know we need to do it. The question is whether we have the will to do what we obviously need to do and what will empower our people to help us create the wealth and opportunity that will then enable us to do the other things we need to do.

I said there was a problem before. The statistics have been repeated often enough, but I guess in the Senate nothing is ever said quite enough so I am going to repeat them. Thirty-two percent of the Nation's roads are in poor or mediocre condition; 37 percent of the urban roads are in poor or mediocre condition; 28 percent of the bridges are substandard. I can show you some substandard bridges in Missouri. As a result of this, our Nation loses about $65 billion a year in lost man-hours and lost productivity because people are stuck on the highways. A recent report said it was three times what it used to be in 2003. We lose $50 billion a year in extra maintenance costs because our cars and our vehicles are damaged as a result of the bad roads.

Who among us has not had the experience of hitting a pothole and saying to ourselves, "There goes that shock absorber. That is another front-end alignment I will have to get"?

This is common knowledge throughout America. The Department of Transportation studied it in 2002, 3 years ago. The problem hasn't gotten any better since then. They concluded—and this is a rather big study—that $375 billion is what we needed in the next highway bill to address the problem. We don't have $375 billion in this bill. We have under $300 billion. We have less than we had last year. We have more than we would have had, if not for the heroic efforts of the bill managers. But we don't have enough even with what they have added. Yet people on this floor say that this is too much.

This is a problem I have been working on with my friend from Oregon, Senator WYDEN. We believe it is time to begin using bonding as part of our Transportation financing package. We have proposed the Build America Bond Act. A number of people have joined us in cosponsoring the bill. My friend from New Jersey is one of them. This is legislation that would create a federally chartered, nonprofit corporation that would issue about $38 or $39 billion in bonds and set aside $8 or $9 billion of that in a fund which would then accumulate interest over time and be used to pay off the principal. Then we would have $30 billion for immediate investment in the Nation's transportation infrastructure.

We could get that money out in the next construction season or two. We could begin taking some of these vital projects that are constantly moved to the right, moved from 2010 to 2015, to 2020, and start moving them back to the left on the time line. We could build some of the bridges we need, fix some of the roads that are substandard.

We also have a provision in the bill that says some of the bonds have to be in low enough denominations that Americans can purchase them, average folks can go out and buy a $50 bond, a $25 bond, knowing that they are investing in American roads, transportation infrastructure, and jobs to make America competitive for the future.

I am pleased that we have made some progress on this. The bill managers were good enough to include a provision for the underlying corporation in the bill. We don't have authority to issue the bonds yet, but we have the corporation in the bill.

I am also very grateful to the managers of the bill for including in the substitute amendment my amendment to authorize private activity bonds, $15 billion in transportation highway infrastructure bonds.

These bonds could be issued in a partnership between States and localities and private companies for specific projects. The localities would repay the principal through a variety of revenues, including annual appropriations or charging rent for the infrastructure that was built. Since the bonds are tax exempt, it means the holders would pay no taxes on them to the Federal Government. They would be preferred by the market. We could get $15 billion in a kind of bond money out there right away to begin addressing the problems that the country is facing.

Nobody really argues with what I have said. That is one of the things that is frustrating. The people who supported the budget motion, who want the bill to remain small, don't argue that there is no problem. You can't argue the fact that there is a problem. What they say is: We can't fix the problem because we have a deficit. We can't spend more money on transportation infrastructure because we already have a deficit.

Investment in transportation infrastructure is dynamic. That means it helps grow the economy. It helps produce revenue. We understand that in every other context. Nobody argues with that in any other context except the highway bill. All the economic models say about $1 billion in investment in transportation infrastructure produces 47,500 jobs. Every dollar invested returns $5.75. That is the multiplier effect.

The same people who are saying we can't spend money on highway and transportation infrastructure will stand up in the context of a trade bill and say: The reason it is OK to pass an open trade bill—and I have supported many of them—even though we will be trading with countries that have lower wage rates than we do, is that we are still competitive because we have a more sophisticated financial system, a more sophisticated telecommunications system, and a more sophisticated transportation system. They are right. That is one of the reasons we can be competitive with countries that pay lower wage rates because we can get our products to market because decades and decades and decades ago other Senators and other Congressmen had the foresight to invest in transportation infrastructure.

I know we have a budget deficit. We have a transportation deficit. It isn't going to get better if we don't do anything. Saying we can't invest in transportation infrastructure because we are worried about the budget is like a farmer who is hard pressed saying: You know what, I am afraid my cash flow isn't what it should be. I am not going to buy fuel for the combine.

It is like a homeowner saying: The budget is tight. I am really hard pressed. I am not going to fix the hole in the roof because that might cost money.

This is a problem that is not going to get better if we don't do anything about it. Every 5 or 6 years we pass another highway bill, and the people who are concerned about the cost say: It is bigger than it was 5 or 6 years ago. Yes, it is bigger. Every year, even though the highway bill is bigger, the gap between what we are spending and what we need gets bigger, too.

This year, even under the amendment we adopted earlier, we have about a $80-billion gap. I guarantee, if we don't do something about it, 5 years from now it will be bigger than that.

What do the people who opposed the amendment on budget grounds want to do? What can you do to build more transportation infrastructure? You can raise taxes. They don't want to do that. I understand that. It is hard to raise gas taxes when gas prices are up. That is a hard thing to do. They don't like bonding either. That is out. They don't want general revenue to be used for highways. That is out. Now they are saying they don't want other streams of revenue. Even though it would pay for it, they don't want that used either. So they are all for fixing infrastructure as long as we don't use taxes, bonding, general revenue, or any other revenue to do it.

Stop and ask yourself a question for a second: What is the domestic achievement of the Eisenhower administration that people remember? The building of the interstate highway system. Roll Call magazine, one of the Capitol Hill magazines, did a survey of congressional scholars and asked them what the most significant bills were that the Congress passed in the last 50 years. No. 4 on their list was the interstate highway bill passed in the 1950s, which they pointed out intensified economic growth, boosted domestic tourism and made possible just-in-time manufacturing processes.

How can anybody say that investment in transportation infrastructure does not produce economic growth?

I know we have a vote coming up soon. I will close by saying a couple things. In the first place, the bill where we now have it—I was going to say it is the least we should do, but the truth is it is not as much as we should do. I urge the bill's managers to go to conference with this bill as it now is and do everything possible to hold this number or, if possible, find some way to inject more money into transportation infrastructure this year. I know they are committed, and they are going to try to do that. I urge them to stand by their commitment. This is worth doing, and it is worth doing now. We cannot afford to give another 5 or 6 years away to the locusts and then come back here and face the same problem we have now, except it is bigger.

I believe in the people of this country. I am not one to focus on the problems we have. Any Senate, any time in the Nation's history, if it wants to focus on the problems of the country, can get discouraged. I know we are fighting a war now, and we have education issues and health care issues we have to address, and they are all very big.

The reason I am optimistic is I believe in the American people. I believe in the productivity and ingenuity of the American people. The answer to all these problems, broadly speaking, is to empower them, to let them have the resources they need—which is one of the reasons I have been for tax reduction—so they can make the economy grow. Let them do what they do in their everyday lives, raising their families, doing their jobs, running their small businesses, to keep the economy growing and make us prosperous and strong and free. But the American people cannot on their own build roads. They can do a lot of things on their own or together in private businesses or associations of one kind or another, but they cannot build roads. That is a job the Government has to do. We will deal with the transportation deficit, and the American people will deal with the budget deficit as well if they can get to work in the morning. Let's help them do that.

I congratulate the managers on adopting the amendment. I hope we can do even better in conference.

I yield the floor.

Mr. INHOFE. Mr. President, I do have a statement I wish to make in opposition to the Corzine amendment; however, the junior Senator from South Dakota is here. I would like to yield to him for up to 6 minutes.

The PRESIDING OFFICER. The Senator does not have the right to yield time.

The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I thank the distinguished chairman for his good work in moving this bill along. This is legislation that is long overdue. It is time that we move forward to vote so we can get help to these highway departments across this country, particularly in States such as mine, Northern States, where we are going to lose the construction season if we don't get something done, get a bill passed, and get a permanent authorization in place.

I speak in opposition to the pay-to-play amendment that has been offered to the Transportation bill.

For my colleagues who might not be aware of this issue, the Acting Governor of New Jersey issued an executive order last September which blocks anyone who makes political contributions to state officials, candidates or parties in excess of $300 from bidding on any contract for services, material, supplies or equipment or to acquire, sell or lease any land or Federal building where the value of the contract exceeds $17,500.

While it is clearly New Jersey's prerogative to institute such pay-to-play laws when it comes to State contracting, this New Jersey executive order effectively violated the free and open competition provisions governing Federal Aid Highway and Transit Contracting and went much further than pay-to-play laws in other States.

It's my understanding that New Jersey's Acting Governor, Richard Codey, issued this executive order in response to corruption and kick-backs that were uncovered with respect to no-bid State contracts.

Seeing that almost all of the contracts that occur under the Federal Highway and Transit programs are based on sealed low-bid contracts, the Senate should not adopt this amendment because it would undo the existing uniform rules that all States must follow when it comes to Federal contracting.

Congress has specifically stated in past highway and transit authorizations that we should encourage fair and open competition.

Congress should encourage competition by cultivating the broadest group of competent qualified contractors to do the work. We want to ensure that we are getting the best work done for the best price.

The low bid system was used to build our interstate system and National Highway System. It provides the highest quality product at the lowest possible price through competition. It should be maintained and strengthened, not weakened by adopting the amendment by the Senator from New Jersey.

Soon after New Jersey's Acting Governor issued his Executive Order last year, the U.S. Department of Transportation was forced to withhold a portion of New Jersey's transportation funding because the State was not complying with Federal contracting requirements—this was done after the U.S. Department of Transportation attempted to work this issue out with New Jersey Officials.

Soon thereafter, the New Jersey legislature stepped in and passed a bill on March 22, 2005 that excludes Federal aid highway funding from the Governor's previous pay-to-play executive order—thereby restoring New Jersey's Federal transportation funding.

I share the Senator from New Jersey's concern about illegal activity when it comes to no-bid contracting. However, there is nothing that currently prohibits states from taking action to prosecute those responsible for such illegal activities.

Further, since the current low-bid sealed contracting process used on Federal transportation contracts protects against instances of corruption or impropriety, and the fact that the New Jersey legislature has ensured that its pay-to-play regulations don't impact Federal transportation contracts, I'm a little puzzled why this amendment is needed—unless of course the Senator from New Jersey is seeking to change the existing Federal contracting process.

Federal contracting law already includes a process for the exclusion of contractors who have acted illegally—and the Federal Government also has a debarment process that prohibits contractors who have committed fraud or bribery from bidding on future contracts.

Because the State of New Jersey is currently suing the U.S. Department of Transportation in Federal district court concerning the previous withholding of Federal transportation funds, now is not the time for the Senate to weigh-in on this matter. The Senate should allow the court to hear the case on its merits.

My colleagues will also be interested to know that the Senate Environment and Public Works Committee rejected this amendment when we marked up the transportation bill on March 16.

The U.S. Department of Transportation has informed me that there has not been one single case of kick-backs or corruption with regard to low-bid Federal aid highway contracts in New Jersey.

Most importantly, the U.S. Department of Transportation opposes this amendment and has informed me that the Corzine Amendment would create an unmanageable patchwork of local restrictions and requirements when Federal aid funds are used on a project.

I urge my colleagues to vote against this amendment and to allow the Federal Highway Administration and those State governments that are so interested in getting a highway bill put into place to enable them to address the critical transportation needs this country faces, to get this highway bill passed and defeat this amendment.

I yield back the remainder of my time.

Mr. INHOFE. Mr. President, first, I agree with the comments of the Senator from South Dakota. He has dramatically shortened my speech against the Corzine amendment because he said some things I would have said. I emphasize that the problem is not with sealed bids, it is with no bids. It could be that they have unique problems in New Jersey, but I would not want those problems that are there to encumber what we are trying to do in States such as Oklahoma and New Hampshire and South Dakota. There had been abuses that are pretty well known in New Jersey.

An example is the case of the law firm of DeCotiis, FitzPatrick, Cole & Wisler, which has reportedly thrived by exploiting a system that encourages politicians to reward their political contributors with State contracts that are no-bid contracts—not low-bid but no-bid contracts.

The Record, a New Jersey paper which did an extensive investigation into this DeCotiis firm and their relationship to public officials, stated in a December 2003 article that:

> A sweeping review of DeCotiis's work for towns and public agencies shows how high rollers in this pay-to-play sweepstakes reap huge returns from investments in the right politicians. In a study of DeCotiis's legal bills for towns and public agencies across New Jersey, as well as interviews with dozens of elected officials, the Record has found that the DeCotiis firm billed at least 128 government entities for nearly $26.6 million during the 2½-year period starting January of 2001. From Alpine to Atlantic City, in 15 of New Jersey's 21 counties, and in many departments of State government, DeCotiis's lawyers are charging the taxpayers for contracts that, under Jersey law, can be awarded without competitive bidding.

I have other examples of corrupt kinds of dealings, but I believe my point has been made that here the issue is with no-bid contracts, not sealed-bid contracts.

I question, also, the constitutionality of something in terms of the first amendment, but that has not even been discussed.

There could be a problem. I would be sympathetic to the problem and perhaps the Senator from New Jersey will be holding a position in the not too distant future where he can deal directly with some of the problems that are within the State of New Jersey but are not all over the country.

So I join my colleague from South Dakota in urging the defeat of the amendment, and at the appropriate time I plan to move to table the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I appreciate the comments. I can understand the point of view if the bipartisan legislation from the State of New Jersey would in any way interfere with low-bid, sealed contracts on Federal projects. I would not be in favor of this, either. No-bid contracts should not be an accepted way of doing business in government. At least from the legal advice and understanding that I have of the New Jersey legislation, it does the opposite. It requires that it would conform both to Federal regulations and adds the additional element that there be restrictions on those participating who have contributed more than $300 in a contract that is over $17,500.

Practically speaking, the reality is that the Department of Transportation, and Republican and Democratic administrations in New Jersey—and I suspect this can very well be the case in other places—sets specifications. Those who both lobby and contribute often arrange those specifications, so there are situations where those who have the ability to participate in the bidding contracts are limited and those specifications are written in a way that gives a bias to the contracting exercise. All this legislation that the State of New Jersey is asking for, its States rights ability to impose, are supplemental to the rules and regulations that the Department of Transportation is taking, and I believe it will protect the public and enhance the confidence for the State of New Jersey.

It is not an imposition on any other State. They do not impose these pay-to-play rules. It has no impact on another State. We are only asking for the ability of the State of New Jersey to put down the rules that the State legislature, on a bipartisan basis, believes will lead to lower costs and greater transparency to the bidding process.

I understand there is a difference of view, but I feel strongly about it and ask my colleagues to consider the fact that this is a supplemental and in no way undermines Federal regulations, does not impose this standard on any other State, and does go a long way toward dealing with concerns that people on both sides of the aisle in my State believe are undermining public trust and raising the cost to the Federal Government and the State government in doing business in our State.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I appreciate the comments, even though I disagree with them, of the Senator from New Jersey. I know he is sincere. I know there is a problem and he is trying to correct the problem and there is an honest difference of opinion.

I ask unanimous consent that a letter from the U.S. Chamber of Commerce opposing the Corzine amendment, a letter from the American Road & Transportation Builders Association opposing the Lautenberg-Corzine amendment, and also a letter from the Transportation Construction Coalition, which is, I believe, almost every labor union in the United States, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, May 10, 2005.

Hon. DANIEL AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: As the Senate continues debate on H.R. 3, the reauthorization of the Transportation Equity Act for the 21st Century (TEA–21), the U.S. Chamber of Commerce strongly opposes an amendment by Senators John Corzine (D–NJ) and Frank Lautenberg (D–NJ) that attempts to change federal competitive highway and transit contracting rules.

For over 25 years, federal law has forbidden states from implementing "pay-to-play" provisions for state highway and transit construction contracts (23 USC §112). Federal highway and transit contracts are awarded in an open-bid environment, and it is unnecessary to have an individual state attempt to change these federal contracting rules.

In November 2004, the state of New Jersey passed an executive order with language that included federal highway and transit contracting in the state's "pay-to-play" provisions. On January 21, 2005, the U.S. District Court for New Jersey ruled against the state and reaffirmed the federal statute, which led to New Jersey's final "pay-to-play" law continuing the longstanding exemption of "pay-to-play" for federal competitive highway and transit contracting.

Supporting the Corzine/Lautenberg amendment would adversely affect the ability of business leaders to support candidates, and thus, undermine the importance of allowing business executives and their employees the ability to legally participate in the political process, while other groups would not be impacted.

The U.S. Chamber of Commerce will consider using votes on or in relation to this issue for inclusion in our annual "How They Voted" ratings. The U.S. Chamber of Commerce is the world's largest business federation representing more than three million companies and organizations of every size, sector and region.

Sincerely,

R. BRUCE JOSTEN.

AMERICAN ROAD & TRANSPORTATION
BUILDERS ASSOCIATION,
Washington, DC, May 9, 2005.

DEAR SENATOR: As the Senate continues debate on H.R. 3, the federal surface transportation program reauthorization bill, the American Road & Transportation Builders Association (ARTB) urges you to oppose an amendment by Senator Frank Lautenberg that would modify federal transportation procurement standards to allow states to penalize transportation construction firms that participate in the political process.

The Lautenberg amendment would allow states to preclude individuals who have made financial campaign contributions to state and local officials from competing for federal-aid highway and transit construction work. By excluding individuals who exercise their right to participate in the political process, the amendment would contradict the open competitive bid system of procurement that has been a hallmark of the federal transportation programs for almost 50 years. Under this system, contracts are awarded to the lowest qualified bidder. Political contributions, or the lack thereof, have no role in the awards outcome.

An ARTBA analysis of Federal Highway Administration (FHWA) bid data for the period 1958 to 2003 found that winning highway contractor bids on federally-funded projects have averaged 6.7 percent below the government's own internal cost estimates for the advertised jobs. In total over the 45-year period, the winning contractor bids have come in $22.8 billion under estimated cost.

This analysis proves that the low-bid system works in the public interest. It also shows that highway contractors have been giving the public outstanding value for their tax dollars. Transportation construction industry contractors routinely build highways and bridges that meet exact government specifications for materials, quality, durability and environmental protection for substantially less than the government expects to pay.

Consequently, we urge you to protect the integrity of the open competition, low-bid system for transportation construction work and oppose the Lautenberg amendment to H.R. 3.

Sincerely,

T. PETER RUANE,
President & CEO.

TRANSPORTATION CONSTRUCTION
COALITION,
May 9, 2005.

DEAR SENATOR: The 28 national associations and construction unions of the Transportation Construction Coalition (TCC) urge you to oppose the Lautenberg amendment to H.R. 3, the highway and transit program reauthorization bill. The Lautenberg amendment would restrict competition for federal highway and transit work and apply a nationwide solution to a state-specific issue.

The Lautenberg amendment would allow states to prevent companies from performing federal-aid highway and transit work funded by this bill if they made legal contributions to state and local elected officials. The amendment is based on a New Jersey law that significantly limits competition for transportation construction work by blocking any individual that made political contributions of more than $300 from bidding on any contract that exceeds $17,500.

The "pay to play" laws of other states typically focus only on no-bid contracts. The New Jersey version, however, applies to a much broader class of projects. Highway and transit projects are typically procured using the lowest competitive bid method, which requires an objective and public evaluation of sealed bids.

Congress has specifically stated in past highway and transit reauthorization bills that states should encourage fair and open competition. States accomplish this objective by cultivating the broadest group of competent qualified applicants to perform transportation construction work and by excluding companies that have acted illegally. The low bid system was used to build the nation's highway system and provides the highest quality product at the lowest possible price.

We urge you to oppose the Lautenberg amendment to H.R. 3. The amendment would significantly undermine the federal commitment to the competitive bid system.

Mr. INHOFE. Mr. President, I move to table the Corzine amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Minnesota (Mr. COLEMAN), and the Senator from New Mexico (Mr. DOMENICI).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted "yea."

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON), is necessarily absent.

The result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—57

Alexander
Allard
Allen
Baucus
Bennett
Bond
Brownback
Bunning
Burns
Burr
Byrd
Chambliss
Coburn
Cochran
Conrad
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Dorgan
Ensign
Enzi
Frist
Graham
Grassley
Hagel
Hatch
Hutchison
Inhofe
Isakson
Jeffords
Kyl
Landrieu
Lott
Lugar
Martinez
McConnell
Murkowski
Murray
Nelson (NE)
Reid (NV)
Roberts
Santorum
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—40

Akaka
Bayh
Biden
Bingaman
Boxer
Cantwell
Carper
Chafee
Clinton
Collins
Corzine
Dodd
Durbin
Feingold
Feinstein
Gregg
Harkin
Inouye
Johnson
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Nelson (FL)
Obama
Pryor
Reed (RI)

Rockefeller
Salazar
Sarbanes
Schumer
Snowe
Stabenow
Wyden

NOT VOTING—3

Coleman
Dayton
Domenici

The motion was agreed to.

Mr. INHOFE. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Oklahoma.

Mr. INHOFE. Mr. President, there has been a great misunderstanding around here as to how we came up with offsets, how we are going to take care of paying for an additional amount of money in this package.

I compliment the chairman of the Finance Committee, Senator GRASSLEY, along with the ranking minority member of the committee, Senator BAUCUS, for the hard work they have put in on this legislation and, quite frankly, disagree with the criticism to which they have been subjected.

I want to reemphasize, if I could, that it is important we get this legislation done. I am very pleased we have two more amendments that are down here. The deadline for the filing of amendments is now over as of right now. We do have several amendments. We are going to invite these people to bring their amendments down. I am pleased there are two amendments that are already down here. We look forward to taking up those amendments.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

AMENDMENT NO. 625

Mr. LAUTENBERG. Mr. President, I call up amendment No. 625.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself and Mr. DODD, proposes an amendment numbered 625.

Mr. LAUTENBERG. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide funding for motorcycle safety programs in States without universal helmet laws)

At the end of subtitle D of title I, add the following:

SEC. . UNIVERSAL HELMET SAFETY STANDARD FOR OPERATION OF MOTORCYCLES.

Section 153 of title 23, United States Code, is amended—

(1) in subsection (a), by striking "fiscal year—" and all that follows through "(2) a law" and inserting "fiscal year a law";

(2) in subsection (f)—

(A) in paragraph (2), by striking "fiscal year—" and all that follows through "(B) had in effect at all times a State law described in subsection (a)(2)" and inserting "fiscal year had in effect at all times a State law described in subsection (a)"; and

(B) in paragraph (3), by striking "fiscal year—" and all that follows through "(B) had in effect at all times a State law described in subsection (a)(2)" and inserting "fiscal year had in effect at all times a State law described in subsection (a)";

(3) in subsection (h)—

(A) in paragraph (1), by striking "subsection (a)(2)" and inserting "subsection (a)"; and

(B) in paragraph (2), by striking "subsection (a)(2)" and inserting "subsection (a)";

(4) by redesignating subsections (i), (j), and (k) as subsections (j), (k), and (l), respectively; and

(5) by inserting after subsection (h) the following:

"(i) MOTORCYCLE HELMET USE LAWS.—

"(1) FISCAL YEAR 2009.—If, at any time in fiscal year 2008, a State does not have in effect and is not enforcing a law that makes unlawful throughout the State the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet, the Secretary shall transfer 1.5 percent of the funds apportioned to the State for fiscal year 2009 under each of subsections (b)(1), (b)(3), and (b)(4) of section 104 to the apportionment of the State under section 402.

"(2) FISCAL YEAR 2010 AND THEREAFTER.—If, at any time in fiscal year beginning after September 30, 2008, a State does not have in effect and is not enforcing a law described in paragraph (1), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of subsections (b)(1), (b)(3), and (b)(4) of section 104 to the apportionment of the State under section 402.

"(3) APPLICABLE PROVISIONS.—Paragraphs (3), (4), and (5) of subsection (h) shall apply to obligations transferred under this subsection.".

Mr. LAUTENBERG. Mr. President, I offer this amendment to address motorcycle safety on our roads. In 1995, Congress repealed the motorcycle helmet law, which I authored in 1991. Since the law has been repealed, motorcycle deaths have nearly doubled, and my amendment would simply reinstate the helmet law.

Head injuries are one of the leading causes of death in motorcycle crashes. Under my amendment, States that do not require motorcycle riders to wear helmets would have funds, but they would have them shifted to motorcycle safety programs.

Last month, the Department of Transportation released preliminary findings that over 3,900 people were killed in motorcycle crashes last year. This is almost double the number of motorcycle crash victims of 10 years ago when the Federal helmet law was repealed.

If we look at the chart, we see what happened since 1996, the year of operation after the law was repealed. We had a much smaller number, and it grew on a regular pattern up to 2004, the last recorded year.

This is not just a matter of more riders on the roads. The rate of deaths per mile traveled has almost doubled as well. We have learned an important lesson from this data: Helmets save lives. Repealing helmet laws have led to more deaths.

By coincidence, I had a talk with one of our colleagues before when we were voting on the previous amendment. He recalled for me the fact that he had a motorcycle accident. During the time of the fall, he said, as he bounced around the pavement, he thanked the Lord that he was wearing a helmet that had a face piece to it. It saved him from what they said would have been almost instant death.

Funny enough, when people look at me and they see the white hair, they can't believe I am an expert skier, having done so for 59 years. I have two children who are competitive skiers, one lives in Colorado, and I have a granddaughter who is on her way to becoming a competitive skier. We are skiers. Skiing is in our blood, and we ski fast and hard. I had a fall 2 years ago, 2 days after I bought a helmet. I hadn't worn it for the 50-some years before that. When I fell, I fell so hard I did a tumblesalt in the air—and I'm not an acrobat—and I landed on my head. I didn't realize, for a month, I was hurt, until my vision started to blur and my balance was unsteady. I was rushed to a hospital—I was with my wife in New York City—and the next day on an operating table and had what they call a hematoma. Doctors had to go on two sides of my head with a drill or whatever they use to get there and drain the fluid that had gathered. I thank God regularly that I am in the condition I am after that kind of accident. But the difference was that helmet. I had the helmet 2 days.

I went back to the ski shop, and I said: I thought this was supposed to prevent my getting hurt. He pointed to a tiny crack in the helmet, and he said to me: If you hadn't been wearing this helmet, that crack would have been through your skull, and we would not have been here talking about it. So I am a confirmed user of helmets.

I had been on the board of a hospital in New Jersey and worked very closely with our principal medical school and its hospital. I talked to the emergency room physicians. I know that much of the head and neck trauma that comes about comes about as a result of motorcycle accidents.

A Transportation Department survey showed that from 2000 to 2002, helmet use among motorcycle riders dropped from 71 percent to 58 percent nationally. They stopped using helmets, mostly.

The Transportation Department found that in those States where universal helmet laws had been repealed, helmet use plummeted from 99 percent to 50 percent. In other words, where helmet laws are on the books, almost every rider wears a helmet. Where there is no such law, only about half of the riders are protected against head injury.

My amendment, to be simply understood, would reinstate the minimum safety standard which first was enacted in 1991. This is not a matter of ideology or so-called States' rights. It's a matter of doing what is right. Helmets save lives. Universal helmet laws work.

No matter what some people might suggest, riding without a helmet is not a victimless indiscretion. Motorcycle crashes burden our health care system and the taxpayers unnecessarily. The Transportation Department estimates that unhelmeted riders involved in crashes cost taxpayers $853 million in the year 2002 alone.

Riders without helmets are much more likely to suffer brain injuries, which obviously are often slow healing, with long-time hospitalization. It costs twice as much to treat a patient who does have brain injuries.

I don't think taxpayers ought to be saddled with the costs of motorcyclists who sustain serious injuries because they want to feel the wind in their hair. I urge my colleagues to vote to help save the lives of so many of their constituents who are motorcycle enthusiasts. I once rode a motorcycle. In my earliest moments, I slipped and fell and picked gravel out of my legs for about 2 weeks thereafter. But we don't want to stop the sport. We want to spare the families of the motorcycle riders and their friends from needless loss and to spare taxpayers from bearing the costs of risky behavior.

I want to read a comment that we received. It is by Joe A—to protect his testimony. This is his testimonial to his NXT helmet.

> On May 13th, 2004, I was riding my Harley through the small college town of Newark, Delaware, when a distracted student in the oncoming lane decided to make a left turn about 15 feet in front of me. I was going about 25 miles per hour and she appeared to be doing the same. In an instant, I collided head on, flew off my bike and into her windshield.
>
> I did a 'head plant' which took out the windshield, rolled me over the car and onto the roadway beside the car. This left about a 4-inch gouge in my helmet but no serious head injuries. The paramedics were amazed . . . that I was able to carry on a lucid conversation with them. Thanks to your superior product, I was able to walk out of the hospital about an hour and a half later with no serious injuries.
>
> My doctor told me that without my helmet I would have been dead or had severe brain injury and it's an impressive fact that I'm able to write this e-mail and send pictures three days after the accident. I have no doubt that without your helmet the outcome would have been very different for me.

Mr. President, it makes sense to do what we can to protect the public. Again, this is not telling anybody that they should ride or should not ride. We say, when you ride, don't spend my money, please. Don't burden the Medicare or health care insurance programs with your lingering injury or your death or other family problems. Don't burden us. You have no right to do that.

I urge my colleagues to vote for the amendment. It promotes the minimum safety standard for motorcycles, significant funding which can be used for other health care essential studies on childhood diabetes, asthma, autism, and many other afflictions that wreak havoc on families.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I thank the distinguished Senator from New Jersey for bringing his amendment to the Senate. We have been urging Members to bring their amendments to the Senate. I thank him also for the very thoughtful, sincere, and articulate way he expressed and explained his amendment. I disagree, but I know he has strong feelings, and we are anxious to get a vote on his amendment.

It is my hope—and I know the ranking minority member, Senator JEFFORDS, agrees—to get as many of these votes lined up for, perhaps, stacked votes. We do not have a time yet, but I assume that would be acceptable with the author of this amendment to stack these votes with perhaps some other amendments.

Currently, 21 States and the District of Columbia have helmet laws; 26 States have limited helmet laws, including my State of Oklahoma. Ours are for 17 and under. Only four States, as I understand, have no helmet requirement.

As recently as last year when we were discussing the highway bill, the U.S. Department of Transportation released a statement in which they said:

> The administration opposes sanctions and withholding State funds, both of which would jeopardize important State level safety programs in infrastructure maintenance programs already in place.

Let me share a personal experience. Many years ago, back in the middle 1960s, I believe 1967, my first year in the State legislature, my first act in January of 1967, I came to Washington, DC, to testify before the Environment and Public Works Committee chaired at that time by Jennings Randolph of West Virginia. I was impressed with myself coming up to testify before this lofty committee that I now chair.

I was protesting Lady Bird's Highway Beautification Act of 1965. The reason was it was withholding funds, our funds, in order to accomplish a policy which we could agree or disagree on.

I have to admit to the Senator from New Jersey that I come from a little bit of a prejudiced perspective because I would be concerned about mandates for quite some time.

The highway bill is important for addressing real transportation infrastructure needs, but I question it is a place to spend a lot of time for other policies.

I will share with the Senator from New Jersey a study done last year of the California Motorcycle Safety Program, designed by Dr. John Billheimer, completed in 1996, that found that rider training dramatically reduces accidents and thus eliminates injuries and fatalities. Specifically, the study stated:

> An analysis of statewide accident trends shows that total motorcycle accidents have dropped by 67 percent since the introduction of the California Motorcycle Safety Program with a drop of 88 percent among those under 18-year-old drivers.

There is much that can be done to dramatically reduce fatalities. I can recall we were debating a motorcycle helmet law in the State senate many years ago in the 1970s when testimony came forth that a helmet will impair one's vision to some degree, that there are sometimes accidents that have occurred because of the restriction. I know there have probably been studies on that, but it is something to be considered.

I fundamentally oppose this type of approach. I know consistency is not always something we have in this Senate, but it is consistent with my feelings over the last 30 years in addressing this type of situation.

I believe the Senator from New Jersey has every right to get a vote to measure the Senate, so at the appropriate time it would be my intention to table the amendment, call for the yeas and nays, and stack this with perhaps some of the other amendments, maybe the amendment of Senator HARKIN, who is prepared to offer his amendment now.

Mr. LAUTENBERG. Mr. President, I was heartened at the beginning of the remarks by my colleague from Oklahoma and couldn't wait to hear the rest of it. Then I realized I could have waited.

My colleague is an adventurous fellow who sometimes flies airplanes without fuel. He is quite a daredevil. I support some of the enthusiasm he has for a chance-taking. It is amazing I got as far as I did in life, but here I am with a few broken things here and there.

In all seriousness, there is no transfer of funds; there is no loss of funds. Any money that is not used to promote helmet wearing is used for motorcycle safety within that same State. I was pleased to hear there is a way to protect lives besides using helmets. But when we saw what happened when the helmets came off, they were not blinded by any helmet problems for the most part, they were just killed.

The United States DOT has a helmet design that will not impair vision but will promote safety. That is the critical issue.

I hope between now and the time a vote occurs that the intelligent leader of the committee, who cares about people, will see a difference in view than that which was initially expressed.

I yield the floor.

Mr. INHOFE. Mr. President, again, I am hoping that Senator HARKIN is on his way and is prepared to offer his amendment. I look forward to considering that.

In the meantime, let's keep in mind we now have a limited period of time in which to work. The time is here. We are open for business. We want to have the amendments sent to the Senate. We invite our Members to do so.

In the meantime, I will reconfirm and restate one of the reasons for the urgency of this bill. Not only is this one of the largest bills of the year, it is thought by many to be the most important bill we will consider in that it is a matter of life and death.

We have core safety programs. If we were operating on an extension we do not have in this bill, we will not have the core safety programs and people will die. It is as simple as that, if we do not get this done.

Consequently, it is always worth repeating how important it is to get the bill completed and what would happen if we do not. We are in our sixth extension. This extension expires May 31. On May 31, if we do not have something in place, we have another extension. If we have an extension as opposed to a bill, there is not a chance to improve the donor status. There are many States that are donor States, like my State of Oklahoma. Under this bill as it is now, the minimum donor State of 90.5 percent would be increased to 92 percent, which does not sound like a big increase, and is not as large as I would like, but it means hundreds of thousands of dollars to each State.

Without the bill, we will not have that. We will just have an extension of what we have today at 90.5 percent. We would have no new safety core programs if we are not able to pass this bill.

Again, we have talked about the difficult job in putting together a fair formula. The fair formula is one that no one thinks is fair. Perhaps we have a fair formula as a result of that type of analysis. One of the factors in the 20-some factors of a formula is the fatalities of the States. My State happens to be a high-fatality, per capita State, so there is a consideration in the formula for that. If we do not pass the bill, we will not have any of the safety programs.

Right now, we have some streamlining provisions that took us—and I am sure the distinguished ranking minority member, Senator JEFFORDS, would agree with this—we spent 3 years coming up with what we can do to protect the environment and at the same time streamline the process of building roads so we do not come into delays that are costly delays and use up our mile dollars. We have done that. We have come to a lot of compromises.

It is kind of interesting, I think those of us on the committee, who all supported these streamlining provisions, did not really like the way they turned out. I thought they were not strict enough. Some thought they were too strict. Nonetheless, they are there. But if we do not pass a bill, we do not have them, so they are still going to be stumbling along trying to build roads with all kinds of obstacles out there that are obsolete.

If we do not pass a bill, we will not have the ability to use the innovative financing that is given to the States. This bill, for example, has recognized something that I believe is very important; that is, we should expand the opportunity of the States to have more chances to get involved, more opportunities to use innovative financing methods that may work. My State of Oklahoma is different from the State of Vermont, for example. What works in Vermont may not work in Oklahoma. But we recognize that. This bill will allow the States to be able to start being creative in expanding their ability to pay for more roads in a way that is a custom that would be workable within their States. That is a very important aspect of this legislation.

If we are operating on an extension and do not have a bill, we are not going to have this program called the Safe Routes to School. The Safe Routes to School Program is one that is certainly supported strongly by the Senator from Vermont, as well as many of the Members of the other body. This is something that many people feel very strongly about, that some people think is one of the most important parts of this bill: the Safe Routes to Schools. This will save young lives in America. If we do not pass this bill—and we are not going to pass it if we are working on an extension—young lives could very well be lost.

One of the biggest problems we are having right now—I know my State of Oklahoma is not a lot different from other States—is we are sitting back there with the department of transportation, we are sitting back there with highway contractors who have the labor set up, all ready to go to work, all ready to repair roads, to build roads, to build bridges, and there is no certainty. They do not know for sure we are going to pass a bill. If we do not pass a bill, we may be on a 1-month extension, we may be on a 2-week extension, we may be on a 1-year extension. There is no way we can plan ahead and get the most from our dollars if we do not have a bill. There would be 5 years remaining on this bill for people to be able to plan for the future. So that certainty is very important.

A lot of the States are border States. My State of Oklahoma is not a border State, but a lot of them are. They have to deal with the NAFTA traffic. This bill has a borders program as well as a corridors program built into it to take into consideration some of the unique problems that come with the expanded traffic from trade. If we do not pass a bill, we will not have any help for these people. If we do pass a bill, we have provisions to be helpful to them.

The bill calls for a national commission to explore how to fund transportation in the future. There are some ways, if you look way down the road, maybe 5 years from now or 10 years from now, where maybe—just maybe—we can do something different for a change.

We have said several times here, and others have mentioned it, that this interstate highway program initially came into being many years ago, back in the 1950s, when Dwight Eisenhower was President of the United States. He observed during World War II, when he was General Eisenhower, that he was not able to get the troops and supplies moved around the country, to get them in place, to be shipped over to fight our battles.

When he became President, what is the one thing everybody remembers about Dwight Eisenhower? They remember the roads program, the highway program. It was funded in a way with taxes the same way we are funding it today. So we are talking about a half century, nearly, that we have been funding this program the same way. With this bill, we have established a commission that will look at new ways of partnering, new, creative ways of funding roads.

I can tell you, many people have come to our committee—we have had hearings on this—and they have talked about how much better we can do it if we just have a chance to get away from this mold we have been living in, the methods we are using and have been using for the last half century. If we just operate on an extension, we do not have a chance to do any of that.

This bill is more than just a highway bill. We have talked about bridges and highways a lot. But this is an intermodal transportation bill. A lot of people do not realize it, but my State of Oklahoma is actually a navigable State in terms of barge traffic coming in and out of the State. We have chokepoints with regard to train travel, channel travel, air travel. This bill addresses those chokepoints. At the present time, without this bill, that is not going to happen.

Lastly, and this is probably the most important thing, the bill has firewall protections to make sure people—I have always thought of this as a moral issue. If somebody is driving up to the pump and he or she pays that tax, I never hear anyone complaining about the high taxes on motor fuel because they recognize and believe all that money is going to go to road improvement, to new roads and new bridges. But, in fact, that is not the case because, like any trust fund, the propensity of people in elected positions—whether it is State or Federal—to spend the taxpayers' money is insatiable. They will go and rob these trust funds, whether it is the Social Security trust fund, the highway trust fund, or any of the other trust funds we have, and put it in other programs. It is when nobody is looking. Well, we have firewalls in this bill that would preclude that from happening.

One of the things I liked about the bill we had last year was that we changed all those provisions where they had been using trust fund money to support policies that have nothing to do with transportation. We are, to a great extent, going to be doing that with this bill, too.

So the urgency of passing this bill is upon us. We have to do it this week. It would be Monday at the latest, but this week, I would say, in order to get it to conference, come back from conference, have the conference report adopted in both the House and the Senate, and then signed by the President. We can do that if we move expeditiously now, but if we do not, it is not going to happen. We have a May 31 deadline. What is today? May 11. Today is May 11. So we have 20 more days to get this all the way out of the Senate, into conference—of course, the House has already passed the bill, so they are waiting for us now—have it considered in conference, and then have it sent back here. That is not much time.

Things do not happen very quickly around here. But I know Senator JEFFORDS and I will do everything that is necessary in that conference to make sure we come out with a good bill, get that bill back here, passed the House, passed the Senate, and to the President's desk, to have a highway bill. If we do not do it, none of these 10 things I mentioned are going to happen—none of them.

There may be parts of the bill you don't like. There are parts of the bill I do not like. But I hope people realize that just operating on an extension, after we are on our sixth extension now, is no way to do business. We are here to do a better job for the American people.

Hopefully, some people will be coming down to the Chamber.

I yield the floor to Senator JEFFORDS.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I thank again Senator INHOFE and Senator BOND for their leadership on this bill. I am glad to be here on the Senate floor continuing to debate this important legislation.

This managers' package we have before us today will increase the funding in our legislation $11.2 billion and ensures that all States will have the resources necessary to improve their highways, roads, and bridges.

This package will be the catalyst that helps get this bill completed the way it I should be—fully funded. I sincerely thank Senators GRASSLEY and BAUCUS for their tremendous efforts in crafting the finance title of this proposal.

This package will create jobs. It will save lives. It will reduce travel time. And it will improve the quality and structure of our Nation's surface transportation system.

Just this week, the Texas Transportation Institute at Texas A&M University released its annual Urban Mobility Report. This highly respected report once again tells us we need to do better when it comes to transportation in this country. The report tells us that traffic congestion delayed travelers 79 million more hours—79 million more hours—and wasted 69 million more gallons of fuel in 2003 than in 2002.

The report tells us that overall in 2003, there were 3.7 billion hours of travel delay and 2.3 billion gallons of wasted fuel, for a total cost of more than $63 billion. But this bill is about more than reducing traffic congestion. The U.S. Bureau of Transportation Statistics says there are approximately 45,500 transportation-related fatalities per year, 94 percent of which occur on highways. That is because over a quarter of our interstates remain in poor or mediocre condition. Fourteen percent of our bridges are structurally obsolete. This is unacceptable. Something must be done.

That is what we are trying to do here today. We have worked very diligently to reach a compromise that will move us forward in safety, commerce, environmental protection, and congestion reduction.

I encourage all Senators to come to the floor and offer their amendments sooner rather than later. Let's get this bill done so our States can get started with their critical work. Let's get this bill done this week so we can move it to conference with the House as soon as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator from Vermont for his excellent statement. I agree with all of it.

I see the Senator from New Jersey is not in the Chamber, but let me make one comment. When I was talking about the withholding of funds and the Federal mandates, he is accurate in the fact that funds would not be withheld. It would mandate that 3 percent of the money of the portion of funds that would go to his State would be taken from the surface transportation program, the National Highway System, and the interstate maintenance programs. That is the problem I have. In a way that is withholding money. That is a mandate that is backed up by withholding funds.

It is my understanding we have two Members who are due to bring their amendments. We encourage them to come.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 652 TO AMENDMENT NO. 605

Mr. DORGAN. Mr. President, I have an amendment I would like to have considered. My amendment is No. 652, which I have filed and is at the desk.

The PRESIDING OFFICER. The pending amendment is temporarily laid aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 652.

Mr. DORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for the conduct of an investigation to determine whether market manipulation is contributing to higher gasoline prices)

At the end of chapter 3 of subtitle E of title I, add the following:

SEC. 15 . INVESTIGATION OF GASOLINE PRICES.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Federal Trade Commission shall conduct an investigation to determine if the price of gasoline is being artificially manipulated by reducing refinery capacity or by any other form of market manipulation.

(b) REPORT.—On completion of the investigation under subsection (a), the Federal Trade Commission shall submit to Congress a report that describes—

(1) the results of the investigation; and

(2) any recommendations of the Federal Trade Commission.

Mr. DORGAN. Mr. President, first, we are deliberating in the Senate about a highway bill. I appreciate the work the chairman of the committee and ranking member have done on this piece of legislation. It has been a long and tortured process to get this piece of legislation to the floor of the Senate. While I may not agree with every single line in the bill, I admire their work. I think their work is commendable, and it will advance this country's interests. For that reason, I intend to support the legislation.

I think with respect to this country's future, its economy, future opportunities in expanding our economy, there is nothing that more quickly expands the country's economy or more quickly provides opportunity all across this country than the investment Congress makes in a program that provides for highway and bridge construction and road maintenance and repair. It is a sure way to put people to work immediately all across this country.

This highway bill has been long delayed, but now while it is on the floor, I also want to not only commend the committee for its work. I want to offer an amendment that deals with something that relates to it.

Let me discuss briefly the amendment and then describe why I want this amendment considered on this bill. My amendment simply deals with the price of gasoline and asks the FTC to, within 90 days of the legislation being enacted, conduct an investigation of gasoline prices in this country. Let me describe a bit of the background for this. I don't allege there is corruption, price fixing, or collusion. What I do know is this: When big companies get bigger and more companies become fewer companies, there is a capability to influence the marketplace in a significant way. I chaired the hearings in the Senate that investigated the Enron situation. Now, having sat in the chair investigating what Enron did with respect, not to gasoline, but with respect to electricity sales on the west coast, the creation of strategies called Death Star, Fat Boy, Get Shorty—all of which were strategies to literally steal from the pockets of people living on the west coast. They bilked people out of billions of dollars by manipulating and overpricing with respect to the electricity market. We know that now and we also know that some executives from that company are on trial, about to go on trial, or have finished their trials, and some have been sentenced to 10 years of hard tennis at a minimum security prison. Others will get a stiffer penalty. It was wholesale stealing from the American people. Why? One, because they could; and, two, because there are people who are corrupt in their hearts engaging in these practices.

I don't allege the same exists with oil. I don't have any idea with respect to oil and the price of gasoline. I understand that the circumstances with oil are complicated. Sixty percent of the oil we use in this country—incidentally, the increased usage substantially is for transportation—comes from off our shore. The pricing for oil coming from the spot market relates to supply and demand. I am sure, but the supply largely comes from Saudi Arabia, Iraq, Kuwait, Venezuela, and others. Now, we are really fooling ourselves if we think it is not holding America hostage and our economic future hostage with 60 percent of our oil coming from off our shores and most of it coming from troubled parts of the world.

If, God forbid, terrorists should interrupt the flow of oil into this country tomorrow night, our economy would be belly up very quickly. So that calls for and begs for a new energy policy, instead of simply saying that our exclusive energy policy is digging and drilling, which we must do; but if that is our exclusive policy, that is a "yesterday forever" policy. We need a new energy policy on the floor of the Senate.

I also think even as all of these events are occurring—the price of oil increasing, the spot market showing the price of oil is $50 or $52 or $55 a barrel, and the price of gasoline is increasing at the pumps, and you drive up to a gas pump someplace and somebody is driving a 6,500- or 7,000-pound car, perhaps a humvee, and you wonder a little bit about how all this works. When I drive up next to a humvee and everybody has a right to drive a humvee I think of the Latin term, "totus porcus." I am not sure why I think of that. When somebody sits there with a 7,000-pound vehicle, with one person in the vehicle going to work, you wonder about that. The marketplace probably takes care of some of that, although somebody who is going to buy a humvee probably doesn't care much about the price of gasoline.

The price of gasoline is an interesting phenomenon in our country. As the price of oil goes up, and we hear about it on the news, all of a sudden, that day or the next day the price of gasoline goes up with a blink of an eye, following the price of oil. Then the price of oil comes down a bit, and the price of gasoline doesn't move down with quite the same rapidity. Something interesting is going on. I would like to discuss a bit of it.

Since 1990, the number of major oil and gas companies has gone from 34 to 13. The number of refining companies has gone from 13 to 7. The other day, I noticed that while we have very high prices for oil and gasoline, Exxon Oil had the highest profit ever for a corporation—record profits. So I am asking myself the question: Why should an oil company have record profits just because the price of oil is high and the price of gasoline is higher? Has the margin between those two prices changed with respect to those that are delivering it? The answer comes in the evaluation of what has happened to total revenues and to net income for the major oil companies. As we have gone from more to fewer oil companies, what we see is now, with the price of oil and gasoline in many cases at near record levels, so, too, are the profits of the oil companies. There have been profit increases year to year of 108 percent, 79 percent, 101 percent, 152 percent, 1,000 percent, 400 percent—these are the major oil companies and the increase in their profits from 2003 to 2004.

Question: Given what we know about what has happened in some areas and in some industries with respect to manipulation of supply and demand and manipulation of prices, should we not have aggressive oversight and investigation to make sure the consumer is protected? I don't have the information to come to the floor to say there is something fundamentally wrong in the pricing strategy, but there are some indications, it seems to me, that some enterprises that have now merged successfully and become larger and stronger and have better capability to be involved in affecting the market in a more deliberate way are increasing their profits because they can, not because there is aggressive and robust competition, but because they have the economic clout to do it.

I am wondering if on behalf of the American consumers we ought not have aggressive oversight and aggressive investigation.

Now, we have seen activities from very large oil companies in the Congress. The House of Representatives, by the way, just passed an energy bill saying we need more incentives for these energy companies to be exploring for more oil and natural gas, at a time when the oil prices are at a record high. Even the President says that doesn't make any sense at all. It is interesting while they are wanting more tax incentives to explore for more oil, they are busy buying up stock with extra profits. That is what they are doing: they are not putting those profits in the ground. I find that interesting as well.

I think the FTC is the appropriate agency to investigate gas prices. I think, on behalf of American consumers, we ought to take a hard look at it, and the FTC is the place to do it. I pulled up at a four-way stop sign near Mohall, ND, one day, and there was an old car in front of me, and it was well used and well worn, with the back bumper kind of askew and not much of a paint job left. It had four or five people in it, and it was belching smoke out of the back end. They had a plain, simple little bumper sticker. The bumper sticker from this old wreck of a car that is now stopped at a four-way stop said: We fought the gas war and gas won.

Well, the message from that old car, "gas won," is a message I think everybody understands. We are talking about a big industry that has consolidated and merged so that there are far fewer companies, with much greater market clout, and I think we need substantial oversight. The basic consumer protection statute enforced by the Federal Trade Commission is in section 5(a) of the Federal Trade Commission Act. It provides that unfair or deceptive acts or practices in or affecting commerce are declared unlawful. Unfair practices are defined to mean those that:

> cause or are likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition.

In the State of North Dakota, a State I represent in the Senate, we actually drive a lot because we are a State that is 10 times the size of the State of Massachusetts. We have 642,000 citizens and we drive a lot. In fact, it is interesting; we drive almost twice as much per person as they do in New York. The average North Dakotan drives twice as much per person per year as a New Yorker, which means of course the burden of the gas tax itself is twice as high, but that is all right. We understand that. We like where we live. North Dakota is a wonderful State. But because gasoline is a significant issue for us and the price of gasoline is important for people who drive as much as we do, it is very important to us that we see that these prices are fair.

It is hard for me to understand how at a time when the oil prices have spiked and gasoline prices have risen substantially, how the profit margin has increased so dramatically for the oil companies themselves if in fact this is a competitive market. If it is not a competitive market, then I think there needs to be substantial investigation to see whether the consumers are being gouged.

Let me say again when I chaired the hearings about the manipulation of the market and the grand theft that occurred with the Enron Corporation bilking billions of dollars from consumers on the west coast. California, Oregon, Washington, and so on, it was unbelievable to see what those companies did because they could. They had larceny in their heart and they decided to profit to the tune of billions of dollars by literally stealing from consumers. As I have said before, I am not alleging that is happening here. I do not have the foggiest idea what the mechanics are for the pricing strategies or what has led to record profits for the oil companies.

All I know is the oil companies are bigger. They have more muscle. They have more capability to affect the marketplace, and I believe when there are fewer competitors and less competition, there is a responsibility on behalf of consumers to ask for a referee to look over their shoulder and see that everything is all right.

I only wish we had done that earlier in the Congress when it was quite clear that the wholesale prices for electricity charged by Enron and others in the west coast marketplace—I only wish we had been more aggressive and we had demanded the Federal Energy Regulatory Commission and others to be in there up to their neck in investigating what was going on, but the Congress was late. The Federal Energy Regulatory Commission was asleep from the neck up. As a result, there was grand theft on the west coast from those markets, particularly by the Enron Corporation. Let us not let that happen with other industries.

Again, I do not allege that is the case here. I do not have the foggiest idea what the ingredients are of these pricing strategies, but I would like the Federal Trade Commission, on behalf of the American people, to take a good hard look. So my amendment would provide that be the case 90 days following the enactment of this legislation, and we would then have the benefit of a formal Federal Trade Commission study of gasoline pricing.

I think on behalf of the American people, given this time, given these circumstances, we ought to expect that and demand that and that is what I do in this amendment.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. We are encouraging Members to come to the floor. The Senator from Iowa is prepared to offer an amendment, and another behind him. I am hoping we will be able to get these amendments so we can perhaps have some stacked votes tonight—maybe 6 o'clock or so—whenever the leadership on both sides agrees that is the appropriate time.

I will state again how significant it is we pass this bill. It will be very costly in terms of dollars if we do not get it completed. There are a lot of programs incorporated in this lengthy bill that I do not agree with and we debated them for 3 years. I had to lose some and I won some.

This is one I don't think there is one member of the committee I chair of 10 Republicans and 8 Democrats who will say they got everything they wanted. Maybe that is a sign that we did a pretty fair job. We need to have the bill passed.

We need to do what we can to avoid another extension. An extension causes all of the 10 problems I outlined a few minutes ago. There is a clear right and wrong in this case. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, we do have at least one amendment, the Lautenberg amendment, that is ready for a vote. It might be that the Harkin amendment will be ready for a vote also, if the Senator can get ready in the next 30 minutes. I announce it is our intention to have a vote at 5:30, and there will be either one or two or even three votes, depending on what comes down between now and 5:30.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 618 TO AMENDMENT NO. 605

Mr. HARKIN. Mr. President, I ask unanimous consent to set aside the pending amendment, and I call up amendment No. 618 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. KENNEDY, Mr. OBAMA, and Mr. CARPER, proposes an amendment numbered 618.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To improve the safety of nonmotorized transportation, including bicycle and pedestrian safety)

At the end of subtitle D of title I, add the following:

SEC. . NONMOTORIZED TRANSPORTATION SAFETY.

Section 120(c) of title 23, United States Code, is amended—

(1) in the first sentence, by striking "The Federal" and inserting the following:

"(1) IN GENERAL.—The Federal"; and

(2) by adding at the end the following:

"(2) STATEMENT OF POLICY BY STATE TRANSPORTATION DEPARTMENTS.—

"(A) IN GENERAL.—Each State transportation department shall adopt a statement of policy ensuring that the needs and safety of all road users (including the need for pedestrian and bicycle safety) are fully integrated into the planning, design, operation and maintenance of the transportation system of the State transportation department.

"(B) BASIS.—In the case of bicycle and pedestrian safety, the statement of policy shall be based on the design guidance on accommodating bicyclists and pedestrians of the Federal Highway Administration adopted in February 2000.

"(C) REPORTS.—Not later 1 year after the date of enactment of this paragraph, and each year thereafter, the Secretary shall submit to Congress a report on the statements of policy adopted under this paragraph.

"(3) NONMOTORIZED TRANSPORTATION GOAL.—

"(A) IN GENERAL.—The Secretary shall take such actions as are necessary to, to the maximum extent practicable, increase the percentage of trips made by foot or bicycle while simultaneously reducing crashes involving bicyclists and pedestrians by 10 percent, in a manner consistent with the goals of the national bicycling and walking study conducted during 1994.

"(B) ADMINISTRATION.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall establish such baseline and completion dates as are necessary to carry out subparagraph (A).

“(4) RESEARCH FOR NONMOTORIZED USERS.—

“(A) FINDINGS.—Congress finds that—

“(i) it is in the national interest to meet the goals of the national bicycling and walking study by the completion date established under paragraph (3)(B);

“(ii) research into the safety and operation of the transportation system for nonmotorized users is inadequate, given that almost 1 in 10 trips are made by foot or bicycle and 1 in 8 traffic fatalities involves a bicyclist or pedestrian; and

“(iii) inadequate data collection, especially on exposure rates and infrastructure needs, are hampering efforts to improve bicycle and pedestrian safety and use to meet local transportation needs.

“(B) ALLOCATION OF RESEARCH FUNDS FOR NONMOTORIZED USERS.—

“(i) IN GENERAL.—The Secretary shall submit to Congress an annual report on the percentage of research funds that are allocated (for the most recent fiscal year for which data are available) to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users—

“(I) by the Department of Transportation; and

“(II) by State transportation departments.

“(ii) NATIONAL COOPERATIVE HIGHWAY RESEARCH PROGRAM.—The Transportation Research Board of the National Academy of Sciences shall submit to Congress an annual report on the percentage of research funds under the National Cooperative Highway Research Program that are allocated (for the most recent fiscal year for which data are available) to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users.

“(iii) DEPARTMENT OF TRANSPORTATION ALLOCATION.—Effective beginning with the third full fiscal year that begins after the date of enactment of this paragraph, the Secretary shall allocate at least 10 percent of the research funds that are allocated by the Department of Transportation for each fiscal year to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users.

“(5) METROPOLITAN PLANNING ORGANIZATIONS.—

“(A) BICYCLE/PEDESTRIAN COORDINATORS.—A metropolitan planning organization that serves a population of 200,000 or more shall designate a bicycle/pedestrian coordinator to coordinate bicycle and pedestrian programs and activities carried out in the area served by the organization.

“(B) CERTIFICATION.—A metropolitan planning organization described in subparagraph (A) shall certify to the Secretary, as part of the certification review, that—

“(i) the needs of bicyclists and pedestrians (including people of all ages, people who use wheelchairs, and people with vision impairment) have been adequately addressed by the long-range transportation plan of the organization; and

“(ii) the bicycle and pedestrian projects to implement the plan in a timely manner are included in the transportation improvement program of the organization.

“(C) LONG-RANGE TRANSPORTATION PLANS.—

“(i) IN GENERAL.—Except as provided in clause (ii), a metropolitan planning organization described in subparagraph (A) shall develop and adopt a long-range transportation plan that—

“(I) includes the most recent data available on the percentage of trips made by foot and by bicycle in each jurisdiction;

“(II) includes an improved target level for bicycle and pedestrian trips; and

“(III) identify the contribution made by each project under the transportation improvement program of the organization toward meeting the improved target level for trips made by foot and bicycle.

“(ii) APPLICATION.—Clause (i) does not apply to a metropolitan planning organization that adopts the design guidance described in paragraph (3)(B) for all transportation projects carried out by the organization.

“(D) LOCAL JURISDICTIONS.—A metropolitan planning organization described in subparagraph (A) shall work with local jurisdictions that are served by the organization to maximize the efforts of the local jurisdictions to include sidewalks, bikepaths, and road intersections that maximize bicycle and pedestrian safety in the local transportation systems of the local jurisdictions.”.

Mr. HARKIN. Mr. President, the amendment I am offering, on behalf of Senators KENNEDY, OBAMA, CARPER, and myself, calls for several simple adjustments to current practices at the Federal, State, and local level. The costs are minor, but the impact on safety for those who walk and ride bikes would be large. With the safety improvements that could result from this amendment, I believe we could increase pedestrian and bike traffic, and we could increase exercise to the benefit of American's health. We can reduce traffic congestion, and we can provide for safer travel for those who want to walk or ride a bike.

At the outset, I want to acknowledge that there are funds in the bill for increased bike paths and trails. We have kept the enhancement money. That is all well and good. I don't know the exact amount of money, but there is a quite a bit involved. The problem is there is nothing in current practice that requires State departments of transportation or metropolitan planning organizations to integrate in their planning upfront for bike paths and sidewalks when they are planning highways. Again, I think a lot of the good money for bike paths and trails will be used to redo and retrofit what they should have done in the first place. That is what we always seem to be doing—we'll fix it up and add something later on. That always costs more money.

What this amendment does is it says: Let's have them at the initial planning stage integrate into their planning sidewalks and bike paths.

The fact is, our current transportation system has been engineered in a way that is, in many cases, unfriendly and often very dangerous to nonmotorized travel. Again, my amendment promotes Federal, State, and local actions to make walking and biking safer and to increase the total number of walking and bicycling trips.

Specifically, the amendment requires each State to adopt a “complete streets” policy to accommodate bicyclists and pedestrians by ensuring that all users are considered when communities are built or modernized. While studies show that Americans would like to bike and walk more, many roads do not have sidewalks or bike paths, making them dangerous for pedestrians and bike riders. In many cases, traffic lights do not allow enough time for the elderly or people with disabilities or children to safely cross busy intersections. Meanwhile, we are constructing new housing developments without sidewalks. Go out and take a look at some of the new housing developments being added in any State. A lot of times there is not even a sidewalk. How can you ask kids to walk to school if they don't have a sidewalk?

My wife and I get up every morning. We have a mile route that we walk. We have sidewalks for part of the way, and there aren't any sidewalks for the rest of the way. Again, it is about getting this integrated in the initial planning.

While studies show that Americans would like to bike and walk more, many roads don't have sidewalks or bike paths. It is dangerous for pedestrians. We are building roads without bike lanes. Quite frankly, we are heading in the wrong direction. Quite frankly, to promote more healthy living, we must promote people walking or biking more. I will have more to say about that in a minute.

Experts I talk to tell me that even a modest increase in pedestrian and bike traffic will get some cars off the road. That can have a significant positive impact on traffic congestion and gridlock. Research shows that often a surprisingly small increase in the number of cars can make the difference between a smooth flow of vehicles and a time-wasting traffic jam.

According to the U.S. Department of Transportation, the number of trips that are taken that are 1 mile or less is about one out of four. In other words, about 25 percent of all trips taken are 1 mile or less. Nearly half of all the trips taken in this country are under 5 miles. So it wouldn't take a huge shift to have an effect on traffic congestion. The path to safer travel on foot or by bike is also the path to a smarter, healthier, more efficient vehicle transportation system.

Each of the provisions in my amendment is intended to help us move forward toward safer travel for people in vehicles, pedestrians, for people who use bikes or people who use wheelchairs, or for people simply trying to cross a road safely in a neighborhood.

When we debate the highway bill, we typically talk about the Nation's infrastructure deficit, about jobs and economic competitiveness, the movement of goods, and other broader transportation goals. But we neglect other matters that are of real concern to people all across America in terms of transportation. For example, what are we doing to improve the safety of pedestrians and bicyclists?

In the Washington, DC, area we have recently experienced a rash of pedestrian fatalities. All across the country bicyclists put their lives at risk on roads that make no accommodation for nonmotorized traffic. No one denies that over the years we have built a transportation system that neglects and endangers nonmotorized travel. Again, this costs us dearly in terms of needless loss of life or permanent disabilities caused by accidents.

It also has other consequences. When we give people no alternative to using their cars, they use their cars. So we add more and more vehicles to our roads and highways, 25 percent of which are used for trips of less than a mile. This translates into traffic delays, congestion, often gridlock. We simply must give more attention to the safety of pedestrians and those who use bicycles or who walk or who use wheelchairs.

It is pretty shocking when we look at the statistics. Our Federal system for tracking fatalities, known as FARS, tells us that during the decade from 1994 to 2003, nearly 52,000 pedestrians were killed in traffic accidents in the United States. During the same 10-year period, more than 7.400 bicyclists were killed. Though the data is less reliable with regard to injuries, we know the number of nonfatal injuries ran into the hundreds of thousands during that same 10-year period.

In 2003, the most recent year for which we have data, nearly 5,000 pedestrians and more than 600 bicyclists were killed in the U.S., again, with many more thousands injured. Fully 13 percent of all transportation fatalities are pedestrians and bicyclists—13 percent. That is a rate far in excess of the share of trips taken by pedestrians and bicyclists. The bottom line is it is disproportionately dangerous to be a pedestrian or bicyclist in the U.S. This is one big reason why people are opting not to walk or ride a bicycle. Instead, they are getting in their cars and they are contributing to traffic jams. Again, about 25 percent are going less than a mile, and over half of the time they are going less than 5 miles.

The journey to work data in the 2000 census tells a dismal story. Compared to 1990, despite a big increase in population, the number of people who walked to work fell by almost three-quarters of a million—727,000, to be exact. In 1990, 3.9 percent of Americans walked to work. Ten years later, in 2000, that had fallen to 2.9 percent—a 25-percent decline in the number of Americans who walk to work, in a 10-year period of time.

These various statistics tell us that many fatalities and injuries to pedestrians and bicyclists are preventable if we make the safety of nonmotorized travel a higher priority, and that is exactly what my amendment is intended to do, to put it into the planning stage and make it a higher priority. This amendment, I guess you could say, is also designed to significantly reduce the number of car trips taken.

As I said, consider that trips of a mile or less represent the highest share of all car trips we make every day—a quarter of all of those trips. This means there is a huge, untapped potential to shift a significant portion of these short-distance trips to foot or bicycle, if we make some modest adjustments and if we step up our focus on safety.

A 2003 transportation research board study showed that residents of neighborhoods with sidewalks were 65 percent more likely to walk than residents of neighborhoods without sidewalks. That kind of makes sense. As I said, my wife and I take a mile walk in the morning, and we have sidewalks part of the way, and part of the way we are out in the street. Fortunately, there is not a lot of traffic at that time. More than once, we have been walking down the street where there are no sidewalks and you don't hear a car coming and they slip by you. I have often thought what if I happen to step one way or the other while walking and do not hear that car coming. That is why people don't walk more.

A study in Toronto documented a 23-percent increase in bicycle traffic after the installation of a bicycle lane. Think about that. They put in a bicycle lane and there was a 23-percent increase in bicycle traffic because people are more safe. They can travel on a bicycle and know they are not going to get hit. As a Senator who is a chief sponsor of the Americans with Disabilities Act, which we passed 15 years ago, I can testify that stepped-up attention to pedestrian improvement and access will be enormously beneficial to people with disabilities and also to our growing population of seniors.

Right now, about 85 percent of bus and rail users get to the bus stops and subway stations on foot. Many are people with disabilities. And seniors have no choice but to rely on costly paratransit services; they cost a lot of money. A lot of times we pay for it out of taxpayer dollars. We can reduce those costs by building new walkways and improving the existing walkways.

I have something here that was put out by the National Association of County and City Health Officials called Public Health and Land Use Planning and Community Design.

It says here that a Texas study—that is the State I referred to earlier—found that for three out of five disabled and elderly people, there are no sidewalks between their homes and the closest bus stop. I will repeat that. A Texas study found that for three out of five disabled and elderly people, there are no sidewalks between their homes and the closest bus stop.

One of the reasons we passed the Americans with Disabilities Act was so more people with disabilities would get into the workforce. More often than not, they rely on a bus to get there. How are they going to get to the bus stop if they don't have a sidewalk on which to even get to the bus stop?

Over 55 percent of all pedestrian deaths occur in neighborhoods that are often designed with no sidewalks or otherwise inadequate pedestrian accommodations. So, again, in terms of helping people with disabilities make sure they can get to a job, or get to shopping, or whatever they need to do, they rely upon transit services, buses. But if they cannot even get to the bus stop, what good is it?

Over the last two generations, we have seen dramatic changes in how children go to school. As recently as 30 years ago, up to 70 percent of children were walking or riding bikes to school. Outside of every school you would see bicycle racks loaded with dozens of bikes. Not anymore. Today, nearly 90 percent of our kids are traveling to school in vehicles, mostly buses. But if you checked the high school parking lots, you know it is cars, too. In addition, a growing number of parents are driving their kids to school, putting further stress on the roadways during the morning rush hour. Again, the logical alternative is to provide safe, convenient options to encourage children to walk or bike to school.

I was saying earlier to Senators on the floor, I remember my own two daughters, when they went to public school out in Virginia. We live about a mile from school. Well, there was a sidewalk about a third of the way, and about two-thirds of the way there was no sidewalk. It was a busy thoroughfare. How are you going to let them bike? You are not going to let them walk. So they got a car to drive a mile. I would not let our kids walk on that street and neither would our neighbors. Again, they will come along later and retrofit a sidewalk and that will cost more money, or they will put in a bike path later. Why don't we do it up front, get the planning done up front?

That is what this amendment is all about. Our focus in a transportation bill, I believe, should not strictly be on moving vehicles. We should be more broadly focused on moving people and making it possible for more people to move themselves by foot or by bicycle. For every American who opts to get to work, school, or the grocery store by foot or bicycle, that is less costs for road building and maintenance, zero contribution to traffic congestion, zero costs in terms of pollution and environmental degradation. Every walking and bicycle trip that substitutes for a car trip, especially during rush hour, makes a big difference.

In local situations, where we can encourage hundreds or thousands of people to shift to walking and bicycling, this can have a dramatically positive impact on the transportation system.

So improving and expanding sidewalks and bike paths is not only about safety, it is about maximizing the performance of our transportation systems. Again, the good news is, to make a positive difference, large numbers of vehicles do not need to be moved off a congested roadway. Just some of them need to be moved. It is the incremental user that spells the difference between free-flowing traffic and time-wasting congestion, and that is why any thoughtful, effective transportation policy for this Nation must aim for at least modest gains in walking and bicycling.

So again I have talked about how, by investing in sidewalks and bike paths, we can reduce the stresses on our transportation system. I have also talked about how this can improve safety for pedestrians and bikers. There is one other huge benefit that, by itself, would justify passing this amendment. Simply put, by encouraging more Americans to spend more time walking and biking, we can have a major positive impact on their health and their wellness. We can reduce the incidence of obesity and chronic diseases. This, in turn, will lead to savings in health care costs, including Medicare and Medicaid.

Ninety million people in the United States are living with chronic diseases, and many of these can be prevented through changes in lifestyle—for example, by eating nutritious foods and getting plenty of physical exercise. I wish to stress, physical exercise. When all is said and done, aside from tobacco use and genetic predisposition, there are essentially two things that lead to chronic disease: Poor nutrition and lack of physical activity. They also contribute to being overweight and obese.

So we need to be doing everything possible to encourage Americans to engage in more walking and bicycling. We can begin by making it possible for more young people to walk or to bike to school.

Currently, only 8 percent of elementary schools and 6 percent of high schools provide daily physical education year round for all students. More than one-third of youngsters in grades 9 to 12 do not engage regularly in vigorous physical activity. No wonder we have an epidemic of childhood obesity. No wonder that American adolescents rank as the most overweight in the industrialized world.

And the picture is just as bleak for adults. Almost 40 percent of American adults are sedentary. In the United States, only six percent of trips are by walking or biking, compared to 49 percent of trips in Sweden and 54 percent of trips in Italy.

Research shows that the amount of time people spend in their cars correlates more strongly with overweight and obesity than income, education, gender, or ethnicity.

One remarkable study compared the health of people living in walking-and-biking-friendly cities with the health of people living in sprawling, car-dependent suburbs. The study, published in 2003 in the American Journal of Health Promotion, found that people living in counties marked by sprawling development are likely to walk less and weigh more than people who live in less sprawling counties. In addition, people living in more sprawling counties are more likely to suffer from high blood pressure. These results hold true after controlling for factors such as age, education, gender, and race and ethnicity.

One does not need a Harvard study to establish another correlation: The correlation between the decline in physical activity and skyrocketing healthcare, Medicaid, and Medicare costs. We build subdivisions without sidewalks, schools without playgrounds, and cities without bike lanes, and then we wring our hands about rising rates of overweight, obesity, and chronic disease. We systematically neglect wellness, fitness, and common-sense disease prevention and we are shocked, shocked that health care costs are ravaging Federal, State, and corporate budgets.

Someone once defined insanity as doing the same old thing over and over again and expecting a different result. Well, our current health care approach is, by definition, insane. In fact, in America, today, we don't have a true health care system, we have a sick care system. If you are sick, you get care. We continue to spend hundreds of billions on pills, surgery, treatments, and disability. But we are under-funding, cutting or eliminating programs designed to keep people fit and well and out of the hospital.

We cannot go on like this. We are choking our economy. We are exploding the Federal budget. And we are, literally, killing ourselves.

Consider the obesity epidemic. Some 65 percent of our population is now overweight or obese. The incidence of childhood obesity is now at epidemic levels. Alarm bells are going off all over the place. But our Government has done virtually nothing.

And the Federal budget is being eaten alive by health care costs. It is also State budgets. It is family budgets. And it is corporate budgets.

Look at the numbers. Last year, nationally, we spent more than $100 billion on obesity alone. Medicare and Medicaid picked up almost half of that tab.

This is unwise. It is uneconomic. And, as we now know, it is totally unsustainable. If we are going to control Medicare and Medicaid costs, and private-sector health care costs, as well, we need a radical change of course. We need a fundamental paradigm shift toward preventing disease, promoting good nutrition, and encouraging fitness and wellness. This will be good for the physical health of the American people. And it will be good for the fiscal health of Government, corporate, and family budgets.

That is exactly what this amendment is about. Yes, this amendment is a step towards reducing the burdens and stresses on our transportation system. It will improve safety for pedestrians and bikers. By encouraging walking and bicycling, it will also have significant health benefits. And, as a consequence, it will help to hold down health care costs and reduce the burden on Medicare and Medicaid.

Now let me explain the specific ways that my amendment will help us to capitalize on these opportunities.

My amendment asks the Secretary of Transportation to report to Congress each year as to how the Federal research dollars provided in this legislation are advancing progress on safety and other issues related to walking and bicycling.

It also asks the Secretary to establish goals for increasing walking and bicycling, and to set milestones toward achieving these goals.

Looking into the future, it asks each State department of transportation to have a policy statement on "complete streets," so that when they undertake projects funded under this highway bill, some consideration must be given to the needs of non-motorized users.

Larger metropolitan planning organizations—that is, regional transportation agencies serving 200,000 or more people—can choose to adopt a "complete streets" policy or satisfy certain criteria in their planning process. And these agencies must show how their long-range plans and transportation improvement programs will increase walking and bicycling. It does not require that sidewalks or bikeways be built along side rural roads or intercity roads.

Finally, under my amendment, these large metropolitan planning organizations, or MPOs, are encouraged to work with their local governments on improvements designed to increase biking and walking. In addition, the MPOs would be directed to designate a bicycle and pedestrian coordinator, a move that would be in line with a requirement placed on state transportation departments dating back to the 1991 ISTEA law.

Each of these provisions is designed to better align our current law practices with key features of the bill before us.

In the SAFETEA bill, the committee has provided for important financial commitments to bikes and trails. But we need to fully integrate the needs of pedestrians and bicyclists into the complete transportation process.

There are also provisions in my amendment regarding how we conduct Federal research activities. This is designed to expand our knowledge of effective pedestrian and bicycle safety practices, and to help our State and local partners understand the best methods and practices for addressing these safety needs.

Provisions in this "Complete Streets" amendment will help us to ensure that we are designing transportation projects, up front, with pedestrian and bicycle safety in mind, so we don't have to keep going back and retrofitting. So many of the programs in the SAFETEA bill involve re-doing and retrofitting what we didn't do right in the first place. In the future, as each State adopts a "Complete Streets" policy, this can be avoided.

Finally, this amendment attempts to set modest goals for increasing the number of walking and bicycling trips, while reducing pedestrian and bicycle fatalities.

I believe that this modest package of policy improvements can and will make a significant difference. I am very pleased by the broad range of organizations that enthusiastically endorse this amendment.

Mr. INHOFE. Will the Senator yield?

Mr. HARKIN. Yes.

Mr. INHOFE. We are trying to lock in votes for tonight, and I was preparing for a unanimous consent request, but to do that we would have to give—I think the Senator needs to give the other side at least a couple of minutes to respond. The request would be to have two votes take place beginning at 5:30 on the Lautenberg amendment and the Harkin amendment. Could I interrupt the Senator to make that unanimous consent request?

Mr. HARKIN. Absolutely.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I ask unanimous consent that—

Mr. HARKIN. Wait just a second, Mr. President. The Senator said he wants to do what at 5:30?

Mr. INHOFE. We want to ask unanimous consent to proceed to a vote on the two amendments beginning at 5:30.

Mr. HARKIN. Well, I had a request from Senator CARPER who wanted to speak. I assume Senator BOND may want to speak. I do not know. That is only 7 more minutes.

Mr. INHOFE. I have been informed, if we are not able to get it at this time, we will not be able to have the votes tonight. I would rather have them tonight.

I ask unanimous consent that at 5:30 today, the Senate proceed to a vote in relation to the Lautenberg amendment No. 625 to be followed by a vote in relation to the Harkin amendment No. 618, with no second degrees in order to the amendments prior to the votes and with the time until then equally divided; provided further that there be 2 minutes equally divided for debate between the votes.

The PRESIDING OFFICER. Is there objection?

The Senator from Iowa is recognized.

AMENDMENT NO. 618, AS MODIFIED

Mr. HARKIN. Mr. President, reserving the right to object, I wonder if the Chairman would permit me to modify my amendment by striking lines 6 through line 16 on page 5 dealing with research.

Mr. INHOFE. Yes. There is no objection to that. That will be included by U.C.

Mr. HARKIN. I ask unanimous consent to do that.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 618), as modified, is as follows:

At the end of subtitle D of title I, add the following:

SEC. ___. NONMOTORIZED TRANSPORTATION SAFETY.

Section 120(c) of title 23, United States Code, is amended—

(1) in the first sentence, by striking "The Federal" and inserting the following:

"(1) IN GENERAL.—The Federal"; and

(2) by adding at the end the following:

"(2) STATEMENT OF POLICY BY STATE TRANSPORTATION DEPARTMENTS.—

"(A) IN GENERAL.—Each State transportation department shall adopt a statement of policy ensuring that the needs and safety of all road users (including the need for pedestrian and bicycle safety) are fully integrated into the planning, design, operation and maintenance of the transportation system of the State transportation department.

"(B) BASIS.—In the case of bicycle and pedestrian safety, the statement of policy shall be based on the design guidance on accommodating bicyclists and pedestrians of the Federal Highway Administration adopted in February 2000.

"(C) REPORTS.—Not later 1 year after the date of enactment of this paragraph, and each year thereafter, the Secretary shall submit to Congress a report on the statements of policy adopted under this paragraph.

"(3) NONMOTORIZED TRANSPORTATION GOAL.—

"(A) IN GENERAL.—The Secretary shall take such actions as are necessary to, to the maximum extent practicable, increase the percentage of trips made by foot or bicycle while simultaneously reducing crashes involving bicyclists and pedestrians by 10 percent, in a manner consistent with the goals of the national bicycling and walking study conducted during 1994.

"(B) ADMINISTRATION.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall establish such baseline and completion dates as are necessary to carry out subparagraph (A).

"(4) RESEARCH FOR NONMOTORIZED USERS.—

"(A) FINDINGS.—Congress finds that—

"(i) it is in the national interest to meet the goals of the national bicycling and walking study by the completion date established under paragraph (3)(B);

"(ii) research into the safety and operation of the transportation system for nonmotorized users is inadequate, given that almost 1 in 10 trips are made by foot or bicycle and 1 in 8 traffic fatalities involves a bicyclist or pedestrian; and

"(iii) inadequate data collection, especially on exposure rates and infrastructure needs, are hampering efforts to improve bicycle and pedestrian safety and use to meet local transportation needs.

"(B) ALLOCATION OF RESEARCH FUNDS FOR NONMOTORIZED USERS.—

"(i) IN GENERAL.—The Secretary shall submit to Congress an annual report on the percentage of research funds that are allocated (for the most recent fiscal year for which data are available) to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users—

"(I) by the Department of Transportation; and

"(II) by State transportation departments.

"(ii) NATIONAL COOPERATIVE HIGHWAY RESEARCH PROGRAM.—The Transportation Research Board of the National Academy of Sciences shall submit to Congress an annual report on the percentage of research funds under the National Cooperative Highway Research Program that are allocated (for the most recent fiscal year for which data are available) to research that directly benefits the planning, design, operation, and maintenance of the transportation system for nonmotorized users.

"(5) METROPOLITAN PLANNING ORGANIZATIONS.—

"(A) BICYCLE/PEDESTRIAN COORDINATORS.—A metropolitan planning organization that serves a population of 200,000 or more shall designate a bicycle/pedestrian coordinator to coordinate bicycle and pedestrian programs and activities carried out in the area served by the organization.

"(B) CERTIFICATION.—A metropolitan planning organization described in subparagraph (A) shall certify to the Secretary, as part of the certification review, that—

"(i) the needs of bicyclists and pedestrians (including people of all ages, people who use wheelchairs, and people with vision impairment) have been adequately addressed by the long-range transportation plan of the organization; and

"(ii) the bicycle and pedestrian projects to implement the plan in a timely manner are included in the transportation improvement program of the organization.

"(C) LONG-RANGE TRANSPORTATION PLANS.—

"(i) IN GENERAL.—Except as provided in clause (ii), a metropolitan planning organization described in subparagraph (A) shall develop and adopt a long-range transportation plan that—

"(I) includes the most recent data available on the percentage of trips made by foot and by bicycle in each jurisdiction;

"(II) includes an improved target level for bicycle and pedestrian trips; and

"(III) identify the contribution made by each project under the transportation improvement program of the organization toward meeting the improved target level for trips made by foot and bicycle.

"(ii) APPLICATION.—Clause (i) does not apply to a metropolitan planning organization that adopts the design guidance described in paragraph (3)(B) for all transportation projects carried out by the organization.

"(D) LOCAL JURISDICTIONS.—A metropolitan planning organization described in subparagraph (A) shall work with local jurisdictions that are served by the organization to maximize the efforts of the local jurisdictions to include sidewalks, bikepaths, and road intersections that maximize bicycle and pedestrian safety in the local transportation systems of the local jurisdictions.".

The PRESIDING OFFICER. Is there objection to the request from the Senator from Oklahoma?

Without objection, it is so ordered.

There will be 2½ minutes per side remaining on this amendment.

Mr. HARKIN. Mr. President, I wanted to make sure the Senator from Missouri had adequate time to speak. I think I have made my case. I wanted to point out who is in support of this amendment. I have a nice chart that says it all. The American Association of Retired People, the Association of Metropolitan Planning Organizations, the MPOs, are in favor of this, as well as America Bikes, Natural Resources Defense Council; Paralyzed Veterans of America, again, because of the disability issue; America Walks; the American Heart Association strongly supports this; the American Public Health Association; the American Society of Landscape Architects; the American Planning Association, among a lot of others, are in favor of this amendment.

I hope we can adopt this amendment for a number of reasons, not the least of which is for the health and welfare of the American people and to get more people walking and biking but to get it done upfront, so when they are planning, it is integrated upfront, and that is really what this amendment does, in essence.

This amendment asks for upfront planning, that they have a policy statement, that metropolitan planning organizations have a complete streets policy, that all of this is done upfront. Let us quit coming in and backfilling and putting in bike paths and sidewalks after the fact. Let us get it done upfront. That is really what this is all about.

I ask unanimous consent that letters from the following national organizations be printed in the RECORD: the Surface Transportation Policy Project, AARP, America Walks, the National Center for Bicycling and Walking, the Metropolitan Planning Organizations, the League of American Bicyclists, The American Society of Landscape Architects and the National Resources Defense Council, and a fact sheet from the National Association of County & City Health Officials.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SURFACE TRANSPORTATION
POLICY PROJECT,
Washington, DC, May 9, 2005.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: On behalf of the Surface Transportation Policy Project, I am writing to indicate our strong support for the "Complete Streets Amendment" you will offer during Senate debate on the SAFETEA legislation.

Your amendment proposes important, albeit modest, improvements to prompt the federal, state, regional and local partnership to embrace policy actions that will help expand travel options in the U.S., focusing specifically on improving safety for pedestrians and bicyclists.

The simple policy adjustments you are proposing are complementary to the other important provisions in the bill, notably the renewal of the Surface Transportation Program and its Transportation Enhancements Program as well as the inclusion of new initiatives to promote "fair share" expenditures under the Safety program and the Safe Routes to School program. These programs bolster state and local efforts to retrofit transportation facilities now in place and help "complete our streets" in communities throughout the nation.

Importantly, your amendment, with its emphasis on the adoption of "Complete Streets" policies by state transportation departments and the largest metropolitan planning organizations, will help ensure that, going forward, all users—transit users and other pedestrians of all ages, including those with disabilities, as well as bicyclists—are given full consideration in how we design new and modernize existing facilities with the federal dollars SAFETEA makes available. It also calls upon the U.S. Transportation Department to report on how research funds are deployed to facilitate walking and bicycling and prompts the Secretary to exert more leadership to make these trips safer and more frequent. Finally, it rightly focuses on the planning process in our largest metropolitan areas where a substantial majority of Americans live and work, insisting that more attention be given to plans and investments that promote broader travel options in these areas.

We strongly support this amendment and urge your colleagues to incorporate these provisions during full Senate action on SAFETEA.

Sincerely,

ANNE P. CANBY,
President.

AMERICAN ASSOCIATION OF
RETIRED PERSONS,
Washington, DC, May 11, 2005.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: AARP commends you for your leadership in offering the "Complete Streets Amendment" during Senate debate on the SAFETEA legislation. Safe mobility options are essential to the independence and well-being of older Americans.

Over one-fifth of persons age 65 and over do not drive. A growing number of older Americans are looking for other mobility choices, either because they have stopped driving, want to reduce their driving, or because they want to be more physically active. Walking is an important travel option for older persons and, under the proper conditions, can provide a safe, healthy transportation alternative for carrying out daily activities. In fact, walking is the most common mode of travel for older persons after the private vehicle

A recent AARP survey, however, found that one-fifth of persons age 75 and above perceived poor sidewalks, dangerous intersections, and lack of places to rest as barriers to walking. Older persons also have the highest rate of pedestrian fatalities of any age group. We believe it is important that communities provide infrastructure that allows people of all ages to have safe mobility choices, including walking and bicycling.

The Safe and Complete Streets Act of 2005 would help accomplish this goal by:

Requiring that state transportation departments adopt "Complete Streets" policies when constructing new transportation facilities with federal funds, using the Federal Highway Administration's policy statement on accommodating pedestrians and bicyclists as its basis;

Directing the U.S. Secretary of Transportation to promote a goal of increasing the number of pedestrian and bicycle trips, while seeking to reduce accidents involving pedestrians and bicyclists;

Focusing research on the safety of nonmotorized travel; and

Requiring metropolitan planning organizations serving a population of 200,000 or more to designate bicycle/pedestrian coordinators and include the safety needs of pedestrians and bicyclists in their long-range transportation plans.

AARP appreciates your commitment and dedication to providing mobility options for all Americans and we look forward to working with you towards accomplishment of this important goal. If you have any further questions, please feel free to contact me, or have your staff contact Debra Alvarez in Federal Affairs Department at (202) 434-3814.

Sincerely,

DAVID CERTNER,
Director, Federal Affairs.

AMERICA WALKS,
Boston, MA, May 10, 2005.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: I'm writing on behalf of America Walks, a national coalition of more than 60 pedestrian advocacy organizations located throughout the nation, to express our support for your Complete Streets amendment to the federal transportation bill.

Andy Hamilton, President of America Walks, is out of town and asked me to let you know of our organization's support for your efforts.

Communities with sidewalks will encourage people to walk more, which will improve public health while at the same time reducing traffic congestion, particularly around schools.

Complete streets will improve safety. For decades, our roads have been designed with a single-minded focus on moving as many cars as possible as fast as possible. Your amendment will encourage communities to provide resources that enable the roads to also become safe for pedestrians, cyclists, seniors, transit users, and people with disabilities.

Completing the streets is the right thing to do. And especially as our population ages and increases in girth and Safe Routes to School programs increase in popularity, this is the right time to do it!

America Walks appreciates your focus on this very important issue. Your amendment, if passed, will increase transportation choices and safety for all users.

Sincerely,

SALLY FLOCKS,
Vice-President.

NATIONAL CENTER FOR
BICYCLING & WALKING,
Bethesda, MD, May 10, 2005.

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: I am writing on behalf of the National Center for Bicycling & Walking to express our appreciation and support for your proposed Complete Streets amendment to the transportation bill.

The actions called for in your amendment are the next logical step in a process going back more than 30 years, whereby the Congress has recognized progressive trends related to bicycling and walking emerging at the state, regional, and local levels and incorporated them into our national transportation policy. The policy actions detailed in your amendment will help improve the efficiency and effectiveness of transportation plans, programs, and projects at all levels of government, and provide the American people—people of all ages—with better roads and safer communities.

Our country needs this kind of leadership and support. We are beset by a host of public health challenges such as obesity, physical inactivity, and motor vehicle-related injuries and fatalities. We know we need to be more active and the public health experts have identified walking and bicycling as two of the best opportunities available to improve and maintain our health.

Sadly, the streets in many of our communities are not yet inviting places to take a walk or ride a bike. However, we know how to make them better. Your proposed amendment will ensure that we do what needs to be done, for our health and for the health and well-being of our children and grandchildren.

Thank you.

Sincerely,

BILL WILKINSON,
AICP, Executive Director.

ASSOCIATION OF METROPOLITAN
PLANNING ORGANIZATIONS,
Washington, DC, May 10, 2005.

Hon. TOM HARKIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR HARKIN: On behalf of the Association of Metropolitan Planning Organizations, we write in support of your amendment to improve the safety of nonmotorized transportation, including bicycle and pedestrian safety. Metropolitan Planning Organizations (MPOs) are charged with planning for the nation's transportation needs and they work to protect and improve regions throughout the United States. MPOs provide a locational nexus for representatives from various modes of transportation to come together in support of a more complete regional transportation system. We believe that your amendment will further the goal of "Complete Streets" and will provide much needed safety improvements for bicyclists and pedestrians, while alleviating congestion on our nation's roads.

We are pleased to see that this amendment targets MPOs in urban areas with populations greater than 200,000. While we recognize the importance of this amendment, we believe that requiring all MPOs to designate a bicycle/pedestrian coordinator would place an undue burden on our smallest members. Those MPOs that represent populations of greater than 200,000 are capable of these additional requirements, assuming that the PL increase to 1.5% that is currently in the Senate bill is realized. We are concerned, however, that if these requirements are imposed without a corresponding funding increase, we may not be able to meet these added expectations. The 2000 census designated 46 new MPOs but no additional funding was provided for these MPOs. As a result, over 350 MPOs are now sharing a pot of money that was established for approximately 300 MPOs.

We believe that "Complete Streets" is an important goal of a regional transportation system. We are pleased to see that you are offering this amendment as part of the transportation reauthorization bill. Please feel free to contact Debbie Singer at 202-296-7051 or dsinger@ampo.org if you have any further questions.

Sincerely,

MAYOR RAE RUPP SRCH,
AMPO President.

LEAGUE OF AMERICAN BICYCLISTS,
Washington, DC, May 11, 2005.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: On behalf of the 300,000 affiliated members of the League of American Bicyclists and the nation's 57 million adult bicyclists, I am writing to support the inclusion of the "Complete Streets Amendment" as part of SAFETEA.

In ISTEA and TEA–21, Congress established the principle that new road projects and reconstructions should provide safe accommodation of bicycling and walking. While some states are beginning to make progress in this area, federal guidance on this issue has been overlooked by many state and local transportation agencies.

The Complete Streets Amendment seeks to address this issue by simply directing all states to adopt a "Complete Streets Policy" to ensure that states build streets and highways that adequately accommodate all transportation users—including bicyclists, pedestrians, and people with disabilities. In addition, the amendment encourages local action on bike/ped safety, sets goals for nonmotorized transportation, and focuses research on nonmotorized.travel safety.

These are all important issues to the bicycling community and beyond. Other important issues that we are pleased that the bill managers have already recognized include:

Strengthening our core programs (Enhancements, Recreational Trails, CMAQ, etc.);

Establishing a Fair Share for Safety Provision, which ties safety spending to fatality crash rates by transportation mode; and

Providing a National Safe Routes to Schools Program, which provides funding to improve infrastructure and education to make it safer for our nation's children to bike and walk to school.

We applaud you for your leadership on this issue. Likewise, we applaud the bill managers for their commitment to completing action on a reauthorization bill that includes good investments that will give all Americans safer places to bike and walk.

The adoption of the "Complete Streets Amendment" does not add to the cost of the overall bill and is, in fact, complementary to the bicycling provisions already included. As such, we support its inclusion in SAFETEA.

Sincerely,

MELÉ WILLIAMS,
Director of Government Relations.

NATURAL RESOURCES DEFENSE COUNCIL,
Washington, DC, May 9, 2005.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN, On behalf of NRDC and our 600,000 members, I am writing to express support for your Complete Streets Amendment. This set of commonsense policies would spur new construction and retrofitting of highways and roads that aren't currently accessible to bikers and pedestrians—i.e., "completing the streets" so that all users are welcome, not just drivers.

The amendment is particularly timely, as public health experts encourage Americans to walk and bike as a response to the obesity epidemic. Completing our streets can help to meet this goal. In fact, one study found that 43 percent of people with safe places to walk within 10 minutes of home met recommended activity levels, while just 27% of those without safe places to walk were active enough. And another recent study found that residents are 65% more likely to walk in a neighborhood with sidewalks.

Benefits include more than increased physical activity. Air quality in our urban areas is poor and linked to increases in asthma and other illnesses. Replacing car trips with biking or walking means less air pollution. And if each resident of an American community of 100,000 replaced just one car trip with one bike trip just once a month, it would cut carbon dioxide (CO_2) emissions by 3,764 tons per year in the community.

In short, I commend you for offering this amendment, which would provide Americans with more transportation choices, improve public health and reduce pollution.

Sincerely,

DERON LOVAAS,
Vehicles Campaign Director.

AMERICAN SOCIETY OF
LANDSCAPE ARCHITECTS,
Washington, DC, May 9, 2005.

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: On behalf of the American Society of Landscape Architects, I write to convey our strong support for your proposed "Complete Streets" amendment to the SAFTEA legislation in the 109th Congress. In order to provide for safer and more active communities, we must complete our streets and roadways by ensuring that they are designed and operated to enable access for all users, including pedestrians, bicyclists and transit riders of all ages and abilities. In the past, the concerns of nonmotorized transportation users have been bypassed all too often, and your amendment takes a critical, common sense step toward a more comprehensive, integrated and effective transportation system.

Because of our nation's inherent strengths, continued growth, and boundless potential, we sometimes overlook the obvious as we forge ahead. We have arrived at the point where we have to take measures to better accommodate life outside of our automobiles. This is not a simple task, but, with proper planning, the benefits of a visionary approach will far outpace our initial efforts. Your amendment provides an appropriate and timely framework for those efforts by encouraging planning, prioritizing and research by states and municipalities.

If the Complete Streets Amendment is passed by the Senate, protected in conference, and signed into law along with the rest of SAFTEA, we can forecast the results with a great degree of confidence. Complete Streets will lead to improved safety, and promote a more active American lifestyle, with more walking and bicycling for health. Complete Streets will also help ease the transportation woes with which so many of us are increasingly familiar. Roadways that provide varying travel choices will give people the option to avoid traffic jams, reducing congestion and increasing the overall capacity of our transportation network.

This amendment also has an important place in the transportation bill because Complete Streets make fiscal sense. Integrating sidewalks, bike lanes, transit amenities, and safe crossings into the initial design of a project spares the costly expenses of retrofits later on "down the road."

As practitioners of urban design and revitalization, site planning, land use policy and master planning, landscape architects are continually engaged with public officials, developers and homeowners to design the places in which we live, work, and seek recreational opportunities. The American Society of Landscape Architects heartily encourages creating and improving access to places for physical activity within our communities.

It is not asking too much to make Complete Streets a national transportation priority. The Congress has worked long and hard to craft an effective transportation package, and the Complete Streets Amendment will put the country on the same "planning page," providing us with sound footing as we move towards a stronger, safer, and healthier future. It is our hope that the United States Senate will recognize and endorse the wisdom of the Harkin Complete Streets Amendment. We thank you for your exemplary leadership on this critical component to the overall health, wellbeing, and functionality of our communities.

Sincerely,

PATRICK A. MILLER,
President.

FACTSHEET—NATIONAL ASSOCIATION OF COUNTY AND CITY HEALTH OFFICIALS

UNDERSTANDING THE ISSUES

Land use, community design, and transportation planning have an impact on the health of communities in relation to diseases and injuries, as well as quality of life and well being. Environmental conditions such as air quality, ground and surface water contamination, and the re-use of brownfields (used lands where expansion or redevelopment is complicated by real or perceived environmental contamination) affect disadvantaged populations more severely, particularly given the current separation between land use planning and public health. Local public health agencies (LPHAs) can ensure that community health is emphasized throughout the planning process by becoming involved during the early stages of land use planning. In order to ensure a better quality of life and the sustainability of our communities, it is important for planners and public health officials to collaborate on healthy solutions to the environmental health problems that exist where we live, work, and play. Planning and design decisions have a tremendous impact on a wide range of public health issues, including:

AIR QUALITY

Asthma and other respiratory diseases are caused, in part, by poor air quality. Poor air quality is tied to pollution emitted from automobiles and other motor vehicles. In the United States, automobiles account for over 49 percent of all nitrogen oxide (NO_x) emissions, which contribute to smog and lead to serious health matters. Between 1980 and 1994, asthma rates rose by 75 percent. People in sprawling communities drive three to four times more than those who live in efficient, well-planned areas, thus increasing vehicle emissions that contribute to poor air quality.

WATER QUALITY

The National Water Quality Inventory: 1996 Report to Congress identified runoff from development as one of the leading sources of water quality impairment, accounting for 46 percent of assessed estuary impairment. In the United States, wetlands are being destroyed at a rate of approximately 300,000 acres per year, much of it for new development. Wastewater also poses a serious threat to water quality. In Florida, it is estimated that onsite sewage treatment and disposal systems discharge 450 million gallons per day of partially treated, non-disinfected wastewater, which can lead to contamination of ground water supplies.

TRAFFIC SAFETY

According to the National Personal Transportation Survey, walking accounts for only five percent of trips taken and less than one percent of miles traveled, due in part to a lack of appropriate and safe options for pedestrians. Approximately 4,882 pedestrians were killed by vehicles and 78,000 injured in 2001. A Texas study found that for three out of five disabled and elderly people, there are no sidewalks between their homes and the closest bus stop. Over 55 percent of all pedestrian deaths occur in neighborhoods, which are often designed with a bias toward cars, with no sidewalks or otherwise inadequate pedestrian accommodations.

PHYSICAL ACTIVITY

Community design often presents barriers to physical activity, contributing to increased risk for obesity, heart disease, diabetes, and other chronic diseases. Barriers include, but are not limited to, the absence of sidewalks, heavy traffic, and high levels of crime. Today, nearly one in four Americans is obese, and at least 50 percent are overweight. As access to recreational infrastructure may be limited, people with disabilities often have less opportunity to engage in physical activity. People are more likely to be physically active if they can incorporate activity into their daily routine. A 1996 report from the U.S. Surgeon General determined that each year, as many as 200,000 deaths are attributable to a sedentary lifestyle.

MENTAL HEALTH

According to the Human Environment-Research Lab, studies have shown that exposure to greenspace helps to foster an increased sense of community, and also lessens the effects of chronic mental fatigue, which reduces violence and aggressive behavior. A Cornell University study found that children whose families relocated to areas with more greenspace experienced an increase in cognitive functioning. Lack of accessibility, such as absence of ramps and narrow doorways, can contribute to an increase in isolation for the elderly and people with disabilities. Increased commuting time has been linked with physical and stress-related health problems. It is estimated that for each additional 10 minutes of driving time, there is a 10 percent decline in civic involvement.

HAZARDOUS MATERIALS

Hazardous materials are transported, stored, manufactured, or disposed of in many communities. Often, zoning and environmental regulations do not provide for the separation of incompatible land uses, like placing housing near areas zoned for use or storage of hazardous materials. In addition, hazardous waste sites continue to be a significant concern. The Environmental Protection Agency determined that one in every four children in the United States lives within one mile of a National Priorities List hazardous waste site. The United Nations Environment Programme links exposure to heavy metals with certain cancers, kidney damage, and developmental retardation.

SOCIAL JUSTICE

Evidence demonstrates that environmental hazards, air pollution, heat-related morbidity and mortality, traffic fatalities, and substandard housing disproportionately affect low-income and minority populations. Environmental Protection Agency data shows that Hispanics are more likely than Whites to live in air pollution non-attainment areas. Asthma mortality is approximately three times higher among Blacks than it is among Whites. As neighborhoods undergo gentrification, people of a lower socioeconomic status are pushed to the fringes, limiting their access to social services. A lack of public transportation options often exacerbates the problem and leaves minority populations disproportionately affected by less access to quality housing, healthy air, good quality water, and adequate transportation.

ROLE OF LPHAS

Because most land use planning occurs at the local level, it is essential that LPHAs become more integrated in the planning process in order to address and prevent unfavoravble outcomes for public health. LPHAs must assume a diverse and proactive approach in order to be successful in this role, including:

Forging partnerships between LPHAs and local planning and transportation officials in order to bring health to the planning table.

Using data to arm and inform stakeholders and decision makers, substituting national data if local data is unavailable.

Expanding the role of LPHAs in commenting on development plans.

Electing health officials to planning boards and other community positions.

Attending planning meetings regularly.

Serving as information conduits, keeping abreast of current processes and policies, and disseminating information to community members.

Adopting local resolutions on health and land use/transportation planning.

NACCHO'S ROLE

NACCHO's goal is to integrate public health practice more effectively into the land use planning process by enhancing the capacity of LPHAs to be involved in land use decision making. Through the development of tools and resources, NACCHO strives to promote the involvement of LPHAs with elected officials, planners, and community representatives in regard to health issues and land use planning. Focus groups conducted by NACCHO during the past year explored strategies for integrating public health and land use planning. To learn more, visit *www.naccho.org/project84.cfm*, or call (202) 783-5550 and ask to speak with a member of NACCHO's environmental health staff.

Mr. HARKIN. This amendment will improve our transportation system. It will improve pedestrian and bicycle safety.

And it will be good for the health and wellness of the American people. I urge my colleagues to join me in a strong, bipartisan vote in favor of this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, as noted by the Senator from Iowa, this bill incorporates more for bicycles and pedestrians than most highway users can support. We have been very generous. The activities are eligible under the core programs for the National Highway System, STP, CMAQ, highway bridge funding. They are eligible under scenic byways, Federal lands, rails and trails.

Do not get me wrong. I like bikes. I used to be a big bike rider. I am a big walker. But this is a highway bill. This is not a bill for bicycles and pedestrians. I would urge everyone to get exercise. The proposal we have before us would require my State department of transportation to plan for bicycles, completing Highway 63 from Macon to the Iowa line. Most of my good friends along there are not going to ride a bicycle from Macon to the Iowa line, to the wonderful farm fields in north Missouri or along the hilly mountain paths of Highway 60 in southern Missouri in the Ozark Mountains or Highway 13 or Highway 71.

We have plenty of programs. Bicycle transportation and pedestrian walkways are under here. It provides grants of $2 million. They want a bicycle clearinghouse like a Publishers Clearinghouse.

The proponent of this amendment says he needs it for the metropolitan planning organizations. Well, if my colleagues will look at section 134(a)(3) contents, the plans and programs for each metropolitan area shall provide for development and operation facilities, including pedestrian walkways and bicycle transportation. Metropolitan planning organizations already are mandated to do that.

Section 1823 has enhancement projects approved. They are eligible for facilities for pedestrians and bicycle activities, preservation for abandoned railway corridors. Similar to the administration's proposed SAFETEA, we elevated SAFETEA to a core program. This part, known as HSIP, there is a mandatory set-aside specifically for bicycle and pedestrian activities. We set it up as $717 million, and since the overall level of the bill has been raised by $8 billion, this level has gone up.

There is also the Safe Routes to School Program. If you want people to be safe going to school, the National Highway Traffic Safety Administration said 24 people die a year on average from school bus transportation, but it is far and away the safest way for children to go to and from school. That is by schoolbus.

A number of my colleagues have amendments regarding bicycle and pedestrian activities. It seems that they have some different priorities than the mayors and the community leaders and the State departments of transportation I see in my State. They want to make sure we have roads. If the department of transportation in Iowa and Missouri want it, they can plan for it, as can the metropolitan planning organizations. I urge my colleagues to oppose this amendment.

The PRESIDING OFFICER. The time of the Senator has expired. Under the previous order, the hour of 5:30 having arrived, the question is on agreeing to the Lautenberg amendment.

Mr. INHOFE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BOND. I ask unanimous consent to make a unanimous consent request on an amendment passed?

The PRESIDING OFFICER. The Senator is recognized.

Mr. BOND. I ask unanimous consent that the Talent amendment at the desk, which is identical to the amendment agreed to previously, be conformed to the pending amendment—the amendment which is identical to the amendment agreed to, be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. In my capacity as a Senator from Oklahoma, I reserve the right to object—I will object.

Objection is heard.

The question is on agreeing to the Lautenberg amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Minnesota (Mr. COLEMAN), and the Senator from New Mexico (Mr. DOMENICI).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted "nay."

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON) is necessarily absent.

The result was announced—yeas 28, nays 69, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—28

Akaka
Biden
Boxer
Byrd
Cantwell
Chafee
Corzine
DeWine
Dodd
Dole
Durbin
Feinstein
Frist
Harkin
Inouye
Kennedy
Landrieu
Lautenberg
Levin
Lieberman
Martinez
Mikulski
Murray
Reid
Rockefeller
Sarbanes
Warner
Wyden

NAYS—69

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Carper
Chambliss
Clinton
Coburn
Cochran
Collins
Conrad
Cornyn
Craig
Crapo
DeMint
Dorgan
Ensign
Enzi
Feingold
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Jeffords
Johnson
Kerry
Kohl
Kyl
Leahy
Lincoln
Lott
Lugar
McCain
McConnell
Murkowski
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Roberts
Salazar
Santorum
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich

NOT VOTING—3

Coleman
Dayton
Domenici

The amendment (No. 625) was rejected.

AMENDMENT NO. 618, AS MODIFIED

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Harkin amendment.

The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, this amendment is about doing what is logical regarding sidewalks and bike paths in the planning stages. You will hear there is money in this bill for sidewalks and bike trails. That is true. But more often than not, we are always doing things after the fact. We are redoing it.

All this amendment says is in the planning upfront, you plan for sidewalks where they are logical. You plan for bike paths where they are logical. You plan it in the beginning, not doing it later on. These are some of the organizations who support the amendment: the American Association of Retired People, the Association of Metropolitan Planning Organizations—they are the ones who have to do the planning; they are in favor of this amendment—American Bikes, Paralyzed Veterans of America—people with disabilities need more sidewalks—the American Heart Association, and the American Public Health Association.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I urge my colleagues to oppose this amendment. This provides tremendous resources for bicycles and pedestrians, more than $717 million in a mandatory set-aside for bike and pedestrian activities. Metropolitan planning organizations are already required under existing law to plan for bike and pedestrian facilities. What this amendment says is: If you are planning a highway from Leftover Shoes to Podunk Junction in the middle of a State with nobody around, you would have to plan for a bike path. We have a lot of roads through our Ozark hills and farmland where the danger is inadequate two-lane highways. People are not going to ride bicycles along those highways. They need the lanes to drive their cars. Putting an additional planning burden on agencies that don't want or need bike paths is another unwarranted mandate. I urge my colleagues to oppose the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 618, as modified.

Mr. HARKIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Minnesota (Mr. COLEMAN), and the Senator from New Mexico (Mr. DOMENICI).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted "yea."

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON) is necessarily absent.

The result was announced—yeas 44, nays 53, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—44

Akaka
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Collins
Corzine
Dodd
Dorgan
Durbin
Ensign
Feingold
Feinstein
Harkin
Inouye
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Snowe
Stabenow
Warner
Wyden

NAYS—53

Alexander
Allard
Allen
Baucus
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chafee
Chambliss
Coburn
Cochran
Conrad
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Jeffords
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich

NOT VOTING—3

Coleman
Dayton
Domenici

The amendment (No. 618), as modified, was rejected.

AMENDMENT NO. 610 TO AMENDMENT NO. 605

Mr. NELSON of Florida. Mr. President, on behalf of Senator FEINGOLD, I ask unanimous consent to call up his amendment 610 and ask that it be set aside after reporting by the clerk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. NELSON], for Mr. FEINGOLD and Mr. LEAHY, proposes an amendment numbered 610.

The amendment is as follows:

(Purpose: To improve the accuracy and efficacy of identity authentication systems and ensure privacy and security)

In section 179(a) of title 23, United States Code (as added by section 7139(a)), insert "previously verified as accurate" after "other information".

In section 179(a) of title 23, United States Code (as added by section 7139(a)), strike "with a system using scoring models and algorithms".

In section 179(d)(1) of title 23, United States Code (as added by section 7139(a)), strike "use multiple sources" and insert "ensure accurate sources".

In section 179(d)(3) of title 23, United States Code (as added by section 7139(a)), strike "and" at the end.

In section 179(d) of title 23, United States Code (as added by section 7139(a)), strike paragraph (4) and insert the following:

"(4) incorporate a comprehensive program ensuring administrative, technical, and physical safeguards to protect the privacy and security of means of identification (as defined in section 1028(d) of title 18, United States Code), against unauthorized and fraudulent access or uses;

"(5) impose limitations to ensure that any information containing means of identification transferred or shared with third-party vendors for the purposes of the information-based identity authentication described in this section is only used by the third-party vendors for the specific purposes authorized under this section;

"(6) include procedures to ensure accuracy and enable applicants for commercial driver's licenses who are denied licenses as a result of the information-based identity authentication described in this section, to appeal the determination and correct information upon which the comparison described in subsection (a) is based;

"(7) ensure that the information-based identity authentication described in this section—

"(A) can accurately assess and authenticate identities; and

"(B) will not produce a large number of false positives or unjustified adverse consequences;

"(8) create penalties for knowing use of inaccurate information as a basis for comparison in authenticating identity; and

"(9) adopt policies and procedures establishing effective oversight of the information-based identity authentication systems of State departments of motor vehicles.".

• Mr. DAYTON. Mr. President, today, I was necessarily absent from the Senate to attend the funeral of St. Paul, MN police officer, Sergeant Gerald Vick, who tragically lost his life in the line of duty on Friday, May 6, 2005. I joined over 2,000 Minnesotans in paying our final respects to this heroic peace officer, community leader, and devoted husband and father.

Had I been present to vote on the amendments to the Transportation Equity Act, I would have voted as follows:

On the motion to waive the Congressional Budget Act, in relation to amendment No. 605 and H.R. 3, I would have voted "yea."

On the motion to table Corzine amendment No. 606, I would have voted "nay."

On the Lautenberg amendment No. 625, I would have voted "nay."

On the Harkin amendment No. 618, as modified, I would have voted "yea."•

JUSTICE FOR TODD SMITH

Mr. NELSON of Florida. Mr. President, just today I initiated an effort to ask Peruvian President Alejandro Toledo to reopen an investigation into the brutal torture-murder of a young journalist from my state.

The 28-year-old reporter, Todd Smith, was found dead 15 years ago, his body discovered in Peru's violent coca-producing region. This son of a Florida appellate judge worked for The Tampa Tribune, and was investigating the drug traffic in the northern Peruvian jungle.

Officials in Peru were quick to say the murder was the work of the Shining Path—a Maoist insurgent group said to be involved in protecting cultivators of the coca plant. Specifically, Peru's Interior Ministry said Todd had been captured by Maoist rebels and possibly sold to drug traffickers for $30,000.

Four years later, a secret counter-terrorism trial in Peru resulted in a Shining Path guerrilla being sentenced to 30 years in prison for taking part in the murder.

He was the only person ever tried for the crime—and even he reportedly has received an early release. Little else was known.

Now, however, the transcript of that secret 1993 trial has emerged, including an intelligence report that identifies a businessman who founded a Peru airline as one of the masterminds behind Todd's killing. The complete court file was obtained by a Lima-based institute for a free press and society.

According to one of several detailed intelligence reports in the trial transcript, the guerrillas who tortured and strangled Todd were working for Peru businessman Fernando Zevallos, and two others allegedly involved in the drug trade.

But Zevallos—labeled a Peruvian cocaine kingpin last year by the Bush administration—was never charged in the case. The New York Times quotes American and Peruvian authorities as saying he has evaded justice for so long by bribing court officials and killing witnesses.

It has been over 15 years since a son of Florida and a member of the fourth estate was tortured and strangled to death in the jungles of Peru—and clearly, justice has yet to be served.

In January, I went to Peru and there I established a working relationship with President Toledo and was joined by Ambassador Ferrero, Peru's ambassador to the United States

Today, through proper diplomatic channels, I made a formal request that President Toledo immediately reopen the investigation into Todd Smith's death; and, that his government cooperate fully with our State Department and FBI. And Ambassador Ferrero told me he "would put all [his] effort into this.

I hope my Senate colleagues will join me in demanding that justice finally be served in this case.

Todd's parents, and his two sisters, deserve no less.

Mr. President, I am going to birddog this with everything I have to see that this case is brought to justice. I do believe the Peruvian government clearly has an interest, now that the secret court files have come to light, to get to the bottom of this. I earnestly hope we will get the cooperation of the Peruvian government in reopening the investigation. There is no excuse, when an American newspaper reporter is brutally tortured and murdered, that we should not have all the facts. If it leads, in fact, to this businessman, then so be it. We owe this especially to this family in Florida that for so long has not known any of the facts of this brutal killing of their son.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 742 TO AMENDMENT NO. 605

Mr. INHOFE. Mr. President, I ask unanimous consent that the Talent amendment at the desk, which is identical to the amendment previously agreed to, be agreed to and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for Mr. TALENT, proposes an amendment numbered 742.

The amendment is as follows:

(Purpose: To require notice regarding the criteria for small business concerns to participate in Federally funded projects)

At the end of subtitle H of title I, add the following:

SEC. 18___. NOTICE REGARDING PARTICIPATION OF SMALL BUSINESS CONCERNS.

The Secretary of Transportation shall notify each State or political subdivision of a State to which the Secretary of Transportation awards a grant or other Federal funds of the criteria for participation by a small business concern in any program or project that is funded, in whole or in part, by the Federal Government under section 155 of the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (15 U.S.C. 567g).

The PRESIDING OFFICER. Without objection, the request is agreed to.

The amendment (No. 742) was agreed to.

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. INHOFE. Mr. President, I ask unanimous consent that we now go into a period of morning business, providing that each Senator can speak up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

SERGEANT DAVID RICE

Mr. GRASSLEY. Mr. President, it saddens me to report today that another young Iowan has fallen courageously in service to his country as part of Operation Iraqi Freedom. Sergeant David Rice, a fire support specialist with the 1st Battalion, 5th Field Artillery Regiment, 1st Infantry Division, died on April 26 when his vehicle overturned near Muqdadiyah. He was 22 years old.

David grew up in Sioux City, IA, and attended East High School where he excelled in football, wrestling, and track and field. He joined the Army after graduating from East in 2001 and was on his second tour of duty in Iraq.

David Rice is remembered by friends and family as a hard-working, quiet leader. In memory of Sergeant Rice, I would like to recognize today all of our military men and women, like David, who have been the quiet, dedicated leaders who have helped see our country through this difficult time. My prayers go out to the family of Sergeant David Rice, his father David, his mother Laurinda, and his sister Stevie. They should know that his leadership and sacrifice have not gone unnoticed but have earned him the gratitude of a Nation.

SERGEANT ANGELO L. LOZADA, JR.

Mr. GREGG. Mr. President, I rise today to remember and honor Sergeant Angelo Lozada, Jr. of Nashua, NH for his service and supreme sacrifice for his country.

Angelo demonstrated a willingness and dedication to serve and defend his country by joining the United States Army. Just as many of America's heroes have taken up arms in the face of dire threats, Angelo dedicated himself to the defense of our ideals, values, freedoms, and way of life. His valor and service cost him his life, but his sacrifice will live on forever among the many dedicated heroes this Nation has sent abroad to defend freedom.

Angelo felt the call to serve our Nation early, and dutifully joined the Reserves after he graduated from high school. He served for 6 years in the New Hampshire Army National Guard's Bravo Battery, 1st Battalion, 172nd Field Artillery Regiment before signing up for active duty on July 26, 2000. He was deployed to Iraq in 2003, where he served in Alpha Battery, 2nd Battalion, 17th Field Artillery Regiment, 2nd Infantry Division, stationed out of Camp Hovey, Korea. Tragically, on April 16, 2005, Angelo made the ultimate sacrifice for this great Nation. He died of injuries sustained while conducting combat operations in Ar Ramadi, Iraq.

Throughout his career, Angelo earned a series of accolades which testify to the dedication and devotion he held for his fellow soldiers, the Army, and his country. Angelo's hard work and dedication contributed greatly to his unit's successes and placed him among many of the great heroes and citizens that have paid the ultimate price for their country. Angelo was recognized posthumously for his courageous actions in Iraq by receiving the Bronze Star, the Purple Heart, and an Army Commendation Medal. He had also been recognized throughout his distinguished career by receiving the Army Achievement Medal, Army Good Conduct Medal, National Defense Service Medal, Global War on Terrorism Expeditionary Medal, Global War on Terrorism Service Medal, Korean Defense Service Medal, Army Service Ribbon, and the Weapons Qualification Badge, M–16 Expert. He was also a graduate of the Primary Leadership Development Course and was recently promoted to Sergeant in May of 2004.

Angelo was truly an exceptional soldier with more than 10 years of service and a father of three who had decided to reenlist after his tour of duty in Iraq. He leaves behind a family with a proud tradition of military service, including three brothers who served in the Army.

My condolences and prayers go out to Angelo's family, and I offer them my deepest sympathies and most heartfelt thanks for the service, sacrifice, and example of their soldier, Sgt Angelo Lozada, Jr. He was respected and admired by all those around him, and continually performed above and beyond all expectations while in the United States Army. Because of his efforts, the liberty of this country is made more secure.

MORE OPPOSITION TO THE GUN INDUSTRY IMMUNITY BILL

Mr. LEVIN. Mr. President, since the reintroduction of the Protection of Lawful Commerce in Arms Act, many law enforcement and community groups around the country have publicly stated their opposition to the bill. In Michigan alone, the bill is opposed by organizations including the Michigan Association of Chiefs of Police, the League of Women Voters of Michigan, the Michigan Partnership to Prevent Gun Violence, and local chapters of the Million Mom March.

Law enforcement and community groups oppose the misnamed "Protection of Lawful Commerce in Arms Act" because it would significantly weaken the legal rights of gun violence victims. The bill would provide members of the gun industry with legal protections not enjoyed by other industries and deprive many gun violence victims with legitimate cases of their day in court.

Two former Directors of the Bureau of Alcohol, Tobacco, and Firearms have added their voices to the already considerable and growing opposition to this bill. In a letter to Congress, former ATF Directors Stephen Higgins and Rex Davis state that the gun industry immunity legislation would threaten the ATF's ability to effectively enforce our Nation's gun laws. Specifically, they cite provisions in the bill that would likely block the ATF from pursuing administrative proceedings "to revoke a gun dealer's federal firearm license if the dealer supplies guns to criminals or other prohibited buyers" and "to prevent the importation of non-sporting firearms used frequently in crimes." Later in the letter, former Directors Higgins and Davis state:

> We know from experience how important it is that ATF be able to enforce our nation's gun laws to prevent firearms from being obtained by terrorists, other criminals, and the gun traffickers who supply them. To protect our citizens from the scourge of gun violence Congress should be strengthening our laws and increasing ATF's resources and ability to enforce those laws. To handcuff ATF, as this bill does, will only serve to shield corrupt gun sellers, and facilitate criminals and terrorists who seek to wreak havoc with deadly weapons. To take such anti-law enforcement actions in the post-9/11 age, when we know that suspected terrorists are obtaining firearms, and may well seek them from irresponsible gun dealers, is nothing short of madness.

Combined, former Directors Higgins and Davis have more than two decades of experience in leading the ATF. We should recognize their extensive knowledge of gun violence issues and follow their advice. Instead of providing a single industry with broad immunity, we should be protecting the legal rights of gun violence victims and enhancing the effectiveness of our law enforcement agencies.

I ask unanimous consent that a list of some of the law enforcement and community organizations opposing this legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MICHIGAN ORGANIZATIONS

Michigan Association of Chiefs of Police
League of Women Voters of Michigan
Michigan Partnership to Prevent Gun Violence
Detroit Million Mom March Chapter
East Metro Detroit Million Mom March Chapter
Mid-Michigan/Lansing Million Mom March Chapter
Novi Million Mom March Chapter
Southwest Michigan Million Mom March Chapter
Washtenaw County MMM Chapter
West Metro Detroit/Washtenaw County Million Mom March Chapter

NATIONAL LAW ENFORCEMENT ORGANIZATIONS

International Brotherhood of Police Officers
Major Cities Chiefs Association
National Black Police Association
Hispanic American Police Command Officers Association

OTHER NATIONAL ORGANIZATIONS

Alliance for Justice
American Association of School Psychologists
American Association of Suicidology
American Bar Association
Americans for Democratic Action
American Humanist Association
American Public Health Association
Brady Campaign To Prevent Gun Violence united with the Million Mom March
Child Welfare League of America
Children's Defense Fund
Church Women United
Coalition To Stop Gun Violence
Common Cause
Congregation of Sisters of St. Agnes Leadership Team
Consumer Federation of America
Consumers for Auto Reliability and Safety
Disciples Justice Action Network
Equal Partners in Faith
Evangelical Lutheran Church in America
Hadassah The Women's Zionist Organization Of America
HELP Network
League of Women Voters of the U.S.
Legal Community Against Violence
National Council of Jewish Women
National Council of Women's Organization
National Research Center for Women & Families
Physicians for Social Responsibility
Presbyterian Church (USA)
Public Citizen
Religious Action Center of Reform Judaism
States United to Prevent Gun Violence
The American Jewish Committee
The Ms. Foundation for Women
The Society of Public Health Education (SOPHE)
The United States Conference of Mayors
Unitarian Universalist Association of Congregations
Veteran Feminists of America
Women's Institute for Freedom of the Press

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Mr. MCCAIN. Mr. President, when the Senate debated this bill a few weeks ago, I asked my colleagues a simple question. What is the purpose of an emergency appropriations bill? The purpose, it seems to me, is to fund unexpected priorities—emergencies that simply cannot wait for the normal budget process. The conference report largely fulfills that purpose. It covers unexpected costs associated with the war on terror, tsunami relief, and national security priorities, including funding for our troops serving in Iraq and Afghanistan. I strongly support funding in these areas.

But that is not all it does, Mr. President. This conference report has also served as a magnet for non-emergency spending and includes a host of earmarks. Let me be clear: I support this conference report because of the critical resources it provides for our troops and for our other emergency priorities, including tsunami relief. But at the same time I am deeply disturbed that the Congress isn't exhibiting restraint. Knowing that this conference report was a "must pass" piece of legislation, we have once again loaded it with unrelated provisions. Let me remind my colleagues that we are experiencing enormous budget deficits. At some point, we will have to embrace some degree of fiscal responsibility.

We should start with this emergency supplemental. The scope of emergency appropriations has traditionally been limited, and for good reason. We already have a proper budget and appropriations process. We don't need another. The proper process is supposed to allow Congress to meet Federal responsibilities while closely monitoring the effect our spending has on the budget deficit and the national debt. But appropriations that are designated as "emergency" do not count against the discretionary budget ceilings that we ourselves set. They add to costs incurred by the government and cause the current budget deficit to grow. With enactment of this measure, supplemental military spending alone since September 11, 2001, will top $200 billion. I am not questioning funding the war on terror; but I am questioning the unnecessary add-ons.

With respect to the substance of this conference report, I am pleased that it will provide the necessary resources to our troops as well as additional funds for our homeland security needs. It increases veterans benefit levels and expands eligibility, and provides higher benefits to family members of those killed in military service. This foreign affairs provisions of the conference report are remarkably, and commendably, free of pork. As one who supports ensuring that every taxpayer dollar counts, I commend my colleagues for their restraint in this area while meeting the President's request for funding for the victims of the South East Asian tsunami.

Unfortunately, this conference report also includes some unnecessary provisions, examples of which I will give in just a moment. I fully recognize that it isn't only the fault of the appropriators that the Congress has been forced into this new pattern of adopting emergency appropriations measures. Overly partisan politics has largely prevented us from following the regular legislative order, and that fact must change.

I would ask my colleagues whether they believe the following examples—just a select few from this conference report—constitute "emergency spending": $2,000,000 to upgrade the chemistry laboratories at Drew University in New Jersey. According to its website, Drew University has a total enrollment of 2,600 students, operates with a $200,000,000 endowment, and draws more National Merit Scholars than many other top liberal arts colleges in the nation. A prestigious institution indeed, but I see no way in which funding for its chemistry labs is a critical national spending emergency; $500,000 for the Oral History of the Negotiated Settlement project at the University of Nevada-Reno; $2,000,000 to continue funding for the Southeast Regional Cooling, Heating and Power and Biofuel Application Center in Mississippi; $4,000,000 to payoff debt at the Fire Sciences Academy in Elko, Nevada; and $2,000,000 for the National Center for Manufacturing Sciences in Michigan.

Additionally, notwithstanding Senate rules against legislating on an appropriations bill, the legislation before us today contains plenty of policy-related, non-appropriations language. For example: The conference report directs the Secretary of the Interior to allow oil and gas exploration underneath the Gulf Island National Seashore, a protected National Park in Mississippi. This changes current Federal policy disallowing such exploration; a line-item in the conference resolution blocks the EPA from revising how it collects fees for the registration of pesticides. For several years, similar language has been routinely added to VA-HUD/EPA appropriations legislation. Now this provision has found a new home in the emergency spending bill; it authorizes the Bureau or Reclamation to study the viability of establishing a sanctuary for the Rio Grande Silvery Minnow in the Rio Grande River; it directs the Army Corps of Engineers to complete the Indiana Harbor and Canal disposal project; and California lawmakers have seen to it that this bill provides funds for San Gabriel Basin restoration.

Mr. President, we simply must start making some very tough decisions around here if we are serious about improving our fiscal future. Let's be clear about what we are doing. The Government is running a deficit because it is spending more than it takes in. So each one of the earmarks in this bill, we are borrowing money—and saddling future generations of Americans with unnecessary debt. If we had no choice but to act in this way, this might be, a understandable, temporary method of budgeting. But the fact is that we do have a choice:

At a conference in February, 2005, David Walker, the Comptroller General of the United States, said this:

> If we continue on our present path, we'll see pressure for deep spending cuts or dramatic tax increases. GAO's long-term budget simulations paint a chilling picture. If we do nothing, by 2040 we may have to cut federal spending by more than half or raise federal taxes by more than two and a half times to balance the budget. Clearly, the status quo is both unsustainable and difficult choices are unavoidable. And the longer we wait, the more onerous our options will become and the less transition time we will have.

Is that really the kind of legacy we should leave to future generations of Americans?

Referring to our economic outlook, Federal Reserve Chairman Alan Greenspan testified before Congress that:

> (T)he dimension of the challenge is enormous. The one certainty is that (the resolution of this situation will require difficult choices and that the future performance of the economy will depend on those choices. No changes will be easy, as they all will involve lowering claims on resources or raising financial obligations. It falls on the Congress to determine how best to address the competing claims.

It falls on the Congress, my friends. The head of the U.S. Government's chief watch-dog agency and the Nation's chief economist agree—we are in real trouble.

Dire predictions, and what are we doing about it? Are we restraining our spending? No, of course not. We are at it again, finding new and ever more creative ways to funnel money to the special interests. We have to face the facts. Congress cannot continue to spend taxpayer dollars on wasteful, unnecessary pork barrel projects or cater to wealthy corporate special interests any longer. The American people deserve better.

OLDER AMERICANS MONTH

Mr. SARBANES. Mr. President, when President Kennedy established Older Americans Month in 1963, he began an important tradition, of designating a time for our country to honor older citizens for their many accomplishments and contributions to our Nation. Now, as we recognize May as "Older Americans Month," I welcome the opportunity to reflect on the contributions senior citizens have made in shaping our Nation and to reassert our commitment to enhancing the living standard of our senior community.

This year's theme is "Celebrate Long Term Living." Many seniors in Maryland exemplify that idea, continuing to lead vital, active lives throughout their "golden years." Bob Ray of Perry Hall, from Hamilton, MD, who ran every day from April 4, 1967 until his 68th birthday on April 7, 2005, is one such example. Mr. Hall holds the longest consecutive running streak in the United States and the second longest record in the entire world, a remarkable accomplishment at any age. Ms. Evelyn Wright of Annapolis is another senior to celebrate. In 2003, Ms. Wright was named National Master Field Athlete of the Year for 2003 and since the age of 55, she has amassed hundreds of medals and trophies as a competitor in Senior Olympic events. She started her track and field career with the softball throw, but now competes in a multitude of events including pole vault, high jump, long jump, and hammer throw. She continues to travel around the country competing and setting track and field records for her age group. Many seniors in Maryland are enjoying old age by starting new ventures. At age 68 and 66 respectively, Emily Levitas and Linda Segal decided to join forces and become co-owners of "Gotta Have Bags," a successful handbag store located in Hampden.

The list of enterprising, energetic, and active Maryland seniors and others throughout the Nation goes on and on and extends to all facets of life. We are very grateful for the enormous contributions they make day in and day out. But as a Nation, we do not always live up to our end of the bargain. There is much to be done to help seniors sustain quality long-term living. I have worked diligently in the Senate to ensure that older Americans are able to live with dignity and independence during their later years, and we will continue to fight the recent slew of misguided attacks on Social Security, Medicare, and other programs so crucial to senior citizens.

I have significant concerns about the impact of Medicaid cuts on seniors. People often forget that Medicaid is the largest funding source for long-term care services, institutional and home-based, for the elderly. Without such aid, many older Americans could not manage to pay for adequate care. Yet the Administration proposes to slash this program while extending tax cuts for the wealthiest among us. It is difficult to "celebrate long-term living" if you cannot afford to secure reasonable quality healthcare and long-term living facilities.

Another critical need that must be addressed is affordable prescription drugs. I voted against the Medicare Prescription Drug and Modernization Act of 2003 because I believed it would jeopardize promises that we as a Nation have made to seniors. I was principally concerned that the new law would fail to provide a comprehensive, consistent, and affordable prescription drug benefit to Medicare beneficiaries. Many of the concerns that I had during consideration of that measure are now coming to fruition. Indeed, as we prepare for the implementation of the drug benefit in 2006, we are just now learning that seniors will encounter the uncertainty of incomplete coverage for drug costs, along with rapidly rising pharmaceutical costs. To address these concerns, I favor proposals that provide Medicare beneficiaries with full prescription drug coverage. In addition, a number of my colleagues and I supported legislation during the Senate's consideration of the Medicare overhaul that would have controlled drug prices by allowing our Government to negotiate directly with drug companies. Unfortunately, these proposals were defeated when they came to the Senate for a full vote, but I continue to work with my colleagues on these and other proposals to bring drug prices under control.

On top of all of this, the Medicare trustees have predicted exhaustion of the Medicare Hospital Inpatient Trust Fund in 2020. With the rising costs of drugs and health care in general, and the implicit lack of means to reduce drug costs in the new law, we will be faced with hard decisions sooner than originally anticipated. The answer to the funding gap must not be to decrease benefits. A comprehensive Medicare plan and affordable pharmaceuticals are two important pieces that could help seniors live with dignity and independently, but these crucial needs remain very much in jeopardy.

Finally, our seniors deserve the guarantees promised to them after years of contributing to the Social Security program. In 1935, President Roosevelt sought to create a program that would "give some measure of protection to the average citizen and to his family against the loss of a job and against poverty-ridden old age." There are those who suggest that the only way Social Security can meet the expanding demand of future retirees is by creating private accounts and simultaneously decreasing benefits. We must work to preserve, not diminish, Roosevelt's legacy. Thus far, Social Security has been effective in improving the standard of living and reducing poverty among the elderly and disabled by providing an inflation-indexed, defined benefit, no matter how long an individual lives and regardless of the vagaries of the stock market. Throughout their lives, seniors have paid into a system with the understanding that their benefits will be there for them when they retire. We must uphold our end of the bargain and ensure that these benefits are available. The words of President Roosevelt should continue to guide our conscience.

This Older Americans Month I ask my colleagues to respect and renew our commitment to our seniors and all of our citizens. As seniors face old age, they should not face uncertainty about their living situations, about their access to health care, and about their financial circumstances. Our older Americans add great value to our Nation. We must take this month as an opportunity to redouble our efforts on behalf of this and future generations so that our older Americans can continue to "Celebrate Long-Term Living" now and well into the future.

TAKE OUR DAUGHTERS AND SONS TO WORK DAY

Ms. LANDRIEU. Mr. President, today I have 18 young men and women from Louisiana and the Washington area taking part in Take Our Daughters and Sons to Work Day. I am going to submit all of their names for the RECORD to show that they spent a day working in the Senate with me and with some of the other Senators and have seen firsthand the work that goes on.

I want to acknowledge the MS Magazine Foundation that started Take Our Daughters and Sons to Work Day to thank them for organizing this effort where there are thousands, maybe perhaps millions, of young people who have taken a day out of their school work to go to the various places where Americans are working to contribute to making this country of ours a better country and this world a better place.

I thank these young men and women for being a part of this special day and taking their time to come and learn about the workings of the Senate:

From St. Catherine of Siena School: Gabrielle Bordlee, Metairie, LA;

From Schriever Elementary School: Cameron Dark, Houma, LA;

From Georgetown Day School: Alexa Dettlebach, Chevy Chase, MD;

From St. Francis Xavier School: Brennan Duhe, Baton Rouge, LA;

From Washington International School: Maggie Johnson, Washington, DC;

From Holy Name of Jesus School: Ben Landrieu, New Orleans, LA;

From Xavier University Preparatory School: Jasmine Love, New Orleans, LA;

From Cathedral-Carmel School: Andrew Mahtook, Lafayette, LA;

From Cathedral-Carmel School: Robbie Mahtook, Lafayette, LA;

From Tchefuncte Middle School: William Mitchell, Mandeville, LA;

From St. James Episcopal Day School: Dexter Righteous, Baker, LA;

From Georgetown Day School: Molly Roberts, Washington, DC;

From Georgetown Day School: Connor Snellings, Washington, DC;

From Georgetown Day School: Mary Shannon Snellings, Washington, DC;

From St. George's Episcopal School: Leah Thomas, New Orleans, LA;

From St. Clement of Rome School: Mary Catherine Toso, Metairie, LA;

From St. Elizabeth School: Charlie Triche, Napoleonville, LA;

From St. Joseph Elementary: Sam Triche, Napoleonville, LA.

CONTRIBUTIONS OF MISS ELIZABETH BRYDEN TO THE SENATE REPUBLICAN CONFERENCE

Mr. SANTORUM. Mr. President, in 1939, before many Members of this body had been born, Miss Elizabeth Bryden of Waltham, MA, came to Washington, D.C. to work for Congressman Robert Luce. She continued to work on the Hill, with little interruption, until the start of the 96th Congress in 1979. Today, when most Hill staffers remain here for only a few years, Betty Bryden, as she was always known, remains an example of rare dedication and extraordinary public service.

Her early employers are now mostly names for the history books. For example, Senator Leverett Saltonstall of Massachusetts and Bourke Hickenlooper of Iowa, not to mention Gordon Allot of Colorado and Congressman McIntyre of Maine. Several of those gentlemen chaired the Senate Republican Conference, a position I now hold.

As the research librarian for the Republican Conference, in the days before computers, Betty would come into the Russell Senate Office Building hours before most staffers would arrive. By the time the Senate began business for the day, she would have copied, filed, and cross-filed, in what must have been one of the world's most elaborate reference systems, scores of that day's news items from a wide variety of sources. The cumulative result was a towering warren of filing cabinets, jammed with thousands of sheets of paper, the location of each of which she somehow remembered. It was not unusual for Senators to request urgent information from both the Congressional Research Service and Betty, knowing there was a good chance she would have it on their desks long before the official system could respond.

With today's internet, of course, it is not necessary for our staff to literally walk across town through a winter blizzard in order to provide the day's news clips, but that is what Betty was known to do on occasion. Little wonder, then, that she had a special place in the hearts of many Senators. Another remarkable Republican woman, Senator Margaret Chase Smith, was especially close to Betty and requested that she join the board of the Smith Library in Maine, on which Betty still serves.

It must be admitted that, during most of the period when Betty worked on the Hill, opportunities for advancement for women were limited. It's hard to imagine how they ran this place without the full participation of women; we could not manage to do that today. And yet Betty always found ways to make a difference. At the request of Senator Saltonstall, for example, she took under her wing a young man who needed to be trained as a legislative assistant. Even though, as a woman, she was not eligible for the job, she produced a first-rate legislative aide. The young man was named Eliott Richardson, and throughout his later career he never forgot his teacher and always made a point of paying his respects to her personally when his official duties brought him to the Senate.

On behalf of the Senate Republican Conference and its leadership past and present, I salute Betty for her lifetime of labor in our behalf and, indeed, for the entire Senate. Betty's contributions to this institution are still appreciated, and she remains an inspiration to us all.

ADDITIONAL STATEMENTS

A TRIBUTE TO LEONARD WING, JR.

• Mr. JEFFORDS. Mr. President, I rise today to pay tribute to a good friend, Leonard Wing, Jr., who passed away Saturday, April 30, 2005. Leonard was a decorated war hero, a civic leader, a devoted family man, and a great Vermonter.

I knew Leonard almost my entire life. We grew up across the street from each other on Kingsley Avenue in Rutland, VT. When I was a young boy, Leonard left Vermont to fight in World War II. Leonard was wounded and taken prisoner in Europe before escaping and fleeing to northern Africa with help from the Polish underground. For his efforts in the European Theatre, Leonard was awarded the Silver Star and the Purple Heart, in addition to other commendations. I still remember listening in awe as my neighbors in Rutland recounted the heroics of Leonard and his father, MG Leonard Wing, Sr., who was a Vermont legend for his military leadership in the South Pacific. Leonard Wing, Jr. went on to serve for over 30 years in the Army and Army National Guard before retiring as a brigadier general in 1973.

After World War II, Leonard returned to the United States and continued his studies, graduating from the Boston University School of Law in 1950. After law school, Leonard returned to Vermont and became one of the State's finest attorneys, practicing law in Rutland for 46 years. During his legal career, Leonard served as both the president of the Vermont Bar Association and the State director of the American College of Trial Lawyers.

To residents of Rutland, Leonard is probably best known, however, for his local leadership and civic involvement. Leonard sat for 6 years on the Rutland City Board of School Commissioners, part of that time serving as the board's president. Most significantly, Leonard helped found the Havenwood School in Rutland. He also served as president of that school in addition to holding the same post at the Rutland Association for Retarded Citizens and the Vermont Association of the Retarded. These are just a few notable examples of the many charitable and civic activities to which Leonard lent his time.

Leonard's life was marked by his extraordinary service to his local community, his State, and his country. The city of Rutland, and the State of Vermont, will not be the same without Leonard's leadership. He will be most missed, however, by those he loved most dearly: his family. I offer my condolences to his wife Mary and their nine children. I hope they take comfort in knowing that Leonard's accomplishments and service will not soon be forgotten by the scores of Vermonters whose lives he touched.●

HONORING T. LAMAR SLEIGHT

● Mr. CRAPO. Mr. President, I rise today to honor a native Idahoan who has distinguished himself in the military, public service, and as a religious contributor. T. LaMar Sleight retired recently from his position as the Director of International and Government Affairs for The Church of Jesus Christ of Latter-Day Saints. LaMar is a native of Idaho, born in Montpelier and educated in Preston. In his years of public service, he has set a fine example of leadership and dedication.

LaMar served more than 34 years in the military, retiring in 1993 as a Colonel in the United States Army. He joined the National Guard at age 18. Eventually the Guard sent him to OCS and he joined the Army. He was awarded three awards of the Legion of Merit and the Bronze Star medal. His overseas assignments took him to Korea, Vietnam and Germany. Assignments closer to home include Oklahoma, Georgia, Nebraska, and Washington, DC. His military career clearly influenced his organized and structured leadership style.

Upon retiring from the military, LaMar took up the challenging position as the Director of International and Government Affairs for The Church of Jesus Christ of Latter-Day Saints. He has been an outstanding liaison for the LDS Church and the international community. I have enjoyed my interaction with him during my tenure in Congress, which extends back more than 12 years. He has a calming, measured demeanor and could always be counted on to provide a full view of any issue that was being discussed.

No doubt LaMar is balancing his ongoing volunteer service to his church with lots and lots of golf. With 6 children and 11 grandchildren, there is also a lot of family time and experiences ahead. I wish him the best as he undertakes this change in his life.●

WE THE PEOPLE

● Mr. OBAMA. Mr. President, recently, more 1,200 students from across the United States visited Washington, DC to take part in the national finals of We the People: The Citizen and the Constitution, the most extensive educational program in the country developed specifically to educate young people about the U.S. Constitution and Bill of Rights.

I applaud the class from Maine Township High School in Park Ridge that skillfully represented the great State of Illinois in this prestigious national event. Through their knowledge of the U.S. Constitution, these outstanding students won the statewide competition and made Illinois proud in the national competition here in our Nation's capitol.

Congratulations to Nicole Calabrese, Carly Calkins, Emily Cottrell, Keith Dent, Katie Eichstaedt, Alyssa Engle, Katie Funkhouser, Kathryn Futris, Jacqueline Heffernan, Kevin Kane, Erin Keating, Maddie Kiem, Dan Leung, Mike Mangialardi, Kelly McKenna, Ryan Morrisroe, Allison Mueller, Jessica Newton, James Pikul, Elizabeth Poli, Ashley Rezaeizadeh, Alex Schallmo, Jimmy Skuros, Ryan Stegink, Dan Widing, Meredith Wisniewski, and their teacher Dan States. I commend each and everyone of you for your hard work.

While in Washington, these students participated in a 3-day academic competition that simulated a congressional hearing in which they "testified" before a panel of judges. Students demonstrated their knowledge and understanding of constitutional principles and had opportunities to evaluate, take, and defend positions on relevant historical and contemporary issues.

I wish these students the best of luck in their future endeavors and applaud their outstanding achievement.●

COMMEMORATING THE 40TH ANNIVERSARY OF MOORE'S LAW

● Mr. BINGAMAN. Mr. President, 40 years ago in the April 1965 issue of Electronics magazine, Gordon Moore, a young engineer, accurately forecast years of exponential improvements in computer chip performance. His abstract observations led to the most concrete results.

In his article entitled, "Cramming More Components onto Integrated Circuits," Moore first articulated his thinking on the future of the integrated circuit. Later, he theorized that the number of transistors on a computer chip would continue to double in power for the same price every 18 months. This postulation became popularly known as Moore's Law, and it was a stunning challenge for scientists and engineers to discover new phenomena and ideas to maintain America's technological momentum.

Shortly thereafter, Gordon Moore helped found the Intel Corporation, which started as a pioneer in cutting-edge semiconductor technology and today remains at the frontier of innovation in integrated circuits. Since that time, all in accordance with Moore's Law, there have been more than three dozen such doublings in computer chip performance.

No wonder that we marvel how our world has changed more in the past century than in the previous hundred centuries. It took 10,000 years to get from the dawn of civilization to the airplane, but just 66 years to get from powered flight to the moon landing. In 1971, Intel could fit 2300 transistors on a silicon chip; later this year, Intel is expected to unveil a chip with nearly 2 billion transistors.

"It's kind of a Biblical thing," Leon Lederman, the Nobel laureate, once noted, "Science begets technology. Once we have transistors, we can make computers. When we have computers, we can make much better transistors . . . which can make better computers."

In the years ahead, networked supercomputers operating at speeds of over one thousand trillion operations per second will have implications as profound as the Industrial Revolution's spread of technology.

Such technological innovation, predicted by Moore's Law, has led to advances in virtually every industry and has fundamentally impacted the way we live, work, and play. Information technology has become commonplace in our schools, libraries, homes, offices, and businesses—and new information technology applications are still developing rapidly.

Information technology has had a mutually reinforcing relationship with our "golden age" of science and engineering. Advances in supercomputers, simulations, and networks are creating a new window into the natural world—making computing as valuable for theory and experimentation as a tool for scientific discovery.

It has accelerated the pace of scientific discovery across the board in all scientific disciplines. Information visualization and simulation technologies make it possible to learn, explore, and communicate more complex concepts. Supercomputer technology, for example, allows researchers to develop lifesaving drugs more rapidly, better understand the functions of our genes once they have been sequenced, or more accurately predict tornadoes. Advanced information technology tools have emerged to support "collaboratories"—geographically separate research units on different sides of the world functioning as a single laboratory.

Perhaps the most important area where information technology's impact has been greatest is in our economic sector. It is commonly credited as being a key factor in our economy's structural shift from manufacturing to services, altering the nature of our work and the needs of our workforce.

The widespread diffusion of information technology throughout the economy, and its integration into new business models producing more efficient production methods added a full percentage point to the Nation's productivity after 1995. Economists note that productivity is the most important driver of long-term economic growth, and information technology increases economic output more than any other type of capital investment.

Beginning in 1995, U.S. productivity—spurred by information technology applications—accelerated to rates of growth not seen in two decades. The difference between 1.5 percent and 2.5 percent productivity growth is the difference between the standard of living doubling in one generation or in two generations. It has enormous implications.

The impact of Moore's Law and the resulting U.S. technology industry has also had enormous implications for my home State of New Mexico.

We are proud to be part of the drive within the technology industry to keep pace with Moore's Law. Small and large businesses alike which are part of our local technology industry have led to steadily increasing economic growth and development. Intel Corporation, with Gordon Moore at its helm, has become a major contributor to our State's economy and is an example of the impact that U.S. technological leadership has at a local level.

Overall, Intel has a significant economic and fiscal impact on our State and region. Intel came to Rio Rancho, just outside of Albuquerque, in 1980 and has grown to become our State's largest private manufacturer. Intel New Mexico employs more than 5,000 people and pays some of the highest wages. In 2001–2002, Intel spent $2 billion on new facilities and upgrades to other facilities.

Moreover, Intel's continued growth has brought other benefits to our communities as well, particularly in the area of education. Intel made a $2 million donation to the National Hispanic Cultural Center to integrate the latest technology tools in support of the Intel Center for Technology and the Visual Arts. Intel's "Teach to the Future" has provided technology training for more than 6,000 New Mexico teachers to help them incorporate technology into their curricula and help prepare our children for the jobs of the 21st century. Intel has also launched two Computer Clubhouses, technology and mentoring programs for youth in Albuquerque and Santa Fe.

While Moore's Law has meant so much to my State and our Nation, we need to acknowledge that engineering, computer chips, and information technology are about more than our material wealth or our simple acquisition of knowledge. Basically, they are about our dreams.

We have always been a Nation that is defined by the great goals we set, the great dreams we dream. We have always been a restless, questing people—and with willpower, resources, and great national effort, we have always reached our horizons and then set out for new ones.

So on this 40th anniversary of Moore's Law, I want to salute the extraordinarily important contributions of Gordon Moore, the Intel Corporation, and the many other scientists and engineers who have helped us imagine and invent the future.

In large measure, their contributions have made this new century before us so full of promise—molded by science, shaped by technology, and powered by knowledge. These potent transforming forces can give us lives richer and fuller than we have ever known before.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:15 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1023. An act to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles "Pete" Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 86. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

H. Con. Res. 135. Concurrent resolution authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run.

H. Con. Res. 136. Concurrent resolution authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 31. Concurrent resolution to correct the enrollment of H.R. 1268.

ENROLLED BILL SIGNED

At 11:26 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1268. An act making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1023. An act to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles "Pete" Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 989. A bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-2074. A communication from the Principal Deputy Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the Hamilton Wetland Restoration Project; to the Committee on Environment and Public Works.

EC-2075. A communication from the Principal Deputy Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the Silver Strand shoreline project at Imperial Beach, California; to the Committee on Environment and Public Works.

EC-2076. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report entitled "Report to Congress on Abnormal Occurrences, Fiscal Year 2004"; to the Committee on Environment and Public Works.

EC-2077. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Air Quality Redesignation for the 8-Hour Ozone National Ambient Air Quality Standard; for some Counties in the States of Kansas and Missouri" (FRL NO. 7906-5) received on May 3, 2005; to the Committee on Environment and Public Works.

EC-2078. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Iowa" (FRL NO. 7906-9) received on May 3, 2005; to the Committee on Environment and Public Works.

EC-2079. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri" (FRL NO. 7906-7) received on May 3, 2005; to the Committee on Environment and Public Works.

EC-2080. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Implementation Plans; Michigan: Oxides of Nitrogen" (FRL NO. 7904-4) received on May 3, 2005; to the Committee on Environment and Public Works.

EC-2081. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Determination of Attainment for the Ozone and Carbon Monoxide National Ambient Air Quality Standards in Washoe County, Nevada" (FRL NO. 7907-3) received on May 3, 2005; to the Committee on Environment and Public Works.

EC-2082. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland, Virginia; 1-Hour Ozone Attainment Plans, Rate-of-Progress Plans, Contingency Measures, Transportation Control Measures, VMT Offset, and 1990 Base Year Inventory" (FRL NO. 7910-3) received on May 8, 2005; to the Committee on Environment and Public Works.

EC-2083. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; VOC Emission Standards for AIM Coatings" (FRL NO. 7909-8) received on May 8, 2005; to the Committee on Environment and Public Works.

EC-2084. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Georgia: Approval of Revisions to the Georgia State Implementation Plan" (FRL NO. 7909-3) received on May 8, 2005; to the Committee on Environment and Public Works.

EC-2085. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland and Virginia; Non-Regulatory Voluntary Emission Reduction Program Measures" (FRL NO. 7909-9) received on May 8, 2005; to the Committee on Environment and Public Works.

EC-2086. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Volatile Organic Compound Emissions from AIM Coatings" (FRL NO. 7910-2) received on May 8, 2005; to the Committee on Environment and Public Works.

EC-2087. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Metropolitan Washington, D.C. 1-Hour Ozone Attainment Demonstration Plans" (FRL NO. 7910-4) received on May 8, 2005; to the Committee on Environment and Public Works.

EC-2088. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; State of Washington; Spokane Carbon Monoxide Attainment Plan" (FRL NO. 7906-3) received on May 8, 2005; to the Committee on Environment and Public Works.

EC-2089. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Virginia; VOC Emissions Standards for AIM Coatings" (FRL NO. 7910-1) received on May 8, 2005; to the Committee on Environment and Public Works.

EC-2090. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Transportation Conformity Rule Amendments for the New $PM_{2.5}$ National Ambient Air Quality Standard: $PM_{2.5}$ Precursors" (FRL NO. 7908-3) received on May 8, 2005; to the Committee on Environment and Public Works.

EC-2091. A communication from the Secretary of the Army, transmitting, pursuant to law, a report relative to the Program Acquisitions Unit Cost (PAUC) for the Chemical Demilitarization (CHEM DEMIL) Program; to the Committee on Armed Services.

EC-2092. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law the quarterly report entitled "Acceptance of Contributions for Defense Programs, Projects, and Activities; Defense Cooperation Account"; to the Committee on Armed Services.

EC-2093. A communication from the Under Secretary of Defense, Personnel and Readiness, Department of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC-2094. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense transmitting, pursuant to law, a report relative to the Department's implementation of postal system improvements; to the Committee on Armed Services.

EC-2095. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense transmitting, pursuant to law, a report relative to the Chemical Demilitarization (Chem Demil)-Chemical Materials Agency (CMA) and Chem Demil-CMA Newport major defense acquisition programs; to the Committee on Armed Services.

EC-2096. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, the Selected Acquisition Reports (SARs) for the quarter ending December 31, 2004; to the Committee on Armed Services.

EC-2097. A communication from the Principal Deputy, Personnel and Readiness, Department of Defense, transmitting, pursuant to law, a report on the Department's status and results of the "National Call to Service" program for Fiscal Year 2004; to the Committee on Armed Services.

EC-2098. A communication from the Secretary of the Senate, transmitting, pursuant to law, the report of the receipts and expenditures of the Senate for the period from October 1, 2004 through March 31, 2005; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 285. A bill to reauthorize the Children's Hospitals Graduate Medical Education Program (Rept. No. 109–66).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. FEINSTEIN (for herself, Mrs. HUTCHISON, Mr. DURBIN, Ms. SNOWE, Mr. LEAHY, Mr. FEINGOLD, and Mrs. LINCOLN):

S. 994. A bill to authorize the Attorney General to make grants to improve the ability of State and local governments to prevent the abduction of children by family members, and for other purposes; to the Committee on the Judiciary.

By Mr. CORNYN (for himself and Mrs. HUTCHISON):

S. 995. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991 to designate the La Entrada al Pacifico Corridor in the State of Texas as a high priority corridor on the National Highway System; to the Committee on Environment and Public Works.

By Mr. BURNS (for himself, Mr. ENZI, and Mr. THUNE):

S. 996. A bill to improve the Veterans Beneficiary Travel Program of the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. BURNS:

S. 997. A bill to direct the Secretary of Agriculture to convey certain land in the Beaverhead-Deerlodge Forest, Montana, to Jefferson County, Montana, for use as a cemetery; to the Committee on Energy and Natural Resources.

By Mr. CRAPO (for himself and Mr. CRAIG):

S. 998. A bill to include the State of Idaho as an affected area under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note); to the Committee on the Judiciary.

By Mr. WYDEN (for himself and Mr. SMITH):

S. 999. A bill to provide for a public response to the public health crisis of pain, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WYDEN:

S. 1000. A bill to amend the Public Health Service Act to increase the number of permanent faculty in palliative care medicine at accredited allopathic and osteopathic medical schools and to promote the development of faculty careers as academic palliative specialists who emphasize teaching; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WYDEN:

S. 1001. A bill to establish hospice demonstration projects and a hospice grant program for beneficiaries under the medicare program under title XVIII of the Social Security Act, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 1002. A bill to amend title XVIII of the Social Security Act to make improvements in payments to hospitals under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. McCAIN:

S. 1003. A bill to amend the Act of December 22, 1974, and for other purposes; to the Committee on Indian Affairs.

By Mr. ALLEN (for himself, Mr. SMITH, and Mr. ENSIGN):

S. 1004. A bill to provide the Federal Trade Commission with the resources necessary to protect users of the Internet from the unfair and deceptive acts and practices associated with spyware, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LUGAR:

S. 1005. A bill to amend the Richard B. Russell National School Lunch Act to permit certain summer food pilot programs to be carried out in all States and by all service institutions; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KYL (for himself, Mrs. HUTCHISON, and Mr. CORNYN):

S. 1006. A bill to reimburse States and local governments for indirect costs relating to the incarceration of illegal criminal aliens; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself, Ms. SNOWE, Mr. ROCKEFELLER, Mrs. HUTCHISON, Mr. REID, and Mr. JEFFORDS):

S. 1007. A bill to prevent a severe reduction in the Federal medical assistance percentage determined for a State for fiscal year 2006; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 58

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 58, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 98

At the request of Ms. STABENOW, her name was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

At the request of Mr. ALLARD, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Maine (Ms. SNOWE) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 98, supra.

S. 103

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 147

At the request of Mr. AKAKA, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 147, a bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

S. 241

At the request of Ms. SNOWE, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 283

At the request of Mrs. DOLE, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 283, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for the transportation of food for charitable purposes.

S. 329

At the request of Mr. ROCKEFELLER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 329, a bill to amend title 11, United States Code, to increase the amount of unsecured claims for salaries and wages given priority in bankruptcy, to provide for cash payments to retirees to compensate for lost health insurance benefits resulting from the bankruptcy of their former employer, and for other purposes.

S. 390

At the request of Mr. DODD, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from Washington (Mrs. MURRAY), the Senator from Illinois (Mr. DURBIN) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 390, a bill to amend title XVIII of the Social Security Act to provide for coverage of ultrasound screening for abdominal aortic aneurysms under part B of the medicare program.

S. 424

At the request of Mr. BOND, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 484

At the request of Mr. WARNER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 493

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 493, a bill to amend title II of the Higher Education Act of 1965 to increase teacher familiarity with the educational needs of gifted and talented students, and for other purposes.

S. 495

At the request of Mr. CORZINE, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. 512

At the request of Mr. SANTORUM, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 512, a bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation.

S. 513

At the request of Mr. GREGG, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 513, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 566

At the request of Mr. ROCKEFELLER, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 566, a bill to continue State coverage of medicaid prescription drug coverage to medicare dual eligible beneficiaries for 6 months while still allowing the medicare part D benefit to be implemented as scheduled.

S. 602

At the request of Ms. MIKULSKI, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 602, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 604

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 604, a bill to amend title XVIII of the Social Security Act to authorize expansion of medicare coverage of medical nutrition therapy services.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 695

At the request of Mr. COCHRAN, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 695, a bill to suspend temporarily new shipper bonding privileges.

S. 756

At the request of Mr. BENNETT, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 756, a bill to amend the Public Health Service Act to enhance public and health professional awareness and understanding of lupus and to strengthen the Nation's research efforts to identify the causes and cure of lupus.

S. 776

At the request of Mr. JOHNSON, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 776, a bill to designate certain functions performed at flight service stations of the Federal Aviation Administration as inherently governmental functions, and for other purposes.

S. 832

At the request of Mr. TALENT, his name was added as a cosponsor of S. 832, a bill to amend the Internal Revenue Code of 1986 to provide taxpayer protection and assistance, and for other purposes.

S. 841

At the request of Mrs. CLINTON, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 841, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 894

At the request of Mr. ENZI, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 894, a bill to allow travel between the United States and Cuba.

S. 895

At the request of Mr. DOMENICI, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 895, a bill to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents.

S. 918

At the request of Mr. OBAMA, the names of the Senator from Colorado (Mr. SALAZAR) and the Senator from Indiana (Mr. LUGAR) were withdrawn as cosponsors of S. 918, a bill to provide for Flexible Fuel Vehicle (FFV) refueling capability at new and existing refueling station facilities to promote energy security and reduction of greenhouse gas emissions.

S. 991

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 991, a bill to amend title I of the Employee Retirement Income Security Act of 1974 to limit the availability of benefits under an employer's nonqualified deferred compensation plans in the event that any of the employer's defined benefit pension plans are subjected to a distress or PBGC termination in connection with bankruptcy reorganization or a conversion to a cash balance plan, to provide appropriate funding restrictions in connection with the maintenance of nonqualified deferred compensation plans, and to provide for appropriate disclosure with respect to nonqualified deferred compensation plans.

S.J. RES. 15

At the request of Mr. BROWNBACK, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S.J. Res. 15, a joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

S. RES. 124

At the request of Mr. HAGEL, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. Res. 124, a resolution recognizing the importance of increasing awareness of autism spectrum disorders, supporting programs for increased research and improved treatment of autism, and improving training and support for individuals with autism and those who care for individuals with autism.

AMENDMENT NO. 595

At the request of Mr. OBAMA, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Colorado (Mr. SALAZAR), the Senator from Iowa (Mr. HARKIN), the Senator from Indiana (Mr. BAYH), the Senator from Illinois (Mr. DURBIN), the Senator from Minnesota (Mr. COLEMAN), the Senator from Missouri (Mr. TALENT) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of amendment No. 595 intended to be proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 609

At the request of Mr. BINGAMAN, his name was added as a cosponsor of amendment No. 609 intended to be proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself, Mrs. HUTCHISON, Mr. DURBIN, Ms. SNOWE, Mr. LEAHY, Mr. FEINGOLD, and Mrs. LINCOLN):

S. 994. A bill to authorize the Attorney General to make grants to improve the ability of State and local governments to prevent the abduction of children by family members, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise today along with Senators HUTCHISON, DURBIN, SNOWE, LEAHY and FEINGOLD to reintroduce the "Family Abduction Prevention Act of 2005," a bill to help the thousands of children who are abducted by a family member each year. We introduced this legislation last Congress, but it is just as needed today as it was then.

Family abductions are the most common form of abduction, yet they receive little attention, and law enforcement often doesn't treat them as the serious crimes that they are.

The Family Abduction Prevention Act of 2005 would provide grants to States for costs associated with family abduction prevention. Specifically, it would assist States with: costs associated with the extradition of individuals suspected of committing the crime of family abduction; costs borne by State and local law enforcement agencies to investigate cases of missing children; training for local and State law enforcement agencies in responding to family abductions; outreach and media campaigns to educate parents on the dangers of family abductions; and assistance to public schools to help with costs associated with "flagging" school records.

Each year, over 200,000 children—78 percent of all abductions in the United States—are kidnapped by a family member, usually a non-custodial parent.

More than half of abducting parents have a history of domestic violence, substance abuse, or a criminal record.

Most State and local law enforcement agencies do not treat these abductions as serious crimes. Approximately 70 percent of law enforcement agencies do not have written guidelines on responding to family abduction and many are not informed about the Federal laws available to help in the search and recovery of an abducted child.

Many people believe that a child is not in grave danger if the abductor is a family member. Unfortunately, this is not true, and this assumption can endanger a child's life. Research shows that the most common motive in family abduction cases is revenge against the other parent—not love for the child.

The effects of family abduction on children are very traumatic. Abducted children suffer from severe separation anxiety. To break emotional ties with the left-behind parent, some family abductors will coach a child into falsely disclosing abuse by the other parent to perpetuate their control during or after abduction. The child is often told that the other parent is dead or did not really love them.

As the child adapts to a fugitive's lifestyle, deception becomes a part of life. The child is taught to fear those that one would normally trust, such as police, doctors, teachers and counselors. Even after recovery, the child often has a difficult time growing into adulthood.

Let me give an illustrative example about a girl named Rebekah. On Takeroot.org, a website devoted to victims of family abductions, Rebekah told the story of when her mother kidnapped her.

Her mother was diagnosed as manic and was verbally abusive to her children and husband. Rebekah's father was awarded full custody of her and her brothers. However, one weekend, when Rebekah was 4-years-old, her mother took her to Texas.

Her mother had all Rebekah's moles and distinguishing marks removed from her body and she had fake birth certificates made for Rebekah and herself. As Rebekah grew up, she was told that her father didn't love her and that her siblings didn't want to see her. When the FBI finally found Rebekah, she didn't remember her father and felt very alone.

In addition, in many family abduction cases, children are given new identities at an age when they are still developing a sense of who they are. In extreme cases, the child's sexual identity is covered up to avoid detection.

Abducting parents often deprive their children of education and much-needed medical attention to avoid the risk of being tracked via school or medical records.

In some cases, the abducting parent leaves the child with strangers at an underground "safe house" where health, safety, and other basic needs are extremely compromised.

For example, in Lafayette, CA, two girls were abducted by their mother and moved from house to house under the control of a convicted child molester. Kelli Nunez absconded with her daughters, 6-year-old Anna and 4-year-old Emily in violation of court custody orders. Nunez drove her daughters cross-country, and then returned by plane to San Francisco, where she handed the children to someone holding a coded sign at the airport.

The person holding the sign belonged to an underground vigilante group called the California Family Law Center led by Florencio Maning, a convicted child molester. For six months, Maning orchestrated the concealment of the Nunez girls with help from other people. Luckily, police were able to track down the girls, and they were successfully reunited with their father.

California has been the Nation's leader in fighting family abduction. In my State, we have a system that places the responsibility for the investigation and resolution of family abduction cases with the County District Attorney's Office. Each California County District Attorney's Office has an investigative unit that is focused on family abduction cases. These investigators only handle family abduction cases and become experts in the process.

However, most States lack the training and resources to effectively recover children who are kidnapped by a family member. According to a study conducted by Plass, Finkelhor and Hotaling, 62 percent of parents surveyed said they were "somewhat" or "very" dissatisfied with police handling of their family abduction cases.

The "Family Abduction Prevention Act of 2005" would be an important first step in addressing this serious issue.

I urge my colleagues to quickly act on this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 994

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Abduction Prevention Act of 2005".

SEC. 2. FINDINGS.

Congress findings that—

(1) each year more than 203,000 children in the United States (approximately 78 percent of all abducted children) are abducted by a family member, usually a parent;

(2) more than half of the parents who abduct their children have a history of alcohol or substance abuse, a criminal record, or a history of violence;

(3) the most common motive for family abduction is revenge against the other parent, not protecting the child's safety;

(4) children who are abducted by family members suffer emotional, psychological, and often physical abuse at the hands of their abductors;

(5) children who are victims of family abductions are forced to leave behind family, friends, their homes, their neighborhoods, their schools, and all that is familiar to them;

(6) children who are victims of family abductions are often told that the parent who did not abduct the child has died, does not love them, or will harm them;

(7) children who are abducted by their parents or other family members are sometimes forced to live in fear of discovery and may be compelled to conceal their true identity, including their real names, family histories, and even their gender;

(8) children who are victims of family abductions are often denied the opportunity to attend school or to receive health and dental care;

(9) child psychologists and law enforcement authorities now classify family abduction as a form of child abuse;

(10) approximately 70 percent of local law enforcement agencies do not have written guidelines for what to do in the event of a family abduction or how to facilitate the recovery of an abducted child;

(11) the first few hours of a family abduction are crucial to recovering an abducted child, and valuable hours are lost when law enforcement is not prepared to employ the most effective techniques to locate and recover abducted children;

(12) when parents who may be inclined to abduct their own children receive counseling and education on the harm suffered by children under these circumstances, the incidence of family abductions is greatly reduced; and

(13) where practiced, the flagging of school records has proven to be an effective tool in assisting law enforcement authorities find abducted children.

SEC. 3. DEFINITIONS.

In this Act:

(1) FAMILY ABDUCTION.—The term "family abduction" means the taking, keeping, or concealing of a child or children by a parent, other family member, or person acting on behalf of the parent or family member, that prevents another individual from exercising lawful custody or visitation rights.

(2) FLAGGING.—The term "flagging" means the process of notifying law enforcement authorities of the name and address of any person requesting the school records of an abducted child.

(3) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(4) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any territory or possession of the United States, and any Indian tribe.

SEC. 4. GRANTS TO STATES.

(a) MATCHING GRANTS.—The Attorney General shall make grants to States for projects involving—

(1) the extradition of individuals suspected of committing a family abduction;

(2) the investigation by State and local law enforcement agencies of family abduction cases;

(3) the training of State and local law enforcement agencies in responding to family abductions and recovering abducted children, including the development of written guidelines and technical assistance;

(4) outreach and media campaigns to educate parents on the dangers of family abductions; and

(5) the flagging of school records.

(b) MATCHING REQUIREMENT.—Not less than 50 percent of the cost of a project for which a grant is made under this section shall be provided by non-Federal sources.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this Act, there are authorized to be appropriated to the Attorney General $500,000 for fiscal year 2006 and such sums as may be necessary for each of fiscal years 2007 and 2008.

By Mr. BURNS (for himself, Mr. ENZI, and Mr. THUNE):

S. 996. A bill to improve the Veterans Beneficiary Travel Program of the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

Mr. BURNS. Mr. President, today, I join my colleagues, Senator ENZI and Senator THUNE in introducing "The Veterans Road to Health Care Act of 2005."

Montana veterans are often forced to travel hundreds of miles throughout our great State to receive the healthcare they need. Whether traveling to the only Veterans' Administration (VA) hospital located just outside of Helena at Fort Harrison, or to one of the eight Community Based Outpatient Clinics, CBOCs, the distances traveled by our veterans is great. We have a lot of dirt between light bulbs in Montana. This distance, combined with the increase in gas prices and the cost of lodging for veterans and their families adds up quickly. Many of these folks do not have any other option for their health care, and I think that anything which can be done to help those who are travel eligible would be appreciated.

The Veterans Road to Health Care Act of 2005 would help ease this burden by raising the travel reimbursement rate for veterans who must travel to VA facilities for treatment. The current reimbursement rate of 11 cents per mile would be increased to the Federal rate of 40.5 cents per mile. It seems only fair that veterans who have sacrificed so much for this country receive the same compensation as Federal employees.

My bill would also allow payment under the Travel Beneficiary Program to veterans who cannot receive adequate care at their VA facility and are thereby forced to travel to another care center for specialized treatment. This referral to another facility for additional treatment often increases the costs for veterans from rural States like Montana, who must make another trip and sometimes travel even longer distances, for medical assistance.

It is important that veterans in rural areas receive fair compensation, as they travel to obtain healthcare. I want to acknowledge Senators ENZI and THUNE for joining me in support of this bill. Their work on this and all other veterans' issues is to be commended, and I look forward to working with them and my other Senate colleagues to pass this important piece of legislation. We need to do this for veterans in Montana and other rural areas across the country.

Mr. ENZI. Mr. President, I rise today in strong support of the Veterans Road to Health Care Act of 2005 that I introduced with my colleagues Senator BURNS and Senator THUNE. This legislation would raise the travel reimbursement rate for veterans who must travel to Department of Veterans Affairs' hospitals for treatment. The current reimbursement rate is 11 cents per mile. This bill would raise that figure to match the Federal employees travel reimbursement rate which is 40.5 cents per mile.

The average price for gas in Wyoming right now is $2.20 per gallon. The current rate of 11 cents per mile barely makes a dent in the expenses incurred by veterans who have no choice but to travel by automobile for health care. I have received numerous letters from veterans in Wyoming describing how difficult it is to work into their budget the money necessary to travel between their hometown and the VA hospital. Being able to access health care is vital; veterans should not have to choose between driving to receive needed treatment and being able to afford other necessities.

In Wyoming, we have two VA Medical Centers, one in Cheyenne and one in Sheridan. Veterans have to travel to one of these facilities to be treated for health conditions and be covered by the health care plan that the government provides for them. This poses a serious problem in terms of travel expense, especially with the rise in gasoline prices. Some towns in Wyoming are over 300 miles away from the nearest VA facility. A veteran living in Riverton must drive 215 miles to the Sheridan facility or nearly 300 to the Cheyenne facility. This problem is then compounded when these facilities, which provide great service for our veterans, must refer the veterans to a larger hospital in Salt Lake City or Denver for additional treatment or procedures.

This bill addresses the health care of veterans who have special needs. It would allow veterans who have been referred to a special care center by their VA physician to be reimbursed under the Travel Beneficiary Program for their travel to the specialized facility. This applies only to those veterans who cannot receive adequate care at their VA facility.

This legislation is important to all veterans, but it is especially significant to those veterans who live in rural states, like my home State of Wyoming. Rural States are less populated; there is greater distance between towns and far fewer options for transportation. Wyoming has miles and miles of miles and miles. Cars are the main mode of transportation and many times the only option.

It is our duty to compensate our servicemen and women for the sacrifices that they made defending the freedoms of this country. With our current recruitment and retention problems in the military, it is our Nation's responsibility to give veterans the kind of access to healthcare they have earned through their service to our country. The rising cost of gasoline should not be a factor for veterans to ignore their health concerns because they cannot afford to travel to the nearest veterans' clinic. I strongly urge my colleagues to support this important bill.

By Mr. BURNS:

S. 997. A bill to direct the Secretary of Agriculture to convey land in the Beaverhead-Deerlodge Forest, Montana, to Jefferson County, Montana, for use as a cemetery; to the Committee on Energy and Natural Resources.

Mr. BURNS. Mr. President, this bill conveys 3.4 acres on the Beaverhead-Deerlodge National Forest to Jefferson County, MT for continued use as a cemetery.

The Elkhorn Cemetery in Jefferson County has been used as a cemetery since the 1860's. Due to surveying errors and limited information when the National Forest boundaries were surveyed in the early 1900's, the cemetery was included as National Forest lands. The cemetery is still in use by local families who homesteaded and worked the mines in the area. However, Forest Service manual direction strongly discourages burials on National Forest lands, placing both the families and Forest Service in an awkward position.

It is clear the cemetery should not have been included as part of the National Forest. The County Commissioners and the local public strongly support the conveyance.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 997

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Montana Cemetery Act of 2005".

SEC. 2. CONVEYANCE TO JEFFERSON COUNTY, MONTANA.

(a) CONVEYANCE.—Not later than 180 days after the date of enactment of this Act and subject to valid existing rights, the Secretary of Agriculture (referred to in this Act as the "Secretary"), acting through the Chief of the Forest Service, shall convey to Jefferson County, Montana, for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the parcel of National Forest System land (including any improvements on the land) known as the Elkhorn Cemetery, which consists of 10 acres in Jefferson County located in SW1/4 Sec. 14, T. 6 N., R. 3 W.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions for the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

By Mr. CRAPO (for himself and Mr. CRAIG):

S. 998. A bill to include the State of Idaho as an affected area under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note); to the committee on the Judiciary.

Mr. CRAPO. Mr. President, in the 1950s and 1960s, this country was in the midst of a cold war and arms race, a race to perfect the hydrogen bomb. To win the race, nuclear weapons technology was developed using above ground testing in Idaho's neighbor to the south, Nevada. During these tests, Idahoans recount going outside in the evenings to look at the beautiful sunsets caused by the testing. Unfortunately and unbeknown to them, these skies were filled with dangerous radiation that very much elevated their exposure and subsequent risk of developing cancer.

I will not debate whether government authorities adequately knew the extent of the long-term dangers to radiation exposure. However, after a long and protracted discussion in this very chamber, Congress did recognize that what had occurred during this time of nuclear testing and rightly came forward providing for compensation through the Radiation Exposure Compensation Act of 1990 (RECA). This bill said that if you lived in certain counties in certain States during a certain period of time and had specified diseases, you were eligible for compensation. It is now time to review that program and make it work for everyone who may have become ill because of radiation fall-out exposure.

The criteria established in the Act were driven by limited scientific knowledge and political expediency. This was recognized in 1999, when a group of Senators, led by Senator HATCH, amended RECA to include additional counties in Arizona. During the floor debate at the time, Senator HATCH said, "Through advances in science, we now know so much more about the effects of radiation than we did in the late 1950s and 1960s. Our current state of scientific knowledge allows us to pinpoint with more accuracy which diseases are reasonably believed to be related to radiation exposure, and that is what necessitated the legislation we are considering today."

But the truth is even more encompassing than a few more counties. According to a report from the National Academies of Sciences, a report commissioned by Congress, radiation fallout didn't know any arbitrary geographic boundaries. It didn't stop because it crossed a State or county line. The NAS report, released last month, clearly demonstrated that we continue to be wide of the mark in who is eligible for compensation and that is why I am introducing legislation today to bring RECA back on course. Information used to establish who would be eligible for compensation failed to recognize that four counties in Idaho ranked in the top five in having the highest per capita thyroid dosage of radiation in the nation, more than any county currently recognized by RECA for eligibility. This clear inequity must be rectified; Idaho has a documented history of high cancer rates in people who lived in these areas during testing.

At this time I would like to thank people like Sheri Garmon, Kathy Skippen, Tona Henderson, and so many others who have spent time and energy on this issue. Some like Sheri are fighting multiple cancers and yet have taken the time to pursue their belief that they to deserved to be eligible for the RECA program. The NAS report recognizes that the RECA program needs revamping, but Idahoans deserve equal treatment with those in Utah, Arizona, and Nevada now. They should not have to wait while Congress comes up with a better way to administer this program. That is why I am introducing legislation today that will extend the present program to cover the full State of Idaho. And I am encouraging my colleagues to work with me on making the entire RECA program more comprehensive for the future.

It is the right thing to do.

By Mr. WYDEN (for himself and Mr. SMITH):

S. 999. A bill to provide for a public response to the public health crisis of pain, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WYDEN:

S. 1000. A bill to amend the Public Health Service Act to increase the number of permanent faculty in palliative care medicine at accredited allopathic and osteopathic medical schools and to promote the development of faculty careers as academic palliative specialists who emphasize teaching; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WYDEN

S. 1001. A bill to establish hospice demonstration projects and a hospice grant program for beneficiaries under the medicare program under title XVII of the Social Security Act, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, several weeks ago, I outlined what I believed this country needs to do in order to address the true issues related to how we care for those who are dying. Today, I am introducing 3 bills to improve access to pain management, increase the number of providers trained to care for those with life-threatening illness, and improve the Medicare hospice benefit.

Our medical system is geared towards curing patients, and gives short shrift to those we cannot cure. Modern advances in technology allow us to live longer, but that also means that many of us will live longer with chronic diseases including pain.

The Conquering Pain Act will help those patients living and dying in pain, support their families and assist providers in getting information and guidance. This legislation will provide an opportunity for the country to develop and test different ways of providing pain management to patients 24 hours a day, seven days a week. It would create and fund regional networks to assist patients so they would not have to wait until normal business hours to get relief and help providers receive timely information and guidance as they treat difficult cases. This bill would create a website and require access to it in health care settings so families, patients and providers can have instant information. In addition, the bill requires several studies so we can better understand the other roadblocks for patients seeking pain management. These roadblocks include the lack of health insurance coverage for pain management and the interaction of the enforcement of laws concerning controlled substances and the delivery of appropriate pain management. I am pleased that my colleague from Oregon is cosponsoring the Conquering Pain Act.

Another aspect of our health care system that needs strengthening, is in assuring that we have providers who know how to provide support and comfort care to the dying. The Palliative Care Training Act will increase the number of providers trained in palliative care. Palliative care is an approach that improves the quality of life of patients and their families facing the problems associated with life-threatening illness. It does so through the prevention and relief of suffering by early identification, assessment and treatment of pain and other problems. Palliative care affirms life and regards dying as a normal process. It neither hastens nor postpones death and is applicable early in the course of illness, in conjunction with other therapies that are intended to prolong life, such as chemotherapy or radiation therapy, and offers a support system to help patients live as actively as possible until death.

My legislation provides grants to individuals with appointments as junior faculty at accredited medical schools so they will teach other providers palliative care. This is modeled after existing awards for the training of other specialties. When it comes down to it, assuring there is faculty in schools to teach this area of medicine, is an inexpensive way of strengthening the health care system in providing this needed care. I am pleased to note that when the National Hospice and Palliative Care Association recently testified before the Senate Health, Education and Labor Committee, they identified this legislation as addressing an important need.

As we look at how to better care for those at the end of life, Medicare's hospice benefit bears examination. When the benefit was added to Medicare, it was hailed as a cost effective benefit that would assist many. In truth, few Americans know what hospice really is and the benefits it can provide. Too often seniors are advised of the benefits too late to get the full effect of the medical, social and spiritual support this benefit can provide. Part of the reason for this is Medicare requires the patient to choose between continuing to seek "curative" care or hospice and palliative care. This means that literally the patient must choose between the hope of a cure and accepting that they are dying. Not many of us would want to give up seeking a cure or want to give up hope. However, that is what the Medicare program requires now. The Medicare Hospice Demonstration Act tests the idea that patients would not have to give up seeking "curative" care, to get hospice. It is my belief that as people experience what hospice can do for them and for their families, they will find they can accept living the end of their lives with hospice and palliative care instead of seeking less effective care that will not cure them or enhance the quality of their life.

If the U.S. Senate is going to examine end of life issues, we should not just look at legal issues. I believe these proposals are essential elements of the health care system that need to be supported and strengthened.

I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 999

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Conquering Pain Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—EMERGENCY RESPONSE TO THE PUBLIC HEALTH CRISIS OF PAIN

Sec. 101. Guidelines for the treatment of pain.
Sec. 102. Patient expectations to have pain and symptom management.
Sec. 103. Quality improvement projects.
Sec. 104. Pain coverage quality evaluation and information.
Sec. 105. Surgeon General's report.

TITLE II—DEVELOPING COMMUNITY RESOURCES

Sec. 201. Family support networks in pain and symptom management.

TITLE III—REIMBURSEMENT BARRIERS

Sec. 301. Reimbursement barriers report.
Sec. 302. Insurance coverage of pain and symptom management.

TITLE IV—IMPROVING FEDERAL COORDINATION OF POLICY, RESEARCH, AND INFORMATION

Sec. 401. Advisory Committee on Pain and Symptom Management.
Sec. 402. Institutes of Medicine report on controlled substance regulation and the use of pain medications.
Sec. 403. Conference on pain research and care.

TITLE V—DEMONSTRATION PROJECTS

Sec. 501. Provider performance standards for improvement in pain and symptom management.
Sec. 502. End of life care demonstration projects.

SEC. 2. FINDINGS.

Congress finds that—

(1) pain is often left untreated or undertreated especially among older patients, African Americans, Hispanics and other minorities, and children;

(2) chronic pain is a public health problem affecting at least 50,000,000 Americans through some form of persisting or recurring symptom;

(3) 40 to 50 percent of patients experience moderate to severe pain at least half the time in their last days of life;

(4) 70 to 80 percent of cancer patients experience significant pain during their illness;

(5) one in 7 nursing home residents experience persistent pain that may diminish their quality of life;

(6) despite the best intentions of physicians, nurses, pharmacists, and other health care professionals, pain is often under-treated because of the inadequate training of clinicians in pain management;

(7) despite the best intentions of physicians, nurses, pharmacists, mental health professionals, and other health care professionals, pain and symptom management is often suboptimal because the health care system has focused on cure of disease rather than the management of a patient's pain and other symptoms;

(8) the technology and scientific basis to adequately manage most pain is known;

(9) pain should be considered the fifth vital sign; and

(10) coordination of Federal efforts is needed to improve access to high quality effective pain and symptom management in order to assure the needs of chronic pain patients and those who are terminally ill are met.

SEC. 3. DEFINITIONS.

In this Act:

(1) CHRONIC PAIN.—The term "chronic pain" means a pain state that is persistent and in which the cause of the pain cannot be removed or otherwise alleviated. Such term includes pain that may be associated with long-term incurable or intractable medical conditions or disease.

(2) END OF LIFE CARE.—The term "end of life care" means a range of services, including hospice care, provided to a patient, in the final stages of his or her life, who is suffering from 1 or more conditions for which treatment toward a cure or reasonable improvement is not possible, and whose focus of care is palliative rather than curative.

(3) FAMILY SUPPORT NETWORK.—The term "family support network" means an association of 2 or more individuals or entities in a collaborative effort to develop multi-disciplinary integrated patient care approaches that involve medical staff and ancillary services to provide support to chronic pain patients and patients at the end of life and

their caregivers across a broad range of settings in which pain management might be delivered.

(4) HOSPICE.—The term "hospice care" has the meaning given such term in section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)).

(5) MEDICATION THERAPY MANAGEMENT SERVICES.—The term "medication therapy management services" means consultations with a physician or other health care professional (including a pharmacist) who is practicing within the scope of the professional's license, concerning a patient which results in—

(A) a change in the drug regimen of the patient to avoid an adverse drug interaction with another drug or disease state;

(B) a change in inappropriate drug dosage or dosage form with respect to the patient;

(C) discontinuing an unnecessary or harmful medication with respect to the patient;

(D) an initiation of medication therapy for a medical condition of the patient;

(E) consultation with the patient or a caregiver in a manner that results in a significant improvement in drug regimen compliance; or

(F) patient and caregiver understanding of the appropriate use and adherence to medication therapy.

(6) PAIN AND SYMPTOM MANAGEMENT.—The term "pain and symptom management" means services provided to relieve physical or psychological pain or suffering, including any 1 or more of the following physical complaints—

(A) weakness and fatigue;

(B) shortness of breath;

(C) nausea and vomiting;

(D) diminished appetite;

(E) wasting of muscle mass;

(F) difficulty in swallowing;

(G) bowel problems;

(H) dry mouth;

(I) failure of lymph drainage resulting in tissue swelling;

(J) confusion;

(K) dementia;

(L) delirium;

(M) anxiety;

(N) depression; and

(O) other related symptoms

(7) PALLIATIVE CARE.—The term "palliative care" means the total care of patients whose disease is not responsive to curative treatment, the goal of which is to provide the best quality of life for such patients and their families. Such care—

(A) may include the control of pain and of other symptoms, including psychological, social and spiritual problems;

(B) affirms life and regards dying as a normal process;

(C) provides relief from pain and other distressing symptoms;

(D) integrates the psychological and spiritual aspects of patient care;

(E) offers a support system to help patients live as actively as possible until death; and

(F) offers a support system to help the family cope during the patient's illness and in their own bereavement.

(8) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

TITLE I—EMERGENCY RESPONSE TO THE PUBLIC HEALTH CRISIS OF PAIN

SEC. 101. GUIDELINES FOR THE TREATMENT OF PAIN.

(a) DEVELOPMENT OF WEBSITE.—Not later than 2 months after the date of enactment of this Act, the Secretary, acting through the Agency for Healthcare Research and Quality, shall develop and maintain an Internet website to provide information to individuals, health care practitioners, and health facilities concerning evidence-based practice guidelines developed for the treatment of physical and psychological pain. Websites in existence on such date may be used if such websites meet the requirements of this section.

(b) REQUIREMENTS.—The website established under subsection (a) shall—

(1) be designed to be quickly referenced by health care practitioners; and

(2) provide for the updating of guidelines as scientific data warrants.

(c) PROVIDER ACCESS TO GUIDELINES.—

(1) IN GENERAL.—In establishing the website under subsection (a), the Secretary shall ensure that health care facilities have made the website known to health care practitioners and that the website is easily available to all health care personnel providing care or services at a health care facility.

(2) USE OF CERTAIN EQUIPMENT.—In making the information described in paragraph (1) available to health care personnel, the facility involved shall—

(A) ensure that such personnel have access to the website through the computer equipment of the facility;

(B) carry out efforts to inform personnel at the facility of the location of such equipment; and

(C) ensure that patients, caregivers, and support groups are provided with access to the website.

(3) RURAL AREAS.—

(A) IN GENERAL.—A health care facility, particularly a facility located in a rural or underserved area, without access to the Internet shall provide an alternative means of providing practice guideline information to all health care personnel.

(B) ALTERNATIVE MEANS.—The Secretary shall determine appropriate alternative means by which a health care facility may make available practice guideline information on a 24-hour basis, 7 days a week if the facility does not have Internet access. The criteria for adopting such alternative means should be clear in permitting facilities to develop alternative means without placing a significant financial burden on the facility and in permitting flexibility for facilities to develop alternative means of making guidelines available. Such criteria shall be published in the Federal Register.

SEC. 102. PATIENT EXPECTATIONS TO HAVE PAIN AND SYMPTOM MANAGEMENT.

(a) IN GENERAL.—The administrator of each of the programs described in subsection (b) shall ensure that, as part of any informational materials provided to individuals under such programs, such materials shall include information, where relevant, to inform such individuals that they should expect to have their pain assessed and should expect to be provided with effective pain and symptom relief, when receiving benefits under such program.

(b) PROGRAMS.—The programs described in this subsection shall include—

(1) the medicare and medicaid programs under titles XIX and XXI of the Social Security Act (42 U.S.C. 1935 et seq., 1936 et seq.);

(2) programs carried out through the Public Health Service;

(3) programs carried out through the Indian Health Service;

(4) programs carried out through health centers under section 330 of the Public Health Service Act (42 U.S.C. 254b);

(5) the Federal Employee Health Benefits Program under title 5, United States Code;

(6) the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) as defined in section 1073(4) of title 10, United States Code; and

(7) other programs administered by the Secretary.

SEC. 103. QUALITY IMPROVEMENT EDUCATION PROJECTS.

The Secretary shall provide funds for the implementation of special education projects, in as many States as is practicable, to be carried out by peer review organizations of the type described in section 1152 of the Social Security Act (42 U.S.C. 1320c–1) to improve the quality of pain and symptom management. Such projects shall place an emphasis on improving pain and symptom management at the end of life, and may also include efforts to increase the quality of services delivered to chronic pain patients and the chronically ill for whom pain may be a significant symptom.

SEC. 104. PAIN COVERAGE QUALITY EVALUATION AND INFORMATION.

(a) IN GENERAL.—Section 1851(d)(4) of the Social Security Act (42 U.S.C. 42 U.S.C. 1395w–21(d)(4)) is amended—

(1) in subparagraph (A), by adding at the end the following:

"(ix) The organization's coverage of pain and symptom management."; and

(2) in subparagraph (D)—

(A) in clause (iii), by striking "and" at the end;

(B) in clause (iv), by striking the period and inserting ", and"; and

(C) by adding at the end the following:

"(v) not later than 2 years after the date of enactment of this clause, an evaluation (which may be made part of any other relevant report of quality evaluation that the plan is required to prepare) for the plan (updated annually) that indicates the performance of the plan with respect to access to, and quality of, pain and symptom management, including such management as part of end of life care. Data shall be posted in a comparable manner for consumer use on www.medicare.gov.".

(b) EFFECTIVE DATE.—The amendments made by paragraph (1) apply to information provided with respect to annual, coordinated election periods (as defined in section 1851(e)(3)(B) of the Social Security Act (42 U.S.C. 1395–21(e)(3)(B)) beginning after the date of enactment of this Act.

SEC. 105. SURGEON GENERAL'S REPORT.

Not later than October 1, 2006, the Surgeon General shall prepare and submit to the appropriate committees of Congress and the public, a report concerning the state of pain and symptom management in the United States. The report shall include—

(1) a description of the legal and regulatory barriers that may exist at the Federal and State levels to providing adequate pain and symptom management;

(2) an evaluation of provider competency in providing pain and symptom management;

(3) an identification of vulnerable populations, including children, advanced elderly, non-English speakers, and minorities, who may be likely to be underserved or may face barriers to access to pain management and recommendations to improve access to pain management for these populations;

(4) an identification of barriers that may exist in providing pain and symptom management in health care settings, including assisted living facilities;

(5) an identification of patient and family attitudes that may exist which pose barriers in accessing pain and symptom management or in the proper use of pain medications;

(6) an evaluation of medical, nursing, and pharmacy school training and residency training for pain and symptom management;

(7) a review of continuing medical education programs in pain and symptom management; and

(8) a description of the use of and access to mental health services for patients in pain and patients at the end of life.

TITLE II—DEVELOPING COMMUNITY RESOURCES

SEC. 201. FAMILY SUPPORT NETWORKS IN PAIN AND SYMPTOM MANAGEMENT.

(a) ESTABLISHMENT.—The Secretary, acting through the Public Health Service, shall award grants for the establishment of 6 National Family Support Networks in Pain and Symptom Management (in this section referred to as the "Networks") to serve as national models for improving the access and quality of pain and symptom management to chronic pain patients (including chronically ill patients for whom pain is a significant symptom) and those individuals in need of pain and symptom management at the end of life and to provide assistance to family members and caregivers.

(b) ELIGIBILITY AND DISTRIBUTION.—

(1) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

(A) be an academic facility or other entity that has demonstrated an effective approach to training health care providers including mental health professionals concerning pain and symptom management and palliative care services; and

(B) prepare and submit to the Secretary an application (to be peer reviewed by a committee established by the Secretary), at such time, in such manner, and containing such information as the Secretary may require.

(2) DISTRIBUTION.—In providing for the establishment of Networks under subsection (a), the Secretary shall ensure that—

(A) the geographic distribution of such Networks reflects a balance between rural and urban needs; and

(B) at least 3 Networks are established at academic facilities.

(c) ACTIVITIES OF NETWORKS.—A Network that is established under this section—

(1) shall provide for an integrated interdisciplinary approach, that includes psychological and counseling services, to the delivery of pain and symptom management;

(2) shall provide community leadership in establishing and expanding public access to appropriate pain care, including pain care at the end of life;

(3) shall provide assistance, through caregiver supportive services, that include counseling and education services;

(4) shall develop a research agenda to promote effective pain and symptom management for the broad spectrum of patients in need of access to such care that can be implemented by the Network;

(5) shall provide for coordination and linkages between clinical services in academic centers and surrounding communities to assist in the widespread dissemination of provider and patient information concerning how to access options for pain management;

(6) shall establish telemedicine links to provide education and for the delivery of services in pain and symptom management;

(7) shall develop effective means of providing assistance to providers and families for the management of a patient's pain 24 hours a day, 7 days a week; and

(8) may include complimentary medicine provided in conjunction with traditional medical services.

(d) PROVIDER PAIN AND SYMPTOM MANAGEMENT COMMUNICATIONS PROJECTS.—

(1) IN GENERAL.—Each Network shall establish a process to provide health care personnel with information 24 hours a day, 7 days a week, concerning pain and symptom management. Such process shall be designed to test the effectiveness of specific forms of communications with health care personnel so that such personnel may obtain information to ensure that all appropriate patients are provided with pain and symptom management.

(2) TERMINATION.—The requirement of paragraph (1) shall terminate with respect to a Network on the day that is 2 years after the date on which the Network has established the communications method.

(3) EVALUATION.—Not later than 60 days after the expiration of the 2-year period referred to in paragraph (2), a Network shall conduct an evaluation and prepare and submit to the Secretary a report concerning the costs of operation and whether the form of communication can be shown to have had a positive impact on the care of patients in chronic pain or on patients with pain at the end of life.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as limiting a Network from developing other ways in which to provide support to families and providers, 24 hours a day, 7 days a week.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $18,000,000 for fiscal years 2005 through 2007.

TITLE III—REIMBURSEMENT BARRIERS

SEC. 301. REIMBURSEMENT BARRIERS REPORT.

The Medicare Payment Advisory Commission (MedPac) established under section 1805 of the Social Security Act (42 U.S.C. 1396b–6) shall conduct a study, and prepare and submit to the appropriate committees of Congress a report, concerning—

(1) the manner in which medicare policies may pose barriers in providing pain and symptom management and palliative care services in different settings, including a focus on payment for nursing home and home health services;

(2) the identification of any financial barriers that may exist within the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq.) that interfere with continuity of care and interdisciplinary care or supportive care for the broad range of chronic pain patients (including patients who are chronically ill for whom pain is a significant symptom), and for those who are terminally ill, and include the recommendations of the Commission on ways to eliminate those barriers that the Commission may identify;

(3) the reimbursement barriers that exist, if any, in providing pain and symptom management through hospice care, particularly in rural areas, and if barriers exist, recommendations concerning adjustments that would assist in assuring patient access to pain and symptom management through hospice care in rural areas;

(4) whether the medicare reimbursement system provides incentives to providers to delay informing terminally ill patients of the availability of hospice and palliative care; and

(5) the impact of providing payments for medication therapy management services in pain and symptom management and palliative care services.

SEC. 302. INSURANCE COVERAGE OF PAIN AND SYMPTOM MANAGEMENT.

(a) IN GENERAL.—The General Accounting Office shall conduct a survey of public and private health insurance providers, including managed care entities, to determine whether the reimbursement policies of such insurers inhibit the access of chronic pain patients to pain and symptom management and pain and symptom management for those in need of end-of-life care (including patients who are chronically ill for whom pain is a significant symptom). The survey shall include a review of formularies for pain medication and the effect of such formularies on pain and symptom management.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the General Accounting Office shall prepare and submit to the appropriate committees of Congress a report concerning the survey conducted under subsection (a).

TITLE IV—IMPROVING FEDERAL COORDINATION OF POLICY, RESEARCH, AND INFORMATION

SEC. 401. ADVISORY COMMITTEE ON PAIN AND SYMPTOM MANAGEMENT.

(a) ESTABLISHMENT.—The Secretary shall establish an advisory committee, to be known as the Advisory Committee on Pain and Symptom Management, to make recommendations to the Secretary concerning a coordinated Federal agenda on pain and symptom management.

(b) MEMBERSHIP.—The Advisory Committee established under subsection (a) shall be comprised of 11 individuals to be appointed by the Secretary, of which at least 1 member shall be a representative of—

(1) physicians (medical doctors or doctors of osteopathy) who treat chronic pain patients or the terminally ill;

(2) nurses who treat chronic pain patients or the terminally ill;

(3) pharmacists;

(4) hospice;

(5) pain researchers;

(6) patient advocates;

(7) caregivers; and

(8) mental health providers.

The members of the Committee shall designate 1 member to serve as the chairperson of the Committee.

(c) MEETINGS.—The Advisory Committee shall meet at the call of the chairperson of the Committee.

(d) AGENDA.—The agenda of the Advisory Committee established under subsection (a) shall include—

(1) the development of recommendations to create a coordinated Federal agenda on pain and symptom management;

(2) the development of proposals to ensure that pain is considered as the fifth vital sign for all patients;

(3) the identification of research needs in pain and symptom management, including gaps in pain and symptom management guidelines;

(4) the identification and dissemination of pain and symptom management practice guidelines, research information, and best practices;

(5) proposals for patient education concerning how to access pain and symptom management across health care settings;

(6) the manner in which to measure improvement in access to pain and symptom management and improvement in the delivery of care;

(7) the development of ongoing strategies to assure the aggressive use of pain medications, including opiods, regardless of health care setting; and

(8) the development of an ongoing mechanism to identify barriers or potential barriers to pain and symptom management created by Federal policies.

(e) RECOMMENDATION.—Not later than 2 years after the date of enactment of this

Act, the Advisory Committee established under subsection (a) shall prepare and submit to the Secretary recommendations concerning a prioritization of the need for a Federal agenda on pain and symptom management, and ways in which to better coordinate the activities of entities within the Department of Health and Human Services, and other Federal entities charged with the responsibility for the delivery of health care services or research on pain and symptom management with respect to pain management.

(f) CONSULTATION.—In carrying out this section, the Advisory Committee shall consult with all Federal agencies that are responsible for providing health care services or access to health services to determine the best means to ensure that all Federal activities are coordinated with respect to research and access to pain and symptom management.

(g) ADMINISTRATIVE SUPPORT; TERMS OF SERVICE; OTHER PROVISIONS.—The following shall apply with respect to the Advisory Committee:

(1) The Committee shall receive necessary and appropriate administrative support, including appropriate funding, from the Department of Health and Human Services.

(2) The Committee shall hold open meetings and meet not less than 4 times per year.

(3) Members of the Committee shall not receive additional compensation for their service. Such members may receive reimbursement for appropriate and additional expenses that are incurred through service on the Committee which would not have incurred had they not been a member of the Committee.

(4) The requirements of Appendix 2 of title 5, United States Code.

SEC. 402. INSTITUTES OF MEDICINE REPORT ON CONTROLLED SUBSTANCE REGULATION AND THE USE OF PAIN MEDICATIONS.

(a) IN GENERAL.—The Secretary, acting through a contract entered into with the Institute of Medicine, shall review findings that have been developed through research conducted concerning—

(1) the effects of controlled substance regulation on patient access to effective care;

(2) factors, if any, that may contribute to the underuse of pain medications, including opiods;

(3) the identification of State legal and regulatory barriers, if any, that may impact patient access to medications used for pain and symptom management; and

(4) strategies to assure the aggressive use of pain medications, including opiods, regardless of health care setting.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the findings described in subsection (a).

SEC. 403. CONFERENCE ON PAIN RESEARCH AND CARE.

Not later than December 31, 2007, the Secretary, acting through the National Institutes of Health, shall convene a national conference to discuss the translation of pain research into the delivery of health services including mental health services to chronic pain patients and those needing end-of-life care. The Secretary shall use unobligated amounts appropriated for the Department of Health and Human Services to carry out this section.

TITLE V—DEMONSTRATION PROJECTS

SEC. 501. PROVIDER PERFORMANCE STANDARDS FOR IMPROVEMENT IN PAIN AND SYMPTOM MANAGEMENT.

(a) IN GENERAL.—The Secretary, acting through the Health Resources Services Administration, shall award grants for the establishment of not less than 5 demonstration projects to determine effective methods to measure improvement in the skills, knowledge, and attitudes and beliefs of health care personnel in pain and symptom management as such skill, knowledge, and attitudes and beliefs apply to providing services to chronic pain patients and those patients requiring pain and symptom management at the end of life.

(b) EVALUATION.—Projects established under subsection (a) shall be evaluated to determine patient and caregiver knowledge and attitudes toward pain and symptom management.

(c) APPLICATION.—To be eligible to receive a grant under subsection (a), an entity shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require.

(d) TERMINATION.—A project established under subsection (a) shall terminate after the expiration of the 2-year period beginning on the date on which such project was established.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 502. END OF LIFE CARE DEMONSTRATION PROJECTS.

The Secretary, acting through the Health Resources and Services Administration, shall—

(1) not later than January 1, 2007, carry out not less than 5 demonstration and evaluation projects that implement care models for individuals at the end of life, at least one of which shall be developed to assist those individuals who are terminally ill and have no family or extended support, and each of which may be carried out in collaboration with domestic and international entities to gain and share knowledge and experience on end of life care;

(2) conduct 3 demonstration and evaluation activities concerning the education and training of clinicians in end of life care, and assist in the development and distribution of accurate educational materials on both pain and symptom management and end of life care;

(3) in awarding grants for the training of health professionals, give priority to awarding grants to entities that will provide training for health professionals in pain and symptom management and in end-of-life care at the undergraduate level;

(4) shall evaluate demonstration projects carried out under this section within the 5-year period beginning on the commencement of each such project; and

(5) develop a strategy and make recommendations to Congress to ensure that the United States health care system—

(A) has a meaningful, comprehensive, and effective approach to meet the needs of individuals and their caregivers as the patient approaches death; and

(B) integrates broader supportive services.

S. 1000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Palliative Care Training Act".

SEC. 2. PALLIATIVE CARE TRAINING PROGRAM.

(a) IN GENERAL.—Section 753 of the Public Health Service Act (42 U.S.C. 294c) is amended by adding at the end the following:

"(d) HOSPICE AND PALLIATIVE CARE ACADEMIC CAREER AWARDS.—

"(1) IN GENERAL.—The Secretary shall establish a program to provide Hospice and Palliative Care Academic Career Awards to eligible individuals under this subsection.

"(2) ELIGIBILITY.—To be eligible to receive an Award under this subsection, an individual shall—

"(A) be board certified or board eligible in internal medicine, family practice, or pediatrics and their subspecialties including geriatrics, palliative medicine, or other specialties as determined by the Secretary;

"(B) have completed an approved fellowship program or demonstrated specialized experience in palliative medicine as determined by the Secretary; and

"(C) have a junior faculty appointment at an accredited (as determined by the Secretary) school of medicine (allopathic or osteopathic) and within an internship or residency program that is approved by the Accreditation Council on Graduate Medical Education or the American Osteopathic Association.

"(3) AMOUNT AND TERM.—

"(A) AMOUNT.—The amount of an Award to an individual under this subsection shall be equal to $75,000 for fiscal year 2006, adjusted for subsequent fiscal years to reflect the increase in the Consumer Price Index.

"(B) TERM.—The term of any Award made under this subsection shall not exceed 5 years.

"(4) SERVICE REQUIREMENT.—An individual who receives an Award under this subsection shall provide training in hospice care and palliative medicine, including the training of interdisciplinary teams of health care professionals. The provision of such training shall constitute at least 75 percent of the obligations of such individual under the terms of the Award.

"(5) EFFECTIVE DATE.—This subsection shall take effect 90 days after the date of enactment of the Palliative Care Training Act.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 757 of the Public Health Service Act (42 U.S.C. 294g) is amended—

(1) in subsection (a), by striking "through 2002" and inserting "through 2010";

(2) in subsection (b)(1)(C), by striking "$22,631,000" and inserting "$55,779,000"; and

(3) in subsection (c), by adding at the end the following:

"(3) GERIATRIC EDUCATION AND TRAINING.—Of the amount made available under subsection (b)(1)(C) for fiscal year 2006, the Secretary may obligate for awards under subsections (a), (b), and (c) of section 753 an amount not less than $31,805,000.".

S. 1001

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Hospice Demonstration Act of 2005".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Each year more than ⅓ of the people who die suffer from a chronic illness.

(2) Approximately ⅓ of Americans are unsure about whom to contact to get the best care during life's last stages.

(3) Americans want a team of professionals to care for the patient at the end of life.

(4) Americans want emotional and spiritual support for the patient and family.

(5) Ninety percent of Americans do not realize that hospice care is a benefit provided under the medicare program under title XVIII of the Social Security Act.

(6) Data of the Centers for Medicare & Medicaid Services show that beneficiaries were enrolled in hospice for an average of less than 7 weeks in 1998, far less than the full 6-month benefit under the medicare program.

(7) According to the most recent data available, although more medicare beneficiaries are enrolled in hospice, the medicare length of stay has declined.

(8) Use of hospice among medicare beneficiaries has been decreasing, from a high of 59 days in 1995 to less than 48 days in 1998.

SEC. 3. HOSPICE DEMONSTRATION PROJECTS AND HOSPICE EDUCATION GRANTS.

(a) Definitions.—In this section:

(1) Demonstration project.—The term "demonstration project" means a demonstration project established by the Secretary under subsection (b)(1).

(2) Hospice care.—The term "hospice care" means the items and services described in subparagraphs (A) through (I) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)) that are provided to a seriously ill medicare beneficiary under a demonstration project by a hospice program (or by others under an arrangement with such a program) under a written plan for providing such care to such beneficiary established and periodically reviewed by the beneficiary's attending physician, by the medical director of the program, and by the interdisciplinary group described in section 1861(dd)(2)(B) of such Act (42 U.S.C. 1395x(dd)(2)(B)).

(3) Hospice program.—The term "hospice program" has the meaning given that term in section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)).

(4) Medicare beneficiary.—The term "medicare beneficiary" means any individual who is entitled to benefits under part A or enrolled under part B of the medicare program.

(5) Medicare program.—The term "medicare program" means the health benefits program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(6) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(7) Seriously ill.—The term "seriously ill" has the meaning given such term by the Secretary (in consultation with hospice programs and academic experts in end-of-life care), except that the Secretary may not limit such term to individuals who are terminally ill (as defined in section 1861(dd)(3)(A) of the Social Security Act (42 U.S.C. 1395x(dd)(3)(A))).

(b) Hospice Demonstration Projects.—

(1) Establishment.—The Secretary shall establish demonstration projects in accordance with the provisions of this subsection to increase the utility of the hospice care for seriously ill medicare beneficiaries.

(2) Participation.—

(A) Hospice programs.—Except as provided in paragraph (4)(A), only a hospice program with an agreement under section 1866 of the Social Security Act (42 U.S.C. 1395cc), a consortium of such hospice programs, or a State hospice association may participate in the demonstration program.

(B) Seriously ill medicare beneficiaries.—The Secretary shall permit any seriously ill medicare beneficiary residing in the service area of a hospice program participating in a demonstration project to participate in such project on a voluntary basis.

(3) Services under demonstration projects.—The provisions of section 1814(i) of the Social Security Act (42 U.S.C. 1395f(i)) shall apply to the payment for hospice care provided under the demonstration projects, except that—

(A) notwithstanding section 1862(a)(1)(C) of such Act (42 U.S.C. 1395y(a)(1)(C)), the Secretary shall provide for reimbursement for items and services provided under the supportive and comfort care benefit established under paragraph (3);

(B) any licensed nurse practitioner or physician assistant may admit a seriously ill medicare beneficiary as the primary care provider when necessary and within the scope of practice of such practitioner or assistant under State law;

(C) if an underserved community included in a demonstration project does not have a qualified social worker, any professional (other than a social worker) who has the necessary knowledge, skills, and ability to provide medical social services may provide such services;

(D) the Secretary shall waive any requirement that nursing facilities used for respite care have skilled nurses on the premises 24 hours per day;

(E) the Secretary shall permit respite care to be provided to the seriously ill medicare beneficiary at home; and

(F) the Secretary shall waive reimbursement regulations to provide—

(i) reimbursement for consultations and preadmission informational visits, even if the seriously ill medicare beneficiary does not elect hospice care at that time;

(ii) except with respect to the supportive and comfort care benefit under paragraph (3), a minimum payment for hospice care provided under the demonstration projects based on the provision of hospice care to a seriously ill medicare beneficiary for a period of 14 days, that—

(I) the Secretary shall pay to any hospice program participating in a demonstration project and providing such care (regardless of the length of stay of the seriously ill medicare beneficiary); and

(II) may not be less than the amount of payment that would have been made for hospice care if payment had been made at the daily rate of payment for such care under section 1814(i) of the Social Security Act (42 U.S.C. 1395f(i));

(iii) an increase in the reimbursement rates for hospice care to offset—

(I) changes in hospice care and oversight under the demonstration projects;

(II) the higher costs of providing hospice care in rural areas due to lack of economies of scale or large geographic areas; and

(III) the higher costs of providing hospice care in urban underserved areas due to unique costs specifically associated with people living in those areas, including providing security;

(iv) direct payment of any nurse practitioner or physician assistant practicing within the scope of State law in relation to hospice care provided by such practitioner or assistant; and

(v) a per diem rate of payment for in-home care under subparagraph (E) that reflects the range of care needs of the seriously ill medicare beneficiary and that—

(I) in the case of a seriously ill medicare beneficiary that needs routine care, is not less than 150 percent, and not more than 200 percent, of the routine home care rate for hospice care; and

(II) in the case of a seriously ill medicare beneficiary that needs acute care, is equal to the continuous home care day rate for hospice care.

(4) Supportive and comfort care benefit.—

(A) In general.—For purposes of the demonstration projects, the Secretary shall establish a supportive and comfort care benefit for any eligible seriously ill medicare beneficiary (as defined in subparagraph (C)).

(B) Participation.—Any individual or entity with an agreement under section 1866 of the Social Security Act (42 U.S.C. 1395cc) may furnish items or services covered under the supportive and comfort care benefit.

(C) Benefit.—Under the supportive and comfort care benefit, any eligible seriously ill medicare beneficiary may—

(i) continue to receive benefits for disease and symptom modifying treatment under the medicare program (and the Secretary may not require or prohibit any specific treatment or decision);

(ii) receive case management and hospice care through a hospice program participating in a demonstration project (for which payment shall be made under paragraph (2)(F)(ii)); and

(iii) receive information and education in order to better understand the utility of hospice care.

(D) Payment.—The Secretary shall establish procedures under which the Secretary pays for items and services furnished to seriously ill medicare beneficiaries under the supportive and comfort care benefit on a fee-for-service basis.

(E) Eligible seriously ill medicare beneficiary defined.—

(i) In general.—In this paragraph, the term "eligible seriously ill medicare beneficiary" means any seriously ill medicare beneficiary that meets the criteria approved by the Secretary under clause (ii).

(ii) Approval of criteria.—

(I) In general.—With respect to each demonstration project, the Secretary shall approve criteria for determining whether a seriously ill medicare beneficiary is eligible for hospice care under a demonstration project that has been developed by hospice programs in consultation with researchers in end-of-life care and the broader medical community.

(II) Data comparability.—The Secretary may only approve criteria that ensures that each demonstration project yields comparable data with respect to eligible seriously ill medicare beneficiaries on—

(aa) the utilization of services by such beneficiaries;

(bb) the cost of providing services to such beneficiaries, including any costs associated with providing services before an individual is terminally ill (as defined in section 1861(dd)(3)(A) of the Social Security Act (42 U.S.C. 1395x(dd)(3)(A))); and

(cc) the effect of the demonstration project on the quality of care of such beneficiaries.

(III) Limitation.—The Secretary may not approve criteria if the purpose of such criteria is to segment services or to provide a benefit for the chronically ill.

(5) Conduct of demonstration projects.—

(A) Sites.—The Secretary shall conduct demonstration projects in at least 3, but not more than 6, sites (which may be statewide).

(B) Selection of sites.—

(i) In general.—Except as provided in clause (ii), the Secretary shall select demonstration sites on the basis of proposals submitted under subparagraph (C) that are located in geographic areas that—

(I) include both urban and rural hospice programs; and

(II) are geographically diverse and readily accessible to a significant number of seriously ill medicare beneficiaries.

(ii) EXCEPTIONS.—

(I) UNDERSERVED URBAN AREAS.—If a geographic area does not have any rural hospice program available to participate in a demonstration project, such area may substitute an underserved urban area, but the Secretary shall give priority to those proposals that include a rural hospice program.

(II) SPECIFIC SITE.—The Secretary shall select as a demonstration site the State in which (according to the Hospital Referral Region of Residence, 1994–1995, as listed in the Dartmouth Atlas of Health Care 1998) the largest metropolitan area of the State had the lowest percentage of medicare beneficiary deaths in a hospital when compared to the largest metropolitan area of each other State, and the percentage of enrollees who experienced intensive care during the last 6 months of life was 21.5 percent.

(C) PROPOSALS.—

(i) IN GENERAL.—The Secretary shall accept proposals by any State hospice association, hospice program, or consortium of hospice programs at such time, in such manner, and in such form as the Secretary may reasonably require.

(ii) RESEARCH DESIGNS.—The Secretary shall permit research designs that use time series, sequential implementation of the intervention, randomization by wait list, and other designs that allow the strongest possible implementation of the demonstration projects, while still allowing strong evaluation about the merits of the demonstration projects.

(D) FACILITATION OF EVALUATION.—The Secretary shall design the program to facilitate the evaluation conducted under paragraph (7).

(6) DURATION.—The Secretary shall complete the demonstration projects within a period of 6½ years that includes a period of 18 months during which the Secretary shall complete the evaluation under paragraph (7).

(7) EVALUATION.—During the 18-month period following the first 5 years of the demonstration projects, the Secretary shall complete an evaluation of the demonstration projects in order to determine—

(A) the short-term and long-term costs and benefits of changing hospice care provided under the medicare program to include the items, services, and reimbursement options provided under the demonstration projects;

(B) whether any increase in payments for the hospice care provided under the medicare program are offset by savings in other parts of the medicare program;

(C) the projected cost of implementing the demonstration projects on a national basis; and

(D) in consultation with hospice organizations and hospice programs (including organizations and providers that represent rural areas), whether a payment system based on diagnosis-related groups is useful for administering the hospice care provided under the medicare program.

(8) REPORTS TO CONGRESS.—

(A) PRELIMINARY REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a preliminary report on the progress made in the demonstration projects.

(B) INTERIM REPORT.—Not later than 30 months after the implementation of the demonstration projects, the Secretary, in consultation with participants in the projects, shall submit to the committees described in subparagraph (A) an interim report on the demonstration projects.

(C) FINAL REPORT.—Not later than the date on which the demonstration projects end, the Secretary shall submit a final report to the committees described in subparagraph (A) on the demonstration projects that includes the results of the evaluation conducted under paragraph (7) and recommendations for appropriate legislative changes.

(9) WAIVER OF MEDICARE REQUIREMENTS.—The Secretary shall waive compliance with such requirements of the medicare program to the extent and for the period the Secretary finds necessary to conduct the demonstration projects.

(10) SPECIAL RULES FOR PAYMENT OF MEDICARE ADVANTAGE ORGANIZATIONS.—The Secretary shall establish procedures under which the Secretary provides for an appropriate adjustment in the monthly payments made under section 1853 of the Social Security Act (42 U.S.C. 1395w–23) to any Medicare Advantage organization offering a Medicare Advantage plan to reflect the participation of each seriously ill medicare beneficiary enrolled in such plan in a demonstration project.

(c) HOSPICE EDUCATION GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a Hospice Education Grant program under which the Secretary awards education grants to entities participating in the demonstration projects for the purpose of providing information about—

(A) the hospice care under the medicare program; and

(B) the benefits available to medicare beneficiaries under the demonstration projects.

(2) USE OF FUNDS.—Grants awarded under paragraph (1) shall be used—

(A) to provide—

(i) individual or group education to medicare beneficiaries and the families of such beneficiaries; and

(ii) individual or group education of the medical and mental health community caring for medicare beneficiaries; and

(B) to test strategies to improve the general public knowledge about hospice care under the medicare program and the benefits available to medicare beneficiaries under the demonstration projects.

(d) FUNDING.—

(1) HOSPICE DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) such sums as may be necessary to carry out this section.

(B) SUPPORTIVE AND COMFORT CARE BENEFIT.—The Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t), in such proportion as the Secretary determines is appropriate, such sums as may be necessary to provide for payment of the costs attributable to the supportive and comfort care benefit.

(2) HOSPICE EDUCATION GRANTS.—The Secretary shall expend such sums as may be necessary for the purposes of carrying out the Hospice Education Grant program established under subsection (c)(1) from the Research and Demonstration Budget of the Centers for Medicare & Medicaid Services.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 1002. A bill to amend title XVIII of the Social Security Act to make improvements in payments to hospitals under the medicare program, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, physician-owned specialty hospitals continue to raise a number of troubling issues, and I feel strongly that additional action to address these issues is needed from Congress. Today, I am pleased to join Senator MAX BAUCUS, the ranking Democrat on the Senate Finance Committee, in introducing the Hospital Fair Competition Act of 2005. This bill has an effective date of June 8, 2005, regardless of when it may be enacted as this is the date the current moratorium on specialty hospitals expires.

Now, specialty hospitals have existed for quite some time. There are other types of hospitals with a special focus, such as children's hospitals and psychiatric facilities. But these are not really what we are talking about. We are talking about the emergence of a new type of hospital. These new facilities are mostly for-profit. They are mainly owned by the physicians who refer their patients to these hospitals. And, they provide treatment in very specific areas such as cardiac, orthopedic or surgical care.

The number of these specialty hospitals has more than tripled in the past 10 years. While they are still relatively small in number—about 100—they are increasing quickly. They are mainly located in certain pockets of the country, concentrated in those States without a "certificate of need" requirement. That means they are mainly located in States where hospitals are permitted to add beds or build new facilities without first obtaining approval by the State. This approval process helps ensure that there is an actual public health need for additional health resources in the community.

Congress, in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), placed a moratorium on the development of new physician-owned specialty hospital hospitals until June 8, 2005. First, there were concerns about the conflict of interest inherit in physician self-referral. Second, it was thought that specialty hospitals might be an unfair form of competition. And third, in all of this, was a concern about the impact these hospitals may be having on the health care system as a whole.

The Medicare Payment Advisory Commission (MedPAC) and the Centers for Medicare and Medicaid Services (CMS) were directed by the MMA to study and report on a number of issues related to specialty hospitals. Today's Hospital Fair Competition Act draws heavily from MedPAC's non-partisan recommendations in its March 8, 2005, report to Congress.

Three separate government studies have found that physician-owned specialty hospitals treat the most profitable patients and services, leaving community hospitals to treat a disproportionate share of less profitable cases, Medicaid cases and the uninsured.

An April 2003 report by the Government Accountability Office (GAO) found that patients at specialty hospitals tended to be less sick than patients with the same diagnoses at general hospitals. The Centers for Medicare and Medicaid Services (CMS) reported in March its preliminary findings that specialty hospitals generally treat less severe cases than community hospitals. And, MedPAC reported that physician-owned specialty hospitals treat patients who are less sick, and thus more profitable, and concentrate on certain diagnosis-related groups (DRGs) that are more profitable.

In addition, approximately 93 percent of community hospitals operate emergency rooms, compared to less than half of specialty hospitals, thus treating any and all patients who walk through their doors. They also serve a much greater share of poor patients, averaging 15 percent versus four percent for specialty heart hospitals and one percent for specialty orthopedic hospitals. When community hospitals lose their profitable services, they must shift costs to private patients to make up the difference. This then means private employers may pay higher premiums—all so physician-owned specialty hospitals can profit.

Specialty hospitals are able to take advantage of an outdated payment system. The current inpatient payment rates have not been recalibrated in over 20 years. This has resulted in certain patients and certain case types being significantly more profitable to treat than others. In fact, specialty heart hospitals have been found by MedPAC to treat Medicare patients who are 13 percent more profitable than the average mix of patients. And at specialty surgical hospitals this number is 14 percent.

This bill would make corrections to the payment system so that certain cases and patients are not significantly more profitable or less profitable to treat than others. While we believe the secretary has the authority to make these payment changes, this bill will direct CMS to do so beginning in 2007. This will improve payment accuracy for all hospitals, and will better reflect the actual cost of delivering care.

But Medicare payment changes are not enough.

I also have great concerns about the inherent conflict of interest in physician ownership. This interest in gaming the system may not be in the best interest of the patient, and this is troubling. Physicians are paid by Medicare to treat the patient. In addition, because they are owners of the hospital, physician owners get a payment from Medicare for use of the facility. And, because they are also investors in the hospital, these physician owners also get dividends on their investment. MedPAC found these annual dividends for older facilities are frequently in excess of 20 percent.

I am concerned that this focus on profit may unduly influence physician decision-making on the part of some physicians. This is not good for unsuspecting patients, the Medicare program or taxpayers. Some physicians may choose where to send a patient based on whether or not they think that patient will profit their hospital. In addition, changes to the payment system don't prevent some physician-owners from selecting patients based on their insurance. Specialty hospitals would likely continue to treat few—if any—poor or uninsured patients.

MedPAC has found that specialty hospital hospitals treat far fewer Medicaid recipients than community hospitals in the same market—75 percent fewer for specialty heart hospitals, and 94 percent fewer for specialty orthopedic hospitals. In addition, CMS found that specialty hospitals provided only about 40 percent of the share of uncompensated care that the local community hospitals provided. We now have 45 million uninsured Americans in our country, and I continue to be very concerned about their health care.

Congress has passed laws that, with very few exceptions, prevent physician physicians from referring Medicare and Medicaid patients to facilities in which they are owners. This was adopted in response to a number of studies that found that physician-owners tended to make more referrals to their facilities and order substantially more services at higher cost.

One exception, however, is the "whole hospital" exception. The law allows physicians to invest in a "whole hospital" because it is believed that no particular referral would economically advantage a specific physician owner. Because the referrals would be diluted across multiple services, there would not be a direct link to any one physician's income. But specialty hospitals are not really whole hospitals. In fact, they are more like a hospital department such as a cardiac unit or an orthopedic unit. Under current law, we believe that the secretary has the authority to define what constitutes a whole hospital, and we encourage CMS to determine whether specialty hospitals meet this definition. The law clearly states that it is illegal for physicians to invest in hospital departments.

This loophole in the law, the "whole hospital" exception, is being exploited. The Hospital Fair Competition Act will close this loophole. New specialty hospitals will not qualify for the "whole hospital" exception as of June 8, 2005—the date the moratorium expires.

Existing specialty hospitals, those in operation or under development before November 18, 2003, will be able to continue operating under certain restrictions. These "grandfathered" specialty hospitals will be prohibited from increasing their total number of physician owners. Also, the bill caps each individual physician's investment and the aggregate physician investment in the facility as of June 8, 2005. Grandfathered specialty hospitals will not be allowed to expand their scope of services. And finally, they will be prohibited from increasing their number of beds or operating rooms. I believe that halting the growth in physician ownership at existing specialty hospitals is the only way to prevent the inherent conflict of interest associated with self-referral, and ensure that patients' interests are not compromised.

Now, I have heard from a number of physician-owners on this issue and they have said to me that they invest in these hospitals because it allows them to have greater control over their workplace. It gives them a say in operations, and more control over the quality and cost of patient care. I believe that certain coordinated care incentive arrangements have the potential to assist physicians in doing just that.

So this bill would provide an opportunity to better align physician and hospital financial incentives. It would allow physicians to share in hospital savings achieved by re-engineering clinical care in the hospitals. These well-designed and approved arrangements might include agreed-upon use of certain medical devices or implants for certain type of surgeries. Or perhaps they would include improving operating room efficiency and scheduling. Or they might include the adoption of clinical protocols or evidence-based medicine to standardize certain aspects of the practice of medicine.

While these arrangements have the potential to improve patient care while reducing hospital costs, I want to make sure the patient—the Medicare beneficiary—is protected. So, this bill would require the secretary to develop safeguards and monitor these coordinated care arrangements to make sure that physicians are not profiting for increased referrals or for reducing quality care.

In summary, The Hospital Fair Competition Act would:

Improve the accuracy of Medicare inpatient payments by directing the secretary to level the playing field by using estimated costs rather than charges in setting the DRG weights; calculating DRG weights at the hospital level before aggregating them to a national level; adjusting the DRG weights to account for high cost outlier payments, and ensuring that the DRGs appropriately capture differences in the severity of illness of patients.

Allow existing specialty hospitals to continue operation under certain restrictions, especially regarding physician investment.

Close the "whole hospital" loophole by prohibiting new specialty hospitals from having ownership or investment interest from physicians who refer Medicare or Medicaid patients to the hospital, effective June 8, 2005.

Allow physicians and hospitals to enter into certain coordinated care arrangements where physicians could share in savings experienced by a hospital by implementing certain cost-reduction efforts.

Establish safeguards to ensure that coordinated care arrangements protect quality of care and minimize any impact on physician referrals.

I urge all my colleagues to join Senator BAUCUS and me in support of this very important bill.

Mr. BAUCUS. Mr. President, I rise today to join Chairman GRASSLEY in introducing the Hospital Fair Competition Act of 2005.

This bill, based primarily on recommendations of the Medicare Payment Advisory Commission (MedPAC), will improve the accuracy of Medicare's inpatient hospital prospective payment system (PPS); prevent the establishment of new specialty hospitals to which physician-owners can self-refer, while allowing existing physician-owned specialty hospitals to continue with restrictions; and allow "gainsharing" arrangements to foster improved physician-hospital efficiency. This legislation is important for patients, taxpayers, and the Medicare program, and I urge my colleagues to support it.

About 17 months ago, Congress passed the Medicare Modernization Act—the MMA. This 400-page bill included many important provisions, including long-awaited outpatient drug benefits under Medicare.

The MMA also included a small provision—Section 507—related to the construction of physician-owned specialty hospitals. These facilities specialize in cardiac, orthopedic or general surgical care, and are partly- or wholly-owned by physicians. The provision was a response to growing concerns over physician self-referral, and placed a moratorium on the construction of new, physician-owned specialty hospitals, while "grandfathering" existing facilities and those in development.

Having reviewed several independent analyses on this issue, I believe Congress was right to place a moratorium on specialty hospital construction. And I also believe that moratorium should effectively be extended permanently, while allowing existing facilities to continue operating in their current capacity.

Some view specialty hospitals as innovative, focused factories for high-quality, specialized care. Advocates for these facilities say that by focusing on a limited number of services, specialty hospitals provide excellent care at a good price, while adding competition to the health care marketplace.

Others say specialty hospitals flourish because they exploit a Medicare loophole allowing physician-owners to select patients who are healthier and, therefore, more profitable.

For my part, I don't want to stand in the way of innovation or competition. For example, I'm glad that Congress brought innovation to Medicare in the form of outpatient drug benefits. That was long overdue.

And hospitals and physicians should work together in innovative ways to improve efficiency in health care. The U.S. spends twice as much—or more—per-person on health care compared to any other developed country. And yet, our health outcomes are worse than theirs. We should get a better bang for our health-care buck, and we can take steps to that end by encouraging quality and accountability in health care.

That's why I am pushing to advance incentives for quality improvement in Medicare, so patients—and taxpayers—get the most for their money. I introduced legislation last year to require that Medicare pay dialysis providers and Medicare managed care plans based on the quality of care they provide. And I am working on legislation to extend these principles of paying for quality to other parts of Medicare.

As for competition, I'm all for it—as long as it's carried out on a level playing field. But when it comes to physician ownership of specialty hospitals, I'm not convinced the playing field is level. That's because physicians alone choose where patients go on the playing field—either to community hospitals or specialty hospitals. Some liken physician-owners of specialty hospitals to coaches who choose the starting lineup for both teams—in this case, the specialty hospital team and the community hospital team.

And for the third time, a Federal agency has told us that the healthiest teams, that is, the most profitable patients, end up at physician-owned specialty hospitals.

In 2003, the non-partisan Government Accountability Office (GAO) reported that, by and large, specialty hospitals care for relatively healthier patients than their community hospital counterparts. GAO surveyed 25 specialty hospitals, and found that 21 of the 25 had a less acute mix patients than community hospitals. GAO determined that of the hospitals studied, 17 percent cardiac patients seen by specialty hospitals could be classified as severe cases, compared with 22 percent in general hospitals. And about 5 percent of orthopedic cases in specialty hospitals were severe, compared with 8 percent in community hospitals.

Earlier this year, on March 8, MedPAC issued its MMA-mandated report on specialty hospitals, and arrived at findings similar to those of the GAO. MedPAC found that despite shorter lengths of stay, physician-owned specialty hospitals are not more cost efficient than community hospitals. MedPAC found that specialty hospitals tend to treat lower shares of Medicaid patients than community hospitals. And, just as GAO did, MedPAC found that specialty hospitals treat patients who are generally less sick—and therefore, more profitable—compared to community hospitals.

And while the Department of Health and Human Services has not officially issued its MMA-mandated report on the topic—but is expected to shortly—HHS reported on March 8 that, based on the small number of facilities it studied, specialty hospitals tend to care for a healthier patient population than their community hospital counterparts.

I believe the phenomenon of specialty hospitals treating healthier patients is the result of a loophole in the Stark self-referral law. This loophole—related to the "whole hospital exception"—is one that should be closed. If it is not closed, Congress will effectively sanction the practice of physician self-referral that has been prohibited for years.

In 1989, the HHS Inspector General reported that patients of referring physicians who owned or invested in independent clinical labs received 45% more lab services than Medicare patients in general.

In 1992, a study found that physical therapy visits per patient were 39% to 45% higher in facilities with physician ownership compared to those without. In short, the authors of the study found that utilization and charges per-patient were higher when facilities were owned by physicians with an ownership interest.

In response to these studies and others like them, Congress passed the Stark laws, to prevent physician self-referral, first in the area of clinical labs, and subsequently in 10 other areas, including physical therapy and certain imaging procedures.

But the Stark laws did not address the issue of physician self-referral to specialty hospitals. In part, that's because there weren't many specialty hospitals at the time. As the GAO pointed out in its 2003 report, the vast majority of specialty hospitals were built in 1992 or later.

Instead, the Stark law included a provision that has come to be known as the "whole hospital exception." While the Stark law prohibits physicians with ownership interest in only a hospital department from referring patients to that department, the law does allow physicians to refer to a facility they partially own, under two conditions. First, the physician must have admitting privileges in that hospital. Second, the physician must have a financial interest in the "whole hospital," not just a department of the hospital.

As the GAO explained in 2003:

> "The premise [of the whole hospital exception] is that any referral or decision made by a physician who has a stake in an entire hospital would produce little personal economic gain because hospitals tend to provide a diverse and large group of services. However, the Stark law does prohibit physicians who have ownership interest only in a hospital subdivision from referring patients to that subdivision. With respect to specialty hospitals, the concern exists that, as these hospitals are usually much smaller in size and scope than general hospitals and closer in size to hospital departments, the exception to Stark could allow physician owners to influence their hospitals'—and therefore their own financial gain through practice patterns and referrals."

The problem with the "whole hospital" loophole is that it treats a 10-bed surgical facility the same as a 500-bed community hospital, even though that 10-bed facility more resembles a department of the 500-bed hospital than it does the hospital itself. This loophole is unfair, and our bill closes it, by preventing the establishment of new specialty hospitals to which physician-owners can self-refer.

Let me note that our bill does nothing to prevent the construction of new specialty hospitals—as long as self-referral is not part of the business model. Hospitals specializing in one type of care or another have existed in this country for years, and should be encouraged—as long as their owners and referrers are not one and the same.

Opponents of this bill will likely make at least three claims. First, they will state that preventing the construction of new, physician-owned specialty hospitals is anticompetitive. Second, they will suggest that since the average physician-owner's share in a specialty hospital is small, economic incentives to self-refer are minimal. Third, they will claim the bill thwarts health care quality. Let me take these claims in turn.

As I stated previously, I am all for competition—as long as it's fair. But I don't think it's fair to further a system in which physician-owners can send healthier and more profitable patients to facilities they own, while sending sicker, less-profitable ones to hospitals they don't own. There's a reason Congress acted to mitigate the effects of physician self referral over 15 years ago, and I see no reason why that principle should not be extended to the specialty hospital setting.

On the issue of economic incentives, some argue that physician self-referral to specialty hospitals is a non-issue, since physicians typically own a very small share of a particular facility. In fact, MedPAC found that in about one-third of specialty hospitals they surveyed, the largest share owned by a single physician was just two percent. And as a group, physicians own just over a third of the typical heart hospital. But MedPAC also pointed out that about one-third of orthopedic and surgical hospitals were owned almost entirely by their physicians. Perhaps more important, MedPAC showed that even a relatively small ownership interest can reap large profits for an individual physician investor. Page 21 of MedPAC's March report on specialty hospitals says:

> What is the order of magnitude of physicians financial incentives to increase utilization when they own a hospital? What follows is a hypothetical example of the marginal profit associated with a group of cardiologists each referring just one additional patient (above the current patient load) for coronary artery bypass graft (CABG) surgery. In fiscal year 2002, the base payment for CABG surgery with cardiac catheterization (DRG 107) was roughly $24,000. Our examination of Medicare cost reports and hospital financial statements suggests that variable costs equal approximately 60 percent of the DRG payment, roughly $14,400. Hence the marginal profit—payments minus variable cost—would be $9,600 per patient ($24,000-$14,400). If 10 cardiologists owned a 3 percent interest each and they all induced one additional surgery per year, each cardiologist's income would increase by $2,880 ($9,600×3%×10)."

In other words, even a small ownership share—just three percent—can provide a strong profit motive—and a strong incentive toward self-referral.

Finally, let me address the third claim that will likely be made against this bill—that it thwarts the provision of quality care. Specialty hospital advocates claim that due to the focused nature of their mission, physician-owned specialty hospitals provide better quality and outcomes than their community hospital counterparts. But recently the New England Journal of Medicine published a study showing that patients undergoing certain heart procedures in specialty hospitals were less likely to have coexisting conditions than those being treated at general hospitals. The authors of the study stated, ". . . given that we found no significant differences in outcomes between specialty and general hospitals with similar volumes or between specialty cardiac hospitals and specialized general hospitals, it could be argued that the specialty-hospital model itself does not yield better outcomes." They also said, ". . . our study provides no definitive evidence that cardiac specialty hospitals provide better or more efficient care than general hospitals with similar procedural volumes."

In short, there is solid evidence that despite being less efficient, physician-owned specialty hospitals care for healthier, more-profitable patients, leaving community hospitals to care for sicker, less-profitable ones. Economic incentives toward physician self-referral in specialty hospitals are significant. And there is slim evidence that specialty hospitals provide better care than community hospitals.

Given this evidence, it's clear that Congress should not facilitate the construction of more physician-owned specialty hospitals. And while we support "grandfathering" existing facilities, let me make clear that we do not intend to create another grandfathering period if the legislation is not enacted before June 8, 2005. The intent of this bill, even if it passes after June 8, is to effectively make permanent the MMA-mandated moratorium.

But this bill does more than simply prevent the establishment of new, physician-owned specialty hospitals. It also takes steps to mitigate ill incentives in the inpatient PPS, by making the PPS more accurate for all providers of hospital care—community hospitals and 'grandfathered' specialty hospitals alike.

Medicare spends about $100 billion per year on inpatient hospital services, and it's important that this system be accurate. Accordingly, MedPAC recommended a number of steps to improve the accuracy of the Medicare inpatient payment system. These recommendations should mitigate incentives for all hospitals to choose healthy patients over sick ones, and to focus on some diagnoses at the expense of others.

Medicare pays hospitals for inpatient services based on roughly 500 Diagnosis Related Groups (DRGs), which bundle services needed to treat a patient with a particular disease. DRGs cover most routine operating costs attributable to patient care, including routine nursing services, room and board, and diagnostic and ancillary services. Under current law, just over five percent of the base payment for all DRGs is set aside for inpatient outlier payments, even though some DRGs have almost no outlier cases. The Hospital Fair Competition Act directs the Secretary to adjust the DRG relative weights to account for differences in the prevalence of high-cost outlier cases, thereby removing their disproportionate impact on the payment system.

The bill also improves accuracy of the DRG weights. Currently DRG weights are based on the national average of hospital charges for a particular DRG. The rate of growth for these charges may vary dramatically, depending on the service. For example, MedPAC has found that hospital markups for ancillary services (e.g., supplies, operating room time) tend to be higher than those of routine services (e.g., room and board, nursing care). As these ancillary and routine charges grow at different rates, the DRGs reflect that growth, gradually skewing the system away from the true costs of providing care. In short, a charge-based system causes Medicare to pay too much for some services, not enough for others. The Hospital Fair Competition Act directs the Secretary to substitute the charge-based system with one based on hospitals' costs, as well as base the DRG weights on the national average of hospitals' relative values in each DRG.

Mind you, we believe that the Secretary currently has the authority to make the payment changes outlined above. The Hospital Fair Competition Act simply directs the Secretary to do so. We also believe the Secretary has the authority to promulgate regulations defining what a "whole hospital" is. When Congress passed the "whole hospital exception", it did not intend to allow self-referral to facilities that are effectively the equivalent of a hospital wing or department. We believe the Secretary can and should exercise his authority to close the "whole hospital" loophole by regulation.

Mr. President, some say that the proliferation of physician-owned specialty hospitals is a function of physicians' desire for control over their workplace. They argue that physicians typically have no say in day-to-day hospital operations, and thus little incentive to improve the quality or efficiency of the care they provide in the hospital. MedPAC's recommendations for "gainsharing" stand to alleviate some of that concern, by giving physicians more control over their workplace.

Gainsharing arrangements allow physicians and hospitals to improve hospital efficiency without the undesirable effects of physician self-referral. In a gainsharing arrangement, hospitals and physicians share cost-savings gained by means such as streamlining the purchase of medical devices, substituting less-costly items used in surgical procedures, and maximizing operating room efficiency. While gainsharing arrangements must be developed carefully so as not to compromise quality of patient care, gain sharing has the potential to align physician-hospital incentives so that care can be delivered in the most cost-effective manner.

I realize that gainsharing arrangements are not a panacea toward improving physician-hospital relations. We can and should do more to give providers of all types a better stake in improving their workplace and the quality of care they provide. That's why I am pushing initiatives to tie Medicare payment to quality, so that—unlike the current system—the best providers are not paid the same rates as mediocre ones. This system of paying for quality stands to improve accountability across the spectrum of Medicare provider types, and give both patients and the government more for their money.

We all know that Medicare's long-term fiscal future is much in doubt. Hardly a day passes without a warning about Medicare's finances and the retirement of the Baby Boom generation that will complicate the long-term financial picture of the program.

Given these warnings, it's imperative that we make the most of the resources at hand, and—where possible—make Medicare a better more responsible buyer of health care. By leveling the playing field regarding patient referrals; improving the accuracy of Medicare's inpatient hospital payments; and giving physicians a larger stake in their hospital workplaces, this bill stands to do that.

Chairman GRASSLEY and I believe these changes will go a long way toward improving much of what ails hospital payment under Medicare, and we urge our colleagues' support for this important legislation.

By Mr. McCAIN:

S. 1003. A bill to amend the Act of December 22, 1974, and for other purposes; to the Committee on Indian Affairs.

Mr. McCAIN. Mr. President, today I am introducing legislation to amend the Navajo-Hopi Land Settlement Act of 1974 in order to bring the relocation process to an orderly conclusion. I look forward to working with all affected parties on this bill and will work with them to ensure it takes into account their views. This bill will phase out the Navajo-Hopi relocation program by September 30, 2008, and at that time transfer all remaining responsibilities to the Secretary of the Interior. It provides a time certain for eligible Navajo and Hopi individuals to apply for and receive relocation benefits and after that time the Federal Government will no longer be obligated to provide replacement homes for those individuals. Under this legislation, the funds that would have been used to provide replacement homes to such individuals will be held in trust by the Secretary for distribution to the individual or their heirs.

The Navajo-Hopi Land Settlement Act of 1974 was enacted to resolve long-standing disputes that have divided the Navajo and Hopi Indian Tribes for over a century. The origins of this dispute can be traced directly to the creation of the 1882 reservation for the Hopi Tribe and the subsequent creation of the 1934 Navajo Reservation. At the time these reservations were established, Navajo families lived within the lands set aside for the Hopi Tribe and Hopi families lived within lands set aside for the Navajo Nation and tensions between the two tribes continued to heighten. In 1958 Congress, in an effort to resolve this dispute, passed legislation that authorized the tribes to file suit in Federal court to quiet title the 1882 reservation and to their respective claims and rights. That legislation gave rise to over 35 years of continuous litigation between the tribes in an effort to resolve their respective rights and claims to the land.

In 1974, Congress enacted the Navajo-Hopi Land Settlement Act which established Navajo and Hopi negotiating teams under the auspices of a Federal mediator to negotiate a settlement to the 1882 reservation land dispute. The act also authorized the tribes to file suit in Federal court to quiet title the 1934 reservation and to file claims for damages arising out of the dispute against each other or the United States. The act also established a three member Navajo-Hopi Indian Relocation Commission to oversee the relocation of members of the Navajo Nation who were living on lands partitioned to the Hopi Tribe and members of the Hopi Tribe who were living on lands partitioned to the Navajo Nation. Since its establishment, the relocation program has been an extremely difficult and contentious process.

When this program was first established, the estimated cost of providing relocation benefits to approximately 6,000 Navajos estimated eligible for relocation was roughly $40 million. These figures woefully underestimated the number of families impacted by relocation and the tremendous delays that have plagued this program. By 1996, the United States had expended over $350 million to relocate more than 11,000 Navajo and Hopi tribal members. At that time, there remained over 640 eligible families who had never received relocation benefits and an additional 50 to 100 families who had never applied for relocation benefits. There were also over 130 eligibility appeals pending. Without question, the funding for this settlement has far exceeded the original cost estimates by more than 1000 percent. Since 1975, Congress has appropriated over $440 million for this program.

At its inception, the relocation program was intended to be a temporary program that was established to fulfill a specific mission and we cannot continue to fund it with no end in sight. Moreover, I am convinced that our current Federal budgetary pressures require us to ensure that the Navajo-Hopi relocation housing program is brought to an orderly and certain conclusion. It is for that reason that I am introducing the Navajo-Hopi Land Settlement Act Amendments of 2005. This legislation will phase out the Navajo-Hopi Indian relocation program by September 30, 2008, and transfer the remaining responsibilities under the act to the Secretary of the Interior. Under the bill, the relocation commissioner shall transfer to the Secretary such funds as are necessary to construct replacement homes for any eligible head of household who has left the Hopi partitioned land but who has not received a replacement home by September 30, 2008. These funds will be held in trust by the Secretary of the Interior for distribution to such individual or their heirs. In addition, the bill includes provisions establishing an expedited procedure for handling appeals of final eligibility determinations.

This bill is similar to the legislation I introduced during the 104th Congress. S. 1111 proposed to phase out the relocation program by September 2001. A hearing was held on that bill and comments were received from the affected parties. At that time, many of the witnesses stated that with limited exception, the program could come to a resolution under the time line proposed in S. 1111. Opposition to passing the legislation was based in part on the incomplete process of approval of the accommodation lease agreements between the Hopi Tribe and individual Navajos who were still living on the Hopi partitioned lands. That action has since occurred and the Commission has had eight additional years to conclude its responsibilities. Therefore, it is now time for the Congress to act to bring the long and difficult process of relocation to an orderly conclusion.

I ask unanimous consent that the full text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Navajo-Hopi Land Settlement Amendments of 2005".

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE NAVAJO-HOPI LAND SETTLEMENT ACT OF 1974

Sec. 101. Repeal of sections.
Sec. 102. Definitions; division of land.
Sec. 103. Joint ownership of minerals.
Sec. 104. Actions.
Sec. 105. Paiute Indian allotments.
Sec. 106. Partitioned and other designated land.
Sec. 107. Resettlement land for Navajo Tribe.
Sec. 108. Office of Navajo and Hopi Indian Relocation.
Sec. 109. Report.
Sec. 110. Relocation of households and members.
Sec. 111. Relocation housing.
Sec. 112. Payment for use of land.
Sec. 113. Effect of Act.
Sec. 114. Actions for accounting, fair value of grazing, and claims for damages to land.
Sec. 115. Joint use.
Sec. 116. Religious ceremonies; piping of water.
Sec. 117. Access to religious shrines.
Sec. 118. Exclusion of payments from certain Federal determinations of income.
Sec. 119. Authorization of exchange.
Sec. 120. Severability.
Sec. 121. Authorization of appropriations.
Sec. 122. Funding and construction of high school and medical center.
Sec. 123. Environmental impact; wilderness study; cancellation of leases and permits.
Sec. 124. Attorney fees and court costs.
Sec. 125. Lobbying.
Sec. 126. Navajo Rehabilitation Trust Fund.
Sec. 127. Availability of funds for relocation assistance.

TITLE II—PERSONNEL OF THE OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

Sec. 201. Retention preference.
Sec. 202. Separation pay.
Sec. 203. Federal retirement.

TITLE III—TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS

Sec. 301. Definitions.
Sec. 302. Transfer of functions.
Sec. 303. Transfer and allocations of appropriations.
Sec. 304. Effect of title.

TITLE I—AMENDMENTS TO THE ACT OF DECEMBER 22, 1974

SEC. 101. REPEAL OF SECTIONS.

(a) In General.—The Act of December 22, 1974 (25 U.S.C. 640d et seq.) is amended in the first undesignated section by striking "That, (a) within" and all that follows through the end of the section.

(b) Additional Repeals.—Sections 2 through 5 and sections 26 and 30 of the Act of December 22, 1974 (25 U.S.C. 640d–1 through 640d–4; 88 Stat. 1723; 25 U.S.C. 640d–28) are repealed.

SEC. 102. DEFINITIONS; DIVISION OF LAND.

Section 6 of the Act of December 22, 1974 (25 U.S.C. 640d–5) is amended—

(1) by striking "Sec. 6. The Mediator" and all that follows through subsection (f) and inserting the following:

"SECTION 1. DEFINITIONS.

"In this Act:

"(1) District court.—The term 'District Court' means the United States District Court for the District of Arizona.

"(2) Secretary.—The term 'Secretary' means the Secretary of the Interior.

"(3) Tribe.—The term 'Tribe' means—

"(A) the Navajo Indian Tribe; and

"(B) the Hopi Indian Tribe.

"SEC. 2. DIVISION OF LAND.

"(a) Division.—

"(1) In general.—The land located within the boundaries of the reservation established by Executive order on December 16, 1982, shall be divided into parcels of equal acreage and quality—

"(A) to the maximum extent practicable; and

"(B) in accordance with the final order issued by the District Court on August 30, 1978 (providing for the partition of the surface rights and interest of the Tribes).

"(2) Valuation of parcels.—For the purpose of calculating the value of a parcel produced by a division under paragraph (1), the Secretary shall—

"(A) take into account any improvement on the land; and

"(B) consider the grazing capacity of the land to be fully restored.

"(3) Compensation by tribes.—If the partition under paragraph (1) results in parcels of unequal value, as determined by the Secretary, the Tribe that receives the more valuable parcel shall pay to the other Tribe compensation in an amount equal to the difference in the values of the parcels, as determined by the Secretary.

"(4) Compensation by federal government.—If the District Court determines that the failure of the Federal Government to fulfill an obligation of the Government decreased the value of a parcel under paragraph (1), the Government shall pay to the recipient of the parcel compensation in an amount equal to the difference between—

"(A) the decreased value of the parcel; and

"(B) the value of the fully restored parcel.";

(2) by striking "(g) Any" and inserting the following:

"(b) License Fees and Rents.—Any"; and

(3) by striking "(h) Any" and inserting the following:

"(c) Grazing and Agricultural Use.—Any".

SEC. 103. JOINT OWNERSHIP OF MINERALS.

Section 7 of the Act of December 22, 1974 (25 U.S.C. 640d–6) is amended—

(1) by striking "Sec. 7. Partition" and inserting the following:

"SEC. 3. JOINT OWNERSHIP OF MINERALS.

"(a) In General.—Partition"; and

(2) in the second sentence, by striking "All" and inserting the following:

"(b) Joint Management.—All".

SEC. 104. ACTIONS.

Section 8 of the Act of December 22, 1974 (25 U.S.C. 640d–7) is amended—

(1) by striking "Sec. 8. (a) Either Tribe" and inserting the following:

"SEC. 4. ACTIONS.

"(a) Actions in District Court.—Either Tribe";

(2) in subsection (b)—

(A) in the first sentence, by striking "(b) Lands, if any," and inserting the following:

"(b) Allocation of Land.—

"(1) Navajo reservation.—Any land";

(B) in the second sentence, by striking "Lands, if any," and inserting the following:

"(2) Hopi reservation.—Any land"; and

(C) in the third sentence, by striking "Any lands" and inserting the following:

"(3) Joint and undivided interests.—Any land";

(3) in subsection (c)—

(A) by striking "(c)(1) Either" and inserting the following:

"(c) Exchange of Land.—

"(1) In general.—Either";

(B) in paragraph (2), by striking "(2) In the event" and inserting the following:

"(2) Interests of tribes.—If";

(C) in paragraph (3), by striking "(3) Neither" and inserting the following:

"(3) Defense.—Neither"; and

(D) by striking "section 18" each place it appears and inserting "section 14";

(4) in subsection (d), by striking "(d) Nothing" and inserting the following:

"(d) Effect of Section.—Nothing";

(5) in subsection (e), by striking "(e) The" and inserting the following:

"(e) Payment of Legal Fees, Court Costs, and Other Expenses.—The"; and

(6) by striking subsection (f).

SEC. 105. PAIUTE INDIAN ALLOTMENTS.

Section 9 of the Act of December 22, 1974 (25 U.S.C. 640d–8) is amended by striking "Sec. 9. Notwithstanding" and inserting the following:

"SEC. 5. PAIUTE INDIAN ALLOTMENTS.

"Notwithstanding".

SEC. 106. PARTITIONED AND OTHER DESIGNATED LAND.

Section 10 of the Act of December 22, 1974 (25 U.S.C. 640d–9) is amended—

(1) by striking "Sec. 10. (a) Subject" and inserting the following:

"SEC. 6. PARTITIONED AND OTHER DESIGNATED LAND.

"(a) Navajo Trust Land.—Subject";

(2) in subsection (a), by striking "section 9 and subsection (a) of section 17" and inserting "sections 5 and 13(a)";

(3) in subsection (b)—

(A) by striking "(b) Subject" and inserting the following:

"(b) Hopi Trust Land.—Subject";

(B) by striking "section 9 and subsection (a) of section 17" and inserting "sections 5 and 13(a)";

(C) by striking "section 3 or 4" and inserting "section 1"; and

(D) by striking "section 8" and inserting "section 4";

(4) in subsection (c)—

(A) by striking "(c) The" and inserting the following:

"(c) Protection of Rights and Property.—The"; and

(B) by striking "pursuant thereto" and all that follows through the end of the subsection and inserting "pursuant to this Act";

(5) in subsection (d), by striking "(d) With" and inserting the following:

"(d) Protection of Benefits and Services.—With"; and

(6) in subsection (e)—

(A) by striking "(e)(1) Lands" and inserting the following:

"(e) Tribal Jurisdiction Over Partitioned Land.—

"(1) In general.—Land";

(B) by adjusting the margins of subparagraphs (A) and (B) of paragraph (1) appropriately; and

(C) in the matter following subparagraph (B)—

(i) by striking "The provisions" and inserting the following:

"(2) Responsibility of secretary.—The provisions"; and

(ii) by striking "life tenants and".

SEC. 107. RESETTLEMENT LAND FOR NAVAJO TRIBE.

(a) In General.—Section 11(a) of the Act of December 22, 1974 (25 U.S.C. 640d-10(a)) is amended—

(1) by striking "Sec. 11. (a) The Secretary" and inserting the following:

"SEC. 7. RESETTLEMENT LAND FOR NAVAJO TRIBE.

"(a) Transfer of Land.—

"(1) In general.—The Secretary";

(2) by striking "(1) transfer not to exceed two hundred and fifty thousand acres of lands" and inserting the following:

"(A) transfer not more than 250,000 acres of land";

(3) by striking "Tribe: *Provided*, That" and all that follows through "as possible." and inserting "Tribe; and";

(4) in the first paragraph designated as paragraph (2)—

(A) by striking "(2) on behalf" and inserting the following:

"(B) on behalf"; and

(B) by striking the second sentence;

(5) in the matter following paragraph (1)(B) (as redesignated by paragraph (4))—

(A) in the first sentence—

(i) by striking "Subject to" and all that follows through "all rights" and inserting the following:

"(4) Requirements of transfer.—

"(A) In general.—Subject to this paragraph, all rights"; and

(ii) by striking "paragraph (1)" and inserting "paragraph (1)(A)";

(B) in the second sentence, by striking "So long as" and inserting the following:

"(B) Coal lease applications.—

"(i) In general.—If";

(C) in the third sentence, by striking "If such adjudication" and inserting the following:

"(ii) Issuance of leases.—If an adjudication under clause (i)";

(D) in the fourth sentence, by striking "The leaseholders rights and interests" and inserting the following:

"(iii) Rights and interests of leaseholders.—The rights and interests of a holder of a lease described in clause (i)"; and

(E) in the fifth sentence, by striking "If any" and inserting the following:

"(C) Claims under mining law.—If any";

(6) by inserting after paragraph (1)(B) (as redesignated by paragraph (4)) the following:

"(2) Exchange of land.—

"(A) In general.—In order to facilitate a transfer of land under paragraph (1)(A), the Secretary may exchange land described in paragraph (1)(A) for State or private land of equal value.

"(B) Unequal value.—If the State or private land described in subparagraph (A) is of unequal value to the land described in paragraph (1)(A), the recipient of the land that is of greater value shall pay to the other party to the exchange under subparagraph (A) compensation in an amount not to exceed the lesser of—

"(i) the difference between the values of the land exchanged; or

"(ii) the amount that is 25 percent of the total value of the land transferred from the Secretary to the Navajo Tribe.

"(C) Responsibility of secretary.—The Secretary shall ensure that the amount of a payment under subparagraph (B) is as minimal as practicable.

"(3) Title to land accepted.—The Secretary shall accept title to land under paragraph (1)(B) on behalf of the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo reservation."; and

(7) in the second paragraph designated as paragraph (2)—

(A) in the first sentence—

(i) by striking "(2) Those" and inserting the following:

"(5) State rights.—

"(A) In general.—The"; and

(ii) by striking "subsection 2 of this section" and inserting "paragraph (1)(B)"; and

(B) in the second sentence, by striking "The" and inserting the following:

"(B) State interests.—The".

(b) Proximity of Land; Exchanges of Land.—Section 11(b) of the Act of December 22, 1974 (25 U.S.C. 640d-10(b)) is amended by striking "(b) A border" and inserting the following:

"(b) Proximity of Land To Be Transferred or Acquired.—A border".

(c) Selection of Land.—Section 11(c) of the Act of December 22, 1974 (25 U.S.C. 640d-10(c)) is amended—

(1) by striking "(c) Lands" and inserting the following:

"(c) Selection of Land To Be Transferred or Acquired.—Land"; and

(2) by striking the period at the end and inserting the following: ": *Provided further*, That the authority of the Commissioner to select lands under this subsection shall terminate on September 30, 2008.".

(d) Reports.—Section 11(d) of the Act of December 22, 1974 (25 U.S.C. 640d-10(d)) is amended by striking "(d) The" and inserting the following:

"(d) Reports.—The".

(e) Payments.—Section 11(e) of the Act of December 22, 1974 (25 U.S.C. 640d-10(e)) is amended by striking "(e) Payments" and inserting the following:

"(e) Payments.—Payments".

(f) Acquisition of Title to Surface and Subsurface Interests.—Section 11(f) of the Act of December 22, 1974 (25 U.S.C. 640d-10(f)) is amended—

(1) by striking "(f)(1) For" and inserting the following:

"(f) Acquisition of Title to Surface and Subsurface Interests.—

"(1) In general.—For";

(2) in paragraph (2), by striking "(2) If" and inserting the following:

"(2) Public notice; report.—If"; and

(3) in paragraph (3), by striking "(3) In any case where" and inserting the following:

"(3) Rights of subsurface owners.—If".

(g) Land Not Available for Transfer.—Section 11(g) of the Act of December 22, 1974 (25 U.S.C. 640d-10(g)) is amended by striking "(g) No" and inserting the following:

"(g) Land Not Available for Transfer.—No".

(h) Administration of Land Transferred or Acquired.—Section 11(h) of the Act of December 22, 1974 (25 U.S.C. 640d-10(h)) is amended—

(1) by striking "(h) The lands" and inserting the following:

"(h) Administration of Land Transferred or Acquired.—

"(1) In general.—The land"; and

(2) by adding at the end the following:

"(2) Relocation.—

"(A) In general.—In order to facilitate relocation of a member of a Tribe, the Commissioner may grant a homesite lease on land acquired under this section to a member of the extended family of a Navajo Indian who is certified as eligible to receive benefits under this Act.

"(B) Exception.—The Commissioner may not use any funds available to the Commissioner to carry out this Act to provide housing to an extended family member described in subparagraph (A).".

(i) Negotiations Regarding Land Exchanges and Leases.—Section 11(i) of the Act of December 22, 1974 (25 U.S.C. 640d-10(i)) is amended—

(1) by striking "(i) The" and inserting the following:

"(i) Negotiations Regarding Land Exchanges and Leases.—The"; and

(2) by striking "section 23" and inserting "section 19".

SEC. 108. OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION.

Section 12 of the Act of December 22, 1974 (25 U.S.C. 640d-11) is amended—

(1) by striking "Sec. 12. (a) There is hereby" and inserting the following:

"SEC. 8. OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION.

"(a) Establishment.—There is";

(2) in subsection (b), by striking "(b) The" and inserting the following:

"(b) Appointment.—The";

(3) in subsection (c)—

(A) by striking "(c)(1)(A) Except" and inserting the following:

"(c) Continuation of Powers.—

"(1) Powers and duties of commissioner; existing funds.—

"(A) Powers and duties of commissioner.—Except";

(B) in paragraph (1)(B), by striking "(B) All" and inserting the following:

"(B) Existing funds.—All"; and

(C) in paragraph (2), by striking "(2) There are hereby" and inserting the following:

"(2) Transfer of powers.—There are";

(4) in subsection (d)—

(A) by striking "(d)(1) Subject" and inserting the following:

"(d) Powers of Commissioner.—

"(1) In general.—Subject";

(B) by adjusting the margins of subparagraphs (A) and (B) of paragraph (1) appropriately;

(C) in paragraph (2), by striking "(2) The" and inserting the following:

"(2) CONTRACTS.—The"; and

(D) in paragraph (3), by striking "(3) There" and inserting the following:

"(3) AUTHORIZATION OF APPROPRIATIONS.—There";

(5) in subsection (e)—

(A) by striking "(e)(1)" and inserting the following:

"(e) ADMINISTRATION.—

"(1) ADMINISTRATIVE, FISCAL, AND HOUSEKEEPING SERVICES.—

(B) in paragraph (1)—

(i) in the first sentence, by striking "The" and inserting the following:

"(A) IN GENERAL.—The"; and

(ii) in the second sentence, by striking "In any" and inserting the following:

"(B) ASSISTANCE FROM DEPARTMENTS AND AGENCIES.—In any"; and

(C) in paragraph (2), by striking "(2) On" and inserting the following:

"(2) FAILURE TO PROVIDE ASSISTANCE.—On";

(6) by striking subsection (f) and inserting the following:

"(f) TERMINATION.—

"(1) IN GENERAL.—The Office of Navajo and Hopi Indian Relocation shall terminate on September 30, 2008.

"(2) TRANSFER OF OFFICE DUTIES.—On the date of termination of the Office, any duty of the Office that has not been carried out, as determined in accordance with this Act, shall be transferred to the Secretary in accordance with title III of the Navajo-Hopi Land Settlement Amendments of 2005."; and

(7) by adding at the end the following:

"(g) OFFICE OF RELOCATION.—

"(1) ESTABLISHMENT.—Effective on October 1, 2006, there is established in the Department of the Interior an Office of Relocation.

"(2) DUTIES.—The Secretary, acting through the Office of Relocation, shall carry out the duties of the Office of Navajo and Hopi Indian Relocation that are transferred to the Secretary in accordance with title III of the Navajo-Hopi Land Settlement Amendments of 2005.

"(3) TERMINATION.—The Office of Relocation shall terminate on the date on which the Secretary determines that the duties of the Office have been carried out.".

SEC. 109. REPORT.

Section 13 of the Act of December 22, 1974 (25 U.S.C. 640d–12) is amended—

(1) by striking "SEC. 13. (a) By no" and inserting the following:

"SEC. 9. REPORT.

"(a) IN GENERAL.—Not"; and

(2) in subsection (b)—

(A) by striking "(b) The" and inserting the following:

"(b) INCLUSIONS.—The"; and

(B) by striking "contain, among other matters, the following:" and inserting "include—".

SEC. 110. RELOCATION OF HOUSEHOLDS AND MEMBERS.

Section 14 of the Act of December 22, 1974 (25 U.S.C. 640d–13) is amended—

(1) by striking "SEC. 14. (a)" and inserting the following:

"SEC. 10. RELOCATION OF HOUSEHOLDS AND MEMBERS.

"(a) AUTHORIZATION.—";

(2) in subsection (a)—

(A) in the first sentence—

(i) by striking "Consistent" and inserting the following:

"(1) IN GENERAL.—Consistent";

(ii) by striking "section 8" each place it appears and inserting "section 4"; and

(iii) by striking "section 3 or 4" and inserting "section 1";

(B) by striking the second sentence;

(C) in the third sentence, by striking "No further" and inserting the following:

"(2) SETTLEMENTS OF NAVAJO.—No further";

(D) in the fourth sentence, by striking "No further" and inserting the following:

"(3) SETTLEMENTS OF HOPI.—No further"; and

(E) in the fifth sentence, by striking "No individual" and inserting the following:

"(4) GRAZING.—No individual";

(3) in subsection (b)—

(A) by striking "(b) In addition" and inserting the following:

"(b) ADDITIONAL PAYMENTS TO HEADS OF HOUSEHOLDS—In addition";

(B) by striking "section 15" and inserting "section 11"; and

(C) by striking "section 13" and inserting "section 9";

(4) in subsection (c), by striking "(c) No" and inserting the following:

"(c) PAYMENTS FOR PERSONS MOVING AFTER A CERTAIN DATE.—No"; and

(5) by adding at the end the following:

"(d) PROHIBITION.—No payment for benefits under this Act may be made to any head of a household if, as of September 30, 2005, that head of household has not been certified as eligible to receive the payment.".

SEC. 111. RELOCATION HOUSING.

Section 15 of the Act of December 22, 1974 (25 U.S.C. 640d–14) is amended—

(1) by striking "SEC. 15. (a)" and inserting the following:

"SEC. 11. RELOCATION HOUSING.

"(a) PURCHASE OF HABITATION AND IMPROVEMENTS.—";

(2) in subsection (a)—

(A) in the first sentence, by striking "The Commission" and inserting the following:

"(1) IN GENERAL.—The Commission"; and

(B) in the second sentence—

(i) by striking "The purchase" and inserting the following:

"(2) PURCHASE PRICE.—The purchase"; and

(ii) by striking "as determined under clause (2) of subsection (b) of section 13";

(3) in subsection (b)—

(A) by striking "(b) In addition" and inserting the following:

"(b) REIMBURSEMENT FOR MOVING EXPENSES AND PAYMENT FOR REPLACEMENT DWELLING.—In addition";

(B) by striking "shall:" and inserting "shall—"; and

(C) in paragraph (1), by inserting "and" after the semicolon at the end;

(4) in subsection (c)—

(A) by striking "(c) In implementing" and inserting the following:

"(c) STANDARDS; CERTAIN PAYMENTS.—

"(1) STANDARDS.—In carrying out"; and

(B) in the second sentence—

(i) by striking "No payment" and inserting the following:

"(2) CERTAIN PAYMENTS.—No payment";

(ii) by striking "section 8" and inserting "section 4"; and

(iii) by striking "section 3 or 4" and inserting "section 1";

(5) in subsection (d)—

(A) by striking "(d) The" and inserting the following:

"(d) METHODS OF PAYMENT.—The";

(B) by striking "(1) Should" and inserting the following:

"(1) HOME OWNERSHIP OPPORTUNITY PROJECTS.—Should";

(C) by striking "(2) Should" and inserting the following:

"(2) PURCHASED AND CONSTRUCTED DWELLINGS.—Should"; and

(D) by striking "(3) Should" and inserting the following:

"(3) FAILURE TO ARRANGE RELOCATION.—Should";

(6) in subsection (e)—

(A) by striking "(e) The" and inserting the following:

"(e) DISPOSAL OF ACQUIRED DWELLINGS AND IMPROVEMENTS.—The";

(B) by striking "section 8" and inserting "section 4"; and

(C) by striking "section 3 or 4" and inserting "section 1";

(7) in subsection (f), by striking "(f) Notwithstanding" and inserting the following:

"(f) PREFERENTIAL TREATMENT.—Notwithstanding"; and

(8) by striking subsection (g) and inserting the following:

"(g) BENEFITS HELD IN TRUST.—

"(1) IN GENERAL.—Not later than September 30, 2008, the Commissioner shall notify the Secretary of the identity of any head of household that, as of that date—

"(A) is certified as eligible to receive benefits under this Act;

"(B) does not reside on land that has been partitioned to the Tribe of which the head of household is a member; and

"(C) has not received a replacement home.

"(2) TRANSFER OF FUNDS.—Not later than September 30, 2008, the Commissioner shall transfer to the Secretary any funds not used by the Commissioner to make payments under this Act to eligible heads of households.

"(3) DISPOSITION OF TRANSFERRED FUNDS.—

"(A) IN GENERAL.—The Secretary shall hold any funds transferred under paragraph (2) in trust for the heads of households described in paragraph (1)(A).

"(B) PAYMENT AMOUNTS.—Of the funds held in trust under subparagraph (A), the Secretary shall make payments to heads of households described in paragraph (1)(A) in amounts that would have been made to the heads of households under this Act before September 30, 2008—

"(i) on receipt of a request of a head of household, to be used for a replacement home; or

"(ii) on the date of death of the head of household, if the head of household does not make a request under clause (i), in accordance with subparagraph (C).

"(C) DISTRIBUTION OF FUNDS ON DEATH OF HEAD OF HOUSEHOLD.—If the Secretary holds funds in trust under this paragraph for a head of household described in paragraph (1)(A) on the death of the head of household, the Secretary shall—

"(i) identify and notify any heir of the head of household; and

"(ii) distribute the funds held by the Secretary for the head of household to any heir—

"(I) immediately, if the heir is at least 18 years old; or

"(II) if the heir is younger than 18 years old on the date on which the Secretary identified the heir, on the date on which the heir attains the age of 18.

"(h) NOTIFICATION.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Navajo-Hopi Land Settlement Amendments of 2005, the Commissioner shall notify each eligible head of household who has not entered into a lease with the Hopi Tribe to reside on land partitioned to the Hopi Tribe, in accordance with section 700.138 of title 25, Code of Federal Regulations (or a successor regulation).

"(2) LIST.—On the date on which a notice period referred to in section 700.139 of title

25, Code of Federal Regulations (or a successor regulation), expires, the Commissioner shall submit to the Secretary and the United States Attorney for the District of Arizona a list containing the name and address of each eligible head of household who—

"(A) continues to reside on land that has not been partitioned to the Tribe of the head of household; and

"(B) has not entered into a lease to reside on that land.

"(3) CONSTRUCTION OF REPLACEMENT HOMES.—Before July 1, 2008, but not later than 90 days after receiving a notice of the imminent removal of a relocatee from land provided to the Hopi Tribe under this Act from the Secretary or the United States Attorney for the District of Arizona, the Commissioner may begin construction of a replacement home on any land acquired under section 6.

"(i) APPEALS.—

"(1) IN GENERAL.—The Commissioner shall establish an expedited hearing procedure for any appeal relating to the denial of eligibility for benefits under this Act (including regulations promulgated pursuant to this Act) that is pending on, or filed after, the date of enactment of Navajo-Hopi Land Settlement Amendments of 2005.

"(2) FINAL DETERMINATIONS.—The hearing procedure established under paragraph (1) shall—

"(A) provide for a hearing before an impartial third party, as the Commissioner determines necessary; and

"(B) ensure that a final determination is made by the Office of Navajo and Hopi Indian Relocation for each appeal described in paragraph (1) by not later than January 1, 2008.

"(3) NOTICE.—

"(A) IN GENERAL.—Not later than 30 days after the date of enactment of the Navajo-Hopi Land Settlement Amendments of 2005, the Commissioner shall provide written notice to any individual that the Commissioner determines may have the right to a determination of eligibility for benefits under this Act.

"(B) REQUIREMENTS FOR NOTICE.—The notice provided under subparagraph (A) shall—

"(i) specify that a request for a determination of eligibility for benefits under this Act shall be presented to the Commission not later than 180 days after the date on which the notice is issued; and

"(ii) be provided—

"(I) by mail (including means other than certified mail) to the last known address of the recipient; and

"(II) in a newspaper of general circulation in the geographic area in which an address referred to in subclause (I) is located.

"(j) PROCUREMENT OF SERVICES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, to ensure the full and fair evaluation of the requests referred to in subsection (i)(3)(A) (including an appeal hearing before an impartial third party referred to in subsection (i)(2)(A)), the Commissioner may enter into such contracts or agreements to procure such services, and employ such personnel (including attorneys), as the Commissioner determines to be necessary.

"(2) DETAIL OF ADMINISTRATIVE LAW JUDGES OR HEARING OFFICERS.—The Commissioner may request the Secretary to act through the Director of the Office of Hearings and Appeals to make available to the Office of Navajo and Hopi Indian Relocation an administrative law judge or other hearing officer with appropriate qualifications to review the requests referred to in subsection (i)(3)(A), as determined by the Commissioner.

"(k) APPEAL TO UNITED STATES CIRCUIT COURT OF APPEALS.—

"(1) IN GENERAL.—Subject to paragraph (3), any individual who, under the procedures established by the Commissioner pursuant to this section, is determined not to be eligible to receive benefits under this Act may appeal that determination to the United States Circuit Court of Appeals for the Ninth Circuit (referred to in this subsection as the 'Circuit Court').

"(2) REVIEW.—

"(A) IN GENERAL.—The Circuit Court shall, with respect to each appeal described in paragraph (1)—

"(i) review the entire record (as certified to the Circuit Court under paragraph (3)) on which a determination of the ineligibility of the appellant to receive benefits under this Act was based; and

"(ii) on the basis of that review, affirm or reverse that determination.

"(B) STANDARD OF REVIEW.—The Circuit Court shall affirm any determination that the Circuit Court determines to be supported by substantial evidence.

"(3) NOTICE OF APPEAL.—

"(A) IN GENERAL.—Not later than 30 days after a determination of ineligibility under paragraph (1), an affected individual shall file a notice of appeal with—

"(i) the Circuit Court; and

"(ii) the Commissioner.

"(B) CERTIFICATION OF RECORD.—On receipt of a notice under subparagraph (A)(ii), the Commissioner shall submit to the Circuit Court the certified record on which the determination that is the subject of the appeal was made.

"(C) REVIEW PERIOD.— Not later than 60 days after receiving a certified record under subparagraph (B), the Circuit Court shall conduct a review and file a decision regarding an appeal in accordance with paragraph (2).

"(D) BINDING DECISION.—A decision made by the Circuit Court under this subsection shall be final and binding on all parties.".

SEC. 112. PAYMENT FOR USE OF LAND.

Section 16 of the Act of December 22, 1974 (25 U.S.C. 640d-15) is amended—

(1) by striking "SEC. 16. (a) The Navajo" and inserting the following:

"SEC. 12. PAYMENT FOR USE OF LAND.

"(a) IN GENERAL.—The Navajo";

(2) in subsection (a), by striking "sections 8 and 3 or 4" and inserting "sections 1 and 4"; and

(3) in subsection (b)—

(A) by striking "(b) The" and inserting the following:

"(b) PAYMENT.—The"; and

(B) by striking "sections 8 and 3 or 4" and inserting "sections 1 and 4".

SEC. 113. EFFECT OF ACT.

Section 17 of the Act of December 22, 1974 (25 U.S.C. 640d-16) is amended—

(1) by striking "SEC. 17. (a)" and inserting the following:

"SEC. 13. EFFECT OF ACT.

"(a) TITLE, POSSESSION, AND ENJOYMENT.—";

(2) in subsection (a)—

(A) in the first sentence, by striking "Nothing" and inserting the following:

"(1) IN GENERAL.—Nothing"; and

(B) in the second sentence, by striking "Such" and inserting the following:

"(2) RESIDENCE ON OTHER RESERVATIONS.—Any"; and

(3) in subsection (b), by striking "(b) Nothing" and inserting the following:

"(b) FEDERAL EMPLOYEES.—Nothing".

SEC. 114. ACTIONS FOR ACCOUNTING, FAIR VALUE OF GRAZING, AND CLAIMS FOR DAMAGES TO LAND.

Section 18 of the Act of December 22, 1974 (25 U.S.C. 640d-17) is amended—

(1) by striking "SEC. 18. (a) Either" and inserting the following:

"SEC. 14. ACTIONS FOR ACCOUNTING, FAIR VALUE OF GRAZING, AND CLAIMS FOR DAMAGES TO LAND.

"(a) ACTIONS BY TRIBES.—Either";

(2) in subsection (a), by striking "section 3 or 4" and inserting "section 1";

(3) in subsection (b)—

(A) by striking "(b) Neither" and inserting the following:

"(b) DEFENSES.—Neither"; and

(B) by striking "section 3 or 4" and inserting "section 1";

(4) in subsection (c)—

(A) by striking "(c) Either" and inserting the following:

"(c) FURTHER ORIGINAL, ANCILLARY, OR SUPPLEMENTARY ACTS TO ENSURE QUIET ENJOYMENT.—

"(1) IN GENERAL.—Either"; and

(B) in the second sentence, by striking "Such actions" and inserting the following:

"(2) ACTION THROUGH CHAIRMAN.—An action under paragraph (1)";

(5) in subsection (d)—

(A) by striking "(d) Except" and inserting the following:

"(d) UNITED STATES AS PARTY; JUDGMENTS AGAINST THE UNITED STATES—

"(1) IN GENERAL.—Except"; and

(B) in the second sentence, by striking "Any judgment or judgments" and inserting the following:

"(2) EFFECT OF JUDGMENTS.—Any judgment"; and

(6) in subsection (e), by striking "(e) All" and inserting the following:

"(e) REMEDIES.—All".

SEC. 115. JOINT USE.

Section 19 of the Act of December 22, 1974 (25 U.S.C. 640d-18) is amended—

(1) by striking "SEC. 19. (a) Notwithstanding" and inserting the following:

"SEC. 15. JOINT USE.

"(a) REDUCTION OF LIVESTOCK.—

"(1) IN GENERAL.—Notwithstanding";

(2) in subsection (a)(1) (as designated by paragraph (1))—

(A) by striking "section 3 or 4" and inserting "section 1"; and

(B) in the second sentence, by striking "The Secretary is directed to" and inserting the following:

"(2) CONSERVATION PRACTICES AND METHODS.—The Secretary shall";

(3) in subsection (b)—

(A) by striking "(b) The" and inserting the following:

"(b) SURVEY LOCATION OF MONUMENTS AND FENCING OF BOUNDARIES.—The"; and

(B) by striking "sections 8 and 3 or 4" each place it appears and inserting "sections 1 and 4"; and

(4) in subsection (c)—

(A) by striking "(c)(1) Surveying" and inserting the following:

"(c) SURVEYING, MONUMENTING, AND FENCING; LIVESTOCK REDUCTION PROGRAM.—

"(1) SURVEYING, MONUMENTING, AND FENCING.—Surveying";

(B) in paragraph (1)—

(i) by striking "section 4" and inserting "section 1"; and

(ii) by striking "section 8" and inserting "section 4"; and

(C) in paragraph (2), by striking "(2) The" and inserting the following:

"(2) Livestock Reduction Program.—The".

SEC. 116. RELIGIOUS CEREMONIES; PIPING OF WATER.

Section 20 of the Act of December 22, 1974 (25 U.S.C. 640d-19) is amended by striking "Sec. 20. The members" and inserting the following:

"SEC. 16. RELIGIOUS CEREMONIAL USES; PIPING OF WATER.

The members".

SEC. 117. ACCESS TO RELIGIOUS SHRINES.

Section 21 of the Act of December 22, 1974 (25 U.S.C. 640d-20) is amended by striking "Sec. 21. Notwithstanding" and inserting the following:

"SEC. 17. ACCESS TO RELIGIOUS SHRINES.

Notwithstanding".

SEC. 118. EXCLUSION OF PAYMENTS FROM CERTAIN FEDERAL DETERMINATIONS OF INCOME.

Section 22 of the Act of December 22, 1974 (25 U.S.C. 640d-21) is amended—

(1) by striking "Sec. 22. The availability" and inserting the following:

"SEC. 18. EXCLUSION OF PAYMENTS FROM CERTAIN FEDERAL DETERMINATIONS OF INCOME.

"(a) In General.—The availability"; and

(2) by striking "None of the funds" and inserting the following:

"(b) Federal and State Income Taxes.—None of the funds".

SEC. 119. AUTHORIZATION OF EXCHANGE.

Section 23 of the Act of December 22, 1974 (25 U.S.C. 649d-22) is amended—

(1) by striking "Sec. 23. The Navajo" and inserting the following:

"SEC. 19. AUTHORIZATION OF EXCHANGE.

"(a) In General.—The Navajo"; and

(2) in the second sentence—

(A) by striking "In the event that the Tribes should" and inserting the following:

"(b) Negotiated Exchanges.—If the Tribes"; and

(B) by striking "sections 14 and 15" and inserting "sections 10 and 11".

SEC. 120. SEVERABILITY.

Section 24 of the Act of December 22, 1974 (25 U.S.C. 640d-23) is amended by striking "Sec. 24. If" and inserting the following:

"SEC. 20. SEVERABILITY.

"If".

SEC. 121. AUTHORIZATION OF APPROPRIATIONS.

Section 25 of the Act of December 22, 1974 (25 U.S.C. 640d-24) is—

(1) moved so as to appear at the end of the Act; and

(2) amended to read as follows:

"SEC. 27. AUTHORIZATION OF APPROPRIATIONS.

"(a) Relocation of Households and Members.—There is authorized to be appropriated to carry out section 10(b) $13,000,000.

"(b) Relocation of Households and Members.—There are authorized to be appropriated to carry out section 11 such sums as are necessary for each of fiscal years 2006 through 2008.

"(c) Return to Carrying Capacity and Institution of Conservation Practices.—There is authorized to be appropriated to carry out section 15(a) $10,000,000.

"(d) Survey Location of Monuments and Fencing of Boundaries.—There is authorized to be appropriated to carry out section 15(b) $500,000.".

SEC. 122. FUNDING AND CONSTRUCTION OF HIGH SCHOOL AND MEDICAL CENTER.

Section 27 of the Act of December 22, 1974 (25 U.S.C. 640d-25) is amended by striking "Sec. 27." and all that follows through "(c) The Secretary" and inserting the following:

"SEC. 21. FUNDING AND CONSTRUCTION OF HIGH SCHOOL AND MEDICAL CENTER.

"The Secretary".

SEC. 123. ENVIRONMENTAL IMPACT; WILDERNESS STUDY; CANCELLATION OF LEASES AND PERMITS.

Section 28 of the Act of December 22, 1974 (25 U.S.C. 640d-26) is amended—

(1) by striking "Sec. 28. (a) No action" and inserting the following:

"SEC. 22. ENVIRONMENTAL IMPACT; WILDERNESS STUDY; CANCELLATION OF LEASES AND PERMITS.

"(a) In General.—No action";

(2) in subsection (b), by striking "(b) Any" and inserting the following:

"(b) Effect of Wilderness Study.—Any"; and

(3) by adding at the end the following:

"(c) Construction Requirements.—

"(1) In general.—Any construction activity under this Act shall be carried out in accordance with sections 3 through 7 of the Act of June 27, 1960 (16 U.S.C. 469a-1 through 469c).

"(2) Compliance with other requirements.—If a construction activity meets the requirements under paragraph (1), the activity shall be considered to be in accordance with any applicable requirement of—

"(A) Public Law 89-665 (80 Stat. 915); and

"(B) the Act of June 8, 1906 (34 Stat. 225, chapter 3060).".

SEC. 124. ATTORNEY FEES AND COURT COSTS.

Section 29 of the Act of December 22, 1974 (25 U.S.C. 640d-27) is amended—

(1) by striking "Sec. 29. (a)" and inserting the following:

"SEC. 23. ATTORNEY FEES AND COURT COSTS.

"(a) In General.—";

(2) in subsection (a)—

(A) by striking "In any" and inserting the following:

"(1) In general.—In any"; and

(B) by striking "For each" and inserting the following:

"(2) Authorization of appropriations.—For each";

(3) in subsection (b)—

(A) by striking "(b) Upon" and inserting the following:

"(b) Award by Court.—

"(1) In general.—On"; and

(B) in the second sentence, by striking "Any party" and inserting the following:

"(2) Reimbursement of United States.—Any party";

(4) in subsection (c), by striking "(c) To" and inserting the following:

"(c) Excess Difference.—To"; and

(5) in subsection (d)—

(A) by striking "(d) This" and inserting the following:

"(d) Application of Section.—This"; and

(B) by striking "section 8 or 18(a) of this Act" and inserting "section 4 or section 14(a)".

SEC. 125. LOBBYING.

Section 31 of the Act of December 22, 1974 (25 U.S.C. 640d-29) is amended—

(1) by striking "Sec. 31. (a) Except" and inserting the following:

"SEC. 24. LOBBYING.

"(a) In General.—Except"; and

(2) in subsection (b), by striking "(b) Subsection" and inserting the following:

"(b) Applicability.—Subsection".

SEC. 126. NAVAJO REHABILITATION TRUST FUND.

The first section designated as section 32 of the Act of December 22, 1974 (25 U.S.C. 640d-30) is amended—

(1) by striking "Sec. 32. (a) There" and inserting the following:

"SEC. 25. NAVAJO REHABILITATION TRUST FUND.

"(a) Establishment.—There";

(2) in subsection (b), by striking "(b) All" and inserting the following:

"(b) Deposit of Income Into Fund.—All";

(3) in subsection (c), by striking "(c) The" and inserting the following:

"(c) Investment of Funds.—The";

(4) in subsection (d)—

(A) by striking "(d) Funds" and inserting the following:

"(d) Availability of Funds.—Funds";

(B) in paragraph (1), by striking "proceedings," and inserting "proceedings;"; and

(C) in paragraph (2), by striking "Act, or" and inserting "Act; or";

(5) in subsection (e)—

(A) by striking "(e) By December 1" and inserting the following:

"(e) Expenditure of Funds.—

"(1) In general.—Not later than December 1"; and

(B) in the second sentence, by striking "Such framework is to be" and inserting the following:

"(2) Requirement.—The framework under paragraph (1) shall be";

(6) in subsection (f)—

(A) by striking "(f) The" and inserting the following:

"(f) Termination.—

"(1) In general.—The"; and

(B) in the second sentence, by striking "All funds" and inserting the following:

"(2) Transfer of remaining funds.—All funds"; and

(7) in subsection (g)—

(A) by striking "(g) There is hereby" and inserting the following:

"(g) Authorization of Appropriations.—

"(1) In general.—There is";

(B) in the first sentence, by striking "1990, 1991, 1992, 1993, 1994, and 1995" and inserting "2006 through 2008"; and

(C) in the second sentence, by striking "The income" and inserting the following:

"(2) Income from land.—The income".

SEC. 127. AVAILABILITY OF FUNDS FOR RELOCATION ASSISTANCE.

The second section designated as section 32 of the Act of December 22, 1974 (25 U.S.C. 640-31) is amended by striking "Sec. 32. Nothing" and inserting the following:

"SEC. 26. AVAILABILITY OF FUNDS FOR RELOCATION ASSISTANCE.".

"Nothing".

TITLE II—PERSONNEL OF THE OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SEC. 201. RETENTION PREFERENCE.

The second sentence of section 3501(b) of title 5, United States Code, is amended—

(1) by striking "or" after "Senate" and inserting a comma;

(2) by striking "or" after "Service" and inserting a comma; and

(3) by inserting ", or to an employee of the Office of Navajo and Hopi Indian Relocation" before the period.

SEC. 202. SEPARATION PAY.

(a) In General.—Chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§ 5598 Separation pay for certain employees of the Office of Navajo and Hopi Indian Relocation

"(a) In General.—Except as provided in subsections (b) and (c), the Commissioner of the Office of Navajo and Hopi Indian Relocation shall establish a program to offer separation pay to employees of the Office of Navajo and Hopi Indian Relocation (referred to in this section as the 'Office') in the same manner as the Secretary of Defense offers separation pay to employees of a defense agency under section 5597.

"(b) Separation Pay.—

"(1) In general.—Under the program established under subsection (a), the Commissioner of the Office may offer separation pay only to employees within an occupational group or at a pay level that minimizes the disruption of ongoing Office programs at the time that the separation pay is offered.

"(2) Requirement.—Any separation pay offered under this subsection—

"(A) shall be paid in a lump sum;

"(B) shall be in an amount equal to $25,000, if paid on or before December 31, 2007;

"(C) shall be in an amount equal to $20,000, if paid after December 31, 2007, and before January 1, 2009;

"(D) shall be in an amount equal to $15,000, if paid after December 31, 2008, and before January 1, 2010;

"(E) shall not—

"(i) be a basis for payment;

"(ii) be considered to be income for the purposes of computing any other type of benefit provided by the Federal Government; and

"(F) if an individual is otherwise entitled to receive any severance pay under section 5595 on the basis of any other separation, shall not be payable in addition to the amount of the severance pay to which that individual is entitled under section 5595.

"(c) Prohibition.—No amount shall be payable under this section to any employee of the Office for any separation occurring after December 31, 2009.".

(b) Conforming Amendment.—The chapter analysis for chapter 55 of title 5 is amended by adding at the end the following:

"5598. Separation pay for certain employees of the Office of Navajo and Hopi Indian Relocation.".

SEC. 203. FEDERAL RETIREMENT.

(a) Civil Service Retirement System.—

(1) Immediate retirement.—Section 8336(j)(1)(B) of title 5, United States Code, is amended by inserting "or was employed by the Office of Navajo and Hopi Indian Relocation during the period beginning on January 1, 1985, and ending on the date of separation of that employee" before the final comma.

(2) Computation of annuity.—Section 8339(d) of title 5, United States Code, is amended by adding at the end the following:

"(8) The annuity of an employee of the Office of Navajo and Hopi Indian Relocation described in section 8336(j)(1)(B) shall be determined under subsection (a), except that with respect to service of that employee on or after January 1, 1985, the annuity of that employee shall be in an amount equal to the sum of—

"(A) the product obtained by multiplying—

"(i) 2½ percent of the average pay of the employee; and

"(ii) the quantity of service of the employee on or after January 1, 1985, that does not exceed 10 years; and

"(B) the product obtained by multiplying—

"(i) 2 percent of the average pay of the employee; and

"(ii) the quantity of the service of the employee on or after January 1, 1985, that exceeds 10 years.".

(b) Federal Employees Retirement System.—

(1) Immediate retirement.—Section 8412 of title 5, United States Code, is amended by adding at the end the following:

"(i) An employee of the Office of Navajo and Hopi Indian Relocation is entitled to an annuity if that employee—

"(1) has been continuously employed in the Office of Navajo and Hopi Indian Relocation during the period beginning on January 1, 1985, and ending on the date of separation of that individual; and

"(2)(A) has completed 25 years of service at any age; or

"(B) has attained the age of 50 years and has completed 20 years of service.".

(2) Computation of basic annuity.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating subsection (*l*) as subsection (m);

(2) by redesignating the second subsection designated as subsection (k) as subsection (*l*); and

(3) by adding at the end the following:

"(n) The annuity of an employee retiring under section 8412(i) shall be determined in accordance with subsection (d), except that with respect to service during the period beginning on January 1, 1985, the annuity of the employee shall be an amount equal to the sum of—

"(1) the product obtained by multiplying—

"(A) 2 percent of the average pay of the employee; and

"(B) the quantity of the total service of the employee that does not exceed 10 years; and

"(2) the product obtained by multiplying—

"(A) 1½ percent of the average pay of the employee; and

"(B) the quantity of the total service of the employee that exceeds 10 years.".

TITLE III—TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS

SEC. 301. DEFINITIONS.

In this title:

(1) Federal agency.—The term "Federal agency" has the meaning given the term "agency" in section 551(1) of title 5, United States Code.

(2) Function.—The term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(3) Office.—The term "Office" means the Office of Navajo and Hopi Relocation (including any component of that office).

SEC. 302. TRANSFER OF FUNCTIONS.

Effective on the date of enactment of this Act, there is transferred to the Secretary of the Interior any function of the Office that has not been carried out by the Office on the date of enactment of this Act, as determined by the Secretary of the Interior in accordance with the Act of December 22, 1974 (25 U.S.C. 640 et seq.) (as amended by title I).

SEC. 303. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS.

(a) In General.—Except as otherwise provided in this Act and the amendments made by this Act, any asset, liability, contract, property, record, or unexpended balance of appropriations, authorizations, allocations, and other funds made available to carry out the functions transferred by this title shall be transferred to the Secretary of the Interior, subject to section 1531 of title 31, United States Code.

(b) Use of Funds.—Any unexpended funds transferred under subsection (a) shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 304. EFFECT OF TITLE.

(a) Continuing Effect of Legal Documents.—Any legal document relating to a function transferred by this title that is in effect on the date of enactment of this Act shall continue in effect in accordance with the terms of the document until the document is modified or terminated by—

(1) the President;

(2) the Secretary of the Interior;

(3) a court of competent jurisdiction; or

(4) operation of Federal or State law.

(b) Proceedings Not Affected.—This title shall not affect any proceeding (including a notice of proposed rulemaking, an administrative proceeding, and an application for a license, permit, certificate, or financial assistance) relating to a function transferred under this title that is pending before the Office of Navajo and Hopi Relocation on the date of enactment of this Act.

By Mr. BINGAMAN (for himself, Ms. Snowe, Mr. Rockefeller, Mrs. Hutchison, Mr. Reid, and Mr. Jeffords):

S. 1007. A bill to prevent a severe reduction in the Federal medical assistance percentage determined for a State for fiscal year 2006; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, today I am introducing legislation with Senators Snowe, Rockefeller, Hutchison, Reid, and Jeffords that would increase Medicaid Federal matching payments to 28 States by addressing a problem with the Medicaid funding formula that is expected to result in a majority of States in the country having their Federal matching rate drop this coming fiscal year.

Our legislation, the "Medicaid Formula Fairness Act of 2005," would protect these 28 States from decreases in the amount of Federal funding they can expect to receive in fiscal year 2006. For the vulnerable low-income children, pregnant women, disabled, and senior citizens that the Medicaid programs in those 28 States serve. This legislation may be the only thing preventing them from losing their health benefits and joining the ranks of our Nation's uninsured, which is already at 45 million people.

In New Mexico, more than one-in-five or over 400,000 New Mexicans are uninsured and the State is facing a $78 million reduction in the federal Medicaid matching rate for fiscal year 2006. This is not the result of a dramatic upswing in the economy in New Mexico. The most recent poverty data from the U.S. Census Bureau actually indicates an upswing in the percentage of New Mexicans in poverty at 18 percent—the second highest poverty rate in the country.

Thus, at the very time when there are more people in need of medical care through the Medicaid program, the Federal Government is apparently reducing its assistance through Medicaid. So how is this possible?

The first problem is with the Medicaid matching formula itself. It is based on per capita income, which was established as a proxy for both need and State capacity many years ago. We now have much better data on what should be the factors in the Medicaid formula, including poverty and total taxable resource measures, but the old proxy of per capita income remains.

Despite numerous reports from the General Accounting Office, the HHS inspector general, and outside organizations calling for such an update to the Federal Medicaid formula, nothing has happened over the years. Rather than fighting that battle again, our legislation acknowledges that we are stuck with per capita income as the formula factor. Instead, we take issue with how that factor is dropping Federal matching rates across the Nation while the national poverty rate continues to rise. Again, how is this possible?

In the fall of 2004, the Centers for Medicare and Medicaid Services, CMS, published the Federal Medical Assistance Percentage, or FMAP, for fiscal year 2006 based on per capital income, PCI, data from 2001, 2002, and 2003. According to the Federal Funds Information for States, FFIS, Issue Brief in September 2004, changes in the FMAP will cause States to lose a net $527 million in Federal matching funds in the Medicaid Program with decreases of $867 million to 29 States partially offset by increases for 9 States.

CMS acknowledges that 29 States will lose Federal funding, nine States will gain, and the balance of the States will not be impacted by the Medicaid changes because the latter group of 12 States are already at the statutory minimum FMAP of 50 percent.

Federal law dictates that the FMAP is determined based on the "three most recent calendar years for which satisfactory data are available from the Department of Commerce." Thus, for fiscal year 2006, the PCI data used is from the years 2001, 2002, and 2003. The Federal intent of a 3-year rolling average is to limit the fluctuations that States might experience since only one-third of the formula is changed on a yearly basis. In other words, Congress felt it important enough to limit the fluctuations in the matching rate through the 3-year rolling average of PCI data that the result is the use of data from 2001 for the calculation of the fiscal year 2006 FMAP.

However, as analysis by the Oklahoma Health Care Authority indicates, in the case of the calculation, of the fiscal year 2006 FMAP, the U.S. Department of Commerce's Bureau of Economic Analysis, BEA, performed a comprehensive revision of its calculation of PCI in 2003, as it does every 4 to 5 years, and provided revised data for previous years as well. As a result, CMS changed the 2001 and 2002 PCI data for States in the calculation. Consequently, all 3 years of the PCI data were being changed rather than just one-third.

The result is rather dramatic fluctuations—mostly negative—to State FMAP calculations. As the FFIS Issue Brief indicated, "Fifteen States are projected to have changes of greater than one percentage point in fiscal year 2006, compared to only three for FY 2005." Not since 1998 have the fluctuations been this dramatic.

According to the Congressional Research Service (CRS), the average change in the FMAP between fiscal year 2001 and fiscal year 2002 was -0.26 percentage points, for fiscal year 2003 it was +0.32, for fiscal year 2004 it was +0.12, and for fiscal year 2005 it was -0.09. Thus, over this 4-year period, the average change in the national FMAP was less than 0.2 percentage points. However, due in part to the rebenchmarking of data by BEA, the fiscal year 2006 change in the FMAP will be -0.55 percentage points. Compared to average change over the preceeding 4 years, the fiscal year 2006 FMAP change will be almost three times as dramatic.

As a result, 29 States will absorb a decline in the FMAP for fiscal year 2006. The Oklahoma Health Care Authority estimates that this will cost those States $860 million. The largest projected percentage point decreases are for Alaska, -7.42, Wyoming, -3.67, New Mexico, -3.15, Oklahoma, -2.27, Maine, -1.99, West Virginia, -1.66, North Dakota, -1.64, Vermont, -1.62, Utah, -1.38, Montana, -1.36, Alabama, -1.32, Louisiana, -1.25, Nevada, -1.14, and Mississippi, -1.08.

The largest dollar declines would be experienced by the states of New Mexico, -$79 million, Louisiana, -$72 million, Alaska, -$69 million, Tennessee, -$68 million, Oklahoma, -$66 million, Alabama, -$55 million, and Maine, -$47 million.

FFIS adds, "While the changes in FY 2006 are significant, for many states they only add to previous reductions. Thirteen states (Alaska, Kentucky, Louisiana, Maine, Montana, New Mexico, North Dakota, Oklahoma, Rhode Island, Vermont, West Virginia, Wisconsin, and Wyoming) will experience three consecutive reductions—from the fiscal relief FMAP to the base FMAP in FY 2004 to a second reduction in FY 2005 and a third in FY 2006. The cumulative 5-year reduction for a number of States is large, and for many unprecedented—Wyoming (-10.37), Alaska (-9.97), North Dakota (-4.14), Vermont (-3.91), Oklahoma (-3.33), Maine (-3.22), and South Dakota (-3.24)."

The loss in funds to these 29 States is already resulting in planned cuts in benefits and services to Medicaid eligible recipients, such as low-income children, pregnant women, the elderly and disabled, and decreased reimbursement to Medicaid providers, including physicians, hospitals, nursing homes, community health centers, etc.

In an effort to minimize the dramatic fluctuations in the Fiscal Year 2006 FMAP, this legislation would limit the loss of States in the FMAP to 0.5 percentage points, which restores $442 million of the lost Medicaid dollars to 18 States. The bill would also give 10 additional States a higher FMAP if changes to PCI for 2001 and 2002 were not retroactively applied by CMS. This translates to approximately $229 million for a total of $671 million. This is still far less than the $860 million lost to the 29 States by FMAP reductions.

Therefore, this legislation I am introducing with Senator SNOWE and others does not hold States entirely harmless. However, it does limit the losses in Federal Medicaid matching funds that States are expected to absorb due to problems with the use of per capita income as a factor in the Medicaid formula but also in how it is used. Our legislation mitigates those problems, and does so with the expressed intent of preventing millions of additional Americans from joining the ranks of the uninsured as many of our States will be forced to undertake cuts to the Medicaid program to make up for lost Federal funding.

Specifically, the bill allows States to get the better of: 1. the FMAP as calculated by CMS; 2. a recalculated FMAP without retroactively changing the 2001 and 2002 per capita income data; or, 3. a hold harmless limiting the reduction in the FMAP to 0.5 percentage points.

In New Mexico, for example, the "Medicaid Formula Fairness Act of 2005" would restore $66 million of the $78 million that New Mexico is scheduled to lose due to the drop in the Federal Medicaid matching rate. The other 27 States that would benefit from the legislation and the estimated amount they would receive are as follows: Texas—$113 million, New Mexico—$66 million, Alaska—$64 million, Oklahoma—$52 million, Louisiana—$43 million, Maine—$35 million, Alabama—$34 million, West Virginia—$27 million, Tennessee—$27 million, Florida—$25 million, Mississippi—$22 million, Arizona—$22 million, Nevada—$17 million, Arkansas—$14 million, Utah—$14 million, North Carolina—$14 million, Wyoming—$13 million, Vermont—$10 million, Wisconsin—$9 million, Rhode Island—$8 million, Georgia—$8 million, Oregon—$6 million, North Dakota—$6 million, Montana—$6 million, South Carolina—$6 million, Idaho—$5 million, South Dakota—$3 million, and Kansas—$2 million.

I would like to thank the Oklahoma Health Care Authority, including Mike Fogarty and Stephen Weiss, for their outstanding work in analyzing the problem with the Fiscal Year 2006 FMAP and for their technical assistance and counsel toward the introduction of this legislation. I would also like to thank Senators SNOWE, ROCKEFELLER, HUTCHISON, REID, and JEFFORDS for providing bipartisan support as original cosponsors of this important legislation.

I ask unanimous consent that the text of the bill and a letter be printed in the RECORD.

There be no objection, the material was ordered to be printed in the RECORD.

S. 1007

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Formula Fairness Act of 2005".

SEC. 2. LIMITATION ON SEVERE REDUCTION IN THE MEDICAID FMAP FOR FISCAL YEAR 2006.

(a) LIMITATION ON REDUCTION.—In no case shall the FMAP for a State for fiscal year 2006 be less than the greater of the following:

(1) HALF PERCENTAGE POINT DECREASE.—The FMAP determined for the State for fiscal year 2005, decreased by 0.5 percentage points.

(2) COMPUTATION WITHOUT RETROACTIVE APPLICATION OF REBENCHMARKED PER CAPITA INCOME.—The FMAP that would have been determined for the State for fiscal year 2006 if the per capita incomes for 2001 and 2002 that was used to determine the FMAP for the State for fiscal year 2005 were used.

(b) SCOPE OF APPLICATION.—The FMAP applicable to a State for fiscal year 2006 after the application of subsection (a) shall apply only for purposes of titles XIX and XXI of the Social Security Act (including for purposes of making disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4) and payments under such titles that are based on the enhanced FMAP described in section 2105(b) of such Act (42 U.S.C. 1397ee(b))) and shall not apply with respect to payments under title IV of such Act (42 U.S.C. 601 et seq.).

(c) DEFINITIONS.—In this section:

(1) FMAP.—The term "FMAP" means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) STATE.—The term "State" has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

SEC. 3. REPEAL.

Effective as of October 1, 2006, section 2 is repealed and shall not apply to any fiscal year after fiscal year 2006.

AMERICAN HOSPITAL ASSOCIATION,
Washington, DC, March 28, 2005.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BINGAMAN: On behalf of our 4,700 hospital, health care system, and other health care provider members, and our 31,000 individual members, the American Hospital Association (AHA) is writing to express our support for your legislation to limit FY 2006 Medicaid federal medical assistance percentage (FMAP) reductions.

Recently the Bureau of Economic Affairs in the Department of Commerce rebenchmarked per capita income for states, and the Centers for Medicare & Medicaid Services (CMS) retroactively applied the changes. The Medicaid FMAP uses a three-year rolling average to smooth out dramatic changes in the states' matching rates from year-to-year. By retroactively applying the new benchmark, however, CMS undermined the rationale of the three-year rolling average; therefore 22 states will see their FMAP drop by more than 0.5 percentage points in FY 2006—a reduction of an estimated $752 million in FY 2006. About $550 million of this is due to the retroactive recalculation.

The prospect of more Medicaid hospital payment reductions due to decreased federal Medicaid funding is a serious threat to the viability of hospitals and the patients they serve. We realize that it is critical that states provide their share of the state-federal Medicaid funding match in order for vulnerable citizens to obtain and retain health care coverage and health services. Your legislation would help states by limiting the FMAP drop to 0.5 percent, restoring $468 million of the funds that are lost due to the recalculation of per capita income.

We applaud your leadership on this issue and support enactment of this legislation.

Sincerely,

RICK POLLACK,
Executive Vice President.

Ms. SNOWE. Mr. President, I am pleased to join Senator BINGAMAN today, along with Senators ROCKEFELLER, HUTCHISON, REID, and JEFFORDS, in introducing the Medicaid Formula Fairness Act of 2005. This legislation will provide a temporary increase in Medicaid Federal matching payments to 28 States and thereby avoid a significant loss funds which would otherwise occur due to a precipitous and unpredicted drop in the Federal matching rate for these States next year.

Medicaid provides essential medical care to low-income children, pregnant women, parents of dependent children, senior citizens, and people with disabilities and functions as a critical safety net for our most vulnerable populations. Enrollment in the Medicaid program has grown by nearly one-third since the beginning of 2001, as the numbers of those in poverty and individuals without private health insurance continues to increase. In Maine, where we have an older and less wealthy population, more than 300,000 people were enrolled in Medicaid last year. One in five individuals in the State now receives health care services through MaineCare, the State's Medicaid program.

States have experienced severe fiscal stress during the last few years, with sharp declines in revenues and budget shortfalls. This economic downturn, from which many States are only now emerging, has continued to leave many families jobless and without health insurance, forcing to turn to Medicaid. This has put an enormous strain on the States such as Maine which are already strapped with budget shortfalls. Many States reduced Medicaid benefits last year and even more restricted Medicaid eligibility in an effort to satisfy their budgetary obligations.

The formula for calculating the Federal matching rate, known as the Federal Medical Assistance Percentage, FMAP, which determines the Federal Government's share of Medicaid expenditures, has contributed to the Medicaid problems that States are facing. The FMAP formula is designed so that the Federal Government pays a larger portion of Medicaid costs in States with a per capita income lower than the national average. Since Maine is a relatively poor State with a disproportionately large low-income elderly population, it has had a favorable Federal-State match in recent years, 66 percent in 2004. This translated to $1.4 billion in Federal dollars last year—two-thirds of MaineCare's $2 billion in Medicaid spending.

The size of Maine's Medicaid population means that any change in the FMAP has a disproportionately significant impact on Maine's budget. This year, Maine's Federal matching rate decreased from 66.01 percent to 64.89 percent, a drop of more than one percent. The change in FMAP for FY2006 is even greater and will cause 28 States, including Maine, to lose a significant amount of Federal matching funds next year. Maine's Federal matching rate will drop nearly two points, from 64.89 percent to 62.9 percent next year, which will result in Maine losing $46.7 million in Federal matching funds.

Under existing Federal law, the FMAP is determined based on the three most recent calendar years for which data is available from the Department of Commerce. This 3 year "look back" captures a period of time that is not necessarily reflective of a State's current financial situation. The FMAP for FY 2003, for example, was calculated in 2001 for the fiscal year beginning October 2002. The FY 2003 FMAP was determined on the basis, of State per capita income over the 3 year period of 1998 through 2000, when State economies were growing significantly. Yet in 2003, when this matching rate was in effect, a serious economic downturn was affecting many State budgets, and that downturn has contributed greatly to the growth of Medicaid for several years now.

We recognized this situation in the last Congress and provided for State fiscal relief by providing a temporary increase in the Federal Medicaid matching rate, which provided $10 billion in fiscal relief to States during fiscal 2003 and 2004, when we passed the Jobs and Growth Tax Relief Reconciliation Act of 2003 but that temporary Federal fiscal relief has now ended.

This Congress has reached a budget agreement which, among its terms, calls for reductions of $10 billion in Medicaid spending over the next 5 years. At this time, therefore, it is especially crucial that we continue to provide sufficient Federal matching funds for Medicaid, which has worked so well over the last 40 years. Our legislation is intended to be just a short term fix, for fiscal year 2006. It is my hope that we will see the creation of a Medicaid Commission to undertake a comprehensive review of the Medicaid program and make recommendations on how to make Federal matching payments more equitable with respect to the States and the populations they serve, as well as how to make them more responsive to changes in States' economic conditions.

However, today, states such as Maine are facing dramatic and unpredictable fluctuations to their State FMAP formulas. This legislation would limit the percentage decrease to a half percentage point for fiscal year 2006 and help mitigate the drastic effects that a severe loss Federal funding would have on our Medicaid population next year.

I therefore urge my colleagues to join us supporting this legislation to help sustain funding for Medicaid in fiscal year 2006 to help ensure that this critical health care safety net remains intact next year for those who need it most.

AMENDMENTS SUBMITTED AND PROPOSED

SA 619. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table.

SA 620. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 621. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 622. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 623. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 624. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 625. Mr. LAUTENBERG (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra.

SA 626. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 627. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 628. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 629. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 630. Mr. KENNEDY (for himself and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 631. Mr. BOND submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 632. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 633. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 634. Mr. DAYTON (for himself, Mr. LUGAR, Mr. DURBIN, Mr. COLEMAN, Mr. HARKIN, Mr. GRASSLEY, Mr. BINGAMAN, and Mr. SALAZAR) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 635. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 636. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 637. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 638. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 639. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 640. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 641. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 642. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 643. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 644. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 645. Mr. SANTORUM (for himself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 646. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 647. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 648. Mr. VOINOVICH submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 649. Mr. MARTINEZ (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 650. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 651. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 652. Mr. DORGAN (for himself and Mr. REID) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra.

SA 653. Mr. DORGAN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 654. Mr. DORGAN (for himself, Mr. CONRAD, Mr. BURNS, Mr. THUNE, Mr. JOHNSON, Mr. NELSON, of Nebraska, and Mr. SALAZAR) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 655. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 656. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 657. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 658. Mr. BOND submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 659. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 660. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 661. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 662. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 663. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 664. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 665. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 666. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 667. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 668. Mr. OBAMA submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 669. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 670. Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, and Mr. DAYTON) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 671. Mr. OBAMA submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 672. Mr. NELSON, of Florida (for himself, Mr. MARTINEZ, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 673. Mr. AKAKA (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 674. Mr. SCHUMER (for himself, Mr. KENNEDY, Mrs. CLINTON, Mr. LEVIN, and Mr. SARBANES) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 675. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 676. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 677. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 678. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 679. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 680. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 681. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 682. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 683. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 684. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 685. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 686. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 687. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 688. Mr. ALLARD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 689. Mrs. CLINTON (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 690. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 691. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 692. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 693. Mr. DODD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 694. Mr. SALAZAR submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 695. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 696. Mr. SARBANES submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 697. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 698. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 699. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 700. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 701. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 702. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 703. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 704. Mr. VOINOVICH submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 705. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 706. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 707. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 708. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 709. Ms. COLLINS (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 710. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 711. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 712. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 713. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 714. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 715. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 716. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 717. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 718. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 719. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 720. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 721. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 722. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 723. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 724. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 725. Mr. SANTORUM (for himself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 726. Mr. INHOFE (for himself, Mr. BAYH, Mr. WARNER, Mr. JEFFORDS, Mr. LUGAR, Mrs. CLINTON, Mr. CHAFEE, Mr. OBAMA, Ms. LANDRIEU, and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 727. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 728. Mrs. CLINTON (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 729. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 730. Mr. REED (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 731. Mr. REED (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 732. Mr. DODD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 733. Mr. ALEXANDER (for himself, Mr. GRAHAM, Mr. BURR, and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 734. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 735. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 736. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 737. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 738. Mr. KYL submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 739. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 740. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 741. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 742. Mr. INHOFE (for Mr. TALENT (for himself and Mr . DODD)) proposed an amendment to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra.

TEXT OF AMENDMENTS

SA 619. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1403 and insert the following:

SEC. 1403. INCREASED PENALTIES FOR HIGHER-RISK DRIVERS DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

(a) IN GENERAL.—Section 164 of title 23, United States Code, is amended to read as follows:

"§164. Increased penalties for higher-risk drivers driving while intoxicated or driving under the influence

"(a) DEFINITIONS.—In this section:

"(1) BLOOD ALCOHOL CONCENTRATION.—The term 'blood alcohol concentration' means grams of alcohol per 100 milliliters of blood or the equivalent grams of alcohol per 210 liters of breath.

"(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms 'driving while intoxicated' and 'driving under the influence' mean driving or being in actual physical control of a motor vehicle while having a blood alcohol concentration above the permitted limit as established by each State.

"(3) HIGHER-RISK IMPAIRED DRIVER LAW.—

"(A) IN GENERAL.—The term 'higher-risk impaired driver law' means a State law that provides, as a minimum penalty, that—

"(i) an individual described in subparagraph (B) shall—

"(I) receive a driver's license suspension;

"(II)(aa) have the motor vehicle driven at the time of arrest impounded or immobilized for not less than 45 days; and

"(bb) for the remainder of the license suspension period, be required to install a certified alcohol ignition interlock device on the vehicle;

"(III)(aa) be subject to an assessment by a certified substance abuse official of the State that assesses the degree of abuse of alcohol by the individual; and

"(bb) be assigned to a treatment program or impaired driving education program, as determined by the assessment; and

"(IV) be imprisoned for not less than 10 days, or have an electronic monitoring device for not less than 100 days; and

"(ii) an individual who is convicted of driving while intoxicated or driving under the influence with a blood alcohol concentration level of 0.15 percent or greater shall—

"(I) receive a driver's license suspension; and

"(II)(aa) be subject to an assessment by a certified substance abuse official of the State that assesses the degree of abuse of alcohol by the individual; and

"(bb) be assigned to a treatment program or impaired driving education program, as determined by the assessment.

"(B) COVERED INDIVIDUALS.—An individual referred to in subparagraph (A)(i) is an individual who—

"(i) is convicted of a second or subsequent offense for driving while intoxicated or driving under the influence within a period of 10 consecutive years;

"(ii) is convicted of a driving-while-suspended offense, if the suspension was the result of a conviction for driving under the influence; or

"(iii) refuses a blood alcohol concentration test while under arrest or investigation for involvement in a fatal or serious injury crash.

"(4) LICENSE SUSPENSION.—The term 'license suspension' means, for a period of not less than 1 year—

"(A) the suspension of all driving privileges of an individual for the duration of the suspension period; or

"(B) a combination of suspension of all driving privileges of an individual for the first 45 days of the suspension period, followed by reinstatement of limited driving privileges requiring the individual to operate only motor vehicles equipped with an ignition interlock system or other device approved by the Secretary during the remainder of the suspension period.

"(5) MOTOR VEHICLE.—

"(A) IN GENERAL.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways.

"(B) EXCLUSIONS.—The term 'motor vehicle' does not include—

"(i) a vehicle operated solely on a rail line; or

"(ii) a commercial vehicle.

"(b) Transfer of Funds.—

"(1) In general.—Except as provided in paragraph (2), on October 1, 2008, and each October 1 thereafter, if a State has not enacted or is not enforcing a higher-risk impaired driver law, the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used in accordance with section 402(a)(3) only to carry out impaired driving programs.

"(2) Nationwide traffic safety campaigns.—The Secretary shall—

"(A) reserve 25 percent of the funds that would otherwise be transferred to States for a fiscal year under paragraph (1); and

"(B) use the reserved funds to make law enforcement grants, in connection with nationwide traffic safety campaigns, to be used in accordance with section 402(a)(3).".

(b) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 164 and inserting the following:

"164. Increased penalties for higher-risk drivers driving while intoxicated or driving under the influence.".

SA 620. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 407, strike line 13 and insert the following:

(3)(A) that traverse at least 3 States;

(B) that are connected to a corridor that traverses at least 3 States by—

(i) less than 215 miles; and

(ii) a single Interstate Route; or

(C) that—

(i) are less than 75 miles; and

(ii) connect to a corridor that is otherwise eligible under this subsection; and

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SA 621. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18 . COMMUNITY ENHANCEMENT STUDY.

(a) In General.—The Secretary shall conduct a study on—

(1) the role of well-designed transportation projects in—

(A) promoting economic development;

(B) protecting public health, safety, and the environment; and

(C) enhancing the architectural design and planning of communities; and

(2) the positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits of those projects for communities.

(b) Contents.—The study shall address—

(1) the degree to which well-designed transportation projects—

(A) have positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits for communities;

(B) protect and contribute to improvements in public health and safety; and

(C) use inclusive public participation processes to achieve quicker, more certain, and better results;

(2) the degree to which positive results are achieved by linking transportation, design, and the implementation of community visions for the future; and

(3) methods of facilitating the use of successful models or best practices in transportation investment or development to accomplish—

(A) enhancement of community identity;

(B) protection of public health and safety;

(C) provision of a variety of choices in housing, shopping, transportation, employment, and recreation;

(D) preservation and enhancement of existing infrastructure; and

(E) creation of a greater sense of community through public involvement.

(c) Administration.—

(1) In general.—To carry out this section, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, a national organization with expertise in the design of a wide range of transportation and infrastructure projects, including the design of buildings, public facilities, and surrounding communities.

(2) Federal share.—Notwithstanding section 1221(e)(2) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note), the Federal share of the cost of the study under this section shall be 100 percent.

(d) Report.—Not later than September 20, 2006, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study under this section.

(e) Authorization.—Of the amounts made available to carry out section 1221 of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note), $1,000,000 shall be available for each of fiscal years 2005 and 2006 to carry out this section.

SA 622. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. . COMPREHENSIVE COASTAL EVACUATION PLAN.

(a) In General.—The Secretary of Transportation and the Secretary of Homeland Security (referred to in this section as the "Secretaries") shall jointly develop a written comprehensive plan for evacuation of the coastal areas of the United States during any natural or man-made disaster that affects coastal populations.

(b) Consultation.—In developing the comprehensive plan, the Secretaries shall consult with Federal, State, and local transportation and emergency management officials that have been involved with disaster related evacuations.

(c) Contents.—The comprehensive plan shall—

(1) consider, on a region-by-region basis, the extent to which coastal areas may be affected by a disaster; and

(2) address, at a minimum—

(A) all practical modes of transportation available for evacuations;

(B) methods of communicating evacuation plans and preparing citizens in advance of evacuations;

(C) methods of coordinating communication with evacuees during plan execution;

(D) precise methods for mass evacuations caused by disasters such as hurricanes, flash flooding, and tsunamis; and

(E) recommended policies, strategies, programs, and activities that could improve disaster-related evacuations.

(d) Report and Updates.—The Secretaries shall—

(1) not later than October 1, 2006, submit to Congress the written comprehensive plan; and

(2) periodically thereafter, but not less often than every 5 years, update, and submit to Congress any revision to, the plan.

SA 623. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18___. FINISH PROGRAM.

(a) In General.—Subtitle I of chapter 1 of title 23, United States Code (as amended by section 1409(a)), is amended by adding at the end the following:

"§ 180. FINISH program

"(a) In General.—The Secretary shall establish and carry out a program, to be known as the 'FINISH program', under which the Secretary shall apportion funds to States for use in the acceleration and completion of coordinated planning, design, and construction of internationally significant highway projects, as determined by the Secretary.

"(b) Eligible Projects.—The Secretary shall apportion funds under this section for highway projects described in subsection (a) that are located on any of the high priority corridors described in paragraphs (1) and (37), (18) and (20), (23), (26), (38), or (44) of section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032), as determined by the applicable State and approved by the Secretary.

"(c) Apportionment.—For each of fiscal years 2005 through 2009, the Secretary shall apportion funds made available under this section for the fiscal year to each State in the proportion that, as determined by the applicable State and approved by the Secretary—

"(1) the estimated amount that may be obligated for the fiscal year for the completion of the eligible projects described in subsection (b) in the State; bears to

"(2) the total estimated amount that may be obligated for the fiscal year for the completion of eligible projects described in subsection (b) in all States.".

(b) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1409(b)), is amended by adding at the end the following:

"180. FINISH program.".

SA 624. Mr. MURRAY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18 . ALASKA WAY VIADUCT STUDY.

(a) FINDINGS.—Congress finds that—

(1) in 2001, the Alaska Way Viaduct, a critical segment of the National Highway System in Seattle, Washington, was seriously damaged by the Nisqually earthquake;

(2) an effort to address the possible repair, retrofit, or replacement of the Alaska Way Viaduct that conforms with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is underway; and

(3) as a result of the efforts referred to in paragraph (1), a locally preferred alternative for the Alaska Way Viaduct is being developed.

(b) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Highway Administration.

(2) CITY.—The term "City" means the city of Seattle, Washington.

(3) EARTHQUAKE.—The term "earthquake" means the Nisqually earthquake of 2001.

(4) FUND.—The term "Fund" means the emergency fund authorized under section 125 of title 23, United States Code.

(5) STATE.—The term "State" means the Washington State Department of Transportation.

(6) VIADUCT.—The term "Viaduct" means the Alaska Way Viaduct.

(c) STUDY.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator, in cooperation with the State and the City, shall conduct a comprehensive study to determine the specific damage to the Viaduct from the earthquake that contribute to the ongoing degradation of the Viaduct.

(2) REQUIREMENTS.—The study under paragraph (1) shall—

(A) identify any repair, retrofit, and replacement costs for the Viaduct that are eligible for additional assistance from the Fund, consistent with the emergency relief manual governing eligible expenses from the Fund; and

(B) determine the amount of assistance from the Fund for which the Viaduct is eligible.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report that describes the findings of the study.

(d) ASSISTANCE FROM THE EMERGENCY RELIEF PROGRAM.—If the study indicates that the Viaduct is eligible for assistance from the Fund, the assistance shall be made available for the Viaduct subject to the conditions that—

(1) the amount of assistance provided from the Fund shall not exceed—

(A) 50 percent of the cost of a new comparable replacement structure for the Viaduct; or

(B) if the study determines that repair or retrofit of the Viaduct is feasible, 86.5 percent of the cost of repair or retrofit of the Viaduct;

(2) for any single fiscal year, the amount of assistance provided from the Fund shall not exceed $50,000,000;

(3) amounts made available from the Fund may be applied toward the replacement costs of a new alternative structure for the Viaduct, as provided for under existing Federal Highway Administration regulations; and

(4) if amounts from the Fund are to be used toward the replacement costs of a new alternative structure for the Viaduct under paragraph (3)—

(A) the State and the City shall examine all available capital financing opportunities available under Federal guidelines, including—

(i) funding under subchapter II of chapter 1 of title 23, United States Code;

(ii) funding through a State infrastructure bank;

(iii) user fees (including tolls);

(iv) design-build arrangements; and

(v) private financing;

(B) the State and the City shall explore cost-saving opportunities that may be available by coordinating the Viaduct replacement project and any seawall replacement project for the City; and

(C) usual and reasonable finance costs incurred by the State and the City shall, consistent with existing Federal Highway Administration regulations, be considered to be eligible expenditures under section 125 of title 23, United States Code.

SA 625. Mr. LAUTENBERG (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. ___. UNIVERSAL HELMET SAFETY STANDARD FOR OPERATION OF MOTORCYCLES.

Section 153 of title 23, United States Code, is amended—

(1) in subsection (a), by striking "fiscal year—" and all that follows through "(2) a law" and inserting "fiscal year a law";

(2) in subsection (f)—

(A) in paragraph (2), by striking "fiscal year—" and all that follows through "(B) had in effect at all times a State law described in subsection (a)(2)" and inserting "fiscal year had in effect at all times a State law described in subsection (a)"; and

(B) in paragraph (3), by striking "fiscal year—" and all that follows through "(B) had in effect at all times a State law described in subsection (a)(2)" and inserting "fiscal year had in effect at all times a State law described in subsection (a)";

(3) in subsection (h)—

(A) in paragraph (1), by striking "subsection (a)(2)" and inserting "subsection (a)"; and

(B) in paragraph (2), by striking "subsection (a)(2)" and inserting "subsection (a)";

(4) by redesignating subsections (i), (j), and (k) as subsections (j), (k), and (l), respectively; and

(5) by inserting after subsection (h) the following:

"(i) MOTORCYCLE HELMET USE LAWS.—

"(1) FISCAL YEAR 2009.—If, at any time in fiscal year 2008, a State does not have in effect and is not enforcing a law that makes unlawful throughout the State the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet, the Secretary shall transfer 1.5 percent of the funds apportioned to the State for fiscal year 2009 under each of subsections (b)(1), (b)(3), and (b)(4) of section 104 to the apportionment of the State under section 402.

"(2) FISCAL YEAR 2010 AND THEREAFTER.—If, at any time in fiscal year beginning after September 30, 2008, a State does not have in effect and is not enforcing a law described in paragraph (1), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of subsections (b)(1), (b)(3), and (b)(4) of section 104 to the apportionment of the State under section 402.

"(3) APPLICABLE PROVISIONS.—Paragraphs (3), (4), and (5) of subsection (h) shall apply to obligations transferred under this subsection.".

SA 626. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 267, strike lines 1 through 14 and insert the following:

(4) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively; and

(5) by inserting after subparagraph (C) the following:

"(D) ADDITIONAL ADJUSTMENT FOR PM 2.5 AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone or carbon monoxide, or both as described in section 149(b), any county within the area was also designated under the PM-2.5 standard as a nonattainment or maintenance area, the weighted nonattainment or maintenance area population of those counties shall be further multiplied by a factor of 1.2.

"(E) USE OF FUNDS FOR COARSE PARTICULATE MATTER.—Nothing in this paragraph precludes the use by a State of funds made available under this paragraph to address air pollution caused by coarse particulate matter (PM_{10}).".

SA 627. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part I of subtitle B of title V, add the following:

SEC. 5204. VOLUMETRIC EXCISE TAX CREDIT FOR ALTERNATIVE FUELS.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Section 4081(a)(2)(A) (relating to rates of tax), as amended by section 5611 of this Act, is amended—

(A) by striking "and" at the end of clause (ii),

(B) by striking the period at the end of clause (iii), and

(C) by adding at the end the following new clauses:

"(iv) in the case of liquefied petroleum gas and P Series Fuels, 18.3 cents per gallon, "(v) in the case of compressed natural gas and hydrogen, 18.3 cents per energy equivalent of a gallon of gasoline, and

"(vi) in the case of liquefied natural gas, any liquid fuel derived from coal (including peat), and liquid hydrocarbons derived from biomass (as defined in section 29(c)(3)), 24.3 cents per gallon.".

(2) TREATMENT OF ALTERNATIVE FUEL AS TAXABLE FUEL.—

(A) IN GENERAL.—Section 4083(a)(1) (defining taxable fuel) is amended—

(i) by striking "and" at the end of subparagraph (B),

(ii) by striking the period at the end of subparagraph (C) and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(D) alternative fuel.".

(B) DEFINITION.—Section 4083(a) is amended by adding at the end the following new paragraph:

"(4) ALTERNATIVE FUEL.—The term 'alternative fuel' means—

"(A) compressed or liquefied natural gas,

"(B) liquefied petroleum gas,

"(C) P Series Fuels (as defined by the Secretary of Energy under section 13211(2) of title 42, United States Code,

"(D) hydrogen,

"(E) any liquid fuel derived from coal (including peat), and

"(F) liquid hydrocarbons derived from biomass (as defined in section 29(c)(3)).".

(3) CONFORMING AMENDMENTS.—

(A) Section 4041(a), as amended by section 5101 of this Act, is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) SPECIAL MOTOR FUELS.—

"(A) IN GENERAL.—There is hereby imposed a tax on any alternative fuel (other than gas oil or fuel oil)—

"(i) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat, or

"(ii) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such fuel under clause (i).

"(B) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this paragraph on the sale or use of any alternative fuel if tax was imposed on such alternative fuel under section 4081 and the tax thereon was not credited or refunded.

"(C) RATE OF TAX.—The rate of the tax imposed by this paragraph shall be the rate of tax specified in clause (iv), (v), or (vi) of section 4081(a)(2)(A) on the alternative fuel which is in effect at the time of such sale or use.

"(D) BUS USES.—No tax shall be imposed by this paragraph on any sale for use, or use, described in subparagraph (B) or (C) of section 6427(b)(2) (relating to school bus and intracity transportation).".

(B) Section 4041(b)(2) is amended by striking "2007" both places it appears and inserting "2005".

(C) Section 4041, as amended by section 5101 of this Act, is amended by striking subsection (m).

(b) CREDIT FOR ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.—

(1) IN GENERAL.—Section 6426(a) (relating to allowance of credits) is amended by striking "plus" at the end of paragraph (1), by striking the period at the end of paragraph (2) and by adding at the end the following new paragraphs:

"(3) the alternative fuel credit, plus

"(4) the alternative fuel mixture credit.".

(2) ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURE CREDIT.—Section 6426 (relating to credit for alcohol fuel and biodiesel mixtures) is amended by redesignating subsections (d) and (e) as subsections (f) and (g) and by inserting after subsection (c) the following new subsection:

"(d) ALTERNATIVE FUEL CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the alternative fuel credit is the product of 50 cents and the number of gallons of an alternative fuel or gasoline gallon equivalents of a nonliquid alternative fuel sold by the taxpayer for use as a motor fuel in a highway vehicle.

"(2) ALTERNATIVE FUEL.—For purposes of this section, the term 'alternative fuel' has the meaning given such term by section 4083(a)(4), except such term does not include ethanol or methanol.

"(3) GASOLINE GALLON EQUIVALENT.—For purposes of this subsection, the term 'gasoline gallon equivalent' means, with respect to any nonliquid alternative fuel, the amount of such fuel having a Btu content of 124,800 (higher heating value).

"(4) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

"(e) ALTERNATIVE FUEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the alternative fuel mixture credit is the product of 50 cents and the number of gallons of alternative fuel used by the taxpayer in producing any alternative fuel mixture for sale or use in a trade or business of the taxpayer.

"(2) ALTERNATIVE FUEL MIXTURE.—For purposes of this section, the term 'alternative fuel mixture' means a mixture of alternative fuel and taxable fuel (as defined in subparagraph (A), (B), or (C) of section 4083(a)(1)) which—

"(A) is sold by the taxpayer producing such mixture to any person for use as fuel in a highway vehicle, or

"(B) is used as a fuel in a highway vehicle by the taxpayer producing such mixture.

"(3) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.".

(3) CONFORMING AMENDMENTS.—

(A) The section heading for section 6426 is amended by striking "**ALCOHOL FUEL AND BIODIESEL**" and inserting "**CERTAIN ALTERNATIVE FUEL**".

(B) The table of sections for subchapter B of chapter 65 is amended by striking "**ALCOHOL FUEL AND BIODIESEL**" in the item relating to section 6426 and inserting "certain alternative fuel".

(C) Section 6427(a) is amended by striking "paragraph (2) or (3) of section 4041(a) or section 4041(c)" and inserting "section 4041(a)(2) or 4041(c)".

(D) Section 6427(e) is amended—

(i) by inserting "or the alternative fuel mixture credit" after "biodiesel mixture credit" in paragraph (1),

(ii) by inserting "or alternative fuel" after "section 40A(d)(2))" in paragraph (2),

(iii) by striking "and" at the end of paragraph (3)(A),

(iv) by striking the period at the end of paragraph (3)(B),

(v) by adding at the end of paragraph (3) the following new subparagraph:

"(C) any alternative fuel or alternative fuel mixture (as defined in section 6426 (d)(2) or (e)(3)) sold or used after December 31, 2010.", and

(vi) by striking "OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES" in the heading and inserting ", BIODIESEL, OR ALTERNATIVE FUEL".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any sale, use, or removal for any period after December 31, 2005.

SA 628. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 439, line 3, insert "and the National Center for Earthquake Engineering Research at the University of Buffalo," after "Reno,".

SA 629. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ROAD AND HIGHWAY GRADE SEPARATIONS.

(a) IN GENERAL.—The Secretary shall carry out a program under which the Secretary provides grants to States and units of local government for use in constructing tunnels, bridges, and other means of separating railroad tracks and roads.

(b) PRIORITY.—In providing grants under this section, the Secretary shall give priority to projects involving—

(1) separations of railroad tracks and roads that would have the most impact on improving safety; and

(2) rail lines that have a high volume of goods movement.

(c) REGULATIONS; POLICIES.—The Secretary shall promulgate such regulations and establish such policies as are necessary to carry out this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2005 through 2009.

SA 630. Mr. KENNEDY (for himself and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 483, strike line 17 and insert the following:

"(i) Lesley University-Tufts University Joint Transportation Center, Massachusetts.

SA 631. Mr. BOND submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1234, strike lines 8 and all that follows through "prevent" on page 1235, line 1, and insert the following:

“(b) Notice and Approval.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any proposed civil action under subsection (a). The notice shall include a copy of the complaint to be filed, as well as other such information as the Secretary may require in order to evaluate the proposed action. Prior to initiating such civil action, the State shall obtain the written approval of the Secretary or the Board, as the case may be. Approval shall only be granted if—

(1) the carrier or broker (as such terms are defined in section 13102 of title 49, United States Code) is not registered with the Department of Transportation; or

(2) the license of a carrier or broker is pending revocation for failure to file proof of the required bodily injury or cargo liability insurance or has been revoked for any other reason by the Department of Transportation; or

(3) the carrier is not rated or has received a conditional or unsatisfactory safety rating by the Department of Transportation; or

(4) the carrier or broker has been licensed with the Department of Transportation for less than five (5) years.

(c) Authority To Intervene.—Once approval has been granted under subsection (b), nothing in this section shall be construed to limit the independent authority of the Secretary or Board to intervene and be heard on all matters arising in civil action under subsection (a).

(d) Construction.—For purposes of bringing any civil action under subsection (a), nothing in this section shall—

(1) convey a right to initiate or maintain class action lawsuits to enforce Federal laws or regulations; or

(2) prevent

SA 632. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

Subtitle G—United States Tax Court Modernization

SEC. 5700. SHORT TITLE.

This title may be cited as the “United States Tax Court Modernization Act”.

PART I—TAX COURT PROCEDURE

SEC. 5701. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) In General.—Paragraph (1) of section 6330(d) (relating to proceeding after hearing) is amended to read as follows:

“(1) Judicial review of determination.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).”.

(b) Effective Date.—The amendment made by this section shall apply to determinations made after the date which is 60 days after the date of the enactment of this Act.

SEC. 5702. AUTHORITY FOR SPECIAL TRIAL JUDGES TO HEAR AND DECIDE CERTAIN EMPLOYMENT STATUS CASES.

(a) In General.—Section 7443A(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking “and” at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

“(5) any proceeding under section 7436(c), and”.

(b) Conforming Amendment.—Section 7443A(c) is amended by striking “or (4)” and inserting “(4), or (5)”.

(c) Effective Date.—The amendments made by this section shall apply to any proceeding under section 7436(c) of the Internal Revenue Code of 1986 with respect to which a decision has not become final (as determined under section 7481 of such Code) before the date of the enactment of this Act.

SEC. 5703. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) Confirmation of Authority of Tax Court To Apply Doctrine of Equitable Recoupment.—Section 6214(b) (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: “Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.”.

(b) Effective Date.—The amendment made by this section shall apply to any action or proceeding in the United States Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 5704. TAX COURT FILING FEE IN ALL CASES COMMENCED BY FILING PETITION.

(a) In General.—Section 7451 (relating to fee for filing a Tax Court petition) is amended by striking all that follows “petition” and inserting a period.

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5705. AMENDMENTS TO APPOINT EMPLOYEES.

(a) In General.—Subsection (a) of section 7471 (relating to Tax Court employees) is amended to read as follows:

“(a) Appointment and Compensation.—

“(1) Clerk.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

“(2) Law clerks and secretaries.—

“(A) In general.—The judges and special trial judges of the Tax Court may appoint law clerks and secretaries, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such law clerk or secretary shall serve at the pleasure of the appointing judge.

“(B) Exemption from federal leave provisions.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the employee’s credit as of the effective date of this subsection shall remain credited to the employee and shall be available to the employee upon separation from the Federal Government.

“(3) Other employees.—The Tax Court may appoint necessary employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such employees shall be subject to removal by the Tax Court.

“(4) Pay.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in the judicial branch.

“(5) Programs.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

“(6) Discrimination prohibited.—The Tax Court shall—

“(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

“(B) promulgate procedures for resolving complaints of discrimination by employees and applicants for employment.

“(7) Experts and consultants.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

“(8) Rights to certain appeals reserved.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

“(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

“(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,

“(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,

“(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or

“(E) file an appeal with the Equal Employment Opportunity Commission under part 1614 of title 29 of the Code of Federal Regulations,

shall be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.

“(9) Competitive status.—Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous service under a non-temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

“(10) Merit system principles; prohibited personnel practices; and preference eligibles.—Any personnel management system of the Tax Court shall—

“(A) include the principles set forth in section 2301(b) of title 5, United States Code;

“(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and

“(C) in the case of any individual who would be a preference eligible in the executive branch, the Tax Court will provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date the United States Tax Court adopts a personnel management system after the date of the enactment of this Act.

SEC. 5706. EXPANDED USE OF TAX COURT PRACTICE FEE FOR PRO SE TAXPAYERS.

(a) IN GENERAL.—Section 7475(b) (relating to use of fees) is amended by inserting before the period at the end "and to provide services to pro se taxpayers".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART II—TAX COURT PENSION AND COMPENSATION

SEC. 5711. ANNUITIES FOR SURVIVORS OF TAX COURT JUDGES WHO ARE ASSASSINATED.

(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINATION.—Subsection (h) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

"(h) ENTITLEMENT TO ANNUITY.—

"(1) IN GENERAL.—

"(A) ANNUITY TO SURVIVING SPOUSE.—If a judge described in paragraph (2) is survived by a surviving spouse but not by a dependent child, there shall be paid to such surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (m).

"(B) ANNUITY TO CHILD.—If such a judge is survived by a surviving spouse and a dependent child or children, there shall be paid to such surviving spouse an immediate annuity in an amount computed as provided in subsection (m), and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 10 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

"(ii) 20 percent of such average annual salary, divided by the number of such children.

"(C) ANNUITY TO SURVIVING DEPENDENT CHILDREN.—If such a judge leaves no surviving spouse but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 20 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

"(ii) 40 percent of such average annual salary, divided by the number of such children.

"(2) COVERED JUDGES.—Paragraph (1) applies to any judge electing under subsection (b)—

"(A) who dies while a judge after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), for the last 5 years of which the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made or the salary deductions required by the civil service retirement laws have actually been made, or

"(B) who dies by assassination after having rendered less than 5 years of civilian service computed as prescribed in subsection (n) if, for the period of such service, the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made.

"(3) TERMINATION OF ANNUITY.—

"(A) IN THE CASE OF A SURVIVING SPOUSE.—The annuity payable to a surviving spouse under this subsection shall be terminable upon such surviving spouse's death or such surviving spouse's remarriage before attaining age 55.

"(B) IN THE CASE OF A CHILD.—The annuity payable to a child under this subsection shall be terminable upon (i) the child attaining the age of 18 years, (ii) the child's marriage, or (iii) the child's death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability the child's annuity shall be terminable only upon death, marriage, or recovery from such disability.

"(C) IN THE CASE OF A DEPENDENT CHILD AFTER DEATH OF SURVIVING SPOUSE.—In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving such spouse, the annuity of such child or children shall be recomputed and paid as provided in paragraph (1)(C).

"(D) RECOMPUTATION.—In any case in which the annuity of a dependent child is terminated under this subsection, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.

"(4) SPECIAL RULE FOR ASSASSINATED JUDGES.—In the case of a survivor or survivors of a judge described in paragraph (2)(B), there shall be deducted from the annuities otherwise payable under this section an amount equal to—

"(A) the amount of salary deductions provided for by subsection (c)(1) that would have been made if such deductions had been made for 5 years of civilian service computed as prescribed in subsection (n) before the judge's death, reduced by

"(B) the amount of such salary deductions that were actually made before the date of the judge's death.".

(b) DEFINITION OF ASSASSINATION.—Section 7448(a) (relating to definitions) is amended by adding at the end the following new paragraph:

"(8) The terms 'assassinated' and 'assassination' mean the killing of a judge that is motivated by the performance by that judge of his or her official duties.".

(c) DETERMINATION OF ASSASSINATION.—Subsection (i) of section 7448 is amended—

(1) by striking the subsection heading and inserting the following:

"(i) DETERMINATIONS BY CHIEF JUDGE.—

"(1) DEPENDENCY AND DISABILITY.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) ASSASSINATION.—The chief judge shall determine whether the killing of a judge was an assassination, subject to review only by the Tax Court. The head of any Federal agency that investigates the killing of a judge shall provide information to the chief judge that would assist the chief judge in making such a determination.".

(d) COMPUTATION OF ANNUITIES.—Subsection (m) of section 7448 is amended—

(1) by striking the subsection heading and inserting the following:

"(m) COMPUTATION OF ANNUITIES.—

"(1) IN GENERAL.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) ASSASSINATED JUDGES.—In the case of a judge who is assassinated and who has served less than 3 years, the annuity of the surviving spouse of such judge shall be based upon the average annual salary received by such judge for judicial service.".

(e) OTHER BENEFITS.—Section 7448 is amended by adding at the end the following:

"(u) OTHER BENEFITS.—In the case of a judge who is assassinated, an annuity shall be paid under this section notwithstanding a survivor's eligibility for or receipt of benefits under chapter 81 of title 5, United States Code, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this section and chapter 81 of that title for any year would exceed the current salary for that year of the office of the judge.".

SEC. 5712. COST-OF-LIVING ADJUSTMENTS FOR TAX COURT JUDICIAL SURVIVOR ANNUITIES.

(a) IN GENERAL.—Subsection (s) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

"(s) INCREASES IN SURVIVOR ANNUITIES.—Each time that an increase is made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, each annuity payable from the survivors annuity fund under this section shall be increased at the same time by the same percentage by which annuities are increased under such section 8340(b).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to increases made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, taking effect after the date of the enactment of this Act.

SEC. 5713. LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges) is amended by adding at the end the following new subsection:

"(j) LIFE INSURANCE COVERAGE.—For purposes of chapter 87 of title 5, United States Code (relating to life insurance), any individual who is serving as a judge of the Tax Court or who is retired under this section is deemed to be an employee who is continuing in active employment.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a judge of the United States Tax Court and to any retired judge of the United States Tax Court on or after the date of the enactment of this Act.

SEC. 5714. COST OF LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES AGE 65 OR OVER.

Section 7472 (relating to expenditures) is amended by inserting after the first sentence the following new sentence: "Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after April 24, 1999, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code.".

SEC. 5715. MODIFICATION OF TIMING OF LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.

(a) IN GENERAL.—Section 7443 (relating to membership of the Tax Court) is amended by adding at the end the following new subsection:

"(h) LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.—Notwithstanding the provisions of sections 5551 and 6301 of title 5, United States Code, when an individual subject to the leave system provided in chapter 63 of that title is appointed by the President to be a judge of the Tax Court, the individual shall be entitled to receive, upon appointment to the Tax Court, a lump-sum payment from the Tax Court of the accumulated and accrued current annual leave standing to the individual's credit as certified by the agency from which the individual resigned.".

(b) Effective Date.—The amendment made by this section shall apply to any judge of the United States Tax Court who has an outstanding leave balance on the date of the enactment of this Act and to any individual appointed by the President to serve as a judge of the United States Tax Court after such date.

SEC. 5716. PARTICIPATION OF TAX COURT JUDGES IN THE THRIFT SAVINGS PLAN.

(a) In General.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

"(k) Thrift Savings Plan.—

"(1) Election to contribute.—

"(A) In general.—A judge of the Tax Court may elect to contribute to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

"(B) Period of election.—An election may be made under this paragraph as provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

"(2) Applicability of title 5 provisions.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

"(3) Special rules.—

"(A) Amount contributed.—The amount contributed by a judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such period as allowable under section 8440f of title 5, United States Code. Basic pay does not include any retired pay paid pursuant to this section.

"(B) Contributions for benefit of judge.—No contributions may be made for the benefit of a judge under section 8432(c) of title 5, United States Code.

"(C) Applicability of section 8433(b) of title 5 whether or not judge retires.—Section 8433(b) of title 5, United States Code, applies with respect to a judge who makes an election under paragraph (1) and who either—

"(i) retires under subsection (b), or

"(ii) ceases to serve as a judge of the Tax Court but does not retire under subsection (b).

Retirement under subsection (b) is a separation from service for purposes of subchapters III and VII of chapter 84 of that title.

"(D) Applicability of section 8351(b)(5) of title 5.—The provisions of section 8351(b)(5) of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

"(E) Exception.—Notwithstanding subparagraph (C), if any judge retires under this section, or resigns without having met the age and service requirements set forth under subsection (b)(2), and such judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5717. EXEMPTION OF TEACHING COMPENSATION OF RETIRED JUDGES FROM LIMITATION ON OUTSIDE EARNED INCOME.

(a) In General.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

"(l) Teaching Compensation of Retired Judges.—For purposes of the limitation under section 501(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.), any compensation for teaching approved under section 502(a)(5) of such Act shall not be treated as outside earned income when received by a judge of the Tax Court who has retired under subsection (b) for teaching performed during any calendar year for which such a judge has met the requirements of subsection (c), as certified by the chief judge of the Tax Court.".

(b) Effective Date.—The amendment made by this section shall apply to any individual serving as a retired judge of the United States Tax Court on or after the date of the enactment of this Act.

SEC. 5718. GENERAL PROVISIONS RELATING TO MAGISTRATE JUDGES OF THE TAX COURT.

(a) Title of Special Trial Judge Changed to Magistrate Judge of the Tax Court.—The heading of section 7443A is amended to read as follows:

"SEC. 7443A. MAGISTRATE JUDGES OF THE TAX COURT.".

(b) Appointment, Tenure, and Removal.—Subsection (a) of section 7443A is amended to read as follows:

"(a) Appointment, Tenure, and Removal.—

"(1) Appointment.—The chief judge may, from time to time, appoint and reappoint magistrate judges of the Tax Court for a term of 8 years. The magistrate judges of the Tax Court shall proceed under such rules as may be promulgated by the Tax Court.

"(2) Removal.—Removal of a magistrate judge of the Tax Court during the term for which he or she is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability, but the office of a magistrate judge of the Tax Court shall be terminated if the judges of the Tax Court determine that the services performed by the magistrate judge of the Tax Court are no longer needed. Removal shall not occur unless a majority of all the judges of the Tax Court concur in the order of removal. Before any order of removal shall be entered, a full specification of the charges shall be furnished to the magistrate judge of the Tax Court, and he or she shall be accorded by the judges of the Tax Court an opportunity to be heard on the charges.".

(c) Salary.—Section 7443A(d) (relating to salary) is amended by striking "90" and inserting "92".

(d) Exemption From Federal Leave Provisions.—Section 7443A is amended by adding at the end the following new subsection:

"(f) Exemption From Federal Leave Provisions.—

"(1) In general.—A magistrate judge of the Tax Court appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code.

"(2) Treatment of unused leave.—

"(A) After service as magistrate judge.—If an individual who is exempted under paragraph (1) from the subchapter referred to in such paragraph was previously subject to such subchapter and, without a break in service, again becomes subject to such subchapter on completion of the individual's service as a magistrate judge, the unused annual leave and sick leave standing to the individual's credit when such individual was exempted from this subchapter is deemed to have remained to the individual's credit.

"(B) Computation of annuity.—In computing an annuity under section 8339 of title 5, United States Code, the total service of an individual specified in subparagraph (A) who retires on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of such section 8339, the days of unused sick leave standing to the individual's credit when such individual was exempted from subchapter I of chapter 63 of title 5, United States Code, except that these days will not be counted in determining average pay or annuity eligibility.

"(C) Lump sum payment.—Any accumulated and current accrued annual leave or vacation balances credited to a magistrate judge as of the date of the enactment of this subsection shall be paid in a lump sum at the time of separation from service pursuant to the provisions and restrictions set forth in section 5551 of title 5, United States Code, and related provisions referred to in such section.".

(e) Conforming Amendments.—

(1) The heading of subsection (b) of section 7443A is amended by striking "Special Trial Judges" and inserting "Magistrate Judges of the Tax Court".

(2) Section 7443A(b) is amended by striking "special trial judges of the court" and inserting "magistrate judges of the Tax Court".

(3) Subsections (c) and (d) of section 7443A are amended by striking "special trial judge" and inserting "magistrate judge of the Tax Court" each place it appears.

(4) Section 7443A(e) is amended by striking "special trial judges" and inserting "magistrate judges of the Tax Court".

(5) Section 7456(a) is amended by striking "special trial judge" each place it appears and inserting "magistrate judge".

(6) Subsection (c) of section 7471 is amended—

(A) by striking the subsection heading and inserting "Magistrate Judges of the Tax Court.—", and

(B) by striking "special trial judges" and inserting "magistrate judges".

SEC. 5719. ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF MAGISTRATE JUDGES OF THE TAX COURT.

(a) Definitions.—Section 7448(a) (relating to definitions), as amended by this Act, is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (4) the following new paragraphs:

"(5) The term 'magistrate judge' means a judicial officer appointed pursuant to section 7443A, including any individual receiving an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, whether or not performing judicial duties under section 7443C.

"(6) The term 'magistrate judge's salary' means the salary of a magistrate judge received under section 7443A(d), any amount received as an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, and compensation received under section 7443C.".

(b) ELECTION.—Subsection (b) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended—

(1) by striking the subsection heading and inserting the following:

"(b) ELECTION.—

"(1) JUDGES.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) MAGISTRATE JUDGES.—Any magistrate judge may by written election filed with the chief judge bring himself or herself within the purview of this section. Such election shall be filed not later than the later of 6 months after—

"(A) 6 months after the date of the enactment of this paragraph,

"(B) the date the judge takes office, or

"(C) the date the judge marries.".

(c) CONFORMING AMENDMENTS.—

(1) The heading of section 7448 is amended by inserting "**AND MAGISTRATE JUDGES**" after "**JUDGES**".

(2) The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended by inserting "and magistrate judges" after "judges".

(3) Subsections (c)(1), (d), (f), (g), (h), (j), (m), (n), and (u) of section 7448, as amended by this Act, are each amended—

(A) by inserting "or magistrate judge" after "judge" each place it appears other than in the phrase "chief judge", and

(B) by inserting "or magistrate judge's" after "judge's" each place it appears.

(4) Section 7448(c) is amended—

(A) in paragraph (1), by striking "Tax Court judges" and inserting "Tax Court judicial officers",

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting "and section 7443A(d)" after "(a)(4)", and

(ii) in subparagraph (B), by striking "subsection (a)(4)" and inserting "subsections (a)(4) and (a)(6)".

(5) Section 7448(g) is amended by inserting "or section 7443B" after "section 7447" each place it appears, and by inserting "or an annuity" after "retired pay".

(6) Section 7448(j)(1) is amended—

(A) in subparagraph (A), by striking "service or retired" and inserting "service, retired", and by inserting ", or receiving any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code," after "section 7447", and

(B) in the last sentence, by striking "subsections (a)(6) and (7)" and inserting "paragraphs (8) and (9) of subsection (a)".

(7) Section 7448(m)(1), as amended by this Act, is amended—

(A) by inserting "or any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code" after "7447(d)", and

(B) by inserting "or 7443B(m)(1)(B) after "7447(f)(4)".

(8) Section 7448(n) is amended by inserting "his years of service pursuant to any appointment under section 7443A," after "of the Tax Court.".

(9) Section 3121(b)(5)(E) is amended by inserting "or magistrate judge" before "of the United States Tax Court".

(10) Section 210(a)(5)(E) of the Social Security Act is amended by inserting "or magistrate judge" before "of the United States Tax Court".

SEC. 5720. RETIREMENT AND ANNUITY PROGRAM.

(a) RETIREMENT AND ANNUITY PROGRAM.—Part I of subchapter C of chapter 76 is amended by inserting after section 7443A the following new section:

"SEC. 7443B. RETIREMENT FOR MAGISTRATE JUDGES OF THE TAX COURT.

"(a) RETIREMENT BASED ON YEARS OF SERVICE.—A magistrate judge of the Tax Court to whom this section applies and who retires from office after attaining the age of 65 years and serving at least 14 years, whether continuously or otherwise, as such magistrate judge shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to the salary being received at the time the magistrate judge leaves office.

"(b) RETIREMENT UPON FAILURE OF REAPPOINTMENT.—A magistrate judge of the Tax Court to whom this section applies who is not reappointed following the expiration of the term of office of such magistrate judge, and who retires upon the completion of the term shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of such magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14, if—

"(1) such magistrate judge has served at least 1 full term as a magistrate judge, and

"(2) not earlier than 9 months before the date on which the term of office of such magistrate judge expires, and not later than 6 months before such date, such magistrate judge notified the chief judge of the Tax Court in writing that such magistrate judge was willing to accept reappointment to the position in which such magistrate judge was serving.

"(c) SERVICE OF AT LEAST 8 YEARS.—A magistrate judge of the Tax Court to whom this section applies and who retires after serving at least 8 years, whether continuously or otherwise, as such a magistrate judge shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of the magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14. Such annuity shall be reduced by $\frac{1}{6}$ of 1 percent for each full month such magistrate judge was under the age of 65 at the time the magistrate judge left office, except that such reduction shall not exceed 20 percent.

"(d) RETIREMENT FOR DISABILITY.—A magistrate judge of the Tax Court to whom this section applies, who has served at least 5 years, whether continuously or otherwise, as such a magistrate judge, and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to 40 percent of the salary being received at the time of retirement or removal or, in the case of a magistrate judge who has served for at least 10 years, an amount equal to that proportion of the salary being received at the time of retirement or removal which the aggregate number of years of service, not to exceed 14, bears to 14.

"(e) COST-OF-LIVING ADJUSTMENTS.—A magistrate judge of the Tax Court who is entitled to an annuity under this section is also entitled to a cost-of-living adjustment in such annuity, calculated and payable in the same manner as adjustments under section 8340(b) of title 5, United States Code, except that any such annuity, as increased under this subsection, may not exceed the salary then payable for the position from which the magistrate judge retired or was removed.

"(f) ELECTION; ANNUITY IN LIEU OF OTHER ANNUITIES.—

"(1) IN GENERAL.—A magistrate judge of the Tax Court shall be entitled to an annuity under this section if the magistrate judge elects an annuity under this section by notifying the chief judge of the Tax Court not later than the later of—

"(A) 5 years after the magistrate judge of the Tax Court begins judicial service, or

"(B) 5 years after the date of the enactment of this subsection.

Such notice shall be given in accordance with procedures prescribed by the Tax Court.

"(2) ANNUITY IN LIEU OF OTHER ANNUITY.—A magistrate judge who elects to receive an annuity under this section shall not be entitled to receive—

"(A) any annuity to which such magistrate judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, for service performed as a magistrate or otherwise,

"(B) an annuity or salary in senior status or retirement under section 371 or 372 of title 28, United States Code,

"(C) retired pay under section 7447, or

"(D) retired pay under section 7296 of title 38, United States Code.

"(3) COORDINATION WITH TITLE 5.—A magistrate judge of the Tax Court who elects to receive an annuity under this section—

"(A) shall not be subject to deductions and contributions otherwise required by section 8334(a) of title 5, United States Code,

"(B) shall be excluded from the operation of chapter 84 (other than subchapters III and VII) of such title 5, and

"(C) is entitled to a lump-sum credit under section 8342(a) or 8424 of such title 5, as the case may be.

"(g) CALCULATION OF SERVICE.—For purposes of calculating an annuity under this section—

"(1) service as a magistrate judge of the Tax Court to whom this section applies may be credited, and

"(2) each month of service shall be credited as $\frac{1}{12}$ of a year, and the fractional part of any month shall not be credited.

"(h) COVERED POSITIONS AND SERVICE.—This section applies to any magistrate judge of the Tax Court or special trial judge of the Tax Court appointed under this subchapter, but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than $9\frac{1}{2}$ years before the date of the enactment of this subsection.

"(i) PAYMENTS PURSUANT TO COURT ORDER.—

"(1) IN GENERAL.—Payments under this section which would otherwise be made to a magistrate judge of the Tax Court based upon his or her service shall be paid (in whole or in part) by the chief judge of the Tax Court to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

"(2) REQUIREMENTS FOR PAYMENT.—Paragraph (1) shall apply only to payments made by the chief judge of the Tax Court after the date of receipt by the chief judge of written notice of such decree, order, or agreement, and such additional information as the chief judge may prescribe.

"(3) COURT DEFINED.—For purposes of this subsection, the term 'court' means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or courts of Indian offense.

"(j) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—

"(1) DEDUCTIONS.—Beginning with the next pay period after the chief judge of the Tax Court receives a notice under subsection (f) that a magistrate judge of the Tax Court has elected an annuity under this section, the chief judge shall deduct and withhold 1 percent of the salary of such magistrate judge. Amounts shall be so deducted and withheld in a manner determined by the chief judge. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Tax Court Judicial Officers' Retirement Fund. Deductions under this subsection from the salary of a magistrate judge shall terminate upon the retirement of the magistrate judge or upon completion of 14 years of service for which contributions under this section have been made, whether continuously or otherwise, as calculated under subsection (g), whichever occurs first.

"(2) CONSENT TO DEDUCTIONS; DISCHARGE OF CLAIMS.—Each magistrate judge of the Tax Court who makes an election under subsection (f) shall be deemed to consent and agree to the deductions from salary which are made under paragraph (1). Payment of such salary less such deductions (and any deductions made under section 7448) is a full and complete discharge and acquittance of all claims and demands for all services rendered by such magistrate judge during the period covered by such payment, except the right to those benefits to which the magistrate judge is entitled under this section (and section 7448).

"(k) DEPOSITS FOR PRIOR SERVICE.—Each magistrate judge of the Tax Court who makes an election under subsection (f) may deposit, for service performed before such election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for that service. Credit for any period covered by that service may not be allowed for purposes of an annuity under this section until a deposit under this subsection has been made for that period.

"(l) INDIVIDUAL RETIREMENT RECORDS.—The amounts deducted and withheld under subsection (j), and the amounts deposited under subsection (k), shall be credited to individual accounts in the name of each magistrate judge of the Tax Court from whom such amounts are received, for credit to the Tax Court Judicial Officers' Retirement Fund.

"(m) ANNUITIES AFFECTED IN CERTAIN CASES.—

"(1) 1-YEAR FORFEITURE FOR FAILURE TO PERFORM JUDICIAL DUTIES.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who fails to perform judicial duties required of such individual by section 7443C shall forfeit all rights to an annuity under this section for a 1-year period which begins on the 1st day on which such individual fails to perform such duties.

"(2) PERMANENT FORFEITURE OF RETIRED PAY WHERE CERTAIN NON-GOVERNMENT SERVICES PERFORMED.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who thereafter performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation for the individual's client, the individual's employer, or any of such employer's clients, shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which the individual performs (or supervises or directs the performance of) such services. The preceding sentence shall not apply to any civil office or employment under the Government of the United States.

"(3) FORFEITURES NOT TO APPLY WHERE INDIVIDUAL ELECTS TO FREEZE AMOUNT OF ANNUITY.—

"(A) IN GENERAL.—If a magistrate judge of the Tax Court makes an election under this paragraph—

"(i) paragraphs (1) and (2) (and section 7443C) shall not apply to such magistrate judge beginning on the date such election takes effect, and

"(ii) the annuity payable under this section to such magistrate judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such magistrate judge is entitled on the day before such effective date.

"(B) ELECTION REQUIREMENTS.—An election under subparagraph (A)—

"(i) may be made by a magistrate judge of the Tax Court eligible for retirement under this section, and

"(ii) shall be filed with the chief judge of the Tax Court.

Such an election, once it takes effect, shall be irrevocable.

"(C) EFFECTIVE DATE OF ELECTION.—Any election under subparagraph (A) shall take effect on the first day of the first month following the month in which the election is made.

"(4) ACCEPTING OTHER EMPLOYMENT.—Any magistrate judge of the Tax Court who retires under this section and thereafter accepts compensation for civil office or employment under the United States Government (other than for the performance of functions as a magistrate judge of the Tax Court under section 7443C) shall forfeit all rights to an annuity under this section for the period for which such compensation is received. For purposes of this paragraph, the term 'compensation' includes retired pay or salary received in retired status.

"(n) LUMP-SUM PAYMENTS.—

"(1) ELIGIBILITY.—

"(A) IN GENERAL.—Subject to paragraph (2), an individual who serves as a magistrate judge of the Tax Court and—

"(i) who leaves office and is not reappointed as a magistrate judge of the Tax Court for at least 31 consecutive days,

"(ii) who files an application with the chief judge of the Tax Court for payment of a lump-sum credit,

"(iii) is not serving as a magistrate judge of the Tax Court at the time of filing of the application, and

"(iv) will not become eligible to receive an annuity under this section within 31 days after filing the application,

is entitled to be paid the lump-sum credit. Payment of the lump-sum credit voids all rights to an annuity under this section based on the service on which the lump-sum credit is based, until that individual resumes office as a magistrate judge of the Tax Court.

"(B) PAYMENT TO SURVIVORS.—Lump-sum benefits authorized by subparagraphs (C), (D), and (E) of this paragraph shall be paid to the person or persons surviving the magistrate judge of the Tax Court and alive on the date title to the payment arises, in the order of precedence set forth in subsection (o) of section 376 of title 28, United States Code, and in accordance with the last 2 sentences of paragraph (1) of that subsection. For purposes of the preceding sentence, the term 'judicial official' as used in subsection (o) of such section 376 shall be deemed to mean 'magistrate judge of the Tax Court' and the terms 'Administrative Office of the United States Courts' and 'Director of the Administrative Office of the United States Courts' shall be deemed to mean 'chief judge of the Tax Court'.

"(C) PAYMENT UPON DEATH OF JUDGE BEFORE RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court dies before receiving an annuity under this section, the lump-sum credit shall be paid.

"(D) PAYMENT OF ANNUITY REMAINDER.—If all annuity rights under this section based on the service of a deceased magistrate judge of the Tax Court terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

"(E) PAYMENT UPON DEATH OF JUDGE DURING RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court who is receiving an annuity under this section dies, any accrued annuity benefits remaining unpaid shall be paid.

"(F) PAYMENT UPON TERMINATION.—Any accrued annuity benefits remaining unpaid on the termination, except by death, of the annuity of a magistrate judge of the Tax Court shall be paid to that individual.

"(G) PAYMENT UPON ACCEPTING OTHER EMPLOYMENT.—Subject to paragraph (2), a magistrate judge of the Tax Court who forfeits rights to an annuity under subsection (m)(4) before the total annuity paid equals the lump-sum credit shall be entitled to be paid the difference if the magistrate judge of the Tax Court files an application with the chief judge of the Tax Court for payment of that difference. A payment under this subparagraph voids all rights to an annuity on which the payment is based.

"(2) SPOUSES AND FORMER SPOUSES.—

"(A) IN GENERAL.—Payment of the lump-sum credit under paragraph (1)(A) or a payment under paragraph (1)(G)—

"(i) may be made only if any current spouse and any former spouse of the magistrate judge of the Tax Court are notified of the magistrate judge's application, and

"(ii) shall be subject to the terms of a court decree of divorce, annulment, or legal separation, or any court or court approved property settlement agreement incident to such decree, if—

"(I) the decree, order, or agreement expressly relates to any portion of the lump-sum credit or other payment involved, and

"(II) payment of the lump-sum credit or other payment would extinguish entitlement of the magistrate judge's spouse or former spouse to any portion of an annuity under subsection (i).

"(B) NOTIFICATION.—Notification of a spouse or former spouse under this paragraph shall be made in accordance with such procedures as the chief judge of the Tax Court shall prescribe. The chief judge may provide under such procedures that subparagraph (A)(i) may be waived with respect to a spouse or former spouse if the magistrate judge establishes to the satisfaction of the chief judge that the whereabouts of such spouse or former spouse cannot be determined.

"(C) RESOLUTION OF 2 OR MORE ORDERS.—The chief judge shall prescribe procedures under which this paragraph shall be applied in any case in which the chief judge receives 2 or more orders or decrees described in subparagraph (A).

"(3) DEFINITION.—For purposes of this subsection, the term 'lump-sum credit' means the unrefunded amount consisting of—

"(A) retirement deductions made under this section from the salary of a magistrate judge of the Tax Court,

"(B) amounts deposited under subsection (k) by a magistrate judge of the Tax Court covering earlier service, and

"(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Tax Court Judicial Officers' Retirement Fund during the preceding fiscal year from all obligations purchased by the Secretary during such fiscal year under subsection (o); but does not include interest—

"(i) if the service covered thereby aggregates 1 year or less, or

"(ii) for the fractional part of a month in the total service.

"(o) TAX COURT JUDICIAL OFFICERS' RETIREMENT FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a fund which shall be known as the 'Tax Court Judicial Officers' Retirement Fund'. Amounts in the Fund are authorized to be appropriated for the payment of annuities, refunds, and other payments under this section.

"(2) INVESTMENT OF FUND.—The Secretary shall invest, in interest bearing securities of the United States, such currently available portions of the Tax Court Judicial Officers' Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

"(3) UNFUNDED LIABILITY.—

"(A) IN GENERAL.—There are authorized to be appropriated to the Tax Court Judicial Officers' Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.

"(B) UNFUNDED LIABILITY.—For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, United States Code, of the present value of all benefits payable from the Tax Court Judicial Officers' Retirement Fund over the sum of—

"(i) the present value of deductions to be withheld under this section from the future basic pay of magistrate judges of the Tax Court, plus

"(ii) the balance in the Fund as of the date the unfunded liability is determined.

"(p) PARTICIPATION IN THRIFT SAVINGS PLAN.—

"(1) ELECTION TO CONTRIBUTE.—

"(A) IN GENERAL.—A magistrate judge of the Tax Court who elects to receive an annuity under this section or under section 5721 of the United States Tax Court Modernization Act may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

"(B) PERIOD OF ELECTION.—An election may be made under this paragraph as provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

"(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a magistrate judge who makes an election under paragraph (1).

"(3) SPECIAL RULES.—

"(A) AMOUNT CONTRIBUTED.—The amount contributed by a magistrate judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such pay period as allowable under section 8440f of title 5, United States Code.

"(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a magistrate judge under section 8432(c) of title 5, United States Code.

"(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5.—Section 8433(b) of title 5, United States Code, applies with respect to a magistrate judge who makes an election under paragraph (1) and—

"(i) who retires entitled to an immediate annuity under this section (including a disability annuity under subsection (d) of this section) or section 5721 of the United States Tax Court Modernization Act,

"(ii) who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under this section or section 5721 of the United States Tax Court Modernization Act, or

"(iii) who retires before becoming entitled to an immediate annuity, or an annuity upon attaining age 65, under this section or section 5721 of the United States Tax Court Modernization Act.

"(D) SEPARATION FROM SERVICE.—With respect to a magistrate judge to whom this subsection applies, retirement under this section or section 5721 of the United States Tax Court Modernization Act is a separation from service for purposes of subchapters III and VII of chapter 84 of title 5, United States Code.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'retirement' and 'retire' include removal from office under section 7443A(a)(2) on the sole ground of mental or physical disability.

"(5) OFFSET.—In the case of a magistrate judge who receives a distribution from the Thrift Savings Fund and who later receives an annuity under this section, that annuity shall be offset by an amount equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.

"(6) EXCEPTION.—Notwithstanding clauses (i) and (ii) of paragraph (3)(C), if any magistrate judge retires under circumstances making such magistrate judge eligible to make an election under subsection (b) of section 8433 of title 5, United States Code, and such magistrate judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76 is amended by inserting after the item relating to section 7443A the following new item:

"Sec. 7443B. Retirement for magistrate judges of the Tax Court.".

SEC. 5721. INCUMBENT MAGISTRATE JUDGES OF THE TAX COURT.

(a) RETIREMENT ANNUITY UNDER TITLE 5 AND SECTION 7443B OF THE INTERNAL REVENUE CODE OF 1986.—A magistrate judge of the United States Tax Court in active service on the date of the enactment of this Act shall, subject to subsection (b), be entitled, in lieu of the annuity otherwise provided under the amendments made by this part, to—

(1) an annuity under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, as the case may be, for creditable service before the date on which service would begin to be credited for purposes of paragraph (2), and

(2) an annuity calculated under subsection (b) or (c) and subsection (g) of section 7443B of the Internal Revenue Code of 1986, as added by this Act, for any service as a magistrate judge of the United States Tax Court or special trial judge of the United States Tax Court but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years prior to the date of the enactment of this Act (as specified in the election pursuant to subsection (b)) for which deductions and deposits are made under subsections (j) and (k) of such section 7443B, as applicable, without regard to the minimum number of years of service as such a magistrate judge of the United States Tax Court, except that—

(A) in the case of a magistrate judge who retired with less than 8 years of service, the annuity under subsection (c) of such section 7443B shall be equal to that proportion of the salary being received at the time the magistrate judge leaves office which the years of service bears to 14, subject to a reduction in accordance with subsection (c) of such section 7443B if the magistrate judge is under age 65 at the time he or she leaves office, and

(B) the aggregate amount of the annuity initially payable on retirement under this subsection may not exceed the rate of pay for the magistrate judge which is in effect on the day before the retirement becomes effective.

(b) FILING OF NOTICE OF ELECTION.—A magistrate judge of the United States Tax Court shall be entitled to an annuity under this section only if the magistrate judge files a notice of that election with the chief judge of the United States Tax Court specifying the date on which service would begin to be credited under section 7443B of the Internal Revenue Code of 1986, as added by this Act, in lieu of chapter 83 or chapter 84 of title 5, United States Code. Such notice shall be filed in accordance with such procedures as the chief judge of the United States Tax Court shall prescribe.

(c) LUMP-SUM CREDIT UNDER TITLE 5.—A magistrate judge of the United States Tax Court who makes an election under subsection (b) shall be entitled to a lump-sum credit under section 8342 or 8424 of title 5, United States Code, as the case may be, for any service which is covered under section 7443B of the Internal Revenue Code of 1986, as added by this Act, pursuant to that election, and with respect to which any contributions were made by the magistrate judge under the applicable provisions of title 5, United States Code.

(d) RECALL.—With respect to any magistrate judge of the United States Tax Court receiving an annuity under this section who is recalled to serve under section 7443C of the Internal Revenue Code of 1986, as added by this Act—

(1) the amount of compensation which such recalled magistrate judge receives under such section 7443C shall be calculated on the basis of the annuity received under this section, and

(2) such recalled magistrate judge of the United States Tax Court may serve as a reemployed annuitant to the extent otherwise permitted under title 5, United States Code.

Section 7443B(m)(4) of the Internal Revenue Code of 1986, as added by this Act, shall not apply with respect to service as a reemployed annuitant described in paragraph (2).

SEC. 5722. PROVISIONS FOR RECALL.

(a) In General.—Part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after section 7443B the following new section:

"SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX COURT.

"(a) Recalling of Retired Magistrate Judges.—Any individual who has retired pursuant to section 7443B or the applicable provisions of title 5, United States Code, upon reaching the age and service requirements established therein, may at or after retirement be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be requested of such individual for any period or periods specified by the chief judge; except that in the case of any such individual—

"(1) the aggregate of such periods in any 1 calendar year shall not (without such individual's consent) exceed 90 calendar days, and

"(2) such individual shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a magistrate judge of the Tax Court.

"(b) Compensation.—For the year in which a period of recall occurs, the magistrate judge shall receive, in addition to the annuity provided under the provisions of section 7443B or under the applicable provisions of title 5, United States Code, an amount equal to the difference between that annuity and the current salary of the office to which the magistrate judge is recalled. The annuity of the magistrate judge who completes that period of service, who is not recalled in a subsequent year, and who retired under section 7443B, shall be equal to the salary in effect at the end of the year in which the period of recall occurred for the office from which such individual retired.

"(c) Rulemaking Authority.—The provisions of this section may be implemented under such rules as may be promulgated by the Tax Court.".

(b) Conforming Amendment.—The table of sections for part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after the item relating to section 7443B the following new item:

"Sec. 7443C. Recall of magistrate judges of the Tax Court.".

SEC. 5723. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this part shall take effect on the date of the enactment of this Act.

SA 633. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 263, between lines 21 and 22, insert the following:

(d) San Joaquin Valley Pilot Truck Toll Program.—

(1) In general.—The Secretary may establish toll facilities in the San Joaquin Valley, California, to test the effectiveness of imposing certain tolls on trucks to abate air pollution in an extreme nonattainment area.

(2) Conditions.—The toll shall be established only if the State of California determines, and the Secretary agrees, that in an extreme nonattainment area, including on a State highway that is regularly used for interstate commerce and is used as alternative route to an interstate highway, a toll would bring about substantial abatement of air pollution from interstate commerce. In making a determination with respect to the abatement, the Secretary may consider alternative collection methods, such as using interstate truck weighing stations to assess variable fees and taking into account the amount of emissions generated.

(3) Definitions.—In this subsection, the term "truck" has the meaning given that term under California law on the date of enactment of this Act.

(4) Limitation.—Tolls under this subsection shall only apply to trucks with a gross vehicle weight rating of 14,000 pounds or more.

SA 634. Mr. DAYTON (for himself, Mr. Lugar, Mr. Durbin, Mr. Coleman, Mr. Harkin, Mr. Bingaman, and Mr. Salazar) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title I, insert the following:

SEC. 1623. IDENTIFICATION OF CERTAIN ALTERNATIVE FUELED VEHICLES.

(a) In General.—Section 32908 of title 49, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsection (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) Identification of Certain Alternative Fueled Vehicles.—A manufacturer shall affix, or have affixed, to each dual fueled automobile manufactured by the manufacturer (including each light duty truck) that may be operated on the alternative fuel described in section 32901(a)(1)(D)—

"(1) a permanent label inside the automobile's fuel door compartment that—

"(A) meets the requirements of the regulations prescribed by the Administrator for such label; and

"(B) states that the automobile may be operated on the alternative fuel described in section 32901(a)(1)(D) and identifies such alternative fuel; and

"(2) a temporary label to the window or windshield of the automobile that—

"(A) meets the requirements of the regulations prescribed by the Administrator for such label; and

"(B) identifies the automobile as capable of operating on such alternative fuel.".

(b) Regulations.—Not later than March 1, 2006, the Administrator of the Environmental Protection Agency shall promulgate regulations—

(1) for the label referred to in paragraph (1) of section 32908(e) of title 49, United States Code, as amended by subsection (a), that describe—

(A) the language that shall be set out on the label, including a statement that the vehicle is capable of operating on a mixture of 85 percent ethanol blended with gasoline; and

(B) the appropriate size and color of the font of such language so that it is conspicuous to the individual introducing fuel into the vehicle; and

(2) for the temporary window or windshield label referred to in paragraph (2) of such section 32908(e), that—

(A) prohibit the label from being removed by any seller prior to the final sale of the vehicle to a consumer; and

(B) describe the specifications of the label, including that the label shall be—

(i) prominently displayed and conspicuous on the vehicle; and

(ii) separate from any other window or windshield sticker, decal, or label.

(c) Compliance.—

(1) In general.—A manufacturer shall be required to comply with the requirements of section 32908(e) of title 49, United State Code, as amended by subsection (a), for a vehicle that is manufactured for a model year after model year 2006.

(2) Model year defined.—In this subsection, the term "model year" shall have the meaning given such term in section 32901(a) of such title.

(d) Violations.—

(1) In general.—Section 32908(f) of title 49, United States Code, as redesignated by subsection (a), is amended by inserting "or (e)" after "subsection (b)".

(2) Conforming amendment.—Section 32911(a) of such title is amended by inserting "32908(e)," after "32908(b),".

SA 635. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . TAX CREDIT FOR RURAL COMMUTERS.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25B the following new section:

"SEC. 25C. RURAL COMMUTER CREDIT.

"(a) Allowance of Credit.—In the case of an eligible commuter, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500.

"(b) Eligible Commuter.—For purposes of this section:

"(1) In general.—The term 'eligible commuter' means an individual who, during the taxable year—

"(A) resides in an eligible State,

"(B) drives an average of more than 250 miles per week for purposes of commuting to and from any location related to the employment of such individual, and

"(C) has an adjusted gross income of less than—

"(i) in the case of a joint return, $100,000,

"(ii) in the case of a head of household return, $75,000, and

"(iii) in any other case, $50,000.

"(2) Eligible state.—

"(A) In general.—The term 'eligible State' means any State with respect to which—

"(i) the percentage of the population residing in urban areas is less than the national average,

"(ii) the disposable personal income per capita is less than 114 percent of the national average, and "(iii) the use of public transportation by the population for the purpose of commuting to and from work is less than the national average.

"(B) DETERMINATION OF ELIGIBLE STATES.—The Secretary shall determine which States are eligible States under subparagraph (A) based on the most recent data available from the Bureau of the Census.

"(3) STATE.—The term 'State' means the 50 States of the United States.

"(c) TERMINATION.—This section shall not apply to any taxpayer for any taxable year beginning after December 31, 2005.".

(b) CONFORMING AMENDMENT.—The table of section for subpart A of part IV of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Rural commuter credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SA 636. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 410, between lines 7 and 8, insert the following:

SEC. . US–95 PROJECT, LAS VEGAS, NEVADA.

(a) IN GENERAL.—Notwithstanding any other provision of law, the project identified as the preferred alternative in the document entitled "US–95 Project in Las Vegas, Nevada", as approved by the Federal Highway Administration on November 18, 1999, and selected in the record of decision dated January 28, 2000, shall be considered to meet all requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and any related laws with respect to the determination contained in the record of decision.

(b) AUTHORIZATION.—The State of Nevada may continue construction of the project described in subsection (a) to completion.

SA 637. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In title VI, on page 5, line 4, strike "a semicolon" and insert " 'or 20 percent of such recipient's annual formula apportionment under sections 5307 and 5311 in the case where the service is acquired by contract;' ".

SA 638. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, line 9, insert " (including intercity passenger rail when used for the purpose of a daily commute)" after "transit ridership".

SA 639. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —SAFE HIGHWAYS AND INFRASTRUCTURE PRESERVATION

SEC. —001. SHORT TITLE.

This title may be cited as the "Safe Highways and Infrastructure Preservation Act".

SEC. —002. OPERATION OF RESTRICTED PROPERTY-CARRYING UNITS ON NATIONAL HIGHWAY SYSTEM.

(a) RESTRICTED PROPERTY-CARRYING UNIT DEFINED.—Section 31111(a)(1) of title 49, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) RESTRICTED PROPERTY-CARRYING UNIT.—The term 'restricted property-carrying unit' means any trailer, semi-trailer, container, or other property-carrying unit that is longer than 53 feet.".

(b) PROHIBITION ON OPERATION OF RESTRICTED PROPERTY-CARRYING UNITS.—

(1) IN GENERAL.—Section 31111(b)(1)(C) of title 49, United States Code, is amended to read as follows:

"(C) allows operation on any segment of the National Highway System, including the Interstate System, of a restricted property-carrying unit unless the operation is specified on the list published under subsection (h);".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 270 days after the date of enactment of this Act.

(c) LIMITATIONS.—Section 31111 of title 49, United States Code, is amended by adding at the end the following:

"(h) RESTRICTED PROPERTY-CARRYING UNITS.—

"(1) APPLICABILITY OF PROHIBITION.—

"(A) IN GENERAL.—Notwithstanding subsection (b)(1)(C), a restricted property-carrying unit may continue to operate on a segment of the National Highway System if the operation of such unit is specified on the list published under paragraph (2).

"(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All operations specified on the list published under paragraph (2) shall continue to be subject to all State statutes, regulations, limitations and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in force on June 1, 2005.

"(C) FIRE-FIGHTING UNITS.—Subsection (b)(1)(C) shall not apply to the operation of a restricted property-carrying unit that is used exclusively for fire-fighting.

"(2) LISTING OF RESTRICTED PROPERTY-CARRYING UNITS.—

"(A) IN GENERAL.—Not later than 60 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall initiate a proceeding to determine and publish a list of restricted property-carrying units that were authorized by State officials pursuant to State statute or regulation on June 1, 2005, and in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 2005.

"(B) LIMITATION.—A restricted property-carrying unit may not be included on the list published under subparagraph (A) on the basis that a State law or regulation could have authorized the operation of the unit at some prior date by permit or otherwise.

"(C) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall publish a final list of restricted property-carrying units described in subparagraph (A).

"(D) UPDATES.—The Secretary shall update the list published under subparagraph (C) as necessary to reflect new designations made to the National Highway System.

"(3) APPLICABILITY OF PROHIBITION.—The prohibition established by subsection (b)(1)(C) shall apply to any new designation made to the National Highway System and remain in effect on those portions of the National Highway System that cease to be designated as part of the National Highway System.

"(4) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection does not prevent a State from further restricting in any manner or prohibiting the operation of a restricted property-carrying unit if the restrictions or prohibitions are consistent with the requirements of this section and sections 31112 through 31114.".

(d) ENFORCEMENT.—The second sentence of section 141(a) of title 23, United States Code, is amended by striking "section 31112" and inserting "sections 31111 and 31112".

SEC. —003. OPERATION OF LONGER COMBINATION VEHICLES ON NATIONAL HIGHWAY SYSTEM.

(a) IN GENERAL.—Section 31112 of title 49, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

"(f) NATIONAL HIGHWAY SYSTEM.—

"(1) GENERAL RULE.—A State may not allow, on a segment of the National Highway System that is not covered under subsection (b) or (c), the operation of a commercial motor vehicle combination (except a vehicle or load that cannot be dismantled easily or divided easily and that has been issued a special permit under applicable State law) with more than one property-carrying unit (not including the truck tractor) whose property-carrying units are more than—

"(A) the maximum combination trailer, semitrailer, or other type of length limitation allowed by law or regulation of that State on June 1, 2005, or

"(B) the length of the property-carrying units of those commercial motor vehicle combinations, by specific configuration, in actual and lawful operation on a regular or periodic basis (including continuing seasonal operation) in that State on or before June 1, 2005.

"(2) ADDITIONAL LIMITATIONS.—

"(A) APPLICABILITY OF STATE RESTRICTIONS.—A commercial motor vehicle combination whose operation in a State is not prohibited under paragraph (1) may continue to operate in the State on highways described in paragraph (1) only in compliance with all State laws, regulations, limitations, and conditions, including routing-specific and configuration-specific designations and all other restrictions in force in the State on June 1, 2005. However, subject to regulations prescribed by the Secretary under subsection (h), the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 2005, for specific safety purposes and road construction.

"(B) ADDITIONAL STATE RESTRICTIONS.—This subsection does not prevent a State from further restricting in any manner or prohibiting the operation of a commercial motor vehicle combination subject to this section if the restrictions or prohibitions are consistent with this section and sections 31113(a), 31113(b), and 31114.

"(C) MINOR ADJUSTMENTS.—A State making a minor adjustment of a temporary and emergency nature as authorized by subparagraph (A) or further restricting or prohibiting the operation of a commercial motor vehicle combination as authorized by subparagraph (B) shall advise the Secretary not later than 30 days after the action. The Secretary shall publish a notice of the action in the Federal Register.

"(3) LIST OF STATE LENGTH LIMITATIONS.—

"(A) STATE SUBMISSIONS.—Not later than 60 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, each State shall submit to the Secretary for publication a complete list of State length limitations applicable to commercial motor vehicle combinations operating in the State on the highways described in paragraph (1). The list shall indicate the applicable State laws and regulations associated with the length limitations. If a State does not submit the information as required, the Secretary shall complete and file the information for the State.

"(B) PUBLICATION OF INTERIM LIST.—Not later than 90 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall publish an interim list in the Federal Register consisting of all information submitted under subparagraph (A). The Secretary shall review for accuracy all information submitted by a State under subparagraph (A) and shall solicit and consider public comment on the accuracy of the information.

"(C) LIMITATION.—A law or regulation may not be included on the list submitted by a State or published by the Secretary merely because it authorized, or could have authorized, by permit or otherwise, the operation of commercial motor vehicle combinations not in actual operation on a regular or periodic basis on or before June 1, 2005.

"(D) PUBLICATION OF FINAL LIST.—Except as revised under this subparagraph or subparagraph (E), the list shall be published as final in the Federal Register not later than 270 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under subparagraph (B). After publication of the final list, commercial motor vehicle combinations prohibited under paragraph (1) may not operate on a highway described in paragraph (1) except as published on the list.

"(E) INACCURACIES.—On the Secretary's own motion or on request by any person (including a State), the Secretary shall review the list published under subparagraph (D). If the Secretary decides there is reason to believe a mistake was made in the accuracy of the list, the Secretary shall begin a proceeding to decide whether a mistake was made. If the Secretary decides there was a mistake, the Secretary shall publish the correction.".

(b) CONFORMING AMENDMENTS.—Section 31112 of title 49, United States Code, is amended—

(1) by inserting "126(e) or" before "127(d)" in paragraph (1) of subsection (g) (as redesignated by subsection (a) of this section);

(2) by inserting "(or June 1, 2005, with respect to highways described in subsection (f)(1))" after "June 2, 1991" in paragraph (3) of subsection (g) (as redesignated by subsection (a) of this section);

(3) by striking "Not later than June 15, 1992, the Secretary" and inserting "The Secretary"; and

(4) by inserting "or (f)" after "subsection (d)" in paragraph (2) of subsection (h) (as redesignated by subsection (a) of this section).

SEC. —004. TERMINATION OF DETERMINATIONS OF GRANDFATHER RIGHTS.

(a) IN GENERAL.—Section 127 of title 23, United States Code, is amended by adding at the end the following:

"(h) GRANDFATHER RIGHTS.—

"(1) GENERAL RULE.—After the 270th day following the date of enactment of the Safe Highways and Infrastructure Preservation Act, a State may not allow, on a segment of the Interstate System, the operation of a vehicle or combination (other than a longer combination vehicle) exceeding an Interstate weight limit unless the operation is specified on the list published under paragraph (2).

"(2) LIST OF VEHICLES AND COMBINATIONS.—

"(A) PROCEEDING.—Not later than 60 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall initiate a proceeding to determine and publish a list of vehicles and combinations (other than longer combination vehicles), otherwise exceeding an Interstate weight limit, that the Department of Transportation, any other Federal agency, or a State has determined on or before June 1, 2005, could be lawfully operated within such State—

"(i) on July 1, 1956;

"(ii) in the case of the overall gross weight of any group of 2 or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974; or

"(iii) under a special rule applicable to a State under subsection (a).

"(B) LIMITATIONS.—

"(i) ACTUAL AND LAWFUL OPERATIONS REQUIRED.—An operation of a vehicle or combination may be included on the list published under subparagraph (A) only if the vehicle or combination was in actual and lawful operation in the State on a regular or periodic basis on or before June 1, 2005.

"(ii) STATE AUTHORITY NOT SUFFICIENT.—An operation of a vehicle or combination may not be included on the list published under subparagraph (A) on the basis that a State law or regulation could have authorized the operation of the vehicle or combination at some prior date by permit or otherwise.

"(C) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall publish a final list of vehicles and combinations described in subparagraph (A).

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection does not prevent a State from reducing the gross vehicle weight limitation, the single and tandem axle weight limitations, or the overall maximum gross weight on a group of 2 or more consecutive axles applicable to portions of the Interstate System in the State for operations on the list published under paragraph (2)(C) as long as no such reduction results in a limitation that is less than an Interstate weight limit.

"(4) APPLICABILITY OF EXISTING REQUIREMENTS.—All vehicles and combinations included on the list published under paragraph (2) shall be subject to all routing-specific, commodity-specific, and weight-specific designations in force in a State on June 1, 2005.

"(5) INTERSTATE WEIGHT LIMIT DEFINED.—In this subsection, the term 'Interstate weight limit' means the 80,000 pound gross vehicle weight limitation, the 20,000 pound single axle weight limitation (including enforcement tolerances), the 34,000 pound tandem axle weight limitation (including enforcement tolerances), and the overall maximum gross weight (including enforcement tolerances) on a group of 2 or more consecutive axles produced by application of the formula in subsection (a).".

(b) CONFORMING AMENDMENT.—The fourth sentence of section 127(a) of title 23, United States Code, is amended by striking "the State determines".

SEC. —005. NONDIVISIBLE LOAD PROCEEDING.

Section 127 of title 23, United States Code, is further amended by adding at the end the following:

"(i) NONDIVISIBLE LOADS.—

"(1) PROCEEDING.—Not later than 60 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall initiate a proceeding to define the term 'vehicles and loads which cannot be easily dismantled or divided' as used in subsection (a) and section 31112 of title 49.

"(2) LIST OF COMMODITIES.—

"(A) IN GENERAL.—The definition developed under paragraph (1) shall include a list of commodities (or classes or types of commodities) that do not qualify as nondivisible loads.

"(B) LIMITATION.—The list of commodities developed under paragraph (1) shall not be interpreted to be a comprehensive list of commodities that do not qualify as nondivisible loads.

"(3) REGULATIONS.—Not later than 270 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall issue final regulations setting forth the determination of the Secretary made under paragraph (1). The Secretary shall update the regulations as necessary.

"(4) APPLICABILITY.—Regulations issued under paragraph (2) shall apply to all vehicles and loads operating on the National Highway System.

"(5) STATE REQUIREMENTS.—A State may establish any requirement that is not inconsistent with regulations issued under paragraph (2).

"(6) STATEMENT OF POLICY.—The purpose of this subsection is to promote conformity with Interstate weight limits to preserve publicly funded infrastructure and protect motorists by limiting maximum vehicle weight on key portions of the Federal-aid highway system.".

SEC. —006. WAIVERS OF WEIGHT LIMITATIONS DURING PERIODS OF NATIONAL EMERGENCY.

Section 127 of title 23, United States Code, is further amended by adding at the end the following:

"(j) WAIVERS DURING PERIODS OF NATIONAL EMERGENCY.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section or section 126, the Secretary, in consultation with the Secretary of Defense or Secretary of Homeland Security, may waive or limit the application of any vehicle weight limit established under this section or section 126 with respect to a highway route during a period of national emergency in order to respond to the effects of the national emergency.

"(2) APPLICABILITY.—Emergency limits established under paragraph (1) shall preempt any inconsistent State vehicle weight limits.".

SEC. —007. VEHICLE WEIGHT LIMITATIONS—NATIONAL HIGHWAY SYSTEM.

(a) IN GENERAL.—Title 23, United States Code, is amended by inserting after section 125 the following:

"§126. Vehicle weight limitations—National Highway System

"(a) NON-INTERSTATE HIGHWAYS ON NHS.—

"(1) IN GENERAL.—After the 270th day after the date of enactment of the Safe Highways and Infrastructure Preservation Act, any Interstate weight limit that applies to vehicles and combinations (other than longer combination vehicles) operating on the Interstate System in a State under section 127 shall also apply to vehicles and combinations (other than longer combination vehicles) operating on non-Interstate segments of the National Highway System in such State, unless such segments are subject to lower State weight limits as provided for in subsection (d).

"(2) EXISTING HIGHWAYS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), in the case of a non-Interstate segment of the National Highway System that is open to traffic on June 1, 2005, a State may allow the operation of any vehicle or combination (other than a longer combination vehicle) on such segment that the Secretary determines under subsection (b) could be lawfully operated on such segment on June 1, 2005.

"(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All operations described in subparagraph (A) shall continue to be subject to all State statutes, regulations, limitations and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in force on June 1, 2005.

"(3) NEW HIGHWAYS.—Subject to subsection (d)(1), the gross vehicle weight limitations and axle loading limitations applicable to all vehicles and combinations (other than longer combination vehicles) on a non-Interstate segment of the National Highway System that is not open to traffic on June 1, 2005, shall be the Interstate weight limit.

"(b) LISTING OF VEHICLES AND COMBINATIONS.—

"(1) IN GENERAL.—The Secretary shall initiate a proceeding to determine and publish a list of vehicles and combinations (other than longer combination vehicles), otherwise exceeding an Interstate weight limit, that could be lawfully operated on a non-Interstate segment of the National Highway System on June 1, 2005.

"(2) REQUIREMENTS.—In publishing a list of vehicles and combinations under paragraph (1), the Secretary shall identify—

"(A) the gross vehicle weight limitations and axle loading limitations in each State applicable, on June 1, 2005, to vehicles and combinations (other than longer combination vehicles) on non-Interstate segments of the National Highway System; and

"(B) operations of vehicles and combinations (other than longer combination vehicles), exceeding State gross vehicle weight limitations and axle loading limitations identified under subparagraph (A), which were in actual and lawful operation on a regular or periodic basis (including seasonal operations) on June 1, 2005.

"(3) LIMITATION.—An operation of a vehicle or combination may not be included on the list published under paragraph (1) on the basis that a State law or regulation could have authorized such operation at some prior date by permit or otherwise.

"(4) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall publish a final list of vehicles and combinations described in paragraph (1).

"(5) UPDATES.—The Secretary shall update the list published under paragraph (1) as necessary to reflect new designations made to the National Highway System.

"(c) APPLICABILITY OF LIMITATIONS.—The limitations established by subsection (a) shall apply to any new designation made to the National Highway System and remain in effect on those non-Interstate highways that cease to be designated as part of the National Highway System.

"(d) LIMITATIONS ON STATUTORY CONSTRUCTION.—

"(1) STATE ENFORCEMENT OF MORE RESTRICTIVE WEIGHT LIMITS.—This section does not prevent a State from maintaining or imposing a weight limitation that is more restrictive than the Interstate weight limit on vehicles or combinations (other than longer combination vehicles) operating on a non-Interstate segment of the National Highway System.

"(2) STATE ACTIONS TO REDUCE WEIGHT LIMITS.—This section does not prevent a State from reducing the State's gross vehicle weight limitation, single or tandem axle weight limitations, or the overall maximum gross weight on 2 or more consecutive axles on any non-Interstate segment of the National Highway System.

"(e) LONGER COMBINATION VEHICLES.—

"(1) PROHIBITION.—

"(A) IN GENERAL.—After the 270th day after the date of enactment of the Safe Highways and Infrastructure Preservation Act, a longer combination vehicle may continue to operate on a non-Interstate segment of the National Highway System only if the operation of the longer combination vehicle configuration type was authorized by State officials pursuant to State statute or regulation on June 1, 2005, and in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 2005.

"(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All operations described in subparagraph (A) shall continue to be subject to all State statutes, regulations, limitations and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in force on June 1, 2005.

"(2) LISTING OF VEHICLES AND COMBINATIONS.—

"(A) IN GENERAL.—Not later than 60 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall initiate a proceeding to determine and publish a list of longer combination vehicles that could be lawfully operated on non-Interstate segments of the National Highway System on June 1, 2005.

"(B) LIMITATION.—A longer combination vehicle may not be included on the list published under subparagraph (A) on the basis that a State law or regulation could have authorized the operation of such vehicle at some prior date by permit or otherwise.

"(C) PUBLICATION OF FINAL LIST.—Not later than 270 days after the date of enactment of the Safe Highways and Infrastructure Preservation Act, the Secretary shall publish a final list of longer combination vehicles described in subparagraph (A).

"(D) UPDATES.—The Secretary shall update the list published under subparagraph (A) as necessary to reflect new designations made to the National Highway System.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection does not prevent a State from further restricting in any manner or prohibiting the operation of a longer combination vehicle if the restrictions or prohibitions are consistent with the requirements of section 127 of this title and sections 31112 through 31114 of title 49, United States Code.

"(f) MODEL SCHEDULE OF FINES.—

"(1) IN GENERAL.—The Secretary, in consultation with the States, shall establish a model schedule of fines to be assessed for violations of this section.

"(2) PURPOSE.—The purpose of the schedule of fines shall be to ensure that fines are sufficient to deter violations of the requirements of this section and to permit States to recover costs associated with damages caused to the National Highway System by the operation of such vehicles.

"(3) ADOPTION BY STATES.—The Secretary shall encourage but not require States to adopt the schedule of fines.

"(g) DEFINITIONS.—In this section:

"(1) INTERSTATE WEIGHT LIMIT.—The term 'Interstate weight limit' has the meaning given that term in section 127(h).

"(2) LONGER COMBINATION VEHICLE.—The term 'longer combination vehicle' has the meaning given that term in section 127(d).".

(b) ENFORCEMENT OF REQUIREMENTS.—Section 141(a) of title 23, United States Code, is amended—

(1) by striking "the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System" and inserting "the National Highway System, including the Interstate System,"; and

(2) by striking "section 127" and inserting "sections 126 and 127".

(c) CONFORMING AMENDMENT.—The chapter analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 125 the following:

"126. Vehicle weight limitations—National Highway System.".

SA 640. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, after the matter following line 25, insert the following:

SEC. 14____. VEHICLE WEIGHT LIMITATIONS, INTERSTATE ROUTE 94, NORTH DAKOTA.

Section 127(a) of title 23, United States Code, is amended by adding at the end the following: "Notwithstanding any other provision of law, a vehicle that, with respect to weight distribution characteristics, could lawfully operate in North Dakota as of January 1, 2004, on United States Route 52 (including the United States Route 52 bypass in Jamestown, North Dakota), or on United States Route 281, may operate on Interstate Route 94 in the State of North Dakota, between the intersection of Interstate Route 94 and United States Route 281 and the intersection of Interstate Route 94 and United States Route 52 bypass (including interchanges) under the same conditions under which the vehicle operates in the State of North Dakota on United States Route 52 (including the United States Route 52 bypass) or United States Route 281.".

SA 641. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, insert the following:

SEC. 14 . VEHICLE WEIGHT LIMITATIONS, INTERSTATE ROUTE 94, NORTH DAKOTA.

Section 127(a) of title 23, United States Code, is amended by adding at the end the following: "Notwithstanding any other provision of law, a vehicle that, with respect to weight distribution characteristics, could lawfully operate in North Dakota as of January 1, 2004, on United States Route 52 (including the United States Route 52 bypass in Jamestown, North Dakota), or on United States Route 281, may operate on Interstate Route 94 in the State of North Dakota, between the intersection of Interstate Route 94 and United States Route 281 and the intersection of Interstate Route 94 and United States Route 52 bypass (including interchanges) under the same conditions under which the vehicle operates in the State of North Dakota on United States Route 52 (including the United States Route 52 bypass) or United States Route 281.".

SA 642. Mr. CONRAD (for himself and Mr. Dorgan) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, insert the following:

SEC. . BRIDGE CONSTRUCTION, NORTH DAKOTA.

Notwithstanding any other provision of law, and regardless of the source of Federal funds, the Federal share of the eligible costs of construction of a bridge between Bismarck, North Dakota, and Mandan, North Dakota, shall be 90 percent.

SA 643. Mr. CONRAD (for himself and Mr. Dorgan) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 410, between lines 7 and 8, insert the following:

SEC. ___. BRIDGE CONSTRUCTION, NORTH DAKOTA.

Notwithstanding any other provision of law, and regardless of the source of Federal funds, the Federal share of the eligible costs of construction of a bridge between Bismarck, North Dakota, and Mandan, North Dakota, shall be 90 percent.

SA 644. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1814 and insert the following:

SEC. 1814. PARKING PILOT PROGRAMS. .

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1813(a)), is amended by adding at the end the following:

"SEC. 176. PARKING PILOT PROGRAMS.

"(a) Commercial Truck Parking Pilot Program.—

"(1) Establishment.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a pilot program to increase the availability of, and information about, long-term parking for drivers of commercial motor vehicles on the National Highway System.

"(2) Allocation of funds.—

"(A) In general.—The Secretary shall allocate funds made available under this subsection to States, metropolitan planning organizations, and local governments, giving preference to applicants that demonstrate the most severe shortage of commercial vehicle parking capacity on the corridor to be addressed.

"(B) Notice and comment.—Prior to allocating funds under this subsection to a particular project, the Secretary shall—

"(i) publish the application in the Federal Register;

"(ii) seek public comment on the proposed project for a period of not less than 90 days; and

"(iii) evaluate and consider all comments received concerning the proposed project.

"(C) Criteria.—In allocating funds under this subsection for the construction of safety rest areas, or for commercial motor vehicle parking facilities that are adjacent to commercial truck stops or travel plazas, the Secretary shall give priority to an applicant that—

"(i) demonstrates a severe shortage of commercial vehicle parking capacity on the corridor to be addressed;

"(ii) consults with affected State and local governments, community groups, private providers of commercial vehicle parking, and motorist and trucking organizations; and

"(iii) demonstrates that the project proposed by the applicant is likely to have a positive effect on highway safety, traffic congestion, or air quality.

"(D) Requirements.—An applicant that applies for funds made available under this subsection for construction of safety rest areas, or for commercial motor vehicle parking facilities that are adjacent to commercial truck stops or travel plazas, shall include in the application an analysis of reasonable alternatives, including—

"(i) the impact of the availability of additional information to commercial vehicle drivers regarding the location and availability of parking throughout the corridor; and

"(ii) the extent to which private providers of parking for commercial vehicles are able to meet current and future commercial vehicle parking demands in the corridor.

"(3) Use of allocated funds.—

"(A) In general.—A recipient of funds allocated under this subsection shall use the funds to carry out the project proposed in the application submitted by the recipient to the Secretary.

"(B) Types of projects.—Funds under this subsection shall be available for obligation for projects that serve the National Highway System, including—

"(i) construction of safety rest areas that include parking for commercial motor vehicles;

"(ii) construction of commercial motor vehicle parking facilities that are adjacent to commercial truck stops and travel plazas;

"(iii) costs associated with the opening of facilities (including inspection and weigh stations and park-and-ride facilities) to provide commercial motor vehicle parking;

"(iv) projects that promote awareness of the availability of public or private commercial motor vehicle parking on the National Highway System, including parking in connection with intelligent transportation systems and other systems;

"(v) construction of turnouts along the National Highway System for commercial motor vehicles;

"(vi) capital improvements to public commercial motor vehicle truck parking facilities closed on a seasonal basis in order to allow the facilities to remain open yeararound; and

"(vii) improvements to the geometric design at interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

"(4) Report.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this subsection.

"(5) Federal share.—The Federal share of the cost of a project carried out under this subsection shall be consistent with section 120.

"(6) Funding.—

"(A) In general.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $8,930,818 for each of fiscal years 2005 through 2009.

"(B) Contract authority.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter.

"(b) Corridor and Fringe Parking Pilot Program.—

"(1) Establishment.—

"(A) In general.—In cooperation with appropriate State, regional, and local governments, the Secretary shall carry out a pilot program to provide corridor and fringe parking facilities.

"(B) Primary function.—The primary function of a corridor and fringe parking facility funded under this subsection shall be to provide parking capacity to support car pooling, van pooling, ride sharing, commuting, and high occupancy vehicle travel.

"(C) Overnight parking.—A State may permit a facility described in subparagraph (B) to be used for the overnight parking of commercial vehicles if the use does not foreclose or unduly limit the primary function of the facility described in subparagraph (B).

"(2) Allocation of funds.—

"(A) In general.—The Secretary shall allocate funds made available to carry out this subsection to States.

"(B) Criteria.—In allocating funds under this subsection, the Secretary shall give priority to a State that—

"(i) demonstrates demand for corridor and fringe parking on the corridor to be addressed;

"(ii) consults with affected metropolitan planning organizations, local governments, community groups, and providers of corridor and fringe parking; and

"(iii) demonstrates that the project proposed by the State is likely to have a positive effect on ride sharing, traffic congestion, or air quality.

"(3) USE OF ALLOCATED FUNDS.—

"(A) IN GENERAL.—A recipient of funds allocated under this subsection shall use the funds to carry out the project proposed in the application submitted by the recipient to the Secretary.

"(B) TYPES OF PROJECTS.—Funds under this subsection shall be available for obligation for projects that serve the Federal-aid system, including—

"(i) construction of corridor and fringe parking facilities;

"(ii) costs associated with the opening of facilities;

"(iii) projects that promote awareness of the availability of corridor and fringe parking through the use of signage and other means;

"(iv) capital improvements to corridor and fringe parking facilities closed on a seasonal basis in order to allow the facilities to remain open year-around; and

"(v) improvements to the geometric design on adjoining roadways to facilitate access to, and egress from, corridor and fringe parking facilities.

"(4) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this subsection.

"(5) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be consistent with section 120.

"(6) FUNDING.—

"(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $8,930,818 for each of fiscal years 2005 through 2009.

"(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1813(c)), is amended by adding at the end the following:

"176. Parking pilot programs.".

SA 645. Mr. SANTORUM (for himself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 800, strike line 21 and all that follows through page 804, line 19, and insert the following:

"(2) SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2009.—

"(A) INCREASED FLEXIBILITY.—The Secretary may award grants under this section, from funds made available to carry out this section for each of the fiscal years 2005 through 2009, to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000, as determined by the 2000 decennial census of population if—

"(i) the urbanized area had a population of less than 200,000, as determined by the 1990 decennial census of population;

"(ii) a portion of the urbanized area was a separate urbanized area with a population of less than 200,000, as determined by the 1990 decennial census of population;

"(iii) the area was not designated as an urbanized area, as determined by the 1990 decennial census of population; or

"(iv) a portion of the area was not designated as an urbanized area, as determined by the 1990 decennial census, and received assistance under section 5311 in fiscal year 2002.

"(B) MAXIMUM AMOUNTS IN FISCAL YEARS 2005 THROUGH 2007.—In each of the fiscal years 2005 through 2007—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less 50 percent of the amount the portion of the area received under section 5311 for fiscal year 2002.

"(C) MAXIMUM AMOUNTS IN FISCAL YEARS 2008 AND 2009.—In each of the fiscal years 2008 and 2009—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 25 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 25 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 25 percent of the amount the portion of the area received under section 5311 in fiscal year 2002."; and

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SA 646. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 1. REDUCTIONS

The total spending in this bill shall be reduced by $11.100.000,000, by reducing the totals by the following amounts—

(a) STP Enhancements (Sec. 1104(4)): reduce by $2,800,000,000;

(b) Maglev (Sec. 1819): reduce by $2,000,000,000;

(c) Ferry Boats (Sec. 1101(14)) and Sec. 1204): reduce by $235,000.000;

(d) Truck Parking (Sec. 1814(a)): reduce by $47.010,000;

(e) Puerto Rican Highways (Sec. 1101(15)): reduce by $500.000.000;

(f) Congestion Mitigation and Air Quality (Sec. 1101(5)): reduce by $4,479,000,000;

(g) Administrative Expenses (Sec. 1103(a)(1)): reduce by $348.000.000;

(h) Historic Covered Bridge (Sec. 1812): reduce by $56,000,000;

(i) Transportation Infrastructure Finance and Innovation Act (Sec. 1303): reduce by $500,000,000;

(j) Transportation and Community and System Preservation Program (Sec. 1813): reduce by $135,000,000;

SA 647. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 718, between lines 18 and 19, insert the following:

(b) LIMITATION ON SUSPENSION.—Paragraph (2) of section 9503(c) is amended by adding at the end the following new subparagraph:

"(D) SPECIAL RULE.—Notwithstanding any other provision of this paragraph, the Secretary shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts—

"(i)(I) described in subparagraph (A)(i) with respect to claims filed for the periods ending after March 30, 2005, and before October 1, 2009, and

"(II) described in subparagraph (A)(ii) with respect to fuel used after March 30, 2005, and before October 1, 2009, and

"(ii) which the Secretary estimates are paid for fraudulent or false claims under sections 34, 6420, 6421, and 6427 which the Secretary will not be able to discover.".

SA 648. Mr. VOINOVICH submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3; to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1069, after line 10, add the following:

SEC. 7155. SCHOOL BUS ENDORSEMENT KNOWLEDGE TEST REQUIREMENT.

The Secretary shall recognize any driver who passes a test approved by the Federal Motor Carrier Safety Administration as meeting the knowledge test requirement for a school bus endorsement under section 383.123 of title 49, Code of Federal Regulations.

SA 649. Mr. MARTINEZ (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18 . HIGH PRIORITY CORRIDORS.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by adding at the end the following:

"(46) The Atlantic Commerce Corridor on Interstate Route 95 from Jacksonville, Florida, to Miami, Florida.".

SA 650. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1224, strike lines 6 through 10 and insert the following:

SEC. 7402. DEFINITIONS; APPLICATION OF PROVISIONS.

(a) TERMS USED IN THIS CHAPTER.—In this chapter, the terms "carrier", "household goods", "motor carrier", "Secretary", and "transportation" have the meaning given such terms in section 13102 of title 49, United States Code.

(b) "HOUSEHOLD GOODS MOTOR CARRIER" IN PART B OF SUBTITLE IV OF TITLE 49.—Section 13102 is amended by redesignating paragraphs (12) through (24) as paragraphs (13) through (25) and by inserting after paragraph (11) the following:

"(12) HOUSEHOLD GOODS MOTOR CARRIER.—

"(A) IN GENERAL.—The term 'household goods motor carrier' means a motor carrier described in subparagraph (B) that, in the ordinary course of its business of providing transportation of household goods, offers some or all of the following additional services:

"(i) Binding and nonbinding estimates.

"(ii) Inventorying.

"(iii) Protective packing and unpacking of individual items at personal residences.

"(iv) Loading and unloading at personal residences.

"(B) REGISTRATION REQUIREMENT.—A motor carrier is described in this subparagraph if its operations require it to register as a household goods motor carrier under—

"(i) section 13902 of this title; and

"(ii) regulations prescribed by the Secretary consistent with Federal agency determinations and decisions that were in effect on the date of enactment of the Household Goods Mover Oversight Enforcement and Reform Act of 2005.

"(C) LIMITED SERVICE EXCLUSION.—The term 'household goods motor carrier' does not include a motor carrier solely because it provides transportation of household goods entirely packed in, and unpacked from, 1 or more containers or trailers by the individual shipper.".

(c) APPLICATION OF CERTAIN PROVISIONS OF LAW.—The provisions of title 49, United States Code, or of this chapter, relating to the transportation of household goods apply only to a household goods motor carrier (as defined in section 13102(12) of title 49, United States Code).

SA 651. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 410, between lines 7 and 8, insert the following:

SEC. 18 . VEHICLE WEIGHT LIMITATIONS—INTERSTATE SYSTEM.

Section 127(a) of title 23, United States Code, is amended—

(1) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(2) by adding at the end the following:

"(12) ARKANSAS.—During the harvesting season of cotton in the State of Arkansas, as determined by the Governor of the State, the State of Arkansas may allow the operation of vehicles with a gross vehicle weight of up to 80,000 pounds for the hauling of cotton seed on—

"(A) United States Route 63 from Gilbert, Arkansas, at the Lake David interchange, to Jonesboro, Arkansas; and

"(B) Interstate Route 555, if that route is open to traffic.".

SA 652. Mr. DORGAN (for himself and Mr. REID) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of chapter 3 of subtitle E of title I, add the following:

SEC. 15___. INVESTIGATION OF GASOLINE PRICES.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Federal Trade Commission shall conduct an investigation to determine if the price of gasoline is being artificially manipulated by reducing refinery capacity or by any other form of market manipulation.

(b) REPORT.—On completion of the investigation under subsection (a), the Federal Trade Commission shall submit to Congress a report that describes—

(1) the results of the investigation; and

(2) any recommendations of the Federal Trade Commission.

SA 653. Mr. DORGAN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18___. DESIGNATION OF HIGH PRIORITY CORRIDOR IN NORTH DAKOTA.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031; 112 Stat. 191; 115 Stat. 871) is amended by adding at the end the following:

"(46) The Central North American Trade Corridor from the North Dakota-South Dakota border north on United States Route 83 through Bismarck and Minot, North Dakota, to the international border with Canada.".

SA 654. Mr. DORGAN (for himself, Mr. CONRAD, Mr. BURNS, Mr. THUNE, Mr. JOHNSON, Mr. NELSON of Nebraska, and Mr. SALAZAR) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. . DESIGNATION OF HIGH PRIORITY CORRIDOR IN SOUTH DAKOTA, NORTH DAKOTA, AND MONTANA.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031; 112 Stat. 191; 115 Stat. 871) is amended by adding at the end the following:

"(46) The Theodore Roosevelt Expressway from Rapid City, South Dakota, north on United States Route 85 to Williston, North Dakota, west on United States Route 2 to Culbertson, Montana, north on Montana Highway 16 to the international border with Canada at the port of Raymond, Montana.".

SA 655. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 635, between lines 3 and 4, insert the following:

SEC. . EXTENSION OF RENEWABLE ENERGY CREDIT.

Section 45(d) (relating to qualified facilities) is amended by striking "January 1, 2006" each place it appears and inserting "January 1, 2009".

SA 656. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 635, between lines 3 and 4, insert the following:

SEC. ___. EXTENSION AND MODIFICATION OF RENEWABLE ENERGY CREDIT.

(a) EXTENSION.—Section 45(d) (relating to qualified facilities) is amended by striking "January 1, 2006" each place it appears and inserting "January 1, 2009"

(b) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

(1) IN GENERAL.—Section 45(e) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(10) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

"(A) ALLOWANCE OF CREDIT.—

"(i) IN GENERAL.—Except as otherwise provided in this subsection—

"(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

"(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

"(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(II) an organization described in section 1381(a)(2)(C),

"(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

"(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

"(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

"(B) TRANSFER OF CREDIT.—

"(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

"(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is assigned once and not reassigned by such other person.

"(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

"(C) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in subclause (I), (II), or (V) of subparagraph (A)(ii), any credit to which subparagraph (A)(i) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act.

"(D) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

"(E) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales of electricity among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 657. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 635, between lines 3 and 4, insert the following:

SEC. ___. EXTENSION AND MODIFICATION OF RENEWABLE ENERGY CREDIT.

(a) EXTENSION.—Section 45(d) (relating to qualified facilities) is amended by striking "January 1, 2006" each place it appears and inserting "January 1, 2009"

(b) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

(1) IN GENERAL.—Section 45(e) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(10) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

"(A) ALLOWANCE OF CREDIT.—

"(i) IN GENERAL.—Except as otherwise provided in this subsection—

"(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

"(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

"(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(II) an organization described in section 1381(a)(2)(C),

"(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

"(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

"(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

"(B) TRANSFER OF CREDIT.—

"(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

"(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is assigned once and not reassigned by such other person.

"(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

"(C) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

"(D) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales of electricity among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 658. Mr. BOND submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1240, line 6, strike "that" and all that follows through "damage" on page 1240, line 8.

SA 659. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for othered purposes; which was ordered to lie on the table; as follows:

On page 635, between lines 3 and 4, insert the following:

SEC. . DIESEL FUEL TAX EVASION REPORT.

Not later than 60 days after the date of the enactment of this Act, the Commissioner of Internal Revenue shall report to the Committees on Finance and Environment and Public Works of the Senate and the Committees on Ways and Means and Transportation and Infrastructure of the House of Representatives on the availability of new technologies that can be employed to enhance collections of the excise tax imposed on diesel fuel and the plans of the Internal Revenue Service to employ such technologies.

SA 660. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for othered purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title I, add the following:

SEC. ___. TRANSPORTATION INVESTMENT CREDITS.

Section 120(j)(1) of title 23, United States Code, is amended—

(1) by striking "A State" and inserting the following:

"(A) IN GENERAL.—A State"; and

(2) by striking the last sentence and inserting the following:

"(B) SPECIAL RULE FOR USE OF FEDERAL FUNDS.—

"(i) DEFINITION OF FEDERAL FUNDS.—In this paragraph, the term 'Federal funds' does not include a loan of Federal funds, or any other financial assistance required to be repaid to the Federal Government.

"(ii) REDUCTION OF CREDIT.—For a project to build, improve, or maintain a highway, bridge, or tunnel used in interstate travel or commerce that receives assistance under this title, if a public, quasi-public, or private agency has built, improved, or maintained such a highway, bridge, or tunnel using Federal funds, a credit of the agency under subparagraph (A) shall be reduced by a percentage equal to the percentage of the total cost of building, improving, or maintaining the facility that was provided with Federal funds.".

SA 661. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1803 and insert the following:

SEC. 1803. DESIGN-BUILD CONTRACTING.

(a) IN GENERAL.—Section 112(b) of title 23, United States Code, is amended by striking paragraph (3) and inserting the following:

"(3) DESIGN-BUILD CONTRACTING.—

"(A) DEFINITION OF DESIGN-BUILD CONTRACT.—

"(i) IN GENERAL.—In this paragraph, the term 'design-build contract' means an agreement that provides for the design and construction of a project by a contractor.

“(ii) INCLUSIONS.—The term ‘design-build contract’ includes—

“(I) a franchise agreement; and

“(II) any other form of contract approved by the Secretary.

“(B) AWARD AND USE OF DESIGN-BUILD CONTRACTS.—A State transportation department or local transportation agency may—

“(i) award a design-build contract using any procurement process in accordance with State and local law; and

“(ii) use a design-build contract to develop a project under this chapter.

“(C) COMPLIANCE WITH NEPA.—

“(i) IN GENERAL.—Subject to clauses (ii) and (iii), a State transportation department or local transportation agency may award a design-build contract under this paragraph, and conduct any action under the design-build contract, before complying with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

“(ii) AWARDS.—A State transportation department or local transportation agency may award a design-build contract before complying with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) if—

“(I) the State transportation department or local transportation agency submits to the Secretary a request for the award of a design-build contract;

“(II) the Secretary approves the request of the State transportation department or local transportation agency under subclause (I); and

“(III) authorization will be provided for the project after the State transportation department or local transportation agency complies with section 102 of that Act (42 U.S.C. 4332).

“(iii) PERMANENT IMPROVEMENTS.—A State transportation department or local transportation agency shall not carry out the final design of a permanent improvement under a design-build contract under this paragraph before complying with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

“(D) EFFECT OF APPROVAL.—Approval by the Secretary of a request of a State transportation department or local transportation agency under subparagraph (C)(ii)(II) shall be considered to be a preliminary action that does not impact the environment.”.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall update regulations promulgated under section 1307(c) of the Transportation Equity Act for the 21st Century (23 U.S.C. 112 note; 112 Stat. 229) to implement the amendment made by subsection (a).

(2) REQUIREMENTS.—The updated regulations under paragraph (1)—

(A) shall allow a State transportation department or local transportation agency to use any procurement process in accordance with State and local law in awarding design-build contracts (including allowing unsolicited proposals, negotiated procurements, and multiple requests for final proposals);

(B) may require a State transportation department or local transportation agency to justify a sole source procurement or multiple requests for final proposals;

(C) may include best practices guidelines;

(D) shall not preclude State transportation departments and local transportation agencies from allowing the inclusion of alternative technical concepts in base proposals of design-build contractors; and

(E) if a design-build contractor is not authorized to proceed with the final design of a permanent improvement before complying with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), shall not preclude State transportation departments and local transportation agencies from, before complying with section 102 of that Act—

(i) requesting a proposal document;

(ii) awarding a design-build contract; or

(iii) issuing a notice to proceed with preliminary design work under a design-build contract.

SA 662. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1802(c) and insert the following:

(c) CONTRACTOR SUSPENSION AND DEBARMENT POLICY.—

(1) IN GENERAL.—Section 307 of title 49, United States Code, is amended to read as follows:

“§ 307. Contractor suspension and debarment policy

“(a) MANDATORY ENFORCEMENT POLICY.—Notwithstanding any other provision of law, the Secretary—

“(1) shall debar any contractor or subcontractor convicted of a criminal or civil offense involving fraud relating to a project receiving Federal highway or transit funds for such period as the Secretary determines to be appropriate; and

“(2) subject to approval by the Attorney General—

“(A) except as provided in subsection (b), shall suspend any contractor or subcontractor upon indictment for criminal or civil offenses involving fraud; and

“(B) may exclude nonaffiliated subsidiaries of a debarred business entity.

“(b) NATIONAL SECURITY EXCEPTION.—If the Secretary finds that mandatory debarment or suspension of a contractor or subcontractor under subsection (a) would be contrary to the national security of the United States, the Secretary—

“(1) may waive the debarment or suspension; and

“(2) in the instance of each waiver, shall provide notification to Congress of the waiver with appropriate details.”.

(2) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 49, United States Code, is amended by striking the item relating to section 307 and inserting the following:

“307. Contractor suspension and debarment policy.”.

SA 663. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Section 328(b) of title 23, United States Code (as amended by section 1513(a)), is amended by striking paragraph (1) and inserting the following:

“(1) NUMBER OF PARTICIPATING STATES.—The Secretary may permit not more than 5 States (including the States of Texas and Oklahoma) to participate in the program.

SA 664. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, after the matter following line 21, add the following:

SEC. . LA ENTRADA AL PACIFICO CORRIDOR, TEXAS.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by adding at the end the following:

“(46) In the State of Texas, the La Entrada al Pacifico Corridor consisting of any portion of a highway in a corridor on 2 miles of either side of the center line of the highway and—

“(A) State Route 349 from Lamesa to the point on that highway that is closest to 32 degrees, 7 minutes, north latitude, by 102 degrees, 6 minutes, west longitude;

“(B) the segment of any roadway extending from the point described by subparagraph (A) to the point on Farm-to-Market Road 1788 closest to 32 degrees, 0 minutes, north latitude, by 102 degrees, 16 minutes, west longitude;

“(C) Farm-to-Market Road 1788 from the point described by subparagraph (B) to its intersection with Interstate Route 20;

“(D) Interstate Route 20 from its intersection with Farm-to-Market Road 1788 to its intersection with United States Route 385;

“(E) United States Route 385 from Odessa to Fort Stockton, including those portions that parallel United States Route 67 and Interstate Route 10; and

“(F) United States Route 67 from Fort Stockton to Presidio, including those portions that parallel Interstate Route 10 and United States Route 90.”.

SA 665. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Section 510(a)(4)(A) of title 23, United States Code (as added by section 2101(a)), is amended by striking “subsection (b)” and inserting “subsection (b), including the Southwest Region University Transportation Center”.

SA 666. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 398, strike line 17 and all that follows through page 400, line 13, and insert the following:

SEC. 1819. HIGH-SPEED MAGNETIC LEVITATION SYSTEM DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Section 322 of title 23, United States Code, is amended to read as follows:

"§322. High-speed magnetic levitation system deployment program

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Railroad Administration.

"(2) ELIGIBLE PROJECT COSTS.—

"(A) IN GENERAL.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities.

"(B) INCLUSION.—The term 'eligible project costs' includes the costs of preconstruction planning activities.

"(C) EXCLUSION.—The term 'eligible project costs' does not include costs incurred for a new station.

"(3) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

"(4) MAGLEV.—

"(A) IN GENERAL.—The term 'MAGLEV' means transportation systems in revenue service employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

"(B) INCLUSION.—The term 'MAGLEV' includes power, control, and communication facilities required for the safe operation of the vehicles within a system described in subparagraph (A).

"(b) PHASE I—PRECONSTRUCTION PLANNING.—

"(1) IN GENERAL.—A State, State-designated authority, multi-State-designated authority, or special purpose entity may apply to the Administrator for grants to conduct preconstruction planning for proposed new MAGLEV projects, or extensions to MAGLEV systems planned, studied, or deployed under this or any other program.

"(2) APPLICATIONS.—An application for a grant under this subsection shall include a description of the proposed MAGLEV project, including, at a minimum—

"(A) a description of the purpose and need for the proposed project;

"(B) a description of the travel market to be served;

"(C) a description of the technology selected for the project;

"(D) forecasts of ridership and revenues;

"(E) a description of preliminary engineering that is sufficient to provide a reasonable estimate of the capital cost of constructing, operating, and maintaining the project;

"(F) a realistic schedule for construction and equipment for the project;

"(G) an environmental analysis in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(H) a preliminary identification of the 1 or more organizations that will construct and operate the project; and

"(I) a cost-benefit analysis and tentative financial plan for construction and operation of the project.

"(3) DEADLINE FOR APPLICATIONS.—The Administrator shall establish an annual deadline for receipt of applications under this subsection.

"(4) EVALUATION.—The Administrator shall evaluate all applications received by the annual deadline to determine whether the applications meet criteria established by the Administrator.

"(5) SELECTION.—The Administrator shall select for Federal support for preconstruction planning any project that the Administrator determines meets the criteria.

"(c) PHASE II—ENVIRONMENTAL ANALYSES.—

"(1) IN GENERAL.—A State, State-designated authority, multi-State-designated authority, or special purpose entity that has conducted (under this section or any other provision of law) 1 or more studies that address each of the requirements of subsection (b)(2) may submit the studies to the Administrator, to support an application for Federal funding to assist in—

"(A) preparing an environmental analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(B) planning for construction, operation, and maintenance of a MAGLEV project.

"(2) CRITERIA FOR APPLICATIONS.—

"(A) IN GENERAL.—The Administrator shall—

"(i) establish criteria for Phase II applications; and

"(ii) evaluate all applications received by that deadline in accordance with criteria established under subparagraph (B).

"(B) CRITERIA.—The Administrator shall establish criteria to evaluate applications that include whether—

"(i) the technology selected is available for deployment at the time of the application;

"(ii) operating revenues combined with known and dedicated sources of other revenues in any year will exceed annual operation and maintenance costs;

"(iii) over the life of the MAGLEV project, total project benefits will exceed total project costs; and

"(iv) the proposed capital financing plan is realistic and does not assume Federal assistance that is greater than the maximums specified in clause (ii).

"(C) PROJECTS SELECTED.—If the Administrator determines that a MAGLEV project meets the criteria established under subparagraph (B), the Administrator may—

"(i) select that project for Federal Phase II support; and

"(ii) publish in the Federal Register a notice of intent to prepare an environmental analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(d) PHASE III—DEPLOYMENT.—A proposed owner of a MAGLEV project that has submitted a draft environmental analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and has refined planning for the construction, operation, and maintenance of the MAGLEV project, under this or any other program, may submit an application to the Administrator for Federal funding of a portion of the capital costs of planning, financing, constructing, and equipping the preferred alternative identified in the environmental analysis.

"(e) FINANCIAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of the full project costs of projects selected under this section.

"(2) PREVAILING WAGE AND BUY AMERICA REQUIREMENTS.—Sections 5333(a) and 5323(j) of title 49 shall apply to financial assistance made available under this section and projects funded with that assistance.

"(3) FEDERAL SHARE.—

"(A) PHASE I AND PHASE II.—For Phase I—preconstruction planning and Phase II—environmental analyses carried out under subsections (b) and (c), respectively, the Federal share of the costs of the planning and studies shall be not more than ⅔ of the full cost of the planning and studies.

"(B) PHASE III.—For Phase III—deployment projects carried out under subsection (d), not more than ⅔ of the full capital cost of such a project shall be made available from funds appropriated for this program.

"(4) FUNDING.—

"(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

"(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 2005 through 2009 to carry out this section—

"(I) $10,000,000 for Phase I—preconstruction planning studies;

"(II) $20,000,000 for Phase II—environmental analyses; and

"(III) $60,000,000 for Phase III—deployment projects.

"(ii) OBLIGATION AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter I, except that—

"(I) the Federal share of the cost of the project shall be in accordance with paragraph (2); and

"(II) the availability of the funds shall be in accordance with subsection (f).

"(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

"(i) PHASE I.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase I—preconstruction planning studies under subsection (b)—

"(I) $12,000,000 for fiscal year 2005;

"(II) $6,000,000 for fiscal year 2006; and

"(III) $2,000,000 for each of fiscal years 2007 through 2009.

"(ii) PHASE II.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase II—environmental analyses under subsection (c)—

"(I) $41,500,000 for fiscal year 2005;

"(II) $25,000,000 for fiscal year 2006;

"(III) $37,000,000 for fiscal year 2007;

"(IV) $21,000,000 for fiscal year 2008; and

"(V) $9,000,000 for fiscal year 2009.

"(iii) PHASE III.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase III—deployment projects under subsection (d)—

"(I) $26,500,000 for fiscal year 2005;

"(II) $500,000,000 for fiscal year 2006;

"(III) $650,000,000 for fiscal year 2007;

"(IV) $850,000,000 for fiscal year 2008; and

"(V) $850,000,000 for fiscal year 2009.

"(iv) PROGRAM ADMINISTRATION.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out administration of this program—

"(I) $2,500,000 for fiscal year 2005;

"(II) $13,000,000 for fiscal year 2006;

"(III) $16,000,000 for fiscal year 2007;

"(IV) $8,000,000 for fiscal year 2008; and

"(V) $5,000,000 for fiscal year 2009.

"(v) RESEARCH AND DEVELOPMENT.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out research and development activities to reduce MAGLEV deployment costs $4,000,000 for each of fiscal years 2005 through 2009.

"(f) AVAILABILITY OF FUNDS.—Funds made available under subsection (e) shall remain available until expended.

"(g) OTHER FEDERAL FUNDS.—Funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement programs under section 149 may be used by any State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

"(h) OTHER FEDERAL FUNDS.—A project selected for funding under this section shall be eligible for other forms of financial assistance provided by this title and title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.), including loans, loan guarantees, and lines of credit.

"(i) MANDATORY ADDITIONAL SELECTION.—

"(1) IN GENERAL.—Subject to paragraph 2, in selecting projects for preconstruction planning, deployment, and financial assistance, the Administrator may only provide funds to MAGLEV projects that meet the criteria established under subsection (b)(4).

"(2) PRIORITY FUNDING.—The Administrator shall give priority funding to a MAGLEV project that—

"(A) has already met the criteria in section 1218 of the Transportation Equity Act for the 21st Century (112 Stat. 216) and has received funding prior to the date of enactment of this section as a result of evaluation and contracting procedures for MAGLEV transportation, to the extent that the project continues to fulfill the requirements of this section;

"(B) to the maximum extent practicable, has met safety guidelines established by the Administrator to protect the health and safety of the public;

"(C) is based on designs that ensure the greatest life cycle advantages for the project;

"(D) contains domestic content of at least 70 percent; and

"(E) is designed and developed through public/private partnership entities and continues to meet the criteria set forth in section 1218 of the Transportation Equity Act for the 21st Century (112 Stat. 216) regarding public/private partnerships.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 322 and inserting the following:

"322. High-speed magnetic levitation system deployment program.".

SA 667. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1234, beginning with line 8, strike through line 6 on page 1235 and insert the following:

"(b) NOTICE.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action.

"(c) AUTHORITY TO INTERVENE.—

"(1) IN GENERAL.—Upon receiving the notice required by subsection (b), the Secretary or Board may intervene in such civil action and upon intervening—

"(A) be heard on all matters arising in such civil action;

"(B) file petitions for appeal of a decision in such civil action; and

"(C) be substituted, upon the filing of a motion with the court, for the State as parens patriae in the action.

"(2) SUBSTITUTION.—If the Secretary or the Board files a motion under paragraph (1)(C), the court shall—

"(A) grant the motion without further hearing or procedure;

"(B) substitute the Secretary or the Board, as appropriate, for the State as plaintiff; and

"(C) if requested by the Secretary or the Board, dismiss the State as a party to the action.

"(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall—

"(1) operate to convey a right to initiate or maintain a class action lawsuit in the enforcement of a Federal law or regulation; or

"(2) prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

SA 668. Mr. OBAMA submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, after the matter following line 25, add the following:

SEC. ____. SENSE OF THE SENATE IN SUPPORT OF INCREASED PUBLIC AWARENESS OF BLOOD ALCOHOL CONCENTRATION LEVELS AND THE DANGERS OF DRINKING AND DRIVING.

(a) FINDINGS.—The Senate finds that—

(1) in 2003—

(A) 17,013 Americans died in alcohol-related traffic crashes;

(B) 40 percent of the persons killed in traffic crashes died in alcohol-related crashes; and

(C) drivers with blood alcohol concentration levels over 0.15 were involved in 58 percent of alcohol-related traffic fatalities;

(2) research shows that 77 percent of Americans think they have received enough information about drinking and driving and the way in which alcohol affects individual blood alcohol concentration levels; and

(3) only 28 percent of the American public can correctly identify the legal limit of blood alcohol concentration of the State in which they reside.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the National Highway Traffic Safety Administration should work with State and local governments and independent organizations to increase public awareness of—

(1) State legal limits on blood alcohol concentration levels; and

(2) the dangers of drinking and driving.

SA 669. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. CONSERVE BY BICYCLING PROGRAM.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term "program" means the Conserve by Bicycling Program established by subsection (b).

(2) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(b) ESTABLISHMENT.—There is established within the Department of Transportation a program to be known as the "Conserve by Bicycling Program".

(c) PROJECTS.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) REQUIREMENTS.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(D) maximize bicycle facility investments;

(E) demonstrate methods that may be used in other regions of the United States; and

(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) COST SHARING.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from State or local sources.

(d) ENERGY AND BICYCLING RESEARCH STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) COMPONENTS.—The study shall—

(A) document the results or progress of the pilot projects under subsection (b);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,200,000, to remain available until expended, of which—

(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);

(2) $300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

(3) $750,000 shall be used to carry out subsection (d).

SA 670. Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, and Mr. DAYTON) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 635, between lines 3 and 4, insert the following:

SEC. 5309. INCENTIVES FOR THE INSTALLATION OF ALTERNATIVE FUEL REFUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

"(b) LIMITATION.—

"(1) IN GENERAL.—The credit allowed under subsection (a)—

"(A) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

"(B) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

"(2) PHASEOUT.—

"(A) IN GENERAL.—In the case of any qualified alternative fuel vehicle refueling property placed in service after December 31, 2010, the limit otherwise applicable under paragraph (1) shall be reduced by—

"(i) 25 percent in the case of any alternative fuel vehicle refueling property placed in service in calendar year 2011, and

"(ii) 50 percent in the case of any alternative fuel vehicle refueling property placed in service in calendar year 2012.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d), but only with respect to any fuel at least 85 percent of the volume of which consists of ethanol.

"(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

"(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is of a character subject to an allowance for depreciation.

"(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(2) the tentative minimum tax for the taxable year.

"(e) CARRYFORWARD ALLOWED.—

"(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

"(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(f) SPECIAL RULES.—For purposes of this section—

"(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

"(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

"(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

"(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

"(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2013.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 30B(f)(1).".

(2) Section 55(c)(2) is amended by inserting "30B(d)," after "30(b)(3),".

(3) Section 6501(m) is amended by inserting "30B(f)(5)," after "30(d)(4),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

"Sec. 30B. Alternative fuel vehicle refueling property credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SA 671. Mr. OBAMA submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 410, between lines 7 and 8, insert the following:

SEC. ____. TRANSPORTATION AND LOCAL WORKFORCE INVESTMENT.

(a) FINDINGS.—Congress finds the following:

(1) Federal-aid highway programs provide State and local governments and other recipients substantial funds for projects that produce significant employment and job-training opportunities.

(2) Every $1,000,000,000 in Federal infrastructure investment creates an estimated 47,500 jobs.

(3) Jobs in transportation construction, including apprenticeship positions, typically pay more than twice the minimum wage, and include health and other benefits.

(4) Transportation projects provide the impetus for job training and employment opportunities for low income individuals residing in the area in which a transportation project is planned.

(5) Transportation projects can offer young people, particularly those who are economically disadvantaged, the opportunity to gain productive employment.

(6) The Alameda Corridor, a $2,400,000,000 transportation project, is an example of a transportation project that included a local hiring provision resulting in a full 30 percent of the project jobs being filled by locally hired and trained men and women.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal transportation projects should facilitate and encourage the collaboration between interested persons, including State, Federal, and local governments, community colleges, apprentice programs, local high schools, and other community based organizations that have an interest in improving the job skills of low-income individuals, to help leverage scarce training and community resources and to help ensure local participation in the building of transportation projects.

SA 672. Mr. NELSON (for himself, Mr. MARTINEZ, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Subtitle D of title I is amended by adding at the end the following:

SEC. 14___. LIVESTOCK TRAILER WEIGHT EXEMPTION.

Section 127(a) of title 23, United States Code, is amended by adding at the end the following: "The States of Florida and Texas may issue, on payment of an annual fee of $200 for each livestock trailer, special permits to authorize the operation of vehicles with a gross vehicle weight of not more than 90,000 pounds for the hauling of livestock.".

SA 673. Mr. AKAKA (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr.

INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 35, strike lines 18 through 21 and insert the following:

(i) $310,000,000 for fiscal year 2005; and

(ii) $320,000,000 for each of fiscal years 2006 through 2009.

SA 674. Mr. SCHUMER (for himself, Mr. KENNEDY, Mrs. CLINTON, Mr. LEVIN, and Mr. SARBANES) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 628, line 23, strike "$155" and insert "$155 ($170 for 2007, $185 for 2008 and $200 for 2009 and thereafter)".

On page 629, line 5, strike "2008" and insert "2009".

On page 629, line 7, strike "2007" and insert "2008".

SA 675. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

SEC. ___. CERTIFICATION OF VEHICLE EMISSION PERFORMANCE STANDARDS.

(a) VEHICLE EMISSION PERFORMANCE STANDARDS.—Section 13902 (a)(1) of title 49, United States Code, is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and,

(2) by inserting after subparagraph (A) the following:

"(B) the requirement that a motor carrier certifies that, beginning in 2007, the vehicle or vehicles purchased in that year or afterwards and operated by the motor carrier comply with the heavy duty vehicle and engine emissions performance standards and related regulations established by the Administrator of the Environmental Protection Agency pursuant to section 202(a)(3) of the Clean Air Act (42 USC 7521(a)(3));"

(b) STUDY.—Within 180 days following the date of enactment of this Act, the Secretary of Transportation shall make recommendations to Congress on ways to ensure that trucks built prior to 2007 operating in the United States comply with all emissions performance standards of the Clean Air Act applicable to such engines at the time the engine was manufactured.

SA 676. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title V insert the following:

SEC. . MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 139A the following new section:

"SEC. 139B. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS.

"(a) IN GENERAL.—Gross income of an individual does not include amounts received, from an organization described in section 170(c), as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization. The preceding sentence shall apply only to the extent that such reimbursement would be deductible under this chapter if section 274(d) were applied—

"(1) by using the standard business mileage rate established under such section, and

"(2) as if the individual were an employee of an organization not described in section 170(c).

"(b) NO DOUBLE BENEFIT.—Subsection (a) shall not apply with respect to any expenses if the individual claims a deduction or credit for such expenses under any other provision of this title.

"(c) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139A and inserting the following new item:

"Sec. 139B. Reimbursement for use of passenger automobile for charity.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. . INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking "$750" and inserting "$1,250", and

(2) by striking "$15" and inserting "$25".

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

SA 677. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 635, between lines 3 and 4, insert the following:

SEC. ___. MODIFICATION OF EFFECTIVE DATE FOR CIVIL RIGHTS TAX RELIEF.

(a) IN GENERAL.—Section 703(c) of the American Jobs Creation Act of 2004 is amended by striking "the date of the enactment of this Act" and inserting "December 31, 2002,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SA 678. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. 18 . ADVANCED TECHNOLOGIES.

Section 133(b) of title 23, United States Code (as amended by section 1813(b)), is amended by adding at the end the following:

"(20) Development of advanced motor vehicle technologies that will increase the fuel efficiency of motor vehicles or reduce individual vehicle emissions, as compared to applicable Federal or State regulations, on the condition that not more than 5 percent of the funds apportioned to the State for a fiscal year are used for that purpose.".

SA 679. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 270, between lines 15 and 16, insert the following:

SEC. 1613. PUBLIC HEALTH PROTECTION.

Section 149 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A)—

(i) in clause (i), by striking "air quality standard; or" and inserting " air quality standard that would protect public health;";

(ii) in clause (ii), by inserting "that would protect public health" after "maintenance area"; and

(iii) by adding at the end the following:

"(ii) the improvement of public health by decreasing air pollutant emissions; or";

(B) in paragraph (2), by inserting "that would protect public health" after "air quality benefits";

(C) in paragraph (3), by striking "or through other factors" and inserting "advanced vehicle technologies, consumption of cleaner burning fuels, or other means"; and

(D) in paragraph (5), insert "or dedicated non-fixed guideways" after "high occupancy vehicle lanes";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "If a State does not have" and inserting the following:

"(A) IN GENERAL.—If a State does not have"; and

(ii) by adding at the end the following:

"(B) PRIORITY.—The State shall give priority to projects that—

"(i) promote deployment of advanced technology heavy-duty vehicles and clean fuels; and

"(ii) protect public health."; and

(B) in paragraph (2)—

(i) by striking "If a State has" and inserting the following:

"(A) IN GENERAL.—If a State has"; and

(ii) by adding at the end the following:

"(B) PRIORITY.—The State shall give priority to projects that—

"(i) promote deployment of advanced technology heavy-duty vehicles and clean fuels; and

"(ii) protect public health."; and

(3) in subsection (e)(4)(B), by inserting "or advanced technology heavy-duty" after "alternative fueled".

SA 680. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes: which was ordered to lie on the table; as follows:

On page 91, between lines 16 and 17, insert the following:

(c) FERRY DISCRETIONARY GRANT PROGRAM.—For purposes of section 129(c) of title 23, United States Code, a private owner and operator that has entered into a license-fee arrangement with a public transportation authority to provide essential year-round public transportation services to the islands off of Cape Cod, Massachusetts shall be considered publicly operated and shall not be subject to paragraph (4) of such subsection.

SA 681. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes: which was ordered to lie on the table; as follows:

Beginning on page 267, strike line 18 and all that follows through page 270, line 15 and insert the following:

SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.

(a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (4), by striking "or" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel;

"(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment; or

"(8) if the project or program is for—

"(A) diesel retrofit technologies contained in or related to an emission reduction strategy developed by the State in accordance with subsection (c); and

"(B) outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the emission reduction strategy.".

(b) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking "for any project eligible under the surface transportation program under section 133." and inserting the following: "for any project in the State that—

"(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

"(B) is eligible under the surface transportation program under section 133."; and

(2) in paragraph (2), by striking "for any project in the State eligible under section 133." and inserting the following: "for any project in the State that—

"(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

"(B) is eligible under the surface transportation program under section 133.".

(c) RESPONSIBILITY OF STATES.—

(1) DEFINITIONS.—In this subsection:

(A) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(B) CMAQ RESOURCES.—The term "CMAQ resources" means resources available to a State to carry out the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code.

(C) DIESEL RETROFIT TECHNOLOGY.—The term "diesel retrofit technology" means a replacement, repowering, rebuilding, aftertreatment or other technology, as determined by the Administrator.

(2) EMISSION REDUCTION STRATEGIES.—Each State shall develop, implement, and periodically revise emission reduction strategies comprised of any methods determined to be appropriate by the State that are consistent with section 209 of the Clean Air Act (42 U.S.C. 7542) for engines and vehicles that are—

(A) used in construction projects located in nonattainment and maintenance areas (as those terms are defined in section 101 of the Clean Air Act (42 U.S.C. 7401)); and

(B) funded, in whole or in part, under title 23, United States Code.

(3) STATE CONSIDERATIONS.—In developing emission reduction strategies, each State—

(A) may include any means to reduce emissions that are determined to be appropriate by the State; but

(B) shall—

(i) consider guidance issued by the Administrator under paragraph (5);

(ii) limit technologies to those identified by the Administrator under paragraph (5);

(iii) provide contractors with guidance and technical assistance regarding the implementation of emission reduction strategies;

(iv) give special consideration to small businesses that participate in projects funded under title 23, United States Code;

(v) place priority on the use of—

(I) diesel retrofit technologies and activities;

(II) cost-effective strategies;

(III) financial incentives using CMAQ resources and State resources; and

(IV) strategies that maximize health benefits; and

(vi) not include any activities prohibited by paragraph (4).

(4) STATE LIMITATIONS.—Emission reduction strategies may not—

(A) authorize or recommend the use of bans on equipment or vehicle use during specified periods of a day;

(B) authorize or recommend the use of contract procedures that would require retrofit activities, unless funds are made available by the State under this section or other State authority to offset the cost of those activities; or

(C) authorize the use of contract procedures that would discriminate between bidders on the basis of the bidder's existing equipment or existing vehicle emission technology.

(5) EMISSION REDUCTION STRATEGY GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a nonbinding list of emission reduction strategies and supporting technical information for—

(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources board that is submitted not later that 18 months of the date of enactment of this Act;

(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration health effects;

(D) options and recommendations for the structure and content of emission reduction strategies including—

(i) emission reduction performance criteria;

(ii) financial incentives that use CMAQ resources and State resources;

(iii) procedures to facilitate access by contractors to financial incentives;

(iv) contract incentives, allowances, and procedures;

(v) methods of voluntary emission reductions; and

(vi) other means that may be employed to reduce emissions from construction activities; and

(6) USE OF CMAQ FUNDS.—A State may use funds made available under this title and title 23, United States Code, for the congestion mitigation and air quality program under section 149 of title 23, United States Code, to ensure the deployment of the projects or programs described in section 149(b)(8) of title 23, United States Code.

(7) LIMITATION.—States shall give priority in distributing funds received for congestion mitigation and air quality projects and programs to finance diesel retrofit and cost-effective emission reduction activities identified by the States in emission reduction strategies developed under this subsection.

(8) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies any authority or restriction established under the clean Air Act (42 U.S.c. 7401 et seq.).

SA 682. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1266, beginning with line 13, strike through line 5 on page 1267 and insert the following:

"(c) COSTS-BENEFITS REQUIREMENT.—

"(1) IN GENERAL.—A grant may be awarded under this section for a project for the relocation of a rail line only if the benefits of the project for the period equal to the estimated economic life of the re-located rail line exceed the costs of the project for that period, as determined by the Secretary considering the following factors:

"(A) The effects of the rail line and the rail traffic on motor vehicle and pedestrian traffic, safety, community quality of life, and area commerce if the rail line were not so relocated.

"(B) The effects of the rail line, relocated as proposed, on motor vehicle and pedestrian traffic, safety, community quality of life, and area commerce.

"(C) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

"(2) OTHER PROJECTS.—The requirements of paragraph (1) do not apply to grants awarded for community quality of life improvements under subsection (b) (1) (A) of this section.

SA 683. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1808(b) and insert the following:

(b) COALFIELDS EXPRESSWAY, VIRGINIA.—

(1) DESIGNATION.—Except as provided in paragrah (2), there is designated as an addition to the Appalachian Development Highway System in the State of Virginia Segment B of the Coalfields Expressway beginning at Corridor B near Pound, Virginia to Clintwood, Virginia.

(2) EXCLUSION OF PORTION OF CORRIDOR H.—The segment of Corridor H in the State of Virginia beginning at the West Virginia State line and ending at Interstate Route 81—

(A) shall be excluded from Corridor H;

(B) shall not be eligible for funding after the date of enactment of this Act; and

(C) may be included on a map of the Appalachian Development Highway System in the State of Virginia for purposes of continuity only.

(3) MODIFICATION OF MILEAGE.—Section 14501(a) of title 40, United States Code, is amended in the second sentence by striking "3,090" and inserting "3,088".

(c) CONFORMING AMENDMENTS.—

(1) USE OF TOLL CREDITS.—Section 120(j)(1) of title 23, United States Code, is amended by inserting "and the Appalachian development highway system program under subtitle IV of title 40" after "(other than the emergency relief program authorized by section 125".

(2) ANALYSIS.—The analysis of chapter 1 of title 23, United States Code (as amended by section 1702(b)), is amended by adding at the end the following:

"170. Appalachian development highway system.".

SA 684. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, line 13, strike "$28,158,868" and insert "$70,000,000".

SA 685. Mrs. STEVENS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 50, strike lines 16 through 18, and insert the following:

(c) ALASKA HIGHWAY.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking "$18,800,000 for each of fiscal years 1998 through 2002" and inserting "$30,000,000 for each of fiscal years 2005 through 2009".

SA 686. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1606(a)(1)(B) and insert the following:

(B) SERIOUSLY DEGRADED.—The term "seriously degraded", with respect to high occupancy vehicle lanes, means that an high occupancy vehicle facility fails to maintain a minimum average operating speed of no less than 5 miles per hour below the speed limit, 90 percent of the time, over a consecutive 3-month period during the weekday peak travel periods.

SA 687. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, line 19, strike "92" and insert "93.06".

On page 53, strike lines 8 through 19 and insert the following:

"(B) for a State with a total population density of less than 30 persons per square mile, as reported in the decennial census conducted by the Federal Government in 2000, the greater of—

On page 55, line 17, strike "115" and insert "100".

On page 56, line 18, strike "91" and insert "93.06".

On page 56, line 19, strike "92" and insert "93.06".

Beginning on page 56, strike line 20 and all that follows through page 57, line 16.

On page 57, line 17, strike "(e)" and insert "(d)".

On page 58, line 7, strike "(f)" and insert "(e)".

On page 58, line 11, strike "(g)" and insert "(f)".

SA 688. Mr. ALLARD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 162, line 18, strike "and".

On page 162, line 22, strike the period and insert "; and".

On page 162, after line 22, insert the following:

(5) by adding at the end the following:

"(l) NOTIFICATION OF PENDING DISCRETIONARY GRANTS.—Not less than 3 full business days before announcement of award by the Secretary of any discretionary grant, letter of intent, of full funding grant agreement totaling $1,000,000 or more, the Secretary shall notify the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriation of the House of Representatives.".

SA 689. Mrs. CLINTON (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 352, strike lines 5 through 9 and insert the following:

ation Area; and

(ii) $46,931,446 to the State of Missouri for construction of a structure over the Mississippi River to connect the city of St. Louis, Missouri, to the State of Illinois; and

(iii) $46,931,446 to the State of New York for planning, design, and construction of the Peace Bridge connecting Buffalo, New York with Canada.

SA 690. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title I, add the following:

SEC. 17 . HOURS OF SERVICE FOR OPERATORS OF HELICOPTER SUPPORT VEHICLES ENGAGED IN ACTIVE FIRE SUPPRESSION ACTIVITIES.

Section 345 of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 613) is amended—

(1) in subsection (a), by adding at the end the following:

"(6) OPERATORS OF HELICOPTER SUPPORT VEHICLES ENGAGED IN ACTIVE FIRE SUPPRESSION ACTIVITIES.—

"(A) INAPPLICABILITY OF FEDERAL REGULATIONS.—Regulations described in paragraph (1) shall not apply to a driver of a vehicle engaged in the support of a helicopter engaged in active fire suppression activities.

"(B) PROHIBITION ON STATE REGULATIONS.—A State, a political subdivision of a State, an interstate agency, or an entity consisting of 2 or more States shall not enact or enforce any law, rule, regulation, or standard that imposes a requirement that is similar to a requirement contained in the regulations described in paragraph (1) on a driver of a vehicle engaged in the support of a helicopter engaged in active fire suppression activities.";

(2) in subsection (b), by striking "Nothing" and inserting "Except as provided in subsection (a)(6), nothing"; and

(3) in the first sentence of subsection (c), by striking "paragraph (2)" and inserting "an exemption under paragraph (2) or (6) of subsection (a)".

SA 691. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . WAIVER FOR NOT-FOR-HIRE FARM TRUCKS.

If a State provides clear and convincing evidence, based on objective safety data, that not-for-hire farm trucks used exclusively for transporting agricultural products to markets within 150 miles of the farms from which such products originated do not pose a significant safety risk, the Secretary of Transportation may waive, for purposes of such vehicles, any provision of—

(1) part B of subtitle IV of title 49, United States Code;

(2) part B of subtitle VI of title 49, United States Code; or

(3) chapter III of title 49, Code of Federal Regulations.

SA 692. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 325, strike line 9 and all that follows through page 326, line 16 and insert the following:

(3) in subsection (d)—

On page 335, line 3, strike "(5)" and insert "(4)".

SA 693. Mr. DODD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . ONE-YEAR DELAY IN THE TRANSFER OF RESPONSIBILITY FOR MEDICARE APPEALS.

(a) DELAY IN THE TRANSFER.—

(1) IN GENERAL.—Section 931(b)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2398) is amended by striking "Not earlier than July 1, 2005, and not later than October 1, 2005" and inserting "Not earlier than July 1, 2006, and not later than October 1, 2006".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the enactment of section 931(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2398).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Commissioner of Social Security and the Secretary of Health and Human Services, in implementing the transition plan for the transfer of responsibility for medicare appeals pursuant to section 931(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2398), should ensure that—

(1) if a medicare beneficiary requests a hearing before an administrative law judge, such hearing shall be in-person unless such individual requests that the hearing be conducted using tele- or video conference technologies and the time frame for such a judge to decide an appeal is not different for hearings conducted in-person and hearings using tele- or video conference technologies;

(2) in providing for the geographic distribution of administrative law judges, there are a sufficient number of hearing sites to ensure adequate access to such judges by medicare beneficiaries and medicare providers; and

(3) in order to provide for the independence of administrative law judges from the Centers for Medicare & Medicaid Services and its contractors, such judges are bound only by applicable statutes, regulations, and rulings issued in accordance with subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the "Administrative Procedures Act") and are not required to give substantial deference to local coverage determinations, local medical review policies, or Centers for Medicare & Medicaid Services program guidance.

SA 694. Mr. SALAZAR submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 353, strike lines 6 and 7 and insert the following:

Secretary determines that the State has inadequate needs to justify the expenditure.

"(C) PILOT PROGRAM.—Not less than 20 percent of the amount apportioned to the States of Colorado, ______________, and , for each of fiscal years 2005 through 2009 shall be expended for off-system bridge pilot projects.";

SA 695. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, insert the following:

SEC. 1830. ANNUAL REPORT ON ACQUISITIONS OF ARTICLES, MATERIALS, AND SUPPLIES MANUFACTURED OUTSIDE THE UNITED STATES.

Section 2 of the Buy American Act (41 U.S.C. 10a) is amended—

(1) by striking "Notwithstanding" and inserting the following:

"(a) IN GENERAL.—Notwithstanding"; and

(2) by adding at the end the following:

"(c) REPORTS.—

"(1) IN GENERAL.—Not later than 180 days after the end of each fiscal year, the head of each Federal agency shall submit to Congress a report on the acquisitions that were made of articles, materials, or supplies by the agency in that fiscal year from entities that manufacture the articles, materials, or supplies outside the United States.

"(2) CONTENT OF REPORT.—The report for a fiscal year under paragraph (1) shall separately indicate the following information:

"(A) The dollar value of any articles, materials, or supplies that were manufactured outside the United States.

"(B) An itemized list of all waivers granted with respect to such articles, materials, or supplies under this Act.

"(C) A summary of—

"(i) the total procurement funds expended on articles, materials, and supplies manufactured inside the United States; and

"(ii) the total procurement funds expended on articles, materials, and supplies manufactured outside the United States.

"(3) PUBLIC AVAILABILITY.—The head of each Federal agency submitting a report under paragraph (1) shall make the report publicly available by posting on an Internet website.".

SA 696. Mr. SARBANES submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

SEC. ___. TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.

(a) TRANSIT PASS TRANSPORTATION FRINGE BENEFITS STUDY.—

(1) STUDY.—The Secretary of Transportation shall conduct a study on tax-free transit benefits and ways to promote improved access to and increased usage of such benefits, at Federal agencies in the National Capital Region, including agencies not currently offering the benefit.

(2) CONTENT.—The study under this subsection shall include—

(A) an examination of how agencies offering the benefit make its availability known to their employees and the methods agencies use to deliver the benefit to employees, including examples of best practices; and

(B) an analysis of the impact of Federal employees' use of transit on traffic congestion and pollution in the National Capital Region.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study under this subsection.

(b) AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.—

(1) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

"(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

"(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

"(3) In carrying out this subsection, a Federal agency shall—

"(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

"(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

"(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

"(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

"(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

"(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

"(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.".

(2) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

"(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.".

(3) COORDINATION.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by paragraph (1)) shall be in addition to any authority otherwise available to the agency involved.

SA 697. Mr. MARTINEZ submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 846, after line 6, insert the following:

(m) MIAMI METRORAIL.—The Secretary may credit funds provided by the Florida Department of Transportation for the extension of the Miami Metrorail System from Earlington Heights to the Miami Intermodal Center to satisfy the matching requirements of section 5309(h)(4) of title 49, United Stated Code, for the Miami North Corridor and Miami East-West Corridor projects.

SA 698. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 297, between lines 9 and 10, insert the following:

SEC. ___. ADVANCED TECHNOLOGY PROGRAM.

(a) REPEAL.—Section 28 of the Act of March 3, 1901 (15 U.S.C. 278n) is repealed.

(b) LIMITATION ON USE OF FEDERAL FUNDS.—Notwithstanding any other provision of law, no Federal funds may be expended to carry out the Advanced Technology Program after the date of enactment of this Act.

SEC. . APPLIED RESEARCH FOR FOSSIL FUELS.

Notwithstanding any other provision of law, the Secretary of Energy shall not carry out any program that conducts, or provides assistance for, applied research for fossil fuels.

SEC. ___. NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT.

The Neotropical Migratory Bird Conservation Act (16 U.S.C. 6101 et seq.) is repealed.

SEC. ___. UNITED STATES TRAVEL AND TOURISM PROGRAM.

Section 210 of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7; 117 Stat. 78) is repealed and no funds may be expended for the United States Travel and Tourism Promotion Program on or after the date of enactment of this Act.

SEC. . INTER-AMERICAN FOUNDATION.

(a) REPEAL.—Section 401 of the Foreign Assistance Act of 1969 (22 U.S.C. 290f) is repealed.

(b) PROHIBITION ON EXPENDITURE OF FUNDS.—No funds may be expended for the Inter-American Foundation on or after the date enactment of this Act.

SA 699. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 297, between lines 9 and 10, insert the following:

SEC. 16 . INTER-AMERICAN FOUNDATION.

(a) REPEAL.—Section 401 of the Foreign Assistance Act of 1969 (22 U.S.C. 290f) is repealed.

(b) PROHIBITION ON EXPENDITURE OF FUNDS.—No funds may be expended for the Inter-American Foundation on or after the date enactment of this Act.

SA 700. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 297, between lines 9 and 10, insert the following:

SEC. . APPLIED RESEARCH FOR FOSSIL FUELS.

Notwithstanding any other provision of law, the Secretary of Energy shall not carry out any program that conducts, or provides assistance for, applied research for fossil fuels.

SA 701. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . ADVANCED TECHNOLOGY PROGRAM.

(a) REPEAL.—Section 28 of the Act of March 3, 1901 (15 U.S.C. 278n) is repealed.

(b) LIMITATION ON USE OF FEDERAL FUNDS.—Notwithstanding any other provision of law, no Federal funds may be expended to carry out the Advanced Technology Program after the date of enactment of this Act.

SA 702. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 297, between lines 9 and 10, insert the following:

SEC. 16___. UNITED STATES TRAVEL AND TOURISM PROGRAM.

Section 210 of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7; 117 Stat. 78) is repealed and no funds may be expended for the United States Travel and Tourism Promotion Program on or after the date of enactment of this Act.

SA 703. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 297, between lines 9 and 10, insert the following:

SEC. 16___. NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT.

The Neotropical Migratory Bird Conservation Act (16 U.S.C. 6101 et seq.) is repealed.

SA 704. Mr. VOINOVICH submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 566, strike lines 2 through 9 and insert the following:

"(C) blast furnace slag aggregate;

"(D) silica fume;

"(E) foundry sand; and

"(F) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

SA 705. Ms. SNOWE (herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, after line 24, add the following:

(b) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts authorized to be appropriated under section 1101(5) that are made available to the State of Maine may be used to support, through September 30, 2009, the operation of passenger rail service between Boston, Massachusetts, and Portland, Maine.

SA 706. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 410, between lines 7 and 8, insert the following:

SEC. 18___. VEHICLE WEIGHT LIMITATIONS IN MAINE.

Section 127(a) of title 23, United States Code, is amended in the last sentence by striking "respect to that portion" and all that follows through "New Hampshire State line," and inserting "respect to Interstate Routes 95, 195, 295, and 395 in the State of Maine,".

SA 707. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 582, after line 25, add the following:

SEC. 5204. VOLUMETRIC EXCISE TAX CREDIT FOR ALTERNATIVE FUELS.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Section 4081(a)(2)(A) (relating to rates of tax), as amended by section 5611 of this Act, is amended—

(A) by striking "and" at the end of clause (ii),

(B) by striking the period at the end of clause (iii), and

(C) by adding at the end the following new clauses:

"(iv) in the case of liquefied petroleum gas and P Series Fuels, 18.3 cents per gallon,

"(v) in the case of compressed natural gas and hydrogen, 18.3 cents per energy equivalent of a gallon of gasoline, and

"(vi) in the case of liquefied natural gas, any liquid fuel derived from coal (including peat), and liquid hydrocarbons derived from biomass (as defined in section 29(c)(3)), 24.3 cents per gallon.".

(2) TREATMENT OF ALTERNATIVE FUEL AS TAXABLE FUEL.—

(A) IN GENERAL.—Section 4083(a)(1) (defining taxable fuel) is amended—

(i) by striking "and" at the end of subparagraph (B),

(ii) by striking the period at the end of subparagraph (C) and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(D) alternative fuel.".

(B) DEFINITION.—Section 4083(a) is amended by adding at the end the following new paragraph:

"(4) ALTERNATIVE FUEL.—The term 'alternative fuel' means—

"(A) compressed or liquefied natural gas,

"(B) liquefied petroleum gas,

"(C) P Series Fuels (as defined by the Secretary of Energy under section 13211(2) of title 42, United States Code,

"(D) hydrogen,

"(E) any liquid fuel derived from coal (including peat), and

"(F) liquid hydrocarbons derived from biomass (as defined in section 29(c)(3)).".

(3) CONFORMING AMENDMENTS.—

(A) Section 4041(a), as amended by section 5101 of this Act, is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) SPECIAL MOTOR FUELS.—

"(A) IN GENERAL.—There is hereby imposed a tax on any alternative fuel (other than gas oil or fuel oil)—

"(i) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat, or

"(ii) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such fuel under clause (i).

"(B) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this paragraph on the sale or use of any alternative fuel if tax was imposed on such alternative fuel under section 4081 and the tax thereon was not credited or refunded.

"(C) RATE OF TAX.—The rate of the tax imposed by this paragraph shall be the rate of tax specified in clause (iv), (v), or (vi) of section 4081(a)(2)(A) on the alternative fuel which is in effect at the time of such sale or use..

"(D) BUS USES.—No tax shall be imposed by this paragraph on any sale for use, or use, described in subparagraph (B) or (C) of section 6427(b)(2) (relating to school bus and intracity transportation).".

(B) Section 4041(b)(2) is amended by striking "2007" both places it appears and inserting "2005".

(C) Section 4041, as amended by section 5101 of this Act, is amended by striking subsection (m).

(b) CREDIT FOR ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.—

(1) IN GENERAL.—Section 6426(a) (relating to allowance of credits) is amended by striking "plus" at the end of paragraph (1), by striking the period at the end of paragraph (2) and by adding at the end the following new paragraphs:

"(3) the alternative fuel credit, plus

"(4) the alternative fuel mixture credit.".

(2) ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURE CREDIT.—Section 6426 (relating to credit for alcohol fuel and biodiesel mixtures) is amended by redesignating subsections (d) and (e) as subsections (f) and (g) and by inserting after subsection (c) the following new subsection:

"(d) ALTERNATIVE FUEL CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the alternative fuel credit is the product of 50 cents and the number of gallons of an alternative fuel or gasoline gallon equivalents of a nonliquid alternative fuel sold by the taxpayer for use as a motor fuel in a highway vehicle.

"(2) ALTERNATIVE FUEL.—For purposes of this section, the term 'alternative fuel' has the meaning given such term by section 4083(a)(4), except such term does not include ethanol or methanol.

"(3) GASOLINE GALLON EQUIVALENT.—For purposes of this subsection, the term 'gasoline gallon equivalent' means, with respect to any nonliquid alternative fuel, the amount of such fuel having a Btu content of 124,800 (higher heating value).

"(4) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

"(e) ALTERNATIVE FUEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the alternative fuel mixture credit is the product of 50 cents and the number of gallons of alternative fuel used by the taxpayer in producing any alternative fuel mixture for sale or use in a trade or business of the taxpayer.

"(2) ALTERNATIVE FUEL MIXTURE.—For purposes of this section, the term 'alternative fuel mixture' means a mixture of alternative fuel and taxable fuel (as defined in subparagraph (A), (B), or (C) of section 4083(a)(1)) which—

"(A) is sold by the taxpayer producing such mixture to any person for use as fuel in a highway vehicle, or

"(B) is used as a fuel in a highway vehicle by the taxpayer producing such mixture.

"(3) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.".

(3) CONFORMING AMENDMENTS.—

(A) The section heading for section 6426 is amended by striking "**alcohol fuel and biodiesel**" and inserting "**certain alternative fuel**".

(B) The table of sections for subchapter B of chapter 65 is amended by striking "alcohol fuel and biodiesel" in the item relating to section 6426 and inserting "certain alternative fuel".

(C) Section 6427(a) is amended by striking "paragraph (2) or (3) of section 4041(a) or section 4041(c)" and inserting "section 4041(a)(2) or 4041(c)".

(D) Section 6427(e) is amended—

(i) by inserting "or the alternative fuel mixture credit" after "biodiesel mixture credit" in paragraph (1),

(ii) by inserting "or alternative fuel" after "section 40A(d)(2))" in paragraph (2),

(iii) by striking "and" at the end of paragraph (3)(A),

(iv) by striking the period at the end of paragraph (3)(B),

(v) by adding at the end of paragraph (3) the following new subparagraph:

"(C) any alternative fuel or alternative fuel mixture (as defined in section 6426 (d)(2) or (e)(3)) sold or used after December 31, 2010.", and

(vi) by striking "OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES" in the heading and inserting ", BIODIESEL, OR ALTERNATIVE FUEL".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any sale, use, or removal for any period after December 31, 2005.

SA 708. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, strike lines 16 through 20 and insert the following:

authority has not lapsed or been used;

(10) section 105 of title 23, United States Code (but, for each of fiscal years 2005 through 2009, only in an amount equal to $639,000,000 per fiscal year); and

(11) section 1106 of this Act, to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation.

On page 60, between lines 14 and 15, insert the following:

SEC. 1106. USE OF EXCESS FUNDS AND FUNDS FOR INACTIVE PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE FUNDS.—

(A) IN GENERAL.—The term "eligible funds" means excess funds or inactive funds for a specific transportation project or activity that were—

(i) allocated before fiscal year 1998; and

(ii) designated in a public law, or a report accompanying a public law, for allocation for the specific surface transportation project or activity.

(B) INCLUSION.—The term "eligible funds" includes funds described in subparagraph (A) that were allocated and designated for a demonstration project.

(2) EXCESS FUNDS.—The term "excess funds" means—

(A) funds obligated for a specific transportation project or activity that remain available for the project or activity after the project or activity has been completed or canceled; or

(B) an unobligated balance of funds allocated for a transportation project or activity that the State in which the project or activity was to be carried out certifies are no longer needed for the project or activity.

(3) INACTIVE FUNDS.—The term "inactive funds" means—

(A) an obligated balance of Federal funds for a transportation project or activity against which no expenditures have been charged during any 1-year period beginning after the date of obligation of the funds; and

(B) funds that are available to carry out a transportation project or activity in a State, but, as certified by the State, are unlikely to be advanced for the project or activity during the 1-year period beginning on the date of certification.

(b) AVAILABILITY FOR STP PURPOSES.—Eligible funds shall be—

(1) made available in accordance with this section to the State that originally received the funds; and

(2) available for obligation for any eligible purpose under section 133 of title 23, United States Code.

(c) RETENTION FOR ORIGINAL PURPOSE.—

(1) IN GENERAL.—The Secretary may determine that funds identified as inactive funds shall remain available for the purpose for which the funds were initially made available if the applicable State certifies that the funds are necessary for that initial purpose.

(2) REPORT.—A certification provided by a State under paragraph (1) shall include a report on the status of, and an estimated completion date for, the project that is the subject of the certification.

(d) AUTHORITY TO OBLIGATE.—Notwithstanding the original source or period of availability of eligible funds, the Secretary may, on the request by a State—

(1) obligate the funds for any eligible purpose under section 133 of title 23, United States Code; or

(2)(A) deobligate the funds; and

(B) reobligate the funds for any eligible purpose under that section.

(e) APPLICABILITY.—

(1) IN GENERAL.—Subject to paragraph (2), this section applies to all eligible funds.

(2) DISCRETIONARY ALLOCATIONS; SECTION 125 PROJECTS.—This section does not apply to funds that are—

(A) allocated at the discretion of the Secretary and for which the Secretary has the authority to withdraw the allocation for use on other projects; or

(B) made available to carry out projects under section 125 of title 23, United States Code.

(f) PERIOD OF AVAILABILITY; TITLE 23 REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding the original source or period of availability of eligible funds obligated, or deobligated and reobligated, under subsection (d), the eligible funds—

(A) shall remain available for obligation for a period of 3 fiscal years after the fiscal year in which this Act is enacted; and

(B) except as provided in paragraph (2), shall be subject to the requirements of title 23, United States Code, that apply to section 133 of that title, including provisions relating to cost-sharing.

(2) EXCEPTION.—With respect to eligible funds described in paragraph (1)—

(A) section 133(d) of title 23, United States Code, shall not apply; and

(B) the period of availability of the eligible funds shall be determined in accordance with this section.

(g) SENSE OF CONGRESS REGARDING USE OF ELIGIBLE FUNDS.—It is the sense of Congress that eligible funds made available under this Act or title 23, United States Code, should be available for obligation for transportation projects and activities in the same geographic region for which the eligible funds were initially made available.

SA 709. Ms. COLLINS (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, add the following:

SEC. . DESIGNATION OF HIGH PRIORITY CORRIDOR IN NEW YORK, VERMONT, NEW HAMPSHIRE, AND MAINE.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031; 112 Stat. 191; 115 Stat. 871) is amended by adding at the end the following:

"(46) The East-West Corridor, from Watertown, New York, continuing northeast through the States of New York, Vermont, New Hampshire, and Maine, and terminating in Calais, Maine.".

SA 710. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. 14___. VEHICLE WEIGHT LIMITATIONS ON THE MAINE TURNPIKE.

The last sentence of section 127(a) of title 23, United States, is amended by striking "and 495".

SA 711. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

Subtitle G—United States Tax Court Modernization

SEC. 5700. SHORT TITLE.

This title may be cited as the "United States Tax Court Modernization Act".

PART I—TAX COURT PROCEDURE

SEC. 5701. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) IN GENERAL.—Paragraph (1) of section 6330(d) (relating to proceeding after hearing) is amended to read as follows:

"(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to determinations made after the date which is 60 days after the date of the enactment of this Act.

SEC. 5702. AUTHORITY FOR SPECIAL TRIAL JUDGES TO HEAR AND DECIDE CERTAIN EMPLOYMENT STATUS CASES.

(a) IN GENERAL.—Section 7443A(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking "and" at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) any proceeding under section 7436(c), and".

(b) CONFORMING AMENDMENT.—Section 7443A(c) is amended by striking "or (4)" and inserting "(4), or (5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any proceeding under section 7436(c) of the Internal Revenue Code of 1986 with respect to which a decision has not become final (as determined under section 7481 of such Code) before the date of the enactment of this Act.

SEC. 5703. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Section 6214(b) (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any action or proceeding in the United States Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 5704. TAX COURT FILING FEE IN ALL CASES COMMENCED BY FILING PETITION.

(a) IN GENERAL.—Section 7451 (relating to fee for filing a Tax Court petition) is amended by striking all that follows "petition" and inserting a period.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5705. AMENDMENTS TO APPOINT EMPLOYEES.

(a) IN GENERAL.—Subsection (a) of section 7471 (relating to Tax Court employees) is amended to read as follows:

"(a) APPOINTMENT AND COMPENSATION.—

"(1) CLERK.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

"(2) LAW CLERKS AND SECRETARIES.—

"(A) IN GENERAL.—The judges and special trial judges of the Tax Court may appoint law clerks and secretaries, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such law clerk or secretary shall serve at the pleasure of the appointing judge.

"(B) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the employee's credit as of the effective date of this subsection shall remain credited to the employee and shall be available to the employee upon separation from the Federal Government.

"(3) OTHER EMPLOYEES.—The Tax Court may appoint necessary employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such employees shall be subject to removal by the Tax Court.

"(4) PAY.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in the judicial branch.

"(5) PROGRAMS.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

"(6) DISCRIMINATION PROHIBITED.—The Tax Court shall—

"(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

"(B) promulgate procedures for resolving complaints of discrimination by employees and applicants for employment.

"(7) EXPERTS AND CONSULTANTS.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

"(8) RIGHTS TO CERTAIN APPEALS RESERVED.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

"(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

"(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,

"(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,

"(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or

"(E) file an appeal with the Equal Employment Opportunity Commission under part 1614 of title 29 of the Code of Federal Regulations,

shall be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.

"(9) COMPETITIVE STATUS.—Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous service under a non-temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

"(10) MERIT SYSTEM PRINCIPLES; PROHIBITED PERSONNEL PRACTICES; AND PREFERENCE ELIGIBLES.—Any personnel management system of the Tax Court shall—

"(A) include the principles set forth in section 2301(b) of title 5, United States Code;

"(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and

"(C) in the case of any individual who would be a preference eligible in the executive branch, the Tax Court will provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date the United States Tax Court adopts a personnel management system after the date of the enactment of this Act.

SEC. 5706. EXPANDED USE OF TAX COURT PRACTICE FEE FOR PRO SE TAXPAYERS.

(a) IN GENERAL.—Section 7475(b) (relating to use of fees) is amended by inserting before the period at the end "and to provide services to pro se taxpayers".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART II—TAX COURT PENSION AND COMPENSATION

SEC. 5711. ANNUITIES FOR SURVIVORS OF TAX COURT JUDGES WHO ARE ASSASSINATED.

(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINATION.—Subsection (h) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

"(h) ENTITLEMENT TO ANNUITY.—

"(1) IN GENERAL.—

"(A) ANNUITY TO SURVIVING SPOUSE.—If a judge described in paragraph (2) is survived by a surviving spouse but not by a dependent child, there shall be paid to such surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (m).

"(B) ANNUITY TO CHILD.—If such a judge is survived by a surviving spouse and a dependent child or children, there shall be paid to such surviving spouse an immediate annuity in an amount computed as provided in subsection (m), and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 10 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

"(ii) 20 percent of such average annual salary, divided by the number of such children.

"(C) ANNUITY TO SURVIVING DEPENDENT CHILDREN.—If such a judge leaves no surviving spouse but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 20 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

"(ii) 40 percent of such average annual salary, divided by the number of such children.

"(2) COVERED JUDGES.—Paragraph (1) applies to any judge electing under subsection (b)—

"(A) who dies while a judge after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), for the last 5 years of which the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made or the salary deductions required by the civil service retirement laws have actually been made, or

"(B) who dies by assassination after having rendered less than 5 years of civilian service computed as prescribed in subsection (n) if, for the period of such service, the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made.

"(3) TERMINATION OF ANNUITY.—

"(A) IN THE CASE OF A SURVIVING SPOUSE.—The annuity payable to a surviving spouse under this subsection shall be terminable upon such surviving spouse's death or such surviving spouse's remarriage before attaining age 55.

"(B) IN THE CASE OF A CHILD.—The annuity payable to a child under this subsection shall be terminable upon (i) the child attaining the age of 18 years, (ii) the child's marriage, or (iii) the child's death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability the child's annuity shall be terminable only upon death, marriage, or recovery from such disability.

"(C) IN THE CASE OF A DEPENDENT CHILD AFTER DEATH OF SURVIVING SPOUSE.—In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving such spouse, the annuity of such child or children shall be recomputed and paid as provided in paragraph (1)(C).

"(D) RECOMPUTATION.—In any case in which the annuity of a dependent child is terminated under this subsection, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.

"(4) SPECIAL RULE FOR ASSASSINATED JUDGES.—In the case of a survivor or survivors of a judge described in paragraph (2)(B), there shall be deducted from the annuities otherwise payable under this section an amount equal to—

"(A) the amount of salary deductions provided for by subsection (c)(1) that would have been made if such deductions had been made for 5 years of civilian service computed as prescribed in subsection (n) before the judge's death, reduced by

"(B) the amount of such salary deductions that were actually made before the date of the judge's death.".

(b) DEFINITION OF ASSASSINATION.—Section 7448(a) (relating to definitions) is amended by adding at the end the following new paragraph:

"(8) The terms 'assassinated' and 'assassination' mean the killing of a judge that is motivated by the performance by that judge of his or her official duties.".

(c) DETERMINATION OF ASSASSINATION.—Subsection (i) of section 7448 is amended—

(1) by striking the subsection heading and inserting the following:

"(i) DETERMINATIONS BY CHIEF JUDGE.—

"(1) DEPENDENCY AND DISABILITY.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) ASSASSINATION.—The chief judge shall determine whether the killing of a judge was an assassination, subject to review only by the Tax Court. The head of any Federal agency that investigates the killing of a judge shall provide information to the chief judge that would assist the chief judge in making such a determination.".

(d) COMPUTATION OF ANNUITIES.—Subsection (m) of section 7448 is amended—

(1) by striking the subsection heading and inserting the following:

"(m) COMPUTATION OF ANNUITIES.—

"(1) IN GENERAL.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) ASSASSINATED JUDGES.—In the case of a judge who is assassinated and who has served less than 3 years, the annuity of the surviving spouse of such judge shall be based upon the average annual salary received by such judge for judicial service.".

(e) OTHER BENEFITS.—Section 7448 is amended by adding at the end the following:

"(u) OTHER BENEFITS.—In the case of a judge who is assassinated, an annuity shall be paid under this section notwithstanding a survivor's eligibility for or receipt of benefits under chapter 81 of title 5, United States Code, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this section and chapter 81 of that title for any year would exceed the current salary for that year of the office of the judge.".

SEC. 5712. COST-OF-LIVING ADJUSTMENTS FOR TAX COURT JUDICIAL SURVIVOR ANNUITIES.

(a) IN GENERAL.—Subsection (s) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

"(s) INCREASES IN SURVIVOR ANNUITIES.—Each time that an increase is made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, each annuity payable from the survivors annuity fund under this section shall be increased at the same time by the same percentage by which annuities are increased under such section 8340(b).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to increases made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, taking effect after the date of the enactment of this Act.

SEC. 5713. LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges) is amended by adding at the end the following new subsection:

"(j) LIFE INSURANCE COVERAGE.—For purposes of chapter 87 of title 5, United States Code (relating to life insurance), any individual who is serving as a judge of the Tax Court or who is retired under this section is deemed to be an employee who is continuing in active employment.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a judge of the United States Tax Court and to any retired judge of the United States Tax Court on or after the date of the enactment of this Act.

SEC. 5714. COST OF LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES AGE 65 OR OVER.

Section 7472 (relating to expenditures) is amended by inserting after the first sentence the following new sentence: "Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after April 24, 1999, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code.".

SEC. 5715. MODIFICATION OF TIMING OF LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.

(a) IN GENERAL.—Section 7443 (relating to membership of the Tax Court) is amended by adding at the end the following new subsection:

"(h) LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.—Notwithstanding the provisions of sections 5551 and 6301 of title 5, United States Code, when an individual subject to the leave system provided in chapter 63 of that title is appointed by the President to be a judge of the Tax Court, the individual shall be entitled to receive, upon appointment to the Tax Court, a lump-sum payment from the Tax Court of the accumulated and accrued current annual leave standing to the individual's credit as certified by the agency from which the individual resigned.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any judge of the United States Tax Court who has an outstanding leave balance on the date of the enactment of this Act and to any individual appointed by the President to serve as a judge of the United States Tax Court after such date.

SEC. 5716. PARTICIPATION OF TAX COURT JUDGES IN THE THRIFT SAVINGS PLAN.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

"(k) THRIFT SAVINGS PLAN.—

"(1) ELECTION TO CONTRIBUTE.—

"(A) IN GENERAL.—A judge of the Tax Court may elect to contribute to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

"(B) PERIOD OF ELECTION.—An election may be made under this paragraph as provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

"(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

"(3) SPECIAL RULES.—

"(A) AMOUNT CONTRIBUTED.—The amount contributed by a judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such period as allowable under section 8440f of title 5, United States Code. Basic pay does not include any retired pay paid pursuant to this section.

"(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a judge under section 8432(c) of title 5, United States Code.

"(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5 WHETHER OR NOT JUDGE RETIRES.—Section 8433(b) of title 5, United States Code, applies with respect to a judge who makes an election under paragraph (1) and who either—

"(i) retires under subsection (b), or

"(ii) ceases to serve as a judge of the Tax Court but does not retire under subsection (b).

Retirement under subsection (b) is a separation from service for purposes of subchapters III and VII of chapter 84 of that title.

"(D) APPLICABILITY OF SECTION 8351(b)(5) OF TITLE 5.—The provisions of section 8351(b)(5) of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

"(E) EXCEPTION.—Notwithstanding subparagraph (C), if any judge retires under this section, or resigns without having met the age and service requirements set forth under subsection (b)(2), and such judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5717. EXEMPTION OF TEACHING COMPENSATION OF RETIRED JUDGES FROM LIMITATION ON OUTSIDE EARNED INCOME.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

"(l) TEACHING COMPENSATION OF RETIRED JUDGES.—For purposes of the limitation under section 501(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.), any compensation for teaching approved under section 502(a)(5) of such Act shall not be treated as outside earned income when received by a judge of the Tax Court who has retired under subsection (b) for teaching performed during any calendar year for which such a judge has met the requirements of subsection (c), as certified by the chief judge of the Tax Court.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a retired judge of the United States Tax Court on or after the date of the enactment of this Act.

SEC. 5718. GENERAL PROVISIONS RELATING TO MAGISTRATE JUDGES OF THE TAX COURT.

(a) TITLE OF SPECIAL TRIAL JUDGE CHANGED TO MAGISTRATE JUDGE OF THE TAX COURT.—The heading of section 7443A is amended to read as follows:

"SEC. 7443A. MAGISTRATE JUDGES OF THE TAX COURT.".

(b) APPOINTMENT, TENURE, AND REMOVAL.—Subsection (a) of section 7443A is amended to read as follows:

"(a) APPOINTMENT, TENURE, AND REMOVAL.—

"(1) APPOINTMENT.—The chief judge may, from time to time, appoint and reappoint magistrate judges of the Tax Court for a term of 8 years. The magistrate judges of the Tax Court shall proceed under such rules as may be promulgated by the Tax Court.

"(2) REMOVAL.—Removal of a magistrate judge of the Tax Court during the term for which he or she is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability, but the office of a magistrate judge of the Tax Court shall be terminated if the judges of the Tax Court determine that the services performed by the magistrate judge of the Tax Court are no longer needed. Removal shall not occur unless a majority of all the judges of the Tax Court concur in the order of removal. Before any order of removal shall be entered, a full specification of the charges shall be furnished to the magistrate judge of the Tax Court, and he or she shall be accorded by the judges of the Tax Court an opportunity to be heard on the charges.".

(c) SALARY.—Section 7443A(d) (relating to salary) is amended by striking "90" and inserting "92".

(d) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—Section 7443A is amended by adding at the end the following new subsection:

"(f) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—

"(1) IN GENERAL.—A magistrate judge of the Tax Court appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code.

"(2) TREATMENT OF UNUSED LEAVE.—

"(A) AFTER SERVICE AS MAGISTRATE JUDGE.—If an individual who is exempted under paragraph (1) from the subchapter referred to in such paragraph was previously subject to such subchapter and, without a break in service, again becomes subject to such subchapter on completion of the individual's service as a magistrate judge, the unused annual leave and sick leave standing to the individual's credit when such individual was exempted from this subchapter is deemed to have remained to the individual's credit.

"(B) COMPUTATION OF ANNUITY.—In computing an annuity under section 8339 of title 5, United States Code, the total service of an individual specified in subparagraph (A) who retires on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of such section 8339, the days of unused sick leave standing to the individual's credit when such individual was exempted from subchapter I of chapter 63 of title 5, United States Code, except that these days will not be counted in determining average pay or annuity eligibility.

"(C) LUMP SUM PAYMENT.—Any accumulated and current accrued annual leave or vacation balances credited to a magistrate judge as of the date of the enactment of this subsection shall be paid in a lump sum at the time of separation from service pursuant to the provisions and restrictions set forth in section 5551 of title 5, United States Code, and related provisions referred to in such section.".

(e) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 7443A is amended by striking "SPECIAL TRIAL JUDGES" and inserting "MAGISTRATE JUDGES OF THE TAX COURT".

(2) Section 7443A(b) is amended by striking "special trial judges of the court" and inserting "magistrate judges of the Tax Court".

(3) Subsections (c) and (d) of section 7443A are amended by striking "special trial judge" and inserting "magistrate judge of the Tax Court" each place it appears.

(4) Section 7443A(e) is amended by striking "special trial judges" and inserting "magistrate judges of the Tax Court".

(5) Section 7456(a) is amended by striking "special trial judge" each place it appears and inserting "magistrate judge".

(6) Subsection (c) of section 7471 is amended—

(A) by striking the subsection heading and inserting "MAGISTRATE JUDGES OF THE TAX COURT.—", and

(B) by striking "special trial judges" and inserting "magistrate judges".

SEC. 5719. ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF MAGISTRATE JUDGES OF THE TAX COURT.

(a) DEFINITIONS.—Section 7448(a) (relating to definitions), as amended by this Act, is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (4) the following new paragraphs:

"(5) The term 'magistrate judge' means a judicial officer appointed pursuant to section 7443A, including any individual receiving an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, whether or not performing judicial duties under section 7443C.

"(6) The term 'magistrate judge's salary' means the salary of a magistrate judge received under section 7443A(d), any amount received as an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, and compensation received under section 7443C.".

(b) ELECTION.—Subsection (b) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended—

(1) by striking the subsection heading and inserting the following:

"(b) ELECTION.—

"(1) JUDGES.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) MAGISTRATE JUDGES.—Any magistrate judge may by written election filed with the chief judge bring himself or herself within the purview of this section. Such election shall be filed not later than the later of 6 months after—

"(A) 6 months after the date of the enactment of this paragraph,

"(B) the date the judge takes office, or

"(C) the date the judge marries.".

(c) CONFORMING AMENDMENTS.—

(1) The heading of section 7448 is amended by inserting "**AND MAGISTRATE JUDGES**" after "**JUDGES**".

(2) The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended by inserting "and magistrate judges" after "judges".

(3) Subsections (c)(1), (d), (f), (g), (h), (j), (m), (n), and (u) of section 7448, as amended by this Act, are each amended—

(A) by inserting "or magistrate judge" after "judge" each place it appears other than in the phrase "chief judge", and

(B) by inserting "or magistrate judge's" after "judge's" each place it appears.

(4) Section 7448(c) is amended—

(A) in paragraph (1), by striking "Tax Court judges" and inserting "Tax Court judicial officers",

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting "and section 7443A(d)" after "(a)(4)", and

(ii) in subparagraph (B), by striking "subsection (a)(4)" and inserting "subsections (a)(4) and (a)(6)".

(5) Section 7448(g) is amended by inserting "or section 7443B" after "section 7447" each place it appears, and by inserting "or an annuity" after "retired pay".

(6) Section 7448(j)(1) is amended—

(A) in subparagraph (A), by striking "service or retired" and inserting "service, retired", and by inserting ", or receiving any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code," after "section 7447", and

(B) in the last sentence, by striking "subsections (a)(6) and (7)" and inserting "paragraphs (8) and (9) of subsection (a)".

(7) Section 7448(m)(1), as amended by this Act, is amended—

(A) by inserting "or any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code" after "7447(d)", and

(B) by inserting "or 7443B(m)(1)(B) after "7447(f)(4)".

(8) Section 7448(n) is amended by inserting "his years of service pursuant to any appointment under section 7443A," after "of the Tax Court,".

(9) Section 3121(b)(5)(E) is amended by inserting "or magistrate judge" before "of the United States Tax Court".

(10) Section 210(a)(5)(E) of the Social Security Act is amended by inserting "or magistrate judge" before "of the United States Tax Court".

SEC. 5720. RETIREMENT AND ANNUITY PROGRAM.

(a) RETIREMENT AND ANNUITY PROGRAM.—Part I of subchapter C of chapter 76 is amended by inserting after section 7443A the following new section:

"SEC. 7443B. RETIREMENT FOR MAGISTRATE JUDGES OF THE TAX COURT.

"(a) RETIREMENT BASED ON YEARS OF SERVICE.—A magistrate judge of the Tax Court to whom this section applies and who retires from office after attaining the age of 65 years and serving at least 14 years, whether continuously or otherwise, as such magistrate judge shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to the salary being received at the time the magistrate judge leaves office.

"(b) RETIREMENT UPON FAILURE OF REAPPOINTMENT.—A magistrate judge of the Tax Court to whom this section applies who is not reappointed following the expiration of the term of office of such magistrate judge, and who retires upon the completion of the term shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of such magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14, if—

"(1) such magistrate judge has served at least 1 full term as a magistrate judge, and

"(2) not earlier than 9 months before the date on which the term of office of such magistrate judge expires, and not later than 6 months before such date, such magistrate judge notified the chief judge of the Tax Court in writing that such magistrate judge was willing to accept reappointment to the position in which such magistrate judge was serving.

"(c) SERVICE OF AT LEAST 8 YEARS.—A magistrate judge of the Tax Court to whom this section applies and who retires after serving at least 8 years, whether continuously or otherwise, as such a magistrate judge shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of the magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14. Such annuity shall be reduced by ⅙ of 1 percent for each full month such magistrate judge was under the age of 65 at the time the magistrate judge left office, except that such reduction shall not exceed 20 percent.

"(d) RETIREMENT FOR DISABILITY.—A magistrate judge of the Tax Court to whom this section applies, who has served at least 5 years, whether continuously or otherwise, as such a magistrate judge, and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to 40 percent of the salary being received at the time of retirement or removal or, in the case of a magistrate judge who has served for at least 10 years, an amount equal to that proportion of the salary being received at the time of retirement or removal which the aggregate number of years of service, not to exceed 14, bears to 14.

“(e) Cost-of-Living Adjustments.—A magistrate judge of the Tax Court who is entitled to an annuity under this section is also entitled to a cost-of-living adjustment in such annuity, calculated and payable in the same manner as adjustments under section 8340(b) of title 5, United States Code, except that any such annuity, as increased under this subsection, may not exceed the salary then payable for the position from which the magistrate judge retired or was removed.

“(f) Election; Annuity in Lieu of Other Annuities.—

“(1) In general.—A magistrate judge of the Tax Court shall be entitled to an annuity under this section if the magistrate judge elects an annuity under this section by notifying the chief judge of the Tax Court not later than the later of—

“(A) 5 years after the magistrate judge of the Tax Court begins judicial service, or

“(B) 5 years after the date of the enactment of this subsection.

Such notice shall be given in accordance with procedures prescribed by the Tax Court.

“(2) Annuity in lieu of other annuity.—A magistrate judge who elects to receive an annuity under this section shall not be entitled to receive—

“(A) any annuity to which such magistrate judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, for service performed as a magistrate or otherwise,

“(B) an annuity or salary in senior status or retirement under section 371 or 372 of title 28, United States Code,

“(C) retired pay under section 7447, or

“(D) retired pay under section 7296 of title 38, United States Code.

“(3) Coordination with title 5.—A magistrate judge of the Tax Court who elects to receive an annuity under this section—

“(A) shall not be subject to deductions and contributions otherwise required by section 8334(a) of title 5, United States Code,

“(B) shall be excluded from the operation of chapter 84 (other than subchapters III and VII) of such title 5, and

“(C) is entitled to a lump-sum credit under section 8342(a) or 8424 of such title 5, as the case may be.

“(g) Calculation of Service.—For purposes of calculating an annuity under this section—

“(1) service as a magistrate judge of the Tax Court to whom this section applies may be credited, and

“(2) each month of service shall be credited as $\frac{1}{12}$ of a year, and the fractional part of any month shall not be credited.

“(h) Covered Positions and Service.—This section applies to any magistrate judge of the Tax Court or special trial judge of the Tax Court appointed under this subchapter, but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years before the date of the enactment of this subsection.

“(i) Payments Pursuant to Court Order.—

“(1) In general.—Payments under this section which would otherwise be made to a magistrate judge of the Tax Court based upon his or her service shall be paid (in whole or in part) by the chief judge of the Tax Court to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

“(2) Requirements for payment.—Paragraph (1) shall apply only to payments made by the chief judge of the Tax Court after the date of receipt by the chief judge of written notice of such decree, order, or agreement, and such additional information as the chief judge may prescribe.

“(3) Court defined.—For purposes of this subsection, the term ‘court’ means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or courts of Indian offense.

“(j) Deductions, Contributions, and Deposits.—

“(1) Deductions.—Beginning with the next pay period after the chief judge of the Tax Court receives a notice under subsection (f) that a magistrate judge of the Tax Court has elected an annuity under this section, the chief judge shall deduct and withhold 1 percent of the salary of such magistrate judge. Amounts shall be so deducted and withheld in a manner determined by the chief judge. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Tax Court Judicial Officers' Retirement Fund. Deductions under this subsection from the salary of a magistrate judge shall terminate upon the retirement of the magistrate judge or upon completion of 14 years of service for which contributions under this section have been made, whether continuously or otherwise, as calculated under subsection (g), whichever occurs first.

“(2) Consent to deductions; discharge of claims.—Each magistrate judge of the Tax Court who makes an election under subsection (f) shall be deemed to consent and agree to the deductions from salary which are made under paragraph (1). Payment of such salary less such deductions (and any deductions made under section 7448) is a full and complete discharge and acquittance of all claims and demands for all services rendered by such magistrate judge during the period covered by such payment, except the right to those benefits to which the magistrate judge is entitled under this section (and section 7448).

“(k) Deposits for Prior Service.—Each magistrate judge of the Tax Court who makes an election under subsection (f) may deposit, for service performed before such election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for that service. Credit for any period covered by that service may not be allowed for purposes of an annuity under this section until a deposit under this subsection has been made for that period.

“(l) Individual Retirement Records.—The amounts deducted and withheld under subsection (j), and the amounts deposited under subsection (k), shall be credited to individual accounts in the name of each magistrate judge of the Tax Court from whom such amounts are received, for credit to the Tax Court Judicial Officers' Retirement Fund.

“(m) Annuities Affected in Certain Cases.—

“(1) 1-year forfeiture for failure to perform judicial duties.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who fails to perform judicial duties required of such individual by section 7443C shall forfeit all rights to an annuity under this section for a 1-year period which begins on the 1st day on which such individual fails to perform such duties.

“(2) Permanent forfeiture of retired pay where certain non-government services performed.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who thereafter performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation for the individual's client, the individual's employer, or any of such employer's clients, shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which the individual performs (or supervises or directs the performance of) such services. The preceding sentence shall not apply to any civil office or employment under the Government of the United States.

“(3) Forfeitures not to apply where individual elects to freeze amount of annuity.—

“(A) In general.—If a magistrate judge of the Tax Court makes an election under this paragraph—

“(i) paragraphs (1) and (2) (and section 7443C) shall not apply to such magistrate judge beginning on the date such election takes effect, and

“(ii) the annuity payable under this section to such magistrate judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such magistrate judge is entitled on the day before such effective date.

“(B) Election requirements.—An election under subparagraph (A)—

“(i) may be made by a magistrate judge of the Tax Court eligible for retirement under this section, and

“(ii) shall be filed with the chief judge of the Tax Court.

Such an election, once it takes effect, shall be irrevocable.

“(C) Effective date of election.—Any election under subparagraph (A) shall take effect on the first day of the first month following the month in which the election is made.

“(4) Accepting other employment.—Any magistrate judge of the Tax Court who retires under this section and thereafter accepts compensation for civil office or employment under the United States Government (other than for the performance of functions as a magistrate judge of the Tax Court under section 7443C) shall forfeit all rights to an annuity under this section for the period for which such compensation is received. For purposes of this paragraph, the term ‘compensation’ includes retired pay or salary received in retired status.

“(n) Lump-Sum Payments.—

“(1) Eligibility.—

“(A) In general.—Subject to paragraph (2), an individual who serves as a magistrate judge of the Tax Court and—

"(i) who leaves office and is not reappointed as a magistrate judge of the Tax Court for at least 31 consecutive days,

"(ii) who files an application with the chief judge of the Tax Court for payment of a lump-sum credit,

"(iii) is not serving as a magistrate judge of the Tax Court at the time of filing of the application, and

"(iv) will not become eligible to receive an annuity under this section within 31 days after filing the application,

is entitled to be paid the lump-sum credit. Payment of the lump-sum credit voids all rights to an annuity under this section based on the service on which the lump-sum credit is based, until that individual resumes office as a magistrate judge of the Tax Court.

"(B) PAYMENT TO SURVIVORS.—Lump-sum benefits authorized by subparagraphs (C), (D), and (E) of this paragraph shall be paid to the person or persons surviving the magistrate judge of the Tax Court and alive on the date title to the payment arises, in the order of precedence set forth in subsection (o) of section 376 of title 28, United States Code, and in accordance with the last 2 sentences of paragraph (1) of that subsection. For purposes of the preceding sentence, the term 'judicial official' as used in subsection (o) of such section 376 shall be deemed to mean 'magistrate judge of the Tax Court' and the terms 'Administrative Office of the United States Courts' and 'Director of the Administrative Office of the United States Courts' shall be deemed to mean 'chief judge of the Tax Court'.

"(C) PAYMENT UPON DEATH OF JUDGE BEFORE RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court dies before receiving an annuity under this section, the lump-sum credit shall be paid.

"(D) PAYMENT OF ANNUITY REMAINDER.—If all annuity rights under this section based on the service of a deceased magistrate judge of the Tax Court terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

"(E) PAYMENT UPON DEATH OF JUDGE DURING RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court who is receiving an annuity under this section dies, any accrued annuity benefits remaining unpaid shall be paid.

"(F) PAYMENT UPON TERMINATION.—Any accrued annuity benefits remaining unpaid on the termination, except by death, of the annuity of a magistrate judge of the Tax Court shall be paid to that individual.

"(G) PAYMENT UPON ACCEPTING OTHER EMPLOYMENT.—Subject to paragraph (2), a magistrate judge of the Tax Court who forfeits rights to an annuity under subsection (m)(4) before the total annuity paid equals the lump-sum credit shall be entitled to be paid the difference if the magistrate judge of the Tax Court files an application with the chief judge of the Tax Court for payment of that difference. A payment under this subparagraph voids all rights to an annuity on which the payment is based.

"(2) SPOUSES AND FORMER SPOUSES.—

"(A) IN GENERAL.—Payment of the lump-sum credit under paragraph (1)(A) or a payment under paragraph (1)(G)—

"(i) may be made only if any current spouse and any former spouse of the magistrate judge of the Tax Court are notified of the magistrate judge's application, and

"(ii) shall be subject to the terms of a court decree of divorce, annulment, or legal separation, or any court or court approved property settlement agreement incident to such decree, if—

"(I) the decree, order, or agreement expressly relates to any portion of the lump-sum credit or other payment involved, and

"(II) payment of the lump-sum credit or other payment would extinguish entitlement of the magistrate judge's spouse or former spouse to any portion of an annuity under subsection (i).

"(B) NOTIFICATION.—Notification of a spouse or former spouse under this paragraph shall be made in accordance with such procedures as the chief judge of the Tax Court shall prescribe. The chief judge may provide under such procedures that subparagraph (A)(i) may be waived with respect to a spouse or former spouse if the magistrate judge establishes to the satisfaction of the chief judge that the whereabouts of such spouse or former spouse cannot be determined.

"(C) RESOLUTION OF 2 OR MORE ORDERS.—The chief judge shall prescribe procedures under which this paragraph shall be applied in any case in which the chief judge receives 2 or more orders or decrees described in subparagraph (A).

"(3) DEFINITION.—For purposes of this subsection, the term 'lump-sum credit' means the unrefunded amount consisting of—

"(A) retirement deductions made under this section from the salary of a magistrate judge of the Tax Court,

"(B) amounts deposited under subsection (k) by a magistrate judge of the Tax Court covering earlier service, and

"(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Tax Court Judicial Officers' Retirement Fund during the preceding fiscal year from all obligations purchased by the Secretary during such fiscal year under subsection (o); but does not include interest—

"(i) if the service covered thereby aggregates 1 year or less, or

"(ii) for the fractional part of a month in the total service.

"(o) TAX COURT JUDICIAL OFFICERS' RETIREMENT FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a fund which shall be known as the 'Tax Court Judicial Officers' Retirement Fund'. Amounts in the Fund are authorized to be appropriated for the payment of annuities, refunds, and other payments under this section.

"(2) INVESTMENT OF FUND.—The Secretary shall invest, in interest bearing securities of the United States, such currently available portions of the Tax Court Judicial Officers' Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

"(3) UNFUNDED LIABILITY.—

"(A) IN GENERAL.—There are authorized to be appropriated to the Tax Court Judicial Officers' Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.

"(B) UNFUNDED LIABILITY.—For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, United States Code, of the present value of all benefits payable from the Tax Court Judicial Officers' Retirement Fund over the sum of—

"(i) the present value of deductions to be withheld under this section from the future basic pay of magistrate judges of the Tax Court, plus

"(ii) the balance in the Fund as of the date the unfunded liability is determined.

"(p) PARTICIPATION IN THRIFT SAVINGS PLAN.—

"(1) ELECTION TO CONTRIBUTE.—

"(A) IN GENERAL.—A magistrate judge of the Tax Court who elects to receive an annuity under this section or under section 5721 of the United States Tax Court Modernization Act may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

"(B) PERIOD OF ELECTION.—An election may be made under this paragraph as provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

"(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a magistrate judge who makes an election under paragraph (1).

"(3) SPECIAL RULES.—

"(A) AMOUNT CONTRIBUTED.—The amount contributed by a magistrate judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such pay period as allowable under section 8440f of title 5, United States Code.

"(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a magistrate judge under section 8432(c) of title 5, United States Code.

"(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5.—Section 8433(b) of title 5, United States Code, applies with respect to a magistrate judge who makes an election under paragraph (1) and—

"(i) who retires entitled to an immediate annuity under this section (including a disability annuity under subsection (d) of this section) or section 5721 of the United States Tax Court Modernization Act,

"(ii) who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under this section or section 5721 of the United States Tax Court Modernization Act, or

"(iii) who retires before becoming entitled to an immediate annuity, or an annuity upon attaining age 65, under this section or section 5721 of the United States Tax Court Modernization Act.

"(D) SEPARATION FROM SERVICE.—With respect to a magistrate judge to whom this subsection applies, retirement under this section or section 5721 of the United States Tax Court Modernization Act is a separation from service for purposes of subchapters III and VII of chapter 84 of title 5, United States Code.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'retirement' and 'retire' include removal from office under section 7443A(a)(2) on the sole ground of mental or physical disability.

"(5) OFFSET.—In the case of a magistrate judge who receives a distribution from the Thrift Savings Fund and who later receives an annuity under this section, that annuity shall be offset by an amount equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.

"(6) EXCEPTION.—Notwithstanding clauses (i) and (ii) of paragraph (3)(C), if any magistrate judge retires under circumstances making such magistrate judge eligible to make an election under subsection (b) of section 8433 of title 5, United States Code, and such magistrate judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.''.

(b) Conforming Amendment.—The table of sections for part I of subchapter C of chapter 76 is amended by inserting after the item relating to section 7443A the following new item:

"Sec. 7443B. Retirement for magistrate judges of the Tax Court.''.

SEC. 5721. INCUMBENT MAGISTRATE JUDGES OF THE TAX COURT.

(a) Retirement Annuity Under Title 5 and Section 7443B of the Internal Revenue Code of 1986.—A magistrate judge of the United States Tax Court in active service on the date of the enactment of this Act shall, subject to subsection (b), be entitled, in lieu of the annuity otherwise provided under the amendments made by this part, to—

(1) an annuity under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, as the case may be, for creditable service before the date on which service would begin to be credited for purposes of paragraph (2), and

(2) an annuity calculated under subsection (b) or (c) and subsection (g) of section 7443B of the Internal Revenue Code of 1986, as added by this Act, for any service as a magistrate judge of the United States Tax Court or special trial judge of the United States Tax Court but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years prior to the date of the enactment of this Act (as specified in the election pursuant to subsection (b)) for which deductions and deposits are made under subsections (j) and (k) of such section 7443B, as applicable, without regard to the minimum number of years of service as such a magistrate judge of the United States Tax Court, except that—

(A) in the case of a magistrate judge who retired with less than 8 years of service, the annuity under subsection (c) of such section 7443B shall be equal to that proportion of the salary being received at the time the magistrate judge leaves office which the years of service bears to 14, subject to a reduction in accordance with subsection (c) of such section 7443B if the magistrate judge is under age 65 at the time he or she leaves office, and

(B) the aggregate amount of the annuity initially payable on retirement under this subsection may not exceed the rate of pay for the magistrate judge which is in effect on the day before the retirement becomes effective.

(b) Filing of Notice of Election.—A magistrate judge of the United States Tax Court shall be entitled to an annuity under this section only if the magistrate judge files a notice of that election with the chief judge of the United States Tax Court specifying the date on which service would begin to be credited under section 7443B of the Internal Revenue Code of 1986, as added by this Act, in lieu of chapter 83 or chapter 84 of title 5, United States Code. Such notice shall be filed in accordance with such procedures as the chief judge of the United States Tax Court shall prescribe.

(c) Lump-Sum Credit Under Title 5.—A magistrate judge of the United States Tax Court who makes an election under subsection (b) shall be entitled to a lump-sum credit under section 8342 or 8424 of title 5, United States Code, as the case may be, for any service which is covered under section 7443B of the Internal Revenue Code of 1986, as added by this Act, pursuant to that election, and with respect to which any contributions were made by the magistrate judge under the applicable provisions of title 5, United States Code.

(d) Recall.—With respect to any magistrate judge of the United States Tax Court receiving an annuity under this section who is recalled to serve under section 7443C of the Internal Revenue Code of 1986, as added by this Act—

(1) the amount of compensation which such recalled magistrate judge receives under such section 7443C shall be calculated on the basis of the annuity received under this section, and

(2) such recalled magistrate judge of the United States Tax Court may serve as a reemployed annuitant to the extent otherwise permitted under title 5, United States Code. Section 7443B(m)(4) of the Internal Revenue Code of 1986, as added by this Act, shall not apply with respect to service as a reemployed annuitant described in paragraph (2).

SEC. 5722. PROVISIONS FOR RECALL.

(a) In General.—Part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after section 7443B the following new section:

"SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX COURT.

"(a) Recalling of Retired Magistrate Judges.—Any individual who has retired pursuant to section 7443B or the applicable provisions of title 5, United States Code, upon reaching the age and service requirements established therein, may at or after retirement be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be requested of such individual for any period or periods specified by the chief judge; except that in the case of any such individual—

"(1) the aggregate of such periods in any 1 calendar year shall not (without such individual's consent) exceed 90 calendar days, and

"(2) such individual shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a magistrate judge of the Tax Court.

"(b) Compensation.—For the year in which a period of recall occurs, the magistrate judge shall receive, in addition to the annuity provided under the provisions of section 7443B or under the applicable provisions of title 5, United States Code, an amount equal to the difference between that annuity and the current salary of the office to which the magistrate judge is recalled. The annuity of the magistrate judge who completes that period of service, who is not recalled in a subsequent year, and who retired under section 7443B, shall be equal to the salary in effect at the end of the year in which the period of recall occurred for the office from which such individual retired.

"(c) Rulemaking Authority.—The provisions of this section may be implemented under such rules as may be promulgated by the Tax Court.''.

(b) Conforming Amendment.—The table of sections for part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after the item relating to section 7443B the following new item:

"Sec. 7443C. Recall of magistrate judges of the Tax Court.''.

SEC. 5723. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this part shall take effect on the date of the enactment of this Act.

SA 712. Mr. NELSON of Nebraska submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 217, between lines 1 and 2, insert the following:

CHAPTER 1—GENERAL PROVISIONS

On page 297, between lines 9 and 10, insert the following:

CHAPTER 2—FUELS SECURITY

SEC. 1641. SHORT TITLE.

Short Title.—This chapter may be cited as the "Fuels Security Act of 2005''.

Subchapter A—General Provisions

SEC. 1651. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.

(a) In General.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (q); and

(2) by inserting after subsection (n) the following:

"(o) Renewable Fuel Program.—

"(1) Definitions.—In this subsection:

"(A) Ethanol.—

"(i) Cellulosic biomass ethanol.—The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

"(I) dedicated energy crops and trees;

"(II) wood and wood residues;

"(III) plants;

"(IV) grasses;

"(V) agricultural residues; and

"(VI) fibers.

"(ii) Waste derived ethanol.—The term 'waste derived ethanol' means ethanol derived from—

"(I) animal wastes, including poultry fats and poultry wastes, and other waste materials; or

"(II) municipal solid waste.

"(B) Renewable fuel.—

"(i) In general.—The term 'renewable fuel' means motor vehicle fuel that—

"(I)(aa) is produced from grain, starch, oilseeds, or other biomass; or

"(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

"(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

"(ii) Inclusion.—The term 'renewable fuel' includes—

"(I) cellulosic biomass ethanol;

"(II) waste derived ethanol;

"(III) biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)); and

"(IV) any blending components derived from renewable fuel, except that only the renewable fuel portion of any such blending component shall be considered part of the applicable volume under the renewable fuel program established by this subsection.

"(C) SMALL REFINERY.—The term 'small refinery' means a refinery for which average aggregate daily crude oil throughput for the calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

"(2) RENEWABLE FUEL PROGRAM.—

"(A) IN GENERAL.—

"(i) REGULATIONS.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall promulgate regulations ensuring that motor vehicle fuel sold or dispensed to consumers in the contiguous United States, on an annual average basis, contains the applicable volume of renewable fuel specified in subparagraph (B).

"(ii) COMPLIANCE.—Regardless of the date of promulgation, the regulations shall contain compliance provisions for refiners, blenders, and importers, as appropriate, to ensure that the requirements of this subsection are met, but shall not restrict where renewable fuel can be used, or impose any per-gallon obligation for the use of renewable fuel.

"(iii) NO REGULATIONS.—If the Administrator does not promulgate the regulations, the applicable percentage referred to in paragraph (3), on a volume percentage of gasoline basis, shall be 3.2 in 2006.

"(B) APPLICABLE VOLUME.—

"(i) CALENDAR YEARS 2006 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2006 through 2012 shall be determined in accordance with the following table:

"Applicable volume of renewable fuel

Calendar year:	**(In billions of gallons)**
2006	4.0
2007	4.7
2008	5.4
2009	6.1
2010	6.8
2011	7.4
2012	8.0

"(ii) CALENDAR YEARS 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be determined by the Administrator, in coordination with the Secretary of Energy and the Secretary of Agriculture, based on a review of the implementation of the program during calendar years 2006 through 2012, including a review of—

"(I) the impact of the use of renewable fuels on the environment, air quality, energy security, job creation, and rural economic development; and

"(II) the expected annual rate of future production of renewable fuels, including cellulosic ethanol.

"(iii) LIMITATION.—An increase in the applicable volume for a calendar year under clause (ii) shall be not less than the product obtained by multiplying—

"(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce during the calendar year; and

"(I) the quotient obtained by dividing—

"(aa) 8,000,000,000; by

"(bb) the number of gallons of gasoline sold or introduced into commerce during calendar year 2012.

"(3) APPLICABLE PERCENTAGES.—

"(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2006 through 2011, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate of the volumes of gasoline that will be sold or introduced into commerce in the United States during the following calendar year.

"(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

"(i) IN GENERAL.—Not later than November 30 of each of calendar years 2006 through 2011, based on the estimate provided under subparagraph (A), the Administrator shall determine and publish in the Federal Register, with respect to the following calendar year, the renewable fuel obligation that ensures that the requirements under paragraph (2) are met.

"(ii) REQUIRED ELEMENTS.—The renewable fuel obligation determined for a calendar year under clause (i) shall—

"(I) be applicable to refiners, blenders, and importers, as appropriate;

"(II) be expressed in terms of a volume percentage of gasoline sold or introduced into commerce; and

"(III) subject to subparagraph (C)(i), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

"(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments—

"(i) to prevent the imposition of redundant obligations to any person specified in subparagraph (B)(ii)(I); and

"(ii) to account for the use of renewable fuel during the previous calendar year by small refineries that are exempt under paragraph (11).

"(4) EQUIVALENCY.—For the purpose of paragraph (2), 1 gallon of either cellulosic biomass ethanol or waste derived ethanol shall be considered to be the equivalent of 2.5 gallons of renewable fuel.

"(5) CREDIT PROGRAM.—

"(A) REGULATIONS.—The regulations promulgated to carry out this subsection shall provide for—

"(i) the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2);

"(ii) the generation of an appropriate amount of credits for biodiesel fuel; and

"(iii) if a small refinery notifies the Administrator that the small refinery waives the exemption provided by this subsection, the generation of credits by the small refinery beginning in the year following the notification.

"(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

"(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to demonstrate compliance for the calendar year in which the credit was generated.

"(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions permitting any person that is unable to generate or purchase sufficient credits to meet the requirement under paragraph (2) to carry forward a renewables deficit if, for the calendar year following the year in which the renewables deficit is created—

"(i) the person achieves compliance with the renewables requirement under paragraph (2); and

"(ii) generates or purchases additional renewables credits to offset the renewables deficit of the preceding year.

"(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

"(A) STUDY.—For each of calendar years 2006 through 2012, the Administrator of the Energy Information Administration shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

"(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirements under paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

"(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

"(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirements under paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year;

"(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years; and

"(iii) promulgating regulations or other requirements to impose a 35 percent or more seasonal use of renewable fuels will not prevent or interfere with the attainment of national ambient air quality standards or significantly increase the price of motor fuels to the consumer.

"(D) PERIODS.—The 2 periods referred to in this paragraph are—

"(i) April through September; and

"(ii) January through March and October through December.

"(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2006 in a State that has received a waiver under section 209(b) shall not be included in the study under subparagraph (A).

"(7) WAIVERS.—

"(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements under paragraph (2), in whole or in part, on a petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

"(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

"(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply to meet the requirement.

"(B) PETITIONS FOR WAIVERS.—Not later than 90 days after the date on which a petition is received by the Administrator under subparagraph (A), the Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove the petition.

"(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate on the date that is 1 year after the date on which the waiver was granted, but may be renewed by the Administrator, after consultation with the Secretary of Agriculture and the Secretary of Energy.

"(8) SMALL REFINERIES.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to small refineries until the first calendar year beginning more than 5 years after the first year set forth in the table in paragraph (2)(B)(i).

"(B) STUDY.—Not later than December 31, 2008, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirements under paragraph (2) would impose a disproportionate economic hardship on small refineries.

"(C) SMALL REFINERIES AND ECONOMIC HARDSHIP.—For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for the small refinery for not less than 2 additional years.

"(D) ECONOMIC HARDSHIP.—

"(i) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the Administrator for an extension of the exemption from the requirements under paragraph (2) for the reason of disproportionate economic hardship.

"(ii) EVALUATION.—In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

"(iii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

"(E) CREDIT PROGRAM.—Paragraph (6)(A)(iii) shall apply to each small refinery that waives an exemption under this paragraph.

"(F) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to paragraph (2) if the small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (C).".

(b) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking "or (n)" and inserting "(n), or (o)" each place it appears; and

(B) in the second sentence, by striking "or (m)" and inserting "(m), or (o)"; and

(2) in the first sentence of paragraph (2), by striking "and (n)" and inserting "(n), and (o)" each place it appears.

SEC. 1652. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

Title III of the Energy Policy Act of 1992 is amended by striking section 306 (42 U.S.C. 13215) and inserting the following:

"SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

"(a) ETHANOL-BLENDED GASOLINE.—The head of each Federal agency shall ensure that, in areas in which ethanol-blended gasoline is reasonably available at a generally competitive price, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol rather than nonethanol-blended gasoline, for use in vehicles used by the agency that use gasoline.

"(b) BIODIESEL.—

"(1) DEFINITION OF BIODIESEL.—In this subsection, the term 'biodiesel' has the meaning given the term in section 312(f).

"(2) REQUIREMENT.—The head of each Federal agency shall ensure that the Federal agency purchases, for use in fueling fleet vehicles that use diesel fuel used by the Federal agency at the location at which fleet vehicles of the Federal agency are centrally fueled, in areas in which the biodiesel-blended diesel fuel described in subparagraphs (A) and (B) is available at a generally competitive price—

"(A) as of the date that is 5 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel; and

"(B) as of the date that is 10 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 20 percent biodiesel, rather than nonbiodiesel-blended diesel fuel.

"(3) REQUIREMENT OF FEDERAL LAW.—The provisions of this subsection shall not be considered a requirement of Federal law for the purposes of section 312.

"(c) EXEMPTION.—This section does not apply to fuel used in vehicles excluded from the definition of 'fleet' by subparagraphs (A) through (H) of section 301(9).".

SEC. 1653. DATA COLLECTION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

"(m)(1) In order to improve the ability to evaluate the effectiveness of the renewable fuels mandate of the United States, the Administrator shall conduct and publish the results of a survey of renewable fuels demand in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses.

"(2) In conducting the survey, the Administrator shall collect information both on a national and regional basis, including—

"(A) information on—

"(i) the quantity of renewable fuels produced;

"(ii) the quantity of renewable fuels blended;

"(iii) the quantity of renewable fuels imported; and

"(iv) the quantity of renewable fuels demanded; and

"(B) market price data.".

Subchapter B—Federal Reformulated Fuels

SEC. 1661. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

(a) ELIMINATION.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by striking "(including the oxygen content requirement contained in subparagraph (B))";

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(B) in paragraph (3)(A), by striking clause (v); and

(C) in paragraph (7)—

(i) in subparagraph (A)—

(I) by striking clause (i); and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(ii) in subparagraph (C)—

(I) by striking clause (ii); and

(II) by redesignating clause (iii) as clause (ii).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on the date that is 1 year after the date of enactment of this Act, except that the amendments shall take effect upon that date of enactment in any State that has received a waiver under section 209(b) of the Clean Air Act (42 U.S.C. 7543(b)).

(b) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking "Within 1 year after the enactment of the Clean Air Act Amendments of 1990," and inserting the following:

"(A) IN GENERAL.—Not later than November 15, 1991,"; and

(2) by adding at the end the following:

"(B) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSIONS REDUCTIONS FROM REFORMULATED GASOLINE.—

"(i) DEFINITION OF PADD.—In this subparagraph, the term 'PADD' means a Petroleum Administration for Defense District.

"(ii) REGULATIONS REGARDING EMISSIONS OF TOXIC AIR POLLUTANTS.—Not later than 270 days after the date of enactment of this subparagraph, the Administrator shall establish, for each refinery or importer, standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refinery or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refinery or importer during calendar years 2001 and 2002, determined on the basis of data collected by the Administrator with respect to the refinery or importer.

"(iii) STANDARDS APPLICABLE TO SPECIFIC REFINERIES OR IMPORTERS.—

"(I) APPLICABILITY OF STANDARDS.—For any calendar year, the standards applicable to a refinery or importer under clause (ii) shall apply to the quantity of gasoline produced or distributed by the refinery or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refinery or importer during calendar years 2001 and 2002.

"(II) APPLICABILITY OF OTHER STANDARDS.—For any calendar year, the quantity of gasoline produced or distributed by a refinery or importer that is in excess of the quantity subject to subclause (I) shall be subject to standards for toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

"(iv) CREDIT PROGRAM.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

"(v) REGIONAL PROTECTION OF TOXICS REDUCTION BASELINES.—

"(I) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

"(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 2001 and 2002; and

"(bb) the reduction of the average annual aggregate emissions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

"(II) EFFECT OF FAILURE TO MAINTAIN AGGREGATE TOXICS REDUCTIONS.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the PADD in calendar years 2001 and 2002, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

"(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

"(bb) promulgate revisions to the regulations promulgated under clause (ii), to take effect not earlier than 180 days but not later than 270 days after the date of promulgation, to provide that, notwithstanding clause (iii)(II), all reformulated gasoline produced or distributed at each refinery or importer shall meet the standards applicable under clause (ii) not later than April 1 of the year following the report under this subclause and for subsequent years.

"(vi) REGULATIONS TO CONTROL HAZARDOUS AIR POLLUTANTS FROM MOTOR VEHICLES AND MOTOR VEHICLE FUELS.—Not later than July 1, 2006, the Administrator shall promulgate final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph).".

(c) CONSOLIDATION IN REFORMULATED GASOLINE REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the reformulated gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations (or any successor regulations), to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 80.41 of that title by eliminating the less stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

(d) AUTHORITY OF ADMINISTRATOR.—Nothing in this section affects or prejudices any legal claim or action with respect to regulations promulgated by the Administrator of the Environmental Protection Agency before the date of enactment of this Act regarding—

(1) emissions of toxic air pollutants from motor vehicles; or

(2) the adjustment of standards applicable to a specific refinery or importer made under the prior regulations.

(e) DETERMINATION REGARDING A STATE PETITION.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended by inserting after paragraph (10) the following:

"(11) DETERMINATION REGARDING A STATE PETITION.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, not later than 30 days after the date of enactment of this paragraph, the Administrator shall determine the adequacy of any petition received from a Governor of a State to exempt gasoline sold in that State from the requirements under paragraph (2)(B).

"(B) APPROVAL.—If a determination under subparagraph (A) is not made by the date that is 30 days after the date of enactment of this paragraph, the petition shall be considered to be approved.".

SEC. 1662. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.

Section 211(b) of the Clean Air Act (42 U.S.C. 7545(b)) is amended—

(1) in paragraph (2)—

(A) by striking "may also" and inserting "shall, on a regular basis,"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) to conduct tests to determine potential public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects); and"; and

(2) by adding at the end the following:

"(4) STUDY ON CERTAIN FUEL ADDITIVES AND BLENDSTOCKS.—

"(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall—

"(i) conduct a study on the effects on public health, air quality, and water resources of increased use of, and the feasibility of using as substitutes for methyl tertiary butyl ether in gasoline—

"(I) ethyl tertiary butyl ether;

"(II) tertiary amyl methyl ether;

"(III) di-isopropyl ether;

"(IV) tertiary butyl alcohol;

"(V) other ethers and heavy alcohols, as determined by the Administrator;

"(VI) ethanol;

"(VII) iso-octane; and

"(VIII) alkylates;

"(ii) conduct a study on the effects on public health, air quality, and water resources of the adjustment for ethanol-blended reformulated gasoline to the VOC performance requirements otherwise applicable under sections 211(k)(1) and 211(k)(3); and

"(iii) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of these studies.

"(B) CONTRACTS FOR STUDY.—In carrying out this paragraph, the Administrator may enter into one or more contracts with nongovernmental entities including but not limited to National Energy Laboratories and institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).".

SEC. 1663. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by inserting after subsection (o) (as added by section 1651(a)(2)) the following:

"(p) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—

"(1) ANTI-BACKSLIDING ANALYSIS.—

"(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of this subsection, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by the Fuels Security Act of 2005.

"(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment, but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

"(2) EMISSIONS MODEL.—For the purposes of this subsection, as soon as the necessary data are available, the Administrator shall develop and finalize an emissions model that reasonably reflects the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2005.".

SEC. 1664. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.

Section 211(k)(6) of the Clean Air Act (42 U.S.C. 7545(k)(6)) is amended—

(1) by striking "(6) OPT-IN AREAS.—(A) Upon" and inserting the following:

"(6) OPT-IN AREAS.—

"(A) CLASSIFIED AREAS.—

"(i) IN GENERAL.—Upon";

(2) in subparagraph (B), by striking "(B) If" and inserting the following:

"(ii) EFFECT OF INSUFFICIENT DOMESTIC CAPACITY TO PRODUCE REFORMULATED GASOLINE.—If";

(3) in subparagraph (A)(ii) (as redesignated by paragraph (2))—

(A) in the first sentence, by striking "subparagraph (A)" and inserting "clause (i)"; and

(B) in the second sentence, by striking "this paragraph" and inserting "this subparagraph"; and

(4) by adding at the end the following:

"(B) OZONE TRANSPORT REGION.—

"(i) APPLICATION OF PROHIBITION.—

"(I) IN GENERAL.—In addition to the provisions of subparagraph (A), upon the application of the Governor of a State in the ozone transport region established by section 184(a), the Administrator, not later than 180 days after the date of receipt of the application, shall apply the prohibition specified in paragraph (5) to any area in the State (other than an area classified as a marginal, moderate, serious, or severe ozone nonattainment area under subpart 2 of part D of title I) unless the Administrator determines under clause (iii) that there is insufficient capacity to supply reformulated gasoline.

"(II) PUBLICATION OF APPLICATION.—As soon as practicable after the date of receipt of an application under subclause (I), the Administrator shall publish the application in the Federal Register.

"(ii) PERIOD OF APPLICABILITY.—Under clause (i), the prohibition specified in paragraph (5) shall apply in a State—

"(I) commencing as soon as practicable but not later than 2 years after the date of approval by the Administrator of the application of the Governor of the State; and

"(II) ending not earlier than 4 years after the commencement date determined under subclause (I).

"(iii) EXTENSION OF COMMENCEMENT DATE BASED ON INSUFFICIENT CAPACITY.—

"(I) IN GENERAL.—If, after receipt of an application from a Governor of a State under clause (i), the Administrator determines, on the Administrator's own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient capacity to supply reformulated gasoline, the Administrator, by regulation—

"(aa) shall extend the commencement date with respect to the State under clause (ii)(I) for not more than 1 year; and

"(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

"(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.".

SEC. 1665. FEDERAL ENFORCEMENT OF STATE FUELS REQUIREMENTS.

Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended—

(1) by striking "(C) A State" and inserting the following:

"(C) AUTHORITY OF STATE TO CONTROL FUELS AND FUEL ADDITIVES FOR REASONS OF NECESSITY.—

"(i) IN GENERAL.—A State"; and

(2) by adding at the end the following:

"(ii) ENFORCEMENT BY THE ADMINISTRATOR.—In any case in which a State prescribes and enforces a control or prohibition under clause (i), the Administrator, at the request of the State, shall enforce the control or prohibition as if the control or prohibition had been adopted under the other provisions of this section.".

SEC. 1666. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including—

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

(2) REQUIRED ELEMENTS.—The study shall assess—

(A) the effect of the variety of requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to the consumer;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) related environmental and public health protection standards and goals;

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refineries;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refineries, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while protecting and improving air quality at the national, regional, and local levels, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply; and

(F) the feasibility of providing incentives, and the need for the development of national standards necessary, to promote cleaner burning motor vehicle fuel.

(b) REPORT.—

(1) IN GENERAL.—Not later than June 1, 2006, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) RECOMMENDATIONS.—

(A) IN GENERAL.—The report shall contain recommendations for legislative and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) REQUIRED CONSIDERATIONS.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.

(3) CONSULTATION.—In developing the report, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall consult with—

(A) the Governors of the States;

(B) automobile manufacturers;

(C) motor vehicle fuel producers and distributors; and

(D) the public.

SEC. 1667. REVIEW OF FEDERAL PROCUREMENT INITIATIVES RELATING TO USE OF RECYCLED PRODUCTS AND FLEET AND TRANSPORTATION EFFICIENCY.

Not later than 180 days after the date of enactment of this Act, the Administrator of General Services shall submit to Congress a report that details efforts by each Federal agency to implement the procurement policies specified in Executive Order No. 13101 (63 Fed. Reg. 49643; relating to governmental use of recycled products) and Executive Order No. 13149 (65 Fed. Reg. 24607; relating to Federal fleet and transportation efficiency).

SEC. 1668. REPORT ON RENEWABLE MOTOR FUEL.

Not later than January 1, 2007, the Secretary of Energy and the Secretary of Agriculture shall jointly prepare and submit to Congress a report containing recommendations for achieving, by January 1, 2025, at least 25 percent renewable fuel content (calculated on an average annual basis) for all gasoline sold or introduced into commerce in the United States.

SA 713. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 269, strike lines 1 through 9 and insert the following:

(2) in paragraph (2)—

(A) by striking "If a State" and inserting the following:

"(A) IN GENERAL.—If a State";

(B) by striking "for any project in the State eligible under section 133." and inserting the following: "for any project in the State that—

"(i) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

"(ii) is eligible under the surface transportation program under section 133."; and

(C) by adding at the end the following:

"(B) OPERATING ASSISTANCE FOR PUBLIC TRANSIT PROVIDERS AND TRANSPORTATION MANAGEMENT ASSOCIATIONS.—In addition to other eligible uses, a State may use funds apportioned under section 104(b)(2)(D) to provide operating assistance for public transit providers or transportation management associations that serve a nonattainment or maintenance area, if a plan is in place for the project that annually reduces the amount of operating assistance required.".

SA 714. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1281, between lines 2 and 3, insert the following:

SEC. 76 . FEDERAL SCHOOL BUS DRIVER QUALIFICATIONS.

The effective date of section 383.123 of volume 49, Code of Federal Regulations (as in effect on the date of enactment of this Act), shall be September 30, 2006.

SA 715. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. 14___. SAFETY BELT USE RATES.

(a) DEFINITIONS.—In this section:

(1) PRIMARY SAFETY BELT LAW.—The term "primary safety belt law" means a law that authorizes a law enforcement officer to issue a citation for the failure of the driver of, or any passenger in, a motor vehicle to wear a safety belt as required by State law.

(2) SAFETY BELT USE RATE.—The term "safety belt use rate" means, as determined by the State for the most recent fiscal year or calendar year for which statistics are made available through any method, including observational surveys conducted by the State agency that has jurisdiction over highway safety, the ratio that—

(A) the number of drivers and front seat passengers of motor vehicles in the State that use safety belts; bears to

(B) the number of all drivers and front seat passengers of motor vehicles registered in the State.

(b) WITHHOLDING OF FUNDS.—

(1) IN GENERAL.—The Secretary shall withhold a percentage, as described in paragraph (2), of the funds apportioned to a State under paragraphs (1), (3), and (4) of section 104(b) or section 144 of title 23, United States Code, if, by October 1 of a given year, the State does not—

(A) have in effect a primary safety belt law; or

(B) demonstrate to the Secretary that the safety belt use rate in the State is at least 60 percent.

(2) PERCENTAGES.—The percentage referred to in paragraph (1) shall be—

(A) for fiscal year 2007, 2 percent; and

(B) for fiscal year 2008 and each fiscal year thereafter, 4 percent.

(c) RESTORATION.—If, by the date that is 3 years after the date on which funds are withheld from a State under subsection (b), the State has in effect a primary safety belt law or has demonstrated that the safety belt use rate in the State is at least 60 percent, the apportionment to the State under paragraphs (1), (3), and (4) of section 104(b) or section 144 of title 23, United States Code, shall be increased by the amount withheld under subsection (b).

(d) FAILURE TO ACT.—If, by the date that is 3 years after the date on which funds are withheld from a State under subsection (b), the State does not have in effect a primary safety belt law or has not demonstrated that the safety belt use rate in the State is at least 60 percent, the State shall forfeit the amount withheld under subsection (b).

SA 716. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 14___. SAFETY BELT USE RATES.

(a) DEFINITIONS.—In this section:

(1) PRIMARY SAFETY BELT LAW.—The term "primary safety belt law" means a law that authorizes a law enforcement officer to issue a citation for the failure of the driver of, or any passenger in, a motor vehicle to wear a safety belt as required by State law.

(2) SAFETY BELT USE RATE.—The term "safety belt use rate" means, as determined by the State for the most recent fiscal year or calendar year for which statistics are made available through any method, including observational surveys conducted by the State agency that has jurisdiction over highway safety, the ratio that—

(A) the number of drivers and front seat passengers of motor vehicles in the State that use safety belts; bears to

(B) the number of all drivers and front seat passengers of motor vehicles registered in the State.

(b) WITHHOLDING OF FUNDS.—

(1) IN GENERAL.—The Secretary shall withhold a percentage, as described in paragraph (2), of the funds apportioned to a State under paragraphs (1), (3), and (4) of section 104(b) or section 144 of title 23, United States Code, if, by October 1 of a given year, the State does not—

(A) have in effect a primary safety belt law; or

(B) demonstrate to the Secretary that the safety belt use rate in the State is at least 60 percent.

(2) PERCENTAGES.—The percentage referred to in paragraph (1) shall be—

(A) for fiscal year 2007, 2 percent; and

(B) for fiscal year 2008 and each fiscal year thereafter, 4 percent.

(c) RESTORATION.—If, by the date that is 3 years after the date on which funds are withheld from a State under subsection (b), the State has in effect a primary safety belt law or has demonstrated that the safety belt use rate in the State is at least 60 percent, the apportionment to the State under paragraphs (1), (3), and (4) of section 104(b) or section 144 of title 23, United States Code, shall be increased by the amount withheld under subsection (b).

(d) FAILURE TO ACT.—If, by the date that is 3 years after the date on which funds are withheld from a State under subsection (b), the State does not have in effect a primary safety belt law or has not demonstrated that the safety belt use rate in the State is at least 60 percent, the State shall forfeit the amount withheld under subsection (b).

SA 717. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, line 10, insert "and" at the end.

On page 52, line 12, strike "; and" and insert a period.

On page 52, strike lines 13 through 15.

SA 718. Mr. STEVENS submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 944, after line 21 insert the following:

SEC. . FUNDING FOR FERRY BOATS.

Section 5309(i)(5) of title 49, United States Code, as amended by section 6011(j) of this Act, is amended to read as follows:

"(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A)—

"(A) $10,400,000 shall be available in fiscal year 2005 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals;

"(B) $15,000,000 shall be available in each of fiscal years 2006 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals; and

"(C) $5,000,000 shall be available in each of fiscal years 2006 through 2009 for payments to the Denali Commission under the terms of section 307(e) of the Denali Commission Act of 1998, as amended (42 U.S.C. 3121 note), for docks, waterfront development projects, and related transportation infrastructure.".

SA 719. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

Section 105 of title 23, United States Code (as amended by section 1104(a)), is amended by redesignating subsection (g) as subsection (h) and inserting after subsection (f) the following:

"(g) FURTHER ADJUSTMENT.—The Secretary shall reduce any funds allocated to a State under this subsection by an amount equal to the amount of any discretionary allocation made to the State under an annual appropriations Act (including explanatory material) from a program funded by the Highway Trust Fund (other than the Mass Transit account), or any other direct appropriation from the Highway Trust Fund (other than the Mass Transit account) received by the State or an entity located in the State, during the preceding fiscal year.

SA 720. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

At the end of chapter 3 of subtitle E of title I, insert the following:

SEC. ___. SENSE OF CONGRESS RELATING TO PROJECT EARMARKS.

(a) FINDINGS.—Congress finds that—

(1) the House of Representatives adopted a rule in 1914 stating that it shall not be in order for any bill providing general legislation with respect to roads to contain any provision for any specific road;

(2) diverting funds to low-priority earmarks diminishes the ability of States and local communities to establish priorities and address mobility problems;

(3) the Government Accountability Office has reported that demonstration projects reviewed were not considered by State and regional transportation officials as critical to their transportation needs, and more than half of the projects reviewed were not included in State and local transportation plans;

(4) some earmarks have nothing to do with transportation and may worsen congestion by diverting scarce resources from higher priorities;

(5) the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) contained 10 earmarks at a cost of $385,925,000;

(6) the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 132) contained 157 projects at a cost of $1,416,000,000;

(7) the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914) contained 538 projects at a cost of $6,082,873,000;

(8) the Transportation Equity Act for the 21st Century (112 Stat. 107) contained 1,851 projects at a cost of $9,359,850,000;

(9) annual transportation appropriations Acts demonstrate the same trend in increasing earmarking of projects;

(10) the funding earmarked for many projects does not cover the full cost of the project and requires State and local communities to cover the unfunded costs; and

(11) funding of earmarked projects can have a dramatic effect on the rate of return that a State receives on its contributions to the Highway Trust Fund.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 should not include project earmarks;

(2) if earmarked projects are included, the projects should be included within the funding that a State would otherwise receive so as not to penalize other States; and

(3) any earmarked projects should be included in the funding equity provisions of the next surface transportation Act so that the projects do not adversely affect the rate of return that a State receives from its contributions to the Highway Trust Fund.

SA 721. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 1091, line 17, strike "$1,000,000,000" and insert "$1,000,000".

SA 722. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 630, line 8, insert "and shall immediately propose appropriate exemptions for classes of vehicles whose nonpropulsive fuel use exceeds 50 percent," after "taxes,".

On page 631, line 7, insert ", except that the Secretary shall report and take action under subsection (a)(1) not later than July 1, 2006" before the period at the end.

SA 723. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, line 9, insert " (including intercity passenger rail when used for the purpose of a daily commute)" after "transit ridership".

SA 724. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 52, strike line 16 and all that follows through page 58, line 11, and insert the following:

"(b) STATE PERCENTAGE.—

"(1) IN GENERAL.—The percentage referred to in subsection (a) for each State shall be—

"(A) 93.06 percent of the quotient obtained by dividing—

"(i) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available; by

"(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year; or

"(B) for a State with a total population density of less than 30 persons per square mile, as reported in the decennial census conducted by the Federal Government in 2000, the greater of—

"(i) the percentage under paragraph (1); or

"(ii) the average percentage of the State's share of total apportionments for the period of fiscal years 1998 through 2003 for the programs specified in paragraph (2).

"(2) SPECIFIC PROGRAMS.—The programs referred to in paragraph (1)(B)(ii) are (as in effect on the day before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005)—

"(A) the Interstate maintenance program under section 119;

"(B) the national highway system program under section 103;

"(C) the bridge program under section 144;

"(D) the surface transportation program under section 133;

"(E) the recreational trails program under section 206;

"(F) the high priority projects program under section 117;

"(G) the minimum guarantee provided under this section;

"(H) revenue aligned budget authority amounts provided under section 110;

"(I) the congestion mitigation and air quality improvement program under section 149;

"(J) the Appalachian development highway system program under subtitle IV of title 40; and

"(K) metropolitan planning programs under section 104(f).

"(c) SPECIAL RULES.—

"(1) MINIMUM COMBINED ALLOCATION.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 100 percent of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2).

"(2) NO NEGATIVE ADJUSTMENT.—Notwithstanding subsection (d), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

"(3) MINIMUM SHARE OF TAX PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding subsection (d), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than the percentage specified in subparagraph (B) of the percentage share of the State of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

"(B) PERCENTAGES.—The percentages referred to in subparagraph (A) are—

"(i) for fiscal year 2005, 90.5 percent; and

"(ii) for each of fiscal years 2006 through 2009, 93.06 percent.

"(d) PROGRAMMATIC DISTRIBUTION OF FUNDS.—The Secretary shall apportion the amounts made available under this section so that the amount apportioned to each State under this section for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be apportioned under this section by the proportion that—

"(1) the amount of funds apportioned to each State for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) for a fiscal year; bears to

"(2) the total amount of funds apportioned to each State for all such programs for the fiscal year.

"(e) METRO PLANNING SET ASIDE.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There

SA 725. Mr. SANTORUM (for himself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 410, between lines 7 and 8, insert the following:

SEC. 1830. PRIORITY PROJECTS.

Section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 306) is amended in item 1349 of the table contained in that section by inserting ", and improvements to streets and roads providing access to," after "along".

SA 726. Mr. INHOFE (for himself, Mr. BAYH, Mr. WARNER, Mr. JEFFORDS, Mr. LUGAR, Mrs. CLINTON, Mr. CHAFEE, Mr. OBAMA, Ms. LANDRIEU, and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 297, between lines 9 and 10, insert the following:

SEC. 16___. CLEAN SCHOOL BUS PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ALTERNATIVE FUEL.—The term "alternative fuel" means—

(A) liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, or propane;

(B) methanol or ethanol at no less than 85 percent by volume; or

(C) biodiesel conforming with standards published by the American Society for Testing and Materials as of the date of enactment of this Act.

(3) CLEAN SCHOOL BUS.—The term "clean school bus" means a school bus with a gross vehicle weight of greater than 14,000 pounds that—

(A) is powered by a heavy duty engine; and

(B) is operated solely on an alternative fuel or ultra-low sulfur diesel fuel.

(4) ELIGIBLE RECIPIENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the term "eligible recipient" means—

(i) 1 or more local or State governmental entities responsible for—

(I) providing school bus service to 1 or more public school systems; or

(II) the purchase of school buses;

(ii) 1 or more contracting entities that provide school bus service to 1 or more public school systems; or

(iii) a nonprofit school transportation association.

(B) SPECIAL REQUIREMENTS.—In the case of eligible recipients identified under clauses (ii) and (iii), the Administrator shall establish timely and appropriate requirements for notice and may establish timely and appropriate requirements for approval by the public school systems that would be served by buses purchased or retrofit using grant funds made available under this section.

(5) RETROFIT TECHNOLOGY.—The term "retrofit technology" means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.

(6) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(7) ULTRA-LOW SULFUR DIESEL FUEL.—The term "ultra-low sulfur diesel fuel" means diesel fuel that contains sulfur at not more than 15 parts per million.

(b) PROGRAM FOR RETROFIT OR REPLACEMENT OF CERTAIN EXISTING SCHOOL BUSES WITH CLEAN SCHOOL BUSES.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible recipients for the replacement or retrofit (including repowering, aftertreatment, and remanufactured engines) of certain existing school buses.

(B) BALANCING.—In awarding grants under this section, the Administrator shall, to the maximum extent practicable, achieve an appropriate balance between awarding grants—

(i) to replace school buses; and

(ii) to install retrofit technologies.

(2) PRIORITY OF GRANT APPLICATIONS.—

(A) REPLACEMENT.—In the case of grant applications to replace school buses, the Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(B) RETROFITTING.—In the case of grant applications to retrofit school buses, the Administrator shall give priority to applicants that propose to retrofit school buses manufactured in or after model year 1991.

(3) USE OF SCHOOL BUS FLEET.—

(A) IN GENERAL.—All school buses acquired or retrofitted with funds provided under this section shall be operated as part of the school bus fleet for which the grant was made for not less than 5 years.

(B) MAINTENANCE, OPERATION, AND FUELING.—New school buses and retrofit technology shall be maintained, operated, and fueled according to manufacturer recommendations or State requirements.

(4) RETROFIT GRANTS.—The Administrator may award grants for up to 100 percent of the retrofit technologies and installation costs.

(5) REPLACEMENT GRANTS.—

(A) ELIGIBILITY FOR 50% GRANTS.—The Administrator may award grants for replacement of school buses in the amount of up to ½ of the acquisition costs (including fueling infrastructure) for—

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 1.8 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007, 2008, or 2009 that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter to be applicable for school buses manufactured in model year 2010.

(B) ELIGIBILITY FOR 25% GRANTS.—The Administrator may award grants for replacement of school buses in the amount of up to ¼ of the acquisition costs (including fueling infrastructure) for—

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 2.5 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007 or thereafter that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter from school buses manufactured in that model year.

(6) ULTRA-LOW SULFUR DIESEL FUEL.—

(A) IN GENERAL.—In the case of a grant recipient receiving a grant for the acquisition of ultra-low sulfur diesel fuel school buses with engines manufactured in model year 2005 or 2006, the grant recipient shall provide, to the satisfaction of the Administrator—

(i) documentation that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant; and

(ii) a commitment by the applicant to use that fuel in carrying out the purposes of the grant.

(7) DEPLOYMENT AND DISTRIBUTION.—The Administrator shall, to the maximum extent practicable—

(A) achieve nationwide deployment of clean school buses through the program under this section; and

(B) ensure a broad geographic distribution of grant awards, with no State receiving more than 10 percent of the grant funding made available under this section during a fiscal year.

(8) ANNUAL REPORT.—

(A) IN GENERAL.—Not later than January 31 of each year, the Administrator shall submit to Congress a report that—

(i) evaluates the implementation of this section; and

(ii) describes—

(I) the total number of grant applications received;

(II) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(III) grants awarded and the criteria used to select the grant recipients;

(IV) certified engine emission levels of all buses purchased or retrofitted under this section;

(V) an evaluation of the in-use emission level of buses purchased or retrofitted under this section; and

(VI) any other information the Administrator considers appropriate.

(c) EDUCATION.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall develop an education outreach program to promote and explain the grant program.

(2) COORDINATION WITH STAKEHOLDERS.—The outreach program shall be designed and conducted in conjunction with national school bus transportation associations and other stakeholders.

(3) COMPONENTS.—The outreach program shall—

(A) inform potential grant recipients on the process of applying for grants;

(B) describe the available technologies and the benefits of the technologies;

(C) explain the benefits of participating in the grant program; and

(D) include, as appropriate, information from the annual report required under subsection (b)(8).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $55,000,000 for each of fiscal years 2006 and 2007; and

(2) such sums as are necessary for each of fiscal years 2008, 2009, and 2010.

SA 727. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 400, strike line 22 and all that follows through page 403, line 4 and insert the following:

SEC. 1821. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, II, and VI of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) DEFINITIONS.—In this section, the following definitions shall apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Small Business Administration.

(2) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

(3) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning given that term under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant regulations promulgated under that section, except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this section.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State, in consultation with the Administrator, shall annually survey or otherwise compile a list of the small business concerns referred to in subsection (a) and the location of such concerns in the State, and shall notify the Secretary in writing of the percentage of such small business concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) UNIFORM LIST COMPILATION.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary, shall establish minimum uniform procedures to be used by State governments in compiling the list required by subsection (c).

(2) UNIFORM PROCEDURES.—Minimum uniform procedures required under paragraph (1) shall include on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, type of work preferred, and any other criteria recommended by the Administrator.

(3) REGISTRATION REQUIRED.—No small business concern may be included on the list required by subsection (c) unless it first registers in the Central Contractor Registration database.

(e) COMPLIANCE WITH COURT ORDERS.—Nothing in this section limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act, if the entity or person is prevented, in whole or in part, from complying with subsection (a) because a Federal court issues a final order in which the court finds that the requirement of subsection (a), or the program established under subsection (a), is unconstitutional.

SA 728. Mrs. CLINTON (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 605 propoosed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, strike lines 10 through 15 and insert the following:

"under section 150; and

(M) the rail-highway grade crossing program under section 130."

SA 729. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1069, after line 10, add the following:

SEC. 7155. SCHOOL BUS ENDORSEMENT KNOWLEDGE TEST REQUIREMENT.

The Secretary shall recognize any driver who passes a test approved by the Federal Motor Carrier Safety Administration as meeting the knowledge test requirement for a school bus endorsement under section 383.123 of title 49, Code of Federal Regulations.

SA 730. Mr. REED (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes: which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . COMMUTER RAIL SERVICE.

(a) IN GENERAL.—The Federal Transit Administration shall approve final engineering and construction for projects, which were provided funding under section 3030(c)(1)(A)(xliv) of the Federal Transit Act of 1998, and section 1214(g) of the Transportation Equity Act for the 21st Century (16 U.S.C. 668dd note), in the absence of an access agreement with the owner of the railroad right of way.

(b) TIMELY RESOLUTION OF ISSUES.—The Secretary shall timely resolve any issues delaying the completion of the project authorized under section 1214(g) of the Transportation Equity Act for the 21st Century (16 U.S.C. 668dd note) and the project authorized under section 3030(c)(1)(A)(xliv) of the Federal Transit Act of 1998.

SA 731. Mr. REED (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMMUTER RAIL SERVICE.

(a) IN GENERAL.—The Massachusetts Bay Transportation Authority is authorized to operate commuter rail service south of milepost 185 of the Northeast Corridor under the terms an dconditions established under section 24904(a)(6) of title 49, United States Code.

(b) TIMELY RESOLUTION OF ISSUES.—The Secretary shall timely resolve any issues delaying the completion of the project authorized under section 1214(g) of the Transportation Equity Act for the 21st Century (16 U.S.C. 668dd note).

SA 732. Mr. DODD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, after the matter following line 25, add the following:

SEC. 1411. TEEN DRIVING SAFETY.

(a) SHORT TITLE.—This section may be cited as the "Safe Teen and Novice Driver Uniform Protection Act of 2005" or the "STANDUP Act".

(b) FINDINGS.—Congress finds the following:

(1) The National Transportation Safety Board has reported that—

(A) in 2002, teen drivers, which constituted only 6.4 percent of all drivers, were involved in 14.3 percent of all fatal motor vehicle crashes;

(B) motor vehicle crashes are the leading cause of death for Americans between 15 and 20 years of age;

(C) between 1994 and 2003, almost 64,000 Americans between 15 and 20 years of age died in motor vehicle crashes, an average of 122 per week; and

(D) in 2003—

(i) 3,657 American drivers between 15 and 20 years of age were killed in motor vehicle crashes;

(ii) 300,000 Americans between 15 and 20 years of age were injured in motor vehicle crashes; and

(iii) 7,884 American drivers between 15 and 20 years of age were involved in fatal crashes, resulting in 9,088 total fatalities, a 5 percent increase since 1993.

(2) Though only 20 percent of driving by young drivers occurs at night, over 50 percent of the motor vehicle crash fatalities involving young drivers occur at night.

(3) The National Highway Traffic Safety Administration has reported that—

(A) 6,300,000 motor vehicle crashes claimed the lives of nearly 43,000 Americans in 2003 and injured almost 3,000,000 more Americans;

(B) teen drivers between 16 and 20 years of age have a fatality rate that is 4 times the rate for drivers between 25 and 70 years of age; and

(C) drivers who are 16 years of age have a motor vehicle crash rate that is almost ten times the crash rate for drivers aged between 30 and 60 years of age.

(4) According to the Insurance Institute for Highway Safety, the chance of a crash by a 16- or 17-year-old driver is doubled if there are 2 peers in the vehicle and quadrupled with 3 or more peers in the vehicle.

(5) In 1997, the first full year of its graduated driver licensing system, Florida experienced a 9 percent reduction in fatal and injurious crashes among young drivers between the ages of 15 and 18, compared with 1995, according to the Insurance Institute for Highway Safety.

(6) The Journal of the American Medical Association reports that crashes involving 16-year-old drivers decreased between 1995 and 1999 by 25 percent in Michigan and 27 percent in North Carolina. Comprehensive graduated driver licensing systems were implemented in 1997 in these States.

(7) In California, according to the Automobile Club of Southern California, teenage passenger deaths and injuries resulting from crashes involving 16-year-old drivers declined by 40 percent from 1998 to 2000, the first 3 years of California's graduated driver licensing program. The number of at-fault collisions involving 16-year-old drivers decreased by 24 percent during the same period.

(8) The National Transportation Safety Board reports that 39 States and the District of Columbia have implemented 3-stage graduated driver licensing systems. Many States have not yet implemented these and other basic safety features of graduated driver licensing laws to protect the lives of teenage and novice drivers.

(9) A 2001 Harris Poll indicates that—

(A) 95 percent of Americans support a requirement of 30 to 50 hours of practice driving with an adult;

(B) 92 percent of Americans support a 6-month learner's permit period; and

(C) 74 percent of Americans support limiting the number of teen passengers in a car with a teen driver and supervised driving during high-risk driving periods, such as night.

(c) STATE GRADUATED DRIVER LICENSING LAWS.—

(1) MINIMUM REQUIREMENTS.—A State is in compliance with this subsection if the State has a graduated driver licensing law that includes, for novice drivers under the age of 21—

(A) a 3-stage licensing process, including a learner's permit stage and an intermediate stage before granting an unrestricted driver's license;

(B) a prohibition of meaningful duration on nighttime driving during the learner's permit and intermediate stages;

(C) a prohibition, during the intermediate stage, from operating a motor vehicle with more than 1 non-familial passenger under the age of 21 if there is no licensed driver 21 years of age or older present in the motor vehicle; and

(D) any other requirement that the Secretary of Transportation (referred to in this section as the "Secretary") may require, including—

(i) a learner's permit stage of at least 6 months;

(ii) an intermediate stage of at least 6 months;

(iii) for novice drivers in the learner's permit stage—

(I) a requirement of at least 30 hours of behind-the-wheel training with a licensed driver who is over 21 years of age; and

(II) a requirement that any such driver be accompanied and supervised by a licensed driver 21 years of age or older at all times when such driver is operating a motor vehicle; and

(iv) a requirement that the grant of full licensure be automatically delayed, in addition to any other penalties imposed by State law for any individual who, while holding a provisional license, convicted of an offense, such as driving while intoxicated, misrepresentation of their true age, reckless driving, unbelted driving, speeding, or other violations, as determined by the Secretary.

(2) RULEMAKING.—After public notice and comment rulemaking the Secretary shall issue regulations necessary to implement this subsection.

(d) INCENTIVE GRANTS.—

(1) IN GENERAL.—For each of the first 3 fiscal years following the date of enactment of this Act, the Secretary shall award a grant to any State in compliance with subsection (c)(1) on or before the first day of that fiscal year that submits an application under paragraph (2).

(2) APPLICATION.—Any State desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including a certification by the governor of the State that the State is in compliance with subsection (c)(1).

(3) GRANTS.—For each fiscal year described in paragraph (1), amounts appropriated to carry out this subsection shall be apportioned to each State in compliance with subsection (c)(1) in an amount determined by multiplying—

(A) the amount appropriated to carry out this subsection for such fiscal year; by

(B) the ratio that the amount of funds apportioned to each such State for such fiscal year under section 402 of title 23, United States Code, bears to the total amount of funds apportioned to all such States for such fiscal year under such section 402.

(4) USE OF FUNDS.—Amounts received under a grant under this subsection shall be used for—

(A) enforcement and providing training regarding the State graduated driver licensing law to law enforcement personnel and other relevant State agency personnel;

(B) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law; and

(C) other administrative activities that the Secretary considers relevant to the State graduated driver licensing law.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000,000 out of the Highway Trust Fund (other than the Mass Transit Account) for each of the fiscal years 2005 through 2009 to carry out this subsection.

(e) TRANSFERRING OF FUNDS FOR NON-COMPLIANCE.—

(1) FISCAL YEAR 2010.—The Secretary shall transfer 1.5 percent of the amount otherwise required to be apportioned to any State for fiscal year 2010 under each of the paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, to the apportionment of the State under section 402 of such title for the enforcement of teen drinking and driving laws, including seat belt enforcement, underage drinking, and other teen driving safety laws, if that State is not in compliance with subsection (c)(1) on October 1, 2009.

(2) FISCAL YEAR 2011.—The Secretary shall transfer 2 percent of the amount otherwise required to be apportioned to any State for fiscal year 2011 under each of the paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, to the apportionment of the State under section 402 of such title for the enforcement of teen drinking and driving laws, including seat belt enforcement, underage drinking, and other teen driving safety laws, if that State is not in compliance with subsection (c)(1) on October 1, 2010.

(3) FISCAL YEAR 2012 AND THEREAFTER.—The Secretary shall transfer 3 percent of the amount otherwise required to be apportioned to any State for each fiscal year beginning with fiscal year 2012 under each of the paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, to the apportionment of the State under section 402 of such title for the enforcement of teen drinking and driving laws, including seat belt enforcement, underage drinking, and other teen driving safety laws, if that State is not in compliance with subsection (c)(1) on the first day of such fiscal year.

SA 733. Mr. ALEXANDER (for himself and Mr. GRAHAM, Mr. BURR, and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 35, strike lines 18 through 21, and insert the following:

(i) $310,000,000 for fiscal year 2005; and

(ii) $320,000,000 for each of fiscal years 2006 through 2009.

The amounts provided for under section 2001(a)(1)(A) (relating to surface transportation research) shall be reduced by $19,638,742 for fiscal year 2005, and $19,638,742 for each of fiscal years 2006 through 2009.

SA 734. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 297, between lines 9 and 10, insert the following:

SEC. 16 . REPORT ON USE OF FUNDS TO REDUCE OIL AND FUEL CONSUMPTION.

(a) IN GENERAL.—Not later than December 1, 2005, and annually thereafter, each State and metropolitan planning organization that serves a population of 200,000 or more shall make available to the public, using the Internet and other means commonly used to inform the public under this Act, a report that describes where the documentation of materials assembled in the project development process anticipated fuel and/or cost saving the ways in which the planned use of Federal funds made available under this Act to the State or metropolitan planning organization for the preceding fiscal year will—

(1) reduce the demand for gasoline and diesel fuels; and

(2) lower household transportation expenditures.

(b) INFORMATION, DATA, AND TECHNICAL ASSISTANCE.—The Secretary, with assistance from the Bureau of Transportation Statistics and other Federal agencies, shall provide to States and metropolitan planning organizations any information, data, and technical assistance that would assist the States and metropolitan planning organizations in preparing the annual reports under subsection (a).

(c) INTERIM REPORT.—Not later than September 30, 2007, the Secretary shall submit to Congress a report that describes any cumulative savings in fuel, the most effective fuel savings measures, and any other benefits identified by the States and metropolitan planning organizations, from the use of Federal funds made available under this Act during each of fiscal years 2006 and 2007.

SA 735. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 635, between lines 3 and 4, insert the following:

SEC. . EXTENSION AND MODIFICATION OF RENEWABLE ENERGY CREDIT.

(a) EXTENSION.—Section 45(d) (relating to qualified facilities) is amended by striking "January 1, 2006" each place it appears and inserting "January 1, 2009"

(b) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

(1) IN GENERAL.—Section 45(e) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(10) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

"(A) ALLOWANCE OF CREDIT.—

"(i) IN GENERAL.—Except as otherwise provided in this subsection—

"(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

"(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

"(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(II) an organization described in section 1381(a)(2)(C),

"(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

"(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

"(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

"(B) TRANSFER OF CREDIT.—

"(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

"(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is assigned once and not reassigned by such other person.

"(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

"(C) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in subclause (I), (II), or (V) of subparagraph (A)(ii), any credit to which subparagraph (A)(i) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act.

"(D) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

"(E) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales of electricity among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 736. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 635, between lines 3 and 4, insert the following:

SEC. . EXTENSION AND MODIFICATION OF RENEWABLE ENERGY CREDIT.

(a) EXTENSION.—Section 45(d) (relating to qualified facilities) is amended by striking "January 1, 2006" each place it appears and inserting "January 1, 2009"

(b) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

(1) IN GENERAL.—Section 45(e) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(10) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

"(A) ALLOWANCE OF CREDIT.—

"(i) IN GENERAL.—Except as otherwise provided in this subsection—

"(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

"(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

"(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

"(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

"(II) an organization described in section 1381(a)(2)(C),

"(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

"(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

"(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

"(B) TRANSFER OF CREDIT.—

"(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

"(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is assigned once and not reassigned by such other person.

"(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

"(C) CREDIT NOT INCOME.—Any transfer under subparagraph (B) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

"(D) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales of electricity among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 737. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 38, line 8, strike "$9,386,289" and insert "$8,386,289".

On page 327, line 18, strike "under section 204".

On page 417, line 24, strike "209" and insert "2009".

On page 418, line 13, strike "$2,000,000" and insert "$3,000,000".

On page 558, line 17, insert "and Boating" before "Trust".

On page 558, line 23, strike "2004" and insert "2005".

On page 633, line 15, strike "by all States".

On page 652, line 23, strike "Section" and insert "(a) IN GENERAL.—Section".

On page 653, between lines 8 and 9, insert the following:

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

On page 807, after line 16, insert the following:

(h) CONTRACTED PARATRANSIT PILOT.—

(1) IN GENERAL.—Notwithstanding section 5302(a)(1)(I) of title 49, United States Code, for fiscal years 2005 through 2009, a recipient of assistance under section 5307 of title 49, United States Code, in an urbanized area with a population of 558,329 according to the 2000 decennial census of population may use not more than 20 percent of such recipient's annual formula apportionment under section 5307 of title 49, United States Code, for the provision of nonfixed route paratransit services in accordance with section 223 of the Americans with Disabilities Act (42 U.S.C. 12143), but only if the grant recipient is in compliance with applicable requirements of that Act, including both fixed route and demand responsive service and the service is acquired by contract.

(2) REPORT.—Not later than January 1, 2009, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the implementation of this section and any recommendations of the Secretary regarding the application of this section.

On page 846, after line 6, insert the following:

(m) MIAMI METRORAIL.—The Secretary may credit funds provided by the Florida Department of Transportation for the extension of the Miami Metrorail System from Earlington Heights to the Miami Intermodal Center to satisfy the matching requirements of section 5309(h)(4) of title 49, United Stated Code, for the Miami North Corridor and Miami East-West Corridor projects.

On page 872, strike line 24, and insert the following:

tives.

"(e) STUDY OF METHODS TO IMPROVE ACCESSIBILITY OF PUBLIC TRANSPORTATION FOR PERSONS WITH VISUAL DISABILITIES.—Not later than October 1, 2006, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the effectiveness of alternative methods to improve the accessibility of public transportation for persons with visual disabilities. The report shall evaluate a variety of methods and techniques for improving accessibility, including installation of Remote Infrared Audible Signs for provision of wayfinding and information for people who have visual, cognitive, or learning disabilities.".

On page 900, line 18, strike "and".

On page 900, line 22, strike the period and insert "; and".

On page 900, after line 22, insert the following:

(5) by adding at the end the following:

"(l) NOTIFICATION OF PENDING DISCRETIONARY GRANTS.—Not less than 3 full business days before announcement of award by the Secretary of any discretionary grant, letter of intent, or full funding grant agreement totaling $1,000,000 or more, the Secretary shall notify the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriation of the House of Representatives.".

On page 944, after line 21, insert the following:

SEC.____. TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.

(a) TRANSIT PASS TRANSPORTATION FRINGE BENEFITS STUDY.—

(1) STUDY.—The Secretary of Transportation shall conduct a study on tax-free transit benefits and ways to promote improved access to and increased usage of such benefits, at Federal agencies in the National Capital Region, including agencies not currently offering the benefit.

(2) CONTENT.—The study under this subsection shall include—

(A) an examination of how agencies offering the benefit make its availability known to their employees and the methods agencies use to deliver the benefit to employees, including examples of best practices; and

(B) an analysis of the impact of Federal employees' use of transit on traffic congestion and pollution in the National Capital Region.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study under this subsection.

(b) AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.—

(1) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

"(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

"(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

"(3) In carrying out this subsection, a Federal agency shall—

"(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

"(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

"(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

"(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

"(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

"(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

"(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.".

(2) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

"(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.".

(3) COORDINATION.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by paragraph (1)) shall be in addition to any authority otherwise available to the agency involved.

SEC. . FUNDING FOR FERRY BOATS.

Section 5309(i)(5) of title 49, United States Code, as amended by section 6011(j) of this Act, is amended to read as follows:

"(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A)—

"(A) $10,400,000 shall be available in fiscal year 2005 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals;

"(B) $15,000,000 shall be available in each of fiscal years 2006 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals; and

"(C) $5,000,000 shall be available in each of fiscal years 2006 through 2009 for payments to the Denali Commission under the terms of section 307(e) of the Denali Commission Act of 1998, as amended (42 U.S.C. 3121 note), for docks, waterfront development projects, and related transportation infrastructure.".

On page 1291, strike lines 12 through 16 and insert the following:

(1) For fiscal year 2005, $7,646,336,000.
(2) For fiscal year 2006, $8,900,000,000.
(3) For fiscal year 2007, $9,267,464,000.
(4) For fiscal year 2008, $10,050,700,000.
(5) For fiscal year 2009, $10,686,500,000.

SA 738. Mr. KYL submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table: as follows:

Insert new section:

"SEC. 7130. TECHNICAL CORRECTION OF RIGHTS AND REMEDIES PROVISIONS.

(a) Section 14704 (Rights and remedies of persons injured by carriers or brokers) is amended as follows:

(1) In subsection (a)—

(A) by striking 'IN GENERAL' and all that follows through 'injured' and substituting 'ENFORCEMENT OF ORDER-A person injured'; and

(B) by redesignating paragraph (2) as subsection (b)(2);

(2) In subsection (b), by striking 'Liability and damages' and all that follows through 'A carrier' and substituting 'LIABILITY AND DAMAGES-(1) A carrier'; and

(3) In subsection (d)(1), by striking 'under subsection (b)' and substituting 'under subsection (c)(2)(B)'.

(b) Section 14705 (Limitations on actions by and against carriers) is amended as follows:

(1) In subsection (c), by striking 'file' and all that follows through 'section 14704(b)' and substituting 'begin a civil action to recover damages under section 14704(b)(2)'; and

(2) In subsection (d), by striking 'under subsections (b) and (c) of this section' and substituting 'under subsection (b) of this section'.

This section shall apply to all civil actions pending or commenced in any court on or after its date of enactment."

SA 739. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On Page 69, Line 15, add a new subsection 6009(h).

(h) CONTRACTED PARATRANSIT PILOT.—

(1) IN GENERAL.—Notwithstanding section 5302(a)(1)(I) of title 49, United States Code, for fiscal years 2005 through 2009, a recipient of assistance under section 5307 of title 49, United States Code, in an urbanized area with a population of 558,329 according to the 2000 decennial census of population may use not more than 20 percent of such recipient's annual formula apportionment under section 5307 of title 49, United States Code, for the provision of nonfixed route paratransit services in accordance with section 223 of the Americans with Disabilities Act (42 U.S.C. 12143), but only if the grant recipient is in compliance with applicable requirements of that Act, including both fixed route and demand responsive service and the service is acquired by contract.

(2) REPORT.—Not later than January 1, 2009, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the implementation of this subsection and any recommendations of the Secretary regarding the application of this section

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SA 740. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 1291, strike lines 12 through 16 and insert the following:

(1) For fiscal year 2005, $7,646,336,000.
(2) For fiscal year 2006, $8,900,000,000.
(3) For fiscal year 2007, $9,267,464,000.
(4) For fiscal year 2008, $10,050,700,000.
(5) For fiscal year 2009, $10,686,500,000.

SA 741. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

On page 872, strike line 24, and insert the following:

tives.

"(e) STUDY OF METHODS TO IMPROVE ACCESSIBILITY OF PUBLIC TRANSPORTATION FOR PERSONS WITH VISUAL DISABILITIES.—Not later than October 1, 2006, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the effectiveness of alternative methods to improve the accessibility of public transportation for persons with visual disabilities. The report shall evaluate a variety of methods and techniques for improving accessibility, including installation of Remote Infrared Audible Signs for provision of wayfinding and information for people who have visual, cognitive, or learning disabilities.".

SA 742. Mr. INHOFE (for Mr. TALENT (for himself and Mr. DODD)) proposed an amendment to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table as follows:

At the end of subtitle H of title I, add the following:

SEC. 18 . NOTICE REGARDING PARTICIPATION OF SMALL BUSINESS CONCERNS.

The Secretary of Transportation shall notify each State or political subdivision of a State to which the Secretary of Transportation awards a grant or other Federal funds of the criteria for participation by a small business concern in any program or project that is funded, in whole or in part, by the Federal Government under section 155 of the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (15 U.S.C. 567g).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, May 11, 2005 at 2:30 p.m., in closed session to mark up the National Defense Authorization Act for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, May 11, 2005, at 10 a.m., on Spyware.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, May 11, 2005 at 10 a.m.

The purpose of the hearing is to receive testimony on S. 895 a bill to direct the Secretary of the Interior to establish a rural water supply program in the reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 11, 2005 at 2:30 p.m., to hold a hearing on U.S.-E.U. Regulatory Cooperation on Emerging Technologies.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, May 11, 2005, at 9:30 a.m. in room 106 of the Dirksen Senate Office Building to conduct an oversight hearing on Federal Recognition of Indian Tribes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Wednesday, May 11, 2005, at 9:30 a.m., in SD226.

Agenda

I. Bills

S. 852, A bill to Create a Fair and Efficient System to Resolve Claims of Victims for Bodily Injury Caused by Asbestos Exposure, and for Other Purposes. [Specter, Leahy, Hatch, Feinstein, Grassley, DeWine.]

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 11, 2005, at 2:30 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON BIOTERRORISM PREPAREDNESS AND PUBLIC HEALTH

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Bioterrorism Preparedness and Public Health, be authorized to hold a hearing during the session of the Senate on Wednesday, May 11, 2005, at 2 p.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Personnel be authorized to meet during the session of the Senate on Wednesday, May 11, 2005 at 10 a.m. in closed session to markup the personnel programs and provisions contained in the National Defense Authorization Act for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests be authorized to meet during the session of the Senate on Wednesday, May 11, 2005 at 2 p.m.

The purpose of the hearing is to receive testimony on S. 100, to authorize the exchange of certain land in the state of Colorado; S. 235 and H.R. 816, to direct the Secretary of Agriculture to sell certain parcels of federal land in Carson City and Douglas County, NV; S. 404, to make a technical correction relating to the land conveyance authorized by Public Law 108–67; S. 741, to provide for the disposal of certain forest service administrative sites in the State of Oregon, and for other purposes; S. 761, to rename the Snake River Birds of Prey National Conservation Area in the State of Idaho as the Morley Nelson Snake River Birds of Prey National Conservation Area in honor of the late Morley Nelson, an international authority on birds of prey, who was instrumental in the establishment of this National Conservation Area, and for other purposes; and H.R. 486, to provide for a land exchange involving private land and Bureau of Land Management land in the vicinity of Holloman Air Force Base, NM, for the purpose of removing private land from the required safety zone surrounding munitions storage bunkers at Holloman Air Force Base.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support be authorized to meet during the session of the Senate on Wednesday, May 11, 2005 at 11:30 a.m. in closed session to mark up the readiness and management support programs and provisions contained in the National Defense Authorization Act for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces be authorized to meet during the session of the Senate on Wednesday, May 11, 2005 at 9 a.m. in closed session to mark up the strategic forces programs and provisions contained in the National Defense Authorization Act for fiscal year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Executive Calendar: No. 76, Maria Cino, to be Deputy Secretary of Transportation. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER (Mr. ENSIGN). Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF TRANSPORTATION

Maria Cino, of Virginia, to be Deputy Secretary of Transportation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MEASURE PLACED ON THE CALENDAR—S. 989

Mr. McCONNELL. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> A bill (S. 989) to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

Mr. McCONNELL. Mr. President, in order to place the bill on the calendar under the provisions of rule XIV, I object to further proceeding.

The PRESIDING OFFICER. Objection is heard.

The bill will be placed on the calendar.

ORDERS FOR THURSDAY, MAY 12, 2005

Mr. McCONNELL. Mr. President and Members of the Senate, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. tomorrow, Thursday, May 12. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee, the next 30 minutes under the control of the Democratic leader or his designee; provided that following morning business, the Senate resume consideration of H.R. 3, the highway bill, and that there be 60 minutes of debate equally divided between the chairman and ranking member or their designees prior to the vote on invoking cloture on the pending substitute amendment.

I further ask unanimous consent that Senators have until 10:30 a.m. to file second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President, tomorrow, following morning business, the Senate will resume consideration of the highway bill. We will then have 60 minutes for debate before the cloture vote on the pending substitute. It is my hope that cloture will be invoked so we can move closer toward completing our work on this important legislation. Following the vote, we will continue working through whatever amendments are left. A number of amendments have indeed been filed, and Senators who wish to offer amendments should contact the managers at once. Senators should expect rollcall votes throughout the day in relation to amendments to the bill.

Again, it is our intention to complete action on this important legislation this week. Senators should expect busy days for the remainder of the week and are certainly asked to plan accordingly.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCONNELL. Therefore, Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:58 p.m., adjourned until Thursday, May 12, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 11, 2005:

DEPARTMENT OF THE INTERIOR

MARK A. LIMBAUGH, OF IDAHO, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR, VICE BENNETT WILLIAM RALEY, RESIGNED.

DEPARTMENT OF STATE

PAMELA E. BRIDGEWATER, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GHANA.

WILLIAM ALAN EATON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PANAMA.

HENRIETTA HOLSMAN FORE, OF NEVADA, TO BE AN UNDER SECRETARY OF STATE (MANAGEMENT), VICE GRANT S. GREEN, JR., RESIGNED.

CONFIRMATION

Executive nomination confirmed by the Senate: Wednesday, May 11, 2005:

DEPARTMENT OF TRANSPORTATION

MARIA CINO, OF VIRGINIA, TO BE DEPUTY SECRETARY OF TRANSPORTATION.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

PAYING TRIBUTE TO ART WEINTRAUB

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. HINCHEY. Mr. Speaker, I rise today to honor Arthur E. Weintraub for his distinguished professional career, spanning nearly five decades. As Art prepares to retire from his position as President of the Northern Metropolitan Hospital Association, I would like to recognize and thank him for his tremendous leadership in the Hudson Valley region of New York, including his more than 23 years of service to this important regional hospital organization. Prior to this position, Art worked as Executive Director of the Hudson Valley Health Systems Agency, and earlier as Senior Vice-President of Mid-Hudson Pattern for Progress. Before moving to the Hudson Valley, Art also worked with the U.S. Army Corps of Engineers and later held a senior planning position with the Tri-State Regional Planning Commission. Art's broad expertise in regional planning and health care policy and management have made him an invaluable resource to our region and to the many hospitals and communities that are served by Normet.

Over the course of more than two decades, Art has skillfully balanced the interests of our local community hospitals in a seven-county area of the Hudson Valley, working to find common ground among institutions with a wide array of challenges and in some cases, competition among themselves. Through Art's careful and persistent efforts, Normet has served as an effective advocate to help our public hospitals meet serious challenges and maintain their financial stability in a quickly changing and demanding environment. Under Art's leadership, Normet has promoted important public policy initiatives that improve and strengthen our regional hospitals, helping to ensure the continued availability of quality health care services for the fast growing Hudson Valley region.

Art has received numerous honors over his career including being named a National Endowment for the Humanities Fellow for study at Princeton University in 1977. He has been honored by the American Red Cross, the Arthritis Foundation, the Greater Hudson Valley Family Health Center, area chambers of commerce and a host of community service organizations. In 1997, he was selected national chairman of the U.S. Conference of Metropolitan Hospital Associations, and in 2004 received the Award of Distinction as the Hudson Valley Healthcare Executive of the Year.

In addition to his leadership at Normet, Art has volunteered a great deal of time and energy to improving our region. Recently, Art was appointed by the U.S. Secretary of Veterans Affairs to an advisory panel for the VA Campuses at Montrose and Castle Point. Over the years, Art has served in a variety of community service positions, including as president of the Newburgh Consolidated District Board of Education and as co-chair of the Community Partnership for a Healthy Westchester Task Force. He has served as an officer on the governing boards of numerous organizations and institutions, including St. Luke's Hospital, the American Health Planning Association, Westchester Health Foundation, Mid-Hudson Pattern for Progress, Pace University Nursing School and Law School Health Advisory Boards, Business School Advisory Board of SUNY New Paltz, Hudson Valley Technology Development Center, Greater Hudson Valley Coordinating Council, Metropolitan Transportation Authority Management Advisory Committee, Orange County Charter Review Commission, Orange County Child Study Center Advisory Board and Congregation Agudas Israel. He is also a Charter Member of the American Institute of Certified Planners.

Art received his Bachelor's Degree from Hunter College, and a Masters Degree from New York University's Graduate School of Public Administration. He also completed the Executive Program in Health Policy and Management at Harvard University's School of Public Health. Art currently is an adjunct professor at the New School University's Graduate School of Management, and has held faculty appointments at New York Medical College and Vassar College. He has had numerous articles on health and environmental policy issues published in professional journals.

In addition to these numerous professional credentials, it must be noted that Art is personally regarded as a friend to many of us in the Hudson Valley. He inspires great loyalty in the members of his association and affection from the countless others with whom he has worked over the years, including many of my colleagues in the New York congressional delegation. He will be sorely missed by those of us who have had the pleasure of working with him.

Mr. Speaker, I am delighted to congratulate Art Weintraub and his family on his upcoming retirement after so many years of service to the Hudson Valley Region. I would like to take this opportunity to offer my very best wishes to Art for a healthy and happy retirement along with my deep appreciation for his vision, dedication and hard work over his impressive career.

PAYING TRIBUTE TO VIVIEN SPITZ

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. TANCREDO. Mr. Speaker, I would like to take a moment to honor Vivien Spitz for her dedication and devotion to the court reporting profession over the past six decades. She has given so much to the court reporting profession and gained the admiration of friends and colleagues.

Vivien Spitz has played a valuable role in preserving history and documenting events of epic proportion throughout her career. She is a Fellow of the Academy of Professional Reporters of the National Court Reporters Association. Ms. Spitz was an Official Reporter of Debates and Chief Reporter in the United States House of Representatives from 1972 to 1982. During this time she reported Presidents Nixon, Ford, Carter, and Reagan on their State of the Union Addresses to the Nation.

Vivien also reported all foreign Heads of State who addressed Congress during this period including King Juan Carlos of Spain, President Anwar Sadat of Egypt, and Prime Minister Itzhak Rabin of Israel. She reported President Carter's establishment in 1978 of the President's Commission on the Holocaust, appointing Elie Wiesel as Chairman. She was also the first woman reporter in the U.S. Senate on temporary assignments during 1969, 1970, and 1971 out of her Denver district court.

By contract with the United States War Department, Ms. Spitz reported the Nuremberg War Crimes Trials in Germany from 1946 to 1948, including the Nazi Doctors Case. She recorded verbatim the words that came from the mouths of witnesses and victims who survived the heinous experiments "in the name of scientific medical research" conducted by doctors who had taken the Oath of Hippocrates to heal and cure, turned into doctors who became torturers and murders. Through the record that she helped to create this serious tragedy will never be forgotten.

Mr. Speaker, I would like to thank Vivien for her years of work and dedication to her profession. The history that she has preserved through her devoted work as a court reporter will never be forgotten.

SECURE ACT OF 2005

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. BACA. Mr. Speaker, today, following two school bus crashes that resulted in multiple injuries and fatalities in the last month, I reintroduced the SECURE Act of 2005, which requires all school buses to have safety belts.

Just yesterday, 23 children were injured in a bus crash in Missouri. Video from another accident in 2003 in Ohio shows 30 children literally falling out of their seats and being thrown against the other side of the bus. How can we say that our school buses are safe? We cannot wait for another tragedy to occur. It is time for Congress to take action.

Since we were old enough to ride in cars, we were taught to buckle our safety belts. We have taught our children these basic safety lessons to potentially save their lives during collisions. Yet, one of the most frequent forms of transportation used by school-aged children is not equipped with any life-saving safety belts. How can we not give our children the safest possible ride by assuring that all school buses are equipped with safety belts?

Currently, only six states require safety belts on school buses, including California, which was the first state to require three-point safety belts. The remaining states use the "compartmentalization" method to secure the safety of the occupant. This method assures a reasonable level of safety in frontal crashes; however, a 1999 report by the National Transportation Safety Board found that compartmentalization does not adequately protect passengers from lateral impact and rollover crashes because passengers do not always remain completely in their seats. Also, the national Highway Traffic Safety Administration concluded that there is less trauma to the head and neck of passengers wearing 3-point safety belts.

Many people argue that the cost of installing safety belts on school buses is too high, when in fact it is only about $1.80 per child. That is a minimal cost to pay to protect a child's life.

I hope that my colleagues will join me in cosponsoring this legislation. We should not offer our children anything less than the safest ride to school each day.

CORRECTING MISCHARACTERIZATIONS IN PRESS REGARDING ASSISTANCE FOR PALESTINIANS

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. KOBLE. Mr. Speaker, I rise to correct mischaracterizations in the press regarding assistance for the Palestinians included in the fiscal year 2005 Emergency Supplemental that passed Congress on May 10. As my colleagues are aware, the conference agreement includes $200 million in assistance for the Palestinian people. Contrary to statements of others, this is the amount requested by the President.

Several recent articles and editorials have inaccurately portrayed the way in which Congress provided this funding. The inaccuracies contained in these articles do not reflect the intent of the Administration or Congress and threaten to undermine the good work of the United States in supporting a lasting peace in the Middle East. These inaccuracies must be corrected.

First, the President did not request the $200 million as a direct payment to the Palestinian Authority. As Administration officials have repeatedly stated publicly and in communications with Congress, this funding was requested predominantly for projects that benefit the Palestinian people. For instance, Secretary Rice on February 16 testified before the Foreign Operations Appropriations Subcommittee and on February 17 before the House International Relations Committee that most of these funds would be used for projects, not direct payments to the Palestinian Authority. In fact, the supplemental conference agreement includes a chart highlighting how assistance should be provided on a project-by-project basis. This chart directly tracks the justification material provided by the Administration to support its supplemental request and establishes a mechanism for proper Congressional oversight and intent.

Second, it is simply incorrect to call an additional $200 million of U.S. taxpayer assistance a "no-confidence vote" for Mr. Abbas. There is widespread Congressional support and confidence in Mr. Abbas which is reflected by the $200 million provided in the supplemental and the $75 million provided in the fiscal year 2005 appropriations bill. This constitutes a nearly three-fold increase in U.S. assistance to the Palestinian people in just six months. As the final bill makes clear, these funds are provided with the same terms and conditions that have applied to Palestinian assistance in years past. Under these terms, the President may provide direct payments to the Palestinian Authority only if he certifies to Congress that such assistance is important to our country's national security interests.

Finally, the final bill requires that $50 million of the assistance should be provided to Israel to improve the movement of people and goods to benefit the Palestinian people. A stable Palestinian state must be built on economic development, and economic development must be built upon a smooth flow of goods and people to and from the Palestinian territories and Israel. The Congress also made it clear that infrastructure will have to be developed in both the Palestinian and Israeli territories.

Mr. Speaker, it concerns me that editorial boards of certain newspapers would make such strong statements about out lack of support for the Palestinian people based on inaccurate information. These issues are too delicate and too important to be damaged by careless journalism.

TRIBUTE TO DR. IAN HARRIS. IN RECOGNITION OF THIRTY YEARS OF SERVICE TO THE UNIVERSITY OF WISCONSIN-MILWAUKEE

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Ms. MOORE of Wisconsin. Mr. Speaker, I rise to today to congratulate a distinguished constituent of the Fourth Congressional District, Dr. Ian Harris, who was recently honored for 30 years of service to the University of Wisconsin-Milwaukee.

Dr. Harris serves on the faculty of the School of Education at UW-Milwaukee. He is currently chairperson of the Department of Educational Policy and Community Studies, and was the founder of the Peace Studies Certificate Program. He is widely known in national and international circles for his work in the field of peace research.

The hallmark of Dr. Harris' work is his dedication to non-violence and peaceful methods of conflict resolution. He has published numerous articles and books, including one that offers peacebuilding strategies for educators and community leaders who work with young people.

Dr. Harris' approach is certainly relevant to the needs of young people in my district. I thank him on behalf of the students he teaches at UW-M, as well as the broader Milwaukee community.

TRIBUTE TO MAYOR JOSEPH CHIUSOLO

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. PASCRELL. Mr. Speaker, I am honored to take this opportunity to direct your attention to the life of a remarkable individual, Mayor Joseph Chiusolo of Cedar Grove, New Jersey, who was recognized on Friday, May 6, 2005 as Man of the Year by UNICO National.

Joseph Chiusolo was the son of a fire captain and spent his formative years living in Jersey City. He attended catholic elementary school before moving on to the Hudson County Vocational School in North Bergen. Mayor Chiusolo has accredited much of his success and accomplishments to his adolescent experiences in Jersey City which inspired him to dedicate his life to enhancing the lives of others.

At the age of 14, Joseph began volunteering his time at the Secaucus Ambulance Corp. and the American Red Cross. Upon reaching his eighteenth birthday, he became an Emergency Medical Technician at the Jersey City Medical Center. Joseph continued to work hard and eventually his sacrifices and efforts were rewarded.

In 1978 he became Assistant Director for the American Red Cross Disaster Services. He was primarily responsible for the coordination of emergency disaster responses in Jersey City and Hoboken. While serving at this post, in 1979, Joseph arrived at the scene of a burning building before the Fire Department and subsequently rescued the occupants.

After this experience, he vowed to do all he could to educate people about Fire Safety. It was at this time, that Joseph started a T-shirt screen printing business in the basement of his parents' home which became known as "Turn Out Fire and Safety." He became a major supplier of Police, Fire, and EMS uniforms as well as protective clothing throughout the tri-state area.

Joseph Chiusolo moved to Cedar Grove, New Jersey in 1989 and immediately volunteered his time to the Zoning Board of Adjustment. He quickly became a fixture within the town and was elected by the residents to serve on the town council in 1997. Since that time, Joseph has served two terms as Deputy Mayor and two terms as Mayor.

As a former mayor and the Congressman for the Eighth Congressional District of NJ, I cannot think of another individual who has given more to Cedar Grove. Thus it is only fitting that he be honored, in this, the permanent record of the greatest freely elected body on Earth.

Mr. Speaker, I ask that you join our colleagues, the Township of Cedar Grove, Joseph's family, friends, and me in recognizing the outstanding service of Mayor Joseph Chiusolo.

IN MEMORY OF RAMON WAGNER

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Ms. MOORE of Wisconsin. Mr. Speaker, I rise today to celebrate the life and accomplishments of Ramon Wagner, a Milwaukee resident and an advocate for low-income people whose legacy will live on despite his untimely death on April 15, 2005.

Mr. Wagner, who founded Community Advocates in 1976 and served as its Executive Director, dedicated his life to serving the Milwaukee community. For almost 30 years, Community Advocates endeavored to be a place where people in need could come for help. In service of Mr. Wagner's vision, Community Advocates developed and implemented a range of services that help low-income families cope with the everyday challenges of living in poverty.

Low-income people throughout Wisconsin can thank Mr. Wagner for helping to organize the moratorium on natural gas shut-offs during the winter months. He negotiated an agreement with the gas company after an elderly woman died in her unheated apartment in 1984, because her landlord had not paid the heating bill.

Mr. Wagner will be remembered as a champion of services for low-income people, but he also leaves a strong legacy in his efforts to strengthen the network of service organizations. He understood that connecting to others' efforts would magnify the impact of scarce resources.

Ramon's was a well-lived life. I salute him for his dedication to serving others.

RECOGNIZING AND COMMENDING MEMBERS OF GARY INDIANA, BRANCH OF NAACP

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. VISCLOSKY. Mr. Speaker, it is my distinct pleasure to recognize and commend the members of the Gary, Indiana, branch of the National Association for the Advancement of Colored People (NAACP). On Friday, May 13, 2005, the Gary NAACP will hold its 42nd Annual Life Membership Banquet and Scholarship Dinner at the St. Timothy Fellowship Hall in Gary, Indiana.

This annual event is a major fundraiser for the Gary branch of the NAACP. The funds generated through this activity, and others like it, go directly to the organization's needed programs and advocacy efforts. The featured speaker at this gala event will be Attorney Dennis Wayne Archer. Attorney Archer will be honored with the Roy Wilkins Award. Archer is the Immediate Past President of the American Bar Association. He is the first person of color to hold the position as president of the ABA. Attorney Archer is also the former Mayor of the City of Detroit.

Attorney Fred Work will be honored with the Benjamin Hooks Award. Attorney Work is a distinguished attorney who has provided legal services to many citizens, not only in the community of Gary, but also throughout the State of Indiana. Attorney Work was the first African-American Judge in Lake County. Work was also the first African-American to graduate from Vanderbilt Law School and the first African-America to be nominated by the Democratic Party for statewide office.

The Gary NAACP would also like to recognize the accomplishments of the West Side High School girls basketball team. The team's record is 24–4. The team's winning accomplishments include: the Gary Holiday Tournament, the Northwest Conference, the East Chicago Sectional, the Valparaiso Regional, and the Elkhart Semi-State finals. Those team players I would like to applaud are Michelle Hamblin, Isabell Rhenwrick (recipient of the 2004–2005 Patricia L. Roy Mental Attitude Award) Ashley Cheairs, Ashley Gates, Farren Congress, Candise Matthews, Shanee' Butler, Erica Simpson, Jaime Sherls, Lecreia Hudson, Loreal Brown, Jasmine Brown, Moenesha Headen, Sydney Pettigrew, Ashley Woods, Nicole Moore, Britney Peeples, and Britney Harris. I would also like to recognize Head Coach Rod Fisher and Assistant Coaches Darryl Brandford, Erza Alexander, and Arnetta Gates. Their leadership both on and off the basketball court is a valuable resource to the girls on the West Side girls basketball team.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in paying tribute to the new life members as well as the other members of the Gary NAACP for the efforts, activities, and leadership that these outstanding men and women have championed to improve the quality of life for all residents of Indiana's First Congressional District.

CONGRATULATING YVONNE EWELL TOWNVIEW MAGNET SCIENCE AND ENGINEERING SCHOOL ON BEING SELECTED AS ONE OF THE NATION'S TOP SCHOOLS BY NEWSWEEK

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I would like to congratulate Yvonne Ewell Townview Magnet School for Engineering and Science for receiving the extraordinary honor of being ranked as one of the top schools in the country.

Each year, Newsweek chooses this distinct group from a pool of more than 27,000 high schools in America. Newsweek unveiled its current list in the latest, May 16th edition.

The Best High Schools list is assessed by using a ratio based on the number of Advanced Placement (AP) and/or International Baccalaureate (IB) tests taken by all students at a school in 2004, divided by the number of graduating seniors. This formula is said to indicate a wide measure of students' readiness for higher level work. Based on this formula, Townview was ranked number six in the nation, and number one in the State of Texas.

I am absolutely delighted that Townview has received a recognition I have long touted.

Located in my district of Dallas, Texas, Townview Magnet is one of the most diverse schools in the state. More than two-thirds of Townview's student body consists of minorities.

For the last four consecutive years, Townview has ranked number one in the nation, in the number of minority students to pass advanced calculus.

It has been discussed on numerous occasions and in numerous venues that the United States will not be able to lead—nor for that matter, successfully compete—in the global economy if we cannot put a stop to the continuing shortage of highly qualified scientific and technology brainpower in this country.

In response to this, in 2003, under the tutelage of Dr. Da Hsuan Feng, I partnered with the University of Texas at Dallas to sponsor a lecture series designed to expose Dallas-area high school students to the best and brightest minds in mathematics and science in order to promote career opportunities in those fields. Various leaders in these fields have participated in the lectures series, including, world-renowned sickle cell researcher, Dr. Betty Pace; Nobel Laureate, Dr. Russell Hulse, and the remarkable Dr. Shirley Ann Jackson, President Rensselaer Polytechnic Institute.

This honor is of particular significance, as I have long championed the need for more emphasis in science and math education, particularly for young children. I believe these students and others like them will become tomorrow's leaders in the fields of science and technology. Showing students the importance and the value of the science and technology fields is a life long process.

It cannot happen overnight. It begins here and now. I implore our community leaders to also encourage science education in young men and women.

I would like to commend Townview's Science and Engineering School principal, Richard White and Executive Principal Alice Black for their "leadership and commitment to these students.

Mr. Speaker, again, I congratulate the students, teachers, principals and parents of Townview Magnet School in Science and Engineering on this distinguished honor.

LEGISLATION TO TREAT EMPLOYMENT TAXES PAID TO THE EU BY EMPLOYEES OF THE EU AS INCOME TAXES PAID TO A FOREIGN COUNTRY FOR PURPOSES OF THE FOREIGN TAX CREDIT

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to introduce legislation to correct an outdated tax law that is forcing a husband and wife of 27 years from my district to live thousands of miles apart during what should be the golden years of their retirement together. In introducing this legislation, however, I seek to not only assist the couple in my district who has brought this inequity to my attention, but also to assist any other families facing the same problem.

Mrs. Novella Wheaton Nied, a U.S. citizen and native Taoseña, and Veit Nied, a German citizen, called my attention to this issue early last year. The Nieds have been married almost 30 years and have lived overseas in various countries for the length of their marriage until September 2001. Mr. Nied, an economist, retired in September 2001 from the European Commission in Brussels, Belgium. The couple decided to return to Taos, New Mexico, Novella's home, for their retirement years, but learned upon Veit's approval of permanent resident status in the United States that his pension from the European Commission would be subject to double taxation—the initial tax by the European Commission, and again by the U.S. should he choose to make his residency here.

Double taxation on his pension will create a hardship for the Nieds in their retirement—both financially and emotionally. As a result, Mr. Nied did not accept the permanent resident status and has been traveling back and forth between Germany and the United States, being very cognizant and diligent about following U.S. immigration and taxation laws, and therefore has not stayed longer than 120 days per annum in the United States, which would render him liable for taxes in this country. This unfortunate living situation has been ongoing since 2001 when they learned of the double taxation and have been seeking a solution that would allow them to once again live together.

During this time, the Nieds have corresponded with the IRS seeking a solution to the problem, to no avail. I have consulted with the IRS, as well as with the Congressional Research Service, seeking a solution short of introducing legislation, but it has become clear that only legislation will remedy this problem.

The IRS tax code is outdated and does not recognize such multinational organizations as the EU for purposes of the foreign tax credit. As a result, the Nieds, and most likely other families in the United States, find themselves in this unfortunate predicament. The United States has tax agreements with many countries to prevent double taxation, as well as provisions in the tax code that allow resident aliens who pay taxes to a foreign country to claim the foreign tax credit that reduces their U.S. income taxes. Unfortunately, the EU does not qualify as a foreign country for purposes of the foreign tax credit.

As such, today I am introducing legislation that amends the Internal Revenue Code to treat employment taxes paid to the European Union by employees of the European Union as income taxes paid to a foreign country, for purposes of the foreign tax credit. This bill will allow Mr. Nied, and others in his situation, to qualify for the foreign tax credit.

Mr. Speaker, this is a simple bill that brings a section of the tax code up to date with the changes in international political institutions. While it certainly will help Mr. and Mrs. Nied, this legislation will also help other families who face the same situation. I urge my colleagues to support this legislation and pass it quickly to allow the Nieds, and others, to be permanently reunited so that they may enjoy their years of retirement in the company of their loved ones.

COMMENDING NATIONAL HEPATITIS B AWARENESS WEEK

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. STRICKLAND. Mr. Speaker, I am pleased to lend my support for House Resolution 250, supporting the goals and ideals of a National Hepatitis B Awareness Week.

We possess the weapons to combat hepatitis B, including vaccination and treatment. For those infected, treatment options exist that are designed to stop the progression of liver disease and reduce liver damage. It is encouraging that educational programs like the "Aim for the B" campaign during National Hepatitis B Week will raise awareness about chronic hepatitis B. I am also impressed with community forums scheduled this week to educate those currently living with the disease as well as their doctors about new and improved methods that can prevent its transmission and progression to liver disease.

As we recognize National Hepatitis B Awareness Week, I encourage Americans who may be at risk for chronic hepatitis B to get tested for the disease and to understand there is a large group of patients who do need treatment right now. With increased awareness, education and treatment for the disease, we can help stop the progression of hepatitis B to liver damage and liver disease.

Mr. Speaker, I join my colleagues in reflecting on the importance of the work being done to combat chronic hepatitis B and recognize the fact that this is a preventable and treatable disease. I appreciate the opportunity to convey my support for House Resolution 250 and to recognize the need for more federal attention on hepatitis B.

HONORING THE WORK OF MOHAMMED JAFFER

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. PALLONE. Mr. Speaker, I rise this evening to honor Mohammed Jaffer. Mr. Jaffer is a talented photographer and a dedicated individual whom I have had the pleasure of knowing for years.

Mr. Jaffer was born in Hyderabad, India to a family wedded to the camera. His father, the late M.A. Rahim, was a renowned photographer, widely admired for his skill and vision. It was a popular belief that no one in the state of Andhra Pradesh could be deemed truly famous until Mr. Jaffer's father had photographed them.

Having grown up in a house where everyone looked at the world through a camera lens, it was only natural for Mr. Jaffer to follow suit. Not content to limit himself to his hometown or even his home country, he set himself a much broader goal. Accordingly, at the tender age of 19, he graduated from Nizam College in Hyderabad and came to the United States with just his camera and a dream. Mr. Speaker, it turns out that the United States has proved to be a land of opportunity for Mr. Jaffer.

Within a year, he formed his own news photo agency, SnapsIndia, and was well on his way to becoming the most-widely published Indian photographer in the country. In the next 15 years, Jaffer photographed various prime ministers and heads of states from different South Asian countries and around the world, as well as United Nations meetings and World Summits in New York.

Having established himself in America, he began to cover high-profile events around the world such as the 1991 Cricket World Cup in Australia and New Zealand, the 1992 Australian National Laser Sailing Regatta, the U.S. Open in tennis for the past 7 years, the 1996 Americas Cup in San Diego, as well as beauty pageants and fashion shows worldwide.

The highlight of Mr. Jaffer's career, however, came when he was invited to accompany President Bill Clinton to India in March of 2000. As part of the White House entourage, Mr. Jaffer had access to the President that no other Indian photographer could lay claim to. For five days, he photographed President Clinton in some of the most picturesque, and historic locations on earth, capturing the leader of the Free World in both private, pensive moments and at spectacular public events.

In 2001, Mr. Jaffer once again accompanied President Clinton to India when he visited areas in the western state of Gujarat that had been devastated by an earthquake. President Clinton, who had admired the photos, inaugurated the exhibition of Mr. Jaffer's photos of the presidential visit at Regent Wall Street hotel in New York on June 12, 2001. That same year, Mr. Jaffer covered the inauguration and oath ceremony of President George W. Bush.

Having established SnapsIndia, the first news photo service specialized to cater to the South Asian community in the United States, Mr. Jaffer has fulfilled the dream his father started 25 years ago when SnapsIndia was first established in Hyderabad, India. With SnapsIndia Jaffer has woven bridges and contributed to strengthening the ties between India and the United States through photojournalism.

RECOGNITION FOR KENTUCKY COUNTRY DAY SCHOOL

HON. ANNE M. NORTHUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mrs. NORTHUP. Mr. Speaker, I would like to recognize the philanthropic work of forty high-school students at Kentucky Country Day School in Louisville, Kentucky whose original fund-raising work on behalf of local organizations won them nationwide recognition for curriculum innovation in February 2005 by the Washington, D.C.-based National Association of Independent Schools (NAIS). Kentucky Country Day School was one of three schools nationally to receive this prestigious honor through the Leading Edge Program run by NAIS. The Leading Edge Program was created to explore, encourage, support and reward exceptional and innovative achievement in the areas of community relations, curriculum innovation, equity and justice initiatives and technology. This award is a testament to Kentucky Country Day School's commitment to developing and enhancing the leadership skills of the youngest and brightest among us through its unique Philanthropy course.

Philanthropy is no easy endeavor. Andrew Carnegie once said, "I resolved to stop accumulating and begin the infinitely more serious and difficult task of wise distribution." With a $10,000 grant, these high school students began this "serious and difficult task" by creating a mission statement to help define their purpose and goals for The Artemis Fund, the charitable trust which they themselves operated. As trustees, these students were faced with the challenge of raising funds through telephone solicitations and establishing rules and procedures for giving and selecting worthy causes to fund.

Since the course's inception in 2001, The Artemis Fund has dispensed just over $19,000 to local organizations. This year, among the recipients chosen by The Artemis Fund were The Deaf Oral School and Youth Alive, a western Louisville after-school reading program.

Mr. Speaker, one of the most exciting things for me to see is the building up of our youth through positive and enriching programs that last far longer than the prescribed semester. Life-impacting education serves as a bedrock for creative ideas that one day will be used to transform the way we, as a society, interact and live. I am proud to know that these students have learned more than how to accumulate and dispense funds. Indeed, they have learned to lead by example and commitment, following through on their stated goals. This opportunity to learn about "hands-on philanthropy" will serve them well into adulthood. We can all take an important lesson from their great achievement and service to their community. I am delighted to recognize the Kentucky Country Day School for this momentous accomplishment.

THE RETIRED PAY RESTORATION ACT AND THE MILITARY SURVIVING SPOUSES EQUITY ACT (H.R. 303 AND H.R. 808)

HON. CONNIE MACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. MACK. Mr. Speaker, I rise today in support of our greatest national treasure—our veterans. Throughout our Nation's history, brave men and women have been committed to protecting our freedom, security and prosperity. It is only right for us to do all we can to help those who have fought to keep us free. That is why I rise in support of two thoughtful and prudent pieces of legislation: H.R. 303—The Retired Pay Restoration Act of 2005 and H.R. 808—The Military Surviving Spouses Equity Act, sponsored by Mr. MICHAEL BILIRAKIS and Mr. HENRY BROWN, respectively.

Mr. Speaker, these two critical pieces of legislation are smart, balanced and respectful of the time served by our Nation's veterans and the sacrifices made by their families.

The Retired Pay Restoration Act would address a policy that has long been unfavorable to the men and women who have returned home from battle. This legislation will let our disabled veterans receive not only the disability compensation they deserve, but the retired benefits they have toiled long and hard to receive. It is incumbent upon us to mark the time given by these brave individuals with appropriate legislation, such as this, that honors their courage and dignity.

I am also proud to support and cosponsor the Military Surviving Spouses Equity Act. This common sense bill ensures surviving husbands and wives of our veterans will still be able to count on the consistent income earned by their spouses in service to our country.

Mr. Speaker, with the passing of the War Supplemental last week, this body came together to raise death benefits for our soldiers and sailors who have made the ultimate sacrifice. I was proud to enthusiastically support that measure. It is with that same spirit that I ardently urge my colleagues to again put politics aside, come together, and pass these patriotic and dutiful pieces of legislation to support our proud veterans.

RECOGNIZING THE MOUNT OLIVE BAPTIST CHURCH SCHOLARSHIP PROGRAM

HON. CHARLES W. BOUSTANY, JR.

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. BOUSTANY. Mr. Speaker, I stand before you today to acknowledge the contributions of a very special church in Louisiana's 7th Congressional District. For over fifty years, the Mount Olive Baptist Church has been a important part of the Lake Charles community, making countless contributions to the moral fabric of Southwest Louisiana. Today I want to praise this church especially for its commitment to the education of our youth. For the past twenty-five years, Mount Olive has run scholarship program that has allowed students in my district to become better educated and productive members of our society.

In 1980, Brother Charles Ellis came to the delegation with the idea of providing educational scholarships for children of the community. Under the supervision of Reverend N.D. Lee, the congregation began awarding scholarships to local students for $400. Today the church awards scholarships of $1,000. So far, over seventy students have benefited from this program.

This marks the 25th year that Mount Olive Baptist Church has supported the educational dreams of students. The church has taken upon itself the mission of improving their community in the most important way possible—by seeing to the education of tomorrow's leaders. I thank Mount Olive Baptist Church for this tremendous service and wish them all the best in continuing to set such a fine moral example in Southwest Louisiana.

CHRONIC FATIGUE AND IMMUNE DYSFUNCTION SYNDROME AWARENESS DAY

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. UDALL of New Mexico. Mr. Speaker, May 12th is Chronic Fatigue and Immune Dysfunction Awareness Day.

Chronic Fatigue and Immune Dysfunction Syndrome afflicts more than 800,000 Americans. CFIDS, also known as Chronic Fatigue Syndrome (CFS) and myalgic encephalomyelitis, is a complex and debilitating medical disorder characterized by profound exhaustion, intense widespread pain, and severe problems with memory and concentration. It usually lasts for years, and many never recover. Because the symptoms of CFS are common to other conditions and no diagnostic test exists, it is often overlooked by health care providers. In fact, government studies show that only 15 percent of those who have CFS have been diagnosed by their doctor. It is even more difficult for CFS patients to get appropriate symptomatic treatment.

The cause of CFS is not yet known. Much of what we do know about CFS has been documented by researchers funded by the National Institutes of Health and the U.S. Centers for Disease Control and Prevention (CDC). Here are some facts: women age 30-50 are at greatest risk for developing CFS, and Latinos and African Americans are at greater risk for CFS than Caucasians or Asians. Children can get CFS too, although it is more common in teens than younger children. The condition may begin suddenly, as with the flu, or it may build gradually over time. Physical or mental exertion makes symptoms worse.

Individuals with CFS are severely impacted by the disease and, according to CDC studies, their functional status is the same as or worse than those suffering from obstructive pulmonary disease, coronary heart disease, osteoarthritis and severe depression. People with CFS often lose the ability to maintain full-time employment, attend school and participate fully in family life. The Nation's economy is also seriously affected; the annual direct cost of lost productivity due to CFS is $9.1 billion, an amount equivalent to Wal-Mart's annual profits.

There is hope. The Department of Health and Human Services has chartered a CFS Advisory Committee that meets quarterly to discuss research and service to people with CFS. The CDC is conducting promising research that may lead to a diagnostic test for CFS. Other researchers are following important leads that may improve treatment and deepen understanding of the way CFS affects various body systems. However, in fiscal year 2004, just $15 million was spent by the Federal Government to conduct research on this devastating illness. CFS consistently ranks at the bottom of NIH funding charts and even during the period when Congress was doubling the NIH budget, support for CFS research declined.

Many challenges remain and more federal funding is needed to answer basic questions. It is time for Congress to do more to help them. I urge my colleagues to earmark $10 million for CFIDS research in the next annual appropriation for the National Institutes of Health. CFS warrants the support of this Congress and we must find a way to help hundreds of thousand of Americans get back to work. Let's not wait another day.

TRIBUTE TO MICHAEL BRESLIN, JR.

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention the work of an outstanding individual, Michael Breslin, Jr. who was recognized on May 10, 2005 for his lifelong dedication to litigation and the legal community.

It is only fitting that Michael Breslin, Jr. be honored, in this, the permanent record of the greatest freely elected body on Earth, for he has a long history of caring, leadership, creativity, and commitment to his noble profession.

A premier legal mind, "Jerry" as he is affectionately called, has let a few fundamental principles guide his career. He consistently makes a concerted effort to reach out into the community to make his services available. Mentoring and serving as a role model to the youth of Northern New Jersey has been his top priority. Lastly, he has never taken for granted his success or exploited his position for personal gain. Rather his humility seems to heighten with each passing year.

Michael Breslin has shared his invaluable knowledge and experiences as a Civil Trial Attorney by frequently lecturing at the Institute of Continuing Legal Education in the area of Civil Trial Practice techniques. As the borough attorney for Northvale, Dumont, Bogota, and Closter, Borough Prosecutor of both Palisades Park and Elmwood Park, and the former president of The Bergen County Bar Association, Michael Breslin's commitment to his community is unparalleled.

Michael Breslin exudes professionalism and dedication. Over the years Michael has been confronted by a wide array of obstacles and in each instance he has proven his resiliency. As a member of the New Jersey Sports and Exposition Authority, he truly displayed his innovative flare while supervising the constructing of the Meadowlands Arena.

The job of a United States Congressman involves so much that is rewarding, yet nothing compares to learning about and recognizing the efforts of individuals like Michael Breslin. As a fellow alumnus of Fordham University, I am proud to bestow this honor onto Michael Breslin.

Mr. Speaker, I ask that you join our colleagues, Michael's family and friends, all those who have been influenced by Michael, and me in recognizing the outstanding and invaluable service of Michael Breslin, Jr.

CHILDREN'S VISION IMPROVEMENT AND LEARNING ACT

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. PASCRELL. Mr. Speaker, I rise today to call attention to the travesty of preventable vision loss in our nation's children.

The Centers for Disease Control and Prevention (CDC) recently reported that millions of children do not receive the vision evaluations recommended by top medical organizations, placing them at greater risk for permanent vision loss, as well as physical and emotional difficulties.

Undiagnosed vision problems can lead to permanent vision loss and learning difficulties.

The American Academy of Ophthalmology recommends a vision evaluation in the preschool years. Yet, the study finds that only 1 in 3 children received one before entering kindergarten.

It is a national disgrace that only a small number of children are actually receiving the preventative care, recommended by our own medical guideline, they need to ensure healthy vision.

One eye doctor who read the report called it, "a wake-up call to both primary care providers and eye care professionals." It is clear that we must do better.

Mr. Speaker, in many cases, vision loss can be avoided with early diagnosis and treatment. For the sake of our nation's young people, we need to make sure that children receive the necessary preventative vision care.

Amblyopia is a serious vision problem that affects nearly one-half million preschoolers and is the leading cause of vision loss in young Americans. I recently met with seven-year-old Kennedy Biederman. She is a prime example of what can happen when a child doesn't get proper visual evaluations.

Throughout her childhood, no one noticed that Kennedy couldn't see well. Despite multiple visits, her pediatrician did not notice, her teachers did not notice and neither did the nurses that screened her vision at school. Like many others, she simply slipped through the cracks.

At age 5½, Kennedy happened to visit an eye doctor because of a small injury. The doctor performed an eye exam and diagnosed amblyopia. He also found that Kennedy was legally blind in her left eye and that her "good" eye had only 20/80 vision. "I don't know how she was even functioning at school," her father said.

Mr. Speaker, we have the best medical system in the world. We must do better so that more children don't wind up in the same position as Kennedy. The best way to do that is by making sure that children receive an eye exam from an eye doctor.

An eye exam measures a number of visual skills that are critical to a child's healthy vision, such as using both eyes as a team, the ability for the eyes to focus properly when reading a book or viewing a computer, and the ability for the eyes to move properly when reading across a page of print.

As the National Amblyopia Youth Spokesperson, Kennedy, and her parents Jason and Jill Biederman, will have a great opportunity to share their story. I commend them for their efforts to raise public awareness and believe that with their help, we can make a difference in the lives of children nationwide.

The CDC states that approximately 1.8 million children under the age of 18 (2.5%) are blind or have some form of visual impairment. Many cases of visual impairment could be eliminated simply through more timely diagnosis and treatment.

In order to address this egregious situation, in the last Congress I introduced legislation to provide states with resources they need to increase the number of children that receive an eye exam. More than 100 of my colleagues cosponsored the legislation, as did more than 60 organizations nationwide.

Yesterday, I proudly reintroduced, the Children's Vision Improvement and Learning Act, H.R. 2238.

This bill would work to address these issues by offering grants to all states to provide eye exams and necessary follow-up care; developing and distributing educational materials on state children's vision programs; and ensuring that these new initiatives complement, not supplant, services provided under Medicaid and SCHIP.

As Congress works to improve the educational opportunities available to children in this country, the need to remove outside impediments to learning must be addressed to achieve long-term success.

DELIVERING MAIL—COLLECTING HOPE

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. McDERMOTT. Mr. Speaker, I rise today to gratefully acknowledge and thank the National Association of Letter Carriers, the U.S.

Postal Service (USPS), the AFL–CIO, America's Second Harvest, and the United Way of America for their extraordinary efforts in organizing and carrying out the largest single food drive in the world: the annual National Association of Letter Carriers National Food Drive.

The food drive will again take place on the second Saturday in May, which this year falls on May 14th. The timing of the drive is no coincidence; it comes at a time when most food banks are low on supplies, having exhausted their collections from the holiday season. Last year the food drive collected an incredible 71 million pounds of food for donation to food banks, pantries, and shelters across the country.

As you can imagine, it takes an army of volunteers to collect that amount of food. This year USPS, with help from the Campbell Soup Company and Valpak Direct Marketing Systems, is distributing more than 150 million mailings promoting the drive and encouraging donations. On May 14th, donations will be collected by letter carriers along their mail routes in all 50 states.

This year's food drive has an added urgency and importance. The food drive largely supplements the inadequate support the Federal government has provided to our nation's citizens facing financial difficulty. Families around the nation are struggling to get by—family wage jobs are scarce, energy prices are at record highs, and government support mechanisms are increasingly being axed by this Administration and this Congress.

When we think about letter carriers, first class comes to mind. From now on, we should think of letter carriers and everyone involved in this as world class, because that's what they are. Please join me in donating food on May 14th and acknowledging the spirit of America that will be carried from door to door. May this year's food drive be the safest and most abundant collection yet.

185TH BIRTHDAY OF FLORENCE NIGHTINGALE

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. SCHIFF. Mr. Speaker, I rise today to commemorate what would have been the 185th birthday of Florence Nightingale, the founder of modern nursing. This week also marks the 3rd annual National Nurses Week, which will be observed May 6th through May 12th.

The 2.7 million registered nurses in the United States bear the primary responsibility for the care and well-being of hospital patients and are the largest single component of the health care profession. Unfortunately, our nation faces a serious shortfall in the number of nurses available; too few nurses are caring for too many patients. According to a report by the Department of Health and Human Services, our nation could face a shortage of 800,000 nurses by the year 2020. As our population ages and as health care costs continue to escalate, government, hospitals, and policy advocates must work together to combat this problem.

The theme of National Nurses Week 2005 is Nurses: Many Roles, One Profession. In addition to their tireless hands-on efforts caring for patients, nurses are constantly involved in health education, research, business, and public policy. Having met with numerous nurses from the 29th district of California, I know first hand the needs of nurses of America. That is why I support House Resolution 245, which will recognize the important contributions of nurses to the health care system and the goals and ideals of National Nurses Week. I ask my colleagues to please join me in honoring some of America's greatest heroes, our nurses.

TRIBUTE TO THE CONGRESSIONAL YOUTH LEADERSHIP COUNCIL

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. HOYER. Mr. Speaker, I rise today to pay tribute to the Congressional Youth Leadership Council (CYLC) on the occasion of their 20th Anniversary. Founded in 1985, the Council has long been committed to inspiring America's youth to achieve their full leadership potential.

CYLC has educated over 200,000 individually selected young men and women representing all 50 States, the District of Columbia, the American territories, and over 100 countries around the world since its founding. From my district alone, we have had more than 200 students participate in this outstanding and innovative program and in the entire State of Maryland over 1,600 students have had this terrific opportunity.

These energetic and dedicated young men and women are academically well-rounded, involved in their schools and communities, frequently interested in careers of government and service, and eager to develop their leadership skills. In addition to representing all corners of the country and globe, they are culturally, racially, and economically diverse.

The Congressional Youth Leadership Council programs bring thousands of students to Capitol Hill each year in an effort to deepen their understanding of the realities of government, citizenship, and service. I know my colleagues and our staff appreciate the opportunity to discuss important local, national, and global issues with these bright and eager young students.

Essential to the success of these and other CYLC programs is the focus on learning through experience. Students are challenged with simulations, role playing, and debate. They are charged with applying those experiences to abundant opportunities for personal interaction among each other and with today's leaders. The greatest outcome of this type of educational experience is open dialogue, perspective sharing, and cultural exchanges that increase understanding, cooperation, and teamwork.

The Congressional Youth Leadership Council inspires and energizes young men and women who return to their homes, communities, and schools with the tools and commitment to be effective leaders both today and for many years to come.

Mr. Speaker, I would ask my colleagues to please join me in congratulating CYLC on 20 years of positively impacting the lives of America's youth, our next generation of leaders.

INTRODUCTION OF THE PATIENTS' BILL OF RIGHTS ACT OF 2005

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. DINGELL. Mr. Speaker, today my House colleagues and I are reintroducing the Patients' Bill of Rights. This bill will protect patients from the unscrupulous activities of HMOs and hold them accountable if their negligent actions harm their patients.

Although we have worked on this bill now for seven years, we have been thwarted at every turn by the Republican leadership, the Administration, and the insurance industry. We need to get this bill back on track.

President Bush promised his support for such a bill during his 2000 Presidential campaign. But in the end, it was his efforts that killed our bipartisan bill in 2001.

In spite of this setback, we remain undeterred. Working families have waited long enough for the rights they deserve that would be protected under this bill.

We were optimistic the Supreme Court would clarify the law on the side of patients, allowing state HMO accountability laws to stay in force. But the Supreme Court ruled against patients, leaving a situation where at best HMOs may or may not be held accountable in state court and at worst HMO attorneys will use this ruling to avoid accountability altogether. This court decision only further underscores the need for action.

Unfortunately, it appears now that some in Congress not only want to protect the HMO status quo, but go further, under the guise of "medical liability reform," to make it more difficult for patients to get justice. Such reform would not only apply to cases of medical malpractice by physicians, but also severely limit accountability of HMOs and drug manufacturers.

We need a Patients' Bill of Rights to protect Americans from crafty HMO attorneys who avoid accountability by keeping victims and their families tied up in court for years. Without this needed legislation, only foreign diplomats, the mentally insane, and HMOs will be exempt from the consequences of their decisions.

IN SPECIAL RECOGNITION OF BRANDON W. BURNER ON HIS APPOINTMENT TO ATTEND THE UNITED STATES MILITARY ACADEMY AT WEST POINT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Brandon W. Burner of Tiffin, Ohio has been offered an appointment to attend the United States Military Academy at West Point, New York.

Brandon's offer of appointment poises him to attend the United States Military Academy this fall with the incoming cadet class of 2009. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Brandon brings an enormous amount of leadership, service, and dedication to the incoming class of West Point cadets. While attending Tiffin Columbian High School in Tiffin, Ohio, Brandon has attained a grade point average of 4.06, which places him at the top of his class of more than two hundred students. While a gifted athlete, Brandon has maintained the highest standards of excellence in his academics, choosing to enroll and excel in Advanced Placement classes throughout high school. Brandon has been a member of the National Honor Society, Honor Roll, and has earned awards and accolades as a scholar and an athlete.

Outside the classroom, Brandon has distinguished himself as an excellent student-athlete. On the fields of competition, Brandon has earned letters in both Varsity Football and Track and Field. He was named Honorary Captain of the Varsity Football team, selected as a 2004 delegate to the American Legion's Boys State and attained the rank of Eagle Scout as a sophomore. Brandon's dedication and service to the community and his peers has proven his ability to excel among the leaders at West Point. I have no doubt that Brandon will take the lessons of his student leadership with him to West Point.

Mr. Speaker, I ask my colleagues to join me in congratulating Brandon W. Burner on his appointment to the United States Military Academy at West Point. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Brandon will do very well during his career at West Point and I ask my colleagues to join me in wishing him well as he begins his service to the Nation.

HONORING MR. RON CHAPMAN

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. HENSARLING. Mr. Speaker, on behalf of his many loyal listeners in the Dallas-Forth Worth and the Fifth Congressional District of Texas, today I would like to honor my friend, Mr. Ron Chapman, for his many years of outstanding broadcasting and community involvement. With his wit, wisdom, and welcome voice, Ron Chapman has helped wake up, inform, and entertain millions of North Texans for the past 45 years.

Ron Chapman came to Dallas in 1959 and began working for KLIF–AM. In 1965, he joined WFAA–TV and for 2 years he hosted the teen dance show Sump'n Else! In the late 1960's, Ron helped bring KVIL to the top of the ratings as both the morning host and program director. Although he left KVIL in 2000, he did not go far. Ever true to his Dallas audience he moved to KVIL's sister station, KLUV–FM. There his morning show continued to consistently rank in the top 10.

Ron Chapman earned the very first National Association of Broadcaster's Marconi Award for Personality of the Year in 1989. As a testament to the quality of his work and his commitment to excellence in broadcasting, Ron Chapman was also inducted into the Texas Radio Hall of Fame in 2004. One of his radio colleagues described Ron as "the benchmark" of what morning radio should be, and I am sure his many listeners agree.

Ron Chapman is more than just a radio personality, to the people of North Texas, he is our friend. As the Congressman for the Fifth Congressional District, and as one of his many loyal fans, it is my distinct pleasure to honor Ron Chapman today in the United States House of Representatives.

Ron, many thanks for all that you have done over your distinguished broadcasting career. You will be fondly remembered and you will be deeply missed on the airwaves by the people of Dallas.

IN HONOR OF ARTHUR DOUGLAS' FIFTY YEARS OF SERVICE TO ST. MARK'S SCHOOL OF TEXAS

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. SESSIONS. Mr. Speaker, I rise today to honor the commemoration of Arthur Douglas' half-century of service to St. Mark's School of Texas. I am proud to represent St. Mark's School of Texas in the 32nd Congressional District of Texas, and join my colleagues in honoring this historic achievement by Arthur Douglas.

Arthur Douglas was born in the Yorkshire town of Bradford in 1916. As a boy, he kept birds and developed his artistic skills. In 1932, Arthur won a national scholarship and matriculated to the Bradford College of Art and Crafts, from which he graduated in 1937. After Bradford, Arthur taught at the Leeds College of Art and Drawing and the Shipley School of Art (1937–1940), Avoncraft College (1940–1946), the Dudley Grammar School (1946–1949), and Victoria College on the Isle of Jersey (1949–1955).

In 1955, Arthur followed Victoria College colleagues D.G. Thomas and Norman Blake to join the St. Mark's faculty. He taught six days a week, instructing students in art, Spanish, English literature, and handwriting (then a required course through sophomore year). Within 3 years, Arthur transferred to the Science Department where he taught 1st through 8th grade science on the second floor of Davis Hall. By 1960, a new science center was built with a greenhouse designed by the noted architect, O'Neil Ford. While attractive, it was a horticultural disaster and Arthur became a key member of the team responsible for designing a new Greenhouse containing a room of bromeliads and succulents, a tropical room, and a room specifically for cacti. In 1963, Arthur devoted much of his time to seventh grade life science, a course he would teach for the next 2 decades.

Cecil Green, who was President of the Board, admired Arthur's work and asked him to design the planting for the Math/Science courtyard. He used part of his own collection to illustrate the four natural growing areas of Texas. In 1969 Arthur developed and implemented plans for the Aviary. For his vast knowledge in the natural sciences, P.O'B. Montgomery, Jr. '38 appointed him "Curator of Living Materials," a title he holds to this day.

The Class of 1972 honored Arthur by dedicating the Marksmen to him. As they wrote, "Mr. Douglas is a unique man at St. Mark's. Nowhere in our community is there to be found an individual as involved with the students, as humorous, and at the same time, as scholarly. . . . he is a fine and outstanding individual."

Without seeking it, Arthur's knowledge of ornithology and the natural sciences made him internationally renowned. From the 1960's through the 1980's, he wrote articles and regularly appearing columns for the English weekly magazine Cage and Aviary Birds. He wrote and illustrated articles for The Canary & Finch Journal and The Journal of Yorkshire Cactus Society. For his research on the artificial feeding of insectivorous birds in captivity, he was elected a Fellow of the London Zoological Society in 1969. Arthur has written numerous articles and translated Seventeenth century ornithological works into English from Italian and French. In 1978 he was invited to make a presentation at the 1st International Symposium on Birds in Captivity. Arthur continues to catalog and illustrate birds and is currently on his fourth volume of compilations. He has been a member of the Avicultural Society, the Royal Horticultural Society, the Arizona Native Flora Society, and the Audubon Society.

In 1963 Arthur met Alice Taliaferro, a substitute teacher at St. Mark's. They married in 1965 and he helped raise her two children Alan Douglas of Dallas and Anne Poole of Muenster. Alice died in 2000 after 35 years of marriage.

He retired from teaching in 1982, but Arthur continues to be an important member of the

St. Mark's faculty. He takes care of and gives tours of the Greenhouse and Aviary, instructing boys on the wonders of the natural world. Faculty and students alike appreciate Arthur's encyclopedic knowledge, English wit, and considerable charm. For 50 years, Arthur Douglas has embodied St. Mark's commitment to the pursuit of excellence and has taught by example what it means to be an inspiring teacher, a caring mentor, a true gentleman, and a great friend.

RECOGNIZING A RECENT SPEECH BY REPRESENTATIVE ROSA DELAURO AT GEORGETOWN UNIVERSITY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. DINGELL. Mr. Speaker, I rise today to recognize the recent speech that my good friend and colleague from Connecticut, Congresswoman ROSA DELAURO, gave at Georgetown University on April 19, 2005. Representative DELAURO plainly and passionately conveyed her opposition to privatizing Social Security. Moreover, Representative DELAURO clearly lays out how the values instilled in her by both her parents and the Catholic Church led to her opposition to privatizing this vitally important program that has kept millions of seniors out of poverty since it was signed into law in 1935. I applaud the Congresswoman's ability to connect her faith with her public service.

I would like to take this opportunity to insert Congresswoman DELAURO's speech into the RECORD and would encourage all my colleagues to take a few moments to read it.

It is always good to be here at Georgetown among friends—so many good, young Democrats engaged in the process, fighting for change, who understand the stakes of today's political debates and want to take part in them. As the future of the country, no one has more riding on them than you. You know better than anyone that their outcomes will determine the course of this country for decades to come.

And as College Democrats, you are committed to the values of our Party. Not only are you working to elect Democratic candidates, perhaps more importantly, you are encouraging involvement and building excitement within the Party, providing your peers with the skills and experiences necessary to reinvigorate the Party from the grassroots. That is something very precious—and so important right now.

Tonight, I wanted to discuss the values that not only unite us Democrats but as Americans—particularly as to how they have shaped and informed the Social Security program over the years. Indeed, we hear so much about the importance of values today—but oddly enough, little about what they are, where they come from and what their implications are in government and society. And so tonight, I would like to speak about that nexus between values and public policy, a little about how my values shaped my own views and led me into public life, and how in the Social Security system we find a true reflection of those values in the pursuit of the common good.

We can all agree that values encompass so much more than the cultural flashpoints with which they are often associated in the media today. Values should not be reduced to one or two political issues. Rather, they are so much broader than that—the guiding principles on which we conduct our lives. Given to us by our parents and to them by their parents, one's values are what give life meaning. They ground us and provide the ethical framework within which we conduct our lives and raise our families.

Mine were given to me by my parents, who came to this country as Italian immigrants. In our household, I was constantly reminded of the value of working hard to get ahead and giving back to a country that had given so much to us. My father, who dropped out of school in the seventh grade, largely because students made fun of his broken English, went on to become a proud veteran of this country—he served his community. He sat on New Haven's City Council, as did my mother, who served there for 35 years—well into her 80's.

Working in a sweatshop sewing collars for pennies before going on to a life of public service, my mother was a driving force in my life and career. But to be sure, faith played a large role in shaping my values as well, having attended Catholic school from elementary school to college. It was there that I learned to nourish my mind and my heart—to reach out, to work hard, to fulfill my potential and be whatever I wanted to be. But it also taught me about right and wrong, personal responsibility and how to nourish my community, my neighbors—to give something back to my world, to the people of that world.

In a broader sense, it was the church that bound us together as a community in my neighborhood—in our schools, in our hospitals. My father received communion daily—and lived his faith with commitment. Our local parish and our kitchen table were our community center—where people gathered to share their lives and help one another. Every night around my family's kitchen table, I saw how faith could serve as the nexus between family and community. There, I would witness firsthand how my parents helped solve the problems of people in our neighborhood.

With my parents' example and my Catholic upbringing, I learned the vital connection between family, faith, responsibility, community, and working for the common good—that values learned at home and at church effected change at the community level both profound and undeniable. It showed me that government can and must play a critical role in helping people make the most of their own abilities and how to meet their responsibilities to each other and society as a whole.

My own story is hardly unique. Many of these values have helped shape America's public policy over the course of our nation's history. Indeed, many of the economic and social achievements of the past century have their roots in this vision of opportunity and responsibility, community, a recognition of our obligations to each other—including Medicaid, Head Start, the child tax credit, and the GI Bill, to name but a few.

Perhaps the ultimate legislative expression of our nation's shared values and those I learned growing up is Social Security, which for 7 decades now has tied generation to generation, ensuring that those seniors have a secure retirement after a lifetime of work. Social Security was born in part out of FDR's appreciation for Catholic Social Teaching and Monsignor John Ryan's role in advocating programs based on the social letters of Pope Pius the Eleventh and particularly Pope Leo the Thirteenth's Rerum Novarum, which read, "Among the several purposes of a society, one should try to arrange for . . . a fund out of which the members may be effectually helped in their needs, not only in the cases of accident, but also in sickness, old age, and distress." In that respect, Social Security was the embodiment of those teachings—a declaration that our human rights are realized in community.

Such sentiments were reflected in FDR's words to the Congress in 1934, when he said, "We are compelled to employ the active interest of the Nation as a whole through government in order to encourage a greater security for each individual who composes it."

For FDR, Social Security was one way we could promote and maintain our shared values by rewarding work and ensuring a decent retirement for those who have worked a lifetime. And by depending on and encouraging younger generations to take responsibility, too, Social Security reinforced the idea that in America, we do not leave every man or woman to fend for himself or herself—that we do not tolerate the impoverishment of our senior population. Those are our nation's values and they are perpetuated by the very construct of our Social Security program.

Indeed, with the first Social Security check issued, poverty among the elderly began to drop. In the 1950s, more than 30 percent of elderly Americans lived out their last years in poverty—today that figure is about 10 percent, with 2 out of 3 seniors today relying on Social Security as the prime source of their monthly income, including three-quarters of all elderly women.

And Social Security is not just for people like our parents and grandparents—a third of the 47 million people who rely on the program are the disabled, widows and children. All told, that is 47 million people—parents, grandparents, widows and children—who do not have to rely solely on their families for financial support because they have the help of Social Security.

For women who on average earn less and spend less time in the workforce, Social Security is a blessing. Women comprise nearly 60 percent of all seniors on Social Security—a majority of whom would be living in poverty without it. More than half of all women receiving benefits do so as the spouse of a retired worker, but for 4 in 10 women living on their own, the program accounts for 90 percent of their retirement income.

So essentially, Social Security functions not only as a safety net for older Americans, but in a way, for the rest of us—a kind of family insurance guaranteeing that we can live our own lives and raise our own children, confident that our parents and loved ones have something to rely on and can live independently of us. It is without a doubt the most successful, efficient middle-class retirement program we have—a "national achievement" that we can be proud of as individuals and as members of a good and decent society.

Yet today, the commitment to opportunity and community out of which Social Security was created has frayed. For sure, a coarseness to our culture today in our politics and in the media has deepened divisions in society. But I think it goes deeper than that. Today, pleas for community and the common good have taken a backseat to appeals to self-interest, sometimes greed, and extreme individualism—policies that make us more unequal and divided. And where government was once seen as a vehicle for our shared values, today it is often viewed with suspicion and mistrust.

Indeed, no debate is more symbolic of the forces at play in today's society than the one surrounding the future of Social Security. Despite the program's unqualified success, the president wants to change it. The reason he gives is that in 2018, benefits being paid out begin to exceed what Social Security is taking in in payroll taxes, even though Social Security will be able to pay 100 percent of benefits until 2041. Even after 2041, the Social Security Trust Fund does not go bankrupt, because the program will still be able to pay between 70 and 80 percent of its benefits.

Congress must address the funding shortfall in the middle of the century. Yet what President Bush is proposing is that we radically change this successful program—privatizing Social Security by diverting a third of payroll taxes that pay benefits today into private, individual accounts that can be invested in the stock market.

I think the Catholic Bishops had it right, when they wrote extensively on this issue at the end of the 1990's as Republicans were advocating for Social Security's privatization. The Bishops said then that Social Security had been established as an insurance program in which, quote, "society as a whole buffers the individual and collective risks that workers and their families face." They went on to say that turning Social Security into an investment vehicle for individuals, quote, "does not guarantee an adequate or assured retirement program" for our senior population.

But that is precisely what President Bush wants to do. He wants turn Social Security into an investment program—a tool to create personal wealth. And I fail to see how a program benefiting our national community, rooted in values that promote the common good and reinforce the idea that we are all in this together, is improved by private accounts. These values go to the heart of what I believe as a Democrat and as a Catholic.

Besides, privatization does nothing to address the expected shortfall in the current Social Security system—the reason President Bush brought up privatization in the first place. In fact, by taking money out of the trust fund to create private accounts, the president's proposal makes the problem worse. Secondly, privatization will balloon our half-trillion dollar deficit by as much as $5 trillion in the next 20 years because we will still have to pay benefits to current retirees at the same time we are taking money out of the system to create private accounts. That means higher interest rates for buying a house, a car or going back to school.

Third, we would be eliminating the program's guaranteed benefit and requiring benefit cuts that the Administration itself has estimated will be as steep as 40 percent—all for a plan that does not even address the underlying problem. The amount retirees get from Social Security is already modest—about $955 per month, $11,500 per year, enough to pay for most basic needs, but hardly enough to get by on alone.

And for women, for whom Social Security has been such a success, the effects of privatization would be disastrous, as confirmed by a recent report by the National Women's Law Center. For 29 percent of women, Social Security is the only retirement package available. Privatization would replace the program's progressive benefit structure with private accounts based only on a worker's contributions to the account—cutting the average widow's benefit in my state of Connecticut to a paltry $518 per month.

And privatization is not only a bad deal for our mothers and grandmothers—but for young women as well. For all our gains, women still earn less—77 cents for every dollar men earn—even though we live longer. And the Social Security Administration itself predicts that 65 years from now, 40 percent of married women will still receive benefits based on their husband's higher earnings record.

You might be asking—but what about the increased benefits from the stock market? Well, you do not get to keep the full Social Security and the full private account. The average private account would be taxed at 70 percent through monthly deductions from your Social Security check. This privatization tax would come on top of the benefit cuts that will affect all Social Security beneficiaries.

It is complicated, but when you retire, you essentially have to pay the money you put into your private account back to the government. So, at the same time that the private accounts would be adding to your income, a large portion of that additional income would be offset dollar for dollar through reductions in your guaranteed Social Security check. And that would be regardless of how well your private account performed.

But well beyond the financial implications of privatization—and there are many—are its moral implications. As The National Catholic Reporter editorialized recently, what we risk losing with privatization is so much more than money. We risk losing the agreement that we have maintained for the past half-century that we are all in this together. We risk losing faith with the understanding that all workers—poorest to richest—contribute to something in common and that everyone gets something in return. And we abandon the sense that despite differences in political outlook and social standing, we all believe that is good for society to guarantee a minimum standard of economy security for its oldest, disabled and widowed citizens. That is what privatization risks.

As someone who has had the privilege of serving in the Congress of the United States for over a decade-and-a-half, representing more than a half-million people, I believe that government has an obligation to play a role in making opportunity real—a moral obligation. I do not believe in every man or woman for himself or herself. I believe in values like shared responsibility and personal responsibility. I believe in what we can achieve together. Those are the principles at the core of Social Security. They are what drive me—they are what drive you. They are what drive each of us as Democrats and Americans.

The fight to preserve Social Security and make it as successful in the 21st Century as it was in the last is a struggle that every American has a stake in—but no one more than the younger generation. This is a defining challenge for us—a statement about the kind of country we want America to be. As Franklin Roosevelt told Congress, Social Security is a "return to values lost in the course of our economic development and expansion."

That is our challenge today, as well—to bring change, while affirming our values as Americans and as Democrats. Indeed, in 1983, bankruptcy was only a year off—one year, not 37. Back then, Congress and President Reagan worked together on a bipartisan commission that ensured Social Security would be solvent for generations. And they did it not by changing the fundamental nature of the program but by making minor adjustments to the benefits and financing structures.

In my view, that is the example of bipartisanship we should draw upon. With so much at stake for our communities and the country, I believe we need that kind of bipartisanship in this debate—one that achieves consensus, strengthens the program's guaranteed benefit in retirement and reflects our nation's shared values. Because this fight is not only about stopping the bad idea that is privatization—it is about promoting and maintaining the good idea that was and is Social Security.

As students looking forward to lives of your own, raising families and embarking on careers, you have been given a remarkable opportunity—to put the values your parents instilled in you to use in society, in whatever career you choose.

My challenge to you today is: how are you going to seize this opportunity—to give back and have a say in this debate which is so important to our shared values? What role will you play in ensuring future generations have the quality of life you and your families have had? I do not pretend to have all the answers. But if my own experiences have taught me anything, it is that bringing our values to the public sphere is not a matter of expediency but of moral and civic obligation—a call I hope each of you choose to answer.

Thank you for this honor and this opportunity.

BALTIMORE-WASHINGTON INTERNATIONAL AIRPORT IS RENAMED IN HONOR OF JUSTICE THURGOOD MARSHALL

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. CARDIN. Mr. Speaker, I rise to ask my colleagues to join me in recognizing an important day in Maryland history. Yesterday, in Annapolis, legislation was signed into law renaming our State's largest airport the "Baltimore-Washington International Thurgood Marshall Airport."

Born in Baltimore, Maryland in 1908 and educated in our State's public school system, Thurgood Marshall devoted his life to the pursuit of equal justice for all Americans. Named "Thoroughgood" at birth after his great-grandfather, a former slave who had fought for the Union Army during the Civil War, Marshall later shortened his name to "Thurgood." After graduating from Lincoln University, Marshall received his law degree from Howard University in 1933, and set up private practice in Baltimore before joining the Baltimore NAACP.

His remarkable career spanned several decades, during which he served our country honorably. His work as Director-Counsel of the NAACP laid the groundwork for some of the most historic civil rights decisions in our Nation's history. He also achieved international stature as a champion of equal rights around the world. President John F. Kennedy nominated Marshall to the U.S. Court of Appeals for the Second Circuit in 1961. President Lyndon B. Johnson named him U.S. solicitor general in 1965 and nominated him to the Supreme Court in 1967. Justice Marshall served as the first African American Justice from 1967 until he retired in 1991.

Thurgood Marshall passed away in 1993 at age 84, and his body lay in state at the Supreme Court where thousands of mourners came from across the Nation to pay tribute to him. Renaming this international airport for him now serves as another fitting tribute to such a great Marylander and a great American. It will also serve to enlighten travelers from around the world that Baltimore was his home. Finally, Mr. Speaker, I want to acknowledge the extraordinary bipartisan effort in our state legislature—and particularly recognize the leadership of Delegate Emmett C. Burns, Jr.—that led to enactment of this law, and encourage all of my colleagues in Congress to use the Baltimore-Washington International Thurgood Marshall Airport for their next flight home.

HONORING THE LIFE OF CAPTAIN CHARLES "CHUCK" McATEE

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. MORAN of Kansas. Mr. Speaker, today I rise to honor the life of Captain Charles "Chuck" McAtee. After leading a life devoted to public service, Captain McAtee passed away on Friday, April 8, 2005 from acute leukemia.

In his life, Captain McAtee was committed to the principle of country before self. When duty called, he answered, serving proudly and honorably as a United States Marine in the Korean War. His experiences in Korea inspired him to later lead the effort to ensure the dedication of the Northeast Kansas Korean War Memorial in Topeka in 2003. He also generously shared his love of country with others, such as his financial support to Marine Junior ROTC programs.

Following active military service, Captain McAtee pursued two of his great interests in life—public service and the law. He first demonstrated a devotion to law through his work for the law firm of Eidson, Lewis, Porter & Haynes in Topeka, Kansas. He also used his legal knowledge serving as an officer to the 1st Marine Division Association.

Captain McAtee later became involved in public service at the age of 27, working as a special agent for the Federal Bureau of Investigation. He then transitioned into State government, combining his passion for law and law enforcement through service as the Director of Penal Institutions for the State of Kansas—a position that would define the remainder of his life.

As Director of Penal Institutions for the State of Kansas, Captain McAtee played a major role in the case of the Clutter family murders and bringing their killers to justice. The murders eventually became the subject of author Truman Capote's book *In Cold Blood.* Captain McAtee's position brought him in close contact with the convicted murderers in the Clutter case, receiving frequent uncensored correspondence from them and visiting with them during their time on death row.

Captain McAtee also demonstrated leadership and commitment to public service by representing the Republican Party as a candidate for Congress in 1972, and as a candidate for Kansas's Attorney General in 2002.

Although his experiences took him around the world and into the national spotlight, he never abandoned the values instilled in him by his parents, neighbors and friends in the small, Kansas hometown of Mahaska. The principles of hard work, integrity, and justice that had been engrained in him in his youth, guided his efforts throughout his life.

Captain Charles "Chuck" McAtee was a true public servant who fit the situation within which he was called to serve. I join his many friends in extending my deepest sympathies to his family during their time of loss.

PERSONAL EXPLANATION

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. WILSON of South Carolina. Mr. Speaker, on rollcall numbers 162 and 163 on May 10, 2005, I was on Congressional travel and unable to cast my vote.

Had I been present, I would have voted the following:

Rollcall no. 162, H. Res. 193, in Support of the Assembly to Promote Civil Society in Cuba, I would have voted "yea."

Rollcall no. 163, H. Res. 142, Supporting the Goals of Rotary International Day, I would have voted "yea."

IN SPECIAL RECOGNITION OF MARY B. GUZOWSKI ON HER APPOINTMENT TO ATTEND THE UNITED STATES AIR FORCE ACADEMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to an outstanding young woman from Ohio's Fifth Congressional District. I am happy to announce that Mary B. Guzowski of Tiffin, Ohio has been offered an appointment to attend the United States Air Force Academy at Colorado Springs, Colorado.

Mary's offer of appointment poises her to attend the United States Air Force Academy this fall with the incoming cadet class of 2009. Attending one of our nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young women and men have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Mary brings an enormous amount of leadership, service, and dedication to the incoming class of Air Force cadets. While attending Tiffin Columbian High School in Tiffin, Ohio, Mary has attained a grade point average of 3.72, which places her in the top ten percent of her class of over two hundred students. While a gifted athlete, Mary has maintained the highest standards of excellence in her academics, choosing to enroll and excel in Advanced Placement classes throughout high school. Mary has been a member of the National Honor Society, Honor Roll, the Marching Band, the Symphonic Band and has earned awards and accolades as a scholar and an athlete.

Outside the classroom, Mary has distinguished herself as an excellent student-athlete by earning letters in both Varsity Soccer and Swimming. She has also remained involved in her community by coaching elementary soccer, serving as a church lector and assisting her peers as a Teen Advisory Board Member. Mary's dedication and service to the community and her peers has proven her ability to excel among the leaders at the United States Air Force Academy. I have no doubt that Mary will take the lessons of her student leadership with her to the United States Air Force Academy.

Mr. Speaker, I ask my colleagues to join me in congratulating Mary B. Guzowski on her appointment to the United States Air Force Academy at Colorado Springs. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Mary will do very well during her career at the United States Air Force Academy. I ask my colleagues to join me in wishing her well as she begins her service to the Nation.

A TRIBUTE TO UNIVERSITY OF REDLANDS PRESIDENT, JIM APPLETON

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. LEWIS of California. Mr. Speaker, I rise today to pay tribute to a true leader for quality higher education in California, University of Redlands President, Jim Appleton. Over the past 18 years, Jim Appleton has helped a small liberal arts college gain a national reputation for excellence and progressive thinking.

The University of Redlands was established by the American Baptist Church nearly 100 years ago in what was then a small farming community east of the growing Los Angeles urban area. In the intervening century, both the city of Redlands and the University have grown in population and sophistication. The university is now an independent liberal-arts school, and the community is known throughout Southern California for its historical housing districts and support for the arts.

The University of Redlands was already becoming a modern institution when Jim Appleton was named president in 1987. Its student body had grown to 1,280, and its endowment was a respectable $24 million. It had been rated highly in the widely-read survey of colleges by the U.S. News and World Report magazine.

Jim Appleton came to the University of Redlands from the University of Southern California, where he had been a faculty member, vice president for student affairs and vice president of development. He brought a can-do spirit from that national powerhouse institution.

Appleton balanced the university's books in 1989 for the first time in years. A new ball field was added in 1994, and a new NCAA-quality aquatics center opened in 1996. Overall, the college has invested $140 million in new facilities in the past 18 years—compared to $21 million in the previous 20 years. The building program is continuing with a new science center, new environmental studies center and new mathematics facility. Along the way, many of the college's historic structures have been renovated and modernized, as well.

New academic programs include Environmental Studies, Race and Ethnic Studies, and Theater. The college has increased its full-time faculty by 40 percent, and has added professional schools in business and education. Three graduate degree programs are now offered—in music, communicative disorders and in geographic information systems—the latter a collaboration with the internationally known GIS company ESRI, which is also headquartered in Redlands.

The success of the university is easily measured: The student body today is 2,450 in the undergraduate schools, and an additional 1,965 in the graduate programs. The endowment is now in excess of $107 million, and the university has raised $70 million of a $100 million Centennial Campaign begun in 2004.

As a member of Congress representing Redlands, I have been pleased that my colleagues have seen fit over the years to provide federal funds to further innovative programs at the university. The returns on the investment have ranged from informative studies on desert environment systems to new methods for teaching technology to classroom teachers. I have found it especially rewarding to work with my friend Jim Appleton, who has shown such dedication to his university and to the city we both call home.

Mr. Speaker, after 18 years as president, Jim Appleton has decided to "retire" and become university chancellor. I ask my colleagues to join me in thanking him for his years of service to the education of our young people, and wish him and his wonderful wife Carol the utmost success in their future endeavors.

A PROCLAMATION RECOGNIZING MAYOR JACK FENTON

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. NEY. Mr. Speaker:

Whereas, Mayor Jack Fenton has provided outstanding service and contributions while serving as the Mayor of Zanesville from 1995 to 2005; and

Whereas, Mayor Fenton served his community as Assistant Fire Chief from 1978 to 2005 and served as Director of Public Safety for the City of Zanesville and the Zanesville/Muskingum County Chamber of Commerce; and

Whereas, Mayor Fenton has worked selflessly and with dignity as an integral part of the community through 46 years of public service.

Therefore, I join with Mayor Fenton's family, friends, the residents of Zanesville, and the entire 18th Congressional District of Ohio in commending Mayor Jack Fenton for his exceptional work and years of service, and wish him the very best in his future endeavors.

HONORING DR. JAMES TERRY

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. HENSARLING. Mr. Speaker, I rise today to recognize the exceptional achievements of Dr. James Terry, Superintendent of the Mesquite Independent School District. On January 10th of this year, Dr. Terry announced his intention to retire at the end of the school year bringing a close to his long and distinguished career as an educator. For the past 42 years, his students have been at the heart of each of his decisions. Dr. Terry has been a strong role model and exceptional educator for the children of east Texas as both a teacher and administrator. The students, parents, and teachers of the Mesquite Independent School District will greatly miss his leadership and educational vision.

Although his career has steered him through both Beaumont and Dallas, Dr. Terry and his wife Frances Louise Gilbert quickly settled in their eventual home of Mesquite, Texas. His first assignment in Mesquite was as a math teacher, but before long he moved into a variety of administrative positions before assuming the responsibility of Superintendent in July of 2001. Along the way, he amassed a trophy case of awards including the 1999 Administrator of the Year Award from the Texas Professional Educators and also earned the Golden Deeds for Education Award in 2004.

Dr. Terry, who received his undergraduate, masters, and a doctorate degree from East Texas State University in Commerce, Texas, has always believed that proper education required a hands-on approach. Upon assuming the role of superintendent, he immediately set out to visit each of the 42 schools in his district to share his plans and vision for the upcoming school year. Since that time, he has always made it a priority to spend some time at each of the schools and with the more than 34,000 students for which he is responsible.

On top of his numerous accomplishments in the classroom and in the superintendent's office, Dr. Terry has also demonstrated his commitment to public education through his membership and leadership roles in several educational organizations. Over the course of his career, he has served on the President's Education Advisory Council for the Texas A&M University System and in the Regents' Initiative for Excellence in Education through Texas A&M—Commerce. In addition, he was a member of the Executive Council of the East Texas School Study and has served as president of the North Central Texas Association of Supervision and Curriculum Development.

As the Congressman for the Fifth District of Texas, I am pleased today to recognize my friend, Dr. James Terry for his many years of public service and for the outstanding contributions he has made to make his community and his country a better place. Dr. Terry, on behalf of all of the constituents of the Fifth District, especially those in Mesquite, I would like to extend our most sincere thanks and praise for a job well done.

IN HONOR AND REMEMBRANCE OF GREGORY ANTHONY D'ANGELO

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Gregory Anthony D'Angelo, beloved husband, father, grandfather, great-grandfather, brother, WW II Veteran, and dear friend and mentor to many. Mr. D'Angelo's life was framed by kindness, tenacity, integrity and heart, and although he will be greatly missed, he deeply touched the lives of everyone he knew.

Mr. D'Angelo was a true renaissance man, whose mastery of the carpentry trades, artistry in the boxing ring, and expertise in the field of aeronautical mechanics belied his kind and compassion heart. His main focus was always his family. Together, Mr. D'Angelo and his beloved wife of 54 years, "Millie," raised their five children.

A devoted husband and father, Mr. D'Angelo worked diligently to provide for them. Whether driving a truck, climbing into the boxing ring, or creating the Prehistoric World Diorama at Disneyland, Mr. D'Angelo did so with commitment, heart and grace. Though unimpressed by awards and accolades, his work at Disneyland captured the attention, honor and respect of Mr. Walt Disney himself. In addition to Mr. Disney, Mr. D'Angelo captured the honor, respect and love of those who loved and knew him best—his family and friends.

Mr. Speaker and Colleagues, please join me in honor and remembrance of Gregory Anthony D'Angelo. I offer my deepest condolences to his wife and companion of 54 years, Millie; his children, Joseph, Kathleen, Annie, John and Susan; his daughters-in-law, Robyn and Susan; his sons-in-law, Charles, Willie and Curt; his 12 grandchildren and 4 greatgrandchildren; his sister, Stella; and to his extended family and many friends. Mr. D'Angelo left this world with a legacy that shines love and light upon his family, friends and community. His joy of life, caring heart and concern for others defined his life and will live on in the hearts of all who knew and loved well, today, and for all time.

THE INDENTURED SERVITUDE ABOLITION ACT OF 2005 INTRODUCTORY STATEMENT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. GEORGE MILLER of California. Mr. Speaker, I rise today to introduce the Indentured Servitude Abolition Act of 2005. At a time when the President and many Members of this House are discussing legislation to greatly expand the number of foreign workers who come to the United States legally for work, we must ensure that they are not indentured servants who owe unconscionable fees to recruiters.

One hundred and forty years ago, the American Civil War ended. Slavery and involuntary servitude were prohibited throughout our nation by the adoption of the 13th Amendment to the Constitution. And yet, as has been well documented in the press, thousands of men (and especially women) endure abuse as indentured servants because, as a condition of securing a job, they must pay exorbitant fees to labor recruiters—fees it can take years to payoff. The problem of recruiter-related indentured servitude has been well publicized in the Commonwealth of the Northern Mariana Islands, but it is a problem throughout this country, and it will grow as more guest workers are permitted. Foreign labor contractors lure workers to the United States by promising them a better life with decent wages and good jobs in exchange for thousands of dollars in fees. Instead, workers arrive in the U.S. only to find that they were cruelly deceived. They earn unlivable wages for menial jobs to which they never agreed, with no insurance or health care, and deeply in debt to the recruiter for bringing them to their new home.

Sadly, those are the least of their worries. Workers endure sweatshop conditions and back-breaking work for inhumanly long hours. They are forced to work through illness and injury with only one day of rest per week. Employers automatically deduct the majority of their weekly pay for room and board, often for living situations not fit for animals and starvation rations, leaving workers with a few dollars if not further in debt. And that is when their wages are not withheld, a frequent occurrence. Most distressing of all, many workers suffer physical violence at the hands of their employers and are threatened if they should try to leave. Unable to pay off debt manufactured by the recruiters and their employer and fearing for their lives, workers are trapped.

This is not an exaggeration: it is the disturbing reality for thousands of workers in this country. This is not employment opportunity: it is indentured servitude, and it should not be occurring in the United States in 2005. Just this week investigations into La Mode Inc., a Saipan company that unlawfully suspended operations while owing workers back wages of more than $395,000, revealed that Chinese employees were required to pay recruitment fees of $4,500 to $8,000 for the privilege of working at a job that pays barely $3 an hour, and then being unlawfully terminated before the expiration of their contract, cheated out of their pay, and abandoned in a strange land.

This deplorable practice not only undermines living standards, it ruins lives. It is a violation of basic human rights that leaves workers as indentured servants, forcing them to endure a form of modern day slavery. The Indentured Servitude Abolition Act of 2005 will end this cruel practice by providing for tough legal accountability for foreign labor contractors and employers.

The "Indentured Servitude Abolition Act of 2005" holds recruiters and employers responsible for the promises they make to prospective employees, and discourages employers from using disreputable recruiters. The bill requires employers and foreign labor contractors to inform workers of the terms and conditions of their employment at the time they are recruited. It makes employers jointly liable for violations committed by recruiters in their employ. It imposes fines on employers and recruiters who do not live up to their promises and authorizes the Secretary of Labor to take additional legal action to enforce those commitments. Employers and recruiters are prohibited from requiring or requesting recruitment fees from workers and are required to pay the costs, including subsistence costs, of transporting the worker.

The bill discourages disreputable labor contractors by requiring the Secretary of Labor to maintain a public list of labor contractors who have been involved in violations of the Act and by providing additional penalties if employers use a contractor listed by the Secretary as having been involved in previous violations of this Act and that contractor contributes to a violation for which the employer may be liable. The remedies provided under the "Indentured Servitude Abolition Act" are not exclusive, but are in addition to any other remedies workers may have under law or contract.

The legislation I am introducing has been endorsed by the Farmworker Justice Fund, the National Employment Law Project, and the AFL-CIO. The National Employment Law Project notes that "labor recruiters currently enjoy a near total lack of accountability for the workers' job conditions" and that the bill performs "an important service by requiring both the users of the labor and the recruiters themselves to inform workers on the job conditions they can expect."

The Farmworker Justice Fund notes that the legislation addresses, "the new reality of global labor migration. . . . In many cases foreign workers who are recruited for U.S. jobs suffer harsh abuses in the form of huge debts, usurious loans, threats of violence, false promises, and illegal wages and working conditions. . . . We must gain control over labor migration and this is one important step toward that goal."

Is it too much to ask that people who live on American soil, making products for American consumption, be treated like American workers? Our basic respect for human rights demands that we act now to protect these workers. I am pleased that 24 of our colleagues have joined me as original cosponsors of this bill. I am hopeful that all of our colleagues, on both sides of the aisle, will add their support to this critical legislation to end the despicable practice of slavery in the United States once and for all. Mr. Speaker, I urge Members of the House to join me and co-sponsor the Indentured Servitude Abolition Act of 2005.

IN SPECIAL RECOGNITION OF MICHAEL H. PERSIANI ON HIS APPOINTMENT TO ATTEND THE UNITED STATES AIR FORCE ACADEMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Michael H. Persiani of Perrysburg, Ohio has been offered an appointment to attend the United States Air Force Academy at Colorado Springs, Colorado.

Michael's offer of appointment positions him to attend the United States Air Force Academy this fall with the incoming cadet class of 2009. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Michael brings an enormous amount of leadership, service, and dedication to the incoming class of Air Force cadets. While attending St. John's Jesuit High School in Toledo, Ohio, Michael has attained a grade point average of 3.90, which places him near the top of his class of nearly two hundred students. While a gifted athlete, Michael has maintained the highest standards of excellence in his academics, choosing to enroll and excel in Advanced Placement classes throughout high school. Michael has been a member of the National Honor Society, Honor Roll, French Club and has earned awards and accolades as a scholar and an athlete.

Outside the classroom, Michael has distinguished himself as an excellent student-athlete. On the fields of competition, Michael has earned letters in Varsity Hockey and Tennis. He was named Captain of the Varsity Hockey team and served as President of the French Club. Michael's dedication and service to the community and his peers has proven his ability to excel among the leaders at the United States Air Force Academy. I have no doubt that Michael will take the lessons of his student leadership with him to the United States Air Force Academy.

Mr. Speaker, I ask my colleagues to join me in congratulating Michael H. Persiani on his appointment to the United States Air Force Academy at Colorado Springs. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Michael will do very well during his career at the United States Air Force Academy. I ask my colleagues to join me in wishing him well as he begins his service to the Nation.

INTRODUCTION OF LEGISLATION TO EXTEND ELIGIBILITY FOR DEPARTMENT OF VETERANS AFFAIRS PENSION BENEFITS

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. RAHALL. Mr. Speaker, today I am introducing two bills that pay tribute to those service personnel who have nobly served our Nation in times of conflict. In both cases, the legislation extends pension benefits to those veterans who served in harm's way, though not in a time of declared war.

Under current law, you may only draw a full pension if you served in combat during a declared period of war. This distinction served its purpose well during many of America's 20th Century engagements, as our involvement in those wars was clearly defined. World Wars I and II and the Vietnam War are prime examples.

However, American service personnel have served—and faced heavy fighting—in conflicts that have not been declared "war" by our government. Case in point is Korea. Our Armed Forces lost 33,741 dead in that conflict, even though President Truman called our participation a "police action" and never asked Congress for a formal declaration of war.

The point of the matter is that while war is not always clearly defined, the sacrifice of our service personnel is.

With the support of the American Legion and noted West Virginia veteran John Peters, I introduce these bills to correct what many believe is an inequity in determining veterans' pension benefits. The first bill would provide the basic guarantee of a pension to those who served in Korea, Lebanon, Granada and Panama. In each case, American service personnel were faced with significant danger and, again in each case, American lives were lost. With this in mind, I believe it is imperative that our government provide veterans of those conflicts with appropriate pension benefits.

The second bill I am introducing would extend pension benefits to those servicemen and women whose actions earned them the Expeditionary Medal. For those who are unfamiliar with what an Expeditionary Medal is, or the actions for which it is awarded, the Joint Chiefs of Staff must determine that the service personnel is engaged where hostile action by foreign armed forces is imminent. Again, I believe those who have put their lives on the line in defense of our country, especially when recognized by the Joint Chiefs, deserve the benefits a military pension provides.

The United States has sent service personnel to all corners of the globe to defend our freedoms and way of life. In all cases, our troops have served nobly and honorably. In several cases, war has been declared officially—and those who participated in those actions certainly deserve to receive a military pension for their sacrifice. However, American personnel have also served in conflicts not officially declared war, and have been faced with incredible dangers. To these veterans I say you deserve the same pension benefits afforded your brothers and sisters in arms who participated in declared wars. I urge Congress to pass these critical bills.

WILLIAM "LES" BROWN: A LEGACY OF INSPIRATION AND ACTIVISM

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Ms. SCHAKOWSKY. Mr. Speaker, later this month, people in Chicago will gather to celebrate the life and achievements of William "Les" Brown. Les Brown had an enormous influence on the way our nation thinks about homelessness. He was a person of intelligence, creativity, passion and caring who showed that we can each make a difference in helping to create communities that provide support and opportunities for every individual. I am fortunate to have known and been inspired by Les and I, like many Chicagoans, will miss him.

Les Brown was best known as the founder of the Chicago Coalition for the Homeless, formed in 1980 with the help of the Travelers and Immigrants Aid Society, the Jewish Council on Urban Affairs, and other service providers. Karen Singer, executive director of the YWCA Evanston/North Shore, called him the "moral compass" of the movement to end homelessness. Ed Shuma, the current executive of the Chicago Coalition for the Homeless, acknowledges him as "the chief strategist and idea man behind most of the Coalition's successes" in providing housing, jobs programs and health care for the homeless.

A social worker, former Air Force medical corpsman and a blues pianist, Les Brown used all of his skills to push for solutions. While others ignored the problem, he taught us that homelessness can be solved and that individuals living on the street deserve to be treated with dignity. In 1983, he organized the first national conference on homelessness in Chicago. In 1984, he underwent a heart transplant but never let that slow him down or limit his dedicated activism. For his entire life, he fought to keep this issue at the top of the political agenda, reminding us that the homeless are not nameless beings or numbers, but infants and children, working mothers and fathers, returning veterans and those living with illnesses who deserve our support and a safe, decent place to live.

Les Brown grew up in rural Georgia, where he learned his values from his parents, who taught him the values of fairness and social justice. It was the love of the land that he developed in childhood that gave him the inspiration for "Growing Home," an initiative that helps the homeless learn job skills at an organic farm in Marseilles, Illinois. According to Les, "Homeless people often are without roots. They're not tied down, connected, not part of their family anymore. Our organic farming program is a way for them to connect with nature—to plant and nurture roots over a period of time.

When you get involved in taking responsibility for caring for something, creating an environment that produces growth, then it helps you to build self-esteem and feel more connected."

There are concrete reminders of Les Brown's accomplishments throughout the Chicagoland area—low-income housing units that would not have been built without him, organizations and coalitions that would not exist but for his leadership, initiatives like Growing Home that grew from his vision. Some of the best evidence of his legacy can be found in the people he touched and motivated and who will carryon his work.

Les Brown had an enormous impact and influence on the people he met, creating a generation of advocates who will follow in his path. One of them, Fred Friedman, wrote the following in commemoration:

LES BROWN'S LEGACY

> Les Brown died the other day. I did not know him very well or very long but he was very dear to me.
>
> I first met Les when I was still living in a homeless shelter. As you might guess, it was at a meeting about homeless youth. Later, he was kind enough to see me in the office of the Chicago Coalition for the Homeless. I was trying to decide what, if anything, to do with my life. At that meeting, I told him that people, including myself, sometimes had trouble seeing me as anything other than a mentally ill homeless person. He said that he understood, and that some people had trouble seeing him as anything other than a person with a bad heart. I am sure that was a lie, Who could think Les had a bad heart? However, it was incredibly kind.
>
> I got to know him a little better at many endless Continuum (of Care) meetings. Eventually, he nominated me for the Governing Board of the Continuum. Still later, he, along with Paul Selden and I, founded Next Steps, NFP. Still later, I got to hear him play a mean Jazz piano.
>
> I do not know his family, or if he left any property to them, but I do know that he left me a great legacy. Les saw people without homes and tried to find them homes. He saw hungry people and tried to feed them. He saw people without power, and tried to empower them. He saw people without hope and tried to give them hope. He took his work, but not himself, seriously. He could disagree without being disagreeable. He understood that good people could disagree with him, and that he could be wrong. In short, Les left me a legacy of trying and working, even when trying and working seems silly. In other words, he left me legacy of hope. I promise to use that legacy to continue his fight, until no one goes to bed hungry, and everyone has a home and hope.

IN HONOR OF THE MONTEREY COUNTY HEAD START PROGRAM

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. FARR. Mr. Speaker, I rise today to honor the 40th anniversary of the Monterey County Head Start Program. The program provides a comprehensive child development program to preschool children whose families live below poverty level. The Monterey County Head Start Program is dedicated to serving and supporting the communities of Monterey County through educational development of children that fully prepare them for school and their experiences in life.

The Monterey County Head Start Program originated in Castroville in June 1965 with the help of the Community Action Agency. The program expanded to Salinas and Seaside in 1975 with grant support from the Monterey County Office of Education. Now, the Head Start Program operates 26 preschool centers in Monterey County, providing services to well over one-thousand children and their families. Their goal to provide the highest quality program for the children and families in the county has been very successful.

Every child in the Head Start Program is provided the highest quality child development program based on the internationally acclaimed, research-based High Scope Curriculum. Physical and dental examinations are given to each child, as well as an individualized educational program to suit each child's needs. The program also offers the Early Head Start Program which is designed to provide assistance to qualifying pregnant women, infants, and toddlers; as well as parent education for nutrition, first aid, and self-sufficiency skills. Truly, this is an inclusive program that has enhanced the lives of so many residents in the 17th district.

Mr. Speaker, I wish to congratulate the Monterey County Head Start Program for forty years of outstanding service. The Head Start staff performs an exceptional job daily facilitating school readiness for children and fostering lifelong independence and personal responsibility for low-income families. The Monterey Head Start Program provided services to over thirty-thousand children and families in the rural and urban communities of Monterey County, and our community is immensely grateful for their contribution.

TRIBUTE TO BILL HORNER, JR., A RESPECTED NEWSMAN

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. ETHERIDGE. Mr. Speaker, I rise today to note the passing of a distinguished gentleman. Bill Horner, Jr., the former publisher of The Sanford Herald, was a great North Carolinian. He died last month after a 3 year battle with cancer, and is survived by a fine and loving North Carolina family. I ask permission to submit for the RECORD several newspaper reports on this sad occasion.

BILL HORNER JR., 67, NEWSMAN WAS PUBLISHER OF THE SANFORD HERALD

(From the Associated Press)

SANFORD.—Bill Horner Jr., the middle man in a family tradition of publishing The Sanford Herald, died Thursday of cancer, the newspaper reported. He was 67.

Horner died in Sunset Beach, where he had moved after his retirement 7 years ago.

Beginning in the 1960s, William Edward Horner Jr. worked in all departments of the paper before he finally followed in the footsteps of his father, Herald founder W.E. Horner, as publisher in 1991.

He retired April 1, 1998, when the newspaper was sold to Paxton Media Group, a family-owned company based in Paducah, Ky. His son, Bill Horner III, is the current publisher.

Horner was born in Sanford and graduated from Sanford Central High School. As a youth, he delivered the Herald on his bicycle and later spent afternoons and evenings working in the mailroom.

He earned an English degree at UNC-Chapel Hill in 1959, working in the newspaper industry during the summers.

Horner served 2 years in the Navy after graduation, then returned to the Herald at the behest of his father, who told his son he would start as a printer's devil.

"I had some idea of what a printer's devil was," Horner wrote in 1980, "and it didn't sound nearly as flashy as being a lieutenant (jg) in the U.S. Navy."

But he came home nevertheless, working in the print shop and then moving on to other parts of the newspaper, including the newsroom.

He gradually assumed a greater role in the management of the newspaper, taking over major decisions about the business upon W.E. Horner's semiretirement in 1966 at the age of 65.

"Bill was very kind and supportive to me over the years, and I always considered him more of a friend than as my boss," said R.V. Hight, who began work at The Herald in 1979 as sports editor and now serves as special projects editor.

"He loved this newspaper and was a strong leader as both general manager and publisher. I am grateful to have known Bill, and I shall miss him."

In addition to his son, he is survived by his daughter, Belinda Horner Cooper of Hampstead; close friend Carol Bowman of Sunset Beach; sisters Louise Horner Bowles of Greensboro and Nancy Horner Hulin of Carolina Beach; four grandchildren; and two nieces and a nephew.

The family asks that, in lieu of flowers, people consider making donations to the Lower Cape Fear Hospice & LifeCareCenter, 10 Doctors Circle, Suite 4, Supply, NC, 28432, or to the charity of their choice.

A memorial service is scheduled for 11 a.m. Tuesday at St. Luke United Methodist Church.

[From the Sanford Herald]

FORMER HERALD PUBLISHER, 67, DIES

SUNSET BEACH.—Former Herald Publisher Bill Horner Jr., who oversaw the newspaper's conversion from "hot-type" to "cold-type" offset printing, died Thursday of complications following a three-year battle with cancer.

William Edwin Horner Jr., 67, was the son of Herald founder W.E. Horner, who died in 1994, and father of current publisher Bill Horner III. A memorial service is planned for 11 a.m. Tuesday at St. Luke United Methodist Church, where Horner was a member. The Rev. Bob Yandle, a friend of Horner's for many years, will officiate.

Diagnosed with esophageal cancer in the fall of 2001, Horner underwent surgery for the disease on two occasions and was in remission for a time, but the cancer returned and his health declined steadily in the last year.

In addition to his son, he is survived by his daughter, Belinda Horner Cooper, of Hampstead, and her husband Billy; his special friend Carol Bowman of Sunset Beach; sisters Louise Horner Bowles of Greensboro and Nancy Horner Hulin of Carolina Beach; and grandchildren William E. "Zachary" Horner IV, Addison Horner and Karis Horner, children of Bill III and his wife, Lee Ann. Also surviving are nieces Cheryle Hulin Brown of Knightdale and Laura Bowles Warren of McLean, Va., and nephew Jim Hulin of Jamestown.

In addition to his father, Horner was preceded in death by his mother, Nannie Andrews Horner, in 1978.

Horner was born in Sanford and graduated from Sanford Central High School, completing his high school degree while working afternoons and evenings in the mailroom of The Herald. Upon turning 12 years old, he took a bicycle paper route that served 125 customers in a section of downtown Sanford near the family home. Following high school, he attended the University of North Carolina at Chapel Hill, earning a degree in English in 1959.

During his college years, he stayed close to the newspaper business—working one summer as a reporter for The Raleigh Times, the now-defunct sister newspaper of The News & Observer, and another selling subscriptions door-to-door in rural Kentucky for The (Louisville) Courier-Journal.

After his graduation from Chapel Hill, Horner—who was a part of the Reserve Officer Training Corps during his college years—was commissioned as an ensign and called up for a two-year hitch with the Navy. He spent most of that time aboard the aircraft carrier U.S.S. Forrestal as chief disbursement officer on the ship's supply officer staff.

Horner wrote in the 50th anniversary edition of The Herald in 1980 that while aboard the Forrestal, his duties ranged "from being disbursing officer in charge of the ship's finances and safes, in which I kept more than $7 million in cold, hard cash, to being an assistant stores officer when about all I had to do was check storerooms to make sure the pliers, wrenches and ballpoint pens were counted correctly."

Eventually promoted to the rank of lieutenant (junior grade), Horner was about to disembark in Naples, Italy and fly back to Norfolk, Va., for mustering out when he wrote he "received THE letter from the 'old man'—not the Navy one, the Herald one."

Horner said his father detailed plans in the letter for his son to come back to the newspaper to formally learn the trade—beginning with the job of "printer's devil" in the newspaper's "back shop," and then learning to operate a linotype machine, before moving to the other departments of the operation.

"I had some idea of what a printer's devil was," Horner wrote in 1980, "and it didn't sound nearly as flashy as being a Lieutenant (jg) in the U.S. Navy."

By then, he was married to his first wife, the former Shirley Prendergast, whom he met in the Navy, and Horner eventually worked his way through all departments of the newspaper, even serving as interim editor for a period in 1964.

One of his experiences that same year as a reporter, he'd later say, showed him the importance of a newspaper's role in the community.

He was assigned to cover a gathering of the local chapter of the Ku Klux Klan, which was active in Lee County at the time. After being searched for weapons and a camera, Horner was allowed to enter the area where the Klan was preparing for a cross burning. He furiously scribbled notes about what he saw, and when it was all over with, he headed back to his car. "I got stopped by one of the Klan's security guards on the way out," he'd later say. "They searched me again and found my notebook. They wanted to see what I had written, so I showed it to them—but I handed them my notebook upside down. One of the guards looked at it for awhile—nobody could read my handwriting except me—and gave it back and said, 'OK, you can go.' I came back and wrote the story."

Horner gradually assumed a greater role in the management of the newspaper, especially upon W.E. Horner's "retirement" in 1966 at the age of 65. The elder Horner never really left the business, keeping an office and writing the "Good Afternoon" column nearly every day until the mid-1980s. But he did leave the major decisions about the business to his successor. The son eventually succeeded the father as publisher in 1991 and retired on April 1, 1998, when the newspaper was sold to Paxton Media Group, a family-owned company based in Paducah, Ky.

"Bill was very kind and supportive to me over the years, and I always considered him more of a friend than as my boss," said R.V. Hight, who began work at The Herald in 1979 as sports editor and now serves as special projects editor. "I shall forever be indebted to Bill for hiring me and for the encouragement he gave me over the years. He loved this newspaper and was a strong leader as both general manager and publisher."

"I am grateful to have known Bill and I shall miss him."

Robert Stone worked at The Herald for 44 years, retiring in 1996.

"He understood that a local newspaper is all about local news," Stone said of Horner. "And I think, really and truly, he understood better that the employees were the important part of the organization.

Charlie Welborn, a partner with the accounting firm of Davenport, Marvin, Joyce & Co., was a best friend of Bill Horner III and eventually became the newspaper's accountant—and a close friend of Bill Jr.'s as well.

"Bill was a very successful businessman who carried on the tradition of The Herald that was founded by his father," Welborn said. "I enjoyed the business relationship that we had, but more importantly he was a very good friend. I visited him often at the beach and he was always interested in the news from Sanford/Lee County. He would reminisce about his career, family and friends. I will miss him greatly and feel that I am a better person for having known him."

A former member of the Kiwanis Club of Sanford and the Rotary Club of Sanford, Horner was a lifelong member of the General Alumni Association of UNC and was also active on the boards of directors of several local organizations, including Southern National (and later BB&T) Bank.

He served a term as a director for the North Carolina Press Association—an organization for which both his father (in 1939) and son (in 2002) both served as president—and was a member of St. Luke United Methodist Church.

Horner moved to Sunset Beach a few months after his retirement and became active as a member of the board of directors of the Providence Home Family Emergency Teen Shelter in Southport, and played a key role in the organization's fund-raising efforts.

He enjoyed sailing and for many years held a private pilot's license and built and flew his own remote-control airplanes. He was an experienced gardener and ham radio operator, and once talked to explorer and adventurer Thor Hyerdahl during one of Hyerdahl's ocean-crossing raft trips, as well as to King and Queen Hussein of Jordan. He enjoyed reading and classical music and was a keen observer of current events and world politics.

In lieu of flowers, the family has requested friends consider making donations or memorials to the Lower Cape Fear Hospice & LifeCareCenter, 10 Doctors Circle, Suite 4, Supply, N.C., 28432, or to the charity of their choice.

Arrangements are by Brunswick Funeral Services in Shallotte and Rogers-Pickard Funeral Home. The family will receive friends following the memorial service at the home of Bill Horner III.

[From the Dunn Daily Record]

State Loses Respected Newsman

Please allow us to note the passing of a friend and colleague in North Carolina's newspaper community. Bill Horner Jr., former publisher of The Sanford Herald in neighboring Lee County, died Thursday after a three-year battle with cancer.

At just 67, Mr. Horner died in Sunset Beach, where he had moved after his retirement seven years ago.

Having grown up in a newspaper family, Mr. Horner stayed close to the business during his college years, working one summer as a reporter for The Raleigh Times, the now-defunct sister newspaper of The News & Observer, and another selling subscriptions door-to-door in rural Kentucky for The (Louisville) Courier-Journal.

After graduating from the University of North Carolina at Chapel Hill in 1959, Mr. Horner—who was part of the Reserve Officer Training Corps during his college years—was commissioned as an ensign and called up for a two-year hitch with the Navy. He spent most of that time aboard the aircraft carrier U.S.S. Forrestal as chief disbursement officer on the ship's supply officer staff.

After his military service, he returned to The Herald at the behest of his father, Herald founder W.E. Horner, who told his son he would start as a printer's devil.

He worked in the newspaper's print shop and then moved on to other parts of the newspaper, including the newsroom. He gradually assumed a greater role in the management of the newspaper, taking over major decisions about the business upon his father's semi-retirement in 1966 at the age of 65.

Having worked in every department of the paper, Mr. Horner took over as publisher in 1991. He retired on April 1, 1998, when the newspaper was sold to Paxton Media Group, a family-owned company based in Paducah, Ky. His son, Bill Horner III, is the current publisher.

Bill Horner Jr. was a respected newspaper man who built on the success of his father. Under Bill Horner Jr., the newspaper made strides in technology and in its community service, consistently winning awards from the North Carolina Press Association.

"Bill was very kind and supportive to me over the years, and I always considered him more of a friend than as my boss," said R.V. Hight, who began work at The Herald in 1979 as sports editor and now serves as special projects editor. "He loved this newspaper and was a strong leader as both general manager and publisher. I am grateful to have known Bill and I shall miss him."

Another longtime Herald staffer, Robert Stone, worked at the newspaper for 44 years, retiring in 1996.

"He understood that a local newspaper is all about local news," Mr. Stone said. "And I think, really and truly, he understood better that the employees were the important part of the organization.

With his passing, the Sanford community—and that state's newspaper community—has lost a dear and respected friend.

CONGRESSMAN KILDEE RECOGNIZES AMERICAN RED CROSS EVERYDAY HEROES

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. KILDEE. Mr. Speaker, I stand before you today on behalf of one of our country's most honored and respected organizations, the American Red Cross. Each year, the Genesee-Lapeer Chapter of the Red Cross acknowledges individuals who have shown tremendous courage, kindness, and selflessness through acts of goodwill and heroism. Twenty-five such people will be honored May 13, at the 2005 Salute to Everyday Heroes.

Everyday Heroes are chosen by the Red Cross from several categories: Fire, Law Enforcement, Emergency Medical Response, Community Good Samaritan, Youth Good Samaritan, Adult Good Samaritan, and Workplace Good Samaritan. Nominees are selected for acts of bravery related to fire, rescue, and lifesaving, and are awarded to those who live in Genesee or Lapeer Counties, or if the rescue occurred in one of the two counties.

Deputy Lawrence Fields is this year's Law Enforcement Everyday Hero, and Lieutenant John Speck is the Emergency Medical Response Hero.

Good Samaritan Awards will be given to: The Honorable Judge Duncan Beagle (Community), Robert Duffy (Workplace), Deputy Dave McDonald, Christopher Tanner, Jerry Scheddel, and Raymond Hile (Adult), and Matthew Harris (Youth).

Those receiving the Fire Everyday Hero Award include: Tony Windham, Chad McBride, Jim Bennett, Jasen Stevens, Firefighters Edward Reynolds, Jeffery George, Jeremy Gilbert, Michael Gist, Robert Parrish, Michael Rose, Tony Terry, and Robert Winford, Lieutenants Yaskuo Hall and Martin Juarez, and Captain Raymond Barton.

A special Spirit of Heroism award will be given posthumously to Ms. Cherica McLemore of Flint. Ms. McLemore's life was tragically cut short last January, as a car struck her after she stopped to help victims of another crash.

Mr. Speaker, I applaud these courageous men, and the life of this caring young woman, for all they have done for others. Through their actions, they gave a priceless gift—a second chance at life. Their contributions are deserving of the highest respect, and I ask my colleagues in the 109th Congress to please join me in recognizing them for who they truly are—heroes.

RECOGNIZING ROBERT "BOB" BURGER

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Ms. KAPTUR. Mr. Speaker, I rise today to recognize longtime community resident Robert "Bob" Burger for his leadership, determination and dedication as a community leader in Toledo, Ohio.

Bob Burger, "Mr. Neighborhood," who recently turned 80 years old, has given unselfishly of his time and ability to help rebuild and revitalize our city, particularly the East Toledo neighborhoods. Beginning in his home community of East Toledo and then extending his reach for community betterment city wide, he started this quest back in 1972 when he founded River East Associates and served as its first president. Mr. Burger also played a major part in the creation of River East Revitalization Corporation in 1974; that organization helped create a comprehensive plan for redevelopment of East Toledo's main business district along Main Street, Front Street and Starr Avenue.

Mr. Burger is particularly well known in our community as a director of the Neighborhood Improvement Foundation of Toledo, Incorporated (NIFTI) from 1978 through 1994. He is also well known in our community as a veterans leader. He is currently commander of the Arthur Daly American Legion Post 334 and he previously served as commander of the Veterans of Foreign War Post 2510 in 1974 and 1975.

No one of us can ask more than to be given the years to do good for others. Bob Burger's patriotic dedications have yielded exactly that—and inspired an entire city to take hold of itself and transform it parcel by parcel, block by block into the Toledo for tomorrow. The power of his gentle personality, his kindness, skill, and vision have helped enlarge and build forward a real ethic of community in Toledo. How fortunate we are.

Such are his contributions to our community that Toledo City Council has begun the process of renaming a portion of Starr Avenue as "Bob Burger Avenue," which is only appropriate because it is located in the heart of the River East Main business district that Mr. Burger has done so much to promote and advance. For his part in revitalizing one of our great communities, I wish to recognize the contributions of Robert Burger and congratulate him on having a street renamed in his honor. It is particularly appropriate to name a major arterial in his home community in his honor for surely he has been a lifeline to the citizens of the community.

CELEBRATION OF NATIONAL NURSES WEEK

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. CUMMINGS. Mr. Speaker, as I rise today to celebrate National Nurses Week, May 6–12, 2005, I would like to start off by reciting a passage of a poem written for Florence Nightingale—the original nurse who began the revolution that would bring us the health care we know today:

Now God sent this woman to succour the brave
Some thousands she saved from an untimely grave
Her eyes beam with pleasure, she's bounteous and good
The wants of the wounded are by her understood.

Mr. Speaker, while this poem was a dedication to the care and ease the "Lady-in-Chief", as Florence Nightingale was called during the Crimean War, brought to the soldiers as they laid in pain, it can easily be applied to the nurses that are thoughtfully attending to the needs of the sick and wounded today.

From a mere ache in the neck, to recovery after surgery, nurses are the ones who are consistently by their patients' side, taking care of their daily needs. By the time a patient leaves, his or her nurse will know not just what the patient needs in order to complete his or her medical treatment, but what makes the patient laugh and what makes the patient cry. A great nurse makes the difference between a tolerable stay in the hospital and endurable pain, or an insufferable wait and excruciating agony.

Today, our country relies on the tender care of 2.4 million nurses, who are truly the silent heroes of our health care system. Their diverse occupation provides comfort to women and men of all ages, illnesses, and professions, beginning from their first day on earth to their very last. Nurses across this country deserve the same support and consideration as they have given to us, and as I stand here today to honor their tireless work and selfless acts.

Mr. Speaker, I also ask my colleagues to join me in giving their undivided attention to the crisis of nurse shortage in our nation.

Mr. Speaker, as health care costs continue to rise, and as the number of uninsured has climbed to its highest number ever of 45 million Americans, nurses across this country are being overstretched and underappreciated. Consequently, the backbone of our health care system is starting to falter, as the number of registered nurses drops to its slowest growth rate since 1980.

Enrollments in nursing schools are not meeting the demands of the population, and job burnout is causing current nurses to leave the profession. According to the June 2001 issue of TrendWatch published by the American Hospital Associations, 75 percent of vacancies in hospitals nationwide are nursing positions.

Mr. Speaker, for the first time in history, the nurses of our country are suffering in a wounded profession. Let us work together to ensure that incentives are provided so that the younger generation considers becoming a part of one of the oldest and most venerable professions again. Let us be at the side of our nurses as they are at our side during our time of need.

It took nurses 29 years before they were able to get a week of recognition for all of the hard work they put into our society year-round. Let us make sure it doesn't take another 29 years before we start tending to the needs of their profession. They need more training, more research and more resources—I hope our budgets begin to reflect these priorities.

Lastly, I want to recognize our colleagues who served as nurses prior to joining us in the House of Representatives—EDDIE BERNICE JOHNSON, LOIS CAPPS and CAROLYN MCCARTHY. I applaud your tireless work in raising nursing issues to a level of national significance, thereby improving our nation's healthcare delivery system.

CONGRATULATIONS TO MAURIZIO IZZI, NEW AMERICAN CITIZEN

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. PAYNE. Mr. Speaker, I would like to ask my colleagues here in the U.S. House of Representatives to join me in congratulating Mr. Maurizio Izzi of Rome, Italy, and in welcoming him as he becomes a fellow American citizen. On May 11, 2005, Mr. Izzi will take the oath of allegiance at Faneuil Hall in Boston. On Saturday, May 14, family and friends will gather to celebrate this milestone in Mr. Izzi's life.

Mr. Izzi follows in the tradition of his great aunt, Maria Valente, who became a citizen in 1961 and now resides in Arlington, Massachusetts. In the year 2000, Mr. Izzi took his first job in the United States at the Empire State Building as a Configuration Management Consultant. On May 20, 2000, he married his lovely and charming wife, the former April Peloquin. They now reside in Hopedale, Massachusetts.

Mr. Speaker, we are all fortunate to live in this land of opportunity, and Mr. Izzi embodies the qualities that have made our nation great: a spirit of perseverance, industriousness, devotion to family and love of country. It is a pleasure to welcome him as a fellow American citizen.

IN HONOR OF MR. JOHN PEDRO

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. FARR. Mr. Speaker, I rise today to honor the life of California Highway Patrol Officer John Pedro, an influential member of the Santa Cruz community. On June 3, 2002, Officer Pedro was tragically killed in a traffic collision that occurred while attempting to overtake and initiate an enforcement stop on a vehicle. Officer Pedro is survived by his wife Colleen, daughter Sara, mother, Kay and sisters, Kathy and Tammy.

Officer Pedro was born in Watsonville, CA on June 17, 1965 and graduated from Watsonville High School in 1983. He obtained an Associate of Arts Degree in Liberal Arts and Music. Officer Pedro joined the United States Military as an Army Reservist in 1989. He subsequently transferred to the Air Force Reserves in 1991. While playing trombone for the Air Force Band, he met the love of his life, Colleen. Officer Pedro married Colleen on March 27, 1993. They were soon blessed by the birth of their daughter, Sara, on March 19, 2000.

Officer Pedro entered the California Highway Patrol Academy on July 31, 1989 and graduated on December 21, 1989. His first assignment was with the San Jose CHP. He also worked in the Redwood City CHP, Hayward CHP, Coastal Division, Gilroy Inspection Facility, and Santa Cruz CHP. Throughout his career as an officer, Officer Pedro had always expressed a desire to develop his expertise in the field of commercial vehicles, specifically focusing on highway safety and enforcement.

Mr. Speaker, I am joined by Officer Pedro's family and fiends to honor his life and contributions to the community. In appreciation for his duty, the California State Senate via Concurrent Resolution No. 67, officially designated the location of State Route 1 between Harkins Slough Road and the Pajaro River Bridge, in Santa Cruz County, as the "CHAP Officer John Pedro Memorial Highway". Through this dedication, our community will eternally remember the sacrifices made by Officer Pedro and others who have laid down their lives to fulfill a pledge of unwavering dedication to the people of the State of California

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PERSONAL EXPLANATION

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Mr. ETHERIDGE. Mr. Speaker, last week, on Roll Call vote 150, I was not able to vote. Please let the record show that had I been present, I would have voted Yes on House Resolution 210, supporting the goals of World Intellectual Property Day and recognizing the importance of intellectual property in the United States and worldwide.

IN TRIBUTE TO MIGUEL CONTRERAS

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Ms. SOLIS. Mr. Speaker, I rise today, along with my colleagues from California, Ms. PELOSI, Mr. GEORGE MILLER, Mr. BACA, Mr. BECERRA, Mr. BERMAN, Ms. CAPPS, Mr. CARDOZA, Mr. COSTA, Ms. SUSAN DAVIS, Ms. ESHOO, Mr. FARR, Mr. FILNER, Ms. HARMAN, Mr. HONDA, Mr. LANTOS, Ms. LEE, Mr. LOFGREN, Ms. MATSUI, Ms. MILLENDER-MCDONALD, Ms. NAPOLITANO, Ms. ROYBAL-ALLARD, Ms. LINDA SÁNCHEZ, Ms. LORETTA SANCHEZ, Mr. SCHIFF, Mr. SHERMAN, Mr. STARK, Mrs. TAUSCHER, Mr. THOMPSON, Ms. WATERS, Ms. WATSON, Mr. WAXMAN, and Ms. WOOLSEY, to pay tribute to Miguel Contreras, who died unexpectedly on Friday, May 6, 2005. As Executive Secretary-Treasurer of the Los Angeles County Federation of Labor and a Vice President of the California Labor Federation, Miguel was a friend to many of us in Congress from California. More importantly, he was a staunch champion for working families in Los Angeles and throughout the country whose leadership brought much needed vigor to our Nation's labor movement.

As the son of migrant farmworkers, Miguel grew up in Dinuba, California, where he worked in the Central Valley's fields from the age of 5 alongside his parents and 6 brothers. Following his parents' example, Miguel became active in the labor movement, where his skills were recognized by the legendary Cesar Chavez, who hired him as a union representative for the United Farm Workers. For 6 years, Miguel worked under Chavez, gaining critical leadership, strategic, and political skills at the helm of one of our Nation's greatest civil rights heroes.

Miguel later joined the Hotel Employees and Restaurant Employees' (HERE) Union Local 2 in San Francisco, where his coordination of a citywide major hotel walkout led to the biggest wage and benefit increases in history for the 14,000 member local union. His efforts spread beyond California to hotel organizing efforts in Nevada and New York.

Following a 3 year stint as political director of the Los Angeles County Federation of Labor, Miguel was elected Executive Secretary-Treasurer of the Federation in 1996. As head of the Federation, Miguel oversaw the operation of 350 local unions and more than 800,000 union members. Under his leadership, the Federation became a powerful voice for working families throughout Los Angeles, leading successful organizing and wage improvement campaigns for janitors, bus drivers, mechanics, trauma center workers, and thousands of other workers.

As the first Latino elected to head Los Angeles County's powerful labor organization, Miguel opened the door for thousands of Latino and immigrant workers throughout Southern California to the union movement and better wages and health benefits. In doing so, he transformed the face of not only the labor movement in Los Angeles, but of local, city, and State elected officials, and, inevitably, the city and State as well.

The Los Angeles County Federation of Labor has become a model for union organizations across the Nation. At a time when union membership is waning in other areas of the country, it grew quickly in Los Angeles County under Miguel's leadership. The superior labor organization he developed in Los Angeles and its successes are just a part of Miguel's enduring legacy to those most in need in our society.

As Members of the California Congressional delegation, we honor Miguel as champion for working families. We extend our deepest sympathy to his wife, Maria Elena Durazo, and his sons Michael and Mario, during this difficult time.

Miguel Contreras's passing is not only a tremendous loss for working families in Southern California, but also throughout the Nation. His tremendous strategic skills and dedicated passion to improving the lives of others are rare and will be missed sorely by thousands of working men and women he called his brothers and sisters.

COMMENDING THE MARINE CORPS OFFICERS OF THE 11TH SPECIAL BASIC COURSE ON THEIR 54TH REUNION

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 11, 2005

Ms. BORDALLO. Mr. Speaker, I rise to commend the Marine Corps officers of the 11th Special Basic Course who are celebrating the 54th anniversary of their commissioning with a reunion during the week of May 12–15, 2005.

The officers of the 11th Special Basic Course (11th SBC) at Quantico, Virginia, started training in the fall of 1951 and completed their training in March 1952. Although the class was a relatively small one, with just over two hundred officer candidates, they represented one hundred and eight different colleges and universities. Candidates from 36 States, the District of Columbia and Guam were in this class, making it one of the most representational Marine Corps basic officers' courses.

During the Korean War the class had its share of officers who distinguished themselves in combat. Rod Skinner, Harvard '51, was awarded the Congressional Medal of Honor posthumously for valor. John Word received the Navy Cross, the second highest award that our Nation can bestow for courage. Others were awarded the Silver Star, the Bronze Star, and the Purple Heart. The class also had its share of men wounded and killed in combat action.

Although only a comparatively few members became regular officers, many served and retired from the Reserves while pursuing careers in law, education, religious ministry, athletics, engineering, business, and politics. Among those who were career officers of the Corps was a former Member of Congress, the Honorable Ben Blaz, Notre Dame '51. Ben served 30 years in the Marine Corps and achieved the rank of Brigadier General before retiring and subsequently embarking on a political career. He was one of my predecessors as the Congressional representative from Guam in this, the House of the People.

It is a great honor for me to memorialize the visit of these Marine veterans, their families and friends, to the capital of our Nation for whom they carried their swords in her defense.

Our Nation owes a debt of gratitude to those who have served and to those who currently wear the uniform of our armed forces. We therefore welcome the Marine Corps officers of 11th Special Basic Course (11th SBC) on their reunion and we recognize their contributions to our Nation.

The Marine veterans and their families include: Robert Altick, Leslie Altick, Al Bailey, Mary Bailey, Charles Bentzen, Constance Bentzen, John Bickley, Anne Bickley, V. Ben Blaz, Ted Brothers, Charles Clifford, David Curry, Natalie Curry, Frank Delaney, Martha Delaney, Thomas Fallon, Mary Fallon, Marshall Figgatt, Alan Figgatt, Benis Frank, Marylou Frank, Tina Cooper, Erika Helgeson, William Keating, Robert Land, Joan Land, Thomas Land, James Land, John Lussenhop, Kay Lussenhop, Gene Moyers, Fem Moyers, Herbert Oxnam, Betty Oxnam, Richard Paschal, Len Paschal, Jordan Peck, Henry Pruitt, Mary Pruitt, Thomas Qualls, Chayne Stinemetz, Larue Stinemetz, Spatz Thomaidis, Virginia Swisher, Stanley Wilson, and Barbara Wilson.

To the Marine Corps officers of the 11th SBC and their families, may you always know that our Nation appreciates the sacrifices that you have made and that your patriotism continues to inspire the generations of Marines who follow in your footsteps. Semper Fidelis.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 12, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 13

9:30 a.m.
Armed Services
Closed business meeting to continue markup of the proposed National Defense Authorization Act for Fiscal Year 2006.
SR–222

MAY 17

9:30 a.m.
Environment and Public Works
Clean Air, Climate Change, and Nuclear Safety Subcommittee
To hold closed hearings to examine nuclear security.
S–407 Capitol

Energy and Natural Resources
Business meeting to consider comprehensive energy legislation.
SD–366

Homeland Security and Governmental Affairs
Investigations Subcommittee
To resume hearings to examine the United Nations' Oil-for-Food Program, the illegal surcharges paid on Iraqi oil sales, and the nature and extent of the 2003 Khor al-Amaya incident.
SD–562

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the current legal and regulatory requirements and industry practices for credit card issuers with respect to consumer disclosures and marketing efforts.
SD–538

Commerce, Science, and Transportation
To hold hearings to examine measures that have been taken since September 11, 2001, to secure our nation's ports, focusing on the implementation of the Maritime Transportation Security Act and vulnerabilities that remain in the maritime transportation sector.
SR–253

Health, Education, Labor, and Pensions
Retirement Security and Aging Subcommittee
To hold hearings to examine the Administration's recommendations for the Older Americans Act Reauthorization.
SD–430

2 p.m.
Homeland Security and Governmental Affairs
Federal Financial Management, Government Information, and International Security Subcommittee
To hold an oversight hearing to examine analysis of national in-patient satisfaction survey, focusing on questions that have been raised regarding the cost and survey burden on patients of a survey of all hospitals in the United States proposed by the Center for Medicare and Medicaid Services.
SD–562

2:30 p.m.
Judiciary
Immigration, Border Security and Citizenship Subcommittee
Terrorism, Technology and Homeland Security Subcommittee
To hold joint hearings to examine strengthening our national security, regarding the need for comprehensive immigration reform.
SD–226

MAY 18

9:30 a.m.
Energy and Natural Resources
Business meeting to consider comprehensive energy legislation.
SD–366

Environment and Public Works
To hold hearings to examine eco-terrorism specifically examining the Earth Liberation Front ("ELF") and the Animal Liberation Front ("ALF").
SD–406

Homeland Security and Governmental Affairs
To hold hearings to examine a breakdown in safeguards again fraud and abuse in FEMA's Disaster Relief Program, focusing on FEMA's response to the 2004 hurricanes.
SD–562

Indian Affairs
To hold oversight hearings to examine issues relating to the taking of land into trust.
Room to be announced

Judiciary
To hold hearings to examine issues relating to protecting the judiciary at home and in the courthouse.
SD–226

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine Regulation NMS designed to strengthen our national market system for equity securities, focusing on recent market developments.
SD–538

Health, Education, Labor, and Pensions
Business meeting to consider the proposed Workforce Investment Act Amendments of 2005, and pending nominations.
SD–430

MAY 19

9:30 a.m.
Energy and Natural Resources
Business meeting to consider comprehensive energy legislation.
SD–366

Environment and Public Works
Fisheries, Wildlife, and Water Subcommittee
To hold an oversight hearing to examine the Endangered Species Act.
SD–406

10 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to examine Regulation NMS designed to strengthen our national market system for equity securities, focusing on recent market developments.
SD–538

1 p.m.
Foreign Relations
International Economic Policy, Export and Trade Promotion Subcommittee
To hold hearings to examine S. 883, to direct the Secretary of State to carry out activities that promote the adoption of technologies that reduce greenhouse gas intensity in developing countries, while promoting economic development.
SD–419

MAY 24

2 p.m.
Health, Education, Labor, and Pensions
Education and Early Childhood Development Subcommittee
To hold hearings to examine issues relating to American history.
SD–430

3 p.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine money laundering and terror financing issues in the Middle East.
SD–538

MAY 25

10 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the U.S. Grain Standards Act.
SR–328A

Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

MAY 26

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine issues relating to the 21st century workplace.
SD–430

SEPTEMBER 20

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.
345 CHOB

CANCELLATIONS

MAY 17

10 a.m.
Agriculture, Nutrition, and Forestry
Business meeting to consider the nominations of Thomas C. Dorr, of Iowa, to

be Under Secretary of Agriculture for Rural Development, and to be a Member of the Board of Directors of the Commodity Credit Corporation.

SR–328A

HOUSE OF REPRESENTATIVES—*Thursday, May 12, 2005*

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Children all across this country join us as we pray today.

Lord God, again we pray for the protection of the Nation's Capitol and the prevention of any terrorist attack upon this land.

We also praise and thank You, Lord, for the Capitol Police, the medical staff, and all who worked at the orderly evacuation of this honored place yesterday.

Preserve our liberty, free us from fear, and grant us triumph over every evil.

Throughout our history, You have called forth leaders. Bless now the women and men who assemble as the 109th Congress of the United States of America. Help them to know what is right and enable them to make choices that will unite the Nation, both in prosperity and moral integrity.

May they truly represent the needs and the genius of the people they serve.

May they prove by their actions their personal strength of character and faith in You, our God and Father of all.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Jersey (Mr. PALLONE) come forward and lead the House in the Pledge of Allegiance.

Mr. PALLONE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATHAM). The Chair will entertain 10 one-minute speeches on each side.

HONORING FLORENCE NIGHTINGALE AND OUR NATION'S NURSES

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, it is May 12, and May 12 is a special day because that is the day that the lady with the lamp, Florence Nightingale, was born in 1820. Florence Nightingale, the founder of modern nursing, the woman who found that cleanliness and hygiene had an effect on wound healing, actually helped wound healing and transformed military medicine back in the 1800s.

This day is also the last day of National Nurses Week, and nursing tells us over and over again what we all in this Congress need to know: it is time to value health. We cannot afford to simply pay for disease any longer.

The American Nurses Association is working to chart a new course for a healthy Nation that relies on the increasing delivery of primary and preventive health care and a renewed emphasis on primary and preventive health care that will require better utilization of our Nation's resources.

Professional nursing has been demonstrated to be an indispensable component for the safety and quality of care of hospitalized patients.

Mr. Speaker, it is with great pride that I recognize the Nation's 2.7 million registered nurses.

ABUSE OF POWER IN CONGRESS

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, the long string of abuse of power is continuing in the U.S. Congress, most unfortunately. The most recent of this long string of abuses of power is we will see an attempt in the U.S. Senate next week to strip Americans of a protection, a protection against the tyranny of the majority, by eliminating the long, 2-century-long right to a filibuster in the United States Senate, a bastion of democracy.

We already have one House of Representatives. We do not need another one. We need the ability to have the checks and balances in the U.S. Senate. And this is not a matter of academic pursuit.

Last night, I was in the Mall walking quite late at night and I saw a group of folks from New Jersey who had driven all the way down from New Jersey and at this moment are filibustering on the Mall against the efforts in the Senate to remove this basic checks and balances. They drove what they called the "Filibus." Well, we should not have to have a "Filibus" to stand up for the American concept of checks and balances. These abuses of power should stop. The U.S. Senate should maintain this American tradition of a filibuster for the right time and for the right reasons.

MARIETTA, GEORGIA SUPPLEMENTAL PENSION PLAN

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Mr. Speaker, in 1981 as the Social Security system was on the verge of collapse, many cities and counties decided to opt out of the Social Security system. My own district, the city of Marietta, Georgia, took the opportunity; and the results serve as a model for the tremendous potential of personal retirement accounts.

Rather than collecting 1.5 percent from Social Security like the rest of us, Marietta city employees have personal accounts with yearly rates of return ranging from 3 to 20 percent.

The results go far beyond the rates of return. Employees' paychecks are higher than the surrounding cities because only 6.1 percent is taken out of their paychecks, as opposed to 12.4 percent.

Think it does not get any better? Well, it does.

Employees are continually educated about the program, the choices that they have, and how the company administering their pensions makes decisions. Because of this education program, employees are allowed to direct where their money goes depending on the rates of return and their personal goals.

Mr. Speaker, the tremendous potential of personal retirement accounts has been realized by some in my district. Let us hope the rest of the country is able to realize the true benefits of personal retirement accounts some time soon.

WE ARE A NATION AT WAR

(Mr. KUCINICH asked and was given permission to address the House for 1 minute.)

Mr. KUCINICH. Mr. Speaker, in moments like yesterday, we are one in support for each other's safety and well-being. Thankfully, it was an error by the pilot of a small plane.

The White House's response was telling: "We have to remember we are a Nation at war."

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

We are. But at war against Iraq. Iraq did not attack us. Iraq had nothing to do with 9/11. We may well be proving that the best way to avoid a war is not to wage one.

Einstein said the significant problems we have cannot be solved at the same level of thinking with which we created them. Does the war against Iraq make us safer or less safe?

After spending $420 billion annually for the military and an additional $270 billion for the war in Iraq, why are we still running for the exits? Has the so-called war on terror made us less safe?

We all want safety and security for ourselves, our loved ones, our Nation, and the world. But there has to be a better way than war. One of our greatest Presidents, Franklin Roosevelt, knew this and he knew war. He concluded: "If civilization is to survive, we must cultivate the science of human relationships, the ability of all peoples of all lands to live together and to work together in the same world at peace."

THE GROWING ECONOMY

(Mr. CONAWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONAWAY. Mr. Speaker, I would like to point out that we are experiencing a growing economy in this country, a growing economy which creates jobs. Figures just released show that 274,000 additional jobs were created in this economy this last month. That is 274,000 families that are better off because they are working. They have also revised the figures to show that 93,000 additional jobs were created in February and March.

I participated in a needs assessment in Midland, Texas, back in the early 1990s, a process about figuring out what was going on within those communities. We came up with the top 10 needs that the folks in Midland, Texas, told them about. Nine of those top 10 needs would have been positively impacted by a job. And so we have now created 274,000 jobs.

The economy grew at 3.1 percent during the first quarter of this year. We continue to experience a growing economy led by the pro-growth policies of this administration and this House and this Senate.

REPUBLICAN ABUSE OF POWER

(Ms. SCHAKOWSKY asked and was given permission to address the House for 1 minute.)

Ms. SCHAKOWSKY. Mr. Speaker, Senate Republicans are preparing to blow up 200 years of tradition in the U.S. Senate, abusing their power in order to force through a few judges who have been unable to earn a bipartisan consensus for their lifetime judicial appointments.

Democrats have helped confirm 95 percent of President Bush's judicial nominees. The few that our Democratic colleagues in the Senate have opposed are those who have had serious questions raised about their independence, fairness, and record on issues involving our most vital rights.

Republicans are willing to attack the constitutional system of checks and balances and change the rules of the Senate in the middle of the game, all of this for seven extreme judges.

Senate Republicans know full well the impact their nuclear option will have on the bipartisanship that is necessary for a productive and effective Senate, but they simply do not care. If Senate Republicans are successful at abolishing the rights of the minority, what is next?

EXTENDING FREEDOM TO BELARUS

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I rise today to speak in support of the country of Belarus and their ongoing struggle for fair and free elections. The last dictator in Europe, Aleksander Lukashenko, rules this country through a combination of intimidation and fear. He is suppressing the voices and rights of the Belarusian people as they watch their neighbors in Georgia and Ukraine rise up and take back their countries and emerge as thriving democracies.

As President Bush said in his visit to Riga, Latvia, "All the nations that border Russia will benefit from the spread of democratic values, and so will Russia itself. Together, we have set a firm and confident standard. Repression has no place on this continent."

I have had the privilege of meeting with the opposition party representatives from Belarus several times. It is inspiring to see these men and women from every political ideology come together with a unified goal, to let the Belarusian people decide for themselves who should lead their country, rather than have it forced upon them by Lukashenko's regime.

As co-chairman of the House Baltic Caucus, it is my hope that the United States Congress will stand with our friends in Eastern Europe and support all efforts to bring democracy, freedom, and the rule of law to this part of the world.

REPUBLICAN ABUSES OF POWER

(Ms. LEE asked and was given permission to address the House for 1 minute.)

Ms. LEE. Mr. Speaker, congressional Republicans continue to abuse their power here on Capitol Hill. Rather than trying to mend fences and work in a bipartisan fashion, they instead choose a very partisan course.

Here in the House, for example, the Republican leadership ignored protocol and expedited weakened ethics rules through the House without ever consulting the Democrats. Everyone here knows that ethics changes cannot be successful unless both parties play a role.

And now, Republicans in the other body, not to be outdone by their counterparts here in the House, plan to change the rules on the filibuster that have been in place for more than 200 years, rules that give the minority a voice in Washington. Talk about an extreme abuse of power.

Mr. Speaker, Republican attempts to do away with the filibuster is the last check, really, on the one-party rule here in Washington. Simply, this is not the way to end the divisive tone here. When are the Republicans going to learn that their absolute power here on Capitol Hill is really corrupting their every action?

We talk about spreading democracy abroad. Let us begin by preserving it here at home.

EVENTS OF YESTERDAY

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, yesterday at noon was so much like September 11. Mr. Speaker, I was standing on the House floor with our majority leader as I saw Members beginning to hurry out of this Chamber.

As I exited the House, an F-16 literally flashed across the sky as thousands yesterday, as that day in 2001, streamed from the Capitol into the sunlight of uncertain moments and an undefined threat.

So much was the same, but so much has really changed. On September the 11 evacuation was largely disorganized and spontaneous. But yesterday, thanks to the extraordinary leadership of the United States Capitol Police; Bill Livingood, the House Sergeant at Arms; and Police Chief Terence Gainer, 25,000 public officials and personnel were evacuated from the Capitol and buildings around Capitol Hill in less than 6 minutes in an intense, but orderly, manner.

□ 1015

It is an extraordinary comfort, I know, to millions of Americans who know that whatever the day may bring in our Nation's capital, thanks to the leadership and the security officials here on Capitol Hill, and the Department of Homeland Security, our national government is ready.

THIRTY YEARS LATER HELP THE HMONG STILL IN LAOS

(Ms. MOORE of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MOORE of Wisconsin. Mr. Speaker, I rise on the occasion of the 30th anniversary of America pulling out of the Vietnam war.

Mr. Speaker, I rise in horror at the continued atrocities against the Hmong folk who now reside in the jungles of Laos. Like a cheap date, a one-night stand, we abandoned our brethren who fought along with the CIA, and they were forced to flee into the jungle. Reports of rapes, mass killings, use of biological weapons have gone uninvestigated.

Mr. Speaker, I call upon the State Department to press Laos to immediately pull back its troops, grant international human rights monitors and workers access to the Hmong community and allow them to peacefully settle.

Mr. Speaker, we cannot stand by and abandon our fellow soldiers in the Vietnam war.

BAIT AND SWITCH ON STEM CELLS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, in the coming weeks, some will say that they only want to use Federal funds to destroy human embryos stored in IVF clinics for stem cell research. This is a skilled use of the bait-and-switch tactic.

First, these embryos are not primed for research; they are primed for adoption. Eighty-one embryos have been adopted today with dozens more on the way, called "snowflake adoptions." Researchers who support embryonic stem cell research acknowledge that these IVF embryos will not provide near the desired type or number of stem cell lines demanded by the biotech industry and admit that they will not be genetically diverse. In order to get that sample and overcome that rejection, they will need to clone human embryos. Advocates have admitted as much on this floor in the Chamber.

The ultimate goal of researchers is free and unfettered access to Federal dollars to create, clone and destroy human embryos for lab experiments. Congress should instead focus on supporting adult stem cell research, which has been proven to work successfully, is not morally controversial, and holds true promise for disease victims. We should not kill to harvest an experiment.

REPUBLICAN ABUSE OF POWER

(Mr. CLEAVER asked and was given permission to address the House for 1 minute.)

Mr. CLEAVER. Mr. Speaker, we should always be cautious in this quest for absolute power here in Washington. This was not the vision of our Founding Fathers.

Today, we are dealing with a manufactured judicial crisis. Since President George Bush took office, the Senate has confirmed a whopping 208 of his judicial nominations and turned back only 10. That, my friends, is a 95 percent confirmation rate. That rating is the highest approval rating of any President in modern times, including Ronald Reagan and Bill Clinton. Thanks to these confirmations, the President presides over the lowest court vacancy rate since Ronald Reagan was President.

Congratulations, Mr. President.

Instead of accepting that success and avoiding further divisiveness and partisanship here in Washington, my hope is that our President will not add to the current bitterness here and around the Nation by resubmitting the names of rejected nominees again this year.

EXPRESSING GROWING CONCERNS ABOUT A GATHERING LEFTIST STORM IN LATIN AMERICA

(Mr. MACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACK. Mr. Speaker, I rise today to express my strong concern about a gathering storm that poses a real threat to freedom, security and prosperity throughout the Western Hemisphere.

At the center of this storm is Venezuelan President Hugo Chavez, who is fanning the flames of leftist, anti-American, anti-freedom movements that are fostering regional instability.

In the years since he took office as a democratically-elected leader, Chavez has moved sharply away from those ideals. He has stacked the government with judges and allies to implement his own personal will. He has cracked down on the freedom of the press. He is financing a State-run television network patterned after Al Jazeera to spread his propaganda far and wide, and he has forged a dangerous alliance with Fidel Castro.

Mr. Speaker, Hugo Chavez fancies himself as a modern Simon Bolivar, who wanted to unite Latin America into one Nation. Hugo Chavez is trying to alter the balance of power in our hemisphere. The United States must take this growing threat seriously.

REPUBLICAN ABUSE OF POWER IN SENATE

(Ms. MATSUI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MATSUI. Mr. Speaker, the power grab Senate Republicans are about to take is not about seven judges; it is about clearing the way for a Supreme Court nominee who only needs 51 votes instead of 60 votes.

Senate Republicans do not want a David Souter, an Anthony Kennedy, a Sandra Day O'Connor, a Ruth Bader Ginsberg or a Steven Breyer, all of whom were confirmed with nearly unanimous, bipartisan support.

If President Bush is successful with this extreme power grab in the Senate, he will be able to appoint extreme, right-wing judges to the court.

President Bush wants to turn the Senate into a second House of Representatives, rubber-stamping his agenda, and that is simply not what our Founding Fathers envisioned when they created two distinctly different congressional chambers.

Mr. Speaker, Democrats will fight to protect our constitutional checks and balances and basic fairness for the American people.

THE BULGARIAN MIRACLE CONTINUES

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, on Tuesday I was in Sofia, Bulgaria, on a delegation with the gentlewoman from Guam (Ms. BORDALLO). I saw firsthand the Bulgarian miracle of a dynamic democracy, a partner with America on the war on terrorism, and a thriving and robust economy providing jobs for young people.

During my first visit 15 years ago to Bulgaria with the International Republican Institute, I witnessed a dying Communist State frozen in time. Today, Bulgaria is a valued member of NATO and soon to be admitted to the EU.

The Bulgarian people are proving themselves to be courageous and capable to meet the challenges of political, defense and economic transformation.

I want to thank my hosts Tuesday of the enthusiastic economic team of Prime Minister Simeon Saxe-Coburgi Gotha, Foreign Minister Solomon Passy and President Georgi Purvanov. Also, America is well represented in Bulgaria by Ambassador Jim Pardew and his gracious wife Kathy.

In conclusion, God bless our troops, and we will never forget September 11.

DEMOCRATS WILL FIGHT REPUBLICAN ABUSE OF POWER IN SENATE

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, the congressional Republican abuses of power continue in the Senate where Senator FRIST is preparing to change the Senate rules for the first time in 200 years.

Senator FRIST and Senate Republicans are waging an unprecedented political power grab. They are changing the rules in the middle of the game and attacking our historic system of checks and balances so they can ram through a small number of judicial nominees who otherwise cannot achieve consensus because of their poor record of protecting individual rights.

Our House Democrats join our colleagues in the Senate committed to fight this Republican abuse of power. We will protect the role of the judiciary as the guardian of the rights of all Americans, assuring that all judges who are confirmed in the Federal courts be as intellectually honest and fair as possible, rather than ruling just on one side of one interest.

Drunk with power, rewriting the rules is what has been happening in Washington the most in recent years. The House Republican leadership tried to weaken the House ethics rules to protect one of their own, and they failed. Let us not let the Senate do the same.

CONGRATULATING ELEVENTH DISTRICT HIGH SCHOOLS

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, I rise today in praise of three very impressive schools in my district, Columbus High School, LaGrange High School, and Campbell High School, which were selected by Newsweek magazine among the top high schools in America.

To have three Eleventh District schools included on this prestigious list speaks to the dedication and accomplishments of our district's educators, students, and community members.

As the former chairman of the Marietta City School Board, I know the great work that goes on in our school districts. I am glad the rest of the Nation finally knows about it as well.

LaGrange High School has a long tradition of providing students with the kind of education that truly helps our children succeed in life.

Columbus High School traces its history back to the 1890s, so it is no wonder the school is a perennial education all-star; practice makes perfect.

Campbell High School has upheld the standard of excellence in Cobb County for years, its teachers, staff, and students showing a relentless ambition for achievement, and, just last week, hosted our Vice President for a discussion on Social Security.

Mr. Speaker, I ask that my colleagues join me in congratulating these schools.

AMERICAN PEOPLE SUPPORT FILIBUSTER

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, I just want to stress that the protection of the filibuster is something that the American people support.

I heard one of my colleagues just a few minutes ago talk about the New Jersey filibuster which is down here at the Mall with a group of people who are trying to make the point that we must protect the filibuster. We should not repeal it as the Republicans want to do, because it does protect minority rights. It protects individual freedoms in terms of making sure that justices and judges that are appointed are those that have a consensus.

I want to say that, in my State, it is not just the people involved in the New Jersey filibuster; a lot of other people have expressed their concern on this issue. Just a week or two ago, I was at Princeton University outside the Frist Student Center, and the students there at Princeton University were conducting a 24-hour filibuster which went on for almost 2 weeks, I think it may still be going on, because they felt so strongly about this issue. They feel strongly about it because it has been around for so long. It is over 200 years now that the Senate rules have provided for a filibuster, and that is what our Founding Fathers wanted, because they did not want an abuse of power. They did not want the majority to be the absolute rule.

PRAISING AMERICA'S SMALL BUSINESS OWNERS

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, today I rise to praise America's small business owners. They really are our Nation's economic engine, and these small business owners and our Nation's employers are doing a great job with this free enterprise system that we enjoy.

Mr. Speaker, there is good news about the economy that is out. In April, this economy created 274,000 new jobs. Also in April, we saw that retail sales exceeded projections. We thought we would have a .7 percent retail sales growth; in fact, we had a 1.4 percent retail sales growth.

Mr. Speaker, it just shows that manufacturing numbers are up. Capital investment is up. Manufacturing investment and output is up. The economy is at work, and it is working for America's families.

America's small businesses are doing their job, and I salute those small business owners.

GOOD NEWS AND BAD NEWS FOR U.S. ECONOMY

(Mrs. MALONEY asked and was given permission to address the House for 1 minute.)

Mrs. MALONEY. Mr. Speaker, thankfully, there have been a couple of bright spots over the past week in the economy. April was just the sixth month during this administration in which at least 250,000 jobs were created, a welcome relief for this struggling economy. Meanwhile, the trade deficit in March decreased from its record high level in February, though it is still on pace to become a record year, the highest trade deficit in the history of our country.

Still, the positive news on the economy is often accompanied by equally troubling news. New statistics show that each paycheck American workers take home ends up buying less and less. The prices of many basic goods from gas to milk have shot up, but workers' wages have not kept pace. Americans are working hard and producing more, but they are not seeing the benefits in their buying power. This is terrible news for America's families. We have to have those wages at least keep pace with inflation.

PROVIDING FOR CONSIDERATION OF H.R. 1544, FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS ACT OF 2005

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 269 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 269

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1544) to provide faster and smarter funding for first responders, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Homeland Security. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Homeland Security now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

☐ 1030

The SPEAKER pro tempore (Mr. LATHAM). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from California (Ms. MATSUI), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, I rise today in strong support of this rule and the underlying legislation, H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005. This bill sponsored by my good friend, the gentleman from California (Mr. COX), has the support of 40 bipartisan co-sponsors and was accepted at both its subcommittee and full committee markups with unanimous consent of the majority and minority membership of the new Select Committee on Homeland Security.

The goal of this bipartisan legislation is simple: to reform the way the Department of Homeland Security issues terrorism preparedness grants to States and local governments so they can prepare for, prevent, respond to, and recover from acts of terrorism. It also expedites the delivery of Federal assistance to first responders, those brave men and women who are our first line of defense against terrorism, where it is needed most while also endorsing undisciplined spending on the homeland security front.

This legislation also reflects an agreement among policymakers here in the House: first of all, on the need to award Federal terrorism preparedness grants on the basis of risk; on the importance of ensuring that such grants are spent in a timely manner; and on the necessity of ensuring collaboration between neighboring jurisdictions.

As Members of Congress, we have seen all too clearly the problems associated with coordinating the effective and efficient allocation of these new funds to fight and defend against acts of terrorism on our shores. Since 2001, the Federal Government has made roughly $30 billion available in grant funding for this purpose, but approximately $4.1 billion awarded by the Department of Homeland Security still remains in the pipeline, unspent, along with another $2.4 billion recently added from 2005.

This bottleneck in getting our first responders the funds that they need to protect our safety is unacceptable, and this legislation will get these terrorism preparedness funds into the hands of those who need it most, by ensuring that guarantee that no State or territory falls below a certain base level of funding while also ensuring that States prioritize their own anti-terrorism spending on the basis of risk and need.

By providing financial encouragements to States that pass through their awarded funds to localities within tight timeframes, this legislation makes our funding for such programs faster. And by allocating grant awards to States and regions based on an assessment of risk and need to achieve clear and measurable preparedness goals, this legislation also makes our funding for such programs smarter.

Mr. Speaker, H.R. 1544 fulfills the recommendations included in the 9/11 Commission report, and recognizes the fundamental reality that terrorists are not arbitrary in selecting their targets, so we cannot be arbitrary in our efforts to protect our Nation. By streamlining the grant process and giving States and regions the tools that they need to develop specific flexible and measurable goals, this bill will make sure that every Federal dollar allocated for the purpose of defending our security is used effectively and efficiently.

I encourage all my colleagues to support this rule and the underlying legislation which brings a risk-based approach to addressing our country's most pressing homeland security needs.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me time.

Mr. Speaker, today we will debate bipartisan legislation from the Select Committee on Homeland Security to improve funding for first responders.

In this new post-9/11 era, ensuring that our country is protecting itself from attack is of prime importance. I am especially proud of the efforts of my hometown of Sacramento. Federal officials have recently highlighted Sacramento as an example to other localities of how to efficiently spend Federal anti-terrorism dollars.

Already, Sacramento's main agencies tasked for homeland security, police, sheriff, health and the city and metro fire departments, are all coordinating their efforts.

The five agencies have already agreed to share all of the homeland security dollars, a unique show of cooperation when limited funding is at stake. Not only have the agencies standardized protective suits and gas masks, but a massive 9,000 emergency personnel training effort is under way. With all of Sacramento's hard work, I am not surprised that Federal officials are singling their efforts out.

What we are doing today will help these first responders in their work. Currently, base funding for homeland security assistance programs is distributed among the States according to a strict formula. This formula has resulted in greater funding going to lower-risk States like Wyoming on a per capita basis rather than more at-risk States like New York and my home State of California.

This bill would alter the funding allocation to States based on threat and risk. However, each State would be guaranteed a minimum if its dollar amount fell below a specified level. Even the 9/11 Commission recommends that Federal dollars supplement State and local efforts that fall in higher-risk areas. This is a commonsense proposal.

I am pleased that this reform will greatly benefit California and my hometown of Sacramento. Further, this bill continues Federal support for the Urban Area Security Initiative, which Sacramento has received funding through, in addition to other Federal grant programs.

H.R. 1544 also recognizes the increased risk to our region posed by our flood control systems by specifically including dams in its list of critical infrastructure. Its inclusion will allow consideration of flood control levees and dams as a factor in determining the risk a community faces.

I would like to take this opportunity to thank the ranking member, the gentleman from Mississippi (Mr. THOMPSON), for highlighting this issue of great concern to both our districts. Our communities are faced with a continuing risk of flooding. Sacramento's flood risk is among the highest of major urban areas in the country. Located at the confluence of the Sacramento and American rivers, the Sacramento floodplain is the hub of a 6-county regional economy that provides 800,000 jobs for 1.5 million people. A major flood along the American River would cripple this economy, cause between 7 and $16 billion in direct property damages, and likely result in significant loss of life.

While we typically view the levee system as our first line of defense against Mother Nature's raging storms, we must also face the reality that this critical infrastructure must be protected from terrorist attack. A major levee failure or a terrorist attack at the dam upstream would be absolutely devastating to the region.

The addition of this provision by the Select Committee on Homeland Security shows why amendments and increased discussion of this bill are so important. And I am glad to see that the Committee on Rules did make in order a few of the amendments that were brought before our committee. But I must express my disappointment that this bill will not be debated today under a more open process. I believe that there are a number of other amendments that, while we may disagree on the position, they are worth continued debate on the House floor.

For example, while the Select Committee on Homeland Security explored the issue of whether all first responder grants should be awarded strictly on the basis of risk, doing away altogether with State minimum award requirements, I think there are a number of Members that would like to see this issue debated before the full House.

Even the gentleman from California (Mr. COX) acknowledged that while he personally would like to see all first responder funding allocated by risk, the issue of ensuring each State receives a minimum was an important compromise in his committee. An amendment addressing this exact issue was brought before the Committee on Rules, but it was not made in order.

I strongly support the underlying bill, and I am pleased it was reported out in bipartisan fashion. I commend the Select Committee on Homeland Security for their extensive debates on the best strategies to improve the funding streams for our first responders. I imagine there are many divergent opinions on this matter, and it would be excellent debate for us to have had here today. It is unfortunate the Committee on Rules did not open this rule so we could continue this full dialogue today.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield 5 minutes to the gentleman from Alabama (Mr. ROGERS). Mr. Speaker, one of the advantages of having a great bipartisan bill means that we have good leadership in the Select Committee on Homeland Security, and today I am very pleased for one of our bright new young Members to be with us. He is the chairman for the Subcommittee on Management, Integration, and Oversight.

Mr. ROGERS of Alabama. Mr. Speaker, I thank my friend and colleague, the gentleman from Texas (Mr. SESSIONS), for yielding me time.

Mr. Speaker, I rise today in strong support of H. Res. 269. This rule would provide for the consideration of H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005.

In the years since 9/11, our Nation has spent billions of dollars to strengthen our firefighters, police, and emergency personnel. These hard-working Americans known as our first responders are the frontlines of our Nation's homeland defense. They keep our communities safe, and they respond when disaster strikes.

The bill we will be debating today is a good piece of legislation and is designed with our first responders in mind. It does several things. First, it reforms the grant funding system that most States, including my home State of Alabama, believe is ineffective.

For example, a 2004 committee report found that nearly 85 percent of the grants distributed to States have not yet been utilized. And because current law requires a minimal level of funding given to States, many States receive a lump sum of money from DHS without a clear understanding of how to spend it.

□ 1045

Three-and-a-half years after 9/11 I find this unacceptable. Yet these facts speak to the need for a bipartisan reform which will ensure taxpayers know what they are getting.

Second, H.R. 1544 helps the Federal Government allocate first responder funding based on actual risk. Under this legislation, States like Alabama would be required to submit an annual State homeland security plan to the Federal Government. This plan would outline the State's projected risks to 16 economic sectors, such as agriculture, the number of military bases and its transportation infrastructure. States meeting these risk criteria would be eligible for a greater funding.

For our rural areas, this could mean new funding sources. For example, States like Alabama could see increased funding for agro-terror initiatives. States with a heavy military industrial base could receive additional assistance to protect communities near bases, and of course, ports like Mobile would continue to receive much-needed support for cargo security initiatives.

I do want to acknowledge that H.R. 1544 changes the minimum level of guaranteed funding to each State, and while some of my colleagues have called this a cut, I like to think of it as better use of limited homeland security dollars.

We all know of instances where the Federal Government funds State projects which, in reality, have little or nothing to do with securing our homeland. This bill will help correct that situation.

I also want to make clear what this bill does not do. Essential programs like FIRE grants, COPS, grants bulletproof vests funding, or secure school initiatives for local police are not affected. These programs have provided rural areas, like my district, with millions of dollars for new safety equipment and vehicles, and I will continue to do my part to ensure they are fully funded each year.

H.R. 1544 is bipartisan, both in spirit and intent. Every Member of the Committee on Homeland Security, both Republicans and Democrats, have signed on to this bill as original cosponsors, and the committee reported it out by a unanimous voice vote.

The bill also closely resembles the 9/11 reform legislation passed by the House during the 108th Congress and has been endorsed by the 9/11 Commission and a majority of first responder groups nationwide.

I am pleased to support this legislation and ask for support of this rule so the House can consider it today.

I want to thank the gentleman from California (Chairman COX) for his ongoing efforts to advance this legislation.

Ms. MATSUI. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Speaker, I want to thank the gentlewoman from California for yielding me this time.

On September 11, more than 700 of our friends and neighbors from my State of New Jersey never returned home from work and never returned to their families. The smoking ruins of the Twin Towers were visible for my entire district to see, and many of the police and emergency response personnel that responded so heroically to the attacks were from New Jersey.

Yet, here we are 3 years and 8 months later and our current homeland security funding is not based on risk and threats. That is why I rise in strong support of this important legislation which will finally direct Federal assistance to those first responders serving where the need is greatest. We know the enemy seeks to attack again. We just do not know when and where it will occur.

New Jersey faces unique terrorism threats that require a greater portion of homeland security aid due to its proximity to New York City and to its vast number of potential targets of terror, such as the largest seaport on the east coast, one of the busiest airports in the country, an area known as the "chemical coastway," our four nuclear power plants, and the six tunnels and bridges that connect New Jersey to New York City.

If that were not enough, the Federal Bureau of Investigation has placed more than a dozen New Jersey sites on the National Critical Infrastructure List and has called the area in my district between Port Newark and Newark International Airport the most dangerous 2 miles in the United States when it comes to terrorism. A recent article in the New York Times pointed out that this 2-mile area provides a "convenient way to cripple the economy by disrupting major portions of the country's rail lines, oil storage tanks and refineries, pipelines, air traffic, communications networks and highway system."

Yet the State's homeland security funding was cut in this fiscal year by 34 percent. In my district, two high-risk urban areas saw their funding reduced by 17 and 60 percent respectively. Mr. Speaker, the current system of allocating homeland security funds is broken and needs to be fixed immediately.

The 9/11 Commission report said that, "Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities." That is exactly what the Menendez substitute to the intelligence reform bill would have accomplished last October. That is exactly what I fought for in the conference report on that legislation and what I sought to accomplish earlier this year when I introduced the Risk-Based Homeland Security Funding Act with Senators CORZINE and LAUTENBERG.

We must take every step to secure our communities from the threat of terrorism, and this bill will ensure that the first responders on the front lines of this war in both New Jersey and across the country will receive a much-needed increase in Federal homeland security funding.

The House of Representatives must pass this important piece of legislation today, and the Senate should act as quickly as possible to get it to the President's desk.

I urge all of my colleagues to support this bill. It will turn the 9/11 Commission's recommendation into law, while protecting those areas and targets that are at the greatest risk of a future attack.

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. SHUSTER), the subcommittee chairman of the Subcommittee on Economic Development, Public Buildings and Emergency Management for the Committee on Transportation and Infrastructure.

Mr. SHUSTER. Mr. Speaker, I thank the gentleman from Texas for yielding me time.

Mr. Speaker, this is a good and fair rule that provides ample time to discuss this very, very important issue. I urge my colleagues to support the rule and to support the Faster and Smarter Funding for First Responders Act.

Mr. Speaker, I would like to applaud the gentleman from California's (Chairman COX) commitment to first responders and for developing a bill that better prepares our Nation for terrorism.

Since before the terrorist attacks of September 11, experts from across the political spectrum have urged these kinds of reforms that are in this bill. These improvements include clear preparedness standards to guide State expenditures, mutual aid agreements, interoperable equipment and better planning and coordination between first responders at all levels of government.

I also want to applaud the gentleman from California (Chairman COX) for his willingness to carry this bill forward in an open and fair process.

As the chairman of the Committee on Transportation and Infrastructure's Subcommittee on Economic Development, Public Buildings and Emergency Management, I can say with confidence that we have a stronger bill today because of the efforts of the gentleman from California (Chairman COX) and the gentleman from Alaska (Chairman YOUNG).

I particularly want to thank the gentleman from California (Mr. COX) for working with the Committee on Transportation and Infrastructure to incorporate two important principles throughout this bill: a commitment to the Nation's all hazards emergency system and minimum funding for all States.

We must remember that first responders have to deal with all kinds of disasters, regardless of the cause, and that our first responder programs must address terrorism in that context. There are no terrorism fire stations in this country. Firefighters respond to everything. The Cox bill recognizes this and ensures that terrorism preparedness is fully compatible with our existing all hazards system.

The second principle acknowledges that every State must have basic response capabilities. I come from a State with two very large metropolitan areas, but I recognize that terrorists can attack outside of these big cities.

Furthermore, if there is a catastrophic attack in a large urban area, local response agencies will be overwhelmed and will require assistance from units across this country, suburban areas as well as rural areas. These units will need proper equipment and training to effectively integrate into a large-scale disaster response.

States need a guaranteed minimum level of funding to meet both these requirements.

I would again like to commend the gentleman from California (Mr. COX) for his hard work and leadership and urge my colleagues to support the rule and the underlying bill.

Ms. MATSUI. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank the gentlewoman for yielding me time, and I rise in support of the rule on H.R. 1544.

It has been 3 years and 8 months since 9/11. I thank my colleagues for coming together and being so unified in helping New York during that very tragic period, and I thank very much the leadership of the gentleman from California (Chairman COX) and the gentleman from Mississippi (Ranking Member THOMPSON) on the Faster and Smarter Funding for First Responders Act.

This is not a perfect bill but it does fundamentally change the way we distribute homeland security grants for first responders.

This bill will distribute all homeland security funding on the basis of risk, rather than thinly spreading it around the country, with absolutely no standards, no basis for risk and absolutely no justification as to how the money was to be spent.

While the Department of Homeland Security has always had the authority to distribute the majority of homeland security funding on the basis of risk, they have never done so. Previously, heavily populated States and heavily threatened or high-threat States like New York only received about $4 per capita, while other States, like Wyoming, received close to $28 per person. What might have been even worse is that States were not required previously to justify need or to justify how they were spending the money. They just got a check. We had no standards, and we had no way of knowing what level of preparedness we had in this country in our various localities and States.

This bill should be the end of this and hopefully the end of troubling press reports of mis-spent homeland security funding.

While I would have liked to have seen a bill with no State minimums, because I do not support funding homeland security projects without first determining a need, I understand the delicate negotiations that went into this bill. Again, this bill is not perfect but a much better way of protecting our country, and that is why I am supporting it.

Like many of my colleagues, I will be watching the way the funding is distributed to make sure that the promise of this bill is fulfilled and that it is directed where the need is in our country to protect our citizens.

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in strong support of the rule and of H.R. 1544. I commend the gentleman from California (Chairman COX) and his committee for their great work on this essential legislation.

This legislation is an issue of great importance for our Nation, but it is also a huge priority for New Jersey, which lost, as the gentleman from New Jersey (Mr. MENENDEZ) said, 700 residents on September 11, 2001.

The 9/11 Commission recommendations rightly stated: "Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities. Federal homeland security assistance should not remain a program for general revenue sharing. It should supplement State and local resources based on the risks or vulnerabilities that merit additional support. Congress should not use this money as a pork barrel."

Both the President in his budget and, most recently, the Committee on Appropriations Subcommittee on Homeland Security in their bill just passed out of full committee have echoed this important recommendation.

Since September 11, 2001, U.S. intelligence reports that our New York-New Jersey region is still among the most attractive targets for terrorists. For all of our critical infrastructure of the trans-Hudson tunnels, airports, seaports, oil refineries, chemical manufacturing, population density, financial centers in both lower Manhattan and in Jersey City, our basic close relationship with New York City, anti-terrorism experts continue to acknowledge that the risk of terrorism remains.

Yet, despite the best efforts of the President, homeland security officials and Members of Congress, these security funds continue to be distributed to States based on population, rather than risk and vulnerability. That is why this bill needs to be passed in its present form.

Fortunately, the legislation addresses our concerns and follows the Commission's recommendations. We are sending more Federal homeland security to States like New Jersey and other high-threat areas where risk is greatest and critical infrastructure must be better protected against terrorism.

H.R. 1544 establishes a more rational approach to distributing homeland security funding by sending more resources to where they are needed. As we learned on September 11, terrorists do not arbitrarily select their targets. Therefore, homeland security funding cannot be arbitrarily distributed.

This legislation would ensure that homeland security grants are awarded according to an assessment of risk and vulnerability, not just population.

For these and many other reasons, Mr. Speaker, this bill and this rule needs to be supported.

□ 1100

Ms. MATSUI. Mr. Speaker, I continue to reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, at this time I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I rise in support of the Faster and Smarter Funding for First Responders Act. In the post-September 11, 2001, world that we live in, it is clear we need a more effective approach to funding our first responders. Terrorists are targeting high-profile targets in our major metropolitan areas, and we must ensure we have the funds they need.

The 9/11 Commission, which I strongly supported, recommended we allocate grant funding based on risk, not politics. This bipartisan legislation does just that. It goes where it is most needed. I cannot tell you if my State of Connecticut gains funds or loses funds under this bill, but that cannot be the issue. The question is: Are funds going where we have the greatest risk? And the answer to that question is: Yes. We are following the 9/11 Commission recommendation. It is going where we have the greatest need.

H.R. 1544 will distribute first responder grants based on threat, vulnerability, and consequences of a terrorist attack to persons and critical infrastructure sectors throughout the United States. This will allow streamlining terrorism preparedness grants to our first responders who, again, need it most.

As chairman of the Subcommittee on National Security, Emerging Threats and International Relations, I know this legislation allocating these resources based on risk is essential to my communities, my State, and our Nation. H.R. 1544 is an important step towards enhancing our Nation's response to terrorist attacks.

The bottom line is, it is not a question of if, but of when terrorists will strike again. The legislation is essential because it helps ensure that when they do, our first responders, who need the resources the most, will be better able to protect the communities they serve.

Congratulations to the chairman, the gentleman from California (Mr. COX), and the ranking member, the gentleman from Mississippi (Mr. THOMPSON), and to the Members on both sides of the aisle who have worked in a bipartisan manner to make our Nation safer.

Ms. MATSUI. Mr. Speaker, I continue to reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. DENT), one of our bright new young Members.

Mr. DENT. Mr. Speaker, I rise to speak in support of the rule and H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005.

Mr. Speaker, it is said that in this country politics end at the water's edge. This is certainly the case with this legislation. The Select Committee on Homeland Security, on which I serve, passed this bill unanimously. This occurred because the idea behind the legislation is a bipartisan one: combat the threat of terrorism at home by directing funds to those localities that are most at risk for terrorist attack.

The idea that funding should be based on risk and security rather than on political concerns is one that resonates on both sides of the aisle of this great Chamber. The Members of this body recognize that the challenges we face are unique in our history. No previous generation has had to combat the threat to the homeland that we face right now.

Today's terrorists are determined to wage war against us not on some overseas battlefield, but in our cities, ports, and transportation hubs. This is why this bill is so important. It makes sure that we take into account threats, vulnerabilities, and consequences of attack as we decide how to best spend our anti-terrorism dollars.

This bill is also necessary because it confronts the issue of threats to the homeland head on. It directs appropriate State authorities to come up with a comprehensive homeland security plan tied to the achievement, maintenance, and enhancement of the essential capabilities established by the Department of Homeland Security.

In developing those essential capabilities, the Department is required to seek the input of those on the frontlines: local police; fire departments; and EMS units, emergency medical service units. This provision is vital because combating terrorism is a nationwide problem that calls for cooperation between officials at the local, State, and Federal levels.

Finally, the bill requires the Department to set national standards for first responder equipment and training so that all frontline units responding to a terrorist attack will be able to operate effectively.

The Faster and Smarter Funding for First Responders Act of 2005 is an important tool for safeguarding the homeland. It is a positive step towards development of an effective homeland security policy, and I support it wholeheartedly.

Ms. MATSUI. Mr. Speaker, I continue to reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from Nevada (Mr. GIBBONS), a young man who was on the frontline, a captain, a pilot in the United States Air Force, who served during the Persian Gulf War and who is a Member of Congress, serving since the 104th Congress. And while this country has great respect for the men and women who are on the frontlines defending our country in the United States military today, we also remember back to those first men and women of the military during the Persian Gulf War who were standing ready not only to protect this country, but also to liberate others and to provide freedom.

Mr. GIBBONS. Well, Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS), my friend and colleague, for that generous introduction; and I rise today, Mr. Speaker, in support of both the rule and the overall bill, H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005.

As a member of the Select Committee on Homeland Security, I am proud to be an original cosponsor of this bipartisan bill; and I congratulate the chairman, the gentleman from California (Mr. COX), and the ranking member, the gentleman from Mississippi (Mr. THOMPSON), for their diligent work on this act.

This bipartisan bill will help expedite the homeland security grant process and ensure that money gets to those who need it the most, our first responders. Importantly for my State, the State of Nevada, this bill will allow the Department of Homeland Security to take into account both resident and tourist populations when determining a State's funding for terrorism preparedness.

My fellow Nevadans know that tourism is a significant part of our State's industry and our population. On any given day of the year, Nevada hosts hundreds of thousands of tourists from across the country and around the world. Las Vegas Boulevard, Mr. Speaker, has more hotel rooms than any other city in the world. According to Nevada's Commission on Tourism, Nevada welcomed over 50 million tourists alone just last year.

Prior to this bill, terrorism preparedness grant funding did not take tourism into consideration in determining a State's population. Yet Nevada's first responders were and remain responsible for protecting everyone, residents and visitors, 24 hours a day, 7 days a week. To ignore the tourism population in determining a State's level of risk simply ignores a large population within a potential terrorist target.

The First Responders Act of 2005 will help States with large tourism populations, like Nevada, receive a more equitable allocation of tourism preparedness funds. H.R. 1544 is a step in the right direction and, in fact, should stand as a model for all homeland security grants. More homeland security programs beyond just the terrorism preparedness grants should also take into account tourism populations.

As we move forward in strengthening our homeland security, I look forward to achieving this goal and to providing our first responders with the critical resources they need to protect the people of this country. I urge my colleagues to support this landmark legislation, and I once again congratulate the chairman and I congratulate my friend, the gentleman from Texas (Mr. SESSIONS), for their hard work on this effort.

Ms. MATSUI. Mr. Speaker, I continue to reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, at this time I am very, very pleased to yield 3 minutes to the gentleman from California (Mr. COX), the young chairman of the Select Committee on Homeland Security, a very distinguished Member of Congress, and a man who has worked very diligently not only on a bipartisan basis with the minority, but also with the Speaker and in particular with the Committee on Rules as we went about preparing this important piece of legislation to ensure its success. So I am very, very proud of the chairman from Orange County, California (Mr. COX).

Mr. COX. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS), my older brother, for all the work that he did.

Really, in all seriousness, Mr. Speaker, I want to begin by thanking the gentleman from Texas, who, as a member of the Select Committee on Homeland Security for 2 years was instrumental in writing this legislation; who, as a Member of the Committee on Rules in the 109th Congress, has been appointed by the chairman as liaison to the Select Committee on Homeland Security and has made possible the process by which we will consider this bill on the floor today.

In fact, it really merits pointing out today that the Committee on Rules of the House of Representatives has played a special role in the establishment of the Select Committee on Homeland Security, for which this is the first major legislative effort on the floor this year.

In the last Congress, not only the gentleman from Texas (Mr. SESSIONS) but also the gentlewoman from New York (Ms. SLAUGHTER); the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), who is the chairman of the Subcommittee on Rules of the Select Committee on Homeland Security; the gentleman from California (Mr. DREIER), chairman of the full Committee on Rules; the gentleman from Georgia (Mr. LINDER), who is now chairman of the Subcommittee on Prevention of Nuclear and Biological Attack of the Select Committee on Homeland Security; and Porter Goss of Florida, who is now the Director of the Central Intelligence Agency, all were Members of the Select Committee on Homeland Security in the last Congress and also Members of the Committee on Rules that worked to change the jurisdiction of the House of Representatives to make sure we would have a focus on this critical national priority that both President Bush and the leaders of this Congress have recognized as so important that we have reorganized the entire executive branch and now the legislative branch of government. That is the process by which this rule and the bill that it outlines are coming to the floor today.

Since September 11, over $30 billion in terrorism preparedness funding has gone from the Federal Government to State and local governments. In this year's budget, President Bush has added to the annual amount an incremental $2 billion more. That will mean that we have had an increase in annual spending on terrorism preparedness for States and localities since 9/11 of over 2,000 percent. The question is not whether we are putting enough money into terrorism preparedness for our first responders. The question is whether the money is making it to the frontlines. And the answer to that is, no, it is not. And the question is also whether it is being spent properly, in a way that makes us more prepared. And, unfortunately, the answer to that question is, not always.

There are opportunities for major improvement, and that is what this bill is all about. It is called the Faster and Smarter Funding for First Responder Act because it solves both those problems. It will get the money to the frontlines faster, and it will make sure that we are spending the money based on what we know from our intelligence about terrorist threats and capabilities, our own vulnerabilities, and the consequences of terrorist attacks.

I strongly support this rule and look forward to passage of the bill later today.

Ms. MATSUI. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, on September 11, 4 years ago, fanatic Islamic terrorists attacked our country, hijacked our planes, rammed the Pentagon, and destroyed the World Trade Center that was located in my district. This is deadly serious business, and we do not have a dime to waste. This bill, while certainly an improvement over current law, still includes State-based formula funding.

I offered an amendment to eliminate the State minimum section of the bill to ensure that all homeland security funding is distributed on the basis of risk. Unfortunately, that amendment was not made in order by this restrictive rule. I am saddened that there are still people in this House who still do not get it. How many times do we have to run for our lives before we realize this is not a game? We face the serious threat of terrorism, and we should allocate the homeland security funding based on that threat.

□ 1115

I understand this bill is a delicate political compromise. On the whole, I support it because it is better than current law. But we can do better.

State minimums waste homeland security funding. This bill would give States money that cannot be justified on the basis of the risk, wasting precious resources that should be used to protect the American people from real dangers in other States.

In this wonderful, open, rich, free society in which we live, there are plenty of real targets that need protecting all across America. The issue of State minimums is not just about New York. If there are real threats to our food supply, our energy resources, our national monuments, they should all be protected. But we should not give more money to States who cannot demonstrate a need while we know there are other States that have needs that cannot be met. It just does not make sense.

The bipartisan 9/11 Commission recommended that anti-terrorism funding be distributed based on risk and not based on State formulas or pork-barrel spending. We should follow their excellent advice. The State minimum provision in this bill is in direct violation of the 9/11 Commission recommendations. In its report, it said that, Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities." The commission went on to say that "Federal homeland security assistance should not remain a program for general revenue sharing. It should supplement State and local resources based on the risks and vulnerabilities that merit additional support. Congress should not use this money as pork barrel."

My amendment would have stricken these State minimums and distributed these grants in a manner that addresses the highest priority threats and vulnerabilities of the Nation. There are very real and known terrorist threats against specific targets in the country, and these homeland security grant programs were created specifically to address these threats. Distributing terrorism response funding without regard to risk is not wise. It is not cost effective. It is not in the best interests of our country's security. These resources should go where they are needed, where there is the greatest threat of terrorism. Period.

As noted in the 9/11 Commission's report, "Those who would allocate money on a different basis should then defend their view of the national interest." I had hoped that the Rules Committee would have followed the recommendations of the 9/11 Commission and made my amendment in order.

Nevertheless, I am pleased that the State minimum section in this bill is a significant improvement over current law by being much smaller, and I hope that when we enter into conference with the other body, we remain firm and fight to keep State minimums at the lowest possible level so that the risk-based funds can be kept at the highest level to fight the real threat of terrorism in our country.

Mr. SESSIONS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, following on the remarks by my colleague from New York, who has been a strong supporter of reform in this area, I just want to correct a statement that he made. He suggested that this legislation violates the recommendations of the 9/11 Commission. In fact, the 9/11 Commission has expressly endorsed this legislation in precisely the form that it is coming to the floor today and the cochairman, Lee Hamilton, of the 9/11 Commission took the time to come to the Committee on Homeland Security just a few days ago to testify in solid support of this legislation.

And so as we go forward with the bill, I just want the Members to know that this bill in its present form is strongly endorsed by the 9/11 Commission, and it implements their recommendation.

Ms. MATSUI. Mr. Speaker, I yield 3 minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise in strong support of the Faster and Smarter Funding for First Responders Act. It is a testament to the importance and balanced approach of this bill that it is cosponsored by every Democratic and Republican member of the Committee on Homeland Security on which I am proud to serve. The 9/11 Commission and countless others have urged a more risk-based approach to homeland security funding. Unfortunately, we have been too slow to adopt this recommendation because, while we may agree on a risk-based method in theory, every Member wants his or her district to receive the most possible Federal assistance.

This bill takes the right approach and represents a long overdue move towards a more effective allocation of scarce resources. H.R. 1544 guarantees a minimum funding level for each State because all States must attain a benchmark level of preparedness and response capabilities. But beyond this minimum, the bill would disburse funds based on a risk and threat assessment to ensure that they are spent where they are most needed and will do the most good.

I am also pleased that this measure provides for a task force on terrorism preparedness to assist in updating the DHS list of essential capabilities for first responders. We must be able to measure the progress our States are making towards an adequate level of preparedness, and it is equally important that this baseline be achieved in every community throughout the country so that American families can feel secure no matter where they live.

I would like to note that for risk-based funding to work, however, DHS must have a comprehensive threat and vulnerability assessment on which to rely. I would urge DHS in the strongest possible terms to ensure that this critical piece of the puzzle is a top priority and is completed as soon as possible.

With that, Mr. Speaker, let me encourage all of my colleagues to support this bipartisan measure. I want to commend both Chairman COX and Ranking Member THOMPSON on their fine work on this piece of legislation.

Mr. SESSIONS. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. LINDER), chairman of the Subcommittee on Prevention of Nuclear and Biological Attack.

Mr. LINDER. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me the time, and I rise in support of both the rule and the underlying legislation, H.R. 1544.

In 1787, John Jay wrote, "Among the many objects to which a wise and free people find it necessary to direct their attention, that of providing for their safety seems to be the first." More than 215 years later, we all agree on the importance of protecting the people. However, this House today finds itself debating the question of just how best should the government protect the people.

In 2001, Congress enacted many sweeping changes to our Nation's anti-terrorism laws, including the formulas by which States would receive homeland security grants through the passage of the USA PATRIOT Act. Under the PATRIOT Act, each State is guaranteed to receive three-quarters of a percent and each territory .25 percent of the total amount appropriated each year for terrorism preparedness grants. The balance of the funds is then distributed to each State and territory based on population.

In hindsight, we can see that this system of allocation is flawed. For example, in fiscal year 2005, the minimum allocation for each State is $11.25 million. Using that total, based on current census numbers, the State of Wyoming would receive a minimum guarantee of $22.23 per person in homeland security grants while the State of California would receive a minimum guarantee of just 31 cents per person. In other words, the Federal Government would allocate approximately 7.100 percent more funding per capita at a minimum to the State of Wyoming than it would to the State of California for homeland security grants.

That is why I am a cosponsor of H.R. 1544 and voted to support the bill in committee. It is the responsibility of this government not only to ensure that we are protecting the people but also to ensure that we do so in an efficient and measured fashion.

Let us be clear about one point. H.R. 1544 does not eliminate minimum guarantees for the States. Under this legislation, each State, regardless of population, would receive a minimum of .25 percent of the total amount appropriated each year for terrorism preparedness grants.

H.R. 1544, however, does require the government to move away from its arbitrary approach to anti-terrorism funding toward a more rational approach. Rather than continuing to simply allow homeland security grant programs to become Federal cash cows for States and localities, this legislation focuses our efforts on what is truly important, namely, our Nation's vulnerabilities.

Ms. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

I look forward to hearing the debate on this legislation to improve first responder funding. We all want to ensure our communities are well equipped and prepared to face any threat. I believe that the underlying bill will help accomplish exactly that.

Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the gentlewoman from California for her work on this bill today. I would also like to thank the gentleman from California (Mr. COX) and the gentleman from Mississippi (Mr. THOMPSON), from the Committee on Homeland Security; as well as the gentleman from New York (Mr. KING), chairman of the Subcommittee on Emergency Preparedness, Science, and Technology; and the gentleman from Alaska (Mr. YOUNG) of the Committee on Transportation and Infrastructure for all of their hard work and determination in bringing this bill forward. They worked well together. This is a bipartisan bill.

The Rules Committee met just several days ago and heard how the ranking member and Chairman COX put a great work package together. The Rules Committee decided to help out a little bit. We have made in order with this rule three Democrat amendments and two Republican amendments that will be part of this wonderful bill that will be debated in just a few minutes here in this House. I am very proud of the work that we have accomplished together. I am very proud of the legislation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. COX. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1544.

The SPEAKER pro tempore (Mr. SESSIONS). Is there objection to the request of the gentleman from California?

There was no objection.

FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS ACT

The SPEAKER pro tempore. Pursuant to House Resolution 269 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1544.

□ 1127

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1544) to provide faster and smarter funding for first responders, and for other purposes, with Mr. CALVERT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California (Mr. COX) and the gentleman from Mississippi (Mr. THOMPSON) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. COX).

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

I rise today in strong support of H.R. 1544, the Faster and Smarter Funding for First Responders Act. I am here on the floor today with the ranking member of the Committee on Homeland Security, the gentleman from Mississippi (Mr. THOMPSON). He and I are here to argue today on behalf of a bill that is strongly endorsed by every single Republican and Democratic member of the Committee on Homeland Security. More than that, this legislation is supported by the Bush administration. We have received a formal statement of administration support for this bill. It is strongly endorsed by the 9/11 Commission whose recommendation that first responder funding be placed on a risk basis this bill implements. It is endorsed by scores of first responder groups, the men and women on the front lines for whom this money is intended. They worked with us over a period of over 2 years, first to identify the problems in the current grant-making system for billions of homeland security and terrorism preparedness dollars and, second, to develop a solution.

The solution that today's bill presents is a simple one. We are going to move away from political formulas for allocating these billions of dollars and toward a system that relies on the intelligence that the American taxpayer already purchases at the price of billions of dollars every year, information about terrorist capabilities and intentions, information about our own critical infrastructure and vulnerabilities and information about the potential consequences of different kinds of terrorist attacks. In combination, this mix of threat, vulnerability and consequence is called risk. Funding for first responders in the future is going to be based upon risk. That is what this bill is all about.

And we solve the second problem. Of the over $30 billion in terrorism preparedness moneys that the Federal Government has made available to States and localities since September 11, some 60 percent of it is not yet spent. It is stuck in the administrative pipeline.

□ 1130

There are a number of reasons for this that our committee has discovered through field hearings across the country, hearings here in Washington, and our own investigation. But at bottom it is this: right now there is an "ad hockery" to the way that moneys are passed around the country. There is no predictability about when the funds might arrive, whether reimbursement will be there. And the planning, as a result, tends to take place after the money is received, slowing things down.

In our new system, the planning will be moved at the front end of the process. Every State which already has a statewide terrorism preparedness plan will ensure that when these applications for grants are made, they are directly tied to that statewide plan and also directly tied to the achievement of national objectives for first responder preparedness.

We will have clear standards for the first responders so that they will not have these kinds of questions about reimbursement that have plagued them in the past. We will know that what we are buying in the form of equipment and training will be directly tied to national terrorism preparedness goals.

In recent days, there has been a fair amount of press coverage about abuses of homeland security spending. For example, right here in Washington, D.C., we learned that $100,000 of this grant money meant for first responder terrorism preparedness was instead spent on a Dale Carnegie course for sanitation workers, another $100,000 was spent to develop a rap song purportedly to educate young people about how to be prepared in the case of a terrorist attack.

These kinds of abuses will come to an end as a result of this legislation, and our money will be directed toward keeping our first responders, who are not only first in line to protect us but first in line for the terrorists, the first to die if this system does not work right, keeping these people well trained and well equipped.

I would like to thank, in addition to the gentleman from Mississippi (Mr. THOMPSON), ranking member, the other members of the Committee on Homeland Security. There has been a great deal of work that has gone into this bill. The last step in bringing this to the floor was a 13-hour markup in our committee. I think what we will find today, Mr. Chairman, is that this debate will go forward in a very bipartisan fashion. We might not agree about all the details of this legislation.

We may not agree when we go to conference with the Senate. And when we come back with a conference report, hopefully in just a few weeks or maybe a few months, we may not agree on every detail.

But there is a big change in this bill that we all agree on, and that is that henceforth moneys for terrorism preparedness that go from Washington to States and localities to our police, to our firefighters, to our EMS personnel, to people in hospitals who will be there in case of a biological attack or indeed to treat the wounded in case of any attack, that the people who get these moneys will be assured that, first, the moneys will arrive soon, on time, right after we want them to be available; and, second, they will know how to spend it and they will know, when they spend it in accordance with their plans, they will get reimbursed for it. This will move America in the direction that we need to go to be prepared for another terrorist attack.

A great deal of our work in the Committee on Homeland Security is focused on preventing terrorist attacks, as well we should be focused; but I have no doubt that someday somewhere terrorists will again strike our country; and when that happens, we are going to rely on our first responders just as we did on 9/11, and next time we want to make sure they have all the training and all the equipment that they need. This bill is a strong step in that direction. It is something that I think we can all be very proud of.

I want to conclude by thanking the gentleman from Mississippi, who, as the leader of the minority, has made it possible for us to keep in mind that when the terrorists attack us, they are not going to attack Democrats or Republicans. They are going to attack Americans. And we are all Americans here, and we are all doing the right thing today.

Mr. Chairman, I submit the following exchange of letters for the RECORD.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, April 25, 2005.
Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, Adams Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Transportation and Infrastructure Committee in matters being considered in H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005.

Our Committee recognizes the importance of H.R. 1544 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over certain provisions of the bill, I will agree not to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Transportation and Infrastructure Committee, and that a copy of this letter and of your response acknowledging our valid jurisdictional interest will be included in the Committee report and in the Congressional Record when the bill is considered on the House Floor.

The Committee on Transportation and Infrastructure also asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House-Senate conference.

Thank you for your cooperation in this matter.

Sincerely,

DON YOUNG,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, April 25, 2005.
Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Transportation and Infrastructure Committee's jurisdictional interest in H.R. 1544, the "Faster and Smarter Funding for First Responders Act of 2005." The bill was introduced on April 12, 2005, and referred solely to the Committee on Homeland Security. The Committee on Homeland Security marked up the bill and ordered it reported on April 21, 2005. The bill, as reported, is substantially similar to the amended version of H.R. 3266 that the Transportation and Infrastructure Committee marked up and ordered reported during the 108th Congress, and it reflects compromises reached in consultation with your Committee during the last Congress.

I appreciate your willingness to waive further consideration of H.R. 1544 in order to expedite proceedings on this legislation. I agree that, by not exercising your right to request a referral, the Transportation and Infrastructure Committee does not waive any jurisdiction it may have over H.R. 1544. In addition, I agree that if any provisions of the bill are determined to be within the jurisdiction of the Transportation and Infrastructure Committee, I will support your request to be conferees with respect to those provisions during any House-Senate conference on H.R. 1544 or similar legislation.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report and the Congressional Record during consideration of the legislation on the House floor.

Thank you for your cooperation as we work towards the enactment of H.R. 1544.

Sincerely,

CHRISTOPHER COX,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC, April 25, 2005.
Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, Adams Building Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Science Committee in matters being considered in H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005. Section 3 of this bill amends the Homeland Security Act of 2002 to add a new section 1807 that addresses national voluntary consensus standards for the performance, use, and validation of first responder equipment. The development of such standards is of particular jurisdictional interest to the Science Committee.

The Science Committee acknowledges the importance of H.R. 1544 and the need for the legislation to move expeditiously. Therefore, while we have a claim to jurisdiction over section three of the bill (adding a new section 1807 that addresses national voluntary consensus standards for the performance, use, and validation of first responder equipment), I agree not to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Science Committee, and that a copy of this letter and of your response will be included in the Committee report and in the Congressional Record when the bill is considered on the House Floor.

The Science Committee also asks that you support our request to be conferees on any provisions over which we have jurisdiction during House-Senate conference on this legislation.

Thank you for your attention to this matter.

Sincerely,

SHERWOOD BOEHLERT,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, April 29, 2005
Hon. SHERWOOD BOEHLERT,
Chairman, Committee on Science, Rayburn House Office Building, Washington, DC

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Science Committee's jurisdictional interest in H.R. 1544, the "Faster and Smarter Funding for First Responders Act of 2005." The bill was introduced on April 12, 2005, and referred solely to the Committee on Homeland Security. The Committee on Homeland Security marked up the bill and ordered it reported on April 21,2005. The bill, as reported, is substantially similar to the amended version of H.R. 3266 that the Science agreed to discharge during the 108th Congress, and it reflects compromises reached in consultation with your Committee during the last Congress.

I appreciate your willingness to waive further consideration of H.R. 1544 in order to expedite proceedings on this legislation. I agree that, by not exercising your right to request a referral, the Science Committee does not waive jurisdiction it may have over section three of the bill (adding a new section 1807 that addresses national voluntary consensus standards for the performance, use, and validation of first responder equipment). In addition, if those provisions are determined to be within the jurisdiction of the Science Committee, I will support representation for your Committee during any House-Senate conference on H.R. 1544 or similar legislation.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report and the Congressional Record during consideration of the legislation on the House floor.

Thank you for your cooperation as we work towards the enactment of H.R. 1544.

Sincerely,

CHRISTOPHER COX,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, April 28, 2005.
Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, House of Representatives, Adams Building Washington, DC.

DEAR CHAIRMAN COX: I am writing with regard to H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005, which was ordered reported by the Committee on Homeland Security on April 21, 2005. As you know, the Energy and Commerce Committee has jurisdiction over matters involving public health contained within section 3 of H.R. 1544 as reported.

Section 3 of H.R. 1544, as reported, requires the Secretary of Health and Human Services to appoint ex officio members and coordinate with the Secretary of Homeland Security with respect to the selection of emergency medical professionals to serve as members of a task force on terrorism preparedness. In addition, the bill requires that, in establishing any national voluntary consensus standards for first responder equipment or training that involve or relate to health professionals, the Secretary of Homeland Security must coordinate with the Secretary of Health and Human Services. This language is substantially similar to provisions contained in the Energy and Commerce reported version of H.R. 3266 from the 108th Congress.

I recognize your desire to bring this legislation before the House in an expeditious manner. Accordingly, I will not exercise my Committee's right to a referral. By agreeing to waive its consideration of the bill, however, the Energy and Commerce Committee does not waive its jurisdiction over H.R. 1544. In addition, the Energy and Commerce Committee reserves its right to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask for your commitment to support any request by the Energy and Commerce Committee for conferees on H.R. 1544 or similar legislation.

I request that you include this letter as part of the Committee's Report on H.R. 1544 and in the Record during consideration of the legislation on the House floor. Thank you for your attention to these matters.

Sincerely,
JOE BARTON,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, April 29, 2005.
Hon. JOE BARTON,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding the Energy and Commerce Committee's jurisdictional interest in H.R. 1544, the "Faster and Smarter Funding for First Responders Act of 2005." The bill was introduced on April 12, 2005, and referred solely to the Committee on Homeland Security. The Committee on Homeland Security marked up the bill and ordered it reported on April 21, 2005. The bill, as reported, is substantially similar to the amended version of H.R. 3266 that the Energy and Commerce Committee marked up and ordered reported during the 108th Congress; and it reflects compromises reached in consultation with your Committee during the last Congress.

I appreciate your willingness to waive further consideration of H.R. 1544 in order to expedite proceedings on this legislation. I agree that by not exercising your right to request a referral, the Energy and Commerce Committee does not waive any jurisdiction it may have over H.R. 1544.

In addition, I agree that if any provisions of the bill are determined to be within the jurisdiction of the Energy and Commerce Committee, I will support representation for your Committee during conference with the Senate with respect to those provisions.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report and the Congressional Record during consideration of the legislation on the House floor.

Thank you for your cooperation as we work towards the enactment of H.R. 1544.

Sincerely,
CHRISTOPHER COX,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, April 28, 2005.
Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, House of Representatives, Washington, DC.

DEAR CHAIRMAN COX: On April 21, 2005, the Committee on Homeland Security ordered reported H.R. 1544, the "Faster and Smarter Funding for First Responders Act of 2005." In recognition of the desire to expedite floor consideration of H.R. 1544, the Committee on the Judiciary hereby waives any consideration of the bill.

Several sections of H.R. 1544 contain matters within the Committee on the Judiciary's Rule X jurisdiction. The centrality of law enforcement to the primary purposes of this legislation brings it within the Committee on the Judiciary's legislative and oversight jurisdiction under rule X(1)(l)(7) ("Criminal law enforcement") and rule X(1)(l)(19) ("Subversive activities affecting the internal security of the United States"). A summary of principal provisions within the Committee on the Judiciary's jurisdiction follows.

Sec. 3 (new section 1801(9)(B)(i)) establishes grant eligibility for a State or States located in a region "established by a compact between two or more States." These matters fall within the Committee on the Judiciary's jurisdiction under rule X(1)(l)(10) ("Interstate compacts generally"). Sec. 3 (new section 1802(a)(3)) ("Law Enforcement Terrorism Prevention Program") falls within the Committee's jurisdiction under rule X(1)(l)(7) ("Criminal law enforcement") and rule X(1)(l)(19) ("Subversive activities affecting the internal security of the United States"). Sec. 3 (new section 1803) ("Covered Grant Eligibility and Criteria") establishes standards by which States and localities receive funding for, among other things, "unique aspects of terrorism." These matters fall within the Committee's jurisdiction under rule X(1)(l)(7)("Criminal law enforcement") and rule X(1)(l)(19) ("Subversive activities affecting the internal security of the United States").

Sec. 3 (new section 1804)("Risk-based Evaluation and Prioritization") establishes a "First Responder Grants Board" with broad authority to assess a range of domestic security threats, including those based on "acts of terrorism of the known activity of any terrorist organization." Domestic security threats clearly fall within the Committee on the Judiciary's jurisdiction under rule X(1)(l)(7)("Criminal law enforcement") and rule X(I)(1)(19)("Subversive activities affecting the internal security of the United States"). Sec. 3 (new Section 1804(c)(3)) ("Types of Threat") directs the Secretary of Homeland Security to consider a variety of threats to critical infrastructure, including: biological threats; nuclear threats; radiological threats; incendiary threats; chemical threats; explosives; suicide bombers; cyber threats; and any other threats based on proximity to specific past acts of terrorism or the known activity of a terrorist group. Much of this information could be acquired only with the active participation of law enforcement and antiterrorism agencies, including the Department of Justice and its relevant components. These matters fall within the Committee on the Judiciary's legislative and oversight jurisdiction under rule X(I)(1)(7)("Criminal law enforcement") and rule X(I)(1)(19)("Subversive activities affecting the internal security of the United States").

The Committee on the Judiciary agrees to waive any formal consideration of the bill with the understanding that its jurisdiction over these and other provisions contained in the legislation is no way altered or diminished. The Committee on the Judiciary also reserves the right to seek appointment to any House-Senate conference on this legislation. I would appreciate your including this letter in your Committee's report on H.R. 1544 and the Congressional Record during consideration of H.R. 1544 on the House floor. Thank you for your attention to these matters.

Sincerely,
F. JAMES SENSENBRENNER, Jr.,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, April 28, 2005.
Hon. F. JAMES SENSENBRENNER,
Chairman, Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding the Judiciary Committee's jurisdictional interest in H.R. 1544, the "Faster and Smarter Funding for First Responders Act of 2005." The bill was introduced on April 12, 2005, and referred solely to the Committee on Homeland Security. The Committee on Homeland Security marked up the bill and ordered it reported on April 21, 2005. The bill, as reported, is substantially similar to the amended version of H.R. 3266 that the Judiciary Committee marked up and ordered reported during the 108th Congress, and it reflects compromises reached in consultation with your Committee during the last Congress.

I appreciate your willingness to waive further consideration of H.R. 1544, in order to expedite proceedings on this legislation. I acknowledge the Judiciary Committee's Rule X jurisdiction over matters relating to criminal law enforcement and subversive activities affecting the internal security of the United States, and recognize the Committee's strong jurisdictional interest in this legislation. I agree that by waiving further consideration of the bill, the Judiciary Committee does not waive any jurisdiction it may have over H.R. 1544 or similar legislation. In addition, I agree that for provisions of the bill that are determined to be within the jurisdiction of the Judiciary Committee, I will support representation for your Committee during conference with the Senate.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report and the Congressional Record during consideration of the legislation on the House floor.

Thank you for your cooperation as we work towards the enactment of H.R. 1544.

Sincerely,

CHRISTOPHER COX,
Chairman.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

I would like at the outset to follow the conversation, saying this committee has worked very well on this legislation. It is bipartisan. The 14 hours we put in working on it in committee went very well. I would like to compliment the gentleman from New Jersey (Mr. PASCRELL), the ranking member of the Emergency Preparedness, Science, and Technology Subcommittee, for his work on this issue.

Mr. Chairman, I support H.R. 1544, the Faster and Smarter Funding for First Responders Act. Our first responders, whether they are firefighters, law enforcement, or EMS providers, are the first line of defense. We must provide them with additional resources, training, and information they need in order to meet the challenges.

Preparing for, preventing, and responding to any large incident is primarily a local responsibility. Still, the Federal Government has a significant role. H.R. 1544 was introduced in April. It was co-sponsored by all the Democrats and Republicans on the Committee on Homeland Security, and it was approved unanimously by voice vote of that same committee. In addition, this bill is supported by every major first responder organization in the country. This version is a compromise that was reached during the 108th Congress in order to pass out of the House of Representatives at that point. The current system for distributing funding to first responders is fundamentally broken and is not getting the funding where it needs to go in a timely fashion.

Currently, funding is distributed solely on the basis of an arbitrary formula that does not consider risk in any part of the country. H.R. 1544 ensures that homeland security funding for first responders is distributed on the basis of risk regardless of community type.

As a former mayor and volunteer firefighter from Mississippi, I am very concerned that the needs of rural America are not adequately being considered when DHS allocates homeland security funding. Maintaining a State minimum of .25 percent for most States and .45 for certain border States strikes a difficult, but necessary, balance. On one hand the government must consider risk in distributing the funding. On the other hand, the government must ensure that each State will have the funding to reach a minimum level of preparedness.

H.R. 1544 does not mean that all funding will go to States and communities with a high population or high threat. For the first time, DHS will assess risk in every community regardless of whether it is urban, suburban, or rural. After all, we do not know where terrorists will strike next.

One issue that is very important to my State is the issue of flood control levees. I worked to ensure that flood control levees are included in the definition of dams on the critical infrastructure.

This bill establishes a First Responder Grant Board to prioritize grant applications using threat, vulnerability, and consequences. Mr. Chairman, H.R. 1544 also helps target funding to the essential capabilities of first responders in order to prevent, prepare for, and respond to acts of terrorism.

But this bill is not perfect, Mr. Chairman. There are personnel shortages that ought to be covered in this program. There are a number of other things that I look forward to working with the chairman on correcting in other legislation. However, for what we have before us today, I am in support of it from the outset. It is the right thing to do. We have to target the resources based on risk. This legislation does that.

Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from the State of New York (Mr. KING).

Mr. KING of New York. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, I am proud to be here today to strongly urge the support of this legislation. It is absolutely vital for our Nation's interests and for the interests of first responders throughout the country that this legislation be adopted and that we do all we can to have it implemented and signed into law.

At the outset, I want to commend the gentleman from California (Chairman COX) for the leadership he has given to the Committee on Homeland Security; the gentleman from Mississippi (Mr. THOMPSON), ranking member, who has demonstrated the ultimate in bipartisanship; and the gentleman from New Jersey (Mr. PASCRELL), my old friend and ranking member on our subcommittee, who fully appreciates and understands just how vital this is.

He was there with President Bush and a number of us just 3 days after the attacks of September 11 at the World Trade Center, at Ground Zero. We saw the terrible devastation, and all of us promised that day and afterwards never ever to allow our first responders to be put in a position where they were not adequately equipped, adequately ready, and suitably trained and prepared to cope with such a mammoth attack as that and also that they have all the equipment and everything that has to be done to be prepared.

I think it is a tribute to the fact that our committee is now a permanent committee. The Committee on Homeland Security is now a permanent committee that will be able to marshal these resources and bring about such a bipartisan effort.

Those of us who come from the area of near Ground Zero, certainly in my district and the adjoining districts, we lost many, many hundreds of people on that day. People from the financial services community and fire service, police service, all of them lost their lives. We promised never ever to put them in that position again. Unfortunately, for the last 3½ years, we have had a situation where money has not gone where it is needed. It has been spread far and wide. And as a result, the protection that those people need was not given.

This bill we are passing today is based on threat analysis. I wish that my State was not such a high target, but it is. And so long as it is, it is important that we get the funding that is needed. But there are States around the country, there are agricultural areas, rural areas, all of whom are also high targets, and they must be compensated. And that is what this bill does. It provides a threat analysis for the entire country, for areas that need it, whether they be urban, suburban, rural, agricultural. The fact is they will get the assistance they need if they need it.

And that is what this has to be about. It has to be a question of emergency preparedness for those who are the targets, those who are in the cross hairs, those of us who are directly threatened by al Qaeda.

So in the aftermath of 9/11, we said our lives will never again be the same. Unfortunately, for 3½ years, we never really faced up to that challenge. We never stood up and did what had to be done.

We are doing it today. This is the first major step since September 11 in adequately and effectively responding to the needs of our first responders who are there to respond for us. And now we are finally responding for them the way they responded for us on 9/11.

It is not just Ground Zero. It was the Pentagon. And it could be any city or State or locality afterwards. But if we are going to be effective in coming up with defenses, it must be based on threat analysis. That is what this does. It took heroic efforts on both sides of the aisle to bring this about. Today's vote will be the culmination of that in the House, a first major step.

So I urge the adoption of H.R. 1544. I again commend both sides of the aisle and especially the gentleman from New Jersey (Mr. PASCRELL), my ranking member, for the energy and the drive and dedication that was put in to bring about this legislation.

Again, I urge adoption of the legislation.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 5 minutes and 15 seconds to the gentleman from New Jersey (Mr. PASCRELL), ranking Democrat on the subcommittee.

Mr. PASCRELL. Mr. Chairman, first of all, to the gentleman from New York (Mr. KING), chairman of the subcommittee, it is an honor to work with him. He understands the depth of concern of the American people. He understands the depth of concern of our first responders, police and firefighters, EMS. And understanding their day-to-day situation in the face of terror, he fashioned legislation; and I am glad he made me part of it.

These are difficult times. The last chapter of the 9/11 Commission report, Mr. Chairman, is not just by coincidence. The subtitles of the sections in that final chapter, chapter 13, "Unity of Effort." Across the foreign/domestic divide, unity of effort, as far as the intelligence community is concerned, the sharing of information. The unity of effort in the Congress, section 13.4. It was not just a coincidence that the 9/11 report finished with that unity.

If there is anything that has brought us together, it is this tragedy. We need to remember that as we battle on the floor the different issues and we forget that we are here to do the people's business.

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So I applaud the gentleman from California (Chairman COX) and I applaud the ranking member, the gentleman from Mississippi (Mr. THOMPSON), my very good friend, for their tireless work in navigating H.R. 1544 through the political maze that is Capitol Hill. Our men and women on the front lines applaud you.

I want to commend my good friend the gentleman from New York (Mr. KING), the chairman of the Subcommittee on Emergency Preparedness, Science, and Technology for his diligent work. As the ranking member on this panel, I have seen firsthand the expertise and the passion the gentleman brings to matters affecting our Nation's first responders.

We know that homeland defense cannot be marred with reckless partisan squabbling. We know that our Nation's security cannot be sidetracked by the parochial concerns of the few. That is why every single member of the Committee on Homeland Security supports this legislation. Indeed, when was the last time we all supported anything?

Different Members representing widely varying regions and constituencies have all come together in a bipartisan manner to bring H.R. 1544 to the floor today. It is the culmination of a lot of work. A lot of staff members helped in bringing this before the Congress.

As we all know, our first responders, whether they are firefighters, law enforcement or EMS providers, are the first ones to arrive on the scene of any major incident and the last ones to leave. So it is crucial that we ensure that Federal money designed to better equip and train all of those first responders actually reaches down to where it is needed most.

Unfortunately, the system of distributing grant funding to the local level is fundamentally broken. We have a system where grant funding is distributed to a large extent on minimum funding allocations rather than risk. It is wrong, and it is counterproductive to national security, we have found out.

But you do not have to take my word for it. A wide array of sources have warned us of the dangers of dispensing terrorism preparedness money on arbitrary political formulas. On page 396 of the 9/11 Commission report, and I will conclude on this remark, states, "Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities. Federal homeland security assistance should not remain a program for general revenue sharing. It should supplement State and local resources based on the risks or vulnerabilities that merit additional support. Congress should not use this money as a pork barrel."

Our current distribution of funding leaves a lot to be desired. This bill changes that.

I just want to conclude with this, Mr. Chairman: Too often we here in Washington are enveloped with a partisan rancor and acrimony that stunts our ability to achieve fundamental and necessary reform. Many times we have seen good policy fall victim to short-term political calculations. This cannot happen today. It will not happen today. Passing the Faster and Smarter Funding for First Responders Act will show that we take this job seriously.

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California (Mr. LUNGREN), the former Attorney General of California.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I thank the chairman and the ranking member of the committee for the work they have done in bringing to the floor the Faster and Smarter Funding for First Responders Act, H.R. 1544, and I rise in support of that bill.

Yesterday, we had a reminder, if we even needed a reminder, of the events of 9/11 and the aftermath. Yesterday, as we were proceeding out of this Chamber, we were urged by those who were in uniform to move faster, to move to a place of greater safety. And that is an apt analogy for the bill we bring to this floor today, because we truly are attempting to do a better job in terms of the funding on the Federal level for first responders.

There is no doubt that this Chamber, acting with the other Chamber and the executive branch, attempted as best we could at that time to come up with a comprehensive approach to get funding to first responders in view of the threat as we saw it after 9/11. But in the intervening 3-plus years, we have seen that that which we have done is not perfect, that there are improvements to be made. Certainly first and foremost among these is to establish a basis for the kinds of funding that will go out to the first responders.

This bill is a true effort to attempt to establish a rational risk assessment, that is, a rational means of determining what the greatest threat is to this country in the aftermath of 9/11, and then proceed to have the funding follow that. This is extremely important, because in some ways it goes against the grain of those of us who serve in this body who want to make sure that every single one of our districts gets the best amount of money that it possibly can.

In this particular situation, we are acting as national legislators, making a determination as to what the national threat is and then responding to that national threat in the most effective way possible. That is why I salute the chairman and ranking member. I tell my other colleagues here that this was a unanimous decision by the members of this committee. Hopefully, we will receive a unanimous decision here on the floor of the House.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. Mr. Chairman, I thank the gentleman from Mississippi for yielding me time. Let me thank the chairman and ranking member. Both of them did an extraordinary job of pulling together an important piece of legislation, a complex piece of legislation, that every Member of the House should endorse wholeheartedly. Every member of the committee was a cosponsor of the legislation, myself included. I am pleased to join them as a member of the Committee on Homeland Security and in being responsible for this legislation.

This, as has been said, is a first-responder-driven bill. I want to thank the committee for accepting my amendment on agro-terrorism, an issue important all across America for our food supply. But, equally important, to have homeland security, we must have hometown security, and the formula this bill is driven by, that is what it is about.

It is good for my home State of North Carolina, because the current formula, with North Carolina being the 13th largest State in population, we end up 49th in per capita homeland security funding. I do not think we are next to last in risk. And others can say that.

The funding formula proposed in this piece of legislation will allow Federal homeland security funds to be disbursed on a threat, risk and vulnerability basis. Let me thank all of my colleagues for that, because that is the way it ought to be.

The formula follows the recommendation, as has been said, of the 9/11 Commission. The Commission said, "Homeland security funds should supplement State and local resources based on the risk or vulnerabilities that merit additional support." This bill does that.

North Carolina and its critical infrastructure have significance far beyond the borders of our State. The State is home to the Nation's largest army base, the Nation's second largest financial center, three nuclear power plants, major highways, ports and airports and an agricultural economy that supplies goods to one in ten people in this country.

I am confident that the formula in H.R. 1544 will give every State the opportunity to receive adequate and appropriate funds for terrorism and prevention and response that is necessary for our local hometown heroes.

H.R. 1544 is good public policy that will make a difference to strengthen the security and safety of communities in North Carolina and across America. By putting the resources in place to address real risk and vulnerabilities, we can fight the threat head on.

Simply put, H.R. 1544 will help save lives and secure our country. I recommend this bill to all my colleagues.

Mr. Chairman, I rise today in support of H.R. 1544, the Faster and Smarter Funding for First Responders Act. I am pleased to join all the members of the House Homeland Security Committee as a cosponsor of this legislation.

This bill is good for my State, North Carolina, and for the Nation. Under the current funding formula, North Carolina, the 13th largest State by population, is 49th in per capita homeland security funding. My State is certainly next to last in risks.

The funding formula proposed in H.R. 1544 will allow Federal homeland security funds to be distributed on the basis of threat, risk and vulnerability. This formula follows the recommendation of the 9/11 Commission. The Commission said, "Homeland security funds should supplement State and local resources based on the risks or vulnerabilities that merit additional support."

North Carolina and its critical infrastructures have significance far beyond its borders. The State is home to the Nation's largest Army base, the Nation's second largest financial center, three nuclear power plants, major highways, port and airports, and an agricultural economy that supplies food to one in ten people in our country.

I am confident that the formula in H.R. 1544 will give every State the opportunity to receive adequate and appropriate funds for terrorism and prevention and response. H.R. 1544 is good public policy that will make a difference to strengthen the security and safety of communities in North Carolina and across the country. By putting the resources in place to address real risks and vulnerabilities, we confront the threat head on. Simply put, H.R. 1544 will help to save lives.

I recommend the bill to all my colleagues in the House.

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman from California, the chairman of the Committee on Homeland Security, for yielding me time.

Mr. Chairman, I support H.R. 1544, the Faster and Smarter Funding For First Responders Act of 2005. In its report, the 9/11 Commission stated, "Homeland security assistance should be based strictly on an assessment of risk and vulnerabilities." This bill overhauls the current system for first responder grants and follows the recommendations of the 9/11 Commission to allow for greater allocation on the basis of a State's or region's vulnerability to terrorist attack.

The current broken formula has adversely affected my State. In Federal funding per capita for first responders, Texas ranks 50th of the 50 States, despite the fact that Houston, Dallas and San Antonio are three of the Nation's ten largest cities. Texas also has a 1,200 mile porous border with Mexico, 14 maritime ports and an airport, Dallas-Fort Worth, that is bigger than New York City's Manhattan Island. Clearly, Texas faces a more grave threat than some other parts of the country.

The bill we are considering today provides assistance to first responders serving where the risk is greatest, determines the essential capabilities of communities and encourages regional cooperation and mutual aid agreements through regional grant applications.

Mr. Chairman, these changes to the current grant allocation procedure are essential if we are to be ready for another attack. We hope all this preparation is for nothing, but we must be prepared. H.R. 1544 ensures that we are as prepared as possible.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to gentleman from North Carolina (Mr. PRICE), a member of the Committee on Appropriations Subcommittee on Homeland Security.

Mr. PRICE of North Carolina. Mr. Chairman, I rise in support of H.R. 1544. The bill significantly improves the homeland security application and funding process by restructuring it in a way that my home State of North Carolina predicts will shorten the time it takes funds to get from the Federal to the local level by about 6 months.

The bill also will significantly improve how we assess threats by taking the decision out of the hands of DHS and creating a task force made up of experts from the Federal, State, and local levels and the first responder community to create a comprehensive means of assessing risk.

So I feel this bill has a great deal of potential. It could be a very important step in the right direction. But I warn my colleagues that we will fail in our efforts to protect the homeland if we do not take some additional steps, in particular to avoid a trade-off down the road between protecting ourselves against terrorist attacks and preparing for and responding to natural disasters.

As we vote on this bill, we are dealing with a presidential budget that would slash Federal funding for our local police by close to 40 percent through massive cuts in Homeland Security and Justice grant programs.

The Bush administration continues its trend of shifting money from natural and general disaster preparedness programs. For example, the Committee on Appropriations was recently forced to cut FIRE grants, one of the most successful Federal grant programs in existence, by over $100 million, at a time when our Nation is expecting more than ever from our understaffed and ill-equipped fire departments.

So while I applaud the committee for its work in crafting a strong bill, we ought to make clear that voting for this bill is not enough. When it comes time to make some harder choices and pay for these first responder programs that we happily authorize, we will need the same bipartisan support for those on the front lines that we see here today.

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished vice chairman of the full Committee on Homeland Security, the gentleman from Pennsylvania (Mr. WELDON).

Mr. WELDON of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding and thank the chairman and ranking member for their outstanding work, and the subcommittee chairs and ranking members as well.

This bill is the best indication to the first responder community across the country that Congress was listening. It was not this way 5, 6 or 7 years ago when the first funding for training first responders was being developed by bureaucrats in Washington, who had no idea of what the real threats were out there across America.

□ 1200

It was not the case over the past several years as States and counties siphoned off administrative dollars that should have gone for the first responders.

This bill changes all that because this bill is based upon the committee listening to the first responder community. It provides a more consistent approach that is based on the threats that we see out there, and it responds to the needs that were presented to us by the representative groups of the first responder community. In fact, Mr. Chairman, that is why every first responder organization in America supports this legislation. I applaud my colleagues for this outstanding work.

As to the other programs that we fund, like the grant program for firefighters which my colleague just spoke on of, I am proud of the fact that in a tough budget environment, separate from this legislation, we have appropriated over $3 billion to almost 20,000 fire and EMS departments across the country, direct allocations, not through any bureaucracy, but directly through firefighters deciding on the priorities of fire groups and EMS groups across the country. That program will see another one-half billion dollars at a minimum in the next fiscal year.

So we are taking care of the priorities and the needs, we are responding to local concerns, and the key message of this legislation is that we have listened to those people who are across America in 32,000 fire and EMS departments, thousands of police departments who every day for every call respond to America's needs.

I commend, again, the committee for its outstanding work, and I look forward to continuing the aggressive schedule the chairman has laid out before us for the Committee on Homeland Security in this session of Congress.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. HARMAN), a member of the Committee on Homeland Security as well as the ranking Democrat on the Permanent Select Committee on Intelligence.

Ms. HARMAN. Mr. Chairman, I thank the gentleman for yielding me this time and commend him for his leadership on our new permanent committee. It is a great thing that we finally have a committee in the House to focus on what I believe is the most urgent business confronting us.

Mr. Chairman, I strongly support this legislation and I want to underscore that it is about money, but it is not primarily about money. It is really primarily about strategy.

The purpose in forming a Homeland Security Department was not to rearrange the deck chairs, but was to create one deck, one national, integrated strategy for homeland security. And by passing this legislation, which I am sure we will do later today, we now will have a strategy based on risk for distributing needed funds to our very impressive first responders.

We should not use the squeaky wheel theory for homeland security funding; we should have a strategic view of homeland security funding. And once we pass this legislation and once we urge our colleagues in the other body to move their bill on the floor and then to reach a fair compromise in conference and enact this bill into law, we will have taken a major step forward.

This legislation, of course, does not solve all the problems. An issue on which the gentleman from Pennsylvania (Mr. WELDON), and I have focused for years is a strategy for interoperable communications for emergency responders. This requires some of the things we have in our authorization bill, but it will also require dedicated spectrum, something that I hope the Congress addresses this year and something that is the subject of legislation we have introduced on a bipartisan basis called the Hero Act.

But to conclude, Mr. Chairman, this is a very good start. It is very good work by our ranking member and by our chairman, the gentleman from California (Mr. COX); and it helps resolve a major roadblock to securing our homeland in our own districts and all parts of America.

Mr. COX. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut (Mr. SIMMONS).

Mr. SIMMONS. Mr. Chairman, I rise in strong support of H.R. 1544, the Faster and Smarter Funding For the First Responders Act of 2005, and I commend the gentleman from California (Chairman COX) and the gentleman from Mississippi (Ranking Member THOMPSON) for their bipartisan leadership in bringing this bill to the floor today.

On September 11, our first responders answered the call of duty, risking their lives to save countless Americans from attack. Their heroic service and sacrifice will be remembered forever.

Following 9/11, the first responder community worked hard to help us craft this legislation. We also received input from the 9/11 Commission and the 9/11 families for a risk-based approach to managing homeland security dollars.

Today's bill follows a logical approach by allowing and rewarding upfront planning at the State, local, tribal, and regional levels. We provide a risk-based management structure to direct the use of these dollars so that they can move quickly to where they are most needed.

Mr. Chairman, I am reminded that the 9/11 Commission Report called on us to respond to that tragedy with a commitment to "create something positive, an America that is safer, stronger, and wiser." The bill before us today honors this obligation. It frees critical resources to first responders who need them for training and equipment. This makes us safer. It encourages regional cooperation and teamwork across town, city, tribal, and State lines. This makes us stronger. Finally, it targets our greatest risks and vulnerabilities which undoubtedly makes us smarter.

As a member of the Committee on Homeland Security, I am proud to cosponsor this legislation. It is the product of a uniquely thoughtful process with support from across the aisle and across the country. I urge my colleagues to join me in supporting this bill.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. LOWEY), who has been a constant reminder to us all about needing to do it better.

Mrs. LOWEY. Mr. Chairman, I want to thank my colleague, the gentleman from Mississippi, for his leadership on this committee and our chairman, the gentleman from California (Mr. COX). The day has come. I am delighted to be here with all of the members of the committee, and I know this will receive unanimous approval from this body.

Many of my colleagues have worked hard to ensure that the areas of our country facing the greatest threat receive their fair share of homeland security funds. Quite frankly, it amazes me that we have gone this long allocating such a large portion of homeland security funds based on everything but the threat of a terrorist attack to a particular area or region. The 9/11 Commission's report specifically states that Congress should not use this money as a pork barrel; yet, we seem to have been doing just that. We should not play politics with public safety.

There are six grant programs administered by the Department of Homeland Security. Five of these six programs are distributed based on a formula that does not take risk or threat into account. In fiscal year 2005, New York, which suffered the most catastrophic damage from terrorism on September 11, was not even in the top 10 for per capita funding. I challenge anyone who opposes risk-based funding to sit down with the first responders from New York or Virginia, that is, our police, our firefighters, our EMS workers. These are the people who responded on September 11. They should tell them that funding should be based on anything but risk.

This is not about politics; it is about common sense, good policy. It took only minutes for our police, firefighters, and EMS workers to respond to the calls for help on September 11. Over 3 years later, Congress still has not answered their cry for better funding to protect us. This change in funding priorities is long overdue. I urge my colleagues to vote "yes" on the bill.

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Florida (Ms. HARRIS).

Ms. HARRIS. Mr. Chairman, I rise in support of H.R. 1544, the Faster and Smarter Funding For First Responders Act of 2005.

This critical, bipartisan, and historic legislation implements the 9/11 Commission's recommendations in streamlining terrorism preparedness grants and making certain that our first responders have the resources they need when they need them.

As police officers and first responders gather in Washington to honor their fallen comrades during National Police Week, the images of September 11 remain frozen in our minds and etched into our souls.

Since fiscal year 2002, Congress has appropriated, and the Department of Homeland Security has awarded, $6.3 billion in terrorism preparedness grants. Yet shockingly, State, territorial, and local governments have spent just 31 percent of this funding. Clearly, our first responders and the communities they put their lives on the line to protect remain dangerously at risk, all due to government bureaucracy.

H.R. 1544 requires State, territorial, and local governments to assess their greatest threats, vulnerabilities, and consequences before they request the Federal funding money. Then, it holds these Governments accountable, requiring them to issue grants to first responders within 45 days.

In closing, Mr. Chairman, this legislation constitutes a long overdue dose of common sense. The gentleman from California (Chairman COX) and the gentleman from Mississippi (Ranking Member THOMPSON) have already proven the wisdom in establishing the Committee on Homeland Security through their vision and leadership in producing this legislation so quickly.

We remember the valor of firemen—who rushed through an inferno to save others, without regard for their own safety.

We recall the courage of police officers—who braved falling bricks and mortar to provide those in danger with their hands and their reassurance.

After many years during which our children searched among athletes, movie stars, and other celebrities for their role models, they learned the real definition of the word "hero" on that awful day.

And as four hurricanes visited unprecedented devastation upon my district in southwest Florida last year, we learned once again how much we rely upon the bravery, expert training, and compassion of first responders when disaster strikes.

Since Fiscal Year 2002, Congress has appropriated and the Department of Homeland Security has awarded 6.3 billion dollars in terrorism preparedness grants. Yet—shockingly—state, territorial, and local governments have spent just 31 percent of this funding.

Clearly, our first responders and the communities they put their lives on the line to protect remain dangerously at risk—all due to government bureaucracy.

H.R. 1544 requires State, territorial, and local governments to assess their greatest threats, vulnerabilities, and consequences before they request Federal grant money. Then, it holds these governments accountable—requiring them to issue grant awards to first responders within 45 days.

H.R. 1544 also enables regional planning and coordination—allowing localities and States to jointly apply for terrorism preparedness grants, which must remain consistent with State homeland security plans.

Mr. Chairman, this legislation constitutes a long overdue dose of common sense. Chairman COX and Ranking Member THOMPSON have already proven the wisdom of establishing the Homeland Security Committee through their vision and leadership in producing this legislation so quickly.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Chairman, I am proud to join my fellow committee members of the Committee on Homeland Security in strong support of H.R. 1544, the Faster and Smarter Funding For the First Responders Act of 2005. This bipartisan legislation was unanimously supported at both the subcommittee and full committee levels of the Committee on Homeland Security.

The chairman of the Committee on Homeland Security, the gentleman from California (Mr. COX), and the gentleman from Mississippi (Ranking Member THOMPSON) should receive high praise, as they have on the floor already this morning, for the skillful manner in which they worked so swiftly to shepherd this important bill through our committee and to the floor of the House.

Over the past 2 years, the committee has traveled around the country to listen to the first responders. We used the information garnered from these meetings as a guide in developing the first piece of legislation. H.R. 1544 seeks to remedy the problems first responders face because of a lack of guidance and standards, the need for flexibility in how they can use first responder funding, as well as just getting the money to them in the first place. It also provides a vehicle for ongoing first responder participation and planning and updating essential capabilities with the department and responds to the issue of how grants will be distributed and on what basis.

My own district, the U.S. Virgin Islands, came under scrutiny this year, particularly because of poor funding levels. When one assesses vulnerability and risk, as this bill lays out very clearly as the basis for distribution of level funding for the first time, my district would still be fairly treated and receive the funding that they need. And, importantly, H.R. 1544 will provide monitoring of the use of the funds provided for under this bill, through an office of the comptroller, which responds to the rightful concerns of the appropriators.

Mr. Chairman, most importantly, H.R. 1544 implements relevant 9/11 Commission recommendations to allocate Federal homeland security funds to first responders based on risk rather than political formulas. In doing so, we not only do what is right, but we honor the sacrifice of those who were killed and their families; and this is a bill we can all be proud of. I urge my colleagues to support its passage.

Mr. COX. Mr. Chairman, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Chairman, given the evacuation yesterday that we had here at the Capitol, it is so appropriate that we are taking this bill up today. We all know that there is always room for improvement in our Nation's security. I want to congratulate the gentleman from California (Chairman COX) and his committee. They have done a great job in taking on a serious problem in our homeland security funding process.

The Faster and Smarter Funding For First Responders Act recognizes that, while we are sending significant funding out to the States for emergency preparedness, that funding and support is not always used in a timely fashion. In Tennessee, my home State, we found that between 2002 and 2004, there was nearly $85 million in Federal homeland security funds that had been unspent and not allocated.

□ 1215

And there is a problem when states like mine have the Federal funds but are not disbursing them as quickly as is needed by our local communities. We have appropriated Homeland Security dollars to the States in order to ensure that funding is flexible and can be targeted to the specific needs of our local communities, and we need to work to be sure that those funds are being used appropriately.

Mr. Chairman, this bill really clarifies the appropriate uses for Federal Homeland Security grants and evaluates and annually prioritizes pending grant applications, and it is great that our local communities and our States are going to have the support they need in the communities, the guidance that they need to appropriately use the funds and put it to work, put it to good use in our communities.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the committee.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from California (Mr. COX), the distinguished Chairman very much for his leadership, and the gentleman from Mississippi (Mr. THOMPSON), the ranking member for yielding. This truly is a bipartisan bill, and it falls on the backdrop of an interesting but yet telling experience.

First of all, let me take the opportunity to thank all of the Capitol Hill staff and the Capitol Hill police, all of the Sergeant of Arms staff. Sometimes we do not share the appreciation for the work that they have to do. And I want to acknowledge them for doing it in a very difficult scenario.

I think yesterday, as I rise to support this bill, particularly, as it is focused on risk analysis, which means that we will do our very best as we support our first responders in the Faster and Smarter Funding for Our First Responders Act, that we will reach out to the most vulnerable cities and areas, but in fact, we will not rest until the entire homeland is secure. I am very gratified that we are still working on empowering what we call citizen corps and to develop what I think is very important, citizen volunteers to perform critical functions in assisting, in preventing and responding to terrorist attacks, and that they should be integrated in through this process in our State and local planning.

But as I looked at yesterday and determined that a small Cessna plane could come between or come near the no-fly area of this particular region, I know that we are in some troubling times. Yes, we survived yesterday, but we survived it because it was a mistake and because there were no intentions for terrorist acts.

This speaks to the need for this legislation, in particular, as we focus on the more troubling areas or the more vulnerable areas to terrorist attacks, but it also speaks to moving quickly to authorize our Homeland Security legislation.

More importantly, one of the concerns I have, Mr. Chairman, is the whole idea of cutting-edge technology. Technology is going to be the key to the whole focus of Homeland Security. Technology at the border, technology as it relates to cybersecurity, technology in airport screening. This is a first step. And because of the heroic efforts of our first responders on 9/11 and the acts of theirs throughout this time frame, this is an outstanding legislative initiative that will set, if you will, us on a pathway of securing our local communities. I hope that we will be smart in our legislative amendments. And I do not believe we need to move forward on the Castle amendment. If there is a certification process on the donated equipment that will come to our Fire Departments, then so be it. But on liability, even volunteer or donated equipment should not endanger our Fire Departments.

This is the right decision to make with respect to this legislation. I hope my colleagues will pass it, but I hope it will be a signal that more work needs to be done.

Mr. Chairman, I rise in strong support of the legislation we consider today, H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005. On April 21, 2005, I joined my colleagues in the Committee on Homeland Security to pass this important measure unanimously, and I urge my colleagues to do so today.

I thank Chairman Cox and Ranking Member THOMPSON for their tremendous efforts to make this legislation bipartisan. I am an original cosponsor of this measure just as I was for that introduced in the 108th Congress, H.R. 3266, so my overall support for this initiative is abundantly clear.

I offered an amendment in the context of H.R. 3266, the rendition of today's legislation that was introduced in the 108th Congress that proposed to increase the scope of the terrorism exercise programs that will be administered by the Secretary of DHS to include Citizen Corps Councils. Since the creation of this committee even as a select body, I have found it increasingly important that we include local "second responders" as often as possible when advancing emergency preparedness legislative initiatives. This body's crafting of a first responder bill as well as an authorization bill has given us an opportunity to make our preparedness exercises more thorough and "simulated."

A sense of Congress provision was accepted in the bill introduced in the 108th Congress. However, I offered and withdrew this amendment at the markup of H.R. 1544 because a similar provision, paragraph (11) has been included in House Report 109–65. In addition, I intend to pursue this initiative in the context of the authorization bill that will come before the House likely next week. I hope that my colleagues will work with me to further this important goal. Section 2, paragraph (11) of this report reads:

> (11) Private sector resources and *citizen volunteers* can perform critical functions in assisting in preventing and responding to terrorist attacks, and should be integrated into State and local planning efforts to ensure that their capabilities and roles are understood, so as to provide enhanced State and local operational capability and surge capacity (emphasis added).

The Citizen Corps program was launched by President George W. Bush himself during the 2002 State of the Union address as part of the USA Freedom Corps initiative to engage Americans in volunteer service.

In only 2 years, nearly 1,000 communities around the country, encompassing 40 percent of the U.S. population established Citizen Corps Councils to help inform and train citizens in emergency preparedness and to coordinate and expand opportunities for citizen volunteers to participate in homeland security efforts and make our communities safer. Fifty-two states and territories also formed State level Citizen Corps Councils to support local efforts.

Our families need to be aware of the threats that exist from abroad. Homeland security is a very important issue that we may not think about in our daily lives.

The Houston branch of the Citizen Corps Council is headquartered in my Congressional District, Harris County, which is in southeastern Texas, comprises 1,779 square miles, and encompasses the city of Houston, 32 additional smaller cities, and is the home for nearly 4 million residents. Harris County is the third most populous county in the United States and one of the most culturally diverse.

This report language that I cited above is a good step toward getting the necessary funding and support needed to implement the Citizen Corps concept. Overall, the threat-based grant provisions found in the underlying legislation will help high-density threat-laden cities such as Houston, TX.

Harris County is home to numerous potential terrorist targets:

The Port of Houston, which ranks first in the United States in foreign waterborne commerce, is the leading domestic and international center for almost every segment of the oil and gas industry, houses almost half of the Nation's petrochemicals manufacturing capacity, is the world's sixth largest seaport and the Nation's largest oil port;

The Texas Medical Center, with 42 member institutions, provides leading medical care to people from all over the world and is the world's largest medical complex serving more than 70,000 daily;

The Johnson Space Center, home of NASA's manned space program;

The fourth largest airport system in the country, with more than 43 million passengers traveling through its three area airports to domestic and international destinations;

Three national sport arenas hosting thousands of fans for popular events; and

A nuclear power plant located approximately 70 miles from the county.

Mr. Chairman, H.R. 1544 will help the Department of Homeland Security allocate the first responder grant funds more prudently and expeditiously. I support the legislation and urge my colleagues to join me.

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from the State of Washington (Mr. REICHERT).

Mr. REICHERT. Mr. Chairman, I am proud to be a member of the Homeland Security Committee. I am also proud to be an original cosponsor of the Faster Smarter Funding for First Responders Act. I spent 33 years on the front lines as a law enforcement officer, and I know that this legislation is vital.

I would like to thank the gentleman from California (Chairman COX) and the gentleman from Mississippi (Mr. THOMPSON), the ranking member, for their leadership on this important legislation.

My home, Seattle region, is unique, sharing 150 nautical miles of maritime border with Canada and acting as hub for international trade and travel. It includes businesses such as Microsoft and Boeing. All these factors combine to create an area vulnerable to a terrorist attack.

We must make sure that Homeland Security dollars are going where they are needed, as the 9/11 commission report specifically recommended, and that they are properly spent once they are allocated.

This legislation addresses the most important aspect of Homeland Security, and that is evaluation of threat and risk. In this bill, we make sure the majority of first-responder funding is threat-based. The current model is outdated, distributing more money to areas with fairly benign risks than to areas that we know terrorists would like to attack, like New York City and the Capitol of our great Nation.

I ask that the House take action today and move for more effective risk-based funding for first responders. Again, I would like to thank the Chairman and the ranking member for their hard work.

Mr. THOMPSON of Mississippi. Mr. Chairman, at this time we do not have another speaker, and I would like to reserve the balance of my time.

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from the State of Texas (Mr. McCAUL).

Mr. McCAUL of Texas. Mr. Chairman, I would like to also thank the gentleman from California (Chairman COX) and the gentleman from Mississippi (Mr. THOMPSON), the ranking member, for their bipartisan leadership on this very important legislation.

Mr. Chairman, I rise today in strong support of the Faster and Smarter Funding for First Responders Act, and I am proud to be an original cosponsor of this bill.

Among its provisions, this historic legislation changes the current process by which our first responders get their much-needed resources.

It is clear that the Nation is moving in the right direction in its attempt to meet the security challenges of its post-9/11 world. All involved should be commended.

However, the current first responder grant system is in need of repair. We must make sure that those who stand on the front lines and answer the call have the vital resources immediately. This commonsense bill accomplishes this.

Despite the fact that my State of Texas is home to the President's ranch, the largest port in the United States, the Port of Houston, and has an international border with Mexico, it ranks dead last in the amount of Homeland Security money it receives per person.

Unfortunately, many other key target states like California, New York, Pennsylvania, Florida, Illinois, and Virginia, join Texas in this distinction.

To ensure that the States with the biggest risks and threats get the necessary money to protect themselves, our Nation must move towards a risk-based funding system.

Those like al Qaeda, who wish to do harm to America, have a track record of being patient and conspiring until they succeed in their terrorist agenda. By passing the Faster and Smarter Funding for First Responders Act, we are placing a priority on securing our Nation's most essential and at-risk targets as quickly as possible.

Mr. THOMPSON of Mississippi. Mr. Chairman, I continue to reserve the balance of my time.

Mr. COX. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from the State of New York (Mr. FOSSELLA).

Mr. FOSSELLA. Mr. Chairman, at the outset, let me thank the gentleman from Mississippi (Mr. THOMPSON), the ranking member, and especially the gentleman from California (Chairman COX) for his leadership and understanding of this very complex but critical issue, as well as all Members, especially those from New York who have worked on this, such as the gentleman from New York (Mr. KING) and especially the gentleman from New York (Mr. SWEENEY) who have been dogged in ensuring that New York as well as all communities get their fair share to deal with Homeland Security.

Currently, Federal Homeland Security funds, and I would like to engage the Chairman in a colloquy, if I may, can be used for overtime but cannot be used to provide any support to law enforcement activities dedicated exclusively to counterterrorism. It is also prohibited to use the money for construction, which is often the very thing most needed for hardened targets.

New York City has by far the largest force dedicated exclusively to counterterrorism. Every single day, we have hundreds, if not thousands of police officers protecting the lives of not just New Yorkers, but the millions who come to New York City to work and to vacation. Its officers span the globe, from Guantanamo Bay to Israel to Afghanistan, working in many instances with federal and foreign officials on intelligence initiatives. These officers have the unique role of safeguarding America's largest city, home to some of the Nation's most symbolic buildings and landmarks, several Federal assets and the country's economic center.

Just as the unique nature of the Capitol complex requires a dedicated force, the Capitol police, which does a great job every single day, New York needs its own dedicated force to help prevent terrorist strikes against New York's 8 million residents, its millions of tourists, and its numerous national landmarks and those Federal assets I mentioned.

I submitted an amendment addressing these issues to the Rules Committee. I understand the Chairman and others expressed concern over the amendment, and given the situation, I withdrew the amendment and asked the Chairman to work with me on this important issue as the bill moves forward towards conference.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. FOSSELLA. I would be delighted to yield to the gentleman from California.

Mr. COX. Mr. Chairman, I would like to note that the bill before us today expressly permits grant recipients to use, with the approval of the Secretary of Homeland Security, up to 10 percent of their covered grant funds for measures to protect critical infrastructure, and this would include building barriers, fences, gates and so on. In the case of New York, that would mean that $21 million would be available for this purpose.

The question of using Federal grant funds to pay for the salaries of local law enforcement officers is a very consequential one with impacts far beyond New York. The resolution of that question and all of its complexity is beyond the scope of this bill, but I want the gentleman to know that I appreciate the gentleman's comments, and I will look forward to working with him on these issues in the future.

Mr. FOSSELLA. Mr. Chairman, reclaiming my time, I thank the chairman again for this and what we will seek to achieve as well in the future.

Mr. THOMPSON of Mississippi. Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from the State of New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Chairman, I would like to thank the gentleman from California (Chairman COX) and the gentleman from Mississippi (Mr. THOMPSON), the ranking member, for bringing this legislation to the floor.

All of us are engaged in trying to make America safer during these times of turmoil and terrorism. Currently, what we are doing is distributing money based simply on formulation, where the only variable is based on population.

We are recognizing that terrorists are going to work one step ahead of us. We are recognizing that the threats will be imminent, and we must have a better way to assess our funding process. In this bill, H.R. 1544, the Faster and Smarter Funding for Our First Responders, we begin to recognize that funding should be risk-based, where we assess the threats, and we are accomplishing that.

It is the first time since 9/11 that we have wrestled with the complex formulation of how to distribute funds out and to achieve better and safer Homeland Security.

In this bill, for the first time, risk and threat assessments are being included. And for myself, representing a rural district where we have 180 miles of Mexico border, with only 150 miles of that simply with no fence, we are interested in threat assessment and risk assessment.

New Mexico also has agriculture, food, energy, dams and health care facilities, as well as energy, oil and gas, and we must consider those, the risk of those facilities and to those industries, as well as simply population-based risks. So for the first time, rural America is being able to define the capability with which they should have to prepare for terrorist attacks.

The Task Force on Terrorism Preparedness will assist the Secretary of Homeland Security in updating, revising and replacing essential capability for terrorism preparedness, and will consist of members from both rural and urban areas.

□ 1230

Mr. Chairman, I again thank the ranking member and the chairman for bringing this bill forward. I think America will be better served.

The Acting CHAIRMAN (Mr. TERRY). The gentleman from California (Mr. COX) has 1 minute remaining.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me again thank the chairman of the committee for working with the minority on this legislation. It has been a very bipartisan effort. It speaks well for his leadership. I compliment him on it.

I look forward to the passage of this legislation and working on other pieces of legislation of mutual agreement which we have already discussed. It appears that additional legislation will be forthcoming. I would like to thank the ranking member of the committee, the gentleman from New Jersey (Mr. PASCRELL), for providing me significant leadership in this legislation.

Mr. Chairman, I yield back the balance of my time.

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to return the compliment to the gentleman from Mississippi (Mr. THOMPSON). This has been a collaborative effort for several years now. I also want to pay homage to the gentleman from Mississippi's (Mr. THOMPSON) predecessor, Mr. TURNER of Texas, who also led the minority ably on this issue.

Today we have an opportunity to establish a new grant process to provide better support to the brave men and women who are the first to rush into burning buildings, the people who place themselves in the line of fire to protect the innocent, the ones who save the sick and wounded under the most trying of circumstances.

It is no accident that this bill has been endorsed by every major first responders group in America, by the Bush administration, by the 9/11 Commission; and, indeed, I expect it will receive a strong endorsement from our colleagues on both sides of the aisle.

I encourage my colleagues to vote in favor of H.R. 1544. By passing this bill, we will take yet another important step since September 11 to help our Nation meet the urgent challenge of terrorism in our cities and hometowns.

Mr. HASTERT. Mr. Chairman, just yesterday we saw the important role that first responders play in keeping our nation safe. I want to commend Police Chief Terrance Gainer and the U.S. Capitol Police for a quick, professional response that protected the Members of the House of Representatives, our employees as well as the Capitol visitors.

We live in a new day when homeland security threats can come at any time, in any form. Yesterday's events highlight how important it is that the United States stays vigilant and prepared. H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005, is a much-needed step towards that effort.

This legislation cuts the red tape and streamlines the grant system so that desperately needed preparedness funds can get to communities without delay on the part of the Federal Government. In exchange, it establishes measurable goals so that local authorities can achieve a baseline of security for their communities. And, because we all know how much can be done working together, this bill encourages States, localities and communities to pool their resources and apply jointly for these grants. Such regional cooperation can ensure a tighter net while incurring less cost.

The bill focuses on getting funds to the communities that need them, while protecting valuable taxpayer dollars from misuse. Misuse has occurred. Shortly after the September 11th attacks, we began sending money to the States, and unfortunately, some of those taxpayer dollars went towards inappropriate uses: like air-conditioned garbage trucks, plasma television monitors and a rap song to teach children about emergency preparedness. America's homeland security is paramount. We will never become safe through waste. This legislation has safeguards to ensure that the money goes to the men and women on the front lines of the war on terror in the United States, our first responders.

A number of groups representing those first responders have come out in support of this legislation, including the International Association of Fire Chiefs, the Fraternal Order of Police, the National Troopers Coalition and the National Association of Emergency Medical Technicians.

H.R. 1544 will make the homeland security grant program more effective. It fulfills the recommendations of the 9/11 Commission, which cautioned in its report last year that Congress should not use terrorism preparedness dollars as "a pork barrel." And most important, this legislation will get first responders the money they need to do their jobs.

Yesterday, we saw how the United States has become more skilled in its homeland security efforts. We're doing better, but there's still room for improvement. We cannot rest until we've enacted every means possible to protect the United States from those who would cause us harm. Today's vote will go a long way towards keeping this country safe for American families.

Mr. MARKEY. Mr. Chairman, I rise to express my support for H.R. 1544, the Faster and Smarter Funding for First Responders Act, and to reiterate the importance of the Urban Area Security Initiative, UASI.

Since the establishment of the UASI program, communities that the Department of Homeland Security has designated as being subject to a high threat of terrorist attack have received the funding to develop coordinated, integrated plans that leverage the capabilities of the cities and towns within the UASI region that are needed to respond effectively in the event of a terrorist attack.

During committee consideration of this legislation, I prepared an amendment to amend the bill to include within the "region" definition any geographic area that has been designated by the Department of Homeland Security as a high-threat urban area as part of the Department's UASI program. My amendment was intended to permit these UASI regions to continue their important plans and strategies to prevent, prepare for, and respond to terrorist attacks. I noted that the UASI program is consistent with the purpose of H.R. 1544—namely that resources should be set aside for communities faced with unique threats and vulnerabilities, such as extensive critical infrastructure and large populations, which make them tempting targets for terrorists.

After receiving assurances from the chairman that he shares my interest in refining the legislation's definition of region, I withdrew my amendment. I understand that the chairman has discussed this important issue with the States and the UASI jurisdictions, and I appreciate the chairman's pledge to work with me, the UASI jurisdictions, and the States to address the UASI designation issue as this legislation moves forward.

It is my hope that the UASI program will be preserved in the final version of the legislation we are considering today. The Faster and Smarter Funding for First Responders Act appropriately directs resources towards those areas that face the highest threat of a terrorist attack, rather than disbursing homeland security funds without regard to risk. The 9/11 Commission has endorsed this risk-based approach to homeland security funding, the UASI program is consistent with this methodology and should be preserved.

Mr. CASTLE. Mr. Chairman, I rise today to express my support for a fair and effective system of distributing homeland security grants to our nation's courageous first-responders. As a former Governor, I have long been concerned about our government's ability to accurately assess national threats, risks, and vulnerabilities. For this reason, I have been an adamant proponent of improving and streamlining the application and distribution process for these important grant programs.

The current grant allocation system is largely population-based. While population is an essential factor, the top priority for determining the needs of our first-responders must be based on the risk of terrorism and vulnerability of a community. The 9/11 Commission predicted in their report that one of our greatest challenges would be how to allocate these limited resources, and I agree. With the tragic memories of that clear September day still fresh in our minds, it is obvious that first-responders in high-risk and high density areas, such as New York City and Washington, DC, deserve an increased per capita share of the homeland security funding.

While it is essential that we update the distribution process to better reflect an assessment of risk, it is also important that we ensure the homeland security needs of small States and rural areas do not go unnoticed. In its report, the 9/11 Commission notes that due to the overwhelming focus on specific high-risk areas, terrorists might begin turning their attention to "softer," less protected targets. As representative of our nation's sixth smallest State, I am concerned that in improving the current system, we might inadvertently overlook citizens in States considered less likely to be vulnerable. In Delaware, the State Emergency Management Agency has expressed some concern that our critical infrastructure may be neglected. Such omissions could force small States like Delaware to dip into other important programs, such as disaster prevention, in order to provide the resources and personnel necessary to handle certain attacks.

While this legislation makes an important change in the distribution of homeland security funding by focusing resources on high-risk areas, the challenge to define these risks remains. In fact, the Department of Homeland Security has never undertaken a comprehensive national risk assessment, and will not complete their current study until at least 2008. A national risk evaluation is imperative for determining how to allocate first-responder grants, but obviously a thorough study will not be available for several years. Without a detailed study of our Nation's vast critical infrastructure, the Department cannot truly know what level of funding should be dedicated to large States, small States, urban areas, or rural communities.

To ensure first-responders across the country have access to effective homeland security funding, it is essential that we continue to provide each State with a fair and commonsense minimum-funding baseline. Currently, the Department's inconsistent methodology for extracting data about key critical infrastructure assets can potentially result in incomplete and frankly, inadequate vulnerability assessments. Minimum-funding baselines reinforce this evolving system and provide additional protection to the thousands of "soft targets," by ensuring that all States receive sufficient funding to meet basic homeland security needs.

While I support the purpose of this legislation, I intend to remain engaged throughout conference with the Senate to ensure we reach a compromise for a State formula that is fair and refrains from cutting into States' preparedness efforts. Homeland security funding can be both efficient and effective and we should settle for no less.

Mrs. CUBIN. Mr. Chairman, we have all heard talk of how Wyoming and other rural States do not deserve their razor-thin slice of the Homeland Security pie because they have higher per capita funding allocations than the likes of New York, Chicago, and Los Angeles. What the per capita statistics don't tell you is that Wyoming's fiscal year 2005 share of first responder dollars amounted to around 4 percent of New York's $298.3 million.

Attacking the first responder base minimum funding level might make for a good press release, but in reality, the per capita argument holds about as much water as a wicker basket. Wyoming's population may be spread thin, but this only presents an additional challenge to our first responders, who must deal with vast areas, rugged terrain and harsh weather with limited resources.

In 2004, nearly 100,000 shipments of hazardous materials rolled through Wyoming, whose rails and roads help make up the backbone of the Northwest United States commodity corridor. Wyoming is home to national parks and landmarks, oil and gas pipelines, and coal reserves that supply over half of the States in the Nation. Wyoming houses intercontinental ballistic missiles critical to our national defense system, placed there because rural America was thought to be safe and secure.

Perhaps the First Responder Grants Board would adequately weigh these points, and perhaps not. I would rather avoid relying on such bureaucratic uncertainty. I stand in opposition to H.R. 1544's severe reduction in the base minimum funding level because Wyoming's first responders depend on these very dollars to do their jobs and keep our citizens safe.

The need for reforming the grant distribution system is clear, and I applaud the Homeland Security Committee for their efforts to incorporate risk assessment and hold States accountable for how they spend those dollars. But I simply cannot support a bill that marginalizes the needs and unique challenges faced by first responders in rural States like Wyoming.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I rise today in strong support of H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005.

The bill we are voting on today is an important piece of legislation designed to better support our first responders so that they can help protect and defend our citizens against terrorist attack.

I strongly support H.R. 1544 and am proud to be a cosponsor, along with all of my colleagues on the Homeland Security committee, from which this legislation passed unanimously.

I would like to congratulate Chairman COX, Chairman KING, Ranking Member THOMPSON and Ranking Member PASCRELL for bringing this bill to the floor in an expeditious and bipartisan manner.

The core principle of the bill is to ensure that homeland security is always viewed through the lens of directing resources to address urgent security vulnerabilities in our country.

Security funding is fundamentally different than other funds such as highway money, where we try to spread the funds more-or-less evenly, and this bill reflects the changes needed in our thinking to address our homeland security needs.

I would also like to thank the chairmen and ranking members for including language from my proposed amendments that will:

Create an office of Comptroller within ODP to ensure oversight and accountability over funds moving through the pipeline;

Study the effects of waiving the Cash Management Improvement Act, so that its good governance intent does not have adverse consequences; and

Grant conditional authorization to the Secretary of Homeland Security to make direct payments to localities, should States be unable to pass grant funds through to the local recipients in a timely fashion.

These are all important tools that will ensure that resources necessary to protect our citizens are disbursed quickly and with strong accountability.

In closing I would like to reiterate my strong support of H.R. 1544 and urge all my colleagues to vote yes on this important piece of legislation.

Mr. CANTOR. Mr. Chairman, I rise today in support of H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005. This essential legislation establishes common guidelines for the federal departments that currently oversee our Nation's existing terrorism preparedness programs.

Since the attacks of September 11, 2001, our Nation has greatly reinforced our terrorism response capabilities. Over $30 billion has been invested in state and local terrorism and natural disaster preparedness programs. Still, more needs to be done.

We must remain vigilant and continue to strengthen our defenses, take proactive measures, and ensure that first responders are properly equipped. Though difficult, it is vital that we balance resources between all Homeland Security related fields to maximize our ability to protect the American people.

This legislation will provide assistance to areas of our country facing greater risk, while ensuring that all areas are provided the necessary support, streamlining existing terrorism preparedness grants, establishing measurable goals, and creating new regional terrorism preparedness grants.

In addition, a board of appropriate Homeland Security officials will be created to evaluate the nation's high risk areas. I will fight to illustrate the vulnerabilities and high level of risk that confronts the 7th District of Virginia on a daily basis. I will ensure the proper data illustrating the risk to these localities is taken into account.

First responders are America's first and last line of protection against murderous terrorists who seek to harm the innocent. Ensuring effective and efficient funding for our first responders is one of my highest priorities as a member of Congress.

I urge passage of this legislation.

Mr. BISHOP of New York. Mr. Chairman, I rise in strong support of H.R. 1544, The Faster and Smarter Funding for First Responders Act.

As yesterday's scare in this Capitol and across Washington, DC reminded us, we need to make sure that our early warning system and first response capability are highly efficient functions of our national security preparedness.

First responders are the backbone of our national security. I am privileged to represent New York's finest firefighters, medical technicians, hospital employees, and other first responders I'm proud to call good friends.

We owe them all the resources they require to carry out the many dangerous and critically important missions to secure our borders and prepare this Nation for emergencies.

I applaud the Homeland Security Committee for producing a bipartisan bill that refines our first responder grant process to make sure funding we authorize is delivered quickly and efficiently to the brave men and women we call upon to protect us from the daily threats we face.

After we pass this bill, I look forward to working with my colleagues toward restoring funding in the homeland security budget and addressing other shortfalls limiting the ability of first responders do their jobs.

Mr. Chairman, we must guarantee that our home town heroes are properly funded and completely equipped and prepared to protect this Nation. I encourage my colleagues to support this bill in order to help this Nation's courageous and outstanding first responders achieve this mission.

Mr. SALAZAR. Mr. Chairman, I rise today to express my support for H.R. 1544, The Faster and Smarter Funding for First Responders Act.

My colleagues and I agree there is a need to reform the current system for funding first responders across our Nation. The Department of Homeland Security and this Congress should allocate Federal funds based on risk in order to protect critical infrastructure and high profile targets from attack. I do want to take this opportunity to express my concern that largely rural states such as Colorado will see a decrease in Homeland Security grant funds. As states prepare their risk assessment and the Department of Homeland Security evaluates them, I urge all parties to place high priority on protecting facilities such as dams, reservoirs and other potential targets outside of urban centers. I also urge the proper authorities to take advantage of the provisions in this bill that allow the formation of regional cooperatives to pursue Homeland Security funds.

Mr. Chairman, as we witnessed yesterday, our Nation is better prepared for security threats, but much work remains to be done. It is my hope that the important reforms contained in this bill will speed the delivery of money to the appropriate agencies and funding will be directed to where it is needed the most.

Mr. GENE GREEN of Texas. Mr. Chairman, I rise today in support of this bill, the Faster and Smarter Funding for First Responders Act.

This is a common sense bill that will address the problems in the current formula that has been used to distribute first responder funding over the past 3 years.

Since the September 11, 2001, terrorist attacks, the Homeland Security Department has provided nearly $10.5 billion directly to state and local "first responders," such as emergency personnel, law enforcement and other agencies, to enhance their ability to prepare for and respond to terrorist attacks.

The USA PATRIOT Act guarantees each state, plus Puerto Rico and the District of Columbia, at least 0.75 percent of the total funding available under the formula-based program. In allocating funding over the past 3 years, the Homeland Security Department's Office of Domestic Preparedness has provided the base amount, and has then distributed the remaining funding based on population.

Under the current system in FY 2004 my home State of Texas received the second lowest amount of funding per capita, receiving only $5.35 per person, despite having the longest international border of any state, the second largest foreign port, and being home to the Johnson Space Center, as well as hundreds of energy production facilities and chemical plants. Wyoming however, which has no international borders or major metropolitan area, received $37.94 per capita.

In its report, the September 11 Commission urged that first responder grants be distributed on the basis of risk, and this bill does that by lowering the minimum guarantee for each state to 0.25 percent, or 0.45 percent for states that have an international border, and by requiring that the State Homeland Security Grant Program, the Urban Area Security Initiative and the Law Enforcement Terrorism Prevention program be distributed based on 16 threat criteria. This will ensure that Texans are not receiving $32.59 less per capita than citizens in Wyoming.

H.R. 1544 will also require states to develop 3-year homeland-security plans for enhancing their preparedness and response capabilities, and it requires all applicants, which will be expanded in this bill to also include regional organizations in addition to state agencies, to be consistent with the plan.

I strongly support these provisions because it will allow funding to go directly to the communities that need it most, rather than being funneled through the state, and it requires that applicants specify how their grant fits into the plan. Over the past several years there have been numerous reports of states spending homeland security grant dollars on items such as traffic cones in Des Moines, air-conditioned garbage trucks in Newark, NJ, and bullet-proof vests for dogs in Columbus, Ohio. A recent report about Texas found that the Texas Engineering Extension Service, the agency which distributes Homeland Security funds in Texas, was not providing proper oversight and cities and counties were spending this money on questionable items. This is not how Homeland Security dollars were intended to be spent, and this bill will cut down on the frivolous and excessive spending that has taken place with this money over the past 3 years.

Mr. Chairman, because this bill creates a formula to distribute grant money based on threat criteria, because it provides for better oversight of spending, and because it allows regional organizations as well as states to apply for grant funding, I strongly support this bill and would urge my colleagues to do the same.

Mr. CARDIN. Mr. Chairman, I rise in strong support of H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005. This bill will: give priority assistance to first responders facing greatest risk; require input from first responders when setting criteria for grant applications; streamline terrorism preparedness grants; set specific, flexible, and measurable goals for state and local government terrorism preparedness; and for the first time authorize regional terrorism preparedness grants.

In the 108th Congress I was privileged to serve on the Select Committee on Homeland Security, the predecessor to the permanent Homeland Security Committee, which has brought this bill to the floor today.

This bill implements one of the most important recommendations of the 9/11 Commission, which stated that "homeland security assistance should be based strictly on assessment of risks and vulnerabilities . . . [F]ederal homeland security assistance should not remain a program for general revenue sharing. It should supplement state and local resources based on the risks or vulnerabilities that merit additional support. Congress should not use this money as a pork barrel."

Under this legislation, states for the first time must prioritize their spending among their jurisdictions based on risk, threat, vulnerability, and consequences of a terrorist attack. This legislation includes new criteria that I authored in committee which will benefit Maryland. For example, the bill requires the Department of Homeland Security (DHS) to consider, when making grants, whether the state or local government has a significant transient commuting or tourist population, such as Marylanders who commute back and forth between Washington, Baltimore, and the suburbs. The bill also authorizes DHS to consider whether the state or local government has a close proximity to specific past acts of terrorism (such as the Maryland suburbs of Washington, DC), or the known activity of any terrorist group. The bill authorizes grants to regional governments with a population of more than 1.65 million people, which would allow the Baltimore metro region, and the surrounding counties of Baltimore, Howard, and Anne Arundel to apply for regional counter-terrorism grants that will help to prevent an attack and better prepare the county governments to respond in a coordinated fashion to an attack. The bill also requires states to make timely awards to state and local government, and requires an 80 percent pass through within 45 days.

This legislation is an important improvement in our commitment to a strong homeland defense and deserves our support.

Mr. SKELTON. Mr. Chairman, H.R. 1544, the Faster and Smarter Funding for First Responders Act is critically important for the entire country, but it is also good for rural America. I am pleased to share my support for this bill, which streamlines and prioritizes homeland security spending and should result in better stewardship of America's tax dollars committed to public safety.

Last year, the 9/11 Commission made clear to Congress that homeland security assistance should be based strictly on an assessment of risks and vulnerabilities.

H.R. 1544 fulfills the recommendations of the 9/11 Commission by providing priority assistance to first responders facing the greatest threat; by streamlining terrorism preparedness grants; and by requiring specific, flexible, and measurable goals for State and local government terrorism preparedness.

As a member of the Congressional Rural Caucus, I am especially interested in how rural areas will be treated under this legislation.

Currently, rural America does not receive its fair share when it comes to the distribution of homeland security funds. H.R. 1544 will ensure that rural Americans have a seat at the table when federal spending decisions are made. For the first time, tax dollars will be distributed to first responders based on risk, regardless of whether the potential dangers are in urban, suburban, or rural communities.

Under this legislation, each State shall develop a 3-year Homeland Security Plan. The State must solicit comments from local and county governments—including those in rural areas—and evaluate risk factors, threats, populations, and all critical infrastructure. Risks to Missouri's Fourth Congressional District might include agriculture and agribusiness, natural gas pipelines, Bagnell Dam, Truman Dam, the Lake of the Ozarks, and the Missouri River, among others.

H.R. 1544 allows for rural Missourians to prevent, prepare for, and respond to future terrorist attacks under a risk-based formula. Additionally, this measure maintains a State minimum for funding to ensure that each State can reach at least a minimal level of preparedness.

Mr. Chairman, H.R. 1544 is supported by every major first responder organization and by the State of Missouri. I urge my colleagues to vote in favor of this important, risk-based legislation.

Mr. COX. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Faster and Smarter Funding for First Responders Act of 2005".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) In order to achieve its objective of preventing, minimizing the damage from, and assisting in the recovery from terrorist attacks, the Department of Homeland Security must play a leading role in assisting communities to reach the level of preparedness they need to prevent and respond to a terrorist attack.

(2) First responder funding is not reaching the men and women of our Nation's first response teams quickly enough, and sometimes not at all.

(3) To reform the current bureaucratic process so that homeland security dollars reach the first responders who need it most, it is necessary to clarify and consolidate the authority and procedures of the Department of Homeland Security that support first responders.

(4) Ensuring adequate resources for the new national mission of homeland security, without degrading the ability to address effectively other types of major disasters and emergencies, requires a discrete and separate grant making process for homeland security funds for first response to terrorist acts, on the one hand, and for first responder programs designed to meet pre-September 11 priorities, on the other.

(5) While a discrete homeland security grant making process is necessary to ensure proper focus on the unique aspects of terrorism preparedness, it is essential that State and local strategies for utilizing such grants be integrated, to the greatest extent practicable, with existing State and local emergency management plans.

(6) Homeland security grants to first responders must be based on the best intelligence concerning the capabilities and intentions of our terrorist enemies, and that intelligence must be used to target resources to the Nation's greatest threats, vulnerabilities, and consequences.

(7) The Nation's first response capabilities will be improved by sharing resources, training, planning, personnel, and equipment among neighboring jurisdictions through mutual aid agreements and regional cooperation. Such regional cooperation should be supported, where appropriate, through direct grants from the Department of Homeland Security.

(8) An essential prerequisite to achieving the Nation's homeland security objectives for first responders is the establishment of well-defined national goals for terrorism preparedness. These goals should delineate the essential capabilities that every jurisdiction in the United States should possess or to which it should have access.

(9) A national determination of essential capabilities is needed to identify levels of State and local government terrorism preparedness, to determine the nature and extent of State and local first responder needs, to identify the human and financial resources required to fulfill them, to direct funding to meet those needs, and to measure preparedness levels on a national scale.

(10) To facilitate progress in achieving, maintaining, and enhancing essential capabilities for State and local first responders, the Department of Homeland Security should seek to allocate homeland security funding for first responders to meet nationwide needs.

(11) Private sector resources and citizen volunteers can perform critical functions in assisting in preventing and responding to terrorist attacks, and should be integrated into State and local planning efforts to ensure that their capabilities and roles are understood, so as to provide enhanced State and local operational capability and surge capacity.

(12) Public-private partnerships, such as the partnerships between the Business Executives for National Security and the States of New Jersey and Georgia, can be useful to identify and coordinate private sector support for State and local first responders. Such models should be expanded to cover all States and territories.

(13) An important aspect of terrorism preparedness is measurability, so that it is possible to determine how prepared a State or local government is now, and what additional steps it needs to take, in order to prevent, prepare for, respond to, mitigate against, and recover from acts of terrorism.

(14) The Department of Homeland Security should establish, publish, and regularly update national voluntary consensus standards for both equipment and training, in cooperation with both public and private sector standard setting organizations, to assist State and local governments in obtaining the equipment and training to attain the essential capabilities for first response to acts of terrorism, and to ensure that first responder funds are spent wisely.

SEC. 3. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.

(a) In General.—The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.) is amended—

(1) in section 1(b) in the table of contents by adding at the end the following:

"TITLE XVIII—FUNDING FOR FIRST RESPONDERS

"Sec. 1801. Definitions.
"Sec. 1802. Faster and Smarter Funding for First Responders.
"Sec. 1803. Covered grant eligibility and criteria.
"Sec. 1804. Risk-based evaluation and prioritization.
"Sec. 1805. Task Force on Terrorism Preparedness for First Responders.
"Sec. 1806. Use of funds and accountability requirements.
"Sec. 1807. National standards for first responder equipment and training."

(2) by adding at the end the following:

"TITLE XVIII—FUNDING FOR FIRST RESPONDERS

"SEC. 1801. DEFINITIONS.

"In this title:

"(1) Board.—The term 'Board' means the First Responder Grants Board established under section 1804.

"(2) Covered grant.—The term 'covered grant' means any grant to which this title applies under section 1802.

"(3) Directly eligible tribe.—The term 'directly eligible tribe' means any Indian tribe or consortium of Indian tribes that—

"(A) meets the criteria for inclusion in the qualified applicant pool for Self-Governance that are set forth in section 402(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bb(c));

"(B) employs at least 10 full-time personnel in a law enforcement or emergency response agency with the capacity to respond to calls for law enforcement or emergency services; and

"(C)(i) is located on, or within 5 miles of, an international border or waterway;

"(ii) is located within 5 miles of a facility designated as high-risk critical infrastructure by the Secretary;

"(iii) is located within or contiguous to one of the 50 largest metropolitan statistical areas in the United States; or

"(iv) has more than 1,000 square miles of Indian country, as that term is defined in section 1151 of title 18, United States Code.

"(4) Elevations in the threat alert level.—The term 'elevations in the threat alert level' means any designation (including those that are less than national in scope) that raises the homeland security threat level to either the highest or second highest threat level under the Homeland Security Advisory System referred to in section 201(d)(7).

"(5) Emergency preparedness.—The term 'emergency preparedness' shall have the same meaning that term has under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a).

"(6) Essential capabilities.—The term 'essential capabilities' means the levels, availability, and competence of emergency personnel, planning, training, and equipment across a variety of disciplines needed to effectively and efficiently prevent, prepare for, respond to, and recover from acts of terrorism consistent with established practices.

"(7) First responder.—The term 'first responder' shall have the same meaning as the term 'emergency response provider'.

"(8) Indian tribe.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(9) Region.—The term 'region' means—

"(A) any geographic area consisting of all or parts of 2 or more contiguous States, counties, municipalities, or other local governments that have a combined population of at least 1,650,000 or have an area of not less than 20,000 square miles, and that, for purposes of an application for a covered grant, is represented by 1 or more governments or governmental agencies within such geographic area, and that is established by law or by agreement of 2 or more such governments or governmental agencies in a mutual aid agreement; or

"(B) any other combination of contiguous local government units (including such a combination established by law or agreement of two or more governments or governmental agencies

in a mutual aid agreement) that is formally certified by the Secretary as a region for purposes of this Act with the consent of—

“(i) the State or States in which they are located, including a multi-State entity established by a compact between two or more States; and

“(ii) the incorporated municipalities, counties, and parishes that they encompass.

“(10) TASK FORCE.—The term ‘Task Force’ means the Task Force on Terrorism Preparedness for First Responders established under section 1805.

“(11) TERRORISM PREPAREDNESS.—The term ‘terrorism preparedness’ means any activity designed to improve the ability to prevent, prepare for, respond to, mitigate against, or recover from threatened or actual terrorist attacks.

“SEC. 1802. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.

“(a) COVERED GRANTS.—This title applies to grants provided by the Department to States, regions, or directly eligible tribes for the primary purpose of improving the ability of first responders to prevent, prepare for, respond to, mitigate against, or recover from threatened or actual terrorist attacks, especially those involving weapons of mass destruction, administered under the following:

“(1) STATE HOMELAND SECURITY GRANT PROGRAM.—The State Homeland Security Grant Program of the Department, or any successor to such grant program.

“(2) URBAN AREA SECURITY INITIATIVE.—The Urban Area Security Initiative of the Department, or any successor to such grant program.

“(3) LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.—The Law Enforcement Terrorism Prevention Program of the Department, or any successor to such grant program.

“(b) EXCLUDED PROGRAMS.—This title does not apply to or otherwise affect the following Federal grant programs or any grant under such a program:

“(1) NONDEPARTMENT PROGRAMS.—Any Federal grant program that is not administered by the Department.

“(2) FIRE GRANT PROGRAMS.—The fire grant programs authorized by sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229, 2229a).

“(3) EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE ACCOUNT GRANTS.—The Emergency Management Performance Grant program and the Urban Search and Rescue Grants program authorized by title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.); the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (113 Stat. 1047 et seq.); and the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

“SEC. 1803. COVERED GRANT ELIGIBILITY AND CRITERIA.

“(a) GRANT ELIGIBILITY.—Any State, region, or directly eligible tribe shall be eligible to apply for a covered grant.

“(b) GRANT CRITERIA.—The Secretary shall award covered grants to assist States and local governments in achieving, maintaining, and enhancing the essential capabilities for terrorism preparedness established by the Secretary.

“(c) STATE HOMELAND SECURITY PLANS.—

“(1) SUBMISSION OF PLANS.—The Secretary shall require that any State applying to the Secretary for a covered grant must submit to the Secretary a 3-year State homeland security plan that—

“(A) describes the essential capabilities that communities within the State should possess, or to which they should have access, based upon the terrorism risk factors relevant to such communities, in order to meet the Department's goals for terrorism preparedness;

“(B) demonstrates the extent to which the State has achieved the essential capabilities that apply to the State;

“(C) demonstrates the needs of the State necessary to achieve, maintain, or enhance the essential capabilities that apply to the State;

“(D) includes a prioritization of such needs based on threat, vulnerability, and consequence assessment factors applicable to the State;

“(E) describes how the State intends—

“(i) to address such needs at the city, county, regional, tribal, State, and interstate level, including a precise description of any regional structure the State has established for the purpose of organizing homeland security preparedness activities funded by covered grants;

“(ii) to use all Federal, State, and local resources available for the purpose of addressing such needs; and

“(iii) to give particular emphasis to regional planning and cooperation, including the activities of multijurisdictional planning agencies governed by local officials, both within its jurisdictional borders and with neighboring States;

“(F) with respect to the emergency preparedness of first responders, addresses the unique aspects of terrorism as part of a comprehensive State emergency management plan; and

“(G) provides for coordination of response and recovery efforts at the local level, including procedures for effective incident command in conformance with the National Incident Management System.

“(2) CONSULTATION.—The State plan submitted under paragraph (1) shall be developed in consultation with and subject to appropriate comment by local governments and first responders within the State.

“(3) APPROVAL BY SECRETARY.—The Secretary may not award any covered grant to a State unless the Secretary has approved the applicable State homeland security plan.

“(4) REVISIONS.—A State may revise the applicable State homeland security plan approved by the Secretary under this subsection, subject to approval of the revision by the Secretary.

“(d) CONSISTENCY WITH STATE PLANS.—The Secretary shall ensure that each covered grant is used to supplement and support, in a consistent and coordinated manner, the applicable State homeland security plan or plans.

“(e) APPLICATION FOR GRANT.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, any State, region, or directly eligible tribe may apply for a covered grant by submitting to the Secretary an application at such time, in such manner, and containing such information as is required under this subsection, or as the Secretary may reasonably require.

“(2) DEADLINES FOR APPLICATIONS AND AWARDS.—All applications for covered grants must be submitted at such time as the Secretary may reasonably require for the fiscal year for which they are submitted. The Secretary shall award covered grants pursuant to all approved applications for such fiscal year as soon as practicable, but not later than March 1 of such year.

“(3) AVAILABILITY OF FUNDS.—All funds awarded by the Secretary under covered grants in a fiscal year shall be available for obligation through the end of the subsequent fiscal year.

“(4) MINIMUM CONTENTS OF APPLICATION.—The Secretary shall require that each applicant include in its application, at a minimum—

“(A) the purpose for which the applicant seeks covered grant funds and the reasons why the applicant needs the covered grant to meet the essential capabilities for terrorism preparedness within the State, region, or directly eligible tribe to which the application pertains;

“(B) a description of how, by reference to the applicable State homeland security plan or plans under subsection (c), the allocation of grant funding proposed in the application, including, where applicable, the amount not passed through under section 1806(g)(1), would assist in fulfilling the essential capabilities for terrorism preparedness specified in such plan or plans;

“(C) a statement of whether a mutual aid agreement applies to the use of all or any portion of the covered grant funds;

“(D) if the applicant is a State, a description of how the State plans to allocate the covered grant funds to regions, local governments, and Indian tribes;

“(E) if the applicant is a region—

“(i) a precise geographical description of the region and a specification of all participating and nonparticipating local governments within the geographical area comprising that region;

“(ii) a specification of what governmental entity within the region will administer the expenditure of funds under the covered grant; and

“(iii) a designation of a specific individual to serve as regional liaison;

“(F) a capital budget showing how the applicant intends to allocate and expend the covered grant funds;

“(G) if the applicant is a directly eligible tribe, a designation of a specific individual to serve as the tribal liaison; and

“(H) a statement of how the applicant intends to meet the matching requirement, if any, that applies under section 1806(g)(2).

“(5) REGIONAL APPLICATIONS.—

“(A) RELATIONSHIP TO STATE APPLICATIONS.—A regional application—

“(i) shall be coordinated with an application submitted by the State or States of which such region is a part;

“(ii) shall supplement and avoid duplication with such State application; and

“(iii) shall address the unique regional aspects of such region's terrorism preparedness needs beyond those provided for in the application of such State or States.

“(B) STATE REVIEW AND SUBMISSION.—To ensure the consistency required under subsection (d) and the coordination required under subparagraph (A) of this paragraph, an applicant that is a region must submit its application to each State of which any part is included in the region for review and concurrence prior to the submission of such application to the Secretary. The regional application shall be transmitted to the Secretary through each such State within 30 days of its receipt, unless the Governor of such a State notifies the Secretary, in writing, that such regional application is inconsistent with the State's homeland security plan and provides an explanation of the reasons therefor.

“(C) DISTRIBUTION OF REGIONAL AWARDS.—If the Secretary approves a regional application, then the Secretary shall distribute a regional award to the State or States submitting the applicable regional application under subparagraph (B), and each such State shall, not later than the end of the 45-day period beginning on the date after receiving a regional award, pass through to the region all covered grant funds or resources purchased with such funds, except those funds necessary for the State to carry out its responsibilities with respect to such regional application: Provided, That in no such case shall the State or States pass through to the region less than 80 percent of the regional award.

“(D) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO REGIONS.—Any State that receives a regional award under subparagraph (C) shall certify to the Secretary, by not later than 30 days after the expiration of the period described in subparagraph (C) with respect to the grant, that the State has made available to the region the required funds and resources in accordance with subparagraph (C).

“(E) Direct payments to regions.—If any State fails to pass through a regional award to a region as required by subparagraph (C) within 45 days after receiving such award and does not request or receive an extension of such period under section 1806(h)(2), the region may petition the Secretary to receive directly the portion of the regional award that is required to be passed through to such region under subparagraph (C).

“(F) Regional liaisons.—A regional liaison designated under paragraph (4)(E)(iii) shall—

“(i) coordinate with Federal, State, local, regional, and private officials within the region concerning terrorism preparedness;

“(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials within the region to assist in the development of the regional application and to improve the region's access to covered grants; and

“(iii) administer, in consultation with State, local, regional, and private officials within the region, covered grants awarded to the region.

“(6) Tribal applications.—

“(A) Submission to the State or States.—To ensure the consistency required under subsection (d), an applicant that is a directly eligible tribe must submit its application to each State within the boundaries of which any part of such tribe is located for direct submission to the Department along with the application of such State or States.

“(B) Opportunity for State comment.—Before awarding any covered grant to a directly eligible tribe, the Secretary shall provide an opportunity to each State within the boundaries of which any part of such tribe is located to comment to the Secretary on the consistency of the tribe's application with the State's homeland security plan. Any such comments shall be submitted to the Secretary concurrently with the submission of the State and tribal applications.

“(C) Final authority.—The Secretary shall have final authority to determine the consistency of any application of a directly eligible tribe with the applicable State homeland security plan or plans, and to approve any application of such tribe. The Secretary shall notify each State within the boundaries of which any part of such tribe is located of the approval of an application by such tribe.

“(D) Tribal liaison.—A tribal liaison designated under paragraph (4)(G) shall—

“(i) coordinate with Federal, State, local, regional, and private officials concerning terrorism preparedness;

“(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials to assist in the development of the application of such tribe and to improve the tribe's access to covered grants; and

“(iii) administer, in consultation with State, local, regional, and private officials, covered grants awarded to such tribe.

“(E) Limitation on the number of direct grants.—The Secretary may make covered grants directly to not more than 20 directly eligible tribes per fiscal year.

“(F) Tribes not receiving direct grants.—An Indian tribe that does not receive a grant directly under this section is eligible to receive funds under a covered grant from the State or States within the boundaries of which any part of such tribe is located, consistent with the homeland security plan of the State as described in subsection (c). If a State fails to comply with section 1806(g)(1), the tribe may request payment under section 1806(h)(3) in the same manner as a local government.

“(7) Equipment standards.—If an applicant for a covered grant proposes to upgrade or purchase, with assistance provided under the grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards established by the Secretary, the applicant shall include in the application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards.

“SEC. 1804. RISK-BASED EVALUATION AND PRIORITIZATION.

“(a) First Responder Grants Board.—

“(1) Establishment of board.—The Secretary shall establish a First Responder Grants Board, consisting of—

“(A) the Secretary;

“(B) the Under Secretary for Emergency Preparedness and Response;

“(C) the Under Secretary for Border and Transportation Security;

“(D) the Under Secretary for Information Analysis and Infrastructure Protection;

“(E) the Under Secretary for Science and Technology;

“(F) the Director of the Office for Domestic Preparedness; and

“(G) the Administrator of the United States Fire Administration.

“(2) Chairman.—

“(A) In general.—The Secretary shall be the Chairman of the Board.

“(B) Exercise of authorities by Deputy Secretary.—The Deputy Secretary of Homeland Security may exercise the authorities of the Chairman, if the Secretary so directs.

“(b) Functions of Under Secretaries.—The Under Secretaries referred to in subsection (a)(1) shall seek to ensure that the relevant expertise and input of the staff of their directorates are available to and considered by the Board.

“(c) Prioritization of Grant Applications.—

“(1) Factors to be considered.—The Board shall evaluate and annually prioritize all pending applications for covered grants based upon the degree to which they would, by achieving, maintaining, or enhancing the essential capabilities of the applicants on a nationwide basis, lessen the threat to, vulnerability of, and consequences for persons (including transient commuting and tourist populations) and critical infrastructure. Such evaluation and prioritization shall be based upon the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States.

“(2) Critical infrastructure sectors.—The Board specifically shall consider threats of terrorism against the following critical infrastructure sectors in all areas of the United States, urban and rural:

“(A) Agriculture and food.

“(B) Banking and finance.

“(C) Chemical industries.

“(D) The defense industrial base.

“(E) Emergency services.

“(F) Energy.

“(G) Government facilities.

“(H) Postal and shipping.

“(I) Public health and health care.

“(J) Information technology.

“(K) Telecommunications.

“(L) Transportation systems.

“(M) Water.

“(N) Dams.

“(O) Commercial facilities.

“(P) National monuments and icons.

The order in which the critical infrastructure sectors are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such sectors.

“(3) Types of threat.—The Board specifically shall consider the following types of threat to the critical infrastructure sectors described in paragraph (2), and to populations in all areas of the United States, urban and rural:

“(A) Biological threats.

“(B) Nuclear threats.

“(C) Radiological threats.

“(D) Incendiary threats.

“(E) Chemical threats.

“(F) Explosives.

“(G) Suicide bombers.

“(H) Cyber threats.

“(I) Any other threats based on proximity to specific past acts of terrorism or the known activity of any terrorist group.

The order in which the types of threat are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such threats.

“(4) Consideration of additional factors.—The Board shall take into account any other specific threat to a population (including a transient commuting or tourist population) or critical infrastructure sector that the Board has determined to exist. In evaluating the threat to a population or critical infrastructure sector, the Board shall give greater weight to threats of terrorism based upon their specificity and credibility, including any pattern of repetition.

“(5) Minimum amounts.—After evaluating and prioritizing grant applications under paragraph (1), the Board shall ensure that, for each fiscal year—

“(A) each of the States, other than the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, that has an approved State homeland security plan receives no less than 0.25 percent of the funds available for covered grants for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of needs under section 1803(c)(1)(D);

“(B) each of the States, other than the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, that has an approved State homeland security plan and that meets one or both of the additional high-risk qualifying criteria under paragraph (6) receives no less than 0.45 percent of the funds available for covered grants for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of needs under section 1803(c)(1)(D);

“(C) the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each receives no less than 0.08 percent of the funds available for covered grants for that fiscal year for purposes of implementing its approved State homeland security plan in accordance with the prioritization of needs under section 1803(c)(1)(D); and

“(D) directly eligible tribes collectively receive no less than 0.08 percent of the funds available for covered grants for such fiscal year for purposes of addressing the needs identified in the applications of such tribes, consistent with the homeland security plan of each State within the boundaries of which any part of any such tribe is located, except that this clause shall not apply with respect to funds available for a fiscal year if the Secretary receives less than 5 applications for such fiscal year from such tribes under section 1803(e)(6)(A) or does not approve at least one such application.

“(6) Additional high-risk qualifying criteria.—For purposes of paragraph (5)(B), additional high-risk qualifying criteria consist of—

“(A) having a significant international land border; or

“(B) adjoining a body of water within North America through which an international boundary line extends.

“(d) Effect of Regional Awards on State Minimum.—Any regional award, or portion thereof, provided to a State under section 1803(e)(5)(C) shall not be considered in calculating the minimum State award under subsection (c)(5) of this section.

“SEC. 1805. TASK FORCE ON TERRORISM PREPAREDNESS FOR FIRST RESPONDERS.

“(a) Establishment.—To assist the Secretary in updating, revising, or replacing essential capabilities for terrorism preparedness, the Secretary shall establish an advisory body pursuant to section 871(a) not later than 60 days after the date of the enactment of this section, which shall be known as the Task Force on Terrorism Preparedness for First Responders.

“(b) Update, Revise, or Replace.—The Secretary shall regularly update, revise, or replace the essential capabilities for terrorism preparedness as necessary, but not less than every 3 years.

“(c) Report.—

“(1) In general.—The Task Force shall submit to the Secretary, by not later than 12 months after its establishment by the Secretary under subsection (a) and not later than every 2 years thereafter, a report on its recommendations for essential capabilities for terrorism preparedness.

“(2) Contents.—Each report shall—

“(A) include a priority ranking of essential capabilities in order to provide guidance to the Secretary and to the Congress on determining the appropriate allocation of, and funding levels for, first responder needs;

“(B) set forth a methodology by which any State or local government will be able to determine the extent to which it possesses or has access to the essential capabilities that States and local governments having similar risks should obtain;

“(C) describe the availability of national voluntary consensus standards, and whether there is a need for new national voluntary consensus standards, with respect to first responder training and equipment;

“(D) include such additional matters as the Secretary may specify in order to further the terrorism preparedness capabilities of first responders; and

“(E) include such revisions to the contents of previous reports as are necessary to take into account changes in the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection or other relevant information as determined by the Secretary.

“(3) Consistency with federal working group.—The Task Force shall ensure that its recommendations for essential capabilities for terrorism preparedness are, to the extent feasible, consistent with any preparedness goals or recommendations of the Federal working group established under section 319F(a) of the Public Health Service Act (42 U.S.C. 247d–6(a)).

“(4) Comprehensiveness.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness are made within the context of a comprehensive State emergency management system.

“(5) Prior measures.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness take into account any capabilities that State or local officials have determined to be essential and have undertaken since September 11, 2001, to prevent, prepare for, respond to, or recover from terrorist attacks.

“(d) Membership.—

“(1) In general.—The Task Force shall consist of 25 members appointed by the Secretary, and shall, to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of governmental and nongovernmental first responder disciplines from the State and local levels, including as appropriate—

“(A) members selected from the emergency response field, including fire service and law enforcement, hazardous materials response, emergency medical services, and emergency management personnel (including public works personnel routinely engaged in emergency response);

“(B) health scientists, emergency and inpatient medical providers, and public health professionals, including experts in emergency health care response to chemical, biological, radiological, and nuclear terrorism, and experts in providing mental health care during emergency response operations;

“(C) experts from Federal, State, and local governments, and the private sector, representing standards-setting organizations, including representation from the voluntary consensus codes and standards development community, particularly those with expertise in first responder disciplines; and

“(D) State and local officials with expertise in terrorism preparedness, subject to the condition that if any such official is an elected official representing one of the two major political parties, an equal number of elected officials shall be selected from each such party.

“(2) Coordination with the department of health and health services.—In the selection of members of the Task Force who are health professionals, including emergency medical professionals, the Secretary shall coordinate such selection with the Secretary of Health and Human Services.

“(3) Ex officio members.—The Secretary and the Secretary of Health and Human Services shall each designate one or more officers of their respective Departments to serve as ex officio members of the Task Force. One of the ex officio members from the Department of Homeland Security shall be the designated officer of the Federal Government for purposes of subsection (e) of section 10 of the Federal Advisory Committee Act (5 App. U.S.C.).

“(e) Applicability of Federal Advisory Committee Act.—Notwithstanding section 871(a), the Federal Advisory Committee Act (5 App. U.S.C.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, United States Code, shall apply to the Task Force.

“SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY REQUIREMENTS.

“(a) In General.—A covered grant may be used for—

“(1) purchasing or upgrading equipment, including computer software, to enhance terrorism preparedness;

“(2) exercises to strengthen terrorism preparedness;

“(3) training for prevention (including detection) of, preparedness for, response to, or recovery from attacks involving weapons of mass destruction, including training in the use of equipment and computer software;

“(4) developing or updating State homeland security plans, risk assessments, mutual aid agreements, and emergency management plans to enhance terrorism preparedness;

“(5) establishing or enhancing mechanisms for sharing terrorism threat information;

“(6) systems architecture and engineering, program planning and management, strategy formulation and strategic planning, life-cycle systems design, product and technology evaluation, and prototype development for terrorism preparedness purposes;

“(7) additional personnel costs resulting from—

“(A) elevations in the threat alert level of the Homeland Security Advisory System by the Secretary, or a similar elevation in threat alert level issued by a State, region, or local government with the approval of the Secretary;

“(B) travel to and participation in exercises and training in the use of equipment and on prevention activities; and

“(C) the temporary replacement of personnel during any period of travel to and participation in exercises and training in the use of equipment and on prevention activities;

“(8) the costs of equipment (including software) required to receive, transmit, handle, and store classified information;

“(9) protecting critical infrastructure against potential attack by the addition of barriers, fences, gates, and other such devices, except that the cost of such measures may not exceed the greater of—

“(A) $1,000,000 per project; or

“(B) such greater amount as may be approved by the Secretary, which may not exceed 10 percent of the total amount of the covered grant;

“(10) the costs of commercially available interoperable communications equipment (which, where applicable, is based on national, voluntary consensus standards) that the Secretary, in consultation with the Chairman of the Federal Communications Commission, deems best suited to facilitate interoperability, coordination, and integration between and among emergency communications systems, and that complies with prevailing grant guidance of the Department for interoperable communications;

“(11) educational curricula development for first responders to ensure that they are prepared for terrorist attacks;

“(12) training and exercises to assist public elementary and secondary schools in developing and implementing programs to instruct students regarding age-appropriate skills to prevent, prepare for, respond to, mitigate against, or recover from an act of terrorism;

“(13) paying of administrative expenses directly related to administration of the grant, except that such expenses may not exceed 3 percent of the amount of the grant;

“(14) paying for the conduct of any activity permitted under the Law Enforcement Terrorism Prevention Program, or any such successor to such program; and

“(15) other appropriate activities as determined by the Secretary.

“(b) Prohibited Uses.—Funds provided as a covered grant may not be used—

“(1) to supplant State or local funds;

“(2) to construct buildings or other physical facilities;

“(3) to acquire land; or

“(4) for any State or local government cost sharing contribution.

“(c) Multiple-Purpose Funds.—Nothing in this section shall be construed to preclude State and local governments from using covered grant funds in a manner that also enhances first responder preparedness for emergencies and disasters unrelated to acts of terrorism, if such use assists such governments in achieving essential capabilities for terrorism preparedness established by the Secretary.

“(d) Reimbursement of Costs.—In addition to the activities described in subsection (a), a covered grant may be used to provide a reasonable stipend to paid-on-call or volunteer first responders who are not otherwise compensated for travel to or participation in training covered by this section. Any such reimbursement shall not be considered compensation for purposes of rendering such a first responder an employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

“(e) Assistance Requirement.—The Secretary may not require that equipment paid for, wholly or in part, with funds provided as a covered grant be made available for responding to emergencies in surrounding States, regions, and localities, unless the Secretary undertakes to pay the costs directly attributable to transporting and operating such equipment during such response.

“(f) Flexibility in Unspent Homeland Security Grant Funds.—Upon request by the recipient of a covered grant, the Secretary may

authorize the grantee to transfer all or part of funds provided as the covered grant from uses specified in the grant agreement to other uses authorized under this section, if the Secretary determines that such transfer is in the interests of homeland security.

"(g) STATE, REGIONAL, AND TRIBAL RESPONSIBILITIES.—

"(1) PASS-THROUGH.—The Secretary shall require a recipient of a covered grant that is a State to obligate or otherwise make available to local governments, first responders, and other local groups, to the extent required under the State homeland security plan or plans specified in the application for the grant, not less than 80 percent of the grant funds, resources purchased with the grant funds having a value equal to at least 80 percent of the amount of the grant, or a combination thereof, by not later than the end of the 45-day period beginning on the date the grant recipient receives the grant funds.

"(2) COST SHARING.—

"(A) IN GENERAL.—The Federal share of the costs of an activity carried out with a covered grant to a State, region, or directly eligible tribe awarded after the 2-year period beginning on the date of the enactment of this section shall not exceed 75 percent.

"(B) INTERIM RULE.—The Federal share of the costs of an activity carried out with a covered grant awarded before the end of the 2-year period beginning on the date of the enactment of this section shall be 100 percent.

"(C) IN-KIND MATCHING.—Each recipient of a covered grant may meet the matching requirement under subparagraph (A) by making in-kind contributions of goods or services that are directly linked with the purpose for which the grant is made, including, but not limited to, any necessary personnel overtime, contractor services, administrative costs, equipment fuel and maintenance, and rental space.

"(3) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—Any State that receives a covered grant shall certify to the Secretary, by not later than 30 days after the expiration of the period described in paragraph (1) with respect to the grant, that the State has made available for expenditure by local governments, first responders, and other local groups the required amount of grant funds pursuant to paragraph (1).

"(4) QUARTERLY REPORT ON HOMELAND SECURITY SPENDING.—The Federal share described in paragraph (2)(A) may be increased by up to 2 percent for any State, region, or directly eligible tribe that, not later than 30 days after the end of each fiscal quarter, submits to the Secretary a report on that fiscal quarter. Each such report must include, for each recipient of a covered grant or a pass-through under paragraph (1)—

"(A) the amount obligated to that recipient in that quarter;

"(B) the amount expended by that recipient in that quarter; and

"(C) a summary description of the items purchased by such recipient with such amount.

"(5) ANNUAL REPORT ON HOMELAND SECURITY SPENDING.—Each recipient of a covered grant shall submit an annual report to the Secretary not later than 60 days after the end of each Federal fiscal year. Each recipient of a covered grant that is a region must simultaneously submit its report to each State of which any part is included in the region. Each recipient of a covered grant that is a directly eligible tribe must simultaneously submit its report to each State within the boundaries of which any part of such tribe is located. Each report must include the following:

"(A) The amount, ultimate recipients, and dates of receipt of all funds received under the grant during the previous fiscal year.

"(B) The amount and the dates of disbursements of all such funds expended in compliance with paragraph (1) or pursuant to mutual aid agreements or other sharing arrangements that apply within the State, region, or directly eligible tribe, as applicable, during the previous fiscal year.

"(C) How the funds were utilized by each ultimate recipient or beneficiary during the preceding fiscal year.

"(D) The extent to which essential capabilities identified in the applicable State homeland security plan or plans were achieved, maintained, or enhanced as the result of the expenditure of grant funds during the preceding fiscal year.

"(E) The extent to which essential capabilities identified in the applicable State homeland security plan or plans remain unmet.

"(6) INCLUSION OF RESTRICTED ANNEXES.—A recipient of a covered grant may submit to the Secretary an annex to the annual report under paragraph (5) that is subject to appropriate handling restrictions, if the recipient believes that discussion in the report of unmet needs would reveal sensitive but unclassified information.

"(7) PROVISION OF REPORTS.—The Secretary shall ensure that each annual report under paragraph (5) is provided to the Under Secretary for Emergency Preparedness and Response and the Director of the Office for Domestic Preparedness.

"(h) INCENTIVES TO EFFICIENT ADMINISTRATION OF HOMELAND SECURITY GRANTS.—

"(1) PENALTIES FOR DELAY IN PASSING THROUGH LOCAL SHARE.—If a recipient of a covered grant that is a State fails to pass through to local governments, first responders, and other local groups funds or resources required by subsection (g)(1) within 45 days after receiving funds under the grant, the Secretary may—

"(A) reduce grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1);

"(B) terminate payment of funds under the grant to the recipient, and transfer the appropriate portion of those funds directly to local first responders that were intended to receive funding under that grant; or

"(C) impose additional restrictions or burdens on the recipient's use of funds under the grant, which may include—

"(i) prohibiting use of such funds to pay the grant recipient's grant-related overtime or other expenses;

"(ii) requiring the grant recipient to distribute to local government beneficiaries all or a portion of grant funds that are not required to be passed through under subsection (g)(1); or

"(iii) for each day that the grant recipient fails to pass through funds or resources in accordance with subsection (g)(1), reducing grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1), except that the total amount of such reduction may not exceed 20 percent of the total amount of the grant.

"(2) EXTENSION OF PERIOD.—The Governor of a State may request in writing that the Secretary extend the 45-day period under section 1803(e)(5)(E) or paragraph (1) for an additional 15-day period. The Secretary may approve such a request, and may extend such period for additional 15-day periods, if the Secretary determines that the resulting delay in providing grant funding to the local government entities that will receive funding under the grant will not have a significant detrimental impact on such entities' terrorism preparedness efforts.

"(3) PROVISION OF NON-LOCAL SHARE TO LOCAL GOVERNMENT.—

"(A) IN GENERAL.—The Secretary may upon request by a local government pay to the local government a portion of the amount of a covered grant awarded to a State in which the local government is located, if—

"(i) the local government will use the amount paid to expedite planned enhancements to its terrorism preparedness as described in any applicable State homeland security plan or plans;

"(ii) the State has failed to pass through funds or resources in accordance with subsection (g)(1); and

"(iii) the local government complies with subparagraphs (B) and (C).

"(B) SHOWING REQUIRED.—To receive a payment under this paragraph, a local government must demonstrate that—

"(i) it is identified explicitly as an ultimate recipient or intended beneficiary in the approved grant application;

"(ii) it was intended by the grantee to receive a severable portion of the overall grant for a specific purpose that is identified in the grant application;

"(iii) it petitioned the grantee for the funds or resources after expiration of the period within which the funds or resources were required to be passed through under subsection (g)(1); and

"(iv) it did not receive the portion of the overall grant that was earmarked or designated for its use or benefit.

"(C) EFFECT OF PAYMENT.—Payment of grant funds to a local government under this paragraph—

"(i) shall not affect any payment to another local government under this paragraph; and

"(ii) shall not prejudice consideration of a request for payment under this paragraph that is submitted by another local government.

"(D) DEADLINE FOR ACTION BY SECRETARY.—The Secretary shall approve or disapprove each request for payment under this paragraph by not later than 15 days after the date the request is received by the Department.

"(i) REPORTS TO CONGRESS.—The Secretary shall submit an annual report to the Congress by January 31 of each year covering the preceding fiscal year—

"(1) describing in detail the amount of Federal funds provided as covered grants that were directed to each State, region, and directly eligible tribe in the preceding fiscal year;

"(2) containing information on the use of such grant funds by grantees; and

"(3) describing—

"(A) the Nation's progress in achieving, maintaining, and enhancing the essential capabilities established by the Secretary as a result of the expenditure of covered grant funds during the preceding fiscal year; and

"(B) an estimate of the amount of expenditures required to attain across the United States the essential capabilities established by the Secretary.

"SEC. 1807. NATIONAL STANDARDS FOR FIRST RESPONDER EQUIPMENT AND TRAINING.

"(a) EQUIPMENT STANDARDS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall, not later than 6 months after the date of enactment of this section, support the development of, promulgate, and update as necessary national voluntary consensus standards for the performance, use, and validation of first responder equipment for purposes of section 1805(e)(7). Such standards—

"(A) shall be, to the maximum extent practicable, consistent with any existing voluntary consensus standards;

"(B) shall take into account, as appropriate, new types of terrorism threats that may not have been contemplated when such existing standards were developed;

"(C) shall be focused on maximizing interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety; and

"(D) shall cover all appropriate uses of the equipment.

"(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary shall specifically consider the following categories of first responder equipment:

"(A) Thermal imaging equipment.

"(B) Radiation detection and analysis equipment.

"(C) Biological detection and analysis equipment.

"(D) Chemical detection and analysis equipment.

"(E) Decontamination and sterilization equipment.

"(F) Personal protective equipment, including garments, boots, gloves, and hoods and other protective clothing.

"(G) Respiratory protection equipment.

"(H) Interoperable communications, including wireless and wireline voice, video, and data networks.

"(I) Explosive mitigation devices and explosive detection and analysis equipment.

"(J) Containment vessels.

"(K) Contaminant-resistant vehicles.

"(L) Such other equipment for which the Secretary determines that national voluntary consensus standards would be appropriate.

"(b) TRAINING STANDARDS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall support the development of, promulgate, and regularly update as necessary national voluntary consensus standards for first responder training carried out with amounts provided under covered grant programs, that will enable State and local government first responders to achieve optimal levels of terrorism preparedness as quickly as practicable. Such standards shall give priority to providing training to—

"(A) enable first responders to prevent, prepare for, respond to, mitigate against, and recover from terrorist threats, including threats from chemical, biological, nuclear, and radiological weapons and explosive devices capable of inflicting significant human casualties; and

"(B) familiarize first responders with the proper use of equipment, including software, developed pursuant to the standards established under subsection (a).

"(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary specifically shall include the following categories of first responder activities:

"(A) Regional planning.

"(B) Joint exercises.

"(C) Intelligence collection, analysis, and sharing.

"(D) Emergency notification of affected populations.

"(E) Detection of biological, nuclear, radiological, and chemical weapons of mass destruction.

"(F) Such other activities for which the Secretary determines that national voluntary consensus training standards would be appropriate.

"(3) CONSISTENCY.—In carrying out this subsection, the Secretary shall ensure that such training standards are consistent with the principles of emergency preparedness for all hazards.

"(c) CONSULTATION WITH STANDARDS ORGANIZATIONS.—In establishing national voluntary consensus standards for first responder equipment and training under this section, the Secretary shall consult with relevant public and private sector groups, including—

"(1) the National Institute of Standards and Technology;

"(2) the National Fire Protection Association;

"(3) the National Association of County and City Health Officials;

"(4) the Association of State and Territorial Health Officials;

"(5) the American National Standards Institute;

"(6) the National Institute of Justice;

"(7) the Inter-Agency Board for Equipment Standardization and Interoperability;

"(8) the National Public Health Performance Standards Program;

"(9) the National Institute for Occupational Safety and Health;

"(10) ASTM International;

"(11) the International Safety Equipment Association;

"(12) the Emergency Management Accreditation Program; and

"(13) to the extent the Secretary considers appropriate, other national voluntary consensus standards development organizations, other interested Federal, State, and local agencies, and other interested persons.

"(d) COORDINATION WITH SECRETARY OF HHS.—In establishing any national voluntary consensus standards under this section for first responder equipment or training that involve or relate to health professionals, including emergency medical professionals, the Secretary shall coordinate activities under this section with the Secretary of Health and Human Services.".

(b) DEFINITION OF EMERGENCY RESPONSE PROVIDERS.—Paragraph (6) of section 2 of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 101(6)) is amended by striking "includes" and all that follows and inserting "includes Federal, State, and local governmental and nongovernmental emergency public safety, law enforcement, fire, emergency response, emergency medical (including hospital emergency facilities), and related personnel, organizations, agencies, and authorities.".

SEC. 4. SUPERSEDED PROVISION.

This Act supersedes section 1014(c)(3) of Public Law 107–56.

SEC. 5. OVERSIGHT.

The Secretary of Homeland Security shall establish within the Office for Domestic Preparedness an Office of the Comptroller to oversee the grants distribution process and the financial management of the Office for Domestic Preparedness.

SEC. 6. GAO REPORT ON AN INVENTORY AND STATUS OF HOMELAND SECURITY FIRST RESPONDER TRAINING.

(a) IN GENERAL.—The Comptroller General of the United States shall report to the Congress in accordance with this section—

(1) on the overall inventory and status of first responder training programs of the Department of Homeland Security and other departments and agencies of the Federal Government; and

(2) the extent to which such programs are coordinated.

(b) CONTENTS OF REPORTS.—The reports under this section shall include—

(1) an assessment of the effectiveness of the structure and organization of such training programs;

(2) recommendations to—

(A) improve the coordination, structure, and organization of such training programs; and

(B) increase the availability of training to first responders who are not able to attend centralized training programs;

(3) the structure and organizational effectiveness of such programs for first responders in rural communities;

(4) identification of any duplication or redundancy among such programs;

(5) a description of the use of State and local training institutions, universities, centers, and the National Domestic Preparedness Consortium in designing and providing training;

(6) a cost-benefit analysis of the costs and time required for first responders to participate in training courses at Federal institutions;

(7) an assessment of the the approval process for certifying non-Department of Homeland Security training courses that are useful for anti-terrorism purposes as eligible for grants awarded by the Department;

(8) a description of the use of Department of Homeland Security grant funds by States and local governments to acquire training;

(9) an analysis of the feasibility of Federal, State, and local personnel to receive the training that is necessary to adopt the National Response Plan and the National Incident Management System; and

(10) the role of each first responder training institution within the Department of Homeland Security in the design and implementation of terrorism preparedness and related training courses for first responders.

(c) DEADLINES.—The Comptroller General shall—

(1) submit a report under subsection (a)(1) by not later than 60 days after the date of the enactment of this Act; and

(2) submit a report on the remainder of the topics required by this section by not later than 120 days after the date of the enactment of this Act.

The Acting CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 109–77. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 109–77.

AMENDMENT NO. 1 OFFERED BY MR. BERRY

Mr. BERRY. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. BERRY:

In section 3(a)(2), in the quoted section 1804(a)(1) (page 24, beginning at line 3), strike "and" after the semicolon at the end of subparagraph (F), strike the period at the end of subparagraph (G) and insert "; and", and after subparagraph (G) add the following:

"(H) the Administrator of the Animal and Plant Health Inspection Service.

The Acting CHAIRMAN. Pursuant to House Resolution 269, the gentleman from Arkansas (Mr. BERRY) and a Member opposed each will control 5 minutes.

Mr. COX. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from Arkansas (Mr. BERRY) is recognized.

Mr. BERRY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I first of all want to thank the gentleman from California (Mr. COX) and the ranking member, my good friend and the distinguished gentleman from Mississippi (Mr. THOMPSON), and the gentleman from New Jersey (Mr. PASCRELL) for the wonderful work they have done on this bill and the very responsible way they have developed it.

It is a good thing when we come together in this House in a bipartisan way to try to make things better for the country. I compliment them on having that goal and objective.

The amendment I offer would simply add the administrator of Animal, Plant and Health Inspection Service to the first responders grant board.

Food safety is a very important thing. It was acknowledged as a serious matter by the outgoing Secretary of DHS, Mr. Ridge. And I think what this does is makes it possible for the people that have the greatest expertise in this matter to have some say in the way that this is handled.

Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, even though I have claimed the time in opposition to the amendment, I actually want to speak in support of the gentleman's amendment.

Mr. Chairman, H.R. 1544, the bill that the gentleman would amend, as written requires the Department of Homeland Security to analyze risk in rural America. That is a big step forward. For example, the disruption to the agricultural and food sectors by acts of bioterrorism would result in considerable economic and health consequences.

This amendment will ensure that the grants board established by H.R. 1544 contain a member with expertise in this very area. The designee of this amendment, the administrator of APHIS, the Animal and Plant Health Inspection Service, is well versed in agro-terrorism. This is a wise choice.

As a part of the USDA, APHIS is responsible for safeguarding the agriculture and food infrastructures not only from pests and diseases but also biological threats. Indeed, APHIS currently works closely with the Department of Science and Technology directorate, that is, the Department of Homeland Security's directorate, and plays an important role in agro-terrorism preparedness.

Specifically, APHIS is already involved in the following: accelerating the development of countermeasures to agro-terrorism; bio-forensic capabilities; deploying diagnostic technologies; and research, development and training activities.

For all of these reasons, Mr. Chairman, as chairman of the Committee on Homeland Security, I strongly urge my colleagues on the committee and my colleagues in the House to vote in support of the Berry amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BERRY. Mr. Chairman, it is most appropriate that this amendment will be accepted because it will give the Department of Agriculture their rightful place at the table in representing agriculture in this country in the protection of our homeland.

Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Mississippi (Mr. THOMPSON).

Mr. THOMPSON of Mississippi. Mr. Chairman, I appreciate the gentleman from Arkansas (Mr. BERRY) allowing me to speak on his amendment.

My district is reliant on agriculture. This amendment is very supportive of the agriculture through the APHIS program. If the administrator is allowed to participate in the grants board, it will allow us, from an agricultural standpoint, to be adequately considered. I would like to compliment the gentleman from Arkansas (Mr. BERRY) for bringing this to our attention. It is timely in terms of an amendment, and it is something that I am happy to support.

Mr. COX. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama (Mr. MIKE ROGERS).

Mr. ROGERS of Alabama. Mr. Chairman, I thank my colleague from California for yielding me time.

Mr. Chairman, I rise today in strong support of the amendment offered by the gentleman from Arkansas (Mr. BERRY).

This amendment would add the administrator of the Animal and Plant Health Inspection Service as a full member of the First Responder Grants Board.

As an integral part of the Department of Agriculture, the Animal and Plant Health Inspection Service monitors our Nation's agriculture to protect against agricultural pests and diseases. It also works closely with the Department of Homeland Security in agro-terrorism preparedness and prevention.

Under the bill debated today, the First Responders Grants Board will be charged with prioritizing grant applications on the basis of risk. Adding the administrator to the board would help ensure this panel has the necessary expertise when considering the risks to rural America.

In my home State of Alabama, for example, agriculture is the number one industry, employing nearly half a million people. An agro-terrorist attack in Alabama could cripple our economy.

So it is essential we include these changes today to ensure that the voice of rural America is heard during the process.

I would also like to note this amendment has the full support of the Committee on Agriculture on which I sit. I thank my colleague, the gentleman from Alabama (Mr. BERRY), for offering this commonsense amendment. I also thank the gentleman from California (Mr. COX) for his efforts on this subject and urge my colleagues to support the amendment.

Mr. BERRY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. COX. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas (Mr. BERRY).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. BERRY

Mr. BERRY. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. BERRY:

At the end of section 1804(c)(1) (page 25, line 19), add the following: "The Board shall coordinate with State, local, regional, and tribal officials in establishing criteria for evaluating and prioritizing applications for covered grants.".

The Acting CHAIRMAN. Pursuant to House Resolution 269, the gentleman from Arkansas (Mr. BERRY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I too represent a small rural State. We always struggle to have enough resources to deal with some of the possible threats that we have, and one of the important resources that the gentleman from Mississippi (Mr. THOMPSON) and I share is the Mississippi River. It is an incredibly important resources to this Nation and to our national security and to our homeland security.

It is for just that reason that I offer this amendment, to draw attention to the fact that sometimes as we make public policy we tend to lose sight of the things that may be more important than the number of people involved. But most of all, when we do things in Washington, D.C., it is so very important to be in touch with the people at home.

What this amendment does is call for the Department of Homeland Security to coordinate with State, local, and tribal governments in establishing the criteria for prioritizing applications for the first responders grant. This is something that I think is critical, that we take the information and have a coordination between our local governments and the Department of Homeland Security as they make the critical decisions about where these resources will be placed.

I appreciate, again, very much the chairman and the ranking member on the subcommittee being friendly towards this amendment and receiving it well. Certainly it is something that will prevent the States from devoting significant time, resources, and funding to establish a State homeland security plan in accordance with this bill, only to find out after they apply for a grant that they have completely missed the mark on what the grant board established as its priority.

Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi (Mr. THOMPSON).

Mr. THOMPSON of Mississippi. Mr. Chairman, I rise in support of this amendment.

This amendment would ensure that the First Responder Grant Board would coordinate with State and local governments. Throughout this process we have sought to ensure that State, local, and tribal governments are consulted throughout this process. This amendment would make it crystal clear to DHS that we expect them to listen to State, local, and tribal governments as they make their funding decisions. I support this amendment.

Mr. BERRY. Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, I claim the time in opposition to this amendment, notwithstanding that I rise in its support.

The Acting CHAIRMAN. Without objecton, the gentleman from California (Mr. COX) is recognized for 10 minutes.

There was no objection.

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I strongly support this Berry amendment. It is completely consistent with the intent of the Faster and Smarter Funding For First Responders Act. Indeed, H.R. 1544 contains many other provisions with the same purpose: to enhance Federal, State, local, regional and tribal government cooperation in the process of establishing the criteria for prioritizing applications for covered grants. For example, the bill directs the Secretary to establish a first responders task force.

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This task force, which will advise the Secretary of Homeland Security on preparedness benchmarks, will consist of 25 members, representative of all of the first-responder disciplines and a substantive cross-section of geography from across the Nation.

The Berry amendment, in my view, will help ensure that the Grant Board's risk-based analysis adequately addresses the concerns of State, local, regional and tribal governments who, after all, have direct jurisdiction and control over the first responders who are the focal point of this legislation. This amendment will provide important comfort to covered grant applicants as the department shifts from a political, formula-driven system to one based on risk.

A dramatic programmatic shift such as the one established by this bill cannot be made in a vacuum. It must be made in close coordination with the people most affected. That is the purpose of the bill as it is written.

I think the Berry amendment clarifies that purpose in a useful way, and I strongly support it.

Mr. Chairman, I yield back the balance of my time.

Mr. BERRY. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. PASCRELL), the distinguished ranking member of the Subcommittee on Emergency Preparedness, Science, and Technology.

Mr. PASCRELL. Mr. Chairman, I support the Berry amendment. The gentleman from Arkansas has a tendency and a knack to present amendments on this floor that are reasonable, precise and relevant. This is a very relevant amendment, as our chairman just pointed out.

We need greater coordination between the Department of Homeland Security with State, local and tribal officers. I believe that this is wise public policy.

Secondly, State and local officials know better than anyone, they certainly know better than anybody in Washington, the risks and the vulnerabilities that they face. Washington must work outside of the Beltway for the greatest effectiveness.

We know in examining not only the 9/11 Commission report but every other report since the tragedy of 9/11 that the lack of coordination between the various levels of government is a very, very dangerous situation. This bill, in its totality, strikes at that very vulnerability, and this amendment, I think, precisely talks to the very important factor of coordination of those agencies.

I want to commend the sponsor of the amendment.

Mr. BERRY. Mr. Chairman, I have no further speakers. I thank the chairman and the ranking member of the committee for their consideration, and I yield back the balance of my time.

The Acting CHAIRMAN (Mr. TERRY). The question is on the amendment offered by the gentleman from Arkansas (Mr. BERRY).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 109–77.

AMENDMENT NO. 3 OFFERED BY MR. BASS

Mr. BASS. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. BASS:

In section 3(a)(2), in the quoted section 1806(d), re-designate existing text as paragraph (1), and insert after paragraph (1) the following:

(2) An applicant for a covered grant may petition the Secretary for the reimbursement of the cost of any activity relating to prevention (including detection) of, preparedness for, response to, or recovery from acts of terrorism that is a Federal duty and usually performed by a Federal agency, and that is being performed by a State or local government (or both) under agreement with a Federal agency.

The Acting CHAIRMAN. Pursuant to House Resolution 269, the gentleman from New Hampshire (Mr. BASS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from New Hampshire (Mr. BASS).

Mr. BASS. Mr. Chairman, I yield myself such time as I may consume.

This is an amendment that I think adds flexibility and workability to the bill. What it will do is it will allow States to petition the Secretary to use grants that are covered for expenditures that are considered anti-terrorism activities and are normally duties that would be exercised by the Federal Government. What is not currently allowed in the bill are personnel costs or agreements between State and local entities that affect a Federal agency.

The type of activities that this amendment would permit include, but are not limited to, border duties, assisting with the Coast Guard and ports, waterways, coastal security duties or detention of illegal aliens on a temporary basis until Federal authorities can take over.

What the amendment does not do is make any changes in the allocation of resources from one entity to another, and it does not allow States to petition to recover from the Federal Government costs for services that are performed by State law enforcement agencies that are not terrorism-related.

This amendment really does add flexibility to the administration of these grants. It would allow, for example, in our seacoast port of Port Smith to reimburse them for the State police boat that currently supplants those efforts being undertaken by the Coast Guard at the behest of the Coast Guard. It allows local police departments such as the police department in New Ipswich, New Hampshire, that had to detain illegals for a period of time, had to deal with them and could not get the immigration department involved quickly enough, to apply for reimbursement. It also allows local police departments to enforce border crossings, if necessary. It allows them to apply for reimbursement. It does not guarantee it, but it allows them to apply.

I hope that the committee will accept this amendment. I know we have had good discussions on both sides with it.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. For what purpose does the gentleman from Mississippi (Mr. THOMPSON) rise?

Mr. THOMPSON of Mississippi. Mr. Speaker, in order to speak on this amendment, I claim the time in opposition.

The Acting CHAIRMAN. The gentleman from Mississippi (Mr. THOMPSON) is recognized for 10 minutes.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, only for the sake of discussion and procedure do I do that, as I am in absolute agreement with the author of the amendment.

This amendment adds an additional paragraph for reimbursement of costs that a State may incur for terrorism preparedness. It would allow for the reimbursement for activities that a State may perform which are traditionally Federal responsibilities. It is common sense, it is the right thing, and I support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BASS. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. NORWOOD), my cosponsor.

Mr. NORWOOD. Mr. Chairman, I thank the gentleman from New Hampshire (Mr. BASS), my friend, for the time.

Mr. Chairman, this amendment the gentleman from New Hampshire (Mr. BASS) and I are offering today is about allowing States and localities some flexibility with their Federal homeland security funds. This flexibility is vital, especially when States and localities are doing the job of the Federal Government. Essentially, we believe that when States and localities are performing Federal homeland security functions, they should be able to tap into Federal homeland security dollars.

First, let me say and make very clear that the gentleman from California (Chairman COX) and his committee had a tough assignment, and I very much like what they have done and respect the product that they have produced. I strongly support getting this first-responder money out of the currently clogged pipeline, and that is basically what we are trying to do here today, and my congratulations to the chairman for doing just that.

I have a major homeland security concern that I really do not think is getting nearly enough attention or funding. Additional resources are needed to help law enforcement deal with the problem of illegal aliens, a Federal issue and responsibility closely related to our security and anti-terrorism concerns. I believe our amendment would help these States and localities deal with this problem.

Last Congress, I introduced the CLEAR Act which was designed to clarify State and local law enforcement involvement in combating illegal immigration. I need not remind the body that many of the 9/11 hijackers were here illegally, that many of the World Trade Center bombers were here illegally, and many of the plotters for other terrorist acts are here illegally. Immigration and border issues are central to our homeland security and anti-terrorism efforts.

In promoting that bill, two problems were identified for law enforcement, the lack of resources and the lack of authority to do what needs to be done. While this bill does not deal with the authority part of the problem, it does deal with the resources part of the solution. Therefore, our law enforcement folks and others who are increasingly taking on anti-terror and homeland security operations should be able to access Federal funds for performing these Federal roles.

The gentleman from New Hampshire (Mr. BASS) and I have different districts, with different needs, but we agree that this language provides some flexibility to get at our individual concerns. Of course, the Department of Homeland Security has a role in oversight under the amendment so there are some checks and balances, appropriately. We are intentionally not talking about an unfettered ability to send the Feds a bill for services rendered. Neither of us have interest in that.

I urge my colleagues to support this amendment. I urge my colleagues to support the underlying bill, and I do thank the committee for working with us on this language, and I want to continue to work with the gentleman from California (Mr. COX) in addressing this critical problem.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. COX).

Mr. COX. Mr. Chairman, I thank the gentleman from Mississippi (Mr. THOMPSON) for the time.

I rise in support of the Bass-Norwood amendment. I strongly support this amendment, and I do so for several reasons.

First, since the attacks of 9/11, States and local governments are increasingly stepping up to the plate and assuming some of what have traditionally been the Federal Government's responsibilities in the area of terrorism preparedness. For example, many State and local governments have entered into agreements with the U.S. Coast Guard or with immigration and customs enforcement or other elements of the Department of Homeland Security to perform responsibilities relating to homeland security.

Second, the Bass-Norwood amendment, which would permit petitioning the Secretary for reimbursement for expenses in this regard, is fiscally responsible. It would not, for example, permit grant recipients to use covered grant funds to supplant routine State or local government expenses. It does not permit, for example, reimbursement for personnel costs.

The Bass-Norwood amendment is also properly targeted in scope. States and localities may defray the costs of their assumed homeland security duties only with the consent of the Secretary of Homeland Security, and States and localities that have assumed these kinds of duties have to have done so pursuant to an agreement with a Federal agency.

The Federal Government, in my view, should encourage States and localities to assist the Federal Government in providing security where it would otherwise be lacking, and that is what this amendment is going to help us do. To support this policy, it is incumbent upon Congress to permit State and local governments to petition the Secretary for reimbursement.

The Bass-Norwood amendment is consistent with other provisions of this bill. Specifically, H.R. 1544, the underlying bill, permits covered grant recipients to satisfy the matching requirements through in-kind contributions of goods or services, or other equipment, fuel, maintenance, personnel overtime and other costs that are associated with State and local assumption of Federal terrorism preparedness duties.

For all of these reasons, I strongly support the Bass-Norwood amendment. I congratulate its authors for presenting it before the House.

Mr. THOMPSON of Mississippi. Mr. Chairman, I reserve the balance of my time.

Mr. BASS. Mr. Chairman, I have no further speakers. I urge the support of this amendment, and I yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield back.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire (Mr. BASS).

The amendment was agreed to.

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The Acting CHAIRMAN (Mr. TERRY). It is now in order to consider amendment No. 4 printed in House Report No. 109–77.

AMENDMENT NO. 4 OFFERED BY MR. WEINER

Mr. WEINER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. WEINER:

In title XVIII of the Homeland Security Act of 2002, as proposed to be added by the bill, insert at the end the following new section (and make such technical and conforming changes as may be necessary):

SEC. 18___. LIMITATION ON NUMBER OF UASI GRANTEES.

In carrying out the Urban Area Security Initiative, or any successor to such grant program, the Secretary may award not more than 50 grants for any fiscal year.

The Acting CHAIRMAN. Pursuant to House Resolution 269, the gentleman from New York (Mr. WEINER) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Chairman, I yield myself such time as I may consume.

The purpose of this amendment is simple. First of all, let me say what this amendment is not. This amendment is not an effort to litigate again the conflict that has arisen in this House between urban Members and rural Members. It is not an effort to revisit the formula question about the minimums. I think that the committee has done a fairly good job on trying to manage that situation, although it is not perfect. My belief is that there should be no minimum guarantee. Money should be allocated based on threats. That is the way I think it should be done, but I understand the efforts of the ranking member and the chairman to address that problem; and they have done so, I think, better than we have up until now.

The question still arises about whether or not we should have a portion of our homeland security funding stream that is dedicated for what we in Congress said we wanted in the 2003 omnibus, which is a pool of money that is designated to go, in the language of the legislation, to address the unique equipment, training, planning, and exercise needs of selected large high-threat urban areas.

We have now, through the course of time, expanded that not just to be cities; it is literally the areas around cities, the cities and the suburbs, and in many cases it is also the ports authorities and the airports authorities of these major cities.

What my legislation would do would be to address a creeping problem that was not created by this Congress but has been created by the Department of Homeland Security. These high-threat urban area grants, which started out going to six cities, have expanded over time to the point that now they are over 50 cities, and there are also additional areas and airports authorities and the like that get it.

What my legislation would do would be to say, look, there are going to be times when we are going to want to take a city or an area, and they may be under less threat or we may want to add one, but we must not continue down the path for, I think, largely political reasons each year adding more and more and more cities to this pot.

Here is what it is doing. We in the Congress are expressing our views to increase the funding for that pool of money; but the Department of Homeland Security, by administrative fiat, is adding the number of cities that are available, therefore actually reducing the amount and percentage that the larger cities and areas have to contend with.

Now, for my colleagues who represent rural areas, my colleagues who represent suburban areas, my colleagues who represent areas that are not traditionally thought of as large urban areas, I want to assure you nothing in this amendment in any way limits your ability to get funds from this pot. Because under language written by the chairman and the ranking member, now areas can pool together. For example, if Kansas and Iowa and Nebraska want to get together and say we want to create a pool to protect against agro-terrorism, for example, they could be added as a group under my amendment very easily.

This simply says one thing: we have to stop adding more and more cities when that was clearly not the intention of Congress to do. We said in our actions that we wanted this to be a select number of areas. If the Department of Homeland Security is going to continue to add to that list, until we essentially have every single eligible city up to the limit that is laid out in the law, what is the purpose of having the bifurcated system? Maybe we should not.

I mean, I happen to believe that we were trying to address a legitimate concern that many have raised, including the 9/11 Commission, that said, look, there are some areas and cities that we want to have a distinct pot of money for.

Before I reserve, let me just make another point. We are talking about approximately 25 percent of the overall funding stream for homeland security. We are not talking about 75 or 80 percent. We are talking about a discrete amount of money, a discrete percentage of money which would be held for these 50 or fewer cities. Now, I happen to believe 50 is a very high number. When you start thinking about the 50 largest cities, the largest metropolitan areas, there are cities on the list presently that do not even have minor league baseball teams, yet they are considered major urban areas.

I am not saying that we should take all of the funds and just dedicate them to my hometown. I know that is not anything that we should do. We have a law here that is crafted to distribute money based on different types of threat, different types of ways. But we in the legislature here in Congress have said very clearly that we believe there should be a pot of money that is protected from the traditional political back and forth. Let us continue to protect that pot of money.

If you vote for my amendment, it does not mean any of your constituents are not eligible for this money. It does not mean that. But it does mean if you are one of these cities either now, in the past, or in the future, you are not going to be on the list of 300 or 400 cities. It is going to be limited to 50 at most.

Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi (Mr. THOMPSON).

Mr. THOMPSON of Mississippi. Mr. Chairman, I thank the chairman of the committee for yielding me this time to speak in opposition to the amendment.

This amendment would limit the number of urban area security initiative grants to 50. I understand what the gentleman from New York (Mr. WEINER) is trying to accomplish; and he has to do it, he is from New York. However, it is unreasonable to set an arbitrary number, in this case 50, for the number of UASI or regional grants.

In the bill, we already limit the number of regions by requiring a region to have at least 1.65 million people. This would adequately limit the number of recipients in itself. So I oppose this amendment.

Mr. COX. Mr. Chairman, I yield myself such time as I may consume, and I too rise in opposition to this amendment.

I agree with the intention of the author of the amendment to limit the number of grant awards under the Urban Area Security Initiative, but I do not agree with the thrust of the amendment, which is to, in essence, perpetuate a system that sends money exclusively to cities and ignores regions.

One of the important reforms made in H.R. 1544 is that we open up the process to regional grant applications. I come from the most populated State in America: California. My county, just one of 58 counties in California, has 3 million people. Los Angeles, obviously, is an enormous urban center. But the important thing to note about both Los Angeles and New York is that the L.A. region and the New York City region are bigger and geographically more relevant than the city qua city. The municipal boundaries of New York or the municipal boundaries of Los Angeles are not nearly so important, if there is a radiological attack, for example, as understanding where that plume is going to go and what are the evacuation corridors.

We have learned since 9/11 we have got to have regional collaboration. In my home county, Orange County, which as I said has 3 million people, we had two cities get Urban Area Security Initiative money. This was like the fickle finger of fate that touched those two cities and gave them all the cash and ignored the County of Orange, ignored the municipalities situated right next door to them. Happily, due to the leadership of Sheriff Mike Carona and the chairman of the Board of Supervisors Bill Campbell, and the mayor of Santa Ana, Miguel Pulido, and the mayor of Anaheim, Curt Pringle, there has been a workout, a local arrangement made to equitably distribute these urban area security initiative monies. But that is not the way the program is designed.

We have made sense of it in California despite the nonsense of the Federal program itself. Perpetuating this program, trying to focus more emphasis on it is the wrong way to go. UASI is broke, and it makes no sense to place more emphasis upon it.

Finally, let me say that only regional grants, not State grants, may be able to address certain unique terrorism preparedness needs, such as risks that cross interstate or international boundaries, for example, bioterrorism or agro-terrorism. In this respect, I agree with the comments made by the author of the amendment. I think that to the extent we emphasize a regional approach, a mutual-aid approach, we will find ourselves better prepared in the future. That is the aim, one of the chief aims of H.R. 1544, the Faster and Smarter Funding for First Responders Act, and for those reasons I counsel opposition to this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. WEINER. Mr. Chairman, I yield myself such time as I may consume.

First of all, in reaction to my good friend, the gentleman from Mississippi, he is incorrect. The bill defines the size of a region at 1.65 million, but it leaves open cities of any type. We do not know, since the bill is silent on that distinction. You can have a city of 20,000 and be eligible for this. You can have a city of 10,000 and be eligible. The gentleman from Mississippi is correct that a region has to be 1.65 million, but nowhere does it restrict the size of the city.

As for the chairman, the chairman, who has done an excellent job on this bill, regrettably is incorrect as well. There is nothing in my amendment that restricts this from going to cities or to regions. As I read from line 4 of the bill: "may not award any more than 50 grants for any fiscal year." If the Department of Homeland Security, which by the way this issue is somewhat vague in the bill as drafted, it is silent on how this program is going to be divided. If the Department of Homeland Security says grants are available to areas, which they have been in the past, fine. Limit it to 50. If they say it should be cities, limit it to 50.

If we take the chairman and the ranking member's argument to its logical extension, you could conceivably in this portion of the bill, which the language says "shall be to exercise the needs of selected large, high-threat urban areas," it could be any city of any size. And I do not believe that was the intention of our legislation.

I think what we are doing, and with all due deference to the gentleman from Mississippi, I am not just offering this because I am from New York. It could be that we add the 200 cities to this, 300 cities, 400, 500 cities, and we completely undermine the intention of this Congress when we created the program to begin with. Maybe you are right. In that case, do away with the program. It is not any longer going to be a high-threat, high-density urban area grant program. Then let us eliminate it. Put it in with the other pot of money. But if we are going to have it, let us preserve its integrity.

Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, I yield back the balance of my time.

Mr. WEINER. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I thank the gentleman for yielding me this time, and for his amendment, which I rise in strong support of.

The amendment of the gentleman from New York (Mr. WEINER) would limit the high-threat grants to 50 total grants. If this amendment were enacted, it would ensure to a greater degree that high-threat funding truly goes to what it is intended to do, go to high-threat areas.

When Congress first created the so-called high-threat program, it was limited to seven cities; yet last year that number jumped to 80 grants, with 50 cities getting funding and 30 transit agencies. This year, the Department again funded 50 cities. The practical effect is that those cities that are the highest threat may see the amount of money directed towards them diminished because of the ever-increasing pie.

For example, 2 years ago, and I give the example of the city I represent, but it could be other cities, New York City received $150 million in funding. But last year, even though we remained high-threat number one in the Nation by all accounts, by all of the intelligence agencies, last year we saw a decrease of 69 percent to $47 million. This year, again we saw a dramatic shift upwards to $214 million.

I think it is very easy to argue that New York City has been under the same consistent threat since 9/11, but this funding certainly does not reflect that. The example that I use of New York City is just one example of how it has varied widely across cities.

One of the greatest reasons for this yo-yo funding is when you increase who is eligible, you decrease your options on how you distribute. So we need to make sure that this funding is based on risk rather than political calculations, and limiting the number of grants to 50 is certainly reasonable and a fair way.

May I speak also very briefly on how far preferable the House version is to the Senate version in the underlying bill.

Mr. WEINER. Mr. Chairman, I yield myself the balance of my time.

There seems to be some misunderstanding, and I am waiting for some clarification on our side, if the majority side has clarification, because it might lead me to withdraw my amendment.

If someone will stand up and say that a city of less than 1.65 million will be ineligible to receive these grants in the future, as has been articulated by the ranking member and implied by the chairman, then we are on to something.

☐ 1315

The language in the bill refers to the area which is this new thing that we are trying to do, I think, for good reason. The question is, will a city of 50,000 or 60,000 who does not form a coalition with four or five or six other cities or other regions, will they still be eligible? That is the problem.

I think that what we have here is a very good bill that continues a bifurcated system. On one hand, you have every single corner of the country eligible for money based on threat, based on the Weiner language that was introduced in committee, and I am glad you accepted; on the other side, we have this thing that now only limits the area to 1.65 million. What I am trying to do is not say a city can be on or off but say, let us limit it to 50.

The Acting CHAIRMAN (Mr. PUTNAM). The question is on the amendment offered by the gentleman from New York (Mr. WEINER).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. WEINER. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. WEINER) will be postponed.

Mr. CASTLE. Mr. Chairman, I ask unanimous consent to strike the last word to enter into a colloquy with the gentleman from California, the chairman of the Committee on Homeland Security.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Delaware?

There was no objection.

Mr. CASTLE. Mr. Chairman, like most of my colleagues here today, I support efforts to reform our current system to ensure that more funding for our first responders is determined on the basis of risk. The 9/11 Commission noted that one of our greatest challenges would be in how to allocate these limited resources, and I agree. The gentleman from California's determination for taking on this challenge is commendable.

As the gentleman knows, I have been concerned about the Department's ability to accurately determine national threats, vulnerabilities and consequences. In its report, the 9/11 Commission also notes that, due to the overwhelming focus on specific high-risk areas, terrorists might begin turning their attention to softer, less-protected targets.

As a Member representing our Nation's sixth smallest State by population, second smallest by size, I am concerned that, in improving the current system, we might inadvertently overlook citizens in States considered less likely to be vulnerable. In Delaware, the State Emergency Management Agency has expressed some concern that our high-risk targets may be neglected. Such omissions force small States like mine to dip into other important programs, such as disaster prevention, in order to provide necessary resources and personnel to handle certain attacks.

There needs to be some balance here and recognition that real homeland security needs exist outside of metropolitan areas. To the best of my knowledge, the Department of Homeland Security has not completed a comprehensive national risk assessment. It seems that this type of national risk assessment should serve as a basis for determining how to allocate first-responder grants, but apparently, a thorough study will not be available for several years.

I would appreciate the chairman's thoughts on this.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from California.

Mr. COX. Mr. Chairman, I appreciate the comments of the gentleman from Delaware. I would like to assure him that the bill before us today is designed to prepare every State, small, medium and large, to respond in the event of a terrorist attack.

The Department's current method for allocating terrorism preparedness grant funds has not always well served small and medium sized States, including Delaware. The current grant system takes risk into account only in a limited way by specially earmarking funds to a handful of large urban areas under the urban area security initiative. With respect to all the rest of the funding, the current system ignores the threats, vulnerabilities and consequences of acts of terrorism anywhere else in the United States. Yet throughout America, there are populations and critical infrastructure that terrorists have within their sights.

H.R. 1544 would eliminate this anomaly by requiring a risk-based analysis that covers every part of America, urban, suburban and rural, based on objective criteria. To this end, H.R. 1544 establishes a first-responder grant board to prioritize and evaluate all applications for covered grants on the basis of risk and need.

During this evaluation and prioritization process, the grant board must consider a number of factors, including, but not limited to, various critical infrastructure sectors in all areas of the Nation, urban, suburban and rural. Indeed, the 16 critical infrastructure sectors enumerated in H.R. 1544 encompass a large number of critical infrastructure sectors, including agriculture and food, banking and finance, energy, public health and health care, government facilities, transportation systems, and water.

As Delaware's former Governor, the gentleman knows that Delaware contains a great deal of critical infrastructure, including chemical plants, banking and finance, and ports. But he and I also know that, under current law, the Department does not consider these factors in awarding grant funds to his State. Delaware has no jurisdiction that receives grant funds from the urban area security initiative. As a result, like many States under the current system, Delaware only receives grant moneys under the State homeland security grant program. But funding under that program is awarded solely on the basis of an arbitrary political formula without regard to Delaware's actual risk or need. Passage of this legislation, the Faster and Smarter Funding For First Responders Act, will remedy these problems.

Mr. CASTLE. Reclaiming my time, Mr. Chairman, I thank the gentleman from California for his comments. The gentleman is correct in that my home State, and every other State, deserves equitable consideration. I appreciate his willingness to protect adequate grant allotments for first responders in small States. I support the gentleman's goal of getting these important funds to communities where they can be used effectively and look forward to working with him throughout this process to ensure all States receive fair and realistic homeland security funding.

The Acting CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 109–77.

AMENDMENT NO. 5 OFFERED BY MR. CASTLE

Mr. CASTLE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. CASTLE:

At the end of the bill, add the following:

SECTION 7. REMOVAL OF CIVIL LIABILITY BARRIERS THAT DISCOURAGE THE DONATION OF FIRE EQUIPMENT TO VOLUNTEER FIRE COMPANIES.

(a) LIABILITY PROTECTION.—A person who donates fire control or fire rescue equipment to a volunteer fire company shall not be liable for civil damages under any State or Federal law for personal injuries, property damage or loss, or death caused by the equipment after the donation.

(b) EXCEPTIONS.—Subsection (a) does not apply to a person if—

(1) the person's act or omission causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct; or

(2) the person is the manufacturer of the fire control or fire rescue equipment.

(c) PREEMPTION.—This Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that notwithstanding subsection (b) this Act shall not preempt any State law that provides additional protection from liability for a person who donates fire control or fire rescue equipment to a volunteer fire company.

(d) DEFINITIONS.—In this section:

(1) PERSON.—The term "person" includes any governmental or other entity.

(2) FIRE CONTROL OR RESCUE EQUIPMENT.—The term "fire control or fire rescue equipment" includes any fire vehicle, fire fighting tool, communications equipment, protective gear, fire hose, or breathing apparatus.

(3) STATE.—The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

(4) VOLUNTEER FIRE COMPANY.—The term "volunteer fire company" means an association of individuals who provide fire protection and other emergency services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that association or in the nearest such association with an entry level full-time paid individual.

(e) EFFECTIVE DATE.—This Act applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after the date that is 30 days after the date of the enactment of this Act.

The Acting CHAIRMAN. Pursuant to House Resolution 269, the gentleman from Delaware (Mr. CASTLE) and the gentleman from Mississippi (Mr. THOMPSON) each will control 10 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of my amendment to H.R. 1544, which is identical to legislation I introduced, H.R. 1088, the Good Samaritan Volunteer Firefighter Assistance Act. This legislation overwhelmingly passed the U.S. House of Representatives last Congress, 397–3, and was also included as an amendment to H.R. 10, the 9/11 Recommendations Implementation Act. Unfortunately, it was not in the final conference report.

My amendment removes a barrier which currently prevents some organizations from donating surplus fire fighting equipment to fire departments in need. Under current law, the threat of civil liability has caused some organizations to destroy fire equipment rather than donating it to volunteer rural and other financially strapped departments. We know that, every day across the United States, firefighters respond to calls for help. We are grateful that these brave men and women work to save our lives and protect our homes and businesses. We may presume that our firefighters work in departments with the latest and best fire fighting and protective equipment when in reality there are an estimated 30,000 firefighters who risk their lives daily due to a lack of basic personal protective equipment, PPE. In both rural and urban fire departments, limited budgets make it difficult to purchase more than fuel and minimum maintenance. At the same time, certain industries are constantly improving and updating the fire protection equipment to take advantage of new, state-of-the-art innovation. Sometimes the surplus equipment has never been used to put out a single fire. Sadly, the threat of civil liability causes many organizations to destroy rather than donate millions of dollars of quality fire equipment.

Not only do volunteer fire departments provide an indispensable service, some estimates indicate that the nearly 800,000 volunteer firefighters nationwide save State and local governments $36.8 billion a year. Of the 26,000 fire departments in the United States, more than 19,000 are all volunteers and another 3,800 are mostly volunteer. Thirteen States, Alabama, Arizona, Arkansas, California, Florida, Illinois, Indiana, Missouri, Nevada, New York, Pennsylvania, South Carolina and Texas, have passed similar legislation. In the 7 years of the Texas program, more than $12 million worth of firefighter equipment has been donated and given to needy departments. This includes nearly 70 emergency vehicles and more than 1,500 pieces of communications equipment as well. In total, more than 33,000 items have been donated.

Congress can respond to the needs of fire companies by removing civil liability barriers. Equipping our Nation's first responders is essential as we fight the war on terror. I want to thank the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for his past support of this measure, and I am hopeful the esteemed chairman of the Committee on Homeland Security and my colleagues will again join me in supporting this measure.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Chairman, I oppose this amendment to the legislation. While I salute the hard work of our volunteer firefighters, it appears to me that we have a very extreme solution to a problem that does not exist. Although the amendment purports to encourage donation of fire fighting equipment by eliminating civil liability barriers, there are no reported cases of businesses refusing to donate their equipment nor cases of volunteer fire fighting companies suing their donors. Whatever the so-called problem is could be solved or addressed without congressional action.

For example, in the 108th Congress when the similar legislation was before the Committee on the Judiciary, we heard during our committee deliberations that a volunteer fire department could simply sign a contract waiving liability of the donors from negligence resulting from the donated fire equipment. This tactic would ensure that fire companies are informed and have consented to the immunity of the donor. Congress does not have to mandate the immunity. The groups can agree to it if they want or if the donor insists.

Mr. Chairman, this is not a Federal issue. It is a matter that can be dealt with by the States. There is nothing Federal about local volunteer fire departments. This liability is a State issue, and many States have already dealt with it. For example, some States provide immunity but only after requiring certification that the equipment is safe. This amendment provides no such immunity. For the safety of our volunteers, companies should not be given blanket immunity for donating fire equipment. While it may be true that most of the equipment is perfectly usable, companies should be prevented from donating obsolete equipment known to be of dubious safety. Certain equipment, like protective gear and breathing apparatus, can deteriorate over time and may not be suitable for use. So the threat of civil liability causes some to think twice about donating dangerous equipment, equipment which may place our firefighters in danger. If this amendment passes, they will not have to be concerned about donating that dangerous equipment.

I would hope that we would defeat the amendment, allow the volunteer firefighters to waive the liability if they want, but not impose a federally mandated waiver on everybody whether they want to use it or not. I urge my colleagues to reject the amendment which may, in fact, endanger our firefighters.

Mr. CASTLE. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from California (Mr. COX).

Mr. COX. Mr. Chairman, I thank the distinguished gentleman from Delaware for yielding the time but more importantly for offering this important amendment. The House has voted in support of this amendment before. During the 108th Congress, twice it passed the House. As a stand-alone measure, all by itself, on September 14, 2004, and when it was up on its own merits, the recorded vote was 397–3.

This is a commonsense amendment that is vitally important. It would provide protection to people who donate fire control or fire rescue equipment, but more importantly, it would better equip and protect our Nation's firefighters, and that is what this bill is all about. This bill is for our first responders. So is the Castle amendment. It will encourage fire departments, the private sector and other people to donate equipment that the firefighters desperately need so that they can better protect every American.

Many people incorrectly assume that all firefighters work in departments that have the latest and the best equipment. The reality, unfortunately, is far different. It is estimated that 30,000 firefighters every day risk their lives unnecessarily due to inadequate personal protective equipment, just to cite one example.

This is a fiscally prudent amendment. It is going to stretch our dollars. It serves the interests of taxpayers by extending the life of equipment they have already paid for. This is expensive equipment, and it ought to be used. And it provides poorer jurisdictions with capabilities they might not otherwise have and might not have the ability to attain.

I congratulate the gentleman for offering the amendment. I strongly support it, and I urge my colleagues to vote in support as well.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

This amendment would remove civil liability barriers from the donation of fire equipment for volunteer fire companies. As a former volunteer firefighter from a small community, I understand how important it is to have the equipment you need to protect fellow citizens. Although I am going to support this amendment, the issue needs to be studied further once we get into conference. I am concerned that there are no assurances that the equipment would perform as expected, and therefore, many of the firefighters who would use this equipment potentially could be harmed.

□ 1330

We must ensure that our firefighters are adequately protected.

Mr. Chairman, I yield back the balance of my time.

Mr. CASTLE. Mr. Chairman, I yield myself such time as I may consume.

I will close briefly. Let me just reiterate, this has been actually before us before. It is actually a popular amendment. People want it on their legislation for the most part. So we have had a little trouble getting it signed into law because it keeps passing and then getting dropped off for various things. But we voted on it back in September, and I do not know what has changed since then. The vote was 397 to 3. To the gentleman from Virginia's (Mr. SCOTT) credit, he did vote "no" then. I do not know if a single thing has changed in that interim time.

It is pretty simple. We have large corporations, for the most part, that have their own fire equipment. It is very modern. It is generally unused. They donate it. They are not going to donate it unless this liability provision is removed. Most big States, or at least a lot of big States, have looked at this and have made the decision to go ahead and do that. And it just seems to make sense all over this country, as we try to support our volunteer fire services, that we would give them the best equipment possible. And this simply would allow that to happen.

I would hope that every single Member of the House of Representatives this time would look carefully, if it comes to a roll call, at what is a rather simple amendment and would be in full support of it. And I hope that, as much as I enjoy presenting this amendment, that this is the last time we have to present and it becomes law sooner rather than later so that we can proceed, because even in the last year, we have, unfortunately, lost some opportunities for donation of equipment.

Mr. CONYERS. Mr. Chairman, I strongly oppose this amendment. While I salute the hard work of our volunteer firefighters, it appears to me that this amendment we have before us a very stringent solution in search of an actual problem. Although the amendment is supposed to encourage the donation of firefighter equipment by eliminating civil liability barriers, there have been no reported cases of businesses refusing to donate equipment nor cases of volunteer firefighter companies suing donators. At a minimum, this bill should be reviewed in accordance with regular House order. There have been no hearings or markups in the Judiciary Committee, no opportunity for the members to debate this issue to date.

Companies should not be given blanket immunity to companies for donating fire fighting equipment. While it may be true that most of the equipment is perfectly usable, companies should be prevented from donating obsolete equipment. Certain equipment like protective gear and breathing apparatuses can deteriorate over time and may not be suitable for reuse. If firefighters work to protect and keep citizens safe, should not they have the best protective equipment possible?

This "so-called" problem can clearly be solved without congressional action. First, volunteer fire companies could simply sign a contract waiving the liability of the donors for negligence resulting from donating firefighting equipment. This tactic would ensure that the fire companies are informed and have consented to the immunity of the donor. Second, this issue is a matter that can be dealt with by the States. There is nothing Federal about local volunteer fire departments; it is purely a State issue.

With all of the other pertinent issues that are before Congress, I find it problematic that we are entertaining this non-problem. I urge my colleagues to reject this truly anti-firefighter protection amendment.

Mr. CASTLE. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. PUTNAM). The question is on the amendment offered by the gentleman from Delaware (Mr. CASTLE).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. WEINER

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. WEINER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 88, noes 331, not voting 14, as follows:

[Roll No. 169]

AYES—88

Abercrombie
Ackerman
Andrews
Barrow
Bean
Bishop (NY)
Blumenauer
Brady (PA)
Capps
Capuano
Cardin
Clay
Cleaver
Conyers
Costello
Crowley
Davis (CA)
Davis (IL)
Delahunt
Doyle
Emanuel
Engel
Eshoo
Farr
Fattah
Filner
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Gutierrez
Higgins
Hinchey
Holt
Hoyer
Israel
Jackson (IL)
Kilpatrick (MI)
Lantos
Lee
Lewis (GA)
Lipinski
Lowey
Lynch
Maloney
Markey
McDermott
McGovern
McNulty
Meehan
Meeks (NY)
Melancon
Menendez
Miller, George
Moore (KS)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Olver
Owens
Pallone
Payne
Pelosi
Rangel
Rothman
Ruppersberger
Rush
Sabo
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Stark
Tierney
Towns
Udall (CO)
Van Hollen
Velázquez
Waters
Weiner
Woolsey
Wu

NOES—331

Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Cox
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Etheridge
Evans
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren, Zoe
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
Meek (FL)
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (WI)
Moran (KS)
Murphy
Murtha
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Oxley
Pascrell
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda T.
Sanders
Saxton
Schwarz (MI)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Udall (NM)
Upton
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watt
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—14

Becerra
Berkley
Berman
Hastings (FL)
Honda
Kingston
Larson (CT)
Millender-McDonald

Musgrave
Roybal-Allard
Sanchez, Loretta
Solis
Watson
Waxman

☐ 1356

Ms. LINDA T. SÁNCHEZ of California, Mrs. MCCARTHY, Ms. WASSERMAN SCHULTZ, Ms. HOOLEY, and Messrs GILCHREST, SALAZAR and ROSS changed their vote from "aye" to "no."

Mr. HIGGINS and Mr. HOLT changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. SOLIS. Mr. Chairman, during rollcall vote No. 169 on the Weiner amendment to H.R. 1544, I was unavoidably detained.

Had I been present, I would have voted "aye."

The Acting CHAIRMAN (Mr. PUTNAM). There being no other amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. PUTNAM, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1544) to provide faster and smarter funding for first responders, and other purposes, pursuant to House Resolution 269, reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. COX. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 409, noes 10, not voting 14, as follows:

[Roll No. 170]

AYES—409

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda T.
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—10

Allen
Berry
Cubin
Davis (AL)
Herseth
McDermott
Michaud
Moore (WI)
Ross
Sabo

NOT VOTING—14

Becerra
Berkley
Berman
Hastings (FL)
Honda
Kingston
Larson (CT)
Millender-McDonald
Musgrave
Roybal-Allard
Sanchez, Loretta
Solis
Watson
Waxman

☐ 1414

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 170 on final passage of H.R. 1544, I was unavoidably detained. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Ms. LORETTA SANCHEZ of California. Mr. Speaker, on Thursday, May 12, 2005, I was unavoidably absent due to a personal emergency. I request that the CONGRESSIONAL RECORD reflect that had I been present and voting, I would have voted as follows:

Rollcall No. 169: "No." On Agreeing to the Weiner Amendment to H.R. 1544.

Rollcall No. 170: "Yes." On Passage of H.R. 1544.

PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Mr. Speaker, I would like to submit this statement for the

RECORD and regret that I could not be present today, Thursday, May 12, 2005, to vote on rollcall vote Nos. 169 and 170 due to a family medical emergency.

Had I been present, I would have voted: "No" on rollcall vote No. 169 on an amendment to H.R. 1544 to limit the number of Urban Area Security Initiative grants during any given fiscal year to 50; and "aye" on rollcall vote No. 170 on passage of H.R. 1544—Faster & Smarter Funding for First Responders Act of 2005.

□ 1415

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT, MAY 13, 2005, TO FILE PRIVILEGED REPORT ON DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight May 13, 2005, to file a privileged report making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 1 of rule XXI all points of order are reserved.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT, MAY 13, 2005 TO FILE A PRIVILEGED REPORT ON DEPARTMENT OF INTERIOR APPROPRIATIONS ACT, 2006

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight, May 13, 2005 to file a privileged report, making appropriations for the Department of Interior and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 1 of rule XXI, all points of order are reserved.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1650

Ms. LEE. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1650.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I take this time for the purpose of inquiring of the Majority Leader the schedule for the week to come. At this time, I yield to the distinguished Majority Leader, the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding to me.

Mr. Speaker, the House will convene on Monday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of those bills will be sent to the Members' offices by the end of the week. Any votes called on these measures will be rolled until 6:30 p.m.

On Tuesday and the balance of the week, the House will convene at 10 a.m. for legislative business. We may consider additional legislation under suspension of the rules, as well as several bills under a rule: The Department of Homeland Security Appropriations Act for Fiscal Year 2006; the Department of the Interior Appropriations Act for Fiscal Year 2006; and H.R. 1817, the Homeland Security Authorization Act for Fiscal Year 2006.

Mr. Speaker, I yield back to the distinguished Minority Whip.

Mr. HOYER. Mr. Speaker, I thank the Majority Leader for that information. With respect, Mr. Leader, to the Homeland Security Authorization bill, can you presently tell us which day of the week will that be considered?

Mr. Speaker, I yield to my friend, the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding. While things could certainly change as we work through what will be a very busy week, we will likely have the two appropriations bills sort of bookending the week, with the Homeland Security authorization bill coming in the middle of those two bookends. So I would expect that the Homeland Security Appropriations bill would start as early as Tuesday morning. Then we would go to the Homeland Security authorization bill, and when it is finished, we would go to the Department of the Interior appropriations bill.

Mr. HOYER. Mr. Speaker, I thank the Majority Leader. Does the gentleman know at this point in time what type of rule, I notice that the gentleman from Texas (Mr. SESSIONS) is on the floor, what type of rule the Homeland Security authorization bill might be considered under?

Mr. Speaker, I yield to my friend, the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I appreciate the gentleman from Maryland (Mr. HOYER) yielding. I have not been advised as to what kind of rule. I think the gentleman that is sitting here is about to make an announcement in that regard. I would assume that it would be handled like most major bills.

As the gentleman knows, the Homeland Security authorization bill is the first Homeland Security authorization bill that this House has considered, and so there is a lot of room for negotiation.

Mr. HOYER. Reclaiming my time, Mr. Leader, I appreciate that observation. I agree with the gentleman from Texas. In light of the fact it is the first time that we will have considered an authorization bill from this committee and for this department since its formation as a separate piece of legislation, it would, hopefully, be one that would be open to perfection and amendment, if possible. So we will hear from the gentleman from Texas (Mr. SESSIONS) shortly on that.

Prior to Memorial Day, can you tell us, Mr. Leader, what appropriation bills you anticipate coming to the floor prior to that Memorial Day break?

We are going to have, obviously, Homeland Security and Interior next week. Do you know which bills you might be considering?

Mr. Speaker, I yield to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding.

As the gentleman knows, serving on committee, the committee has a very ambitious schedule, and it hopes to complete all 11 bills coming out of its committee by the Fourth of July recess, meaning all 11 bills out of the House by the Fourth of July recess. So, in addition to managing the two bills on the floor next week, the committee intends to mark up both the Military Quality of Life and the Energy and Water bills. So we would anticipate, if things go well, those two bills being on the floor the following week.

Mr. HOYER. Mr. Speaker, I thank the Leader.

Reclaiming my time. Lastly, Mr. Leader, there has been some discussion about having bipartisan support for the legislation, some of the legislation that is going through this body. We have had bipartisan support for some of those pieces of legislation.

There is a bipartisan bill, the Castle-DeGette bill, on stem cell research. I know it is a controversial piece of legislation, but it does have bipartisan support and broad support I might say.

Can the Leader tell us when the gentleman might contemplate that bill coming to the floor?

Mr. Speaker, I yield to my friend, the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding.

There is a good chance that the House will consider changes in the President's research policies between now and the August recess. The form and timing of this debate has yet to be determined. There is still a lot of discussion going on.

I could inform the gentleman that probably the timing for the floor, the best I could tell you is that timing for the floor would be sooner than later.

Mr. HOYER. Mr. Speaker, I appreciate not necessarily the specifics, but at least the assertion that it will be sooner. We believe this is a very important piece of legislation. It is. Obviously, strong views are held on this issue on both sides of the issue. But it is important to an overwhelming majority of Americans, one way or the other, and I would certainly hope, I know both the gentleman from Delaware (Mr. CASTLE) on your side of the aisle, the gentlewoman from Colorado (Ms. DEGETTE) on our side of the aisle, have both been working very hard on this piece of legislation. We would look forward to it coming to the floor as soon as practical, given the discussions that are ongoing. And I appreciate the Leader's observations. I thank the leader for his information.

ADJOURNMENT TO MONDAY, MAY 16, 2006

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday next for morning hour debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON THURSDAY, MAY 19, 2005

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Wednesday, May 18, 2005, it adjourn to meet at 9 a.m. on Thursday, May 19, for the purpose of receiving in this Chamber former Members of Congress.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS ON THURSDAY, MAY 19, 2005, FOR THE PURPOSE OF RECEIVING FORMER MEMBERS OF CONGRESS

Mr. DELAY. Mr. Speaker, I ask unanimous consent that it may be in order on Thursday, May 19, for the Speaker to declare a recess subject to the call of the chair for the purpose of receiving in this Chamber former Members of Congress.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING AMENDMENTS TO H.R. 1817, DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2006

(Mr. SESSIONS asked and was given permission to address the House for 1 minute.)

Mr. SESSIONS. Mr. Speaker, the Rules Committee may meet next week to grant a rule which would limit the amendment process for floor consideration of H.R. 1817, the Department of Homeland Security Authorization Act for Fiscal Year 2006. The bill was reported by the Committee on Homeland Security on May 3, 2005, and it received sequential referrals to the committees on Energy and Commerce, Government Reform, Judiciary, Science, Transportation and Infrastructure, Ways and Means and Intelligence.

Members should draft their amendments to the text of an amendment in the nature of a substitute that is intended to reflect the work of all the committees of jurisdiction. This amendment in the nature of a substitute will be posted on the Web sites of the Rules and Homeland Security Committees on Friday, May 13, 2005.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules in Room H-312 in the Capitol by 10 a.m. on Tuesday, May 17, 2005.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format and should check with the Office of the Parliamentarian to be certain their amendments comply with the Rules of the House.

APPOINTMENT OF MEMBERS TO BOARD OF VISITORS TO THE UNITED STATES NAVAL ACADEMY

The SPEAKER pro tempore. Pursuant to 10 U.S.C 6968(a), and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the Board of Visitors to the United States Naval Academy:

Mr. CUNNINGHAM of California;

Mr. WICKER of Mississippi.

APPOINTMENT OF MEMBERS TO BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION

The SPEAKER pro tempore. Pursuant to 20 U.S.C. 2004(b), and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the Board of Trustees of the Harry S Truman Scholarship Foundation:

Mr. AKIN of Missouri;

Mr. SKELTON of Missouri.

HONORING KELSEY RYAN

(Mr. KELLER asked and was given permission to address the House for 1 minute.)

Mr. KELLER. Mr. Speaker, I rise today to honor Kelsey Ryan, a 9-year old little girl from Celebration, Florida, my home district. Kelsey is a true hero to her community and her country. We are honored that she is here with us today.

Kelsey possesses a life-threatening allergy to peanuts. She is not alone; 4 percent of our population has some form of life threatening allergy, either to peanuts, shellfish, insects or other items.

Kelsey decided to do something about it and took action. She traveled to Tallahassee, Florida, where she testified before six separate committees of the Florida legislature. She explained that by allowing her and other school children to use this Epipen it would help save the lives of 100,000 different school children in Florida who also suffer from life-threatening allergies.

She was so effective that the Florida House and Florida Senate unanimously passed the Kelsey Ryan Act, and it will be signed into law by the Governor of Florida, Jeb Bush, in a matter of days.

On behalf of the United States Congress, I was pleased today to present Ms. Kelsey Ryan with a Certificate of Special Congressional Recognition, an award we humbly give to true American heroes.

Mr. Speaker, we are proud of Kelsey in Florida. And today we honor the achievements of an amazing 9-year-old lady who has selflessly helped save the lives of up to 100,000 different school children in my home State of Florida. We are proud of her in Congress. We are proud of her in Florida. We are proud of her back in Celebration.

ABUSE OF CONGRESSIONAL POWER

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute.)

Ms. WOOLSEY. Mr. Speaker, it boggles my mind that Republicans continue to criticize Democrats for blocking judicial nominations. Their facts are deceiving. Their facts are inaccurate, and their actions to force through extremist judges are just one example of their abuse of power in the Congressional Chamber.

□ 1430

The fact is that 208 judges have been confirmed and 10 have been turned down because of extremist positions. That represents a 95 percent approval rating. These same Members, by the way, blocked 65 of President Bill Clinton's nominees. These same Senators would like you to believe that the only way to get the judicial process moving is to eliminate the 200-year-old filibuster rule that grants Senators the ability to speak their minds if they feel an action is not right for the country.

The Republican greed for power is eroding our political system. They should remember that a democracy is not a one-sided body of government. It is time for my Republican colleagues to respect that basic notion and end their abuse and their bullying in the Congress.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. JINDAL). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SMART SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, the ink has hardly dried on the latest supplemental spending bill for military operations in Iraq, but that has not stopped top officials in the Pentagon from starting preparations for the next supplemental bill.

It was reported yesterday that the Pentagon has begun laying the groundwork for the next supplemental requests which may come as early as this August. The Pentagon will likely request more than $25 billion more, but some in Congress have indicated that they will ask for as much as $50 billion more.

The Pentagon which receives over $400 billion annually from the United States Treasury acts like 25 or 50 billion is a mere drop in the bucket. Likewise, when supplemental requests are doled out in these smaller, ha-ha smaller, $50 billion increments, many Members of Congress and much of the Nation have absolutely no concept of the true cost of the war in Iraq, which at the moment adds up to over $200 billion. But when you think about the financial strain being felt at home like the fact that we are not fully funding the No Child Left Behind Act or that we are not paying for adequate health care for our returning veterans, it does not take long to realize that $50 billion more for Iraq takes a toll on the American people here at home.

Mr. Speaker, why are we funding a war, especially one that was entered into on false pretenses, through repeated supplemental spending bills? This method of funding underscores both a fundamental lack of planning for the war in Iraq, as well as a hostile contempt for the financial strain on the citizens of the United States.

If the President and his administration had a strategy to peacefully resolve this war in Iraq, they would submit to Congress a plan, a plan detailing the further U.S. military operations there. This plan would indicate how long they expect troops to remain in Iraq and at what levels and in what capacity, how much the war will cost, and exactly how they plan to finance this burdensome cost. This plan would define when and how we are planning to bring our troops home.

Anything less than a comprehensive strategy is a slap in the face to all the hard-working American people in this country whose tax dollars are financing this misguided mission. Sadly, I think the real reason the administration has failed to provide such a strategy is because they apparently have no plan to end the war in Iraq. Americans have a right to know where their money is being spent. For instance, why did the Army recently award Kellogg, Brown & Root, a subsidiary of Halliburton, with $72 million in bonuses for "the company's excellent performance"?

Perhaps the definition of excellence has changed since I attended school, because in my day excellence meant working hard and achieving positive results, not conning the American people out of millions, even billions, of dollars while failing to secure Iraq.

And why have $9 billion in supplemental funds gone unaccounted for? How does $9 billion just vanish? Given the administration's poor track record for spending American taxpayers' money, why does our Congress continually fail to demand accountability for how the supplemental funds are being spent?

Mr. Speaker, there must be a better way than this, because the current system is broken. That is why I have developed a SMART Security platform for the 21st century. SMART is a Sensible Multi-lateral American Response to Terrorism. SMART will help reinvigorate America's foreign policy by focusing our spending priorities on conflict prevention, international diplomacy, and multi-lateralism.

Instead of Congress's current open check book policy we have for Iraq, SMART Security wisely invests U.S. dollars in development funding. It invests in peacekeeping and reconstruction, adequately funding these important programs because then that will go a long way towards ensuring long-term peace and stability in troubled countries and troubled regions.

If we had invested in SMART Security in the first place, we would not have become embroiled in a war that has cost the lives of more than 1,600 American soldiers and at least 24,000 Iraqi civilians. This shameful war has also permanently injured over 25,000 American soldiers whose lives will be changed forever. We must focus America's efforts on a smarter strategy for our national security instead of continuing our shameful policy of preemptive military combat.

VETOING AMERICA'S TRANSPORTATION FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, yesterday, finally, blatantly, 18½ months after the expiration of the Surface Transportation Act which provides crucial funding for all of the road, bridge, highway mass transit and related work of the Federal Government, spending our gas taxes which are collected day in and day out and being underspent by this administration, the Senate acted to increase funding.

Strangely, this is the one bill, the only place that George Bush in over 5 years in office has said he is going to veto a bill if it spends more money. Now, he will not do that for agriculture subsidies to pay big corporate farms not to pay things. He wanted to cut their subsidies, but the Republicans have refused to do it, and he is not threatening to veto that bill.

He is not threatening to veto bills that are doing wasteful things like the Star Wars Project in Alaska that does not work, has not met a single parameter of its goal. He cannot threaten vetoes there. But when it is spending our gas tax money, this is the only bill where we are in the borrowing money. We are borrowing $1.3 million a minute to run the Federal Government under the Bush budget, but we do not have to borrow money to have a robust highway bill. We just need to spend the taxes we are all paying every time we tank up our car or truck.

This is money that will put people to work. This is money that will maintain and improve our crumbling infrastructure. It will help mitigate congestion, people sitting in traffic, idling, wasting gas, wasting their time. It could better fund mass transit, alternate transportation, all these things; but somehow the President has drawn the line in the sand.

He said last year, not a penny over $256 billion. He wants to underspend the trust fund so he can borrow that money to pay for tax cuts for rich people. Plain and simple. That is what he wants to do with our gas tax money.

We pay money at the pump to improve our roads, bridges, and highways. We have to pay it right there at the pump. He wants to underspend that trust fund, and then he wants to take and divert that money over here to give rich people tax cuts. Now, is that a better way to stimulate the economy of the United States, to improve the business climate, to help the traveling public?

I do not think so. It might help them pay for their corporate jets, but it is not going to help the rest of us who are down there mired in traffic.

So the Senate voted yesterday 76 to 22 to increase funding substantially above the levels the President says he will veto. Well, an override of a veto is 66 votes in the United States Senate. Maybe this will send a message that we have been trying to send to the White House for 2 years.

There is a huge bipartisan coalition, Republican and Democrat in the House and the Senate, who want to invest in our roads, bridges, highways, mass transit, alternative transportation, put Americans to work, help Americans get to work, and help improve the efficiency of our business. Hopefully, they will change their tone down at the White House and stop threatening to veto needed investment.

The President's own Department of Transportation,, the people he politically appointed and controls, says this bill should be $376 billion. And the President says not a penny over 256. Now he has come up a little bit to the House level of 284, but that is not adequate to meet the needs of the system. And the Senate wants to spend more of our gas tax dollars on what they were collected for, projects to rebuild and improve the efficiency of the Nation's infrastructure.

So I take this as a very positive move. Hopefully, the Republican leadership can move with dispatch to have a conference committee and get a bill done by May 31. That is when the fifth extension of the long-expired highway bill expires. Because if we do not, hundreds of projects across America will not get built this summer, those jobs will not be created, those bottlenecks will not be solved, those bridges will not be repaired, the traveling public will be impaired.

The White House will be happy with that because then they get to take more money, divert it from the gas tax, and spend it on more tax cuts for rich people. But I do not think the rest of America will be amused by that. So I am hoping the American public will demand that Congress act quickly to resolve the differences between the House and the Senate and get a bill now 18 months overdue to the President's desk. And if he chooses to veto it, then pressure the Congress to override that ill-intentioned veto.

Let him veto something wasteful. Let him veto something that we are borrowing money to pay for, but do not veto a paid-for highway bill with vital investment in America's transportation future.

CONGRATULATING THE MATH AND SCIENCE ACADEMY OF SOUTH TEXAS INDEPENDENT SCHOOL DISTRICT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HINOJOSA) is recognized for 5 minutes.

Mr. HINOJOSA. Mr. Speaker, I rise to urge my colleagues to join me today in congratulating the staff, the administration, students and families of the Math and Science Academy of South Texas Independent School District in my hometown of Mercedes, Texas, on being named one of Newsweek magazine's Best High Schools in America for 2005.

Our academy ranked 40th out of 100 U.S. high schools. A quality, comprehensive and challenging education is the most valuable gift we can give to our children. For the second time in 2 years, the Math and Science Academy of South Texas has received this prestigious recognition, and it solidifies the school's standing as a model of excellence and as an exemplary institution. The teachers and administrators are truly committed to educating and encouraging our future leaders.

As the country continues to move forward into the 21st century, the need for mathematicians, scientists, engineers, and the leaders of tomorrow continues to be of the utmost importance.

□ 1445

A high school diploma is the first step to becoming a successful contributor to our society.

The program of study at the academy ensures that students succeed and, more importantly, lays the foundation for students to learn the fundamentals that will lead to successful lives and careers. It is truly an exceptional institution.

Last fall, I joined the South Texas ISD community to celebrate the district's 40th anniversary. I would like to congratulate superintendent Marla Guerra, as well as the members of the school board of trustees, the faculty, the students, parents and alumni on 40 years of achievement. This school district demonstrates a regional commitment to excellence. The recognition that the Math and Science Academy has received is just one of many accolades earned by the South Texas ISD school district.

My involvement in establishing the magnet high school system for the South Texas ISD is one of my proudest achievements. Over 20 years ago, as a member of the Texas State Board of Education, I led a delegation from south Texas to Houston to visit that city's highly regarded magnet schools. We knew that we wanted that caliber of opportunity for our students. However, we were told that such a program could not work in south Texas. We were told that we did not have the financial resources and that we could not find the students, but we did not believe the nay-sayers. We knew it could be done.

Today, the Math and Science Academy, with a student population that is almost 80 percent Hispanic and over 50 percent eligible for free or reduced price lunch, is among the most elite high schools in the Nation. Every day it brings us closer to realizing the vast potential of our community. It shows us what is possible when we invest in our children and demand the very best.

I ask all my colleagues to join me in congratulating the Math and Science Academy of south Texas on a job well done.

THE SOCIAL INSECURITY SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, yesterday in the interest of protecting Members of Congress, journalists and the general public, officers of the Capitol Police advised everyone to run for their lives, and we did.

Today, I wish that a Capitol Police officer would have been on hand at the Committee on Ways and Means hearing to shout the same warning.

Run for your lives is the very best nonpartisan advice that anyone can give the American people over the President's plan to create a private insecurity social system.

The President wants the American people to cut Social Security benefits. His proposal would devastate the program, break the promise and destroy the trust made between the government and the American people.

The President wants the American people to accept his word that privatizing Social Security is in the best interests of Main Street and not Wall Street.

The President, amid much bravado, said his plan is on the table and his plan stays on the table, take it or take it. Since the President will not take private insecurity off the table, let us look at what else the President put on the table with his plan.

It is the only guaranteed outcome of the President's plan: senior citizens retiring into poverty. We need only look back in history and revisit the dark and stark reality of our own past.

Americans by the thousands retired into poverty before Social Security was created by President Franklin Roosevelt. They retired into poverty because there was no way to protect them. There was no security, and that is exactly what the President wants again.

The President says he does not read newspapers. How about American history? Can someone in the White House please get him an American history book?

It did not work. He ought to know that. Americans who have worked a lifetime were forced to live in poverty because there was no Social Security. Millions of seniors did not have the money for food, clothing or shelter.

You want to revisit America in 1932? My mother still is alive, thank God, and she would be the first to tell you that 1932 was not good. It was economically and humanitarianly a disaster for America. Millions could not afford to eat. Millions had no home to call their own. Americans did not have a lifeline, much less a safety net. It was a dark and horrifying period of American history.

Why in the world does the President continue ignoring history? He proposes a plan; no, the President demands a private insecurity social system. He says he will listen to any idea as long as it is his.

So, today, the President's water is carried by the distinguished but misinformed chairman of the Committee on Ways and Means. I said it before and I say it again: The President's plan for a private insecurity social system is dead as disco. Nobody goes to discos anymore. It does not work. It does not even have those fancy twirling disco lights on the dance floor. The President's plan does not offer real benefits. It offers real cuts.

The President's plan reflects America in 1932, a place with little security and a lot of greed, a place at a time when Americans suffered and lost hope until a great leader renewed a trust with the American people.

A President, in the worst of times, created Social Security to provide every retired American with economic security, guaranteed, something this President wants to destroy.

President Roosevelt created a program that is not Republican or Democrat. It is not east or west. It is not north or south. He envisioned the Nation strong because it defended the weak, stalwart because it valued its people, mighty because it was humble enough to care for the sick and the aged. No one was left behind by President Roosevelt.

This President will leave tens of millions behind in a risky scheme that rewards the greed of Wall Street while it destroys the values of Main Street.

Americans will not be better off with the President's private insecurity social system. Americans will be as vulnerable again as they were at the darkest economic moment in our history. It will be back in the arms of Wall Street.

The President offers no plan and no choice. The President offers only a stark reality: Slash the benefits right now, and he put it right out there a couple of days ago in his news conference; and also cut your bond with the American people; cut the ties that bind us together; destroy the trust and certainty that senior citizens will not retire into poverty because we will not let them. They cannot, if Mr. Bush has his way.

There is only one course open to the Congress and the American people. If the President will not remove the private insecurity social system from the table, then the American people should remove the table. Throw it away before somebody gets hurt. Remove it from America's house because it does not belong there.

We are a Nation of people who want our children and grandchildren to have an opportunity for more than we had. We will be the first generation to expect our children to have less because we planned it that way.

The President wants to create a Nation of people wanting for the basics of food, clothing and shelter. We lived through that once. We do not need to live through it again.

FDR was right in 1935, and he is right in 2005.

HONORING THE LIFE AND ACCOMPLISHMENTS OF THE LATE PETER RODINO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I take this time to honor and commemorate the life and the accomplishments of our former colleague Congressman Peter Rodino, elected to the House of Representatives in 1949, who served his district in New Jersey for 40 years with great integrity, humility, fairness, dignity and honor.

Originally known for making Columbus Day a national holiday, Chairman Peter Rodino spent his whole life fighting for people's rights, and I recall personally his strong commitment to human rights, his unwavering support for the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Voting Rights Extension Act of 1982. He introduced many of these bills and shepherded them through Congress as chairman of the Judiciary Committee of the House of Representatives.

He was also responsible for the enaction of the Hart-Scott-Rodino Act which reviewed determinations of mergers of huge corporations in America, and he was instrumental in reforming immigration laws in both the Simpson-Rodino legislation and the Kennedy-Rodino legislation, both of which improved mechanisms for people in the country illegally to legalize their immigration status.

In 1973, Mr. Rodino replaced the legendary Emanuel Celler as the chairman of the Committee on the Judiciary. I was then a member of the committee, and he impressed all of us with his determination to do the right thing and his considerate treatment of all committee members. He displayed this common touch in his ability to relate to citizens of every background and from all walks of life.

Of course, Peter Rodino has earned his record in history for his role as chairman of the House Committee on the Judiciary, presiding over the Watergate hearings which led to the impeachment of then President Richard Millhouse Nixon. History has recorded the debt all Americans owe him for presiding firmly, responsibly and fairly over these hearings and subsequent proceedings.

Many people were very alarmed at what the impeachment of a President would mean, and they wondered aloud in our public media whether this country could survive an impeachment. He handled this very sensitive matter, and it turned Chairman Peter Rodino into a national hero. It was his calm steering of the committee to a final conclusion that ultimately preserved, without any disruption, the constitutional system of the United States, which has been emulated throughout the world.

After he retired from Congress in 1990, he returned to New Jersey as a professor of law at Seton Hall Law School in Newark, New Jersey, and he was active up until even last year. When I visited him there, he was still going strong.

I would like to close by announcing that his memorial service will be held in Newark on this coming Monday, and we want to invite as many of his friends in and out of the Congress who remember his great work to join us at 11 a.m. at the Catholic church of which he was closely connected for his memorial service.

□ 1500

VOLUNTARY OSHA EFFORTS

The SPEAKER pro tempore (Mr. JINDAL). Under a previous order of the House, the gentleman from Georgia (Mr. NORWOOD) is recognized for 5 minutes.

Mr. NORWOOD. Mr. Speaker, it is interesting that today we heard some very important testimony on workplace safety during a hearing we had in the Subcommittee on Workplace Protections. We wanted to hear from safety advocates in the small business community on how well voluntary employer compliance programs are working to improve workplace safety while at the same time protecting jobs and small businesses from unnecessary red tape and lawsuits.

I have heard employers say many times, and know from my own firsthand knowledge, that OSHA regulations are simply too complex and too difficult to understand. It is a red-tape nightmare, Mr. Speaker. That is a good description for the piles of OSHA rules, regulations, guidance documents, and interpretive letters that employers must dig through to try to determine the right thing to do in the business place to come into compliance. Mr. Speaker, I do not think they ought to be spending their time bringing their workplace into compliance with OSHA red tape. They ought to, instead, be spending their time making their workplace safer.

Small businesses want to comply with our Nation's health and safety laws for many reasons, one of which is it simply pays for them to do so. From the testimony we heard today, it is evident that OSHA's past "gotcha" enforcement scheme of fines and lawsuits is actually leading to a less safe workplace, as small business owners are forced to hunker down to protect themselves instead of seeking out help to improving their workplace safety.

Fortunately, OSHA has already recognized the need for compliance assistance, and Secretary Chao is to be commended for her vision and leadership in this regard. Now we are actually starting to see the results of her efforts over the last 5 years, and those results are positive and encouraging.

The Government Accountability Office, fondly known as GAO, has found that the companies involved in voluntary OSHA compliance programs have contributed to the safest workforce in our Nation's modern history. GAO asked for more data from Congress on how well these programs are working, and we need to provide that just as soon as possible.

But one overall fact we already know is that encouraging OSHA to help businesses instead of prosecuting them is having far better results in creating safer workplaces, and this is especially true with small businesses. We can continue this process with some powerful force multipliers with OSHA, through voluntary employer efforts to work with private consultants and industrial safety specialists to foster a safer workplace.

OSHA will never have the resources to visit every American work site to ensure compliance, but this exciting new compliance tool can ensure that workplaces that would never see a visit from an OSHA inspector will have access to world-class safety specialists. At the same time, our business owners should be encouraged to invite OSHA to their work site and engage the agency in compliance assistance without fear of reprisal from Federal bureaucrats. In the process, we can continue to maintain the safest workplace in the world where our businesses can continue to compete in a global economy.

There are still the last holdouts from the failed ways of the past who would like to see Federal bureaucrats spread out across the country to harass and punish people who are trying to make a living. In order to do that, we would have to have 108,000 new inspectors at OSHA, and even then they could only visit our businesses every 2 years. That will never happen, and it is not going to work.

Mr. Speaker, we are on the verge of winning a great victory for workplace safety by expanding voluntary compliance programs. Let us resolve to defeat the naysayers. If we succeed, we can create a 21st-century OSHA that will be far more effective in creating a safe workplace for every American worker, no matter how small or remote their place of business. We can continue teaching Federal bureaucrats a lesson in manners when dealing with their fellow citizens, and, in fact, their employers.

BOLTON FOR U.N. AMBASSADOR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Ms. FOXX) is recognized for 5 minutes.

Ms. FOXX. Mr. Speaker, I rise today in support of John Bolton's nomination as our ambassador to the United Nations.

Although I am not able to vote on his nomination, since I am not a Member of the United States Senate, I encourage my colleagues in the Senate to support his nomination. I am pleased that the Senate Committee on Foreign Relations has agreed today to put his nomination before the full Senate for an up-or-down vote.

Mr. Speaker, the United Nations is in serious need of reform. From enforcing the resolutions the United Nations and its member countries have adopted over the years, to its misuse of funds for many programs across the world, the U.N. is in serious need of reform. Mr. Speaker, the United Nations is rife with fraud, mismanagement, and abuse in many areas of its operations. From the U.N. Oil-for-Food program, to its lack of action with respect to the genocide in Darfur, Sudan, to the horrendous human rights abuses during the U.N. mission in the Congo, the U.N. is in serious need of reform.

I think we can all agree that the most urgent threat to international peace and security today is terrorism, yet the U.N. cannot even agree upon a definition for terrorism. Perhaps this is because its membership consists of several terror-sponsoring states. The U.N. counts the world's leading human rights violators and repressive governments among its membership, and even taps many of them to be in leadership positions on its subcommittees. I find this completely outrageous and dangerously ironic.

Last time I checked, the U.N. charter states that it is supposed to "maintain international peace and security; to promote equal rights and self-determination of peoples without distinction as to race, sex, language, or religion; to help solve problems of an economic, social, cultural, or humanitarian character; to encourage social progress and better standards of life in larger freedom."

The U.N. needs reform and Mr. Bolton is the right man to voice our encouragement for these reforms. Mr. Bolton has a proven track record in working with the United Nations in the past. In conjunction with efforts by Secretary James Baker to resolve conflict in the Western Sahara, he actually worked for the U.N. pro bono between 1997 and 2000. While serving as Assistant Secretary of State for International Organizations from 1989 to 1993, he worked on other key diplomatic initiatives and U.N. reforms, including the repayment of arrearages in U.N. assessments that had been created during the 1980s. He has worked tirelessly in various capacities to help combat the spread of dangerous weapons of mass destruction through his lengthy and distinguished career.

Mr. Bolton has served this Nation well. There is no doubt in my mind that he will serve our great Nation with distinction and will be a strong voice for reform at a time when the United Nations desperately needs it. I applaud his nomination and encourage his approval by the Senate to serve our great Nation. Let Mr. Bolton be our voice to the U.N. that these reforms must be made.

THE VOICE OF GEORGIA'S FOURTH CONGRESSIONAL DISTRICT IS BACK

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentlewoman from Georgia (Ms. MCKINNEY) is recognized for 60 minutes as the designee of the minority leader.

Ms. MCKINNEY. Mr. Speaker, it has been a long time since I have taken the well of the House of Representatives. Today, the people of Georgia's 4th Congressional District are happy that I am back. I have received notes, calls, letters and visits from people all over America who are glad to see me back in Congress. They are glad to have a voice.

That voice. The voice. The voice back. The voice who spoke out and asked the questions about waste and abuse at the Pentagon. The fact that our Secretary of Defense would come to the House Committee on Armed Services, on which I served, and admit the loss of $2.3 trillion and say in the same breath that our country can afford it; and the massive amounts of money that we send to the Pentagon today without even questioning how it has been spent; that we can afford it; or that we are getting the appropriate bang for our taxpayer bucks.

I questioned the no-bid sweetheart deals with favored insider corporations, like the Carlisle Group and Halliburton. I did not understand how our sitting Vice President could still be drawing a paycheck from the Halliburton Company and, at the same time, serve the interests of the American people.

I asked why weapon systems, unwanted by the Pentagon, still found their way into the President's defense request. I wondered why our soldiers were being required to take anthrax and smallpox vaccines that had not even been cleared by the FDA. I was amazed to learn that the administrator of the vaccines program was DynePort, a subsidiary of a company whose employees had been found guilty of trafficking in young women, raping young girls, and holding women of all ages as sex slaves.

I asked questions about how the United States could entirely change its military doctrine to one of preemption and there not be a discussion about the ramifications of that with the American people.

All that happened was that the Secretary of Defense came before the Committee on Armed Services and said that the new U.S. posture was going to be to seize foreign capitals and occupy them. Of course, this was long before anyone in the public was aware that we would soon be sending our young men and women off to a war to do just that. I was appalled at the acceptance without question of what was clearly a deviation from then current policy, but what was seemingly also more than just a theoretical forward projection of our military might. What Rumsfeld enunciated back then was exactly what we are doing now.

□ 1515

I publicly questioned how such a fundamental shift could be sanctioned without the least bit of controversy. I questioned why private militaries, some would say mercenary outfits while others would say U.S. intelligence front companies, like DynCorp were being given contracts that seems to me to allow escape of congressional oversight. DynCorp was spraying chemicals on plants and people in Colombia and had a presence in Peru, Qatar, Haiti, Afghanistan and now Iraq. I wondered what would happen when Americans employed by these companies are hurt or killed or are caught carrying out a mission not approved by the Congress or was unknown by the Congress. I guess you could say I just had too many questions. And, sadly, I did not like the answers I was finding as I did my research.

Over 3 years ago, I asked questions about the appearance of war profiteering just after our President declared the war on terror, and I called for an investigation into the tragic events of September 11. Now, I am pleased that important legislation to look into war profiteering has been introduced and voted on in this House. And today, we voted on legislation suggested by the 9/11 Commission which was convened to investigate the tragic events of September 11 just as I had called for. Everyone in this body and most who are watching know what happened to me for asking these questions and demanding accountability. I was kicked out of Congress, and for 2 years, I had the opportunity to travel around our country and to other countries and tell my story to people who were hungry to know more about America's war on terror and about September 11. During those 2 years, I met some wonderful patriots who want only the best for our country and its people and who wish for peace with justice for other people around the world. And that is why we have been inundated with letters and calls and e-mails and faxes and visits from people all over the country welcoming me back to Congress. And so I am glad to be here and rejoin my colleagues in the competition of ideas on how we can make our country even better.

This afternoon I would like to start by recounting an experience that happened to me this morning. This morning, I was doing my customary walk to work to enjoy these wonderful Washington, D.C., mornings. And about midway through my walk, I heard a little boy yelling at me. He was asking me to stop the bus for him as he was running to catch the bus for school. Usually I am loaded down with lots of bags, but this morning, thank goodness, I did not have a heavy load. And so I kicked into high gear, and I ran so I could catch that bus for that little boy. I caught the tail end of the bus, and I banged on the back of the bus to get it to stop and let the little boy on, but the bus pulled off without acknowledging any of my bangs. I turned to the little boy, and I told him, "Don't give up. Let's run, we'll catch that bus together." So we both got into high gear, and we ran and we ran and we ran and we ran. And soon I saw that the bus had stopped. So I told the little boy, "Don't give up, we can make it. We've just got to keep on running." The little boy did not give up. He kept running. The little boy's determination to make it to that bus was evident. The little boy wanted to get to school. While the bus was stopped at the red light, we managed to catch up. The fact that we did not give up gave us the opportunity to catch the bus. I thought there was a good lesson in that for the little boy.

And then I started to bang on the bus. I banged on the bus from the rear all the way up to the front passenger door. I pointed to the little boy who was just a few steps behind me, and I yelled, "Please open the door. Let this little boy onto the bus." The driver looked at me. She looked at the little boy. She shook her head, and she drove off.

The little boy was crushed. Tears welled in his eyes. He wanted to get to school. That bus represented the door of opportunity. He had done all he could to reach that door. He ran. He told himself he could make it. He made it. That, in and of itself, was a victory, but it still was not enough to get the little boy on the bus and on his way to school. The door of opportunity for that little boy was closed when the bus pulled off. It left that little boy behind.

And so what I would like to address today are the closed doors of opportunity that leave too many Americans behind. That little boy's name was Martin. That is important, because behind the statistics that we tout on this floor every day over and over again are real people whose lives are affected by what we do and the decisions we make.

Mr. Speaker, the policies of this Congress and this administration and the decisions of the court are leaving too many Americans behind. Our goal ought to be to open the doors of opportunity for all Americans, so that no one is left behind. But, sadly, the statistics tell us conclusively that the doors of opportunity are as closed for certain Americans as they were for little Martin this morning.

Today, I would like to explore some of those statistics and suggest that we fail to do our jobs if we do not enact policies that turn these numbers around. I will be quoting from Hull House, the New York Times, United for a Fair Economy, and the National Urban League. Hull House is an organization in Chicago. They did a study on the disparities between blacks and whites living in Chicago, and what they found was that in economic and social indices, it would take 200 years for those gaps in the quality of life enjoyed by black Chicagoans and white Chicagoans to close. Here is what they said: Fourteen years ago, a report was released examining human relations in Chicago that told us that racism was alive and well. Over the years, we have seen racial disparity impacted by a growing economic gap that has left many behind. The information in this report will help us create more effective, sustainable solutions by allowing us to deal with systemic barriers. It is critical that we establish a floor under which no Chicagoan will fall.

Where are these gaps in Chicago? They are in income, wealth and employment, education, health, housing, welfare and health of children, crime, law enforcement and justice and transportation. The gap between high- and low-income households in the region increased 11 percent between 1999 and 2000, the first rise in 7 years.

Under health, in Illinois, Latinos had the highest rate of non-elderly uninsured, 29 percent; followed by blacks at

24 percent; Asian, Pacific Islander/Native Americans at 17 percent. For the white population, the rate is 10 percent. For crime, law enforcement and justice, African-Americans are less likely to use drugs than whites or Latinos. Let me repeat that: African-Americans are less likely to use drugs than whites or Latinos. There is, however, a gap between the number of African-Americans who are convicted of drug possession or drug delivery and sentenced to prison and the number of whites and Latinos who are convicted of the same crime who get probation.

Another study was conducted by the New York Times. In that survey, they found that nearly 50 percent of all African-American men living in New York City were unemployed. Nearly 50 percent of African-American men between the ages of 16 and 64 were unemployed, a crisis, an emergency. African-American unemployment remains high. It is significantly higher than the national average. The nonpartisan Congressional Budget Office recently reported African-Americans have lost up to 88 percent of their earning potential since President Bush assumed office in January 2001. I think I need to repeat that one: The nonpartisan Congressional Budget Office recently reported African-Americans have lost up to 88 percent of their earning potential since President Bush assumed office in January 2001.

Another study: Blacks lose better jobs faster as middle-class work drops. Unemployment among blacks is rising at a faster pace than at any time since the mid-1970s, and jobs lost are mostly in manufacturing where pay for blacks has historically been higher than in any other fields. Nearly 2.6 million jobs have disappeared in the past 28 months, nearly 90 percent in manufacturing. Jobless blacks are continuing to look for work, but the types of jobs lost have diminished their standing in the middle class.

I have a report which is the status of health in DeKalb County, which is in my district of the Fourth Congressional District. Now, folks in the Fourth Congressional District like to tout that our district of African-American communities is the first or second most affluent African-American community in the entire United States. Yet that affluent African-American community, first or second in the United States, has a result thus in infant mortality: In 2001, Georgia had the ninth highest infant mortality rate in the United States with a rate of 8.6 deaths per 1,000 live births. Infant mortality rates in DeKalb County have been increasing slightly from 9.9 deaths per 1,000 live births in 1994 to 10.5 in 2002. From 1994 to 2002, there was an average of 12 black infant deaths per 1,000 live births and 4.7 white infant deaths per 1,000 live births. That is the statistic for the first or second most affluent African-American community in the country.

Let us look at some information that has been provided to us by United for a Fair Economy.

□ 1530

United for a Fair Economy produces a report every year called the "State of the Dream Report." In their 2004 "State of the Dream Report," they discuss racial disparities in poverty. The black poverty rate was three times greater than the white poverty rate in 2002. At the slow rate that the black/white poverty gap has been narrowing since 1968, it will take 150 years to close the gap.

Let us look at imprisonment. They start out with a quote from Dr. King. He says: "So I must return to the valley, a valley filled with millions of people who, because of economic deprivation and social isolation, have lost hope and seen life as a long and desolate corridor with no exit sign. I must return to the valley all over the South and in the big cities of the North, a valley filled with millions of our white and Negro brothers who are smoldering in an airtight cage of poverty in the midst of an affluent society."

African Americans on imprisonment are about six times as likely as whites to have been imprisoned at some point in their lives. This gap between black and white men is growing. One out of three black males born in 2001 will be imprisoned at some point in their lifetime if current trends continue. That is up from one out of 11 in 1974.

By comparison, 5.9 percent of white males born in 2001, 5.6 percent of black females, and nine-tenths of 1 percent of white females have a lifetime chance of imprisonment.

What about child poverty? Almost a third of black children live in poverty, 32.1 percent in 2002. The child poverty gap would take 210 years to disappear, not reaching parity until 2212.

Income, for every dollar of white income, African Americans had 55 cents in 1968. That is the year Dr. King was murdered. In 2001 African Americans had 57 cents for every dollar of white income. It has taken more than 3 decades for blacks to close the gap by two cents. At this pace it would take 581 years for blacks to gain the other 43 cents, which would bring them to parity with white per-capita income.

And let us look at housing. The homeownership gap has barely budged since 1970. In 2002 almost three quarters of white Americans owned their own home, compared with fewer than half of African Americans. If the homeownership gap continues to close at this rate, it would take 1,664 years, or approximately 55 generations, before the gap is completely closed.

I know that I am not willing to wait 581 years. I am not willing to wait 1,664 years, and I think the American people ought not be willing to tolerate these kinds of inequalities.

The National Urban League produces an annual report called the "State of Black America," and they have just recently produced the 2005 edition of the "State of Black America." Their headline: "Even as U.S. Economy Gets Better, Jobs and Wealth Gap Gets Larger on the 'Equality Index.'" They say to us: "Equality between blacks and whites in urban America is not improving, and changes in national policies and priorities must be made to help, according to a report released by the National Urban League, entitled 'The State of Black America, 2005, Prescriptions for Change.'"

The overall equality index shows that black status remains at 73 percent, but the numbers inside the index tell a troubling story in terms of unemployment, income, and wealth. Marc Morial, the President and CEO of the National Urban League, says: "Our Nation must wake up. The growing wealth gap in this country is not just leaving behind Black America. It's leaving behind the middle class, urban America, rural America, and Hispanic America too. When one community in America suffers, our entire economy suffers. That is why we are recommending specific changes in our national priorities and policies."

In economics the National Urban League finds that this is still the largest divide. Black economic status measures 57 percent of white counterparts, an equality gap 20 percent wider than any other category. Black unemployment remains stagnant at 10.8 percent while white unemployment dropped to 4.7 percent, making black unemployment more than twice that of whites.

Under health, black health status is 76 percent of whites. Under education black education status is 77 percent of whites. Under social justice, when measuring sentence enforcement and victimization, black versus white equality under law is 68 percent of whites, 5 percent less than 2004, the worst decline overall. We went backwards on the measure for social justice. Blacks are three times more likely to become prisoners once arrested and a black person's average jail sentence is 6 months longer than a white's for the same crime.

What can be done? The National Urban League offers us some specific recommendations, some of which I will read here. First on their list of recommendations is the extension of the Voting Rights Act, which expires in 2007. Now, a whole lot of American people do not know, even our President did not know, that the important enforcement provisions of the Voting Rights Act expire in 2007.

How can it be, how can it be, that the Voting Rights Act enforcement provisions would ever expire after the pain and the suffering that brought the Voting Rights Act to signature in 1965, after the American people had the opportunity to see Bloody Sunday when African Americans in Alabama were trying to cross the Edmund Pettus Bridge just so that they could get the right to vote? How could any provision of the Voting Rights Act ever expire?

The National Urban League also recommends that we raise the minimum wage, and they suggest that we close the homeownership gap; 1,664 years is intolerable. And as the President touts homeownership and how homeownership is an integral part of his ownership society that he wants to create, 1,664 years to close that gap is intolerable. Expanding job training, strengthening the Community Development Block Grant program, and to double the size of the New Markets Tax Credit program, these are just some of the recommendations that are put forward by the National Urban League.

In the United Kingdom, it is interesting to note that a psychiatrist was able to publish in the "British Medical Journal" that racism is harmful to one's health, is harmful to one's mental health; racism is harmful to health. He notes that a group of Harvard University researchers documented that a mere 1 percent increase in incidences of racial disrespect, the kind of stuff like following black people in a store, for which there have been many lawsuits in stores; or having African Americans go to restaurants and not being served, for which there have been many lawsuits; or for discrimination at the workplace in big corporations that get tax breaks here, for which many lawsuits have been filed, the result of a mere 1 percent increase of racial disrespect translates to an increase in 350 deaths per 100,000 African Americans. So not only is racism harmful to one's mental health; it is harmful to the fabric of our country. It is harmful to the very lives of the people who are impacted by it.

This is now the budget season in the United States Congress. We are deliberating on the budget, which are the priorities of our country; and pretty soon we will be receiving reports from the Committee on Appropriations on how those priorities are going to be translated into real dollars for the American people. One could say that the budget is the most important piece of legislation passed by any legislative body and certainly is very important because it sets the policies and priorities for our country.

The very definition of politics is who gets what. The authoritative allocation of values in a society, the definition of politics: that is the budget process, the appropriations process. Who gets what, whose problems get solved. We have the opportunity in this Congress to solve these problems. We have a responsibility in this Congress to solve these problems, to make this country better for all of our people so that the bus of opportunity does not pull off when we are standing there trying to get on, so that the doors of opportunity are open for all Americans.

And I am proud to say that under the leadership of the gentleman from North Carolina (Mr. WATT) that the members of the Congressional Black Caucus have decided to tackle these disparities, these intolerable disparities.

One of the things, however, that we have a responsibility to do is to make sure that the American people understand that these inequalities, these inequities, these gaps, these disparities, that they exist.

I would like to add a few comments before I begin to wrap up. These comments are about the United for a Fair Economy 2005 report that takes into consideration the President's proposals in the budget.

□ 1545

United for a Fair Economy says that while, at first, President Bush's ownership society goals may appear to be consistent with Dr. Martin Luther King's dream of economic opportunity for all races, during the first Bush administration, the United States actually moved farther away from Dr. King's vision. The employment and income picture has gotten worse for people of color since 2000, eroding the progress that was made during the 1990s.

We all know that not only did the Clinton years provide prosperity for all Americans, all boats were lifted up, but those boats within the African-American community and other communities of color were lifted up.

In 2000, the African-American unemployment rate reached an historic low: an historic low. Latino and Hispanic unemployment rates also dropped, but have risen again in the last 4 years. About half of the progress in the median income of people of color from 1996 to 2000 was wiped out in the first 3 years of the Bush administration. After slowly increasing from 55 percent of white income to 65 percent in 2000, black median income fell to 62 percent. For the first time in 15 years, the average Latino household now has an income that is less than two-thirds that of the average white household. So not only are blacks falling back, Latinos are falling back as well.

Throughout the 1990s, poverty rates fell across-the-board. All boats were being lifted up in the 1990s. But since 2000, more than one-third of that progress in reducing poverty among African-American families has been erased; 300,000 African-American families fell below the poverty line from 2000 to 2003.

What about private retirement income and inheritances? Well, they remain scarce among people of color. We have heard a lot of talk about Social Security and privatizing Social Security, and the gentleman from Washington (Mr. MCDERMOTT) was here earlier, and he talked about insecurity, social insecurity.

African-Americans have less in private pensions and retirement accounts, if you are unemployed you have got to have less, and so depend more heavily on Social Security. They would be more affected than whites by any privatization plan that made benefits uncertain.

And, of course, we talked about home ownership; United for a Fair Economy revisits the issue of home ownership in their 2005 report. Then they add that business owners of color, who are largely small business owners, received only minor tax breaks from the four Bush tax cuts. Most tax breaks for businesses and investors have landed with those who are wealthy and white.

Now, we understand what the President told us in the movie Fahrenheit 911. He told us that his base were the haves and the have-mores. So, accordingly, the tax cuts have provided money for the haves and the have-mores, and that is borne out in these statistics.

Now, what do we do about this? We have to address these issues in public policy. It is public policy that can turn these numbers around and make better the lives of all of the little Martins out there who did their best and still found that the door of opportunity was closed for them, to turn that around and make opportunity available for all of them.

Public policy requires, though, a consensus. It requires an American consensus. So we fought the Civil War, and after the Civil War, the Congress passed a Civil Rights Act. So 1964 was not the first time that we had a Civil Rights Act passed, because there was a consensus that something needed to be done to help all Americans.

But how can we arrive at a consensus when the American people are not informed of the facts? Well, you certainly cannot get it on the WB or UPN. You cannot even get it on BET or CNN a lot of the time. But we are told by a Harvard University-Kaiser Family Foundation study that misperceptions cloud whites' views of blacks. You cannot arrive at an answer if you do not know the facts.

Misperceptions cloud whites' views of blacks: Whether out of hostility, indifference or simple lack of knowledge, large numbers of white Americans incorrectly believe that blacks are as well off as whites in terms of their jobs, incomes, schooling and health care, according to a national survey by the Washington Post, the Henry J. Kaiser Family Foundation and Harvard University.

Depending on the question, the poll found that 40 percent to 60 percent of all whites say that the average black American is faring about as well and perhaps even better than the average white in these areas. These misperceptions have consequences, the survey suggests. Among whites, the pervasiveness of incorrect views seems to explain at least in part white resistance to even the least intrusive types of affirmative action, and more broadly, these mistaken beliefs represent formidable obstacles to any government efforts to equalize the social and economic standing of the races.

This is the State of the Dream 2005 report, issued by United for a Fair Economy, and in its introduction, it quotes President Bush: "The generation of wealth should not be limited to a few in our society. It ought to be an opportunity for everybody. There is nothing better than providing the incentive to say this is my asset base, I own it. I will live on it in retirement, and I will pass it on to somebody in my own family."

Dr. Martin Luther King had a response for that, even though dead. Dr. King said, "The majority of white Americans consider themselves sincerely committed to justice for the Negro. They believe that American society is essentially hospitable to fair play and to steady growth toward a middle-class utopia embodying racial harmony. But unfortunately, this is a fantasy of self-deception and comfortable vanity."

I would hope that all of the reams of paper that have been produced recording these studies that I have recounted here this afternoon, from Hull House reporting on Chicago to the New York Times reporting on African-American male unemployment at 50 percent between the ages of 16 and 64, which is veritably the entire population, to United for a Fair Economy to the National Urban League to Harvard University to the Kaiser Family Foundation, the reams and reams and reams and reams of paper produced chronicaling the pitiful state that some Americans continue to have to endure.

Mr. Speaker, it is clear that we are leaving too many Americans behind. Our policies are creating two Americas, and, instead of growing together, we are clearly growing apart.

I hope to return to this place, to this well, and do more special orders about this subject and other subjects of interest to my constituents in my district and the people who have voiced their support around the country. We have such serious issues, and the people need our help and our attention.

Mr. Speaker, I am hopeful that this Congress will provide some relief to all of the people who fall into the numbers that I have accounted tonight.

MAKING HEALTH CARE ACCESSIBLE AND AFFORDABLE

The SPEAKER pro tempore (Mr. JINDAL). Under the Speaker's announced policy of January 4, 2005, the gentleman from Georgia (Mr. GINGREY) is recognized for 60 minutes as the designee of the majority leader.

Mr. GINGREY. Mr. Speaker, it is indeed a coincidence today that Democrats in their one hour special order would be led by a Georgian, my colleague, the gentlewoman from Georgia (Ms. MCKINNEY), and the Republican hour today would be led by myself, another Georgian. I am really, of course, pleased to have this opportunity.

I am going to talk on an entirely different subject to my colleagues, Mr. Speaker, than what we just heard for the previous hour. This time is dedicated really to the Republican Conference Health Care Access and Affordability Public Affairs Team. We put together this team for the purpose of letting our colleagues know, letting the American people know, that the Republicans care deeply about the health of this Nation, particularly in regard to those who are the neediest, whether they are white, black or Latino. It does not matter. People in this country who need health care that really cannot afford it, who are struggling through no fault of their own, we are deeply committed to solving these problems, whether we are talking about Medicare, Medicaid or Social Security for that matter.

These are the so-called entitlement programs, the mandatory spending. When we talk about a budget for fiscal year 2006 of $2.6 trillion, two-thirds of that budget goes to mandatory spending. That means those who meet eligibility requirements, obviously Social Security retirees and disabled and widows and dependent children; the Medicare program, you are 65; or you are younger than 65 and you are disabled, the Medicaid program; or you are poor.

☐ 1600

And you do not have the means or the wherewithal to purchase private health insurance or maybe you do not have a job, you do not have an employer that provides health insurance for you. These are the people who meet those eligibility standards, and that is called mandatory spending; and it includes two-thirds of our Federal budget. We have a huge problem with the growth in those numbers because, as our population grows, there are more and more people who are struggling who become eligible for one of these three mandatory benefits. It is becoming a tremendous strain on this country.

Tonight I will focus primarily on the Medicaid program, because our States are in such dire economic stress because of Medicaid, which is a joint Federal-State program, a shared program, if you will.

The President, during the last couple of months, has spent a lot of time talking about the Social Security program. My colleagues know that he has been going all over this country trying to explain to the American people that we are in a real crisis; and certainly, at least I think everybody would agree, there is a serious problem with Social Security because of demographics, because of the fact that thankfully, thankfully, people today are living longer and they are healthier.

As the baby boomers fully mature and that starts the first wave, the leading edge of that wave is upon us in 2008, and as they fully mature, we go from 45 million Social Security beneficiaries today to within 10 or 15 years to having 77 million. And trying to fund that program with a payroll tax that has not increased in a number of years, it is a tremendously difficult problem; and it needs to be solved. It is not something we can put off for other Congresses.

I hear from some of my colleagues, particularly on the other side of the aisle, well, it is not that bad of a problem; why do we not just kind of wait awhile and let somebody else deal with it. I mean after all, 2006 will be upon us pretty soon, and it is the next election that is most important, not the next generation.

I certainly do not agree with that, and I know this President and this Republican leadership does not agree with that at all.

But what we are hearing a lot of times is, well, why are you focusing on Social Security when we have these huge problems with Medicare and Medicaid? I know my colleagues on both sides of the aisle have heard that argument. The point, of course, is that we have focused on Medicare, and I am very surprised at how quickly they forget. It was, after all, just December of 2003 when this body, this Congress, in a bipartisan fashion, passed the Medicare Modernization and Prescription Drug Act. That prescription drug part of Medicare, of course, does not become operational until January of next year, 2006. So we have not had an opportunity to see what benefits that will bring to the program.

We have had an interim program, I think, that has worked very, very well. It is called the Transitional Medicare Prescription Drug Discount Card program. All of my colleagues, Mr. Speaker, remember that, the 1½ to 2-year program, before we get started in the part D prescription drug premium-based, voluntary part of Medicare next year, to give immediate relief, as we did in December of 2003, to let our seniors obtain, for no more than $30 a year and, in most instances, a free Medicare prescription drug discount card, which would allow them to go to the drugstore with those four or five prescriptions that their doctor had written for high blood pressure or control of their blood sugar so their diabetes did not get worse, or something to prevent osteoporosis, or to, as I say, lower blood pressure and cholesterol.

So when they went to the drugstore, they were not paying sticker price. They were getting the same kinds of discounts, competitive discounts that people who were working and had employer-sponsored health care, maybe under an HMO, and they got deep discounts on their drug prices.

This is what the discount program, the transitional program brought to our neediest seniors; and, in fact, those living at or below the Federal poverty level were credited on that card. It became not a credit card, but a debit card; and they got $600 a year for those two years, 2004 and 2005, a total of $1,200 that they could apply to the cost of their prescription medication.

There were other things, Mr. Speaker, and I know my colleagues remember that. If not, hopefully, this will be a reminder. For the first time ever under the Medicare program, new beneficiaries, those just turning 65, were having the opportunity to go to their doctor, to their general doctor, their internist, their family practitioner and having a complete, thorough, head-to-toe physical examination. In the past, Medicare did not pay for that. You could only get reimbursed for a doctor visit if you were sick, if your nose was bleeding, if you had pain in your chest from a coronary and you were staggering because you were about to have a stroke, or you showed up in the emergency room. But just to have a routine physical to find out, hey, is everything okay, to get your blood pressure checked and have that cholesterol level determined, and the screening procedures, or maybe if you had a mammogram to rule out a very early breast cancer; these things were not covered under Medicare.

But under this leadership, this Speaker, this Republican-led Congress, this President brought, in December of 2003, the Medicare Modernization and Prescription Drug Act.

So for everybody to suggest that this Congress is not focused on health care and has done nothing and is wasting our time trying to solve the Social Security problem is just absolutely untrue; and I think fair-minded Members of this body, whether Republicans or Democrats, know that. They know that. They know that we have devoted a lot of attention to Medicare. It remains to be seen, really, how that program is going to work.

All we hear from the opposition is, oh, well, you know, it is going to cost a lot. They misled us, they lied to us, they said it was only going to cost $395 billion, and now it is going to cost $750 billion. I do not know what the true cost is, but I do know this: when, Mr. Speaker, the Congressional Budget Office is calculating the expense of the program, they are talking about what it is going to cost to provide a prescription drug benefit, even though it is premium-based. Like part B, sure, there will be a cost to the taxpayer. The part B Medicare program, Mr. Speaker, a lot of people probably do not realize this, but the premiums, even though they have gone up every year since 1965, and now are approaching $80 a month, they only cover 25 percent. The general fund taxpayers are supporting 75 percent of that cost.

So the prescription drug program will be very similar to that. There will, indeed, be a cost. But what is so misleading is no credit whatsoever is given to the fact that if a person is taking a blood pressure medication to keep them from having a stroke, if a person can now afford to go to the drugstore and get Lipitor or Pravachol or one of these statin drugs to lower their cholesterol and avert the need for open heart surgery, or someone is able to take Glucophage or insulin so that that diabetic condition does not get so bad that it destroys their kidneys or causes blindness or causes peripheral vascular disease to the point that they need an amputation of a limb or renal dialysis or maybe even a kidney transplant; all of those things, by the way, are currently today covered under Medicare, but extremely expensive.

If we can prevent that by allowing our seniors, our neediest seniors to afford the medication and treat these diseases in a timely fashion, then we save money on part A, being the hospital, the nursing home care, for those who have had a stroke and maybe have to spend the rest of their lives in a nursing home; part B would be the fee that the cardiothoracic surgeons charge to do open heart surgery. We save that money, yet you get no credit, you get no score for that. But, Mr. Speaker, surely, if this program is going to work and if it makes sense, and it certainly makes sense for this physician Member of this body and, furthermore, it is the compassionate thing to do.

So, indeed, to suggest that the Republican majority in this body, led by our Speaker, the gentleman from Illinois (Mr. HASTERT), and that President Bush and his administration do not care about health care and have ignored and narrowly focused on Social Security and forgotten about the needy in this society regarding health care, it is just absolutely, Mr. Speaker, absolutely untrue. I think, again, fair-minded Members of this body on both sides of the aisle would readily admit that.

Now, I spoke at the outset of this hour of the Republican Conference on Health Care, Access, and Affordability Public Affairs Team. That is us; that is me. I am taking all of the time this evening, but we have a strong team. We are not just health care providers, although many of us are physicians and dentists and other people involved in health care. I wanted to take this time to share with our colleagues our vision and our focus and what we are doing to try to make sure that we have a good policy that is fair and balanced and that we are taking care of those who are in most need in regard to health care.

Mr. Speaker, one of the huge problems right now, of course, is the Medicaid program. Again, this is part of our entitlement spending, the mandatory spending, as I outlined at the beginning of the hour, the two-thirds of the Federal budget. Medicaid is a Federal-State program, with the Federal Government actually paying, in most cases, more than the State does, to provide health care for the neediest in our society, especially for children and single mothers. It is a great program. It has served us very, very well. In fact, I have a slide, Mr. Speaker, that I will get up in just a few minutes and I would like to point out how that Federal-State match works.

It is based, really, on average income in a State. A State with a lower average income, a poor State, there is going to be a higher Federal percentage; and the parameters range from a 50–50 participation to 80–20. And if we can focus on this chart to my left, this is not all of the States; I think I was informed that the machine broke and they were not able to get but about half of the States on the chart. But it does include my State of Georgia; and last year in Georgia, the Federal match was 60, almost 60.5 percent, and the anticipated match for the fiscal year 2006 is 60.6. So in Georgia it is about a 60–40 split.

I was looking for Mississippi, which I think is probably one of the States that has the lowest per capita income where the Federal match actually approaches the maximum 80 percent.

□ 1615

It is not on this board. But I think the Federal match in the State of Mississippi is about 78 percent. But it varies. Alabama is here, 70.1 percent Federal participation in 2005. And in 2006, that dropped down to 69.5 percent. There are other States, like I say, that are 50/50. Illinois, as an example, is 50/50. The State of Massachusetts is about 50/50.

Mr. Speaker, this is the way it should be. We should indeed participate more for those States who have the greatest need. One thing, though, that really concerns us, and I think one of the main problems with the Medicaid system, is that there is a significant amount of waste and abuse of the system. And yes, in fact, Mr. Speaker, in some instances, downright fraud. And if a State is a 50/50 state, there may not be much advantage to take an advantage of the system. But if the State has a higher Federal match than the State match, you can see that if you are abusing the system, gaming the system, if you will, then there is an advantage because you are pulling down more Federal dollars than you are spending at the State level.

And so these are some of our problems, of course, that we are facing now with the Medicaid program. The spending is growing more, of course, in times of economic stress and distress. And we have gone through a lot of that in the last several years, particularly since 9/11. And of course the population growth, you are going to have more people who are legitimately eligible for this care. So the spending is going to go up. But we want to make sure that we get dollars to those who are in need and not to those who are in greed, if you will. And that is very important.

And there will be a very strong focus on Medicaid reform, led, quite honestly, by the governors, by the Governors Association, both Democratic and Republican governors. They have been here. They have talked to the President. They have talked to Congress. They have some very good ideas of how to make this system work better and make sure that those who have the greatest need have access to those Medicaid dollars.

I wanted, Mr. Speaker, to share with my colleagues just a few numbers about the magnitude of really what I am talking about. In the year 2002, the total Federal dollars spent on the Medicaid program, now this is just the Federal dollars, $140 billion. That is in the year 2002. In the year 2004, that number has gone up to $184 billion. You know, we are talking about significant increases. From 2001 to 2002, the Federal spending Medicare increased 8 percent. From 2002 to 2003, it was about 9 percent. From 2003 to 2004, in the same range. And on and on and on.

So when people say to me from back home, Congressman, do not cut Medicaid spending because, you know, you are affecting my program. And that could be a physician talking about, you know, his or her reimbursement. It could be a hospital. It certainly is likely to be one of these rural hospitals that is called a disproportionate share, which means their clientele is disproportionately weighted toward the Medicaid program because they are a poor community. And they are concerned, and I understand that.

But what the President did in the 2006 budget that he submitted to us was to cut a certain number of Medicaid dollars over a 5-year period of time. What we have done here in the Congress, the President recommends, and then we legislate. We make the final decision. And it looks like we are going to have a Medicaid funding cut over the next 5 years of $10 billion. That is $2 billion a year but that, we hope and I feel very confident, we can find those savings by eliminating this situation that I described, waste, fraud and abuse.

Now, let me just give you one example, Mr. Speaker, and I want to share that with my colleagues, the nursing home situation, long-term care in a skilled facility. Medicare, under Part A only covers a certain number of days. I think it is something like 100. And after that, the patient is pretty much on their own, and that has to come out of their pocket. If they do not have long-term care insurance, and most people do not, we are trying to address that. This Congress is trying to address that, the Republican leadership, and that is why we put health savings accounts in the Medicare modernization bill of December 2003, so that that money in those accounts can be used without any tax penalty whatsoever to purchase long-term health care insurance. But most people do not have that today. And if a loved one ends up in a nursing home, then once those Medicare dollars, those days of eligibility are utilized, and the person has no other resources, they become what is known as dual eligible because they have no wealth and no source of income, then all of a sudden they are eligible for Medicaid.

So, the reality today, my colleagues, is that probably 70 percent of nursing home reimbursement is from the Medicaid program. Now, some of that is appropriate. But some of it is inappropriate.

And indeed, there is actually a cottage industry out there where our good attorneys advise people how to hide their income, how to shift their possessions and their net worth to maybe another family member, and all of a sudden they have got nothing. They do not have any wealth. They do not have any income, and they are dual eligible for Medicaid. That, my colleagues, is what I call gaming the system. And when you do that, you take money away from the program, desperately needed money for single moms, for the poor who need prenatal care, for little infants that are born prematurely that need a good start in life, and they cannot get it because there is no money there.

This is something that we, the Republican majority, and hopefully in a bipartisan fashion with our colleagues on the other side of the aisle, we are giving very serious attention to it. And yes, we can walk and chew gum at the same time. We can work on the Social Security problem and fix that, get out of that crisis situation and work on solving the Medicaid problem at the same time. Absolutely, we can. We will. We are doing that, and we will get to the finish line on both of these programs, and we will do it sooner rather than later.

We will not be irresponsible on these issues and put this off and say, Hey, you know, we do not want to touch that third rail because we are worried about our re-election in 2006 and keeping our majority. We are going to keep our majority by doing the right thing. And we will let the elections take care of themselves.

But we have to make sure that we understand, the American people understand, and that we do not let the nay-sayers poison the well like they tried to do on that Medicare discount card.

I was at a little town hall meeting in one of my poorest counties recently in Southwest Georgia, Talbot County, a great community, wonderful people, but poor, very low tax base. And we were talking about Social Security. Miss Menafee came up to me after the hour and a half town hall meeting, and she said, Congressman, thank you for that information on Social Security. I think I really understand it better now. I have been getting those automated phone calls and those slick glossy mailers. I do not know whether they were from AFL-CIO or George Soros and some 527, but thank you, Congressman for helping me understand it better, to see how an individual personal account can grow and have the miracle of compound interest. But I just want to say to you, also, thank you for Medicare modernization. And thank you from the bottom of my heart for that prescription drug discount card, that transitional program.

Miss Menafee told me that she had been spending something like $400 a month for five or six drugs that she desperately needed, and because she was eligible for that $1,200 credit and the lowest pricing, in fact, I think maybe a dollar, $3 copay, she said she had reduced over $400 a month worth of medical expenses to $9 a month.

Miss Menafee, God bless you. And she is 80 years old and looks healthy, and I think she is going to outlive us all because of what we did. So that is the compassion. That is the thoughtfulness that this Republican leadership, this majority has in regard to the health care program.

Mr. Speaker, I guess I could go on probably long beyond my allotted hour. But I am going to try to go ahead and bring this to a close because I think, hopefully, my colleagues have heard me loud and clear and understand that we care about health care. We care about the uninsured.

We have passed association health plans in this body at least twice, and we will continue to pass it. We have passed tort reform so that doctors and hospitals are not ordering all these unnecessary tests. And every individual that walks into an emergency room with a headache does not need a CAT scan, but they are getting it because the doctors are afraid they are going to be sued, or the hospital, and that is why people cannot afford health insurance.

All that defensive medicine, these additional lab tests, it drives the price of health insurance up so high that it is out of reach for far too many people. And we end up with 43 million in this country who have no health insurance, and most of them are working. But we are going to help them. Again, we are going to help them by what we have done in Medicare modernization, give them an opportunity to set up through their employer a health savings account where they can get catastrophic insurance for a very low premium, Mr. Speaker, a very low monthly premium, and then the employer or a relative or a friend can help them fund an account that can grow, that can enjoy the miracle of compound interest, that they can use that money for a lot of types of things that traditional health insurance does not even cover, eye care, dental care, mental health services, just so many things.

So it is a pleasure to be part of this team, to be here tonight, to be talking about what we, the Republican health care access team, is doing.

But, you know, again, I want to make sure my colleagues understand that I am not an overly partisan person. It is not all about left versus right or Republican versus Democrat. It is right versus wrong, and I think we need to focus on doing the right thing, and we ought to try to do it as much as we can in a bipartisan fashion.

And to that point, Mr. Speaker, I want to let my colleagues know that we have recently formed a medical/dental doctors in Congress caucus in this House. There are 13 of us. There are three dentists. There are ten MDs. Three of those MDs are on the democratic side; seven on the Republican side. And we are going to work on these issues in a bipartisan fashion.

You know, I thought yesterday, as we had that plane, that little Cessna that inadvertently got in the airspace over the Capitol, and we all went just, I mean, pouring out of here in semi panic, although the Capitol police did an excellent job of keeping people calm, but, you know, making sure that we got out of harm's way as quickly as possible.

□ 1630

You have to take every one of these threats seriously, and I could not help but thinking as I was running down the street, where are the other 12 members of our physician and dental doctor caucus?

We probably were all going in a different direction. My co-chairman of that caucus is the gentleman from Arkansas (Mr. SNYDER), Mr. Speaker, a great Member of this body. The gentleman has been here a good bit longer than I have been, a fine doctor from Arkansas.

The gentleman and I have been working together. That was one of the things we were talking about last week. The next meeting we have, we are going to make sure that we work with the House physician so that this team would know what we would do in a situation like that so we were not all going in different directions. Maybe all 13 of us, hopefully the caucus will grow, I like doctors and dentists in Congress, but we could go to a designated spot so if this really truly turned out to be a terrorist attack, we would be part of the solution and not part of the problem.

Again, as I speak to my colleagues this afternoon and I am deeply appreciative, Mr. Speaker, of the opportunity to talk about what the Republican majority is doing on health care, I do not want to forget that the American people do not like a lot of partisanship and animosity and, indeed, hatred. We do not accomplish anything in that fashion. I am very proud to be part of that new bipartisan caucus as we work towards solving these problems.

APPOINTMENT OF MEMBERS TO CONGRESSIONAL-EXECUTIVE COMMISSION ON THE PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore. Pursuant to 22 U.S.C. 6913, and the order of the House on January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the Congressional-Executive Commission on the People's Republic of China:

Mr. LEACH, Iowa, co-chairman;
Mr. DREIER, California;
Mr. WOLF, Virginia;
Mr. PITTS, Pennsylvania;
Mr. ADERHOLT, Alabama.

THE DANGERS OF CAFTA

The SPEAKER pro tempore (Mr. DENT). Under the Speaker's announced policy of January 4, 2005, the gentleman from Ohio (Mr. BROWN) is recognized for 60 minutes.

Mr. BROWN of Ohio. Mr. Speaker, I enjoyed hearing my friend, the gentleman from Georgia (Mr. GINGREY), and his comments about Medicare.

I know that my Republican friends care about health care. But unfortunately, they care more about the drug companies and the insurance companies than they do in providing low-cost prescription drugs and health insurance to the 50 million Americans who do not have health insurance.

I did not come forward today to talk about Medicare, particularly, except to note that when Congress passed the Medicare bill last year, a bill that a couple of years ago was not received by the public very well in part because they did not tell us the truth about the cost of the bill, it ended up costing almost $1 trillion when they told Congress it would only cost $400 billion.

But more than that, this bill provided literally 180 additional billion dollars to the drug industry profits and had direct subsidies of about $60 billion to the insurance industry.

So I wish, while my Republican friends, I do believe they care about the poor, they care about working people, they care about health insurance, unfortunately their caring so much more about the drug industry, the insurance industry, it sort of gets in the way of too often doing the right thing.

I come forward this afternoon, Mr. Speaker, to talk a little bit about the Central American Free Trade Agreement which, frankly, will likely be defeated in this Congress bipartisanly. This is not a partisan issue. It is an issue of justice, an issue of jobs, and an issue of where our country and our economy goes.

Two weeks ago, more than 150 Republicans and Democrats, Senate and House Members, pro-business, pro-labor groups gathered on Capitol Hill to speak out against the Central American Free Trade Agreement. Republican House and Senate Members and Democratic House and Senate Members joined with these outside groups, this group of unlikely bed fellows perhaps, to speak with one voice of the unified message to vote against the Central American Free Trade Agreement.

CAFTA expands on the failed trade policies of the North American Free Trade Agreement and expands on those policies by enlarging NAFTA, the North American Free Trade Agreement, to six Central American countries, including the Dominican Republic.

When I ran for Congress in 1992, I do not want to bore my colleagues with numbers, when I ran for Congress in 1992, the United States had a trade deficit of $38 billion. We thought that was way too big. That meant we were buying, importing $38 billion more worth of goods than we were exporting; $38 billion trade deficit we had in 1992.

Last year after NAFTA, after PNTR with China, after several other trade agreements over the last decade-plus, our trade deficit is $618 billion, from 38 to 618 billion.

Now, you can see the trade deficit with Mexico as an example, prior to NAFTA, the year I came to Congress, in 1992, we actually had a trade surplus with the Republic of Mexico. We actually sold them more than we bought from them. Look what happened after NAFTA. Look at these numbers. This is zero right here. We had a trade surplus in those 4 years prior to NAFTA. Then all of the sudden 10 billion, almost 20 billion, 25 billion, over 30 billion, almost 40, over 40, approaching a $50 billion trade deficit with Mexico.

Now, George Bush, Sr., who originally negotiated the North American Free Trade Agreement, he said that $1 billion in imports or exports represented about 12,000 jobs. That meant if you have a $3 billion trade surplus then that is three times 12,000. You would have 36,000 more jobs in your country. If you have a $3 billion trade deficit, you would have 36,000 fewer jobs in your country.

Look at this. We went from a $38 billion trade deficit overall to $618 billion. You do not need to do the math except you just sort of estimate and you see what these trade agreements have meant to the American people, to our economy, to our manufacturing base.

In my State of Ohio we have lost 200,000 manufacturing jobs. One out of 5 manufacturing jobs in my State has disappeared in the last 4½ years since President Bush took office. Those manufacturing jobs have been lost for a lot of reasons. The most important reason is NAFTA and PNTR and these trade agreements.

Unfortunately, these trade pacts like NAFTA and like CAFTA enable companies to exploit cheap labor in other countries and then import back to the United States under favorable terms. The Central American Free Trade Agreement should probably be named the Central American Free Labor Agreement because that is really what it is all about.

About 5 or 6 years after NAFTA passed, in the mid-to late 1990s, at my own expense I flew to McAllen, Texas, rented a car and went across the border to Reynosa, Mexico because I wanted to see what NAFTA looked like, what these free trade agreements looked like. I wanted to put a face on these numbers. These numbers are persuasive. They certainly convinced me and I think convinced many that these trade agreements are bad ideas. But I wanted to see real faces and real people and put real names next to those faces and people so I really could understand what this global economy looked like.

I went to the home of two people who worked for General Electric Mexico. They lived in an area about 30 feet by 30 feet, maybe smaller than that, probably more like 20 feet by 20 feet. No running water. No electricity. Dirt floor. When it rained hard, their floor turned to mud. Both of these people worked at General Electric Mexico. They lived 3 miles from the United States of America.

Now, if you walk outside their little shack into their colonia, their neighborhood, 3 miles from the United States, you will notice as you look around a couple of things. The first thing you will notice is there is a ditch nearby with who-knows-what human and industrial waste running through this ditch, maybe 4 feet wide. Children playing in this ditch because children will play wherever children play.

The American Medical Association said this area along the Mexican-U.S. border was the most toxic area in the Western Hemisphere. So no telling what kinds of diseases these children could get from playing in this ditch.

If you walk through the neighborhood more, you will notice that all of these shacks were built out of packing materials, boxes and wooden crates and wooden platforms, coming from the companies from where they worked. So you could tell where these workers worked just by walking through the neighborhoods and looking at the shacks, shacks literally constructed out of packing materials for these companies they worked for.

The point of the story is when I went to a General Motors plant nearby and what I noticed was this General Motors plant looked just like a General Motors plant in Lawrencetown, Ohio, and just like a Ford plant in Avon Lake, Ohio, or just like a Chrysler plant in Twinsburg, Ohio. It was modern. It was new, newer than the plants in my State. The floors were clean. The workers were working hard. The latest technology.

There was one difference between the General Motors plant in Mexico and the auto plant in Ohio. And the different was the auto plant in Mexico did not have a parking lot because the workers were not paid enough to buy the cars which they make

You can go half way around the world to Malaysia to a Motorola plant. The workers do not make enough to buy the cells phones which they manufacture. You can go back halfway around the world to Costa Rica, one of the countries in the Central American Free Labor Agreement, and the workers at a Disney plant do not make enough to buy the toys that they manufacture.

You can go back halfway around the world to China and go to a Nike plant and the workers do not make enough to buy the shoes that they manufacture.

That is what is great about our country. In our country because of labor unions, because of labor laws, because of our democracy workers share in the wealth that they are creating. If you work at General Motors or you work at a hardware store or wherever you work, if you help your employer make a profit and create wealth at that company or create value as a nurse at a hospital or a teacher in a high school, you share in the wealth or share in the good that you do. You get a share of those profits, a share of that wealth. That is how our country works.

Unfortunately, it does not work that way in Mexico. And as you will see, frankly, it does not work that way in the other countries that are part of the Central American Free Trade Agreement.

The average worker in the United States makes $38,000. That is enough to buy shoes, maybe to send your kids to college. It is enough to live in a decent place. It is enough to own a car. It is enough to go to the grocery store. It is enough to buy some things. But if you look at the rest of the countries in the Central American Free Trade Agreement, Costa Rica, the average income is $9,100. In the Dominican Republic it is $6,000; El Salvador, $4,800; Guatemala, $4,100; and in Honduras and Nicaragua it is less than 10 percent of the income that Americans make: $2,600 in Honduras; $2,300 in Nicaragua.

The combined purchasing power of these six countries, the combined purchasing power of the Central American countries is equal to that of Columbus, Ohio, or Orlando, Florida.

When you think about the combined purchasing power and you look what these people in those countries earn, you know they do not make enough to buy a car manufactured in Ohio. They do not make enough to buy prime rib coming from cattle in Nebraska or Colorado. They do not make enough to buy software from the State of Washington. They do not make enough to buy steel from West Virginia. They do not make enough to buy clothes from North Carolina or South Carolina or Georgia.

The fact is this Central American Free Labor Agreement is not about U.S. companies and U.S. farmers exporting their products to Central America. That will not happen because the Central American people are not paid enough to buy American products.

What this agreement is all about is simply outsourcing of jobs; is American manufacturers moving production to Central America and setting up plants and paying workers wages that barely keep them alive and then selling those products back to the United States at tremendous profits.

I have visited a factory in Nicaragua where the workers are making 23 cents per pair of jeans that they sew. They get 23 cents for a pair of jeans they sew, and that pair of jeans is sold at Wal-Mart in the United States for $25 or $30. So the company is getting rich. The workers stay poor. And unfortunately, that is what is going to happen and get worse if CAFTA passes.

If you want more proof already than this, the trade deficit, the amount of money that people are making, the fact that they simply cannot buy American products, let us look at the politics of it for a moment.

The President of the United States has sent five trade agreements to Congress. The first four trade agreements, the trade agreement with Morocco, one with Chile, one with Singapore, and one with Australia, all passed the Congress overwhelmingly in fewer than 60 days, in less than 2 months. This time the President sent this trade agreement to us is almost a year ago, 348 days ago to be exact.

Now, the reason the President sent this a year ago and Congress has not moved on it is simply because the American people understand what these trade agreements do to our country. Not just what they do to a family that loses a job. But what that means to that family, what that means to that school district, what that means to police and fire protection is that they do not have the kind of tax revenues when a plant closes down in a community and moves to China or moves out of town. All of that the American people understand it.

It is finally after all of these trade agreements, the Congress of the United States has finally figured it out. That is why we have not voted on the Central American Free Labor Agreement yet, simply because the American people understand this trade agreement is not working. It has not worked in the past. These trade agreements will not work in the future.

The President has tried to get it to pass in Congress, and Congress simply does not have the votes to pass it.

□ 1645

Earlier this spring, the majority leader, the gentleman from Texas (Mr. DELAY), the most powerful Republican in the Congress, has announced that we would vote on Central American Free Trade Agreement by the end of the month, by May 27 before Congress leaves for Memorial Day weekend.

That will mark literally the 1 year deadline, the 1 year anniversary, since CAFTA was signed by the President. That means with CAFTA, if CAFTA's not voted on by then, it is dead in the water. The issue is dead on arrival. It is clear the American people have said no and the U.S. Congress has said no.

Once this 1-year anniversary passes, a lot of us who are opposed to this agreement say the President, I think the 1 year really means, okay, it has failed, it is time to go back to the drawing board and write a Central American Free Trade Agreement that we can pass.

Clearly, there is a desperation among those people who have pushed Central American Free Trade Agreement in this Congress, that they have not been able to convince the American people that it is a good idea. So they are trying one last-ditch effort and that happened this week.

This week the Presidents of the Central American countries and the Dominican Republic and six countries under CAFTA are touring the United States. The six Presidents of these countries are on a United States Chamber of Commerce junket pushing CAFTA. They went to Miami, Los Angeles, Albuquerque, to my State to Cincinnati, and they are attempting to convince the American people and the press that CAFTA is good for their country, good for their people and good for our country and good for our people.

Like our own President, like in this country, these six Presidents have tried to convince everybody that CAFTA will lift up low income workers and that CAFTA will create jobs here in the United States. What they do not say is they do not talk about the combined purchasing power of CAFTA Nations equal to that of Columbus, Ohio, or Orlando, Florida, or Memphis, Tennessee. They do not mention that.

They do not mention the fact, as I said earlier, that the workers in Central America cannot buy cars in Ohio or software from Washington State or steel made in Pennsylvania.

What we do not hear from them is that CAFTA does nothing to ensure the enforcement of internationally recognized labor standards in their countries, and with all due respect to the Central American leaders, what they are not saying and what millions of us know already is that millions of their workers, like 10s of millions of American workers, do not support this agreement. The Presidents may support them, but the workers in their countries and our country do not support this agreement.

What they will not tell reporters, what they did not tell reporters in their Chamber of Commerce junket around the United States is that 8,000 Guatemalan workers protested against CAFTA 2 months ago. Two of them were killed by government security forces.

They do not tell us that 10s of thousands of El Salvadorans protested CAFTA two-and-a-half year ago.

They do not tell us about the 18,000 letters sent by Honduran workers to the Honduran legislature, decrying the dysfunctional cousin of CAFTA, NAFTA.

They do not tell us about the 10,000 people who protested CAFTA in Managua, Nicaragua, in 2003.

They do not tell us about the 30,000 CAFTA protesters in Costa Rica this past fall.

They do not tell us that hundreds of thousands of workers have protested in Central America in 45 different demonstrations in the last 3 years.

Opposition to CAFTA is as strong in Central America as it is in the United States. I ask my colleagues in this Congress, when the Presidents of Central American countries come around to our offices, as they have, and ask us to vote for the Central American Free Trade Agreement, understand, they may support it for whatever reasons, but the people of their countries, in large numbers, do not.

A couple of nights ago, after the Chamber of Commerce tour of America that the six Presidents took, the Chamber of Commerce hosted a reception for the visiting dignitaries, rewarding them, thanking them for their lobbying efforts this week. You can imagine this very plush room at the Chamber of Commerce, in its beautiful structure in downtown Washington, where the chamber has its very nice offices.

You can imagine the leaders, the CEOs, of the most powerful and largest corporations in our country were raising toasts, thanking the six Central American and Dominican Republic Presidents for their campaigning for this issue. Then you can see the six Presidents raising a toast to the Presidents and CEOs of the largest companies in America, thanking them for their support.

It just made you wonder were the CEOs or were these Presidents thinking of the millions of workers and hundreds of thousands of workers in each of these countries, millions of workers in the United States, who are opposed to this agreement and who knew that this agreement would bring more problems for America.

Did they think about the small businesses in Ohio and Michigan that do not want another failed trade agreement? Did they think about the small stores in Managua and Santo Domingo and in San Juan that would go out of business and that would be pushed out of business because of these trade agreements? Did they think about the family farms in North Carolina or the coffee farmers in Costa Rica or the highlands of Nicaragua? Did they think about the sugar farmers in Minnesota, in eastern Oregon and in Idaho and in Minnesota and Louisiana? Or did they think about the sugar cane workers in Central American? My guess is they did not.

When I think about these trade issues, and I again go back to this chart as I am about to close, I go back to this chart which shows the relative income of each of these Central American countries, and when you think about where we want to go with our trade agreements and what has happened to our trade agreements, we have seen so much pain on each side.

We have seen pain in O'Leary, Ohio, near where I live, a town of about 50,000, industrial town which has had certainly its tough times. When York Manufacturing shut down its plant and moved much of its production to Mexico, think about those families: the unemployment in that community; people losing their jobs; kids not able to go to college; people, their homes are foreclosed on; what happened to the school district, which lost a big chunk of money; what happened to police and fire protection in that city because they lost so much tax revenue. Then you think about what happens to workers in the developing world in these countries when these trade agreements inflict the damage that they do on them, these workers, the family I met in Mexico that worked at General Electric, that could barely make a living and what happened in their lives and the pain they felt.

You think about the damage, both in the rich world, our world, the United States, the rich countries, and you think of the poor countries and the damage there. Instead, we could pass not this Central American Free Trade Agreement. When the time runs out, when this clock is down, when the deadline passes and CAFTA is dead, it is time to pass a new Central American Free Trade Agreement, negotiate a new one that will really lift workers up, because trade agreements work when the world's poorest workers, the workers for Nike in China, the workers for Motorola in Malaysia, the workers for Disney in Costa Rica, the workers at the auto plants in Mexico, when the world's poorest workers can buy American products, rather than just make them, then we will know, Mr. Speaker, that our trade policies are finally succeeding.

ENERGY

The SPEAKER pro tempore (Mr. DENT). Under the Speaker's announced policy of January 4, 2005, the gentleman from Maryland (Mr. BARTLETT) is recognized for 60 minutes.

Mr. BARTLETT of Maryland. Mr. Speaker, we are here this afternoon to build on a discussion that was started last evening when five of us were here on the floor to talk about the problem of energy in general and about oil and peak oil in particular.

I would like to start with a chart that shows some curves that will lead us to this one. Here, we have a 2 percent growth curve, and what this is is the rate at which we are increasing our demand for oil. You will see that it is exponential. It is not a straight line. It goes out and up, and the further you go, the steeper it gets. I wanted to talk for just a moment about these exponential curves because I think a lot of people do not understand the exponential function.

There is a very interesting story about the person who a very long time ago invented the game of chess, and the monarch of the kingdom was so impressed with that contribution that he told the inventor that any reasonable thing that you ask, I will give you. The inventor said, I am a simple man, with simple needs, and if you will simply take my chess board and put a grain of wheat on the first square and 2 grains of wheat on the second square and 4 grains of wheat on the third square and 8 grains of wheat on the fourth square and just continue, continue doubling the number of grains you put on each square until you have gone through all the squares of the chess board, that will be reward enough for what I have done. The king thought he had gotten off lightly; geez, that is easy.

He could not do that, of course, because if you do that, go to the 64th power, that would represent all the wheat that is grown in all the world in 4 years of harvest. I understand, and you notice that is the exponential function.

We see here just a 2 percent growth curve, and many people think of 2 percent growth as a straight line. That is only 2 percent for the first year, but then if it is going to 2 percent for the second year, it is not going to be 2 percent of what existed at the end of that year. So you are kind of getting interest on interest which is what compound interest is, and I think many people have a little appreciation of compound interest.

This is a 4 percent growth curve. It quadruples in 35 years. This is a 5 percent growth curve, and China now is on a 10 percent growth curve. That is this curve. In 7 years, if they continue on this curve, their economy will double, and their use of oil will double if it follows the economy. There is not much way to keep it from following the economy. In 14 years, they will be using four times as much oil, and in just 21 years, they will be using eight times as much oil.

The next chart kind of puts the thing in perspective as far as our country is concerned. We have 2 percent of the world's oil reserves, and we use 25 percent of the world's oil, and we import about two-thirds of what we use. That is up, by the way, from the Arab oil embargo where we imported just about a third of what we use.

Two other figures are of interest. One is that we represent less than 5 percent of the world's population. We are about one person in 22 in the world, and this one person is so fortunate that we get to have 25 percent of all the good things in the world, a subject for another discussion, but I wonder, Mr. Speaker, if you have asked yourself the question, how come that is true; what is so unique about this country and our culture that this one person in 22 has a fourth of all the good things in the world? Perhaps we will come here to the floor another day to talk about that because I think there are some real lessons to learn. If you understood how we got here, then we might understand what we need to do to stay here, but that is not the subject of tonight's discussion.

With only 2 percent of the world's oil reserves, we produce 8 percent of the world's oil. What that means, of course, is that we are really good at pumping oil. We know how to get oil out of the ground better than almost anybody in the world. As a matter of fact, we are so good at that, that the Chinese have come here. They may still be here. They were here a few days ago, and they were coming to try and see how we do it, because we are really good at getting oil out of the ground.

What that means, of course, is for the moment we are better off because with 2 percent of the world's oil reserves, we are getting 8 percent of the world's oil. So we are really maximizing the opportunities we have from the oil that is available to us.

The next chart will show us one of the consequences of this, and I have to go back now about 6 decades to put what we are talking about in perspective.

There was apparently lots of oil available in the world at that time. We were awash in oil, and gasoline was very cheap. I remember buying it at 6 gallons for a dollar. You could not do that today, no matter what the price of crude oil was, because I think there is $0.48 tax per gallon.

□ 1700

And then, obviously, there was a much lesser tax per gallon, because I remember buying gas, 6 gallons for a dollar.

There was during the 1940s and 1950s, a scientist working for Shell Oil Company named M. King Hubbert. He became quite an icon in that world because he made a prediction in 1956 that the United States would peak in its oil production; that we would reach a maximum capacity for pumping oil in this country in about 1970. He made that prediction 14 years before the date at which he said it would happen.

He made that prediction because, as a student of this technology, he had watched the exploitation and the depletion of individual oil fields. He noticed that for every oil field the rate of production increased and increased until after it reached a peak, and then after it reached a peak it was more difficult to get, and so it fell down the other side of the slope, and it always followed a bell curve.

Here we have a bell curve. As a matter of fact, that is the bell curve, the green there. That smooth green line is a bell curve that was predicted by M. King Hubbert. The more ragged green line are the actual data points where they fell on that curve, remarkably close to his predicted curve.

If we look at the next graph, and by the way, before we look at that one, the red one here shows Russia. There are charts for a lot of countries, because a number of countries have now peaked in their oil production.

In this next one, the red one here shows Russia, really the Soviet Union, and they kind of fell apart. And notice that the actual production did not follow the predicted curve. They now are capitalizing on that and they are having a second little peak here, but it is still falling off.

Notice the blue lines here. We will talk about that in just a moment with the next chart here, because what the next chart does is to show where we got our oil from and where we were getting it from when M. King Hubbert made his prediction. When he made that prediction back here in 1956, we were getting a tiny bit of natural gas liquids, and we were getting about half of our oil from Texas and the other half from the rest of the United States.

He predicted that by 1970 that we would peak. And he did that because he rationalized that if you took each one of these little oil fields that was going to follow a bell curve, and if you added up all the little bell curves, you would get one big bell curve for the whole country. And so with some confidence he predicted, by estimating the additional oil that we would find, he predicted when we ought to peak. As a matter of fact, we did peak in 1970.

When we were falling down the other side of Hubbert's Peak, we discovered oil in Prudhoe Bay in Alaska; and there was a lot of oil there. There was hopes that this would solve our oil problem. You see what it did? There is just a little blip in the slope down the other side of Hubbert's Peak. That, by the way, represents about 25 percent of our present production of oil. That is tailing off, as you see, because we are now down pumping relatively the last oil out of Prudhoe Bay.

I am sure, Mr. Speaker, that you can remember all of the hullabaloo, I guess is the best way to say it, about the enormous oil finds in the Gulf of Mexico. We were going to be home free. It was energy and oil for the foreseeable future. That is the little yellow segment here. That is how much it amounted to.

The next chart shows the discovery of oil. We have been talking so far about the production of oil, and the reality is that the world found its oil many years before it produced oil. I hope there is a whole lot of oil out there that we have not found; but by the time we finish this evening, I think you will agree that for our present situation and for the next few years, it really is not going to be of much moment whether we find a whole lot more or not. I hope we do. I do not think the industry expects that we will, because they are now awash in cash. And you may or may not know, they are not spending a lot of that money on prospecting. They believe that they have found much of the oil that is out there to find.

This chart reflects worldwide. Our peak occurred well before this, but worldwide the peak discoveries occurred back here in the mid-1960s, and now we are reaching the peak production about 40 years later. That is roughly what it was in our country, about 30 or 40 years later after we had the maximum discoveries, then you have the maximum exploitation and the highest pumping of that oil.

We were already 10 years down the slope of the other side of Hubbert's Peak when Ronald Reagan came to office. And he and his administration understood that we were becoming every day more dependent on foreign oil, and so they had a solution to the problem. It turned out to be not the right solution, but at least they tried to do something. You may remember those days, and the philosophy was that the marketplace solves problems. And with unlimited resources, the marketplace is great at solving problems. So they theorized if we just gave our oil industry an excuse, an incentive to drill more wells, that they would go out and drill more wells and they would find more oil. So we put in place a number of incentives to go out and drill more wells and, boy, it worked.

This was the rate at which we were drilling wells. And then after Reagan came in, notice how it shot up. Now, the green here represents the excess we had compared to what we were pumping. The red represents a deficit that we are now using more than we pump. And notice that the increased drilling coincided with the beginning of a surge in red, which continued more and more. And notice how drilling has fallen off.

With us having only 2 percent of the reserves and using 25 percent of the world's oil and importing two-thirds of what we use, and with oil at $50 a barrel, you would think that with the big profits the oil companies have that they would now be drilling a lot of wells. They are not drilling a lot of wells. Could that be because they have some reasonable confidence that they have probably found most of the oil that is out there to find?

The next chart shows us something very interesting. We are not the only country in the world that uses oil. China, of course, is a big user of oil. As a matter of fact, they are now the number two importer of oil in the world. I think they are the number two user of oil in the world. They just surpassed Japan, with 1.3 billion people that have some qualities that you can admire, because they are the qualities, at least some of the reason, that America is the great country that it is. We had a great work ethic. We had a great respect for education. And we have been the most innovative society in the world.

But now the Chinese are rivaling us and maybe surpassing us in the work ethic. And if you look at our schools, particularly our technical schools in science math and engineering, you might conclude they had a little more respect for technical education than we have, because not only have they filled the schools up in their country, and they have some pretty good schools there now, but they are also about half the students in our country. Their economy has been growing at 10 percent a year. Last year, they increased their demands for imported oil by about 25 percent. I hope that does not continue, because if it does, the world is going to have an oil crunch or crisis a little sooner than it might otherwise.

This map of the world, and by the way there is an interesting depiction here, and that is the green, which is Russia. By the way, this should be colored green over here too, right next to Alaska. Russia spans 11 time zones. They go almost halfway around the world. And they have got a lot of oil over in what is called the Far East of Russia, over here near the Sakhalin Islands. And China, this symbol here represents China's negotiating with Russia, and they may very well build a pipeline from Russia's Far East down to China, maybe on down to the Korean Peninsula, because the Russians have the oil and the Chinese need the oil.

Not only are they working there to get oil, but they are certainly several places in the Middle East. They are in Africa. They have contracts in these areas. And in many areas they are buying access to facilities to make sure that they will have more reasonable access to oil in the future. They are in our back yard. They are in Colombia; they are in Venezuela.

By the way, they are talking about building a canal across the Isthmus of Panama so they can move oil from one side to the other to more quickly get it to China.

They are in Brazil. They are in Argentina. They are scouring the world for oil. As a matter of fact, they have locked up the oil from the oil sands in Alaska, oil sands that I suspect we are counting on, because Canada is a big exporter to the United States. But they now have, I understand, a 40-year contract, locking up at least some of the production of the tar sands. And that production may well drop off so that the oil available to them through this contract may be a major part of the oil produced in Canada.

This is a reality that we must deal with. Although we are now big, using a fourth of the oil in the world, China, with 1.3 billion people, with an economy growing at 10 percent a year, will double in 7 years. Our economy has been growing more or less 2 percent a year. We are pretty good at efficiency, so our use of oil has only been growing at 2 percent. Even if our economy grows a bit more than that, this 2 percent growth means it will take 35 years before we double our use of oil. But China, at their 10 percent, will only go 7 years before they double the use of their oil.

So when we look to the future, we will have to recognize that there will be a lot more people out there needing oil and looking for oil than just the United States.

The next graph shows us something pretty interesting. It goes back through history, and we go way back. Here we go back to the 1600s and the 1700s, and what this chart shows is the development of the Industrial Age. The first energy source that we really learned how to use was fire and wood, and that is the brown here. You see that we developed an economy with wood. This shows how many quadrillion Btus were produced by wood.

By the way, the Industrial Revolution almost floundered because we were stuck on wood for too long. England was largely denuded of trees to fuel their furnaces for making steel, and we largely denuded New England. I understand there are more forests in the New England States, New Hampshire today, than there was at the Revolutionary War, because those trees had been cut and hauled to England for charcoal to make steel.

But then we found coal, and look what happened to the economy, because coal has a higher energy density than wood. So the economy grew to five times the size in terms of quadrillion Btus.

Then we discovered a fuel source, an energy source even more convenient than coal, and that was oil, and that is the red line here. That is oil and gas, because they frequently occur together. Sometimes it is only gas if you are very deep, and the heat of the Earth and time so that most of the oil has now kind of been converted into gas. But many of the other reservoirs have oil and the gas trapped above it, with a dome of rock over it so it holds it. Otherwise, the gas would have leaked out and the oil would have been of poorer quality as a result of that.

□ 1715

You may have seen pictures of many oil wells in the past that had a big flame burning there at the well. That is because of the natural gas that occurred with the oil, and it was just a product that they did not have any use for because you cannot put gas in a truck and haul it and so they just burned it off at the wellhead. Now, of course, we do not do that and gas is becoming a very precious commodity.

Notice that when we were using a lot of wood, we were using very little coal. When you looked at the energy use across our country in those days, very little coal used and a lot of wood, but soon there was a lot of coal and less wood because coal was more efficient. And look how small oil was here when coal was a big, big factor. But then when we started using oil and found out how superior it was for many uses as compared to coal; why, the use really shot up.

What is there on the horizon today that could take the place of oil when we have run down the other side and as we are running down the other side of Hubbert's peak? The lower curve here, and we have here separated out the petroleum and the natural gas so you do not have the big peak here. If you added these two together, it would be the red line there. We have many fewer years, just this little segment in here. But notice at the bottom those things that we might look to for the future. Nuclear, getting 20 percent of our electricity now, it is not a big percentage of our total energy, but it is meaningful. And solar and wind, they are very little down here but these are the kinds of things that we need to look to for the future.

I would like to go back to the first chart that is on the board here now and just spend a couple of minutes looking at this because this kind of tells us where we are or where we are shortly going to be in the future. This is Hubbert's Peak. By the way, we can make this peak very steep. By compressing the abscissa and expanding the ordinate, you will make it a very steep peak. So whether it is steep or spread out just depends upon the scale you use. Two percent growth. Notice that, at some point, as we near the peak that the 2 percent growth, and that is the oil you would like to use. The blue down here is the oil that is available. Up until this time, all the oil we needed to use has been there. That is pretty much where we are today; although there may be a bit less than we would like to use because oil is not $20 a barrel, it is $50 a barrel. That may reflect an already recognized shortage or potential shortage.

As time goes on, you see the enormous variance between the oil that we would like to use and the oil that is available to use. I would like to make a point that, if we use all the oil for our ordinary economic functions that is available to use, that we are dooming ourselves to a very rough ride in the future, because we will need a bunch of energy, much of it from oil, to develop the alternatives that will be essential as we slide down the other side of Hubbert's Peak. So, at this point in time, we cannot use that much oil when we would like to be using that much. We can only maybe use that much oil, so we are going to be in a position, unless we can reduce our use of oil to about half of what it is now, we are not going to have the energy available to invest in the alternatives so that will ultimately free ourselves from this dependence on a diminishing resource.

From our perspective in this country, our dependence on a resource that is largely in foreign lands and much of that, a great deal of that, as the President himself said, is in countries that do not even like us and that may be pretty terrible in expressing their attitude toward us.

There are many observers of this phenomenon of peak oil that do not believe that we as a country and we as a society have either the wit or the will to do the things that we really need to do to avoid a train wreck in the future. I would just like to read from a few of those. Some of these names you will recognize because some of them are very prominent names. The first is from a Matt Savinar who wrote a treatise, which I have here and you can find it, Life After the Oil Crash. Just do a Google search and go to Peak Oil and you will find Matt Savinar and Life After the Oil Crash. I would encourage you, Mr. Speaker, to read that if you have not. This is the way he begins his treatise. I almost put it down. I said, This guy has to be a nut to say this. This is what he said. I did not put it down. I am glad I did not put it down. I read it through. When I finished reading it through, I found it very difficult to argue with his premises unless we make a big, big effort in this country and worldwide to avoid what he says will happen. This is how he begins this article:

"Dear Reader,

"Civilization as we know it is coming to an end soon."

That is enough to grab your attention or to convince you that, gee, this guy is a nut, I don't need to read that.

"This is not the wacky proclamation of a doomsday cult, apocalypse Bible prophecy sect, or conspiracy theory society. Rather, it is the scientific conclusion of the best-paid, most widely respected geologists, physicists and investment bankers in the world. These are rational, professional, conservative individuals who are absolutely terrified by a phenomenon known as global peak oil."

If this is true, Mr. Speaker, why have you not been hearing about this? That is a very reasonable question to ask. There is an aversion to bringing bad news. As a matter of fact, in ancient Greece, the bearer of bad news frequently paid with his life for the fact that he brought bad news, and politicians frequently pay with their seat for the bad news they bring the people. And since this was a problem where the sky probably was not going to fall on my term, let's let the next guy deal with it.

We have in our country the tyranny of the urgent. In the business world, they always deal with what is urgent. In dealing with the urgent, you may put off the important. The urgent thing for a business is to have a good quarterly report. If you do not have a good quarterly report, your stock is going to drop, the board of directors may meet, and you may not have your job. So you need to have a good quarterly report. Looking down the road to make the kind of investments that you need to make in the event that Hubbert and, by the way, I really need to emphasize something. M. King Hubbert was dead right, right on, for the United States. He predicted it precisely. Why should he not be right for the world? In 1973, he predicted that the world would peak in oil production about the turn of the millennium. It occurred a little bit later because he could not have anticipated the Arab oil embargo and its consequences or the oil price spike hikes or the worldwide recession that occurred most largely because of the price of energy. So now we got about another 5 years. Somebody should have noticed that M. King

Hubbert was right about the United States, and if he was right about the United States, maybe he could be right about the world. And if he could be right about the world, then should we not be doing something about the situation in the world?

I was privileged to have lunch today with, I think, the largest energy investment banker in the world, Matthew Simmons, adviser of the President, widely known by many people in both the economic area and in the oil area.

"Simmons is a self-described lifelong Republican. His investment bank, Simmons & Company International, is considered the most reputable and reliable energy investment bank in the world.

"Given Simmons' background, what he has to say about the situation is truly terrifying. For instance, in an August 2003 interview with From the Wilderness publisher Michael Ruppert, Simmons was asked if it was time for peak oil to become part of the public policy debate and this was his answer:

"'It is past time. As I have said, the experts and politicians have no plan B to fall back on. If energy peaks,'" and I think, and he believes, that energy has peaked or will imminently peak. As a matter of fact, he has a book coming out on the 15th. I hope it will be a best seller. It is called Twilight in the Desert. It is a book about Saudi Arabia. He believes, and there is pretty good evidence, that Saudi Arabia has now peaked in its oil production. The oil prince from Saudi Arabia was a week or two here visiting the President, you may remember. The President was very anxious to extract the promise that Saudi Arabia would pump more oil because $50 a barrel oil and $2.25 for a gallon of gasoline is not good for our economy. So it would be nice to have more oil which would bring the price down and would help our economy. You may have noted that the oil prince did not, I think he could not, promise the President that he would increase oil production.

"'It is past time. As I have said, the experts and politicians have no plan B to fall back on. If energy peaks, particularly while 5 of the world's 6.5 billion people have little or no use of modern energy, it will be a tremendous jolt to our economic well-being and to our health, greater than anyone could ever imagine.'

"When asked if there is a solution to the impending crisis, Simmons responded:

"'I don't think there is one. The solution is to pray. Under the best of circumstances, if all prayers are answered, there will be no crisis for maybe 2 years. After that, it's a certainty.'"

I hope he is wrong. I hope that we in the United States and we in the world recognize the impending crisis as our demand for oil goes ever up and as the oil available to us peaks. Are we here? Are we here? Where are we? We are somewhere near there. There are a lot of experts who agree that we are somewhere near that. And then it starts down the other side. There is this big difference between what we would like to use and what is available to use, and I have already made the point that if we use all the oil for our routine economic functions that is available to us, there will be no energy to invest in the alternatives that we are going to have to have if we are going to transition from the age of oil to the age of renewables. Ultimately, we are going to have to make that transition.

Another expert, Lundberg. You have all heard of the Lundberg report on the price of gas. This is Jan Lundberg:

"The scenario I foresee is that market-based panic will, within a few days, drive prices up skyward."

That has not happened. But who knows when it may happen, when there is suddenly a realization that we are not going to be able to increase the production rate of oil.

"And as supplies can no longer slake daily world demand of over 80 million barrels a day," it is now 84, "the market will become paralyzed at prices too high for the wheels of commerce and even daily living in advanced societies. There may be an event that appears to trigger this final energy crash, but the overall cause will be the huge consumption on a finite planet.

"The trucks will no longer pull into Wal-Mart or Safeway or other food stores. The freighters bringing packaged techno-toys and whatnot from China will have no fuel. There will be fuel in many places, but hoarding and uncertainty will trigger outages, violence and chaos. For only a short time will the police and military be able to maintain order, if at all."

I think we all know how thin the veneer of civilization is. Just let the lights go out in any of our major cities for a relatively short period of time and you get some idea of how thin the skin, the veneer of civilization is. I hope he is wrong. But after you read Matt Savinar's, and this is in Matt Savinar's article, after you read that whole article, you will find it difficult as I did, Mr. Speaker, to dismiss that with a wave of a hand, because if it is true that this is the reality, and it was for the United States, why should it not be true for the world? It was true for England. They peaked. Several countries have now peaked. It will be true for the world one day. Everybody admits that. The only difference of opinion is when it will occur. Many believe that we are now at peak or very close to peak oil. These predictions, I think, are made on the assumption that there will not be an adequate response.

One of the reasons I am here today, Mr. Speaker, is hoping that we can educate the American people, the people of the world, to this pending problem. By the way, another example of this tyranny of the urgent: in politics, it is very difficult to see beyond the next election. What political people tend to do are the things that will maximize their vote total at the next election, and talking about peak oil is probably not one of those things to make people feel good about their future. But I think that leadership has a responsibility. I want future generations when they look back on my generation to say, Gee, they did the right thing.

Another observer, Dr. Ted Trainer. By the way, we cannot see beyond the next election very far. Somebody in America, do you not think, Mr. Speaker, needs to be looking down the road?

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Who is that going to be if not the elected representatives of the people? And I think the people out there across this great country, Mr. Speaker, are wise enough that they will accept the truth. We are an enormously innovative and creative country. I think that we can get by this. I think that we can have very high-quality lives using much less energy, and I think that we can create a brand-new economy around all of the entrepreneurship, the creativity, the inventions that are going to have to be there when we go from these fossil fuels to renewables.

Dr. Ted Trainer explains in a recent article on the thermodynamic limitations of biomass fuels: "This is why I do not believe consumer-capitalist society can save itself. Not even its 'intellectual' classes or green leadership give any sign that this society has the wit or the will to even think about the basic situation we are in."

I hope, Mr. Speaker, as a result of this evening and several prior times I have been here, and I will be here again. I am an old teacher, Mr. Speaker. I taught for 24 years, and I had an adage that I believed in in teaching, and that is that reputation is the soul of learning. And for 12 years I taught nursing students, and not one them failed the board. And I think that is because I had this philosophy that one never can spend too much time making sure that they understand something. So we are going to spend some time at this podium with the American people until we understand this.

"This is why I do not believe consumer-capitalist society can save itself. Not even its 'intellectual' classes or green leadership give any sign that this society has the wit or the will to even think about the basic situation we are in. As the above figures make clear, the situation cannot be solved without huge reduction in the volume of consumption."

And that is what we have been talking about. If we are here, we would like to use oil at this level. We are going to have to use it at this level so that something remains, so that we can make the investments that we have got to make in renewables, or we are not going to get there.

In the February, 2005, issue of "Discover" magazine, Dr. Smalley gave the following diagnosis: "There will be inflation as billions of people compete for insufficient resources. There will be famine. There will be terrorism and war."

I hope not. But if we really permit ourselves to get to this point where we would like to have that much oil and there is only that much remaining and we recognize that if we somehow denied oil to some other parts of the world there would be more oil for us, who knows, who knows what we might do?

Mr. Speaker, I have been very fortunate. I have never been placed in a situation where I had to do this, but I am not sure what I would do if the life or the health of my wife and children were at risk. And I think we need to be very careful that we do the things we need to do to create a future environment in which we will not be tempted to do things that under other circumstances we would be embarrassed to even think about.

The chief economist at Morgan Stanley recently predicted that we have a 90 percent chance of facing "economic Armageddon," while stating, "I fear modern-day central banking is on the brink of systematic failure." When somebody like the chief economist at one of the world's biggest banks makes a statement like that, it is not a surprise. Somebody like investment banker and Bush consultant Matt Simmons has stated "the only solution is to pray."

There was a recent article in "Time" magazine. It was pretty near the center, kind of a center spread. It said: "Why Gas Won't Get Cheaper," and they asked several questions, and then they answered the questions. And in broad terms, they were realistic in their answers. Let me go through some of these because I think it is very instructive. This is a major news medium which has now recognized that we may be getting near this point.

"Is the world running out of oil?" And the answer is: "No." We have got half of all the oil that was ever there. That is not what is running out. World's oil is not what is running out. What is running out is cheap oil, readily available, and high-quality oil. That is running out. We are not going to run out of oil for a long time, but we have run out or are about to run out of cheap oil, and we are about to run out of our ability to increase oil production.

So their next question is: "So cheap oil is now just part of history?" And their answer is: "Correct." Then they go on to explain why.

I was talking to the gentleman from Michigan (Mr. DINGELL) the other day, the longest-serving Member of the House here on this floor, who has served here, I think, over 52 years, and what he told me was we will never see $50-a-barrel oil again. Now, it may dip. Today I think it may be a bit below $50. But what he meant was that oil is really not going down to $25, $30, $40 a barrel again; that it is going to go up from here. That is a recognition that we are probably at this point where demand is going to exceed supply, and when that happens, a little bit of difference, just a dip in supply, and we have seen what happens to prices.

"Will other sources of energy, like wind power or nuclear power, save the day?" And then they make a very correct statement: "Only if they replace oil consumption. Building nuclear plants or wind farms to produce electricity, for example, won't add a barrel of oil to the world's supply because we generally don't use oil for electricity."

In a few moments, we are going to be talking about the real challenges we have in developing these alternatives. It is not impossible, but it is going to challenge the best of us. There is nothing like a challenge to sharpen the intellect or give one the satisfaction of achievement. And, boy, we had better sharpen a lot of intellects, and there is going to be a lot of satisfaction of achievement if we get by this without the rough ride that these authors in this report were making reference to.

"Why is demand for oil rising?" And then they talk about China and India. We would like our economy to grow. As a matter of fact, if our economy does not grow at least 2 percent a year, we cannot service our debt. And the interest on our debt at today's low interest rates, pray they stay low, is almost as large as all of the money that we spend on the ordinary military. That does not include fighting the war: about $400 billion on the military, about $300 billion interest on the debt. So the interest only has to go up about 30 percent and we are spending as much interest on the debt as we are for our military. These are the big-ticket items.

Demand is rising. It will continue to rise. And if we have reached the peak, then there is going to be a big difference between what we would like to use and what there is available to use and who knows the geopolitical consequences of that? Who knows the stresses and strains in the world that will occur as a result of that and what this or that nation, including our own, by the way, might do?

Next question: "Will technologies like hybrid cars, which run on a combination of gasoline and electricity, lower the price of oil?" And they incorrectly answer: "Eventually, yes." I do not think that the author of this understood that we are close to peak oil. No, it is not going to decrease the price of gas. If we have a massive effort at conservation and efficiency, what it is going to do is to permit us to continue to live well while we reduce our oil consumption below this level so we have something to invest in the alternatives.

"Will higher oil prices cripple the U.S. economy?" And then he makes reference to another article written by Howard Kuntsler, and it is in a book, "The Long Emergency," he calls it. And it goes something like this: "Gasoline will soon get so expensive that most Americans simply won't be able to afford it. Suburbs, strip malls, interstate highways, the infrastructure of the modern U.S. economy just won't work anymore without cheap oil, and the U.S. will have to reinvent itself or risk falling into decay." That is a pretty dire prophecy.

What does "Time" magazine say about that? This is what they say. It is very interesting what they say. That dire prophecy, though, is really all about timing. What they are really saying is if we do not take the right actions at the right time, that could very well happen. That is what they mean. This is all about timing. If we now aggressively pursue a program of conservation and efficiency and developing renewables, we will have a less rough ride through this crisis.

It is really quite lamentable that we have now blown 25 years. We very well knew we were on the downside of Hubbert's Peak in 1980. We should have then begun to make the investments in the alternatives that would make their use a realistic replacement for oil today. Today we have a very steep hill to climb.

I would like to put the next chart up which shows energy density. This gives us some idea of the challenges that we face here as we look to what is going to take the place of gas and oil. And this lists a number of things that we can burn and get energy from and how much energy there is. Domestic refuse, it does not have much. It is wet, and it has got a bunch of stuff in it that will not burn. But many places are burning it to get electricity, and the excess heat can now provide what is called "district heating." By the way, we do not need to be getting rid of this heat in these big cooling towers and evaporating precious water. This heat ought to be used for heating buildings and so forth. They do that all over the rest of the world. We need to do more of that in this country.

Here is brown coal. That is a cheap coal that has a very low energy density. Straw, we are talking about burning biomass, pretty low energy density. If we burn enough straw and soybean stubble and so forth, we can get some energy from it, enough sawdust. Dung, in some countries they are burning dried dung to heat themselves. We used to do that out in the West. Cow chips, I think they called them. Buffalo chips. They picked them up and burned them there.

Wood, 16.2 gigajoules per ton. Black coal, better than wood, 50 percent better than wood. Coke, even better. Ethanol, notice that the ethanol that we would like to have more of because it replaces gasoline has nowhere near the energy density of gasoline because here is petrol down here at 46 and ethanol has less. But, nevertheless, we will talk in a few minutes about ethanol. It is still a really good idea.

Crude oil; diesel; petrol, automotive petrol; naptha; aviation fuel, higher octane, more energy; and natural gas, more hydrogen and still more energy.

I would like to give just a little anecdotal illustration of how important energy density is. One barrel, which is 42 gallons, of crude oil has the energy equivalent of 25,000 manhours of effort. From 8 years with IBM and writing a lot of proposals, I know that 2,060 is a man-year. So this is about 12 man-years of effort. What that means is that for $100, about $50 for the oil and maybe $50 to refine it and transport it to something a gallon for gasoline times 40 is about $100. For $100 one can now buy the energy equivalent worth of 12 men, or women, 12 people working for them all year long, and they bought that for $100. That is the challenge—we have to find something that cheap. And one will say $50 a barrel is not cheap, that $2.25 a gallon for gas is not cheap. But gas is still cheaper than water in the grocery store, is it not? The challenge is to find something with that kind of energy density.

Let me give another little illustration that people may be able to identify with because almost all of us drive cars. We drive a Prius, since 2000. A few weeks ago we had four people, and we were going down into West Virginia, up some mountains down there. We got lousy mileage going up the mountain. We have instantaneous mileage on the Prius so we could see what we were getting. And our mileage was only 20 miles per gallon. But I thought about that. One gallon of gasoline. Members know how big it is. A gallon of milk in the grocery store. One gallon of gasoline took four people and their luggage up a West Virginia mountain for 20 miles. And I thought, Mr. Speaker, how long would it take me to pull my Prius up 20 miles a West Virginia mountain? Now, obviously I cannot pull it up. I am not strong enough. But I can get it up there with some mechanical advantage like a winch that is built into the little thing we call a "come-along" and hook it to the guardrail or trees and by and by, if I did it in 90 days, and one can calculate out how far they would have to pull the car in a day, they would be pretty good if they got it up that 20 miles of mountain in 90 days.

□ 1745

That is the equivalent of the 20 years of effort from a single 20,000 man-hours of effort, about 24 years of man work that you get from one barrel of oil. So we have a big challenge in getting a replacement that has the energy density.

I would like to look at one possible replacement, and that is coal. We have a lot of coal. You hear 500 years. That is not true, but we have about 250 years of coal at present use rates, about 250 years at current use rates. That is no growth.

Remember those exponential curves that we looked at a while ago? Just 1.1 percent growth, and that comes down to 125 years. Two percent growth, the curves we have been looking at, we are down to under 100 years. But you cannot put a trunk load of coal in your car and go up the mountain. You have to convert it into something where you can use it, so it is going to take some energy to convert it. It has to be a liquid or gas, and you can make both.

When I was a little boy, the things we burned in the lamps, we had no electricity when I was a child, and we burned coal oil. I kept calling it coal oil for a long time. That was a big improvement over whale oil, by the way, which is what we had before coal oil.

It was called coal oil because we made it from coal. But then we were able to make kerosene from oil, and that was cheaper and easier to make, so nobody used coal oil any more. We may be back using coal oil. After conversion with a 2 percent growth it lasts just about 50 years.

We really need to use oil. It is dirty, big environmental challenges, got to get the sulfur out of it. But still there is energy there and we need to use that energy. But coal, we have to be careful now. These are resources that are finite. When they are gone, they are gone. So we need to plan a future in which we use coal and all of the other of these finite resources in the wisest possible way.

The next chart I want to look at something that is really very revealing. There is a lot of talk about ethanol and ethanol could replace gasoline. Well, yes and no.

Here we have petroleum. You start out with petroleum and you end up down here with 1 million Btus of gasoline at the refueling station. This is all the energy inputs you have to put into the several stages in going from recovery, to transportation, to the refining facility and then transporting it to where you pick it up at the station. So you get 1 million Btus out of the gasoline, but you had to use 1.23 million Btus of fossil fuel to get there, because you have got to expend energy all along this transportation and conversion route.

Now, if we look at ethanol, and we end up with the same thing, 1 million Btus of ethanol, it is going to be a bigger volume, by the way. You remember the energy density? Ethanol has a lower energy density than gasoline. But we made them equivalent here because we are talking about 1 million Btus, so we can compare them, we are comparing apples to apples here.

Now we start with solar energy, and that is going to make the corn grow that we plant, and these are all the things that go into corn. We are going to look at that in a moment. That is really interesting. Then we have to transport the corn, and we have to produce the ethanol, we have to transport the ethanol to where we are going to use it.

But notice that for every 1 million Btus of ethanol we have at the pump, we have put in about three-fourths of a million Btus of fossil fuel to get there. Obviously you would not have to use the fossil fuel, you could use corn energy, ethanol energy, but that is going to further depreciate your yield here, is it not? Tonight, 20 percent of the world will go to bed hungry, and so our limits to transmute food into energy are obviously going to be limited if we would like to continue to feed the world.

What is on the bottom here in this little pie is really interesting. This is the energy that goes in to producing a bushel of corn. It could be a bushel of soybeans or a bushel of wheat. With soybeans, by the way, you need less nitrogen here because they are a legume and they have little nodules on their roots and they get nitrogen from the atmosphere. But this is corn. It is going to be typical of wheat and rice.

Nearly half of all the energy that goes into producing corn comes from nitrogen, and nitrogen today comes almost exclusively from natural gas.

Mr. Speaker, before we knew how to get nitrogen from natural gas, we only got it in three places, nitrogen fertilizer. We got it from barnyard manures, and they were pretty limited. The farmer might have a good garden if he concentrated his manures on the garden. But for his fields he had to rely on what we called rotation farming. You planted grass and legumes, the legumes fixed nitrogen and put it in the soil, and after several years you plowed up the sod and you planted corn for one year. That sucked most of the nitrogen out of the ground, so you were back in grass and legumes again until you stored enough nitrogen to get another corn crop.

Today we use natural gas to get nitrogen and without natural gas to get nitrogen, I will let you, Mr. Speaker, draw your own conclusions as to how difficult it would be to feed the world, because you see the enormous amount of energy that comes in through natural gas and nitrogen.

Then there is hauling, that is oil; purchased water, you probably pump that with maybe some oil and gas for energy. Chemicals. Many of the chemicals that are used in farming come from a petroleum base.

By the way, there is something we have not talked about, Mr. Speaker, very important. There is an enormous petrochemical industry out there. In a very real sense, oil, and particularly gas, are too good to burn. We live in a plastic world, and all of these things, lipstick, all of these things, come from oil. There are other sources, but they are not as convenient and nowhere near as cheap. So many of the chemicals come from oil.

Custom work. His tractor was built with oil. It ran on oil. There is a lot of oil there. Natural gas, that is all fossil fuels. Electricity, that could have been produced with oil or gas. Liquid propane gas to dry the corn probably. Then gasoline itself, diesel.

We are not even free of the need for oil when you come to lime and phosphate and potash, these nutrients you have to put on the soil in addition to your nitrogen to grow the crop, because we had to mine those, and haul those. We needed energy for all that, and a great deal of that energy came from oil.

So you can see how much our food, in a very real sense, Mr. Speaker, the food you eat is oil. And in our country, just a word about agriculture in our country. We brag we have the most efficient agriculture in the world. That is because we spend fewer man-hours to produce a ton of this or a bushel of that than perhaps any other country in the world. But we do that because we have these very large tractors that burn a lot of oil.

There is a trade-off here. The fewer man-hours you use, the more energy you are probably going to have to use. So although we have the most efficient agriculture in the world in terms of man-hours of effort needed to produce a crop, we may have close to the most inefficient agriculture in the world in terms of energy in and energy out.

As a matter of fact, the food you eat, which, by the way, each helping traveled an average of 1,500 miles before it got to your plate this evening, the food you eat is quite literally energy because of all of the energy that it took to put in to that food.

The next chart looks at some of the alternatives. We need to come back, Mr. Speaker, and spend more time, because we really need to spend a lot of time on this chart, because if these dire predictions that we read earlier are not going to come true, we have got to pay attention to this chart.

There are finite resources. We mentioned the tar sands and the oil shales. A lot of oil there that is not very good, very expensive to get out. You may spend almost as much energy getting it out as you get out of it, so there is not a big energy profit ratio there.

Then coal, we have talked about coal. Nuclear, we really need to look at nuclear. There are three forms of nuclear. Fusion is one that will get us home free. I do not think that is very probable. In spite of that, I support all the money, about $300 million a year I think we spend in that sector. Because if we really are able to get fusion, energy, and that is what the sun does, by the way, and most of the energy we use comes from the sun. All of the gas, all of the oil, all of the coal if you believe in a biogenic source, of that, and most people do, came from the sun, which shone a while ago.

Hydropower comes from the sun. The sun lifts water, it falls on the mountain and runs through the turbine and produces power. Direct solar, the wind blows because of differential heating. Ocean energy, differential temperatures in the ocean. Of course, you have some ocean energy from the tides. The only potential source of energy free from the sun is the moon; very diffuse, hard to harvest that.

Fission. Two kinds of fission. We have light water reactors, 20 percent of our electricity. The French produce about 70 to 80 percent of their electricity with nuclear and they have breeder reactors.

At another time, Mr. Speaker, we need to talk about breeder reactors. If we are going to get serious about nuclear, we are going to have to go to breeder reactors, because there is not much fissionable uranium in the world. If we all need to go to nuclear it will run out quicker than coal, quicker than oil, quicker than gas. So we need to talk about breeder reactors.

Well, we will come to the floor another hour and spend most of that time talking about these renewable sources. I hope to have with me then, we had five people here last evening, this is a getaway day, they have gone home. The next time it will not be, and we will have a number of people here, and we will have a good time talking about all of these renewables, the challenges and the opportunities there.

CORRECTION TO THE CONGRESSIONAL RECORD OF MAY 11, 2005, AT PAGE 9231

By Mr. HENSARLING (for himself, Mr. RYAN of Wisconsin, Mr. CHOCOLA, Mr. COX, Mr. AKIN, Mr. BARRETT of South Carolina, Mr. BARTLETT of Maryland, Mr. BEAUPREZ, Mr. BISHOP of Utah, Mrs. BLACKBURN, Mr. BRADY of Texas, Mr. BURGESS, Mr. BURTON of Indiana, Mr. CANNON, Mr. CARTER, Mr. CHABOT, Mr. COLE of Oklahoma, Mrs. CUBIN, Mr. MARIO DIAZ-BALART of Florida, Mr. ENGLISH of Pennsylvania, Mr. FEENEY, Mr. FLAKE, Ms. FOXX, Mr. FRANKS of Arizona, Mr. GARRETT of New Jersey, Mr. GINGREY, Mr. GOHMERT, Mr. GOODE, Mr. GUTKNECHT, Ms. HART, Mr. HERGER, Mr. HOEKSTRA, Mr. HOSTETTLER, Mr. JINDAL, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. KING of Iowa, Mr. KLINE, Mr. MACK, Mr. MCHENRY, Mr. MILLER of Florida, Mrs. MUSGRAVE, Mrs. MYRICK, Mr. NEUGEBAUER, Mr. NORWOOD, Mr. OTTER, Mr. PENCE, Mr. RADANOVICH, Mr. ROHRABACHER, Mr. ROYCE, Mr. RYUN of Kansas, Mr. SESSIONS, Mr. SHADEGG, Mr. SOUDER, Mr. TANCREDO, Mr. TURNER, Mr. WESTMORELAND, Mr. HAYWORTH, and Mr. BACHUS):

H.R. 2290. A bill to reform Federal budget procedures, to impose spending safeguards, to combat waste, fraud, and abuse, to account for accurate Government agency costs, and for other purposes; to the Committee on the Budget, for a period ending not later than July 11, 2005, and in addition to the Committees on Rules, Ways and Means, Appropriations, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BERMAN (at the request of Ms. PELOSI) for today on account of official business.

Ms. SOLIS (at the request of Ms. PELOSI) for today on account of official business.

Mr. HONDA (at the request of Ms. PELOSI) for today after 1:00 p.m.

Mr. BECERRA (at the request of Ms. PELOSI) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. HINOJOSA, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

(The following Members (at the request of Mr. GILCHREST) to revise and extend their remarks and include extraneous material:)

Mr. DENT, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, May 19.

Ms. FOXX, for 5 minutes, today.

Mr. NORWOOD, for 5 minutes, today.

Mr. MCHENRY, for 5 minutes, May 17 and 18.

ADJOURNMENT

Mr. BARTLETT of Maryland. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 57 minutes p.m.), under its previous order, the House adjourned until Monday, May 16, 2005, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1967. A letter from the Chairman, Federal Financial Institutions Examination Council, transmitting the 2004 Annual Report of the Appraisal Subcommittee, pursuant to 12 U.S.C. 3332; to the Committee on Financial Services.

1968. A letter from the Chief, Policy and Rules Division, OET, Federal Communications Commission, transmitting the Commission's final rule — Wireless Operations in the 3650-3700 MHz Band [ET Docket No. 04-151] Rules for Wireless Broadband Services in the 3650-3700 MHz Band [WT Docket No. 05-96] Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3GHz Band [ET Docket No. 02-380] Amendment of the Commission's Rules With Regard to the 3650-3700 MHz Government Transfer Band [ET Docket No. 98-237] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1969. A letter from the Legal Advisor, WTB Broadband Division, Federal Communications Commission, transmitting the Commission's final rule — Allocations and Service Rules for the 71-76 GHz, 81-86 GHz, and 92-95 GHz Bands [WT Docket No. 02-146] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1970. A letter from the Deputy Chief, Policy and Rules Division, OET, Federal Communications Commission, transmitting the Commission's final rule — Cognitive Radio Technologies and Software Defined Radios [ET Docket No. 03-108; FCC 05-57] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1971. A letter from the Senior Legal Advisor, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Implementation of the Satellite Home Viewer Extension and Reauthorization Act of 2004: Procedural Rules — received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1972. A letter from the Acting Bureau Chief, CGB, Federal Communications Commission, transmitting the Commission's final rule — Truth-in-Billing Format [CC Docket No. 98-170] National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-in-Billing [CG Docket No. 04-208] received April 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1973. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Lahaina and Waianae, Hawaii) [MB Docket No. 02-387; RM-10623) received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1974. A letter from the Assistant Bureau Chief for Management, International Bureau, Federal Communications Commission, transmitting the Commission's final rule — 2000 Biennial Regulatory Review — Streamlining and Other Revisions of Part 25 of the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Earth Stations and Space Stations [IB Docket No. 00-248] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1975. A letter from the Chief, Policy and Rules Division, OET, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Parts 2 and 90 of the Commission's Rules to Provide for Narrowband Private Land Mobile Radio Channels in the 150.05-150.8 MHz, and 406.1-420 MHz Bands that are Allocated for Federal Government Use [ET Docket No. 04-243] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1976. A letter from the Office of the General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule — Regulations Governing the Conduct of Open Seasons for Alaska Natural Gas Transportation Projects [Docket No. RM05-1-000] received February 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1977. A letter from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1978. A letter from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

1979. A letter from the Architect of the Capitol, transmitting a report discussing the AOC's activities to improve worker safety during the fourth quarter of FY04, pursuant to the directives issued in the 107th Congress First Session, House of Representatives Report Number 107-169; to the Committee on House Administration.

1980. A letter from the Chairman, Medicare Payment Advisory Commission, transmitting a copy of the Commission's "Report to the Congress: Medicare Payment Policy"; jointly to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LEWIS of California: Committee on Appropriations. Report on the Suballocation of Budget Allocations for Fiscal Year 2006. (Rept. 109-78). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ROYCE (for himself, Mr. Kanjorski, Mr. LaTourette, Mrs. Maloney, Mr. Tancredo, Mr. Sanders, Mr. Boehlert, Mr. Gutierrez, Mr. Burton of Indiana, Mr. Case, Mr. Brown of South Carolina, Ms. Jackson-Lee of Texas, Mr. Paul, Mr. Chabot, Mr. Cannon, Mr. Cunningham, Mr. Kuhl of New York, and Mr. Sherman):

H.R. 2317. A bill to modernize credit union net worth standards, advance credit union efforts to promote economic growth, and modify and ease credit union regulatory standards and burdens, and for other purposes; to the Committee on Financial Services.

By Mr. GREEN of Wisconsin:

H.R. 2318. A bill to amend title 18, United States Code, to provide increased penalties for sexual offenses against children, and for other purposes; to the Committee on the Judiciary.

By Mr. WELLER:

H.R. 2319. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to expense property eligible for bonus depreciation; to the Committee on Ways and Means.

By Mr. WELLER:

H.R. 2320. A bill to amend the Internal Revenue Code of 1986 to permanently extend the 50-percent bonus depreciation added by the Jobs and Growth Tax Relief Reconciliation Act of 2003; to the Committee on Ways and Means.

By Mr. DOGGETT (for himself, Mr. George Miller of California, Mr. Abercrombie, Mr. Baca, Mr. Baird, Mr. Becerra, Mr. Bishop of New York, Ms. Corrine Brown of Florida, Mr. Brown of Ohio, Ms. Carson, Mr. Conyers, Mr. Davis of Illinois, Mrs. Davis of California, Ms. DeLauro, Mr. Evans, Mr. Fattah, Mr. Gene Green of Texas, Mr. Grijalva, Mr. Hastings of Florida, Mr. Hinchey, Mr. Hinojosa, Mr. Honda, Mr. Jackson of Illinois, Ms. Jackson-Lee of Texas, Mr. Jefferson, Ms. Kaptur, Mr. Kildee, Ms. Kilpatrick of Michigan, Ms. Lee, Mrs. McCarthy, Ms. McCollum of Minnesota, Mr. McDermott, Ms. Millender-McDonald, Mr. Nadler, Mr. Owens, Ms. Roybal-Allard, Mr. Rush, Mr. Ryan of Ohio, Ms. Loretta Sanchez of California, Mr. Sanders, Ms. Schakowsky, Ms. Solis, Mr. Stark, Mr. Strickland, Mr. Tierney, Mr. Towns, Mrs. Jones of Ohio, Mr. Van Hollen, Ms. Watson, Mr. Waxman, Ms. Woolsey, and Mr. Wu):

H.R. 2321. A bill to amend titles I and IV of the Employee Retirement Income Security Act of 1974 to improve disclosure of the funding status of pension plans; to the Committee on Education and the Workforce.

By Mr. DOGGETT (for himself, Mr. Baca, Mr. Becerra, Mr. Cardoza, Mr. Cuellar, Mr. Culberson, Mr. Edwards, Mr. Gonzalez, Mr. Al Green of Texas, Mr. Gene Green of Texas, Mr. Grijalva, Mr. Hall, Mr. Hinojosa, Ms. Jackson-Lee of Texas, Ms. Eddie Bernice Johnson of Texas, Mr. McCaul of Texas, Mr. Menendez, Mrs. Napolitano, Mr. Ortiz, Mr. Pastor, Mr. Paul, Mr. Peterson of Minnesota, Mr. Pomeroy, Mr. Reyes, Ms. Roybal-Allard, Ms. Linda T. Sánchez of California, Ms. Loretta Sanchez of California, Mr. Serrano, and Ms. Solis):

H.R. 2322. A bill to designate the Federal building located at 320 North Main Street in McAllen, Texas, as the "Kika de la Garza Federal Building"; to the Committee on Transportation and Infrastructure.

By Mr. FARR (for himself, Mrs. Capps, Ms. Woolsey, Mr. Lantos, Ms.

ESHOO, Mr. BERMAN, Mr. CASE, Mr. HINCHEY, Mr. MCDERMOTT, Mr. GEORGE MILLER of California, Mr. OWENS, Ms. ROYBAL-ALLARD, Ms. LINDA T. SÁNCHEZ of California, Mr. SHERMAN, Mrs. TAUSCHER, Mr. VAN HOLLEN, Mr. GRIJALVA, Mr. FOLEY, Mr. ABERCROMBIE, Mr. BLUMENAUER, Mr. SHAYS, and Mr. ISSA):

H.R. 2323. A bill to establish a program of research and other activities to provide for the recovery of the southern sea otter; to the Committee on Resources.

By Mr. ANDREWS:

H.R. 2324. A bill to amend title XVIII of the Social Security Act to extend coverage of orthopedic shoes under part B of the Medicare Program to individuals without diabetes who medically require them; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIND (for himself, Mr. DAVIS of Florida, Mr. ETHERIDGE, Mrs. MCCARTHY, Mr. CHANDLER, Mr. SMITH of Washington, Mr. HOLT, Mrs. JONES of Ohio, Mr. PRICE of North Carolina, Mrs. DAVIS of California, Mrs. TAUSCHER, Mr. CROWLEY, Mr. GONZALEZ, Mr. DAVIS of Alabama, Mr. CASE, Ms. SCHWARTZ of Pennsylvania, and Ms. HERSETH):

H.R. 2325. A bill to direct the National Science Foundation to establish a competitive grant program for institutions of higher education to enhance education and job training opportunities in mathematics, science, engineering, and technology; to the Committee on Science, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JONES of North Carolina (for himself, Mr. BUTTERFIELD, Mr. MILLER of North Carolina, Mr. PRICE of North Carolina, Mr. COBLE, Ms. FOXX, Mr. MCINTYRE, and Mr. MCHENRY):

H.R. 2326. A bill to designate the facility of the United States Postal Service located at 614 West Old County Road in Belhaven, North Carolina, as the "Floyd Lupton Post Office"; to the Committee on Government Reform.

By Mr. GEORGE MILLER of California (for himself and Ms. SCHAKOWSKY):

H.R. 2327. A bill to impose a 6-month moratorium on terminations of certain plans instituted under section 4042 of the Employee Retirement Income Security Act of 1974 in cases in which reorganization of contributing sponsors is sought in bankruptcy or insolvency proceedings; to the Committee on Education and the Workforce.

By Mr. FOSSELLA (for himself, Mr. STEARNS, Mr. BAKER, Mr. SHAW, Mr. PALLONE, Mr. TOWNS, Mrs. KELLY, and Mr. SESSIONS):

H.R. 2328. A bill to establish a grant program to provide follow-up treatment for children identified to have a vision disorder; to the Committee on Energy and Commerce.

By Mr. KIRK:

H.R. 2329. A bill to permit eligibility in certain circumstances for an officer or employee of a foreign government to receive a reward under the Department of State Rewards Program; to the Committee on International Relations.

By Mr. KOLBE (for himself, Mr. FLAKE, Mr. GUTIERREZ, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mrs. NAPOLITANO, and Mr. PASTOR):

H.R. 2330. A bill to improve border security and immigration; to the Committee on the Judiciary, and in addition to the Committees on Homeland Security, International Relations, Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WAXMAN (for himself, Ms. PELOSI, Mr. CLAY, Mr. CONYERS, Mr. CUMMINGS, Mr. DOGGETT, Mr. KUCINICH, Mr. LANTOS, Mr. LYNCH, Ms. MCCOLLUM of Minnesota, Mr. MCDERMOTT, Mrs. MALONEY, Ms. NORTON, Ms. LINDA T. SÁNCHEZ of California, Mr. SANDERS, Ms. SCHAKOWSKY, Ms. SLAUGHTER, Mr. STARK, Mr. VAN HOLLEN, and Ms. WOOLSEY):

H.R. 2331. A bill to restore and strengthen the laws that provide for an open and transparent Federal Government; to the Committee on Government Reform, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BEAUPREZ (for himself, Mr. UDALL of Colorado, Mr. HEFLEY, Ms. BALDWIN, Mr. KIND, and Mr. UPTON):

H.R. 2332. A bill to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for the majority of the trails in the System, and for other purposes; to the Committee on Resources.

By Mr. BURTON of Indiana (for himself, Mr. FRANK of Massachusetts, Mr. DELAHUNT, Mr. HINCHEY, and Mr. STARK):

H.R. 2333. A bill to redesignate the Federal building located at 935 Pennsylvania Avenue Northwest in the District of Columbia as the "Federal Bureau of Investigation Building"; to the Committee on Transportation and Infrastructure.

By Mrs. CAPPS:

H.R. 2334. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of permanent facilities for the GREAT project to reclaim, reuse, and treat impaired waters water in the area of Oxnard, California; to the Committee on Resources.

By Mr. COOPER (for himself, Mr. WAMP, Ms. JACKSON-LEE of Texas, Mr. ROSS, Mrs. CHRISTENSEN, Mr. TOWNS, Mr. MATHESON, Mr. CASE, Mr. FORD, Mr. PAYNE, Mr. ETHERIDGE, Mr. KIND, Ms. HOOLEY, Mr. DAVIS of Tennessee, Mr. REICHERT, and Mr. MOORE of Kansas):

H.R. 2335. A bill to amend the Public Health Service Act to provide for demonstration projects for the purpose of providing comprehensive services with respect to the problems of children who have been removed from environments in which methamphetamine is unlawfully manufactured, distributed, or dispensed; to the Committee on Energy and Commerce.

By Mr. COOPER:

H.R. 2336. A bill to extend the temporary suspension of duty on DMSIP; to the Committee on Ways and Means.

By Mrs. CUBIN (for herself and Mr. CANNON):

H.R. 2337. A bill to provide permanent funding for the payment in lieu of taxes program, and for other purposes; to the Committee on Resources.

By Mrs. CUBIN:

H.R. 2338. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to direct the President to designate a Small State Advocate in the Federal Emergency Management Agency; to the Committee on Transportation and Infrastructure.

By Mrs. CUBIN:

H.R. 2339. A bill to amend title II of the Social Security Act to provide for Congressional oversight and approval of totalization agreements; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DELAURO (for herself, Mr. LANTOS, Mr. TIERNEY, Ms. BERKLEY, Mr. CAPUANO, Ms. HARMAN, Mr. LEWIS of Georgia, Mr. WEINER, Ms. SLAUGHTER, Ms. LINDA T. SÁNCHEZ of California, Ms. MCCOLLUM of Minnesota, Mr. GILLMOR, Mr. KENNEDY of Rhode Island, Mr. SANDERS, Mr. KUCINICH, Ms. LEE, Mr. DOGGETT, Mr. FRANK of Massachusetts, Mr. BOUCHER, Mr. HOLDEN, Mr. POMEROY, Mr. RUSH, Mr. MCDERMOTT, Mr. CROWLEY, Mr. ABERCROMBIE, Ms. WATSON, and Mr. PLATTS):

H.R. 2340. A bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers; to the Committee on Education and the Workforce.

By Mr. DOGGETT:

H.R. 2341. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of a project to reclaim and reuse wastewater within and outside of the service area of the City of Austin Water and Wastewater Utility, Texas; to the Committee on Resources.

By Mr. FOSSELLA:

H.R. 2342. A bill to amend title 46, United States Code, to treat as a passenger vessel any vessel having berth or stateroom accommodations for more than 399 passengers, to require that such a vessel be equipped with a voyage data recorder, and to ensure reliable medical testing of vessel pilots, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. GENE GREEN of Texas:

H.R. 2343. A bill to amend title II of the Social Security Act to eliminate the 24-month waiting period for disabled individuals to become eligible for Medicare benefits; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOLDEN (for himself, Mr. EVANS, Mr. EMANUEL, Mr. FOLEY, Mrs. DAVIS of California, Mr. SANDERS, Mr. GRIJALVA, Mr. TOWNS, Mr. BISHOP of Georgia, Mr. OWENS, Mr. REYES, and Mrs. MCCARTHY):

H.R. 2344. A bill to amend title 38, United States Code, to provide for the payment of dependency and indemnity compensation to the survivors of former prisoners of war who died on or before September 30, 1999, under the same eligibility conditions as apply to payment of dependency and indemnity compensation to the survivors of former prisoners of war who die after that date; to the Committee on Veterans' Affairs.

By Mr. ISRAEL:

H.R. 2345. A bill to amend the Federal Food, Drug, and Cosmetic Act to increase criminal penalties for the sale or trade of prescription drugs knowingly caused to be adulterated or misbranded, to modify requirements for maintaining records of the chain-of-custody of prescription drugs, to establish recall authority regarding drugs, and for other purposes; to the Committee on Energy and Commerce.

By Mr. JINDAL:

H.R. 2346. A bill to designate the facility of the United States Postal Service located at 105 NW Railroad Avenue in Hammond, Louisiana, as the "John J. Hainkel Post Office Building"; to the Committee on Government Reform.

By Mr. KING of New York (for himself and Mrs. MCCARTHY):

H.R. 2347. A bill to revitalize suburban communities, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LATHAM (for himself, Mr. KUHL of New York, Mr. WOLF, Mr. CASE, Mr. KENNEDY of Minnesota, and Mr. MCCAUL of Texas):

H.R. 2348. A bill to amend the Controlled Substances Act to provide civil liability for illegal manufacturers and distributors of controlled substances for the harm caused by the use of those controlled substances; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MOORE of Wisconsin:

H.R. 2349. A bill to authorize the Secretary of Health and Human Services to make grants to improve access to dependable, affordable automobiles by low-income families; to the Committee on Ways and Means.

By Mr. MORAN of Kansas (for himself, Mr. HINOJOSA, Mr. MCHUGH, Mr. BERRY, Mr. BISHOP of Georgia, Mr. SHIMKUS, Mr. SANDERS, Mr. ROSS, Mr. KIND, Mr. OTTER, Mr. PICKERING, Mr. PAUL, Mr. OSBORNE, Mr. MCINTYRE, Mr. OBERSTAR, Mr. DICKS, and Mr. RENZI):

H.R. 2350. A bill to amend title XVIII of the Social Security Act to provide for improvements in access to services in rural hospitals and critical access hospitals; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBERSTAR (for himself, Ms. CORRINE BROWN of Florida, Mr. CUMMINGS, Mr. BLUMENAUER, Mr. MENENDEZ, Mr. NADLER, Ms. NORTON, Mr. BISHOP of New York, Ms. MILLENDER-MCDONALD, Mr. WEINER, Mr. HOLDEN, Mr. CAPUANO, Mr. RAHALL, and Ms. CARSON):

H.R. 2351. A bill to provide for the safety and security of United States railroads, passengers, workers, and communities, and to establish an assistance program for families of passengers involved in rail accidents; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL:

H.R. 2352. A bill to amend the Federal Food, Drug, and Cosmetic Act to ensure that health claims for foods and dietary supplements include accurate statements of the curative, mitigation, treatment, and prevention effects of nutrients on disease or health-related conditions, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ROGERS of Michigan (for himself, Mr. EHLERS, Mr. HOEKSTRA, Mr. WOLF, Mr. BOUSTANY, Mrs. JOHNSON of Connecticut, Mr. DENT, Mr. HERGER, Mr. SHAYS, and Mr. PITTS):

H.R. 2353. A bill to make technical corrections to the Indian Gaming Regulatory Act, and for other purposes; to the Committee on Resources.

By Mr. SENSENBRENNER (for himself and Mr. FRANK of Massachusetts):

H.R. 2354. A bill to prohibit the Federal Communications Commission from requiring digital television tuners in television receivers; to the Committee on Energy and Commerce.

By Mr. SHADEGG (for himself, Mr. AKIN, Mr. BARTLETT of Maryland, Mr. CANNON, Mr. CARTER, Mr. COLE of Oklahoma, Mr. COX, Mrs. CUBIN, Mr. FEENEY, Mr. FLAKE, Mr. FRANKS of Arizona, Mr. GUTKNECHT, Mr. HENSARLING, Mr. HERGER, Mr. HOEKSTRA, Mr. HOSTETTLER, Mr. ISTOOK, Mr. JONES of North Carolina, Mr. KENNEDY of Minnesota, Mr. KING of Iowa, Mr. LINDER, Mr. MCHENRY, Mr. MILLER of Florida, Mrs. MUSGRAVE, Mrs. MYRICK, Mr. OTTER, Mr. PAUL, Mr. PENCE, Mr. PRICE of Georgia, Mr. RADANOVICH, Mr. RENZI, Mr. ROHRABACHER, Mr. RYAN of Wisconsin, Mr. RYUN of Kansas, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SOUDER, Mr. WAMP, Mr. WELDON of Florida, Mr. WICKER, Mr. WILSON of South Carolina, and Mr. GREEN of Wisconsin):

H.R. 2355. A bill to amend the Public Health Service Act to provide for cooperative governing of individual health insurance coverage offered in interstate commerce; to the Committee on Energy and Commerce.

By Mr. SHAW (for himself and Mr. CARDIN):

H.R. 2356. A bill to amend title XVIII of the Social Security Act to reform the Medicare physician payment update system through repeal of the sustainable growth rate (SGR) payment update system; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHUSTER (for himself, Mr. HOLDEN, Ms. HART, and Mr. SMITH of Texas):

H.R. 2357. A bill to protect American workers and responders by ensuring the continued commercial availability of respirators and to establish rules governing product liability actions against manufacturers and sellers of respirators; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UDALL of Colorado (for himself, Mrs. JO ANN DAVIS of Virginia, Mr. GORDON, Mr. KUCINICH, Mr. SCOTT of Virginia, and Mr. LARSON of Connecticut):

H.R. 2358. A bill to enable the United States to maintain its leadership in aeronautics and aviation, improve its quality of life, protect the environment, support economic growth, and promote the security of the Nation by instituting an initiative to develop technologies that will enable future aircraft with significantly lower noise, emissions, and fuel consumption, to reinvigorate basic and applied research in aeronautics and aviation, and for other purposes; to the Committee on Science.

By Ms. WATSON (for herself, Mr. HINCHEY, Mr. SANDERS, and Ms. SLAUGHTER):

H.R. 2359. A bill to establish minimum public interest requirements for multi-cast digital television channels; to the Committee on Energy and Commerce.

By Ms. ZOE LOFGREN of California:

H.J. Res. 49. A joint resolution proposing an amendment to the Constitution of the United States regarding the appointment of individuals to serve as Members of the House of Representatives when, in a national emergency, a significant number of Members are unable to serve due to death, resignation, or incapacity; to the Committee on the Judiciary.

By Ms. ZOE LOFGREN of California (for herself, Ms. WOOLSEY, Mr. STARK, Mr. MCDERMOTT, and Mr. SERRANO):

H.J. Res. 50. A joint resolution proposing an amendment to the Constitution of the United States to abolish the Electoral College and to provide for the direct election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. ISRAEL:

H. Con. Res. 151. Concurrent resolution urging the Commandant of the Coast Guard to name an appropriate Coast Guard vessel after Coast Guard Petty Officer Third Class Nathan Bruckenthal; to the Committee on Transportation and Infrastructure.

By Mr. BAIRD:

H. Res. 275. A resolution recognizing and honoring the work of Southwest Washington Independent Forward Thrust and its members; to the Committee on Government Reform.

By Mr. PLATTS:

H. Res. 276. A resolution supporting the goals and ideals of Pancreatic Cancer Awareness Month; to the Committee on Government Reform.

By Mr. WICKER (for himself, Mr. BARRETT of South Carolina, Mr. LINDER, Mr. GOHMERT, Mr. CARTER, Mrs. CUBIN, Ms. FOXX, Mr. BARTLETT of Maryland, Mr. CHABOT, Mr. GUTKNECHT, Mr. PITTS, Mr. GARRETT of New Jersey, Mr. AKIN, Mr. MARIO DIAZ-BALART of Florida, Mr. ISTOOK, Mr. PENCE, Mr. SAM JOHNSON of Texas, Mr. CANTOR, Mr. FEENEY, Mr. SHADEGG, Mr. MCHENRY, Mr. MARCHANT, Mr. TIAHRT, Mrs. MYRICK, Mr. GOODE, Mr. DOOLITTLE, Mr. GOODLATTE, Mr. COLE of Oklahoma, Mr. ROGERS of Michigan, Mr. BLUNT, Mr. SESSIONS, Mrs. DRAKE, Mr. KING of Iowa, Mr. DAVIS of Kentucky, Mr. NEUGEBAUER, Mr. MILLER of Florida, Mr. TAYLOR of Mississippi, Mr.

BISHOP of Utah, Ms. GINNY BROWN-WAITE of Florida, Mr. NEY, Mr. WAMP, Mr. BURTON of Indiana, Mr. ADERHOLT, Mr. JONES of North Carolina, Mr. RENZI, Mr. POMBO, Mr. DUNCAN, Mr. CULBERSON, Mr. RYUN of Kansas, and Mr. BUYER):

H. Res. 277. A resolution expressing the sense of the House of Representatives that due to the allegations of fraud, mismanagement, and abuse within the United Nations oil-for-food program, the growing record of human rights abuses by United Nations personnel in the Democratic Republic of the Congo, and the lack of action by the United Nations in response to the genocide in the Darfur region of the Sudan, Kofi Annan should resign from the position of Secretary General of the United Nations to help restore confidence in the organization; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Mr. MOLLOHAN.

H.R. 22: Ms. ROS-LEHTINEN and Mr. GREEN of Wisconsin.

H.R. 66: Mr. HOEKSTRA.

H.R. 94: Mr. BOOZMAN.

H.R. 95: Mr. BURTON of Indiana, Mr. COSTA, Mr. BOSWELL, and Mr. TANCREDO.

H.R. 98: Mr. BARRETT of South Carolina.

H.R. 111: Mrs. MILLER of Michigan, Mr. STEARNS, Miss MCMORRIS, Mr. SHUSTER, Mr. LEWIS of Georgia, and Mr. DOOLITTLE.

H.R. 123: Mr. FJLNER.

H.R. 136: Mr. DEAL of Georgia.

H.R. 181: Mr. BILIRAKIS.

H.R. 208: Ms. LEE.

H.R. 282: Mr. BEAUPREZ, Mr. REYES, Mr. JACKSON of Illinois, Mr. ROGERS of Alabama, Mr. GRIJALVA, Mr. HIGGINS, Mr. MEEKS of New York, Mr. FRANKS of Arizona, Mr. KILDEE, Mr. GINGREY, and Mr. HOYER.

H.R. 303: Mr. MANZULLO.

H.R. 311: Mr. SANDERS and Mr. LEVIN.

H.R. 312: Ms. DELAURO, Mr. ENGEL, Mr. SNYDER, Mr. FILNER, Ms. SCHAKOWSKY, Mr. SPRATT, Mr. GILCHREST, Mr. DUNCAN, Mr. BROWN of Ohio, Mr. EVANS, Mr. BURGESS, Mr. MCNULTY, Mr. UPTON, and Mr. BRADY of Pennsylvania.

H.R. 314: Mr. COSTA.

H.R. 369: Mr. UDALL of Colorado.

H.R. 371: Mr. SESSIONS and Ms. BERKLEY.

H.R. 376: Mr. HASTINGS of Florida.

H.R. 438: Ms. HARMAN and Ms. LINDA T. SÁNCHEZ of California.

H.R. 444: Mr. CUMMINGS and Ms. WOOLSEY.

H.R. 467: Mr. MEEKS of New York.

H.R. 500: Mr. CHABOT.

H.R. 503: Mr. WELDON of Pennyslvania and Mr. MCGOVERN.

H.R. 515: Mr. WYNN.

H.R. 517: Mr. FILNER, Mr. GUTKNECHT, Mr. ROGERS of Alabama, Mr. PICKERING, Mr. SALAZAR, and Mr. INSLEE.

H.R. 558: Ms. BALDWIN.

H.R. 602: Ms. HERSETH.

H.R. 615: Mrs. CAPITO, Mr. LATOURETTE, and Mr. JONES of North Carolina.

H.R. 669: Mr. MORAN of Virginia and Mr. PAYNE.

H.R. 676: Mr. SERRANO.

H.R. 700: Mr. WEXLER.

H.R. 731: Mr. MICHAUD.

H.R. 793: Mr. SWEENEY.

H.R. 799: Mr. VAN HOLLEN.

H.R. 800: Mr. ROHRABACHER and Mr. SHIMKUS.

H.R. 809: Mr. UPTON, Mr. SIMMONS, Mr. PENCE, Mr. BISHOP of Utah, Mr. HASTINGS of Washington, Mr. YOUNG of Alaska, Mr. BARTLETT of Maryland, Mr. FRANKS of Arizona, Mr. ALEXANDER, Mr. SHIMKUS, Mr. SIMPSON, Mr. OXLEY, and Mr. HAYES.

H.R. 817: Mr. FILNER, Mr. GEORGE MILLER of California, Mr. ENGEL, Mr. SMITH of New Jersey, Mr. FERGUSON, Mr. TANCREDO, Mr. SHAYS, Mr. WEXLER, Mr. HOSTETTLER, Mr. UPTON, Mr. DELAHUNT, Mr. SMITH of Texas, Mr. MCGOVERN, Mr. PENCE, and Ms. GINNY BROWN-WAITE of Florida.

H.R. 869: Mr. TIERNEY.

H.R. 870: Ms. JACKSON-LEE of Texas.

H.R. 900: Ms. ROYBAL-ALLARD.

H.R. 963: Mr. MOORE of Kansas.

H.R. 985: Mr. SOUDER.

H.R. 986: Mr. TURNER.

H.R. 994: Mr. ABERCROMBIE, Mr. FOSSELLA, Ms. ROS-LEHTINEN, Mr. GARRETT of New Jersey, Ms. ZOE LOFGREN of California, Mr. WALSH, Mr. DINGELL, Mrs. MCCARTHY, Mr. BRADLEY of New Hampshire, Mr. CARNAHAN, Mr. LARSEN of Washington, Mr. BOEHLERT, Mr. MEEK of Florida, Mr. BACA, Mr. LUCAS, and Mr. JENKINS.

H.R. 997: Mrs. MUSGRAVE, Mr. ROGERS of Kentucky, Ms. HART, Mr. SODREL, Mr. SOUDER, and Mr. OXLEY.

H.R. 1100: Mr. KING of Iowa and Mr. SULLIVAN.

H.R. 1105: Mr. STUPAK.

H.R. 1106: Ms. SCHAKOWSKY.

H.R. 1120: Mr. SIMMONS, Mr. MENENDEZ, and Mr. GORDON.

H.R. 1125: Mr. CAPUANO, and Mr. OWENS.

H.R. 1150: Mr. SOUDER.

H.R. 1167: Mr. KUHL of New York, Mrs. JO ANN DAVIS of Virginia, and Mr. MANZULLO.

H.R. 1182: Mr. WEINER, Mr. KUCINICH, and Mr. UDALL of New Mexico.

H.R. 1218: Mr. MENENDEZ and Mr. HOLT.

H.R. 1243: Mr. BOOZMAN, Mr. MCINTYRE, Mr. JOHNSON of Illinois, Mrs. EMERSON, and Mr. YOUNG of Alaska.

H.R. 1245: Mr. BLUNT, Mr. SHIMKUS, Mr. FITZPATRICK of Pennsylvania, Mr. FRANKS of Arizona, Mr. ROYCE, Mr. PENCE, Mrs. CAPITO, Mr. CONAWAY, Mr. LARSON of Connecticut, Mr. KELLER, Mr. ROGERS of Michigan, Mr. RADANOVICH, Mr. GARY G. MILLER of California, Mr. BARTLETT of Maryland, Mr. FARR, Mr. HYDE, Ms. LINDA T. SÁNCHEZ of California, Mr. GOHMERT, and Mr. HAYES.

H.R. 1288: Mr. JOHNSON of Illinois, Mr. MCCOTTER, Mr. BRADY of Texas, Mr. CUELLAR, Mr. PLATTS, Mr. BOREN, and Mr. STRICKLAND.

H.R. 1308: Mr. SHUSTER, Mr. WEXLER, Mr. UPTON, and Mrs. MCCARTHY.

H.R. 1312: Ms. CARSON, Mr. CONYERS, Ms. SCHAKOWSKY, Ms. SLAUGHTER, Mr. STARK, and Mr. VAN HOLLEN.

H.R. 1333: Mr. UDALL of Colorado, Mr. RAMSTAD, Mr. BISHOP of Georgia, Mr. KING of Iowa, Mr. TOM DAVIS of Virginia, Mr. FILNER, Mr. DUNCAN, Mr. KENNEDY of Rhode Island, Mr. TIERNEY, Mr. SODREL, Mr. CONAWAY, Ms. HERSETH, Mr. PASTOR, Mr. MACK, and Mr. SABO.

H.R. 1335: Mr. ORTIZ and Ms. CARSON.

H.R. 1352: Mr. DUNCAN.

H.R. 1355: Mr. ROYCE, Mr. ENGLISH of Pennsylvania, and Mrs. JO ANN DAVIS of Virginia.

H.R. 1358: Mr. PRICE of North Carolina, Mr. NORWOOD, and Mr. FOLEY.

H.R. 1367: Mr. GRIJALVA.

H.R. 1371: Ms. GINNY BROWN-WAITE of Florida.

H.R. 1376: Mrs. DAVIS of California, Ms. MATSUI, Mr. GERLACH, Mr. KILDEE, Mr. DENT, Mr. CAPUANO, and Mr. GEORGE MILLER of California.

H.R. 1378: Mr. BOREN.

H.R. 1402: Mr. BOEHLERT, Mr. CAPUANO, Mr. PRICE of North Carolina, Ms. MCCOLLUM of Minnesota, Ms. SCHAKOWSKY, Ms. BERKLEY, Mr. KILDEE, and Mr. WEINER.

H.R. 1415: Mr. ENGEL and Mr. STARK.

H.R. 1447: Mr. HINCHEY and Ms. HERSETH.

H.R. 1461: Mr. MCHENRY, Ms. ROS-LEHTINEN, and Mr. BLUNT.

H.R. 1480: Mr. SCHIFF, and Mr. KENNEDY of Rhode Island.

H.R. 1492: Mr. BROWN of Ohio, Mr. RUPPERSBERGER, Mrs. BLACKBURN, Mr. KOLBE, Mr. HINCHEY, Ms. KILPATRICK of Michigan, Mrs. NAPOLITANO, Mr. MCGOVERN, and Mr. STARK.

H.R. 1498: Mr. WICKER, Mr. MCCAUL of Texas, and Mr. REGULA.

H.R. 1499: Mr. MILLER of Florida, Mrs. MILLER of Michigan, Mr. REICHERT, Miss MCMORRIS, and Mr. SMITH of New Jersey.

H.R. 1522: Mr. CUMMINGS.

H.R. 1547: Mrs. EMERSON and Mr. ROGERS of Michigan.

H.R. 1552: Mr. WEINER.

H.R. 1558: Mr. BERMAN and Mr. WEXLER.

H.R. 1585: Mrs. CHRISTENSEN, Mr. SHERMAN, and Ms. BALDWIN.

H.R. 1588: Ms. ROYBAL-ALLARD, Ms. MCCOLLUM of Minnesota, Mr. TIERNEY, and Mr. HASTINGS of Florida.

H.R. 1591: Mr. NADLER.

H.R. 1600: Mr. GRIJALVA.

H.R. 1602: Mr. COSTA and Mr. COBLE.

H.R. 1606: Mr. CANNON.

H.R. 1607: Mr. OXLEY.

H.R. 1634: Mr. WICKER, Mr. EMANUEL, Mr. CALVERT, and Mr. DOOLITTLE.

H.R. 1639: Ms. HERSETH.

H.R. 1642: Mr. SHADEGG and Mr. COOPER.

H.R. 1649: Mr. LOBIONDO.

H.R. 1652: Mrs. MCCARTHY, Mr. FRANK of Massachusetts, Mr. HASTINGS of Florida, Mr. ABERCROMBIE, Mr. MARKEY, Mrs. LOWEY, and Mr. SABO.

H.R. 1654: Mrs. CUBIN.

H.R. 1658: Mrs. MUSGRAVE.

H.R. 1671: Mr. PRICE of North Carolina.

H.R. 1678: Mr. GARRETT of New Jersey.

H.R. 1696: Mr. KANJORSKI, Mr. CLEAVER, and Mr. ORTIZ.

H.R. 1741: Mr. HOEKSTRA.

H.R. 1744: Mr. OWENS, Mr. BARTLETT of Maryland, Mr. HOEKSTRA, Mrs. JO ANN DAVIS of Virginia, Mr. SANDERS, Mr. WALSH, Mr. MOORE of Kansas, and Mr. MICHAUD.

H.R. 1745: Ms. BALDWIN, Ms. GINNY BROWN-WAITE of Florida, and Mr. INSLEE.

H.R. 1749: Mr. HERGER, Mr. DEAL of Georgia, Mr. BISHOP of Utah, and Mrs. CUBIN.

H.R. 1806: Mr. MCGOVERN and Mr. FRANK of Massachusetts.

H.R. 1879: Mr. CHOCOLA.

H.R. 1902: Mr. LIPINSKI, Mr. EMANUEL, Mr. STARK, Mr. PASCRELL, Mr. MORAN of Virginia, and Mr. WEINER.

H.R. 1931: Ms. ZOE LOFGREN of California and Mr. OWENS.

H.R. 1946: Ms. HERSETH, Mr. KUCINICH, Mr. MCDERMOTT, Mrs. MCCARTHY, Mr. SABO, and Mr. HINCHEY.

H.R. 1954: Mrs. MCCARTHY.

H.R. 1957: Mr. WILSON of South Carolina, Mr. PRICE of Georgia, and Mr. RADANOVICH.

H.R. 1973: Mr. TOWNS.

H.R. 2014: Mr. DOGGETT and Mr. ALEXANDER.

H.R. 2018: Mr. PUTNAM and Mr MCCAUL of Texas.

H.R. 2034: Ms. HERSETH, Mr. BURTON of Indiana, and Mr. JOHNSON of Illinois.

H.R. 2046: Mr. GUTIERREZ, Mr. BILIRAKIS, Mr. BROWN of South Carolina, Mr. MORAN of Kansas, Mr. MICHAUD, Ms. CORRINE BROWN of

Florida, Mr. Miller of Florida, Mr. Bradley of New Hampshire, Mr. Stearns, Ms. Hooley, Mr. Udall of New Mexico, Mr. Everett, Mr. Snyder, Mr. Strickland, and Mr. Holden.

H.R. 2060: Mr. Hyde, Mr. Stearns, Mr. Hunter, Mr. Weldon of Pennsylvania, Mr. Cunningham, Mr. Sweeney, Mr. Whitfield, Mr. Wamp, Mr. Taylor of North Carolina, Mr. Duncan, Mr. Cummings, Mr. Sam Johnson of Texas, Mr. Gordon, Mr. Abercrombie, Mr. Taylor of Mississippi, and Mr. Cramer.

H.R. 2062: Mr. Gerlach, Mr. English of Pennsylvania, and Mr. Fitzpatrick of Pennsylvania.

H.R. 2068: Mr. Edwards, Mr. McIntyre, Mr. Turner, and Mr. Boustany.

H.R. 2074: Ms. Herseth.

H.R. 2076: Mr. Marshall.

H.R. 2088: Mrs. Musgrave.

H.R. 2107: Mr. Wolf.

H.R. 2122: Mr. Levin.

H.R. 2177: Mr. Davis of Kentucky, Mr. Pascrell, and Mr. Renzi.

H.R. 2183: Mr. Saxton.

H.R. 2203: Mr. Souder.

H.R. 2216: Mr. Issa.

H.R. 2233: Mr. Lantos, Mr. McGovern, Mr. Lipinski, and Mr. Gutierrez.

H.R. 2248: Mr. Ryan of Ohio, Mr. Bishop of Georgia, Mr. Boucher, Mr. Towns, Mr. Holden, and Ms. Kaptur.

H.R. 2306: Mr. Lipinski.

H.J. Res. 38: Mrs. Lowey.

H.J. Res. 41: Mr. Deal of Georgia.

H. Con. Res. 106: Mr. Marshall, Mr. Wilson of South Carolina, and Mr. Sam Johnson of Texas.

H. Con. Res. 108: Ms. Eshoo, Mr. Larsen of Washington, and Mr. Dingell.

H. Con. Res. 128: Mr. Terry and Mr. Shaw.

H. Con. Res. 141: Mr. Rohrabacher.

H. Con. Res. 144: Mr. Bartlett of Maryland and Mr. Manzullo.

H. Con. Res. 145: Mr. Snyder.

H. Res. 76: Mr. Reyes.

H. Res. 121: Mr. Flake.

H. Res. 123: Mr. Oberstar.

H. Res. 200: Mr. Kennedy of Rhode Island.

H. Res. 214: Mrs. Musgrave.

H. Res. 215: Mr. Wamp, Mr. Kingston, Mr. Herger, Mr. Cox, Mr. Flake, and Mr. Carter.

H. Res. 243: Mr. Delahunt, Ms. Harris, and Mrs. Cubin.

H. Res. 245: Ms. Jackson-Lee of Texas and Mr. Lynch.

H. Res. 261: Mr. Norwood, Mr. Whitfield, Mr. DeFazio, Ms. Eshoo, Mr. Alexander, Mr. Hastings of Washington, and Mr. Kennedy of Rhode Island.

H. Res. 266: Mr. Pascrell, Mr. Duncan, Ms. Schakowsky, Mr. Terry, Mr. Inslee, Ms. Watson, and Ms. Zoe Lofgren of California.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1650: Ms. Lee.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1544

Offered By: Mr. Weiner

Amendment No. 1: In title XVIII of the Homeland Security Act of 2002, as proposed to be added by the bill, insert at the end the following new section (and make such technical and conforming changes as may be necessary):

SEC. 18 . LIMITATION ON NUMBER OF UASI GRANTEES.

In carrying out the Urban Area Security Initiative, or any successor to such grant program, the Secretary may award not more than 50 grants for any fiscal year.

SENATE—*Thursday, May 12, 2005*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, our refuge and strength, a very present help in the time of trouble, we thank You that You have set the star of hope in our life's sky, that in the darkness we can see Your brightness, that in times of shadow we can enjoy Your leading and guiding.

Lord, yesterday we were again reminded that life is fragile. As alarms sounded and brave people prepared for the worst, we could sense the uncertainty of our existence. Remind us daily that human flesh is as fleeting as fading flowers and withering grass. Teach us to number our days, to labor not simply for time but for eternity.

Protect our Senators in their going out and coming in, in their rising up and lying down. Give them the wisdom to believe that nothing can separate them from Your love. In a special way, bless our Capitol Police who daily labor with courage, competence, and commitment.

We pray this in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the majority leader or his designee and the last half under the control of the Democratic leader or his designee.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will have a 1-hour period for the transaction of morning business. Following that time, we will begin an hour of debate prior to the vote on invoking cloture on the substitute amendment to the highway bill. Senators can expect the cloture vote to begin sometime between 11:30 and 11:45 this morning. I expect cloture will be invoked and we will then be on a glidepath to finishing the bill. Once cloture is invoked, if invoked, I will be consulting with Chairman INHOFE and the Democratic leader to determine how much work is left before we are able to complete the bill.

I anticipate votes on amendments throughout the day today and into the evening, if necessary, to bring the bill to a close. Although a large number of amendments were filed to the highway bill yesterday, I believe Members will show restraint and not offer many of those that were submitted to the desk.

We are closing in on our second week of consideration of the highway bill and I look forward to completing the bill and getting this measure to conference as quickly as possible.

VISIT TO CAIRO, EGYPT

Mr. FRIST. Mr. President, the past 2 days I have taken the opportunity to come to the Senate to discuss my recess trip last week to the Middle East. As I mentioned yesterday, it was a fascinating experience that allowed me a firsthand glimpse of the complicated challenges facing the region. At each of my stops I had the opportunity to meet with top officials, community leaders, and I made a point of visiting with opposition candidates. With each conversation I became more convinced that despite the deep differences that divide them, each party wants peace, wants prosperity, and each side knows that dialog is the way forward.

Tuesday I spoke of my meetings in Israel. Yesterday I reported on my visit to the West Bank. Today I will briefly comment on my time in Cairo, Egypt.

We arrived on May 5 to a jampacked city of over 20 million people. We first met with President Hosni Mubarak, a lively and engaged and obviously well-informed man. We had an open and frank discussion about many of the issues facing the country, as well as the region at large.

In particular, President Mubarak expressed his strong belief in American leadership in the issues surrounding the Israeli-Palestinian peace efforts. We both agreed America is uniquely positioned to help both the Israelis and the Palestinians bridge their differences. We also agreed Egypt is critical to advancing this peace. As the regional Arab power broker and the first Arab country to make peace with Israel, this will be particularly true in the period following Israel's disengagement from Gaza.

There is great concern among Israelis that once they withdraw, Gaza will be used as a platform to launch attacks into Israel. President Mubarak stressed to me his commitment to keep this from happening. He stressed it is in Egypt's own interest to prevent Gaza from descending into chaos and lawlessness. That is why his country is prepared to field a border security force of 750 guards to stop weapons smuggling into Gaza and to prevent other criminal acts.

We also discussed the upcoming Egyptian Presidential elections. President Mubarak has asked his legislature for a change in the Constitution to allow multiple candidates to run for the Presidency. This is an important step toward full democracy. I applaud his efforts. I am disappointed, however, by reports that the Constitutional amendment just approved by Egypt's upper house requires Presidential candidates to meet certain conditions to win a place on the ballot. It is widely believed these regulations will prevent any serious contenders from running for President. In short, unless this amendment is modified, its final approval will practically guarantee the ruling party will select its own token competitors and continue its domination of the Presidency.

Meaningful reform means free and fair elections. Opposition candidates must be able to declare their candidacy freely. They must be allowed to broadcast their message through the media. And they must be permitted to acquire the resources necessary to run a genuine campaign.

Jailing opposition candidates, such as Ayman Nour, whom I had the opportunity to meet with in his apartment, and who recently declared from prison his intention to seek the Presidency, undermines the true meaning of democracy, and it undermines the people's faith that the Government is working on their behalf.

Egypt has been a close ally and good friend of the United States, but it still has a long way to go on the path toward political reform. After my meeting with President Mubarak, I held talks with Prime Minister Ahmed Nazif. He is pushing strong economic reforms throughout the country. He is

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

lowering taxes and lowering other economic barriers, stripping away unnecessary regulations, and it is working.

According to the Prime Minister, the public sector used to contribute 70 percent to the GDP and the private sector 30 percent. Now those numbers are reversed, with the private sector contributing 70 percent and the public sector 30 percent. The economy is growing.

Lowering taxes and breaking down these barriers to opportunity are the keys to prosperity. It is gratifying to see this basic principle being embraced around the world. After failed experiments in socialism, as well as nationalism, Egypt appears to finally be embracing the power of free markets.

I am hopeful that as economic opportunity flourishes, the allure of extremism will fade, and the people and the leadership will be inspired to secure ever greater political freedoms.

While in Cairo, my group and I also visited the El Gallaa Maternity Teaching Hospital—the largest of its kind in the region. It is a large public teaching hospital. Over 20,000 babies are born there each year.

As I toured the hospital, I had the opportunity to meet with Egyptian doctors and nurses and other health professionals. I was also taken to the pediatric intensive care unit where dedicated health professionals worked to keep premature babies and at-risk newborns healthy. Their determination was inspiring, especially surrounded as they were by less-than-ideal conditions in downtown Cairo.

All in all, I came away from my stop in Egypt convinced that this historic country has the potential to set a positive example for the rest of the Middle East, and it is doing so. Egypt has been a trusted partner in the Middle East peace process and an important ally in the war on terrorism.

The United States must continue to promote democracy and freedom around the world.

As Egypt embraces these reforms, I am confident our two countries can form a stronger and more dependable relationship. I am confident that together we can achieve peace, security, and prosperity for the people of the Middle East.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from South Carolina.

JUDICIAL NOMINATIONS

Mr. DEMINT. Mr. President, in January of this year, I stood in this very Chamber, placed one hand on the Bible, and raised the other hand. In taking my oath of office, I made a simple pledge to uphold the Constitution of the United States of America. However, only 4 months later—because of the partisanship of some—I am prevented from fulfilling my oath.

It is interesting to observe what the Constitution requires of the Senate and what it does not. Nowhere does it say that Congress must pass new laws. But it does specify Senators must "advise and consent" on the President's judicial nominees.

How can I perform my constitutionally mandated duties to advise and consent without the ability to vote on the nominees sent to us by the President? How can I represent the people of South Carolina, who elected me to serve their interests, without the ability to vote yes or no?

Today, 41 Senators are preventing a bipartisan majority from carrying out the duty we were elected to fulfill. This is outrageous.

The President of the United States is given the authority, under the Constitution, to choose his own nominees. We have an obligation to vote on those nominees. Forty-one Senators are trying to thwart the will of the American people and the Constitution.

Beginning in 2003, Democrats used the filibuster to block up-or-down votes on 10 nominations to the Federal appeals courts. All had bipartisan, majority support. Do not be fooled by the misinformation of a few. Never in history has a judicial nominee with clear majority support been denied confirmation due to a filibuster.

Throughout my campaign, and each time I have been home this year, folks in South Carolina have told me how furious they are that the President's nominees are being denied a vote. Democrats have chosen to throw 200 years of tradition out the window by refusing to give judicial nominees a vote, and Americans are simply tired of the partisan obstruction.

Before I was elected, I said the Senate had become a "graveyard of good ideas" due to partisan liberal obstruction. Unfortunately, it has now become a "graveyard of good nominees," such as Janice Rogers Brown.

California Supreme Court Justice Brown was nominated to the DC Circuit by President Bush in 2003. The first African American to serve on the California high court, Justice Brown received public support from 76 percent of California voters and is widely respected as a leading intellect on the bench. She has been unanimously voted as "well qualified" by the American Bar Association, which has been described by those who oppose her nomination as the "gold standard" of judicial ratings.

The daughter of sharecroppers, Justice Brown was born in Greenville, AL, in 1949. During her childhood, she attended segregated schools and came of age in the midst of Jim Crow policies in the South.

She has dedicated 24 years to public service, serving as legal affairs secretary to California Governor Pete Wilson; deputy secretary and general counsel for the California Business, Transportation, and Housing Agency; deputy attorney general in the Office of the California Attorney General; and as deputy legislative counsel in the California Legislative Counsel Bureau.

Just what is it that opponents of Justice Brown claim is their reason to deny her a fair vote? They obviously could not attack her experience or her character or her education or her intelligence, which are all impeccable.

Instead, they have used the political equivalent of a desperate "Hail Mary Pass." They labeled Justice Brown as "out of the mainstream." Really? Out of the mainstream?

Were three-quarters of Californians out of the mainstream when they elected her overwhelmingly to the State supreme court? She was elected by the largest margin of any of the judges up for retention that year.

Despite the claims of her opponents, her record demonstrates a commitment to interpreting the law, not legislating from the bench.

If the obstructionist Senators who are vehemently opposed to her nomination feel so strongly that she is out of the mainstream, then they should put their money where their mouth is and come down to this floor and make their arguments against her nomination, then allow all of us to draw our own conclusions and cast our vote.

If Justice Brown is so truly unqualified, then surely her opponents would be confident of convincing a majority that this is the case. Otherwise, they are simply smearing the integrity of a highly respected jurist in order to score political points against the President at the expense of vandalizing the Constitution.

One of my goals as a Senator is to confirm highly qualified judges by ensuring timely up-or-down votes for all nominees no matter who is President, no matter which party is in the majority. That is my commitment, and I have encouraged Senator FRIST to consider all options, including the constitutional option, to end the undemocratic blockade of judicial nominees. Senators were elected to advise and consent, not to grandstand and obstruct.

I would like to say something to my colleagues across the aisle. There is a reason George W. Bush was elected to serve as President of the United States. It is because the majority of Americans trusted him to nominate judges.

There is a reason the American people elected a majority of Republicans to the Senate. They trusted our judgment to vote on judicial nominees.

There is a reason the Democratic Party is in the minority in Congress. It is because the American people did not trust them to make these decisions.

It is not a trivial matter. The issue of judicial nominations was at the forefront of every Senate campaign in the last two cycles. Voters across our Nation witnessed the obstruction of the

Democrats over the last 4 years, and they rendered their judgment at the polls.

In 2002, they returned the Republicans to the majority in the Senate. Then, after 2 years of unprecedented and, in my opinion, unconstitutional denials of simple votes on judicial nominees, Americans elected an even larger majority of Republicans. In fact, the Democrat leader, former Senator Tom Daschle, was defeated by my colleague, Senator JOHN THUNE, in large part due to his high-profile obstruction of judicial nominees.

In my own campaign, I spoke frequently about the need to give every nominee a fair up-or-down vote. It was consistently the main issue voters brought up with me one-on-one.

Now that the American people have clearly spoken, by democratically electing a Republican President and a Republican majority in the Senate, 41 Senators are attempting to deny the will of the people. Forty-one Senators believe they know better than the majority of Americans. Forty-one Senators seem to think the elections and constitutional duties we have do not matter. What matters to these 41 Senators is petty partisan politics.

This temper tantrum must end. The Democrats must accept the judgment of the American people. They cannot disregard election results simply because things did not go their way.

Now let me speak to my own party's leadership. It is time for the Republican Party to lead, as Americans have elected us to do. We were not sent to the Senate as a majority to quibble about process and procedure. We were entrusted to carry out the duties laid out in the Constitution.

We ran on a platform of ideas to secure America's future, and the Nation largely agreed with our vision. We also ran on the need to give the President's nominees a fair up-or-down vote. The Senate Republican majority must stand up for the Americans who elected us. We must have the courage and conviction to uphold the Constitution and end the partisan obstruction. The time to act is now.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I am pleased to take the floor again on the matter of judicial nominations. As the emotions and politics of this issue keep building up, it is important we not lose sight of what this is all about. We have all heard the grim, little joke about the doctor who said: The operation was a complete success, but the patient died.

Sometimes we get so caught up in process that we ignore the reasons we are here in the first place: to achieve an outcome for the American people to get things done, to make a difference.

The outcome the people want, the outcome the President deserves, and the outcome the Constitution demands is an up-or-down vote—a simple up-or-down vote—on each of the appointments the President has submitted to us.

A couple years ago, I stood right over there, in front of that desk, and swore an oath to the Constitution of the United States of America. The Constitution directs each Senator to "advise and consent" on judicial appointments by the President, not to advise and obstruct, not to advise and block, but simply advise and consent—which simply means, and has always meant in the history of this country, up until last year, the opportunity for an up-or-down vote.

If you ask me, the term "nuclear option" belongs to the tactics taken by the minority, unfortunately, in the last 2 years. I would say they are treading on the traditions of this body, the balance of power between the branches, and the Constitution that we are sworn to uphold.

As the Bible says, what you sow, you will reap. When some in the minority decide to flaunt the historical procedures and understandings of this body, they should not be weeping and wailing and gnashing their teeth when the majority steps up to restore—to restore—200-plus years of accepted practice in this body, which is an up-or-down vote on judicial nominees once they have passed through committee. If the minority is feeling injured, they brought it on themselves.

Mr. President, I want to illustrate what a dramatic departure from historical precedent some in the minority have embarked upon in the last year when 10 of the President's judicial nominees were filibustered. For the first time, 10 circuit court nominees, at the level right below the Supreme Court, were filibustered.

Just look back a few years to the nomination of Clarence Thomas to the Supreme Court in 1991. It was a media circus, riven with charges, accusations, and controversy. Clarence Thomas was confirmed with a vote of 52 to 48. If the Democrats had wanted to defeat him, they simply could have filibustered his nomination. But they did not.

They could have filibustered his confirmation, but they did not. Did they fail to do so because they simply wanted to be nice? No. It is fair to state that they didn't filibuster because at that time, in 1991, it wasn't even conceivable, it wasn't in the history and tradition of this body that nominees who get through committee or to the floor would fail to get an up-or-down vote, 52 to 48. Have no doubt about it, if what is going on today was going on then, Clarence Thomas would have been filibustered. It did not happen. At that time, my colleagues did the right thing. They honored two centuries of tradition and allowed him an up-or-down vote.

I have done some quick research. Of the 109 Justices of the Supreme Court, my staff counted 55 Supreme Court Justices who could have been defeated if one of the parties had adopted the nuclear option, the filibustering of nominees, now employed by some in the Senate minority. Half of the Supreme Court Justices in our Nation's history might never have served. Who could that have cost us? Benjamin Cardozo, nominated by President Hoover, who gave us proximate cause, a cornerstone of today's tort law. Every college kid in America, including me, read Cardozo's opinion. How about Justice Marshall Harlan, appointed by President Hayes. He was the lone dissenter in Plessy v. Ferguson which upheld segregation policies. Fortunately, we did not force Justices Cardozo or Harlan or other Justices to overcome a partisan filibuster. It was not done. In fact, not only did we not filibuster the other party's nominees, we often elevated them, as was the case with Harlan Fiske Stone, who was appointed by a conservative President, Calvin Coolidge, and then elevated to Chief Justice by Franklin D. Roosevelt.

I could go on. Does anybody in this Chamber doubt in today's environment that William O. Douglas would never have made it to the Supreme Court, that his nomination would have been filibustered? Does anyone in this Chamber doubt for a moment today that Justices Antonin Scalia and William Rehnquist would not have a chance to serve on the Supreme Court because of a filibuster?

We have to think about the consequences of this dangerous precedent that unlimited debate be used to deprive the whole Senate of an up-or-down vote. The consequences are that individuals with strong opinions—and they may be liberal or conservative—and great intellect would not have an up-or-down vote.

There has been an ebb and flow in American politics.

The Bible says there is a time for every season. There are Republican Presidents. There are Democratic Presidents. There is ultimately a balance. What is happening today, what happened last year with the unprecedented filibustering of judicial nominees was an attempt to change the Constitution, to require a supermajority for Supreme Court and circuit court nominees. We are changing the flow, changing the balance. We are getting rid of and will deprive this Nation of people with great intellect and passion because they won't be able to get past the roadblock of the minority.

The caution I hope some in the minority will take to heart is, what happens when the shoe is on the other foot. How would they feel if a future Democratic President's nominees were treated in the same fashion? In this body, we have to live with the precedents we set. The whole concept of due process is about guaranteeing a set of procedures which reach a fair outcome. It is not about guaranteeing one particular outcome.

Some in the minority are so bent on defeating a few of the President's nominees that they will distort the process to achieve the outcome. They will distort precedent and tradition. They will distort what has given us a balance of great intellect and passion and great minds on the Supreme Court. We will lose that. That would be a terrible thing.

We are stewards not only of government but of the Constitution. It is our solemn oath to maintain the orderly completion of the Senate's business, specifically the fulfillment of our constitutional responsibility. Today, we are on the cusp of having to assert the constitutional option. I hope it will not come to that.

Now I hear rhetoric from some Members of the minority that they are prepared to compound their error by killing the remainder of the jobs agenda that we are ready to pass in the Senate. The National Association of Manufacturers said this week that passage of the jobs agenda items—including the highway bill, the Energy bill, the asbestos reform bill, and telecom rewrite—would be a $1 trillion jolt to the American economy, to the U.S. manufacturing industry. Any Senator from States that don't need manufacturing jobs should feel free to object.

We need to focus not on the process but the result. I have a responsibility to advise and consent on the appellate judges the President has submitted. I will exercise that responsibility whether there be a Democratic President or a Republican President. I will look to their qualifications and then give them what they deserve: an up-or-down vote.

If need be, I support my leadership taking necessary steps to allow me to reach that constitutional decision with a simple up-or-down vote. That is all we are asking for.

I yield the floor.

The PRESIDING OFFICER. The majority whip is recognized.

VACANCIES ON THE SIXTH CIRCUIT

Mr. McCONNELL. Mr. President, for the last 4 years, I have taken to the Senate floor from time to time to decry the crushing burden under which the Sixth Circuit Court of Appeals operates. The year has changed, but one seemingly immutable fact remains: The Sixth Circuit is the slowest judicial circuit in the country by far.

The Sixth Circuit has 16 seats. It covers Michigan, Ohio, Kentucky, and Tennessee, with a population of over 30 million people. For the last 3 years, the Sixth Circuit has been trying to function with 25 percent of its seats empty. Twenty-five percent of the Sixth Circuit is vacant. The vacancy rate is, as it has been for much of this dispute, the highest of any circuit in the Nation.

Not surprisingly, the judicial conference has declared all four of these vacant seats to be judicial emergencies. According to the Administrative Office of the Courts, last year, as the year before it, the Sixth Circuit was a full 60 percent behind the national average. According to AOC, the national average for disposing of an appeal is 10½ months, but in the Sixth Circuit, it takes almost 17 months to decide an appeal, 16.8 months. That means that in other circuits, if you file your appeal at the beginning of the year, you get your decision around Halloween. But in the Sixth Circuit, if you file your appeal at the same time, you get your decision after the following Memorial Day, over a half a year later.

As the obstruction drags on year after year after year, things have gone from bad to worse. In 2001 and 2002, the Sixth Circuit was also the slowest circuit in the country. In those years, the average time for decision in the Sixth Circuit was 15.3 and 16 months respectively. In 2003, the average length of time for decision in the Sixth Circuit jumped to almost 17 months, 16.8—again, the slowest in the country.

I guess things have now hit rock bottom because the AOC reports that last year, 2004, the Sixth Circuit suffered from the same delay, almost 17 months, 16.8. Yet again, it was the slowest circuit in the Nation.

We all know the old saying that justice delayed is justice denied. The 30 million residents of the Sixth Circuit have been denied justice due to the continued obstruction of Sixth Circuit nominees by our Democratic colleagues.

What is the reason for this sorry state of affairs? An intradelegation spat from years ago when a quarter of the current Senate wasn't even here, nor was the current President. This dispute drags on year after year after year. I don't know who started it. I do know that with respect to nominees not getting hearings, the Democrats do not have a monopoly on disappointment. I also know that the obstruction that some of my colleagues are practicing on the Sixth Circuit is out of proportion to any alleged grievance.

My Democratic colleagues continue to block four Sixth Circuit nominees from Michigan: Henry Saad, David McKeague, Richard Griffin, and Susan Neilson. They are also blocking three district court nominees: Thomas Ludington, Dan Ryan, and Sean Cox. In fact, no Federal judges from Michigan have been confirmed during the Bush administration. Of the seven vacancies the Democrats refuse to let the Senate fill, five of the seats were not even involved in this dispute. Let me repeat that. Of the seven vacancies the Democrats from Michigan will not let be filled, five of the seven were not even involved in whatever this ancient dispute was.

President Clinton never nominated anyone to the seat to which Henry Saad was nominated. The seat to which David McKeague was nominated did not even become vacant until the current Bush administration on August 15 of 2001, and the three district court seats that are being blocked are not involved in the dispute, either. So five of the seven seats had absolutely nothing to do whatever with this dispute that went back to the Clinton years.

What the Michigan Senators are doing is holding up one-fourth of an entire circuit in crisis, along with three district court seats, because of internal disputes about two seats, the genesis of which occurred years and years ago. This is an absolutely embarrassing situation.

What are our friends from Michigan demanding in order to lift the blockade? They want to pick circuit court appointments. Let's get back to first principles. As much as they would like, Democratic Senators do not get to pick circuit court judges in Republican administrations. In fact, as much as we would like on this side of the aisle, Republican Senators do not get to pick circuit court judges in Republican administrations. In short, circuit court appointments are not Senatorial picks. Article II, section 2, of the Constitution clearly provides that the President and the President alone nominates judges. It then adds that the Senate is to provide its advice and consent to the nominations the President has made. By tradition, the President may consult with Senators if he chooses, but the tradition of consultation does not transform individual Senators into co-Presidents. We have elections for that, and President Bush has won the last two.

Finally, the Democrats have recently indicated that they will afford three of the circuit nominees an up-or-down vote along with one of the other filibustered nominees if we abandon our efforts to ensure that all nominees receive an up-or-down vote. The Democrats don't care which of the other four nominees are put on the bench because they let us pick the nominee.

Well, we are not going to toy with these people's careers. They have waited patiently for years to receive the simple dignity of an up-or-down vote, and we are working to restore the norms and traditions of the Senate that existed prior to the previous Congress so they may receive one. But the fact that our Democratic colleagues are now willing to afford one or more of the individual filibustered nominees the courtesy of an up-or-down vote but not allow the same nominees collectively to receive up-or-down votes shows that our Democratic colleagues recognize that each of these nominees is deserving of an up-or-down vote. More than that, it shows the partisan and political nature of the opposition.

Last year, our Democratic colleagues said all seven of these judicial nominees were "too extreme." Now they say only three are too extreme. So one of the following three statements is true: The nominees changed, or the Democrats' definition of what constitutes extremism has changed, or they never really meant it in the first place. Let me repeat that. One of three things is true: Either the nominees who were extreme last year are not extreme this year, the Democrats' definition of what constitutes extremism changed between last year and this year, or they never really meant it in the first place.

It is no wonder many people concluded that what is at work is really just partisan politics. Mr. President, we should not play partisan games with the nomination process. We should take our constitutional duties seriously.

I ask our Democratic colleagues to afford these nominees collectively what they are willing to afford each of them individually; that is, a simple up-or-down vote.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New York.

TERRORISM RISK INSURANCE EXTENSION ACT OF 2005

Mr. SCHUMER. Mr. President, I ask unanimous consent that Mr. REID from Nevada be added as a cosponsor of S. 467, the Terrorism Risk Insurance Extension Act of 2005, introduced by my friend, Senator DODD of Connecticut.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, we still live in America, and particularly in my city of New York, in the shadow of 9/11, of the terrorism that occurred. Obviously, the thousands of families who have had a loved one taken from their midst live with it every moment of their remaining lives, but the rest of us live with it, too, not only in empathy for them but also in terms of the economic consequences of terrorism.

The bottom line is very simple, and that is, because of terrorism, the insurance industry, in terms of insuring risk of large structures in America—whether it be large buildings that make us so proud of the Manhattan skyline, or large arenas such as the football stadiums that dot America, or larger facilities such as Disneyland, Disney World, and amusement parks—all have difficulty getting insurance.

Insurers are worried that if, God forbid, another terrorist act occurs it will be so devastating that it will put them out of business. So they either provide no insurance or provide it at such a high rate because of the downside risk. Small as it may be—and we hope it is—it is still possible that an act so enormous that if, God forbid, it occurs, they do not want to be involved.

So 2 years ago, the Senate, House, and the President got together at sort of the end of the day and passed terrorism risk insurance. It has been a large success. Insurance rates have come down, terrorism insurance is available, and insurance companies know if, God forbid, the worst happens there will be a backstop, and they are willing to issue policies. In turn, that means developers, builders who want to build new large structures in America, will do so, employing thousands and thousands of people, creating profits and new businesses as well.

We now come to the fact that this legislation expires—it was passed as an experiment; those who were dubious of it said, Let's see how it works—in December. But the urgency to act is much sooner than December because policies are not written for 6 months. If right now you are a business and you want to renew your insurance against risk for 1 year or 2 years or 3 years, that policy would go beyond December.

What the insurers say to many is, "I will raise your rate dramatically", which will raise costs and shut down construction, or "I will not insure you at all", which certainly shuts down construction. It means nothing will get built. So we should move this legislation quickly.

I stress we do not need to repeat last year by delaying and delaying. Last year, we began to witness, when we delayed a great deal, a loss in economic activity in the larger cities of this country in particular, even though we were well aware that ultimately this had to be done.

There are really only two alternatives. One is going to be no terrorism insurance. The private market will not fill the gap. That will prevent tens of billions in projects from going forward this summer and this fall, not next year but right now.

The second is that the market will fill the gap but only at such extraordinary prices and only in unique situations that the same thing would happen.

Why are we sitting in the Senate and in the House twiddling our thumbs? Our economy is squishy, oil prices are up, other economies outside of Asia are down, including Japan's actually, and, therefore, we are worried about the economy, and here we are putting another log on the tracks in the way of economic recovery.

There can be no dispute that terrorism insurance works, and there can be no dispute that if we do not renew it, there will be trouble. The ratings agencies have said in no uncertain terms that come December 31, if there is no terrorism insurance, they are not going to be able to give any kind of decent rating to any insurance offer.

These guys are insurers. They look for risk. They live with risk. They wake up in the morning thinking a risk, they go to sleep at night thinking a risk. We can say, oh, well, and have an ideological debate about how much should the Government be involved, or we can say, actually, people are not as worried about terrorism. It does not matter what you think, Mr. President, or what I think, it is what these insurers think. If the rating agencies say they are not going to give a decent rate to insurers, it is over, and we will not have it.

Moody's noted in an insurance brokers report that up to 75 percent of the policies written since January 1 have adopted a conditional endorsement that voids terrorism coverage if TRIA is not renewed. As we go through the year, the number of endorsements, they said, is expected to increase.

The report specifically stated these conditional endorsements appear to be an indication that unless terrorism insurance is renewed, premium spikes or a sharp reduction in the availability of coverage may result.

The report warns—this is very important—that Moody's is unaware of any viable private market initiative that would take the place of TRIA.

There are some who say: Let it expire and let's see what the market does. That is taking a huge risk because if the market does not come in, then we have hurt construction workers, laborers, and all those who would work in these buildings.

Alan Greenspan, the Chairman of the Federal Reserve, is a very well-respected voice around here, as he should be, in my opinion. He is a free-market guy. He does not like Government involvement. Right now, I am going toe to toe with him about Fannie Mae and Freddie Mac. He would like to curb their role because he does not like the Government involved. I think they are needed in the housing market. But on terrorism insurance, even Alan Greenspan admits it is needed. Here is what he said:

> This is a very difficult issue, because remember that the private markets work exceptionally efficiently in a civilized society in which domestic violence or violence coming from abroad is not a central factor.
>
> You cannot have a voluntary market system and the creation of markets, especially insurance markets, in a society subject to unanticipated violence. And as a consequence, there are certain types of costs, which is what we have the Defense Department protecting us from, which we essentially choose to socialize.

> The less of that we have, the better off society is.

Of course, this is his view, and he wants to make sure you know he does not want us to do this everywhere.

> There are, nonetheless, regrettable instances in which markets do not work, cannot work. And while I think you can get some semblance of terrorism insurance, I have not been persuaded that this market works terribly well.

It is pretty clear, we need to renew this legislation, and it is likely we will renew it. What is so incredible is we are waiting and waiting, and every day we wait causes damage to jobs and the economy.

The bottom line is that financial dislocation caused by another possible terrorist attack—God forbid—is too much for our country to risk. I urge the entire Senate to pass this legislation quickly. It is cosponsored by 25 of my colleagues, and we should move it without delay and let the markets, let the insurance world, and, most of all, let jobs and construction go forth.

I yield the floor, Mr. President, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Journal clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, I would like to be recognized as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, I rise to discuss the Terrorism Risk Insurance Act, or TRIA. This law is necessary to make our economy function smoothly and effectively and to protect it from the risk of a terrorist attack.

After 9/11, we enacted a number of measures including the Terrorism Risk Insurance Act, to enhance and stabilize the security of our citizens and our economy. TRIA provided a high-level Federal backstop that allowed private insurance and reinsurance markets to return and to allow American businesses to overcome the shock of September 11. TRIA seems to have performed exactly as we intended, but as we all know the program expires at the end of this year. I am getting concerned that we are fast approaching the point where we need to move forward and reauthorize the TRIA. We can't allow this program to expire without a short-term extension or longer term solution to be put in place.

But as we consider whether to extend TRIA, we should look closer at the two main goals we tried to accomplish with the law. First, as I just noted, we wanted to make sure that the market and the economy functioned in the wake of 9/11 and in the face of the threat of terror. After 9/11, the insurance companies looked at their risk for the first time in the context of a mass casualty destructive act that would destroy buildings, that would kill perhaps thousands of people, and they decided that they alone could not take this risk. In light of the new conditions, the passage of TRIA, provided a necessary backstop, and allowed the private insurance companies and the market to function effectively.

One of the areas that I became concerned about was workman's compensation. Most people would say: What does that have to do with a major attack that falls upon a large building or a major city or some other key facility? The point is thousands of workers are covered by workman's compensation. Those deaths and injuries would trigger workman's compensation. That is just one example of the situation caused by 9/11, the situation of uncertainty, the situation of potentially huge losses which never before were fully calculated by the insurance companies. That part of the purpose of TRIA has worked very well. Our insurance markets are functioning smoothly today.

But there is a second important reason, and that second important reason is that many of us felt that we needed to have a policy in place all the time to allow the economy to rebound more quickly in the unfortunate event of another terrorist attack here in the United States.

Let me just remind you, as we left this Chamber yesterday morning, as we moved to assembly areas, as we evacuated all these buildings, the notion of a further terrorist attack was not something hypothetical or remote. For an instant there, there was real concern that we would be struck again. And if we are struck again and we do not have in place a terrorism reinsurance program, the insurance industry will once again face the same dilemma we saw on 9/11: we can't cover these risks; we are overexposed; we can't provide insurance in the future. That slows the economy down and potentially in many different ways. TRIA has to be in place. As long as we are sincerely persuaded that there is a terrorist threat, and I know I am, then we have to have this TRIA program in place.

Some opponents of the extension argue that TRIA should be a temporary program because by ending it private terrorism insurance markets will be forced to stabilize and provide adequate capacity to meet the demand for coverage. I do not think that will happen. I think the markets will stabilize because companies will not write risks. And if you are trying to build a major building in a major city, guess what? Try to get insurance. If you propose to put in a major office complex with thousands of workers, try to get workman's compensation insurance. You will not get it. That is the way the market will respond to the uncertainty caused by the potential attack of terror, and that will hurt our economy grievously. I think we have to recall and realize that we still are under the threat. I think we have to also be conversant with the fact that there will be dramatic economic effect even if a small attack is waged by terrorists because the psychological dimension is just as important in many respects as the physical damage. So we have to have in place this terrorism reinsurance program, and we are running out of time to do it right, carefully, thoroughly, and get it done before the end of the year. As you may know, the Treasury Department is required to report to Congress by June 30 of 2005 on issues associated with the act and its purposes. While I am looking forward to the conclusion of the Treasury Department study, it will have little, if anything, to do with the second aim of the law; namely, having a policy in place in the event there is another attack in the United States.

It is this "preparedness" reason that most compels me to believe that we need to continue a Federal terrorism insurance program. This Congress, Senator DODD and Senator BENNETT reintroduced the extension bill, S. 467, the Terrorism Risk Insurance Extension Act of 2005, of which I am an original cosponsor. In addition to extending TRIA to 2007, this bill establishes a Presidential working group on financial markets to submit a report to Congress containing recommendations to address the long-term availability and affordability of terrorism risk insurance.

The administration thus far has been silent on extending TRIA. It is essential that the administration lead rather than follow in this process of legislative deliberation. Furthermore, vacancies in key administration positions have led to a vacuum in leadership and communication needed for good policymaking as we approach deliberations on TRIA. Extending TRIA is absolutely the right thing to protect the economic security of our country. I urge my colleagues to take a close look at this legislation and join us in supporting it.

I thank the Chair. I yield back my time.

Mr. REID. Mr. President, I ask unanimous consent to include in the RECORD at the conclusion of my remarks a written statement that I submitted at a symposium sponsored by the U.S. Chamber of Commerce on extending the Terrorism Risk Insurance Act, or TRIA, and a letter signed by seventy-four CEOs of the largest integrated financial services companies in the country which provide banking, insurance and investment products and a second letter from the Coalition to Insure Against Terrorism, CIAT, which represents over seventy-five companies and major associations, a virtual cross section of the U.S. economy, both of which express strong support for extending the terrorism insurance program.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. REID. Mr. President, in 2002 I cosponsored, and Congress passed, the Terrorism Risk Insurance Act, commonly referred to as TRIA. This important legislation provided a government backstop for the terrorism insurance market that disappeared after the attacks of September 11. TRIA is working. Today, because of TRIA, terrorism risk insurance is available and businesses have meaningful access to coverage. The primary purpose behind TRIA, and the reason it needs to be extended, is to make sure that the American economy and markets function in the face of a terrorist threat. There needs to be a mechanism in place to allow the economy to rebound more quickly and to protect American jobs in the unfortunate event of another terrorist attack here in the United States. The threat of an attack has not gone away and will not go away when TRIA expires at the end of 2005.

While some in Washington continue to hope that a private market will develop in the absence of TRIA, let me quote from two reports put out recently by those who are in the business of watching markets. The first is a Special Report by the rating agency Moody's Investors service dated April 28 which expressed concern about the potential effects of the pending expiration of the Terrorism Risk Insurance Act, TRIA.

Moody's noted, that insurance brokers report that up to 75 percent of policies written since January 1st have adopted a conditional endorsement that automatically voids terrorism coverage if TRIA is not renewed, and that the number of conditional endorsements is expected to increase as the year progresses. The report stated, "These conditional endorsements appear to be an indication that unless TRIA is renewed, premium spikes, or a sharp reduction in availability of coverage, may result. The report warns, "Moody's is unaware of any viable private market initiative that would take the place of TRIA."

Secondly, Marsh Inc., in a report released on April 25, entitled Marketwatch: Terrorism Insurance 2005, concludes: "If TRIA is not extended, the stand-alone insurance market is unlikely to have sufficient capacity to satisfy all of the expected demand at commercially viable prices."

The Bush administration official who spoke at the recent U.S. Chamber symposium on TRIA simply gave those in attendance a history lesson on the issue, but refused to give any indication whether the administration would support or oppose an extension of TRIA. Policy holders from major sectors of the economy—real estate, financial services, energy, entertainment, hotel, and hospital industries—feel like they are being left to twist in the wind wondering whether the administration and the Congress are going to take the necessary action so that they can properly and responsibly protect their properties. There is absolutely no sense of urgency by this White House and I think they would like to see this issue quietly go away.

The financial dislocation caused by another possible terrorist attack is too important to ignore and we should not continue to delay action on an issue that is so important to our economy and the American workforce. We should act on extending TRIA and act promptly.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAMBER OF COMMERCE TERRORISM REINSURANCE CONFERENCE

REMARKS BY SENATOR HARRY REID

(Thursday, March 17, 2005)

I was a co-sponsor of the Terrorism Risk Insurance Act (TRIA), which Congress passed in 2002, and I strongly agree with many of you, that we need to extend this important program as soon as possible.

After the attacks of September 11th, private insurance was no longer available to cover losses caused by terrorist attacks. It became impossible to purchase property and casualty insurance to cover losses to real property and the people in those buildings because the risk was too difficult to measure. This created serious problems in the real estate and commercial development sectors and essentially stopped construction of new buildings because banks would not loan money for projects that could not be insured.

When a meaningful market for terrorism insurance failed to develop after several months, it became clear that Congress needed to do something to prevent continued disruption to the economy.

We passed TRIA and it is working today.

Because of TRIA, terrorism risk insurance is available and businesses have meaningful access to coverage. I don't think we can underestimate its impact on the economic recovery we have seen in Nevada and other parts of the country.

As you know, TRIA is set to expire at the end of 2005. Its looming expiration has huge implications for our economy and job creation. Already I have heard reports that insurance providers will not write terrorism insurance policies in large, metropolitan markets such as Las Vegas, Chicago and Washington, DC in light of TRIA's near expiration. I regret that this is taking place, and I worry about the impact this will have on our economy if the insurance they need is not available.

The White House seems to be content on waiting for the Treasury Department's report on the terrorism insurance market before making any decision. That report is not due until June 30th. That's too late and waiting until this summer to make a decision creates too much uncertainty for the real estate, construction and insurance industries.

When many of us voted for TRIA, we did so for two principle reasons. First, we wanted to make sure that the markets functioned in the face of the threat of terrorism. We wanted to restart the construction industry and get people back to work. But the second important reason for this legislation—and I believe President Bush stated this when he signed the bill into law—was that many of us felt that we needed to have a policy in place to allow the economy to rebound more quickly in the unfortunate event of another terrorist attack here in the United States. We felt that having an insurance program in place would ensure that economic activity would continue after a terrorist attack.

And this second reason is why I am so concerned about the President's "wait and see" approach to extending TRIA. The Treasury department's study—whatever it finds—is only focusing on the first reason that TRIA was put in place. It has little, if anything, to do with the second reason for the Act.

It is this "preparedness" reason that is the real convincing reason that causes me to say we need to continue a Federal terrorism insurance program, and we do not have to wait for the Treasury department to further the debate on that.

I also support inclusion of group life coverage in the TRIA bill when it is reauthorized. There continues to be a lack of available catastrophe reinsurance coverage for the group life insurance industry and the absence of reinsurance coverage poses a significant risk for the 156 million American families who rely on the promised survivor benefits of their group life insurance policies.

If the President is serious about creating jobs and maintaining the health of the U.S. economy, he needs to get behind efforts to extend this law now. Otherwise, it is just not going to happen. American businesses are already being told by insurers that they face the prospect of going without terrorism coverage by year-end.

Prior to TRIA's enactment in 2002, $15 billion in real estate transactions were cancelled or put on hold because there was no terrorism insurance available. Commercial construction was at a six-year low. According to the White House, over 300,000 construction jobs were lost or put on hold because there was no terrorism insurance available. Bond rating agencies downgraded $12.5 billion worth of commercial mortgage-backed securities because of the lack of available terrorism insurance. Lenders began to "force place" terrorism insurance coverage on many properties, despite the fact the only available terrorism coverage was deficient, defective and priced at levels that negatively affected the economics of the underlying properties.

Extending TRIA makes good economic sense, and I hope the White House and my Republican colleagues who control its fate will work with our caucus and move swiftly to extend it.

THE FINANCIAL SERVICES ROUNDTABLE.
Washington, DC, April 27, 2005.

Hon. BILL FRIST,
Hon. HARRY REID,
U.S. Senate, Washington, DC.
Hon. J. DENNIS HASTERT,
Hon. NANCY PELOSI,
House of Representatives, Washington, DC.

DEAR MAJORITY LEADER FRIST, SPEAKER HASTERT, MINORITY LEADER REID AND MINORITY LEADER PELOSI: We are writing in support of an extension of the Terrorism Risk Insurance Act (TRIA).

The Financial Services Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to the American consumer.

TRIA is not likely the long term answer to how policy holders, insurers and the government deal with terrorism coverage. It is, however, a program that keeps policy holders from bankruptcy, insurers from insolvency, and taxpayers from paying the full cost of a catastrophic terrorist event. From this standpoint, it has been a success and it is essential that the program be extended for a determinant period of time.

An extension should meet the following principles:

It should extend the current program for a reasonable period of time;

It should hold retention levels at the current program limit;

It should provide a backstop for group life policies; and

It should require stakeholders to determine the nature of a public private partnership going forward (including, specifically, a study of how to deal with threats posed by nuclear, biological, chemical and radiological attacks).

We recognize that TRIA is not working perfectly for all stakeholders. For some insurers the retention levels require companies to underwrite as if the program does not exist, and any increase in retention levels will render the program useless. But we believe that TRIA has helped to stave off the economic dislocation that could have filled the vacuum left by drain of insurance industry capital post-9/11. In instances where states have granted exclusions, insurers who otherwise could have walked away from this type of risk have not because of TRIA. In states where no exclusion exists, or for those carriers who write worker compensation coverage, the backstop is insurance against insolvency.

Thank you for your attention to this important issue. Please do not hesitate to contact us if we may be of assistance on this or other issues.

Best regards,

STEVE BARTLETT,
President and CEO.

Also signed by 74 others.

COALITION TO INSURE
AGAINST TERRORISM,
Washington, DC, April 26, 2005.

DEAR SENATOR REID: The Coalition to Insure Against Terrorism (CIAT), a broad-based coalition of business insurance policyholders representing a significant segment of the nation's GDP, strongly supports S. 467, the Terrorism Risk Insurance Extension Act of 2005, introduced by Senators Bennett and Dodd. As the principal consumers of this vital insurance coverage, CIAT urges you to cosponsor this important legislation.

With the Terrorism Risk Insurance Act (TRIA) set to expire at year-end, there is no evidence to suggest that insurance markets will be able to provide adequate insurance against catastrophic acts of terrorism without a federal reinsurance backstop. Based on recent testimony from senior Administration officials, the threat of terrorism within our homeland remains as high as it did on 9/11. Earlier this year, CIA Director Porter Goss said before the Senate Intelligence Committee: "It may be only a matter of time before al-Qa'ida or another group attempts to use chemical, biological, radiological and nuclear weapons", and "al-Qa'ida is intent on finding ways to circumvent U.S. security enhancements to strike Americans and the Homeland."

This stark reality, together with the unique factors that make the terrorist threat akin to the risk from war, continues to prevent insurers from effectively modeling and pricing the risk of future catastrophic terrorism attacks, thereby seriously hampering the development of any viable catastrophic reinsurance alternatives to TRIA.

To date, the terrorism reinsurance program established by TRIA has achieved the goals envisioned by President Bush and bipartisan leaders in Congress in 2002. First, it has helped keep the economy going in the face of continued terrorist threats by ensuring that businesses across America can secure this essential coverage, saving countless jobs in the process. Second, it serves as an important tool to minimize the severe economic disruption that almost certainly will occur should there be a future terrorist attack of catastrophic proportion.

S. 467 would extend the current TRIA program for a short period of time while also creating a group of insurance and risk management experts to work with the Presidential Working Group on Financial Markets to develop a longer-term solution. If enacted, this legislation will ensure that the nation's workers and businesses will be able to secure adequate and affordable insurance coverage against terrorism after year-end, and that the nation has a sound policy in place to enable the economy to quickly recover should another terrorist attack occur in the U.S.

CIAT believes that it is absolutely critical that Congress act quickly to extend the Terrorism Risk Insurance Act (TRIA) beyond December 31, 2005. Extending TRIA is an essential part of our nation's economic preparedness against terrorism, as well as an essential element of our nation's economic security. With only a few months left, American businesses and property owners face the threat of going without adequate and affordable terrorism insurance coverage next year. Without a federal terrorism risk reinsurance program in place, our economy will be needlessly disrupted and significant U.S. economic interests and jobs are likely to be exposed to the uninsured costs of a major terrorist event.

To this end, CIAT respectfully requests that you cosponsor S. 467.

Sincerely,

THE COALITION TO INSURE
AGAINST TERRORISM.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Inhofe amendment No. 605, to provide a complete substitute.

Dorgan amendment No. 652 (to amendment No. 605), to provide for the conduct of an investigation to determine whether market manipulation is contributing to higher gasoline prices.

Nelson (FL) (for Feingold) amendment No. 610 (to amendment No. 605) to improve the accuracy and efficacy of identity authentication systems and ensure privacy and security.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes for debate equally divided between the Senator from Oklahoma and the Senator from Vermont or their designees prior to the vote on the motion to invoke cloture on the pending substitute amendment.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, those of us who are in the managing positions want to explain what it is about and why the cloture is very important. However, we do want to accommodate the Senator from Arizona, who is busy with a markup right now, and if there is no objection, I would recognize him for up to 8 minutes.

Mr. MCCAIN. Mr. President, I thank the Senator from Oklahoma and the Senator from Missouri for their courtesy, and I will try to be brief in my statement.

Nearly 50 years ago, the Federal-Aid Highway Act of 1956 was enacted into law. As I mentioned during last year's debate, the 1956 act added up to a mere 29 pages—a tiny fraction of this year's highway bill. But what it accomplished truly changed this country. The act created programs that led to the construction of the Interstate Highway System, the largest civil works project ever undertaken by the United States. The 1956 act was the brainchild of President Eisenhower to establish the highway trust fund, financed by taxes on gasoline to fund this massive undertaking. The act required the construction of an interstate highway system using a uniform design that would be safer than most U.S. highways in existence at that time.

Mr. President, today we are all the beneficiaries of the foresight of President Eisenhower and of the Congress that helped to shepherd the legislation through to enactment. The Interstate System today is 47,000 miles long, comprised of 62 superhighways crisscrossing the Nation in a grid. Twenty-four percent of all travel occurs on the interstates, and the system has obtained a record of being twice as safe as other highways.

Unfortunately, when people look back 50 years from now at the highway legislation that the Senate will consider shortly, I doubt that history will remember this as having helped improve on President Eisenhower's "grand plan." We are no longer focused on building a unified transportation system to improve the safety, security, and economy of our Nation as a whole. Instead, we are faced with legislation that redistributes funding to the States in an unfair manner.

Approximately every 6 years we reauthorize our Nation's multiyear highway, transit, and safety programs. We last reauthorized these programs in 1998 with the enactment of TEA–21 following extensive debate in the Senate. In the 108th Congress we did not reauthorize these programs, and, instead, Congress passed a series of short-term extensions of TEA–21, and this happened for good reason. The bill brought to the Senate floor in the last Congress would have increased overall funding to $318 billion, $100 billion over the TEA–21 enacted level.

I commend the chairman of the Environment and Public Works Committee for reducing the authorized number to match the President's fiscal 2006 budget proposal of $284 billion in the version of the bill reported by his committee. Reduction in the overall size of the bill was a significant improvement over the legislation presented to the Senate last year. Fiscal discipline is a key component of this debate. As Alan Greenspan warned some days ago, "Under existing tax rates and reasonable assumptions about other spending, projections make clear that the Federal budget is on an unsustainable path in which large deficits result in rising interest rates and ever growing interest payments that augment deficits in future years."

We need to control our spending. We must. And that is why the overall size of this bill should not be inflated. We are considering a substitute amendment to the bill that as proposed increases obligations by $11 billion, and I think that is wrong.

According to the Statement of Administration Policy regarding the highway bill, "Should the obligation or net authorization levels that would result from the final bill exceed (that amount), the President's senior advisors will recommend that he veto the bill."

Apparently, we are now going to test whether the President will veto the bill.

Fiscal prudence is crucial, but even if the conferees act sensibly and recognize the need for an agreement that would be acceptable to the President, that alone would not make the legislation adequate.

Equity is also crucial and, unfortunately, the highway bill that is before us retains unfair features of past bills. In some cases, it is even more unfair than last year's legislation. This year's highway bill perpetuates the historical discrepancy between donor States and donee States.

Remarkably, not only does the bill continue the disparity, it actually exacerbates it. Whereas the bill that was passed last year by the Senate would have increased theoretically every State's rate of return to 95 percent in the final year of the bill, the substitute amendment before the Senate only promises a rate of 92 percent in 2009 for those States. Until then many States would linger at a rate of return of 90.5 in the first year and 91 percent thereafter while others receive more—in some cases much more than what they contribute to the highway trust fund. As if that were not enough, this year's bill would actually propose to create further disparities between States. Although "equity" is in the title of the legislation, the number of donor States would increase from 28 under current law to 31. Under the Environment and Public Works Committee's so-called formula, which is less a formula than it is a series of calculations consisting of arbitrary funding caps and floors, some States would actually receive a greater rate of return than they would have under last year's bill, despite the fact that this year's overall funding is less. That is remarkable.

My colleagues may wonder how this is possible, and they may question my facts. But as hard as this may be to believe, it is true. For example, the State of Missouri, which currently receives a rate of return of 91 percent, would have received an increased rate of return of 95 percent immediately and then throughout the reauthorization. Under the substitute amendment before us, Missouri will go from a rate of return of 91 percent to 99 percent immediately.

Despite Missouri's good fortune, five States would continue to linger at the bottom of the barrel for 4 years. In the fifth year, at least theoretically, these States would increase their rates of return to 92 percent, a modest increase of 1.5 percent over current law; 1.5 percent when other States enjoy a rate of return of over 200 percent, in one case almost 530 percent, in that final year. They say that beggars can't be choosers, but this legislation shouldn't be passed solely to prove that point. States like Arizona, California, and Texas should not be in the position of begging for their fair share of contributions to the highway trust fund.

I fully recognize that during the years when the Federal Government was building the interstate system, a redistribution of funding between the States may have made sense. Clearly, it would have been very difficult for the State of Montana, for example, with fewer than a million people, to pay the full cost of building its share of the intestate system. But that era is over. Congress declared the construction of the interstate system complete in 1991. Yet here we are, almost 15 years later, and donor States are still expected to agree to the redistribution of hundreds of millions, if not billions, of dollars to other States regardless of the already enormous transportation needs of donor States.

Let me be clear. Today, the need is in the highest growth States, which face some of this Nation's toughest transportation challenges. According to the most recent Census Bureau projections, Florida, Texas, and Arizona, all super-donor States receiving the minimum rate of return, will be among the five fastest-growing States over the next 25 years. Yet the donee States, many with shrinking populations, continue to receive growing subsidies from donor States. Meanwhile, States like Florida, Texas, and Arizona, and others including Colorado and Indiana, would be held for no apparent reason at the bottom. Other States, including Georgia, Illinois, Maryland, Minnesota, Nevada, New Jersey, North Carolina, South Carolina, and Virginia also would continue to get shortchanged. This is not the right approach, it is unfair, and we should do everything we can to ensure that any bill voted off this floor is more equitable for all States.

Now, I am sure we will hear about the great transportation needs of the States that receive more funds than they contribute. And I have no doubt that those States do, in fact, have significant needs. But how was it determined that California, for example, should have an average of $260 million per year of its funding redistributed as the EPW-reported bill would direct? Why aren't California's transportation needs as worthy of receiving the same percentage of Federal funds as provided to meet the transportation needs of a State like New York, for example, which is scheduled to receive a rate of return of 111 percent, or an average of over $140 million per year more than it contributes. This significant rate of return isn't the product of savvy investment. It is a guaranteed rate of return well above 100 percent that is built on the backs of donor States.

Why should a State like Alaska receive a rate of return in 2009 of almost 530 percent when it currently already receives a return of 500 percent? Why should Montana receive a rate of return of almost 228 percent, or Vermont a rate of over 212 percent? These figures defy any reasonable explanation other than the following: This bill is less about the integrity of our Nation's transportation system than it is about maximizing the amount of money going to some States at the expense of others.

I support a long-term reauthorization of our Nation's surface transportation programs and I understand the vital nature of this funding to our States. But before we take action on this bill, I urge my colleagues to start asking questions and to take seriously the consequences of increasing the size of this bill beyond the $284 billion level and of perpetuating the inequitable distribution of funds under this legislation.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Oklahoma.

AMENDMENT NO. 636 TO AMENDMENT NO. 605

Mr. INHOFE. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside in order to call up Ensign amendment No. 636.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for Mr. ENSIGN, proposes an amendment numbered 636.

Mr. INHOFE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To authorize the State of Nevada to continue construction of the US-95 Project in Las Vegas, Nevada)

On page 410, between lines 7 and 8, insert the following:

SEC.   . US-95 PROJECT, LAS VEGAS, NEVADA.

(a) IN GENERAL.—Notwithstanding any other provision of law, the project identified as the preferred alternative in the document entitled "US-95 Project in Las Vegas, Nevada", as approved by the Federal Highway Administration on November 18, 1999, and selected in the record of decision dated January 28, 2000, shall be considered to meet all requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and any related laws with respect to the determination contained in the record of decision.

(b) AUTHORIZATION.—The State of Nevada may continue construction of the project described in subsection (a) to completion.

Mr. INHOFE. I ask unanimous consent that that amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I have a couple of brief comments. I know how sincere the senior Senator from Arizona is concerning this bill, and it does demonstrate that it is very difficult when we are trying to be fair and we are trying to do a formula to make everybody happy. Probably every Senator is a little bit unhappy with it. That is what makes it, perhaps, a fair formula.

It is true—the Senator was accurate—as far as the history of the Interstate System back in the Eisenhower administration and the redistribution of funds. This is what we have to keep in mind, though: Yes, the Interstate System is complete, but it still must be maintained.

He talked about the State of Montana. Yes, it is true the State of Montana does not have the population to support the highways, and yet they have to have the highway system. That system, even though it may be complete, must be maintained.

In defense of the formula, there are two ways of doing this. One way, we could do what has been customary in the other body, and that is come out with a group of projects, take care of a certain number of people in the passed bill, and then walk away from it. That would be very easy.

I will tell my colleagues, what would be easy is to go ahead and distribute a bunch of funds to 60 Senators and then sit back and say: The rest of you guys, that is your problem. But we do not do it that way. Instead, in looking at the formula and the factors, it is an incredibly difficult thing we are dealing with. We have factors that have to do with the donor status of the State, the number of miles in the State, the age of the State, the passthrough provisions of the State, and the fatalities per capita of the State. My State of Oklahoma has a higher per capita fatality rate, and therefore one has to come to the conclusion that there is a reason for that. So all of these factors are a part of a very complicated formula.

It may be that people will look at it and say: You do not treat—it is kind of interesting. I will hear from people from the fast growing States who say, We do not get as high as we need to get in our donor status relief, and yet at the same time we hear from some of the Eastern States that are complaining because the floor is too low. So I would think that everyone should realize that there is not going to be a perfect formula that makes everybody happy.

It is a formula that is as fair as we can come up with. We have been working on this for 3 years. This is not something that just came out. When the Senator from Arizona says that last year's bill was guaranteed to raise the donor status floor to 95 percent, that is easy because we had the money to do it. This year, we do not have the money to do it. Even with the amendment that was passed, all that does is raise it from 90.5 percent to 92 percent. It is a very difficult thing.

I do not want to use up an inordinate amount of time, but I will talk about why we have to do this today. The only alternative to passing a bill is to have another extension. If we have another extension, we do not really get into the problem. We do not take care of the donor State rate of return. We do not have any of the new safety core programs. We have literally spent months putting this together. Of course, those provisions were in the Commerce Committee. We need to respond to the deaths on the highways. If we do not pass the bill, we are not going to have any kind of streamlining of environmental reviews. We are not going to have any increase in the ability to use the innovative financing systems which are included.

This bill contains the establishment of a national commission to explore how to fund transportation in the future. As the Senator from Arizona said, 50 years ago we started this system, back during the Eisenhower administration. He recognized there was a problem back when he was Major Eisenhower and he was trying to move goods and services around. He recognized there was a problem, but we have not changed the way we are funding highways for 50 years.

This bill establishes a commission to come up with more innovative ways and allows the States to participate. People are concerned about things such as Safe Routes to School. If we go on an extension instead of a bill, we are not going to have Safe Routes to School. There is uncertainty that is out there. I know my State of Oklahoma is not any different from the rest of the States. We are on our sixth extension now. If we are operating on an extension, it could be a 1-month extension, it could be a 1-year extension.

There is no certainty by which we can plan the construction and maintenance of highways and do something about the bridges. The bridges in Oklahoma are worse than any of the bridges in the Nation. It is a life-and-death situation. People are dying. We have had two deaths in Oklahoma just because of the condition of the bridges. So we are going to have to do something. If we operate on extensions, we are not going to be able to have any of those improvements.

As far as the border program, the States that are complaining about this program are actually border States. They are States that have the benefit of some of the provisions to take care of the borders. NAFTA has been passed, and there is increased road travel. We will not have a borders program if we do not pass a bill. It would just be an extension of the old program.

Lastly, the firewall protection—we need to make sure that people quit robbing the highway trust fund. I was in disagreement with the distinguished chairman of the Budget Committee, and I said the problem we have been having is people are taking money out of the trust fund and using it for purposes to establish and support policies that have nothing to do with transportation. These are the things that concern me.

We want to stay within our timeframe. Before turning to Senator BOND, I guess Senator JEFFORDS is not in the Chamber, so we will turn to Senator BAUCUS. After that, I ask unanimous consent that we stay on this course and first recognize Senator BAUCUS, and that after his completion we recognize Senator BOND for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana.

Mr. BAUCUS. Mr. President, it is quite clear, especially based upon the vote on the point of order yesterday where 76 Members of this body voted to waive that point of order indicating their support for this program, that there is not a lot of controversy remaining on this bill. There are important amendments, clearly, that will be offered by Members, but I believe all of us in this body know that this bill must be passed and must be passed quickly. It should be passed today, and it probably will be passed today, both because it is important and also to avoid the May 31 date when current law expires. Hopefully, we will get a conference that will bring back a conference report so we can pass this legislation and send it to the President's desk by that time.

There is one point I wish to make, though. There is some concern that this bill is not fair to every State. We hear this in the committee. We who are managing this bill hear that statement often from a lot of Senators. I understand it. Every Senator is doing what he or she should do, and that is to fight for his or her State. I compliment those Senators. It is our job as managers of the bill and also our job as a body to do the very best we can to be as fair as possible to all concerned and get this legislation passed.

I will say a word or two in defense of the Western States that are large in area but small in population as to why this national highway program is fair to us—I represent the State of Montana—and why it is also fair to some of the more populous States.

We do not have a lot of people in Montana. Our population density is about six people per square mile. There are not very many States with a population density lower than ours. We are a huge State in area. In fact, the length across our State of Montana is as great as the distance from Washington, DC, to Chicago. It is that far to drive across Montana. In addition, if one were to overlay Montana over the New England States, the State of Montana would include New York and all the other New England States, and also include Pennsylvania. I think it would include about half of New Jersey. So it is a large area but very low in population density. The State of Arizona, for example, has 45 people per square mile. Montana, as I mentioned, has about six people per square mile.

This is a national program. We are trying to get all States included. New Jersey, I might add, has a population density of about 1,100 people per square mile. New York has about 401 people per square mile. Again, Montana has six people per square mile. This is a national highway program. We want Americans to be able to travel freely across all States, the more populated States and also the less populated States. We want our commerce to travel nationwide, for truckers to be able to drive their vehicles across the United States virtually unimpeded. We do not want a situation where some States have the resources to build nice new highways and other States, just because there aren't any people there, do not have the resources to build highways, so it would be an uneven system.

Clearly, not everybody is unhappy. We have done the best we can to make this as balanced as it could possibly be. I think the vote yesterday, while it is not a direct vote, is an indirect indication that most Senators are pretty satisfied. When 76 Senators vote to waive the point of order that was made yesterday, that is a vote in favor of the highway bill. I think that is a pretty good indication this is a fair and balanced bill.

Different States have different State gasoline taxes to help pay for the highways in their States, matching along with the Federal contributions. We in the State of Montana pay a lot also per capita in our contributions to State and Federal highway trust funds, a lot more than most other States. In our State of Montana we spend about $360 per person per year in contributions to the highways. The national average is about $250 per person per year. We in Montana spend $360 per person per year. I point out that the folks in Arizona are actually below the average. The contributions the people in Arizona pay to the highway trust fund, both to the State and Federal highway trust funds, is about $235 per Arizonan per year. That is below the national average.

That is fine. That is a decision in large part the people in Arizona are making because of their State gasoline taxes. But it is also a consequence of a lot of other factors in the formula for the States. The long and short of it is Arizonans pay less than the national average per capita in their contributions to Federal and State highway funds, whereas folks in other States pay much more. Montanans, as I mentioned, pay $360. South Dakotans pay a lot more for highways, more than the national average. People in South Dakota pay about $312 per person. It is interesting—New Yorkers actually are very low. New Yorkers pay only about $152 per person in their contributions to the highways in the State of New York. That is half what it is in some other States.

Everybody can bring out figures and statistics. But I do think, for the sake of equity and fairness, it makes sense to get a good bit of these statistics out in the open, on the record, so we all understand and realize it is not a perfect bill, but it is a bill that by and large accomplishes what it is intended to accomplish—that is provide the resources so we can build and maintain our highways, our mass transit, and some of the other programs affiliated with the highway program.

I thank the chairman, who is doing a great job managing this bill. I also very much thank Senator JEFFORDS, the ranking member of the Environment and Public Works Committee, for excellent leadership. Also I give special thanks to my colleague on the Finance Committee, Senator GRASSLEY. He and I have worked closely together to provide the revenue for this bill and it is basically through gasoline taxes and other excise taxes.

I remind my colleagues this legislation before us does not add to the Federal deficit, not at all. In fact, it reduces the Federal deficit. It reduces the Federal deficits; that is, our national debt, by about $14 billion over 10 years. We reduce the national debt—not by a lot, but we reduce it. We do not add to the debt. We reduce the debt by about $14 billion over 10 years.

Those who are concerned that this is a spending bill, that this bill adds to the national debt and deficit, that is not accurate. As a reminder, this bill does not add at all to Federal deficit, not one dime. It is all paid for.

I know a lot of proposals a lot of Senators have, either to lower taxes or spend money on something, are not paid for. This big highway program is all paid for. It is jobs for America. It is infrastructure for America so we Americans can live the life we want to lead, have the highways we want to have, and compete in the modern world and off in the future with a good highway system.

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri is recognized.

Mr. INHOFE. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. Thirteen minutes. The Senator from Missouri.

Mr. BOND. Mr. President, my thanks to the chairman and also to my colleague on the Transportation Infrastructure Subcommittee, the Senator from Montana. As I say, it helps to have a cousin in the business. It helps to have a ranking member who is also ranking on Finance with Senator GRASSLEY. Senator BAUCUS and Senator GRASSLEY have done a great job. It is a pleasure to work with him, with Senator GRASSLEY, Senator JEFFORDS and, of course, our chairman, Senator INHOFE.

I hope everybody has been having as enjoyable a time as those of us who have been trying to lead this bill from the various committees—EPW, Commerce, Finance. I know this is a very pleasurable experience. But the time has come for it to end. It is time for us to invoke cloture. That is why we are asking our colleagues to put an end to this. All good things have to come to a close. If we are to get this bill done, we need to invoke cloture and give it a timeframe. We have already limited the number of amendments.

The simple fact is we have to get this bill to conference. We have to go to work with the House to come up with a very important surface transportation bill, known as SAFETEA, this year. The extension expires in May. We are operating on our sixth extension. The original bill, the last bill, ran out on September 30, 2003. We have had extensions. We have missed the deadline. We absolutely have to get this bill passed.

If the extension expires and we do not do anything, not only does the U.S. Department of Transportation shut down but States would not be able to issue new contracts for summer construction programs on Federal aid highways. We would have a significant economic blow to our country as well as a delay in the building of our necessary roads.

Cloture will enable us to get to conference. It is going to be a very different conference. The House has a measure that is essentially project oriented. As has been stated by my colleagues on both sides of the aisle here, we have attempted to achieve equity by a very complex formula. The Senator from Montana made a very important point. When we came to the floor, we added $11 billion. Why did we do this? The administration's own Department of Transportation puts out annually a conditions and performance report. Even with the $11 billion we added to the base number of $284 billion, according to the administration's own report, it still is not enough money even to maintain our current system. That is why money was added. That is why the Finance Committee was given the authority under the Talent-Stabenow amendment to add money. That is why we waived the point of order—because this money is important.

We heard my good friend, the Senator from Arizona, complaining about adding money, implying it was adding to the deficit. You have already heard that is pure nonsense. There is, as a matter of fact, a positive impact because the Finance Committee has not only added money to the highway trust fund, but to make sure there was no shortfall in the general revenue sections, they added more general revenue. There is more general revenue coming in than before as a result of this amendment we adopted, and there is more money in the highway trust fund.

Regarding the point made by the Senator from Arizona, if the situation were not so serious, it would be funny. There is nothing like a good joke like having a Senator complaining he is not getting enough money and complaining we added money when adding that money brings the State of Arizona increase from last year's bill to 40.6 percent. They do fantastically well. They are one of the top three winners in the whole bill—top four, and he is complaining we added money.

You know the old story about the boy who kills his parents and when charged with murder he throws himself on the mercy of the court because he is an orphan. You can either complain about not getting enough money or you can complain about having more money added to the bill; you cannot do both at the same time. You have to pick one side of the fence or the other.

This bill does have very important aspects. First and foremost, the economic impact—47,500 jobs are created for every $1 billion spent. That is immediate economic impact. The longer term economic impact of a good transportation bill, as I have pointed out on the floor before—as a former Governor of my State, I know if you want to know where economic growth is going to occur, where jobs are going to grow, you take a look at the transportation system. You have to have good transportation to create good jobs and to have a strong economy.

There are also aspects of this bill, of course, that improve our environment, because we are reducing congestion. We are putting environmental planning at the start of the planning process so we can take care of environmental concerns sooner.

But the real name of this bill is the SAFETEA bill, and safety is probably the most important part of this bill as far as my State is concerned. I have told this body several times of the number of friends I have lost on highways in Missouri. You can travel many national highways, Federal aid highways in Missouri, that are two-lane roads with traffic that merits having four lanes. Do you know what happens when you have a slow-moving livestock truck or piece of equipment, construction equipment or farm equipment, on a narrow two-lane road? Traffic backs up and backs up and somebody—very often a stranger to the area—tries to pull out and pass, with tragic results. We see white crosses marking our highways where people have lost their lives. Unfortunately, the number of those white crosses grows.

The Senator from Arizona has complained about the criteria used in the formula for money going to States that have greater than 1 fatality per 100 million vehicle miles traveled. That is Missouri and it is 17 other States. Actually it is Arizona as well.

If this is a SAFETEA bill, shouldn't you consider safety? I certainly think so. Some of the border State people say we need more money because we are on the borders. I will have a chart this afternoon that shows an interesting point of information. Some of the heaviest traffic—some of the heaviest tie-ups, the bottlenecks—is in the middle of America where East and West, North and South, Southwest and Northeast traffic all come together. When you look at the traffic in trucks on our highways on a U.S. Department of Transportation map, there is a great big artery clog right in the heart of America, in Missouri, in Oklahoma, in Illinois. That is where the traffic is the heaviest. We need a crossroads factor in the formula.

It is not the border States alone that have needs. We in the middle of Nation need that formula. Missouri has the fifth worst roads in the Nation; 65 percent of its roads are in fair to poor condition, requiring immediate repair. Missouri also ranks fourth from the bottom in number of structurally deficient and functionally obsolete bridges.

I say that humbly, knowing that my colleague's—the chairman of the committee—home State of Oklahoma ranks below Missouri.

Yet for all the complaining about how well our States do, we grow at the average rate of 30.40 percent. We grow in that neighborhood. Yet we are at the bottom of the list of worst roads and worst bridges in dangerous condition.

That is why this bill is so important. I urge my colleagues to invoke cloture, and I reserve the remaining time on this side.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield whatever time the Senator from Minnesota desires.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, I salute the chairman and the ranking member for this excellent legislation. I will support a cloture motion.

It is very important we pass this legislation as expeditiously as possible for States such as Minnesota which have a short highway construction season.

I wish we had been able to put into place the Senate version a year ago. I salute Chairman INHOFE for his tireless efforts, working with his associates in the House and also the administration, in an effort to pass what would have been an excellent Senate bill a year ago.

This bill is as good as it could be, given some of the pressures. It is a mystery to me, knowing the serious state of disrepair of our highways in Minnesota and the lack of funding at the State and particularly the local level—it is hard to imagine how any other State could be so far advanced beyond Minnesota's highway construction situation that the money the Senate wanted a year ago, that would be providing for needs this year if not for certain pressures—and is beyond the realm of common sense not to have passed this. So be it.

I thank the chairman and the ranking member for, as I understand it, accepting an amendment I offered, along with Senator LUGAR, also cosponsored by my colleague from Minnesota, Senator COLEMAN, Senator HARKIN, Senator GRASSLEY, Senator DURBIN, Senator BROWNBACK, and Senator BINGAMAN. It is a simple amendment that calls for cars produced starting the model year of 2007 to have a sticker in two different locations indicating the presence of a flexible fuel engine that allows a car or other gasoline-consuming vehicle to use regular gasoline or up to 85-percent ethanol, which in Minnesota is called E-85 which is 85-percent ethanol, 15-percent regular unleaded and is used as a substitute for regular unleaded gasoline in vehicles that have these flexible fuel engines.

I have two cars, factory-produced Ford Explorers—one in Washington, DC, where unfortunately I cannot find the fuel, and one in Minnesota, where I can—which are as efficient as my previous vehicles using regular gasoline, and presently in Minnesota between 30 and 40 cents a gallon cheaper than regular unleaded.

Consumers will use this fuel as a lower cost alternative if they have cars or vehicles that can use it, which is why I have another amendment to offer to the Energy bill that requires vehicles produced starting model year 2007 or thereafter to all carry a flexible fuel engine so consumers have this lower cost option. At least those who buy these vehicles will be aware they have a flexible fuel engine and can take advantage of this much lower cost fuel.

This amendment is supported by the National Ethanol Vehicle Association, by the National Corn Growers Association, by the Governors Ethanol Coalition which Governor Pawlenty from Minnesota chairs, the Renewable Fuels Association, National Farmers Union. The automakers are neutral to it.

I thank the Chair and ranking member for accepting it and hope it will be enacted soon.

I ask unanimous consent Senator BROWNBACK be added as a cosponsor to the Lugar Dayton amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DAYTON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 574, 598, 624 AS MODIFIED, 628, 634 AS MODIFIED, 643, 670 AS MODIFIED, 681 AS MODIFIED, 621, 622, 666 AS MODIFIED, 685, 694, 705 AS MODIFIED, 708 AS MODIFIED, 713 AS MODIFIED, 737, 725, 726 AS MODIFIED, AND 755 TO AMENDMENT NO. 725

Mr. INHOFE. Mr. President, I have a series of amendments that have been cleared on both sides. I ask unanimous consent the pending amendments be set aside provided, further, that the list of amendments I have sent to the desk, including modifications to some of those amendments, be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating to the amendments be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 574

(Purpose: To allow States to own the entire interest of a real estate investment trust without tax consequences in order to assist the State in preserving its railroad infrastructure, and for other purposes)

At the appropriate place, insert the following:

SEC. . TAX TREATMENT OF STATE OWNERSHIP OF RAILROAD REAL ESTATE INVESTMENT TRUST.

(a) IN GENERAL.—If a State owns all of the outstanding stock of a corporation—

(1) which is a real estate investment trust on the date of the enactment of this Act,

(2) which is a non-operating class III railroad, and

(3) substantially all of the activities of which consist of the ownership, leasing, and operation by such corporation of facilities, equipment, and other property used by the corporation or other persons for railroad transportation and for economic development purposes for the benefit of the State and its citizens,

then, to the extent such activities are of a type which are an essential governmental function within the meaning of section 115 of the Internal Revenue Code of 1986, income derived from such activities by the corporation shall be treated as accruing to the State for purposes of section 115 of such Code.

(b) GAIN OR LOSS NOT RECOGNIZED ON CONVERSION.—Notwithstanding section 337(d) of the Internal Revenue Code of 1986—

(1) no gain or loss shall be recognized under section 336 or 337 of such Code, and

(2) no change in basis of the property of such corporation shall occur,

because of any change of status of a corporation to a tax-exempt entity by reason of the application of subsection (a).

(c) TAX-EXEMPT FINANCING.—

(1) IN GENERAL.—Any obligation issued by a corporation described in subsection (a) at least 95 percent of the net proceeds (as defined in section 150(a) of the Internal Revenue Code of 1986) of which are to be used to provide for the acquisition, construction, or improvement of railroad transportation infrastructure (including railroad terminal facilities)—

(A) shall be treated as a State or local bond (within the meaning of section 103(c) of such Code), and

(B) shall not be treated as a private activity bond (within the meaning of section 103(b)(1) of such Code) solely by reason of the ownership or use of such railroad transportation infrastructure by the corporation.

(2) NO INFERENCE.—Except as provided in paragraph (1), nothing in this subsection shall be construed to affect the treatment of the private use of proceeds or property financed with obligations issued by the corporation for purposes of section 103 of the Internal Revenue Code of 1986 and part IV of subchapter B of such Code.

(d) DEFINITIONS.—For purposes of this section:

(1) REAL ESTATE INVESTMENT TRUST.—The term "real estate investment trust" has the meaning given such term by section 856(a) of the Internal Revenue Code of 1986.

(2) NON-OPERATING CLASS III RAILROAD.—The term "non-operating class III railroad" has the meaning given such term by part A of subtitle IV of title 49, United States Code (49 U.S.C. 10101 et seq.), and the regulations thereunder.

(3) STATE.—The term "State" includes—

(A) the District of Columbia and any possession of the United States, and

(B) any authority, agency, or public corporation of a State.

(e) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply on and after the date on which a State becomes the owner of all of the outstanding stock of a corporation described in subsection (a) through action of such corporation's board of directors.

(2) EXCEPTION.—This section shall not apply to any State which—

(A) becomes the owner of all of the voting stock of a corporation described in subsection (a) after December 31, 2003, or

(B) becomes the owner of all of the outstanding stock of a corporation described in subsection (a) after December 31, 2006.

AMENDMENT NO. 598

(Purpose: To provide a 90 percent Federal match for bridge projects on the Interstate Highway System)

In section 120(a)(1) of title 23, United States Code (as amended by section 1301), insert "a bridge project or" before "a project to add".

In section 144 of title 23, United States Code (as amended by section 1807(a)(9)), strike subsection (r) and insert the following:

"(r) FEDERAL SHARE.—

"(1) IN GENERAL.—Except as provided under paragraph (2), the Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under section 120(d).

"(2) INTERSTATE SYSTEM.—The Federal share of the cost of a project on the Interstate System payable from funds made available to carry out this section shall be the share applicable under section 120(a).".

AMENDMENT NO. 624, AS MODIFIED

At the end of subtitle H of title I, add the following:

SEC. 18 . ALASKA WAY VIADUCT STUDY.

(a) FINDINGS.—Congress finds that—

(1) in 2001, the Alaska Way Viaduct, a critical segment of the National Highway System in Seattle, Washington, was seriously damaged by the Nisqually earthquake;

(2) an effort to address the possible repair, retrofit, or replacement of the Alaska Way Viaduct that conforms with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is underway; and

(3) as a result of the efforts referred to in paragraph (1), a locally preferred alternative for the Alaska Way Viaduct is being developed.

(b) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Highway Administration.

(2) CITY.—The term "City" means the city of Seattle, Washington.

(3) EARTHQUAKE.—The term "earthquake" means the Nisqually earthquake of 2001.

(4) FUND.—The term "Fund" means the emergency fund authorized under section 125 of title 23, United States Code.

(5) STATE.—The term "State" means the Washington State Department of Transportation.

(6) VIADUCT.—The term "Viaduct" means the Alaska Way Viaduct.

(c) STUDY.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator, in cooperation with the State and the City, shall conduct a comprehensive study to determine the specific damage to the Viaduct from the earthquake that contribute to the ongoing degradation of the Viaduct.

(2) REQUIREMENTS.—The study under paragraph (1) shall—

(A) identify any repair, retrofit, and replacement costs for the Viaduct that are eligible for additional assistance from the Fund, consistent with the emergency relief manual governing eligible expenses from the Fund; and

(B) determine the amount of assistance from the Fund for which the Viaduct is eligible.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report that describes the findings of the study.

AMENDMENT NO. 628

(Purpose: To reestablish the University of Buffalo as an appropriate research center for research on the impact of seismic activity on the Federal-aid highway system)

On page 439, line 3, insert "and the National Center for Earthquake Engineering Research at the University of Buffalo," after "Reno,".

AMENDMENT NO. 634, AS MODIFIED

After Sec. 7260 of title VII:

SEC. 1623. IDENTIFICATION OF CERTAIN ALTERNATIVE FUELED VEHICLES.

(a) IN GENERAL.—Section 32908 of title 49, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsection (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) IDENTIFICATION OF CERTAIN ALTERNATIVE FUELED VEHICLES.—A manufacturer shall affix, or have affixed, to each dual fueled automobile manufactured by the manufacturer (including each light duty truck) that may be operated on the alternative fuel described in section 32901(a)(1)(D)—

"(1) a permanent label inside the automobile's fuel door compartment that—

"(A) meets the requirements of the regulations prescribed by the Administrator for such label; and

"(B) states that the automobile may be operated on the alternative fuel described in section 32901(a)(1)(D) and identifies such alternative fuel; and

"(2) a temporary label to the window or windshield of the automobile that—

"(A) meets the requirements of the regulations prescribed by the Administrator for such label; and

"(B) identifies the automobile as capable of operating on such alternative fuel.".

(b) REGULATIONS.—Not later than March 1, 2006, the Administrator of the Environmental Protection Agency shall promulgate regulations—

(1) for the label referred to in paragraph (1) of section 32908(e) of title 49, United States Code, as amended by subsection (a), that describe—

(A) the language that shall be set out on the label, including a statement that the vehicle is capable of operating on a mixture of 85 percent ethanol blended with gasoline; and

(B) the appropriate size and color of the font of such language so that it is conspicuous to the individual introducing fuel into the vehicle; and

(2) for the temporary window or windshield label referred to in paragraph (2) of such section 32908(e), that—

(A) prohibit the label from being removed by any seller prior to the final sale of the vehicle to a consumer; and

(B) describe the specifications of the label, including that the label shall be—

(i) prominently displayed and conspicuous on the vehicle; and

(ii) separate from any other window or windshield sticker, decal, or label.

(c) COMPLIANCE.—

(1) IN GENERAL.—A manufacturer shall be required to comply with the requirements of section 32908(e) of title 49, United State Code, as amended by subsection (a), for a vehicle that is manufactured for a model year after model year 2006.

(2) MODEL YEAR DEFINED.—In this subsection, the term "model year" shall have the meaning given such term in section 32901(a) of such title.

(d) VIOLATIONS.—

(1) IN GENERAL.—Section 32908(f) of title 49, United States Code, as redesignated by subsection (a), is amended by inserting "or (e)" after "subsection (b)".

(2) CONFORMING AMENDMENT.—Section 32911(a) of such title is amended by inserting "32908(e)," after "32908(b),".

AMENDMENT NO. 643

(Purpose: To establish the Federal share of the cost of constructing a bridge in the State of North Dakota)

On page 410, between lines 7 and 8, insert the following:

SEC. . BRIDGE CONSTRUCTION, NORTH DAKOTA.

Notwithstanding any other provision of law, and regardless of the source of Federal funds, the Federal share of the eligible costs of construction of a bridge between Bismarck, North Dakota, and Mandan, North Dakota, shall be 90 percent.

AMENDMENT NO. 670, AS MODIFIED

On page 635, between lines 3 and 4, insert the following:

SEC. 5309. INCENTIVES FOR THE INSTALLATION OF ALTERNATIVE FUEL REFUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

"(b) LIMITATION.—The credit allowed under subsection (a)—

"(1) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

"(2) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d), with respect to any fuel at least 85 percent of the volume of which consists of ethanol, natural gas, CNG, LNG, LPG and hydrogen.

"(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

"(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is of a character subject to an allowance for depreciation.

"(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(2) the tentative minimum tax for the taxable year.

"(e) CARRYFORWARD ALLOWED.—

"(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

"(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(f) SPECIAL RULES.—For purposes of this section—

"(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

"(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

"(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

"(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

"(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2009.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 30B(f)(1).".

(2) Section 55(c)(2) is amended by inserting "30B(d)," after "30(b)(3),".

(3) Section 6501(m) is amended by inserting "30B(f)(5)," after "30(d)(4),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

> "Sec. 30B. Alternative fuel vehicle refueling property credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5310. MODIFICATION OF RECAPTURE RULES FOR AMORTIZABLE SECTION 197 INTANGIBLES.

(a) IN GENERAL.—Subsection (b) of section 1245 is amended by adding at the end the following new paragraph:

"(9) DISPOSITION OF AMORTIZABLE SECTION 197 INTANGIBLES.—

"(A) IN GENERAL.—If a taxpayer disposes of more than 1 amortizable section 197 intangible (as defined in section 197(c)) in a transaction or a series of related transactions, all such amortizable 197 intangibles shall be treated as 1 section 1245 property for purposes of this section.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any amortizable section 197 intangible (as so defined) with respect to which the adjusted basis exceeds the fair market value.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions of property after the date of the enactment of this Act.

AMENDMENT NO. 681, AS MODIFIED

Beginning on page 267, strike line 18 and all that follows through page 270, line 15 and insert the following:

SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.

(a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (4), by striking "or" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel;

"(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment; or

"(8) if the project or program is for—

"(A) diesel retrofit technologies that are—

"(i) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

"(ii) published in the list under subsection (f)(5) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

"(I) located in nonattainment or maintenance areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

"(II) funded, in whole or in part, under this title; or

"(B) outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the emission reduction strategy.".

(b) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking "for any project eligible under the surface transportation program under section 133." and inserting the following: "for any project in the State that—

"(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

"(B) is eligible under the surface transportation program under section 133."; and

(2) in paragraph (2), by striking "for any project in the State eligible under section 133." and inserting the following: "for any project in the State that—

"(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

"(B) is eligible under the surface transportation program under section 133.".

(c) RESPONSIBILITY OF STATES.—Section 149 of title 23, United States Code, is amended by adding at the end the following:

"(f) COST-EFFECTIVE EMISSION REDUCTION STRATEGIES.—

"(1) DEFINITIONS.—In this subsection:

"(A) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(B) CMAQ RESOURCES.—The term 'CMAQ resources' means resources available to a State to carry out the congestion mitigation and air quality improvement program under this section.

"(C) DIESEL RETROFIT TECHNOLOGY.—The term 'diesel retrofit technology' means a replacement, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.

"(2) EMISSION REDUCTION STRATEGIES.—Each State shall develop, implement, and periodically revise emission reduction strategies comprised of any methods determined to be appropriate by the State that are consistent with section 209 of the Clean Air Act (42 U.S.C. 7542) for engines and vehicles that are used in construction projects that are—

"(A) located in nonattainment areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

"(B) funded, in whole or in part, under this title.

"(3) STATE CONSIDERATIONS.—In developing emission reduction strategies, each State—

"(A) may include any means to reduce emissions that are determined to be appropriate by the State; but

"(B) shall—

"(i) consider guidance issued by the Administrator under paragraph (5);

"(ii) limit technologies to those identified by the Administrator under paragraph (5);

"(iii) provide contractors with guidance and technical assistance regarding the implementation of emission reduction strategies;

"(iv) give special consideration to small businesses that participate in projects funded under this title;

"(v) place priority on the use of—

"(I) diesel retrofit technologies and activities;

"(II) cost-effective strategies;

"(III) financial incentives using CMAQ resources and State resources; and

"(IV) strategies that maximize health benefits; and

"(vi) not include any activities prohibited by paragraph (4).

"(4) STATE LIMITATIONS.—Emission reduction strategies may not—

"(A) authorize or recommend the use of bans on equipment or vehicle use during specified periods of a day;

"(B) authorize or recommend the use of contract procedures that would require retrofit activities, unless funds are made available by the State under this section or other State authority to offset the cost of those activities; or

"(C) authorize the use of contract procedures that would discriminate between bidders on the basis of a bidder's existing equipment or existing vehicle emission technology.

"(5) EMISSION REDUCTION STRATEGY GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a nonbinding list of emission reduction strategies and supporting technical information for—

"(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

"(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources board that is submitted not later that 18 months of the date of enactment of this Act;

"(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration health effects;

"(D) options and recommendations for the structure and content of emission reduction strategies including—

"(i) emission reduction performance criteria;

"(ii) financial incentives that use CMAQ resources and State resources;

"(iii) procedures to facilitate access by contractors to financial incentives;

"(iv) contract incentives, allowances, and procedures;

"(v) methods of voluntary emission reductions; and

"(vi) other means that may be employed to reduce emissions from construction activities; and

"(6) PRIORITY.—States and metropolitan planning organizations shall give priority in distributing funds received for congestion management and air quality projects and programs to finance of diesel retrofit and cost-effective emission reduction activities identified by States in the emission reduction strategies developed under this subsection.

"(7) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies any authority or restriction established under the Clean Air Act (42 U.S.C. 7401 et seq.).".

AMENDMENT NO. 621

(Purpose: To provide for the conduct of a community enhancement study)

At the end of subtitle H of title I, add the following:

SEC. 18 . COMMUNITY ENHANCEMENT STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study on—

(1) the role of well-designed transportation projects in—

(A) promoting economic development;

(B) protecting public health, safety, and the environment; and

(C) enhancing the architectural design and planning of communities: and

(2) the positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits of those projects for communities.

(b) CONTENTS.—The study shall address—

(1) the degree to which well-designed transportation projects—

(A) have positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits for communities;

(B) protect and contribute to improvements in public health and safety: and

(C) use inclusive public participation processes to achieve quicker, more certain, and better results;

(2) the degree to which positive results are achieved by linking transportation, design, and the implementation of community visions for the future: and

(3) methods of facilitating the use of successful models or best practices in transportation investment or development to accomplish—

(A) enhancement of community identity;

(B) protection of public health and safety;

(C) provision of a variety of choices in housing, shopping, transportation, employment, and recreation;

(D) preservation and enhancement of existing infrastructure; and

(E) creation of a greater sense of community through public involvement.

(c) Administration.—

(1) In general.—To carry out this section, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, a national organization with expertise in the design of a wide range of transportation and infrastructure projects, including the design of buildings, public facilities, and surrounding communities.

(2) Federal share.—Notwithstanding section 1221(e)(2) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note), the Federal share of the cost of the study under this section shall be 100 percent.

(d) Report.—Not later than September 20, 2006, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study under this section.

(e) Authorization.—Of the amounts made available to carry out section 1221 of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note), $1,000,000 shall be available for each of fiscal years 2005 and 2006 to carry out this section.

AMENDMENT NO. 622

(Purpose: To provide for the development of a comprehensive coastal evacuation plan)

At the end of subtitle H of title I, add the following:

SEC. . COMPREHENSIVE COASTAL EVACUATION PLAN.

(a) In General.—The Secretary of Transportation and the Secretary of Homeland Security (referred to in this section as the "Secretaries") shall jointly develop a written comprehensive plan for evacuation of the coastal areas of the United States during any natural or man-made disaster that affects coastal populations.

(b) Consultation.—In developing the comprehensive plan, the Secretaries shall consult with Federal, State, and local transportation and emergency management officials that have been involved with disaster related evacuations.

(c) Contents.—The comprehensive plan shall—

(1) consider, on a region-by-region basis, the extent to which coastal areas may be affected by a disaster; and

(2) address, at a minimum—

(A) all practical modes of transportation available for evacuations;

(B) methods of communicating evacuation plans and preparing citizens in advance of evacuations;

(C) methods of coordinating communication with evacuees during plan execution;

(D) precise methods for mass evacuations caused by disasters such as hurricanes, flash flooding, and tsunamis; and

(E) recommended policies, strategies, programs, and activities that could improve disaster-related evacuations.

(d) Report and Updates.—The Secretaries shall—

(1) not later than October 1, 2006, submit to Congress the written comprehensive plan; and

(2) periodically thereafter, but not less often than every 5 years, update, and submit to Congress any revision to, the plan.

AMENDMENT NO. 666, AS MODIFIED

(Purpose: To improve the high-speed magnetic levitation system deployment program)

Beginning on page 398, strike line 17 and all that follows through page 400, line 13, and insert the following:

SEC. 1819. HIGH-SPEED MAGNETIC LEVITATION SYSTEM DEPLOYMENT PROGRAM.

(a) In General.—Section 322 of title 23, United States Code, is amended to read as follows:

"§ 322. High-speed magnetic levitation system deployment program

"(a) Definitions.—In this section:

"(1) Eligible project costs.—

"(A) In general.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities.

"(B) Inclusion.—The term 'eligible project costs' includes the costs of preconstruction planning activities.

"(2) Full project costs.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

"(3) Maglev.—

"(A) In general.—The term 'MAGLEV' means transportation systems in revenue service employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

"(B) Inclusion.—The term 'MAGLEV' includes power, control, and communication facilities required for the safe operation of the vehicles within a system described in subparagraph (A).

"(4) Secretary.—The term 'Secretary' means the Secretary of Transportation.

"(5) Special purpose entity.—The term 'special purpose entity' means a nonprofit entity that—

"(A) is not a State-designated authority; but

"(B) is eligible, as determined by the Governor of the State in which the entity is located, to participate in the program under this section.

"(6) TEA-21 criteria.—The term 'TEA-21 criteria' means—

"(A) the criteria set forth in subsection (d) of this section (as in effect on the day before the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005), including applicable regulations; and

"(B) with respect to subsection (e)(2), the criteria set forth in subsection (d)(8) of this section (as so in effect).

"(b) Phase I—Preconstruction Planning.—

"(1) In general.—A State, State-designated authority, multistate-designated authority, or special purpose entity may apply to the Secretary for grants to conduct preconstruction planning for proposed new MAGLEV projects, or extensions to MAGLEV systems planned, studied, or deployed under this or any other program.

"(2) Applications.—An application for a grant under this subsection shall include a description of the proposed MAGLEV project, including, at a minimum—

"(A) a description of the purpose and need for the proposed MAGLEV project;

"(B) a description of the travel market to be served;

"(C) a description of the technology selected for the MAGLEV project;

"(D) forecasts of ridership and revenues;

"(E) a description of preliminary engineering that is sufficient to provide a reasonable estimate of the capital cost of constructing, operating, and maintaining the project;

"(F) a realistic schedule for construction and equipment for the project;

"(G) an environmental assessment;

"(H) a preliminary identification of the 1 or more organizations that will construct and operate the project; and

"(I) a cost-benefit analysis and tentative financial plan for construction and operation of the project.

"(3) Deadline for applications.—The Secretary shall establish an annual deadline for receipt of applications under this subsection.

"(4) Evaluation.—The Secretary shall evaluate all applications received by the annual deadline to determine whether the applications meet criteria established by the Secretary.

"(5) Selection.—The Secretary, except as otherwise provided in this section, shall select for Federal support for preconstruction planning any project that the Secretary determines meets the criteria.

"(c) Phase II—Environmental Impact Studies.—

"(1) In general.—A State, State-designated authority, or multistate-designated authority that has conducted (under this section or any other provision of law) 1 or more studies that address each of the requirements of subsection (b)(2) may apply for Federal funding to assist in—

"(A) preparing an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(B) planning for construction, operation, and maintenance of a MAGLEV project.

"(2) Deadline for applications.—

"(A) In general.—The Secretary shall—

"(i) establish an annual deadline for receipt of Phase II applications; and

"(ii) evaluate all applications received by that deadline in accordance with criteria established under subparagraph (B).

"(B) Criteria.—The Secretary shall establish criteria to evaluate applications that include whether—

"(i) the technology selected is available for deployment at the time of the application;

"(ii) operating revenues combined with known and dedicated sources of other revenues in any year will exceed annual operation and maintenance costs;

"(iii) over the life of the MAGLEV project, total project benefits will exceed total project costs; and

"(iv) the proposed capital financing plan is realistic and does not assume Federal assistance that is greater than the maximums specified in clause (ii).

"(C) Projects selected.—If the Secretary determines that a MAGLEV project meets the criteria established under subparagraph (B), the Secretary shall—

"(i) select that project for Federal Phase II support; and

"(ii) publish in the Federal Register a notice of intent to prepare an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(d) Phase III—Deployment.—The State, State-designated agency, multistate-designated agency, or special purpose entity that is part of a public-private partnership (meeting the TEA-21 criteria) sponsoring a MAGLEV project that has completed a final environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for both the MAGLEV project and the entire corridor of which the MAGLEV project is the initial operating segment, and has completed planning studies for the construction, operation, and maintenance of the MAGLEV project, under this or any other program, may submit an application to the Secretary for Federal funding of a portion of the capital costs of planning, financing, constructing, and equipping the preferred alternative identified in the final environmental impact statement or analysis.

"(e) Financial Assistance.—

"(1) In general.—The Secretary shall make available financial assistance to pay the Federal share of the full project costs of projects selected under this section.

"(2) Prevailing wage and certain TEA-21 criteria.—Sections 5333(a) and the TEA-21 criteria, shall apply to financial assistance made available under this section and projects funded with that assistance.

"(3) Federal share.—

"(A) Phase I and phase II.—For Phase I—preconstruction planning and Phase II—environmental impact studies carried out under subsections (b) and (c), respectively, the Federal share of the costs of the planning and studies shall be not more than ⅔ of the full cost of the planning and studies.

"(B) Phase III.—For Phase III—deployment projects carried out under subsection (d), not more than ⅔ of the full capital cost of such a project shall be made available from funds appropriated for this program.

"(4) Funding.—

"(A) Contract authority; authorization of appropriations.—

"(i) In general.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 2005 through 2009 to carry out this section—

"(I) $10,000,000 for Phase I—preconstruction planning studies;

"(II) $20,000,000 for Phase II—environmental impact studies; and

"(III) $60,000,000 for Phase III—deployment projects.

"(ii) Obligation authority.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter I, except that—

"(I) the Federal share of the cost of the project shall be in accordance with paragraph (2); and

"(II) the availability of the funds shall be in accordance with subsection (f).

"(B) Noncontract authority authorization of appropriations.—

"(i) Phase I.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase I—preconstruction planning studies under subsection (b)—

"(I) $6,000,000 for fiscal year 2005; and

"(II) $2,000,000 for each of fiscal years 2006 through 2009.

"(ii) Phase II.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase II—environmental impact studies under subsection (c)—

"(I) $25,000,000 for fiscal year 2005;

"(II) $37,000,000 for fiscal year 2006;

"(III) $21,000,000 for fiscal year 2007; and

"(IV) $9,000,000 for each of fiscal years 2008 and 2009.

"(iii) Phase III.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase III—deployment projects under subsection (d)—

"(I) $500,000,000 for fiscal year 2005;

"(II) $650,000,000 for fiscal year 2006;

"(III) $850,000,000 for fiscal year 2007;

"(IV) $850,000,000 for fiscal year 2008; and

"(V) $600,000,000 for fiscal year 2009.

"(iv) Program administration.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out administration of this program—

"(I) $13,000,000 for fiscal year 2005;

"(II) $16,000,000 for fiscal year 2006;

"(III) $8,000,000 for fiscal year 2007; and

"(IV) $5,000,000 for each of fiscal years 2008 and 2009.

"(v) Research and development.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out research and development activities to reduce MAGLEV deployment costs $4,000,000 for each of fiscal years 2005 through 2009.

"(f) Availability of Funds.—Funds made available under subsection (e) shall remain available until expended.

"(g) Other Federal Funds.—Funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement programs under section 149 may be used by any State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

"(h) Other Federal Funds.—A project selected for funding under this section shall be eligible for other forms of financial assistance provided by this title and title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.), including loans, loan guarantees, and lines of credit.

"(i) Mandatory Additional Selection.—

"(1) In general.—Subject to paragraph 2, in selecting projects for preconstruction planning, deployment, and financial assistance, the Secretary may only provide funds to MAGLEV projects that meet the criteria established under subsection (b)(4).

"(2) Priority funding.—The Secretary shall give priority funding to a MAGLEV project that—

"(A) has already met the TEA-21 criteria and has received funding prior to the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005 as a result of evaluation and contracting procedures for MAGLEV transportation, to the extent that the project continues to fulfill the requirements of this section;

"(B) to the maximum extent practicable, has met safety guidelines established by the Secretary to protect the health and safety of the public;

"(C) is based on designs that ensure the greatest life cycle advantages for the project;

"(D) contains domestic content of at least 70 percent; and

"(E) is designed and developed through public/private partnership entities and continues to meet the TEA-21 criteria relating to public/private partnerships.".

(b) Conforming Amendment.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 322 and inserting the following:

"322. High-speed magnetic levitation system deployment program.".

AMENDMENT NO. 685

(Purpose: To increase an amount made available for the Alaska Highway System)

On page 50, strike lines 16 through 18, and insert the following:

(c) Alaska Highway.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking "$18,800,000 for each of fiscal years 1998 through 2002" and inserting "$30,000,000 for each of fiscal years 2005 through 2009".

AMENDMENT NO. 694

(Purpose: To provide for an off-system bridges pilot program)

On page 353, strike lines 6 and 7 and insert the following:

Secretary determines that the State has inadequate needs to justify the expenditure.

"(C) Pilot program.—Not less than 20 percent of the amount apportioned to the States of Colorado, ________, and , for each of fiscal years 2005 through 2009 shall be expended for off-system bridge pilot projects.";

AMENDMENT NO. 705, AS MODIFIED

On page 270, after line 15, add the following:

(d) In addition to other eligible uses, the State of Maine may use funds apportioned under section 104(b)(2) to support, through September 30, 2009, the operation of passenger rail service between Boston, Massachusetts, and Portland, Maine.

AMENDMENT NO. 708, AS MODIFIED

On page 40, strike lines 16 through 20 and insert the following:

authority has not lapsed or been used;

(10) section 105 of title 23, United States Code (but, for each of fiscal years 2005 through 2009, only in an amount equal to $639,000,000 per fiscal year); and

(11) section 1106 of this Act, to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation.

On page 60, between lines 14 and 15, insert the following:

SEC. 1106. USE OF EXCESS FUNDS AND FUNDS FOR INACTIVE PROJECTS.

(a) Definitions.—In this section:

(1) Eligible funds.—

(A) In general.—The term "eligible funds" means excess funds or inactive funds for a specific transportation project or activity that were—

(i) allocated before fiscal year 1998; and

(ii) designated in a public law, or a report accompanying a public law, for allocation for the specific surface transportation project or activity.

(B) Inclusion.—The term "eligible funds" includes funds described in subparagraph (A) that were allocated and designated for a demonstration project.

(2) Excess funds.—The term "excess funds" means—

(A) funds obligated for a specific transportation project or activity that remain available for the project or activity after the project or activity has been completed or canceled; or

(B) an unobligated balance of funds allocated for a transportation project or activity that the State in which the project or activity was to be carried out certifies are no longer needed for the project or activity.

(3) Inactive funds.—The term "inactive funds" means—

(A) an obligated balance of Federal funds for an eligible transportation project or activity against which no expenditures have been charged during any 1-year period beginning after the date of obligation of the funds; and

(B) funds that are available to carry out a transportation project or activity in a State, but, as certified by the State, are unlikely to be advanced for the project or activity during the 1-year period beginning on the date of certification.

(b) AVAILABILITY FOR STP PURPOSES.—Eligible funds shall be—

(1) made available in accordance with this section to the State that originally received the funds; and

(2) available for obligation for any eligible purpose under section 133 of title 23, United States Code.

(c) RETENTION FOR ORIGINAL PURPOSE.—

(1) IN GENERAL.—The Secretary may determine that eligible funds identified as inactive funds shall remain available for the purpose for which the funds were initially made available if the applicable State certifies that the funds are necessary for that initial purpose.

(2) REPORT.—A certification provided by a State under paragraph (1) shall include a report on the status of, and an estimated completion date for, the project that is the subject of the certification.

(d) AUTHORITY TO OBLIGATE.—Notwithstanding the original source or period of availability of eligible funds, the Secretary may, on the request by a State—

(1) obligate the funds for any eligible purpose under section 133 of title 23, United States Code; or

(2)(A) deobligate the funds; and

(B) reobligate the funds for any eligible purpose under that section.

(e) APPLICABILITY.—

(1) IN GENERAL.—Subject to paragraph (2), this section applies only to eligible funds.

(2) DISCRETIONARY ALLOCATIONS; SECTION 125 PROJECTS.—This section does not apply to funds that are—

(A) allocated at the discretion of the Secretary and for which the Secretary has the authority to withdraw the allocation for use on other projects; or

(B) made available to carry out projects under section 125 of title 23, United States Code.

(f) PERIOD OF AVAILABILITY; TITLE 23 REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding the original source or period of availability of eligible funds obligated, or deobligated and reobligated, under subsection (d), the eligible funds—

(A) shall remain available for obligation for a period of 3 fiscal years after the fiscal year in which this Act is enacted; and

(B) except as provided in paragraph (2), shall be subject to the requirements of title 23, United States Code, that apply to section 133 of that title, including provisions relating to cost-sharing.

(2) EXCEPTION.—With respect to eligible funds described in paragraph (1)—

(A) section 133(d) of title 23, United States Code, shall not apply; and

(B) the period of availability of the eligible funds shall be determined in accordance with this section.

(g) SENSE OF CONGRESS REGARDING USE OF ELIGIBLE FUNDS.—It is the sense of Congress that eligible funds made available under this Act or title 23, United States Code, should be available for obligation for transportation projects and activities in the same geographic region for which the eligible funds were initially made available.

AMENDMENT NO. 713, AS MODIFIED

On page 270, following the matter on line 15, insert the following:

(d) In addition to other eligible uses, the State of Montana may use funds apportioned under section 104(b)(2) for the operation of public transit activities that serve a nonattainment or maintenance area.

AMENDMENT NO. 737

(Purpose: To improve the bill)

On page 38, line 8, strike "$9,386,289" and insert "$8,386,289".

On page 327, line 18, strike "under section 204".

On page 417, line 24, strike "209" and insert "2009".

On page 418, line 13, strike "$2,000,000" and insert "$3,000,000".

On page 558, line 17, insert "and Boating" before "Trust".

On page 558, line 23, strike "2004" and insert "2005".

On page 633, line 15, strike "by all States".

On page 652, line 23, strike "Section" and insert "(a) IN GENERAL.—Section".

On page 653, between lines 8 and 9, insert the following:

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

On page 807, after line 16, insert the following:

(h) CONTRACTED PARATRANSIT PILOT.—

(1) IN GENERAL.—Notwithstanding section 5302(a)(1)(I) of title 49, United States Code, for fiscal years 2005 through 2009, a recipient of assistance under section 5307 of title 49, United States Code, in an urbanized area with a population of 558,329 according to the 2000 decennial census of population may use not more than 20 percent of such recipient's annual formula apportionment under section 5307 of title 49, United States Code, for the provision of nonfixed route paratransit services in accordance with section 223 of the Americans with Disabilities Act (42 U.S.C. 12143), but only if the grant recipient is in compliance with applicable requirements of that Act, including both fixed route and demand responsive service and the service is acquired by contract.

(2) REPORT.—Not later than January 1, 2009, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the implementation of this section and any recommendations of the Secretary regarding the application of this section.

On page 846, after line 6, insert the following:

(m) MIAMI METRORAIL.—The Secretary may credit funds provided by the Florida Department of Transportation for the extension of the Miami Metrorail System from Earlington Heights to the Miami Intermodal Center to satisfy the matching requirements of section 5309(h)(4) of title 49, United Stated Code, for the Miami North Corridor and Miami East-West Corridor projects.

On page 872, strike line 24, and insert the following:

tives.

"(e) STUDY OF METHODS TO IMPROVE ACCESSIBILITY OF PUBLIC TRANSPORTATION FOR PERSONS WITH VISUAL DISABILITIES.—Not later than October 1, 2006, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the effectiveness of alternative methods to improve the accessibility of public transportation for persons with visual disabilities. The report shall evaluate a variety of methods and techniques for improving accessibility, including installation of Remote Infrared Audible Signs for provision of wayfinding and information for people who have visual, cognitive, or learning disabilities.".

On page 900, line 18, strike "and".

On page 900, line 22, strike the period and insert "; and".

On page 900, after line 22, insert the following:

(5) by adding at the end the following:

"(l) NOTIFICATION OF PENDING DISCRETIONARY GRANTS.—Not less than 3 full business days before announcement of award by the Secretary of any discretionary grant, letter of intent, or full funding grant agreement totaling $1,000,000 or more, the Secretary shall notify the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriation of the House of Representatives.".

On page 944, after line 21, insert the following:

SEC. . TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.

(a) TRANSIT PASS TRANSPORTATION FRINGE BENEFITS STUDY.—

(1) STUDY.—The Secretary of Transportation shall conduct a study on tax-free transit benefits and ways to promote improved access to and increased usage of such benefits, at Federal agencies in the National Capital Region, including agencies not currently offering the benefit.

(2) CONTENT.—The study under this subsection shall include—

(A) an examination of how agencies offering the benefit make its availability known to their employees and the methods agencies use to deliver the benefit to employees, including examples of best practices; and

(B) an analysis of the impact of Federal employees' use of transit on traffic congestion and pollution in the National Capital Region.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study under this subsection.

(b) AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.—

(1) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

"(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

"(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

"(3) In carrying out this subsection, a Federal agency shall—

"(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

"(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

"(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

"(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

"(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

"(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

"(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.".

(2) Funds for maintenance, repair, etc.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

"(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.".

(3) Coordination.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by paragraph (1)) shall be in addition to any authority otherwise available to the agency involved.

SEC. . FUNDING FOR FERRY BOATS.

Section 5309(i)(5) of title 49, United States Code, as amended by section 6011(j) of this Act, is amended to read as follows:

"(5) Funding for ferry boats.—Of the amounts described in paragraphs (1)(A) and (2)(A)—

"(A) $10,400,000 shall be available in fiscal year 2005 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals;

"(B) $15,000,000 shall be available in each of fiscal years 2006 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals; and

"(C) $5,000,000 shall be available in each of fiscal years 2006 through 2009 for payments to the Denali Commission under the terms of section 307(e) of the Denali Commission Act of 1998, as amended (42 U.S.C. 3121 note), for docks, waterfront development projects, and related transportation infrastructure.".

On page 1291, strike lines 12 through 16 and insert the following:

(1) For fiscal year 2005, $7,646,336,000.
(2) For fiscal year 2006, $8,900,000,000.
(3) For fiscal year 2007, $9,267,464,000.
(4) For fiscal year 2008, $10,050,700,000.
(5) For fiscal year 2009, $10,686,500,000.

AMENDMENT NO. 725

(Purpose: To provide for the construction of improvements to streets and roads providing access to State Route 28 in the State of Pennsylvania)

On page 410, between lines 7 and 8, insert the following:

SEC. 1830. PRIORITY PROJECTS.

Section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 306) is amended in item 1349 of the table contained in that section by inserting ", and improvements to streets and roads providing access to," after "along".

AMENDMENT NO. 726, AS MODIFIED

On page 297, between lines 9 and 10, insert the following:

SEC. 16___. CLEAN SCHOOL BUS PROGRAM.

(a) Definitions.—In this section:

(1) Administrator.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Alternative fuel.—The term "alternative fuel" means—

(A) liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, or propane;

(B) methanol or ethanol at no less than 85 percent by volume; or

(C) biodiesel conforming with standards published by the American Society for Testing and Materials as of the date of enactment of this Act.

(3) Clean school bus.—The term "clean school bus" means a school bus with a gross vehicle weight of greater than 14,000 pounds that—

(A) is powered by a heavy duty engine; and

(B) is operated solely on an alternative fuel or ultra-low sulfur diesel fuel.

(4) Eligible recipient.—

(A) In general.—Subject to subparagraph (B), the term "eligible recipient" means—

(i) 1 or more local or State governmental entities responsible for—

(I) providing school bus service to 1 or more public school systems; or

(II) the purchase of school buses;

(ii) 1 or more contracting entities that provide school bus service to 1 or more public school systems; or

(iii) a nonprofit school transportation association.

(B) Special requirements.—In the case of eligible recipients identified under clauses (ii) and (iii), the Administrator shall establish timely and appropriate requirements for notice and may establish timely and appropriate requirements for approval by the public school systems that would be served by buses purchased or retrofit using grant funds made available under this section.

(5) Retrofit technology.—The term "retrofit technology" means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.

(6) Secretary.—The term "Secretary" means the Secretary of Energy.

(7) Ultra-low sulfur diesel fuel.—The term "ultra-low sulfur diesel fuel" means diesel fuel that contains sulfur at not more than 15 parts per million.

(b) Program for Retrofit or Replacement of Certain Existing School Buses With Clean School Buses.—

(1) Establishment.—

(A) In general.—The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible recipients for the replacement retrofit (including repowering, aftertreatment, and remanufactured engines) of, or purchase of alternative fuels for, certain existing school buses.

(B) Balancing.—In awarding grants under this section, the Administrator shall, to the maximum extent practicable, achieve an appropriate balance between awarding grants—

(i) to replace school buses;

(ii) to install retrofit technologies; and

(iii) to purchase and use alternative fuel.

(2) Priority of grant applications.—

(A) Replacement.—In the case of grant applications to replace school buses, the Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(B) Retrofitting.—In the case of grant applications to retrofit school buses, the Administrator shall give priority to applicants that propose to retrofit school buses manufactured in or after model year 1991.

(3) Use of school bus fleet.—

(A) In general.—All school buses acquired or retrofitted with funds provided under this section shall be operated as part of the school bus fleet for which the grant was made for not less than 5 years.

(B) Maintenance, operation, and fueling.—New school buses and retrofit technology shall be maintained, operated, and fueled according to manufacturer recommendations or State requirements.

(4) Retrofit grants.—The Administrator may award grants for up to 100 percent of the retrofit technologies and installation costs.

(5) Replacement grants.—

(A) Eligibility for 50% grants.—The Administrator may award grants for replacement of school buses in the amount of up to ½ of the acquisition costs (including fueling infrastructure) for —

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 1.8 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007, 2008, or 2009 that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter to be applicable for school buses manufactured in model year 2010.

(B) Eligibility for 25% grants.—The Administrator may award grants for replacement of school buses in the amount of up to ¼ of the acquisition costs (including fueling infrastructure) for —

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 2.5 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007 or thereafter that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter from school buses manufactured in that model year.

(6) Ultra-low sulfur diesel fuel.—

(A) In general.—In the case of a grant recipient receiving a grant for the acquisition of ultra-low sulfur diesel fuel school buses with engines manufactured in model year

2005 or 2006, the grant recipient shall provide, to the satisfaction of the Administrator—

(i) documentation that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant; and

(ii) a commitment by the applicant to use that fuel in carrying out the purposes of the grant.

(7) DEPLOYMENT AND DISTRIBUTION.—The Administrator shall, to the maximum extent practicable—

(A) achieve nationwide deployment of clean school buses through the program under this section; and

(B) ensure a broad geographic distribution of grant awards, with no State receiving more than 10 percent of the grant funding made available under this section during a fiscal year.

(8) ANNUAL REPORT.—

(A) IN GENERAL.—Not later than January 31 of each year, the Administrator shall submit to Congress a report that—

(i) evaluates the implementation of this section; and

(ii) describes—

(I) the total number of grant applications received;

(II) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(III) grants awarded and the criteria used to select the grant recipients;

(IV) certified engine emission levels of all buses purchased or retrofitted under this section;

(V) an evaluation of the in-use emission level of buses purchased or retrofitted under this section; and

(VI) any other information the Administrator considers appropriate.

(c) EDUCATION.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall develop an education outreach program to promote and explain the grant program.

(2) COORDINATION WITH STAKEHOLDERS.—The outreach program shall be designed and conducted in conjunction with national school bus transportation associations and other stakeholders.

(3) COMPONENTS.—The outreach program shall—

(A) inform potential grant recipients on the process of applying for grants;

(B) describe the available technologies and the benefits of the technologies;

(C) explain the benefits of participating in the grant program; and

(D) include, as appropriate, information from the annual report required under subsection (b)(8).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $55,000,000 for each of fiscal years 2006 and 2007; and

(2) such sums as are necessary for each of fiscal years 2008, 2009, and 2010.

AMENDMENT NO. 755 TO AMENDMENT NO. 725

(Purpose: To reprogram funds made available for Interstate Route 75 and North Down River Road, Michigan)

At the end of the amendment, add the following:

SEC. 1831. TRANSPORTATION NEEDS, GRAYLING, MICHIGAN.

Item number 820 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 287) is amended by striking "Conduct" and all that follows through "interchange" and inserting "Conduct a transportation needs study and make improvements to I-75 interchanges in the Grayling area".

AMENDMENT NO. 670, AS MODIFIED

Mr. OBAMA. Mr. President, we have all heard from folks back home about the high price of gasoline. When you pull into a gas station to fill up your tank, you're now paying some of the highest prices of all time.

This amendment is designed to do something about that—by promoting a choice at the pump that will allow consumers to choose a fuel that today is 50 cents per gallon cheaper than regular gasoline.

That's why I would like to thank the chairman of the Finance Committee, Senator GRASSLEY, and the ranking member of the Committee, Senator BAUCUS, for their advocacy of this amendment. I also want to thank the manager of the transportation bill, Chairman INHOFE, for working with us on this proposal. These Senate leaders are all committed to addressing high gas prices, and their work on this amendment is an example of that commitment.

I would like to thank my fellow authors of this amendment, Senator TALENT, as well as my distinguished colleague from Illinois, Senator DURBIN, for their hard work in getting this provision passed. And I thank the cosponsors of this amendment, also longtime supporters of ethanol, Senators LUGAR, HARKIN, BAYH, COLEMAN, SALAZAR, DAYTON, and NELSON of Nebraska.

And of course, I would like to thank the excellent staff work of Elizabeth Paris, Matt Jones, and Russ Sullivan on behalf of this provision.

I am sure many of us in this Chamber, and many watching these proceedings, would jump at the chance to fill our cars and trucks with fuel that is 50 cents cheaper than current prices. What many consumers may not know is that that option is available today. It is known as E–85, a fuel comprised of 85 percent ethanol. And I suspect most Americans would agree that a fuel made of 85 percent Midwestern corn is a lot more desirable than one made from 100 percent Middle Eastern oil.

Right now, there are millions of cars and trucks that can run on E–85. They are known as "flexible fuel vehicles," and the auto industry is turning out hundreds of thousands of them every year. These cars and trucks aren't more expensive to operate than regular cars—in fact, for just a one-hundred-dollar adjustment, even regular cars could run on E–85. And if E–85 is good enough for the Indianapolis 500—which just announced their cars will run on this fuel—then you can be sure that E–85 will work great in a flexible fuel vehicle.

The only problem now is our short supply of E–85 fuel stations. While there are more than 180,000 gas stations all over America, only about 400 offer E–85.

The amendment adopted by the Senate today addresses this problem by providing a tax credit to encourage the installation of more E–85 fuel pumps at your local gas station. Its enactment will not only give motorists another option at the pump, it will also send a clear message that the U.S. Senate is serious about reducing our country's dangerous dependence on imported oil.

Again, I thank my colleagues who have worked to adopt this amendment to help make America energy independent.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. I ask unanimous consent the two live quorums be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. All time is yielded back.

The PRESIDING OFFICER. All time is yielded back. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending substitute to Calendar No. 69, H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Bill Frist, J.M. Inhofe, David Vitter, Thad Cochran, Norm Coleman, Jim DeMint, Richard Shelby, Orrin Hatch, Kit Bond, Chuck Grassley, Pete Domenici, Jim Talent, Richard G. Lugar, John Thane, Bob Bennett, George Allen, Mitch McConnell.

The PRESIDING OFFICER. The mandatory quorum call has been waived. The question is, Is it the sense of the Senate that debate on the substitute amendment No. 605 shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. GRASSLEY. Mr. President, I want to respond to the distinguished Chairman of the Budget Committee. Yesterday afternoon, my colleague responded to my defense of the merits of the Finance Committee title in Chairman INHOFE's substitute.

Since Chairman GREGG's response came shortly before the session ended last night, I am responding this morning.

I respect Chairman GREGG's efforts in his initial year as chairman of the Budget Committee. I congratulate him now as I have in the past on his victory in achieving a budget resolution. I was proud to support him in committee, on the floor, and in conference on the resolution.

As a senior member of the Budget Committee, I take its role seriously. I respect the Budget Act and the importance of the tools of fiscal discipline that points of order and other enforcement devices bring to the legislative process. I also respect the key role of the Budget Committee chairman and his staff under the Budget Act.

A careful and fair review of my statement will show that it is consistent with these long-held views. My statement did not claim that there was no valid Budget Act point of order against the Finance title of the Inhofe substitute. My statement did not question the authority of the Budget Committee chairman in raising the point order.

My statement responded to several very specific assertions against the Finance Committee title. One assertion, made quite passionately by Chairman GREGG, was that the Finance Committee amendment was a product of accounting gimmicks. Another assertion was that the amendment was not offset. I responded to the two main assertions ad relied on the Congress' official tax policy scorekeeper, the Joint Committee on Taxation. Chairman GREGG is right that, under the Budget Act, it is the Chairman Budget Committee chairman that the Senate parliamentarian looks to determine whether a point of order is well-founded. The Joint Committee on Taxation, however, determines the scoring of revenue measures.

I will not go into the other points of disagreement in our statements because the statements speak for themselves.

In sum and substance, my statement defended the Finance Committee title on its scoring by the Joint Committee. My statement did not dispute that the amendment spending level was above those contemplated by the Budget Resolution or the spending level agreed to by the administration and congressional Republican leadership. Of course, Finance Committee jurisdiction extends only to the cash flow of the Highway Trust Fund. The Finance Committee title added additional cash inflow, trust fund receipts, and additional cash outflow, trust fund outlays. The Finance Committee title balances additional trust fund receipts and outlays. That was the job we were asked to do and we did it in a fiscally responsible manner.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Pennsylvania (Mr. SANTORUM).

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 92, nays 7, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—92

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Corzine
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Hagel
Harkin
Hatch
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—7

Cornyn
Gregg
Hutchison
Kyl
Martinez
McCain
Sununu

NOT VOTING—1

Santorum

The PRESIDING OFFICER. On this vote, the yeas are 92, the nays are 7. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank those who voted the right way to come to a conclusion on this bill. This is likely the most important bill we will deal with this entire year. Right now we have a distressingly large number of amendments out there that are germane that people could come and offer. We are not going to have enough time to do it. As is usually the case, there are many out there who are not serious about their amendments. It is currently being hotlined to try to find out who is serious and who is not. I am going to be talking to individuals, but I would say, if you are serious about your amendment, and you want it considered, bring it to the floor. I am sure I speak on behalf of Senator JEFFORDS as well. We want these amendments brought to the floor, and we also want to know how many are out there that may not be serious amendments.

Mr. JEFFORDS. Mr. President, I agree with the Senator. Please, everyone, expedite.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. INHOFE. I yield.

Mr. BYRD. I have an amendment. I would like to offer it at a time when it would be mutually agreeable to the managers.

Mr. INHOFE. I suggest that it is mutually agreeable to send it to the desk and that it be considered.

Mr. BYRD. Very well. I will get my amendment, if the two managers will consent that I be recognized to offer it.

Mr. INHOFE. Yes.

Mr. BYRD. Mr. President, I will very shortly. In the meantime, might I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I will shortly call up an amendment. Before doing so, I would like to recall a statement by the late Reverend Peter Marshall, possibly, even probably, the most famous and well known of the Senate chaplains, who offered this prayer at the opening of the second session of the 80th Congress:

> Let us not be content to wait and see what will happen, but give us the determination to make the right things happen.

Sometimes we can do that, sometimes we can't, but at least we can try. For too many months now, the Congress and the administration have taken a "wait and see" approach when it comes to today's life-altering price of gasoline.

The administration has pinned its rhetoric to an energy plan, waiting and hoping to tout a reduced dependence on foreign oil, while conceding that no energy plan will provide immediate relief to high prices at the pump.

The American people have waited and have waited and have waited for the United States to get tough on OPEC and other nations responsible for the recent spike in gasoline prices. Their elected leaders offer explanations and more explanations and still more explanations and equivocations about why such action has not reduced prices at the pump.

The American people are out there listening and they are watching; they see what is going on here on the Senate floor. They watch us through those electronic lenses behind the Chair, the Presiding Officer. The American people waited anxiously for the President's prime-time news conference, hoping to see at last that somebody would proffer some kind of relief from high gas prices. My, how they do hurt. How they do pinch, don't they? Yes. Ultimately, the American people were disappointed as their pleas for relief were again rebuffed. The people have waited, they have waited, they have waited, and they are still waiting. They waited while gas prices have gone up and up and up. The patience of the American people is running out. When will it end?

The American people watched incredulously as the House of Representatives passed an energy bill last month, including $8 billion of energy tax cuts. These are tax cuts for many of the corporate conglomerates who are enjoying record-breaking profits from today's oil prices. Yet the Congress declines—it declines, it declines, and it declines again and again—to provide relief to the workers who must bear the brunt of these price spikes at the pump. I am talking about the working people of America, people whose hands are soiled with honest toil, the working people in America. They are in South Carolina, North Carolina, and West Virginia.

While the big oil companies are making big money, hand over fist, from high gas prices, the only relief the Congress has seen fit to provide is to the very oil companies—not the people—making all the money. They are making all the money.

The irony is incredible, but not only is it incredible, it is contemptible. It is the little guy who is getting the shaft because we refuse to stand up for him or her. Well, the time has come to take a stand. This Congress continues to ignore the working man and the single mother. There are lots of them out there and they have to go through this every day when they drive up to the pumps. Think of them. Who is here to take a stand for them—the little guys? There are lots of them out there. The little guy is getting the shaft because we refuse to stand up for him. Again, this Congress continues to ignore the working man and the single mother. This administration continues to ignore the working man and the single mother, and it continues to ignore the outdoorsman who can no longer afford to fill up his pickup truck or SUV for a weekend of work—yes, they even work on the Sabbath; they have to sometimes—or for a weekend of hunting and fishing.

If the Congress cannot wave a magic wand to lower prices at the pump—and it cannot—at least we can provide short-term relief to compensate workers, and that relief ought not be delayed. We have those workers in Texas, we have them in Oklahoma, and we have them in West Virginia. I talk with them every day. The time has come; the clock is moving. Relief ought not be delayed. The time has come for the Congress to take action. We must take action. We have heard that television statement: Do it now, do it here.

I addressed the Senate last month about this issue, highlighting the impact that high gas prices have had on rural States such as mine, rural States such as New Hampshire. Yes, there are rural areas all over this country.

When gas prices soar, the impact on rural families can be devastating and can be cruel. In my State of West Virginia, the impact has been brutal. It saps the economic strength of the State. It squeezes anybody who owns a vehicle, and it chips away at the income of workers who must commute. They have to commute, there is no way around it. Think of those mountains, those stately, majestic mountains in New Hampshire, West Virginia, and Tennessee. It chips away at the income of workers who have to commute to and from and across and in between those mountains. Households must curtail essentials, and families must do without other things. They have to get that gasoline, they have to get to work, they have to get that bread and butter on the table. Businesses lose customers. Think about that. I was once in a small business. I was once a small, small businessman. I know what it is. You have to meet a one or two or three-person payroll. And business includes customers. As the pocketbook strings tighten more and more, profits decrease, operating expenses sore, workers' paychecks suffer more and more.

Residents of rural States must drive longer distances to and from work, inflicting burdensome costs on commuters. I am talking about the States of Virginia, Georgia, New Hampshire, as well as West Virginia—not just West Virginia.

Rural States have less access to public transportation. What does that mean? That means subways and buses and car pooling are not usually available to rural commuters. I am talking about the States of South Carolina; Kansas; Iowa, where the tall corn grows; Oklahoma, as well as West Virginia. Not just West Virginia. Hear me now, it is not just West Virginia. In Appalachia—13 States are in Appalachia. West Virginia is the only one wholly in Appalachia.

In Appalachia, rural roads, twisting and winding and bending around the hills and mountains, exacerbate the financial pain. I am talking about the States of Tennessee, Kentucky, Mississippi, yes, as well as West Virginia. Not just West Virginia; other States as well.

When gas prices spike, rural commuters often have no disposable income to absorb the price flux. What does this do? It forces painful cuts in essential expenditures. I am talking about the States of Idaho, North Carolina—where I was born—Ohio, South Dakota, as well as West Virginia. So it is not just West Virginia.

The people of these States and all across America, all across the Great Plains and the prairies, the mountains, the Ozarks, the Rocky Mountains, all throughout the land, people in these States are crying out for action by Congress. So today I offer an amendment to answer that call. We hear you, we should say. Yes, we hear you. So I have an amendment that says we hear you.

My amendment would provide a temporary $500 tax credit for commuters who travel 250 miles per week to and from work. Isn't that a reasonable approach, a temporary $500 tax credit for commuters who travel 250 miles per week, and many of them travel more than that? Oh, yes. But we put a limit on it, for commuters who travel 250 miles. If you travel 240 miles, that is not enough. So we try to be very reasonable.

Why shouldn't a man or woman who travels 240 miles a week be helped, too? We know how difficult it is to move legislatively. I have only been in this Chamber 47 years, 47 years looking around these walls. "Novus ordo seclorum," it says on that wall, "a new order for the ages." And "in God we trust." "In God we trust." I have seen these walls for 47 years. Yes, I came over from the other body where I used to say: Thank God for the Senate. I never thought of coming over here to change the Senate rules to make us another House of Representatives. No, I said thank God for the Senate.

Here we are. My amendment would provide a temporary $500 tax credit for commuters who travel 250 miles per week. What does that amount to per day? Mr. President, $50 for a 5-day week; is that what it is? It is $50 a day for a 5-day week. The credit would be available in rural, low-income States where public transportation is not readily available. Go down to Welch, WV. Travel into the hills and mountains of New Hampshire. The credit would be available in rural, low-income States where public transportation is not readily available. The credit would be limited to the tax year 2005, 1 year, and it fits within the congressional budget so as not to worsen projected deficits. That is reasonable, isn't it? This is not a complicated proposal. The arguments in favor of providing relief to workers is obvious, having been made by Members of Congress and the administration for many months now. So we put off action day to day, month to month, year to year, waiting for supposed long-term solutions to take effect while we are recreant, while we refuse to provide relief for the immediate hardship.

Let us not delay any longer. Let us not equivocate about economic theories that clearly are working to the detriment of the American workers. Now is the time, and it may be the only time, to vote to provide relief from high gas prices. Now is the time to vote to recognize the plight of workers at the gas pump.

Oh, they say, well, this amendment may not be germane. Oh, this would set a precedent. What is wrong with that? How are precedents set? What is a precedent, if it isn't something new, if it isn't something that goes against the grain of something that has gone before? That is how we get precedents.

I have seen many precedents set in this Senate, so do not come here with that argument. I do not know, the Chair may rule this amendment is not germane. I suppose someone might even ask the Chair.

Now is the time to provide relief, a vote to forgo a policy of wait and see. It is time to show determination in making the right things happen.

AMENDMENT NO. 635 TO AMENDMENT NO. 605

(Purpose: To amend the Internal Revenue Code of 1986 to allow a credit for rural commuters)

Mr. BYRD. Mr. President, I call up my amendment No. 635 and ask that the clerk read the amendment.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

Mr. BYRD. I make that consent request, Mr. President. I thank the Chair.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 635:

At the appropriate place, insert the following:

SEC. . TAX CREDIT FOR RURAL COMMUTERS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25B the following new section:

"SEC. 25C. RURAL COMMUTER CREDIT.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible commuter, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500.

"(b) ELIGIBLE COMMUTER.—For purposes of this section:

"(1) IN GENERAL.—The term 'eligible commuter' means an individual who, during the taxable year—

"(A) resides in an eligible State,

"(B) drives an average of more than 250 miles per week for purposes of commuting to and from any location related to the employment of such individual, and

"(C) has an adjusted gross income of less than—

"(i) in the case of a joint return, $100,000,

"(ii) in the case of a head of household return, $75,000, and

"(iii) in any other case, $50,000.

"(2) ELIGIBLE STATE.—

"(A) IN GENERAL.—The term 'eligible State' means any State with respect to which—

"(i) the percentage of the population residing in urban areas is less than the national average,

"(ii) the disposable personal income per capita is less than 114 percent of the national average, and

"(iii) the use of public transportation by the population for the purpose of commuting to and from work is less than the national average.

"(B) DETERMINATION OF ELIGIBLE STATES.—The Secretary shall determine which States are eligible States under subparagraph (A) based on the most recent data available from the Bureau of the Census.

"(3) STATE.—The term 'State' means the 50 States of the United States.

"(c) TERMINATION.—This section shall not apply to any taxpayer for any taxable year beginning after December 31, 2005.".

(b) CONFORMING AMENDMENT.—The table of section for subpart A of part IV of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Rural commuter credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I commend the Senator from West Virginia for what he is attempting to do for rural America. That happens to be me, rural America. I am certainly in sympathy with this issue. The problem I think is going to be the cost. The cost is somewhere around $5 billion. Since this affects the finance title of the bill, I am looking to see if Senator BAUCUS and Senator GRASSLEY can come by and visit a little bit. If the Senator would like to continue explaining his amendment, or we could try to get hold of the two Senators from the Finance Committee.

Mr. BYRD. Mr. President, if the Senator will yield.

Mr. INHOFE. Yes.

Mr. BYRD. I will yield to the good judgment of the managers of the bill. If you would like to wait until the arrival of those two Senators, that is fine for me. May I take this moment to congratulate him and congratulate his comanager sitting by my side, the very distinguished Senator from New Hampshire. Mr. President, you are doing your duty, I say, speaking in the second person, which I am not supposed to do in the Senate. I hope they will come to the floor and make themselves heard.

Mr. INHOFE. Mr. President, I appreciate that and will wait until we have an opportunity to speak to those managing the finance title of the bill. That being the case, let me renew our invitation for people to bring their amendments to the floor. Right now we have hotlined trying to determine who is serious about his or her amendment. We have a lot to get done. The sooner anyone who has an amendment gets down here for the consideration of that amendment, it will be very helpful.

Mr. BYRD. Will the Senator yield for a correction?

Mr. INHOFE. Yes.

Mr. BYRD. I have done what Senators sometimes do. They make a mistake. They have done it to me, too, in referring to a Senator's State as a wrong State. Sometimes they say I am from the State of Virginia. I count that as a great compliment, but I am from the great State of West Virginia.

In this case, I have mistakenly referred to the distinguished Senator from Vermont as the Senator from New Hampshire, both great States. I am talking about the Senator from Vermont. I believe I referred to him as the Senator from New Hampshire. OK, the Senator from Vermont. I correct the RECORD.

Mr. INHOFE. Mr. President, I will just observe that they have covered bridges in both New Hampshire and Vermont.

Mr. BYRD. And West Virginia.

Mr. INHOFE. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, can I have the attention of the Senator from West Virginia, please. The Senator from West Virginia does not need to respond to this, but I just want to make sure. First, I rise because about 6 o'clock yesterday afternoon, I promised the Senator from West Virginia that I would get back with him and hopefully have Senator BAUCUS with me to discuss whether we could go along with his amendment.

I got the amendment over to my staff, as I promised I would, about that time, but it was 9:30 this morning before I was able to get the two staffs together. I never did get together with Senator BAUCUS so I could come over and visit with the Senator personally about it.

We have found a cost argument, not an argument against the Senator's point of view on the substance of his amendment, but it is my responsibility as chairman of the Senate Finance Committee to find offset. Now, I do not say this to denigrate the Senator's efforts—the Senator does not have to worry about offsets; that is my job—but if I were going to go along with the amendment of the Senator, I would have the responsibility to find an offset.

So I apologize, first, for not getting back to the Senator as I promised I would last night. But based upon some of the arguments that Mr. INHOFE gave but more importantly related to the work of my committee—and I cannot speak for Senator BAUCUS, but I think there is an agreement among our staff, and I do not want to put a figure on it without having the Joint Tax Committee actually score something, but this is a tremendously expensive amendment, not that it is not justified.

I would have to come up with a fairly large figure that my staff tells me would be close to what we have already raised to bring more money into the transportation fund so that we can get more money for the Senator's State and my State, and more money even for the transit that is a basis for the Senator's argument because he does not have the mass transit—and we do not have the mass transit in Iowa as well, so Iowans would benefit from the Senator's amendment. But I just cannot find that money, and it would detract from all the money we previously had raised.

I do not know what the course of action is, but I would have to take the position of advising people not to vote for the Senator's amendment.

Mr. BYRD. Mr. President, would the Senator yield?

Mr. GRASSLEY. Yes.

Mr. BYRD. Mr. President, I respect the very able Senator for the position he has taken. I can understand that position, and I appreciate it. I have discussed this with the Senator. I do not have a suggestion for an offset. I commend the Senator and Senator BAUCUS on what they have jointly done to advance this bill and what they have jointly done to increase the amounts of money available. I understand completely the Senator's position. I do not blame him for it. He states it correctly, but I will say that the amendment does not worsen projected deficits. The amendment fits within the congressional budget. That is why it is not subject to any budget points of order. Deficit projections within the congressional budget will not worsen if this amendment passes.

I do respect the Senator. I know we are both in sympathy with what the people in the mountains, the prairies, the plains, and valleys of this great country have to deal with. I am sorry that the amendment is not germane. I understand that. At least I do not think it is. Perhaps the Senator would like to have a ruling from the Chair. I would hope the Chair would say that the amendment would be germane.

I thank the Senator.

Mr. GRASSLEY. Mr. President, I am not going to raise any more issues. I have expressed why I cannot support the amendment, and I will reserve any other action at the time we vote. I thank the Senator from West Virginia for being understanding of why I did not get back to him.

Mr. BYRD. I thank the Senator.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDICIAL NOMINATIONS

Mr. REID. Mr. President, I once again want to persuade my Republican colleagues that the so-called nuclear option to break the Senate rules regarding judicial nominations is unnecessary and unwise. Earlier this week, I came to the floor of the Senate and offered to enter into a unanimous consent agreement that will allow an up-or-down vote on controversial nominee Thomas Griffith to the DC Court of Appeals.

We have confirmed 208 of President Bush's nominations to the Federal court, but this record near 100 percent is enough, and the Republican leaders have brought us to the brink of a nuclear showdown. There will be a lot of nuclear fallout if this happens, which would be bad for the Senate and bad for the country.

As I said on the Senate floor earlier this week, Democrats understand the meaning of checks and balances and our constitutional role in ensuring a fair and independent judiciary. We know the difference between opposing nominees and blocking nominees. We will oppose bad nominees, but we will only block unacceptable nominees. Unfortunately, my effort to demonstrate good faith to this point has been rejected.

My statement earlier this week was immediately rejected. The distinguished majority leader, my friend, has indicated that the Senate would not be allowed to vote on Griffith unless Senate Democrats agree to an up-or-down vote on all judicial nominees. What that means is the majority leader will not compromise unless Democrats agree to give up the last check in Washington against abuse of power: the right for extended debate. This is not about seven radical judges. In some people's minds, it is paving the way to the Supreme Court.

Our position is clear: Let us find common ground and confirm judges. Their position appears to be: Let us threaten to break the rules until we get everything we want.

Let us find common ground to confirm judges. That does not mean everybody. If we cannot find compromise, as I said 2 days ago, then we have to vote. We will fight to protect the Nation's constitutional system of checks and balances and depend on Republicans of good will who serve in the Senate who do not want to break the rules to change the rules. That is what the people sent us to do, and we will live up to our responsibility to the American people.

Today, I want to try to do what my Republican colleagues say they want to do, and that is confirm Federal judges. Today, I am prepared to enter into an agreement that would be in respect to two and possibly three nominees to the Sixth Circuit Court of Appeals, which has had tremendous problems for going on 13 years. David McKeague, Robert Griffin, and likely Susan Neilson, Sixth Circuit nominees from Michigan, have been caught up in a dispute that began when the Republican Senate failed to vote on either of the two eminently qualified women President Clinton had nominated to the Michigan seats on that court: Helene White and Kathleen McCree Lewis.

Helene White is a distinguished judge on the Michigan Court of Appeals. Her nomination was pending in the Senate Judiciary Committee for more than 4 years—I repeat, more than 4 years. Kathleen McCree Lewis is a highly regarded appellate litigator at a prominent Detroit law firm. Her nomination was pending for more than a year.

Despite their outstanding qualifications, both of these nominees, along with over 60 other Clinton nominees, were buried in the Republican-controlled Judiciary Committee. They were never given the courtesy of consideration by the Judiciary Committee, not even a hearing, much less the courtesy of an up-or-down vote by the full Senate.

It seems as if each day a Republican Senator comes to the floor and says that every judicial nominee is entitled to an up-or-down vote on the Senate floor. I challenge these Senators to explain why Helene White, Kathleen Lewis, and 67 others were denied up-or-down votes on the Senate floor.

I have said that what was done in the last 12 years let us put behind us. The 69 Clinton nominees and the 10 Bush nominees, let us put them behind us and go forward. We have a new Congress. We have new leaders, at least two new leaders, Senator DURBIN and I, and we have a number of new Senators. Let us move forward on a new note.

The failure of the Senate to confirm these two outstanding Clinton nominees meant that there were vacancies on the Sixth Circuit when President Bush took office more than 4 years ago. President Bush nominated candidates to fill those unjustified vacancies, and as other judges have left the court, the President has eventually sent four Sixth Circuit nominees to the Senate. In light of the shameful treatment of President Clinton's Sixth Circuit nominees, Senators LEVIN and STABENOW objected to the Bush nominees to this court, and three of them were filibustered in the last Congress. They were determined that the GOP tactic of denying hearings and votes to qualified nominees should not succeed.

I have talked about these on the Senate floor earlier. These were procedural objections. It had nothing to do with the qualifications of two of these Sixth Circuit nominees.

I supported the two Senators from Michigan. They have been fighting a grave injustice that has been perpetrated on White and Lewis. They have been fighting for the principle of fair treatment. I and all Democrats have been proud to stand with them in that fight.

Now with the Senate facing the threat of a nuclear option, we have to remember why we are here. We are here to govern, not endlessly engage in political bickering that brings us to the brink of a Republican shutdown. The American people face great challenges each and every day: escalating health care costs; record high gas prices; skyrocketing tuition; as we learned today on the national news, pensions that are being thrown out the windows of major companies that have tens of thousands of employees; mounting debts that will be handed down to our children and our grandchildren.

Under President Bush's leadership, middle-class Americans have gone backward, not forward. Instead of helping them, we are bickering over seven judges and, in my estimation, many radical judges.

For the sake of the American people and the dignity of the Senate, Democrats have been and will be reasonable. We believe too much is at stake. Our very system of constitutional checks and balances is at stake in this dispute. In granting an up-or-down vote on two and likely three of these circuit court judges—and let me say, the nominee I have talked about, Susan Neilson, from everything we know, is a fine woman. She was just grievously ill, and therefore she was not able to have the hearing before the Judiciary Committee. We are confident that will take place quickly. Once that is done and the two Senators from Michigan have had a chance to vet her, that will take care of our being able to move forward on three, not just two.

Henry Saad would have been filibustered anyway. He is one of those nominees. All one needs to do is have a Member go upstairs and look at his confidential report from the FBI, and I think we would all agree that there is a problem there.

The other two nominees, Griffin and McKeague, would not have been filibustered but for the treatment of the Clinton nominees.

Accordingly, I want the majority leader to be aware that Democrats are prepared to enter into the following unanimous consent agreement: If the nominations of Griffin, McKeague, and Neilson are reported from the Judiciary Committee, we agree to limit floor debate on all three nominations to a total of 6 hours equally divided. Following the use or yielding back of that time, there would be a vote on each of these three nominations. Once again, I say to my Republican colleagues, do they want to confirm judges or do they just want to provoke a fight?

We have confirmed all but four of the judicial nominees the majority leader has brought to the Senate floor this year. We are prepared to vote on the nomination of Griffith to the DC Circuit. We are prepared to vote on two and likely three of the nominees to the Sixth Circuit. Why are we being denied the opportunity to confirm these judges? We have already confirmed 208 of President Bush's judicial nominations. If the majority leader will accept our offer to vote on Griffith and these Sixth Circuit nominees, we would have confirmed 212 of President Bush's nominees and rejected only 5. Is the majority leader prepared to break the rules and violate 217 years of Senate tradition, all for five extreme judges? I hope not.

I have great admiration and respect for my Republican counterpart, and I am hopeful and confident that somehow we can work our way through this morass.

In a New York Times op-ed 2 days ago, former Senator George Mitchell, who was the majority leader in this body, quoted from a famous speech delivered by one of his predecessors, former Senator Margaret Chase Smith, whom I did not have the opportunity to meet, but I wish I could have. In her famous "Declaration of Conscience" speech against the terrible McCarthyism then practiced by members of her own party, she said:

> I don't believe the American people will uphold any political party that puts political exploitation above national interest. Surely we Republicans aren't that desperate for victory. While it might be a fleeting victory for the Republican Party, it would be a more lasting defeat for the American people. Surely it would ultimately be suicide for the Republican Party and the two-party system that has protected our American liberties from the dictatorship of a one-party system.

Today, the Senate is not plagued by McCarthyism but by what some believe is an abuse of power.

Lord Acton, whom we studied in college—I thought it was just something the teacher had me think about that had no practical application to my life's work, but it has. Lord Acton: "Power tends to corrupt." Lord Acton: "Absolute power tends to corrupt absolutely."

We have now a legislative body that is controlled by the Republicans in the Senate by a significant majority, by a significant majority in the House of Representatives, seven of the Supreme Court Justices across the street are Republican appointees, the White House is Republican. Let's not have Lord Acton's theory come to be.

Today, the Senate is not plagued by McCarthyism but by what some believe is abuse of power. Still, Senator Margaret Chase Smith, this great Republican Senator, her words ring true. I hope there are enough modern-day Senator Margaret Chase Smiths who will be guided by the interests of the Nation, not partisan politics.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The majority leader.

Mr. FRIST. Mr. President, I will be brief. I was just talking to my staff and to the Democratic leader to see exactly what offer was made. I did not know exactly what offer had been made, but he reviewed it with me.

Let me make a statement because it is important for people to know the Democratic leader and I are in constant conversation about what is a very important issue to this institution, to the culture of this institution, to the past and traditions which are important, but ultimately it is what we do in the future because that is what we can control today. It is our responsibility to do so.

As we walk the Halls, people come up all the time and say there are outside groups putting pressure on people to behave in certain ways, or to vote in certain ways in terms of this important issue. I have told them, all day and each and every day, ultimately how we handle judges in these judicial nominees is determined, as set out in the Constitution, by the 100 Senators who are here today. That is what we are working with and discussions are ongoing.

Having not heard the specifics of the proposal, the Democratic leader and I will continue conversations on the proposal that he has put forth. But I do want to draw back and say that the more and more I listen to all the recent discussions about the President's judicial nominees, the more disturbed I become and the more upset I have become. Indeed, as I think about it now, it angers me to think about it, much of it, because quite frankly a real injustice, a real injustice is being done to our Nation's system of justice.

The reputation and the records of some of America's finest jurists, seven of them we talked about in the last Congress and over the last several weeks—in fact, for months now in morning business we have talked about how outstanding many of these jurists are—those reputations are being sullied and they are being smeared and we have talked among ourselves, not necessarily on the Senate floor but in private as we do on both sides of the aisle.

This has an impact on individuals, on their lives. Yes, their careers, but their lives, their personal lives, their lives with family members. And it is inexcusable, I believe.

It is time, in fact, I think it is long past time, for the majority of this Senate to come to their defense and to be able to express that on the floor of the Senate. I believe it betrays the great heritage of this country to drag a person's good name through the mud using the media and the coverage of that, and then deny them the right to be defended on the floor of the Senate and voted on on the floor of the Senate.

We look at the individuals. I use the word "smeared" because I believe that is the level that much of the discussion has risen to in this body. It disturbs me. It is time for us to address this, and that is why, once we finish the highway bill, we have to work together and address this much larger issue, larger than much of the legislation that is brought to this floor in the course of our daily operations. This betrayal of the country's heritage is not the way we are supposed to do things in this body, in the Senate. It is not the way we are supposed to do things in America. It is not the idea of fairness—I am going to use that word, "fairness"—that I was accustomed to before coming to this body in the Senate.

It is not the level of fairness that you expect in a doctor-patient relationship, and thus America doesn't understand it, why we cannot bring somebody to the floor and vote on them—fair vote, up or down. It is our responsibility.

We hear again and again about minority rights. The Constitution was written to ensure the rights of the minority. We respect that. Both sides of the aisle respect that. It is much of the tradition of this body. But the Constitution was written—I guess it was neither written, nor has it operated in 214 years, in a manner that denies the majority of people in this body the right to hold a vote, yes or no, confirm or reject—confirm or deny—up or down—on a President's most important nominations. These are the most important nominations of a President of the United States. These are the nominations to our Nation's highest judicial offices.

Yes, justice must be independent. Yes, justice must be blind. But I cannot and I do not think we as a body can turn a blind eye to the continued attacks on innocent people who are willing to dedicate their lives. Let's have that debate on the floor of the Senate, bring them up in a regular order, have as much time as it justifies, listen to both sides, see if the smears and the accusations are real, and then have a vote. And however the vote falls, we are willing to accept that. Confirm them or reject them, we will accept the vote. That is the way this body expresses itself.

The Democratic leader and I will continue our discussions. Again, it is one of the great pleasures to be able to talk back and forth. But I, based on whether it is individual proposals or the larger discussion of what to do with the seven judicial nominees, or as we look ahead—what I propose we do is roughly the following: If Members of the minority want to make their case—I will tell you a lot of times we hear the case of extremist, out of the mainstream—if they want to make their case that the American Bar Association is wrong in the recommendations they have given, or in one instance in California 76 percent of the California voters are wrong, let them do so and we will do them nominee by nominee and have the courage to do so on the floor of the Senate, with plenty of time for debate—we can agree on how much time for debate on each one—and then have a vote.

America understands having a vote, having heard the case made by both sides. America does not understand how we cannot, how we can deny them that vote.

For our part, you will hear us defend the President's nominees. We will rebut and refute the attacks. Sometimes we believe, and I think America believes when they hear them, they are scurrilous attacks. We will do it point by point. Then, after we do that, we will have that vote. All 100 people in here will be able to vote yes or no, and then we will move to the next nominee in an orderly, systematic way, the ones who are on this Executive Calendar who have been considered by the Judiciary Committee, and then we will start bringing them out. I am confident, if we do that—I am very confident we will be able to judge those nominees on their merits—not because they are the President's nominees; not because people voted a certain way, even in the last Congress when things were very partisan, when a lot of it was in the heat of those elections, but in an environment of renewed civility, of being able to work together the way the Democratic leader and I are in our conversations every day—every day we sit down and discuss how to address this problem. I think that is the same civility colleagues on both sides of the aisle feel deep inside.

They do not want things to come to a head. We all know the partisanship, as the other distinguished Senator from Nevada said, Mr. ENZI described it—well, the partisanship started and other people 3 years ago didn't even think about filibusters. I don't think they thought about filibustering Supreme Court nominees or circuit court nominees. It didn't enter their head. Things have gotten so difficult and so challenging and so partisan and so locked down that it has been elevated up to where, on a routine basis—a routine basis, one out of three to one out of four of the circuit court nominees that came from the President were filibustered, were blocked, were denied an up-or-down vote.

I think everybody agrees that was excessive. I will not go into the past because I think we need to project to the future, but now is the time to get through that and to get over that. I think anything less than that at this point of allowing people to come to the floor, debate them fully, and have them voted on—and I think the American people will recognize—is a sham. I am not saying we should not come to an agreement of exactly how we should do it, but the American people understand at this juncture—they may not understand the filibuster, or rules of the Senate, and many have not gone back and read the Constitution, but what they do understand is full debate and a vote for people who have been nominated by the President of the United States to the highest courts in this country is fair and it is the right thing to do. Anything less than that is a sham. It involves hypocrisy. Hypocrisy must, in this Senate, come to an end.

If it comes to an end—on both sides in terms of the hypocrisy—if it comes to an end, we have a great year and a half to address immigration, to address energy, to address the health care issues that mean so much to me with 40 million people uninsured out there; we have been able to do class action, bankruptcy and the fifth fastest budget on time and the supplemental supporting our troops overseas and we are working on asbestos in committee and we are making great progress. It is time to move beyond this.

The hypocrisy must and will end. Each nominee is entitled to and must receive a full and just consideration of his or her candidacy and then a fair up-or-down vote.

Again, I was not in the Senate, and I did not realize the Democrat leader would make the specific offer. We have talked about much of what he said. I came over as soon as he began to talk, and I appreciate his offer for Senate debate and votes on some of the President's judicial nominees, but say once again that it is that principle of an up-or-down vote that is going to govern this side of the aisle. I believe it is what the American people expect.

With that, I am happy to turn back to the Democratic leader. Again, I look forward to our further discussions on addressing the issue that both he and I understand have to be addressed right now so we can move forward and address the many other issues. Doing that in a mutually acceptable way earns the respect of the American people and this great institution we serve.

The PRESIDING OFFICER. The minority leader.

Mr. REID. I, frankly, wish I could spend more time on the most important highway bill. I was chairman of the full committee on two separate occasions, and I am interested in the jurisdiction of the highway bill. I am sorry my attention is diverted from all we are doing on judges.

Let me say this to my distinguished counterpart, the Republican leader, the senior Senator from the State of Tennessee, I have said in the Senate on a number of occasions, I cannot justify what went on during the 8 years Clinton was President. I am not here to go into a dissertation of what happened the last 4 years during the Bush years.

But I say this: We never got into any problem with filibusters during the Clinton years because these people never got any kind of attention. They were buried in the committee. I hope the American public understand that 69 people were nominated by a President of the United States, nominations came to the Hill and were lost. Some of them waited years and years, almost 5 years. We are not here to debate every 1 of the 10. We have narrowed it down to a fairly small number.

We have to go forward. I don't know if the distinguished Republican leader and I can come up with a formula that satisfies our two caucuses. We realize the time is of the essence. Not only has the country had enough of the judicial problem we call the nuclear option, but the Senator from Tennessee and the Senator from Nevada have had enough. We have to move on. We have work we have to do in this Senate. The Republican leader has mentioned the things we have been able to accomplish so far. It hasn't been easy what we have been able to do but we put the record of our accomplishments this quarter about as far as one could go in saying we have done a pretty good job.

We have a lot of other things to do. He has mentioned a few things. But whether or not we can get things done in this Senate means we have to move beyond this problem.

Some have said that the Senate will stop. The Senate is not going to stop. It is a body that has lots and lots of rules and procedures and things are going to slow down. It will make it very hard to get things done.

We are now approaching June. After we finish 2 more weeks of work, we have 7 weeks remaining until the August recess—7 weeks to do all the things we need to do. Then we come back, and it is time to finish our appropriations bills. We have so, so much to do.

This is not to make me look good or the Senator from Tennessee look good. We have the people's business to do. We are chosen, as indicated by the vision of our Founding Fathers, to represent States. The State of Nevada has about 2.5 million people. The State of New York has 19 million. The State of California has 35 million. In the little State of Nevada, I have as much power as Senators from heavily populated states.

I hope that Senator FRIST and Senator REID can work a way out of this. I don't know if we can. We have met on this. Our conversations, I am sorry to say, are completely filled with discussion of this. We have talked about every possible avenue we think is a way to get my caucus and his caucus out of this.

I have come to one conclusion: If we work out a deal, there are not going to be many happy people around here. We will have to work something out that is a good compromise. As I have said in the Senate before, what does that mean? Both sides are unhappy.

I hope we do not have to come here and I have to look to six Republicans to stop a change of the Senate as we have known it. I hope we do not get to that point.

I have said, with the majority leader off the floor and I say it when he is in the Senate right here, I have the greatest respect and admiration for this man.

I have said it in my private conversations with others, I have said it in the Senate again today. He chose public service for the right reason. Senator FRIST is an accomplished surgeon, in a specialty, transplant surgeon. He is a man of means. He does not have to come here. He did it because he wanted public service. I have admiration for him. I wish we could move past this and move on with the business at hand.

I, again, say I cannot justify what went on during the Clinton years. It was bad. As the distinguished Senator mentioned, people's lives were disrupted and changed. They quit jobs and then they had no job. They waited in limbo for years. It affected people's lives. He and I have discussed how it affected individual human beings to their detriment.

I know for the people we are talking about, the Republicans—I am sorry, the people nominated—I don't know if they are Republicans; I assume they are—by President Bush, this has had an adverse effect on some of their lives, not all of them but some of them. So we have to move on. When we move on, we have to have the Senate we have always known.

We need the partisanship to continue. There is nothing wrong with partisanship. We are the envy of the rest of the world because of our two-party system. We are not like the parliamentary system in Great Britain where they have three parties, and Blair, with his party, barely got a majority. We are not like India or Great Britain.

Mr. President, what a wonderful country this is. President Bush was elected with fewer votes than the person he beat. His case was decided in the Supreme Court of the United States. I did not like the decision they made, but I felt like the rest of Americans—it was all over with. There was not a car burned, no fire started. There were no demonstrations. He became our President the minute that decision was made.

But the fact that we are partisans in protecting this great two-party system we have does not mean we should not work together on issues for this country. We need to do that. I hope we can do that. As the distinguished majority leader said, we are coming down to where the rubber hits the road. I would think next week there will be a decision made on this one way or the other. I hope it is something that is good for the American people. I am going to do my level best to work with my 44 Senators to see that is the case. I know he will work with his 54 Senators to see that is the case. And history will determine how the Senator from Nevada and the Senator from Tennessee fared on this issue, whether we were able to come through on an issue of tremendous importance, because the microscope is on the Senate of the United States as we speak.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I know we are on the highway bill. Senator BYRD is about to speak. So I think at least from my standpoint we will continue our discussions. As you can see, we both feel passionately about this issue, understanding it is our responsibility as leaders to lead on an issue that affects this country in a very dramatic way. It affects the future of this institution in a dramatic way.

Just to clarify, I believe we both agreed that we are going to all keep working together to address this, but we do need to bring some sort of closure to this. Therefore, after the highway bill, at the appropriate time, we will spend—it is going to probably take a week, or I don't know exactly what it is going to take, but next week—and I would hope we would engage in regular order and that we have people on the Executive Calendar and we can do what we have always done, bring them up. And as to which one, and how we go about it, would be in discussion.

But you can tell from my remarks, I believe what the American people expect is we will have full debate and expect an up-or-down vote on those, go through the normal course of business. People will be able to judge. And I hope and pray people will be able to express themselves through a vote on the floor here in the Senate.

Thank you.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be permitted to address a question to the distinguished minority leader without losing my right to the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask my minority leader, what was his proposition that he recommended?

Mr. REID. This was only a minor issue. What we have done, I say to my distinguished friend through the Chair, and my former leader, is that we have three judges, one for the DC Court of Appeals and two for Michigan, probably three for Michigan, who we said we have no objection—they are all circuit court judges—to move forward on. What Senator FRIST has said in reply is that he wants to have all the judge issues resolved before we move to any of these circuit court judges. That is what he said and that is what I said.

Mr. BYRD. Mr. President, may I address a question to the distinguished Republican leader without losing my right to the floor?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. Leader, what is wrong with that? What is wrong with the proposition that the minority leader has suggested?

Mr. FRIST. Mr. President, through the Chair to the distinguished Senator from West Virginia, we will continue the discussion. I would prefer to, as leader, take the Executive Calendar and take the people on the Executive Calendar, who have gone through the Judiciary Committee, who have been debated—it is the way we have always done business or should do business—go through committee and have them voted on. If they are voted on, they come to the calendar. At that point in time, you would look at that list, and you would bring them to the floor, and you would have the debate, and you would vote. That is what I would much prefer.

The specifics, just like you asked, I have heard, and we will consider that. But why not take Priscilla Owen for the Fifth Circuit, who is on this calendar, who has waited 4 years, rather than other judges, if we are going to be addressing judges? Or Janice Rogers Brown, who is a sharecropper's daughter, who is at the Supreme Court of California, with 76 percent approval, who is on the Executive Calendar? All she is waiting for—all she is waiting for—is a vote. Why can't we address Janice Rogers Brown?

William Pryor—we had a recess appointment; he has done an outstanding job; I was just talking to our distinguished Senators from Alabama—was marked out of the Judiciary Committee today.

So what I would like to do—again, I am not going to rule out anything. And I understand the Michigan judges in this Congress may be viewed a little differently than last Congress, and I appreciate that. I think once we can discuss how we are going to deal with those on the Executive Calendar—bring them to the floor—that we will be able to move very quickly on all of these. I am hopeful.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President. I have listened to this discussion with considerable dismay. I hope that both leaders will not leave the floor.

I cannot understand why we can't proceed a little at a time. If we are seeking to——

Mr. REID. Mr. President, may I respond to my distinguished friend?

Mr. BYRD. Yes. May I retain my right to the floor?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, the majority leader and I have had, as I have indicated, many conversations. I think we should proceed one by one. The distinguished majority leader wants to resolve this issue once and for all. So I accept him at what he wants to do. I am going to work with him over the next several days—hopefully, it doesn't take that long—to see if we can resolve this in some manner. If not, we both agreed that this matter is going to end sometime next week anyway. We would hope that in the meantime we can resolve this. We are on the highway bill. We have a lot of work to do on that. In the interim, I would hope that we can work something out. If we can't, next week we will have a showdown.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I would like to avert a showdown, if we can do it. Why do we have to have a showdown?

Mr. REID. Senator BYRD, if I could be rude and interrupt, through the Chair, without the Senator losing his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Senator BYRD, I feel this very way, very strongly. I say, respectfully, to a man who is the dean of the Senate today, has been in the Senate almost 50 years, who I have the widest respect for, we are not going to resolve this issue right now. We are trying to do that. We are going to have some private conversations. What I am saying to my distinguished leader, give us a little bit of time.

Mr. BYRD. Well, Mr. President, I have no quarrel with giving the Senators time. But I hope we will attempt, in every way possible, to avoid that showdown the distinguished minority leader has referred to.

This matter—

Mr. FRIST. Mr. President, let me just interrupt. The majority leader did not say anything about a showdown.

Mr. BYRD. Well, Mr. President, I know of nothing in my 47 years in this body, in my 53 years in this Congress, that has pained me more than this issue. I am pained, pained by the political partisanship. What this country needs is not partisanship but statesmanship. I have great faith in the Senate. I have great faith in the two leaders. The minority leader has made a suggestion. Why don't we proceed with it?

I am sorrowful we have come to the point where we seemingly forget the American people. We talk about the feelings of those nominees who have not been given an up-or-down vote. I am sorry about their feelings. But Senators have a right to speak, have a right to object.

And the distinguished Republican leader talks about the need for an up-or-down vote, an up-or-down vote, an up-or-down vote. I have heard the President say something about that.

Mr. President, here is my guide, the Constitution of the United States. What does it say? Does it say that each nominee shall have an up-or-down vote? Does it say that? I ask the Senator from Tennessee, I ask any Senator to respond to that question. Does this Constitution accord to each nominee an up-or-down vote on the Senate floor?

Mr. FRIST. Mr. President, I would be happy to respond to the question that has been directed to me.

Mr. BYRD. I ask unanimous consent that I may yield without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Tennessee is recognized.

Mr. FRIST. To the question, does the Constitution say that every nominee of the President deserves an up-or-down vote, the answer is, no, the language is not there. Up-or-down vote, that is the language we use to signify that when the President of the United States sends a nominee to the highest court in the land, which is his or her responsibility, which is in the Constitution, they send it to this body for advice and consent. It is common sense to me, it is fairness to me that when they come over to give advice and consent, we go through the Judiciary Committee. If they make it out of the Judiciary Committee, the way we give advice and consent on this floor is a vote. That is what we are elected to do. Or vote no. I don't mean you have to vote yes on them, but advice and consent.

To the American people who are listening now, when they elect us here, what is fair, what is our responsibility, what is our duty is to vote. That is how we give voice. You can't cut these nominees in half; you can't reshape them; you can't amend them; you can't send them to conference—all of those things. That is why I am a tremendous advocate for the filibuster for legislative matters. But when you have a nominee that comes over, all you can do is shine the light. You examine them. You debate it, unlimited debate—unlimited debate—and then to give advice and consent, which is in that Constitution, the advice and consent is right there. How do you do it? Vote yes, vote no. Confirm, reject. We accept it. One hundred people have spoken, and then we move on to the next nominee.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, this says that he, the President, shall have the power to nominate and, by and with the consent of the United States Senate, shall appoint. To give consent, we may vote. But to deny consent doesn't require a vote. It does not require a vote and the record shows that. The record shows that Republicans and Democrats have, from time to time, the leadership has denied a vote to a nominee simply by bottling up that nominee in the committee. That denies the nominee a vote. The Senate speaks, as it were, and refuses to give its consent by just saying nothing; thus, keeping those nominees in the committee. That has been done from time immemorial and more recently in increasing measure.

Many nominees under the Clinton administration were not given an up-or-down vote. They were sent up here by the President of the United States. They were not given an up-or-down vote. They were kept in committee.

Mr. FRIST. Will the Senator yield for a question?

Mr. BYRD. Let me finish. I will be happy to yield. They were not given an up-or-down vote. So the Senate did not give its consent. That is all right. That is within the Constitution. The Senate did not give its consent. So what is the difference, if the Senate, through its committee system, decides not to give a presidential nominee an up-or-down vote in the committee, then? The Senate may decide not to indicate its confirmation by an up-or-down vote, just simply be silent. It has not confirmed, has it? It has not given its consent, has it? So what is the difference?

If a nominee is not given confirmation by a committee, what is the difference? You are not giving consent there. If you are not given an up-or-down vote on the committee, what is the difference? I am unable to understand the difference.

Let's do what the Constitution says. Let's do what the Constitution says. When we talk about what these nominees deserve, what do the American people deserve? That should matter. What do the American people deserve? They deserve to move on. Look at the problems that confront this country.

Mr. FRIST addressed the Chair.

Mr. BYRD. Mr. President, if the Senator wishes me to yield, I would be glad to. I have the floor.

Mr. FRIST. Yes, sir.

Mr. BYRD. I ask unanimous consent that I may yield to the distinguished majority leader for a statement without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, through the Chair to the distinguished Senator from West Virginia, why does Priscilla Owen—through advice and consent, who has gone through Judiciary Committee—not deserve the fairness—yes, the fairness—of an up-or-down vote, where every Senator can speak for or against on the floor of the Senate? Why does Priscilla Owen not deserve—she has waited 4 years—an up-or-down vote? How can you explain to the American people at this juncture, after what I would call an unprecedented number of filibusters in the last Congress, that Priscilla Owen does not deserve a vote? It is our responsibility to give advice and consent. How does she not deserve a vote in the Senate next week or the following week?

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, what does the Constitution say? By and with the consent, the President shall have the power, and by and with the consent of the United States Senate, shall appoint. Now, we can wrangle until the crack of doom about why so and so and so and so were not given an up-or-down vote in the Senate. One could ask that question ad infinitum about those many nominees that were sent to the Senate by President Clinton. They never got up-or-down votes. I didn't take the floor and urge that they deserved this or that.

The Senate should be guided by this Constitution. If it elects not to confirm by simply withholding its voice, it can do so. I commend both leaders for their efforts. But I am telling you, the American people deserve something. That is what we should think about. The American people deserve action by the Senate to get on with the business of the people. Look at these high gas prices. We can talk about immigration policy. We can talk about access to health facilities. The American people deserve action on the part of the Senate, and here we are wrangling over a half-dozen nominations for judgeships. That is just a shirttail full of nominations, and they have been sent to the Senate already. In the first administration, if the Senate saw fit not to give its confirmation to them, why should the President send the same nominations back up to the Senate? There are plenty of people in this country who are able—many lawyers and judges who are able. There are plenty of people the President could nominate that would not have a problem getting confirmation in the Senate. Why do we have to send the same ones back here? That is up to the President. If he wants to send the same ones, he can.

I am saddened by this threat to use the so-called nuclear option. The distinguished majority leader prefers to call it the "constitutional option."

Mr. INHOFE. Will the Senator yield for a point of order?

Mr. BYRD. Not yet. I have not said much on this question, but I want to say a few things today. The Republican leader refers to it as the "constitutional option." I refer to it as "constitutional folly." We talk about freedom of speech in the Senate. Roots run deep with respect to freedom of speech. When the distinguished Republican leader first became leader, and even before he became leader, he visited my office and we had a good conversation. I believe he asked my thoughts on whether he might be a good leader of the Senate. I said give the Senate the opportunity to debate and to amend. That is what we are talking about here—the right to amend, the right to debate. Yet they are talking about the nuclear option.

Don't kill freedom of speech in the Senate. That great compromise that was entered into on July 16, 1787, is why we are here today. If it hadn't been for that compromise, the Senator who sits in the chair would not be sitting there. The distinguished Democratic leader would not be the leader in this body. There would be no Senate, and there probably would not be a Republic. The great compromise said there shall be two Houses, and the membership number of one shall be determined on the basis of population; the other will be a forum of the States in which each State is equal to every other State and each Senator is equal to every other Senator.

We talk a lot about tradition. I say to my good friend—and he is my friend—the distinguished Senator from Tennessee. I have heard a good many Senators on the floor talking about tradition. Well, tradition in the Senate means freedom of debate going back to the beginning of this Republic; and the Articles of Confederation, the first Constitution of the United States—going back to the Articles of Confederation, back to the House of Commons, the people of England who were in this country, especially those who decided on this Constitution, were British subjects.

So the roots of freedom of speech are deep. They go back to 1689, to the time when the English offered to William III, of Orange, and Mary the opportunity to be joint sovereigns. The proposition was that there must be freedom of speech in the Senate. Those two sovereigns—that was one of the items that was to be agreed to, freedom of speech in the House of Commons. That was on, I believe, February 13, 1689. On December 16 of that year, a statute was passed incorporating those rights into a statute. That was the Bill of Rights of our English forebears. As I say, that common thread of freedom of speech runs deep, deep in the House of Commons, and we ought to honor it here.

We are talking about cutting off the rights of Senators and about what the nominees deserve. What do the American people deserve? Well, let's adhere to tradition. There wasn't any limitation on speech until 1917 in the Senate. First, they had the previous question. Aaron Burr said in 1805, when he made his departing speech from the Senate—I am just hoping I might have the attention of Senators. I have not had much to say on this question, although it has kept me awake many nights. I have spent sleepless hours worrying about this thing of killing debate, freedom of speech in the Senate. Who wishes, Mr. Leader, to have that kind of a legacy to confront him—to help to kill freedom of speech in the Senate? You don't want that legacy. I don't want to see you have that legacy—freedom of speech in the Senate killed.

Aaron Burr urged the Senate to do away with the previous question. They still have the previous question in the House of Representatives and in the House of Commons in England. The previous question had been on the books for a few years, but it hadn't been used, so Aaron Burr, in 1805, urged the Senate to do away with the previous question by which they could shut off debate. In 1806, in that first revision of the Senate rules, it was left out. No more could a Senator move the previous question in this body.

That was the end of it until 1917. Then, when President Wilson sought to arm merchant ships, there was a filibuster by a few Senators. Thank God. I came over here from the House like a lot of Senators have. Some want to make the Senate another House of Representatives.

The Founding Fathers did not want to do that. But when I came to the House, I did not come over here chewing at the bit to change the Senate rules and make this a second House of Representatives, only smaller. I said thank God for the U.S. Senate many times when I was in that other body. Thank God for the U.S. Senate.

Why did I do that? Because over here, a man or woman may stand on his or her feet so long as their lungs, their brass lungs, will carry their voice, and they can object.

And may I say to the distinguished majority leader, he made mention of the late Senator Smith from Maine. I was here when she was here. What a grand woman that one, a great Senator, Margaret Chase Smith. I wish she were here today, Margaret Chase Smith. I wish those Senators of that day were here. They would not stand still for a minute to throttling freedom of speech in the U.S. Senate.

May I say to the distinguished Senator from Tennessee, please think about this. Think about this. Don't leave this as your legacy. No, try to find a way around this freedom of speech in the United States Senate. Let's don't throttle it. We have come to a time, we say we are going to try to work this out. This ought not be all that difficult to work out. As I said to the President of the United States in the presence of the distinguished Senator from Tennessee: Mr. President, tell your leadership up there not to push this, not to push this on the American people. It is their freedom. The day may come when—and it has been in the past—the day may come when the Senator from Tennessee wishes to stand and use that filibuster.

The filibuster is not a very popular thing out there in the country maybe.

Mr. FRIST. Mr. President, will the Senator yield?

Mr. BYRD. Not yet, if I may respectfully decline. I will shortly. The Senator from Tennessee may wish to stand on his feet and defend the beliefs, the opinions, the rights of the people of Tennessee from a majority. Over there is the majoritarian body, the House of Representatives. There is where majority rules. This is the forum of the States. It is a forum for minorities, where we can have dissent on the part of a minority. The majority is not always right. The majority has been wrong before. And so I say, let's protect the rights of the minority to filibuster, if I may use that word.

Yes, we have engaged in filibusters on judicial matters before. I was here when the President of the United States wanted to make Abe Fortas the Chief Justice. I voted on that. That was a filibuster.

Mr. FRIST. Mr. President, will the Senator yield just for a quick question?

Mr. BYRD. Mr. President, yes, I yield. I ask unanimous consent that I can yield under the rules for a question, without losing my right to the floor.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

Mr. FRIST. Mr. President, I have a very brief question. The Senator from West Virginia mentioned what he said in my presence and the presence of other Senators yesterday. We were at the White House talking about important issues—foreign affairs—but he, I think very appropriately, brought up this issue. The Senator from West Virginia did make the point that he just made about the importance of not leaving a legacy, as you described it. My legacy would be very different because of the principle of a fair, up-or-down vote, after freedom of speech, extended debate for as long as is reasonable in terms of getting all the issues out there. That is what the American people want. They want a nominee to come over, be fully debated, everything about them, counter, debate, back and forth, freedom of speech.

The Constitution, the wonderful history you just gave us——

Mr. BYRD. Praise God. Here it is, freedom of speech.

Mr. FRIST. Freedom of speech. Let's see it next week. Take someone who is on the Executive Calendar now. Take them to the floor, and let's have freedom of speech—somebody who has waited 4 years for the appropriate freedom of speech coming to the floor—and then do—this is my question. I do not want to go into a long speech because I know we all have other engagements we need to get to. Let me ask the question. Didn't you also say, as the other part of that statement to the President of the United States, being critical of the potential legacy I might leave in order to stand up for fairness and principle, didn't you also say you would give all of these nominees an up-or-down vote on the floor of the U.S. Senate?

Mr. BYRD. I am willing to give nominees, if there is a handful of them——

Mr. FRIST. An up-or-down vote on the floor of the U.S. Senate. Isn't that what you said yesterday to the President of the United States?

Mr. BYRD. I said I am willing to give them an up-or-down vote, just a handful.

Mr. FRIST. Thank you.

Mr. BYRD. I don't mean six of them, five of them, or four of them or three of them. I have never attacked the Senator's desire to be looked upon as a leader who was fair. I have never attacked him.

Mr. FRIST. Mr. President, another quick question, reserving the Senator's right to the floor. Yesterday, in the Senator's statement to the President of United States, it was to the seven nominees he delivered to us about whom the distinguished Senator from West Virginia said: I want them, or I am willing to have—I don't know if the Senator wants or is willing to have an up-or-down vote on the seven nominees—didn't the distinguished Senator from West Virginia tell the President of the United States and other Senators that at the same time he addressed my legacy?

Mr. BYRD. Just as the Senator has had a little difficulty in recalling whether I said this or that, I didn't have a written text before me when I spoke to the President. I don't remember if I said a few or all or three or four. I don't remember. I am willing to have some votes up or down.

Let's get around this Damocles sword that hangs over the Senate of the United States and act as reasonable men and women and vote some of them up or down. Whatever the leader decides is fine. Let's don't talk about this nuclear option. Let's don't bring that down at this time. I am not referring to the legacy of the distinguished Senator in a disparaging way. I am not doing that at all. The leader——

Mr. FRIST. One more brief question.

Mr. BYRD. Yes, but let me finish my sentence.

Mr. FRIST. Yes, through the Chair.

Mr. BYRD. The leader has it within his power to go forward on all seven or six or five or four, whatever it is, or he has the power to do it on less than that number. It seems to me that a reasonable compromise could be reached among Senators. I am interested in helping to effectuate such a compromise. If it means an up-or-down vote on one or two or three or four, whatever, it seems to me to be reasonable if we can give and take—that is what we are expected to do, give a little here, give a little there—and let's get out of this morass, this terrible threat to the freedom of speech in the Senate of Senators. That means freedom of speech on the part of my people back home who expect me to speak for them.

I hope the leader will think about that. My goodness, they have a shirt tail full of nominees, and we are going to wreck traditions? Talking about traditions, the tradition of the Senate is freedom of speech, freedom of debate, freedom to dissent.

Mr. President, this reminds me very much of a book in the Bible, a book that is titled Esther, the Book of Esther. I think it would be especially good for the distinguished majority leader to be reminded of the Book of Esther in the Bible.

I won't go into it all here, but Esther was a Jew. She had a cousin who sat at the king's gate every day. He was a Jew. His name was Mordecai. The word went out that a man who had been favored by the king, a man named Haman—H-A-M-A-N, I believe it is. Here is my Bible. This is the King James version of the Bible. I don't read any other version of the Bible except the King James version. I speak as a born-again Christian. We hear that thrown around a lot around here. I am a born-again Christian and have been since 1946.

My wife and I will soon be married, the Lord willing, in about 16 or 17 more days, 68 years. We were both put under the water in that old churchyard pool under the apple orchard in West Virginia, the old Missionary Baptist Church there. Both Erma and I went under the water. So I speak as a born-again Christian. You hear that term thrown around. I have never made a big whoop-de-do about being a born-again Christian, but I speak as a born-again Christian. Hear me all you evangelicals out there, hear me.

So here we were, we were baptized. But getting back to Esther, her cousin, Mordecai, sat at the king's gate day after day, and he refused to do homage to the king. The king was Ahasuerus, and his wife's name was Vashti. The king asked Vashti to come in before all the big shots in the kingdom, and she refused to come. So his advisers advised him to put her away and get a new queen. So they brought in all the beautiful virgins—perhaps not all of them, but they brought enough to dazzle the king's eyes—and they chose Hadassah, that is Esther, after whom the book is titled.

She was the king's new queen and she got word from Mordecai that word was going out from the king's top man named Haman that all the Jews were to be killed on a certain day. So Mordecai told her that, and she told the king and the king said: Who did this? Who said that?

So the finger was put upon Haman. Haman was the chief leader there of King Ahasuerus. Well, time went on and old Haman was advised by his people to build a gallows and hang on those gallows Mordecai, and on that same day to kill all the Jews throughout the 127 provinces of Persia.

I will go to the point of the story quickly. It ended with Haman, the man who built the gallows on which to hang Mordecai, himself being hanged on those gallows. It did not stop there. The ten sons of Haman were executed on those gallows, also.

I say this to the distinguished Senator, hear me, hear me. I am willing to give some up-and-down votes on some judges. That is a little thing. But it is a big thing if it is carried too far. Judges do not have to go before the people to be voted on like the Senator from Tennessee, the Senator from Nevada, and I have to do. They are appointed for life, and this is the only place where they can be scrutinized.

Well, in the case of Haman, he was executed on his own gallows. I say to the leader of the Republican Party in this Senate, the worm turns and there will come a day when the majority leader of the Senate will be on this side of the aisle. I have seen it happen back and forth time and again. It can happen again. That worm will turn.

I say to the leader, please do not "Hamanize," if I may coin a word, the Senate. Remember Haman. The leader and his party may someday be on the same gallows that we in the minority find ourselves on today, "Hamanized." Do not travel that path because the leader and his party may someday be executed on the same gallows. Think about it. Do not "Hamanize" the Senate of the United States.

I thank the distinguished leaders for listening. I hope my words will not have been in vain. I plead with them, please do not "Hamanize" the Senate of the United States. Take us out of that straitjacket. I know both leaders have been working but work some more. If I can help, let me in, count me in. I want to help.

Talking about the American people, they are the ones who are suffering from this delay. We could be doing something about matters that confront most people every day. I appeal to both leaders to let reason reign for a while. Let us reach a judgment to get on with the business of the Senate, but for Heavens' sake do not kill freedom of speech in the Senate.

Do I still have the floor, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I say, finally, my apologies to the Republican leader and to the minority leader, and thank them for listening. But how much land does a man need? How much land does a man need? Tolstoy wrote a great story. How much land does a man need?

The PRESIDING OFFICER. Senators should be advised that the Senator's hour of postcloture time has expired.

Mr. REID. I yield the Senator another hour.

Mr. BYRD. I thank the distinguished leader. I have the floor. Thank God for the Senate, I said, when I was in that body over there.

Finally, I say to my good leader, I will pose a rhetorical question. How much land does a man need? Leo Tolstoy wrote a story about a man named Pahom, I believe it was, but regardless of the man's name, this man had orchards and fields of grain and lands, but he had land hunger. He wanted more land. He kept getting more land, but he always wanted more land. The upshot of it was there appeared before him one day a stranger who offered him all the land that he could cover in a day, like that Tennessee land.

Mr. FRIST. Good land.

Mr. BYRD. He offered him all the land he could cover in a day for a thousand rubles.

He thought, this is my chance. So he took off on an early morning and he had never seen land so rich as this was. So he decided he would walk 3 miles. He left his servant there with the stranger. The 64-dollar catchword was, he had to be back at the starting point before the sun went down or he would lose his thousand rubles.

So he started out and he decided he would walk 3 miles. After he walked the 3 miles, it looked so good he thought he would walk 3 more miles, and he walked 3 more miles until he had covered 27 miles before he turned up on the second side. He covered the second side, and he sat down and he ate from the humble bag of provisions that his good wife had prepared for him, a little cheese and bread, and then he launched out on the third side of the square and he covered the third side. But as the long afternoon wore on, the land became less hilly, more rocky. So he struggled to reach the end, to reach the starting point before the sun went down because otherwise he would lose all. He would lose his thousand rubles, and he would lose the land that he covered.

Mr. President, I see the leader has left. He left me all alone here. What about this? Hey, where is my adversary? Where is my worthy adversary? Come on now. Where is the leader? Am I to be left here alone to be gored by the horns of those—where is my adversary? He is not to be found.

Anyhow, let me bring this long story to an end. In the end, the man was crawling on his hands and knees. The sun was going down. He looked ahead of him and he saw the starting point. He saw the dim face of the stranger waiting on him at the starting point, the stranger who had offered him all the land that he could cover in a day for a thousand rubles. He saw a grim smile on the face of that stranger. So, painfully, he inched himself forward little by little. His arms were bleeding from the rocks and the briers and the sticks that had gone through his skin. He reached the starting point just as the Sun went down, but he fell dead on the spot.

The stranger said: I promised him all the land he could cover. You see how much it is: 6 feet long and 2 feet wide. The stranger, called Death, said: I have kept my pledge.

So, Tolstoy asked, How much more do you want? How many nominees have we confirmed in this Senate? How many? May I ask the question without losing my right to the floor.

Mr. REID. It is 208.

Mr. BYRD. And how many have not been confirmed?

Mr. REID. Ten.

Mr. BYRD. And 7 of those are back before the Senate, out of 218? My, how much land does a man need? How many nominees do they want? Mr. President, just send up some new nominees; it is that simple.

Mr. President, I thank all Senators. I am ready to proceed on the amendment, if the Senator would like.

Mr. INHOFE. I thank the Senator from West Virginia.

I inquire of the Chair, are we still on the Byrd amendment?

The PRESIDING OFFICER. We are.

Mr. INHOFE. Let me just make one answer on the question you had, How much more land? I refer to Jabez, you are familiar, in the First Chronicles. They say: "Expand my territory." So we want more.

I make a point of order the pending Byrd amendment is not germane.

Mr. BYRD. Mr. President, I ask unanimous consent I may speak for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I made my case. I think it is a good case. I do recognize that some amendments that are offered are not germane. It was my hope that, by presenting the amendment, the Chair will rule it is germane. I will accept the ruling of the Chair. I will not attempt to override the Chair's ruling if he rules against my point, but I have made my case. I thank the distinguished Senator, and also I thank Senator BAUCUS, the manager on this side, for the consideration they have given. I will abide by the decision of the Chair.

The PRESIDING OFFICER. In the opinion of the Chair, the amendment is not germane. The point of order is well taken, and the amendment falls.

Mr. INHOFE. Mr. President, I don't know if we have people on the floor with amendments. I am hoping that we do. While all these subjects we are addressing are important, we are operating under some real time constraints. We have been on this bill now almost 2 weeks. We have worked on the bill for 3 years. This is probably the most significant piece of legislation we will be handling, and I encourage my colleagues to confine their interests to this bill and encourage as many of them as have amendments that they seriously want to be considered that they bring those amendments to the floor. We have the list now down to about 140 amendments. I know from past experience just a fraction of those will want to have serious consideration.

I make that request and I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, with all due respect to my friend from Oklahoma, several days ago Senator HATCH and I were told that we could speak on the floor at 2:15. So I ask unanimous consent that I can speak as in morning business, that I will be followed by Senator HATCH, and in deference to our friend from Oklahoma, who makes a very good point, that this time be charged postcloture.

Mr. INHOFE. Reserving the right to object, I inquire of my friend from Oregon how much time he is requesting as in morning business.

Mr. WYDEN. As I said or touched on in my earlier comment, Senator HATCH and I had talked several days ago with the cloakrooms on both sides. We do want to be sensitive to our colleague. His point is valid. I think both of us could finish our remarks in about 10 minutes each, or thereabouts.

Mr. INHOFE. That is 10 minutes for each of you?

Mr. WYDEN. Yes.

Mr. INHOFE. Mr. President, I will not object. Let me propound a unanimous consent request; that is, the combined remarks of the Senator from Oregon and the Senator from Utah not extend beyond 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oregon is recognized.

CITIZENS' HEALTH CARE WORKING GROUP

Mr. WYDEN. Mr. President, Senator HATCH and I are taking this time to prepare our colleagues in the Senate and the public for a health care revolution that is long overdue. Right now, just over the river in Arlington, a group of dedicated citizens from every corner of the country is preparing to do something that has never been done before, and that is to tell the American people the hard truths about where nearly $2 trillion in health care goes each year and then to walk the public through the tough choices that must be made to create a health care system that works for all Americans.

The Citizens' Health Care Working Group was created by a law that I wrote with Senator HATCH. That law is just now beginning to be implemented. Beginning this week, the American people will have a place to go to find out more about the working group. I encourage them to take the opportunity to go to this Web site and learn about a very fresh approach to delivering health care for all of our citizens.

For 60 years, our country has tried the same thing. Literally from Harry Truman in 1945, in the 81st Congress, through 1993 and 1994 in the Clinton administration, the effort was to write legislation in Washington, DC. Then the American people would find it hard to understand, various interest groups would attack the legislation and each other, and everything would die.

Under the law I have written with Senator HATCH, this approach is turned on its head. Instead of starting in Washington, DC, the Health Care That Works for All Americans law begins outside the beltway. I would say to the Senate, I think health care reform has been like getting dressed in the dark for both the public and for policymakers. The American people have never been told where the money is going, so how can they, in a thoughtful way, offer suggestions on what needs to be done to improve the system? Without this essential information from the American public, how then can policymakers write legislation that thoughtfully addresses the public's concerns and garners the public's support?

This time, beginning in the fall, that is going to change. In senior centers and libraries, at business organizations, online and offline, a Health Care Report to the American People will lay out the facts for the first time. The public is going to be told in understandable language the facts as to where the $1.8 trillion spent each year on health care goes. Then the American people will have the opportunity—again offline and online—to give their ideas about how to create a health care system that works for everyone. For the first time, public involvement will be followed by political accountability.

Under the law, once Americans learn where the health care dollar is going and they have the chance to talk about how they would rather spend those dollars, Congress must follow up. All the committees of jurisdiction have to hold hearings within 60 days of the recommendations coming from the citizens of our country.

Once there is a clear citizens' roadmap to health care that works for all Americans, it will be hard for Congress to reject the citizens' health care needs. Congress can continue to ignore what the citizens are calling for, but with genuine public momentum behind this effort, Congress will ignore the citizens at its peril.

For the first time, with this approach, there is the potential to create a true juggernaut to get a bill a President of either political party can sign. It is about time.

If Americans do not have their health, we all understand nothing else matters. Before I had the honor of coming to the Congress, I served as director of the Oregon Gray Panthers. I saw then how important it was that a fresh, innovative approach be taken in this area.

Two weeks ago, the chairman of Starbucks sat in my office. This is a company that gets it when it comes to health care. They are doing something that is hard for any company to do, providing health insurance not only to their full-time employees but to their part-time workers. They have done this because their founder, Howard Schultz, remembers what it was like to grow up in a family at risk because they did not have health care. He believes a secure, covered workforce contributes to his company's great business success. But Howard Schultz will tell us, just as other concerned business leaders will tell us, they may not be able to keep that commitment if costs continue to grow exponentially.

What I appreciate about what Starbucks is saying is they are not waiting for the bottom to fall out. Mr. Schultz has come to Washington to ask that the Congress and the executive branch partner with businesses that want to do the right thing and to cover their employees. He does not have all the answers, but he told me and Senator HATCH as part of this bipartisan law that makes a break with 60 years of failure in this area, he wants to try fresh approaches. Since millions of Americans come in contact with Starbucks each week, that is a pretty darned big contribution and an indication of what the business community is willing to do as we take a fresh look at coming up with health care that works for all Americans.

Frankly, what we have heard from Starbucks and others is exactly the kind of teamwork we wanted when we wrote the law. We are talking about a unique approach where the public has the facts, where the public gets a chance to weigh in, where Congress then has to act. This kind of approach, where you rewrite the book with respect to health care reform, is long overdue. There are going to be tough choices. Senator HATCH and I have acknowledged that at the very beginning. Certainly end-of-life issues present us with some very difficult, gut-wrenching concerns but establishing this kind of process is, in the view of myself and Senator HATCH, absolutely critical if our country is to move and to move quickly to deal with the health care challenge in the days ahead.

This health care wrecking ball is not going to hit in 2040 or 2050, colleagues. We are going to get clobbered on New Year's Day 2007 when 70 million baby boomers start retiring.

I see my friend Senator HATCH is here and Senator INHOFE has been so kind to give this time so I will wrap up. I encourage each Senator to urge their citizens at home to get involved with the Citizens' Health Care Working Group. They are going to be getting out into the communities across the country, making their information available online. This is their Web site. I encourage Senators to have folks at home ready to pitch in.

I thank my partner in this effort, Senator HATCH. If we look at the important health care legislation in the last few years, Senator HATCH's name is virtually always on it, whether it is programs for kids or how to address issues relating to pharmaceuticals. I could not have a better partner in the Senate as we try to break new ground in health care.

I yield now so Senator HATCH can have the time. I do it with my thanks.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. How much time remains?

The PRESIDING OFFICER. The Senator has just over 10 minutes.

Mr. HATCH. I will not take all that. I apologize to the managers of the bill for taking this time.

For over 60 years, Washington has tried to come up with a way to provide access to health insurance for all Americans. The premise of this bill is that instead of relying on Washington for answers, we rely on the people.

I compliment my colleague from Oregon for coming up with this idea. I am very happy to sign on and help him with it, the Health Care That Works For All Americans: Citizens' Health Care Working Group legislation. It was created in order to hear what people like and do not like about the current health care system.

It is our hope this working group of citizens will have at least one townhall meeting in every State in the Union, pick the brains of all Americans, and see if we can come up with answers to our health care problems. We provide a mechanism once they do for the Congress to at least consider it and see what we can do to go from there.

This is one of the biggest issues we all have to face.

Mr. HATCH. Mr. President, everywhere I go in Utah, people tell me how concerned they are about health care. They are worried about the lack of health insurance, skyrocketing premiums, and unaffordable prescription drugs. They are worried that if they are diagnosed with a serious disease like cancer, they will be wiped out financially, even if they have health insurance. They are worried about losing their family doctor because he or she can no longer afford medical liability premiums.

There is no question there are problems with America's health care delivery system. And we have even more problems when the Government tries to impose a one-size-fits-all program on country. That's why Senator WYDEN and I reached across the aisle to start a meaningful national discussion with every day people.

A few years ago, Senator WYDEN came to my office and told me he had a "terrific idea" and that he wanted me to be a part of it. I am glad he did. I came to learn that we both have a strong desire to get past the partisan bickering and forge a consensus that would address the problems plaguing our health care system. We both decided to take this problem right to the American people. We want those who deal with these issues day in and day out to have their say. And, hopefully, when the process is finished, we will have a national consensus on how best to improve our health care system.

The Health Care That Works For All Americans: Citizens Health Care Working Group legislation was created in order to hear what people like and don't like about the current health care system. It is our hope that there will be at least one town hall meeting in each State. The working group members will hear from the full range of people within our health care system—including health care consumers, health care providers, and others who are impacted by health care.

For nearly 60 years, Washington has tried to come up with a way to provide access to health insurance for all Americans. The premise of the Wyden-Hatch bill is that instead of relying on Washington for answers, the working group should hear from people outside of Washington regarding our health care system. The voices of all Americans, insured and uninsured, must be heard and that this issue needs to be addressed.

Today, 45 million Americans are uninsured and 8 million of the uninsured are children. We cannot allow these individuals to go without health care coverage. That is why I sponsored the CHIP legislation in 1997 to address this serious matter for children.

To me, the most appealing aspect of this Citizens Working Group is that it is unique from other previous commissions that were run by Washington insiders. This working group is composed of individuals from all over the country who have had experience with the current health care system. These are people who have had dealings with different facets of our health care system, and they want to make it better. They will talk to people from all over the country about what is working and what isn't working. And then they will put together recommendations, based on what they heard from their fellow citizens, for Congress and the administration to consider. Again, let me emphasize that the recommendations will come from the bottom-up, rather than being imposed from Washington. This is crucial because one of the first tasks of the working group is not only to get the views from the public but also to help them better understand our health care system. And once these recommendations are issued, Congress will hold hearings to address them.

This week, the Citizens' Health Care Working Group members are being briefed on various issues related to our health care system including an overview of the health care system, public health insurance programs such as Medicare, Medicaid, and the State Children's Health Insurance Program, the private health insurance market, the uninsured, and drivers of health care costs. In addition, the working group will be discussing the future field hearings, the required report to the American people, and begin consideration of approaches for conducting the community meeting.

Again, I am very hopeful about the innovative health care proposals that will be produced by the citizens' working group and want to encourage my colleagues to familiarize themselves with this important effort.

Mr. INHOFE. Mr. President, I thank the Senator from Oregon and the Senator from Utah. They have a great deal of passion on their subject and they have worked long hours. I appreciate the fact they recognize we are considering what many people consider to be the most significant bill this year.

Again, we will renew our request for Members to come down with their amendments. We have hotlined it twice. I want to make sure I say that enough times for Members. Senator JEFFORDS joins me in this. They have hotlined it on their side. If Members want their amendments considered, if Members want floor time, if Members want a vote, come down, bring it down. I am waiting for that to happen. We are open for business. We encourage Members to come.

Mr. JEFFORDS. Will the Senator yield?

Mr. INHOFE. Yes.

Mr. JEFFORDS. I agree with the Senator's statement and call upon Senators to be here so we can get this work done.

Mr. INHOFE. It is urgent. Let me state why it is urgent. We have a deadline. We are on not our fourth, fifth, but our sixth extension right now. When you operate on extensions, as we have said over and over again, you cannot get anything done, you cannot have any of the reforms, you cannot take care of donor States, you cannot have innovative methods of financing. That is all in the bill. Core safety provisions are in the bill. None of that will be a reality if we do not get this bill.

Why is it such a rush? This extension expires on the 31st of May. That is 19 days from now. We have to get this done. If we get this bill finished tonight, we will have time to have it over into conference and start working on it in conference in time to get the conference report back to the House and back to the Senate and to the President's desk prior to the expiration of this extension on May 31.

Mr. JEFFORDS. Mr. President, I emphasize we are running out of time. We cannot keep going this way without getting anything done. We have a responsibility to do so. I urge Members who have issues they want to raise, please come now.

Close to 50 years ago, Congress passed and President Dwight D. Eisenhower signed into law the Federal Aid Highway Act of 1956.

As Chairman INHOFE has pointed out a number of times during the debate on this bill, that legislation is one of the greatest public works projects in history and is credited with the creation of one of the biggest transportation systems in the world.

President Eisenhower was a thoughtful man, but his first realization of the value of good highways was noted in 1919, when he participated in the U.S. Army's first transcontinental motor convoy from Washington, DC, to San Francisco.

When Eisenhower and a friend heard about the convoy, they volunteered to go along as observers "partly for a lark and partly to learn," Eisenhower later recalled. On the way West, the convoy experienced all the woes known to motorists, and then some: an endless series of mechanical difficulties; vehicles stuck in the mud or sand; trucks and other equipment crashing through wooden bridges; roads as slippery as ice or dusty or the consistency of "gumbo"; extremes of weather, from desert heat to Rocky Mountain freezing; and, for the soldiers, worst of all, speeches and speeches and more speeches in every town along the way. On September 15, 1919, after 62 days on the road, the convoy reached San Francisco, where it was greeted with medals, a parade, and more speeches.

During World War II, General Eisenhower saw the advantages Germany enjoyed because of the autobahn network. He also noted the enhanced mobility of the Allies when they fought their way into Germany.

These experiences shaped Eisenhower's views on highways. "The old convoy," he said, "had started me thinking about good, two-lane highways, but Germany had made me see the wisdom of broader ribbons across the land."

Thankfully, these experiences helped guide President Eisenhower as he developed and pushed for the creation of the Federal-Aid Highway Act. In 1955, President Eisenhower said:

> Together, the united forces of our communication and transportation systems are dynamic elements in the very name we bear—United States.
>
> Without them, we would be a mere alliance of many separate parts.

We stand here now on this Senate floor, 50 years later, trying to improve and maintain the roads and highways created by the legislation inspired by President Eisenhower.

The bill before us makes great strides in State efforts to reduce traffic congestion and make our roads and bridges safer. It will help maintain and expand our mass transit systems, and it creates jobs and helps our economy. This bill will improve transportation in every State and have an impact on every American in one way or another.

Once again, I thank Chairman INHOFE and Senators BOND and BAUCUS for their efforts in moving this bill forward. We have made good progress this week, and I know the momentum will continue today, and hopefully it will start soon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator from Vermont for an excellent statement. That historic perspective is important for a number of reasons. The whole highway system under Eisenhower came as a result of a quest for national security. That was almost 50 years ago, and we have been funding highways the same way we did 50 years ago. We have not changed at all.

We have this excise tax. In the bill we are to pass—and hopefully it will get passed today and sent on to conference—we have new and innovative ways of financing. We allow the States to use their ways. We give them more latitude toward their methods of financing highways. We also appoint a national commission to study how we could do this in the future so we will not be standing up here 6 years from now talking about the same problems we have today.

If we operate on an extension, that is not going to happen. I made a list of all these things that are not going to happen if we have just another extension. We are on the sixth extension right now.

Let me, first of all, encourage anyone who is going to offer an amendment to come down and do so.

JUDICIAL NOMINATIONS

But while we are waiting, Mr. President, let me respond to one of the statements that was made about an hour ago—or was it 2 hours ago—when they were talking about a floor vote.

Regardless of how you interpret the Constitution on advice and consent, sometimes I say I am a very fortunate person in this body because I am one of the few Members of the Senate who is not a lawyer. So when I read the Constitution, I know what it says. It says we are supposed to advise and consent. It means a majority of us are going to have to determine whether a nominee who is presented by the President of the United States is one who is, in fact, acceptable.

What we have been asking for, as our leader articulated many times—and apparently the senior Senator from West Virginia agreed with the President yesterday—is just an up-or-down vote. That is all we want, an up-or-down vote.

Now, is this so outrageous? I will go back and quote some of my good friends on the Democrat side who are opposed to an up-or-down vote.

Senator BIDEN, on March 19, 1997, said:

> But I also respectfully suggest that everyone who is nominated ought to have a shot, to have a hearing and to have a shot to be heard on the floor and have a vote on the floor. . . .

Senator BOXER said, on May 14, 1997:

> It is not the role of the Senate to obstruct the process and prevent numbers of highly qualified nominees from even being given the opportunity for a vote on the Senate floor.

Senator DURBIN, who has been very outspoken, said, on September 28, 1998:

> Vote the person up or down. They are qualified or they are not.

Mrs. FEINSTEIN, one of our fine colleagues, the senior Senator from California, on September 16, 1999, said:

> A nominee is entitled to a vote. Vote them up; vote them down. . . .

Now, apparently, their interpretation of the Constitution is what mine is.

Senator KENNEDY, on January 28, 1998, said:

> But we should resolve these disagreements by voting on these nominees—yes or no.

I agree with Senator KENNEDY.

Senator KOHL, on August 21, 1999, said:

> These nominees, who have to put their lives on hold waiting for us to act, deserve an "up or down" vote.

Senator LEAHY, on October 22, 1997, said:

> I hope we might reach a point where we as a Senate will accept our responsibility—

That is us.

> and vote people up or vote them down.

Senator SCHUMER, on March 7, 2000, said:

> I also plead with my colleagues to move judges with alacrity—vote them up or down.

So I am saying that I agree with all of my good Democrat colleagues that we should give them an up-or-down vote, and I have no question but that the American people feel the same way. You see different polling data, but when they are asked the question, Should these people be entitled to a vote up or down? they overwhelmingly believe they should.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Mississippi.

Mr. LOTT. Mr. President, I actually came over to have a little discussion with the distinguished chairman of the full committee who has brought this legislation forth, Senator INHOFE. I thank him for the work he has been doing. We had an issue we have been discussing, and I think we have something identified to be helpful.

I came to talk about the highway bill, and I will do it to this extent: We need a bill. It is an overdue bill. It is important to our country. It is important to have infrastructure. It is important for job creation. It is important for economic development. And it is important for safety.

We ought to do this bill. I just cannot understand why the Senate still heaves away from getting this extremely popular, overdue, and highly necessary piece of legislation passed.

I urge my colleagues, if they have good amendments, let's do them. If we can't get it completed this afternoon, let's do it as soon as possible. It is critical for our country.

We are speaking on time on the highway bill, but actually other subjects have been introduced. I would like to comment on that.

Mr. INHOFE. Will the Senator yield?

Mr. LOTT. I am glad to yield.

Mr. INHOFE. Mr. President, we have been pleading with our colleagues to bring amendments down. Will the Senator, in the event an amendment comes to the floor, then yield for consideration of that amendment?

JUDICIAL NOMINATIONS

Mr. LOTT. I want this legislation so bad, I would even stop talking myself. That would be a major sacrifice, but yes, I would be glad to yield. But since the opportunity presents itself and I missed the opportunity to engage in the discussion an hour or so ago—not that it was needed—I have had very little to say on the floor of the Senate about the discussion about judges. There are a lot of different viewpoints. I am not going to refer to what others have said and I am not going to suggest I am a great constitutional scholar or that I am so steeped in all of the rules and traditions of the Senate. But I have studied this issue.

I have been in the Congress for now going on 33 years. I have read the Constitution over and over again, particularly on this subject, article II, section 2. I am somewhat familiar with the traditions and rules of the Senate. I am chairman of the Rules Committee. I have been in leadership roles. I must say that while we have had our disagreements and while I have seen us make mistakes and while I have seen injustices heaped on each other, on the people who are affected by issues we deal with, I don't believe I have ever seen anything as unfair and wrong as what I have seen happening to these circuit court nominees over the past 4 years. This has been going on for 4 years.

I was stunned when it started happening with Judge Charles Pickering of Mississippi and Justice Priscilla Owen of Texas. I thought maybe that was something aimed at me or maybe it was aimed at the Fifth Circuit Court of Appeals, or maybe it was a fit of anger about some of the nominees from President Clinton who didn't get out of the Judiciary Committee, but it would be a passing break from tradition. But no, this has continued right on through the 108th. We need to find a resolution that is fair to all concerned.

I wanted to correct a couple misimpressions, perpetuated primarily by the media. The proposal to put the tradition back in place that we don't filibuster Federal judicial nominees is not an end of the filibuster. Some of the media—accidentally, I am sure—suggested this is a debate over whether to have the filibuster. No, it is limited to the Federal judiciary. It won't affect our ability to continue to filibuster legislation or other executive branch nominations, although I have to confess, I think there should be some reasonable limits on that also. I am not a guy who gets so caught up in the institutional rights that I forget considering the rights of people and right and wrong. Does that have a place here in the Senate?

These good men and women and minorities have been maligned, mistreated, have had their lives disrupted, some of them for 4 years. Some of the best possible nominees such as Miguel Estrada said: Well, I have to go on with my life. And he withdrew.

There has been a misimpression given about how this would limit the filibuster. It would only apply to these judicial nominees.

The other thing is, Senator FRIST and the Republicans are considering changing the rules. Actually what we are considering doing is putting tradition back in place. The tradition has not been to filibuster Federal nominees. The tradition has not been to filibuster appellate court nominees. Not one time during the 6 years or so I served as leader did we have a filibuster. We are trying to go back to where we were. You can argue over this example or that example or we should retain that right. No, that has not been the right. That has not been the tradition. What has happened is wrong.

I saw somebody last night on one of the talk shows saying everything that happens in Washington is about something else. This lady suggested this whole debate is about the next Supreme Court nomination. Maybe that is true. Maybe there are a couple other things it is about, but in the meantime, innocent and qualified, good people are having their lives disrupted and smeared by this process.

I acknowledge this sort of thing has been going on ever since I have been in the Senate. Every time we have a filibuster or kill somebody or embarrass somebody in our process, whether it is Senator John Tower to be Secretary of Defense or Clarence Thomas to be on the Supreme Court, Judge Bork as a nominee, every time we seem to drop down another level. Sure, a lot of the Clinton nominees were held up in the Judiciary Committee. Maybe this is retaliation for that. What is going to be the next retaliation? How low can we go before we stop this tit for tat?

Now is the time to end it and go back toward greater comity between the parties and the people involved in these discussions. I haven't been sitting on the sideline saying: Let's impose this rule. Let's comply with the Constitution, which I think we should do. I want to make that perfectly clear. I have one goal and only one goal, ultimately, in this area, and that is to stop filibusters of these Federal judges. I don't particularly care how we get there, but that is the right thing to do. I am determined to get there.

As chairman of the Rules Committee, we had hearings on and moved legislation 2 years ago, sponsored by Senator FRIST and Senator Zell Miller, to try to come to a fair conclusion about how these judges would be handled. It was a process that said the first vote on cloture would require 60 votes, then 57, then 55, but ultimately get to an up-or-down vote, a majority, but an elongated process to make sure everything that needed to be said could be said. It could be fully scrubbed, and at some point you get to conclusion. A filibuster, the way it is being used, is guaranteeing we never get to conclusion. It goes on and on from one Congress to the next.

We reported out a bill. That apparently wasn't acceptable to the minority, the Democrats. So I started looking for other solutions. I did talk to Senator BEN NELSON and others: Is there some way we can address some of these concerns; is there some way we can guarantee that these nominees are not unfairly held permanently in the Judiciary Committee?

We came up with a process that said after 90 days, if the appropriate blue slips have been returned by the Senators from the State of the nominee affected, then they would come to the floor. They could not be held in committee indefinitely, but if there was a problem that came up and they needed an additional 90 days, agreed to by the chairman and ranking member, then it could be extended. Ultimately, they would have to come out of committee and be considered by the full Senate. That would address one of the concerns that has been pointed out by Senator REID and Senator LEAHY and other Democrats. There is some merit to what they are saying. Let's fix that.

The second problem was freedom of speech, the great tradition in the Senate of endless debate. Give me a break. At any rate, to say the majority leader could not even file cloture for at least 24 hours after a nomination was called up—it could be longer—and then he could file cloture, and after 2 days we would eventually get to an up-or-down vote, but have a week for debate. By the way, Senator FRIST subsequently suggested that be moved even further. Every Senator would get an hour if he wanted it, full debate. I hate the thought of that, too, having to listen to 99 other speakers on a judge. Think about the sacrifice the majority leader has to make. When the majority leader has to give 100 hours to anything, how many judges could do you that on? It would be another impediment. But we would have full debate and then a vote. That was the key. Fairness on the committee, full debate on the floor, but ultimately a vote. That was rejected.

A lot of different ideas have been explored. A lot of Senators would like to find a way to stop the way we have been doing business but doing it where everybody could have some degree of comfort. I think time is running out. I think we have to make a decision on this and move on. Some people would say: Oh, my goodness, the Senate will be stopped, slowed down, with different agendas offered. How will we get anything done? The last time I checked, we have done four bills this year. We are not exactly burning up the woods. How do you slow down from almost a dead stop? So there is a little bit of a temerity—I will not use names to describe what the Senate is doing.

I think we need to work together. We have done it many times across the aisle. We have worked with Senator BAUCUS of Montana on issue after issue. Senator GRASSLEY won't have it any other way, to his credit. We ought to find more ways to do it. We ought to find a way to do it on Social Security. We have done it before. It took courage. We have done it on trade and we are going to do it again. It will take courage, sacrifice, and we are going to have to work to find a solution. We can do that here.

But I guess the thing that really gets me the most is when we put our description of tradition and the great institution ahead of human beings. When we have this debate, I see faces, people; I see Janice Rogers Brown, from California, who has an incredible story to tell. She is being maligned. Is she a conservative African-American woman? Yes. Is that disqualifying? It should not be. You may not agree with her opinion of Franklin Roosevelt, but isn't she entitled to an opinion? All the while, perhaps, she is ruling very fairly or even ruling against her personal beliefs, if that is what the court precedent calls for.

Mr. President, I don't necessarily mean this as critical of the institution or any one individual, but I think there is an awful lot of pontificating that has gone on too long here. Priscilla Owen, a supreme court justice in Texas, deserves a vote. She deserves to be confirmed. Somebody said she is too probusiness, she has a conservative viewpoint. Is that now disqualifying? I don't think so.

I have voted for judges I didn't agree with, perhaps on labor law. I point out over and over again that I voted to confirm Justice Ruth Bader Ginsburg. Certainly, she would not have been my pick, but she was qualified, experienced, and had proper decorum, and she was ethical. President Clinton won the election and so, based on that, I voted for her.

Surely, we can find a way to work this out. I think it has gone on long enough. I have tried not once, twice, but three times to find a way that we can get the right result, which is an up-or-down vote on these judges, and I have not been able to be successful yet. A lot of people have tried, and I think they deserve recognition. Those of us who have worked to try to find compromise have not been working against the interests of our leadership. We told them what we were trying to do. That is in one of the finer traditions of the Senate. But I cannot find a solution that I think is fair, other than to make it clear that these nominees deserve an up-or-down vote.

The Senate should vote. Some of them won't be confirmed, I predict. One or two of the seven—the magnificent seven—that have been renominated may not be confirmed. I would not be surprised to see that. I have voted for judges and against judges, but all of a sudden we don't want to do that.

Let the Senate do what it is supposed to do. Let's ante up and kick in. Let's vote and solve this issue, get it done, and let's move on and legislate for the best interests of our children and grandchildren.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I thank the Senator for his remarks. This bill is urgent. We have been, as I said, hotlining it. We have done it twice on our side. I am waiting for responses to see what kind of progress they are having on the other side of the aisle.

I want to get on record here so that Members can all be aware it appears we are down to about 10 amendments right now on this side of the aisle. I think it would be very wise to continue to talk about this because we will be getting to a point where we are going to have to draw this to a conclusion, and now it seems like it may be some workable number.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FILIBUSTER

Mr. INOUYE. Mr. President, on January 31, 1963, I gave my maiden speech in the Senate. That is over 40 years ago—42 years ago. At that moment, the Senate was embroiled in a very heated debate on civil rights. The question before the Senate was the filibuster because many of my colleagues, especially those who were designated as liberals, looked upon the filibuster as the major obstacle to the granting of civil rights to the oppressed minority of this Nation. On that day, I was given the right to the floor and I gave a short speech. I think it is quite relevant at this moment. If I may, these are the words of 31 January 1963:

> Mr. President, I fully understand the respected custom of this body which advises a new member to sit in his chair, to listen quietly and learn before he rises to speak to the Senate himself.
>
> There is wisdom in that custom, as there is in most customs which last through years of trial and experience. I would not willingly break that honored silence, but because this debate calls to question the place of the minority in a democratic political system, I feel I must say these few words in deep but passionate humility, for I am a member of a minority in a sense few other Senators have ever been.
>
> I understand the hopelessness that a man of unusual color or feature experiences in the face of constant human injustice.
>
> I understand the despair of a human heart crying for comfort to a world it cannot become a part of and to a family of man that has disinherited him.

For this reason, I have done and will continue to do all that one man can do to secure for these people the opportunity and the justice that they do not now have. But if any lesson of history is clear, it is that minorities change, new minorities take their place, and old minorities grow into the majority.

One can discern this course in our own history by observing the decisions of the Supreme Court, where the growth of the Nation's law so often takes the form of adopting as the opinion of the Court the dissenting view of the earlier decision.

From this fact, we discern the simple example of a vital democratic principle. I have heard so often in the past few weeks eloquent and good men plead for the chance to let the majority rule. That is, they say, the essence of democracy. I disagree, for to me it is equally clear that democracy does not necessarily result from majority rule but rather from the forged compromise of the majority with the minority.

The philosophy of the Constitution and the Bill of Rights is not simply to grant the majority the power to rule, but is also to set out limitation after limitation upon that power.

Freedom of speech, freedom of the press, freedom of religion: What are these but the recognition that at times when the majority of men would willingly destroy him, a dissenting man may have no friend but the law.

This power given to the minority is the most sophisticated and the most vital power bestowed by our Constitution.

In this day of the mass mind and the lonely crowd, the right to exercise this power and the courage to express it has become less and less apparent. One of the few places where this power remains a living force is in the United States Senate.

Let us face the decision before us directly. It is not free speech, for that has never been recognized as a legally unlimited right. It is not the Senate's inability to act at all, for I cannot believe that a majority truly determined in their course could fail eventually to approach their ends. It is instead the power of the minority to reflect a proportional share of their view upon the legislative result that is at stake in this debate.

To those who wish to alter radically the balance of power between a majority in the Senate and a minority, I say, you sow the wind, for minorities change and the time will surely come when you will feel the hot breath of a righteous majority at the back of your own neck. Only then perhaps you will realize what you have destroyed.

As Alexis de Tocqueville said about America in 1835: "A democracy can obtain truth only as the result of experience; and many nations may perish while they are awaiting the consequences of their errors."

The fight to destroy the power of the minority is made here, strangely enough, in the name of another minority. I share the desire of those Senators who wish to help the repressed people of our Nation, and in time, God willing, we shall effectively accomplish this task. But I say to these Senators, we cannot achieve these ends by destroying the very principle of minority protection that remains here in the Senate.

For as de Tocqueville also commented: "If ever the free institutions of America are destroyed, that event may be attributed to the omnipotence of the majority."

I thank the Chair.

Mr. REID. Mr. President, will the Senator yield for a question?

Mr. INOUYE. I will be happy to yield.

Mr. REID. That speech was given 41 or 42 years ago?

Mr. INOUYE. Forty-two years ago.

Mr. REID. I say to my distinguished friend, we have heard a lot of speeches in the last several months on this subject, but I have to say candidly that this is the best speech we have heard. This is outstanding, especially coming on the footsteps of the great Senator ROBERT BYRD who made a statement about the right to free speech.

As I look back at a very young Senator from a very small State taking on people who had been here a long time, going against a majority of his party, in a sense, certainly a lot, as a young Senator, shows why 20 years prior to giving this speech he was a hero on the battlefield for America and why he has been a hero on the battlefields of the Senate for all these many years.

Mr. INOUYE. Mr. President, I thank the Senator.

Mr. JEFFORDS. Mr. President, will the Senator yield?

Mr. INOUYE. Yes.

Mr. JEFFORDS. I echo the comments of my good friend. The Senator from Hawaii has given us an opportunity to listen to the goodness he has given us in many speeches. I thank the Senator for what he has done today.

Mr. INOUYE. The Senator from Vermont is very kind. I should point out, I was very proud of my speech, but the consequences are rather sad because my so-called liberal friends avoided me for a few weeks after that.

Mr. President, I yield the floor.

Mr. INHOFE. Mr. President, before I suggest the absence of a quorum, let me also echo my good friend. One of the real thrills I have had since I came from the other body was when Bob Dole was here with the Senator from Hawaii, and the two of them made such a spectacular image of everything that is good about this country and how good we feel. Every time I look at the Senator from Hawaii, I see a true American hero.

Mr. INOUYE. Mr. President, I thank the Senator from Oklahoma very much.

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURR). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 1011 are located in today's RECORD under "Statements on Introduced bills and Joint Resolutions.")

Mr. INHOFE. Mr. President, I renew our plea for Members to bring their amendments down. We are making progress in terms of shortening the list. I would like to announce on our side we have hotlined it twice and we are down to 11 amendments by 9 different authors, different Senators. I encourage those nine to come to the floor while we have ample time. It is my understanding that after a couple of hotlines on the other side of the aisle, they only have about six amendments. That being the case, we could actually move the bill, if we can get these people down and get them to offer their amendments.

Mr. JEFFORDS. That is correct. We have only six we know of.

Mr. INHOFE. We have made progress, anyway, looking at who is serious about their amendments. I hope any staff or Members watching now would be encouraged to bring their amendments down.

I yield the floor to the senior Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. DOLE. Mr. President, America has come a long way since the first State safety belt laws were passed two decades ago. I am speaking today not just as a proponent of reauthorizing the highway bill, but also to express my strong support for provisions in this bill designed to promote primary safety belt laws in the States. These laws help prevent fatalities and crippling, disabling injuries when auto accidents occur.

As many of you know, primary safety belt laws allow police officers to stop and issue citations to motorists they observe who are not buckled up. Secondary safety belt laws, on the other hand, require a motorist be pulled over for another offense before he or she can be issued a ticket for failing to wear a safety belt.

Today, 21 States, the District of Columbia, and Puerto Rico have primary belt laws and we know these laws are working. I am proud that in my home State of North Carolina—our home State, Mr. President—which enacted a seatbelt law in 1985, belt use rose to 86 percent in 2004.

Let me review a little history. It was in July 1984, during my first full year as Secretary of Transportation under President Reagan, that we issued rule 208, resulting in the installation of airbags in passenger vehicles and the enactment of safety belt laws across the country. Rule 208 was designed to save as many lives as possible as quickly as possible. It successfully resolved a 17-year dispute that spanned four administrations.

The rule recognized the role of the States in automotive safety. Not a single State at the time had passed a safety belt law. Usage was at only 13 percent, and airbags were virtually nonexistent. In fact, I remember having to search high and low to find an airbag-equipped car so I could put it on the White House lawn for President Reagan and the Cabinet to go out and examine.

There was very little consumer acceptance at the time. Many folks feared when they crossed the railroad tracks that the airbag would go off. Today, motorists regard automotive safety quite differently. Most of us get in a car and we barely notice that the vehicle has an airbag. And most of us innately fasten our safety belts.

Statistics prove we have made great progress increasing safety belt usage and saving lives on our Nation's roads since those first State safety belt laws were enacted.

Now, over 20 years later, we need to urge more States to take their laws to the next level by enacting primary safety belt laws. The National Highway Traffic Safety Administration estimates if all States enacted primary safety belt laws, more than 1,200 deaths and 17,000 injuries would be prevented annually.

I take this opportunity to thank the folks at NHTSA, and especially Administrator Dr. Jeffrey Runge, for their continued hard work and leadership to increase safety belt usage throughout our country. According to NHTSA estimates, in this year alone, 15,000 lives will be saved—15,000—by wearing safety belts. The economic costs associated with belt usage are significant as well. NHTSA estimates safety belt usage saves America $50 billion in medical care, lost productivity, and other injury-related costs. By contrast, fatalities and injuries resulting from not wearing a safety belt generate $26 billion in economic costs annually. These costs include higher taxes and higher health care and insurance costs.

The fact is safety belts reduce the risk of death in a severe crash by 50 percent. We must urge folks to use their safety belts. Increased usage rates and primary belt laws have a proven track record of doing just that.

With this legislation, States that chose to adopt primary safety belt laws would receive a one-time grant equal to 500 percent of the highway safety money they received in 2003. States that already have primary safety belt laws would receive 250 percent of the 2003 level in highway safety money. At the end of the bill's reauthorization in 2009, any leftover safety funds will be distributed to States that have enacted primary belt laws.

With this increased funding, States can spend more on highway safety improvements and make our roads even safer. NHTSA Administrator Runge best described the importance of safety belt usage in April of this year, when he told the Senate Commerce, Science and Transportation Committee:

> Unlike a number of complex issues facing the Nation today, we have at least one highly effective and simple remedy to combat highway deaths and fatalities. Wearing safety belts is the single most effective step individuals can take to save their lives. Buckling up is not a complex vaccine, doesn't have unwanted side effects, and doesn't cost any money. It is simple, it works, and it is lifesaving.

I could not agree more. After two successful decades of State-implemented belt laws, it is now time for this Nation to further improve safety on our Nation's roads. We have accomplished many things to advance automobile and road safety over the last 20 years, and now we must act on this opportunity to do even more.

I ask unanimous consent that NHTSA Administrator Runge's letter to me on this matter be printed in the RECORD, and I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF TRANSPORTATION, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION,
Washington, DC, May 11, 2005.

Hon. ELIZABETH DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I am writing to bring to your attention my strong support for the safety belt State incentive grants contained in S. 732, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 (SAFETEA).

The Bush Administration, along with the National SAFE KIDS Campaign, Mothers Against Drunk Driving, the Automotive Coalition for Traffic Safety, the National Safety Council, the American Insurance Association, Advocates for Highway and Auto Safety, the Automotive Occupant Restraints Council, the American College of Emergency Physicians, the Alliance of Automobile Manufacturers, and the National Automobile Dealers Association all support this provision. They support it because it will save more lives, and do it faster and cheaper than any other proposal the Senate will consider this Congress, and perhaps this decade. If all States adopted a primary enforcement safety belt law, 1,275 deaths and 17,000 serious injuries would be prevented every year. No other proposal in SAFETEA will do more to improve safety than this bipartisan proposal.

While deaths per vehicle mile traveled are at an all-time low, the carnage on our highways is still too high. In 2003, 42,463 people died and 2.9 million were injured due to motor vehicle crashes. The cost to our economy was over $230 billion.

With the number of vehicle miles traveled increasing each year, if we as a Nation are going to reduce the fatalities on our streets and highways, safety belt use must also increase. No vehicle mandate, no complex rulemaking, no public education campaign will save as many lives as a meaningful incentive to pass primary safety belt laws. Congress has the power to grant the incentives and that power will save lives.

I urge you to support the safety belt incentive grants in S. 732 and reject any amendments. Thank you for your consideration.

Sincerely yours,
JEFFREY W. RUNGE, M.D.

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, the SAFETEA bill in the Senate today is a good bill. I strongly support its passage.

I thank Senator INHOFE, Senator JEFFORDS, Senator BOND, and Senator BAUCUS for their good leadership and their good work, particularly on the Environment and Public Works title of this bill. The roadway safety and funding provisions they have crafted are vitally important.

Let me also thank Senators STEVENS, LOTT, INOUYE, and MCCAIN for their hard work on the Commerce Committee vehicle and behavioral safety title.

Finally, let me thank Senator ROCKEFELLER for his support as the lead cosponsor of the safety provisions I have authored that are part of this bill.

Staff on both the Commerce Committee and the EPW Committee also deserve praise and thanks for their hard work on this bill. In particular, I thank Ruth Van Mark, Chris Bertram, David Strickland, and James O'Keeffe and JC Sandberg for their willingness to work with my office on portions of the bill I wanted included. These are portions of the bill I will describe in a minute that have to do with highway safety, provisions that I believe truly will save lives. I thank them for their very good and diligent work.

I also thank Kevin King of my staff for his hard work on these safety provisions in the bill.

While certainly we would like to include more funding for highway and transit projects, I commend my colleagues for doing an excellent job in stretching the funding that is available as far as it can go.

The language Senators GRASSLEY and BAUCUS have drafted adding additional funding helps. I am a strong supporter of their efforts. We need the funding that the managers' package provides to improve the rate of return for donor States, such as my home State of Ohio, to get those levels up as high as possible.

Additionally, the managers' package contains the Commerce Committee title of the bill relating to safety programs. This title is comprehensive and deserves the full support of the Senate.

I will take a few minutes now to talk about the safety provisions I have asked to be included in the bill. First, I will say something about Senator LOTT's provisions on the Primary Safety Belt Incentive Grant Program.

I thank Senator LOTT. I congratulate him for including this provision, a provision that will clearly save lives. Senator LOTT came to the Senate floor earlier and spoke about the importance of this provision. I must say what Senator LOTT said is absolutely correct. This provision must be kept in the Senate bill. It must be kept through conference. Efforts to modify or remove primary safety belt incentive grants will undermine the national goal of reaching 90 percent safety belt usage. Encouraging States to aim low when it comes to saving lives makes no sense. Such efforts to change this language in the bill must be opposed.

Some States already have primary enforcement laws. Those laws are the single cheapest and most effective means for saving lives on our Nation's roads. Those States that have already enacted primary seatbelt laws have seen lives saved. Other States, such as my home State of Ohio, do not have primary seatbelt laws. These States would benefit tremendously in terms of lives saved and financial bonuses under Senator LOTT's program. The incentive program may be the only way to get some States to adopt primary laws.

In Ohio alone, it is estimated we could save nearly 100 lives per year if we added primary belt laws. If we maintain this provision, countless lives will, in fact, be saved. The highway experts, the people who study this issue, who understand it, tell us this is the simplest, cheapest, easiest way to save lives. It is the one thing we could do to save lives in this country the easiest way.

So I thank Senator LOTT and commend his efforts and urge my colleagues, if there is an amendment offered to take this provision out, that they oppose that amendment.

Let me say a few things about the provisions in the bill that I have been working on and I have asked to have included and that have, in fact, been included. First, Senator ROCKEFELLER is the lead cosponsor on our provision that we call Stars on Cars. While the name is kind of cute, its focus is quite serious.

Today, when you go to buy a new car, we all know there is a large label on that car, a large label on the window telling the price, the features, and other information about the vehicle. Most of the content on the sticker is actually mandated by the Federal Government. The sticker has to tell you whether the vehicle has a stereo, the car's mileage, how many miles per gallon, and so on. But one piece of vital information, amazingly, is not there, and that is the safety ratings. How safe is that car? That piece of information is not on the sticker.

Citizens have a right to know this information, and our provision would provide, for the first time, that information would be available right on that car, right in the showroom when you walk in to buy the car. Taxpayers have already paid to have the National Highway Traffic Safety Administration, NHTSA, test cars for this information. We have already paid for the information. In fact, NHTSA has put this information up on the Internet. It is available on the Internet now. But, nonetheless, this information is not available to the American consumer in the one place where it would be most helpful, the one place where it would truly make a difference: where you buy the car, on the face of the car when you buy it at the dealership.

Our provision would add a new section to the label that would clearly lay out information from each of the crash tests. You would have the information about frontal crash impact, side impact, and rollover resistance. It would show the test results as star ratings on the label, just like many automakers already do in their commercials. This is a commonsense provision, and it is one that will allow consumers the opportunity to make more informed decisions for themselves and their families.

We have found over the last few years that consumers are much more conscious about the safety of the cars they buy, wanting to put their families in safe cars. This is a proconsumer, prosafety provision that makes good common sense. I congratulate the committee for including it in this bill.

Another provision in this package that Senator ROCKEFELLER has cosponsored with me is what we call the Safe Kids and Cars Act. Now, according to NHTSA, automobile crashes are the leading cause of death for those ages 4 to 34. More than cancer, more than fire, more than anything else, auto accidents are the source of child fatalities. We all know that.

The focus of the child safety initiative we have incorporated in this bill is on an emerging danger for small children that is often overlooked. It is referred to as "nontraffic, noncrash" accidents. What are those? Well, these are incidents in which there is an interaction between an automobile and a child which leads to injury or death when the vehicle is not on the road or there is no actual crash which has occurred. Instead, these are accidents that happen inside parked cars, in driveways, or other common, potentially deadly situations.

We provide two different things in this title. The title includes two very different sections relating to the Safe Kids and Cars initiative. The first one directs NHTSA, for the very first time, to perform regular collection of data on nontraffic, noncrash injuries and deaths. We need that information. We need that as a matter of public policy. If we are going to prevent them, we have to understand them. We are not collecting the data today. We do not fully understand it.

Further, we have another section that deals with the so-called back-over deaths and requires NHTSA to investigate this issue and the technologies that might help prevent such accidents in the future. These back-over deaths occur in driveways, people's homes. Quite often, every year, a child is backed over and killed. They are becoming more frequent, as people have vans where you cannot see out of the back of the van very well.

We need to better understand the cause of these accidents. We need to have better information. NHTSA needs to investigate this issue and needs to look at the technologies that might help prevent such accidents.

Another provision we have included in this bill we call dangerous roads and intersections. Senator ROCKEFELLER and I have worked on this provision. Every State in the Union, of course, has dangerous roads, dangerous intersections. Most States, fortunately, rank these. Most States come up with a list of what are the dangerous roads, the most dangerous places in the State. They keep a list of them. But, amazingly, there are many States that keep this information secret and never tell the public.

Citizens have a right to know this information. What would you do with the information? Well, if you are a parent, you might tell your child to avoid a certain road: Don't go that way to the movie. Don't go that way to the restaurant. Don't go that way on a date. Go a different way. You have a right to know that information. Or if the public knew about a road that was statistically very dangerous or the State knew that it was dangerous, maybe the public would demand that road be fixed. That is the type of vital information the public has every right to know.

Our provision requires that safety information be disclosed to the public as an eligibility requirement for a new Federal safety funding program, the Highway Safety Improvement Program. States seeking additional Federal dollars for safety construction projects will have to identify their danger spots, rank them according to severity, and then disclose them to the public. It is pretty simple. Most States are already doing it; they just have to disclose it. This is another commonsense provision that truly is going to save lives. I am pleased it has been incorporated into this highway bill.

The fourth issue covered by language in the bill that I included, along with Senator ROCKEFELLER, has to do with driver education and licensing. Teen driving is an area where the fatality rates are very high. Unfortunately, current programs are many times not getting the job done. Higher crash and fatality rates for teenage drivers can be reduced if we work at it. The Federal Government can't run driver education. It is a State responsibility to set standards. But the Federal Government can play a small yet significant role and a productive role. Revitalized driver education needs to be data driven. We can help teenage drivers avoid high-risk situations, particularly in the first 6 months behind the wheel. Integration of driver education with graduated licensing must also be addressed.

The language we have included in the bill creates a driver education and licensing research program within NHTSA. This program will go out and test what works and what doesn't and come up with a "best practices" model that States can implement. The time has come to take serious action on driver education and licensing. This program is a solid first step. We need to have scientific data, and the Federal Government is in a good position to come up with this data to assist States as they develop good criteria.

Finally, I have worked with Senator LAUTENBERG to include a provision in the highway bill to reduce the number of drinking and driving deaths and injuries each year. Statistics are staggering. In 2003, 17,013 Americans died in what we believe were alcohol-related incidents. NHTSA projects this number dropped to 16,654 in 2004, a 2.1-percent reduction. While this is good news, it certainly is still too high. We do want to see the trend continue. To help accomplish that, the language we have supported requires NHTSA to work with the States to conduct combined media-law enforcement campaigns aimed at reducing drunk driving fatalities.

Specifically, the law enforcement portion of this bill consists of sobriety checkpoints in the 39 States that allow them. In the States that don't allow them, it provides for saturation patrols. The Centers for Disease Control estimates the sobriety checkpoints may reduce alcohol-related crashes by as much as 20 percent. That is a significant amount. We should do all we can to help States reduce drinking and driving. This provision will do that.

In conclusion, the fact is that auto fatalities represent the No. 1 killer in this country of those between the ages of 4 and 34. In 2004, NHTSA projects that almost 43,000 people were killed on our Nation's roads. In 2003, the number was 42,643. In fact, in the next 12 minutes, at least one person will be killed in an automobile accident, while nearly 6 people will be injured in the next 60 seconds. This is a tragedy we as a society are much too willing to tolerate. It is so common we kind of shrug it off and put up with it. These auto fatalities occur every day, every hour. And yet somehow we all have become immune to it. This year's highway bill takes some positive steps toward reducing those deaths.

I thank the sponsors for working with me on these safety measures that truly will save lives. I commend them for their efforts and for including these provisions in the bill. I urge my colleagues, once this bill goes to conference, to continue to include these provisions in conference.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I was able to listen to the Senator from Ohio, Mr. DEWINE. He has always led this body in the concern for safety. He points out the critical need to finish this bill. Hopefully, today we will finish this bill because we have the longest, most comprehensive safety core section, title, in this bill that has ever been offered in any reauthorization since Eisenhower. That is why we say, as I think Senator DEWINE was pointing out, lives can be saved or lives can be lost, depending on whether we pass this bill.

We will not have the safety core programs if we merely have an extension. Right now we are on our sixth extension. An extension is nothing but a defeat, an admission that we are not able to get a bill through so let's have what we had before. That's actually an extension of what we passed 7 years ago. It doesn't have any of these things in it. If we have an extension, none of the safety core programs Senator DEWINE was talking about would be included.

I can tell you—and I think everyone knows—statistically, it is an absolute that people will die; not just adults driving, but one of the things in this bill is the Safe Routes to School provision which would save young lives—kids going to school. So it is a life-or-death matter that we pass this bill and pass it very soon.

When I say "very soon," we ought to pass it today because the extension, this sixth extension I refer to, is going to expire on May 31. If that happens, that means we will be forced to do another extension. What happens when you do extensions? Back in the States, they do not have any certainty in planning. It is not as if you can say: We know now that we have an extension for 6 months, we can spend X dollars for 6 months. You can't do it that way, and everyone knows that. You have to plan way in advance because you have to get the labor pool together, get the contractors together, you have to get the bids out. In this bill, we do have a provision that would have some projects that are ready to go, so the second this is signed into law we are going to start construction.

People will use this and say this is, in fact, a jobs bill—and it is. It is probably the biggest jobs bill we have had at one time since the WPA. For every $1 billion of road construction, that translates into 47,500 jobs, new jobs, good-paying jobs. Without this bill, of course, that is not going to happen.

We have a lot of people who are concerned, as I am, about donor State status. I can remember when we only had written into the law that each State would get back 75 percent of what they actually collected in their State. Slowly, over the years, I have watched it get increased. It has gotten up to the point where it is today, and this was passed 7 years ago. This was 90.5 percent; that is to say, every donor State will get back at least 90.5 percent of what they pay in.

The bill we had last year was enhanced up to $318 billion. That would provide every State got back a minimum of 95 percent. As it is now, with the smaller number, even with the enhanced number from yesterday's amendment, that brought it up by $11 billion to $295 billion. That still only brings the donor status to 92 percent. But that is better than 90.5 percent, where we are today.

If we have an extension, it will be 90.5 percent. There will not be any change.

The streamlining provisions of this bill will allow us to actually pave, construct a fairly decent percentage more highways and bridges than we would otherwise be able to do. Without this, and if we have an extension, we will not have this, and none of the environmental streamlining provisions will be there.

There are two different sections of the bill that relate to the financing. We have not changed our method of financing roads in 50 years. Since the Eisenhower administration it has been the same. We know there are better ways of doing it where you can have partnership types of arrangements, something that would be very good for our system. Without a new bill, that is not going to happen.

A lot of the States are on the border. We have a border program, a recognition that since NAFTA we have a lot of traffic through no fault of the States. You have to improve the NAFTA corridors we are talking about in this bill. Without this bill, we will not have that.

The chokepoints are not currently corrected. That is why we call this an intermodal bill. It is not a highway bill, not just a transportation bill, it is an intermodal bill because it is all types of transportation and the chokepoints in between. A lot of our problems are because of the chokepoints.

Last, we have firewall protection in this bill. The firewall protection provides if you pay money into the trust fund when you are getting 1 gallon of gas, that money is ensured to go toward building new roads. There are many in this body who do not think that is necessary. Many think we can go ahead and fund any kind of programs not relating to transportation out of the trust fund, and they have been doing it.

In fact, one of the Senators the other day was saying how offended he was that we are taking some of the fix that is there that is not in use; in other words, there is about a 5-cent credit that goes in and comes out of the highway trust fund. That has nothing to do with transportation. If you are going to establish a policy, pay for the policy but do not pay for it out of the highway trust fund.

I have often said this is a moral issue. There may be loopholes that allow politics to steal money out of the trust fund, but it is still a moral issue.

This bill has the firewall protection to make sure, for the first time, people cannot raid the highway trust fund. All these things are in the bill. If we do not pass the bill, we will have an extension, and none of these things are in the bill.

This is necessary to get this done, to pass this legislation, and not just go for another extension.

AMENDMENTS NOS. 569, AS MODIFIED, AND 662, AS MODIFIED, EN BLOC

Mr. President, I ask unanimous consent the Chambliss amendment numbered 569 and the Cornyn amendment numbered 662 be modified with changes at the desk and agreed to, that the motions to reconsider be laid upon the table en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments as modified en bloc are as follows:

AMENDMENT NO. 569, AS MODIFIED

On page 217 after the matter preceding line 1, insert the following:

SEC. . 14TH AMENDMENT HIGHWAY AND 3RD INFANTRY DIVISION HIGHWAY.

Not later than December 31, 2005, any funds made available to commission studies and reports regarding construction of a route linking Augusta, Georgia, Macon, Georgia, Columbus, Georgia, Montgomery, Alabama, and Natchez, Mississippi and a route linking Savannah, Georgia, Augusta, Georgia, and Knoxville, Tennessee, shall be provided to the Secretary to—

(1) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to construct a route for the 14th Amendment Highway, from Augusta, Georgia, to Natchez, Mississippi (formerly designated the Fall Line Freeway in the State of Georgia); and

(2) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to designate and construct a route for the 3rd Infantry Division Highway, extending from Savannah, Georgia, to Knoxville, Tennessee (Formerly the Savannah River Parkway in the State of Georgia), following a route generally defined through Sylvania, Waynesville, Augusta, Lincolnton, Elberton, Hartwell, Toccoa, and Young Harris, Georgia, and Maryville, Tennessee.

AMENDMENT NO. 662, AS MODIFIED

Strike section 1802(c).

Mr. INHOFE. I have left instructions if Senators arrive, interrupt us. We want to consider amendments. I am hoping I did not chase away anyone who is offering an amendment. We have about 10 amendments on the Republican side and about 10 amendments on the Democrat side. That is much better than yesterday with 173 amendments out there. We have made progress.

We agreed to two of these. If we can get the Members who are serious about their amendments to bring them down, this is the time to do it. I anticipate, as is normally the case, at the last minute Members will come down and say: I have to have time to present my amendment, and it will be too late. Now it is not too late. There is time to consider any amendment that is a germane amendment that is on the list.

What we have done is very difficult. We have worked on this bill for 3 years. We had this bill passed out of this Chamber and to conference a year ago this month. In conference, they dropped the ball, and we were unable to get it through.

This time, the conferees have learned we will be able to get it back to the House and back to the Senate, get it passed in both Houses, and have it signed by the President in time for the current extension that expires May 31. That is ambitious, but it can be done. We try to figure this out day by day and what can be done each day. I believe that will happen.

The reason this bill is better than most bills is historically we have not gone with formulas; we have gone with political projects. Some people call them pork. I don't call building a road pork.

What we could have done—we need to have 60 Senators to agree to this—we could have gone to 60 Senators and said, all right, we have a pot of money, and we will take care of your problem in Louisiana, your problem in Oklahoma, your problem in Arkansas, and get up to 60 Members, 30 States, and we will pass the bill and forget about the other Members. That is not fair. Historically, that has been done.

We tried to take every conceivable thing into consideration. The Presiding Officer represents a small northern State. We have provisions for the colder States, provisions for States out West, many of which, like my State of Oklahoma, are donor States. These are factors in the bill, in the formulas.

The formula for allocation also has such things in it as per capita fatality. My State of Oklahoma has a high fatality rate. What does that tell you? It tells you we have a problem with bridges and roads. That is a factor in how much money is distributed to the States.

The number of interstate lane miles is a consideration. The weighted nonattainment and maintenance area population is considered. The nonhighway recreation is a consideration. Regarding low-income States, mine is below the average in the State of Oklahoma. Low-population States—Senator BAUCUS has been very helpful in this bill. He is from Montana. Montana has less than a million people, but they have to have roads to connect all the interstate roads. Consequently, they will be in a position where it has to be a consideration that a low-population or low-density population State is going to be able to be treated fairly.

There are about 20 different considerations, but the bottom line is, you are never going to come up with a formula where everyone says this is perfect, this is just what we want, my State is being treated fairly. There are many things in the formula I do not like as chairman of the Environment and Public Works Committee, this Senator from Oklahoma. Nonetheless, I know everyone cannot be satisfied.

We have a good bill before the Senate. Members should realize how significant it is that we pass this bill and not just go to another extension.

Let me renew my request, as we will be doing every 15 minutes, for Members to bring their amendments. I know Members are out there and hiding. We will find you. We are open for business. We want you to come down and offer your amendment. We will have plenty of time to do it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I cannot commend the chairman of the Environment and Public Works Committee enough. He has worked extremely hard on this legislation. He is exactly right, if we are going to finish this bill, it is incumbent upon Senators to bring their amendments to the floor. It is the only way we are going to finish this bill.

As Mr. INHOFE, the Senator from Oklahoma, is imploring Senators to come down, I very much hope they heed his words. I thank him for those words because it is so important to get this legislation done now. It is Thursday afternoon, and it seems to me there is a lot of time to get most of this bill done today.

RULES OF THE ROAD ON JUDICIAL NOMINATIONS

Mr. BAUCUS. Mr. President, this Nation's fast transportation system works. Why does it work? Because every day millions of individuals choose to abide by the rules of the road. On our Nation's highways, millions of people safely move great distances, at great speeds, in no small part because drivers respect other drivers and abide by the rules that oblige them to stay within the white and yellow lines painted on concrete and asphalt.

When you stop to think about it, it is incredible. Here are thousands of pounds in one car and another car hurtling toward each other, at high speeds, yet they do not hit each other. They miss because the drivers know they must stay, in America, on the right side of the road, in their lane, which prevents a catastrophe. It is amazing when you stop to think about it.

When drivers come to an intersection with a red and white stop sign, what happens? Drivers stop. Those of us on a cross street depend on drivers stopping. The other cars at a stop sign on other streets of the intersection also depend on that.

When folks come to a red light, they stop. They wait for a green light. They let the cars come through from the other direction. Few things create more danger in traffic than running a red light.

Mr. President, the Senate works much the same way. The Senate gets things done because day in and day out Senators choose to abide by the Senate's rules. The Senate has rules. We abide by them, and that enables us to get things done.

Every year, the Senate confirms hundreds of nominations, addresses hundreds of amendments, and enacts hundreds of laws because Senators respect other Senators and abide by the rules of the road.

In the 108th Congress alone, the Senate confirmed nearly 1,800 nominations, agreed or disagreed to nearly 1,800 amendments, and enacted nearly 500 laws. Yet in the 108th Congress, the Senate conducted just 675 rollcall votes.

So what does that mean? That means in the 108th Congress alone, the Senate made more than 4,000 decisions with fewer than 700 rollcall votes. In the 108th Congress, the Senate made more than 3,300 decisions by voice vote or by unanimous consent.

These numbers demonstrate what most Senators know in their bones: Five times out of six the Senate gets things done not by confrontation but by Senators abiding by the rules of the road and cooperating with other Senators.

That is why it is so troubling that some in this Senate now threaten to try to change the Senate rules by breaking the rules. They plan to disregard the rules and disregard the precedents. They want to run the red light.

The Constitution gives the Senate the power to set its own rules. Article I, section 5, of the Constitution says:

> Each House may determine the Rules of its Proceedings. . . .

The Senate has determined its rules through adopting the standing rules of the Senate. The Senate has readopted or made general revisions of its rules only seven times since 1789. The most recent general revision was in 1979.

The standing rules of the Senate continue from Congress to Congress. As Senate rule V says:

> The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

Rule V: "The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules."

Now, Senators have the right to debate changes to the rules. Standing rule VIII spells out that, even under circumstances where Senators may not normally debate:

> motions to proceed to the consideration of any motion, resolution, or proposal to change any of the Standing Rules of the Senate shall be debatable.

Standing rule XXII provides the procedure for bringing debate to a close on:

> any measure, motion, [or] other matter pending before the Senate.

Senate rule XXII provides that "any . . . matter" includes nominations. That is how it is that Senators can debate at length any nomination that comes before the Senate, unless 60 Senators vote to bring that debate to a close.

And "any measure . . . [or] matter" within the meaning of rule XXII on debate also includes a proposal to change the standing rules of the Senate because rule XXII of the Senate's standing rules spells out the procedure for changing the standing rules. When it addresses bringing debate to a close through cloture, rule XXII says:

> [O]n a measure or motion to amend the Senate rules . . . the necessary affirmative vote shall be two-thirds of the Senators present and voting.

That is rule XXII. That is in the Senate rules, which continue over from Senate to Senate.

The Senate's rules, thus, provide a procedure for changing the rules. That procedure involves the regular legislative process. That procedure involves fair and potentially extended debate. And that procedure requires, if it comes to extended debate, "the . . . affirmative vote . . . [of] two-thirds of the Senators present and voting."

That is the way Senators can change the rules, if they choose to respect other Senators, if they choose to abide by the rules of the road, if they choose not to run that red light.

But what some are talking about is very different. What some are talking about is using brute force to change the rules. What some are talking about is running the red light.

Here is what they would do. They would use the raw power of the Vice President to sit in the chair of the Presiding Officer. They would have the Vice President make a ruling that bypassed the Senate's rules for amending the Senate's rules. They would have the Vice President make a ruling that bypassed the Senate rules for how long Senators could debate. They would have the Vice President make a ruling that broke the Senate's rules.

Now, article I, section 3, of the Constitution provides:

> The Vice President of the United States shall be President of the Senate. . . .

But that does not mean that the Vice President can make up the Senate's rules anew every day. The Vice President, just like any Senator, must abide by article I, section 5, of the Constitution, when it says:

> Each House may determine the Rules of its Proceedings. . . .

And when the Vice President acts as President of the Senate, the Vice President, just like any Senator, must abide by the standing rules of the Senate. To do otherwise, would be an abuse of power.

Mr. President, I urge my colleagues to resist those who would break the rules to change the rules.

Sir Thomas More, the British statesman and Lord Chancellor, resisted King Henry VIII when More felt that Henry had broken the law. In Robert Bolt's great play about More called "A Man for All Seasons," More speaks about the importance of abiding by the law.

The character William Roper asks More:

So now you'd give the Devil benefit of law?

More counters:

Yes. What would you do? Cut a great road through the law to get after the Devil?

Roper replies:

I'd cut down every law in England to do that!

More responds:

Oh? And when the last law was down, and the Devil turned round on you where would you hide . . . , the laws all being flat? This country's planted thick with laws from coast to coast . . . and if you cut them down—and you're just the man to do it—d'you really think you could stand upright in the winds that would blow then? Yes, I'd give the Devil benefit of law, for my own safety's sake.

The Senate's rules protect us all. They protect the ability of the Senate to get things done through working together, not through majorities that cut down all the opposition.

For two centuries, the Senate's rules have protected the rights of the minority party, for Democrats and Republicans alike. After two centuries, it would be a mistake to cut down those rules.

At the center of that forest of Senate rules are two mighty oaks. But don't take my word for it. Let me quote the Senate majority leader.

In a forward that the senior Senator from Tennessee, the majority leader, wrote to a book published last year entitled "Senate Procedure and Practice," the majority leader wrote:

> [A]bove all, together the Senate's rules and practices form a whole. It is a whole that faithfully reflects the Framer's design and

> ambition for the body. It is a whole that remains true to the Senate's two paramount values: unlimited debate and minority rights.

"[U]nlimited debate and minority rights."

"[U]nlimited debate" allows Senators to protect "minority rights." The Senate's rules thus help to protect personal rights and liberties. The Senate's rules help to ensure that no one party has absolute power. The Senate's rules help to give effect to the Framers' conception of checks and balances.

Even law school dean and former judge and special prosecutor Kenneth Starr told CBS News that changing unlimited debate might damage the Senate. He said:

> It may prove to have the kind of long-term boomerang effect, damage on the institution of the Senate that thoughtful Senators may come to regret.

The Senate's right of unlimited debate is particularly important in the context of nominations for the lifetime jobs of Federal judges. The Senate's involvement in the confirmation of judges has helped to ensure that nominees have had the support of a broad political consensus. The Senate's involvement has helped to ensure that the President could not appoint extreme nominees. The Senate's involvement has helped to ensure that judges have been freer of partisanship and more independent.

The Framers wanted the courts to be an independent branch of government, helping to create the Constitution's intricate forest of checks and balances. The Senate's involvement in the confirmation of judges has helped to ensure that the judiciary can be that more independent branch. And that independence of the judiciary, in turn, has helped to ensure the protection of personal rights and liberties from the winds of temporary majorities.

It is easy to push down the accelerator and cross that white line of paint, running across the concrete or asphalt. It is easy to push down the accelerator to run through that stop sign. It is easy to push down the accelerator and run through that red light.

But once one has been hit by a car running a red light, can one ever look at an intersection the same way?

The Senate works because, day in and day out, Senators choose to respect other Senators and abide by the Senate's rules of the road. If and when the Vice President and Senators start breaking those rules to change the rules, the Senate will never be the same. Once they run that red light, the rule of the road can never be the same.

I urge my colleagues to slow down, take their foot off the accelerator, and stop, before it's too late.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CORNYN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ISRAELI INDEPENDENCE

Mr. DEWINE. Mr. President, one of the most gratifying aspects of serving in the U.S. Senate is the opportunity to come to this Chamber and talk about and celebrate the great events in American and world history. One such event occurred 57 years ago today, and that is the creation of the nation of Israel, the only democracy in the Middle East and the eternal homeland for all Jews around the world. Israel, our enduring friend and everlasting ally, was reborn from its biblical birthright on this day in 1948.

Two years ago on the 58th anniversary of the end of World War II in Europe and again this week on its 60th anniversary, I spoke about how American soldiers successfully fought both the fascism in Europe that spread like a cancer across that continent and Adolf Hitler's efforts to eradicate the Jewish race.

Last week, we honored the souls of those murdered in the holocaust on Yom Ha-shoa—the Day of Remembrance. And today we celebrate the result of all of this history which is Israel's independence.

My father, Richard DeWine, when he was serving in World War II in K Company, which was part of the Army's 103rd Infantry Division, went into one of the Nazi concentration camps—Dachau—after it had been liberated. Although K company did not participate in the liberation of Dachau, the 411th Regiment of their 103rd Division did liberate the camp at Landsburg, Germany.

When my father was at Dachau, a camp where over 28,000 Jews had perished, the prisoners had already left the camp. He has a vivid recollection, though, of seeing the ovens that the Nazis used to burn the bodies of so many of the prisoners.

He can still picture in his mind the devices they used to slide the bodies into the ovens and the many urns that contained the prisoners' ashes. He remembers going into a room next to the ovens and seeing fixtures on the walls that looked like showerheads. Those at the camp told him the prisoners were taken into these rooms and the prisoners were told they were going to take showers, but instead of water coming out of the nozzles, poisonous gas was emitted, killing them.

My dad remembers walking down the road near the camp and encountering a very weak, emaciated man who had, a short time before that, been a prisoner. My dad and his buddies talked to the man and gave him food and cigarettes. They asked the man, who a short time before had been a prisoner, if they could take his picture. He said, yes, as long as it is with an American soldier. So they did. My dad still has that picture today.

Carl Greene, who was also a member of K Company, remembers their visit to Dachau. He says some of the former prisoners in the camp still wearing those unforgettable striped uniforms actually served as their guides to show them around the camp, showing them the gas chambers and the crematorium and the area in the camp where the Nazis would shoot prisoners in the back of their heads.

K Company member Al Eucare, Sr., who was 18 years old at the time, remembers what he describes as one-man pillboxes that stood outside the gates of Dachau. These were cylindrical pipes that stood upright, just big enough for a man to fit inside. They were something of a sentry post. Each of these concrete tubes contained an open slat at the top and the bottom, where guns were placed to shoot at prisoners if there was a disorder as the prisoners went in and out of the gates.

Like my dad, Al also remembers the ovens at Dachau. He said when he was there, even though it was after the camp was liberated and the war had ended, there were still ashes and skeletal remains inside those horrible ovens.

Al also remembers seeing hooks—something akin to meat hooks—that the Nazis would hook dead bodies on like cattle, to move them more easily. He said they would put the bodies on by hooking them right underneath the jaw. He had heard stories that sometimes live Jews were placed on the hooks and left until they died.

General Dwight Eisenhower visited some of the death camps and reported back what he saw. In one of his reports, this is what the general described:

> On April 12, 1945, I saw my first horror camp. It was near the town of Gotha. I have never felt able to describe my emotional reactions when I first came face to face with indisputable evidence of Nazi brutality and ruthless disregard of every shred of decency. Up to that time, I had known about it only generally or through secondary sources. I am certain, however, that I have never at any other time experienced an equal sense of shock.
>
> I visited every nook and cranny of the camp because I felt it my duty to be in a position from then on to testify at firsthand about these things in case there ever grew up at home the belief or assumption that "the stories of Nazi brutality were just propaganda." Some members of the visiting party were unable to go through the ordeal.
>
> I not only did so, but as soon as I returned to Patton's headquarters that evening, I sent communications to both Washington and London, urging the two governments to send instantly to Germany a random group of newspaper editors and representative groups from the national legislatures. I felt that the evidence should be immediately placed before the American and British publics in a fashion that would leave no room for cynical doubt.

That was Dwight David Eisenhower.

To think about it now, it defies credulity to consider that these atrocities were occurring and there were those who questioned their reality or those who today even question their reality. My father said that was one of the things that struck him when he visited Dachau 60 years ago—the idea that there were townspeople right there who would never admit the death camp was out there. He talked to people and they would not admit it. They said they didn't know anything about it. They didn't know what was going on so close. They acted as though it didn't exist.

Fortunately, the world came to reveal what was happening. The world knew, and although the rebirth of Israel came upon the heels of the modern tragedy of the Nazi death camps, it is important to remember that the Jewish people have struggled to regain their homeland ever since biblical times. The year 1948 marked the culmination of those efforts. After 6 million Jews were murdered in World War II, surviving Jews from across Europe and Asia made the trek to the holy land. They sought their homeland and peace. They obtained the former but not the latter.

One such man seeking a homeland and peace was Mark Steinbuch, the late father of one of my Judiciary staffers, Robert Steinbuch. Born in Poland, Mark and his family lived under Nazi occupation, relocated to Siberia shortly after the start of World War II, and then traveled for 2 weeks by cattle car to live in Soviet Kazakhstan.

Mark's extended family faced some horrific challenges. Many were killed by the Nazis. His cousins, the Hershenfis family, were forced into labor in the Pionki ghetto in Poland. In 1941, the family was shipped off to Auschwitz. Hanna and her brother Harry were separated from each other and from their parents Fay and Harvey. Fay and Harvey never made it out of the death camp. Hanna, tattooed with the number A14699, was shipped to an intermediate camp and then Bergen-Belsen. Harry—B416 to the Nazis—worked hard labor in Auschwitz for 4 years, and then, in 1944, was sent to another camp called Mauthausen.

On May 3, 1945, the Nazis fled the camp. That night, the skies opened and sent down a rainfall as if the world were being cleansed from the horrors it had seen. The next morning, the Americans arrived and the 11th Armored Division liberated the camp. Three days later, Harry turned 26.

After 5 weeks in an American hospital, Harry spent the next 3 years in a displaced persons camp in Austria. In 1949, Harry's wishes were answered, and he set off for America. Four years later, when Hanna also came to the United States, the siblings were reunited for the first time since they were shipped off to Auschwitz 13 years prior. Harry is 86 now and Hanna is a few years younger. Both are alive and well. Harry's sense of humor is strong, and he plays down the difficulties he faced. But we all know better.

Upon the defeat of the Nazis, Mark Steinbuch's immediate family went to Germany because, as Mark described it, "that is where the Americans were and, if you wanted to live, you went to the Americans." From there, Mark joined the Zionist youth movement and set off for Israel.

That, however, was no easy task. Traveling across Europe, often on foot to a southern port, he, his brother, and many others like them boarded an overloaded freighter renamed the "Theodore Hertzl," after the founder of the Zionist movement. Upon the ship's arrival in Israel, the British quickly arrested its passengers and sent them to a holding camp in Cypress. Months later, Mark and the others were allowed to enter Israel.

Upon the joyous declaration of independence, seven Arab nations invaded Israel, and Mark quickly joined the army. Underage and flatfooted, he fought for the independence of this new democracy.

Mark's story is by no means unique. It not only represented the goals and desires of the Jews of postwar Europe but the dreams of a nation of people dispersed from their homeland for millennia.

Mark's dreams were realized a year later when armistice was struck. Israel survived its first challenge. It, like the Jewish people after the Holocaust, was still alive.

Since then, Israel's existence has been continuously challenged. Israel defended itself from foreign aggression during the Suez Canal crisis, the Six Day War, the War of Attrition, the Yom Kippur War, the war in Lebanon, and periods of extreme terrorism. Israel survived it all. OPEC blackmailed the world by withholding oil from the West because of their support for Israel. Israel's Olympic athletes were murdered by terrorists. And the United Nations equated Zionism with fascism. Israel survived it all and much more.

Israel is a survivor, but it is also so much more. The people of Israel have forested the desert, revived their language, built cities, and established a vigorous and ever-growing community.

We support Israel because it is a democracy, because it shares our values and ideals, because it has been willing to suffer attacks at our request, and because simply it is our friend. We welcome other nations to choose to be the same, and for the many that have, we share the same relationship.

America is a nation of justice, fairness, and principles. So is Israel. And on this day, we wish our friend a happy and joyous anniversary.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

RETIREMENT SECURITY

Mr. DURBIN. Mr. President, I rise this afternoon to speak to the Senate and those following this debate about a dramatic change that is taking place in America, even as we meet and discuss so many other important issues. One of the pillars of family security in America is crumbling. Retirement security in this country is in a crisis. The defined benefit plan, the kind of pension plan that guarantees a retirement amount to a worker who gives a lifetime of loyalty to his company or his employer, is becoming an endangered species.

The number of employees covered by employer-paid defined benefit plans has fallen from 30 million to 22 million in the last 20 years. By contrast, the number of people in defined contribution plans, into which both worker and employer pay with no guaranteed payout, has grown to about 55 million from 19 million.

This trend, along with the steep losses that people with defined contribution plans, such as 401(k)s, have experienced in the last few years, and President Bush's plan to shift part of the Social Security guarantee into private accounts, frankly, means that we are going to put at risk retirement security in America, more than we have seen in modern times.

Tuesday night, a bankruptcy court decided to allow United Airlines to shift responsibility for its defined benefit pension plan to the Federal pension insurance system. United Airlines moved all four of its pension plans into the Pension Benefit Guaranty Corporation with the promise that United Airlines would pay that corporation $1.5 billion. The willingness of PBGC to accept this arrangement, unfortunately, rings the death knell for defined benefit pension plans in America.

United is the latest and the largest example of the fact that corporations are no longer keeping their promises to employees, and the Government insurance system that was designed to protect employees in the case of such catastrophe has become overused and underfunded to a critical State. And this, coupled with the lack of personal savings, with the dramatic increase in consumer debt of families across America, with the growing vulnerability of families to medical bills, and with the assault on guaranteeing benefits of Social Security by this administration, is leading this Nation to a point that could not even have been imagined just a few years ago.

There used to be a three-legged stool that you could count on for your future. Everybody knew it. You went to work; every payroll you paid into Social Security, which would be there when it came time to retire; you took some of your paycheck and you paid into your pension system, if the company provided one, and then, if you could, put some money into savings. The idea is that all three would come together to give you a sense of security and comfort in your old age.

The Chicago bankruptcy court that decided Tuesday night that United Airlines could walk away from its pension commitments unfortunately foreshadows many changes to come, and none of them positive, for working people and working families across America.

United Airlines, the second largest airline in America, is in bankruptcy. It took the pension liability which it had into the bankruptcy court and said: We have to walk away from it. The bankruptcy court agreed. And when United Airlines turned over all of its pension plans to the Pension Benefit Guaranty Corporation, it basically said it would save $645 million a year that it would not have to put into the promised payments to pension plans for its employees.

Judge Eugene Wedoff presided over that decision. To an overflow courtroom on Tuesday, he said this was unavoidable. To quote him exactly:

> The least bad of the available choices here has got to be the one that keeps an airline functioning, that keeps employees being paid.

And that was the choice. From his point of view, to ask United to pay what it promised to pay to its employees and to its retirees would mean that the airline may cease to exist. But to walk away from those responsibilities for the employees and to say instead that the airline would survive certainly raises many troublesome questions.

The way that the Pension Benefit Guaranty Corporation is structured, it only guarantees that a part of pension plans it took over from United and other companies based on a pretty complicated formula would actually be paid to the employees. So many employees, whether United Airlines employees or others whose plans are taken over by this corporation, lose part of their pensions. In this case, it is estimated that United employees will lose an average of 25 percent of their pensions under this arrangement.

Keep in mind what these employees have been through. They have been battered by record layoffs. They have made voluntary pay and benefit reductions for years. They have increased their hours. They have made a lot of personal sacrifices to reach this point. And now, as it appears their airline was nearing the end of bankruptcy, comes this decision to walk away from the pension obligation.

United is the second largest airline. It operates more than 3,400 flights a day to more than 200 destinations. It is based in my home State of Illinois. It has 60,000 employees and thousands of retirees, all of whom will be affected by this decision.

Let us take a look at each of the groups of employees at United and how they will be impacted. The United flight attendants pension plan covers 28,600 participants. Under this Government takeover of the pension plan, the most senior flight attendants will receive about $500 less a month than the $2,500 they were promised in pension payments, about a 20-percent cut. This is significant because most of them have never earned more than $40,000 a year. Flight attendants who are less senior and have less flying hours with the company could lose up to half of what they would receive with their promised pension plan. They have said they may strike on this. I hope it does not come to that, not just because of the fact that it is a corporation in my State but because I am a loyal customer of United.

Sixteen Senators recently joined me in a letter to the Pension Benefit Guaranty Corporation asking for that agency to explain why it agreed with United to turn over all four pension plans since as recently as 2 weeks ago officials of the same agency told negotiators they thought each plan should be considered separately. The flight attendants were told at the time their pension plan might have been saved, but now, sadly, it has been lumped in with all the pension plans at United and faces dramatic cuts.

Take a look at the ground employees, the mechanics, the people who fix the airplanes and maintain them and handle the bags. There are 36,100 of them at United, both active and retired. They were promised benefits of $4 billion. Their plan has only $1.3 billion in assets. So based on this agreement with the Pension Benefit Guaranty Corporation, on average, they will lose about 25 to 27 percent of their pension benefits. Retired members were promised an average benefit of $1,400 a month, and they could lose on average 19 percent of that promise.

While United was back in court on Wednesday asking for further concessions from the unions on their contracts, the International Association of Machinists and Aerospace Workers announced that 94 percent of its United members had authorized a strike if their contract to work was cancelled. The machinists may feel they have no choice. This, of course, would throw United's financial future into more uncertainty and jeopardy.

The United pilots have a pension plan that covers 14,100 people. The pilots reached a deal with United last year to save much of their benefit, but it is unclear how that will be affected by this new agreement with the Pension Benefit Guaranty Corporation. Pilots have generous pensions. They fly some of the most demanding routes. They have to be well trained and well skilled, and they, of course, are examined constantly to make certain they have the skills to be pilots. They would normally expect to see anywhere from $80,000 to $100,000 of pension benefits after a lifetime of service to the airline, but if this Government agency takes over, the maximum guarantee the Government offers is no more than $45,613 per person for those who retire at age 65 in the year 2005. Keep in mind, pilots are forced to retire at age 60 under rules governing pilots in America, so they would receive less than $45,613. A Government takeover would cut most of their anticipated pension benefits by as much as half.

Under the management plan, there are 42,700 participants encompassing administrative and public contact employees. This is more difficult to quantify in terms of their pension loss. However, the machinists union, which represents some of these workers, says the ramp employees could lose up to 59 percent of their promised pensions, and public contact representatives could lose up to 55 percent. These estimates take into account the likelihood that United will offer a 401(k)-type plan once it emerges from bankruptcy. As we know, there are no guarantees with a 401(k) any more than there is a guarantee that if one buys a mutual fund or a stock today that it will be worth more tomorrow. It is a gamble. It is a risk. It can play an important part in savings toward retirement, but it certainly does not provide any guaranteed benefits such as those that existed for employees who worked at United for decades. It is a gamble that the President is contemplating to bring to Social Security by privatizing Social Security: Let us move from guaranteed benefits in Social Security to the possibility that one will do well in the stock market.

Well, if a person's pension is in trouble now, and it may not survive the bankruptcy court, and the future of Social Security under the President's plan puts one at that same risk when it comes to investment, how can a person be certain they will ever be able to retire? How did we reach this point?

Pension promises that in hindsight may have been unrealistic were made. The terrorism of 9/11 changed the market for airlines across America. High fuel costs, increased competition from startup carriers all contributed to the losses that brought United into bankruptcy.

Last year, I supported a measure known as the Pension Funding Equity Act. We passed it hoping that we could temporarily use an alternative calculation to lower pension liability payments and to make our way through this stormy situation. It did not work. Now United Airlines is not alone in this predicament. Delta Airlines' pension plans are underfunded by $5 billion, and it has threatened to file Chapter 11. Northwest Airlines may be in trouble, too, according to equity researchers at Bear Stearns. And we should believe that a lot of other airlines are looking with great interest at United Airlines and its current situation.

Some people at American Airlines have said they want to keep their pension plans, but they are concerned about the competitive advantage United will now have because it does not have to fund its own pensions.

After the airlines, retirement experts say the auto industry may be the next to default on its defined benefit plans, leaving virtually no companies left that offer guaranteed retirement benefits. Let me give some illustration of this.

Today's Wall Street Journal says:

> By far, the industry accounting for the biggest portion of underfunding is auto makers and automotive-parts companies. The plans of those companies are $45 billion to $50 billion shy of promises made to workers.
>
> Delphi Corp., the No. 1 U.S. auto supplier, is struggling with declining sales at its top customer and former parent, General Motors Corp., plus big pension obligations and higher raw-materials cost. Delphi has an unfunded pension liability of $4.3 billion and $9.6 billion in retiree health-care liabilities. . . .

We are in the midst of debating the asbestos bill. It is interesting on this asbestos bill the lineup of groups supporting it. That is another outstanding liability for companies like General Motors. Many of us believe the trust fund in the asbestos bill is underfunded. We believe many major corporations with asbestos liability are anxious to sign up for the trust fund because they will be the benefactors more than smaller and medium-sized corporations. So both General Motors and the United Auto Workers have endorsed the asbestos bill.

Certainly, they have to look forward and say asbestos liability will threaten the payment of health care benefits and retirement benefits to the workers. So here there is a situation where victims of asbestos exposure may receive limited compensation under the trust fund plan that has been endorsed by companies that expose them to asbestos because those companies want to limit their liability in the future because of such things as pension liabilities.

As we can see, this is a free-for-all and the losers ultimately are going to be either victims of asbestos exposure, in this instance that I used, or the workers themselves and we'll see retiree benefits disappearing.

The United Airlines deal is the largest pension default in the history of the United States. Before it, Bethlehem Steel's $3.6 billion pension default in 2002 set the record. There is a pattern, and the pattern is that the workers get hurt the most.

I am offering legislation with Senator KENNEDY and Congressman GEORGE MILLER of California that would attempt to make it more difficult for corporations to offer superior pension deals to their high-ranking directors and officers while the company is shifting its unfunded pension liabilities to the Government or treating older workers unfairly during a conversion from a traditional defined benefit plan to a cash balance plan.

Why in the name of fairness and justice should the officers of a bankrupt corporation be receiving superior pension deals and bonuses while the people who faithfully worked for that company for decades are being cut loose, their jobs eliminated, or the promised retirement benefits are not paid? If there is any justice in this done, we should demand of these corporate officers that they at least sacrifice to the same level as the employees who are the victims of their mismanagement. Rank-and-file workers should not be sent to the back of the line in bankruptcy court while executives get a free pass. Time and again, workers have faced the back of the line in this country.

Mr. President, you may remember an amendment I offered to the bankruptcy bill a few weeks ago. It was rejected overwhelmingly by the Senate. Let me tell you how radical this amendment was. It would have allowed bankruptcy courts to reach back and take the sweetheart deals that were given to these officers and CEOs and put the money back into the corporation to benefit the employees and the retirees.

I gave the example of several CEOs, including Ken Lay of Enron, who abuse their companies. You remember reading about Dennis Koslowski of Tyco. This man had a unique lifestyle at the expense of his corporation. He had the corporation buy his family a shower curtain. Well, what is wrong with that? Mr. Koslowski did some pretty shrewd shopping. He found a $30,000 shower curtain. That takes some doing. He took the money out of the corporation, while it was facing financial trouble, and then turned and said to the employees: Sorry, we are going to cut you loose. Retirees, we can't pay what we promised you, and shareholders, you lose, too. So for his shower curtain deal and a lot of other things, I think Mr. Koslowski should have been held accountable. He was in criminal court, but he certainly should be held accountable.

Bernie Ebbers, CEO of WorldCom, didn't piddle around with a shower curtain; he took $408 million out of a company right before it went into bankruptcy court. How can we sit around and say: That is OK, that is management; those guys are in the boardroom; don't worry about them; but say to the worker out in the plant or to the retiree who is counting on a retirement benefit plan or the shareholder: You are going to have to lose because Mr. Ebbers needed $408 million out of the company before he dumped it in bankruptcy? We should have recaptured the assets he took out of the corporation before it went into bankruptcy. Maybe it would not have made the corporation solvent, but at least it would have been a fair allocation of the resources of that corporation to the people who deserve the benefits from them in bankruptcy.

My amendment lost on a vote of 40 to 54. It was entirely too radical for the Senate, to think that these CEOs would be held accountable for their conduct, that they would accept personal responsibility for what they did. No way. Yet their workers and their retirees had to pay the price. They were held responsible for this terrible mismanagement.

We also tried to raise the minimum wage during that bankruptcy debate. I guess we are just wasting our time in this place. It has been over 8 years since we raised the minimum wage in this country. We were told the head of a family who works 40 hours a week at a minimum wage and has two or three kids should not be able to lift his family above poverty. At a time when we have record productivity in our corporations and record corporate profits, why in the world can't we bring ourselves to make certain that workers in America get fair compensation? I don't understand it. If we value work and value families and value children, why aren't we paying a decent wage to many people who get up and go to work every single day, sometimes two jobs a day? But, no, we can't pass that here. That is too radical.

Now the President wants to privatize Social Security. He wants to make sure that two of the sources of retirement security—Social Security and pensions—will no longer have guaranteed benefits. The third source, of course—private savings—has never been guaranteed. President Bush says that is part of the ownership society. But, unfortunately, we are headed for a society for the owners, by the owners, and of the owners, where the workers are more vulnerable than they have ever been in generations in America.

We ought to step back for a second. We ought to try to decide what is important in this society in which we live. Is it important for us to protect the CEOs from their mismanagement of these companies? Is it important for us to say to Mr. Bernie Ebbers, You won't be held accountable for taking $408 million out of the corporation you dumped in bankruptcy? Is it important for us to make sure that people who make more than $1 million a year get handsome tax cuts while we are deep in debt as a nation, trying to come up with the money to fight a war, or is it more important for us to give fair compensation to people who go to work? Is it more important for us to step up and talk about guaranteeing and securing the pensions of hard-working people, who stayed with a job year after weary year because a husband says to his wife: Honey, I am going to hang in there for 2 years because I get my retirement. And look what happens. Months before you retire, or even months after you retire, they pull the rug out from under you.

This is a looming retirement security crisis. Baby boomers are set to retire in large numbers in just a few years. This country is not saving for retirement. Our 401(k)s have taken a huge hit in the last 5 years. Defined benefit pension plans are almost extinct. Medicare is running a huge deficit. And Social Security has been targeted for benefit cuts. The three-legged stool of retirement security is looking a bit wobbly today.

Listen to what people around the country are saying about retirement insecurity. An editorial in the Denver Post said this:

> The retirement benefits offered by Social Security were originally designed as one leg of the three-legged stool that also included a worker's pension and a family's private savings. But American families don't save like they used to, and the national saving rate has been declining for the last 35 years. At the same time, American companies as a whole have been cutting back—or in some cases defaulting—on the pension coverage they once offered employees.

Listen to this letter to the Contra Costa Times in Walnut Creek, CA:

> I am a retired 74-year-old woman and get Social Security benefits, a private pension, payments from 401(k)s. Prior to the dot-com disaster a few years ago, my 401(k) was worth almost $300,000. It quickly dropped to half, [that value] and is slowly recovering. If it were not for my pension and Social Security, I would be very, very nervous about how I would survive what remains of my life.

Another letter to the editor dated March 16 from a Shreveport, LA, paper:

> In this time of corporate scandals, lost pensions, and stagnant wages, working people need something that is guaranteed and risk-free; that was always the genius of Social Security. . . . Social Security does need improvement, but that should mean ensuring benefits, not putting them on a Wall Street roller coaster. There are plenty of opportunities to invest in the stock market. Congress and the president should strengthen Social Security to make sure working people get the benefits we've paid for. We deserve it.

We owe it to our workers and their families to take an honest look at these issues and come up with some real solutions. We need to take a look at the Pension Fairness and Full Disclosure Act. We need to strengthen Social Security, not weaken it by privatizing it. We should encourage people to save for retirement, create incentives, tax incentives and other payroll incentives, for people to save. And we should encourage companies to pay what they promised workers and not allow them to get away with underfunding their pension plans.

As part of the reform of the Pension Benefit Guaranty Corporation, premiums are necessarily going up, and the companies that underfund their pension plan will have to pay more into it so the guarantee of this Pension Benefit Guaranty Corporation is worth something. We need to make sure that this agency meets its obligation to all American workers.

Today, the Pension Benefit Guaranty Corporation is $23 billion in debt. Who is going to bail it out? At a time when we are going to give $32 billion in tax cuts next year to people making over $1 million a year—$32 billion to people making over $1 million a year—at a time when we are facing record deficits, at a time when we are concerned about the survival of Medicare and Medicaid, it is clearly time for some thoughtful leadership in this country.

What happened with United Airlines, sadly, is a symptom of a real problem that is undermining the retirement security of every American family. We have been diverted from looking at the broader retirement security issues by the administration's Social Security privatization proposal. It is time to look at how to address the entire retirement income equation and provide more security, not less.

There was a time in America when we valued work, we valued workers, we valued the worker's family, and we said: We are going to provide you with basic dignity. You get up and go to work every single day, you set a good example for your family, you contribute to your company and your community, and America will be a better place and we will stand behind you. We will make certain that when the day comes for retirement, no matter what happens, Social Security will be there to provide some basic safety net for you and your family. We will watch the workplace for you, too. We will do our best to make sure it is safe so you are not injured while you are working on the job. If you are injured, we will see you are compensated fairly.

When it comes to the wage you earn, we hope you will do better than the minimum wage, but we will guarantee there will be a minimum wage in America so there will be some basic dignity in work and the hardest working people in America, trying to raise a family, can get by.

It was part of a social contract. It was America as a family, coming together. We were protecting our own. We were committed to our own. But there is a new attitude in Washington. You can feel it. That attitude of the so-called "ownership" society says, remember this, we are all in this alone. We do not come together to help one another, to protect one another, to care about one another. That is abandoning a fundamental principle in America.

We believe in the goodness of the people who live in this country. We believe in the fairness of our economic system. We believe the Government should stand for justice in a system where unjust things are occurring. But if you look at what happens in the Senate and the House day in and day out, time and time again, one wonders if we walked away from that commitment. We wonder if we are not dealing with some situation of noble savages being turned loose in a wilderness with the hope they survive. I hope it does not come to that.

Sadly, for tens of thousands of United Airline employees who just a few years ago were glorying in the fact that they work for one of the best airlines in the world, the bottom is falling out. The pension they worked for, for a life, is disappearing. They have taken wage cuts. The future is totally uncertain.

There are no guarantees in a free market system. There are winners and losers. But when you have made a promise to an employee, shouldn't you be held to that promise? Shouldn't you have a social contract, a binding contract, that the promise won't be broken?

I am afraid it has been broken here. This pillar of family security in America is crumbling. What will your Congress do to deal with it?

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I rise to make a few comments about the SAFETEA legislation. I thank the managers of the bill for working with us in trying to address some of the concerns I had about the prior legislation from last session.

As I stood here over a year ago when we debated this bill, I spoke very critically of that legislation and the damage that legislation did to Pennsylvania. Thanks to the Senator from Oklahoma and the Senator from Missouri, in particular, we have been able to address some of what I consider to be inequities in this legislation.

The point I made a year ago was that one of the major reasons for a Federal tax on gasoline in a Federal highway bill was the idea of promoting interstate commerce. Originally, the interstate system was certainly put in place for military purposes—at least ostensibly for military purposes—to move things around the country in a national emergency.

Obviously, the more pedestrian reason, if you will—probably that is a bad word to use when we talk about highways, but nevertheless, the reason that is most often used is because it is for interstate commerce, to move goods around the country, to move people around the country, for travel and tourism, a whole host of other reasons.

When you look at why the Federal Government does that, you have to step back and say transportation is a State function. Every State in the country has a transportation department. Why do we need a Federal transportation department? We need it because we have to make sure the goods that are produced in New Jersey can get to Ohio to Texas, or the goods produced in California can get to Georgia.

The fact is it is important for us to be connected. If there are situations where States are in financial difficulty and they let their roads degrade, particularly the major interstates—for example, my State is occupied increasingly with traffic that does not stop in Pennsylvania—there would be much more of an impetus if you were a local legislator to invest money on roads which Pennsylvanians used and invest a lot less money on roads that are used by folks out of State.

So we put together a Federal tax system, a gas tax, as well as Federal transportation legislation, to promote on the highway side—the transit is another piece, but we will talk about highways for a moment—to promote interstate commerce.

So we have a situation where we have States that shoulder a large burden when it comes to that interstate commerce and we have other States that are the great beneficiaries as to the burden those States shoulder in getting a lot of what is referred to as passthrough traffic. That is traffic that does not stop in your State, does not benefit your State economically, to speak of, but, in the case certainly of trucks, beats the heck out of your roads. So you are in a sense carrying the load for States that are the economic beneficiaries, whether they are the originator of the freight or the destination of the freight, whether you are a State that is a passthrough State for travel and tourism. Those are the States you want to pay particular attention to. Again, the nature of the program is to make sure we have a seamless highway system, that we have good interstate commerce.

The reason I came to the floor last year was to point out that Pennsylvania is a State that certainly shoulders the lion's share or certainly major share of this passthrough traffic. We have in Pennsylvania about as many interstates as any State in the country. I think there are three States that have more interstate miles. Texas, California and Illinois are the only three that have more interstate miles than Pennsylvania. We have 22 interstates in Pennsylvania. Actually, another one is under construction.

There are only four States that have a higher number of ton-miles than Pennsylvania. Again, they are much bigger States than little old Pennsylvania, Texas, California, Ohio and Illinois.

I will show a chart that shows the importance of interstate commerce and what Pennsylvania has to deal with. First, the statistic I throw at you, 47 percent of the trucks that go through Pennsylvania do not stop in Pennsylvania. They do not originate there and are not destined for there. We get a lot of traffic from the New England States—New Jersey, New England—that goes through Pennsylvania to get out West or comes down through Pennsylvania to get down to the South. These lines are the traffic that goes through Pennsylvania that does not stop, coming from way out here in Seattle, and they go way up to Maine and lots of points in between.

We see the resulting effect on the load of traffic in Pennsylvania. This is the Pennsylvania Turnpike, the big thick black line. That is more than 80 million tons of traffic passing through Pennsylvania on this one road. We see several others that have between 60 and 80 million tons of truck traffic, heavy truck traffic. We have heard in the Senate the vehicles that do the most damage to the highways are your heavy trucks.

Yes, we are in an industrial area. We have a lot of heavy steel, coal, and lots of other products that travel through our State. They do an enormous amount of damage. You throw on top of that the mountainous terrain we have in Pennsylvania, the numerous bridges. We have several thousand bridges that are in disrepair. We have lots of bridges, we have lots of mountains, we have a lot of freezing and thawing in Pennsylvania which wreaks havoc on the roads. So we have a lot of problems we have to deal with compounded by this heavy through traffic.

When I came to the Senate last year and said I was going to oppose the bill in the Senate—because here is a State, I argue, that is one of the poster children for a Federal Highway System that focuses money on States such as Pennsylvania because it carries such a heavy burden for the rest of the country without any direct economic benefit. This was a State, logically, given the topography, the climate, and the congestion and traffic we bear, it would be a State that should do well under a Federal formula. Certainly as Members have said to me in the past, we have.

However, under the bill last year, we actually became a donor State. We became a State that was going to subsidize the rest of the country. Here we are in Pennsylvania with this heavy burden of truck traffic. We rank fifth in the country in ton miles in Pennsylvania. Here is little Pennsylvania.

(Mr. ISAKSON assumed the Chair.)

Mr. SANTORUM. Mr. President, you have States such as Texas and States out West and many other States that are bigger geographically, such as Georgia. Yet Pennsylvania is fifth in the country in the ton miles our roads have to sustain. So what we are asking for is a little bit of equity.

I see the chairman is in the Chamber. We have gotten equity, at least some degree of equity. Everybody always thinks they should always get more equity, but we have gotten some degree of equity in this bill. We are not, under this bill, a donor State. Being one I think was underserved. But we still, thanks to the chairman's amendment, get only a 15-percent increase in the amount of funding from the last bill to this bill. That is lower than any other State in the country. Actually, we tie with two other States as getting the lowest rate of increase. So we are a donee State, but we are declining as far as the amount of money.

I would argue that is inappropriate given what I have laid out here and the purpose of a Federal highway bill. But we have done better. And we have done well enough that I, as you saw from the votes I have cast on this bill, have supported this legislation and will certainly support passage of this legislation.

We have a serious problem in Pennsylvania. We have a lot of bad roads. Twenty-seven percent of our roads in Pennsylvania are rated by the Bureau of Transportation Statistics as mediocre to poor. I see the Presiding Officer from Georgia. We have 27.1 percent of our roads rated mediocre to poor. Georgia has .2 percent rated mediocre to poor. Georgia, under this bill, receives a 30-percent increase. We receive a 15-percent increase. The Senator from Georgia just happens to be in the Chair, and I just wanted to point that out because it is a pretty big contrast.

The Senator from Georgia has fought hard for his State, and he is a donor State, so I know he believes he deserves more. He has fought very hard and, obviously, very effectively to make sure his State has been treated, in his mind, and I am sure in the minds of the people of Georgia, more equitably.

But I would make the argument that States around the perimeter of America really do benefit from States such as Pennsylvania, Ohio, Indiana, and the States through the middle part of the country that have to carry all this traffic to and from the border regions. That is why, if you look at the formula, most of the States that do not do well under these formulas are border States. Again, the reason is they do not have to carry the passthrough traffic, particularly the heavy traffic that we in Pennsylvania have to carry. In addition, they do not have the weather problems and the topography problems and a whole host of other problems that we have to deal with. Forty-two percent of our bridges in Pennsylvania are structurally deficient or obsolete. We have serious problems.

So when I came here last year and opposed the bill last year, I did so because of the concern I had about the way my State was being treated. I am grateful, again, to the chairman for his effort to bring Pennsylvania into some semblance of equity. I thank him for that. I thank the chairman of the Banking Committee, Senator SHELBY, for the work he has done with me on the Banking Committee on the transit piece. Transit is a very important piece of the transportation infrastructure of Pennsylvania. In Pennsylvania, for example, 70 percent of the cost of our transit system is provided for by the State. There are seven States that do not contribute anything to their transit systems. Twenty-eight States contribute less than what the Federal Government contributes to their transit systems.

So we made a major contribution in Pennsylvania to transit. I thank the chairman of the Banking Committee, Senator SHELBY, for making sure Pennsylvania is treated fairly under this legislation.

One final point I would like to make. I see my colleague from Ohio is here. He probably can make a similar argument about the passthrough traffic that goes through Ohio.

I thank the chairman for his effort on the Job Access and Reverse Commute Program. There is a 73-percent increase over TEA-21. This is a piece of legislation that we were able to get into TEA–21. It has been a very important program for a lot of our innercities to be able to get to jobs out in the suburban ring where job development is certainly faster than it is in the core innercities. This transportation program has proven, at least in my State—in Pittsburgh and Philadelphia in particular, and Harrisburg and other places—to be a very important project, to be able to increase the number of employed in the core urban areas with better quality jobs, and the availability of a better life. So I thank the chairman for his increase, and I certainly hope he will hold that increase in conference.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me just respond to some of the things the Senator is talking about. First of all, Senator SANTORUM has done a great job leaning on us and talking to us and is largely responsible for the fact that we made a major change in this bill. This change increased the amount that will be going to Pennsylvania by $208 million.

But I would like to say this: When you talk about the miles of substandard roads and highways, Oklahoma has a larger percentage that are substandard than Pennsylvania. I am not saying it because I am proud of it, because I have not been doing my job, I suppose, but in terms of the percentage of substandard bridges, Oklahoma is considerably higher than Pennsylvania.

Now, what it does point out, though, is the necessity for this bill because we are going to try to correct all these things. We will not be able to do it in 1 year, but by the end of this authorization period, we are going to look a lot better than we are now—but not if we have to continue to operate on extensions.

So I appreciate the comments. And I do not disagree with anything that the Senator says. I believe when you sit down with people and talk about a formula—it is interesting, the previous Presiding Officer is from Texas. I am not sure he agreed with everything that the Senator from Pennsylvania said. But it is a very difficult thing to do.

So I appreciate the cooperation the Senator has given and the influence he has put on this legislation which has helped us make this a better bill. I appreciate that very much.

Mr. SANTORUM. I thank the Senator.

Mr. INHOFE. Mr. President, I say to the Senator from Ohio, I know you are attempting to get the floor for something other than the bill, but we do have someone coming down with an amendment. Would it be permissible, if you were to use the floor, that when someone comes with an amendment, you would yield to them, or is that something you would be uncomfortable with?

Mr. DEWINE. If the Senator will yield?

Mr. INHOFE. I will.

Mr. DEWINE. I have a tribute to a soldier who was killed, and it will take no more than 10 minutes. So once I start, I would not want to stop. But I will not start until you want me to start.

Mr. INHOFE. I understand. But you would attempt to do it in 10 minutes?

Mr. DEWINE. Yes. I will certainly do it in 10 minutes.

Mr. INHOFE. The Senator could wait until you are finished.

Mr. DEWINE. I could wait to start until later if you want.

Mr. INHOFE. No, I suggest you go ahead. I say to the Senator, after the Senator gave his eloquent talk about the safety problems that are out there throughout America right now, I came to the floor and talked about the safety core provisions that are in this bill, that if we are on an extension, as opposed to passing a bill, people are going to die. This is a life-or-death issue. I think you brought that out very forcefully, and I know it comes from the heart.

Mr. DEWINE. Mr. President, I appreciate what my colleague has done. The Senator from Oklahoma is absolutely correct that if this bill is passed, these provisions will be in there, as well as a lot of new construction that will save lives as well.

Mr. INHOFE. Very good. I yield the floor.

(The remarks of Mr. DEWINE are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is my understanding the junior Senator from Virginia has an amendment he wishes to offer. It affects the commerce title of the bill. I ask if Senator STEVENS would like to come down, since this is the commerce title of the bill, while he offers an amendment.

Mr. STEVENS. Yes.

AMENDMENT NO. 611

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I call up amendment No. 611.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. ALLEN], for himself, and Mr. Ensign, proposes an amendment numbered 611.

Mr. ALLEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the eligibility requirements for States to receive a grant under section 405 of title 49, United States Code)

Strike section 7216(a) of the bill and insert the following:

(a) IN GENERAL.—Section 405 is amended to read as follows:

"§ 405. Safety belt performance grants

"(a) IN GENERAL.—The Secretary of Transportation shall award grants to States in accordance with the provisions of this section to encourage the use of safety belts in passenger motor vehicles.

"(b) GRANTS FOR SAFETY BELT USE.—

"(1) IN GENERAL.—The Secretary shall make a single grant to each State that has a State safety belt use rate for the immediately preceding calendar year of 85 percent or more, as measured by the National Center for Statistics and Analysis.

"(2) AMOUNT.—The amount of a grant available to a State in fiscal year 2006 or in a subsequent fiscal year under paragraph (1) of this subsection is equal to 500 percent of the amount apportioned to the State for fiscal year 2003 under section 402(c).

"(3) SHORTFALL.—If the total amount of grants provided for by this subsection for a fiscal year exceeds the amount of funds available for such grants for that fiscal year, then the Secretary shall make grants under this subsection to States in the order in which the State's safety belt use rate was 85 percent or more for 2 consecutive calendar years, as measured by the National Center for Statistics and Analysis.

"(4) CATCH-UP GRANTS.—The Secretary shall award a grant to any State eligible for a grant under this subsection that did not receive a grant for a fiscal year because its safety belt use rate is 85 percent or more for the calendar year preceding such next fiscal year.

"(c) Allocation of Unused Grant Funds.—The Secretary shall award additional grants under this section from any amounts available for grants under this section that, as of July 1, 2009, are neither obligated nor expended. The additional grants awarded under this subsection shall be allocated among all States that, as of July 1, 2009, have a seatbelt usage rate of 85 percent for the previous calendar year. The allocations shall be made in accordance with the formula for apportioning funds among the States under section 402(c).

"(d) Use of Grant Funds.—

"(1) In general.—Subject to paragraph (2), a State may use a grant awarded under this section for any safety purpose under this title or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including—

"(A) intersection improvements;

"(B) pavement and shoulder widening;

"(C) installation of rumble strips and other warning devices;

"(D) improving skid resistance;

"(E) improvements for pedestrian or bicyclist safety;

"(F) railway-highway crossing safety;

"(G) traffic calming;

"(H) the elimination of roadside obstacles;

"(I) improving highway signage and pavement marking;

"(J) installing priority control systems for emergency vehicles at signalized intersections;

"(K) installing traffic control or warning devices at locations with high accident potential;

"(L) safety-conscious planning;

"(M) improving crash data collection and analysis; and

"(N) increasing road or lane capacity.

"(2) Safety activity requirement.—Notwithstanding paragraph (1), the Secretary shall ensure that at least $1,000,000,000 of amounts received by States under this section are obligated or expended for safety activities under this chapter.

"(e) Carry-forward of Excess Funds.—If the amount available for grants under this section for any fiscal year exceeds the sum of the grants awarded under this section for that fiscal year, the excess amount and obligational authority shall be carried forward and made available for grants under this section in the succeeding fiscal year.

"(f) Federal Share.—The Federal share payable for grants awarded under this section is 100 percent.

"(g) Definition.—In this section, the term 'passenger motor vehicle' means—

"(1) a passenger car;

"(2) a pickup truck; or

"(3) a van, minivan, or sport utility vehicle, with a gross vehicle weight rating of less than 10,000 pounds.".

Mr. ALLEN. Mr. President, the purpose of the amendment I have offered, along with Senator Ensign of Nevada, is to make sure safety belt incentive grants are awarded based on a State's seatbelt use rate, not based on a prescriptive mandate from the Federal Government that a State must enact a primary seatbelt law to receive Federal funds.

I have long opposed Federal dictates, whether direct or indirect, on States to enact a primary seatbelt law. This brand of nanny government precludes American adults from making basic decisions for themselves and could hamper law enforcement's ability to effectively patrol the streets and highways for more serious and egregious offenses. It is generally a waste of scarce time and resources for local police officers to pull over an adult and write a ticket to fine someone who was, theoretically, potentially harming himself or herself by not wearing a seatbelt. Our citizens would be better served if a law enforcement officer, rather than writing that ticket, because someone was otherwise driving safely down the road, was actually finding someone who is weaving down that same stretch of road as a drunk driver, clearly a danger to themselves but more importantly to others. Law enforcement resources are not unlimited. I believe police officers have more pressing needs than craning their necks to make sure every licensed driver on the road has a buckled seatbelt.

This is not an issue of interstate commerce. This is not a civil rights issue. This is not in the U.S. Constitution. This is an issue of enforcement of seatbelt laws, and what laws a State might want to have is and has long been under the jurisdiction of the people of the States. I don't believe that nanny mandates such as this initiative should come from government. But if it is going to come from a government, it ought to be coming from a State government, certainly not the U.S. Congress. State legislators provide a much closer representation of the views and beliefs of their respective constituencies in this country. I am a firm believer that the laws of a particular State in matters such as this reflect the principles and philosophies under which the citizens in that State wish to be governed.

One can see from this chart a minority of States have enacted primary seatbelt laws. The ones in red are the 21 States that have primary enforcement of seatbelt laws. Simple math tells you that 29 States do not have a primary enforcement of seatbelt laws. In fact, New Hampshire doesn't even have secondary enforcement of seatbelt laws. I surmise that this issue has been considered by all of the States' legislatures in the past.

In our general assembly in Virginia—the world's oldest legislative body in the Western World, started in 1619—they have debated the benefits of a primary seatbelt statute numerous times and have consistently rejected such a law in our Commonwealth of Virginia. In fact, during the debate in the Virginia House of Delegates, it was strongly argued that primary seatbelt laws can contribute to racial profiling.

In early 2003, Delegate Kenneth Melvin of Portsmouth, VA, voiced his opposition to a primary seatbelt law, stating:

> I know what happens when you are stopped by police as a black man in this country, and in Virginia in particular.

He then explained how his oldest son had been pulled over by police numerous times for no apparent reason.

Incidents like this might not happen in every State and may be specific to certain jurisdictions in Virginia, but it is the fundamental reason for us to leave such decisions to the people in the States. The repercussions of such Federal mandates or pressure can have different effects in each State.

Given that the majority of the States have declined primary safety belt laws, it seems inappropriate for the Federal Government to devise a grant program that essentially compels the States to enact them or lose Federal gas tax dollars that they paid into the Federal highway trust fund.

The underlying bill's Occupant Protection Incentive Grant Program, I suppose, is well-meaning officiousness, but instead of providing grants based on obtaining a goal to increase use rates, the safety title requires the States to enact a primary seatbelt law to receive these Federal funds which, of course, have come from the people in the States who paid Federal gas taxes.

The proponents of this provision will no doubt argue that the program is not discriminatory, not an effort to coerce States without primary seatbelt laws to enact such laws. However, the 90-percent use rate required in this bill would make it extremely difficult for a vast majority of the States to qualify for grant funding. According to the National Center of Statistics and Analysis, only seven States had a safety belt use rate of 90 percent or higher in 2004.

I understand there are studies that indicate that primary seatbelt laws are most likely to yield increased use rates. However, if States without primary seatbelt laws are able to attain a comparable or higher use rate to those with such laws, it is fundamentally unfair for the Federal Government to withhold grant funding that has been provided by all road-using taxpayers.

My amendment would revise the Occupant Protection Incentive Grant Program to base grant awards on an 85-percent safety belt use rate. Instead of compelling States to enact primary seatbelt laws, grants would be awarded based solely on seatbelt use attainment. There are a variety of ways that States may encourage people to use seatbelts.

It is difficult for me to understand the logic of an incentive program that would provide Virginia, with its high safety belt use rate, far less funding than a State with a far lower seatbelt use rate and a primary seatbelt law. Yet that is entirely possible under this bill if a State with a lower use rate has enacted a primary seatbelt law. They could have a lower rate than the State that doesn't have such a law and receive funding, while the State with higher usage does not.

If the goal is to attain higher safety belt use rates, incentive grants should be awarded based on a specific goal. In our amendment, it is an 85-percent safety belt use rate. This proposal is similar to the one already included in the House version of this legislation.

My proposal is a much more equitable way to provide incentives and reward States for increasing safety belt use rates. It makes the proposed program fair by making requirements the same for all States but does not compel States to enact primary seatbelt laws. Again, the goal of our amendment is simple and clear: attain higher seatbelt use rates based on achievement, not on an artificial mandate from the Federal Government.

States are looking for the greatest flexibility on how to use Federal transportation dollars that we send back to them. Some may decide that increasing capacity can best serve their citizens by helping alleviate traffic congestion and improving the safety of a particular roadway. My amendment would allow these funds to be used for everything from intersection improvements, pavement and shoulder widening, installation of rumble strips or warning devices, improving skid resistance, improvements to pedestrian or bicyclist safety, railway, highway crossing safety, traffic calming, the elimination of roadside obstacles, improving highway signage, and pavement marking. They can use it for installing priority control systems for emergency vehicles that signal intersections. They could use it for installing traffic control or warning devices at locations with high accident potential, or increasing road or lane capacity.

It has been noted multiple times throughout this debate that our highways are not being maintained and actually require greater funding than the underlying bill provides or authorizes. This amendment would provide the States some additional flexibility to address road and lane capacity needs if they so choose.

We all agree that wearing a seatbelt increases safety for drivers, and the policy should be to try to promote increased safety belt use rates.

My amendment does not change that purpose. However, I do not believe it is the role of the Federal Government to force States to enact such laws that are traditionally considered in the State legislatures. The States may have many ways, such as advertising, to encourage greater seatbelt usage.

My amendment rewards States equally for reaching an 85-percent safety belt use rate, but does not seek to force them into only one solution prescribed by the officious nannies in Washington, which would be a primary enforcement seatbelt law.

I urge my colleagues to consider the laws in their home State. Twenty-one States have such a law, 29 do not. Determine whether you believe this Federal Government incentive plan should reward States that have high usage or whether it should be used to promote a certain meddling nanny philosophy of this body that tells State legislatures and the people in the States what to do.

My amendment would ensure that the occupant protection incentive grant funding is awarded fairly and is done so based on attainment of goals. I strongly urge my colleagues to support this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, very briefly, the Democratic leader and I have a unanimous consent request.

Mr. President, I ask unanimous consent that the list of amendments I send to the desk be the only remaining first-degree amendments in order, other than a managers' amendment to be cleared by both managers and both leaders; provided further, that they be subject to second-degree amendments that have been filed in accordance with rule XXII; I further ask consent that any amendment from the list must be offered by 4 p.m. on Monday, May 16; provided further, that when the Senate resumes consideration of the bill on Tuesday, May 17, all time be expired under rule XXII and the Senate proceed to votes in relation to the pending amendments in the order offered, and that following disposition of the above listed amendments, the Senate proceed to a vote on the Inhofe substitute amendment, as amended, that the cloture vote on the underlying bill be vitiated, and the Senate then proceed to a vote on passage of the bill, with no intervening action or debate.

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. To the leader through the Chair, it is my understanding we will have a vote Monday night, and it will be one of the amendments on the list; is that right?

Mr. FRIST. Mr. President, that is correct. We will have one amendment, possibly two, Monday night, and the remainder of these votes will be stacked, on Tuesday, in the order that was just spelled out.

Mr. REID. Further, Mr. President, we have been on this bill 2 weeks, but that is somewhat misleading because we have had so many other issues that have interrupted the discussion of this bill. The work on this bill is good. I compliment the managers and the others. Not only do we have these managers on the bill, but there are many committees that have jurisdiction on this bill. It is a very complicated bill jurisdictionwise. It is a big bill moneywise. The managers have to be complimented for doing this.

I believe this is what we can accomplish in the Senate. We have only spent a few days on this bill. I repeat, this is a remarkable piece of work we have done. I hope we can continue doing the work for the people of America as needs to be done. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I second what the Democratic leader said in terms of both sides working together on a bill that has taken a tremendous amount of work. We spent several days on the bill and had plenty of opportunity over the last 2 weeks for everybody to come forward.

To clarify for the benefit of our colleagues, with this agreement in place, we can announce there will be no further votes this evening. Tomorrow we will resume the bill, and Senators will be able to offer amendments from the list. No rollcall votes will occur on those amendments during Friday's session.

As we just stated, on Monday, Senators will have an opportunity until 4 p.m. to offer amendments. As we discussed, there will be at least one, but possibly two votes. We will be voting Monday evening on at least one of the highway amendments. Therefore, Senators can expect the next vote to be at 5:30 p.m. Monday. We will then complete our work on the bill Tuesday morning. The managers will work over the course of Friday and Monday to further limit the number of amendments that will require votes.

I thank our colleagues, and I thank the chairman and ranking member for their tremendous work, their patience in bringing this bill forward.

Mr. President, I yield the floor.

The list of amendments is as follows:

Germane amendments intended to be offered:

Carper: #638, #723.

Dodd: #732 Teen Drivers.

Durbin: #734 Fuel savings reporting; #669 Bicycling.

Feingold: #695 Buy American; #676 Volunteer mileage.

Feinstein: #591 Alameda Corridor East; #633 Toll Roads.

Lautenberg: #619 Drunk driving; #639 Big Trucks.

Schumer: #674 Transit Benefits.

Wyden: #690 Hours of use exemption.

Landrieu: #620 Corridor.

Kerry: #680 Ferry boats.

Post Cloture Amendments

Sessions #646.

McCain #719.

McCain #720.

Craig #616.

Domenici #659.

Bond #631.

Bond #658.

Warner #686

Ensign #636

Chambliss #603.

Alexander #733.

Snowe #706.

Lott #583.
Lott #667.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 611

Mr. DEWINE. Mr. President, I rise this evening to oppose the amendment my colleague from Virginia offered. With all due respect to my good friend from Virginia, I do so because I believe the bill, as currently written, is a good one, as I said earlier today. I believe the language in the bill on primary seatbelt usage that has been written by Senator LOTT will, in fact, save lives.

In this country every year, we lose over 40,000 Americans in highway deaths, 40,000 Americans who are killed in auto fatalities. This bill is aimed at, in many different respects, trying to reduce the number of Americans who die by building better roads, by dealing with dangerous intersections, and some of the safety provisions we have already talked about in this bill.

If you talk to anyone who is a highway safety expert or if you talk to the real experts who are the men and women who patrol our highways every day—in Ohio it is the Ohio State Highway Patrol or it might be the local sheriff's department, State troopers, whatever they are called in your local jurisdiction—I believe the experts who have looked at and studied this issue will tell you that the use of primary seatbelt laws clearly saves lives.

Why is that? It is pretty simple and pretty basic. The reason is this: Of all the things we can do to save lives, the easiest and simplest is to increase the number of people in this country who buckle up, who put on a seatbelt. Every car that is manufactured in this country today has a seatbelt. It is not adding any new equipment. It is getting people to put on their seatbelts. It is a question of getting people to use equipment that is already in the car.

If people use seatbelts, they are safer and the auto fatalities go down. The highway safety experts, the people who have studied this issue, will tell you when the usage of seatbelts goes up, the auto fatalities go down. It is that simple.

The other thing we know is States that have passed primary seatbelt laws have seen the use of seatbelts dramatically go up. In Ohio, for example, we do not have that law, unfortunately, and we are hovering at about 75-percent use. We are probably never going to get beyond 75-percent. We are not going to get to 80 or 85 or 90 percent unless we have a primary seatbelt law.

If a State gets a primary seatbelt law, that usage will go up. It will go up 5, 10, 15 percent, and when you see that happen, the number of lives will be saved.

In Ohio—I am using my home State as an example, but you can extrapolate these figures from Ohio to any other State in the Union—in Ohio, we estimate if we had a primary seatbelt law and our usage went from 75 percent up to, say, 90 percent, we would save 100 lives per year. That is a lot of people. We would save lives every year. Whatever the figure, we are going to save lives.

So this is a very simple provision Senator LOTT and the managers have included in this bill. What the amendment of my good friend from Virginia would do is basically take that out.

Now, for my colleagues who worry about the Federal Government being oppressive and using the stick, this is not a stick approach. This is a carrot approach. This is extra incentive to the State to do it. It will save lives. There are very few times when one can come to this floor and know that their vote will save lives.

When we get to the point where we vote on this, a vote to retain this language in this bill will, in fact, save lives because States will enact it; the usage of seatbelts will go up, and when the usage of seatbelts goes up, lives will be saved. It is pretty simple.

So I urge my colleagues to defeat the Allen amendment and to keep this language in the bill.

One last comment. My colleague has talked in his speech about the highway patrol and the police have other things to do. Yes, they have other things to do. The point of a primary seatbelt law is akin to most other laws. It is a deterrent. That is why we have speed laws. That is why we have every other kind of laws. It is a deterrent, and the deterrent changes behavior. Because that law is on the books, because people know they have to have it, because they know they can be pulled over for not having it, they will put it on and usage will simply go up. It works. It has worked in State after State, and lives will be saved.

So I urge my colleagues to keep this in and to defeat the amendment of my colleague from Virginia.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Virginia.

Mr. WARNER. Mr. President, I rise today to strongly support the safety belt provisions in the Inhofe substitute, and to urge my colleagues to reject the amendment offered by my colleague, Senator ALLEN.

The Commerce Committee's provisions to provide incentives to States which increase the use of seatbelts is essential to improving the safety of the driving public.

Increasing seatbelt usage is the hallmark of the administration's proposals to the Congress, and it is the cornerstone of the Commerce Committee's title to this bill.

The administration does not support the amendment before us and Secretary Mineta has written that, "President Bush and I believe that increasing safety belt usage rates is the single most effective means to decrease highway fatalities and injuries."

The facts are undeniable as the Secretary of Transportation states: "Empirical evidence shows that the surest way for a State to increase safety belt usage is through the passage of a primary safety belt law."

The administration's bill sets as our national goal a seatbelt use rate of 90 percent. That should be our minimum standard, but under the Allen amendment it would be weakened.

In a letter I received yesterday from Dr. Jeff Runge, administrator of the National Highway Traffic Safety Administration, he writes in reference to the seatbelt grants program that "no other proposal in SAFETEA will do more to improve safety than this bipartisan proposal."

I commend Chairman STEVENS, Senator LOTT, and Ranking Member INOUYE for their strong leadership in continuing a critically needed safety belt incentive grant program. It was my privilege to be directly involved in the drafting of TEA-21 in 1998. For the first time, TEA-21 included a significant, new incentive based program to increase the seatbelt use rate in this Nation.

At that time, the national average for seatbelt usage was approximately 67 percent. Some states, particularly those with primary seatbelt laws, were achieving belt use rates far above the national average, and they saw the immediate benefits of fewer highway deaths and injuries.

Before the TEA-21 program, other States, without primary seatbelt laws, had belt use rates much lower than the national average.

The Safety Belt Incentive Grant Program in TEA-21 provided approximately $600 million to States which improved their belt use rates. We have seen improvements in the number of people wearing seatbelts as a result of this program. I commend the Commerce Committee for their leadership in advancing a program that will take us even further in helping States to get people to buckle up.

Today, the average seatbelt use rate has improved significantly. There remains, however, great disparities between the States in their seatbelt usage. It is clear that States with primary seatbelt laws achieve far higher seatbelt use rates than States without primary seatbelt laws. For this reason, the Commerce Committee provides significant funding to States that enact primary seatbelt laws.

The Commerce Committee program, like the administration's proposal and the amendment I offered last year, sets as our national policy a goal that States reach a 90-percent seatbelt use rate. This important provision recognizes that the most effective tool to improve seatbelt usage is by enacting a primary seatbelt law.

Wearing seatbelts is a critical public health and safety issue. As many have said, wearing a seatbelt is the most single most important act we can take to prevent deaths and injuries on our highways.

For the first time in a decade, highway deaths are on the rise. In 2004, nearly 43,000 children and adults died as a result of automobile crashes. Over half of these deaths involved people who were not wearing their seatbelt.

I find that astonishing. There is no other fact that is more compelling that should convince us to take action.

If for no other reason to support this amendment, we must protect our Nation's youth. Today, automobile crashes are the leading cause of death for Americans age 2 to 34.

These tragic statistics are reversible, and the provisions approved by the Commerce Committee are critical to reducing traffic deaths.

I urge my colleagues to support the provisions in the bill to provide financial incentives to States to increase seatbelt usage to 90 percent or to enact a primary seatbelt law.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I rise in opposition to the Allen amendment, and I will repeat what Senator WARNER had to say:

> I rise today to strongly support the safety belt provisions in the Inhofe substitute and to urge my colleagues to reject the amendment offered by my colleague Senator ALLEN.

I thought that would be a pretty interesting statement to put into the RECORD at this point.

I remember, though, Senator WARNER did a lot of work on this subject a couple of years ago. He has been involved in Transportation bills, highway bills, but I remember he had an amendment that would actually, in effect, provide sanctions if one did not have seatbelts. I voted against that because I do not think that is the way to get States such as mine to do something that could be very important in terms of safety.

Before he leaves the floor, I want to also commend Senator DEWINE for his work on these safety issues. In the bill last year, he had a lot of provisions that he worked with Senator MCCAIN and others on to get them to include in the Commerce portion of the highway bill. This is an area where he has worked, he feels passionately about it and he came back this year and said we want to work together.

I think if my colleagues will look at what we put in the safety provisions from the Commerce Committee, from the Surface Transportation and Merchant Marine Subcommittee that I chair, now a part of the substitute, they will be pleased with the safety provisions.

This is a key part of the highways and transportation in our country. If we just look at the pavement, if we just look at the jobs, if we just look at economic development, we will be missing a big part of the equation, and that is safety and lives that can be saved or lost depending on what we do.

Senator STEVENS, Senator INOUYE, and I met with people on all sides of this equation: highway people, safety advocates, State representatives, labor, the entire mix, and we developed these provisions very carefully. So I want to thank Senator DEWINE for his effort.

Because I have done that, and because I have worked on this issue, I feel very strongly in opposition to the amendment offered by Senator ALLEN. Usually, Senator ALLEN and I would be together on something like this, but my opposition this time is very simple and that is we need people to use seatbelts; they save lives.

I come from a State that is one of the lowest users of seatbelts in the Nation—63 percent. I am one of those who has been slow to come to the usage of seatbelts, but I guarantee you my kids know how important they are. They will not let me crank the car up until everybody is buckled in, including especially my grandchildren.

Then, as I have gotten into it more and more, the statistics are clear that these seatbelts will make a difference. In 2003, about 17,000 people killed in motor vehicle crashes were not buckled up, and nearly 500 of those deaths were children. Would it absolutely have saved them if they had been buckled up? Maybe not. But even if it had been just a few hundred, and it probably was more like thousands, that makes a huge difference. Many of those 17,000 deaths were preventable.

A passenger wearing a seatbelt is 45 percent less likely to be killed when involved in an accident. For light trucks such as SUVs, the figure is higher. The risk of fatal injury is reduced by 60 percent. Traffic safety experts nationwide agree that the most effective short-term way of reducing traffic fatalities is to increase the seatbelt use.

Getting people to change their driving habits is a major challenge that requires more than just airing public service announcements or distributing safety materials. Over the years, States have tried many different ways to increase seatbelt usage. Experience has shown the most effective means to increase seatbelt use is to enact the primary seatbelt law.

In fact, each percentage point increase in seatbelt use saves about 270 additional lives. If every State in the country enacted the primary seatbelt law, more than 1,200 lives would be saved every single year.

Today, in the 22 jurisdictions—21 States and the District of Columbia—that have primary enforcement laws, the average seatbelt use rate is 11 points higher than in States without this primary seatbelt law. I want to emphasize my State does not have it. I have talked to State officials. I want to encourage the State to do that, and this provision will do that. I will explain that a little bit more in a moment.

To give an example of how powerful an effect this will have, consider the recent experience in the State of Illinois which passed a primary seatbelt law in just 2003. In just one year after Illinois passed a primary seatbelt enforcement law, the seatbelt use rate jumped from 74 percent to 80 percent. Increases in seatbelt use produced real results. In Washington State, traffic fatalities declined by 9 percent in the first year after passing a primary seatbelt law. Yet there are still 29 States that have not passed it. This grant program will provide incentives for those States to take the steps needed to save lives.

It also rewards States that are able to achieve a 90-percent seatbelt use rate without a primary seatbelt enforcement law. States that have already done it but show movement and get to 90 percent, there is a reward, an incentive, for them to do that. What we are really worried about is those 29 States that have not done it that are down in the 60—or even less—percent use of seatbelts. This program rewards the States that are able to achieve that 90 percent.

Senator ALLEN's amendment says that unless a State gets 85 percent, they do not get any of the incentives. In my State, it is 63 percent, and we are not going to get to 85 percent for many years to come. We will not ever reach the percentage or get the incentives that would encourage us to do it.

The seatbelt performance grants offer States the flexibility to use much of the funds on highway safety infrastructure projects. That is the most important safety provision we could possibly pass: Better roads, wider roads, more lanes, more bridges, safer bridges. That is the ultimate safety provision. Seatbelts and other things that can be done, the construction of vehicles, make a difference too.

The flexibility funding allows States to identify and address the greatest highway safety hazard. They can improve dangerous intersections, enhance railroad signage or redesign dangerous stretches of road. Combining a primary seatbelt enforcement law with addressing highway safety hazards is a win-win situation.

More States would reap the benefit under the Senate Commerce provision than under the Allen amendment. Today, only 14 States have an 85-percent seatbelt use rate required to qualify for the Allen amendment.

The Allen amendment is also a budget buster. If all States were to enact primary seatbelt laws, the cost of the Commerce Committee bill would be $597 million. If all States were to meet

85-percent belt use under the Allen amendment, it would cost $778 million. The additional $181 million needed to fund the amendment would have to come out of the highway trust fund.

We thought about this carefully. We listened to administration officials. It is very clear it is the view of the administration, the position of the administration, that we need to encourage greater use of seatbelts. We need States to pass this primary seatbelt law. It will save lives, and I believe the Allen amendment will undermine a very strong part of this legislation.

I urge my colleagues, when we do take this back up, to look at this very carefully. We will vote on it next week and you will have a chance to think it through. It is not about, Do I get a little more this way than that way as a State: we are talking about lives here. We are talking about lives, and a life in Georgia is as important as a life in Mississippi or Virginia or any State in the Nation.

I feel strongly about this. By the way, one of the reasons why I feel strongly, I believe, is I am among the converted. I didn't just get here years ago; I moved gradually toward this. Finally, the statistics, the evidence, and the deaths are too much weight for me to reject, or not accept. This is a way to get a significant increase in my State, and States all across the country, in seatbelt usage.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I, too, rise and join my colleague from Mississippi in his very eloquent remarks, and my colleague from Ohio.

I know the Senator from Illinois is waiting to speak in a few moments.

I rise in opposition to the Allen amendment. I understand the intentions, but I think the statistics and the numbers and the reality make it clear that the American people are better off under the provisions as they currently exist in the bill. More States benefit from the Senate Commerce primary belt law provision. There are 19 States currently that have primary seatbelt laws on their books and they will qualify for funding immediately. Only 14 States have an 85-percent seatbelt use rate, according to the 2004 numbers. That is what you need to qualify under the terms of this amendment. So more people would benefit and be rewarded for having the primary seatbelt law.

I think the provisions of the Commerce Committee's bill guarantee funding if the State does one thing, and that is either have or pass a primary belt law. Under the amendment we are talking about right now, a State has no certainty that any action it takes will increase belt use that will result in 85-percent or higher rate use.

This amendment would, if enacted, abandon a very important goal, and that is, for several years the Department of Transportation has set a goal of 90-percent seatbelt usage. The amendment in question would set a goal basically at 85 percent. I have a concern. Knowing human nature and the way things work sometimes, I think folks might give up at 85 percent and never try to reach that 90 percent. So I think the DOT policy is a good one. I think it is designed to save lives. It is a commonsense approach. As Senator LOTT said a few moments ago, States that have a primary seatbelt law on average show the increase in seatbelt usage by 11 percentage points. He tried to drive that home a few moments ago. I think that is a very powerful statistic.

Primary seatbelt laws are also the fastest and the cheapest way to save lives. The NHTSA administrator, Jeff Runge, M.D., said of the provisions in the current bill that they would save more lives, do it faster and cheaper than any other highway safety proposal Congress is likely to consider this decade.

So the experts agree, the numbers agree, and last, let me say, the safety groups agree. These are the people out there every single day fighting for better laws and more safe vehicles, safer roads, et cetera. They agree. The proposal in the current bill, not in the amendment but in the bill, is supported by the National Safe Kids Campaign, Mothers Against Drunk Driving, the Automotive Coalition for Insurance Association, Advocates for Highway and Auto Safety, Mazda, the Automotive Occupants Restraint Council, the Traffic Safety, the National Safety Council, the American Insurance Association. It incentivizes States to pass these primary seatbelt laws. The experts agree the way to save lives on America's highways is to try to pass these seatbelt laws.

I, like Senator LOTT, do not have a primary seatbelt law in my State. Typically I think States should have the rights to make these decisions, and certainly every State does. But what we do is give a bonus, an extra incentive for States to consider, State legislators, Governors, et cetera, to consider passing these type of laws because it will benefit their citizens and benefits the Nation.

I urge my colleagues to vote against this amendment when it comes up.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. OBAMA. Mr. President, like my distinguished colleagues from Arkansas and from Mississippi, I rise in opposition to the amendment offered by my distinguished colleague from Virginia. I strongly urge my colleagues to preserve the seatbelt program as it is written in the Transportation reauthorization bill.

This provision in the underlying bill gives States that pass primarily seatbelt laws a one-time incentive grant from that State's annual traffic safety grant apportionment. The purpose of this incentive is to encourage States to take specific action, passage of a primary seatbelt law that will save more lives.

As it so happens, my State of Illinois passed a primary seatbelt law in response to this incentive. I know we did it in response to these incentives because I was the chief sponsor of passage of the primary seatbelt law.

The same thing happened in Delaware. The same thing happened in Tennessee. You know what. It works, and it works faster and cheaper than any other method, in terms of ensuring that people wear safety belts and save lives.

It is amazing we have to keep saying this, but seatbelts save lives and primary seatbelt laws save more lives. The National Highway Traffic Safety Administration predicts if every State enacted primary seatbelt laws, more than 1,000 lives could be saved each year and 17,000 injuries could be prevented. Seatbelt use is 11 percentage points higher in States with primary enforcement laws than in those States where laws provide for secondary enforcement. And States changing from secondary to primary enforcement have seen 10 to 15 percentage point increases in usage.

Beyond the facts and statistics, this is an issue that makes sense. We should not have to just hope people wear seatbelts, just as we should not have to hope they obey speed limits or hope they stop at red lights. We should do what we can to make sure people will wear seatbelts that will keep them alive. We teach our children to wear seatbelts when they get into a car and we all hope they listen to mom and dad and do it when we are not there, but wouldn't we feel better if we knew our laws in our communities were helping to make that happen? Doesn't it makes sense for the Federal Government to maintain a consistent message on seatbelt use, not through a mandate but through a simple incentive?

The National Safe Kids Campaign thinks so. Mothers Against Drunk Drivers thinks so. They endorse and prefer the Federal incentive as written in the underlying bill.

Finally, a Federal incentive is also a Federal commitment. When the Federal Government makes a commitment and States respond accordingly, then the Federal Government needs to keep its word. One of the points that was raised by Senator ALLEN in sponsoring this amendment was that, in Virginia at least, there seems to be some concern that primary seatbelt enforcement would result potentially in an increase in racial profiling in Virginia.

As somebody whose community on the south side of Chicago is fairly familiar with racial profiling, and who hears anecdotes each day from African-American drivers who believe they may have been profiled. I am certainly sensitive to Senator ALLEN's point. As it turns out, though, part of the way we were able to solve this in Illinois was to couple a primary seatbelt enforcement law with a racial profiling law that would ensure we were keeping track as to how traffic enforcement was taking place and to make certain it was being done in a nondiscriminatory fashion.

This was the bargain that was struck at the local level: the notion that we would have a primary seatbelt law enforced: we would also have a data collection bill that would allow us to track and make sure our traffic laws are being applied in a nondiscriminatory fashion.

That deal that was struck in Illinois was premised on the notion that we would be getting these Federal incentives. It is not appropriate for the Federal Government to now pull the rug out from under States such as Illinois that have done the right thing. It is appropriate, instead, for us to keep our word, maintain our commitments, and make sure we continue to incentivize a law that everybody knows, in fact, saves the lives of our citizens.

I encourage my colleagues to oppose this amendment

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the pending amendments be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 674 TO AMENDMENT NO. 605

Mr. SCHUMER. Mr. President, I call up my amendment No. 674, which I believe is at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Mr. KENNEDY, Mrs. CLINTON, Mr. LEVIN, and Mr. SARBANES, proposes an amendment numbered 674.

Mr. SCHUMER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the transit pass and van pooling benefit to $200)

On page 628, line 23, strike "$155" and insert "$155 ($170 for 2007, $185 for 2008 and $200 for 2009 and thereafter)".

On page 629, line 5, strike "2008" and insert "2009".

On page 629, line 7, strike "2007" and insert "2008".

Mr. SCHUMER. Mr. President, I will be brief. This amendment raises the tax-free mass transit benefit from $155 to $200 per month by the end of the life of the Transportation bill. I, first, thank my colleagues on the Finance Committee, Mr. GRASSLEY and Mr. BAUCUS, for raising the amount to $155. That is already in the bill. What this amendment does is raise the remainder over the course of the bill to $200. What it will do is equalize the benefit offered by employers for transit expenses with the current benefit offered for parking expenses.

I understand that Senators BAUCUS and GRASSLEY are working with the Budget Committee to get this amendment approved. So I hope we will not have to vote on it or debate it much longer than this. I greatly appreciate their efforts.

Basically, we give people a $200 deduction when they drive to work. It is obviously a business expense if they have to pay for parking, but mass transit has always been discriminated against. We do not give people that deduction for mass transit. This makes it equal. It does not favor one, does not favor the other. It does not take from highways to give to mass transit. It is a win-win-win.

Now, mass transit ridership is at an all-time high nationwide. It continues to rise in New York and across the country. For millions of transit riders, this increase will save them hundreds of dollars every year. Raising the transit benefit will simultaneously reduce traffic, congestion, and smog while saving commuters in New York and across the country hundreds of dollars every year.

The existing disparity between the two benefit levels has also created a financial incentive for employees to drive to and from work alone rather than utilize transit or a vanpool. The amendment eliminates this disparity. The transit benefit provides a low-cost way to get more cars off the road. In the New York metropolitan area alone, commuters save over $150 million, thanks to the transit benefit. Employers have saved significantly as well, over $35 million. And that amount can be multiplied for benefits throughout the country.

By taking cars off the road, increasing the transit benefit is sound environmentally as well. It reduces emissions, which leads to cleaner air, and cuts gasoline use across the board.

I hope we can support this good tax cut unanimously.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 646 TO AMENDMENT NO. 605

Mr. SESSIONS. Mr. President, I ask unanimous consent that the pending amendments be set aside and call up amendment No. 646.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes amendment numbered 646.

The amendment is as follows:

(Purpose: To keep the bill within the budget levels)

At the appropriate place, add the following

SEC. 1. REDUCTIONS

The total spending in this bill shall be reduced by $11,100,000,000, by reducing the totals by the following amounts—

(a) STP Enhancements (Sec. 1104(4): reduce by $2,800,000,000;

(b) Maglev (Sec. 1819): reduce by $2,000,000,000;

(c) Ferry Boats (Sec. 1101(114)) and Sec. 1204): reduce by $235,000,000;

(d) Truck Parking (Sec. 1814(a)): reduce by $47,010,000;

(e) Puerto Rican Highways (Sec. 1101(15)): reduce by $500,000,000;

(f) Congestion Mitigation and Air Quality (Sec. 1101(5)): reduce by $4,479,000,000;

(g) Administrative Expenses (Sec. 1103(a)(1)): reduce by $348,000,000;

(h) Historic Covered Bridge (Sec. 1812): reduce by $56,000,000;

(i) Transportation Infrastructure Finance and Innovation Act (Sec. 1303): reduce by $500,000,000;

(j) Transportation and Community and System Preservation Program (Sec. 1813): reduce by $135,000,000;

AMENDMENT NO. 646, AS MODIFIED, TO AMENDMENT NO. 605

Mr. SESSIONS. Mr. President, I ask unanimous consent the amendment be modified with the changes that are at the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Hearing none, it is so ordered.

The amendment, as modified, is as follows:

(Purpose: To reduce funding for certain programs)

On page 410, between lines 7 and 8, insert the following:

SEC. . REDUCTION OF FUNDING FOR CERTAIN PROGRAMS.

Notwithstanding any other provision of this title or any amendment made by this title, amounts made available under this Act, and titles 23 and 49, United States Code, shall be reduced by a total of $10,700,000,000, as follows:

(1) The amount made available under section 1101(4) for surface transportation enhancement activities under section 133 of title 23, United States Code, shall be reduced by a total of $1,100,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(2) The amount made available under section 1101(5) for the congestion mitigation and air quality improvement program under section 149 of that title shall be reduced by a total of $4,000,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(3) The amount made available under section 104(a)(1) of that title (as amended by section 1103(a)(1)) for administrative expenses of the Federal Highway Administration shall be reduced by a total of $400,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(4) The amount made available under section 188(a)(1) of that title (as amended by section 1303(f)) for Transportation Infrastructure Finance and Innovation Act amendments shall be reduced by a total of $100,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(5) The amount made available under section 175(d)(1) of that title (as amended by

section 1813(a)) for the transportation and community and system preservation program shall be reduced by a total of $100,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(6) The amount made available under section 5338(b)(1) of title 49, United States Code (as amended by section 6036) for transit formula grants and research shall be reduced by a total of $5,000,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SESSIONS. Mr. President, we have a very real difficulty with this bill. I think there is a strong desire by most Members of this body to increase the amount of money that is set aside for our road infrastructure. The bill, in fact, does increase that. We had a number at which the President said he wanted us to stay. We increased that number nearly $11 billion. We started at $284 billion. Now the number is $295 billion.

The best numbers that I can get from the Budget Committee have convinced me that the sad truth is we have $11 billion in this bill over the budget spending cap that we agreed to. It is the first real bill that has come up since we passed the budget agreement. So we are already in violation of it. They say there are offsets, but some of those offsets are not realistic. I think most everybody knows it.

They are projecting things are going to happen in conference, and that it is not going to be a pleasant conference because the President has made clear he will veto a bill that is not within his budget. We are facing a real problem.

So I have thought what we ought to do in this Senate, in this Congress, is what real people do when they have to face serious financial decisions. They have to accept the fact they cannot do everything. I know Senator INHOFE has worked so incredibly hard on this bill. My admiration for him is unlimited. I know how strongly he wants to see the road portion of this bill be as strong as it possibly can. And I agree. People travel on highways every day. An improved infrastructure can be a positive difference for our communities and Nation. That is why I try to support everything I can and to be as generous as possible in the road construction account.

I will not go into the details tonight, but my amendment will look at less critical parts of this bill, including the mass transit title, and other portions of the bill, and it will ask how many increases we can sustain in those accounts. By reducing the increases a little bit, by an amount that would allow an increase to occur—not cutting those accounts but not having an increase as big as has been proposed—we can produce a bill that increases our funding for our basic infrastructure, is faithful to the budget numbers this Congress adopted, and will be signed into law—not vetoed by the President.

If we get to conference without something like this, what we are going to see is that the amount of money set aside for our basic highway infrastructure is going to be cut in conference because the offsets are not going to all be accepted.

So let me say again, we are heading to conference with an increase over the budget that is supposed to be offset. Some of those offsets are not going to be approved. And I suspect our basic road infrastructure amount that we now have in the bill will not be sustained and will be reduced.

My amendment will allow us to sustain those increases that have been proposed and that we desire. It will allow us to stay within the budget. It will fund this by reducing the increases in other noncritical programs, but still allowing them to increase—not cutting them.

I think that is what responsible people ought to do. That is what the amendment I have offered does. We will talk about it in more detail. I thank Senator INHOFE for his leadership on this issue and on so many others. I know he has worked hard. They probably have agreements on how this thing has to go, but I believe the amendment I have offered will be helpful to achieving the goal most of us share.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, before the Senator leaves, let me just clarify something. It is a very rare occasion that the good Senator from Alabama and I disagree on anything. It just doesn't happen. In this particular case, this is the exception. Let me kind of outline how I think the system works. I don't chair the Finance Committee. I don't chair the Budget Committee. I do not serve on either one of them. I do chair the Environment and Public Works Committee.

When we put together the bill—and this particular bill has been 3 years in the making—it is very similar to what we had last year except it is a lower funding level which should satisfy, to a greater degree, the Senator from Alabama. But when we come up with a bill, the procedure is to go to the Finance Committee. We did that, and we have several Finance provisions in there. Senators GRASSLEY and BAUCUS spent a long time. While people keep saying the offsets are not realistic, they could be right, but the ones who can properly evaluate the offsets are the ones who proposed the offsets, and that is the job of the Finance Committee.

I want to say this because the Senator from Alabama and I are ranked as two of the most conservative Members of the Senate. I have said often there are two areas where conservatives spend money; one is national defense and the other is infrastructure. That is what we are supposed to be doing here. I wish to clarify that I will be opposing the amendment because I believe the Finance Committee has done their job. I have heard both the ranking member and the chairman talk about this, and they have convinced me that they have done their work. We will have to wait and see.

Mr. SESSIONS. Mr. President, I thank the Senator from Oklahoma. He is a great leader in the Senate. I admire his work on this committee and his leadership as a senior member of the Armed Services Committee on which I serve with him. I don't dispute that the Joint Tax Committee has said the offsets the Finance Committee has proposed, if adopted, might meet the needs of this increase.

I understand some of those proposed offsets probably will not have support in the House. I would like to see the Senator's goal of spending more money on our road infrastructure and transportation system that serves the commercial transportation needs of all the products that we eat, buy, and utilize daily—that are shipped from trucks on highways all over America—I would like to see that guaranteed. I am afraid if we go the way we are now, we will not be able to hold the full increase that has been proposed when we get to conference. But if we would face up to the question and set some priorities and choose between some of the things that are in this bill that are less fundamental and some of the things that are desirable—things we would like to do but we really don't have to do as much as others—and reduce some of the increases proposed for those programs and move that into the fundamental infrastructure for highways, I would feel better about it.

I think the Senator is not really in disagreement too much with that. But when you move a piece of legislation as he has, it requires a lot of cooperation and partnership.

Mr. INHOFE. Yes, I agree. We hear all the time in this body and all representative bodies about what is desirable. It reminds me of the guy who went to the department store, and this beautiful, young, voluptuous saleslady came up to him and she said: Sir, what is your desire? And he said: Well, my "desire" is to pick you up after work, go out to dinner and drink some champagne and make mad, passionate love to you, but I "need" a pair of socks.

We have to distinguish between desire and need, and I think it is a difficult thing to do.

Mr. SESSIONS. That is all I am suggesting. Let's go on and make that upfront, and maybe we will be able to hold this full increase for our highway funding.

I thank the Chair and yield the floor.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I ask unanimous consent to call up amendments Nos. 583, 631, and 733 en bloc. I ask unanimous consent that amendments Nos. 631 and 733 be modified with the changes at the desk and agreed to en bloc. The amendments have been cleared by the managers on both sides of the aisle.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Let me withhold on the agreement until we get final clearance.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, for the record, I withdraw my unanimous consent request. There was a misunderstanding that was involved. We are working on that, and we hope we can get the package agreed to later.

The PRESIDING OFFICER. The request is withdrawn.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, before I yield to the Senator from Alaska, I first wish to say how helpful she has been. I know the needs they have in Alaska are unique. She has been very helpful and a great member of our committee. I thank her publicly very much for that.

I think we are making progress now. We have gotten the amendments under control so we can stay on the schedule that has been outlined by the unanimous consent agreement that has been accepted on both sides.

I express my appreciation for everyone cooperating.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I thank the chairman for the kind words he said and for the substantial work he has done in the committee to move us forward in a manner I think is fair, good, sound, and it is going to work. I am so pleased we are at this point where we will shortly be moving a transportation bill through this body.

I think I speak for all my constituents when I urge this body to move forward on the highway bill. Every State needs it, but truly I believe none need it more than my State of Alaska, and the chairman has referenced our somewhat unique needs.

For most of us traveling from one place to another, it means asking yourself whether you walk, drive, take a bus, take a train, or an airplane. That is life in the 21st century. But in much of Alaska, Americans are still facing issues that are similar to what we faced in the 19th century. In much of Alaska, whether you drive is not a question without meaning. Instead, the question is, What time of year is it? Is it the time of year I will be using a snowmobile or going by boat?

I suppose there are probably some of my colleagues who may be tired of hearing that Alaska is unique with unique problems that require different solutions, but that does not make it any less true, nor does it make Americans living in Alaska any less deserving than Americans living somewhere else.

Yes, Alaska, in fact, does have the highest rate of return from the highway trust fund. We are the donee State that benefits the most, but it is because we are so far behind the other States in transportation needs. I can tell my colleagues, it is a safe bet we would gladly see our position on the donee State listing change if it meant we had the roads to generate more gas tax revenues for the highway trust fund.

To any Alaskan, it is a remarkable and frustrating experience to hear the donor States complain that a dime or so of their Federal gas tax dollar actually goes to serve a Federal purpose—a highway system that unites and strengthens our Nation—and that tax does not come right back home.

It is also remarkable and again somewhat frustrating to hear that roads in many States are in disrepair and more money is needed to repair them. Yes, they are, and, yes, it is, but at least those States have roads. With roads, they gain the ability to move goods and share services. With that ability, they gain the ability to support private sector businesses. With private sector businesses, they provide jobs, and with jobs, they attract new residents, are able to build more schools, offer opportunities, create more wealth. You get the picture. The wealth is shared with the entire country. We have seen that process work.

The funding received by the Appalachian Commission for Road Building has proven this works, and history has proven over and over that reliable, inexpensive transportation is not the result of prosperity, but it is the cause for prosperity.

The highway bill and the highway trust fund which supports it exist for one reason: because Congress recognized that reliable transportation is critical to our national well-being and to the well-being of our individual citizens. This is no less true in the farthest, most remote parts of Alaska than it is in the center of Manhattan. That is why this bill contains provisions to allow the Denali Commission to construct roads between remote communities in Alaska.

This provision is based on a bill I had proposed in 2003 which would streamline the process of bringing Alaska's transportation system into the modern age. The same provision, as amended by the Senate action last year, will also help improve roads within Alaska's many Native villages, some of which still have only the roughest of trails from one part of town to another.

Frankly, the authorization in the bill for this purpose is simply not enough because Alaska has so many years of neglect to catch up on. I am sensitive, however, to the fiscal realities, and I am deeply grateful for the support of those who have helped us get this far. We must recognize this is not just an investment in Alaska today, but it is an investment in Alaska's tomorrow.

For the record, I would also prefer to have a separate system and significantly more money dedicated to our Native village transportation needs. They have been badly neglected. In fact, they have been shamefully neglected by the Bureau of Indian Affairs reservation roads system which is supposed to provide funding for Native American needs. Alaska Native villages have been ignored, their road miles have been uncounted, and money has been funneled into other areas that already have sophisticated road systems.

The bill also contains money to continue the reconstruction of the Alaska highway. I want to comment on this in the hope of dispelling some of the perennial confusion about it. Despite the name, the multiyear project to pave and improve the Alaska highway, also known as the Alaska-Canada, or the Alcan highway, is not an Alaska project. It is not an earmark for Alaska. It is not even in Alaska. It is a national project, one that was triggered by national defense needs and mandated by treaty between the United States and Canada.

As a treaty obligation, it is not to be discarded lightly. It is unfortunate that some apparently have trouble reading beyond the name and that it has fallen to Alaskans to stand up for the word of honor of the United States to fund this project, but that is just the way it has been. Here again, I am grateful for the support of Senator

INHOFE, Senator BOND, and others who have recognized that this is not just a parochial project but one of significance to the entire Nation and one for which the Nation has given its word.

As I mentioned, we have unique needs, unique challenges, and I renew an invitation to all of my colleagues: Come up and visit. Come up and see the State, see for yourself the conditions we have.

I had an opportunity just yesterday to demonstrate that when we talk about Alaska's road system, we use that term lightly. It is not a system; it is a road up and there is a road down and a little connecter in between the two, and that is what we have. When we talk about where our roads stretch from, if we were to superimpose Alaska over the rest of the lower 48 States, we would be going from Minnesota down to Florida and across over into California. The area we cover is huge.

So, again, come up and see the conditions that we have. I would be happy to arrange a trip for any Member of the body, no matter where they stand on the issue, and I am not just talking about transportation issues. We will take the Members up and show them ANWR. We will show them the whole State. I am proud of the State, and I am proud of what we have done to preserve and protect our resources while we still build a vital economy. I would be happy to show my colleagues how we are dealing with some of our unique situations and problems.

One such unique situation has been the fact that it is literally impossible to build roads between some communities, even in long-settled areas like in southeastern Alaska where I was born, where a combination of rugged terrain and the separation of the islands have made other solutions necessary. One solution for the area in the southeast was the establishment of the Alaska Marine Highway System, which builds on a core fleet of large ocean-going vessels in service as ferries. It is the only highway possible between communities such as Ketchikan, Petersburg, Wrangell, Sitka, Juneau, our State capital, and many other smaller communities. It is part of the National Highway System.

If the definition of a highway is a facility used by trucks and cars moving from one community to another, this is, indeed, a highway. In fact, it is one that is considerably less expensive than other options such as tunneling, like we have up in Boston, the "Big Dig," or the combination of bridges and tunnels we see around here.

The last highway bill, TEA-21, contained provisions to fund ferries and ferry terminals in addition to funding received through the National Highway System. I am pleased to say that this bill does as well. In fact, ferry system assistance in this bill is even broader and will help even more States operating ferry systems to do a better job for their citizens.

Now, I have been informed that the finance portion of the bill includes provisions based on two bills which I have previously offered. One of these provisions corrects an inequity imposed on air passengers who live in rural areas where, again, they are unconnected by road and they are forced when they are traveling to fly to a larger airport where they can catch a plane to get somewhere, to reach their final destination. All passengers currently pay a segment fee for air travel, but these rural residents I am talking about are basically forced to pay twice, while passengers who live within driving distance of a larger airport only pay once.

The second measure which I just referenced affects seaplane operators who are not using FAA facilities but currently must pay excise taxes and fees intended solely to support such facilities. This is also an inequity, and my measure will ensure that only those receiving benefits are asked to pay for them.

In addition, it is my understanding that the committee has also included a measure intended to ensure that taxes and fees intended for aircraft carrying passengers from point to point is not incorrectly applied to flight-seeing operations. Senator INOUYE has taken the lead on this matter, but it is worth noting that it has significant support among my constituents in Alaska, and I am pleased to see it included.

Finally, let me note that I understand that the Commerce Committee title includes my proposal to establish State grants for motorcycle rider education. As my colleagues may be aware, motorcycle ridership is increasing all the time, and with it the number of motorcycle accidents has also been rising, particularly among the new riders. It is not necessarily the young riders but riders of any age. It is the latter that my proposal addresses. I believe firmly that the best way to prevent injuries is to prevent accidents, and training is the only way to accomplish that goal.

I have worked closely with the Motorcycle Riders Foundation and State motorcycle education administrators to develop this proposal. All too often, we will see new riders, both young and old, simply climb on and hope that they are going to learn by experience. Better training has been shown to drastically reduce the number of accidents suffered by new riders during the critical period in which their learning curve is the steepest and they are most at risk.

From the national perspective, this highway bill is a good bill. It is not perfect, but few things are. I would prefer to see more streamlining and permitting processes for highway projects. I would like to see more flexibility for States. I would like to see a bill with the funding level that we approved last year. The leaders of each one of our key committees have done yeoman's work—and again, I want to commend the chairman—on phenomenally difficult issues. I believe at the end of the day we have before us a good bill, the best bill possible. I pledge my support for it and urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, the Senator from Alaska named a list of things she would have preferred to see in the bill. As I thought of each one of them, I agree with each one. Of course, the Presiding Officer is also a member of the committee, and we know there are a lot of diverse needs in States. It is not a perfect bill. There are a lot of things I would rather have in it, but it is a consensus. It was give-and-take, and that is the way the system is supposed to work.

MORNING BUSINESS

Mr. INHOFE. I ask unanimous consent that there now be a period for morning business with Members permitted to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING LESLIE SATCHER

Mr. FRIST. Mr. President, in 1988 Leslie Satcher picked up her belongings and left her home in Paris, TX, bound for Nashville. With a meager $100 in her pocket, she abandoned all that she had known in her young life, and headed to the Music City driven by her dream of being a country-music star.

Almost 2 decades later, that dream is a reality.

Today, Leslie Satcher is one of Nashville's most sought after song-writers. She has emerged as a glowing success under one of the world's brightest country-music spotlights.

At her core, Leslie Satcher is a woman of humble ambition. Her work is shaped by unyielding faith and limitless passion for music. Critics describe her writing as "emotionally persuasive, yet understated and artful." Indeed, she has found her success not by abandoning her homey roots but by embracing them.

Her lyrics are laced with plain spoken yet insightful observations about love and life. And despite her tremendous success, she has always remained true to her creative vision, never losing hold of the simple joys of writing and singing music.

Leslie has come a long way since her first venture into recording at the "hear-your-own-voice" attraction on Music Row and in front of audiences at the Bluebird Cafe. The Dallas Morning

News has described her as "one of the most in-demand tunesmiths in Music City." And her personal, painful and poignant compositions have been covered by a wide-range of artists including Reba McEntire, George Jones, Vince Gill, and Randy Travis.

Most recently she has concentrated her efforts on not only penning some of today's top hits, but singing some of them, too. In fact, she's in Washington, DC this week to give a special performance to honor our Nation's injured troops at Walter Reed Army Hospital.

Mr. President, Leslie Satcher is a self-made music success story. She is also one of my most favorite artists—and that's saying something coming from Nashville!

One of her sayings is that "you don't decide to be an artist, you are an artist." I could not agree with her more. She has much to be proud of—and it's evident in her songs and lyrics that she not only remembers but cherishes her roots. I am proud of all she has accomplished and honored to call her a friend.

HONORING OUR ARMED FORCES

SERGEANT MICHAEL BARKEY

Mr. DEWINE. Mr. President, I rise this evening to pay tribute to a young Ohioan who lost his life while serving our Nation in Iraq. PFC Michael Barkey was killed on July 7, 2004, when enemy fire caused the vehicle he was riding in to overturn. He was 22 years of age.

I had the opportunity to meet Michael's family and to talk to them about their extraordinary son. They shared their memories with me—memories of Michael lighting up the room with his infectious smile and causing others to laugh at his antics. An editorial in the Canton Repository from July 9, 2004 says it best:

> Michael Barkey's family and friends have a long time of mourning ahead of them. But it is a testament to his vibrant personality and strong character that as the news of his death began to sink in, their memories of him made the people who loved him smile and laugh.

Michael's vibrant personality, touched the lives of all who had the privilege of knowing him. As the fourth of six children of Hal and Julie Barkey, Michael learned at a young age that he loved to make people laugh and that he was good at it. When his older sister Jennifer had her first child, eight year-old Michael quipped that since he was an uncle at 8, he would be a grandma before age 30. His mother Julie could only laugh at her young son when he flubbed his words. She liked to call him a ham.

Every member of Michael's family has fond memories of him. Growing up, Michael and his brother John loved to wrestle each other and—though he wouldn't do it for anyone else—sister, Therese, remembers how Michael would dance around for hours to entertain her and her friends. Youngest brother Tony recalls a time when Michael popped out his false tooth in church to shock a small child. Cousin Joe Mitchell remembers when they went to Myrtle Beach together and saw an attractive woman. Michael and another man argued for so long about who would speak to her first that she walked away. All who met Michael were touched by his witty humor.

At Canal Fulton Northwest High School, Michael excelled both academically and athletically. He loved to play basketball and football. High school football coach, Vic Whiting, remembered that after their last game, Michael—then a senior—couldn't bring himself to take off his uniform. High school friends said that "Mikey," as they called him, was always the center of attention and a natural leader.

After high school, Michael enlisted in the National Guard so that he could pay his way through the University of Akron, where he earned an associate's degree in fire technology. His dream was to become a firefighter, but his unit was called to go to Iraq. Michael believed strongly that he was needed to secure freedom for others, that he was needed to help the Iraqi people.

Answering the call of duty was not new in the Barkey family. Michael's grandfather, Edmund, served in Europe during WWII; father, Hal, is a Navy veteran of the Vietnam war; brother, Todd served in Operation Desert Storm; and brother, John, was an Air Force firefighter stationed in Qatar during Operation Enduring Freedom. Michael was proud to follow in what had become a family tradition.

Michael and the rest of the 1484th Transportation Company trained in Indiana before being sent to Kuwait and then on to Iraq. Michael had been in the National Guard for 4 years. Soon Michael developed the reputation of being able to lighten the mood despite the chaos around them. Captain Curtis Brown, commander of the Company said that Michael was "a remarkable young man who had the gift of making you see the good in a bad situation. He was a master of the gift of laughter."

One young soldier, in particular, can attest to that. Specialist Jesse Hensel was Michael's bunkmate and best friend. The two were inseparable—whether they were lounging in their room or lifting weights. Jesse and Michael were like brothers and they argued like brothers. The only thing they agreed on was that Jesse was better looking and Michael was the better dancer.

Michael knew that his family worried about him while he was away. He sent home recordings and pictures—all of which Hal and Julie treasure. One picture in particular always brings a smile to the Barkey family's faces. In it, Michael is lying on the desert, pulling up his shirt to reveal grains of sand arranged in the shape of a smiley-face on his stomach.

Jesse accompanied his best friend on his final trip home. He said that Michael was everything he wanted to be—as a person and as a soldier. Jesse noted at a service honoring his friend that during the trip home, "I sat by Mike the whole way home and I did a lot of talking. It was the first time Mike didn't talk back. I love him with every piece of my broken heart."

In Michael's hometown of Canal Fulton, OH, thousands of residents came to show their support for the Barkey family. Some waited nearly two hours to pay their respects to Michael. The funeral mass was a celebration of the life of this extraordinary soldier—and Julie Barkey would have it no other way for the son who brought so much light into the world.

Jennifer Barkey, Michael's older sister wrote the following remembrance letter to provide comfort to the family:

> Know that [Michael] was truly an uncommon man. Grieve for the incredible man, husband, and father he would have become. Know that following the example of our father, he stood up for what he believed. His conviction was such that he was willing to die for it.

We know that Michael is in heaven, continuing to spread the laughter he did while on earth. And perhaps the Barkey family is right—Michael is still cracking jokes, exchanging war stories with his grandfather, and is now the patron saint of Cheetos or hamburgers, which were his favorite foods.

Michael will never be forgotten.

IN REMEMBRANCE OF JOHN GREENO

Mrs. BOXER. Mr. President, I speak to honor the memory of the late John Greeno, Bald Mountain heliport manager with the Mi-Wok Ranger District of Stanislaus National Forest. Mr. Greeno was a 21-year veteran of the U.S. Forest Service who dedicated his life to his family, community, and Nation. He was killed in a tragic helicopter crash in Texas on March 10, 2005, while on volunteer assignment to conduct a prescribed burn in Sabine National Forest.

John Greeno was born on June 2, 1952 in Redwood City, CA, and was raised in the town of Independence, CA. He embarked upon his career with the U.S. Forest Service in 1979 as a temporary employee on the Inyo National Forest. His love for firefighting and the U.S. Forest Service led him to the Stanislaus National Forest where he would eventually rise to the position of Helitack superintendent. During his 21 years of service, John earned the respect and admiration of those with whom he worked for consistently going above and beyond the call of duty. He led by example and was considered a mentor by subordinates. John regularly volunteered for assignments like the one that claimed his life in Sabine National Forest in order to sharpen his skills and bring back valuable knowledge for his home-base.

John Greeno will long be remembered for his courage and dedication. He is survived by his wife of 11 years and his two children Marcus and Montana. His service and bravery inspired others and he will be deeply missed. I extend my deepest sympathies to his family.

TRIBUTE TO THE 110TH A.A.A. GUN BATTALION

Mr. DODD. Mr. President, I rise to pay tribute to the members of the 110th A.A.A. Gun Battalion. This weekend, the 110th will be holding a reunion in Cromwell, CT, to commemorate the 60th anniversary of the Allied victory in the Second World War.

The 110th played a critical role in the campaign in Europe. They were trained in England in preparation for the Allied invasion in 1944. On June 7 a day after D-Day they reached Omaha Beach in France with orders to "protect all ground forces from enemy aircraft." Members of the 110th also participated in the liberation of Paris, the crossing of the Rhine, and the Battle of the Bulge.

The bravery and accomplishments of the 110th earned the unit considerable praise. Brigadier General E.W. Timberlake commended the men of the 110th for their "outstanding drive, tenacity of purpose, and aggressiveness," while Colonel Thomas Munford lauded the battalion for its "outstanding performance of every assigned mission, both in training and in battle."

A few of the achievements of the 110th deserve particular recognition. They successfully shot down what is believed to be the first German plane downed in France during the liberation of Europe. Members of their reconnaissance team were among the first Americans to enter Paris. In total, the 110th destroyed 65 enemy planes, 11 tanks, and 80 ground vehicles.

It gives me a good deal of pride to note that many of the members of the 110th hailed from Massachusetts and Connecticut. As the birthplace of our Nation, New England boasts a long and honored tradition of deep patriotism and dedicated service to our country. New Englanders have served in every single one of our Nation's conflicts, from the Revolutionary War to Operation Iraqi Freedom.

During the Second World War, the fate of not only our own Nation but the world was at stake. And New Englanders joined our entire Nation in stepping forward to defend freedom against the forces of tyranny and oppression.

Sadly, with each passing year, fewer and fewer of our World War II veterans remain with us. We can all remember the deeply emotional moment last year when thousands of World War II vets gathered here in our Nation's capital for the opening of the National World War II Memorial. Just as notable, though, are the smaller gatherings that take place around our Nation that provide veterans with the opportunity to renew old ties, to meet each other's families, and to reminisce about the unforgettable experiences they shared many years ago.

On that note, I would like to offer congratulations to Leo Kania of Middletown, CT, who served as a corporal in the 110th. This week's reunion is the 6th such event Mr. Kania has organized over the years. This weekend, members of the 110th will have the opportunity to tour the very boat that took them to Omaha Beach six decades ago. The dedication Mr. Kania has shown is a testament to his devotion to his battalion, his pride in his country, and his spirit of friendship.

I offer my congratulations and my humble thanks to the members of the 110th A.A.A. Gun Battalion, and I extend my best wishes to them and their families on this momentous anniversary.

REPORT BY THE INTERNATIONAL LABOR ORGANIZATION ON FORCED LABOR

Mr. KENNEDY. Mr. President, today, more than ever before in history, employees around the world are competing against each other for work. Too often, this competition has become a race to the bottom—whoever is willing to work for the lowest wages gets the work.

The most flagrant example of this is the unacceptable practice of forced labor. These modern slaves are compelled to work against their will, often as victims of human trafficking or ruthless governments.

A new report by the International Labor Office shows how massive the problem of forced labor is. According to the report, over 12 million people are its victims in today's world, and they produce $44 billion in profits for their overseers.

To combat the problem, the report urges countries to work together to reach a global solution. Countries need stronger laws to protect victims and punish perpetrators. They also need stronger law enforcement and more effective cooperation between labor ministries and law enforcement. Fair labor standards and acting to reduce poverty are essential as well.

This report is the most comprehensive analysis ever made on forced labor. I commend it to my colleagues, and I ask unanimous consent that the executive summary be printed in the RECORD. The full report is available from www.ilo.org.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A GLOBAL ALLIANCE AGAINST FORCED LABOUR

EXECUTIVE SUMMARY

THE CONCEPT OF FORCED LABOUR

A Global Alliance Against Forced Labour sheds new light on the nature and extent of forced labour in the world today, what ILO member States, workers' and employers' organizations and their partners are doing to tackle the problem, and what more must be done if this crime and violation of human rights is to be finally ended. As the second Global Report on forced labour under the Follow-up to the Declaration on Fundamental Principles and Rights at Work, it focuses especially on the period since Stopping Forced Labour, its first report on the subject, was published in 2001.

This period has seen many important developments, in terms of heightened global awareness of the problems of contemporary forced labour, and particularly of trafficking in persons, and an increased understanding of what it involves—who and where are the victims and the perpetrators, how people get trapped in forced labour situations, and what kinds of measures have proved effective in preventing and combating this criminal practice, for which there can be no place in the twenty first century. Far from being a concern of only a minority of countries, forced labour in its different forms is a problem that pervades all societies—developing, transition and industrialized alike. It affects millions of people, and generates billions of dollars of profits for the exploiters of forced labourers.

The Report first sets out to clarify what the ILO means by forced labour. It certainly cannot be equated simply with low wages or poor working conditions. It comprises two basic elements: the work or service is exacted under the menace of a penalty, and it is undertaken involuntarily. This menace can take extreme forms such as physical violence, but also subtler forms such as confiscation of identity papers or threats of denunciation of irregular migrants to police authorities, in order to extract unfair advantage from them. A forced labour situation is determined by the nature of the relationship between a person and an "employer", and not by the activity performed. Nevertheless, there is a broad spectrum of working conditions and practices, ranging from extreme exploitation including forced labour at one end, to decent work with the full application of labour standards at the other. And within the area defined by law as forced labour, a range of coercive and deceptive mechanisms can be applied. The most appropriate law enforcement remedies may depend on the nature, and perhaps also the severity, of the coercive mechanisms being applied.

The rising global concern with human trafficking, together with new instruments against it, have prompted member States to give attention to the forced labour concept in criminal laws. The "Palermo" Trafficking Protocol to the UN Convention against Transnational Organized Crime introduces into international law the concept of exploitation, broken down broadly into labour and sexual exploitation. It is clear from the comments of the ILO supervisory bodies that coercive sexual exploitation also constitutes forced labour. Many countries at present do not provide in their legislation for the specific offence of forced labour. While the present momentum is towards establishing the criminal offence of trafficking, there is a need also to legislate against forced labour as a specific criminal offence.

MINIMUM ESTIMATE OF FORCED LABOUR IN THE WORLD

Today, at least 12.3 million people are victims of forced labour worldwide. Of these, 9.8 million are exploited by private agents, including more than 2.4 million in forced labour as a result of human trafficking. The remaining 2.5 million are forced to work by the State or by rebel military groups.

The numbers are highest in Asia, with 9,490,000 victims. Almost two-thirds of total forced labour in Asia is imposed by private actors for economic exploitation, mostly debt bondage in agriculture and other economic activities. About one-fifth is imposed by the State in a few countries such as Myanmar. Forced labour for commercial sexual exploitation makes up less than onetenth of the total.

Latin America and the Caribbean has 1,320,000 forced labour victims. 75 per cent is imposed by private actors for economic exploitation, followed by State-imposed forced labour (16 per cent) and forced labour in commercial sexual exploitation (9 per cent). Of the 660,000 forced labourers in Sub-Saharan Africa, 80 per cent are subject to economic exploitation, 11 per cent to State-imposed forced labour, and 8 per cent to commercial sexual exploitation. Of the 260,000 forced labour cases in the Middle East and North Africa (MENA), 88 per cent is for private economic exploitation, and 10 per cent for commercial sexual exploitation.

There are 360,000 forced labourers in industrialized countries, and 210,000 in transition countries. In both regions, forced labour for commercial sexual exploitation predominates. In industrialized countries however, almost one-quarter of victims are subject to non-sexual economic exploitation.

Approximately one-fifth of all forced labour globally—or 2.45 million persons altogether—is an outcome of trafficking. There are important regional variations. In Asia, Latin America and Sub-Saharan Africa, the proportion of trafficked victims is less than 20 per cent of all forced labour. In industrialized and transition countries, and in the Middle East and North Africa, it accounts for more than 75 per cent of all forced labour.

Women and girls are overwhelmingly involved in forced commercial sexual exploitation—accounting for 98% of the total of this form. Forced economic exploitation is more evenly divided between the sexes, although women and girls still account for more than half—56%. It is estimated that children aged less than 18 years represent between 40 and 50% of all forced labour victims.

A DYNAMIC GLOBAL PICTURE OF FORCED LABOUR

Since the first Global Report on the subject in 2001, the research and activities of the ILO's Special Action Programme to Combat Forced Labour (SAP-FL) have shed more light on recent trends in forced labour, and action to overcome it, in all regions of the world.

Generally, despite new laws and action programmes against trafficking, law enforcement against forced labour practices remains inadequate. There have been very few prosecutions of exploiters of forced labour anywhere. The offence of forced labour is often not identified as such in existing criminal law (though it may be under labour or administrative law). Penalties are often light. Important progress in combating impunity for forced labour offences has nevertheless been made in some countries, such as Brazil.

Forced labour imposed by the State, while not the largest problem in terms of numbers, remains a cause for serious concern. In Myanmar, the ILO has taken a lead in drawing attention to continued forced labour practices, which occur in particular in remote areas under the authority of the army. An ILO Liaison Officer has been able to assess the situation in person through field visits, while in May 2003 agreement was reached in principle between the Government and the ILO on a Joint Plan of Action against forced labour. By early 2005, however, the ILO was not in a position to move forward on this. Indeed the Myanmar case shows that it is impossible to make progress against forced labour when there is a climate of impunity, and repression against persons who denounce forced labour abuses.

In China, steps have been made towards reform of the Reeducation through Labour (RETL) system, an administrative measure including compulsory labour that is used for punishing minor offences. As of early 2004, some 260,000 persons were detailed under RETL. Reform to the RETL system is on the agenda of the current session of the National Peoples' Congress.

The forced labour aspects of prison labour have also been a cause for concern in industrialized countries. The focus has mainly been on the eradication of forced labour in private prisons, or by prisoners placed at the disposal of private companies. Yet some consensus is emerging that, while prison privatization is probably here to stay, the central issue in the debate should be how to secure minimum standards of work for those detained in all kinds of prison establishment. In this sense—while prison authorities tend to stress that work is only one aspect of the prison regime—there can be scope for labour inspection services to collaborate with prison authorities on matters which relate strictly to the work regime.

In developing countries there are clear links between poverty and discrimination on the one hand, and forced labour on the other. The victims are drawn from lower castes in parts of Asia, indigenous peoples in Latin America, the descendants of slaves or forest dwellers in Africa. Patterns of forced labour are nevertheless changing. In addition to traditional agrarian-based serfdom and servitude, new forms of coercion often linked to indebtedness are being detected in a range of sectors and industries, such as brick making, mining, rice mills and domestic work. The asset-poor or landless are particularly vulnerable to forced labour, when they move away from their home communities in search of work in distant parts of their own country, neighbouring countries or overseas. Similar patterns of coercive recruitment and debt bondage have been detected amongst seasonal and migrant workers in Africa, Asia and Latin America. Again, women and children can be especially prone to be trapped in exploitative living and working situations, from which they have great difficulty escaping.

Tackling such forced labour requires action at different levels. Downstream, there have been important community-based initiatives, using microfinance and other techniques to prevent forced labour and rehabilitate victims after release. Upstream, there is a need for clear policies and plans of action, mobilizing awareness, getting the involvement of different ministries, ensuring the cooperation of labour authorities and other law enforcement agents, and also securing the necessary resources for action against forced labour. One way to achieve this is to include forced and bonded labour concerns in Poverty Reduction Strategy Papers (PRSP) and similar policy instruments. Some models are emerging. Brazil and Pakistan have broadbased action plans against forced labour. Nepal and Pakistan address bonded labour in their PRSPs.

In Africa, the eradication of—and even the clear understanding of—forced labour poses complex challenges in a context of poverty and tradition. Unpaid services can be part of traditional kinship arrangements. There are reports that West Africans of slave descent still suffer discrimination and labour exploitation at the hands of former masters. Research points to a spectrum of situations, from the highly exploitative to the relatively benign. And in some African countries forced labour has occurred in a context of severe political violence and inter-ethnic conflict. Problems of contemporary forced labour include: slavery and abductions, debt bondage, forced overtime, unpaid compulsory labour for public servants, and forced domestic labour. There are prima facie reasons to believe that forced labour may be a widespread problem in the continent. But far more research and awareness raising is needed, to deepen understanding and chart out a way forward.

The scourge of human trafficking has now caught the world's attention. It is bringing forced labour concerns to the doorstep of industrialized countries. More and more, ILO partners realize that effective action against trafficking requires a focus on its forced labour outcomes, and on demand aspects in the destination countries as well as supply in the origin countries. ILO research in Europe and elsewhere has shed light on these issues, paving the way for improved policies and law enforcement. Affecting sectors including agriculture, construction, textiles and garments, restaurants and entertainment, health care, and domestic work, trafficking for labour exploitation often involves subtle forms of coercion rather than direct physical restraint. Unscrupulous employers exploit the precarious situation of irregular migrant workers in particular, removing identity documents, and threatening them with denunciation to the authorities and deportation if they do not accept substandard conditions of work. Migrant domestic workers are at particular risk of forced labour situations. So far, there have been very few convictions of abusive employers or intermediaries involved in the trafficking of domestic workers.

Forced labour and trafficking are not limited to the underground economy. With more research, it is becoming clearer that coercive practices can affect migrants in quite mainstream economic sectors. Deceptive practices by recruitment agencies, and long chains of subcontracting, can involve exorbitant transaction costs which drive even legally recruited migrants into debt bondage situations. There have been examples of good practice, such as the 2004 United Kingdom Gangmasters Act, which increase controls over such agencies. In transition countries however standards to monitor the work of recruitment agencies are still very weak. Government authorities, law enforcement agents and the social partners need training to prevent the risk of trafficking.

Trafficking is a highly lucrative business. The ILO estimates that total illicit profits produced annually by trafficked forced labourers are around US$ 32 Billion (half of this in industrialized countries and one third in Asia). This means an average of US$ 13,000 per year for each forced labourer. By far the highest profits are made from forced commercial sexual exploitation (US$ 27.8 Billion).

The apparent growth of trafficking for economic exploitation in all regions calls for serious thinking as to the most effective means to eradicate it. Vigorous law enforcement will always be part of the solution, but many other measures are required. Our previous (2001) Global Report depicted human trafficking as the "underside of globalization". The knowledge base has now shed further light on the linkages between forced labour more generally, and such aspects of globalization as global competition, migration and labour market deregulation. Without safeguards, competitive pressures can lead to forced labour. Eradicating coercive practices represents a major challenge for employers' and workers' organizations worldwide.

ILO ACTION AGAINST FORCED LABOUR

Spearheaded by its Special Action Programme to Combat Forced Labour (SAP–FL) under the Declaration Follow-up, the ILO has progressively increased its profile and activities on forced labour over this four-year period. Guided by its Governing Body mandate, the programme has emphasized: advice on appropriate legislation; awareness raising on forced labour, among both the general population and key authorities; research and surveys, on the nature and extent of the problems; prevention, through advocacy, vigorous application of national laws and regulations, and by tackling underlying causes; and sustainable support and rehabilitation measures.

SAP–FL has been active in many parts of the world in a short period of time. Awareness-raising has been conducted in all regions, and with major international partners. There is growing consensus that forced labour is the key entry point for anti-trafficking action. Research—in South and South-East Asia, transition and industrialized countries and Latin America—has for the first time provided a full understanding of the nature of modern forced labour, and of the action needed to eradicate it. Law and policy advice have been provided to Asian countries including China, Mongolia and Vietnam, paving the way for ratification of the ILO's Conventions on forced labour.

Several ILO projects aim to strengthen institutional structures for combating forced labour. A Brazilian project supports the Government's National Action Plan against Slave Labour, working with several ministries, police, judiciary and labour authorities as partner agencies. The project, in part through a massive awareness campaign, has contributed to the significant rise in the number of forced labourers rescued in Brazil. In South Asia, a project to promote the prevention and elimination of bonded labour has gradually developed new tools for tackling this immense problem. With an initial focus on using microfinance to prevent bonded labour and assist the rehabilitation of released bonded labourers at the community level, it has moved increasingly into capacity-strengthening of Government agencies and other partners. In Pakistan, ILO assistance has largely been designed to support the goals first set out in the 2001 National Policy and Plan of Action on bonded labour.

On trafficking, research and studies in both origin and destination countries have prepared the ground for integrated programmes across the trafficking cycle, combining prevention, victim identification and protection, law enforcement, and rehabilitation of victims. As requested by international partners the ILO has taken a lead in providing guidance to member States on the forced labour and labour exploitation dimensions of trafficking, drawing on pertinent ILO standards. Operational projects are now under way in West Africa, South East Asia, China, and Eastern and Western Europe. In particular, these projects aim to involve labour authorities and other institutions including employers' and workers' organizations in action against trafficking, demonstrating the importance of their cooperation with police, prosecutors and law enforcement agencies in general.

ACTION PLAN: A GLOBAL ALLIANCE AGAINST FORCED LABOUR

The ILO now calls for a global alliance against forced labour. It will require national commitment to eradicate forced labour through plans with specific time horizons. National plans and programmes will need to be backed by extensive international assistance, notably from the development agencies and financial institutions concerned with poverty reduction. Asia, where the numbers affected by contemporary forced labour are the largest, must be the highest priority. The development agencies, which base their strategies on poverty targeting and the eradication of extreme poverty, should single out bonded labour systems for priority attention. In Latin America, where the incidence of forced labour is particularly severe amongst indigenous peoples, poverty reduction progammes and resources can be targeted at the peoples and areas affected.

As regards forced labour and trafficking, the destination countries need to take their share of responsibility. All countries need to include provisions against forced labour and trafficking in their criminal laws, involving labour law experts in the drafting process. There is a need for more awareness of the role of demand for cheap and flexible labour in the destination countries in giving rise to trafficking and forced labour, and also for more rational migration management.

Universities, research and policy institutions need to improve the knowledge base on forced labour. Priority can be given to the difficult issues, where there is currently a lack of consensus as to whether and which practices do constitute forced labour. One example is the forced labour aspects of prison labour.

The ILO can take an active leadership in this global alliance. It can set targets for eradicating the forced and bonded labour problems linked to structural poverty, as part of its contribution to achievement of the Millennium Development Goals. It can identify specific steps, with targets for the coming years, against the forced labour problems linked to globalization. Employers and workers' organizations will have a key role to play, the former developing codes of conduct to ensure vigilance against forced labour in supply chains, the latter helping the informal economy workers vulnerable to forced labour in their efforts to organize themselves and seek redress. Through their regional and international networks, transport and other unions can exercise permanent vigilance against human trafficking.

The ILO can help member States improve data gathering on forced labour. Reliable forced labour statistics must now be developed at the national level, providing benchmarks against which progress can be measured over time.

Through operational projects, the ILO can greatly help member States eradicate forced labour. The aim will be to develop "models" of intervention, which can then be applied on a wider scale by others. These should comprise linked components, addressing upstream policy and legal issues, as well as strengthening enforcement institutions and providing direct support for victims. In developing such integrated projects the ILO needs to draw on all its capacities, as they relate to employment promotion as well as the application of labour standards.

In developing projects, however, it must be remembered that hard policy decisions are required to end forced labour. Such instruments as microfinance are important for prevention and rehabilitation, and will always be part of the "toolkit" against forced labour. But to combat impunity, and to tackle the roots of either the more traditional or more modern forms of forced labour, member States may ultimately have to revisit their land, tenancy, labour market or even migration policies.

With courage and commitment to face up to the problems, and with the allocation of resources to meet the challenges, there is a real hope that forced labour can finally be relegated to history.

ASIAN PACIFIC AMERICAN HERITAGE MONTH

Ms. CANTWELL. Mr. President, I rise today to say a few words in honor of the Asian and Pacific Islander communities of the United States. As my colleagues know, May marks Asian-Pacific American Heritage Month. Throughout this month, the United States celebrates the history, culture, and traditions of Asian and Pacific Islanders, and recognizes their unique contributions to the United States.

First proposed as a 1-week celebration in 1977, the occasion was expanded into a month-long event in 1990. May was chosen because of its unique significance to the history of Asian Americans. May 7, 1843 marked the first recorded immigration of Japanese to the United States, while May 10, 1869 marked the completion of the transcontinental railroad, which would not have happened when it did without the labor of Chinese immigrants.

The Asian and Pacific Islander population has a rich history in this country, especially in the Pacific Northwest. In my home State, records show the arrival of Asian immigrants as early as the 1860s, while some scholars even speculate that Chinese explorers sailed down the Alaskan coast to what is now Washington State centuries before. Today, there are nearly 13 million Asians and Pacific Islanders living in the United States, representing 4.4 percent of the population. In Washington, they make up nearly 6 percent of the citizenry.

Over the past century and a half, Asian and Pacific Islander communities have contributed significantly to the cultural vibrancy of Washington State. Individuals within Washington's Asian and Pacific Islander communities have also worked to stand up for justice and make our country a better place. In 1944, Gordon Hirabayashi, a Japanese-American student at the University of Washington in Seattle, took a stand against the unfair treatment of Japanese Americans during World War II when he refused to obey discriminatory curfew orders. In taking his case to the U.S. Supreme Court, he left a lasting reminder of the importance of standing up for civil rights.

America is a land of immigrants and our history demonstrates that we are stronger because of our diversity, not in spite of it. However, we can only live up to the promise of our diversity if we recognize the mistakes of our past and give all groups a voice in public discourse. Asian Americans have a powerful history in the Pacific Northwest, and I believe we cannot ignore its darkest period. For this reason, I was pleased to work with Senator PATTY MURRAY to secure Federal funding for a study of the Eagledale Ferry Dock site on Bainbridge Island, which served as a point of departure for members of the Japanese-American community on their way to internment camps during World War II. These funds are a critical step toward commemorating the sacrifices and the strength of the Japanese-American community, and to recognizing an important chapter in the history of Bainbridge Island, my State, and our Nation.

I am proud to represent a State with a history of electing a diverse group of citizens to public office. In 1993, Filipina-American Velma Veloria became the first Asian-American woman to serve in the Washington State Legislature. Over the past decade, her work to fight human trafficking and promote peace and social justice has truly made my State a better place. Since then, Washington State has also seen the service of Gary Locke, Washington's first Asian-American Governor, and Paul Shin, the first Asian American to serve in the State senate. In fact, the rich history of Asians and Pacific Islanders holding elected office in Washington State dates back to 1962, when Wing Luke, a decorated World War II veteran and former Assistant Attorney General of the State of Washington, won a seat on Seattle's city council. Today, his legacy is commemorated in Seattle's Wing Luke Asian Museum, along with the stories of thousands of other Asian immigrants. I am personally honored to be involved in renovating the museum's East Kong Yick building, one of the first two buildings in Seattle owned by nonwhites. The museum is both a local and national treasure, respected as a Smithsonian affiliate and honored at the White House 10 years ago with the National Award for Museum Services.

As this year's Asian Pacific American Heritage month begins, I believe it is important to preserve the lessons of the past, while recognizing the immense benefit we all receive from living in a diverse country built on the contributions of immigrants from around the globe. Diversity, and the exposure to other customs and ideas that it involves, leads to opportunity and gives the United States much of its strength. In celebrating the rich history, culture, and traditions of Asian and Pacific Islanders this May, we recognize their important contributions to the strength and diversity of our country, and to the bright future that lies ahead.

PASSING OF VICKI COTTRELL

Mr. HATCH. Mr. President, with the untimely death of Vicki Cottrell, Utah's executive director of the National Alliance for the Mentally Ill, NAMI, a powerful and compassionate voice who spoke for those who suffer the effects of mental illness has been silenced. Vicki Cottrell's untiring efforts across Utah, in the legislature, in the jails and mental health courts, among community and religious leaders, and among families, will be difficult to replace. The passionate spirit and vision that she shared with her staff will continue.

Before working for NAMI Utah, Vicki worked in computer software sales. But after her daughter was diagnosed with schizophrenia, Vicki formed her own support group for people who have loved ones with a mental illness. Eventually, she merged her group with NAMI Utah.

Over the past 20 years, Vicki has worked for the National Alliance for the Mentally Ill's Utah affiliate. She started as a volunteer teaching classes and worked her way up to the executive director's post. Going the distance to places like Logan was common for her, and she took a message of advocacy around the State. Vicki's influence did not just reach inside Utah's borders, though. Upon hearing of her death, NAMI members and friends from across the country brought forth an outpouring of sympathy.

Governor Jon Huntsman, Jr. expressed his condolences noting that Vicki helped educate many about mental illness and the way new medical treatments help the afflicted lead very productive lives. He said, "She traveled throughout the Nation sharing this message of hope and will be greatly missed by all who knew her."

Vicki was a member of my Advisory Committee on Disability Issues for the State of Utah. She worked closely with my office and visited with me and my staff in both Washington and Utah to advocate for the needs of the mentally ill. Her strong commitment to those suffering from mental illness was well known throughout Utah. She provided valuable insights to the Advisory Committee and will be missed by all of the committee members.

The love and respect so many felt for Vicki Cottrell came from her willingness to use her own family's struggle with schizophrenia as an example and turn it into something to help others cope. She worked hard to eliminate the stigma often attached to mental illness, and was tireless, energetic and motivated in her mission.

Vicki's grace, humanity, and love touched every life she met. Her public life never overshadowed her deep devotion for her 6 children and 10 grandchildren. She was a loyal friend and enjoyed close relationships with many. Her beautiful and well-attended garden was a metaphor for her life.

I ask that my colleagues please join me in extending heartfelt sympathies to Vicki's family and friends. The magnitude of the loss for Utah and the Nation is substantial.

ADDITIONAL STATEMENTS

HONORING MG RICHARD S. COLT

• Mr. CRAPO. Mr. President, I rise to honor one of the great Army Reserve generals in the United States of America. MG Richard S. Colt has served as the commanding general of the 77th Regional Readiness Command based at Fort Totten, NY, for the last 4 years, and I am honored to recognize him on the floor of the Senate. He celebrates his retirement after 38 years of service to this country. While I am a Senator from Idaho and he is a commanding general from the State of New York, he deserves all of our praise because he was on duty in New York City on September 11, 2001.

Major General Colt is a Vietnam veteran who has always put soldiers first. His emphasis on readiness and training has prepared our citizen soldiers for the current global war on terror.

General Colt is among the finest this country has to offer, and he leads by example. He trains, teaches, and leads his soldiers. He will be sorely missed by his soldiers and by all of us who cherish freedom. We honor his service, congratulate him on his retirement, and reflect on the accomplishments of this great leader.

His dates of service are from July 25, 1967 to June 19, 2005. I know that his family is very proud of him, including his wife Dorothy and his daughters Mary Colt and Jennifer Sullivan and grandson Ryan Richard Sullivan.•

A LIFE OF TEACHING, A LOVE OF LEARNING, A HEART FOR CHILDREN

• Mr. CRAPO. Mr. President, I am honored to recognize a truly remarkable individual today. Gail Chumbley is a history teacher at Eagle High School in Eagle, ID. A high school history teacher; there are many individuals who can claim this job title but few who have done so much. Gail is an amazing teacher, passionately devoted to teaching our American experience to her students. Not only does she teach about events in our Nation's history, she has ventured into the next realm, moving the tenets of American citizenship into the real world for her students.

I first heard of Gail's efforts 4 years ago when she became actively involved in the Library of Congress's Veterans Oral History Project four years ago. At that time, she had organized the recording of over 300 oral histories for Eagle High School's library alone. She expanded the effort to include other Idaho schools and collaborated with local civics groups to record literally hundreds more interviews that went to both the Eagle High School archives and the Idaho Oral History Center. One of the most significant accomplishments of Gail and her students was their participation in the Veterans Stand Down in Boise where homeless veterans were given the opportunity to record interviews. Her efforts were not confined to veterans of past wars. Gail and her students also have sent gift boxes and cards to our current service women and men in Iraq and Afghanistan since 2002. She was instrumental in making Eagle High School the top school donor for the World War II Memorial, with a donation of close to $25,000. The list of her accomplishments, enhanced further with her national recognition by the Daughters of the American Revolution this year is long, but that is not the focus of my remarks today.

Gail has turned the teaching of history and civics into the action of patriotism. Perhaps the most compelling and significant accomplishment of Gail Chumbley is not her esteemed list of awards and honors, which are many and richly-deserved. Her most important contribution is her role in creating a sense of citizenship within the hearts and intellect of many Idaho young people. This citizenship lives on in these students as they grow into adulthood and manifests itself in their actions, commitments and convictions. It is an entity that grows exponentially and of its own volition, eclipsing plaques, certificates and statuettes. These gather dust, but what they represent are the pillars upon which our country stands firm. This living citizenship is immortalized by the marbled statues of men and women not far from here, and in words carved of the same.

I honor Gail Chumbley today: American patriot, exemplary citizen and role model for all of us.•

TRIBUTE TO JOSEPH P. FITZGERALD

• Mr. HARKIN. Mr. President, I salute Joseph P. Fitzgerald, who is retiring after 33 years of dedicated service to the Government and people of the United States of America.

For the past quarter century, Mr. Fitzgerald has worked in the Audiovisual Program Development Branch at the Lister Hill National Center for Biocommunications, which is part of the National Library of Medicine at the National Institutes of Health in Bethesda, MD. Mr. Fitzgerald, who is a renaissance man of creative vision and artistic talent, has made exceptional contributions to the outreach and communications mission of the largest biomedical library in the world. As technological advances in the dissemination of both visual and text-based information have evolved over the past 25 years, Mr. Fitzgerald has led the way in adopting computer-based graphics systems. And he has helped the National Library of Medicine to communicate the most current and reliable medical and consumer health information to medical professionals, researchers, patients, families and the public.

The number 25 figures prominently in the life story of Joe Fitzgerald for another reason, too. He recently became the 25th person in the history of the Republic to execute a design for the front of a circulating coin. His groundbreaking portrait of Thomas Jefferson graces the new U.S. five-cent coin, as will his obverse design of the Lewis and Clark expedition, which will be released in August. Both commissions were awarded as part of the United States Mint at the Treasury Department's Artistic Infusion Program. Mr. Fitzgerald's portrait of Thomas Jefferson marks the first redesign of the front of the nickel in 67 years. His nickel designs have been acclaimed throughout the coin collecting community, and Mr. Fitzgerald has received significant national press attention.

Joe Fitzgerald earned a B.A. in fine arts from the University of Maryland, College Park and pursued graduate studies in printmaking at the State University of New York at Oswego. He has served several Federal agencies: the United States Postal Service, summers, 1968-1972; the Food & Drug Administration, 1972-1973; the Consumer Product Safety Commission, 1973–1980; and the National Library of Medicine, 1980–2005. Mr. Fitzgerald has earned numerous awards for outstanding contributions and service to the National Library of Medicine, including the 1996 NLM Director's Honor Award for exceptional contributions to the mission of the library through the creative application of his artistic talent, and the 2003 National Institutes of Health Award for Merit for his organization, coordination and congenial leadership in effectively orchestrating the "Turning the Pages" historical medical books program.

In addition, Mr. Fitzgerald is a gifted fine artist. Nationally recognized for his work in paint, pastel and digital media, his creations have been sent around the world through the Embassy Art program, and are held in many private collections. He is currently represented by the Foxhall Gallery in Washington, DC.

Joe Fitzgerald is one of the most beloved individuals ever to tread the NIH campus, and I wish him well in his retirement. He is married to Jean Hill Fitzgerald, another career civil servant who currently works at the National Archives. I thank Joe for distinguished career in public service, and I wish him many years of happiness in retirement.•

HONORING THE ACCOMPLISHMENTS OF MR. JIM HUFF

• Mr. BUNNING. Mr. President, I pay tribute and congratulate Mr. Jim Huff of Northern Kentucky who was recently honored with one of the "Movers and Shakers" awards for the Greater Cincinnati area. Mr. Huffs life accomplishments and dedication to Commonwealth of Kentucky have given me reason to be proud.

Over the past 60 years, Mr. Huff has grown to be a leader both within the community of Northern Kentucky and within the real estate industry. He has served as chairman of the Kentucky Real Estate Commission for five consecutive terms. During this time he established a statewide errors and omissions insurance platform, which continues to serve the needs of Kentucky real estate practitioners today. In 1981, he was awarded Realtor of the Year by the Kenton-Boone Board of Realtors, for which he later served as president.

Throughout his life, Mr. Huff has always been active in civic affairs in Northern Kentucky. He has been an integral part of his community serving on numerous boards, including Northern Kentucky University Foundation, Saint Elizabeth Medical Foundation, Kids Helping Kids, Cincinnati and Northern Kentucky Fine Arts Foundation and as a trustee for Thomas More College.

The "Movers and Shakers" award of Northern Kentucky is an annual award presented to honor those within the greater Cincinnati region who stand as an example for all. It is presented by the Kentucky Enquirer, the Sales and Marketing Council of Northern Kentucky, The Home Builders Association of Northern Kentucky, and The Kentucky Post.

As a Senator from Kentucky, I appreciate the devotion Mr. Huff has shown over the years to the citizens of Kentucky. I commend his efforts and hope his example of dedication and hard work will serve as an inspiration to the entire State.•

RACIST MANIFESTATIONS IN ROMANIA DESERVE GOVERNMENT RESPONSE

• Mr. BROWNBACK. Mr. President, as chairman of the Helsinki Commission, I welcomed the recent visit of Romanian Foreign Minister Razvan Ungureanu, and I regret that I was not in Washington to meet with him. Our countries have forged closer links, and I hope that trend will continue.

While there have been many positive reforms implemented in Romania, unfortunately the situation of the Romani minority is largely the same. Romania has the largest Roma minority in Europe, estimated at 1.5-2 million people. They remain profoundly marginalized and subjected to pervasive discrimination and prejudice.

On April 13, for example, a soccer match in Bucharest turned very, very ugly. Fans of one team, Steaua Bucharest, unfurled a banner reading "We have always had and will always have something against Gypsies." They chanted, "We have always hated Gypsies and we have always urinated on you." During the game, the stadium announcer played an anti-Roma song called "Gypsies and UFOs" and made anti-Roma remarks. The coach of Steaua Bucharest called the coach of the opposing team a "stinking Gypsy." The opposing team, Rapid Bucharest, is from a district with a significant Romani minority.

Response to this rabid anti-Roma manifestation was swift with mixed results.

On April 20, the Romanian Football League suspended the stadium announcer for 6 months. But the League also sanctioned both teams that were present at the April 13 match: Steaua Bucharest, the team responsible for hurling racist invective was fined, but so was Rapid Bucharest, the team against whom these slurs were directed. While it is completely appropriate for a sports league to police itself and its members, sanctioning those who were the targets of this abuse makes no sense. No one will be fooled by the League's effort to appear pro-active and even-handed while punishing the very people who were the victims of abuse.

The National Council for Combating Discrimination, a Romanian Government body, also sanctioned the offending team about $1400 and fined the stadium announcer about $600. The fact that a governmental body so quickly recognized the racist nature of these events was a positive signal. However, any time a state positions itself to regulate speech, there is the risk that free speech, which may include unpopular or controversial views, will be unduly limited. I believe there are other ways to combat racist, xenophobic, or anti-Semitic manifestations. In particular, it is critical that Romania's public leaders, including President Traian Basescu, speak out against such manifestations.

Unfortunately, the April 13 events were not an isolated phenomenon, but part of a pattern of racist abuse in Romania. In 2002, scores of fans at a Bucharest soccer match worked in concert to display a massive sign reading "Die, Gypsy." In 2003, like-minded fans displayed a sign reading "One million crows, one solution—Antonescu." "Crow" is a pejorative slang term in Romanian for a member of the Romani minority. General Ion Antonescu was Romania's World War II fascist dictator who spearheaded the selection of Roma for deportation to Transnistria.

These manifestations tell us two things. First, it is not enough for public leaders to leave it to the National Council for Combating Racism to speak out against these manifestations. Romania's highest leaders must stand up and confront such outrages. Those who would foment racism, and who potentially incite racist violence, must be given no safe harbor. Invoking praise for the World War II dictator who oversaw the persecution of Romania's Jews and Roma is despicable.

Second, these manifestations underscore the need for continued efforts to improve Holocaust education in Romania.

Following decades of denial, the Government of Romania has made great strides in the past year in recognizing Romania's role in the Holocaust and in the deportation and death of Jewish and Romani citizens. The government is to be commended for taking steps to examine this dark and painful chapter in the country's history. Last November, the International Commission for the Study of the Holocaust in Romania, led by Elie Wiesel, officially issued its findings in Bucharest. In addition to the establishment of a national Holocaust Remembrance Day, which Romania marks on October 9, the Commission recommended that Romania establish a national Holocaust memorial and museum in Bucharest, annul war criminal rehabilitations and develop a Holocaust education curricula and courses in secondary schools and universities. I hope the Government of Romania will move quickly to implement the Wiesel Commission's recommendations.

With this in mind, I was heartened to learn that in April the U.S. Embassy in Bucharest hosted the premier of "Hidden Sorrows," a documentary about the tragic deportation of 25,000 Roma from Romania to Transnistria during the Holocaust; more than 11,000 men, women and children died from the horrific conditions of their internment. Several, nearly 100-year-old survivors attended the premier, adding a deeply personal element to the documentary's message.

From the Inquisition to the Holocaust, Roma have suffered some of humanity's worst abuses. They were enslaved in Romania until the formation of the modern Romanian state in 1864. They were persecuted and deported and murdered during the Holocaust. Even after the fall of Ceausescu, they were subjected to dozens of pogroms. And yet they have survived.

The Romani people, who have endured so much, should not be made to suffer at a time that otherwise holds so much promise and hope for so many. We must ensure that these people, their culture, and their heritage are not destroyed by hatred and violence.●

MESSAGES FROM THE HOUSE

At 12:33 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1279. An act to amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, and for other purposes.

The message also announced that pursuant to section 637(d)(I) of the Help Commission Act (22 U.S.C. 2394b) and the order of the House of January 4, 2005, the Speaker appoints the following members on the part of the House of Representatives to the Helping to Enhance the Livelihood of People (HELP) House Around the Globe Commission: Mr. Robert H. Michel of Washington, D.C., Mrs. Jennifer Dunn of Virginia, Mr. William C. Lane of Virginia, and Mr. Nicholas Eberstadt of Virginia.

The message further announced that pursuant to section 801 of Public Law 101–696 (40 U.S.C. 188a(c)), the Chairman (Mr. NEY) of the Joint Committee on the Library appoints the following Member of the House of Representatives as his designee to the Capitol Preservation Commission: Mr. MICA of Florida.

The message also announced that pursuant to 44 U.S.C. 2702, the Clerk of the House appoints the following individual on the part of the House of Representatives to the Advisory Committee on the Records of Congress: Susan Palmer of Aurora, Illinois.

At 6:19 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1544. An act to provide faster and smarter funding for first responders, and for other purposes.

The message also announced that pursuant to 20 U.S.C. 2004(b), and the order of the House of January 4,2005, the Speaker appoints the following Members of the House of Representatives to the Board of Trustees of the Harry S Truman Scholarship Foundation: Mr. AKIN of Missouri and Mr. SKELTON of Missouri.

The message further announced that pursuant to 10 U.S.C. 6968(a), and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the Board of Visitors to the United States Naval Academy: Mr. CUNNINGHAM of California and Mr. WICKER of Mississippi.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1279. An act to amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, and for other purposes; to the Committee on the Judiciary.

H.R. 1544. An act to provide faster and smarter funding for first responders, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-2099. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, a list of officers authorized to wear the insignia of brigadier general; to the Committee on Armed Services.

EC-2100. A communication from the Principal Deputy, Personnel and Readiness, Office of the Under Secretary of Defense, Department of Defense, transmitting, pursuant to law, a report of officers authorized to wear the insignia of the next higher grade to the Committee on Armed Services.

EC-2101. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of vice admiral; to the Committee on Armed Services.

EC-2102. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of admiral; to the Committee on Armed Services.

EC-2103. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of general; to the Committee on Armed Services.

EC-2104. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of lieutenant general; to the Committee on Armed Services.

EC-2105. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of lieutenant general; to the Committee on Armed Services.

EC-2106. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of lieutenant general; to the Committee on Armed Services.

EC-2107. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Multiyear Contracting" (DFARS Case 2004-D024) received on May 8, 2005; to the Committee on Armed Services.

EC-2108. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Reporting Contract Performance Outside the United States" (DFARS Case 2004-D001) received on May 3, 2005; to the Committee on Armed Services.

EC-2109. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Personal Services Contracts" (DFARS Case 2003-D103) received on May 3, 2005; to the Committee on Armed Services.

EC-2110. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Unique Item Identification and Valuation" (DFARS Case 2003-D081) received on May 3, 2005; to the Committee on Armed Services.

EC-2111. A communication from the Secretary of Labor, transmitting, pursuant to law, a report entitled "Trade and Employment Effects of the Andean Trade Preference Act"; to the Committee on Finance.

EC-2112. A communication from the Secretary of Labor, transmitting, pursuant to law, a report relative to the Andean Trade Preference Act; to the Committee on Finance.

EC-2113. A communication from the Chairman, Advisory Committee for Trade Policy Negotiations, transmitting, pursuant to law, the Committee's report on the Extension of Trade Promotion Authority; to the Committee on Finance.

EC-2114. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Implementation of the Medicare Prescription Drug Benefit"; to the Committee on Finance.

EC-2115. A communication from the Chairman, United States International Trade Commission, transmitting, pursuant to law, the report of and investigation entitled "The Impact of Trade Agreements Implemented Under Trade Promotion Authority"; to the Committee on Finance.

EC-2116. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "The Use of Specific Claims Payment Error Rates to Improve Effectiveness and Performance of Medicare Contractor Provider Education and Outreach Programs"; to the Committee on Finance.

EC-2117. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Prospective Payment System for Long-Term Care Hospitals: Annual Payment Rate Updates, Policy Changes, and Clarification" (RIN0938-AN28) received on May 4, 2005; to the Committee on Finance.

EC-2118. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Update of Ambulatory Surgical Center List of Covered Procedures" (CMS-1478-IFC) received on May 4, 2005; to the Committee on Finance.

EC-2119. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Diesel Fuel and Kerosene Excise Tax; Dye Injection" ((RIN1545-BE44)(TD 9199)) received on May 3, 2005; to the Committee on Finance.

EC-2120. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 29 Inflation Adjustment Factor" (Notice 2005-33) received on May 3, 2005; to the Committee on Finance.

EC-2121. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Medical Rebates" ((Rev. Rul. 2005-28)(RR-142416-02)) received on May 3, 2005; to the Committee on Finance.

EC-2122. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Electronic Submission under Rev. Rul. 2005-6" (Notice 2005-35) received on May 4, 2005; to the Committee on Finance.

EC-2123. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Implementation of Election and Notice Provisions of Section 104 of the Pension Funding Equity Act" (Notice 2005-40) received on May 4, 2005; to the Committee on Finance.

EC-2124. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Designation of Dividends by a RIC" (Rev. Rul. 2005-31) received on May 8, 2005; to the Committee on Finance.

EC-2125. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Automatic Consent to Change to the Alternative Tax Book Value Method for Expense Appointment" (Rev. Proc. 2005-28) received on May 8, 2005; to the Committee on Finance.

EC-2126. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, a report of proposed legislation relative to extending the life of the United States Parole Commission; to the Committee on the Judiciary.

EC-2127. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the Commission's Annual Program Performance Report for Fiscal Year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC-2128. A communication from the Chief Financial Officer, Department of Education, transmitting, pursuant to law, the Department's Fiscal Year 2004 Performance and Accountability Report; to the Committee on Homeland Security and Governmental Affairs.

EC-2129. A communication from the Chairman, Defense Nuclear Facilities Safety

Board, transmitting, pursuant to law, the Board's Performance and Accountability Report for Fiscal Year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–2130. A communication from Director, National Science Foundation, transmitting, pursuant to law, the Foundation's Fiscal Year 2004 Performance Highlights Report; to the Committee on Homeland Security and Governmental Affairs.

EC–2131. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the Commission's annual report summarizing its activities for calendar year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–2132. A communication from the President, Overseas Private Investment Corporation (OPIC), transmitting, pursuant to law, OPIC's Management Report for Fiscal Year 2004, the OPIC Fiscal Year 2006 Performance Budget, OPIC Fiscal Year 2004 Performance and Accountability Report, a Report on Development and U.S. Effects of OPIC's Fiscal Year 2004 Projects, a Report on Cooperation with Private Insurers, and a Report on the Environment; to the Committee on Homeland Security and Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCAIN, from the Committee on Indian Affairs, without amendment:

S. 536. A bill to make technical corrections to laws relating to Native Americans, and for other purposes (Rept. No. 109–67).

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. SPECTER for the Committee on the Judiciary.

William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SANTORUM:

S. 1008. A bill to amend the Internal Revenue Code of 1986 to add meningococcal vaccines to the list of taxable vaccines for purposes of the Vaccine Injury Compensation Trust Fund; to the Committee on Finance.

By Mr. CRAPO (for himself and Mr. Craig):

S. 1009. A bill to direct the Secretary of the Interior to extend certain water contracts in Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SANTORUM (for himself, Mr. Lieberman, Ms. Collins, Mr. Bingaman, Mr. Nelson of Nebraska, Ms. Snowe, Mr. Graham, Mr. Jeffords, Ms. Landrieu, and Mr. Dorgan):

S. 1010. A bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program; to the Committee on Finance.

By Mr. JEFFORDS:

S. 1011. A bill to establish a national historic country store preservation program; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself, Mr. Harkin, Ms. Mikulski, Mrs. Murray, Mr. Reed, Mr. Levin, Mr. Lautenberg, Mrs. Boxer, Mr. Dorgan, Mr. Schumer, Ms. Cantwell, Mr. Corzine, Mr. Dayton, and Ms. Stabenow):

S. 1012. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. Cornyn, Mr. Lautenberg, Mrs. Hutchison, Mrs. Boxer, Mr. Corzine, Mr. Schumer, Mrs. Clinton, Mr. Nelson of Florida, and Mr. Kennedy):

S. 1013. A bill to improve the allocation of grants through the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Ms. SNOWE:

S. 1014. A bill to provide additional relief for small business owners ordered to active duty as members of reserve components of the Armed Forces, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. DEMINT:

S. 1015. A bill to amend the Public Health Service Act to provide for cooperative governing of individual health insurance coverage offered in interstate commerce; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MARTINEZ:

S. 1016. A bill to direct the Secretary of Energy to make incentive payments to the owners or operators of qualified desalination facilities to partially offset the cost of electrical energy required to operate the facilities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CHAFEE (for himself, Mr. Inhofe, Mr. Jeffords, Mrs. Clinton, Mr. Lautenberg, Mr. Vitter, Mr. Baucus, Ms. Murkowski, Mr. Crapo, Mr. Enzi, and Mr. Corzine):

S. 1017. A bill to reauthorize grants from the water resources research and technology institutes established under the Water Resources Research Act of 1984; to the Committee on Environment and Public Works.

By Mr. SARBANES:

S. 1018. A bill to provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DURBIN:

S. 1019. A bill to amend titles 10 and 38, United States Code, to increase benefits for members of the Armed Forces who, after September 11, 2001, serve on active duty outside the United States or its territories or possessions as part of a contingency operation (including a humanitarian operation, peacekeeping operation, or similar operation) or a combat operation; to the Committee on Finance.

By Mr. COLEMAN (for himself and Mr. Pryor):

S. 1020. A bill to make the United States competitive in a global economy; to the Committee on Finance.

By Mr. ENZI (for himself and Mr. Kennedy):

S. 1021. A bill to reauthorize the Workforce Investment Act of 1998, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH (for himself, Mrs. Lincoln, and Mr. Grassley):

S. 1022. A bill to amend the Internal Revenue Code of 1986 to allow for an energy efficient appliance credit; to the Committee on Finance.

By Mr. DODD (for himself, Ms. Snowe, Mr. Durbin, and Mr. Burns):

S. 1023. A bill to provide for the establishment of a Digital Opportunity Investment Trust; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON:

S. 1024. A bill to revitalize suburban communities, and for other purposes; to the Committee on Finance.

By Mr. ROBERTS:

S. 1025. A bill to amend the Act entitled "An Act to provide for the construction of the Cheney division, Wichita Federal reclamation project, Kansas, and for other purposes" to authorize the Equus Beds Division of the Wichita Project; to the Committee on Energy and Natural Resources.

By Ms. LANDRIEU:

S. 1026. A bill to ensure that offshore energy development on the outer Continental Shelf continues to serve the needs of the United States, to create opportunities for new development and the use of alternative resources, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BUNNING:

S. 1027. A bill to exempt the natural aging process in the determination of the production period for distilled spirits under section 263A of the Internal Revenue Code of 1986; to the Committee on Finance.

By Mrs. CLINTON (for herself and Ms. Collins):

S. 1028. A bill to amend title 10, United States Code, to enhance the protection of members of the Armed Forces and their spouses from unscrupulous financial services sales practices through increased consumer education, and for other purposes; to the Committee on Armed Services.

By Mr. REED (for himself, Ms. Collins, Mr. Kennedy, and Mrs. Murray):

S. 1029. A bill to amend the Higher Education Act of 1965 to expand college access and increase college persistence, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED (for himself, Ms. Collins, Mr. Kennedy, and Mrs. Murray):

S. 1030. A bill to amend the Higher Education Act of 1965 to simplify and improve the process of applying for student assistance, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. CANTWELL (for herself, Mr. Jeffords, and Mrs. Clinton):

S. 1031. A bill to enhance the reliability of the electric system; to the Committee on Energy and Natural Resources.

By Mrs. BOXER:

S. 1032. A bill to improve seaport security; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCAIN (for himself, Mr. KENNEDY, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. GRAHAM, and Mr. SALAZAR):

S. 1033. A bill to improve border security and immigration; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN (for himself, Mr. SESSIONS, and Mr. COBURN):

S. Res. 136. A resolution designating the month of May 2005 as "National Drug Court Month"; considered and agreed to.

By Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. DODD, Mr. FEINGOLD, Mr. INOUYE, Mr. DURBIN, Mr. KERRY, Mr. KENNEDY, and Mrs. BOXER):

S. Res. 137. A resolution designating May 1, 2005, as "National Child Care Worthy Wage Day"; considered and agreed to.

By Mr. THOMAS (for himself, Mr. BURNS, Mr. INHOFE, Mr. DORGAN, Mr. CRAPO, Mr. SALAZAR, Mr. ENZI, Mr. ALLARD, Mr. BAUCUS, Mr. ALLEN, Mr. STEVENS, Mr. MARTINEZ, Mr. BINGAMAN, and Mr. CRAIG):

S. Res. 138. A resolution designating July 23, 2005, "National Day of the American Cowboy"; considered and agreed to.

By Mr. REID (for himself, Mr. FRIST, and Mr. MCCAIN):

S. Res. 139. A resolution expressing support for the withdrawal of Russian troops from Georgia; considered and agreed to.

By Mr. MARTINEZ (for himself, Mr. NELSON of Florida, Mr. CORZINE, Mr. LUGAR, Mr. FEINGOLD, Mr. INHOFE, Mr. BAYH, Mr. DEWINE, Mr. LAUTENBERG, Mr. SANTORUM, Mr. SALAZAR, Mr. COBURN, Mr. LIEBERMAN, Mr. MCCAIN, Mr. CRAIG, Mrs. DOLE, Mr. ENSIGN, Mr. VITTER, and Mr. ALLEN):

S. Res. 140. A resolution expressing support for the historic meeting in Havana of the Assembly to Promote the Civil Society in Cuba on May 20, 2005, as well as to all those courageous individuals who continue to advance liberty and democracy for the Cuban people; to the Committee on Foreign Relations.

By Ms. MURKOWSKI (for herself, Mr. JOHNSON, Mr. STEVENS, Mr. DURBIN, Mr. COLEMAN, Mr. DODD, and Mrs. MURRAY):

S. Res. 141. A resolution designating September 9, 2005, as "National Fetal Alcohol Spectrum Disorders Awareness Day"; considered and agreed to.

By Mr. SMITH (for himself, Mrs. FEINSTEIN, and Mr. DURBIN):

S. Con. Res. 32. A concurrent resolution expressing the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. ALLARD, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 103

At the request of Mr. TALENT, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 267

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 313

At the request of Mr. LUGAR, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 313, a bill to improve authorities to address urgent nonproliferation crises and United States nonproliferation operations.

S. 330

At the request of Mr. ENSIGN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 330, a bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

S. 331

At the request of Mr. JOHNSON, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 331, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 340

At the request of Mr. LUGAR, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 340, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 390

At the request of Mr. DODD, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 390, a bill to amend title XVIII of the Social Security Act to provide for coverage of ultrasound screening for abdominal aortic aneurysms under part B of the medicare program.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 440

At the request of Mr. BUNNING, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 440, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program.

S. 467

At the request of Mr. SCHUMER, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 471

At the request of Mr. SPECTER, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 471, a bill to amend the Public Health Service Act to provide for human embryonic stem cell research.

S. 558

At the request of Mr. REID, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 558, a bill to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt.

S. 582

At the request of Mr. PRYOR, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 582, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes.

S. 594

At the request of Mr. SPECTER, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 594, a bill to amend section 1114 of title 11, United States Code, to preserve the health benefits of certain retired miners.

S. 637

At the request of Mr. DURBIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 637, a bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes.

S. 681

At the request of Mr. HATCH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 681, a bill to amend the Public Health Service Act to establish a National Cord Blood Stem Cell Bank Network to prepare, store, and distribute human umbilical cord blood stem cells for the treatment of patients and to support peer-reviewed research using such cells.

S. 714

At the request of Mr. SMITH, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 714, a bill to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions.

S. 757

At the request of Mr. CHAFEE, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Oregon (Mr. SMITH), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 757, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 802

At the request of Mr. BAUCUS, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 802, a bill to establish a National Drought Council within the Department of Agriculture, to improve national drought preparedness, mitigation, and response efforts, and for other purposes.

S. 853

At the request of Mr. LUGAR, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 853, a bill to direct the Secretary of State to establish a program to bolster the mutual security and safety of the United States, Canada, and Mexico, and for other purposes.

S. 859

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 859, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 863

At the request of Mr. CONRAD, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 863, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 865

At the request of Mr. VOINOVICH, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 865, a bill to amend the Atomic Energy Act of 1954 to reauthorize the Price-Anderson provisions.

S. 967

At the request of Mr. LAUTENBERG, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 967, a bill to amend the Communications Act of 1934 to ensure that prepackaged news stories contain announcements that inform viewers that the information within was provided by the United States Government, and for other purposes.

S. 984

At the request of Ms. SNOWE, the names of the Senator from North Carolina (Mrs. DOLE) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 984, a bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, and for other purposes.

S. RES. 104

At the request of Mr. FEINGOLD, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Hawaii (Mr. INOUYE), the Senator from Vermont (Mr. LEAHY) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. Res. 104, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to take the lead and coordinate with other governmental agencies and non-governmental organizations in creating an online database of international exchange programs and related opportunities.

AMENDMENT NO. 634

At the request of Mr. DAYTON, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of amendment No. 634 proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 670

At the request of Mr. OBAMA, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of amendment No. 670 proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 681

At the request of Mrs. CLINTON, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of amendment No. 681 proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 704

At the request of Mr. VOINOVICH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of amendment No. 704 intended to be proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 708

At the request of Mr. SANTORUM, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of amendment No. 708 proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 732

At the request of Mr. DODD, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of amendment No. 732 intended to be proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 733

At the request of Mr. ALEXANDER, the names of the Senator from Virginia (Mr. WARNER), the Senator from Alaska (Mr. STEVENS) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of amendment No. 733 intended to be proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEFFORDS:

S. 1011. A bill to establish a national historic country store preservation program; to the Committee on Commerce, Science, and Transportation.

Mr. JEFFORDS. Mr. President, I have long been a proponent of measures that support historic preservation and economic development, and it is in keeping with that tradition that I rise today to introduce the National Historic Country Store Preservation Act of 2005.

This bill establishes a national program to support historic country store preservation that will aid in the revitalization of rural villages and community centers nationwide.

For many Americans, the country store invokes an image of a simpler life before much of this country became stamped with shopping malls and the "big-box" store.

But for thousands of people living in Vermont and for millions more living in rural communities across the United States, a visit to the local country store is a regular part of one's daily life.

They are centers of commercial activity in the towns they serve and embody the core of American small business entrepreneurship.

Many of these vital small businesses have been passed down among family members for generations. They are operated in buildings that have existed for as long as 150 years.

In fact, by one of the more vigorous standards in Vermont, a country store is only considered historic if it was built before the Winooski River Flood of 1927.

In my hometown of Shrewsbury, VT, the Pierce Store was the hub of our small community when my wife Liz and I settled there in 1963.

Run by the four Pierce siblings, Marjorie, Glendon, Marion and Gordon, the store was the place to go for a neighborly chat as much as for your milk and butter.

Children would get off the bus to buy their penny candy. Glendon Pierce could tell a great tale, and the political banter was endless.

With its antique cash register and woodstove, this was the quintessential general store.

Unfortunately, the Pierce Store closed its doors some years back and Shrewsbury lost a vital part of its identity.

There has been a recent attempt to revive the store, and I hope, for the sake of my community, it proves successful.

Despite their small relative size and market share, historic country stores have demonstrated incredible resiliency, surviving floods and fires, overcoming economic downturns, and reformulating their inventories to meet modern needs.

According to the Vermont Grocers' Association, country stores account for an estimated $55 million annually in retail sales in Vermont.

Nonetheless, competition from larger chain stores continues to increase.

When coupled with the additional cost and expertise required to maintain their aging structures and external facades, today's remaining country stores are hard-pressed to overcome these unprecedented challenges.

In Vermont, a handful of historic country stores close each year and the cumulative impact of those losses is experienced throughout the State.

The National Trust for Historic Preservation has listed the entire State of Vermont among America's "Eleven Most Endangered Places,"

That is due to the threat that large-scale development poses to Vermont's small, independent retailers.

Yet country stores remain fixtures of Vermont's landscape. The Vermont Alliance of Independent Country Stores estimates that more than 115 historic country stores are scattered about the State.

Across the country, thousands of these establishments help to define the character of rural life.

These country stores draw local customers and tourists alike, offering convenient access to newspapers, groceries and local specialty foods in a typically neighborly atmosphere.

Many stores also double as local post offices or outdoor camping and home hardware goods suppliers. It is not unusual, and highly recommended, that customers buy a fresh whole wedge of cheddar cheese from a 38-pound wheel next to the cash register.

Fathers can buy earthworms and tackle and take their daughters to the nearby fishing hole for an afternoon excursion.

The National Historic Country Store Preservation Act of 2005 is designed to build upon the momentum that country store preservation work has generated in Vermont and to gather useful models and information to develop a program that supports historic, rural country stores nationwide.

My legislation authorizes the U.S. Economic Development Administration to make grants to national, State and local agencies and non-profit organizations to support historic country store preservation efforts.

The bill promotes the study of best practices for preserving structures, improving profitability, and promoting collaboration among country store proprietors.

In addition, the bill establishes a revolving loan fund. The fund will be used for research and restoration work.

It will be used to improve our understanding of existing needs and provide the assistance required to address them.

This bill seeks to sustain America's rural heritage by uniting small business development and historic preservation.

I encourage my colleagues to join me in my efforts to protect our Nation's historic country stores and revitalize our rural communities.

I ask unanimous consent that a summary of the legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Historic Country Store Preservation Act of 2005".

SEC. 2. FINDINGS.

Congress finds that—

(1) historic country stores are lasting icons of rural tradition in the United States;

(2) historic country stores are valuable contributors to the civic and economic vitality of their local communities;

(3) historic country stores demonstrate innovative approaches to historic preservation and small business practices;

(4) historic country stores are threatened by larger competitors and the costs associated with maintaining older structures; and

(5) the United States should—

(A) collect and disseminate information concerning the number, condition, and variety of historic country stores;

(B) develop opportunities for cooperation among proprietors of historic country stores; and

(C) promote the long-term economic viability of historic country stores.

SEC. 3. DEFINITIONS.

In this Act:

(1) COUNTRY STORE.—

(A) IN GENERAL.—The term "country store" means a structure independently owned and formerly or currently operated as a business that—

(i) sells or sold grocery items and other small retail goods; and

(ii) is located in a nonmetropolitan area, as defined by the Secretary.

(B) INCLUSION.—The term "country store" includes a cooperative.

(2) ELIGIBLE APPLICANT.—The term "eligible applicant" means—

(A) a State department of commerce or economic development;

(B) a national or State nonprofit organization that—

(i) is described in section 501(c)(3), and exempt from Federal tax under section 501(a), of the Internal Revenue Code of 1986; and

(ii) has experience or expertise, as determined by the Secretary, in the identification, evaluation, rehabilitation, or preservation of historic country stores;

(C) a national or State nonprofit trade organization that—

(i) is described in section 501(c)(3), and exempt from Federal tax under section 501(a), of the Internal Revenue Code of 1986; and

(ii) acts as a cooperative to promote and enhance country stores; and

(D) a State historic preservation office.

(3) FUND.—The term "Fund" means the Historic Country Store Revolving Loan Fund established by section 5(a).

(4) HISTORIC COUNTRY STORE.—The term "historic country store" means a country store that—

(A) has operated at the same location for at least 50 years; and

(B) retains sufficient integrity of design, materials, and construction to clearly identify the structure as a country store.

(5) SECRETARY.—The term "Secretary" means the Secretary of Commerce, acting through the Assistant Secretary for Economic Development.

SEC. 4. HISTORIC COUNTRY STORE PRESERVATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a historic country store preservation program—

(1) to collect and disseminate information on historic country stores;

(2) to promote State and regional partnerships among proprietors of historic country stores; and

(3) to sponsor and conduct research on—

(A) the economic impact of historic country stores;

(B) best practices to—

(i) improve the profitability of historic country stores; and

(ii) protect historic country stores from foreclosure or seizure; and

(C) best practices for developing cooperative organizations that address the economic and historic preservation needs of historic country stores.

(b) GRANTS.—

(1) IN GENERAL.—The Secretary may make grants to, or enter into contracts or cooperative agreements with, eligible applicants to

carry out an eligible project under paragraph (2).

(2) ELIGIBLE PROJECTS.—A grant under this subsection may be made to an eligible entity for a project—

(A) to rehabilitate or repair a historic country store;

(B) to identify, document, and conduct research on historic country stores; and

(C) to develop and evaluate appropriate techniques or best practices for protecting historic country stores.

(3) REQUIREMENTS.—An eligible applicant that receives a grant for an eligible project under paragraph (1) shall comply with all applicable requirements for historic preservation projects under Federal, State, and local law.

(c) COUNTRY STORE ALLIANCE PILOT PROJECT.—The Secretary shall carry out a pilot project in the State of Vermont under which the Secretary shall conduct demonstration activities to preserve historic country stores, including—

(1) the collection and dissemination of information on historic country stores in the State;

(2) the development of collaborative country store marketing and purchasing techniques; and

(3) the development of best practices for historic country store proprietors and communities facing transitions involved in the sale or closure of a historic country store.

SEC. 5. HISTORIC COUNTRY STORE REVOLVING LOAN FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the "Historic Country Store Revolving Loan Fund", consisting of—

(1) such amounts as are appropriated to the Fund under subsection (b);

(2) ⅓ of the amounts appropriated under section 7(a); and

(3) any interest earned on investment of amounts in the Fund under subsection (d).

(b) TRANSFERS TO FUND.—There are appropriated to the Fund amounts equivalent to—

(1) the amounts repaid on loans under section 6; and

(2) the amounts of the proceeds from the sales of notes, bonds, obligations, liens, mortgages and property delivered or assigned to the Secretary pursuant to loans made under section 6.

(c) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to provide loans under section 6.

(2) ADMINISTRATIVE EXPENSES.—An amount not exceeding 10 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this Act.

(d) INVESTMENT OF AMOUNTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

(2) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States.

(3) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(4) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(5) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

SEC. 6. LOANS FOR HISTORIC COUNTRY STORE REHABILITATION OR REPAIR PROJECTS.

(a) IN GENERAL.—Using amounts in the Fund, the Secretary may make loans to historic country store proprietors and eligible applicants for projects to purchase, rehabilitate, or repair historic country stores.

(b) APPLICATIONS.—

(1) IN GENERAL.—To be eligible for a loan under this section, a country store proprietor or eligible applicant shall submit to the Secretary an application for a loan.

(2) CONSIDERATIONS FOR APPROVAL OR DISAPPROVAL.—In determining whether to approve or disapprove an application for a loan submitted under paragraph (1), the Secretary shall consider—

(A) the demonstrated need for the purchase, construction, reconstruction, or renovation of the historic country store based on the condition of the historic country store;

(B) the age of the historic country store; and

(C) the extent to which the project to purchase, rehabilitate, or repair the historic country store includes collaboration among historic country store proprietors and other eligible applicants.

(c) REQUIREMENTS.—An eligible applicant that receives a loan for a project under this section shall comply with all applicable standards for historic preservation projects under Federal, State, and local law.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act, $50,000,000 for the period of fiscal years 2006 through 2011, to remain available until expended.

(b) COUNTRY STORE ALLIANCE PILOT PROJECT.—Of the amount made available under subsection (a), not less than $250,000 shall be made available to carry out section 4(c).

SENATOR JAMES M. JEFFORDS SUMMARY

NATIONAL HISTORIC COUNTRY STORE PRESERVATION ACT OF 2005—MAY 12, 2005

The National Historic Country Store Preservation Act of 2005 authorizes the Secretary of the Economic Development Administration to establish a National Historic Country Store Preservation Program. This program will sponsor and conduct research on the economic impact of historic country stores and on best practices for improving profitability and addressing their historic preservation and small business development needs. The National Historic Country Store Preservation Program will offer small grants and revolving loans to State and local agencies, non-profit organizations, and historic country store proprietors for the purpose of historic country store preservation projects. In addition, the bill authorizes a Country Store Alliance Pilot Project to be conducted in Vermont. The bill authorizes $50 million to be appropriated for the period of fiscal years 2006 through 2010.

By Mr. KENNEDY (for himself, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. LEVIN, Mr. LAUTENBERG, Mrs. BOXER, Mr. DORGAN, Mr. SCHUMER, Ms. CANTWELL, Mr. CORZINE, Mr. DAYTON, and Ms. STABENOW):

S. 1012. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Finance.

Mr. KENNEDY. Mr. President, it is time for a new effort in Congress to enact the Patients' Bill of Rights. The Senate has approved major bipartisan legislation to end the abuses of managed care and HMOs before, but final enactment of this important measure was blocked by the HMOs and the vested interests of the corporate world that deny working Americans their basic rights and a needed voice in challenging decisions that deny them basic medical care. It was blocked too by an administration that professes to support patients' rights, but does all it can to block legislation to guarantee those rights.

Despite our outstanding researchers and professionals, families across the country are overwhelmingly and justifiably concerned that medical decisions are too often made by insurance industry accountants, and not their doctors. HMO profits too often take priority over patient needs. It is time for Congress to end the abuses of patients and physicians by HMOs and the insurance industry. Too often, managed care is mismanaged care. No amount of distortions or smokescreens by insurance companies can change the facts.

The Patients' Bill of Rights can stop these abuses. For millions of Americans who rely on health insurance to protect them when serious illness strikes, the Patients' Bill of Rights is literally a matter of life and death.

It's important to remember what this debate is really about. It's not about lawyers. It's not about insurance companies. It's about patients—mothers and daughters, fathers and sons, sisters and brothers. It's about families around the country who will someday face the challenge of serious illness and deserve the best in health care—the same care that all members of the Senate want for ourselves and our loved ones. But too many families are denied the care they need and deserve because of abuses by HMOs and other insurance companies.

The legislation we are introducing today will end those abuses. Several of its provisions are especially important—specialty care, clinical trials, and prescription drugs.

In each of these areas, care is too often delayed or denied by insurance companies more interested in profits than patients. Access to specialty care for serious and complex illnesses is a critical element of good health care. Yet denial of needed specialists is one of the most common abuses in the current system.

Patients with cancer and other serious illnesses need specialty care. Often, their best hope for a cure or for precious extra years of life is participation in a clinical trial. But too often, both are lacking. Patients with cancer or other serious illnesses and their physicians must fight HMOs to take advantage of this opportunity.

Traditionally, insurance companies have paid for the routine costs of doctors and hospitals in clinical trials. But HMOs frequently refuse to do so, with devastating effects on patients and research alike. Our legislation will end this abuse.

Another abuse that will be ended by our plan is the denial of medically necessary drugs not on an HMO plan's list. One group that suffers from this denial is the mentally ill. Some of the most dramatic advances in medicine in recent years have been the development of effective drugs to treat persons with serious mental illness. Too often, however, they're told to settle for older, cheaper, less effective drugs with harmful side effects, because an HMO refuses to pay for the best standard of care.

Our legislation guarantees that patients can get medically necessary drugs, even if they are not on the HMO's list. Equally important, our bill guarantees that these drugs will be provided at a cost no greater than the normal cost-sharing for other medications. Access to needed drugs is a concern for every family, particularly when new cures are increasingly based on new drugs today.

The list of abuses goes on and on. People across the country know these abuses are wrong. Managed care practices that cause these tragedies cost lives, and ending these abuses is a matter of simple justice and common decency.

The Patients' Bill of Rights will protect families from insurance company bureaucracies that rob them of their peace of mind, their health, or even their lives. The bill is a guarantee that medical decisions will be made by doctors and patients, not managed care accountants. It is actively supported by doctors, nurses, patients, small businesses, religious organizations, and working families. The support is impressive in its breadth, its depth and its diversity.

It is time to guarantee these basic rights for patients. It is time for Congress to pass this bill. Every doctor knows it. Every nurse knows it. Every patient knows it. And every Senator knows it too.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1012

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Patients' Bill of Rights Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVING MANAGED CARE

SUBTITLE A—UTILIZATION REVIEW; CLAIMS; AND INTERNAL AND EXTERNAL APPEALS

Sec. 101. Utilization review activities.
Sec. 102. Procedures for initial claims for benefits and prior authorization determinations.
Sec. 103. Internal appeals of claims denials.
Sec. 104. Independent external appeals procedures.
Sec. 105. Health Care Consumer Assistance Fund.

SUBTITLE B—ACCESS TO CARE

Sec. 111. Consumer choice option.
Sec. 112. Choice of health care professional.
Sec. 113. Access to emergency care.
Sec. 114. Timely access to specialists.
Sec. 115. Patient access to obstetrical and gynecological care.
Sec. 116. Access to pediatric care.
Sec. 117. Continuity of care.
Sec. 118. Access to needed prescription drugs.
Sec. 119. Coverage for individuals participating in approved clinical trials.
Sec. 120. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.

SUBTITLE C—ACCESS TO INFORMATION

Sec. 121. Patient access to information.

SUBTITLE D—PROTECTING THE DOCTOR-PATIENT RELATIONSHIP

Sec. 131. Prohibition of interference with certain medical communications.
Sec. 132. Prohibition of discrimination against providers based on licensure.
Sec. 133. Prohibition against improper incentive arrangements.
Sec. 134. Payment of claims.
Sec. 135. Protection for patient advocacy.

SUBTITLE E—DEFINITIONS

Sec. 151. Definitions.
Sec. 152. Preemption; State flexibility; construction.
Sec. 153. Exclusions.
Sec. 154. Treatment of excepted benefits.
Sec. 155. Regulations.
Sec. 156. Incorporation into plan or coverage documents.
Sec. 157. Preservation of protections.

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

Sec. 201. Application to group health plans and group health insurance coverage.
Sec. 202. Application to individual health insurance coverage.
Sec. 203. Cooperation between Federal and State authorities.

TITLE III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH INSURANCE PROGRAMS

Sec. 301. Application of patient protection standards to Federal health insurance programs.

TITLE IV—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 401. Application of patient protection standards to group health plans and group health insurance coverage under the Employee Retirement Income Security Act of 1974.
Sec. 402. Availability of civil remedies.
Sec. 403. Cooperation between Federal and State authorities.

TITLE V—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

SUBTITLE A—APPLICATION OF PATIENT PROTECTION PROVISIONS

Sec. 501. Application to group health plans under the Internal Revenue Code of 1986.
Sec. 502. Conforming enforcement for women's health and cancer rights.

SUBTITLE B—HEALTH CARE COVERAGE ACCESS TAX INCENTIVES

Sec. 511. Credit for health insurance expenses of small businesses.
Sec. 512. Certain grants by private foundations to qualified health benefit purchasing coalitions.
Sec. 513. State grant program for market innovation.
Sec. 514. Grant program to facilitate health benefits information for small employers.
Sec. 515. State grant program for market innovation.

TITLE VI—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

Sec. 601. Effective dates.
Sec. 602. Coordination in implementation.
Sec. 603. Severability.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. No impact on Social Security Trust Fund.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Utilization Review; Claims; and Internal and External Appeals

SEC. 101. UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section and section 102.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms "utilization review" and "utilization review activities"

mean procedures used to monitor or evaluate the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate actively practicing health care professionals, as determined by the plan, pursuant to the program. Such criteria shall include written clinical review criteria that are based on valid clinical evidence where available and that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate.

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for a participant, beneficiary, or enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(C) REVIEW OF SAMPLE OF CLAIMS DENIALS.—Such a program shall provide for a periodic evaluation of the clinical appropriateness of at least a sample of denials of claims for benefits.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and have received appropriate training in the conduct of such activities under the program.

(B) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that encourages denials of claims for benefits.

(C) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who is providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program, including the utilization review administrator, are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary and appropriate.

SEC. 102. PROCEDURES FOR INITIAL CLAIMS FOR BENEFITS AND PRIOR AUTHORIZATION DETERMINATIONS.

(a) PROCEDURES OF INITIAL CLAIMS FOR BENEFITS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall—

(A) make a determination on an initial claim for benefits by a participant, beneficiary, or enrollee (or authorized representative) regarding payment or coverage for items or services under the terms and conditions of the plan or coverage involved, including any cost-sharing amount that the participant, beneficiary, or enrollee is required to pay with respect to such claim for benefits; and

(B) notify a participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional involved regarding a determination on an initial claim for benefits made under the terms and conditions of the plan or coverage, including any cost-sharing amounts that the participant, beneficiary, or enrollee may be required to make with respect to such claim for benefits, and of the right of the participant, beneficiary, or enrollee to an internal appeal under section 103.

(2) ACCESS TO INFORMATION.—

(A) TIMELY PROVISION OF NECESSARY INFORMATION.—With respect to an initial claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the claim. Such access shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subparagraph (B) or (C) of subsection (b)(1), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

(B) LIMITED EFFECT OF FAILURE ON PLAN OR ISSUER'S OBLIGATIONS.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, based on the available information, and failure to comply with the time limit established by this paragraph shall not remove the obligation of the plan or issuer to comply with the requirements of this section.

(3) ORAL REQUESTS.—In the case of a claim for benefits involving an expedited or concurrent determination, a participant, beneficiary, or enrollee (or authorized representative) may make an initial claim for benefits orally, but a group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. In the case of such an oral request for benefits, the making of the request (and the timing of such request) shall be treated as the making at that time of a claim for such benefits without regard to whether and when a written confirmation of such request is made.

(b) TIMELINE FOR MAKING DETERMINATIONS.—

(1) PRIOR AUTHORIZATION DETERMINATION.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a prior authorization determination on a claim for benefits (whether oral or written) in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the request for prior authorization and in no case later than 28 days after the date of the claim for benefits is received.

(B) EXPEDITED DETERMINATION.—Notwithstanding subparagraph (A), a group health plan, and a health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on a claim for benefits described in such subparagraph when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in subparagraph (A) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request is received by the plan or issuer under this subparagraph.

(C) ONGOING CARE.—

(i) CONCURRENT REVIEW.—

(I) IN GENERAL.—Subject to clause (ii), in the case of a concurrent review of ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan or issuer must provide by telephone and in printed form notice of the concurrent review determination to the individual or the individual's designee and the individual's health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction to allow for an appeal under section 103(b)(3) to be completed before the termination or reduction takes effect.

(II) CONTENTS OF NOTICE.—Such notice shall include, with respect to ongoing health care items and services, the number of ongoing services approved, the new total of approved services, the date of onset of services, and the next review date, if any, as well as a statement of the individual's rights to further appeal.

(ii) RULE OF CONSTRUCTION.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(2) RETROSPECTIVE DETERMINATION.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a retrospective determination on a claim for benefits in accordance with the medical exigencies of the case and as soon as possible, but not later than 30 days after the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the claim, or, if earlier, 60 days after the date of receipt of the claim for benefits.

(c) NOTICE OF A DENIAL OF A CLAIM FOR BENEFITS.—Written notice of a denial made under an initial claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of the determination (or, in the case described in subparagraph (B) or (C) of subsection (b)(1), within the 72-hour or applicable period referred to in such subparagraph).

(d) REQUIREMENTS OF NOTICE OF DETERMINATIONS.—The written notice of a denial of a claim for benefits determination under subsection (c) shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(1) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);

(2) the procedures for obtaining additional information concerning the determination; and

(3) notification of the right to appeal the determination and instructions on how to initiate an appeal in accordance with section 103.

(e) DEFINITIONS.—For purposes of this part:

(1) AUTHORIZED REPRESENTATIVE.—The term "authorized representative" means, with respect to an individual who is a participant, beneficiary, or enrollee, any health care professional or other person acting on behalf of the individual with the individual's consent or without such consent if the individual is medically unable to provide such consent.

(2) CLAIM FOR BENEFITS.—The term "claim for benefits" means any request for coverage (including authorization of coverage), for eligibility, or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage.

(3) DENIAL OF CLAIM FOR BENEFITS.—The term "denial" means, with respect to a claim for benefits, a denial (in whole or in part) of, or a failure to act on a timely basis upon, the claim for benefits and includes a failure to provide benefits (including items and services) required to be provided under this title.

(4) TREATING HEALTH CARE PROFESSIONAL.—The term "treating health care professional" means, with respect to services to be provided to a participant, beneficiary, or enrollee, a health care professional who is primarily responsible for delivering those services to the participant, beneficiary, or enrollee.

SEC. 103. INTERNAL APPEALS OF CLAIMS DENIALS.

(a) RIGHT TO INTERNAL APPEAL.—

(1) IN GENERAL.—A participant, beneficiary, or enrollee (or authorized representative) may appeal any denial of a claim for benefits under section 102 under the procedures described in this section.

(2) TIME FOR APPEAL.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall ensure that a participant, beneficiary, or enrollee (or authorized representative) has a period of not less than 180 days beginning on the date of a denial of a claim for benefits under section 102 in which to appeal such denial under this section.

(B) DATE OF DENIAL.—For purposes of subparagraph (A), the date of the denial shall be deemed to be the date as of which the participant, beneficiary, or enrollee knew of the denial of the claim for benefits.

(3) FAILURE TO ACT.—The failure of a plan or issuer to issue a determination on a claim for benefits under section 102 within the applicable timeline established for such a determination under such section is a denial of a claim for benefits for purposes this subtitle as of the date of the applicable deadline.

(4) PLAN WAIVER OF INTERNAL REVIEW.—A group health plan, or health insurance issuer offering health insurance coverage, may waive the internal review process under this section. In such case the plan or issuer shall provide notice to the participant, beneficiary, or enrollee (or authorized representative) involved, the participant, beneficiary, or enrollee (or authorized representative) involved shall be relieved of any obligation to complete the internal review involved, and may, at the option of such participant, beneficiary, enrollee, or representative proceed directly to seek further appeal through external review under section 104 or otherwise.

(b) TIMELINES FOR MAKING DETERMINATIONS.—

(1) ORAL REQUESTS.—In the case of an appeal of a denial of a claim for benefits under this section that involves an expedited or concurrent determination, a participant, beneficiary, or enrollee (or authorized representative) may request such appeal orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. In the case of such an oral request for an appeal of a denial, the making of the request (and the timing of such request) shall be treated as the making at that time of a request for an appeal without regard to whether and when a written confirmation of such request is made.

(2) ACCESS TO INFORMATION.—

(A) TIMELY PROVISION OF NECESSARY INFORMATION.—With respect to an appeal of a denial of a claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the appeal. Such access shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subparagraph (B) or (C) of paragraph (3), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

(B) LIMITED EFFECT OF FAILURE ON PLAN OR ISSUER'S OBLIGATIONS.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, based on the available information, and failure to comply with the time limit established by this paragraph shall not remove the obligation of the plan or issuer to comply with the requirements of this section.

(3) PRIOR AUTHORIZATION DETERMINATIONS.—

(A) IN GENERAL.—Except as provided in this paragraph or paragraph (4), a group health plan, and a health insurance issuer offering health insurance coverage, shall make a determination on an appeal of a denial of a claim for benefits under this subsection in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal and in no case later than 28 days after the date the request for the appeal is received.

(B) EXPEDITED DETERMINATION.—Notwithstanding subparagraph (A), a group health plan, and a health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on an appeal of a denial of a claim for benefits described in subparagraph (A), when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in subparagraph (A) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for such appeal is received by the plan or issuer under this subparagraph.

(C) ONGOING CARE DETERMINATIONS.—

(i) IN GENERAL.—Subject to clause (ii), in the case of a concurrent review determination described in section 102(b)(1)(C)(i)(I), which results in a termination or reduction of such care, the plan or issuer must provide notice of the determination on the appeal under this section by telephone and in printed form to the individual or the individual's designee and the individual's health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction to allow for an external appeal under section 104 to be completed before the termination or reduction takes effect.

(ii) RULE OF CONSTRUCTION.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(4) RETROSPECTIVE DETERMINATION.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a retrospective determination on an appeal of a denial of a claim for benefits in no case later than 30 days after the date on which the plan or issuer receives necessary information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal and in no case later than 60 days after the date the request for the appeal is received.

(c) CONDUCT OF REVIEW.—

(1) IN GENERAL.—A review of a denial of a claim for benefits under this section shall be conducted by an individual with appropriate expertise who was not involved in the initial determination.

(2) PEER REVIEW OF MEDICAL DECISIONS BY HEALTH CARE PROFESSIONALS.—A review of an appeal of a denial of a claim for benefits that is based on a lack of medical necessity and appropriateness, or based on an experimental or investigational treatment, or requires an evaluation of medical facts—

(A) shall be made by a physician (allopathic or osteopathic); or

(B) in a claim for benefits provided by a non-physician health professional, shall be made by reviewer (or reviewers) including at least one practicing non-physician health professional of the same or similar specialty;

with appropriate expertise (including, in the case of a child, appropriate pediatric expertise) and acting within the appropriate scope of practice within the State in which the service is provided or rendered, who was not involved in the initial determination.

(d) NOTICE OF DETERMINATION.—

(1) IN GENERAL.—Written notice of a determination made under an internal appeal of a denial of a claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of completion of the review (or, in the case described in subparagraph (B) or (C) of subsection (b)(3), within the 72-hour or applicable period referred to in such subparagraph).

(2) FINAL DETERMINATION.—The decision by a plan or issuer under this section shall be treated as the final determination of the plan or issuer on a denial of a claim for benefits. The failure of a plan or issuer to issue a determination on an appeal of a denial of a claim for benefits under this section within the applicable timeline established for such a determination shall be treated as a final determination on an appeal of a denial of a claim for benefits for purposes of proceeding to external review under section 104.

(3) REQUIREMENTS OF NOTICE.—With respect to a determination made under this section, the notice described in paragraph (1) shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(A) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);

(B) the procedures for obtaining additional information concerning the determination; and

(C) notification of the right to an independent external review under section 104 and instructions on how to initiate such a review.

SEC. 104. INDEPENDENT EXTERNAL APPEALS PROCEDURES.

(a) RIGHT TO EXTERNAL APPEAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide in accordance with this section participants, beneficiaries, and enrollees (or authorized representatives) with access to an independent external review for any denial of a claim for benefits.

(b) INITIATION OF THE INDEPENDENT EXTERNAL REVIEW PROCESS.—

(1) TIME TO FILE.—A request for an independent external review under this section shall be filed with the plan or issuer not later than 180 days after the date on which the participant, beneficiary, or enrollee receives notice of the denial under section 103(d) or notice of waiver of internal review under section 103(a)(4) or the date on which the plan or issuer has failed to make a timely decision under section 103(d)(2) and notifies the participant or beneficiary that it has failed to make a timely decision and that the beneficiary must file an appeal with an external review entity within 180 days if the participant or beneficiary desires to file such an appeal.

(2) FILING OF REQUEST.—

(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, a group health plan, or health insurance issuer offering health insurance coverage, may—

(i) except as provided in subparagraph (B)(i), require that a request for review be in writing; .

(ii) limit the filing of such a request to the participant, beneficiary, or enrollee involved (or an authorized representative);

(iii) except if waived by the plan or issuer under section 103(a)(4), condition access to an independent external review under this section upon a final determination of a denial of a claim for benefits under the internal review procedure under section 103;

(iv) except as provided in subparagraph (B)(ii), require payment of a filing fee to the plan or issuer of a sum that does not exceed $25; and

(v) require that a request for review include the consent of the participant, beneficiary, or enrollee (or authorized representative) for the release of necessary medical information or records of the participant, beneficiary, or enrollee to the qualified external review entity only for purposes of conducting external review activities.

(B) REQUIREMENTS AND EXCEPTION RELATING TO GENERAL RULE.—

(i) ORAL REQUESTS PERMITTED IN EXPEDITED OR CONCURRENT CASES.—In the case of an expedited or concurrent external review as provided for under subsection (e), the request for such review may be made orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. Such written confirmation shall be treated as a consent for purposes of subparagraph (A)(v). In the case of such an oral request for such a review, the making of the request (and the timing of such request) shall be treated as the making at that time of a request for such a review without regard to whether and when a written confirmation of such request is made.

(ii) EXCEPTION TO FILING FEE REQUIREMENT.—

(I) INDIGENCY.—Payment of a filing fee shall not be required under subparagraph (A)(iv) where there is a certification (in a form and manner specified in guidelines established by the appropriate Secretary) that the participant, beneficiary, or enrollee is indigent (as defined in such guidelines).

(II) FEE NOT REQUIRED.—Payment of a filing fee shall not be required under subparagraph (A)(iv) if the plan or issuer waives the internal appeals process under section 103(a)(4).

(III) REFUNDING OF FEE.—The filing fee paid under subparagraph (A)(iv) shall be refunded if the determination under the independent external review is to reverse or modify the denial which is the subject of the review.

(IV) COLLECTION OF FILING FEE.—The failure to pay such a filing fee shall not prevent the consideration of a request for review but, subject to the preceding provisions of this clause, shall constitute a legal liability to pay.

(c) REFERRAL TO QUALIFIED EXTERNAL REVIEW ENTITY UPON REQUEST.—

(1) IN GENERAL.—Upon the filing of a request for independent external review with the group health plan, or health insurance issuer offering health insurance coverage, the plan or issuer shall immediately refer such request, and forward the plan or issuer's initial decision (including the information described in section 103(d)(3)(A)), to a qualified external review entity selected in accordance with this section.

(2) ACCESS TO PLAN OR ISSUER AND HEALTH PROFESSIONAL INFORMATION.—With respect to an independent external review conducted under this section, the participant, beneficiary, or enrollee (or authorized representative), the plan or issuer, and the treating health care professional (if any) shall provide the external review entity with information that is necessary to conduct a review under this section, as determined and requested by the entity. Such information shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in clause (ii) or (iii) of subsection (e)(1)(A), by such earlier time as may be necessary to comply with the applicable timeline under such clause.

(3) SCREENING OF REQUESTS BY QUALIFIED EXTERNAL REVIEW ENTITIES.—

(A) IN GENERAL.—With respect to a request referred to a qualified external review entity under paragraph (1) relating to a denial of a claim for benefits, the entity shall refer such request for the conduct of an independent medical review unless the entity determines that—

(i) any of the conditions described in clauses (ii) or (iii) of subsection (b)(2)(A) have not been met;

(ii) the denial of the claim for benefits does not involve a medically reviewable decision under subsection (d)(2);

(iii) the denial of the claim for benefits relates to a decision regarding whether an individual is a participant, beneficiary, or enrollee who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage); or

(iv) the denial of the claim for benefits is a decision as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage unless the decision is a denial described in subsection (d)(2).

Upon making a determination that any of clauses (i) through (iv) applies with respect to the request, the entity shall determine that the denial of a claim for benefits involved is not eligible for independent medical review under subsection (d), and shall provide notice in accordance with subparagraph (C).

(B) PROCESS FOR MAKING DETERMINATIONS.—

(i) NO DEFERENCE TO PRIOR DETERMINATIONS.—In making determinations under subparagraph (A), there shall be no deference given to determinations made by the plan or issuer or the recommendation of a treating health care professional (if any).

(ii) USE OF APPROPRIATE PERSONNEL.—A qualified external review entity shall use appropriately qualified personnel to make determinations under this section.

(C) NOTICES AND GENERAL TIMELINES FOR DETERMINATION.—

(i) NOTICE IN CASE OF DENIAL OF REFERRAL.—If the entity under this paragraph does not make a referral to an independent medical reviewer, the entity shall provide notice to the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) filing the request, and the treating health care professional (if any) that the denial is not subject to independent medical review. Such notice—

(I) shall be written (and, in addition, may be provided orally) in a manner calculated to be understood by a participant or enrollee;

(II) shall include the reasons for the determination;

(III) include any relevant terms and conditions of the plan or coverage; and

(IV) include a description of any further recourse available to the individual.

(ii) GENERAL TIMELINE FOR DETERMINATIONS.—Upon receipt of information under paragraph (2), the qualified external review entity, and if required the independent medical reviewer, shall make a determination within the overall timeline that is applicable to the case under review as described in subsection (e), except that if the entity determines that a referral to an independent medical reviewer is not required, the entity shall provide notice of such determination to the participant, beneficiary, or enrollee (or authorized representative) within such timeline and within 2 days of the date of such determination.

(d) INDEPENDENT MEDICAL REVIEW.—

(1) IN GENERAL.—If a qualified external review entity determines under subsection (c) that a denial of a claim for benefits is eligible for independent medical review, the entity shall refer the denial involved to an independent medical reviewer for the conduct of an independent medical review under this subsection.

(2) MEDICALLY REVIEWABLE DECISIONS.—A denial of a claim for benefits is eligible for independent medical review if the benefit for the item or service for which the claim is made would be a covered benefit under the terms and conditions of the plan or coverage but for one (or more) of the following determinations:

(A) DENIALS BASED ON MEDICAL NECESSITY AND APPROPRIATENESS.—A determination that the item or service is not covered because it is not medically necessary and appropriate or based on the application of substantially equivalent terms.

(B) DENIALS BASED ON EXPERIMENTAL OR INVESTIGATIONAL TREATMENT.—A determination that the item or service is not covered because it is experimental or investigational or based on the application of substantially equivalent terms.

(C) DENIALS OTHERWISE BASED ON AN EVALUATION OF MEDICAL FACTS.—A determination that the item or service or condition is not covered based on grounds that require an evaluation of the medical facts by a health care professional in the specific case involved to determine the coverage and extent of coverage of the item or service or condition.

(3) INDEPENDENT MEDICAL REVIEW DETERMINATION.—

(A) IN GENERAL.—An independent medical reviewer under this section shall make a new independent determination with respect to whether or not the denial of a claim for a benefit that is the subject of the review should be upheld, reversed, or modified.

(B) STANDARD FOR DETERMINATION.—The independent medical reviewer's determination relating to the medical necessity and appropriateness, or the experimental or investigational nature, or the evaluation of the medical facts, of the item, service, or condition involved shall be based on the medical condition of the participant, beneficiary, or enrollee (including the medical records of the participant, beneficiary, or enrollee) and valid, relevant scientific evidence and clinical evidence, including peer-reviewed medical literature or findings and including expert opinion.

(C) NO COVERAGE FOR EXCLUDED BENEFITS.—Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or health insurance issuer offering health insurance coverage, provide coverage for items or services for which benefits are specifically excluded or expressly limited under the plan or coverage in the plain language of the plan document (and which are disclosed under section 121(b)(1)(C)). Notwithstanding any other provision of this Act, any exclusion of an exact medical procedure, any exact time limit on the duration or frequency of coverage, and any exact dollar limit on the amount of coverage that is specifically enumerated and defined (in the plain language of the plan or coverage documents) under the plan or coverage offered by a group health plan or health insurance issuer offering health insurance coverage and that is disclosed under section 121(b)(1) shall be considered to govern the scope of the benefits that may be required: *Provided*, That the terms and conditions of the plan or coverage relating to such an exclusion or limit are in compliance with the requirements of law.

(D) EVIDENCE AND INFORMATION TO BE USED IN MEDICAL REVIEWS.—In making a determination under this subsection, the independent medical reviewer shall also consider appropriate and available evidence and information, including the following:

(i) The determination made by the plan or issuer with respect to the claim upon internal review and the evidence, guidelines, or rationale used by the plan or issuer in reaching such determination.

(ii) The recommendation of the treating health care professional and the evidence, guidelines, and rationale used by the treating health care professional in reaching such recommendation.

(iii) Additional relevant evidence or information obtained by the reviewer or submitted by the plan, issuer, participant, beneficiary, or enrollee (or an authorized representative), or treating health care professional.

(iv) The plan or coverage document.

(E) INDEPENDENT DETERMINATION.—In making determinations under this section, a qualified external review entity and an independent medical reviewer shall—

(i) consider the claim under review without deference to the determinations made by the plan or issuer or the recommendation of the treating health care professional (if any); and

(ii) consider, but not be bound by, the definition used by the plan or issuer of "medically necessary and appropriate", or "experimental or investigational", or other substantially equivalent terms that are used by the plan or issuer to describe medical necessity and appropriateness or experimental or investigational nature of the treatment.

(F) DETERMINATION OF INDEPENDENT MEDICAL REVIEWER.—An independent medical reviewer shall, in accordance with the deadlines described in subsection (e), prepare a written determination to uphold, reverse, or modify the denial under review. Such written determination shall include—

(i) the determination of the reviewer;

(ii) the specific reasons of the reviewer for such determination, including a summary of the clinical or scientific evidence used in making the determination; and

(iii) with respect to a determination to reverse or modify the denial under review, a timeframe within which the plan or issuer must comply with such determination.

(G) NONBINDING NATURE OF ADDITIONAL RECOMMENDATIONS.—In addition to the determination under subparagraph (F), the reviewer may provide the plan or issuer and the treating health care professional with additional recommendations in connection with such a determination, but any such recommendations shall not affect (or be treated as part of) the determination and shall not be binding on the plan or issuer.

(e) TIMELINES AND NOTIFICATIONS.—

(1) TIMELINES FOR INDEPENDENT MEDICAL REVIEW.—

(A) PRIOR AUTHORIZATION DETERMINATION.—

(i) IN GENERAL.—The independent medical reviewer (or reviewers) shall make a determination on a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days after the date of receipt of information under subsection (c)(2) if the review involves a prior authorization of items or services and in no case later than 21 days after the date the request for external review is received.

(ii) EXPEDITED DETERMINATION.—Notwithstanding clause (i) and subject to clause (iii), the independent medical reviewer (or reviewers) shall make an expedited determination on a denial of a claim for benefits described in clause (i), when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination, and a health care professional certifies, with the request, that a determination under the timeline described in clause (i) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for external review is received by the qualified external review entity.

(iii) ONGOING CARE DETERMINATION.—Notwithstanding clause (i), in the case of a review described in such clause that involves a termination or reduction of care, the notice of the determination shall be completed not later than 24 hours after the time the request for external review is received by the qualified external review entity and before the end of the approved period of care.

(B) RETROSPECTIVE DETERMINATION.—The independent medical reviewer (or reviewers) shall complete a review in the case of a retrospective determination on an appeal of a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in no case later than 30 days after the date of receipt of information under subsection (c)(2) and in no case later than 60 days after the date the request for external review is received by the qualified external review entity.

(2) NOTIFICATION OF DETERMINATION.—The external review entity shall ensure that the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) receives a copy of the written determination of the independent medical reviewer prepared under subsection (d)(3)(F). Nothing in this paragraph shall be construed as preventing an entity or reviewer from providing an initial oral notice of the reviewer's determination.

(3) FORM OF NOTICES.—Determinations and notices under this subsection shall be written in a manner calculated to be understood by a participant.

(f) COMPLIANCE.—

(1) APPLICATION OF DETERMINATIONS.—

(A) EXTERNAL REVIEW DETERMINATIONS BINDING ON PLAN.—The determinations of an external review entity and an independent medical reviewer under this section shall be binding upon the plan or issuer involved.

(B) COMPLIANCE WITH DETERMINATION.—If the determination of an independent medical reviewer is to reverse or modify the denial, the plan or issuer, upon the receipt of such determination, shall authorize coverage to comply with the medical reviewer's determination in accordance with the timeframe established by the medical reviewer.

(2) FAILURE TO COMPLY.—

(A) IN GENERAL.—If a plan or issuer fails to comply with the timeframe established under paragraph (1)(B) with respect to a participant, beneficiary, or enrollee, where such failure to comply is caused by the plan or issuer, the participant, beneficiary, or enrollee may obtain the items or services involved (in a manner consistent with the determination of the independent external reviewer) from any provider regardless of whether such provider is a participating provider under the plan or coverage.

(B) REIMBURSEMENT.—

(i) IN GENERAL.—Where a participant, beneficiary, or enrollee obtains items or services in accordance with subparagraph (A), the plan or issuer involved shall provide for reimbursement of the costs of such items or services. Such reimbursement shall be made to the treating health care professional or to the participant, beneficiary, or enrollee (in the case of a participant, beneficiary, or enrollee who pays for the costs of such items or services).

(ii) AMOUNT.—The plan or issuer shall fully reimburse a professional, participant, beneficiary, or enrollee under clause (i) for the total costs of the items or services provided (regardless of any plan limitations that may apply to the coverage of such items or services) so long as the items or services were provided in a manner consistent with the determination of the independent medical reviewer.

(C) FAILURE TO REIMBURSE.—Where a plan or issuer fails to provide reimbursement to a professional, participant, beneficiary, or enrollee in accordance with this paragraph, the professional, participant, beneficiary, or enrollee may commence a civil action (or utilize other remedies available under law) to recover only the amount of any such reimbursement that is owed by the plan or issuer and any necessary legal costs or expenses (including attorney's fees) incurred in recovering such reimbursement.

(D) AVAILABLE REMEDIES.—The remedies provided under this paragraph are in addition to any other available remedies.

(3) PENALTIES AGAINST AUTHORIZED OFFICIALS FOR REFUSING TO AUTHORIZE THE DETERMINATION OF AN EXTERNAL REVIEW ENTITY.—

(A) MONETARY PENALTIES.—

(i) IN GENERAL.—In any case in which the determination of an external review entity is not followed by a group health plan, or by a health insurance issuer offering health insurance coverage, any person who, acting in the capacity of authorizing the benefit, causes such refusal may, in the discretion of a court of competent jurisdiction, be liable to an aggrieved participant, beneficiary, or enrollee for a civil penalty in an amount of up to $1,000 a day from the date on which the determination was transmitted to the plan or issuer by the external review entity until the date the refusal to provide the benefit is corrected.

(ii) ADDITIONAL PENALTY FOR FAILING TO FOLLOW TIMELINE.—In any case in which treatment was not commenced by the plan in accordance with the determination of an independent external reviewer, the Secretary shall assess a civil penalty of $10,000 against the plan and the plan shall pay such penalty to the participant, beneficiary, or enrollee involved.

(B) CEASE AND DESIST ORDER AND ORDER OF ATTORNEY'S FEES.—In any action described in subparagraph (A) brought by a participant, beneficiary, or enrollee with respect to a group health plan, or a health insurance issuer offering health insurance coverage, in which a plaintiff alleges that a person referred to in such subparagraph has taken an action resulting in a refusal of a benefit determined by an external appeal entity to be covered, or has failed to take an action for which such person is responsible under the terms and conditions of the plan or coverage and which is necessary under the plan or coverage for authorizing a benefit, the court shall cause to be served on the defendant an order requiring the defendant—

(i) to cease and desist from the alleged action or failure to act; and

(ii) to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

(C) ADDITIONAL CIVIL PENALTIES.—

(i) IN GENERAL.—In addition to any penalty imposed under subparagraph (A) or (B), the appropriate Secretary may assess a civil penalty against a person acting in the capacity of authorizing a benefit determined by an external review entity for one or more group health plans, or health insurance issuers offering health insurance coverage, for—

(I) any pattern or practice of repeated refusal to authorize a benefit determined by an external appeal entity to be covered; or

(II) any pattern or practice of repeated violations of the requirements of this section with respect to such plan or coverage.

(ii) STANDARD OF PROOF AND AMOUNT OF PENALTY.—Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice and shall be in an amount not to exceed the lesser of—

(I) 25 percent of the aggregate value of benefits shown by the appropriate Secretary to have not been provided, or unlawfully delayed, in violation of this section under such pattern or practice; or

(II) $500,000.

(D) REMOVAL AND DISQUALIFICATION.—Any person acting in the capacity of authorizing benefits who has engaged in any such pattern or practice described in subparagraph (C)(i) with respect to a plan or coverage, upon the petition of the appropriate Secretary, may be removed by the court from such position, and from any other involvement, with respect to such a plan or coverage, and may be precluded from returning to any such position or involvement for a period determined by the court.

(4) PROTECTION OF LEGAL RIGHTS.—Nothing in this subsection or subtitle shall be construed as altering or eliminating any cause of action or legal rights or remedies of participants, beneficiaries, enrollees, and others under State or Federal law (including sections 502 and 503 of the Employee Retirement Income Security Act of 1974), including the right to file judicial actions to enforce rights.

(g) QUALIFICATIONS OF INDEPENDENT MEDICAL REVIEWERS.—

(1) IN GENERAL.—In referring a denial to 1 or more individuals to conduct independent medical review under subsection (c), the qualified external review entity shall ensure that—

(A) each independent medical reviewer meets the qualifications described in paragraphs (2) and (3);

(B) with respect to each review at least 1 such reviewer meets the requirements described in paragraphs (4) and (5); and

(C) compensation provided by the entity to the reviewer is consistent with paragraph (6).

(2) LICENSURE AND EXPERTISE.—Each independent medical reviewer shall be a physician (allopathic or osteopathic) or health care professional who—

(A) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

(B) typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(3) INDEPENDENCE.—

(A) IN GENERAL.—Subject to subparagraph (B), each independent medical reviewer in a case shall—

(i) not be a related party (as defined in paragraph (7));

(ii) not have a material familial, financial, or professional relationship with such a party; and

(iii) not otherwise have a conflict of interest with such a party (as determined under regulations).

(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

(i) prohibit an individual, solely on the basis of affiliation with the plan or issuer, from serving as an independent medical reviewer if—

(I) a non-affiliated individual is not reasonably available;

(II) the affiliated individual is not involved in the provision of items or services in the case under review;

(III) the fact of such an affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative) and neither party objects; and

(IV) the affiliated individual is not an employee of the plan or issuer and does not provide services exclusively or primarily to or on behalf of the plan or issuer;

(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as an independent medical reviewer merely on the basis of such affiliation if the affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative), and neither party objects; or

(iii) prohibit receipt of compensation by an independent medical reviewer from an entity if the compensation is provided consistent with paragraph (6).

(4) PRACTICING HEALTH CARE PROFESSIONAL IN SAME FIELD.—

(A) IN GENERAL.—In a case involving treatment, or the provision of items or services—

(i) by a physician, a reviewer shall be a practicing physician (allopathic or osteopathic) of the same or similar specialty, as a physician who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review; or

(ii) by a non-physician health care professional, a reviewer (or reviewers) shall include at least one practicing non-physician health care professional of the same or similar specialty as the non-physician health care professional who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(B) PRACTICING DEFINED.—For purposes of this paragraph, the term "practicing" means, with respect to an individual who is a physician or other health care professional that the individual provides health care services to individual patients on average at least 2 days per week.

(5) PEDIATRIC EXPERTISE.—In the case of an external review relating to a child, a reviewer shall have expertise under paragraph (2) in pediatrics.

(6) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified external review entity to an independent medical reviewer in connection with a review under this section shall—

(A) not exceed a reasonable level; and

(B) not be contingent on the decision rendered by the reviewer.

(7) RELATED PARTY DEFINED.—For purposes of this section, the term "related party" means, with respect to a denial of a claim under a plan or coverage relating to a participant, beneficiary, or enrollee, any of the following:

(A) The plan, plan sponsor, or issuer involved, or any fiduciary, officer, director, or employee of such plan, plan sponsor, or issuer.

(B) The participant, beneficiary, or enrollee (or authorized representative).

(C) The health care professional that provides the items or services involved in the denial.

(D) The institution at which the items or services (or treatment) involved in the denial are provided.

(E) The manufacturer of any drug or other item that is included in the items or services involved in the denial.

(F) Any other party determined under any regulations to have a substantial interest in the denial involved.

(h) QUALIFIED EXTERNAL REVIEW ENTITIES.—

(1) SELECTION OF QUALIFIED EXTERNAL REVIEW ENTITIES.—

(A) LIMITATION ON PLAN OR ISSUER SELECTION.—The appropriate Secretary shall implement procedures—

(i) to assure that the selection process among qualified external review entities will not create any incentives for external review entities to make a decision in a biased manner; and

(ii) for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

No such selection process under the procedures implemented by the appropriate Secretary may give either the patient or the plan or issuer any ability to determine or influence the selection of a qualified external review entity to review the case of any participant, beneficiary, or enrollee.

(B) STATE AUTHORITY WITH RESPECT TO QUALIFIED EXTERNAL REVIEW ENTITIES FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers offering health insurance coverage in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in a manner determined by the State to assure an unbiased determination.

(2) CONTRACT WITH QUALIFIED EXTERNAL REVIEW ENTITY.—Except as provided in paragraph (1)(B), the external review process of a plan or issuer under this section shall be conducted under a contract between the plan or issuer and 1 or more qualified external review entities (as defined in paragraph (4)(A)).

(3) TERMS AND CONDITIONS OF CONTRACT.—The terms and conditions of a contract under paragraph (2) shall—

(A) be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external review activities; and

(B) provide that the costs of the external review process shall be borne by the plan or issuer.

Subparagraph (B) shall not be construed as applying to the imposition of a filing fee under subsection (b)(2)(A)(iv) or costs incurred by the participant, beneficiary, or enrollee (or authorized representative) or treating health care professional (if any) in support of the review, including the provision of additional evidence or information.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—In this section, the term "qualified external review entity" means, in relation to a plan or issuer, an entity that is initially certified (and periodically recertified) under subparagraph (C) as meeting the following requirements:

(i) The entity has (directly or through contracts or other arrangements) sufficient medical, legal, and other expertise and sufficient staffing to carry out duties of a qualified external review entity under this section on a timely basis, including making determinations under subsection (b)(2)(A) and providing for independent medical reviews under subsection (d).

(ii) The entity is not a plan or issuer or an affiliate or a subsidiary of a plan or issuer, and is not an affiliate or subsidiary of a professional or trade association of plans or issuers or of health care providers.

(iii) The entity has provided assurances that it will conduct external review activities consistent with the applicable requirements of this section and standards specified in subparagraph (C), including that it will not conduct any external review activities in a case unless the independence requirements of subparagraph (B) are met with respect to the case.

(iv) The entity has provided assurances that it will provide information in a timely manner under subparagraph (D).

(v) The entity meets such other requirements as the appropriate Secretary provides by regulation.

(B) INDEPENDENCE REQUIREMENTS.—

(i) IN GENERAL.—Subject to clause (ii), an entity meets the independence requirements of this subparagraph with respect to any case if the entity—

(I) is not a related party (as defined in subsection (g)(7));

(II) does not have a material familial, financial, or professional relationship with such a party; and

(III) does not otherwise have a conflict of interest with such a party (as determined under regulations).

(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified external review entity of compensation from a plan or issuer for the conduct of external review activities under this section if the compensation is provided consistent with clause (iii).

(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by a plan or issuer to a qualified external review entity in connection with reviews under this section shall—

(I) not exceed a reasonable level; and

(II) not be contingent on any decision rendered by the entity or by any independent medical reviewer.

(C) CERTIFICATION AND RECERTIFICATION PROCESS.—

(i) IN GENERAL.—The initial certification and recertification of a qualified external review entity shall be made—

(I) under a process that is recognized or approved by the appropriate Secretary; or

(II) by a qualified private standard-setting organization that is approved by the appropriate Secretary under clause (iii).

In taking action under subclause (I), the appropriate Secretary shall give deference to entities that are under contract with the Federal Government or with an applicable State authority to perform functions of the type performed by qualified external review entities.

(ii) PROCESS.—The appropriate Secretary shall not recognize or approve a process under clause (i)(I) unless the process applies standards (as promulgated in regulations) that ensure that a qualified external review entity—

(I) will carry out (and has carried out, in the case of recertification) the responsibilities of such an entity in accordance with this section, including meeting applicable deadlines;

(II) will meet (and has met, in the case of recertification) appropriate indicators of fiscal integrity;

(III) will maintain (and has maintained, in the case of recertification) appropriate confidentiality with respect to individually identifiable health information obtained in the course of conducting external review activities; and

(IV) in the case of recertification, shall review the matters described in clause (iv).

(iii) APPROVAL OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—For purposes of clause (i)(II), the appropriate Secretary may approve a qualified private standard-setting organization if such Secretary finds that the organization only certifies (or recertifies) external review entities that meet at least the standards required for the certification (or recertification) of external review entities under clause (ii).

(iv) CONSIDERATIONS IN RECERTIFICATIONS.—In conducting recertifications of a qualified external review entity under this paragraph, the appropriate Secretary or organization conducting the recertification shall review compliance of the entity with the requirements for conducting external review activities under this section, including the following:

(I) Provision of information under subparagraph (D).

(II) Adherence to applicable deadlines (both by the entity and by independent medical reviewers it refers cases to).

(III) Compliance with limitations on compensation (with respect to both the entity and independent medical reviewers it refers cases to).

(IV) Compliance with applicable independence requirements.

(V) Compliance with the requirement of subsection (d)(1) that only medically reviewable decisions shall be the subject of independent medical review and with the requirement of subsection (d)(3) that independent medical reviewers may not require coverage for specifically excluded benefits.

(v) PERIOD OF CERTIFICATION OR RECERTIFICATION.—A certification or recertification provided under this paragraph shall extend for a period not to exceed 2 years.

(vi) REVOCATION.—A certification or recertification under this paragraph may be revoked by the appropriate Secretary or by the organization providing such certification upon a showing of cause. The Secretary, or organization, shall revoke a certification or deny a recertification with respect to an entity if there is a showing that the entity has a pattern or practice of ordering coverage for benefits that are specifically excluded under the plan or coverage.

(vii) PETITION FOR DENIAL OR WITHDRAWAL.—An individual may petition the Secretary, or an organization providing the certification involves, for a denial of recertification or a withdrawal of a certification with respect to an entity under this subparagraph if there is a pattern or practice of such entity failing to meet a requirement of this section.

(viii) SUFFICIENT NUMBER OF ENTITIES.—The appropriate Secretary shall certify and recertify a number of external review entities which is sufficient to ensure the timely and efficient provision of review services.

(D) PROVISION OF INFORMATION.—

(i) IN GENERAL.—A qualified external review entity shall provide to the appropriate Secretary, in such manner and at such times as such Secretary may require, such information (relating to the denials which have been referred to the entity for the conduct of external review under this section) as such Secretary determines appropriate to assure compliance with the independence and other requirements of this section to monitor and assess the quality of its external review activities and lack of bias in making determinations. Such information shall include information described in clause (ii) but shall not include individually identifiable medical information.

(ii) INFORMATION TO BE INCLUDED.—The information described in this subclause with respect to an entity is as follows:

(I) The number and types of denials for which a request for review has been received by the entity.

(II) The disposition by the entity of such denials, including the number referred to a independent medical reviewer and the reasons for such dispositions (including the application of exclusions), on a plan or issuer-specific basis and on a health care specialty-specific basis.

(III) The length of time in making determinations with respect to such denials.

(IV) Updated information on the information required to be submitted as a condition of certification with respect to the entity's performance of external review activities.

(iii) INFORMATION TO BE PROVIDED TO CERTIFYING ORGANIZATION.—

(I) IN GENERAL.—In the case of a qualified external review entity which is certified (or recertified) under this subsection by a qualified private standard-setting organization, at the request of the organization, the entity shall provide the organization with the information provided to the appropriate Secretary under clause (i).

(II) ADDITIONAL INFORMATION.—Nothing in this subparagraph shall be construed as preventing such an organization from requiring additional information as a condition of certification or recertification of an entity.

(iv) USE OF INFORMATION.—Information provided under this subparagraph may be used by the appropriate Secretary and qualified private standard-setting organizations to conduct oversight of qualified external review entities, including recertification of such entities, and shall be made available to the public in an appropriate manner.

(E) LIMITATION ON LIABILITY.—No qualified external review entity having a contract with a plan or issuer, and no person who is employed by any such entity or who furnishes professional services to such entity (including as an independent medical reviewer), shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

(5) REPORT.—Not later than 12 months after the general effective date referred to in section 601, the General Accounting Office shall prepare and submit to the appropriate committees of Congress a report concerning—

(A) the information that is provided under paragraph (3)(D);

(B) the number of denials that have been upheld by independent medical reviewers and the number of denials that have been reversed by such reviewers; and

(C) the extent to which independent medical reviewers are requiring coverage for benefits that are specifically excluded under the plan or coverage.

SEC. 105. HEALTH CARE CONSUMER ASSISTANCE FUND.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") shall establish a fund, to be known as the "Health Care Consumer Assistance Fund", to be used to award grants to eligible States to carry out consumer assistance activities (including programs established by States prior to the enactment of this Act) designed to provide information, assistance, and referrals to consumers of health insurance products.

(2) STATE ELIGIBILITY.—To be eligible to receive a grant under this subsection a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a State plan that describes—

(A) the manner in which the State will ensure that the health care consumer assistance office (established under paragraph (4)) will educate and assist health care consumers in accessing needed care;

(B) the manner in which the State will coordinate and distinguish the services provided by the health care consumer assistance office with the services provided by Federal, State and local health-related ombudsman, information, protection and advocacy, insurance, and fraud and abuse programs;

(C) the manner in which the State will provide information, outreach, and services to underserved, minority populations with limited English proficiency and populations residing in rural areas;

(D) the manner in which the State will oversee the health care consumer assistance office, its activities, product materials and evaluate program effectiveness;

(E) the manner in which the State will ensure that funds made available under this section will be used to supplement, and not supplant, any other Federal, State, or local funds expended to provide services for programs described under this section and those described in subparagraphs (C) and (D);

(F) the manner in which the State will ensure that health care consumer office personnel have the professional background and training to carry out the activities of the office; and

(G) the manner in which the State will ensure that consumers have direct access to consumer assistance personnel during regular business hours.

(3) AMOUNT OF GRANT.—

(A) IN GENERAL.—From amounts appropriated under subsection (b) for a fiscal year, the Secretary shall award a grant to a State in an amount that bears the same ratio to such amounts as the number of individuals within the State covered under a group health plan or under health insurance coverage offered by a health insurance issuer bears to the total number of individuals so covered in all States (as determined by the Secretary). Any amounts provided to a State under this subsection that are not used by the State shall be remitted to the Secretary and reallocated in accordance with this subparagraph.

(B) MINIMUM AMOUNT.—In no case shall the amount provided to a State under a grant under this subsection for a fiscal year be less than an amount equal to 0.5 percent of the amount appropriated for such fiscal year to carry out this section.

(C) NON-FEDERAL CONTRIBUTIONS.—A State will provide for the collection of non-Federal contributions for the operation of the office in an amount that is not less than 25 percent of the amount of Federal funds provided to the State under this section.

(4) PROVISION OF FUNDS FOR ESTABLISHMENT OF OFFICE.—

(A) IN GENERAL.—From amounts provided under a grant under this subsection, a State shall, directly or through a contract with an independent, nonprofit entity with demonstrated experience in serving the needs of health care consumers, provide for the establishment and operation of a State health care consumer assistance office.

(B) ELIGIBILITY OF ENTITY.—To be eligible to enter into a contract under subparagraph (A), an entity shall demonstrate that it has the technical, organizational, and professional capacity to deliver the services described in subsection (b) to all public and private health insurance participants, beneficiaries, enrollees, or prospective enrollees.

(C) EXISTING STATE ENTITY.—Nothing in this section shall prevent the funding of an existing health care consumer assistance program that otherwise meets the requirements of this section.

(b) USE OF FUNDS.—

(1) BY STATE.—A State shall use amounts provided under a grant awarded under this section to carry out consumer assistance activities directly or by contract with an independent, non-profit organization. An eligible entity may use some reasonable amount of such grant to ensure the adequate training of personnel carrying out such activities. To receive amounts under this subsection, an eligible entity shall provide consumer assistance services, including—

(A) the operation of a toll-free telephone hotline to respond to consumer requests;

(B) the dissemination of appropriate educational materials on available health insurance products and on how best to access health care and the rights and responsibilities of health care consumers;

(C) the provision of education on effective methods to promptly and efficiently resolve questions, problems, and grievances;

(D) the coordination of educational and outreach efforts with health plans, health care providers, payers, and governmental agencies;

(E) referrals to appropriate private and public entities to resolve questions, problems and grievances; and

(F) the provision of information and assistance, including acting as an authorized representative, regarding internal, external, or administrative grievances or appeals procedures in nonlitigative settings to appeal the denial, termination, or reduction of health care services, or the refusal to pay for such services, under a group health plan or health insurance coverage offered by a health insurance issuer.

(2) CONFIDENTIALITY AND ACCESS TO INFORMATION.—

(A) STATE ENTITY.—With respect to a State that directly establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols in accordance with applicable Federal and State laws.

(B) CONTRACT ENTITY.—With respect to a State that, through contract, establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols, consistent with applicable Federal and State laws, to ensure the confidentiality of all information shared by a participant, beneficiary, enrollee, or their personal representative and their health care providers, group health plans, or health insurance insurers with the office and to ensure that no such information is used by the office, or released or disclosed to State agencies or outside persons or entities without the prior written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) of the individual or personal representative. The office may, consistent with applicable Federal and State confidentiality laws, collect, use or disclose aggregate information that is not individually identifiable (as defined in section 164.501 of title 45, Code of Federal Regulations). The office shall provide a written description of the policies and procedures of the office with respect to the manner in which health information may be used or disclosed to carry out consumer assistance activities. The office shall provide health care providers, group health plans, or health insurance issuers with a written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) to allow the office to obtain medical information relevant to the matter before the office.

(3) AVAILABILITY OF SERVICES.—The health care consumer assistance office of a State shall not discriminate in the provision of information, referrals, and services regardless of the source of the individual's health insurance coverage or prospective coverage, including individuals covered under a group health plan or health insurance coverage offered by a health insurance issuer, the medicare or medicaid programs under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 and 1396 et seq.), or under any other Federal or State health care program.

(4) DESIGNATION OF RESPONSIBILITIES.—

(A) WITHIN EXISTING STATE ENTITY.—If the health care consumer assistance office of a State is located within an existing State regulatory agency or office of an elected State official, the State shall ensure that—

(i) there is a separate delineation of the funding, activities, and responsibilities of the office as compared to the other funding, activities, and responsibilities of the agency; and

(ii) the office establishes and implements procedures and protocols to ensure the confidentiality of all information shared by a participant, beneficiary, or enrollee or their personal representative and their health care providers, group health plans, or health insurance issuers with the office and to ensure that no information is disclosed to the State agency or office without the written authorization of the individual or their personal representative in accordance with paragraph (2).

(B) CONTRACT ENTITY.—In the case of an entity that enters into a contract with a State under subsection (a)(3), the entity shall provide assurances that the entity has no conflict of interest in carrying out the activities of the office and that the entity is independent of group health plans, health insurance issuers, providers, payers, and regulators of health care.

(5) SUBCONTRACTS.—The health care consumer assistance office of a State may carry out activities and provide services through contracts entered into with 1 or more nonprofit entities so long as the office can demonstrate that all of the requirements of this section are complied with by the office.

(6) TERM.—A contract entered into under this subsection shall be for a term of 3 years.

(c) REPORT.—Not later than 1 year after the Secretary first awards grants under this section, and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the activities funded under this section and the effectiveness of such activities in resolving health care-related problems and grievances.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle B—Access to Care

SEC. 111. CONSUMER CHOICE OPTION.

(a) IN GENERAL.—If—

(1) a health insurance issuer providing health insurance coverage in connection with a group health plan offers to enrollees health insurance coverage which provides for coverage of services (including physician pathology services) only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the issuer to provide such services, or

(2) a group health plan offers to participants or beneficiaries health benefits which provide for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the plan to provide such services,

then the issuer or plan shall also offer or arrange to be offered to such enrollees, participants, or beneficiaries (at the time of enrollment and during an annual open season as provided under subsection (c)) the option of health insurance coverage or health benefits which provide for coverage of such services which are not furnished through health care professionals and providers who are members of such a network unless such enrollees, participants, or beneficiaries are offered such non-network coverage through another group health plan or through another health insurance issuer in the group market.

(b) ADDITIONAL COSTS.—The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the creation and maintenance of the option described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee, participant, or beneficiary unless it is paid by the health plan sponsor or group health plan through agreement with the health insurance issuer.

(c) OPEN SEASON.—An enrollee, participant, or beneficiary, may change to the offering provided under this section only during a time period determined by the health insurance issuer or group health plan. Such time period shall occur at least annually.

SEC. 112. CHOICE OF HEALTH CARE PROFESSIONAL.

(a) PRIMARY CARE.—If a group health plan, or a health insurance issuer that offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer shall permit each participant, beneficiary, and enrollee to designate any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary and appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care professional who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating health care professionals with respect to such care.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the application of section 114 (relating to access to specialty care).

SEC. 113. ACCESS TO EMERGENCY CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides or covers any benefits with respect to services in an emergency department of a hospital, the plan or issuer shall cover emergency services (as defined in paragraph (2)(B))—

(A) without the need for any prior authorization determination;

(B) whether the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee—

(i) by a nonparticipating health care provider with or without prior authorization, or

(ii) by a participating health care provider without prior authorization,

the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION.—The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term "emergency services" means, with respect to an emergency medical condition—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition, and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(C) STABILIZE.—The term "to stabilize", with respect to an emergency medical condition (as defined in subparagraph (A)), has the meaning given in section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—A group health plan, and health insurance coverage offered by a health insurance issuer, must provide reimbursement for maintenance care and post-stabilization care in accordance with the requirements of section 1852(d)(2) of the Social Security Act (42 U.S.C. 1395w–22(d)(2)). Such reimbursement shall be provided in a manner consistent with subsection (a)(1)(C).

(c) COVERAGE OF EMERGENCY AMBULANCE SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage provided by a health insurance issuer, provides any benefits with respect to ambulance services and emergency services, the plan or issuer shall cover emergency ambulance services (as defined in paragraph (2)) furnished under the plan or coverage under the same terms and conditions under subparagraphs (A) through (D) of subsection (a)(1) under which coverage is provided for emergency services.

(2) EMERGENCY AMBULANCE SERVICES.—For purposes of this subsection, the term "emergency ambulance services" means ambulance services (as defined for purposes of section 1861(s)(7) of the Social Security Act) furnished to transport an individual who has an emergency medical condition (as defined in subsection (a)(2)(A)) to a hospital for the receipt of emergency services (as defined in subsection (a)(2)(B)) in a case in which the emergency services are covered under the plan or coverage pursuant to subsection (a)(1) and a prudent layperson, with an average knowledge of health and medicine, could reasonably expect that the absence of such transport would result in placing the health of the individual in serious jeopardy, serious impairment of bodily function, or serious dysfunction of any bodily organ or part.

SEC. 114. TIMELY ACCESS TO SPECIALISTS.

(a) TIMELY ACCESS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage shall ensure that participants, beneficiaries, and enrollees receive timely access to specialists who are appropriate to the condition of, and accessible to, the participant, beneficiary, or enrollee, when such specialty care is a covered benefit under the plan or coverage.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

(A) to require the coverage under a group health plan or health insurance coverage of benefits or services;

(B) to prohibit a plan or issuer from including providers in the network only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees; or

(C) to override any State licensure or scope-of-practice law.

(3) ACCESS TO CERTAIN PROVIDERS.—

(A) IN GENERAL.—With respect to specialty care under this section, if a participating specialist is not available and qualified to provide such care to the participant, beneficiary, or enrollee, the plan or issuer shall provide for coverage of such care by a nonparticipating specialist.

(B) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a participant, beneficiary, or enrollee receives care from a nonparticipating specialist pursuant to subparagraph (A), such specialty care shall be provided at no additional cost to the participant, beneficiary, or enrollee beyond what the participant, beneficiary, or enrollee would otherwise pay for such specialty care if provided by a participating specialist.

(b) REFERRALS.—

(1) AUTHORIZATION.—Subject to subsection (a)(1), a group health plan or health insurance issuer may require an authorization in order to obtain coverage for specialty services under this section. Any such authorization—

(A) shall be for an appropriate duration of time or number of referrals, including an authorization for a standing referral where appropriate; and

(B) may not be refused solely because the authorization involves services of a nonparticipating specialist (described in subsection (a)(3)).

(2) REFERRALS FOR ONGOING SPECIAL CONDITIONS.—

(A) IN GENERAL.—Subject to subsection (a)(1), a group health plan and a health insurance issuer shall permit a participant, beneficiary, or enrollee who has an ongoing special condition (as defined in subparagraph (B)) to receive a referral to a specialist for the treatment of such condition and such specialist may authorize such referrals, procedures, tests, and other medical services with respect to such condition, or coordinate the care for such condition, subject to the terms of a treatment plan (if any) referred to in subsection (c) with respect to the condition.

(B) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term "ongoing special condition" means a condition or disease that—

(i) is life-threatening, degenerative, potentially disabling, or congenital; and

(ii) requires specialized medical care over a prolonged period of time.

(c) TREATMENT PLANS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may require that the specialty care be provided—

(A) pursuant to a treatment plan, but only if the treatment plan—

(i) is developed by the specialist, in consultation with the case manager or primary care provider, and the participant, beneficiary, or enrollee, and

(ii) is approved by the plan or issuer in a timely manner, if the plan or issuer requires such approval; and

(B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

(2) NOTIFICATION.—Nothing in paragraph (1) shall be construed as prohibiting a plan or issuer from requiring the specialist to provide the plan or issuer with regular updates on the specialty care provided, as well as all other reasonably necessary medical information.

(d) SPECIALIST DEFINED.—For purposes of this section, the term "specialist" means, with respect to the condition of the participant, beneficiary, or enrollee, a health care professional, facility, or center that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

SEC. 115. PATIENT ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

(a) GENERAL RIGHTS.—

(1) DIRECT ACCESS.—A group health plan, and a health insurance issuer offering health insurance coverage, described in subsection (b) may not require authorization or referral by the plan, issuer, or any person (including a primary care provider described in subsection (b)(2)) in the case of a female participant, beneficiary, or enrollee who seeks coverage for obstetrical or gynecological care provided by a participating health care professional who specializes in obstetrics or gynecology.

(2) OBSTETRICAL AND GYNECOLOGICAL CARE.—A group health plan and a health insurance issuer described in subsection (b) shall treat the provision of obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and services, pursuant to the direct access described under paragraph (1), by a participating health care professional who specializes in obstetrics or gynecology as the authorization of the primary care provider.

(b) APPLICATION OF SECTION.—A group health plan, or health insurance issuer offering health insurance coverage, described in this subsection is a group health plan or coverage that—

(1) provides coverage for obstetric or gynecologic care; and

(2) requires the designation by a participant, beneficiary, or enrollee of a participating primary care provider.

(c) CONSTRUCTION.—Nothing in subsection (a) shall be construed to—

(1) waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(2) preclude the group health plan or health insurance issuer involved from requiring that the obstetrical or gynecological provider notify the primary care health care professional or the plan or issuer of treatment decisions.

SEC. 116. ACCESS TO PEDIATRIC CARE.

(a) PEDIATRIC CARE.—In the case of a person who has a child who is a participant, beneficiary, or enrollee under a group health plan, or health insurance coverage offered by a health insurance issuer, if the plan or issuer requires or provides for the designation of a participating primary care provider for the child, the plan or issuer shall permit such person to designate a physician (allopathic or osteopathic) who specializes in pediatrics as the child's primary care provider if such provider participates in the network of the plan or issuer.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of pediatric care.

SEC. 117. CONTINUITY OF CARE.

(a) TERMINATION OF PROVIDER.—

(1) IN GENERAL.—If—

(A) a contract between a group health plan, or a health insurance issuer offering health insurance coverage, and a treating health care provider is terminated (as defined in paragraph (e)(4)), or

(B) benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such plan or coverage,

the plan or issuer shall meet the requirements of paragraph (3) with respect to each continuing care patient.

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) REQUIREMENTS.—The requirements of this paragraph are that the plan or issuer—

(A) notify the continuing care patient involved, or arrange to have the patient notified pursuant to subsection (d)(2), on a timely basis of the termination described in paragraph (1) (or paragraph (2), if applicable) and the right to elect continued transitional care from the provider under this section;

(B) provide the patient with an opportunity to notify the plan or issuer of the patient's need for transitional care; and

(C) subject to subsection (c), permit the patient to elect to continue to be covered with respect to the course of treatment by such provider with the provider's consent during a transitional period (as provided for under subsection (b)).

(4) CONTINUING CARE PATIENT.—For purposes of this section, the term "continuing care patient" means a participant, beneficiary, or enrollee who—

(A) is undergoing a course of treatment for a serious and complex condition from the provider at the time the plan or issuer receives or provides notice of provider, benefit, or coverage termination described in paragraph (1) (or paragraph (2), if applicable);

(B) is undergoing a course of institutional or inpatient care from the provider at the time of such notice;

(C) is scheduled to undergo non-elective surgery from the provider at the time of such notice;

(D) is pregnant and undergoing a course of treatment for the pregnancy from the provider at the time of such notice; or

(E) is or was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of such notice, but only with respect to a provider that was treating the terminal illness before the date of such notice.

(b) TRANSITIONAL PERIODS.—

(1) SERIOUS AND COMPLEX CONDITIONS.—The transitional period under this subsection with respect to a continuing care patient described in subsection (a)(4)(A) shall extend for up to 90 days (as determined by the treating health care professional) from the date of the notice described in subsection (a)(3)(A).

(2) INSTITUTIONAL OR INPATIENT CARE.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(B) shall extend until the earlier of—

(A) the expiration of the 90-day period beginning on the date on which the notice under subsection (a)(3)(A) is provided; or

(B) the date of discharge of the patient from such care or the termination of the period of institutionalization, or, if later, the date of completion of reasonable follow-up care.

(3) SCHEDULED NON-ELECTIVE SURGERY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(C) shall extend until the completion of the surgery involved and post-surgical follow-up care relating to the surgery and occurring within 90 days after the date of the surgery.

(4) PREGNANCY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(D) shall extend through the provision of post-partum care directly related to the delivery.

(5) TERMINAL ILLNESS.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(E) shall extend for the remainder of the patient's life for care that is directly related to the treatment of the terminal illness or its medical manifestations.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under this section upon the provider agreeing to the following terms and conditions:

(1) The treating health care provider agrees to accept reimbursement from the plan or issuer and continuing care patient involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or coverage after the date of the termination of the contract with the group health plan or health insurance issuer) and not to impose cost-sharing with respect to the patient in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The treating health care provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The treating health care provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider; or

(2) with respect to the termination of a contract under subsection (a) to prevent a group health plan or health insurance issuer from requiring that the health care provider—

(A) notify participants, beneficiaries, or enrollees of their rights under this section; or

(B) provide the plan or issuer with the name of each participant, beneficiary, or enrollee who the provider believes is a continuing care patient.

(e) DEFINITIONS.—In this section:

(1) CONTRACT.—The term "contract" includes, with respect to a plan or issuer and a treating health care provider, a contract between such plan or issuer and an organized network of providers that includes the treating health care provider, and (in the case of such a contract) the contract between the treating health care provider and the organized network.

(2) HEALTH CARE PROVIDER.—The term "health care provider" or "provider" means—

(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State; and

(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

(3) SERIOUS AND COMPLEX CONDITION.—The term "serious and complex condition" means, with respect to a participant, beneficiary, or enrollee under the plan or coverage—

(A) in the case of an acute illness, a condition that is serious enough to require specialized medical treatment to avoid the reasonable possibility of death or permanent harm; or

(B) in the case of a chronic illness or condition, is an ongoing special condition (as defined in section 114(b)(2)(B)).

(4) TERMINATED.—The term "terminated" includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract for failure to meet applicable quality standards or for fraud.

SEC. 118. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—To the extent that a group health plan, or health insurance coverage offered by a health insurance issuer, provides coverage for benefits with respect to prescription drugs, and limits such coverage to drugs included in a formulary, the plan or issuer shall—

(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary;

(2) provide for disclosure of the formulary to providers; and

(3) in accordance with the applicable quality assurance and utilization review standards of the plan or issuer, provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate and, in the case of such an exception, apply the same cost-sharing requirements that would have applied in the case of a drug covered under the formulary.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (and health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section

513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) Construction.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. 119. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) Coverage.—

(1) In general.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) Exclusion of certain costs.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) Use of in-network providers.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) Qualified Individual Defined.—For purposes of subsection (a), the term "qualified individual" means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) Payment.—

(1) In general.—Under this section a group health plan and a health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the appropriate Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) Payment rate.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate; or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) Approved Clinical Trial Defined.—

(1) In general.—In this section, the term "approved clinical trial" means a clinical research study or clinical investigation—

(A) approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(i) the National Institutes of Health;

(ii) a cooperative group or center of the National Institutes of Health, including a qualified nongovernmental research entity to which the National Cancer Institute has awarded a center support grant;

(iii) either of the following if the conditions described in paragraph (2) are met—

(I) the Department of Veterans Affairs;

(II) the Department of Defense; or

(B) approved by the Food and Drug Administration.

(2) Conditions for departments.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the appropriate Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health; and

(B) assures unbiased review of the highest ethical standards by qualified individuals who have no interest in the outcome of the review.

(e) Construction.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

SEC. 120. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

(a) Inpatient Care.—

(1) In general.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(2) Exception.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) Prohibition on Certain Modifications.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage, may not modify the terms and conditions of coverage based on the determination by a participant, beneficiary, or enrollee to request less than the minimum coverage required under subsection (a).

(c) Secondary Consultations.—

(1) In general.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan or coverage with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan or issuer.

(2) Exception.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

(d) Prohibition on Penalties or Incentives.—A group health plan, and a health insurance issuer providing health insurance coverage, may not—

(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant, beneficiary, or enrollee in accordance with this section;

(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant, beneficiary, or enrollee for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (c).

Subtitle C—Access to Information

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) Requirement.—

(1) Disclosure.—

(A) In general.—A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage, shall provide for the disclosure to participants, beneficiaries, and enrollees—

(i) of the information described in subsection (b) at the time of the initial enrollment of the participant, beneficiary, or enrollee under the plan or coverage;

(ii) of such information on an annual basis—

(I) in conjunction with the election period of the plan or coverage if the plan or coverage has such an election period; or

(II) in the case of a plan or coverage that does not have an election period, in conjunction with the beginning of the plan or coverage year; and

(iii) of information relating to any material reduction to the benefits or information described in such subsection or subsection (c), in the form of a notice provided not later than 30 days before the date on which the reduction takes effect.

(B) PARTICIPANTS, BENEFICIARIES, AND ENROLLEES.—The disclosure required under subparagraph (A) shall be provided—

(i) jointly to each participant, beneficiary, and enrollee who reside at the same address; or

(ii) in the case of a beneficiary or enrollee who does not reside at the same address as the participant or another enrollee, separately to the participant or other enrollees and such beneficiary or enrollee.

(2) PROVISION OF INFORMATION.—Information shall be provided to participants, beneficiaries, and enrollees under this section at the last known address maintained by the plan or issuer with respect to such participants, beneficiaries, or enrollees, to the extent that such information is provided to participants, beneficiaries, or enrollees via the United States Postal Service or other private delivery service.

(b) REQUIRED INFORMATION.—The informational materials to be distributed under this section shall include for each option available under the group health plan or health insurance coverage the following:

(1) BENEFITS.—A description of the covered benefits, including—

(A) any in- and out-of-network benefits;

(B) specific preventive services covered under the plan or coverage if such services are covered;

(C) any specific exclusions or express limitations of benefits described in section 104(d)(3)(C);

(D) any other benefit limitations, including any annual or lifetime benefit limits and any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

(E) any definition of medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

(2) COST SHARING.—A description of any cost-sharing requirements, including—

(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing, for which the participant, beneficiary, or enrollee will be responsible under each option available under the plan;

(B) any maximum out-of-pocket expense for which the participant, beneficiary, or enrollee may be liable;

(C) any cost-sharing requirements for out-of-network benefits or services received from nonparticipating providers; and

(D) any additional cost-sharing or charges for benefits and services that are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification.

(3) DISENROLLMENT.—Information relating to the disenrollment of a participant, beneficiary, or enrollee.

(4) SERVICE AREA.—A description of the plan or issuer's service area, including the provision of any out-of-area coverage.

(5) PARTICIPATING PROVIDERS.—A directory of participating providers (to the extent a plan or issuer provides coverage through a network of providers) that includes, at a minimum, the name, address, and telephone number of each participating provider, and information about how to inquire whether a participating provider is currently accepting new patients.

(6) CHOICE OF PRIMARY CARE PROVIDER.—A description of any requirements and procedures to be used by participants, beneficiaries, and enrollees in selecting, accessing, or changing their primary care provider, including providers both within and outside of the network (if the plan or issuer permits out-of-network services), and the right to select a pediatrician as a primary care provider under section 116 for a participant, beneficiary, or enrollee who is a child if such section applies.

(7) PREAUTHORIZATION REQUIREMENTS.—A description of the requirements and procedures to be used to obtain preauthorization for health services, if such preauthorization is required.

(8) EXPERIMENTAL AND INVESTIGATIONAL TREATMENTS.—A description of the process for determining whether a particular item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatments are covered by the plan or issuer.

(9) SPECIALTY CARE.—A description of the requirements and procedures to be used by participants, beneficiaries, and enrollees in accessing specialty care and obtaining referrals to participating and nonparticipating specialists, including any limitations on choice of health care professionals referred to in section 112(b)(2) and the right to timely access to specialists care under section 114 if such section applies.

(10) CLINICAL TRIALS.—A description of the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved clinical trials under section 119 if such section applies.

(11) PRESCRIPTION DRUGS.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions and cost-sharing required for obtaining on- and off-formulary medications, and a description of the rights of participants, beneficiaries, and enrollees in obtaining access to access to prescription drugs under section 118 if such section applies.

(12) EMERGENCY SERVICES.—A summary of the rules and procedures for accessing emergency services, including the right of a participant, beneficiary, or enrollee to obtain emergency services under the prudent layperson standard under section 113, if such section applies, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.

(13) CLAIMS AND APPEALS.—A description of the plan or issuer's rules and procedures pertaining to claims and appeals, a description of the rights (including deadlines for exercising rights) of participants, beneficiaries, and enrollees under subtitle A in obtaining covered benefits, filing a claim for benefits, and appealing coverage decisions internally and externally (including telephone numbers and mailing addresses of the appropriate authority), and a description of any additional legal rights and remedies available under section 502 of the Employee Retirement Income Security Act of 1974 and applicable State law.

(14) ADVANCE DIRECTIVES AND ORGAN DONATION.—A description of procedures for advance directives and organ donation decisions if the plan or issuer maintains such procedures.

(15) INFORMATION ON PLANS AND ISSUERS.—The name, mailing address, and telephone number or numbers of the plan administrator and the issuer to be used by participants, beneficiaries, and enrollees seeking information about plan or coverage benefits and services, payment of a claim, or authorization for services and treatment. Notice of whether the benefits under the plan or coverage are provided under a contract or policy of insurance issued by an issuer, or whether benefits are provided directly by the plan sponsor who bears the insurance risk.

(16) TRANSLATION SERVICES.—A summary description of any translation or interpretation services (including the availability of printed information in languages other than English, audio tapes, or information in Braille) that are available for non-English speakers and participants, beneficiaries, and enrollees with communication disabilities and a description of how to access these items or services.

(17) ACCREDITATION INFORMATION.—Any information that is made public by accrediting organizations in the process of accreditation if the plan or issuer is accredited, or any additional quality indicators (such as the results of enrollee satisfaction surveys) that the plan or issuer makes public or makes available to participants, beneficiaries, and enrollees.

(18) NOTICE OF REQUIREMENTS.—A description of any rights of participants, beneficiaries, and enrollees that are established by the Patients' Bill of Rights Act of 2005 (excluding those described in paragraphs (1) through (17)) if such sections apply. The description required under this paragraph may be combined with the notices of the type described in sections 711(d), 713(b), or 606(a)(1) of the Employee Retirement Income Security Act of 1974 and with any other notice provision that the appropriate Secretary determines may be combined, so long as such combination does not result in any reduction in the information that would otherwise be provided to the recipient.

(19) AVAILABILITY OF ADDITIONAL INFORMATION.—A statement that the information described in subsection (c), and instructions on obtaining such information (including telephone numbers and, if available, Internet websites), shall be made available upon request.

(20) DESIGNATED DECISIONMAKERS.—A description of the participants and beneficiaries with respect to whom each designated decisionmaker under the plan has assumed liability under section 502(o) of the Employee Retirement Income Security Act of 1974 and the name and address of each such decisionmaker.

(c) ADDITIONAL INFORMATION.—The informational materials to be provided upon the request of a participant, beneficiary, or enrollee shall include for each option available under a group health plan or health insurance coverage the following:

(1) STATUS OF PROVIDERS.—The State licensure status of the plan or issuer's participating health care professionals and participating health care facilities, and, if available, the education, training, specialty qualifications or certifications of such professionals.

(2) COMPENSATION METHODS.—A summary description by category of the applicable methods (such as capitation, fee-for-service, salary, bundled payments, per diem, or a combination thereof) used for compensating prospective or treating health care professionals (including primary care providers and specialists) and facilities in connection with the provision of health care under the plan or coverage.

(3) PRESCRIPTION DRUGS.—Information about whether a specific prescription medication is included in the formulary of the plan or issuer, if the plan or issuer uses a defined formulary.

(4) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, timeframes,

and appeals rights) under any utilization review program under sections 101 and 102, including any drug formulary program under section 118.

(5) EXTERNAL APPEALS INFORMATION.—Aggregate information on the number and outcomes of external medical reviews, relative to the sample size (such as the number of covered lives) under the plan or under the coverage of the issuer.

(d) MANNER OF DISCLOSURE.—The information described in this section shall be disclosed in an accessible medium and format that is calculated to be understood by a participant or enrollee.

(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer in connection with health insurance coverage, from—

(1) distributing any other additional information determined by the plan or issuer to be important or necessary in assisting participants, beneficiaries, and enrollees in the selection of a health plan or health insurance coverage; and

(2) complying with the provisions of this section by providing information in brochures, through the Internet or other electronic media, or through other similar means, so long as—

(A) the disclosure of such information in such form is in accordance with requirements as the appropriate Secretary may impose, and

(B) in connection with any such disclosure of information through the Internet or other electronic media—

(i) the recipient has affirmatively consented to the disclosure of such information in such form.

(ii) the recipient is capable of accessing the information so disclosed on the recipient's individual workstation or at the recipient's home.

(iii) the recipient retains an ongoing right to receive paper disclosure of such information and receives, in advance of any attempt at disclosure of such information to him or her through the Internet or other electronic media, notice in printed form of such ongoing right and of the proper software required to view information so disclosed, and

(iv) the plan administrator appropriately ensures that the intended recipient is receiving the information so disclosed and provides the information in printed form if the information is not received.

Subtitle D—Protecting the Doctor-patient Relationship

SEC. 131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) NULLIFICATION.—Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) shall be null and void.

SEC. 132. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

(a) IN GENERAL.—A group health plan, and a health insurance issuer with respect to health insurance coverage, shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(b) CONSTRUCTION.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage of a particular benefit or service or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or issuer.

SEC. 133. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1852(j)(4) of the Social Security Act) unless the requirements described in clauses (i), (ii)(I), and (iii) of subparagraph (A) of such section are met with respect to such a plan.

(b) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1852(j)(4) of the Social Security Act to the Secretary, a MedicareAdvantage organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting all capitation and similar arrangements or all provider discount arrangements.

SEC. 134. PAYMENT OF CLAIMS.

A group health plan, and a health insurance issuer offering health insurance coverage, shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant, beneficiary, or enrollee with respect to benefits covered by the plan or issuer, in a manner that is no less protective than the provisions of section 1842(c)(2) of the Social Security Act (42 U.S.C. 1395u(c)(2)).

SEC. 135. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this title.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term "protected health care professional" means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle E—Definitions

SEC. 151. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the term "appropriate Secretary" means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2751 of the Public Health Service Act and the Secretary of Labor in relation to carrying out this title under section 714 of the Employee Retirement Income Security Act of 1974.

(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

(1) APPLICABLE AUTHORITY.—The term "applicable authority" means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) ENROLLEE.—The term "enrollee" means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(3) GROUP HEALTH PLAN.—The term "group health plan" has the meaning given such term in section 733(a) of the Employee Retirement Income Security Act of 1974, except that such term includes a employee welfare benefit plan treated as a group health plan under section 732(d) of such Act or defined as such a plan under section 607(1) of such Act.

(4) HEALTH CARE PROFESSIONAL.—The term "health care professional" means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

(5) HEALTH CARE PROVIDER.—The term "health care provider" includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(6) NETWORK.—The term "network" means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

(7) NONPARTICIPATING.—The term "nonparticipating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(8) PARTICIPATING.—The term "participating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

(9) PRIOR AUTHORIZATION.—The term "prior authorization" means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

(10) TERMS AND CONDITIONS.—The term "terms and conditions" includes, with respect to a group health plan or health insurance coverage, requirements imposed under this title with respect to the plan or coverage.

SEC. 152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers (in connection with group health insurance coverage or otherwise) except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(3) CONSTRUCTION.—In applying this section, a State law that provides for equal access to, and availability of, all categories of licensed health care providers and services shall not be treated as preventing the application of any requirement of this title.

(b) APPLICATION OF SUBSTANTIALLY COMPLIANT STATE LAWS.—

(1) IN GENERAL.—In the case of a State law that imposes, with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan, a requirement that substantially complies (within the meaning of subsection (c)) with a patient protection requirement (as defined in paragraph (3)) and does not prevent the application of other requirements under this Act (except in the case of other substantially compliant requirements), in applying the requirements of this title under section 2707 and 2753 (as applicable) of the Public Health Service Act (as added by title II), subject to subsection (a)(2)—

(A) the State law shall not be treated as being superseded under subsection (a); and

(B) the State law shall apply instead of the patient protection requirement otherwise applicable with respect to health insurance coverage and non-Federal governmental plans.

(2) LIMITATION.—In the case of a group health plan covered under title I of the Employee Retirement Income Security Act of 1974, paragraph (1) shall be construed to apply only with respect to the health insurance coverage (if any) offered in connection with the plan.

(3) DEFINITIONS.—In this section:

(A) PATIENT PROTECTION REQUIREMENT.—The term "patient protection requirement" means a requirement under this title, and includes (as a single requirement) a group or related set of requirements under a section or similar unit under this title.

(B) SUBSTANTIALLY COMPLIANT.—The terms "substantially compliant", substantially complies", or "substantial compliance" with respect to a State law, mean that the State law has the same or similar features as the patient protection requirements and has a similar effect.

(c) DETERMINATIONS OF SUBSTANTIAL COMPLIANCE.—

(1) CERTIFICATION BY STATES.—A State may submit to the Secretary a certification that a State law provides for patient protections that are at least substantially compliant with one or more patient protection requirements. Such certification shall be accompanied by such information as may be required to permit the Secretary to make the determination described in paragraph (2)(A).

(2) REVIEW.—

(A) IN GENERAL.—The Secretary shall promptly review a certification submitted under paragraph (1) with respect to a State law to determine if the State law substantially complies with the patient protection requirement (or requirements) to which the law relates.

(B) APPROVAL DEADLINES.—

(i) INITIAL REVIEW.—Such a certification is considered approved unless the Secretary notifies the State in writing, within 90 days after the date of receipt of the certification, that the certification is disapproved (and the reasons for disapproval) or that specified additional information is needed to make the determination described in subparagraph (A).

(ii) ADDITIONAL INFORMATION.—With respect to a State that has been notified by the Secretary under clause (i) that specified additional information is needed to make the determination described in subparagraph (A), the Secretary shall make the determination within 60 days after the date on which such specified additional information is received by the Secretary.

(3) APPROVAL.—

(A) IN GENERAL.—The Secretary shall approve a certification under paragraph (1) unless—

(i) the State fails to provide sufficient information to enable the Secretary to make a determination under paragraph (2)(A); or

(ii) the Secretary determines that the State law involved does not provide for patient protections that substantially comply with the patient protection requirement (or requirements) to which the law relates.

(B) STATE CHALLENGE.—A State that has a certification disapproved by the Secretary under subparagraph (A) may challenge such disapproval in the appropriate United States district court.

(C) DEFERENCE TO STATES.—With respect to a certification submitted under paragraph (1), the Secretary shall give deference to the State's interpretation of the State law involved with respect to the patient protection involved.

(D) PUBLIC NOTIFICATION.—The Secretary shall—

(i) provide a State with a notice of the determination to approve or disapprove a certification under this paragraph;

(ii) promptly publish in the Federal Register a notice that a State has submitted a certification under paragraph (1);

(iii) promptly publish in the Federal Register the notice described in clause (i) with respect to the State; and

(iv) annually publish the status of all States with respect to certifications.

(4) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the certification (and approval of certification) of a State law under this subsection solely because it provides for greater protections for patients than those protections otherwise required to establish substantial compliance.

(5) PETITIONS.—

(A) PETITION PROCESS.—Effective on the date on which the provisions of this Act become effective, as provided for in section 601, a group health plan, health insurance issuer, participant, beneficiary, or enrollee may submit a petition to the Secretary for an advisory opinion as to whether or not a standard or requirement under a State law applicable to the plan, issuer, participant, beneficiary, or enrollee that is not the subject of a certification under this subsection, is superseded under subsection (a)(1) because such standard or requirement prevents the application of a requirement of this title.

(B) OPINION.—The Secretary shall issue an advisory opinion with respect to a petition submitted under subparagraph (A) within the 60-day period beginning on the date on which such petition is submitted.

(d) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term "State" includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

SEC. 153. EXCLUSIONS.

(a) NO BENEFIT REQUIREMENTS.—Nothing in this title shall be construed to require a group health plan or a health insurance issuer offering health insurance coverage to include specific items and services under the terms of such a plan or coverage, other than those provided under the terms and conditions of such plan or coverage.

(b) EXCLUSION FROM ACCESS TO CARE MANAGED CARE PROVISIONS FOR FEE-FOR-SERVICE COVERAGE.—

(1) IN GENERAL.—The provisions of sections 111 through 117 shall not apply to a group health plan or health insurance coverage if the only coverage offered under the plan or coverage is fee-for-service coverage (as defined in paragraph (2)).

(2) FEE-FOR-SERVICE COVERAGE DEFINED.—For purposes of this subsection, the term "fee-for-service coverage" means coverage under a group health plan or health insurance coverage that—

(A) reimburses hospitals, health professionals, and other providers on a fee-for-service basis without placing the provider at financial risk;

(B) does not vary reimbursement for such a provider based on an agreement to contract terms and conditions or the utilization of health care items or services relating to such provider;

(C) allows access to any provider that is lawfully authorized to provide the covered services and that agrees to accept the terms and conditions of payment established under the plan or by the issuer; and

(D) for which the plan or issuer does not require prior authorization before providing for any health care services.

SEC. 154. TREATMENT OF EXCEPTED BENEFITS.

(a) IN GENERAL.—The requirements of this title and the provisions of sections 502(a)(1)(C), 502(n), and 514(d) of the Employee Retirement Income Security Act of 1974 (added by section 402) shall not apply to excepted benefits (as defined in section 733(c) of such Act), other than benefits described in section 733(c)(2)(A) of such Act, in the same manner as the provisions of part 7 of subtitle B of title I of such Act do not apply to such benefits under subsections (b) and (c) of section 732 of such Act.

(b) COVERAGE OF CERTAIN LIMITED SCOPE PLANS.—Only for purposes of applying the requirements of this title under sections 2707 and 2753 of the Public Health Service Act, section 714 of the Employee Retirement Income Security Act of 1974, and section 9813 of the Internal Revenue Code of 1986, the following sections shall be deemed not to apply:

(1) Section 2791(c)(2)(A) of the Public Health Service Act.

(2) Section 733(c)(2)(A) of the Employee Retirement Income Security Act of 1974.

(3) Section 9832(c)(2)(A) of the Internal Revenue Code of 1986.

SEC. 155. REGULATIONS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this title.

SEC. 156. INCORPORATION INTO PLAN OR COVERAGE DOCUMENTS.

The requirements of this title with respect to a group health plan or health insurance coverage are, subject to section 154, deemed to be incorporated into, and made a part of, such plan or the policy, certificate, or contract providing such coverage and are enforceable under law as if directly included in the documentation of such plan or such policy, certificate, or contract.

SEC. 157. PRESERVATION OF PROTECTIONS.

(a) IN GENERAL.—The rights under this Act (including the right to maintain a civil action and any other rights under the amendments made by this Act) may not be waived, deferred, or lost pursuant to any agreement not authorized under this Act.

(b) EXCEPTION.—Subsection (a) shall not apply to an agreement providing for arbitration or participation in any other nonjudicial procedure to resolve a dispute if the agreement—

(1) is entered into knowingly and voluntarily by the parties involved after the dispute has arisen; or

(2) is pursuant to the terms of a collective bargaining agreement.

Nothing in this subsection shall be construed to permit the waiver of the requirements of sections 103 and 104 (relating to internal and external review).

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2707. PATIENT PROTECTION STANDARDS.

"Each group health plan shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act of 2005, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.".

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg-21(b)(2)(A)) is amended by inserting "(other than section 2707)" after "requirements of such subparts".

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

"SEC. 2753. PATIENT PROTECTION STANDARDS.

"Each health insurance issuer shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act of 2005 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.".

SEC. 203. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Part C of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–91 et seq.) is amended by adding at the end the following:

"SEC. 2793. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

"(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under this title to enforce the requirements applicable under title I of the Patients' Bill of Rights Act of 2005 with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

"(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.".

TITLE III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH INSURANCE PROGRAMS

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH INSURANCE PROGRAMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that enrollees in Federal health insurance programs should have the same rights and privileges as those afforded under title I and under the amendments made by title IV to participants and beneficiaries under group health plans.

(b) CONFORMING FEDERAL HEALTH INSURANCE PROGRAMS.—It is the sense of Congress that the President should require, by executive order, the Federal official with authority over each Federal health insurance program, to the extent feasible, to take such steps as are necessary to implement the rights and privileges described in subsection (a) with respect to such program.

(c) GAO REPORT ON ADDITIONAL STEPS REQUIRED.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on statutory changes that are required to implement such rights and privileges in a manner that is consistent with the missions of the Federal health insurance programs and that avoids unnecessary duplication or disruption of such programs.

(d) FEDERAL HEALTH INSURANCE PROGRAM.—In this section, the term "Federal health insurance program" means a Federal program that provides creditable coverage (as defined in section 2701(c)(1) of the Public Health Service Act) and includes a health program of the Department of Veterans Affairs.

TITLE IV—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 401. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

"SEC. 714. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Patients' Bill of Rights Act of 2005 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

"(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

"(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Patients' Bill of Rights Act of 2005 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

"(A) Section 111 (relating to consumer choice option).

"(B) Section 112 (relating to choice of health care professional).

"(C) Section 113 (relating to access to emergency care).

"(D) Section 114 (relating to timely access to specialists).

"(E) Section 115 (relating to patient access to obstetrical and gynecological care).

"(F) Section 116 (relating to access to pediatric care).

"(G) Section 117 (relating to continuity of care), but only insofar as a replacement issuer assumes the obligation for continuity of care.

"(H) Section 118 (relating to access to needed prescription drugs).

"(I) Section 119 (relating to coverage for individuals participating in approved clinical trials).

"(J) Section 120 (relating to required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations).

"(K) Section 134 (relating to payment of claims).

"(2) INFORMATION.—With respect to information required to be provided or made available under section 121 of the Patients' Bill of Rights Act of 2005, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

"(3) INTERNAL APPEALS.—With respect to the internal appeals process required to be established under section 103 of such Act, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such process and system (and is not liable for the issuer's failure to provide for such process and system), if the issuer is obligated to provide for (and provides for) such process and system.

"(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 104 of such Act, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

"(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections of the Patients' Bill of Rights Act of 2005, the group health plan shall not be liable for such violation unless the plan caused such violation:

"(A) Section 131 (relating to prohibition of interference with certain medical communications).

"(B) Section 132 (relating to prohibition of discrimination against providers based on licensure).

"(C) Section 133 (relating to prohibition against improper incentive arrangements).

"(D) Section 135 (relating to protection for patient advocacy).

"(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

"(7) TREATMENT OF SUBSTANTIALLY COMPLIANT STATE LAWS.—For purposes of applying this subsection in connection with health insurance coverage, any reference in this subsection to a requirement in a section or other provision in the Patients' Bill of Rights Act of 2005 with respect to a health insurance issuer is deemed to include a reference to a requirement under a State law that substantially complies (as determined under section 152(c) of such Act) with the requirement in such section or other provisions.

"(8) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section 135(b)(1) of the Patients' Bill of Rights Act of 2005, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

"(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

"(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 135(b)(1) of the Patients' Bill of Rights Act of 2005 may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

"(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

"(d) CONFORMING REGULATIONS.—The Secretary shall issue regulations to coordinate the requirements on group health plans and health insurance issuers under this section with the requirements imposed under the other provisions of this title. In order to reduce duplication and clarify the rights of participants and beneficiaries with respect to information that is required to be provided, such regulations shall coordinate the information disclosure requirements under section 121 of the Patients' Bill of Rights Act of 2005 with the reporting and disclosure requirements imposed under part 1, so long as such coordination does not result in any reduction in the information that would otherwise be provided to participants and beneficiaries.".

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting "(a)" after "Sec. 503." and by adding at the end the following new subsection:

"(b) In the case of a group health plan (as defined in section 733), compliance with the requirements of subtitle A of title I of the Patients' Bill of Rights Act of 2005, and compliance with regulations promulgated by the Secretary, in the case of a claims denial, shall be deemed compliance with subsection (a) with respect to such claims denial.".

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking "section 711" and inserting "sections 711 and 714".

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

"714. Patient protection standards".

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting "(other than section 135(b) of the Patients' Bill of Rights Act of 2005, as deemed by subsection (a) of section 714 of this Act to be incorporated into such subsection)" after "part 7".

SEC. 402. AVAILABILITY OF CIVIL REMEDIES.

(a) AVAILABILITY OF FEDERAL CIVIL REMEDIES IN CASES NOT INVOLVING MEDICALLY REVIEWABLE DECISIONS.—

(1) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsections:

"(n) CAUSE OF ACTION RELATING TO PROVISION OF HEALTH BENEFITS.—

"(1) IN GENERAL.—In any case in which—

"(A) a person who is a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with the plan, or an agent of the plan, issuer, or plan sponsor, upon consideration of a claim for benefits of a participant or beneficiary under section 102 of the Patients' Bill of Rights Act of 2005 (relating to procedures for initial claims for benefits and prior authorization determinations) or upon review of a denial of such a claim under section 103 of such Act (relating to internal appeal of a denial of a claim for benefits), fails to exercise ordinary care in making a decision—

"(i) regarding whether an item or service is covered under the terms and conditions of the plan or coverage,

"(ii) regarding whether an individual is a participant or beneficiary who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage), or

"(iii) as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage, and

"(B) such failure is a proximate cause of personal injury to, or the death of, the participant or beneficiary,

such plan, plan sponsor, or issuer shall be liable to the participant or beneficiary (or the estate of such participant or beneficiary) for economic and noneconomic damages (but not exemplary or punitive damages) in connection with such personal injury or death.

"(2) CAUSE OF ACTION MUST NOT INVOLVE MEDICALLY REVIEWABLE DECISION.—

"(A) IN GENERAL.—A cause of action is established under paragraph (1)(A) only if the decision referred to in paragraph (1)(A) does not include a medically reviewable decision.

"(B) MEDICALLY REVIEWABLE DECISION.—For purposes of this subsection, the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 104(d)(2) of the Patients' Bill of Rights Act of 2005 (relating to medically reviewable decisions).

"(3) LIMITATION REGARDING CERTAIN TYPES OF ACTIONS SAVED FROM PREEMPTION OF STATE LAW.—A cause of action is not established under paragraph (1)(A) in connection with a failure described in paragraph (1)(A) to the extent that a cause of action under State law (as defined in section 514(c)) for such failure would not be preempted under section 514.

"(4) DEFINITIONS AND RELATED RULES.—For purposes of this subsection.—

"(A) ORDINARY CARE.—The term 'ordinary care' means, with respect to a determination on a claim for benefits, that degree of care, skill, and diligence that a reasonable and prudent individual would exercise in making a fair determination on a claim for benefits of like kind to the claims involved.

"(B) PERSONAL INJURY.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

"(C) CLAIM FOR BENEFITS; DENIAL.—The terms 'claim for benefits' and 'denial of a claim for benefits' have the meanings provided such terms in section 102(e) of the Patients' Bill of Rights Act of 2005.

"(D) TERMS AND CONDITIONS.—The term 'terms and conditions' includes, with respect to a group health plan or health insurance coverage, requirements imposed under title I of the Patients' Bill of Rights Act of 2005.

"(E) TREATMENT OF EXCEPTED BENEFITS.—Under section 154(a) of the Patients' Bill of Rights Act of 2005, the provisions of this subsection and subsection (a)(1)(C) do not apply to certain excepted benefits.

"(5) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

"(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—Subject to subparagraph (B), paragraph (1)(A) does not authorize a cause of action against an employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment).

"(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) under paragraph (1)(A), to the extent there was direct participation by the employer or other plan sponsor (or employee) in the decision of the plan under section 102 of the Patients' Bill of Rights Act of 2005 upon consideration of a claim for benefits or under section 103 of such Act upon review of a denial of a claim for benefits.

"(C) DIRECT PARTICIPATION.—

"(i) IN GENERAL.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in paragraph (1)(A), the actual making of such decision or the actual exercise of control in making such decision.

"(ii) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in paragraph (1)(A) on a particular claim for benefits of a participant or beneficiary, including (but not limited to)—

"(I) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent;

"(II) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

"(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

"(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

"(iii) IRRELEVANCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

"(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

"(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

"(D) APPLICATION TO CERTAIN PLANS.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subsection, no group health plan described in clause (ii) (or plan sponsor of such a plan) shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty under the plan.

"(ii) DEFINITION.—A group health plan described in this clause is—

"(I) a group health plan that is self-insured and self administered by an employer (including an employee of such an employer acting within the scope of employment); or

"(II) a multiemployer plan as defined in section 3(37)(A) (including an employee of a contributing employer or of the plan, or a fiduciary of the plan, acting within the scope of employment or fiduciary responsibility) that is self-insured and self-administered.

"(6) EXCLUSION OF PHYSICIANS AND OTHER HEALTH CARE PROFESSIONALS.—

"(A) IN GENERAL.—No treating physician or other treating health care professional of the participant or beneficiary, and no person acting under the direction of such a physician or health care professional, shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) HEALTH CARE PROFESSIONAL.—The term 'health care professional' means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

"(ii) NON-MEDICALLY REVIEWABLE DUTY.—The term 'non-medically reviewable duty' means a duty the discharge of which does not include the making of a medically reviewable decision.

“(7) EXCLUSION OF HOSPITALS.—No treating hospital of the participant or beneficiary shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty (as defined in paragraph (6)(B)(ii)) of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

“(8) RULE OF CONSTRUCTION RELATING TO EXCLUSION FROM LIABILITY OF PHYSICIANS, HEALTH CARE PROFESSIONALS, AND HOSPITALS.—Nothing in paragraph (6) or (7) shall be construed to limit the liability (whether direct or vicarious) of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

“(9) REQUIREMENT OF EXHAUSTION.—

“(A) IN GENERAL.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102 and 103 of the Patients' Bill of Rights Act of 2005 (if applicable) have been exhausted.

“(B) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Patients' Bill of Rights Act of 2005 (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) or paragraph (10)(B), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met.

“(C) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

“(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

“(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

The court in any action commenced under this subsection shall take into account any receipt of benefits during such administrative processes or such action in determining the amount of the damages awarded.

“(D) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 103 of the Patients' Bill of Rights Act of 2005 shall be admissible in any Federal court proceeding and shall be presented to the trier of fact.

“(10) STATUTORY DAMAGES.—

“(A) IN GENERAL.—The remedies set forth in this subsection (n) shall be the exclusive remedies for causes of action brought under this subsection.

“(B) ASSESSMENT OF CIVIL PENALTIES.—In addition to the remedies provided for in paragraph (1) (relating to the failure to provide contract benefits in accordance with the plan), a civil assessment, in an amount not to exceed $5,000,000, payable to the claimant may be awarded in any action under such paragraph if the claimant establishes by clear and convincing evidence that the alleged conduct carried out by the defendant demonstrated bad faith and flagrant disregard for the rights of the participant or beneficiary under the plan and was a proximate cause of the personal injury or death that is the subject of the claim.

“(11) LIMITATION ON ATTORNEYS' FEES.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action brought pursuant to this subsection shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

“(B) DETERMINATION BY DISTRICT COURT.—The last Federal district court in which the action was pending upon the final disposition, including all appeals, of the action shall have jurisdiction to review the attorney's fee to ensure that the fee is a reasonable one.

“(12) LIMITATION OF ACTION.—Paragraph (1) shall not apply in connection with any action commenced after 3 years after the later of—

“(A) the date on which the plaintiff first knew, or reasonably should have known, of the personal injury or death resulting from the failure described in paragraph (1), or

“(B) the date as of which the requirements of paragraph (9) are first met.

“(13) TOLLING PROVISION.—The statute of limitations for any cause of action arising under State law relating to a denial of a claim for benefits that is the subject of an action brought in Federal court under this subsection shall be tolled until such time as the Federal court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the Federal court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

“(14) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action under subsection (a)(1)(C) and this subsection.

“(15) EXCLUSION OF DIRECTED RECORDKEEPERS.—

“(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to a directed recordkeeper in connection with a group health plan.

“(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term ‘directed recordkeeper’ means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Patients' Bill of Rights Act of 2005 and whose duties do not include making decisions on claims for benefits.

“(C) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

“(16) EXCLUSION OF HEALTH INSURANCE AGENTS.—Paragraph (1) does not apply with respect to a person whose sole involvement with the group health plan is providing advice or administrative services to the employer or other plan sponsor relating to the selection of health insurance coverage offered in connection with the plan.

“(17) NO EFFECT ON STATE LAW.—No provision of State law (as defined in section 514(c)(1)) shall be treated as superseded or otherwise altered, amended, modified, invalidated, or impaired by reason of the provisions of subsection (a)(1)(C) and this subsection.

“(18) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

“(A) IN GENERAL.—Notwithstanding the direct participation (as defined in paragraph (5)(C)(i)) of an employer or plan sponsor, in any case in which there is (or is deemed under subparagraph (B) to be) a designated decisionmaker under subparagraph (B) that meets the requirements of subsection (o)(1) for an employer or other plan sponsor—

“(i) all liability of such employer or plan sponsor involved (and any employee of such employer or sponsor acting within the scope of employment) under this subsection in connection with any participant or beneficiary shall be transferred to, and assumed by, the designated decisionmaker, and

“(ii) with respect to such liability, the designated decisionmaker shall be substituted for the employer or sponsor (or employee) in the action and may not raise any defense that the employer or sponsor (or employee) could not raise if such a decisionmaker were not so deemed.

“(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

“(C) TREATMENT OF CERTAIN TRUST FUNDS.—For purposes of this paragraph, the terms ‘employer’ and ‘plan sponsor’, in connection with the assumption by a designated decisionmaker of the liability of employer or other plan sponsor pursuant to this paragraph, shall be construed to include a trust fund maintained pursuant to section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) or the Railway Labor Act (45 U.S.C. 151 et seq.).

“(19) PREVIOUSLY PROVIDED SERVICES.—

“(A) IN GENERAL.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

“(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

“(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures; or

“(ii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

“(20) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

“(A) a member of a board of directors of an employer or plan sponsor; or

“(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable under this subsection for conduct that is within the scope of employment or of plan-related duties of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

“(o) REQUIREMENTS FOR DESIGNATED DECISIONMAKERS OF GROUP HEALTH PLANS.—

“(1) IN GENERAL.—For purposes of subsection (n)(18) and section 514(d)(9), a designated decisionmaker meets the requirements of this paragraph with respect to any participant or beneficiary if—

“(A) such designation is in such form as may be prescribed in regulations of the Secretary,

“(B) the designated decisionmaker—

“(i) meets the requirements of paragraph (2),

“(ii) assumes unconditionally all liability of the employer or plan sponsor involved (and any employee of such employer or sponsor acting within the scope of employment) either arising under subsection (n) or arising in a cause of action permitted under section 514(d) in connection with actions (and failures to act) of the employer or plan sponsor (or employee) occurring during the period in which the designation under subsection (n)(18) or section 514(d)(9) is in effect relating to such participant and beneficiary,

“(iii) agrees to be substituted for the employer or plan sponsor (or employee) in the action and not to raise any defense with respect to such liability that the employer or plan sponsor (or employee) may not raise, and

“(iv) where paragraph (2)(B) applies, assumes unconditionally the exclusive authority under the group health plan to make medically reviewable decisions under the plan with respect to such participant or beneficiary, and

“(C) the designated decisionmaker and the participants and beneficiaries for whom the decisionmaker has assumed liability are identified in the written instrument required under section 402(a) and as required under section 121(b)(19) of the Patients' Bill of Rights Act of 2005.

Any liability assumed by a designated decisionmaker pursuant to this subsection shall be in addition to any liability that it may otherwise have under applicable law.

“(2) QUALIFICATIONS FOR DESIGNATED DECISIONMAKERS.—

“(A) IN GENERAL.—Subject to subparagraph (B), an entity is qualified under this paragraph to serve as a designated decisionmaker with respect to a group health plan if the entity has the ability to assume the liability described in paragraph (1) with respect to participants and beneficiaries under such plan, including requirements relating to the financial obligation for timely satisfying the assumed liability, and maintains with the plan sponsor and the Secretary certification of such ability. Such certification shall be provided to the plan sponsor or named fiduciary and to the Secretary upon designation under subsection (n)(18)(B) or section 517(d)(9)(B) and not less frequently than annually thereafter, or if such designation constitutes a multiyear arrangement, in conjunction with the renewal of the arrangement.

“(B) SPECIAL QUALIFICATION IN THE CASE OF CERTAIN REVIEWABLE DECISIONS.—In the case of a group health plan that provides benefits consisting of medical care to a participant or beneficiary only through health insurance coverage offered by a single health insurance issuer, such issuer is the only entity that may be qualified under this paragraph to serve as a designated decisionmaker with respect to such participant or beneficiary, and shall serve as the designated decisionmaker unless the employer or other plan sponsor acts affirmatively to prevent such service.

“(3) REQUIREMENTS RELATING TO FINANCIAL OBLIGATIONS.—For purposes of paragraph (2)(A), the requirements relating to the financial obligation of an entity for liability shall include—

“(A) coverage of such entity under an insurance policy or other arrangement, secured and maintained by such entity, to effectively insure such entity against losses arising from professional liability claims, including those arising from its service as a designated decisionmaker under this part; or

“(B) evidence of minimum capital and surplus levels that are maintained by such entity to cover any losses as a result of liability arising from its service as a designated decisionmaker under this part.

The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of subparagraphs (A) and (B) shall be determined by an actuary using sound actuarial principles and accounting practices pursuant to established guidelines of the American Academy of Actuaries and in accordance with such regulations as the Secretary may prescribe and shall be maintained throughout the term for which the designation is in effect. The provisions of this paragraph shall not apply in the case of a designated decisionmaker that is a group health plan, plan sponsor, or health insurance issuer and that is regulated under Federal law or a State financial solvency law.

“(4) LIMITATION ON APPOINTMENT OF TREATING PHYSICIANS.—A treating physician who directly delivered the care, treatment, or provided the patient service that is the subject of a cause of action by a participant or beneficiary under subsection (n) or section 514(d) may not be designated as a designated decisionmaker under this subsection with respect to such participant or beneficiary.”.

(2) CONFORMING AMENDMENT.—Section 502(a)(1) of such Act (29 U.S.C. 1132(a)(1)) is amended—

(A) by striking “or” at the end of subparagraph (A);

(B) in subparagraph (B), by striking “plan;” and inserting “plan, or”; and

(C) by adding at the end the following new subparagraph:

“(C) for the relief provided for in subsection (n) of this section.”.

(b) RULES RELATING TO ERISA PREEMPTION.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following new subsections:

“(d) PREEMPTION NOT TO APPLY TO CAUSES OF ACTION UNDER STATE LAW INVOLVING MEDICALLY REVIEWABLE DECISION.—

“(1) NON-PREEMPTION OF CERTAIN CAUSES OF ACTION.—

“(A) IN GENERAL.—Except as provided in this subsection, nothing in this title (including section 502) shall be construed to supersede or otherwise alter, amend, modify, invalidate, or impair any cause of action under State law of a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) against the plan, the plan sponsor, any health insurance issuer offering health insurance coverage in connection with the plan, or any managed care entity in connection with the plan to recover damages resulting from personal injury or for wrongful death if such cause of action arises by reason of a medically reviewable decision.

“(B) MEDICALLY REVIEWABLE DECISION.—For purposes of subparagraph (A), the term ‘medically reviewable decision’ means a denial of a claim for benefits under the plan which is described in section 104(d)(2) of the Patients' Bill of Rights Act of 2005 (relating to medically reviewable decisions).

“(C) LIMITATION ON PUNITIVE DAMAGES.—

“(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), with respect to a cause of action described in subparagraph (A) brought with respect to a participant or beneficiary, State law is superseded insofar as it provides any punitive, exemplary, or similar damages if, as of the time of the personal injury or death, all the requirements of the following sections of the Patients' Bill of Rights Act of 2005 were satisfied with respect to the participant or beneficiary:

“(I) Section 102 (relating to procedures for initial claims for benefits and prior authorization determinations).

“(II) Section 103 of such Act (relating to internal appeals of claims denials).

“(III) Section 104 of such Act (relating to independent external appeals procedures).

“(ii) EXCEPTION FOR CERTAIN ACTIONS FOR WRONGFUL DEATH.—Clause (i) shall not apply with respect to an action for wrongful death if the applicable State law provides (or has been construed to provide) for damages in such an action which are only punitive or exemplary in nature.

“(iii) EXCEPTION FOR WILLFUL OR WANTON DISREGARD FOR THE RIGHTS OR SAFETY OF OTHERS.—Clause (i) shall not apply with respect to any cause of action described in subparagraph (A) if, in such action, the plaintiff establishes by clear and convincing evidence that conduct carried out by the defendant with willful or wanton disregard for the rights or safety of others was a proximate cause of the personal injury or wrongful death that is the subject of the action.

“(2) DEFINITIONS AND RELATED RULES.—For purposes of this subsection and subsection (e)—

“(A) TREATMENT OF EXCEPTED BENEFITS.—Under section 154(a) of the Patients' Bill of Rights Act of 2005, the provisions of this subsection do not apply to certain excepted benefits.

“(B) PERSONAL INJURY.—The term ‘personal injury’ means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

“(C) CLAIM FOR BENEFIT; DENIAL.—The terms ‘claim for benefits’ and ‘denial of a claim for benefits’ shall have the meaning provided such terms under section 102(e) of the Patients' Bill of Rights Act of 2005.

“(D) MANAGED CARE ENTITY.—

“(i) IN GENERAL.—The term ‘managed care entity’ means, in connection with a group health plan and subject to clause (ii), any entity that is involved in determining the manner in which or the extent to which items or services (or reimbursement therefor) are to be provided as benefits under the plan.

"(ii) TREATMENT OF TREATING PHYSICIANS, OTHER TREATING HEALTH CARE PROFESSIONALS, AND TREATING HOSPITALS.—Such term does not include a treating physician or other treating health care professional (as defined in section 502(n)(6)(B)(i)) of the participant or beneficiary and also does not include a treating hospital insofar as it is acting solely in the capacity of providing treatment or care to the participant or beneficiary. Nothing in the preceding sentence shall be construed to preempt vicarious liability of any plan, plan sponsor, health insurance issuer, or managed care entity.

"(3) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

"(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—Subject to subparagraph (B), paragraph (1) does not apply with respect to—

"(i) any cause of action against an employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment), or

"(ii) a right of recovery, indemnity, or contribution by a person against an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action to which paragraph (1) applies.

"(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), paragraph (1) applies with respect to any cause of action that is brought by a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) to recover damages resulting from personal injury or for wrongful death against any employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment) if such cause of action arises by reason of a medically reviewable decision, to the extent that there was direct participation by the employer or other plan sponsor (or employee) in the decision.

"(C) DIRECT PARTICIPATION.—

"(i) DIRECT PARTICIPATION IN DECISIONS.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in subparagraph (B), the actual making of such decision or the actual exercise of control in making such decision or in the conduct constituting the failure.

"(ii) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in subparagraph (B) on a particular claim for benefits of a particular participant or beneficiary, including (but not limited to)—

"(I) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent;

"(II) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

"(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

"(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

"(iv) IRRELEVANCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

"(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

"(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

"(4) REQUIREMENT OF EXHAUSTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), paragraph (1) shall not apply in connection with any action in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102, 103, and 104 of the Patients' Bill of Rights Act of 2005 (if applicable) have been exhausted.

"(B) LATE MANIFESTATION OF INJURY.—

"(i) IN GENERAL.—A participant or beneficiary shall not be precluded from pursuing a review under section 104 of the Patients' Bill of Rights Act of 2005 regarding an injury that such participant or beneficiary has experienced if the external review entity first determines that the injury of such participant or beneficiary is a late manifestation of an earlier injury.

"(ii) DEFINITION.—In this subparagraph, the term 'late manifestation of an earlier injury' means an injury sustained by the participant or beneficiary which was not known, and should not have been known, by such participant or beneficiary by the latest date that the requirements of subparagraph (A) should have been met regarding the claim for benefits which was denied.

"(C) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Patients' Bill of Rights Act of 2005 (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) unless the requirements of subparagraph (A) are met.

"(D) FAILURE TO REVIEW.—

"(i) IN GENERAL.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(i) of the Patients' Bill of Rights Act of 2005, subparagraph (A) shall not apply with respect to the action after 10 additional days after the date on which such time period has expired and the filing of such action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to such section 104(e)(1)(A)(i).

"(ii) EXPEDITED DETERMINATION.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(ii) of the Patients' Bill of Rights Act of 2005, subparagraph (A) shall not apply with respect to the action and the filing of such an action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to such section 104(e)(1)(A)(ii).

"(E) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or the pendency of any action with respect to which, under this paragraph, subparagraph (A) does not apply—

"(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

"(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

"(F) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 104 of the Patients' Bill of Rights Act of 2005 shall be admissible in any Federal or State court proceeding and shall be presented to the trier of fact.

"(5) TOLLING PROVISION.—The statute of limitations for any cause of action arising under section 502(n) relating to a denial of a claim for benefits that is the subject of an action brought in State court shall be tolled until such time as the State court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the State court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

"(6) EXCLUSION OF DIRECTED RECORDKEEPERS.—

"(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to any action against a directed recordkeeper in connection with a group health plan.

"(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term 'directed recordkeeper' means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Patients' Bill of Rights Act of 2005 and whose duties do not include making decisions on claims for benefits.

"(C) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

"(7) CONSTRUCTION.—Nothing in this subsection shall be construed as—

"(A) saving from preemption a cause of action under State law for the failure to provide a benefit for an item or service which is specifically excluded under the group health plan involved, except to the extent that—

"(i) the application or interpretation of the exclusion involves a determination described in section 104(d)(2) of the Patients' Bill of Rights Act of 2005, or

"(ii) the provision of the benefit for the item or service is required under Federal law or under applicable State law consistent with subsection (b)(2)(B);

"(B) preempting a State law which requires an affidavit or certificate of merit in a civil action;

"(C) affecting a cause of action or remedy under State law in connection with the provision or arrangement of excepted benefits (as defined in section 733(c)), other than those described in section 733(c)(2)(A); or

"(D) affecting a cause of action under State law other than a cause of action described in paragraph (1)(A).

"(8) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action described in paragraph (1)(A).

"(9) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

"(A) IN GENERAL.—Paragraph (1) shall not apply with respect to any cause of action described in paragraph (1)(A) under State law insofar as such cause of action provides for liability with respect to a participant or beneficiary of an employer or plan sponsor (or an employee of such employer or sponsor acting within the scope of employment), if with respect to the employer or plan sponsor there is (or is deemed under subparagraph (B) to be) a designated decisionmaker that meets the requirements of section 502(o)(1) with respect to such participant or beneficiary. Such paragraph (1) shall apply with respect to any cause of action described in paragraph (1)(A) under State law against the designated decisionmaker of such employer or other plan sponsor with respect to the participant or beneficiary.

"(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

"(C) TREATMENT OF CERTAIN TRUST FUNDS.—For purposes of this paragraph, the terms 'employer' and 'plan sponsor', in connection with the assumption by a designated decisionmaker of the liability of employer or other plan sponsor pursuant to this paragraph, shall be construed to include a trust fund maintained pursuant to section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) or the Railway Labor Act (45 U.S.C. 151 et seq.).

"(10) PREVIOUSLY PROVIDED SERVICES.—

"(A) IN GENERAL.—Except as provided in this paragraph, paragraph (1) shall not apply with respect to a cause of action where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

"(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

"(i) exclude a cause of action from exemption under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures;

"(ii) exclude a cause of action from exemption under paragraph (1) relating to quality of care; or

"(iii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

"(11) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

"(A) a member of a board of directors of an employer or plan sponsor; or

"(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable, by reason of the exemption of a cause of action from preemption under this subsection, for conduct that is within the scope of employment or of plan-related duties of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

"(12) CHOICE OF LAW.—A cause of action exempted from preemption under paragraph (1) shall be governed by the law (including choice of law rules) of the State in which the plaintiff resides.

"(13) LIMITATION ON ATTORNEYS' FEES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action exemption from preemption under paragraph (1) shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

"(B) DETERMINATION BY COURT.—The last court in which the action was pending upon the final disposition, including all appeals, of the action may review the attorney's fee to ensure that the fee is a reasonable one.

"(C) NO PREEMPTION OF STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action that is brought in a State that has a law or framework of laws with respect to the amount of an attorney's contingency fee that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings such a cause of action.

"(e) RULES OF CONSTRUCTION RELATING TO HEALTH CARE.—Nothing in this title shall be construed as—

"(1) affecting any State law relating to the practice of medicine or the provision of, or the failure to provide, medical care, or affecting any action (whether the liability is direct or vicarious) based upon such a State law,

"(2) superseding any State law permitted under section 152(b)(1)(A) of the Patients' Bill of Rights Act of 2005, or

"(3) affecting any applicable State law with respect to limitations on monetary damages.

"(f) NO RIGHT OF ACTION FOR RECOVERY, INDEMNITY, OR CONTRIBUTION BY ISSUERS AGAINST TREATING HEALTH CARE PROFESSIONALS AND TREATING HOSPITALS.—In the case of any care provided, or any treatment decision made, by the treating health care professional or the treating hospital of a participant or beneficiary under a group health plan which consists of medical care provided under such plan, any cause of action under State law against the treating health care professional or the treating hospital by the plan or a health insurance issuer providing health insurance coverage in connection with the plan for recovery, indemnity, or contribution in connection with such care (or any medically reviewable decision made in connection with such care) or such treatment decision is superseded.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) occurring on or after the applicable effective date under section 601.

SEC. 403. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

(a) IN GENERAL.—Subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191 et seq.) is amended by adding at the end the following new section:

"SEC. 735. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

"(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under this title to enforce the requirements applicable under title I of the Patients' Bill of Rights Act of 2005 with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

"(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 734 the following new item:

"Sec. 735. Cooperation between Federal and State authorities".

TITLE V—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Subtitle A—Application of Patient Protection Provisions

SEC. 501. APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Standard relating to patients' bill of rights"; and

(2) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

"A group health plan shall comply with the requirements of title I of the Patients' Bill of Rights Act of 2005 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.".

SEC. 502. CONFORMING ENFORCEMENT FOR WOMEN'S HEALTH AND CANCER RIGHTS.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by section 501, is further amended—

(1) in the table of sections, by inserting after the item relating to section 9813 the following new item:

"Sec. 9814. Standard relating to women's health and cancer rights"; and

(2) by inserting after section 9813 the following:

"SEC. 9814. STANDARD RELATING TO WOMEN'S HEALTH AND CANCER RIGHTS.

"The provisions of section 713 of the Employee Retirement Income Security Act of 1974 (as in effect as of the date of the enactment of this section) shall apply to group health plans as if included in this subchapter.".

Subtitle B—Health Care Coverage Access Tax Incentives

SEC. 511. CREDIT FOR HEALTH INSURANCE EXPENSES OF SMALL BUSINESSES.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

"SEC. 45J. SMALL BUSINESS HEALTH INSURANCE EXPENSES.

"(a) General Rule.—For purposes of section 38, in the case of a small employer, the health insurance credit determined under this section for the taxable year is an amount equal to the applicable percentage of the expenses paid by the taxpayer during the taxable year for health insurance coverage for such year provided under a new health plan for employees of such employer.

"(b) Applicable Percentage.—For purposes of subsection (a), the applicable percentage is—

"(1) in the case of insurance purchased as a member of a qualified health benefit purchasing coalition (as defined in section 9841), 30 percent, and

"(2) in the case of insurance not described in paragraph (1), 20 percent.

"(c) Limitations.—

"(1) Per employee dollar limitation.—The amount of expenses taken into account under subsection (a) with respect to any employee for any taxable year shall not exceed—

"(A) $2,000 in the case of self-only coverage, and

"(B) $5,000 in the case of family coverage. In the case of an employee who is covered by a new health plan of the employer for only a portion of such taxable year, the limitation under the preceding sentence shall be an amount which bears the same ratio to such limitation (determined without regard to this sentence) as such portion bears to the entire taxable year.

"(2) Period of coverage.—Expenses may be taken into account under subsection (a) only with respect to coverage for the 4-year period beginning on the date the employer establishes a new health plan.

"(d) Definitions.—For purposes of this section—

"(1) Health insurance coverage.—The term 'health insurance coverage' has the meaning given such term by section 9832(b)(1).

"(2) New health plan.—

"(A) In general.—The term 'new health plan' means any arrangement of the employer which provides health insurance coverage to employees if—

"(i) such employer (and any predecessor employer) did not establish or maintain such arrangement (or any similar arrangement) at any time during the 2 taxable years ending prior to the taxable year in which the credit under this section is first allowed, and

"(ii) such arrangement provides health insurance coverage to at least 70 percent of the qualified employees of such employer.

"(B) Qualified employee.—

"(i) In general.—The term 'qualified employee' means any employee of an employer if the annual rate of such employee's compensation (as defined in section 414(s)) exceeds $10,000.

"(ii) Treatment of certain employees.—The term 'employee' shall include a leased employee within the meaning of section 414(n).

"(3) Small employer.—The term 'small employer' has the meaning given to such term by section 4980D(d)(2); except that only qualified employees shall be taken into account.

"(e) Special Rules.—

"(1) Certain rules made applicable.—For purposes of this section, rules similar to the rules of section 52 shall apply.

"(2) Amounts paid under salary reduction arrangements.—No amount paid or incurred pursuant to a salary reduction arrangement shall be taken into account under subsection (a).

"(f) Termination.—This section shall not apply to expenses paid or incurred by an employer with respect to any arrangement established on or after January 1, 2014.".

(b) Credit to Be Part of General Business Credit.—Section 38(b) of such Code (relating to current year business credit) is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ", plus", and by adding at the end the following:

"(20) in the case of a small employer (as defined in section 45J(d)(3)), the health insurance credit determined under section 45J(a).".

(c) Denial of Double Benefit.—Section 280C of such Code is amended by adding at the end the following new subsection:

"(e) Credit for Small Business Health Insurance Expenses.—

"(1) In general.—No deduction shall be allowed for that portion of the expenses (otherwise allowable as a deduction) taken into account in determining the credit under section 45J for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45J(a).

"(2) Controlled groups.—Persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 person for purposes of this section.".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following:

"Sec. 45J. Small business health insurance expenses".

(e) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2006, for arrangements established after the date of the enactment of this Act.

SEC. 512. CERTAIN GRANTS BY PRIVATE FOUNDATIONS TO QUALIFIED HEALTH BENEFIT PURCHASING COALITIONS.

(a) In General.—Section 4942 of the Internal Revenue Code of 1986 (relating to taxes on failure to distribute income) is amended by adding at the end the following:

"(k) Certain Qualified Health Benefit Purchasing Coalition Distributions.—

"(1) In general.—For purposes of subsection (g), sections 170, 501, 507, 509, and 2522, and this chapter, a qualified health benefit purchasing coalition distribution by a private foundation shall be considered to be a distribution for a charitable purpose.

"(2) Qualified health benefit purchasing coalition distribution.—For purposes of paragraph (1)—

"(A) In general.—The term 'qualified health benefit purchasing coalition distribution' means any amount paid or incurred by a private foundation to or on behalf of a qualified health benefit purchasing coalition (as defined in section 9841) for purposes of payment or reimbursement of amounts paid or incurred in connection with the establishment and maintenance of such coalition.

"(B) Exclusions.—Such term shall not include any amount used by a qualified health benefit purchasing coalition (as so defined)—

"(i) for the purchase of real property,

"(ii) as payment to, or for the benefit of, members (or employees or affiliates of such members) of such coalition, or

"(iii) for any expense paid or incurred more than 48 months after the date of establishment of such coalition.

"(3) Termination.—This subsection shall not apply—

"(A) to qualified health benefit purchasing coalition distributions paid or incurred after December 31, 2013, and

"(B) with respect to start-up costs of a coalition which are paid or incurred after December 31, 2014.".

(b) Qualified Health Benefit Purchasing Coalition.—

(1) In general.—Chapter 100 of such Code (relating to group health plan requirements) is amended by adding at the end the following new subchapter:

"Subchapter D—Qualified Health Benefit Purchasing Coalition

"Sec. 9841. Qualified health benefit purchasing coalition.

"SEC. 9841. QUALIFIED HEALTH BENEFIT PURCHASING COALITION.

"(a) In General.—A qualified health benefit purchasing coalition is a private not-for-profit corporation which—

"(1) sells health insurance through State licensed health insurance issuers in the State in which the employers to which such coalition is providing insurance are located, and

"(2) establishes to the Secretary, under State certification procedures or other procedures as the Secretary may provide by regulation, that such coalition meets the requirements of this section.

"(b) Board of Directors.—

"(1) In general.—Each purchasing coalition under this section shall be governed by a Board of Directors.

"(2) Election.—The Secretary shall establish procedures governing election of such Board.

"(3) Membership.—The Board of Directors shall—

"(A) be composed of representatives of the members of the coalition, in equal number, including small employers and employee representatives of such employers, but

"(B) not include other interested parties, such as service providers, health insurers, or insurance agents or brokers which may have a conflict of interest with the purposes of the coalition.

"(c) Membership of Coalition.—

"(1) In general.—A purchasing coalition shall accept all small employers residing within the area served by the coalition as members if such employers request such membership.

"(2) Other members.—The coalition, at the discretion of its Board of Directors, may be open to individuals and large employers.

"(3) Voting.—Members of a purchasing coalition shall have voting rights consistent with the rules established by the State.

"(d) Duties of Purchasing Coalitions.—Each purchasing coalition shall—

"(1) enter into agreements with small employers (and, at the discretion of its Board, with individuals and other employers) to provide health insurance benefits to employees and retirees of such employers, “(2) where feasible, enter into agreements with 3 or more unaffiliated, qualified licensed health plans, to offer benefits to members,

“(3) offer to members at least 1 open enrollment period of at least 30 days per calendar year,

“(4) serve a significant geographical area and market to all eligible members in that area, and

“(5) carry out other functions provided for under this section.

“(e) LIMITATION ON ACTIVITIES.—A purchasing coalition shall not—

“(1) perform any activity (including certification or enforcement) relating to compliance or licensing of health plans,

“(2) assume insurance or financial risk in relation to any health plan, or

“(3) perform other activities identified by the State as being inconsistent with the performance of its duties under this section.

“(f) ADDITIONAL REQUIREMENTS FOR PURCHASING COALITIONS.—As provided by the Secretary in regulations, a purchasing coalition shall be subject to requirements similar to the requirements of a group health plan under this chapter.

“(g) RELATION TO OTHER LAWS.—

“(1) PREEMPTION OF STATE FICTITIOUS GROUP LAWS.—Requirements (commonly referred to as fictitious group laws) relating to grouping and similar requirements for health insurance coverage are preempted to the extent such requirements impede the establishment and operation of qualified health benefit purchasing coalitions.

“(2) ALLOWING SAVINGS TO BE PASSED THROUGH.—Any State law that prohibits health insurance issuers from reducing premiums on health insurance coverage sold through a qualified health benefit purchasing coalition to reflect administrative savings is preempted. This paragraph shall not be construed to preempt State laws that impose restrictions on premiums based on health status, claims history, industry, age, gender, or other underwriting factors.

“(3) NO WAIVER OF HIPAA REQUIREMENTS.—Nothing in this section shall be construed to change the obligation of health insurance issuers to comply with the requirements of title XXVII of the Public Health Service Act with respect to health insurance coverage offered to small employers in the small group market through a qualified health benefit purchasing coalition.

“(h) DEFINITION OF SMALL EMPLOYER.—For purposes of this section—

“(1) IN GENERAL.—The term ‘small employer’ means, with respect to any calendar year, any employer if such employer employed an average of at least 2 and not more than 50 qualified employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

“(2) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under paragraph (1) shall be based on the average number of qualified employees that it is reasonably expected such employer will employ on business days in the current calendar year.”.

(2) CONFORMING AMENDMENT.—The table of subchapters for chapter 100 of such Code is amended by adding at the end the following item:

“SUBCHAPTER D—QUALIFIED HEALTH BENEFIT PURCHASING COALITION”.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2006.

SEC. 513. STATE GRANT PROGRAM FOR MARKET INNOVATION.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall establish a program (in this section referred to as the “program”) to award demonstration grants under this section to States to allow States to demonstrate the effectiveness of innovative ways to increase access to health insurance through market reforms and other innovative means. Such innovative means may include (and are not limited to) any of the following:

(1) Alternative group purchasing or pooling arrangements, such as purchasing cooperatives for small businesses, reinsurance pools, or high risk pools.

(2) Individual or small group market reforms.

(3) Consumer education and outreach.

(4) Subsidies to individuals, employers, or both, in obtaining health insurance.

(b) SCOPE; DURATION.—The program shall be limited to not more than 10 States and to a total period of 5 years, beginning on the date the first demonstration grant is made.

(c) CONDITIONS FOR DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Secretary may not provide for a demonstration grant to a State under the program unless the Secretary finds that under the proposed demonstration grant—

(A) the State will provide for demonstrated increase of access for some portion of the existing uninsured population through a market innovation (other than merely through a financial expansion of a program initiated before the date of the enactment of this Act);

(B) the State will comply with applicable Federal laws;

(C) the State will not discriminate among participants on the basis of any health status-related factor (as defined in section 2791(d)(9) of the Public Health Service Act), except to the extent a State wishes to focus on populations that otherwise would not obtain health insurance because of such factors; and

(D) the State will provide for such evaluation, in coordination with the evaluation required under subsection (d), as the Secretary may specify.

(2) APPLICATION.—The Secretary shall not provide a demonstration grant under the program to a State unless—

(A) the State submits to the Secretary such an application, in such a form and manner, as the Secretary specifies;

(B) the application includes information regarding how the demonstration grant will address issues such as governance, targeted population, expected cost, and the continuation after the completion of the demonstration grant period; and

(C) the Secretary determines that the demonstration grant will be used consistent with this section.

(3) FOCUS.—A demonstration grant proposal under section need not cover all uninsured individuals in a State or all health care benefits with respect to such individuals.

(d) EVALUATION.—The Secretary shall enter into a contract with an appropriate entity outside the Department of Health and Human Services to conduct an overall evaluation of the program at the end of the program period. Such evaluation shall include an analysis of improvements in access, costs, quality of care, or choice of coverage, under different demonstration grants.

(e) OPTION TO PROVIDE FOR INITIAL PLANNING GRANTS.—Notwithstanding the previous provisions of this section, under the program the Secretary may provide for a portion of the amounts appropriated under subsection (f) (not to exceed $5,000,000) to be made available to any State for initial planning grants to permit States to develop demonstration grant proposals under the previous provisions of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for each fiscal year to carry out this section. Amounts appropriated under this subsection shall remain available until expended.

(g) STATE DEFINED.—For purposes of this section, the term “State” has the meaning given such term for purposes of title XIX of the Social Security Act.

SEC. 514. GRANT PROGRAM TO FACILITATE HEALTH BENEFITS INFORMATION FOR SMALL EMPLOYERS.

(a) IN GENERAL.—The Small Business Administration shall award grants to 1 or more States, local governments, and non-profit organizations for the purposes of—

(1) demonstrating new and effective ways to provide information about the benefits of health insurance to small employers, including tax benefits, increased productivity of employees, and decreased turnover of employees,

(2) making employers aware of their current rights in the marketplace under State and Federal health insurance reforms, and

(3) making employers aware of the tax treatment of insurance premiums.

(b) AUTHORIZATION.—There is authorized to be appropriated $10,000,000 for each of the first 5 fiscal years beginning after the date of the enactment of this Act for grants under subsection (a).

SEC. 515. STATE GRANT PROGRAM FOR MARKET INNOVATION.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall establish a program (in this section referred to as the “program”) to award demonstration grants under this section to States to allow States to demonstrate the effectiveness of innovative ways to increase access to health insurance through market reforms and other innovative means. Such innovative means may include (and are not limited to) any of the following:

(1) Alternative group purchasing or pooling arrangements, such as purchasing cooperatives for small businesses, reinsurance pools, or high risk pools.

(2) Individual or small group market reforms.

(3) Consumer education and outreach.

(4) Subsidies to individuals, employers, or both, in obtaining health insurance.

(b) SCOPE; DURATION.—The program shall be limited to not more than 10 States and to a total period of 5 years, beginning on the date the first demonstration grant is made.

(c) CONDITIONS FOR DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Secretary may not provide for a demonstration grant to a State under the program unless the Secretary finds that under the proposed demonstration grant—

(A) the State will provide for demonstrated increase of access for some portion of the existing uninsured population through a market innovation (other than merely through a financial expansion of a program initiated before the date of the enactment of this Act);

(B) the State will comply with applicable Federal laws;

(C) the State will not discriminate among participants on the basis of any health status-related factor (as defined in section 2791(d)(9) of the Public Health Service Act), except to the extent a State wishes to focus on populations that otherwise would not obtain health insurance because of such factors; and

(D) the State will provide for such evaluation, in coordination with the evaluation required under subsection (d), as the Secretary may specify.

(2) APPLICATION.—The Secretary shall not provide a demonstration grant under the program to a State unless—

(A) the State submits to the Secretary such an application, in such a form and manner, as the Secretary specifies;

(B) the application includes information regarding how the demonstration grant will address issues such as governance, targeted population, expected cost, and the continuation after the completion of the demonstration grant period; and

(C) the Secretary determines that the demonstration grant will be used consistent with this section.

(3) FOCUS.—A demonstration grant proposal under section need not cover all uninsured individuals in a State or all health care benefits with respect to such individuals.

(d) EVALUATION.—The Secretary shall enter into a contract with an appropriate entity outside the Department of Health and Human Services to conduct an overall evaluation of the program at the end of the program period. Such evaluation shall include an analysis of improvements in access, costs, quality of care, or choice of coverage, under different demonstration grants.

(e) OPTION TO PROVIDE FOR INITIAL PLANNING GRANTS.—Notwithstanding the previous provisions of this section, under the program the Secretary may provide for a portion of the amounts appropriated under subsection (f) (not to exceed $5,000,000) to be made available to any State for initial planning grants to permit States to develop demonstration grant proposals under the previous provisions of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for each fiscal year to carry out this section. Amounts appropriated under this subsection shall remain available until expended.

(g) STATE DEFINED.—For purposes of this section, the term "State" has the meaning given such term for purposes of title XIX of the Social Security Act.

TITLE VI—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 601. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (d), the amendments made by sections 201(a), 401, 501, and 502 (and title I insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 2006 (in this section referred to as the "general effective date").

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by sections 201(a), 401, 501, and 502 (and title I insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (excluding any extension thereof agreed to after the date of the enactment of this Act); or

(B) the general effective date;

but shall apply not later than 1 year after the general effective date. For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this Act shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—Subject to subsection (d), the amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

(c) TREATMENT OF RELIGIOUS NONMEDICAL PROVIDERS.—

(1) IN GENERAL.—Nothing in this Act (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage, to include as providers religious nonmedical providers;

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding provider status of religious nonmedical providers;

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers;

(iii) utilize medical professionals or criteria in making decisions in internal or external appeals regarding coverage for care by religious nonmedical providers; or

(iv) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage for treatment by a religious nonmedical provider; or

(C) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other required data, if such data is inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) RELIGIOUS NONMEDICAL PROVIDER.—For purposes of this subsection, the term "religious nonmedical provider" means a provider who provides no medical care but who provides only religious nonmedical treatment or religious nonmedical nursing care.

(d) TRANSITION FOR NOTICE REQUIREMENT.—The disclosure of information required under section 121 of this Act shall first be provided pursuant to—

(1) subsection (a) with respect to a group health plan that is maintained as of the general effective date, not later than 30 days before the beginning of the first plan year to which title I applies in connection with the plan under such subsection; or

(2) subsection (b) with respect to an individual health insurance coverage that is in effect as of the general effective date, not later than 30 days before the first date as of which title I applies to the coverage under such subsection.

SEC. 602. COORDINATION IN IMPLEMENTATION.

The Secretary of Labor and the Secretary of Health and Human Services shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under the provisions of this Act (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

SEC. 603. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) IN GENERAL.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such Act.

By Mrs. FEINSTEIN (for herself, Mr. CORNYN, Mr. LAUTENBERG, Mrs. HUTCHISON, Mrs. BOXER, Mr. CORZINE, Mr. SCHUMER, Mrs. CLINTON, Mr. NELSON of Florida, and Mr. KENNEDY):

S. 1013. A bill to improve the allocation of grants through the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Homeland Security FORWARD Funding Act of 2005. I am pleased to be joined by my colleague from Texas, Senator JOHN CORNYN, as well as Senators LAUTENBERG, HUTCHISON, BOXER, CORZINE, SCHUMER, CLINTON and Senator NELSON of Florida.

It is time that Congress ensures that funding to bolster the security of our nation goes to where the threat is the greatest.

Unfortunately, billions of dollars in homeland security funds to states and local communities—including $3.6 billion in fiscal year 2005—are now being distributed to areas that are not at the greatest risk of terrorist attack.

To do this, we need to adopt risk-based analysis to determine where our homeland security funding goes, rather than continue with the present system of ad hoc determinations, "small-state minimums" and poorly understood decision-making, that leave some targets exposed to threats while sending resources to places where there is little chance of terrorist attack.

This legislation will ensure that priorities are set according to analysis of risk and threat. Specifically it directs the Secretary of Homeland Security to allocate funding to homeland security grants based on risk analysis.

This is the core of the bill, and I believe it is so important that I will quote in full the operative language, which appears in the very first substantive section of the legislation: "The Secretary shall ensure that homeland security grants are allocated based on an assessment of threat, vulnerability, and consequence to the maximum extent practicable."

This direction covers the four major first-responder grant programs administered by Department of Homeland Security in addition to grants for seaport and airport security—called "covered grants" in the bill, including: 1. The State Homeland Security Grant Program; 2. The Urban Area Security Initiative; 3. The Law Enforcement Terrorism Prevention Program; and 4. The Citizens Corps Program.

Reduces the "small state minimum" to 25 percent per State. Current practice requires each state to get .75 percent of much of the grant funding. That means 37.5 percent of the funds are marked for distribution before any risk analysis.

Requires grants be designed to meet "essential capabilities." Essential capabilities are what we get for the money spent—the ability to address the risk by reducing vulnerability to attack and by diminishing the consequences of such an attack by effective response.

Ensures that States quickly and effectively pass on Federal funds to where they are needed so that Federal funds are not held back.

The bottom line is this: if Federal funds are going to be distributed to improve our national ability to "prevent, prepare for, respond to, or mitigate threatened or actual terrorist attacks," those funds should be distributed in accordance with a risk-based analysis.

In this post-Cold War world of asymmetric threat there are two fundamental principles we should apply to efforts to make our nation more secure against a terrorist attack: the first is that understanding and predicting what terrorists will do requires risk analysis.

It is an uncomfortable fact that, even with the best intelligence, we will never know exactly how, when and where terrorists will strike—the best we can do is try to assess risks and threats, and make predictions.

The second principle is that our defense resources are finite.

The total amount of money, time and personnel that can be devoted to homeland security is limited. That means tough choices have to be made by both the Congress, and by Executive Branch officials at the Federal, State and Local level.

Together these two principles define what we need to do for our Nation: accurately assess the risks of an array of possible terrorist attacks; measure the vulnerability of all of these possible targets, and then allocate our resources based on that assessment.

Three years ago, we created the Department of Homeland Security in an effort to create an institution that could perform this task.

The core element of the new Department was to be the Information Assessment and Infrastructure Protection Directorate, which would "merge under one roof the capability to identify and assess current and future threats to the homeland, map those threats against our vulnerabilities, issue timely warnings and take preventive and protective action."

We are failing in this effort.

The 9/11 Commission agreed, finding that "nothing has been harder for officials—executive or legislative than to set priorities, making hard choices in allocating limited resources."

The Commission concluded, "Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities."

This bill does just that.

The New York Times, an editorial published last month, titled "Real Security, or Politics as Usual?" agreed:

> Any terrorist who has followed how domestic security money is distributed in this country must be encouraged by the government's ineptness . . . The current formula is based in part on population, rather than risk, and contains state minimums, so even sparsely populated states that hardly have a plausible terrorism target are raking in money. This is the formula that gave Wyoming seven times more domestic security money per capita than New York . . . If there were a successful attack on Wall Street or the ports of Los Angeles and Long Beach, it would be a blow to the whole nation. Defending places where the terrorist threat is greatest is not parochialism; it is defending America.

Despite these recommendations, we find again and again that scarce resources are allocated based on factors unrelated to real security.

For instance, Congress has established a "small State minimum" designed to ensure that every State gets a substantial portion of scarce resources, regardless of the measure of risk or vulnerability.

As a result, in fiscal year 2004 Wyoming spent $37.52 per capita with homeland security grants, while California and Texas spent $8.75 and $6.93 respectively.

The problem is not just in Congress. For example, a recent Department of Homeland Security Inspector General's report found that in the critical area of port security, grants are "not well coordinated with the Information Analysis and Infrastructure Protection."

The result is the "funding of projects with low [risk and vulnerability] scores."

A recently issued report from the Center for Security Studies and the Heritage Foundation found that there is:

> no funding formula that is based on risk analysis and divorced from politics . . . [w]ith only limited resources available to achieve the almost limitless goal of protecting the entire United States . . . it is critical that we set priorities.

This bill is a first step to reducing threats of terrorist attack, but Congress can not do it alone.

The Department of Homeland Security must embrace not only the concept of risk-based allocation, but also the practical aspects of the discipline. That means improving the intelligence analysis and vulnerability assessment functions of the Department.

We also need to follow through on last year's intelligence reform efforts, since the product of the Intelligence Community—analysis of the plans, intentions and capabilities of terrorist groups—is the key element in an effective risk analysis.

This will not be easy. There are lots of vested interests who will oppose such efforts. But our nation's safety is at sake. It is time to put aside pork-barrel politics and a Cold War mentality and get to work.

Last year Representatives COX and TURNER, the Chair and Ranking Member, respectively, of the other body's Homeland Security Committee put forth similar legislation.

That effort passed the House of Representatives as part of the Intelligence Reform Bill, but was dropped at conference—that bill has been reintroduced, and is scheduled for consideration on the floor of the House this week.

This bill is based on Chairman COX's efforts, and with a few exceptions tracks it closely.

However, unlike the House bill, this bill makes an across-the-board reduction of the small-State minimum to .25 percent—the House bill retains a sliding scale that I believe will have the effect of undercutting its risk-based approach.

In this body, Senators COLLINS and LIEBERMAN have been working to craft risk-based legislation, which was recently reported favorably by the Senate Homeland Security Committee.

I hope that the bill introduced today will be accepted by Senators COLLINS and LIEBERMAN in the spirit in which it was drafted—as a reasoned alternative to their approach, and as a starting point for further discussions.

It is my hope that Congress will act quickly to pass this legislation. We cannot afford to wait until it is too late.

Mr. CORNYN. Mr. President, I rise today to join with my colleague, Senator DIANNE FEINSTEIN of California and other of our distinguished colleagues in introducing The Homeland Security FORWARD Funding Act of 2005.

I would like to thank Senator FEINSTEIN for her collaboration in crafting this legislation. I know that she has thoughtfully examined the current state of our Homeland Security Funding and the many other interrelated issues, and I thank her for her fine leadership as we work together exploring ways to better protect our country.

We say it often, and it is true: "9/11 changed everything." The attacks of that day were unprecedented in our history, and they brought with them the need for similarly unprecedented security measures. In an effort to respond quickly to the devastation that was wrought upon our country, the Federal Government created a system that worked to raise overall national emergency preparedness to ensure we could better guard against another such terrorist attack.

And so we embarked on the task of shoring up our airline, transportation, border, and port security. We worked to protect our critical infrastructure, to protect our cyber security, our agriculture and food supply systems.

But taxpayer dollars are not limitless, and Congress must work to ensure every penny be directed where it will do the most good. It is imperative that we guard the places across our nation where terrorists may strike and where such strikes could do the most damage to our people, our government, and our national economy. We believe this is the most responsible way to prepare for any future terrorist attack.

We need to have a system that will protect our most vulnerable population centers, and that recognizes the need to protect the critical infrastructure and vital components of our national economy. I am reminded of a recent tour I took of several Texas seaports. I visited with port directors, industry leaders, and emergency responders in and around the ports of Houston, Beaumont, and Corpus Christi. They have enormous security needs and the consequences of a terrorist attack on any of these facilities would be devastating, not only to the local communities, but to the economic engine of the whole country.

The legislation that Senator FEINSTEIN and I now propose would require that Federal Homeland Security funds be allocated to states according to a risk-based assessment. It is vital that we better allocate our limited resources to the vulnerable places in the country we most need to protect, and that that these funds are distributed in an efficient and timely manner.

Senator FEINSTEIN and I have evaluated the 9/11 Commission recommendations that call for allocation of money based on vulnerabilities, and our legislation provides for a distribution formula for homeland security grants based on three main criteria: Threat, vulnerability, and consequence. This would require states to quickly pass on federal funds to where they are most needed. This bill is inspired by the hard work and examination done on this issue by our colleagues in the House and Senate. We have also taken input from stakeholders in our respective States and from across the country. It is our hope and intention that by introducing this bill we can contribute and enrich the public discourse on this critical issue and help move the Nation toward a more rational and effective distribution of our homeland security resources.

Key provisions of this bill include: establishing a First Responder Grant Board, consisting of Department of Homeland Security leadership, that will rank and prioritize grant applications based on threat and vulnerability. Enabling a region that encompasses more than one State to apply for funds. The money would still pass through the States, but would go to the region to better enable coordination and planning. Provides greater flexibility in using the funds, allowing a State to use them for other hazards consistent with federally established capability standards. And it allows States to retain authority to administer grant programs, but there are penalties for States that do not pass funds to local governments within 45 days, and if a State fails to pass the funds through, local governments may petition the Department of Homeland Security to receive the funds directly.

Continuing to spread Homeland Security funds throughout the Nation irrespective of the actual risk to particular States and communities would be to ignore much of what we have learned as part of our effort to assess our vulnerabilities since the attacks of September 11. So I would urge that we swiftly work to pass this legislation, to better ensure the safety of our citizens.

By Ms. SNOWE:

S. 1014. A bill to provide additional relief for small business owners ordered to active duty as members of reserve components of the Armed Forces, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today to offer the Supporting Our Patriotic Businesses Act. This bill addresses some key concerns I have regarding the impact that military call-ups have on our Nation's small businesses.

Today, I am offering my legislation in conjunction with the release of a Congressional Budget Office Report entitled "The Impact of Reserve Call-ups on Civilian Employers." I commissioned the Report a year and a half ago, because I believed then, as I do now, that our country is not doing enough for the patriotic small businesses that are owned by or employ our Guard and Reserve members; and which are negatively effected when these workers are called up in defense of our Nation.

Although I am still analyzing the Report, three key findings immediately caught my attention. For instance, the Report concludes that: 1. Thirty-five percent of Guard and Reserve members work for small businesses or are self-employed, twenty-six percent work for large businesses, thirty-six percent work for the government, Federal, State, or local, and the remainder work for non-profit organizations. Therefore, the majority of non-government employed Guard and Reserve members are either self-employed, or work for small businesses. 2. Over the past decade, the military has dramatically increased its reliance on Guard and Reserve forces. This trend has accelerated since the terrorism attacks of September 11, 2001. Guard and Reserve members make up about thirty-three percent of deployed service members supporting operations in Iraq and Afghanistan. 3. I am particularly troubled by a third finding which confirms what I have feared all along—that the self-employed, and the small businesses that employ Guard and Reserve members, may be "paying" a disproportionate and unfair share of the burden of increased Guard and Reserve member call-ups. The burden is further magnified when it is the small business owner, or a key employee, who is deployed.

As members of this institution charged with the duty of preserving the public trust, we should work together, on a bipartisan basis, to help diminish the unfair burden these employers and self-employed businesses shoulder.

It is difficult enough to leave friends and family behind and enter harm's way, but asking our military personnel to also jeopardize their livelihood is unconscionable. By assisting these businesses and the self-employed, we are helping to diminish important concerns of our military personnel, improving their morale and positively affecting retention.

The legislation that I offer today contains multiple provisions in support of self-employed Guard and Reserve members and the patriotic businesses that employ Guard and Reserve members.

First, it authorizes increased appropriations for the Small Business Administration's (SBA) Office of Veteran Business Development, which offers vital services to our Nation's small businesses that are owned or employ our veterans. For instance, the office has prepared and distributed pre- and post-mobilization packets for small businesses, offers loans, and provides targeted business advice to meet the needs of our veterans and small businesses.

My bill permanently extends the authority and duties of the SBA's Advisory Committee on Veterans Business Affairs, which has served as an invaluable independent source of advice and policy on veterans' business issues.

My legislation provides that a service member does not need to satisfy any continuing education requirements, imposed with respect to their profession or occupation, while they are called up, or within the 120-day period after they are released from the call-up.

I have also included a provision which amends the Small Business Act by allowing small businesses owned by veterans and service-disabled veterans to extend their SBA program participation time limitations by the length of time that their owners are called up in defense of our Nation. Currently, small business owners who are called up to active duty in the Guard or Reserve are effectively penalized for serving because their active duty time is counted against the time limitations on participation of the Small Business Administration's programs.

Finally, my bill requires that the Department of Defense take measures to counsel Guard and Reserve members concerning the importance of notifying their employers in a timely manner after they receive Orders that they will be called up to active duty. The legislation further requires that the DoD investigate ways to diminish the lag between the time when military personnel are notified of their call-up and the time that military personnel notify their employers.

Enacting this legislation is an important first step in the right direction toward assisting the brave men and women who serve in our Guard and Reserve and the businesses that employ them. However, I realize that this legislation is merely one of many steps that can and should be taken to this end and welcome new ideas to help this constituency.

I encourage my colleagues to join me in supporting this bill, and to continue to work with me, as well as veterans, policymakers, businesses, and others, to find additional solutions to address these vital issues.

I ask unanimous consent that the text of the bill and that a section-by-section summary of the bill be printed in the Record.

Thank you for allowing me the opportunity to discuss this pressing matter.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Supporting Our Patriotic Businesses Act of 2005".

SEC. 2. FINDINGS.

Congress finds the following:

(1) From September 2001 through November 2004, approximately 410,000 members of the reserve components of the Armed Forces, including the National Guard and Reserves, have been mobilized in support of United States military operations.

(2) According to 2004 data from the Manpower Data Center of the Department of Defense, an estimated 35 percent of Guard members and Reservists are either self-employed or own or are employed by a small business.

(3) The majority of privately employed National Guard and Reserve members either work for a small business or are self-employed.

(4) As a result of activations, many small businesses have been forced to go without their owners and key personnel for months, and sometimes years, on end.

(5) The effects have been devastating to such patriotic small businesses.

(6) The Office of Veterans Business Development of the Small Business Administration has made a concerted effort to reach out to small businesses affected by deployments, but given the sheer numbers of those deployed, their resources have been stretched thin.

(7) In addition, the Office of Veterans Business Development has been required to broaden its delivery of services, as directed by Executive Order 13360, to provide procurement training programs for service-disabled veterans.

(8) This Act will help to stem the effects of National Guard and Reservist deployments on small businesses, and better assist veterans and service-disabled veterans with their business needs.

SEC. 3. INCREASED FUNDING FOR THE OFFICE OF VETERANS BUSINESS DEVELOPMENT.

There is authorized to be appropriated to the Office of Veterans Business Development of the Small Business Administration, and to remain available until expended—

(1) $2,000,000 for fiscal year 2006;

(2) $2,100,000 for fiscal year 2007; and

(3) $2,200,000 for fiscal year 2008.

SEC. 4. PERMANENT EXTENSION OF SBA ADVISORY COMMITTEE ON VETERANS BUSINESS AFFAIRS.

(a) Assumption of Duties.—Section 33 of the Small Business Act (15 U.S.C. 657c) is amended—

(1) by striking subsection (h); and

(2) by redesignating subsections (i) through (k) as subsections (h) through (j), respectively.

(b) Permanent Extension of Authority.—Section 203 of the Veterans Entrepreneurship and Small Business Development Act of 1999 (15 U.S.C. 657b note) is amended by striking subsection (h).

SEC. 5. PROFESSIONAL AND OCCUPATIONAL LICENSING.

(a) In General.—Title VII of the Servicemembers Civil Relief Act (50 U.S.C. App. 591 et seq.) is amended by adding at the end the following new section:

"SEC. 707. CONTINUING EDUCATION REQUIREMENTS FOR PROFESSIONAL AND OCCUPATIONAL LICENSES.

"(a) Applicability.—This section applies to any servicemember who, after the date of enactment of this section, is ordered to active duty (other than for training) pursuant to section 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12307 of title 10, United States Code, or who is ordered to active duty under section 12301(d) of such title, during a period when members are on active duty pursuant to any such section.

"(b) Continuing Education Requirements.—A servicemember described in subsection (a) may not be required to complete the satisfaction of any continuing education requirements imposed with respect to the profession or occupation of the servicemember that accrue during the period of active duty of the servicemember as described in that subsection—

"(1) during such period of active duty; and

"(2) during the 120-day period beginning on the date of the release of the servicemember from such period of active duty.

"(c) Active Duty Defined.—In this section, the term 'active duty' has the meaning given that term in section 101(d) of title 10, United States Code.".

(b) Clerical Amendment.—The table of contents for such Act is amended by adding at the end the following new item:

"Sec. 707. Continuing education requirements for professional and occupational licenses.".

SEC. 6. RELIEF FROM TIME LIMITATIONS FOR VETERAN-OWNED SMALL BUSINESSES.

Section 3(q) of the Small Business Act (15 U.S.C. 632(q)) is amended by adding at the end the following:

"(5) Relief from time limitations.—

"(A) In general.—Any time limitation on any qualification, certification, or period of participation imposed under this Act on any program available to small business concerns shall be extended for a small business concern that—

"(i) is owned and controlled by—

"(I) a veteran who was called or ordered to active duty under a provision of law specified in section 101(a)(13)(B) of title 10, United States, on or after September 11, 2001; or

"(II) a service-disabled veteran who became such a veteran due to an injury or illness incurred or aggravated in the active miliary, naval, or air service during a period of active duty pursuant to a call or order to active duty under a provision of law referred to in subclause (I) on or after September 11, 2001; and

"(ii) was subject to the time limitation during such period of active duty.

"(B) Duration.—Upon submission of proper documentation to the Administrator, the extension of a time limitation under subparagraph (A) shall be equal to the period of time that such veteran who owned or controlled such a concern was on active duty as described in that subparagraph.".

SEC. 7. COUNSELING OF MEMBERS OF THE NATIONAL GUARD AND RESERVES ON NOTIFICATION OF EMPLOYERS REGARDING MOBILIZATION.

(a) Counseling Required.—The Secretary of each military department shall provide each member of a reserve component of the Armed Forces under the jurisdiction of the Secretary who is on active duty for a period of more than 30 days, or on the reserve active-status list, counseling on the importance of notifying such member's employer on a timely basis of any call or order of such member to active duty other than for training.

(b) FREQUENCY OF COUNSELING.—Each member of the Armed Forces described in subsection (a) shall be provided the counseling required by that subsection not less often than once each year.

SEC. 8. STUDY ON OPTIONS FOR IMPROVING TIMELY NOTICE OF EMPLOYERS OF MEMBERS OF THE NATIONAL GUARD AND RESERVES REGARDING MOBILIZATION.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall conduct a study of the feasibility and advisability of various options for improving the time in which employers of members of the reserve components of the Armed Forces are notified of the call or order of such members to active duty other than for training.

(2) PURPOSE.—The purpose of the study under paragraph (1) shall be to identify mechanisms, if any, for eliminating or reducing the time between—

(A) the date of the call or order of members of the reserve components of the Armed Forces to active duty; and

(B) the date on which employers of such members are notified of the call or order of such members to active duty.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report on the study conducted under subsection (a). The report shall include—

(1) a description of the study, including the options addressed under the study; and

(2) such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the results of the study.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services and Small Business and Entrepreneurship of the Senate; and

(2) the Committees on Armed Services and Small Business of the House of Representatives.

Background: From September 2001 through November 2004, approximately 410,000 National Guard and Reserve personnel have been mobilized in support of current operations. Thirty-five percent of Guard and Reserve members work for small businesses or are self-employed, 26 percent work for large businesses, 36 percent work for the government, Federal, State, or local, and the remainder work for non-profits. Therefore, the majority of non-government employed Guard and Reserve members are either self-employed, or work for small businesses. As a result of call-ups, many small businesses have been forced to go without their owners and key personnel for months, and sometimes years, on end. The effects have been devastating to these patriotic small businesses.

This Act will help stem the effects of Guard and Reservist call-ups on small businesses and better assist veterans and service-disabled veterans with their business needs.

Section 1.—Title, "The Supporting Our Patriotic Businesses Act."

Section 2.—Findings

Section 3.—Authorizes increased appropriations for the Small Business Administration's (SBA) Office of Veteran Business Development to $2 million for Fiscal Year 2006, $2.1 million for Fiscal Year 2007 and $2.2 million for Fiscal Year 2008.

Reasoning: The SBA's Office of Veteran Business Development has made a concerted effort to reach out to small businesses affected by military deployments, but given the sheer number of those deployed, their resources have been stretched thin. In addition, the Office of Veterans Business Development is now required to broaden its delivery of services, as directed by Executive Order 13360, to provide procurement training programs for service-disabled veterans. This provision will allow the SBA's Office of Veterans Business Development to better assist our nation's veterans and provide them the business services they need.

Section 4.—Permanently extends the authority and duties of the SBA's Advisory Committee on Veterans Business Affairs.

Reasoning: The SBA's Advisory Committee on Veterans Business Affairs has served as a valuable independent source of advice and policy on veterans business issues to: the SBA Administrator; the SBA's Associate Administrator for Veterans Business Development; the Congress; the President; and other U.S. policymakers. The Advisory Committee was commissioned under P.L. 106–50 and is set to terminate its duties on September 20, 2006. This provision will help ensure that the Advisory Committee's vital duties, and the information it provides, are continued.

Section 5.—Provides that a service member need not satisfy any continuing education requirements, imposed with respect to their profession or occupation, while they are called up, or within the 120-day period after they are released from the call-up.

Reasoning: Many Guard and Reserve personnel have continuing education requirements that they are unable to satisfy because of being called to active duty. These patriotic individuals should not have to satisfy these continuing education requirements. NOTE: This provision is a floor, not a ceiling. It should not discourage State or other entities from offering extended benefits/breaks to deployed Guard and Reserve members.

Section 6.—Amends the Small Business Act by allowing small businesses owned by veterans and service-disabled veterans to extend their SBA program participation time limitations by the duration of their owners' active duty service after September 11, 2001.

Reasoning: Some of the SBA's contracting and business development programs have defined time limits for participation. If the firm's time for participation expires prematurely, then competitive opportunities, investments, and jobs become lost. Currently, small business owners who get called up to active duty in the National Guard or Reserve are effectively penalized because their active duty time is counted against the time limitations on participation in the SBA's programs.

Section 7.—Requires that the Secretary of each military department ensure that counseling is provided, at least once a year, to members of the National Guard and Reserves on the importance of notifying their employers regarding their mobilization.

Reasoning: Employers often receive little warning of a guard or reservist's call-up. A survey published by the DoD in November 2003 (DMDC Report No. 2003-10), which questioned guard and reservists who had been called up over the previous 24 months, indicated that they notified their civilian employers an average of 13 days before their call-up began. The survey also showed that almost 60 percent of Guard and Reservists gave their employers advance notice of one week or less. Unfortunately, providing short notice to employers does not allow them time to adequately plan for a guard member or Reservist's absence, and ultimately hurts a business's bottom line. It is important that employers have ample time to make the adjustments necessary to sustain their business.

Section 8.—Improves the focus upon notifying employers in a timely manner regarding call-ups.

Reasoning: For the reasons provided under Section 7, this provision would commission a DoD study on ways to improve the timely notice of employers regarding call-ups.

By Mr. DEMINT:

S. 1015. A bill to amend the Public Health Service Act to provide for cooperative governing of individual health insurance coverage offered in interstate commerce; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEMINT. Mr. President, I rise today to introduce The Health Care Choice Act of 2005, a bill that would help Americans afford health insurance.

Approximately 45 million Americans lack health insurance. These uninsured Americans face significant hurdles in entering the insurance marketplace, including limited choices of insurers and inflexible benefit options. For most, the high cost of health insurance is the biggest impediment to getting coverage. In fact, nearly two-thirds of the uninsured are the working poor, and they cite the high cost of insurance as the primary barrier to accessing health coverage.

The cost of insurance is often increased by excessive State regulations. These State mandates raise the cost of insurance which, in turn, increases the number of Americans who are priced out of the health insurance market.

The Health Care Choice Act will allow consumers to shop for health insurance the same way they do for other insurance products—online, by mail, over the phone, or in consultation with an insurance agent in their hometown. The Act empowers consumers by giving them the ability to purchase an affordable health insurance policy with a range of options.

Consumers will no longer be limited to picking only those policies that meet their state's regulations and mandated benefits. Instead, they can examine the wide array of insurance policies qualified in one State and offered for sale in multiple states. Consumers can choose the policy that best suits their needs, and their budget, without regard to State boundaries. Individuals looking for basic health insurance coverage can opt for a policy with few benefit mandates, and such a policy will be more affordable. On the other hand, consumers who have an interest in a particular benefit, such as infertility treatments, will be able to purchase a policy which includes that benefit.

The Health Care Choice Act will help the uninsured find affordable health insurance, while also providing every

American with more and better health insurance choices. The bill harnesses the power of the marketplace to allow Americans to tailor their insurance choices to their individual needs.

I am grateful to Congressman Shadegg for introducing the Health Care Choice Act in the House today, and I urge my Senate colleagues to support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "Health Care Choice Act of 2005".

SEC. 2. SPECIFICATION OF CONSTITUTIONAL AUTHORITY FOR ENACTMENT OF LAW.

This Act is enacted pursuant to the power granted Congress under article I, section 8, clause 3, of the United States Constitution.

SEC. 3. FINDINGS.

Congress finds the following:

(1) The application of numerous and significant variations in State law impacts the ability of insurers to offer, and individuals to obtain, affordable individual health insurance coverage, thereby impeding commerce in individual health insurance coverage.

(2) Individual health insurance coverage is increasingly offered through the Internet, other electronic means, and by mail, all of which are inherently part of interstate commerce.

(3) In response to these issues, it is appropriate to encourage increased efficiency in the offering of individual health insurance coverage through a collaborative approach by the States in regulating this coverage.

(4) The establishment of risk-retention groups has provided a successful model for the sale of insurance across State lines, as the acts establishing those groups allow insurance to be sold in multiple States but regulated by a single State.

SEC. 4. COOPERATIVE GOVERNING OF INDIVIDUAL HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.) is amended by adding at the end the following new part:

"PART D—COOPERATIVE GOVERNING OF INDIVIDUAL HEALTH INSURANCE COVERAGE

"SEC. 2795. DEFINITIONS.

"In this part:

"(1) PRIMARY STATE.—The term 'primary State' means, with respect to individual health insurance coverage offered by a health insurance issuer, the State designated by the issuer as the State whose covered laws shall govern the health insurance issuer in the sale of such coverage under this part. An issuer, with respect to a particular policy, may only designate one such State as its primary State with respect to all such coverage it offers. Such an issuer may not change the designated primary State with respect to individual health insurance coverage once the policy is issued, except that such a change may be made upon renewal of the policy. With respect to such designated State, the issuer is deemed to be doing business in that State.

"(2) SECONDARY STATE.—The term 'secondary State' means, with respect to individual health insurance coverage offered by a health insurance issuer, any State that is not the primary State. In the case of a health insurance issuer that is selling a policy in, or to a resident of, a secondary State, the issuer is deemed to be doing business in that secondary State.

"(3) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 2791(b)(2), except that such an issuer must be licensed in the primary State and be qualified to sell individual health insurance coverage in that State.

"(4) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term 'individual health insurance coverage' means health insurance coverage offered in the individual market, as defined in section 2791(e)(1).

"(5) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State with respect to the issuer.

"(6) HAZARDOUS FINANCIAL CONDITION.—The term 'hazardous financial condition' means that, based on its present or reasonably anticipated financial condition, a health insurance issuer is unlikely to be able—

"(A) to meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or

"(B) to pay other obligations in the normal course of business.

"(7) COVERED LAWS.—The term 'covered laws' means the laws, rules, regulations, agreements, and orders governing the insurance business pertaining to—

"(A) individual health insurance coverage issued by a health insurance issuer;

"(B) the offer, sale, and issuance of individual health insurance coverage to an individual; and

"(C) the provision to an individual in relation to individual health insurance coverage of—

"(i) health care and insurance related services;

"(ii) management, operations, and investment activities of a health insurance issuer; and

"(iii) loss control and claims administration for a health insurance issuer with respect to liability for which the issuer provides insurance.

"(8) STATE.—The term 'State' means only the 50 States and the District of Columbia.

"(9) UNFAIR CLAIMS SETTLEMENT PRACTICES.—The term 'unfair claims settlement practices' means only the following practices:

"(A) Knowingly misrepresenting to claimants and insured individuals relevant facts or policy provisions relating to coverage at issue.

"(B) Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under policies.

"(C) Failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under policies.

"(D) Failing to effectuate prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear.

"(E) Refusing to pay claims without conducting a reasonable investigation.

"(F) Failing to affirm or deny coverage of claims within a reasonable period of time after having completed an investigation related to those claims.

"(10) FRAUD AND ABUSE.—The term 'fraud and abuse' means an act or omission committed by a person who, knowingly and with intent to defraud, commits, or conceals any material information concerning, one or more of the following:

"(A) Presenting, causing to be presented or preparing with knowledge or belief that it will be presented to or by an insurer, a reinsurer, broker or its agent, false information as part of, in support of or concerning a fact material to one or more of the following:

"(i) An application for the issuance or renewal of an insurance policy or reinsurance contract.

"(ii) The rating of an insurance policy or reinsurance contract.

"(iii) A claim for payment or benefit pursuant to an insurance policy or reinsurance contract.

"(iv) Premiums paid on an insurance policy or reinsurance contract.

"(v) Payments made in accordance with the terms of an insurance policy or reinsurance contract.

"(vi) A document filed with the commissioner or the chief insurance regulatory official of another jurisdiction.

"(vii) The financial condition of an insurer or reinsurer.

"(viii) The formation, acquisition, merger, reconsolidation, dissolution or withdrawal from one or more lines of insurance or reinsurance in all or part of a State by an insurer or reinsurer.

"(ix) The issuance of written evidence of insurance.

"(x) The reinstatement of an insurance policy.

"(B) Solicitation or acceptance of new or renewal insurance risks on behalf of an insurer reinsurer or other person engaged in the business of insurance by a person who knows or should know that the insurer or other person responsible for the risk is insolvent at the time of the transaction.

"(C) Transaction of the business of insurance in violation of laws requiring a license, certificate of authority or other legal authority for the transaction of the business of insurance.

"(D) Attempt to commit, aiding or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this paragraph.

"SEC. 2796. APPLICATION OF LAW.

"(a) IN GENERAL.—The covered laws of the primary State shall apply to individual health insurance coverage offered by a health insurance issuer in the primary State and in any secondary State, but only if the coverage and issuer comply with the conditions of this section with respect to the offering of coverage in any secondary State.

"(b) EXEMPTIONS FROM COVERED LAWS IN A SECONDARY STATE.—Except as provided in this section, a health insurance issuer with respect to its offer, sale, renewal, and issuance of individual health insurance coverage in any secondary State is exempt from any covered laws of the secondary State (and any rules, regulations, agreements, or orders sought or issued by such State under or related to such covered laws) to the extent that such laws would—

"(1) make unlawful, or regulate, directly or indirectly, the operation of the health insurance issuer operating in the secondary State, except that any secondary State may require such an issuer—

"(A) to pay, on a nondiscriminatory basis, applicable premium and other taxes (including high risk pool assessments) which are levied on insurers and surplus lines insurers, brokers, or policyholders under the laws of the State;

"(B) to register with and designate the State insurance commissioner as its agent solely for the purpose of receiving service of legal documents or process;

"(C) to submit to an examination of its financial condition by the State insurance commissioner in any State in which the issuer is doing business to determine the issuer's financial condition, if—

"(i) the State insurance commissioner of the primary State has not done an examination within the period recommended by the National Association of Insurance Commissioners; and

"(ii) any such examination is conducted in accordance with the examiners' handbook of the National Association of Insurance Commissioners and is coordinated to avoid unjustified duplication and unjustified repetition;

"(D) to comply with a lawful order issued—

"(i) in a delinquency proceeding commenced by the State insurance commissioner if there has been a finding of financial impairment under subparagraph (C); or

"(ii) in a voluntary dissolution proceeding;

"(E) to comply with an injunction issued by a court of competent jurisdiction, upon a petition by the State insurance commissioner alleging that the issuer is in hazardous financial condition;

"(F) to participate, on a nondiscriminatory basis, in any insurance insolvency guaranty association or similar association to which a health insurance issuer in the State is required to belong;

"(G) to comply with any State law regarding fraud and abuse (as defined in section 2795(10)), except that if the State seeks an injunction regarding the conduct described in this subparagraph, such injunction must be obtained from a court of competent jurisdiction; or

"(H) to comply with any State law regarding unfair claims settlement practices (as defined in section 2795(9));

"(2) require any individual health insurance coverage issued by the issuer to be countersigned by an insurance agent or broker residing in that Secondary State; or

"(3) otherwise discriminate against the issuer issuing insurance in both the primary State and in any secondary State.

"(c) CLEAR AND CONSPICUOUS DISCLOSURE.—A health insurance issuer shall provide the following notice, in 12-point bold type, in any insurance coverage offered in a secondary State under this part by such a health insurance issuer and at renewal of the policy, with the 5 blank spaces therein being appropriately filled with the name of the health insurance issuer, the name of primary State, the name of the secondary State, the name of the secondary State, and the name of the secondary State, respectively, for the coverage concerned:

'This policy is issued by   and is governed by the laws and regulations of the State of   , and it has met all the laws of that State as determined by that State's Department of Insurance. This policy may be less expensive than others because it is not subject to all of the insurance laws and regulations of the State of   , including coverage of some services or benefits mandated by the law of the State of ________. Additionally, this policy is not subject to all of the consumer protection laws or restrictions on rate changes of the State of   . As with all insurance products, before purchasing this policy, you should carefully review the policy and determine what health care services the policy covers and what benefits it provides, including any exclusions, limitations, or conditions for such services or benefits.'.

"(d) PROHIBITION ON CERTAIN RECLASSIFICATIONS AND PREMIUM INCREASES.—

"(1) IN GENERAL.—For purposes of this section, a health insurance issuer that provides individual health insurance coverage to an individual under this part in a primary or secondary State may not upon renewal—

"(A) move or reclassify the individual insured under the health insurance coverage from the class such individual is in at the time of issue of the contract based on the health-status related factors of the individual; or

"(B) increase the premiums assessed the individual for such coverage based on a health status-related factor or change of a health status-related factor or the past or prospective claim experience of the insured individual.

"(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to prohibit a health insurance issuer—

"(A) from terminating or discontinuing coverage or a class of coverage in accordance with subsections (b) and (c) of section 2742;

"(B) from raising premium rates for all policy holders within a class based on claims experience;

"(C) from changing premiums or offering discounted premiums to individuals who engage in wellness activities at intervals prescribed by the issuer, if such premium changes or incentives—

"(i) are disclosed to the consumer in the insurance contract;

"(ii) are based on specific wellness activities that are not applicable to all individuals; and

"(iii) are not obtainable by all individuals to whom coverage is offered;

"(D) from reinstating lapsed coverage; or

"(E) from retroactively adjusting the rates charged an individual insured individual if the initial rates were set based on material misrepresentation by the individual at the time of issue.

"(e) PRIOR OFFERING OF POLICY IN PRIMARY STATE.—A health insurance issuer may not offer for sale individual health insurance coverage in a secondary State unless that coverage is currently offered for sale in the primary State.

"(f) LICENSING OF AGENTS OR BROKERS FOR HEALTH INSURANCE ISSUERS.—Any State may require that a person acting, or offering to act, as an agent or broker for a health insurance issuer with respect to the offering of individual health insurance coverage obtain a license from that State, except that a State many not impose any qualification or requirement which discriminates against a nonresident agent or broker.

"(g) DOCUMENTS FOR SUBMISSION TO STATE INSURANCE COMMISSIONER.—Each health insurance issuer issuing individual health insurance coverage in both primary and secondary States shall submit—

"(1) to the insurance commissioner of each State in which it intends to offer such coverage, before it may offer individual health insurance coverage in such State—

"(A) a copy of the plan of operation or feasibility study or any similar statement of the policy being offered and its coverage (which shall include the name of its primary State and its principal place of business);

"(B) written notice of any change in its designation of its primary State; and

"(C) written notice from the issuer of the issuer's compliance with all the laws of the primary State; and

"(2) to the insurance commissioner of each secondary State in which it offers individual health insurance coverage, a copy of the issuer's quarterly financial statement submitted to the primary State, which statement shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by—

"(A) a member of the American Academy of Actuaries; or

"(B) a qualified loss reserve specialist.

"(h) POWER OF COURTS TO ENJOIN CONDUCT.—Nothing in this section shall be construed to affect the authority of any Federal or State court to enjoin—

"(1) the solicitation or sale of individual health insurance coverage by a health insurance issuer to any person or group who is not eligible for such insurance; or

"(2) the solicitation or sale of individual health insurance coverage by, or operation of, a health insurance issuer that is in hazardous financial condition.

"(i) STATE POWERS TO ENFORCE STATE LAWS.—

"(1) IN GENERAL.—Subject to the provisions of subsection (b)(1)(G) (relating to injunctions) and paragraph (2), nothing in this section shall be construed to affect the authority of any State to make use of any of its powers to enforce the laws of such State with respect to which a health insurance issuer is not exempt under subsection (b).

"(2) COURTS OF COMPETENT JURISDICTION.—If a State seeks an injunction regarding the conduct described in paragraphs (1) and (2) of subsection (h), such injunction must be obtained from a Federal or State court of competent jurisdiction.

"(j) STATES' AUTHORITY TO SUE.—Nothing in this section shall affect the authority of any State to bring action in any Federal or State court.

"(k) GENERALLY APPLICABLE LAWS.—Nothing in this section shall be construed to affect the applicability of State laws generally applicable to persons or corporations.

"SEC. 2797. PRIMARY STATE MUST MEET FEDERAL FLOOR BEFORE ISSUER MAY SELL INTO SECONDARY STATES.

"A health insurance issuer may not offer, sell, or issue individual health insurance coverage in a secondary State if the primary State does not meet the following requirements:

"(1) The State insurance commissioner must use a risk-based capital formula for the determination of capital and surplus requirements for all health insurance issuers.

"(2) The State must have legislation or regulations in place establishing an independent review process for individuals who are covered by individual health insurance coverage unless the issuer provides an independent review mechanism functionally equivalent (as determined by the primary State insurance commissioner or official) to that prescribed in the 'Health Carrier External Review Model Act' of the National Association of Insurance Commissioners for all individuals who purchase insurance coverage under the terms of this part.

"SEC. 2798. ENFORCEMENT.

"(a) IN GENERAL.—Subject to subsection (b), with respect to specific individual health insurance coverage the primary State for such coverage has sole jurisdiction to enforce the primary State's covered laws in the primary State and any secondary State.

"(b) SECONDARY STATE'S AUTHORITY.—Nothing in subsection (a) shall be construed to affect the authority of a secondary State to enforce its laws as set forth in the exception specified in section 2796(b)(1).

"(c) COURT INTERPRETATION.—In reviewing action initiated by the applicable secondary State authority, the court of competent jurisdiction shall apply the covered laws of the primary State.

"(d) NOTICE OF COMPLIANCE FAILURE.—In the case of individual health insurance coverage offered in a secondary State that fails to comply with the covered laws of the primary State, the applicable State authority of the secondary State may notify the applicable State authority of the primary State.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individual health insurance coverage offered, issued, or sold after the date of the enactment of this Act.

SEC. 5. SEVERABILITY.

If any provision of the Act or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provisions of such to any other person or circumstance shall not be affected.

By Mr. CHAFEE (for himself, Mr. INHOFE, Mr. JEFFORDS, Mrs. CLINTON, Mr. LAUTENBERG, Mr. VITTER, Mr. BAUCUS, Ms. MURKOWSKI, Mr. CRAPO, Mr. ENZI, and Mr. CORZINE):

S. 1017. A bill to reauthorize grants from the water resources research and technology institutes established under the Water Resources Research Act of 1984; to the Committee on Environment and Public Works.

Mr. CHAFEE. Mr. President, I rise today to introduce legislation reauthorizing appropriations for the Water Resources Research Act. The Chairman and Ranking Member of the Senate Committee on Environment and Public Works, Senators INHOFE and JEFFORDS, respectively, as well as Senators CLINTON, LAUTENBERG, BAUCUS, MURKOWSKI, CRAPO, ENZI and CORZINE have joined me as original cosponsors of this important legislation to address our nation's water resource concerns.

Originally enacted in 1964, the Water Resources Research Act authorizes the establishment of a nationwide, State-based network of Water Resources Research Institutes. These Institutes represent a partnership among State universities; Federal, State, and local governments; and stakeholders aimed at solving problems of water supply and water quality. They are located at the land-grant universities in each of the 50 States, the territories and the District of Columbia.

The 54 Water Resources Research Institutes are charged with conducting competent research to develop new technologies and more efficient methods for resolving local, State and national water-resources problems; fostering new research scientists into water resources fields; and facilitating water research coordination and the application of research results through information dissemination and technology transfer.

The Institutes provide important support to the States in their long-term water planning, policy development, and management. A significant portion of the Institutes' work is intended to help State and local water managers implement Federal regulations in ways that are tailored to local and State institutions and natural conditions. Water quality regulations, drinking water standards, wastewater treatment, and water reuse programs are examples of areas in which the Institutes provide research and information transfer.

In my own State, the Rhode Island Water Resources Center is located at the University of Rhode Island. The Center's recent activities have included working with the Rhode Island Airport Corporation to develop a plan for mitigating runoff contamination due to deicing and anti-icing operations at T.F.Green Airport. Other work conducted by the Center has encompassed evaluating the scour potential of streams and river banks in the State to study how they may be affected by land use and other changes; developing a statewide public water-supply GIS coverage program; and working with communities to evaluate MTBE drinking water contamination.

In addition to research, the outreach and information transfer activities of the Institutes are highly valued by multi-level stakeholders at the local, State and regional levels. The Institutes are the training grounds for the next generation of the Nation's water scientists, economists and engineers. This nationwide network of water institutes provides an efficient and effective method to meet the diverse water resource needs in different parts of our country.

Another key component of the program is the importance of its small Federal grants for leveraging funding from non-federal sources to identify and address local and State needs for water research. Without this Federal seed money, many institutes would lose a valuable resource and the visibility within their universities and among Federal, State and local water agencies for working on challenging water resource problems. The Federal grants allow immense leverage capacity for conducting water research activities and are the key to maintaining a valuable national network.

The legislation I am introducing today reauthorizes $62 million in funding through fiscal year 2010 for the Nation's Water Resources Research Institutes and $32 million for the Act's Interstate Research Program. I look forward to working with the bill's original cosponsors as well as my colleagues on the Environment and Public Works Committee to ensure this national network of university-based research institutes continues to support the water resources needs of the Nation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Water Resources Research Act Amendments of 2005".

SEC. 2. WATER RESOURCES RESEARCH.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 104(f) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)) is amended—

(1) in the subsection header, by striking "**IN GENERAL**";

(2) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, to remain available until expended—

"(A) $12,000,000 for each of fiscal years 2006 through 2008; and

"(B) $13,000,000 for each of fiscal years 2009 and 2010."; and

(3) in paragraph (2), by striking "(2) Any" and inserting the following:

"(2) FAILURE TO OBLIGATE FUNDS.—Any".

(b) ADDITIONAL APPROPRIATIONS WHERE RESEARCH FOCUSED ON WATER PROBLEMS OF INTERSTATE NATURE.—Section 104(g) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(g)) is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) in paragraph (1)—

(A) in the first sentence—

(i) by striking "There" and inserting the following:

"(1) IN GENERAL.—There"; and

(ii) by striking "$3,000,000 for fiscal year 2001, $4,000,000 for fiscal years 2002 and 2003, and $6,000,000 for fiscal years 2004 and 2005" and inserting "$6,000,000 for each of fiscal years 2006 through 2008 and $7,000,000 for each of fiscal years 2009 and 2010";

(B) in the second sentence, by striking "Such" and inserting the following:

"(2) NON-FEDERAL MATCHING FUNDS.—The"; and

(C) in the third sentence, by striking "Funds" and inserting the following:

"(3) AVAILABILITY OF FUNDS.—Funds".

By Mr. SARBANES:

S. 1018. A bill to provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to alllow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. SARBANES. Mr. President, I am pleased to introduce the Federal Employee Commuter Benefits Act of 2005, which is cosponsored by my colleagues Senators MIKULSKI and WARNER. This bill will guarantee transit benefits to all Federal employees in the National Capital Area and will remove a restriction that currently forbids Federal agencies from providing employee shuttles to and from transit stations. This measure is an important step forward in our efforts to encourage transit ridership and improve the quality of life for federal employees in the Washington, D.C. region and throughout the Nation.

All across the Nation, congestion and gridlock are taking their toll in terms of economic loss, environmental impact, and personal frustration. According to the Texas Transportation Institute, in 2003 Americans in 85 urban areas spent 3.7 billion hours stuck in traffic, with an estimated cost to the nation of $64.8 billion in lost time and wasted fuel. In response, Americans are turning to alternative transportation in record numbers. The American Public Transportation Association estimates that Americans now take over 9 billion trips on transit per year, the highest level in more than 40 years. The Texas Transportation Institute has estimated that without transit, the 85 urban areas they studied would have suffered an additional 1.1 billion hours of delay, a 27 percent increase, which would have added $18 billion to the national cost of congestion.

Transit benefit programs are playing a vital role in increasing transit ridership, which benefits both transit users and drivers. In 1998, the Transportation Equity Act for the 21st Century amended the tax code to allow financial incentives related to commuting costs for both employers and employees. These transit benefits allowed employers to offer a tax-free financial incentive toward the costs of transit commuting, starting at $65 per month and raised in 2005 to $105 per month.

Based upon the findings of the Environmental Protection Agency and the U.S. Department of Transportation, there are clear improvements to congestion, energy efficiency, and air quality from transit benefit programs. According to their findings, an employer with 1,000 employees that participates in a combination of transit benefits, carpool, and telecommuting programs can take credit for taking 175 cars off the road, saving 44,000 gallons of gasoline per year, and cutting global warming pollution by 420 tons per year on average.

In April 2000, an Executive Order was signed requiring all executive branch agencies in the National Capital Region to offer transit benefits to their employees. As a result, Federal employees commuting to Washington, D.C. from Montgomery, Prince George's, and Frederick Counties, Maryland, several counties in Northern Virginia, and as far away as West Virginia, are encouraged to choose transit as their means to get to work.

According to the Washington Metropolitan Area Transit Authority and the U.S. Department of Transportation, more than 150,000 employees—more than one-third of all Federal employees in the National Capital Region—joined the Federal transit benefit program created by the Executive Order. These program participants alone have eliminated an estimated 12,500 single-occupancy vehicles from Washington, D.C. area roads, helping to reduce congestion and improve air quality for our region.

The Executive Order, however, is limited. It does not cover employees in the legislative and judicial branches, for example, or in dozens of independent agencies. While many of the employers in those organizations provide transit benefits to their employees, the implementation and level of benefit is up to the discretion of individual offices. As such, many of these organizations provide limited benefits or do not provide any benefits at all. Guaranteed transit benefits would give these employees more choice in their commuting options and provide an additional incentive to move off our congested roadways and onto public transit.

Of course, such incentives will be ineffective if employees lack access to transit services. In my own state of Maryland, the United States Food and Drug Administration planned to use its own resources to provide a shuttle service for its employees from its new White Oak facility to an area Metro station. When they investigated providing this service, FDA officials found that the current law does not allow federal agencies to use their own vehicles to shuttle employees to mass transit stations.

The potential impact of this restriction on regional congestion is not insignificant. By the middle of this year, FDA expects to have 1,850 employees located at the new White Oak facility, and plans have been made to eventually house more than 7,000 FDA researchers and administrators at the new facility. The lack of access from FDA's new campus to a transit station represents a lost opportunity for reducing congestion, improving our environment and elevating the quality of life for employees.

This type of lost opportunity occurs across the nation. Nationally, the Federal Government employs more than 2.6 million civilian workers at more than 3,000 Federal Government office buildings. At Federal offices throughout the country, transit use is often limited as a commuting option due to lack of employee access to a transit station or a bus stop.

The Federal Employee Commuter Benefits Act would address both of these issues faced by Federal employees. First, the bill would put into law the Executive Order's requirement that transit pass benefits be made available to all qualified Federal employees in the National Capital Region. The bill also extends the requirement beyond executive branch agencies to include the legislative and judicial branches and the independent agencies, providing guaranteed transit benefits to thousands of additional federal employees in the Washington, DC region.

Second, the Federal Employee Commuter Benefits Act would remove the restriction that prohibits a Federal agency from operating a shuttle service to a public transit facility. With this legislation, any Federal agency, anywhere in the United States, can choose to provide a transit shuttle service for their employees. By providing access to commuting alternatives, Federal agencies will be able to provide a benefit to their employees that can make getting to work easier, more affordable, and more employee-friendly. It will also provide an opportunity to help reduce congestion and improve air quality across the Nation.

Since 1982, the U.S. population has grown 20 percent, but the time spent by commuters in traffic has grown by over 200 percent. Each year, traffic congestion wastes nine billion gallons of fuel. By encouraging federal employees to look to transit and by providing access to transit stations, we can help reduce congestion, improve the environment, and promote an improved quality of life.

I am introducing the Federal Employee Commuter Benefits Act because of the opportunities it will give federal agencies to support public transportation, both by providing employee access to transit facilities across the nation, and by providing transit benefits to federal employees in the Washington, D.C. region. Both of these improvements will aid our efforts to fight congestion and pollution by encouraging the use of transportation alternatives. This legislation is strongly supported by federal employees, transit providers, and local elected officials, and I ask unanimous consent that the text of the bill, along with letters of support, be printed in the RECORD. I encourage my colleagues to join me in supporting the Federal Employee Commuter Benefits Act.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 1018

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employee Commuter Benefits Act of 2005".

SEC. 2. TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.

(a) IN GENERAL.—Effective as of the first day of the next fiscal year beginning after the date of the enactment of this Act, each covered agency shall implement a program under which all qualified Federal employees serving in or under such agency shall be offered transit pass transportation fringe benefits, as described in subsection (b).

(b) BENEFITS DESCRIBED.—The benefits described in this subsection are the transit pass transportation fringe benefits which, under section 2 of Executive Order 13150, are required to be offered by Federal agencies in the National Capital Region on the date of enactment of this Act.

(c) Definitions.—In this section—

(1) the term "covered agency" means any agency, to the extent of its facilities in the National Capital Region;

(2) the term "agency" means any agency (as defined by 7905(a)(2) of title 5, United States Code), the United States Postal Service, the Postal Rate Commission, and the Smithsonian Institution;

(3) the term "National Capital Region" includes the District of Columbia and every county or other geographic area covered by section 2 of Executive Order 13150;

(4) the term "Executive Order 13150" refers to Executive Order 13150 (5 U.S.C. 7905 note);

(5) the term "Federal agency" is used in the same way as under section 2 of Executive Order 13150; and

(6) any determination as to whether or not one is a "qualified Federal employee" shall be made applying the same criteria as would apply under section 2 of Executive Order 13150.

(d) Rule of Construction.—Nothing in this section shall be considered to require that a covered agency—

(1) terminate any program or benefits in existence on the date of the enactment of this Act, or postpone any plans to implement (before the effective date referred to in subsection (a)) any program or benefits permitted or required under any other provision of law; or

(2) discontinue (on or after the effective date referred to in subsection (a)) any program or benefits referred to in paragraph (1), so long as such program or benefits satisfy the requirements of subsections (a) through (c).

SEC. 3. AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.

(a) In General.—Section 1344 of title 31, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following:

"(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

"(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

"(3) In carrying out this subsection, a Federal agency shall—

"(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

"(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

"(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

"(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

"(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

"(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

"(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.".

(b) Funds for Maintenance, Repair, Etc.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

"(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.".

(c) Coordination.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by subsection (a)) shall be in addition to any authority otherwise available to the agency involved.

The American Federation of Government Employees, Local 12, AFL–CIO,

May 11, 2005.

Hon. Paul Sarbanes
U.S. Senate, Washington, DC.
Subject: H.R. 1283

Dear Senator Sarbanes: The American Federation of Government Employees (AFGE) Local 12 represents 3,600 employees at the U.S. Department of Labor in the Washington D.C. metropolitan area.

We appreciate very much all the work you have done on behalf of Federal employees, in particular your work to assist our local in our three year battle to have the monthly transit subsidy raised to $100.

We respectfully request that you sponsor and introduce in the Senate a companion bill to H.R. 1283. The purpose of H.R. 1283 is "To provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes."

H.R. 1283 was introduced by Congressman Jim Moran and is co-sponsored by Representatives Eleanor Holmes Norton, Albert Wynn, Chris Van Hollen, Steny Hoyer, Frank Wolf, and Earl Blurnenauer. It has been referred to the House Government Reform Committee.

Passage into law of this legislation would not only help employees at any Federal agency in this area where management has decided, for whatever reason, not to offer the tax-free maximum transit subsidy. It would also benefit the region generally by giving more Federal employees the incentive to use mass transit, thus helping to lessen traffic congestion and air pollution.

The membership of AFGE Local 12 passed a resolution on May 5 of this year in support of this kind of legislation. A copy of the resolution is attached.

Thank you very much for your consideration of this serious matter.

Respectfully yours,

Lawrence C. Drake, Jr.
President.

Approved by the membership of AFGE Local 12 on May 5, 2005

RESOLUTION ON TRANSIT SUBSIDY LEGISLATION

Whereas: Using mass transit is one of the most cost-effective, environmentally sound, and energy efficient ways for Federal employees to commute to their workplaces;

Executive Order 13150 ordered transit subsidies, now valued at a maximum of $105 a month, to be made available to all executive branch employees;

Pursuant to Executive Order 13150, the number of executive branch employees utilizing transit subsidies grew from 55,000 to 155,000 participants, reducing highway vehicle miles commuted by over 40 million;

The Washington DC metropolitan area's traffic congestion is overall the country's third worst and is worse than any other metropolitan area outside California;

As the region's largest employer, the Federal government has the capacity and the moral duty to significantly reduce road overcrowding and its consequent pollution by providing appropriate transit benefits to encourage more widespread mass transit use;

Legislation codifying transit benefits for Federal employees in the Washington DC metropolitan area and repealing restrictions on Federal agencies offering their employees shuttle services between their offices and transit centers, unanimously approved by the House Government Reform Committee in the previous Congress, has been re-introduced as H.R. 1283 by Rep. Jim Moran and six co-sponsors; and

Codifying these benefits would remedy Executive Order 13150's lack of legal recourse against agencies willfully ignoring its requirements;

Therefore be it resolved that:

American Federation of Government Employees Local 12 endorses legislation such as H.R. 1283 which codifies Executive Order 13150 and repeals restrictions on Federal agencies offering their employees shuttle services between their offices and transit centers; and

AFGE 12 likewise urges other organizational entities with which it is affiliated in the American Federation of Government Employees and the AFL–CIO to actively seek enactment of such legislation.

American Public Transportation Association,

May 11, 2005.

Hon. Paul S. Sarbanes,
Ranking Member, Senate Committee on Banking, Housing, and Urban Affairs, Washington, DC.

Dear Senator Sarbanes: On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I write to express strong support for legislation you are proposing that would expand the use of transit-related commuter tax benefits in the Washington, DC region. This legislation will help promote the use of public transportation and thereby support regional efforts to reduce traffic congestion in the National Capital area. We note that a recent report by the Texas Transportation Institute (TTI) cited the Washington, DC metropolitan area as the third most congested in the nation.

As we understand it, your legislation would codify language currently in an executive order that requires federal executive branch agencies to offer to their employees transit benefits equal to employee commuting costs, currently up to $105 per month. The legislation would also expand the eligibility of these benefits to legislative and judicial branch employees in the National Capital area.

We believe that it is important that the federal government support the use of public transportation in its efforts to reduce congestion, minimize auto pollution, and make the best use of existing public transportation facilities that are built with a substantial federal investment. APTA has been a longtime proponent of providing federal tax incentives that promote public transportation at no less a level than those provided for parking.

We thank you for your leadership on this issue. If you have questions, please have your staff contact Rob Healy of APTA's Government Affairs Department at (202) 496–4811 or e-mail rhealy@apta.com. We look forward to working with you to see this important legislation enacted into law.

Sincerely yours,

WILLIAM W. MILLAR,
President.

METRO,
April 15, 2005.

Hon. PAUL S. SARBANES,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: I am pleased to offer the Washington Metropolitan Area Transit Authority's (WMATA) endorsement of the legislation you are proposing concerning federal employee commuter benefits. This legislation is very important in supporting regional efforts to use every feasible technique to reduce the severe traffic congestion in the National Capital Region.

The recently released Texas Transportation Institute (TTI) report on congestion cites the metropolitan Washington region as the third most congested in the nation, despite intense transit use by commuters in this area.

The TTI report cites a number of strategies that help to reduce congestion and the cost of delay to the residents of the region. For the Washington metropolitan area, the TTI report indicates that transit services currently save the metropolitan area more than $1 billion annually in delay costs and over 52 percent of current delay time. The metropolitan Washington region is fifth in the nation in terms of the hours of delay saved because of the public transportation network. The TTI report demonstrates the positive effects of transit services on reducing traffic congestion in the Washington metropolitan area. With the unrelentless traffic in this region, it is critical that transit ridership continues to grow to relieve road congestion.

It's essential that the federal government as the region's largest employer, employing more than 374,000 people in this area, give employees every incentive to take transit. The tremendously successful transit benefits program, known in this area as Metrochek, is currently required to be offered to civilian and military employees of the Executive Branch and voluntarily provided by the U.S. House and Senate and several independent agencies. Since the imposition of Executive Order 13150 on October 1, 2000, the number of federal employees receiving transit benefits has increased 166 percent, from 57,000 to 151,800 and 47 percent of Metrorail's peak period riders are federal employees—up from 35 percent in the mid 1980s.

Your proposal will codify the federal employees transit benefit and expand its eligibility to judicial, legislative and independent agency employees in the National Capital Region. While some of these agencies already participate in the Metrochek program, this legislation ensures that participation will be uniform across all three branches of the federal government.

WMATA also supports the proposal to authorize the establishment of federal agency shuttles to and from mass transit facilities. While many federal agencies throughout the region are within walking distance of Metrorail stations, and other transit facilities, some are not. This legislation will make transit accessible to many federal workers for whom transit is not currently a viable alternative because their work site is not convenient to a Metro station.

Many thanks for your leadership in proposing this legislation. It is another example in a long list of initiatives you have sponsored to promote public transportation in the National Capital Region and the nation.

Sincerely,

RICHARD A. WHITE,
General Manager and Chief Executive Officer.

MAY 12, 2005.

Hon. PAUL SARBANES,
Ranking Member, Senate Committee on Banking, Housing and Urban Affairs, Washington, DC.

DEAR SENATOR SARBANES: I am writing to you to express the support of the Virginia Railway Express for your efforts to reintroduce legislation that would provide transit pass transportation fringe benefits to all qualified Federal employees in the National Capital region. As someone who has always been an advocate for the promotion of public transportation and the mobility it affords the citizenry, we are fortunate to have you as the Ranking Member of the Senate Committee on Banking, Housing and Urban Affairs, which oversees mass transit programs.

As you have witnessed, increased federal investment in transit under TEA 21 has led to dramatic growth in public transportation ridership, particularly in the National Capital Region. The Virginia Railway Express is a prime example of that growth, with ridership increasing by 17% each year for the past four years, making us one of the fastest growing commuter railroads in America. Nearly 64% of our ridership is comprised of federal and/or military employees working in the region.

Currently, transit benefits are offered to a select core of federal employees under Executive Order 13150. The benefit is limited to the executive branch agencies with no requirement for participation by the legislative and judicial branches. Such legislation would codify transit benefits to all eligible federal employees by broadening the scope of participation to another 100,000 workers, thus providing greater flexibility and mobility for the federal work force in the region.

Your legislation is significant not only because it affords greater options to our federal workforce, but also because the use of public transit is the only recourse to help relieve the growing problem of traffic congestion in the region. For instance, today VRE transports enough people to remove more than one lane of traffic off of I–95 and I–66 during peak commuting rush hours in the morning and the evening. Not only does it reduce car emissions; thus improving air quality, but also ensures that the federal and private workforce can get to work in a timely fashion; thus saving millions of dollars for employers. The passage of this legislation would only increase these benefits to our region.

In conclusion, let me again thank you for all the support that you have given to public transportation over the years and for authoring this much needed legislation. I hope that with your direct involvement that we will be successful in seeing this measure signed into law.

Sincerely,

DALE ZEHNER,
Chief Executive Officer.

By Mr. DURBIN:

S. 1019. A bill to amend titles 10 and 38, United States Code, to increase benefits for members of the Armed Forces who, after September 11, 2001, serve on active duty outside the United States or its territories or possessions as part of a contingency operation (including a humanitarian operation, peacekeeping operation, or similar operation) or a combat operation; to the Committee on Finance.

Mr. DURBIN. Mr. President, I rise today to introduce the Welcome Home G.I. Bill. Similar to the GI Bill for soldiers returning from World War II, this Welcome Home G.I Bill establishes a program of benefits designed to reward returning veterans and ease their transition into civilian life.

These benefits would be available to troops who deployed for six months or more outside the United States for combat, contingency, peacekeeping or humanitarian operations after September 11, 2001. The bill also covers troops who do not meet the six-month service requirement because they were discharged earlier for medical or hardship reasons.

This bill provides our returning heroes with improved health care, education and job training assistance, and help with a down-payment on a home.

Returning troops deserve better health care coverage. Currently, upon separating from the military, active duty service members receive six months of healthcare coverage as a "transition" benefit and thereafter may enroll for an additional 18 months under the Continued Health Care Benefit Program provided they pay required premiums. Reservists released from active duty can pay premiums to obtain a year of coverage for every three months they were mobilized.

Under the Welcome Home G.I. Bill, a returning veteran who is unable to secure health care coverage from an employer would be entitled to exactly the same medical care they received while in the service. Veterans would be entitled to this benefit for up to five years.

Our troops also deserve better medical screening before and after deployments. Current law establishes a system of pre-deployment and post-deployment medical examinations, including an assessment of mental health and the drawing of blood samples, to accurately record the medical condition of members before and after their deployment.

The Welcome Home G.I. bill improves the quality of pre-deployment and post-deployment medical screening by requiring that the pre-deployment exam include disease screening and the collection of clinical data such as vital signs, immunization history and past physical or mental health conditions. It also requires post-deployment medical screening to include a self-administered survey in which the service member may report information about any relevant exposures during the period of deployment. These provisions will help identify war-related ailments so the information will be available to answer any future questions about the ailment's connection to military service.

Returning warriors need access to educational opportunities that can enhance their employment prospects in civilian life after they depart military service. Currently active duty troops have the option of enrolling in the Montgomery G.I. Bill education benefits program, under which the service member contributes $100 per month for 12 months while in service and then later may receive up to $1,004 per month in education benefits for up to 36 months. Currently, mobilized reservists receive some portion of the active duty benefit depending on the length of their activation. Under the Welcome Home G.I. Bill, our Iraq and Afghanistan veterans both active duty and mobilized reserve component troops would receive education or job training benefits worth a maximum of $75,000 over 48 months. So this bill basically adds a little more than $500 per month to the current benefit and extends it for an extra year. The benefit could also be used to repay student loans. In addition, qualifying troops who previously enrolled in the Montgomery G.I. Bill program would have their contribution refunded.

Finally, the Welcome Home G.I. Bill helps our returning veterans realize the American dream of owning their own home. For a 5-year period after completion of their qualifying service, returning veterans may receive a tax-free $5,000 down payment for the first-time purchase of a home.

Our veterans who have endured the burdens of war, under the most trying conditions, at tremendous personal risk and sacrifice, deserve more than they are currently provided by this Nation upon their return. They deserve the improved health care, education and job training, and home-ownership assistance which this bill provides. I invite my colleagues to join me in supporting this bill.

Mr. COLEMAN (for himself and Mr. PRYOR):

S. 1020. A bill to make the United States competitive in a global economy; to the Committee on Finance.

Mr. COLEMAN. Mr. President, today I am introducing legislation to help the United States compete in an increasingly global economy in order to keep and to grow good paying, high quality jobs here at home. I am very pleased to be joined by my very good friend and colleague, Senator MARK PRYOR, who cares as deeply about these issues as I do.

In recent years much has been written about globalization—especially the "outsourcing" of American jobs overseas. In fact, my hometown paper, the St. Paul Pioneer Press recently ran an editorial highlighting a survey done by the Federal Reserve that shows despite all the talk of "outscouring" and "lost jobs", globalization has resulted in more jobs and more money for Minnesota's workers. I ask unanimous consent that this article be included in the record along with my statement. However, that same editorial warned that as China, India and the European Union work to expand their own market opportunities by modernizing their infrastructure and improving the skills of their workforce, there is no guarantee that the world's best companies will continue to invest here at home.

Yet, at the same time that the Labor Department has projected that new jobs requiring advanced science, engineering and technical training will increase four times faster than the average national job growth rate, only 36 percent of 9th-12th graders in Minnesota are taking upper level math courses, and only 22 percent of are taking upper level science. Moreover, in a high tech economy that values knowledge and ideas as much as the products they produce the U.S. Patent and Trademark Office (PTO) has reported that the time it takes someone to get a patent is exploding. The facts read loud and clear: in order to maintain our place as the leader in tomorrow's economy, America must act now to maintain our competitive advantage and remain ahead of the curve.

That is why we are introducing the Collaborative Opportunities to Mobilize and Promote Education, Technology, and Enterprise Act of 2005 or the COMPETE ACT of 2005. The COMPETE Act is based on three simple, fundamental ideas: 1. The U.S. needs to maintain its competitive advantage in robust technology and innovation; 2. We must continue to "upskill" our workforce to ensure they have the skills necessary to remain competitive in a global economy that is more reliant on technology than ever before; and 3. We must utilize private-public partnerships to help improve education in the areas of science, technology, engineering and mathematics.

America's economic strength is rooted in its ability to innovate, and so the COMPETE Act strengthens and expands the R&D tax credit. Expanding the R&D tax credit will help American companies to stay on the forefront of the technological revolution. This credit helps fuel job creation here at home and enables companies to bring more products and services to market.

The COMPETE Act also reforms and improves the U.S. Patent Trademark Office (PTO). It is no secret that patents and trademarks are the currency that drives America's high-tech economy. Unfortunately, the PTO estimates that it will take an average of 49 months by 2009 for it to issue a patent. This is a lifetime when you are innovating, and discourages new ideas. Furthermore, the current backlog on patent applications now totals almost a half million—the highest ever. Fortunately, the PTO has come up with a solution to this problem. However, it does not have the money to implement it. The COMPETE Act provides the PTO with the crucial funding necessary to reform the patent and trademark process so that U.S. companies remain on the forefront of the technological revolution.

Today, our employers need more than just raw materials; they need a highly skilled workforce who adds that extra value to their product. That is why the COMPETE Act establishes a tax credit that will help "upskill" America's workers so that they can compete in an economy increasingly more dependent on information, communication and technology (ICT) skills. Indeed, ICT skills are today's newest raw material and are the infrastructure America needs to be a leader in today's global market.

To help close the math and science gap, the COMPETE Act creates a public-partnership that will leverage the expertise and resources of the private sector and those in the university community to establish joint regional training and research centers. These centers will provide training and technical assistance to teachers so they will be better equipped to get students interested in math and science at an early age.

The COMPETE Act rewards high performing schools in math and science and at the same time provides an incentive for businesses to get more involved in helping high-need schools to improve in the areas of math and science. Finally, the COMPETE Act establishes a matching grant program where federal and private resources will be used to help graduate students in science, technology, engineering and mathematics meet the cost of getting a graduate degree. This grant program will also support outreach and mentoring activities to increase the participation of underrepresented groups in these fields at every level of education.

Today is the time to prepare for tomorrow and the COMPETE Act represents an important step in helping to prepare the U.S. to succeed in meeting the challenges of a rapidly changing world. The COMPETE Act will help the U.S. remain ahead of the curve when it comes to competing in today's global economy. That is why a number of diverse organizations, including the R&D Credit Coalition, National Council of Teachers of Mathematics, National Science Teachers Association, Computing Technology Industry Association (CompTIA), American Association for the Advancement of Science, National Association of State Universities & Land-Grant Universities, ASSE Engineering Deans Council, Council of Graduate Schools, American Society for Training & Development, Association of American Universities, and the Intellectual Property Owners Association support one or may of tile provisions of the COMPETE Act.

I ask unanimous consent that their letters of support be printed in the RECORD.

Today our economy is both more vulnerable and more successful than it has ever been. To ensure that we are maximizing our chances for success, we need to help employees and individuals innovate. We need to have a workforce that has the skills necessary to compete in a worldwide economy that is increasingly dependent on technology. We need to focus on math and science education to ensure that America continues to produce the best engineers and scientists in the world. And above all, we need to do those things necessary to make the U.S. the best place to do business in the world. The bottom line is we all want America's moms and dads to enjoy good paying jobs here at home so they can do what every mom and dad wants to do and that is give our kids a better life than we had. That's what the COMPETE Act is all about.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

[From the St. Paul Pioneer Press, Dec. 19, 2004]

MINNESOTA MUST COMPETE IN A GLOBAL ECONOMY

The Federal Reserve Bank of Minneapolis recently published the findings of the annual survey conducted by Minnesota Technology Inc. and the Minnesota Department of Employment and Economic Development. The clear message from Minnesota businesses is that globalization is here to stay and it's not all bad.

"It's the new hard reality," said Ron Kirscht, president of Donnelly Custom Manufacturing Co. in Alexandria.

Indeed, for all the hand wringing over outsourcing and the fact that Bemidji has to compete with Bangalore, it's clear that an increasingly global economy has been a net gain for Minnesota.

"The results showed that state manufacturers and service providers in industries most likely to be affected by globalization are integrating rapidly into the global community, whether through importing, exporting, off shoring or foreign direct investment," the Fed said in fedgazette, its monthly publication.

For instance, a dozen years ago, Donnelly did very little importing and no exporting. Today it imports components, materials and tools, and exports its custom-built products around the world.

"We couldn't compete if we didn't," Kirscht said.

Some executives even admit that globalization has made them more competitive.

"There's always the feeling that the fewer the competitors the better," said Steven Cheppard, CEO of Kenyon-based Foldcraft Co. "But in a sort of convoluted fashion it is possible to make a positive out of this. It forces us to make ourselves better and better."

According to the survey, about 21 percent of respondents were importers and 32 percent exporters in 1998. Today both numbers are around 40 percent.

About 20 percent of those surveyed reported increased employment and production during the same period. On wages, about 43 percent of businesses expect them to increase; 38 percent see no changes and 19 percent see a decrease due to increased global competition. Perhaps more important, businesses expect to add more new production jobs between now and 2008 than they did between 1998 and 2003.

Not surprisingly, the top three reasons cited for outsourcing and importing were to reduce or control costs, increase revenue and increase overall competitiveness. About 43 percent of those surveyed said the cost of employee health care benefits was a key factor in their decision to move jobs offshore or out of state. About one-third said wages and taxes chased them out of Minnesota.

Team Industries, a designer and manufacturer of power trains for recreational vehicles, has manufacturing plants in six Minnesota cities, and a market reach that extends around the globe. Jason Roue, general manager at the company's Baxter plant in central Minnesota, noted that in the past few years the company has expanded its network of global sourcing.

It now imports lower-cost parts and raw materials from around the world, but at the same time have seen significant export growth as international demand for its products has increased.

"If we plan on staying in business, we're going to have to adapt," said Roue. "By adopting global sourcing and lean manufacturing techniques, and by differentiating ourselves from foreign competitors, mainly in China and Korea, we think we can meet the challenge of global competition."

The Fed notes that regardless of how businesses "feel" about globalization, "they seem to understand that membership is not negotiable, but required. "

We agree. Furthermore, we'd argue that when state and local lawmakers are considering new taxes and regulations, even with a projected budget shortfall of $1.4 billion, they also need to consider how our regimen compares with not just Seattle and Shreveport, but Shanghai and Singapore. For the Fed study makes clear that the world—not just the country—is increasingly the competitive landscape on which Minnesota must compete.

INTELLECTUAL PROPERTY OWNERS ASSOCIATION,
Washington, DC, May 12, 2005.

Hon. NORM COLEMAN,
Senate Hart Office Building,
Washington, DC.
Hon. MARK PRYOR,
Senate Dirksen Office Building,
Washington, DC.

DEAR SENATORS COLEMAN AND PRYOR: Intellectual Property Owners Association (IPO) writes to voice its strong support for Title III of the COMPETE Act of 2005. As you know, IPO has long advocated ending diversion of the user fees paid by patent and trademark applicants to the U.S. Patent and Trademark Office (USPTO) and Title III of the COMPETE Act of 2005 would accomplish this goal.

Intellectual property rights including patents and trademarks are the currency that drives America's high-tech economy. Yet, the USPTO currently faces not only a workload crisis, but also questions about the quality of the patents it grants.

IPO's recommended objectives for the USPTO are to: (1) improve patent quality, (2) reduce the time it takes applicants to get a patent, and (3) achieve cost effectiveness in all operations. IPO has supported the USPTO's "21st Century Strategic Plan" as a way to achieve these objectives, but until now, the USPTO has been hampered by lack of funding. Last year, Congress passed legislation raising patent application fees by 15 to 25 percent. The fee increase will provide more than $200 million a year in additional revenue to the USPTO through September 2006; however, a long term solution to USPTO's funding problems is still needed.

America's innovators remain prepared to pay out of our own pockets to improve the situation at the PTO provided that the money will go to the agency and not be diverted to unrelated programs. This fear is not unfounded, given that Congress diverted more than three-quarters of a billion dollars of fees paid by patent and trademark applicants to unrelated government programs from 1992 until 2004.

IPO firmly believes that it is reasonable and just that the USPTO keep 100 percent of its own patent and trademark fees. To allow for anything less would be a disservice to inventors and entrepreneurs and a drag on our nation's competitiveness and productivity.

We thank you for supporting America's innovators by introducing legislation that would end the practice of fee diversion, and we are committed to working with you to ensure that such legislation is enacted into law.

Sincerely,

HERBERT C. WAMSLEY,
Executive Director.

AMERICAN SOCIETY FOR TRAINING AND DEVELOPMENT,
Alexandria, VA, May 11, 2005.

Hon. NORM COLEMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLEMAN: On behalf of the American Society for Training & Development (ASTD), thank you for introducing the Collaborative Opportunities to Mobilize and Promote Education, Technology, and Enterprise Act of 2005 (COMPETE Act). As the world's largest association dedicated to training, workplace learning, and performance professionals, ASTD is acutely aware that one of the most critical issues facing organizations today is developing the knowledge and capabilities of the workforce. Your bill is a big step in the right direction to ensuring that the U.S. workforce remains competitive in the global economy.

Sections 111-112 of Title I, the Tax Credit for Information and Communications Technology Education and Training Program Expenses, are of particular interest to ASTD. This tax credit can benefit all U.S. companies because every industry requires IT skills, not just IT-based companies. According to ASTD's 2004 State of the Industry Report, one of the most important content areas in which employees are trained in U.S. organizations is IT and systems training. A tax credit for expenses paid or incurred for IT training demonstrates a targeted solution for both employer and employee (or an unemployed individual). Employers identify what training is needed; employees are able to train or upskill in industries that need skilled workers. And because employers or individuals are required to pay half the training or educational costs, there is a greater likelihood that the program will be successful. ASTD therefore supports your efforts to include these sections in the COMPETE Act.

Many businesses find themselves ill-equipped to grow because the skills required to meet demand for growth are in short supply in their organizations. A full 66 percent of respondents to a recent ASTD poll say there is a skills gap in their organizations right now, and almost 20 percent say there will be one within the next year. The best approach for addressing the skills gap is the COMPETE Act's solution of providing government incentives that enable the private sector to train or educate more people in the industries in which skilled workers are needed.

The COMPETE Act is an excellent example of a public-private partnership that can ensure companies remain competitive, and individuals seek the education they need to enter or re-enter the workforce. We look forward to working with you and your staff as this bill progresses through the Senate.

Sincerely,

Tony Bingham,
President & CEO.

Council of Graduate Schools,
Washington, DC.

Hon. Norm Coleman,
U.S. Senate, Washington, DC.
Hon. Mark Pryor,
U.S. Senate, Washington, DC.

Dear Senators Coleman and Pryor: I am writing to commend you for supporting our nation's economic competitiveness through the introduction of the Collaborative Opportunities to Mobilize and Promote Education, Technology and Enterprise (COMPETE) Act. The Council of Graduate Schools (CGS) and its 460 plus member institutions are very grateful for your leadership in addressing the important issue of American competitiveness.

CGS is committed to collaborating with you and others on developing a coordinated national strategy to enhance America's competitiveness. The European Union, China, India and many other countries are making large investments in education, research and development, greatly expanding their ability to compete in the global economy. The United States cannot afford to coast on its past successes and must invest now to maintain our economic preeminence and national security in the years ahead.

The policy changes you propose include providing a new matching fund program to promote competitiveness through graduate education, extension and enhancement of the R&D tax credit, and improvements to the Federal patent and trademark process. These policy proposals along with others designed to support math and science education in elementary and secondary schools establish a solid foundation for a longer-term, comprehensive agenda designed to maintain our nation's leadership in innovation, research and discovery.

We are also appreciative of your additional legislative efforts to increase global competition for the best and the brightest. As you know, the U.S. must continue welcoming qualified international students to our country and simultaneously implementing policies to address declining participation of domestic students across key fields in science, technology, engineering, mathematics and critical foreign languages.

Thank you for your leadership in addressing American competitiveness and for supporting the vital role played by graduate education as a key part of our national strategy to maintain our leadership in the global economy.

Sincerely,

Debra W. Stewart.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1020

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Collaborative Opportunities to Mobilize and Promote Education, Technology, and Enterprise Act of 2005” or the “COMPETE Act of 2005”.

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TAX INCENTIVES

Subtitle A—Research credit

Sec. 101. Extension of research credit.
Sec. 102. Increase in rates of alternative incremental credit.
Sec. 103. Alternative simplified credit for qualified research expenses.

Subtitle B—Education

Sec. 111. Credit for information and communications technology education and training program expenses.
Sec. 112. Eligible educational institution.
Sec. 113. Alternative percentage limitation for corporate charitable contributions to the mathematics and science partnership program.

TITLE II—EDUCATION PROVISIONS

Sec. 201. Regional training and research centers.
Sec. 202. Math and science partnership bonus grants.
Sec. 203. Matching funds program to promote American competitiveness through graduate education.

TITLE III—UNITED STATES PATENT AND TRADEMARK FEE MODERNIZATION

Sec. 301. Patent and Trademark Office funding.

TITLE I—TAX INCENTIVES

Subtitle A—Research Credit

SEC. 101. EXTENSION OF RESEARCH CREDIT.

(a) In General.—Subsection (h) of section 41 of the Internal Revenue Code of 1986 (relating to termination) is amended by striking “2005” and inserting “2007”.

(b) Conforming Amendment.—Subparagraph (D) of section 45C(b)(1) of such Code is amended by striking “2005” and inserting “2007”.

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 102. INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.

(a) In General.—Subparagraph (A) of section 41(c)(4) of the Internal Revenue Code of 1986 (relating to election of alternative incremental credit) is amended—

(1) by striking “2.65 percent” and inserting “3 percent”;

(2) by striking “3.2 percent” and inserting “4 percent”; and

(3) by striking “3.75 percent” and inserting “5 percent”.

(b) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 103. ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.

(a) In General.—Subsection (c) of section 41 of the Internal Revenue Code of 1986 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

“(5) Election of alternative simplified credit.—

“(A) In general.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

“(B) Special rule in case of no qualified research expenses in any of 3 preceding taxable years.—

“(i) Taxpayers to which subparagraph applies.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

“(ii) Credit rate.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

“(C) Election.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies.”.

(b) Coordination With Election of Alternative Incremental Credit.—

(1) In general.—Section 41(c)(4)(B) of the Internal Revenue Code of 1986 (relating to election) is amended by adding at the end the following: “An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies.”.

(2) Transition rule.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by subsection (a)) for such year.

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle B—Education

SEC. 111. CREDIT FOR INFORMATION AND COMMUNICATIONS TECHNOLOGY EDUCATION AND TRAINING PROGRAM EXPENSES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“SEC. 30B. INFORMATION AND COMMUNICATIONS TECHNOLOGY EDUCATION AND TRAINING PROGRAM EXPENSES.

“(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of information and communications technology education and training program expenses paid or incurred by the taxpayer for the benefit of—

“(1) in the case of a taxpayer engaged in a trade or business, an employee of the taxpayer, or

“(2) in the case of a taxpayer who is an individual not so engaged, such individual.

“(b) LIMITATIONS.—

“(1) EMPLOYERS.—In the case of any taxpayer described in subsection (a)(1), the amount of expenses which may be taken into account under subsection (a) for the taxable year shall not exceed the greater of—

“(A) the excess of—

“(i) the sum of—

“(I) $10,000 multiplied by the number of qualified individuals who are employees and with respect to whom the taxpayer has paid or incurred information and communications technology education and training expenses, plus

“(II) $8,000 multiplied by the number of all other employees with respect to whom the taxpayer has paid or incurred such expenses, over

“(ii) the average amount of such expenses paid or incurred by the taxpayer with respect to all employees for the 3 preceding taxable years, or

“(B) the sum of—

“(i) $4,000 multiplied by the number of qualified individuals who are employees and with respect to whom the taxpayer has paid or incurred such expenses, plus

“(ii) $2,500 multiplied by the number of all other employees with respect to whom the taxpayer has paid or incurred such expenses.

“(2) INDIVIDUALS.—The amount of expenses with respect to any individual described in subsection (a)(2) which may be taken into account under subsection (a) for the taxable year shall not exceed $2,500 ($4,000 in the case of a qualified individual).

“(3) COORDINATION OF CREDITS.—

“(A) IN GENERAL.—The credit under subsection (a)(1) allowed to an employer with respect to any employee shall be reduced by the coordination exclusion amount.

“(B) PORTION OF CREDIT ALLOWABLE.—For purposes of subparagraph (A), the coordination exclusion amount is an amount which bears the same ratio to the applicable limitation as—

“(i) the amount (if any) of the limitation applicable to such employee under subsection (b)(2) which such employee does not assign to such employer, bears to

“(ii) $2,500 ($4,000 in the case of an employee who is a qualified individual).

“(C) APPLICABLE LIMITATION.—For purposes of subparagraph (B), the term ‘applicable limitation’ means the amount under paragraph (2) with respect to such employee which is used by such employer to calculate the limitation under such paragraph.

“(4) QUALIFIED INDIVIDUAL.—The term ‘qualified individual’ means an individual—

“(A) with respect to whom all information and communications technology education and training program expenses are paid or incurred in connection with a program operated—

“(i) in an empowerment zone or enterprise community designated under part I of subchapter U or a renewal community designated under part I of subchapter X,

“(ii) in a school district in which at least 50 percent of the students attending schools in such district are eligible for free or reduced-cost lunches under the school lunch program established under the Richard B. Russell National School Lunch Act,

“(iii) in an area designated as a disaster area by the Secretary of Agriculture or by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the taxable year or any of the 4 preceding taxable years,

“(iv) in a rural enterprise community designated under section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999,

“(v) in an area designated by the Secretary of Agriculture as a Rural Economic Area Partnership Zone,

“(vi) in an area over which an Indian tribal government (as defined in section 7701(a)(40)) has jurisdiction, or

“(vii) by an employer who has 200 or fewer employees for each business day in each of 20 or more calendar weeks in the current or preceding calendar year,

“(B) with a disability, or

“(C) who is receiving a benefit under chapter 2 of title II of the Trade Act of 1974.

“(c) INFORMATION TECHNOLOGY EDUCATION AND TRAINING PROGRAM EXPENSES.—For purposes of this section—

“(1) IN GENERAL.—The term ‘information technology education and training program expenses’ means expenses paid or incurred by reason of the participation of the taxpayer (or any employee of the taxpayer) in any information and communications technology education and training program. Such expenses shall include expenses paid in connection with—

“(A) course work,

“(B) certification testing,

“(C) programs carried out under the Act of August 16, 1937 (50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq), which are registered by the Department of Labor, and

“(D) other expenses that are essential to assessing skill acquisition.

“(2) INFORMATION TECHNOLOGY EDUCATION AND TRAINING PROGRAM.—The term ‘information technology education and training program’ means a training program in information and communications technology workplace disciplines or which is provided in the United States by an accredited college, university, private career school, postsecondary educational institution, a commercial information technology provider, or an employer-owned information technology training organization.

“(3) COMMERCIAL INFORMATION TECHNOLOGY TRAINING PROVIDER.—The term ‘commercial information technology training provider’ means a private sector organization providing an information and communications technology education and training program.

“(4) EMPLOYER-OWNED INFORMATION TECHNOLOGY TRAINING ORGANIZATION.—The term ‘employer-owned information technology training organization’ means a private sector organization that provides information technology training to its employees using internal training development and delivery personnel. The training programs must use industry-recognized training disciplines and evaluation methods, comparable to institutional and commercial training providers.

“(d) DENIAL OF DOUBLE BENEFIT.—

“(1) DISALLOWANCE OF OTHER CREDITS AND DEDUCTIONS.—No deduction or credit shall be allowed under any other provision of this chapter for expenses taken into account in determining the credit under this section.

“(2) REDUCTION FOR HOPE AND LIFETIME LEARNING CREDITS.—The amount taken into account under subsection (a) shall be reduced by the information technology education and training program expenses taken into account in determining the credits under section 25A.

“(e) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 45A(e)(2) and subsections (c), (d), and (e) of section 52 shall apply.

“(f) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

“(1) the sum of the regular tax liability (as defined by section 26(b)) plus the tax imposed by section 55, over

“(2) the sum of the credits allowable under subpart A and section 27 for the taxable year.

“(g) INFLATION ADJUSTMENTS.—In the case of a taxable year beginning after 2004, each of the dollar amounts under paragraphs (1), (2), and (3) of subsection (b) shall be increased by an amount equal to—

“(1) such dollar amount, multiplied by

“(2) the cost-of-living adjustment determined under section 1(f)(3) of the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2003’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.”.

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“Sec. 30B. Information and communications technology education and training program expenses.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2004.

SEC. 112. ELIGIBLE EDUCATIONAL INSTITUTION.

(a) IN GENERAL.—Section 25A(f)(2) of the Internal Revenue Code of 1986 (relating to eligible educational institution) is amended to read as follows:

“(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term ‘eligible educational institution’ means—

“(A) an institution—

“(i) which is described in section 101(b) or 102(a) of the Higher Education Act of 1965, and

“(ii) which is eligible to participate in a program under title IV of such Act, or

“(B) a commercial information and communications technology training provider (as defined in section 30B(c)(3)).”.

(b) CONFORMING AMENDMENT.—The second sentence of section 221(d)(2) of the Internal Revenue Code of 1986 is amended by striking “section 25A(f)(2)” and inserting “section 25A(f)(2)(A)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 113. ALTERNATIVE PERCENTAGE LIMITATION FOR CORPORATE CHARITABLE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.

(a) IN GENERAL.—Section 170(b) of the Internal Revenue Code of 1986 (related to percentage limitations) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR CORPORATE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.—

"(A) IN GENERAL.—In the case of a corporation which makes an eligible mathematics and science contribution—

"(i) the limitation under paragraph (2) shall apply separately with respect to all such contributions and all other charitable contributions, and

"(ii) paragraph (2) shall be applied with respect to all eligible mathematics and science contributions by substituting '15 percent' for '10 percent'.

"(B) ELIGIBLE MATHEMATICS AND SCIENCE CONTRIBUTION.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'eligible mathematics and science contribution' means a charitable contribution (other than a contribution of used equipment) to a qualified partnership for the purpose of an activity described in section 2202(c) of the Elementary and Secondary Education Act of 1965..

"(ii) QUALIFIED PARTNERSHIP.—The term 'qualified partnership' means an eligible partnership (within the meaning of section 2201(b)(1) of the Elementary and Secondary Education Act of 1965), but only to the extent that such partnership does not include a person other than a person described in paragraph (1)(A).". ,

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act.

TITLE II—EDUCATION PROVISIONS

SEC. 201. REGIONAL TRAINING AND RESEARCH CENTERS.

(a) CENTERS ESTABLISHED.—From amounts appropriated under subsection (f), the Director of the National Science Foundation shall award grants, on a competitive basis, to eligible entities to enable the eligible entities to establish 10 regional training and research centers to help maintain the Nation's workforce and education investment and infrastructure in the sciences, technology, engineering, and mathematics.

(b) ELIGIBLE ENTITY DEFINED.—In this section the term "eligible entity" means a partnership between an institution of higher education and 1 or more of the following entities:

(1) A research organization.

(2) An organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that—

(A) is exempt from taxation under section 501(a) of such Code; and

(B) has expertise in the sciences, technology, engineering, or mathematics.

(3) A trade or business.

(c) LOCATION.—The Director of the National Science Foundation shall award a grant for the establishment of 1 regional training and research center in each of the 10 geographic regions of the United States that is served by a regional educational laboratory under section 174 of the Education Sciences Reform Act of 2002 (20 U.S.C. 9564).

(d) DESIGNATION.—Each regional training and research center established under this section shall be known as a "Making America Competitive Center" (MAC Center).

(e) USE OF FUNDS.—

(1) IN GENERAL.—Each eligible entity receiving a grant under this section shall use the grant funds to establish a regional training and research center that—

(A) provides training, technical assistance, and professional development in the sciences, technology, engineering, and mathematics, to or for States, local educational agencies, qualified teachers, and schools, in the region served by the regional training and research center;

(B)(i) develops and funds joint cooperative programs, for qualified teachers and students, with a trade or business related to the sciences, technology, engineering, or mathematics; and

(ii) develops instructional materials and teaching methods in the areas of the sciences, technology, engineering, and mathematics for use in primary and secondary schools in the region served by the center; and

(C) builds networks among the sciences, technology, engineering, and mathematics resources within the 10 regions and nationally.

(2) QUALIFIED TEACHER.—For purposes of paragraph (1)(B), the term "qualified teacher" means any individual who—

(A) teaches one or more courses in grades 4 through 12 primarily in—

(i) science;

(ii) computer science;

(iii) occupational preparation with respect to vocational and technical occupations;

(iv) engineering; or

(v) mathematics; or

(B)(i) received a baccalaureate or similar degree with a major or a minor in the sciences, technology, engineering, or mathematics from a college, university, vocational school, or other postsecondary institution eligible to participate in a student aid program administered by the Department of Education; and

(ii) is a teacher who is highly qualified (within the meaning of section 9101(23) of the Elementary and Secondary Education Act of 1965).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $200,000,000 for fiscal year 2006;

(2) $210,000,000 for fiscal year 2007;

(3) $230,000,000 for fiscal year 2008;

(4) $270,000,000 for fiscal year 2009; and

(5) $350,000,000 for fiscal year 2010.

SEC. 202. MATH AND SCIENCE PARTNERSHIP BONUS GRANTS.

Part B of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6661 et seq.) is amended by adding at the end the following:

"SEC. 2204. MATH AND SCIENCE PARTNERSHIP BONUS GRANTS.

•"(a) IN GENERAL.—From amounts appropriated under subsection (d), the Secretary shall award a grant—

"(1) for each of the school years 2005-2006 through 2014–2015, to each of the 5 elementary schools and each of the 5 secondary schools in a State whose students demonstrate the most improvement in mathematics, as measured by the improvement in the students' average score on the State's assessments in mathematics from the school year preceding the school year for which the grant is awarded to the school year for which the grant is awarded; and

"(2) for each of the school years 2009-2010 through 2014–2015, to each of the 5 elementary schools and each of the 5 secondary schools in a State whose students demonstrate the most improvement in science, as measured by the improvement in the students' average score on the State's assessments in science from the school year preceding the school year for which the grant is awarded to the school year for which the grant is awarded.

"(b) GRANT AMOUNT.—The amount of each grant awarded under this section shall be $500,000.

"(c) APPLICABILITY.—Sections 2201, 2202, and 2203 shall not apply to this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $130,000,000 for each of fiscal years 2006 through 2009, and $260,000,000 for each of fiscal years 2010 through 2015.".

SEC. 203. MATCHING FUNDS PROGRAM TO PROMOTE AMERICAN COMPETITIVENESS THROUGH GRADUATE EDUCATION.

(a) PURPOSE.—The purpose of this section is to promote America's economic competitiveness and job creation by—

(1) assisting graduate students studying the sciences, technology, engineering, and mathematics;

(2) advancing education in the sciences, technology, engineering, and mathematics;

(3) stimulating greater links between private industry and graduate education; and

(4) enabling the Office of Science of the Department of Energy to establish a matching funds program for eligible institutions of higher education.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE INSTITUTION OF HIGHER EDUCATION.—The term "eligible institution of higher education" means an institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001), that—

(A) offers an established program of postbaccalaureate study leading to a graduate degree in the sciences, technology, engineering, or mathematics; and

(B) enters into a written agreement with the Director pursuant to subsection (e) to carry out the authorized activities described in the application submitted under subsection (d).

(2) DIRECTOR.—The term "Director" means the Director of the Office of Science of the Department of Energy.

(c) GRANTS.—

(1) GRANTS AUTHORIZED.—The Director is authorized to award grants, on a competitive basis, to eligible institutions of higher education to enable the eligible institutions of higher education to carry out authorized activities described in subsection (e).

(2) MATCHING FUNDS REQUIRED.—In order to receive a grant under this subsection an eligible institution of higher education shall agree to provide matching funds, toward the cost of the authorized activities to be assisted under the grant, in an amount equal to 25 percent of the funds received under the grant.

(3) AWARD CONSIDERATIONS.—In awarding grants under this subsection the Director shall take into consideration—

(A) the demonstrated commitment of the eligible institution of higher education to providing matching funds (including tuition remission, tuition waivers, and other types of institutional support) toward the cost of the authorized activities to be assisted under the grant;

(B) the demonstrated capacity of the eligible institution of higher education to raise matching funds from private sources;

(C) the demonstrated ability of the eligible institution of higher education to work with private corporations and organizations to promote economic competitiveness and job creation;

(D) the demonstrated ability of the eligible institution of higher education to increase the number of the eligible institution of higher education's graduates in the sciences, technology, engineering, or mathematics with the interdisciplinary background and the technical, professional and personal skills needed to contribute to American competitiveness and job creation in the future;

(E) the potential for the grant assistance to increase the number of graduates in the sciences, technology, engineering, or mathematics at the eligible institution of higher education; and

(F) the demonstrated track record of the eligible institution of higher education in outreach and mentoring activities that have the expressed purpose of recruiting and retaining women, recognized minorities, and individuals with disabilities in the sciences, technology, engineering, or mathematics.

(4) AMOUNT.—The Director shall award each grant under this subsection in an amount that is not more than $1,000,000 for each fiscal year.

(5) EQUITABLE GEOGRAPHIC DISTRIBUTION.—In awarding grants under this subsection the Director shall ensure—

(A) an equitable geographic distribution of the grants; and

(B) an equitable distribution among public and independent eligible institutions of higher education.

(d) APPLICATIONS.—Each eligible institution of higher education desiring a grant under this section shall submit an application to the Director at such time, in such manner, and accompanied by such information and assurances as the Director may require. Each such application shall describe—

(1) the authorized activities for which assistance is sought;

(2) the source and amount of the matching funds to be provided; and

(3) the amount of funds raised by the eligible institution of higher education from private sources that will be allocated and spent to carry out the authorized activities described in subsection (e).

(e) AUTHORIZED ACTIVITIES; AGREEMENT.—Each eligible institution of higher education desiring a grant under this section shall enter into a written agreement with the Director under which the eligible institution of higher education agrees to use all of the grant funds—

(1) to provide stipends or other financial assistance (such as tuition assistance and related expenses) for students who are enrolled in graduate programs in the sciences, technology, engineering, or mathematics at the eligible institution of higher education; and

(2) to support outreach and mentoring activities to increase the participation of underrepresented groups in the sciences, technology, engineering, or mathematics at all or any level of education, including elementary, secondary and post-secondary education.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $50,000,000 for fiscal year 2006;

(2) $60,000,000 for fiscal year 2007;

(3) $70,000,000 for fiscal year 2008;

(4) $80,000,000 for fiscal year 2009; and

(5) $90,000,000 for fiscal year 2010.

TITLE III—UNITED STATES PATENT AND TRADEMARK FEE MODERNIZATION

SEC. 301. PATENT AND TRADEMARK OFFICE FUNDING.

(a) AMENDMENT.—Section 42(c) of title 35, United States Code, is amended—

(1) by striking "(c)" and inserting "(c)(1)"; and

(2) by adding at the end the following:

"(2) If estimated fee collections by the Patent and Trademark Office for a fiscal year exceed the amount appropriated to the Office for that fiscal year, the Director shall reduce fees established under section 41 of this title and section 31(a) of the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946') for that fiscal year or the remainder of that fiscal year so that estimated collections for that fiscal year are equal to the amount appropriated to the Office for that fiscal year. Such reductions shall take effect on the later of October 1, of that fiscal year or 2 months after the date of enactment of the Act making the appropriation, and shall not be retroactive.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to fiscal year 2006 and each fiscal year thereafter.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1021. A bill to reauthorize the Workforce Investment Act of 1998, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President I rise today to introduce the Workforce Investment Act Amendments of 2005. I am pleased to be joined in this important effort by Senator KENNEDY, the Ranking Member of the Health, Education, Labor and Pensions Committee.

The Workforce Investment Act (WIA), together with the Perkins Career and Technical Education Act, which we passed earlier this year, and the Higher Education Act, which we will consider in the next few months, will provide the important resources that are needed to adequately prepare our workforce with the skills that are necessary for jobs and careers in high wage and high skilled occupations.

We are facing an economic challenge that threatens our ability as a nation to compete in the global economy. As we heard from the witnesses who testified at a hearing held on April 14, 2005, before the Health, Education, Labor and Pensions Committee, we have too few workers with too few skills. The skill and literacy requirements of today's and tomorrow's workplace cannot be met if we do not provide everyone access to lifelong education, training and retraining.

Sixty percent of tomorrow's jobs will require skills that only 20 percent of today's workers possess. About half of our current workforce does not have a postsecondary education degree or credential, when all projections are that job growth over the next decade will be in jobs that require some postsecondary education or training.

Technology is demanding that everyone continue to learn and gain skills. In January of this year the labor force participation rate for individuals over the age of 16 who are willing and able to work was 68.8 percent, the lowest in over 15 years, as more Americans conclude that they cannot meet the skill demands of today's workplace and choose to no longer participate in the workforce.

The legislation I am introducing today helps meet these challenges. It is the result of a bipartisan process that began in the 108th Congress. It gives States and local areas the flexibility to provide training for jobs in high skill, high wage, and high demand occupations. It strengthens connections with the private sector, postsecondary education and training, and economic development systems to prepare the 21st century workforce. It improves the existing structure of one-stops to ensure an effective response to the changing needs of employers and workers in a new economy. It includes a new focus on entrepreneurial skills and micro-enterprises, addresses unique needs of small businesses and rural areas, and encourages collaboration locally and regionally with economic development and education.

This legislation also amends the Adult Education and Family Literacy Act and the Vocational Rehabilitation Act. These amendments encourage coordination with K-12 schools, postsecondary education and the workforce system so that individuals with barriers to workforce participation will have an opportunity to gain the literacy, language or core skills they will need to enter and advance in the workplace.

I hope that our bipartisan efforts will continue to produce the results that are needed as we move this bill through the Senate and into Conference. This legislation is critical to meeting the workforce challenges of the 21st century. It sends a clear message that we are serious about helping our workers and employers remain competitive and closing the skills gap that places America's long-term competitiveness in jeopardy.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Workforce Investment Act Amendments of 2005".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.

TITLE I—AMENDMENTS TO TITLE I OF THE WORKFORCE INVESTMENT ACT OF 1998

Subtitle A—Definitions

Sec. 101. Definitions.

Subtitle B—Statewide and Local Workforce Investment Systems

Sec. 111. Purpose.
Sec. 112. State workforce investment boards.
Sec. 113. State plan.
Sec. 114. Local workforce investment areas.
Sec. 115. Local workforce investment boards.
Sec. 116. Local plan.
Sec. 117. Establishment of one-stop delivery systems.
Sec. 118. Eligible providers of training services.
Sec. 119. Eligible providers of youth activities.
Sec. 120. Youth activities.
Sec. 121. Adult and dislocated worker employment and training activities.
Sec. 122. Performance accountability system.
Sec. 123. Authorization of appropriations.

Subtitle C—Job Corps

Sec. 131. Job Corps.

Subtitle D—National Programs

Sec. 141. Native American programs.
Sec. 142. Migrant and seasonal farmworker programs.
Sec. 143. Veterans' workforce investment programs.
Sec. 144. Youth challenge grants.
Sec. 145. Technical assistance.
Sec. 146. Demonstration, pilot, multiservice, research, and multistate projects.
Sec. 147. National dislocated worker grants.
Sec. 148. Authorization of appropriations for national activities.

Subtitle E—Administration

Sec. 151. Requirements and restrictions.
Sec. 152. Reports.
Sec. 153. Administrative provisions.
Sec. 154. Use of certain real property.
Sec. 155. General program requirements.
Sec. 156. Table of contents.

Subtitle F—Incentive Grants

Sec. 161. Incentive grants.

Subtitle G—Conforming Amendments

Sec. 171. Conforming amendments.

TITLE II—AMENDMENTS TO THE ADULT EDUCATION AND FAMILY LITERACY ACT

Sec. 201. Short title; purpose.
Sec. 202. Definitions.
Sec. 203. Authorization of appropriations.
Sec. 204. Home schools.
Sec. 205. Reservation of funds; grants to eligible agencies; allotments.
Sec. 206. Performance accountability system.
Sec. 207. State administration.
Sec. 208. State distribution of funds; matching requirement.
Sec. 209. State leadership activities.
Sec. 210. State plan.
Sec. 211. Programs for corrections education and other institutionalized individuals.
Sec. 212. Grants and contracts for eligible providers.
Sec. 213. Local application.
Sec. 214. Local administrative cost limits.
Sec. 215. Administrative provisions.
Sec. 216. National Institute for Literacy.
Sec. 217. National leadership activities.
Sec. 218. Integrated English literacy and civics education.
Sec. 219. Transition.

TITLE III—AMENDMENTS TO OTHER PROVISIONS OF LAW

Sec. 301. Wagner-Peyser Act.

TITLE IV—REHABILITATION ACT AMENDMENTS

Sec. 401. Short title.
Sec. 402. Technical amendments to table of contents.
Sec. 403. Purpose.
Sec. 404. Definitions.
Sec. 405. Administration of the Act.
Sec. 406. Reports.
Sec. 407. Carryover.

Subtitle A—Vocational Rehabilitation Services

Sec. 411. Declaration of policy; authorization of appropriations.
Sec. 412. State plans.
Sec. 413. Eligibility and individualized plan for employment.
Sec. 414. Vocational rehabilitation services.
Sec. 415. State rehabilitation council.
Sec. 416. Evaluation standards and performance indicators.
Sec. 417. Monitoring and review.
Sec. 418. State allotments.
Sec. 419. Reservation for expanded transition services.
Sec. 420. Client assistance program.
Sec. 421. Incentive grants.
Sec. 422. Vocational rehabilitation services grants.
Sec. 423. GAO studies.

Subtitle B—Research and Training

Sec. 431. Declaration of purpose.
Sec. 432. Authorization of appropriations.
Sec. 433. National Institute on Disability and Rehabilitation Research.
Sec. 434. Interagency committee.
Sec. 435. Research and other covered activities.
Sec. 436. Rehabilitation Research Advisory Council.
Sec. 437. Definition.

Subtitle C—Professional Development and Special Projects and Demonstrations

Sec. 441. Training.
Sec. 442. Demonstration and training programs.
Sec. 443. Migrant and seasonal farmworkers.
Sec. 444. Recreational programs.

Subtitle D—National Council on Disability

Sec. 451. Authorization of appropriations.

Subtitle E—Rights and Advocacy

Sec. 461. Architectural and Transportation Barriers Compliance Board.
Sec. 462. Protection and advocacy of individual rights.

Subtitle F—Employment Opportunities for Individuals With Disabilities

Sec. 471. Projects with industry.
Sec. 472. Projects with industry authorization of appropriations.
Sec. 473. Services for individuals with significant disabilities authorization of appropriations.

Subtitle G—Independent Living Services and Centers for Independent Living

Sec. 481. State plan.
Sec. 482. Statewide Independent Living Council.
Sec. 483. Independent living services authorization of appropriations.
Sec. 484. Program authorization.
Sec. 485. Grants to centers for independent living in States in which Federal funding exceeds State funding.
Sec. 486. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding.
Sec. 487. Standards and assurances for centers for independent living.
Sec. 488. Centers for independent living authorization of appropriations.
Sec. 489. Independent living services for older individuals who are blind.
Sec. 490. Program of grants.
Sec. 491. Independent living services for older individuals who are blind authorization of appropriations.

Subtitle H—Miscellaneous

Sec. 495. Helen Keller National Center Act.

TITLE V—TRANSITION AND EFFECTIVE DATE

Sec. 501. Transition provisions.
Sec. 502. Effective date.

SEC. 3. REFERENCES.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

TITLE I—AMENDMENTS TO TITLE I OF THE WORKFORCE INVESTMENT ACT OF 1998

Subtitle A—Definitions

SEC. 101. DEFINITIONS.

Section 101 (29 U.S.C. 2801) is amended—

(1) by redesignating paragraphs (1) through (4), (5) through (16), (17), (18) through (41), and (42) through (53) as paragraphs (2) through (5), (7) through (18), (20), (23) through (46), and (48) through (59), respectively;

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

"(1) ACCRUED EXPENDITURES.—The term 'accrued expenditures' means charges incurred by recipients of funds under this title for a given period requiring the provision of funds for—

"(A) goods or other tangible property received;

"(B) services performed by employees, contractors, subgrantees, subcontractors, and other payees; and

"(C) other amounts becoming owed under programs assisted under this title for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.";

(3) in paragraph (2) (as redesignated by paragraph (1)), by striking "Except in sections 127 and 132" and inserting "Except in section 132,";

(4) by striking paragraph (5) (as redesignated by paragraph (1)) and inserting the following:

"(5) BASIC SKILLS DEFICIENT.—The term 'basic skills deficient' means, with respect to an individual, that the individual—

"(A) has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test; or

"(B) is unable to compute or solve problems, read, write, or speak English at a level necessary to function on the job, in the individual's family, or in society.";

(5) by inserting after paragraph (5) (as redesignated by paragraph (1)) the following:

"(6) BUSINESS INTERMEDIARY.—The term 'business intermediary' means an entity that brings together various stakeholders with an expertise in an industry or business sector.";

(6) in paragraph (9) (as redesignated by paragraph (1)), by inserting ", including a faith-based organization," after "nonprofit organization";

(7) in paragraph (10) (as redesignated by paragraph (1))—

(A) in subparagraph (B), by striking "and" after the semicolon;

(B) in subparagraph (C)—

(i) by striking "for not less than 50 percent of the cost of the training," and inserting "for—

"(i) a significant portion of the cost of training as determined by the local board, taking into account the size of the employer and such other factors as the local board determines to be appropriate; and

"(ii) in the case of customized training (as defined in subparagraphs (A) and (B)) with an employer in multiple local areas in the State, a significant portion of the cost of the training, as determined by the Governor, taking into account the size of the employer and such other factors as the Governor determines to be appropriate.";

(8) in paragraph (11) (as redesignated by paragraph (1))—

(A) in subparagraph (A)(ii)(II), by striking "section 134(c)" and inserting "section 121(e)";

(B) in subparagraph (C), by striking "or" after the semicolon;

(C) in subparagraph (D), by striking the period and inserting "; or"; and

(D) by adding at the end the following:

"(E)(i) is the spouse of a member of the Armed Forces on active duty for a period of more than 30 days (as defined in section 101(d)(2) of title 10, United States Code) who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of such member; or

"(ii) is the spouse of a member of the Armed Forces on active duty who meets the criteria described in paragraph (12)(B).";

(9) in paragraph (12)(A) (as redesignated by paragraph (1))—

(A) by striking "and" after the semicolon and inserting "or";

(B) by striking "(A)" and inserting "(A)(i)"; and

(C) by adding at the end the following:

"(ii) is the dependent spouse of a member of the Armed Forces on active duty for a period of more than 30 days (as defined in section 101(d)(2) of title 10, United States Code) whose family income is significantly reduced because of a deployment (as defined in section 991(b) of title 10, United States Code, or pursuant to paragraph (4) of such section), a call or order to active duty pursuant to a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, a permanent change of station, or the service-connected (as defined in section 101(16) of title 38, United States Code) death or disability of the member; and";

(10) in paragraph (14)(A) (as redesignated by paragraph (1)), by striking "section 122(e)(3)" and inserting "section 122";

(11) by inserting after paragraph (18) (as redesignated by paragraph (1)) the following:

"(19) HARD-TO-SERVE POPULATIONS.—The term 'hard-to-serve populations' means populations of individuals who are hard to serve, including displaced homemakers, low-income individuals, Native Americans, individuals with disabilities, older individuals, ex-offenders, homeless individuals, individuals with limited English proficiency, individuals who do not meet the definition of literacy in section 203, individuals facing substantial cultural barriers, migrant and seasonal farmworkers, individuals within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), single parents (including single pregnant women), and such other groups as the Governor determines to be hard to serve.";

(12) by inserting after paragraph (20) (as redesignated by paragraph (1)) the following:

"(21) INTEGRATED TRAINING PROGRAM.—The term 'integrated training program' means a program that combines occupational skills training with English language acquisition.

"(22) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a), and subparagraphs (A) and (B) of section 102(a)(1), of the Higher Education Act of 1965 (20 U.S.C. 1001(a), 1002(a)(1)).";

(13) in paragraph (30) (as redesignated by paragraph (1))—

(A) by redesignating subparagraphs (D) through (F) as subparagraphs (E) through (G), respectively; and

(B) by inserting after subparagraph (C) the following:

"(D) receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);";

(14) in paragraph (31) (as redesignated by paragraph (1)), by inserting after "fields of work" the following: ", including occupations in computer science and technology and other emerging high-skill occupations,";

(15) in paragraph (35) (as redesignated by paragraph (1)), by inserting ", subject to section 121(b)(1)(C)" after "121(b)(1)";

(16) by striking paragraph (38) (as redesignated by paragraph (1)) and inserting the following:

"(38) OUT-OF-SCHOOL YOUTH.—The term 'out-of-school youth' means an out-of-school youth as defined in section 129(a)(1)(B).";

(17) by inserting after paragraph (46) (as redesignated by paragraph (1)) the following:

"(47) SELF-SUFFICIENCY.—The term 'self-sufficiency' means self-sufficiency within the meaning of subsections (a)(3)(A)(x) and (e)(1)(A)(xii) of section 134.";

(18) in paragraph (49) (as redesignated by paragraph (1)), by striking "clause (iii) or (v) of section 136(b)(3)(A)" and inserting "section 136(b)(3)(A)(iii)";

(19) in paragraph (58) (as redesignated by paragraph (1)), by striking "(or as described in section 129(c)(5))" and inserting "(or as described in section 129(a)(2))"; and

(20) in paragraph (59) (as redesignated by paragraph (1)), by striking "established under section 117(h)" and inserting "that may be established under section 117(h)(2)".

Subtitle B—Statewide and Local Workforce Investment Systems

SEC. 111. PURPOSE.

Section 106 (29 U.S.C. 2811) is amended to read as follows:

"SEC. 106. PURPOSES.

"The purposes of this subtitle are the following:

"(1)(A) Primarily, to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, self-sufficiency, and earnings of participants, and increase occupational skill attainment by participants.

"(B) As a result of the provision of the activities, to improve the quality of the workforce, reduce welfare dependency, increase self-sufficiency, and enhance the productivity and competitiveness of the Nation.

"(2) To enhance the workforce investment system of the Nation by strengthening one-stop centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment and training and related services, establishing a targeted approach to serving youth, improving performance accountability, and promoting State and local flexibility.

"(3) To provide workforce investment activities in a manner that promotes the informed choice of participants and actively involves participants in decisions affecting their participation in such activities.

"(4) To provide workforce investment systems that are demand-driven and responsive to the needs of all employers, including small employers.

"(5) To provide workforce investment systems that work in all areas of the Nation, including urban and rural areas.

"(6) To allow flexibility to meet State, local, regional, and individual workforce investment needs.

"(7) To recognize and reinforce the vital link between economic development and workforce investment activities.

"(8) To provide for accurate data collection, reporting, and performance measures that are not unduly burdensome.

"(9) To address the ongoing shortage of essential skills in the United States workforce related to both manufacturing and knowledge-based economies to ensure that the United States remains competitive in the global economy.

"(10) To equip workers with higher skills and contribute to lifelong education.

"(11) To eliminate training disincentives for hard-to-serve populations and minority workers, including effectively utilizing community programs, services, and agencies.

"(12) To educate limited English proficient individuals about skills and language so the individuals are employable.

"(13) To increase the employment, retention and earnings of individuals with disabilities.".

SEC. 112. STATE WORKFORCE INVESTMENT BOARDS.

(a) MEMBERSHIP.—

(1) IN GENERAL.—Section 111(b) (29 U.S.C. 2821(b)) is amended—

(A) in paragraph (1), by striking subparagraph (C) and inserting the following:

"(C) representatives appointed by the Governor, who—

"(i) are the lead State agency officials with responsibility for the programs and activities that are described in section 121(b) and carried out by one-stop partners, except that—

"(I) in any case in which no lead State agency official has responsibility for such a program or activity, the representative shall be a representative in the State with expertise relating to such program or activity; and

"(II) in the case of the programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), the representative shall be the director of the designated State unit, as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705);

"(ii) are the State agency officials responsible for economic development;

"(iii) are representatives of business in the State, including small businesses, who—

"(I) are owners of businesses, chief executive or operating officers of businesses, or other business executives or employers with optimum policymaking or hiring authority;

"(II) represent businesses with employment opportunities that reflect employment opportunities in the State; and

"(III) are appointed from among individuals nominated by State business organizations, business trade associations, and local boards;

"(iv) are chief elected officials (representing cities and counties, where appropriate);

"(v) are representatives of labor organizations, who have been nominated by State labor federations; and

"(vi) are such other State agency officials and other representatives as the Governor may designate."; and

(B) in paragraph (3), by striking "paragraph (1)(C)(i)" and inserting "paragraph (1)(C)(iii)".

(2) Conforming amendment.—Section 111(c) (29 U.S.C. 2821(c)) is amended by striking "subsection (b)(1)(C)(i)" and inserting "subsection (b)(1)(C)(iii)".

(b) Functions.—Section 111(d) (29 U.S.C. 2821(d)) is amended—

(1) in paragraph (1), by striking "development" and inserting "development, implementation, and revision";

(2) in paragraph (2)—

(A) by striking "section 134(c)" and inserting "section 121(e)"; and

(B) in subparagraph (A), by inserting after "section 121(b)" the following: ", including granting the authority for the State employment service under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) to plan and coordinate employment and training activities with local boards";

(3) by striking paragraph (3) and inserting the following:

"(3) reviewing and providing comment on the State plans of all one-stop partner programs, where applicable, in order to provide effective strategic leadership in the development of a high quality, comprehensive statewide workforce investment system, including commenting at least once annually on the measures taken pursuant to section 113(b)(3) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2323(b)(3)) and title II of this Act;";

(4) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively;

(5) by inserting after paragraph (3) the following:

"(4) development and review of statewide policies affecting the coordinated provision of services through the one-stop delivery system described in section 121(e) within the State, including—

"(A) the development of objective criteria and procedures for use by local boards in assessing the effectiveness and continuous improvement of one-stop centers under section 121(g);

"(B) the development of guidance for the allocation of one-stop center infrastructure funds under section 121(h)(1)(B);

"(C) the development of—

"(i) statewide policies relating to the appropriate roles and contributions of one-stop partner programs within the one-stop delivery system, including approaches to facilitating equitable and efficient cost allocation in the one-stop delivery system;

"(ii) statewide strategies for providing effective outreach to individuals, including hard-to-serve populations, and employers who could benefit from services provided through the one-stop delivery system;

"(iii) strategies for technology improvements to facilitate access to services provided through the one-stop delivery system, in remote areas, and for individuals with disabilities, which may be utilized throughout the State; and

"(iv) strategies for the effective coordination of activities between the one-stop delivery system of the State and the State employment service under the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(D) identification and dissemination of information on best practices for effective operation of one-stop centers, including use of innovative business outreach, partnerships, and service delivery strategies, including for hard-to-serve populations; and

"(E) conduct of such other matters as may promote statewide objectives for, and enhance the performance of, the one-stop delivery system;";

(6) in paragraph (5) (as redesignated by paragraph (4)), by inserting "and the development of statewide criteria to be used by chief elected officials for the appointment of local boards consistent with section 117" after "section 116";

(7) in paragraph (6) (as redesignated by paragraph (4)), by striking "sections 128(b)(3)(B) and 133(b)(3)(B)" and inserting "sections 128(b)(3) and 133(b)(3)(B)";

(8) in paragraph (9) (as redesignated by paragraph (4))—

(A) by striking "employment statistics system" and inserting "workforce and labor market information system"; and

(B) by striking "and" after the semicolon;

(9) in paragraph (10) (as redesignated by paragraph (4))—

(A) by inserting "section 136(i) and" before "section 503"; and

(B) by striking the period and inserting "; and"; and

(10) by adding at the end the following:

"(11) increasing the availability of skills training, employment opportunities, and career advancement, for hard-to-serve populations.".

(c) Alternative Entity.—Section 111(e) (29 U.S.C. 2821(e)) is amended—

(1) in paragraph (1), by striking "For" and inserting "Subject to paragraph (3), for"; and

(2) by adding at the end the following:

"(3) Failure to meet performance measures.—If a State fails to have performed successfully, as defined in section 116(a)(2), the Secretary may require the State to establish a State board in accordance with subsections (a), (b), and (c) in lieu of the alternative entity established under paragraph (1).".

(d) Conflict of Interest.—Section 111(f)(1) (29 U.S.C. 2821(f)(1)) is amended by inserting "or participate in action taken on" after "vote".

(e) Sunshine Provision.—Section 111(g) (29 U.S.C. 2821(g)) is amended—

(1) by inserting ", and modifications to the State plan," before "prior"; and

(2) by inserting ", and modifications to the State plan" after "the plan".

(f) Authority To Hire Staff.—Section 111 (29 U.S.C. 2821) is amended by adding at the end the following:

"(h) Authority To Hire Staff.—

"(1) In general.—The State board may hire staff to assist in carrying out the functions described in subsection (d) using funds allocated under sections 127(b)(1)(C) and 132(b).

"(2) Limitation on rate.—Funds appropriated under this title shall not be used to pay staff employed by the State board, either as a direct cost or through any proration as an indirect cost, at a rate in excess of the maximum rate payable for a position at GS–15 of the General Schedule as in effect on the date of enactment of the Workforce Investment Act Amendments of 2005.".

SEC. 113. STATE PLAN.

(a) Planning Cycle.—Section 112(a) (29 U.S.C. 2822(a)) is amended—

(1) by inserting ", or a State unified plan as described in section 501," before "that outlines";

(2) by striking "5-year strategy" and inserting "4-year strategy"; and

(3) by adding at the end the following: "At the end of the first 2-year period of the 4-year State plan, the State board shall review and, as needed, amend the 4-year State plan to reflect labor market and economic conditions. In addition, the State shall submit a modification to the State plan at the end of the first 2-year period of the State plan, which may include redesignation of local areas pursuant to section 116(a) and specification of the levels of performance under sections 136 for the third and fourth years of the plan.".

(b) Contents.—Section 112(b) (29 U.S.C. 2822(b)) is amended—

(1) in paragraph (8)(A)—

(A) in clause (ix), by striking "and" after the semicolon; and

(B) by adding at the end the following:

"(xi) programs authorized under title II of the Social Security Act (42 U.S.C. 401 et seq.) (relating to Federal old-age, survivors, and disability insurance benefits), title XVI of such Act (42 U.S.C. 1381 et seq.) (relating to supplemental security income), title XIX of such Act (42 U.S.C. 1396 et seq.) (relating to medicaid), and title XX of such Act (42 U.S.C. 1397 et seq.) (relating to block grants to States for social services), programs authorized under title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796 et seq.), and programs carried out by State agencies relating to mental retardation and developmental disabilities; and";

(2) by striking paragraph (10) and inserting the following:

"(10) a description of how the State will use funds the State received under this subtitle to leverage other Federal, State, local, and private resources, in order to maximize the effectiveness of such resources, expand resources for the provision of education and training services, and expand the participation of businesses, employees, and individuals in the statewide workforce investment system, including a description of incentives and technical assistance the State will provide to local areas for such purposes;";

(3) in paragraph (12)(A), by striking "sections 128(b)(3)(B) and 133(b)(3)(B)" and inserting "sections 128(b)(3) and 133(b)(3)(B)";

(4) in paragraph (14), by striking "section 134(c)" and inserting "section 121(e)";

(5) in paragraph (15), by striking "section 116(a)(5)" and inserting "section 116(a)(4)";

(6) in paragraph (17)—

(A) in subparagraph (A)—

(i) in clause (iii)—

(I) by inserting "local" before "customized training"; and

(II) by striking "and" at the end;

(ii) in clause (iv), by striking "(including displaced homemakers)," and all that follows through "disabilities)" and inserting ", hard-to-serve populations, and individuals training for nontraditional employment"; and

(iii) by adding after clause (iv) the following:

"(v) how the State will serve the employment and training needs of individuals with disabilities, consistent with section 188 and Executive Order 13217 (42 U.S.C. 12131 note; relating to community-based alternatives for individuals with disabilities), including the provision of outreach, intake, the conduct of assessments, service delivery, the development of adjustments to performance measures established under section 136, and the training of staff; and"; and

(B) in subparagraph (B), by striking "and" at the end;

(7) in paragraph (18)(D)—

(A) by striking "youth opportunity grants under section 169" and inserting "youth challenge grants authorized under section 169 and other federally funded youth programs"; and

(B) by striking the period and inserting a semicolon; and

(8) by adding at the end the following:

"(19) a description of how the State will utilize technology to facilitate access to services in remote areas, which may be utilized throughout the State;

"(20) a description of the State strategy for coordinating workforce investment activities and economic development activities, and promoting entrepreneurial skills training and microenterprise services;

"(21) a description of the State strategy and assistance to be provided for ensuring regional cooperation within the State and across State borders as appropriate;

"(22) a description of how the State will use funds the State receives under this subtitle to—

"(A) implement innovative programs and strategies designed to meet the needs of all businesses in the State, including small businesses, which may include incumbent worker training programs, sectoral and industry cluster strategies, regional skills alliances, career ladder programs, utilization of effective business intermediaries, and other business services and strategies that better engage employers in workforce investment activities and make the statewide workforce investment system more relevant to the needs of State and local businesses, consistent with the objectives of this title; and

"(B) provide incentives and technical assistance to assist local areas in more fully engaging all employers, including small employers, in local workforce investment activities, to make the workforce investment system more relevant to the needs of area businesses, and to better coordinate workforce investment and economic development efforts to contribute to the economic well-being of the local area, as determined appropriate by the local board;

"(23) a description of the State strategy—

"(A) for ensuring cooperation between transportation providers, including public transportation providers, and providers of workforce investment activities; and

"(B) for ensuring coordination among appropriate State agencies and programs to make available skills training, employment services and opportunities, and career advancement activities, that will assist ex-offenders in reentering the workforce;

"(24) a description of how the State will assist local areas in assuring physical and programmatic accessibility for individuals with disabilities at one-stop centers;

"(25) a description of the process and methodology that will be used by the State board to—

"(A) review statewide policies and provide guidance on the coordinated provision of services through the one-stop delivery system described in section 121(e);

"(B) establish, in consultation with chief elected officials and local boards, objective criteria and procedures for use by local boards in periodically assessing the effectiveness, physical and programmatic accessibility, and continuous improvement of one-stop centers and the one-stop delivery system as described in section 121(g); and

"(C) determine—

"(i) one-stop partner program contributions for the costs of the infrastructure of one-stop centers under section 121(h)(2); and

"(ii) the formula for allocating the funds described in section 121(h)(2) to local areas;

"(26) a description of the State strategy for ensuring that activities carried out under this title are placing men and women in jobs, education, or training that lead to comparable pay; and

"(27) a description of the technical assistance available to one-stop operators and providers of training services for strategies to serve hard-to-serve populations and promote placement in nontraditional employment.".

(c) MODIFICATIONS TO PLAN.—Section 112(d) (29 U.S.C. 2822(d)) is amended—

(1) by striking "5-year period" and inserting "4-year period"; and

(2) by adding at the end the following: "In addition, the State shall submit the modifications to the State plan required under subsection (a), under circumstances prescribed by the Secretary that are due to changes in Federal law that significantly affect elements of the State plan.".

SEC. 114. LOCAL WORKFORCE INVESTMENT AREAS.

(a) DESIGNATION OF AREAS.—

(1) CONSIDERATIONS.—Section 116(a)(1) (29 U.S.C. 2831(a)(1)) is amended—

(A) in subparagraph (A), by striking "paragraphs (2), (3), and (4)" and inserting "paragraphs (2) and (3)"; and

(B) in subparagraph (B), by adding at the end the following:

"(vi) The extent to which such local areas will promote maximum effectiveness in the administration and provision of services.".

(2) AUTOMATIC DESIGNATION.—Section 116(a)(2) (29 U.S.C. 2831(a)(2)) is amended to read as follows:

"(2) AUTOMATIC DESIGNATION.—

"(A) IN GENERAL.—The Governor shall approve a request for designation as a local area that is submitted prior to the submission of the State plan, or of a modification to the State plan relating to area designation, from any area that—

"(i) is a unit of general local government with a population of 500,000 or more, except that after the initial 2-year period following such designation pursuant to this clause that occurs after the date of enactment of the Workforce Investment Act Amendments of 2005, the Governor shall only be required to approve a request for designation from such area if such area—

"(I) performed successfully; and

"(II) sustained fiscal integrity;

"(ii) was a local area under this title for the preceding 2-year period, if such local area—

"(I) performed successfully; and

"(II) sustained fiscal integrity;

"(iii) is served by a rural concentrated employment program grant recipient, except that after the initial 2-year period following any such designation under the initial State plan submitted after the date of enactment of the Workforce Investment Act Amendments of 2005, the Governor shall only be required to approve a request for designation under this clause for such area if such area—

"(I) performed successfully; and

"(II) sustained fiscal integrity; or

"(iv) was a local area under section 116(a)(2)(C) (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005), except that after the initial 2-year period following such designation pursuant to this clause that occurs after that date of enactment, the Governor shall only be required to approve a request for designation under this clause for such area if such area—

"(I) performed successfully; and

"(II) sustained fiscal integrity.

"(B) DEFINITIONS.—For purposes of this paragraph:

"(i) PERFORMED SUCCESSFULLY.—The term 'performed successfully', when used with respect to a local area, means the local area performed at 80 percent or more of the adjusted level of performance for core indicators of performance described in section 136(b)(2)(A) for 2 consecutive years.

"(ii) SUSTAINED FISCAL INTEGRITY.—The term 'sustained fiscal integrity', used with respect to an area, means that the Secretary has not made a formal determination during the preceding 2-year period that either the grant recipient or the administrative entity of the area misexpended funds provided under this title due to willful disregard of the requirements of the Act involved, gross negligence, or failure to comply with accepted standards of administration.".

(3) CONFORMING AMENDMENTS.—Section 116(a) (29 U.S.C. 2831(a)) is amended—

(A) by striking paragraph (3);

(B) by redesignating paragraphs (4) and (5) as paragraph (3) and (4), respectively;

(C) in paragraph (3) (as redesignated by subparagraph (B))—

(i) by striking "(including temporary designation)"; and

(ii) by striking "(v)" and inserting "(vi)"; and

(D) in paragraph (4) (as redesignated by subparagraph (B))—

(i) by striking "under paragraph (2) or (3)" and inserting "under paragraph (2)"; and

(ii) by striking the second sentence.

(b) SINGLE LOCAL AREA STATES.—Section 116(b) (29 U.S.C. 2831(b)) is amended to read as follows:

"(b) SINGLE LOCAL AREA STATES.—

"(1) CONTINUATION OF PREVIOUS DESIGNATION.—Notwithstanding subsection (a)(2), the Governor of any State that was a single local area for purposes of this title as of July 1, 2004, may continue to designate the State as a single local area for purposes of this title if the Governor identifies the State as a local area in the State plan under section 112(b)(5).

"(2) REDESIGNATION.—The Governor of a State not described in paragraph (1) may designate the State as a single local area if, prior to the submission of the State plan or modification to such plan so designating the State, no local area meeting the requirements for automatic designation under subsection (a)(2) requests such designation as a separate local area.

"(3) EFFECT ON LOCAL PLAN.—In any case in which a State is designated as a local area pursuant to this subsection, the local plan prepared under section 118 for the area shall be submitted to the Secretary for approval as part of the State plan under section 112.".

(c) REGIONAL PLANNING.—Section 116(c) (29 U.S.C. 2831(c)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) PLANNING.—

"(A) IN GENERAL.—As part of the process for developing the State plan, a State may require regional planning by local boards for a designated region in the State. The State may require the local boards for a designated region to participate in a regional planning process that results in the establishment of regional performance measures for workforce investment activities authorized under this subtitle. The State, after consultation with local boards and chief elected officials, may require the local boards for the designated region to prepare, submit, and obtain approval of a single regional plan that incorporates local plans for each of the local areas in the region, as required under section 118. The State may award regional incentive grants to the designated regions that meet or exceed the regional performance measures pursuant to section 134(a)(2)(B)(iii).

"(B) TECHNICAL ASSISTANCE.—If the State requires regional planning as provided in subparagraph (A), the State shall provide technical assistance and labor market information to such local areas in the designated regions to assist with such regional planning and subsequent service delivery efforts.";

(2) in paragraph (2), by inserting "information about the skill requirements of existing and emerging industries and industry clusters," after "information about employment opportunities and trends."; and

(3) in paragraph (3), by adding at the end the following: "Such services may be required to be coordinated with regional economic development services and strategies.".

SEC. 115. LOCAL WORKFORCE INVESTMENT BOARDS.

(a) COMPOSITION.—Section 117(b) (29 U.S.C. 2832(b)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (i), by striking subclause (II) and inserting the following:

"(II) collectively, represent businesses with employment opportunities that reflect the employment opportunities of the local area, and include representatives of businesses that are in high-growth and emerging industries, and representatives of businesses, including small businesses, in the local area; and";

(B) by striking clause (ii) and inserting the following:

"(ii)(I) a superintendent representing the local school districts involved or another high-level official from such districts;

"(II) the president or highest ranking official of an institution of higher education participating in the workforce investment activities in the local area; and

"(III) an administrator of local entities providing adult education and literacy activities in the local area;";

(C) in clause (iv), by inserting ", hard-to-serve populations," after "disabilities";

(D) in clause (v), by striking "and" at the end; and

(E) by striking clause (vi) and inserting the following:

"(vi) a representative from the State employment service under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) who is serving the local area; and

"(vii) if the local board does not establish or continue a youth council, representatives with experience serving out-of-school youth, particularly out-of-school youth facing barriers to employment; and"; and

(2) by adding at the end the following:

"(6) SPECIAL RULE.—In the case that there are multiple school districts or institutions of higher education serving a local area, the representatives described in subclause (I) or (II) of paragraph (2)(A)(ii), respectively, shall be appointed from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such agencies or institutions.".

(b) AUTHORITY OF BOARD MEMBERS.—Section 117(b)(3) (29 U.S.C. 2832(b)(3)) is amended—

(1) in the heading, by inserting "AND REPRESENTATION" after "AUTHORITY"; and

(2) by adding at the end the following: "The members of the board shall represent diverse geographic sections within the local area.".

(c) CONFORMING AMENDMENT.—Section 117(c)(1)(C) (29 U.S.C. 2832(c)(1)(C)) is amended by striking "section 116(a)(2)(B)" and inserting "section 116(a)(2)(A)(ii)".

(d) FUNCTIONS.—Section 117(d) (29 U.S.C. 2832(d)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B)—

(i) by inserting "(except as provided in section 123(b))" after "basis"; and

(ii) by inserting "(where appropriate)" after "youth council"; and

(B) by adding at the end the following:

"(E) CONSUMER CHOICE REQUIREMENTS.—Consistent with sections 122 and paragraphs (3) and (4) of 134(d), the local board shall work to ensure there are sufficient providers of intensive services and training services serving the local area in a manner that maximizes consumer choice, including providers with expertise in assisting individuals with disabilities.";

(2) in paragraph (3)(B), by striking clause (ii) and inserting the following:

"(ii) STAFF.—

"(I) IN GENERAL.—The local board may hire staff.

"(II) LIMITATION ON RATE.—Funds appropriated under this title shall not be used to pay staff employed by the local board, either as a direct cost or through any proration as an indirect cost, at a rate in excess of the maximum rate payable for a position at GS-15 of the General Schedule, as in effect on the date of enactment of the Workforce Investment Act Amendments of 2005.";

(3) in paragraph (4), by inserting ", and shall ensure the appropriate use and management of the funds provided under this subtitle for such programs, activities, and system" after "area";

(4) in paragraph (6)—

(A) by striking "EMPLOYMENT STATISTICS SYSTEM" and inserting "WORKFORCE AND LABOR MARKET INFORMATION SYSTEM"; and

(B) by striking "employment statistics system" and inserting "workforce and labor market information system";

(5) in paragraph (8)—

(A) by inserting ", including small employers," after "private sector employers"; and

(B) by striking the period and inserting ", taking into account the unique needs of small businesses."; and

(6) by adding at the end the following:

"(9) TECHNOLOGY IMPROVEMENTS.—The local board shall develop strategies for technology improvements to facilitate access to services, in remote areas, for services authorized under this subtitle and carried out in the local area.".

(e) CONFORMING AMENDMENT.—Section 117(f)(2) (29 U.S.C. 2832(f)(2)) is amended by striking "described in section 134(c)".

(f) CONFLICT OF INTEREST.—Section 117(g)(1) (29 U.S.C. 2832(g)(1)) is amended by inserting "or participate in action taken on" after "vote."

(g) AUTHORITY TO ESTABLISH COUNCILS AND ELIMINATION OF REQUIREMENT FOR YOUTH COUNCILS.—Section 117(h) (29 U.S.C. 2832(h)) is amended to read as follows:

"(h) COUNCILS.—The local board may establish or continue councils to provide information and advice to assist the local board in carrying out activities under this title. Such councils may include—

"(1) a council composed of one-stop partners to advise the local board on the operation of the one-stop delivery system involved;

"(2) a youth council composed of experts and stakeholders in youth programs to advise the local board on youth activities; and

"(3) such other councils as the local board determines are appropriate.".

(h) ALTERNATIVE ENTITY PROVISION.—Section 117(i)(1) (29 U.S.C. 2832(i)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "and paragraphs (1) and (2) of subsection (h),";

(2) by striking subparagraph (B) and inserting the following:

"(B) was in existence on August 7, 1998, pursuant to State law; and";

(3) by striking subparagraph (C); and

(4) by redesignating subparagraph (D) as subparagraph (C).

SEC. 116. LOCAL PLAN.

(a) PLANNING CYCLE.—Section 118(a) (29 U.S.C. 2833(a)) is amended—

(1) by striking "5-year" and inserting "4-year"; and

(2) by adding at the end the following: "At the end of the first 2-year period of the 4-year plan, the local board shall review and, as needed, amend the 4-year plan to reflect labor market and economic conditions.".

(b) CONTENTS.—Section 118(b) (29 U.S.C. 2833(b)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking "and" after the semicolon;

(B) by striking subparagraph (B) and inserting the following:

"(B) a description of how the local board will facilitate access to services provided through the one-stop delivery system involved, in remote areas, including facilitating access through the use of technology; and"; and

(C) by adding at the end the following:

"(C) a description of how the local board will ensure physical and programmatic accessibility for individuals with disabilities at one-stop centers;";

(2) in paragraph (9), by striking "; and" and inserting a semicolon;

(3) by redesignating paragraph (10) as paragraph (16); and

(4) by inserting after paragraph (9) the following:

"(10) a description of how the local board will coordinate workforce investment activities carried out in the local area with economic development activities carried out in the local area, and promote entrepreneurial skills training and microenterprise services;

"(11) a description of the strategies and services that will be initiated in the local area to more fully engage all employers, including small employers, in workforce investment activities, to make the workforce investment system more relevant to the needs of area businesses, and to better coordinate workforce investment and economic development efforts, which may include the implementation of innovative initiatives such as incumbent worker training programs, sectoral and industry cluster strategies, regional skills alliance initiatives, career ladder programs, utilization of effective business intermediaries, and other business services and strategies designed to meet the needs of area employers and contribute to the economic well-being of the local area, as determined appropriate by the local board, consistent with the objectives of this title;

"(12) a description of how the local board will expand access to education and training services for eligible individuals who are in need of such services through—

"(A) the utilization of programs funded under this title; and

"(B) the increased leveraging of resources other than those provided under this title, including tax credits, private sector-provided training, and other Federal, State, local, and private funds that are brokered through the one-stop centers for training services;

"(13) a description of how the local board will coordinate workforce investment activities carried out in the local area with the provision of transportation, including public transportation, in the local area;

"(14) a description of plans for, assurances concerning, and strategies for maximizing coordination of services provided by the State employment service under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) and services provided in the local area through the one-stop delivery system described in section 121(e), to improve service delivery and avoid duplication of services;

"(15) a description of how the local board will coordinate workforce investment activities carried out in the local area with other Federal, State, and local area education, job training, and economic development programs and activities; and".

SEC. 117. ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEMS.

(a) One-Stop Partners.—

(1) Required partners.—Section 121(b)(1) (29 U.S.C. 2841(b)(1)) is amended—

(A) by striking subparagraph (A) and inserting the following:

"(A) Roles and responsibilities of one-stop partners.—Each entity that carries out a program or activities described in subparagraph (B) shall—

"(i) provide access through the one-stop delivery system to the programs and activities carried out by the entity, including making the core services described in section 134(d)(2) that are applicable to the program of the entity available at the one-stop centers (in addition to any other appropriate locations);

"(ii) use a portion of the funds available to the program of the entity to maintain the one-stop delivery system, including payment of the infrastructure costs of one-stop centers in accordance with subsection (h);

"(iii) enter into a local memorandum of understanding with the local board relating to the operation of the one-stop system that meets the requirements of subsection (c);

"(iv) participate in the operation of the one-stop system consistent with the terms of the memorandum of understanding, the requirements of this title, and the requirements of the Federal laws authorizing the programs carried out by the entity; and

"(v) provide representation on the State board to the extent provided under section 111.";

(B) in subparagraph (B)—

(i) by striking clause (v);

(ii) by redesignating clauses (vi) through (xii) as clauses (v) through (xi), respectively;

(iii) in clause (x) (as redesignated by clause (ii)), by striking "and" at the end;

(iv) in clause (xi) (as redesignated by clause (ii)), by striking the period and inserting "; and"; and

(v) by adding at the end the following:

"(xii) programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), subject to subparagraph (C)."; and

(C) by adding at the end the following:

"(C) Determination by the Governor.—

"(i) In general.—An entity that carries out programs referred to in subparagraph (B)(xii) shall be included in the one-stop partners for the local area, as a required partner, for purposes of this title unless the Governor of the State provides the notification described in clause (ii).

"(ii) Notification.—The notification referred to in clause (i) is a notification that—

"(I) is made in writing of a determination by the Governor not to include such entity in the one-stop partners described in clause (i); and

"(II) is provided to the Secretary and the Secretary of Health and Human Services.".

(2) Additional partners.—

(A) In general.—Section 121(b)(2)(A) (29 U.S.C. 2841(b)(2)(A)) is amended to read as follows:

"(A) In general.—With the approval of the local board and chief elected official, in addition to the entities described in paragraph (1), other entities that carry out human resource programs described in subparagraph (B) may be one-stop partners and carry out the responsibilities described in paragraph (1)(A).".

(B) Additional partners.—Section 121(b)(2)(B) (29 U.S.C. 2841(b)(2)(B)) is amended by striking clauses (i) through (iii) and inserting the following:

"(i) employment and training programs administered by the Social Security Administration, including the Ticket to Work and Self-Sufficiency program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19);

"(ii) employment and training programs carried out by the Small Business Administration;

"(iii) programs authorized under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));".

(b) Local Memorandum of Understanding.—Section 121(c)(2)(A) (29 U.S.C. 2841(c)(2)(A)) is amended to read as follows:

"(A) provisions describing—

"(i) the services to be provided through the one-stop delivery system consistent with the requirements of this section, including the manner in which the services will be coordinated through such system;

"(ii) how the costs of such services and the operating costs of such system will be funded, through cash and in-kind contributions, to provide a stable and equitable funding stream for ongoing one-stop system operations, including the funding of the infrastructure costs of one-stop centers in accordance with subsection (h);

"(iii) methods of referral of individuals between the one-stop operator and the one-stop partners for appropriate services and activities;

"(iv) methods to ensure the needs of hard-to-serve populations are addressed in providing access to services through the one-stop system; and

"(v) the duration of the memorandum of understanding and the procedures for amending the memorandum during the term of the memorandum, and assurances that such memorandum shall be reviewed not less than once every 2-year period to ensure appropriate funding and delivery of services; and".

(c) Conforming Amendment.—Section 121(d)(2) (29 U.S.C. 2841(d)(2)) is amended by striking "section 134(c)" and inserting "section 121(e)".

(d) Provision of Services.—

(1) Elimination of provisions concerning established systems.—Section 121 (29 U.S.C. 2841) is amended by striking subsection (e).

(2) Redesignation.—Subtitle B of title I is amended—

(A) in section 134 (29 U.S.C. 2864), by redesignating subsection (c) as subsection (e); and

(B) by transferring that subsection (e) so that the subsection appears after subsection (d) of section 121.

(3) One-stop delivery systems.—Paragraph (1) of section 121(e) (29 U.S.C. 2841(e)) (as redesignated by paragraph (2)) is amended—

(A) in subparagraph (A), by striking "subsection (d)(2)" and inserting "section 134(d)(2)";

(B) in subparagraph (B)—

(i) by striking "subsection (d)" and inserting "section 134(d)";

(ii) by striking "individual training accounts" and inserting "career scholarship accounts"; and

(iii) by striking "subsection (d)(4)(G)" and inserting "section 134(d)(4)(G)";

(C) in subparagraph (C), by striking "subsection (e)" and inserting "section 134(e)";

(D) in subparagraph (D), by striking "section 121(b)" and inserting "subsection (b)"; and

(E) in subparagraph (E), by striking "information described in section 15" and inserting "data, information, and analysis described in section 15(a)".

(e) Continuous Improvement of One-Stop Centers.—Section 121 (29 U.S.C. 2841) is amended by adding at the end the following:

"(g) Continuous Improvement of One-Stop Centers.—

"(1) In general.—The State board, in consultation with chief local elected officials and local boards, shall establish objective criteria and procedures for use by local boards in periodically assessing the effectiveness, physical and programmatic accessibility, and continuous improvement of one-stop centers and the one-stop delivery system.

"(2) Criteria.—The procedures and criteria developed under this subsection shall include minimum standards relating to the scope and degree of service coordination achieved by the one-stop delivery system with respect to the programs administered by the one-stop partners at the one-stop centers, consistent with the guidelines and guidance provided by the Governor and by the State board, in consultation with the chief elected official and local boards, for such partners' participation under subsections (h)(1)(B) and subsection (i), respectively, and such other factors relating to the quality, accessibility, and effectiveness of the one-stop delivery system as the State board determines to be appropriate.

"(3) Local boards.—Consistent with the criteria developed by the State, the local board may develop additional criteria of higher standards to respond to local labor market and demographic conditions and trends.

"(h) Funding of One-Stop Infrastructure.—

"(1) In general.—

"(A) Options for infrastructure funding.—

"(i) Local options.—The local board, chief elected officials, and one-stop partners in a local area may choose to fund the costs of the infrastructure of one-stop centers through—

"(I) methods described in the local memorandum of understanding, if, the local board, chief elected officials, and one-stop partners agree to such methods; or

"(II) the State infrastructure funding mechanism described in paragraph (2).

"(ii) Failure to reach agreement on funding methods.—If, as of July 1, 2006, the local board, chief elected officials, and one-stop partners in a local area fail to reach agreement on methods of sufficient funding of the infrastructure costs of one-stop centers, as determined by the local area, the State infrastructure funding mechanism described in paragraph (2) shall be applicable to such local area.

"(B) Guidance for infrastructure funding.—In addition to carrying out the requirements relating to the State mechanism for one-stop center infrastructure funding described in paragraph (2), the Governor, after consultation with chief local elected officials, local boards, and the State board, and consistent with the guidelines provided by the State board under subsection (i), shall provide—

"(i) guidelines for State administered one-stop partner programs in determining such programs' contributions to and participation in the one-stop delivery system, including funding for the costs of infrastructure as defined in paragraph (2)(D), negotiated pursuant to the local memorandum of understanding under subsection (c); and

"(ii) guidance to assist local areas in identifying equitable and stable alternative methods of funding of the costs of the infrastructure of one-stop centers in local areas.

"(2) STATE ONE-STOP INFRASTRUCTURE FUNDING.—

"(A) PARTNER CONTRIBUTIONS.—

"(i) IN GENERAL.—Subject to clause (iii), a portion determined under clause (ii) of the Federal funds provided to the State and areas within the State under the Federal laws authorizing the programs described in subsection (b)(1) and administered by one-stop partners for a fiscal year shall be provided to the Governor from such programs to assist in paying the costs of infrastructure of one-stop centers in those local areas of the State not funded under the option described in paragraph (1)(A)(i)(I).

"(ii) DETERMINATION OF GOVERNOR.—

"(I) IN GENERAL.—Subject to subclause (II) and clause (iii), the Governor, after consultation with chief local elected officials, local boards, and the State board, shall determine the portion of funds to be provided under clause (i) by each one-stop partner from each program described in clause (i). In making such determination, the Governor shall calculate the proportionate use of the one-stop centers for the purpose of determining funding contributions pursuant to clause (i)(II) or (ii) of paragraph (1)(A) by each partner, and the costs of administration for purposes not related to one-stop centers for each partner. The Governor shall exclude from such determination the portion of funds and use of one-stop centers attributable to the programs of one-stop partners for those local areas of the State where the infrastructure of one-stop centers is funded under the option described in paragraph (1)(A)(i)(I).

"(II) SPECIAL RULE.—In a State in which the State constitution places policymaking authority that is independent of the authority of the Governor in an entity or official with respect to the funds provided for adult education and literacy activities authorized under title II and for postsecondary vocational and technical education activities authorized under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), or vocational rehabilitation services offered under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the determination described in subclause (I) with respect to the programs authorized under that title and those Acts shall be made by the chief officer of the entity with such authority in consultation with the Governor.

"(III) APPEAL BY ONE-STOP PARTNERS.—The Governor shall establish a procedure for the one-stop partner administering a program described in subsection (b) to appeal a determination regarding the portion of funds to be contributed under this paragraph on the basis that such determination is inconsistent with the criteria described in the State plan or with the requirements of this paragraph. Such procedure shall ensure prompt resolution of the appeal.

"(iii) LIMITATIONS.—

"(I) PROVISION FROM ADMINISTRATIVE FUNDS.—The funds provided under this paragraph by each one-stop partner shall be provided only from funds available for the costs of administration under the program administered by such partner, and shall be subject to the program limitations with respect to the portion of funds under such program that may be used for administration.

"(II) CAP ON REQUIRED CONTRIBUTIONS.—

"(aa) WIA FORMULA PROGRAMS AND EMPLOYMENT SERVICE.—The portion of funds required to be contributed under clause (i)(II) or (ii) of paragraph (1)(A) by the programs authorized under chapters 4 and 5 and under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) shall not be in excess of 3 percent of the amount of Federal funds provided to carry out each such program in the State for a fiscal year.

"(bb) OTHER ONE-STOP PARTNERS.—The portion of funds required to be contributed under clause (i)(II) or (ii) of paragraph (1)(A) by a one-stop partner from a program described in subsection (b)(1) other than the programs described under item (aa) shall not be in excess of 1½ percent of the amount of Federal funds provided to carry out such program in the State for a fiscal year.

"(cc) SPECIAL RULE.—Notwithstanding items (aa) and (bb), an agreement, including a local memorandum of understanding, entered into prior to the date of enactment of the Workforce Investment Act Amendments of 2005 by an entity regarding contributions under this title that permits the percentages described in such items to be exceeded, may continue to be in effect until terminated by the parties.

"(dd) VOCATIONAL REHABILITATION.—Notwithstanding items (aa) and (bb), an entity administering a program under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) shall not be required to provide, for the purposes of this paragraph, an amount in excess of—

"(AA) 0.75 percent of the amount provided for such program in the State for the second program year that begins after the date of enactment of the Workforce Investment Act Amendments of 2005;

"(BB) 1.0 percent of the amount provided for such program in the State for the third program year that begins after such date;

"(CC) 1.25 percent of the amount provided for such program in the State for the fourth program year that begins after such date; and

"(DD) 1.5 percent of the amount provided for such program in the State for the fifth and each succeeding program year that begins after such date.

"(III) FEDERAL DIRECT SPENDING PROGRAMS.—An entity administering a program funded with direct spending as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(8)) shall not be required to provide, for purposes of this paragraph, an amount in excess of the amount determined to be equivalent to the cost of the proportionate use of the one-stop centers for such program in the State.

"(IV) NATIVE AMERICAN PROGRAMS.—Native American programs established under section 166 shall not be subject to the provisions of this subsection or subsection (i). The method for determining the appropriate portion of funds to be provided by such Native American programs to pay for the costs of infrastructure of a one-stop center shall be determined as part of the development of the memorandum of understanding under subsection (c) for the one-stop center and shall be stated in the memorandum.

"(B) ALLOCATION BY GOVERNOR.—From the funds provided under subparagraph (A), the Governor shall allocate the funds to local areas in accordance with the formula established under subparagraph (C) for the purposes of assisting in paying the costs of infrastructure of one-stop centers.

"(C) ALLOCATION FORMULA.—The State board shall develop a formula to be used by the Governor to allocate the funds provided under subparagraph (A) to local areas not funding infrastructure costs under the option described in paragraph (1)(A)(i)(I). The formula shall be based on factors including the number of one-stop centers in a local area, the population served by such centers, the services provided by such centers, and other factors relating to the performance of such centers that the State board determines are appropriate.

"(D) COSTS OF INFRASTRUCTURE.—In this subsection, the term 'costs of infrastructure', used with respect to a one-stop center, means the nonpersonnel costs that are necessary for the general operation of the one-stop center, including the rental costs of the facilities, the costs of utilities and maintenance, equipment (including assessment-related products and adaptive technology for individuals with disabilities), and technology to facilitate remote access to the one-stop center's strategic planning activities, and common outreach activities.

"(i) OTHER FUNDS.—

"(1) IN GENERAL.—Subject to the memorandum of understanding described in subsection (c) for the one-stop delivery system involved, in addition to the funds provided to carry out subsection (h), a portion of funds made available under Federal law authorizing the programs described in subsection (b) and administered by one-stop partners, or the noncash resources available under such programs, shall be used to pay the additional costs relating to the operation of the one-stop delivery system that are not paid from the funds provided under subsection (h), as determined in accordance with paragraph (2), to the extent not inconsistent with the Federal law involved. Such costs shall include the costs of the provision of core services described in section 134(d)(2) applicable to each program and may include common costs that are not paid from the funds provided under subsection (h).

"(2) DETERMINATION AND GUIDANCE.—The method for determining the appropriate portion of funds and noncash resources to be provided by each program under paragraph (1) for a one-stop center shall be determined as part of the development of the memorandum of understanding under subsection (c) for the one-stop center and shall be stated in the memorandum. The State board shall provide guidance to facilitate the determination of an appropriate allocation of the funds and noncash resources in local areas.".

SEC. 118. ELIGIBLE PROVIDERS OF TRAINING SERVICES.

Section 122 (29 U.S.C. 2842) is amended to read as follows:

"SEC. 122. IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES.

"(a) ELIGIBILITY.—

"(1) IN GENERAL.—The Governor, after consultation with the State board, shall establish criteria and procedures regarding the eligibility of providers of training services described in section 134(d)(4) (referred to in this section as 'training services') to receive funds provided under section 133(b) for the provision of training services.

"(2) PROVIDERS.—Subject to the provisions of this section, to be eligible to receive the funds provided under section 133(b) for the provision of training services, the provider shall be—

“(A) a postsecondary educational institution that—

“(i) is eligible to receive Federal funds under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and

“(ii) provides a program that leads to an associate degree, baccalaureate degree, or industry-recognized certification;

“(B) an entity that carries out programs under the Act of August 16, 1937 (commonly known as the ‘National Apprenticeship Act’; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.); or

“(C) another public or private provider of a program of training services.

“(3) INCLUSION IN LIST OF ELIGIBLE PROVIDERS.—A provider described in subparagraph (A) or (C) of paragraph (2) shall comply with the criteria and procedures established under this section to be included on the list of eligible providers of training services described in subsection (d)(1). A provider described in paragraph (2)(B) shall be included on the list of eligible providers of training services described in subsection (d)(1) for so long as the provider remains certified by the Department of Labor to carry out the programs described in paragraph (2)(B).

“(b) CRITERIA.—

“(1) IN GENERAL.—The criteria established by the Governor pursuant to subsection (a) shall take into account—

“(A) the performance of providers of training services with respect to the performance measures and other matters for which information is required under paragraph (2) and other appropriate measures of performance outcomes for those participants receiving training services under this subtitle (taking into consideration the characteristics of the population served and relevant economic conditions);

“(B) the need to ensure access to training services throughout the State, including any rural areas;

“(C) the information such providers are required to report to State agencies with respect to Federal and State programs (other than the program carried out under this subtitle), including one-stop partner programs;

“(D) the requirements for State licensing of providers of training services, and the licensing status of each provider of training services if applicable;

“(E) to the extent practicable, encouraging the use of industry-recognized standards and certification;

“(F) the ability of the providers to offer programs that lead to a degree or an industry-recognized certification;

“(G) the ability to provide training services to hard-to-serve populations, including individuals with disabilities; and

“(H) such other factors as the Governor determines are appropriate to ensure—

“(i) the quality of services provided;

“(ii) the accountability of the providers;

“(iii) that the one-stop centers in the State will ensure that such providers meet the needs of local employers and participants;

“(iv) the informed choice of participants under chapter 5; and

“(v) that the collection of information required is not unduly burdensome or costly to providers.

“(2) INFORMATION.—The criteria established by the Governor shall require that a provider of training services submit appropriate, accurate, and timely information to the State for purposes of carrying out subsection (d), with respect to participants receiving training services under this subtitle in the applicable program, including—

“(A) information on degrees and industry-recognized certifications received by such participants;

“(B) information on costs of attendance for such participants;

“(C) information on the program completion rate for such participants; and

“(D) information on the performance of the provider with respect to the performance measures described in section 136 for such participants (taking into consideration the characteristics of the population served and relevant economic conditions), which may include information specifying the percentage of such participants who entered unsubsidized employment in an occupation related to the program.

“(3) RENEWAL.—The criteria established by the Governor shall also provide for biennial review and renewal of eligibility under this section for providers of training services.

“(4) LOCAL CRITERIA.—A local board in the State may establish criteria in addition to the criteria established by the Governor, or may require higher levels of performance than required under the criteria established by the Governor, for purposes of determining the eligibility of providers of training services to receive funds described in subsection (a) to provide the services in the local area involved.

“(5) INFORMATION TO ESTABLISH INITIAL ELIGIBILITY.—

“(A) IN GENERAL.—In an effort to provide the highest-quality training services and responsiveness to new and emerging industries, providers may seek initial eligibility under this section as providers of training services. The criteria established by the Governor shall require that a provider who has not previously been an eligible provider of training services under this section provide the information described in subparagraph (B).

“(B) INFORMATION.—The provider shall provide verifiable program-specific performance information supporting the provider's ability to serve participants under this subtitle. The information provided under this subparagraph may include information on outcome measures such as job placement and wage increases for individuals participating in the program, information on business partnerships and other factors that indicate high-quality training services, and information on alignment with industries targeted for potential employment opportunities.

“(C) PROVISION.—The provider shall provide the information described in subparagraph (B) to the Governor and the local boards in a manner that will permit the Governor and the local boards to make a decision on inclusion of the provider on the list of eligible providers described in subsection (d).

“(c) PROCEDURES.—The procedures established under subsection (a) shall identify the application process for a provider of training services to become eligible to receive funds provided under section 133(b) for the provision of training services, and identify the respective roles of the State and local areas in receiving and reviewing the applications and in making determinations of such eligibility based on the criteria established under this section. The procedures shall also establish a process for a provider of training services to appeal a denial or termination of eligibility under this section, that includes an opportunity for a hearing and prescribes appropriate time limits to ensure prompt resolution of the appeal.

“(d) INFORMATION TO ASSIST PARTICIPANTS IN CHOOSING PROVIDERS.—In order to facilitate and assist participants in choosing employment and training activities under chapter 5 and in choosing providers of training services, the Governor shall ensure that an appropriate list of providers determined to be eligible under this section in the State, accompanied by appropriate information, is provided to the one-stop delivery system in the State. The accompanying information shall consist of information provided by providers described in subparagraphs (A) and (C) of subsection (a)(2) in accordance with subsection (b) (including information on receipt of degrees and industry-recognized certifications, and costs of attendance, for participants receiving training services under this subtitle in applicable programs) and such other information as the Secretary determines is appropriate. The list and the accompanying information shall be made available to such participants and to members of the public through the one-stop delivery system in the State.

“(e) ENFORCEMENT.—

“(1) IN GENERAL.—The criteria and procedures established under this section shall provide the following:

“(A) INTENTIONALLY SUPPLYING INACCURATE INFORMATION.—Upon a determination, by an individual or entity specified in the criteria or procedures, that a provider of training services, or individual providing information on behalf of the provider, intentionally supplied inaccurate information under this section, the eligibility of such provider to receive funds under chapter 5 shall be terminated for a period of time that is not less than 2 years.

“(B) SUBSTANTIAL VIOLATIONS.—Upon a determination, by an individual or entity specified in the criteria or procedures, that a provider of training services substantially violated any requirement under this title, the eligibility of such provider to receive funds under the program involved may be terminated, or other appropriate action may be taken.

“(C) REPAYMENT.—A provider of training services whose eligibility is terminated under subparagraph (A) or (B) shall be liable for the repayment of funds received under chapter 5 during a period of noncompliance described in such subparagraph.

“(2) CONSTRUCTION.—Paragraph (1) shall be construed to provide remedies and penalties that supplement, but do not supplant, other civil and criminal remedies and penalties.

“(f) AGREEMENTS WITH OTHER STATES.—States may enter into agreements, on a reciprocal basis, to permit eligible providers of training services to accept career scholarship accounts provided in another State.

“(g) OPPORTUNITY TO SUBMIT COMMENTS.—In establishing criteria, procedures, requirements for information, and the list of eligible providers described in subsection (d)(1), the Governor shall provide an opportunity for interested members of the public to make recommendations and submit comments regarding such criteria, procedures, requirements for information, and list.

“(h) TRANSITION PERIOD FOR IMPLEMENTATION.—The requirements of this section shall be implemented not later than December 31, 2006. In order to facilitate early implementation of this section, the Governor may establish transition procedures under which providers eligible to provide training services under chapter 5 as such chapter was in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005 may continue to be eligible to provide such services until December 31, 2006, or until such earlier date as the Governor determines to be appropriate.

"(i) On-the-Job Training, Customized Training, or Incumbent Worker Training Exception.—

"(1) In general.—Providers of on-the-job training, customized training, or incumbent worker training shall not be subject to the requirements of subsections (a) through (h).

"(2) Collection and dissemination of information.—A one-stop operator in a local area shall collect such performance information from providers of on-the-job training, customized training, and incumbent worker training as the Governor may require, determine whether the providers meet such performance criteria as the Governor may require, and disseminate information identifying providers that meet the criteria as eligible providers, and the performance information, through the one-stop delivery system. Providers determined to meet the criteria shall be considered to be identified as eligible providers of training services.".

SEC. 119. ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.

Section 123 (29 U.S.C. 2843) is amended to read as follows:

"SEC. 123. ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.

"(a) In General.—From the funds allocated under section 128(b) to a local area, the local board for such area shall award grants or contracts on a competitive basis to providers of youth activities identified based on the criteria in the State plan described in section 112 and shall conduct oversight with respect to such providers.

"(b) Exceptions.—A local board may award grants or contracts on a sole-source basis if such board determines there is an insufficient number of eligible providers of youth activities in the local area involved (such as a rural area) for grants and contracts to be awarded on a competitive basis under subsection (a).".

SEC. 120. YOUTH ACTIVITIES.

(a) State Allotments.—Section 127 (29 U.S.C. 2852) is amended—

(1) in subsection (a)(1), by striking "opportunity" and inserting "challenge"; and

(2) by striking subsection (b) and inserting the following:

"(b) Allotment Among States.—

"(1) Youth activities.—

"(A) Youth challenge grants and youth activities for farmworkers and native americans.—

"(i) In general.—For each fiscal year in which the amount appropriated under section 137(a) exceeds $1,000,000,000, the Secretary shall reserve a portion of the amount to provide youth activities under section 167 (relating to migrant and seasonal farmworker programs) and provide youth challenge grants and other activities under section 169 (relating to youth challenge grants).

"(ii) Portion.—The portion referred to in clause (i) shall equal, for a fiscal year—

"(I) except as provided in subclause (II), the difference obtained by subtracting $1,000,000,000 from the amount appropriated under section 137(a) for the fiscal year; or

"(II) for any fiscal year in which the amount is $1,250,000,000 or greater, $250,000,000.

"(iii) Youth activities for farmworkers.—For a fiscal year described in clause (i), the Secretary shall reserve the greater of $10,000,000 or 4 percent of the portion described in clause (i) for a fiscal year to provide youth activities under section 167. For a fiscal year not described in clause (i), the Secretary shall reserve $10,000,000 of the amount appropriated under section 137(a) to provide youth activities under section 167.

"(iv) Youth activities for native americans.—From the amount appropriated under section 137(a) for each fiscal year that is not reserved under clause (i) or (iii), the Secretary shall reserve not more than 1½ percent of such appropriated amount to provide youth activities under section 166 (relating to Native Americans).

"(B) Outlying areas.—

"(i) In general.—From the amount appropriated under section 137(a) for each fiscal year that is not reserved under subparagraph (A), the Secretary shall reserve not more than ¼ of 1 percent of the appropriated amount to provide assistance to the outlying areas to carry out youth activities and statewide workforce investment activities.

"(ii) Limitation for freely associated states.—

"(I) Competitive grants.—The Secretary shall use funds described in clause (i) to award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States to carry out youth activities and statewide workforce investment activities.

"(II) Award basis.—The Secretary shall award grants pursuant to subclause (I) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

"(III) Assistance requirements.—Any Freely Associated State that desires to receive assistance under this subparagraph shall submit an application to the Secretary and shall include in the application for assistance—

"(aa) information demonstrating that the Freely Associated State will meet all conditions that apply to States under this title;

"(bb) an assurance that, notwithstanding any other provision of this title, the Freely Associated State will use such assistance only for the direct provision of services; and

"(cc) such other information and assurances as the Secretary may require.

"(IV) Administrative costs.—The Secretary may provide not more than 5 percent of the funds made available for grants under subclause (I) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this clause.

"(iii) Additional requirement.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to assistance provided to those areas, including the Freely Associated States, under this subparagraph.

"(C) States.—

"(i) In general.—From the remainder of the amount appropriated under section 137(a) for a fiscal year that exists after the Secretary determines the amounts to be reserved under subparagraphs (A) and (B), the Secretary shall allot to the States—

"(I) an amount of the remainder that is less than or equal to the total amount that was allotted to States for fiscal year 2005 under section 127(b)(1)(C) of this Act (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005), in accordance with the requirements of such section 127(b)(1)(C); and

"(II) the amount of the remainder, if any, in excess of the amount referred to in subclause (I), in accordance with clause (ii).

"(ii) Formula.—Subject to clauses (iii) and (iv), of the amount described in clause (i)(II)—

"(I) 33⅓ percent shall be allotted on the basis of the relative number of individuals in the civilian labor force who are ages 16 through 21 in each State, compared to the total number of individuals in the civilian labor force who are ages 16 through 21 in all States;

"(II) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals in each State, compared to the total number of unemployed individuals in all States; and

"(III) 33⅓ percent shall be allotted on the basis of the relative number of disadvantaged youth who are ages 16 through 21 in each State, compared to the total number of disadvantaged youth who are ages 16 through 21 in all States.

"(iii) Minimum and maximum percentages.—

"(I) Minimum percentage.—The Secretary shall ensure that no State shall receive an allotment percentage under this subparagraph for a fiscal year that is less than 90 percent of the allotment percentage of the State for the preceding fiscal year.

"(II) Maximum percentage.—Subject to subclause (I), the Secretary shall ensure that no State shall receive an allotment percentage under this subparagraph for a fiscal year that is more than 130 percent of the allotment percentage of the State for the preceding fiscal year.

"(iv) Small state minimum allotment.—Subject to clause (iii), the Secretary shall ensure that no State shall receive an allotment under this subparagraph that is less than the total of—

"(I) 3⁄10 of 1 percent of $1,000,000,000 of the remainder described in clause (i) for the fiscal year; and

"(II) if the remainder described in clause (i) for the fiscal year exceeds $1,000,000,000, ⅖ of 1 percent of the excess.

"(2) Definitions.—For the purposes of paragraph (1):

"(A) Allotment percentage.—The term 'allotment percentage', used with respect to fiscal year 2006 or a subsequent fiscal year, means a percentage of the remainder described in paragraph (1)(C)(i) that is received by the State involved through an allotment made under this subsection for the fiscal year. The term, used with respect to fiscal year 2005, means the percentage of the amounts allotted to States under this chapter (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005) that is received by the State involved for fiscal year 2005.

"(B) Disadvantaged youth.—Subject to paragraph (3), the term 'disadvantaged youth' means an individual who is age 16 through 21 who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

"(i) the poverty line; or

"(ii) 70 percent of the lower living standard income level.

"(C) Freely associated state.—The term 'Freely Associated State' means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(3) Special rule.—For purposes of the formula specified in paragraph (1)(C), the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of disadvantaged youth.".

(b) Reallotment.—

(1) Amendment.—Section 127(c) (29 U.S.C. 2852(c)) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) Amount.—The amount available for reallotment for a program year is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the State under this section during such prior program year (including amounts allotted to the State in all prior program years that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—

"(A) the total amount of funds available to the State under this section during the program year prior to the program year for which the determination is made (including amounts allotted to the State in all prior program years that remained available); and

"(B) the accrued expenditures during such prior program year.";

(B) in paragraph (3)—

(i) by striking "for the prior program year" and inserting "for the program year for which the determination is made"; and

(ii) by striking "such prior program year" and inserting "such program year";

(C) by striking paragraph (4) and inserting the following:

"(4) Eligibility.—For purposes of this subsection, an eligible State means a State that does not have an amount available for reallotment under paragraph (2) for the program year for which the determination under paragraph (2) is made."; and

(D) in paragraph (5), by striking "obligation" and inserting "accrued expenditure".

(2) Effective date.—The amendment made by paragraph (1) shall take effect for the program year that begins after the date of enactment of this Act.

(c) Within State Allocations.—

(1) Reservation for statewide activities.—Section 128(a) (29 U.S.C. 2853(a)) is amended to read as follows:

"(a) Reservations for Statewide Activities.—

"(1) In general.—The Governor of a State shall reserve not more than 15 percent of each of the amounts allotted to the State under section 127(b)(1)(C) and paragraphs (1)(B) and (2)(B) of section 132(b) for a fiscal year for statewide workforce investment activities.

"(2) Use of funds.—Regardless of whether the reserved amounts were allotted under section 127(b)(1)(C), or under paragraph (1)(B) or (2)(B) of section 132(b), the Governor may use the reserved amounts to carry out statewide activities under section 129(b) or statewide employment and training activities, for adults or dislocated workers, under section 134(a).".

(2) Within state allocation.—Section 128(b) (29 U.S.C. 2853(b)) is amended to read as follows:

"(b) Within State Allocations.—

"(1) In general.—Of the amount allotted to the State under section 127(b)(1)(C) and not reserved under subsection (a)(1)—

"(A) a portion equal to not less than 80 percent of such amount shall be allocated by the Governor to local areas in accordance with paragraph (2); and

"(B) a portion equal to not more than 20 percent of such amount may be allocated by the Governor to local areas in accordance with paragraph (3).

"(2) Established formula.—

"(A) In general.—Of the portion described in paragraph (1)(A), the Governor shall allocate—

"(i) 33⅓ percent on the basis of the relative number of individuals in the civilian labor force who are ages 16 through 21 in each local area, compared to the total number of individuals in the civilian labor force who are ages 16 through 21 in all local areas in the State;

"(ii) 33⅓ percent on the basis of the relative number of unemployed individuals in each local area, compared to the total number of unemployed individuals in all local areas in the State; and

"(iii) 33⅓ percent on the basis of the relative number of disadvantaged youth who are ages 16 through 21 in each local area, compared to the total number of disadvantaged youth who are ages 16 through 21 in all local areas in the State.

"(B) Minimum and maximum percentages.—

"(i) Minimum percentage.—The Governor shall ensure that no local area shall receive an allocation percentage under this paragraph for a fiscal year that is less than 90 percent of the allocation percentage of the local area for the preceding fiscal year.

"(ii) Maximum percentage.—Subject to clause (i), the Governor shall ensure that no local area shall receive an allocation percentage under this paragraph for a fiscal year that is more than 130 percent of the allocation percentage of the local area for the preceding fiscal year.

"(C) Definitions.—In this paragraph:

"(i) Allocation percentage.—The term 'allocation percentage', used with respect to fiscal year 2006 or a subsequent fiscal year, means a percentage of the portion described in paragraph (1)(A) that is received by the local area involved through an allocation made under this paragraph for the fiscal year. The term, used with respect to fiscal year 2005, means the percentage of the amounts allocated to local areas under this chapter (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005) that is received by the local area involved for fiscal year 2005.

"(ii) Disadvantaged youth.—The term 'disadvantaged youth' means an individual who—

"(I) is age 16 through 21;

"(II) is not a college student or member of the Armed Forces; and

"(III) received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

"(aa) the poverty line; or

"(bb) 70 percent of the lower living standard income level.

"(3) Youth discretionary allocation.—The Governor may allocate the portion described in paragraph (1)(B) to local areas where there are a significant number of eligible youth, after consultation with the State board and local boards.

"(4) Local administrative cost limit.—

"(A) In general.—Of the amount allocated to a local area under this subsection and section 133(b) for a fiscal year, not more than 10 percent of the amount may be used by the local board involved for the administrative costs of carrying out local workforce investment activities under this chapter or chapter 5.

"(B) Use of funds.—Funds made available for administrative costs under subparagraph (A) may be used for the administrative costs of any of the local workforce investment activities described in this chapter or chapter 5, regardless of whether the funds were allocated under this subsection or section 133(b).".

(3) Reallocation.—

(A) Amendment.—Section 128(c) (29 U.S.C. 2853(c)) is amended—

(i) in paragraph (1), by striking "paragraph (2)(A) or (3) of";

(ii) by striking paragraph (2) and inserting the following:

"(2) Amount.—The amount available for reallocation for a program year is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the local area under this section during such prior program year (including amounts allocated to the local area in all prior program years that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—

"(A) the total amount of funds available to the local area under this section during the program year prior to the program year for which the determination is made (including amounts allocated to the local area in all prior program years that remained available); and

"(B) the accrued expenditures during such prior program year.";

(iii) by amending paragraph (3)—

(I) by striking "subsection (b)(3)" each place it appears and inserting "subsection (b)";

(II) by striking "for the prior program year" the first place it appears and inserting "for the program year for which the determination is made";

(III) by striking "such prior program year" and inserting "such program year"; and

(IV) by striking the last sentence; and

(iv) by striking paragraph (4) and inserting the following:

"(4) Eligibility.—For purposes of this subsection, an eligible local area means a local area that does not have an amount available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made.".

(B) Effective date.—The amendments made by subparagraph (A) shall take effect for the later of—

(i) the program year that begins after the date of enactment of this Act; or

(ii) program year 2006.

(d) Youth Participant Eligibility.—Section 129(a) (29 U.S.C. 2854(a)) is amended to read as follows:

"(a) Youth Participant Eligibility.—

"(1) Eligibility.—

"(A) In general.—To be eligible to participate in activities carried out under this chapter during any program year an individual shall, at the time the eligibility determination is made, be an out-of-school youth or an in-school youth.

"(B) Out-of-school youth.—In this title the term 'out-of-school youth' means an individual who is—

"(i) not younger than age 16 nor older than age 21; and

"(ii) one of the following:

"(I) A school dropout.

"(II) A youth who is within the age for compulsory school attendance, but has not attended school for at least 1 school year calendar quarter.

"(III) A recipient of a secondary school diploma or its equivalent who is—

"(aa) deficient in basic skills, including limited English proficiency;

"(bb) a low-income individual; and

"(cc) not attending any school.

"(IV) Subject to the juvenile or adult justice system or ordered by a court to an alternative school.

"(V) A low-income individual who is pregnant or parenting and not attending any school.

"(VI) A youth who is not attending school or a youth attending an alternative school, who is homeless, a runaway, a foster child, a child eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement.

"(VII) A low-income individual who is not attending school and requires additional assistance to enter or complete an educational program or to secure or hold employment.

"(C) IN-SCHOOL YOUTH.—In this section the term 'in-school youth' means an individual who is—

"(i) not younger than age 14 nor older than age 21;

"(ii) a low-income individual; and

"(iii) one or more of the following:

"(I) Deficient in basic literacy skills, including limited English proficiency.

"(II) Homeless, a runaway, a foster child, a child eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement.

"(III) Pregnant or parenting.

"(IV) An offender (other than an individual described in subparagraph (B)(ii)(IV)).

"(V) An individual who requires additional assistance to complete an educational program or to secure or hold employment.

"(2) EXCEPTION.—Not more than 5 percent of the individuals assisted under this section in each local area, in the case of individuals for whom low income is a requirement for eligibility under this section, may be individuals who are not low income.

"(3) LIMITATIONS ON ACTIVITIES FOR IN-SCHOOL YOUTH.—

"(A) IN GENERAL.—For any program year, not more than 60 percent of the funds available for statewide activities under subsection (b), and not more than 60 percent of funds available to local areas under subsection (c), may be used to provide activities for in-school youth meeting the requirements of paragraph (1)(B).

"(B) EXCEPTION.—A State that receives a minimum allotment under section 127(b)(1) in accordance with section 127(b)(1)(C)(iv) or under section 132(b)(1) in accordance with section 132(b)(1)(B)(iv)(II) may increase the percentage described in subparagraph (A) for a local area in the State, if—

"(i) after an analysis of the eligible youth population in the local area, the State determines that the local area will be unable to use at least 40 percent of the funds available for activities under subsection (b) or (c) to serve out-of-school youth due to a low number of out-of-school youth; and

"(ii)(I) the State submits to the Secretary, for the local area, a request including a proposed increased percentage for purposes of subparagraph (A), and the summary of the eligible youth population analysis; and

"(II) the request is approved by the Secretary.

"(4) CONSISTENCY WITH COMPULSORY SCHOOL ATTENDANCE LAWS.—In providing assistance under this section to an individual who is required to attend school under applicable State compulsory school attendance laws, the priority in providing such assistance shall be for the individual to attend school regularly.".

(e) STATEWIDE ACTIVITIES.—Section 129(b) (29 U.S.C. 2854(b)) is amended to read as follows:

"(b) STATEWIDE ACTIVITIES.—

"(1) IN GENERAL.—Funds reserved by a Governor for a State as described in sections 128(a) and 133(a)(1) shall be used, regardless of whether the funds were allotted to the State under section 127(b)(1)(C) or under paragraph (1)(B) or (2)(B) of section 132(b) for statewide activities, which may include—

"(A) conducting—

"(i) evaluations under section 136(e) of activities authorized under this chapter and chapter 5 in coordination with evaluations carried out by the Secretary under section 172;

"(ii) research; and

"(iii) demonstration projects;

"(B) providing incentive grants to local areas for regional cooperation among local boards (including local boards in a designated region as described in section 116(c)), for local coordination of activities carried out under this title, and for performance by local areas as described in section 136(i)(2);

"(C) providing technical assistance and capacity building activities to local areas, one-stop operators, one-stop partners, and eligible providers, including the development and training of staff, the development of exemplary program activities, the provision of technical assistance to local areas that fail to meet local performance measures described in section 136(c), and the provision of technology to facilitate remote access to services provided through the one-stop delivery system in the State;

"(D) operating a fiscal and management accountability information system under section 136(f);

"(E) carrying out monitoring and oversight of activities carried out under this chapter and chapter 5, which may include a review comparing the services provided to male and female youth;

"(F) providing additional assistance to local areas that have high concentrations of eligible youth;

"(G) supporting the development of alternative programs and other activities that enhance the choices available to eligible youth and encourage such youth to reenter secondary education, enroll in postsecondary education and advanced training, and obtain career path employment;

"(H) supporting the provision of core services described in section 134(d)(2) in the one-stop delivery system in the State; and

"(I) supporting financial literacy, including—

"(i) supporting the ability to create household budgets, initiate savings plans, and make strategic investment decisions for education, retirement, home ownership, wealth building, or other savings goals;

"(ii) supporting the ability to manage spending, credit, and debt, including credit card debt, effectively;

"(iii) increasing awareness of the availability and significance of credit reports and credit scores in obtaining credit, the importance of their accuracy (and how to correct inaccuracies), their effect on credit terms, and the effect common financial decisions may have on credit scores;

"(iv) supporting the ability to ascertain fair and favorable credit terms;

"(v) supporting the ability to avoid abusive, predatory, or deceptive credit offers and financial products;

"(vi) supporting the ability to understand, evaluate, and compare financial products, services, and opportunities;

"(vii) supporting the ability to understand resources that are easily accessible and affordable, and that inform and educate an investor as to the investor's rights and avenues of recourse when the investor believes the investor's rights have been violated by unprofessional conduct of market intermediaries;

"(viii) increasing awareness of the particular financial needs and financial transactions (such as the sending of remittances) of consumers who are targeted in multilingual financial literacy and education programs and improving the development and distribution of multilingual financial literacy and education materials;

"(ix) promoting bringing individuals who lack basic banking services into the financial mainstream by opening and maintaining accounts with financial institutions; and

"(x) improving financial literacy and education through all other related skills, including personal finance and related economic education, with the primary goal of programs not simply to improve knowledge, but rather to improve consumers' financial choices and outcomes.

"(2) LIMITATION.—Not more than 5 percent of the funds allotted to a State under section 127(b)(1)(C) shall be used by the State for administrative activities carried out under this subsection or section 134(a).

"(3) PROHIBITION.—No funds described in this subsection may be used to develop or implement education curricula for school systems in the State.".

(f) LOCAL ELEMENTS AND REQUIREMENTS.—

(1) PROGRAM DESIGN.—Section 129(c)(1) (29 U.S.C. 2854(c)(1)) is amended—

(A) in the matter that precedes subparagraph (A), by striking "paragraph (2)(A) or (3), as appropriate, of";

(B) in subparagraph (B), by inserting "are directly linked to 1 or more of the performance measures relating to this chapter under section 136, and that" after "for each participant that"; and

(C) in subparagraph (C)—

(i) by redesignating clauses (i) through (iv) as clauses (ii) through (v), respectively;

(ii) by inserting before clause (ii) (as redesignated by clause (i)) the following:

"(i) activities leading to the attainment of a secondary school diploma or its equivalent, or another recognized credential;";

(iii) in clause (ii) (as redesignated by clause (i)), by inserting "and advanced training" after "opportunities";

(iv) in clause (iii) (as redesignated by clause (i))—

(I) by inserting "instruction based on State academic content and student academic achievement standards established under section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311)" after "academic"; and

(II) by inserting "that lead to the attainment of recognized credentials" after "learning"; and

(v) by striking clause (v) (as redesignated by clause (i)) and inserting the following:

"(v) effective connections to all employers, including small employers, in sectors of the local and regional labor markets that are experiencing high growth in employment opportunities.".

(2) PROGRAM ELEMENTS.—Section 129(c)(2) (29 U.S.C. 2854(c)(2)) is amended—

(A) in subparagraph (A), by striking "secondary school, including dropout prevention strategies" and inserting "the requirements for a secondary school diploma or its recognized equivalent (including recognized alternative standards for individuals with disabilities) or for another recognized credential, including dropout prevention strategies";

(B) in subparagraph (B), by inserting ", with a priority on exposing youth to technology and nontraditional jobs" before the semicolon;

(C) in subparagraph (F), by striking "during nonschool hours";

(D) in subparagraph (I), by striking "and" at the end;

(E) in subparagraph (J), by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following:

"(K) on-the-job training opportunities;

"(L) opportunities to acquire financial literacy skills;

"(M) entrepreneurial skills training and microenterprise services; and

"(N) information about average wages for a range of jobs available in the local area, including technology jobs.".

(3) Additional Requirements.—Section 129(c)(3)(A) (29 U.S.C. 2854(c)(3)(A)) is amended in the matter preceding clause (i) by striking "or applicant who meets the minimum income criteria to be considered an eligible youth".

(4) Priority and Exceptions.—Section 129(c) (29 U.S.C. 2854(c)) is amended by striking paragraphs (4) and (5).

(5) Prohibitions and Linkages.—Section 129(c) (29 U.S.C. 2854(c)), as amended by paragraph (4), is further amended—

(A) by redesignating paragraphs (6), (7), and (8) as paragraphs (4), (5), and (6), respectively;

(B) in paragraph (4) (as redesignated by subparagraph (A))—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(C) in paragraph (5) (as redesignated by subparagraph (A)), by striking "youth councils" and inserting "local boards".

SEC. 121. ADULT AND DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.

(a) State Allotments.—

(1) Reservations.—Section 132(a)(2)(A) (29 U.S.C. 2862 (a)(2)(A)) is amended by striking "national emergency grants, other than under subsection (a)(4), (f), and (g)" and inserting "national dislocated worker grants, other than under paragraph (4) or (5) of subsection (a), subsection (e), and subsection (f)".

(2) Allotment among States.—Section 132(b) (29 U.S.C. 2862(b)) is amended—

(A) in paragraph (1)(A)(ii), by striking "section 127(b)(1)(B)," and all that follows and inserting "section 127(b)(1)(B).";

(B) by striking paragraph (1)(B)(ii) and inserting the following:

"(ii) Formula.—Subject to clauses (iii) and (iv), of the remainder—

"(I) 40 percent shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

"(II) 25 percent shall be allotted on the basis of the relative number of individuals in the civilian labor force in each State, compared to the total number of such individuals in all States; and

"(III) 35 percent shall be allotted on the basis of the relative number of disadvantaged adults in each State, compared to the total number of disadvantaged adults in all States, except as described in clause (iii).";

(C) in paragraph (1)(B)—

(i) in clause (iii), by striking "section 116(a)(2)(B)" and inserting "section 116(a)(2)(A)(iii)";

(ii) in clause (iv)—

(I) in subclause (I)—

(aa) by striking "Subject to subclause (IV), the" and inserting "The"; and

(bb) by striking "than the greater of" and all that follows and inserting "than an amount based on 90 percent of the allotment percentage of the State for the preceding fiscal year.";

(II) in subclause (II), by striking "subclauses (I), (III), and (IV)" and inserting "subclauses (I) and (III)"; and

(III) by striking subclause (IV); and

(iii) in clause (v), by striking subclause (VI); and

(D) in paragraph (2)(A)(ii), by striking "section 127(b)(1)(B)" and all that follows and inserting "section 127(b)(1)(B).".

(3) Reallotment.—Section 132(c) (29 U.S.C. 2862(c)) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) Amount.—The amount available for reallotment for a program year for programs funded under subsection (b)(1)(B) (relating to adult employment and training) and subsection (b)(2)(B) (relating to dislocated worker employment and training), respectively, is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the State under subsection (b)(1)(B) or (b)(2)(B), respectively, during such prior program year (including amounts allotted to the State in all prior program years under such provisions that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—

"(A) the total amount of funds available to the State under subsection (b)(1)(B) or (b)(2)(B), respectively, during the program year prior to the program year for which the determination is made (including amounts allotted to the State in all prior program years under such provisions that remained available); and

"(B) the accrued expenditures from such total amount of funds available under subsection (b)(1)(B) or (b)(2)(B), respectively, during such prior program year.";

(B) in paragraph (3)—

(i) by striking "under this section for such activities for the prior program year" and inserting "under subsection (b)(1)(B) or (b)(2)(B), as appropriate, for the program year for which the determination is made"; and

(ii) by striking "under this section for such activities for such prior program year" and inserting "under subsection (b)(1)(B) or (b)(2)(B), as appropriate, for such program year";

(C) by striking paragraph (4) and inserting the following:

"(4) Eligibility.—For purposes of this subsection, an eligible State means—

"(A) with respect to funds allotted under subsection (b)(1)(B), a State that does not have an amount of such funds available for reallotment under paragraph (2) for the program year for which the determination under paragraph (2) is made; and

"(B) with respect to funds allotted under subsection (b)(2)(B), a State that does not have an amount of such funds available for reallotment under paragraph (2) for the program year for which the determination under paragraph (2) is made."; and

(D) in paragraph (5), by striking "obligation" and inserting "accrued expenditure".

(4) Effective date.—The amendments made by paragraph (3) shall take effect for the later of—

(A) the program year that begins after the date of enactment of this Act; or

(B) program year 2006.

(b) Within State Allocations.—

(1) Allocation.—Section 133(b)(2)(A)(i) (29 U.S.C. 2863(b)(2)(A)(i)) is amended—

(A) in subclause (I), by striking "33⅓ percent" and inserting "40 percent";

(B) in subclause (II), by striking "33⅓ percent" and inserting "25 percent"; and

(C) in subclause (III), by striking "33⅓ percent" and inserting "35 percent".

(2) Transfer authority.—Section 133(b)(4) (29 U.S.C. 2863(b)(4)) is amended by striking "20 percent" each place it appears and inserting "45 percent".

(3) Requirements.—Clauses (i) and (ii) of section 133(b)(5)(B) (29 U.S.C. 2863(b)(5)(B)) are amended by striking "section 134(c)" and inserting "section 121(e)".

(4) Reallocation.—Section 133(c) (29 U.S.C. 2863(c)) is amended—

(A) in paragraph (1), by inserting ", and under subsection (b)(2)(B) for dislocated worker employment and training activities," after "activities";

(B) by striking paragraph (2) and inserting the following:

"(2) Amount.—The amount available for reallocation for a program year for programs funded under paragraphs (2)(A) and (3) of subsection (b) (relating to adult employment and training) and subsection (b)(2)(B) (relating to dislocated worker employment and training), respectively, is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the local area under paragraphs (2)(A) and (3) of subsection (b), or subsection (b)(2)(B), respectively, during such prior program year (including amounts allocated to the local area in all prior program years under such provisions that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—

"(A) the total amount of funds available to the local area under paragraphs (2)(A) and (3) of subsection (b), or subsection (b)(2)(B), respectively, during the program year prior to the program year for which the determination is made (including amounts allotted to the local area in all prior program years under such provisions that remained available); and

"(B) the accrued expenditures from such total amount of funds available under paragraphs (2)(A) and (3) of subsection (b), or subsection (b)(2)(B), respectively, during such prior program year.";

(C) by striking paragraph (3) and inserting the following:

"(3) Reallocation.—In making reallocations to eligible local areas of amounts available pursuant to paragraph (2) for a program year, the Governor shall allocate to each eligible local area within the State—

"(A) with respect to amounts that are available for reallocation under paragraph (2) that were allocated under paragraphs (2)(A) or (3) of subsection (b), an amount based on the relative amount allocated to such local area under paragraphs (2)(A) or (3) of subsection (b), as appropriate, for the program year for which the determination is made, as compared to the total amount allocated to all eligible local areas under paragraphs (2)(A) or (3) of subsection (b), as appropriate, for such program year; and

"(B) with respect to amounts that are available for reallocation under paragraph (2) that were allocated under subsection (b)(2)(B), an amount based on the relative amount allocated to such local area under subsection (b)(2)(B) for the program year for which the determination is made, as compared to the total amount allocated to all eligible local areas under subsection (b)(2)(B) for such program year."; and

(D) by striking paragraph (4) and inserting the following:

"(4) ELIGIBILITY.—For purposes of this subsection, an eligible local area means—

"(A) with respect to funds allocated under paragraphs (2)(A) or (3) of subsection (b), a local area that does not have an amount of such funds available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made; and

"(B) with respect to funds allocated under subsection (b)(2)(B), a local area that does not have an amount of such funds available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made.".

(5) EFFECTIVE DATE.—The amendments made by paragraph (3) shall take effect for the later of—

(A) the program year that begins after the date of enactment of this Act; or

(B) program year 2006.

(c) USE OF FUNDS FOR EMPLOYMENT AND TRAINING ACTIVITIES.—

(1) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) STATEWIDE RAPID RESPONSE ACTIVITIES.—Section 134(a)(2)(A) (29 U.S.C. 2864(a)(2)(A)) is amended to read as follows:

"(A) STATEWIDE RAPID RESPONSE ACTIVITIES.—

"(i) IN GENERAL.—A State shall carry out statewide rapid response activities using funds reserved by a Governor for a State under section 133(a)(2). Such activities shall include—

"(I) provision of rapid response activities, carried out in local areas by the State or by an entity designated by the State, working in conjunction with the local boards and the chief elected officials for the local areas; and

"(II) provision of additional assistance to local areas that experience disasters, mass layoffs, or plant closings, or other events that precipitate substantial increases in the number of unemployed individuals, carried out in local areas by the State, working in conjunction with the local boards and the chief elected officials for the local areas.

"(ii) USE OF UNEXPENDED FUNDS.—Funds reserved under section 133(a)(2) to carry out this subparagraph that remain unexpended after the first program year for which such funds were allotted may be used by the Governor to carry out statewide activities authorized under subparagraph (B) and paragraph (3)(A) in addition to activities under this subparagraph.".

(B) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—Section 134(a)(2) (29 U.S.C. 2864(a)(2)) is amended by striking subparagraph (B) and inserting the following:

"(B) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—Funds reserved by a Governor for a State under sections 128(a)(1) and 133(a)(1) and not used under paragraph (1)(A) (regardless of whether the funds were allotted to the States under section 127(b)(1)(C) or paragraphs (1)(B) or (2)(B) of section 132(b)) shall be used for statewide employment and training activities, including—

"(i) disseminating—

"(I) the State list of eligible providers of training services, including eligible providers of nontraditional training services and eligible providers of apprenticeship programs described in section 122(a)(2)(B);

"(II) information identifying eligible providers of on-the-job training, customized training, and incumbent worker training;

"(III) information on effective business outreach, partnerships, and services;

"(IV) performance information and information on costs of attendance, as described in subsections (d) and (i) of section 122; and

"(V) information on physical and programmatic accessibility for individuals with disabilities;

"(ii) conducting evaluations under section 136(e) of activities authorized under this chapter and chapter 5 in coordination with evaluations carried out by the Secretary under section 172;

"(iii) providing incentive grants to local areas, in accordance with section 136(i);

"(iv) developing strategies for ensuring that activities carried out under this section are placing men and women in jobs, education, and training that lead to comparable pay;

"(v) providing technical assistance and capacity building to local areas, one-stop operators, one-stop partners, and eligible providers, including the development and training of staff, the development of exemplary program activities, and the provision of technical assistance to local areas that fail to meet local performance measures described in section 136(c), which may include the development and training of staff to provide opportunities for hard-to-serve populations to enter high-wage, high-skilled, and nontraditional occupations;

"(vi) operating a fiscal and management accountability system under section 136(f); and

"(vii) carrying out monitoring and oversight of activities carried out under this chapter and chapter 4.".

(C) ALLOWABLE STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—Section 134(a)(3)(A) (29 U.S.C. 2864(a)(3)(A) is amended to read as follows:

"(A) IN GENERAL.—Funds reserved by a Governor for a State under sections 128(a)(1) and 133(a)(1) and not used under paragraph (1)(A) or (2)(B) (regardless of whether the funds were allotted to the State under section 127(b)(1)(C) or paragraph (1)(B) or (2)(B) of section 132(b)) may be used to carry out additional statewide employment and training activities, which may include—

"(i) implementing innovative programs and strategies designed to meet the needs of all businesses in the State, including small businesses, which may include incumbent worker training programs, sectoral and industry cluster strategies and partnerships, including regional skills alliances, career ladder programs, micro-enterprise and entrepreneurial training and support programs, utilization of effective business intermediaries, activities to improve linkages between the one-stop delivery system in the State and all employers (including small employers) in the State, and other business services and strategies that better engage employers in workforce investment activities and make the workforce investment system more relevant to the needs of State and local businesses, consistent with the objectives of this title;

"(ii) developing strategies for effectively serving hard-to-serve populations and for coordinating programs and services among one-stop partners;

"(iii) implementing innovative programs for displaced homemakers, which for purposes of this clause may include an individual who is receiving public assistance and is within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(iv) implementing programs to increase the number of individuals training for and placed in nontraditional employment;

"(v) carrying out activities to facilitate remote access to services, including training services described in subsection (d)(4), provided through a one-stop delivery system, including facilitating access through the use of technology;

"(vi) supporting the provision of core services described in subsection (d)(2) in the one-stop delivery system in the State;

"(vii) coordinating with the child welfare system to facilitate services for children in foster care and those who are eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677);

"(viii) activities—

"(I) to improve coordination between workforce investment activities carried out within the State involved and economic development activities, and to promote entrepreneurial skills training and microenterprise services;

"(II) to improve coordination between employment and training assistance, child support services, and assistance provided by State and local agencies carrying out part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.);

"(III) to improve coordination between employment and training assistance and cooperative extension programs carried out by the Department of Agriculture;

"(IV) to improve coordination between employment and training assistance and programs carried out in the local area for individuals with disabilities, including programs carried out by State agencies relating to mental retardation and developmental disabilities, Statewide Independent Living Councils established under section 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d), and centers for independent living defined in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a);

"(V) to develop and disseminate workforce and labor market information;

"(VI) to improve coordination with the corrections system to facilitate provision of training services and employment opportunities that will assist ex-offenders in reentering the workforce; and

"(VII) to promote financial literacy, including carrying out activities described in section 129(b)(1)(I);

"(ix) conducting—

"(I) research; and

"(II) demonstration projects; and

"(x) adopting, calculating, or commissioning a minimum self-sufficiency standard that specifies the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations.".

(2) REQUIRED LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) ALLOCATED FUNDS.—Section 134(d)(1)(A) (29 U.S.C. 2864(d)(1)(A)) is amended—

(i) in clause (i), by striking "described in subsection (c)";

(ii) in clause (iii), by striking "and" at the end;

(iii) in clause (iv), by striking the period and inserting a semicolon; and

(iv) by adding at the end the following:

"(v) to designate a dedicated business liaison in the local area who may be funded with funds provided under this title or from other sources to establish and develop relationships and networks with large and small employers and their intermediaries; and

"(vi) in order to improve service delivery to avoid duplication of services and enhance coordination of services, to require the colocation of employment services provided under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) at the one-stop centers.".

(B) CORE SERVICES.—Section 134(d)(2) (29 U.S.C. 2864(d)(2)) is amended—

(i) in the matter preceding subparagraph (A), by striking "paragraph (1)(A)" and inserting "paragraph (1)";

(ii) in subparagraph (C), by inserting "(including literacy, numeracy, and English language proficiency)" after "skill levels";

(iii) by striking subparagraph (D) and inserting the following:

"(D) labor exchange services, including—

"(i) job search and placement assistance and, in appropriate cases, career counseling, including—

"(I) exposure to high wage, high skill jobs; and

"(II) nontraditional employment; and

"(ii) appropriate recruitment and other business services for all employers, including small employers, in the local area, which may include services described in this subsection, including information and referral to specialized business services not traditionally offered through the one-stop delivery system;";

(iv) in subparagraph (E)(iii)—

(I) by inserting ", career ladders," after "earnings"; and

(II) by striking "and" at the end;

(v) in subparagraph (F)—

(I) by striking "and program cost information"; and

(II) by striking "described in section 123";

(vi) by striking subparagraph (H) and inserting the following:

"(H) provision of accurate information, in formats that are usable and understandable to all one-stop center customers, relating to the availability of supportive services or assistance, including child care, child support, medical or child health assistance under title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.), benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the earned income tax credit under section 32 of the Internal Revenue Code of 1986, and assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and other supportive services and transportation provided through funds made available under such part, available in the local area, and referral to such services or assistance as appropriate;"; and

(vii) in subparagraph (J), by striking "for—" and all that follows through "(ii) programs" and inserting "for programs".

(C) INTENSIVE SERVICES.—Section 134(d)(3) (29 U.S.C. 2864(d)(3)) is amended—

(i) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—

"(i) ELIGIBILITY.—Except as provided in clause (ii), funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used to provide intensive services to adults and dislocated workers, respectively—

"(I) who are unemployed and who, after an interview, evaluation, or assessment, have been determined by a one-stop operator or one-stop partner to be—

"(aa) unlikely or unable to obtain employment, that leads to self-sufficiency or wages comparable to or higher than previous employment, through core services described in paragraph (2); and

"(bb) in need of intensive services to obtain employment that leads to self-sufficiency or wages comparable to or higher than previous employment; or

"(II) who are employed, but who, after an interview, evaluation, or assessment are determined by a one-stop operator or one-stop partner to be in need of intensive services to obtain or retain employment that leads to self-sufficiency.

"(ii) SPECIAL RULE.—A new interview, evaluation, or assessment of a participant is not required under clause (i) if the one-stop operator or one-stop partner determines that it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program."; and

(ii) in subparagraph (C)—

(I) in clause (v), by striking "for participants seeking training services under paragraph (4)"; and

(II) by adding at the end the following:

"(vii) Internships and work experience.

"(viii) Literacy activities relating to basic work readiness.

"(ix) Financial literacy services, such as activities described in section 129(b)(1)(I).

"(x) Out-of-area job search assistance and relocation assistance.

"(xi) English language acquisition and integrated training programs.".

(D) TRAINING SERVICES.—Section 134(d)(4) (29 U.S.C. 2864(d)(4)) is amended—

(i) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—

"(i) ELIGIBILITY.—Except as provided in clause (ii), funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used to provide training services to adults and dislocated workers, respectively—

"(I) who, after an interview, evaluation, or assessment, and case management, have been determined by a one-stop operator or one-stop partner, as appropriate, to—

"(aa) be unlikely or unable to obtain or retain employment, that leads to self-sufficiency or wages comparable to or higher than previous employment, through the intensive services described in paragraph (3);

"(bb) be in need of training services to obtain or retain employment that leads to self-sufficiency or wages comparable to or higher than previous employment; and

"(cc) have the skills and qualifications to successfully participate in the selected program of training services;

"(II) who select programs of training services that are directly linked to the employment opportunities in the local area or region involved or in another area to which the adults or dislocated workers are willing to commute or relocate;

"(III) who meet the requirements of subparagraph (B); and

"(IV) who are determined to be eligible in accordance with the priority system in effect under subparagraph (E).

"(ii) SPECIAL RULE.—A new interview, evaluation, or assessment of a participant is not required under clause (i) if the one-stop operator or one-stop partner determines that it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program.";

(ii) in subparagraph (B)(i), by striking "Except" and inserting "Notwithstanding section 479B of the Higher Education Act of 1965 (20 U.S.C. 1087uu) and except";

(iii) in subparagraph (D)—

(I) in clause (viii), by striking "and" after the semicolon;

(II) in clause (ix), by striking the period and inserting "; and"; and

(III) by adding at the end the following:

"(x) English language acquisition and integrated training programs.";

(iv) in subparagraph (F)—

(I) in clause (ii), by striking "referred to in subsection (c), shall make available—" and all that follows and inserting "shall make available a list of eligible providers of training services, and accompanying information, in accordance with section 122(d).";

(II) in the heading of clause (iii), by striking "INDIVIDUAL TRAINING ACCOUNTS" and inserting "CAREER SCHOLARSHIP ACCOUNTS";

(III) in clause (iii)—

(aa) by striking "identifying information" and inserting "accompanying information";

(bb) by striking "clause (ii)(I)" and inserting "clause (ii)"; and

(cc) by striking "an individual training account" and inserting "a career scholarship account"; and

(IV) by adding at the end the following:

"(iv) COORDINATION.—Each local board may, through one-stop centers, coordinate career scholarship accounts with other Federal, State, local, or private job training programs or sources to assist the individual in obtaining training services."; and

(v) in subparagraph (G)—

(I) in the subparagraph heading, by striking "INDIVIDUAL TRAINING ACCOUNTS" and inserting "CAREER SCHOLARSHIP ACCOUNTS";

(II) in clause (i), by striking "individual training accounts" and inserting "career scholarship accounts";

(III) in clause (ii)—

(aa) by striking "an individual training account" and inserting "a career scholarship account";

(bb) in subclause (II), by striking "individual training accounts" and inserting "career scholarship accounts";

(cc) in subclause (II) by striking "or" after the semicolon;

(dd) in subclause (III), by striking "special participant populations that face multiple barriers to employment" and inserting "hard-to-serve populations";

(ee) in subclause (III), by striking the period and inserting "; or"; and

(ff) by adding at the end the following:

"(IV) the local board determines that it would be most appropriate to award a contract to an institution of higher education in order to facilitate the training of multiple individuals in high-demand occupations, if such contract does not limit customer choice."; and

(IV) in clause (iv)—

(aa) by redesignating subclause (IV) as subclause (V); and

(bb) by inserting after subclause (III) the following:

"(IV) Individuals with disabilities.".

(3) PERMISSIBLE ACTIVITIES.—Section 134(e) (29 U.S.C. 2864(e)) is amended—

(A) by striking the matter preceding paragraph (2) and inserting the following:

"(e) PERMISSIBLE LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—

"(1) IN GENERAL.—

"(A) ACTIVITIES.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide, through the one-stop delivery system involved—

"(i) customized screening and referral of qualified participants in training services described in subsection (d)(4) to employment;

"(ii) customized employment-related services to employers on a fee-for-service basis;

"(iii) customer support to enable members of hard-to-serve populations, including individuals with disabilities, to navigate among multiple services and activities for such populations;

"(iv) technical assistance and capacity building for serving individuals with disabilities in local areas, for one-stop operators, one-stop partners, and eligible providers, including the development and training of staff, the provision of outreach, intake, assessments, and service delivery, and the development of performance measures;

"(v) employment and training assistance provided in coordination with child support enforcement activities of the State and local agencies carrying out part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.);

"(vi) activities to improve coordination between employment and training assistance, child support services, and assistance provided by State and local agencies carrying out part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.);

"(vii) activities to improve coordination between employment and training assistance and cooperative extension programs carried out by the Department of Agriculture;

"(viii) activities to facilitate remote access to services provided through a one-stop delivery system, including facilitating access through the use of technology;

"(ix) activities—

"(I) to improve coordination between workforce investment activities carried out within the local area involved and economic development activities, and to promote entrepreneurial skills training and microenterprise services; and

"(II) to improve services and linkages between the local workforce investment system including the local one-stop delivery system, and all employers, including small employers in the local area, through services described in this section, including subparagraph (B);

"(x) training programs for displaced homemakers and for individuals training for nontraditional occupations, in conjunction with programs operated in the local area;

"(xi) using a portion of the funds allocated under section 133(b), activities to carry out business services and strategies that meet the workforce investment needs of local area employers, as determined by the local board, consistent with the local plan under section 118, which services—

"(I) may be provided through effective business intermediaries working in conjunction with the local board, and may also be provided on a fee-for-service basis or through the leveraging of economic development and other resources as determined appropriate by the local board; and

"(II) may include—

"(aa) identifying and disseminating to business, educators, and job seekers, information related to the workforce, economic and community development needs, and opportunities of the local economy;

"(bb) development and delivery of innovative workforce investment services and strategies for area businesses, which may include sectoral, industry cluster, regional skills alliances, career ladder, skills upgrading, skill standard development and certification, apprenticeship, and other effective initiatives for meeting the workforce investment needs of area employers and workers;

"(cc) participation in seminars and classes offered in partnership with relevant organizations focusing on the workforce-related needs of area employers and job seekers;

"(dd) training consulting, needs analysis, and brokering services for area businesses, including the organization and aggregation of training (which may be paid for with funds other than those provided under this title), for individual employers and coalitions of employers with similar interests, products, or workforce needs;

"(ee) assistance to area employers in the aversion of layoffs and in managing reductions in force in coordination with rapid response activities;

"(ff) the marketing of business services offered under this title, to appropriate area employers, including small and mid-sized employers;

"(gg) information referral on concerns affecting local employers; and

"(hh) other business services and strategies designed to better engage employers in workforce investment activities and to make the workforce investment system more relevant to the workforce investment needs of area businesses, as determined by the local board to be consistent with the objectives of this title;

"(xii) activities to adjust the self-sufficiency standards for local factors, or activities to adopt, calculate, or commission a self-sufficiency standard that specifies the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations; and

"(xiii) improved coordination between employment and training assistance and programs carried out in the local area for individuals with disabilities, including programs carried out by State agencies relating to mental retardation and developmental disabilities, Statewide Independent Living Councils established under section 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d), and centers for independent living defined in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a).

"(B) WORK SUPPORT ACTIVITIES FOR LOW-WAGE WORKERS.—

"(i) IN GENERAL.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide, through the one-stop delivery system involved, work support activities designed to assist low-wage workers in retaining and enhancing employment. The one-stop partners shall coordinate the appropriate programs and resources of the partners with the activities and resources provided under this subparagraph.

"(ii) ACTIVITIES.—The activities described in clause (i) may include the provision of activities described in this section through the one-stop delivery system in a manner that enhances the opportunities of such workers to participate in the activities, such as the provision of activities described in this section during nontraditional hours and the provision of onsite child care while such activities are being provided.";

(B) in paragraph (2), by striking the matter preceding subparagraph (A) and inserting the following:

"(2) SUPPORTIVE SERVICES.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide supportive services to adults and dislocated workers, respectively—"; and

(C) by adding at the end the following:

"(4) INCUMBENT WORKER TRAINING PROGRAMS.—

"(A) IN GENERAL.—The local board may use up to 10 percent of the funds allocated to the local area involved under section 133(b) to pay for the Federal share of the cost of providing training through an incumbent worker training program carried out in accordance with this paragraph. The Governor or State board may make recommendations to the local board regarding incumbent worker training with statewide impact.

"(B) TRAINING ACTIVITIES.—The training program for incumbent workers carried out under this paragraph shall be carried out by the local board in conjunction with the employers or groups of employers of such workers for the purpose of assisting such workers in obtaining the skills necessary to retain employment or avert layoffs.

"(C) EMPLOYER SHARE REQUIRED.—

"(i) IN GENERAL.—Employers participating in the program carried out under this paragraph shall be required to pay the non-Federal share of the costs of providing the training to incumbent workers of the employers. The local board shall establish the non-Federal share of such costs, which may include in-kind contributions. The non-Federal share shall not be less than—

"(I) 10 percent of the costs, for employers with 50 or fewer employees;

"(II) 25 percent of the costs, for employers with more than 50 employees but fewer than 100 employees; and

"(III) 50 percent of the costs, for employers with 100 or more employees.

"(ii) CALCULATION OF EMPLOYER SHARE.—The non-Federal share paid by such an employer may include the amount of the wages paid by the employer to a worker while the worker is attending a training program under this paragraph.".

SEC. 122. PERFORMANCE ACCOUNTABILITY SYSTEM.

(a) STATE PERFORMANCE MEASURES.—

(1) INDICATORS OF PERFORMANCE.—Section 136(b)(2)(A) (29 U.S.C. 2871(b)(2)(A)) is amended—

(A) in clause (i)—

(i) in the matter preceding subclause (I), by striking "and (for participants who are eligible youth age 19 through 21) for youth activities authorized under section 129";

(ii) by striking subclause (III) and inserting the following:

"(III) increases in earnings from unsubsidized employment; and"; and

(iii) in subclause (IV), by striking ", or by participants" and all that follows through "unsubsidized employment"; and

(B) by striking clause (ii) and inserting the following:

"(ii) CORE INDICATORS FOR ELIGIBLE YOUTH.—The core indicators of performance for youth activities authorized under section 129 shall consist of—

"(I) entry into employment, education or advanced training, or military service;

"(II) school retention, and attainment of secondary school diplomas or their recognized equivalents and of postsecondary certificates; and

"(III) literacy or numeracy gains.".

(2) ADDITIONAL INDICATORS.—Section 136(b)(2)(C) (29 U.S.C. 2871(b)(2)(C)) is amended to read as follows:

"(C) ADDITIONAL INDICATORS.—A State may identify in the State plan additional indicators for workforce investment activities under this subtitle, including indicators identified in collaboration with State business and industry associations, with employee representatives where applicable, and with local boards, to measure the performance of the workforce investment system in serving the workforce needs of business and industry in the State.".

(3) LEVELS OF PERFORMANCE.—Section 136(b)(3)(A) (29 U.S.C. 2871(b)(3)(A)) is amended—

(A) in clause (iii)—

(i) in the heading, by striking "FOR FIRST 3 YEARS";

(ii) by striking "and the customer satisfaction indicator of performance, for the first 3" and inserting "described in clauses (i) and (ii) of paragraph (2)(A) and the customer satisfaction indicator of performance, for the first 2"; and

(iii) by inserting at the end the following: "Agreements on levels of performance for each of the core indicators of performance for the third and fourth program years covered by the State plan shall be reached prior to the beginning of the third program year covered by the State plan, and incorporated as a modification to the State plan.";

(B) in clause (iv)—

(i) in the matter preceding subclause (I), by striking "or (v)";

(ii) in subclause (II)—

(I) by striking "taking into account" and inserting "and shall ensure that the levels involved are adjusted, using objective statistical methods, based on";

(II) by inserting "(such as differences in unemployment rates and job losses or gains in particular industries)" after "economic conditions";

(III) by inserting "(such as indicators of poor work history, lack of work experience, lack of educational or occupational skills attainment, dislocation from high-wage and benefit employment, low levels of literacy or English proficiency, disability status, homelessness, ex-offender status, and welfare dependency)" after "program"; and

(IV) by striking "and" at the end;

(iii) in subclause (III), by striking the period and inserting "; and"; and

(iv) by adding at the end the following:

"(IV) the extent to which the levels involved will assist the State in meeting the national goals described in clause (v).";

(C) by striking clause (v) and inserting the following:

"(v) Establishment of national goals.—In order to promote enhanced performance outcomes on the performance measures and to facilitate the process of reaching agreements with the States under clause (iii) and to measure systemwide performance for the one-stop delivery systems of the States, the Secretary shall establish long-term national goals for the adjusted levels of performance for that systemwide performance to be achieved by the programs assisted under chapters 4 and 5 on the core indicators of performance described in subparagraphs (A) and (B) of subsection (b)(2). Such goals shall be established in accordance with the Government Performance and Results Act of 1993 in consultation with the States and other appropriate parties."; and

(D) in clause (vi)—

(i) by striking "or (v)"; and

(ii) by striking "with the representatives described in subsection (i)" and inserting "with the States and other interested parties".

(b) Local Performance Measures.—Section 136(c)(3) (29 U.S.C. 2871(c)(3))—

(1) by striking "shall take into account" and inserting "shall ensure that the levels involved are adjusted, using objective statistical methods, based on";

(2) by inserting "(characteristics such as unemployment rates and job losses or gains in particular industries)" after "economic"; and

(3) by inserting "(characteristics such as indicators of poor work history, lack of work experience, lack of educational and occupational skills attainment, dislocation from high-wage and benefit employment, low levels of literacy or English proficiency, disability status, homelessness, ex-offender status, and welfare dependency)" after "demographic".

(c) Report.—Section 136(d) (29 U.S.C. 2871(d)) is amended—

(1) in paragraph (1), by adding at the end the following: "In the case of a State or local area that chooses to expend funds for activities under subsection (a)(3)(A)(i) or (e)(1)(A)(xi), respectively, of section 134, the report also shall include the amount of such funds so expended and the percentage that such funds are of the funds available for activities under section 134.";

(2) in paragraph (2)—

(A) in subparagraph (E)—

(i) by striking "(excluding participants who received only self-service and informational activities)"; and

(ii) by striking "and" after the semicolon;

(B) in subparagraph (F)—

(i) by inserting "noncustodial parents with child support obligations, homeless individuals," after "displaced homemakers,"; and

(ii) by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(G) the number of participants who have received services, other than followup services, authorized under this title;

"(H) the number of participants who have received services, other than followup services, authorized under this title, in the form of core services described in section 134(d)(2), intensive services described in section 134(d)(3), and training services described in section 134(d)(4), respectively;

"(I) the number of participants who have received followup services authorized under this title;

"(J) the cost per participant for services authorized under this title; and

"(K) the amount of adult and dislocated worker funds spent on—

"(i) core, intensive, and training services, respectively; and

"(ii) services provided under subsection (a)(3)(A)(i) or (e)(1)(A)(xi) of section 134, if applicable."; and

(3) by adding at the end the following:

"(4) Data validation.—In preparing the reports described in this subsection, the States shall establish procedures, consistent with guidelines issued by the Secretary, to ensure that the information contained in the reports is valid and reliable.".

(d) Evaluation of State Programs.—Section 136(e)(3) is amended by inserting ", including information on promoting self-sufficiency and comparable pay between men and women" after "employers".

(e) Sanctions for State.—Section 136(g) is amended—

(1) in paragraph (1)(B), by striking "If such failure continues for a second consecutive year" and inserting "If a State performs at less than 80 percent of the adjusted level of performance for core indicators of performance described in subsection (b)(2)(A) for 2 consecutive years"; and

(2) in paragraph (2), by striking "section 503" and inserting "subsection (i)(1)".

(f) Sanctions for Local Area.—Section 136(h)(2)(A) (29 U.S.C. 2871(h)(2)(A)) is amended—

(1) in the matter preceding clause (i), by striking "If such failure continues for a second consecutive year" and inserting "If a local area performs at less than 80 percent of the adjusted level of performance for core indicators of performance described in subsection (b)(2)(A) for 2 consecutive years";

(2) in clause (ii), by striking "or" after the semicolon;

(3) by redesignating clause (iii) as clause (iv); and

(4) by inserting after clause (ii) the following:

"(iii) redesignate the local area in accordance with section 116(b)(2); or".

(g) Incentive Grants.—Section 136(i) (29 U.S.C. 2871(i)) is amended to read as follows:

"(i) Incentive Grants for Local Areas.—

"(1) In general.—From funds reserved under sections 128(a) and 133(a)(1), the Governor involved shall award incentive grants to local areas for performance described in paragraph (2) in carrying out programs under chapters 4 and 5.

"(2) Basis.—The Governor shall award the grants on the basis that the local areas—

"(A) have exceeded the performance measures established under subsection (c)(2) relating to indicators described in subsection (b)(3)(A)(iii); or

"(B) have—

"(i) met the performance measures established under subsection (c)(2) relating to indicators described in subsection (b)(3)(A)(iii); and

"(ii) demonstrated—

"(I) exemplary coordination of Federal workforce and education programs, statewide economic development, or business needs;

"(II) exemplary performance in the State in serving hard-to-serve populations; or

"(III) effective—

"(aa) coordination of multiple systems into a comprehensive workforce investment system, including coordination of employment services under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) and core activities under this title as well as one-stop partner programs described in section 121;

"(bb) expansion of access to training, including through increased leveraging of resources other than those funded through programs under this title;

"(cc) implementation of coordination activities through agreements with relevant regional or local agencies and offices, including those responsible for programs under the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.) and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

"(dd) regional coordination with other local workforce investment boards or areas;

"(ee) alignment of management information systems to integrate participant information across programs; or

"(ff) integration of performance information systems and common measures for accountability across workforce and education programs.

"(3) Use of funds.—The funds awarded to a local area under this subsection may be used to carry out activities authorized for local areas and such innovative projects or programs that increase coordination and enhance service to program participants, particularly hard-to-serve populations, as may be approved by the Governor, including—

"(A) activities that support business needs, especially for incumbent workers and enhancing opportunities for retention and advancement;

"(B) activities that support linkages with secondary, postsecondary, or career and technical education programs, including activities under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.), and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

"(C) activities that support regional economic development plans that support high-wage, high-skill, or high-demand occupations leading to self-sufficiency;

"(D) activities that coordinate workforce investment programs with other Federal and State programs related to the activities under this Act;

"(E) activities that support the development of an integrated performance information system that includes common measures;

"(F) activities that align management information systems with integrated performance information across education and workforce programs;

"(G) activities that support activities to improve performance and program coordination with other training providers; or

"(H) activities that leverage additional training resources for adults and youth.

"(4) TECHNICAL ASSISTANCE.—The Governor shall reserve 4 percent of the funds available for grants under this subsection to provide technical assistance to local areas to replicate best practices or to develop integrated performance information systems and strengthen coordination with education and regional economic development.".

(h) USE OF CORE MEASURES IN OTHER DEPARTMENT OF LABOR PROGRAMS.—Section 136 (29 U.S.C. 2871) is amended by adding at the end the following:

"(j) USE OF CORE INDICATORS FOR OTHER PROGRAMS.—In addition to the programs carried out under chapters 4 and 5, and consistent with the requirements of the applicable authorizing laws, the Secretary shall use the indicators of performance described in subparagraphs (A) and (B) of subsection (b)(2) to assess the effectiveness of the programs described in clauses (i), (ii), and (vi) of section 121(b)(1)(B) that are carried out by the Secretary.".

(i) PREVIOUS DEFINITIONS OF CORE INDICATORS.—Section 502 (29 U.S.C. 9272) is repealed.

SEC. 123. AUTHORIZATION OF APPROPRIATIONS.

(a) YOUTH ACTIVITIES.—Section 137(a) (29 U.S.C. 2872(a)) is amended by striking "such sums as may be necessary for each of fiscal years 1999 through 2003" and inserting "such sums as may be necessary for each of fiscal years 2006 through 2011".

(b) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—Section 137(b) (29 U.S.C. 2872(b)) is amended by striking "such sums as may be necessary for each of fiscal years 1999 through 2003" and inserting "such sums as may be necessary for each of fiscal years 2006 through 2011".

(c) DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.—Section 137(c) (29 U.S.C. 2872(c)) is amended by striking "such sums as may be necessary for each of fiscal years 1999 through 2003" and inserting "such sums as may be necessary for each of fiscal years 2006 through 2011".

Subtitle C—Job Corps

SEC. 131. JOB CORPS.

(a) ELIGIBILITY.—Section 144(3) (29 U.S.C. 2884(3)) is amended by adding at the end the following:

"(F) A child eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677).".

(b) IMPLEMENTATION OF STANDARDS AND PROCEDURES.—Section 145(a)(3) (29 U.S.C. 2885(a)(3)) is amended—

(1) in subparagraph (B), by striking "and" after the semicolon;

(2) in subparagraph (C), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(D) child welfare agencies that are responsible for children in foster care and children eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677).".

(c) INDUSTRY COUNCILS.—Section 154(b) (29 U.S.C. 2894(b)) is amended—

(1) in paragraph (1)(A), by striking "local and distant"; and

(2) by adding at the end the following:

"(3) EMPLOYERS OUTSIDE OF LOCAL AREA.—The industry council may include, or otherwise provide for consultation with, employers from outside the local area who are likely to hire a significant number of enrollees from the Job Corps center.

"(4) SPECIAL RULE FOR SINGLE LOCAL AREA STATES.—In the case of a single local area State designated under section 116(b), the industry council shall include a representative of the State Board.".

(d) INDICATORS OF PERFORMANCE.—Section 159 (29 U.S.C. 2899) is amended—

(1) in subsection (c)—

(A) by striking paragraph (1) and inserting the following:

"(1) PERFORMANCE INDICATORS.—The Secretary shall annually establish expected levels of performance for Job Corps centers and the Job Corps program relating to each of the core indicators of performance for youth activities identified in section 136(b)(2)(A)(ii).";

(B) in paragraph (2), by striking "measures" each place it appears and inserting "indicators"; and

(C) in paragraph (3)—

(i) in the first sentence, by striking "core performance measures, as compared to the expected performance level for each performance measure" and inserting "performance indicators described in paragraph (1), as compared to the expected level of performance established under paragraph (1) for each performance measure"; and

(ii) in the second sentence, by striking "measures" each place it appears and inserting "indicators"; and

(2) in subsection (f)(2), in the first sentence, by striking "core performance measures" and inserting "indicators of performance".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 161 (29 U.S.C. 2901) is amended by striking "1999 through 2003" and inserting "2006 through 2011".

Subtitle D—National Programs

SEC. 141. NATIVE AMERICAN PROGRAMS.

(a) ADVISORY COUNCIL.—Section 166(h)(4)(C) (29 U.S.C. 2911(h)(4)(C)) is amended to read as follows:

"(C) DUTIES.—The Council shall advise the Secretary on the operation and administration of the programs assisted under this section, including the selection of the individual appointed as head of the unit established under paragraph (1).".

(b) ASSISTANCE TO UNIQUE POPULATIONS IN ALASKA AND HAWAII.—Section 166(j) (29 U.S.C. 2911(j)) is amended to read as follows:

"(j) ASSISTANCE TO UNIQUE POPULATIONS IN ALASKA AND HAWAII.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized to provide assistance to the Cook Inlet Tribal Council, Incorporated, and the University of Hawaii at Maui, for the unique populations who reside in Alaska or Hawaii, to improve job training and workforce investment activities.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 2006.".

(c) PERFORMANCE INDICATORS.—Section 166 (29 U.S.C. 2911) is amended by adding at the end the following:

"(k) PERFORMANCE INDICATORS.—

"(1) DEVELOPMENT OF INDICATORS.—The Secretary, in consultation with the Native American Employment and Training Council, shall develop a set of performance indicators and standards which shall be applicable to programs under this section.

"(2) SPECIAL CONSIDERATIONS.—Such performance indicators and standards shall take into account—

"(A) the purpose of this section as described in subsection (a)(1);

"(B) the needs of the groups served by this section, including the differences in needs among such groups in various geographic service areas; and

"(C) the economic circumstances of the communities served, including differences in circumstances among various geographic service areas.".

SEC. 142. MIGRANT AND SEASONAL FARMWORKER PROGRAMS.

Section 167 (29 U.S.C. 2912) is amended—

(1) in subsection (a), by striking "2" and inserting "2 to 4";

(2) in subsection (b), by inserting "and deliver" after "administer";

(3) in subsection (c)—

(A) in paragraph (1), by striking "2-year" and inserting "4-year";

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by inserting "describe the population to be served and" before "identify"; and

(II) by inserting ", including upgraded employment in agriculture" before the semicolon;

(ii) in subparagraph (B), by striking "and" at the end;

(iii) in subparagraph (C), by striking the period and inserting a semicolon; and

(iv) by adding at the end the following:

"(D) describe the availability and accessibility of local resources such as supportive services, services provided through one-stop delivery systems, and education and training services, and how the resources can be made available to the population to be served; and

"(E) describe the plan for providing services under this section, including strategies and systems for outreach, case management, assessment, and delivery through one-stop delivery systems."; and

(C) by striking paragraph (4) and inserting the following:

"(4) COMPETITION.—The competition for grants made and contracts entered into under this section shall be conducted every 2 to 4 years.";

(4) in subsection (d), by striking "include" and all that follows and inserting "include outreach, employment, training, educational assistance, literary assistance, English language and literacy instruction, pesticide and worker safety training, housing (including permanent housing), supportive services, school dropout prevention activities, followup services for those individuals placed in employment, self-employment and related business or micro-enterprise development or education as needed by eligible individuals and as identified pursuant to the plan required by subsection (c), customized career and technical education in occupations that will lead to higher wages, enhanced benefits, and long-term employment in agriculture or another area, and technical assistance to improve coordination of services and implement best practices relating to service delivery through one-stop delivery systems.";

(5) in subsection (f), by striking "take into account the economic circumstances and demographics of eligible migrant and seasonal farmworkers." and inserting "are adjusted

based on the economic and demographic barriers to employment of eligible migrant and seasonal farmworkers.";

(6) in subsection (g), by striking "(enacted by the Single Audit Act of 1984)";

(7) in subsection (h)—

(A) by striking paragraph (1) and inserting the following:

"(1) DEPENDENT.—The term 'dependent', used with respect to an eligible migrant or seasonal farmworker, means an individual who—

"(A) was claimed as a dependent on the farmworker's Federal income tax return for the previous year;

"(B) is the spouse of the farmworker; or

"(C) is able to establish—

"(i) a relationship as the farmworker's—

"(I) biological or legally adopted child, grandchild, or great-grandchild;

"(II) foster child;

"(III) stepchild;

"(IV) brother, sister, half-brother, half-sister, stepbrother, or stepsister;

"(V) parent, grandparent, or other direct ancestor (but not foster parent);

"(VI) stepfather or stepmother;

"(VII) uncle or aunt;

"(VIII) niece or nephew; or

"(IX) father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; and

"(ii) the receipt of over half of the individual's total support from the farmworker's family during the eligibility determination period for the farmworker."; and

(B) in paragraph (4)(A)—

(i) by striking "disadvantaged person" and inserting "low-income individual"; and

(ii) by inserting "and who faces multiple barriers to self-sufficiency" before the semicolon;

(8) by redesignating subsection (h) as subsection (i); and

(9) by inserting before subsection (i) the following:

"(h) FUNDING ALLOCATION.—From the funds appropriated and made available to carry out this section, the Secretary shall reserve not more than 1 percent for discretionary purposes, such as providing technical assistance to eligible entities."

SEC. 143. VETERANS' WORKFORCE INVESTMENT PROGRAMS.

Section 168(a)(3) (29 U.S.C. 2913(a)(3)) is amended—

(1) in subparagraph (A), by inserting ", including services provided by one-stop operators and one-stop partners" before the semicolon; and

(2) in subparagraph (C), by striking "section 134(c)" and inserting "section 121(e)".

SEC. 144. YOUTH CHALLENGE GRANTS.

Section 169 (29 U.S.C. 2914) is amended to read as follows:

"SEC. 169. YOUTH CHALLENGE GRANTS.

"(a) IN GENERAL.—Of the amounts reserved by the Secretary under section 127(b)(1)(A) for a fiscal year—

"(1) the Secretary shall use not less than 80 percent to award competitive grants under subsection (b); and

"(2) the Secretary may use not more than 20 percent to award competitive grants under subsection (c).

"(b) COMPETITIVE GRANTS TO STATES AND LOCAL AREAS.—

"(1) ESTABLISHMENT.—From the funds described in subsection (a)(1), the Secretary shall award competitive grants to eligible entities to carry out activities authorized under this subsection to assist eligible youth in acquiring the skills, credentials, and employment experience necessary to achieve the performance outcomes for youth described in section 136.

"(2) ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means—

"(A) a State or consortium of States;

"(B) a local board or consortium of local boards;

"(C) a recipient of a grant under section 166 (relating to Native American programs); or

"(D) a public or private entity (including a consortium of such entities) with expertise in the provision of youth activities, applying in partnership with a local board or consortium of local boards.

"(3) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

"(A) a description of the activities the eligible entity will provide to eligible youth under this subsection, and how the eligible entity will collaborate with State and local workforce investment systems established under this title in the provision of such activities;

"(B) a description of the programs of demonstrated effectiveness on which the provision of the activities under subparagraph (A) are based, and a description of how such activities will expand the base of knowledge relating to the provision of activities for youth;

"(C) a description of the State, local, and private resources that will be leveraged to provide the activities described under subparagraph (A) in addition to funds provided under this subsection, and a description of the extent of the involvement of employers in the activities;

"(D) the levels of performance the eligible entity expects to achieve with respect to the indicators of performance for youth specified in section 136(b)(2)(A)(ii); and

"(E) an assurance that the State board of each State in which the proposed activities are to be carried out had the opportunity to review the application, and including the comments, if any, of the affected State boards on the application, except that this subparagraph shall not apply to an eligible entity described in paragraph (2)(C).

"(4) FACTORS FOR AWARD.—

"(A) IN GENERAL.—In awarding grants under this subsection the Secretary shall consider—

"(i) the quality of the proposed activities;

"(ii) the goals to be achieved;

"(iii) the likelihood of successful implementation;

"(iv) the extent to which the proposed activities are based on proven strategies or the extent to which the proposed activities will expand the base of knowledge relating to the provision of activities for eligible youth;

"(v) the extent of collaboration with the State and local workforce investment systems in carrying out the proposed activities;

"(vi) the extent of employer involvement in the proposed activities;

"(vii) whether there are other Federal and non-Federal funds available for similar activities to the proposed activities, and the additional State, local, and private resources that will be provided to carry out the proposed activities;

"(viii) the quality of the proposed activities in meeting the needs of the eligible youth to be served; and

"(ix) the extent to which the proposed activities will expand on services provided under section 127.

"(B) EQUITABLE GEOGRAPHIC DISTRIBUTION.—In awarding grants under this subsection the Secretary shall ensure an equitable distribution of such grants across geographically diverse areas.

"(5) USE OF FUNDS.—

"(A) IN GENERAL.—An eligible entity that receives a grant under this subsection shall use the grant funds to carry out activities that are designed to assist youth in acquiring the skills, credentials, and employment experience that are necessary to succeed in the labor market, including the activities identified in section 129.

"(B) ACTIVITIES.—The activities carried out pursuant to subparagraph (A) may include the following:

"(i) Training and internships for out-of-school youth in sectors of the economy experiencing, or projected to experience, high growth.

"(ii) Dropout prevention activities for in-school youth.

"(iii) Activities designed to assist special youth populations, such as court-involved youth and youth with disabilities.

"(iv) Activities combining remediation of academic skills, work readiness training, and work experience, and including linkages to postsecondary education, apprenticeships, and career-ladder employment.

"(v) Activities, including work experience, paid internships, and entrepreneurial training, in areas where there is a migration of youth out of the areas.

"(C) PARTICIPANT ELIGIBILITY.—Youth who are 14 years of age through 21 years of age, as of the time the eligibility determination is made, may be eligible to participate in activities carried out under this subsection.

"(6) GRANT PERIOD.—The Secretary shall make a grant under this subsection for a period of 2 years and may renew the grant, if the eligible entity has performed successfully, for a period of not more than 3 succeeding years.

"(7) MATCHING FUNDS REQUIRED.—The Secretary shall require that an eligible entity that receives a grant under this subsection provide non-Federal matching funds in an amount to be determined by the Secretary that is not less than 10 percent of the cost of activities carried out under the grant. The Secretary may require that such non-Federal matching funds be provided in cash resources, noncash resources, or a combination of cash and noncash resources.

"(8) EVALUATION.—The Secretary shall reserve not more than 3 percent of the funds described in subsection (a)(1) to provide technical assistance to, and conduct evaluations of (using appropriate techniques as described in section 172(c)), the projects funded under this subsection.

"(c) COMPETITIVE FIRST JOBS FOR YOUTH.—

"(1) ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means a consortium that—

"(A) shall include—

"(i)(I) a State board; or

"(II) a local board; and

"(ii) a consortium of businesses, including small businesses; and

"(B) may include 1 or more—

"(i) local educational agencies;

"(ii) institutions of higher education;

"(iii) business intermediaries;

"(iv) community-based organizations; or

"(v) apprenticeship programs.

"(2) AUTHORIZATION.—From the funds described in subsection (a)(2), the Secretary may award grants to eligible entities to provide activities that will assist youth in preparing for, entering, and retaining employment.

"(3) Applications.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

"(A) a description of the area to be served, including information demonstrating that the area has—

"(i) high unemployment among individuals ages 16 through 21;

"(ii) high unemployment among youth who are individuals with disabilities; or

"(iii) high job loss;

"(B) a description of the proposed program, including activities, compensation, and expected outcomes;

"(C) an assurance that the participating employers in the proposed program are located in the local area to be served, and a demonstration of the commitment of the participating employers to hire individuals who—

"(i) have successfully completed the program; or

"(ii) continue to work in the program;

"(D) demographic information about the targeted populations to be served by the proposed program, including gender, age, and race;

"(E) a description of how the proposed program will address the barriers to employment of the targeted populations;

"(F) a description of the manner in which the eligible entity will evaluate the program; and

"(G) a description of the ability of the eligible entity to carry out and expand the program after the expiration of the grant period.

"(4) Equitable distribution to rural areas.—In awarding grants under this subsection, the Secretary shall ensure an equitable distribution of such grants to rural areas.

"(5) Use of funds.—

"(A) In general.—An eligible entity that receives a grant under this subsection shall use the grant funds to carry out—

"(i) activities that will assist youth in preparing for, entering, and retaining employment, including the activities described in section 129 for out-of-school youth;

"(ii) activities designed to strengthen academic skills that would assist—

"(I) in-school participants to be successful in secondary school and continue such participants' education; and

"(II) out-of-school youth to earn a high school diploma or its recognized equivalent, or prepare for postsecondary programs;

"(iii) activities designed to assist youth in economically distressed areas;

"(iv) subsidized employment for not more than 9 months that provides direct experience in a sector that has opportunities for full-time employment;

"(v) career and academic advisement, activities to promote financial literacy and the attainment of entrepreneurial skills, and labor market information on high-skill, high-wage, and nontraditional occupations; and

"(vi) such other activities as the Secretary determines are appropriate to ensure that youth entering the workforce have the skills needed by employers.

"(B) Participant eligibility.—An individual who is not younger than 16 years of age and not older than 21 years of age, as of the time the eligibility determination is made, who face barriers to employment, including an individual who is an individual with a disability, may be eligible to participate in activities under this subsection.

"(6) Special rule.—An eligible entity that receives a grant under this subsection shall coordinate activities with the designated State agency (as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705)) and other appropriate State agencies in the State to be served.

"(7) Matching funds required.—The Secretary shall require that an eligible entity that receives a grant under this subsection provide non-Federal matching funds in an amount to be determined by the Secretary that is not less than 10 percent of the cost of activities carried out under the grant. The Secretary may require that such non-Federal matching funds be provided in cash resources, noncash resources, or a combination of cash and noncash resources.

"(8) Evaluations.—The Secretary may require that an eligible entity that receives a grant under this subsection participate in an evaluation of activities carried out under this subsection, including an evaluation using the techniques described in section 172(c).".

SEC. 145. TECHNICAL ASSISTANCE.

Section 170 (29 U.S.C. 2915) is amended—

(1) in subsection (a)(1), by—

(A) inserting "the training of staff providing rapid response services, the training of other staff of recipients of funds under this title, the training of members of State boards and local boards, peer review activities under this title," after "localities,"; and

(B) striking "from carrying out activities" and all that follows through the period and inserting "to implement the amendments made by the Workforce Investment Act Amendments of 2005.";

(2) in subsection (a)(2), by adding at the end the following: "The Secretary shall also hire staff qualified to provide the assistance described in paragraph (1).";

(3) in subsection (b)(2), by striking the last sentence and inserting "Such projects shall be administered by the Employment and Training Administration."; and

(4) by adding at the end the following:

"(c) Best Practices Coordination.—The Secretary shall—

"(1) establish a system through which States may share information regarding best practices with regard to the operation of workforce investment activities under this Act;

"(2) evaluate and disseminate information regarding best practices and identify knowledge gaps; and

"(3) commission research under section 171(c) to address knowledge gaps identified under paragraph (2).".

SEC. 146. DEMONSTRATION, PILOT, MULTISERVICE, RESEARCH, AND MULTISTATE PROJECTS.

(a) Demonstration and Pilot Projects.—Section 171(b) (29 U.S.C. 2916(b)) is amended—

(1) in paragraph (1)—

(A) by striking "Under a" and inserting "Consistent with the priorities specified in the";

(B) by striking subparagraphs (A) through (E) and inserting the following:

"(A) projects that assist national employers in connecting with the workforce investment system established under this title in order to facilitate the recruitment and employment of needed workers for career ladder jobs and to provide information to such system on skills and occupations in demand;

"(B) projects that promote the development of systems that will improve the maximum effectiveness of programs carried out under this title;

"(C) projects that focus on opportunities for employment in industries and sectors of industries that are experiencing, or are likely to experience, high rates of growth and jobs with wages leading to self-sufficiency;

"(D) computerized, individualized, self-paced training projects targeted to dislocated, disadvantaged, or incumbent workers utilizing equipment and curriculum designed in partnership with industries for employment in the operations, repair, and maintenance of high-tech equipment that is used in integrated systems technology;

"(E) projects carried out by States and local areas to test innovative approaches to delivering employment-related services;";

(C) in subparagraph (G), by striking "and" after the semicolon; and

(D) by striking subparagraph (H) and inserting the following:

"(H) projects that provide retention grants, which shall—

"(i) be made to qualified job training programs offering instruction, assessment, or professional coaching, upon placement of a low-income individual trained by the program involved in employment with an employer and retention of the low-income individual in that employment with that employer for a period of 1 year, if that employment provides the low-income individual with an annual salary—

"(I) that is at least $10,000 more than the individual's federally adjusted income for the previous year; and

"(II) that is not less than twice the poverty line applicable to the individual; and

"(ii) be made taking into account the economic benefit received by the Federal Government from the employment and retention of the individual, including the economic benefit from tax revenue and decreased public subsidies;

"(I) targeted innovation projects that improve access to and delivery of employment and training services, with emphasis given to projects that incorporate advanced technologies to facilitate the connection of individuals to the information and tools the individuals need to upgrade skills;

"(J) projects that promote the use of distance learning, enabling students to take courses through the use of media technology such as videos, teleconferencing computers, and the Internet; and

"(K) projects that provide comprehensive education and training services, and support services, in coordination with local boards, for populations in targeted high poverty areas where the greatest barriers to employment exist, including ex-offenders, out-of-school youth, and public assistance recipient populations."; and

(2) in paragraph (2)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B).

(b) Multiservice Projects.—Section 171(c)(2)(B) (29 U.S.C. 2916(c)(2)(B)) is amended to read as follows:

"(B) Studies and reports.—

"(i) Net impact studies and reports.—

"(I) In general.—The Secretary, in coordination with the Secretary of Education, shall conduct studies to determine the net impacts of, including best practices of, programs, services, and activities carried out under this title.

"(II) Reports.—The Secretary shall prepare and disseminate to the public reports containing the results of the studies conducted under subclause (I).

"(ii) Study on resources available to assist out-of-school youth.—The Secretary, in coordination with the Secretary of Education, may conduct a study examining the resources available at the Federal, State, and local levels to assist out-of-school youth in obtaining the skills, credentials, and work experience necessary to become successfully employed, including the availability of funds provided through average daily attendance and other methodologies used by States and local areas to distribute funds.

“(iii) STUDY OF INDUSTRY-BASED CERTIFICATION AND CREDENTIALS.—

“(I) IN GENERAL.—The Secretary shall conduct a study concerning the role and benefits of credentialing and certification to businesses and workers in the economy and the implications of certification to the services provided through the workforce investment system. The study may examine issues such as—

“(aa) the characteristics of successful credentialing and certification systems that serve business and individual needs;

“(bb) the relative proportions of certificates and credentials attained with assistance from the public sector, with private-sector training of new hires or incumbent workers, and by individuals on their own initiative without other assistance, respectively;

“(cc) the return on human capital investments from occupational credentials and industry-based skill certifications, including the extent to which acquisition of such credentials or certificates enhances outcomes such as entry into employment, retention, earnings (including the number and amount of wage increases), career advancement, and layoff aversion;

“(dd) the implications of the effects of skill certifications and credentials to the types and delivery of services provided through the workforce investment system;

“(ee) the role that Federal and State governments play in fostering the development of and disseminating credentials and skill standards; and

“(ff) the use of credentials by businesses to achieve goals for workforce skill upgrading and greater operating efficiency.

“(II) REPORT TO CONGRESS.—The Secretary shall prepare and submit to Congress a report containing the results of the study conducted pursuant to subclause (I). Such report may include any recommendations that the Secretary determines are appropriate to include in such report relating to promoting the acquisition of industry-based certification and credentials, and the appropriate role of the Department of Labor and the workforce investment system in supporting the needs of business and individuals with respect to such certification and credentials.

“(iv) STUDY OF EFFECTIVENESS OF WORKFORCE INVESTMENT SYSTEM IN MEETING BUSINESS NEEDS.—

“(I) IN GENERAL.—Using funds available to carry out this section jointly with funds available to the Secretary of Commerce and Administrator of the Small Business Administration, the Secretary, in coordination with the Secretary of Commerce and the Administrator of the Small Business Administration, may conduct a study of the effectiveness of the workforce investment system in meeting the needs of business, with particular attention to the needs of small business, including in assisting workers to obtain the skills needed to utilize emerging technologies. In conducting the study, the Secretary, in coordination with the Secretary of Commerce and the Administrator of the Small Business Administration, may examine issues such as—

“(aa) methods for identifying the workforce needs of businesses and how the requirements of small businesses may differ from larger establishments;

“(bb) business satisfaction with the workforce investment system, with particular emphasis on the satisfaction of small businesses;

“(cc) the extent to which business is engaged as a collaborative partner in the workforce investment system, including the extent of business involvement as members of State boards and local boards, and the extent to which such boards and one-stop centers effectively collaborate with business and industry leaders in developing workforce investment strategies, including strategies to identify high growth opportunities;

“(dd) ways in which the workforce investment system addresses changing skill needs of business that result from changes in technology and work processes;

“(ee) promising practices for serving small businesses;

“(ff) the extent and manner in which the workforce investment system uses technology to serve business and individual needs, and how uses of technology could enhance efficiency and effectiveness in providing services; and

“(gg) the extent to which various segments of the labor force have access to and utilize technology to locate job openings and apply for jobs, and characteristics of individuals utilizing such technology (such as age, gender, race or ethnicity, industry sector, and occupational groups).

“(II) REPORT TO CONGRESS.—The Secretary shall prepare and submit to Congress a report containing the results of the study described in subclause (I). Such report may include any recommendations the Secretary determines are appropriate to include in such report, including ways to enhance the effectiveness of the workforce investment system in meeting the needs of business for skilled workers.”.

(c) ADMINISTRATION.—Section 171(d) (29 U.S.C. 2916(d)) is amended by striking the last sentence and inserting the following: “Such projects shall be administered by the Employment and Training Administration.”.

(d) NEXT GENERATION TECHNOLOGIES.—Section 171 (29 U.S.C. 2916) is amended by adding at the end the following:

“(e) SKILL CERTIFICATION PILOT PROJECTS.—

“(1) PILOT PROJECTS.—In accordance with subsection (b) and from funds appropriated pursuant to paragraph (10), the Secretary shall establish and carry out not more than 10 pilot projects to establish a system of industry-validated national certifications of skills, including—

“(A) not more than 8 national certifications of skills in high-technology industries, including biotechnology, telecommunications, highly automated manufacturing (including semiconductors), nanotechnology, and energy technology; and

“(B) not more than 2 cross-disciplinary national certifications of skills in homeland security technology.

“(2) GRANTS TO ELIGIBLE ENTITIES.—In carrying out the pilot projects, the Secretary shall make grants to eligible entities, for periods of not less than 36 months and not more than 48 months, to carry out the authorized activities described in paragraph (7) with respect to the certifications described in paragraph (1). In awarding grants under this subsection the Secretary shall take into consideration awarding grants to eligible entities from diverse geographic areas, including rural areas.

“(3) ELIGIBLE ENTITIES.—

“(A) DEFINITION OF ELIGIBLE ENTITY.—In this subsection the term ‘eligible entity’ means an entity that shall work in conjunction with a local board and shall include as a principal participant 1 or more of the following:

“(i) An educational institution, including a 2- or 4-year college, or a technical or vocational school.

“(ii) An advanced technology education center.

“(iii) A local board.

“(iv) A representative of a business in a target industry for the certification involved.

“(v) A representative of an industry association, labor organization, or community development organization.

“(B) HISTORY OF DEMONSTRATED CAPABILITY REQUIRED.—To be eligible to receive a grant under this subsection, an eligible entity shall have a history of demonstrated capability for effective collaboration with industry on workforce investment activities that is consistent with the objectives of this title.

“(4) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(5) CRITERIA.—The Secretary shall establish criteria, consistent with paragraph (6), for awarding grants under this subsection.

“(6) PRIORITY.—In selecting eligible entities to receive grants under this subsection, the Secretary shall give priority to eligible entities that demonstrate the availability of and ability to provide matching funds from industry or nonprofit sources. Such matching funds may be provided in cash or in kind.

“(7) AUTHORIZED ACTIVITIES.—

“(A) IN GENERAL.—An eligible entity that receives a grant under this subsection shall use the funds made available through the grant—

“(i) to facilitate the establishment of certification requirements for a certification described in paragraph (1) for an industry;

“(ii) to develop and initiate a certification program that includes preparatory courses, course materials, procedures, and examinations, for the certification; and

“(iii) to collect and analyze data related to the program at the program's completion, and to identify best practices (consistent with paragraph (8)) that may be used by State and local workforce investment boards in the future.

“(B) BASIS FOR REQUIREMENTS.—The certification requirements established under the grant shall be based on applicable skill standards for the industry involved that have been developed by or linked to national centers of excellence under the National Science Foundation's Advanced Technological Education Program. The requirements shall require an individual to demonstrate an identifiable set of competencies relevant to the industry in order to receive certification. The requirements shall be designed to provide evidence of a transferable skill set that allows flexibility and mobility of workers within a high technology industry.

“(C) RELATIONSHIP TO TRAINING AND EDUCATION PROGRAMS.—The eligible entity shall ensure that—

“(i) a training and education program related to competencies for the industry involved, that is flexible in mode and timeframe for delivery and that meets the needs of those seeking the certification, is offered; and "(ii) the certification program is offered at the completion of the training and education program.

"(D) RELATIONSHIP TO THE ASSOCIATE DEGREE.—The eligible entity shall ensure that the certification program is consistent with the requirements for a 2-year associate degree.

"(E) AVAILABILITY.—The eligible entity shall ensure that the certification program is open to students pursuing associate degrees, employed workers, and displaced workers.

"(8) CONSULTATION.—The Secretary shall consult with the Director of the National Science Foundation to ensure that the pilot projects build on the expertise and information about best practices gained through the implementation of the National Science Foundation's Advanced Technological Education Program.

"(9) CORE COMPONENTS; GUIDELINES; REPORTS.—After collecting and analyzing the data obtained from the pilot programs, the Secretary shall—

"(A) establish the core components of a model high-technology certification program;

"(B) establish guidelines to assure development of a uniform set of standards and policies for such programs;

"(C) prepare and submit a report on the pilot projects to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives; and

"(D) make available to the public both the data and the report.

"(10) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated under section 174(b), there is authorized to be appropriated $30,000,000 for fiscal year 2006 to carry out this subsection.".

(e) INTEGRATED WORKFORCE TRAINING PROGRAMS FOR ADULTS WITH LIMITED ENGLISH PROFICIENCY.—Section 171 (29 U.S.C. 2916), as amended by subsection (d), is further amended by adding at the end the following:

"(f) INTEGRATED WORKFORCE TRAINING PROGRAMS FOR ADULTS WITH LIMITED ENGLISH PROFICIENCY.—

"(1) DEFINITIONS.—In this subsection:

"(A) INTEGRATED WORKFORCE TRAINING.—The term 'integrated workforce training' means training that integrates occupational skills training with language acquisition.

"(B) SECRETARY.—The term 'Secretary' means the Secretary of Labor in consultation with the Secretary of Education.

"(2) DEMONSTRATION PROJECT.—In accordance with subsection (b) and from funds appropriated pursuant to paragraph (11), the Secretary shall establish and implement a national demonstration project designed to both analyze and provide data on workforce training programs that integrate English language acquisition and occupational training.

"(3) GRANTS.—

"(A) IN GENERAL.—In carrying out the demonstration project, the Secretary shall make not less than 10 grants, on a competitive basis, to eligible entities to provide the integrated workforce training programs. In awarding grants under this subsection the Secretary shall take into consideration awarding grants to eligible entities from diverse geographic areas, including rural areas.

"(B) PERIODS.—The Secretary shall make the grants for periods of not less than 24 months and not more than 48 months.

"(4) ELIGIBLE ENTITIES.—

"(A) IN GENERAL.—To be eligible to receive a grant under this subsection, an eligible entity shall work in conjunction with a local board and shall include as a principal participant 1 or more of the following:

"(i) An employer or employer association.

"(ii) A nonprofit provider of English language instruction.

"(iii) A provider of occupational or skills training.

"(iv) A community-based organization.

"(v) An educational institution, including a 2- or 4-year college, or a technical or vocational school.

"(vi) A labor organization.

"(vii) A local board.

"(B) EXPERTISE.—To be eligible to receive a grant under this subsection, an eligible entity shall have proven expertise in—

"(i) serving individuals with limited English proficiency, including individuals with lower levels of oral and written English; and

"(ii) providing workforce programs with training and English language instruction.

"(5) APPLICATIONS.—

"(A) IN GENERAL.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(B) CONTENTS.—Each application submitted under subparagraph (A) shall—

"(i) contain information, including capability statements, that demonstrates that the eligible entity has the expertise described in paragraph (4)(B); and

"(ii) include an assurance that the program to be assisted shall—

"(I) establish a generalized adult bilingual workforce training and education model that integrates English language acquisition and occupational training, and incorporates the unique linguistic and cultural factors of the participants;

"(II) establish a framework by which the employer, employee, and other relevant members of the eligible entity can create a career development and training plan that assists both the employer and the employee to meet their long-term needs;

"(III) ensure that the framework established under subclause (II) takes into consideration the knowledge, skills, and abilities of the employee with respect to both the current and economic conditions of the employer and future labor market conditions relevant to the local area; and

"(IV) establish identifiable measures so that the progress of the employee and employer and the relative efficacy of the program can be evaluated and best practices identified.

"(6) CRITERIA.—The Secretary shall establish criteria for awarding grants under this subsection.

"(7) INTEGRATED WORKFORCE TRAINING PROGRAMS.—

"(A) PROGRAM COMPONENTS.—

"(i) REQUIRED COMPONENTS.—Each program that receives funding under this subsection shall—

"(I) test an individual's English language proficiency levels to assess oral and literacy gains from the beginning and throughout program enrollment;

"(II) combine training specific to a particular occupation or occupational cluster, with—

"(aa) English language instruction, such as instruction through an English as a Second Language program, or an English for Speakers of Other Languages program;

"(bb) basic skills instruction; and

"(cc) supportive services;

"(III) effectively integrate public and private sector entities, including the local workforce investment system and its functions, to achieve the goals of the program; and

"(IV) require matching or in-kind resources from private and nonprofit entities.

"(ii) PERMISSIBLE COMPONENTS.—The program may offer other services, as necessary to promote successful participation and completion, including work-based learning, substance abuse treatment, and mental health services.

"(B) GOAL.—Each program that receives funding under this subsection shall be designed to prepare limited English proficient adults for, and place such adults in employment in, growing industries with identifiable career ladder paths.

"(C) PROGRAM TYPES.—In selecting programs to receive funding under this subsection, the Secretary shall select programs that meet 1 or more of the following criteria:

"(i) A program that—

"(I) serves unemployed, limited English proficient individuals with significant work experience or substantial education but persistently low wages; and

"(II) aims to prepare such individuals for, and place such individuals in, higher paying employment, defined for purposes of this subparagraph as employment that provides at least 75 percent of the median wage in the local area.

"(ii) A program that—

"(I) serves limited English proficient individuals with lower levels of oral and written fluency, who are working but at persistently low wages; and

"(II) aims to prepare such individuals for, and place such individuals in, higher paying employment, through services provided at the worksite, or at a location central to several work sites, during work hours.

"(iii) A program that—

"(I) serves unemployed, limited English proficient individuals with lower levels of oral and written fluency, who have little or no work experience; and

"(II) aims to prepare such individuals for, and place such individuals in, employment through services that include subsidized employment, in addition to the components required in subparagraph (A)(i).

"(iv) A program that includes funds from private and nonprofit entities.

"(D) PROGRAM APPROACHES.—In selecting programs to receive funding under this subsection, the Secretary shall select programs with different approaches to integrated workforce training, in different contexts, in order to obtain comparative data on multiple approaches to integrated workforce training and English language instruction, to ensure programs are tailored to characteristics of individuals with varying skill levels, and to assess how different curricula work for limited English proficient populations. Such approaches may include—

"(i) bilingual programs in which the workplace language component and the training are conducted in a combination of an individual's native language and English;

"(ii) integrated workforce training programs that combine basic skills, language instruction, and job specific skills training; or

"(iii) sequential programs that provide a progression of skills, language, and training to ensure success upon an individual's completion of the program.

"(8) EVALUATION BY ELIGIBLE ENTITY.—Each eligible entity that receives a grant under this subsection for a program shall carry out a continuous program evaluation and an evaluation specific to the last phase of the program operations.

"(9) EVALUATION BY SECRETARY.—

"(A) IN GENERAL.—The Secretary shall conduct an evaluation of program impacts of the programs funded under the demonstration project, with a random assignment, experimental design impact study done at each worksite at which such a program is carried out.

"(B) DATA COLLECTION AND ANALYSIS.—The Secretary shall collect and analyze the data from the demonstration project to determine program effectiveness, including gains in language proficiency, acquisition of skills, and job advancement for program participants.

"(C) REPORT.—The Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives, and make available to the public, a report on the demonstration project, including the results of the evaluation.

"(10) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to recipients of grants under this subsection throughout the grant periods.

"(11) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated under section 174(b), there is authorized to be appropriated $10,000,000 for fiscal year 2006 to carry out this subsection.".

(f) COMMUNITY-BASED JOB TRAINING.—Section 171 (29 U.S.C. 2916), as amended by subsection (e), is further amended by adding at the end the following:

"(g) COMMUNITY-BASED JOB TRAINING.—

"(1) DEFINITIONS.—In this subsection:

"(A) COMMUNITY COLLEGE.—The term 'community college' means—

"(i) an institution of higher education, as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001), that provides a 2-year degree that is acceptable for full credit toward a bachelor's degree; or

"(ii) a tribally controlled college or university, as defined in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801).

"(B) ELIGIBLE ENTITY.—The term 'eligible entity' means a community college or a consortium composed of a community college and an institution of higher education, that shall work with—

"(i) a local board;

"(ii) a business in the qualified industry or an industry association in the qualified industry, as identified in the application of the entity; and

"(iii) an economic development entity.

"(C) INSTITUTION OF HIGHER EDUCATION.—Except as otherwise provided in subparagraph (A)(i), the term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001) and the meaning given the term postsecondary vocational institution in section 102(a)(1)(B) of such Act (20 U.S.C. 1002(a)(1)(B)).

"(D) QUALIFIED INDUSTRY.—The term 'qualified industry' means an industry or economic sector that is projected to experience significant growth, such as an industry or economic sector that—

"(i) is projected to add substantial numbers of new jobs to the regional economy;

"(ii) has or is projected to have significant impact on the regional economy;

"(iii) impacts or is projected to impact the growth of other industries or economic sectors in the regional economy;

"(iv) is being transformed by technology and innovation requiring new knowledge or skill sets for workers;

"(v) is a new or emerging industry or economic sector that is projected to grow; or

"(vi) requires high skills and has significant labor shortages in the regional economy.

"(2) DEMONSTRATION PROJECT.—In addition to the demonstration projects authorized under subsection (b), the Secretary may establish and implement a national demonstration project designed—

"(A) to develop local innovative solutions to the workforce challenges facing high-growth, high-skill industries with labor shortages; and

"(B) to increase employment opportunities for workers in high-growth, high-demand occupations by establishing partnerships among education entities, the workforce investment system, and businesses in high-growth, high-skill industries or sectors.

"(3) GRANTS.—In carrying out the national demonstration project authorized under this subsection, the Secretary shall award grants, on a competitive basis, for 2, 3, or 4 years, in accordance with generally applicable Federal requirements, to eligible entities to enable the eligible entities to carry out activities authorized under this subsection.

"(4) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

"(A) a description of the eligible entity that will offer training under the grant;

"(B) a justification of the need for discretionary funding under the grant, including the need for external funds to create a program to carry out the activities described in paragraph (6);

"(C) an economic analysis of the local labor market to identify—

"(i) high-growth, high-demand industries;

"(ii) the workforce issues faced by such industries; and

"(iii) potential participants in programs funded under this subsection;

"(D) a description of the qualified industry for which the training will occur, the availability of competencies on which the training will be based, and how the grant will help workers acquire the competencies and skills necessary for employment;

"(E) a description of the involvement of the local board and businesses, including small businesses, in the geographic area where the proposed grant will be implemented;

"(F) performance measures for the grant, including the expected number of individuals to be trained in a qualified industry, the employment and retention rates for such individuals in a qualified industry, and initial earnings and earnings increases for such individuals;

"(G) a description of how the activities funded by the grant will be coordinated with activities provided through the one-stop center in the local area; and

"(H) a description of the local or private resources that will—

"(i) support the activities carried out under this subsection; and

"(ii) enable the entity to carry out and expand such activities after the expiration of the grant.

"(5) FACTORS FOR AWARD OF GRANT.—

"(A) IN GENERAL.—In awarding grants under this subsection, the Secretary shall consider—

"(i) the extent of public and private collaboration, including existing partnerships among qualified industries, the eligible entity, and the public workforce investment system;

"(ii) the extent to which the grant will provide job seekers with high-quality training for employment in high-growth, high-demand occupations;

"(iii) the extent to which the grant will expand the eligible entity and local one-stop center's capacity to be demand-driven and responsive to local economic needs;

"(iv) the extent to which local businesses commit to hire, retain, or advance individuals who receive training through the grant; and

"(v) the extent to which the eligible entity commits to make any newly developed products, such as skill standards, assessments, or industry-recognized training curricula, available for dissemination nationally.

"(B) LEVERAGING OF RESOURCES.—In awarding grants under this subsection, the Secretary shall also consider—

"(i) the extent to which local or private resources will be made available to support the activities carried out under this subsection, taking into account the resources of the eligible entity and the entity's partners; and

"(ii) the ability of an eligible entity to continue to carry out and expand such activities after the expiration of the grant.

"(C) DISTRIBUTION OF GRANTS.—In awarding grants under this subsection, the Secretary shall ensure an equitable distribution of such grants across diverse industries and geographic areas.

"(6) USE OF FUNDS.—An eligible entity that receives a grant under this subsection—

"(A) shall use the grant funds for—

"(i) the development by the community college that is a part of the eligible entity in collaboration with other partners identified in the application, and, if applicable, other representatives of qualified industries, of rigorous training and education programs leading to an industry-recognized credential or degree and employment in the qualified industry; and

"(ii) training of adults, incumbent workers, dislocated workers, or out-of-school youth in the skills and competencies needed to obtain or upgrade employment in a qualified industry identified in the eligible entity's application; and

"(B) may use the grant funds for—

"(i) disseminating information on training available for high-growth, high-demand occupations in qualified industries through the one-stop delivery system to prospective participants, businesses, business intermediaries, and community-based organizations in the region, including training available through the grant;

"(ii) referring individuals trained under the grant for employment in qualified industries;

"(iii) enhancing integration of community colleges, training and education with businesses, and the one-stop system to meet the training needs of qualified industries for new and incumbent workers;

"(iv) providing training and relevant job skills to small business owners or operators to facilitate small business development in high-growth industries; or

"(v) expanding or creating programs for distance, evening, weekend, modular, or compressed learning opportunities that provide relevant skill training in high-growth, high-demand industries.

"(7) AUTHORITY TO REQUIRE NON-FEDERAL SHARE.—The Secretary may require that recipients of grants under this subsection provide a non-Federal share, from either cash or noncash resources, of the costs of activities carried out under a grant awarded under this subsection.

"(8) PERFORMANCE ACCOUNTABILITY AND EVALUATION.—

"(A) PERFORMANCE ACCOUNTABILITY.—The Secretary shall require an eligible entity that receives a grant under this subsection to submit an interim and final report to the Secretary on the impact on business partners and employment outcomes obtained by individuals receiving training under this subsection using the performance measures identified in the eligible entity's grant application.

"(B) EVALUATION.—The Secretary shall require that an eligible entity that receives a grant under this subsection participate in an evaluation of activities carried out under this subsection, including an evaluation using the techniques described in section 172(c).".

SEC. 147. NATIONAL DISLOCATED WORKER GRANTS.

(a) IN GENERAL.—Section 173 (29 U.S.C. 2918) is amended—

(1) by striking the heading and inserting the following:

"SEC. 173. NATIONAL DISLOCATED WORKER GRANTS.";

and

(2) in subsection (a)—

(A) by striking the matter preceding paragraph (1) and inserting the following:

"(a) IN GENERAL.—The Secretary is authorized to award national dislocated worker grants—";

(B) in paragraph (1), by striking "subsection (c)" and inserting "subsection (b)";

(C) in paragraph (3), by striking "and" after the semicolon; and

(D) by striking paragraph (4) and inserting the following:

"(4) to a State or entity (as defined in subsection (b)(1)(B)) to carry out subsection (e), including providing assistance to eligible individuals;

"(5) to a State or entity (as defined in subsection (b)(1)(B)) to carry out subsection (f), including providing assistance to eligible individuals;

"(6) to provide additional assistance to a State board or local board where a higher than average demand for employment and training activities for dislocated members of the Armed Forces, or spouses, as described in section 101(11)(E), of members of the Armed Forces, described in subsection (b)(2)(A)(iv), exceeds State and local resources for providing such services, and where such programs are to be carried out in partnership with the Department of Defense and Department of Veterans Affairs transition assistance programs; and

"(7) to provide assistance to a State for statewide or local use in order to—

"(A) address cases in which there have been worker dislocations across multiple sectors, across multiple businesses within a sector, or across multiple local areas, and such workers remain dislocated;

"(B) meet emerging economic development needs; and

"(C) train eligible individuals who are dislocated workers described in subparagraph (A).

The Secretary shall issue a final decision on an application for a national dislocated worker grant under this subsection not later than 45 calendar days after receipt of the application. The Secretary shall issue a notice of obligation for such a grant not later than 10 days after the award of the grant.".

(b) ADMINISTRATION AND ADDITIONAL ASSISTANCE.—Section 173 (29 U.S.C. 2918) is amended—

(1) by striking subsection (b);

(2) by redesignating subsections (c) through (g) as subsections (b) through (f), respectively;

(3) in paragraph (2) of subsection (b) (as redesignated by paragraph (2))—

(A) in subparagraph (A), in the matter preceding clause (i), by striking "national emergency grant" and inserting "national dislocated worker grant"; and

(B) in subparagraph (C), by striking "national emergency grants" and inserting "national dislocated worker grants";

(4) by striking subsection (d) (as redesignated by paragraph (2)) and inserting the following:

"(d) ADDITIONAL ASSISTANCE.—

"(1) IN GENERAL.—From the amount appropriated and made available to carry out this section for any program year, the Secretary shall use not more than $20,000,000 to make grants to States to provide employment and training activities under section 134, in accordance with subtitle B.

"(2) ELIGIBLE STATES.—The Secretary shall make a grant under paragraph (1) to a State for a program year if—

"(A) the amount of the allotment that was made to the State for the program year 2003 under the formula specified in section 132(b)(1)(B) as such section was in effect on July 1, 2003, is greater than

"(B) the amount of the allotment that would be made to the State for the program year under the formula specified in section 132(b)(1)(B).

"(3) AMOUNT OF GRANTS.—Subject to paragraph (1), the amount of the grant made under paragraph (1) to a State for a program year shall be based on the difference between—

"(A) the amount of the allotment that was made to the State for the program year 2003 under the formula specified in section 132(b)(1)(B) as such section was in effect on July 1, 2003; and

"(B) the amount of the allotment that would be made to the State for the program year under the formula specified in section 132(b)(1)(B).";

(5) in subsection (e) (as redesignated by paragraph (2))—

(A) in paragraph (1), by striking "paragraph (4)(A)" and inserting "paragraph (4)";

(B) in paragraph (2), by striking "subsection (g)" and inserting "subsection (f)";

(C) in paragraph (3)(B), by striking "subsection (a)(4)(A)" and inserting "subsection (a)(4)";

(D) in paragraph (4), by striking "subsection (g)" and inserting "subsection (f)";

(E) in paragraph (5), by striking "subsection (g)" and inserting "subsection (f)"; and

(F) in paragraph (6)—

(i) by striking "subsection (g)" and inserting "subsection (f)"; and

(ii) by striking "subsection (c)(1)(B)" and inserting "subsection (b)(1)(B)"; and

(6) in subsection (f) (as redesignated by paragraph (2))—

(A) in paragraph (1)—

(i) by striking "paragraph (4)(B)" and inserting "paragraph (5)"; and

(ii) by striking "subsection (f)(1)(A)" and inserting "subsection (e)(1)(A)"; and

(B) in paragraph (4)(B), by striking "subsection (a)(4)(B)" and inserting "subsection (a)(5)".

SEC. 148. AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL ACTIVITIES.

(a) IN GENERAL.—Section 174(a)(1) (29 U.S.C. 2919(a)(1)) is amended by striking "1999 through 2003" and inserting "2006 through 2011".

(b) RESERVATIONS.—Section 174(b) (29 U.S.C. 2919(b)) is amended to read as follows:

"(b) TECHNICAL ASSISTANCE; DEMONSTRATION AND PILOT PROJECTS, EVALUATIONS, INCENTIVE GRANTS.—

"(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to carry out sections 170 through 172, section 136(i), and section 503 such sums as may be necessary for each of fiscal years 2006 through 2011.

"(2) RESERVATION.—Of the amount appropriated pursuant to the authorization of appropriations under paragraph (1) for a fiscal year, the Secretary shall, for each of the fiscal years 2006 through 2011, reserve not less than 25 percent for carrying out section 503.".

(c) ASSISTANCE FOR ELIGIBLE WORKERS.—Section 174(c) (29 U.S.C. 2919(c)) is amended—

(1) in paragraphs (1)(A) and (2)(A), by striking "subsection (a)(4)(A)" and inserting "subsection (a)(4)"; and

(2) in paragraphs (1)(B) and (2)(B), by striking "subsection (a)(4)(B)" and inserting "subsection (a)(5)".

Subtitle E—Administration

SEC. 151. REQUIREMENTS AND RESTRICTIONS.

Section 181(e) (29 U.S.C. 2931(e)) is amended by striking "economic development activities,".

SEC. 152. REPORTS.

Section 185(c) (29 U.S.C. 2935(c)) is amended—

(1) in paragraph (2), by striking "and" after the semicolon;

(2) in paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(4) shall have the option to submit or disseminate electronically any reports, records, plans, or any other data that are required to be collected or disseminated under this title.".

SEC. 153. ADMINISTRATIVE PROVISIONS.

(a) ANNUAL REPORT.—Section 189(d) (29 U.S.C. 2939(d)) is amended—

(1) in paragraph (3), by striking "and" after the semicolon;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

"(4) the negotiated levels of performance of the States, the States' requests for adjustments of such levels, and the adjustments of such levels that are made; and".

(b) AVAILABILITY.—Section 189(g)(2) (29 U.S.C. 2939(g)(2)) is amended, in the first sentence—

(1) by striking "Funds" and inserting "Except as otherwise provided in this paragraph, funds"; and

(2) by striking "each State receiving" and inserting "each recipient of".

(c) GENERAL WAIVERS.—Section 189(i)(4) (29 U.S.C. 2939(i)(4)) is amended—

(1) in subparagraph (A)(i), by inserting "the funding of infrastructure costs for one-stop centers," after "local boards,";

(2) in subparagraph (C), by striking "90" and inserting "60"; and

(3) by adding at the end the following:

"(D) EXPEDITED REQUESTS.—The Secretary shall expedite requests for waivers of statutory or regulatory requirements that have been approved for a State pursuant to subparagraph (B), if the requirements of this paragraph have been satisfied.

“(E) SPECIAL RULE.—With respect to any State that has a waiver under this paragraph relating to the transfer authority under section 133(b)(4), and has the waiver in effect on the date of enactment of the Workforce Investment Act Amendments of 2005 or subsequently receives such a waiver, the waiver shall continue to apply for so long as the State meets or exceeds State performance measures relating to the indicators described in section 136(b)(2)(A)(i).”.

SEC. 154. USE OF CERTAIN REAL PROPERTY.

Section 193 (29 U.S.C. 2943) is amended to read as follows:

“SEC. 193. TRANSFER OF FEDERAL EQUITY IN STATE EMPLOYMENT SECURITY AGENCY REAL PROPERTY TO THE STATES.

“(a) TRANSFER OF FEDERAL EQUITY.—Notwithstanding any other provision of law, any Federal equity acquired in real property through grants to States awarded under title III of the Social Security Act (42 U.S.C. 501 et seq.) or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) is transferred to the States that used the grants for the acquisition of such equity. The portion of any real property that is attributable to the Federal equity transferred under this section shall be used to carry out activities authorized under title III of the Social Security Act or the Wagner-Peyser Act. Any disposition of such real property shall be carried out in accordance with the procedures prescribed by the Secretary and the portion of the proceeds from the disposition of such real property that is attributable to the Federal equity transferred under this section shall be used to carry out activities authorized under title III of the Social Security Act or the Wagner-Peyser Act.

“(b) LIMITATION ON USE.—A State shall not use funds awarded under title III of the Social Security Act or the Wagner-Peyser Act to amortize the costs of real property that is purchased by any State on or after the effective date of this provision.”.

SEC. 155. GENERAL PROGRAM REQUIREMENTS.

Section 195 (29 U.S.C. 2945) is amended by adding at the end the following:

“(14) Funds provided under this title shall not be used to establish or operate fee-for-service enterprises that are not affiliated with the one-stop service delivery systems described in section 121(e) and that compete with private sector employment agencies (as defined in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e)).”.

SEC. 156. TABLE OF CONTENTS.

Section 1(b) (29 U.S.C. 9201 note) is amended—

(1) by striking the item relating to section 106 and inserting the following:

“Sec. 106. Purposes.”;

(2) by striking the item relating to section 123 and inserting the following:

“Sec. 123. Eligible providers of youth activities.”;

(3) by striking the item relating to section 169 and inserting the following:

“Sec. 169. Youth challenge grants.”;

(4) by striking the item relating to section 173 and inserting the following:

“Sec. 173. National dislocated worker grants.”;

(5) by striking the item relating to section 193 and inserting the following:

“Sec. 193. Transfer of Federal equity in State employment security agency real property to the States.”;

(6) by inserting after the item relating to section 243 the following:

“Sec. 244. Integrated English literacy and civics education.”;

and

(7) by striking the item relating to section 502.

Subtitle F—Incentive Grants

SEC. 161. INCENTIVE GRANTS.

Section 503 (20 U.S.C. 9273) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—

“(1) TIMELINE.—

“(A) PRIOR TO JULY 1, 2006.—Prior to July 1, 2006, the Secretary shall award a grant to each State in accordance with the provisions of this section as this section was in effect on July 1, 2003.

“(B) BEGINNING JULY 1, 2006.—Beginning on July 1, 2006, the Secretary shall award incentive grants to States for performance described in paragraph (2) in carrying out innovative programs consistent with the programs under chapters 4 and 5 of subtitle B of title I, to implement or enhance innovative and coordinated programs consistent with the statewide economic, workforce, and educational interests of the State.

“(2) BASIS.—The Secretary shall award the grants on the basis that States—

“(A) have exceeded the State adjusted levels of performance for title I, the adjusted levels of performance for title II, and the levels of performance under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.); or

“(B) have—

“(i) met the State adjusted levels of performance for title I, the adjusted levels of performance for title II, and the levels of performance under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.); and

“(ii) demonstrated—

“(I) exemplary coordination of Federal workforce and education programs, statewide economic development, or business needs;

“(II) exemplary performance in serving hard-to-serve populations; or

“(III) effective—

“(aa) coordination of multiple systems into a comprehensive workforce investment system, including coordination of employment activities under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) and core activities under title I as well as one-stop partner programs described in section 121;

“(bb) expansion of access to training, including through increased leveraging of resources other than those funded through programs under title I;

“(cc) implementation of statewide coordination activities through agreements with relevant State agencies and offices, including those responsible for programs under the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.) and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

“(dd) statewide coordination through local workforce investment boards or areas;

“(ee) alignment of management information systems to integrate participant information across programs; or

“(ff) integration of performance information systems and common measures for accountability across workforce and education programs.

“(3) USE OF FUNDS.—The funds awarded to a State under this section may be used to carry out activities authorized for States under chapters 4 and 5 of subtitle B of title I, title II, and the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), including demonstration projects, and for such innovative projects or programs that increase coordination and enhance service to program participants, particularly hard-to-serve populations, including—

“(A) activities that support business needs, especially for incumbent workers and enhancing opportunities for retention and advancement;

“(B) activities that support linkages with secondary, postsecondary, or career and technical education programs, including activities under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.), and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

“(C) activities that support statewide economic development plans that support high-wage, high-skill, or high-demand occupations leading to self-sufficiency;

“(D) activities that coordinate workforce investment programs with other Federal and State programs related to the activities under this Act;

“(E) activities that support the development of a statewide integrated performance information system that includes common measures;

“(F) activities that align management information systems with integrated performance information across education and workforce programs; or

“(G) activities that support local workforce investment boards or areas in improving performance and program coordination.

“(4) WAIVER.—For States that have developed and implemented a statewide integrated performance information system with common measures, as described in paragraph (3)(E), for federally funded workforce and education programs, the Secretary may waive specified Federal reporting requirements for such State to be in compliance with reporting requirements under this Act and other workforce and education programs as the Secretary has authority or agreement to waive.

“(5) TECHNICAL ASSISTANCE.—The Secretary shall reserve 4 percent of the funds available for grants under this section to provide technical assistance to States to replicate best practices or to develop integrated performance information systems and strengthen coordination with education and economic development.”; and

(2) by striking subsection (d).

Subtitle G—Conforming Amendments

SEC. 171. CONFORMING AMENDMENTS.

(a) OLDER AMERICANS ACT OF 1965.—Section 512(a) of the Older Americans Act of 1965 (42 U.S.C. 3056j(a)) is amended by striking “(B)(vi)” and inserting “(B)(v)”.

(b) ADULT EDUCATION AND FAMILY LITERACY ACT.—Section 212(b)(3)(A)(vi) of the Adult Education and Family Literacy Act (20 U.S.C. 9212(b)(3)(A)(vi)) is amended by striking “the representatives described in section 136(i)(1)” and inserting “representatives of appropriate Federal agencies, and representatives of States and political subdivisions, business and industry, employees, eligible providers of employment and training activities (as defined in section 101), educators, and participants (as defined in section 101), with expertise regarding workforce investment policies and workforce investment activities (as defined in section 101)”.

TITLE II—AMENDMENTS TO THE ADULT EDUCATION AND FAMILY LITERACY ACT

SEC. 201. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the "Adult Education and Family Literacy Act Amendments of 2005".

(b) PURPOSE.—Section 202 of the Adult Education and Family Literacy Act (20 U.S.C. 9201) is amended—

(1) in paragraph (2), by striking "and" after the semicolon;

(2) in paragraph (3), by striking "education." and inserting "education and in the transition to postsecondary education; and"; and

(3) by adding at the end the following:

"(4) assist immigrants and other individuals with limited English proficiency in improving their reading, writing, speaking, and mathematics skills and acquiring an understanding of the American free enterprise system, individual freedom, and the responsibilities of citizenship.".

SEC. 202. DEFINITIONS.

Section 203 of the Adult Education and Family Literacy Act (20 U.S.C. 9202) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "services or instruction below the postsecondary level" and inserting "academic instruction and education services below the postsecondary level that increase an individual's ability to read, write, and speak in English and perform mathematics"; and

(B) by striking subparagraph (C)(i) and inserting the following:

"(i) are basic skills deficient as defined in section 101;";

(2) in paragraph (2), by striking "activities described in section 231(b)" and inserting "programs and services which include reading, writing, speaking, or mathematics skills, workplace literacy activities, family literacy activities, English language acquisition activities, or other activities necessary for the attainment of a secondary school diploma or its State recognized equivalent";

(3) in paragraph (5)—

(A) by inserting "an organization that has demonstrated effectiveness in providing adult education, that may include" after "means";

(B) in subparagraph (B), by striking "of demonstrated effectiveness";

(C) in subparagraph (C), by striking "of demonstrated effectiveness"; and

(D) in subparagraph (I), by inserting "or coalition" after "consortium";

(4) in paragraph (6)—

(A) by striking "LITERACY PROGRAM" and inserting "LANGUAGE ACQUISITION PROGRAM";

(B) by striking "literacy program" and inserting "language acquisition program"; and

(C) by inserting "reading, writing, and speaking" after "competence in";

(5) by striking paragraph (10);

(6) by redesignating paragraphs (7) through (9) and (12) through (18) as paragraphs (8) through (10) and (13) through (19), respectively;

(7) by inserting after paragraph (6) the following:

"(7) ESSENTIAL COMPONENTS OF READING INSTRUCTION.—The term 'essential components of reading instruction' has the meaning given the term in section 1208 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6368).";

(8) by inserting after paragraph (11) the following:

"(12) LIMITED ENGLISH PROFICIENCY.—The term 'limited English proficiency', when used with respect to an individual, means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language, and—

"(A) whose native language is a language other than English; or

"(B) who lives in a family or community environment where a language other than English is the dominant language.";

(9) by striking paragraph (15), as redesignated by paragraph (6), and inserting the following:

"(15) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands."; and

(10) by striking paragraph (19), as redesignated by paragraph (6), and inserting the following:

"(19) WORKPLACE LITERACY PROGRAM.—The term 'workplace literacy program' means an educational program designed to improve the productivity of the workforce through the improvement of literacy skills that is offered by an eligible provider in collaboration with an employer or an employee organization at a workplace, at an off-site location, or in a simulated workplace environment.".

SEC. 203. HOME SCHOOLS.

Section 204 of the Adult Education and Family Literacy Act (20 U.S.C. 9203) is amended to read as follows:

"SEC. 204. HOME SCHOOLS.

"Nothing in this title shall be construed to affect home schools, whether a home school is treated as a home school or a private school under State law, or to compel a parent engaged in home schooling to participate in an English language acquisition program, family literacy services, or adult education.".

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Adult Education and Family Literacy Act (20 U.S.C. 9204) is amended—

(1) by striking "1999" and inserting "2006"; and

(2) by striking "2003" and inserting "2011".

SEC. 205. RESERVATION OF FUNDS; GRANTS TO ELIGIBLE AGENCIES; ALLOTMENTS.

Section 211 of the Adult Education and Family Literacy Act (20 U.S.C. 9211) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) RESERVATION OF FUNDS.—From the sum appropriated under section 205 for a fiscal year, the Secretary—

"(1) shall reserve 1.5 percent to carry out section 242, except that the amount so reserved shall not exceed $10,000,000;

"(2) shall reserve 1.5 percent to carry out section 243 and subsection (f)(4), except that the amount so reserved shall not exceed $8,000,000;

"(3) shall make available, to the Secretary of Labor, 1.72 percent for incentive grants under section 136(i); and

"(4) shall reserve 12 percent of the amount that remains after reserving funds under paragraphs (1), (2) and (3) to carry out section 244.";

(2) in subsection (c)(2)—

(A) by inserting "and the sole agency responsible for administering or supervising policy for adult education and literacy in the Republic of Palau" after "an initial allotment under paragraph (1)";

(B) by inserting "or served by the agency for the Republic of Palau" after "by the eligible agency"; and

(C) by striking "States and outlying areas" and inserting "States, outlying areas, and the Republic of Palau";

(3) in subsection (e)—

(A) in paragraph (1)—

(i) by striking "the Republic of the Marshall Islands, the Federated States of Micronesia, and"; and

(ii) by striking "the Republic of the Marshall Islands, the Federated States of Micronesia, or" and inserting "or"; and

(B) in paragraph (3)—

(i) by striking "the Republic of the Marshall Islands, the Federated States of Micronesia, and"; and

(ii) by striking "2001" and inserting "2007"; and

(4) by striking subsection (f) and inserting the following:

"(f) HOLD-HARMLESS PROVISIONS.—

"(1) IN GENERAL.—Notwithstanding subsection (c) and subject to paragraph (2), for fiscal year 2005 and each succeeding fiscal year, no eligible agency shall receive an allotment under this section that is less than 90 percent of the allotment the eligible agency received for the preceding fiscal year under this section.

"(2) 100 PERCENT ALLOTMENT.—Notwithstanding paragraphs (1) and (2) of subsection (e), an eligible agency that receives only an initial allotment under subsection (c)(1) (and no additional allotment under subsection (c)(2)) shall receive an allotment under this section that is equal to 100 percent of the initial allotment under subsection (c)(1).

"(3) RATABLE REDUCTION.—If for any fiscal year the amount available for allotment under this subtitle is insufficient to satisfy the provisions of paragraphs (1) and (2), the Secretary shall ratably reduce the payments to all eligible agencies, as necessary.

"(4) ADDITIONAL ASSISTANCE.—

"(A) IN GENERAL.—From amounts reserved under subsection (a)(2), the Secretary shall make grants to eligible agencies described in subparagraph (B) to enable such agencies to provide activities authorized under chapter 2.

"(B) ELIGIBILITY.—An eligible agency is eligible to receive a grant under this paragraph for a fiscal year if the amount of the allotment such agency receives under this section for the fiscal year is less than the amount such agency would have received for the fiscal year if the allotment formula under this section as in effect on September 30, 2003, were in effect for such year.

"(C) AMOUNT OF GRANT.—The amount of a grant made to an eligible agency under this paragraph for a fiscal year shall be the difference between—

"(i) the amount of the allotment such agency would have received for the fiscal year if the allotment formula under this section as in effect on September 30, 2003, were in effect for such year; and

"(ii) the amount of the allotment such agency receives under this section for the fiscal year.".

SEC. 206. PERFORMANCE ACCOUNTABILITY SYSTEM.

Section 212 of the Adult Education and Family Literacy Act (20 U.S.C. 9212) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A)(ii), by striking "additional indicators of performance (if any)" and inserting "the employment performance indicators";

(B) by striking paragraph (2) and inserting the following:

"(2) INDICATORS OF PERFORMANCE.—

"(A) CORE INDICATORS OF PERFORMANCE.—An eligible agency shall identify in the State plan individual academic performance indicators that include, at a minimum, the following:

"(i) Measurable improvements in literacy skill levels in reading, writing, and speaking the English language, numeracy, problem solving, English language acquisition, and other literacy skills.

"(ii) Placement in, retention in, or completion of, postsecondary education or other training programs.

"(iii) Completion of a secondary school diploma, its recognized equivalent, or a recognized alternative standard for individuals with disabilities.

"(B) EMPLOYMENT PERFORMANCE INDICATORS.—

"(i) IN GENERAL.—An eligible agency shall identify in the State plan individual participant employment performance indicators that include, at a minimum, the following:

"(I) Entry into unsubsidized employment.

"(II) Retention in unsubsidized employment 6 months after entry into the employment.

"(III) Increases in earnings from unsubsidized employment.

(ii) DATA COLLECTION.—The State workforce investment board shall assist the eligible agency in obtaining and using quarterly wage records to collect data for each of the indicators described in clause (i), consistent with applicable Federal and State privacy laws.

"(C) INDICATORS FOR WORKPLACE LITERACY PROGRAMS.—Special accountability measures may be negotiated for workplace literacy programs."; and

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) in clause (i)(II), by striking "in performance" and inserting "the agency's performance outcomes in an objective, quantifiable, and measurable form";

(II) in clause (ii), by striking "3 programs years" and inserting "2 program years";

(III) in clause (iii), by striking "FIRST 3 YEARS" and inserting "FIRST 2 YEARS";

(IV) in clause (iii), by striking "first 3 program years" and inserting "first 2 program years";

(V) in clause (v), by striking "4TH AND 5TH" and inserting "3RD AND 4TH";

(VI) in clause (v), by striking "to the fourth" and inserting "to the third";

(VII) in clause (v), by striking "fourth and fifth" and inserting "third and fourth"; and

(VIII) in clause (vi), by striking "(II)" and inserting "(I)";

(ii) in subparagraph (B)—

(I) by striking the heading and inserting "LEVELS OF EMPLOYMENT PERFORMANCE";

(II) by striking "may" and inserting "shall"; and

(III) by striking "additional" and inserting "employment performance"; and

(iii) by adding at the end the following:

"(C) ALTERNATIVE ASSESSMENT SYSTEMS.—Eligible agencies may approve the use of assessment systems that are not commercially available standardized systems if such systems meet the Standards for Educational and Psychological Testing issued by the Joint Committee on Standards for Educational and Psychological Testing of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education.";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting "the Governor, the State legislature, and the State workforce investment board" after "Secretary"; and

(ii) by striking "including" and all that follows through the period and inserting "including the following:

"(A) Information on the levels of performance achieved by the eligible agency with respect to the core indicators of performance, and employment performance indicators.

"(B) Information on the number or percentage of qualifying adults (as defined in section 211(d)) who are participants in adult education programs under this subtitle and making satisfactory progress toward 1 or more of each of the following:

"(i) Core indicators of performance.

"(ii) Employment performance indicators.

"(iii) Other long-term objectives.

"(C) The number and type of each eligible provider that receives funding under such grant.

"(D) The number of enrollees 16 to 18 years of age who enrolled in adult education not later than 1 year after participating in secondary school education.";

(B) in paragraph (2)(A), by inserting "eligible providers and" after "available to"; and

(C) by adding at the end the following:

"(3) DATA ACCESS.—The report made available under paragraph (2) shall indicate which eligible agencies did not have access to State unemployment insurance wage data in measuring employment performance indicators."; and

(3) by adding at the end the following:

"(d) PROGRAM IMPROVEMENT.—

"(1) IN GENERAL.—If the Secretary determines that an eligible agency did not meet its adjusted levels of performance for the core indicators of performance described in subsection (b)(2)(A) for any program year, the eligible agency shall—

"(A) work with the Secretary to develop and implement a program improvement plan for the 2 program years succeeding the program year in which the eligible agency did not meet its adjusted levels of performance; and

"(B) revise its State plan under section 224, if necessary, to reflect the changes agreed to in the program improvement plan.

"(2) FURTHER ASSISTANCE.—If, after the period described in paragraph (1)(A), the Secretary has provided technical assistance to the eligible agency but determines that the eligible agency did not meet its adjusted levels of performance for the core indicators of performance described in subsection (b)(2)(A), the Secretary may require the eligible agency to make further revisions to the program improvement plan described in paragraph (1). Such further revisions shall be accompanied by further technical assistance from the Secretary.".

SEC. 207. STATE ADMINISTRATION.

Section 221(1) of the Adult Education and Family Literacy Act (20 U.S.C. 9221(1)) is amended by striking "and implementation" and inserting "implementation, and monitoring".

SEC. 208. STATE DISTRIBUTION OF FUNDS; MATCHING REQUIREMENT.

Section 222 of the Adult Education and Family Literacy Act (20 U.S.C. 9222) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "82.5" the first place such term appears and inserting "80"; and

(ii) by striking "the 82.5 percent" and inserting "such amount";

(B) in paragraph (2), by striking "not more than 12.5 percent" and inserting "not more than 15 percent"; and

(C) in paragraph (3), by striking "$65,000" and inserting "$75,000"; and

(2) in subsection (b)(1), by striking "equal to" and inserting "that is not less than".

SEC. 209. STATE LEADERSHIP ACTIVITIES.

Section 223 of the Adult Education and Family Literacy Act (20 U.S.C. 9223) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting "to develop or enhance the adult education system of the State or outlying area" after "activities";

(B) in paragraph (1), by striking "instruction incorporating" and all that follows through the period and inserting "instruction incorporating the essential components of reading instruction and instruction provided by volunteers or by personnel of a State or outlying area.";

(C) in paragraph (2), by inserting ", including development and dissemination of instructional and programmatic practices based on the most rigorous research available in reading, writing, speaking, mathematics, English language acquisition programs, distance learning, and staff training" after "activities";

(D) in paragraph (5), by striking "monitoring and";

(E) by striking paragraph (6) and inserting the following:

"(6) The development and implementation of technology applications, translation technology, or distance learning, including professional development to support the use of instructional technology."; and

(F) by striking paragraph (7) through paragraph (11) and inserting the following:

"(7) Coordination with—

"(A) other partners carrying out activities authorized under this Act; and

"(B) existing support services, such as transportation, child care, mental health services, and other assistance designed to increase rates of enrollment in, and successful completion of, adult education and literacy activities, for adults enrolled in such activities.

"(8) Developing and disseminating curricula, including curricula incorporating the essential components of reading instruction as such components relate to adults.

"(9) The provision of assistance to eligible providers in developing, implementing, and reporting measurable progress in achieving the objectives of this subtitle.

"(10) The development and implementation of a system to assist in the transition from adult basic education to postsecondary education, including linkages with postsecondary educational institutions.

"(11) Integration of literacy and English language instruction with occupational skill training, and promoting linkages with employers.

"(12) Activities to promote workplace literacy programs.

"(13) Activities to promote and complement local outreach initiatives described in section 243(b)(3)(F).

"(14) In cooperation with efforts funded under sections 242 and 243, the development of curriculum frameworks and rigorous content standards that—

"(A) specify what adult learners should know and be able to do in the areas of reading and language arts, mathematics, and English language acquisition; and

"(B) take into consideration the following:

"(i) State academic standards established under section 1111(b) of the Elementary and Secondary Education Act of 1965.

"(ii) The current adult skills and literacy assessments used in the State or outlying area.

"(iii) The core indicators of performance established under section 212(b)(2)(A).

"(iv) Standards and academic requirements for enrollment in non-remedial, for-credit, courses in postsecondary education institutions supported by the State or outlying area.

"(v) Where appropriate, the basic and literacy skill content of occupational and industry skill standards widely used by business and industry in the State or outlying area.

"(15) In cooperation with efforts funded under sections 242 and 243, development and piloting of—

"(A) new assessment tools and strategies that—

"(i) are based on scientifically based research, where available and appropriate; and

"(ii) identify the needs and capture the gains of students at all levels, with particular emphasis on—

"(I) students at the lowest achievement level;

"(II) students who have limited English proficiency; and

"(III) adults with learning disabilities;

"(B) options for improving teacher quality and retention; and

"(C) assistance in converting research into practice.

"(16) The development and implementation of programs and services to meet the needs of adult learners with learning disabilities or limited English proficiency.

"(17) Other activities of statewide significance that promote the purpose of this title."; and

(2) in subsection (c), by striking "being State- or outlying area-imposed" and inserting "being imposed by the State or outlying area".

SEC. 210. STATE PLAN.

Section 224 of the Adult Education and Family Literacy Act (20 U.S.C. 9224) is amended—

(1) in subsection (a)—

(A) by striking the heading and inserting "4-YEAR PLANS"; and

(B) in paragraph (1), by striking "5" and inserting "4";

(2) in subsection (b)—

(A) in paragraph (1), by inserting "and the role of provider and cooperating agencies in preparing the assessment" after "serve";

(B) by striking paragraph (2) and inserting the following:

"(2) a description of how the eligible agency will address the adult education and literacy needs identified under paragraph (1) in each workforce development area of the State, using funds received under this subtitle, as well as other Federal, State, or local funds received in partnership with other agencies for the purpose of adult literacy as applicable;";

(C) in paragraph (3)—

(i) by inserting "and measure" after "evaluate";

(ii) by inserting "and improvement" after "effectiveness"; and

(iii) by striking "212" and inserting "212, including—

"(A) how the eligible agency will evaluate and measure annually such effectiveness on a grant-by-grant basis; and

"(B) how the eligible agency—

"(i) will hold eligible providers accountable regarding the progress of such providers in improving the academic achievement of participants in adult education programs under this subtitle and regarding the core indicators of performance described in section 212(b)(2)(A); and

"(ii) will use technical assistance, sanctions, and rewards (including allocation of grant funds based on performance and termination of grant funds based on performance)"; .

(D) by redesignating paragraphs (5) through (12) as paragraphs (6) through (13), respectively;

(E) by inserting after paragraph (4) the following:

"(5) a description of how the eligible agency will improve teacher quality, the professional development of eligible providers, and instruction;";

(G) in paragraph (6) (as redesignated by subparagraph (D)), by striking "who" and all that follows through the semicolon and inserting "that—

"(A) offers flexible schedules and coordinates with necessary Federal, State, and local support services (such as child care, transportation, mental health services, and case management) to enable individuals, including individuals with disabilities or individuals with other special needs, to participate in adult education and literacy activities; and

"(B) attempts to coordinate with support services that are not provided under this subtitle prior to using funds for adult education and literacy activities provided under this subtitle for support services;";

(H) in paragraph (10) (as redesignated by subparagraph (D)), by striking "plan;" and inserting "plan, which process—

"(A) shall include the State Workforce Investment Board, the Governor, State officials representing public schools, community colleges, welfare agencies, agencies that provide services to individuals with disabilities, other State agencies that promote or operate adult education and literacy activities, and direct providers of such adult literacy services; and

"(B) may include consultation with the State agency for higher education, institutions responsible for professional development of adult education and literacy education program instructors, institutions of higher education, representatives of business and industry, refugee assistance programs, and community-based organizations (as such term is defined in section 101);";

(I) in paragraph (11) (as redesignated by subparagraph (D))—

(i) by inserting "assess potential population needs and" after "will";

(ii) in subparagraph (A), by striking "students" and inserting "individuals";

(iii) in subparagraph (C), by striking "and" after the semicolon; and

(iv) by adding at the end the following:

"(E) the unemployed; and

"(F) those individuals who are employed, but at levels below self-sufficiency, as defined in section 101.";

(J) in paragraph (12) (as redesignated by subparagraph (D))—

(i) by inserting "and how the plan submitted under this subtitle is coordinated with the plan submitted by the State under title I" after "eligible agency"; and

(ii) by striking "and" after the semicolon;

(K) in paragraph (13) (as redesignated by subparagraph (D)), by striking "231(c)(1)." and inserting "231(c)(1), including—

"(A) how the State will build the capacity of organizations that provide adult education and literacy activities; and

"(B) how the State will increase the participation of business and industry in adult education and literacy activities;"; and

(L) by adding at the end the following:

"(14) a description of how the eligible agency will consult with any State agency responsible for postsecondary education to develop adult education programs and services (including academic skill development and support services) that prepare students to enter postsecondary education upon the attainment of a secondary school diploma or its recognized equivalent;

"(15) a description of how the eligible agency will consult with the State agency responsible for workforce development to develop adult education programs and services that are designed to prepare students to enter the workforce; and

"(16) a description of how the eligible agency will improve the professional development of eligible providers of adult education and literacy activities.";

(3) in subsection (c), by adding at the end the following: "At the end of the first 2-year period of the 4-year State plan, the eligible agency shall review and, as needed, revise the 4-year State plan."; and

(4) in subsection (d)—

(A) in paragraph (1), by inserting ", the chief State school officer, the State officer responsible for administering community and technical colleges, and the State Workforce Investment Board" after "Governor"; and

(B) in paragraph (2), by striking "comments" and all that follows through the period and inserting "comments regarding the State plan by the Governor, the chief State school officer, the State officer responsible for administering community and technical colleges, and the State Workforce Investment Board, and any revision to the State plan, are submitted to the Secretary.".

SEC. 211. PROGRAMS FOR CORRECTIONS EDUCATION AND OTHER INSTITUTIONALIZED INDIVIDUALS.

Section 225 of the Adult Education and Family Literacy Act (20 U.S.C. 9225) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "basic education" and inserting "adult education and literacy activities";

(B) in paragraph (2), by inserting "and" after the semicolon;

(C) by striking paragraph (3); and

(D) by redesignating paragraph (4) as paragraph (3); and

(2) in subsection (d), by striking "DEFINITION OF CRIMINAL OFFENDER.—" and inserting "DEFINITIONS.—In this section:".

SEC. 212. GRANTS AND CONTRACTS FOR ELIGIBLE PROVIDERS.

Section 231 of the Adult Education and Family Literacy Act (20 U.S.C. 9241) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "workplace literacy services" and inserting "workplace literacy programs"; and

(B) in paragraph (3), by striking "literacy" and inserting "language acquisition"; and

(2) in subsection (e)—

(A) in paragraph (1), by inserting "to be achieved annually on the core indicators of performance and employment performance indicators described in section 212(b)(2)" after "outcomes";

(B) by striking paragraph (3) and inserting the following:

"(3) the commitment of the eligible provider to be responsive to local needs and to serve individuals in the community who were identified by the assessment as most in need of adult literacy services, including individuals who are low-income, have minimal literacy skills, have learning disabilities, or have limited English proficiency;";

(C) in paragraph (4)(B), by striking ", such as" and all that follows through the semicolon and inserting "that include the essential components of reading instruction;";

(D) in paragraph (5), by striking "research" and inserting "the most rigorous research available, including scientifically based research,";

(E) in paragraph (7), by inserting ", when appropriate and based on the most rigorous research available, including scientifically based research," after "real life contexts";

(F) in paragraph (9), by inserting "education, job training, and social service" after "other available";

(G) in paragraph (10)—

(i) by inserting "coordination with Federal, State, and local" after "schedules and"; and

(ii) by striking "and transportation" and inserting ", transportation, mental health services, and case management";

(H) in paragraph (11)—

(i) by inserting "measurable" after "report";

(ii) by striking "eligible agency";

(iii) by inserting "established by the eligible agency" after "performance measures"; and

(iv) by striking "and" after the semicolon;

(I) in paragraph (12), by striking "literacy programs." and inserting "language acquisition programs and civics education programs;"; and

(J) by adding at the end the following:

"(13) the capacity of the eligible provider to produce information on performance results, including enrollments and measurable participant outcomes;

"(14) whether reading, writing, speaking, mathematics, and English language acquisition instruction provided by the eligible provider are based on the best practices derived from the most rigorous research available;

"(15) whether the eligible provider's applications of technology and services to be provided are sufficient to increase the amount and quality of learning and lead to measurable learning gains within specified time periods; and

"(16) the capacity of the eligible provider to serve adult learners with learning disabilities.".

SEC. 213. LOCAL APPLICATION.

Section 232 of the Adult Education and Family Literacy Act (20 U.S.C. 9242) is amended—

(1) in paragraph (1)—

(A) by inserting "consistent with the requirements of this subtitle" after "spent"; and

(B) by striking "and" after the semicolon;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) information that addresses each of the considerations required under section 231(e).".

SEC. 214. LOCAL ADMINISTRATIVE COST LIMITS.

Section 233 of the Adult Education and Family Literacy Act (20 U.S.C. 9243) is amended—

(1) in subsection (a)(2)—

(A) by inserting "and professional" after "personnel"; and

(B) by inserting "development of measurable goals in reading, writing, and speaking the English language, and in mathematical computation," after "development,"; and

(2) in subsection (b)—

(A) by inserting "and professional" after "personnel"; and

(B) by inserting "development of measurable goals in reading, writing, and speaking the English language, and in mathematical computation," after "development,".

SEC. 215. ADMINISTRATIVE PROVISIONS.

Section 241(b) of the Adult Education and Family Literacy Act (20 U.S.C. 9251(b)) is amended—

(1) in paragraph (1)(A)—

(A) by striking "adult education and literacy activities" each place the term appears and inserting "activities under this subtitle"; and

(B) by striking "was" and inserting "were"; and

(2) in paragraph (4)—

(A) by inserting "not more than" after "this subsection for"; and

(B) by striking "only".

SEC. 216. NATIONAL INSTITUTE FOR LITERACY.

Section 242 of the Adult Education and Family Literacy Act (20 U.S.C. 9252) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "literacy" and inserting "effective literacy programs for children, youth, adults, and families";

(B) in paragraph (2), by inserting "and disseminates information on" after "coordinates"; and

(C) by striking paragraph (3)(A) and inserting the following:

"(A) coordinating and participating in the Federal effort to identify and disseminate information on literacy that is derived from scientifically based research, or the most rigorous research available, and effective programs that serve children, youth, adults, and families; and";

(2) by striking subsection (b)(3) and inserting the following:

"(3) Recommendations.—The Interagency Group, in consultation with the National Institute for Literacy Advisory Board (in this section referred to as the 'Board') established under subsection (e), shall plan the goals of the Institute and the implementation of any programs to achieve the goals. The Board may also request a meeting of the Interagency Group to discuss any recommendations the Board may make.";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by striking "to establish" and inserting "to maintain";

(II) in clause (i), by striking "phonemic awareness, systematic phonics, fluency, and reading comprehension" and inserting "the essential components of reading instruction";

(III) in clause (iii), by striking "and" after the semicolon;

(IV) in clause (iv), by inserting "and" after the semicolon; and

(V) by adding at the end the following:

"(v) a list of local adult education and literacy programs;";

(ii) in subparagraph (C)—

(I) by striking "reliable and replicable research" and inserting "reliable and replicable research as defined by the Institute of Education Sciences"; and

(II) by striking "especially with the Office of Educational Research and Improvement in the Department of Education,";

(iii) in subparagraph (D), by striking "phonemic awareness, systematic phonics, fluency, and reading comprehension based on" and inserting "the essential components of reading instruction and";

(iv) in subparagraph (H), by striking "and" after the semicolon;

(v) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(vi) by adding at the end the following:

"(J) to work cooperatively with the Department of Education to assist States that are pursuing the implementation of standards-based educational improvements for adults through the dissemination of training, technical assistance, and related support and through the development and dissemination of related standards-based assessment instruments; and

"(K) to identify scientifically based research where available, or the most rigorous research available, on the effectiveness of instructional practices and organizational strategies relating to literacy programs on the acquisition of skills in reading, writing, English acquisition, and mathematics."; and

(B) by adding at the end the following:

"(3) Coordination.—In identifying the reliable and replicable research the Institute will support, the Institute shall use standards for research quality that are consistent with those of the Institute of Education Sciences.";

(4) in subsection (e)—

(A) in paragraph (1)(B)—

(i) in clause (i), by striking "literacy programs" and inserting "language acquisition programs";

(ii) in clause (ii), by striking "literacy programs" and inserting "or have participated in or partnered with workplace literacy programs";

(iii) in clause (iv), by inserting ", including adult literacy research" after "research";

(iv) in clause (vi), by striking "and" after the semicolon;

(v) in clause (vii), by striking the period at the end and inserting "; and"; and

(vi) by adding at the end the following:

"(viii) institutions of higher education.";

(B) in paragraph (2)—

(i) in subparagraph (B), by striking "and" after the semicolon;

(ii) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(D) review the biennial report submitted to Congress pursuant to subsection (k)."; and

(C) in paragraph (5), by striking the second sentence and inserting the following: "A recommendation of the Board may be passed only by a majority of the Board's members present at a meeting for which there is a quorum."; and

(5) in subsection (k)—

(A) by striking "Labor and Human Resources" and inserting "Health, Education, Labor, and Pensions"; and

(B) by striking "The Institute shall submit a report biennially to" and inserting "Not later than 1 year after the date of enactment of the Adult Education and Family Literacy Act Amendments of 2005, and biennially thereafter, the Institute shall submit a report to".

SEC. 217. NATIONAL LEADERSHIP ACTIVITIES.

Section 243 of the Adult Education and Family Literacy Act (20 U.S.C. 9253) is amended to read as follows:

"SEC. 243. NATIONAL LEADERSHIP ACTIVITIES.

"(a) In General.—The Secretary shall establish and carry out a program of national leadership activities to enhance the quality of adult education and literacy programs nationwide.

"(b) Permissive Activities.—The national leadership activities described in subsection (a) may include the following:

"(1) Technical assistance, including—

"(A) assistance provided to eligible providers in developing and using performance measures for the improvement of adult education and literacy activities, including family literacy services;

“(B) assistance related to professional development activities, and assistance for the purposes of developing, improving, identifying, and disseminating the most successful methods and techniques for providing adult education and literacy activities, including family literacy services, based on scientific evidence where available;

“(C) assistance in distance learning and promoting and improving the use of technology in the classroom;

“(D) assistance in developing valid, measurable, and reliable performance data, including data about employment and employment outcome, and using performance information for the improvement of adult education and literacy programs; and

“(E) assistance to help States, particularly low-performing States, meet the requirements of section 212.

“(2) A program of grants, contracts, or cooperative agreements awarded on a competitive basis to national, regional, or local networks of private nonprofit organizations, public libraries, or institutions of higher education to build the capacity of such networks' members to meet the performance requirements of eligible providers under this title and involve adult learners in program improvement.

“(3) Funding national leadership activities that are not described in paragraph (1), either directly or through grants, contracts, or cooperative agreements awarded on a competitive basis to or with postsecondary educational institutions, public or private organizations or agencies, or consortia of such institutions, organizations, or agencies, such as—

“(A) developing, improving, and identifying the most successful methods and techniques for addressing the education needs of adults, including instructional practices using the essential components of reading instruction based on the work of the National Institute of Child Health and Human Development;

“(B) increasing the effectiveness of, and improving the quality of, adult education and literacy activities, including family literacy services;

“(C) carrying out rigorous research, including scientifically based research where appropriate, on national literacy basic skill acquisition for adult learning, including estimating the number of adults functioning at the lowest levels of literacy proficiency;

“(D)(i) carrying out demonstration programs;

“(ii) disseminating best practices information, including information regarding promising practices resulting from federally funded demonstration programs; and

“(iii) developing and replicating best practices and innovative programs, including—

“(I) the development of models for basic skill certificates;

“(II) the identification of effective strategies for working with adults with learning disabilities and with adults with limited English proficiency;

“(III) integrated basic and workplace skills education programs;

“(IV) coordinated literacy and employment services; and

“(V) postsecondary education transition programs;

“(E) providing for the conduct of an independent evaluation and assessment of adult education and literacy activities through studies and analyses conducted independently through grants and contracts awarded on a competitive basis, which evaluation and assessment shall include descriptions of—

“(i) the effect of performance measures and other measures of accountability on the delivery of adult education and literacy activities, including family literacy services;

“(ii) the extent to which the adult education and literacy activities, including family literacy services, increase the literacy skills of adults (and of children, in the case of family literacy services), lead the participants in such activities to involvement in further education and training, enhance the employment and earnings of such participants, and, if applicable, lead to other positive outcomes, such as reductions in recidivism in the case of prison-based adult education and literacy activities;

“(iii) the extent to which the provision of support services to adults enrolled in adult education and family literacy programs increase the rate of enrollment in, and successful completion of, such programs; and

“(iv) the extent to which different types of providers measurably improve the skills of participants in adult education and literacy programs;

“(F) supporting efforts aimed at capacity building of programs at the State and local levels such as technical assistance in program planning, assessment, evaluation, and monitoring of activities carried out under this subtitle;

“(G) collecting data, such as data regarding the improvement of both local and State data systems, through technical assistance and development of model performance data collection systems;

“(H) supporting the development of an entity that would produce and distribute technology-based programs and materials for adult education and literacy programs using an interconnection system (as defined in section 397 of the Communications Act of 1934 (47 U.S.C. 397)) and expand the effective outreach and use of such programs and materials to adult education eligible providers;

“(I) determining how participation in adult education and literacy activities prepares individuals for entry into postsecondary education and employment and, in the case of prison-based services, has an effect on recidivism; and

“(J) other activities designed to enhance the quality of adult education and literacy activities nationwide.”.

SEC. 218. INTEGRATED ENGLISH LITERACY AND CIVICS EDUCATION.

Chapter 4 of subtitle A of title II (29 U.S.C. 9251 et seq.) is amended by adding at the end the following:

“SEC. 244. INTEGRATED ENGLISH LITERACY AND CIVICS EDUCATION.

“(a) IN GENERAL.—From funds made available under section 211(a)(4) for each fiscal year, the Secretary shall award grants to States, from allotments under subsection (b), for integrated English literacy and civics education.

“(b) ALLOTMENT.—

“(1) IN GENERAL.—Subject to paragraph (2), from amounts made available under section 211(a)(4) for a fiscal year, the Secretary shall allocate—

“(A) 65 percent to the States on the basis of a State's need for integrated English literacy and civics education as determined by calculating each State's share of a 10-year average of the Immigration and Naturalization Service data for immigrants admitted for legal permanent residence for the 10 most recent years; and

“(B) 35 percent to the States on the basis of whether the State experienced growth as measured by the average of the 3 most recent years for which Immigration and Naturalization Service data for immigrants admitted for legal permanent residence are available.

“(2) MINIMUM.—No State shall receive an allotment under paragraph (1) in an amount that is less than $60,000.”.

SEC. 219. TRANSITION.

The Secretary shall take such steps as the Secretary determines to be appropriate to provide for the orderly transition to the authority of the Adult Education and Family Literacy Act (as amended by this title) from any authority under provisions of the Adult Education and Family Literacy Act (as such Act was in effect on the day before the date of enactment of the Adult Education and Family Literacy Act Amendments of 2005).

TITLE III—AMENDMENTS TO OTHER PROVISIONS OF LAW

SEC. 301. WAGNER-PEYSER ACT.

(a) CONFORMING AMENDMENT.—Section 2(3) of the Wagner-Peyser Act (29 U.S.C. 49a(3)) is amended by striking “section 134(c)” and inserting “section 121(e)”.

(b) COLOCATION.—Section 3 of the Wagner-Peyser Act (29 U.S.C. 49b) is amended by adding at the end the following:

“(d) In order to avoid duplication of services and enhance integration of services, employment services offices in each State shall be colocated with one-stop centers established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

“(e) The Secretary, in consultation with States, is authorized to assist in the development of national electronic tools that may be used to improve access to workforce information for individuals through—

“(1) the one-stop delivery systems established under section 121(e) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(e)); and

“(2) such other delivery systems as the Secretary determines to be appropriate.”.

(c) COOPERATIVE STATISTICAL PROGRAM.—Section 14 of the Wagner-Peyser Act (29 U.S.C. 491–1) is amended by striking the section heading and all that follows through “There” and inserting the following:

“SEC. 14. COOPERATIVE STATISTICAL PROGRAM.

“There”.

(d) WORKFORCE AND LABOR MARKET INFORMATION SYSTEM.—Section 15 of the Wagner-Peyser Act (29 U.S.C. 491–2) is amended—

(1) by striking the section heading and inserting the following:

“SEC. 15. WORKFORCE AND LABOR MARKET INFORMATION SYSTEM.”;

(2) by striking “employment statistics system” each place it appears and inserting “workforce and labor market information system”;

(3) in subsection (a)(1), by striking “of employment statistics”;

(4) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “The” and inserting the following:

“(A) STRUCTURE.—The”; and

(ii) by adding at the end the following:

“(B) GRANTS OR COOPERATIVE AGREEMENTS.—

“(i) IN GENERAL.—The Secretary shall carry out the provisions of this section in a timely manner through grants or cooperative agreements with States.

“(ii) DISTRIBUTION OF FUNDS.—With regard to distributing funds appropriated under subsection (g) (relating to workforce and labor market information funding) for fiscal years 2006 through 2011, the Secretary shall continue to distribute the funds to States in the manner in which the Secretary distributed funds to the States under this section for fiscal years 1999 through 2003.”; and

(B) in paragraph (2)(E)—

(i) in clause (i), by adding "and" at the end;

(ii) in clause (ii), by striking "; and" and inserting a period; and

(iii) by striking clause (iii);

(5) by striking subsections (c) and (d) and inserting the following:

"(c) TWO-YEAR PLAN.—The Secretary, working through the Commissioner of Labor Statistics, and in cooperation with the States and with the assistance of the Assistant Secretary for Employment and Training and heads of other appropriate Federal agencies, shall prepare a 2-year plan which shall be the mechanism for achieving cooperative management of the nationwide workforce and labor market information system described in subsection (a) and the statewide workforce and labor market information systems that comprise the nationwide system. The plan shall—

"(1) describe the steps the to be taken in the following 2 years to carry out the duties described in subsection (b)(2);

"(2) evaluate the performance of the system and recommend needed improvements, with particular attention to the improvements needed at the State and local levels; and

"(3) describe the involvement of States in the development of the plan, through consultation between the Secretary and representatives from State agencies in accordance with subsection (d).

"(d) COORDINATION WITH THE STATES.—The Secretary, working though the Commissioner of Labor Statistics and in coordination with the Assistant Secretary for Employment and Training, shall consult at least annually with representatives of each of the Federal regions of the Department of Labor, elected (pursuant to a process established by the Secretary) by and from the State workforce and labor market information directors affiliated with the State agencies that perform the duties described in subsection (e)(2).";

(6) in subsection (e)(2)—

(A) in subparagraph (G), by adding "and" at the end;

(B) by striking subparagraph (H); and

(C) by redesignating subparagraph (I) as subparagraph (H); and

(7) in subsection (g), by striking "1999 through 2004" and inserting "2006 through 2011".

TITLE IV—REHABILITATION ACT AMENDMENTS

SEC. 401. SHORT TITLE.

This title may be cited as the "Rehabilitation Act Amendments of 2005".

SEC. 402. TECHNICAL AMENDMENTS TO TABLE OF CONTENTS.

(a) EXPANDED TRANSITION SERVICES.—Section 1(b) of the Rehabilitation Act of 1973 is amended by inserting after the item relating to section 110 the following:

"Sec. 110A. Reservation for expanded transition services.".

(b) INCENTIVE GRANTS.—Section 1(b) of the Rehabilitation Act of 1973 is amended by inserting after the item relating to section 112 the following:

"Sec. 113. Incentive grants.".

(c) INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.—Section 1(b) of the Rehabilitation Act of 1973 is amended by striking the items relating to sections 752 and 753 and inserting the following:

"Sec. 752. Training and technical assistance.

"Sec. 753. Program of grants.

"Sec. 754. Authorization of appropriations.".

SEC. 403. PURPOSE.

Section 2 of the Rehabilitation Act of 1973 (29 U.S.C. 701) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking "and" after the semicolon;

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(7)(A) a high proportion of youth who are individuals with disabilities is leaving special education without being employed or being enrolled in continuing education; and

"(B) there is a substantial need to support those youth as the youth transition from school to postsecondary life."; and

(2) in subsection (b)—

(A) in paragraph (1)(F), by striking "and" after the semicolon;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) to provide opportunities for employers and vocational rehabilitation service providers to provide meaningful input at all levels of government to ensure successful employment of individuals with disabilities.".

SEC. 404. DEFINITIONS.

Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) is amended—

(1) in paragraph (2)(B)—

(A) in the matter preceding clause (i), by inserting "and literacy services" after "supported employment"; and

(B) in clause (iii), by inserting "and literacy skills" after "educational achievements";

(2) by striking paragraphs (3) and (4) and inserting the following:

"(3) ASSISTIVE TECHNOLOGY DEFINITIONS.—

"(A) ASSISTIVE TECHNOLOGY.—The term 'assistive technology' has the meaning given such term in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).

"(B) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' has the meaning given such term in section 3 of the Assistive Technology Act of 1998, except that the reference in such section to the term 'individuals with disabilities' shall be deemed to mean more than one individual with a disability as defined in paragraph (20)(A).

"(C) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' has the meaning given such term in section 3 of the Assistive Technology Act of 1998, except that the reference in such section—

"(i) to the term 'individual with a disability' shall be deemed to mean an individual with a disability, as defined in paragraph (20)(A); and

"(ii) to the term 'individuals with disabilities' shall be deemed to mean more than one such individual.";

(3) by striking paragraph (7) and inserting the following:

"(7) CONSUMER ORGANIZATION.—The term 'consumer organization' means a membership organization in which a majority of the organization's members and a majority of the organization's officers are individuals with disabilities.";

(4) in paragraph (17)—

(A) in subparagraph (C), by striking "and" after the semicolon;

(B) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(E) maintaining individuals with significant disabilities in, or transitioning individuals with significant disabilities to, community-based living.";

(5) by redesignating paragraphs (24) through (28), (29) through (34), (35) through (37), and (38) through (39), as paragraphs (25) through (29), (31) through (36), (38) through (40), and (42) through (43), respectively;

(6) by inserting after paragraph (23) the following:

"(24) LITERACY.—The term 'literacy' has the meaning given the term in section 203 of the Adult Education and Family Literacy Act (20 U.S.C. 9202).";

(7) by inserting after paragraph (29), as redesignated by paragraph (5), the following:

"(30) POST-EMPLOYMENT SERVICE.—The term 'post-employment' service means a service identified in section 103(a) that is—

"(A) provided subsequent to the achievement of an employment outcome; and

"(B) necessary for an individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.";

(8) by inserting after paragraph (36), as redesignated by paragraph (5), the following:

"(37) STUDENT WITH A DISABILITY.—

"(A) IN GENERAL.—The term 'student with a disability' means an individual with a disability who attends an elementary school or secondary school and who—

"(i) is not younger than 16 years of age;

"(ii) is not older than 22 years of age;

"(iii) has been determined to be eligible under section 102(a) for assistance under title I; and

"(iv)(I) is eligible for, and receiving, special education or related services under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); or

"(II) is an individual with a disability, for purposes of section 504.

"(B) STUDENTS WITH DISABILITIES.—The term 'students with disabilities' means more than 1 student with a disability.";

(9) in paragraph (38)(A)(ii), as redesignated by paragraph (5), by striking "paragraph (36)(C)" and inserting "paragraph (39)(C)"; and

(10) by inserting after paragraph (40), as redesignated by paragraph (5), the following:

"(41) TRANSITION SERVICES EXPANSION YEAR.—The term 'transition services expansion year' means—

"(A) the first fiscal year for which the amount appropriated under section 100(b) exceeds the amount appropriated under section 100(b) for fiscal year 2006 by not less than $100,000,000; and

"(B) each fiscal year subsequent to that first fiscal year.".

SEC. 405. ADMINISTRATION OF THE ACT.

Section 12(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 709(a)(1)) is amended—

(1) by inserting "(A)" after "(1)";

(2) by adding at the end the following:

"(B) provide technical assistance to the designated State units on developing successful partnerships with local and multi-State businesses in an effort to employ individuals with disabilities; and

"(C) provide technical assistance on developing self-employment opportunities and outcomes for individuals with disabilities;".

SEC. 406. REPORTS.

Section 13 of the Rehabilitation Act of 1973 (29 U.S.C. 710) is amended by adding at the end the following:

"(d)(1)(A) The Commissioner shall ensure that the reports, information, and data described in subparagraph (B) will be posted in a timely manner on the website of the Department of Education, in order to inform the public about the administration and performance of programs in each State under this Act.

"(B) The reports, information, and data referred to in subparagraph (A) shall consist of—

"(i) reports submitted by a designated State unit under this Act;

"(ii) accountability information (including State performance information relating to evaluation standards and performance indicators under section 106 and State performance information relating to State performance measures under section 136 of the Workforce Investment Act of 1998 (29 U.S.C. 2871)) submitted by a designated State unit under this Act or submitted under such section 136;

"(iii) data collected from each designated State unit under this Act with the approval of the Office of Management and Budget; and

"(iv) monitoring reports conducted under this Act.

"(C) The Commissioner shall maintain, and post on the website, a listing of the reports, information, and data required to be submitted by designated State units under this Act.

"(D) The Commissioner shall post on the website, or establish links on the website to, evaluations, studies, and audits, including evaluations, studies, and audits conducted by agencies of the Federal government, concerning programs carried out under this Act.

"(E) The Commissioner shall maintain on the website a list of the designated State units and shall establish links on the website to websites maintained by those units.

"(2) The Commissioner shall maintain public use read-only access to the State and aggregated reports and analyzed data filed and maintained on the Rehabilitation Services Administration management information system or a similar system maintained by the Department of Education.".

SEC. 407. CARRYOVER.

Section 19 of the Rehabilitation Act of 1973 (29 U.S.C. 716) is amended—

(1) in subsection (a)(1)—

(A) by striking ", section 509 (except as provided in section 509(b))";

(B) by striking "or C"; and

(C) by striking "752(b)" and inserting "753(b)"; and

(2) by adding at the end the following:

"(c) CLIENT ASSISTANCE PROGRAM; PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—

"(1) APPROPRIATED AMOUNTS.—Notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out a grant program under section 112 or 509 (except as provided in section 509(b)), including any funds reallotted under such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

"(2) PROGRAM INCOME.—Notwithstanding any other provision of law, any amounts of program income received by recipients under a grant program under section 112 or 509 in a fiscal year that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year, shall remain available until expended.".

Subtitle A—Vocational Rehabilitation Services

SEC. 411. DECLARATION OF POLICY; AUTHORIZATION OF APPROPRIATIONS.

Section 100(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 720(b)(1)) is amended by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011".

SEC. 412. STATE PLANS.

(a) IN GENERAL.—Section 101(a) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)) is amended—

(1) in paragraph (2), by adding at the end the following:

"(D) STATE AGENCY FOR REIMBURSEMENT PURPOSES.—A governing body of an Indian tribe that receives a grant under section 121 shall be considered, for purposes of the cost reimbursement provisions—

"(i) in section 222(d)(1) of the Social Security Act (42 U.S.C. 422(d)(1)), to be a State; and

"(ii) in subsections (d) and (e) of section 1615 of the Social Security Act (42 U.S.C. 1382d), to be a State agency described in subsection (d) of that section.";

(2) in paragraph (6)(B), by striking "to employ and advance in employment" and inserting "to recruit, employ, and advance in employment";

(3) in paragraph (7)(A)(v), by striking subclause (I) and inserting the following:

"(I) a system for the continuing education of rehabilitation professionals and paraprofessionals within the designated State unit, particularly with respect to rehabilitation technology, including training implemented in coordination with State programs carried out under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003); and";

(4) in paragraph (10)—

(A) in subparagraph (B), by striking "annual reporting on the eligible individuals receiving the services, on those specific data elements described in section 136(d)(2) of the Workforce Investment Act of 1998" and inserting "annual reporting of information on eligible individuals receiving the services that is needed to assess performance on the core indicators of performance described in section 136(b)(2)(A)(i) of the Workforce Investment Act of 1998 (29 U.S.C. 2871(b)(2)(A)(i))";

(B) in subparagraph (C), by striking clauses (iii) and (iv) and inserting the following:

"(iii) the number of applicants and eligible recipients, including the number of individuals with significant disabilities, who exited the program carried out under this title and the number of such individuals who achieved employment outcomes after receiving vocational rehabilitation services; and

"(iv) the number of individuals who received vocational rehabilitation services who entered and retained employment and the earnings of such individuals, as such entry, retention, and earnings are defined for purposes of the core indicators of performance described in section 136(b)(2)(A)(i) of the Workforce Investment Act of 1998 (29 U.S.C. 2871(b)(2)(A)(i))."; and

(C) in subparagraph (E)(ii), by striking "in meeting" and all that follows through the period and inserting "in meeting the standards and indicators established pursuant to section 106.";

(5) in paragraph (11)—

(A) by striking subparagraph (C) and inserting the following:

"(C) INTERAGENCY COOPERATION WITH OTHER AGENCIES.—The State plan shall include descriptions of interagency cooperation with, and utilization of the services and facilities of, Federal, State, and local agencies and programs, including the State programs carried out under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003), programs carried out by the Under Secretary for Rural Development of the Department of Agriculture, and State use contracting programs, to the extent that such agencies and programs are not carrying out activities through the statewide workforce investment system.";

(B) by striking subparagraph (D)(ii) and inserting the following:

"(ii) transition planning by personnel of the designated State agency and the State educational agency that will facilitate the development and completion of the individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)) and, as appropriate, the development and completion of the individualized plan for employment, in order to achieve post-school employment outcomes of students with disabilities;"; and

(C) by adding at the end the following:

"(G) COORDINATION WITH ASSISTIVE TECHNOLOGY PROGRAMS.—The State plan shall include an assurance that the designated State unit, and the lead agency and implementing agency (if any) designated by the Governor of the State under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003), have developed working relationships and will enter into agreements for the coordination of their activities, including the referral of individuals with disabilities to programs and activities described in that section.

"(H) COORDINATION WITH TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.—The State plan shall include an assurance that the designated State unit will coordinate activities with any other State agency that is functioning as an employment network under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19).";

(6) in paragraph (15)—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) in subclause (II), by striking "and" after the semicolon;

(II) in subclause (III), by inserting "and" after the semicolon; and

(III) by adding at the end the following:

"(IV) for purposes of addressing needs in a transition services expansion year, students with disabilities, including their need for transition services;";

(ii) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and

(iii) by inserting after clause (i) the following:

"(ii) include an assessment of the needs of individuals with disabilities for transition services provided under this Act, and coordinated with transition services provided under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and an assessment as to whether the transition services provided under those Acts meet the needs of individuals with disabilities;"; and

(B) in subparagraph (D)—

(i) by redesignating clauses (iii), (iv), and (v) as clauses (iv), (v), and (vi), respectively; and

(ii) by inserting after clause (ii) the following:

"(iii) for use in a transition services expansion year, the methods to be used to improve and expand vocational rehabilitation services for students with disabilities, including the coordination of services designed to facilitate the transition of such students from the receipt of educational services in school to postsecondary life, including the receipt of vocational rehabilitation services under this title, postsecondary education, or employment;";

(7) in paragraph (20)—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) by inserting after subparagraph (A) the following:

"(B) INFORMATION ON ASSISTANCE FOR BENEFICIARIES OF ASSISTANCE UNDER TITLE II OR XVI OF THE SOCIAL SECURITY ACT.—The State plan shall include an assurance that the designated State agency will make available to individuals entitled to benefits under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) on the basis of a disability or blindness—

"(i) information on the availability of benefits and medical assistance authorized under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and medical assistance authorized under other federally funded programs;

"(ii) information on the availability of assistance through benefits planning and assistance programs authorized under section 1149 of the Social Security Act (42 U.S.C. 1320b–20) and services provided by the State protection and advocacy system and authorized under section 1150 of the Social Security Act (42 U.S.C. 1320b–21); and

"(iii) in the case of individuals who are also eligible for a ticket under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), general information regarding the options for using the ticket and information on how to contact a program manager of the Ticket to Work and Self-Sufficiency Program to obtain information on approved employment networks, on providers for the benefits planning and assistance programs described in subparagraph (B) in the State, and on the services provided by the State protection and advocacy system and described in subparagraph (B)."; and

(C) in subparagraph (C)(ii), as redesignated by subparagraph (A)—

(i) in subclause (II), by inserting ", to the maximum extent possible," after "point of contact"; and

(ii) in subclause (III), by striking "or regain" and inserting "regain, or advance in"; and

(8) by adding at the end the following:

"(25) SERVICES FOR STUDENTS WITH DISABILITIES.—The State plan for a transition services expansion year shall provide an assurance satisfactory to the Secretary that the State—

"(A) has developed and shall implement, in each transition services expansion year, strategies to address the needs identified in the assessment described in paragraph (15), and achieve the goals and priorities identified by the State, to improve and expand vocational rehabilitation services for students with disabilities on a statewide basis in accordance with paragraph (15); and

"(B) in each transition services expansion year—

"(i) shall not use more than 5 percent of the funds reserved under section 110A and available for this subparagraph, to pay for administrative costs; and

"(ii) shall use the remaining funds to carry out programs or activities designed to improve and expand vocational rehabilitation services for students with disabilities, through partnerships described in subparagraph (C), that—

"(I) facilitate the transition of the students with disabilities from the receipt of educational services in school, to the receipt of vocational rehabilitation services under this title, including, at a minimum, those services specified in the interagency agreement required in paragraph (11)(D);

"(II) improve the achievement of post-school goals of students with disabilities through the provision of transition services, including improving the achievement through participation (as appropriate when vocational goals are discussed) in meetings regarding individualized education programs developed under section 614 of the Individuals with Disabilities Education Act (20 U.S.C. 1414);

"(III) provide vocational guidance, career exploration services, and job search skills and strategies and technical assistance to students with disabilities;

"(IV) support the provision of training and technical assistance to local educational agency personnel responsible for the planning and provision of services to students with disabilities; and

"(V) support outreach activities to students with disabilities who are eligible for, and need, services under this title; and

"(C) in each transition services expansion year, shall ensure that the funds described in subparagraph (B)(ii) are awarded only to partnerships that—

"(i) shall include local vocational rehabilitation services providers and local educational agencies; and

"(ii) may include (or may have linkages with) other agencies such as employment, social service, and health organizations, that contribute funds for the provision of vocational rehabilitation services described in subparagraph (B)(ii) for eligible students with disabilities.".

(b) CONSTRUCTION.—Section 101 of the Rehabilitation Act of 1973 (29 U.S.C. 721) is amended by adding at the end the following:

"(c) CONSTRUCTION.—

"(1) DEFINITIONS.—In this subsection, the terms 'child with a disability', 'free appropriate public education', 'related services', and 'special education' have the meanings given the terms in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

"(2) OBLIGATION TO PROVIDE OR PAY FOR TRANSITION SERVICES.—Nothing in this part shall be construed to reduce the obligation of a local educational agency or any other agency to provide or pay for any transition services that are also considered special education or related services and that are necessary for ensuring a free appropriate public education to children with disabilities within the State involved.".

SEC. 413. ELIGIBILITY AND INDIVIDUALIZED PLAN FOR EMPLOYMENT.

Section 102 of the Rehabilitation Act of 1973 (29 U.S.C. 722) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking the semicolon at the end and inserting ", including a listing of all the community resources (including resources from consumer organizations), to the maximum extent possible, to assist in the development of such individual's individualized plan for employment to enable the individual to make informed and effective choices in developing the individualized plan for employment;"; and

(ii) in subparagraph (D)—

(I) in clause (i), by striking "and" after the semicolon;

(II) in clause (ii), by striking the period at the end and inserting a semicolon; and

(III) by adding at the end the following:

"(iii) for individuals entitled to benefits under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) on the basis of a disability or blindness—

"(I) information on the availability of benefits and medical assistance authorized under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and medical assistance authorized under other federally funded programs;

"(II) information on the availability of assistance through benefits planning and assistance programs authorized under section 1149 of the Social Security Act (42 U.S.C. 1320b–20) and services provided by the State protection and advocacy system and authorized under section 1150 of the Social Security Act (42 U.S.C. 1320b–21); and

"(III) in the case of individuals who are also eligible for a ticket under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), general information regarding the options for using the ticket and information on how to contact a program manager of the Ticket to Work and Self-Sufficiency Program to obtain information on approved employment networks, on providers for the benefits planning and assistance programs described in subparagraph (B) in the State, and on the services provided by the State protection and advocacy system and described in subparagraph (B).";

(B) in paragraph (2)(E)—

(i) in clause (i)(II), by striking "and" after the semicolon;

(ii) in clause (ii), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(iii) amended, as necessary, to include the post-employment services and service providers that are necessary for the individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice."; and

(C) in paragraph (3)—

(i) in subparagraph (B)(i)(I), by striking "and personal assistance services" and all that follows and inserting "mentoring services, and personal assistance services, including training in the management of such services, and referrals described in section 103(a)(3) to the device reutilization programs and device demonstrations described in subparagraphs (B) and (D) of section 4(e)(2) of the Assistive Technology Act of 1998 (42 U.S.C. 3003(e)(2)) through agreements developed under section 101(a)(11)(G); and";

(ii) in subparagraph (F)(ii), by striking "and" after the semicolon;

(iii) in subparagraph (G), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(H) for an individual who is receiving assistance from an employment network under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), a list of the services that are listed in the individual work plan that the individual developed with the employment network under subsection (g) of that section."; and

(2) in subsection (c)(7), by inserting "that take into consideration the informed choice of the individual," after "plan development".

SEC. 414. VOCATIONAL REHABILITATION SERVICES.

Section 103 of the Rehabilitation Act of 1973 (29 U.S.C. 723) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by inserting "literacy services," after "vocational adjustment services,";

(B) by striking paragraph (15) and inserting the following:

"(15) transition services for students with disabilities, that facilitate the transition from school to postsecondary life (including employment through the achievement of the employment outcome identified in the individualized plan for employment), including, in a transition services expansion year, services described in clauses (i) through (iii) of section 101(a)(25)(B);";

(C) in paragraph (17), by striking "and" after the semicolon;

(D) in paragraph (18), by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following:

"(19) mentoring services."; and

(2) in subsection (b), by striking paragraph (6) and inserting the following:

"(6)(A)(i) Consultation and technical assistance services to assist State and local educational agencies in planning for the transition of students with disabilities from school to postsecondary life, including employment.

"(ii) In a transition services expansion year, training and technical assistance described in section 101(a)(25)(B)(iv).

"(B) In a transition services expansion year, services for groups of individuals with disabilities who meet the requirements of clauses (i) and (iii) of section 7(35)(A), including services described in clauses (i), (ii), (iii), and (v) of section 101(a)(25)(B), to assist in the transition from school to postsecondary life, including employment.".

SEC. 415. STATE REHABILITATION COUNCIL.

Section 105 of the Rehabilitation Act of 1973 (29 U.S.C. 725) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A)—

(i) by striking clause (ix) and inserting the following:

"(ix) in a State in which one or more projects provide services under section 121, at least one representative of the directors of the projects;";

(ii) in clause (x), by striking the "and" after the semicolon;

(iii) in clause (xi), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(xii) the director of the State's comprehensive statewide program of technology-related assistance funded under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003)."; and

(B) by striking paragraph (5) and inserting the following:

"(5) CHAIRPERSON.—The Council shall select a chairperson from among the voting membership of the Council."; and

(2) in subsection (c)(6), by inserting before the semicolon the following: "and with the activities of entities carrying out programs under the Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.)".

SEC. 416. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.

Section 106 of the Rehabilitation Act of 1973 (29 U.S.C. 726) is amended—

(1) in subsection (a), by striking paragraph (1)(C) and all that follows through paragraph (2) and inserting the following:

"(2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that include measures of the program's performance with respect to the transition from school to postsecondary life, including employment, and achievement of the postsecondary vocational goals, of students with disabilities served under the program."; and

(2) in subsection (b)(2)(B)(i), by striking ", if necessary" and all that follows through the semicolon and inserting ", if the State has not improved its performance to acceptable levels, as determined by the Commissioner, direct the State to make further revisions to the plan to improve performance, which may include revising the plan to allocate a higher proportion of the State's resources for services to individuals with disabilities if the State agency's spending on such services is low in comparison to spending on such services by comparable agencies in other States;".

SEC. 417. MONITORING AND REVIEW.

Section 107(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 727(b)(1)) is amended by inserting before the semicolon the following: ", including—

"(A) consulting with the Department of Labor, the Small Business Administration, other appropriate Federal agencies, and businesses or business-led intermediaries; and

"(B) based on information obtained through the consultations, providing technical assistance that improves that quality by enabling designated State units to develop successful partnerships with local and multi-State businesses in an effort to employ individuals with disabilities, and technical assistance on developing self-employment opportunities and improving outcomes for individuals with disabilities".

SEC. 418. STATE ALLOTMENTS.

Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730) is amended—

(1) by striking subsection (b) and inserting the following:

"(b)(1) Not later than 45 days prior to the end of the fiscal year, the Commissioner shall determine, after reasonable opportunity for the submission to the Commissioner of comments by the State agency administering or supervising the program established under this title, that any amount from the payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title.

"(2)(A) As soon as practicable but not later than the end of the fiscal year, the Commissioner shall reallot the amount available under paragraph (1) to other States, consistent with subparagraphs (B) and (C), for carrying out the purposes of this title to the extent the Commissioner determines such other State will be able to use such additional amount during that fiscal year or the subsequent fiscal year for carrying out such purposes.

"(B)(i) The Commissioner shall reallot a portion of the amount available under paragraph (1) for a fiscal year to each State whose allotment under subsection (a) for such fiscal year is less than such State's allotment under subsection (a) for the immediately preceding fiscal year adjusted by the percentage change in the funds available for subsection (a) from the immediately preceding fiscal year.

"(ii)(I) A State that is eligible to receive a reallotment under clause (i) shall receive a portion for a fiscal year from the amount available for reallotment under paragraph (1) that is equal to the difference between—

"(aa) the amount such State was allotted under subsection (a) for such fiscal year; and

"(bb) the amount such State was allotted under subsection (a) for the immediately preceding fiscal year adjusted by the percentage change in the funds available for subsection (a) from the immediately preceding fiscal year.

"(II) If the amount available for reallotment under paragraph (1) is insufficient to provide each State eligible to receive a reallotment with the portion described in subclause (I), the amount reallotted to each eligible State shall be determined by the Commissioner.

"(C) If there are funds remaining after each State eligible to receive a reallotment under subparagraph (B)(i) receives the portion described in subparagraph (B)(ii), the Commissioner shall reallot the remaining funds among the States requesting a reallotment.

"(3) The Commissioner shall reallot an amount to a State under this subsection only if the State will be able to make sufficient payments from non-Federal sources to pay for the non-Federal share of the cost of vocational rehabilitation services under the State plan for the fiscal year for which the amount was appropriated.

"(4) For the purposes of this part, any amount made available to a State for any fiscal year pursuant to this subsection shall be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year."; and

(2) by striking subsection (c)(2) and inserting the following:

"(2)(A) In this paragraph:

"(i) The term 'appropriated amount' means the amount appropriated under section 100(b)(1) for allotment under this section.

"(ii) The term 'covered year' means a fiscal year—

"(I) that begins after September 30, 2004; and

"(II) for which the appropriated amount exceeds the total of—

"(aa) the appropriated amount for the preceding fiscal year; and

"(bb) 0.075 percent of the appropriated amount for the preceding fiscal year.

"(B) For each covered year, the sum referred to in paragraph (1) shall be, as determined by the Secretary—

"(i) not less than the total of the sum reserved under this subsection for the preceding fiscal year and 0.1 percent of the appropriated amount for the covered year, subject to clause (ii); and

"(ii) not more than 1.5 percent of the appropriated amount for the covered year.

"(C) For each fiscal year that is not a covered year, the sum referred to in paragraph (1) shall be, as determined by the Secretary—

"(i) not less than the sum reserved under this subsection for the preceding fiscal year, subject to clause (ii); and

"(ii) not more than 1.5 percent of the appropriated amount for the covered year.".

SEC. 419. RESERVATION FOR EXPANDED TRANSITION SERVICES.

The Rehabilitation Act of 1973 is amended by inserting after section 110 (29 U.S.C. 730) the following:

"SEC. 110A. RESERVATION FOR EXPANDED TRANSITION SERVICES.

"(a) RESERVATION.—From the State allotment under section 110 in a transition services expansion year, each State shall reserve an amount calculated by the Commissioner under subsection (b) to carry out programs and activities under sections 101(a)(25)(B) and 103(b)(6).

"(b) CALCULATION.—The Commissioner shall calculate the amount to be reserved for such programs and activities for a fiscal year by each State by multiplying $50,000,000 by the percentage determined by dividing—

"(1) the amount allotted to that State under section 110 for the prior fiscal year; by

"(2) the total amount allotted to all States under section 110 for that prior fiscal year.".

SEC. 420. CLIENT ASSISTANCE PROGRAM.

Section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "States" and inserting "agencies designated under subsection (c)"; and

(B) in the second sentence, by striking "State" and inserting "State in which the program is located";

(2) in subsection (b), by striking "the State has in effect not later than October 1, 1984, a client assistance program which" and inserting "the State designated under subsection (c) an agency that";

(3) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "The Secretary" and all that follows through the period and inserting the following: "After reserving funds under subparagraphs (E) and (F), the Secretary shall allot the remainder of the sums appropriated for each fiscal year under this section among the agencies designated under subsection (c) within the States (referred to individually in this subsection as a 'designated agency') on the basis of relative population of each State, except that no such agency shall receive less than $50,000.";

(ii) in subparagraph (B), by inserting "the designated agencies located in" after "each to";

(iii) in subparagraph (D)(i)—

(I) by inserting "the designated agencies located in" after "$100,000 for"; and

(II) by inserting "the designated agencies located in" after "$45,000 for"; and

(iv) by adding at the end the following:

"(E)(i) For any fiscal year for which the amount appropriated to carry out this section equals or exceeds $13,000,000, the Secretary shall reserve funds appropriated under this section to make a grant to the protection and advocacy system serving the American Indian Consortium to provide client assistance services in accordance with this section. The amount of such a grant shall be the same amount as is provided to a territory under subparagraph (B), as increased under clauses (i) and (ii) of subparagraph (D).

"(ii) In this subparagraph:

"(I) The term 'American Indian Consortium' has the meaning given the term in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002).

"(II) The term 'protection and advocacy system' means a protection and advocacy system established under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

"(F) For any fiscal year for which the amount appropriated to carry out this section equals or exceeds $14,000,000, the Secretary shall reserve not less than 1.8 percent and not more than 2.2 percent of such amount to provide a grant for training and technical assistance for the programs established under this section. Such training and technical assistance shall be coordinated with activities provided under section 509(c)(1)(A)."; and

(B) in paragraph (2)—

(i) by striking "State" each place such term appears and inserting "designated agency"; and

(ii) by striking "States" each place such term appears and inserting "designated agencies";

(4) in subsection (f), by striking "State" and inserting "agency designated under subsection (c)";

(5) in subsection (g)(1), by striking "State" and inserting "State in which the program is located"; and

(6) in subsection (h), by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011".

SEC. 421. INCENTIVE GRANTS.

Part B of title I of the Rehabilitation Act of 1973 (29 U.S.C. 730 et seq.) is amended by adding at the end the following:

"SEC. 113. INCENTIVE GRANTS.

"(a) AUTHORITY.—The Commissioner is authorized to make incentive grants to States that, based on the criteria established under subsection (b)(1), demonstrate—

"(1) a high level of performance; or

"(2) a significantly improved level of performance in a reporting period as compared to the previous reporting period or periods.

"(b) CRITERIA.—

"(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Commissioner shall establish, and publish in the Federal Register, criteria for making grant awards under subsection (a).

"(2) DEVELOPMENT AND EVALUATION STANDARDS.—The criteria established under paragraph (1) shall—

"(A) be developed with input from designated State agencies and other vocational rehabilitation stakeholders, including vocational rehabilitation consumers and consumer organizations; and

"(B) be based upon the evaluation standards and performance indicators established under section 106 and other performance-related measures that the Commissioner determines to be appropriate.

"(c) USE OF FUNDS.—A State that receives a grant under subsection (a) shall use the grant funds for any approved activities in the State's State plan submitted under section 101.

"(d) NO NON-FEDERAL SHARE REQUIREMENT.—The provisions of sections 101(a)(3) and 111(a)(2) shall not apply to this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2006 through 2011.".

SEC. 422. VOCATIONAL REHABILITATION SERVICES GRANTS.

Section 121 of the Rehabilitation Act of 1973 (29 U.S.C. 741) is amended—

(1) in subsection (a), in the first sentence, by inserting ", consistent with such individuals' strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individuals may prepare for, and engage in, gainful employment" before the period at the end; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking "and" after the semicolon;

(ii) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(D) contains assurances that—

"(i) all decisions affecting eligibility for vocational rehabilitation services, the nature and scope of available services, and the provision of such services, will be made by a representative of the tribal vocational rehabilitation program; and

"(ii) such decisions will not be delegated to another agency or individual.";

(B) in paragraph (3), by striking the first sentence and inserting the following: "An application approved under this part that complies with the program requirements set forth in the regulations promulgated to carry out this part shall be effective for 5 years and shall be renewed for additional 5-year periods if the Commissioner determines that the grant recipient demonstrated acceptable past performance and the grant recipient submits a plan, including a proposed budget, to the Commissioner that the Commissioner approves that identifies future performance criteria, goals, and objectives."; and

(C) by striking paragraph (4) and inserting the following:

"(4) In allocating funds under this part, the Secretary shall give priority to paying the continuation costs of projects in existence on the date of the allocation and may provide for increases in funding for such projects that the Secretary determines to be necessary.".

SEC. 423. GAO STUDIES.

(a) STUDY ON TITLE I AND TICKET TO WORK.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the interaction of programs carried out under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) with the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), including the impact of the interaction on beneficiaries, community rehabilitation programs (as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705)), and State vocational rehabilitation agencies.

(2) CONDUCT OF STUDY.—In conducting the study under paragraph (1), the Comptroller General of the United States shall consult with all types of participants in the Ticket to Work and Self-Sufficiency Program, including the Social Security Administration, the Rehabilitation Services Administration, ticketholders, designated State agencies, entities carrying out such community rehabilitation programs (including employment networks and nonemployment networks), protection and advocacy agencies, MAXIMUS, and organizations representing the interests of ticketholders.

(3) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit the study conducted pursuant to this subsection to the appropriate committees of Congress.

(b) STUDY ON THE ALLOTMENT FORMULA.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the relationship between the State allotment formula under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730) and the ability of States to provide vocational rehabilitation services in accordance with the States' State plans under section 101 of such Act (29 U.S.C. 721).

(2) CONDUCT OF STUDY.—In conducting the study under paragraph (1), the Comptroller General of the United States shall consult with appropriate entities.

(3) REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States shall submit the study conducted pursuant to this subsection to the appropriate committees of Congress.

Subtitle B—Research and Training

SEC. 431. DECLARATION OF PURPOSE.

Section 200(3) of the Rehabilitation Act of 1973 (29 U.S.C. 760(3)) is amended by inserting ", in a timely and efficient manner," before "through".

SEC. 432. AUTHORIZATION OF APPROPRIATIONS.

Section 201(a) of the Rehabilitation Act of 1973 (29 U.S.C. 761(a)) is amended—

(1) in paragraph (1), by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011"; and

(2) in paragraph (2), by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011".

SEC. 433. NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.

Section 202 of the Rehabilitation Act of 1973 (29 U.S.C. 762) is amended—

(1) in subsection (b)—

(A) in paragraph (6), by inserting before the semicolon the following: ", including convening a national assistive technology summit, to be held at or in conjunction with a national conference relating to assistive technology with respect to all categories of disabilities"; and

(B) in paragraph (10), by striking "and telecommuting" and inserting ", supported employment, and telecommuting";

(2) in subsection (f)(1)—

(A) by striking "Federal employees" and inserting "Department of Education employees"; and

(B) by adding at the end the following: "The peer review panel shall include a director of a designated State unit. It shall include a member of the covered school community (for an activity resulting in educational materials or a product to be used in a covered school), a member of the business community (for an activity resulting in a product to be used in an employment activity), assistive technology developers and manufacturers (for an activity relating to assistive technology), or information technology vendors and manufacturers (for an activity relating to information technology).";

(3) by redesignating subsections (i), (j), and (k) as subsections (j), (k), and (l), respectively;

(4) by inserting after subsection (h) the following:

"(i)(1) The Director, with the assistance of the Rehabilitation Research Advisory Council established under section 205, shall determine if entities that receive financial assistance under this title are complying with the applicable requirements of this Act and achieving measurable goals, described in section 204(d)(2), that are consistent with the requirements of the programs under which the entities received the financial assistance.

"(2) To assist the Director in carrying out the responsibilities described in paragraph (1), the Director shall require recipients of financial assistance under this title to submit relevant information to evaluate program outcomes with respect to the measurable goals described in section 204(d)(2)."; and

(5) by adding at the end the following:

"(m)(1) Not later than December 31 of each year, the Secretary shall prepare, and submit to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report on the activities funded under this title.

"(2) Such report shall include—

"(A) a compilation and summary of the information provided by recipients of financial assistance for such activities under this title; and

"(B) a summary of the applications for financial assistance received under this title and the progress of the recipients of financial assistance in achieving the measurable goals described in section 204(d)(2).

"(n)(1) If the Director determines that an entity that receives financial assistance under this title fails to comply with the applicable requirements of this Act, or to make progress toward achieving the measurable goals described in section 204(d)(2), with respect to the covered activities involved, the Director shall assist the entity through technical assistance or other means, within 90 days after such determination, to develop a corrective action plan.

"(2) If the entity fails to develop and comply with a corrective action plan described in paragraph (1) during a fiscal year, the entity shall be subject to 1 of the following corrective actions selected by the Director:

"(A) Partial or complete termination of financial assistance for the covered activities, until the entity develops and complies with such a plan.

"(B) Ineligibility to receive financial assistance for such covered activities for the following year.

"(3) The Secretary shall establish appeals procedures for entities described in paragraph (1) that the Secretary determines fail to comply with the applicable requirements of this Act, or to make progress toward achieving the measurable goals.

"(4) As part of the annual report required under subsection (m), the Secretary shall describe each action taken by the Secretary under paragraph (1) or (2) and the outcomes of such action.".

SEC. 434. INTERAGENCY COMMITTEE.

Section 203 of the Rehabilitation Act of 1973 (29 U.S.C. 763) is amended—

(1) in subsection (a)(1), by striking "and the Director of the National Science Foundation" and inserting "the Director of the National Science Foundation, the Secretary of Commerce, and the Administrator of the Small Business Administration"; and

(2) in subsection (b)(2)—

(A) in subparagraph (D), by striking "and" after the semicolon;

(B) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(F) conduct a study, on the assistive technology industry, for which the Committee shall—

"(i) determine the number of individuals who use assistive technology and the scope of the technologies they use;

"(ii) separately identify categories of assistive technology companies by the disability group served, and the type of product or service provided, categorized by—

"(I) size (small, medium, and large) of the companies;

"(II) capitalization of the companies;

"(III) region in which the companies are located; and

"(IV) products or services produced by the companies;

"(iii) compile aggregate data on revenues and unit sales of such companies, including information on international sales, for a recent reporting period, categorized by institution or user type acquiring the products or services, disability for which the products or services are used, and industry segment for the companies;

"(iv) identify platform availability and usage, for those products and services that are electronic and information technology-related;

"(v) identify the types of clients of the companies, such as government, school, business, private payor, and charitable clients, and funding sources for the clients; and

"(vi) specify geographic segments for the companies, to determine whether there are significant distinctions in industry opportunities on the basis of geography, other than distinctions related to population.".

SEC. 435. RESEARCH AND OTHER COVERED ACTIVITIES.

Section 204 of the Rehabilitation Act of 1973 (29 U.S.C. 764) is amended—

(1) in subsection (a)—

(A) in paragraph (2)(B)—

(i) in clause (vi), by striking "and" after the semicolon;

(ii) in clause (vii), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(viii) studies, analyses, and other activities affecting employment outcomes, including self-employment and telecommuting, of individuals with disabilities."; and

(B) by adding at the end the following:

"(3) In carrying out this section, the Director shall emphasize covered activities that are collaborations between—

"(A) for-profit companies working in the assistive technology, rehabilitative engineering, or information technology fields; and

"(B) States or public or private agencies and organizations.

"(4) In carrying out this section, the Director shall emphasize covered activities that include plans for—

"(A) dissemination of educational materials, research results, or findings, conclusions, and recommendations resulting from covered activities; or

"(B) the commercialization of marketable products resulting from the covered activities.";

(2) in subsection (b)—

(A) in paragraph (1), by striking "(18)" each place it appears and inserting "(19)";

(B) in paragraph (2)—

(i) in subparagraph (A)(i), by striking "rehabilitation services or" and inserting "rehabilitation services, developers or providers of assistive technology devices, assistive technology services, or information technology devices or services, or providers of" after "rehabilitation services";

(ii) in subparagraph (B)—

(I) in clause (i), by inserting "improve the evaluation process for determining the assistive technology needs of individuals with disabilities," after "conditions,";

(II) in clause (ii), by inserting "and assistive technology services" before the semicolon; and

(III) in clause (iii), by inserting ", assistive technology services personnel," before "and other";

(iii) in subparagraph (C)—

(I) in clause (i), by inserting ", including research on assistive technology devices, assistive technology services, and accessible electronic and information technology devices" before the semicolon; and

(II) in clause (iii), by inserting ", including the use of assistive technology devices and accessible electronic and information technology devices in employment" before the semicolon;

(iv) in subparagraph (D), by inserting ", including training to provide knowledge about assistive technology devices, assistive technology services, and accessible electronic and information technology devices and services," after "personnel"; and

(v) in subparagraph (G)(i), by inserting ", assistive technology-related, and accessible electronic and information technology-related" before "courses"; and

(C) in paragraph (3)—

(i) in subparagraph (D)(ii), by adding at the end the following: "Each such Center conducting activities including the creation of an assistance technology device shall include in the committee representatives from the assistive technology industry and accessible electronic and information technology industry. Each such Center conducting activities involving a covered school, or an employer, shall include in the committee a representative of the covered school, or of the employer, respectively."; and

(ii) in subparagraph (G)(ii) by inserting "the success of any commercialized product researched or developed through the Center," after "disabilities,";

(D) in paragraph (8), by inserting "the Department of Commerce, the Small Business Administration," before "other Federal agencies,";

(E) in paragraph (13), in the matter preceding clause (i), by striking "employment needs of individuals with disabilities" and inserting "employment needs, opportunities, and outcomes, including self-employment, supported employment, and telecommuting needs, opportunities, and outcomes, of individuals with disabilities, including older individuals with disabilities, and students with disabilities who are transitioning from school to postsecondary life, including employment"; and

(E) by adding at the end the following:

"(19) Research grants may be used to provide for research and demonstration projects that—

"(A) explore methods and practices for promoting access to electronic commerce activities for individuals with disabilities; and

"(B) will—

"(i) ensure dissemination of research findings;

"(ii) provide encouragement and support for initiatives and new approaches by companies engaged in electronic commerce activities; and

"(iii) result in the establishment and maintenance of close working relationships between the disability, research, and business communities.";

(3) in subsection (c)(2), by striking "$500,000" and inserting "$750,000"; and

(4) by adding at the end the following:

"(d)(1) In awarding grants, contracts, or other financial assistance under this title, the Director shall award the financial assistance on a competitive basis.

"(2)(A) To be eligible to receive financial assistance described in paragraph (1) for a covered activity, an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(B) The application shall include information describing—

"(i) measurable goals, and a timeline and specific plan for meeting the goals, that the applicant has set for addressing priorities related to—

"(I) commercialization of a marketable product (including a marketable curriculum or research) resulting from the covered activity;

"(II) in the case of a covered activity relating to technology, technology transfer;

"(III) in the case of research, dissemination of research results to, as applicable, government entities, individuals with disabilities, covered schools, the business community, the assistive technology community, and the accessible electronic and information technology community; and

"(IV) other matters as required by the Director; and

"(ii) information describing how the applicant will quantifiably measure the goals to determine whether the goals have been accomplished.

"(3)(A) In the case of an application for financial assistance under this title to carry out a covered activity that results in the development of a marketable product, the application shall also include a commercialization and dissemination plan, containing commercialization and marketing strategies for the product involved, and strategies for disseminating information about the product. The financial assistance shall not be used to carry out the commercialization and marketing strategies.

"(B) In the case of any other application for financial assistance to carry out a covered activity under this title, the application shall also include a dissemination plan, containing strategies for disseminating educational materials, research results, or findings, conclusions, and recommendations, resulting from the covered activity.".

SEC. 436. REHABILITATION RESEARCH ADVISORY COUNCIL.

Section 205 of the Rehabilitation Act of 1973 (29 U.S.C. 765) is amended—

(1) in subsection (a), by inserting "at least" before "12"; and

(2) in subsection (c), by inserting after "rehabilitation researchers," the following: "the directors of community rehabilitation programs, the business community (and shall include a representative of the small business community) that has experience with the system of vocational rehabilitation services carried out under this Act and with hiring individuals with disabilities, the community of assistive technology developers and manufacturers, the community of information technology vendors and manufacturers, the community of entities carrying out programs under the Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.), the community of covered school professionals,".

SEC. 437. DEFINITION.

Title II of the Rehabilitation Act of 1973 (29 U.S.C. 761 et seq.) is amended by adding at the end the following:

"SEC. 206. DEFINITION.

"In this title, the term 'covered school' means an elementary school or secondary school (as such terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)), a community college, or an institution of higher education.".

Subtitle C—Professional Development and Special Projects and Demonstrations

SEC. 441. TRAINING.

Section 302 of the Rehabilitation Act of 1973 (29 U.S.C. 772) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (F), by striking the "and" after the semicolon;

(B) in subparagraph (G), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(H) personnel trained in providing assistive technology services.";

(2) in subsection (b)(1)(B)(i), by striking "or prosthetics and orthotics" and inserting "prosthetics and orthotics, rehabilitation teaching for the blind, or orientation and mobility instruction"; and

(3) in subsection (i), by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011".

SEC. 442. DEMONSTRATION AND TRAINING PROGRAMS.

Section 303 of the Rehabilitation Act of 1973 (29 U.S.C. 773) is amended—

(1) in subsection (b)(5)(A)(i), by striking "special projects" and inserting "not less than 2 special projects";

(2) by redesignating subsections (c), (d), and (e) as subsections (f), (g), and (i), respectively;

(3) by inserting after subsection (b) the following:

"(c) DEMONSTRATION PROJECTS FOR EMPLOYMENT OF STUDENTS WITH INTELLECTUAL DISABILITIES OR MENTAL ILLNESS.—

"(1) PURPOSE.—The purpose of this subsection is to support model demonstration projects to provide supported and competitive employment experiences for students with intellectual disabilities or students with mental illness, and training for personnel that work with students described in this paragraph, to enable the students to gain employment skills and experience that will promote effective transitions from school to postsecondary life, including employment.

"(2) AWARDS AUTHORIZED.—

"(A) COMPETITIVE AWARDS AUTHORIZED.—The Secretary may award grants, contracts, and cooperative agreements, on a competitive basis, to eligible organizations described in paragraph (3), to enable the organizations to carry out demonstration projects described in paragraph (1).

"(B) DURATION.—The Secretary shall award grants, contracts, and cooperative agreements under this subsection for periods of 3 to 5 years.

"(3) ELIGIBLE ORGANIZATIONS.—To be eligible to receive a grant, contract, or cooperative agreement under this subsection, an organization shall—

"(A) have expertise in providing employment and support services for individuals with intellectual disabilities or individuals with mental illness;

"(B) have a proven track record in successfully running supported employment programs;

"(C) provide employment services that are exclusively integrated community-based supported employment services;

"(D) have expertise in creating natural supports for employment;

"(E) have expertise in providing computer training for the targeted population for the project involved; and

"(F) have experience operating mentoring programs for the target population in middle and high schools for at least a decade in diverse communities throughout the Nation.

"(4) APPLICATIONS.—Each organization desiring to receive a grant, contract, or cooperative agreement under this subsection shall submit an application to the Secretary at such time, in such manner, and including such information as the Secretary may require. Each application shall include—

"(A) a description of how the organization plans to carry out the activities authorized in this subsection through a demonstration project;

"(B) a description of how the organization will evaluate the project;

"(C) a description of how the organization will disseminate information about the activities and the impact of the activities on the lives of students served by the project; and

"(D) a description of how the organization will coordinate activities with any other relevant service providers in the locality where the organization is based, including federally supported independent living centers.

"(5) AUTHORIZED ACTIVITIES.—An organization that receives a grant, contract, or cooperative agreement under this subsection shall use the funds made available through the grant, contract, or cooperative agreement to carry out 1 or more of the following activities for individuals, ages 14 through 21, who are students with intellectual disabilities or students with mental illness:

"(A) PROVIDING SUPPORTED AND COMPETITIVE EMPLOYMENT EXPERIENCES.—The development of innovative and effective supported and competitive employment experiences after school, on weekends, and in the summer, utilizing natural supports that lead to competitive high-paying jobs.

"(B) PROVIDING TRAINING TO SCHOOL AND TRANSITION PERSONNEL.—The development and deployment of experts to work with transition programs (including personnel working with students on transition) so that personnel from the programs develop skills needed to train students with intellectual disabilities or students with mental illness to be successful in competitive employment in a range of settings, including office settings. The training shall include training for the personnel in providing instruction to students in computer skills, office skills, interview etiquette, and appropriate social behavior required for successful long-term employment in professional environments.

"(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $5,000,000 for fiscal year 2006 and such sums as may be necessary for fiscal years 2007 through 2011.

"(d) DEMONSTRATION PROJECT FOR EMPLOYMENT OF INDIVIDUALS WHO ARE DEAF AND LOW FUNCTIONING.—

"(1) PURPOSE.—The purpose of this subsection is to support a model demonstration project to provide training and employment and support services for individuals who are deaf and low functioning to enable them to gain employment skills that will allow them to become employed and economically self-sufficient.

"(2) DEFINITION.—

"(A) IN GENERAL.—In this subsection, the term 'individual who is deaf and low functioning' means an individual who has been deaf from birth or very early childhood, reads at or below the second grade level, has little or no intelligible speech, and lacks a secondary school diploma or its recognized equivalent.

"(B) SECONDARY DISABILITIES.—Such term may include an individual with a secondary disability.

"(3) GRANTS AUTHORIZED.—

"(A) COMPETITIVE GRANTS AUTHORIZED.—The Secretary may award grants to State agencies, other public agencies or organizations, or not-for-profit organizations with expertise in providing training and employment and support services for individuals who are deaf and low functioning to support model demonstration projects.

"(B) DURATION.—Grants under this subsection shall be awarded for a period not to exceed 5 years.

"(4) AUTHORIZED ACTIVITIES.—

"(A) DEVELOPING A COMPREHENSIVE TRAINING PROGRAM.—Each grant recipient under this subsection shall develop an innovative, comprehensive training program for individuals who are deaf and low functioning that can be implemented at multiple training locations through such means as distance learning and use of advanced technology, as appropriate. Such training program shall be developed to maximize the potential for replication of the program by other training providers.

"(B) IMPLEMENTATION.—Each grant recipient under this subsection shall implement the comprehensive training program developed under subparagraph (A) as soon as feasible. Such training shall provide instruction on the job and the social skills necessary for successful long-term employment of individuals who are deaf and low functioning.

"(C) ESTABLISHING A POST-TRAINING PROGRAM OF EMPLOYMENT AND SUPPORT SERVICES.—Each grant recipient under this subsection shall implement employment and support services to assist individuals who complete the training program under subparagraph (A) in securing employment and transitioning to the workplace, for a period of not less than 90 days subsequent to placement in the employment.

"(5) APPLICATIONS.—Each entity desiring to receive a grant under this subsection for a model demonstration project shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require including—

"(A) a description of how the applicant plans to address the activities authorized under this subsection;

"(B) a description of the evaluation plan to be used in the model demonstration project;

"(C) a description of how the applicant will disseminate information about the training program developed and the results of the project; and

"(D) a description of how the entity will coordinate activities with any other relevant service providers or entities providing training and employment and support services for individuals who are deaf and low functioning.

"(6) MANDATED EVALUATION AND DISSEMINATION ACTIVITIES.—

"(A) ANNUAL REPORT.—Not later than 2 years after the date on which a grant under this subsection is awarded and annually thereafter, the grant recipient shall submit to the Commissioner a report containing information on—

"(i) the number of individuals who are participating in the demonstration project funded under this subsection;

"(ii) the employment and other skills being taught in the project;

"(iii) the number of individuals participating in the project that are placed in employment;

"(iv) the job sites in which those individuals are placed and the type of jobs the individuals are placed in; and

"(v) the number of individuals who have dropped out of the project and the reasons for their terminating participation in the project.

"(B) EVALUATION OF THE PROJECT.—Each grant recipient under this subsection shall implement the evaluation plan approved in its application for determining the results of the project within the timeframe specified in, and following the provisions of, the approved application.

"(C) PARTICIPANT EVALUATION PROCESS; FINAL EVALUATION.—In the final year of the project, the grant recipient will prepare and submit to the Commissioner a final evaluation report of the results of the model demonstration project containing—

"(i) information on—

"(I) the number of individuals who participated in the demonstration project;

"(II) the number of those individuals that are placed in employment;

"(III) the job sites in which those individuals were placed and the type of jobs the individuals were placed in;

"(IV) the number of those individuals who have dropped out of the project and the reasons for their terminating participation in the project; and

"(V) the number of those individuals who participated in the project and who remain employed as of 2 months prior to the date on which the final report is submitted to the Secretary;

"(ii) a written analysis of the project, including both the strengths and weaknesses of the project, to assist other entities in replicating the training program developed through the project; and

"(iii) such other information as the Secretary determines appropriate.

"(D) DISSEMINATION.—Not later than 5 years after the date on which a grant is awarded under this subsection, the evaluation report containing results of activities funded by such grant shall be disseminated to designated State agencies, school systems providing instruction to students who are individuals who are deaf and low functioning, supported employment providers, postsecondary vocational training programs, employers, the Social Security Administration, and other interested parties.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $5,000,000 for fiscal year 2006 and such sums as may be necessary for each of fiscal years 2007 through 2011.

"(e) TRAINING AND TECHNICAL ASSISTANCE CENTER TO PROMOTE HIGH-QUALITY EMPLOYMENT OUTCOMES FOR INDIVIDUALS RECEIVING SERVICES FROM DESIGNATED STATE AGENCIES.—

"(1) IN GENERAL.—The Commissioner shall award a grant, contract, or cooperative agreement to an entity to support a training and technical assistance program that—

"(A) responds to State-specific information requests concerning high-quality employment outcomes, from designated State agencies funded under title I, including—

"(i) requests for information on the expansion of self-employment, business ownership, and business development opportunities, and other types of entrepreneurial employment opportunities for individuals with disabilities;

"(ii) requests for information on the expansion and improvement of transition services to facilitate the transition of students with disabilities from school to postsecondary life, including employment;

"(iii) requests for examples of policies, practices, procedures, or regulations, that have enhanced or may enhance access to funding for assistive technology devices and assistive technology services for individuals with disabilities;

"(iv) requests for information on effective approaches to enhance informed choice and a consumer-directed State vocational rehabilitation system;

"(v) requests for assistance developing corrective action plans;

"(vi) requests for assistance in developing and implementing effective data collection and reporting systems that measure the outcomes of the vocational rehabilitation services, and preparing reports for the Commissioner as described in section 106(b)(1); and

"(vii) requests for information on effective approaches that enhance employment outcomes for individuals with disabilities, including conducting outreach and forming partnerships with business and industry; and

"(B) provides State-specific, regional, and national training and technical assistance concerning vocational rehabilitation services and related information to designated State agencies, including—

"(i) facilitating onsite and electronic information sharing using state-of-the-art Internet technologies such as real-time online discussions, multipoint video conferencing, and web-based audio/video broadcasts, on emerging topics that affect vocational rehabilitation programs authorized under title I;

"(ii) enabling the designated State agencies to coordinate training and data collection efforts with one-stop centers established under section 121(e) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(e));

"(iii) enabling the designated State agencies to provide information on how the vocational rehabilitation programs authorized under title I can provide technical assistance to the one-stop centers on making programs offered through the centers physically and programmatically accessible to individuals with disabilities;

“(iv) sharing evidence-based and promising practices among the vocational rehabilitation programs;

“(v) maintaining an accessible website that includes links to—

“(I) the vocational rehabilitation programs;

“(II) appropriate Federal departments and agencies, and private associations;

“(III) State assistive technology device and assistive technology service demonstration programs, device loan programs, device reutilization programs, alternative financing systems, or State financing activities, operated through, or independently of, comprehensive statewide programs of technology-related assistance carried out under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003), telework programs, and other programs that provide sources of funding for assistive technology devices; and

“(IV) various programs, including programs with tax credits, available to employers for hiring or accommodating employees who are individuals with disabilities;

“(vi) enhancing employment outcomes for individuals with mental illness and individuals with cognitive disabilities;

“(vii) convening experts from the vocational rehabilitation programs to discuss and make recommendations with regard to the employment of individuals with disabilities and national emerging issues of importance to individuals with vocational rehabilitation needs;

“(viii) enabling the designated State agencies to provide practical information on effective approaches for business and industry to use in employing individuals with disabilities, including provision of reasonable accommodations;

“(ix) providing information on other emerging issues concerning the delivery of publicly funded employment and training services and supports to assist individuals with disabilities to enter the workforce, achieve improved outcomes, and become economically self-sufficient; and

“(x) carrying out such other activities as the Secretary may require.

“(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under this subsection, an entity shall have (or agree to award a grant or contract to an entity that has)—

“(A) experience and expertise in administering vocational rehabilitation services;

“(B) documented experience with and knowledge about self-employment, business ownership, business development, and other types of entrepreneural employment opportunities and outcomes for individuals with disabilities, providing transition services for students with disabilities, and assistive technology; and

“(C) the expertise necessary to identify the additional data elements needed to provide comprehensive reporting of activities and outcomes of the vocational rehabilitation programs authorized under title I, and experience in utilizing data to provide annual reports.

“(3) COLLABORATION.—In developing and providing training and technical assistance under this subsection, a recipient of a grant, contract, or cooperative agreement under this subsection shall collaborate with other organizations, in particular—

“(A) agencies carrying out vocational rehabilitation programs under title I and national organizations representing such programs;

“(B) organizations representing individuals with disabilities;

“(C) organizations representing State officials and agencies engaged in the delivery of assistive technology;

“(D) relevant employees from Federal departments and agencies, other than the Department of Education;

“(E) representatives of businesses;

“(F) individuals with disabilities who use assistive technology and understand the barriers to the acquisition of such technology and assistive technology services; and

“(G) family members, guardians, advocates, and authorized representatives of such individuals.”;

(4) by inserting after subsection (g), as redesignated by paragraph (2), the following:

“(h) ACCESS TO TELEWORK.—

“(1) DEFINITION OF TELEWORK.—In this subsection, the term ‘telework’ means work from home and other telework sites with the assistance of a computer and with reasonable accommodations, including the necessary equipment to facilitate successful work from home and other telework sites.

“(2) AUTHORIZATION OF PROGRAM.—The Commissioner is authorized to make grants to States and governing bodies of Indian tribes located on Federal and State reservations (and consortia of such governing bodies) to pay for the Federal share of the cost of establishing or expanding a telework program.

“(3) APPLICATION.—A State or Indian tribe that desires to receive a grant under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

“(4) USE OF FUNDS.—

“(A) IN GENERAL.—A State or Indian tribe that receives a grant under this subsection shall establish or expand a telework program that shall provide assistance through loans or other alternative financing mechanisms to individuals with disabilities. The State or Indian tribe shall provide the assistance through the program to enable such individuals to purchase computers or other equipment, including adaptive equipment, to facilitate access to employment and enhance employment outcomes by providing the individual with the opportunity—

“(i) to work from home or other telework sites so that such individuals are able to telework; or

“(ii) to become self-employed on a full-time or part-time basis from home or other telework sites.

“(B) DEVELOPMENT OF TELEWORK OPPORTUNITIES AND BUSINESS PLANS.—A State or Indian tribe that receives a grant under this subsection may use not more than 10 percent of the grant award to develop telework opportunities with employers and assist in the development of business plans for individuals with disabilities interested in self-employment, before such individuals apply for assistance through the telework program.

“(C) SELF EMPLOYMENT.—A State or Indian tribe that receives a grant under this subsection shall enter into cooperative agreements with small business development centers for the development of business plans as described in section 103(a)(13) for individuals described in subparagraph (B), and provide assurances that the State or Indian tribe will, through plans to achieve self-support, vocational rehabilitation services, or other means, identify ways for the individuals described in subparagraph (B) to pay for the development of business plans, before such individuals apply for assistance through the telework program.

“(D) DEFINITIONS.—In this paragraph:

“(i) PLAN TO ACHIEVE SELF-SUPPORT.—The term ‘plan to achieve self-support’ means a plan described in sections 416.1180 through 416.1182 of title 20, Code of Federal Regulations (or any corresponding similar regulation or ruling).

“(ii) SMALL BUSINESS DEVELOPMENT CENTER.—The term ‘small business development center’ means a center established under section 21 of the Small Business Act (15 U.S.C. 648).

“(5) FEDERAL SHARE.—The Federal share of the cost of establishing or expanding a telework program under this section shall be 10 percent of the cost.

“(6) EXISTING GRANT RECIPIENTS.—An entity that receives a grant under the Access to Telework Fund Program under subsection (b) for a fiscal year may use the funds made available through that grant for that fiscal year in accordance with this subsection rather than subsection (b).

“(7) ANNUAL REPORT.—

“(A) IN GENERAL.—A State or Indian tribe that receives a grant under this subsection shall prepare and submit an annual report to the Commissioner.

“(B) CONTENTS.—The report under subparagraph (A) shall include the following:

“(i) Information on the characteristics of each individual with a disability that receives assistance through a loan or other alternative financing mechanism under the program, including information about the individual such as the following:

“(I) Age.

“(II) Ethnicity.

“(III) Employment status at the time of application for assistance through a loan or other alternative financing mechanism under this subsection.

“(IV) Whether the individual attempted to secure financial support from other sources to enable the individual to telework and, if so, a description of such sources.

“(V) Whether the individual is working and, if so, whether the individual teleworks, the occupation in which the individual is working, the hourly salary the individual receives, and the hourly salary of the individual prior to receiving assistance through a loan or other alternative financing mechanism under the program.

“(VI) Whether the individual has repaid assistance from the loan or other alternative financing mechanism received under the program, is in repayment status, is delinquent on repayments, or has defaulted on the assistance from the loan or other alternative financing mechanism.

“(ii) An analysis of the individuals with disabilities that have benefited from the program.

“(iii) Any other information that the Commissioner may require.”; and

(5) in subsection (i), as redesignated by paragraph (2)—

(A) by striking “this section” and inserting “this section (other than subsections (c) and (d))”; and

(B) by striking “fiscal years 1999 through 2003” and inserting “fiscal years 2006 through 2011”.

SEC. 443. DISABILITY CAREER PATHWAYS PROGRAM.

Section 303 of the Rehabilitation Act of 1973 (29 U.S.C. 773) is amended—

(1) by redesignating subsection (i) (as redesignated by section 442(2) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection:

"(i) Grants for Disability Career Pathways Program.—

"(1) Definitions.—In this subsection:

"(A) Assistive technology.—The term 'assistive technology' has the meaning given the term in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).

"(B) Center for independent living.—The term 'center for independent living' means a center for independent living funded under subtitle C of title VII.

"(C) Covered institution.—The term 'covered institution' means—

"(i) a secondary school; and

"(ii) in the discretion of the eligible consortium involved, an institution of higher education.

"(D) Eligible consortium.—The term 'eligible consortium' means a consortium described in paragraph (3)(A).

"(E) Secondary school.—The term 'secondary school' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

"(2) Purpose of program.—The Commissioner may establish a Disability Career Pathways program, through which the Commissioner may make grants, for periods of up to 5 years, to institutions of higher education that establish eligible consortia, to enable the consortia to develop and carry out training and education related to disability studies and leadership development. The consortia shall provide the training and education for the purpose of providing career pathways for students at a covered institution, in fields pertinent to individuals with disabilities, and particularly pertinent to the employment of individuals with disabilities.

"(3) Application.—To be eligible to receive a grant under this subsection on behalf of a consortium, an institution of higher education shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including information demonstrating—

"(A) that the institution of higher education has established a consortium of members that represent—

"(i) the institution of higher education;

"(ii) a community college;

"(iii) a secondary school;

"(iv) a center for independent living;

"(v) a designated State agency;

"(vi) a one-stop center established under section 121(e) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(e)); and

"(vii) the local business community;

"(B) the collaborative working relationships between the institution of higher education and the other members of the consortium, and describing the activities that each member shall undertake; and

"(C) the capacity and expertise of the institution of higher education—

"(i) to coordinate training and education related to disability studies and leadership development with educational institutions and disability-related organizations; and

"(ii) to conduct such training and education effectively.

"(4) Distribution of grants.—In making grants under this subsection, the Commissioner shall ensure that the grants shall be distributed for a geographically diverse set of eligible consortia throughout all regions.

"(5) Mandatory uses of funds.—An institution of higher education that receives a grant under this subsection on behalf of a consortium shall ensure that the consortium shall use the grant funds to—

"(A) encourage interest in, enhance awareness and understanding of, and provide educational opportunities in, disability-related fields, and encourage leadership development among students at a covered institution, including such students who are individuals with disabilities;

"(B) enable the students at a covered institution to gain practical skills and identify work experience opportunities, including opportunities developed by the consortium in conjunction with the private sector, that benefit individuals with disabilities;

"(C) develop postsecondary school career pathways leading to gainful employment, the attainment of an associate or baccalaureate degree, or the completion of further coursework or a further degree, in a disability-related field;

"(D) offer credit-bearing, college-level coursework in a disability-related field to qualified students at a covered institution; and

"(E) ensure faculty and staff employed by the members are available to students at a covered institution for educational and career advising, and to teachers and staff at a covered institution for disability-related training.

"(6) Permissible uses of funds.—An institution of higher education that receives a grant under this subsection on behalf of a consortium may permit the consortium to use the grant funds to assess the feasibility of developing or adapting disabilities studies curricula, including curricula with distance learning opportunities, for use at institutions of higher education.

"(7) Consultation.—The consortium shall consult with appropriate agencies that serve or assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, located in the jurisdiction served by the consortium, concerning the program of education and training carried out by the consortium.

"(8) Reviews.—

"(A) Advisory committee.—For an institution of higher education to be eligible to receive a grant under this subsection on behalf of a consortium, the consortium shall have an advisory committee that consists of members that represent the interests of individuals with disabilities, including—

"(i) a professional in the field of vocational rehabilitation;

"(ii) an individual with a disability or a family member of such an individual; and

"(iii) a representative of each type of entity or community represented on the consortium.

"(B) Quarterly reviews.—The advisory committee shall meet at least once during each calendar quarter to conduct a review of the program of education and training carried out by the consortium. The committee shall directly advise the governing board of the institution of higher education in the consortium about the views and recommendations of the advisory committee resulting from the review.

"(9) Accountability.—Every 2 years, the Commissioner shall—

"(A) using information collected from the reviews required in paragraph (8), assess the effectiveness of the Disability Career Pathways program carried out under this subsection, including assessing how many individuals were served by each eligible consortium and how many of those individuals received postsecondary education, or entered into employment, in a disability-related field; and

"(B) prepare and submit to Congress a report containing the results of the assessments described in subparagraph (A).".

SEC. 444. MIGRANT AND SEASONAL FARMWORKERS.

Section 304(b) of the Rehabilitation Act of 1973 (29 U.S.C. 774(b)) is amended by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011".

SEC. 445. RECREATIONAL PROGRAMS.

Section 305 of the Rehabilitation Act of 1973 (29 U.S.C. 775) is amended—

(1) in subsection (a)(1)(B), by striking "construction of facilities for aquatic rehabilitation therapy,"; and

(2) in subsection (b), by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011".

Subtitle D—National Council on Disability

SEC. 451. AUTHORIZATION OF APPROPRIATIONS.

Section 405 of the Rehabilitation Act of 1973 (29 U.S.C. 785) is amended by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011".

Subtitle E—Rights and Advocacy

SEC. 461. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

Section 502(j) of the Rehabilitation Act of 1973 (29 U.S.C. 792(j)) is amended by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011".

SEC. 462. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.

Section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e) is amended—

(1) in subsection (c)(1)(A), by inserting "a grant for" after "to provide";

(2) in subsection (g)(2), by striking "was paid" and inserting "was paid, except that program income generated from the amount paid to an eligible system shall remain available to such system until expended"; and

(3) in subsection (*l*), by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011".

Subtitle F—Employment Opportunities for Individuals With Disabilities

SEC. 471. PROJECTS WITH INDUSTRY.

Section 611(a) of the Rehabilitation Act of 1973 (29 U.S.C. 795(a)) is amended—

(1) in paragraph (1), by inserting ", locally and nationally" before the period at the end; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting "local and national" before "Projects With Industry"; and

(B) in subparagraph (A)—

(i) in clause (iii), by striking "and" after the semicolon;

(ii) in clause (iv), by inserting "and" after the semicolon; and

(iii) by adding at the end the following:

"(v) coordinate activities with the Job Corps center industry councils established under section 154 of the Workforce Investment Act of 1998 (29 U.S.C. 2894);".

SEC. 472. PROJECTS WITH INDUSTRY AUTHORIZATION OF APPROPRIATIONS.

Section 612 of the Rehabilitation Act of 1973 (29 U.S.C. 795a) is amended by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011".

SEC. 473. SERVICES FOR INDIVIDUALS WITH SIGNIFICANT DISABILITIES AUTHORIZATION OF APPROPRIATIONS.

Section 628 of the Rehabilitation Act of 1973 (29 U.S.C. 795n) is amended by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011".

Subtitle G—Independent Living Services and Centers for Independent Living

SEC. 481. STATE PLAN.

Section 704 of the Rehabilitation Act of 1973 (42 U.S.C. 795c) is amended by adding at the end the following:

“(o) Promoting Full Access to Community Life.—

“(1) In general.—The plan shall describe how the State will provide independent living services that promote full access to community life for individuals with significant disabilities.

“(2) Services.—The services shall include, as appropriate—

“(A) facilitating transitions of—

“(i) youth who are individuals with significant disabilities and have completed individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)) to postsecondary life, including employment; and

“(ii) individuals with significant disabilities from nursing homes and other institutions, including institutions serving individuals with cognitive disabilities, to community-based residences;

“(B) assisting individuals with significant disabilities at risk of entering institutions to remain in the community; and

“(C) promoting home ownership among individuals with significant disabilities.”.

SEC. 482. STATEWIDE INDEPENDENT LIVING COUNCIL.

Section 705(b) of the Rehabilitation Act of 1973 (29 U.S.C. 796d(b)) is amended—

(1) in paragraph (2), by striking subparagraph (C) and inserting the following:

“(C) in a State in which 1 or more projects provide services under section 121, not less than 1 representative of the directors of the projects.”; and

(2) by striking paragraph (5) and inserting the following:

“(5) Chairperson.—The Council shall select a chairperson from among the voting membership of the Council.”.

SEC. 483. INDEPENDENT LIVING SERVICES AUTHORIZATION OF APPROPRIATIONS.

Section 714 of the Rehabilitation Act of 1973 (29 U.S.C. 796e–3) is amended by striking “fiscal years 1999 through 2003” and inserting “fiscal years 2006 through 2011”.

SEC. 484. PROGRAM AUTHORIZATION.

Section 721 of the Rehabilitation Act of 1973 (42 U.S.C. 796f) is amended—

(1) by striking subsection (c) and inserting the following:

“(c) Allotments to States.—

“(1) Definitions.—In this subsection:

“(A) Additional appropriation.—The term ‘additional appropriation’ means the amount (if any) by which the appropriation for a fiscal year exceeds the total of—

“(i) the amount reserved under subsection (b) for that fiscal year; and

“(ii) the appropriation for fiscal year 2003.

“(B) Appropriation.—The term ‘appropriation’ means the amount appropriated to carry out this part.

“(C) Base appropriation.—The term ‘base appropriation’ means the portion of the appropriation for a fiscal year that is equal to the lesser of—

“(i) an amount equal to 100 percent of the appropriation, minus the amount reserved under subsection (b) for that fiscal year; or

“(ii) the appropriation for fiscal year 2003.

“(2) Allotments to states from base appropriation.—After the reservation required by subsection (b) has been made, the Commissioner shall allot to each State whose State plan has been approved under section 706 an amount that bears the same ratio to the base appropriation as the amount the State received under this subsection for fiscal year 2003 bears to the total amount that all States received under this subsection for fiscal year 2003.

“(3) Allotments to states of additional appropriation.—From any additional appropriation for each fiscal year, the Commissioner shall allot to each State whose State plan has been approved under section 706 an amount equal to the sum of—

“(A) an amount that bears the same ratio to 50 percent of the additional appropriation as the population of the State bears to the population of all States; and

“(B) $\frac{1}{56}$ of 50 percent of the additional appropriation.”; and

(2) by adding at the end the following:

“(e) Carryover Authority.—Notwithstanding any other provision of law—

“(1) any funds appropriated for a fiscal year to carry out a grant program under section 722 or 723, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during that succeeding fiscal year and the subsequent fiscal year; and

“(2) any amounts of program income received by recipients under a grant program under section 722 or 723 in a fiscal year, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year, shall remain available for obligation and expenditure by such recipients during that succeeding fiscal year and the subsequent fiscal year.”.

SEC. 485. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.

Section 722(c) of the Rehabilitation Act of 1973 (29 U.S.C. 796f–1(c)) is amended—

(1) by striking “grants” and inserting “grants for a fiscal year”; and

(2) by striking “by September 30, 1997” and inserting “for the preceding fiscal year”.

SEC. 486. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.

Section 723(c) of the Rehabilitation Act of 1973 (29 U.S.C. 796f–2(c)) is amended—

(1) by striking “grants” and inserting “grants for a fiscal year”; and

(2) by striking “by September 30, 1997” and inserting “for the preceding fiscal year”.

SEC. 487. STANDARDS AND ASSURANCES FOR CENTERS FOR INDEPENDENT LIVING.

Section 725(b) of the Rehabilitation Act of 1973 (29 U.S.C. 796f–4(b)) is amended by adding at the end the following:

“(8) Promoting full access to community life.—

“(A) In general.—The center shall provide independent living services that promote full access to community life for individuals with significant disabilities.

“(B) Services.—The services shall include, as appropriate—

“(i) facilitating transitions of—

“(I) youth who are individuals with significant disabilities and have completed individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)) to postsecondary life, including employment; and

“(II) individuals with significant disabilities from nursing homes and other institutions, including institutions serving individuals with cognitive disabilities, to community-based residences;

“(ii) assisting individuals with significant disabilities at risk of entering institutions to remain in the community; and

“(iii) promoting home ownership among individuals with significant disabilities.”.

SEC. 488. CENTERS FOR INDEPENDENT LIVING AUTHORIZATION OF APPROPRIATIONS.

Section 727 of the Rehabilitation Act of 1973 (29 U.S.C. 796f–6) is amended by striking “fiscal years 1999 through 2003” and inserting “fiscal years 2006 through 2011”.

SEC. 489. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.

Chapter 2 of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796j et seq.) is amended—

(1) by redesignating sections 752 and 753 as sections 753 and 754, respectively; and

(2) by inserting after section 751 the following:

“SEC. 752. TRAINING AND TECHNICAL ASSISTANCE.

“(a) Grants; Contracts; Other Arrangements.—For any fiscal year for which the funds appropriated to carry out this chapter exceed the funds appropriated to carry out this chapter for fiscal year 2003, the Commissioner shall first reserve from such excess, to provide training and technical assistance to designated State agencies for such fiscal year, not less than 1.8 percent, and not more than 2 percent, of the funds appropriated to carry out this chapter for the fiscal year involved.

“(b) Allocation.—From the funds reserved under subsection (a), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities that demonstrate expertise in the provision of services to older individuals who are blind to provide training and technical assistance with respect to planning, developing, conducting, administering, and evaluating independent living programs for older individuals who are blind.

“(c) Funding Priorities.—The Commissioner shall conduct a survey of designated State agencies that receive grants under section 753 regarding training and technical assistance needs in order to determine funding priorities for grants, contracts, and other arrangements under this section.

“(d) Review.—To be eligible to receive a grant or enter into a contract or other arrangement under this section, an entity shall submit an application to the Commissioner at such time, in such manner, containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require.

“(e) Prohibition on Combined Funds.—No funds reserved by the Commissioner under this section may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such reserved funds are separately identified in the agreement for such grant or payment and are used for the purposes of this chapter.”.

SEC. 490. PROGRAM OF GRANTS.

Section 753 of the Rehabilitation Act of 1973, as redesignated by section 489, is amended—

(1) by striking subsection (h);

(2) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively;

(3) in subsection (b), by striking “section 753” and inserting “section 754”;

(4) in subsection (c)—

(A) in paragraph (1), by striking “section 753” and inserting “section 754”; and

(B) in paragraph (2)—

(i) by striking "subsection (j)" and inserting "subsection (i)"; and

(ii) by striking "subsection (i)" and inserting "subsection (h)";

(5) in subsection (g), by inserting ", or contracts with," after "grants to";

(6) in subsection (h), as redesignated by paragraph (2)—

(A) in paragraph (1), by striking "subsection (j)(4)" and inserting "subsection (i)(4)"; and

(B) in paragraph (2)—

(i) in subparagraph (A)(vi), by adding "and" after the semicolon;

(ii) in subparagraph (B)(ii)(III), by striking "; and" and inserting a period; and

(iii) by striking subparagraph (C); and

(7) in subsection (i), as redesignated by paragraph (2)—

(A) by striking paragraph (2) and inserting the following:

"(2) MINIMUM ALLOTMENT.—

"(A) STATES.—In the case of any of the several States, the District of Columbia, or the Commonwealth of Puerto Rico, the amount referred to in paragraph (1)(A) for a fiscal year is the greater of—

"(i) $350,000;

"(ii) an amount equal to the amount the State, the District of Columbia, or the Commonwealth of Puerto Rico received to carry out this chapter for fiscal year 2003; or

"(iii) an amount equal to ⅓ of 1 percent of the amount appropriated under section 754, and not reserved under section 752, for the fiscal year and available for allotments under subsection (a).

"(B) CERTAIN TERRITORIES.—In the case of Guam, American Samoa, the United States Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the amount referred to in paragraph (1)(A) for a fiscal year is $60,000.";

(B) in paragraph (3)(A), by striking "section 753" and inserting "section 754, and not reserved under section 752,"; and

(C) in paragraph (4)(B)(i), by striking "subsection (i)" and inserting "subsection (h)".

SEC. 491. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND AUTHORIZATION OF APPROPRIATIONS.

Section 754 of the Rehabilitation Act of 1973, as redesignated by section 489, is amended by striking "fiscal years 1999 through 2003" and inserting "fiscal years 2006 through 2011".

Subtitle H—Miscellaneous

SEC. 495. HELEN KELLER NATIONAL CENTER ACT.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 205(a) of the Helen Keller National Center Act (29 U.S.C. 1904(a)) is amended by striking "1999 through 2003" and inserting "2006 through 2011".

(b) HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT FUND.—The first sentence of section 208(h) of the Helen Keller National Center Act (29 U.S.C. 1907(h)) is amended by striking "1999 through 2003" and inserting "2006 through 2011".

TITLE V—TRANSITION AND EFFECTIVE DATE

SEC. 501. TRANSITION PROVISIONS.

The Secretary of Labor shall, at the discretion of the Secretary, take such actions as the Secretary determines to be appropriate to provide for the orderly implementation of titles I and III of this Act. The Secretary of Education shall, at the discretion of the Secretary, take such actions as the Secretary determines to be appropriate to provide for the orderly implementation of titles II and IV of this Act.

SEC. 502. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

Mr. KENNEDY. Mr. President, It is a privilege to join my colleagues in introducing this bipartisan bill to reauthorize the Workforce Investment Act and increase the opportunities for workers to obtain the services and training they need to hold good jobs in the years ahead.

This bill strengthens the current One-Stop system we established in 1998, so that many more people can be served. The bill creates stronger partnerships with businesses to recruit new workers, collaborate in training current workers, improve career ladder opportunities, and work with local leaders to meet the changing needs of their community.

The One-Stop system is needed more than ever now, to serve hard-working Americans who have lost their jobs through no fault of their own as we struggle to rebuild our economy and adjust to the new century and the globalization forces that are transforming our society and our workforce. Current employees, especially the growing number of manufacturing workers, need effective training to be eligible for the available jobs in their area.

We have also worked to remove the sequencing of services for persons entering the workforce who face barriers to employment. Providers can move adults directly to skills training, or create training programs that include literacy and language skills as well, so that job training is not delayed.

The bill also encourages local providers to continue the training programs until employees can be self-sufficient. For those who start on the minimum wage, the support system should be there to help them qualify for the better-paying jobs that will enable them to support their families. Some men and women may obtain their first job through the system, and continue to participate as they move up their career ladders.

The bill will also help young people. Last summer, the youth unemployment rate rose to 17 percent and we were all acutely aware of the special challenges that young workers face in this economy. The youth program will continue to work with both in-school and out-of-school young men and women to help them obtain the education and the real job experience they need to be competitive.

The bill pays particular attention to the needs of people with disabilities. Their access to the program is essential if the system is to be truly universal. It's unacceptable today that hundreds of thousands of people with disabilities are unable to find employment. Workforce training programs must coordinate with vocational rehabilitation programs to provide many more opportunities for those with physical and mental challenges.

For over thirty years, since the Vocational Rehabilitation Act was first enacted in 1973, state vocational rehabilitation programs have brought new hope to individuals with disabilities throughout the country, so that they can reach their full potential and actively participate in their communities.

Through vocational rehabilitation, individuals with disabilities can obtain the training, counseling, support and job opportunities they need in order to have independent, productive, and fulfilling lives. For millions of these Americans, vocational rehabilitation is the difference between dependence and independence, between lost potential and a productive career.

In 1998, vocational rehabilitation became part of the state-wide workforce system in each state. This reauthorization will strengthen that partnership, so that many more working-age individuals with disabilities, even those with the most significant challenges, have realistic opportunities to obtain the services and support they need to reach their employment goals.

The legislation also strengthens other aspects of independent living, so that students and adults with disabilities can receive the services and support they need for community-based living.

Our goal in this reauthorization is to see that the talents and strengths of all individuals with disabilities are recognized, enhanced, and fairly rewarded in communities and workplaces across the nation.

The bill also contains the Adult Literacy Act, which funds critical programs for states to assist adults in obtaining the basic reading, writing, numeracy and English language skills that they need to be full participants in the workplace and in society.

We all know that education is the great equalizer. Improving basic literacy is a key component of job training. Large numbers of persons are on waiting lists across the country to be served under this program—25,000 people in Massachusetts alone—and we need to do more to serve adults who recognize their need to improve these skills in order to improve their lives.

I commend my colleagues and the many organizations representing governors, mayors, county officials, youth, women, and low-income persons who were so actively involved in preparing this legislation. We have tried to listen carefully to the many leaders who have practical experience in implementing these laws.

I look forward to continuing this bipartisan effort and to the early enactment of this needed legislation.

By Mr. SMITH (for himself, Mrs. LINCOLN, and Mr. GRASSLEY):

S. 1022. A bill to amend the Internal Revenue Code of 1986 to allow for an energy efficient appliance credit; to the Committee on Finance.

Mr. SMITH. Mr. President, water and energy are precious resources that we must manage as efficiently as possible. That is why I am joining with my colleagues Senator LINCOLN and Finance Chairman GRASSLEY to introduce the "Resource Efficient Appliance Incentives Act of 2005." This bill would provide for manufacturers' tax credits of varying levels for certain energy and water efficient home appliances.

Under this bill, for the first time, water efficiency is included in the eligibility criteria for the tax credits for clothes washers. This bill provides graduated credits to appliance manufacturers. The more efficient the dishwasher, clothes washer or refrigerator, the higher the credit.

To spur increased production, the bill provides that these tax credits would apply only to production that exceeds historical production levels, and requires a three-year rolling average to calculated this production baseline. The bill only applies to appliances manufactured in the United States. This will encourage innovation and investment in domestic manufacturing facilities, which employ about 95,000 Americans.

Energy savings from this bill would be significant. Super-energy efficient and water conserving clothes washers would have to use at least 65 percent less energy than the 2004 federal standard to qualify for the higher credit. Refrigerators must exceed the 2001 energy conservation standards for comparably sized models by at least 15 percent to receive a credit under this bill.

This bill will not only save energy, and reduce the consumers' energy bills over the life of the appliance. It is estimated that, over twenty years, the credit would reduce the amount of water used to wash clothes by approximately a trillion gallons, the amount used in two years by a city the size of Phoenix, Arizona.

In several parts of the country, development is constrained by the lack of good quality water and water infrastructure. Having dealt with the water crisis in the Klamath Basin in 2001, when 1,200 farmers and ranchers had their irrigation water cut off, I can tell you firsthand that the conflicts between competing human and environmental needs are real and are growing.

As Benjamin Franklin observed, "When the well is dry, we know the worth of water." In many parts of the arid west, the well is running dry on a regular basis. The 10-year drought in the Colorado River Basin, which has seen relief this year, had produced the lowest flows on record last year, straining an important resource for millions of people. The Columbia River Basin has also experienced below average flows in recent years.

The daily per capita water use around the world varies significantly. The U.N. Population Fund cites that, in the United States, we use an estimated 152 gallons per day per person, while in the United Kingdom they use 88 gallons. Africans use 12 gallons a day.

According to the Rocky Mountain Institute, 47 percent of all water supplied to communities in the United States by public and private utilities is for residential water use. Of that, clothes washers account for approximately 22 percent of residential use, while dishwashers account for about 3 percent.

I firmly believe that we can use technology to improve our environmental stewardship. Water efficiency can extend our finite water supplies, and also reduce the amount of wastewater that communities must treat.

I would urge my colleagues to join me in cosponsoring this important bill to provide incentives for water and energy efficient residential appliances. I ask unanimous consent that the text of legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1022

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Resource Efficient Appliance Incentives Act of 2005.".

SEC. 2. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45J. ENERGY EFFICIENT APPLIANCE CREDIT.

"(a) GENERAL RULE.—

"(1) IN GENERAL.—For purposes of section 38, the energy efficient appliance credit determined under this section for any taxable year is an amount equal to the sum of the credit amounts determined under paragraph (2) for each type of qualified energy efficient appliance produced by the taxpayer during the calendar year ending with or within the taxable year.

"(2) CREDIT AMOUNTS.—The credit amount determined for any type of qualified energy efficient appliance is—

"(A) the applicable amount determined under subsection (b) with respect to such type, multiplied by

"(B) the eligible production for such type.

"(b) APPLICABLE AMOUNT.—

"(1) IN GENERAL.—For purposes of subsection (a)—

"(A) DISHWASHERS.—The applicable amount is the energy savings amount in the case of a dishwasher which—

"(i) is manufactured in calendar year 2006 or 2007, and

"(ii) meets the requirements of the Energy Star program which are in effect for dishwashers in 2007.

"(B) CLOTHES WASHERS.—The applicable amount is—

"(i) $50, in the case of a clothes washer which—

"(I) is manufactured in calendar year 2005, and

"(II) has an MEF of at least 1.42,

"(ii) $100, in the case of a clothes washer which—

"(I) is manufactured in calendar year 2005, 2006, or 2007, and

"(II) meets the requirements of the Energy Star program which are in effect for clothes washers in 2007, and

"(iii) the energy and water savings amount, in the case of a clothes washer which—

"(I) is manufactured in calendar year 2008, 2009, or 2010, and

"(II) meets the requirements of the Energy Star program which are in effect for clothes washers in 2010.

"(C) REFRIGERATORS.—

"(i) 15 PERCENT SAVINGS.—The applicable amount is $75 in the case of a refrigerator which—

"(I) is manufactured in calendar year 2005 or 2006, and

"(II) consumes at least 15 percent less kilowatt hours per year than the 2001 energy conservation standard.

"(ii) 20 PERCENT SAVINGS.—In the case of a refrigerator which consumes at least 20 percent less kilowatt hours per year than the 2001 energy conservation standards, the applicable amount is—

"(I) $125 for a refrigerator which is manufactured in calendar year 2005, 2006, or 2007, and

"(II) $100 for a refrigerator which is manufactured in calendar year 2008.

"(iii) 25 PERCENT SAVINGS.—In the case of a refrigerator which consumes at least 25 percent less kilowatt hours per year than the 2001 energy conservation standards, the applicable amount is—

"(I) $175 for a refrigerator which is manufactured in calendar year 2005, 2006, or 2007, and

"(II) $150 for a refrigerator which is manufactured in calendar year 2008, 2009, or 2010.

"(2) ENERGY SAVINGS AMOUNT.—For purposes of paragraph (1)(A)—

"(A) IN GENERAL.—The energy savings amount is the lesser of—

"(i) the product of—

"(I) $3, and

"(II) 100 multiplied by the energy savings percentage, or

"(ii) $100.

"(B) ENERGY SAVINGS PERCENTAGE.—For purposes of subparagraph (A), the energy savings percentage is the ratio of—

"(i) the EF required by the Energy Star program for dishwashers in 2007 minus the EF required by the Energy Star program for dishwashers in 2005, to

"(ii) the EF required by the Energy Star program for dishwashers in 2007.

"(3) ENERGY AND WATER SAVINGS AMOUNT.—For purposes of paragraph (1)(B)(iii)—

"(A) IN GENERAL.—The energy and water savings amount is the lesser of—

"(i) the product of—

"(I) $10, and

"(II) 100 multiplied by the energy and water savings percentage, or

"(ii) $200.

"(B) ENERGY AND WATER SAVINGS PERCENTAGE.—For purposes of subparagraph (A), the energy and water savings percentage is the average of the MEF savings percentage and the WF savings percentage.

"(C) MEF SAVINGS PERCENTAGE.—For purposes of this subparagraph, the MEF savings percentage is the ratio of—

"(i) the MEF required by the Energy Star program for clothes washers in 2010 minus the MEF required by the Energy Star program for clothes washers in 2007, to

"(ii) the MEF required by the Energy Star program for clothes washers in 2010.

"(D) WF SAVINGS PERCENTAGE.—For purposes of this subparagraph, the WF savings percentage is the ratio of—

"(i) the WF required by the Energy Star program for clothes washers in 2010 minus the WF required by the Energy Star program for clothes washers in 2007, to

"(ii) the WF required by the Energy Star program for clothes washers in 2010.

"(c) ELIGIBLE PRODUCTION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the eligible production in a calendar year with respect to each type of energy efficient appliance is the excess of—

"(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

"(B) the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

"(2) SPECIAL RULE FOR REFRIGERATORS.—The eligible production in a calendar year with respect to each type of refrigerator described in subsection (b)(1)(C) is the excess of—

"(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

"(B) 110 percent of the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

"(3) SPECIAL RULE FOR 2005 PRODUCTION.—For purposes of determining eligible production for calendar year 2005—

"(A) only production after the date of enactment of this section shall be taken into account under paragraphs (1)(A) and (2)(A), and

"(B) the amount taken into account under paragraphs (1)(B) and (2)(B) shall be an amount which bears the same ratio to the amount which would (but for this paragraph) be taken into account under such paragraph as—

"(i) the number of days in calendar year 2005 after the date of enactment of this section, bears to

"(ii) 365.

"(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

"(1) dishwashers described in subsection (b)(1)(A),

"(2) clothes washers described in subsection (b)(1)(B)(i),

"(3) clothes washers described in subsection (b)(1)(B)(ii),

"(4) clothes washers described in subsection (b)(1)(B)(iii),

"(5) refrigerators described in subsection (b)(1)(C)(i),

"(6) refrigerators described in subsection (b)(1)(C)(ii)(I),

"(7) refrigerators described in subsection (b)(1)(C)(ii)(II),

"(8) refrigerators described in subsection (b)(1)(C)(iii)(I), and

"(9) refrigerators described in subsection (b)(1)(C)(iii)(II).

"(e) LIMITATIONS.—

"(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years.

"(2) AMOUNT ALLOWED FOR CERTAIN APPLIANCES.—

"(A) IN GENERAL.—In the case of appliances described in subparagraph (C), the aggregate amount of the credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $20,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years with respect to such appliances.

"(B) ELECTION TO INCREASE ALLOWABLE CREDIT.—In the case of any taxpayer who makes an election under this subparagraph—

"(i) subparagraph (A) shall be applied by substituting '$25,000,000' for '$20,000,000', and

"(ii) the aggregate amount of the credit allowed under subsection (a) with respect to such taxpayer for any taxable year for appliances described in subparagraph (C) and the additional appliances described in subparagraph (D) shall not exceed $50,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years with respect to such appliances.

"(C) APPLIANCES DESCRIBED.—The appliances described in this subparagraph are—

"(i) clothes washers described in subsection (b)(1)(B)(i), and

"(ii) refrigerators described in subsection (b)(1)(C)(i).

"(D) ADDITIONAL APPLIANCES.—The additional appliances described in this subparagraph are—

"(i) refrigerators described in subsection (b)(1)(C)(ii)(I), and

"(ii) refrigerators described in subsection (b)(1)(C)(ii)(II).

"(3) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

"(4) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(f) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

"(A) any dishwasher described in subsection (b)(1)(A),

"(B) any clothes washer described in subsection (b)(1)(B), and

"(C) any refrigerator described in subsection (b)(1)(C).

"(2) DISHWASHER.—The term 'dishwasher' means a residential dishwasher subject to the energy conservation standards established by the Department of Energy.

"(3) CLOTHES WASHER.—The term 'clothes washer' means a residential model clothes washer, including a residential style coin operated washer.

"(4) REFRIGERATOR.—The term 'refrigerator' means a residential model automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

"(5) MEF.—The term 'MEF' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standards.

"(6) EF.—The term 'EF' means the energy factor established by the Department of Energy for compliance with the Federal energy conservation standards.

"(7) WF.—The term 'WF' means Water Factor (as determined by the Secretary of Energy).

"(8) PRODUCED.—The term 'produced' includes manufactured.

"(9) 2001 ENERGY CONSERVATION STANDARD.—The term '2001 energy conservation standard' means the energy conservation standards promulgated by the Department of Energy and effective July 1, 2001.

"(g) SPECIAL RULES.—For purposes of this section—

"(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.

"(2) CONTROLLED GROUP.—

"(A) IN GENERAL.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single producer.

"(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

"(3) VERIFICATION.—No amount shall be allowed as a credit under subsection (a) with respect to which the taxpayer has not submitted such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary.".

(b) CONFORMING AMENDMENT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to general business credit) is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ", plus", and by adding at the end the following new paragraph:

"(20) the energy efficient appliance credit determined under section 45J(a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 45J. Energy efficient appliance credit".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after the date of the enactment of this Act, in taxable years ending after such date.

By Mr. DODD (for himself, Ms. SNOWE, Mr. DURBIN, and Mr. BURNS):

S. 1023. A bill to provide for the establishment of a Digital Opportunity Investment Trust; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1023

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Digital Opportunity Investment Trust Act".

SEC. 2. ORGANIZATION.

(a) IN GENERAL.—There is established a nonprofit corporation to be known as the "Digital Opportunity Investment Trust" (referred to in this Act as the "Trust") which shall not be an agency or establishment of the United States Government. The Trust shall be subject to the provisions of this section, and, to the extent consistent with this section, to the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29–501 et seq.).

(b) Funding.—

(1) In general.—There is established in the Treasury a separate fund to be known as the "Digital Opportunity Investment Trust Fund" (referred to in this Act as the "Trust Fund"). The Trust Fund shall contain such amounts as are transferred to the Trust Fund under paragraph (2) and any interest earned on the investment of amounts in the Trust Fund under section 4.

(2) Transfer of funds.—The Secretary of the Treasury shall in each fiscal quarter through the last quarter of fiscal year 2028, transfer from the General Fund of the Treasury to the Trust Fund, an amount equal to 30 percent of the proceeds received by the Federal Government during the preceding fiscal quarter from any use (including any auction, sale, fee derived from, or other revenue generated from) of the electromagnetic spectrum conducted under section 309 (or any other section) of the Communications Act of 1934 (47 U.S.C. 309 (j)) (or any other provision of Federal law) after September 30, 2007.

(c) Board of Directors; Functions, and Duties.—

(1) Board.—

(A) In general.—A board of directors of the Trust (referred to in this Act as the "Board") shall be established to oversee the administration of the Trust. Such Board shall consist of 9 members to be appointed by the President, by and with the advice and consent of the Senate, who—

(i) reflect representation from the public and private sectors;

(ii) are not regular full-time employees of the Federal Government;

(iii) are eminent in such fields as telecommunications including public television, information technology, labor and workforce development, education, cultural and civic affairs, or the arts and humanities;

(iv) shall provide, as nearly as practicable, a broad representation of various regions of the United States, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the Trust; and

(v) shall be responsible for establishing the priorities and funding obligations of the Trust.

(B) Initial members.—The initial members of the Board shall serve as incorporators of the Trust and shall take whatever actions are necessary to establish the Trust under the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29–501 et seq.).

(C) Recommendations.—The Majority Leader of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives shall jointly submit to the President recommendations of individuals, selected from nominations submitted to Congress from associations representing the fields of science and learning relative to the work of the Board, to serve as members of the Board.

(D) Terms of appointment.—

(i) Date.—Members of the Board shall be appointed not later than 90 days after the date of enactment of this Act.

(ii) Terms.—

(I) In general.—Except as provided in subclause (II), each member of the Board shall be appointed for a 6-year term with terms set to expire in non-Federal election years.

(II) Staggered terms.—With respect to the initial members of the Board—

(aa) 3 members shall serve for a term of 6 years;

(bb) 3 members shall serve for a term of 4 years; and

(cc) 3 members shall serve for a term of 2 years.

(iii) Vacancies.—A vacancy in the membership of the Board shall not affect the Board's powers, and shall be filled in the same manner as the original member was appointed.

(E) Chair and vice-chair.—

(i) Selection.—The Board shall select, from among the members of the Board, an individual to serve for a 2-year term as Chair of the Board and an individual to serve for a 2-year term as vice-Chair of the Board.

(ii) Consecutive terms.—An individual may not serve for more than 2 consecutive terms as Chair of the Board.

(F) Meetings.—

(i) First meeting.—Not later than 30 days after the date on which all of the members of the Board have been confirmed by the Senate, the Chair of the Board shall call the first meeting of the Board.

(ii) Quorum.—A majority of the members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.

(G) Board personnel matters.—

(i) Compensation.—Members of the Board shall not receive compensation, allowances, or benefits by reason of the members' service on the Board.

(ii) Travel expenses.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(H) Solicitation of advice.—The Board from time to time may solicit advice from—

(i) the Secretary of Health and Human Services;

(ii) the Secretary of Commerce;

(iii) the Secretary of Education;

(iv) the Secretary of Agriculture;

(v) the Secretary of Defense;

(vi) the Secretary of Energy;

(vii) the Secretary of Homeland Security;

(viii) the Secretary of the Interior;

(ix) the Secretary of Labor;

(x) the Administrator of the National Aeronautics and Space Administration;

(xi) the Director of the National Security Agency;

(xii) the Director of the National Science Foundation;

(xiii) the Director of the Office of Science and Technology Policy;

(xiv) the Director of the National Endowment for the Arts;

(xv) the Director of the National Endowment for the Humanities;

(xvi) the Director of the Institute of Museum and Library Services;

(xvii) the Librarian of Congress; and

(xviii) the President and Chief Executive Officer of the Corporation for Public Broadcasting.

(2) Director.—A majority of the members of the Board shall select a Director of the Trust who shall serve at the discretion of the Board and shall be responsible for instituting procedures to carry out the policies and priorities established by the Board, and for hiring all personnel of the Trust. The rate of compensation of the Director and personnel shall be fixed by the Board.

(d) Trust Fund Uses.—

(1) Uses of funds.—To achieve the objectives of this Act, the Director of the Trust, after consultation with the Board, may use Trust funds—

(A) to support the digitization of collections and other significant holdings of the nation's universities, museums, libraries, public television stations, and other cultural institutions;

(B) to support basic and applied research, including demonstrations of innovative learning and assessment systems as well as the components and tools needed to create them;

(C) to use the research results developed under subparagraph (B) to create prototype applications designed to meet learning objectives in a variety of subject areas and designed for learners with many different educational needs, including—

(i) strengthening instruction in reading, science, mathematics, history, and the arts in elementary and secondary schools, community colleges, and other colleges and universities;

(ii) providing the training needed for people now in the workplace to advance in a constantly changing work environment; and

(iii) developing new applications for lifelong learning in non-traditional learning environments such as libraries, museums, senior and community centers, and public television and radio;

(D) to conduct assessments of legal, regulatory, and other issues that must be resolved to ensure rapid development and use of advanced learning technologies; and

(E) to coordinate and disseminate information about initiatives throughout the Federal Government that focus on uses of technology in education and learning.

(2) Contracts and grants.—

(A) In general.—In order to carry out the activities described in paragraph (1), the Director of the Trust, with the agreement of a majority of the members of the Board, may award contracts and grants to nonprofit public institutions (with or without private partners) and for-profit organizations and individuals.

(B) Public domain.—

(i) In general.—The research and development properties and materials associated with a project in which a majority of the funding used to carry out the project is from a grant or contract under this Act shall be freely and nonexclusively available to the general public.

(ii) Exemption.—The Director of the Trust may exempt specific projects from the requirement of clause (i) if the Director of the Trust and a majority of the members of the Board determine that the general public will benefit significantly in the long run due to the project not being freely and nonexclusively available to the general public.

(C) Evaluation of proposals.—To the extent practicable, proposals for such contracts or grants shall be evaluated on the basis of comparative merit by panels of experts who represent diverse interests and perspectives, and who are appointed by the Director of the Trust from recommendations from the fields served and the Board of Directors.

(3) Cooperation.—The Director of the Trust, after consultation with the Board, may cooperate with business, industry, philanthropy, noncommercial education broadcast, television and radio licensees and permittees, and local and national public service institutions, including in activities that seek to enhance the work of such public

service institutions by seeking new ways to put telecommunications and information technologies to work in their areas of interest.

SEC. 3. ACCOUNTABILITY AND REPORTING.

(a) REPORT.—

(1) IN GENERAL.—Not later than April 30 of each year, the Director of the Trust shall prepare a report for the preceding fiscal year that contains the information described in paragraph (2).

(2) CONTENTS.—A report under paragraph (1) shall include—

(A) a comprehensive and detailed report of the Trust's operations, activities, financial condition, and accomplishments, and such recommendations as the Director of the Trust determines appropriate; and

(B) a comprehensive and detailed inventory of funds distributed from the Trust Fund during the fiscal year for which the report is being prepared.

(3) STATEMENT OF THE BOARD.—Each report under paragraph (1) shall include a statement from the Board containing—

(A) a clear description of the plans and priorities of the Board for the subsequent 5-year period for expenditures from the Trust Fund; and

(B) an estimate of the funds that will be available for such expenditures from the Trust Fund.

(4) SUBMISSION TO THE PRESIDENT AND CONGRESS.—A report under this subsection shall be submitted to the President and the appropriate committees of Congress.

(b) TESTIMONY.—The Chair of the Board, other members of the Board, and the Director and principal officers of the Trust shall testify before the appropriate committees of Congress, upon request of such committees, with respect to—

(1) a report prepared under subsection (a)(1); and

(2) any other matter that such committees may determine appropriate.

SEC. 4. INVESTMENT OF TRUST FUNDS.

(a) IN GENERAL.—The Secretary of the Treasury, after consultation with the Board, shall invest the funds of the Trust Fund in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(b) EXPENDITURES.—

(1) IN GENERAL.—The Director of the Trust shall not undertake grant or contract activities under this Act until the Trust has received the interest or other proceeds from the investment of the Trust Funds for not less than 1 year's duration. Thereafter, upon Board approval of the annual budget of the Trust, the Director of the Trust may commence such grant or contract activities at the start of each fiscal year.

(2) OBLIGATION OF FUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in awarding grants or contracts or making other expenditures under this Act, the Director of the Trust shall not obligate funds from the Trust that exceed the proceeds received from the investment of the funds in the Trust Fund during the preceding fiscal year.

(B) CARRY OVER.—Funds from the Trust Fund that are available for obligation for a fiscal year that are not obligated for such fiscal year shall remain available for obligation for the succeeding fiscal year.

SEC. 5. SPECIAL ACCOUNT FOR DISTRIBUTION TO PUBLIC TELEVISION STATIONS.

(a) RESERVATION.—An amount equivalent to 21 percent of the interest derived from the investment proceeds referred to in section 2(b)(2) shall be reserved in a special account within the Trust Fund for distribution on a regular basis to those noncommercial educational television broadcast stations (as defined in section 397(6) of the Communications Act of 1934 (47 U.S.C. 397(6)) that are qualified to receive grants from the Corporation for Public Broadcasting pursuant to section 396(k)(6)(B) of such Act (47 U.S.C. 396(k)(6)(B)) and to the Public Broadcasting Service in partnership with such stations.

(b) RESPONSIBILITY FOR DISTRIBUTION.—The Director of the Trust shall—

(1) through a special contract, designate the Corporation for Public Broadcasting as the sole agent responsible for the distribution of funds under this section; and

(2) transfer the funds referred to in subsection (a) to the Corporation for Public Broadcasting on a regular basis.

(c) GRANTS.—In making the distribution referred to in subsection (a), the Corporation for Public Broadcasting shall utilize a competitive grant application process that is governed by criteria that ensures that funds are directed to the creation of locally delivered digital education and learning services and ensures that a diversity of licensee types and geographic service areas are adequately served. The Corporation for Public Broadcasting shall develop such criteria in consultation with public television licensees, permitees, and representatives designated by their national organizations.

By Ms. LANDRIEU:

S. 1026. A bill to ensure that offshore energy development on the outer Continental Shelf continues to serve the needs of the United States, to create opportunities for new development and the use of alternative resources, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. LANDRIEU. Mr. President, today I rise to introduce legislation, The Stewardship for our Coasts and Opportunities for Reliable Energy Act—SCORE Act—which will ensure that offshore energy development on the Outer Continental Shelf—OCS—continues to serve our nation's needs, create opportunities for new development on the OCS as well as the use of alternative resources such as renewable energy.

Since the energy frontier of the OCS was officially opened to significant oil and gas exploration in 1953, no single region has contributed nearly as much to our Nation's energy production. Today, the OCS represents more than 25 percent of our Nation's natural gas production and more than 30 percent of our domestic oil production and it is estimated that 60 percent of the oil and natural gas still to be discovered in U.S. will come from the OCS.

An average of more than $5 billion in revenues from oil and gas production are returned to the federal treasury each year from the OCS—$145 billion since production began. That is the second biggest contributor of revenue to the Federal Treasury after income taxes.

But just as the Western frontier once represented a great unknown to our Nation's policymakers, the impact and reality of the OCS seems lost in a time warp. While much of the OCS has been off limits for decades, technological advancements have developed in that time to better target the resources and dramatically reduce the environmental footprint. These innovations will continue to allow crucial exploration and production to take place but in an environmentally responsible way. For example, we have produced three times as many resources on the OCS as we thought existed 30 years ago.

In fact, the Minerals Management Service—MMS—estimates that from 1985 to 2001, OCS offshore facilities and pipelines accounted for only 2 percent of the oil released into U.S. waters. In fact, 97 percent of OCS spills are one barrel or less in volume. Serving America's energy needs and being good stewards of the environment need not be mutually exclusive goals.

However, despite our technological prowess and responsible exploration, we have yet to fully realize the potential the OCS has to offer. Today only 2.5 percent of the 1.76 billion acres that make up the OCS are leased. Most of the Pacific Coast and the eastern Gulf of Mexico are off limits as is the entire Atlantic seaboard.

Almost all of the area on the OCS that is currently leased is in the Central and Western Gulf of Mexico, off the coasts of Louisiana and Texas, where 98 percent of total OCS production occurs. However, we cannot continue to take without giving something back in return. A significant portion of OCS revenues must be returned to the coastal producing states off whose coasts they are generated.

The Mineral Leasing Act of 1920 shares automatically with states 50 percent of revenues from mineral production on Federal lands within that State's boundaries. These funds are distributed to States automatically, outside the budget process and not subject to appropriations. In fiscal year 2004, the State of Wyoming received $564 million as a result of this law and the State of New Mexico received $365 million. However, there is no similar provision in law for coastal producing states to share federal oil and gas revenues generated on the OCS.

For both onshore and offshore production, the justification for sharing with the state is the same: the state serves as the platform which enables the Federal Government to support a basic element of our daily lives—turning on our lights, heating our homes and running our commuter trains. In light of the OCS' vital contribution to our Nation's energy needs, economy and national security, it seems only fair and logical that we should return a portion of these revenues to the few states that are providing this crucial supply of energy.

The SCORE Act would automatically distribute a significant portion of OCS revenues to the five coastal producing States without moratoria off their coasts Alaska, Texas, Louisiana, Mississippi and Alabama based on each state's production, with 35 percent of each State's allocation directed to coastal counties and parishes.

When Hurricane Ivan struck back in September of last year, it should have been a wake up call to us all. Although the storm did not hit Louisiana directly, its impact on the price and supply of oil and gas in this country could still be felt four months later. One can only imagine what the impact would have been had Ivan cut a more Western path in the Gulf. How many more hurricane seasons are we going to spend playing Russian roulette with our oil and gas supply?

Returning a portion of OCS revenues to coastal producing states is crucial to restoring and preserving the vital wetlands and the billions in energy investments they protect. It will also help further strengthen our national economic security by maintaining our current energy supply and continuing to provide the platform for us to go further in our quest to develop domestic resources while attempting to reduce our reliance on foreign energy supplies.

In addition to ensuring that the vital offshore energy development that has served our Nation's needs for 50 years can continue, the SCORE Act also seeks to establish opportunities for new development on the OCS.

The legislation would direct the Secretary of Interior to establish seaward lateral boundaries for all coastal States by regulation. Coastal States with a moratoria currently in place off their coasts would have the option, through their Governor with the consent of the State legislature, to explore the possibility of offshore energy development off their coasts.

These coastal States could petition the Secretary of Interior for a resource assessment of energy sources located within their seaward lateral boundaries. With these assessments in hand, the State legislature of the State could request that any or all of the area within their boundaries, but only beyond 20 miles from their coastline, be made available for leasing. If the Secretary permits leasing within the requesting State's boundary, the State qualifies to receive a portion of revenues generated from any production that takes place within their seaward lateral boundary.

Finally, SCORE would provide the opportunity for innovative, alternative uses of the OCS, including renewable energy projects such as wind, wave and solar. A portion of revenues from this production would be shared with the State off whose coastline the production took place.

Next week the Senate Energy and Natural Resources Committee, under the leadership of Chairman DOMENICI and Senator BINGAMAN, will begin marking up comprehensive energy legislation. I am hopeful that some aspects of the proposal I have laid out today will be included as part of the bill reported out of committee. I look forward to working with my colleagues on the Committee over the next few weeks to further discuss these concepts and make them a reality.

Quite simply, SCORE allows our country to continue to utilize the tremendous and vital natural resources of the OCS while also providing us the opportunity to further explore the unlimited potential of this vast frontier. It is time to base our decisions on modern successes rather than out-dated worries.

By Mrs. CLINTON (for herself and Ms. COLLINS):

S. 1028. A bill to amend title 10, United States Code, to enhance the protection of members of the Armed Forces and their spouses from unscrupulous financial services sales practices through increased consumer education, and for other purposes, to the Committee on Armed Services.

Mrs. CLINTON. Mr. President, today I am introducing the Military Personnel Financial Services Education Act of 2005. Senator COLLINS, my colleague on the Armed Services Committee, has agreed to cosponsor this legislation. This bill will directly address a problem that has plagued military servicemen and women for years: a lack of general knowledge about the insurance and other financial services available to them. This deficiency in information has led to many of our brave men and women in uniform being taken advantage of by unscrupulous companies that have targeted and preyed on junior members of our military.

Last year, a series of articles in the New York Times uncovered a serious problem: there were a number of companies using misleading sales practices to sell expensive life insurance policies to Iraq-bound recruits and other uniformed personnel. These articles led to investigations by the Department of Justice, reports by the GAO, and legislation by Congress. Earlier this year, I joined with Senator ENZI to introduce the Military Personnel Financial Services Protection Act. That legislation goes a long way toward tracking unscrupulous companies, and eliminating investment schemes which take advantage of our men and women in uniform.

But we also need to address our more fundamental responsibilities to our servicemen and women, and their families, to ensure that we provide them with adequate financial education so that they can make informed decisions about their future.

This bill will require the Department of Defense to provide consumer education for members of the armed forces and their spouses. It instructs the Secretary of Defense to carry out a comprehensive education program for military members regarding public and private financial services, including life insurance and the marketing practices of these services, available to them. This education will be institutionalized in the initial and recurring training for members of the military.

This bill also requires that counseling services on these issues be made available, upon request, to members and their spouses. I think it is very important to include the spouses in this program, because we all know that investment decisions should be made as a family. Too many times, a military spouse has to make these decisions alone, while their husband or wife is deployed. This bill will require a permanent, trained counselor at military bases with at least 750 assigned personnel, and a part-time, equally capable counselor available at smaller bases with less than 750. By our calculations, this means about 230 installations will have full-time counselors.

Finally, regarding life insurance, this bill will take existing legislation and DoD policy one more step in the military member's favor. During counseling of members or spouses regarding life insurance, counselors must include information on the availability of Servicemembers' Group Life Insurance—SGLI—as well as other available products. It requires that any enlisted member in the grades of E1–E4 must provide confirmation that they have received counseling from their approved counselor or commander before entering into any new contract with a private sector life insurer. Our legislation will keep the current rule of a 7 day waiting period for allotments to take effect to facilitate time for counseling. Existing policies will not be impacted by our legislation.

I am pleased to be working on this issue with Senator COLLINS, my colleague on the Armed Services Committee, who has taken such a strong interest in ensuring proper financial education for our servicemembers.

In closing, I want to reiterate the importance of this bill to military families. If implemented, this legislation will ensure our military families are fully equipped to make informed decisions that will best meet their financial and insurance needs. In my view, this is a provision long overdue. Thank you.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1028

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Personnel Financial Services Education Act of 2005".

SEC. 2. CONSUMER EDUCATION FOR MEMBERS OF THE ARMED FORCES AND THEIR SPOUSES ON INSURANCE AND OTHER FINANCIAL SERVICES.

(a) EDUCATION AND COUNSELING REQUIREMENTS.—

(1) IN GENERAL.—Chapter 50 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 992. Consumer education: financial services

"(a) REQUIREMENT FOR CONSUMER EDUCATION PROGRAM FOR MEMBERS.—(1) The Secretary concerned shall carry out a program to provide comprehensive education to members of the armed forces under the jurisdiction of the Secretary on—

"(A) financial services that are available under law to members;

"(B) financial services that are routinely offered by private sector sources to members;

"(C) practices relating to the marketing of private sector financial services to members;

"(D) such other matters relating to financial services available to members, and the marketing of financial services to members, as the Secretary considers appropriate; and

"(E) such other financial practices as the Secretary considers appropriate.

"(2) Training under this subsection shall be provided to members as—

"(A) a component of the members' initial entry training;

"(B) a component of each level of the members' professional development training that is required for promotion; and

"(C) a component of periodically recurring required training that is provided for the members at military installations.

"(3) The training provided at a military installation under paragraph (2)(C) shall include information on any financial services marketing practices that are particularly prevalent at that military installation and in the vicinity.

"(b) COUNSELING FOR MEMBERS AND SPOUSES.—(1) The Secretary concerned shall provide counseling on financial services to each member of the armed forces under the jurisdiction of the Secretary.

"(2) The Secretary concerned shall, upon request, provide counseling on financial services to the spouse of any member of the armed forces under the jurisdiction of the Secretary.

"(2) The Secretary concerned shall provide counseling on financial services under this subsection as follows:

"(A) In the case of members, and the spouses of members, assigned to a military installation to which at least 750 members of the armed forces are assigned, through a full-time financial services counselor at such installation.

"(B) In the case of members, and the spouses of members, assigned to a military installation other than an installation described in subparagraph (A), through such mechanisms as the Secretary considers appropriate, including through the provision of counseling by a member of the armed forces in grade E–7 or above, or a civilian, at such installation who provides such counseling as a part of the other duties performed by such member or civilian, as the case may be, at such installation.

"(3) Each financial services counselor under paragraph (2)(A), and each individual providing counseling on financial services under paragraph (2)(B), shall be an individual who, by reason of education, training, or experience, is qualified to provide helpful counseling to members of the armed forces and their spouses on financial services and marketing practices described in subsection (a)(1). Such individual may be a member of the armed forces or an employee of the Federal Government.

"(4) The Secretary concerned shall take such action as is necessary to ensure that each financial services counselor under paragraph (2)(A), and each individual providing counseling on financial services under paragraph (2)(B), is free from conflicts of interest relevant to the performance of duty under this section and, in the performance of that duty, is dedicated to furnishing members of the armed forces and their spouses with helpful information and counseling on financial services and related marketing practices.

"(5) The Secretary concerned may authorize financial services counseling to be provided to members of a unit of the armed forces by unit personnel under the guidance and with the assistance of a financial services counselor under paragraph (2)(A) or an individual providing counseling on financial services under paragraph (2)(B), as applicable.

"(c) LIFE INSURANCE.—(1) In counseling a member of the armed forces, or spouse of a member of the armed forces, under this section regarding life insurance offered by a private sector source, a financial services counselor under subsection (b)(2)(A), or an individual providing counseling on financial services under subsection (b)(2)(B), shall furnish the member or spouse, as the case may be, with information on the availability of Servicemembers' Group Life Insurance under subchapter III of chapter 19 of title 38, including information on the amounts of coverage available and the procedures for electing coverage and the amount of coverage.

"(2)(A) A covered member of the armed forces may not authorize payment to be made for private sector life insurance by means of an allotment of pay to which the member is entitled under chapter 3 of title 37 unless the authorization of allotment is accompanied by a written certification by a commander of the member, or by a financial services counselor referred to in subsection (b)(2)(A) or an individual providing counseling on financial services under subsection (b)(2)(B), as applicable, that the member has received counseling under paragraph (1) regarding the purchase of coverage under that private sector life insurance.

"(B) Subject to subparagraph (C), a written certification described in subparagraph (A) may not be made with respect to a member's authorization of allotment as described in subparagraph (A) until 7 days after the date of the member's authorization of allotment in order to facilitate the provision of counseling to the member under paragraph (1).

"(C) The commander of a member may waive the applicability of subparagraph (B) to a member for good cause, including the member's imminent change of station.

"(D) In this paragraph, the term 'covered member of the armed forces' means a member of the armed forces in grades E–1 through E–4.

"(d) FINANCIAL SERVICES DEFINED.—In this section, the term 'financial services' includes the following:

"(1) Life insurance, casualty insurance, and other insurance.

"(2) Investments in securities or financial instruments.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"992. Consumer education: financial services.".

(b) CONTINUING EFFECT OF EXISTING ALLOTMENTS FOR LIFE INSURANCE.—Subsection (c)(2) of section 992 of title 10, United States Code (as added by subsection (a)), shall not affect any allotment of pay authorized by a member of the Armed Forces before the effective date of such section.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act.

Ms. COLLINS. Mr. President, I am pleased to join with Senator CLINTON on legislation that will address the persistent problems that we have experienced with the sale of inappropriate life insurance and investment products to our servicemen and women. Although these issues were newly publicized last year in a series of articles in the New York Times, these problems actually go back for decades according to a 2002 Defense Department report.

According to that report, deceptive practices have been employed to sell unnecessary and inappropriate financial products to our military for more than thirty years. Furthermore, these sales have been in violation of DoD's policies aimed at regulating the sale of commercial products on military bases.

One of the report's most alarming findings is that these practices have a "clear and present" effect on morale, discipline and unit integrity. It states:

> Service members who have been coerced or deceived into buying insurance on a military installation blame not only the sales agents. The victims blame their military superiors for placing them in a position to be misled. The trust and respect that military leaders seek to instill in their subordinates are clearly reduced among those who have bought insurance that is of little or no value to them. This adversely affects the unit integrity.

The author of this study, an Army General and lawyer, spoke to numerous victims of these deceptive sales practices. He stated in his report that these soldiers told him that they had less trust in their military superiors after these incidents. They also expressed a reduced interest in reenlisting.

With so many of our troops in harm's way, it is time for Congress to take decisive action on this matter. Although DoD has issued another set of draft regulations, it is barred by statute from implementing these reforms until this fall. Moreover, I am not convinced that merely tightening the regulation of such sales on base will have the desired outcome of significantly reducing the sale of inappropriate insurance products.

The Clinton-Collins legislation would: establish a requirement that DoD provide real financial education for service members and their spouses; provide for financial counselors at military bases; and require that junior enlisted personnel receive information on their federally provided life insurance before allotting part of their pay toward the purchase of private life insurance products.

These provisions reflect the problems and deficiencies identified by DoD's own report. Specifically, the report concluded that DoD's current personal financial education programs were inadequate, noting particularly that the education provided enlisted personnel was "substantially less than that provided to junior officers." It is our belief that providing military personnel with a sound financial education and access to information is the best method of providing them and their families with the protection that they deserve.

While that report went much further in its recommendations, even recommending that such sales be barred, our legislation provides for more moderate measures in the hope that we can make real progress on this matter without resorting to extreme measures that would unfairly punish the countless ethical insurance agents who responsibly serve the military life insurance market. Instead, our legislation would give our troops the tools to protect themselves against those who engage in these abusive and deceptive sales practices.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, and Mrs. MURRAY):

S. 1029. A bill to amend the Higher Education Act of 1965 to expand college access and increase college persistence, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, and Mrs. MURRAY):

S. 1030. A bill to amend the Higher Education Act of 1965 to simplify and improve the process of applying for student assistance, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I introduce two bills to expand access to college. I am pleased to be joined in this effort by Senators COLLINS, KENNEDY, and MURRAY.

We are slated to reauthorize the Higher Education Act this Congress, after being unable to do so in the 108th Congress. Over the course of this time, the discussions on higher education have not focused on proposals that would help the neediest students attend college. This is troubling, particularly as more and more students are being priced out of college, which shortchanges their future and that of our Nation.

An individual's climb up the economic ladder is directly related to the amount of education he or she receives. Given the strong correlation among educational attainment, employment, and wages, the cost of not going to college is just too high.

And yet, too many college students are underprepared, underfinanced, and overworked. Those who make it through are saddled by huge loans. But as reports such as Empty Promises by the Advisory Committee on Student Financial Assistance have shown, many more cannot afford the cost of college at all.

Even though there have been gains due to the Higher Education Act, the current approach to student aid is not working to close the gap in college attendance between our lowest and highest income students or the gap between the aid low-income students receive and the actual cost of attendance. Indeed, about seven times as many students from high-income families graduate from college by age 24 as students from low-income families. Low-income, college-qualified high school graduates have an annual "unmet need" of $4,000 and rising in college expenses.

A decline in real dollars spent on grants and sharp increases in the cost of college have been key causal factors of this unfortunate situation. Indeed, there has been a steep decline in the purchasing power of the Pell Grant, which was established by my predecessor, Senator Claiborne Pell, to ensure higher education was not an "unachievable dream." According to the State PIRGs' Higher Education Project, the maximum Pell Grant covered 84 percent of average four-year public tuition costs in 1976. Today, the maximum Pell Grant of $4,050 covers only about 39 percent.

Over the last 10 years, tuition and fees at public and private 4-year colleges rose 51 percent and 36 percent, respectively. (after adjusting for inflation), which is a more rapid growth rate than consumer prices. Students have felt the bite as states have drastically cut funding for public colleges.

In 2008, the largest number of students in our history will graduate from high school. Another demographic reality is that our nation will need to ensure a steady stream of replacement workers as college-educated baby boomers begin to retire in increasing numbers.

This crisis calls out for action. An educated citizenry and a world class workforce should be a national imperative. Our nation cannot afford to lose out on the countless returns from a robust education investment.

Today we introduce two bills to expand college access.

The first bill, the ACCESS—Accessing College through Comprehensive Early Outreach and State Partnerships—Act, focuses on a program I have long worked with Senator COLLINS and the other cosponsors to save, reinvigorate, and fund the Leveraging Educational Assistance Partnership or LEAP program. LEAP is the only program in which the federal and state governments are partners in extending higher education opportunities to financially needy students.

The ACCESS Act forges a new Federal incentive for States to do even more to help low-income students by creating within LEAP an access and persistence partnership program. States will be rewarded—via higher levels of federal matching dollars—for creating vibrant partnerships with colleges, early intervention and mentoring programs, foundations, and businesses and providing cohesion and coordination among these entities. Access and persistence partnerships have three main goals: to provide low-income students with a grant that fills the gap of their unmet need; to increase participation of low-income students in early information, intervention, mentoring, and outreach programs; and to provide early notification to low-income students of their eligibility for financial aid. Research has shown that successful college access programs are those that offer early intervention and mentoring services coupled with early information about estimated financial aid awards and adequate grant funding to make the dream of higher education a reality. Students participating in such programs are more financially and academically prepared, and thus more likely to enroll in college and persist to degree completion.

The second bill we introduce today, the FAFSA—Financial Aid Form Simplification and Access Act—has several key components designed to make the college application process both simple and certain. As the advisory committee's recent report, The Student Aid Gauntlet, has shown, students today confront an overly burdensome and complex financial aid application process. Our legislation would simplify this process by allowing more students to qualify for an Automatic-Zero—auto-zero—Expected Family Contribution by aligning its eligibility with the standards of other federal means-tested programs, like free school lunch, SSI, and Food Stamps. Students and families should not have to prove over and over again that they are low-income, and asking students to fill out lengthy forms when they already meet the eligibility level for Pell Grants is a burden we should ease.

In a similar vein, the legislation establishes a short, paper EZ-FAFSA application form for students qualifying for the auto-zero; phases out the printing of the long paper form and utilizes the savings to bridge the digital divide for students without web access; requires the utilization of smart technology to create a tailored web-based application form that ensures students answer only the questions needed to determine financial aid eligibility in the State in which they reside; and creates a free telefile system for students without Internet access. Additionally, the FAFSA Act requires the Secretary, in cooperation with states and colleges, to develop a system for students to get early estimates of aid from multiple sources, learn if they qualify to fill out an EZ FAFSA, and notify those participating in Federal means-tested programs of their potential eligibility for a maximum Pell Grant. Simplified forms and an early information system providing details on what filling out these forms means to students is critical, particularly given the American Council on Education's findings that one of every five dependent low-income students and one of every four independent low-income students failed to take advantage of financial aid programs because they did not submit a FAFSA.

The FAFSA Act also expands college access for low-income students, in part by simplifying the application process for students with special circumstances, including students in foster care and emancipated youth; ensuring the equitable treatment of prepaid tuition and college savings plans; and reducing the work penalty. The current income protection allowance levels are unrealistically low, creating a disincentive for students to work in order to pay college costs.

We must act on these bills and others to make sure that every student who works hard and plays by the rules gets the opportunity to live the American Dream.

I was pleased to work with the Advisory Committee on Student Financial Assistance and a host of other higher education organizations and charitable foundations on these bills.

I urge my colleagues to cosponsor these bills and work for their inclusion in the upcoming reauthorization of the Higher Education Act.

Mr. President, I ask unanimous consent that the text of these bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1029

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Accessing College through Comprehensive Early Outreach and State Partnerships Act”.

SEC. 2. GRANTS FOR ACCESS AND PERSISTENCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 415A(b) of the Higher Education Act of 1965 (20 U.S.C. 1070c(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this subpart $500,000,000 for fiscal year 2006, and such sums as may be necessary for each of the 5 succeeding fiscal years.

“(2) RESERVATION.—For any fiscal year for which the amount appropriated under paragraph (1) exceeds $30,000,000, the excess amount shall be available to carry out section 415E.”.

(b) APPLICATIONS FOR LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAMS.—Section 415C(b) of the Higher Education Act of 1965 (20 U.S.C. 1070c–2(b)) is amended—

(1) in paragraph (2), by striking “$5,000” and inserting “$12,500”;

(2) in paragraph (9), by striking “and” after the semicolon;

(3) in paragraph (10), by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

“(11) provides notification to eligible students that such grants are—

“(A) Leveraging Educational Assistance Partnership Grants; and

“(B) funded by the Federal Government and the State.”.

(c) GRANTS FOR ACCESS AND PERSISTENCE.—Section 415E of the Higher Education Act of 1965 (20 U.S.C. 1070c–3a) is amended to read as follows:

“SEC. 415E. GRANTS FOR ACCESS AND PERSISTENCE.

“(a) PURPOSE.—It is the purpose of this section to expand college access and increase college persistence by making allotments to States to enable the States to—

“(1) expand and enhance partnerships with institutions of higher education, early information and intervention, mentoring, or outreach programs, private corporations, philanthropic organizations, and other interested parties to carry out activities under this section and to provide coordination and cohesion among Federal, State, and local governmental and private efforts that provide financial assistance to help low-income students attend college;

“(2) provide need-based access and persistence grants to eligible low-income students;

“(3) provide early notification to low-income students of their eligibility for financial aid; and

“(4) encourage increased participation in early information and intervention, mentoring, or outreach programs.

“(b) ALLOTMENTS TO STATES.—

“(1) IN GENERAL.—

“(A) AUTHORIZATION.—From sums reserved under section 415A(b)(2) for each fiscal year, the Secretary shall make an allotment to each State that submits an application for an allotment in accordance with subsection (c) to enable the State to pay the Federal share of the cost of carrying out the activities under subsection (d).

“(B) DETERMINATION OF ALLOTMENT.—In making allotments under subparagraph (A), the Secretary shall consider the following:

“(i) CONTINUATION OF AWARD.—If a State continues to meet the specifications established in its application under subsection (c), the Secretary shall make an allotment to such State that is not less than the allotment made to such State for the previous fiscal year.

“(ii) PRIORITY.—The Secretary shall give priority in making allotments to States that meet the requirements under paragraph (2)(B)(ii).

“(2) FEDERAL SHARE.—

“(A) IN GENERAL.—The Federal share of the cost of carrying out the activities under subsection (d) for any fiscal year may not exceed 66.66 percent.

“(B) DIFFERENT PERCENTAGES.—The Federal share under this section shall be determined in accordance with the following:

“(i) If a State applies for an allotment under this section in partnership with any number of degree granting institutions of higher education in the State whose combined full-time enrollment represents less than a majority of all students attending institutions of higher education in the State, and philanthropic organizations that are located in, or that provide funding in, the State or private corporations that are located in, or that do business in, the State, then the Federal share of the cost of carrying out the activities under subsection (d) shall be equal to 57 percent.

“(ii) If a State applies for an allotment under this section in partnership with any number of degree granting institution of higher education in the State whose combined full-time enrollment represents a majority of all students attending institutions of higher education in the State, philanthropic organizations that are located in, or that provide funding in, the State, and private corporations that are located in, or that do business in, the State, then the Federal share of the cost of carrying out the activities under subsection (d) shall be equal to 66.66 percent.

“(c) APPLICATION FOR ALLOTMENT.—

“(1) IN GENERAL.—

“(A) SUBMISSION.—A State that desires to receive an allotment under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(B) CONTENT.—An application submitted under subparagraph (A) shall include the following:

“(i) A description of the State's plan for using the allotted funds.

“(ii) Assurances that the State will provide matching funds, from State, institutional, philanthropic, or private funds, of not less than 33.33 percent of the cost of carrying out the activities under subsection (d). Matching funds from philanthropic organizations used to provide early information and intervention, mentoring, or outreach programs may be in cash or in kind. The State shall specify the methods by which matching funds will be paid and include provisions designed to ensure that funds provided under this section will be used to supplement, and not supplant, Federal and non-Federal funds available for carrying out the activities under this title. A State that uses non-Federal funds to create or expand existing partnerships with nonprofit organizations or community-based organizations in which such organizations match State funds for student scholarships, may apply such matching funds from such organizations toward fulfilling the State's matching obligation under this clause.

“(iii) Assurances that early information and intervention, mentoring, or outreach programs exist within the State or that there is a plan to make such programs widely available.

“(iv) A description of the organizational structure that the State has in place to administer the activities under subsection (d), including a description of the system the State will use to track the participation of students who receive grants under this section to degree completion.

“(v) Assurances that the State has a method in place, such as acceptance of the automatic zero expected family contribution determination described in section 479, to identify eligible low-income students and award State grant aid to such students.

“(vi) Assurances that the State will provide notification to eligible low-income students that grants under this section are—

“(I) Leveraging Educational Assistance Partnership Grants; and

“(II) funded by the Federal Government and the State.

“(2) STATE AGENCY.—The State agency that submits an application for a State under section 415C(a) shall be the same State agency that submits an application under paragraph (1) for such State.

“(3) PARTNERSHIP.—In applying for an allotment under this section, the State agency shall apply for the allotment in partnership with—

“(A) not less than 1 public and 1 private degree granting institution of higher education that are located in the State;

“(B) new or existing early information and intervention, mentoring, or outreach programs located in the State; and

“(C) not less than 1—

“(i) philanthropic organization located in, or that provides funding in, the State; or

“(ii) private corporation located in, or that does business in, the State.

“(4) ROLES OF PARTNERS.—

“(A) STATE AGENCY.—A State agency that is in a partnership receiving an allotment under this section—

“(i) shall—

“(I) serve as the primary administrative unit for the partnership;

“(II) provide or coordinate matching funds, and coordinate activities among partners;

“(III) encourage each institution of higher education in the State to participate in the partnership;

“(IV) make determinations and early notifications of assistance as described under subsection (d)(2); and

“(V) annually report to the Secretary on the partnership's progress in meeting the purpose of this section; and

“(ii) may provide early information and intervention, mentoring, or outreach programs.

“(B) DEGREE GRANTING INSTITUTIONS OF HIGHER EDUCATION.—A degree granting institution of higher education that is in a partnership receiving an allotment under this section—

“(i) shall—

“(I) recruit and admit participating qualified students and provide such additional institutional grant aid to participating students as agreed to with the State agency;

“(II) provide support services to students who receive an access and persistence grant under this section and are enrolled at such institution; and

“(III) assist the State in the identification of eligible students and the dissemination of early notifications of assistance as agreed to with the State agency; and

“(ii) may provide funding for early information and intervention, mentoring, or outreach programs or provide such services directly.

“(C) PROGRAMS.—An early information and intervention, mentoring, or outreach program that is in a partnership receiving an allotment under this section shall provide direct services, support, and information to participating students.

“(D) PHILANTHROPIC ORGANIZATION OR PRIVATE CORPORATION.—A philanthropic organization or private corporation that is in a partnership receiving an allotment under this section shall provide funds for access and persistence grants for participating students, or provide funds or support for early information and intervention, mentoring, or outreach programs.

“(d) AUTHORIZED ACTIVITIES.—

“(1) IN GENERAL.—

“(A) ESTABLISHMENT OF PARTNERSHIP.—Each State receiving an allotment under this section shall use the funds to establish a partnership to award access and persistence grants to eligible low-income students in order to increase the amount of financial assistance such students receive under this subpart for undergraduate education expenses.

“(B) AMOUNT.—

“(i) PARTNERSHIPS WITH INSTITUTIONS SERVING LESS THAN A MAJORITY OF STUDENTS IN THE STATE.—

“(I) IN GENERAL.—In the case where a State receiving an allotment under this section is in a partnership described in subsection (b)(2)(B)(i), the amount of an access and persistence grant awarded by such State shall be not less than the amount that is equal to the average undergraduate tuition and mandatory fees at 4-year public institutions of higher education in the State where the student resides (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student) and such amount shall be used toward the cost of attendance at an institution of higher education, located in the State, that is a partner in the partnership.

“(II) COST OF ATTENDANCE.—A State that has a program, apart from the partnership under this section, of providing eligible low-income students with grants that are equal to the average undergraduate tuition and mandatory fees at 4-year public institutions of higher education in the State, may increase the amount of access and persistence grants awarded by such State up to an amount that is equal to the average cost of attendance at 4-year public institutions of higher education in the State (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student).

“(ii) PARTNERSHIP WITH INSTITUTIONS SERVING THE MAJORITY OF STUDENTS IN THE STATE.—In the case where a State receiving an allotment under this section is in a partnership described in subsection (b)(2)(B)(ii), the amount of an access and persistence grant awarded by such State shall be not more than an amount that is equal to the average cost of attendance at 4-year public institutions of higher education in the State where the student resides (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student) and such amount shall be used by the student to attend an institution of higher education, located in the State, that is a partner in the partnership.

“(2) EARLY NOTIFICATION.—

“(A) IN GENERAL.—Each State receiving an allotment under this section shall annually notify low-income students, such as students who are eligible to receive a free lunch under the school lunch program established under the Richard B. Russell National School Lunch Act, in grade 7 through grade 12 in the State of their potential eligibility for student financial assistance, including an access and persistence grant, to attend an institution of higher education.

“(B) CONTENT OF NOTICE.—The notification under subparagraph (A)—

“(i) shall include—

“(I) information about early information and intervention, mentoring, or outreach programs available to the student;

“(II) information that a student's candidacy for an access and persistence grant is enhanced through participation in an early information and intervention, mentoring, or outreach program;

“(III) an explanation that student and family eligibility and participation in other Federal means-tested programs may indicate eligibility for an access and persistence grant and other student aid programs;

“(IV) a nonbinding estimation of the total amount of financial aid a low-income student with a similar income level may expect to receive, including an estimation of the amount of an access and persistence grant and an estimation of the amount of grants, loans, and all other available types of aid from the major Federal and State financial aid programs;

“(V) an explanation that in order to be eligible for an access and persistence grant, at a minimum, a student shall meet the requirement under paragraph (3), graduate from secondary school, and enroll at an institution of higher education that is a partner in the partnership;

“(VI) information on any additional requirements (such as a student pledge detailing student responsibilities) that the State may impose for receipt of an access and persistence grant under this section; and

“(VII) instructions on how to apply for an access and persistence grant and an explanation that a student is required to file a Free Application for Federal Student Aid authorized under section 483(a) to be eligible for such grant and assistance from other Federal and State financial aid programs; and

“(ii) may include a disclaimer that access and persistence grant awards are contingent upon—

“(I) a determination of the student's financial eligibility at the time of the student's enrollment at an institution of higher education that is a partner in the partnership;

“(II) annual Federal and State appropriations; and

“(III) other aid received by the student at the time of the student's enrollment at an institution of higher education that is a partner in the partnership.

“(3) ELIGIBILITY.—In determining which students are eligible to receive access and persistence grants, the State shall ensure that each such student meets not less than 1 of the following:

“(A) Meets not less than 2 of the following criteria, with priority given to students meeting all of the following criteria:

“(i) Has an expected family contribution equal to zero (as described in section 479) or a comparable alternative based upon the State's approved criteria in section 415C(b)(4).

“(ii) Has qualified for a free lunch, or at the State's discretion a reduced price lunch, under the school lunch program established under the Richard B. Russell National School Lunch Act.

“(iii) Qualifies for the State's maximum undergraduate award, as authorized under section 415C(b).

“(iv) Is participating in, or has participated in, a Federal, State, institutional, or community early information and intervention, mentoring, or outreach program, as recognized by the State agency administering activities under this section.

“(B) Is receiving, or has received, an access and persistence grant under this section, in accordance with paragraph (5).

“(4) GRANT AWARD.—Once a student, including those who have received early notification under paragraph (2) from the State, applies for admission to an institution that is a partner in the partnership, files a Free Application for Federal Student Aid and any related existing State form, and is determined eligible by the State under paragraph (3), the State shall—

"(A) issue the student a preliminary access and persistence grant award certificate with tentative award amounts; and

"(B) inform the student that payment of the access and persistence grant award amounts is subject to certification of enrollment and award eligibility by the institution of higher education.

"(5) DURATION OF AWARD.—An eligible student that receives an access and persistence grant under this section shall receive such grant award for each year of such student's undergraduate education in which the student remains eligible for assistance under this title, including pursuant to section 484(c), and remains financially eligible as determined by the State, except that the State may impose reasonable time limits to baccalaureate degree completion.

"(e) ADMINISTRATIVE COST ALLOWANCE.—A State that receives an allotment under this section may reserve not more than 3.5 percent of the funds made available annually through the allotment for State administrative functions required to carry out this section.

"(f) STATUTORY AND REGULATORY RELIEF FOR INSTITUTIONS OF HIGHER EDUCATION.—The Secretary may grant, upon the request of an institution of higher education that is in a partnership described in subsection (b)(2)(B)(ii) and that receives an allotment under this section, a waiver for such institution from statutory or regulatory requirements that inhibit the ability of the institution to successfully and efficiently participate in the activities of the partnership.

"(g) APPLICABILITY RULE.—The provisions of this subpart which are not inconsistent with this section shall apply to the program authorized by this section.

"(h) MAINTENANCE OF EFFORT REQUIREMENT.—Each State receiving an allotment under this section for a fiscal year shall provide the Secretary an assurance that the aggregate amount expended per student or the aggregate expenditures by the State, from funds derived from non-Federal sources, for the authorized activities described in subsection (d) for the preceding fiscal year were not less than the amount expended per student or the aggregate expenditure by the State for the activities for the second preceding fiscal year.

"(i) SPECIAL RULE.—Notwithstanding subsection (h), for purposes of determining a State's share of the cost of the authorized activities described in subsection (d), the State shall consider only those expenditures from non-Federal sources that exceed its total expenditures for need-based grants, scholarships, and work-study assistance for fiscal year 1999 (including any such assistance provided under this subpart).

"(j) REPORTS.—Not later than 3 years after the date of enactment of the Accessing College through Comprehensive Early Outreach and State Partnerships Act, and annually thereafter, the Secretary shall submit a report describing the activities and the impact of the partnerships under this section to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.".

(d) CONTINUATION AND TRANSITION.—During the 2-year period commencing on the date of enactment of this Act, the Secretary shall continue to award grants under section 415E of the Higher Education Act of 1965 (20 U.S.C. 1070c-3a), as such section existed on the day before the date of enactment of this Act, to States that choose to apply for grants under such predecessor section.

(e) IMPLEMENTATION AND EVALUATION.—Section 491(j) of the Higher Education Act of 1965 (20 U.S.C. 1098(j)) is amended—

(1) in paragraph (4), by striking "and" after the semicolon; and

(2) by striking paragraph (5) and inserting the following:

"(5) not later than 6 months after the date of enactment of the Accessing College through Comprehensive Early Outreach and State Partnerships Act, advise the Secretary on means to implement the activities under section 415E, and the Advisory Committee shall continue to monitor, evaluate, and make recommendations on the progress of partnerships that receive allotments under such section; and".

S. 1030

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Financial Aid Form Simplification and Access Act".

SEC. 2. SIMPLIFIED NEEDS TEST AND AUTOMATIC ZERO IMPROVEMENTS.

(a) SIMPLIFIED NEEDS TEST.—Section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking subparagraph (A)(i) and inserting the following:

"(i) the student's parents—

"(I) file, or are eligible to file, a form described in paragraph (3);

"(II) certify that they are not required to file an income tax return;

"(III) 1 of whom is a dislocated worker; or

"(IV) or the student received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) by striking subparagraph (B)(i) and inserting the following:

"(i) the student (and the student's spouse, if any)—

"(I) files, or is eligible to file, a form described in paragraph (3);

"(II) certifies that the student (and the student's spouse, if any) is not required to file an income tax return;

"(III) is a dislocated worker; or

"(IV) received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(B) in paragraph (3), by striking "A student or family files a form described in this subsection, or subsection (c), as the case may be, if the student or family, respectively, files" and inserting "In the case of an independent student, the student, or in the case of a dependent student, the family, files a form described in this subsection, or subsection (c), as the case may be, if the student or family, as appropriate, files";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the student's parents—

"(i) file, or are eligible to file, a form described in subsection (b)(3);

"(ii) certify that they are not required to file an income tax return;

"(iii) 1 of whom is a dislocated worker; or

"(iv) or the student received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) the sum of the adjusted gross income of the parents is less than or equal to $25,000; or";

(B) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the student (and the student's spouse, if any)—

"(i) files, or is eligible to file, a form described in subsection (b)(3);

"(ii) certifies that the student (and the student's spouse, if any) is not required to file an income tax return;

"(iii) is a dislocated worker; or

"(iv) received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to $25,000."; and

(C) by striking the flush matter at the end and inserting the following:

"The Secretary shall annually adjust the income level necessary to qualify an applicant for the zero expected family contribution. The income level shall be adjusted according to increases in the Consumer Price Index, as defined in section 478(f)."; and

(3) by adding at the end the following:

"(d) DEFINITIONS.—In this section:

"(1) DISLOCATED WORKER.—The term 'dislocated worker' has the same meaning given the term in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801).

"(2) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—The term 'means-tested Federal benefit program' means a mandatory spending program of the Federal Government in which eligibility for the program's benefits, or the amount of such benefits, or both, are determined on the basis of income or resources of the individual or family seeking the benefit, and includes the supplemental security income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), and the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).".

(b) DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS.—Section 479A(a) of the Higher Education Act of 1965 (20 U.S.C. 1087tt(a)) is amended in the third sentence by inserting "a family member who is a dislocated worker (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801))," after "recent unemployment of a family member,".

(c) REPORTING REQUIREMENTS.—

(1) ELIGIBILITY GUIDELINES.—The Secretary of Education shall regularly evaluate the impact of the eligibility guidelines in subsections (b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A)).

(2) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—The Secretary shall evaluate every 3 years the impact of including whether a student or parent received benefits under a means-tested Federal benefit program (as defined in section 479(d) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(d)) as a factor in determining eligibility under subsections (b) and (c) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b) and (c)).

SEC. 3 IMPROVING PAPER AND ELECTRONIC FORMS.

(a) Simplified Needs Test.—Section 479(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(a)) is amended by adding at the end the following:

"(3) Simplified forms.—The Secretary shall make special efforts to notify families meeting the requirements of subsection (c) that such families may use the EZ FAFSA described in section 483(a)(2)(B) and notify families meeting the requirements of subsection (b) that such families may use the simplified electronic application form described in section 483(a)(3)(B).".

(b) Common Financial Aid Form Development and Processing.—Section 483 of the Higher Education Act of 1965 (20 U.S.C. 1090) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1), (2), and (5):

(B) by redesignating paragraphs (3), (4), (6), and (7), as paragraphs (8), (9), (10), and (11), respectively;

(C) by inserting before paragraph (8), as redesignated by subparagraph (B), the following:

"(1) In general.—

"(A) Common financial reporting forms.—The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used for application and reapplication to determine the need and eligibility of a student for financial assistance under parts A through E (other than subpart 4 of part A). These forms shall be made available to applicants in both paper and electronic formats and shall be referred to (except as otherwise provided in this subsection) as the 'Free Application for Federal Student Aid' or 'FAFSA'.

"(B) Early analysis.—The Secretary shall permit an applicant to complete a form described in this subsection prior to enrollment in order to obtain an estimate from the Secretary of the applicant's expected family contribution, as defined in section 473. Such applicant shall be permitted to update information submitted on a form described in this subsection completed prior to enrollment using the process described in paragraph (4).

"(2) Paper format.—

"(A) In general.—Subject to subparagraph (C), the Secretary shall produce, distribute, and process common forms in paper format to meet the requirements of paragraph (1). The Secretary shall develop a common paper form for applicants who do not meet the requirements of subparagraph (B).

"(B) EZ FAFSA.—

"(i) In general.—The Secretary shall develop and use a simplified paper application form, to be known as the 'EZ FAFSA', to be used for applicants meeting the requirements of section 479(c).

"(ii) Reduced data requirements.—The EZ FAFSA shall permit an applicant to submit for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under section 479(c).

"(iii) State data.—The Secretary shall include on the EZ FAFSA space for information that is required of an applicant to be eligible for State financial assistance, as provided under paragraph (5), except the Secretary shall not include a State's data if that State does not permit its applicants for State assistance to use the EZ FAFSA.

"(iv) Free availability and processing.—The provisions of paragraph (6) shall apply to the EZ FAFSA, and the data collected by means of the EZ FAFSA shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (8).

"(v) Testing.—The Secretary shall conduct appropriate field testing on the EZ FAFSA.

"(C) Phasing out the paper form for students who do not meet the requirements of the automatic zero expected family contribution.—

"(i) In general.—The Secretary shall make all efforts to encourage all applicants to utilize the electronic forms described in paragraph (3).

"(ii) Phaseout of full paper FAFSA.—Not later than 5 years after the date of enactment of the Financial Aid Form Simplification and Access Act, to the extent practicable, the Secretary shall phaseout the printing of the full paper Free Application for Federal Student Aid described in subparagraph (A) and used by applicants who do not meet the requirements of the EZ FAFSA described in subparagraph (B).

"(iii) Availability of full paper FAFSA.—

"(I) In general.—Prior to and after the phaseout described in clause (ii), the Secretary shall maintain an online printable version of the paper forms described in subparagraphs (A) and (B).

"(II) Accessibility.—The online printable version described in subclause (I) shall be made easily accessible and downloadable to students on the same website used to provide students with the electronic application forms described in paragraph (3).

"(III) Submission of forms.—The Secretary shall enable, to the extent practicable, students to submit a form described in this clause that is downloaded and printed in order to meet the filing requirements of this section and to receive aid from programs established under this title.

"(iv) Use of savings to address the digital divide.—

"(I) In general.—The Secretary shall utilize savings accrued by phasing out the full paper Free Application for Federal Student Aid and moving more applicants to the electronic forms, to improve access to the electronic forms for applicants meeting the requirements of section 479(c).

"(II) Report.—The Secretary shall report annually to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on steps taken to eliminate the digital divide and on the phaseout of the full paper Free Application for Federal Student Aid described in subparagraph (A). The report shall specifically address the impact of the digital divide on independent students, adults, and dependent students, including students completing applications described in this paragraph and paragraphs (3) and (4).

"(3) Electronic format.—

"(A) In general.—

"(i) Establishment.—The Secretary shall produce, distribute, and process common financial reporting forms in electronic format (such as through a website called 'FAFSA on the Web') to meet the requirements of paragraph (1). The Secretary shall include an electronic version of the EZ FAFSA form for applicants who meet the requirements of paragraph (2)(B) and develop common electronic forms for applicants who meet the requirements of subparagraph (B) and common electronic forms for applicants who do not meet the requirements of subparagraph (B).

"(ii) State data.—The Secretary shall include on the common electronic forms described in clause (i) space for information that is required of an applicant to be eligible for State financial assistance, as provided under paragraph (5). The Secretary may not require an applicant to complete data required by any State other than the applicant's State of residence.

(iii) Streamlined format.—The Secretary shall use, to the fullest extent practicable, all available technology to ensure that a student answers only the minimum number of questions necessary.

"(B) Simplified application.—

"(i) In general.—The Secretary shall develop and use a simplified electronic application form to be used by applicants meeting the requirements under section 479(b).

"(ii) Reduced data requirements.—The simplified electronic application form shall permit an applicant to submit for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under section 479(b).

"(iii) State data.—The Secretary shall include on the simplified electronic application form space for information that is required of an applicant to be eligible for State financial assistance, as provided under paragraph (5), except the Secretary shall not include a State's data if that State does not permit its applicants for State assistance to use the simplified electronic application form.

"(iv) Free availability and processing.—The provisions of paragraph (6) shall apply to the simplified electronic application form, and the data collected by means of the simplified electronic application form shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (8).

"(v) Testing.—The Secretary shall conduct appropriate field testing on the form developed under this subparagraph.

"(C) Rule of construction.—Nothing in this subsection shall be construed to prohibit the use of the form developed by the Secretary pursuant to this paragraph by an eligible institution, eligible lender, guaranty agency, State grant agency, private computer software providers, a consortium of such entities, or such other entities as the Secretary may designate.

"(D) Privacy.—The Secretary shall ensure that data collection under this paragraph complies with section 552a of title 5, United States Code, and that any entity using the electronic version of the forms developed by the Secretary pursuant to this paragraph shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information, and to protect against security threats, or unauthorized uses or disclosures of the information provided on the electronic version of the form. Data collected by such electronic version of the form shall be used only for the application, award, and administration of aid awarded under this title, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate. No data collected by such electronic version of the form shall be used for making final aid awards under this title until such data have been processed by the Secretary or a contractor or designee of the Secretary, except as may be permitted under this title.

"(E) Signature.—Notwithstanding any other provision of this Act, the Secretary may permit an electronic form to be submitted without a signature, if a signature is subsequently submitted by the applicant.

“(F) PERSONAL IDENTIFICATION NUMBERS AUTHORIZED.—The Secretary is authorized to assign to applicants personal identification numbers—

“(i) to enable the applicants to use such numbers in lieu of a signature for purposes of completing a form under this paragraph; and

“(ii) for any purpose determined by the Secretary to enable the Secretary to carry out this title.

“(4) REAPPLICATION.—

“(A) IN GENERAL.—The Secretary shall develop streamlined reapplication forms and processes, including both paper and electronic reapplication processes, consistent with the requirements of this subsection, for an applicant who applies for financial assistance under this title in the next succeeding academic year subsequent to the year in which such applicant first applied for financial assistance under this title.

“(B) UPDATED.—The Secretary shall determine, in cooperation with States, institutions of higher education, and agencies and organizations involved in student financial assistance, the data elements that can be updated from the previous academic year's application.

“(C) RULE OF CONSTRUCTION.—Nothing in this title shall be construed as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants.

“(D) ZERO FAMILY CONTRIBUTION.—Applicants determined to have a zero family contribution pursuant to section 479(c) shall not be required to provide any financial data in a reapplication form, except that which is necessary to determine eligibility under such section.

“(5) STATE REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary shall include on the forms developed under this subsection, such State-specific data items as the Secretary determines are necessary to meet State requirements for need-based State aid. Such items shall be selected in consultation with States to assist in the awarding of State financial assistance in accordance with the terms of this subsection. The number of such data items shall not be less than the number included on the form on October 7, 1998, unless States notify the Secretary that they no longer require those data items for the distribution of State need-based aid.

“(B) ANNUAL REVIEW.—The Secretary shall conduct an annual review process to determine which forms and data items the States require to award need-based State aid and other application requirements that the States may impose.

“(C) FEDERAL REGISTER NOTICE.—The Secretary shall publish on an annual basis a notice in the Federal Register requiring each State agency to inform the Secretary—

“(i) if the agency is unable to permit applicants to utilize the forms described in paragraphs (2)(B) and (3)(B); and

“(ii) of the State-specific data that the agency requires for delivery of State need-based financial aid.

“(D) STATE NOTIFICATION TO THE SECRETARY.—

“(i) IN GENERAL.—Each State shall notify the Secretary—

“(I) whether the State permits an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based grant aid; and

“(II) of the State-specific data that the State requires for delivery of State need-based financial aid.

“(ii) NO PERMISSION.—In the event that a State does not permit an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based grant aid—

“(I) the State shall notify the Secretary if it is not permitted to do so because of either State law or because of agency policy; and

“(II) the notification under subclause (I) shall include an estimate of the program cost to permit applicants to complete the forms described in paragraphs (2)(B) and (3)(B).

“(iii) LACK OF NOTIFICATION BY THE STATE.—If a State does not notify the Secretary pursuant to clause (i), the Secretary shall—

“(I) permit residents of that State to complete the forms described in paragraphs (2)(B) and (3)(B); and

“(II) not require any resident of that State to complete any data previously required by that State.

“(E) RESTRICTION.—The Secretary shall not require applicants to complete any nonfinancial data or financial data that are not required by the applicant's State agency, except as may be required for applicants who use the paper forms described in subparagraphs (A) and (B) of paragraph (2).

“(6) CHARGES TO STUDENTS AND PARENTS FOR USE OF FORMS PROHIBITED.—The common financial reporting forms prescribed by the Secretary under this subsection shall be produced, distributed, and processed by the Secretary and no parent or student shall be charged a fee by the Secretary, a contractor, a third party servicer or private software provider, or any other public or private entity for the collection, processing, or delivery of financial aid through the use of such forms. The need and eligibility of a student for financial assistance under parts A through E (other than under subpart 4 of part A) may only be determined by using a form developed by the Secretary pursuant to this subsection. No student may receive assistance under parts A through E (other than under subpart 4 of part A), except by use of a form developed by the Secretary pursuant to this subsection. No data collected on a paper or electronic form or other document, which the Secretary determines was created to replace a form prescribed under this subsection and therefore violates the integrity of a simplified and free financial aid application process, for which a fee is charged shall be used to complete the form prescribed under this subsection. No person, commercial entity, or other entity shall request, obtain, or utilize an applicant's Personal Identification Number for purposes of submitting an application on an applicant's behalf except State agencies that have entered into an agreement with the Secretary to streamline applications, eligible institutions, or programs under this title as permitted by the Secretary.

“(7) APPLICATION PROCESSING CYCLE.—The Secretary shall, prior to January 1 of a student's planned year of enrollment to the extent practicable—

“(A) enable the student to submit a form described under this subsection in order to meet the filing requirements of this section and receive aid from programs under this title; and

“(B) initiate the processing of a form under this subsection submitted by the student.”; and

(D) by adding at the end the following:

“(12) EARLY APPLICATION AND AWARD DEMONSTRATION PROGRAM.—

“(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Secretary shall implement an early application demonstration program enabling dependent students to—

“(i) complete applications under this subsection in such students' junior year of secondary school, or in the academic year that is 2 years prior to such students' intended year of enrollment at an institution of higher education; and

“(ii) be eligible to receive aid under this title, aid from participants under this paragraph, State financial assistance as provided under section 415C, and other aid provided by participating institutions through the submission of an application as described in clause (i).

“(B) PURPOSE.—The purpose of the demonstration program under this paragraph is to measure the benefits, in terms of student aspirations and plans to attend college, and the adverse effects, in terms of program costs, integrity, distribution, and delivery of aid under this title, of implementing an early application system for all dependent students that allows dependent students to apply for financial aid using information from the year prior to the year prior to enrollment at an institution of higher education. Additional objectives associated with implementation of the demonstration program are the following:

“(i) Measure the feasibility of enabling dependent students to apply for Federal, State, and institutional financial aid in such students' junior year of secondary school, using information from the year prior to the year prior to enrollment, by completing any of the application forms under this subsection.

“(ii) Determine the feasibility, benefits, and adverse effects of implementing a data match with the Internal Revenue Service.

“(iii) Identify whether receiving final financial aid awards not later than the fall of a student's senior year positively impacts the college aspirations and plans of such student.

“(iv) Measure the impact of using income information from the year prior to the year prior to enrollment on—

“(I) eligibility for financial aid under this title and for other institutional aid; and

“(II) the cost of financial aid programs under this title.

“(v) Effectively evaluate the benefits and adverse effects of the demonstration program on program costs, integrity, distribution, and delivery of aid.

“(C) PARTICIPANTS.—The Secretary shall select, in consultation with States and institutions of higher education, States and institutions within the States interested in participating in the demonstration program under this paragraph. The States and institutions of higher education shall participate in programs under this title and be willing to make final financial aid awards to students based on such students' application information from the year prior to the year prior to enrollment. Such awards may be contingent on the student being admitted to and enrolling in the participating institution the following year. The Secretary shall also select as participants in the demonstration program secondary schools that are located in the participating States and dependent students who reside in the participating States.

“(D) APPLICATION PROCESS.—The Secretary shall ensure that the following provisions are included in the demonstration program:

“(i) Participating States and institutions of higher education shall—

“(I) allow participating students to apply for financial aid as provided under this title during such students' junior year of secondary school using information from the year prior to the year prior to enrollment; and

"(II) award final financial aid awards to participating students based on the applications provided under the demonstration program.

"(ii) Participating States and institutions of higher education shall not require students participating in the demonstration program to complete an additional application in the year prior to enrollment in order to receive State aid under section 415C and any other institutional aid.

"(iii) Financial aid administrators at participating institutions of higher education shall be allowed to use such administrators' discretion in awarding financial aid to participating students, as outlined under sections 479A and 480(d).

"(E) DATA MATCH WITH THE INTERNAL REVENUE SERVICE.—The Secretary shall include in the demonstration project a data match with the Internal Revenue Service in order to verify data provided by participating students and gauge the feasibility of implementing such a data match for all students applying for aid under this title.

"(F) EVALUATION.—The Secretary shall conduct a rigorous evaluation of the demonstration program in order to measure the program's benefits and adverse effects as required under subparagraph (B).

"(G) OUTREACH.—The Secretary shall make appropriate efforts in order to notify States of the demonstration program. Upon determination of which States will be participating in the demonstration program, the Secretary shall continue to make efforts to notify institutions of higher education and dependent students within such participating States of the opportunity to participate in the demonstration program and of the participation requirements.

"(H) CONSULTATION.—The Secretary shall consult with the Advisory Committee on Student Financial Assistance, established under section 491, on the design and implementation of the demonstration program and on the evaluation described in paragraph (F).";

(2) by striking subsection (b) and inserting the following:

"(b) EARLY AWARENESS OF AID ELIGIBILITY.—

"(1) IN GENERAL.—The Secretary shall make every effort to provide students with early information about potential financial aid eligibility.

"(2) AVAILABILITY OF MEANS TO DETERMINE ELIGIBILITY.—

"(A) IN GENERAL.—The Secretary shall provide, in cooperation with States, institutions of higher education, agencies, and organizations involved in student financial assistance, both through a widely disseminated printed form and the Internet or other electronic means, a system for individuals to determine easily, by entering relevant data, approximately the amount of grant, work-study, and loan assistance for which an individual would be eligible under this title upon completion and verification of a form under subsection (a).

"(B) DETERMINATION OF WHETHER TO USE SIMPLIFIED APPLICATION.—The system established under this paragraph shall also permit an individual to determine whether or not the individual may apply for aid using an EZ FAFSA described in subsection (a)(2)(B) or a simplified electronic application form described in subsection (a)(3)(B).

"(3) AVAILABILITY OF MEANS TO COMMUNICATE ELIGIBILITY.—

"(A) LOWER-INCOME STUDENTS.—The Secretary shall—

"(i) make special efforts to notify students who qualify for a free or reduced price lunch under the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), benefits under the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), or benefits under such programs as the Secretary shall determine, of such students' potential eligibility for a maximum Federal Pell Grant under subpart 1 of part A; and

"(ii) disseminate informational materials regarding the linkage between eligibility for means-tested Federal benefit programs and eligibility for a Federal Pell Grant, as determined necessary by the Secretary.

"(B) MIDDLE SCHOOL STUDENTS.—The Secretary shall, in cooperation with States, middle schools, programs under this title that serve middle school students, and other cooperating independent outreach programs, make special efforts to notify middle school students of the availability of financial assistance under this title and of the approximate amounts of grant, work-study, and loan assistance an individual would be eligible for under this title.

"(C) SECONDARY SCHOOL STUDENTS.—The Secretary shall, in cooperation with States, secondary schools, programs under this title that serve secondary school students, and cooperating independent outreach programs, make special efforts to notify students in their junior year of secondary school the approximate amounts of grant, work-study, and loan assistance an individual would be eligible for under this title upon completion and verification of an application form under subsection (a).";

(3) in subsection (c), by striking "Labor and Human Resources" and inserting "Health, Education, Labor, and Pensions";

(4) by striking subsection (d);

(5) by redesignating subsection (e) as subsection (d); and

(6) by amending subsection (d), as redesignated by paragraph (5), to read as follows:

"(d) ASSISTANCE IN PREPARATION OF FINANCIAL AID APPLICATION.—

"(1) PREPARATION AUTHORIZED.—Nothing in this Act shall limit an applicant from using a preparer for consultative or preparation services for the completion of the common financial reporting forms described in subsection (a).

"(2) PREPARER IDENTIFICATION.—Any common financial reporting form required to be made under this title shall include the name, signature, address or employer's address, social security number or employer identification number, and organizational affiliation of the preparer of such common financial reporting form.

"(3) SPECIAL RULE.—Nothing in this Act shall limit preparers of common financial reporting forms required to be made under this title from collecting source information, including Internal Revenue Service tax forms, in providing consultative and preparation services in completing the forms.

"(4) ADDITIONAL REQUIREMENTS.—A preparer that provides consultative or preparation services pursuant to this subsection shall—

"(A) clearly inform individuals upon initial contact (including advertising in clear and conspicuous language on the website of the preparer, including by providing a link directly to the website described in subsection (a)(3), if the preparer provides such services through a website) that the common financial reporting forms that are required to determine eligibility for financial assistance under parts A through E (other than subpart 4 of part A) may be completed for free via paper or electronic forms provided by the Secretary;

"(B) refrain from producing or disseminating any form other than the forms produced by the Secretary under subsection (a); and

"(C) not charge any fee to any individual seeking such services who meets the requirements under subsection (b) or (c) of section 479.".

(c) TOLL-FREE APPLICATION AND INFORMATION.—Section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss), as amended by section 2, is further amended by adding at the end the following:

"(e) TOLL-FREE APPLICATION AND INFORMATION.—The Secretary shall contract for, or establish, and publicize a toll-free telephone service to provide an application mechanism and timely and accurate information to the general public. The information provided shall include specific instructions on completing the application form for assistance under this title. Such service shall also include a service accessible by telecommunications devices for the deaf (TDD's) and shall, in addition to the services provided for in the previous sentence, refer such students to the national clearinghouse on postsecondary education or another appropriate provider of technical assistance and information on postsecondary educational services, that is supported under section 663 of the Individuals with Disabilities Education Act. Not later than 2 years after the date of enactment of the Financial Aid Form Simplification and Access Act, the Secretary shall test and implement, to the extent practicable, a toll-free telephone-based application system to permit applicants who are eligible to utilize the EZ FAFSA described in section 483(a) over such system.".

(d) MASTER CALENDAR.—Section 482(a)(1)(B) of the Higher Education Act of 1965 (20 U.S.C. 1089(a)(1)(B)) is amended to read as follows:

"(B) by March 1: proposed modifications and updates pursuant to sections 478, 479(c), and 483(a)(5) published in the Federal Register;".

(e) SIMPLIFYING THE VERIFICATION PROCESS.—Section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091) is amended by adding at the end the following:

"(s) VERIFICATION OF STUDENT ELIGIBILITY.—

"(1) REGULATORY REVIEW.—The Secretary shall review all regulations of the Department related to verifying the information provided on a student's financial aid application in order to simplify the verification process for students and institutions.

"(2) REPORT.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall prepare and submit a final report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on steps taken, to the extent practicable, to simplify the verification process. The report shall specifically address steps taken to—

"(A) reduce the burden of verification on students who are selected for verification at multiple institutions;

"(B) reduce the number of data elements that are required to be verified for applicants meeting the requirements of subsection (b) or (c) of section 479, so that only those data elements required to determine eligibility under subsection (b) or (c) of section 479 are subject to verification;

"(C) reduce the burden and costs associated with verification for institutions that are eligible to participate in Federal student aid programs under this title; and

"(D) increase the use of technology in the verification process.".

SEC. 4. ALLOWANCE FOR STATE AND OTHER TAXES.

Section 478(g) of the Higher Education Act of 1965 (20 U.S.C. 1087rr(g)) is amended to read as follows:

"(g) STATE AND OTHER TAX ALLOWANCE.—

"(1) HOLD HARMLESS.—Notwithstanding any other provision of law, the annual updates to the allowance for State and other taxes in the tables used in the Federal Need Analysis Methodology to determine a student's expected family contribution for the award year 2005–2006 under part F of title IV, published in the Federal Register on Thursday, December 23, 2004 (69 Fed. Reg. 76926), shall not apply to a student to the extent the updates will reduce the amount of Federal student assistance for which the student is eligible.

"(2) PUBLICATION IN THE FEDERAL REGISTER.—For each award year after award year 2005–2006, the Secretary shall publish in the Federal Register a revised table of State and other tax allowances for the purpose of sections 475(c)(2), 475(g)(3), 476(b)(2), and 477(b)(2). The Secretary shall develop such revised table after review of the Department of the Treasury's Statistics of Income file and determination of the percentage of income that each State's taxes represent. The Secretary shall phase-in the State and other tax allowances from the revised table for an award year proportionately over a period of time of not less than 2 years if a revised table was not published in the Federal Register during the previous award year.

"(3) AGREEMENT.—The Secretary is authorized to enter into agreement with the Commissioner of the Internal Revenue Service to develop the data required to revise the table of State and other tax allowances for the purpose of sections 475(c)(2), 475(g)(3), 476(b)(2), and 477(b)(2).".

SEC. 5. SUPPORT FOR WORKING STUDENTS.

(a) DEPENDENT STUDENTS.—Section 475(g)(2)(D) of the Higher Education Act of 1965 (20 U.S.C. 1087oo(g)(2)(D)) is amended to read as follows:

"(D) $9,000;".

(b) INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.—Section 476(b)(1)(A)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1087pp(b)(1)(A)(iv)) is amended to read as follows:

"(iv) an income protection allowance of the following amount (or a successor amount prescribed by the Secretary under section 478)—

"(I) $10,000 for single or separated students;

"(II) $10,000 for married students where both are enrolled pursuant to subsection (a)(2); and

"(III) $13,000 for married students where 1 is enrolled pursuant to subsection (a)(2);".

(c) INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.—Section 477(b)(4) of the Higher Education Act of 1965 (20 U.S.C. 1087qq(b)(4)) is amended to read as follows:

"(4) INCOME PROTECTION ALLOWANCE.—The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 478):

"Income Protection Allowance

Family Size	Number in College				
	1	2	3	4	5
2	$17,580	$15,230			
3	20,940	17,610	$16,260		
4	24,950	22,600	20,270	$17,930	
5	28,740	26,390	24,060	21,720	$19,390
6	32,950	30,610	28,280	25,940	23,610

NOTE: For each additional family member, add $3,280.
For each additional college student, subtract $2,330.".

SEC. 6. SIMPLIFICATION FOR STUDENTS WITH SPECIAL CIRCUMSTANCES.

(a) INDEPENDENT STUDENT.—Section 480(d) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(d)) is amended to read as follows:

"(d) INDEPENDENT STUDENT.—

"(1) DEFINITION.—The term 'independent', when used with respect to a student, means any individual who—

"(A) is 24 years of age or older by December 31 of the award year;

"(B) is an orphan, in foster care, or a ward of the court, or was in foster care or a ward of the court until the individual reached the age of 18;

"(C) is an emancipated minor or is in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;

"(D) is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1)) or is currently serving on active duty in the Armed Forces;

"(E) is a graduate or professional student;

"(F) is a married individual;

"(G) has legal dependents other than a spouse; or

"(H) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

"(2) SIMPLIFYING THE DEPENDENCY OVERRIDE PROCESS.—Nothing in this section shall prohibit a financial aid administrator from making a determination of independence, as described in paragraph (1)(H), based upon a determination of independence previously made by another financial aid administrator in the same application year.".

(b) TAILORING ELECTRONIC APPLICATIONS FOR STUDENTS WITH SPECIAL CIRCUMSTANCES.—Section 483(a) of the Higher Education Act of 1965 (20 U.S.C. 1090(a)), as amended by section 3, is further amended by adding at the end the following:

"(13) APPLICATIONS FOR STUDENTS SEEKING A DOCUMENTED DETERMINATION OF INDEPENDENCE.—In the case of a dependent student seeking a documented determination of independence by a financial aid administrator, as described in section 480(d), nothing in this section shall prohibit the Secretary from—

"(A) allowing such student to—

"(i) indicate the student's request for a documented determination of independence on an electronic form developed pursuant to this subsection; and

"(ii) submit such form for preliminary processing that only contains those data elements required of independent students, as defined in section 480(d);

"(B) collecting and processing on a preliminary basis data provided by such a student using the electronic forms developed pursuant to this subsection; and

"(C) distributing such data to institutions of higher education, guaranty agencies, and States for the purposes of processing loan applications and determining need and eligibility for institutional and State financial aid awards on a preliminary basis, pending a documented determination of independence by a financial aid administrator.".

SEC. 7. TREATMENT OF PREPAYMENT AND SAVINGS PLANS UNDER STUDENT FINANCIAL AID NEEDS ANALYSIS.

(a) DEFINITION OF ASSETS.—Section 480(f) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(f)) is amended—

(1) in paragraph (1), by inserting "qualified education benefits, except as provided in subparagraph (2)," after "tax shelters,";

(2) by redesignating paragraph (2) as paragraph (4); and

(3) by inserting after paragraph (1) the following:

"(2) A qualified education benefit shall not be considered an asset of a dependent student for purposes of section 475. The value of a qualified education benefit for purposes of determining the assets of parents or an independent student shall be—

"(A) the refund value of any tuition credits or certificates purchased under a qualified education benefit; or

"(B) the current balance of any account that is established as a qualified education benefit for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account.

"(3) In this subsection, the term 'qualified education benefit' means—

"(A) a qualified tuition program (as defined in section 529(b)(1) of the Internal Revenue Code of 1986) or another prepaid tuition plan offered by a State; or

"(B) a Coverdell education savings account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986).".

(b) DEFINITION OF OTHER FINANCIAL ASSISTANCE.—Section 480(j) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(j)) is amended—

(1) in the heading, by striking "; TUITION PREPAYMENT PLANS";

(2) by striking paragraph (2);

(3) in paragraph (3), by inserting ", or a distribution that is not includable in gross income under section 529 of such Code, under another prepaid tuition plan offered by a State, or under a Coverdell education savings account under section 530 of such Code" after "1986"; and

(4) by redesignating paragraph (3) as paragraph (2).

(c) TOTAL INCOME.—Section 480(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(a)(2)) is amended to read as follows:

"(2) No portion of any student financial assistance received from any program by an individual, no portion of a national service educational award or post-service benefit received by an individual under title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.), no portion of any tax credit taken under section 25A of the Internal Revenue Code of 1986, and no distribution from any qualified education benefit defined in subsection (f)(3) that is not subject to Federal income tax, shall be included as income or assets in the computation of expected family contribution for any program funded in whole or in part under this Act.".

SEC. 8. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.

Section 491 of the Higher Education Act of 1965 (20 U.S.C. 1098) is further amended—

(1) in subsection (a)(2)—

(A) in subparagraph (B), by striking "and" after the semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(D) to provide knowledge and understanding of early intervention programs and make recommendations that will result in early awareness by low- and moderate-income students and families of their eligibility for assistance under this title, and, to the extent practicable, their eligibility for other forms of State and institutional need-based student assistance; and

"(E) to make recommendations that will expand and improve partnerships among the Federal Government, States, institutions, and private entities to increase the awareness and total amount of need-based student assistance available to low- and moderate-income students.";

(2) in subsection (d)—

(A) in paragraph (6), by striking ", but nothing in this section shall authorize the committee to perform such studies, surveys, or analyses";

(B) in paragraph (8), by striking "and" after the semicolon;

(C) by redesignating paragraph (9) as paragraph (10); and

(D) by inserting after paragraph (8) the following:

"(9) monitor the adequacy of total need-based aid available to low- and moderate-income students from all sources, assess the implications for access and persistence, and report those implications annually to Congress and the Secretary; and";

(3) in subsection (j)—

(A) in paragraph (4), by striking "and" after the semicolon;

(B) in paragraph (5), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(6) monitor and assess implementation of improvements called for under this title, make recommendations to the Secretary that ensure the timely design, testing, and implementation of the improvements, and report annually to Congress and the Secretary on progress made toward simplifying overall delivery, reducing data elements and questions, incorporating the latest technology, aligning Federal, State, and institutional eligibility, enhancing partnerships, and improving early awareness of total student aid eligibility for low- and moderate-income students and families."; and

(4) in subsection (k), by striking "2004" and inserting "2011".

By Ms. CANTWELL (for herself, Mr. JEFFORDS, and Mrs. CLINTON):

S. 1031. A bill to enhance the reliability of the electric system; to the Committee on Energy and Natural Resources.

Ms. CANTWELL. Mr. President, I rise today to reintroduce the Electric Reliability Act of 2005, which I am pleased to introduce with my colleagues, Senator CLINTON and Senator JEFFORDS. This legislation would give the Federal Energy Regulatory Commission—FERC—authority to devise a system of mandatory and enforceable standards for the reliable operation of our Nation's electricity grid.

Enactment of this bill is long overdue. The provisions of this bill have passed the United States Senate many times. They represent crucial steps forward in the effort to modernize our Nation's electricity grid and reform the rules by which it is operated. I believe this body can and must make necessary progress in upgrading our electricity grid.

As surely my colleagues recall, in August of 2003 much of the Northeast and Midwest suffered a massive power outage, affecting 50 million consumers from New York to Michigan. This blackout, the biggest in our Nation's history, has underscored the need for mandatory and enforceable reliability standards—as envisioned in the Electric Reliability Act of 2005. To date, the system has operated under a set of voluntary guidelines, with no concrete penalties for those that break the rules and jeopardize the reliable energy service that is the foundation of our Nation's economy.

Following the August 2003 blackout in the NE, a joint report issued by the United States and Canada the following April recommended a number of policy changes on both sides of our shared border. The first recommendation in that report was to make reliability standards mandatory and enforceable with penalties for non-compliance. The Electric Reliability Security Act of 2005 does exactly that.

While the August 2003 blackout was certainly a potent reminder, the call for reliability legislation dates back at least another 5 years. In 1997, both a Task Force established by the Clinton administration's Department of Energy and a blue ribbon panel formed by the North American Electric Reliability Council—NERC—determined that reliability rules for our Nation's electric system had to be made mandatory and enforceable.

These conclusions resulted, in part, from an August 1996 blackout in the Western Interconnection, where the short-circuit of two overloaded transmission lines near Portland, OR, caused a sweeping outage that knocked out power for up to 16 hours in 10 States, including my home State of Washington. The blackout affected 7.5 million consumers from Idaho to California, resulting in the automatic shutdown of 15 large thermal nuclear generating plants in California and the Southwest—compromising the West's energy supply for several days, even after power had mostly been restored to end-users.

As outlined in Economic Impacts of Infrastructure Failures, a 1997 report submitted to the President's Commission on Critical Infrastructure Protection, the blackout was estimated to exact between $1 billion and $4 billion in direct and indirect costs to utilities, industry and consumers. The report also detailed the risks the outage posed to public health and safety, including an exponential increase in traffic accidents, hospitals forced to rely on emergency back-up power generation, and the grounding of more than 2,000 airline passengers.

While it took time to develop consensus, the Senate recognized the human and economic stakes associated with the reliable operation of the electricity grid. Stand-alone legislation very similar to what I have introduced today passed this body in June 2000, when this Chamber was under Republican control. And even as the majority has twice changed hands since then, the United States Senate has twice passed the very provisions included in the Electric Reliability Act of 2005 as part of comprehensive energy legislation.

Today I am introducing the Electric Reliability Act of 2005 as I believe it is time for this body to take concrete steps towards ensuring the continued reliable operation of our electric grid. This legislation would mark a substantial achievement in the effort to upgrade the reliability of our Nation's grid and insulate our economy from the disastrous impacts of electricity outages.

I ask my colleagues to support this bill.

By Mrs. BOXER:

S. 1032. A bill to improve seaport security; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, at the end of 2002, the Maritime Transportation Security Act became law.

I was a member of the conference committee on that bill, and I think it was a good first step in improving security at our Nation's ports.

It had many good provisions, such as the creation of national and regional maritime transportation/port security plans to be approved by the Coast Guard; better coordination of Federal State, local, and private enforcement agencies; and the establishment of a grant program for port authorities, waterfront facilities operators, and State and local agencies to provide security infrastructure improvements.

The problem with the bill was that it had no guaranteed funding mechanism. As a result, we are underfunding port security. Since the passage of the Maritime Transportation Security Act, the Department of Homeland Security has awarded approximately $625 million in port security grants. This is not enough. The Coast Guard has estimated a need for $5.4 billion over 10 years for port facility upgrades, and $7.3 billion over 10 years for all port security. At the same time, the administration only requested $600 million for infrastructure protection in fiscal year 2006, and this meager figure does not even specify a dedicated portion for port security grants.

With over 40 percent of the Nation's goods imported through California's ports, a terrorist attack at a California port would not only be tragic but would be devastating for our Nation's economy.

So, today, I am reintroducing a bill to provide more funding to the ports. Specifically, it will create a Port Security Grant Program in the Department of Homeland Security; provide $800 million per year for 5 years in grant funding; and—this is very important to California's ports—allow the Federal Government to help finance larger multi-year projects similar to what is done with many of our airports for aviation security.

I hope that the Senate will act on this bill. Now is not the time to slow down or delay our efforts to increase and improve transportation security. The job is not done, and it must be done.

By Mr. McCAIN (for himself, Mr. KENNEDY, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. GRAHAM, and Mr. SALAZAR):

S. 1033. A bill to improve border security and immigration; to the Committee on the Judiciary.

Mr. McCAIN. Mr. President, after more than 5 months of work, I am pleased to be joined by Senators KENNEDY, BROWNBACK, LIEBERMAN, GRAHAM, and SALAZAR in introducing the Secure America and Orderly Immigration Act. This bipartisan, comprehensive immigration reform legislation is designed to fix our Nation's broken immigration system. This landmark legislation would bring common sense to the current system and promote our national security interests. I am equally pleased by the effort of Congressmen KOLBE, FLAKE, and GUTIERREZ who are introducing the House companion bill.

While in previous years we worked independently on immigration reform legislation, we are coming together today to introduce what we believe is groundbreaking, comprehensive legislation. Over a year ago, the President laid out a framework for what comprehensive immigration reform should look like. We have used the President's framework to craft this package and I applaud the President for his leadership on this issue.

The simple fact is that America's immigration system is broken. Recent vigilante activities along the southwestern border have shown that the current situation is not sustainable. Americans are frustrated with our lack of border security and our inability to control illegal immigration. We have spent billions of dollars on border enforcement. We have sent more, but still not enough, Federal agents to the border equipped with sophisticated technology. We have worked to harden the border in key places. And yet, illegal immigration continues.

I would like to mention some startling statistics that demonstrate the critical need for immigration reform. I think the numbers speak for themselves: Over 300 people died last year trying to cross the border; about 200 of those deaths occurred in Arizona's desert. Last year 1.1 million illegal immigrants were caught by the Border Patrol in 2004. Fifty-one percent of those were caught in Arizona. The Border Patrol is currently apprehending over 1,000 undocumented immigrants a day in Arizona. According to the FBI, an increasing number of these individuals are OTMs, Other Than Mexicans, from "countries of interest."

Homeland security is our Nation's number one priority, and this legislation includes numerous provisions that together will make our nation more secure. This bill includes provisions to strengthen border security, both on our side of the border and throughout this hemisphere. Through the establishment of a new electronic employment verification system, the bill will create a more secure mechanism to better enforce our nation's immigration laws within our borders. Additionally, the bill enhances the authority of the Department of Labor and the Department of Homeland Security to conduct random audits to ensure that employers are holding up their end of the bargain. And if they aren't, they face double fines.

Make no mistake, this is not an amnesty bill. We are not here to reward law-breakers, and any accusations to the contrary are patently untrue. This bill recognizes the problems inherent in the current system and provides a logical and effective means to address these problems. The reality is, there are an estimated million undocumented people living and working in this country. It would be impossible to identify and round up all 10 to 11 million of the current undocumented, and if we did, it would ground our Nation's economy to a halt. These millions of people are working. Aliens will not come forward to simply "report and deport." We have a national interest in identifying these individuals, incentivizing them to come forward out of the shadows, go through security background checks, pay back taxes, pay penalties for breaking the law, learn to speak English, and regularize their status. Anyone who thinks this goal can be achieved without providing an eventual path to a permanent legal status is not serious about solving this problem.

Part of the failure of the existing system is its inability to provide sufficient legal channels to pair willing workers with willing employers. This bill establishes a new market-based temporary worker program so that when there is no U.S. worker to fill a job, employers will be able to hire willing and able foreign workers who have gone through security background checks, medical exams, and paid a fee for their visa. And, by doing away with outdated numerical caps on this program, this bill recognizes that the needs of the U.S. economy are constantly in flux, and our immigration system must match those needs.

I don't believe there is another issue that is more important to our Nation than immigration reform. For far too long, our Nation's broken immigration laws have gone unreformed, leaving Americans vulnerable. We can no longer afford to delay reform.

The complex and difficult problems associated with immigration reform will not be solved overnight, but they are among the most difficult challenges facing our Nation today. That is why it is so important that the President shares our commitment to comprehensive reform. Together with the President, I am committed to this process and remain very hopeful that we will succeed.

I want to especially express my appreciation to Senator KENNEDY and his staff for their sincere commitment to this critical issue. Also, the contributions to the bill as recommended by Senator BROWNBACK have been invaluable to this effort. I would also like to thank Senator LUGAR, who allowed us to incorporate critical international border enforcement provisions from his legislation, the North American Cooperative Security Act.

Through the collective efforts of a wide range of bipartisan interests in both Houses of Congress, not to mention immigration advocacy groups, representatives of our Nation's businesses, and several labor unions, this comprehensive legislation provides a meaningful direction for how our immigration system should be reformed, and our border security strengthened.

I look forward to working with all interested parties in the important and necessary effort to once and for all reform our broken immigration system.

Mr. KENNEDY. Mr. President, it's an honor to join Senator McCAIN and Congressmen GUTIERREZ, KOLBE, and FLAKE in introducing our bipartisan legislation to reform the Nation's immigration laws. The status quo is unacceptable, and legislation is urgently needed to deal with all the inadequacies in our current law, to end the suffering of long-separated families imposed by the broken system, and to do so in a way that reflects current realities.

We must modernize our broken immigration system to meet the challenges of the 21st century. And we need policies that continue to reflect our best values as a nation—fairness, equal opportunity, and respect for the rule of law.

One of the mistakes of the past is to assume that we can control illegal immigration on our own. A realistic immigration policy must be a two-way street. Under our plan, America will do its part, but we expect Mexico and other nations to do their part, too, to replace an illegal immigration flow with regulated, legal immigration.

Our bill will make our immigration policies more realistic and enforceable, restore legality as the prevailing norm, and make it easier for immigrants to cooperate with local authorities. It will protect the labor rights of all workers, and create an even playing field for employers. It will strengthen our economy, restore control of our borders, and improve national security.

Much of the Nation's economy today depends on the hard work and the many contributions of immigrants. Many industries depend heavily on immigrant labor. These men and women enrich our Nation and improve the quality of our lives. Yet, millions of today's immigrant workers are not here legally. They and their families live shadow lives in constant fear of deportation, and easy targets for abuse and exploitation by unscrupulous employers and criminals as well. Many risk great danger, and even death, to cross our borders.

Our bill offers practical solutions to deal with these basic problems. It contains an earned legalization program for immigrants who have been working in the United States for at least 6 years, a way to reduce the enormous backlog of petitions to unify immigrant families, and a revised temporary worker program. The bill also contains strict border security and enforcement provisions, and measures to ensure that other countries do their part by requiring them to help control the flow of their citizens to jobs in the United States.

We feel the bill is a realistic and practical solution to the complex immigration challenges facing the Nation for so long, and we've worked closely with as many interested groups as possible to make it fair to all.

Despite our compromises and bipartisan solutions, there are some who oppose these reforms. They misleadingly categorize our efforts as "immigrant amnesty." They refuse to accept that these reforms simply create a legalization program for U.S. workers who have already been residing and working in the U.S. It is not a guarantee of citizenship, but an opportunity to continue working hard, start playing by the rules, and earn permanent residency.

And by bringing immigrants out of the shadows so they can earn a fair day's pay for a fair day's work, we are protecting American workers' rights and wages, too.

The legal status must be earned by proving past work contributions, making a substantial future work commitment, and paying of $2,000 in penalties.

First, workers will receive temporary resident status, based on their past work contributions. To earn permanent residence, they must work 6 more years. Otherwise, they will be dropped from the program and required to leave the country.

It's not an amnesty for them, because they have to earn it. We offer a fair deal: if they are willing to work hard for us openly, then we're willing to do something fair for them. It is the only realistic solution.

If there's any amnesty involved, it's what they have today—an acquiescence in their presence, because countless businesses could not function without them since no American workers can be found to fill their jobs. To be eligible for legal status, applicants must have no criminal or national security problems. All will be required to undergo rigorous security clearances. Their names will be checked against the government's criminal and terrorist databases, and the applicant's fingerprints will be sent to the FBI for a thorough background check.

It's long past time to put the underground economy above ground, and recognize the reality of immigrants in our workforce. It's the only way to achieve effective enforcement rules to protect and strengthen our labor system, and to stabilize our workforce for employers.

Our bill allows long-term, tax-paying immigrant workers to apply for earned adjustment of status. Studies show that there are now millions of illegal immigrants working in the U.S., and it would be irresponsible to continue to ignore this hidden past of our economic landscape.

Our bill is also about fairness. It ensures that the rights of all workers are protected—that the rights to organize, to change jobs between employers, and to have fair wages, fair hours, and fair working conditions—cannot be denied. Through this legislation, America can be proud again that our Nation protects the safety and rights of all our workers.

Our legislation is also about protecting families. Family unity has always been a fundamental cornerstone of America's immigration policy. Yet, millions of individuals today are waiting for immigrant visas to join with their families.

Our bill will allow these families to be reunited more quickly and humanely. It also removes and amends unnecessary obstacles in current law that separate families, such as the affidavit-of-support requirements and the rigid bars to admissibility. Our bill contains provisions that will expedite visas to reunite spouses and children of legal immigrants with their loved ones. It also provides measures to clear up the backlog of employment-based visas.

In addition, this bill recognizes the need for strong border protection and enforcement as part of immigration reform. It directs the Secretary of Homeland Security to develop and implement a National Strategy for Border Security to coordinate the efforts of Federal, State, local, and tribal authorities on border management and security. The Strategy will identify the areas most in need of enforcement and propose cost-effective ways to defend the border, including better ways of technology, improved intelligence-sharing and coordination. It also includes plans to combat human smuggling.

To further improve border enforcement, the bill improves the security of Mexico's southern border and assesses the needs of Central American governments in securing their borders. It provides a framework for better management, communication, coordination, and immigration control for all our governments, and encourages other governments to control alien smuggling and trafficking, prevent the use and manufacture of fraudulent travel documents, and share relevant information.

The bill also encourages so-called circular migration patterns. It provides for unprecedented cooperation with the governments of the United States, Canada, Mexico, and other Central American countries on issues of migration. It asks foreign countries to enter into agreements with the U.S. to help control the flow of their citizens to jobs in the U.S., with emphasis on encouraging the re-integration of citizens returning home.

It also encourages the U.S. government to partner with Mexico to promote economic opportunity back home and reduce the pressure for its citizens to immigrate to the U.S. It encourages partnership between the U.S. and Mexico on health care, so that we are not unfairly burdened by the cost of administering health care to Mexican nationals.

Further, the bill mandates that immigration-related documents issued by DHS be biometric, machine-readable, and tamper-resistant. It creates an Employment Eligibility Confirmation System, so that employers can verify an employee's identity and employment authorization, and an improved system to collect entry and exit data to determine the status of aliens after their arrival to and departure from the U.S. It protects against immigration fraud by improving regulations on who may appear in immigration matters.

Another important component of our bill is its State Criminal Alien Assistance Program, to reimburse states for the direct and indirect costs of incarcerating illegal aliens.

We know that these reforms are long overdue. The illegal workers here today are not leaving, and new ones continue to come in. A significant part of the workforce in many sectors of the economy, especially agriculture, is undocumented. Massive deportations are unrealistic as policy, impractical to carry out, and unacceptable to businesses that rely heavily on their labor.

Americans want and deserve realistic solutions to the very real immigration problems we face. They don't want open borders, and they don't want closed borders. They want smart borders, which mean fair and realistic immigration laws that can actually be enforced, immigration laws that protect our security, respect our ideals, and honor our heritage as a Nation of immigrants.

America has been the Promised Land for generations of immigrants who have found haven, hope, opportunity, and freedom here. Immigrants have always been an indispensable part of our Nation. They have contributed immensely to our communities, created new jobs and whole new industries, served in our armed forces, paid their taxes, and help make America the continuing land of promise it is today.

It's obvious why the Nation's founders chose "E Pluribus Unum"—"out of many, one" as America's motto two centuries ago. These words, chosen by Benjamin Franklin, John Adams, and Thomas Jefferson, referred to their ideal that tiny quarreling colonies could be transformed into one Nation, with one destiny. That basic ideal applies to individuals as well. Our diversity is our greatest strength.

We are a Nation of immigrants, and we always will be, and our laws must be true to that proud heritage. Our bipartisan bill attempts to do that, and I look forward to working with the Administration and our colleagues on both sides of the aisle to enact it into law.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 136—DESIGNATING THE MONTH OF MAY 2005 AS "NATIONAL DRUG COURT MONTH"

Mr. BIDEN (for himself, Mr. Sessions, and Mr. Coburn) submitted the following resolution; which was considered and agreed to:

S. Res. 136

Whereas drug courts provide the focus and leadership for community-wide, antidrug systems, bringing together public safety professionals and other community partners in the fight against drug abuse and criminality;

Whereas the results of more than 100 program evaluations and at least 3 experimental studies have yielded definitive evidence that drug courts increase treatment retention and reduce substance abuse and crime among drug-involved adult offenders;

Whereas the judges, prosecutors, defense attorneys, substance abuse treatment and rehabilitation professionals, law enforcement and community supervision personnel, researchers and educators, national and community leaders, and others dedicated to the movement have had a profound impact within their communities; and

Whereas the drug court movement has grown from the 12 original drug courts in 1994 to 1,621 operational drug courts as of December 2004: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of May 2005 as "National Drug Court Month"; and

(2) encourages the people of the United States and interested groups to observe the month with appropriate ceremonies and activities.

SENATE RESOLUTION 137—DESIGNATING MAY 1, 2005, AS "NATIONAL CHILD CARE WORTHY WAGE DAY"

Mr. CORZINE (for himself, Mr. Lautenberg, Mr. Bingaman, Mr. Dodd, Mr. Feingold, Mr. Inouye, Mr. Durbin, Mr. Kerry, Mr. Kennedy, and Mrs. Boxer) submitted the following resolution; which was considered and agreed to:

S. Res. 137

Whereas approximately 14,000,000 children are in out-of-home care during part or all of the day so that their parents may work;

Whereas the turnover rate of early-childhood educators is approximately 30 percent per year because low wages and a lack of benefits make it difficult to retain high-quality educators;

Whereas research has demonstrated that young children require caring relationships and a consistent presence in their lives for their positive development;

Whereas the compensation of early-childhood educators should be commensurate with the important job of helping the young children of the United States develop the social, emotional, physical, and intellectual skills they need to be ready for school; and

Whereas resources maybe reallocated to improve the compensation of early-childhood educators to ensure that quality care and education are accessible for all families;

Whereas the Center for the Child Care Workforce and other early childhood education organizations recognize May 1st as National Child Care Worthy Wage Day: Now, therefore, be it

Resolved, That the Senate—

(1) designate May 1, 2005, as "National Child Care Worthy Wage Day"; and

(2) calls on the people of the United States to observe National Child Care Worthy Wage Day by—

(A) honoring early-childhood educators and programs in their communities; and

(B) working together to resolve the early-childhood educator compensation crisis.

SENATE RESOLUTION 138—DESIGNATING JULY 23, 2005, "NATIONAL DAY OF THE AMERICAN COWBOY"

Mr. THOMAS (for himself, Mr. Burns, Mr. Inhofe, Mr. Dorgan, Mr. Crapo, Mr. Salazar, Mr. Enzi, Mr. Allard, Mr. Baucus, Mr. Allen, Mr. Stevens, Mr. Martinez, Mr. Bingaman, and Mr. Craig) submitted the following resolution; which was considered and agreed to:

S. Res. 138

Whereas pioneering men and women, recognized as cowboys, helped establish the American West;

Whereas that cowboy spirit continues to infuse this country with its solid character, sound family values, and good common sense;

Whereas the cowboy embodies honesty, integrity, courage, compassion, respect, a strong work ethic, and patriotism;

Whereas the cowboy loves, lives off of, and depends on the land and its creatures, and is an excellent steward, protecting and enhancing the environment;

Whereas the cowboy continues to play a significant role in America's culture and economy;

Whereas approximately 800,000 ranchers are conducting business in all 50 of these United States and are contributing to the economic well being of nearly every county in the Nation;

Whereas rodeo is the sixth most-watched sport in America;

Whereas membership in rodeo and other organizations surrounding the livelihood of a cowboy transcends race and gender and spans every generation;

Whereas the cowboy is an American icon;

Whereas to recognize the American cowboy is to acknowledge America's ongoing commitment to an esteemed and enduring code of conduct; and

Whereas the ongoing contributions made by cowboys to their communities should be recognized and encouraged: Now, therefore, be it

Resolved, That the Senate—

(1) designates July 23, 2005, as "National Day of the American Cowboy"; and

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

SENATE RESOLUTION 139—EXPRESSING SUPPORT FOR THE WITHDRAWAL OF RUSSIAN TROOPS FROM GEORGIA

Mr. REID (for himself, Mr. Frist, and Mr. McCain) submitted the following resolution; which was considered and agreed to:

S. Res. 139

Whereas, on April 9, 1991, the Republic of Georgia declared independence from the Union of Soviet Socialist Republics;

Whereas, during December 1991, the Republic of Georgia was internationally recognized as an independent and sovereign country following the formal dissolution of the Union of Soviet Socialist Republics;

Whereas the disposition of former Soviet troops stationed in certain newly independent countries was resolved by 1994 with the complete withdrawal of Russian Federation military personnel from the Republics of Estonia, Latvia, and Lithuania;

Whereas in the years following the restoration of Georgian independence, successive governments of Georgia sought to negotiate the closure of Russian military bases located in, and the withdrawal of military personnel from, Georgia;

Whereas, during the Organization for Security and Co-operation in Europe summit at

Istanbul, Turkey in 1999, Georgia and Russia concluded a bilateral agreement as part of the Adapted Conventional Forces in Europe Treaty;

Whereas as part of such bilateral agreement, which is known as the "Istanbul Commitments", on November 17, 1999, Russia committed to close bases at Gudauta and Vaziani by July 1, 2001, and committed to conclude negotiations on bases at Batumi and Akhalkalaki, and all other Russian military facilities during 2000;

Whereas Russia has failed to fulfill its obligations under the Istanbul Commitments;

Whereas more than 3,000 Russian military personnel remain in Georgia at various bases and facilities throughout the country;

Whereas, during November 2003, the Georgian people, in the historic "Rose Revolution", peacefully protested fraudulent elections resulting in the holding of new elections and the installation of a new government committed to democracy, the rule of law, observance of human rights, restoration of sovereignty, and economic development: and

Whereas on March 10, 2005, the democratically elected Parliament of the Republic of Georgia passed a measure expressing its dissatisfaction with Russia's continued military presence in Georgia: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) the Russian Federation should respect the territorial integrity and sovereignty of the Republic of Georgia;

(B) President Mikheil Saakashvili and the Government and people of Georgia deserve congratulations for the accomplishments and successful reforms carried out in Georgia since President Mikheil Saakashvili's inauguration in January 2004, and that the United States should continue to support such reforms and should encourage and assist Georgia with strengthening its democratic institutions and resolving its separatist conflicts peacefully; and

(C) the United States should continue to support Georgia in its efforts to negotiate an agreement for ending Russia's military presence in Georgia, in accordance with Russia's obligations under the bilateral agreement made between Russia and Georgia as part of the Adapted Conventional Forces in Europe Treaty known as the "Istanbul Commitments"; and

(2) the Senate—

(A) supports the efforts of President Bush to encourage Russia and Georgia to expeditiously reach agreement on the closure of Russian military bases in, and the withdrawal of military personnel from, Georgia;

(B) commends President Bush for being the first United States President to visit Georgia since its recognition as an independent and sovereign country; and

(C) will continue to monitor the situation in Georgia closely.

SENATE RESOLUTION 140—EXPRESSING SUPPORT FOR THE HISTORIC MEETING IN HAVANA OF THE ASSEMBLY TO PROMOTE THE CIVIL SOCIETY IN CUBA ON MAY 20, 2005, AS WELL AS TO ALL THOSE COURAGEOUS INDIVIDUALS WHO CONTINUE TO ADVANCE LIBERTY AND DEMOCRACY FOR THE CUBAN PEOPLE

Mr. MARTINEZ (for himself and Mr. Nelson of Florida, Mr. Corzine, Mr. Lugar, Mr. Feingold, Mr. Inhofe, Mr. Bayh, Mr. DeWine, Mr. Lautenberg, Mr. Santorum, Mr. Salazar, Mr. Coburn, Mr. Lieberman, Mr. McCain, Mr. Craig, Mrs. Dole, Mr. Ensign, Mr. Vitter, and Mr. Allen) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 140

Whereas on May 20, 1902, the Republic of Cuba obtained its independence;

Whereas in the spirit of Jose Marti, many of the future leaders of a free Cuba have called for a meeting of the Assembly of the Civil Society in Cuba, an organization that consists of over 360 dissident and civil society groups in Cuba;

Whereas, on May 20, 2005, the Assembly to Promote the Civil Society in Cuba seeks to convene a historic meeting in Havana on the 103rd anniversary of Cuban Independence; and

Whereas the Assembly to Promote the Civil Society in Cuba will focus on bringing democracy and liberty to the island of Cuba: Now, therefore, be it

Resolved, That the Senate—

(1) extends its support and solidarity to the participants of the historic meeting, in Havana, of the Assembly to Promote the Civil Society in Cuba on May 20, 2005;

(2) urges the international community to support the Assembly and its mission to bring democracy and human rights to Cuba;

(3) encourages the international community to oppose any attempts by the Cuban government to repress, punish, or intimidate the organizers and participants of the Assembly; and

(4) shares the pro-democracy ideals of the Assembly to Promote the Civil Society in Cuba and believes that the Assembly and its mission will advance freedom and democracy for the people of Cuba.

SENATE RESOLUTION 141—DESIGNATING SEPTEMBER 9, 2005, AS "NATIONAL FETAL ALCOHOL SPECTRUM DISORDERS AWARENESS DAY"

Ms. MURKOWSKI (for herself, Mr. Johnson, Mr. Stevens, Mr. Durbin, Mr. Coleman, Mr. Dodd, and Mrs. Murray) submitted the following resolution; which was considered and agreed to:

S. Res. 141

Whereas the term "fetal alcohol spectrum disorders" includes a broader range of conditions and therefore has replaced the term "fetal alcohol syndrome" as the umbrella term describing the range of effects that can occur in an individual whose mother drank alcohol during pregnancy;

Whereas fetal alcohol spectrum disorders are the leading cause of mental retardation in western civilization, including the United States, and are 100 percent preventable;

Whereas fetal alcohol spectrum disorders are a major cause of numerous social disorders, including learning disabilities, school failure, juvenile delinquency, homelessness, unemployment, mental illness, and crime;

Whereas the incidence rate of fetal alcohol syndrome is estimated at 1 out of 500 live births and the incidence rate of fetal alcohol spectrum disorders is estimated at 1 out of every 100 live births;

Whereas the economic cost of fetal alcohol syndrome alone to the Nation was $5,400,000,000 in 2003 and it is estimated that each individual with fetal alcohol syndrome will cost United States taxpayers between $1,500,000 and $3,000,000 in his or her lifetime;

Whereas in February 1999, a small group of parents of children who suffer from fetal alcohol spectrum disorders came together with the hope that in 1 magic moment the world could be made aware of the devastating consequences of alcohol consumption during pregnancy;

Whereas the first International Fetal Alcohol Syndrome Awareness Day was observed on September 9, 1999;

Whereas Bonnie Buxton of Toronto, Canada, the co-founder of the first International Fetal Alcohol Syndrome Awareness Day, asked "What if . . . a world full of FAS/E [Fetal Alcohol Syndrome/Effect] parents all got together on the ninth hour of the ninth day of the ninth month of the year and asked the world to remember that during the 9 months of pregnancy a woman should not consume alcohol . . . would the rest of the world listen?"; and

Whereas on the ninth day of the ninth month of each year since 1999, communities around the world have observed International Fetal Alcohol Syndrome Awareness Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 9, 2005, as "National Fetal Alcohol Spectrum Disorders Awareness Day"; and

(2) calls upon the people of the United States to—

(A) observe National Fetal Alcohol Spectrum Disorders Awareness Day with appropriate ceremonies to—

(i) promote awareness of the effects of prenatal exposure to alcohol;

(ii) increase compassion for individuals affected by prenatal exposure to alcohol;

(iii) minimize further effects of prenatal exposure to alcohol; and

(iv) ensure healthier communities across the United States; and

(B) observe a moment of reflection on the ninth hour of September 9, 2005, to remember that during the 9 months of pregnancy a woman should not consume alcohol.

SENATE CONCURRENT RESOLUTION 32—EXPRESSING THE SENSE OF CONGRESS THAT THE GOVERNMENT OF THE RUSSIAN FEDERATION SHOULD ISSUE A CLEAR AND UNAMBIGUOUS STATEMENT OF ADMISSION AND CONDEMNATION OF THE ILLEGAL OCCUPATION AND ANNEXATION BY THE SOVIET UNION FROM 1940 TO 1991 OF THE BALTIC COUNTRIES OF ESTONIA, LATVIA, AND LITHUANIA

Mr. SMITH (for himself, Mrs. Feinstein, and Mr. Durbin) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. Con. Res. 32

Whereas the incorporation in 1940 of the Baltic countries of Estonia, Latvia, and Lithuania into the Soviet Union was an act of aggression carried out against the will of sovereign people;

Whereas the United States was steadfast in its policy of not recognizing the illegal Soviet annexation of Estonia, Latvia, and Lithuania;

Whereas the Russian Federation is the successor state to the Soviet Union;

Whereas the Molotov-Ribbentrop Pact of 1939, including its secret protocols, between Nazi Germany and the Soviet Union provided the Soviet Union with the opportunity to occupy and annex Estonia, Latvia, and Lithuania;

Whereas the occupation brought countless suffering to the Baltic peoples through terror, killings, and deportations to Siberian concentration camps;

Whereas the peoples of Estonia, Latvia, and Lithuania bravely resisted Soviet aggression first through armed resistance movements and later through political resistance movements;

Whereas the Government of Germany renounced its participation in the Molotov-Ribbentrop Pact of 1939 and publicly apologized for the destruction and terror that Nazi Germany unleashed on the world;

Whereas, in 1989, the Congress of Peoples' Deputies of the Soviet Union declared the Molotov-Ribbentrop Pact of 1939 void;

Whereas the illegal occupation and annexation of the Baltic countries is one of the largest remaining unacknowledged incidents of oppression in Russian history;

Whereas a declaration of acknowledgment of such incident by the Russian Federation would lead to improved relations between the people of Estonia, Latvia, and Lithuania and the people of Russia, would form the basis for improved relations between the governments of the countries, and strengthen stability in the region;

Whereas the Russian Federation is to be commended for beginning to acknowledge grievous and regrettable incidents in their history, such as admitting complicity in the massacre of Polish soldiers in the Katyn Forest in 1940;

Whereas the truth is a powerful weapon for healing, forgiving, and reconciliation, but its absence breeds distrust, fear, and hostility; and

Whereas countries that cannot clearly admit their historical mistakes and make peace with their pasts cannot successfully build their futures: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania, the consequence of which will be a significant increase in good will among the affected peoples and enhanced regional stability.

AMENDMENTS SUBMITTED AND PROPOSED

SA 743. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 713 proposed by Mr. Baucus to the amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table.

SA 744. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 676 submitted by Mr. Feingold and intended to be proposed to the amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 745. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 652 submitted by Mr. Dorgan (for himself and Mr. Reid) to the amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 746. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 747. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 748. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 683 submitted by Mr. Warner and intended to be proposed to the amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 749. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 750. Mr. LOTT (for himself and Mr. Inouye) submitted an amendment intended to be proposed to amendment SA 611 proposed by Mr. Allen (for himself and Mr. Ensign) to the amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 751. Mr. DeWINE submitted an amendment intended to be proposed to amendment SA 639 submitted by Mr. Lautenberg and intended to be proposed to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 752. Mr. OBAMA (for himself, Mr. Coleman, Mr. Lugar, Mr. Durbin, Mr. Harkin, Mr. Salazar, Mr. Bayh, Mr. Talent, Mr. Dayton, and Mr. Nelson of Nebraska) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 753. Mr. OBAMA (for himself, Mr. Coleman, Mr. Lugar, Mr. Durbin, Mr. Harkin, Mr. Salazar, Mr. Bayh, Mr. Talent, Mr. Dayton, and Mr. Nelson of Nebraska) submitted an amendment intended to be proposed to amendment SA 670 proposed by Mr. Obama (for himself, Mr. Coleman, Mr. Lugar, Mr. Durbin, Mr. Harkin, Mr. Salazar, Mr. Bayh, Mr. Talent, and Mr. Dayton) to the amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 754. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 639 submitted by Mr. Lautenberg and intended to be proposed to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 755. Mr. LEVIN (for himself and Ms. Stabenow) submitted an amendment intended to be proposed to amendment SA 725 proposed by Mr. Santorum (for himself and Mr. Specter) to the amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, supra

SA 756. Mrs. CLINTON (for herself and Mr. Inhofe) submitted an amendment intended to be proposed to amendment SA 681 proposed by Mrs. Clinton to the amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 757. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 670 proposed by Mr. Obama (for himself, Mr. Coleman, Mr. Lugar, Mr. Durbin, Mr. Harkin, Mr. Salazar, Mr. Bayh, Mr. Talent, and Mr. Dayton) to the amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 758. Mr. SCHUMER (for himself and Mrs. Clinton) submitted an amendment intended to be proposed to amendment SA 647 submitted by Mr. Sessions and intended to be proposed to the amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 759. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 760. Mr. VOINOVICH (for himself and Mr. DeWine) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 743. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 713 proposed by Mr. Baucus to the amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 270, following the matter on line 15, insert the following:

(d) In addition to other eligible uses, the State of Montana may use funds apportioned under section 104(b)(2) for the operation of public transit activities that serve a nonattainment or maintenance area.

SA 744. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 676 submitted by Mr. Feingold and intended to be proposed to the amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike lines 15 through 22, and insert the following:

“(b) Application to Volunteer Services Only.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

“(c) No Double Benefit.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to the expenses under subsection (a).

“(d) Exemption From Reporting Requirements.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).”.

SA 745. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 652 submitted by Mr. Dorgan (for himself and Mr. Reid) to the amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike all of page 2 and insert the following:

“(b) The Secretary of Energy shall direct the National Petroleum Council to conduct an evaluation and analysis determining the extent to which environmental and other regulations detrimentally affect new domestic refinery construction and significant expansion of existing refinery capacity."

"(c) Reports to Congress.—

(1) On completion of the investigation under subsection (a), the Federal Trade Commission shall submit to Congress a report that describes—

(A) the results of the investigation; and

(B) any recommendations of the Federal Trade Commission

(2) On completion of the evaluation and analysis under subsection (b), the Secretary shall submit to Congress a report that describes—

(A) the results of the evaluation and analysis;

(B) any recommendations of the National Petroleum Council."

SA 746. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

"(a) In General.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

"(b) Eligible Activities.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

"(c) Allocation of Funds.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

"(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

"(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

"(d) Federal Share.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

"(e) Funding.—

"(1) In general.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $650,000,000 for the period of fiscal years 2005 through 2009, of which—

"(A) $130,000,000 shall be for fiscal year 2005;

"(B) $130,000,000 shall be for fiscal year 2006;

"(C) $130,000,000 shall be for fiscal year 2007;

"(D) $130,000,000 shall be for fiscal year 2008; and

"(E) $130,000,000 shall be for fiscal year 2009.

"(2) Obligation, eligibility, and availability.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

"(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

"(B) shall not be considered in determining the eligibility of any State to receive funds under section 105 or any other and any apportioned formula program including the equity bonus program; and

"(C) shall remain available until expended.".

(b) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end of the following:

"178. Appalachian development highway system completion program.".

SA 747. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate 'place, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§178. Appalachian development highway system completion program

(a) In General.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

(b) Eligible Activities.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

(c) Allocation of Funds.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

(d) Federal Share.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

(e) Funding.—

(1) In general.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $300,000,000 for the period of fiscal years 2005 through 2009, of which—

(A) $60,000,000,000 shall be for fiscal year 2005;

(B) $60,000,000,000 shall be for fiscal year 2006;

(C) $60,000,000,000 shall be for fiscal year 2007;

(D) $60,000,000,000 shall be for fiscal year 2008; and

(E) $60,000,000,000 shall be for fiscal year 2009.

(2) Obligation, eligibility, and availability.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

(B) shall not be considered in determining the eligibility of any State to receive funds under section 105 or any other apportioned formula program including the equity bonus program; and

(C) shall remain available until expended.".

(b) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

178. Appalachian development highway system completion program.".

SA 748. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 683 submitted by Mr. Warner and intended to be proposed to the amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

(b) Coalfields Expressway, West Virginia.—

(1) Designation.—Except as provided in paragraph (2), there is designated as an addition to the Appalachian Development Highway System in the State of West Virginia, the Coalfields Expressway from Paynesville, West Virginia to Beckley, West Virginia.

(2) Modification of mileage.—Section 14501(a) of title 40, United States Code, is amended in the second sentence by striking "3,090" and inserting "3,153.".

SA 749. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 3, to authorize funds for Federal-aid highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 8, strike "in the State of Maine" and insert "in the State of Maine (including the area designated as the Maine Turnpike)".

SA 750. Mr. LOTT (for himself and Mr. Inouye) submitted an amendment intended to be proposed to amendment SA 611 proposed by Mr. Allen (for himself and Mr. Ensign) to the amendment SA 605 proposed by Mr. Inhofe to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

(a) In General.—Section 405 is amended to read as follows:

"§ 405. Safety belt performance grants

"(a) IN GENERAL.—The Secretary of Transportation shall make grants to States in accordance with the provisions of this section to encourage the enactment and enforcement of laws requiring the use of safety belts in passenger motor vehicles.

"(b) GRANTS FOR ENACTING PRIMARY SAFETY BELT USE LAWS.—

"(1) IN GENERAL.—The Secretary shall make a single grant to each State that either—

"(A) enacts for the first time after December 31, 2002, and has in effect and is enforcing a conforming primary safety belt use law for all passenger motor vehicles; or

"(B) in the case of a State that does not have such a primary safety belt use law, has a State safety belt use rate for each of the 2 calendar years immediately preceding the fiscal year of a grant of 85 percent or more, as measured under criteria determined by the Secretary.

"(2) AMOUNT.—The amount of a grant available to a State in fiscal year 2006 or in a subsequent fiscal year under paragraph (1) of this subsection is equal to 500 percent of the amount apportioned to the State for fiscal year 2003 under section 402(c) of this title.

"(3) JULY 1 CUT-OFF.—For the purpose of determining the eligibility of a State for a grant under paragraph (1)(A), a primary safety belt use law enacted after June 30th of any year shall—

"(A) not be considered to have been enacted in the Federal fiscal year in which that June 30th falls; but

"(B) be considered as if it were enacted after the beginning of the next Federal fiscal year.

"(4) SHORTFALL.—If the total amount of grants provided for by this subsection for a fiscal year exceeds the amount of funds available for such grants for that fiscal year, then the Secretary shall make grants under this subsection to States in the order in which—

"(A) the primary safety belt use law came into effect; or

"(B) the State's safety belt use rate was 85 percent or more for 2 consecutive calendar years (as measured by criteria determined by the Secretary),

whichever first occurs.

"(5) CATCH-UP GRANTS.—The Secretary shall make a grant to any State eligible for a grant under this subsection that did not receive a grant for a fiscal year because of the application of paragraph (4), in the next fiscal year if the State's primary safety belt use law remains in effect or its safety belt use rate is 85 percent or more for the 2 consecutive calendar years preceding such next fiscal year (subject to paragraph (4)).

"(c) GRANTS FOR PRE-2003 LAWS.—To the extent that amounts made available for any of fiscal years 2006 through 2009 exceed the total amounts to be awarded under subsection (b) for the fiscal year, including amounts to be awarded for catch-up grants under subsection (b)(5), the Secretary shall make a single grant to each State that enacted, has in effect, and is enforcing a primary safety belt use law for all passenger motor vehicles that was in effect before January 1, 2003. The amount of a grant available to a State under this subsection shall be equal to 250 percent of the amount of funds apportioned to the State under section 402(c) of this title for fiscal year 2003. The Secretary may award the grant in up to 4 installments over a period of 4 fiscal years beginning with fiscal year 2006.

"(d) ALLOCATION OF UNUSED GRANT FUNDS.—The Secretary shall make additional grants under this section of any amounts available for grants under this section that, on July 1, 2009, are neither obligated nor expended.The additional grants made under this subsection shall be allocated among all States that, as of that date, have enacted, have in effect, and are enforcing primary safety belt laws for all passenger motor vehicles. The allocations shall be made in accordance with the formula for apportioning funds among the States under section 402(c) of this title.

"(e) USE OF GRANT FUNDS.—

"(1) IN GENERAL.—Subject to paragraph (2), a State may use a grant under this section for any safety purpose under this title or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including—

"(A) intersection improvements;

"(B) pavement and shoulder widening;

"(C) installation of rumble strips and other warning devices;

"(D) improving skid resistance;

"(E) improvements for pedestrian or bicyclist safety;

"(I) railway-highway crossing safety;

"(G) traffic calming;

"(H) the elimination of roadside obstacles;

"(I) improving highway signage and pavement marking;

"(J) installing priority control systems for emergency vehicles at signalized intersections;

"(K) installing traffic control or warning devices at locations with high accident potential;

"(L) safety-conscious planning; and

"(M) improving crash data collection and analysis.

"(2) SAFETY ACTIVITY REQUIREMENT.—Notwithstanding paragraph (1), the Secretary shall ensure that at least $1,000,000 of amounts received by States under this section are obligated or expended for safety activities under this chapter.

"(3) SUPPORT ACTIVITY.—The Secretary or his designee may engage in activities with States and State legislators to consider proposals related to safety belt use laws.

"(f) CARRY FORWARD OF EXCESS FUNDS.—If the amount available for grants under this section for any fiscal year exceeds the sum of the grants made under this section for that fiscal year, the excess amount and obligational authority shall be carried forward and made available for grants under this section in the succeeding fiscal year.

"(g) FEDERAL SHARE.—The Federal share payable for grants under this subsection is 100 percent.

"(h) PASSENGER MOTOR VEHICLE DEFINED.—In this section, the term 'passenger motor vehicle' means—

"(1) a passenger car,

"(2) a pickup truck,

"(3) a van, minivan, or sport utility vehicle, with a gross vehicle weight rating of less than 10,000 pounds." .

SA 751. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 639 submitted by Mr. LAUTENBERG and intended to be proposed to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted insert the following:

SEC. .—SENSE OF THE SENATE REAFFIRMING SUPPORT FOR CURRENT FEDERAL LIMITATIONS ON TRUCK SIZE AND WEIGHT

FINDINGS.—Congress finds that—

On March 11, 1998, the Senate agreed unanimously to a resolution reaffirming limitations on the length and weight of commercial motor vehicles as part of S. 1173, the Intermodal Surface Transportation Efficiency Act of 1997;

In 2000, the United States Department of Transportation released the Comprehensive Truck Size and Weight Study, which raised new safety, infrastructure and cost recovery concerns about lifting limitations on the length and weight of commercial motor vehicles;

In 2004, the United States Department of Transportation released the Western Uniformity Scenario Analysis report, which stated the Department does not favor change in federal truck size and weight policy; that nationwide, the Department believes an appropriate balance has been struck on truck size and weight; and that the Department opposes a piecemeal approach to truck size and weight policy;

SENSE OF THE SENATE.—It is the sense of the Senate that the prohibitions and restrictions on commercial motor vehicles under section 127(a) and (d) of title 23, United States Code, should not be amended so as to weaken the current 'freeze' on those vehicles or result in any more or less restrictive prohibition or restriction on those vehicles.

SA 752. Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, Mr. DAYTON, and Mr. NELSON of Nebraska) submitted an amendment intended to proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transmit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment; insert the following:

Sec. Incentives for the installation of Alternative Fuel Refueling Stations.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

"(b) LIMITATION.—The credit allowed under subsection (a)—

"(1) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

"(2) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d), but only with respect to any fuel at least 85 percent of the volume of which consists of ethanol.

"(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

"(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is of a character subject to an allowance for depreciation.

"(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(2) the tentative minimum tax for the taxable year.

"(e) CARRYFORWARD ALLOWED.—

"(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

"(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(f) SPECIAL RULES.—For purposes of this section—

"(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

"(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

"(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

"(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

"(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2009.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 30B(f)(1).".

(2) Section 55(c)(2) is amended by inserting "30B(d)," after "30(b)(3),".

(3) Section 6501(m) is amended by inserting "30B(f)(5)," after "30(d)(4),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

"Sec. 30B. Alternative fuel vehicle refueling property credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5310. MODIFICATION OF RECAPTURE RULES FOR AMORTIZABLE SECTION 197 INTANGIBLES.

(a) IN GENERAL.—Subsection (b) of section 1245 is amended by adding at the end the following new paragraph:

"(9) DISPOSITION OF AMORTIZABLE SECTION 197 INTANGIBLES.—

"(A) IN GENERAL.—If a taxpayer disposes of more than 1 amortizable section 197 intangible (as defined in section 197(c)) in a transaction or a series of related transactions, all such amortizable 197 intangibles shall be treated as 1 section 1245 property for purposes of this section.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any amortizable section 197 intangible (as so defined) with respect to which the adjusted basis exceeds the fair market value.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions of property after the date of the enactment of this Act.

SA 753. Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, Mr. DAYTON, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed to amendment SA 670 proposed by Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, and Mr. DAYTON) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike line 5 and all that follows and insert the following:

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

"(b) LIMITATION.—The credit allowed under subsection (a)—

"(1) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

"(2) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d), but only with respect to any fuel at least 85 percent of the volume of which consists of ethanol.

"(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

"(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is of a character subject to an allowance for depreciation.

"(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(2) the tentative minimum tax for the taxable year.

"(e) CARRYFORWARD ALLOWED.—

"(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

"(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(f) SPECIAL RULES.—For purposes of this section—

"(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

"(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

"(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

"(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

"(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2009.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 30B(f)(1).".

(2) Section 55(c)(2) is amended by inserting "30B(d)," after "30(b)(3),".

(3) Section 6501(m) is amended by inserting "30B(f)(5)," after "30(d)(4),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

"Sec. 30B. Alternative fuel vehicle refueling property credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5310. MODIFICATION OF RECAPTURE RULES FOR AMORTIZABLE SECTION 197 INTANGIBLES.

(a) IN GENERAL.—Subsection (b) of section 1245 is amended by adding at the end the following new paragraph:

"(9) DISPOSITION OF AMORTIZABLE SECTION 197 INTANGIBLES.—

"(A) IN GENERAL.—If a taxpayer disposes of more than 1 amortizable section 197 intangible (as defined in section 197(c)) in a transaction or a series of related transactions, all such amortizable 197 intangibles shall be treated as 1 section 1245 property for purposes of this section.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any amortizable section 197 intangible (as so defined) with respect to which the adjusted basis exceeds the fair market value.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions of property after the date of the enactment of this Act.

SA 754. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 639 submitted by Mr. LAUTENBERG and intended to be proposed to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . SENSE OF THE SENATE REAFFIRMING SUPPORT FOR FEDERAL LIMITATIONS ON TRUCK SIZE AND WEIGHT.

(a) FINDINGS.—Congress finds that—

(1) on March 11, 1998, the Senate agreed unanimously to reaffirm limitations on the length and weight of commercial motor vehicles as part of S. 1173, the Intermodal Surface Transportation Efficiency Act of 1997;

(2) in 2000, the Department of Transportation released the Comprehensive Truck Size and Weight Study, which raised new safety, infrastructure, and cost recovery concerns about lifting limitations on the length and weight of commercial motor vehicles; and

(3) in 2004, the Department of Transportation released the Western Uniformity Scenario Analysis report, which stated that the Department—

(A) does not favor change in Federal truck size and weight policy;

(B) believes an appropriate balance has been struck nationwide on truck size and weight; and

(C) opposes a piecemeal approach to truck size and weight policy.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the prohibitions and restrictions on commercial motor vehicles under subsections (a) and (d) of section 127 of title 23, United States Code, should not be amended so as to—

(1) weaken the current "freeze" on those vehicles; or

(2) result in any more or less restrictive prohibition or restriction on those vehicles.

SA 755. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 725 proposed by Mr. SANTORUM (for himself and Mr. SPECTER) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

At the end of the amendment, add the following:

SEC. 1831. TRANSPORTATION NEEDS, GRAYLING, MICHIGAN.

Item number 820 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 287) is amended by striking "Conduct" and all that follows through "interchange" and inserting "Conduct a transportation needs study and make improvements to I-75 interchanges in the Grayling area".

SA 756. CLINTON (for herself and Mr. INHOFE) submitted an amendment intended to be proposed to the amendment SA 681 proposed by Mrs. CLINTON to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.

(a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (4), by striking "or" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel;

"(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment; or

"(8) if the project or program is for—

"(A) diesel retrofit technologies that are—

"(i) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

"(ii) published in the list under subsection (f)(5) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

"(I) located in nonattainment or maintenance areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

"(II) funded, in whole or in part, under this title; or

"(B) outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the emission reduction strategy.".

(b) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking "for any project eligible under the surface transportation program under section 133." and inserting the following: "for any project in the State that—

"(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

"(B) is eligible under the surface transportation program under section 133."; and

(2) in paragraph (2), by striking "for any project in the State eligible under section 133." and inserting the following: "for any project in the State that—

"(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

"(B) is eligible under the surface transportation program under section 133.".

(c) RESPONSIBILITY OF STATES.—Section 149 of title 23, United States Code, is amended by adding at the end the following:

"(f) COST-EFFECTIVE EMISSION REDUCTION STRATEGIES.—

"(1) DEFINITIONS.—In this subsection:

"(A) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(B) CMAQ RESOURCES.—The term 'CMAQ resources' means resources available to a State to carry out the congestion mitigation and air quality improvement program under this section.

"(C) DIESEL RETROFIT TECHNOLOGY.—The term 'diesel retrofit technology' means a replacement, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.

"(2) EMISSION REDUCTION STRATEGIES.—Each State shall develop, implement, and periodically revise emission reduction strategies comprised of any methods determined to be appropriate by the State that are consistent with section 209 of the Clean Air Act (42 U.S.C. 7542) for engines and vehicles that are used in construction projects that are—

"(A) located in nonattainment areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

"(B) funded, in whole or in part, under this title.

"(3) STATE CONSIDERATIONS.—In developing emission reduction strategies, each State—

"(A) may include any means to reduce emissions that are determined to be appropriate by the State; but

"(B) shall—

"(i) consider guidance issued by the Administrator under paragraph (5);

"(ii) limit technologies to those identified by the Administrator under paragraph (5);

"(iii) provide contractors with guidance and technical assistance regarding the implementation of emission reduction strategies;

"(iv) give special consideration to small businesses that participate in projects funded under this title;

"(v) place priority on the use of—

"(I) diesel retrofit technologies and activities;

"(II) cost-effective strategies;

"(III) financial incentives using CMAQ resources and State resources; and

"(IV) strategies that maximize health benefits; and

"(vi) not include any activities prohibited by paragraph (4).

"(4) STATE LIMITATIONS.—Emission reduction strategies may not—

"(A) authorize or recommend the use of bans on equipment or vehicle use during specified periods of a day;

"(B) authorize or recommend the use of contract procedures that would require retrofit activities, unless funds are made available by the State under this section or other State authority to offset the cost of those activities; or

"(C) authorize the use of contract procedures that would discriminate between bidders on the basis of a bidder's existing equipment or existing vehicle emission technology.

"(5) EMISSION REDUCTION STRATEGY GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a nonbinding list of emission reduction strategies and supporting technical information for—

"(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

"(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources board that is submitted not later that 18 months of the date of enactment of this Act;

"(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration health effects;

"(D) options and recommendations for the structure and content of emission reduction strategies including—

"(i) emission reduction performance criteria;

"(ii) financial incentives that use CMAQ resources and State resources;

"(iii) procedures to facilitate access by contractors to financial incentives;

"(iv) contract incentives, allowances, and procedures;

"(v) methods of voluntary emission reductions; and

"(vi) other means that may be employed to reduce emissions from construction activities; and

"(6) PRIORITY.—States and metropolitan planning organizations shall give priority in distributing funds received for congestion management and air quality projects and programs to finance of diesel retrofit and cost-effective emission reduction activities identified by States in the emission reduction strategies developed under this subsection.

"(7) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies any authority or restriction established under the Clean Air Act (42 U.S.C. 7401 et seq.).".

SA 757. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 670 proposed by Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, and Mr. DAYTON) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 5309. INCENTIVES FOR THE INSTALLATION OF ALTERNATIVE FUEL REFUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

"(b) LIMITATION.—

"(1) IN GENERAL.—The credit allowed under subsection (a)—

"(A) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

"(B) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d), only with respect to any fuel at least 85 percent of the volume of which consists of ethanol, CNG, LEG, LPG & hydrogen.

"(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

"(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is of a character subject to an allowance for depreciation.

"(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(2) the tentative minimum tax for the taxable year.

"(e) CARRYFORWARD ALLOWED.—

"(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

"(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(f) SPECIAL RULES.—For purposes of this section—

"(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

"(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

"(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

"(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

"(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2013.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 30B(f)(1).".

(2) Section 55(c)(2) is amended by inserting "30B(d)," after "30(b)(3),".

(3) Section 6501(m) is amended by inserting "30B(f)(5)," after "30(d)(4),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

"Sec. 30B. Alternative fuel vehicle refueling property credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SA 758. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 647 by Mr. SESSIONS and intended to be proposed to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. . RAILWAY-HIGHWAY CROSSINGS.

Section 130(e) of title 23, United States Code (as amended by section 1401(c)(1)), is amended by inserting after "railway-highway crossings" the following: ", and at least

$150,000,000 shall be authorized to be appropriated from the general fund of the Treasury for the elimination of hazards, installation of protective devices, and the purchase of automatic warning signals for use at railway-highway crossings”.

SA 759. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 398, strike line 17 and all that follows through page 400, line 13, and insert the following:

SEC. 1819. HIGH-SPEED MAGNETIC LEVITATION SYSTEM DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Section 322 of title 23, United States Code, is amended to read as follows:

“§322. High-speed magnetic levitation system deployment program

“(a) DEFINITIONS.—In this section:

“(1) ELIGIBLE PROJECT COSTS.—

“(A) IN GENERAL.—The term ‘eligible project costs’ means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities.

“(B) INCLUSION.—The term ‘eligible project costs’ includes the costs of preconstruction planning activities.

“(2) FULL PROJECT COSTS.—The term ‘full project costs’ means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

“(3) MAGLEV.—

“(A) IN GENERAL.—The term ‘MAGLEV’ means transportation systems in revenue service employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

“(B) INCLUSION.—The term ‘MAGLEV’ includes power, control, and communication facilities required for the safe operation of the vehicles within a system described in subparagraph (A).

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(5) SPECIAL PURPOSE ENTITY.—The term ‘special purpose entity’ means a nonprofit entity that—

“(A) is not a State-designated authority; but

“(B) is eligible, as determined by the Governor of the State in which the entity is located, to participate in the program under this section.

“(6) TEA–21 CRITERIA.—The term ‘TEA–21 criteria’ means—

“(A) the criteria set forth in subsection (d) of this section (as in effect on the day before the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005), including applicable regulations; and

“(B) with respect to subsection (e)(2), the criteria set forth in subsection (d)(8) of this section (as so in effect).

“(b) PHASE I—PRECONSTRUCTION PLANNING.—

“(1) IN GENERAL.—A State, State-designated authority, multistate-designated authority, or special purpose entity may apply to the Secretary for grants to conduct preconstruction planning for proposed new MAGLEV projects, or extensions to MAGLEV systems planned, studied, or deployed under this or any other program.

“(2) APPLICATIONS.—An application for a grant under this subsection shall include a description of the proposed MAGLEV project, including, at a minimum—

“(A) a description of the purpose and need for the proposed MAGLEV project;

“(B) a description of the travel market to be served;

“(C) a description of the technology selected for the MAGLEV project;

“(D) forecasts of ridership and revenues;

“(E) a description of preliminary engineering that is sufficient to provide a reasonable estimate of the capital cost of constructing, operating, and maintaining the project;

“(F) a realistic schedule for construction and equipment for the project;

“(G) an environmental assessment;

“(H) a preliminary identification of the 1 or more organizations that will construct and operate the project; and

“(I) a cost-benefit analysis and tentative financial plan for construction and operation of the project.

“(3) DEADLINE FOR APPLICATIONS.—The Secretary shall establish an annual deadline for receipt of applications under this subsection.

“(4) EVALUATION.—The Secretary shall evaluate all applications received by the annual deadline to determine whether the applications meet criteria established by the Secretary.

“(5) SELECTION.—The Secretary, except as otherwise provided in this section, shall select for Federal support for preconstruction planning any project that the Secretary determines meets the criteria.

“(c) PHASE II—ENVIRONMENTAL IMPACT STUDIES.—

“(1) IN GENERAL.—A State, State-designated authority, or multistate-designated authority or special purpose entity that has conducted (under this section or any other provision of law) 1 or more studies that address each of the requirements of subsection (b)(2) may apply for Federal funding to assist in—

“(A) preparing an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(B) planning for construction, operation, and maintenance of a MAGLEV project.

“(2) DEADLINE FOR APPLICATIONS.—

“(A) IN GENERAL.—The Secretary shall—

“(i) establish an annual deadline for receipt of Phase II applications; and

“(ii) evaluate all applications received by that deadline in accordance with criteria established under subparagraph (B).

“(B) CRITERIA.—The Secretary shall establish criteria to evaluate applications that include whether—

“(i) the technology selected is available for deployment at the time of the application;

“(ii) operating revenues combined with known and dedicated sources of other revenues in any year will exceed annual operation and maintenance costs;

“(iii) over the life of the MAGLEV project, total project benefits will exceed total project costs; and

“(iv) the proposed capital financing plan is realistic and does not assume Federal assistance that is greater than the maximums specified in clause (ii).

“(C) PROJECTS SELECTED.—If the Secretary determines that a MAGLEV project meets the criteria established under subparagraph (B), the Secretary shall—

“(i) select that project for Federal Phase II support; and

“(ii) publish in the Federal Register a notice of intent to prepare an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(d) PHASE III—DEPLOYMENT.—The State, State-designated agency, multistate-designated agency, or special purpose entity that is part of a public-private partnership (meeting the TEA–21 criteria) sponsoring a MAGLEV project that has completed a final environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for both the MAGLEV project and the entire corridor of which the MAGLEV project is the initial operating segment, and has completed planning studies for the construction, operation, and maintenance of the MAGLEV project, under this or any other program, may submit an application to the Secretary for Federal funding of a portion of the capital costs of planning, financing, constructing, and equipping the preferred alternative identified in the final environmental impact statement or analysis.

“(e) FINANCIAL ASSISTANCE.—

“(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of the full project costs of projects selected under this section.

“(2) PREVAILING WAGE AND CERTAIN TEA–21 CRITERIA.—Sections 5333(a) of title 49, and the TEA–21 criteria, shall apply to financial assistance made available under this section and projects funded with that assistance.

“(3) FEDERAL SHARE.—

“(A) PHASE I AND PHASE II.—For Phase I—preconstruction planning and Phase II—environmental impact studies carried out under subsections (b) and (c), respectively, the Federal share of the costs of the planning and studies shall be not more than ⅔ of the full cost of the planning and studies.

“(B) PHASE III.—For Phase III—deployment projects carried out under subsection (d), not more than ⅔ of the full capital cost of such a project shall be made available from funds appropriated for this program.

“(4) FUNDING.—

“(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

“(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 2005 through 2009 to carry out this section—

“(I) $10,000,000 for Phase I—preconstruction planning studies;

“(II) $20,000,000 for Phase II—environmental impact studies; and

“(III) $60,000,000 for Phase III—deployment projects.

“(ii) OBLIGATION AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter I, except that—

“(I) the Federal share of the cost of the project shall be in accordance with paragraph (2); and

“(II) the availability of the funds shall be in accordance with subsection (f).

“(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

“(i) PHASE I.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase I—preconstruction planning studies under subsection (b)—

“(I) $6,000,000 for fiscal year 2005; and

“(II) $2,000,000 for each of fiscal years 2006 through 2009.

"(ii) PHASE II.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase II—environmental impact studies under subsection (c)—

"(I) $25,000,000 for fiscal year 2005;

"(II) $37,000,000 for fiscal year 2006;

"(III) $21,000,000 for fiscal year 2007; and

"(IV) $9,000,000 for each of fiscal years 2008 and 2009.

"(iii) PHASE III.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase III—deployment projects under subsection (d)—

"(I) $500,000,000 for fiscal year 2005;

"(II) $650,000,000 for fiscal year 2006;

"(III) $850,000,000 for fiscal year 2007;

"(IV) $850,000,000 for fiscal year 2008; and

"(V) $600,000,000 for fiscal year 2009.

"(iv) PROGRAM ADMINISTRATION.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out administration of this program—

"(I) $13,000,000 for fiscal year 2005;

"(II) $16,000,000 for fiscal year 2006;

"(III) $8,000,000 for fiscal year 2007; and

"(IV) $5,000,000 for each of fiscal years 2008 and 2009.

"(v) RESEARCH AND DEVELOPMENT.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out research and development activities to reduce MAGLEV deployment costs $4,000,000 for each of fiscal years 2005 through 2009.

"(f) AVAILABILITY OF FUNDS.—Funds made available under subsection (e) shall remain available until expended.

"(g) OTHER FEDERAL FUNDS.—Funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement programs under section 149 may be used by any State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

"(h) OTHER FEDERAL FUNDS.—A project selected for funding under this section shall be eligible for other forms of financial assistance provided by this title and title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.), including loans, loan guarantees, and lines of credit.

"(i) MANDATORY ADDITIONAL SELECTION.—

"(1) IN GENERAL.—Subject to paragraph 2, in selecting projects for preconstruction planning, deployment, and financial assistance, the Secretary may only provide funds to MAGLEV projects that meet the criteria established under subsection (b)(4).

"(2) PRIORITY FUNDING.—The Secretary shall give priority funding to a MAGLEV project that—

"(A) has already met the TEA–21 criteria and has received funding prior to the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005 as a result of evaluation and contracting procedures for MAGLEV transportation, to the extent that the project continues to fulfill the requirements of this section;

"(B) to the maximum extent practicable, has met safety guidelines established by the Secretary to protect the health and safety of the public;

"(C) is based on designs that ensure the greatest life cycle advantages for the project;

"(D) contains domestic content of at least 70 percent; and

"(E) is designed and developed through public/private partnership entities and continues to meet the TEA–21 criteria relating to public/private partnerships.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 322 and inserting the following:

"322. High-speed magnetic levitation system deployment program.".

SA 760. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 566, strike lines 2 through 9 and insert the following:

"(C) blast furnace slag aggregate;

"(D) silica fume;

"(E) foundry sand; and

"(F) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, May 12, 2005, at 9:30 a.m., in closed session to mark up the National Defense Authorization Act for Fiscal Year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, May 12, 2005, at 10 a.m., on S. 967, Issues Related to the Broadcast of Prepackaged News Stories Produced by the Government Agencies.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 12, 2005, at 10 a.m., to hold a Business Meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, May 12, 2005, at 9:30 a.m., in SD226.

Agenda

I. Nominations: Terrence W. Boyle, II to be U.S. Circuit Judge for the Fourth Circuit; William H. Pryor, Jr. to be U.S. Circuit Judge for the Eleventh Circuit; and Brett M. Kavanaugh to be U.S. Circuit Judge for the District of Columbia.

II. Bills: S. 852—A bill to Create a Fair and Efficient System to Resolve Claims of Victims for Bodily Injury Caused by Asbestos Exposure, and for Other Purposes. SPECTER, LEAHY, HATCH, FEINSTEIN, GRASSLEY, DEWINE, GRAHAM

III. Matters: Senate Judiciary Committee Rules.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Executive Nominations" on Thursday, May 12, 2005 at 4 p.m. in Dirksen Senate Office Building, Room 226.

Witness List

Panel I: The Honorable THAD COCHRAN, U.S. Senator, R–MS; the Honorable CHUCK GRASSLEY, U.S. Senator, R–IA; and the Honorable MITCH MCCONNELL, U.S. Senator, R–KY.

Panel II: Rachel Beard, to be an Assistant Attorney General; Alice S. Fisher, to be an Assistant Attorney General; and Regina B. Schofield, to be an Assistant Attorney General.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, May 12, 2005, for a committee hearing titled "An Open Discussion: Planning, Providing and Paying for Veterans' Long Term Care." The hearing will take place in room 418 of the Russell Senate Office Building at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 12, 2005, at 2:30 p.m., to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. INHOFE. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet today, Thursday, May 12, 2005, from 3 to 5 p.m., in Hart 216 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Thursday, May 12, 2005, at 10:30 a.m., for a hearing entitled "Examining USAID's Anti-Malaria Policies."

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Emily Meeker, Rob Grayson, Waylon Mathern, and Jorlie Cruz for the remainder of the consideration of S. 732.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Executive Calendar: Calendar No. 59. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF DEFENSE

John Paul Woodley, Jr., of Virginia, to be an Assistant Secretary of the Army.

NOMINATIONS DISCHARGED AND PLACED ON THE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of the nominations of Thomas Dorr, PN 68 and PN 69, and that the nominations be placed on the calendar, and finally that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL DRUG COURT MONTH

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 136, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 136) designating the month of May 2005 as "National Drug Court Month."

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 136) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 136

Whereas drug courts provide the focus and leadership for community-wide, antidrug systems, bringing together public safety professionals and other community partners in the fight against drug abuse and criminality;

Whereas the results of more than 100 program evaluations and at least 3 experimental studies have yielded definitive evidence that drug courts increase treatment retention and reduce substance abuse and crime among drug-involved adult offenders;

Whereas the judges, prosecutors, defense attorneys, substance abuse treatment and rehabilitation professionals, law enforcement and community supervision personnel, researchers and educators, national and community leaders, and others dedicated to the movement have had a profound impact within their communities; and

Whereas the drug court movement has grown from the 12 original drug courts in 1994 to 1,621 operational drug courts as of December 2004: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of May 2005 as "National Drug Court Month"; and

(2) encourages the people of the United States and interested groups to observe the month with appropriate ceremonies and activities.

NATIONAL CHILD CARE WORTHY WAGE DAY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 137, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 137) designating May 1, 2005, as "National Child Care Worthy Wage Day."

There being no objection, the Senate proceeded to the consideration of the resolution.

Mr. CORZINE. Mr. President, I rise today, along with Senators LAUTENBERG, BINGAMAN, DODD, DURBIN, FEINGOLD, INOUYE, KERRY, BOXER and KENNEDY, to speak about a resolution supporting National Child Care Worthy Wage Day. It is my hope that it will bring attention to early childhood education and the importance of attracting and retaining qualified childcare workers.

Every day, approximately 13 million children are cared for outside the home so that their parents can work. This figure includes 6 million of our Nation's infants and toddlers. Children begin to learn at birth, and the quality of care they receive will affect them for the rest of their lives. Early childcare affects language development, math skills, social behavior, and general readiness for school. Experienced childcare workers can identify children who have development or emotional problems and provide the care they need to take on life's challenges. Through the creative use of play, structured activities and individual attention, childcare workers help young children learn about the world around them and how to interact with others. They also teach the skills children will need to be ready to read and to learn when they go to school.

Unfortunately, despite the importance of their work, the committed individuals who nurture and teach our Nation's young children are undervalued. The average salary of a childcare worker is just under $18,000 annually. In 1998, the middle 50 percent of child care workers and preschool teachers earned between $5.82 and $8.13 an hour, according to the Department of Labor. The lowest 10 percent of childcare workers were paid an hourly rate of $5.49 or less. Only one third of our Nation's childcare workers have health insurance and even fewer have pension plans. This grossly inadequate level of wages and benefits for childcare staff has led to difficulties in attracting and retaining quality caretakers and educators. As a result, the turnover rate for childcare providers is 30 percent a year. This high turnover rate interrupts consistent and stable relationships that children need to have with their caregivers.

If we want our children cared for by qualified providers with higher degrees and more training, we will have to make sure they are adequately compensated. Otherwise, we will continue to lose early childhood educators with BA degrees to kindergarten and first grade, losing some of our best teachers of young children from the early years of learning.

In order to bring attention to childcare workers, I am sponsoring a resolution that would designate May as National Child Care Worthy Wage Day. On May 1 each year, childcare providers and other early childhood professionals nationwide conduct public awareness and education efforts highlighting the importance of good early childhood education.

I encourage my colleagues to join me in recognizing the importance of the work and professionalism that childcare workers provide and the need to increase their compensation accordingly. The Nation's childcare workforce, the families who depend on them, and the children they care for, deserve our support.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 137) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 137

Whereas approximately 14,000,000 children are in out-of-home care during part or all of the day so that their parents may work;

Whereas the turnover rate of early-childhood educators is approximately 30 percent per year because low wages and a lack of benefits make it difficult to retain high-quality educators;

Whereas research has demonstrated that young children require caring relationships and a consistent presence in their lives for their positive development;

Whereas the compensation of early-childhood educators should be commensurate with the important job of helping the young children of the United States develop the social, emotional, physical, and intellectual skills they need to be ready for school; and

Whereas resources may be reallocated to improve the compensation of early-childhood educators to ensure that quality care and education are accessible for all families;

Whereas the Center for the Child Care Workforce and other early childhood education organizations recognize May 1st as National Child Care Worthy wage Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 1, 2005, as "National Child Care Worthy Wage Day"; and

(2) calls on the people of the United States to observe National Child Care Worthy Wage Day by—

(A) honoring early-childhood educators and programs in their communities; and

(B) working together to resolve the early-childhood educator compensation crisis.

NATIONAL DAY OF THE AMERICAN COWBOY

Mr. FRIST. I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 138, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 138) designating July 23, 2005, as National Day of the American Cowboy.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 138) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 138

Whereas pioneering men and women, recognized as cowboys, helped establish the American West;

Whereas that cowboy spirit continues to infuse this country with its solid character, sound family values, and good common sense;

Whereas the cowboy embodies honesty, integrity, courage, compassion, respect, a strong work ethic, and patriotism;

Whereas the cowboy loves, lives off of, and depends on the land and its creatures, and is an excellent steward, protecting and enhancing the environment;

Whereas the cowboy continues to play a significant role in America's culture and economy;

Whereas approximately 800,000 ranchers are conducting business in all 50 of these United States and are contributing to the economic well being of nearly every county in the Nation;

Whereas rodeo is the sixth most-watched sport in America;

Whereas membership in rodeo and other organizations surrounding the livelihood of a cowboy transcends race and gender and spans every generation;

Whereas the cowboy is an American icon;

Whereas to recognize the American cowboy is to acknowledge America's ongoing commitment to an esteemed and enduring code of conduct; and

Whereas the ongoing contributions made by cowboys to their communities should be recognized and encouraged: Now, therefore, be it

Resolved, That the Senate—

(1) designates July 23, 2005, as "National Day of the American Cowboy"; and

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

EXPRESSING SUPPORT FOR WITHDRAWAL OF RUSSIAN TROOPS FROM GEORGIA

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 139 submitted earlier today.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 139) expressing support for the withdrawal of Russian troops from Georgia.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, on April 9, 1991, the Republic of Georgia declared its independence from the Soviet Union. Later that December, it was formally recognized by the international community as a sovereign and independent nation.

Throughout the Cold War, the Soviet Union stationed troops and maintained military bases in many of the republics and countries along its border. When the Soviet Union collapsed in 1991, most of these forces withdrew to Russia and former Soviet military bases were closed.

Today, however, more than a decade after obtaining its independence, Georgia has not been able to rid itself of the Russian military presence. Several years ago, Russia pledged to withdraw its military personnel and close its military bases in Georgia. However, Russia has failed to fulfill its commitments. More than 3,000 Russian troops are still present in Georgia.

It is time for these forces to leave. I urge Russia's leaders to respect the sovereignty and territorial integrity of Georgia, to fulfill its obligations, and work with Georgia's leaders to end its military presence there.

In November 2003, the people of Georgia demonstrated their desire to free themselves of the bonds of foreign domination.

They peacefully protested fraudulent elections and succeeded in installing a government committed to democracy, human rights, and the rule of law. The Rose Revolution was a triumph for freedom and has truly been an inspiration to us all.

Georgia's President Mikheil Saakashvili and the Government and people of Georgia have exhibited steadfast determination in their efforts to regain their sovereignty and protect their new democracy.

The United States should continue to support the Georgian people as they work to strengthen their democratic institutions and end Russia's military presence.

I applaud President Bush for his recent visit to the Georgia Republic. And I wholeheartedly support his commitment to the spread of freedom and democracy in the states of the former Soviet Union.

President Saakashvili and the people of Georgia deserve deep admiration for their extraordinary accomplishment. I am confident that their example will continue to inspire millions around the world who hope for a future of freedom and prosperity.

Mr. REID. Mr. President, I appreciate the support of the Senate in approving this resolution regarding the territorial integrity of Georgia. It is important that the Senate speak on this matter with one voice and at this time, as President Bush just wrapped up his trip to Europe and Russia with a 2-day visit to Tiblisi, Georgia.

I was in Georgia 6 weeks ago. I went there at the urging of the former Prime Minister, who died tragically in an accident several months ago. The Prime

Minister came to visit me here in my Capitol office, and he described his country to me: mountainous, filled with historic churches, strategically important, and a friend to the United States. "You have to go there," he said. I promised him that I would go there, and even after he died, I wanted to fulfill that commitment.

And after having spent 2 days and nights in Georgia, I can say that the Prime Minister's description was right on the mark. Georgia is a beautiful country, with an incredible history and stunning architecture. Above all, the Georgian people have a wonderful spirit.

Less than years ago, Georgia underwent the peaceful "Rose Revolution." A group of young, thoughtful and energetic reformers took on the corrupt leaders of the Soviet era, denying them an opportunity to steal a parliamentary election. Thousands gathered in Freedom Square, night after night, to expose the fraud and criminality of the previous regime. From that point on, there was no turning back. Democracy had finally arrived in Georgia.

But Georgian sovereignty and independence has been put at some risk recently through the continued basing of Russian troops on Georgian soil. Previous agreements negotiated with the Russian government calling for the complete withdrawal of Russian troops have been ignored. Some 3,000 Russian military personnel still remain in Georgia. It is time for them to go. I am confident that President Bush carried that message to President Putin during his recent visit.

I am glad we could pass this Resolution calling on Russia to support the territorial integrity of Georgia, and expressing our support for the Georgian people and their pursuit of democracy. Georgia is our friend, our ally and our strategic partner. Passage of this resolution sends exactly the right message to the Russian Government and to the people of Georgia. Again, I appreciate the support of my colleagues and I commend the President for his decision to visit Georgia. I know he was as well received as our Senate delegation was.

Mr. FRIST. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 139) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 139

Whereas, on April 9, 1991, the Republic of Georgia declared independence from the Union of Soviet Socialist Republics;

Whereas, during December 1991, the Republic of Georgia was internationally recognized as an independent and sovereign country following the formal dissolution of the Union of Soviet Socialist Republics;

Whereas the disposition of former Soviet troops stationed in certain newly independent countries was resolved by 1994 with the complete withdrawal of Russian Federation military personnel from the Republics of Estonia, Latvia, and Lithuania;

Whereas in the years following the restoration of Georgian independence, successive governments of Georgia sought to negotiate the closure of Russian military bases located in, and the withdrawal of military personnel from, Georgia;

Whereas, during the Organization for Security and Co-operation in Europe summit at Istanbul, Turkey in 1999, Georgia and Russia concluded a bilateral agreement as part of the Adapted Conventional Forces in Europe Treaty;

Whereas as part of such bilateral agreement, which is known as the "Istanbul Commitments", on November 17, 1999, Russia committed to close bases at Gudauta and Vaziani by July 1, 2001, and committed to conclude negotiations on bases at Batumi and Akhalkalaki, and all other Russian military facilities during 2000;

Whereas Russia has failed to fulfill its obligations under the Istanbul Commitments;

Whereas more than 3,000 Russian military personnel remain in Georgia at various bases and facilities throughout the country;

Whereas, during November 2003, the Georgian people, in the historic "Rose Revolution", peacefully protested fraudulent elections resulting in the holding of new elections and the installation of a new government committed to democracy, the rule of law, observance of human rights, restoration of sovereignty, and economic development; and

Whereas on March 10, 2005, the democratically elected Parliament of the Republic of Georgia passed a measure expressing its dissatisfaction with Russia's continued military presence in Georgia: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) the Russian Federation should respect the territorial integrity and sovereignty of the Republic of Georgia;

(B) President Mikheil Saakashvili and the Government and people of Georgia deserve congratulations for the accomplishments and successful reforms carried out in Georgia since President Mikheil Saakashvili's inauguration in January 2004, and that the United States should continue to support such reforms and should encourage and assist Georgia with strengthening its democratic institutions and resolving its separatist conflicts peacefully; and

(C) the United States should continue to support Georgia in its efforts to negotiate an agreement for ending Russia's military presence in Georgia, in accordance with Russia's obligations under the bilateral agreement made between Russia and Georgia as part of the Adapted Conventional Forces in Europe Treaty known as the "Istanbul Commitments"; and

(2) the Senate—

(A) supports the efforts of President Bush to encourage Russia and Georgia to expeditiously reach agreement on the closure of Russian military bases in, and the withdrawal of military personnel from, Georgia;

(B) commends President Bush for being the first United States President to visit Georgia since its recognition as an independent and sovereign country; and

(C) will continue to monitor the situation in Georgia closely.

AUTHORIZING USE OF CAPITOL GROUNDS FOR GREATER WASHINGTON SOAP BOX DERBY

AUTHORIZING USE OF CAPITOL GROUNDS FOR DISTRICT OF COLUMBIA SPECIAL OLYMPICS LAW ENFORCEMENT TORCH RUN

AUTHORIZING USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE

Mr. FRIST. I ask unanimous consent that the Senate proceed to the en bloc consideration of the following concurrent resolutions which were received from the House: H. Con. Res. 86, H. Con. Res. 135, H. Con. Res. 136.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the concurrent resolutions.

Mr. FRIST. I ask unanimous consent that the concurrent resolutions be agreed to and the motions to reconsider be laid upon the table en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolutions (H. Con. Res. 86, H. Con. Res. 135, and H. Con. Res. 136) were agreed to.

NATIONAL FETAL ALCOHOL SPECTRUM DISORDERS AWARENESS DAY

Mr. FRIST. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. Res. 141, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 141) designating September 9, 2005, as "National Fetal Alcohol Spectrum Disorders Awareness Day."

There being no objection, the Senate proceeded to consider the resolution.

Ms. MURKOWSKI. On Wednesday, May 18, parents of children afflicted with Fetal Alcohol Spectrum Disorders and their advocates will travel to our Nation's Capital for the Second Annual FASD Hill Day. FASD Hill Day is sponsored by the National Organization on Fetal Alcohol Syndrome and organizations that support those who care for FASD children in our States and communities.

Nobody knows better than a parent of a child afflicted with FASD how challenging it is to raise a child who was exposed to alcohol before birth. Nobody knows better the physical, mental, behavioral and learning disabilities that can have lifelong implications. I would urge my colleagues to open their offices to the parents and advocates who participate in FASD Hill Day because they have a very important story to tell. Their stories will move you.

At the conclusion of FASD Hill Day, the National Organization on Fetal Alcohol Syndrome will host its annual Leadership Awards Benefit Reception. All of the parents and advocates are invited to participate. I am pleased to inform my colleagues that the distinguished Senator from Wyoming, Mr. ENZI, and our distinguished colleague from Illinois, Mr. DURBIN, will receive the 2005 Leadership Award at the benefit reception. As a Senator who represents a State with one of the highest incidence rates of Fetal Alcohol Spectrum Disorders, I appreciate the leadership of Senator DURBIN and Senator ENZI, and the support of all of our colleagues, in the crusade to eradicate fetal alcohol spectrum disorders.

The term fetal alcohol spectrum disorders, or FASD, was coined by experts as an umbrella term to describe the range of effects that can occur in an individual whose mother drank alcohol during pregnancy. It refers to conditions such as fetal alcohol syndrome, fetal alcohol effects, alcohol-related neurodevelopmental disorder and alcohol-related birth defects.

The only cause of FASD is alcohol use during pregnancy. When a pregnant woman drinks, the alcohol crosses the placenta into the fetal blood system. Thus, alcohol reaches the fetus, its developing tissues and organs. This is how brain damage occurs, which in turn can lead to mental retardation, social and emotional problems, learning disabilities and other problems. In fact, FASD is the leading cause of mental retardation in all of western civilization, including the United States.

Since the only cause of FASD is prenatal alcohol consumption it follows that by abstaining from the consumption of alcohol during pregnancy a woman can completely foreclose the possibility that her baby will be born with one or another of the conditions that are regarded fetal alcohol spectrum disorders.

Every day of the year we must remind women that no amount of alcohol consumed during pregnancy is safe for their baby. No alcohol during pregnancy is safe. None at all.

To dramatize this point, a group of parents who were raising children afflicted with fetal alcohol came together on the Internet and wondered in cyberspace, "What if a world full of FAS and FAE parents all got together on the 9th hour of the 9th day of the 9th month of the year and asked the world to remember that during the 9 months of pregnancy a woman should not consume alcohol?" If this were to occur, they wondered, "Would the world listen?"

On the 9th hour of the 9th day of the 9th month every year they called upon all the peoples of the world to observe a moment of silence to remind women of childbearing age that no amount of alcohol is safe during pregnancy.

These pioneering activists, most of whom were adoptive and foster parents, led by Brian Philcox and Bonnie Buxton of Toronto, Canada, and Teresa Kellerman of Tucson, AZ, did not have the resources of large public relations firms or well connected lobbyists. They organized the first International FAS Awareness Day, which was observed on September 9, 1999, on a shoestring using the Internet. Rapidly their group grew to include more than 70 volunteer coordinators in eight countries. Each year I receive e-mails from places like New Zealand, Germany, and my own State of Alaska, telling me about their local FAS Day observances. Through this grassroots awareness effort, many women of childbearing age learned for the first time that no amount of alcohol in pregnancy is good.

On September 9, 2004, for the first time, the moment of silence was observed on the Senate floor. I would hope that this would become an annual tradition until fetal alcohol spectrum disorders are eradicated.

The resolution that I have introduced today designates September 9, 2005, as National Fetal Alcohol Spectrum Awareness Day. Although September 9 is several months off, I have asked that the resolution be considered at this time as a tribute to the efforts of the FASD parents and advocates who have come to Washington, DC, educate all of us about the dangers of alcohol and pregnancy and to provide them with a tool to encourage each of their communities to observe and participate in FASDAY 2005 when they return home.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 141) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 141

Whereas the term "fetal alcohol spectrum disorders" includes a broader range of conditions and therefore has replaced the term "fetal alcohol syndrome" as the umbrella term describing the range of effects that can occur in an individual whose mother drank alcohol during pregnancy;

Whereas fetal alcohol spectrum disorders are the leading cause of mental retardation in western civilization, including the United States, and are 100 percent preventable;

Whereas fetal alcohol spectrum disorders are a major cause of numerous social disorders, including learning disabilities, school failure, juvenile delinquency, homelessness, unemployment, mental illness, and crime;

Whereas the incidence rate of fetal alcohol syndrome is estimated at 1 out of 500 live births and the incidence rate of fetal alcohol spectrum disorders is estimated at 1 out of every 100 live births;

Whereas the economic cost of fetal alcohol syndrome alone to the Nation was $5,400,000,000 in 2003 and it is estimated that each individual with fetal alcohol syndrome will cost United States taxpayers between $1,500,000 and $3,000,000 in his or her lifetime;

Whereas in February 1999, a small group of parents of children who suffer from fetal alcohol spectrum disorders came together with the hope that in 1 magic moment the world could be made aware of the devastating consequences of alcohol consumption during pregnancy;

Whereas the first International Fetal Alcohol Syndrome Awareness Day was observed on September 9, 1999;

Whereas Bonnie Buxton of Toronto, Canada, the co-founder of the first International Fetal Alcohol Syndrome Awareness Day, asked "What if . . . a world full of FAS/E [Fetal Alcohol Syndrome/Effect] parents all got together on the ninth hour of the ninth day of the ninth month of the year and asked the world to remember that during the 9 months of pregnancy a woman should not consume alcohol . . . would the rest of the world listen?"; and

Whereas on the ninth day of the ninth month of each year since 1999, communities around the world have observed International Fetal Alcohol Syndrome Awareness Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 9, 2005, as "National Fetal Alcohol Spectrum Disorders Awareness Day"; and

(2) calls upon the people of the United States to—

(A) observe National Fetal Alcohol Spectrum Disorders Awareness Day with appropriate ceremonies to—

(i) promote awareness of the effects of prenatal exposure to alcohol;

(ii) increase compassion for individuals affected by prenatal exposure to alcohol;

(iii) minimize further effects of prenatal exposure to alcohol; and

(iv) ensure healthier communities across the United States; and

(B) observe a moment of reflection on the ninth hour of September 9, 2005, to remember that during the 9 months of pregnancy a woman should not consume alcohol.

ORDERS FOR FRIDAY, MAY 13, 2005

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Friday, May 13. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of H.R. 3, the highway bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow the Senate will resume consideration of the highway bill. Earlier today we invoked cloture on the substitute amendment, and the chairman and ranking member were able to construct a final list of amendments. We are now on a glidepath to complete work on this legislation early next week, and I do want to thank all Members for their hard work and cooperation.

With that being said, there is still work to be done. The bill managers will be here tomorrow morning to receive the final few amendments. There will be no rollcall votes tomorrow, but I encourage those Members who have amendments on the final list to come to the floor tomorrow to offer and debate their amendments. We will be voting on Monday evening, and that would be the next rollcall vote.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:40 p.m., adjourned until Friday, May 13, 2005, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate: Thursday, May 12, 2005:

DEPARTMENT OF DEFENSE

JOHN PAUL WOODLEY, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

HONORING GEORGE LAW

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. HALL. Mr. Speaker, I am honored to pay tribute to George Law of Sulphur Springs, TX, who has been selected as the Sulphur Springs Kiwanis Layperson of the Year by Golden K and Sulphur Springs Kiwanis Clubs.

These Clubs will recognize George at a special dinner on May 19, 2005. Hopkins County Judge Cletis Millsap and the Commissioners Court will proclaim May 20 as George Law day. Sulphur Springs Mayor Chris Brown and members of the City Council will issue a proclamation in his honor. State Representative Mark Homer will send special recognition from the Texas Legislature, and I appreciate the opportunity to recognize this outstanding citizen of Sulphur Springs in the CONGRESSIONAL RECORD.

George is a retired educator, having served more than 20 years as both a teacher and principal. George was vocational agriculture teacher in McCauley, science teacher and Kiwanis Key Club advisor in Sulphur Springs, and principal in the Como-Pickton Consolidated Independent School District. Throughout his years as an educator, George exceeded what might be expected to challenge and encourage young people. He provided emotional support and, in some cases, financial assistance to some of his students in critical need. Untold numbers of former students who have gone on to complete their college education give George the credit for challenging and supporting them.

In addition to his work in education, George has devoted countless hours to his community. For more than 35 years he has been a strong supporter of Boy Scouts and continues to support scouting both financially and through his personal efforts. He has been a driver for the Road to Recovery Program, driving residents to other cities for medical appointments and treatment.

George also is an active member and trustee of First United Methodist Church of Sulphur Springs. As a member of the church building committee, he served as contractor for the renovation of the church administration building free of charge. George has been president of the Messengers' Class, Methodist Men, serves as an usher and helps in the church kitchen. Everywhere he goes George is a general advocate for his church.

George and his wife, Barbara, have instilled good work ethics in their children and grandchildren. When he left the teaching profession he would never say he retired. He would say, "I just quit," and continued to work tirelessly for his family, his church, the Sulphur Springs Golden K Kiwanis, and his community.

According to Kerry Craig, assistant editor of the Sulphur Springs News Telegram, on any project George undertakes, his approach is to "Lead, follow, or get out of the way." Mr. Speaker, so many in Sulphur Springs have benefited from George's leadership and involvement in his community. Today in the House of Representatives, let us join his family and many friends in paying tribute to this outstanding citizen and great American—George Law.

RECOGNIZING THE REVEREND MICHAEL H. HARRISON, SR.

HON. TIM RYAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. RYAN of Ohio. Mr. Speaker, I rise today in recognition of The Reverend Michael H. Harrison, Sr., for his decade of inimitable service to the Youngstown community.

After serving the United Baptist Church in Akron for 10 years, Pastor Harrison was called to lead the 125-member congregation of the Union Baptist Church in Youngstown, Ohio, in 1995. In just four years, the Pastor built the congregation to more than 650 people from our community. Today, thanks to his work, a new sanctuary of the Union Baptist Church can seat over 800 worshippers.

In addition to his tireless commitment to his church and congregation, Pastor Harrison has shared his leadership with countless other civic and religious organizations. He is Chair of the African-American Leadership Commission and is also the 1st Vice President of the Ohio Baptist State Convention. The Pastor previously served as President of the Baptist Pastor's Council of Youngstown and vicinity. In 2004, he was honored as "One of the World's Most Beloved Pastors" by Gospel Today Magazine.

I commend The Reverend Michael H. Harrison, Sr., for his selfless dedication to our community.

PISKARYOVSKOYE MEMORIAL CEMETERY AT ST. PETERSBURG, RUSSIA

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. WILSON of South Carolina. Mr. Speaker, the eyes of the world have been on Moscow this week as Allies celebrated the 60th anniversary of victory over Nazism.

When Russians historically held off the 900-day siege of Leningrad, St. Petersburg served as an extraordinary front in Russia. The Piskaryovskoye Memorial Cemetery at St. Petersburg is a vivid reminder of this sacrifice, containing over 600,000 deceased in the largest mass grave in history.

On Sunday, I joined Congresswoman MADELEINE BORDALLO in representing the United States at a wreath laying ceremony attended by representatives from 30 other nations. The program was inspiring and recognized the restored friendship of the people of Russia and America.

St. Petersburg Governor Valentina Matviyenko, Vice Governor Aleksandr Prokhorenko, and the courageous Siege veteran essayist Daniil Granin served as the gracious hosts of our visit. Each host sincerely conveyed warm Russian hospitality in one of the world's most beautiful cities.

Additionally, the professional staff of the U.S. Consulate at St. Petersburg including the U.S. Marine contingent was very helpful. Acting Consul General Karen Malzahn with her staff have a proven record of enthusiasm and continues to represent America at its best.

HONORING THE MEMORY OF MRS. LANCIE M. THOMAS

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. BONNER. Mr. Speaker, Mobile County and indeed the entire State of Alabama recently lost a dear friend, and I rise today to honor her and pay tribute to her memory. Mrs. Lancie B. Thomas was a devoted family woman and a pioneer in the Alabama publishing community.

A native of Beatrice, Alabama, Mrs. Thomas attended the Monroe County Training School, Tuskegee University, and Alabama State University, and following her education she worked for many years as a home economics teacher in the Tuscaloosa County school system. Upon leaving the teaching profession, she began to assist her husband, the late Frank Thomas, with the building of several newspapers throughout the state of Alabama. These included the Selma (Alabama) Citizen, the Alabama Citizen in Tuscaloosa, and the Mobile Weekly Review. The Weekly Review, started in 1943, had its named changed to the Beacon in 1954 and has continued operations to the present day. During her long newspaper career, Mrs. Thomas worked in a variety of positions in the family's newspaper business, including those of vice president, secretary, and treasurer. She eventually became the editor and publisher of the Beacon and continued in that position until her retirement as publisher emeritus in 1997.

Even with her numerous professional obligations, Mrs. Thomas also found time to involve herself in several Mobile community organizations and other causes which had an impact on the local, state, and federal levels. Beginning in the 1940s, she was involved in voter

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

registration efforts throughout Alabama and became involved in numerous political, social, and religious organizations throughout the United States. She was instrumental in the formation of Mobile's Hillsdale Presbyterian Church and served as one of that parish's founding elders, as well as devoting significant time to attending to the needs of the congregation, both young and old alike. Mrs. Thomas served as the vice president of the Presbyterian Woman of South Alabama and was in 1988 selected to represent south Alabama at the Bicentennial Celebration of the Presbyterian Church, U.S.A.

She was also a member of the Alabama Press Association, the National Newspaper Publishers Association, the Greater Mobile Area Chamber of Commerce, the Advertising Federation of Greater Mobile, the South Alabama Region Planning Committee, the Mobile Mental Health Center, the Drug and Alcohol Council, and the Better Business Bureau.

Notwithstanding her significant professional accomplishments, Mrs. Thomas was also recognized on numerous occasions for her impact on her community and on the African-American population in Alabama and across the country. She was honored by the Alabama Press Association for lifetime achievement, and in 1974 was honored by the National Council of Negro Women for her professional accomplishments. Additionally, the NAACP recognized her efforts nationally in 1998, and she is the first African-American to be inducted into Auburn University's Hall of Honor. She has also been recognized by the City of Mobile, the Mobile County Commission, and such organizations as the Drug Education Council, the American Red Cross, the Salvation Army, the Alabama Department of Industrial Relations, and the National Newspaper Publishers Association.

Mr. Speaker, I ask my colleagues to join me in remembering a dedicated community leader and friend to many throughout south Alabama. Throughout her life, Lancie Thomas set a standard of excellence in the newspaper business second to none. More importantly, however, she set a standard of excellence in her achievements specifically on behalf of the American-American community, but also for the entire City of Mobile, her State, and her Nation. She will be deeply missed by her family—her daughter, Cleretta Thomas Blackmon, her stepdaughter, Audrey Thomas, her siblings, Alberta B. Ford, Robert Black, Ruth B. Jefferson, Jency B. Mitchell, Alexander Black, Bennye B. Reasor, and Rufus Black, and her grandchildren—as well as the countless friends she leaves behind. Our thoughts and prayers are with them all at this difficult time.

IN MEMORY OF LEO HACKNEY

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. HALL. Mr. Speaker, it is a privilege to celebrate the life of a great East Texan and my good friend, Leo Hackney, who passed away on February 22 at the age of 85. Leo was one of the giants in Greenville, Texas, where he devoted his life to serving the citizens of his beloved community.

Leo served as Mayor of Greenville three times and as Mayor Pro-Tem and Council Member. He was chairman of the Greenville Board of Development and president of the Chamber of Commerce. He served as tri-captain for Greenville's Sesquicentennial Celebration that established the Audie Murphy Statue for the city. He served as a member of the Greenville Independent School District, Greenville Hospital, YMCA, U.S. Savings Bond Board, Citizens for Growing Greenville, Greenville Majors Baseball Team Club and Junior Chamber of Commerce. He headed the March of Dimes Drive and United Way Fund, the drive to build a Sports Complex for the City, and served as president of the Hunt County Development Council. He was one of the organizers of Colonial Bank and operated it for several years. Earlier in his career, he joined KGVL radio station, beginning in sales and reporting and working up to general manager and eventually president. He later became president of sister FM station KIKT and built the first cable television system in Greenville.

Leo's many accomplishments could fill volumes, and his influence in Greenville and Hunt County will be felt for years to come. In recognition of his significant contributions, the Greenville Herald Banner named Leo Outstanding Young Man in 1958, and he received the Greenville Worthy Citizen of the Year award in 1975. The street leading up to the Sports Complex was named Leo Hackney Boulevard in his honor.

Leo also served his Nation with distinction during World War II. He graduated in the top three percent of Naval Midshipman School and served as Captain of the ship that escorted General Douglas McArthur in the Philippines. He retired as Captain from the U.S. Navy after 27 years of service.

For 20 years Leo served on the committee to nominate youth to military academies for my predecessor, Congressman RAY ROBERTS, and continued to serve for another 20 years on my committee to recommend academy appointments. He served with distinction and was my trusted adviser and good friend.

Leo also was devoted to his family—his wife, Dava, daughters and sons-in-law Susan and Jim Rath of Houston and Sharon and Joe Leonard of Greenville, brother Bill Hackney of Cibolo and six grandchildren. He was a wonderful husband, father, and grandfather who supported and encouraged his family, and he leaves behind a legacy of kindness and accomplishments that will endure for generations.

Leo excelled in all that he did at every stage of his life. He was never satisfied to be only a member or supporter. He was a leader, and when he wasn't leading, he made others better leaders through his example and encouragement. Leo was never simply a friend—he was a best friend to so many. The City of Greenville and our Nation are enriched by the life of this esteemed citizen. Mr. Speaker, as we adjourn today, let us do so in honor and memory of this wonderful man, great American and my good friend—Leo Hackney.

THE INTRODUCTION OF "TIM FAGAN'S LAW"

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. ISRAEL. Mr. Speaker, I rise to introduce legislation that will make our Nation's prescription drugs safer by making it harder for counterfeit drugs to enter the distribution system and increasing penalties for those who try.

In 2002, a teenage constituent of mine, named Tim Fagan, learned first hand about the problem of counterfeit drugs in this country. He was recovering from a liver transplant, and was taking the drug Epogen, in order to fight his related anemia. His parents bought the Epogen from the local branch of reputable, nationwide pharmacy. In order to help her son, his mother dutifully injected the Epogen into his arm. After waking up in pain many nights in a row and not knowing why, the family received a telephone call. The Epogen that his mother had been injecting to help her son recover from a liver transplant was counterfeit.

It is imperative that Congress does everything they can to ensure this never happens again. The Epogen that Tim had taken was the equivalent of a three-dollar bill. The medicine should have gone into the dumpster outside of the drug store, and not on the drug store shelf.

Tim is not the only victim of counterfeit drugs.

Counterfeit prescription drugs are becoming an increasingly severe problem in the United States. In the past three years, Lipitor, Procrit, Epogen, and Serostim have been recalled due to a prevalence of counterfeits. According to the Pharmaceutical Security Institute, the value of counterfeit, seized and diverted drugs in the United States was almost $200 million in 2003, seven times more than 2002. The World Health Organization has stated that worldwide, the counterfeit drug industry was worth about $32 billion in 2003.

Counterfeit drugs may contain inactive substances like water or saline. They may also be re-labeled to show they have a higher dosage than what is actually in the vial, which leads patients to take much less medicine than is required. They may also contain wrong ingredients or contaminants. Since people taking these counterfeited drugs are already sick, it is harder for fakes to be detected. Victims of counterfeiting may believe that they are just not getting better or the worsened symptoms are an effect of their illness and not counterfeited drugs.

There are many opportunities for counterfeiters to enter the American pharmaceutical distribution system. New York State Attorney General Eliot Spitzer recently subpoenaed the three largest wholesales, AmeriSourceBergen, McKesson, and Cardinal Health. However, there are about 12 large regional wholesalers and an estimated 6,500 smaller drug wholesalers.

More than half of all drugs go through this series of middlemen. The drugs go from the manufacturer to a large wholesaler, then through a number of smaller wholesalers, until finally making it to the local pharmacy. With prescription drugs repeatedly changing hands and the prospect of high profits, counterfeiters have the ability and the motive to interject these fake drugs into America's prescription drug distribution system.

My legislation aims to make it more difficult for counterfeiters to infiltrate the system. My bill calls for an audit trail of everyone's hands the drugs have been in, from manufacturer to pharmacy. It calls for the utilization of the best anti-counterfeiting technologies. It gives the FDA authority to recall drugs that may have been tampered with. It authorizes funds for spotchecking and education. Finally, it increases the criminal penalties for counterfeiters, including up to life in jail.

It is my hope that this Congress will address the issue of counterfeiting, and I am looking forward to working on a bipartisan basis to enact this legislation.

YOM HAATZMAUT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mrs. MALONEY. Mr. Speaker, I rise to salute Israel as it celebrates the 57th anniversary of Yom HaAtzmaut, Independence Day. The Jewish nation rose from the ashes of World War II, and became a symbol of the survival of the Jewish people. Despite the genocidal actions of the Nazis, Jewish survivors of the Holocaust emigrated to Israel and dedicated themselves to transforming this desert region into a thriving nation.

Israel has never known a day of true peace. On May 14, 1948, the 5th of Iyar in the Hebrew calendar, the British Mandate expired and Israel declared its independence. That evening, the United States recognized the new nation. Less than 24 hours later, the regular armies of Egypt, Jordan, Syria, Lebanon and Iraq invaded Israel, forcing the fledgling state to fight for its survival. The War of Independence endured intermittently over the course of 15 months and claimed over 6,000 Israeli lives (nearly one percent of the country's Jewish population at the time). Since that time, Israel has fought to defend itself over and over again, in the 1956 War, the Six Day War, the Yom Kippur War, the Lebanon War and most recently, against two intifadas.

Reviled by its neighbors, Israel has nonetheless succeeded in becoming a vibrant democracy with one of the strongest economies in the Middle East. While it began as a poor agricultural nation, Israel has recently become a leader in technology research and development. Indeed, Israel's standard of living rivals that of any Western nation.

Mr. Speaker, on this day of Yom HaAtzmaut, I would like to recall the words spoken by Levi Eshkol, Prime Minister of Israel, at the end of the Six Day War: "We saw clearly that this is no mere ingathering of the exiles, but a new yet ancient nation, a united nation, which has been tempered in the furnace of one Israel, forged out of all our tribes and the remnants of scattered communities they, their sons and daughters. A nation has come into being which is ready for any effort or sacrifice in order to achieve its goals."

Mr. Speaker, I salute the people oflsrael as they celebrate the 57th anniversary of the founding of their nation, and hope to join them in celebrating many more years of independence.

TRIBUTE TO CALIFORNIA HIGHWAY PATROL OFFICER JAMES GOODMAN

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. BACA. Mr. Speaker, it is with great respect that I pay tribute today to the life of California Highway Patrol Officer James Goodman, who was killed in the line of duty on June 3, 2004. Officer Goodman was a man of outstanding character and spirit who selflessly served the state of California.

Officer Goodman joined the California Highway Patrol in 1984. In 1989 he was the first to arrive on the scene when the Cypress Freeway collapsed during the Lorna Prieta Earthquake. With complete disregard for his own safety, he crawled through a tiny space to attempt to rescue a victim who was trapped in a truck that had been crushed. He received the Governor's Medal of Valor Award in 1991 for his heroic efforts that day.

Officer Goodman was killed when his motorcycle collided head-on with a minivan as he was pursuing a suspect involved in an earlier accident in San Bernardino, California. He had served honorably with the California Highway Patrol for 20 years.

Those who knew Officer Goodman remember him as a selfless man who loved his family and his work. He had a passion for riding motorcycles and for serving Californians. Officer Goodman was dedicated to protecting the people of California, and was willing to put his life on the line for the safety of others. He died honorably and will forever be remembered as a brave and courageous man.

CZECHS APPRECIATE AMERICAN SACRIFICES FOR LIBERATION

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. WILSON of South Carolina. Mr. Speaker, on Friday, I was honored to join Congressman JACK KINGSTON as he led a delegation for a wreath laying and dedication of a monument in Pilsen, Czech Republic, to the veterans of the U.S. Army who liberated Western Bohemia of Czechoslovakia in May 1945.

Czech President Vaclav Klaus presided with Prime Minister Jiri Paroubek and Pilsen Mayor Miroslav Kalous. The large double columns of the monument symbolizing Czech-American friendship were hailed by the U.S. Presidential delegation led by Veterans Administration Secretary Jim Nicholson. The American delegation was hosted by Ambassador William Cabaniss, a former Alabama State Senator, who delivered a letter from Congressman SPENCER BACHUS and Birmingham Rotarians to establish the city of Pilsen as the sister city of Birmingham, Alabama.

The impressive monument corrects a distortion of history, where former communist oppressors bizarrely claimed that Americans had not been present and that the liberators were Soviet troops in American uniforms. Fortunately, the long suppressed truth is now clearly marked, proudly proclaiming "Thank You America" for the U.S. Army in May 1945.

On April 29, 2005, prior to attending the festivities, Diane Brown presented me the following article written by her neighbor Jana Culik of Chapin, South Carolina. Her story is an inspiring personal account of heroism and appreciation of the United States by the Czech people who now live in a liberated democracy that enjoys membership in NATO and the EU.

AMERICAN FLAG

(By Jana Culik)

I think that the following little narrative should be shared—it is about an American flag made by my mother, Dagmar Pavlansky, in Czech Republic (former Czechoslovakia) in the spring of 1945 at the end of the Second World War.

I was a 6-year-old child at the time, and as such I could not be trusted enough to be part of my parent's decision concerning making flags—American, French, English and Soviet representing four allies that the Czech people hoped to welcome into their country. However, I remember that there was a shortage of almost everything, especially of any kind of cloth material and even thread sewing were not available. After the war, when I was older, my mother told me that she had to dye white bed sheets and go into the attic to rummage through old magazines and newspapers to find pictures of the flags. She had to work at night when my older sister and I were asleep—what she was doing was a crime, it was against the law of the occupants—the Nazis. I was told it was punishable by death.

Then there came May of 1945—the marvelous month when the war in Europe ended and my Czechoslovakia (near Pilsen at Blatna) was liberated by the American army. I will never forget the night when I was awakened by my smiling parents in company of three American soldiers. Our house was big enough to become the unofficial meeting place for the officers who were stationed in our little town. I remember my father, Judr. Jan Pavlansky, who was a good pianist, playing "Happy days are here again" and "Roll out the barrels," and the soldiers teaching us to dance the boogie-woogie. All the soldiers were wonderful—friendly, helpful, and generous. My love for the American flag started during those times, and it has been a life long affair.

I am not sure what happened to the other flags my mother had made. Through the years of hardship when my country became a part of the Eastern Europe (the unlucky countries ruled by the Soviet Regime) I was remembering the American one. The flag kept reminding the people behind the Iron Curtain that freedom and decency still existed in the world even if they could not enjoy it themselves in almost 40 years.

In August of 1968, when Czechoslovakia tried to free itself and wanted to become a democratic, self-ruled country again, it was overrun by Soviet tanks. My husband, Karel Culik, and I immigrated to Canada. It took 22 years before we could go back to visit Czechoslovakia. We went back in 1990 after the Soviet bloc in Europe collapsed. By then we had moved to the United States and were living in Chapin, South Carolina.

When I returned to Czechoslovakia, my first "quest" was to find the American flag of my childhood. Despite the fact that my family had to move from place to place, the flag had survived on the bottom of an old suitcase with other cherished mementos given to use by the American soldiers in 1945.

Nowadays the flag is here in Chapin. It is still one of my most treasured possessions. Through the years, I have become a collector of keepsakes related to special eras of my life. It seems that the American flag or at least the symbol of it has been present my whole life and it has now come full circle—in 1945, then later on, and especially now the American flag still stands for freedom.

God bless America!

WE MUST IMPROVE OUTCOMES FOR CHILDREN LEAVING FOSTER CARE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. GEORGE MILLER of California. Mr. Speaker, the circumstances described in the following report from Monday's National Public Radio program clearly indicates the urgent need to overhaul the child welfare system in order to improve outcomes for children aging out of foster care.

A recent study by Harvard Medical School and Casey Family Programs measured some of the aftereffects of foster care. That study concluded that fewer than 27 percent of foster youth who graduated high school went on to college as compared to 52 percent of the general population. And for those who do begin college, the dropout rate for foster youth is extremely high. More than eighty percent of all foster care youth who enroll in college will drop out before graduation.

In addition to lack of funds and the inability to access the limited federal and state funds that are available, foster youth suffer other unique disadvantages. While other students are concerned with academic pressures, foster care youth are worried about housing and being alone during holidays and breaks when dormitories are closed.

Next week I will propose legislation to address the shortcomings of the child welfare system by improving outcomes for children leaving foster care by awarding grants to colleges and universities to recruit foster care students; provide academic counseling; provide financial aid counseling; and provide other appropriate supportive educational services.

The article follows:

[From the Minnesota Public Radio, May 9, 2005]

FOSTER-CARE SYSTEM OFTEN ENDS UP HURTING THE KIDS IT WAS DESIGNED TO PROTECT

(By Hilary Wicai)

May is National Foster Care Month. The foster-care system was created to care for children who are abused or neglected or whose parents can't care for them, but a recent study of former foster-care kids finds many end up hurt by the system that was supposed to protect them, and once they turn 18, they're on their own, often without the skills they need to fend for themselves. The damage takes both an emotional and an economic toll as MARKETPLACE's Hilary Wicai reports from the work and family desk.

Jessica Lindsay was 14 when a couple of police officers pulled her out of class.

Ms. JESSICA LINDSAY (Former Foster Child): My mother is—she's a schizophrenic, and she's been that way my whole life.

WICAI: Jessica and her mother had a bad fight the day before and the police told Jessica she couldn't go home again ever.

Ms. LINDSAY: 'Well, why can't I go home?' 'Well, your mother threatened to kill you, so we have to remove you from the home.'

WICAI: That began Jessica's three-year journey through three social workers, two foster families, four group homes and four high schools. Moving around a lot is part of the system. If kids are in care for four years or more, 37 moves are the median.

Ms. MARIAN HERRICK (Former Foster Child): I mean, I have another friend who's lived in over 45 homes when she was in foster care. Yeah.

WICAI: Marian Herrick spent seven years in foster care after her dad went to prison. Herrick says many don't know what foster children go through because they learn not to tell their stories. Her best friend in middle school taught her that.

Ms. HERRICK: Her mom told her that she needed to find a normal friend because I was in foster care. So it's like there's definitely that stigma. Just answering the most basic questions are difficult, like, 'Where are you from?' 'Well, I'm not really from any one city.'

WICAI: Foster children aren't from any one city in large part because the system is out of balance. There are only about a hundred thousand foster families for 600,000 children in care. That's why many, especially teen-agers like Jessica Lindsay, end up in group homes where they're looked after by low-wage shift workers. Care in a group home can cost taxpayers nearly 10 times more than family foster care. At one group home, Jessica had trouble sleeping. The doctor put her on sleeping pills which made her sleep through class but she took them.

Ms. LINDSAY: If you don't comply with what they tell you to do, you can't get any of your rewards that you're supposed to get, like going outside. They reward you for good behavior, but you're not a criminal. You're here because something happened to you, not because you did something.

WICAI: A recent study showed post-traumatic stress disorder rates among foster-care alumni are almost twice as high as in US veterans of war. The study by Harvard Medical School and Casey Family Programs measured some of the aftereffects of foster care. Ruth Massinga is president of Casey. She says the picture is grim for young adults now out of care.

Ms. RUTH MASSINGA (President, Casey Family Programs): Only 80 percent of the study participants were employed as compared to 95 percent of the general population. One-third of the participants had incomes at or below the poverty level. One-third had no health insurance, and nearly a quarter had experienced homelessness after leaving foster care.

Mr. GARY STANGLER (Co-author, "On Their Own"): At 18, we say, 'Happy birthday. You're on your own.'

WICAI: Gary Stangler used to run Missouri's foster-care system. He recently co-authored a book called "On Their Own."

Mr. STANGLER: There are literally places in the country where young people are emancipated from foster care and they are delivered to a homeless shelter.

WICAI: He says there's nothing magic about turning 18 if you're undereducated, lack job skills and have nowhere to go. He says as they're shuffled around, many foster kids don't learn anything about paying bills, finding an apartment, filing taxes, even tying a tie for a job interview. Now 19, Jessica Lindsay has her own apartment in Michigan but only after a couple of false starts with college and financial aid.

Ms. LINDSAY: This is what I needed and this is what I got, and now look at what I have to deal with.

WICAI: So she works full time, seeing that other foster youth get a better start.

Unidentified Woman: Clap once if you can hear me!

WICAI: She was recently accepted to the Child Welfare League of America's National Foster Youth Advisory Council. The group advocates and lobbies for better foster-care policies.

Unidentified Woman: . . . worked so hard we've already put in a seven-hour day with . . .

WICAI: This month, they met in Washington, DC, to discuss how to promote the idea of more permanent placements for foster children. With groups like this behind her, Jessica is more hopeful that her third attempt at college will be more successful. Jessica's goal is to graduate. That would help increase the number of foster-care alumni with bachelor's degrees. Right now, it's only 2 percent.

IN RECOGNITION OF NATIONAL POLICE WEEK

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. CUMMINGS. Mr. Speaker, I rise today to pay tribute to our fallen heroes and to offer my heartfelt thanks to our brave men and women in blue.

Yesterday, sadly, was an eerily familiar day. Once again, fighter jets circled the bright blue sky and alarms echoed throughout the halls of Congress. As my colleagues and I rushed off the House floor, a police officer exclaimed, "This is not a test! Run!"

Mr. Speaker, there was fear in the officer's eyes, but there was bravery in her voice. This was the moment for which she had trained, and she was determined to shepherd us to safety. I thanked God, once again, for the commitment, courage and competence of the Capitol Police.

Mr. Speaker, it is all too fitting that this week is National Police Week. When an unidentified aircraft entered restricted air space yesterday, Members of Congress witnessed the efficiency and fearlessness of our police force first-hand. But it should not take an emergency for us to recognize those who risk their lives for our protection. It should not take a tragedy for us to say thank you.

Mr. Speaker, 415 names will be added to the National Law Enforcement Officers Memorial this week. I'd like to speak to you about one of the names that will be written on the

Memorial, a name that many from my hometown of Baltimore hold in our hearts.

Almost exactly a year ago, Officer Brian D. Winder was killed in the line of duty as he responded to a 911 call. He was only 36. Mr. Speaker, you need only read the postings on Officer Winder's memorial website to know how much he meant to his wife, children, and fellow officers. In fact, if I may, I would like to read the posting written by Officer Winder's partner, LeTanye.

> Hey B., today starts a tough time for me and a lot of others who miss you. I have that task of making sure that your family makes it through all of the ceremonies that are upcoming in honor of Police Memorial Week. There have been so many times, recently, that I just wanted to give up being a peace officer because it has gotten so much more dangerous for us on the streets. The department is falling apart one by one. These are things that you and I spent countless times discussing. But now you are gone and it's hard. My sister was attacked the other day by an unknown male and I told myself that I had to continue this job. I have to continue to see that my family and yours are safe. I know that you would want me to do so. I just ask that you stay by my side and help me continue the fight, even when I feel that I can't do it anymore.

Mr. Speaker, LeTanye has reason to feel lonely and overwhelmed. The President, and yes, this Congress, have abandoned her. The President's budget slashed billions of dollars from essential law enforcement programs like COPS, a program that had added thousands of police officers to our most dangerous neighborhoods. Now law enforcement officers like LeTanye will have to shoulder even more of the burden of our collective safety.

So, I ask you, how many more partners will LeTanye lose as a result of these cutbacks? Deep cuts to the COPS, Byrne grants and HIDTA programs endanger their lives and hinder their ability to protect our communities. How can we say to her, we know it's hard, and it's going to get harder because we aren't willing to give you the support you need? How can we look Capitol Police Officers in the face, knowing they are willing to give their lives for our protection, while we pass legislation that endangers theirs.

Mr. Speaker, we should honor all of our law enforcement officers by giving them the resources they need to do their jobs well and safely. We must do more than etch one more name onto a memorial wall. We must speak truth to power by etching a legacy of respect, gratitude and priority funding into our fiscal policies for our nation's law enforcement forces.

HONORING THE MEMORY OF MR. HUGH THOMAS PRAYTOR, JR.

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. BONNER. Mr. Speaker, Mobile County and indeed the entire state of Alabama recently lost a dear friend, and I rise today to honor him and pay tribute to his memory. Mr. Hugh Thomas Praytor, Jr., known as Tommy to his many friends, was a devoted family man and dedicated community leader throughout his life.

A native and lifelong resident of Mobile, Alabama, Tommy Praytor was a graduate of the University of Southern Mississippi and worked as a banker for 48 years. His first job, as a part-time counter at the old Merchants National Bank in Mobile, began during summer breaks during his time in college. Following his graduation, he took a full-time position at Merchants and worked in the bank's computer department. He continued his career with the bank after it became Regions Bank, and spent many years at the end of his career specializing in private lending and in bond issues for municipalities seeking infrastructure and other community improvements.

Even with his numerous professional obligations, Tommy also found time to involve himself in several Mobile community organizations. During his lifetime, he served as a group chairman for Alabama Young Bankers and was treasurer of the Mobile Big Game Fishing Club. Additionally, he served on or was affiliated with the Senior Bowl Committee, the Mobile Sports Hall of Fame, the Alabama Deep Sea Fishing Rodeo, the Mobile Bass Master Club, and several Mardi Gras mystic organizations. He was also a longtime member of All Saints Episcopal Church in Mobile and spent several years as both a Sunday school teacher and a member of the church vestry.

Mr. Speaker, I ask my colleagues to join me in remembering a dedicated community leader and friend to many throughout south Alabama. Tommy Prayter, Jr., loved life and lived it to the fullest, and his passing marks both a loss for all of south Alabama and a personal loss for me. I was fortunate to call him my friend, and he will be deeply missed by one and all, most especially his family—his wonderful wife of 46 years, Jamie Catlin Praytor, his sons, Hugh Thomas Praytor, III, and Wilson Wrath Praytor, his daughter, Ellen Praytor Wingard, his sister, Carolyn Praytor Smith, and four grandchildren—as well as the countless friends he leaves behind. Our thoughts and prayers are with them all at this difficult time.

RECOGNIZING DAMION DEROBBIO

HON. TIM RYAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. RYAN of Ohio. Mr. Speaker, I rise today in recognition of Damion DeRobbio, whose heroics in the face of a neighbor's house fire saved the life of a 6-year-old girl.

On April 22 of last year, Mr. DeRobbio rushed to the aid of a frantic mother, whose daughter, Mackenzie, was trapped in her bed, blinded and suffocated by smoke. After several attempts to get into the burning house failed, Mr. DeRobbio persevered, smashing the little girl's bedroom window and squeezing through the tiny opening. Mr. DeRobbio crawled over the shards of broken glass, sustaining cuts on his knees and shoulders, and seized Mackenzie from her bed. He then passed her through the window to a waiting police officer before climbing out himself.

For his actions, Mr. DeRobbio was awarded the Carnegie Medal by the Carnegie Hero Fund Commission, and deservedly so. However, recognition was certainly not what motivated this hero on that night more than a year ago. Were it not for Mr. DeRobbio's selfless bravery, this inspiring story could have easily been one of tragedy and loss.

So today, on behalf of all of his neighbors in Ohio's 17th District, I honor Mr. DeRobbio for his valor.

IN MEMORY AND HONOR OF MIGUEL CONTRERAS

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to mourn the death and celebrate the life of Miguel Contreras, who died last Friday at the age of 52.

As the leader of the Los Angeles County Federation of Labor AFL–CIO, Miguel was a powerful figure in the labor movement.

Miguel spearheaded the effort to get a new contract for janitors in 2000. In the same year, he negotiated a key deal for Metropolitan Transit workers.

He was deeply involved in politics at many levels. There are few politicians in Los Angeles who didn't have to work with him.

And yet, Miguel was a workers' leader, with his focus keenly on the workers he represented and their best interest.

Maybe that's because Miguel had been there himself. He was the son of farmworkers, and he himself started working in the fields at the age of 5. In a way, Miguel never left the field. He carried the struggle with him from the fields of the grape boycott, working with Cesar Chavez, to the streets, rails and hotels of Los Angeles.

The labor movement has lost one of its great leaders. We have lost a great American. And we have lost one of our great friends.

Our hearts go out to Miguel's family, to his wife Maria Elena, and his sons Michael and Mario.

RURAL DISASTER ASSISTANCE FAIRNESS ACT OF 2005

HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mrs. CUBIN. Mr. Speaker, in the dark of night on August 27, 2002, the town of Kaycee, Wyoming was overwhelmed by a 4-foot surge of water from the Powder River caused by a severe rainstorm—pouring down 2/3 of the town's annual rainfall within a 6-hour period. The damage was disastrous, over 80 percent of Kaycee's businesses and one-third of their residences were damaged or destroyed. But despite Kaycee's massive loss—one that would have cost billions had Manhattan, Los Angeles or Chicago lost 80 percent of their businesses—there was no disaster declaration.

This flood effectively erased the community of Kaycee, and it's absolutely preposterous that damage of this magnitude does not qualify as a disaster. A comparable disaster in Washington, D.C. would have destroyed 96,196 homes and 15,575 businesses. Washington, D.C. would not function after such a catastrophe and neither can Kaycee, Wyoming. In fact, under today's criteria, a majority of Wyoming's communities could be destroyed without receiving a disaster designation, as Kaycee has shown. Rural America needs help and that's why I am introducing the Rural Disaster Assistance Fairness Act of 2005.

My bill will create a Small State Advocate who will participate in the disaster declaration process, assist small States in disaster declaration requests, and ensure the needs of rural communities are being addressed. Additionally, it would require the Department of Homeland Security to report to Congress regarding whether current regulations addressing small state disaster declarations are meeting the needs of states with populations of less than one million, and whether current disaster regulations are in compliance with statutory restrictions regarding arithmetic formulas and sliding scales.

This is an important bill and I urge my colleagues to join me in updating the laws and regulations that treat many rural States unfairly compared to their larger neighbors.

ON THE OCCASION OF ISRAEL INDEPENDENCE DAY

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. ROTHMAN. Mr. Speaker, I rise today to commemorate Israel Independence Day, the anniversary of the founding of the State of Israel. Forged from the fire of conflict that raged through 3 continents in the mid-twentieth century, the State of Israel has survived and endured the cauldron of the Middle East to emerge as a strong and vibrant democracy—the only one of its kind in the region—with the resilient strength of tempered steel.

Israel was indeed born in a turbulent time and place in world history. Fifty-seven years ago from Saturday, the great Zionist leader David Ben-Gurion, proclaimed the birth of the State of Israel. The very next day, a mere 11 minutes after the official expiration of the British Mandate in Palestine, President Harry S. Truman announced the official recognition by the United States of the State of Israel. The bonds between our nation and Israel have endured throughout the history of the Zionist state, and today are stronger than ever.

Nothing, however, has come easily for the State of Israel. On the very day that President Truman made his historic announcement, 5 Arab states attacked Israel. The initial public radio address by the first Israeli Prime Minister, David Ben-Gurion, was made from an air-raid shelter in Tel Aviv, whose skies were darkened that very day by bombs dropped from Egyptian aircraft.

Yet despite all the odds, despite a history of being outnumbered and surrounded by hostile nations, the people and the State of Israel—which, geographically speaking, is slightly smaller than my own state of New Jersey—have endured, and thrived. Although Israel still faces tremendous challenges today to the security of its citizenry and its borders, the indomitable spirit that guided the pioneers of a new nation remains a source of powerful inspiration and an enduring legacy to the Israeli people.

My distinguished colleagues, I ask that you join me in recognizing the remarkable human achievement that is the State of Israel. As the representatives of a freedom-loving nation, we are proud to celebrate the anniversary of the birth of the State of Israel and its success as a beacon of democracy to all people.

CONGRATULATING WKRG–TV FOR FIFTY YEARS OF BROADCAST SERVICE

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to honor the management and staff of WKRG–TV 5 in Mobile, Alabama, on the celebration of its 50th Anniversary of broadcast service.

WKRG was founded by Kenneth R. Giddens, a Mobile-area architect, in 1955, and the station's first broadcast was sent out on September 5 of that year. The station was sold 43 years later to Spartan Communications, and in 2000 it was sold once again to Media General of Richmond, Virginia. At present, the Media General group is one of the most successful communications companies in the Southeastern United States, with holdings in over 150 newspapers, television stations, and other media.

Throughout its 50-year history, WKRG has been on the cutting edge of providing the newest in television news, educational, and informational program, and has consistently been one of the top stations on Alabama's Gulf Coast. From its early years, the station has strived to be a leading source of news and entertainment in south Alabama, and it has demonstrated a strong capability of making rapid adjustments to keep pace with changing broadcast trends. Beginning with such program as I Love Lucy, The Andy Griffith Show, and The Ed Sullivan Show, WKRG early on set a standard for good, family-oriented programming. At one time, station management also ensured that there was programming geared for the young people in the viewing audience and aired such child-friendly shows as Rosie's Place and Small Fry News. The station has continued its quality programming through the past 50 years to the present day.

To their credit, station management has also set a priority on providing the most up to the minute news with a total of nearly 6 hours of local news each weekday, with news programs at 5:30 and 9:00 a.m. as well as 12:00, 5:00, 6:00, and 10:00 p.m. The station news team has also performed in an outstanding manner, even in the most difficult of circumstances; in fact, WKRG was able to continue broadcasting important safety and weather information during Hurricane Frederic in 1979 and Hurricane Georges in 1998. During the period of time surrounding the arrival and landfall of Hurricane Ivan on the Gulf Coast in September, 2004, the station did around-the-clock live broadcasts for an astonishing 120 hours.

WKRG has also been consistently dedicated to providing the best in public affairs programming for its viewing audience. Since 1973, the station has carried "Congressional Report," a weekly program covering important issues and news from Washington, D.C. Beginning with original hosts and former Representatives TRENT LOTT, Jack Edwards, and Bob Sikes, the program has evolved into one of the leading congressional and public affairs shows in the nation and has the distinction of being the longest continually-running program of its type in the United States. It is chiefly as a result of the hard work of the management of WKRG and their desire to provide the best in public affairs and community service programming that this program has become so successful during its three decade history.

Mr. Speaker, one of the most important services which can be provided for the American people is an effective and efficient television broadcast organization. For the past 5 decades, WKRG in Mobile has provided just such an important and invaluable service to the residents of Alabama's First District and throughout the Gulf Coast region. I ask my colleagues to join with me in congratulating Mr. Joe Goleniowski, Vice President and General Manager of WKRG, and his entire team on 50 years of excellence.

SENATE—*Friday, May 13, 2005*

The Senate met at 10 a.m. and was called to order by the Honorable LINCOLN D. CHAFEE, a Senator from the State of Rhode Island.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Immortal, invisible, God only wise, You laid the foundations of the Earth and defend the boundaries of the sea. You command the morning to appear and cause the dawn to rise in the east. Golden splendor comes from Your mountains and You lay out the path for the lightning.

Today, we pray for those who need Your touch. Bless those who live in our world's shadows and empower the unnoticed doing their duty.

Strengthen our Senators. Inspire them to work diligently to establish peace and justice in our world. Teach them each day to be good stewards of Your manifold grace. Sustain all those who suffer in our world, who stagger beneath burdens too heavy to carry.

We pray this in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LINCOLN D. CHAFEE led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, May 13, 2005.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LINCOLN D. CHAFEE, a Senator from the State of Rhode Island, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. CHAFEE thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under a previous order, the leader time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senate majority leader.

SCHEDULE

Mr. FRIST. Mr. President, today we return to the consideration of the highway bill. Yesterday, cloture was invoked by a vote of 92 to 7. We were then able to reach an agreement for finishing the bill on Tuesday. Under that agreement, Senators may offer amendments today from the limited list agreed to last night. Chairman INHOFE is here and may also have some cleared amendments to dispose of this morning.

I announced last night that no rollcall votes would occur today. The next rollcall vote will be Monday at approximately 5:30. On Monday, we will again resume debate on the highway bill. Senators will have the final opportunity to offer their amendments. We will vote on one or two of those amendments on Monday evening. That will allow the Senate to return to the measure Tuesday morning and vote on the remaining amendments and final passage.

After consulting with the chairman of the committee and the Democrat leader, we are hopeful most of these amendments will not require votes, that only a few remaining amendments will need rollcall votes prior to passage.

As I did last night, I commend the managers for their hard work. I look forward to finishing the bill early next week. We have spent 2 weeks on this bill and given plenty of opportunity, plenty of time for Members to come forward. They have done so. We are on a final glidepath to completion of this very important bill.

PEACE OFFICERS' MEMORIAL SERVICE

Mr. FRIST. Mr. President, this Sunday marks the 24th anniversary of Peace Officers' Memorial Day. Each year, tens of thousands of law enforcement officers from around the country gather in the Nation's Capital to honor their comrades lost in the line of duty. They are accompanied by wives, husbands, sons, and daughters, along with families of the fallen.

It is a solemn occasion. It is a sacred occasion. It reminds us of the tremendous sacrifices our police officers make to keep us safe. Every day around the clock they are on the front lines defending our neighborhoods and protecting our lives, our homes, protecting our freedoms.

When we need an officer to investigate a dark alley, quell a domestic dispute, to chase an armed suspect, or subdue a criminal, we call these dedicated professionals to save us from harm. And each and every time they take a risk that our distress call could be their last.

I share very briefly a few stories of our proud heroes from Tennessee who, last year, gave the ultimate sacrifice.

Officer Jason Michael Scott of Loudoun County was shot and died on March 12, 2004, after responding to a family dispute. The station got a call that a teenager was attacking his mother. Officer Scott was sent to the scene. As Officer Scott climbed out of his patrol car to walk up to the house, he was shot four times with a high-powered rifle. The 16-year-old shooter then barricaded himself inside the home and exchanged gunfire with responding officers. The gunfight raged on for more than 20 hours before the disturbed young man committed suicide. Officer Scott was only 24 years old. His first child, Jayden Nicole, was born 11 days after his death. Our prayers are with the Scott family.

Even routine calls can lead to unexpected tragedy. Officer Christy Jo Dedman of Nashville was helping a motorist on the side of Interstate 40, not too far from my home, when a tractor trailer hit and killed her. In the flash of an instant, in one random moment, her life was taken.

At the funeral of Officer Mark Vance in Bristol, TN, an officer remarked:

> You always know when you go out that you are taking a risk but you do not think it is going to happen.

Officer Vance was only 30 years old when he was shot and killed on a domestic violence call. Our prayers are with each and every member of his family.

Tonight, the National Law Enforcement Officers' Memorial will hold a candlelight vigil to honor Officer Vance along with his fellow colleagues killed in the line of duty. Over 20,000 people are expected to attend the ceremony tonight. The names of the 153 heroes will be read, as will the names of 262 other fallen officers from years past.

On Sunday, a memorial service will be held on the West Front of the Capitol. The President will be on hand to honor these heroes. I look forward to paying my respects to each of these courageous men and women.

I will take a moment now to single out Tennessee's own who are included

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

on this solemn roster: Sergeant Andy Thaddeus Bailey of Jackson; Officer Christy Jo Dedman of Nashville; Patrolman Timothy Howard Dunn of Shelby County; Patrolman J. Matthew Rittenhouse of Harriman; Deputy Sheriff Jason Michael Scott of Lenoir City; Patrolman Marlon Allen Titus of Memphis; and finally, Mark Edward Vance of Bristol.

Our hearts go out to their families, friends, and colleagues who were made safer by their service. We all suffer their tragic loss. In their honor I pledge to keep working hard to show our commitment in the Senate.

Last year, I cosponsored the Law Enforcement Safety Act, which the President signed into law. This legislation had been the No. 1 priority for our Nation's law enforcement community for years. Finally, last year, Congress passed it. It is now the law of the land.

The new law allows current and retired police officers to carry a concealed weapon in any of the 50 States. America now has the added security of tens of thousands of trained and certified law enforcement officers serving and protecting us across the country and even into retirement.

There are more than 870,000 sworn law enforcement officers now serving communities across America, the highest number ever. I thank each and every one of them and their families for their selfless courage, their sacrifice, and their dedication to public safety. Each of these officers is a hero. I honor them. Each of these officers has a family who deserves our appreciation and gratitude for their sacrifice. May God bless our women and men in blue.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SAFTEA PLANNING AND MITIGATION

Mr. JEFFORDS. Mr. President, the bill before us today recognizes some of the challenges that face States and metropolitan planning agencies when developing plans for future highway projects.

We have included natural resource and environmental factors for States and metropolitan planning agencies to consider when developing their transportation plans. They should consider protecting habitat, water quality and agricultural and forest land while minimizing invasive species.

While I am most familiar with aquatic invasive species such as the sea lamprey and the zebra mussel that are wreaking havoc on my beloved Lake Champlain, nonnative species of vegetation have been degrading public and private property, degrading habitat, crops, and pastures.

State transportation planning agencies can become active stewards in roadside management by phasing out the uses of nonnative vegetation and reestablishing native plants on our rights-of-way. In addition to considering invasive species during the planning process, this bill makes funding available for the control of invasive plant species and establishment of native species.

To help States and metropolitan planning agencies assess the environmental impacts of proposed highway projects we suggest consulting with other State and local agencies. Those responsible for land use management, natural resources, environmental protection, conservation and historic preservation should compare transportation plans with State conservation plans.

This would include inventories of natural or historic resources and consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

This commonsense approach will assure that transportation planners will consider the location of important habitat, wetlands and other natural resources at the earliest stages of planning for new roads. These provisions will make project delivery faster and more efficient.

Currently, transportation projects are often planned without detailed information on core conservation areas, sensitive resources or important habitat that might lie within the selected corridor. These conflicts do not come to light until the environmental review process, which then becomes more expensive and time- consuming as transportation and resource officials try to reconcile infrastructure and conservation activities. These provisions will help transportation planners in avoiding unnecessary impacts on wildlife habitat and in mitigating for unavoidable impacts of a project.

These provisions encourage States to utilize available wildlife habitat data and maps to inform the long-range transportation planning process. Planners would be able to identify potential concerns at the earliest stage of planning, when options for minimizing impacts are greatest and costs of doing so are lowest.

Over 200 Americans die each year in wildlife-vehicle collisions, many more are injure4 and more than 1 million animals are killed on our roadways every day.

State and Federal agencies spend considerable time and money both protecting natural areas and building transportation infrastructure. Unfortunately, conservation and growth efforts often happen independently and then come into conflict during the permitting and construction phases of a transportation project. These investments need to be coordinated. If conservation efforts are taken into account at the earliest stages of transportation planning, both priorities can be realized, in less time and at less cost.

While none of us have a crystal ball that can show us what the future will look like, through consultation, transportation planners can get a picture of the broader landscape and see what the consequences of a proposed project might be. In some instances, potential environmental and habitat impacts can be avoided.

The most significant threat to the biodiversity of this country is habitat loss. However, thoughtful, forward-looking transportation planning can go a long way towards reducing negative impacts and mitigating for unavoidable impacts. Over the next few decades, the decisions we make regarding highways and the ensuing loss of habitat will determine the fate of species and America's biodiversity. These provisions are aimed at helping to preserve that biodiversity through coordinated planning.

Another provision focuses on improving environmental stewardship in transportation projects by expanding the current eligibility for environmental restoration and pollution abatement from only those projects undergoing reconstruction, rehabilitation, resurfacing, or restoration to any project, as well as establish eligibility for invasive species control efforts.

Contributions to measures to control exotic and invasive plant species may precede, concur, or follow project construction if such measures are consistent with Federal law and State transportation planning processes. Finally, this bill recognizes that despite the best planning process, mitigation for impacts on habitat and natural resources from transportation projects may be necessary.

To help provide for needed mitigation, the bill allows the States to establish habitat and wetlands mitigation funds for efforts related to mitigation activities. The fund would allow States to undertake larger mitigation efforts based on the total impacts of multiple projects rather than the smaller scale of a single project. These changes to the planning process and increased consideration of environmental impacts will improve future transportation projects while protecting the environment.

This highway bill is about more than money. It is about balancing the needs of our Nation's transportation system with concerns about our natural habitats. We have done our best to strike that balance in this bill.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALEXANDER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The PRESIDING OFFICER. The Senate will resume consideration of H.R. 3, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Inhofe amendment No. 605, to provide a complete substitute.

Dorgan amendment No. 652 (to amendment No. 605), to provide for the conduct of an investigation to determine whether market manipulation is contributing to higher gasoline prices.

Inhofe (for Ensign) amendment No. 636 (to amendment No. 605), to authorize the State of Nevada to continue construction of the US-95 Project in Las Vegas, Nevada.

Allen/Ensign amendment No. 611 (to amendment No. 605), to modify the eligibility requirements for States to receive a grant under section 405 of title 49, United States Code.

Schumer amendment No. 674 (to amendment No. 605), to increase the transit pass and van pooling benefit to $200.

Sessions Modified amendment No. 646 (to amendment No. 605), to reduce funding for certain programs.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, today I would like to spend a few minutes discussing an important provision in the highway bill before us.

Section 4(f) of the highway bill provides important protections for historic sites, parks, recreation areas, and wildlife and waterfowl refuges throughout the country. With the increasing demand for transportation projects, it is important that we not lose sight of our natural treasures. We need to balance the growing need for transportation with responsible stewardship of our history and natural resources.

In my State of Vermont, we have a wealth of history and natural beauty. To see the wildlife that populate the Missisquoi Wildlife Refuge or the covered bridges used by our forefathers—is to experience a heritage that we all want preserved for future generations. Section 4(f) has helped preserve these treasures.

The Revolutionary War site at Fort Vehemence on Route 7 in Pittsford, VT, was avoided as a result of 4(f). An excellent collection of historic metal truss bridges across the Connecticut River were rehabilitated, not replaced, as a result of 4(f). A road in the Danville Historic District was narrowed in order to keep the historic characteristics of the historic village because of 4(f).

While constructing a new highway in Vermont, we have discovered a significant archeological site containing artifacts from Native Americans, providing us with a piece of history that until now was not known. By documenting this site, we will expand our knowledge of Vermont's Native Americans. Also, because of 4(f) protections. 4(f) is amended in this legislation.

The objective of this amendment is to allow transportation projects and programs to move forward more quickly, while maintaining the protections of 4(f). Those protections assure that there will be public notice and opportunity for public review and comment on proposed "de minimis" determinations for transportation projects. And that affected agencies will concur in the decision of the Secretary of Transportation that there will be no adverse impact on a historic site, recreation area, park, or wildlife or waterfowl refuge. The provision would require the Secretary of Transportation, when making a finding that a transportation project or program will have a "de minimis" impact, to consider all avoidance, minimization, mitigation, and enhancement measures that have been incorporated into the project.

This provision allows project sponsors to incorporate environmentally protective measures into the project from the beginning, in order to support a finding of "de minimis" impact.

These mitigation measures must be carried out and be shown to have the intended impact. If they are not having the intended impact, other measures must be used to ensure no adverse impact. This is an important strengthening of the 4(f) program that will protect our heritage while planning for needed transportation projects.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, first, I thank the ranking member of our committee, Senator JEFFORDS, for the hard work he has done, as well as Senator BAUCUS and Senator GRASSLEY, who have worked very hard and, of course, Senator BOND, who is chairman of the transportation subcommittee of the committee I chair.

This has been 3 years in the making. What we are looking at right now is very significant. We are to the point now where we are down to a handful of amendments that remain—probably the most significant bill that would be passed this year. It appears that under the rules of cloture, we probably will have our vote on this and be able to take amendments between 2 o'clock and 4 o'clock on Monday, and vote on some amendments starting at 4 p.m. I hope we vote on quite a few. I think we will end up with about six more total votes before this is done.

If we get some of those out of the way Monday night, by Tuesday, when we go in, we will be able to finish and have final passage on this bill and send it to conference. We went through this exercise a year ago and we were able to get it to conference. Unfortunately, we lacked one signature of getting a conference report and getting it back here. This time that will not happen. People are aware of the fact it is critical that we have a bill. We cannot operate on any more extensions.

Let me remind everyone there are two choices right now. We are operating under six extensions. When you have an extension, all you do is take the previous authorization and extend it. That means you don't get any of the good things we have done in putting this bill together. We are operating on a bill that passed 7 years ago. We have done some things that are far better for America and for every State represented if we pass the bill as opposed to an extension. If we pass a bill, we are going to be able to take care of donor States' rate of return. If we don't pass a bill, we will not be able to do that. Last year's bill would have brought every State from the 90.5-percent participation up to 95 percent. Since this is not funded at as high a level as it was last year, it would only guarantee an ultimate return of 92 percent.

One of the biggest parts of this program—and we have been calling it SAFETEA because we have the SAFETEA core programs included. They came through the Commerce Committee. When you look at the deaths on the highways and the problems we are having out there—in my State of Oklahoma, we have had two deaths from bridge accidents, crumbling and falling on people and cars down below. Without the bill, we won't be able to have those SAFETEA programs. It is a matter of life and death to have this bill, streamlining provisions in order for us to act quickly and get these roads built. That will not happen under an extension. We will have to pass the bill.

In this bill, we actually put together a national commission to explore new ways of financing roads. When you look at our National Highway System, as Senator JEFFORDS and I have mentioned several times, it started in the 1960s, during the Eisenhower administration. It came to his attention that we had a problem when he was Major Eisenhower during World War II and trying to move services and troops and personnel and equipment across America. He realized the problems. When he became President, he started the National Highway System. It is built now—not maintained but built. We have been financing roads, bridges, and maintenance in the same way for almost 50 years now. We have this national commission that will explore new ways to get private participation in funding and transfer most of this to the States, where it belongs. That is not going to happen if we are on an extension.

There is Routes to School Program. We have had young people die and this addresses that. Again, if we don't pass the bill, we will not have the Safe Routes to School provisions, and we are going to have to operate on an extension. That is not acceptable.

There are border programs. We have several border States and we need to address their special needs with the transportation as a result of NAFTA and other programs, coming from other countries through the United States. We have a border program to accommodate that. We are not going to have it if we don't have the bill passed, because there will be an extension of a 7-year-old bill.

Lastly, is the firewall protection of the trust fund. I think everyone knows there is an irresistible propensity around Washington to spend other people's money, and when they see an opportunity to get a pet project by taking something out of the trust fund, they do it. Consequently, we have a lot of policies that are passed here, whether it is using ethanol or fuel-efficient cars, these programs to encourage them to do it, they get benefits and that comes out of the trust fund. That is a raid on the trust fund. This builds firewalls so that cannot happen. Without that, the raids will continue. That is why it is important we pass this bill. I know we are going to pass it. We have no doubt about that. Last year, we passed it to conference 76 to 21. I anticipate we will have that same margin of victory when we send this bill to conference.

We have been appealing for people to bring amendments to the floor. We are to the point now where people are working on the amendments, so that is going to have to wait until Monday afternoon. Again, that will be between 2 and 4 o'clock. I hope staff will be sure to advise their Members that is the time we will want to consider these amendments. If they want a vote on Monday, they better have their amendment down here, discussed, and debated between 2 and 4 o'clock.

The last point I want to mention is that somebody has received very unjust criticism. We have done a very good job—keep in mind we have been working on this 3 years now—we have done a very good job on the formula approach. What we want to do in our Senate bill is equitably distribute money to States based on certain criteria to be considered.

For example, if you are a donor State, then there is a factor that adjusts the distribution that comes to the State. If you are a donee State, it is the same thing. If you are an owed State, it is the same thing. If you are a small State or a State with low population, such as Montana and Wyoming, that is a factor in this formula.

We have factors on the death rate. My State of Oklahoma has a higher-than-average death rate on the highways on a per capita basis. It tells you something. What it tells you is there is a problem. We are going to have to correct the problem because people are dying.

The bottom line is, this is a life-or-death bill. So it is very important that we get this done. I appreciate the dedication of what we refer to as the big four, the leaders of this legislation—the chairman of the committee, which is myself, Senator BOND, Senator JEFFORDS, and Senator BAUCUS. It has been a great team effort. It has been a bipartisan effort. There has not been one vote that has not been bipartisan. That is a change around here—people are working together. Maybe we will learn a lesson and this will expand to some of the other areas.

It is my understanding, unless someone else has something to say about the bill—we have covered it pretty well now for the last 10, 12 days—we are down to the short rows, and we are ready to move on to the 2 hours on Monday and then, of course, final passage on Tuesday.

MORNING BUSINESS

Mr. INHOFE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PASSING OF CONGRESSMAN PETER RODINO, JR.

Mr. CORZINE. Mr. President, I want to take a moment to acknowledge the passing of Congressman Peter Rodino.

We have lost a great man, a great New Jerseyan, and a great American.

I had the most profound respect for Congressman Rodino's wisdom, fairness, honesty and sense of justice. He emerged a leader during one of the most difficult times in our Nation's history and he was more than equal to the task.

Congressman Rodino was born in Newark, NJ. The son of Italian immigrants, he rose to prominence from humble origins, working his way through law school and attending classes at night to earn his degree.

During World War II, he served his country with distinction, earning a Bronze Star. He returned a captain after having been promoted in the field.

Upon his return, he sought public office. He was elected to the House of Representatives in 1948 and would serve in the House for 40 years. And during those years, Congressman Rodino earned the respect of his colleagues and the loyalty of his constituents. He sponsored the Civil Rights Act of 1966 and authored its fair employment practices amendment; he played an integral part in the drafting of numerous pieces of civil rights legislation. We can also thank him for sponsoring the bill making Columbus Day a holiday.

Many, however, remember Congressman Rodino most for his role in Watergate as chairman of the Judiciary Committee.

During Watergate, a tumultuous period for our country, we needed a touchstone for honesty, fairness, and bipartisanship. Congressman Rodino was that touchtone. Tip O'Neill said of his fellow representative: "He's enhanced the stature of Congress when we were at a low ebb." He earned the trust and respect of his fellow Democrats and Republicans.

He was a public servant in the truest sense of the phrase. We all can only hope to serve as he would and to represent our constituents with equal honor and grace.

My heartfelt sympathies go out to his family and friends. We all mourn his passing.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2133. A communication from the Acting General Counsel, Department of the Treasury, transmitting, a draft of proposed legislation entitled "Collateral Valuation Improvement Act of 2005"; to the Committee on Finance.

EC–2134. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update Notice—Pension Funding Equity Act of 2004" (Notice 2005–39) received on May 11, 2005; to the Committee on Finance.

EC–2135. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Coordinated Issue: 'Notice 2002–50' Tax Shelter" (Uniform Issue List Number: 9300.21–00) received on May 11, 2005; to the Committee on Finance.

EC–2136. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Coordinated Issue: 'Notice 2002–65' Tax Shelter" (Uniform Issue List Number: 9300.22–00) received on May 11, 2005; to the Committee on Finance.

EC–2137. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rev. Proc. 2005–16 and Volume Submitters" (Announcement 2005–37) received on May 11, 2005; to the Committee on Finance.

EC–2138. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the fourth annual report relative to the College Scholarship Fraud Prevention Act of 2000; to the Committee on Commerce, Science, and Transportation.

EC–2139. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's annual report on the regulatory status of the National Transportation Safety Board's (NTSB) "Most Wanted" Recommendations to the Department of Transportation for calendar year 2004; to the Committee on Commerce, Science, and Transportation.

EC–2140. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the 43rd Annual Report of the Commission's activities for fiscal year 2004; to the Committee on Commerce, Science, and Transportation.

EC–2141. A communication from the Deputy Assistant Chief Counsel, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Whistle Bans at Highway-Rail Grade Crossings" (RIN2130–AA71) received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ALEXANDER (for himself and Mr. WARNER):

S. 1034. A bill to provide for local control for the siting of windmills; to the Committee on Energy and Natural Resources.

By Mr. INHOFE (for himself, Mr. JOHNSON, Mr. THUNE, Mr. GRASSLEY, and Mr. HARKIN):

S. 1035. A bill to authorize the presentation of commemorative medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th century in recognition of the service of those Native Americans to the United States; to the Committee on Banking, Housing, and Urban Affairs.

ADDITIONAL COSPONSORS

S. 610

At the request of Mr. TALENT, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 610, a bill to amend the Internal Revenue Code of 1986 to provide for a small agri-biodiesel producer credit and to improve the small ethanol producer credit.

S. 914

At the request of Mr. ALLARD, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 914, a bill to amend the Public Health Service Act to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALEXANDER (for himself and Mr. WARNER):

S. 1034. A bill to provide for local control for the siting of windmills; to the Committee on Energy and Natural Resources.

Mr. ALEXANDER. Mr. President, I am here today to introduce, along with the Senator from Virginia, Mr. WARNER, the Environmentally Responsible Wind Power Act of 2005.

The legislation that Senator WARNER and I offer provides for local authorities to be notified and have a role in the approval of the signing of tens of thousand of massive wind turbines that will be built in America under current policies. It also ensures that the Federal Government does not subsidize the building of these windmills, which are usually taller than a football field is long, within 20 miles of a military base or a highly scenic location, such as a national park or offshore.

Senator WARNER and I introduce our legislation today because next week the Senate Energy Committee is scheduled to begin markup on one of the most important pieces of legislation in this session, an energy bill. The Energy Committee's work, combined with the work of the Environment and Public Works Committee, which the distinguished occupant of the chair chairs, and the Finance Committee should this year produce a Clean Energy bill that will, over time, lower prices of natural gas and oil and reduce our dependence on overseas oil. This will be legislation for American blue-collar workers, for farmers, and for homeowners. It is urgently needed.

Natural gas prices are the highest in the industrialized world. Gasoline prices are at record levels. We cannot keep our jobs and our standard of living if we do not put in place policies that will provide our country with new steps toward conservation and an adequate supply of low-cost, reliable, clean American produced energy. Senator WARNER and I both intend to be in the middle of this discussion. He is a senior member of the Environment and Public Works committee. I am chairman of the Energy Subcommittee.

I am grateful for, and I am greatly encouraged by, the leadership of the Energy Committee chairman Senator DOMENICI, and the ranking Democrat, Senator BINGAMAN, and the committee staff who have worked especially hard to create a framework for a more aggressive bipartisan piece of legislation than we were able to produce last year.

One part of our energy debate will be about wind power, which is the subject of the legislation that Senator WARNER and I offer today. We are introducing this because several of our colleagues have proposed something called a renewable portfolio standard, or RPS, which would require power companies to produce 10 percent of all their electricity from renewable sources by 2025. These renewable sources are wind, hydro, solar, geothermal, and biomass. Today, these renewable sources produce about 9 percent of U.S. electricity needs.

This RPS is not to be confused with the renewable fuel standard which is a different sort of requirement, one that gasoline contain a certain percentage of ethanol. That matter is the subject for the jurisdiction of another committee. A renewable fuel standard is entirely different from a renewable portfolio standard and may well be part of the final legislation.

It is important for our colleagues to know that a renewable portfolio standard, or RPS, is all about wind. There are limited opportunities to build new dams today in order to expand hydropower, and hydro produces 7 of the 9 percent of renewable power that we have in America today. Of the remaining 2 percent of our electricity that is produced by other renewable sources, current subsidies are not enough to increase solar power by very much.

More research and development is needed to make biomass more efficient, and there is a limited amount of geothermal power that is drawing power from water that is heated underground, which leaves wind power. Experts agree that the bottom line is that a requirement that electric companies produce 10 percent of their electricity from renewable energy, if it could be achieved at all, would mean about 70 percent of the increase would come from wind. In other words, we would go from producing about 1 percent of America's electricity from wind to about 7 or 8 percent.

Testimony before our Energy Committee and most other sources suggest that to produce this much wind energy in the United States could require building more than 100,000 new massive wind turbines. We have less than 7,000 such windmills in the United States today, with the largest number in Texas and California. Testimony before our committee also indicated that even without the RPS, if Congress continues its generous subsidy for wind production for the next 10 years— it will guarantee that we have these 100,000 windmills or more by the year 2025. According to the Treasury Department, this wind subsidy, if renewed each year for the next 5 years, would reimburse wind investors for 25 percent of the cost of wind production and cost taxpayers $3.7 billion over those 5 years.

I'm told that General Electric Wind, one of the largest manufacturers of wind turbines, has experienced a 500-percent growth in its wind business this year due to the renewal of the wind production tax credit last year.

I want to make sure my colleagues know that there are serious questions about how much relying on wind power will raise the cost of electricity, questions about whether there are better ways to spend $3.7 billion in support of clean energy, and questions about whether wind even produces the amount of energy that it is claimed to produce.

My studies suggest that at a time when America needs large amounts of low-cost reliable power, wind produces puny amounts of high-cost unreliable power. We need lower prices. Wind power production raises prices. We will have an opportunity in our debates and further hearings to examine these questions.

The legislation Senator WARNER and I offer today is about a different question: the siting or location of 100,000 of these massive machines. Now, the idea of windmills conjures up pleasant images in Tennessee and, I am sure, in Oklahoma, of Holland and tulips, images of rural America with windmill blades turning slowly, pumping water at the farm well.

My grandparents had such a windmill at their well pump. That was back before rural electrification. The windmills we are talking about today are not our grandmother's windmills. Each one of these windmills is typically 100 yards tall, two stories taller than the Statue of Liberty, taller than a football field is long. These windmills are wider than a 747 jumbo jet. Their rotor blades turn at 100 miles per hour. These towers and their flashing red lights can be seen from more than 25 miles away. Their noise can be heard for up to a half a mile away. It is a thumping and swishing sound. It has been described by residents who are unhappy with the noise as sounding like a brick wrapped in a towel tumbling in a clothes dryer on a perpetual basis.

These windmills produce very little power since, of course, they only operate when the wind blows enough or when it does not blow too much. So they are usually placed in large wind farms covering huge amounts of land.

This is an example of what they look like. In comparison, we often worry about offshore drilling for oil and gas. In fact, Senator JOHNSON and I have introduced legislation that would permit States to expand the use of offshore oil and gas. Offshore oil and gas rigs can be placed far out to sea, where nobody on shore can see them. Compare that with the power produced by today's massive wind turbines. It would take 46 square miles of these windmills spread across the landscape to equal one oil or gas rig that one could not see.

As an example, the Congress ordered electric companies to build 10 percent of their power from renewable energy which, as we have said, has to be mostly wind. If we renew the current subsidy each year, by the year 2025 my State of Tennessee would have about 1,700 of these windmills, which would cover land almost two times the size of the city of Knoxville, TN. If Virginia, Senator WARNER's State, were to produce 10 percent of its power from wind by 2025 and the subsidies continue, it would probably need more than 1,700 windmills. These windmills would take up enough land to equal the land mass of three cities the size of Richmond, VA. In North Carolina, to supply 10 percent of the electricity from wind, it would take almost the land mass of the Research Triangle, the Raleigh-Durham-Chapel Hill area. According to testimony before our committee, in Tennessee and Virginia these windmills would work best and perhaps work only at all along the ridge tops.

So this is what things might be looking like. This is a picture of the Grand Canyon in the West, but we can imagine what it might look like in the East. If our present policies on wind are continued, we could expect to see hundreds of football-field sized towers as wide as jumbo jets with flashing red lights atop the Blue Ridges of Virginia, above the Shenandoah Valley, along the foothills of the Great Smoky Mountains, on top of Signal Mountain, on top of Lookout Mountain and Roan Mountain in Tennessee, and down the Tennessee River gorge which the city of Chattanooga has just spent 25 years protecting, and now it calls itself the scenic city.

I hope we decide there are better ways to provide clean energy than to spend $3.7 billion of taxpayer dollars over the next 5 years on windmills. I hope we decide we need a real national energy policy instead of a national windmill policy. I hope we decide there are better and cheaper ways to discuss carbon. At least there are some important questions we need to answer.

What will this number of windmills do to our tourism industry? Will 10 million visitors who come a year to enjoy the Great Smoky Mountains really want to come to see ridge tops with flashing red lights and 100-yard tall windmills? What happens to electric rates when the Federal subsidy disappears in a few years? Who will take down these massive structures if we decide we do not like them or if they do not work? Who is making the money on all of this, and why are some European countries who pioneered wind farms now slowing down or even stopping their construction in some places?

Clearly, there are likely to be more sensible ways to provide clean energy than spending $3.7 billion of taxpayer money over the next 5 years to destroy the American landscape. For example, $3.7 billion would provide enough money to give 185,000 Americans a $2,000 subsidy to buy a hybrid or a clean diesel vehicle, which would be about double the number of hybrid cars expected to be sold in the United States during this year. Hybrid cars burn about 60 percent of the amount of gasoline that conventional cars burn. Or $3.7 billion would provide enough money for loan guarantees to help launch a dozen new clean coal gasification plants and help transform the marketplace with new technology for clean American-produced energy that would lower natural gas prices and reduce our dependence on foreign oil. For $3.7 billion, we could provide loan guarantees for at least half a dozen new technology nuclear powerplants and have a billion dollars left over for research and development on the recapture of carbon that might be produced by coal plants or to encourage conservation prices.

Just by way of comparison, a nuclear powerplant such as the Tennessee Valley Authority's Sequoayah nuclear plant would produce about the same amount of energy as the windmills, which a renewable portfolio standard and the tax subsidy would build in Tennessee. The electricity would be available even when the wind was not blowing. So while we are debating the wisdom of wind policies over the next several weeks, these massive turbines are being built across America, 6,700 of them so far, 29 of them in Tennessee.

The Tennessee Valley Authority recently announced it had signed a 20-year contract with a group of investors from Chicago to build 18 huge windmills atop a 3,300-foot ridge on Buffalo Mountain in east Tennessee. So the purpose of our legislation being offered today is to give citizens the opportunity to have some say in where these massive structures are located in their communities and to make sure that the Congress does not subsidize the destruction of the American landscape near our national parks or other highly scenic areas or build such tall structures dangerously close to our military bases.

First, the bill ensures that local authorities are notified and have a role in the approval of new windmills to be built in their areas of jurisdiction. This means that at the same time a proposed windmill is filed with the Federal Energy Regulatory Commission, FERC would notify the local authority with zoning jurisdiction. Under this bill, within 120 days, local authorities may support or oppose the project. If they support it, the windmill may qualify for FERC marketbased rates—that means allowed to charge wholesale prices—and may be exempt from a series of regulations that restrict the operations of public utilities. If local authorities oppose the windmill, it may still go forward but subject to regulations—we call them PUCHA—and unable to charge wholesale rates or issue a qualified rate schedule. If no action is taken by the local authority, the FERC process would proceed as though the authority were in support.

I believe it is crucial that local authorities have a chance to consider the impact of such massive new structures before dozens or hundreds of them begin to be built in their communities. In many other instances involving the location of facilities generating power, State and local governments have developed laws giving citizens an opportunity to comment or even stop the location of facilities they do not want. Our legislation gives communities that do not have such laws the chance to do just that, and then this legislation sunsets or expires in 7 years.

The second thing our legislation would do is provide protection to highly scenic areas and at military bases. I do not think we want to see hundreds of windmills in the Grand Canyon or just outside the Grand Canyon or in the foothills of the Great Smokies or when we go to see the Grand Tetons. There are plenty of places we do not want to see that. This makes sure it does not happen. It does so by eliminating tax subsidies for any windmills within 20 miles of a world heritage area, which includes many national parks, and within 20 miles of military bases or offshore.

Under the bill, placement of a windmill within 20 miles of such a site shall also require the completion of an environmental impact statement. Further, any windmill that is to be constructed within 20 miles of a neighboring State's border may be vetoed by that neighboring State. In other words, if the neighboring State can see it and does not want it, they can veto it.

I used the same kind of analogy when I introduced legislation to allow offshore drilling since offshore drilling can be put so far off sight that one does not need to see it. If Virginia wants to do it and North Carolina can see it and they do not like it, they can veto it. I believe the same thing should apply to these massive windmills.

I believe that during our debates, we will find that there are better ways to produce a low-cost reliable supply of American energy than by spending $3.7 billion over the next 5 years, requiring power companies to produce energy from giant windmills that raise electric rates, only work when the wind blows, and destroy the American landscape.

The legislation that Senator JOHNSON and I have introduced, the Natural Gas Price Reduction Act of 2005, includes support for aggressive conservation, new clean coal gas plants, new supplies of domestic natural gas, and, for the time being, easier import of liquefied natural gas. We did this because natural gas is at $7 a unit around the world, and that needs to change. In the USA, it is the highest priced gas anywhere in the industrial world. The chemical plants in Oklahoma, Colorado and Tennessee will find it likely that they will be moving their jobs to other parts of the world where the price of natural gas is not so high.

I believe there is an important place in our energy bill for renewable fuels such as ethanol, and I believe there is an important place for renewable energy sources. For example, the legislation Senator JOHNSON and I introduced a few weeks ago would increase from 10 percent to 30 percent the tax credit for commercial investments in solar technology that generates electricity, heats or cools a structure, uses fiber optics, and illuminates a building or provides solar process heat. It provides a similar 30-percent tax credit for a solar system that heats a home. But it is important to keep in mind that, aside from wind, renewable energy can only provide about 3 percent of America's total energy needs over the next 20 years. I am excluding from that, also, hydro.

In the United States of America, the wholesale destruction of the American landscape is not an incidental concern. The great American outdoors is an essential part of the American character. Italy has its art, Egypt has its pyramids, England has its history, and we have the great American outdoors. In fact, the song "America the Beautiful" was written in Colorado, the State of the Presiding Officer. We care about that.

In my home County of Blount County, TN, my father and lots of other people worked at the Alcoa plant for many years to save money and buy a home. Where did they want to buy a home? They wanted to buy a home on streets that were named Mountain View, or Scenic Drive, because they loved to look at the Great Smoky Mountains.

While we debate the merits of so much subsidy and reliance on wind power, we should at the same time protect our national parks, our shorelines, and our other highly scenic areas. And we should give American citizens the opportunity to protect their communities and landscapes before it is too late.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmentally Responsible Windpower Act of 2005".

SEC. 2. LOCAL CONTROL FOR SITING OF WINDMILLS.

(a) LOCAL CONTROL.—Prior to the Federal Energy Regulatory Commission issuing to any onshore and above-water wind turbine project its Exempt-Wholesale Generator Status, Market-Based Rate Authority, or Qualified Facility rate schedule, the wind project shall file with the Federal Energy Regulatory Commission its Local Approval Authorization.

(b) LOCAL APPROVAL AUTHORIZATION.—

(1) In this section, the term "Local Authorities" means the governing body, and the senior executive of the body, at the lowest level of government that possesses authority under State law to carry out this Act.

(2) Local Approval Authorization is a resolution from the local governing body and local senior executive (collectively, the "Local Authorities") approving or denying the siting of such wind project.

(3) Such resolution approving or denying the project shall be produced by the Local Authorities within 120 days of the filing of the Market-Based Rate application or Federal Energy Regulatory Commission Form number 556 (or a successor form) at the Federal Energy Regulatory Commission.

(4) If such resolution is not issued by the local authorities within 120 days of the filing of the Market-Based Rate application or Federal Energy Regulatory Commission Form number 556 (or a successor form) at the Federal Energy Regulatory Commission, then such project is deemed to have obtained its Local Approval Authorization.

(5) Applicant shall notify in writing the local authorities on the day of the filing of such Market-Based Rate application or Federal Energy Regulatory Commission Form number 556 (or a successor form) at the Federal Energy Regulatory Commission. Evidence of such notification shall be submitted to the Federal Energy Regulatory Commission.

(6) The Federal Energy Regulatory Commission shall notify in writing the local authorities within 10 days of the filing of such Market-Based Rate application or Federal Energy Regulatory Commission Form number 556 (or a successor form) at the Federal Energy Regulatory Commission.

(7) If the Local Authorities deny the siting of a wind project, the Federal Energy Regulatory Commission shall not issue to the project Market-Based Rate Authority, Exempt Wholesaler Generator Status, or Qualified Facility rate schedule.

(c) DETERMINATION OF NEIGHBORING STATES.—

(1) In this subsection, the term "viewshed" means the area located within 20 miles of the boundary of a State.

(2) If an offshore, above-water windmill project under this section is located within the viewshed of an adjacent State, the adjacent State may determine that the project is

inconsistent with the development plan of the State under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(3) If a State makes a determination under paragraph (2), the affected windmill project shall terminate.

(d) HIGHLY SCENIC AREA AND FEDERAL LAND.—

(1) A Highly Scenic Area is—

(A) an offshore area;

(B) any area listed as an official United Nations Educational, Scientific, and Cultural Organization World Heritage Site, as supported by the Department of the Interior, the National Park Service, and the International Council on Monuments and Sites;

(C) any area nominated by the Department of the Interior and the Federal Interagency Panel for World Heritage to become an official United Nations Educational, Scientific, and Cultural Organization World Heritage Site; or

(D) any Armed Forces base located in the United States.

(2) A Qualified Wind Project is any above-water wind-turbine project located in a Highly Scenic Area or within 20 miles of the boundaries of an area described in subparagraph (B), (C), or (D) of paragraph (1).

(3) Prior to the Federal Energy Regulatory Commission issuing to a Qualified Wind Project its Exempt-Wholesale Generator Status, Market-Based Rate Authority, or Qualified Facility rate schedule, an environmental impact statement shall be conducted and completed by the lead agency in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). If no lead agency is designated, the lead agency shall be the Department of the Interior.

(4) The environmental impact statement determination shall be issued within 12 months of the date of application.

(5) Such environmental impact statement review shall include a cumulative impacts analysis addressing visual impacts and avian mortality analysis of a Qualified Wind Project.

(6) A Qualified Wind Project shall not be eligible for any Federal tax credit.

(e) EFFECTIVE DATE.—

(1) This section shall expire 7 years after the date of enactment of this Act.

(2) Nothing in this section shall prevent or discourage environmental review of any wind projects or any Qualified Wind Project on a State or local level.

By Mr. INHOFE (for himself, Mr. JOHNSON, Mr. THUNE, Mr. GRASSLEY, and Mr. HARKIN):

S. 1035. A bill to authorize the presentation of commemorative medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th century in recognition of the service of those Native Americans to the United States; to the Committee on Banking, Housing, and Urban Affairs.

Mr. INHOFE. Mr. President, during World War I and II, Native Americans heard the call of their Country and enlisted in the United States Armed Services in unprecedented numbers. Many of these brave men performed the role of code talkers, using a code language derived from a variety of American Indian languages to ensure secure and rapid communication of information on the battlefield. Through three wars and five decades, enemy forces were never able to break the United States code language thanks to the service and ingenuity of Native American Code Talkers. These patriots provided an invaluable service to the United States and our allies and deserve recognition for their bravery.

Until 1968, information related to the code talker's activities during both World Wars remained classified by the Department of Defense. The postponement in learning about the essential role of Native American Code Talkers has resulted in delayed recognition of these war heroes. The first step in recognizing these men came in 2000 when President Bush signed into law legislation authorizing Congress to award gold medals to the twenty-nine Navajo Code Talkers as well as a silver medal to each man who later qualified as a Navajo Code Talker. While this legislation was a step in the right direction, it failed to recognize a number of Native Americans who also served as code talkers but were not members of the Navajo Nation.

During the first World War, Choctaw code talkers served with distinction in France. By transmitting in their native tongue a variety of open voice messages relating to unit movements, United States forces completely surprised the enemy during battle. Following the success of the Choctaw code talkers, soldiers from the Navajo, Sioux, Comanche and Meskwaki tribes, along with members of 14 other tribes, served as code talkers in some of the most dangerous operations in both theaters of World War II.

Today I introduce the Code Talkers Recognition Act to honor those who were overlooked when medals were awarded to the Navajo Code Talkers in 2001. This bill authorizes the presentation of commemorative medals on behalf of Congress to Native Americans who served as Code Talkers during any foreign conflict in which the United States was involved during the 20th Century. I ask my colleagues to help honor the heroic contributions of these gentlemen by cosponsoring this bill.

* * *

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, May 13, 2005 at 9:30 a.m. in closed session to mark up the National Defense Authorization Act for Fiscal Year 2006.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that I be allowed to speak in morning business for up to 15 minutes.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

Mr. ALEXANDER. I thank the Senator from Oklahoma for assuming the Chair, and I congratulate him for the progress on the highway bill. He has been working on the bill ever since I have been in the Senate. It looks like it is ready to be passed.

THE PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. I thank the Chair.

(The remarks of Mr. Alexander pertaining to the introduction of S. 1034 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ALEXANDER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

* * *

ORDERS FOR MONDAY, MAY 16, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 2 p.m. on Monday, May 16. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders reserved, and the Senate then resume consideration of H.R. 3, the highway bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

* * *

PROGRAM

Mr. FRIST. Mr. President, on Monday the Senate will resume consideration of the highway bill. As a reminder, we reached an agreement last night that limits the final list of amendments in order prior to passage. Those amendments also must be offered no later than 4 p.m. on Monday afternoon. Senators who have amendments on the list should make themselves available to come to the floor Monday afternoon in order to get their amendments pending. We will also have at least one rollcall vote Monday, beginning at 5:30 p.m. That vote will be in relation to an amendment on the highway bill, and it is possible we will stack another amendment for a vote to follow the 5:30 vote.

I do thank the chairman and ranking member, who have been here throughout the week working through amendments and moving this important legislation forward. Thanks to their efforts, we were able to establish a roadmap that will allow us to move to passage of the bill on Tuesday of next week.

ADJOURNMENT UNTIL MONDAY, MAY 16, 2005, AT 2 P.M.

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 11:42 a.m., adjourned until Monday, May 16, 2005, at 2 p.m.

NOMINATIONS

Executive nomination received by the Senate May 13, 2005:

DEPARTMENT OF JUSTICE

JAMES B. LETTEN, OF LOUISIANA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF LOUISIANA FOR THE TERM OF FOUR YEARS, VICE EDDIE J. JORDAN, JR., RESIGNED.

EXTENSIONS OF REMARKS

IN SUPPORT OF H.R. 2317, THE CREDIT UNION REGULATORY IMPROVEMENTS ACT

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. CASE. Mr. Speaker, I rise today in strong support of H.R. 2317, the Credit Union Regulatory Improvements Act, commonly known as CURIA, of which I am a proud original cosponsor.

As I have noted many times in many ways, our Nation's credit unions provide a truly invaluable service to their approximately 84 million members throughout our country, including over 742,000 members in my Hawai'i alone. Where other financial institutions are unable or unwilling to do business as and when desired by consumers, credit unions have prospered by offering fair, convenient and relevant financing. In doing so, they are one of the key linchpins binding together the economic and social life of so many of our communities, including those of non-urban and rural America.

Let me provide you with just one example from my own district: the southern portion of my home Island of Hawai'i. Small rural and agricultural-based communities are dispersed throughout this low population density region, which thus does not lend itself to traditional urban-focused banking.

Instead, the main branch of Ka'u Federal Credit Union, known as the southernmost credit union in the United States, is located in the small town of Na'alehu and provides its residents with highly personal and tailored services. But Ka'u FCU has taken its service a step further and added two additional branches in nearby communities—one in Ocean View and the other in Pahala—each located in a local grocery store and no bigger than the size of a small car.

Of course, credit unions are prospering in urban and suburban areas of our country and my Hawai'i as well. This is because they all share the characteristics of highly personal, member-invested services. They are thus clearly a great success story throughout our entire country.

Support for our credit unions should thus be one of our key goals. Here in Congress, one of the best ways to do so is to support this bipartisan legislation.

H.R. 2317 contains three major sections, which, as outlined below, will modernize credit union net worth standards, advance credit union efforts to promote economic growth, and make several needed modifications to credit union activities, governance, and oversight.

According to the National Credit Union Administration (NCUA), the independent federal agency that charters and supervises federal credit unions, modifications to the Prompt Corrective Action (PCA) system are needed to ensure that the standards are "aptly robust" and "not unduly burdensome or constraining." This legislation would revise thresholds for PCA net worth categories for credit unions to new net worth ratio thresholds that are comparable to those used by the Federal Deposit Insurance Corporation (FDIC) for the leverage requirement.

H.R. 2317 would also provide a much-needed update to the definition of net worth in the Federal Credit Union Act for purposes of credit union mergers. The Financial Accounting Standards Board has proposed eliminating the pooling accounting method for mergers and requiring all credit union mergers to apply the purchase method after 2006. Under the purchase method of accounting, only the surviving credit union's retained earnings count as net worth for PCA purposes. This legislation codifies that recommendation.

Finally, CURIA will update and modernize a number of specific outdated regulatory burdens and make other necessary changes to the credit union regulatory system, including improving credit union leasing arrangements on federal land, permitting limited investments in securities, reforming credit union governance, and altering credit union conversion voting requirements.

Mr. Speaker, I commend both the gentleman from California (Mr. ROYCE) and the gentleman from Pennsylvania (Mr. KANJORSKI) for once again spearheading CURIA. I look forward to working with them and my other cosponsors in supporting this vital initiative.

ISRAEL INDEPENDENCE DAY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. CARDIN. Mr. Speaker, "It should not be forgotten even for a moment that Israel's security problem is quite unlike that of any other country. This is no problem of borders or sovereignty, but a problem of physical survival, in the literal meaning of the term. And it is a question of the survival not only of the people of Israel but of the Jewish people the world over."

These words were spoken in 1960 by former Prime Minister David Ben-Gurion, who led the struggle to create Israel.

More than 4 decades have passed since these words were spoken, but they have the same profound impact on us as Jews today as when they were first uttered. Today I express my solidarity with Israel as it celebrates the 57th anniversary of its founding.

As a Member of Congress, I stand with Israel and express my solidarity and support for the State of Israel during these most troubling of times.

We must remember that any legitimate peace process must insist that the Palestinians bring an immediate end to acts of terrorism.

Israel is fully committed to pursuing negotiated agreements with her Arab neighbors so that it may finally live in peace and security. Israel reached historic peace agreements with Egypt and Jordan in which both sides made serious compromises for the sake of normalized relations. Through its democratic system, the Israeli electorate has voted out governments they believe have not done enough to pursue peace, just as they have voted out governments they believe have not done enough to promote their security.

The Palestinian campaign of terrorism and violence has caused even those Israelis most supportive of the peace process to question the Palestinian Authority's suitability as a negotiating partner and its commitment to peaceful reconciliation with Israel. Israel has demonstrated time and again its sincere desire for peace and its readiness to make the difficult decisions required for peace, as it begins its withdrawal from the Gaza strip and parts of the West Bank.

I hope that the new Palestinian government elected by the Palestinian people will move quickly and make the tough choices necessary for a lasting peace.

CONGRATULATING KERRY AMBROSE

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. WELDON of Pennsylvania. Mr. Speaker, Ms. Kerry Ambrose has been in Bolivia for the past year as a volunteer with the Peace Corps. Ms. Ambrose is following the footsteps of over 178,000 Americans who have served as Peace Corps volunteers in 138 countries over the past 44 years. Kerry is doing extraordinary work in her village and I commend her dedication and service to improve the lives of others. I would like to share with you her editorial submitted to my local newspaper, The Delaware County Times.

[From the Delaware County (PA) Times, Apr. 3, 2005]

OPINION: SERVING PEACE CORPS MEANS MAKING A DIFFERENCE

(By PCV Kerry Ambrose)

I live in a small pueblo in Bolivia. My house has running water but no shower so we bathe via buckets. I consider myself lucky, though, as some of my friends only have water for a few hours a day, if that.

The family I live with sells chickens. I see the chickens before they are killed. I also watch the grandmother of my house wash piles of chicken claws in a bucket in order to make her delicacy—chicken foot soup.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

My family hand-washes its clothes every other day. I still have not mastered the art completely and often the children laugh good-naturedly. My family happens to have a TV in one of its rooms. Most families do not. Most families have a small room that serves as the living room, bedroom, and kitchen. Oftentimes the floor is packed dirt and the roof is thatched.

My favorite part of my day is after waking up. I heat water on our stove and make mate, a type of tea served here. My favorites are manzanilla, which is chamomile, as well as cocoa leaf mate, which is supposedly good for the stomach.

I sit on the steps of our house in the chill morning light with the steaming hot cup of mate in my hands as I look out on into the distance. I live in the altiplano, which is a flat plain above the tree line. It stretches for miles in all directions and looks like a vast sea of earth striving to meet the unreachable horizon.

The wind is harsh as there is no protection from it and for the most part the soil is rocky and hard. Many of the people here depend on the mines, but there are also farmers and herders. All are difficult livelihoods in such an unforgiving place. The altiplano, though, has a stark and desolate beauty to it that creeps in to haunt the soul. It's untouched in many places and is wild and untamed in a way that I imagine the prairie lands of the U.S. were before the settlers.

I am a volunteer in the Peace Corps, which is why I am living here. I mainly work in the schools teaching environmental education and health classes. This year though I am also helping teach physical education from kindergarten through sixth and am hoping to start a basketball intramural league and maybe an art mural club.

The children are so motivated. Everyday I look into their bright eager eyes and smiling faces and cannot help but become inundated with love. I have so much hope for all these children, these brilliant minds waiting to blossom, but I know that the people of this town, this country, are poor. Many of the girls see no future beyond having seven or eight children to help with the farm work, the mortality rate here is as high as almost 50 percent in some areas so the birth of many children guarantees the survival of a few.

The streets of the cities are not lined with gold, but rather with funeral parlors displaying miniature coffins. My heart breaks knowing some of these children I see will go on to sniff glue, become alcoholics, and abuse their wives because these are the examples they know and see. I am determined to help in what little way I can to instill a sense of self-esteem. They may be poor in material objects, but they are not poor in spirit.

I have been here already for a year. Peace Corps volunteers make the commitment to serve for 27 months. When the tragedy of Sept. 11 happened, I personally made the decision to join after I finished college. Many people of the world view America with contempt. I wanted to do what I could to make the most out of the privileges my citizenship automatically bestowed upon me.

I came to Bolivia with idealistic notions that I could somehow change the world. I still hope to make a difference each day I walk hand in hand with a small child looking up at me with eyes so wide. However, I have been humbled in that I realize by simply living here I have learned more this past year about myself, people, and the world then I could have possibly envisioned or ever repay, although I intend to try.

Kerry Ambrose is the daughter of Pamela Ambrose and Gary Pattinson, and a graduate of Gamet Valley High School. She was sworn in as a Peace Corps volunteer on April 7, 2004. Learn more about this organization by visiting www.peacecorps.gov or if interested in donating supplies for a future project or school, contact Kerry at ambrose81@comcast.net

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RECOGNIZING MR. PETER H. COTE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. SKELTON. Mr. Speaker, it has come to my attention that Mr. Peter H. Cote will retire from his post as civilian Farrier, after 35 years of faithful and dedicated service to the nation.

Mr. Cote graduated from Woodbridge Senior High School in Virginia in 1967. He then attended the Martinsville Farrier School until he was drafted by the U.S. Army in March 1969 as a Heavy Artilleryman. Mr. Cote's military career includes positions in Germany, Walter Reed and Fort Myer. He was discharged from the U.S. Army on March 1, 1971, and was hired by Walter Reed as the Military District of Washington civilian Blacksmith/Farrier.

Mr. Cote received his Master Farrier Qualification from the Brotherhood of Working Farriers. He is certified as an Equine Appraiser, equine emergency rescuer, equine adjuster and an inspector of American Trail Rides. Mr. Cote has trained 165 personnel in the art of Farriery. He also has participated in the state funerals for President Johnson and President Reagan. Additionally, he has been the head Farrier for nine Presidential Inaugurals.

Mr. Cote's many honors and awards include the Meritorious Civilian Service Award and numerous Exceptional Performance Appraisals. He also was named "The Nation's Farrier" in 1999 by The American Farrier Journal.

I know my colleagues in the House will join me in thanking Mr. Cote for his many years of service to his country and in wishing him all the best in the years to come.

IN HONOR OF ALBERTA HENRY

HON. JIM MATHESON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. MATHESON. Mr. Speaker, I rise today to recognize and pay tribute to the late Mrs. Alberta Henry, a long-time resident of Utah.

Mrs. Henry was a civil-rights activist and educator devoted to providing educational opportunities for all children. Her accomplishments and hard work have been recognized by many including President Richard Nixon, the University of Utah, and the Salt Lake Council of Women's Hall of Fame.

Since being elected to Congress, I have been impressed with Mrs. Henry's efforts to improve her community, and ability to overcome all obstacles that stand in her way. Mrs. Henry has been involved in many organizations, including Utah State Advisory Committee to the U.S. commission on Civil Rights, the United Way, Utah Endowment for the Humanities, and the Black Advisory Board to the University of Utah. She also served as president of the NAACP's Salt Lake Branch for 12 years.

Mrs. Henry's passion for education began early on as a young student in Kansas. Her mother encouraged her to get an education, and became a driving force in her love for learning. After moving to Utah, she worked for the Head Start Day Care and was the first African-American employee at the Salt Lake School District. She is also the founder of the Alberta Henry Education Foundation which has helped hundreds of underprivileged students pay for college.

Mrs. Henry's work is invaluable and her steadfastness is respected. She will be missed by her family, friends, and the community as a whole.

ISRAEL INDEPENDENCE

HON. ERIC CANTOR

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. CANTOR. Mr. Speaker, I rise today to congratulate the modern day state of Israel on its 57th birthday. In 1948, facing overwhelming odds, Jews living in their historic homeland, survivors of the Holocaust and refugees from around the world stood in a small room in Tel Aviv to announce the creation of the Jewish state. In the shadow of the murderous genocide of the Holocaust, the State of Israel was created so that Jews around the world would always have safe refuge from oppression and annihilation.

On May 14, 1948, years of Zionists' dreams culminated at this historic moment as David Ben Gurion announced to the world that once again Israel was to be a free and independent state. Founded on principles of freedom and democracy, the new state of Israel was quickly recognized by the United States as a welcome ally in the Middle East. Unfortunately, within hours of this historic declaration, the neighboring Arab nations attacked and sent Israel into its first war as an independent nation. Despite conventional wisdom, and to the great surprise of many around the world, Israel survived the attack, but at a heavy cost to the young nation.

Today, Israel is a thriving democracy and one of the United States' strongest allies in our War on Terror. Israel has demonstrated to the world that democracy can thrive in the Middle East and that freedom of religion, freedom of the press and basic human rights can work in a region that is otherwise dominated by terror and oppression. Israel, with a free market economy and a commitment to human rights, serves as an inspiration for other nations and new democracies struggling to take hold in the Middle East.

I stand today to congratulate Israel on its strong dedication to freedom and democracy throughout its 57 years of existence. I look forward to strengthening the U.S.-Israel relationship and continuing to celebrate Israel's independence in years to come.

EXPRESSING SUPPORT FOR THE PEARL HARBOR MEMORIAL FUND AND THE ARIZONA MEMORIAL MUSEUM ASSOCIATION

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. CASE. Mr. Speaker, I rise today to urge the continued efforts of my colleagues, our federal administration, and all Americans toward long-overdue and essential reconstruction of the USS Arizona Memorial Visitors Center at Pearl Harbor, Hawai'i.

Nobody can dispute that one of the seminal moments in American history occurred on December 7, 1941, when the Imperial Japanese Navy attacked our country's Pacific Fleet at Pearl Harbor. It was a dark and tragic day for all Americans. Yet, in the unity, determination and fortitude of our response, we saw the rekindling of a devout patriotism, and we came together to overcome one of our greatest challenges with simple integrity and willing sacrifice.

The events at Pearl Harbor on that day and in early WWII in the Pacific have been viewed through many lenses. "Remember Pearl Harbor" has become a rallying cry each time our nation ventures forth in furtherance of liberty throughout the world. We have remembered of that day and subsequent events that our brave service men and women and our civilian population proudly accepted whatever burden was asked of them to ensure that our way of life would survive, endure, and finally succeed. We have recalled our demonstration that no other nation, no matter how menacing, could withstand our determination to fight for human betterment and humane values. We have reaffirmed our demonstration of the power of a nation governed by the will of its people, based on the rule of law, and extolling the value of equality and endowed rights.

Yet what a high price was paid for all this, for the results of December 7th were nothing short of carnage. Six military sites on Oahu were attacked, killing over 2,400 Americans. Over 320 aircraft were destroyed or damaged; over 21 vessels were sunk or damaged. Leaking fuel ablaze hampered rescue operations and threatened undamaged ships. Extraordinary and heroic efforts enabled many to survive the onslaught, but of those fortunate to survive many bore their scars for life.

The Pearl Harbor attack acted as a catalyst in bringing us fully and actively into World War II and served as a rallying cry to unify our country. And because the USS *Arizona* accounted for almost half of those casualties, it has become the central symbol of our commemoration. In the words of one writer, "because of her significance . . . the *Arizona* is much more than a sunken ship; she is a national icon."

In the 1950s, the Territory of Hawai'i (which in 1959 proudly became the 50th state of our union) along with our federal government and others spearheaded an effort to create a monument to the USS *Arizona* and to the many events and individuals related to the attack on Pearl Harbor. The result, through the combined efforts of public funds and private enterprise, was the building of the USS Arizona Memorial in the early 1960s. This graceful and moving tribute, seemingly afloat over the *Arizona* and the remains contained within of most of her crew, has come to memorialize perfectly the lessons of Pearl Harbor.

The Memorial has therefore been indispensable to our nation's ability to learn and benefit from the events of December 7, 1941. The memorial itself enhanced and extended the impact of the Pearl Harbor attack into the collective American consciousness. As one newspaper reported, ". . . its tenth anniversary in 1951 barely rated a mention in the newspaper of the day. But in 1961 came the dedication of the USS Arizona Memorial . . . and the observances of the U.S. entry into WWII became significant."

In the 1960s and 1970s, the appeal of visits to the USS Arizona Memorial continued to increase. More and more visitors arrived on the shores of Pearl Harbor to ferry the short distance to the Memorial. The numbers rose rapidly and it was soon apparent that a shoreside facility and an organizational responsibility were needed for the safety, security, guidance, and accommodation of the thousands of people lining up to view and pay homage to the Memorial and what it stood for. Branch 46 of the Fleet Reserve Association in Honolulu, a group that had been active in establishing the Memorial itself, once again moved to the forefront of making the visitor experience what it should be by making capital improvements on the shore side as well as at the Memorial. Plans were designed for the construction of the USS Arizona Memorial Visitor Center at Pearl Harbor.

An Arizona Memorial Foundation was founded to raise consciousness and funds for the new facilities. It became the Arizona Memorial Museum Association, a non-profit entity, in 1979. Once again, the State of Hawai'i, federal government, U.S. Navy, Fleet Reserve Association and Arizona Memorial Museum Association provided the funds necessary to complete the building. I want to make special mention of my esteemed colleague, the senior U.S. Senator from Hawai'i, DANIEL K. INOUYE, who was instrumental in getting this project of the ground.

By any measure, the Visitor Center at the USS Arizona Memorial, today administered by the National Park Service, has been a remarkable success. Over 1.5 million people visit the Memorial annually, twice that projected by the original designers and builders.

So significant is the desire to visit the USS Arizona Memorial and visitors center that visitors often begin to line up as early as 5:00 AM. In some cases, visitors must wait 2–3 hours just to board the U.S. Navy launch that takes them to the Memorial.

The Arizona Memorial Museum Association and the National Park Service have worked together to provide special and general educational and interpretive programs for everyone. Such programs include Witness to History, which matches events and firsthand observers of the events such as Pearl Harbor survivors with students, historians, and schoolchildren in interactive learning sessions on site and through videoconferencing. Pearl Harbor survivors, National Park Service personnel, and others are available to travel to schools and community associations to participate in interactive educational sessions.

To provide additional space for programs and people, the Arizona Memorial Museum Association and the National Park Service started, in 2001, to plan an extension to the present building. Structural engineers and designers were consulted as to what building options were available. Much to the disappointment of the planners, the engineers advised that the current building was settling at a high rate and that its useful life was only an additional 5–9 years.

This knowledge, while initially disappointing, led to the inevitable conclusion that a new structure must be built. This new facility would better accommodate the thousands of visitors and provide for the proper display of many more artifacts and items currently being sent to storage, as well as meet a National Park Service engineering specification requirement that associated structures have a projected life of at least 50 years.

A detailed plan has therefore been completed for the replacement of the Museum and Visitor Center through the joint efforts of the U.S. Navy and the National Park Service. The primary components of the planned Museum and Visitor Center plan are:

An enlarged and enclosed state-of-the-art museum; An outdoor amphitheater; Updated Memorial orientation theaters; An education center with a library and a videoconferencing facility; Expanded and improved visitor comfort areas including suitable rest rooms; A larger bookstore.

For its part, the Arizona Memorial Museum Association has stepped forward still again to undertake a national public/private program to raise the funds necessary to pay for the construction, endowment, and interpretive requirements of the replacement facility.

Mr. Speaker, the USS Arizona Memorial is a place of the spirit. It exudes solemnity and dignity. People assume prayerful postures and hushed tones as they embark on its landing dock.

The depth of their experience is heightened by the interpretive and educational shoreside activities at the Museum and Visitor Center. It is there that the facts and artifacts, the audio-visual aids and the human interaction, the films and the charts, prepare them with knowledge and perspective for the moments that they will spend searching among the heroes' names, the ship's image, the oily surface, and the haunting environs of the Memorial. The Museum and Visitor Center have themselves become intertwined in the full meaning of a visit to the USS Arizona Memorial. Neither stands alone; together, they are a mighty symbol of the strength, unity, and hope of our nation.

I look forward to working with my colleagues on both sides of the aisle and in both chambers to support the construction of this new visitors center. And, in doing so, I hope and pray that the USS Arizona Memorial, a national icon, becomes even more imbedded in our national consciousness as a source of inspiration, understanding, and honor for current and future generations.

Mahalo (thank you), and aloha.

INTRODUCTION OF THE “AERONAUTICS RESEARCH AND DEVELOPMENT REVITALIZATION ACT OF 2005”

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. UDALL of Colorado. Mr. Speaker, I am today introducing the “Aeronautics Research and Development Act of 2005”. I am pleased to be joined in this initiative by I the following cosponsors of this legislation: Representative JOHN LARSON, who submitted legislation on this topic in the 108th Congress that has provided a solid foundation for my bill; Representative JO ANN DAVIS, Representative GORDON, Representative KUCINICH, and Representative BOBBY SCOTT. We would welcome additional Members joining us as sponsors once they have had a chance to review the legislation.

Mr. Speaker, progress in aeronautics is crucial to the health of the Nation's air transportation industry, which in turn is crucial both to the continued strength of our domestic economy and to our international competitiveness. In addition, aeronautical goods and services have long provided a major positive input to our balance of trade.

Yet progress in aeronautics is important for reasons beyond the health of our trade balance. Aeronautics R&D can enable advances in the capability of our nation's air transportation system to handle the enormous increases in air travel projected over the next twenty years. Aeronautics R&D can enable more environmentally compatible commercial aircraft, with significantly lower noise, emissions, and energy consumption compared to aircraft in commercial service today. Such new aircraft would not only improve the quality of life but would also open new markets. Aeronautics R&D can also enable new markets and services through the development of technologies that will allow supersonic commercial aircraft to fly over populated areas with no adverse environmental impacts, as well as the development of technologies that will greatly increase the capabilities of rotorcraft and other runway-independent air vehicles to serve civil needs. Finally, aeronautics R&D can lead to new concepts for protecting our Nation.

However, all of the new capabilities that I have described will only be possible if this Nation is committed to making the investments in aeronautics R&D that are necessary to achieve those goals. The unfortunate reality is that America currently is not investing enough in NASA's aeronautics program. Moreover, if nothing is done to correct the situation, NASA's aeronautics program is scheduled to suffer additional cuts over the next five years, cuts that will jeopardize the very foundations of our national aeronautics R&D capabilities.

You don't have to take my word for it—there have been a series of reports by independent committees over the last few years that have expressed deep concern over the state of the U.S. aeronautics R&D enterprise. In addition, the Space and Aeronautics Subcommittee, on which I am privileged to serve as Ranking Member, held a hearing on March 16th of this year at which all of the distinguished non-governmental witnesses expressed the view that aeronautics is at risk in the U.S. That hearing also highlighted the seriousness with which Europe is approaching future investments in aeronautical R&D. The European governments have made it clear that Europe seeks to become the world leader in aeronautics technology by 2020.

Yet it doesn't have to be that way. It's not inevitable that our national commitment to cutting-edge aeronautics R&D has to decline. We can have an exciting, robust NASA aeronautics program that meets important national needs. We just need to do two things: provide a clear direction for NASA's aeronautics activities and provide the resources necessary for NASA to maintain a world-class aeronautics R&D enterprise.

That is the intent of the bill that I am introducing today: the “Aeronautics Research and Development Revitalization Act of 2005”.

This Act contains a number of important provisions. First, it states clearly and unambiguously that: “It shall be the policy of the United States to reaffirm the National Aeronautics and Space Act of 1958 and its identification of aeronautical research and development as a core mission of NASA. Further, it shall be the policy of the United States to promote aeronautical research and development that will expand the capacity, ensure the safety, and increase the efficiency of the Nation's air transportation system, promote the security of the Nation, protect the environment, and retain the leadership of the United States in global aviation.” The bill starts with this policy statement because I believe that it is critically important that we have a national policy for aeronautics research and development—one that recognizes the importance of aeronautics R&D and gives some guidance for the conduct of that research.

The bill next establishes three “breakthrough” R&D initiatives in subsonic, supersonic, and rotorcraft and other runway-independent air vehicle aeronautics. The intent is to set some challenging R&D goals that will push the state of the art across a range of aeronautical science and engineering disciplines as well as deliver technologies that will change existing air transportation paradigms and help open new markets in an environmentally responsible manner.

The third Title of the bill focuses on ensuring the overall health of the nation's aeronautics research enterprise. To that end, it reestablishes a fundamental research and technology program within NASA that is not tied to specific development projects. NASA used to have such a program, and I believe that, properly managed, it can provide the foundation on which future progress in aeronautics will be based.

I also wanted to ensure that NASA maintains its involvement in Airspace Systems research and Aviation Safety and Security research, because I believe those are crucial to the development of a safe and efficient national air transportation system. At the same time, I want to make sure that NASA's efforts are appropriately aligned with the plans and objectives of the Joint Planning and Development Office (JPDO)—the interagency office that has responsibility for developing the next generation air transportation system. It is essential that the JPDO succeed, and I believe that NASA's research can play an important role in ensuring its success.

Next, I have included a provision that clearly defines a policy for the operation of NASA's aeronautical test facilities. As was noted at the recent Subcommittee hearing on aeronautics, NASA's full cost recovery policy has had a ruinous effect on the maintenance of its test facilities, and decisions to shut facilities down are being made for budgetary reasons instead of first addressing whether the facilities have strategic importance. This bill would undo that unwise policy.

The bill also highlights a number of other research areas that should be supported. These include hypersonics, a research area in which some exciting accomplishments have been made over the last several years that offer promise of significant future advances. In addition, the bill establishes speculative research initiatives to develop and test concepts for a zero emissions aircraft and an uncrewed aircraft that could operate in the atmosphere of Mars. These are research initiatives that could help excite the next generation of aeronautics professionals if properly structured to allow significant involvement by the university research community.

With respect to that next generation, the bill recognizes the need to get more American students to pursue studies in aeronautical engineering. To that end, the bill establishes a program of graduate scholarships to encourage students to pursue aeronautical engineering careers.

Finally, we come to the question of funding the programs contained in this bill. While some would argue that we need to double the aeronautics budget immediately if we are to reverse the negative trends in the state of U.S. aeronautics R&D, I do not believe that such an increase is possible in the current fiscal environment. In addition, I do not believe it is necessary over the short term. Instead, I believe that the highest priority is to refocus and strengthen NASA's approach to aeronautics R&D by a combination of challenging R&D projects and wise stewardship of its workforce and facilities. A budget that returns NASA to its FY 2004 aeronautics funding level of $1.057 billion for FY 2006 and provides modest annual increases over the next five years will do much to put NASA on a path that will allow it to put its aeronautics house in order and position it for a highly productive future.

Mr. Speaker, aeronautics R&D is important to the nation. NASA's aeronautics program has long been the centerpiece of those research efforts. We need keep NASA's aeronautics activities healthy and productive. I believe that the Aeronautics Research and Development Revitalization Act of 2005 can help strengthen the Nation's aeronautics R&D enterprise, and I hope that it will receive early consideration by this body.

ISRAEL INDEPENDENCE DAY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. TOWNS. Mr. Speaker, I rise today to celebrate 57 years since the founding of the State of Israel. This momentous occasion is not only a day of joy for the people of Israel but for those that cherish freedom and democracy across the world.

The founding of the State of Israel was a miraculous event. In a period of time when the persecution of Jews ran rampant across Europe, Zionist visionaries saw the great need to establish a Jewish State. Theodre Herzl while a reporter on the Dreyfus Affair in France recognized the hostility that existed against Jews and against all odds began to successfully garner support for his idea of a Jewish State.

Mr. Speaker, we all know what the State of Israel has become since those uncertain times. Jews across the globe who were persecuted, be it in Yemen, Egypt, Ethiopia, Iran or the Soviet Union were able to turn to their Jewish brethren in the State of Israel to taste freedom and freely practice their faith. The State of Israel aside from being a thriving metropolis with a vibrant economy has become the central location for the study of Judaism and its holy texts.

Since its inception Israel has been fighting a war of terrorism perpetuated against it. I have been pleased throughout my tenure in Congress to stand strongly with the State of Israel in their struggle against terrorism and will continue to do so. We must recognize our allies in the Middle East. Israel has continuously stood with the United States and our interests and I hope that our close relationship will continue to be strengthened as we work to promote our shared values.

Mr. Speaker, I would like to take this opportunity to recognize the outstanding leadership of The Consul General in New York, Arye Mekel, for his dedication to bridging the communities of Israel and New York. Additionally, the Jewish Community Relations Council of New York has worked tirelessly to advocate on the behalf of the State of Israel and the New York Jewish Community and I would like to thank them for their hard work.

Mr. Speaker, I join my colleagues here today in congratulating the State of Israel on their Independence and look forward to the alliance between our two countries to continue to grow.

OFFERING CONGRATULATIONS TO THE STATE OF ISRAEL ON ITS 57TH ANNIVERSARY OF INDEPENDENCE

HON. TIM HOLDEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. HOLDEN. Mr. Speaker, I rise to congratulate the people of the State of Israel on the celebration of the 57th anniversary of its founding. Known in Hebrew as Yom Ha'atzmaut, this special day marks the historic date in 1948 on which the British Mandate over Palestine expired and the State of Israel was proclaimed.

Each year, this celebration comes on the heels of Yom Ha'zikaron, Israel's Memorial Day, when the nation expresses its eternal debt and gratitude to the more than 20,000 soldiers who gave their lives to secure the country's independence and defend its continued existence.

Israel and the United States have shared a special bond since the founding of the modern Jewish State in 1948. The United States was the first country to recognize Israel, only 11 minutes after it was officially created. Since then, our two countries have developed a rock-solid friendship that does not depend on the parties in power either in Washington or Jerusalem. Over the past half-century, bipartisan support for Israel has been a staple of every Congress regardless of which party is in the majority and which in the minority.

Israel is the only democracy in the Middle East, a region dominated by authoritarian and military regimes. Our two nations share the fundamental principles of freedom and equality. Both were established by immigrants, who sought freedom from oppression. Both stand as symbols of liberty and pluralism in a world still marked by authoritarianism and intolerance. Both have provided safe havens for oppressed people from all parts of the globe and both are rooted in the unshakable tenets of democracy, human dignity, individual rights, and religious freedom.

Once again Mr. Speaker, I am pleased to offer my sincere congratulations to the people of Israel on this joyous occasion.

ISRAEL'S 57TH ANNIVERSARY OF INDEPENDENCE

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, it is a special privilege for me today to honor the nation of Israel on its 57th birthday. On May 14, 1948—the fifth day of Iyar, 5708 under the Jewish calendar—after years without a national homeland, the Jewish people established a new country. As Israelis celebrate their country's 57th anniversary, the international community is celebrating with them 50 years of independence.

In the 30th Congressional District of Texas, the Dallas Jewish Community Relations Council of Greater Dallas, DFW International, Jewish Federation of Greater Dallas & the Rabbinic Association of Greater Dallas and other organizations have scheduled a series of events to commemorate this occasion.

As someone with a great interest in Israel, Middle Eastern affairs and world peace, I believe that the political transformations in this region during the past few years have been dramatic. We have come a long way, despite attempts by extreme factions to harm Israel and the cause of peace in the region.

I would like to quote an excerpt from Israel's 'declaration of independence,' published 57 years ago as the British mandate over the area drew to an end: 'We extend our hand in peace and neighborliness to all the neighboring states and their peoples, and invite them to cooperate with the independent Jewish nation for the common good of all.'

It is in that spirit, and with that faith, that I will continue to work with the administration to ensure the United States remains firm in its commitment to the security of Israel and to those principles necessary to guarantee the success of the Arab-Israeli peace process.

ISRAEL INDEPENDENCE DAY

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, today marks Israel Independence Day, the 57th anniversary of the founding of Israel. This is a time to recognize a strong, stable, and democratic nation, as well as a loyal ally. The fact that Israel is a thriving country carries significant meaning not only in the Middle East, but also throughout the world. In a short time, Israel has established itself as a rich cultural destination and a center for Jewish beliefs and practices. This is largely because the people of Israel have been carrying on their traditions for thousands of years. In spite of its enemies, Israel has continued to grow, inspiring democracy and independence in the region.

When I first visited Israel, I immediately noticed the resilience that showed itself in so many ways. Despite the nearly constant danger, Israelis go about their daily lives without fear. Shopkeepers kept their businesses running, even after their storefronts had been destroyed by terrorist bombings. Worshippers maintained their schedule of religious services, defiant to any threats to their safety. Students packed classrooms during the day, eager to learn about Israel's history. They made it a point to get out and experience that freedom, not letting any scare tactics ruin their lives or dash their hopes for peace. We could all take a lesson from their enthusiasm, their zest for life, and their courage.

Israel continues to serve as a beacon of democracy in the Middle East. The Israeli people have an unrivaled appreciation for their freedoms. You can see it in the public displays of their strong Jewish faith. You will hear it as you walk down the streets, vibrant with markets, artisans, and music. You know it by their involvement in the political process, with each vote regarded as a privilege that their leaders must earn. Their patriotism is evident, and not just on Israel Independence Day, but during the entire year.

For this year's celebration, I want to commend Israel for standing strong in the face of opposition. While there is a lot of work to be done to foster lasting peace in the region, they have much to be proud of. The United States must maintain its support of Israel, especially at this crucial time in history. We have a real chance not only to aid Israel in establishing peace within its own borders, but also to help them set an example of democracy for other countries. It is certain that Israel will have many more Independence Days to look forward to in the future.

HONORING THE 57TH ANNIVERSARY OF ISRAEL'S INDEPENDENCE

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today to join the people of Israel in celebrating the 57th Anniversary of Israel's Independence.

As Israel's Declaration of Independence states, "The land of Israel was the birthplace of the Jewish people" and on May 14, 1948, the land of their ancestors was returned to the Jewish people.

Shortly after Israel declared its independence, President Harry Truman began what has led to a strong partnership between our two countries by recognizing the provisional Jewish government as de facto authority of the new Jewish state.

Today, 57 years after declaring its independence, Israel and the United States continue to share the common values and ideals of advancing democracy and promoting human rights around the globe. As our strongest ally in fighting terrorism, Israel, a country which has had to fight against terrorism and attacks from its neighbors for its entire existence, continues to play a vital role in promoting American interests.

In return, we must continue to help Israel in its struggle for security by helping reach a lasting peace with its neighbors so that as future generations celebrate this day, they may do so without fear of the violence that has plagued the Jewish state since its independence.

Mr. Speaker, I have had the privilege to visit Israel on several occasions, and have seen the struggles Israelis face daily. However, I have also seen their perseverance and determination to create a peaceful and prosperous state.

In the short but rich history of the Jewish state, the Israeli people have created one of the strongest democracies in the world, renowned for their scientific, technological, medical and agricultural innovations. Their commitment to promoting human rights, to protecting the rule of law, and to open and fair elections is unparalleled in the region and is an inspiration to oppressed people around the globe.

Mr. Speaker, I would again like to congratulate the Israeli people and join them in celebrating the 57th Anniversary of Israel's independence, and look forward to working with them for years to come.

FREEDOM FOR IVÁN HERNÁNDEZ CARRILLO

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Iván Hernández Carrillo, a political prisoner in totalitarian Cuba.

Mr. Hernández Carrillo is a member of the Pedro Luis Boitel Democracy Party and an independent journalist. He is peacefully striving to create an open society that recognizes human rights, freedom, and democracy. Unfortunately, the dictatorship forcefully represses those who bravely support freedom and rise in resistance to the despotic regime.

According to Amnesty International, Mr. Hernández Carrillo has been constantly harassed by the nightmare that is the Castro regime. He was arrested by the tyrant in 1997, 1999, and 2002 for his pro-democracy activities. Unfortunately, on March 18, 2003, as part of Castro's heinous crackdown on peaceful pro-democracy activists, Mr. Hernández Carrillo was once again arrested by the dictatorship. In a sham trial, Mr. Hernández Carrillo was sentenced to an abominable 25 years in the totalitarian gulag.

According to Amnesty International, in 2003, while incarcerated in the inhuman gulag, Mr. Hernández Carrillo was placed in a punishment cell. These punishment cells are the very depths of depravity. According to the Department of State's Country Reports on Human Rights Practices for 2004: " 'punishment cells,' were located in the basement of a prison, with continuous semi dark conditions, no available water, and a hole for a toilet. Reading materials, including Bibles, were not allowed. . . . Prisoners in punishment cells had no access to lawyers."

In 2004, according to Amnesty International, Mr. Hernández Carrillo supported his fellow pro-democracy fighter Mario Enrique Mayo in a hunger strike that lasted from August 15th until August 25th. Their demands were medical assistance and food.

Mr. Hernández Carrillo is a brilliant example of the heroism of the Cuban people. Despite incessant repression, harassment, incarceration and abuse, he does not waiver in his conviction that freedom and democracy are the inalienable right of the Cuban people. It is a crime against humanity that Castro's totalitarian gulags are full of men and women, like Mr. Hernández Carrillo, who represent the best of the Cuban nation.

Mr. Speaker, let me be very clear, Mr. Hernández Carrillo is languishing in the grotesque squalor of the gulag because he desires freedom for all Cubans. My Colleagues, we must demand the immediate and unconditional release of Iván Hernández Carrillo and every political prisoner in totalitarian Cuba.

IN HONOR OF THE ACADEMY OF LIFELONG LEARNING'S 25TH ANNIVERSARY

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. CASTLE. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to the Academy of Lifelong Learning on their 25th Anniversary. This continuing education program at the University of Delaware allows people over 50 to continue to pursue a wide variety of academic offerings. Recent classes have included Sports History, Yoga Philosophy, and Computer Management. For 25 years, the Academy's membership has been involved in every facet of the educational process. Members also plan, organize, and even teach many of these courses.

To mark its 25th anniversary, the Academy has planned the Hi Ho Silver Jubilee at the University of Delaware. The event will be highlighted by a performance of the 50-piece Academy Band and the 75-member Academy Chorus. From its original 83 members and 18 courses, the Academy has grown to over 2,000 members who can choose from over 200 courses. This remarkable growth can be directly attributed to the dedication and hard work of the Academy's original membership.

As stated in the 1998 mission statement of the council, the Academy of Lifelong Learning seeks to, "be a premier educational program composed of a diverse membership of people 50 and older who come together and are intellectually, culturally, and socially stimulated in an academic atmosphere. Through its programs, the Academy enhances, enriches, and extends the quality of life of its members." After 25 years of outstanding work, the Academy of Lifelong Learning continues to achieve its goal.

In closing, Mr. Speaker, I am proud of the Academy and look forward to celebrating their future accomplishments.

PRESIDENT'S COMMENTS ON YALTA—AMNESIA OR DISTORTION?

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. UDALL of Colorado. Mr. Speaker, these days of early May mark the 60th anniversary of the defeat of Nazi Germany.

Last week, as we observed the days of remembrance for those who perished in the Holocaust, I noted that we need to remember history because looking back can help us to understand the world around us and to interpret events that may lie ahead.

This is important for our country and the world because our fate, and the fate of humanity, depends on our remembering and our understanding.

President Bush has been in Europe to mark the victory over Hitler. I am glad that he went, and I especially applaud him for visiting Latvia and Georgia. This was the right thing to do to demonstrate that America has not forgotten that the end of the war in Europe did not mean the end of oppression for millions of people who found themselves behind the Iron Curtain.

But learning from history depends on getting history right. And that's why I share the concerns of the Rocky Mountain News about part of the president's comments.

Speaking in Riga, Latvia, the president correctly noted that "For much of Eastern and Central Europe, victory brought the iron rule of another empire. V-E Day marked the end of fascism, but it did not end oppression." That was accurate, well put, and needed to be said.

However, regrettably, the president went on to say "The agreement at Yalta followed in the unjust tradition of Munich and the Molotov-Ribbentrop Pact. Once again, when powerful governments negotiated, the freedom of small nations was somehow expendable"—a statement that at best is erroneous and that at worse reflects an intentional distortion of history.

As an editorial in today's Rocky Mountain News notes, "Yalta did not leave the continent divided. The continent was already divided because Soviet armies were encamped in much of Eastern Europe and were not about to budge." In other words, the division of Europe was a fact before the Yalta conference began.

That is reality. But to somehow equate Franklin D. Roosevelt and Winston Churchill with Molotov and Ribbentrop is something else entirely—either the product of a "delusion," as the historian Arthur Schlesinger, Jr. has suggested, or the revival of an intentional distortion that once was a political weapon for opponents of some of the president's predecessors.

As the historian David Greenberg, writing in Slate has noted, "Along with the myth of FDR's treachery in leading America into war, the 'stab in the back' interpretation of Yalta became a cudgel with which the old right and their McCarthyite heirs tried to discredit a president they had long despised. Renouncing Yalta even became a plank in the 1952 Republican platform, although Eisenhower did not support it. In time, however, these hoary myths receded into the shadows, dimly remembered except as a historical curiosity, where, alas, they should have remained undisturbed."

In short, Mr. Speaker, we should remember history but not be misled by myths.

Here is the full text of the editorial in today's Rocky Mountain News:

[From the Rocky Mountain News, May 11, 2005]

PRESIDENT GOES TOO FAR

President Bush has taken surprisingly little heat—but deserves more—for his remarks in Latvia in which he equated President Franklin Roosevelt's conduct at Yalta with Neville Chamberlain's appeasement of Adolf Hitler in 1938 and the division of Poland by Hitler and Joseph Stalin in 1939.

"The agreement at Yalta followed in the unjust tradition of Munich and the Molotov-Ribbentrop Pact," Bush said. "Once again, when powerful governments negotiated, the freedom of small nations was somehow expendable. Yet this attempt to sacrifice freedom for the sake of stability left a continent divided and unstable."

But Yalta did not leave the continent divided. The continent was already divided because Soviet armies were encamped in much of Eastern Europe and were not about to budge. It is true that Yalta's promise of free elections for Eastern Europe, given Stalin's record, amounted to the height of naivete, wishful thinking or cynicism. But even so, there is a vast difference between engineering oppression (Munich and Molotov-Ribbentrop) and sugar-coating its existence on the ground.

RECOGNIZING NATIONAL PUBLIC WORKS WEEK

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. RAHALL. Mr. Speaker, today I recognize the American Public Works Association's National Public Works Week. From May 15 until May 21, the APWA will be sponsoring the National Public Works Week in a concerted effort to highlight the importance of the United States public infrastructure and public works services. It is my intention today to honor these agencies that are essential to the well-being of our country.

Too often we take the many contributions of public works and services for granted when they are so intricately woven in to the daily fabric of our lives. From the roads we travel to the clean tap water we use for drinking, public works pervade every facet of our lives. Our communities rely upon the public works agencies that provide the water, sewers, roadways, public buildings and waste collection to ensure that the communities we live, work and play in are safe.

The public works that operate in our neighborhoods and cities require maintenance by a staff of public employees. The staff that diligently design, build, maintain, and repair the public works projects are the invisible hands, or the people behind the scenes, that have dedicated themselves to the service of our communities. These hardworking individuals deserve the greatest of respect for the commitment they have shown in serving our communities' welfare.

In my own state of West Virginia, the influential hand of the public works and services reaches deep into the foundation of our state's economy. I have advocated vigorously for access to clean water sources for citizens as well as effective waste water treatment sites to preserve the streams of my state. The Public Service Commission's Water and Wastewater division offers seminars that trained 220 utility employees about its new Water and Sewer rules last year alone. The PSC's transportation division regulates gas pipeline safety and regularly inspects reports of weakening infrastructure and leaks. Just last year they completed pipeline failure investigations of a ruptured pipeline in Wyoming County as well as an incident at Rocky Fork, WV.

I urge my colleagues to join me in commending their own public works and services employees for the duties they perform. The services they provide are essential to our nation's well-being. The National Public Works Week provides us an opportunity to do so, and we should take it.

HONORING THE CONTRIBUTIONS OF PATRICIA COUGHLAN

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. McCOTTER. Mr. Speaker, I rise today to acknowledge and honor the contributions of Patricia Coughlan, who is the recipient of the "Tribute to Women Award," the Suburban Republican Women's Club highest honor.

Since 1985, Ms. Coughlan has been an active member of the Suburban Republican Women, formerly known as the Livonia Republican Women and Western Suburbs Club, an august organization in which she has served in a variety of senior leadership positions. One of the major accomplishments of Ms. Coughlan's hard work has been the creation and publication of the informative and inspiring Suburban Republican Women's Club newsletter, for which she currently serves as Editor-in-Chief.

It is an honor to pay homage to Ms. Coughlan, whose participation in shaping the political process has helped ensure representative government by inspiring others to play their full parts within our Nation's continuing experiment in democracy. Her devoted, compassionate leadership in our community has advanced the cause of democracy in our country, and exemplified America's innate humanity.

Mr. Speaker, I extend my sincere appreciation to Patricia Coughlan and hope my colleagues will join me in honoring and thanking her for her contributions to our community and country.

TOTALIZATION AGREEMENT CONGRESSIONAL APPROVAL ACT 2005

HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mrs. CUBIN. Mr. Speaker, The United States entered into a Totalization agreement with Mexico on June 29, 2004. This agreement, like 20 others currently in force, is an effort to reconcile time worked in another country—under a different tax code and pension system—with time worked here at home, to ensure workers have the proper amount of credits for their lifetime contributions to their retirement.

The Social Security Act allows for these types of agreements, but, unfortunately, it has a flawed mechanism for Congressional approval. Frankly, there are serious questions about whether the statutory approval process for Totalization agreements is even Constitutional.

Under current law, the President negotiates an agreement with another country, and then submits it to Congress for approval. Congress then has 60 days during which either the

House or Senate are in session to consider the agreement and to disapprove it if necessary. The problem is that if one House of Congress passed a motion of disapproval, precedent suggests that it would be ruled an unconstitutional legislative veto.

The bill I'm introducing today will correct that. Since Totalization agreements are similar to trade agreements, I have proposed changes to the Social Security Act that will allow for an expedited consideration of any agreements for congressional approval, like we do for trade agreements. It would also require an actual affirmative vote for the agreement to take effect, rather than the current 60-day rule where if neither house acts, the agreement is deemed as accepted. A 60-day use-it-or-lose-it process does not respect the responsibilities of this House in drafting the laws of the country.

We need to protect the role of the legislative branch as the law-making body of this land. Current law does not do this, but my bill, the Totalization Agreement Congressional Approval Act 2005, will.

TERRORIST REWARDS ENHANCEMENT ACT

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. KIRK. Mr. Speaker, today I am introducing the Terrorist Rewards Enhancement Act. This bill will assist in our fight against terrorism around the globe. Currently, the terrorist rewards program run by the State Department assists in our hunt for terrorists by promising a cash reward or other type of reward for information leading to the arrest of some of the world's most deadly terrorists. This program has been very successful in the past in apprehending key people including Mir Amal Kansi, a terrorist who had murdered two CIA employees and injured three others in a 1993 shooting outside CIA headquarters in Virginia.

Under current law, the U.S. may not pay a reward to an officer or employee of another government. In January I traveled to Pakistan, where I meet with a number of government officials. At the strong suggestion of Pakistan's ISI and IB Intelligence and Police bureaus, I believe the President should be able to pay such a reward to anyone having information leading us to the greatest terrorists. If there is anyone, anywhere, even if they work for a Pakistani government agency, who has information about the whereabouts of Osama bin Laden, we should be doing all we can to apprehend him.

With the capture of Al-Qaeda's number three man, Abu Farraj al-Libbi, last week, we are closing in faster and stronger than ever in the Wazaristan region of Pakistan. We need to provide our State Department and intelligence officials with all the possible tools to aid in the capture of the world's number one terrorist. The Terrorist Rewards Enhancement Act will provide one more of these tools.

RECOGNIZING FLINT/GENESEE COUNTY NEIGHBORHOOD ROUNDTABLE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. KILDEE. Mr. Speaker, I am happy to stand before you today to recognize the Flint/Genesee County Neighborhood Roundtable, a group of men and women committed to improving the quality of life for residents of my hometown, Flint, Michigan, and Genesee County. On Saturday, May 14, civic and community leaders will join the Roundtable to honor fallen neighborhood leaders James Dover II, Melvin McFadden, Adele Smith, C.J. Beasley, Virginia Brown, Genevieve Donnelly, and Guy Rogers.

The Flint/Genesee County Neighborhood Roundtable was formed in 1995, the result of a state initiative known as Communities First. The goal of Communities First was to bring together neighborhood groups and organizations working to improve their areas, providing networking opportunities and the chance to share thoughts, ideas, and strategies toward making their towns a safer and better place in which to live.

In its 10 years, the Roundtable, in conjunction with the University of Michigan-Flint Outreach, the Neighborhood Violence Prevention Collaborative, the Community Foundation of Greater Flint, and the Community Coalition, facilitated the Technical Assistance Training Institute, where future community leaders were trained in coalition building, grant writing, and other subjects designed to strengthen their skills. Many of the Institute's graduates can now be found working with the Roundtable and the Neighborhood Violence Prevention Collaborative, helping others identify potential grants and assisting with many neighborhood projects.

Other partnerships the Roundtable has established have addressed issues including health, youth violence, race relations, and the environment, among many others, and its members can frequently be found on the boards of local and state organizations. In addition, the Roundtable serves as a member of the Prevention Research Center of Michigan's Community Advisory Committee.

Mr. Speaker, as a Member of Congress, I consider it my duty and my privilege to work to promote, protect, defend, and enhance human dignity. I am pleased that the efforts of the Flint/Genesee County Neighborhood Roundtable make this task easier. Their mission to provide training and share information to enable residents to empower themselves, and to develop strong neighborhoods and form partnerships to be a collective voice and positive force in our community will improve Flint and Genesee County for years to come. I ask my colleagues to please join me acknowledging their success.

IN RECOGNITION OF NATIONAL POLICE WEEK

HON. JOHN T. SALAZAR

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. SALAZAR. Mr. Speaker, I rise today in recognition of National Police Week and the thousands of police officers who serve our communities. A life of public service is not always an easy path, and so I thank the officers and their families who sacrifice so much to keep us safe. Just the other day, James Billings, the Chief of Police for the City of Pueblo in my district, visited the office to discuss crime and drug issues, including recent developments involving the Community Oriented Policing Services, COPS, program. His visit underscored to me the importance of those who work in law enforcement and the difficulties they face each and every day.

To that end, we should take the time to recognize and thank those who work so diligently to protect our families. It is not enough though to simply thank them; it is important that we continue to ensure funding and other necessary support is available for these brave men and women so they might do their jobs unimpaired.

This is why I strongly support the COPS program and urge the congressional leadership to increase, not cut, its funding level. COPS is designed to help police departments hire the officers they need to keep our streets safe, to purchase the equipment so crucial to their work, and to help ensure these stations can pay the overtime and build the support systems they need to allow their officers to do the jobs they carry out so nobly. Funding cuts to the program are unacceptable—a decrease in COPS funding means a decrease in the number of officers on the streets of our communities.

For that very reason, I am also a co-sponsor of a resolution calling for the creation of a Peace Officer's Memorial Day, which would honor those officers killed or disabled in the line of duty. I believe one of our greatest duties is to keep our communities, and our families, safe. Giving police officers the support they need and the recognition they deserve is one of the best ways to serve those we represent.

RECOGNIZING THE ARTISTIC TALENTS OF LINDSAY KILROY

HON. MICHAEL F. DOYLE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. DOYLE. Mr. Speaker, I rise today to recognize the tremendous artistic ability of a young woman from my Congressional District, Lindsay Kilroy of Woodland Hills High School. Lindsay is the winner in the 2005 14th Congressional District of Pennsylvania's High School Art Competition, "An Artistic Discovery."

Lindsay's piece, entitled, "Self Portrait Reflection," is an impressive portrait in acrylic paint of a young woman's face.

Lindsay's artwork was selected from a number of outstanding entries to this year's competition. I am certain that her family is proud of her artistic talents as well as this accomplishment.

It gives me great pride and pleasure that Lindsay's painting will be representinq the 14th Congressional District of Pennsylvania in the national exhibit of high school students' artwork that will be set up in the United States Capitol in the coming weeks. The winners of the Congressional Art Competitions held in each Congressional District will be displayed in that exhibit.

I encourage my colleagues as well as any visitor to Capitol Hill to view Lindsay's artwork, along with all of the other winning artwork that will be on display throughout the next year. It is truly amazing to walk through this corridor and see the interpretation of life through the eyes of these young artists from all across our country.

I would also like to recognize all the other participants in this year's 14th Congressional District High School Art Competition, "An Artistic Discovery." I would like to thank these impressive young artists for allowing us to share and celebrate their talents, imagination, and creativity. The efforts of these students in expressing themselves in a powerful and positive manner are no less than spectacular.

I hope that all of these individuals continue to utilize their artistic talents, and I wish them all the best of luck in their future endeavors.

A TRIBUTE TO MR. JOSEPH B. BLAKE OF DENVER, COLORADO

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. UDALL of Colorado. Mr. Speaker, I rise today to recognize Mr. Joseph B. Blake of Denver, Colorado, for his commitment to entrepreneurship, economic development, education and improving the quality of life in one of America's fastest growing communities—Denver, Colorado.

Modern achievement in the West involves two credos: hard work and public service. The ethic of hard work has driven our economy since the early discovery of gold, and the ethic of public service—helping neighbors build a barn or establish a hospital—is what has made our communities thrive. In Colorado, there are few individuals who embody the values of hard work and public service as does Joe Blake.

Since 1999, Joe Blake has held the position of President and CEO of the Denver Metro Chamber of Commerce. The Chamber represents over 3,000 businesses and over 300,000 employees in the Denver metropolitan area. This position gives Joe a vital leadership role in the economic direction of the State of Colorado. When he first arrived as head of the Chamber, Joe brought new and innovative ideas with him. He spearheaded a program to educate corporate leaders from around the country about the favorable business atmosphere of the Denver region. Joe Blake's work helped create an economic expansion in Colorado that defined the "Tech Boom" of the late 1990s and early 2000s. The Chamber continues to promote economic vitality in the Denver region by encouraging personal networking opportunities and entrepreneurial training.

Joe has been a particularly strong voice in bringing needed vision to the Denver metro area's enormous transportation needs. Just as civic leaders in the past brought stagecoach lines and railroads to connect the people of the West, Joe has brought his considerable talents to the task of improving our highways and transportation systems in the Rocky Mountain region. Joe has not been a prisoner of old ways of thinking about transportation, but has embraced 21st century visions of better ways to move people and goods in our communities.

His desire to serve Colorado and its people has not only manifested itself in his professional life. Joe serves on the board of the Denver Foundation, an organization dedicated to charity and civic improvement. Joe also serves on the boards of the Denver Zoological Foundation and the Denver Public Schools Foundation. And if his plate was not full enough, he also volunteers for the Hospice of St. John Foundation.

Among the qualities I admire most in Joe Blake, however, is his ability to get things done in ways that bring people together instead of dividing on ideological or partisan lines. Although Joe has a long history of involvement with the Republican Party, he has never allowed partisanship to inhibit good public works. In large part, I believe Joe's success with people is a direct reflection of his reputation for decency, genuineness and personal warmth. In short, he is a uniter and not a divider and that is why I enjoy working with him and learning from him.

Mr. Speaker, I ask my colleagues to join me in commending Mr. Joe Blake for the positive impact he has had on the West and in Colorado, through his leadership at the Denver Metro Chamber of Commerce and in so many other ways. Joe Blake is a pioneer in the best tradition of our history.

CONGRATULATING HON. JOSEPH J. CORCORAN ON THE OCCASION OF BEING HONORED AS RECIPIENT OF THE 53RD ANNUAL AMERICANISM AWARD BY B'NAI B'RITH AMOS LODGE NO. 136, SCRANTON, PA

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to the Honorable Joseph J. Corcoran, former Lackawanna County Pennsylvania Commissioner, who is being presented with the 53rd annual Americanism Award by B'nai B'rith, Amos Lodge No. 36.

Mr. Corcoran's 28 years of public service to the people in Lackawanna County have produced an array of positive improvements to the quality of life in that region. Mr. Corcoran has been a leader in economic development, transportation planning, historic and architectural preservation, tourism and culture, care for the elderly and abused, library growth, family entertainment and environmental protection.

Although I am relatively new to representing Lackawanna County, I have worked closely with Joe Corcoran on some of his projects but have seen the results of many of his projects firsthand.

Joe always saw the big picture and his body of work reflected the values and work ethic of his constituency. He remained steadfast in his focus on long-range planning and leveraging local dollars with private, state and federal funding.

A native of Scranton, Joe earned an associate degree in business administration from Lackawanna College and a bachelor's degree in business administration from the University of Scranton.

In 1975, at the age of 24, he was elected as the youngest ever Scranton controller, serving two terms. In 1984, he became Lackawanna County majority commissioner, serving five terms, until 2004.

In reviewing his accomplishments, he implemented the first-ever annual audit by national "Big 8" accounting firms which upgraded Lackawanna County's municipal bond rating. He created the County Railroad Authority, Multi-Purpose Stadium Authority, Solid Waste Management Authority, Performing Arts Center Authority and Heritage Valley Authority.

He funded the start-up of the Steamtown National Historic Site; constructed a dedicated children's library in downtown Scranton and new libraries in the Abingtons, Carbondale and Mid-Valley; directed the opening of the Lackawanna Coal Mine Tour, Lackawanna Valley Railway, Lackawanna County Recycling Center, Lackawanna County Visitor center and Lackawanna Trolley Museum. He also revived the 1905 Laurel Line Tunnel Electric Trolley Excursion and the Lackawanna Stadium on Ice.

He championed the restoration of Court House Square, the Koch-Conley Building, the PG&W Building on Jefferson Avenue and the Adams Avenue County Administration Building. He managed the rescue of the Montage Mountain Ski Resort and development and operation of the Montage Performing Arts Center. He oversaw the development and financing for both the $35 million Lackawanna County Prison and the $8 million, 68-bed, Alzheimer's Wing at the Lackawanna County Health Care Center.

He chaired the Wilkes-Barre Scranton International Airport Board of Control and helped develop the master plan and financing program for the current $65 million capital expansion underway at the airport. He implemented the region's first Tax Incremental Financing to fund construction of Glenmaura Corporate Center and to facilitate the Fleet Pennsylvania Services relocation on Montage Mountain.

Mr. Corcoran recognized the future transportation needs of our region when he helped keep intact the rail connections between Lackawanna and Monroe counties for the eventual future resumption of rail passenger service between Scranton and Hoboken, NJ.

But his most distinguished achievement is his key role in the funding and construction of the $25 million Lackawanna County Stadium and the acquisition of the area's Triple A Baseball team, the Scranton/Wilkes-Barre Red Barons.

Mr. Corcoran is the son of the late John J. and Lucille M. Dougher Corcoran. He resides in his family neighborhood in Scranton with his wife, the former Jean Gallagher, and their son, Jack, a student at the University of Scranton.

Mr. Speaker, please join me in congratulating Mr. Corcoran, one of the finest public officials I have ever had the pleasure of working with, on this proud occasion. The Lackawanna County community is far better off today because of the remarkable service record of Joseph J. Corcoran.

TRIBUTE TO MR. WALLACE EDGECOMBE

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Mr. Wallace I. Edgecombe for over 30 years of service to Hostos Community College in the Bronx. On Thursday, May 12, 2005, Hostos will honor Wally with a celebration that will also serve to raise funds for students who wish to study the Arts at Hostos.

In 1982, Wally oversaw the founding of Hostos' Culture and Arts Program, of which he became director. Twelve years later the Center for the Arts and Culture was constructed and under Wally's leadership the Center has become one of the premier multi-arts centers in the New York metropolitan area, presenting a virtual who's who of visual and performing artists of color. Now one of the pre-eminent Latino arts centers in the nation, the Hostos Center has presented and/or commissioned works by such internationally known musicians as Tito Puente, Celia Cruz, Orquesta Aragon, Ruben Blades and Dizzy Gillespie.

Born and raised in Havana, Cuba, Wally holds a Bachelors degree in History and Master's degree in Journalism from Columbia University. He has served as a panelist and site evaluator for the National Endowment for the Arts, the New York State Council on the Arts, the Lila Wallace-Readers Digest Arts Partners Program, and the Rockefeller Foundation. Wally has also served on the boards of the Museums of Contemporary Hispanic Art, the Bronx Council on the Arts, the Bronx Arts Ensemble, and the South Bronx Community Action Theatre.

Mr. Speaker, what makes Wally so special is his commitment to ensuring that the students of Hostos and the entire Bronx community are able to experience the beauty and richness of the Arts. I am thankful to Wally for helping to brighten the lives of so many of my constituents and I hope he continues his commendable work in the heart of the South Bronx.

I ask my colleagues to join me in honoring a great man and a dear friend of mine, Mr. Wallace I. Edgecombe.

HAPPY 40TH BIRTHDAY TO MR. PAUL ARTHUR RZEPECKI

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. McCOTTER. Mr. Speaker, I warily rise today to reluctantly acknowledge Mr. Paul Arthur Rzepecki on the unexpected occurrence of his 40th birthday.

A former Eagle Scout, the singular Mr. Paul Arthur Rzepecki is, despite carefully crafted admissions policies, a graduate of Catholic Central High School and the University of Michigan-Dearborn. Following his graduation and eviction from his parents' house, Mr. Rzepecki surprised everyone, most notably himself, by acquiring gainful employment, which has inexplicably continued through this very day.

On a personal level, after standing up in my wedding—at least through the ceremony—Mr. Paul Arthur Rzepecki entered his own blessed union with his beloved Chari, who we hope is, in turn, blessed for her noble suffering; and the couple has two beautiful, delightful daughters, Emily and Kristin, who take after their mother. In addition to acting as a husband and a father, Mr. Paul Arthur Rzepecki is also an enthusiast of minimalist painting, dead languages, blood sports, and Anheuser-Busch. He also maintains an assiduous physical regimen of watching others exercise.

Mr. Speaker, over the past 40 years of his presence amongst the less fortunate, Mr. Paul Arthur Rzepecki has a long list of accomplishments, which escape me at present, save for the ineluctable fact he introduced me to my wife Rita, who has yet to forgive him this sin. Yet, as America is a compassionate country, let us lose the past; hope for the best; and extend Mr. Paul Arthur Rzepecki our urgent hope his best years rest ahead.

A MATTER OF PUBLIC RECORD

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. SENSENBRENNER. Mr. Speaker, through the following statement, I am making my financial net worth as of March 31, 2005, a matter of public record. I have filed similar statements for each of the twenty-six preceding years I have served in the Congress.

2005 DISCLOSURE

Assets	
Real property:	
Single family residence at 609 Ft. Williams Parkway, City of Alexandria, Virginia. at assessed valuation. (Assessed at $1,134,600). Ratio of assessed to market value: 100% (Unencumbered)	$1,280,700.00
Condominium at N76 W14726 North Point Drive, Village of Menomonee Falls, Waukesha County, Wisconsin, at assessor's estimated market value. (Unencumbered)	121,600.00
Undivided 25/44ths interest in single family residence at N52 W32654 Maple Lane, Village of Chenequa, Waukesha County, Wisconsin, at 25/44ths of assessor's estimated market value of $1,229,500.	698,579.54
Total real property	2,100,879.54

Common & Preferred Stock	# of shares	$ per share	Value
Abbott Laboratories, Inc.	12200	46.62	568,764.00
Agere Systems Class B	184	1.42	261.28
Allstate Corporation	370	56.04	20,734.80
American Telephone & Telegraph	291.43	18.75	5,464.31
JP Morgan Chase	4539	34.60	157,049.40
Bell South Corp.	1422.3822	26.29	37,394.43
Benton County Mining Company	333	0.00	0.00
BP PLC	3604	62.40	224,889.60
Centerpoint Energy	300	12.03	3,609.00
Chenequa Country Club Realty Co.	1	0.00	0.00
Comcast	423	33.78	14,288.94
Darden Restaurants, Inc.	1440	30.68	44,179.20
Delphi Automotive	212	4.48	949.76
Dunn & Bradstreet, Inc.	2500	61.45	153,625.00
E.I. DuPont de Nemours Corp.	1200	51.24	61,488.00
Eastman Chemical Co.	270	59.00	15,930.00
Eastman Kodak	1080	32.55	35,154.00
El Paso Energy	150	10.58	1,587.00
Exxon Mobil Corp.	9728	59.60	579,788.80
Gartner Group	651	9.57	6,230.07
General Electric Co.	15600	36.06	562,536.00
General Mills, Inc.	2280	49.15	112,062.00
General Motors Corp.	304	29.39	8,934.56
Halliburton Company	2000	43.25	86,500.00
Hospira	1220	32.27	39,369.40
Imation Corp.	99	34.75	3,440.25
IMS Health	5000	24.39	121,950.00
Kellogg Corp.	3200	43.27	138,464.00
Kimberly-Clark Corp.	14738	65.73	968,728.74
Lucent Technologies	696	2.75	1,914.00

Common & Preferred Stock	# of shares	$ per share	Value
Merck & Co., Inc.	34078	32.37	1,103,104.86
3M Company	2000	85.69	171,380.00
Medco Health	4109	49.57	203,683.13
Monsanto Corporation	1426.1575	64.50	91,987.16
Moody's	2500	80.86	202,150.00
Morgan Stanley/Dean Witter	312	57.25	17,862.00
NCR Corp.	68	33.74	2,294.32
Neenah Paper Co.	462	33.62	15,532.44
Newell Rubbermaid	1676	21.94	36,771.44
One Group Prime Money Market	7123.72	1.00	7,123.72
Pactiv Corp.	200	23.35	4,670.00
PG&E Corp.	175	34.10	5,967.50
Pfizer	22211	26.27	583,482.97
Qwest	571	3.70	2,112.70
Reliant Energy	300	11.38	3,414.00
RH Donnelly Corp.	500	58.09	29,045.00
Sandusky Voting Trust	26	1.00	26.00
SBC Communications	2603.101	23.69	61,667.46
Solutia	1672	1.32	2,207.04
Tenneco Automotive	182	12.46	2,267.72
Unisys, Inc.	167	7.06	1,179.02
US Bank Corp.	3081	28.82	88,794.42
Verizon	1251.2993	35.50	44,421.13
Vodaphone Airtouch	370	26.56	9,827.20
Weenergies (Wisconsin Energy)	1022	35.50	36,281.00
Total Common & Preferred Stocks and Bonds			$6,702,538.77

Life Insurance Policies	Face $	Surrender $
Northwestern Mutual #4378000	12,000.00	65,492.31
Northwestern Mutual #4574061	30,000.00	157,326.55
Massachusetts Mutual #4116575	10,000.00	10,439.69
Massachusetts Mutual #4228344	100,000.00	253,956.40
Old Line Life Ins. #5–1607059L	175,000.00	39,059.43
Total Life Insurance Policies		$526,274.38

Bank & savings & loan accounts	Balance
Bank One, Milwaukee, N.A., checking account	$17,934.85
Bank One, Milwaukee, N.A., preferred savings	47,508.18
M&I Lake Country Bank, Hartland, WI, checking account	13,527.58
M&I Lake Country Bank, Hartland, WI, savings	364.47
Burke & Herbert Bank, Alexandria, VA, checking account	1,756.59
JP Morgan, IRA accounts	100,917.14
Total bank & savings & loan accounts	$182,008.81

Miscellaneous	Value
1994 Cadillac Deville—retail value	$4,925.00
1989 Cadillac Fleetwood—retail value	2,600.00
1996 Buick Regal—retail value	5,425.00
1991 Buick Century automobile—retail value	2,175.00
Office furniture & equipment (estimated)	1,000.00
Furniture, clothing & personal property (estimated)	170,000.00
Stamp collection (estimated)	80,000.00
Interest in Wisconsin retirement fund	304,740.35
Deposits in Congressional Retirement Fund	160,254.54
Deposits in Federal Thrift Savings Plan	209,737.21
Traveller's checks	7,418.96
17 ft. Boston Whaler boat & 70 hp Johnson outboard motor (estimated)	7,500.00
20 ft. Pontoon boat & 40 hp Mercury outboard motor	13,500.00
Total miscellaneous	969,276.06
Total assets	$10,480,977.56
Liabilities	None
Total liabilities	$0.00
Net worth	10,480,977.56

2005 DISCLOSURE

Statement of 2004 taxes paid	
Federal income tax	$97,307.00
Wisconsin income tax	29,049.00
Menomonee Falls, WI property tax	2,180.00
Chenequa, WI property tax	21,729.000
Alexandria, VA property tax	11,289.00

I further declare that I am trustee of a trust established under the will of my late father, Frank James Sensenbrenner, Sr., for the benefit of my sister, Margaret A. Sensenbrenner, and of my two sons, F. James Sensenbrenner, III, and Robert Alan Sensenbrenner. I am further the direct beneficiary of five trusts, but have no control over the assets of either trust. My wife, Cheryl Warren Sensenbrenner, and I are trustees of separate trusts established for the benefit of each son.

Also, I am neither an officer nor a director of any corporation organized under the laws of the State of Wisconsin or of any other state or foreign country.

F. JAMES SENSENBRENNER, Jr.,
Member of Congress.

HONORING THE LIFE OF WILLIAM R. "BILL" ALLDER, JR., NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY SENIOR EXECUTIVE

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. VAN HOLLEN. Mr. Speaker, I rise in honor of the life of William R. "Bill" Allder, Jr., a senior executive with the National Geospatial-Intelligence Agency (NGA). Bill Allder, who faithfully served the United States Government for more than 30 years, passed away on May 7, 2005. He was a dedicated public servant who made a lasting contribution to keeping our Nation safe.

Mr. Allder was a respected leader at the National Oceanic Service, the U.S. Geological Survey, the Defense Mapping Agency, the Central Imagery Office, the National Imagery and Mapping Agency, and most recently, NGA, where he served as the Director of NGA's Strategic Transformation Office. He helped stand-up NGA's predecessor, the National Imagery and Mapping Agency. An intellectual pioneer of the Nation's geospatial intelligence discipline that has become a bedrock of the intelligence community, Mr. Allder was a world-class information technology manager who directed the development and deployment of large, complex systems worldwide.

To the legions of government employees and aerospace and defense contractors he managed over the years, he will be most remembered for his photographic memory, unerring judgment, decisive leadership, and wonderful sense of humor. Mr. Allder's numerous awards include the Meritorious Service Award, the Meritorious Civilian Service Award, the Presidential Rank Awards of Meritorious Executive, and several Distinguished Executive Awards. He is survived by his wife Susan "Soozi" Allder, a daughter Jacquelyn and a son, William R. Allder III, and by two sisters, Elizabeth "Bette" Rutherford and Diane DuBois. Mr. Speaker, I ask that you join me in honoring the exceptional life of an extraordinary public servant who will be greatly missed by all.

NATIONAL NURSES WEEK

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. ROSS. Mr. Speaker, I rise today to acknowledge National Nurses Week. In honor of this week, I would like to take a moment to recognize and praise the tireless efforts and critical role that nurses play in the health and well-being of our communities across America. Nurses, like my late grandmother, are a cornerstone of health care in this country.

A nurse's role goes far beyond the hospital; nurses reach into charity clinics, in-home care, churches, and school volunteer health programs. Nurses conduct research, publish, review and continue to educate their peers and the public about their ever-evolving role and positive impact on the health care community. Nursing students seek guidance from nurse mentors and work alongside professionals not only in the scholastic setting but in the community at large, participating in educational offerings, community service projects, legislative endeavors, health fairs and many other activities.

Our Nation's nurses are a valuable part of our society and therefore deserve our continued support for their profession. Currently, this profession is facing some serious challenges. In Arkansas and all over America, we are faced with a nursing shortage. There are over 25,000 nurses registered in Arkansas, and over 1,000 of those are nurse practitioners. For a State with 2.5 million citizens, this is simply not enough. The low nurse to patient ratio is far below what it needs to be and therefore we need to do more to increase the number of nurses, while also supporting our existing ones.

Unfortunately, nursing programs are severely underfunded in the fiscal year 2006 budget. The president's budget has requested $150 million for nursing workforce development programs, including the Nurse Reinvestment Act. That figure represents a cut of $1 million over the FY 2005 funding level. With a predicted nursing shortage of more than 275,000 registered nurses by the year 2010, this is the wrong time to be cutting back our investment in this country's future nurses.

As a member committed to supporting our nurses, I, along with fellow colleagues, sent a request to the appropriations committee for $175 million that will go toward nurse workforce development programs, which will enable nurses to receive the proper training necessary to keep up with their ever-evolving profession. These funds would also be used to provide incentives for students and nurses to receive advanced degrees in the nursing profession and student loan programs.

Nurses are a critical component of health care in this country, offering support and providing assistance at every step of the health care process. I commend nurses for their hard work and tireless efforts, from school nurses to emergency rooms, and charity clinics to nursing homes. As a United States Congressman, I will continue to fight to ensure nurses are adequately funded and have the resources they need to continue to properly care for our Nation's children, working families, and elderly.

IN HONOR AND RECOGNITION OF DR. DUNCAN N.P. PRITCHETT, JR.

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Ms. CARSON. Mr. Speaker, I rise to comment upon and advise my colleagues in this House about the life of an illustrious educator in Indianapolis, Indiana.

Dr. Duncan N.P. Pritchett, Jr., almost universally known as "Pat," began his career as an Indianapolis Public Schools teacher in 1969, fresh out of college. In time he left the classroom to lead as a principal, an administrator, and since 1997 as Superintendent of IPS, directing the education of 39,000 students in 79 schools in the heart of Indianapolis, finding innovative ways to improve their opportunities and performance. But in all of this he has stayed in touch with students and their families; he'll often be found in a classroom, reading, or at an assembly sitting in the crowd and appreciating the work of students and teachers.

Pat has been honored time and again. He was the 2002 Outstanding Alumnus of Ball State University Teacher's College. He was chosen as the Indiana Music Educators Association's Outstanding Administrator. He received the New Millennium Education Award from the Indiana Christian Leadership Conference and Martin University. And most recently, he was honored for distinguished support of music education with the first annual VH1 Save the Music Foundation Administrator Award.

And now he has had enough: Pat is retiring and passing the challenge along to someone else. We'll miss him—he'll sure be a hard act to follow.

Pat is an extraordinary public servant. He is highly commended in his good work and I wish him and his family all the best in the next chapter of their lives.

TRIBUTE TO KEVIN GANO

HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mrs. NAPOLITANO. Mr. Speaker, I rise today to honor and pay tribute to Kevin Gano, who recently retired after more than 30 years of distinguished public service. His innovative approach to law enforcement has had a tremendous positive impact on the safety and gang presence in my hometown of Norwalk, California, for more than a decade and a half.

Kevin Gano entered the justice arena in 1973. Over the course of that decade in the California cities of West Covina and La Verne, he held a variety of positions as a uniformed officer ranging from patrol officer to major crimes investigator to field sergeant and watch commander. In 1987, he served as senior administrative assistant to the City Manager in Upland, California.

In 1989, Kevin was named Norwalk's first director of the Department of Public Safety. He immediately began working to combat a gang warfare problem that had gotten so bad that area schools had taken to conducting drive-by shooting drills during which students would practice taking cover under their desks. He introduced the "Silver Bullet," an RV that was deployed to at-risk communities to establish a visible police presence in the areas of suspected gang or drug activity. He worked to hold parents of gang members responsible for the children's actions. He targeted taggers—gang members who sprayed graffiti around the community. He led the way as the first leaders in the area to push for a gang injunction that imposed curfews for gang members, prohibited them from communing together in public and carrying items that could be used as weapons. The measure imposed fines and jail time for offenders. He did all this knowing that he could eventually become a target of the gang members, and he was. In July 1994, one gang painted "Gano 187" on an alley wall, a reference to state's penal code for homicide.

His methods were so extraordinarily successful that in 1995, the FBI named Norwalk one of the 25 safest communities in the country, an honor it would receive for the next three years. Kevin was not complacent, even after crime, graffiti and truancy statistics fell dramatically in the city. He remained committed to combating the root of the problem. In 1995, he helped establish the Public Safety Cadet Youth Program that is still in place today. The program is aimed at giving youngsters leadership and problem-solving skills and a sense of responsibility while increasing their self-esteem through positive social interaction.

Kevin's public role was not limited to his work for the city. The Los Angeles County Board of Supervisors not only appointed him a commissioner and vice chair for the California Department of Children and Families but took portions of his program and implemented it in other areas around the State. California's governor appointed him to serve on the Metropolitan State Hospital Advisory Committee. And the State Department of Juvenile Justice tapped Kevin as an advisor on youth crime prevention and intervention strategies. His expertise in this area was so well recognized that he was called upon to write two bills that have since become State law. I am proud to say that I authored one of those bills, which have subpoena power to school truancy boards.

But it is Kevin's personal and behind-the-scenes approach that makes him more than a public servant. On an annual basis, he has unofficially adopted numerous Norwalk children and their families by providing them with basic essentials and resources they need to make it through their daily lives. He has always been willing to lend a hand and spend hours off the clock counseling or advising youngsters and parents alike.

Kevin stepped down from his position on April 15, 2005. The impact of his work will continue to endure in the city. You can see it just by walking around, an activity that was risky in sections of the city when he came to Norwalk 16 years ago. His legacy also manifests itself in the lives of children who are not only staying alive and away from gangs but making a positive impact on society. Not surprisingly, two of the children who have emulated his commitment to public service are his own: his son Kevin is a police officer in the City of Buena Park and his daughter Jeannette is a Recreation Supervisor with the City of Claremont. After 30 years dedicated to making his community safer, I know Kevin will enjoy the opportunity to spend more time with them and his wife of 34 years, Darlene. As a friend and a resident of Norwalk for more than 40 years, I thank him on behalf of my 38th Congressional District for all he has done to improve the lives of our community.

INTRODUCING THE CONSUMERS ACCESS TO HEALTH INFORMATION ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. PAUL. Mr. Speaker, I rise to enhance the health and liberty of American citizens by introducing the Consumers Access to Health Information Act of 2005. This act ensures consumers can receive truthful information about how foods and dietary supplements can cure, mitigate, and prevent specific diseases. The act does this simply by correcting an erroneous court decision and thus restoring congressional intent to allow consumers to have access to information regarding the health benefits of dietary supplements without government interference.

In 1990, responding to the demands of the American people that the federal government respect consumers' right to receive information about the ways foods and dietary supplements can improve their health, Congress passed the Nutrition Labeling and Education Act. The intent of that act was to allow the manufacturers of foods and dietary supplements to provide consumers with accurate and specific information regarding the curative and preventive effects of foods and dietary supplements. However, the Food and Drug Administration, FDA, ignored repeated efforts by Congress to protect consumers' First Amendment rights to receive truthful information about the health benefits of foods and dietary supplements.

Incredibly, in the case of *Whitaker* v. *Thompson*, 353 F.3d 947 (2004), rehearing den. 2004 U.S.D. App. LEXIS 4617 (D.C. Cir. March 9, 2004) the United States Court of Appeals for the D.C. Circuit supported the FDA's interpretation of Congress's intent and rejected the clear restraints of the First Amendment by ruling that the FDA had the authority to censor information regarding the specific benefits of foods and dietary supplements.

Mr. Speaker, under the D.C. Circuit's absurd interpretation of federal law, the only way food and drug manufacturers can transmit information about the health benefits of their products is by going through the lengthy and expensive FDA drug approval process. Because of this court decision, manufacturers are reluctant to provide all but the most general health information, thus ensuring that consumers remain ignorant about how they can cure or avoid diseases by making simple changes in their diet.

There are numerous examples of how the FDA's grocery store censorship negatively impacts Americans' health. Several years ago, the FDA dragged manufacturers of Cholestin, a dietary supplement containing lovastatin, which is helpful in lowering cholesterol, into court. The FDA did not dispute the benefits of Cholestin. Instead, the FDA attempted to deny consumers access to this helpful product simply because the manufacturer did not submit Cholestin to the FDA's drug approval process.

The FDA's treatment of the manufacturer of Cholestin is not an isolated example of how current FDA policy harms consumers. Even though coronary heart disease is the nation's number-one killer, the FDA waited nine years until it allowed consumers to learn about how consumption of foods and dietary supplements containing soluble fiber from the husk of psyllium seeds can reduce the risk of coronary heart disease. Thanks to the FDA, the American public is also prevented from learning about possible ways to prevent cancer, Alzheimer's, high blood pressure, urinary tract infection, and numerous other diseases.

At a time when health care costs are rising it is absurd for the federal government to prevent Americans from learning about how they increase their chances of staying healthy by making simple changes in their diets. However, this bill is about more than physical health; it is about freedom. The First Amendment forbids Congress from abridging freedom of all speech, including commercial speech. The type of prior restraint the FDA exercises over these health claims has also been thought to be particularly repugnant to the First Amendment. In a free society, the federal government must not be allowed to prevent people from receiving information enabling them to make informed decisions about whether or not they will use dietary supplements or eat certain foods. I, therefore, urge my colleagues to take a step toward restoring freedom by cosponsoring the Consumer Access to Health Information Act.

HONORING THE CONTRIBUTIONS OF RABBI LEONARD TROUPP

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. ISRAEL. Mr. Speaker, I rise to honor the leadership and service of Rabbi Leonard Troupp, who is retiring after 18 years as the spiritual leader of Temple Beth David in Commack, New York.

All of us in Congress rely on many religious leaders in our communities for guidance and inspiration. But Rabbi Troupp transcends that role. For me, he has been and will continue to be a dear friend. I have turned to him as a Member of Congress, and I have turned to him as a member of his congregation. I have solicited his advice on the profound public policy challenges that confront our government, and I have listened to his words on the personal decisions and choices we make every day in our private lives.

Rabbi Leonard B. Troupp was ordained by the Hebrew Union College-Jewish Institute of Religion in 1973. He is a Past President of the Long Island Association of Reform Rabbis, and has also served on the Board of the New York Association of Reform Rabbis.

Rabbi Troupp's many passions have forever enriched the lives of his congregants and others. As a result of his motivation, Temple Beth David collects over 15,000 pounds of food for the hungry each year. Through his impossible dream, 1997 saw the reunion of a Holocaust Torah with a survivor, Petr Herrmann, whose father read from that very same Torah scroll. Rabbi Troupp has been an outspoken and passionate advocate for human rights and civil rights; for a strong Israel; for a fair and just America. He mobilized his congregation in a letter writing campaign to decry the rising Anti-Semitism in Europe. Through his hard work, he and his wife, Michelle, eventually hand-delivered thousands of letters to a Presidential Representative in the West Wing.

His sermons, candid and sometimes controversial, have been spoken from his heart and have touched the hearts of those who have heard his words.

Mr. Speaker, Rabbi Troupp dedicated his career to making our community stronger, better and fairer for people of all faiths and backgrounds. He is not simply my Rabbi; he is a teacher to a joyously diverse community in New York's Second Congressional District. His teachings, his strength and his commitment will continue to guide my constituents and me. In that sense, he has made an indelible imprint on the fabric of Long Island, New York, and our nation.

HONORING VFW 5119

HON. MIKE FERGUSON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. FERGUSON. Mr. Speaker, I rise today to honor the members of the Veterans of Foreign Wars Post 5119 in Glen Gardner, New Jersey. Members of VFW Post 5119, which includes Hunterdon and Warren counties, are traveling to Washington this week to view the memorials along the National Mall, throughout the capital and in Virginia that represent so much of our nation's history.

These memorials are at once simple and compelling, powerful enough that in an instant an old man is transported back decades to when he was young and walked on the field of battle. The memorials are our own living reminder that generations of Americans fought, struggled and died to defend our Nation and its enduring principles of freedom and liberty.

The Vietnam Veterans Memorial along the National Mall is the most visited of all landmarks in Washington. The Marine Corps Memorial, also known as the Iwo Jima Memorial, honors Marines who have given their lives in defense of our country since 1775. Along Pennsylvania Avenue, between this Capitol and the White House, the Navy Memorial at the plaza honors the men and women who served in the Navy. The Korean War Memorial opened only 10 years ago, and the National World War II Memorial opened only last year. Across the Potomac River in Virginia, Arlington National Cemetery houses the most of sacred of our Nation's memorials—the Tomb of the Unknown Soldiers.

There are a lot of memorials for the members of VFW Post 5119 to see, and for the rest of us, there's a lot for which we are grateful. The members of VFW Post 5119 honor each of us with their presence in our Nation's capital.

CELEBRATING ASIAN PACIFIC AMERICAN HERITAGE MONTH

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Ms. McCOLLUM of Minnesota. Mr. Speaker, the month of May marks Asian Pacific American Heritage Month, and I am pleased to recognize the more than 172,000 Asian Pacific Americans living in Minnesota. My state is home to a vibrant and diverse community, which includes prominent elected officials as well as business and civic leaders.

The fourth congressional district is home to nearly 47,000 Asian Pacific Americans and one of the largest Hmong populations in the United States. The many thriving businesses on University Avenue in St. Paul are a great example of the positive changes and contributions of Asian Pacific Americans. Today, the avenue is a vibrant commercial corridor largely due to the investment of Hmong, Lao, Cambodian and Vietnamese Americans who came as refugees and now own businesses.

Although the Asian Pacific American community has made great strides, obstacles to success remain. I am committed to removing barriers by improving access to education, creating jobs and eliminating health disparities. By working together to increase opportunities for all, we work toward this year's theme, "Liberty and Freedom for All."

As we celebrate Asian Pacific American Heritage Month, we salute the pioneers who paved the way and renew our commitment to those who follow in their footsteps. I am very proud of the vibrant Asian American and Pacific Islander communities in my district, throughout the state of Minnesota and across the country.

IN HONOR OF CINCO DE MAYO

HON. AL GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. AL GREEN of Texas. Mr. Speaker, recently in commemoration of Cinco de Mayo, I joined community leaders and elected officials from the City of Houston in a celebration and parade that paid I tribute to Mexican culture. As the Congressman from the 9th District I was honored to represent my constituents at this annual event.

Although Cinco de Mayo marks the Mexican Army's victory over the French Army in 1862 at the Battle of Puebla in Mexico, this holiday has evolved into a way to celebrate the richness of Mexican culture. Within the United States, it is also a way to join with our fellow Mexican-American brothers and sisters and to learn about their heritage.

Cinco de Mayo brings our community together. In Houston, we are very proud of the great cultural and ethnic diversity of our city. Today, Cinco de Mayo is an annual celebration in which we take time to enjoy the great food, music, art, and people of our Mexican community.

Mr. Speaker, with this in mind, I feel that it is very important that we observe this holiday and the opportunity for cultural celebration of the people of this great Nation.

AN ARTICLE BY MR. DEXTER LEHTINEN

HON. DANIEL E. LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, it is my privilege to place into the RECORD the words of Dexter Lehtinen, a reconnaissance platoon leader who was seriously wounded in the Vietnam War. After serving our country in Vietnam, Mr. Lehtinen graduated first in his class from Stanford Law School and went on to serve as a Florida State Senator and a United States Attorney for the Southern District of Florida.

On May 8, the world celebrated the 60th anniversary of V–E Day marking the end of the war in Europe. With ceremonies commemorating the Allies victory over tyranny, the day served as a reminder of the sacrifices made to this country by what many call our greatest generation.

In contrast to the fitting tribute paid to the World War II generation, Jane Fonda recently published a book "My Life So Far." There, she expresses regret not for her visits to North Vietnam, her broadcasts on Radio Hanoi nor her cavalier description of our tortured POW's as "hypocrites and liars," but only for being photographed in a North Vietnamese antiaircraft gun site.

Let us not forget how damaging her actions were to the POW's and combat troops in the field. I firmly believe in the First Amendment rights all American's cherish, but traveling to enemy soil to criticize our soldiers and airmen during the war is a reprehensible act not easily forgotten nor pardoned.

I urge my colleagues to read Mr. Lehtinen's article and never forget the sacrifices made by all veterans of this great nation.

[From the National Review, April 29, 2005]

JANE FONDA IN WONDERLAND

NON-APOLOGY NOT ACCEPTED

(By Dexter Lehtinen)

You may have heard that Jane Fonda apologized to Vietnam veterans in her current book. That's incorrect. She expressed "regret" for one photograph, but remains proud of her Radio Hanoi broadcasts, her efforts to achieve a Communist victory, and her attacks on American servicemen as war criminals. She never uses the word "apology."

Fonda's latest foray into her past—with her pseudo-apology for having been photographed while sitting on a Communist North Vietnamese anti-aircraft gun, along with her continued vigorous defense of all other aspects of her trip to North Vietnam and her support for the North Vietnamese and Cambodian Communist wars—reminds us that apologies can be very tricky things. An unqualified apology offered with sincere regret for the full scope of the wrong by someone who recognizes the harm inflicted on others can help in reconciliation. But a "pseudo-apology," offered with limitations by someone who still defends the bulk of the wrong, only serves to aggravate the injury.

Everyone knows the negative effects of the common pseudo-apology, the refrain of which goes, "I'm sorry if I offended you." Pseudo-apologies attempt to subtly shift the blame to the injured party, who apparently misunderstood the good intentions of the offender.

So it is with Jane Fonda's book. In My Life So Far, "Hanoi Jane" expresses "regret" for one thing—being photographed with an anti-aircraft gun. "I do not regret that I went. My only regret about the trip was that I was photographed in a North Vietnamese anti-aircraft gun site." Fonda amplifies: "That two minute lapse of sanity will haunt me until I die." She is "innocent of what the photo implies," but "the photo exists, delivering its message, regardless of what I was really doing or feeling." She makes it abundantly clear, without apology or regret, that what she was "really doing" was aiding the Communist enemy (who "touch our hearts"), and that what she was "really feeling" was that U.S. aviators were war criminals.

The photograph is not Fonda's primary transgression. Of course, the photo itself became the everlasting graphic proof of her outrageous behavior. So in a way Fonda is right—in practice, it is the photograph that reminds generations of who Jane Fonda really is. In her "regret," limited to the photograph alone. Vietnam veterans see Fonda's endeavoring to ameliorate the harm to herself with virtually no regard to the harm she caused to others.

Hanoi Jane's wrongs go far beyond the photograph. First, of course, are the facts that she joined the enemy gun crew at all and made two visits to North Vietnam. Second, Fonda's self-initiated broadcasts on Radio Hanoi accused Americans of being war criminals. It was these broadcasts from the enemy's capital (not the gun photo) that gave her the lasting handle "Hanoi Jane" in emulation of "Tokyo Rose," an American who broadcast Japanese propaganda in World War II. In her self-proclaimed FTA ("F*** the Army") rallies, she claimed that personal atrocities "were a way of life for many of our military".

Third, Fonda exploited American POWs for Communist gain, asserting that the POWs were being treated humanely following a Communist-controlled visit. In fact, the remarkable POWs who showed any resistance to the Fonda visit were beaten severely and she betrayed the POWs by falsely claiming that they expressed "disgust" and "shame" over what they had done. When the returning POWs reported their torture, showing their broken bodies as proof, Fonda called them "hypocrites and liars." She claims in her book that she was "framed."

Fourth, Fonda ignored the non-Communist Vietnamese and Cambodians who resisted the Vietnamese Communists and the Cambodian Khmer Rouge, showing no concern for their fate. Fonda continued to support the Communists against indigenous non-Communists even after American withdrawal. She was not "anti-war"; she was "pro-war"—for a Communist victory. She was not even "anti-atrocity" per se, remaining silent on Communist executions of Vietnamese and Cambodian civilians (such as the 3,000 slaughtered with their hands tied in Hue in 1968, or the final tragedy following Communist victories in 1975).

Fonda's hopes for a Communist victory in South Vietnam and Cambodia were fulfilled. But her hopes for fame as an instrument of Communist achievements have been dashed on the rocks of reality—the truth about Communist malevolence and disregard for human dignity; the truth about the commitment by most American soldiers to honorable behavior; the truth about the torture and murder of American POWs. Now her efforts to promote commercial gain through a limited pseudo-apology, which is simultaneously withdrawn by a less visible (yet explicit) defense of her transgressions, will fail on the same rocks of reality.

Jane Fonda has always lived in a kind of Wonderland—where American POWs are liars and Communist tyrants are honorable men. Now she says that "the U.S. loss represented our nation's chance for redemption" and that the Communist victory "symbolizes hope for the planet." Her latest foray into the Vietnam War only shows that, unlike Alice, Jane Fonda has yet to emerge from Wonderland.

PROVIDE GREATER JOB OPPORTUNITIES FOR LOW-INCOME FAMILIES THROUGH CAR OWNERSHIP

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Ms. MOORE of Wisconsin. Mr. Speaker, for many low-income families, getting to a job can be even harder than getting hired in the first place. Research shows that lack of affordable and reliable transportation is a significant barrier to employment. If we want more people to work, we need to help make sure that they can get to work. Unfortunately, travel to and from a specific workplace on our cities' public transportation systems can be time-consuming and even practically impossible—especially for those struggling to leave welfare.

Public transit is designed to accommodate 9-to-5 commuters who need to get from one city destination to another during the normal workweek. But the entry level jobs of low-income workers are increasingly found in the faraway plants, warehouses, strip malls, and office parks of suburbia. The work schedules of these new hires may include "off-hour" shifts when public transit is unavailable or too unreliable. Low-income parents also need to go to job training classes, the supermarket, the doctor's office, or to day care to drop off their children. These destinations may not be located along public bus or train lines.

Studies show that people are more likely to find steady employment and earn a decent wage when they have access to a car. But all too often, buying and maintaining a reliable automobile is too expensive for families struggling to make ends meet. A recent report by the Annie E. Casey Foundation found that one-fourth of families earning $25,000 or less have no cars.

In recent years, a number of states and non-profit organizations have developed programs to assist the working poor with the purchase of a car. Most of these programs receive vehicles donated by the public or purchase them wholesale from dealerships. The used cars are repaired to good working order and then leased or sold to low-income workers and job seekers, usually at a subsidized purchase price. In many cases, program operators work with local lending institutions to obtain loans for the car purchase while also providing financial education to the new owner. In addition to improving access to jobs in far reaching suburbs or rural areas, some low-income car ownership initiatives can bolster the family's credit for future purchases, such as a home, as well as connect these families to a savings institution.

In order to help develop and expand these low-income car ownership efforts, I am introducing the Creating Access to Rides (CAR) Act. This legislation would establish a 5-year, $50 million grant program through which states, localities, and nonprofits could apply for funding to strengthen existing low-income car ownership programs or create new ones.

The bill would also facilitate car ownership through the use of Individual Development Accounts (IDAs). IDAs are special savings accounts for very low-income individuals through which, as an incentive to save, a person's contributions to the account are matched by public and private funding. States can use funds authorized by a little-known law called the Assets for Independence Act (AFIA) to match participant contributions to IDAs. However, when IDA contributions are matched using AFIA funds, withdrawals may be used for only three qualified expenses: homeownership, post-secondary education, and starting a business. This bill would expand permissible IDA uses under AFIA matching rules to include the purchase of a car.

In addition to AFIA dollars, states can use their Temporary Assistance for Needy Families (TANF) funds to match IDA contributions. While the purchase of a car is not included in the underlying TANF statute as a qualifying IDA expense, the Department of Health and Human Services has clarified that states can elect to permit withdrawals for car purchases when the participant's IDA is matched with federal TANF dollars. However, some states have found that, as a result of choosing this option, the IDA can be considered an asset when determining the participant's eligibility for other programs such as food stamps.

This legislation would remove this barrier and allow states to use TANF dollars to match IDA savings for a car without the account's assets being counted against the participant's eligibility for other important programs.

Mr. Speaker, vehicle ownership is critical to matching the available workforce with available jobs. I urge my colleagues to support this legislation and enact it in a timely manner so that low-income Americans can get behind the wheel, improve their job prospects, and gain greater opportunities to provide for their families.

CONGRATULATIONS TO PLUMBERS LOCAL UNION 210 2005 APPRENTICE GRADUATES

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. VISCLOSKY. Mr. Speaker, it is with great honor and admiration that I offer congratulations to many of Northwest Indiana's most talented, dedicated, and hardworking individuals. On Friday, June 10, 2005, the Plumbers Local Union 210 will honor the completion class of 2005 at the Annual Apprentice Completion Banquet which will be held at the Patio Banquet Hall in Merrillville, Indiana.

They will be recognizing and honoring the 2005 Apprentice Graduates. The individuals who have completed the apprentice training are: Jamie Anderson, Damon Berry, Jesse Brill, Robert Burkus, Raymond Crawford, Michael Fanning, Kenneth Francus, Jason Kennedy, Robin Marshal, Josh Musser, Scott Norwine, Joe Palek, Joshua Poston, Daniel Rosenbaum, Collin Sanders, Brian Schoff, Kevin Stonehill, Lee Thomas, Chris Tomko, and John Zbell.

Northwest Indiana has a rich history of excellence in its craftsmanship and loyalty by its tradesmen. These graduates are all outstanding examples of each. They have mastered their trade and have demonstrated their loyalty to both the union and the community through their hard work and self-sacrifice.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in congratulating these hardworking individuals. Along with all the other men and women of Northwest Indiana's unions, these individuals have contributed to the growth and development to the economy of the First Congressional District, and I am very proud to honor them in Washington, D.C.

ISRAEL INDEPENDENCE DAY

HON. DORIS O. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Ms. MATSUI. Mr. Speaker, I rise today to celebrate Yom HaAtzmaut, the anniversary of the founding of the State of Israel.

On this day 57 years ago in 1948, the British Mandate over Palestine expired and cleared the path for the State of Israel to be created. Despite her continued struggle for existence, Israel has overcome these difficulties to thrive and prosper. Israelis have become world leaders in agriculture, technology, medicine and science.

I would also like to take this opportunity to thank Israel for its continued support through the decades. Since its creation, Israel has been one of America's staunchest allies. And as the sole democracy in the Middle East, we as a nation must maintain our support and ensure our ally's continued survival.

INTRODUCING THE RAIL SECURITY ACT OF 2005

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. OBERSTAR. Mr. Speaker, today, together with Subcommittee on Railroads Ranking Member CORRINE BROWN and 12 of my other colleagues, I introduce the "Rail Security Act of 2005."

It's been almost 4 years since the terrorist attacks of September 11, 2001, and one year since the terrorist train bombing in Madrid, Spain, that killed 191 people and wounded more than 1,800 others, making it the deadliest terrorist attack against European civilians since 1988. Last month, Spanish authorities found in the home of a suspect in the Madrid bombing, a rough sketch of New York's Grand Central Terminal, the significance of which is being evaluated.

The Madrid bombing was just the latest in a series of attacks on railroads worldwide. Between 1998 and 2003, there were 181 attacks worldwide on trains and rail-related targets such as depots, ticket stations, and rail bridges, resulting in an estimated 431 deaths and several thousand injuries. Yet the Federal Government has done little to enhance rail security in the United States. The Madrid bombing alone should have served as a wake-up call to Congress and the Administration.

Last year, the United States spent $4.4 billion on aviation security, but only $115 million on rail and transit security, even though five times as many people take trains as planes every day. The President's FY2006 Budget for the Transportation Security Administration proposes $4.7 billion for aviation security and just $32 million for highways, passenger rail, buses and other modes of surface transportation.

Amtrak alone has requested $100 million in security upgrades and nearly $600 million for fire and life-safety improvements to tunnels on the Northeast Corridor in New York, Maryland, and Washington, D.C. Securing Amtrak and other rail facilities is a formidable task, but Congress must get it done. Of course, that requires Federal leadership and Federal resources, both of which are long overdue. For 4 years now, our country still hasn't produced a national transportation security plan.

The Aviation Transportation Security Act of 2001 originally required the Department of Homeland Security (DHS) to develop and submit to Congress a National Strategy for Transportation Security. In 2003, then Transportation Security Administrator Admiral James Loy promised the plan by the end of that year. Most recently, the Intelligence Reform and Terrorist Prevention Act of 2004 required the plan to be produced by April 1, 2005. Unfortunately, the Department has pushed back the completion date for this document again. On April 1, 2005, the DHS sent a letter to Congress stating that the Department now intends to produce the National Strategy for Transportation Security to Congress in two to three months.

We cannot continue to delay security improvements while awaiting the National Strategy. Congress needs to act now to protect the safety and security of our Nation's railroads, rail passengers, rail workers, and communities served by them.

The Rail Security Act of 2005 requires that within 180 days of enactment, the Secretary of Homeland Security and the Secretary of Transportation shall develop and implement a railroad security assessment, a railroad security plan, and prioritized recommendations for improving railroad security. The bill also requires the Secretary of Homeland Security and the Secretary of Transportation to execute a memorandum of agreement governing the roles and responsibilities of their Departments in addressing railroad transportation security matters.

The bill authorizes more than $1 billion to safeguard our Nation's rail network from terrorist threats, $500 million of which is authorized for grants to State and local governments, railroad carriers, rail labor, and others for costs incurred for preventing 3 or responding to terrorist activities or other security threats to intercity passenger rail and freight rail service.

Under the bill, Amtrak will receive $100 million for security upgrades, plus a total of $597 million to make fire and life-safety improvements to tunnels on the Northeast Corridor in New York, New York, Baltimore, Maryland, and Washington, D.C. This funding is critical to protect Amtrak's 25 million passengers, two-thirds of whom travel along the Northeast Corridor.

The bill authorizes $50 million for the Secretary of Homeland Security to create a research and development program to improve freight and intercity passenger rail security. The Secretary of Homeland Security is also required to develop a national plan for public outreach and awareness and a study on passenger, baggage, and cargo screening.

Moreover, the Rail Security Act of 2005 focuses on an issue that security bills often ignore: the importance of ensuring that key workers have the support and training required to protect our rail system, whether those workers are railroad employees or emergency responders.

Rail workers are truly the eyes and ears of the rail industry. They greet passengers, sell tickets, operate trains, maintain track and signal systems, dispatch trains, operate bridges, and repair cars. They are in the most direct position to spot security risks and potential threats. This bill requires rail carriers to provide security training to these workers to ensure that they are prepared to take appropriate action against threat conditions. The bill also strengthens whistleblower protections to ensure that workers who report or identify a security risk will not face retribution or retaliation from their employers. A rail worker should not have to " choose between doing the right thing on security and holding on to his or her job. Despite whistleblower protections in current law, employees still experience employer harassment and intimidation when reporting accidents, injuries, and other safety concerns. This language will help ensure that these practices end.

Congressmen HENRY WAXMAN, ELIJAH CUMMINGS, and I asked the Government Accountability Office (GAO) in 2002 to examine ten communities to evaluate whether they were prepared to respond to rail incidents involving hazardous materials, whether accidental or intentional. Accidents in urban areas, such as the 2001 occurrence in the Howard Street Tunnel in Baltimore, Maryland, involving a fire fueled by hazardous materials, and a leak of hydrochloric acid from a parked tank car in an urban area in Lowell, Massachusetts, have called attention to the safety of hazardous materials shipped by rail. The recent tragedy in Graniteville, South Carolina showed the devastating effects such hazmat accidents can cause.

To my disappointment, GAO found that many emergency responders were not properly trained to respond to incidents involving hazardous materials and radioactive waste. In each of the ten Communities evaluated, local fire department officials confirmed that fire department personnel had only received hazardous material awareness-level training, the lowest level of training recommended in National Fire Protection Association (NFPA) Standard 472, Professional Competence of Responders to Hazardous Materials Incidents. This training provides first responders with the knowledge and skills to identify a hazardous materials incident and to contact the appropriate response resource. However, NFPA representatives have advised me that the minimum level of training for first responders should actually be at the operations level, the second highest level of training described in NFPA Standard 472, which trains responders to plan and initiate a response to the incident. The Rail Security Act of 2005 requires this training.

GAO also found that while most local communities have equipment on hand to use in response to a hazardous material incident, some locations lacked important equipment, such as detectors, decontamination equipment, and personal protective gear needed to respond to accidents involving hazardous materials and radioactive waste. My bill addresses this need. It authorizes the Secretary of Transportation to make grants to State and local governments, as well as nonprofit employee organizations representing emergency responders, for advanced firefighter turnout gear.

The Rail Security Act of 2005 also ensures that emergency responders will be able to get real-time information for dealing with hazardous materials and passenger railroad incidents through the Operation Respond Institute. The bill provides Operation Respond with $2.5 million for each of fiscal years 2005 through 2007 for deploying and expanding the Operation Respond Emergency Information System software, developing and implementing a railroad infrastructure mapping program, and establishing an alert and messaging capability for use during emergencies involving freight and passenger railroads.

The Rail Security Act of 2005 includes legislation that the House has overwhelmingly passed in previous Congresses, the Rail Passenger Disaster Family Assistance Act, which ensures that the needs of the families of the victims of terrorist attacks or accidents are addressed. This bill was similar to legislation we enacted in 1996 to address the treatment of families of the victims of airline crashes. We should do no less for those who ride our nation's passenger trains.

As we introduce this bill today, we invite other colleagues to join us in co-sponsorship and work together to ensure its passage.

ISRAEL INDEPENDENCE DAY

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. SCHIFF. Mr. Speaker, I rise today to commemorate the 57th anniversary of Israel's independence.

Today we celebrate the realization of a two thousand year old Jewish dream to return to the ancient kingdom of Israel. Centuries of persecution and propaganda gave this dream a sense of urgency and, at the end of the Nineteenth Century, Theodor Herzl and other Jewish leaders throughout the world mobilized to establish a new Jewish state. Their dream inspired persecuted Jews throughout the world to courageously find refuge in Palestine in search of a better life for themselves and their children. Without their bravery and determination, the rebirth of Israel never would have been possible. The unspeakable horrors of the Holocaust further cemented the necessity of a Jewish state, and Israel was finally established as a sovereign and independent nation on May 14, 1948.

The State of Israel was founded on the ideals of pluralism, freedom, and human rights and has maintained these democratic ideals in the face of war, terrorism, and frequent diplomatic isolation. Israel has served as a beacon of democracy in the Middle East and its shared values with the United States has led to a natural kinship between the two nations. We have maintained a strong alliance with Israel based on friendship, principles, strategy, and a commitment to defeat terror.

Israel's determination to maintain its democratic principles in the face of relentless threats to its citizens has been admirable. We salute this accomplishment and we must work with Israel to defeat terrorist threats to the institutions that nurture democracy and prosperity in our two countries and throughout the world.

Since we celebrated this day a year ago, Israel has experienced an increased sense of optimism for the achievement of a full and lasting peace. The newly elected leader of the Palestinian Authority, Mahmoud Abbas, has publicly denounced terrorism and has vowed to both crack down on militants and to root out corruption in the Palestinian Authority. Similarly, Israeli Prime Minister Ariel Sharon has demonstrated his commitment to peace by preparing for the withdrawal of Israeli settlers from all 21 settlements in Gaza and four in the West Bank. Although the realization of a full and lasting peace in Israel remains distant, we must embrace these developments as a reflection of the cautious optimism embodied in Israel's national anthem, Hatikvah, which means "the hope." We hope that Israel will continue to serve as the "light unto the nations" that Herzl envisioned more than a century ago and that Israel's 58th year will be a time of peace throughout the region.

IDEAS ON RETIREMENT SECURITY

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. LARSON of Connecticut. Mr. Speaker, I wish to submit for the RECORD this article that appeared in the Hartford Courant on May 9, 2005. It poses the idea of investing the Social Security surplus in the financial markets. The future of Social Security would be addressed through the strength of these markets without the uncertainties of the stability of individual private accounts. The author also addresses some of the concerns that have been raised about this idea.

As you can see, there are many thoughts that can be brought to the table to address the future of Social Security and to utilize the forces of the financial markets without being wedded to private accounts. Additionally, there are many issues surrounding personal retirement savings and pension security that deserve to be looked at carefully.

[From the Hartford Courant, May 10, 2005]

PUSH-BUTTON PICKS JUST TOO SIMPLE

(By Dan Haar)

The Social Security private accounts tour passed through Hartford Monday with some downhome remarks from Treasury Secretary John W. Snow that called to mind H. Ross Perot, who sounded open-minded but wasn't.

Snow was in town pushing President Bush's scheme to move much of the Social Security trust fund into private accounts, where you and I can watch our retirement accounts grow and wither and maybe grow back again.

The private accounts would cost an estimated $2 trillion to set up, and they would do nothing on their own to fill the Social Security shortfall. These are not points of debate.

Still, Snow said, "I challenge all of our critics to say, if you think you've got a better idea, what is it?"

He added, echoing Perot without the irony of anatomy, "We're all ears."

Well there is a better idea—but sadly, the administration is all fists in fighting it back. That's because private accounts are not on the list of features the Bush folks are willing to do without.

The idea behind the private accounts is that workers could choose to invest their money in stocks, not just the long-term bonds the trust fund uses today. Over time, on average, company shares earn higher returns than bonds. Social Security could meet its obligations without raising payroll taxes, and poof! We wipe out much of our $11 trillion deficit.

If tapping into the stock markets would work in private accounts, why can't it work for the trust fund as a whole? Why can't the fund simply set a target of stockownership—say, 25 percent—and gradually ramp up to that target, without giving Aunt Martha fits over the state of her personal account?

The financial results would be identical to Bush's plan.

The start-up cost would be lower because it could be done over a period of years.

Aunt Martha, who may already have plenty of worries about her 401(k) and other private savings, could rely on a predictable stream of retirement income, no matter what—just like uncle Chester had back in the day.

The fund could achieve returns based on decisions by the best and brightest financial minds—not the twitches of a nervous household, multiplied by 100 million.

Last week, a ranking Treasury official told me the problem is that Social Security would end up meddling in the stock markets—a dangerous thing if, say, someone in power wanted to help or hurt General Electric Co.

But that worry is easy to wave off with a pair of laws even this Congress would pass without much debate: All stocks must be part of broad index funds, and never could the Social Security Administration vote in company proxies.

On Monday, Snow produced another answer: Allowing the fund to invest as a whole in stocks produces a short-term surplus, "and short-term surpluses become subject to the spending proclivities of Congress."

"This," Snow said of the private accounts, now echoing Al Gore, "is a lock-box."

It's true that Congress—and our free-spending president, by the way—have borrowed heavily from today's Social Security surpluses. But it's hard to believe that federal spending rises just because the surplus is there. It rises because we have rising needs, and because the political system we have causes it to rise.

Anyway, there are better ways to rein in federal spending than to needlessly take trillions of dollars out of the system and put them in a place—your hands and mine—where they will cause new grief. The administration's real goal here is not to advance

Social Security, but to push its social agenda, the so-called "ownership society."

Funny, median family income adjusted for inflation—the most important measure of how typical Americans are doing—has fallen three straight years and is headed for a fourth as Bush showers tax breaks on companies that aren't hiring. Whose ownership society is this?

Democrats and their allies at AARP in the Social Security debate have offered little in the way of real solutions. John Rother, director of policy and strategy for AARP—defending his hilariously exaggerated, slam-dunk anti-personal account TV ad campaign—told me the idea of allowing the trust fund to invest more broadly makes sense.

But he said the public isn't ready for that discussion.

Despite the lack of a cohesive public debate, the trust fund investment idea may emerge as a dark horse. On Monday, the Yale School of Management announced a working paper by finance professor Will Goetzmann that shows exactly how such a system might work.

Goetzmann envisioned an independent agency, similar to Fannie Mae, that would manage the Social Security fund. It could issue its own bonds and sell contracts, like annuities. It could invest in all sorts of sophisticated instruments that individual accounts couldn't touch, such as commercial real estate, commodity indexes and short-term Treasury notes.

Goetzmann calculated a portfolio mix that would most closely mirror the rise in U.S. wages. That's the measure Social Security uses to set payouts to retirees.

"It's a fairly broadly diversified portfolio," Goetzmann said Monday.

Setting the right investment mix, he said, "is a very sophisticated question that is not going to be answered with a few oversimplified choices on a menu."

And getting to that point in the debate will not happen as long as we have officials on both sides who give us an oversimplified menu of political arguments, and nothing more.

ISRAEL INDEPENDENCE DAY

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. VAN HOLLEN. Mr. Speaker, I rise today in honor of Israel Independence Day. This young country, now 57 years old and surrounded by hostile neighbors on each of its borders, has stood as a bulwark of democracy throughout its history.

On this day we honor the people of Israel, who struggle daily to maintain freedom and independence. Throughout the country's short history, Israelis have fought against unfathomable odds to reestablish the birthplace of the Jewish People. Today, Israel stands strong and prosperous, longing to live in peace and security. Today we also remember and pay tribute to the strong bond of friendship and support between the United States and the State of Israel.

I am proud to have visited Israel and to have seen firsthand the courage and steadfast resolve of its people. I look forward to a time when we will be able to join Israel in the celebration of a more peaceful and secure Middle East.

Mr. Speaker, it is my hope that all Americans will join me in congratulating the citizens of Israel and the entire Jewish community on the 57th anniversary of the birth of the State of Israel.

IN HONOR OF ISRAELI INDEPENDENCE DAY

HON. ALLYSON Y. SCHWARTZ

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Ms. SCHWARTZ of Pennsylvania. Mr. Speaker, I rise today on Yom Ha'atzmaut to congratulate the Israeli people for a remarkable history and to celebrate the strength of the U.S.-Israel relationship.

In just 57 years, a land mainly comprised of desert has been transformed into fertile farmland, thriving communities and world-class cities. Industry and technology have boomed and most significantly, millions of Jews have returned to live in their ancestral homeland.

A robust democracy has developed around the ideals of freedom of speech, freedom of religion, fair elections and an independent justice system. In fact, it is the only nation in the region to accomplish this.

Brave soldiers have fought to defend their brethren and innocent civilians have courageously endured the constant threat of attack—all to live freely in their homeland. And, despite this constant threat, the Israeli people remain committed to a peaceful coexistence with their neighbors—a testament to their resolute and compassionate spirit.

As remarkable as Israel's short history is, we must not take its existence for granted. While recent events have sparked new optimism in the peace process, radical terrorist organizations, such as Hamas, Hezbollah and Islamic Jihad, emboldened by Iranian and Syrian support, are as committed as ever to their core goal: the eradication of Israel. And by now, we are all too familiar with the daunting task of protecting innocent people from suicide bombers.

Despite this reality, Prime Minister Sharon and the Israeli people plan to move forward with an historic and courageous plan to withdraw from Gaza and parts of the West Bank this summer.

As Israel moves forward with efforts to live with its neighbors in peace and security, it is crucial that we continue to stand by her.

We must defend Israel's right to engage in legitimate acts of self-defense to prevent terrorist attacks in Israel;

We must stand up for Israel when our international allies and other members of the international community unfairly criticize her;

We must hold Syria, Iran, and any other country that aid and harbor terrorists, accountable; and

We must push President Abbas and the Palestinian leadership to match Prime Minister Sharon's courage by taking steps to end corruption, crack down on terrorist organizations and end the media incitement that encourages hatred and violence.

Support for Israel has been one issue consistently agreed upon by both Republicans and Democrats, through many different administrations and many different times. I am proud that this support remains so strong today.

Mr. Speaker, it is truly an honor to stand by Israel and I know my colleagues join me in expressing Mazel Tov for a remarkable 57 years.

ISRAEL INDEPENDENCE DAY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. MENENDEZ. Mr. Speaker, today, I am proud to join my colleagues in the United States Congress and world leaders in celebrating the creation of the State of Israel on this 57th anniversary of Israel's Independence Day. On this historic day, we honor the achievements of the Jewish people and the Jewish state, and salute a young and proud nation that has accomplished so much in so little time.

In the 57 years since independence, Israel has welcomed immigrants from all corners of the world, including over a million new immigrants from the former Soviet Union. Israel today is a vibrant democracy, the only democracy in the Middle East, and a world leader in technology and agricultural innovation for arid regions.

We must remember that these great achievements have come at a great cost. More than 20,000 Israel Defense Force members have died fighting for the cause of a Jewish state in the years since the war of independence—over 169 Israeli soldiers in the past year alone, since the last Remembrance and Independence Days. Their sacrifice has created a beacon of democracy and hope for millions of Jews around the world.

We must also remember those innocent civilians who have been killed by terrorists trying to destroy the State of Israel and her people. By remaining strong in our convictions and our support of Israel, we honor their memory and move closer towards creating a peaceful and prosperous future.

On this Day of Independence, the United States of America and Israel stand side-by-side in our commitment to democracy, to peace, and to the State of Israel. The United States will never flinch and will never waiver in its support for the safety and security of the State of Israel and of her people.

NEW BOOK REVEALS VOICES OF SOUTH ASIA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. TOWNS. Mr. Speaker, I have recently been given a copy of an interesting new book called Authentic Voices of South Asia, edited by retired Brigadier General Usman Khalid and published by the London Institute of South Asia. The book is an excellent discussion of India's hegemonic ambitions in South Asia and the drive for self-determination for all the peoples of the subcontinent. I recommend it to my colleagues as an excellent source of information about that difficult and troubled region.

The book includes essays on the situation in Punjab, Khalistan, in Kashmir, and in other troubled parts of the subcontinent. It extensively discusses India's ambition to be the overwhelming, hegemonic power in South Asia and control all the countries there and its disrespect for the sovereignty of its neighbors. It is dedicated to "250,000 Sikhs, 90,000 Muslim Kashmiri Martyrs and many more who have been killed in all parts of India, notably Assam, Maharashtra, and Gujarat by Hindu mobs or the Indian police and armed forces." This doesn't mention the fact that the Hindu mobs carry out their atrocities with the connivance of the Indian police and armed forces. For example, a policeman in Gujarat told an Indian newspaper that the massacre of 2,000 to 5,000 Muslims there was pre-planned by the Indian government and the police were told to stand aside, a remarkable parallel to the 1984 Delhi massacre of Sikhs, in which Sikh policemen were locked in their barracks.

In all, Mr. Speaker, over 250,000 Sikhs have been murdered by the Indian government, according to the Punjab State Magistracy, in addition to more than 300,000 Christians in Nagaland, over 90,000 Kashmiri Muslims, tens of thousands of Christians and Muslims throughout India, and tens of thousands of Assamese, Bodos, Dalits, Manipuris, Tamils, and others, as well as the minorities cited in the introduction to Authentic Voices of South Asia. In addition, according to the Movement Against State Repression, India holds over 52,000 Sikh political prisoners, some of whom have been in illegal detention without charge or trial since 1984. Amnesty International reports that tens of thousands of other minorities are also held as political prisoners. This is why this book is so urgently needed and so important.

The book includes essays by Dalit leader V.T. Rajshekar, Dr. Gurm Singh Aulakh, President of the Council of Khalistan, Dr. Awatar Singh Sekhon, Editor of the International Journal of Sikh Affairs, and many other leaders and scholars. Mr. Rajshekar writes that "the glitter of Brahminism lies in its imperial ambitions and its fascist agenda." Dr. Sekhon writes that only accepting the principle of national self-determination provides a basis for peace and stability in South Asia.

India agreed in 1948 to a plebiscite in Kashmir to determine its status. That plebiscite has never been held, even as India proudly proclaims itself "the world's largest democracy." Well, why not simply let the people of Kashmir, of Punjab, Khalistan, of Nagalim, and of all the other minority states and communities determine their status by means of a free and fair vote. Isn't that how democracies do business? It is time for the U.S. Congress to go on record demanding a tree and fair vote, demanding that India keep its promises and act like the democracy it claims to be. It is also time to stop American aid and trade with India until its "imperial ambitions and its fascist agenda" are abandoned and all people within its borders enjoy full civil liberties and human rights. Only then can India's claim of democratic principles be taken seriously.

Mr. Speaker, I would like to insert the Preface from Authentic Voices of South Asia into the RECORD at this time for the information of my colleagues and the American people.

AUTHENTIC VOICES OF SOUTH ASIA

PREFACE

South Asia is the only major region in the world with unsettled frontiers. This is not because the states that emerged from the end of British colonial rule in the subcontinent have no 'principle' or 'agreement' to draw on for settling their disputes, it is because the largest country—India—has simply resiled on the agreements it made. The 'core' dispute in the area is over the future of the State of Jammu and Kashmir. India took the matter of its 'ownership' of the State to the UN Security Council which ordered a cease fire but rejected its claim; it upheld the UN Charter and secured an agreement of both India and Pakistan that the people would decide which country their state would join—India or Pakistan—in a UN supervised Plebiscite. India used the cease-fire to consolidate its military position and then went back on its agreement in 1953 to hold the Plebiscite on the specious grounds that Pakistan had signed a bilateral defence agreement with the US and introduced a 'foreign' element that India found unacceptable.

The root cause of all the problems in South Asia is India's self view as an 'imperial' power with a role to keep order in the region. India acts like the US did when it exercised control over South and Central America under the Monroe Doctrine or the Soviet Union exercised control over East Europe under the Brezhnev Doctrine. India does not recognise the sovereign equality of states of South Asia; it acts as if it operated a 'doctrine of limited sovereignty' of sorts in the region. India is resented and abhorred by all its neighbours for that reason. India became a 'strategic partner' of the Soviet Union during the Cold War and is now a 'strategic partner' of the US and Israel. It chose its 'partners' with only one consideration—who will recognise India as the 'primary power' in the region (a policeman in American parlance) and thus help keep a lid on the pressure cooker that India had turned South Asia into.

Pakistan is not the only victim of India's 'imperial' aspiration; the religious minorities and the 'low born' inside India suffer even more. India betrayed the Sikh who it promised to give their own 'sovereign state'. It betrayed the Untouchables by Poona Pact promising meaningless 'legal safeguards' in exchange for the effective 'political safeguard' of 'separate electorate' offered to them by the British Government. All the various tribal peoples all over India, who had been self governing under British rule, have been denied their separate identity and rights. The betrayal of India is matched by the ineptitude of Pakistan's leaders who neither understood the Indian mindset nor their own role as the champion of 'post imperialism' to uphold the right of 'national self-determination' in South Asia and as a 'nation state' with Islam as the principle of national solidarity.

Putting this book together was a huge task that could be done better if some of the constraints had been absent. Because it is so difficult to speak the truth and survive in South Asia, many of the Authentic Voices live in exile and those who live in India have to be careful. Being a soldier rather than scholar, my editing is not characterised by 'academic restraint' but by 'forthright clarity'. But I have not tried to harmonise style or substance: the differences of views between the various contributors exist, as they must. After all, these are the Authentic Voices of different I peoples. I am grateful to all the contributors, particularly to Syed Ali Geelani and Mr V.T. Rajshekar, who are under close watch in India, to have taken risks to address the people of South Asia and given them hope and direction.—Brigadier (R) Usman Khalid.

THE FISCAL YEAR 2006 BUDGET RESOLUTION CONFERENCE REPORT

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. MOORE of Kansas. Mr. Speaker, on February 17, 2004, the national debt of the United States exceeded $7 trillion for the first time in our country's history. One year later, our national debt is $7.7 trillion. In the past year, our country has added $700 billion to our national debt.

The conference report for the FY06 budget resolution that is before us today would increase the statutory debt limit by $781 billion to a record $9 trillion. Mr. Speaker, enough is enough. The out-of-control rise in our national debt over the last year and the rise in our debt envisioned in this conference report are further signs of the terrible fiscal position in which we now find ourselves.

In 2001, we had ten-year projected surpluses of $5.6 trillion [2002–2011]. Now, over that same time period, we have likely ten-year deficits of $3.9 trillion. That's a $9.5 trillion reversal in our ten-year fiscal outlook.

Whether intentional or otherwise, our country's current fiscal policies are depriving the Federal government of future revenue at a time when we ought to be preparing for an unprecedented demographic shift that will strain Social Security and Medicare. Our current fiscal irresponsibility will eventually land squarely on the shoulders of our children and grandchildren, who will be forced to pay back the debt we are accumulating today. The "debt tax" that we are imposing on our children and grandchildren cannot be repealed. It can only be reduced if we take responsible steps now to improve our situation.

Both parties need to work together in a bipartisan fashion to bring our budget back into balance so we can avoid the higher long-term interest rates and weakened dollar that are the inevitable consequences of rising deficits and a high national debt. We are witnessing on a daily basis the reaction of the global financial markets to our fiscal irresponsibility, and as we can see in this conference report, Congress has not yet gotten the message that deficits and debt matter.

For starters, Congress needs to reinstate PAYGO rules for the entire budget, including spending and revenue measures. Budget enforcement rules that apply to only certain parts of the budget will not have a significant impact on our rising deficits, as Federal Reserve Chairman Alan Greenspan mentioned in his recent testimony before the Budget Committee.

This fiscal year alone, interest on the national debt is expected to rise to $178 billion, and the administration projects that that figure will increase to $211 billion during the next fiscal year. To put that figure in perspective, projected interest on our national debt next year will be $75 billion more than projected spending on education, public health, health research, and veterans' benefits combined [$138 billion].

Further, the budget conference report before us today, which was filed only three hours before the House began to consider it, would require the House to cut Medicaid funding by as much as $15 billion over the next five years. Just two days ago the House voted, by a vote of 348–72, to reject harmful cuts to the Medicaid program, and this conference report blatantly ignores the will of the House.

In addition to assuming an ever-larger share of our annual budgets, the interest on our debt, and the debt itself, are increasing our reliance on foreign borrowers, which will weaken our position in the world and increase the risk that another nation will be able to assert greater leverage over America. Over the last year, our country has borrowed nearly $400 billion [$389 billion] from foreign countries, and almost half [44 percent] of our publicly-held debt is held by foreign creditors [$1.96 trillion, out of $4.4 trillion of publicly held debt].

Finally, our deficits and debt threaten the Social Security and Medicare programs that have raised so many of our seniors out of poverty and helped sustain the strongest middle class in history. With a projected 75-year unfunded liability of $3.7 trillion, both parties in Congress need to work together to address Social Security's solvency problem, and this conference report does nothing to protect Social Security. In fact, it continues the practice of raiding the Social Security trust funds to pay for other expenses of the Federal Government.

It is time for Congress to stop playing games with our national debt, with Social Security, and with our kids and grandkids' futures and take a commonsense, bipartisan approach to solve our budget problems.

TRIBUTE TO KCPT PRESIDENT/CEO WILLIAM REED

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mr. MOORE of Kansas. Mr. Speaker, we join today to pay tribute to William T. Reed, the President and CEO of KCPT, Kansas City's public broadcasting station, who has announced his retirement effective June 30, 2005. He steps down after 13 years as head of Kansas City Public Television.

Bill Reed joined KCPT in 1992 and emphasized education, local programming and outreach. The station received numerous awards from PBS, the National Educational Telecommunication Association, NETA, and community organizations for its local programming and services, including 21 regional Emmy awards and one national Emmy for the documentary, "Be Good Smile Pretty". Four of the station's signature program series, "Ruckus", "Rare Visions", "Roadside Revelations" and "Kansas City Week in Review", began under Reed's leadership. He also introduced viewers to the beautiful writings of Kansas City Star columnist Charles Gusewelle, who this spring will produce his fourth documentary for KCPT, called "Stories Under the Stone". Reed's collaboration with Gusewelle also launched KCPT's home video library venture. Later this year, children and their parents also will benefit from the development of an interactive reading program called "Bark Park Place".

Bill Reed made partnerships and collaborations an important part of the station's business plan. In 2003, KCPT was named Best Place to Work for Community Partnerships by the Kansas City Business Journal. Many of those partnerships, like Chalkwaves, a digital instructional media service for elementary and secondary schools now used across the country, changed the education landscape. Additionally, the Kansas City Regional Access Consortium for Higher Education, KC REACHE, a distance education effort partnering KCPT with nine area colleges and universities, began under Reed's stewardship long before distance learning was commonplace. Other successful partnerships include Network KC, an in-depth news partnership with the Kansas City Star, KCUR–FM, KPRS–FM and UMKC's Back Channel, a student production for the web; and Speaking of Women's Health, a partnership with Shawnee Mission Medical Center to conduct a yearly health symposium for 1,700 women. The TV Dinner and the KCPT Holiday Auction were also created, and a partnership developed with the Gamma Phi Beta Sorority for the Antiques, Garden and Home Design Show to raise additional funds for the station.

From 1997 to 2001, KCPT successfully conducted a capital campaign that raised $10 million to renovate its facilities on 31st Street and to purchase digital television equipment. The station was among the first stations to go on the air with digital television and was cited by PBS as one of seven Digital Pioneers in public television.

Reed began his public broadcasting career in 1967 as General Manager of KIXE, the public television station in Redding, California. He joined the Public Broadcasting Service (PBS) in Washington, D.C., in 1974, where he was promoted to Senior Vice President in 1978 and worked until 1991. While at PBS, Reed led the planning and implementation of PBS Home Video and the PBS Adult Learning Service and the development of PBS VIDEO (a service for educational institutions). After leaving PBS, he also served as a consultant to the Corporation for Public Broadcasting (CPB). Reed served on the boards of a number of local and national organizations: the Public Broadcasting Service (PBS) Board of Directors from 1972 to 1974; the Association of America's Public Television Stations' (APTS) Board of Trustees from 1995 to 2001; and American Public Television (APT) Board of Directors from 1997 to 2003. He was elected as the National Educational Telecommunications Association's (NETA) first chairman in 1997. Reed served as President of the Jackson County Historical Society from 1996–1998, President of the Public Television Association of Missouri (PTAM) from 1994–1998 and 2002 to present, and Chairman of the Kansas Public Broadcasting Council (KPBC) from 1997–1998. Reed also served on the Corporation for Public Broadcasting's (CPB) Digital Television Task Force from 1998 to the present, and was a member of the Video Advisory Committee to the Missouri Department of Elementary and Secondary Education from 1993 to 2000.

In 1991, the Pacific Mountain Network Board honored Reed with its Governor's Award for Distinguished Service to Public Television. He also served as a private sector representative in telecommunications for the U.S. Department of State to the Conference on Security and Cooperation in Europe (1989–London); as Chairman of the Broadcast Panel for U.S.–U.S.S.R. Bilateral Information Talks (1988–Moscow); and as President of the Western Educational Network (1972).

Bill Reed was born in Los Angeles, California. He received his B.A. in History and, following a year of graduate studies, his General Secondary Teaching Credential from the University of the Pacific in Stockton, California. From 1963 to 1965, he served in the U.S. Army, including one year in Vietnam, where he was awarded the Bronze Star Medal, the Air Medal with Three Oak Leaf Clusters and the Army Commendation Medal for Valor.

Mr. Speaker, Bill Reed and his wife, Mary Ann, will continue to live in Kansas City after his retirement. A nationwide search is underway for his replacement and his shoes will be very difficult to fill. We commend Bill Reed for his many accomplishments on behalf of the Kansas City community during his tenure at KCPT and wish him and Mary Ann all the best in the years to come.

CONGRATULATING THE ADLER PLANETARIUM ON ITS 75TH ANNIVERSARY

HON. JUDY BIGGERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 12, 2005

Mrs. BIGGERT. Mr. Speaker, I rise today to congratulate the Adler Planetarium on its 75th Anniversary. As the first planetarium established in America and the Western Hemisphere, it has firm standing as a pioneer in the field of astronomy. Its focus on the heavens has inspired generations to reach for the stars.

Among its many accomplishments in the past 75 years, there are several that are especially stellar. Astronomers at Adler helped convert light from the star Arcturus into the electrical signals that turned on the opening lights at the 1933 World's Fair in Chicago. Adler began a partnership with the National Science Foundation in 1964 to create the Astro-Science workshop for Chicago area high school students—a relationship that endures to this day. And earlier this year, NASA selected Adler to be its education partner for the Interstellar Boundary Explorer mission, set to launch in 2008. It is clear that, in the opening years of the new millennium, Adler's great tradition of space and science research is stronger than ever.

The Adler Planetarium houses one of the world's finest collections of historic astronomical artifacts, dating as far back as the 12th century. A centerpiece of this collection is the world's oldest sundial, which was crafted in 1529. It also has a telescope once used by William Herschel, the astronomer who discovered Uranus in 1781.

Adler has made investments in Chicago area schools to provide them with access to exhibits, astronomers, and scientists through videoconferencing, enhanced websites, and learning instruction techniques. These efforts to educate Chicagoans young and old are a core part of its mission.

Mr. Speaker, for many years, children of all ages have been fascinated by space and the world beyond our own. Modern youngsters watch clips of Neil Armstrong walking on the moon and gaze to the heavens in wonder—wondering how it was done and how they can do it themselves. As a planetarium, Adler harnesses these vague dreams of space science, space walks, and space travel into tangible reality. The inspiration it feeds our youth is arguably its most important contribution in the past 75 years.

With the hopes that it continues its great works for at least another 75 years, I am proud to congratulate the Adler Planetarium on its diamond anniversary.

SENATE—*Monday, May 16, 2005*

The Senate met at 2 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Merciful God, how precious is Your steadfast love. We take refuge in the shadow of Your wings. We thank You that You are present not only in green pastures and beside the still waters but in the valley of the shadow of death. Give us the wisdom to know You are near in sunshine and in storms.

Prepare our lawmakers to face the challenges of today with an awareness of Your willingness to lead and guide them. Remind them that You never give up Your pursuit of our hearts, and that Your love follows us into the darkest night of the soul.

Lord, let Your goodness and mercy follow us throughout the days of our earthly pilgrimage, until we dwell in Your house forever.

We pray this in Your wonderful Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Inhofe amendment No. 605, to provide a complete substitute.

Dorgan amendment No. 652 (to amendment No. 605), to provide for the conduct of an investigation to determine whether market manipulation is contributing to higher gasoline prices.

Inhofe (for Ensign) amendment No. 636 (to amendment No. 605), to authorize the State of Nevada to continue construction of the U.S.-95 Project in Las Vegas, Nevada.

Allen/Ensign amendment No. 611 (to amendment No. 605), to modify the eligibility requirements for States to receive a grant under section 405 of title 49, United States Code.

Schumer amendment No. 674 (to amendment No. 605), to increase the transit pass and van pooling benefit to $200.

Sessions modified amendment No. 646 (to amendment No. 605), to reduce funding for certain programs.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we return to the consideration of the highway bill. The managers are here to work through the remaining amendments this afternoon, and we will have votes on at least one amendment at 5:30, or sometime around 5:30. The specific time we will state shortly but at around 5:30 today. We have an agreement for finishing this bill tomorrow. Under the agreement, Senators may offer amendments today from the limited list we agreed to last week. We do hope most of these amendments will not require votes. There are a few remaining amendments that will need rollcall votes prior to passage. I once again thank the managers for their hard work, and I look forward to finishing the bill tomorrow so we can get it to conference as soon as possible.

LEBANON

Mr. President, in my leader remarks for the past week, I have come to the Senate floor to briefly comment on a recent trip to the Middle East. Over the April recess I had the privilege of traveling to Israel, the West Bank, Jordan, Egypt, and Lebanon. In each of these stops, I met with officials and community leaders. I also made a special point of meeting with opposition leaders as well.

With each conversation, I learned more about the challenges facing this complicated part of the world. I became convinced that despite the deep differences that divide them, each party is committed to and wants peace and prosperity. Each side knows that dialog is the only way forward.

Nowhere has this been on more astonishing display than in Lebanon. As we all witnessed, following the assassination of former Prime Minister Rafik Hariri in February, hundreds of thousands of Lebanese citizens took to the streets to peacefully protest foreign occupation and interference. The images on television were remarkable. Central Beirut was awash in this sea of flags of red, green, and white. Proudly defiant citizens passed out roses to the soldiers who had been sent in to contain them.

It was a triumphant moment for the Lebanese people and a turning point in their country's history. Our delegation had the opportunity to walk through Martyr Square, as that square is called, where, on March 14, there were hundreds of thousands of people who came forth to express the will of the people.

Syrian military and intelligence personnel had been stationed in Lebanon for decades and had consistently denied the Lebanese people the sovereignty and territorial integrity deserved by all independent nations. In addition, heavily armed militias, such as the Deborah terrorist group, have operated with virtual impunity in Lebanon and have been allowed to pursue their radical agenda.

The last few months have been times of turmoil and opportunity for the Lebanese people. For the first time in decades, the Lebanese people are free of the interference of the Syrian military.

However, it is still not clear that Syria is fully complying with the United Nations Security Council Resolution 1559. Resolution 1559 calls for the withdrawal of all foreign forces and intelligence personnel, and the disarming of armed militias. Although Syria claims to have removed all of its intelligence personnel from Lebanon, this has not been confirmed. And groups such as Deborah refuse to disarm.

Resolution 1559 also calls for free and fair elections. Our first meeting in Beirut was with members of the opposition. They represented parties and religious sects—Christian, Druze, and Muslim. These leaders were well versed in the requirements for a successfully functioning democracy. In particular, they discussed the need to restore accountability, to restore transparency, to secure an independent judiciary, and to rebuild their economy so all Lebanese people have a stake in the future. Their commitment to freedom, the rule of law, and democratic governance was truly inspiring. They are intensely aware of the importance of this historic opportunity to secure a truly free democracy, and they were all united in holding elections on time in late May. While I am hopeful, it remains to be seen how their unity will hold once that new government is formed.

We then met with the Prime Minister, Prime Minister Najib Mikati. I was greatly encouraged when he echoed many of the concerns that had been expressed earlier in the day by leaders of the opposition. He spoke of the need for an independent judiciary and respect for Lebanese sovereignty. I agreed with

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

his assessment that economic reform required a strong private sector that is truly globally competitive.

He also expressed confidence that Syria had withdrawn all of its intelligence agents and that the Lebanese people would soon see the benefits of freedom from foreign occupation.

The Prime Minister also echoed the assurances of Parliamentary Speaker Nabih Berri that free and fair elections would take place as scheduled.

Finally, I had the opportunity to visit with participants in a program called AMIDEAST. This program was established by our State Department shortly after 9/11, seeking to rebuild a better understanding of the United States by selecting young Lebanese students to attend American schools and live with host families for a year. I had the opportunity to meet with two students who will soon be in Tennessee.

President Bush has rightly emphasized the importance of public diplomacy in our efforts to spread freedom and democracy. My interactions with the participants of AMIDEAST confirmed my belief that more such programs are needed throughout the region. We need to make a more concerted effort to reach out to the people of the Middle East, especially the young, and demonstrate to them that they can achieve their hopes and aspirations for peace and freedom.

My visit to Lebanon and the determination exhibited by the Lebanese people in the past few months have been truly inspiring. I hope my Senate colleagues will join me in continuing to support the Lebanese people as they strive to achieve their dream of a free and prosperous Lebanon.

Mr. President, I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. REID. Thank you very much, Mr. President.

WISHING SENATOR PAUL SARBANES WELL

Mr. REID. Mr. President, I would first like to say we have just received word that PAUL SARBANES has been taken to the hospital. He was attending the funeral of Chairman Rodino in New Jersey. We hope that for him and Chris everything works out fine. But I think everyone who is part of the Senate family should give their thoughts and prayers to PAUL SARBANES, a wonderful human being. I am confident he will be OK, but he is at a hospital now in New Jersey.

JUDICIAL NOMINATIONS AND THE NUCLEAR OPTION

Mr. REID. Mr. President, the majority leader stated the Senate will turn to the subject of judicial nominations this week. We are ready for that. We stand united against an outrageous abuse of power that would pack the courts with out-of-the-mainstream judges.

The time has come for those Senators of the majority to decide where they stand, whether they will abide by the rules of the Senate or break the rules for the first time in 217 years—217 years—of American history. Will they support the checks and balances established by the Founding Fathers or vote to give the President unaccountable power to pick lifetime judges?

I am confident and hopeful there will be six Republican Senators who will be profiles of courage. I have had Senators come to me, even today, Republican Senators, in personal conversations, telephone conversations, today and over the weeks, who have said: We know you are right. We know you are right. But we can't vote with you.

Boy, I will tell you, that is—I told my staff today, these conversations have been some of the biggest disappointments I have ever had in my political life. To have people say they know they are breaking the rules, but they want to—I don't know all the reasons—maybe so the President likes them or they think he likes them. I don't know all the reasons. It is hard for me to intellectually understand, emotionally understand how a Senator could say they know we are right but they are willing to break the rules to change the rules. I believe there must be at least six out there who are willing to stand up and be, I repeat, profiles in courage.

While we are ready to debate this issue, I am deeply pained we need to do so. The Senate in which I have spent the last 20 years of my life is a body in which the rules are sacrosanct. We may choose to amend the rules by a two-thirds vote. We may enter into unanimous consent agreements to waive the rules. But never before in the history of the Senate has a partisan majority sought to break the rules in order to achieve momentary political advantage.

We know that the Parliamentarian has said—and it is a nonpartisan office—this is the wrong way to go forward. I have had conversations with the Parliamentarians myself. So I repeat, never in the history of the Senate has a partisan majority sought to break the rules in order to achieve momentary political advantage, because that is what it would be. If this happens, it will be a short-term win for my colleagues on the other side of the aisle but a long-term loss for the Senate and for the American people.

I have worked so hard, Mr. President—I am not boasting about how hard; we have all worked hard, but I have spent the majority of my time in the last month on this issue. I have said privately and publicly this is the most important issue I have ever worked on in my 40 years in public service.

In an effort to avoid this confrontation and preserve constitutional checks and balances, I have made every effort to be reasonable—every effort. Here on the floor, I offered last Monday an up-or-down vote on Thomas Griffith, a controversial nominee to the DC Circuit. Last Thursday, I offered to have an up-or-down vote on three nominees to the Sixth Circuit, two of whom were filibustered last year.

These are not judges we would choose, but we know the difference between opposing bad nominees and blocking acceptable ones. In making what I thought were good-faith offers, I asked the majority: Do you want to confirm judges or do you want to provoke a fight? Regrettably, all of my proposals have been rejected—all of my proposals. There were certainly more than these, and I am not going to go through the proposals I made privately. I have only talked about those I have made separate from these offers.

I wrote to the majority leader last week and suggested two ways to break the impasse. First, I made clear my previous offer to allow an up-or-down vote on one of the most controversial nominees remaining on the table.

Second, I suggested we consider changing the rules in accordance with the rules—not too unique: if you want to change the rules, follow the rules—if the majority leader were to put his proposal in the form of a Senate resolution and allow it to be referred to the Rules Committee.

I have spoken to Senator DODD. In fact, he was here last week to speak on this matter, but because of what was going on in the Chamber he was unable to do that. Senator DODD said he would do everything in his power as ranking member to expedite this consideration.

Neither of these good-faith suggestions have been accepted, and I guess it is clear why, I am sad to say. Republicans in the Senate demand to have it all. A 95-percent confirmation rate is not good enough. Votes on some of the most controversial nominees isn't good enough. They are prepared to do whatever it takes to achieve total victory.

Meanwhile, the White House appears to be pulling strings.

At a meeting I had in the White House, I asked the President: Mr. President, you could avoid so much controversy in the Senate. We could move forward on your agenda so much easier if you would intervene on this so-called nuclear option and help us resolve it.

He said to me: I have nothing to do with that. That is all up to you—not me but the Senate leaders—I am staying out of this.

Well, within hours after that, deputy White House Chief of Staff Carl Rove was quoted as discouraging any middle ground, all or nothing. Then Vice President CHENEY gave a speech in which he said: All or nothing. On Friday, the Washington Times—and this is really interesting for those of us who love the Senate. On Friday, the Washington Times reported that White

House Press Secretary Scott McClellan "flatly rejected any talk of compromise that would confirm only some of the President's blocked nominees." The White House is telling the Senate how to operate? The Press Secretary of the President is telling the Senate what to do and not to do? The White House, through their Press Secretary, flatly rejects an offer of compromise. What has this body come to?

It is disturbing that the White House is playing an aggressive role to discourage compromise. Every high school student in America learns about checks and balances. The Senate advice and consent role is one of the most important checks on Executive power. The White House should not be lobbying to change Senate rules in a way that would hand dangerous new powers to the President over two separate branches—the Congress and the judiciary.

Of course, the President would like the power to name anyone he wants to lifetime seats on the Supreme Court and other Federal courts, but that is not how America works. The Constitution doesn't give him that power, and we should not cede that power to the executive branch.

As the majority leader admitted with Senator BYRD last week, there is no constitutional right to an up-or-down vote on judicial nominees. If there were, more than 60 of President Clinton's nominees had their rights violated. In fact, the Senate has rejected hundreds of judicial nominations over the years. Legal scholars say 20 percent of those selected for the Supreme Court have not gone forward. Prior to 1917, there was no way to stop the filibuster, and lots of judges simply didn't come forward. So we have rejected hundreds of judicial nominations over the years, some by an up-or-down vote, some by filibuster, and some by simple inaction. In each case the Senate was acting within its authority under the advice and consent clause of the Constitution.

My friend, Senator FRIST, says he wants a fairness rule, but a rule allowing the President to ram extreme judges through the Senate is unfair to the American people. Meanwhile, we need to get back to the people's business and put people over partisanship. We were sent here to govern, and right now we are not doing that. Gas prices are up, families have lost health insurance, pension plans are unstable, to say the least, and the situation in Iraq is grave. The Senate, literally, is fiddling while Rome is burning.

Mr. President, I am going to continue to talk to the majority leader. I am going to talk and talk and talk as much as I can to try to resolve this issue. I know there are other efforts at compromise under consideration. But unless cooler heads prevail, this confrontation will be upon us later this week. If it comes to that vote, Democrats and responsible Republicans—if it comes to that vote, Democrats in the Senate and responsible Republicans in the Senate will vote to preserve checks and balances and preserve the principle that the Senate rules must not be broken.

Mr. President, the eyes of the Nation are upon us. There have been few moments of truth like this one in the history of this great institution. The American people will see whether the Senate passes this historic test.

Would the Chair announce what the business is before the Senate?

The PRESIDENT pro tempore. The pending business is H.R. 3.

Mr. REID. There is no time for morning business this morning; is that true?

The PRESIDENT pro tempore. There has been none requested.

Mr. INHOFE. Mr. President, we are at the point now where I believe we are going to hear from a number of Members who have submitted amendments and some who simply want to talk about the bill, some who want to talk about the formulas. We have had some requests for time. It is my understanding that we are going to have our vote at 5:30. It does mean we have limited time between now and then. Let me just make a comment or two about this and then ask—

Mr. REID. Would the Senator yield for a unanimous consent request?

Mr. INHOFE. Of course.

Mr. REID. Mr. President, I ask unanimous consent that amendments numbered 638, 690, and 723 be removed from the list of first-degree amendments to H.R. 3.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 619 TO AMENDMENT NO. 605

Mr. REID. On behalf of Senator LAUTENBERG, I call up amendment No. 619.

The PRESIDENT pro tempore. Without objection, the pending amendment is laid aside and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. LAUTENBERG, proposes an amendment numbered 619.

The amendment is as follows:

(Purpose: To increase penalties for individuals who operate motor vehicles while intoxicated or under the influence of alcohol under aggravated circumstances)

Strike section 1403 and insert the following:

SEC. 1403. INCREASED PENALTIES FOR HIGHER-RISK DRIVERS DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

(a) IN GENERAL.—Section 164 of title 23, United States Code, is amended to read as follows:

"§ 164. Increased penalties for higher-risk drivers driving while intoxicated or driving under the influence

"(a) DEFINITIONS.—In this section:

"(1) BLOOD ALCOHOL CONCENTRATION.—The term 'blood alcohol concentration' means grams of alcohol per 100 milliliters of blood or the equivalent grams of alcohol per 210 liters of breath.

"(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms 'driving while intoxicated' and 'driving under the influence' mean driving or being in actual physical control of a motor vehicle while having a blood alcohol concentration above the permitted limit as established by each State.

"(3) HIGHER-RISK IMPAIRED DRIVER LAW.—

"(A) IN GENERAL.—The term 'higher-risk impaired driver law' means a State law that provides, as a minimum penalty, that—

"(i) an individual described in subparagraph (B) shall—

"(I) receive a driver's license suspension;

"(II)(aa) have the motor vehicle driven at the time of arrest impounded or immobilized for not less than 45 days; and

"(bb) for the remainder of the license suspension period, be required to install a certified alcohol ignition interlock device on the vehicle;

"(III)(aa) be subject to an assessment by a certified substance abuse official of the State that assesses the degree of abuse of alcohol by the individual; and

"(bb) be assigned to a treatment program or impaired driving education program, as determined by the assessment; and

"(IV) be imprisoned for not less than 10 days, or have an electronic monitoring device for not less than 100 days; and

"(ii) an individual who is convicted of driving while intoxicated or driving under the influence with a blood alcohol concentration level of 0.15 percent or greater shall—

"(I) receive a driver's license suspension; and

"(II)(aa) be subject to an assessment by a certified substance abuse official of the State that assesses the degree of abuse of alcohol by the individual; and

"(bb) be assigned to a treatment program or impaired driving education program, as determined by the assessment.

"(B) COVERED INDIVIDUALS.—An individual referred to in subparagraph (A)(i) is an individual who—

"(i) is convicted of a second or subsequent offense for driving while intoxicated or driving under the influence within a period of 10 consecutive years;

"(ii) is convicted of a driving-while-suspended offense, if the suspension was the result of a conviction for driving under the influence; or

"(iii) refuses a blood alcohol concentration test while under arrest or investigation for involvement in a fatal or serious injury crash.

"(4) LICENSE SUSPENSION.—The term 'license suspension' means, for a period of not less than 1 year—

"(A) the suspension of all driving privileges of an individual for the duration of the suspension period; or

"(B) a combination of suspension of all driving privileges of an individual for the first 45 days of the suspension period, followed by reinstatement of limited driving privileges requiring the individual to operate only motor vehicles equipped with an ignition interlock system or other device approved by the Secretary during the remainder of the suspension period.

"(5) MOTOR VEHICLE.—

"(A) IN GENERAL.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways.

"(B) EXCLUSIONS.—The term 'motor vehicle' does not include—

"(i) a vehicle operated solely on a rail line; or

"(ii) a commercial vehicle.

"(b) TRANSFER OF FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), on October 1, 2008, and each October 1 thereafter, if a State has not enacted or is not enforcing a higher-risk impaired driver law, the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used in accordance with section 402(a)(3) only to carry out impaired driving programs.

"(2) NATIONWIDE TRAFFIC SAFETY CAMPAIGNS.—The Secretary shall—

"(A) reserve 25 percent of the funds that would otherwise be transferred to States for a fiscal year under paragraph (1); and

"(B) use the reserved funds to make law enforcement grants, in connection with nationwide traffic safety campaigns, to be used in accordance with section 402(a)(3).".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 164 and inserting the following:

"164. Increased penalties for higher-risk drivers driving while intoxicated or driving under the influence.".

Mr. INHOFE. Mr. President, as I was saying, we do have a lot of people who want to be heard on this bill. I believe I have said several times this could very well be the most significant vote we will have this year. It is a vote that we actually had last year. Senator JEFFORDS and I worked for 3 years on this bill, along with Senator BOND and Senator BAUCUS. The four of us have been shepherding this bill. Now it looks as if we are very close to getting a bill.

Last year, our bill was funded at $318 billion. It was passed on to conference, and we lacked one signature of getting a conference report, so it did not happen. As a result, we are operating on our sixth extension. I know the occupant of the chair understands the significance of this. It means all the reforms we have in here, streamlining reforms, will not be a reality if we are not able to pass a bill, if we have to operate on a seventh extension. It means we are not going to have any help for the donee States. We will not have any help for the sparsely populated States. We are not going to be able to have the commission that is going to look into new ways of funding highways. We started off back in the Eisenhower administration. Since he started the national highways program, we have been funding them essentially the same way ever since, but this bill appoints a commission that is going to be creative and do a lot better job than we have done before.

The formula—you always find someone objecting to the formula. It takes into consideration about 10 different things: size of the State, density of the State, the donor status of the State—things that are very significant in order to be totally equitable. One of the factors is the highway fatalities in the State on a per capita basis. That has to tell you something. If one of the States has a lot more fatalities on the highway, it means they have greater needs. My State of Oklahoma has terrible bridges. We are ranked dead last. We were tied with the State of Missouri, but I think we are now last. We want to correct that. We want this bill. It is very important that we have this bill. We are going to have our vote tomorrow, and we want to hear from anyone down here.

I ask Senator JEFFORDS, did you want to make any comments at this time?

Mr. JEFFORDS. No.

Mr. INHOFE. I don't see Senator BAUCUS. I ask Senator BOND, do you want to make any comments?

Mr. BOND. No.

Mr. INHOFE. Senator THOMAS.

The PRESIDENT pro tempore. The Senator from Wyoming is recognized.

Mr. THOMAS. I will not take long. I know there is lots for us to do, but I wanted to come over to the floor and express my support for the movement and the passage of the highway bill. I, first of all, wish to thank the chairman and the ranking member for the work they have done. Having been on that committee in years past, I know how difficult a task it is and what a great job they have done.

We have been now some 5 or 6 years waiting to do what we really need to do, clearly need to do. All of us have highway problems. All of us have need for an infrastructure. It is certainly one of the things that creates more jobs than almost anything we could possibly have. And the transportation system is something we clearly need for the future. So I guess I am a little disappointed that it has taken as long as it has for us to move forward. But now we do have an opportunity to do that, and certainly it is the time to do it. This bill has been reviewed by almost everybody in the place. We don't need to spend a lot more time talking about it. Certainly, there will be some amendments. However, the House has passed a similar bill. I think we should stick to the highway funding as it was set up in the budget, frankly, but that is an issue that will be resolved in time.

So I just hope we can pass it here. I think these decisions as to how the money is used should be made in the States, and we do not want a bunch of decisions made here as to the details of transportation.

I will not take more time, but I do want to say that it is discouraging and frustrating for us to take this long to move forward. We have so many things out there we need to be doing. The Energy bill is just as important as this, perhaps even more. We have laid it aside and continue to wait. We need to be looking at the future both in the highway bill and energy as to where we are going to be in 10 or 15 years and make some policy decisions with respect thereto.

One of the real problems, of course, with highway funding is that all, practically all of the work that is done on highways is done by contracting with our various State departments that handle highways. When you do contracting, you have to have knowledge of the time ahead as to what your financing is going to be because contracting is done in the future.

So I hope we can get on with this bill. I think we need to be talking about budgets. That is one of the things that is very important to us. Energy is very important to us. I think we need to get over this idea of stalling.

I noticed the minority leader has said we are talking about breaking the rules. We are not breaking the rules. We are going to change the rules so that we can move forward. I think it is time to stop the chatter about that as well and move on to something that we can do.

So we need a bill. Extensions are no longer acceptable. Our State DOTs cannot wait long periods of time. Our construction time in Wyoming, for example, is very short during the summer.

So, Mr. President, I again thank the managers of this bill for moving forward. Let's get it done.

I thank the Chair.

Mr. INHOFE. Mr. President, I thank the Senator from Wyoming for an excellent point, and that point is we are on our sixth extension now. Some extensions are 30-day extensions, some of them are 6-month extensions, and you can't expect the contracting community out there to be able to plan in an efficient way to spend the money to build the highways, to build the bridges, or repair the highways if they can't plan in advance. This would give us 5 more years on a 6-year authorization. It is absolutely imperative.

I say to my colleagues that we are now operating on the bill, so whoever seeks recognition can get recognition as he or she desires.

The PRESIDENT pro tempore. Who yields time?

Mr. INHOFE. I don't believe we are yielding time.

The PRESIDENT pro tempore. Who seeks recognition?

The Senator from Hawaii.

Mr. AKAKA. Mr. President, I ask unanimous consent to speak as in morning business for 15 minutes.

Mr. INHOFE. Reserving the right to object, I don't want to object, but we have a short period of time until we have to go to the highway bill vote. We have a long list of people who want to speak on the highway bill. What I would ask of the Senator from Hawaii is that instead of his speaking for 15 minutes, he go ahead and start, and if anyone wants to seek recognition on the highway bill, they could do so.

The PRESIDENT pro tempore. Does the Senator withdraw his request?

Mr. AKAKA. Mr. President, I will not ask for time. I ask unanimous consent to speak as in morning business.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 1037 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, we have several requests to speak prior to 4 o'clock and then more prior to 5:30 on the highway bill which is the regular order. So far, those speakers who want to speak in morning business have been kind enough to say that they would not mind being interrupted, if necessary, if someone came down to talk about the highway bill. I appreciate that and remind my colleagues that we don't have a lot of time between now and the vote at 5:30.

The PRESIDING OFFICER (Mr. BURR). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I intend to introduce a bill and speak about it briefly. I will do that with the proviso that if someone comes and wishes to speak about their amendment on the highway bill, I will be happy to relinquish the floor.

Is the Senator from Iowa wishing to speak on an amendment?

Mr. INHOFE. The Senator from Iowa, chairman of the Finance Committee, has a title under this bill. If you don't mind, I am sure there will be time.

Mr. DORGAN. I am happy to defer. I know this highway bill is important to get passed as soon as possible. I am happy to yield the floor and perhaps, following the Senator from Iowa, if there is an opportunity, I will make my statement.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, it should be quite obvious from America's increasing dependence on foreign sources of oil that it has now reached a very critical threshold which calls for immediate action. This bill before us is part of our immediate action, as it has some things in it to increase our availability of domestic supplies of energy. Global oil prices and supplies remain beyond our reach, just as surely as our own demand here at home will remain constant. Abroad, oil prices and supplies are at best in a state of flux, very unpredictable. At worst, you could say that things are beyond our control.

Our obvious goal in a lot of our energy legislation—some of it is part of this bill and part of the debate we had 2 years ago on the highway bill—is to get some of this under our control by having less dependence upon foreign sources of oil.

In China, for instance, the competition for oil is unprecedented. So determined is China to protect itself and its burgeoning growth against global uncertainty, they have recently secured supplies from both Canada and Venezuela and are actively seeking oil from producers upon whom the United States has traditionally relied. Some experts suggest that we have now reached our global supply limits, perhaps even that we have exceeded them.

If they are correct—and of course we hope they are not—we face more shortages and rising prices. The answer to these very real and vexing questions about the global security of supply and price for America's oil demands are far beyond this Senator and indeed even beyond this legislation before the Senate.

However, I believe, with this amendment as part of the managers' package, we will go a long way toward reducing our domestic dependence upon oil dedicated to our transportation sector. We are gulping vast amounts of imported oil in an increasingly futile attempt to quench our thirsty addiction to petroleum. Today, our transportation sector accounts for two-thirds of the total United States demand. This forces us to import a whopping 60 percent of our petroleum needs.

I remember a time when we thought it was inconceivable America would ever exceed even 50-percent reliance upon foreign oil. Yet, we have, and then we exceeded even that, until here we are today at more than 60 percent. What can we do now to alleviate the problem? How can we do so here at home?

The President pointed something out when he spoke last week about the pressing needs to develop and implement comprehensive national energy policy, and I think it bears repeating if only through paraphrasing. President Bush indicated that technology would provide our Nation with the means to reduce our demand for petroleum-based fuel, thus reducing the high price of gasoline. The President also stressed we must embrace domestic alternative fuels as a critical midstep on the pathway toward hydrogen, which may well prove to be our ultimate fix. But the simple fact remains that a sustainable, affordable hydrogen program is still decades away. Transitioning America away from our entrenched dependency on foreign petroleum fuels to cleaner, cheaper domestic alternatives is occurring right now here at home. We should not be oblivious to it. I agree with the President that these domestic alternatives need to be embraced and encouraged. To that end, therefore, as chairman of the Finance Committee, I have developed a proposal entitled the "Volumetric Excise Tax Credit for Alternative Fuels." It would be just like VEETC for ethanol and biodiesel that we passed last year, only extended to alternative fuels. This proposal would help significantly accomplish that goal of being less dependent upon foreign sources of energy.

The VEETC proposal would provide for the expansion and modification of the Volumetric Excise Tax Credit for Alternative Fuels. Our proposal will expand last year's excise tax formula, as it relates to ethanol, to include an excise tax credit for all domestic alternative fuels which would displace imported petroleum. This is how it would work. Some fuels, such as natural gas, presently pay a partially reduced rate of excise tax into the highway trust fund.

However, because these motor vehicles exact the same amount of damage to our roads and highways, my amendment would have them pay an increased rate of Federal excise tax into the highway trust fund. With this mechanism, the President's objective of displacing as much imported oil as possible is met. As importantly, the increased excise tax payments would go a long way toward increasing revenue into the highway trust fund for the near term and well into the foreseeable future.

This is not a new concept. Congress passed, and the President signed into law, a similar provision last year providing the same treatment for ethanol and biodiesel. In an effort to further encourage other domestic alternative fuels, this new VEETC amendment that we will be taking up which enjoys broad bipartisan support, it constitutes a simple expansion on the part of the framers to include other alternative fuels which displace imported petroleum-based fuels. Adoption of the VEETC for alternative fuels would constitute a win-win. It puts more money into the highway trust fund, while at the same time promoting domestic sources of motor fuel.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, again, I seek permission to speak as in morning business. I will relinquish the floor if somebody wishes to speak about the highway bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PIRACY AND COUNTERFEITING BY CHINA

Mr. DORGAN. Mr. President, I am introducing some legislation today, along with Senator LINDSEY GRAHAM from South Carolina to construct. It deals with the issue of piracy or counterfeiting of goods by China. It relates to the substantial loss of U.S. jobs, and $200 billion in harm to the U.S. economy as a result of the piracy and counterfeiting that is going on in China.

What is our Government's reaction to this problem? Our government's reaction to date can be characterized as somewhere between looking worried, a deep frown, or thumb-sucking. Essentially, it is doing nothing to stand up for this country's economic interests.

Let me describe the problem. The U.S. Trade Representative has concluded that: "China has not resolved critical deficiencies in intellectual property rights protection and enforcement and, as a result, infringements remain at epidemic levels."

In short, the Chinese are cheating, counterfeiting American goods and robbing jobs from our country. Chinese fake goods coming into the United States grew 47 percent last year. The Chinese government is not doing anything about it. Investigations of counterfeiting in China, as you see, have taken a nosedive. The vast majority of products in the United States that are counterfeits or pirated are Chinese; 67 percent of the counterfeit products in this country are Chinese counterfeit products.

The question is, What are we going to do about it? Senator LINDSEY GRAHAM and I are offering a sense of the Senate resolution—and we will ask the Senate to vote on it at some point—calling for the immediate launch of a WTO case against China for gross violation of U.S. intellectual property rights.

On April 29, last month, the U.S. Trade Representative released a report finding that China had broken its promises to crack down on this piracy and counterfeiting. They have done nothing. They promised the moon, and they have done nothing. The question is, Will this country stand up for its own economic interests?

Mr. President, let me give you specific case that I think is interesting. Time magazine wrote recently about a new car produced by Chery, an automobile company in China—that's right, not Chevy, but Chery the Chery Automobile Company.

A Chinese firm called the Chery Automobile Company has stolen production-line blueprints for a new GM car called the Chevrolet Spark. The Chery Automobile Company is going to be producing that car, which they call the QQ, and they plan to sell five models, including an SUV, in the United States. Chery has teamed up with the man who brought the Subaru to America in the 1960s. Their plan is to import up to a quarter of a million Cherys starting in 2007.

GM is now in court. General Motors filed an action alleging that their production-line blueprints were stolen.

But it is not just that. It is so many different products. Take a look at the products that all of us know—films, publishing, software, electric equipment, automotive parts, on and on—have been counterfeited and pirated. It means American lost jobs and a higher trade deficit to the tune, we are told, of $200 billion in piracy and counterfeiting.

Now, given that we had specific promises by China that they would begin to crack down on this with respect to their entrance into the World Trade Organization, and the fact we know they have done nothing—our own U.S. Trade Ambassador says they have done nothing, that it is "epidemic"—when will this country take action?

Winston Churchill once told a story of being taken to a carnival by his parents. He was speaking to his adversary in the House of Commons, and he told the story about seeing the sideshow's big canvas sign that says, "Come Inside and See the Boneless Wonder," a man apparently born without bones. Winston Churchill said he was with his parents that day; his parents thought it was too traumatic to take a young boy into a carnival sideshow to see the boneless wonder. He never got to see it until that day on the floor of the House of Commons. When he addressed his adversary, he said, "Finally, I see a boneless wonder."

Boneless wonder is a good way to describe, in my judgment, those involved in trade policy in this country, who fail to stand up for this country's economic interests, who don't have the backbone to stand up and say it is in our country's interests, in the interest of our jobs, to take action against those who pirate or counterfeit American intellectual property. I have talked often on the Senate floor about trade with China and Japan and Korea and with Europe. There has been a lack of spine on many fronts. In this case, I am speaking specifically about counterfeiting and piracy by the Chinese, with whom we have the largest trade deficit in history.

Now we see that the USTR says it is in epidemic proportions—piracy and counterfeiting—and yet nothing is being done. The question is, Will we do something? Will we finally have the nerve to say we want a WTO case to be commenced against the Chinese?

This is a sense of the Senate resolution asking that the USTR commence a WTO case against the Chinese. Again, it is not me who says that the Chinese have cheated. The U.S. Trade Representative said himself that: "China has not resolved of the critical deficiencies in intellectual property rights protection and enforcement and, as a result, infringements remain at epidemic levels."

That amounts to massive wholesale stealing going on. It affects this country in a very detrimental way. Will we begin to finally take action? I have mentioned before that part of our trade problem is due to the incompetence of our trade negotiators. There is no other way to describe it. In the bilateral trade negotiation that occurred with China about 5 years ago, our negotiators agreed that China would impose 25-percent tariff on any American cars we tried to sell in China, and we would impose only a 2.5-percent tariff on Chinese cars coming into this country. That is fundamentally incompetent. I don't have any idea who would have agreed to that, but it obviously pulls the rug out from our country's interests.

Now, we hear that General Motors has filed an action against Chery Automobile Company in China for producing a car called the QQ, which General Motors says was stolen from the production blueprints of General Motors for one of their vehicles. And cars like these are headed to our market soon, where the floodgates are wide open.

It all comes around. Incompetent negotiators on our side, piracy and counterfeiting on their side, and unwillingness on our side to stand up for this country's economic interests; and meanwhile we watch the exodus of American jobs and the sapping of our economic strength because of trade rules, trade agreements, and the lack of enforcement that represents a basic unfairness to the producers and workers in this country.

So the question remains: When will our Government stand up for American workers? When will our Government stand up for American producers? I am talking about unfair trade, and about a Chinese Government that does nothing about it. It is past the time—long past—when our country should expect action. The citizens of our country deserve a Government that does better for them in demanding fair trade.

So my colleague and I will introduce the resolution today. It is a sense of the Senate resolution that calls for a WTO case to be filed by our Trade Ambassador against China for gross violations of U.S. intellectual property rights.

There are so many examples of piracy and counterfeiting that I will not begin to chronicle them, but I will say this: I know that many U.S. companies that are victimized by counterfeiting do complain mightily, but they are also very nervous about an action being filed against this kind of stealing and cheating. It is time for them to decide whether they are interested in solving the problem or just complaining about it. If they are interested in just complaining about being victims, then they are going to ultimately be happy if the trade ambassador continues to do nothing. But in my judgment, it is a disservice to our country's interests at a time when we have the highest trade deficits in history, at a time when we are trying to hang on to American jobs, trying to stem the flow of American jobs outside of our country that are moving abroad in wholesale numbers. It is a disservice to our country's interests for us not to stand up when we see unfair trade and take action against it.

That is why Senator LINDSEY GRAHAM and I have submitted this resolution today. That is why I hope in the coming days and weeks we will be able to have an opportunity for the Senate to express itself. Does the Senate believe we ought to have our trade ambassador file an action with the WTO, or does it not believe that? Does it believe this is a serious problem, or does it think it is simply an annoyance?

I hope most Senators will agree with Senator GRAHAM and myself that this is a very serious problem and one that deserves an opportunity to be corrected.

Mr. President, let me now take a moment to congratulate Senator INHOFE and Senator JEFFORDS for their work on the highway bill. This is business that has been around the Senate for over 2 years. Most all of us wished—and I know no one more than the chairman and ranking member—we had passed a highway bill a long while ago, but it has taken some effort to get the kind of highway bill to the floor of the Senate that they have been able to get here.

I very much appreciate their leadership. Is this bill perfect? No, but it is an awfully good bill. Tomorrow, hopefully, when we finally pass this legislation and get to conference, my hope is the conference will have the wisdom to accept the Senate bill. There is a very big difference between the Senate bill and the House bill. My thoughts go with the chairman and ranking member and the conferees as they go to conference because this is a very important piece of legislation, and I compliment them.

Finally, all the papers warned us this will be some momentous week with respect to the so-called nuclear option and other issues. Just as I think all of us feel good about talking about a highway bill which is important and which strengthens this country, I think all of us would much prefer to be on the floor of the Senate talking about jobs, health care, energy, and about all the other issues that are so important. My hope is at the end of this week, we will get back to those issues as well.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator from North Dakota for his comments on the highway bill. It is very significant. It probably could very well be the most significant bill we will be voting on this year.

If I can get the attention of the Senator from North Dakota, I have had occasion to give four 1-hour China speeches on the floor of this Senate in response to the 2004 report to the Congress on the China Economic and Security Commission. I do not know whether the Senator from North Dakota has read that yet, but I am going to call that up with a resolution to implement the recommendations.

This is far more serious than even some of the issues the Senator from North Dakota mentioned in his excellent comments. If we look at how China is now using up the resources we are depending upon, if we go to any of the countries in Africa, such as Nigeria and the coast of Guinea where they have huge reserves, we find the Chinese are building huge stadiums, coliseums, and roads, and paying for it themselves to get the corner on those markets we will be dependent upon at some time. They are dealing with countries such as Iran and exchanging nuclear technology.

I have been deeply concerned about the Chinese, not just in what they have been able to do in terms of their nuclear capabilities, but also their conventional capabilities. It was in 1998 that GEN John Jumper came forth and said something that startled a lot of people, but we knew it all the time, and that is the Russians are now making a strike vehicle, an SU-30, that is better than our strike vehicles, the F-15 and F-16. And then we find out China has purchased, in one purchase, 240 of these vehicles. Their buildup of conventional forces and what they are doing economically to this country is very disturbing to me. It has to be addressed.

I hope the Senator from North Dakota will join us in trying to implement the recommendations of this 2004 study—it was 4 years in the making—of the security and economic problems we are facing today as a result of the Chinese buildup.

Mr. DORGAN. Mr. President, if the Senator will yield for a question. I agree with what Senator INHOFE has described with respect to the Chinese, and I think he would agree neither of us is attempting to paint the Chinese as an adversary. Our intention is to make China a long-term friend of our country, but for that to happen, the Chinese need to do the right thing on trade and security issues.

I have described today with respect to piracy and counterfeiting some very troubling issues, and Senator INHOFE knows and I know and others know there are some very serious and very troubling issues with respect to international security. That is the movement of critical materials and technology to the wrong parts of the world, the purchase of that technology by the Chinese.

Our intention and our hope is to work with the Chinese. But I think a country cannot sit back and say, whatever happens happens, whatever you are doing, that is fine. You have to stand up to things you find troubling. People take advantage of you if you let them take advantage of you. The same thing is true of countries, whether it is trade or international security. We have a responsibility to speak out with respect to issues, whether it be the Chinese or others, when we think they are an affront to our economic interests and our long-term national interests.

I appreciate the comments of Senator INHOFE.

Mr. INHOFE. Mr. President, first, this Commission worked 4 years. They studied it from a security and economic standpoint. It was bipartisan and had every expert one can think of on the Commission. They came out with some very strong recommendations. I would hope the Senator from North Dakota and the Senator from South Carolina might want to expand what they are doing after reading the recommendations. Maybe we can join forces at a later date and have a resolution recommending the adoption of the recommendations of this Commission.

Mr. President, again, we are on the highway bill. Senator JEFFORDS, the ranking member of the EPW Committee, and I worked so well together on this. I have to say before he makes his comments, there are a lot of provisions in this bill that he likes better than I like, and there are provisions I like better than he likes. That is what it is, that is how we got to where we are today. It has been a great working relationship, and I anticipate we are going to be successful in getting this bill passed.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I thank the Senator for his kind words. We are making progress. I know we are going to come out with a good bill. I look forward to working with him.

Today we begin the third week of debate on this very important legislation. The bill before us, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, better known as the highway bill, is important to the Nation.

Too many Americans are sitting in traffic. The Texas Transportation Institute, which ranks U.S. cities on the severity of their congestion, tells us in a recently released report that the average commuter in Atlanta sits in traffic for 67 hours each year; Washington, DC, for 69 hours; San Francisco, 72 hours; in Los Angeles, the average commuter sits in traffic for an astounding 93 hours each year. That is almost 4 days each year wasted while sitting behind the wheel in traffic.

I would hope we could move away from our reliance on cars and make better use of public transit, but the reality is the number of cars on the roads increases each year.

The bill before us will help cities in all of our States reduce congestion by adding additional travel lanes, by building overpasses at busy intersections, and using the best technology available to keep our traffic moving.

We need this bill to make our roads safer. More than 42,000 Americans will die in traffic accidents this year. The bill before us will help States make dangerous intersections and curves safer by putting up better warning signs, by building guardrails, and by building center median dividers.

This bill will make our roads safer by helping States build wider shoulders for disabled vehicles, by building rumble strips to slow down traffic, and by building fences to discourage jaywalkers. This bill will save lives.

Once again, I thank the chairman, Senator INHOFE, Senator BOND, and Senator BAUCUS for all their efforts in moving this bill forward. And while I am glad we expect to pass this bill tomorrow through the Senate, I remind all of my Senate colleagues we still have a lot of work to do ahead.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, the Senator from Vermont brought up a very interesting point when he said this bill will save lives. We have a whole safety core in this bill. This was done in the Commerce Committee's portion of the bill. That is why when we have a very complicated formula, one of the factors in the formula is the fatality rate on a per-capita basis of the States because that is one indicator that there is a problem with surface transportation and a problem that can be corrected with this bill.

We had called this bill the SAFETEA bill because it has the safety provisions that will save lives. I can speak for my State of Oklahoma and many others that more than half the States are above this average in terms of fatalities. We need to do something about this. We cannot do it if we extend it.

I do not think people realize that if we do not pass this bill by tomorrow and get it to conference and back from conference prior to the termination of this sixth extension—and that is May 31—then we will have to get another extension. If we get another extension, we will be doing the same thing we have done over the last 2 years with extensions, and that is continue it as it was under the 7-year-old TEA-21. There have been a lot of changes since then.

All those Senators representing donor States, such as my State of Oklahoma—I can remember when Oklahoma would only get back 75 percent of what they sent in, and now we have made improvements. The bill passed 7 years ago, TEA–21, brought up the minimum to 90.5 percent. If we had passed the bill we had last year at a higher funding level, that would have been 95 percent.

In other words, every donor State or every State would get back 95 percent of what they sent in. That would be better than the 90.5 today. At this reduced funded level, it will be about 92 percent.

The point is this: If we do not pass a bill, it is not going to happen. We are not going to have any relief for the donor States. The safety core program Senator JEFFORDS talked about—he is right, it is a life-or-death issue. If we do not pass this bill, people are going to die. People are going to die because we don't have any safety provisions in the extension so none of those would be adopted.

We have streamlining provisions. I think we all hear stories about how some of our antiquated rules, regulations, and statutes have made it almost impossible to get roads built and have made them cost something close to 15 percent more. We have streamlining provisions and reviews of this process in the bill, but if we don't pass the bill we will be operating under an extension, and that is not going to happen.

I mentioned earlier today this all started with President Eisenhower, actually Major Eisenhower, back in World War II when he realized he was unable to move troops and equipment around the United States to prosecute World War II as well as he should have been able to. So when he became President, he decided to have this National Highway System and we passed this bill. We have been operating the same way since then, almost 50 years now, raising money to pay for our infrastructure in America the same as we did 50 years ago.

We have done two things. First, we are giving the States the ability to be creative. I know a lot of people think no decision is a good decision if it is made in Washington. I have learned, after having been in State government and mayor of a city, that the closer you get to the people, the better the decision is and the more accurate it is. We recognize this. We allow the States not just to do things in general but also to come up with creative funding mechanisms, where they exercise the maximum of the private sector involvement in order to get these problems resolved.

In this bill we hope to pass, we even have a national commission to explore how to fund transportation in the future. This is something that will not happen if it is an extension. So we need to have this. That is why it is important.

We have the Safe Routes to School provision. I could probably name 20 different provisions of this very large bill, but this is one that several Members had a great passion for. I know several Members in the other body, as well as Senator JEFFORDS, were concerned about the Safe Routes to School provision. This is something that will save young people's lives, but if we do not do it and instead operate under an extension, we will not have that provision in there.

Anyone who has been in business and who has watched and waited, knows what you have to go through to get contracts, how you plan the financing, and that when you get the labor pool and your resources, in order to get the very most from them, you have to plan years in advance. The problem with the extension is it could be a 2-month extension or a 1-month extension or it could be 6 months. They are out there trying to address serious problems such as we have in Oklahoma with our bridges.

By the way, we have had several losses of life in my State of Oklahoma—two in the fairly recent past—due to bridges crumbling and killing people. So we need to correct this problem. We cannot do it unless we pass the bill.

A lot of the States are complaining right now, the border States—California, Arizona, Florida, Texas—about the fact that, because of NAFTA, a lot of excess traffic is going through their States. We want to do something about that and we are doing it. We have a borders provision in this bill that gives them some of that relief. We will not be able to do that if we do not pass the bill. It is not going to work with an extension.

Right now we have chokepoints such as the canals we have in Oklahoma. People do not realize they are navigable. I remember many years ago when I was in the State senate, in order to try to get the point across to people that we have a navigable channel that goes all the way to my hometown of Tulsa, OK, or Catoosa, and in order to show this we managed to take a World War II submarine, the USS *Batfish*, from Texas, in the boneyard, and moved it all the way to Oklahoma, and it is sitting in Muskogee to tell that story.

The point is, if we have channel traffic activity, we have railroads, we have air, and we have surface, this provides chokepoints. We address the chokepoints as a major part of this bill.

The last and maybe most important thing is we have firewalls. When a person goes to the pump and pays Federal excise taxes when they buy a gallon of fuel, that person expects that money will go to improving highways and go to transportation. That is a no-brainer. That is what is supposed to happen. That is what we told the people is going to happen. But that is not what is happening. The insatiable appetite of members of an elected body to spend somebody else's money is something we have to deal with on a regular basis. So we have a trust fund and people pay money into the trust fund, but every time they have a chance to steal money out of the trust fund, they do.

What the Finance Committee tried to do, and I applaud them, they have put this together so they cannot do this that easily. For example, someone was complaining about the way this finance package is working. They said we have this program where we have hybrid cars so we give them financial advantages to encourage them so we can look out for the environment and save money on fuel and not aggravate the already existing energy shortage problem we have in America.

What do they do? They give them that money. But they take it out of the trust fund. It has nothing to do with that. This is environmental policy, economic policy, but it is paid for by the trust fund. This is wrong.

In 1998, when President Clinton was President, he had a balanced budget amendment. He was going to balance the budget. But a lot of that money, $8 billion, was out of the trust fund to go toward the deficit. At that time I voted against it. All my conservative friends said, You want to do something about the deficit, don't you? But I said, Not on the back of the highway trust fund.

The point I want to make is there have been raids on the trust fund, and not just the highway trust fund but others. In this legislation we hope to pass tomorrow, we have firewalls built in so they can no longer raid the highway trust fund. If there is no other reason to pass this bill, this would be enough of a reason.

There will have been some complaints concerning our approach. There are two different basic approaches that one might take, putting together something such as the allocation of money that goes to the States. One is used in the other body. I served 8 years on the Transportation Committee in the House of Representatives. I know how that works over there. Frankly, it is more on projects than anything else. Not that there is anything wrong with that, except it would seem to me, and it seems to the majority of people in this body, better if you allocate on formula an amount of money then that goes back to the States and those States determine how to use it. In the State of Oklahoma we have eight transport districts, eight transportation commissioners. They sit down in a room. Certainly they know more about the needs in Oklahoma than we know here in Washington, DC. So we allocate the money in accordance with a lot of factors.

We have low-income States as a factor. If you are in a State such as Wyoming or Montana that has a low population density, yet you have to have roads to get across it, that is a consideration. If you have a high fatality rate, as we mentioned before, that is a consideration. We want to consider the number of interstate lane miles they have, the age of those, the traffic on those—all these things are factors that are in a formula. It might be politically a lot smarter to line up 60 Senators and say this is what we are going to do in your States and forget about all the rest of them and just do projects. We could do them. It is perfectly legal. We elected not to do that. We elected to do it the hard way with a complicated formula, and by the way, that is one nobody likes and that is probably a pretty good indication it is a pretty good formula. There are things I don't like. There are areas where I don't believe Oklahoma is being treated fairly. I am sure every one of the 100 Senators in this body can say the same thing.

We are still waiting now. We will be having a vote. We are 2 hours away from the vote. So we will wait for those to come down.

AMENDMENT NO. 706 TO AMENDMENT NO. 605

On behalf of Senator SNOWE, I ask unanimous consent to set aside the pending amendment and call up amendment 706.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for Ms. SNOWE, proposes an amendment numbered 706 to amendment No. 605.

Mr. INHOFE. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To specify which portions of Interstate Routes 95, 195, 295, and 395 in the State of Maine are subject to certain vehicle weight limitations)

On page 410, between lines 7 and 8, insert the following:

SEC. 18 . VEHICLE WEIGHT LIMITATIONS IN MAINE.

Section 127(a) of title 23, United States Code, is amended in the last sentence by striking "respect to that portion" and all that follows through "New Hampshire State line," and inserting "respect to Interstate Routes 95, 195, 295, and 395 in the State of Maine,".

Mr. INHOFE. Mr. President, I observe Senator SNOWE is en route and unless someone else wants to gain access to the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The bill clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. I ask unanimous consent to speak for 10 minutes.

Mr. INHOFE. Let me reserve the right to object and ask the Senator if he would amend his unanimous consent to speak for up to 10 minutes as in morning business. However, if a Member comes with an amendment—since the cutoff is 25 minutes away—the Senator agrees not to speak for more than a couple of minutes.

Mr. WYDEN. I very much appreciate the work of the Senators from Vermont and Oklahoma, and if we have a Senator, I will wrap up within a couple minutes of time at that point.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISCLOSURE OF CEO PENSION FUNDS

Mr. WYDEN. Mr. President, this is a time when millions of our families are walking on an economic tightrope. I will talk for a couple of minutes about the double standard that applies with respect to the pension rights of our workers. When we look at what is happening today in America with the workers—for example, at United Airlines, we saw it at Enron, as well—the pensions of our workers are in a free fall, but the pensions of the executives, the CEOs, are safe and secure in a tidy lockbox. I don't think that is right.

As a member of the Senate Finance Committee, I will do everything I can to change it. I have been trying to figure out exactly how much money the CEO of any major company is receiving in this country in his or her pension package. This is a very difficult exercise. It is sort of like trying to find a needle in multiple haystacks.

To begin the effort to try to figure out what these executives are paid, I was first instructed to call the Department of Labor to obtain a copy of a company's annual report of employee benefit plans. This is what is called the form 5500. After I did that, I was told to contact the U.S. Securities and Exchange Commission to get hold of the company's 10(k) filing for the year in question.

Armed with these two documents, you then have to figure out the amount of unfunded liability for all of the groups the company pays, and then subtract that number from a line item in the 10(k) form. Even when you go this route, what you have is, at best, a rough estimate that requires a background in pension legislation, an intimate knowledge of SEC requirements, and a degree in calculus.

It seems to me that American workers, at a time when they are seeing their pensions shellacked—we saw it at Enron in Oregon where we had workers who used to have close to $1 million, and their private pension funds now have $3,000 or $4,000. They deserve better than to have to try to figure out, through a bevy of forms and stock options, deferred accounts, years of service calculations, equations—one form of paper after another—they deserve better than to try to have to sort all that out to see what the executives are making in their pensions while they are seeing their pensions evaporate in front of their eyes.

Senator KENNEDY has done very good work in terms of trying to sort this out so as to determine when a company tries to unload their responsibilities at a time of crisis.

The Senate Finance Committee, on a bipartisan basis, should do more. What the Senate ought to be doing at a time when we are seeing our workers suffer and their pensions disappear, the Senate ought to make sure that shareholders and the public can find out exactly and conveniently what these executives will be getting upon their retirement.

I am proposing a bit of sunshine come into these executive pension lockboxes. Let's do for the workers whose pensions are being offered up for the CEOs, a bit of justice. Let's also do it for taxpayers because with every company that the Pension Benefit Guaranty Corporation steps in to rescue, the agency's deficit grows. From an estimated $23 billion today, it is anticipated to grow to an expected $40 billion with the takeover of additional airlines.

We are seeing our workers sacrifice. The question is, What are they sacrificing for? Apparently, on the basis of the news in the last couple of weeks, some of these workers are sacrificing in order to fund the retirement packages for the CEOs. That is not my view of making tough decisions together. That is not my view of coming together and dealing with a tough problem in an equitable way. It is a double standard.

If you ask the average person on the street if they knew, for example, that the worker was going to be at risk with their pensions while the enormous pension of the CEO was protected, those workers wouldn't have any idea that was the case. They would say the same rules apply to everyone.

We are seeing they don't. Look particularly at the pension arrangement for the CEO at United. Three months before United Airlines filed for bankruptcy in 2002, the company placed $4.5 million in a special bankruptcy protected trust for the CEO. So right now we are seeing the workers of United Airlines face the devastation of their pensions literally disappearing. They look at this double standard. The people at the top do not have to sweat it. That is not right. We ought to have one set of pension rules for everyone in this country. It ought to be based on disclosure and transparency.

As a member of the Senate Finance Committee I am going to do everything I can in this session, on a bipartisan basis, to get this passed.

I yield the floor.

Mr. JEFFORDS. Mr. President, I commend the Senator for his excellent statement. I offer to work with the Senator to see if we can bring about some action to take care of those problems.

I yield the floor.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent, since we are right to the 4 o'clock deadline, that the managers' amendment proposed by myself and the ranking member be introduced at a time after 4 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, there are many people to thank in what has been a long 3-year process.

First, Chairman INHOFE. It has been an honor and a privilege to work with the Senator from Oklahoma. He has always been fair and considerate, and I enjoy our friendship. We have a couple weeks, possibly months, more to go to get this bill done. I look forward to working with him.

Senator BOND also has been wonderful to work with. He brings spirit, enthusiasm to all his work, and a lot of humor, and I appreciate our close working relationship. He is a good friend.

Senator BAUCUS, my colleague on this side, is a very close friend and has been a great addition to the team and this process. The Senator from Montana is a true legislator. He knows how to get things done. Without him, I don't think we would be as far as we are here today. It is an honor to work with such an intelligent and fair-minded Senator.

There are many staff to acknowledge, also. I have always told my staff director, Ken Connolly, that in order to succeed in his job, he needed to hire a strong team and to hire staff smarter than me and him. Well, in this case, it wasn't difficult. Anyway, let me run through a few staff members who have helped the cause of moving this bill.

Senator INHOFE's staff: Ruth VanMark, Andrew Wheeler, James O'Keefe, Nathan Richmond, Angie Giancarlo, Greg Murrill, John Shanahan, Marty Hall, and others; Senator BOND's staff: Ellen Stein, John Stoody, Heideh Shahmoradi; Senator BAUCUS's staff: Kathy Ruffalo returned to the Senate just this past spring to help us complete this legislation. She has been a fantastic addition to that team.

On my staff, there are many people to thank, including JoEllen Darcy, Catharine Ransome, Margaret Wetherald, Chris Miller, and MaryFrancis Repko.

However, there are four key people who need to be acknowledged and thanked for bringing this bill to us today. Malia Somerville has been the glue that kept our team together; Alison Taylor, the best chief counsel of any committee in either body of Congress; J.C. Sandberg, the only staffer who really knows what is in the bill, and the hardest worker in the Senate; and Ken Connolly, my staff director, who has built such a good team. To him I owe a great deal for the work that has been done.

All of these staff members, I am sure, are looking forward to final passage tomorrow. They are even more eager, I am sure, to go to conference.

Mr. President, I yield the floor.

Mr. INHOFE. Mr. President, I also am going to thank staff. This was not easy. We have endured 3 years now. Ruth VanMark has been with me 18 years and has all of the background in the other body in the Transportation Committee. They will all be glad to get a good night's sleep at some time. We go from here into conference.

I suggest that we be aware that our 4 o'clock deadline has passed now. We have exempted the managers' amendment so it can be done at a later time. We are now down from 173 amendments to 7, so we have 7 to be voted on between now and tomorrow. At the conclusion of that, we will then vote on final passage and send it to conference. I hope leadership is working on both sides of the aisle to appointing conferees and that we can get it to conference and get it back.

I keep responding that I believe we can do this within the May 31 deadline and avoid an extension. We can show that things can happen in an expeditious way in the Senate, whether people believe it or not. If we get this passed tomorrow, we would have time to do it, if we are committed to making it a reality.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas, Mrs. HUTCHISON, is recognized.

Mrs. HUTCHISON. Mr. President, earlier this week, I offered an amendment, which was passed unanimously, to eliminate the ability to toll existing interstate highways. I did this because I believe in using our tax dollars that we collect to support the Federal interstate highway program. But we ought to do it fairly.

The majority of the highway system was designed in the 1950s to meet the needs of the westward expansion of a rapidly growing nation. Today, we face different needs. For example, new areas of population growth, especially along the southern tier, require new infrastructure, and also with the trade coming from NAFTA, we are seeing an even more increasing load that adds to the transportation burdens of our border regions.

Strong trade partnerships with Mexico and Canada have provided great benefits for us, but the resulting traffic is damaging the highway network in my State and others, such as Arizona and Michigan.

Most of the goods in our economy ride on our Nation's highways. In large part, over the past 50 years, the Federal highway aid program has assisted the States in producing one of the world's finest highway networks.

To meet our needs, Congress must reauthorize surface transportation programs this year. States are responsible for converting the resources this legislation provides into infrastructure that allows traffic to move efficiently, and we want and need to undertake that construction.

My major concern with the Federal highway program is that Texas has been a donor State for 50 years, contributing billions to other States to enable them to build their highway network. As a strong adherent of a National Transportation Safety Board system, I understand that large States, such as Texas, should assist smaller and rural States with their transportation needs because we all profit from the comprehensive highway network. What concerns me is the level of support Texas has been forced to provide to other States.

In the late 1980s and early 1990s, Texas and other donor States received as little as 76-percent rate of return on what our taxpayers send to Washington. With the 1998 bill, TEA–21, Texas's rate of return rose to 90.5 percent in the formula program.

This program produced real dollars. From 1994 to 2003, Texas contributed $20 billion to the highway trust fund and received $18 billion in return. If not for other donor State Senators, such as the chairman of the committee, the Senator from Oklahoma, and improving the rate of return, Texas would have received only $15.8 billion. The additional $2.4 billion has been critical for us to meet our transportation needs. However, Texas has still given $2 billion to other States over this period.

States such as Texas, California, Arizona, Colorado, and Michigan are contributing more and more, and we are the States that need the most new infrastructure to handle the greatest population growth. In addition, most of the donor States are border States with unique needs resulting from trade.

Texas has more than 300,000 highway miles, the most of any State in our Nation. Texas highways are almost 10 percent of the national total. Eighty percent of NAFTA traffic travels through my home State of Texas. But while the entire Nation benefits from the resulting commerce, Texas bears the brunt of maintenance and upkeep on our highways.

In 2003, more than 4 million trucks, hauling 18 billion pounds of cargo, entered from Mexico through 24 commercial border-crossing facilities. More than 3 million of those trucks, or 68 percent, entered through Texas. In addition, 90 million personal vehicles from Mexico also travel through the southwest border States.

The donor States are the fastest growing States in America and are most responsible for the growth in the highway trust fund. Ironically, the formula in this bill offers the least relief to the States where cities are developing most rapidly.

In 1998, Texas accounted for 7 percent of the highway trust fund receipts. In 2004, it rose to 9 percent, and during this bill, it may top 10 percent. In other words, we are paying a larger and larger share.

The formula in the bill reported out of committee created a floor guaranteeing every State at least 110 percent of the total cash it received under TEA–21. To limit costs, no State may receive more than a certain percentage, 130 percent in year 1, of the TEA–21.

So even if a State's contribution to the trust fund grows in excess of 130 percent, it hits the ceiling and it hits pretty fast on growing States such as Texas, capping our funding.

Using cash as the measuring stick rather than the percentage a State contributes to the trust fund ignores whether a State is growing or shrinking, and it ignores whether it is giving more to the fund or less. This methodology hurts our growing States, and it helps the donee States which are contributing less to the trust fund.

For example, Pennsylvania's share of contributions during TEA–21 was 4.1 percent, but it is expected to contribute just 3.9 percent of the trust fund during SAFETEA. It does not make sense to guarantee an increase in cash when a State is contributing less.

The formula in the pending substitute is made worse. Not only does it increase spending for the bill by $11 billion, it increases the floor to 115 percent. So Pennsylvania is now guaranteed to receive 15 percent more cash than it received from Washington in 1998, even though it is contributing a smaller proportion of the trust fund. Superdonor States, such as Texas, move up to an average return of only 91.3 percent.

While this is an improvement, it is not enough. The committee tells me I should like this legislation because while total spending grows 30 percent, Texas will see a 37-percent dollar increase compared to 6 years ago. However, Texas's increase has little to do with the formula and instead is the result of Texas buying more gas and paying more taxes into the highway trust fund.

It is fair, if a State's contribution is growing faster than the average, that it should receive higher than the average in return. This bill does not give Texas the resources to adequately expand our infrastructure at the rate the traffic is growing on the NAFTA corridor of Mexico and around our fast-growing cities. If Texas received all of the money that we contribute to the fund, this disparity would be reduced.

I believe the ability to pay for highway project needs with their own contribution exists for most States, with very few exceptions, particularly in the West, and funding increases should be based on growth and need rather than tradition.

I am not suggesting that we cut off aid to other States altogether, but I do think we can reduce this disparity in the current donor-donee system. It has been too large for too long and unfairly limits the ability of States to benefit from their tax dollars.

We all want the Federal highway system to be good throughout our Nation, and that may require some donor status, but donating almost 10 cents of every dollar is not necessary, and it is not fair.

I recognize the needs of donee States vary widely, but we have never before created this special class of donor State to carry the heavier load, and I hope we will not do it when this bill is finished.

At a minimum, we should all receive at least 92 percent in year 1 rather than having to wait until the final year to get to that level.

I have worked with the chairman for a long time trying to come up with a formula that would help mitigate the border States' particular needs because we are border corridors and most of us are growing States. I have come up with a lot of alternatives. None of them have been acceptable to the chairman and the ranking member of the committee.

It is my hope that as this bill goes out of the Senate, which it will, we will be able to work in conference for some more fair allocation that is based on a State's needs, a State's taxing, and a State's efforts. It is only fair that the States that are growing, that are putting more money into the highway trust fund should get some bonus for doing that to help them with the needs they have.

I think we have gone in the wrong direction, and I certainly hope we will come much closer to a fair allocation. I am not saying there should be 100 percent, but 91.3 percent is a mighty price for Texans to pay when it is growing at such a fast rate and has the most highway miles of any State in our Nation.

I look forward to working with the chairman and the ranking member as this bill does sail out of here. I cannot possibly support it in this current configuration. I still hold out hope that if we can come up to the 92-cent level, we would be in a much better position to feel good about this legislation, helping all of our States instead of just the donee States. And I hope the door will still be open to helping all of the States feel good about this effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the senior Senator from Texas for her comments. I know the depth of her interest and the passion she has for doing everything she can for her State.

I have said several times on the floor of the Senate how difficult it is to come up with formula approaches. It is difficult. It is a tough thing to do. There are so many factors that go into it, such as the interstate lane miles, miles traveled, principal arteries, cost to repair and replace deficient highway bridges, weight nonattainment maintenance areas, low-population States, donor States, donee States, fast-growing States. Again, it would have been so much easier to do it the way it has been done before and the way we have done it, actually, in the other body just by making a political list, and when we get to the 60 votes saying: All right, that is it, the other 40 of you guys, it is your problem.

We try not to do that. There is not one State represented in this Senate that cannot complain about some parts of the formula. We have tried hard. When we passed the bill out of committee, starting in 2005 through 2009 in Texas, 90.5 percent was all the way to 2009, and then it was 92 percent. Now in 2006, 2007, 2008 at 91 percent and going to 92 percent.

Of course, the Senator is right that Texas is a very large State, so it represents very large amounts of money. But it is a half percent more in each of those 3 years of 2006, 2007, 2008. We have tried to do it. We tried to work with each one of the States.

As I say, I know her depth of interest. We spent many hours trying to work out variances.

The problem we always have is nothing happens in a vacuum. If we take care of a problem in Texas, then that aggravates a problem in Pennsylvania.

So formulas are tough. They are tough to deal with politically. They are tough to deal with rationally. I think we have tried to do the very best we can. With that, I am glad to yield the floor.

Mrs. HUTCHISON. Mr. President, if the Senator will yield, I do understand exactly what has happened to the bill. I do understand the difficulty. The Senator is responsible for getting the number of votes he has to have to get the bill out of the Senate, and my colleague has those votes.

I do hope, in conference, he will look at the border corridor issue which, when the bill came out of committee, was above the line, outside the formula, and did give some of the help to these fast-growing border States that have the NAFTA traffic coming in directly, which then fans out to the rest of the country where it is dissipated. I hope my colleague will take that into account.

I was the one who authored the border corridor idea. It really did help when it was, as we discussed, above the line. I just hope, as you do fix particular problems for other States—whether they be pass-through States or other types of designations—you will look at the border corridor issue, which would help both northern corridor States such as Michigan and southern border States such as California, Arizona, and Texas. It is still going to make us very big donor States, but it would mitigate it, to a great extent, because that is where our biggest problem is. We have three border corridors and two of them are clogged completely, all the way through Texas. That is not helpful to anyone.

I don't want to toll a highway that is already in place. We have spoken on that. But I think we need to try to look at that issue in conference—if you can do something that would mitigate that particular problem.

Mr. INHOFE. It is a very reasonable request the Senator from Texas is making. I observe we talked about this "above the line/below the line." We plowed this furrow several times. However, when you get in conference, there are things that can be done. I can assure the Senator the State of Texas will be well represented in conference. I am sure we will hear proposals, and there will be some give and take in all areas.

Of course, we will be dealing with another whole body over there, so it is hard to predict what will come out. But we will try to get to it expeditiously and see that Texas—as I say, they will be well represented. I think we all understand that.

We are now waiting. We are, as I said before, down to about seven amendments. There could be a germaneness problem with some of them. Some of them could be worked out. My guess is, other than the managers' amendment, which Senator JEFFORDS and I will be propounding, there are probably, realistically, maybe four votes that we will be having. That is my guess what it will be. We have announced already we are going to have one tonight at 5:30, which is just an hour and 6 minutes from now.

After that, we invite Senators to stay here and debate their amendments. I think we probably will not have votes until tomorrow morning. We can debate these amendments. I think by that time there may be as many as three or four amendments that would be appropriate for us to debate. Then we can get on to the final passage.

As it is right now, we have plenty of time tonight. We have another hour and 5 minutes before the vote. I am sure Senator JEFFORDS joins me in making this request: Members who are authors of these amendments, they know who they are, come down. We are open for business. Come down and debate your amendments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President I will briefly talk about a provision in the Commerce title of the highway bill. We have the Commerce title, Banking, Finance, and EPW title. Section 7370 creates a hazardous material cooperative research program. It authorizes $2 million a year for each year, including 2006 through 2009, for hazardous material transport research projects on topics that are "not adequately addressed by existing Federal private sector research programs."

The section goes on to require that at least one of the studies "provide an assessment of the need and feasibility of substituting less lethal substances than toxic inhalation hazards in the manufacturing process."

I oppose the provision and hope it can be removed in conference. I will be actively opposing it in conference to see it is removed. There is no such language in the House portion.

The concept at the heart of this provision is called inherently safer technology and it is not about transportation but a longstanding wish of some of the environmental extremist communities. The EPW has spent the last 4 years working on the issue of chemical security and this issue of FIST has arisen several times in the context of the security debate. The idea of inherently safer technology predates September 11. It was around long before the tragedy of September 11. It has never been about security. It has never been about transportation. It is a concept that dates back more than a decade when the extremist environmental community—Greenpeace and others—was seeking bans on chlorine, the chemical used to purify our Nation's water. After September 11 they decided to play upon the fears of the Nation and repackage FIST as a solution to potential security problems. Now they seek to repackage it again as a transportation issue, which it is not.

This issue is not about security. It is not about transportation. It is about trying to find a research justification for giving the Federal Government authority to mandate that a private company change its manufacturing process or the chemicals they use. The study's parameters reveal this intent when it states "substituting less lethal substances than toxic inhalation hazards in the manufacturing process."

There are entire books written about the subject of FIST by various groups, including current efforts by the Center for Chemical Process Safety and the American Institute of Chemical Engineers to update their 1996 "gold book" on the subject. These are chemical process experts. The Federal Government is not.

I do not believe mandatory FIST is good for our Nation's security. Besides that, it is not a transportation issue. If it is something you want to debate in the Senate as a freestanding bill, do it that way, but do not sneak around behind and throw little a part into this bill through the Commerce title that has nothing to do with transportation.

I mention this and anything else we find in the bill that perhaps we have overlooked that has nothing to do with transportation, we will make every effort to make sure it gets out when it is in conference.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I will speak on another subject, but as per an agreement with the Senator from Oklahoma, should someone else come to the Senate floor and wish to speak on the subject of the bill at hand, I will yield the floor.

NUCLEAR OPTION

Mr. SCHUMER. Mr. President, I will change the subject to the subject on everyone's mind other than the transportation bill, probably more on our minds than just about anything else, and that is the upcoming nuclear option. Right now, we are on the precipice of a constitutional crisis. We are about to step into the abyss. I want to talk for a few minutes why we are on that precipice and why we are looking into the abyss.

Let me first ask a fundamental question: What is the crisis that calls for the undoing of two centuries of tradition? What is the crisis that requires such an unprecedented parliamentary sleight of hand? What is the crisis that calls for a response that is so controversial and extreme that Senator LOTT coined the term "nuclear option" to describe it?

Is it that President Bush has had the terrible misfortune of having only 95 percent of his judicial nominees confirmed? That is, 208 out of 218? It can't be that. Every President should have the luck of George Bush and have so many nominees confirmed to the bench. I might also add, in part because of this high confirmation rate, court vacancies at the end of last session were at their lowest rate in 14 years. So it can't be either vacancies on the bench or overwhelming rejection of the President's nominees because neither is the fact.

Is it that the Constitution, as my strict constructionist friends across the aisle like to argue, requires an up-or-down vote on every judicial nominee? Is that the crisis? No, Senator FRIST acknowledged as much last week when he conceded, after a question from Senator BYRD, that there was no such language in the Constitution.

In fact, it is a great irony that those on the other side of the aisle who are seeking this nuclear option in the name of strict construction are being activists, as they call it, because they are expanding the Constitution, reading in their own views in the Constitution when the very words do not exist.

It is my understanding that is what the Constitution-in-exile school holds; that is, what the strict constructive school of Justice Scalia holds. If the words are not in the Constitution, you do not read them in.

Is the word "filibuster" in the Constitution? No. Are the words "majority vote," "up-or-down vote" in the Constitution? Absolutely not. That is not the crisis, either.

Let me ask again, Why are we on the brink of destroying what is good in the Senate and destroying whatever is left of good will in the Senate? Is it that the public, in high dudgeon, is demanding this radical rule change? Are Republican Senators merely doing their jobs as legislators, responding to a generalized public calling for the abolition of the filibuster? Clearly not.

It is not the American people at large who are demanding detonation of the nuclear option. Indeed, in poll after poll, first, people say they do not know what it is when asked, and then when it is described to them, the people have made clear they believe the filibuster is an important check and balance to be preserved, not vaporized. Most recently, for instance, according to a Time magazine poll, the American people are against the nuclear option 59 to 28.

Nor is it rank-and-file Republicans who are clamoring for an end to filibusters on judges. A Wall Street Journal poll showed 41 percent of Republicans support giving the Democrats the right to keep the filibuster going. They, like most Americans, are wondering, and rightly so, why we are talking more about the nuclear option in the Senate than about nuclear proliferation in North Korea.

Nor is it the business establishment—clearly, usually, a conservative constituency—that is calling for a change in the rules. To the contrary, the business community wants the Senate to get busy addressing important issues they believe will get the economy back on track. The Chamber of Commerce and many other business groups have either publicly or privately stated their opposition to invoking the nuclear option.

Is it the "gray heads" of the conservative movement who are calling for this? No. By and large, elder statesmen from the conservative movement are not demanding this radical move. Many, including such leading figures as George Will and Ken Starr, have criticized the nuclear option and urge restraint—so have Senators Armstrong and McClure, hardly beacons of a liberal influence in this country or in the Senate.

So if there is no constitutional requirement, and there is no vacancy disaster, and there is no public clamoring for the extinguishing of the minority rights to filibuster, why are we here? Why are we on the edge of the abyss? Why are we—at least the majority—being motivated to plunge this Senate, this city, and this country into a constitutional crisis, into an end of what is ever left of comity in the Senate, which is the body that has at least some comity left?

Well, let me tell you why I fear we are here. We are here, I fear, because the nuclear option is being pushed largely by the radioactive rhetoric of a small band of radicals who hold in their hands the political fortunes of the President and a minority of sitting Senators who would be President. The once conservative Republican Party has, I believe, been hijacked by activist, radical, rightwing ideologues who are exerting too much influence over Senators.

These ideologues have taken to intimidating and even threatening the independent judiciary. They have, among other things, compared judges to the KKK and claimed that the independent judiciary is worse than al Qaida. Unfortunately, these extreme groups are exerting disproportionate influence on certain Senators from the other side who—because of pure political pressure—are proceeding at pace with the nuclear option.

There is, to be sure, much irony and hypocrisy in this dance. It is particularly perverse that many of my colleagues purport to preserve the principle of majority rule by doing the bidding of a distinct, but politically powerful, minority.

Mr. VITTER. Will the Senator yield?

Mr. SCHUMER. I would like to finish my remarks, and then I would be happy to yield to my colleague.

Mr. VITTER. OK, but I say to the Senator, I understood you had been given the floor until someone came to the floor to speak on the highway bill. About how much longer?

Mr. SCHUMER. I probably will need no more than 5 minutes, if that is OK with my colleague.

Mr. VITTER. OK, that will be fine.

Mr. SCHUMER. I thank the Senator. I appreciate that very much.

It seems the only conservatives who are strongly in favor of the nuclear option—who are pushing it—are some Senators who might wish to run for President.

Now, to hear the tirades of those demanding the nuclear option is spine tingling.

Conservative activist James Dobson compared the nine Supreme Court Justices to the Ku Klux Klan's men in robes.

Pat Robertson said the threat posed by judges was "more serious than a few bearded terrorists who fly into buildings."

Conservative lawyer-author Edwin Vieira said Justice Kennedy should be impeached and invoked Joseph Stalin's murderous slogan, which he said worked very well for him:

> [W]henever he ran into difficulty: "no man, no problem."

Do we hear any denunciation of this inflammatory rhetoric? No. Denunciations of heinous characterizations of independent judges? No.

Instead, Senators—some maybe with Presidential ambitions—are kowtowing to these extremists. When the Democratic Party kowtowed to extremists on the left, we paid the price. It is a lesson I think we have learned. It is a lesson that ought to be learned by my colleagues on the other side.

Now, let's try to examine the record. And this is the No. 1 point I want to make. Look what conservatives are saying, conservatives not running for President or running for office, but people whose conservative credentials go unchallenged. These are not moderates. These are not liberals. They are true conservatives, and a chorus of their voices is speaking out against the nuclear option.

True conservatives, independent thinkers who are not under pressure from the likes of Tony Perkins and Pat Robertson and others, have eloquently made the case against the nuclear option. These conservatives have two things in common: They were strongly in favor of George Bush for President, and they are strongly against the nuclear option.

Here are some of the names. Many leading conservative commentators and thinkers are against it, such as George Will and Kenneth Starr. Many former Republican Senators are against it, such as Senator Armstrong, Senator McClure, Senator Wallop, Senator Simpson. Many editorial boards that endorsed George Bush for President are against it—the Dallas Morning News.

I recognize that in these polarized times maybe the words of a Democratic Senator from New York will have little sway across the aisle, but what about the words of some icons and leaders of the conservative movement?

I urge my colleagues who have not yet made up their minds and been committed to the nuclear option to heed these words. Most of those who have not made up their minds are far more moderate than the voices that we listed here, but they should be listened to in this instance. It is rare that you get so many conservatives—not in office, not under the thumb of these extreme, small-numbered groups—but rarely do you get such a chorus.

Here are the arguments of the conservatives. The conservatives understand that destroying an important tradition of the Senate is not conservative. Conservatism has a long tradition in American politics. I agree with some of its tenets and disagree with many others. But true advocates and students of that tradition recognize better than anyone the violence that the nuclear option does to conservative principles.

Ken Starr said in one leading magazine:

> It may prove to have the kind of long-term boomerang effect, damage on the institution of the Senate, that thoughtful Senators may come to regret.

How about former Senator Armstrong? He said this:

> Having served in the majority and in the minority, I know that it's worthwhile to have the minority empowered. As a conservative, I think there is value to having a constraint on the majority.

Let me repeat that: "As a conservative, I think there is value to having a constraint on the majority."

Jim McClure and Malcolm Wallop:

> It is disheartening to think that those entrusted with the Senate's history and future would consider damaging it in this manner.

Second, these conservatives realize that the Constitution, even in expansive reading, let alone strict constructionism, does not support the nuclear option.

In advocating for the nuclear option, Republicans in the Senate have abandoned conservative principles for convenient propaganda. In doing so, however, they are committing a level of intellectual hypocrisy that we have not seen since Bush v. Gore. To make sure that strict constructionist judges are placed on the bench, the nuclear advocates are reading the Constitution so broadly and elastically that it would make the most activist judge cringe. Do not take my word for it.

Mr. President, I know my colleague is getting ready to speak, and I am almost finished. I appreciate his indulgence.

Here is what George Will said:

> Some conservatives say the Constitution's framers "knew what supermajorities they wanted"—the Constitution requires various supermajorities, for ratifying treaties, impeachment convictions, etc.; therefore, other supermajority rules are unconstitutional.

These are the words of George Will, not CHUCK SCHUMER.

> But it stands conservatism on its head to argue that what the Constitution does not mandate is not permitted.
>
> Some conservatives say there is a "constitutional right" to have an up-or-down vote on nominees. But in whom does this right inhere: The nominees, the President? This is a perverse contention, coming from conservatives eager to confirm judges who will stop the promiscuous discovery by courts of spurious constitutional rights.

That is George Will, not CHUCK SCHUMER.

Here is what Stephen Moore, founder of the arch conservative Club for Growth says:

> Eviscerating the filibuster would violate the spirit of the Constitution and endanger our rights as individuals against excessive governmental power.

These conservatives also understand that no party lasts forever in the majority and the nuclear option may come back to haunt Republicans. For short-term political gain, Republican Senators are willing to trash a tradition that will hurt themselves in the long run.

Former Senator Simpson recognizes this:

> [T]here isn't a question in my mind that when the Republicans go out of power and they, they're looking for protection of minority rights, they're going to be alarmed and saddened.

Finally, the conservatives also understand that once triggered, there will be no stopping the continued erosion of the filibuster. The legislative filibuster is also at great risk. Listen to former Senators McClure and Wallop:

> It is naive to think what is done to the judicial filibuster will not be done to its legislative counterpart, whether by a majority leader named Reid, or Clinton, or Kennedy.

Here is David Hoppe, former chief of staff to Senator LOTT:

> That's the problem with the nuclear option, because it will not stop there. The next step when somebody needs it will be to get rid of the filibuster on legislative issues.

In conclusion, we are here. We are at a defining moment in the world's greatest deliberative body. Now, this week, in the next few weeks, will enough of my colleagues across the aisle act with courage and conviction? Will enough of them resist the extremist entreaties of a tiny but vocal minority who only want their way 100 percent of the time, not 99, not 98, not 97? Will enough of them pay heed to the arguments made by independent conservatives of their own party, whether it is George Will or Bill Armstrong or Ken Starr or so many of the others I mentioned?

Time is running out. Time is running out.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, now that time has run out, I am excited to be here to talk about the highway bill, important work of the American people that we must get done this week. I am here to stand in strong support of H.R. 3, the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005.

Last year, I traveled Louisiana extensively, campaigning all around the State. I heard concerns expressed in every part of the State about the importance of making sure that we in Louisiana get our fair share of Federal highway funding. In the past, Louisiana was a donor State, which means our State's taxpayers contributed more in gas tax revenue than they got back from the Treasury in highway moneys. As one of the newest members of the

Environment and Public Works Committee, I worked hard this year to ensure that we try to change this unfair state of affairs. So Louisiana's rate of return will substantially increase under the bill before us from about 90.5 cents for every dollar that we send in Louisiana taxpayer money to the Federal Government to 95 cents on the dollar. That is a huge jump. It is still not a dollar—we need to go further—but it is a dramatic improvement.

This increase will provide my State with $2.9 billion over the next 5 years, funding that is critical to ensure that work continues on one of my State's major corridors, I-49, as well as many other Louisiana highway projects.

Providing additional funding for I-49 has been a goal of mine since my days in the House of Representatives. Upon assuming my seat in the Senate this January, I have continued to fight for those additional I-49 dollars. That is why I initiated a letter in February to Chairman INHOFE and Ranking Member JEFFORDS calling for them to support a significant level of funding for the corridor improvement program in the highway reauthorization bill. That letter was cosigned by five colleagues.

As a member of the committee that produced that bill, I am also pleased that we were able to agree on language that would redress a serious transportation and safety issue for my State. You see, Louisiana is the 22nd most populous State, yet it ranks third in the Nation in the number of collisions at highway-railroad crossings and fifth in the Nation in the number of railroad fatalities.

Along the 3,000 miles of tracks in Louisiana are over 6,000 rail crossings, more than any other State except Illinois. So the bill we crafted would provide $178 million for the elimination of hazards and the installation of protective devices at railroad highway crossings.

I wanted to take this opportunity to thank my colleagues, in particular those on the Environment and Public Works Committee, for agreeing to the inclusion in the highway bill of three significant amendments that I offered. I thank Chairman INHOFE for his work on behalf of these amendments.

One of the amendments would ensure that emergency evacuation routes are emphasized as a program priority under the Multistate Corridor Program. The second amendment I authored would channel additional dollars to hurricane evacuation routes under the Federal Infrastructure Performance and Maintenance Program. And the third will help local officials complete much faster, and at much lower cost locally, a highway project connecting the parishes of Houma and Thibodaux, LA. The inclusion of these amendments in the managers' amendment will greatly benefit Louisiana and other coastal States across the country that experience frequent hurricanes.

As noted in the Times Picayune and other Louisiana newspapers, the 2004 evacuation of Louisiana due to Hurricane Ivan was disturbingly slow and marked by traffic gridlock. Traffic was backed up for 26 hours in Baton Rouge and 14 hours in New Orleans, while nearly 4,500 cars per hour were crossing the Mississippi River on I-10 at the peak of evacuation. Two of my amendments will provide additional funding for evacuation routes such as I-49, La. 1, and La. 3127 during hurricanes or other emergencies. Providing Federal resources to upgrade and maintain evacuation routes throughout the State will certainly help avoid the astounding gridlock and danger that occurred during the evacuation of Hurricane Ivan.

The third amendment I offered will expand the scope of an existing Federal highway project without increasing the cost-share burden on the local community and State. Without my amendment, the areas of Houma and Thibodaux, LA, would have had to come up with as much as $5 million more money. This transportation project will establish a new north-south evacuation route that is vitally important to residents of Houma and Thibodaux and all of those areas in southeast Louisiana.

I thank, again, the full EPW Committee, the chairman, Mr. INHOFE, the ranking member, Mr. JEFFORDS, the subcommittee chairman and the subcommittee ranking member and all of the staff who have assisted on this bill, particularly Andrew Wheeler and Ruth Van Mark. I call on my colleagues to support the chairman and ranking member in their efforts to shepherd this bill through the Senate and through important conference committee negotiations.

Congress has been extending funding for Federal aid to highway programs six times. The current extension is set to expire on May 31 this year, a little over 2 weeks away. We need to pass this bill. Then we need to quickly go to conference with the House and resolve our differences with the other Chamber before that important May 31 deadline.

That is when the current extension expires and funding for Federal aid to highway programs will run out. I know that is a tall order, but all of our States' transportation needs, our Nation's transportation needs cannot wait any longer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, the Senator from Louisiana is being modest because he has had a great deal of influence on the amendments. A critical problem in Louisiana is beach erosion. He has persuaded our committee, in an articulate way, to become much more aggressive in solving that problem. We are a much better committee because of him. I thank him for his hard work on the committee.

It is my understanding the senior Senator from Massachusetts wishes to speak.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

JUDICIAL NOMINATIONS

Mr. KENNEDY. Mr. President, first, I commend my friend and colleague from New York, Senator SCHUMER. I was listening to him when he mentioned some of our former colleagues, all with whom I have served. He mentioned Senator Armstrong, and he also mentioned Senator McClure, and Senator Simpson, who was a good friend. I served with him on the Judiciary Committee. He mentioned Senator Durenberger. An excellent article was written by Senator Mathias last week. He mentioned Senator Wallop, and the list goes on. They are seven or eight members of the Senate who served in recent times and have a very good sense of the institution's importance, the importance of the powers of this institution and the relationship to the executive. They have a very keen awareness of the advice and consent role and understand this is a balance that both have responsibilities to fulfill. I think very deeply that Members of the Senate who have strong views on these nominees should not be muzzled, silenced, and they should not be gagged.

The point I might have missed from my friend from New York is the restatement that 96 percent of this President's nominees have been approved. That is always something that causes constant amazement, I find, from people who call my office in Massachusetts inquiring about my position. They find out that 96 percent of the President's nominees have been approved and they wonder what this battle is all about. Then when you tell them this was not a battle the Members of the Senate were interested in, that it was as a result of the President sending back to the Senate those who have previously been rejected and indicated that they were going to add other individuals as well, such as the current general counsel of the Defense Department, Mr. Haynes, who was the architect of the whole torture and emasculation of the Geneva Conventions—these are individuals who are far outside of the mainstream of judicial thinking. I have had the chance to address many of these issues in the markups of the Judiciary Committee in recent times, particularly with regard to Mr. PRYOR, who is from the State of Alabama.

I took great pride in working with my colleague and friend from Iowa on the Americans with Disabilities Act. We spent a good deal of time negotiating that legislation. We had strong, bipartisan support at the very end. And then to read Bill Pryor's assessment of what that act said and his interpretation of it is completely antithetical to what the legislation was about, the language that was clear and explicit, and what the sense of the intent and the supporters of that legislation were about. The list goes on. So we welcome this debate.

I agree with the Senator from New York that this is a monumental decision. We are talking about changing the rules of the game in the middle of the game. Americans may not understand completely all of the parliamentary maneuvers here that are available in the Senate, but they understand when you have an agreed set of rules, you don't change them in the middle of the game, and I think they also understand that when Members have strong views and believe nominees who are going to have lifetime appointments to the Supreme Court—not 3½ years, such as this President has in the remainder of his term, but a lifetime commitment—those who have strong views ought to be able to speak to those views and have a right to be heard.

AMENDMENT NO. 674

Mr. KENNEDY. Mr. President, on another matter, I rise in strong support of Senator SCHUMER's amendment to raise the amount employers can give workers tax free for mass transit commuter costs from the current $105 a month to $200 a month.

In the face of high fuel costs and constant urban congestion, more commuters using mass transit makes increasingly good sense, and the tax benefit is an effective way to encourage it.

The current benefit of $105 a month is too low to cover most mass transit costs in major metropolitan areas, and it is counter-productive that current law provides a benefit almost twice that size for parking—$200 a month.

I have here a diagram that indicates the commuter fees for the different parts coming into Boston. Even from this distance, you can look at them. For Fitchburg, $198; $181 for Lowell; $191 for Gloucester; and the list goes on. From the South Shore, $198; from Stoughton, $149; and $198 from Worcester.

This amendment is good transportation policy and good environmental policy too. It is an energy policy that makes sense as workers see more and more of their paychecks go up in smoke at the gas pump. It is an energy policy that I hope we can all support.

In Massachusetts, the change will help nearly 200,000 commuters who purchase monthly T-passes to commute by bus, subway or commuter rail to work.

By increasing the commuter tax break to parity with the parking benefit—$200 a month—the amendment will cover the cost of every monthly T-pass sold in Massachusetts.

The highest monthly T-pass cost from Worcester, Middleborough/Lakeville or Fitchburg is $198, and would be covered in full, as would fares from Gloucester and Haverhill.

Commuters could have the full $181 cost of commuting from Lawrence or Lowell covered or the $149 cost from Brockton.

By raising the cap to $200, the amendment will also encourage more new employers to participate in the program. They will be able to give an affordable benefit of much greater value to their employees.

And as more employers come into the program, we can cut down on gridlock in Boston and other urban areas across the country.

In Boston, gridlock cost the average commuter 51 extra hours a year. Congestion nationwide costs $63 billion a year in wasted productivity and energy.

The amendment means more moms and dads will have more time to spend with their children, instead of being stuck in traffic. And more employees will get to work on time, meaning higher productivity.

We cannot afford to waste fuel like this anymore. Our dependence on foreign oil is a national crisis. The amendment will help save some of the 2.3 billion gallons of gas a year now being lost to unnecessary congestion. This amendment will mean clearer air in our cities and less wear and tear on our roads.

In so many ways, this is a smart amendment and a fair amendment, and I urge our colleagues to support it.

I yield the floor.

Mr. INHOFE. Mr. President, I would like to give a progress report. We are down to four or five amendments now. Many of them have been agreed to or have been withdrawn. We don't have anyone at this moment who is going to ask for a vote tonight. We had previously scheduled a vote at 5:30. We did not anticipate at that time that we would be getting the cooperation we are getting from the Members who have worked things out. So I announce on behalf of the leadership that we will not be having the vote at 5:30 tonight.

Let me make a couple of comments. I know anxieties are high concerning the so-called nuclear option, or what we call the constitutional option. I hesitate to take up time. If anybody comes to talk about the highway bill, we will stop and talk about the highway bill.

If you stop and realize what we really want, what we have been asking for is a vote. People are entitled to have a vote on the floor of this Senate. They are nominees. You may not like the nominees of the President for the circuit court positions, but certainly these people at least deserve an up-or-down vote.

It is kind of interesting to see how the minority has changed its mind from just a short period ago.

Senator BIDEN on March 19, 1997, said:

> But I also respectfully suggest that everyone who is nominated ought to have a shot, to have a hearing and to have a shot to be heard on the floor and have a vote on the floor . . . It is totally appropriate for Republicans to reject every single nominee if they want to. That is within their right. But it is not, I will respectfully request, Madam President, appropriate not to have hearings on them, not to bring them to the floor and not to allow a vote . . .

Senator BOXER on May 14, 1997, said:

> According to the U.S. Constitution, the President nominates, and the Senate shall provide advice and consent. It is not the role of the Senate to obstruct the process and prevent numbers of highly qualified nominees from even being given the opportunity for a vote on the Senate floor.

Senator DASCHLE on October 5, 1999, said:

> I find it simply baffling that a Senator would vote against even voting on a judicial nomination . . . We have a constitutional outlet for antipathy against a judicial nominee—a vote against that nominee.

Senator DURBIN on September 28, 1998, said:

> I think that responsibility requires us to act in a timely fashion on nominees sent before us. The reason I oppose cloture is I would like to see that the Senate shall also be held to the responsibility of acting in a timely fashion. If, after 150 days languishing in a committee there is no report on an individual, the name should come to the floor. If, after 150 days languishing on the Executive Calendar that name has not been called for a vote, it should be. Vote the person up or down. They are qualified or they are not.

Senator FEINSTEIN on September 16, 1999, said:

> A nominee is entitled to a vote. Vote them up; vote them down . . . What this does to a [nominee's] life is, it leaves them in limbo . . . It is our job to confirm these judges. If we don't like them, we can vote against them. That is the honest thing to do. If there are things in their background, in their abilities that don't pass muster, vote no.

On October 4, 1999, she said:

> Our institutional integrity requires an up-or-down vote.

And on May 19, 1997, Senator FEINSTEIN said:

> Mr. President, the time has come to act on these nominations. I'm not asking for a rubber stamp; let's hold hearings on those nominees who haven't had them, and vote on all of them, up or down, yes or no.

Senator KENNEDY on January 28, 1998, said:

> The Constitution is clear that only individuals acceptable to both the President and the Senate should be confirmed. The President and the Senate do not always agree. But we should resolve these disagreements by voting on these nominees—yes or no.

And on February 3, 1998:

> We owe it to Americans across the country to give these nominees a vote. If our Republican colleagues don't like them, vote against them. But give them a vote.

Senator KOHL on August 21, 1999, said:

> [T]here are many other deserving nominees out there. Let's not play favorites. These

nominees, who have to put their lives on hold waiting for us to act, deserve an 'up or down' vote.

Senator LAUTENBERG on June 21, 1995, said:

Talking about the fairness of the system and how it is equitable for a minority to restrict the majority view, why can we not have a straight up-or-down vote on this without threats of filibuster? When it was Robert Bork or John Tower or Clarence Thomas, even though there was strong opposition, many Senators opposed them. The fact is that the votes were held here, up or down.

Senator LEAHY on June 21, 1995, said:

When President Bush nominated Clarence Thomas to the U.S. Supreme Court, I was the first member of the Senate to declare my opposition to his nomination. I did not believe that Clarence Thomas was qualified to serve on the Court. Even with strong reservations, I felt that Judge Thomas deserved an up-or-down vote.

On October 14, 1997:

I cannot recall a judicial nomination being successfully filibustered. I do recall earlier this year when the Republican Chairman of the Judiciary Committee and I noted how improper it would be to filibuster a judicial nomination.

October 22, 1997:

I hope we might reach a point where we as a Senate will accept our responsibility and vote people up or vote them down. Bring the names here. If we want to vote against them, vote against them.

June 18, 1998:

If we want to vote against somebody, vote against them. I respect that. State your reasons. I respect that. But don't hold up a qualified judicial nominee . . . I have stated over and over again on this floor . . . that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported; that I felt the Senate should do its duty. If we don't like somebody the President nominates, vote him or her down.

September 16, 1999:

I . . . do not want to see the Senate go down a path where a minority of the Senate is determining a judge's fate on votes of 41 . . . [D]uring the Republican administrations I rarely ever voted against a nomination by either President Reagan or President Bush. There were a couple I did. I also took the floor on occasion filibusters to hold them up and believe that we should have a vote up or down.

Again on September 16, 1999:

I do not want to get having to invoke cloture on judicial nominations. I think it is a bad precedent.

October 1, 1999:

Nominees deserve to be treated with dignity and dispatch, not delayed for 2 and 3 years. We are talking about people going to the Federal judiciary, a third independent branch of Government. They are entitled to dignity and respect. They are not entitled atomically for us to vote aye, but they are entitled to a vote, aye or nay.

October 3, 1999:

When we hold a nominee up by not allowing them a vote and not taking any action one way or the other, we are . . . doing a terrible disservice to the man or woman to whom we do this.

March 7, 2000:

The Chief Justice of the United States Supreme Court said: "The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down." Which is exactly what I would like.

October 11, 2000:

I have said on the floor, although we are different parties, I have agreed with Gov. George Bush, who has said that in the Senate a nominee ought to get a [floor] vote, up or down, within 60 days.

Senator LEVIN on June 21, 1995, said:

The President is entitled to his nominee, if a majority of the Senate consent.

Senator LINCOLN at a press conference on September 14, 2000, said:

If we want people to respect their government again, then government must act respectably. It's my hope that we'll take the necessary steps to give these men and these women especially the up or down vote that they deserve.

Senator REID on March 7, 2000, said:

Once they get out of committee, let's bring them here and vote up or down on them. . . . I think anybody who has to wait 4 years deserves an up-or-down vote.

. . . If there is a Senator who believes there is a problem with any judge, whether it is the one we are going to vote on at 5 o'clock or the two we are going to vote on tomorrow, or Thursday, they have every right to come to talk at whatever length they want. But with Judge Paez, it has been 4 years. There has been ample opportunity to talk about this man. He has bipartisan support.

On June 9, 2001, in an interview on Evans, Novak, Hunt, and Shields said:

[W]e should have up or down votes in the committee and on the floor.

Senator SCHUMER on March 7, 2000, said:

The basic issue of holding up judgeships is the issue before us, not the qualifications of judges, which we can always debate. The problem is it takes so long for us to debate those qualifications. It is an example of Government not fulfilling its constitutional mandate because the President nominates, and we are charged with voting on the nominees.

. . . I also plead with my colleagues to move judges with alacrity—vote them up or down. But this delay makes a mockery of the Constitution, makes a mockery of the fact that we are here working, and makes a mockery of the lives of very sincere people who have put themselves forward to be judges and then they hang out there in limbo.

These are people who are now saying they do not want to have a vote on these nominees. We have nominees who have been waiting not for weeks or months but for years. I believe some of these Senators who before had a philosophy that everyone is entitled to a vote ought to turn around and give the current nominees a vote. I have a great deal of respect for these people, except I would like to have them express some level of consistency.

The issue has become a bit clouded and confusing. When one talks about the various polls, I suggest that one can word a question to get almost any kind of answer one wants. When it gets down to the facts, the Constitution says the President nominates and the Senate is either to confirm or not confirm. It does not say anything about a mandatory supermajority. It just says confirmed. That is a simple majority, Mr. President.

Again, I invite Members to come to the Chamber. We are going to keep the floor open. There will not be any votes tonight on the amendments. We are down to about four amendments, although they should be debated tonight if at all possible. We need to get the debates behind us so we will be prepared to vote tomorrow morning.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INACCURATE PRESS REPORTS

Mr. INHOFE. Mr. President, while we are waiting for Members to come down to the Senate floor to offer their amendments, to talk about their amendments, and be prepared for votes tomorrow morning, I will share with you that we have had a lot of erroneous reports concerning what is going on in Iraq and in other sensitive areas of the world. Quite frankly, I believe the greatest disservice that has been done to our troops in Iraq has been by the press, by the press not giving an accurate accounting as to what is really happening there.

I am a member of the Senate Armed Services Committee, and as such I have taken on the responsibility of spending time in Iraq, Afghanistan, Africa, and different places where terrorism may come due to the squeeze in the Middle East. But as far as Iraq is concerned, I will share a couple of experiences.

One was a couple days after the January 30 election. So many people in the media were trying to say the election is not going to come off on January 30, it is not going to happen; democracy is not going prevail there; they are not going to be able to make the deadlines; they are not going to be able to handle the elections and they are not capable of doing it on their own; they do not have the security because they would have to provide all the security for the elections. Yet a few days after that, you might remember, of the three elements over there, the Sunnis were the ones—not the Shiites or the Kurds—but the Sunnis were the ones wanting to obstruct the elections—the most anti-American of all the groups. Yet the day after the election, the two primary Sunni leaders stood and said publicly that they were surprised it went the way it did. They wanted to be in on this. They wanted to participate. We know subsequent to that they have.

I remember testimonials by different people who had participated in that election. One was a lady who said she could not read the ballot because of the tears in her eyes. She couldn't see the ballot.

Another person told me through a translator that she was in there to vote, and it occurred to her at the time they were voting that this was not just the first time in 35 years of a bloody regime of Saddam Hussein, but it was the first time in 7,000 years that they had an opportunity for self-determination.

It is a huge thing happening over there. Who would ever have dreamed at any time in the last 35 years that they would actually be participating in a free election?

Now we have seen what has happened since then. Sure, the terrorists over there who do not want this to happen are out there and they are killing as many of the Iraqis as possible to try to obstruct this new freedom that is coming their way.

The last time I was there, I decided it would be a good idea to spend time in the Sunni triangle. That is where most of the hostilities are. It was the Sunnis who were the ones holding out last, the ones who were supporting Saddam Hussein. I recall going to Falluja, just a matter of a few weeks ago, and in Falluja there was a general whose name was Mahdi. He was the general, the commanding officer of the brigade. He was the brigade commander for Saddam Hussein. He hated Americans and he had the background to demonstrate how deeply that hatred went, the murders and all these things going on.

Yet that general, after we moved the Marines into Falluja and they started going door to door, and they were embedded with the Iraqis, this general was so impressed with the Marines that he made a statement. When they rotated the Marines out and said the Marines were going to have to go into a rotation, they had become so close working and fighting together that when they all got together before the Marines left, he said they all cried. There was a general looking at me saying: We cried because we didn't want the Marines to leave. He renamed the security forces of Falluja the Iraqi Marines. He named them after us.

While we were there in Tikrit, the home of Saddam Hussein, there was an explosion. It was at a place they called a police station, but it was a training area where they were training Iraqis for the security forces. It killed 10 immediately and seriously injured 30 more so they could not be trained. The families of these 40 individuals who were either killed or were severely injured offered up another member of each of their families to substitute for the one who was killed or the one who was injured. It was the type of sacrifice you would never dream possible a few years before—a few days before, really.

I remember going all over the Sunni triangle in a Blackhawk helicopter, 100 feet off the ground. That is the only safe way to get there. There are terrorists who have SAMs, surface-to-air missiles, although some pretty crude.

Many American families who have sent care packages to the troops over there—candy, cookies, these different things—what they have done with these is repackage them and, as we were going over the Sunni triangle and looked down at these small villages, all the kids were out there and we threw them candy and things like that, and they were waving American flags and cheering. This is not the picture you get from the media.

I applaud the job our guys and gals have done over there, our troops. Of course, many have lost their lives, but people don't stop to realize how many more lives would have been lost if we had not been involved in that area, offering that kind of freedom.

Now we see a lot of terrorists are going into other areas. One of the good things I would announce that is going on right now is down in Africa we are now in the process of assisting Africans in forming five African brigades, and these African brigades, we will put them in a position to help them train themselves so when something like this erupts down there it will not be the Americans who have to do it.

I just wanted to take this time to applaud our troops for the great job they are doing. I really believe, as great a disservice as the press has provided, that the people of America know better. They are showing they do know better.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 761 TO AMENDMENT NO. 605

Mr. INHOFE. Mr. President, I ask unanimous consent that the pending amendment be laid aside for the consideration of the managers' amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

> The Senator from Oklahoma [Mr. INHOFE], for himself and Mr. JEFFORDS, proposes an amendment numbered 761.

Mr. INHOFE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of amendments.")

Mr. INHOFE. Mr. President, I ask for adoption of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 761) was agreed to.

Mr. INHOFE. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I ask unanimous consent that I be allowed to address the Senate as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO DETECTIVE DONALD YOUNG

Mr. SALAZAR. Mr. President, it is with tremendous sadness that I rise today to commemorate the life and work of Detective Donald "Donnie" Young of the Denver Police Department.

In the early morning hours of Sunday, May 8, Detective Young tragically lost his life while working off-duty as a security guard at a private party in Denver. Today, I join the people of Denver and my home State of Colorado in mourning the loss of a dedicated public servant, and a devoted husband and father.

Detective Young is remembered by his family, friends, and colleagues as a man who was always willing to help others in need, whether by hopping out of his truck on a broken foot to help a stranded driver out of a snowdrift, lightening the mood with his unique sense of humor, or working overtime to help protect women from the threat of domestic violence, Donnie never failed to embody the selflessness and compassion so common among his 850,000 brothers and sisters serving as law enforcement officers in this country today.

It will come as no surprise to those men and women and anyone familiar with their line of work that Donnie was also exceedingly modest; it is consequently left to the rest of us to give the many awards and honors he received over the course of his 12-year career in law enforcement the attention they deserve. In recognition of the bravery and dedication he displayed on countless occasions, Detective Young received three of the Denver Police Department's four most prestigious awards, including the medal of honor for his role in the 1994 rescue of two kidnapping victims.

Yesterday, more than 20,000 people gathered in our Nation's capital to formally honor and remember Detective Young and other law enforcement officers recently injured or slain in the line of duty. This day was marked in part by a Senate resolution I had the privilege of cosponsoring that recognizes May 15, 2005, as Peace Officers Memorial Day, in honor of Federal, State, and local officers killed or disabled while working to protect the public. Having served as Attorney General for the State of Colorado, I know firsthand the sacrifices our men and women in law enforcement make on a daily basis, and I am deeply proud to have had the honor of serving in the same family as Detective Young and others like him.

Today, I join my former brothers and sisters in the law enforcement community—in Colorado and across the Nation—in grieving the loss of a passionate and capable public servant, Detective Donald "Donnie" Young.

I thank the Chair. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 652

Mr. INHOFE. Mr. President, I ask for the regular order with respect to the Dorgan amendment, No. 652.

The PRESIDING OFFICER. The amendment is now pending.

Mr. INHOFE. Mr. President, I raise a point of order that the amendment is not germane.

The PRESIDING OFFICER. The point of order is well taken and the amendment falls.

AMENDMENTS NOS. 636 AND 674 WITHDRAWN

Mr. INHOFE. Mr. President, I ask unanimous consent the Ensign amendment No. 636 and the Schumer amendment No. 674 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I am very pleased to report that the Senate transportation bill not only continues but also greatly expands a program I authored in the TEA-21 law to promote smart growth initiatives. When TEA-21 became law in 1998, this pilot program was the first Federal program ever created to provide incentives to help States and local governments pursue smart growth policies.

The good news is that the Senate transportation bill recognizes the value of this groundbreaking program by providing a substantial funding increase.

The original smart growth pilot program I authored, the Transportation and Community and System Preservation Program, TCSP, provided $25 million per year to investigate and address the relationships between transportation projects, communities and the environment. Under the SAFETEA bill now before the Senate, funding for this program would nearly double to about $47 million per year.

The not so good news is that 7 years after Congress enacted the TCSP program it remains the only Federal program to provide incentives for smart growth. In the last 7 years, the problems of urban sprawl have only gotten worse. Clearly more needs to be done.

Sprawl development not only hurts our citizens where they live and breathe, it also hits them in their wallets. A number of studies have come out that show the costs of sprawling growth are significantly higher than more compact, managed growth patterns. These studies show that taxpayers can save billions of dollars in public facility construction and operation and maintenance costs by opting for growth management.

Because of the major impacts federally funded transportation projects can have, there is an appropriate role for the Federal Government in ensuring these projects and the development they spawn are both economically and environmentally sound.

That role should not be to embroil the Federal Government in land use decisions that have historically been State and local issues. We do not want Federal zoning.

Instead, the proper role for the Federal Government is to create incentives to encourage and build on the State and local efforts to address transportation and growth that are already underway. I am very pleased that the Senate SAFETEA bill extends and expands the TCSP program to help local communities grow in environmentally sustainable ways by creating incentives for smart growth management.

The additional funding for TCSP in the Senate transportation bill is a good start. But if we are going to improve both our Nation's infrastructure and our quality of life, we need to do more at the Federal level to provide incentives to support smart growth policies.

My home State of Oregon leads the Nation in developing innovative approaches to manage our growth and to tie transportation policies in to growth management. Our statewide land conservation and development program requires each municipality to establish an urban growth boundary to define both the areas where growth and development should occur and those areas that should be protected from development. This system keeps agricultural and forest lands in productive use and preserves "green corridors" for hiking, biking and other recreational uses that are located in or close to urban areas. Our transportation planning and construction efforts reinforce these policies by not only avoiding developing in environmentally sensitive areas but also by helping make the areas where we want development to occur more accessible.

Oregon recognizes that it is not enough to tell people where they can not build. For our system to work, we have to make it easier to develop the areas where we want growth to occur. And we do not just give lip service to this principle. We actually put our money where our mouth is to make sure the development we want occurs.

These policies make the State of Oregon, Metro, the city of Portland, and other localities in our State ideal candidates to apply for funding under the Transportation and Community and System Preservation Program.

I greatly appreciate the support of Chairman INHOFE, Chairman BOND and Senators JEFFORDS and BAUCUS in working with me to increase funding substantially for this important program in the bill. Thanks to their efforts the bill now before the Senate will enable State and local smart growth policies to merge more smoothly with our transportation policies.

As Congress considers other Federal infrastructure programs, I will be looking for ways to build on the success of TCSP. The TCSP model can also be adapted for water, sewer and other federally funded infrastructure to help save taxpayers money and support State and local governments smart growth efforts. By following that approach, Congress can provide our citizens with both better infrastructure and better quality of life.

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RECOGNITION OF COL KENT MURPHY

• Mr. ALLARD. Mr. President, I would like to bring to the Senate's attention the retirement of a distinguished member of our military, Col. Kent Murphy, who is retiring this year after a distinguished 25-year career in the Air Force.

Colonel Murphy started his career at the U.S. Air Force Academy, graduating in 1980. From there, he went on to the Uniformed Services University of the Health Sciences, USUHS, and became a doctor in the Air Force Medical Corps. Dr. Murphy served in varying assignments in the United States and overseas while in the Air Force. He has held surgical positions ranging from a F-16 flight surgeon to a staff surgeon in the Air Force Academy Hospital's Department of Otolaryngology, where he later became department head. He has been an adjunct assistant professor at USUHS and the senior otolaryngology malpractice consultant for the Office of the Air Force Surgeon General. Certainly, such a career serving his country as a doctor in the Air Force would be laudable in its own right, but Colonel Murphy went far beyond that.

In 1997, Colonel Murphy founded the Center of Excellence for Medical Multimedia at the U.S. Air Force Academy. There, Colonel Murphy pioneered the concept of information therapy throughout the Air Force Medical Service. He developed high-tech programs, using the Internet, video and CD/DVD ROM, that are the cornerstone of Air Force efforts to educate service members, dependents and retirees about important medical conditions such as pregnancy, hypertension and diabetes. Additionally, he served as the chairman of the Prorenata Health Media Foundation to help create access to these innovative programs for underserved populations across the Nation. In August of 2003, he was awarded the Frank Brown Berry Prize by US Medicine magazine—the highest honor in Federal Healthcare. Colonel Murphy is the only Air Force physician to have won this prestigious honor and the youngest recipient to date.

I am proud to call Colonel Murphy a friend and thank him today for his service to the Air Force and our country. I would be remiss however if I did not also thank his loyal wife Cindy. As anyone who has been around the military will attest, a good military spouse is vital to the success of the servicemember. As Colonel and Mrs. Murphy head out now into civilian practice, I know that they will continue to make lasting contributions to all Americans.•

THE RECOGNITION OF DETECTIVE DONALD R. "DONNIE" YOUNG

• Mr. ALLARD. Mr. President, I rise to honor all law enforcement officers who protect our families and communities against crime during National Police Week 2005. Also, I ask to pay special tribute to Detective Donald R. Young of Denver, CO, and others officers like him who have given their lives in service.

Communities readily rely on law enforcement officers to answer the call in times of great need. These men and women serve to enforce not only our laws, but to defend the weakest and most vulnerable among us. I think it is suitable that we salute and recognize these dedicated heroes with a National Police Week.

Detective Donald R. "Donnie" Young was shot and killed in Denver, CO, on May 8, 2005. He was working off duty at the time, providing security detail at a baptismal event. Detective Young was a 12-year veteran of the Denver Police Department. He leaves behind a wife and two young daughters.

Along with Detective Donald R. Young, I ask that we pay homage to all our fallen heroes. Law enforcement officers knowingly put themselves in harms way every day. It is important to take this time to remember their service. We must acknowledge their efforts as some of the bravest among us and share our gratitude for their sacrifice with their families.

I rise to humbly pay my respect to law enforcement officers everywhere and honor the legacy that fallen officers leave behind.•

RECOGNIZING KAHUKU HIGH SCHOOL "WE THE PEOPLE" TEAM

• Mr. AKAKA. Mr. President, it gives me great pleasure and pride to announce that students from Kahuku High School, on the Island of Oahu, honorably represented Hawaii at the national finals of "We the People: The Citizen and the Constitution." These Hawaii students joined more than 1,200 students from across the country to visit Washington, DC, and take part in national competition during the first week of May. These bright students showcased their exemplary knowledge of the U.S. Consitution, and did my State proud against competition from other States. I applaud the achievement of the Kahuku students for placing in the Top 10 of National Finalists out of the 51 schools participating.

The "We the People" program is administered by the Center for Civic Education and is an extensive educational program developed specifically to educate young people about the Constitution and Bill of Rights. The 3-day competition is modeled after hearings in the U.S. Congress and provides students with the opportunity to demonstrate their knowledge before a panel of adult judges while they evaluate, take, and defend positions on relevant historical and contemporary issues. Their testimony is followed by questions designed to probe the students' depth of understanding and ability to apply their constitutional knowledge.

I recognize the following 23 Kahuku students who proudly represented the State of Hawaii: Genevieve Allen, Yesenia Arevalo, Amanda Baize, Bonnie Cameron, Meri Ching, Dannah Christensen, Krystle Corpuz, Oliver Howells, Lorna Kekua, Jokke Kokkonen, Jacquelyn Lautaha, William Law, Catalina Markowitz, Ajri McArthur, Sara Mirels, Brad Rasmussen, Ashley Rillamas, Lizette Sauque, Noelle Spring, Shirly Tagayuna, Joseph Trisolini, and Morgan Wright. I especially thank their teacher, Ms. Sandra Cashman, for once again seizing this opportunity to educate students about the significance of the American institutions of constitutional democracy. The mere fact that Kahuku students competed here for 11 of the last 12 "We the People" competitions is a testament to Ms. Cashman's skills as a civics education teacher.

As a former Kahuku High School teacher, I take pride in these students who rose to the challenges presented in this competition, and gave impressive performances. I know that it is because of school and parental support, dedication, and commitment that these students were empowered and encouraged to excel in this arena. These students have no doubt made everyone in their school, their families, and their friends proud of what they achieved. We should all recognize that they are learning and advocating the fundamental ideas that identify us as a people and bind us together as a nation. The zeal and diligence these students showed in their understanding of Government ought to serve as a symbol for all citizens to pursue.•

EXCELLENCE IN NURSING

• Mr. AKAKA. Mr. President, today I celebrate the hard work and dedication of all nurses that serve the veterans of our great Nation. In particular, I congratulate the recipients of the Secretary's Award for Excellence in Nursing and Advancement of Nursing Programs. These recipients were nominated for dedication to their profession and for outstanding service to our veterans and to the Department of Veterans Affairs, VA. The honor bestowed on these individuals is greatly deserved.

The 2005 Nursing Award Recipients for Excellence in Nursing include: Marthe Moseley, Kim Pyatt, Ferris Jones, and John Cheng. The recipients of the 2005 Award for the Advancement of Nursing Programs are Timothy B. Williams and Rebecca Newson Williams. All these individuals have demonstrated high level of achievement and dedication through their service with VA.

Marthe Moseley, PhD, RN, CCRN, CCNS, is an award recipient from the South Texas Veterans Health Care System. Dr. Moseley coordinates and evaluates integrated programs that demonstrate clinical excellence in the field of orientation, competency development and implementation. She has been a key consultant to entities such as the National Dialysis Conference; Brook Army Medical Center; and Wilford Hall Medical Center, Air Force. Dr. Moseley has been a leader in improving the quality and effectiveness of care for critically ill patients.

Kim Pyatt, RN, BSN, of the Louis Stokes Cleveland VA Medical Center, has been an outstanding and positive nurse for the past 5 years. She served as a staff nurse and a night charge nurse in the Nursing Home Care Unit, NHCU, before being selected as the Geriatrics and Extended Care Wound coordinator in 2002. Ms. Pyatt has a great passion for veterans and for providing excellent nursing care in the NHCU.

Ferris Jones, LPN, works in the Puget Sound Health Care System with the Mental Health Service in the Homeless Care Line, Domiciliary Care Program, and also through a residential program that treats veterans for post traumatic sress disorder. His strong medical background, training in the U.S. Army, and experience in mental health have worked together to set a standard of excellence. He has contributed to quality of care through evaluations of procedures for the Domiciliary Care Program and the development of an educational orientation video for those newly admitted to the program.

John Cheng, from the Northport VA Medical Center, has been a nursing assistant in Extended Care since 1998. Mr. Cheng as continued to provide top quality, as well as encouragement, to his veteran patients. Mr. Cheng recently spent a great deal of time with a young traumatic brain injury patient who had been admitted to the NCHU. During this time, Mr. Cheng demonstrated compassion and selfless dedication to treating patients. He did the little things that are necessary during a time of extended treatment, such as developing a relationship with this young patient. Mr. Cheng is also dedicated to professional growth. He is the only employee to graduate from the VA-sponsored Licensed Practical Nurse, LPN, program and is now working on achieving his registered nurse degree.

Timothy B. Williams is the director of the VA Puget Sound Health Care System. Mr. Williams has worked closely with nursing and physician leadership to implement innovative strategies to optimally deliver patient care, in spite of limited resources. He has continuously sought opportunities to ensure nurse support and to encourage professional development of nursing at all levels. Mr. Williams has also been an effective supporter of VA efforts to recruit and retain nursing staff.

Rebecca Newsom Williams, RN, MPH, is the associate director for Patient/Nursing Services for the VA Eastern Colorado Health Care System. In her role, Ms. Williams directs the integration of all nursing related activities throughout the VA Eastern Colorado Health Care System, in collaboration with the executive leadership team. Ms. Williams has demonstrated excellence in her leadership by recognizing the need for combined research and clinical practices.

As you can see, these phenomenal nurses deserve to be applauded for their accomplishments. Through their commitment and compassion to our Nation's heroes, they themselves also become heroes to our veterans.

As ranking member of the Committee on Veterans' Affairs, I again congratulate these distinguished award recipients. They demonstrate the need and importance of excellence at every level of care giving, for every patient. In this time of critical need for nurses, it is imperative that we thank these nurses who have chosen to serve in the VA health care system for their diligence and dedication.•

HIGH TECHNOLOGY ENTREPRENEURSHIP HONORED

• Mr. CRAPO. Mr. President, Idaho's small businesses make up over 95 percent of total businesses in the State. New companies launch their products and services every day. These businesses are the lifeblood of Idaho's economy and their existence indicates the overwhelming entrepreneurship that abides in our communities large and small. A unique public-private partnership between the Idaho National Lab, Boise State University, and the Idaho Department of Commerce and Labor is helping these vital organs of Idaho's economy grow and function to their best potential. The Small Business Administration recently recognized this effort, giving Idaho TechConnect a national "Best Practices" award at an economic development conference here in Washington.

Idaho TechConnect has been instrumental in providing small high tech business entrepreneurs with development assistance, and facilities and services to assess the progress and direction of their business expansion. The partnerships with industry and higher education provide these ventures with inspiration, innovation, outside experience and consultation from those in academia as well as the established and thriving high tech industry in Idaho.

Sharing resources, whether intellectual or tangible, provides outcomes that are productive and long lasting. The people and organizations involved with Idaho TechConnect are to be commended on their commitment to our State's economy and by extension, communities and families. This tremendous honor by SBA is most certainly well deserved.•

LARAMIE HIGH SCHOOL AND THE CAPITOL HILL CHALLENGE

• Mr. ENZI. Mr. President, I rise today to recognize the efforts of Natasha Olsonawski, a teacher at Laramie High School in Laramie, WY, along with Traci Gardner and Cassandra Shotkoski, both Laramie High School seniors graduating this month. All three participated in the Capitol Hill Challenge, a nationwide stock market game to test participants' knowledge of our financial markets and ability to save and invest wisely. I am proud to say that the team from Laramie High School finished seventh in this national competition, and first among Western states.

Under the direction of Mrs. Olsonawski, Traci and Cassandra studied financial statements and newspaper articles to create a winning investment strategy. More importantly, they gained valuable experience about personal finance that will be useful throughout their lives. As an accountant, I understand the importance of knowing how to balance a checkbook, establish a good credit record, and achieve a secure financial future. It is encouraging to know that our nation's young people are learning these skills too, and using them in their daily lives.

I congratulate the team from Laramie for their hard work. I also wish Traci and Cassandra good luck in their future endeavors.•

IN RECOGNITION OF SOUTH LAUREL BOYS BASKETBALL TEAM

• Mr. BUNNING. Mr. President, today I honor the Laurel High School's Boys Basketball Team for winning the Kentucky High School Athletic Association State Championship on March 19, 2005. As you may know, winning a State high school championship is no small feat. A great number of teams have to be defeated before any team even gets into the playoff. Once in the playoff that team is able to prove decisively whether or not they are the champions.

I am proud to say that South Laurel High School's Boys Basketball Team proved themselves the champions. This accomplishment took hard work, focus, patience, and team spirit. It is important that all our young people learn these qualities. And I would like to point out that in winning the State championship, they have not only attained a trophy, but more importantly, they have developed characteristics that will always be of help to them later on.

Winning a State championship is a great athletic achievement. I want the boys of this team to be proud of themselves, as I am proud of them. They have done well. I extend my heartfelt congratulations to the Boys Basketball Team of South Laurel High School, and I encourage them to keep up the good work.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and two treaties which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 3:32 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to 22 U.S.C. 6913, and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the Congressional-Executive Commission on the People's Republic of China: Mr. LEACH of Iowa, Co-Chairman, Mr. DREIER of California, Mr. WOLF of Virginia, Mr. PITTS of Pennsylvania, and Mr. ADERHOLT of Alabama.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2142. A communication from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Notification of Registered Vessels of Their Assignments for the A Season Atka Mackerel Fishery in Harvest Limit Area (HLA) 542 and/or 543 of the Aleutian Islands Subarea of the Bering Sea and Aleutian Islands Management Area (BSAI)" received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2143. A communication from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closure of Directed Fishing for Atka Mackerel with Gears Other than Jig in the Eastern Aleutian District (Area 541) and the Bering Sea Subarea of the BSAI Management Area and Announcement of the Opening and Closure Dates of the First and Second Directed Fisheries Within the Harvest Limit Area in Statistical Areas 542 and 543" received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2144. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closure of Commercial Run-Around Gillnet Fishery for Gulf Group King Mackerel in the Southern Florida West Coast Subzone" received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2145. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Inseason Adjustments; Corrections" received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2146. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closing Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska" received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2147. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Prohibiting Directed Fishing for Pacific Cod by Catcher/Processor Vessels Using Pot Gear in the Bering Sea and Aleutian Islands Management Area" received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2148. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Reallocation of Pacific Cod from Vessels Using Jig Gear to Catcher Vessels Less than 60 Feet (18.3 meters) Length Overall Using Pot or Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area" received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2149. A communication from the Attorney Advisor, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Secretary, received on May 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2150. A communication from the Attorney Advisor, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary for Budget and Programs, received on May 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2151. A communication from the Chairman, Surface Transportation Board, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "STB Ex Parte No. 542 (Sub-No. 12) Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2005 Update" (STB Ex Parte No. 542 (Sub-No. 12)) received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2152. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Revised Contact Information, Nomenclature Change and Correction of Citation Error" (RIN0694–AD48) received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2153. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Expansion of the Country Scope of the License Requirements that Apply to Chemical/Biological (CB) Equipment and Related Technology; Amendments to CB-Related End-User/End-Use and U.S. Person Controls" (RIN0694–AD37) received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2154. A communication from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Notice of Federal Trade Commission Publication Incorporating Model Forms and Procedures for Identity Theft Victims" (RIN3084–AA94) received on May 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2155. A communication from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Rules Implementing the CAN–SPAM Act of 2003" (RIN3084–AA96) received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2156. A communication from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Part 305—Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ('Appliance Labeling Rule') (Clothes Washer Ranges)" (RIN3084–AA74) received on May 4, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2157. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Washington, KS" ((RIN2120–AA66) (2005–0096)) received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2158. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Harper, KS" ((RIN2120–AA66) (2005–0095)) received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2159. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Harrisburg, PA" ((RIN2120–AA66) (2005–0098)) received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2160. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Harrisburg, PA" ((RIN2120–AA66) (2005–0097)) received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2161. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Burns, OR" ((RIN2120–AA66) (2005–0094)) received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2162. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Blanding, UT" ((RIN2120–AA66) (2005–0093)) received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2163. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–200F and 200C Series Airplanes" ((RIN2120–AA64) (2005–0206)) received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2164. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL–600–2B19 Airplanes" ((RIN2120–AA64) (2005–0205)) received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2165. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "IFR Altitudes; Miscellaneous Amendments (14); Amdt. No. 454" ((RIN2120–AA63) (2005–0003)) received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2166. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (83); Amdt. No. 3180" ((RIN2120–AA65) (2005–0012)) received on May 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2167. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations; Elizabeth River-Eastern Branch, Norfolk, VA [CGD05–04–209]" (RIN1625–AA09) received on May 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2168. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, Virginia [CGD05–05–031]" (RIN1625–AA09) received on May 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2169. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulation for Marine Events; Severn River, College Creek, Weems Creek and Carr Creek, Annapolis, MD [CGD05–05–023]" (RIN1625–AA08) received on May 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2170. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulation; National Maritime Week Tugboat Races, Seattle, WA [CGD13–05–004]" (RIN1625–AA08) received on May 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2171. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; Chicago Sanitary and Ship Canal, Chicago, IL [CGD09–05–009]" (RIN1625–AA00) received on May 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2172. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Security Zones (including 4 regulations): [COTP Mobile–05–007], [COTP Mobile–04–057], [COPT San Juan–05–002], [CGD13–05–013]" (RIN1625–AA87) received on May 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2173. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to the Development Fund for Iraq that was declared in Executive Order 13303; to the Committee on Banking, Housing, and Urban Affairs.

EC–2174. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to the Republic of Korea; to the Committee on Banking, Housing, and Urban Affairs.

EC–2175. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, the Commission's annual report for fiscal year 2004; to the Committee on Energy and Natural Resources.

EC–2176. A communication from the Assistant Secretary, Land and Minerals Management, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Pennsylvania Regulatory Program" (PA–124–FOR) received on May 11, 2005; to the Committee on Energy and Natural Resources.

EC–2177. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to U.S. military personnel and U.S. individual civilians retained as contractors involved in the anti-narcotics campaign in Colombia; to the Committee on Foreign Relations.

EC–2178. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $100,000,000 or more to New Zealand, Israel, and Canada; to the Committee on Foreign Relations.

EC–2179. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, the Department's report relative to corrosion prevention control and mitigation efforts and planned improvements; to the Committee on Armed Services.

EC–2180. A communication from the General Counsel of the Department of Defense, transmitting, the report of proposed legislation relative to the National Defense Authorization Bill for Fiscal Year 2006; to the Committee on Armed Services.

EC–2181. A communication from the Director, Defense Finance and Accounting Service, transmitting, pursuant to law, a report relative to an A–76 competition of the Marine Corps accounting function; to the Committee on Armed Services.

EC–2182. A communication from the Under Secretary of Defense, Personnel and Readiness, Department of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–2183. A communication from the Assistant Secretary for Financial Markets, Department of the Treasury, transmitting, a draft bill relative to the U.S. Agriculture Department (USDA) Cushion of Credit Payments Program received on May 11, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2184. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Dimethyl Ether; Exemption from the Requirement of a Tolerance" (FRL No. 7711–4) received on May 11, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2185. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pinene Polymers; Exemption from the Requirement of a Tolerance" (FRL No. 7710–3) received on May 11, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2186. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Red Cabbage Colot; Exemption from the Requirement of a Tolerance" (FRL No. 7711–7) received on May 11, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2187. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing" ((RIN2060–AM10) (FRL No. 7911–6)) received on May 11, 2005; to the Committee on Environment and Public Works.

EC–2188. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Iron and Steal Foundries" ((RIN2060–AM85) (FRL No. 7911–8)) received on May 11, 2005; to the Committee on Environment and Public Works.

EC–2189. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing" ((RIN2060–AM72) (FRL No. 7911–1)) received on May 11, 2005; to the Committee on Environment and Public Works.

EC–2190. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Pharmaceuticals Production" ((RIN2060–AM52) (FRL No. 7911–3)) received on May 11, 2005; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCAIN, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 147. A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the

United States of the Native Hawaiian governing entity (Rept. No. 109–68).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SALAZAR (for himself, Mr. CONRAD, and Mr. JOHNSON):

S. 1036. A bill to provide assistance for rural school districts, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. AKAKA:

S. 1037. A bill to require disclosure of financial relationships between brokers and mutual fund companies, and of certain brokerage commissions paid by mutual fund companies; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LUGAR:

S. 1038. A bill to amend the Farm Security and Rural Investment Act of 2002 to enhance the ability to produce fruits and vegetables on covered commodity base acres; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATCH:

S. 1039. A bill to amend the Internal Revenue Code of 1986 to modify the treatment of depreciation of refinery property; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 1040. A bill to amend the Truth in Lending Act to provide for enhanced disclosure under an open end credit plan; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. FEINSTEIN:

S. 1041. A bill for the relief of Alfredo Plascencia Lopez and Maria Del Refugio Plascencia; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DORGAN (for himself and Mr. GRAHAM):

S. Res. 142. A resolution expressing the sense of the Senate that the United States Trade Representative should bring a case before the World Trade Organization regarding the violations of intellectual property rights by the People's Republic of China; to the Committee on Finance.

By Mr. FRIST (for himself and Mr. REID):

S. Res. 143. A resolution to authorize the Senate Legal Counsel to appear in legal proceedings in the name of the Permanent Subcommittee on Investigations in connection with its investigation into the United Nations' "Oil-For-Food" Programme; considered and agreed to.

By Ms. SNOWE (for herself, Ms. CANTWELL, Mr. LEVIN, Mr. KENNEDY, Mr. MCCAIN, Mr. LIEBERMAN, Mr. KERRY, Ms. COLLINS, Mr. BIDEN, Mr. JEFFORDS, Mr. DODD, Mr. LAUTENBERG, Mr. REED, Mr. WYDEN, Mr. PRYOR, Mrs. BOXER, Mrs. FEINSTEIN, and Mr. AKAKA):

S. Con. Res. 33. A resolution expressing the sense of the Congress regarding the policy of the United States at the 57th Annual Meeting of the International Whaling Commission; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 32

At the request of Mr. DAYTON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 32, a bill to enhance the benefits and protections for members of the reserve components of the Armed Forces who are called or ordered to extend active duty, and for other purposes.

S. 117

At the request of Mrs. FEINSTEIN, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Hawaii (Mr. AKAKA) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 117, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

S. 132

At the request of Mr. SMITH, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 132, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance.

S. 304

At the request of Mr. LAUTENBERG, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 304, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 337

At the request of Mrs. CLINTON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 337, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service, to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes.

S. 365

At the request of Mr. COLEMAN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 365, a bill to amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign centers and programs for the treatment of victims of torture, and for other purposes.

S. 398

At the request of Mr. SANTORUM, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 398, a bill to amend the Internal Revenue Code of 1986 to expand the expensing of environmental remediation costs.

S. 418

At the request of Mr. ENZI, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 418, a bill to protect members of the Armed Forces from unscrupulous practices regarding sales of insurance, financial, and investment products.

S. 484

At the request of Mr. WARNER, the names of the Senator from South Dakota (Mr. THUNE) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 515

At the request of Mr. BYRD, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 515, a bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Youth Challenge Program, and for other purposes.

S. 628

At the request of Mr. LUGAR, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 628, a bill to provide for increased planning and funding for health promotion programs of the Department of Health and Human Services.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 635

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 635, a bill to amend title XVIII of the Social Security Act to improve the benefits under the medicare program for beneficiaries with kidney disease, and for other purposes.

S. 642

At the request of Mr. FRIST, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 642, a bill to support certain national youth organizations, including the Boy Scouts of America, and for other purposes.

S. 711

At the request of Mr. AKAKA, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 711, a bill to amend the Methane Hydrate Research and Development Act of 2000 to reauthorize that Act and to promote the research, identification, assessment, exploration, and development of methane hydrate resources.

S. 756

At the request of Mr. BENNETT, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 756, a bill to amend the Public Health Service Act to enhance public and health professional awareness and understanding of lupus and to strengthen the Nation's research efforts to identify the causes and cure of lupus.

S. 770

At the request of Mr. LEVIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 770, a bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act.

S. 787

At the request of Mr. SCHUMER, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 787, a bill to amend the Internal Revenue Code of 1986 to equalize the exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes.

S. 843

At the request of Mr. SANTORUM, the names of the Senator from Arkansas (Mr. PRYOR), the Senator from Vermont (Mr. JEFFORDS) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 843, a bill to amend the Public Health Service Act to combat autism through research, screening, intervention and education.

S. 859

At the request of Mr. SANTORUM, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 859, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 894

At the request of Mr. ENZI, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 894 , a bill to allow travel between the United States and Cuba.

S. 935

At the request of Mrs. FEINSTEIN, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 935, a bill to regulate .50 caliber sniper weapons designed for the taking of human life and the destruction of materiel, including armored vehicles and components of the Nation's critical infrastructure.

S. 956

At the request of Mr. GRASSLEY, the names of the Senator from South Dakota (Mr. THUNE) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 956, a bill to amend title 18, United States Code, to provide assured punishment for violent crimes against children, and for other purposes.

S. 962

At the request of Mr. GRASSLEY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 962, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued to finance certain energy projects, and for other purposes.

S. 991

At the request of Mr. KENNEDY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 991, a bill to amend title I of the Employee Retirement Income Security Act of 1974 to limit the availability of benefits under an employer's nonqualified deferred compensation plans in the event that any of the employer's defined benefit pension plans are subjected to a distress or PBGC termination in connection with bankruptcy reorganization or a conversion to a cash balance plan, to provide appropriate funding restrictions in connection with the maintenance of nonqualified deferred compensation plans, and to provide for appropriate disclosure with respect to nonqualified deferred compensation plans.

S. 1013

At the request of Mrs. FEINSTEIN, the names of the Senator from Florida (Mr. MARTINEZ) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1013, a bill to improve the allocation of grants through the Department of Homeland Security, and for other purposes.

S. 1018

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 1018, a bill to provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes.

At the request of Mr. WARNER, his name was added as a cosponsor of S. 1018, supra.

S.J. RES. 18

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S.J. Res. 18, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

At the request of Mr. MCCONNELL, the names of the Senator from Colorado (Mr. ALLARD), the Senator from Virginia (Mr. ALLEN), the Senator from Kentucky (Mr. BUNNING), the Senator from Montana (Mr. BURNS), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Mississippi (Mr. COCHRAN), the Senator from Ohio (Mr. DEWINE), the Senator from North Carolina (Mrs. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nevada (Mr. ENSIGN), the Senator from Tennessee (Mr. FRIST), the Senator from Nebraska (Mr. HAGEL), the Senator from Arizona (Mr. KYL), the Senator from Indiana (Mr . LUGAR), the Senator from Pennsylvania (Mr. SANTORUM) , the Senator from Oregon (Mr. SMITH) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S.J. Res. 18, supra.

S. CON. RES. 19

At the request of Mr. CHAMBLISS, the names of the Senator from Florida (Mr. MARTINEZ) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of S. Con. Res. 19, a concurrent resolution expressing the sense of the Congress regarding the importance of life insurance and recognizing and supporting National Life Insurance Awareness Month.

S. RES. 140

At the request of Mr. MARTINEZ, the names of the Senator from Kansas (Mr. BROWNBACK), the Senator from Wyoming (Mr. ENZI) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. Res. 140, a resolution expressing support for the historic meeting in Havana of the Assembly to Promote the Civil Society in Cuba on May 20, 2005, as well as to all those courageous individuals who continue to advance liberty and democracy for the Cuban people.

AMENDMENT NO. 648

At the request of Mr. VOINOVICH, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of amendment No. 648 intended to be proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 652

At the request of Mr. DORGAN, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 652 proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 654

At the request of Mr. DORGAN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of amendment No. 654 intended to be proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA:

S. 1037. A bill to require disclosure of financial relationships between brokers and mutual fund companies, and of certain brokerage commissions paid by mutual fund companies; to the Committee on Banking, Housing, and Urban Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce the Mutual Fund Transparency Act of 2005. Mutual funds are vital investment vehicles for middle-income Americans that offer diversification and professional money management. Mutual funds are what average investors rely on for retirement, savings for children's college education, or other financial goals and dreams.

I was outraged by the widespread abuses in the industry. Ordinary investors were being harmed due to the greed of brokers, mutual fund companies, and institutional and large investors. That is why I introduced the Mutual Fund Transparency Act in November 2003 with my colleagues Senator Fitzgerald and Senator LIEBERMAN.

I want to thank the Chairman of the Securities and Exchange Commission, SEC, William Donaldson, for his courageous leadership. Chairman Donaldson has demonstrated a commitment to bring about reforms that better protect investors. I applaud the SEC's enforcement and regulatory efforts in addressing weaknesses and abuses in the mutual fund industry.

The SEC has adopted several reforms that mirror provisions found in my original Mutual Fund Transparency Act. In July 2004, the SEC adopted reforms requiring mutual funds, with certain exemptive rules, to have an independent chairman and ensure that 75 percent of their board members are independent.

Although the SEC has undertaken a number of impressive reforms, I have chosen to reintroduce a modified version of my original bill to further strengthen the independence of boards, make investors more aware of the true costs of their mutual funds, and prevent several key reforms from being rolled back. It is also important to legislatively address areas where the SEC needs additional statutory authority. Legislation is needed to ensure that the increased independence rule applied universally among mutual funds.

My bill includes a number of provisions intended to strengthen mutual fund boards. It will require that mutual fund boards have independent chairmen and that 75 percent of their directors be independent. My bill strengthens the definition of who is considered an independent director and requires independent directors to be approved by shareholders. These steps are necessary to strengthen the ability of mutual fund boards to detect and prevent abuses of investor trust.

My bill will also increase the transparency of the complex financial relationships between brokers and mutual funds in ways that are both meaningful and easy to understand for investors. Shelf-space payments and revenue-sharing agreements between mutual fund companies and brokers present conflicts of interest that must be addressed. Brokers have conflicts of interest, some of which are unavoidable, but these need to be disclosed to investors. Without such disclosure, investors cannot make informed financial decisions. Investors may believe that brokers are recommending funds based on the expectation for solid returns or low volatility, when the broker's recommendation may be influenced by hidden payments. This legislation will require brokers to disclose in writing the amount of compensation the broker will receive due to the transaction, instead of simply providing a prospectus. Currently, the prospectus fails to include the detailed relevant information that investors need to make informed decisions.

The SEC has requested comments on a proposal to require a confirmation notice, as well as increased point-of-sale disclosures, to provide investors with more information about broker conflicts in mutual fund transactions. The SEC is reviewing comments on its proposal, and studying other possibilities. I have included a point-of-sale disclosure requirement in my legislation that was absent in the prior bill. In my bill, investors would have to be provided with the amount of differential payments and average fees for comparable transactions. My legislation also requires that confirmation notices be provided for mutual fund transactions, which will include how their broker was compensated.

To further increase the transparency of the actual costs of the fund, brokerage commissions must be counted as an expense in filings with the SEC and included in the calculation of the expense ratio. Consumers often compare the expense ratios of funds when making investment decisions. However, the expense ratios fail to take into account the cost of commissions in the purchase and sale of securities. Therefore, investors are not provided with a complete and accurate idea of the expenses involved with owning that fund. Currently, brokerage commissions are disclosed to the SEC, but not to individual investors. Right now, brokerage commissions are only disclosed to the investor upon request. My bill puts teeth into brokerage commission disclosure provisions and ensures that commissions will be included in a document that investors have access to and can utilize.

The inclusion of brokerage commissions in the expense ratio creates a powerful incentive to reduce the use of soft dollars. Soft dollars can be used to lower expenses, since most purchases using soft dollars do not count as expenses and are not calculated into the expense ratio. There have been calls for the prohibition of soft dollars. This is a recommendation that needs to be further examined. My bill provides an alternative, which is an incentive for funds to limit the use of soft dollars by identifying them as expenses. If commissions are disclosed in this manner, the use of soft dollars will be reflected in the higher commission fees and overall expenses. This makes it easier for investors to see the true cost of the fund and compare the expense ratios of funds.

Some may argue that this approach gives an incomplete picture and fails to account for spreads, market impact, and opportunity costs. However, the SEC has the authority to address the issue further if it can determine an effective way to quantify these additional factors. My bill does not impose additional reporting requirements that would be burdensome to brokers. It merely uses what is already reported and presents this information in a manner meaningful to investors.

Another important provision in my bill requires the SEC to conduct a study to assess financial literacy among mutual fund investors. This study is necessary because any additional disclosure requirements for mutual funds will not truly work unless investors are given the tools they need to make smart investment decisions.

Mr. President, my legislation will ensure that mutual fund boards are independent and that investors are provided with more relevant and meaningful disclosures from which they can make better informed choices. I look forward to continue working with my colleagues and the SEC to better protect investors.

Mr. President, I ask unanimous consent that the text of the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mutual Fund Transparency Act of 2005".

SEC. 2. DISCLOSURE OF FINANCIAL RELATIONSHIPS BETWEEN BROKERS AND MUTUAL FUND COMPANIES.

(a) IN GENERAL.—Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by adding at the end the following:

"(13) CONFIRMATION OF TRANSACTIONS FOR MUTUAL FUNDS.—

"(A) IN GENERAL.—Each broker shall disclose in writing to customers that purchase the shares of an open-end company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8)—

"(i) the amount of any compensation received or to be received by the broker in connection with such transaction from any sources; and

"(ii) such other information as the Commission determines appropriate.

"(B) REVENUE SHARING.—The term 'compensation' under subparagraph (A) shall include any direct or indirect payment made by an investment adviser (or any affiliate of an investment adviser) to a broker or dealer for the purpose of promoting the sales of securities of an open-end company.

"(C) TIMING OF DISCLOSURE.—The disclosure required under subparagraph (A) shall be made to a customer not later than as of the date of the completion of the transaction.

"(D) LIMITATION.—The disclosures required under subparagraph (A) may not be made exclusively in—

"(i) a registration statement or prospectus of an open-end company; or

"(ii) any other filing of an open-end company with the Commission.

"(E) COMMISSION AUTHORITY.—

"(i) IN GENERAL.—The Commission shall promulgate such final rules as are necessary to carry out this paragraph not later than 1 year after the date of enactment of the Mutual Fund Transparency Act of 2005.

"(ii) FORM OF DISCLOSURE.—Disclosures under this paragraph shall be in such form as the Commission, by rule, shall require.

"(F) DEFINITION.—In this paragraph, the term 'open-end company' has the same meaning as in section 5 of the Investment Company Act of 1940 (15 U.S.C. 80a–5).".

(b) DISCLOSURE OF BROKERAGE COMMISSIONS.—Section 30 of the Investment Company Act of 1940 (15 U.S.C. 80a–29) is amended by adding at the end the following:

"(k) DISCLOSURE OF BROKERAGE COMMISSIONS.—The Commission, by rule, shall require that brokerage commissions as an aggregate dollar amount and percentage of assets paid by an open-end company be included in any disclosure of the amount of fees and expenses that may be payable by the holder of the securities of such company for purposes of—

"(1) the registration statement of that open-end company; and

"(2) any other filing of that open-end company with the Commission, including the calculation of expense ratios.".

SEC. 3. MUTUAL FUND GOVERNANCE.

(a) INDEPENDENT FUND BOARDS.—Section 10(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(a)) is amended—

(1) by striking "shall have" and inserting the following: "shall—

"(1) have";

(2) by striking "60 per centum" and inserting "25 percent";

(3) by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(2) have as chairman of its board of directors an interested person of such registered company; or

"(3) have as a member of its board of directors any person that is an interested person of such registered investment company—

"(A) who has served without being approved or elected by the shareholders of such registered investment company at least once every 5 years; and

"(B) unless such director has been found, on an annual basis, by a majority of the directors who are not interested persons, after reasonable inquiry by such directors, not to have any material business or familial relationship with the registered investment company, a significant service provider to the company, or any entity controlling, controlled by, or under common control with such service provider, that is likely to impair the independence of the director.".

(b) ACTION BY INDEPENDENT DIRECTORS.—Section 10 of the Investment Company Act of 1940 (15 U.S.C. 80a–10) is amended by adding at the end the following:

"(i) ACTION BY BOARD OF DIRECTORS.—No action taken by the board of directors of a registered investment company may require the vote of a director who is an interested person of such registered investment company.

"(j) INDEPENDENT COMMITTEE.—

"(1) IN GENERAL.—The members of the board of directors of a registered investment company who are not interested persons of such registered investment company shall establish a committee comprised solely of such members, which committee shall be responsible for—

"(A) selecting persons to be nominated for election to the board of directors; and

"(B) adopting qualification standards for the nomination of directors.

"(2) DISCLOSURE.—The standards developed under paragraph (1)(B) shall be disclosed in the registration statement of the registered investment company.".

(c) DEFINITION OF INTERESTED PERSON.—Section 2(a)(19) of the Investment Company Act of 1940 (15 U.S.C. 80a–2) is amended—

(1) in subparagraph (A)—

(A) in clause (iv), by striking "two" and inserting "5"; and

(B) by striking clause (vii) and inserting the following:

"(vii) any natural person who has served as an officer or director, or as an employee within the preceding 10 fiscal years, of an investment adviser or principal underwriter to such registered investment company, or of any entity controlling, controlled by, or under common control with such investment adviser or principal underwriter;

"(viii) any natural person who has served as an officer or director, or as an employee within the preceding 10 fiscal years, of any entity that has within the preceding 5 fiscal years acted as a significant service provider to such registered investment company, or of any entity controlling, controlled by, or under the common control with such service provider;

"(ix) any natural person who is a member of a class of persons that the Commission, by rule or regulation, determines is unlikely to exercise an appropriate degree of independence as a result of—

"(I) a material business relationship with the investment company or an affiliated person of such investment company;

"(II) a close familial relationship with any natural person who is an affiliated person of such investment company; or

"(III) any other reason determined by the Commission.";

(2) in subparagraph (B)—

(A) in clause (iv), by striking "two" and inserting "5"; and

(B) by striking clause (vii) and inserting the following:

"(vii) any natural person who is a member of a class of persons that the Commission, by rule or regulation, determines is unlikely to exercise an appropriate degree of independence as a result of—

"(I) a material business relationship with such investment adviser or principal underwriter or affiliated person of such investment adviser or principal underwriter;

"(II) a close familial relationship with any natural person who is an affiliated person of such investment adviser or principal underwriter; or

"(III) any other reason as determined by the Commission:".

(d) DEFINITION OF SIGNIFICANT SERVICE PROVIDER.—Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)) is amended by adding at the end the following:

"(53) SIGNIFICANT SERVICE PROVIDER.—

"(A) IN GENERAL.—Not later than 270 days after the date of enactment of the Mutual Fund Transparency Act of 2005, the Securities and Exchange Commission shall issue final rules defining the term 'significant service provider'.

"(B) REQUIREMENTS.—The definition developed under paragraph (1) shall include, at a minimum, the investment adviser and principal underwriter of a registered investment company for purposes of paragraph (19).".

SEC. 4. FINANCIAL LITERACY AMONG MUTUAL FUND INVESTORS STUDY.

(a) IN GENERAL.—The Securities and Exchange Commission shall conduct a study to identify—

(1) the existing level of financial literacy among investors that purchase shares of open-end companies, as that term is defined under section 5 of the Investment Company Act of 1940, that are registered under section 8 of that Act;

(2) the most useful and understandable relevant information that investors need to make sound financial decisions prior to purchasing such shares;

(3) methods to increase the transparency of expenses and potential conflicts of interest in transactions involving the shares of open-end companies;

(4) the existing private and public efforts to educate investors; and

(5) a strategy to increase the financial literacy of investors that results in a positive change in investor behavior.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Securities and Exchange Commission shall submit a report on the study required under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

SEC. 5. STUDY REGARDING MUTUAL FUND ADVERTISING.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on mutual fund advertising to identify—

(1) existing and proposed regulatory requirements for open-end investment company advertisements;

(2) current marketing practices for the sale of open-end investment company shares, including the use of unsustainable past performance data, funds that have merged, and incubator funds;

(3) the impact of such advertising on consumers;

(4) recommendations to improve investor protections in mutual fund advertising and additional information necessary to ensure that investors can make informed financial decisions when purchasing shares.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report on the results of the study conducted under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the United States Senate; and

(2) the Committee on Financial Services of the House of Representatives.

SEC. 6. POINT-OF-SALE DISCLOSURE.

(a) IN GENERAL.—Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)), as amended by section 2, is amended by adding at the end the following:

"(14) BROKER DISCLOSURES IN MUTUAL FUND TRANSACTIONS.—

"(A) IN GENERAL.—Each broker shall disclose in writing to each person that purchases the shares of an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8)—

"(i) the source and amount, in dollars and as a percentage of assets, of any compensation received or to be received by the broker in connection with such transaction from any sources;

"(ii) the amount, in dollars and as a percentage of assets, of compensation received in connection with transactions in shares of other investment company shares offered by the broker, if materially different from the amount under (i);

"(iii) comparative information that shows the average amount received by brokers in connection with comparable transactions, as determined by the Commission; and

"(iv) such other information as the Commission determines appropriate.

"(B) REVENUE SHARING.—The term 'compensation' under subparagraph (A) shall include any direct or indirect payment made by an investment adviser (or any affiliate of an investment adviser) to a broker or dealer for the purpose of promoting the sales of securities of a registered investment company.

"(C) TIMING OF DISCLOSURE.—The disclosures required under subparagraph (A) shall be made to permit the person purchasing the shares to evaluate such disclosures before deciding to engage in the transaction.

"(D) LIMITATION.—The disclosures required under subparagraph (A) may not be made exclusively in—

"(i) a registration statement or prospectus of a registered investment company; or

"(ii) any other filing of a registered investment company with the Commission.

"(E) COMMISSION AUTHORITY.—The Commission shall promulgate such final rules as are necessary to carry out this paragraph not later than 1 year after the date of enactment of the Mutual Fund Transparency Act of 2005.".

(b) NATIONAL SECURITIES ASSOCIATION REQUIREMENTS.—Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3) is amended by adding at the end the following:

"(n) NATIONAL SECURITIES ASSOCIATION REQUIREMENTS.—Each national securities association registered pursuant to this section shall issue such rules as necessary not later than 1 year after the date of enactment of the Mutual Fund Transparency Act of 2005 to require that a broker that provides individualized investment advice to a person shall—

"(1) have a fiduciary duty to that person;

"(2) act solely in the best interests of that person; and

"(3) fully disclose all potential conflicts of interest and other information that is material to the relationship to that person prior to the time that the investment advice is first provided to the person and at least annually thereafter.".

Mr. AKAKA. Mr. President, I ask unanimous consent that a letter in support of my legislation from Fund Democracy, the Consumer Federation of America, Consumer Action, and Consumers Union, as well as a letter of support from AARP, be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAY 16, 2005.

Hon. DANIEL K. AKAKA,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR AKAKA: We are writing to express our enthusiastic support for your Mutual Fund Transparency Act of 2005. Your bill will benefit fund shareholders in three significant respects. First, it will strengthen the independence of fund board to help ensure that the gross abuses of trust committed by fund managers in connection with the recent mutual fund scandal will not be repeated. Second, the bill will require that fund shareholders be provided with full and understandable disclosure of brokers' fees and conflicts of interest, and that when brokers provide individualized investment advice they will be held to the same fiduciary standards to which all other investment advisers are held. Third, the bill will promote competition through increased price transparency, and thereby improve services and reduce costs for the almost 100 million Americans who have entrusted their financial security to mutual funds.

FUND GOVERNANCE

The mutual scandal that erupted in September 2003 and continues to be litigated to this day revealed "a serious breakdown in management controls in more than just a few mutual fund complexes." As noted by the Securities and Exchange Commission:

"The breakdown in fund management and compliance controls evidenced by our enforcement cases raises troubling questions about the ability of many fund boards, as presently constituted, to effectively oversee the management of funds. The failure of a board to play its proper role can result, in addition to serious compliance breakdowns, in excessive fees and brokerage commissions, less than forthright disclosure, mispricing of securities, and inferior investment performance."

The Act directly addresses the governance weaknesses revealed by the scandal by strengthening the independence of fund directors. It plugs loopholes that have allowed former executives of fund managers and other fund service providers, among others, to qualify as "independent" directors when their independence is clearly compromised by their former positions. The Act also ensures that the board's agenda will be set by an independent chairman, and not by the CEO of the fund's manager, as is common practice, and that independent directors will control board matters and the evaluation of independent nominees. The Act's requirement that independent directors seek shareholder approval at least every 5 years will enhance the accountability of independent directors to the shareholders whose interests they are supposed to serve.

Although the SEC recently adopted rules requiring independent fund chairmen and a 75% independent board, these rules will not prevent fund managers from terminating independent chairmen or reducing independent representation on the board to the statutory minimum of 40%. The SEC's rules apply only when the funds choose to rely on certain exemptive rules. If there is a conflict between the fund's independent directors and the fund manager, the fund manager can simply stop relying on the rules and seek to install its own executives in a majority of board positions. This is precisely what Don Yacktman did when the independent directors of his funds opposed him, and it will undoubtedly be repeated the next time that there is a similar confrontation. More importantly, independent directors know from the Yacktman experience that the protection given them by the SEC is limited, and they therefore will be less likely to stand up for shareholders than if—as you have proposed—the SEC's requirements were codified.

FIDUCIARY DUTIES AND FULL DISCLOSURE FOR ALL INVESTMENT ADVISERS

Recent regulatory investigations and enforcement actions have uncovered persistent and widespread sales abuses by brokers. Regulators have found that brokers have systematically overcharged investors for commissions, routinely made improper recommendations of B shares, accepted undisclosed directed brokerage payments in return for distribution services, and received revenue sharing payments that create incentives to favor funds that pay the highest compensation rather than funds that are the best investment option for their clients.

Last fall, the Commission promised that it would address the problems that have so long plagued brokers' sales practices, but the Commission's efforts have fallen far short of the mark. Its recent proposals fail to require full disclosure of brokers' compensation, much less the disclosure of information that would enable investors to fully evaluate their brokers' conflicts of interests. The new disclosure requirements that you have proposed will ensure that brokers' conflicts of interest will be fully transparent to investors. Investors will be able to view the amount the broker is being paid for the fund being recommended compared with the (often lesser) amount the broker would receive for selling a different fund, which cannot help but direct investors' attention to the conflict of interest created by differential compensation structures. We especially applaud your proposal to ensure that all broker compensation, including revenue sharing payments, is disclosed in the point-of-sale document, which ensures that disclosure rules will not create an incentive for brokers to favor revenue sharing as a means of avoiding disclosure.

Remarkably, in the wake of a longstanding pattern of brokers' sales abuses, the Commission has recently repealed Congress's narrow exemption from advisory regulation for brokers who provide only "solely incidental" advice. The Commission's strained interpretation of "solely incidental" advice to include any advice provided "in connection with and reasonably related to a broker's brokerage services"[3] has effectively stripped advisory clients of the protections of an entire statutory regime solely on the ground that the investment advice happens to be provided by a broker. The Commission's position flatly contradicts the text and purpose of the Investment Advisers Act, which, as the Supreme Court has stated: "reflects a congressional recognition "of 'the delicate fiduciary nature of an investment advisory relationship,' as well as a congressional intent to eliminate, or at least to expose, all conflicts of interest which might incline an investment adviser—consciously or unconsciously—to render advice which was not disinterested."

Your proposal restores crucial components of Congress's carefully constructed regulatory scheme for the distinct and complementary regulation of brokerage and advisory services. It properly recognizes that a "fiduciary, which Congress recognized the investment adviser to be," is also what consumers expect an investment adviser to be, as is generally the case when professional services are provided on a personalized basis. The Act also recognizes the importance of "xpos[ing] all conflicts of interest which might incline an investment adviser—consciously or unconsciously—to render advice which was not disinterested" by requiring full disclosure of such conflicts of interests and other material information at the time that the prospective client is deciding whether to enter into the relationship.

FEE DISCLOSURE AND PRICE COMPETITION

Your fee disclosure provisions will do double duty, by addressing conflicts of interest and brokers' sales abuses while also promoting competition, thereby improving services and driving down expenses. Requiring brokers to disclose the amount of differential payments and average fees for comparable transactions will provide the kind of price transparency that is a necessary predicate for price competition and the efficient operation of free markets. In addition, the requirement that funds disclose the amount of commissions they pay will ensure that the fund expense ratio includes all of the costs of the fund's operations and enable investors to make more informed investment decisions. The best regulator of fees is the market, but the market cannot operate efficiently when brokers and funds are permitted to hide the actual cost of the services they provide.

FINANCIAL LITERACY AND FUND ADVERTISEMENTS

Finally, we strongly agree that there is a need to further study of financial literacy, including especially information that fund investors need to make informed investment decisions and methods to increase the transparency of fees and potential conflicts of interest. Your proposed study of mutual fund advertisements is also timely, as the regulation of fund ads continues to permit misleading touting of out sized short-term performance and other abuses.

Mutual funds are Americans' most important lifeline to retirement security. The regulation of mutual funds, however, has not kept pace with their enormous growth. We applaud your continuing efforts to enhance investor protection, promote vigorous market competition and create wealth for America's mutual fund investors through effective disclosure and truly independent board oversight.

Respectfully submitted,

MERCER BULLARD,
Founder and President, Fund Democracy, Inc.

BARBARA ROPER,
Director of Investor Protection, Consumer Federation of America.

KEN MCELDOWNEY,
Executive Director, Consumer Action.

SALLY GREENBERG,
Senior Counsel, Consumers Union.

AARP,
E STREET, NW,
Washington, DC, May 13, 2005.

Hon. DANIEL K. AKAKA,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR AKAKA: AARP supports your continuing efforts to expand investor awareness of mutual fund costs, to promote fund competition by making those costs transparent and comparable, and to improve the independent oversight and governance functions of fund boards of directors. Building on legislation that you introduced in November of 2003, which AARP supported, we are also pleased to support the updated and upgraded legislation that you are introducing today, the "Mutual Fund Transparency Act of 2005."

We believe that there exists a growing need for legislative action that clarifies, reinforces, strengthens, and secures the corrective rule-making efforts undertaken by the U.S. Securities and Exchange Commission (SEC) that were—in part—stimulated by your earlier legislative proposal. We look forward to working with you on these issues that are critical to the economic security of millions of Americans—particularly those of or near retirement age. If you have any questions, please do not hesitate to call me, or have your staff call Roy Green of our Federal Affairs Department.

Sincerely,

DAVID CERTNER,
Director, Federal Affairs.

By Mr. HATCH:

S. 1039. A bill to amend the Internal Revenue Code of 1986 to modify the treatment of depreciation of refinery property; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce the Gas Price Reduction through Increased Refining Capacity Act of 2005, S. 1039.

This bill provides tax incentives to encourage increases in oil refining capacity in the United States. By increasing domestic refining capacity, we will increase supply of refined oil products, thus decreasing the price of gasoline at the pump.

This bill is the second in a package of three bills I am proposing to promote long-term solutions to our Nation's energy needs.

Our nation needs clean, affordable sources of energy, and we should increase our energy security by focusing on those sources of energy that can be developed domestically.

Two weeks ago I introduced the CLEAR ACT, which provides market solutions to promote breakthroughs in the use of alternative fuels and technologies in our transportation sector.

The third bill, which I will introduce in the near future, will focus on increasing U.S. energy independence through the development of our nation's gigantic, untapped oil shale and tar sands reserves.

Both Republicans and Democrats recognize that increasing our domestic supplies of crude oil is not an effective solution unless we can increase our capacity to refine it. This is the genesis of the Gas Price Reduction Through Increased Refining Capacity Act.

Refining capacity in the United States cannot keep up with demand. In fact, there has not been a new refinery built in the United States since the 1976.

But that is only part of the story.

The fact is that the economics of refining are so tough that we have actually lost about 200 refineries since the last one was built. So now, our powerful Nation is down to only 149 overworked refineries.

Technological improvements at existing refineries have brought some increase to capacity, but these increases have fallen far short of demand. As a result, we now meet the gap in demand by importing more and more oil products that have already been refined, which makes us all the more dependent on foreign suppliers.

Every day, I hear from Utahns who are burdened by rapidly rising gas prices. Let me quote from just a portion of a letter from one of my constituents, Richard Decker of West Jordan, Utah:

> "I am interested in knowing the progress or status of planning to protect Americans from the continually rising oil prices . . . I am just a normal guy with a tiny family. Given salaries, inflation, lack of fuel efficient automobiles at a decent price, I worry if I and others will be able to make a decent life here—not just in Utah but in America. Personally, I wish I had the option of a hydrogen-powered vehicle that would completely rid us of the dependence on foreign oil imports.
>
> However, this isn't likely soon, so can we work on the gas prices? Do you have any suggestions? . . . Keep up the good work. Best Regards, Richard Decker"

My answer to Richard is that we hear him, and we are trying to respond.

We have a serious problem.

It is easy to point a finger at the energy companies for high gas prices, but the reality is that government rules and regulations combined with a complete lack of a national energy policy and unfriendly tax rules have kept our refining capacity far short of our need. There are no silver bullets that will bring price relief immediately, but we can act now to start meeting this need.

Last year, Secretary of Energy Spencer Abraham asked the National Petroleum Council to make recommendations to improve our oil supply and to increase our nation's oil refining capacity. Among the Council's recommendations was a call to adjust the depreciation schedule for new refining equipment from 10 years to five years to make refineries consistent with other manufacturers in the U.S.

I believe that the 10-year depreciation schedule is unwarranted, and that it has contributed to a hostile economic environment for refineries. Leveling the playing field on depreciation is long overdue, and the Gas Price Reduction Act would accomplish that goal.

But it is also important that we see this new refining capacity as soon as possible. So, I have added a provision in my bill aimed at pushing refining companies to act quickly to increase capacity. For refiners that can commit to starting construction on new refining equipment before 2007 and have new facilities built by 2011, the bill would allow a complete write-off for their new equipment in the first year. This is a powerful incentive, and I believe it will capture the attention of decisionmakers in the refining industry.

Again, the goal of the Gas Price Reduction Act is to get results as soon as possible, and I believe my legislation will make a difference. This bill will not bring immediate relief at the pump. But it will begin to put the brakes on escalating prices in the next few years and increase our nation's control over our energy future.

There are other good reasons to support this bill.

As part of my three-pronged approach to meeting our Nation's energy needs, it is in accord with the President's energy plan.

It does not provide a windfall to oil companies but puts refineries on an equal footing with other industries in the manufacturing sector, which already have a five-year depreciation.

It is important to note that S. 1039 does nothing to weaken our strong environmental laws and regulations; rather, it would lead to cleaner technologies as refineries upgrade equipment.

This bill is also an essential part of our strategy to increase domestic production. When we begin to realize the potential of our vast oil shale and tar sands reserves we will need domestic refining capacity to handle any increase in domestic crude oil production.

Finally, I must point out that, in the long run, this bill will not have any cost, since refineries are allowed to change the timing of the depreciation of their equipment, but not the amount.

I urge my colleagues in the Senate to join me in this important effort to increase our refining capacity, lower gas prices for our citizens, and provide for our Nation's security through increased energy independence.

By Mrs. FEINSTEIN:

S. 1040. A bill to amend the Truth in Lending Act to provide for enhanced disclosure under an open end credit plan; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. FEINSTEIN. Mr. President, I rise to introduce the Credit Card Minimum Payment Notification Act.

Today, 144 million Americans utilize credit cards and charge more debt on those cards than ever before. In 1990, Americans charged $338 billion on credit cards. By 2003, that number had risen to $1.5 trillion.

Many Americans now own multiple credit cards. In 2003, 841 million bank-issued credit cards were in circulation in the U.S. That number becomes nearly 1.4 billion credit cards, when cards issued by stores and oil companies are factored in. That's an average of 5 credit cards per person.

The proliferation of credit cards can be traced, in part, to a dramatic increase in credit card solicitation. In 1993, credit card companies sent 1.52 billion solicitations to American homes; in 2001, they sent over 5 billion.

As one would expect, the increase in credit cards has also yielded an increase in credit card debt. Individuals get 6, 7, or 8 different credit cards, pay only the minimum payment required, and many end up drowning in debt. That happens in case after case.

Since 1990, the debt that Americans carry on credit cards has more than tripled, going from about $238 billion in 1990 to $755 billion in 2004.

As a result, the average American household now has about $7,300 of credit card debt.

As has been discussed much in this Congress, the number of personal bankruptcies has doubled since 1990. Many of these personal bankruptcies are people who utilize credit cards. These cards are enormously attractive. However, these individual credit card holders receive no information on the impact of compounding interest. They pay just the minimum payment. They pay it for 1 year, 2 years—they make additional purchases, they get another card, and another, and another.

Unfortunately, these individuals making the minimum payment are witnessing the ugly side of the "Miracle of Compound Interest." After 2 or 3 years, many find that the interest on the debt is such that they can never repay these cards, and do not know what to do about it.

Statistics vary about the number of individuals who make only the minimum payments. One study determined that 35 million pay only the minimum on their credit cards. In a recent poll, 40 percent of respondents said that they pay the minimum or slightly more. What is certain is that many Americans pay only the minimum, and that paying only the minimum has harsh financial consequences.

I suspect that most people would be surprised to know how I much interest can pile up when paying the minimum. Take the average household, with $7,300 of credit card debt, and the average credit card interest rate, which in April, before the most recent Federal Reserve Board increase of the prime rate, was 16.75 percent. If only the 2 percent minimum payment is made, it will take them 44 years and $23,373.90 to pay off the card. And that is if the family doesn't spend another cent on their credit cards—an unlikely assumption. In other words, the family will need to pay over $16,000 in interest to repay just $7,300 of principal.

For individuals or families with more than average debt, the pitfalls are even greater. $20,000 of credit card debt at the average 16.75 percent interest rate will take 58 years and $65,415.28 to pay off if only the minimum payments are made.

And 16.25 is percent only the average interest rate. The prime rate, despite recent increases, remains relatively low—at 6 percent. However, interest rates around 20 percent are not uncommon. In fact, among the 10 banks that are the largest issuers of credit cards, the top interest rates on credit cards are between 23 and 31 percent—and that does not factor in various penalties and fees. When penalty interest rates are factored in, the highest rates are 41 percent. In 1990, the highest interest rate—even with penalties, was 22 percent, a little more than half of what they are today.

Even if we assume only a 20 percent interest rate, a family that has the average debt of $7,300 at a 20 percent interest rate and makes the minimum payments will need an incredible 76 years and $41,884 to pay off that initial $7,300 of debt. That's $34,584 in interest payments—more than 4 times the original debt. And these examples are far from extreme.

Moreover, these are not merely statistics, but are reflective of very real situations for many people. On March 6, the Washington Post ran a headline story on its front page, entitled "Credit Card Penalties, Fees Bury Debtors." I would recommend this article to my colleagues, because it illustrates part of the problem—that credit card companies, aggressively marketing their products, end up charging outrageous interest and fees to their customers. I ask unanimous consent that the article be included in the RECORD. The article highlighted the following stories:

Ohio resident, Ruth Owens tried for 6 years to pay off a $1,900 balance on her Discover card, sending the credit company a total of $3,492 in monthly payments from 1997 to 2003. Yet her balance grew to $5,564.28.

Virginia resident Josephine McCarthy's Providian Visa bill increased to $5,357 in 2 years, even though McCarthy has used the card for only $218.16 in purchases and has made monthly payments totaling $3,058.

Special-education teacher Fatemeh Hosseini, from my state of California, worked a second job to keep up with the $2,000 in monthly payments she collectively sent to five banks to try to pay $25,000 in credit card debt. Even though she had not used the cards to buy anything more, her debt had nearly doubled to $49,574 by the time she filed for bankruptcy last June.

Unfortunately, these stories are not unique.

Part of the problem goes back to changes made in the credit card industry. For a long time, most banks required their customers to pay 5 percent of their credit card balance every month. That was before Andrew Kahr, a credit card industry consultant, got involved. Mr. Kahr realized that if customers were able to pay less, they would borrow more, and he convinced his clients that they should reduce the minimum payment to just 2 percent.

The PBS program "Frontline", ran a program in November of last year titled "The Secret History of the Credit

Card" that examined the rapid growth of the credit card industry and included an interview with Mr. Kahr.

Mr. Kahr's innovation has been a windfall for the credit card industry. If consumers are paying a lower percentage of their balance as the minimum payment, the credit card companies will make more money over time. In fact, many in the industry refer to individuals who pay their credit card bills in full as "deadbeats", because they are less profitable than individuals who carry large balances, who are known as "revolvers."

And Mr. Kahr's own research showed that just making the minimum payment eased consumers' anxiety about carrying large amounts of credit card debt—they believe they are still being financially prudent.

The bill I am proposing speaks directly to those types of consumers. There will always be people who cannot afford to pay more than their minimum payments. But, there are also a large number of consumers who can afford to pay more but feel comfortable paying the minimum payment because they don't realize the consequences of doing so.

Now I am certainly not trying to demonize credit cards or the credit card industry. Credit cards are an important part of everyday life. However, I do think that people should understand the dangers of paying only their monthly minimums. In this way individuals will be able to act responsibly.

It's not necessarily that people don't understand the basics of interest. Most of us just don't realize how fast it compounds or how important it is to do the math to find out what it means to pay a minimum requirement.

The bottom line is that for many consumers, the 2 percent minimum payment is a financial trap.

The Credit Card Minimum Payment Notification Act is designed to ensure that people are not caught in this trap through lack of information. The bill tracks the language of the amendment originally proposed to the Bankruptcy bill that was co-sponsored by Senator KYL, Senator BROWNBACK, and myself.

Let me tell you exactly what this bill would do. It would require credit card companies to add two items to each consumer's monthly credit card statement: 1. A notice warning credit card holders that making only the minimum payment each month will increase the interest they pay and the amount of time it takes to repay their debt; and 2. Examples of the amount of time and money required to repay a credit card debt if only minimum payments are made; OR if the consumer makes only minimum payments for six-consecutive months, the amount of time and money required to repay the individual's specific credit card debt, under the terms of their credit card agreement.

The bill would also require that a toll free number be included on statements that consumers can call to get an estimate of the time and money required to repay their balance, if only minimum payments are made.

And, if the consumer makes only minimum payments for six consecutive months, they will receive a toll free number to an accredited credit counseling service.

The disclosure requirements in this bill would only apply if the I consumer has a minimum payment that is less than 10 percent of the debt on the credit card, or if their balance is greater than $500. Otherwise, none of these disclosures would be required on their statement.

The language of this bill comes from a California law, the "California Credit Card Payment Warning Act," passed in 2001. Unfortunately, in 2002, this California law was struck down in U.S. District Court as being preempted by the 1968 Truth in Lending Act. The Truth in Lending Act was enacted in part because Congress found that, "The informed use of credit results from an awareness of the cost of thereof by consumers." Consequently, this bill would amend the Truth in Lending Act, and would also further its core purpose.

These disclosures allow consumers to know exactly what it means for them to carry a balance and only make minimum payments, so they can make informed decisions on credit card use and repayment.

The disclosure required by this bill is straightforward how much it will cost to pay off the debt if only minimum payments are made, and how long it will take to do it. As for expense, my staff tells me that on the website Cardweb.com, there is a free interest calculator that does these calculations in under a second. Moreover, I am told that banks make these calculations internally to determine credit risk. The expense would be minimal.

Percentage rates and balances are constantly changing and each month, the credit card companies are able to assess the minimum payment, late fees, over-the-limit fees and finance charges for millions of accounts.

If the credit card companies can put in their bills what the minimum monthly payment is, they can certainly figure out how to disclose to their customers how much it might cost them if they stick to that minimum payment.

The credit card industry is the most profitable sector of banking, and last year it made $30 billion in profits. MBNA's profits alone last year were one-and-a-half times that of McDonald's. Citibank was more profitable than Microsoft and Walmart. I don't think they should have any trouble implementing the requirements of this bill.

I believe that this is extraordinarily important and that it will minimize bankruptcies. With companies charging very substantial interest rates, they have an obligation to let the credit card holder know what those minimum payments really mean. I have people close to me I have watched, with 6 or 7 credit cards, and it is impossible for them, over the next 10 or 15 years, to pay off the debt if they continue making just minimum payments.

We now have a bankruptcy bill that has passed into law. I continue to believe that a bill requiring a limited but meaningful disclosure by credit cards companies is a necessary accompaniment. I think you will have people who are more cautious, which I believe is good for the bankruptcy courts in terms of reducing their caseloads, and also good for American consumers.

The credit card debt problem facing our Nation is significant. I believe that this bill is an important step in providing individuals with the information needed to act responsibly, and it does so with a minimal burden on the industry.

I urge my colleagues to support this legislation.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 6, 2005]

CREDIT CARD PENALTIES, FEES BURY DEBTORS; SENATE NEARS ACTION ON BANKRUPTCY CURBS

(By Kathleen Day and Caroline E. Mayer)

For more than two years, special-education teacher Fatemeh Hosseini worked a second job to keep up with the $2,000 in monthly payments she collectively sent to five banks to try to pay $25,000 in credit card debt.

Even though she had not used the cards to buy anything more, her debt had nearly doubled to $49,574 by the time the Sunnyvale, Calif., resident filed for bankruptcy last June. That is because Hosseini's payments sometimes were tardy, triggering late fees ranging from $25 to $50 and doubling interest rates to nearly 30 percent. When the additional costs pushed her balance over her credit limit, the credit card companies added more penalties.

"I was really trying hard to make minimum payments," said Hosseini, whose financial problems began in the late 1990s when her husband left her and their three children. "All of my salary was going to the credit card companies, but there was no change in the balances because of that interest and those penalties."

Punitive charges—penalty fees and sharply higher interest rates after a payment is late—compound the problems of many financially strapped consumers, sometimes making it impossible for them to dig their way out of debt and pushing them into bankruptcy.

The Senate is to vote as soon as this week on a bill that would make it harder for individuals to wipe out debt through bankruptcy. The Senate last week voted down several amendments intended to curb excessive fees and other practices that critics of the industry say are abusive. House leaders say they will act soon after that, and President Bush has said he supports the bill.

Bankruptcy experts say that too often, by the time an individual has filed for bankruptcy or is hauled into court by creditors, he or she has repaid an amount equal to their original credit card debt plus double-digit interest, but still owes hundreds or thousands of dollars because of penalties.

"How is it that the person who wants to do right ends up so worse off?" Cleveland Municipal Judge Robert J. Triozzi said last fall when he ruled against Discover in the company's breach-of-contract suit against another struggling credit cardholder, Ruth M. Owens.

Owens tried for six years to payoff a $1,900 balance on her Discover card, sending the credit company a total of $3,492 in monthly payments from 1997 to 2003. Yet her balance grew to $5,564.28, even though, like Hosseini, she never used the card to buy anything more. Of that total, over-limit penalty fees alone were $1,158.

Triozzi denied Discover's claim, calling its attempt to collect more money from Owens "unconscionable."

The bankruptcy measure now being debated in Congress has been sought for nearly eight years by the credit card industry. Twice in that time, versions of it have passed both the House and Senate. Once, President Bill Clinton refused to sign it, saying it was unfair, and once the House reversed its vote after Democrats attached an amendment that would prevent individuals such as antiabortion protesters from using bankruptcy as a shield against court-imposed fines.

Credit card companies and most congressional Republicans say current law needs to be changed to prevent abuse and make more people repay at least part of their debt. Consumer-advocacy groups and many Democrats say people who seek bankruptcy protection do so mostly because they have fallen on hard times through illness, divorce or job loss. They also argue that current law has strong provisions that judges can use to weed out those who abuse the system.

Opponents also argue that the legislation is unfair because it ignores loopholes that would allow rich debtors to shield millions of dollars during bankruptcy through expensive homes and complex trusts, while ignoring the need for more disclosure to cardholders about rates and fees and curbs on what they say is irresponsible behavior by the credit card industry. The Republican majority, along with a few Democrats, has voted down dozens of proposed amendments to the bill, including one that would make it easier for the elderly to protect their homes in bankruptcy and another that would require credit card companies to tell customers how much extra interest they would pay over time by making only minimum payments.

No one knows how many consumers get caught in the spiral of "negative amortization," which is what regulators call it when a consumer makes payments but balances continue to grow because of penalty costs. The problem is widespread enough to worry federal bank regulators, who say nearly all major credit card issuers engage in the practice.

Two years ago regulators adopted a policy that will require credit card companies to set monthly minimum payments high enough to cover penalties and interest and lower some of the customer's original debt, known as principal, so that if a consumer makes no new charges and makes monthly minimum payments, his or her balance will begin to decline.

Banks agreed to the new rules after, in the words of one top federal regulator, "some arm-twisting." But bank executives persuaded regulators to allow the higher minimum payments to be phased in over several years, through 2006, arguing that many customers are so much in debt that even slight increases too soon could push many into financial disaster.

Credit card companies declined to comment on specific cases or customers for this article, but banking industry officials, speaking generally, said there is a good reason for the fees they charge.

"It's to encourage people to pay their bills the way they said they would in their contract, to encourage good financial management," said Nessa Feddis, senior federal counsel for the American Bankers Association. "There has to be some onus on the cardholder, some responsibility to manage their finances."

High fees "may be extreme cases, but they are not the trend, not the norm," Feddis said.

"Banks are pretty flexible," she said. "If you are a good customer and have an occasional mishap, they'll waive the fees, because there's so much competition and it's too easy to go someplace else." Banks are also willing to work out settlements with people in financial difficulty, she said, because "there are still a lot of options even for people who've been in trouble."

Many bankruptcy lawyers disagree. James S K. "Ike" Shulman, Hosseini's lawyer, said credit card companies hounded her and did not live up to several promises to work with her to cut mounting fees.

Regulators say it is appropriate for lenders to charge higher-risk debtors a higher interest rate, but that negative amortization and other practices go too far, posing risks to the banking system by threatening borrowers' ability to repay their debts and by being unfair to individuals.

U.S. Bankruptcy Judge David H. Adams of Norfolk, who is also the president of the National Conference of Bankruptcy Judges, said many debtors who get in over their heads "are spending money, buying things they shouldn't be buying." Even so, he said, "once you add all these fees on, the amount of principal being paid is negligible. The fees and interest and other charges are so high, they may never be able to pay it off."

Judges say there is little they can do by the time cases get to bankruptcy court. Under the law, "the credit card company is legally entitled to collect every dollar without a distinction" whether the balance is from fees, interest or principal, said retired U.S. bankruptcy judge Ronald Barliant, who presided in Chicago. The only question for the courts is whether the debt is accurate, judges and lawyers say.

John Rao, staff attorney of the National Consumer Law Center, one of many consumer groups fighting the bankruptcy bill, says the plight consumers face was illustrated last year in a bankruptcy case filed in Northern Virginia.

Manassas resident Josephine McCarthy's Providian Visa bill increased to $5,357 from $4,888 in two years, even though McCarthy has used the card for only $218.16 in purchases and has made monthly payments totaling $3,058. Those payments, noted U.S. Bankruptcy Judge Stephen S. Mitchell in Alexandria, all went to "pay finance charges (at a whopping 29.99%), late charges, over-limit fees, bad check fees and phone payment fees." Mitchell allowed the claim "because the debtor admitted owing it." McCarthy, through her lawyer, declined to be interviewed.

Alan Elias, a Providian Financial Corp. spokesman, said: 'When consumers sign up for a credit card, they should understand that it's a loan, no different than their mortgage payment or their car payment, and it needs to be repaid. And just like a mortgage payment and a car payment, if you are late you are assessed a fee." The 29.99 percent interest rate, he said, is the default rate charged to consumers "who don't meet their obligation to pay their bills on time" and is clearly disclosed on account applications.

Feddis, of the banker's association, said the nature of debt means that interest will often end up being more than the original principal. "Anytime you have a loan that's going to extend for any period of time, the interest is going to accumulate. Look at a 30–year-mortgage. The interest is much, much more than the principal."

Samuel J. Gerdano, executive director of the American Bankruptcy Institute, a nonpartisan research group, said that focusing on late fees is "refusing to look at the elephant in the room, and that's the massive levels of consumer debt which is not being paid. People are living right up to the edge," failing to save so when they lose a second job or overtime, face medical expense or their family breaks up, they have no money to cope.

"Late fees aren't the cause of debt," he said.

Credit card use continues to grow, with an average of 6.3 bank credit cards and 6.3 store credit cards for every household, according to Cardweb.com Inc., which monitors the industry. Fifteen years ago, the averages were 3.4 bank credit cards and 4.1 retail credit cards per household.

Despite, or perhaps because of, the large increase in cards, there is a "fee feeding frenzy," among credit card issuers, said Robert McKinley, Cardweb's president and chief executive. "The whole mentality has really changed over the last several years," with the industry imposing fees and increasing interest rates if a single payment is late.

Penalty interest rates usually are about 30 percent, with some as high as 40 percent, while late fees now often are $39 a month, and over-limit fees, about $35, McKinley said. "If you drag that out for a year, it could be very damaging," he said. "Late and over-limit fees alone can easily rack up $900 in fees, and a 30 percent interest rate on a $3,000 balance can add another $1 ,000, so you could go from $2,000 to $5,000 in just one year if you fail to make payments."

According to R.K. Hammer Investment Bankers, a California credit card consulting firm, banks collected $14.8 billion in penalty fees last year, or 10.9 percent of revenue, up from $10.7 billion, or 9 percent of revenue, in 2002, the first year the firm began to track penalty fees.

The way the fees are now imposed, "people would be better off if they stopped paying" once they get in over their heads, said T. Bentley Leonard, a North Carolina bankruptcy attorney. Once you stop paying, creditors write off the debt and sell it to a debt collector. "They may harass you, but your balance doesn't keep rising. That's the irony."

By Mrs. FEINSTEIN:

S. 1041. A bill for the relief of Alfredo Plascencia Lopez and Maria Del Refugio Plascencia; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am offering today private relief legislation to provide lawful permanent residence status to Alfredo Plascencia

Lopez and his wife, Maria del Refugio Plascencia, Mexican nationals living in San Bruno, CA.

I have decided to offer legislation on their behalf because I believe that, without it, this hardworking couple and their four United States citizen children would endure an immense and unfair hardship. Indeed, without this legislation, this family may not remain a family for much longer.

In the seventeen years that the Plascencias have been here, they have worked to adjust their status through the appropriate legal channels, only to have their efforts thwarted by inattentive legal counsel.

Repeatedly, the Plascencia's lawyer refused to return their calls or otherwise communicate with them in any way, thereby leaving them in the dark. He also failed to forward crucial immigration documents, or even notify the Plascencias that he had them. Because of the poor representation they received, Mr. and Mrs. Plascencia only became aware that they had been ordered to leave the country fifteen days prior to their deportation. Although the family was stunned and devastated by this discovery, they acted quickly to fire their attorney for gross incompetence, secure competent counsel, and file the appropriate paperwork to delay their deportation to determine if any other legal action could be taken.

For several reasons, it would be tragic for this family to be removed from the United States.

First, since arriving in the United States in 1988, Mr. and Mrs. Plascencia have proven themselves to be a responsible and civic-minded couple who share our American values of hard work, dedication to family and devotion to community.

Second, Mr. Plascencia has been gainfully employed at Vince's Shellfish for the past 13 years, where his dedication and willingness to learn have propelled him from part-time work to a managerial position. He now oversees the market's entire packing operation and several employees. The President of Vince's Shellfish, in one of the several dozen letters I have received in support of Mr. Plascencia, referred to him as "a valuable and respected employee" who "handles himself in a very professional manner" and serves as "a role model" to other employees. Others who have written to me praising Mr. Plascencia's job performance have referred to him as "gifted," "trusted," "honest" and "reliable."

Third, like her husband, Mrs. Plascencia has distinguished herself as a medical assistant at a Kaiser Permanente hospital in the Bay Area. Not satisfied with working as a maid at a local hotel, Mrs. Plascencia went to school, earned her high school equivalency degree, improved her skills and became a medical assistant.

For four years, Mrs. Plascencia was working in Kaiser Permanente's Oncology Department, where she attended to cancer patients. Her colleagues, many of whom have written to me in support of her, commend her "unending enthusiasm" and have described her work as "responsible," "efficient," and "compassionate." In fact, Kaiser Permanente's Director of Internal Medicine, Nurse Rose Carino, wrote to say that Mrs. Plascencia is "an asset to the community and exemplifies the virtues we Americans extol: hardworking, devoted to her family, trustworthy and loyal, [and] involved in her community. She and her family are a solid example of the type of immigrant that America should welcome wholeheartedly." Nurse Carino went on to write that Mrs. Plascencia is "an excellent employee and role model for her colleagues. She works in a very demanding unit, Oncology, and is valued and depended on by the physicians she works with." The physicians themselves confirm this. For example, Dr. Laurie Weisberg, the Chief of Oncology at Kaiser Permanente, writes that Mrs. Plascencia "is truly an asset to our unit and is one of the main reasons that it functions effectively."

Together, Mr. and Mrs. Plascencia have used their professional successes to realize many of the goals dreamed of by all Americans. They saved up and bought a home. They own a car. They have good health care benefits and they each have begun saving for retirement. They want to send their children to college and give them an even better life.

This private relief bill is important because it would preserve these achievements and ensure that Mr. and Mrs. Plascencia will be able to make substantive contributions to the community in the future. It is important, also, because of the positive impact it will have on the couple's children, each of whom is a United States citizen and each of whom is well on their way to becoming productive members of the Bay Area community.

Christina, 13, is the Plascencia's oldest child, and an honor student with a 3.0 grade-point average at Parkside Intermediate School in San Bruno.

Erika, 9, and Alfredo, Jr., 7, are enrolled at Belle Air Elementary, where they have worked hard at their studies and received praise and good grades from their teachers. In fact, last year, the principal of Erika's school recognized her as the "Most Artistic" student in her class. Recently, Erika's teacher, Mrs. Nascon, remarked on a report card, "Erika is a bright spot in my classroom."

The Plascencia's youngest child is 2-year-old Daisy.

Removing Mr. and Mrs. Plascencia from the United States would be most tragic for their children. Children who were born in the United States and who through no fault of their own have been thrust into a situation that has the potential to alter their lives dramatically.

It would be especially tragic for the Plascencia's older children—Christina, Erika and Alfredo—to have to leave the United States. They are old enough to understand that they are leaving their schools, their teachers, their friends and their home. They would leave everything that is familiar to them. Their parents would find themselves in Mexico without a job and without a house. The children would have to acclimate to a different culture, language and way of life.

The only other option would be for Mr. and Mrs. Plascencia to leave their children here with relatives. This separation is a choice which no parents should have to make.

Many of the words I have used to describe Mr. and Mrs. Plascencia are not my own. They are the words of the Americans who live and work with the Plascencias day in and day out and who find them to embody the American spirit. I have sponsored this private relief bill, and ask my colleagues to support it, because I believe that this is a spirit that we must nurture wherever we can find it. Forcing the Plascencias to leave the United States would extinguish that spirit.

I ask unanimous consent that the text of the private relief bill and the numerous letters of support my office has received from members of the San Bruno community be the printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1041

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENT STATUS FOR ALFREDO PLASCENCIA LOPEZ AND MARIA DEL REFUGIO PLASCENCIA.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Alfredo Plascencia Lopez and Maria Del Refugio Plascencia shall each be eligible for the issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of that Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Alfredo Plascencia Lopez and Maria Del Refugio Plascencia enter the United States before the filing deadline specified in subsection (c), Alfredo Plascencia Lopez and Maria Del Refugio Plascencia shall be considered to have entered and remained lawfully and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of immigrant visas or the application for adjustment of status are filed with appropriate fees within 2 years after the date of enactment of this Act.

(d) Reduction of Immigrant Visa Numbers.—Upon the granting of immigrant visas or permanent residence to Alfredo Plascencia Lopez and Maria Del Refugio Plascencia, the Secretary of State shall instruct the proper officer to reduce by 2, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 202(e) of that Act.

Vince's Shellfish Co., Inc.,
San Bruno, CA, January 12, 2005.

Sen. Dianne Feinstein,
U.S. Senate, San Francisco, CA.

Dear Senator Dianne Feinstein: I am writing on behalf of Maria and Alfredo Plascencia from San Bruno, California. Alfredo has worked for me at Vince's Shellfish Co. Inc. for the past 13 years. Alfredo is well respected here at Vinces. Alfredo is a very reliable, dependable individual who has worked his way up and is now a foreman who is in charge of our packing department. Alfredo is responsible for 10 employees at this time.

On a personal basis, Alfredo is a fine father. He is trying desperately to keep his family together. It has been a 15-year struggle for Mr. and Mrs. Plascencia to create a better life in America for their four U.S. born children. If Mr. and Mrs. Plascencia were to face deportation it would be devastating for his four children.

At this time I support the private bill that is to be presented before the Senate at the end of this month. The Plascencia family will greatly benefit from its passing.

Sincerely,

Christopher N. Svedisc,
President.

The Permanente
Medical Group, Inc.,
South San Francisco, CA, January 13, 2005.

Re Alfredo Plascencia Lopez and Maria del Refugio Plascencia.

Sen. Dianne Feinstein,
San Francisco, CA.

Dear Senator: We are writing to you in representation of the Oncology department staff at Kaiser Permanente So. San Francisco. We are shocked to hear the events regarding Maria and Alfredo's United States residency status and we are convinced that it could not be due to any omissions on their part. We have the pleasure and good fortune of working with Maria for over four years and she has always distinguished herself for her intelligence, and good judgment. She is truly an asset to our unit and is one of the main reasons that it functions effectively and to the betterment of our patients. This letter is a plea to ask you to reconsider the deportation of this young couple. Their four children, who are all United States citizens, do not need to suffer this ordeal, which seems to be a horrible nightmare. They deserve to stay in America, as these are the kind of citizens that we should welcome with open arms. Maria and Alfredo save and spend their money wisely. They have been able to save enough to buy a home for their family in our community. We can't even imagine their loss, as well as ours, if Maria and Alfredo are required to leave the United States. They both love our country and they support it with their heart and soul.

Maria seems to have an unending energy and enthusiasm volunteering numerous hours at her church, the community, as well as working full time in a fast paced medical environment, caring for her four children and attending college to continue her education to become a registered nurse. Maria and Alfredo are raising four exceptional children who are excelling in school and extracurricular activities. It would cause an immeasurable hardship on these children if their parents are not allowed to stay in the United States. Therefore, we ask you please allow them to stay so that their children can continue with their education and their lives. The effect on their children would be emotionally and mentally severe and it would seem unfair to all to allow this situation to happen to people who deserve to be in this country.

We will like for our plea to be heard by the members of the Senate and for them to consider the acceptance of the private bill on behalf of this family. Please consider the high regard that Maria and Alfredo have earned with their fellow workers when making the determination regarding of their residency status.

Sincerely,

Laurie Weisberg, M.D. Chief of Oncology, Edmond Schmulbach, M.D. Oncology Specialist, William Huang, M.D. Oncology Specialist, Kelly Sutter, RNNP Oncology, Jodie L. Beyer, pharm. D. Oncology pharmacist, Cynthia Galicia, RN Oncology Infusion Dept., Clarita Difuntorum, RN, Oncology Infusion Dept., Gail Walker, RN Oncology Infusion Dept., Fran Luna, RN Oncology Infusion Dept., Marita Tumaneng, RN Oncology Infusion Dept., Barbara Modica, MA Oncology Dept., Jenifer Ogolin, MA Oncology Dept., Kathie Ankers, MA Gastroenterology Dept., and Tracy Thurman, MA Gastroenterology Dept.

San Bruno Park School District,
Belle Air School,
San Bruno, CA, January 14, 2005.

Dear Senator Feinstein: I am writing in behalf of the Plascencia Family. I have known this family for over ten years as the Principal of Belle Air Elementary School. I have the utmost respect for the parents and their family values. The children are wonderful. They are well taken care of and are well adjusted. I am so worried that if they are separated from their parents the affect of the separation will cause reprievable damage to their well being. I have personally counseled the children during the drama of the possible deportment of their parents. I saw the deep sadness and worry that the stress caused. I know that parents wanted a better life for their children and have worked very hard to actualize that. To take the parents and or move this family would be tragic. There are so many undeserving people who will stay in the United States that should leave and be sent back to their countries. But this family is not one. They are a picture of the American dream. They work hard, support their family, church and community. Their children have grown to be proud American citizens. The oldest daughter Christy is an honor student and a cheerleader at Parkside Middle School and a graduate of Belle Air. Christy's brother and sister, Alfredo and Erica, are both on our school's student council. They too, are very bright students.

Please do not let an injustice of deportment happen to this family. Please assist them and keep them a family unit. We have so many children hurt and scared already in the world. Please do not add these children and this family to the numbers. This family and these children are what help keep American values and traditions alive. I came from an immigrant family and have made it my mission to give back to others by working in education and that is why I am personally writing this letter because I know what family, hard work, and love can do to produce productive adults and citizens.

Please find it in your heart, to help this family.

If you need to speak with me personally feel free to contact me.

Sincerely,

Angela M. Addiego,
Belle Air School, Principal.

Mensajeros de Cristo, Comunidad
de Oración y Evangelización,
All Souls Parish,
San Francisco, CA, January 13, 2005.

Sen. Dianne Feinstien,
San Francisco, CA.

This letter represents the community and is in regards to the situation of Maria and Alfredo Plascencia. We would like to make you aware of a few facts and information that may have possible bearing on Mr. and Mrs. Placencia's situation.

They have both been productive and valued members, of long standing, of our community and in our church.

Maria and Alfredo have been active members of All Souls Parish since 1997, Where they are currently serving as counselor of Mensajeros de Cristo. They have shown high moral standard through the years.

They are well thought of and respected by the congregation.

Please take this information into consideration when evaluating their status of Staying in this country.

Should you need any additional information, please do not hesitate to contact us.

Sincerely,

Hugo Lara,
Mensajeros de Cristo, Coordinator.

January 13, 2005.

Senator Dianne Feinstein,
San Francisco, CA.

This letter is just to let you know that, I know Maria and Alfredo Plascencia since March 1999. When he joined the Charismatic Renewal of the Archdioceses of San Francisco, though the prayer group Mensajeros de Cristo from the parish of All Souls in South San Francisco.

Maria and Alfredo are people with great moral principles, good citizens, and good examples of their community. They are very active members of the above prayer group.

If you have any questions or concerns please feel free to contact me.

Sincerely yours,

Isabel Tovar,
Hispanic Director, Charismatic Renewal,
Archdioceses of San Francisco.

City of San Bruno,
January 12, 2005.

Senator Dianne Feinstein,
San Francisco, CA.

Hon. Senator Feinstein: We are writing to you regarding, Alfredo and Maria Plascencia, citizens of the City of San Bruno, who are about to be deported in the very near future.

Mr. and Mrs. Plascencia, in the sixteen years they have resided in this country and raised their children, have proven to be hard working and law-abiding people trying to provide a better place for their family. While we are certainly aware of the laws of this country we believe that this is a time when we should do everything possible to allow legal residency so this family can stay in this country.

We urge you to afford the Plascencia family whatever consideration possible.

Sincerely yours,

LARRY FRANZELA,
Mayor.
JIM RUANE,
Vice Mayor.
CHRIS PALLAS,
Councilmember.
IRENE O'CONNELL,
Councilmember.
KEN IBARRA,
Councilmember.

ST. BRUNO'S CHURCH,
San Bruno, CA, January 13, 2005.

Sen. DIANE FEINSTEIN,
U.S. Senate,
Washington, DC.

The purpose of this letter is to present my observations on Alfredo Placencia Lopez and Maria Placencia's character and work ethic. I first came to know them in our Church when they came to worship on a Sunday. This happened around January 1998.

And so far, the last 7 years both Alfredo and Maria have been two of our outstanding parishioners at St. Bruno's Church. They come to Sunday Mass and worship, and have been involved in many ministries and services here in our Church at St. Bruno's. Alfredo has been especially a minister of hospitality, always welcoming people to church and participation in the life of the community, helping to provide a spirit of acceptance and concern among our people and providing bread and refreshments for some gatherings. Alfredo has also reached out to the homeless for whom we have a shelter in our Parish and especially providing them with food. Maria has been especially involved as a teacher, faithfully giving to our children the fundamentals of our Faith, of the Gospel and of a Christian moral life. She has founded a Children's Choir and leads them with our Special Music for Sunday worship. They have four children all of whom have been baptized at St. Bruno's Church and come to our School of Religion and our Church.

Alfredo and Maria have been most generous with their time, their talents and their money, sharing all these with the members of our Church Community. They have also frequently donated food to the Church and to the Pastor. I have found them to be really good Christian people, most generous, considerate, kind, honest and reliable. If they would have to leave the United States, it will be most difficult for them and for their children who have been growing in a Christian environment and are doing so well; it would be a tremendous loss. We too here in our Church would find it difficult without them. For they are a great asset to this country and to our Church and to many people.

We appreciate whatever you can do for them to help them get their legal papers of residence in the United States.

Thank you very much.

Sincerely yours,

RENÉ GOMEZ,
Pastor of St. Bruno's Church.

SAN BRUNO, CA,
January 13, 2005.

Re Alfredo Placencia Lopez and/or Maria Del Refugio Placencia.

TO WHOM IT MAY CONCERN: My name is Elisa Alvarez. Alfredo and Maria Placencia and Family are my neighbors and friends, I have known them since 1999. They live on 3rd Ave. and I live on 4th. Since I have known them I saw that they are a very close and spiritual family. I enjoyed their company because they have been a great example of how a close family they are and how spiritual they are. They are great parents and they love and are very close with the rest of their family. They always go every where together as a family, you never see them without each other. They always get together with the rest of their relatives they are very close family. They invited me one night to a prayer group and even offered to pick me up and take me and bring me home when I was going through some hard times. This experience was so moving, and it help me and my whole life changed from that day on. I have became very spiritual thanks to the Alfredo and Maria. I met them at St. Bruno's Church. They always do voluntary work at the church they both do so much for our parish and are always willing to help anyone who needs it.

If Alfredo and Maria are separated from their children and family it will be very hard for their children to be with out their parents or I know if they all go to Mexico it will be very hard for this family to survive there. I hope you can help them by not separating this family, they are hard workers and I'm sure they would never be a burden for this country. This is a very nice young family, you don't see families like this one these days. I hope everything can be done so Alfredo and Maria can get their permanent residency and their lives can get back to normal and . they don't have to suffer from this bad roller coaster.

Thank you for your attention to this letter.

Sincerely,

ELISA ALVAREZ.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 142—EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED STATES TRADE REPRESENTATIVE SHOULD BRING A CASE BEFORE THE WORLD TRADE ORGANIZATION REGARDING THE VIOLATIONS OF INTELLECTUAL PROPERTY RIGHTS BY THE PEOPLE'S REPUBLIC OF CHINA

Mr. DORGAN (for himself and Mr. GRAHAM) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 142

Whereas at the Joint Commission on Commerce and Trade (JCCT) meeting in April 2004, the People's Republic of China committed to undertake a significant reduction of infringements on intellectual property rights;

Whereas on April 29, 2005, the United States Trade Representative concluded that, "China has not resolved critical deficiencies in (intellectual property rights) protection and enforcement and, as a result, infringements remain at epidemic levels";

Whereas the United States Trade Representative found that "China's inadequate intellectual property rights enforcement is resulting in infringement levels at 90 percent or above for virtually every form of intellectual property,";

Whereas United States Trade Representative further concluded that "there has not been a significant reduction in (intellectual property rights) infringements throughout China," notwithstanding China's commitment in April 2004 to achieve such a reduction;

Whereas, according to the United States Chamber of Commerce, China's violations of intellectual property rights are costing United States industry an estimated $200,000,000,000 per year; and

Whereas the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (described in section 101(d)(15) of the Uruguay Round Agreements Act) is intended to provide a mechanism for the enforcement of intellectual property rights: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States Trade Representative should immediately initiate a case against the People's Republic of China through the World Trade Organization dispute settlement process.

SENATE RESOLUTION 143—TO AUTHORIZE THE SENATE LEGAL COUNSEL TO APPEAR IN LEGAL PROCEEDINGS IN THE NAME OF THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS IN CONNECTION WITH ITS INVESTIGATION INTO THE UNITED NATIONS' "OIL-FOR-FOOD" PROGRAMME

Mr. FRIST (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 143

Whereas, the Permanent Subcommittee on Investigations is conducting an inquiry into the United Nations' "Oil-for-Food" Programme;

Whereas, the Subcommittee has need to obtain access to evidence from an individual formerly associated with the Independent Inquiry Committee, a committee formed by the United Nations to investigate claims relating to the Programme;

Whereas, in the course of the Subcommittee's efforts to obtain access to such evidence, legal issues may arise requiring the Subcommittee to appear in the courts of the United States;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(c), 288e(a), and 288l(a), the Senate may direct its Counsel to appear as amicus curiae or to intervene in the name of a subcommittee of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized, when directed by the Permanent Subcommittee on Investigations, or by the Chairman and Ranking Minority Member, acting jointly, to appear in the name of the Subcommittee as amicus curiae, intervenor, applicant or respondent in United Nations v. Robert Parton or any related action or proceeding.

SENATE CONCURRENT RESOLUTION 33—EXPRESSING THE SENSE OF THE CONGRESS REGARDING THE POLICY OF THE UNITED STATES AT THE 57TH ANNUAL MEETING OF THE INTERNATIONAL WHALING COMMISSION

Ms. SNOWE (for herself, Ms. CANTWELL, Mr. LEVIN, Mr. KENNEDY, Mr. MCCAIN, Mr. LIEBERMAN, Mr. KERRY, Ms. COLLINS, Mr. BIDEN, Mr. JEFFORDS, Mr. DODD, Mr. LAUTENBERG, Mr. REED, Mr. WYDEN, Mr. PRYOR, Mrs. BOXER, Mrs. FEINSTEIN, and Mr. AKAKA) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 33

Whereas whales have very low reproductive rates, making many whale populations extremely vulnerable to pressure from commercial whaling;

Whereas whales migrate throughout the world's oceans and international cooperation is required to successfully conserve and protect whale stocks;

Whereas in 1946 a significant number of the nations of the world adopted the International Convention for the Regulation of Whaling, which established the International Whaling Commission to provide for the proper conservation of whale stocks;

Whereas in 2003 the Commission established a Conservation Committee, open to all members of the Commission, for the purpose of facilitating efficient and effective coordination and development of conservation recommendations and activities, which are fully consistent with the conservation objectives stated in the 1946 Convention;

Whereas the Commission adopted a moratorium on commercial whaling in 1982 in order to conserve and promote the recovery of whale stocks, many of which had been hunted to near extinction by the commercial whaling' industry;

Whereas the rights of indigenous people to whale for subsistence purposes has been specifically recognized under the 1946 Convention;

Whereas the Commission has designated the Indian Ocean and part of the ocean around Antarctica as whale sanctuaries to further enhance the recovery of whale stocks;

Whereas many nations of the world have designated waters under their jurisdiction as whale sanctuaries where commercial whaling is prohibited, and additional regional whale sanctuaries have been proposed by nations that are members of the Commission;

Whereas two member nations that lodged objections to the Commission's moratorium on commercial whaling when it was adopted continue to hold such objections, a third member nation asserted a reservation to the moratorium on rejoining the Commission, and one member nation is currently conducting commercial whaling operations in spite of the moratorium and the protests of other nations;

Whereas the Commission has adopted several resolutions at recent meetings asking member nations to halt commercial whaling activities conducted under reservation to the moratorium and to refrain from issuing special permits for research involving the killing of whales;

Whereas one member nation of the Commission has taken a reservation to the Commission's Southern Ocean Sanctuary and also continues to conduct unnecessary lethal scientific whaling in the Southern Ocean and in the North Pacific Ocean;

Whereas one member nation has recently begun to conduct unnecessary lethal scientific whaling in the Atlantic;

Whereas whale meat and blubber is being sold commercially from whales killed pursuant to such unnecessary lethal scientific whaling, further undermining the moratorium on commercial whaling;

Whereas the Commission's Scientific Committee has repeatedly expressed serious concerns about the scientific need for such lethal research and recognizes the importance of demonstrating and expanding the use of non-lethal scientific research methods;

Whereas more than 8,700 whales have been killed in lethal scientific whaling programs since the adoption of the commercial whaling moratorium and the lethal take of whales under scientific permits has increased both in quantity and species, with species now including minke, Bryde's, sei, and sperm whales, and media reports indicate a new plan may be offered that could expand such whaling to fin and humpback whales;

Whereas engaging in commercial whaling under reservation and lethal scientific whaling undermines the conservation program of the Commission;

Whereas discussions are taking place within the Commission on a Revised Management Scheme (RMS) that would regulate any possible future commercial whaling;

Whereas any decision to lift the moratorium against commercial whaling must be taken independently from negotiations and adoption of an RMS;

Whereas any RMS must include or be conditioned on the concurrent adoption of provisions similar to those in other international agreements related to fisheries and marine mammals, including transparent and neutral observer mechanisms, and effective compliance and dispute settlement mechanisms;

Whereas to be effective, if an RMS is adopted, any future commercial whaling must take place pursuant to the RMS, and no reservations allowing commercial whaling outside of the RMS should be permitted; and

Whereas any decision to lift the moratorium against commercial whaling must be conditioned on the immediate cessation of lethal scientific whaling: Now, therefore, be it

Resolved, by the Senate (the House of Representatives concurring) That it is the sense of the Congress that—

(1) at the 57th Annual Meeting of the International Whaling Commission the United States should—

(A) remain firmly opposed to commercial whaling and any linking of adoption of a Revised Management Scheme (RMS) to the lifting of the commercial whaling moratorium;

(B) initiate and support efforts to ensure that all activities conducted under reservations to the Commission's moratorium or sanctuaries are ceased;

(C) seek to ensure that any RMS includes, or is conditioned on the concurrent adoption of provisions similar to those in other international agreements related to fisheries and marine mammals, including transparent and neutral observer mechanisms, and effective compliance and dispute settlement mechanisms;

(D) insist that any future commercial whaling must take place pursuant to the RMS, that no reservations allowing commercial whaling outside of the RMS should be permitted, and that lethal scientific whaling must immediately cease upon the commencement of any commercial whaling;

(E) uphold the rights of indigenous people to whale for subsistence purposes, and firmly reject any attempts to compromise such rights or to equate commercial whaling with such rights;

(F) initiate or support efforts to end the lethal taking of whales for scientific purposes, seek support for expanding the use of non-lethal research methods, and seek to end the sale of whale meat and blubber from whales killed for unnecessary lethal scientific research;

(G) support proposals for the permanent protection of whale populations through the establishment of whale sanctuaries and other zones of protection in which commercial whaling is prohibited;

(H) support efforts to expand data collection on whale populations, monitor and reduce whale bycatch and other incidental impacts, and otherwise expand whale conservation efforts;

(I) support the adoption of an active program of work by the Conservation Committee to address the full range of threats to whales, and otherwise expand whale conservation efforts;

(J) call upon the Contracting Parties to the Convention to submit to the Commission for discussion within the Conservation Committee national approaches, including laws, regulations and other initiatives, that further the conservation of cetaceans; and

(2) the United States should make full use of all appropriate diplomatic mechanisms, Federal law, relevant international laws and agreements, and other appropriate mechanisms to implement the goals set forth in paragraph (1).

Ms. CANTWELL. Mr. President, as ranking member of the Subcommittee on Fisheries and Coast Guard of the Committee on Commerce, Science and Transportation, I am pleased to join the chair of the Subcommittee, Senator SNOWE, in submitting a resolution regarding the policy of the United States at the upcoming 57th Annual Meeting of the International Whaling Commission (IWC). I wish to also thank my colleagues Mr. MCCAIN, Mr. KENNEDY, Mr. AKAKA, Mr. REED, Ms. COLLINS, Mr. DODD, Mr. LEVIN, Mr. BIDEN, Ms. BOXER, Mr. LAUTENBERG, Ms. FEINSTEIN, Mr. PRYOR, Mr. KERRY, Mr. JEFFORDS, Mr. WYDEN, and Mr. LIEBERMAN for co-sponsoring as well.

Recognizing that whales are highly migratory and therefore require international cooperation for their preservation, the IWC was formed in 1946 under the International Convention for the Regulation of Whaling. In 1982, due to the severe impacts of whaling on the populations of large whale species, the IWC adopted an indefinite moratorium on all commercial whaling.

Despite the IWC moratorium on commercial whaling, significant whaling has continued. In particular, Japan and Iceland have been using a provision in the Convention—which allows countries to issue themselves permits for "scientific whaling"—to kill whales in the name of science, and later sell the meat commercially. More than 8700 whales have been killed in lethal scientific whaling programs since the adoption of the commercial whaling moratorium, and press reports indicate that a new plan may be offered that would expand such whaling to fin and humpback whales. The IWC Scientific Committee has repeatedly stated that such lethal takes are not necessary for scientific research.

In this resolution we call on the U.S. delegation to remain firmly opposed to commercial whaling. We urge the U.S. to initiate or support efforts to oppose the unnecessary lethal taking of whales for scientific purposes and to seek to end the sale of meat and blubber from whales killed for scientific research in order to remove this perverse incentive.

This resolution comes at a time when discussions are underway in the IWC to establish a framework, or "revised management scheme" for any future commercial whaling, should it ever occur. The resolution calls for the U.S. delegation to the IWC to insist that any RMS negotiations remain separate from discussions on whether to lift the moratorium on commercial whaling, and that any such RMS include provisions on accountability, transparency, and compliance that are part of all effective international agreements. It further calls on the U.S. delegation to insist, as part of the RMS language, that lethal scientific whaling immediately cease upon the commencement of any commercial whaling. The resolution also firmly recognizes the rights of indigenous people to whale for subsistence purposes, and calls on the U.S. delegation to firmly reject any attempts to compromise such rights or to equate commercial whaling with such rights.

In order to ensure future abundance and health of whale populations, we call on the U.S. to support the work of the Conservation Committee, and to otherwise expand whale conservation efforts. The resolution calls for the U.S. delegation to support the permanent protection of whale populations through the establishment of whale sanctuaries in which commercial whaling is prohibited. Finally, the resolution directs the U.S. to make full use of all appropriate mechanisms to change the behavior of other nations which are undermining the protection of these magnificent creatures.

I would like to again thank chairwoman SNOWE for collaborating with me on this important effort, and I look forward to working with my colleagues on this issue.

Ms. SNOWE. Mr. President, I rise today to submit a resolution that is both timely and vital to the future of the world's large whale populations. In little more than a month, representatives from around the world will gather in South Korea for the 57th annual meeting of the International Whaling Commission. These representatives will consider proposals to weaken or lift the moratorium on commercial whaling and expand whaling operations around the globe. It is more critical than ever that the United States remains firmly opposed to any proposals to resume commercial whaling and maintain its leadership role in shaping global whale conservation policies through the Commission.

The Commission's early attempts to regulate commercial whaling did not stop the precipitous decline of whale populations around the world. This management failure exposed a dramatic lack of knowledge and understanding of whales and their environment. In response to dwindling whale populations, the Commission declared a global moratorium on commercial whaling in 1982. The United States was a leader in the efforts to establish this moratorium, and in the intervening decades we have continued our outspoken opposition to commercial whaling.

My colleagues and I are submitting this resolution to give needed support to the U.S. negotiators as they strive to preserve vital whale conservation measures through the International Whaling Commission. Pro-whaling countries have made clear, through numerous media outlets, that they plan to work to lift the moratorium at this year's meeting, a move that threatens to undo years of international efforts to recover whale populations. As a Nation we must stand firmly against lifting of the moratorium and the resumption of commercial whaling. But we cannot stop there. As we continue our international efforts for effective, global whale conservation we must work to close loopholes in, and end abuses of, Commission regulations. This resolution calls for the closing of a scientific whaling loophole that some countries are exploiting to allow whaling, not just in the open ocean, but in designated whale sanctuaries. Lethal scientific whaling is an outdated concept that serves no useful purpose; even the Commission's own Scientific Committee has called for the cessation of this practice. In addition to the scientific whaling provision, some countries choose to take reservations to the moratorium under which they continue to expand commercial whaling activities year after year. These unilateral actions weaken the Commission and undermine international whale conservation efforts; therefore, they must be brought to an end.

We must consider the future as we strive to ensure the sustainability of the world's whale populations. At this year's meeting, the Commission may address the critical issue of a Revised Management Scheme, or RMS, to govern whale conservation in future years. As we consider possible management systems, it is imperative that we build any RMS on a solid foundation of scientific knowledge and sustainability. If our Nation is to support any RMS, we must ensure that it addresses the need for additional research and ensure that all whaling outside the scheme ceases immediately. Any RMS that we are party to must also include provisions that we find in other international fisheries agreements, such as transparency in decision making, objective observers, and effective compliance mechanisms.

I thank my colleagues who have already signed on as co-sponsors of this resolution for their continuing commitment to marine conservation: Senators CANTWELL, LEVIN, KENNEDY, MCCAIN, LIEBERMAN, KERRY, COLLINS, BIDEN, JEFFORDS, DODD, LAUTENBERG, REED, WYDEN, BOXER, FEINSTEIN, PRYOR, and AKAKA. Their dedication to responsible protection and management of our whale populations helps ensure the healthy functioning of marine ecosystems for generations to come.

Whales constitute a vital component of the world's marine ecosystems. Whales are some of the largest and most intelligent mammals on Earth, and conserving them requires us to uphold strong international agreements and an unwavering commitment to science-based management. Supporting whale conservation is more critical now than ever, and I urge my colleagues to support swift passage of this resolution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 761. Mr. INHOFE (for himself and Mr. JEFFORDS) proposed an amendment to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

TEXT OF AMENDMENTS

SA 761. Mr. INHOFE (for himself and Mr. JEFFORDS) proposed an amendment to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

On page 29, line 1, strike "Control and" and insert "Inventory, control, and".

On page 35, strike lines 15 through 21 and insert the following:

(C) PARK ROADS AND PARKWAYS.—

(i) IN GENERAL.—For park roads and parkways under section 204 of that title—

(I) $320,000,000 for fiscal year 2005; and

(II) $330,000,000 for each of fiscal years 2006 through 2009.

(ii) MINIMUM ALLOCATION TO CERTAIN STATES.—A State more than 50 percent of the acreage of which is within the National Park System shall receive not less than 3 percent of any funds appropriated under this subparagraph, to be used for park transportation projects.

(iii) Modification of authorization.—Any amount authorized to be appropriated under section 2001(a)(1)(A) to carry out surface transportation research shall be reduced by—

(I) for fiscal year 2005, $29,025,031; and

(II) for each of fiscal years 2006 through 2009, $29,638,742.

On page 140, strike lines 11 through 18, and insert the following:

"(10)(A) Recommending federally-assisted projects to implement or accommodate the use of a device capable of—

"(i) automatically capturing images of, measuring the speed of, and relating to, multiple vehicles in multiple lanes simultaneously; and

"(ii) correlating measured speeds to capture images of specific identified vehicles traveling in excess of posted speed limits in road work zones and construction areas.

"(B) Recommending appropriate measures to protect public security and privacy, including—

"(i) notice to drivers of the use of the devices described in subparagraph (A); and

"(ii) with respect to the information generated by the devices described in subparagraph (A)—

"(I) limitations on the number of, and authorization process relating to, individuals that may access the information;

"(II) limitations on the use, disclosure, and retention of the information; and

"(III) any measures necessary to ensure that the information is accessed only by an individual that is authorized to access the information.

"(11) Ensuring that any recommendation made under any of paragraphs (7) through (10) provides for an exemption for applicability to a State, with respect to a project or class of projects—

"(A) to the extent that a State notifies the Secretary in writing that safety is not expected to be adversely affected by nonapplication of the recommendation to the project or class of projects; or

"(B) in any case in which the State has in effect a law that prohibits a project or class of projects (including a device or activity to be installed or carried out under such a project).".

On page 143, after the matter following line 25, add the following:

SEC. 14 . PRESIDENTIAL COMMISSION ON ALCOHOL-IMPAIRED DRIVING.

(a) Findings.—Congress finds that—

(1) there has been considerable progress over the past 25 years in reducing the number and rate of alcohol-related highway fatalities;

(2) the National Highway Traffic Safety Administration projects that fatalities in alcohol-related crashes declined in 2004 for the second year in a row;

(3) in spite of this progress, an estimated 16,654 Americans died in 2004, in alcohol-related crashes;

(4) these fatalities comprise 39 percent of the annual total of highway fatalities;

(5) about 250,000 are injured each year in alcohol-related crashes;

(6) the past 2 years of decreasing alcohol-related fatalities follows a 3-year increase;

(7) drunk driving is the Nation's most frequently committed violent crime;

(8) the annual cost of alcohol-related crashes is over $100,000,000,000, including $9,000,000,000 in costs to employers;

(9) a Presidential Commission on Drunk Driving in 1982 and 1983 helped to lead to substantial progress on this issue; and

(10) these facts point to the need to renew the national commitment to preventing these deaths and injuries.

(b) Sense of the Senate.—It is the sense of the Senate that, in an effort to further change the culture of alcohol impaired driving on our Nation's highways, the President should consider establishing a Presidential Commission on Alcohol-Impaired Driving—

(1) comprised of—

(A) representatives of State and local governments, including state legislators;

(B) law enforcement;

(C) traffic safety experts, including researchers;

(D) victims of alcohol-related crashes;

(E) affected industries, including the alcohol, insurance, and auto industries;

(F) the business community;

(G) labor;

(H) the medical community;

(I) public health; and

(J) Members of Congress; and

(2) that not later than September 30, 2006, would—

(A) conduct a full examination of alcohol-impaired driving issues; and

(B) make recommendations for a broad range of policy and program changes that would serve to further reduce the level of deaths and injuries caused by drunk driving.

SEC. 14 . SENSE OF THE SENATE IN SUPPORT OF INCREASED PUBLIC AWARENESS OF BLOOD ALCOHOL CONCENTRATION LEVELS AND THE DANGERS OF DRINKING AND DRIVING.

(a) Findings.—The Senate finds that—

(1) in 2003—

(A) 17,013 Americans died in alcohol-related traffic crashes;

(B) 40 percent of the persons killed in traffic crashes died in alcohol-related crashes; and

(C) drivers with blood alcohol concentration levels over 0.15 were involved in 58 percent of alcohol-related traffic fatalities;

(2) research shows that 77 percent of Americans think they have received enough information about drinking and driving and the way in which alcohol affects individual blood alcohol concentration levels; and

(3) only 28 percent of the American public can correctly identify the legal limit of blood alcohol concentration of the State in which they reside.

(b) Sense of the Senate.—It is the sense of the Senate that the National Highway Traffic Safety Administration should work with State and local governments and independent organizations to increase public awareness of—

(1) State legal limits on blood alcohol concentration levels; and

(2) the dangers of drinking and driving.

SEC. 14 . GRANT PROGRAM FOR COMMERCIAL DRIVER TRAINING.

(a) · Establishment.—The Secretary of Transportation shall establish a program for making grants to commercial driver training schools and programs for the purpose of providing financial assistance to entry level drivers of commercial vehicles (as defined in section 31301 of title 49, United States Code).

(b) Federal Share.—The Federal share of the cost for which a grant is made under this section shall be 80 percent.

(c) Funding.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the purpose of carrying out this section $5,000,000 for each of the fiscal years 2006 through 2009.

On page 296, strike lines 13 through 18 and insert the following:

SEC. 1621. FEDERAL PROCUREMENT OF RECYCLED COOLANT.

On page 297, between lines 9 and 10, insert the following:

SEC. 1622. CONSERVE BY BICYCLING PROGRAM.

(a) Definitions.—In this section:

(1) Program.—The term "program" means the Conserve by Bicycling Program established by subsection (b).

(2) Secretary.—The term "Secretary" means the Secretary of Transportation.

(b) Establishment.—There is established within the Department of Transportation a program to be known as the "Conserve by Bicycling Program".

(c) Projects.—

(1) In general.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) Requirements.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(D) maximize bicycle facility investments;

(E) demonstrate methods that may be used in other regions of the United States; and

(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) Cost sharing.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from State or local sources.

(d) Energy and Bicycling Research Study.—

(1) In general.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) Components.—The study shall—

(A) document the results or progress of the pilot projects under subsection (b);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

On page 318, strike lines 13 through 23 and insert the following:

SEC. 1803. REVISION OF REGULATIONS.

Section 112(b)(3) of title 23, United States Code, is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by striking subparagraph (C) and inserting the following:

"(C) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter (including intermodal projects) for which the Secretary has approved the use of design-build contracting under criteria specified in regulations promulgated by the Secretary.

"(D) REGULATORY PROCESS.—Not later than 90 days after the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005, the Secretary shall promulgate revised regulations under section 1307(c) of the Transportation Equity Act for 21st Century (23 U.S.C. 112 note; 112 Stat. 230) that—

"(i) do not preclude State transportation departments or local transportation agencies from—

"(I) issuing requests for proposals;

"(II) proceeding with awards of design-build contracts; or

"(III) issuing notices to proceed with preliminary design work under design-build contracts; prior to compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332);

"(ii) require that the State transportation department or local transportation agency receive concurrence from the Secretary before carrying out an activity under clause (i); and

"(iii) preclude the design-build contractor from proceeding with final design or construction of any permanent improvement prior to completion of the process under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).".

On page 352, line 5, strike "and".

On page 352, line 9, strike the period at the end and insert "; and".

On page 352, between lines 9 and 10, insert the following:

"(iii) not less than 40 percent of the amount made available under subparagraph (B) for the fiscal year for the seismic retrofit of bridges for multilane, suspension bridges that—

"(I) were open to traffic prior to 1940; and

"(II) are located in high-seismic zones.".

On page 357, line 5, strike "and".

On page 357, line 8, strike the period at the end and insert "; and".

On page 357, between lines 8 and 9, insert the following:

"(3) support the planning, development, and construction of high priority corridors identified by section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2032).

On page 357, strike lines 12 through 14 and insert the following:

"(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for—

"(1) multistate highway and multimodal planning studies and construction; and

"(2) coordinated planning, development, and construction of high priority corridors identified by section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2032).

On page 404, line 11, strike "and transit".

On page 410, between lines 7 and 8, insert the following:

SEC. 1830. US-95 PROJECT, LAS VEGAS, NEVADA.

Unless an agreement is reached between the Federal Highway Administration, the State of Nevada, and the Sierra Club, the State of Nevada may continue to completion construction of the project entitled "US-95 Project in Las Vegas, Nevada", as approved by the Federal Highway Administration on November 18, 1999, and selected in the record of decision dated January 28, 2000, on June 30, 2005.

On page 418, line 16, before the semicolon, insert ", including alternative materials used in highway drainage applications".

Beginning on page 557, strike line 5 and all that follows through page 564, line 13, and insert the following:

TITLE III—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS

SEC. 3101. SENSE OF THE SENATE ON OVERALL FEDERAL BUDGET.

It is the sense of the Senate that—

(1) comprehensive statutory budget enforcement measures, the jurisdiction of which lies with the Senate Budget Committee and Senate Governmental Affairs Committee, should—

(A) be enacted this year; and

(B) address all areas of the Federal budget, including discretionary spending, direct spending, and revenues; and

(2) special allocations for transportation should be included in that context.

SEC. 3102. DISCRETIONARY SPENDING CATEGORIES.

(a) DEFINITIONS.—

(1) HIGHWAY CATEGORY.—Section 250(c)(4)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)(B)) is amended—

(A) by striking "Transportation Equity Act for the 21st Century" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005"; and

(B) by adding at the end the following:

"(v) 69-8158-0-7-401 (Motor Carrier Safety Grants).

"(vi) 69-8159-0-7-401 (Motor Carrier Safety Operations and Programs).".

(2) MASS TRANSIT CATEGORY.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)) is amended by striking subparagraph (C) and inserting the following:

"(C) MASS TRANSIT CATEGORY.—The term 'mass transit category' means the following budget accounts, or portions of the accounts, that are subject to the obligation limitations on contract authority provided in the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 or for which appropriations are provided in accordance with authorizations contained in that Act:

"(i) 69-1120-0-1-401 (Administrative Expenses).

"(ii) 69-1134-0-1-401 (Capital Investment Grants).

"(iii) 69-8191-0-7-401 (Discretionary Grants).

"(iv) 69-1129-0-1-401 (Formula Grants).

"(v) 69-8303-0-7-401 (Formula Grants and Research).

"(vi) 69-1127-0-1-401 (Interstate Transfer Grants—Transit).

"(vii) 69-1125-0-1-401 (Job Access and Reverse Commute).

"(viii) 69-1122-0-1-401 (Miscellaneous Expired Accounts).

"(ix) 69-1139-0-1-401 (Major Capital Investment Grants).

"(x) 69-1121-0-1-401 (Research, Training and Human Resources).

"(xi) 69-8350-0-7-401 (Trust Fund Share of Expenses).

"(xii) 69-1137-0-1-401 (Transit Planning and Research).

"(xiii) 69-1136-0-1-401 (University Transportation Research).

"(xiv) 69-1128-0-1-401 (Washington Metropolitan Area Transit Authority).".

(b) HIGHWAY FUNDING REVENUE ALIGNMENT.—Section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) is amended—

(1) in clause (i)—

(A) by inserting "for each of fiscal years 2006 through 2009" after "submits the budget";

(B) by inserting "the obligation limitation and outlay limit for" after "adjustments to"; and

(C) by striking "provided in clause (ii)(I)(cc)." and inserting the following: "follows:

"(I) OMB shall take the actual level of highway receipts for the year before the current year and subtract the sum of the estimated level of highway receipts in clause (iii), plus any amount previously calculated under clauses (i)(II) and (ii) for that year.

"(II) OMB shall take the current estimate of highway receipts for the current year and subtract the estimated level of highway receipts in clause (iii) for that year.

"(III) OMB shall—

"(aa) take the sum of the amounts calculated under subclauses (I) and (II) and add that amount to the obligation limitation set forth in section 3103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates; and

"(bb) after making the calculation under item (aa), adjust the obligation limitation set forth in section 3103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for the budget year by adding the amount calculated under subclauses (I) and (II).";

(2) by striking clause (ii) and inserting the following:

"(ii) When the President submits the supplementary budget estimates for each of fiscal years 2006 through 2009 under section 1106 of title 31, United States Code, OMB's Mid-Session Review shall include adjustments to the obligation limitation and outlay limit for the highway category for the budget year and each outyear as follows:

"(I) OMB shall take the most recent estimate of highway receipts for the current year (based on OMB's Mid-Session Review) and subtract the estimated level of highway receipts in clause (iii) plus any amount previously calculated and included in the President's Budget under clause (i)(II) for that year.

"(II) OMB shall—

"(aa) take the amount calculated under subclause (I) and add that amount to the amount of obligations set forth in section 3103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates; and

"(bb) after making the calculation under item (aa), adjust the amount of obligations set forth in section 3103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for the budget year by adding the amount calculated under subclause (I)."; and

(3) by adding at the end the following:

"(iii) The estimated level of highway receipts for the purpose of this subparagraph are—

"(I) for fiscal year 2005, $34,163,000,000;

"(II) for fiscal year 2006, $36,972,000,000;

"(III) for fiscal year 2007, $38,241,000,000;

“(IV) for fiscal year 2008, $39,432,000,000; and

“(V) for fiscal year 2009, $40,557,000,000.

“(iv) In this subparagraph, the term ‘highway receipts’ means the governmental receipts and interest credited to the highway account of the Highway Trust Fund.”.

(c) Continuation of Separate Spending Categories.—For the purpose of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(c)), the discretionary spending limits for the highway category and the mass transit category shall be—

(1) for fiscal year 2005—

(A) $33,657,000,000 for the highway category; and

(B) $6,844,000,000 for the mass transit category;

(2) for fiscal year 2006—

(A) $37,086,000,000 for the highway category; and

(B) $5,989,000,000 for the mass transit category;

(3) for fiscal year 2007—

(A) $40,192,000,000 for the highway category; and

(B) $7,493,000,000 for the mass transit category;

(4) for fiscal year 2008—

(A) $41,831,000,000 for the highway category; and

(B) $8,479,000,000 for the mass transit category; and

(5) for fiscal year 2009—

(A) $42,883,000,000 for the highway category; and

(B) $9,131,000,000 for the mass transit category.

(d) Additional Adjustments.—Section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)) is amended—

(1) in subparagraph (C)—

(A) in clause (i), by striking “fiscal years 2000, 2001, 2002, or 2003,” and inserting “each of fiscal years 2006, 2007, 2008, and 2009,”; and

(B) in clause (ii), by striking “2002 and 2003” and inserting “2008 and 2009”; and

(2) in subparagraph (D)—

(A) in clause (i)—

(i) by striking “1999” and inserting “2005”;

(ii) by striking “2000 through 2003” and inserting “2006 through 2009”; and

(iii) by striking “section 3103 of the Transportation Equity Act for the 21st Century” and inserting “section 6102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005”; and

(B) in clause (ii), by striking “2000, 2001, 2002, or 2003” and inserting “2006, 2007, 2008, and 2009”.

SEC. 3103. LEVEL OF OBLIGATION LIMITATIONS.

(a) Highway Category.—For the purpose of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)), the level of obligation limitations for the highway category is—

(1) for fiscal year 2005, $35,154,000,000;

(2) for fiscal year 2006, $40,110,000,000;

(3) for fiscal year 2007, $40,564,000,000;

(4) for fiscal year 2008, $42,544,000,000; and

(5) for fiscal year 2009, $43,281,000,000.

(b) Mass Transit Category.—For the purpose of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)), the level of obligation limitations for the mass transit category is—

(1) for fiscal year 2005, $7,609,000,000;

(2) for fiscal year 2006, $8,902,000,000;

(3) for fiscal year 2007, $9,367,000,000;

(4) for fiscal year 2008, $10,171,000,000; and

(5) for fiscal year 2009, $10,502,000,000.

For the purpose of this subsection, the term “obligation limitations” means the sum of budget authority and obligation limitations.

On page 566, strike lines 2 and 3 and insert the following:

“(C) blast furnace slag aggregate;

“(D) silica fume; and

“(E) any other waste material or byprod-

On page 582, after line 25, add the following:

SEC. 5204. VOLUMETRIC EXCISE TAX CREDIT FOR ALTERNATIVE FUELS.

(a) Imposition of Tax.—

(1) In general.—Section 4081(a)(2)(A) (relating to rates of tax), as amended by section 5611 of this Act, is amended—

(A) by striking “and” at the end of clause (ii),

(B) by striking the period at the end of clause (iii), and

(C) by adding at the end the following new clauses:

“(iv) in the case of P Series Fuels, 18.3 cents per gallon,

“(v) in the case of compressed natural gas and hydrogen, 18.3 cents per energy equivalent of a gallon of gasoline, and

“(vi) in the case of liquefied natural gas, any liquid fuel (other than ethanol and methanol) derived from coal (including peat), and liquid hydrocarbons derived from biomass (as defined in section 29(c)(3)), 24.3 cents per gallon.”.

(2) Treatment of alternative fuel as taxable fuel.—

(A) In general.—Section 4083(a)(1) (defining taxable fuel) is amended—

(i) by striking “and” at the end of subparagraph (B),

(ii) by striking the period at the end of subparagraph (C) and inserting “, and”, and

(iii) by adding at the end the following new subparagraph:

“(D) alternative fuel.”.

(B) Definition.—Section 4083(a) is amended by adding at the end the following new paragraph:

“(4) Alternative fuel.—The term ‘alternative fuel’ means—

“(A) compressed or liquefied natural gas,

“(B) P Series Fuels (as defined by the Secretary of Energy under section 13211(2) of title 42, United States Code,

“(C) hydrogen,

“(D) any liquid fuel (other than ethanol and methanol) derived from coal (including peat), and

“(E) liquid hydrocarbons derived from biomass (as defined in section 29(c)(3)).”.

(3) Conforming amendment.—Section 4041(a), as amended by section 5101 of this Act, is amended by striking paragraphs (2) and (3) and inserting the following:

“(2) Special motor fuels.—

“(A) In general.—There is hereby imposed a tax on any alternative fuel (other than gas oil or fuel oil) and liquefied petroleum gas—

“(i) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat, or

“(ii) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such fuel under clause (i).

“(B) Exemption for previously taxed fuel.—No tax shall be imposed by this paragraph on the sale or use of any alternative fuel or liquefied petroleum gas if tax was imposed on such alternative fuel or liquefied petroleum gas under section 4081 and the tax thereon was not credited or refunded.

“(C) Rate of tax.—Except as otherwise provided, the rate of the tax imposed by this paragraph shall be the rate of tax specified in clause (iv), (v), or (vi) of section 4081(a)(2)(A) on the alternative fuel which is in effect at the time of such sale or use. In the case of liquefied petroleum gas, the rate of the tax imposed by this paragraph shall be 13.6 cents per gallon (3.2 cents per gallon in the case of any sale or use after September 30, 2011).

“(D) Bus uses.—No tax shall be imposed by this paragraph on any sale for use, or use, described in subparagraph (B) or (C) of section 6427(b)(2) (relating to school bus and intracity transportation).”.

(b) Credit for Alternative Fuel and Alternative Fuel Mixtures.—

(1) In general.—Section 6426(a) (relating to allowance of credits) is amended by striking “plus” at the end of paragraph (1), by striking the period at the end of paragraph (2) and by adding at the end the following new paragraphs:

“(3) the alternative fuel credit, plus

“(4) the alternative fuel mixture credit.”.

(2) Alternative fuel and alternative fuel mixture credit.—Section 6426 (relating to credit for alcohol fuel and biodiesel mixtures) is amended by redesignating subsections (d) and (e) as subsections (f) and (g) and by inserting after subsection (c) the following new subsection:

“(d) Alternative Fuel Credit.—

“(1) In general.—For purposes of this section, the alternative fuel credit is the product of 50 cents and the number of gallons of an alternative fuel or gasoline gallon equivalents of a nonliquid alternative fuel sold by the taxpayer for use as a motor fuel in a highway vehicle.

“(2) Alternative fuel.—For purposes of this section, the term ‘alternative fuel’—

“(A) has the meaning given such term by subparagraphs (A), (B), (C), and (E) of section 4083(a)(4),

“(B) includes any liquid fuel derived from coal (including peat) through the Fischer-Tropsch process, and

“(C) does not include ethanol, methanol, or biodiesel.

“(3) Gasoline gallon equivalent.—For purposes of this subsection, the term ‘gasoline gallon equivalent’ means, with respect to any nonliquid alternative fuel, the amount of such fuel having a Btu content of 124,800 (higher heating value).

“(4) Termination.—This subsection shall not apply to any sale, use, or removal for any period after September 30, 2009.

“(e) Alternative Fuel Mixture Credit.—

“(1) In general.—For purposes of this section, the alternative fuel mixture credit is the product of 50 cents and the number of gallons of alternative fuel used by the taxpayer in producing any alternative fuel mixture for sale or use in a trade or business of the taxpayer.

“(2) Alternative fuel mixture.—For purposes of this section, the term ‘alternative fuel mixture’ means a mixture of alternative fuel and taxable fuel (as defined in subparagraph (A), (B), or (C) of section 4083(a)(1)) which—

“(A) is sold by the taxpayer producing such mixture to any person for use as fuel in a highway vehicle, or

“(B) is used as a fuel in a highway vehicle by the taxpayer producing such mixture.

“(3) Termination.—This subsection shall not apply to any sale, use, or removal for any period after September 30, 2009.”.

(3) Conforming amendments.—

(A) The section heading for section 6426 is amended by striking “ALCOHOL FUEL AND BIODIESEL” and inserting “CERTAIN ALTERNATIVE FUEL”.

(B) The table of sections for subchapter B of chapter 65 is amended by striking “alcohol fuel and biodiesel” in the item relating to section 6426 and inserting "certain alternative fuel".

(C) Section 6427(a) is amended by striking "paragraph (2) or (3) of section 4041(a) or section 4041(c)" and inserting "section 4041(a)(2) or 4041(c)".

(D) Section 6427(e) is amended—

(i) by inserting "or the alternative fuel mixture credit" after "biodiesel mixture credit" in paragraph (1),

(ii) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) ALTERNATIVE FUEL.—If any person produces an alternative fuel described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alternative fuel credit with respect to such fuel.",

(iii) by striking "under paragraph (1) with respect to any mixture" in paragraph (3) (as redesignated by clause (ii)) and inserting "under paragraph (1) or (2) with respect to any mixture or alternative fuel",

(iv) by striking "and" at the end of paragraph (4)(A) (as redesignated by clause (ii)),

(v) by striking the period at the end of paragraph (4)(B) (as so redesignated),

(vi) by adding at the end of paragraph (4) (as so redesignated) the following new subparagraph:

"(C) any alternative fuel or alternative fuel mixture (as defined in section 6426 (d)(2) or (e)(3)) sold or used after September 30, 2009.", and

(vii) by striking "OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES" in the heading and inserting ", BIODIESEL, OR ALTERNATIVE FUEL".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any sale, use, or removal for any period after September 30, 2006.

On page 583, line 14, insert "received on or after October 1, 2005, and before October 1, 2011," after "taxes".

On page 585, strike lines 12 and 13, and insert the following:

graphs (1) and (2) and inserting "TRUST FUND".

On page 585, line 21, strike "Sports" and insert "Sport".

On page 628, strike line 23, and insert the following:

and inserting "$155 (in the case of any calendar year after 2009, the dollar amount specified in subparagraph (B) for such year)", and

On page 630, line 7, insert "shall propose options for implementing exemptions for classes of vehicles whose nonpropulsive fuel use exceeds 50 percent," after "taxes,".

On page 631, line 7, insert ", except that the Secretary shall report and take action under subsection (a)(1) not later than July 1, 2006" before the period at the end.

Beginning on page 2, line 8, of Modified Amendment No. 670, strike all through page 3, line 9, and insert the following:

"(b) LIMITATION.—The credit allowed under subsection (a) with respect to any alternative fuel vehicle refueling property shall not exceed—

"(1) $30,000 in the case of a property of a character subject to an allowance for depreciation, and

"(2) $1,000 in any other case.

"(c) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'qualified alternative fuel vehicle refueling property' has the meaning given to such term by section 179A(d), but only with respect to any fuel at least 85 percent of the volume of which consists of ethanol, natural gas, compressed natural gas, liquefied natural gas, and hydrogen.

"(2) RESIDENTIAL PROPERTY.—In the case of any property installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer, paragraph (1) of section 179A(d) shall not apply.

On page 635, before line 4, insert the following:

SEC. 5310. DIESEL FUEL TAX EVASION REPORT.

Not later than 360 days after the date of the enactment of this Act, the Commissioner of the Internal Revenue shall report to the Committees on Finance and Environment and Public Works of the Senate and the Committees on Ways and Means and Transportation and Infrastructure of the House of Representatives on the availability of new technologies that can be employed to enhance collections of the excise tax on diesel fuel and the plans of the Internal Revenue Service to employ such technologies.

On page 698, between lines 13 and 14, insert the following:

SEC. 5516. LIMITATION OF EMPLOYER DEDUCTION FOR CERTAIN ENTERTAINMENT EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 274(e) (relating to expenses treated as compensation) is amended to read as follows:

"(2) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities, to the extent that the expenses do not exceed the amount of the expenses which are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).".

(b) PERSONS NOT EMPLOYEES.—Paragraph (9) of section 274(e) is amended by striking "to the extent that the expenses are includible in the gross income" and inserting "to the extent that the expenses do not exceed the amount of the expenses which are includible in the gross income".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses incurred after the date of the enactment of this Act.

SEC. 5517. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking "$750" and inserting "$1,250", and

(2) by striking "$15" and inserting "$25".

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

SEC. 5518. ELIMINATION OF DOUBLE DEDUCTION ON MINING EXPLORATION AND DEVELOPMENT COSTS UNDER THE MINIMUM TAX.

(a) IN GENERAL.—Section 57(a)(1) (relating to depletion) is amended by striking "for the taxable year)" and inserting "for the taxable year and determined without regard to so much of the basis as is attributable to mining exploration and development costs described in section 616 or 617 for which a deduction is allowable for any taxable year under this part).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment this Act.

On page 722, line 2, insert "for use as a fuel" after "liquid".

On page 722, line 5, insert "for use as a fuel" after "liquid".

On page 722, line 15, insert "AS A FUEL" after "USED".

On page 944, after line 21, add the following:

SEC. 6044. COMMUTER RAIL.

(a) IN GENERAL.—The Federal Transit Administration shall approve final design for the project authorized under section 3030(c)(1)(A)(xliv) of the Federal Transit Act of 1998 and section 1214(g) of the Transportation Equity Act for the 21st Century (16 U.S.C. 668dd note) in the absence of an access agreement with the owner of the railroad right of way.

(b) TIMELY RESOLUTION OF ISSUES.—The Secretary shall timely resolve any issues delaying the completion of the project authorized under section 1214(g) of the Transportation Equity Act for the 21st Century (16 U.S.C. 668dd note) and section 3030(c)(1)(A)(xliv) of the Federal Transit Act of 1998.

On page 1021, between lines 5 and 6, insert the following:

SEC. 7130. CERTIFICATION OF VEHICLE EMISSION PERFORMANCE STANDARDS.

(a) REGISTRATION OF MOTOR CARRIERS.—Section 13902(a)(1) of title 49, United States Code (as amended by section 7117(b)), is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) a requirement that a motor carrier certify that, beginning on January 1, 2007, any vehicle operated by the motor carrier will comply with the heavy duty vehicle and engine emissions performance standards and related regulations established by the Administrator of the Environmental Protection Agency under section 202(a)(3) of the Clean Air Act (42 U.S.C. 7521(a)(3));".

(b) STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary shall make recommendations to Congress on methods of ensuring that trucks built before January 1, 2007, that are operating in the United States comply with any emissions performance standard under the Clean Air Act (42 U.S.C. 7401 et seq.) that was applicable to the truck on the date on which the engine of the truck was manufactured.

On page 1069, after line 10, add the following:

SEC. 7155. SCHOOL BUS ENDORSEMENT KNOWLEDGE TEST REQUIREMENT.

The Secretary shall recognize any driver who passes a test approved by the Federal Motor Carrier Safety Administration as meeting the knowledge test requirement for a school bus endorsement under section 383.123 of title 49, Code of Federal Regulations.

On page 1091, line 17, strike "$1,000,000,000" and insert "$1,000,000".

On page 1111, line 17, strike "or" after the semicolon and insert "and".

On page 1224, strike lines 6 through 10 and insert the following:

SEC. 7402. DEFINITIONS; APPLICATION OF PROVISIONS.

(a) TERMS USED IN THIS CHAPTER.—In this chapter, the terms "carrier", "household goods", "motor carrier", "Secretary", and "transportation" have the meaning given such terms in section 13102 of title 49, United States Code.

(b) "HOUSEHOLD GOODS MOTOR CARRIER" IN PART B OF SUBTITLE IV OF TITLE 49.—Section 13102 is amended by redesignating paragraphs (12) through (24) as paragraphs (13) through (25) and by inserting after paragraph (11) the following:

"(12) HOUSEHOLD GOODS MOTOR CARRIER.—

"(A) IN GENERAL.—The term 'household goods motor carrier' means a motor carrier described in subparagraph (B) that, in the ordinary course of its business of providing transportation of household goods, offers some or all of the following additional services:

"(i) Binding and nonbinding estimates.

"(ii) Inventorying.

"(iii) Protective packing and unpacking of individual items at personal residences.

"(iv) Loading and unloading at personal residences.

"(B) REGISTRATION REQUIREMENT.—A motor carrier is described in this subparagraph if its operations require it to register as a household goods motor carrier under—

"(i) section 13902 of this title; and

"(ii) regulations prescribed by the Secretary consistent with Federal agency determinations and decisions that were in effect on the date of enactment of the Household Goods Mover Oversight Enforcement and Reform Act of 2005.

"(C) LIMITED SERVICE EXCLUSION.—The term 'household goods motor carrier' does not include a motor carrier solely because it provides transportation of household goods entirely packed in, and unpacked from, 1 or more containers or trailers by the individual shipper.".

(c) APPLICATION OF CERTAIN PROVISIONS OF LAW.—The provisions of title 49, United States Code, or of this chapter, relating to the transportation of household goods apply only to a household goods motor carrier (as defined in section 13102(12) of title 49, United States Code).

On page 1234, beginning with line 8, strike through line 6 on page 1235 and insert the following:

"(b) NOTICE AND CONSENT.—

"(1) IN GENERAL.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action.

"(2) CONDITIONS.—The Secretary or the Board—

"(A) shall review the initiation of the action by the State if—

"(i) the carrier or broker (as such terms are defined in section 13102 of this title) is not registered with the Department of Transportation;

"(ii) the license of a carrier or broker for failure to file proof of required bodily injury or cargo liability insurance is pending, or the license has been revoked for any other reason by the Department of Transportation;

"(iii) the carrier is not rated or has received a conditional or unsatisfactory safety rating by the Department of Transportation; or

"(iv) the carrier or broker has been licensed with the Department of Transportation for less than 5 years; and

"(B) may review if the carrier or broker fails to meet criteria developed by the Secretary that are consistent with this section.

"(3) CONGRESSIONAL NOTIFICATION.—The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure of any criteria developed by the Secretary under paragraph (2)(B).

"(5) 60-DAY DEADLINE.—The Secretary or the Board shall be considered to have consented to any such action if the Secretary or the Board has taken no action with respect to the notice within 60 calendar days after the date on which the Secretary or the Board received notice under paragraph (1).

"(c) AUTHORITY TO INTERVENE.—

"(1) IN GENERAL.—Upon receiving the notice required by subsection (b), the Secretary or Board may intervene in such civil action and upon intervening—

"(A) be heard on all matters arising in such civil action;

"(B) file petitions for appeal of a decision in such civil action; and

"(C) be substituted, upon the filing of a motion with the court, for the State as parens patriae in the action.

"(2) SUBSTITUTION.—If the Secretary or the Board files a motion under paragraph (1)(C), the court shall—

"(A) grant the motion without further hearing or procedure;

"(B) substitute the Secretary or the Board, as appropriate, for the State as plaintiff; and

"(C) if requested by the Secretary or the Board, dismiss the State as a party to the action.

"(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall—

"(1) convey a right to initiate or maintain a class action lawsuit in the enforcement of a Federal law or regulation; or

"(2) prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

On page 1247, beginning on line 23, strike "For fiscal years 2006 through 2020," and insert "For fiscal years 2005 through 2019,".

On page 1249, beginning on line 7, strike "For a fiscal year after fiscal year 2005," and insert "For fiscal year 2005 and each subsequent fiscal year,".

On page 1249, beginning on line 24, strike "for a fiscal year after fiscal year 2005," and insert "for fiscal year 2005 and each subsequent fiscal year,".

On page 1252, beginning on line 18, strike "For each fiscal year after fiscal year 2005," and insert "For fiscal year 2005 and each subsequent fiscal year,".

On page 1281, between lines 2 and 3, insert the following:

SEC. 76 . FEDERAL SCHOOL BUS DRIVER QUALIFICATIONS.

The effective date of section 383.123 of volume 49, Code of Federal Regulations (as in effect on the date of enactment of this Act), shall be September 30, 2006.

Beginning on page 1281, strike line 3 and all that follows through page 1291, line 19.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, May 18, 2005, at 9:30 a.m. in Room 216 of the Hart Senate Office Building to conduct an oversight hearing on Taking Lands into Trust.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, May 25, 2005, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on S.J. Res. 15, a joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

FOREIGN TRAVEL FINANCIAL REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following reports for standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Saxby Chambliss:									
Switzerland	Franc		615.00						615.000
France	Euro		364.00						364.00

Total			979.00						979.00

SAXBY CHAMBLISS,
Chairman, Committee on Agriculture, Nutrition and Forestry, Apr. 4, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Scott B. Gudes:									
Venezuela	Dollar		400.00						400.00
Costa Rica	Dollar		400.00						400.00
United States	Dollar				2,035.00				2,035.00
Rebecca M. Davies:									
Spain	Euros		738.75						738.75
United Kingdom	Pound		1,223.75						1,223.75
United States	Dollar				5,496.40				5,496.40
Tim Rieser:									
Nepal	Dollar		150.00				60.00		210.00
Sri Lanka	Dollar		240.00				90.00		330.00
United States	Dollar				4,327.00				4,327.00
Total			3,152.50		11,858.40		150.00		15,160.90

THAD COCHRAN,
Chairman, Committee on Appropriations, Apr. 14, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Thomas P. Hawkins:									
Philippines	Peso		732.00						732.00
Indonesia	Rupiah		532.00						532.00
Singapore	Dollar		444.15						444.15
Cambodia	Riel		406.00						406.00
Hong Kong	Dollar		822.00						822.00
United States	Dollar				6,657.74				6,657.74
Pakistan	Rupee		313.00						313.00
Afghanistan	Afghani		270.00						270.00
Italy	Lira		1,530.00		860.00				2,390.00
Paul C. Grove:									
Pakistan	Rupee		313.00						313.00
Afghanistan	Afghani		270.00						270.00
Italy	Lira		1,530.00		860.00				2,390.00
Mark Lippert:									
Philippines	Peso		732.00						732.00
Indonesia	Rupiah		532.00						532.00
Singapore	Dollar		444.15						444.15
Cambodia	Riel		406.00						406.00
Hong Kong	Dollar		822.00						822.00
United States	Dollar				7,015.92				7,015.92
Senator Sam Brownback:									
Sri Lanka	Rupee		669.00						669.00
India	Rupee		368.00						368.00
United States	Dollar				7,640.38				7,640.38
Landon Fulmer:									
Sri Lanka	Rupee		824.00						824.00
India	Rupee		590.00						590.00
United States	Dollar				7,873.16				7,873.16
Dennis Ward:									
Qatar	Dollar		148.00						148.00
United Arab Emirates	Dirham		503.25						503.25
Kuwait	Dollar		788.00						788.00
United States	Dollar				6,544.05				6,544.05
Sean Knowles:									
Qatar	Dollar		148.00						148.00
United Arab Emirates	Dirham		503.25						503.25
Kuwait	Dollar		788.00						788.00
United States	Dollar				6,514.05				6,514.05
Italy	Euro		743.00						743.00
United States	Dollar				7,419.37				7,419.37
Barry G. Wright:									
Qatar	Dollar		148.00						148.00
United Arab Emirates	Dirham		503.25						503.25
Kuwait	Dollar		788.00						788.00
United States	Dollar				6,660.05				6,660.05
Christiana Evans:									
Qatar	Dollar		148.00						148.00
United Arab Emirates	Dirham		503.25						503.25
Kuwait	Dollar		788.00						788.00
United States	Dollar				6,454.05		45.00		6,499.05
Senator Christopher Bond:									
Singapore	Dollar		538.00						538.00
Malaysia	Ringgit		358.00						358.00
Indonesia	Rupiah		532.00						532.00
United States	Dollar				6,658.00				6,658.00
John R. Bartling:									
Singapore	Dollar		538.00						538.00
Malaysia	Ringgit		358.00						358.00
Indonesia	Rupiah		532.00						532.00
United States	Dollar				6,658.00				6,658.00
Jason Ian Eaton:									
Singapore	Dollar		538.00						538.00
Malaysia	Ringgit		358.00						358.00
Indonesia	Rupiah		532.00						532.00
United States	Dollar				6,616.00				6,616.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Patrick Leahy:									
Switzerland	Franc		615.00						615.00
France	Euro		364.00						364.00
Senator Wayne Allard:									
Marshall Islands	Dollar		150.00						150.00
Jayson Roehl:									
Marshall Islands	Dollar		150.00						150.00
Paul Carliner:									
New Zealand	Dollar		900.00						900.00
United States	Dollar				8,570.00				8,570.00
Total			25,512.30		93,000.77		45.00		118,558.07

THAD COCHRAN,
Chairman, Committee on Appropriations, Apr. 20, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Lynn F. Rusten:									
United States	Dollar				5,944.70				5,944.70
Russia	Dollar		1,340.00						1,340.00
Madelyn R. Creedon:									
United States	Dollar				5,839.00				5,839.00
Russia	Dollar		1,487.00						1,487.00
Senator Jeff Sessions:									
Qatar	Rial		100.00						100.00
Kuwait	Dinar		930.00						930.00
United States	Dollar				5,914.89				5,914.89
Arch Galloway II:									
Qatar	Rial		90.00						90.00
Kuwait	Dinar		940.00						940.00
United States	Dollar				5,914.89				5,914.89
Ambrose R. Hock:									
Qatar	Rial		46.00						46.00
Kuwait	Dinar		981.00						981.00
United States	Dollar				5,914.89				5,914.89
William C. Greenwalt:									
United States	Dollar				6,087.33				6,087.33
United Kingdom	Pound		1,149.60		134.47				1,284.07
Peter K. Levine:									
United States	Dollar				6,087.33				6,087.33
United Kingdom	Pound		1,136.34		134.47		32.30		1,303.01
Senator Jack Reed:									
United States	Dollar				10,862.50				10,862.50
Qatar	Dollar						7.00		7.00
Kuwait	Dollar		263.00				7.00		270.00
Elizabeth King:									
United States	Dollar				10,967.50				10,967.50
Qatar	Dollar		128.54						128.54
Kuwait	Dollar		249.00				8.00		257.00
Lucian L. Niemeyer:									
United States	Dollar				6,454.00				6,454.00
Qatar	Dollar		8.00						8.00
Afghanistan	Dollar		10.50						10.50
United Arab Emirates	Dollar		52.18						52.18
Kuwait	Dollar		655.00						655.00
Michael J. McCord:									
United States	Dollar				6,454.00				6,454.00
Qatar	Dollar		13.00						13.00
United Arab Emirates	Dollar		38.00						38.00
Kuwait	Dollar		646.00						646.00
Senator James M. Inhofe:									
Germany	Euro		373.88				15.15		389.03
John Bonsell:									
Germany	Euro		201.12				10.10		211.12
Ryan Thompson:									
Germany	Euro		148.50				10.00		158.50
Senator John McCain:									
Switzerland	Franc		102.21						102.21
Richard H. Fontaine:									
Switzerland	Franc		585.00						585.00
Senator Lindsey O. Graham:									
Kuwait	Dollar		810.00				233.00		1,043.00
Pakistan	Rupee		179.00				207.75		386.75
Afghanistan	Dollar						90.00		90.00
Tunisia	Dinar		84.00				142.50		226.50
Senator Hillary Rodham Clinton:									
Kuwait	Dollar		1,139.00						1,139.00
Pakistan	Rupee		419.75						419.75
Huma Abedin:									
Kuwait	Dollar		899.50						899.50
Pakistan	Rupee		240.75						240.75
Richard H. Fontaine:									
Kuwait	Dollar		1,180.00						1,180.00
Pakistan	Rupee		228.50						228.50
Afghanistan	Dollar		100.00						100.00
Tunisia	Dinar		251.50						251.50
Senator Susan M. Collins:									
Kuwait	Dollar		1,043.00						1,043.00
Pakistan	Rupee		239.75						239.75
Afghanistan	Dollar		90.00						90.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Tunisia	Dinar		282.50						282.50
Senator John McCain:									
Kuwait	Dollar		998.00						998.00
Pakistan	Rupee		279.00						279.00
Afghanistan	Dollar		90.00						90.00
Tunisia	Dinar		260.00						260.00
Senator Joseph Lieberman:									
Germany	Dollar		581.50						581.50
Frederick M. Downey:									
Germany	Dollar		781.50						781.50
Andrew Shapiro:									
Germany	Dollar		153.00						153.00
United States	Dollar				5,797.26				5,797.26
Richard H. Fontaine:									
Germany	Dollar		250.00						250.00
Senator Jeff Sessions:									
Marshall Islands	Dollar		75.00						75.00
Arch Galloway II:									
Marshall Islands	Dollar		140.00						140.00
Robert M. Sooler:									
Marshall Islands	Dollar		117.00						117.00
Senator John Cornyn:									
Marshall Islands	Dollar		150.00						150.00
Russell J. Thomasson:									
Marshall Islands	Dollar		110.00						110.00
Senator John Thune:									
Germany	Euro		352.32						352.32
Matthew Zabel:									
Germany	Euro		352.32						352.32
Total			23,422.22		82,507.23		891.14		106,820.59

JOHN W. WARNER,
Chairman, Committee on Armed Services, Apr. 15, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Charles W. Alsup:									
Colombia	Peso		469.00				65.00		534.00
Ecuador	Dollar		43.00				40.00		83.00
Paraguay	Guarani		113.25				20.00		133.25
Brazil	Real		114.00				35.00		149.00
United States	Dollar				4,698.27				4,698.27
Evelyn N. Farkas:									
United States	Dollar				4,698.27				4,698.27
Colombia	Peso		520.00						520.00
Ecuador	Dollar		43.00						43.00
Paraguay	Guarani		105.70						105.70
Brazil	Real		114.00						114.00
Senator Carl Levin:									
Kuwait	Dollar		688.00						688.00
Belgium	Euro		521.70						521.70
United Kingdom	Pound		135.00						135.00
Total			2,866.65		9,396.54		160.00		12,423.19

JOHN W. WARNER,
Chairman, Committee on Armed Services, Apr. 12, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Richard Shelby:									
Switzerland	Franc		618.00						618.00
France	Euro		364.00						364.00
Kathleen L. Casey:									
Switzerland	Franc		618.00						618.00
France	Euro		364.00						364.00
Louis Tucker:									
Switzerland	Franc		618.00						618.00
France	Euro		364.00						364.00
Walter E. Fischer:									
United States	Dollar				7,722.00				7,722.00
United Arab Emirates	Dirham		404.00						404.00
Bahrain	Dinar		298.00						298.00
Saudi Arabia	Riyal		76.00						76.00
Israel	Shekel		1,017.00						1,017.00
John V. O'Hara:									
United States	Dollar				7,722.00				7,722.00
United Arab Emirates	Dirham		404.00						404.00
Bahrain	Dinar		263.00						263.00
Saudi Arabia	Riyal		73.00						73.00
Israel	Shekel		817.00						817.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Steven R. Kroll:									
United States	Dollar				7,722.00				7,722.00
United Arab Emirates	Dirham		404.00						404.00
Bahrain	Dinar		313.00						313.00
Saudi Arabia	Riyal		185.00						185.00
Steven R. Kroll:									
Israel	Shekel		1,017.00						1,017.00
Robin Landauer:									
United States	Dollar				5,507.00				5,507.00
China	Dollar				382.00				382.00
China	Yuan		894.00						894.00
Theodore Dahlstrom:									
United States	Dollar				6,422.00				6,422.00
China	Dollar				382.00				382.00
China	Yuan		894.00						894.00
Bryan N. Corbett:									
United States	Dollar				6,627.00				6,627.00
United Kingdom	Pound		964.00						964.00
France	Euro		924.00						924.00
Belgium	Euro		790.00						790.00
Mark F. Oesterle:									
United States	Dollar				6,627.00				6,627.00
United Kingdom	Pound		964.00						964.00
France	Euro		924.00						924.00
Belgium	Euro		790.00						790.00
Steven Patterson:									
United States	Dollar				6,627.00				6,627.00
United Kingdom	Pound		964.00						964.00
France	Euro		924.00						924.00
Belgium	Euro		790.00						790.00
Maurice Perkins:									
United States	Dollar				6,627.00				6,627.00
United Kingdom	Pound		964.00						964.00
France	Euro		924.00						924.00
Berlgium	Euro		790.00						790.00
Dean V. Shahinian:									
United States	Dollar				6,627.00				6,627.00
United Kingdom	Pound		964.00						964.00
France	Euro		924.00						924.00
Belgium	Euro		790.00						790.00
Total			23,395.00		68,994.00				92,389.00

RICHARD C. SHELBY,
Chairman, Committee on Banking, Housing, and Urban Affairs,
Apr. 20, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION FOR TRAVEL FROM JAN. 1, TO MAR. 31, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Susan G. Keenom:									
Switzerland	Franc		615.00						615.00
France	Euro		364.00						364.00
Jean Toal Eisen:									
New Zealand	Dollar		591.30						591.30
United States	Dollar				1,900.60				1,900.60
Floyd DesChamps:									
New Zealand	Dollar		840.00						840.00
United States	Dollar				8,382.77				8,382.77
Chris Socha:									
Kuwait	Dinar		491.00						491.00
Germany	Euro		16.44						16.44
Wesley Denton:									
Kuwait	Dinar		490.59						490.59
Germany	Euro		16.44						16.44
Senator Jim DeMint:									
Kuwait	Dinar		491.00				30.30		521.30
Germany	Euro		41.61				13.09		54.70
Matthew Paxton:									
Belgium	Euro		1,316.94						1,316.94
United States	Dollar				5,906.87				5,906.87
Total			5,274.32		16,190.24		43.39		21,507.95

TED STEVENS,
Chairman, Committee on Commerce, Science, and Transportation,
Apr. 20, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Jeff Bingaman:									
India	Rupee		2,256.07						2,256.07
United States	Dollar				6,394.81				6,394.81
Robert Simon:									
India	Rupee		2,608.94						2,608.94

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	Dollar				6,394.81				6,394.81
Stephen D. Ward:									
India	Rupee		2,555.57						2,555.57
United States	Dollar				6,394.81				6,394.81
Allen Stayman:									
Micronesia/Marshall	Dollar		1,431.79						1,431.79
United States	Dollar				4,599.60				4,599.60
Joshua Johnson:									
Micronesia/Marshall	Dollar		1,665.78						1,665.78
United States	Dollar				7,440.50				7,440.50
Colin T. Hayes:									
Canada	Dollar		615.00						615.00
United States	Dollar				872.32				872.32
Clint Williamson:									
Canada	Dollar		570.00						570.00
United States	Dollar				872.32				872.32
Total			11,703.15		32,969.17				44,672.32

PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, Apr. 18, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Gordon Smith:									
Switzerland	Franc		615.00						615.00
France	Euro		364.00						364.00
Robert F. Epplin:									
Switzerland	Franc		1,083.00						1,083.00
France	Euro		364.00						364.00
Paul Matulic:									
Switzerland	Franc		615.00						615.00
France	Euro		364.00						364.00
Robert F. Epplin:									
Jordan	Dinar		508.00						508.00
Egypt	Pound		867.00						867.00
United Arab Emirates	Dirham		991.70						991.70
Senator Gordon Smith:									
Jordan	Dinar		508.00						508.00
Egypt	Pound		867.00						867.00
United Arab Emirates	Dirham		991.70						991.70
Total			8,138.40						8,138.40

CHARLES E. GRASSLEY,
Chairman, Committee on Finance, Oct. 14, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator George Allen:									
Jordan	Dinar		254.00						254.00
Israel	Shekel		339.00						339.00
United States	Dollar				6,067.76				6,067.76
Senator Joseph Biden:									
Switzerland	Franc		615.00						615.00
France	Euro		364.00						364.00
Senator Lincoln Chafee:									
Venezuela	Bolivar		266.03						266.03
Paraguay	Guarini		295.10				793.89		1,088.99
Argentina	Peso		300.01						300.01
Peru	Neuvo Sol		574.00						574.00
Ecuador	Dollar		130.27				725.41		855.68
Senator Christopher Dodd:									
Venezuela	Bolivar		283.00						283.00
Paraguay	Guarini		375.00				793.89		1,168.89
Argentina	Peso		308.00						308.00
Peru	Neuvo Sol		773.00						773.00
Ecuador	Dollar		235.80				725.41		961.21
Senator Christopher Dodd:									
Switzerland	Franc		510.00						510.00
United States	Dollar				2,141.19				2,141.19
Senator Russell Feingold:									
Algeria	Dinar		205.00						205.00
Chad	Franc		148.00						148.00
Mali	Franc		301.00						301.00
United States	Dollar				7,096.88				7,096.88
Senator Russell Feingold:									
Kuwait	Dinar		1,060.50						1,060.50
Pakistan	Rupee		238.75				534.12		772.87
Afghanistan	Afghani		34.00						34.00
Tunisia	Dinar		191.50						191.50
Senator John Kerry:									
Jordan	Dinar		548.00						548.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Kuwait	Dinar		348.00						348.00
Syria	Pound		206.00						206.00
Israel	Shekel		961.00						961.00
Egypt	Pound		286.00						286.00
Germany	Euro		402.00						402.00
United Kingdom	Pound		482.00						482.00
France	Euro		462.00						462.00
United States	Dollar				7,055.64				7,055.64
Senator Mel Martinez:									
Israel	Shekel		909.90						909.90
Turkey	Lira		483.60						483.60
Senator Lisa Murkowski:									
Israel	Shekel		909.90						909.90
Turkey	Lira		483.60						483.60
Senator Bill Nelson:									
Venezuela	Bolivar		160.00						160.00
Paraguay	Guarini		208.00		156.00		793.89		1,157.89
Argentina	Peso		256.00						256.00
Peru	Neuvo Sol		124.00						124.00
Jonah Blank:									
Indonesia	Rupiah		3,000.00						3,000.00
United States	Dollar				12,791.72				12,791.72
Deborah Brayton:									
Venezuela	Bolivar		283.00						283.00
Paraguay	Guarini		375.00				793.89		1,168.89
Argentina	Peso		308.00						308.00
Peru	Neuvo Sol		773.00						773.00
Ecuador	Dollar		235.00				725.41		960.41
Paul Foldi:									
Haiti	Gourde		560.00						560.00
United States	Dollar				1,176.15				1,176.15
Heather Flynn:									
Kenya	Shilling		1,180.00						1,180.00
Zambia	Kwacha		588.00						588.00
United States	Dollar				9,294.00				9,294.00
Michelle Gavin:									
Algeria	Dinar		233.00						233.00
Chad	Franc		148.00						148.00
Mali	Franc		372.00						372.00
United States	Dollar				7,096.88				7,096.88
Frank Jannuzi:									
China	Yuan		1,401.00						1,401.00
Japan	Yen		1,594.00						1,594.00
Thailand	Baht		1,160.00						1,160.00
United States	Dollar				9,188.00				9,188.00
Norm Kurz:									
Israel	Shekel		678.00						678.00
Keith Luse:									
Indonesia	Rupiah		2,915.26						2,915.26
Vietnam	Dong		563.68		536.00				1,099.68
United States	Dollar				6,334.34				6,334.34
Bill Martin:									
Israel	Shekel		396.00						396.00
Dan McLaughlin:									
Venezuela	Bolivar		283.00						283.00
Paraguay	Guarini		375.00				793.89		1,168.89
Argentina	Peso		311.00						311.00
Peru	Neuvo Sol		773.00						773.00
Ecuador	Dollar		236.00				725.41		961.41
Janice O'Connell:									
Venezuela	Bolivar		283.00						283.00
Paraguay	Guarini		375.00				798.89		1,173.89
Argentina	Peso		308.00						308.00
Peru	Neuvo Sol		773.00						773.00
Ecuador	Dollar		235.80				725.41		961.21
United States	Dollar				470.50				470.50
Jonathan Pearl:									
Venezuela	Bolivar		283.00						283.00
Paraguay	Guarini		375.00				793.89		1,168.89
Argentina	Peso		308.00						308.00
Peru	Neuvo Sol		773.00						773.00
Ecuador	Dollar		235.80				725.41		961.21
Nilmini Rubin:									
Sri Lanka	Rupee		1,528,00						1,528.00
United States	Dollar				9,309.01				9,309.01
Kim Savit:									
Israel	Shekel		622.31						622.31
Jennifer Simon:									
Haiti	Gourde		702.00						702.00
United States	Dollar				1,176.15				1,176.15
Nancy Stetson:									
Jordan	Dinar		722.00						722.00
Kuwait	Dinar		354.00						354.00
Syria	Pound		216.00						216.00
Israel	Shekel		980.00						980.00
Egypt	Pound		289.00						289.00
Germany	Euro		298.00						298.00
United Kingdom	Pound		482.00						482.00
France	Euro		462.00						462.00
United States	Dollar				5,862.54				5,862.54
Puneet Talwar:									
Israel	Shekel		678.00						678.00
Switzerland	Franc		615.00						615.00
France	Euro		364.00						364.00
Greece	Euro		1,127.00						1,127.00
United States	Dollar				5,991.23				5,991.23
Paul Unger:									
Jordan	Dinar		254.00						254.00
Israel	Shekel		319.00						319.00
United States	Dollar				6,067.76				6,067.76
David Wade:									
Jordan	Dinar		762.00						762.00

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Kuwait	Dinar		355.00						355.00
Syria	Pound		230.00						230.00
Israel	Shekel		977.00						977.00
Egypt	Pound		340.00						340.00
Germany	Euro		390.00						390.00
United Kingdom	Pound		430.00						430.00
France	Euro		400.00						400.00
United States	Dollar				5,862.54				5,862.54
Total			51,391.50		103,674.29		10,675.12		165,740.91

RICHARD G. LUGAR,
Chairman, Committee on Foreign Relations, Apr. 21, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Lincoln Chafee:									
Bahrain	Dinar						1,040.00		1,040.00
Senator Chuck Hagel:									
Bahrain	Dinar						1,040.00		1,040.00
Deborah Brayton:									
Bahrain	Dinar						1,040.00		1,040.00
Andrew Parasiliti:									
Bahrain	Dinar						1,040.00		1,040.00
Patrick Garvey:									
Kuwait	Dinar		3,152.00				333.99		3,485.99
United States	Dollar				7,103.00				7,103.00
Kim Savit:									
Kuwait	Dinar						333.99		333.99
Total			3,152.00		7,103.00		4,827.98		15,082.98

RICHARD G. LUGAR,
Chairman, Committee on Foreign Relations, Apr. 21, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jennifer Tyree:									
United States	Dollar				1,513.39				1,513.39
Ireland	Euro		480.00						480.00
United Kingdom	Pound		710.00						710.00
Belgium	Euro		1,503.18						1,503.18
Deborah Parkinson:									
United States	Dollar				1,513.39				1,513.39
Ireland	Euro		446.35						446.35
United Kingdom	Pound		809.84						809.84
Belgium	Euro		1,356.04						1,356.04
Senator Daniel K. Akaka:									
Vietnam	Dong		1,117.00						1,117.00
Richard Kessler:									
Vietnam	Dong		1,117.00						1,117.00
Leeland Erickson:									
United States	Dollar				1,000.67				1,000.67
Switzerland	Franc		1,789.60						1,789.60
Steven Groves:									
United States	Dollar				1,000.67				1,000.67
Switzerland	Franc		1,789.60						1,789.60
Laura Stuber:									
United States	Dollar				1,000.67				1,000.67
Switzerland	Franc		178.60						178.60
Steven Groves:									
United States	Dollar				3,426.07				3,426.07
United Kingdom	Pound		1,000.00						1,000.00
Kevin Landy:									
United States	Dollar				3,036.00				3,036.00
Thailand	Baht		737.00						737.00
Total			13,034.21		12,490.86				25,525.07

SUSAN M. COLLINS,
Chairman, Committee on Homeland Security and Governmental Affairs Committee, Apr. 15, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON JUDICIARY FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Jon Kyl:									
Israel	shekel		869.68						869.68
Turkey	lira		169.60						169.60
Brandon Wales:									
Israel	shekel		718.00						718.00
Turkey	lira		138.60						138.60
Total			1,895.88						1,895.88

ARLEN SPECTER,
Chairman, Committee on Judiciary, Apr. 18, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON JUDICIARY FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2004

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Neil MacBride:									
United States	Dollar				2,084.70				2,084.70
Germany	Euro		717.62		0.00				717.62
Poland	Zloty		587.10		0.00				587.10
Italy	Euro		906.82		0.00				906.82
J. Edward Pagano:									
United States	Dollar				2,085.70				2,085.70
Germany	Euro		704.00		0.00				704.00
Poland	Zloty		600.00		0.00				600.00
Italy	Euro		895.00		0.00				895.00
John Gillies:									
United States	Dollar				5,665.43				5,665.43
Germany	Euro		675.13		0.00				675.13
Poland	Zloty		493.47		0.00				493.47
Italy	Euro		770.00		0.00				770.00
Stephen Higgins:									
United States	Dollar				5,732.82				5,732.82
Germany	Euro		588.86		0.00				588.86
Poland	Zloty		499.24		0.00				499.24
Italy	Euro		844.60		0.00				844.60
Total			8,281.84		15,568.65				23,850.49

ARLEN SPECTER,
Chairman, Committee on Judiciary, Apr. 18, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Matthew Walker:									
United States	Dollar				6,422.02				6,422.02
China	Yuan		894.00						894.00
Total			894.00		6,422.02				7,316.02

OLYMPIA J. SNOWE,
Chairman, Committee on Small Business and Entrepreneurship,
Apr. 22, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Nancy St. Louis:									
			1,053.00						1,053.00
	Dollar				4,289.15				4,289.15
Adam Harris:									
			1,053.00						1,053.00
	Dollar				4,289.15				4,289.15
Elizabeth O'Reilly:									
			873.00						873.00
	Dollar				4,289.15				4,289.15
Rebecca Farley:									
			1,053.00						1,053.00
	Dollar				4,289.15				4,289.15
Randall Bookout:									
			2,877.00						2,877.00
	Dollar				6,994.00				6,994.00
Melvin Dubee:									
			1,656.00						1,656.00
	Dollar				7,362.39				7,362.39

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jacqueline Russell:									
			1,430.00						1,430.00
	Dollar				6,597.00				6,597.00
Total			9,995.00		38,109.99				48,104.99

PAT ROBERTS,
Chairman, Committee on Intelligence, Apr. 11, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON CODEL FRIST FOR TRAVEL FROM JAN. 4 TO JAN. 14, 2005

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Bill Frist:									
United States	Dollar				5,905.23				5,905.23
Sri Lanka	Dollar		413.00						413.00
Kuwait	Dollar		788.00						788.00
India	Rupee		390.00						390.00
Pakistan	Rupee		263.00						263.00
Bahrain	Dollar		321.00						321.00
Belgium	Euro		395.00						395.00
Senator Mitch McConnell:									
Kuwait	Dollar		388.00						388.00
India	Rupee		290.00						290.00
Pakistan	Rupee		263.00						263.00
Bahrain	Dollar		221.00						221.00
Belgium	Euro		295.00						295.00
Senator Mike DeWine:									
Kuwait	Dollar		680.00						680.00
India	Rupee		389.86						389.86
Pakistan	Rupee		263.00						263.00
Bahrain	Dollar		321.00						321.00
Belgium	Euro		395.00						395.00
Senator Mary Landrieu:									
United States	Dollar				9,325.00				9,325.00
Sri Lanka	Dollar		413.00						413.00
Kuwait	Dinar		788.00						788.00
Senator Norm Coleman:									
Kuwait	Dollar		788.00						788.00
India	Rupee		590.00						590.00
Pakistan	Rupee		263.00						263.00
Bahrain	Dollar		321.00						321.00
Belgium	Euro		395.00						395.00
Mark Esper:									
United States	Dollar				5,905.23				5,905.23
Sri Lanka	Dollar		300.00						300.00
Kuwait	Dollar		788.00						788.00
India	Rupee		530.00						530.00
Pakistan	Rupee		263.00						263.00
Bahrain	Dollar		321.00						321.00
Belgium	Euro		395.00						395.00
Paul Grove:									
Kuwait	Dollar		788.00						788.00
India	Rupee		440.00						440.00
Pakistan	Rupee		263.00						263.00
Bahrain	Dollar		321.00						321.00
Belgium	Euro		395.00						395.00
John Klemmer:									
Kuwait	Dollar		788.00						788.00
India	Rupee		490.00						490.00
Pakistan	Rupee		263.00						263.00
Bahrain	Dollar		321.00						321.00
Belgium	Euro		395.00						395.00
Robert Stevenson:									
United States	Dollar				5,905.23				5,905.23
Sri Lanka	Dollar		300.00						300.00
Robert Stevenson:									
Kuwait	Dollar		788.00						788.00
India	Rupee		564.00						564.00
Pakistan	Rupee		263.00						263.00
Bahrain	Dollar		321.00						321.00
Belgium	Euro		395.00						395.00
Sally Walsh:									
Kuwait	Dollar		788.00						788.00
India	Rupee		590.00						590.00
Pakistan	Rupee		263.00						263.00
Bahrain	Dollar		321.00						321.00
Belgium	Euro		395.00						395.00
Delegation Expenses: *									
Sri Lanka	Dollar						1,839.63		1,839.63
Kuwait	Dollar						7,085.35		7,085.35
Iraq	Dollar						1,425.04		1,426.04
India	Rupee						7,714.79		7,714.79
Pakistan	Rupee						3,636.11		3,636.11
Afghanistan	Dollar						1,601.05		1,601.05
Bahrain	Dollar						5,468.05		5,468.05
Belgium	Euro						9,371.07		9,371.07
Total			27,588.09		21,135.46		38,142.09		86,865.64

* Delegation expenses include payments and reimbursements to the Department of State, and the Department of Defense under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179 agreed to May 25, 1977.

BILL FRIST,
Chairman, Committee on Codel Frist, Feb. 28, 2005.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 109-1 AND TREATY DOCUMENT NO. 109-2

Mr. FRIST. Mr. President, as in executive session I ask unanimous consent the injunction of secrecy be removed from the following conventions transmitted to the Senate on May 16, 2005, by the President of the United States: Convention Concerning Migratory Fish Stock in the Pacific Ocean (Treaty Document 109-1); and Convention Strengthening the Inter-American Tuna Commission (Treaty Document 109-2).

I further ask the conventions be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Convention on the Conservation and Management of the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, with Annexes (the "WCPF Convention"), which was adopted at Honolulu on September 5, 2000, by the Multilateral High Level Conference on the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. The United States signed the Convention on that date. I also transmit, for the information of the Senate, the report of the Secretary of State with respect to the WCPF Convention.

The WCPF Convention sets forth legal obligations and establishes cooperative mechanisms that are needed in order to ensure the long-term conservation and sustainable use of highly migratory fish stocks (such as tuna, swordfish, and marlin) that range across extensive areas of the high seas as well as through waters under the fisheries jurisdiction of numerous coastal States. These constitute resources of worldwide importance, with the fisheries for tuna in the Western and Central Pacific being the largest and most valuable in the world. Implementation of the WCPF Convention will offer the opportunity to conserve and manage these resources responsibly before they become subject to the pressures of overfishing and over-capacity that are so evident elsewhere in the world's oceans.

The WCPF Convention builds upon the 1982 United Nations Convention on the Law of the Sea and the 1995 United Nations Agreement on the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. The WCPF Convention gives effect to the provisions of these two instruments, which recognize cooperation to conserve highly migratory fish stocks as essential, and require those with direct interests in them coastal States with authority to manage fishing in waters under their jurisdiction and nations whose vessels fish for these stocks to engage in such cooperation through regional fishery management organizations.

The WCPF Convention balances in an equitable fashion the interests of coastal States, notably the island States that comprise the Forum Fisheries Agency (FFA), in protecting important fishery resources off their shores, and the interests of distant water fishing States, notably Asian fishing nations and entities (Japan, Republic of Korea, China, and Taiwan), whose fishing vessels range far from their own shores.

The United States, which played an instrumental role in achieving this balance, has direct and important interests in the WCPF Convention and its early and effective implementation. The United States is both a major distant water fishing nation (with the fourth-largest catch in the region) and an important coastal State with significant Exclusive Economic Zone waters in the region (including the waters around Hawaii, American Samoa, Guam, and the Northern Mariana Islands).

United States fishing concerns, including the U.S. tuna industry, U.S. conservation organizations, and U.S. consumers, as well as those residents of Hawaii and the U.S. Flag Pacific island areas of Guam, American Samoa, and the Northern Mariana Islands, all have a crucial stake in the health of the oceans and their resources as promoted by the WCPF Convention.

I recommend that the Senate give early and favorable consideration to the WCPF Convention and give its advice and consent to its ratification.

GEORGE W. BUSH.
THE WHITE HOUSE, *May 16, 2005.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Convention for the Strengthening of the Inter-American Tropical Tuna Commission established by the 1949 Convention between the United States of America and the Republic of Costa Rica, with Annexes, (the "Antigua Convention"), which was adopted on June 27, 2003, in Antigua, Guatemala, by the Parties to the 1949 Convention. The United States signed the Antigua Convention on November 14, 2003. I also transmit, for the information of the Senate, the report of the Secretary of State with respect to the Antigua Convention, with an enclosure.

The Antigua Convention sets forth the legal obligations and establishes the cooperative mechanisms necessary for the long-term conservation and sustainable use of the highly migratory fish stocks (such as tuna and swordfish) of the Eastern Pacific Ocean that range across extensive areas of the high seas as well as through waters under the fisheries jurisdiction of numerous coastal States. Once in force, the Antigua Convention will replace the original 1949 Convention establishing the Inter-American Tropical Tuna Commission (IATTC). Revisions to the 1949 Convention will strengthen the mandate of the IATTC to reflect changes in the law governing living marine resources since the adoption of the original Convention more than 50 years ago.

The highly migratory fish stocks governed by the Antigua Convention constitute an important economic resource for the countries of the region and vital components of the marine ecosystem of the Eastern Pacific Ocean requiring careful conservation and management. Early entry into force and implementation of the Antigua Convention will offer the opportunity to strengthen conservation and management of these resources in important ways, including through enhanced efforts to ensure compliance and enforcement of agreed conservation and management measures.

The Antigua Convention draws upon relevant provisions of the 1982 United Nations Convention on the Law of the Sea (the "LOS Convention") and the 1995 United Nations Agreement on the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (the "U.N. Fish Stocks Agreement"). The Antigua Convention gives effect to the provisions of the LOS Convention and U.N. Fish Stocks Agreement that recognize as essential, and require cooperation to conserve highly migratory fish stocks through regional fishery management organizations, by those with direct interests in them—coastal States with authority to manage fishing in waters under their jurisdiction and those nations and entities whose vessels fish for these stocks.

The United States, which played an instrumental role in negotiation of the revised Convention, has direct and important interests in the Antigua Convention and its early and effective implementation. United States fishing concerns, including the U.S. tuna industry, U.S. conservation organizations, and U.S. consumers, as well as those people who reside in those U.S. States bordering the Convention Area, have crucial stakes in the health of the oceans and their resources as promoted by the Antigua Convention.

I recommend that the Senate give early and favorable consideration to the Antigua Convention and give its advice and consent to ratification.

GEORGE W. BUSH.
THE WHITE HOUSE, *May 16, 2005.*

SENATE LEGAL COUNSEL AUTHORIZATION

Mr. FRIST. I ask unanimous consent the Senate now proceed to the consideration of S. Res. 143, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 143) to authorize Senate Legal Counsel to appear in legal proceedings in the name of the Permanent Subcommittee on Investigations in connection with its investigation into the United Nations' "Oil-For-Food" Programme.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, this resolution concerns a request for representation in a civil action pending in Federal District Court in the District of Columbia. In this case, the United Nations is seeking to prevent an individual from complying with subpoenas for testimony and documents issued by the Permanent Subcommittee on Investigations and other congressional committees in connection with their inquiries into allegations of fraud and corruption in the United Nations Oil for Food Program. The individual at issue, Mr. Robert Parton, is an investigator formerly associated with the Independent Inquiry Committee, an entity formed by the United Nations to conduct its own investigation into the program. The United Nations contends that its privileges and immunities, and its contracts with Mr. Parton, bar him from complying with the subcommittee's subpoenas.

Mr. President, subcommittee staff has been discussing for some time with United Nations and IIC counsel their concerns regarding United Nations privileges and how any such privileges might be accommodated consistent with the investigative needs of the subcommittee. The subcommittee does not desire adversely to affect the IIC's ongoing investigation of the Oil-for-Food Program. However, the subcommittee believes that it is possible for Mr. Parton to provide information needed by the subcommittee in the fulfillment of its responsibilities without doing so.

In the event, however, that the subcommittee's negotiations with the United Nations and the IIC do not resolve this matter, the enclosed resolution authorizes the Senate legal counsel, when directed by the Permanent Subcommittee on Investigations, or by the chairman and ranking minority member, acting jointly, to appear in the name of the subcommittee as amicus curiae, intervenor, applicant or respondent in United Nations v. Robert Parton or any related action or proceeding.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 143) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 143

Whereas, the Permanent Subcommittee on Investigations is conducting an inquiry into the United Nations' "Oil-for-Food" Programme;

Whereas, the Subcommittee has need to obtain access to evidence from an individual formerly associated with the Independent Inquiry Committee, a committee formed by the United Nations to investigate claims relating to the Programme;

Whereas, in the course of the Subcommittee's efforts to obtain access to such evidence, legal issues may arise requiring the Subcommittee to appear in the courts of the United States;

Whereas, pursuant to section 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(c), 288e(a), and 288*l*(a), the Senate may direct its Counsel to appear as amicus curiae or to intervene in the name of a subcommittee of the Senate in any legal actions in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized, when directed by the Permanent Subcommittee on Investigations, or by the Chairman and Ranking Minority Member, acting jointly, to appear in the name of the Subcommittee as amicus curiae, intervenor, applicant or respondent in United Nations v. Robert Parton or any other related action or proceeding.

ORDERS FOR TUESDAY, MAY 17, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. on Tuesday, May 17. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee and the final 30 minutes under the control of the majority leader or his designee; provided that following morning business, the Senate resume consideration of H.R. 3, the highway bill. I further ask consent that there then be 30 minutes equally divided between the chairman and ranking member or designees prior to beginning the series of votes in relation to the pending amendments as under the original order.

I further ask unanimous consent that the Senate recess from 12:30 to 2:15 for the weekly party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Tomorrow, following morning business, the Senate will resume consideration of the highway bill. Under a previous order, following the final 30 minutes for closing remarks, the Senate will proceed to a series of stacked votes on the pending amendments to the bill. Following the disposition of those amendments, the Senate will immediately vote on passage of the bill. Therefore, Senators should expect multiple rollcall votes beginning at approximately 11:30 a.m. tomorrow, culminating in passage of the highway bill.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:29 p.m., adjourned until Tuesday, May 17, 2005, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate May 16, 2005:

DEPARTMENT OF DEFENSE

DANIEL R. STANLEY, OF KANSAS, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE POWELL A. MOORE.

ERIC S. EDELMAN, OF VIRGINIA, TO BE UNDER SECRETARY OF DEFENSE FOR POLICY, VICE DOUGLAS JAY FEITH.

DEPARTMENT OF THE TREASURY

SANDRA L. PACK, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE TERESA M. RESSEL, RESIGNED.

DEPARTMENT OF STATE

PAUL A. TRIVELLI, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NICARAGUA.

ANN LOUISE WAGNER, OF MISSOURI, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO LUXEMBOURG.

VICTORIA NULAND, OF CONNECTICUT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICES, CLASS OF MINISTER-COUNSELOR, TO BE PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE COUNCIL OF THE NORTH ATLANTIC TREATY ORGANIZATION, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

TERENCE PATRICK MCCULLEY, OF OREGON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALI.

LARRY MILES DINGER, OF IOWA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE FIJI ISLANDS, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NAURU, THE KINGDOM OF TONGA, TUVALU, AND THE REPUBLIC OF KIRIBATI.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

MICHAEL E. HESS, OF NEW YORK, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE ROGER P. WINTER, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF STAFF OF THE AIR FORCE, AND FOR APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTIONS 8033 AND 601:

To be general

GEN. TEED M. MOSELEY, 1516

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. JULIA A. KRAUS, 8646

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. DONALD M. BRADSHAW, 5796
COL. JAMES K. GILMAN, 8308
COL. DAVID A. RUBENSTEIN, 6677
COL. PHILIP VOLPE, 5985

DEPARTMENT OF THE TREASURY

JANICE B. GARDNER, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR INTELLIGENCE AND ANALYSIS, DEPARTMENT OF THE TREASURY. (NEW POSITION)

HOUSE OF REPRESENTATIVES—*Monday, May 16, 2005*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Miss MCMORRIS).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

> WASHINGTON, DC
> *May 16, 2005.*
>
> I hereby appoint the Honorable CATHY MCMORRIS to act as Speaker pro tempore on this day.
>
> J. DENNIS HASTERT,
> *Speaker of the House of Representatives.*

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. MURPHY) for 2 minutes.

INFORMATION TECHNOLOGY SAVES MONEY AND LIVES

Mr. MURPHY. Madam Speaker, today I had the pleasure of meeting with a group of bright students from Jeannette High School in Jeannette, Pennsylvania. In today's world, so many high school and college students make information technology a common part of their everyday lives. They have learned so much about technology that it is commonplace in America to use a card to access your bank machine. In fact, anywhere in the world one can do that. We even take it for granted that you can take your car to have an oil change, and the person who is doing that oil change will be able to tell you all about your car, when your last oil change was done, where, how much, et cetera.

But in America today if you try and access the same sort of information about your own health, your needs in a hospital, hospitals are often at a loss to gather that information. Even the best hospitals in America have that trouble. So today in America thousands of patients are having unnecessary tests, undergoing surgeries they do not need and taking harmful drugs due to our paper-based health care system, and the consequences are deadly and costly. Because of this, sadly, hundreds of patients will die today and thousands more will be put at risk. And all of this can be prevented. Simply put, paper kills.

To solve this problem, I have introduced, along with my colleague the gentleman from Rhode Island (Mr. KENNEDY) the 21st Century Health Care Information Act, to make it easier for doctors to take advantage of new technologies, including electronic medical records and electronic prescribing into their everyday practices. Electronic medical records and electronic prescribing centralizes patient information in a secure and confidential manner to improve patient safety and increase the quality, availability and accessibility of health care.

Congress can no longer ignore the over $100 billion in savings and the countless number of lives that can be saved by these new technologies. If you believe in saving lives and saving money, I would urge my colleagues to support this legislation to prevent further medical errors from taking the lives of those whom we hold dear.

Madam Speaker, I ask my colleagues if they wish to learn more about the benefits of health information technology and this act to visit my website at murphy.house.gov.

CLOSURE OF CANNON AIR FORCE BASE AN ENORMOUS MISTAKE

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from New Mexico (Mr. UDALL) is recognized during morning hour debates for 5 minutes.

Mr. UDALL of New Mexico. Madam Speaker, Friday the 13th unfortunately lived up to its ominous reputation when this administration and Secretary Donald Rumsfeld of the Department of Defense announced that they were closing Cannon Air Force Base in Eastern New Mexico. They announced that Cannon was closing and all 2,800 employees would be moved to other areas.

I can tell you one thing: our Congressional delegation, all the Democrats and all the Republicans, along with our Governor, Governor Richardson, are united to fight this, because we believe this is an ill-advised decision, an ill-considered decision and a wrongheaded move. I just want to talk today about a couple of the reasons why this is ill-considered.

First of all, there is the issue of encroachment. When you have an Air Force base, you do not want residential areas nor industrial areas nearby. Of the 56 Air Force bases in this country, this is one of the best in terms of the encroachment issue. The local communities have worked very closely and formed a committee to try to make sure that this Air Force base was not encroached upon. There has been a robust buffer around this base for years and years.

Secondly, there is the issue for our airmen and women of practicing and training in supersonic air space. We have initiated in New Mexico something called the New Mexico Training Range Initiative. It will be approved in October by the FAA and the Air Force. What that training initiative is going to do is make sure that as those pilots get off the ground, within a matter of minutes, they can train in supersonic air space. This is not true anyplace else in the country. For many, many pilots, they must fly 2 to 3 hours in order to get to a training area.

At Cannon Air Force Base, there are nearby bombing ranges, there is training, there is going to be this access to supersonic air space, which is enormously important, and they will be able to train immediately and not have to travel those long distances. That fact was not even considered by the Department of Defense because their cut-off date was December of 2004, so we are going to put that fact before the commission.

The third issue is what is called the military value and mission of this particular base. This is a top-notch base. It is an exceptional base. We have spent as a country $53 million over the last 6 or 7 years improving the towers, improving the runways, improving and enhancing the fire-fighting capability on the base and increasing base housing so that the base is in the kind of shape to make sure that our airmen and women that train there are ready to go into battle.

To close, this is a bad decision. Our Congressional delegation and Governor are united. We are going to persuade that base closing commission that this was not the right decision for the country.

Madam Speaker, Friday the 13th was a day that unfortunately lived up to its ominous reputation when the Department of Defense (DoD) released its Base Realignment and Closure (BRAC) recommendations. In what I and the entire New Mexico Congressional Delegation believe is an enormous mistake, the Secretary of Defense included Cannon Air Force Base on its list of bases recommended for closure.

The BRAC process was established over a decade ago following the collapse of the Soviet Union as a means to realign or close military installations that are believed to be no longer needed for our Nation's defense. There have been BRAC rounds in 1988, 1991, 1993, and 1995. This year's BRAC round, however, was expected to be one of the largest as Defense Secretary Don Rumsfeld pledged to shrink the number of military installations in the United States by as much as 25 percent. Although Secretary Rumsfeld recently acknowledged that the BRAC round would be less extensive than earlier thought, DoD still recommended closing 33 bases, including Cannon.

This is just the beginning of our fight to save Cannon. The list of recommendations submitted by the DoD to the BRAC Commission is only the first stage of a lengthy process. The next step is the Commission must submit its list of recommendations to President Bush on September 8th. The President will then either approve or disapprove the recommendations made by the BRAC Commission and submit to Congress. Congress will then have an up-or-down vote on the recommendations. Until September 8th, however, I will work with the entire Congressional Delegation, Governor Richardson, and the Clovis and Portales Communities to fight to get Cannon off the list of recommended closures.

A central argument we will make to the commissioners is the issue of "range encroachment." It is the process whereby a military base is progressively hemmed in by urban growth, competition for air space, and other factors. Such a development can detract from a base's desirability, and thus make it a target for future closure and realignment in the BRAC round. Cannon has two long runways, excellent airspace, and bombing ranges with no encroachment issues.

Additionally, the Department of Defense did not take into account the New Mexico Training Range Initiative as part of its analysis of Cannon's military value. Although the Initiative has yet to be fully approved, it is expected to be by October of this year. The Training Range Initiative will allow training at supersonic speeds, only further adding to the exceptional capabilities offered by Cannon Air Force Base. It is further evidence of the DoD's shortsightedness that they failed to take into account this valuable initiative.

Cannon Air Force Base is a critical component of our Nation's defense. It is also equally, if not more, important to the communities of Clovis and Portales and the entire State of New Mexico. There are several months to fight the DoD's recommendation and I plan to do so vigilantly side-by-side with you, the other members of the Congressional Delegation, and Governor Richardson to show the BRAC Commissioners just how valuable Cannon, Clovis, and Portales are to our Nation.

FEDERALIZING THE CRIME OF KILLING A POLICE OFFICER AND FLEEING THE COUNTRY

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from California (Mr. DREIER) is recognized during morning hour debates for 5 minutes.

Mr. DREIER. Madam Speaker, I have taken this time today to announce the introduction of legislation. Today my very distinguished colleague, the gentleman from California (Mr. SCHIFF), has joined me in introducing legislation that calls for making it a Federal crime to kill a law enforcement officer and flee the country.

Just yesterday we saw the memorial held for the fallen peace officers, and we had here in Washington the Sheriff of Los Angeles County, Lee Baca, who is really the progenitor of this legislation, along with the Chief of Police of the City of La Verne, Ron Ingels, who was representing the California Police Chiefs Association and the Los Angeles County Police Chiefs Association.

We have had over the past 3 years a very tragic case in Southern California. Three years ago this last month we saw the tragic murder of Deputy Sheriff David March by a Mexican national, who chose to first shoot Deputy March and leave and then return and put the gun to Deputy Sheriff March's head and kill him, and then flee the country, knowing full well that he would face, if extradited, the death penalty, and that would prevent the Mexican government from extraditing him.

Well, over the past 3 years, in a bipartisan way, my colleagues the gentleman from California (Mr. MCKEON), who represents the March family, along with the gentleman from California (Mr. SCHIFF), whom I mentioned, the gentleman from California (Mr. BERMAN), and a wide range of Members, especially of the California delegation, have come together trying to deal with this issue.

While the introduction of today's legislation will not directly deal with the March case, it clearly is legislation that is designed to ensure that as we look at the prospect of someone killing a law enforcement officer and fleeing the country, we will have the full force of the Federal Government behind our quest for a resolution. This does not in any way preempt the opportunity for county and State jurisdictions to pursue with vigor a case such as this, but it does provide the option for the Federal Government to be involved, and also to deal with any kind of negotiating that might be necessary to ensure that someone can be extradited.

Madam Speaker, I encourage my colleagues to join as cosponsors of this legislation, which will federalize the crime of killing a law enforcement officer and fleeing the country. As I say, the bill is going to be introduced today, so I would encourage as many of my colleagues as possible to join on board in this bipartisan effort to help ensure that we bring the killers of law enforcement officials to justice.

AIR FORCE ACADEMY INAPPROPRIATELY AND IMPROPERLY PUTTING PRESSURE ON CADETS TO FOLLOW CERTAIN RELIGIOUS PRACTICES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Massachusetts (Mr. FRANK) is recognized during morning hour debates for 5 minutes.

Mr. FRANK of Massachusetts. Madam Speaker, a couple of weeks ago I was disturbed to read of reports that people at the Air Force Academy were inappropriately and improperly putting pressure on cadets to follow certain religious practices. In this particular case, cadets who did not follow a certain brand of Christianity were being ridiculed and being criticized, and the allegations were that they were even being pressured by officials of the Academy to follow this specific set of religious practices.

Obviously, we should create a situation in which people of any religious persuasion are free at the Academy to follow that. But for young men and women who were sent to the Academy to learn to lead our Air Force and defend our country in that important institution to be subjected to religious pressures, religious ridicule and criticism because they do not particularly follow one or another religion is terrible public policy, and, of course, unconstitutional.

When I heard that, my reaction was to give the Air Force the benefit of the doubt. I wrote a letter to the Air Force Academy and the Secretary of the Air Force asking that the Air Force be looking into this, and I had read that in fact they were. So I thought, well, I hope we are talking with reasonable people. These allegations sounded to me like things that no reasonable person would allow to go forward. Let us see what happens. I decided I would wait to see what the Air Force did.

Well, I am not waiting anymore, because the Air Force has acted. They have made things worse. They have done some things that confirm the view that I and others have that there is something seriously wrong.

Captain Melinda Morton, an Air Force chaplain, number two in the chaplaincy there, was just transferred, well ahead of when she was supposed to be transferred, to Okinawa.

Now, I mean no disrespect to Okinawa. For the people that live there, it is home, and it is a wonderful home. It has a lot of advantages. But when you are the number two in the chaplaincy in Colorado and you are sent to Okinawa very suddenly, it is clearly meant to be a rebuke, and the reason that the number two in the chaplain's office was sent to Okinawa was because she was supporting the criticisms.

According to a New York Times article, which I will include for the record, she was told by the Chief Chaplain, Colonel Whittington, after a critical report on this subject from a team from the Yale Divinity School, she was asked to denounce the report and defend the Academy. But she said she could not do that because she agreed with the report. It was about 2 weeks later that she was transferred to Okinawa.

So we have here not just a refusal to deal with inappropriate abuse of people on religious grounds, but a punishment of a very brave officer, a woman of integrity, a chaplain, a member of the clergy, who in pursuance of her faith and her obligations and her understanding of the Constitution refused to say something that she thought untrue about a report.

When intelligent people say silly things, it generally means that they do not want to tell you the truth. The explanation the Air Force gives for sending her to Okinawa makes no sense at all. I do not believe we have put in charge of the Academy people incapable of making sense, so when they tell us things that are just silly, I think they are covering up.

They gave a convoluted argument about, well, the other guy is going to leave, so she is going to have to leave afterwards, and, therefore, they both have to leave together. It makes zero sense. If anything, you would probably say if a new person was coming in, it would be better to have her there to help train him.

Then we were also told by both the New York Times and the Associated Press that Colonel Whittington, the chaplain who apparently asked her to denounce the report, and when she disagreed with him and said she could not denounce the report she agreed with, and the report said there had been inappropriate religious pressure, he apparently was part of an effort to penalize her. We are told that he could not give an interview to the New York Times and the AP because he was being interviewed by the Air Force Special Study Panel.

Now, I doubt very much that the Air Force Special Study Panel is grilling him 18 hours a day, or even 10 hours a day. In other words, there is obviously no conflict between being interviewed by this panel and also talking to the press.

Why do they not let the chaplain talk to the press? Because they are afraid if he told the truth it would be embarrassing, is my inference. If there is a different argument, let them give it to us.

Madam Speaker, we should note that among those who brought these allegations to light originally is a proud Air Force Academy alumni, Michael Weinstein, who worked for the Reagan Administration, whose son is now there, who said he has spoken to 117 people at the Academy who validate the accusation that there is inappropriate pressure put on people and that people are subject to disadvantages if they do not follow a particular religious view.

The Air Force has got to reverse this pattern of religious oppression at the Academy, of religious abuse, "oppression" may be too strong; it has got to stop the transfer of a brave woman for speaking out; and they have got to take seriously a problem, rather than make it worse.

Madam Speaker, I include for the record the May 15, 2005, New York Times article entitled "Air Force Chaplain Says She Was Removed for Being Critical."

[From the New York Times, May 25, 2005]

AIR FORCE CHAPLAIN SAYS SHE WAS REMOVED FOR BEING CRITICAL

(By Laurie Goodstein)

A chaplain at the Air Force Academy in Colorado Springs who has accused her superiors of using their positions to promote evangelical Christianity among the cadets says she was fired from an administrative job because of her cutspokenness and was given orders to ship out to Japan.

An Air Force task force, meanwhile, has finished an investigation at the academy into charges by the chaplain and others that officers there were inappropriately proselytizing the cadets.

The academy chaplain, Capt. MeLinda Morton, said she had disagreed with her boss, the academy's chief chaplain, Col. Michael Whittington, after a critical report by a team from the Yale Divinity School was released to the news media in April. The report, dated July 2004 and which she helped write, found that some academy chaplains were insensitive to the religious diversity of the cadets.

Captain Morton said her boss asked her to denounce the report and defend the academy, but she told him she agreed with it. She said that about two weeks later, on May 4, she received an e-mail message from Colonel Whittington dismissing her from her position as his administrative assistant, or "executive officer." However, she remains a chaplain, retains her rank and earns the same salary.

"That is pretty plainly, in my mind, retribution," Captain Morton said. "That makes a big point on a staff. The point is, 'We don't regard Mel as trustworthy and we humiliate her by firing her.' However, in the whole scope of things, that's pretty minor to what's going on in the academy."

She also said that in March she received orders to transfer to Okinawa, and from there could be deployed to Iraq or Afghanistan. Captain Morton said she was surprised because in December she was told by Colonel Whittington that she would be staying at the academy through summer 2006 to see several projects through. At the time, Captain Morton was developing a sensitivity training program for the academy and was involved in pastoral care for cadets who were victims in a sexual abuse scandal that swept the academy in 2003.

An academy spokesman, Lt. Col. Laurent Fox, said in an interview that Captain Morton's dismissal as executive officer and her reassignment to Okinawa were entirely routine, and not retribution. He said that Captain Morton was removed from her position in order to make way for a new executive officer because Colonel Whittington was leaving the academy in June and Captain Morton is leaving in July.

"We don't see this as a dismissal," Colonel Fox said. "This kind of a transition is a normal process that happens in squadrons across the Air Force."

Colonel Fox said he knew nothing about a meeting that led to a quarrel over the Yale Divinity School report. A request to interview Colonel Whittington was denied because he was being interviewed by the task force investigating the religious climate at the academy. The task force is expected to release a preliminary report on May 23.

Complaints about the religious climate at the academy first surfaced after fliers were passed out in the dining hall advertising a showing of the movie "The Passion of the Christ." An alumnus of the academy, Mikey Weinstein, grew concerned after he visited his son at the school last year and learned that he had been subject to repeated religious slurs because he is Jewish.

Mr. Weinstein, who served in the Reagan administration, said yesterday that he became enraged and set out to see if others had similar experiences. He said he has now spoken with 117 academy cadets, staff members and faculty members who complained about religious intimidation and proselytizing at the academy. Of the 117 people, 8 are Jewish, one is an atheist, about 10 are Catholic and the rest are nonevangelical Protestants.

His son was interviewed by the task force this week, Mr. Weinstein said. He said he was not interviewed by the task force, even though "I have a boatload of information," he said.

"I can't reveal people's names, but I thought it might be useful," he said.

[From Associated Press, May 13, 2005]

CHAPLAIN SAYS SHE WAS OUSTED

(By Robert Weller and Jon Sarche)

DENVER.—A top Air Force Academy chaplain said Thursday she was fired for speaking up about anti-Semitism and other reports of religious intolerance among cadets and staff, including allegations that evangelical Christians wield too much influence.

Capt. Melinda Morton said she was fired last week by her boss, Col. Michael Whittington. Morton said she was pressured to deny a report by Yale Divinity School Professor Kristen Leslie that a chaplain told 600 cadets during basic training last year "to go back to their tents and tell their fellow cadets that those who are not born again will burn in the fires of hell."

"I was told by Chaplain Whittington that if someone was going to be loyal to the chaplaincy and the Air Force, then someone would take a certain view of the Yale report and view Dr. Leslie as disloyal," Morton said.

Both chaplains had been scheduled to leave the school this year, with Whittington, the academy's chief chaplain, retiring and Morton, his executive officer, scheduled for an overseas assignment. She called that an excuse to get rid of her.

The Air Force's chief chaplain, Maj. Gen. Charles Baldwin, said Morton was not fired.

Her duties have changed, however, because Whittington will retire in June rather than in July as originally planned. Morton has been scheduled for reassignment to an Air Force base in Japan for some time, Baldwin said.

The academy said Whittington was unavailable because he was being interviewed for a Pentagon investigation into more than 50 complaints of religious intolerance in the past several years.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 12 o'clock and 48 minutes p.m.), the House stood in recess until 2 p.m.

☐ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DANIEL E. LUNGREN of California) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, Ruler of heaven and Earth, You created us to glorify You both in prayer and by our daily labor.

Look with favor upon us as we begin a new week in Your presence. Let us be fellow workers with You in building an earthly Nation that will reflect the attributes of Your heavenly Kingdom.

Grant to us, O Lord, joy and peace that we may bring these gifts to all we meet, for we desire to live, move, and have our being in You, now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from South Carolina (Mr. WILSON) come forward and lead the House in the Pledge of Allegiance.

Mr. WILSON of South Carolina led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

CONGRATULATING BASCOMB UNITED METHODIST CHURCH

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Mr. Speaker, it is with great honor and enthusiasm that I congratulate Bascomb United Methodist Church as they join together for their 175th Homecoming Celebration on June 5, 2005, a church with a rich heritage which continues to serve the Cherokee County community and beyond.

The church began in a mill in 1830 when W.K. McCanless organized a group of Christians which came to be known as Bascomb Church, named for antebellum orator and bishop Henry Bascomb. The church predates the founding of Cherokee County; and as the congregation grew, they moved to a log cabin which also served as a school.

In 1883, after negotiation for land, the framed and painted church was completed with cornerstones bearing the names of the trustees. Modern renovations include additions for classrooms and fellowship and stained glass windows. The chancel cross in the chapel is made from timbers from the 1883 frame building.

With pride I recognize Bascomb United Methodist Church for its 175 years of offering a place of loving care and joyous worship to the people of Woodstock, Georgia, and beyond. I ask all Members to join me in honoring and congratulating the congregation for their remarkable achievements.

NEWSWEEK ERROR

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Mr. Speaker, all Americans are distressed by the anti-American images that surfaced this weekend in Afghanistan. United States flags are being burned, the American military is being harshly criticized, our good name is being stained. What is more, people are dying.

All of this because of the carelessness of one group of magazine editors at Newsweek magazine. This magazine recently reported that U.S. investigators had determined American guards at Guantanamo Bay Naval Base had desecrated the Quran by flushing the holy book down the toilet.

Now we have learned that Newsweek has acknowledged errors in its story. The source used by Newsweek's reporters was anonymous, and it is obvious that the magazine failed to fully investigate this "source" and his or her claims.

Newsweek decided to publish these accusations in haste, without regard for the great pain and suffering that they could, and ultimately would, cause.

Some in the media are simply fanatical about being first, and we as a country and as a culture must draw the line and demand more from our media.

Today, I call on Newsweek to fully retract its story and to apologize to the people of Afghanistan whose lives have been forever impacted by this carelessness and to the American people for damaging our good name.

TEXAS MLR

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, some good news today from down in my home State of Texas. Recognizing that a unique turnaround is under way in the State of Texas in the arena of medical liability reform, the American Medical Association today announced that it was removing Texas from its list of States in crisis from the medical liability crisis.

The medical liability crisis in Texas was halted thanks to sweeping reforms that took place almost 2 years ago, in September, 2003, when voters in the State of Texas passed a constitutional amendment which placed an upper limit on noneconomic damages on pain and suffering.

Since those reforms were passed, signs of improvement are widespread in Texas. Access to care is increasing and claims are down; physician recruitment, physician retention is up, especially in high-risk specialties. New insurers are entering the Texas medical liability market, creating more choices for doctors. Subsequently, competition is increasing; and all five of the largest insurers in the Texas medical liability market have announced rate cuts. Rates are down. Doctors are coming back to the State of Texas. This is good news for the patients of Texas as access and affordability have increased.

This House should take up the bill that we passed 2 years ago and react similarly.

FILIBUSTER ARGUMENT A FRAUD

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, this weekend, respected columnist Charles Krauthammer of the Washington Post correctly revealed the Senate Democratic filibuster of judicial nominees as a fraud.

He thoughtfully researched that one of the great traditions, customs, and unwritten rules of the Senate is that we do not filibuster judicial nominees. Only once in 200 years has a filibuster been successful, and it reflected uniquely a lack of votes for confirmation.

Senate Majority Leader FRIST is to be commended for maintaining the constitutional case for an up-or-down vote. Democrat obstructionism is a radical deviation from allowing Senators to vote on nominees who are highly qualified. Senator FRIST is courageously protecting the American people to take an unwritten 200-year-old rule to make it written.

In conclusion, God bless our troops and we will never forget September 11.

CALLING ON ISIKOFF AND WHITAKER TO ISSUE FULL RETRACTION AND APOLOGY FOR NEWSWEEK STORY

(Mr. NEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEY. Mr. Speaker, today I stand as co-chair of the Afghan Caucus with the gentlewoman from Texas (Ms. JACKSON-LEE).

Newsweek reporter Michael Isikoff fabricated an incident at Guantanamo Bay where American soldiers allegedly desecrated a copy of the Quran. Yesterday, Newsweek editor Mark Whitaker announced that Newsweek may have "inaccurately reported" the incident; yet he refuses to run a retraction.

Isikoff inaccurately reported an incident that led to riots throughout the Muslim world. Isikoff inaccurately reported an incident that led to the death of 17 innocent people. Isikoff inaccurately reported an incident that resulted in the international condemnation of the American military.

Newsweek's behavior is not merely unfortunate. It is criminal. Journalists wield considerable power, and therefore, must exercise responsibility. Though Isikoff's actions resulted in the death of innocent people, he is evidently accountable to no one. His Newsweek editor, Mark Whitaker, even refuses to run a retraction.

Michael Isikoff and Mark Whitaker's fraud explains why the Gallup poll says that media credibility is at its lowest point in 30 years.

I call on Michael Isikoff and Mark Whitaker to take responsibility by issuing a full retraction of their fabricated story and an apology to the Nation and to the Afghanis. America's troops are in enough danger without self-righteous, yellow journalists like Michael Isikoff defaming them for a cheap headline.

NEWSWEEK MUST REWRITE OR RETRACT STORY

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, as a co-chair of the Afghan Caucus, let me acknowledge the fact that, although we have the first amendment, and we have a respected journalists and a respected publication, it is appropriate that we have an apology for the tragedy that has occurred in Afghanistan and in Pakistan.

Hundreds or tens of tens have lost their lives because of a report that soldiers at Guantanamo Bay flushed the Quran down the toilet, a report that has now been suggested by the person who reported it to be inaccurate.

I think in order to get ourselves back on track to create a more peaceful atmosphere in Afghanistan and to not undermine the peaceful track that the Afghani people are on with President Karsai, we must apologize. Newsweek must apologize, and it must, it must, rewrite the story or retract it if it is inaccurate or untrue.

It is important to note that everything that is said by Americans today can be characterized around the world to disturb the orderly peacefulness and the operations of new governments by countries where conflicts exist. It is appropriate that we recognize that the importance of our soldiers' safety rises above any potential thought that one cannot apologize.

So I hope that we will accept and recognize this need that the media and Newsweek will stand and apologize so that we can begin to rebuild and repair the schism that has now been created.

Telling the truth by media at all times, painful or not, is important, and an apology is owed; and I hope that this will occur very shortly.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, May 13, 2005.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on May 13 at 9:29 am:

That the Senate agreed to without amendment H. Con. Res. 86.

That the Senate agreed to without amendment H. Con. Res. 135.

That the Senate agreed to without amendment H. Con. Res. 136.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

COMMUNICATION FROM THE HON. BART STUPAK, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable BART STUPAK, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, May 6, 2005.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for testimony and documents issued by the U.S. District Court for the Western District of Michigan.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is inconsistent with the precedents and privileges of the House.

Sincerely,

BART STUPAK,
Member of Congress.

REAPPOINTMENT AS MEMBERS TO COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

The SPEAKER pro tempore. Pursuant to section 201(b) of the International Religious Freedom Act of 1998 (22 USC 6431 note), amended by section 681(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (22 USC 2651 note), and the order of the House of January 4, 2005, the Chair announces that on May 14, 2005, the Speaker reappointed the following members on the part of the House to the Commission on International Religious Freedom:

Ms. Nina Shea, Washington, D.C., for a 2-year term ending May 14, 2007, to succeed herself;

and upon the recommendation of the minority leader:

Ms. Felice Gaer, Paramus, New Jersey, for a 2-year term ending May 14, 2007, to succeed herself.

CBO COST ESTIMATE ON H.R. 1817, DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2006

Mr. COX. Mr. Speaker, on May 3, 2005, the Committee on Homeland Security filed its report on H.R. 1817, the Department of Homeland Security Authorization Act for Fiscal Year 2006. At that time the committee had not yet received a Congressional Budget Office cost estimate, and it filed the report without the cost estimate required in clause 3(c)(3) of rule XIII of the Rules of the House of Representatives. Subsequently, the committee received the CBO cost estimate on H.R. 1817, and I am submitting it herewith for the RECORD.

Mr. Speaker, I ask unanimous consent that the enclosed estimate be inserted into the CONGRESSIONAL RECORD at the appropriate place.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 1817—Department of Homeland Security Authorization Act for Fiscal Year 2006

Summary: H.R. 1817 would authorize the appropriation of $34.2 billion for fiscal year

2006 to fund the major operations of the Department of Homeland Security (DHS). CBO estimates that implementing H.R. 1817 would cost about $33 billion over the 2006-2010 period, assuming appropriations of the authorized amounts. Enacting the bill would not affect direct spending or receipts.

H.R. 1817 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) by exempting certain information related to critical infrastructure from state and local laws that provide public access to information. CBO estimates that the costs, if any, to state and local governments would be minimal and well below the annual threshold established in that act ($62 million in 2005, adjusted annually for inflation). H.R. 1817 contains no new private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1817 is shown in the following table. For this estimate, CBO assumes that the authorized amounts will be appropriated near the beginning of fiscal year 2006 and that outlays will follow the historical spending rates for these activities. The costs of this legislation fall within budget functions 050 (national defense), 300 (natural resources and environment), 400 (transportation), 450 (community and regional development), 550 (health), 600 (income security), 750 (administration of justice), and 800 (general government).

	By fiscal year, in millions of dollars—					
	2005	2006	2007	2008	2009	2010
SPENDING SUBJECT TO APPROPRIATION						
Department of Homeland Security Spending Under Current Law:						
Estimated Budget Authority [1]	38,469	0	0	0	0	0
Estimated Outlays	31,928	14,443	7,939	3,475	1,308	594
Proposed Changes:						
Authorization Level	0	34,152	0	0	0	0
Estimated Outlays	0	17,418	7,513	5,123	2,391	683
Department of Homeland Security Spending Under H.R. 1817:						
Authorization Level [1]	38,469	34,152	0	0	0	0
Estimated Outlays	31,928	31,861	15,452	8,598	3,699	1,277

[1] The estimated 2005 level is the amount of appropriations less offsetting collections for that year for operations of DHS.

Intergovernmental and private-sector impact: H.R. 1817 contains an intergovernmental mandate as defined in UMRA by exempting certain information related to critical infrastructure from state and local laws that provide public access to information. CBO estimates that the costs, if any, to state and local governments would be minimal and well below the annual threshold established in that act ($62 million in 2005, adjusted annually for inflation). H.R. 1817 contains no new private-sector mandates as defined in UMRA.

Section 306 would require the Secretary of the Department of Homeland Security to issue regulations for the security of maritime cargo moving within the intermodal transportation system. Those regulations would relate to the securing, recording, and verifying of seals on maritime cargo containers in the hauling of cargo from one mode of transportation to another. According to DHS, a notice of proposed rulemaking that incorporates the recommendations referred to in the bill has been drafted and is pending review. Based on information from DHS, CBO anticipates that the Secretary will issue those regulations. Thus, CBO expects that the provisions in this section would impose no additional mandates on public or private-sector entities.

State and local governments would benefit from programs to improve interoperable communications and to reimburse costs for having law enforcement officers trained to enforce immigration laws. Any costs incurred by those governments would be incurred voluntarily.

Estimate prepared by: Federal Costs: Mark Grabowicz; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

LINDA WHITE-EPPS POST OFFICE

Mrs. MILLER of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 627) to designate the facility of the United States Postal Service located at 40 Putnam Avenue in Hamden, Connecticut, as the "Linda White-Epps Post Office".

The Clerk read as follows:

H.R. 627

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LINDA WHITE-EPPS POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 40 Putnam Avenue in Hamden, Connecticut, shall be known and designated as the "Linda White-Epps Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Linda White-Epps Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan (Mrs. MILLER) and the gentlewoman from Wisconsin (Ms. BALDWIN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Michigan (Mrs. MILLER).

GENERAL LEAVE

Mrs. MILLER of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 627 will designate this post office in Hamden, Connecticut, as the Linda White-Epps Post Office. Linda White-Epps lived a life that is very fitting for this high honor. Mrs. White-Epps was a breast cancer and women's health advocate in her community ever since she personally overcame a bout with breast cancer in 1990.

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A result of her battle with the dreaded disease, she founded a group called "Sisters' Journey," a nonprofit organization that provides support to survivors and anyone affected by this dreaded disease.

She was also a member of both the local NAACP executive board and the local Boys and Girls Club Board of Directors. In 2001, she was elected to the Hamden City Council. That same year, she was named a "Point of Light" for her work on behalf of women's health issues by the Points of Life Foundation, a national volunteer organization devoted to community service.

Mr. Speaker, sadly, though, Linda White-Epps' form of cancer relapsed more than a decade later and she passed away in 2003. Over the years I know she became very close with the gentlewoman from Connecticut (Ms. DELAURO), and I want to commend my distinguished colleague for her work on this bill. This Post Office will help citizens of Hamden, Connecticut to remember their dear friend, Linda, as well as her contributions and her charitable life.

Linda White-Epps' grandfather was a letter carrier, making this honor of a Post Office all the more fitting and meaningful for her family. I strongly support this resolution and I urge all of my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Ms. BALDWIN. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to join my colleague, the gentlewoman from Michigan (Mrs. MILLER), in consideration of H.R. 627, legislation designating a postal facility in Hamden, Connecticut after the late Linda White-Epps.

This measure was introduced by my good friend, the gentlewoman from Connecticut (Ms. DELAURO), introduced on February 8, 2005 and unanimously reported by the Committee on Government Reform on May 5, 2005. It enjoys the support and cosponsorship of the entire Connecticut delegation.

By all accounts, Linda White-Epps was a very active member of her community. A member of the Hamden Legislative Council, Ms. White-Epps served on the executive board of the local NAACP and on the Board of Directors of the local Boys and Girls Club. Most importantly, she was a two-time presidential Point of Light recipient and a breast cancer activist.

Linda White-Epps will forever be remembered for founding "Sisters' Journey," a nonprofit support organization for women of color who have survived breast cancer. The organization published a calendar featuring African American cancer survivors and their stories and their words of support. The calendar also serves as an important reminder to conduct breast self-exams and schedule mammograms.

Although Linda survived breast cancer in 1990, it eventually took her life in October of 2003.

Mr. Speaker, I commend my colleague for seeking to honor the legacy of Linda White-Epps and urge the swift passage of this bill.

Mr. Speaker, I yield such time as she may consume to the sponsor of this legislation, the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I want to thank the gentlewoman from Wisconsin (Ms. BALDWIN) and the gentlewoman from Michigan (Mrs. MILLER) for their kind remarks about a wonderful, wonderful woman. I also want to say thank you to my colleagues in Connecticut for their support of this effort.

I rise in support of the legislation that would name the Whitneyville Branch Post Office in Hamden, Connecticut the "Linda White-Epps Post Office," and this is in honor of her heroic work on behalf of women battling breast cancer.

To all who knew her Linda White-Epps was an inspiration, a true friend. An extraordinary young woman who did so much to improve the lives of those around her, she dedicated her life to her community. She served in the town government on Hamden's Legislative Council and on the boards of local nonprofits. As my colleagues have heard, she served as an executive board member of the NAACP and on the Board of Directors of the local Boys and Girls Club.

But it was her devotion to raising awareness about breast cancer in African American women that became her life's work. Linda herself had beaten breast cancer in 1990, but knew that the disease continued to affect minority communities disproportionately, with African American women facing only a 72 percent 5-year survival rate, 15 percent lower than the survival rate for white women.

That disparity inspired Linda to search for ways to bring survivors together. Knowing that many women often wait too long to be tested and are reluctant to talk about their problems, she wanted to ensure that all women, regardless of race, would be able to take advantage of the remarkable medical advances we have seen over these last several years. Whether it was early detection or increasing access to the best health care possible, she wanted to give every woman a fighting chance of beating this disease. She knew as a breast cancer survivor, as I do as an ovarian cancer survivor, that no one should have to depend on luck when it comes to fighting cancer.

So she created Sisters' Journey, a nonprofit organization which provides education and support to breast cancer survivors, their friends, and their families, and it was the first of its kind in Connecticut.

In 1999, Sisters' Journey published a calendar featuring the pictures of women who have beaten the disease. Each turn of a page provides a look at another month, more stories from "sisters" and words of encouragement to women, teaching women to conduct self-examinations and to get mammograms regularly. The unveiling of the calendar still occurs every October at a fund-raiser known as the "Pink Tea," a tradition Linda started.

In addition to Sisters' Journey, she organized the first Relay for Life held in the Hamden community, raising nearly $50,000 for the American Cancer Society.

Sadly, Linda, a grandmother of two, finally succumbed to the disease in 2003, and we miss her to this day. For all her outspokenness on behalf of women too reserved to speak up for themselves, Linda faced her own breast cancer in such a quiet way that many of her neighbors and friends were not aware of the gravity of her illness.

Linda approached advocacy with the same humility, dignity, and grace, receiving numerous awards from the American Cancer Society for her efforts. She won the Greater New Haven NAACP Freedom Fund Award and the "Daily Point of Light" award by the Points of Life Foundation, which honors those who have made a commitment to bring people together through service to help meet critical needs in their communities. Indeed, she did. And today, Linda's legacy lives on in her mother, Phyllis White, who long joined Linda on her journey. Now she has taken up her cause as well, bringing new energy to that effort.

Mr. Speaker, Linda White-Epps lived a life of hope and of resilience, perseverance, and dedication to community. She did bring people together and for the greatest of causes. As the granddaughter of a postal carrier, renaming the Hamden Post Office in Linda's honor would be a most fitting tribute. I urge my colleagues to support this legislation.

Mrs. MILLER of Michigan. Mr. Speaker, I have no further speakers at this time, and I continue to reserve the balance of my time.

Ms. BALDWIN. Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

Mrs. MILLER of Michigan. Mr. Speaker, I urge all Members to support H.R. 627, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and pass the bill, H.R. 627.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. MILLER of Michigan. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ROBERT M. LA FOLLETTE, SR. POST OFFICE BUILDING

Mrs. MILLER of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1760) to designate the facility of the United States Postal Service located at 215 Martin Luther King, Jr. Boulevard in Madison, Wisconsin, as the "Robert M. La Follette, Sr. Post Office Building".

The Clerk read as follows:

H.R. 1760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ROBERT M. LAFOLLETTE, SR. POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 215 Martin Luther King, Jr. Boulevard in Madison, Wisconsin, shall be known and designated as the "Robert M. La Follette, Sr. Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Robert M. La Follette, Sr. Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan (Mrs. MILLER) and the gentlewoman from Wisconsin (Ms. BALDWIN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Michigan (Mrs. MILLER).

GENERAL LEAVE

Mrs. MILLER of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself such time as I may consume.

This important legislation, introduced by the distinguished gentlewoman from Wisconsin (Ms. BALDWIN), names a Post Office in Madison, Wisconsin as the "Robert M. La Follette, Sr. Post Office Building."

Robert La Follette, Sr. was a giant in Wisconsin and American politics around the turn of the 20th century. He served the people of the Badger State as a Congressman, a Senator, a Governor, and even ran and finished third in the 1924 presidential election, falling to incumbent President Calvin Coolidge. His passion and his rousing speaking style earned him the nickname "Fighting Bob."

As a member of this body, he was chairman of the Committee on Expenditures in the Department of Agriculture in the 51st Congress, after which he lost a reelection bid in 1890. He returned home to a law career in Madison that began before his first stint in Congress.

Sixteen years after his defeat in 1906, he was elected to return to Washington, this time as a United States Senator. He was reelected three times before he died in office in 1925, shortly after his bid for the presidency ended the previous year.

His legacy was further enhanced when his son actually succeeded him as a Senator and went on to a significant political career of his own. Another son also held up the family name by becoming Governor of Wisconsin in 1931.

Mr. Speaker, all seven members of the Wisconsin delegation have joined Congresswoman BALDWIN as cosponsors of H.R. 1760 to prove the stature of Robert La Follette in Wisconsin political history. This Post Office in Madison will be an appropriate memorial to his legacy.

Mr. Speaker, I reserve the balance of my time.

Ms. BALDWIN. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of this bill, and I would first like to thank my colleagues from the Wisconsin delegation, Representatives OBEY, SENSENBRENNER, PETRI, MOORE, KIND, GREEN and RYAN, who have joined me as original cosponsors of this bipartisan resolution to designate the Post Office at 215 Martin Luther King, Jr. Boulevard in Madison, Wisconsin as the "Robert M. La Follette, Sr. Post Office Building."

Mr. Speaker, Robert, otherwise known as "Fighting Bob" La Follette, is a true Wisconsin hero and a leader of the progressive movement. He was born on a farm in Primrose, Wisconsin on June 14, 1855. This would have been the 150th year of his birth. La Follette was elected to this body at the young age of 29 and served three terms as a Republican from 1885 to 1891. It is such a privilege to hold his congressional seat over 100 years later.

After losing his seat, La Follette returned to Wisconsin to practice law in Madison. It was at that point that La Follette reached a turning point in his political career, when he felt that a party stalwart was trying to bribe him to fix a court case. La Follette decided that it was time to challenge corruption in politics. He did so by taking his ideas directly to the people. La Follette went on speaking tours at county fairs and as a Chautauqua lecturer. He spoke about his commitment to eliminating the corruption in government and in corporations, the railroads, and banks.

He was elected Governor of Wisconsin in 1900, as a Republican, and during his tenure La Follette was able to pass and implement many progressive reforms and anti-corruption measures, including instituting the direct primary election in Wisconsin.

La Follette was elected by the Wisconsin State Legislature to the U.S. Senate in 1905, over 100 years ago, and he was elected while he was still serving as Governor of the State. He resigned as Governor in 1906 to once again return to Washington to represent the people of Wisconsin.

In the Senate, he fought against corruption and led the investigation into the infamous Teapot Dome scandal that revealed the oil lease scandals of the Harding administration. His principled work in the Senate was so highly regarded that a mural of La Follette was placed in the Senate Reception Room in 1959 as part of a collection of five outstanding Senators.

La Follette ran for President on the Progressive ticket in 1922. The Progressive Party championed a populist agenda, which included reforms to outlaw child labor, allow workers to organize, increase protection of civil liberties, and end discrimination on the basis of race, class, and creed. Just outside the House chamber doors, you can visit a statue of "Fighting Bob" La Follette. Wisconsin chose La Follette as one of two State heroes to be included in the U.S. Capitol's National Statuary Hall collection.

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Mr. Speaker, this weekend I had the privilege of addressing graduating students as a commencement speaker at the University of Wisconsin, Madison. In that speech, I spoke to the graduates about the obligation to carry one of Fighting Bob's legacies forward, the Wisconsin Idea.

The Wisconsin Idea is the notion that government should collaborate with the State's public universities to address serious social and economic problems. In simple terms, the Wisconsin Idea is often expressed by saying that the boundaries of the university are the boundaries of the State.

I would also like to share with you one other of my personal heroes, La Follette's wife, Belle Case La Follette, who La Follette regarded as an equal partner in life. Belle Case La Follette was the first woman to graduate from the University of Wisconsin law school. She was a woman before her time, supporting women's suffrage and advocating civil rights legislation for ethnic and racial minorities.

La Follette referred to her as my wisest and best counselor. Mr. Speaker, I would like to close with how appropriate the location of the Madison Capitol Station Post Office is in honoring La Follette. This post office is in the shadow of the Wisconsin State capitol, where La Follette developed many of his progressive ideas and support for farmers and the working person, opposition to monopolies and corruption in politics, and his belief that a strong democracy requires fair distribution of both wealth and power.

This summer, on June 14, Fighting Bob's greatest supporters will come to Madison for his 150th birthday celebration. And I am particularly grateful that this bill has been brought to the floor for a vote in time for this celebration.

Mr. Speaker, I reserve the balance of my time.

Mrs. MILLER of Michigan. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Speaker, it is an honor to speak in support of H.R. 1760, a bill to designate a post office in Madison, Wisconsin, as the Robert M. La Follette, Sr. Post Office Building.

Fighting Bob La Follette was a strong progressive Republican voice for the people in the late 19th and early 20th century. During his political career as a district attorney, and especially as a Congressman, Governor and Senator, Bob La Follette fought to improve the lot of farmers, workers, children and women, and battled against corruption in politics.

As Governor of Wisconsin, he proposed and implemented the Wisconsin Idea, a philosophy that public leadership, in combination with academic expertise, will improve the performance of government. This philosophy was the driving force in the progressive movement, and here in Washington led to the creation of, among other things, the Congressional Research Service.

Bob La Follette believed that the government should be more directly in the hands of the people. Therefore, he pursued policies, such as the establishment of direct primary nomination. Under his leadership, Wisconsin became one of the first States to adopt child labor laws and pass a women's suffrage amendment.

As a Congressman and Senator, he brought his progressive Republican politics to the national stage by playing a major role in bringing about the direct election of Senators and spearheading an investigation into the Teapot Dome scandal. And you can imagine how popular he was when elected to the United States Senate and stood up and asked for a roll call vote over and over and over again, for the first time in a generation putting his colleagues on the record as to whether they were voting for or against railroad legislation and a variety of other things.

And the public record, combined with direct election of Senators, revolutionized the United States Senate and American politics from the Mississippi west in our country, in particular.

Bob La Follette was the kind of American that all of us, regardless of party, can be proud of. Accordingly, I urge support of H.R. 1760.

Ms. BALDWIN. Mr. Speaker, I yield 3 minutes to my friend, the gentlewoman from Wisconsin (Ms. MOORE).

Ms. MOORE of Wisconsin. Mr. Speaker, it is with such great pride and pleasure that I stand here in support of H.R. 1760, to name a post office after Fighting Bob La Follette.

You have heard from my other colleagues from Wisconsin about the institutions that this man has built and the impact that this one man has made on not only the institutions in Wisconsin, developing a civil service system, that has had an impact throughout our country, establishing the Congressional Research Service, which really put us on par with the K Street lobbyists in terms of having information and knowledge about the initiatives that take place here.

But Fighting Bob La Follette has put us on the map internationally, as Wisconsin has been a leader in the world, training people in democratic institutions. Fighting Bob La Follette is a hero to me. He was a powerful voice, a Lincoln Republican. He was a powerful voice with the underrepresented, outspoken for their issues no matter how unpopular or controversial.

He denounced any discrimination based on race, creed, class, during the era, for example, of the Ku Klux Klan resurgence. He called for investigations of World War I profiteers and defended antiwar activists that were sent to jail.

One of the favorite quotes of Bob La Follette that I think is apropos for where we are today was a quote that he made arguing on the United States Senate floor, and I would like to end my remarks with that quote: "We should not seek to inflame the mind of our people by half truths into the frenzy of war. The poor, who are always the ones called upon to rot in the trenches, at some time will be heard. There will come an awakening. They will have their day, and they will be heard."

Ms. BALDWIN. Mr. Speaker, I have no more requests for time, and I yield back the balance of my time.

Mrs. MILLER of Michigan. Mr. Speaker, I would urge all of my colleagues to support this bill.

Mr. KIND. Mr. Speaker, I rise today in strong support of H.R. 1760, to designate the post office located at 215 Martin Luther King, Jr. Boulevard in Madison, Wisconsin, as the "Robert M. La Follette, Sr. Post Office Building."

"Fighting Bob" La Follette was one of our great American leaders. He spearheaded political reform in both Wisconsin and the Nation, laying the framework for the progressive movement. As governor of Wisconsin, he gained the respect of local farmers, small business owners, and intellectuals with his pledge to break the power of the private monopoly system over the economic life of the American people.

La Follette consistently championed the rights of women, minorities, the working class, and the poor. He called for reform of a tax system that disproportionately burdened middle and lower income Americans, and he campaigned for agricultural reform to relieve the distress of farmers. La Follette's progressive party also called for government control of railroads, the outlawing of child labor, the right of workers to organize unions, and increased protection of civil liberties.

"Fighting Bob" La Follette was a man fierce in his convictions and steeped in the ideals of Lincoln and Jefferson. In 1957, the Senate voted him one of the five most outstanding Senators of all time.

Mr. Speaker, I fully support H.R. 1760 to rename a post office in Madison, Wisconsin in honor of this extraordinary American, Robert La Follette.

Mr. SENSENBRENNER. Mr. Speaker, I rise today in support of H.R. 1760 to designate the postal facility at 215 Martin Luther King, Jr. Boulevard in Madison, Wisconsin, as the "Robert M. La Follette, Sr. Post Office Building."

A man of the people, Bob La Follette captured the hearts and minds of Wisconsin's citizens and rose to a place of distinction in the history of my State and this Nation. His storied political career began as a Republican when he was elected District Attorney of Dane County in 1880.

"Fighting Bob," as he would become known, served right here in the House of Representatives from 1885 to 1891. Although he was defeated for re-election in 1890, Fighting Bob returned to his law practice and demonstrated the resilience for which he developed a sterling reputation.

After two failed attempts for the Governorship, La Follette was elected Wisconsin's twentieth Governor in 1990. During his three terms as Governor in the early 1900's, La Follette led the State out of debt and earned a reputation as a skilled orator and a champion of the people.

Fighting Bob returned to Washington in 1906 following his election to the U.S. Senate, where he served until his death in 1925 at 70 years of age. It is no accident that one of my State's two statues prominently displayed in Statuary Hall is dedicated to "Fighting Bob" La Follette. He served Wisconsin and the United States honorably. I urge my colleagues to join me in honoring Bob La Follette by supporting this resolution.

Mrs. MILLER of Michigan. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and pass the bill, H.R. 1760.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. MILLER of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 266.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

SUPPORTING THE GOALS AND IDEALS OF PEACE OFFICERS MEMORIAL DAY

Mrs. MILLER of Michigan. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 266) supporting the goals and ideals of Peace Officers Memorial Day.

The Clerk read as follows:

H. RES. 266

Whereas the well-being of all people of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 870,000 law enforcement personnel, the highest amount ever in the United States, serve their fellow citizens as guardians of peace;

Whereas peace officers are on the front line in preserving the right of the children of the United States to receive an education in a crime-free environment, a right that is all too often threatened by the insidious fear caused by violence in schools;

Whereas 153 peace officers across the Nation were killed in the line of duty during 2004, well below the decade-long average of 165 deaths annually, and a major drop from 2001 when 230 officers were killed, including 72 officers in the September 11th terrorist attacks;

Whereas every year, a law enforcement officer is killed somewhere in the United States every 53 hours, and there are also 56,000 assaults against our law officers each year, resulting in 17,000 injuries;

Whereas section 136 of title 36, United States Code, requests that the President issue each year a proclamation designating May 15 as Peace Officers Memorial Day in honor of Federal, State, and local officers killed or disabled in the line of duty; and

Whereas on May 13, 2005, more than 20,000 peace officers are expected to gather in Washington, D.C. to join with the families of their recently fallen comrades to honor those comrades and all others who went before them: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals and ideals of Peace Officers Memorial Day to honor Federal, State, and local peace officers killed or disabled in the line of duty; and

(2) calls upon the people of the United States to observe such a day with appropriate ceremonies and respect.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan (Mrs. MILLER) and the gentlewoman from Wisconsin (Ms. BALDWIN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased to rise in support of House Resolution 266 that supports the goals and the ideals of Peace Officers Memorial Day.

This occasion is a day of remembrance of all Federal, State, and local law enforcement officials who were killed or disabled in the line of duty during the past year.

Peace Officers Memorial Day highlights National Police Week, which is observed with several events in Washington this week, from May 15 through May 21. More than 20,000 peace officers and their families are expected to congregate here in the Nation's Capital for National Police Week 2005.

Mr. Speaker, on October 1, 1962, President John F. Kennedy signed into law legislation that designates both May 15 as National Peace Officers Memorial Day, and the week containing May 15 as National Police Officers Week.

However, the first National Peace Officers Memorial Day service was not officially held until May 15, 1982, and since then May 15 has indeed been a solemn date on the law enforcement calendar.

In addition to the focus of the observance here in Washington, National Police Week is also recognized by police officers across the country. And since we all witnessed police officers' indescribable bravery on September 11, 2001, Americans have intensified their appreciation for the men and women of our Nation's law enforcement.

These courageous individuals are the essential parts of our entire homeland security effort. They deserve to be thanked by each and every one of us for the protection that they provide and for the freedom that they ensure.

Peace officers are true American heroes. Mr. Speaker, I certainly want to thank the distinguished gentleman from Colorado (Mr. HEFLEY), a great friend of law enforcement, for sponsoring House Resolution 266.

Mr. Speaker, I am confident that all of my colleagues will join the gentleman from Colorado (Mr. HEFLEY) and myself in supporting this resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. BALDWIN. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, each day peace officers nobly protect our families, friends, and neighbors from crime. Peace officers work to improve the quality of life for all of us. For that, they deserve our sincere appreciation and respect.

While it is impossible to suitably thank these brave Americans for the tremendous sacrifices they make, we pause this week to salute them for their courage, dedication and service, and to pay our respects for those who have fallen in the line of duty.

Currently, more than 850,000 men and women guard our communities, and do so at great risk. Each year in the United States, one in 15 officers is assaulted, one in 46 officers is injured, and one in every 5,255 officers is killed in the line of duty. In total, more than 17,500 men and women have made the ultimate sacrifice.

In 2004, 154 law enforcement officers died while serving in the line of duty, well below the decade-long average of 169 deaths annually, and well below the 2001 total of 237.

A number of factors have contributed to this reduction, including better equipment, increased use of bullet-resistant vests, improved training, and advanced emergency medical care.

But the work of peace officers continues to take the lives of too many men and women who work to ensure our safety. So far this year, 42 peace officers have been killed in the line of duty.

Mr. Speaker, I support the goals and ideals of Peace Officers Memorial Day to honor Federal, State, and local peace officers killed or disabled in the line of duty; and I call upon the people of the United States to observe such a day with appropriate ceremonies and respect.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. MILLER of Michigan. Mr. Speaker, I would urge all Members to support the adoption of House Resolution 266.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today as a supporter of H. Res. 266, which supports the goals and ideals of Peace Officers Memorial Day. I want to thank Mr. HEFLEY for introducing this necessary recognition of our peace officers and the sacrifice they make everyday for Americans. I hope everyone in this Nation will take the time to observe Peace Officers Memorial Day to honor Federal, State, and local peace officers killed or disabled in the line of duty.

Today, more than 870,000 law enforcement personnel, the highest amount ever in the United States, serve their fellow citizens as guardians of peace. Unfortunately, while these brave men and women seek to keep the peace they are too often taken by the violence they are working to prevent. Every year, a law enforcement officer is killed somewhere in the United States every 53 hours, and there are also 56,000 assaults against our law officers each year, resulting in 17,000 injuries. I want to take a moment to honor the law enforcement officers from the City of Houston who day in and day out work to keep my constituents safe. Last Friday on May 13, 2005, more than 20,000 peace officers gathered here in Washington, DC to join with the families of their recently fallen comrades to honor those comrades and all others who went before them. I wish to join them in this recognition of the brave and honorable law enforcement officers who served this Nation despite the danger.

Mr. STUPAK. Mr. Speaker, today the House of Representatives will overwhelmingly support H. Res. 266, a resolution that pays tribute to Peace Officers Memorial Day, which took place yesterday. This is a special day to honor those law enforcement officers who have fallen or become disabled in the line of duty. As a former officer with the Michigan State Police and Escanaba City Police Department as well as founder and co-chair of the Law Enforcement Caucus, I am a proud cosponsor of this Resolution and want to thank my colleague Representative HEFLEY for introducing it once again this year.

The House will also overwhelmingly support H.R. 2107, a bill that requires the maintenance of the National Law Enforcement Officers Memorial in Washington, DC and provides for the addition of the names of those in law enforcement who have made the ultimate sacrifice.

Last Friday at the 17th Annual Candlelight Vigil, more than 20,000 family members, law enforcement officers, and friends of law enforcement gathered at this Memorial to respect, honor, and remember the 153 law enforcement heroes who in 2004 made the ultimate sacrifice.

Since September 11, 2001, many in this nation and this Congress have come to recognize the importance of the sacrifices made by our law enforcement officers. Every day these men and women protect and serve, often putting their own lives at risk.

Peace Officers Memorial Day brings us together to honor the sacrifice our nation's law enforcement and public safety officers make to our communities and our nation every day.

It is important as we discuss and pass both H. Res. 266 and H.R. 2107 that we must also resolve to provide our public safety officers the resources they need to meet the daily challenges of their jobs—especially at a time when we have placed greater demands on them to fight and prevent terrorist threats. We can do that by fully funding important grant programs such as COPS, Byrne, and Local Law Enforcement Block Grants.

These programs allow our local agencies to buy essential protective gear, hire the officers that they need, and obtain all the resources they must have to make themselves and our communities safe.

Congress can provide these resources through grants, especially the Community Oriented Policing Services or "COPS" program. This program was so successful that it helped to put 100,000 cops on the street under President Clinton. It is critical that Congress fully fund this program!

Unfortunately, the President's budget devastates the COPS program, requesting only $117.8 million for this important program. That is a $381.2 million cut below last year's level!

The President's budget also zeroes out the Edward Byrne Memorial Justice Assistance grant program that provides funding for 19 different programs for counter-drug initiatives in rural communities. These grants are used to administer vital programs such as multi-jurisdictional drug enforcement teams, anti-drug education programs, treatment programs and alternative sentencing initiatives.

If enacted, the President's budget cuts will have far reaching effects on our local communities. Local drug enforcement teams are crucial to keeping our communities drug free. If Byrne Grants are zeroed out they will be unable to hire the officers they need to sustain their drug enforcement teams.

And let me tell you—when it comes to drug abuse, no community—urban or rural—is immune to this problem. To highlight how important these local teams are to our rural districts, take a look at this article from a local paper in my First Congressional District of Michigan. On April 13th the Huron Undercover Narcotics Team seized 3,000 Oxycontin tablets from a home in the rural county of Presque Isle. This is just one example of the critical work these Narcotics Teams do everyday to keep our communities safe.

This Country's Drug problems are not going away. In fact, with the emergence of prescription drugs used and dealt illegally like Oxycontin, some would argue the problems are getting worse. My question is why are we zeroing out the funding that enables programs like the Huron Undercover Narcotics Team to exist and combat this problem that is only growing more severe?

We also need to provide assistance to help regional law enforcement and first responders talk to each other in times of emergency. My bill, H.R. 1323 "The Public Safety Interoperability Implementation Act", would provide grants to local law enforcement agencies to modernize their communication systems and become interoperable. These are the kinds of resources and tools I'm talking about!! We need to do everything possible to ensure that our law enforcement officers are fully interoperable.

Currently, firefighters and law enforcement officials may not be able to communicate with each other even if they work in the same jurisdiction. The tragic events of September 11th illustrated why it is so important that our law enforcement officials are fully interoperable. 343 firefighters and 72 law enforcement officers lost their lives in the World Trade Center on September 11th. 121 of these brave firefighters lost their lives due to fact that they were unable to talk to each other.

When our first responders are confronted with an emergency situation, it is absolutely necessary that they are able to communicate with one another so they can fully assess the situation and how best to handle it. These are the kind of resources and tools our first responders need. We need to do everything possible to ensure that our law enforcement officers that play an integral role in our nations anti-terrorism efforts are fully interoperable.

We also need to ensure that programs like Thin Blue Line are fully funded. The Thin Blue Line is a non-profit, volunteer organization that assists and supports the families of injured or deceased officers of law enforcement agencies. Thin Blue Line began in Michigan and is now beginning to expand throughout the nation. Thin Blue Line volunteers assist families with applying for benefits, counseling, and answering their question during the most difficult of circumstances. These officers have made the ultimate sacrifice in the line of duty and their families deserve to be honored, respected, and supported any way we can.

I am hopeful that we can continue to show our commitment to law enforcement by supporting their important funding needs as well as supporting these important pieces of legislation. It is the least we can do for those who put their lives on the line for us everyday.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, this week marks National Police Week, with May 15th designated as Peace Officers' Memorial Day. It's a week where we pay tribute to our nation's law enforcement officers. In recognition of this event, I would like acknowledge the efforts of our federal, state and local law enforcement. Without their courage, commitment, and ability to meet the many challenges, our lives as Americans would be very different.

Simply put, law enforcement officers risk their lives so that others are protected. Every day these brave men and women go to work knowing there is a possibility they may not come home.

Last year, 153 police officers were killed in the line of duty. That is 153 fathers, mothers, brothers, sisters, daughters, and sons who weren't able to go home to their families at the end of the workday.

The Dallas Police Department has lost a total of 75 police officers:

C.O. Brewer, William H. Riddell, William McDuff, Leslie N Patrick, T.A. Tedford, W. Roy Thornton, Leroy Wood, Johnnie E. Gibson, John R. Crain, Charles S. Swinney, Dexter Clayton Phillips, Clarence Marshall Isbell, Alex W. Tedford, Sam Griffin Lanford, Jesse Emmett Griffin, Luke J. Bell, Ernest E. Leonard, Jr., John W. Dieken, John R. Roberts, Ralph Wendell Hoyt, Victor Leon Morris, Ernest Elmer Bates, Jr., Preston D. Hale, William Edward Stafford, Johnny W. Sides, Leonard C. Mullenax, Ray Allen Underwood, J.D. Tippit, Frank Weldon Bennett, James Douglas Stewart, Floyd A. Knight, Robert H. Shipp, Johnnie T. Hartwell, Allen Perry Camp, Carl Jackson Cooke, Howard Kenton Hicks, Joe Jones, Levy McQuietor, Jr., Milton E. Whatley, Donald P. Tucker, Sr., Leslie G. Lane, Jr., Alvin Duane Hallum, Alvin E. Moore, Robert W. Wood, John T. McCarthy, Charles J. "Chip" Maltese, Jr., John R. Pasco, Carl J. Norris, Ronald D. Baker, Robert L. Cormier, James C. Taylor, Thomas Lee Harris, Gary Reeves Blair, James Allen Joe, John Glenn Chase, Gary Don McCarthy, Walter Leon Williams, Lawrence R. Cadena, Sr., Lisa L. Sandel, Mark L. Fleming, Michael R. Okelberry, Thomas G. Burchfield, Sunny Ma Lov, Lawrence David Bromley, Harold Lee Hammons, Billy W. Daughterty, John Paul Jones, Jr., Richard A. Lawrence, David R. Galvan, Thomas D. Bond, Henry Allen Brown, Harold F. Baird, Jr., Donald F. Flusche, Jr., Christopher K. James, and Patrick Lee Metzler.

Mr. Speaker, the risk encountered by law enforcement officers serving in communities throughout this country is enormous; and this extraordinary sacrifice is all too often viewed as routine. Police officers put themselves at risk so that our communities can be safe. One week of recognition is simply not enough for that type of selflessness. America's men and women in uniform give us their best, and they deserve the best from us in return.

Mr. EMANUEL. Mr. Speaker, I rise today in strong support of H. Res. 266, Supporting the Goals and Ideals of Peace Officers Memorial Day. Police officers make extraordinary sacrifices in fulfilling their mission to serve and protect, and I am pleased to join my colleagues in saying thank you to Peace Officers Memorial Day. I am privileged to know many fine police officers including my Uncle Les, a dedicated and long time officer with the Chicago Police Department.

The heroism of our nation's police officers can be seen both in their responses to emergencies and in their everyday work serving our neighborhoods. In Chicago, the fine work done by the police department has reduced crime in almost every category in the past year, bringing serious crimes to a 13 year low and homicides to a historic 38 year low.

Police departments across the country continue to play an important role in building and maintaining stable, safe communities. The Chicago Police Department assists with community policing programs and plays an important role in youth counseling and recreation programs to help at-risk teenagers reach their full potential as contributing members of society.

In 2004, 153 peace officers nationwide gave their lives in the protection of our families and communities. The death of any police officer is a tragedy and a loss felt deeply in our communities. I join with my colleagues in honoring the memory and sacrifices of these heroes, and I applaud the continued service of law enforcement officers and all public safety workers who face danger every day while protecting our streets. our schools, and our communities.

Mr. Speaker, we have a responsibility to support our nation's law enforcement officers and supply them with the tools and resources they need to ensure their safety and ours. I am proud to join my colleagues today in honoring the contributions of our nation's peace officers, and I ask that my colleagues join me in working to provide sufficient support to the 87,000 heroes who make up our nation's local law enforcement community.

Mrs. MILLER of Michigan. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and agree to the resolution, H. Res. 266.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. MILLER of Michigan. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. RENZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1046.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AUTHORIZING THE SECRETARY OF THE INTERIOR TO CONTRACT WITH CITY OF CHEYENNE, WYOMING, FOR WATER STORAGE IN KENDRICK PROJECT, WYOMING

Mr. RENZI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1046) to authorize the Secretary of the Interior to contract with the City of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming.

The Clerk read as follows:

H.R. 1046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WATER STORAGE CONTRACTS.

(a) DEFINITIONS.—In this Act:

(1) CITY.—The term "city" means—

(A) the city of Cheyenne, Wyoming;

(B) the Board of Public Utilities of the city; and

(C) any agency, public utility, or enterprise of the city.

(2) KENDRICK PROJECT.—The term "Kendrick Project" means the Bureau of Reclamation project on the North Platte River that was authorized by a finding of feasibility approved by the President on August 30, 1935, and constructed for irrigation and electric power generation, the major features of which include—

(A) Seminoe Dam, Reservoir, and Powerplant; and

(B) Alcova Dam and Powerplant.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(4) STATE.—The term "State" means the State of Wyoming.

(b) CONTRACTS.—

(1) IN GENERAL.—The Secretary may enter into 1 or more contracts with the city for annual storage of the city's water for municipal and industrial use in Seminoe Dam and Reservoir of the Kendrick Project.

(2) CONDITIONS.—

(A) TERM; RENEWAL.—A contract under paragraph (1) shall—

(i) have a term of not more than 40 years; and

(ii) may be renewed on terms agreeable to the Secretary and the city, for successive terms of not more than 40 years per term.

(B) REVENUES.—Notwithstanding the Act of May 9, 1938 (52 Stat. 322, chapter 187; 43 U.S.C. 392a)—

(i) any operation and maintenance charges received under a contract executed under paragraph (1) shall be credited against applicable operation and maintenance costs of the Kendrick Project; and

(ii) any other revenues received under a contract executed under paragraph (1) shall be credited to the Reclamation Fund as a credit to the construction costs of the Kendrick Project.

(C) EFFECT ON EXISTING CONTRACTORS.—A contract under paragraph (1) shall not adversely affect the Kendrick Project, any existing Kendrick Project contractor, or any existing Reclamation contractor on the North Platte River System.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. RENZI) and the gentleman from New Mexico (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. RENZI).

☐ 1445

Mr. RENZI. Mr. Speaker, I yield myself such time as I may consume.

H.R. 1046 provides long-term water supplies to the City of Cheyenne, Wyoming. This important bill authorizes the Bureau of Reclamation to enter into a long-term water contract with Cheyenne. Due to uncertainty in the law, the Federal Government cannot enter into long-term, non-project water contracts with municipal entities without the express consent of Congress. This bill simply provides that authority.

I urge my colleagues to support this non-controversial bill that seeks to provide much needed long-term water use certainty.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Resources and the 108th Congress approved legislation identical to H.R. 1046. We have no objection to this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RENZI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentleman from Arizona (Mr. RENZI) that the House suspend the rules and pass the bill, H.R. 1046.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

POTASH ROYALTY REDUCTION ACT OF 2005

Mr. RENZI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 485) to provide that the royalty rate on the output from Federal lands of potassium and potassium compounds from the mineral sylvite in the 5-year period beginning on the date of the enactment of this Act shall be reduced to 1.0 percent, and for other purposes, as amended.

The Clerk read as follows:

H.R. 485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—POTASH ROYALTY REDUCTION

SEC. 101. SHORT TITLE.

This title may be cited as the "Potash Royalty Reduction Act of 2005".

SEC. 102. POTASSIUM AND POTASSIUM COMPOUNDS FROM SYLVITE.

(a) ROYALTY RATE.—Notwithstanding section 102(a)(9) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701(a)(9)), section 2 of the Act of February 7, 1927 (30 U.S.C. 282) and the term of any lease issued under such section 2, the royalty rate on the quantity or gross value of the output from Federal lands of potassium and potassium compounds from the mineral sylvite at the point of shipment to market in the 5-year period beginning on the date of the enactment of this Act shall be 1.0 percent.

(b) RECLAMATION FUND.—Fifty percentum of any royalties paid pursuant to this title during the 5-year period referred to in subsection (a), together with any interest earned from the date of payment, shall be paid by the Secretary of the Treasury to the payor of the royalties to be used solely for land reclamation purposes in accordance with a schedule to implement a reclamation plan for the lands for which the royalties are paid. No payment shall be made by the Secretary of the Treasury pursuant to this subsection until the Secretary of the Interior receives from the payor of the royalties, and approves, the reclamation plan and schedule, and submits the approved schedule to the Secretary of the Treasury. The share of royalties held by the Secretary of the Treasury pursuant to this subsection, and interest earned thereon, shall be available until paid pursuant to this subsection, without further appropriation; shall not be considered as money received under section 35 of the Mineral Leasing Act (30 U.S.C. 191) for the purpose of revenue allocation; and shall not be reduced by any administrative or other costs incurred by the United States.

(c) STUDY AND REPORT.—After the end of the 4-year period beginning on the date of the enactment of this Act, and before the end of the 5-year period beginning on that date, the Secretary of the Interior shall report to the Congress on the effects of the royalty reduction under this title, including a recommendation on whether the reduced royalty rate for potassium from sylvite should apply after the end of the 5-year period.

TITLE II—SODA ASH ROYALTY REDUCTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Soda Ash Royalty Reduction Act of 2005".

SEC. 202. FINDINGS.

The Congress finds the following:

(1) The combination of global competitive pressures, flat domestic demand, and spiraling costs of production threaten the future of the United States soda ash industry.

(2) Despite booming world demand, growth in United States exports of soda ash since 1997 has been flat, with most of the world's largest markets for such growth, including Brazil, the People's Republic of China, India, the countries of eastern Europe, and the Republic of South Africa, have been closed by protectionist policies.

(3) The People's Republic of China is the prime competitor of the United States in soda ash production, and recently supplanted the United States as the largest producer of soda ash in the world.

(4) Over 700 jobs have been lost in the United States soda ash industry since the Department of the Interior increased the royalty rate on soda ash produced on Federal land, in 1996.

(5) Reduction of the royalty rate on soda ash produced on Federal land will provide needed relief to the United States soda ash industry and allow it to increase export growth and competitiveness in emerging world markets, and create new jobs in the United States.

SEC. 203. REDUCTION IN ROYALTY RATE ON SODA ASH.

Notwithstanding section 102(a)(9) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701(a)(9)), section 24 of the Mineral Leasing Act (30 U.S.C. 262), and the terms of any lease under that Act, the royalty rate on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market from Federal land in the 5-year period beginning on the date of the enactment of this Act shall be 2 percent.

SEC. 204. STUDY.

After the end of the 4-year period beginning on the date of the enactment of this Act, and before the end of the 5-year period beginning on that date, the Secretary of the Interior shall report to the Congress on the effects of the royalty reduction under this title, including—

(1) the amount of sodium compounds and related products at the point of shipment to market from Federal land during that 4-year period;

(2) the number of jobs that have been created or maintained during the royalty reduction period;

(3) the total amount of royalty paid to the United States on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market produced during that 4-year period, and the portion of such royalty paid to States; and

(4) a recommendation of whether the reduced royalty rate should apply after the end of the 5-year period beginning on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. RENZI) and the gentleman from New Mexico (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. RENZI).

GENERAL LEAVE

Mr. RENZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 485.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RENZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 485 is a bill that actually contains the language from bills introduced by two of my colleagues from the western United States.

Title I of this bill contains language by my friend, the gentleman from New Mexico (Mr. PEARCE). This language provides for a 5-year period the royalty rate on potash produced from Federal lands shall be 1 percent.

Potash is used primarily as an agriculture fertilizer because it is a source of soluble potassium, one of the three primary plant nutrients; the others are fixed nitrogen and soluble phosphorus. The 5-year reduction in royalty rates provides the industry the ability to employ new and more efficient production methods in potash mining, sustain and create new jobs, extend the life of existing deposits and make technological advances that will expand the availability of the Nation's potash resources.

Title II of this bill contains language introduced by my colleague, the gentlewoman from Wyoming (Mrs. CUBIN), which will reduce for 5 years the royalties paid on trona to help balance the unfair playing field in the world market that U.S. trona producers face from countries like China.

The U.S. soda ash industry, which until recently was the largest in the world, has operations in Wyoming, Colorado, and California, with the bulk of total production through four plants in the State of Wyoming. The total estimated value of the industry is around $800 million.

The current Federal royalty on soda ash produced in the United States ranges from 4 percent to 6 percent. Mines in the Rocky Mountain region, Colorado and Wyoming, pay 6 percent. Mines in California pay only 4 percent.

Until 2003, the United States was the world's largest exporter of soda ash. In 2003, China passed the United States as the world's number one exporter.

Producers in China manufacture a synthetic product while the United States exports natural soda ash. This bill will reduce the Federal royalty to the statutory minimum of 2 percent for a period of 5 years. This will make the U.S. soda ash more attractive to foreign purchases and provide a window of opportunity to tackle the global barriers that limit market access for U.S. soda ash.

Mr. Speaker, H.R. 485 is supported by the majority and minority of the committee. I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House passed similar royalty relief legislation in the 108th Congress. The bill before us contains provisions sponsored by the gentleman from New Mexico (Mr. PEARCE) and the gentlewoman from Wyoming (Mrs. CUBIN). We have no objection to this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RENZI. Mr. Speaker, I want to thank the gentleman from New Mexico (Mr. UDALL), who is the champion of American potash and the sodium industry here in America and I appreciate his advocacy.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. RENZI) that the House suspend the rules and pass the bill, H.R. 485, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL MAINTENANCE FUND ACT OF 2005

Mr. RENZI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2107) to amend Public Law 104-329 to modify authorities for the use of the National Law Enforcement Officers Memorial Maintenance Fund, and for other purposes.

The Clerk read as follows:

H.R. 2107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Law Enforcement Officers Memorial Maintenance Fund Act of 2005".

SEC. 2. COOPERATIVE AGREEMENT WITH RESPECT TO NATIONAL LAW ENFORCEMENT MEMORIAL MAINTENANCE FUND.

(a) IN GENERAL.—Section 201 of Public Law 104–329 is amended by adding at the end the following new subsection:

"(d) COOPERATIVE AGREEMENT.—

"(1) IN GENERAL.—Effective on and after the date of the enactment of the National Law Enforcement Memorial Maintenance Fund Act of 2005, the following applies, notwithstanding other provisions of this Act:

"(A) The Secretary of the Interior, acting through the National Park Service, shall enter into a cooperative agreement with the National Law Enforcement Officers Memorial Fund, Inc., a nonprofit corporation incorporated under the laws of the District of

Columbia, to carry out the purposes of the Fund as described in subsection (b).

"(B) In accordance with the terms of such agreement, the Secretary shall transfer all amounts in the Fund to the Corporation.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'Corporation' means the National Law Enforcement Officers Memorial Fund, Inc; and

"(B) the term 'Secretary' means the Secretary of the Interior.".

(b) PURPOSES OF FUND.—Section 201(b) of Public Law 104–329 is amended—

(1) in paragraph (3), by inserting "and" after the semicolon;

(2) by striking paragraphs (4), (6), and (7), and redesignating paragraph (5) as paragraph (4); and

(3) in paragraph (4) (as so redesignated), by striking the semicolon and inserting a period.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. RENZI) and the gentleman from New Mexico (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. RENZI).

GENERAL LEAVE

Mr. RENZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2107.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RENZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2107, introduced by my colleague on the Committee on Resources, the gentleman from New Jersey (Mr. SAXTON), would transfer funds of the 1996 sale of a commemorative coin from the National Park Service to the Law Enforcement Officers Memorial Fund for the purpose of maintaining the National Law Enforcement Officers Memorial. The Memorial Fund, a non-profit organization incorporated in Washington, DC, that raised the original $12 million to build the Memorial, wishes to have access to the $1.4 million raised from the coin sales to maintain the memorial in an effective and timely manner.

Today, more than 16,500 fallen law enforcement officers' names are inscribed on the Memorial, dating back to the first recorded police fatality in 1792.

Mr. Speaker, H.R. 2107 is supported by the majority and minority of the committee and the administration.

Mr. Speaker, I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we support passage of this measure.

Yesterday, May 15, was National Peace Officers Memorial Day and the first day of National Police Week, which are both intended to commemorate the service and sacrifice of those who keep our communities safe. While this legislation is technical in nature, it is an important way in which Members can show their respect for those honored by this memorial and for those who continue to serve as peace officers.

Mr. Speaker, there are today more than 17,000 names listed on the memorial here in our Nation's capital. Sadly, another 153 names will be added to the list for 2004, brave men and women who died in the line of duty protecting and serving others.

We all had a personal reminder last week of what that selfless service really means when many Capitol Police officers remained behind on the Capitol grounds to evacuate Members, staff, and visitors. Thankfully, that episode proved to be a nonthreatening incident; however, it clearly highlighted the potential dangers the women and men of the Capitol Police are trained and willing to confront.

We would encourage everyone to visit the National Law Enforcement Officers Memorial and to let law enforcement officers know just how much we appreciate their service as they go about their duties this week.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RENZI. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. SAXTON), the author of this bill.

Mr. SAXTON. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, this bill will transfer control of the National Law Enforcement Officers Memorial Fund from the National Park Service to the nonprofit National Law Enforcement Officers Memorial Fund to ensure the much needed maintenance and repairs to the memorial are made in an effective and timely manner.

In 1996, the United States Commemorative Coin Act of 1996 was signed into law. This law mandated the minting and sale of several commemorative coins, including the National Law Enforcement Officers Memorial Silver Dollar. Surcharges from the coin sale were to be placed in a special interest-bearing account established by the U.S. Treasury and to be maintained by the National Park Service. The revenues generated were then to be used to maintain the memorial and interest accrued was to be used towards establishing a scholarship fund for the children of officers who were killed in the line of duty.

Unfortunately, due to a series of unintentional oversights, the nearly $1.4 million generated from the sale of the coin was misplaced and until recently was never invested by the U.S. Treasury in an interest-bearing account, as required by law.

For the past 6 years, the Memorial Fund has tried, unsuccessfully, to gain access to the maintenance fund to make needed repairs to the memorial. During this time, the Memorial Fund has spent more than $250,000 of its own funds, despite the existence of the $1.4 million.

Therefore, to ensure the money of the maintenance fund is spent in accordance with the original intent of the law, I have worked with the National Park Service and the National Law Enforcement Officers Memorial Fund to introduce legislation requiring the Park Service and the Officers Memorial Fund enter into a cooperative agreement outlining how the money in the maintenance fund will be spent. It is imperative that we correct this oversight and ensure the financial viability of the Officers Memorial Fund.

Mr. Speaker, I rise today in support of H.R. 2107, the National Law Enforcement Officers Memorial Maintenance Fund of 2005. The bill will transfer control of the National Law Enforcement Officers Memorial Fund from the National Park Service to the non-profit National Law Enforcement Officers Memorial Fund to ensure the much needed maintenance and repairs to the Memorial are made in a timely and effective manner.

In 1996, the United States Commemorative Coin Act of 1996 was signed into law. This law mandated the minting and sale of several commemorative coins, including a National Law Enforcement Officers Memorial Silver Dollar. Surcharges from the coin sale were to be placed in a special interest-interest bearing account established by the U.S. Treasury and to be maintained by the National Park Service. The revenues generated were then to be used to maintain the Memorial, and interest accrued was to be used towards establishing a scholarship fund for the children of officers who were killed in the line of duty.

Unfortunately, due to a series of unintentional oversights, the nearly $1.4 million generated from the sale of the coin was misplaced, and until recently, was never invested by the U.S. Treasury in an interest-bearing account, as required by law.

For the past six years, the Memorial Fund has tried, unsuccessfully, to gain access to the maintenance Fund to make needed repairs to the memorial. During this time, the Memorial Fund has spent more than $250,000 of its own funds, despite the existence of $1.4 million they raised from the sale of the commemorative coin. These funds were intended for the purpose of making repairs to the memorial, as specifically outlined in federal legislation.

Therefore, to ensure the money in the maintenance fund is spent in accordance with the original intent of the law, I have worked with the National Park Service and the National Law Enforcement Officers Memorial Fund to introduce legislation requiring the Park Service and the Officers Memorial Fund enter into a cooperative agreement outlining how the money in the maintenance fund will be spent. It is imperative we correct this oversight, and secure the financial viability of the Officers Memorial Fund.

This past Friday, the National Law Enforcement Officers Memorial held their annual candlelight vigil, honoring the 153 brave men and women who lost their lives in defense of their communities in 2004. The Memorial hosted nearly 20,000 family members, law enforcement officers, and friends of law enforcement, who gathered to pay tribute to these fallen heroes. In addition to the pain and suffering of tragically losing a loved one, can you imagine the added stress had these families visited an unkempt site? Had the Officers Memorial Fund not used their own funds to provide routine maintenance and repair, grieving families would not have descended upon a memorial fit to honor the sacrifices made by their loved ones.

Ladies and gentlemen, in 1984, Congress honored those officers who worked devotedly and selflessly on behalf of the people of our Nation by authorizing a memorial built in their honor. Over a decade later, Congress again authorized support for our law enforcement community by issuing a coin sale to help cover the costs of maintaining their memorial. Which brings us to today, over 20 years later, we must continue to ensure these sacrifices made are memorialized in perpetuity.

This week, the Nation pays tribute to our law enforcement community by celebrating National Police Week. Enacted 43 years ago, this weeklong celebration commemorates law enforcement officers, past and present, who have, through their courageous and enduring commitment to maintaining the safety and security of all citizens, earned the respect and recognition of this grateful Nation.

Please join me in continuing to honor these brave men and women by supporting H.R. 2107.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong support of the legislation introduced by the gentleman from New Jersey, Mr. SAXTON. H.R. 2107, the National Law Enforcement Officers Memorial Maintenance Fund Act of 2005 is a timely bill given that we are celebrating "National Police Week."

I am pleased that the 17th Annual Candlelight Vigil was held at the National Law Enforcement Officers Memorial last Friday. A reading of the 415 names newly engraved on the Memorial immediately followed the ceremony, and I send my condolences to the families of all of the fallen officers whose names were inscribed.

This important bill amends the United States Commemorative Coin Act of 1996 to direct the Secretary of the Interior, acting through the National Park Service, to: (1) enter into a cooperative agreement with the National Law Enforcement Officers Memorial Fund, Inc., Corporation, to carry out the Fund's purposes, generally, maintaining and repairing the National Law Enforcement Officers Memorial in Washington, D.C., and periodically adding to it the names of law enforcement officers who have died in the line of duty; and (2) transfer all amounts in the Fund to the Corporation, in accordance with the terms of such agreement.

Furthermore, H.R. 2107 revises the purposes of the Fund to repeal: (1) authority to provide educational scholarships to immediate family members of law enforcement officers killed in the line of duty whose names appear on the Memorial; and (2) limitation of the Fund's use for its own administration to the lesser of ten percent of its annual income or $200,000 during any one-year period, including an emergency affecting the Memorial's operation.

Mr. Speaker, I would like to recognize the city of Houston's law enforcement officers for the bravery that they exhibit in keeping the constituents of the 18th Congressional District safe. Lastly, I send condolences to the families and friends of Houston law enforcement officers who have fallen in the line of duty.

Mr. RENZI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. RENZI) that the House suspend the rules and pass the bill, H.R. 2107.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. RENZI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

NEWLANDS PROJECT HEADQUARTERS AND MAINTENANCE YARD FACILITY TRANSFER ACT

Mr. RENZI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 540) to authorize the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the Truckee-Carson Irrigation District, as amended.

The Clerk read as follows:

H.R. 540

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—NEWLANDS PROJECT HEADQUARTERS AND MAINTENANCE YARD FACILITY TRANSFER

Sec. 101. Short title.
Sec. 102. Conveyance of Newlands Project Headquarters and Maintenance Yard Facility.

TITLE II—INLAND EMPIRE AND CUCAMONGA VALLEY RECYCLING PROJECTS

Sec. 201. Inland Empire and Cucamonga Valley recycling projects.

TITLE III—RIVERSIDE-CORONA FEEDER WATER PROJECT

Sec. 301. Planning, design, and construction of the Riverside-Corona Feeder.
Sec. 302. Project authorizations.

TITLE IV—AINSWORTH UNIT, SANDHILLS DIVISION, PICK-SLOAN MISSOURI BASIN PROGRAM

Sec. 401. Ainsworth Unit, Sandhills Division, Pick-Sloan Missouri Basin Program.

TITLE V—WICHITA PROJECT EQUUS BEDS DIVISION

Sec. 501. Short title.
Sec. 502. Equus Beds Division.

TITLE VI—LOWER RIO GRANDE VALLEY WATER RESOURCES CONSERVATION AND IMPROVEMENT

Sec. 601. Short title.
Sec. 602. Authorization of additional projects and activities under the lower rio grande water conservation and improvement program.
Sec. 603. Reauthorization of appropriations for lower rio grande construction.
Sec. 604. Sunset provision.

TITLE VII—BROWNSVILLE PUBLIC UTILITY BOARD WATER RECYCLING AND DESALINIZATION PROJECT

Sec. 701. Brownsville Public Utility Board water recycling and desalinization project.

TITLE VIII—EL PASO, TEXAS, WATER RECLAMATION, REUSE, AND DESALINIZATION PROJECT

Sec. 801. El Paso, Texas, water reclamation, reuse, and desalinization project.

TITLE I—NEWLANDS PROJECT HEADQUARTERS AND MAINTENANCE YARD FACILITY TRANSFER

SEC. 101. SHORT TITLE.

This title may be cited as the "Newlands Project Headquarters and Maintenance Yard Facility Transfer Act".

SEC. 102. CONVEYANCE OF NEWLANDS PROJECT HEADQUARTERS AND MAINTENANCE YARD FACILITY.

(a) CONVEYANCE.—The Secretary of the Interior shall convey to the Truckee-Carson Irrigation District, Nevada, as soon as practicable after the date of the enactment of this Act and in accordance with all applicable law and the terms of the memorandum of agreement between the District and the Secretary dated June 9, 2003 (Contract No. 3-LC-20-8052), all right, title, and interest of the United States in and to real property within the Newlands Projects, Nevada, known as 2666 Harrigan Road, Fallon, Nevada, and identified for disposition on the map entitled "Newlands Project Headquarters and Maintenance Yard Facility".

(b) TREATMENT OF PROCEEDS FROM FALLON FREIGHT YARD AS CONSIDERATION.—Notwithstanding any other provision of law to the contrary, amounts received by the United States for the lease and sale of Newlands Project lands comprising the Fallon Freight Yard shall, for purposes of this section, be treated as payment in full of consideration for the property conveyed under subsection (a).

(c) REPORT.—If the Secretary has not completed such conveyance within 12 months after the date of enactment of this Act, the Secretary shall submit a report to the Congress explaining the reasons the conveyance has not been completed and stating the date by which the conveyance will be completed.

(d) ENVIRONMENTAL REVIEW, REMEDIATION, AND REMOVAL.—The Secretary may not make any conveyance under this section until the completion with respect to the conveyance, in accordance with the memorandum of agreement referred to in subsection (a), of—

(1) compliance with requirements relating to the National Environmental Policy Act of 1969 (42 U.S.C. et seq. 4321 et seq.) and cultural resources; and

(2) environmental site assessments, remediation, or removal.

(e) Liability.—The United States shall not be liable for damages of any kind arising out of any act or omission by, or occurrence relating to, the Truckee-Carson Irrigation District or its employees, agents, or contractors relating to the property conveyed under this section and occurring prior to, on, or after the date of such conveyance.

TITLE II—INLAND EMPIRE AND CUCAMONGA VALLEY RECYCLING PROJECTS

SEC. 201. INLAND EMPIRE AND CUCAMONGA VALLEY RECYCLING PROJECTS.

(a) Short Title.—This section may be cited as the "Inland Empire Regional Water Recycling Initiative".

(b) In General.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, Title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

"SEC. 1637. INLAND EMPIRE REGIONAL WATER RECYCLING PROJECT.

"(a) In General.—The Secretary, in cooperation with the Inland Empire Utilities Agency, may participate in the design, planning, and construction of the Inland Empire regional water recycling project described in the report submitted under section 1606(c).

"(b) Cost Sharing.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) Limitation.—Funds provided by the Secretary shall not be used for operation and maintenance of the project described in subsection (a).

"(d) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $20,000,000.

"(e) Sunset.—The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this section.

"SEC. 1638. CUCAMONGA VALLEY WATER RECYCLING PROJECT.

"(a) In General.—The Secretary, in cooperation with the Cucamonga Valley Water District, may participate in the design, planning, and construction of the Cucamonga Valley Water District satellite recycling plants in Rancho Cucamonga, California, to reclaim and recycle approximately 2 million gallons per day of domestic wastewater.

"(b) Cost Sharing.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the capital cost of the project.

"(c) Limitation.—Funds provided by the Secretary shall not be used for operation and maintenance of the project described in subsection (a).

"(d) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, $10,000,000.

"(e) Sunset.—The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this section.".

(c) Conforming Amendments.—The table of sections in section 2 of Public Law 102–575 is amended by inserting after the item relating to section 1636 the following:

"1637. Inland Empire Regional Water Recycling Program.
"1638. Cucamonga Valley Water Recycling Project.".

TITLE III—RIVERSIDE-CORONA FEEDER WATER PROJECT

SEC. 301. PLANNING, DESIGN, AND CONSTRUCTION OF THE RIVERSIDE-CORONA FEEDER.

(a) In General.—The Secretary of the Interior, in cooperation with the Western Municipal Water District, may participate in a project to plan, design, and construct a water supply project, the Riverside-Corona Feeder, which includes 20 groundwater wells and 28 miles of pipeline in San Bernardino and Riverside Counties, California.

(b) Agreements and Regulations.—The Secretary may enter into such agreements and promulgate such regulations as are necessary to carry out this section.

(c) Federal Cost Share.—

(1) Planning, design, construction.—The Federal share of the cost to plan, design, and construct the project described in subsection (a) shall be the lesser of 35 percent of the total cost of the project or $50,000,000.

(2) Studies.—The Federal share of the cost to complete the necessary planning study associated with the project described in subsection (a) shall not exceed 50 percent of the total study cost.

(d) In-Kind Services.—In-kind services performed by the Western Municipal Water District shall be considered a part of the local cost share to complete the project described in subsection (a).

(e) Limitation.—Funds provided by the Secretary under this section shall not be used for operation or maintenance of the project described in subsection (a).

(f) Sunset.—The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this section.

SEC. 302. PROJECT AUTHORIZATIONS.

(a) In General.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102-575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

"SEC. 163_. YUCAIPA VALLEY REGIONAL WATER SUPPLY RENEWAL PROJECT.

"(a) Authorization.—The Secretary, in cooperation with the Yucaipa Valley Water District, may participate in the design, planning, and construction of projects to treat impaired surface water, reclaim and reuse impaired groundwater, and provide brine disposal within the Santa Ana Watershed described in the report submitted under section 1606.

"(b) Cost Sharing.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) Limitation.—Funds provided by the Secretary shall not be used for operation or maintenance of the project described in subsection (a).

"(d) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $20,000,000.

"(e) Sunset.—The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this section.

"SEC. 163 . CITY OF CORONA WATER UTILITY, CALIFORNIA, WATER RECYCLING AND REUSE PROJECT.

"(a) Authorization.—The Secretary, in cooperation with the City of Corona Water Utility, California, is authorized to participate in the design, planning, and construction of, and land acquisition for, a project to reclaim and reuse wastewater, including degraded groundwaters, within and outside of the service area of the City of Corona Water Utility, California.

"(b) Cost Share.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) Limitation.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) Sunset.—The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this section.".

(b) Conforming Amendments.—The table of sections in section 2 of Public Law 102–575 is amended by inserting after the item relating to section 163 the following:

"Sec. 163 . Yucaipa Valley Regional Water Supply Renewal Project.
"Sec. 163_. City of Corona Water Utility, California, water recycling and reuse project.".

TITLE IV—AINSWORTH UNIT, SANDHILLS DIVISION, PICK-SLOAN MISSOURI BASIN PROGRAM

SEC. 401. AINSWORTH UNIT, SANDHILLS DIVISION, PICK-SLOAN MISSOURI BASIN PROGRAM.

(a) In General.—The Secretary of the Interior shall extend for the period described in subsection (b) the water service contract for the Ainsworth Unit, Sandhills Division, Pick-Sloan Missouri Basin Program, Nebraska, consisting of—

(1) the water service contract entered into by the Secretary of the Interior under—

(A) section 9(e) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(e));

(B) section 9(c) of the Act of December 22, 1944 (58 Stat. 887, chapter 665);

(C) the Act of August 21, 1954 (68 Stat. 757, chapter 781); and

(D) the Act of May 18, 1956 (70 Stat. 160, chapter 285); and

(2) the water service contract for the set project located in Cherry, Brown, and Rock Counties, Nebraska, for the use of a part of the waters of the Snake River, a tributary of the Niobrara River.

(b) Period of Extension.—The water service contract described in subsection (a) shall be extended for 4 years after the date on which the contract expires under the water service contract and law in existence before the date of enactment of this Act.

TITLE V—WICHITA PROJECT EQUUS BEDS DIVISION

SEC. 501. SHORT TITLE.

This title may be cited as the "Wichita Project Equus Beds Division Authorization Act of 2005".

SEC. 502. EQUUS BEDS DIVISION.

The Act entitled "An Act to provide for the construction of the Cheney division, Wichita Federal reclamation project, Kansas, and for other purposes" (Public Law 86-787; 74 Stat. 1026) is amended by adding the following new section:

"SEC. 10. EQUUS BEDS DIVISION.

"(a) Authorization.—The Secretary of the Interior may assist in the funding and implementation of the Equus Beds Aquifer Recharge and Recovery Component which is a part of the 'Integrated Local Water Supply Plan, Wichita, Kansas' (referred to in this section as the 'Equus Beds Division'). Construction of the Equus Beds Division shall be in substantial accordance with the plans and designs.

"(b) Operation, Maintenance, and Replacement.—Operation, maintenance, and replacement of the Equus Beds Division, including funding for those purposes, shall be the sole responsibility of the City of Wichita, Kansas. The Equus Beds Division shall be operated in accordance with applicable laws and regulations.

"(c) Agreements.—The Secretary of the Interior may enter into, or agree to amendments of, cooperative agreements and other appropriate agreements to carry out this section.

"(d) Administrative Costs.—From funds made available for this section, the Secretary of the Interior may charge an appropriate share related to administrative costs incurred.

"(e) Plans and Analyses Consistent With Federal Law.—Before obligating funds for design or construction under this section, the Secretary of the Interior shall work cooperatively with the City of Wichita, Kansas, to use, to the extent possible, plans, designs, and engineering and environmental analyses that have already been prepared by the City for the Equus Beds Division. The Secretary of the Interior shall assure that such information is used consistent with applicable Federal laws and regulations, including principles and guidelines used in preparing feasibility level project studies.

"(f) Title; Responsibility; Liability.—Nothing in this section or assistance provided under this section shall be construed to transfer title, responsibility, or liability related to the Equus Beds Division (including portions or features thereof) to the United States.

"(g) Authorization of Appropriations.—There is authorized to be appropriated as the Federal share of the total cost of the Equus Beds Division, an amount not to not exceed 25 percent of the total cost or $30,000,000 (January, 2003 prices), whichever is less, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein, whichever is less. Such sums shall be nonreimbursable.

"(h) Sunset.—The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this section.".

TITLE VI—LOWER RIO GRANDE VALLEY WATER RESOURCES CONSERVATION AND IMPROVEMENT

SEC. 601. SHORT TITLE.

This title may be cited as the "Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2005".

SEC. 602. AUTHORIZATION OF ADDITIONAL PROJECTS AND ACTIVITIES UNDER THE LOWER RIO GRANDE WATER CONSERVATION AND IMPROVEMENT PROGRAM.

(a) Additional Projects.—Section 4(a) of the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106–576; 114 Stat. 3067) is amended by adding at the end the following:

"(20) In Cameron County, Texas, Bayview Irrigation District No. 11, water conservation and improvement projects as identified in the March 3, 2004, engineering report by NRS Consulting Engineers at a cost of $1,425,219.

"(21) In the Cameron County, Texas, Brownsville Irrigation District, water conservation and improvement projects as identified in the February 11, 2004, engineering report by NRS Consulting Engineers at a cost of $722,100.

"(22) In the Cameron County, Texas Harlingen Irrigation District No. 1, water conservation and improvement projects as identified in the March, 2004, engineering report by Axiom-Blair Engineering at a cost of $4,173,950.

"(23) In the Cameron County, Texas, Cameron County Irrigation District No. 2, water conservation and improvement projects as identified in the February 11, 2004, engineering report by NRS Consulting Engineers at a cost of $8,269,576.

"(24) In the Cameron County, Texas, Cameron County Irrigation District No. 6, water conservation and improvement projects as identified in an engineering report by Turner Collie Braden, Inc., at a cost of $5,607,300.

"(25) In the Cameron County, Texas, Adams Gardens Irrigation District No. 19, water conservation and improvement projects as identified in the March, 2004, engineering report by Axiom-Blair Engineering at a cost of $2,500,000.

"(26) In the Hidalgo and Cameron Counties, Texas, Hidalgo and Cameron Counties Irrigation District No. 9, water conservation and improvement projects as identified by the February 11 engineering report by NRS Consulting Engineers at a cost of $8,929,152.

"(27) In the Hidalgo and Willacy Counties, Texas, Delta Lake Irrigation District, water conservation and improvement projects as identified in the March, 2004, engineering report by Axiom-Blair Engineering at a cost of $8,000,000.

"(28) In the Hidalgo County, Texas, Hidalgo County Irrigation District No. 2, a water conservation and improvement project identified in the engineering reports attached to a letter dated February 11, 2004, from the district's general manager, at a cost of $5,312,475.

"(29) In the Hidalgo County, Texas, Hidalgo County Irrigation District No. 1, water conservation and improvement projects identified in an engineering report dated March 5, 2004, by Melden and Hunt, Inc. at a cost of $5,595,018.

"(30) In the Hidalgo County, Texas, Hidalgo County Irrigation District No. 6, water conservation and improvement projects as identified in the March, 2004, engineering report by Axiom-Blair Engineering at a cost of $3,450,000.

"(31) In the Hidalgo County, Texas Santa Cruz Irrigation District No. 15, water conservation and improvement projects as identified in an engineering report dated March 5, 2004, by Melden and Hunt, Inc. at a cost of $4,609,000.

"(32) In the Hidalgo County, Texas, Engelman Irrigation District, water conservation and improvement projects as identified in an engineering report dated March 5, 2004, by Melden and Hunt, Inc. at a cost of $2,251,480.

"(33) In the Hidalgo County, Texas, Valley Acres Water District, water conservation and improvement projects as identified in an engineering report dated March, 2004, by Axiom-Blair Engineering at a cost of $500,000.

"(34) In the Hudspeth County, Texas, Hudspeth County Conservation and Reclamation District No. 1, water conservation and improvement projects as identified in the March, 2004, engineering report by Axiom-Blair Engineering at a cost of $1,500,000.

"(35) In the El Paso County, Texas, El Paso County Water Improvement District No. 1, water conservation and improvement projects as identified in the March, 2004, engineering report by Axiom-Blair Engineering at a cost of $10,500,000.

"(36) In the Hidalgo County, Texas, Donna Irrigation District, water conservation and improvement projects identified in an engineering report dated March 22, 2004, by Melden and Hunt, Inc. at a cost of $2,500,000.

"(37) In the Hidalgo County, Texas, Hidalgo County Irrigation District No. 16, water conservation and improvement projects identified in an engineering report dated March 22, 2004, by Melden and Hunt, Inc. at a cost of $2,800,000.

"(38) The United Irrigation District of Hidalgo County water conservation and improvement projects as identified in a March 2004, engineering report by Sigler Winston, Greenwood and Associates at a cost of $6,067,021.".

(b) Inclusion of Activities To Conserve Water or Improve Supply; Transfers Among Projects.—Section 4 of such Act (Public Law 106–576; 114 Stat. 3067) is further amended by redesignating subsection (c) as subsection (e), and by inserting after subsection (b) the following:

"(c) Inclusion of Activities To Conserve Water or Improve Supply.—In addition to the activities identified in the engineering reports referred to in subsection (a), each project that the Secretary conducts or participates in under subsection (a) may include any of the following:

"(1) The replacement of irrigation canals and lateral canals with buried pipelines.

"(2) The impervious lining of irrigation canals and lateral canals.

"(3) Installation of water level, flow measurement, pump control, and telemetry systems.

"(4) The renovation and replacement of pumping plants.

"(5) Other activities that will result in the conservation of water or an improved supply of water.

"(d) Transfers Among Projects.—Of amounts made available for a project referred to in any of paragraphs (20) through (38) of subsection (a), the Secretary may transfer and use for another such project up to 10 percent.".

SEC. 603. REAUTHORIZATION OF APPROPRIATIONS FOR LOWER RIO GRANDE CONSTRUCTION.

Section 4(e) of the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106–576; 114 Stat. 3067), as redesignated by section 602(b) of this title, is further amended by inserting before the period the following: "for projects referred to in paragraphs (1) through (19) of subsection (a), and $42,356,145 (2004 dollars) for projects referred to in paragraphs (20) through (38) of subsection (a)".

SEC. 604. SUNSET PROVISION.

The authority of the Secretary to carry out the projects added by paragraphs (20) through (38) of the amendment made by section 602(a) of this title shall terminate 10 years after the date of the enactment of this section.

TITLE VII—BROWNSVILLE PUBLIC UTILITY BOARD WATER RECYCLING AND DESALINIZATION PROJECT

SEC. 701. BROWNSVILLE PUBLIC UTILITY BOARD WATER RECYCLING AND DESALINIZATION PROJECT.

(a) In General.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following new section:

"SEC. 163 . BROWNSVILLE PUBLIC UTILITY BOARD WATER RECYCLING AND DESALINIZATION PROJECT.

"(a) In General.—The Secretary, in cooperation with the Brownsville Public Utility Board, may participate in the design, planning, and construction of facilities to reclaim, reuse, and treat impaired waters in the Brownsville, Texas, area.

"(b) Cost Sharing.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) Limitation.—Funds provided by the Secretary shall not be used for operation and maintenance of the project described in subsection (a).

"(d) SUNSET.—The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this section.".

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of Public Law 102–575 is amended by inserting after the last item relating to title XVI the following:

"163_. Brownsville Public Utility Board water recycling and desalinization project.".

TITLE VIII—EL PASO, TEXAS, WATER RECLAMATION, REUSE, AND DESALINIZATION PROJECT

SEC. 801. EL PASO, TEXAS, WATER RECLAMATION, REUSE, AND DESALINIZATION PROJECT.

(a) AUTHORIZATION.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following new section:

"SEC. 16xx. EL PASO, TEXAS, WATER RECLAMATION, REUSE, AND DESALINIZATION PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the State and local authorities, is authorized to participate in the design, planning, and construction of the El Paso Water Reclamation, Reuse, and Desalinization project to reclaim and reuse wastewater and to treat and reuse impaired and brackish groundwater in the service area of the El Paso Water Utilities Public Service Board, El Paso, Texas.

"(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

"(d) SUNSET.—The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this section.".

(b) CLERICAL AMENDMENT.—The table of sections in section 2 of such Act is amended by inserting after the item relating to section 16xx the following:

"Sec. 16xx. El Paso, Texas, water reclamation, reuse, and desalinization project.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. RENZI) and the gentleman from New Mexico (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. RENZI).

GENERAL LEAVE

Mr. RENZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 540.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RENZI. Mr. Speaker, I yield myself such time as I may consume.

H.R. 540 directs the Secretary of the Interior to transfer 35 acres of the Truckee-Carson Irrigation District as soon as practicable. Before the transfer takes place, all environmental analyses will be completed in accordance with Federal, State and local laws.

As amended, this important bill also includes a number of other bipartisan water measures either favorably reported by the Committee on Resources in the waning days of the 108th Congress or those which were passed in the last Congress but were not considered by the Senate. Today's effort is an attempt to make it easier for Senate to pass these measures.

These bipartisan bills include H.R. 386, legislation offered by the gentleman from Texas (Mr. HINOJOSA) and some of his lower Rio Grande, Texas colleagues, to help local irrigation districts and communities preserve their water supplies; H.R. 802, a bill authored by the gentleman from California (Mr. DREIER) and the gentlewoman from California (Mrs. NAPOLITANO), to authorize Federal assistance for a water recycling project in California's Inland Empire; H.R. 855, legislation introduced by the gentleman from Texas (Mr. ORTIZ), to provide Federal dollars to the City of Brownsville's desalinization project; H.R. 863, a bill sponsored by the gentleman from Texas (Mr. REYES), to provide Federal assistance to the City of El Paso's alternative water supply project; H.R. 1008, legislation authored by the gentleman from California (Mr. CALVERT) and the gentleman from California (Mr. LEWIS), to allow Federal assistance for water projects in southern California; H.R. 1197, a bill sponsored by the gentleman from Nebraska (Mr. OSBORNE), to extend irrigation contracts in Nebraska; and finally, H.R. 1327, legislation offered by the gentleman from Kansas (Mr. TIAHRT), to provide Federal assistance to the City of Wichita's aquifer recharge project.

□ 1500

Mr. Speaker, these are bipartisan bills and deserve unanimous support.

Once again, I urge my colleagues to pass H.R. 540 and the measures included therewith.

Mr. UDALL of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we support passage of H.R. 540 and the amendment to the bill which adds seven new titles. The amendment authorizes several important projects for water recycling, improvements to irrigation efficiency, conservation of groundwater and surface water, and desalination of water.

I particularly want to draw attention to titles VI, VII and VIII of this legislation. These titles incorporate the text of H.R. 386, H.R. 855 and H.R. 863, respectively.

These bills, introduced by the gentlemen from Texas (Mr. HINOJOSA, Mr. ORTIZ, and Mr. REYES), my colleagues, will help finance projects to stretch the limited water supplies in their districts. I commend my friends from Texas for their leadership in introducing these bills and for working hard to secure their passage.

Mr. Speaker, I reserve the balance of my time.

Mr. RENZI. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, first, let me thank my good friend and colleague from Arizona for allowing me the privilege to rise today in support of legislation I introduced, the Newlands Project Headquarters and Maintenance Yard Facility Transfer Act, H.R. 540.

This legislation passed the House under suspension of the rules last year, but was not considered in the Senate prior to the adjournment of the 108th Congress. I truly appreciate the opportunity to stand before my colleagues again in support of this legislation that is so important for the people of the Second District of the State of Nevada.

The purpose of this legislation is to transfer all right, title, and interest in the Newlands Project to the Truckee-Carson Irrigation District, otherwise known as TCID. This conveyance consists of approximately 35 acres and will allow TCID to make permanent improvements on this land for the continued operation of the Newlands Reclamation Project.

In 1996, the Bureau of Reclamation certified that TCID had repaid the original construction costs designated for repayment to the United States. The original construction costs included the cost of the land on which the initial headquarter facilities were located. In the late 1970s, however, TCID had outgrown the original facilities and moved to the current site, which is the area to be conveyed through this legislation.

TCID paid for the land where the original facilities were located; however, they were never compensated when they vacated these lots, despite the fact that a Federal post office now sits on the original tract of land that housed the project headquarters.

Critics will charge that this bill unfairly favors the TCID and that the land is a taxpayer asset and should be treated accordingly. Those assertions simply do not make sense.

The Bureau of Reclamation certified that the Newlands Project had been paid for and asking the TCID to pay for their land that their headquarters is currently located on would be in effect asking them to pay for it twice.

To say that H.R. 540 is a giveaway is simply incorrect and misrepresents the intent of this important legislation. This bill is a fair solution to an unfair situation.

Therefore, I urge my colleagues to join me and Senator JOHN ENSIGN and Senator HARRY REID and Governor Kenny Guinn of Nevada and the local leaders of Churchill County and the city of Fallon, Nevada, in supporting this legislation.

I want to thank the gentleman from Arizona (Mr. RENZI), my good friend and colleague, once again for allowing me to speak on this bill. I appreciate the consideration of this legislation that is so very important to my constituents in Nevada.

Mr. UDALL of New Mexico. Mr. Speaker, I congratulate the gentleman from Nevada (Mr. GIBBONS) for his leadership on this bill.

Mr. Speaker, I yield as much time as he may consume to the gentleman from El Paso, Texas (Mr. REYES), and also recognize his crucial leadership on water issues in the border area.

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding me time this afternoon.

Mr. Speaker, I rise in strong support of this legislation which will help several local communities around the country address their water management issues.

Like many communities in the West, one of the greatest challenges facing my congressional district of El Paso, Texas, has been providing an adequate water supply to our rapidly growing population.

Fortunately, our community is meeting this challenge successfully, in part through the construction of a major inland desalination plant that will treat the brackish water of the Hueco Bolson so it can be utilized by the people of El Paso and the surrounding region, as well as Fort Bliss military base. The project, which is a partnership of the El Paso Water Utilities and the Department of Defense, is set to begin construction and should be completed within the year.

I am proud to say that El Paso is leading the way when it comes to inland desalination, in addition to our ongoing conservation and reclamation initiatives. This bill will further our efforts by authorizing the city of El Paso to expand the soon-to-be constructed desalination plant or to construct an additional plant if and when additional capacity is required over the next 10 years.

Ensuring a reliable, long-term water source for El Paso and the El Paso region is essential for the community's future. Desalination, and therefore, this legislation, is an integral part of that effort.

In closing, Mr. Speaker, I would like to thank the gentleman from Nevada (Mr. GIBBONS) and the gentleman from West Virginia (Mr. RAHALL), the chairman and ranking member of the full committee, and the gentleman from California (Mr. RADANOVICH) and the gentlewoman from California (Mrs. NAPOLITANO), the chairman and ranking member of the Subcommittee on Water and Power, for their assistance in moving this important legislation forward.

I would also like to thank my two colleagues from Arizona and from New Mexico for granting me the opportunity to speak this afternoon. Mr. Speaker, I urge all my colleagues to support this bill.

Mr. HINOJOSA. Mr. Speaker, I rise in support of H.R. 540, a bill that will authorize a variety of water projects including several in my congressional district. I want to thank Chairman POMBO and Ranking Member RAHALL for including my legislation, H.R. 386, in this bill.

I represent a region of the country that is subject to periodic droughts and yet is experiencing phenomenal population growth.

The 2000 Census showed that the population of Hidalgo County, in my district, increased by 48 percent. On the Mexican side of the border, millions have come to work in the maquiladoras and to take advantage of the economic boom that has come from NAFTA.

This growth has placed an enormous strain on water delivery systems along the Texas-Mexico border. Agriculture irrigation water often flows through open dirt ditches and studies show that much is lost to seepage and evaporation.

Municipalities rely on the water from the irrigation delivery systems to meet the water needs of growing communities.

H.R. 540 will authorize 19 projects that will allow border water districts to continue upgrading and modernizing our antiquated water delivery systems through the installation of water pipes and canal linings. Similar projects were authorized in the 106th and 107th Congresses.

We have already made a great deal of progress because this has been a collaborative effort. The irrigation districts have provided matching funds. The Texas Water Development Board and Texas A&M University have paid for many of the engineering studies. Federal appropriators have provided more than $10 million. As a result, we are seeing water savings of almost 80 percent in the projects that have been completed.

Most importantly, Federal authorization has allowed us to tap into the resources of the North American Development Bank. To date, NADBank has approved almost $24 million for these projects and passage of H.R. 540 will make these new projects eligible for NADBank assistance.

These funds are being put to good use. Numerous projects are already underway and some are almost completed.

When the metering system is fully installed, irrigation districts will have a much clearer picture of water usage and water savings. This data will be vital to improving water management throughout the region.

I urge my colleagues to support this legislation.

Mr. DREIER. Mr. Speaker, I rise today to thank House Resources Chairman RICHARD POMBO and Subcommittee on Water and Power Chairman GEORGE RADANOVICH, for their hard work in moving H.R. 802 as a part of this larger resources package bill, H.R. 540 as amended, to the House floor.

I introduced this Inland Empire Water Recycling Initiative, H.R. 802, to authorize $30 million total for the Inland Empire Utilities Agency (IEUA) and the Cucamonga Valley Water District (CVWD) to assist in constructing two water recycling projects which will nearly 100,000 acre-feet of new water annually to the area's water supply.

It is imperative that we continue to approve measures preventing water supply shortages in the Western United States. This recycling initiative will help meet the water needs of the Inland Empire and begin a strategic federal-local partnership to bring a significant amount of new water supply to the region.

I am pleased that this initiative has the support of all member agencies of the Inland Empire Utilities Agency, as well as the water agencies downstream in Orange County. IEUA encompasses approximately 242 square miles and serves the cities of Chino, Chino Hills, Fontana, Ontario, Upland, Montclair, and Rancho Cucamonga.

IEUA and CVWD are replacing water-intensive applications like landscape and agricultural irrigation, construction, and industrial cooling with high-quality recycled water, fresh water can be conserved or used for drinking, thereby reducing the dependence on expensive imported water.

In addition, by recycling water which would otherwise be wasted and unavailable, these agencies provide that the water available goes through at least one more cycle of beneficial use before it is ultimately returned to the environment.

I want to reiterate my thanks to the House Resources Committee, as well as to my colleagues, KEN CALVERT, GRACE NAPOLITANO, GARY MILLER, and JOE BACA for cosponsoring H.R. 802.

And last but certainly not least, I appreciate the visionary leadership of Mr. Robert DeLoach, General Manager of the Cucamonga Valley Water District and Mr. Rich Atwater, CEO and General Manager of the Inland Empire Utilities Agency.

Mr. UDALL of New Mexico. Mr. Speaker, having no additional speakers, I yield back the balance of my time.

Mr. RENZI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentleman from Arizona (Mr. RENZI) that the House suspend the rules and pass the bill, H.R. 540, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the Truckee-Carson Irrigation District.".

A motion to reconsider was laid on the table.

UPPER HOUSATONIC VALLEY NATIONAL HERITAGE AREA ACT

Mr. RENZI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 938) to establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts, and for other purposes, as amended.

The Clerk read as follows:

H.R. 938

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Upper Housatonic Valley National Heritage Area Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The upper Housatonic Valley, encompassing 29 towns in the hilly terrain of western Massachusetts and northwestern Connecticut, is a singular geographical and cultural region that has made significant national contributions through its literary, artistic, musical, and architectural achievements, its iron, paper, and electrical equipment industries, and its scenic beautification and environmental conservation efforts.

(2) The upper Housatonic Valley has 139 properties and historic districts listed on the National Register of Historic Places, including—

(A) five National Historic Landmarks—

(i) Edith Wharton's home, The Mount, Lenox, Massachusetts;

(ii) Herman Melville's home, Arrowhead, Pittsfield, Massachusetts;

(iii) W.E.B. DuBois' Boyhood Homesite, Great Barrington, Massachusetts;

(iv) Mission House, Stockbridge, Massachusetts; and

(v) Crane and Company Old Stone Mill Rag Room, Dalton, Massachusetts; and

(B) four National Natural Landmarks—

(i) Bartholomew's Cobble, Sheffield, Massachusetts, and Salisbury, Connecticut;

(ii) Beckley Bog, Norfolk, Connecticut;

(iii) Bingham Bog, Salisbury, Connecticut; and

(iv) Cathedral Pines, Cornwall, Connecticut.

(3) Writers, artists, musicians, and vacationers have visited the region for more than 150 years to enjoy its scenic wonders, making it one of the country's leading cultural resorts.

(4) The upper Housatonic Valley has made significant national cultural contributions through such writers as Herman Melville, Nathaniel Hawthorne, Edith Wharton, and W.E.B. DuBois, artists Daniel Chester French and Norman Rockwell, and the performing arts centers of Tanglewood, Music Mountain, Norfolk (Connecticut) Chamber Music Festival, Jacob's Pillow, and Shakespeare & Company.

(5) The upper Housatonic Valley is noted for its pioneering achievements in the iron, paper, and electrical generation industries and has cultural resources to interpret those industries.

(6) The region became a national leader in scenic beautification and environmental conservation efforts following the era of industrialization and deforestation and maintains a fabric of significant conservation areas including the meandering Housatonic River.

(7) Important historical events related to the American Revolution, Shays' Rebellion, and early civil rights took place in the upper Housatonic Valley.

(8) The region had an American Indian presence going back 10,000 years and Mohicans had a formative role in contact with Europeans during the seventeenth and eighteenth centuries.

(9) The Upper Housatonic Valley National Heritage Area has been proposed in order to heighten appreciation of the region, preserve its natural and historical resources, and improve the quality of life and economy of the area.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts.

(2) To implement the national heritage area alternative as described in the document entitled "Upper Housatonic Valley National Heritage Area Feasibility Study, 2003".

(3) To provide a management framework to foster a close working relationship with all levels of government, the private sector, and the local communities in the upper Housatonic Valley region to conserve the region's heritage while continuing to pursue compatible economic opportunities.

(4) To assist communities, organizations, and citizens in the State of Connecticut and the Commonwealth of Massachusetts in identifying, preserving, interpreting, and developing the historical, cultural, scenic, and natural resources of the region for the educational and inspirational benefit of current and future generations.

SEC. 3. DEFINITIONS.

In this Act:

(1) HERITAGE AREA.—The term "Heritage Area" means the Upper Housatonic Valley National Heritage Area, established in section 4.

(2) MANAGEMENT ENTITY.—The term "Management Entity" means the management entity for the Heritage Area designated by section 4(d).

(3) MANAGEMENT PLAN.—The term "Management Plan" means the management plan for the Heritage Area specified in section 6.

(4) MAP.—The term "map" means the map entitled "Boundary Map Upper Housatonic Valley National Heritage Area", numbered P17/80,000, and dated February 2003.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means the State of Connecticut and the Commonwealth of Massachusetts.

SEC. 4. UPPER HOUSATONIC VALLEY NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established the Upper Housatonic Valley National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall be comprised of—

(1) part of the Housatonic River's watershed, which extends 60 miles from Lanesboro, Massachusetts to Kent, Connecticut;

(2) the towns of Canaan, Colebrook, Cornwall, Kent, Norfolk, North Canaan, Salisbury, Sharon, and Warren in Connecticut; and

(3) the towns of Alford, Becket, Dalton, Egremont, Great Barrington, Hancock, Hinsdale, Lanesboro, Lee, Lenox, Monterey, Mount Washington, New Marlboro, Pittsfield, Richmond, Sheffield, Stockbridge, Tyringham, Washington, and West Stockbridge in Massachusetts.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

(d) MANAGEMENT ENTITY.—The Upper Housatonic Valley National Heritage Area, Inc. shall be the management entity for the Heritage Area.

SEC. 5. AUTHORITIES, PROHIBITIONS, AND DUTIES OF THE MANAGEMENT ENTITY.

(a) DUTIES OF THE MANAGEMENT ENTITY.—To further the purposes of the Heritage Area, the management entity shall—

(1) prepare and submit a management plan for the Heritage Area to the Secretary in accordance with section 6;

(2) assist units of local government, regional planning organizations, and nonprofit organizations in implementing the approved management plan by—

(A) carrying out programs and projects that recognize, protect and enhance important resource values within the Heritage Area;

(B) establishing and maintaining interpretive exhibits and programs within the Heritage Area;

(C) developing recreational and educational opportunities in the Heritage Area;

(D) increasing public awareness of and appreciation for natural, historical, scenic, and cultural resources of the Heritage Area;

(E) protecting and restoring historic sites and buildings in the Heritage Area that are consistent with heritage area themes;

(F) ensuring that signs identifying points of public access and sites of interest are posted throughout the Heritage Area; and

(G) promoting a wide range of partnerships among governments, organizations and individuals to further the purposes of the Heritage Area;

(3) consider the interests of diverse units of government, businesses, organizations and individuals in the Heritage Area in the preparation and implementation of the management plan;

(4) conduct meetings open to the public at least semi-annually regarding the development and implementation of the management plan;

(5) submit an annual report to the Secretary for any fiscal year in which the management entity receives Federal funds under this Act, setting forth its accomplishments, expenses, and income, including grants to any other entities during the year for which the report is made;

(6) make available for audit for any fiscal year in which it receives Federal funds under this Act, all information pertaining to the expenditure of such funds and any matching funds, and require in all agreements authorizing expenditures of Federal funds by other organizations, that the receiving organizations make available for such audit all records and other information pertaining to the expenditure of such funds; and

(7) encourage by appropriate means economic development that is consistent with the purposes of the Heritage Area.

(b) AUTHORITIES.—The management entity may, for the purposes of preparing and implementing the management plan for the Heritage Area, use Federal funds made available through this Act to—

(1) make grants to the State of Connecticut and the Commonwealth of Massachusetts, their political subdivisions, nonprofit organizations and other persons;

(2) enter into cooperative agreements with or provide technical assistance to the State of Connecticut and the Commonwealth of Massachusetts, their subdivisions, nonprofit organizations, and other interested parties;

(3) hire and compensate staff, which shall include individuals with expertise in natural, cultural, and historical resources protection, and heritage programming;

(4) obtain money or services from any source including any that are provided under any other Federal law or program;

(5) contract for goods or services; and

(6) undertake to be a catalyst for any other activity that furthers the purposes of the Heritage Area and is consistent with the approved management plan.

(c) Prohibitions on the Acquisition of Real Property.—The management entity may not use Federal funds received under this Act to acquire real property, but may use any other source of funding, including other Federal funding outside this authority, intended for the acquisition of real property.

SEC. 6. MANAGEMENT PLAN.

(a) In General.—The management plan for the Heritage Area shall—

(1) include comprehensive policies, strategies and recommendations for conservation, funding, management and development of the Heritage Area;

(2) take into consideration existing State, county, and local plans in the development of the management plan and its implementation;

(3) include a description of actions that governments, private organizations, and individuals have agreed to take to protect the natural, historical and cultural resources of the Heritage Area;

(4) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Area in the first 5 years of implementation;

(5) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the Heritage Area related to the themes of the Heritage Area that should be preserved, restored, managed, developed, or maintained;

(6) describe a program of implementation for the management plan including plans for resource protection, restoration, construction, and specific commitments for implementation that have been made by the management entity or any government, organization, or individual for the first 5 years of implementation; and

(7) include an interpretive plan for the Heritage Area.

(b) Deadline and Termination of Funding.—

(1) Deadline.—The management entity shall submit the management plan to the Secretary for approval within 3 years after funds are made available for this Act.

(2) Termination of Funding.—If the management plan is not submitted to the Secretary in accordance with this subsection, the management entity shall not qualify for Federal funding under this Act until such time as the management plan is submitted to the Secretary.

SEC. 7. DUTIES AND AUTHORITIES OF THE SECRETARY.

(a) Technical and Financial Assistance.—The Secretary may, upon the request of the management entity, provide technical assistance on a reimbursable or non-reimbursable basis and financial assistance to the Heritage Area to develop and implement the approved management plan. The Secretary is authorized to enter into cooperative agreements with the management entity and other public or private entities for this purpose. In assisting the Heritage Area, the Secretary shall give priority to actions that in general assist in—

(1) conserving the significant natural, historical, cultural, and scenic resources of the Heritage Area; and

(2) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(b) Approval and Disapproval of Management Plan.—

(1) In general.—The Secretary shall approve or disapprove the management plan not later than 90 days after receiving the management plan.

(2) Criteria for Approval.—In determining the approval of the management plan, the Secretary shall consider whether—

(A) the management entity is representative of the diverse interests of the Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, and recreational organizations;

(B) the management entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the management plan;

(C) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historical, and cultural resources of the Heritage Area; and

(D) the management plan is supported by the appropriate State and local officials whose cooperation is needed to ensure the effective implementation of the State and local aspects of the management plan.

(3) Action following disapproval.—If the Secretary disapproves the management plan, the Secretary shall advise the management entity in writing of the reasons therefore and shall make recommendations for revisions to the management plan. The Secretary shall approve or disapprove a proposed revision within 60 days after the date it is submitted.

(4) Approval of amendments.—Substantial amendments to the management plan shall be reviewed by the Secretary and approved in the same manner as provided for the original management plan. The management entity shall not use Federal funds authorized by this Act to implement any amendments until the Secretary has approved the amendments.

SEC. 8. DUTIES OF OTHER FEDERAL AGENCIES.

Any Federal agency conducting or supporting activities directly affecting the Heritage Area shall—

(1) consult with the Secretary and the management entity with respect to such activities;

(2) cooperate with the Secretary and the management entity in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and,

(3) to the maximum extent practicable, conduct or support such activities in a manner which the management entity determines will not have an adverse effect on the Heritage Area.

SEC. 9. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

(a) Notification and Consent of Property Owners Required.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(b) Landowner Withdraw.—Any owner of private property included within the boundary of the Heritage Area shall have their property immediately removed from the boundary by submitting a written request to the management entity.

SEC. 10. PRIVATE PROPERTY PROTECTION.

(a) Access to Private Property.—Nothing in this Act shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) Liability.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) Recognition of Authority to Control Land Use.—Nothing in this Act shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

(d) Participation of Private Property Owners in Heritage Area.—Nothing in this Act shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) Effect of Establishment.—The boundaries designated for the Heritage Area represent the area within which Federal funds appropriated for the purpose of this Act may be expended. The establishment of the Heritage Area and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Area or its viewshed by the Secretary, the National Park Service, or the management entity.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There is authorized to be appropriated for the purposes of this Act not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Heritage Area under this Act.

(b) Matching Funds.—Federal funding provided under this Act may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this Act.

SEC. 12. SUNSET.

The authority of the Secretary to provide assistance under this Act shall terminate on the day occurring 15 years after funds are first made available for this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. Renzi) and the gentleman from New Mexico (Mr. Udall) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. Renzi).

GENERAL LEAVE

Mr. RENZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 938, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RENZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 938, introduced by the gentlewoman from Connecticut (Mrs. Johnson), and amended by the Committee on Resources, contains four titles. However, all four titles passed this House in the 108th Congress.

Title I would establish the Upper Housatonic National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts. It would preserve the area's contributions in literature, art, music, architecture, iron and paper, and its electrical equipment industries.

Title II amends the Illinois and Michigan Canal National Heritage Corridor Act in order to transition their management authority from a Federal commission to a nonprofit organization, which is in line with more recent Heritage Area management.

Title III would authorize the Secretary of the Interior to conduct a suitability and feasibility study of establishing the St. Croix National Heritage Area in St. Croix, U.S. Virgin Islands.

Title IV would establish the Northern Rio Grande National Heritage Area across three counties within the State of New Mexico to commemorate the unique combination of cultures, languages, folk arts, customs, and architecture associated with the Spanish colonization of New Mexico, beginning as far back as 1598.

I urge adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL of New Mexico. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to speak on H.R. 938. The majority has explained the pieces of this package. As the sponsor of the legislation comprising title IV, I would like to focus my remarks on the Northern Rio Grande National Heritage Area, which will be designated in the State of New Mexico.

I introduced this legislation earlier this year. A companion bill in the Senate, introduced by New Mexico's two Senators, currently awaits a vote on the floor of that body. In the 107th Congress, identical language passed the House unanimously. I am obviously pleased that today we, once again, have the opportunity to move closer to making this bill a law so New Mexicans can take additional steps to preserve and learn from our rich history.

The establishment of the Northern Rio Grande National Heritage Area is a citizen-driven effort to protect the remaining significant resources representative of the Spanish and Pueblo colonial era in north-central New Mexico. The bill identifies the northern New Mexico counties of Rio Arriba, Santa Fe and Taos as a National Heritage Area, an elite designation from Congress reserved for areas regarded as significant resources.

Northern New Mexico boasts many sites of historic and cultural significance. Our State is a blend of Pueblo and Hispanic cultures, making it a very unique and special place in our country. This legislation would identify many of the sites that tell northern New Mexico's story, help preserve them and, in the process, allow them to be more thoroughly enjoyed by New Mexicans and visitors to our State. Preservation would directly lead to economic development of this area through enhanced tourism.

Title IV creates a nonprofit corporation governed by a 25-member board of trustees charged with developing a management plan for the heritage area. The board will be comprised of representatives from the State, affected counties, tribes, cities, and others. The corporation's plan would include recommendations for identifying, conserving and preserving cultural, historical and natural resources within the heritage area, along with strategies to promote tourism of the region's natural and cultural assets.

The city of Espanola, the city of Santa Fe, Santa Fe County, Rio Arriba County, Taos County, La Jicarita Enterprise Community, the Chimayo Cultural Preservation Association, and the Eight Northern Pueblos support the Northern Rio Grande Heritage Area.

Mr. Speaker, I reserve the balance of my time.

Mr. RENZI. Mr. Speaker, I continue to reserve my time.

Mr. UDALL of New Mexico. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Speaker, I thank the gentleman from New Mexico for yielding time.

Mr. Speaker, I rise today in support of H.R. 938, but I will confine my remarks to title I of the bill which would establish the Upper Housatonic Valley National Heritage Area in Connecticut and Massachusetts.

Let me start by thanking the gentlewoman from Connecticut (Mrs. JOHNSON) for her persistence, her diligence, and her hard work on this legislation. It has been a pleasure working with her.

During the 106th Congress, H.R. 4312 authorized the Secretary of the Interior to conduct a feasibility study of the Upper Housatonic as a potential national heritage area. The study establishes that the Upper Housatonic Valley meets the Interior Department's criteria for such a designation.

The Park Service recognizes the valley as distinctive for having a landscape that includes a blend of industrial innovations, environmental conservation initiatives, and cultural achievements of national significance.

The Upper Housatonic Valley includes 29 communities in western Massachusetts and northwestern Connecticut. I would like to highlight a few of the many contributions this region of New England brings to our national heritage.

Herman Melville, Nathaniel Hawthorne, Edith Wharton, Oliver Wendell Holmes, Norman Rockwell, Suzy Frelinghuesen are just a few of the prominent artists and writers who have made the Housatonic Valley their home and the subject of their work. Today, visitors can see these artists' work on display in local museums before taking in a classical music concert at Tanglewood or visiting the magnificently restored Shaker Village in Hancock. The Upper Housatonic has a rich cultural heritage and thriving artistic community to this day.

Elizabeth Mumbet Freeman is a person my colleagues may not be familiar with today, but her role in our national history is rightfully recognized in the newly reopened National Archives exhibit, Charters of Freedom.

☐ 1515

A slave from Sheffield, Massachusetts, Mumbet sued in Massachusetts court for her freedom, leading to the abolition of slavery in Massachusetts in 1793. Many years later, the great civil rights leader, W.E.B. Dubois, made his home in Great Barrington, Massachusetts. His papers are archived and open to the public today in the University of Massachusetts in Amherst.

As I hoped to highlight for you today, the Upper Housatonic Valley is an area rich in culture, history, and innovation against the backdrop of scenic landscapes. Its designation as a National Heritage Area will help preserve this treasure for years to come. I urge an "aye" vote in support of this legislation.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today in support of H.R. 938, a bill to establish the Upper Housatonic Valley National Heritage Area Act. The Upper Housatonic Valley, encompassing 29 towns in the hilly terrain of western Massachusetts and northwestern Connecticut, is a singular geographical and cultural region that has made significant national contributions through its literacy, artistic, musical, and architectural achievements, its iron, paper, and electrical equipment industries and its scenic beautification and environmental conservation efforts.

I would like to thank Chairman POMBO and the Resources Committee for bringing this legislation forward and for recognizing that through this broad, flexible and locally led initiative, the States of Connecticut and Massachusetts will be able to make real progress in protecting the river and its heritage. The heritage area has broad support throughout the region, from historic and civic organizations, local businesses and governments, and our State governments have expressed strong support for the establishment of a National Heritage Area and are enthusiastic about the potential for celebration and preservation of the heritage. It also has inspired the development of a local organization that has already begun hosting hiking events and historic visits.

Congress established criteria in our 2000 legislation that clarifies that designation requires a cultural, natural and historical heritage of national significance, must have broad public support and a qualified entity to manage the Area. The Park Service agreed that the Upper Housatonic Valley meets the Department's ten interim criteria for designation of a national heritage area and cite us as the best example of how to go about becoming a National Heritage Area.

The Upper Housatonic Valley National Heritage Area would extend from Lanesboro, Massachusetts, 60 miles South to Kent, Connecticut. This region of New England was home to the Nation's first industrial iron sites from the 1730s to the 1920s. The first blast furnace was built in 1762 by Ethan Allen and supplied the iron for the cannons that helped George Washington's army to make other weapons for soldiers of the Revolutionary army. While most of the furnaces, mine sites and charcoal pits have been lost to development and time, the few that remain are in need of refurbishment. The Beckley Furnace in Canaan, Connecticut, was designated an official project by the Millennium Committee to Save America's Treasures and now has been well restored.

The Valley's history as a cultural retreat from the Boston and New York areas provides both past and current riches for the country. Since the 1930s visitors from all over have come to hear the music at Tanglewood, Music Mountain and Norfolk, see the paintings at the Norman Rockwell Museum, watch serious theater at Stockbridge and musical treats at Sharon. Today's local authors draw on a long tradition going back to the 19th century, when Herman Melville, Nathaniel Hawthorne and Edith Wharton lived and wrote here.

The Housatonic Valley is also rich with environmental and recreational treasures. The Housatonic River, just below Falls Village, Connecticut, is one of the prized fly-fishing centers in the Northeast and is enjoyed by fisherman from not only Connecticut and Massachusetts but the entire eastern seaboard. Olympic rowers have trained in this river as children have learned to swim, boat and fish and value its ecosystem. The Upper Housatonic Area, with its remoteness from, but ties to large cities, occupy a special niche in our national culture and I encourage my colleagues to support this legislation.

Mrs. CHRISTENSEN. Mr. Speaker, I rise in support of H.R. 938, to establish the Upper Housatonic Valley National Heritage Area in Connecticut and Massachusetts. I am particularly pleased that Title 2 of the bill includes legislation I sponsored in the last Congress and again in this Congress to provide for a study of the suitability and feasibility of establishing my home island of St. Croix as a National Heritage Area was also included in this package.

I want to begin by thanking Chairman RICHARD POMBO and Ranking Member NICK RAHALL for their support in including my bill in H.R. 938.

Mr. Speaker, I can think of no more fitting place that should be studied for possible designation as a national Heritage Area than my home island of St. Croix, U.S. Virgin Islands. The island of St. Croix has a long, distinguished, and varied history, including being the site where Christopher Columbus first stepped onto what is now American soil. There is significant interest in preserving and enhancing the natural, historical and cultural resources of the island on a cooperative basis and such a study would provide guidance on how we can best achieve those purposes.

Even though each one of the four major islands of the U.S. Islands Virgin Islands can make a good case for designation as a National Heritage Area, the island of St. Croix with its two historic towns—Christiansted built in 1734 and Frederiksted built in 1752—is richly blessed with all of the attributes that would justify this designation.

The towns historic architecture matured over a 100-year period. The town of Christiansted is one of the finest examples of Danish architectural designs in this hemisphere. Its history can be traced back some 4,000 years to 2500 B.C. It is also the place where one of our founding fathers and first Treasury Secretary, Alexander Hamilton, lived and worked during his formative years.

In 1493, Columbus arrived at what is now the Salt River National Historic Park and Ecological Preserve, making it the only site under the American flag where his men went ashore, as well as the first recorded hostile encounter between Europeans and Native Americans.

Frederiksted has the distinction of having been the first jurisdiction to have raised its flag in salute of the new Republic of the U.S.A., and indeed the first designed flag was done by a resident of that Island.

Mr. Speaker, I can go on and on about the many unique and significant features of the island of St. Croix, but in the interest of time I would say that this is the third time that we would have passed this bill in the House and sent it to the other body and I hope that the third time will be the charm. I urge my colleagues to support H.R. 938.

Mr. WELLER. Mr. Speaker, I rise today to express my support for H.R. 938. Among its provisions, H.R. 938 incorporates bill language from H.R. 1820 which reauthorizes the Illinois and Michigan, I & M, Canal National Heritage Corridor to receive appropriations and transfers management entity status from the now defunct federal, I & M Commission to the nonprofit Canal Corridor Association. I would like to commend Chairman POMBO and the House Committee on Resources for their hard work on this important piece of legislation.

The I & M Canal changed the Nation in 1848 when it opened the first shipping route between New York and New Orleans, designating Chicago as the Nation's greatest inland port. While the canal eventually fell into disuse due to new transportation methods and routes, in 1982 business and industry leaders founded the Canal Corridor Association to help revitalize the I & M Canal region, and in doing so, created a national model for regional partnership, conservation and renewal. I am proud to say that the I & M Canal National Heritage Corridor was America's charter National Heritage area, being created by an act of Congress in 1984. For 20 years, the Federal I & M Commission has worked to carry out the mission of the I & M Canal National Heritage Corridor. Its efforts have been particularly successful during the past 5 years that Phyllis Ellin has provided strong leadership as the Executive Director of the Commission.

Since 1984, the I & M Canal National Heritage Corridor has increasingly become an engine of economic growth in communities up and down the length of the Corridor; primarily through an increase in tourism but also in the use of the Corridor for recreational purposes. After consulting with local officials and those most interested and involved in the I & M Canal, it seems that the private sector approach offers more advantages to handle the increased work load brought on by the recent success of the canal and interest in heritage tourism.

As a result, H.R. 938 designates the Canal Corridor Association, CCA, as the new management entity of the I & M Canal National Heritage Corridor. The CCA seeks to enhance economic vitality by raising awareness of and expanding the parks, trails, landscapes, and historic sites that make the I & M Canal region a special place. They have also successfully implemented education programs and improved the cultural, environmental, historic and tourism resources that the canal offers.

Under the leadership of Ana Koval I am firmly convinced that the CCA, through their governance of the I & M Canal, will continue to successfully educated citizens of the nationally historical importance of the I & M Canal and to play a pivotal role in the continued economic redevelopment of the region.

Mr. UDALL of New Mexico. Mr. Speaker, having no additional requests for time, I yield back the balance of my time.

Mr. RENZI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The question is on the motion offered by the gentleman from Arizona (Mr. RENZI) that the House suspend the rules and pass the bill, H.R. 938, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 3 o'clock and 16 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

☐ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BRADLEY of New Hampshire) at 6 o'clock and 30 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 627, by the yeas and nays;

H. Res. 266, by the yeas and nays; and

H.R. 2107, by the yeas and nays.

The first and third electronic votes will be conducted as 15-minute votes.

The second vote in this series will be a 5-minute vote.

LINDA WHITE-EPPS POST OFFICE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 627.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and pass the bill, H.R. 627, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 390, nays 0, not voting 43, as follows:

[Roll No. 171]

YEAS—390

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Dicks
Dingell
Doggett
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Marchant
Markey
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Solis
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Westmoreland
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—43

Ackerman
Barrett (SC)
Brady (TX)
Brown, Corrine
Burton (IN)
Carson
Clay
Costa
Davis (AL)
Davis (IL)
Diaz-Balart, L.
Diaz-Balart, M.
Doyle
Gilchrest
Gohmert
Graves
Gutierrez
Holden
Istook
Kanjorski
Kilpatrick (MI)
Lantos
Larsen (WA)
Larson (CT)
Lewis (GA)
Manzullo
Marshall
Meek (FL)
Millender-McDonald
Moran (VA)
Neal (MA)
Pryce (OH)
Ros-Lehtinen
Smith (WA)
Souder
Sweeney
Taylor (MS)
Wasserman Schultz
Waters
Weldon (FL)
Wexler
Wicker
Young (FL)

□ 1854

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. COSTA. Mr. Speaker, on rollcall No. 171, had I been present, I would have voted "yea."

SUPPORTING THE GOALS AND IDEALS OF PEACE OFFICERS MEMORIAL DAY

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 266.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and agree to the resolution, H. Res. 266, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 391, nays 0, not voting 42, as follows:

[Roll No. 172]

YEAS—391

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Dicks
Dingell
Doggett
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)

Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Marchant
Markey
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George

Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta

Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Westmoreland
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—42

Ackerman
Barrett (SC)
Brady (TX)
Brown, Corrine
Burton (IN)
Carson
Clay
Davis (AL)
Davis (IL)
Diaz-Balart, L.
Diaz-Balart, M.
Doyle
Gilchrest
Gohmert
Graves

Gutierrez
Holden
Istook
Kanjorski
Kaptur
Kilpatrick (MI)
Lantos
Larsen (WA)
Larson (CT)
Lewis (GA)
Manzullo
Marshall
Meek (FL)
Millender-McDonald

Moran (VA)
Neal (MA)
Pryce (OH)
Ros-Lehtinen
Souder
Sweeney
Taylor (MS)
Wasserman Schultz
Waters
Weldon (FL)
Wexler
Wicker
Young (FL)

☐ 1903

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL MAINTENANCE FUND ACT OF 2005

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). The pending business is the question of suspending the rules and passing the bill, H.R. 2107.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. RENZI) that the House suspend the rules and pass the bill, H.R. 2107, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 392, nays 0, not voting 41, as follows:

[Roll No. 173]

YEAS—392

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardin

Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans

Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter

Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Marchant
Markey
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meeks (NY)
Melancon
Menendez

Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo

Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Westmoreland
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—41

Ackerman
Barrett (SC)
Brady (TX)
Brown, Corrine
Burton (IN)
Capps
Carson
Clay
Davis (AL)
Davis (IL)
Diaz-Balart, L.
Doyle
Ford
Gilchrest
Gohmert

Graves
Gutierrez
Holden
Istook
Kanjorski
Kilpatrick (MI)
Lantos
Larsen (WA)
Larson (CT)
Manzullo
Marshall
Meek (FL)
Millender-McDonald
Moran (VA)

Neal (MA)
Pryce (OH)
Ros-Lehtinen
Souder
Sweeney
Taylor (MS)
Wasserman Schultz
Waters
Weldon (FL)
Wexler
Wicker
Young (FL)

□ 1921

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent from this chamber today. I would like the RECORD to show that, had I been present, I would have voted "yea" on rollcall votes 171, 172 and 173.

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, I was regrettably delyead in my return to Washington, DC and therefore unable to be on the House floor for rollcall votes 171, 172, and 173. Had I been here I would have voted "yea" for rollcall vote 171, "yea" for rollcall vote 172, and "yea" for rollcall vote 173.

PERSONAL EXPLANATION

Ms. KILPATRICK of Michigan. Mr. Speaker, personal business in my district prevents me from being present for legislative business scheduled for today, Monday, May 16, 2005. Had I been present, I would have voted "yea" on H.R. 627, designating the "Linda White-Epps" Post Office in Hamden, CT (rollcall No. 171); "yea" on H. Res. 266, a resolution supporting the goals and ideals of Peace Officers Memorial Day (rollcall No. 172); and "yea" on H.R. 2107, the National Law Enforcement Officers Memorial and Maintenance Fund Act of 2005 (rollcall No. 173).

UPPER HOUSATONIC VALLEY NATIONAL HERITAGE AREA ACT

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise to thank the gentleman from California (Mr. POMBO), chairman of the Committee on Resources, for bringing out today and through this House H.R. 938, legislation that establishes the Upper Housatonic Valley National Heritage Area and designates a number of other National Heritage Areas as well.

This program of National Heritage Areas is really a wonderful program. The 29 towns that encompass the Upper Housatonic Valley have worked together, their first selectmen, their historic societies, and a very large group of volunteers to inventory the historic, the economic, and the environmental assets of this area. And truly, in my district as in the others, they are unique areas, uniquely important historically and uniquely endowed environmentally.

By having a structure within which they could work together with the technical experts from the Federal level, they have developed a knowledge that enables them to plan and will enable them to strengthen the economy through thoughtful tourism programs. Truly this is a partnership between the Federal Government and very small local governments that will bless every life in the Upper Housatonic Valley and the other Heritage Areas throughout the country.

IMPORTANT ISSUES NOT BEING ADDRESSED

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, how disappointing that instead of using the first months of this new Congress to address the important issues facing our Nation, we have spent most of our time on issues that cater to special interests.

Instead of helping retirees by strengthening our pension system, my colleagues on the other side of the aisle are seeking to dismantle Social Security. They want to take away the safety net, a safety net that seniors depend on, in favor of giving even more money to Wall Street.

Instead of developing a meaningful energy policy to lessen our dependence on foreign oil, we spend time on the House floor passing an energy bill that will do nothing to relieve rising gas prices, but instead give tax incentives to big oil and gas companies.

The Republican leadership must stop abusing this body and the people we represent. They are doing it for their own self-interests, and it is time the people take this House back. It is the people's House.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

PRESCRIPTION DRUG PRICES AND THE COST OF HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, for those Members who are going home and having town hall meetings and meeting with constituents, the one issue that comes up with almost every small business, big business, medium-sized businesses, and it comes up with families and school boards, as well as coming up with representatives of State legislatures, it is the cost of health care.

One of the issues we talk a lot about in Minnesota, because we are so close to the Canadian border, is the difference between what we pay for prescription drugs and what people on the other side of the Canadian border pay for the same drugs.

I have in my hands two boxes of Celebrex. We had a hearing last week in the Committee on Government Reform and I held these up and asked: Can anyone tell me which one of these drugs came from another country and which one came from the United States? Well, the answer is you cannot tell because they are exactly the same. Another question, though, about the Celebrex, is which one is safe? Well, according to the FDA, and now according to the company itself, depending upon the condition you may have with your heart and blood, neither one of them may actually be safe.

What I want to talk a little bit about tonight is the differences between what we pay here in the United States and what they pay in Germany for the same drugs. I have a list here, and we have some pharmacies now around the world who, on a regular basis, will send us via e-mail what the pricing is right then for anyone who walks in off the street to buy the drugs.

Here are a few examples. I am going to talk later about the drug Nexium. You can buy that at the Metropolitan Pharmacy in Frankfurt, Germany, for $60.25. That same drug, same potency, same everything, made in the same plant, sells at a local pharmacy in Rochester, Minnesota, for $145.33.

Look at Prevacid. In Germany, it is $35.22, American. In the United States it is $146.47. Zocor. This is an interesting drug. You can walk in off the street with a prescription and you can buy it in Germany, 30 tablets, 10 milligrams, for $23.83. That same drug in Rochester, Minnesota, will be $85.

□ 1930

But what I want to talk about is the Germans. Even if we add up 10 of the most commonly prescribed drugs, in Germany you can buy all of those for $455.57. Those same drugs in the United States would be more than double that at $1,040.04.

That is bad enough, but what makes it even worse is the Germans are looking at cutting the cost that they paid for prescription drugs. Recently, the German health care system announced that they would not pay for Lipitor. Why not? Well, the ministry decided last year it could no longer cover the high prices of some of the branded drugs because they were deemed to have the same medical efficacy as available generics.

The point is even though they are buying Lipitor considerably cheaper than we buy it here in the United States, they still think it is too much and the manufacturers cannot justify the price.

The other story is from The Washington Post where even the Department of Defense is starting to get it right. They are saying they will not reimburse for Nexium except in rare circumstances. Nexium is the new purple pill, and it came out to replace Prilosec. That is why we have to pay so much for these drugs, because these are blockbuster drugs.

The truth of the matter is by their only filings with the FDA, Nexium is not much more effective than Prilosec. As the Department of Defense says in the article, Nexium is not worth the money. It goes on to say it is pretty dubious to pay $4 a pill for Nexium when over-the-counter Prilosec is 67 cents.

Mr. Speaker, I think Americans ought to have access to world-class drugs. I think we ought to pay our fair share. I think we ought to be willing to subsidize the starving people in sub-Saharan Africa, but I do not think Americans should have to subsidize the starving Swiss. I do not think Americans ought to be forced to pay the world's highest prices for these drugs. No one can tell the difference. These are the same drugs. They come from the same plants; and yet as Members can see, we are paying many times 50, 60, 70 percent more for the same drugs.

I am asking Members to join in this effort by cosponsoring my Pharmaceutical Market Access bill. We have been working on this for several years. It has passed the House a couple of times. This time I think we can get it past the Senate as well.

ORDER OF BUSINESS

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore (Mr. KUHL of New York). Is there objection to the request of the gentlewoman from California?

There was no objection.

SMART SECURITY AND REACHING OUT TO THE MUSLIM WORLD

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, the Bush administration has done a woefully inadequate job of reaching out to the Muslim world. To quote an oft-used phrase, "They never seem to miss an opportunity to miss an opportunity."

I believe that fundamentally they fail to understand that most Muslims do not want to blow up Western sites and buildings; they want to live in a free society, one which allows them to worship the God of their choosing and raise their children in safety, much like every American.

Unfortunately, the Bush administration because of this lack of understanding has twisted the September 11 attacks in order to achieve a veritable clash of societies. The President uses phrases like "us versus them" and "you are either with us or against us." Quotes like these cause many nonviolent Muslims to oppose the United States as they see a U.S. engaged in a war not against terrorism but against Muslims. They see the United States as a colonial occupier, not as a liberating government.

This has encouraged radical Muslim groups to step up their recruiting and their tactics. The net result is 3½ years after September 11, Americans are much less safe, not safer than they were. Instead of responding by reaching out to the Muslim world to address the root causes of terrorism, deprivation, resource scarcity and lack of educational opportunities, this administration invaded Iraq, a country that was not previously a haven for terrorists and had no relationship whatsoever to the events of September 11.

Regardless, in April 2003, the United States invaded Iraq with the support of a weak coalition of nations. Most countries, even those that fought in the first Gulf War in 1991, chose not to enter the second war in Iraq. They could not legitimize a war based on such faulty and wavering premises as the ones we heard in late 2002 and early 2003.

The war has been a disaster from nearly the beginning. Since April 2003, more than 1,600 American soldiers and at least 24,000 Iraqi civilians have paid for this arrogant foreign policy with their lives. At least another 12,000 Americans soldiers have been seriously wounded and of course the U.S. has incurred a tremendous financial burden, so far a $200 billion IOU.

Instead of addressing the threat of future terrorism by engaging the Muslim world through smart national security policies, the Bush administration took the fight to a country that became a terrorist enclave only after the U.S. invaded. It is quite clear that the war in Iraq was the worst possible response to the 9/11 terrorist attacks. Instead of stopping terrorism, the war has actually hindered our efforts, including any effort to capture Osama bin Laden.

But fortunately, there is another way. Over the last 2 years, I have developed and refined a national security platform called SMART Security. SMART is Sensible, Multilateral American Response to Terrorism for the 21st Century. Unlike our current policies, it will achieve real results. SMART Security will ensure America's security by reaching out and engaging the Muslim world. Instead of rushing off to war for the wrong reasons, SMART Security encourages the United States to work with other nations to address the most pressing global issues.

There is a demonstrated link between debt relief and lack of support for terrorism, which is why the SMART platform will encourage wealthy nations to provide debt relief and developmental aid for the world's poorest countries.

Not every international problem has a military answer; and that is why SMART Security will prevent terrorism, by addressing the very conditions which give rise to terrorism in the first place.

SMART Security also encourages democracy building, human rights education, conflict resolution through nonmilitary means, educational opportunities for women and girls, and strengthening civil society programs in the developing world.

Programs like these are the best way to encourage democracy in countries like Iraq, not through wars that cause thousands of deaths, cost billions of dollars. The SMART approach is a way to reach out to the Muslim world. It is time we stop putting all of our eggs in the military basket and start getting smart about our national security.

ORDER OF BUSINESS

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CHARGES DROPPED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, my intent tonight was to come to the floor and talk about my opposition to CAFTA, which I think is a bad policy for the future of America.

But tonight I am glad to come to the floor after 4 weeks of coming and talking about Lieutenant Ilario Pantano, a Marine who was charged with murder for actions he took as a Marine officer in Iraq over a year ago. I have been on the floor for 4 weeks saying this man should never have been charged. He did his job as a Marine officer. But because of circumstances of a sergeant who did not like the gentleman, he filed charges 2½ months later.

I am pleased to say this past Friday I was notified by the attorney for Lieutenant Pantano that the hearing officer, Major Wynn at Camp Lejeune, North Carolina, in my district, has decided that he will recommend these charges be dropped: two charges of premeditated murder that should never have happened. But Major Wynn will now send his recommendations to General Huck who is in Iraq, and it is my hope and prayer that General Huck will agree with the hearing officer and drop these charges.

Mr. Speaker, what has been said about this is Lieutenant Pantano loves America. He had been a soldier during Desert Storm, came back, went back to his home State of New York, went to college and graduated in 3 years. He went into the stock market selling energy stocks making six figures. But shortly after September 11, he felt a passion because he had his brother and sister killed in the Twin Towers by terrorism, so he went back into the Marine Corps and was made an officer.

Shortly after the shooting in Iraq, he was actually recommended for promotion by the officer in charge, that he was competent and a real leader and the type of person that they needed to promote in the Marine Corps. But 2½ months later, a sergeant who was demoted by Lieutenant Pantano weeks before is the one who made the charges 2½ months later. But the good news tonight is that the hearing officer has made a recommendation that the charges of murder be dropped against Lieutenant Pantano.

Mr. Speaker, last Friday I had the pleasure to speak with Mary Pantano who stood by her son for months, and I had the pleasure to talk with her. I was convinced, even before I met her son, who is a wonderful man, I would love to have as a son or son-in-law, and she convinced me her son could not have done anything more than what he should have done as a Marine officer.

So tonight, as I begin to close, I thank God Almighty that he has helped the Pantano family, both the mother; wife, Jill; and the two cute boys who are his sons; and also Lieutenant Pantano.

Mr. Speaker, I close tonight by asking God, I think about our men and women in uniform in Iraq and Afghanistan, how difficult it must be for them to do their job. But yet they are there and they are willing to do their job, and they are proud to be American soldiers, sailors, airmen and Marines.

Mr. Speaker, tonight I close by asking God to please bless our men and women in uniform, bless their families, bless the job that they are doing for this world to bring peace. I ask God for the families that have lost loved ones, that they be remembered with our blessings and prayers.

With that I ask three times, God please, God please, God please continue to bless America.

FAILED TRADE AGREEMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, nearly a year ago, President Bush signed the Central American Free Trade Agreement, a one-sided plan to benefit multinational corporations at the expense of the United States and Central American workers, small farmers, and small business people. Every trade agreement negotiated by this administration has been ratified by Congress within 60 days of its signing.

But CAFTA has languished in Congress for nearly 1 year. Why? Because this wrong-headed trade agreement offends both Republicans and Democrats. Just look at what has happened with our trade policy. In 1992, the year I first ran for Congress, was elected later that year, that year our trade deficit, meaning the amount of dollars we imported versus exported, our trade deficit was $38 billion in 1992. Last year in 2004, it was $618 billion. It is hard to argue our trade policy is working when the deficit goes from $38 billion to $618 billion in just 12 years.

Opponents to the Central American Free Trade Agreement know it is an extension of NAFTA, which clearly did not work for our country. It is the same old story. Every time there is a trade agreement, the President says it will mean more jobs for Americans, more manufacturing done in the United States, it will mean more economic prosperity and profits for U.S. companies. It will mean a rising standard of living in the developing world; it will mean more involvement, a higher standard of living in the developing world, and more workers working.

□ 1945

But it never works that way. So now they are trying this year because our trade policy clearly is not working, those promises every year, every trade agreement, never pan out.

This year the administration is tying the Central American Free Trade Agreement, saying it is not just going to ensure growth, it is going to help democracy in the developing world. Both Deputy Secretary of State Robert Zoellick and Defense Secretary Donald Rumsfeld have said CAFTA will help in the war on terror, but 10 years of the North American Free Trade Agreement has done nothing to improve border security between Mexico and the United States, so that argument simply does not sell.

So they tried something else. Last week the U.S. Chamber of Commerce flew six Central American presidents around our country hoping they might be able to sell CAFTA. They went to Albuquerque, they went to Los Angeles, they went to Cincinnati, Ohio, in my State, trying to convince the media, trying to convince the public, trying to convince Members of Congress that CAFTA was a good idea.

Again they failed. The Costa Rican president after the trip announced his country would not ratify CAFTA unless an independent commission could determine the agreement will not hurt the working poor in his country.

The most powerful Republican in the House, Majority Leader TOM DELAY, even promised a vote on CAFTA by Memorial Day to try to drum up support in Congress. As you can see by this calendar, we are barely a week away from that deadline, the deadline to vote on the Central American Free Trade Agreement, set by Majority Leader Tom DeLay, the most powerful Republican in this Chamber. Echoed by the chairman of the Ways and Means Committee, BILL THOMAS, they said there would be a vote by the end of this month. That is the 1-year anniversary of CAFTA. Remember, every other trade agreement was voted on within 2 months. This one has been a year. As you can see by the calendar, it has simply not happened. That is again because of the failures of NAFTA.

Last month, two dozen Democrats and Republicans in Congress joined more than 150 business groups and labor organizations saying vote "no" on the Central American Free Trade Agreement. Last week, more than 400 union workers and Members of Congress gathered in front of the U.S. Capitol delivered the same message, vote "no" on the Central American Free Trade Agreement, because Republicans and Democrats, labor and business, know what the administration refuses to admit, that CAFTA is about one thing. It is not about more manufacturing in the United States. It is not about creating jobs in the United States. It is one thing only. It is access to cheap Central American labor.

That is why CAFTA, like NAFTA, is not a trade agreement, it is an outsourcing agreement. It will move more American jobs offshore. It will mean more profits for large businesses and more hurt for small businesses, more hurt for small farmers. Congress must throw out this dysfunctional cousin of NAFTA and negotiate a trade agreement that will lift up workers in Central America.

When students such as those I met with today at Longfellow Elementary School in Lorain, Ohio, are guaranteed good-paying jobs when they graduate from high school, then we will know finally our trade policy is working.

JUDICIAL NOMINEES

The SPEAKER pro tempore (Mr. KUHL of New York). Under a previous order of the House, the gentleman from Arizona (Mr. FRANKS) is recognized for 5 minutes.

Mr. FRANKS of Arizona. Mr. Speaker, this is a critical time in the life of America. Our colleagues in the United States Senate are imminently approaching a crossroads that will forever impact the future of this Republic. They will choose the road that will restore the constitutional balance of power that our Founding Fathers so carefully constructed, or they will travel down that path that rewards a shameless behavior that has deliberately injured this delicate balance by transferring the executive power of judicial appointment to the legislative minority.

The Constitution's advice and consent has been twisted into mockery by the Senate minority. Men and women of outstanding character have come forth as judicial nominees to be undeservedly maligned, smeared, ridiculed and then left in nominations limbo indefinitely by this unprecedented, unconstitutional and outrageous judicial filibuster.

Mr. Speaker, this is a show of disregard and contempt for the world's flagship of freedom and toward her people and toward the time-honored principles of the United States Senate. We will recapture the civility that once presided over judicial appointments or we will forever surrender what Abraham Lincoln called "the angels of our better nature" to this bitterly partisan tactic that threatens the constitutional prerogative of the President of the United States to appoint good, decent and honorable men and women to the Federal judiciary.

Advice and consent is clearly written in the United States Constitution. This judicial filibuster to prevent a fair up-or-down vote is neither advice nor consent and, Mr. Speaker, it is not in the United States Constitution. Never before 2003, in 214 years of U.S. Senate deliberations, has any judicial nomination supported by the majority of the Senate been denied a fair up-or-down vote. Yet the minority would have the public believe that the majority is the one trying to change the rules here, calling it the nuclear option. It is the Senate minority, Mr. Speaker, that has launched this unprecedented, quote, nuclear option by devastating the constitutionally required just consideration of judicial nominees duly appointed by the President of the United States.

What the majority seeks is the constitutional option that is totally in keeping with 214 years of the rules, traditions and dignity of the United States Senate. Senate Democrats have strongly and arrogantly and openly threatened to shut down the operations of the government if Republicans insist on the constitutional option. Mr. Speaker, I would suggest that it is far better to let the Democrats shut down this government temporarily than it is to allow them to shut down this Republic permanently.

In this critical struggle for the future of this Republic, one of two things will occur. Either the time-honored and tested provision of advice and consent, written in the Constitution, will prevail or unprecedented judicial filibuster and obstructionism will take its place and become the tragic legacy of these days.

Mr. Speaker, I should not have to remind my Republican colleagues that the people who have entrusted us with this majority have spoken with resounding voice on the issue of judicial nominations. They hear it and I hear it everywhere I go. The people of America have a profound sense of fair play and they are tired of some of their United States Senators cowering behind a distorted version of the true and impeccable auspices of the United States Senate. The people want their Senators to have the courage to take a stand on judicial nominations. The people want a fair up-or-down vote on judges, Mr. Speaker, and they will remember those who have the courage to do so and, sir, they will remember those who did not.

The people understand how important this really is. They understand that it is truly about the Constitution itself, and they innately embrace the core message of those magnificent words by Daniel Webster when he said, "Hold on, my friends, to the Constitution, and to the Republic for which it stands, for miracles do not cluster and what has happened once in 6,000 years may never happen again. So hold on to the Constitution, for if the American Constitution should fall, there will be anarchy throughout the world."

Mr. Speaker, the stakes could not be higher and this Republic truly hangs in the balance. We have a once in a lifetime opportunity to pass this miracle of the American constitutional Republic on to future generations that are yet to be. We owe it to the American people, we owe it to ourselves, we owe it to those future generations and we owe it to that vision of human freedom that our forefathers risked their lives, their fortunes and their sacred honor to entrust to us.

Mr. Speaker, we must not fail.

INNOVATION CRISIS IS A HOMELAND SECURITY ISSUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, this week we are considering legislation to fund the Department of Homeland Security. These are necessary, important pieces of legislation, two bills we are taking up, that will help protect our homeland from terrorist threats and make the type of investments we need to make in areas of our airports, ports, roads, chemical facilities and nuclear facilities. Overall the homeland security bill funding will increase by 4 percent.

But while we are focused on defending ourselves from terrorists here in the United States and fighting terrorists in Iraq, one has to wonder whether we are not missing some other threats that are looming on the horizon that America must protect themselves. Friday in the New York Times, Tom Friedman mentioned that the University of Illinois recently tied for 17th place in the world finals of a major computer competition. That is the university that also helped develop the Internet.

Seventeenth was the best of any U.S. university and the worst we have done in 29 years of the competition. Who was number one? Shanghai, China. Second place and third place were won, respectively, by Moscow State University and St. Petersburg Institute of Fine Mechanics and Optics. The last time an American university won the competition was 1997. I do not think I have to remind anyone here that the modern computer and the field of computer science was invented here in the United States, and yet the best we can do is 17th. But it is not just in computers and the computer competition that America's place in the world has fallen.

Last year, the Chinese produced 160,000 more engineers than we did. Nearly 40 percent of all the U.S. jobs in a science or technology field that require a Ph.D. are filled by foreigners, up from 25 percent in just 15 years. We now rank below 13 other countries, including Japan, South Korea and Germany, in the percentage of 24-year-olds with a college degree in science and engineering. That is down from third place just 25 years ago.

And according to the National Science Teachers Association, just 26 percent of recent high school graduates scored high enough on their ACT science test to have a good chance of completing a first-year college science course.

I say all this because it is about the foundation and this competition and this area that is going to lay the groundwork for whether America keeps its economic and competitive edge with the rest of the world. What would you think if that was the type of threat that you saw coming to the United States? What type of preparation would you do? We know what we are doing on homeland security. We created a new department. We are increasing its funding. What do we do as it relates to this type of falling down and declining percentages of Americans leading in the area of science and technology?

The recent budget we passed here cuts basic research by 13 percent. It cuts applied research by 15 percent. Investments in research facilities and equipment are cut by 68 percent. We have to rely on Russians to service the International Space Station because we are cutting basic research funding at NASA by 7 percent. We are cutting the funding for the Department of Education. State grants for innovative education programs were cut by $100 million. Funding for the improvement of postsecondary education was gutted by $140 million.

These are not the type of priorities that understand the threat to the United States economic future and the type of global economy and global competition this country is facing. We are living on past times and on borrowed time in the area of science and technology, but that is not how the Chinese, Indians, Japanese, Germans and others across Europe are facing this competition.

America did well in 17th place. It can do better. The way it does better is it makes the type of investments in our universities. It allows the people in our high schools and in our colleges to understand the priorities. Unfortunately the budget we voted on did not reflect America's future and investment in its future. What it says is that as we deal with the terrorist threat of homeland security and increasing the funding by 4 percent, increasing our defense budget, making cuts in basic research and basic funding, and I did not add into that area, in the National Institutes of Health for the first time in over 15 years that budget was held without an increase, which basically means a cut.

These are not the type of investments of a major economy, the leader in the global economy, that builds and plans for the future. These are the cuts of an economy and an administration that does not see its vision for America's future as bright and as strong as the past and it is clearly not putting its money toward that investment. It is high time that we understand that as we take up these two pieces of legislation this week on homeland security, we understand there are other threats to the United States, ones that are looming on the horizon and coming to shore, and that is in the area of technology and competing against the Chinese and the Indians and we are not having a budget that reflects the types of investments we need to do.

CONGRATULATING WINFRED ORRELL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY. Mr. Speaker, I rise this evening to honor 30 years of service by Cobb County history teacher Winfred "Windy" Orrell, who is retiring from teaching this Friday, May 20. With admirable dedication, Mr. Orrell served his students not only in the classroom but also on the field as a coach for the football, baseball, track and cross-country teams at Campbell and Cobb County High Schools.

While some in Hollywood may know him as Julia Roberts' history teacher, Coach Orrell is most famous in Cobb County for his colorful history reenactments. His reenactment of the Battle of Vicksburg is legendary among his students as he crawls on his belly with imaginary rifle in hand, moving in and out of imaginary trenches. Mr. Orrell's desk has represented many ships, including the Alabama and the Bismarck. He knows how to get the very best out of every one of his students because he makes history enjoyable and memorable.

□ 2000

Mr. Orrell honed his skills at West Georgia College, where former Speaker of this House, Newt Gingrich, was his teacher. Mr. Orrell's gifts of teaching earned him two Campbell High School Teacher of the Year honors and five Star Teacher awards. He served as a social studies department head at Campbell High School for 15 years and at South Cobb High for 2.

He started teaching AP courses, advanced placement, in 1982 in the earliest days of the program and served as a successful example for the budding AP program across the State of Georgia.

As much as he loves teaching gifted students, Coach Orrell will be the first to tell us that the greatest moments of his teaching career have been helping those students in need, students that were disconnected from the school community and disillusioned with learning. He found great joy in restoring their hope and belief in the value of education. He let them know he believed in them and they had the capacity to learn and to achieve their goals.

Mr. Orrell has influenced his students and even other teachers. He leaves each school a better place to teach and learn than when he arrived. And his departure on Friday will be no different.

Mr. Speaker, I ask the Members to join me in congratulating Coach Windy Orrell for his service to teaching, providing inspiration to future leaders, and helping make Cobb County a standard bearer for Georgia education.

ORDER OF BUSINESS

Ms. HERSETH. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from South Dakota?

There was no objection.

ELLSWORTH BRAC ANNOUNCEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from South Dakota (Ms. HERSETH) is recognized for 5 minutes.

Ms. HERSETH. Mr. Speaker, I rise this evening to express my profound disappointment and flat disagreement with the Department of Defense's recommendation to close Ellsworth Air Force Base in South Dakota as a part of the Base Realignment and Closure Commission. This recommendation is as misguided as they come.

While the BRAC process is necessary to ensure that our Armed Forces can efficiently and adequately serve our military needs at home and abroad into the 21st century, this decision does not accurately reflect the value of Ellsworth to that cause.

As Lead Wing for the Aerospace Expeditionary Force, the 28th Bomb Wing at Ellsworth Air Force Base played a decisive role in Operation Iraqi Freedom and Operation Enduring Freedom. As they did in Kosovo and Afghanistan, the B–1 and her crews from Ellsworth Air Force Base performed superbly. During Operation Iraqi Freedom, B–1s played a vital role in helping liberate Iraq by dropping more than half the satellite-guided munitions. Ellsworth once again demonstrated that it is the backbone of America's bomber fleet and the base has fulfilled its missions admirably. This is a modern, well-equipped installation that has served our country for decades and is prepared to serve for decades to come. Ellsworth has substantially upgraded its infrastructure since the last round of base closures, which will allow Ellsworth to accept new missions and continue to grow. Rather than closing, Ellsworth is well situated to receive additional assignments.

In addition, Ellsworth's geographic and strategic strengths are many. Located in western South Dakota, Ellsworth is strategically positioned and is not threatened by urban encroachment or crowded air space, major factors that have not been given appropriate weight by the Department of Defense. In addition, the base is close to bomber training facilities in the region.

I am also concerned the Secretary of Defense did not adequately consider the benefits of locating military bases in rural regions. A disproportionate number of bases recommended for closure realignment resulting in a disproportionate number of lost jobs are in rural States such as Alaska, Maine, North Dakota, and South Dakota. This oversight is part and parcel of a continued disregard for not only the needs of rural America but the unique value and strengths rural America offers to our country as a whole.

Additionally, commencing a round of base closures during a time of war is questionable strategy and could be harmful to our national security. The current round of domestic base closures should wait until after the Department of Defense completes its plans to bring troops back to the United States from overseas bases. I am also concerned about the risks associated with consolidating all of our B–1 bombers in a single location.

Furthermore, I am concerned that we are making base closure decisions prior to the Quadrennial Defense Review for 2005. The Quadrennial Defense Review analyzes force structure, modernization plans, military infrastructure, and the defense budget to help establish a roadmap for defense programs. It cannot be ignored before assessing base realignments and closures.

Finally, the economic impact of closing Ellsworth Air Force Base on South Dakota would be dramatic. Our State would lose our second largest employer and an estimated $278 million a year. The loss of nearly 4,000 jobs would set South Dakota almost a year back in statewide job growth.

I have invited the chairman of the BRAC Commission, Anthony Principi, and other members of the commission to visit Ellsworth Air Force Base and hold one of their regional field hearings in Rapid City, home to Ellsworth. A visit to Ellsworth will allow the commission the opportunity to see what those of us from South Dakota already know: the B-1 bomber and Ellsworth Air Force Base are irreplaceable and crucial to our national security.

As the BRAC Commission moves forward and reviews the Department of Defense's recommendations, I am confident the BRAC Commission will realize the Department of Defense deviated substantially from their established base closure criteria when recommending Ellsworth for closure and will support removing it from the list.

THE FILIBUSTER

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, this week the Senate has returned, and I believe America's eyes will focus on whether or not this Congress has the integrity and respect for the institution to be reminded of the principles of democracy, which is that where there is a majority and a minority, a democratic nation respects the power, or at least the rights, of the minority.

We have heard this discussion about nonnuclear and nuclear and filibuster center around some suggestion that those who are opposing the elimination of such would, frankly, be considered antireligious, antipatriotic, and antidemocratic, as I listened to my good friend on the other side of the aisle even cite the Constitution to suggest that the Constitution provides the right of an up-or-down vote on Presidential judicial nominees.

The Constitution is large and small. Small in words, but large in its power. And it does say that the Senate gives the advice and consent on the Supreme Court judges. It does not extend it to what we call Article III judges; but by inference, we would imagine that the Senate gives the advice and consent to the President on nominations, which includes the Supreme Court and made by inference these nominations.

But this question of filibuster is not issue oriented. It is not about judges being confirmed or wars being fought. It is about protecting the minority.

I might suggest to my good friends that I wish that we had participated in a filibuster in the fall of 2002 when this administration came to this Congress and argued that Saddam Hussein had weapons of mass destruction and that those weapons were pointed at the very heart and soul and minds of Americans and we were under immediate danger. It was a very difficult time. So many of us questioned the intelligence of the evidence, asked whether or not there were other alternatives or other options, asked the administration to go to the United Nations, and there was a lukewarm response.

Based upon the loss of life that we have experienced over the last 3 years, the amputees, the young men and women who have come home traumatized, needing mental health services, those who committed suicide, the families who buried their loved ones, I wish that the rights of the minority had been protected. But, more importantly, I wish that those who had the privilege of filibuster had stood on the floor of the House and filibustered this decision to go to war.

So there is value to that. There is value to the idea of protecting the rights of the minority. And that value, Mr. Speaker, is that this is a democracy. So I am saddened that the leader of the other body would even think that because they have not been able to get their way, the majority, that the rights of the minority should be extinguished or denied.

Let me say again this is not a question of a pointed rejection of the President's right to nominate. This is the sanctity and integrity of a procedure that allows the minority to be heard in opposition to the decisions being made by the majority.

I want to remind my colleagues that I stand here as an African American who lived for a very long time as a second class citizen in the United States of America. No, not me personally in terms of age, but the history of African Americans first came as two thirds of a person. The laws were against us. So in the early 1960s after Rosa Parks and Martin Luther King, President Lyndon Baines Johnson brought to this Congress the Civil Rights Act of 1964 and the 1965 Voter Rights Act. And, Mr. Speaker, what were called the Dixiecrats and others took to the floor of the Senate and filibustered those bills, and they talked and they talked and they talked and they talked. If there ever was a time for us to begin to look at why that procedure should be eliminated, that was the time.

But those of us, young as we might have been, our advocates, our lawyers, our organizations from SCLC to the Urban League to APRI to the NAACP, organizations that had marched with Martin Luther King, never for once stood up and said get rid of the filibuster which protects the rights of minorities. It is not time at this time to do that, Mr. Speaker. If the judges cannot pass muster, protect the rights of the minority, it is not an issue of the judges and an issue of the war. It is a right of the minority to be protected, and the filibuster does that. And I ask the Senate to step away from any nuclear option and respect the integrity of this place.

SOCIAL SECURITY, PRIVATE ACCOUNTS, AND PAY EQUITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

Mrs. MALONEY. Mr. Speaker, on April 19 of this year, we observed Equal Pay Day, a day that indicates just how far into each year a woman must work to earn as much as a man earned in the previous year. Because women on average earn less than men, they must work longer for the same pay.

While many of my colleagues have addressed the impact of the pay gap on working women, I want to call attention today to how Social Security reduces this inequity for women in retirement in a way that private accounts will not.

It is no surprise that women are particularly wary of President Bush's proposed private accounts for Social Security. Women are more likely than men to depend on Social Security for their financial well-being, not only in retirement but throughout their lives, through survivorships and disability benefits.

The vast majority of Social Security recipients are women, representing almost 60 percent of all beneficiaries age 65 and over. And an even higher percentage of women that are seniors and are in older age groups are on Social Security. Unfortunately, women still make less money than men, about 76 cents on the dollar, and usually work fewer years than men. Social Security provides proportionately higher benefits for lower earners; so the progressive benefit structure counteracts the pay and pension gaps that women experience during their working years.

As this chart shows, women typically earn about 24 percent less than men. Since their lifetime earnings are lower than men's, they receive smaller Social Security benefits than men, but the gap is narrower. The typical woman's Social Security benefit is only 17 percent lower than the typical man's, narrowing the gap by almost one third. In contrast, private accounts would preserve the wage gap. The typical woman would accumulate 24 percent less in her private account than the typical man.

By taking time out of the workforce to raise children or care for ailing parents or spouses, women typically lose more than a decade of earnings.

☐ 2015

This second chart shows the impact that time out of the workplace would have on private account accumulations. A man born today with average earnings throughout his career who diverted 4 percent of his earnings into a private account would accumulate about $204,000. A woman who earned 24 percent less each year would only accumulate about $155,000. If she took 10 years out of the workforce, her private account accumulation would drop to about $112,000, just over half what the typical man would accumulate. If she only took 5 years out of the workforce, her private account accumulation would drop to about $132,000, 35 percent less than what the typical man would accumulate.

Women are also more likely to work part-time, less likely to be covered by an employer-sponsored pension plan, and more likely to work in low-paying fields. As a result, they have lower lifetime earnings, making Social Security a larger portion of their retirement income.

Because women earn less, they would have less to invest in private accounts than men and more to lose from the substantial benefit cuts under the kind of privatization plan the President supports. The President's preferred plan requires cutting guaranteed benefits by more than 25 percent, even for middle class workers, and even for those who choose not to invest in private accounts. Meanwhile, those that do choose a private account also would be hit with a privatization tax of 70 percent or more of the value of their account, which would be deducted from their Social Security benefits upon retirement. Because Social Security helps level the playing field for women, cutting their benefits would make it even harder for women to achieve financial security in retirement.

Without Social Security, more than half of white and Hispanic senior women and almost two-thirds of African American senior women would live in poverty. Also, because women live longer, whatever they are able to save in private accounts would have to be stretched to cover more years in their senior years. Unlike private savings, you cannot outlive Social Security, and the benefits are not eroded over time by inflation.

The President is having a hard time convincing the American people, especially women, that private accounts would be better for American families than Social Security, and rightly so. It has touched so many of our lives. Social Security is an insurance program, not an investment plan, and private accounts would destroy much of the insurance value of the program.

The President's private accounts pose a serious threat to the future economic security of all Americans. Private accounts would cut Social Security's funding, weaken the program, and make its financial problems worse, not better. Federal Reserve Chairman Alan Greenspan told Congress that private accounts would do absolutely nothing to improve Social Security's solvency. The government would have to borrow nearly $5 trillion over 20 years to fund private accounts. That would increase interest rates, harm our economy, and lead to large tax increases.

Democrats want to work with President Bush to strengthen Social Security for the long term, but we need to get it right. Clearly, women are disadvantaged when facing retirement. They are paid less and work fewer years than men, on average. Any reform that is enacted must keep the safety net intact. Our mothers, our daughters, and our granddaughters are counting on us.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2360, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 109–83) on the resolution (H. Res. 278) providing for consideration of the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

A SCIENTIFIC PERSPECTIVE ON ENERGY

The SPEAKER pro tempore (Mr. KUHL of New York). Under the Speaker's announced policy of January 4, 2005, the gentleman from Michigan (Mr. EHLERS) is recognized for 60 minutes as the designee of the majority leader.

Mr. EHLERS. Mr. Speaker, it is a pleasure to rise again to address a topic of immediate and great importance to our Nation. I will be joined this evening in this discussion by my fellow scientist, the gentleman from Maryland (Mr. BARTLETT). He is in the life sciences primarily, although he has done work in the physical sciences. I am a physicist by training, a nuclear physicist to be more precise, and we hope to give a scientific perspective on the issue of energy.

There are a number of topics I wish to discuss relating to this, but let me first say that as scientists we have a unique perspective on energy, because we have had to deal with it in both a theoretical and a pragmatic way. As a result of this, and our scientific training and analysis, and graphing, we developed a perspective which I believe is accurate, but which is not widely held, except by a few far-seeing energy companies and energy analysts.

And I would also like to mention, if I may, that we covered much of this material last week, and I apologize to my colleagues for repeating it. .but I have received a lot of questions and comments regarding the comments we made, and I felt in order to review it appropriately we would have to cover all of the material, but in a somewhat more cursory fashion. In addition, this evening we are going to add another dimension to the topic, and that is to discuss its relevance for national and economic security. So I hope that those who have listened to and seen the presentation last week will enjoy this one, again, because it will be somewhat modified.

The first point I would like to make about energy is that it is unique. Energy is unique, and unique means there is nothing else like it. That is very true about energy. Let me describe two, just two factors about energy that demonstrate this.

First of all, energy is our most basic natural resource. Why? Because without it, we cannot use our other natural resources. Just think about any natural resource you might wish to use, whether it is copper or iron or some other natural resource. Suppose you want to use some copper, you want to do some plumbing in your house or you want to run some copper wires through your house. Where do you get the copper? You have to dig copper ore out of the ground. It takes energy to do that. Once you get the copper out of the ground, you have to process it. You have to smelt it or use some similar process for that to purify the copper. That takes energy. Then you have to transport it to the fabrication plant. If you are going to use copper for plumbing, then you have to transport it to a plant that can convert it to tubing. It takes energy to transport it to the plant, and then it takes energy to manufacture the tubing from the copper. And when you finally finish, it takes energy to transport the copper to the store near your home, and it takes energy for you and your car to drive down and buy it and drive it back home, and finally, you install the copper. Every single step of the way of using that natural resource, that copper, involved the use of energy, and that is why I say energy is our most basic natural resource, because without it we cannot access and use our other natural resources.

The second unique aspect to energy as a resource is that it is a nonrecyclable resource. Once you use it, it is gone. Now, that is not true of copper. You use copper tubing, and eventually the house may be demolished, you can save the copper and recycle it and use it over and over. The same with iron. The same with many other natural resources. But with energy, it is different. The laws of thermodynamics are very explicit and the laws of thermodynamics are laws of physics that have been known for over a century, well over a century, and there have been no violations observed to those laws. These are laws of nature governing our creation.

One aspect of that energy is it is a nonrecyclable resource. Once you use it, it is gone. You put a tank full of gasoline into your car, you drive your car around, and a week later it is all gone. There is nothing left to recycle. It is energy that has been converted into kinetic energy of motion into friction, and eventually all of it gets converted into heat and radiates out into space.

Now, an important side effect of this, of our dependence on energy as being the most basic natural resource and something we cannot recycle, is that the price of energy affects our economy more than the price of almost any other resource. So when the price of gasoline goes up, it has a dramatic affect on us, but even more than that, and an even more dramatic affect, is the price of energy affects the cost of manufacturing something, the cost of digging it out of the ground. So when the price of energy goes up, the cost of living goes up because the price of almost everything goes up.

Let us take a look at something else about energy, another aspect. Energy appears to be intangible. You cannot really detect energy very well with your senses, and energy has many, many different forms. But you cannot touch it, see it, feel it, smell it, or taste it, except for light and heat; those are pretty obvious to our senses of seeing and the sense of feeling something hot. But energy is largely intangible. And, for most people, the only tangible aspect of energy is the price at the gas pump and the utility bill at the end of the month, and that is how you tell when you have used energy and how much you have used.

Now, it is different for scientists. The gentleman from Maryland (Mr. BARTLETT) and I recognize the nature of energy because we have worked with it so much. To us energy is very tangible and we can develop a sense of feeling for energy and when it is being used, but for most people it is not. That leads me to a comment that I made a number of times: I wish energy were purple. I really wish energy were purple, because if energy were purple we could see it, we could all see it. We could see when it is being used, when it is being wasted. And if in the middle of winter you drive up to your house and you look at your house and see purple oozing through the walls, you say, I better get better insulation in this house. Or you see rivulets of purple running from your windows and doors, you say, I have to tighten up those windows and doors. I cannot have all that money being wasted in energy. But we cannot see it, so we do not know it. If energy were purple, we would see how cars use it when they go by us on the freeway, we would see it around us in many different ways, and we would certainly treat it more carefully and certainly try to save more money by saving more energy.

Something else about energy I have pointed out before is how important it is, that energy actually, as its very base, affects civilization. And by proof of that statement, I just offer two things. The reason it does affect civilization, by the way, is because energy represents the ability to do work. That is the actual definition in physics, and that relates to some of the ways that we use energy in everyday language. Have you ever gotten up in the morning and said, boy, I am full of energy today. I cannot wait to get out there and chop some wood. Or other mornings you wake up and you say, oh, I am so tired, I do not have any energy today; I do not think I can do anything. That is reflecting this statement.

Now, how does energy affect civilization? As I said, I give two examples. The first is use of nonhuman energy; in other words, the use of domesticated animals led to the agricultural revolution. People tried agriculture before the agricultural revolution took hold. It did not work. But once they developed a way to use nonhuman energy, they had animals pulling the plows, then it worked, because there was enough more energy added to the mix so that it actually helped advance the agricultural revolution and changed civilization.

Thousands of years later, we developed another use of energy, the first use of nonanimal energy. We turned away from domestic animals and we started developing engines, motors, tractors, things that could do work for us, and we ran those by using fossil fuels, first coal and then petroleum, oil, and natural gas. And that led to the industrial revolution, the second major revolution that historians talk about.

□ 2030

So energy has a dramatic effect on civilization. Now, how do we deal with energy use? And I have been amazed at the number of comments and telephone calls that I have received since we have put this on the board last week and talked about it, people who are intrigued by this as a very useful model.

And let me talk about this. Let us just look at the left-hand side first. We will talk about income savings and inheritance. Now, these terms are all familiar to everyone. Most of us try to get a job so that we have some income. This is the way we handle our money. We try to live within our means, within our income.

We also try to build up the savings account for special occasions, special events, saving money towards a car or a refrigerator, washing machine. And then some of us are fortunate enough to get an inheritance. So that is the way we handle our money.

Now, a model for responsible energy use is to look at energy in the same way. We have an income of energy on this planet. Where does it come from? Most of it comes from the sun. We have what is called solar energy which has many different forms. We receive it mostly as light from the sun. And it takes 8 minutes to get here from the sun.

But the sun produces vast amounts of energy. And so we have a lot of solar energy impinging on the Earth at all times. That energy, a lot of it, goes into growing plants. We refer to that as biomass. And we take these plants, and we can burn that to extract energy from it.

Solar energy through differential heating of the atmosphere creates wind. And we can tap into wind energy. That is another way of using solar energy. Hydropower. Building big dams and backing up the water behind them, and having them turn the turbines so we generate the electricity. That again is solar energy. The sun's energy evaporating the water from the oceans and the lakes gets into the atmosphere, it rains down on the Earth behind the dams, and the water shed, we get to collect it behind the dams. So that is another way of using solar energy.

Wave energy. Waves are generated by the winds, which are generated by the sun's energy. So another way to tap solar energy. And, finally, tidal energy, which comes from the tides, which are generated by the motion of the Moon.

Now, all of those are sources of income for our energy mix. And if we are wise, we will try to live within our energy income, just as we try to have our families live within our personal income. So that is the best use of energy, try to use our income energy.

What about the savings? What does that represent? Well, first of all, in wood, solar energy helps grow the trees. The trees become very large. There is a lot of energy there. We can burn the wood as the people in this planet did for many millennia. But also there are other savings accounts we have below the surface.

Coal, oil, natural gas, all of them are captured solar energy. Energy that grows plants, the plants died, they decayed. And in the process of decaying, they are transformed into other chemicals. But they still return energy from the sun. And so we have a savings account on the surface of the Earth; we have the wood.

Underneath the Earth, underneath the surface we have coal, oil, natural gas. And this is over-simplified. I can name other examples.

Finally, an inheritance. These came with the Earth. As the Earth was created, it was very hot. Hot body. And a lot of that heat is still there underneath the surface of the Earth. In fact, the center of the Earth is molten iron. So it has a lot of heat there. And we could tap that inheritance, if we wish.

Also nuclear energy. That was there from the beginning of the Earth, and through radioactive decay. It has changed over the years. Nevertheless there is still a lot of nuclear energy available to us if we mine appropriate ores and use it properly.

So income, savings, inheritance. We should live within our income. We should use our savings only for emergencies, and inheritance, tap into that when we need it; but if you have a good inheritance, you can tap into it for quite a while. The savings is where we are exceeding our quota; and my colleague, the gentleman from Maryland (Mr. BARTLETT) will talk about that a bit later, and particularly the fact that we have finite resources of coal and natural gas and we should be quite careful in how we use those resources because there are not that many.

I am not saying we should not use them; but the point is, if we use them, we should use them to help develop other energy sources so that our children and grandchildren will have energy available for use.

Now, let me add something else that is of extreme importance on this issue. And these are quotes that are taken from the document prepared by the Energy Future Coalition and contained in a letter addressed to President Bush from representatives of this Energy Future Coalition. I cannot list all of the names corresponding to this, but Frank Gaffney was a leader in this, and James Woolsey, former Director of the CIA, certainly someone who knows about security, C. Boyden Gray, Robert McFarlane, and many others signed this document, including a number of our military people.

And I bring this forward because too many people in America have this idea somehow that conserving energy, using energy carefully, living within your income is some fuzzy-headed liberal idea. I am only pointing out here it is a national security issue as well, and we have got some very conservative individuals and military people who are signing and saying, well, the policy we are pursuing is not a good one.

First quote: "U.S. dependence on foreign petroleum poses a serious risk to our national and homeland security as well as our economic well-being." Why is that? Because if it is from foreign countries, first of all, we have to buy it. That contributes to an economic problem, namely, our deficit, a trade deficit.

But, secondly, much of the money is going to people who really are not that friendly to us, and, in fact, some are downright enemies. So dependence on foreign petroleum poses a serious risk to our national and homeland security.

Another quote from the document: "Some foreign interests have used oil revenues to purchase destabilizing weapons or to support terrorism." Where do you think Osama bin Laden got the money that he used to attack New York, destroy the Twin Towers and kill 3,000 Americans? It was not his personal fortune, although that also came from oil; but it came from many, many of the dollars that we sent overseas to buy oil.

And it really irritates me. It burns me up that our Nation is sending money abroad to people who are using it to, in turn, attack us. I would also say the same, incidentally, about the drug trade, because much of the drug money has been used also in the war on terror against us.

Two other quotes in the document from the Energy Future Coalition, and the letter addressed to the President: "We must act now. Technologies exist today that can improve efficiency and produce clean domestic petroleum substitutes." There is no question about that. But they need some development money to really get going.

And some of these technologies are, for example, improved nuclear reactors. They will be safer and operate more efficiently. No green-house gases produced. We can do a much better job with that, but also with photovoltaics.

I have a report here which appeared in the American Physical Society News in April, about photovoltaics, so-called solar cells, which are now becoming very efficient and very soon will reach the point where they can be used, for example, as shingles on houses.

So on a house, you cannot only put shingles on your house to protect it from the rain, but also to generate electricity, to operate your appliances, your lights and everything inside the house.

Another important point from the Energy Future Coalition, and that is that the cost of action is far smaller than the risk of inaction. And there is no excuse for further delay. I totally agree with the comments in their letter; and I hope that we can, as a Nation, act on this, these ideas, and not only improve our energy future but also improve our national security.

Well, basically, I have been talking about energy because I hope this will help all of my colleagues and our Nation to appreciate energy. My hope is that a better understanding of energy will lead to a wiser use of it by our citizens.

Mr. Speaker, at this point, I am pleased to turn it over to my colleague, the gentleman from Maryland (Mr. BARTLETT); and he will talk, as I said earlier, about petroleum reserves and what we are doing with our petroleum, and how we are using it so rapidly that the price is going up, as we know every time we go to the gas station, and it is going to get worse and worse until we take appropriate action.

I am pleased to yield to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Speaker, the data that led these 30 people you mentioned, Jim Woolsey and Frank Gaffney, and there were about a dozen admirals and generals, and several retired heads of agencies in the government that signed that letter, these were really thought leaders in the country.

And the data that they quoted that led them to write that letter is what is on the board here. We have only 2 percent of the world's oil reserves. But we use 25 percent of the world's oil. And let me digress for just a moment. I have not been enthusiastic about drilling in ANWR, because if you have only 2 percent of the known reserves of oil in the world, and if ANWR is a part of that 2 percent, I am having some trouble understanding why it is a good idea to use that 2 percent up as quickly as possible.

Certainly we need oil, but we will need it in the future if our economy continues to grow even more than we need it now. So I think we need to reflect a bit on whether it is a good idea to exploit that resource now.

We import about two-thirds of the oil we use. And the gentleman from Michigan (Mr. EHLERS) said that is just going down hill from the direction we ought to be going, because during the Arab oil embargo, we imported only about a third of the oil that we used, and you may remember then the long lines at the service stations and a few fights over it, I think a death or two.

And you may remember that gas guzzling cars, you could hardly give them away. And now when we are importing two-thirds of our oil rather than a third of our oil, suddenly SUVs and pickup trucks represent more than half of the personal vehicles sold in the country.

So these 30 world and United States leaders who wrote this letter referred to this data. They said, Mr. President, this is an unacceptable national security risk. We cannot be using 25 percent of the world's oil, have only 2 percent of the reserves, and import two-thirds of what we use from other countries without having a big unacceptable national security risk.

And they noted, and the President agreed, because I have heard him say it more than once, that much of that oil we imported comes from countries that do not even like us very much.

This is indeed a big national security concern. Two other bullets on the chart point out some relevant factors that we need to be concerned with. First of all, the bullet here that says we are 5 percent, we are a bit less than that, actually about 1 percent out of 22 in the world, less than 5 percent of the world's population, and having only 2 percent of the known reserves, and using 25 percent of the world's oil, two-thirds of it coming to us from other countries, much of it from across the seas.

If those shipping lanes were interrupted or if there was some impediment to the flow of oil through some choke points in the world, we really could have an economy at risk.

One other thing that I wanted to denote, and that is from this little 2 percent of the reserves that we have, we are producing 8 percent of the world's oil. We are pretty good at pumping oil. That is both good news and bad news. It is good news in that we are importing only two-thirds of what we use. If we were not so good at sucking that oil out of the ground, we would be importing more than two-thirds of what we use.

The bad news is that it is going to be gone sooner doing that. And the more efficient we become at pumping these reserves the more quickly they will be exhausted.

☐ 2045

The Chinese recognize that we are pretty good at this, and as the next chart shows here, they have been scouring the world for oil. And they were in our country a week or two ago and what they were doing is talking with our technical people, how do you could it? How do you get that oil out of the ground from these wells that were nearly exhausted?

This chart shows the world, and by the way, this green here for Russia should come around the other side because that is Russia there right next to Alaska. Russia spans 11 time zones. They are now a major oil exporter.

One of the few countries that probably has several years before they peak in their, they have peaked but that peak is being stretched out because of very poor performance when the Soviet Union was disintegrating. So they have a ways to go before they are on the steep down slope of a curve that we are going to talk about in a minute. But what this shows is all of the places in the world that they have gone to and secured contracts, and in some places bought assets to make sure that they have access to the world's oil.

They are in our backyard. They have contracts in Canada. They have contracts in Colombia, in Venezuela, in Brazil, in Argentina, in Africa, several in the Middle East. They are now meeting with Russia to build a very large pipeline from the Sakhalin Island region, the Russian far east to get oil down to China and perhaps on down to the Korean Peninsula.

China's economy is growing very rapidly, 10 percent last year, about the same the year before. They increased their oil imports last year about 25 percent. I have a set of exponential curves that we will show in a moment that show what those growth rates mean, but we are focusing on energy this evening with particular reference to national security. And China recognizes their dependence on oil, not only are they scouring the world for oil, they have noted that they are dependent on the shipping lanes to get their oil. And they are now aggressively building a blue water navy.

There is no other country other than the United States that has a blue water navy. By that I mean a Navy that patrols the seven seas, that controls access to those shipping lanes.

A couple of years ago, one of the senior members of the Pentagon sent some interrogators to China and India to ask people, men on the street, up and down, from the workers up to the leaders of the country, questions about oil and what they saw as China's future. And they were surprised that most of the people they talked to in China recognized the dependence that China had on oil and recognized how vulnerable they were to disruption of that and how essential it was for them to develop the capability so that they would have some assurance that they would continue to have oil in the future.

India is also growing rapidly. The next chart I want to show you is the one that brought us here. It is knowledge that we have had for half a century now, actually just about half a century, and this is a chart that was developed by a scientist called M. King Hubbert who worked for the Shell Oil Company. And he was observing the production of oil from oil fields in the United States and he was observing the exhaustion of those oil fields, and he noted that they all follow a bell curve way was not too surprising.

There are many things that follow a bell curve. How tall we are, how long we live. Most things in our world, the most of the data, most of the individuals, most of the length, most of the heights fall in a fairly narrow range in the future, but there are some that were very much less and some that were very much more and we call this a bell curve.

M. King Hubbert rationalized that if he added up all the individual bell curves in the country that he could predict when we would reach that peak. And he noted that when we reach the peak in these individual fields that about half of the oil had been exhausted.

Now, it is reasonable that the first half of the oil is going to be easier to get than the last half and it takes more and more energy to get the last part of the oil and it comes with more difficulty and so you cannot pull it out of the ground as fast. After observing this for a number of years, he made a prediction in 1956 that the United States would peak in oil production in the early seventies. As a matter of fact, it was 1970 that we peaked in oil production, and this smooth green curve here is his prediction. The more ragged green curve, the actual data points show how close to the predicted curve the data points fell.

It did peak in 1970 and we are now sliding down Hubbert Peak. As a matter of fact, we now are producing only about half as much oil as we produced in 1970, when we were self-sufficient in oil. The red curve here shows a similar Hubbert's Peak curve for the Soviet Union, Russia. It was the Soviet Union early on. Now it is Russia. You see how poorly they performed and how they deviated from the projected curve with the collapse of the Soviet Union. They now are getting their act together and they will have a second little peak here. This is larger, the peak back here is higher than the second peak will be.

Most other countries have a single peak and several of them have already peaked in oil production. The little blue line here that does not show up very well on this chart shows what happened with ANWR. And the next chart that shows all of the places that we get oil from in our country. I am sorry. I said ANWR. I am thinking Alaska. This is Prudhoe Bay. Two places in Alaska, one we are getting oil from. That is Prudhoe Bay, and one we could get oil from if we drill there, which is ANWR.

This chart shows the contributions of Texas and the rest of the United States and this is liquids here. And notice what Prudhoe Bay did. We already reached our peak, and we are starting to slide down the peak, and there is a little blip as we slide down that peak from Prudhoe Bay. About a fourth of our oil production in our country comes from Prudhoe Bay. We are now reaching the end of the production from that field.

I am sure all of you can remember a little bit after that there was a lot of optimism because of what was supposed to be a major oil find in the Gulf of Mexico. That is this yellow. That is all it amounted to. We are still sliding down Hubbert's Peak. This did not stop the slide down Hubbert's Peak.

I would like to again mention ANWR. Mr. Speaker, you may be supportive of drilling in ANWR or you may not be supportive of drilling in ANWR, but the reality is that it will not make much difference whether we drill or not in ANWR. That will not come on line until maybe as much as 10 years, certainly not before 5 years. And when it comes on line, it is almost certainly going to be less than Prudhoe Bay was, and you see the fairly small contribution that Prudhoe Bay made.

Drilling in ANWR will not solve our oil problems, which is another concern about drilling there because if it gives people the illusion that we have solved our oil problem then we will have done a great disservice.

The next chart shows a generic curve and this is one that we really need to focus on. It shows a 2 percent rise. Let me show you this one next because this one shows some exponential curves and most people do not really understand the exponential function.

The story is told of the ancient kingdom in which one of its citizens invented the game of chess. It was very popular and the king was very pleased and he told his subject that I would like to reward you for what you have done. Anything which is reasonable I will give you for your contribution to our society.

And the inventor of the chess board said, I am a simple man with simple needs. And if you will simply take my chess board and put one grain of wheat on the first square and two grains of wheat on the second square and four grains of wheat on the third square and eight on the fourth square and just keep doubling the wheat until you have covered all the squares on my chess board, that will be adequate compensation for my contribution.

Well, the king was elated. How simple. All he wants is one grain of wheat and double it for each one after that. What he did not know was of course that there was no way that he could comply with that wish. My understanding is that that would represent more wheat than is grown in the last 4 years in all of the world.

This is the exponential function.

Albert Einstein was asked about the next great energy source in the world after nuclear. What will be next, Dr. Einstein? And he said the most powerful force of the universe is the force of compound interest.

So here we see some curves where you have compound growth. The lower curve here is a 2 percent growth. This 2 percent growth rate represents the rate about the rate at which we have been growing.

Now, some people think you can represent a 2 percent growth with a straight line. But if that is what you project, then each year you have a lesser percentage growth rate than the year before. All of us who have interest in the bank and it is compounded know that what you get at the end of the year is more than the simple interest rate because you get interest on interest if it is compounded. Sometimes it is compounded almost instantaneously by computers. Sometimes it is compounded every month.

But when it is compounded, instead of having this lower flat curve, the 2 percent growth rate follows the second curve. In just a moment we will show you a generic curve that shows how that relates to where we are now.

This next growth rate is 4 percent growth, and this first dotted line here is 5 percent growth. And what I really want to focus on is this steep line here, and that is 10 percent growth and that is the way China has been growing.

Now, at 10 percent growth it doubles in 7 years. That means it is four times bigger in 14 years. That means it is eight times bigger in 21 years. Now, I think that it is unlikely that China will continue this 10 percent growth rate for 21 years. But if they did, they would be using eight times the energy that they are using today.

Where will they find that energy?

I would like to look at a couple of recognitions in news weeklies and they are fairly recent. This one is U.S. News and World Report. It is May 16. This is the last one. And I have here Time Magazine and I think May 9, so these are very current.

I think it is significant that two of our major news weeklies are focusing on the energy problem, particularly the oil and gas part of the energy problem.

The article in U.S. News and World Report is about Exxon Mobil. This is really a giant. "In the past year the corporate titan began pumping oil and natural gas from eight major new fields, including challenging projects in the deep water off Angola's coast, the icy depths of the North Sea, and the tough terrain of landlocked Chad." Yet Exxon's production continued to slip in spite of these new fields. Even these significant additions could not make up for the inexorable decline of the company's fast mature fields around the world.

Then the article goes on to note, "The company's production eroded nearly 5 percent in the first quarter."

By the way, in spite of this spectacular production of oil their stocks fell and they have enormous profits. Their stocks fell because they did not reach the expectations and that was because the company's production eroded nearly 5 percent in the first quarter, a rate that surprised analysts and caused Exxon to miss earning projections and therefore their stock fell.

It says here that Exxon has shown "little concern about its reserves, even though by the government's accounting method it replaced only 83 percent of the reserves it depleted last year."

They did pretty well because worldwide we are pumping about six barrels of every new barrel of oil that we find.

□ 2100

In a few moments, we will show you a chart which shows that the major oil discoveries from which we are pumping today occurred roughly 30, 40 years ago.

From a national security perspective, which is what we are focussing on relative to energy this evening, this phenomenal growth in China has to be a major concern. Where will they get that oil?

The next curve, the generic curve, shows what is probably the situation today or will shortly be in the near future. Notice that the past bell curves were pretty steep, and you can make them as high and steep as you want. You simply change the abscissas and the ordinate.

This is a 2 percent growth curve, and M.K. Hubbert predicted that the world would peak in its oil production about the turn of the millennium. That was delayed a little because he could not have known of the Arab oil embargo and the oil price hikes and the worldwide recession that occurred. Because of that, we reduced the consumption of oil, and there are now many people who believe that oil may be peaking in the world today.

As a matter of fact, yesterday there was what I think to be a fairly significant book that came out, written by the CEO of the largest energy investment bank in the world, Matt Simmons, and the title of the book is "Twilight in the Desert." The content of the book addresses Saudi Arabia and production of oil there. He believes that Saudi Arabia has probably peaked in their oil production. My colleagues may have noticed that a couple of weeks ago when the Saudi oil prince was here that he did not promise the President that they would increase oil production. That may be the right verb. It may very well be that he could not promise the President that they would increase oil production because many people believe that they cannot increase oil production.

This is just that little leisurely 2 percent growth curve. China is growing very much more rapidly you will remember. By the way, when this doubles, which goes from about here to here, that represents 35 years. So you get some idea of the scale here because a 2 percent growth rate doubles in about 35 years.

So you see that the real problem begins not when you reach peak oil, but it begins when you are nearing the peak, and the increase in production shows that it cannot keep pace with the increasing growth of demand. There is some belief that the peak production may, as a matter of fact, be several years off in the future. The latest I have heard is 2037. Even if it was 2037, it is really quite past time that we should have been addressing this.

Mr. EHLERS. Mr. Speaker, if I may reclaim the time for just a moment, I want to explain something that I discover often confuses individuals, and that is, when you reach the peak, they say, well, we have only used half of it, but the problem is that showed beautifully in that chart there, we are already in a habit of using so much oil, and it is going up yet. So even though we only used half, the demand is going to be so high, and as we go over the peak, production decreases, the oil becomes more expensive to retrieve because we may be tapping tar sands or shales at some point there. So you have double effect. It is going to be more expensive to find and produce, but at the same time, the demand keeps increasing. The demand versus supply gets worse, and so the price, of course, goes up and the wealthiest people can buy it.

To contrast that, we are talking a bit about solar energy. The best estimate we have at the moment is that the sun will probably continue for roughly 1 billion years, producing just as much energy as it is producing today. After that time, we have to start worrying. That is quite a contrast with the short-time scales here, and I find that much of the difficulty that we have is that most people have very short time horizons. If they have got enough for next week or next year, everything is fine.

This is a case where I think we have a particular responsibility, as the leaders of the Nation to recognize the long-time scale problems that are involved and change course so that we do not enter this catastrophic period where we are getting reduced production and increased demand. Prices are going to go skyrocketing. We will have at least a recession, probably a depression at that point, and so I think it is incumbent upon the Congress to recognize the situation we are in and take action now so to avoid disaster later.

With that, I will be happy to yield back to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Speaker, I thank the gentleman for yielding to me again and thank him for that clarification. He is right.

At the top of Hubbert's peak, still about half the oil remains, and the problem is that it is not that we are going to run out of oil. What we have run out of is high quality, readily available, cheap oil, and when the world's demand for oil keeps increasing along this curve, and the production of oil is the blue curve, then you see there is an ever increasing discrepancy between what we would like to burn and what there is to use.

The real question is: What will the world do; what will we do; what will China do; what will Russia do; what will the world do when it is recognized that, in fact, there will be no increased production of oil? The Third World is trying to industrialize. India and China are rapidly increasing their economies and using more and more energy, and by the way, not very efficiently.

One of the things that we might very well do to help ourselves in the end, and everybody, is to show them how to use energy more efficiently. Not only do we use 25 percent of the world's energy, we use it pretty efficiently. You might question, do we really need to use that much energy? We have a chart which we will show a little later that shows that people in California use only 60 percent of the energy of the rest of us in the country, and it would be hard to argue with California that they do not have a quality of life equivalent to ours. So you can use less energy.

I promised a slide, and the next one shows when we found this oil. It shows how long it is between when you find the oil and when you pump it. Of course, we might have pumped it a little sooner, because you are not going to pump oil that people are not demanding, and the world's economy grew. There were enough resources there in the oil in the ground that we could pump it out, but this shows when the peak occurred. This is worldwide. It shows that the peak occurred way back in the 1960s, well before 1970, and now we are peaking in production out here about 2000. So you see it is roughly 30, 40 years after the peak discoveries that we are peaking in the production of oil.

The next chart is a very interesting one, and it shows that drilling more will not necessarily get you more oil. By the way, even the oil companies now have fabulous profits, and ExxonMobil has billions of dollars in reserves. Their turnover is greater than most of the countries in the world. Why are they not out drilling for more oil? It is probably because they recognize what this little chart shows, and this shows what happens to oil drilling with the Reagan administration.

Remember, Hubbert's Peak peaked in 1970. By 1980, when Reagan came to office, we are already sliding down Hubbert's Peak, and that administration recognized that we were producing less oil. Their solution to that was to give the oil companies an incentive to go out and drill more. This yellow line here represents the number of wells drilled, and notice, there is a big spike just after 1980 when they came in. They drilled a lot more wells but look what happened.

The green here represents the additional finds, as compared to the oil that we are pumping, and except for this one little brief green blip, there is just nothing but red after they started drilling for oil and kept on drilling for oil. Notice where it is now. It is way down. They recognize that there is not much return for aggressive drilling of oil, and so none of the major oil companies now are aggressively drilling for oil.

I mentioned the articles in these two magazines, and both of them reflect the reality that we really do have a national security implication here. This is the May 9 of this year Time magazine, and it has a good article that has questions and answers, and it makes it easy to read that way.

Is the world running out of oil? And the answer is, no, half the oil is left. That is not the problem. The problem is that you cannot get it out fast enough to meet the demands of our growing economies.

So cheap oil is now just part of history? And their answer is, yes, it is going to be expensive from now on.

Mr. Speaker, I appreciate very much the time that the gentleman from Michigan (Mr. EHLERS) yielded me.

Mr. EHLERS. Mr. Speaker, I thank the gentleman from Maryland (Mr. BARTLETT), and I am pleased to reclaim the time. I would like to make a few additional points and see if he has any additional comments.

One thing we have not discussed tonight, which I think is very, very important, is to ask what is the highest and best use of the energy resources we have. Take, for example, natural gas, which many in this country use to heat their homes.

I live in Michigan, the so-called "Frozen North." We use natural gas to heat our homes, and it is wonderful. It is clean burning and so forth, but what has happened with natural gas, because it is clean burning, the power plants, which now have to meet strong environmental requirements if they are burning coal, say, well, let us burn natural gas, it is nice and clean, and we do not have these environmental requirements that we have with coal, and we will save money. So copious amounts of natural gas are being burned in electric power plants to produce electricity. At the same time, those of us who heat it with our homes, our heating bills double because there is just not that much natural gas available.

It is even more serious than that. I have often said that natural gas really is too valuable to burn. Why is that? Because natural gas is a beautiful feed stock for the petrochemical industry. We use a lot of fertilizer on our farms, and so do other countries and that is why we had the Green Revolution. We are able to feed far more people today than anyone anticipated because we are using a lot of chemical fertilizer. Much of it is made from natural gas or petroleum.

Now, if we run short on supplies of natural gas and petroleum, as the gentleman from Maryland (Mr. BARTLETT) was showing us with his Hubbert curve, then you have a problem because where are we going to get the feed stocks for our petrochemical industry? Where will the plastic manufacturers get their materials, because that is all made from natural gas or petroleum? Where will the farmers get their agriculture because that is made from natural gas and oil? And so on and down the line. So we really as a Nation should be asking ourselves, what is the highest and best use of the energy resources we have.

We have huge amounts of coal available in this country. Russia, incidentally, has far more coal available than we do, but coal is dirty. But why do we not investigate ways that we can use that to provide for our electrical needs in a very clean way and reserve the natural gas in the oil for higher and better use?

There are other issues that arise from this, and again, recognizing the time spans available, we have not talked much about Europe tonight, but recognize that the reason we have not is because Europe basically has very little natural gas and oil left. They are importing virtually all of it. They still have some coal but not a huge amount of it. So we have not been talking about them, but they still use a lot of energy. Europe has a greater population than the U.S., and they use a great deal of energy.

Where are they getting it? They turned to nuclear energy. In the midst of all the discussion and upheaval in the United States about nuclear energy and the dangers and so forth, we produce only 20 percent of our electricity from nuclear energy. France, I believe, is at 80 percent now, and I believe India is even higher than that. These other Nations have turned to nuclear energy for two reasons.

First of all, they do not have supplies of fossil fuels such as coal, oil and natural gas.

□ 2115

Secondly, they have decided it is safer because it does not give off greenhouse gases. Maybe we have to learn a lesson from these other nations and say, look, oil and coal and natural gas are too valuable to just burn to produce electricity. Let us produce our electricity in other ways, perhaps nuclear fusion reactors, as France, India, and other nations are doing. Perhaps we should work more actively on fusion research so that we can build nuclear fusion reactors, which should be cleaner and safer by far. So there are a lot of different options to investigate.

Also, I mentioned earlier photo cells, or photovoltaics, and I mentioned this article from the American Physical Society News, excellent article, written by Dr. Alvin Compaan from the University of Toledo. I did not realize he had written it until I reached the end of the article when I was reading it, and I was delighted because he was a former student of mine some years ago at Calvin College. But he points out here, toward the end, that we have made so much progress in developing solar cells, or photovoltaics cells, that he envisions that by the year 2015 the electricity produced by photovoltaic cells, or solar cells, will cost only about 6 cents per kilowatt hour.

Well, that is more than competitive with the energy producing power plants today using coal, oil or natural gas, because they have transmission costs and transmission lines, whereas the photovoltaic cells can be in your back yard or on your roof.

He also says the current predictions are that half of all new U.S. electricity generation will be produced by photovoltaics by the year 2025. That will be an amazing growth, and it will be interesting to watch that and see if it happens, because that will definitely give us a heads-up and the opportunity to greatly improve our energy situation.

There are other ways, as I have outlined, of using solar energy, other ways of using our savings and our inheritance. But always keep in mind it is our responsibility to provide for our children and grandchildren the resources that they are going to need in this world to do their work, to grow plants, to produce products, to manufacture. And if we run away with all this coal, oil, and natural gas and do not leave our kids and grandkids any, and we do not do the research necessary now to provide alternatives, we are not helping our kids and grandkids. In fact, we are depriving them of things that they will need to go forward in life.

So I urge the Congress to adopt legislation that will help develop alternative energy sources that will make certain that our kids and grandkids have enough energy to use and can live a decent lifestyle, as we do today, and that we not waste our resources but shepherd them and use them wisely as a means of producing new energy resources that our children and grandchildren can use.

SENATE FILIBUSTER

The SPEAKER pro tempore (Mr. DENT). Under the Speaker's announced policy of January 4, 2005, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I do not intend to use all the time this evening, but I did want to take to the floor this evening on the first day of this week because of my concern of what may be happening in the Senate on the issue of the filibuster.

I know that the word filibuster to many may seem a little obscure. People ask what it is about, why it is significant, but I do want to say that in my home State of New Jersey there have been many manifestations by New Jersey residents of all walks of life about their concern if the Senate Republicans were to go so far as to eliminate the filibuster.

About 2 or 3 weeks ago, at Princeton University in New Jersey, a group of students started their own filibuster to basically point out how important they thought the filibuster was, and they went on for 2 or 3 weeks, or as far as I know they may still be continuing, but all hours of the night, 24 hours a day, 7 days a week having different students and different people, including myself, I went one day on a Saturday with my kids to basically talk about the filibuster. My son read from one of his favorite Goosebumps novels.

The point that so many of these Princeton University students and New Jersey residents were trying to make was that the filibuster is a guarantee of minority rights. They see it, and I see it, and the Democrats here in the House of Representatives see the filibuster as a way of checking the absolute power, the absolute power of the majority, in this case the Republican majority.

And of course it is true that the Republicans are in the majority. They control the majority in the Senate, here in the House, the President is also Republican, but I would feel the same way regardless of which party was in power; that the filibuster is a way to guarantee that the Senate acts on a consensus basis, particularly with judicial nominees.

It was always envisioned by our Founding Fathers that the Senate would be different than the House of Representatives. The House of Representatives, because each of us represents a fairly equal number of constituents, is the representative body of the people. We act through majority rule. However, in the Senate, it was always envisioned there had to be more of a consensus; that there would not be the power of the absolute majority. Because, after all, in the Senate they are not necessarily representative in the same way as the House. So you could have, as we have, two Senators from California, and they represent over 50 million people, or millions of people, as opposed to a smaller State, like Delaware or Wyoming, where the numbers may be 500,000 approximately.

So it was always envisioned the Senate should act more on a consensus basis, and that is one of the reasons why the filibuster is in place, to provide a check on the power of the majority; to make sure that minority rights are represented.

Now, I want to talk a little tonight, a little extended debate, if you will, on this whole issue, and I think it is important, first, to start with what the filibuster is. I am actually referencing a statement from the Filibuster Action Center at the People for an American Way. They say, what is the filibuster? The filibuster is one of our democracy's oldest and most important checks on the power of the majority. It preserves two of our bedrock values: One, protecting the rights of the minority; and, two, promoting compromise. And it works like this. If at least 41 Senators strongly oppose a bill or a judicial nominee, they can vote to continue debate and block a final vote on the issue. A final vote can only be taken if and when the majority wins 60 Senators' votes.

In the context of a Supreme Court battle, the filibuster means that 60 Senate votes may be needed to confirm out of the mainstream judicial nominees rather than a simple majority of 51.

For two centuries, our leaders have supported the tradition of the filibuster in order to promote cooperation and compromise, and because they have recognized the dangers of one-party control and the importance of protecting the rights of the minority.

Now, there is a new word for what the Senate Republicans under Majority Leader FRIST are trying to do, and it is called the nuclear option. I think that is their own phrase. Proponents of the nuclear option seek to break Senate rules and eliminate the filibuster on judicial nominations. They basically argue, and their justification is, the false argument, that the Constitution requires an up-or-down vote in the full Senate on every judicial nomination.

This argument is very much refuted by more than 200 years of Senate history, during which literally thousands of judicial and executive branch nominees have been blocked in the Senate by filibusters, delays, and other tactics. Again, the idea being that it is necessary in the Senate, unlike the House, to have more of a consensus, hence the 60 votes.

Now, I would maintain, and I am continuing making reference to this document from the Filibuster Action Center, that the nuclear option proposed by the Senate Republicans is essentially a radical tactic that would prohibit Senators from using filibusters against extremist judicial nominees. Right-wing Senators and leaders are supporting this destructive action because they want to guarantee the Senate confirmation of far-right ideologues to our Federal courts, but especially our Supreme Court.

The nuclear option is actually a series of steps that right-wing Senators would take to eliminate the filibuster. The nuclear attack would likely begin with one party's Senators provoking a filibuster, most likely by trying to force the confirmation vote on an out-of-the-mainstream appeals court nominee. A Senator would then object, claiming that the filibuster could not be used on a judicial nomination. Vice President CHENEY or another Senator presiding over the Senate would rule in the radical right's favor and then that ruling would be appealed. At that point, a simple majority, with Vice President CHENEY as the tie-breaking vote, if necessary, would then uphold the ruling and the filibuster would be part of American history.

Now, this nuclear option earns its name essentially for two reasons, Mr. Speaker. First, it breaks the Senate rules in order to eliminate another rule, the filibuster. Under normal Senate procedures it takes 67 Senators, or two-thirds, to end debate on changing a Senate rule. So normally you would have to have 67 Senators, even more than 60, to change a Senate rule; but the nuclear option would violate Senate rules and require only 50 Senators, plus the Vice President's tie breaker.

Secondly, the atmosphere in the Senate after this attack would resemble a nuclear winter. That is one of the reasons why they call it the nuclear option. All bipartisan cooperation would vanish and the Senate's legislative business would grind to a halt, only adding to the price Americans would pay for the right's reckless abuse of power.

I wanted to make three points, again, this is from the People for the American Way from the Filibuster Action Center, three very important points that I think they make.

One is that filibusters are in fact constitutional. The U.S. Constitution gives Senators the vital responsibility and power to confirm or reject the President's nominees to our Federal courts. That is in the Constitution, Article II, section 2. The Constitution also gives Senators the authority to create rules for their own Senate proceedings. That is in the Constitution, Article I, section 5.

For over 200 years, almost since the very founding of this republic, the filibuster tradition has been maintained under this authority and used by Senators of both parties, including the GOP Senate majority leader Bill Frist, in an effort to prevent the confirmation of judicial and other nominees.

The second point. If filibusters reflect the democratic vision of our Founding Fathers, a primary goal of the filibuster is to force greater deliberation and compromise on controversial Senate matters by requiring that they receive 60 votes to proceed. More of consensus. Since it is legitimate to filibuster controversial legislation that future Congresses can revisit, it is even more appropriate to allow filibusters when considering lifetime appointments to powerful positions on the Federal Judiciary.

Remember, these Federal judicial appointments are for life. That is in the Constitution. Our Founding Fathers wanted America's courts to be an independent branch of government, free of partisanship. Because Federal judges serve lifetime terms it is important both parties help determine who is appointed to the Federal bench.

Lastly, on this point, Mr. Speaker, and again I think this is so important, that filibusters are really necessary to prevent one party from having absolute power, which is what the Republican Party wants right now in Washington.

The outgoing Republican chairman of the Committee on the Judiciary, Senator ORRIN HATCH, has himself explained that the filibuster is, and I quote, "one of the few tools that the minority has to protect itself and those the minority represents."

For 200 years, the filibuster has been an essential part of our system of checks and balances and has appropriated cooperation and compromise. I would say consensus. Senators have retained the filibuster rules because they recognize the dangers of one-party control and the importance of protecting the rights of the minority.

I think America works best when no one party has absolute power.

I just wanted to now go, if I could, Mr. Speaker, into this myth that I think Senator FRIST and certainly the leadership on the Republican side in the Senate are trying to give out to the American people: that somehow the Constitution requires an up-or-down vote on a judicial nominee.

If you look at the true history of checks and balances and the advise and consent in the Senate, it is often the case that a nominee never has a vote because the nominee is simply too far, in this case, to the right ideologically to achieve a consensus, to achieve the 60 votes. And there is nothing in the Constitution that says there has to be an up-or-down vote on a judicial nominee if that person is not acceptable because they are too extreme, which is essentially what we have in some of these cases.

□ 2130

Again, I am making reference to the People for the American Way report on this and they say: "To justify a truly unparalleled nuclear option parliamentary maneuver to end filibusters of judicial nominations by breaking the Senate's rules, Senate majority leader Bill Frist asserts that Democratic filibusters are unprecedented and that Senators have a constitutional duty to give Presidential nominations an up-or-down vote on the Senate floor. This assertion is squarely refuted by the history of the confirmation process in the Senate."

To the contrary, as the examples that I am going to be giving illustrate, for over 200 years Members of the Senate have used delaying tactics, including the filibuster, to defeat Presidential nominations to both the Federal judiciary and the executive branch. On many occasions, they have been successful.

Furthermore, nuclear option proponents themselves, including Senator FRIST, have repeatedly used the filibuster themselves to delay nominations, including judicial nominations, and have been successful in defeating nominations through a filibuster and other delaying tactics, in which case the nomination never came to the floor for an up-or-down vote.

Under the Senate rules, there is a right of unlimited debate on any question that comes before the Senate, including a nomination. It takes 60 votes to invoke cloture, ending unlimited debate and bringing a nomination or other matter to a final vote. It takes two-thirds of the Senators present, as many as 67, to end debate or on a change to the Senate rules.

So the nuclear option is a proposed parliamentary maneuver which requires a simple majority to get around the Senate rules and amend the Senate rules that requires 60 Senators to end a filibuster. Nowhere in the Constitution, in the text of the Constitution, is there a requirement for a simple majority for a vote on nominations or for any vote at all. What the Constitution does expressly say is that the Senate holds the sole power to make its rules, which certainly must include the rules governing debate on the Senate floor. Again, this interpretation is validated by over 216 years of Senate consideration of nominations.

I want to give some examples because I do not want to just talk about this in the abstract. Until 1949 when Senate rule XXII was amended to allow the Senate to invoke cloture on any matter before the Senate, there was no way for the Senate to end extended debate or delaying tactics on a nomination. It simply kept going. In the last 32 years of the 20th century, the Senate leadership was forced to file cloture on at least 34 nominations to end a filibuster on the Senate floor.

Among those 34 were 13 judicial nominations, of which three people were nominated to be justices of the Supreme Court. So 26 of the 34 filibusters, including in these cases Federal judges, approximately three-quarters were led by Republican Senators.

So when they talk about how it is the Democrats are trying to do this, they should keep in mind that in three-quarters of the cases where filibusters were used in the last 30 or 40 years to stop a judicial nomination, it was the Republicans that were using the filibuster.

I will give some examples. Among these, Abe Fortas, nominated in 1968 to be a Chief Justice of the U.S. Supreme Court, was denied a final up-or-down vote by a Republican-led filibuster when the Senate failed to stop on a vote to invoke cloture by 45–43. In that case, while the vote indicates that a majority of the Senate supported a final vote because of primarily Republican obstructionism, a final up-or-down vote did not occur. Senator Howard Baker argued during debate in defense of the filibuster of Justice Fortas by a Senate minority: "On any issue, the majority at any given moment is not always right." Basically invoking the argument about minority rights.

Similarly, the nomination of Henry Foster to be Surgeon General was killed by a successful Republican filibuster in 1995, as was the nomination of Sam Brown to be a U.S. ambassador in 1994. On both of these votes, a clear majority of the Senate supported the nominations. The exact same advice and consent clause in the Constitution applies to both judicial and executive branch nominations.

Mr. Speaker, I just wanted to point in several cases the proponents of the nuclear option are supporting or have supported several of these filibusters. For example, Senator FRIST supported a filibuster against U.S. Circuit Court of Appeals nominee Richard Paez in 2000. Senate Republicans, including FRIST, LOTT and MCCONNELL, were so adamant to try to block a final vote on Paez that they forced the Senate to vote an extremely rare motion to postpone the nomination indefinitely after cloture had been invoked.

Some current nuclear option proponents have been among the most frequent Republican filibusterers of nominations. Senators LOTT, HATCH and MCCONNELL all voted against cloture to continue a filibuster on 11 nominations during the first 3 years of the Clinton administration, including on two occasions where filibusters defeated nominees with majority support in the Senate.

Former Senate majority leader TRENT LOTT on at least one occasion even prevented a cloture motion from being filed on a nomination. In 1998, President Clinton named James Hormel to be the U.S. ambassador to Luxembourg. Despite an overwhelming bipartisan vote of approval in committee, 16 to 2, LOTT simply refused to bring the nomination to the floor despite clear evidence that at least 60 Senators would have voted to confirm the nomination.

I could give many more examples, but I am not going to. I am trying to point out the hypocrisy, essentially, in the fact the Senate Republicans, including some who oppose the filibuster, have in the past used it in so many cases, including against judicial nominees.

Mr. Speaker, the gentleman from Michigan (Mr. STUPAK) has joined me, and I yield to the gentleman.

Mr. STUPAK. Mr. Speaker, I saw the gentleman speaking on the floor on this important issue, and I wanted to join the gentleman.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DENT). The gentleman will suspend. The Chair must advise the gentleman from New Jersey that, under clause 1 of rule XVII, his allusions to hypocrisy are improper.

Mr. STUPAK. Mr. Speaker, I wanted to just come down here because it is a very important issue. It is often said in this House we sort of rush things through, and if it has 218 votes it passes; but the Senate is designed by our Founding Fathers to be more deliberate, more thoughtful, to take time and reason things out.

In order to do that, the minority party, whichever party it may be at the time, has certain rights that must be respected and honored. And what we have seen these last few years, that has not happened.

Unfortunately, when you have one party controlling the House, the Senate and the Presidency, at times they get caught up in their judicial power, their legislative power, their executive power; and they forget about the founding principles of this country, that is, that whether you are in the majority or minority party, there are certain things that should be respected and the right of the minority to be heard.

Whether it is a filibuster, or whether it is on the floor to have an amendment or a substitute bill, the minority should always have that right. In the last few years, I know I and other members of the minority party have felt we have been blocked from even having any thoughtful consideration of legislation. It is the main bill, no amendments are made in order, especially Democratic amendments, and they just ram things through.

Or with the Medicare reform bill, we have 15 minutes to vote; but it is left open for 3 hours and twist arms and have ethics investigations on the way those votes were obtained. Those are things when you do it at 3 in the morning and the vote closes at 6 in the morning like it did on the so-called Medicare reform bill, which is the prescription drug bill, and I am sure people will not be happy next year when they see it; but to hold a vote open from 3 to 6 in the morning, what is the majority afraid of?

One of the founding principles of any democracy, the credibility of your democracy, is how does that majority party treat the minority party. I never learned more about this than when I was dealing with a number of issues dealing with NATO, the North Atlantic Treaty Organization. In order to be admitted to NATO, the dominant country, the majority population, has to treat that minority population with all due respect and courtesies in the legislature and in the executive and the way they are treated in their society.

Being of Slovakian descent, I was instrumental in trying to get Slovakia, and one of the reasons they were not admitted to NATO sooner, there was concern with how Slovakia treated the Hungarian minority in their country. And until reforms were made to show that the Hungarians had a voice in that country and an opportunity to make their views known, they were not going to be allowed into NATO.

So here we have the United States Senate, which says to bring anything before the floor, to have a thoughtful, deliberate consideration, you have to have 60 votes. It is 55–45. You have to have cooperation. The rules force you to cooperate.

Not like here where it is martial law: there is a rule, it passes, no amendments, no substitute bill, go with the majority bill and that is it, vote "yes" or "no."

But in the Senate, it is different. The rules force you to get along. It forces you to talk with each other and discuss the legislation. What do you object to, how do we do this.

So that is why you have this 60-person majority to bring anything to the floor under a unanimous consent agreement.

If we look at the judicial nominations that President Bush has enjoyed in his 4-plus years in office, there have been 250, and I think 208 have been approved. This is 96 or 97 percent have been approved. That is the best record of any modern-day President: more than President Carter, President Clinton, or the first President Bush.

Not everyone who is nominated who may be a Federal district court judge is automatically qualified to be elevated to the court of appeals or even the Supreme Court. You have a different set of facts. One is a trial judge; the other one is an appellate review judge. And the higher up, the broader your powers over a greater part of the Nation, especially the judicial circuits, all the way to the Supreme Court where one vote could determine the law of the land. So I think you need to have a certain judicial temperament to be elevated to each one of those steps. Those few who have been objected to have been based upon judicial temperament of the individual or the inexperience, whatever it may be; but that is for the Senate to decide.

To change the filibuster rules, if you will, change it for all of it, but they only want to change it for judicial and Presidential nominees. Why not change it for all legislation?

Mr. PALLONE. Mr. Speaker, I think it is just an excuse. I think they are using the judicial nominees and ultimately we will see it for everything else. There is no reason to make the distinction. I would argue there is a stronger case for judicial nominees because they are lifetime judges, and so it is an even stronger case why there should be a consensus and a filibuster should be used.

Mr. STUPAK. Absolutely. If a filibuster is so bad, it should go to 51 votes and not 60, and do it for everything. If you are going to do it for the judges, do it for everybody. Let us do it for the environmental laws, labor laws. Let us do it for trade agreements, defense; let us do it before we go to war, as we did in Iraq. That took 60 votes. But we only want to do it for the select few people.

So if you are really going to have a majority and minority party, if you are going to respect the spirit and the thought behind a minority party being respected by the majority party, if you are going to change the rules, apply them to all of the rules, not selective rulemaking. That is worse than the autocracy or dictatorship or whatever word you want to use where one party determines everything. That is where you have to be very careful.

In my home State of Michigan, we had a judge nominated by President Clinton, Judge White, who sat for over 7 years. Judge White never got a hearing, never did anything. The majority party, then the Republican Party, said we are not going to look at it. I am not saying that is the reason why they are blocking this handful of nominees by the President, because of Judge White; but the point being we have never seen the threat of nuclear option being used before. We saw Judge White sit there for 7 years and was certainly fit for the job. I am not saying tit for tat or anything like that, but what goes around comes around; and there will be a time, hopefully soon, when the Democratic Party will be back in the majority on the Senate side.

□ 2145

I would hate to see this where, well, you blocked us, we're going to block you, or you do this, we do that. That does not do anything for a democracy. The idea behind it that our Founding Fathers had for 217 years has been, there is a minority party which slows things down in the Senate. You may not like it but we have got to take our time and make sure that we do it properly. This President enjoys 96 or 97 percent of all his nominees being sent up and approved. But I guess they want 100 percent. I understand last week they even had an offer to approve a few more of these judges in good compromise, good spirit so we do not have any problems in the Senate. Because I really hate to see this nuclear option that you spoke so eloquently of become a reality in the U.S. Senate because that defeats the whole purpose of the Senate. We should have thoughtful deliberations, something we do not have a lot of time for here. And I understand the rules are different in the House because there are 435 of us. If we all got up to speak our mind, nothing would ever get done around here. But here is an opportunity to show the true principles of democracy and I think the true principles of democracy is again how the majority party treats the minority. They respect them. They give them an opportunity to be heard.

Do they have an opportunity to follow the rules and abide by them, those rules, when it applies to the minority when they are the majority or the majority when they are back to the minority? I would hope we would not get to this nuclear option. I would hope that reasonable minds would prevail. For 217 years it has served our country well. I just hope we do not change those rules on judicial nominees. As you indicated, it is a lifetime appointment, cannot be really recalled unless there is gross, gross, gross, improper behavior on the judicial bench which usually does not happen thankfully in this country.

We are a country of laws. We are a country of rules. No one party or no one person should prevail over them. This President has had, as I said, 96 or 97 percent, 208 of 215 nominees approved, some just in the last week or two. I do not think this nuclear option is viable. I would hope that we would treat the Senate with all due respect. I would hope that the other body would take this decision carefully and not invoke a nuclear option. Because the only thing left then for the minority party on this side, being the Democratic Party on the Senate side, is to try to disrupt the proceedings of that Chamber.

If they are going to change the rules to suit them every time something they do not agree upon comes up, that is not really a democracy anymore and I think then the Senate minority party has to do what they feel is appropriate to bring attention to the mistreatment or maltreatment by the majority party. I hope it would not come to that because it does not speak well of our democracy. We are supposed to be an example for the rest of the world and how you treat a minority party by the majority certainly is one of the most critical factors that they look to.

We brag about how our country, that our President may ask us to declare war and if we do, the military listens to the civilian. That is a great respect that people always marvel at, how a popularly elected or electoral college-elected President can have control of the military, that the military does not see the President as a threat or the President does not see the military as a threat. That same principle should apply when we deal with one another in these great halls of Congress, whether it is the House or the Senate side.

Unfortunately we are not seeing that. If we don't get our own way, we'll just change the rules. After 217 years, that is not the way to run this country. For whatever reason why they have to have these last seven or eight judges approved to give the President 100 percent, no one gets 100 percent nowadays. Not even the schoolyard bully gets 100 percent. There are times when we have to stop and say, okay, step back a little bit. I would urge the majority party in the other body to step back and do not invoke this nuclear option.

Reading Congress Daily today. I guess the first signs of it are set for Wednesday. We hope it does not get to that. They are talking about staying in all weekend and debating this issue. Debates are fine. Let us respect the rules of the body, whether it is the House or the Senate.

I thank the gentleman from New Jersey for his leadership on this issue and others as he is down here each night working hard for the democracy and for the right of everyone to speak out during their time and place here on this House floor or in the other body.

Mr. PALLONE. Mr. Speaker, I want to thank my colleague from Michigan and his willingness to come down here tonight. I know we both feel very strongly about this. Sometimes I think it is hard to explain because people's images of the filibuster are somebody standing up on the Senate floor reading the phone book, almost like ridiculing the process. But the bottom line is it is a very important part of our democracy.

As you mentioned and I really did not get into it much tonight but I will mention briefly that we have seen here in the House many abuses of power by the Republican majority. You mentioned some of them, where bills do not even come to committee anymore, or bills in committee do not have a hearing, or they skip the subcommittee mark, or they go to full committee and they do not allow Democrats to offer amendments, or bills come to the House floor with a totally closed rule, so there is no opportunity for amendment, or there is very little time for debate. In fact, one of the reasons that you and I are here tonight doing special orders is because oftentimes we do not get a chance to speak during the day when legislation is being discussed because the rules are very limiting.

We have just seen many examples where the Republican majority has limited in the House of Representatives the ability of the minority to speak or offer amendments or offer changes in policy. We do not want to see the Senate go down that route. Clearly, particularly on judicial nominations, the intent of the framers was that there had to be a consensus and the Senate was going to be a deliberative body that operated more, as I said, on a consensus basis.

I just wanted to say again, I was making reference to this document from the People for the American way where Senator FRIST is justifying this nuclear option or this parliamentary maneuver where he would simply have a majority vote on a rule change and that has never been done in the history of the United States Senate. For over 200 years, nearly as long as there has been a Senate, there have been documented examples of presidential nominations rejected by the Senate without even having an up-or-down vote, through delay, inaction, parliamentary tactics, including the filibuster. That history, I think, demonstrates conclusively that from the text of the Constitution there is no requirement for the Senate to vote on a presidential nomination. There is not a requirement that the Senate take any action at all on a nomination, which has often been the case. And the history of the confirmation process in the Senate illustrates another central fact, that Presidents have had the most success with their nominations when they have viewed the entire Senate as a partner in the nominations process, not an adversary. If you listen to Senator FRIST, it is as if the Democrats are an adversary. That is not the way it is supposed to be. The better way out of this current stalemate and the best way to preserve our independent judiciary is not the tyranny of the majority in the Senate but a genuine bipartisan cooperation and consultation with Senators on both the Democrat and the Republican side of the aisle.

Mr. Speaker, as I said and my colleague has said, we continue to see abuse of power by the congressional Republicans.

I will give you another example. Earlier this year here in the House, Republican leaders ignored protocol and weakened the House ethics rules without ever talking with Democrats about the proposed rules change. It was the first time the House ethics rules have been changed without both sides, Democrats and Republicans, sitting at the table and writing new rules together. Fortunately, both conservative and liberal newspapers around the country and the American people saw the weakened rules for the Ethics Committee for what they were, just a power grab and an attempt by the Republican leadership to protect one of their own. The Republican leaders were forced to backtrack and reinstate the rules a couple of weeks ago after Democrats refused to allow the Ethics Committee to meet until the rules were reinstated and the pressure from the public became too great.

But it appears that the Senate Republicans learned nothing from that experience in the House with the rules change that the House Republicans tried to make here. Instead, the Senate Republicans seem prepared to overreach this week, as my colleague said, we hear as early as Wednesday, in an attempt to blow up 200 years of tradition in the U.S. Senate. Majority Leader FRIST and Senate Republicans are on the cusp of waging an unprecedented political grab, abusing their power in order to force through a few judges who have been unable to earn a bipartisan consensus for their lifetime judicial appointments.

This power grab was initiated by the White House, which manufactured a judicial crisis. I think my colleague from Michigan mentioned that since President Bush has taken office the Senate confirmed 208 of his judicial nominations and turned back only 10, a 95 percent confirmation rate. That is the highest approval rating for any President in modern times, including Reagan, Bush and Clinton. Thanks to these confirmations, President Bush now presides over the lowest court vacancy rate since Ronald Reagan was President.

There is no judicial crisis here, Mr. Speaker. It is manufactured by the Republicans. Despite the fact that Democrats have helped confirm 95 percent of President Bush's judicial nominees, the President is choosing to pick fights and resubmit the names of nominees who have been rejected during his first term. There were 10 nominees that our Democratic colleagues in the Senate opposed because they had serious questions about their independence and fairness.

One wonders, why are the Republicans preparing to throw out all these constitutional checks and balances just for a couple of extreme judges? Some people say it is because of the Supreme Court, that President Bush wants this fight on the filibuster before a Supreme Court justice retires, which is something that could happen anytime. That may be what is behind it, but it is still really not the way to proceed. To say that Supreme Court nominees would only need 51 votes instead of 60, again there would be no consensus on the very important selection of Supreme Court judges.

Again, I think it is just the right wing of the Republican Party that wants to appoint extreme conservatives to the highest court in the land and they simply know they cannot do it if they have to meet the 60-vote threshold. The White House does not want to nominate another David Souter or an Anthony Kennedy or a Sandra Day O'Connor or a Steven Breyer, all of whom were confirmed with nearly unanimous bipartisan support. Instead, it wants to divide the country by picking a right-wing Supreme Court nominee that it knows could not garner bipartisan support.

I just think that again although the motivation may be in terms of the Supreme Court, the bottom line is that we should not be sacrificing this very important safeguard of our democracy, the filibuster, just to appoint some conservative judges that the President wants to nominate.

The last thing I wanted to say, again there is a difference between the House and the Senate. The framers did not want the Senate and the House to be the same. They saw two different bodies. One of the things that would likely happen is if this nuclear option was presented and the filibuster was overturned is the Senate would basically become a second House of Representatives. That is not what the Founding Fathers envisioned when they created two distinct Chambers.

Again, I do not know what is going to happen, but I think we have to speak out and say that this is not just something that myself and my colleague from Michigan feel strongly about. I know and I have even seen polling that suggests that the American people feel very strongly about this. That is one of the reasons why we had this 2 or 3-week filibuster at Princeton University and why some of the Princeton students came down here last week and brought a bus, they called it the "filibus," we were down on the Mall and we spoke to make the point of how important the filibuster is as a safeguard of democracy.

PEAK OIL

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Under the Speaker's announced policy of January 4, 2005, the gentleman from Maryland (Mr. BARTLETT) is recognized for 60 minutes.

Mr. BARTLETT of Maryland. Mr. Speaker, the special orders of this evening, I think, have been a good example of a problem that faces families and businesses and countries and indeed is facing the world today and that is the tyranny of the urgent. So often, no matter whether it is your family or your business or your government, the urgent takes precedence over the important. It is really urgent that we are talking about confirmation of the judges in the Senate and the possibility of the nuclear option. This is just an example of how frequently the need to deal with the urgent diverts us from considering things which in the long run are going to be very much more important than that.

Let me give you an example of what I am talking about here, and this is an article written by Matt Savinar. The introduction to it will really grab your attention if he is correct. This is what he says:

"Dear Reader:

"Civilization as we know it is coming to an end soon. This is not the wacky proclamation of a doomsday cult, apocalypse Bible prophecy sect or conspiracy theory society. Rather, it is the scientific conclusion of the best-paid, most widely respected geologists, physicists and investment bankers in the world. These are rational, professional, conservative individuals who are absolutely terrified by a phenomenon known as global peak oil."

It is not just Matt Savinar that is concerned about this because he quotes several people in his article. One of them is an investment banker that he referenced. That is Matthew Simmons, with whom I had lunch last week.

□ 2200

Simmons and Company International is considered the most reputable and reliable energy investment bank in the world. Given Matthew Simmons' background, what he has to say about peak oil is truly terrifying. For instance, in August of 2003, in an independent interview with "From the Wilderness" publisher Michael Ruppert, Simmons was asked if it was time for peak oil to become a part of the public policy debate. He responded, "It is past time. As I have said, the experts and politicians have no plan B to fall back on. If energy peaks," he might have said when energy peaks, "it will be a tremendous jolt to our economic well-being and to our health, greater than anyone could ever imagine."

When asked if there is a solution to the impending crisis, Simmons responded, "I don't think there is one. The solution is to pray. Under the best of circumstances, if all prayers are answered, there will be no crisis for maybe 2 years. After that," he says, "it's a certainty."

Mr. Speaker, if we are talking about things that are important, if he is correct, and this evening we will explore the evidence so that the listener can make up their own mind, but if he is correct, this truly is something which is important.

Former industry insider Jan Lundberg recently pointed out: "The scenario I foresee is that market-based panic will, within a few days, drive prices skyward." He is talking about a time when oil prices are peaking and that this is the response of the market. "And as supplies can no longer slack daily world demand of over 80 million barrels a day," which it is now 84 million barrels a day, "the market will become paralyzed at prices too high for the wheels of economy and even daily living in 'advanced' societies. There may be an event that appears to trigger this final energy crash, but the overall cause will be the huge consumption on a finite planet."

In an earlier hour this evening, the gentleman from Michigan (Mr. EHLERS) shared part of his Special Order hour with me, and he tells the story of when he was a little boy, he was told that there was about 250 years of oil remaining in the world. That was grossly over-optimistic; but even if it were true, his immediate response, he says was, gee, what will the world do when the oil is gone?

We may now be approaching peak oil. What will the world do?

"The trucks," he says, "will no longer pull into Wal-Mart or Safeway or other food stores. The freighters bringing packaged techno-toys and whatnot from China will have no fuel. There will be fuel in many places, but hoarding and uncertainty will trigger outages, violence, and chaos. For only a short time will the police and military be able to maintain order, if at all."

I am not sure that this has to be true. I really hope that it does not have to be true. And what we will be doing is talking about some of the things we need to keep it from being true. And I am sure all have heard of the Lundberg reports on gas prices.

Dr. Ted Trainer explains in a recent article on the thermodynamic limitations of biomass fuels, and this is his quote: "This is why I do not believe consumer-capitalist society can save itself. Not even its 'intellectual' classes or green leadership give any sign that this society has the wit or the will to even think about the basic situation we are in. As the above figures make clear, the situation cannot be solved without huge reduction in the volume of consumption."

Going on in a few moments we will have a chance to look at some curves that put that in context.

Dr. Smalley, in the February 2005, issue of Discover magazine gave the following prognosis as a result of the energy shortage brought on by peak oil and the fact that the world cannot produce oil as fast as the world's growing economies demand it: "There will be inflation as billions of people compete for insufficient resources. There will be famine. There will be terrorism and war." I hope he is not correct.

I am just reading these quotes, Mr. Speaker, to point out that it is not just one person. It is many people who are concerned about this.

The chief economist of Morgan Stanley recently predicted that we have a 90 percent chance of facing "economic Armageddon," while stating, "I fear modern-day central banking is on the brink of systematic failure." No wonder someone like Matt Simmons says that the only solution is to pray.

And it is not just the people quoted in this article, Mr. Speaker. Recently, there have been two articles in major news weeklies. Just this week in U.S. News and World Report, an article on ExxonMobil points out that this giant was not able to meet its projection production last year. They slipped 5 percent, as a matter of fact. Although they made enormous profits, their stocks still fell because they did not meet expectations. The other article is one in Time magazine, and that is last week's Time magazine: "Why Gas Won't Get Cheaper," and they ask a number of interesting questions in the article and display a considerable understanding of the probability of peak oil. "Is the world running out of oil?" And the answer is "No." The world is not running out of oil. What the world is running out of is its ability to produce high-quality cheap oil on demand.

How did we get here? The chart that we have on the easel here shows a prediction that was made in 1956, and I keep coming back in discussions to M. King Hubbert because it was his predictions that started this discussion, which has now been going on for half a century. In 1956, he predicted that the United States would peak in its oil production about 1970. As a matter of fact, it was exactly 1970. How could he do that? How could he watch what was happening in 1956 and conclude that we would peak in oil production in this country in 1970?

What he was doing was watching the exploitation and exhaustion of individual oil fields, and he noted that they all followed a very similar pattern. They followed a bell curve, lots of bell curves. If we measure people, how tall they are, we will see some are very short, most are bunched in the middle, and a few are very tall. If we weigh people to see how much they weigh, we will find a few are 60, 70, 80 pounds, very few at that weight. A few would be up at 600, 700, 800, very few there. But the big mass of people are bunched in the middle, and that is called a typical bell curve.

He found that the production of oil followed this curve that is well known to scientists and statisticians. When oil is plentiful in the ground, it is easily pumped and it reached a peak, and he found that when it had reached that peak production rate that about half of the oil had been pumped.

It is reasonable, Mr. Speaker, that the last part of the oil would be more difficult to get. As a matter of fact, I just heard today that the scavaging wells that we have in our country, the yield between three and 10 barrels of oil a day, much of it electrical energy in pumping, are requiring more energy to get the oil out than we will get out of the oil. But, never mind, we may have enough electrical energy, and one cannot put that in their car unless they have awfully big batteries and then it will not take them very far.

But we really do need the oil, and so they are producing the oil, which energy-wise is uneconomical to produce. So after we reached the peak production, we started falling down what is called Hubbert's Peak. This is a well-known phenomenon and M. King Hubbert became a celebrity among his peers because he predicted that the United States would peak in oil production in 1970. He looked at the world situation and made some guesses to how much more oil the world would find. And, by the way, most of it had been found during his lifetime. We are now pumping it some 30 or 40 years after it was found.

And he made a prediction of when oil production would peak in the world, and he said that that would be about the turn of the millennium. It was a little after that, obviously. He could not have known about the Arab oil embargo or the oil price hikes or the worldwide recession that reduced the demand for oil, and so we had a few years of grace. Mr. Speaker, I would like to point out that if M. King Hubbert was right about the United States and, using those same analysis techniques, he predicted that the world would peak in oil production at about the turn of the century, why should the world leaders not have been concerned that maybe, just maybe, he was right about world oil production peaking about the turn of the millennium? And if that was true, then we should have been embarking on an aggressive program to develop alternative energy sources.

Before leaving this, I would like to point out that the red is what happened in the Soviet Union and now Russia. There are going to have a second little peak here because they kind of came apart when the Soviet Union was dissolving, and we see the oil they pumped did not meet the expectations of the Hubbert's curve.

The next chart I want to show is kind of a schematic curve that shows the relationship between oil demand and oil use. During all of history until this time, there has been adequate oil in the ground and adequate capability to pump it that the oil supply has been equal to the demand for oil. But when we are reaching the peak of this curve and demand keeps on going up, there will be an increasing discrepancy between the amount of oil we would like to use and the amount of oil that is available to use.

This is a 2 percent growth curve. With 2 percent growth compounded, it doubles in 35 years; and so from this point to this point, it has doubled. So that is about 35 years. So it shows that rolling over this peak, and, by the way, sometimes this phenomenon is known as "the great rollover." We have been referring to it as peak oil. It about 35 years from this point to the end of the yellow there. And this points out that the world problems with oil will occur considerably before the peak. In this schematic, it occurs about 17 years before the peak.

Have we peaked? It may very well be a few years in the future. But as production slows down as we reach that peak and demand keeps on going up, even before we reach the peak, there will be a discrepancy, a difference, between what we would like to use and what is available to use.

The next chart shows us something about the challenges that we face, and this is an interesting chart. The top graph here shows the history of the use of energy in the world, going clear back to the 1600s and bringing us up to the present. The brown curve here is wood; and for a very long time, that was the world's only energy source. And then the Industrial Revolution was almost floundering because we had decimated the forests in New England. There are now more forests in New Hampshire than there was at the time of the revolution because we had used the trees in very large numbers for producing coke, for producing charcoal, for producing iron.

And then we discovered coal, and notice how many more quadrillion BTUs we were able to produce with coal. That is for two reasons: one, because the energy density of coal is higher, and because it is more convenient to use.

□ 2215

And then, long before we ran out of coal, we transitioned to oil. And notice then what happened to energy use. That is because, again, these two qualities of oil, one is it is more convenient to use; you could have a coal cart following the engine and shovel coal as we did in trains for a long time and run the train on coal. That is very difficult to do with your car, but oil you can put in the tank of your car, and so we found lots more uses for energy, and the energy density of oil is greater than the energy density of coal. So we see a greatly increased production of BTUs with oil.

The challenge that we face as we roll over Hubbert's Peak, and the available oil does not meet the demands for oil in the world; the challenge we face is to find energy sources which can replace oil. Now, unless there is some sort of energy that we have not envisioned yet that is hidden out there, we just need to go find it, we are going to have to deal with the energy sources that are available to us.

The next chart shows us the energy density of a number of different substances, and it begins with something like domestic refuge which, by the way, can produce a lot of electricity if you burn it rather than putting it in a landfill; brown coal, which is a very poor quality coal, baled straw, this is the biomass that you may hear people talking about, dried dung, we burned buffalo chips when our forefathers went west in this country, and they still burn dried dung in many parts of the world, and then that is just about the same as wood. Notice that coal is better than wood, higher energy density than wood. Then we go through coke and ethanol, and notice that ethanol does not have the same energy density, it is considerably less than crude oil and, of course, as you refine it, why you get the diesel and petrol, the automotive gasoline, naptha is still higher, aviation fuel is still higher, and natural gas, which contains relatively more hydrogen, still has a higher energy density.

Just a word about this energy density and what that really means. The energy density in these fossil fuels is just incredible, and we have kind of taken them for granted, and we have fashioned a society and economy which is just about totally dependent on them. The energy in one barrel of oil, that is 42 gallons of oil, which today at the pump will cost something like $100; it is about $50 to buy it and another $50 to refine it and transport it to the station. You are paying a little over $2 a gallon, so that is about $100 for that barrel of oil. That barrel of oil, Mr. Speaker, has the energy equivalent of about 25,000 man-hours of labor.

Now, in another life, I worked for IBM and we prepared a lot of responses to proposals, and we would price our manpower in man-years, and a man-year was 260 hours; that is the number of hours a person works in a year. So if I divide 260 hours into 25,000, I get roughly 12 man-years. What that means, Mr. Speaker, is that with this barrel of oil that costs you $100, you have bought the work equivalent of 12 people working full-time for you for one year. What a cheap servant fossil fuels have been for us, and how addicted we have become to using them.

Another little example so that you can get perhaps a more personal appreciation of the energy density of these fossil fuels, imagine how far a gallon of gasoline, not very large, and still cheaper, by the way, than water in the grocery store, unless you buy it in a gallon jug in Wal-Mart or K-Mart or some place like that; but note how far that gallon of gas takes you in your car. And if you are going up a mountain, how long it would take you using some mechanical advantage to pull yourself up that mountain, and you can get some notion as to the energy density in these fossil fuels and the enormous challenge we have in finding alternatives, and alternatives we must find.

The next chart takes a look at some of the options that are available to us as we transition from our enormous dependence on oil and natural gas, which tend to go together, because natural gas is kind of a volatile from oil, it exists generally with oil; remember pictures of old oil derricks that are burning the natural gas off, we did not have pipelines, it was just a waste product and they burned it off. The gas is collected there, it is gas associated with oil; if not, it is vented through the millennia to the atmosphere. Of course, we have some fields of only gas and they generally are much deeper where there has been more heat and all of the oil has, in a sense, been vaporized and become natural gas.

Here we have a list of the alternatives that are available to us, and there are some finite resources that we can tap, and we will need to do that, but we need to recognize two things. One is that there is some economic and environmental penalties that we will need to pay for tapping some of these, and the second is that they are also not forever. So we must not conclude that if we are successful in developing some of these; well there is one of these that could be forever and that is nuclear fusion. I think the odds of getting there, Mr. Speaker, are relatively small; about the same odds as you and I planning on our economic future by winning the lottery. That would be nice, but unlikely, and I think that fusion would be very nice, but just about as unlikely.

We have some enormous deposits of tar sands in Canada, and they have invited us to come there this summer to look at those. They are being exploited, by the way, and China has bought the rights to purchase much of the oil that they are producing from the tar sands and the oil shales. There is a lot of potential oil there. But the problem is that it is very difficult to get. It takes a lot of energy to get, with a pretty high environmental penalty. In a few moments we will show a chart that looks at energy profit ratios and we will see where the tar sands and oil shales fall on this plot.

Then there is coal. I would like to digress for just a moment. We will come back to this chart, but let us look at coal, because I know some people say, gee, we have a lot of coal in this country and China has a lot of coal, we are the two biggest economies in the world now, and why worry, we will just burn coal. And your children may come home from school and tell you there is a 500-year supply of coal. That really is not true. The best estimates today that, at current use rates, with no growth, there is about a 250-year supply of coal. Well, gee, that sounds like a lot of coal. Well, that would tide us over.

But notice what happens when I assume just 1.1 percent growth rate. Remember those exponential curves we showed; with just 1 percent growth rate. Notice what happens with 2 percent growth rate, it drops down to about 100 years. But since there are not very many uses for coal directly, except maybe firing a furnace that produces steam that drives a turbine that produces electricity, we are going to have to convert coal into gas and into oil.

I remember as a little boy that all of the lamps that we burned were not kerosene lamps, they were called coal oil lamps, and that is because we learned that before we were refining oil to get kerosene, we had learned how to get oil from coal, so we can do that again. But notice what happens. When you recognize it, you are going to have to spend some of the energy in the coal to convert the coal to more usable forms. Now, our 250-year supply of coal, with no growth, now has shrunk to just about 50 years. When we have only a 2 percent growth and, by the way, last year the world economy grew 5 percent, we grew about 2 percent, the world economy grew 5 percent, and China's economy grew at about 10 percent last year, which, by the way, they doubled their economy in just 7 years.

We are going to have to depend more on coal clearly to tide us over, but it is a fantasy that it will carry us through to the indefinite future. We have to recognize that it is a resource that we have to use wisely.

Let us go back now to the original chart and look at the nuclear, this is a nuclear option, which is a little different than the other one, because we do have some nuclear options here. We produce 20 percent of our electricity with nuclear power plants in this country. France produces about 70, 80 percent of their electricity with nuclear power. There are three ways in which you can use nuclear power to produce electricity. One of those I mentioned already and that is fusion, and that is what the sun does. That is why we get so much energy from the sun. That is the hydrogen bomb, and you get a lot of energy from that over a very short time period, and it becomes difficult to effectively utilize that, but we are trying. We are trying to exploit fusion so that we can use it in a scale large enough to produce electricity economically. If we ever get there, we are kind of home free, Mr. Speaker, because this really could produce energy with which we could do wonderful things in the world. But the odds of getting there are pretty small, I think. You can use your own judgment, but I think that they are pretty small. So it is something that we need to keep pursuing, but let us not bank on it.

There are two other ways we can use nuclear power. One of them is in the lightwater reactors that uses fissionable uranium, which is probably in shorter supply in the world than either gas or oil. And so that is not a final solution. We really have to ramp up nuclear, and we really seriously need to look at nuclear power. I know there are some environmental concerns, and as long as oil was plentiful and natural gas burns cleanly, why worry about nuclear when you can burn these fossil fuels. But if, in fact, Mr. Speaker, we are at or will soon be at peak oil, then we need to reevaluate nuclear, and I know some of my friends are now taking a new look at nuclear who have been kind of stoutly opposed to nuclear in the past.

Well, since fission with fissionable uranium is limited because of a limited supply in the world, the third way to produce electricity from nuclear is what is called the breeder reactor. We have none of those in this country. The only one we have here were producing nuclear weapons. France has a number of them. As the name implies, they produce more fuel than they use, and so this could be a big energy source. But it produces, the way we now use it, it produces by-products, Mr. Speaker, which have to be stored away for maybe as much as a quarter of a million years.

I have a feeling that anything which is so hot, that it has so much energy in it that you have to squirrel it away for a quarter of a million years ought to have enough energy in it that resourceful, creative, innovative people could find some use for it. And I think that that is a challenge that we need to address, because if we are going to have anything like a smooth transition and not have the dire predictions that I read in Savinar's article here, if we are going to have anything like a smooth transition to alternatives, we are going to have to use a whole lot more nuclear than we are using now to buy us time to move to these renewables.

Now, with nuclear, we are limited in the kind of energy we can produce. Heat, which can boil water and run turbines and produce electricity, that is the way we use nuclear energy now. Of course, there are limited things we can do with electricity, and so there are other types of energy that we need equivalent to the type of energy that we get from oil.

Now we look at some truly renewable sources, and the gentleman from Michigan (Mr. EHLERS) earlier this evening was talking about how this is our income, and we ought not to be dipping into our savings, and our savings are things like tar sands and oil shales and coal and so forth; we ought to be able to make due with our income and if you keep dipping into your savings, by and by you will be bankrupt. That is what we have pretty much done as a society is dip into these savings and, from an energy perspective, we are near bankruptcy.

So you look at all of these renewables now and by and by, with the exception of nuclear and how much of that you are willing to put up with in terms of environmental effects and so forth, we are going to have to have a society that runs on these renewables, because obviously, fossil fuels are not forever. Solar is one of them. And by the way, Mr. Speaker, most of the energy that we are using or will use came from or comes from the sun. It is no wonder the ancients, so many of them, worshipped the sun, because they intuitively recognized it as the source of life. It was the sun that made the plants grow, that produced the coal. As a little boy I remember we used to use what was called run-of-mine coal. You took it from the mine just as it came, some big lumps and some dust, and I grew up in western Pennsylvania, and some of the lumps were so big we could not put them in our furnace.

□ 2230

And so I would go to the basement, and with a sledgehammer I would break the lumps of coal to get them small enough to throw in the furnace. And I remember the feelings that I had, Mr. Speaker, when I broke open those big lumps of coal, and there was a fern leaf. And I recognized how many thousands of years ago that plant grew that was producing coal for us today.

And then, of course, it was the sun that made the little organisms grow in those ancient waters in a very much warmer Earth than we have today. It was warm at the poles because there is oil up at the poles. And these little organisms grew in the water. They would die and settle out to the bottom, and then in many places they would fall into deep crevices and the rains would wash sediment in over them. And time and pressure, the sediments were converted to rock, then with the movement of the tectonic plates in the Earth, they would sink down to where heat acting on this organic material trapped under the rocks would be converted to oil and gas.

And so all of the fossil fuels that we are burning came from the energy of the sun. Today, we can harness the energy of the sun in many ways. You build a house with windows that face south, and your house will be warmed by what we call passive solar heating. You can put a little mechanism on the top of your house that has a copper pipe painted black usually inside of it, under glass. You know what happens to your car in a parking lot, it gets really hot inside that glass, and you can heat your water with it.

We now have developed technologies where we can convert the photons into electricity. And the gentleman from Michigan (Mr. EHLERS) earlier mentioned the thin films that we have developed that you can incorporate in tiles for your floor or roof shingles for your house, or siding for your house, which can produce electricity.

That has been fairly expensive, like 26 cents a kilowatt hour. We pay about 7 now per hour now here in the East, but that is really coming down in price.

With oil at $50 a barrel, and Goldman Sachs says it is going up to $105, I do not how they picked that magic number, but since solar is coming down and the price of oil is going up, those curves will cross; and I hope we will see a whole lot more solar, because it is really clean. There are no byproducts, for at least 30 years. Those solar cells will sit there. Every time the sun shines or you have light, they will be producing electricity, less when there is no sun.

Then there is wind energy. Mr. Speaker, I have driven and seen some real forests of these wind machines, out in some of the passes in the West; and they are now producing electricity at 3½ cents a kilowatt hour. Some people do not like their looks. I think they look a whole lot nicer than those swaths that we cut through our forests to run these high tension lines; and if we had more of these wind machines closer by, we would have less susceptibility to terrorist attacks, because we would have a distributed energy production, and we would not need so many high tension lines, and you would not have a grid which is at such risk.

Of course, the wind blows because the sun shines, and the differential heating produced by the sun causes the wind to blow, so that really is solar energy. We get it through wind, but it is the sun shining that makes the wind blow. And then there is true geothermal.

Now, that term is used in an interesting way in heat pumps. The ordinary heat pump is not very brightly, wisely conceived, because what it does in the winter time to warm you in the house, it tries to make the outside air even colder; and the summer time, to cool you in the house, it tries to make the outside air warmer.

If you are working not against the outside temperature, which can be zero in the winter time and 100 in the summer time, if you are working against the Earth or groundwater, obviously you are working against something which is a whole lot warmer in the winter and a whole lot cooler in the summer.

And they sometimes call that geothermal. But real geothermal is when you are doing what Iceland does and that is tap the energy from the core of the Earth, which is molten iron, and some places it comes close enough to the surface, sometimes it actually boils the water, it, of course, comes out through a volcano, but some places you can drill down deep enough, if you tap that heat, that is a very large molten core.

So that is an energy source that we have some places in the West we can tap that, which would be an important source of energy, but only in certain places. And then there is ocean energy. Two kinds of energy in the ocean. One is the waves, and of course we have waves in the ocean because the wind blows, and the wind blows because of the sun, and we come back again to the sun as the source of energy.

The other source of energy from the ocean are the tides. And this is about one of the few energy sources that does not come from the sun, and that of course comes from the Moon, because as the Moon goes around the Earth, it has the gravitational pull, and it is pulling the water up about 2 feet. How much energy would it take to raise the whole ocean 2 feet?

There is a whole lot of energy there if we could tap it. And we have tried, but that is very difficult, because there is an old axiom that says that energy, to be effective, must be concentrated. And these tides are spread out over far too great a distance, and they are difficult to tap.

But as energy becomes more and more critical, we should become more and more creative in how we approach tapping that energy source, because there is a lot of potential energy there that could be made available.

And the next point here is agricultural resources. This is one I really am very enthusiastic about. A few cautions, however. Our agriculture in this country is in trouble economically. And there are lots of potential sources of energy from agriculture. The soy diesel and biodiesel are an obvious energy source, and there are now engines today that will run on soy diesel, soybean oil, indeed, as well as on diesel fuel.

So this is a potential source of energy, ethanol, which everybody has heard about. And I would like to digress for just a moment and come back to this chart. I have another chart here that looks at ethanol. This points out some very interesting challenges that we have.

On the right here, it shows how you go from petroleum, that is crude oil, how you go from crude oil to gasoline. And it shows all of the energy inputs at every step from recovering it, to transporting it, to refining it, to hauling it to the gas station.

And to get 1 million Btus out of it, you had to consume 1.23 million Btus of fossil energy. So it cost you about 25 percent of the energy to produce the energy. On the other side here, we look at ethanol. And, of course, we start out with energy from the sun, and corn, and this is the energy input of the fertilizers and so forth to plant the corn and transport the corn and make the ethanol and transport the ethanol.

And for the same one million, it will be more volume, by the way. Do you remember the energy density? Lower for ethanol, more volume, but the same. We are comparing apples to apples, because it is a million Btus. To get a million Btus of ethanol, we had to use .74 million Btus of fossil fuel, still a net gain but not a really big net gain. But still worth doing.

The bottom here shows something really interesting. It shows the energy which is used to produce a bushel of corn. And I want to note how much of this energy comes from fossil fuel. Nitrogen. All of that comes from fossil fuel. All of the nitrogen fertilizers we have today are made from natural gas.

Until we learned how to do that, the only source of fertilizers was barnyard manures and guano. Guano is the droppings of birds and bats over thousands of years accumulating in caves and on tropical islands. There was an industry, before we learned how to make nitrogen fertilizer from natural gas, there was an industry that mined guano. That is gone now; that is not a resource we can fall back on.

By the way, Mr. Speaker, I do not know whether you have noticed or not in the summer time when you water your lawn, it is nowhere near as green as when you have a thunderstorm. You may have wondered why. We used to call a thunderstorm poor man's fertilizer, because what the lightning does in the thunderstorm is to combine nitrogen of the air, and about four-fifths of all of the air is nitrogen, combines it in a form that can be carried down by the rain, into the soil so your lawn does look greener after nature waters it, as compared to you watering it, and that is because of the nitrogen which has been converted to a form by the lightning, which can be carried down by the water.

What will we do for nitrogen when natural gas is gone? Now we can produce it with other energy sources. But we are looking at enormous investments of energy. Because, look, nearly half of all of the energy that went into producing that bushel of corn is just the natural gas and the nitrogen fertilizer.

But let us go on. Here is the seed. Some energy went into growing that. Input hauling, that is fossil fuels. Purchased water. That was probably pumped using some fossil fuels. Chemicals, a whole bunch of those chemicals are made from fossil fuels, which, by the way, we have not mentioned the importance of oil and gas as feed stocks for an enormous petrochemical industry.

Some have very appropriately noted that gas, particularly, and oil are too good to burn. We live in a plastic world; that all comes from gas and oil.

And so many of these chemicals came from oil. For custom work, he came in to harvest on the combine. He used oil to drive his combine, oil helped produce the combine. Natural gas, electricity that could have been produced by these fossil fuels, oil or gas or coal. Here is liquid gas here, and gasoline and diesel fuel.

And then we come to the other two nutrients that we give corn in large quantities, that will put some lime on it to make sure that the Ph is okay. And then phosphate and potash. Now, we use fossil fuels in mining and hauling the phosphate and potash.

So you see, Mr. Speaker, that probably 95 percent, at least, of all of the energy that goes into producing corn comes from fossil fuels. The corn that we eat is in a very literal sense oil. Because if it were not for oil, unless we were producing corn in a very different way than we do today, we would not have corn to eat.

Let us go back to our selection of the options. And we were talking about ethanol, and methanol is similar. You get ethanol from the carbohydrates in plants and corn. You get methanol from sawdust and things like that. This is a one-carbon alcohol, this is a two-carbon alcohol. And then biomass. Biomass is just using corn stocks or switchgrass or trees or something like that to produce energy.

By the way, we still produce a lot of energy with wood. It is generally in industries where wood waste is a byproduct. If you have a lot of sawdust, you burn the sawdust, and that produces energy. That is why the energy on one of those first charts I showed getting from wood is not zero now, because we are still using a fair amount of energy in some industries from wood because it is a waste product otherwise.

And then, of course, waste to energy. I mentioned that previously. We were looking at that as one of the lowest, that was the lowest on that chart, in fact, energy density. But, never mind. There is a whole lot of it. We still could get some meaningful energy out of it.

And then the last one here: hydrogen from renewables. And hydrogen bears spending just a moment talking about it, because hydrogen, contrary to what many people believe, is not an energy source. Hydrogen is, in effect, Mr. Speaker, pretty much the equivalent of a battery. A battery is a handy way to take electrons, electricity, and store them, and then get them back at another time at another place where you want to use it.

That is pretty much exactly what hydrogen is. There is no hydrogen out there that you can suck out of the air, or you can pump out of the ground. The way you get hydrogen is to invest energy to get it from natural gas, or to split water. Water is made up of two parts of hydrogen and one part of oxygen.

So you can get a lot of hydrogen from water. But you will always spend more energy making the hydrogen than you will ever get out of the hydrogen. Well, you say, gee, why are people talking about a hydrogen economy? And why is that a good idea if it will take more energy to produce the hydrogen than you will get out of the hydrogen?

It really is a good idea. And the reason it is a good idea is because once you have got the hydrogen, and you can produce it from like nuclear, coal, biomass, you cannot have a trunkful of garbage and run your car down, but you could produce electricity, and with electricity you could produce hydrogen, and then your car will run very well on that.

□ 2245

When you are using the hydrogen, if you are burning it, it does not matter how you burn it, if you use it in a fuel cell or reciprocating engine, the fuel cell is much better because it has twice the efficiency. You just get water. So the only pollution you have to worry about is the pollution at the site where you made the hydrogen. And the economies of scale make it a whole lot easier to control the pollution there than it does in a million cars running up and down the road. I am very supportive of the hydrogen economy.

I really need to emphasize again, Mr. Speaker, this is not a solution to our energy problem, Mr. Speaker. It will not replace oil. Hydrogen is simply the equivalent of a battery. It is a handy way to take energy from one place, to store it, to take it to another place where you can use it in a very handy form, that you can use it in a nuclear cell and get at least the twice the efficiency of a reciprocating engine, that is the kind of engine you have in your car or truck, and that produces only water as a by-product which is not polluting.

The next chart we will show you shows some of the characteristics that you will have to look for in substitutes for oil as we run down the other side of Hubbert's Peak. Here on the ordinate we look at energy profit ratios. What that is is how much energy you have to put in to get energy out. If you are putting in one unit of energy and getting one unit of energy out, you do less than that in producing hydrogen. You put one more than one unit to get one unit out, but never mind. It is still a good idea because hydrogen burns so cleanly and is used so efficiently in a fuel cell.

The abscissa shows the economic effectiveness, how easy is it to transport it and use it. So where you want to be is right in the upper right-hand corner and most giant oil fields are up there all alone. That is gas and oil of course. There is not anything out there that competes with these.

Let us look at the alternatives that we have been talking about. Here is the 1970s direct use of coal. It was sort of good on the energy profit ratio but, boy, was it inconvenient to use. It is way over here on the left. Trains used it directly. You had the coal car and you shoveled it into the train and produced heat and steam and you ran the train with that.

Here is photovoltaics. In 1995 they were not very good. Photovoltaics is another name for solar cells. But we are now getting very much better with them. We are probably even better than this chart shows that we are moving up here. But they will never move to the right because they are stuck on the roof of your house or something like that. So you have to use the energy from them if you want to go someplace like to charge a battery or make hydrogen so you can put that in your car and go with that.

Electricity is produced from hydro plants, from coal fire plants, from nuclear plants; and notice that it is down here very close to the abscissas and it cannot much move from there. And notice that the energy profit ratio is not very high. Never matter, because electricity is so convenient. We do so many things with it, that it really does not matter that it is not produced very efficiently. And of course you cannot transport it very well so it is stuck somewhere down here on the abscissa and it never goes very high on the ordinate.

Look down here, in the worst possible place to be in terms of energy-profit ratio and that is tar sands and ethanol. Of course, the worst place to be is here by zero. It has no energy-profit ratio and you cannot do anything with it. Once you get the oil out of the tar sands and once you get the ethanol, then it is very convenient. But notice how far it is down here in terms of energy-profit ratio. We are putting almost as much energy in as we are getting out of it.

Here is U.S. oil in the 1970s. It was up here, very convenient to use. But it is way down in energy profit ratio because we pumped our good oil a long time before 1970, our easy to get oil. We peaked in 1970 as you know. This is the oil use in 1985. It is sliding down. We are now in 2005. 20 years later. Look what it did in these 15 years. For our oil we are down somewhere near zero here. We are putting in almost as much energy as we are getting out. But never mind because the energy we are putting in is more convenient to get, like electrical energy.

I mentioned previously that some of our stripper wells, we are putting in more Btus of electrical energy than the Btus we will get out of the oil. But we are still doing it because oil is a commodity that is just so useful in our society.

The next chart shows us the transition that we need to go through if we are going to be successful in going from our enormous dependence on fossil fuels, particularly oil, and gas, if we are going to transition to these renewables. The first thing we have to do is voluntary conservation.

We have a chart if we can find it of the situation in California. It shows what the Californians did voluntarily. As you can see from this chart, this graph, the average citizen in California uses only about 60 percent of the energy that used in the rest of the country. Now, I know a lot of Californians. They are the biggest delegation here, and none of them believe that they have a lesser quality of life in California than we have in Mississippi or Oregon or Maryland, and they have done that through, much of it voluntary. Not all of it voluntary.

Let us go back to the other chart to show the route California has been following to get where they are. The next is organized voluntary conservation. By the way, there were no rolling blackouts in California because they voluntarily reduced their consumption of electricity by 11 percent which avoided the rolling blackouts that we were sure they were going to have. Now we have organized voluntary conservation. Let us work together. Let us share our experiences.

Monetary incentives, something where government can gets involved. Policies for voluntary conservation.

Efficient technology retrofits. How can we live as well as we are living now using much less energy? We were a very creative people. We really can do this.

Finally, monetary incentives that will increase our efficiency.

The last chart we are going to show here kind of capitulates this and looks at where we are and what we need to be doing. What we clearly need to do is buy time. Remember that earlier chart we are showed, Hubbert's Peak and the 2 percent exponential increase in use of energy? We have got to buy some time or we will be sliding down the other side of Hubbert's Peak, and you buy time by conservation and efficiency.

Conservation you can do very quickly. Turn down the thermostat. Turn out the light when you are not using it. Drive less in your car. Car pool. There are a lot of things we can do for efficiency.

We can buy time by using new technologies. Conservation and efficiency of course go hand in hand. Conservation you can do more quickly. Efficiency you have to develop the technologies to be more efficient. We have done that by the way. Our refrigerators today probably use half the electricity they did a couple of decades ago.

Then we need to use this time wisely. Once we bought some time we need to use wisely.

Now we are about out of time in our special order this evening, and I would like to talk a little bit at another time about Jevons' Paradox and how if the whole world does not do this, Jevons' Paradox which says the harder you work on some problems the worse they get.

Jevons' Paradox could be a real problem here. The whole world really needs to work together here. Suppose we really do heave to and conserve and become more efficient and save a lot of oil and all that happens is that makes it more available to China to grow their economy and grow their military? That is an application of Jevons' Paradox. We are working real hard to solve the problem. And from our personal perspective and national security perspective in this country, we have just made the problem worse because we have made more oil and gas available for China.

But we are all in this boat together and the whole world needs to work together. Let us assume we do. Then we need to use it wisely and we need to make the investments in these alternatives that we should have been making. We have known for at least 25 years that peak oil was coming. If Hubbert was right about the United States, Mr. Speaker, then why was he not right about the world and why did we waste the last 25 years and paid no attention to the obvious necessity of freeing ourselves from this dependence on fossil fuels. For oil, much of that comes, two-thirds of it we import, much of that as the President says from countries that do not even like us.

The benefits of this, additional benefits include business opportunities. We are a very creative culture. We have lots of opportunities to make contributions here. Potential worldwide markets, if we are going to pioneer domestic job creation, environmentally benign technologies that are not producing greenhouse gases.

We need to be a role model. Like it or not we are a leader in the world. We use a fourth of the world's oil, a fourth of the world's energy, we are a fourth of the world's economy. We are a role model. We have got to be a role model.

Mr. Speaker, I hope we can be a good role model, inspiring the rest of the world to do what needs to be done to conserve, have more efficiency, to buy time, to invest that very wisely. This can create a whole new economy with all of the technologies that are necessary to transition to these renewables.

By the way, Mr. Speaker, we have to have some other way of measuring success other than how much energy you use, a bigger car, a more expensive vacation, an enormous house that you heat and cool. These are the signs of success and they all require more energy. We are going to have to have a different yard stick by which we measure success. We can do it. I am sure we can but will not do it unless we mobilize, unless we all understand that this is something that we need to work together to solve.

Mr. Speaker, I have confidence that America can rise to this challenge, but the real challenge now is for all of us to understand that if we do not do this we are going to face a very bleak future as was quoted from all of these experts that Matt Savinar quotes in his article.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON of Indiana (at the request of Ms. PELOSI) for today on account of an appointment in the district.

Mr. DAVIS of Illinois (at the request of Ms. PELOSI) for today on account of business in the district.

Ms. KILPATRICK of Michigan (at the request of Ms. PELOSI) for today and May 17.

Mr. LARSON of Connecticut (at the request of Ms. PELOSI) for today and the balance of the week on account of a family medical emergency.

Ms. MILLENDER-MCDONALD (at the request of Ms. PELOSI) for today.

Mr. POMEROY (at the request of Ms. PELOSI) for today on account of official business.

Ms. WASSERMAN SCHULTZ (at the request of Ms. PELOSI) for today.

Ms. WATERS (at the request of Ms. PELOSI) for today on account of personal business.

Mr. KANJORSKI (at the request of Ms. PELOSI) for today and before 1:00 p.m. May 17 on account of official business in the district.

Mr. BARRETT of South Carolina (at the request of Mr. DELAY) for today on account of family reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. HERSETH, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

(The following Members (at the request of Mr. GUTKNECHT) to revise and extend their remarks and include extraneous material:)

Mr. FRANKS of Arizona, for 5 minutes, today.

Mr. GUTKNECHT for 5 minutes, May 23.

Mr. BILIRAKIS, for 5 minutes, May 19.

Mr. GINGREY, for 5 minutes, today.

Mr. POE, for 5 minutes, May 19.

ADJOURNMENT

Mr. BARTLETT of Maryland. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 58 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, May 17, 2005, at 9 a.m., for morning hour debates.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the first quarter of 2004 and the first quarter of 2005, pursuant to Public Law 95–384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. BRYAN DAVIS AND HON. DONALD A. MANZULLO, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 22 AND OCT. 25, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Bryan Davis	10/22	10/25	Italy			(3)					
Hon. Donald Manzullo	10/22	10/25	Italy	1,073.00						1,073.00	6,696.61
Committee total											6,696.61

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Returned 30 E.

DONALD A. MANZULLO, Chairman, May 4, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. JASON FENTON, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 21 AND MAR. 1, 2005

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Jason Fenton	2/21	3/1	China		894.00		5,889.02				6,783.02
Committee total					894.00		5,889.02				6,783.02

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JASON FENTON, Apr. 4, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. JACQUELINE MORAN, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 19 AND FEB. 25, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Jacqueline Moran	2/19	2/22	New Dehli				85.00		160.00		1,180.00
	2/23	2/25	Bangolore				92.00		400.00		1,626.00
Committee total						177.00		560.00	21,921.00	·2,806.00	

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JACQUELINE MORAN, Mar. 25, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, REV. DANIEL COUGHLIN, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 18 AND MAR. 23, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Rev. Daniel Coughlin	3/18	3/20	Mexico		576.00						576.00
	3/20	3/23	Panama		708.00						708.00
Committee total					1,284.00						1,284.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DANIEL COUGHLIN, Apr. 14, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. JANICE McKINNEY AND MS. VANESSA GRIDDINE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 23 AND APR. 2, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Janice McKinney	3/23	3/25	Egypt		578.00	(3)					578.00
Vanessa Griddine	3/23	3/25	Egypt		578.00	(3)					578.00
Janice McKinney	3/25	3/27	Jordan		508.00	(3)					508.00
Vanessa Griddine	3/25	3/27	Jordan		508.00	(3)					508.00
Janice McKinney	3/27	3/29	Israel		724.00	(3)					724.00
Vanessa Griddine	3/27	3/29	Israel		724.00	(3)					724.00
Janice McKinney	3/29	3/31	Cyprus		780.58	(3)					780.58
Vanessa Griddine	3/29	3/31	Cyprus		780.58	(3)					780.58
Janice McKinney	3/31	4/02	Belgium		790.00	(3)					790.00
Vanessa Griddine	3/31	4/02	Belgium		790.00	(3)					790.00
Committee total					6,761.16						6,761.16

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

JANICE McKINNEY, Apr. 8, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. SCOTT PALMER, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 30 AND APR. 5, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Scott Palmer	3/30	4/01	France		1,052.64		(3)				1,052.64
	4/01	4/05	Netherlands		2,125.02		(3)				2,125.02
Committee total					3,177.66						3,177.66

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

J. DENNIS HASTERT, Chairman, Apr. 22, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Janice Helwig		1/10	United States				4,804.00				4,804.00
	1/11	1/24	Austria		4,172.00						4,172.00
		2/09	United States				4,803.00				4,803.00
	2/10	3/25	Austria		13,112.00						13,112.00
Committee total					17,284.00		9,607.00				26,891.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHRIS SMITH, Chairman, May 10, 2005.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE NATO PARLIAMENTARY ASSEMBLY MEETING IN BRUSSELS, BELGIUM; AND NATO PARLIAMENTARY ASSEMBLY MEETING WITH ORGANIZATION FOR ECONOMIC AND CULTURAL DEVELOPMENT IN PARIS, FRANCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 18 AND FEB. 23, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Michael Bilirakis	2/18	2/20	Belgium		1,185.00		(3)				
	2/21	2/23	France		1,386.00		(3)				2,571.00
Hon. John Boozman	2/18	2/20	Belgium		1,185.00		(3)				
	2/21	2/23	France		1,386.00		(3)				2,571.00
Hon. Randy Forbes	2/18	2/20	Belgium		1,185.00		(3)				
	2/21	2/23	France		1,386.00		(3)				2,571.00
Hon. Paul Gillmor	2/20	2/23	France		1,716.00		(3) 2,956.10				4,672.10
Hon. Joel Hefley	2/18	2/20	Belgium		1,185.00		(3)				
	2/21	2/23	France		1,386.00		(3)				2,571.00
Hon. Dennis Moore	2/18	2/20	Belgium		1,185.00		(3)				
	2/21	2/23	France		1,386.00		(3)				2,571.00
Hon. Thomas Petri	2/23	2/23	France		162.00		(3)				162.00
Hon. John Tanner	2/18	2/20	Belgium		1,185.00		(3)				
	2/21	2/23	France		1,386.00		(3)				2,571.00
Hon. Ellen Tauscher	2/18	2/20	Belgium		1,185.00		(3)				
	2/21	2/23	France		1,386.00		(3)				2,571.00
Kathy Becker	2/18	2/20	Belgium		1,185.00		(3)				
	2/21	2/23	France		1,386.00		(3)				2,571.00
Candace Bryan Abbey	2/18	2/20	Belgium		1,185.00		(3)				
	2/21	2/23	France		1,386.00		(3)				2,571.00
Beverly Hallock	2/18	2/20	Belgium		1,185.00		(3)				
	2/21	2/23	France		1,386.00		(3)				2,571.00
Kay King	2/18	2/20	Belgium		1,185.00		(3)				
	2/21	2/23	France		1,386.00		(3)				2,571.00
Susan Olson	2/18	2/20	Belgium		1,185.00		(3)				
	2/21	2/23	France		1,386.00		(3)				2,571.00
Patrick Prisco	2/18	2/20	Belgium		1,185.00		(3)				
	2/21	2/22	France		924.00		(3)				2,109.00
Mark Wellman	2/18	2/20	Belgium		1,185.00		(3)				
	2/21	2/23	France		1,386.00		(3)				2,571.00
Delegation Expenses:											
Representational Functions									5,310.06		5,310.06
Miscellaneous									815.68		815.68
Committee total					37,410.00		2,956.10		6,125.74		46,491.84

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

JOEL HEFLEY, Chairman, Apr. 18, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO ITALY, JORDAN, AND IRELAND, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 5 AND JAN. 11, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Kay Granger	1/6	1/7	Italy		218.00		(3)				
	1/7	1/10	Jordan		762.00		(3)				
	1/10	1/11	Ireland		343.00		(3)				1,323.00
Hon. Ellen Tauscher	1/6	1/7	Italy		218.00		(3)				
	1/7	1/10	Jordan		762.00		(3)				
	1/10	1/11	Ireland		343.00		(3)				1,323.00
Hon. Judy Biggert	1/6	1/7	Italy		218.00		(3)				
	1/7	1/10	Jordan		762.00		(3)				
	1/10	1/11	Ireland		343.00		(3)				1,323.00
Hon. John Shimkus	1/6	1/7	Italy		218.00		(3)				
	1/7	1/11	Jordan		762.00		(3)				
	1/10	1/11	Ireland		343.00		(3)				1,323.00
Mr. Darin Gardner	1/6	1/7	Italy		218.00		(3)				
	1/7	1/10	Jordan		762.00		(3)				
	1/10	1/11	Ireland		343.00		(3)				1,323.00
Mr. Simon Limage	1/6	1/7	Italy		218.00		(3)				
	1/7	1/10	Jordan		762.00		(3)				
	1/10	1/11	Ireland		343.00		(3)				1,323.00
Committee total					7,938.00						7,938.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

KAY GRANGER, Chairman, Mar. 31, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO EGYPT, LEBANON, ISRAEL, JORDAN, AND IRAQ, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 18 AND MAR. 25, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Rep. Nancy Pelosi	3/19	3/20	Egypt		289.00		(3)				289.00
	3/20	3/20	Lebanon				(3)				
	3/20	3/23	Israel		1,086.00		(3)				1,086.00
	3/23	3/24	Jordan		254.00		(3)				254.00
	3/24	3/24	Iraq				(3)				
Rep. Henry Waxman	3/19	3/20	Egypt		289.00		(3)				289.00
	3/20	3/20	Lebanon				(3)				
	3/20	3/23	Israel		1,086.00		(3)				1,086.00
	3/23	3/24	Jordan		254.00		(3)				254.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO EGYPT, LEBANON, ISRAEL, JORDAN, AND IRAQ, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 18 AND MAR. 25, 2005—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	3/24	3/24	Iraq				(3)				
Rep. George Miller	3/19	3/20	Egypt		289.00		(3)				289.00
	3/20	3/20	Lebanon				(3)				
	3/20	3/23	Israel		1,086.00		(3)				1,086.00
	3/23	3/24	Jordan		254.00		(3)				254.00
	3/24	3/24	Iraq				(3)				
Rep. Edward Markey	3/19	3/20	Egypt		289.00		(3)				289.00
	3/20	3/20	Lebanon				(3)				
	3/20	3/23	Israel		1,086.00		(3)				1,086.00
	3/23	3/24	Jordan		254.00		(3)				254.00
	3/24	3/24	Iraq				(3)				
Rep. Anna Eshoo	3/19	3/20	Egypt		289.00		(3)				289.00
	3/20	3/20	Lebanon				(3)				
	3/20	3/23	Israel		1,086.00		(3)				1,086.00
	3/23	3/24	Jordan		254.00		(3)				254.00
	3/24	3/24	Iraq				(3)				
Rep. James McGovern	3/19	3/20	Egypt		289.00		(3)				289.00
	3/20	3/20	Lebanon				(3)				
	3/20	3/23	Israel		1,086.00		(3)				1,086.00
	3/23	3/24	Jordan		254.00		(3)				254.00
	3/24	3/24	Iraq				(3)				
Rep. Linda Sánchez	3/19	3/20	Egypt		289.00		(3)				289.00
	3/20	3/20	Lebanon				(3)				
	3/20	3/23	Israel		1,086.00		(3)				1,086.00
	3/23	3/24	Jordan		254.00		(3)				254.00
	3/24	3/24	Iraq				(3)				
Rep. Darrell Issa	3/19	3/20	Egypt		289.00		(3)				289.00
	3/20	3/20	Lebanon				(3)				
	3/20	3/23	Israel		1,086.00		(3)				1,086.00
	3/23	3/24	Jordan		254.00		(3)				254.00
	3/24	3/24	Iraq				(3)				
Hon. Wilson Livingood	3/19	3/20	Egypt		289.00		(3)				289.00
	3/20	3/20	Lebanon				(3)				
	3/20	3/23	Israel		1,086.00		(3)				1,086.00
	3/23	3/24	Jordan		254.00		(3)				254.00
	3/24	3/24	Iraq				(3)				
Philip Schiliro	3/19	3/20	Egypt		289.00		(3)				289.00
	3/20	3/20	Lebanon				(3)				
	3/20	3/23	Israel		1,086.00		(3)				1,086.00
	3/23	3/24	Jordan		254.00		(3)				254.00
	3/24	3/24	Iraq				(3)				
Frederick Hill	3/19	3/20	Egypt		289.00		(3)				289.00
	3/20	3/20	Lebanon				(3)				
	3/20	3/23	Israel		1,086.00		(3)				1,086.00
	3/23	3/24	Jordan		254.00		(3)				254.00
	3/24	3/24	Iraq				(3)				
Jennifer Crider	3/19	3/20	Egypt		289.00		(3)				289.00
	3/20	3/20	Lebanon				(3)				
	3/20	3/23	Israel		1,086.00		(3)				1,086.00
	3/23	3/24	Jordan		254.00		(3)				254.00
	3/24	3/24	Iraq				(3)				
Deborah Spriggs	3/19	3/20	Egypt		289.00		(3)				289.00
	3/20	3/20	Lebanon				(3)				
	3/20	3/23	Israel		1,086.00		(3)				1,086.00
	3/23	3/24	Jordan		254.00		(3)				254.00
	3/24	3/24	Iraq				(3)				
Michael Sheehy	3/19	3/20	Egypt		289.00		(3)				289.00
	3/20	3/20	Lebanon				(3)				
	3/20	3/23	Israel		1,086.00		(3)				1,086.00
	3/23	3/24	Jordan		254.00		(3)				254.00
	3/24	3/24	Iraq				(3)				
Committee total											

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

NANCY PELOSI, Chairman, Apr. 18, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO GREECE, ALBANIA, AND ITALY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 29 AND APR. 2, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Deborah Pryce	3/29	3/30	Greece		380.45		(3)				380.45
Hon. Kay Granger	3/29	3/30	Greece		380.45		(3)				380.45
Hon. Thelma Drake	3/29	3/30	Greece		380.45		(3)				380.45
Lori Salley	3/29	3/30	Greece		380.45		(3)				380.45
Andrea Fantaros	3/29	3/30	Greece		380.45		(3)				380.45
Shiloh Roehl	3/29	3/30	Greece		380.45		(3)				380.45
Hon. Deborah Pryce	3/30	3/31	Albania		494.00		(3)				494.00
Hon. Kay Granger	3/30	3/31	Albania		494.00		(3)				494.00
Hon. Thelma Drake	3/30	3/31	Albania		494.00		(3)				494.00
Lori Salley	3/30	3/31	Albania		244.00		(3)				244.00
Andrea Tantavos	3/30	3/31	Albania		244.00		(3)				244.00
Shiloh Roehl	3/30	3/31	Albania		244.00		(3)				244.00
Hon. Deborah Pryce	3/31	4/2	Italy		1,020.00		(3)				1,020.00
Hon. Kay Granger	3/31	4/2	Italy		1,020.00		(3)				1,020.00
Hon. Thelma Drake	3/31	4/2	Italy		1,020.00		(3)				1,020.00
Lori Salley	3/31	4/2	Italy		1,020.00		(3)				1,020.00
Andrea Tantavos	3/31	4/2	Italy		1,020.00		(3)				1,020.00
Shiloh Roehl	3/31	4/2	Italy		1,020.00		(3)				1,020.00
Committee total					10,616.70						10,616.70

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

DEBORAH PRYCE, Chairman, Apr. 26, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE NATO PARLIAMENTARY ASSEMBLY STANDING COMMITTEE MEETING IN REYKJAVIK, ICELAND, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND APR. 4, 2005

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Joel Hefley	4/1	4/4	Iceland		1308.00		(3)				1,308.00
Hon. Ben Chandler	4/1	4/4	Iceland		1,308.00		(3)				1,308.00
Hon. John Tanner	4/1	4/4	Iceland		1,308.00		(3)				1,308.00
Susan Olson	4/1	4/4	Iceland		1,308.00		(3)				1,308.00
Delegation Expenses:											
Representational								1,657.61			
Miscellaneous								115.20			
Committee total					5,232.00			1,772.81			7,004.81

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

JOEL HEFLEY, Chairman, Apr. 26, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO ROME, ITALY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 7 AND APR. 8, 2005

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Tom DeLay	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Nancy Pelosi	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Steny H. Hoyer	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Rosa Delauro	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. David R. Obey	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Charles B. Rangel	4/7	4/8	Italy		1,058.15	(5)	(6) 4,285.07				5,434.22
Hon. Christopher H. Smith	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Marcy Kaptur	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Jerry F. Costello	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Christopher Cox	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Michael R. McNulty	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Ileana Ros-Lehtinen	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. John A. Boehner	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Anna G. Eshoo	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Tim Holden	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Peter T. King	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Bart Stupak	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Steve Chabot	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Phil English	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Mark Foley	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Gil Gutknecht	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Sheila Jackson-Lee	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Robert W. Ney	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Robert Aderholt	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Mark Green	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Hon. Mike Ferguson	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Scott Palmer	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Brett Shogren	4/7	4/8	Italy		1,058.15	(3)					1,058.15
John Russell	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Brendan Daly	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Adm. John Eisold	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Wilson Livingood	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Rev. Daniel P. Coughlin	4/7	4/8	Italy		1,058.15	(3)					1,058.15
Committee total					34,918.95		4,285.07				39,204.02

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[5] Military air transportation return only.
[6] Conair outbound.

J. DENNIS HASTERT, Chairman, Apr. 29, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO ROME, ITALY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 22 AND APR. 24, 2005

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Peter King	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. Donald M. Payne	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. Patrick J. Kennedy	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. Daniel Lungren	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. Kevin Brady	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. John Larson	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. Grace Napolitano	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. Paul Ryan	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. Melissa Hart	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. Mark Kennedy	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. James Langevin	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. Hilda Solis	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. John Sullivan	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. Diane Watson	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. Steve King	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. Thadderus McCotter	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. Linda Sanchez	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. Luis Fortuno	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. Daniel Lipinski	4/22	4/24	Italy		1,932.55	(3)					1,932.55

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO ROME, ITALY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 22 AND APR. 24, 2005—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Michael McCaul	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Hon. Charlie Melancon	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Scott Palmer	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Mike Stokke	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Dean Aguillen	4/22	4/24	Italy		1,932.55	(3)					1,932.55
David Lafferty	4/22	4/24	Italy		1,932.55	(3)					1,932.55
David Adams	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Wilson Livingood	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Rev. Daniel P. Coughlin	4/22	4/24	Italy		1,932.55	(3)					1,932.55
	4/22	4/24	Italy		1,932.55	(3)					1,932.55
Committee total					56,043.95						56,043.95

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

J. DENNIS HASTERT, Chairman, May 2, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2004

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
J. Matthew Szymanski	10/22	11/06	China				10,714.00		478.00		12,684.00
Rich Beutel	10/22	11/06	China				10,714.00		366.00		12,777.00
Sean Deverey	10/22	11/06	China				10,714.00		482.00		12,896.00
Tom Bezas	10/22	11/06	China				10,714.00		728.00		13,161.00
Hon. Ed Case	11/20	11/20	London				8,263.00		911.00		9,174.00
Military Air between Pakistan and Afghnistan.	11/21	11/22	Pakistan								
	11/22	11/22	Afghanistan								
	11/22	11/23	Pakistan								
	11/23	11/23	Afghanistan								
	11/23	11/24	Pakistan								
	11/24	11/24	London								
Bradley Knox	10/01	10/05	London		636.84				197.64		197.64
	10/05	10/08	Austria		1,019.18				(7)		1,019.18
	10/08	11/11	Czech Republic		1,765.00				(8) 605.00		605.00
Committee total											62,513.82

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation
[7] Returned $439.20.
[8] Returned $160.00.

DONALD A. MANZULLO, Chairman, Apr. 22, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005.

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Bob Goodlatte	2/18	2/22	United Kingdom		1,928		(3)				1,928
	2/22	2/22	France				(3)				
	2/22	2/24	Romani		552		(3)				552
	2/24	2/27	Greece		1,167		(3)				1,167
	2/27	2/28	Ireland		343		(3)				343
Hon. Tom Osborne	2/18	2/22	United Kindgom		1,928		(3)				1,928
	2/22	2/22	France				(3)				
	2/22	2/24	Romania		552		(3)				552
	2/24	2/27	Greece		1,167		(3)				1,167
	2/27	2/28	Ireland		343		(3)				343
Hon. Stephanie Herseth	2/18	2/22	United Kingdom		1,928		(3)				1,928
	2/22	2/22	France				(3)				
	2/22	2/24	Romania		552		(3)				552
	2/24	2/27	Greece		1,167		(3)				1,167
	2/27	2/28	Ireland		343		(3)				343
Hon. Gil Gutknecht	2/18	2/22	United Kingdom		1,928		(3)				1,928
	2/22	2/22	France				(3)				
	2/22	2/24	Romania		552		(3)				552
	2/24	2/27	Greece		1,167		(3)				1,167
	2/27	2/28	Ireland		343		(3)				343
Hon. Mike McIntyre	2/18	2/22	United Kingdom		1,928		(3)				1,928
	2/22	2/22	France				(3)				
	2/22	2/24	Romania		552		(3)				552
	2/24	2/27	Greece		1,167		(3)				1,167
	2/27	2/28	Ireland		343		(3)				343
Hon. Bob Etheridge	2/18	2/22	United Kingdom		1,928		(3)				1,928
	2/22	2/22	France				(3)				
	2/22	2/24	Romania		552		(3)				552
	2/24	2/27	Greece		1,167		(3)				1,167
	2/27	2/28	Ireland		343		(3)				343
Hon. Robin Hayes	2/18	2/22	United Kingddom		1,928		(3)				1,928
	2/22	2/22	France				(3)				
	2/22	2/24	Romania		552		(3)				552
	2/24	2/27	Greece		1,167		(3)				1,167
	2/27	2/28	Ireland				(3)				
Brent Gattis	2/18	2/22	United Kingdom		1,928		(3)				1,928
	2/22	2/22	France				(3)				
	2/22	2/24	Romania		552		(3)				552
	2/24	2/27	Greece		1,167		(3)				1,167

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005.—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	2/27	2/28	Ireland		343		(3)				343
Lynn Gallagher	2/18	2/22	United Kingdom		1.928		(3)				1,928
	2/22	2/22	France				(3)				
	2/22	2/24	Romania		552		(3)				552
	2/24	2/27	Greece		1.167		(3)				1,167
	2/27	2/28	Ireland		343		(3)				343
Alise Kowalski	2/18	2/22	United Kingdom		1.928		(3)				1928
	2/22	2/22	France				(3)				
	2/22	2/24	Romania		552		(3)				552
	2/24	2/27	Greece		1.167		(3)				1,167
	2/27	2/28	Ireland		343		(3)				343
Josh Maxwell	2/18	2/22	United Kingdom		1.928		(3)				1,928
	2/22	2/22	France				(3)				
	2/22	2/24	Romania		552		(3)				552
	2/24	2/27	Greece		1,167		(3)				1,167
	2/27	2/28	Ireland		343		(3)				343
Brandon Ritchie	2/18	2/22	United Kingdom		1.928		(3)				1,928
	2/22	2/22	France				(3)				
	2/22	2/24	Romania		552		(3)				552
	2/24	2/27	Greece		1,167		(3)				1,167
	2/27	2/28	Ireland		343		(3)				343
Hon. Collin Peterson	1/9	1/13	Honduras				(10)				
	1/13	1/16	Panama		708		2,695.45				3,403.45
	2/18	2/20	Japan		816		(3)				816
	2/20	2/22	China		626		(3)				626
	2/22	2/25	Thailand		696		(3)				696
	2/24	2/24	Sri Lanka				(3)				
	2/25	2/27	Hong Kong		822		(3)				822
	3/20	3/24	Spain		660		4,030.60				4,690.60
Committee total					51,865		6,726.05				58,591.05

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

[10] Commercial air transportation.

BOB GOODLATTE, Chairman, Apr. 28, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Jim Kolbe	1/07	1/15	New Zealand		(9) 1,686.00						1,686.00
	1/15	1/16	Thailand		(9) 232.00						232.00
	1/16	1/17	Indonesia		(9) 266.00						266.00
	1/17	1/18	Thailand		(9) 232.00						232.00
Misc. Transportation Costs							70.04				70.04
Commercial Airfare [9]							9,897.64				9,897.64
Hon. Mark Steven Kirk	1/10	1/12	Netherlands		658.00						658.00
	1/13	1/15	Pakistan								
	1/16	1/17	Afghanistan		90.00						90.00
	1/17	1/18	Pakistan		1,052.00						1,052.00
Commercial Airfare							8,651.88				8,651.88
James W. Dyer	12/30	12/31	Jordan		254.00						254.00
	12/31	1/01	Iraq		61.00						61.00
	1/01	1/02	Jordan		254.00						254.00
	1/02	1/03	Turkey		317.00						317.00
							(3)				
Hon. Frank Wolf	1/07	1/09	Kenya		590.00						590.00
Commercial Airfare							5,029.91				5,029.91
Dixon Butler	2/19	2/26	Russia		2,058.00						2,058.00
Commercial Airfare							2,914.58				2,914.58
Misc. Transportation Costs							144.58				144.58
Scott Burnison	2/19	2/26	Russia		2,058.00						2,058.00
Commercial Airfare							2,914.58				2,914.58
Misc. Transportation Costs							130.04				130.04
Hon. C.W. Bill Young	2/18	2/19	Luxembourg		741.60						741.60
	2/19	2/22	Italy		2,182.00						2,182.00
							(3)				
Hon. Rodney Frelinghuysen	2/18	2/19	Luxembourg		741.60						741.60
	2/19	2/22	Italy		2,182.00						2,182.00
							(3)				
Douglas Gregory	2/18	2/19	Luxembourg		741.60						741.60
	2/19	2/22	Italy		2,182.00						2,182.00
							(3)				
Robert Blair	2/20	2/22	Indonesia		550.00						550.00
	2/22	2/25	Sri Lanka		750.00						750.00
Commercial Airfare							11,462.00				11,462.00
Rodney Bent	2/20	2/22	Indonesia		550.00						550.00
	2/22	2/25	Sri Lanka		750.00						750.00
Commercial Airfare							11,462.00				11,462.00
Hon. Harold Rogers	3/19	3/23	Spain		1,778.00						1,788.00
	3/23	3/26	Greece		1,167.00						1,167.00
	3/26	3/30	Italy		2,084.00						2,084.00
	3/30	3/31	Ireland		486.00						486.00
							(3)				
Hon. Martin Sabo	3/19	3/23	Spain		1,788.00						1,788.00
	3/23	3/26	Greece		1,167.00						1,167.00
	3/26	3/30	Italy		2,084.00						2,084.00
	3/30	3/31	Ireland		486.00						486.00
							(3)				
Hon. Ed Pastor	3/19	3/23	Spain		1,788.00						1,788.00
	3/23	3/26	Greece		1,167.00						1,167.00
	3/26	3/30	Italy		2,084.00						2,084.00
	3/30	3/31	Ireland		486.00						486.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
							(3)				
Stephanie Gupta	3/19	3/23	Spain		1,788.00						1,788.00
	3/23	3/26	Greece		1,167.00						1,167.00
	3/26	3/30	Italy		2,084.00						2,084.00
Commercial Airfare							3,377.04				3,377.04
Beverly Pheto	3/19	3/23	Spain		437.00						437.00
	3/23	3/26	Greece		1,167.00						1,167.00
	3/26	3/30	Italy		2,084.00						2,084.00
Commercial Airfare							4,730.64				4,730.64
Scott Burnison	3/19	3/23	Spain		1,788.00						1,788.00
	3/23	3/26	Greece		1,167.00						1,167.00
	3/26	3/30	Italy		2,084.00						2,084.00
	3/30	3/31	Ireland		486.00						486.00
							(3)				
Carol Murphy	3/18	3/20	Kuwait		788.00						788.00
	3/20	3/21	Uzbekistan		123.00						123.00
	3/21	3/22	Afghanistan		65.00						65.00
Misc. Transportation Costs									55.00		55.00
Commercial Airfare							7,000.35				7,000.35
Tom Forhan	3/18	3/20	Kuwait		788.00						788.00
	3/20	3/21	Uzbekistan		123.00						123.00
	3/20	3/21	Afghanistan		65.00						65.00
Misc. Transportation Costs									125.00		125.00
Commercial Airfare							7,000.35				7,000.35
Committee total					53,957.80		74,785.63		180.00		128,923.43

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[9] Received only $2,400 per diem.

JERRY LEWIS, Chairman, Apr. 26, 2005.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, SURVEYS AND INVESTIGATIONS STAFF, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 22 AND OCT. 25, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]

HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☑

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JERRY LEWIS, Chairman, Apr. 29, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Visit to Hawaii, Wake Island, South Korea, China, Guam; January 6–16, 2005:											
Hon. J. Randy Forbes	1/6	1/7	Hawaii								
	1/8	1/8	Wake Island								
	1/8	1/11	South Korea		1,053.00						1,053.00
	1/11	1/15	China		1,236.00						1,236.00
	1/15	1/15	Guam								
	1/15	1/16	Hawaii								
Hon. Joe Wilson	1/6	1/7	Hawaii								
	1/8	1/8	Wake Island								
	1/8	1/11	South Korea		1,053.00						1,053.00
	1/11	1/15	China		1,236.00						1,236.00
	1/15	1/15	Guam								
	1/15	1/16	Hawaii								
Hon. Jeff Miller	1/6	1/7	Hawaii								
	1/8	1/8	Wake Island								
	1/8	1/11	South Korea		1,053.00						1,053.00
	1/11	1/15	China		1,236.00						1,236.00
	1/15	1/15	Guam								
	1/15	1/16	Hawaii								
Hon. Phil Gingrey	1/6	1/7	Hawaii								
	1/8	1/8	Wake Island								
	1/8	1/11	South Korea		1,053.00						1,053.00
	1/11	1/15	China		1,236.00						1,236.00
	1/15	1/15	Guam								
	1/15	1/16	Hawaii								
Hon. Ike Skelton	1/6	1/7	Hawaii								
	1/8	1/8	Wake Island								
	1/8	1/11	South Korea		1,053.00						1,053.00
	1/11	1/15	China		1,236.00						1,236.00
	1/15	1/15	Guam								
	1/15	1/16	Hawaii								
Hon. Niel Abercrombie	1/6	1/7	Hawaii								
	1/8	1/8	Wake Island								
	1/8	1/11	South Korea		1,053.00						1,053.00
	1/11	1/15	China		1,236.00						1,236.00
	1/15	1/15	Guam								
	1/15	1/16	Hawaii								
Hon. Rick Larsen	1/6	1/7	Hawaii								

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	1/8	1/8	Wake Island								
	1/8	1/11	South Korea		1,053.00						1,053.00
	1/11	1/15	China		1,236.00						1,236.00
	1/15	1/15	Guam								
	1/15	1/16	Hawaii								
Hon. Jim Cooper	1/6	1/7	Hawaii								
	1/8	1/8	Wake Island								
	1/8	1/11	South Korea		1,053.00						1,053.00
	1/11	1/15	China		1,236.00						1,236.00
	1/15	1/15	Guam								
	1/15	1/16	Hawaii								
Hon. Madeline Bordallo	1/6	1/7	Hawaii								
	1/8	1/8	Wake Island								
	1/8	1/11	South Korea		1,053.00						1,053.00
	1/11	1/15	China		1,236.00						1,236.00
	1/15	1/15	Guam								
	1/15	1/16	Hawaii								
Hon. John F. Sullivan	1/6	1/7	Hawaii								
	1/8	1/8	Wake Island								
	1/8	1/11	South Korea		1,053.00						1,053.00
	1/11	1/15	China		1,236.00						1,236.00
	1/15	1/15	Guam								
	1/15	1/16	Hawaii								
	1/15	1/15	Guam								
	1/15	1/16	Hawaii								
B. Ryan Vaart	1/6	1/7	Hawaii								
	1/8	1/8	Wake Island								
	1/8	1/11	South Korea		1,053.00						1,053.00
	1/11	1/15	China		1,236.00						1,236.00
	1/15	1/15	Guam								
	1/15	1/16	Hawaii								
Erin C. Conaton	1/6	1/7	Hawaii								
	1/8	1/8	Wake Island								
	1/8	1/11	South Korea		1,053.00						1,053.00
	1/11	1/15	China		1,236.00						1,236.00
	1/15	1/15	Guam								
	1/15	1/16	Hawaii								
Delegation Expenses	1/11	1/14	China				384.51		5,832.06		6,216.57
Visit to Israel with Codel Kyl, January 6–10, 2005:											
Hon. Adam Smith	1/6	1/10	Israel		1,356.00						1,356.00
Visit to Jordan with Codel Granger, January 6–10, 2005:											
Hon. Ellen O. Tauscher	1/7	1/10	Jordan		762.00						762.00
	1/10	1/11	Ireland		343.00						343.00
Visit to Italy, Uzbekistan, Afghanistan, Jordan, Iraq, Denmark, Ireland, January 7–14, 2005:											
Hon. Jim Saxton	1/7	1/8	Italy		264.00						264.00
	1/9	1/9	Uzbekistan								
	1/9	1/10	Afghanistan		90.00						90.00
	1/10	1/10	Uzbekistan								
	1/10	1/13	Jordan		762.00						762.00
	1/11	1/11	Iraq								
	1/12	1/12	Iraq								
	1/13	1/14	Denmark		346.00						346.00
	1/14	1/14	Ireland								
Hon. Frank LoBiondo	1/7	1/8	Italy		264.00						264.00
	1/9	1/9	Uzbekistan								
	1/9	1/10	Afghanistan		90.00						90.00
	1/10	1/10	Uzbekistan								
	1/10	1/13	Jordan		762.00						762.00
	1/11	1/11	Iraq								
	1/12	1/12	Iraq								
	1/13	1/14	Denmark		346.00						346.00
	1/14	1/14	Ireland								
Hon. Mike Turner	1/7	1/8	Italy		264.00						264.00
	1/9	1/9	Uzbekistan								
	1/9	1/10	Afghanistan		90.00						90.00
	1/10	1/10	Uzbekistan								
	1/10	1/13	Jordan		762.00						762.00
	1/11	1/11	Iraq								
	1/12	1/12	Iraq								
	1/13	1/14	Denmark		346.00						346.00
	1/14	1/14	Ireland								
Hon. Gene Taylor	1/7	1/8	Italy		264.00						264.00
	1/9	1/9	Uzbekistan								
	1/9	1/10	Afghanistan		90.00						90.00
	1/10	1/10	Uzbekistan								
	1/10	1/13	Jordan		762.00						762.00
	1/11	1/11	Iraq								
	1/12	1/12	Iraq								
	1/13	1/14	Denmark		346.00						346.00
	1/14	1/14	Ireland								
Hon. Marty Meehan	1/7	1/8	Italy		264.00						264.00
	1/9	1/9	Uzbekistan								
	1/9	1/10	Afghanistan		90.00						90.00
	1/10	1/10	Uzbekistan								
	1/10	1/13	Jordan		762.00						762.00
	1/11	1/11	Iraq								
	1/12	1/12	Iraq								
	1/13	1/14	Denmark		346.00						346.00
	1/14	1/14	Ireland								
Thomas H. Hawley	1/7	1/8	Italy		264.00						264.00
	1/9	1/9	Uzbekistan								
	1/9	1/10	Afghanistan		90.00						90.00
	1/10	1/10	Uzbekistan								
	1/10	1/13	Jordan		762.00						762.00
	1/11	1/11	Iraq								
	1/12	1/12	Iraq								
	1/13	1/14	Denmark		346.00						346.00
	1/14	1/14	Ireland								
William H. Natter	1/7	1/8	Italy		264.00						264.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	1/9	1/9	Uzbekistan								
	1/9	1/10	Afghanistan		90.00						90.00
	1/10	1/10	Uzbekistan								
	1/10	1/13	Jordan		762.00						762.00
	1/11	1/11	Iraq								
	1/12	1/12	Iraq								
	1/13	1/14	Denmark		346.00						346.00
	1/14	1/14	Ireland								
Delegation Expenses	1/10	1/12	Jordan				266.32		3,083.15		3,349.47
Visit to Russia, North Korea, South Korea, China, Hong Kong, Japan; January 8–19, 2005:											
Hon. Curt Weldon	1/10	1/11	Russia		266.00						266.00
	1/11	1/14	North Korea		950.00						950.00
	1/14	1/15	South Korea		351.00						351.00
	1/15	1/16	China		291.00						291.00
	1/16	1/17	Hong Kong		411.00						411.00
	1/17	1/18	Japan		408.00						408.00
Hon. Roscoe Bartlett	1/10	1/11	Russia		266.00						266.00
	1/11	1/14	North Korea		950.00						950.00
	1/14	1/15	South Korea		351.00						351.00
	1/15	1/16	China		291.00						291.00
	1/16	1/17	Hong Kong		411.00						411.00
	1/17	1/18	Japan		408.00						408.00
Hon. Solomon P. Ortiz	1/10	1/11	Russia		266.00						266.00
	1/11	1/14	North Korea		950.00						950.00
	1/14	1/15	South Korea		351.00						351.00
	1/15	1/16	China		291.00						291.00
	1/16	1/17	Hong Kong		411.00						411.00
	1/17	1/18	Japan		408.00						408.00
Hon. Silvestre Reyes	1/10	1/11	Russia		266.00						266.00
	1/11	1/14	North Korea		950.00						950.00
	1/14	1/15	South Korea		351.00						351.00
	1/15	1/16	China		291.00						291.00
	1/16	1/17	Hong Kong		411.00						411.00
	1/17	1/18	Japan		408.00						408.00
Douglas Roach	1/10	1/11	Russia		266.00						266.00
	1/11	1/14	North Korea		950.00						950.00
	1/14	1/15	South Korea		351.00						351.00
	1/15	1/16	China		291.00						291.00
	1/16	1/17	Hong Kong		411.00						411.00
	1/17	1/18	Japan		408.00						408.00
Henry J. Schweiter	1/10	1/11	Russia		266.00						266.00
	1/11	1/14	North Korea		950.00						950.00
	1/14	1/15	South Korea		351.00						351.00
	1/15	1/16	China		291.00						291.00
	1/16	1/17	Hong Kong		411.00						411.00
	1/17	1/18	Japan		408.00						408.00
Delegation Expenses	1/10	1/11	Russia				2,065.00		5,908.00		7,973.00
	1/15	1/16	China				9.80		1,117.38		1,127.18
	1/16	1/17	Hong Kong				505.04		2,384.38		2,889.42
Visit to Russia, Staffdel Rusten, January 10–15, 2005:											
William C. Ostendorff	1/10	1/15	Russia		1,786.00						1,786.00
Commercial transportation							5,839.70				5,839.70
Visit to Pakistan, Afghanistan, Jordan, Iraq, Germany, January 12–18, 2005:											
Hon. John Kline	1/12	1/14	Pakistan		263.00						263.00
	1/14	1/14	Afghanistan								
	1/14	1/17	Jordan		762.00						762.00
	1/15	1/15	Iraq								
	1/16	1/16	Iraq								
	1/17	1/18	Germany		264.00						264.00
Hon. Jim Marshall	1/12	1/14	Pakistan		263.00						263.00
	1/14	1/14	Afghanistan								
	1/14	1/17	Jordan		762.00						762.00
	1/15	1/15	Iraq								
	1/16	1/16	Iraq								
	1/17	1/18	Germany		264.00						264.00
Hon. Kendrick Meek	1/12	1/14	Pakistan		263.00						263.00
	1/14	1/14	Afghanistan								
	1/14	1/17	Jordan		762.00						762.00
	1/15	1/15	Iraq								
	1/16	1/16	Iraq								
	1/17	1/18	Germany		264.00						264.00
Jeffrey A. Green	1/12	1/14	Pakistan		263.00						263.00
	1/14	1/14	Afghanistan								
	1/14	1/17	Jordan		762.00						762.00
	1/15	1/15	Iraq								
	1/16	1/16	Iraq								
	1/17	1/18	Germany		264.00						264.00
Mark R. Lewis	1/12	1/14	Pakistan		263.00						263.00
	1/14	1/14	Afghanistan								
	1/14	1/17	Jordan		762.00						762.00
	1/15	1/15	Iraq								
	1/16	1/16	Iraq								
	1/17	1/18	Germany		264.00						264.00
Delegation Expenses	1/12	1/14	Pakistan				98.42		3,633.67		3,732.09
	1/14	1/17	Jordan				337.98		4,222.84		4,560.82
Visit to Poland with Codel McCotter, January 25–28, 2005:											
Hon. Steve Israel	1/25	1/28	Poland		502.00						502.00
Commercial transportation							5,868.66				5,868.66
Visit to Germany and Ukraine with Codel McCain, February 11–13, 2005:											
Hon. Joe Schwarz	2/11	2/13	Germany		884.28						884.28
	2/11	2/11	Ukraine								
Hon. Ellen O. Tauscher	2/11	2/13	Germany		884.28						884.28
	2/11	2/11	Ukraine								
Hon. Mark Udall	2/11	2/13	Germany		884.28						884.28
	2/11	2/11	Ukraine								

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Visit to Japan, China, Thailand, Sri Lanka, Hong Kong, with Codel Duncan, February 17–27, 2005:											
Hon. Solomon P. Ortiz	2/18	2/20	Japan		816.00						816.00
	2/20	2/22	China		626.00						626.00
	2/22	2/25	Thailand		696.00						696.00
	2/24	2/24	Sri Lanka								
	2/25	2/27	Hong Kong		822.00						822.00
Visit to Hong Kong, Vietnam, Laos, Thailand, February 18–28, 2005:											
Hon. John McHugh	2/20	2/22	Hong Kong		822.00						822.00
	2/22	2/24	Vietnam		452.00						452.00
	2/23	2/23	Laos								
	2/24	2/25	Thailand		294.50						294.50
Commercial transportation							8,490.53				8,490.53
Hon. Ken Calvert	2/20	2/22	Hong Kong		822.00						822.00
	2/22	2/24	Vietnam		452.00						452.00
	2/23	2/23	Laos								
	2/24	2/25	Thailand		294.50						294.50
Commercial transportation							8,490.53				8,490.53
Hon. Jim Marshall	2/20	2/22	Hong Kong		822.00						822.00
	2/22	2/24	Vietnam		452.00						452.00
	2/23	2/23	Laos								
	2/24	2/25	Thailand		287.00						287.00
Commercial transportation							8,490.53				8,490.53
John Chapla	2/20	2/22	Hong Kong		822.00						822.00
	2/22	2/24	Vietnam		452.00						452.00
	2/23	2/23	Laos								
	2/24	2/25	Thailand		294.50						294.50
Commercial transportation							8,490.53				8,490.53
Delegation Expenses	2/20	2/22	Hong Kong				50.83		2,385.42		2,436.25
	2/22	2/24	Vietnam				37.75		1,139.29		1,177.04
	2/24	2/25	Thailand				22.08		1,376.53		1,398.61
Visit to Puerto Rico, Panama, Honduras, February 18–25, 2005:											
Hon. Gene Taylor	2/18	2/20	Puerto Rico								
	2/20	2/22	Panama		472.00						472.00
	2/22	2/24	Honduras		446.00						446.00
Commercial transportation							1,249.79				1,249.79
Henry J. Schweiter	2/18	2/20	Puerto Rico								
	2/20	2/22	Panama		472.00						472.00
	2/22	2/24	Honduras		446.00						446.00
Commercial transportation							1,249.79				1,249.79
Delegation Expenses	2/20	2/22	Panama				1,304.00		974.88		2,278.88
Visit to Jordan, Iraq, Germany with Codel Cole, March 3–8, 2005:											
Hon. Daniel Boren	3/4	3/6	Jordan		712.00						712.00
	3/5	3/5	Iraq								
	3/6	3/6	Iraq								
	3/7	3/8	Germany		214.00						214.00
Commercial transportation							879.20				879.20
Visit to Alaska, Japan, Guam, Hawaii with Codel Issa, March 10–15, 2005:											
Hon. Madeleine Bordallo	3/10	3/11	Alaska								
	3/11	3/12	Japan (Iwo Jima)								
	3/12	3/14	Guam								
	3/14	3/15	Hawaii								
Visit to the United Kingdom, France, Italy, and Spain with Codel LaTourette, March 18–26, 2005:											
Hon. Tim Ryan	3/19	3/21	United Kingdom		992.00						992.00
	3/21	3/23	France		900.00						900.00
	3/23	3/25	Italy		1,106.00						1,106.00
	3/25	3/26	Spain		477.00						477.00
Commercial transportation							4,601.60				4,601.60
Visit to Mexico and Panama with Codel Hyde, March 18–23, 2005:											
Hon. Loretta Sanchez	3/18	3/20	Mexico		576.00						576.00
	3/20	3/23	Panama		708.00						708.00
Committee total					84,358.34		58,732.59		32,057.60		175,148.53

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DUNCAN HUNTER, Chairman, Apr. 29, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BUDGET, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Rob Portman	2/26	2/27	Kuwait, Iraq, Jordan		788.00		3,518.74				
	2/27	2/28	Germany		122.00		(3)				
Committee total					910.00		3,518,74				4,428.74

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

JIM NUSSLE, Chairman, Apr. 29, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Fred Upton	1/10	1/11	Russia		266.00						266.00
	1/11	1/14	North Korea		950.00						950.00
	1/14	1/15	South Korea		351.00						351.00
	1/15	1/16	China, People's Rep		291.00						291.00
	1/16	1/17	Hong Kong		411.00						411.00
	1/17	1/18	Japan		408.00						408.00
Hon. Darrell Issa	1/13	1/13	Thailand		236.00		1,959.55				2,195.55
Hon. Frank Pallone, Jr.	1/9	1/10	Sri Lanka		231.99		8,804.51				9,036.50
	1/10	1/12	India		412.00						412.00
	1/12	1/13	Indonesia		295.00						295.00
Hon. Mike Ferguson	1/6	1/9	Indonesia		121.00		10,310.20				10,431.20
	1/9	1/12	Sri Lanka		412.00						412.00
David Cavicke	2/21	2/25	Brazil		706.60		5,998.00				6,704.60
W. Christopher Leahy	2/21	2/25	Brazil		706.60		5,998.00				6,704.60
Hon. Rick Boucher	2/18	2/22	United Kingdom		1,928.00						1,928.00
	2/22	2/22	France		0.00						0.00
	2/22	2/24	Romania		552.00						552.00
	2/24	2/27	Greece		1,167.00						1,167.00
	2/27	2/28	Ireland		343.00						343.00
Hon. Barbara Curin	3/19	3/23	Spain		1,788.00						1,788.00
	3/23	3/26	Greece		1,167.00						1,167.00
	3/26	3/30	Italy		2,084.00						2,084.00
	3/30	3/31	Ireland		486.00						486.00
Hon. Cliff Stearns	3/19	3/23	Spain		1,788.00						1,778.00
	3/23	3/26	Greece		1,167.00						1,167.00
	3/26	3/30	Italy		2,084.00						2,084.00
	3/30	3/31	Ireland		486.00						486.00
Andrew Snowdon	3/28	3/30	England		830.00		828.87		283.36		1,942.23
Thomas Freddo	3/28	3/30	England		830.00		828.87				1,658.87
Hon. Marsha Blackburn	3/23	3/24	Germany		497.00						497.00
	3/24	3/27	Israel		724.00						724.00
	3/27	3/28	Jordan		254.00						254.00
	3/28	3/28	Iraq								
	3/28	3/29	Spain		188.00						188.00
Committee total					24,161.19		34,728.00		283.36		59,172.55

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOE BARTON, Chairman, May 5, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FINANCIAL SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Peggy Peterson	2/20	2/22	United Kingdom		964.00						964.00
	2/22	2/24	France		924.00						924.00
	2/24	2/26	Belgium		790.00		6,667.76				7,457.76
Carter McDowell	2/20	2/22	United Kingdom		964.00						964.00
	2/22	2/24	France		924.00						924.00
	2/24	2/26	Belgium		790.00		6,667.76				7,457.76
Barbara Matthews	2/20	2/22	United Kingdom		964.00						964.00
	2/22	2/24	France		924.00						924.00
	2/24	2/26	Belgium		790.00		6,667.76				7,457.76
Justin Daly	2/20	2/22	United Kingdom		964.00						964.00
	2/22	2/24	France		924.00						924.00
	2/24	2/26	Belgium		790.00		6,627.05				7,417.05
Michael McEleney	2/20	2/22	United Kingdom		964.00						964.00
	2/22	2/24	France		924.00						924.00
	2/24	2/26	Belgium		790.00		6,627.05				7,417.05
Jonathan Blackmer	2/20	2/22	United Kingdom		964.00						964.00
	2/22	2/24	France		924.00						924.00
	2/24	2/26	Belgium		790.00		6,276.76				7,066.76
Scott Wilber	2/20	2/22	United Kingdom		964.00						964.00
	2/22	2/24	France		924.00						924.00
	2/24	2/26	Belgium		790.00		6,627.05				7,417.05
Joseph Pinder	2/20	2/22	United Kingdom		964.00						964.00
	2/22	2/24	France		924.00						924.00
	2/24	2/26	Belgium		790.00		8,225.05				9,015.05
Jaime Lizarraga	2/20	2/22	United Kingdom		964.00						964.00
	2/22	2/24	France		924.00						924.00
	2/24	2/26	Belgium		790.00		6,627.05				7,417.05
Scott Morris	2/20	2/22	United Kingdom		964.00						964.00
	2/22	2/24	France		924.00						924.00
	2/24	2/26	Belgium		790.00		6,627.05				7,417.05
Lawrence Stewart	2/20	2/22	United Kingdom		964.00						964.00
	2/22	2/24	France		924.00						924.00
	2/24	2/26	Belgium		790.00		6,627.05				7,417.05
Hon. Scott Garrett	1/10	1/12	Sri Lanka		412.00						412.00
	1/12	1/14	India		590.00		6,811.21				7,401.21
Hon. Barney Frank	1/22	1/30	Switzerland		2,168.00		6,784.58				8,952.58
Committee total											

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MICHAEL G. OXLEY, Chairman, Apr. 29, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT REFORM, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND APR. 30, 2005

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
J. Anthony Haywood	3/7	3/11	Austria		1,392.00		4,901.74				6,293.74
Brien Beattie	2/21	3/01	China		894.00		5,908.58				6,802.58
Jaime Hjort	2/19	2/26	India		2,806.00		6,492.37				9,298.37
Jim Moore	2/19	2/26	India		2,806.00		6,492.37				9,298.37
John Hunter	2/19	2/26	India		2,806.00		6,492.37				9,298.37
Edward Kidd	2/19	2/26	India		2,806.00		6,492.37				9,298.37
Lorraine Gavaghan	2/19	2/26	India		2,806.00		6,492.37				9,298.37
Brandon Lerch	2/23	3/02	Germany		2,190.19		7,477.84				9,668.03
	3/02	3/04	Belgium		690.00						690.00
	3/04	3/06	England		830.00						830.00
Jeffrey Baran	1/28	2/01	Iraq		1,016.00		6,353.80				7,369.80
Christopher Shays	1/7	1/9	Indonesia		992.05		2,767.84				3,759.89
	1/9	1/10	Thailand		231.98		3,455.32				3,687.30
	1/10	1/12	Sri Lanka		412.00		2,335.15				2,747.15
Hon. Marsha Blackburn	1/11	1/13	Colombia		212.00		2,879.65				3,091.65
	1/13	1/16	Panama		708.00						708.00
	1/16	1/17	Honduras		223.00						223.00
Hon. Todd Platts	3/24	3/25	Germany		264.00						264.00
	3/25	3/27	Israel		724.00						724.00
	3/27	3/28	Jordan		254.00						254.00
	3/28	3/29	Spain		297.00						297.00
J. Marc Wheat	2/23	2/27	Germany		1,547.00		6,350.56				7,897.56
	2/27	3/4	Belgium		1,725.00						1,725.00
Nick Coleman	2/23	2/27	Germany		1,742.02		6,893.85				8,635.87
	2/27	3/4	Belgium		1,350.85						1,350.85
Hon. Stephen Lynch	3/24	3/25	Germany		264.00						264.00
	3/25	3/27	Israel		724.00						724.00
	3/27	3/28	Jordan		254.00						254.00
	3/28	3/29	Spain		297.00						297.00
Hon. Christopher Shays	1/24	1/29	Switzerland		2,546.25		9,258.85				11,805.10
	1/29	2/01	Jordan		762.00						762.00
Lawrence Halloran	1/24	1/28	Switzerland		1,792.00		7,024.85				8,816.85
	1/28	2/01	Jordan		1,016.00						1,016.00
Nick Palarino	1/27	1/28	Turkey		552.00		6,708.76				7,260.76
	1/28	2/01	Jordan		1,016.00						1,016.00
Committee total					40,948.34		104,778.64				145,726.24

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

TOM DAVIS, Chairman, Apr. 29, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON HOMELAND SECURITY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Curt Weldon	2/1	2/3	Russia		1,632.00		2,951.94				4,583.94
Jeshua Weerasinghe	2/19	2/23	India		1,180.00		6,318.59				7,498.59
Mandy Bowers	2/19	2/23	India		1,180.00		6,318.59				7,498.59
Committee total					3,992.00		15,589.12				19,581.12

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHRISTOPHER COX, Chairman, May 5, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON HOUSE ADMINISTRATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Christopher Otillio	2/17	2/26	India		2,806.00		6,492.37				6,298.37
David Duncan	2/21	3/1	China		894.00		5,908.58				6,802.58
Committee total											$13,100.95

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BOB NEY, Chiarman, Apr. 12, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Lara Alameh	1/11	1/16	Israel		1,445.00						1,445.00
Douglas Anderson	1/6	1/7	China		313.00						313.00
	1/7	1/9	Indonesia		290.00						290.00
	1/9	1/10	Thailand		232.00						232.00
	1/10	1/12	Sri Lanka		412.00						412.00
	1/12	1/15	India		885.00						885.00
	1/6	1/15	(4)				10,258.91				10,258.91
Renee Austell	1/26	1/28	Poland		502.00		6,286.66				6,788.66
Hon. Shelley Berkley	1/26	1/28	Poland		502.00		7,591.66				8,093.66
	3/11	3/13	Spain		965.00		5,906.25				6,871.25

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Howard Berman	2/11	2/13	Germany		370.00		(3)				370.00
Hon. Earl Blumenauer	1/6	1/7	China		313.00						313.00
	1/7	1/9	Indonesia		290.00						290.00
	1/9	1/10	Thailand		232.00						232.00
	1/10	1/12	Sri Lanka		412.00						412.00
	1/12	1/14	India		590.00						590.00
	1/6	1/14	Round Trip Airfare				7,691.29				7,691.29
Ted Brennan	1/10	1/13	Colombia		525.00						525.00
	1/13	1/16	Panama		558.00						558.00
	1/16	1/18	Honduras		496.00						496.00
	1/10	1/18	(4)				2,798.62				2,798.62
Hon. Dan Burton	2/11	2/15	Costa Rica		900.00		1,687.85		(5) 343.00		2,930.85
Hon. Steve Chabot	1/12	1/15	Egypt		867.00		6,428.76				7,295.76
Malik Chaka	1/22	1/24	Chad		590.00						590.00
	1/24	1/25	Algeria		272.00		(3)				272.00
Joan Condon	3/26	3/30	Libya		1,002.00		7,554.85				8,556.85
Frank Cotter	3/18	3/20	Mexico		576.00						576.00
	3/20	3/23	Panama		708.00		(3)				708.00
Ninfa DeLuna	3/17	3/20	Mexico		864.00						864.00
	3/20	3/23	Panama		708.00		1,187.11				1,895.11
Hon. Eliot Engel	1/10	1/11	Russia		266.00						266.00
	1/11	1/14	North Korea		118.75						118.75
	1/14	1/15	South Korea		351.00						351.00
	1/15	1/16	China		291.00						291.00
	1/16	1/17	Hong Kong (Indonesia)		411.00						411.00
	1/17	1/18	Japan		408.00		(3)				408.00
Hon. Eni Faleomavaega	1/6	1/10	India		1,583.00				(5) 670.13		2,253.13
	1/10	1/13	Sri Lanka		618.00						618.00
	1/6	1/3	(4)				6,901.09				6,901.09
	2/9	2/14	Tahiti		0.0		5,813.10				5,813.10
	3/18	3/20	Mexico		576.00						576.00
	3/20	3/23	Panama		708.00		(3)				708.00
	3/30	4/1	New Zealand		1,261.00		1,341.50				2,603.30
James Farr	3/17	3/20	Mexico		864.00						864.00
	3/20	3/23	Panama		708.00		1,808.19				2,516.19
David Fite	1/14	1/16	Pakistan		789.00						789.00
	1/16	1/17	Afghanistan		90.00						90.00
	1/14	1/17	(4)				8,425.86				8,425.86
Hon. Jeff Flake	1/7	1/9	Indonesia		290.00						290.00
	1/9	1/10	Thailand		232.00						232.00
	1/10	1/11	Sri Lanka		412.00						412.00
	1/7	1/11	(4)				4,428.30				4,428.30
Hon. Jeff Fortenberry	3/4	3/7	Jordan		550.00		887.35				1,437.35
Kristi Garlock	2/21	2/23	Turkey		390.00						390.00
	2/23	2/25	Italy		850.00						850.00
	2/21	2/25	(4)				5,657.29				5,657.29
Dennis Halpin	3/23	3/27	South Korea		1,204.00						1,204.00
	3/27	3/29	Japan		656.00						656.00
	3/23	3/29	(4)				9,278.42				9,278.42
Hon. Henry Hyde	3/18	3/20	Mexico		576.00				(5) 33,000.00		33,576.00
	3/20	3/23	Panama		708.00		(3)		(5) 5,035.99		5,743.99
Hon. Darrell Issa	3/12	3/12	Japan		0.0		(3)				0.0
Jonathan Katz	1/11	1/15	Egypt		2,312.00		5,415.84				7,727.84
	2/23	2/25	Ukraine		1,228.00		5,933.49				7,161.49
Kay King	3/25	3/26	Holland		309.00						309.00
	3/26	3/30	Libya		1,002.00						1,002.00
	3/25	3/30	(4)				7,577.47				7,577.47
Robert King	1/7	1/8	China		291.00						291.00
	1/8	1/11	North Korea		963.00						963.00
	1/11	1/13	China		582.00						582.00
	1/7	1/13	(4)				5,551.06				5,551.06
	3/25	3/26	Holland		309.00						309.00
	3/26	3/30	Libya		1,002.00						1,002.00
	3/25	3/30	(4)				7,577.47				7,577.47
Sheila Klein	3/18	3/20	Mexico		576.00						576.00
	3/20	3/23	Panama		708.00		(3)				708.00
Hon. Thomas Lantos	1/7	1/8	China		291.00						291.00
	1/8	1/11	North Korea		963.00						963.00
	1/11	1/13	China		582.00						582.00
	1/13	1/15	Hong Kong		822.00						822.00
	1/15	1/18	Taiwan		1,005.00						1,005.00
	1/7	1/18	(4)				6,486.54				6,486.54
	3/25	3/26	Holland		381.00						381.00
	3/26	3/29	Libya		1,002.00						1,002.00
	3/25	3/29	(4)				8,232.88				8,232.88
Hon. James Leach	1/6	1/7	China		313.00						313.00
	1/7	1/9	Indonesia		290.00				(5) 8,971.51		9,261.51
	1/9	1/10	Thailand		232.00				(5) 8,355.52		8,587.52
	1/10	1/12	Sri Lanka		412.00						412.00
	1/12	1/13	India		590.00						590.00
	1/13	1/16	Egypt		578.00						578.00
	1/16	1/18	(4)				7,691.29				7,691.29
Hon. Barbara Lee	1/22	1/24	Chad		590.00						590.00
	1/24	1/25	Algeria		272.00		(3)				272.00
Caleb McCarry	1/10	1/13	Colombia		675.00						675.00
	1/13	1/16	Panama		708.00						708.00
	1/16	1/18	Honduras		396.00						396.00
	1/10	1/18	(4)				2,798.65				2,798.65
	3/17	3/20	Mexico		864.00						864.00
	3/20	3/23	Panama		708.00		1,278.32				1,986.32
Hon. Betty McCollum	1/22	1/24	Chad		590.00						590.00
	1/24	1/25	Algeria		272.00		(3)				272.00
	2/25	3/1	Italy		520.00		6,163.07				6,683.07
	3/18	3/20	Mexico		576.00						576.00
	3/20	3/23	Panama		633.00		(3)				633.00
James McCormick	1/6	1/7	China		313.00						313.00
	1/7	1/9	Indonesia		240.00						240.00
	1/9	1/10	Thailand		232.00						232.00
	1/10	1/12	Sri Lanka		362.00						362.00
	1/12	1/13	India		590.00						590.00
	1/13	1/16	Egypt		478.00						478.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	1/6	1/18	(4)				7,691.29				7,691.29
Hon. Thaddeus McCotter	1/26	1/28	Poland		502.00		6,441.74		(5) 1,252.00		8,195.74
	3/13	3/11	Spain		965.00		5,096.25				6,061.25
Matthew McLean	1/3	1/5	Botswana		290.00						290.00
	1/5	1/9	South Africa		772.00						772.00
	1/9	1/11	Madagascar		343.00						343.00
	1/11	1/14	Mozambique		576.00						576.00
	1/3	1/14	(4)				10,270.67				10,270.67
	2/20	2/23	Indonesia		648.00						648.00
	2/23	2/26	Sri Lanka		652.00						652.00
	2/20	2/26	(4)				11,169.95				11,169.95
John Mackey	1/10	1/12	Turkey		552.00						552.00
	1/12	1/15	Pakistan		1,052.00						1,052.00
	1/16	1/17	Afghanistan		90.00						90.00
	1/10	1/17	(4)				8,849.72				8,849.72
	2/21	2/26	Colombia		1,125.00		1,752.15				2,877.15
Alan Makovsky	1/11	1/15	Egypt		2,312.00		5,415.84				7,727.84
	3/25	3/26	Holland		381.00						381.00
	3/26	3/30	Libya		1,002.00						1,002.00
	3/25	3/30	(4)				7,577.47				7,577.47
Pearl Alice Marsh	1/22	1/24	Chad		590.00						590.00
	1/24	1/25	Algeria		272.00		(3)				272.00
Richard Mereu	3/11	3/13	Spain		945.00		3,533.50				4,479.00
	3/21	3/23	Belgium		648.50		5,908.13				6,556.63
Thomas Mooney	3/18	3/20	Mexico		576.00						576.00
	3/20	3/23	Panama		708.00		1,792.61				2,500.61
Paul Oostburg-Sanz	1/5	1/8	El Salvador		475.00						475.00
	1/8	1/11	Madagascar		334.00						334.00
	1/11	1/14	Mozambique		551.00						551.00
	1/5	1/14	(4)				14,499.46				14,499.46
	3/18	3/20	Mexico		526.00						526.00
	3/20	3/23	Panama		437.00		(3)				437.00
Hon. Donald Payne	1/8	1/9	Kenya		0.0		9,588.01				9,588.01
Hon. Ted Poe	1/29	2/1	Jordan		762.00		6,353.77				7,115.77
Amy Porter	1/22	1/24	Chad		590.00						590.00
	1/24	1/25	Algeria		272.00		(3)				272.00
Patrick Prisco	2/18	2/21	Belgium		1,185.00						1,185.00
	2/21	2/23	France		924.00						924.00
	2/23	2/25	Austria		596.00						596.00
	2/18	2/25	(4)				3,284.25				3,284.25
John Walker Roberts	3/19	3/23	Belgium		1,035.00		6,496.13				7,531.13
Rotem Roizman	2/22	2/23	Turkey		226.00						226.00
	2/23	2/25	Italy		566.00						566.00
	2/22	2/25	(4)				5,657.29				5,657.29
Hon. Edward Royce	1/22	1/24	Chad		590.00						590.00
	1/24	1/25	Algeria		272.00		(3)				272.00
Susan Schiesser	3/17	3/20	Mexico		864.00						864.00
	3/20	3/23	Panama		708.00		1,187.11				1,895.11
Douglas Seay	3/18	3/20	Mexico		576.00						576.00
	3/20	3/23	Panama		708.00		(3)				708.00
Thomas Sheehy	1/22	1/24	Chad		590.00						590.00
	1/24	1/25	Algeria		272.00		(3)				272.00
Hon. Christopher Smith	1/8	1/9	Indonesia		121.00						121.00
	1/9	1/10	Thailand		232.00						232.00
	1/10	1/13	Sri Lanka		412.00						412.00
	1/8	1/13	(4)				10,369.89				10,369.89
Sam Stratman	1/14	1/15	Thailand		232.00		5,700.00				6,002.05
	3/17	3/20	Mexico		864.00						864.00
	3/20	3/23	Panama		708.00		1,744.32				2,452.32
Sarah Tillemann	1/7	1/8	China		291.00						291.00
	1/8	1/11	North Korea		963.00						963.00
	1/7	1/11	(4)				1,796.87				1,796.87
Mark Walker	3/17	3/20	Mexico		814.00						814.00
	3/20	3/23	Panama		658.00		1,682.32				2,340.32
Hon. Diane Watson	1/8	1/10	Thailand		463.99						463.99
	1/10	1/12	Sri Lanka		412.00						412.00
	1/12	1/13	India		590.00						590.00
	1/8	1/13	(4)				6,339.83				6,339.83
	1/22	1/24	Chad		590.00						590.00
	1/24	1/25	Algeria		272.00		(3)				272.00
Lynne Weil	1/7	1/8	China		291.00						291.00
	1/8	1/11	North Korea		963.00						963.00
	1/11	1/13	China		582.00						582.00
	1/13	1/15	Hong Kong		822.00						822.00
	1/15	1/18	Taiwan		1,005.00						1,005.00
	1/7	1/18	(4)				7,342.87				7,342.87
Hillel Weinberg	3/20	3/23	Belgium		1,184.00						1,184.00
	3/23	3/25	United Kingdom		755.00						755.00
	3/25	3/30	Egypt		1,145.00						1,145.00
	3/20	3/30	(4)				7,889.45				7,889.45
Hon. Gerald Weller	1/10	1/13	Colombia		318.00						318.00
	1/13	1/16	Panama		708.00						708.00
	1/16	1/18	Honduras		496.00						496.00
	1/10	1/18	(4)				2,879.65				2,879.65
Hon. Robert Wexler	1/11	1/13	Egypt		578.00		5,415.84				5,993.84
	2/23	2/25	Ukraine		1,228.00		5,933.49		(5) 475.10		7,636.59
Lisa Williams	1/6	1/13	India		2,073.00		5,887.07				7,960.07
Judy Wolverton	3/18	3/20	Mexico		576.00						576.00
	3/20	3/23	Panama		708.00		(3)				708.00
Peter Yeo	1/7	1/8	China		291.00						291.00
	1/8	1/11	North Korea		963.00						963.00
	1/11	1/13	China		582.00						582.00
	1/13	1/15	Hong Kong		822.00						822.00
	1/15	1/17	Taiwan		335.00						335.00
	1/7	1/17	(4)				6,646.79				6,646.79
Committee total					108,601.54		358,902.92		(5) 58,103.25		525,607.71

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

[4] Round trip airfare.
[5] Indicates delegation costs.

HENRY J. HYDE, Chairman, Apr. 29, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. F. James Sensenbrenner, Jr.	1/8	1/13	France, Paris		1,848.00		6,271.40				8,119.40
	1/13	1/17	Strasbourg		1,564.00						1,564.00
Philip Kiko	1/8	1/13	France, Paris		1,848.00		6,271.40				8,199.40
	1/13	1/17	Strasbourg		1,564.00						1,564.00
Hon. Louis Gohmet	3/3	3/5	Iraq		204.00		(3)				204.00
	3/6	3/8	Germany		314.00		2,835.42				3,149.42
Hon. Daniel Lungren	3/18	3/26	Beijing		(4)		(3)				
	3/27	3/31	Hong Kong		1,744.00		2,885.00				4,629.30
Hon. Howard Coble	3/18	3/20	Mexico		576.00		(3)				576.00
	3/20	3/23	Panama		708.00		(3)				708.00
Committee total					492.00		7,922.11				28,633.52

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] To be submitted.

F. JAMES SENSENBRENNER, Chairman, Apr. 26, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RESOURCES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Stevan Pearce	1/8	1/11	Korea		1,053.00		(3)				1,053.00
	1/11	1/15	China		1,236.00		(3)				1,236.00
Hon. J.D. Hayworth	2/18	2/20	Japan		816.00		(3)				816.00
	2/22	2/25	Thailand		696.00		(3)				696.00
	2/24		Sri Lanka—Day Trip				(3)				
	2/25	2/27	Honk Kong		822.00		(3)				822.00
Hon. Richard Pombo	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		661.00		(3)				661.00
	2/26	2/29	Trinidad and Tobago		1,245.57		(3)				1,245.57
Hon. Neil Abercrombie	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		661.00		(3)				661.00
	2/26	2/29	Trinidad and Tobago		1,245.57		(3)				1,245.57
Hon. Ruben Hinojosa	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		661.00		(3)				661.00
	2/26	2/29	Trinidad and Tobago		1,023.57		946.75				1,970.32
Hon. Jay Inslee	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		661.00		(3)				661.00
	2/26	2/29	Trinidad and Tobago		1,245.57		(3)				1,245.57
Hon. Grace Napolitano	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		661.00		(3)				661.00
	2/26	2/29	Trinidad and Tobago		444.00		(3)				444.00
Hon. Tom Tancredo	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		661.00		(3)				661.00
	2/26	2/29	Trinidad and Tobago		1,245.57		(3)				1,245.57
Hon. Jeff Flake	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		661.00		(3)				661.00
	2/26	2/29	Trinidad and Tobago		1,245.57		(3)				1,245.57
Hon. Dennis Rehberg	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		661.00		(3)				661.00
	2/26	2/29	Trinidad and Tobago		1,245.57		(3)				1,245.57
Hon. Dennis Cardoza	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		453.00		3,714.68				4,167.68.00
Hon. Devin Nunes	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		661.00		(3)				661.00
	2/26	2/29	Trinidad and Tobago		1,245.57		(3)				1,245.57
Hon. Donna Christensen	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		661.00		(3)				661.00
	2/26	2/29	Trinidad and Tobago		859.19		(3)				859.19
Hon. Madeleine Bordallo	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		661.00		(3)				661.00
	2/26	2/29	Trinidad and Tobago		1,245.57		(3)				1,245.57
Tony Babauta	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		661.00		(3)				661.00
	2/26	2/29	Trinidad and Tobago		1,245.57		(3)				1,245.57
Kristen Bossi	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		661.00		(3)				661.00
	2/26	2/29	Trinidad and Tobago		1,245.57		(3)				1,245.57
Steve Ding	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		661.00		(3)				661.00
	2/26	2/29	Trinidad and Tobago		1,245.57		(3)				1,245.57
Chris Foster	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		661.00		(3)				661.00
	2/26	2/29	Trinidad and Tobago		1,245.57		(3)				1,245.57

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RESOURCES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Rob Howarth	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		661.00		(3)				661.00
	2/26	2/29	Trinidad and Tobago		1,245.57		(3)				1,245.57
Dan Kish	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		661.00		(3)				661.00
	2/26	2/29	Trinidad and Tobago		1,245.57		(3)				1,245.57
Lisa Wallace	2/19	2/20	Panama		236.00		(3)				236.00
	2/20	2/23	Argentina		861.00		(3)				861.00
	2/23	2/26	Brazil		661.00		(3)				661.00
	2/26	2/29	Trinidad and Tobago		1,245.57		(3)				1,245.57
Todd Willens	2/20	2/23	Argentina		861.00		4,784.65				5,697.65
Dave Whaley	3/5	3/12	Italy		3,570.00		5,355.74				8,925.74
Committee total					63,258.31		14,801.82				78,060.13

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

RICHARD W. POMBO, Chairman, Apr. 28, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RULES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND APR. 1, 2005.

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. David Dreier	3/23	3/25	Egypt		578.00		(3)				578.00
	3/25	3/26	Jordan		359.65		(3)				359.65
	3/27	3/29	Israel		724.00		(3)				724.00
	3/29	3/30	Cyprus		780.58		(3)				780.58
	3/30	3/30	Lebanon		67.00		(3)				67.00
	3/31	4/01	Belgium		790.00		(3)				790.00
Hon. Lincoln Diaz-Balart	3/23	3/25	Egypt		578.00		(3)				578.00
	3/25	3/26	Jordan		359.65		(3)				359.65
	3/27	3/29	Israel		724.00		2,377.04				3,101.04
Hon. Doc Hastings	3/23	3/25	Egypt		578.00		(3)				578.00
	3/25	3/26	Jordan		359.65		(3)				359.65
	3/27	3/29	Israel		724.00		(3)				724.00
	3/29	3/30	Cyprus		780.58		(3)				780.58
	3/30	3/30	Lebanon		67.00		(3)				67.00
	3/31	4/01	Belgium		790.00		(3)				790.00
Hon. Phil Gingrey	3/23	3/25	Egypt		578.00		(3)				578.00
	3/25	3/26	Jordan		359.65		(3)				359.65
	3/27	3/29	Israel		724.00		(3)				724.00
	3/29	3/30	Cyprus		780.58		(3)				780.58
	3/30	3/30	Lebanon		67.00		(3)				67.00
	3/31	4/01	Belgium		790.00		(3)				790.00
Hon. Alcee Hastings	3/23	3/25	Egypt		578.00		(3)				578.00
	3/25	3/26	Jordan		359.65		(3)				359.65
	3/27	3/29	Israel		724.00		(3)				724.00
	3/29	3/30	Cyprus		780.58		(3)				780.58
	3/30	3/30	Lebanon		67.00		(3)				67.00
	3/31	4/01	Belgium		790.00		(3)				790.00
Bradley Smith	3/23	3/25	Egypt		578.00		(3)				578.00
	3/25	3/26	Jordan		359.65		(3)				359.65
	3/27	3/29	Israel		724.00		(3)				724.00
	3/29	3/30	Cyprus		780.58		(3)				780.58
	3/30	3/30	Lebanon		67.00		(3)				67.00
	3/31	4/01	Belgium		790.00		(3)				790.00
Hugh Halpern	3/23	3/25	Egypt		578.00		(3)				578.00
	3/25	3/26	Jordan		359.65		(3)				359.65
	3/27	3/29	Israel		724.00		(3)				724.00
	3/29	3/30	Cyprus		780.58		(3)				780.58
	3/30	3/30	Lebanon		67.00		(3)				67.00
	3/31	4/01	Belgium		790.00		(3)				790.00
Ed Cassidy	3/23	3/25	Egypt		578.00		(3)				578.00
	3/25	3/26	Jordan		359.65		(3)				359.65
	3/27	3/29	Israel		724.00		(3)				724.00
	3/29	3/30	Cyprus		780.58		(3)				780.58
	3/30	3/30	Lebanon		67.00		(3)				67.00
	3/31	4/01	Belgium		790.00		(3)				790.00
Robert Lawrence	3/23	3/25	Egypt		578.00		(3)				578.00
	3/25	3/26	Jordan		359.65		(3)				359.65
	3/27	3/29	Israel		724.00		(3)				724.00
	3/29	3/30	Cyprus		780.58		(3)				780.58
	3/30	3/30	Lebanon		67.00		(3)				67.00
	3/31	4/01	Belgium		790.00		(3)				790.00
Hon. Tom Cole	3/04	3/06	Jordan		508.00		(3)				508.00
	3/06	3/08	Germany		764.00		879.20				1,643.20
Chris Caron	3/04	3/06	Jordan		508.00		(3)				508.00
	3/06	3/08	Germany		764.00		879.20				1,643.20
Adam Jarvis	3/04	3/06	Jordan		508.00		(3)				508.00
	3/06	3/08	Germany		764.00		879.20				1,643.20
Committee total											

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

DAVID DREIER, Chairman, May 10, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Judy Biggert	1/7	1/10	Jordan		872.00						872.00
Amy Carroll	2/13	2/17	Belgium		1,975.00		874.87				2,849.87
Olwen Huxley	2/18	2/27	India		3,348.00		6,492.37				9,840.37
Hon. Lamar Smith	2/18	2/21	United Kingdom		1,928.00						1,928.00
	2/21	2/21	France								
	2/21	2/23	Romania		320.00						320.00
	2/24	2/26	Greece		1,167.00						1,167.00
	2/27	2/28	Ireland		343.00						343.00
Committee total					9,953.00		7,367.24				17,320.24

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

——Apr. 12, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Rich Beutel	1/09	1/15	China				8,350.57		1,104.20		9,454.77
									351.00		
	2/21	3/1	China		894.00		5,908.58				6,802.58
J. Matthew Szymanski	2/17	2/21	India		590.00						590.00
	2/21	3/1	China		894.00		5,908.58				6,802.58
Tom Bezas	2/21	3/1	China		894.00		5,908.58				6,802.58
Sean Deverey	2/21	3/1	China		894.00		5,908.58				6,802.58
Patrick Wilson	2/21	3/1	China		894.00		5,908.58				6,802.58
Jim Meenan	2/21	3/1	China		894.00		5,908.58				6,802.58
Bradley Knox	2/28	3/2	France		924.00		6,184.28		125.66		6,309.94
									(3) 798.33		
Committee total											57,170.19

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Returned currency.

DONALD A. MANZULLO, Chairman, Apr. 22, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DOC HASTINGS, Chairman, Apr. 28, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Mark Zachares	1/2	1/8	Japan		1,224.00		7,249.60				8,473.60
Hon. Wayne Gilchrest	1/6	1/14	Indonesia		290.00						290.00
	1/9	1/10	Thailand		231.98		(7) 71.76				303.74
	1/6	1/14	Sri Lanka		412.00		(6)				412.00
	1/6	1/14	India		590.00		8,356.06				8,946.06
Hon. Michael Burgess	1/12	1/14	Pakistan		263.00	(3)					263.00
	1/14	1/14	Afghanistan			(3)					
	1/14	1/17	Jordan		762.00	(3)					762.00
	1/15	1/15	Iraq			(3)					
	1/16	1/16	Iraq			(3)					
	1/17	1/18	Germany		264.00	(3)					264.00
Hon. John Duncan	2/18	2/20	Japan		816.00	(3)					816.00
Hon. Jerry Costello	2/18	2/20	Japan		816.00	(3)					816.00
Hon. Tim Holden	2/18	2/20	Japan		816.00	(3)					816.00
Hon. E.B. Johnson	2/18	2/20	Japan		816.00	(3)					816.00
Hon. Henry Brown	2/18	2/20	Japan		816.00	(3)					816.00
Hon. Lincoln Davis	2/18	2/20	Japan		816.00	(3)					816.00
Chris Kennedy	2/18	2/20	Japan		816.00	(3)					816.00
Jimmy Miller	2/18	2/20	Japan		816.00	(3)					816.00
Jim Berard	2/18	2/20	Japan		816.00	(3)					816.00
Hon. Jim Coon	2/18	2/20	Japan		816.00	(3)					816.00
Hon. Stacie Soumbeniotis	2/18	2/20	Japan		816.00	(3)					816.00
Hon. John Duncan	2/20	2/22	China		626.00	(3)					626.00
Hon. Jerry Costello	2/20	2/22	China		626.00	(3)					626.00
Hon. Tim Holden	2/20	2/22	China		626.00	(3)					626.00
Hon. E.B. Johnson	2/20	2/22	China		626.00	(3)					626.00
Hon. Henry Brown	2/20	2/22	China		626.00	(3)					626.00
Hon Lincoln Davis	2/20	2/22	China		626.00	(3)					626.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Chris Kennedy	2/20	2/22	China		626.00	(3)					626.00
Jimmy Miller	2/20	2/22	China		626.00						626.00
Jim Berard	2/20	2/22	China		626.00						626.00
Jim Coon	2/20	2/22	China		626.00						626.00
Stacie Soumbeniotis	2/20	2/22	China		626.00						626.00
Rep. John Duncan	2/22	2/25	Thailand		696.00						696.00
Rep. Jerry Costello	2/22	2/25	Thailand		696.00						696.00
Rep. Tim Holden	2/22	2/25	Thailand		696.00						696.00
Rep. E.B. Johnson	2/22	2/25	Thailand		696.00						696.00
Rep. Henry Brown	2/22	2/25	Thailand		696.00						696.00
Rep. Lincoln Davis	2/22	2/25	Thailand		696.00						696.00
Rep. Chris Kennedy	2/22	2/25	Thailand		696.00						696.00
Rep. Jimmy Miller	2/22	2/25	Thailand		696.00						696.00
Rep. Jim Berard	2/22	2/25	Thailand		696.00						696.00
Rep. Jim Coon	2/22	2/25	Thailand		696.00						696.00
Rep. Stacie Soumbeniotis	2/22	2/25	Thailand		696.00						696.00
Rep. John Duncan	2/25	2/27	Hong Kong		822.00						822.00
Rep. Jerry Costello	2/25	2/27	Hong Kong		822.00						822.00
Rep. Tim Holden	2/25	2/27	Hong Kong		822.00						822.00
Rep. E.B. Johnson	2/25	2/27	Hong Kong		822.00						822.00
Rep. Henry Brown	2/25	2/27	Hong Kong		822.00						822.00
Rep. Lincoln Davis	2/25	2/27	Hong Kong		822.00						822.00
Rep. Chris Kennedy	2/25	2/27	Hong Kong		822.00						822.00
Rep. Jimmy Miller	2/25	2/27	Hong Kong		822.00						822.00
Rep. Jim Berard	2/25	2/27	Hong Kong		822.00						822.00
Rep. Jim Coon	2/25	2/27	Hong Kong		822.00						822.00
Stacie Soumbeniotis	2/25	2/27	Hong Kong		822.00						822.00
Hon. Russ Carnahan	3/3	3/3	Kuwait								0.00
	3/3	3/6	Jordan		508.00		879.30	(4)			1,387.30
	3/6	3/8	Germany		518.00	(3)	2,835.42	(5)			3,353.42
Hon. Steve LaTourette	3/19	3/21	United Kingdom		992.00		(8) 6,848.10				7,840.10
Hon. Corrine Brown	3/19	3/21	United Kingdom		992.00		(8) 5,052.10				6,044.10
Hon. E.B. Johnson	3/21	3/21	United Kingdom				(8) 4,601.60				4,601.60
Hon. John Mica	3/19	3/21	United Kingdom		992.00		(8) 5,820.72				6,812.72
Hon. Bill Shuster	3/19	3/21	United Kingdom		992.00		(8) 4,601.60				5,593.60
Jimmy Miller	3/19	3/21	United Kingdom		992.00		(8) 4,601.60				5,593.60
Ward McCarragher	3/18	3/21	United Kingdom		1,488.00		(8) 4,601.60				6,089.60
Glenn Scammel	3/18	3/21	United Kingdom		1,488.00		(8) 4,601.60				6,089.60
Adam Tsao	3/18	3/21	United Kingdom		1,488.00		(8) 4,601.60				6,089.60
Matt Wallen	3/18	3/21	United Kingdom		1,488.00		(8) 4,601.60				6,089.60
Jennifer Esposito	3/18	3/21	United Kingdom		1,488.00		(8) 4,601.60				6,089.60
Hon. Steve LaTourette	3/21	3/25	Paris France		900.00						900.00
Hon. Corrine Brown	3/21	3/23	Paris France		900.00						900.00
Hon. E.B. Johnson	3/21	3/23	Paris France		900.00						900.00
Hon. John Mica	3/21	3/23	Paris France		900.00						900.00
Hon. Bill Shuster	3/21	3/23	Paris France		900.00						900.00
Jimmy Miller	3/21	3/23	Paris France		900.00						900.00
Ward McCarragher	3/21	3/23	Paris France		900.00						900.00
Glenn Scammel	3/21	3/23	Paris France		900.00						900.00
Adam Tsao	3/21	3/23	Paris France		900.00						900.00
Matt Wallen	3/21	3/23	Paris France		900.00						900.00
Jennifer Esposito	3/21	3/23	Paris France		900.00						900.00
Hon. Steve LaTourette	3/23	3/25	Italy		1,106.00						1,106.00
Hon. Corrine Brown	3/23	3/25	Italy		1,106.00						1,106.00
Hon. E.B. Johnson	3/23	3/25	Italy		1,106.00						1,106.00
Hon. John Mica	3/23	3/25	Italy		1,106.00						1,106.00
Hon. Bill Shuster	3/23	3/25	Italy		1,106.00						1,106.00
Jimmy Miller	3/23	3/25	Italy		1,106.00						1,106.00
Ward McCarragher	3/23	3/25	Italy		1,106.00						1,106.00
Glenn Scammel	3/23	3/25	Italy		1,106.00						1,106.00
Adam Tsao	3/23	3/25	Italy		1,106.00						1,106.00
Matt Wallen	3/23	3/25	Italy		1,106.00						1,106.00
Jennifer Esposito	3/23	3/25	Italy		1,106.00						1,106.00
Hon. Steve LaTourette	3/25	3/26	Spain		477.00						477.00
Hon. Corrine Brown	3/25	3/26	Spain		477.00						477.00
Hon. E.B. Johnson	3/25	3/26	Spain		477.00						477.00
Hon. Bill Shuster	3/25	3/26	Spain		477.00						477.00
Jimmy Miller	3/25	3/26	Spain		477.00						477.00
Ward McCarragher	3/25	3/26	Spain		477.00						477.00
Glenn Scammel	3/25	3/26	Spain		477.00						477.00
Adam Tsao	3/25	3/26	Spain		477.00						477.00
Matt Wallen	3/25	3/26	Spain		477.00						477.00
Jennifer Esposito	3/25	3/26	Spain		477.00						477.00
Hon. John Mica	3/25	3/26	Italy		553.00						553.00
	3/26	3/30	Italy		2,088.00						2,088.00
Committee total					79,499.98		73,925.86				153,425.84

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] Jordan to Germany (Commercial airfare)
[5] Germany to U.S.
[6] All trips U.S. to countries in U.S.
[7] Trip to Thailand.
[8] U.S. to London, Madrid to U.S., roundtrip.

DON YOUNG, Chairman, Apr. 29, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON VETERANS' AFFAIRS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 10 AND MAR. 15, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Lane Evans	3/12	3/12	Japan								
Kevin Gash	3/12	3/12	Japan								
Kimo Hollingsworth	3/12	3/12	Japan								

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON VETERANS' AFFAIRS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 10 AND MAR. 15, 2005—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Committee total											

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BERNADINE DOLSON, Clerk, Apr. 27, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 22 AND FEB. 27, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Jim McDermott	1/22	1/24	Chad		590.00		(3)				590.00
	1/24	1/25	Algeria		272.00		(3)				272.00
Hon. John Larson	2/11	2/13	Germany		370.00		(3)				370.00
Hon. Ron Lewis	2/18	2/20	Japan		816.00		(3)				816.00
	2/20	2/22	China		626.00		(3)				626.00
	2/22	2/25	Thailand		696.00		(3)				696.00
	2/24	2/24	Sri Lanka		0.00		(3)				0.00
	2/25	2/27	Hong Kong		822.00		(3)				822.00
Committee total					4,192.00						4,192.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

BILL THOMAS, Chairman, May 2, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JOINT COMMITTEE ON PRINTING, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ROBERT W. NEY, Chairman, Apr. 13, 2005.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON TAXATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2005

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]

HOUSE COMMITTEES

Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☑

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILL THOMAS, Chairman, Apr. 25, 2005.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1981. A communication from the President of the United States, transmitting a request for a FY 2006 budget amendment for the Departments of Agriculture, Education, Health and Human Services, Justice, and the Treasury; and the United States-Canada Alaska Rail Commission; (H. Doc. No. 109–26); to the Committee on Appropriations and ordered to be printed.

1982. A letter from the Secretary, Department of Health and Human Services, transmitting a report regarding the progress made in launching the Physician Group Practice demonstration, pursuant to Public Law 106–554, section 412 (114 Stat. 2763A–515); jointly to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on May 12, 2005, the following reports were filed on May 13, 2005]

Mr. ROGERS of Kentucky: Committee on Appropriations. H.R. 2360. A bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–79). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR of North Carolina: Committee on Appropriations. H.R. 2361. A bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–80). Referred to the Committee of the Whole House on the State of the Union.

[The following actions occurred on May 13, 2005]

Mr. BARTON: Committee on Energy and Commerce. H.R. 1817. A bill to authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes; with an amendment (Rept. 109–71 Pt. 2).

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1817. A bill to authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes; with an amendment (Rept. 109–71 Pt. 3).

[Filed on May 16, 2005]

Mr. OXLEY: Committee on Financial Services. H.R. 1224. A bill to repeal the prohibition on the payment of interest on demand deposits, and for other purposes; with an amendment (Rept. 109–81). Referred to the

Committee of the Whole House on the State of the Union.

Mr. BOEHLERT: Committee on Science. H.R. 1215. A bill to provide for the implementation of a Green Chemistry Research and Development Program, and for other purposes; with an amendment (Rept. 109-82). Referred to the Committee of the Whole House on the State of the Union.

Mr. SESSIONS: Committee on Rules. House Resolution 278. Resolution providing for consideration of the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109-83). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

[The following action occurred on May 13, 2005]

Pursuant to clause 2 of rule XII the Committee on Government Reform, Science, Transportation and Infrastructure, Ways and Means, and the Permanent Select Committee on Intelligence discharged from further consideration. H.R. 1817 referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. GIBBONS (for himself and Mrs. CUBIN):

H.R. 2362. A bill to reauthorize and amend the National Geologic Mapping Act of 1992; to the Committee on Resources.

By Mr. DREIER (for himself, Mr. SCHIFF, Mr. MCKEON, and Mrs. BONO):

H.R. 2363. A bill to amend title 18, United States Code, to increase the penalty on persons who are convicted of killing peace officers and who flee the country; to the Committee on the Judiciary.

By Mr. ROHRABACHER:

H.R. 2364. A bill to establish a Science and Technology Scholarship Program to award scholarships to recruit and prepare students for careers in the National Weather Service and in National Oceanic and Atmospheric Administration marine research, atmospheric research, and satellite programs; to the Committee on Science.

By Mr. FILNER:

H.R. 2365. A bill to amend title 38, United States Code, to extend the time limitation for use of eligibility and entitlement for educational assistance under the Montgomery GI Bill; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FILNER (for himself, Mr. PETRI, Mr. SHAYS, Mrs. TAUSCHER, Mr. SNYDER, Mr. RYAN of Ohio, and Mr. STRICKLAND):

H.R. 2366. A bill to extend the current Department of Defense telecommunications benefit program through the end of Operation Iraqi Freedom and Operation Enduring Freedom and to provide for the application of the program to other contingency operations; to the Committee on Armed Services.

By Mr. FILNER (for himself, Mr. GRIJALVA, Mr. GONZALEZ, Mr. REYES, Mr. HINOJOSA, and Mrs. NAPOLITANO):

H.R. 2367. A bill to amend the Immigration and Nationality Act to permit certain Mexican children, and accompanying adults, to obtain a waiver of the documentation requirements otherwise required to enter the United States as a temporary visitor; to the Committee on the Judiciary.

By Mr. FILNER:

H.R. 2368. A bill to amend title 10, United States Code, to provide for immediate implementation of full concurrent receipt for retired members of the Armed Forces who have a service-connected disability of both military retired pay paid by reason of their years of military service and disability compensation from the Department of Veterans Affairs paid by reason of their disability; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FILNER (for himself and Mr. MCNULTY):

H.R. 2369. A bill to amend title 10, United States Code, to provide for the Purple Heart to be awarded to prisoners of war who die in captivity under circumstances not otherwise establishing eligibility for the Purple Heart; to the Committee on Armed Services.

By Mr. FILNER:

H.R. 2370. A bill to direct the Secretary of Defense to issue a medal to certain veterans who died after their service in the Vietnam War as a direct result of that service, or who were presumptively exposed to ionizing radiation, herbicide agents, or chemical agents during their service in the Armed Forces; to the Committee on Armed Services.

By Mr. BRADLEY of New Hampshire:

H.R. 2371. A bill to extend the temporary suspension of duty on bitolylene diisocyanate (TODI); to the Committee on Ways and Means.

By Mrs. CAPITO:

H.R. 2372. A bill to extend the temporary suspension of duty on 2-(Methoxycarbonyl)benzylsulfonamide; to the Committee on Ways and Means.

By Mrs. CAPITO:

H.R. 2373. A bill to suspend temporarily the duty on 2-chlorobenzenesulfonamide; to the Committee on Ways and Means.

By Mrs. CAPITO:

H.R. 2374. A bill to suspend temporarily the duty on ESPI; to the Committee on Ways and Means.

By Mrs. CAPITO:

H.R. 2375. A bill to suspend temporarily the duty on CMBSI; to the Committee on Ways and Means.

By Mr. CASE:

H.R. 2376. A bill to designate the Northwestern Hawaiian Islands National Marine Refuge, and for other purposes; to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KLINE (for himself, Mr. BOUSTANY, and Mr. SOUDER):

H.R. 2377. A bill to reduce temporarily the duty on certain automotive catalytic converter mats; to the Committee on Ways and Means.

By Mr. LEWIS of Kentucky (for himself and Mr. BOUCHER):

H.R. 2378. A bill to amend the Internal Revenue Code of 1986 to permit interest on Federally guaranteed water, wastewater, and essential community facilities loans to be tax exempt; to the Committee on Ways and Means.

By Mr. LYNCH:

H.R. 2379. A bill to amend title 38, United States Code, to require the Department of Veterans Affairs to fill prescriptions for drugs and medicines written by private physicians; to the Committee on Veterans' Affairs.

By Mr. MARKEY:

H.R. 2380. A bill to suspend temporarily the duty on gemifloxacin, gemifloxacin mesylate, and gemifloxacin mesylate sesquihydrate; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2381. A bill to reduce temporarily the duty on PHBA; to the Committee on Ways and Means.

By Mrs. MYRICK:

H.R. 2382. A bill to suspend temporarily the duty on Butralin; to the Committee on Ways and Means.

By Mr. NUNES (for himself, Mr. RADANOVICH, Mr. DOOLITTLE, Mr. COSTA, and Mr. CARDOZA):

H.R. 2383. A bill to redesignate the facility of the Bureau of Reclamation located at 19550 Kelso Road in Byron, California, as the "C.W. 'Bill' Jones Pumping Plant"; to the Committee on Resources.

By Mr. SWEENEY:

H.R. 2384. A bill to adjust the boundary of Martin Van Buren National Historic Site, and for other purposes; to the Committee on Resources.

By Mr. SIMMONS:

H. Con. Res. 152. Concurrent resolution commemorating Mystic Seaport: the Museum of America and the Sea in recognition of its 75th year; to the Committee on Transportation and Infrastructure.

By Ms. ROS-LEHTINEN (for herself, Mr. ACKERMAN, Mr. LANTOS, Mr. FALEOMAVAEGA, Mr. CROWLEY, Mr. SCHIFF, Mr. SMITH of New Jersey, Mr. BURTON of Indiana, Mr. WILSON of South Carolina, Mr. PENCE, Mr. MCCOTTER, and Mr. MARIO DIAZ-BALART of Florida):

H. Con. Res. 153. Concurrent resolution welcoming His Excellency Hamid Karzai, the President of Afghanistan, on the occasion of his visit to the United States in May 2005 and expressing support for a strong and enduring strategic partnership between the United States and Afghanistan; to the Committee on International Relations.

By Mr. HIGGINS (for himself, Mr. PENCE, Mr. CROWLEY, Ms. ROS-LEHTINEN, Mr. WEINER, Ms. BERKLEY, Mr. NADLER, Mr. LANTOS, Mr. ISRAEL, Ms. WASSERMAN SCHULTZ, Mr. FRANK of Massachusetts, Mrs. TAUSCHER, Mr. SOUDER, Mr. AKIN, Mr. ACKERMAN, Mr. ENGEL, Mr. ROTHMAN, Mr. ANDREWS, Mr. BURTON of Indiana, Mr. SESSIONS, and Mr. GARRETT of New Jersey):

H. Res. 279. A resolution condemning the recent vote by the British Association of University Teachers to boycott Bar-Ilan University and Haifa University; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

23. The SPEAKER presented a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 104 urging the Congress of the United States to authorize and

appropriate funds to allow all members of the Armed Forces Reserve Component to access the TRICARE Program; to the Committee on Armed Services.

24. Also, a memorial of the Legislature of the State of Maine, relative to H.P. 813 Joint Resolution memorializing the Congress of the United States not to close the Brunswick Naval Air Station; to the Committee on Armed Services.

25. Also, a memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to House Resolution No. 225 recognizing the month of May 2005 as "Amyotrophic Lateral Sclerosis Awareness Month" in Pennsylvania and memorializing the President and Congress of the United States to enact legislation to provide additional funding for research in order to find a treatment and cure for ALS; to the Committee on Energy and Commerce.

26. Also, a memorial of the Senate of the State of Michigan, relative to Senate Concurrent Resolution No. 12 memorializing Congress to enact highway reauthorization legislation with a level of funding that closes the gap between federal fuel tax dollars paid by Michigan motorists and dollars received to address Michigan's transportation needs; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Ms. GINNY BROWN-WAITE of Florida.

H.R. 22: Mr. CUELLAR, Mr. ENGLISH of Pennsylvania, Mrs. NAPOLITANO, Mr. FERGUSON, and Mrs. CAPPS.

H.R. 23: Mr. ISSA, Mrs. EMERSON, and Mr. LEACH.

H.R. 65: Mr. BOUCHER.

H.R. 136: Mrs. KELLY.

H.R. 193: Mr. CARDOZA, Mr. BERMAN, and Mr. ISSA.

H.R. 297: Mr. SHERMAN, Mr. STRICKLAND, Mr. DICKS, and Mr. MARKEY.

H.R. 299: Mr. GRIJALVA.

H.R. 303: Mr. EVERETT, Mr. LARSEN of Washington, Mr. HOLDEN, and Mr. CUMMINGS.

H.R. 314: Ms. HOOLEY.

H.R. 358: Mr. DANIEL E. LUNGREN of California.

H.R. 421: Mr. OWENS.

H.R. 438: Mr. CALVERT.

H.R. 535: Mr. FARR and Ms. PELOSI.

H.R. 558: Mr. LARSEN of Washington, Mr. DAVIS of Florida, and Mr. SCHIFF.

H.R. 559: Mr. THOMPSON of Mississippi.

H.R. 560: Mr. THOMPSON of Mississippi.

H.R. 581: Mr. SHAW, Mr. NEAL of Massachusetts, and Ms. HERSETH.

H.R. 583: Mr. CLEAVER.

H.R. 594: Mr. CLEAVER and Mrs. LOWEY.

H.R. 615: Mrs. MYRICK.

H.R. 662: Mr. MCDERMOTT, Ms. CORRINE BROWN of Florida, Mr. CAPUANO, and Mr. MCNULTY.

H.R. 663: Mr. SERRANO.

H.R. 699: Mr. LEWIS of Kentucky, Mr. SPRATT, Mr. NEY, Mr. MCCOTTER, Mr. WU, Mr. DEFAZIO, Mr. ROGERS of Alabama, Mr. BONNER, Mr. CHANDLER, Mr. SANDERS, Ms. HOOLEY, and Ms. HART.

H.R. 713: Mr. GINGREY.

H.R. 745: Mr. GILLMOR.

H.R. 788: Mr. CUBIN.

H.R. 824: Mr. CLAY and Mr. STARK.

H.R. 873: Mr. LEWIS of California.

H.R. 880: Mr. HINCHEY.

H.R. 908: Mr. FATTAH.

H.R. 916: Mr. UDALL of Colorado, Mr. MCDERMOTT, Mr. CONAWAY, Mr. LEWIS of Kentucky, Mr. BOOZMAN, Mr. PAUL, Mr. ETHERIDGE, Mr. SNYDER, Mr. DAVIS of Florida, Mr. LINCOLN DIAZ-BALART of Florida, Mr. WICKER, Ms. BERKLEY, Ms. HOOLEY, and Mr. SANDERS.

H.R. 938: Mr. WELLER.

H.R. 972: Mr. RADANOVICH.

H.R. 988: Mr. WEXLER and Mr. DINGELL.

H.R. 1126: Mr. CAPUANO.

H.R. 1130: Mr. PASTOR and Mr. THOMPSON of Mississippi.

H.R. 1150: Mr. BRADLEY of New Hampshire.

H.R. 1204: Mr. SCHIFF, Mr. ENGEL, Mr. FORD, Ms. ZOE LOFGREN of California, and Mr. THOMPSON of Mississippi.

H.R. 1215: Mr. REICHERT.

H.R. 1216: Mr. GORDON, Mr. ADERHOLT, and Mr. BONNER.

H.R. 1232: Ms. BORDALLO.

H.R. 1245: Mr. ADERHOLT, Ms. ESHOO, Ms. PELOSI, Mr. CLEAVER, and Mr. THOMPSON of California.

H.R. 1262: Mr. SKELTON, Mrs. MCCARTHY, and Mr. SNYDER.

H.R. 1291: Mr. VAN HOLLEN and Mr. CALVERT.

H.R. 1316: Mr. WICKER and Mr. FRANKS of Arizona.

H.R. 1376: Mr. HYDE.

H.R. 1384: Mr. KLINE.

H.R. 1406: Mr. ANDREWS.

H.R. 1409: Mr. DAVIS of Illinois.

H.R. 1426: Ms. HOOLEY and Mr. MCKEON.

H.R. 1474: Ms. KILPATRICK of Michigan, Mr. ENGEL, Ms. CARSON, and Mr. RYAN of Ohio.

H.R. 1492: Mr. GUTIERREZ, Ms. WASSERMAN SCHULTZ, Mr. VAN HOLLEN, Mr. MEEKS of New York, Mr. PAYNE, Mr. BLUMENAUER, and Ms. SCHAKOWSKY.

H.R. 1505: Mr. CRAMER.

H.R. 1554: Mrs. KELLY.

H.R. 1558: Mr. ROTHMAN and Mr. FILNER.

H.R. 1575: Mrs. MILLER of Michigan, Mr. HOEKSTRA, and Mr. WOLF.

H.R. 1581: Mr. TURNER.

H.R. 1600: Mr. BOUCHER.

H.R. 1606: Mr. BOUCHER.

H.R. 1607: Mr. CARDIN.

H.R. 1619: Mr. BRADY of Pennsylvania.

H.R. 1632: Mr. LEWIS of Kentucky, Mr. RANGEL, and Mr. KUCINICH.

H.R. 1651: Mr. HALL.

H.R. 1671: Ms. HOOLEY and Mr. WAMP.

H.R. 1680: Mr. MENENDEZ.

H.R. 1686: Mr. BRADY of Pennsylvania.

H.R. 1689: Mr. HYDE, Mr. CANNON, Mr. PENCE, Ms. GINNY BROWN-WAITE of Florida, and Mr. MILLER of Florida.

H.R. 1764: Mr. THOMPSON of Mississippi.

H.R. 1776: Mr. MILLER of Florida, Mr. WELDON of Florida, and Mrs. CUBIN.

H.R. 1790: Mr. BOUSTANY.

H.R. 1835: Mr. BLUMENAUER.

H.R. 1898: Mr. UPTON, Mr. MCHENRY, Mr. FEENEY, Mr. REHBERG, Mr. BARRETT of South Carolina, and Mr. NEY.

H.R. 1944: Mr. MILLER of Florida.

H.R. 1973: Mr. SANDERS, Mr. SERRANO, Mr. CUMMINGS, and Mr. GRIJALVA.

H.R. 2000: Ms. HOOLEY and Mr. MENENDEZ.

H.R. 2012: Mr. ENGLISH of Pennsylvania.

H.R. 2017: Mr. EMANUEL, Mr. PETERSON of Pennsylvania, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. LAHOOD.

H.R. 2018: Mr. MILLER of Florida

H.R. 2041: Mr. MICHAUD.

H.R. 2045: Mr. BOEHNER.

H.R. 2047: Mrs. MUSGRAVE.

H.R. 2074: Mr. MOORE of Kansas.

H.R. 2088: Mr. PUTNAM.

H.R. 2106: Mr. ENGLISH of Pennsylvania and Mr. PLATTS.

H.R. 2107: Mr. BASS.

H.R. 2125: Mrs. MCCARTHY.

H.R. 2126: Mrs. MCCARTHY.

H.R. 2127: Mr. MCHUGH.

H.R. 2134: Ms. BALDWIN.

H.R. 2218: Mr. BURGESS.

H.R. 2238: Mr. RANGEL, Mr. HOLT, MR. SCHIFF, Mrs. CHRISTENSEN, Mr. LINDER, Mr. NADLER, Mr. GEORGE MILLER of California, Mr. CLYBURN, Mr. BUTTERFIELD, Mr. DAVIS of Alabama, Mr. THOMPSON of Mississippi, Mr. LEWIS of Georgia, Mr. HOLDEN, Mr. MCNULTY, Mr. LANTOS, Mr. WEINER, Ms. CORRINE BROWN of Florida, Mr. GUTIERREZ, Ms. SCHAKOWSKY, Mr. ABERCROMBIE, Mrs. NAPOLITANO, Mr. CUMMINGS, Mr. GRIJALVA, Mr. CAPUANO, Mr. PETERSON of Minnesota, Mr. CHANDLER, Ms. MCKINNEY, Mr. SANDERS, Mr. DUNCAN, Mr. OLVER, Mr. KILDEE, Mr. BISHOP of New York, and Ms. KAPTUR.

H.R. 2326: Mr. JENKINS, Mrs. MYRICK, Mr. TAYLOR of North Carolina, and Mr. WATT.

H.R. 2328: Mrs. MCCARTHY, Mr. MCNULTY, and Mr. YOUNG of Alaska.

H.R. 2337: Mr. OTTER, Mr. PEARCE, Mr. BISHOP of Utah, Mr. RAHALL, Mrs. MUSGRAVE, and Mr. UDALL of Colorado.

H.R. 2346: Mr. BAKER, Mr. BOUSTANY, and Mr. MELANCON.

H.R. 2351: Mr. FILNER.

H.R. 2358: Mr. MILLER of North Carolina and Mr. FORBES.

H.J. Res. 12: Ms. BORDALLO and Mr. UDALL of Colorado.

H.J. Res. 38: Mr. WEINER.

H.J. Res. 46: Mr. DEAL of Georgia.

H. Con. Res. 71: Mr. DELAHUNT, Mr. BERMAN, Mr. FARR, and Mr. FATTAH.

H. Con. Res. 85: Mr. GENE GREEN of Texas.

H. Con. Res. 145: Mr. MARSHALL.

H. Res. 123: Mr. WOLF and Mr. GREEN of Wisconsin.

H. Res. 167: Mrs. CUBIN.

H. Res. 185: Ms. MOORE of Wisconsin and Mr. DAVIS of Alabama.

H. Res. 246: Mr. CASE.

H. Res. 266: Mr. PLATTS, Mr. GENE GREEN of Texas, Mr. CONAWAY, Mr. ROGERS of Alabama, Ms. NORTON, Mr. CRAMER, Mr. REICHERT, Mr. LEVIN, Mr. HOLT, Mr. SHAYS, Mr. TOM DAVIS of Virginia, Mr. PRICE of Georgia, Mr. BEAUPREZ, Mr. OBERSTAR, Ms. DEGETTE, Mr. MOORE of Kansas, Mr. OTTER, Mr. LOBIONDO, Mr. BROWN of Ohio, Mr. DINGELL, Mr. KILDEE, Mr. KENNEDY of Rhode Island, and Ms. GINNY BROWN-WAITE of Florida.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2360

OFFERED BY: MR. TANCREDO

AMENDMENT NO. 1: At the end of the bill (before the short title), insert the following:

SEC. 536. None of the funds appropriated or otherwise made available in this Act may be used in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)).

H.R. 2360

OFFERED BY: MR. TOM DAVIS OF VIRGINIA

AMENDMENT NO. 2: At the end of section 516, add the following:

Provided further, That this section shall cease to be effective at such time as the President has selected a single agency to conduct security clearance investigations pursuant to section 3001(c) of the Intelligence Reform and Terrorism Prevention

Act of 2004 (Public Law 108-458; 50 U.S.C. 435b) and the entity selected under section 3001(b) of such Act has reported to Congress that the agency selected pursuant to such section 3001(c) is capable of conducting all necessary investigations in a timely manner or has authorized the entities within the Department of Homeland Security covered by this section to conduct their own investigations pursuant to section 3001 of such Act.

H.R. 2360

Offered By: Mr. Hostettler

Amendment No. 3: Page 12, line 20, after the first dollar amount, insert the following: "(increased by $29,000,000)".

Page 37, line 12, after the dollar amount, insert the following: "(decreased by $29,000,000)".

H.R. 2360

Offered By: Mr. Hostettler

Amendment No. 4: Page 7, line 17, after the first dollar amount, insert the following: "(increased by $95,000,000)".

Page 23, line 19, after the dollar amount, insert the following: "(decreased by $15,000,000)".

Page 26, line 23, after the dollar amount, insert the following: "(decreased by $50,000,000)".

Page 36, line 7, after the dollar amount, insert the following: "(decreased by $20,000,000)".

Page 37, line 12, after the dollar amount, insert the following: "(decreased by $10,000,000)".

H.R. 2360

Offered By: Mr. Hostettler

Amendment No. 5: Page 2, line 9, after the dollar amount, insert the following: "(decreased by $500,000)".

Page 4, line 2, after the dollar amount, insert the following: "(decreased by $5,505,000)".

Page 12, line 20, after the first dollar amount, insert the following: "(increased by $193,200,000)".

Page 16, line 5, after the dollar amount, insert the following: "(decreased by $21,156,000)".

Page 19, line 1, after the dollar amount, insert the following: "(decreased by $47,500,000)".

Page 34, line 19, after the dollar amount, insert the following: "(decreased by $117,539,000)".

Page 37, line 12, after the dollar amount, insert the following: "(decreased by $1,000,000)".

H.R. 2360

Offered By: Mr. Hostettler

Amendment No. 6: Page 2, line 9, after the dollar amount, insert the following: "(decreased by $500,000)".

Page 4, line 2, after the dollar amount, insert the following: "(decreased by $5,505,000)".

Page 7, line 17, after the first dollar amount, insert the following: "(increased by $95,000,000)".

Page 12, line 20, after the first dollar amount, insert the following: "(increased by $193,200,000)".

Page 12, line 20, after the first dollar amount, insert the following: "(increased by $29,000,000)".

Page 16, line 5, after the dollar amount, insert the following: "(decreased by $21,156,000)".

Page 19, line 1, after the dollar amount, insert the following: "(decreased by $47,500,000)".

Page 23, line 19, after the dollar amount, insert the following: "(decreased by $15,000,000)".

Page 26, line 23, after the dollar amount, insert the following: "(decreased by $50,000,000)".

Page 34, line 19, after the dollar amount, insert the following: "(decreased by $117,539,000)".

Page 36, line 7, after the dollar amount, insert the following: "(decreased by $20,000,000)".

Page 37, line 12, after the dollar amount, insert the following: "(decreased by $29,000,000)".

Page 37, line 12, after the dollar amount, insert the following: "(decreased by $10,000,000)".

Page 37, line 12, after the dollar amount, insert the following: "(decreased by $1,000,000)".

H.R. 2360

Offered By: Mr. LoBiondo

Amendment No. 7: In title I, in the item relating to "Office of the Secretary and Executive Management", after the first dollar amount, insert the following: "(reduced by $130,000,000)".

In title I, in the item relating to "Office of the Under Secretary for Management", after the first dollar amount, insert the following: "(reduced by $130,000,000)".

In title I, in the item relating to "Office of the Chief Financial Officer", after the dollar amount, insert the following: "(reduced by $16,000,000)".

In title I, in the item relating to "Office of the Chief Information Officer", after the first dollar amount, insert the following: "(reduced by $190,000,000)".

In title II, in the item relating to "United States Coast Guard-acquisition, construction, and improvements", after the first dollar amount, insert the following: "(increased by $466,000,000)".

H.R. 2360

Offered By: Mr. Simmons

Amendment No. 8: Page 19, line 1, after the dollar amount insert "(increased by $24,000,000)".

Page 40, line 19, after the dollar amount insert "(reduced by $24,000,000)".

H.R. 2360

Offered By: Mr. Souder

Amendment No. 9: Page 2, line 9, after "$133,239,000" insert ", of which $6,000,000 shall be for the Office of Counternarcotics Enforcement to carry out its responsibilities under section 878 of the Homeland Security Act of 2002, as amended".

H.R. 2360

Offered By: Mr. Poe

Amendment No. 10: At the end of the bill, before the short title, insert the following (and conform the table of contents of the bill accordingly):

Sec. 509. None of the funds made available under this Act may be used to carry out section 105(a)(4) and (5) of the Aviation and Transportation Security Act of 2001 (49 U.S.C. 44917(a)(4) and (5)).

H.R. 2360

Offered By: Ms. Jackson-Lee of Texas

Amendment No. 11: Page 2, line 9, after the dollar amount, insert the following: "(reduced by $20,000,000)".

Page 37, line 12, after the first dollar amount, insert the following: "(increased by $20,000,000)".

H.R. 2360

Offered By: Ms. Jackson-Lee of Texas

Amendment No. 12: Page 2, line 9, after the dollar amount, insert the following: "(reduced by $10,000,000)".

Page 14, line 21, after the first dollar amount, insert the following: "(increased by $10,000,000)".

H.R. 2360

Offered By: Ms. Jackson-Lee of Texas

Amendment No. 13: At the end of the bill (before the short title), insert the following:

Sec. 536. None of the funds appropriated or otherwise made available by this Act may be used to support or supplement the the acts of volunteer patrols at or in the vicinity of the borders of the United States.

H.R. 2360

Offered By: Mr. Menendez

Amendment No. 14: Page 3, line 15, insert "(decreased by $50,000,000)" after "$146,084,000".

Page 26, line 23, insert "(increased by $50,000,000)" after "$2,781,300,000".

H.R. 2361

Offered By: Mr. Rahall

Amendment No. 1: At the end of the bill (before the short title) insert the following new section:

SEC. _____. LIMITATION ON USE OF FUNDS FOR SALE OR SLAUGHTER OF FREE-ROAMING HORSES AND BURROS.

None of the funds made available by this Act may be used for the sale or slaughter of wild free-roaming horses and burros (as defined in Public Law 92-195).

EXTENSIONS OF REMARKS

SUSAN EDGERTON PRAISED FOR SERVICE TO VETERANS

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. EVANS. Mr. Speaker, I rise today to publicly recognize and express the gratitude of many in Congress and the veterans' community to Susan Edgerton, Democratic Staff Director for the Subcommittee on Health of the Committee on Veterans Affairs in the U.S. House of Representatives.

Susan is leaving the Committee staff after more than 8 years of service, and what she has accomplished in that relatively brief time has literally touched every corner of the body of law covering veterans' health care services. Her achievements have had profound impact on both the VA health care system and the lives of those who enter the doors of its facilities. Prominent among her accomplishments are a heightened focus on mental health, long-term care and specialized services for veterans, access to emergency care and chiropractic care for veterans, comprehensive services for homeless veterans, and improved pay for VA physicians, nurses and dentists. She has been a principal player in assisting Members of Congress in the struggle to acquire adequate VA health care funding.

Before joining the Committee staff, Susan was the Program Director of Health Policy for Paralyzed Veterans of America here in Washington. She is a graduate of the University of Virginia and received a Masters of Science in Public Health in Health Policy and Administration from the University of North Carolina at Chapel Hill.

She has used that education well. Like the majority of successful public servants, Susan has quietly and diligently toiled behind the scenes to improve the lot of those she serves. With great compassion and impressive political and legislative acumen, Susan has made her mark in and on this body, garnering tremendous respect and trust on both sides of the aisle, and also from her colleagues in the Senate and throughout the veterans' affairs community. She has been an extraordinary asset to me, to my staff, and most important, to the noble mission of caring for veterans and their families. I will miss her, and so will a great number of others in this chamber and beyond.

I know my colleagues will join with me in wishing Susan Edgerton well in her next and all future endeavors, and in thanking her for a job exceptionally well done.

PAYING TRIBUTE TO THE LIONS CLUB OF WEBSTER GROVES, MO

HON. RUSS CARNAHAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. CARNAHAN. Mr. Speaker, today I rise to pay tribute to the Lions Club of Webster Groves, Missouri, in this, the year of its 80th anniversary. Since its establishment on March 12, 1925, the Lions Club has demonstrated a deep concern and commitment to the well-being of the community.

For the past 29 years, the Lions Club has held a summertime "Carnival & Barbecue." Since 1960, it has been an integral part of the July 4th celebration in Webster Groves known as "Community Days." The Webster Lions provide amusement rides, midway booths, and delicious barbecued food over 4 days of family fun and wholesome festivities.

In recent years, the Lions Club has expanded its community involvement by donating their time and resources to support events such as "Make a Difference Day," the Fire Department's "Open House," the Police Department's "Public Safety Day," the "Opening Day" of the Youth Baseball and Softball Season, and an annual "Diabetes Screening & Information Day. "

The generosity of the Lions Club can be seen throughout the community with the construction of new tennis courts, wading pools, scoreboards, and bathrooms in parks. Some of these items, including the 1939 Flagpole in Ruhe Park, have been symbols of the fine community of Webster Groves for generations.

Furthermore, the Lions Club motto of "we serve" has reached beyond the tangible. More than 50 organizations and programs, including the Webster-Rock Hill Ministries, Webster Groves Historical Society, various college scholarships, and Meals on Wheels, all receive annual financial contributions, the sum of which has exceeded $2 million.

Today, the Lions Club of Webster Groves remain an integral part of the community.

Whether fostering civic improvement or donating time, money and effort, they are to be commended. I am honored to stand here today in recognition of the past 80 years of service.

RECOGNIZING THE PUBLIC SERVICE OF MS. MARCELLE FORTIER CITRON

HON. CHARLES W. BOUSTANY, JR.

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. BOUSTANY. Mr. Speaker, I rise today to recognize the great achievements and selfless service of Ms. Marcelle Fortier Citron of Lafayette, Louisiana. Ms. Citron has been helping the people of Acadiana for over fifty years. She began her service work in 1950, when she served as the co-chair for the Hospital Dental Clinic for Under-Privileged Children. During the 1950s she helped establish the Lafayette Day Nurseries, where underprivileged mothers could leave their children when they had to go to work. In 1962, Ms. Citron helped found the Pink Ladies and Candy Stripers for the Lafayette Sanitarium at the Lafayette General Hospital. She then served as the organization's president for three and a half years.

In 1982, Ms. Citron became a board member of the Faith House Battered Women's Shelter. She served on the board for nine years, including two as president. Frequently, Ms. Citron would provide shelter in her own home for the women and the families that sought refuge at Faith House. During her time with the Faith House, it was recognized as one of the top five model shelters in the country by the Homeless in America Project. Even today Ms. Citron remains in touch with many of those she helped through the Faith House and often provides them with necessities.

In the late 1980s, Ms. Citron founded two non-profit organizations that have done immeasurable good for Acadiana. Foodnet was created in 1987. Foodnet provides food and necessities for lower income residents in Acadiana's eight parishes. During its eighteen years of existence, Foodnet has collected over 30,000 tons of food for the thirty food distribution agencies it supports. In 1989 Ms. Citron also founded Project RX, a program which provides free prescription drugs for those in financial distress. Today, this organization helps hundreds of needy obtain important and critical medications.

In recognition of her service, Ms. Citron has received numerous service awards. In 1990 she was named Outstanding Woman by the Business and Professional Women Association. She was then named Rotarian of the Year in 1991. Ms. Citron has also been awarded the Lafayette Civic Cup. Though she has received so much deserved notice of her great service, Ms. Citron nonetheless prefers to remain in the background of her organizations. She works not for public recognition but rather solely for the public good. I applaud Ms. Citron's work and commend the shining example of personal charity and kindness she sets for Acadiana.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

CHINA'S ANTI-SECESSION TARGETING DEMOCRATIC TAIWAN

HON. STEVAN PEARCE

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. PEARCE. Mr. Speaker, on March 14, China's unelected Parliament passed its Anti-Secession Law targeted at Taiwan. Later that month, Taiwanese citizens took to the streets protesting the law, while senior U.S. administration officials and U.S. Congress repeatedly and on many occasions expressed their grave concern regarding the passage of the Chinese legislation. The European Union has also decided not to lift its arms embargo against China at this time.

Clearly, the Chinese anti-secession legislation has impeded cross-strait dialogue, threatened peace and stability in the Asia-Pacific region and, more importantly, allowed the world to see the true nature of the Chinese Communist Party. It is a party that hasn't changed much from the days of the Tiananmen massacre in 1989.

Indeed, despite China's recent economic growth and prosperity, China remains authoritarian. The Chinese Communist Party is the supreme source of power. Human rights violations are widespread, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence of laws protecting basic freedoms. Abuses include torture and mistreatment of prisoners, forced confessions, and arbitrary and lengthy incommunicado detention. Prison conditions are harsh. The government has placed severe restrictions on freedom of speech, the press, assembly, association, religion and privacy. In many cases, the judicial system denies criminal defendants basic legal safeguards and due process. Thousands of people are detained or serving sentences for "counterrevolutionary crimes" or "crimes against the state," including those arrested for issuing petitions or open letters calling for reforms and greater democracy.

For the sake of peace and stability in the Asian-Pacific region, especially in the Taiwan Strait, I therefore urge President Hu Jin-tao to rescind the Anti-Secession Law and improve China's dismal human rights record. As a start, China should censure its bloody Tiananmen crackdown, reverse its verdict on June 4th and release the more than 250 political prisoners jailed for their involvement in the 1989 pro-democracy movement.

China's Anti-Secession Law and human rights abuses need to be recognized by the world for what they are: antiquated measures to impose China's rule on its neighbor and its own people. If China wants to be recognized as a world power, it must act responsibly in a peaceful solution to the Taiwan issue and correcting human rights at home.

RECOGNIZING THE SPRINGVILLE-GRIFFITH INSTITUTE AND SPRINGFIELD-GRIFFITH INSTITUTE CENTRAL SCHOOL DISTRICT ON 175TH ANNIVERSARY

HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. REYNOLDS. Mr. Speaker, it is with great pleasure that I rise to recognize the Springville-Griffith Institute and Springville-Griffith Institute Central School District on the occasion of its 175th Anniversary. As a proud graduate of Springville-Griffith Institute, I know firsthand the dedication that the teachers, administrators and staff bring to providing a top-notch education for their students.

Springville Academy was organized in 1825. After Dewitt Clinton penned the school's incorporation in 1827, it opened its doors in 1830, making it the first high school in Erie County. The original school building was a modest one, with most of the funds used to build the school coming from community donations.

From the time of its inception, Springville Academy became an educational cornerstone of both Springville and Western New York, drawing students from all across the region. By 1849, there were 110 boys and 100 girls attending the school. In 1867, the school became known as the Griffith Institute in recognition of a scholarship gift from Archibald Griffith. As the years passed, the school and its student population grew, as did its reputation for providing a quality education. Today, the district boasts an enrollment of over 2,300 students.

Over the past 175 years, the Springville-Griffith Institute has touched the lives of thousands of students, their families, our community and our nation. Notable graduates of the school include: author and statesmen Clark E. Carr, who suggested that his close friend, President Abraham Lincoln, be invited to speak at Gettysburg; Ralph B. Waite, who brought the world "painless dentistry" through the introduction of Novocain; and Glen S. "Pop" Warner, the man who introduced protective padding, numbered plays and jerseys, and who pioneered the forward pass, spiral, forever changing the game of football.

Schools are cornerstones of our communities, and nowhere is that more true than in Springville, New York. Throughout its history, the Griffith Institute's staff—past and present—have helped shape and positively influence thousands of local students, and continue to do so today. We in Western New York appreciate all that the Springville-Griffith Institute has done to educate generations of children, and we hope for many more successful years to come.

Mr. Speaker, I ask that this Congress join me in celebrating the 175h Anniversary of the Springville Academy, Griffith Institute, and Springville-Griffith Institute Central School District.

RECOGNIZING THE 50TH ANNIVERSARY OF MAYOR RICHARD J. DALEY'S INAUGURATION

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. EMANUEL. Mr. Speaker, I am proud to rise in recognition of the fiftieth anniversary of the first inauguration of the late Richard J. Daley, former mayor of Chicago and one of America's all-time greatest mayors. His legacy was honored at a symposium last week at the University of Illinois at Chicago, UIC, followed by a gala reception and benefit for that fine school.

This event, attended by the mayor's family, friends and many other Chicagoans was addressed by public servants and members of the media who knew and worked with the mayor. Remembered as a man of strong conviction and dedication to his family, faith and the city, Mayor Daley left an indelible mark as Chicago's longest-serving chief executive.

As many participants made clear at the symposium, evidence of Mayor Daley's stamp on Chicago can be seen clearly today. From its vibrant downtown to its freeways and mass transit to O'Hare International Airport, Mayor Daley forever transformed Chicago into the "city that works." He appreciated the importance of the city's great cultural institutions and core businesses, building strong partnerships that have enabled Chicago to avoid the pitfalls affecting many other industrial cities. His visionary founding of UIC as an urban college for the children of immigrants and working families was perhaps his greatest achievement, making it a most appropriate place for the Daley Library, Archives and student scholarships in the name of the late mayor and his beloved wife, Eleanor.

Through times of great social upheaval and racial tension, the mayor never wavered from his vision of politics and government as "a people business." He maintained his commitment to public education and economic opportunity for all people, working closely with national leaders like Presidents John F. Kennedy and Lyndon Johnson toward these goals, which passage of the landmark Civil Rights and Voting Rights laws.

In return for his dedicated service and in recognition of his great love for Chicago, its residents elected and re-elected him an unprecedented six times.

Still, Mayor Daley made the time to be a loving husband and devoted father to seven children. His eldest son, Richard M. Daley, has succeeded him as mayor, and has built his own legacy as a great leader and urban visionary. Together, the two Mayor Daleys have provided the city of Chicago with outstanding leadership and direction and along with the entire Daley family have shown a sense of commitment to public service that is inspiring. I am proud that, 50 years after the first Mayor Daley's inauguration, Chicago is among the world's greatest and most vibrant cities. May it remain so for many years to come.

TRIBUTE TO EDITH SCHAFFER LEDERBERG

HON. DEBBIE WASSERMAN SCHULTZ

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES,

Monday, May 16, 2005

Ms. WASSERMAN SCHULTZ. Mr. Speaker, Senior Volunteer Services in Broward County, Florida will honor Edith Schaffer Lederberg, of the Area Agency on Aging, Area Agency, for her longstanding commitment to Broward County's elder population at its 40th anniversary luncheon on Thursday, May 19. This event provides an excellent opportunity to thank Edith for her dedication and leadership. The Area Agency plans, develops, coordinates, and evaluates programs; funds services; and is the prime advocate for residents of Broward County, Florida, who are 60 years of age or older.

Serving as the executive director of the Area Agency for the past 19 years, Edith has been responsible for overseeing an annual Federal and State budget of more than $24 million. Under her guidance, the Area Agency has been proactive in responding to the critical needs of our community. In response to a vital need for transportation to aid elderly and younger disabled Broward residents' in their efforts to travel to work or medical appointments, Edith was determined to become a provider. She wanted to ensure that these services would be delivered by caring and capable coordinators.; Her endeavor became a reality in 1996, with the Area Agency as a committed provider. Because of Edith's foresight, the Area Agency has developed pioneer programs such as the Noble McArtor Adult Day Care Center—the first such facility in the United States to target the needs of the gay and lesbian population.

Most recently, in a concerted effort to raise funds for aging services throughout Florida, Edith drafted legislation to support aging services within communities. Mr. Speaker, these are but a few examples of Edith Lederberg's countless accomplishments. She works tirelessly each day to ensure that the seniors in our community have the resources they need and deserve in order to maintain their dignity and wellbeing. Thank you, Mr. Speaker and Members of Congress for the opportunity to salute this great Floridian and great American.

TRIBUTE TO KCPT PRESIDENT/CEO WILLIAM REED

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. MOORE of Kansas. Mr. Speaker, Mr. CLEAVER and I join today to pay tribute to William T. Reed, the President and CEO of KCPT, Kansas City's public broadcasting station, who has announced his retirement effective June 30, 2005. He steps down after 13 years as head of Kansas City Public Television.

Bill Reed joined KCPT in 1992 and emphasized education, local programming and outreach. The station received numerous awards from PBS, the National Educational Telecommunication Association NETA, and community organizations for its local programming and services, including 21 regional Emmy awards and one national Emmy for the documentary, "Be Good Smile Pretty". Four of the station's signature program series, "Ruckus", "Rare Visions", "Roadside Revelations" and "Kansas City Week in Review", began under Reed's leadership. He also introduced viewers to the beautiful writings of Kansas City Star columnist Charles Gusewelle, who this spring will produce his fourth documentary for KCPT, called "Stories Under the Stone". Reed's collaboration with Gusewelle also launched KCPT's home video library venture. Later this year, children and their parents also will benefit from the development of an interactive reading program called "Bark Park Place".

Bill Reed made partnerships and collaborations an important part of the station's business plan. In 2003, KCPT was named Best Place to Work for Community Partnerships by the Kansas City Business Journal. Many of those partnerships, like Chalkwaves, a digital instructional media service for elementary and secondary schools now used across the country, changed the education landscape. Additionally, the Kansas City Regional Access Consortium for Higher Education, KC REACHE, a distance education effort partnering KCPT with nine area colleges and universities, began under Reed's stewardship long before distance learning was commonplace. Other successful partnerships include Network KC, an in-depth news partnership with the Kansas City Star, KCUR–FM, KPRS–FM and UMKC's Back Channel, a student production for the web; and Speaking of Women's Health, a partnership with Shawnee Mission Medical Center to conduct a yearly health symposium for 1,700 women. The TV Dinner and the KCPT Holiday Auction were also created, and a partnership developed with the Gamma Phi Beta Sorority for the Antiques, Garden and Home Design Show to raise additional funds for the station.

From 1997 to 2001, KCPT successfully conducted a capital campaign that raised $10 million to renovate its facilities on 31st Street and to purchase digital television equipment. The station was among the first stations to go on the air with digital television and was cited by PBS as one of seven Digital Pioneers in public television.

Reed began his public broadcasting career in 1967 as General Manager of KIXE, the public television station in Redding, California. He joined the Public Broadcasting Service, PBS, in Washington, DC, in 1974, where he was promoted to Senior Vice President in 1978 and worked until 1991. While at PBS, Reed led the planning and implementation of PBS Home Video and the PBS Adult Learning Service and the development of PBS VIDEO—a service for educational institutions. After leaving PBS, he also served as a consultant to the Corporation for Public Broadcasting, CPB. Reed served the boards of a number on local and national organizations: the Public Broadcasting Service Board of Directors from 1972 to 1974; the Association of America's Public Television Stations', APTS, Board of Trustees from 1995 to 2001; and American Public Television, APT, Board of Directors from 1997 to 2003. He was elected as the National Educational Telecommunications Association's, NETA, first chairman in 1997. Reed served as President of the Jackson County Historical Society from 1996 to 1998, President of the Public Television Association of Missouri, PTAM, from 1994 to 1998 and 2002 to present, and Chairman of the Kansas Public Broadcasting Council, KPBC, from 1997 to 1998. Reed also served on the Corporation for Public Broadcasting's, CPB, Digital Television Task Force from 1998 to the present, and was a member of Video Advisory Committee to the Missouri Department of Elementary and Secondary Education from 1993 to 2000.

In 1991, the Pacific Mountain Network Board honored Reed with its Governor's Award for Distinguished Service to Public Television. He also served as a private sector representative in telecommunications for the U.S. Department of State to the Conference on Security and Cooperation in Europe, 1989–London; as Chairman of the Broadcast Panel for U.S.-U.S.S.R. Bilateral Information Talks, 1988–Moscow; and as President of the Western Educational Network, 1972.

Bill Reed was born in Los Angeles, California. He received his B.A. in History and, following a year of graduate studies, his General Secondary Teaching Credential from the University of the Pacific in Stockton, California. From 1963 to 1965, he served in the U.S. Army, including one year in Vietnam, where he was awarded the Bronze Star Medal, the Air Medal with Three Oak Leaf Clusters and the Army Commendation Medal for Valor.

Mr. Speaker, Bill Reed and his wife, Mary Ann, will continue to live in Kansas City after his retirement. A nationwide search is underway for his replacement and his shoes will be very difficult to fill. Mr. CLEAVER and I commend Bill Reed for his many accomplishments on behalf of the Kansas City community during his tenure at KCPT and wish him and Mary Ann all the best in the years to come.

IN HONOR OF PRESIDENT CHEN'S ANNIVERSARY

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. SESSIONS. Mr. Speaker, I wish to extend my congratulations to the people of Taiwan on the occasion of their president's first anniversary in office this May 20th. Taiwan President Chen Shui-bian was re-elected to a second four year term in 2004.

During the last five years, President Chen has been deft in navigating the dangerous shoals between the demands of his people seeking independence and Chinese threats to attack Taiwan. In recent weeks and months, China passed the anti-secession law, codifying the use of force if Taiwan moves toward independence and lavishly entertained two Taiwan opposition parties leaders.

At the moment, there is a "China fever" sweeping Taiwan. Many Taiwanese are lured by China's promise of trade benefits and are willing to make political concessions to China. However, President Chen has been steadfast in demanding that the best welfare for the people of Taiwan must be safeguarded in any negotiations with China.

I believe it is time for us to speak up for President Chen and the Taiwanese people. We treasure our affiliations and relations with Taiwan as we admire Taiwan's political and economic achievements of the last two decades. It is often too easy to forget that all these accomplishments came through decades of hard work. Taiwan today is a beacon of democracy and an island of prosperity to many developing countries, including China.

The Taiwanese people, as we know, do treasure their democratic way of life and their independence. And the person who has their best interests at heart is President Chen Shuibian. I rise today to support President Chen's handling of Taiwan's relations with China. President Chen is right in pointing out the differences between democratic Taiwan and autocratic China and the importance of conducting direct talks by elected leaders in Taiwan and China.

In the meantime, I urge Chinese leaders to withdraw their missiles deployed on the other side of the Taiwan Strait and accept President Chen's suggestion of setting up a stable mechanism for cross-strait interaction, leading to permanent peace and development in the Taiwan Strait.

Again my best wishes to the Taiwanese people on their president's first anniversary.

THE RETIREMENT OF MAJOR GENERAL RICHARD S. COLT

HON. ANTHONY D. WEINER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. WEINER. Mr. Speaker, on May 14, 2005 there was a military retirement ceremony for Major General Richard S. Colt, the Commanding General of the 77th Regional Readiness Command at Fort Totten, New York. He has served his country honorably for nearly forty years. While no statement could adequately recognize his achievements, Major General Colt's accomplishments in service of his country deserve our greatest admiration and thanks.

Major General Colt received his commission as a Second Lieutenant in the Military Intelligence Branch in 1967 through the Reserve Officer Training Corps Program at Fordham University, in New York City. After completing the Infantry Basic Course at Fort Benning, Georgia, he served on active duty with the Military Assistance Command in Vietnam from May 1968 until May 1969.

In November 1969, Major General Colt was honorably discharged from active duty, and in June 1978 he joined the New York Army National Guard where he served until September 1985. At that time, Major General Colt transferred to the United States Army Reserve where he served as: Deputy Commander, 94th Regional Support Command; Chief of Staff, 77th Regional Support Command; Commander of the 301st Area Support Group at Fort Totten, New York; Deputy Chief of Staff for Training and Chief of Unit Training, Headquarters, 77th Army Reserve Command; and Commander of the 5th Battalion, 5th Field Artillery at Fort Tilden, New York. On June 20, 2001, he was assigned as the Commanding General of the 77th Regional Support Command, which was restructured and renamed to the 77th Regional Readiness Command in July 2003.

In addition to completing the Infantry Officer Basic Course, Major General Colt has completed the Field Artillery Officer, Military Intelligence Officer, and Quartermaster Officer Advance Courses, the U.S. Army Command and General Staff College and the Army War College. He holds a BA in English from Fordham University, an MBA in Organizational Behavior, and a PMC in Information Systems from Iona College.

General Colt has received countless military awards for his service: the Legion of Merit with Oak Leaf Cluster, Bronze Star Medal, the Meritorious Service Medal with two Oak Leaf Clusters, the Army Commendation Medal with two Oak Leaf Clusters, the Army Achievement Medal, Vietnam Service Medal with two service stars, the Republic of Vietnam Honor Medal First Class, the Vietnam Campaign Medal, the Republic of Vietnam Gallantry Cross with Palm Unit Citation Badge, a Meritorious Unit Commendation Medal, and the Combat Infantryman Badge.

Since July 25, 1967, Major General Colt has served the United States. He is a living example of honor, duty, courage, and service. I wish him well in his retirement.

IN HONOR OF THE 2005 STEWARD OF THE LAND AWARD RECIPIENT, STEVE SINTON

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. THOMAS. Mr. Speaker, I rise today to congratulate Steve Sinton of Shandon, California, who will receive the American Farmland Trust's 2005 Steward of the Land Award on May 17. This is an impressive accomplishment as Steve is just the ninth American farmer to win this award, which is given to recognize exemplary leadership exhibited in environmental stewardship and the protection of farmland.

Steve is a fifth-generation Californian and a fourth-generation rancher whose family has been grazing cattle in San Luis Obispo County for over 125 years. He graduated locally from Shandon High School, and then went on to earn his Bachelor of Arts from Stanford University and his Juris Doctor from the University of Colorado. He began his professional career working as an attorney for the California Department of Water Resources in Sacramento before returning to his family's cattle ranch in 1978. Steve and his wife Jane have two children, Julie and Dan, who are both pursuing their own careers, but have also become fifth-generation cattle ranchers.

I have personally known of Steve's leadership and commitment to conservation for many years. In fact, over 20 years ago, I worked with the Sinton family to protect land in San Luis Obispo County. Today, Steve oversees his family's ranches, the Canyon Ranch in Shandon and the Avenales Ranch near Pozo, and manages his family's vineyard on Shell Creek Road. To promote the sustainability of his ranch and vineyard while also protecting the environment, he has employed a variety of original methods, including the use of a unique trellising method to balance the canopy to fruit ratio on the vineyard. Steve has also participated in experiments with cover crops and erosion control.

In addition to his hard work on the ranch and in the vineyard, Steve has also been a national leader in the effort to promote conservation and sustainable agriculture. He was a founding member and the founding chairman of the California Rangeland Trust, which is a statewide agricultural land trust formed in 1998 that has used conservation easements to keep 173,000 acres on cattle ranches undeveloped. Steve also has been active in the San Luis Obispo, the California, and the National Cattlemen's Associations, and has served as the Vice-Chairman of the Land Use Committee of the California Cattlemen's Association. Steve also has used his talent and expertise to benefit the San Luis Obispo County agricultural community through his involvement with the Central Coast Vineyard Team and the San Luis Obispo County Water Advisory Committee. Accordingly, I would like to congratulate him and wish him well as he continues in his various endeavors.

HONORING JOHN G. LAYTHAM, WASHINGTON RESTAURANT ASSOCIATION DUKE ZEIBERT AWARD

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to congratulate John G. Laytham on winning the Washington Restaurant Association's Duke Zeibert Award. This special honor is truly well-deserved.

John Laytham has worked tirelessly for over 41 years for Clyde's Restaurant Group and has helped shaped their success in the Washington, DC Metropolitan area. He first started to work at Clyde's Restaurant to earn extra income while attending Georgetown University. He held nearly every position, and in 1968 he was asked to be partner. In 1970 he and his partner purchased the Old Ebbitt Grill, the oldest saloon in Washington, and today the most popular restaurant in the city.

The success of Clyde's restaurant group can be attributed to Mr. Laytham's dedication, keen sense of detail, and good judgment of style. Since the purchase of Old Ebbitt Grill the company has expanded to include 11 restaurants. Currently, Mr. Laytham is working to expand that number. He is simultaneously overseeing the construction of a restaurant in the Penn Quarter and a restaurant in Loudon County Virginia.

In 1992, Mr. Laytham launched the Clyde's School/Work program in partnership with the

D.C. public school system. His love for the restaurant industry and concern for the well being of the District's youth helped him infuse the two interests allowing students to learn valuable work skills while obtaining a diploma. This mentoring program was started in hopes of eventually creating a high profile charter school, and with the help of other industry leaders the Marriott Hospitality Public Charter High School was formed.

Mr. Speaker, in closing, I would like to extend my heartfelt thanks to Mr. Laytham for his extensive service to the District of Columbia and the restaurant industry. His contributions and efforts are much appreciated and greatly admired. I call upon my colleagues to join me in congratulating Mr. Laytham on his award and in wishing him the best of luck in all future endeavors.

PERSONAL EXPLANATION

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. ROGERS of Michigan. Mr. Speaker, on the legislative day of May 4, 2005 the House had procedural vote on H.R. 366, the Vocational and Technical Education Act. On House rollcall vote #153, I was unavoidably detained. Had I been present, I would have voted "nay."

HONOR OUR WOUNDED AND FALLEN HEROES

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. FILNER. Mr. Speaker and colleagues, I rise today to urge support of my legislation that recognizes and honors the service and sacrifice of members of the United States Armed Forces.

The first bill is H.R. 2369, "Honor our Fallen Prisoners of War Act". Currently, prisoners of war who die during their imprisonment of wounds inflicted in war are eligible for posthumous Purple Heart recognition. However, those who die of starvation, beatings, freezing or other causes are not eligible for the Purple Heart!

This is not right! There should be no false distinction indicating more courage or more sacrifice by some who died and less by others. All POWs who died in service to our Nation should be eligible for Purple Heart recognition. H.R. 2369 will allow all members of our Armed Forces who die while a Prisoner of War, regardless of the cause of death, to be awarded the Purple Heart posthumously. This will apply to all wars, past and present.

I am indebted to Rick and Brenda Morgan Tavares of Campo, California and to Wilbert "Shorty" Estabrook of Murrieta, California who brought this issue to my attention. Shorty survived the Tiger Camp death march during the Korean War and was imprisoned for over three years. Brenda's uncle, Corporal Melvin Morgan, died of starvation and beatings in 1950 at the age of 20 in Korea.

Today, I am also introducing H.R. 2370, the "In Memory Medal for Forgotten Veterans Act". There are two groups of veterans who I believe need recognition beyond what they are currently receiving. The first are veterans who have died as a result of their service in the Vietnam War but who do not meet the criteria for inclusion on The Wall of the Vietnam War Memorial in Washington, DC.

The Vietnam Veterans Memorial Fund has a program called "In Memory" which has raised money for a plaque that has been placed near The Wall. The plaque honors "those who served in the Vietnam War and later died as a result of their service." No names are on the plaque, but all names are kept in a "In Memory Book" at a kiosk near The Wall, and families can order a copy.

My bill adds to this fine recognition by presenting the families of these veterans with a medal, to be known as the "Jesus Chuchi Salgado Medal" to be issued by the Secretary of Defense. Chuchi Salgado was an outstanding individual, living in my Congressional district, whose exposure to Agent Orange ultimately led to his death. I would like to recognize his wife, Carla Salgado, as well as and Dan Santillan, who live in my Congressional District in California. Dan suggested the appropriateness of this bill.

The second group of veterans deserving of the "Jesus Chuchi Salgado" medal are those who were exposed to chemical agents, ionizing radiation, or chemical and herbicide agents during their service in the Armed Forces. The medal would be presented to veterans who are still living or to their families if they have died. Thomas Barnes of Whittier, California requested that action be taken to commemorate and honor such veterans.

I urge my colleagues to join with me in cosponsoring and passing H.R. 2369 and H.R. 2370. It is critical that we honor and remember those who have fought so gallantly for our freedom!

HONORING THE CONTRIBUTIONS OF TEXAS POLICE OFFICERS KILLED IN THE LINE OF DUTY THIS YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. CUELLAR. Mr. Speaker, I am here today to recognize the extraordinary I contributions of the following Texas Police Officers killed this year in the line of duty:

Sergeant John Maki, Celeste Policy Department; Deputy Constable Frank "Scotty" Claborn, Harris County Constable's Office; Police Officer John Logan, Huntington Police Department; Police Officer Frank M. Cantu, Houston Police Department; Trooper Kurt David Knapp, Department of Public Safety; Police Officer Darren Glen Mdelin, Grapevine Police Department; Sergeant Gregory Hunter, Grand Prairie Police Department; Police Officer Nathan Laurie, River Oaks Police Department; Sergeant Mike Lane, Beaumont Police Department; Police Officer Angel Barcena, El Paso Police Department; Police Officer Christopher Jerome Sobieski, Prairie View Police Department; Deputy Sheriff Dirk Knearem, Chambers County Sheriff's Department; Lieutenant Rover "Bob" Haley, Comanche County Sheriff's Department; and Police Officer Amy Donovan, Austin Police Department.

Each of these Officers provided their community with tireless, courageous, and gallant service of the highest caliber. They worked to preserve our rights, our homes, and in many cases, our lives—keeping our cities and towns safe for the sake of our children and families. These men and women were committed to excellence in leadership, developing community partnerships and always building for a better future.

It is a great honor to pay tribute to such amazing and exemplary individuals. Their selfless efforts and noble service will never be forgotten.

IN HONOR AND RECOGNITION OF BRIAN DAVIS, EXECUTIVE DIRECTOR NORTHEAST OHIO COALITION FOR THE HOMELESS

HON. DENNIS. J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Brian Davis, executive director of the Northeast Ohio Coalition for the Homeless (NEOCH), for his activism and dedication on behalf of the homeless women, men and children of our community.

For the past decade, Mr. Davis has fought in the interests of justice and hope for Northeast Ohio's most vulnerable citizens living on the streets. Mr. Davis' unwavering energy, compassion and focus has given a voice to those whose voices have been silenced by poverty and hopelessness. For the past ten years, he has edited The Grapevine, a publication that has provided an income and a communications medium for hundreds of homeless people.

Under Mr. Davis' leadership, NEOCH has helped obtain permanent housing for more than 425 people; provided 150 voice mailboxes for homeless individuals; provided legal assistance for nearly 900 people; and provided 5,800 people social services and empowerment through the Homeless Stand Down.

Beyond Cleveland's local scene, Mr. Davis has been a powerful voice for the homeless on Capitol Hill and at the State House in Columbus. He testified before the Government Reform Committee at my request to speak of the need for the Passport program for homeless men at a time when its funding was threatened. Mr. Davis was a guiding force and active participant in my Homelessness Summit, an advisory group with more than 200 Cleveland area activists working to end homelessness and advise me on legislative proposals. His energy extended to Columbus, where he worked with a state coalition to secure a revenue source for the Ohio Housing Trust Fund.

Mr. Speaker and Colleagues, please join me in honor and recognition of Brian Davis, the tireless leader of the Northeast Ohio Coalition for the Homeless. His advocacy on behalf of the homeless citizens, the formerly homeless, and those at risk in the community continues to offer protection, guidance and empowerment. Because of the dedication and focus of Mr. Davis, the lives of hundreds of homeless people have been lifted into the light of positive change and hope for a brighter tomorrow.

HONORING THE 20TH ANNIVERSARY OF TROPHY CLUB, TX

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. BURGESS. Mr. Speaker, I rise today to honor the town of Trophy Club, TX, as they celebrate 20 years as a municipality. Trophy Club, a town of roughly 7,600 residents, was built on a foundation of individuals who sought to create a unique town with less population density.

It is the passion of those like Jim Carter, Trophy Club's first Mayor, Town Manager Donna Welsh and numerous other individuals who dedicated their support, sweat and money to the incorporation of this small town which has allowed it to be so successful.

Trophy Club became the first master planned community in Texas and that foresight has allowed citizens to take hold of their community and develop the amenities and enterprises, which are wanted by their peers.

Originally designed to be a housing development circling a golf course designed by Ben Hogan, Trophy Club has come a long way from that vision, but relishes that it is the only town home to a golf course designed by that golfing legend.

Mr. Speaker, it is with great pride that I stand here today to commemorate the twentieth anniversary of a city founded on such sound principles of representation and democracy.

MILITARY RETIREES ARE WAITING—LET'S FINISH THE JOB

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. FILNER. Mr. Speaker and colleagues, I rise today to introduce a bill to eliminate the Disabled Veterans Tax and to provide immediate concurrent receipt of military retired pay and VA disability compensation to all deserving disabled military retirees.

The "Immediate and Full Repeal of the Disabled Veterans Tax Act of 2005 (H.R. 2368) does exactly what it says—it eliminates the years of waiting before all disabled military retirees receive all the retired pay and compensation they have earned and deserve.

For the past several years, our Nation's veterans waged a long and determined campaign to eliminate the Disabled Veterans Tax. As my colleagues know, we were partially successful. But only partially.

The laws that we passed make veterans with a disability rating of 50 percent to 90 percent wait for ten years before their tax is completely eliminated. A great number of these veterans are elderly and, unfortunately, may not live to see that day.

Even worse, fully two thirds of America's disabled veterans, with a rating less than 50 percent, have been left behind and will continue to be taxed as before—nearly 400,000 veterans! Despite the actions of Congress last year, the Disabled Veterans Tax is alive and well.

Our Democratic Leader, NANCY PELOSI, recently stated: "On the battlefield, our soldiers pledge to leave no one behind. As a Nation, let it be our pledge that when they return home, we will leave no veteran behind. The Disabled Veterans Tax breaks that promise."

Some of the veterans left behind include:

A veteran of the Kuwait theater who had a below-the-knee amputation after being hit by a drunk driver while jogging near the Pentagon to maintain physical fitness.

A retiree who cannot work on a family farm because of pain, numbness and osteoarthritis of both feet due to exposure to cold during noncombatant military service.

A veteran who lost an eye when an air hose accidentally detached from an airplane being worked on and who cannot work as an airline pilot.

A female retiree who has weekly panic attacks and chronic sleep disturbances as the result of a sexual assault which occurred while on active duty.

My friends and colleagues, Congress did just okay by taking the first steps towards eliminating the Disabled Veterans Tax—I would give us a grade of C−, but we did not do A work.

During my years in Congress, I cannot recall more than or two other issues on which I have received so many letters, e-mails and phone calls. Our veterans have been telling us that this is an important issue to them. They deserve that we do A work.

I understand that there are costs to concurrent receipt. But I also understand that the now-disabled veterans did not hesitate when called to duty. Many have returned home with disabilities they have had to lived with ever since. How can we doubt the imperative that we keep our promise and give them what they deserve? They earned their military retired pay. They deserve their VA disability compensation.

We cannot make them wait any longer for justice to prevail!

HONORING THE CONTRIBUTIONS OF BELINDA ELLIS, TOM GREEN ELEMENTARY SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the contributions of Belinda Ellis, Tom Green Elementary School Teacher of the Year.

Belinda's greatest influence is her mother, who taught her that things in life don't just happen—if you want something, you need to set a goal and work towards that goal a little at a time. This advice led Belinda to become the first in her family to graduate high school, and later college at Southwest Texas.

Mrs. Ellis has pledged over 18 years to teaching, and currently teaches math and science. She believes that having the support and involvement of a child's parent is the key to her success. During her time at Tom Green Elementary, Belinda has raised close to $3,000 to buy new flags, outdoor benches, and trashcans for her school.

This past year has been extremely hard for Belinda, who has remained strong, positive, and determined to continue working as normal despite her ongoing battle with cancer. Belinda hopes her enthusiasm for teaching and sponsoring extra-curricular activities touches each of her students.

I am honored to acknowledge Belinda Ellis, Tom Green Elementary School Teacher of the Year. Her passion and dedication are cherished by all in her community.

IN HONOR AND REMEMBRANCE OF MR. MIGUEL CONTRERAS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Mr. Miguel Contreras, devoted husband and father; a dedicated labor leader whose exemplary work touched the lives of many Californians.

Mr. Contreras was born and raised in Dinuba, California. The son of migrant farmworkers, Mr. Contreras went to work beside his parents and five brothers in the agricultural fields of California's Central Valley at only five years of age.

As a young man Mr. Contreras worked with the United Farm Workers of America. It was here that he found his true calling by learning from Cesar Chavez the meaning of dignity and self-worth. Mr. Chavez saw the potential of Mr. Contreras and appointed him a staff member of the United Farm Workers. It was here that Mr. Contreras learned the importance of speaking up and standing up for oneself.

With this strong foundation Mr. Contreras fought tirelessly for the rights of immigrants. He was an inspiration to many, bringing a special pride to Latino workers throughout California.

In 1993 Mr. Contreras began his work for the Los Angeles County Federation of Labor, AFL–CIO as Political Director. In 1996 he became Executive Secretary-Treasurer of the Federation, devotedly serving 345 unions with a collective 800,000 members. He held this position until his unexpected death on May 6, 2005. He will be missed greatly.

Mr. Speaker and Colleagues, please join me in honor and remembrance of Mr. Contreras. I offer my deepest condolences to his mother Esther Contreras; his wife, Maria Elena Durazo; his two sons, Mario Salazar and Michael Contreras, and his five brothers Alex, Antonio, David, Juan and Pablo Contreras.

HONORING METROPORT MEALS ON WHEELS

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. BURGESS. Mr. Speaker, I rise today to honor Metroport Meals on Wheels as they celebrate 25 years of service to numerous communities within the 26th District of Texas. The Metroport Meals on Wheels program grew out of the passion of one individual, Kelly Bradley, who saw the need to aid her neighbors. It was her dedication to others and the generosity of the First United Methodist Church of Roanoke which fostered this program and allowed it to grow into its current state; bringing dignity and respect to seniors in over 19 cities in the North Texas region.

The invaluable support and outreach that Metroport Meals on Wheels provides to these Texas communities is an integral connection for those who wish to stay independent. Last year alone this grassroots organization served over 54,000 meals without the aid of State or Federal funding.

Mr. Speaker, I would like to offer my utmost thanks and congratulations to Metroport Meals on Wheels for their 25 years of service to my fellow Texans and those most in need of their support and their humble respect. The generosity of Ms. Bradley and the other volunteers at Metroport is truly making a difference in the lives of those they serve.

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A SMARTER APPROACH TO THE BORDER

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. FILNER. Mr. Speaker, as California's Border Congressman, I rise today to deliver a simple yet important message to this Congress about how we handle affairs on our nation's southern border.

To my fellow Members of Congress, I implore you: Don't block clinics that want to help Mexican children with severe medical needs. Don't block border schools from hosting their Mexican neighbors. And don't block our tourism industry from welcoming Mexican field trips. Instead, join me in supporting the VISA Act!

Prior to September 11, 2001, the Valley Orthopedic Clinic in Calexico, California treated low-income Mexican children who suffered from cleft palates or other maladies. In fact, over forty years, they treated 125,000 children! The Port Directors at the border selectively issued humanitarian visa waivers so that these children could briefly visit the United States without paying for an unaffordable $100 visa.

Since September 11, Port Directors have ceased issuing these visa waivers. As a result, children have been blocked from receiving specialized medical attention, participating in educational exchanges between border schools and taking field trips to tourist sites in border states.

That's why I have re-introduced the Visitors Interested in Strengthening America (VISA) Act (H.R. 2367). The bill gives Port Directors the discretion to issue humanitarian visa waivers to Mexican children making brief, prescheduled visits to the U.S. for medical, educational or recreational purposes.

In addition to clearing the way for American doctors who wish to provide specialized care to Mexican children, this bill would boost the economy in the border region and strengthen cultural and political understanding with Mexico.

The bill is identical to legislation that the Border Trade Alliance, National Council of La Raza, former U.S. Ambassador to Mexico Jeffrey Davidow and others supported in the 108th Congress.

I urge my colleagues to join me in fighting for this important legislation.

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HONORING THE CONTRIBUTIONS OF CARLA BANDY, DAHLSTROM MIDDLE SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the contributions of Carla Bandy, Dahlstrom Middle School Teacher of the Year.

Carla Bandy considers herself lucky to have given teaching another chance—initially quitting after 2 years because she felt she wasn't cut out for the job. Carla now understands that she made the right choice, and currently teaches Art at Dahlstrom Middle School.

In class, Carla stresses friendship; she respects her students and earns their respect in return. She believes that once she can achieve the trust of her students, the "real learning" begins.

Carla does her best to reach students of all abilities, skills, and interests. She keeps all students equally engaged—from the timid and unsure to the extremely talented. She researches the psychology behind different types of learning in an effort to customize her teaching techniques for each individual student.

I am honored to recognize Carla Bandy, Dahlstrom Middle School Teacher of the Year. Her dedication and hard work reward her students everyday.

* * *

ON RECEIVING THE NORTHEAST OHIO COALITION FOR THE HOMELESS LIFETIME COMMITMENT TO SOCIAL JUSTICE AWARD

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Michael Foley, the executive director of the Cleveland's Tenants Organization (CTO), for his activism and dedication on behalf of Northeast Ohio's families who pay rent for their housing. Mr. Foley has proudly served the Cleveland community and has focused on meeting the housing needs and protecting the housing rights of Cleveland area tenants.

Mr. Foley has dedicated his entire professional career to fighting for social justice on behalf of Cleveland's residents. Mike received his Bachelor of Arts Degree in Philosophy from the University of Dayton and his law degree from Cleveland Marshall College of Law. He has served as a community organizer for the St. Clair-Superior Coalition and was a Field Representative for the City of Cleveland Community Relations Board. From 1990 to 1996, Mike was the court administrator and personal bailiff for Judge William H. Corrigan at Cleveland Municipal Housing Court. In 1996 and 1997 he was an instructor with the Cleveland Marshall College of Law, Housing Law Clinic. In 1997 he began working with the CTO—Cleveland's premiere organization focusing on the rights of tenants—as the Director of the Rental Information Center. He became the assistant director of CTO in 1998 and in late 1999 Mr. Foley became CTO's Executive Director.

Mr. Foley has worked collaboratively with me since I began serving in the US. House of Representatives. He was a guiding force and active participant in my Homelessness Summit, an advisory group with more than 200 Cleveland area activists working to end homelessness and advise me on legislative proposals. When out-of-state landlords bought one of the largest 55-and-over communities in Ohio's 10th Congressional District and immediately increased seniors' rent by as much as 25 percent, Mr. Foley worked with me, and the seniors, to organize one of the largest tenant organizations in the State. He went on to work with the seniors to organize the largest rent strike in Ohio's history. Mr. Foley has also facilitated the passage of a local landlord tenant act and extended the services his agency provides to include an eviction diversion program and a lead testing program.

Mr. Speaker and Colleagues, please join me in honor and recognition of Michael Foley. His long-time advocacy on behalf of rent-payers in the Cleveland area exemplify the Lifetime Commitment to Social Justice Award that he received from the Northeast Ohio Coalition for the Homeless at the NEOCH Annual Meeting and Awards Ceremony on May 13. Because of the dedication and focus of Michael Foley, the lives of thousands of people have been lifted.

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PHONE CALLS FOR THE TROOPS!

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. FILNER. Mr. Speaker, we are all committed to ensuring that our troops have the support they need to succeed in their mission and maintain high morale.

As part of this effort, we have taken important steps to ensure that the soldiers in Iraq and Afghanistan can make free phone calls home to their loved ones. Last year, we passed a Defense Authorization bill that provided a $40 per month calling program to these soldiers. And our military hospitals have created adhoc programs, largely based on privately donated calling cards, to ensure that hospitalized troops can call home as well.

In order to strengthen and expand these efforts, I have introduced the bipartisan "Troops Phone Home Free Extension" Act (H.R. 2366). This legislation would extend the calling program until the end of operations in Iraq and Afghanistan. My bill would also extend the program to future contingency operations to ensure that our troops do not have to wait for the legislative process to catch up with their phone call needs. Finally, the "Troops Phone Home Free Extension" Act would extend the monthly calling card program to the wounded to ensure that the Federal government will provide the phone benefit if private donations are insufficient.

I invite you join me in fighting to maintain the morale of our troops, support our military families and give our soldiers the benefits that they have earned through their sacrifice and courage. Please join me in co-sponsoring the "Troops Phone Home Free Extension" Act!

HONORING THE CONTRIBUTIONS OF NANCY PHILLIPS, IMPACT CENTER SCHOOL TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the contributions of Nancy Phillips, Impact Center School Teacher of the Year.

Nancy's interest in teaching stemmed from her "lifelong love affair" with the language arts. Following a Bachelor's degree, a teaching certificate in English and two subsequent Master's degrees, she dove into a teaching career that has continued for the past 25 years.

Nancy Phillips teaches English at an alternative school, where students are sent because of past drug use or violent histories. She teaches grades six to twelve, and is challenged to stretch her creative capabilities and management skills every time she walks into the classroom.

Nancy does her best to lead her students gently towards the good things they can find in books, describing herself as a "combination tight rope walker and ring master." She is humble, and acknowledges that when she stays late at work or comes in during the weekend, she is not alone.

I am honored to recognize Nancy Phillips, Impact Center School Teacher of the year. Through her drive and consistent hard work, she is able to set her students on track for whatever challenges the future may bring.

DEMOCRACY AND DR–CAFTA

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. DREIER. Mr. Speaker, I rise today to highlight the importance that the Dominican Republic—Central America Free Trade Agreement will have on stabilizing the democracies of the participating nations. While we have witnessed firsthand the benefits than free trade has on emerging democracies, no one is in a better position to describe the benefits than President Enrique Bolanos of Nicaragua. His country continues to face serious challenges to democratic reform, yet he is unwavering in his commitment to DR–CAFTA because he knows it will lead to further democratic progress.

Last week, President Bolanos gave an address at the Nicaraguan Embassy here in the United States where he presented Senator RICHARD LUGAR and Ambassador Jeane Kirkpatrick with the Order of Ruben Dario, the highest honor of Nicaragua. I am including his remarks in the RECORD to reiterate to my colleagues that this trade agreement is about far more than trade.

SPEECH BY H.E. PRESIDENT ENRIQUE BOLANOS

EMBASSY OF NICARAGUA—MAY 13, 2005

Distinguished Guests and Dear Friends: I am in the United States this week with my fellow Central American Presidents. Together, we are here as the singular voice of Central America bringing a crucial message to the United States Congress. That message is as simple as it is important: pass the Central American—Dominican Republic Free Trade Agreement and pass it as quickly as possible.

There is a common misunderstanding about DR-CAFTA in the United States. The misunderstanding is that DR-CAFTA is primarily about trade. Yes, it is true that DR-CAFTA will bring very important trade and economic benefits to both the United States and to the nations of Central America and the Caribbean. This is an undeniable fact. But to truly understand DR-CAFTA, you have to get underneath the surface and see what DR-CAFTA is really about. In its central core, DR–CAFTA is really about "democracy." It is about rewarding a region who has fought so hard to build their democratic institutions and increase the security of the region.

Democracy has made very important gains in Central America in the last 15 years. But many of those gains are not irreversible. As we have seen recently in some of the countries of South America, some people are beginning to question whether democracy and free markets can solve their country's problems. But they are wrong. This well-negotiated free trade agreement will consolidate the democratic gains and ensure that the region does not back slide into the insecurity and violence of previous decades. DR-CAFTA binds the United States and Central America not only economically, but more importantly, democratically. DR-CAFTA should be seen for what it really is: a chance to lock in the democratic future for Central America with all economic and security benefits that implies for the United States. I want all Americans, particularly members of Congress, to understand that CAFTA is a democracy issue more than a trade issue.

Today, Nicaragua's democracy faces a new set of threats. Yesterday's enemies of democracy used pure military force. Today's enemies of democracy have evolved and refined their techniques. Today's enemies of democracy leave the outside facade of democratic institutions intact, while at the same time they hollow out these institutions from the inside, leaving nothing but the hollow shell.

Unfortunately, this is exactly what the enemies of democracy are attempting to do in Nicaragua. As many of you who are following events in Nicaragua know, democracy is under a direct threat. The assault is being led by what the Economist magazine called an "unholy alliance" of the extreme left, led by Daniel Ortega, and of the extreme right led by ex-President Arnoldo Aleman who is currently serving a 20-year prison sentence. Together these two party bosses, or caudillos, as we say in Spanish, are attempting to dismantle some of democracy's most sacred principles—principles such as checks and balances and the independence of the judiciary—principles without which no democracy can be called a democracy.

When the military dictatorship was ended and freedom was restored to our country in 1991, many believed that progress towards building fully functioning democratic institutions would be linear, that is to say forever upward on a steady course. This has not been the case, however. And once again those who value democracy and believe in democracy for Nicaragua are being called to the ramparts to defend it.

My administration will never cease to fight for the independence of the judiciary, will never cease to fight for the separation of powers, will never cease to fight against corruption by government officials. And my administration will fight on every front: we will rally Nicaraguan people who crave democracy and functioning democratic institutions; we will fight to enforce the ruling of the Central American Court of Justice which in a historic decision on March 29, 2005 ruled against the attempts of the Nicaraguan National Assembly to strip the Presidency of its powers and declared it a violation of the principle of separation of powers. And we will fight if necessary in the Organization of American States with its wonderful and powerful Democratic Charter. And we will fight with the help of the many friends of Nicaragua that are here tonight who have supported the cause of freedom.

Finally, I would like to point out, only eleven days ago, on May 1st at the May Day ceremonies in Havana, Cuba, Daniel Ortega was hugging the dictator Fidel Castro and calling the United States "an enemy of humanity." This would be a scene intimately familiar to both of our honorees here tonight from their days of defending democracy in the 1980s. All of which proves that the price of liberty is eternal vigilance, and with the help of all our friends here tonight, together we will meet the new challenges with the same courage and resolution that was brought to the earlier challenges to democracy in Nicaragua in the past.

A TRIBUTE TO LANCE BRET TAYLOR

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. HUNTER. Mr. Speaker, I rise today to honor and pay tribute to a constituent of mine, Lance Bret Taylor of Spring Valley, California. On April 6, 2005, Lance was traveling on a CH–47 Chinook helicopter when it crashed in the desert of Afghanistan, killing all eighteen Americans on board.

With the brave military personnel aboard that aircraft, there were three civilians, all noncombatants. Working for Halliburton subsidiary KBR, Lance was responsible for providing U.S. and coalition forces operating in Afghanistan with vital logistics and life support services.

A specialist in vector control who was returning to the U.S. base in Bagram from a mission, Lance was, like many Americans, proudly serving his country in other ways besides wearing a uniform. While Lance recognized the dangers inherent to working in a war zone, he was driven by a desire to help improve the lives of others.

Lance leaves behind his loving mother Lori, brother Kevin, his beautiful wife Deborah, a ten-year-old daughter, four stepchildren, and a baby granddaughter. He will continue to be remembered and loved by all those who knew him—not just today, but for as long as the U.S. defends the ideas of democracy and liberty throughout the world.

Mr. Speaker, I extend my heartfelt sympathy to the members of Lance's bereaved family and loved ones. Lance's dedication and service represents the best America has to offer and his sacrifice will never be forgotten.

WE ARE ALMOST OUT OF TIME

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. FILNER. Mr. Speaker and colleagues, I rise to join with my colleagues in the recognition of Asian Pacific American Heritage Month. The contributions of Asian Pacific Islander Americans throughout the history of the United States are widely known.

One of the contributions that has never been properly acknowledged by the United States and by Congress is the part that was played in World War II by soldiers of the Philippines, a territory of the United States at that time.

They were drafted in World War II by President Roosevelt. They did not say no. They fought bravely and gallantly, in the battles of Bataan and Corrigidor, and the bullets did not distinguish between those who were U.S. citizens at the time and those who were citizens of the Philippines. Death did not make a distinction. The participation of the Filipino soldiers was critical to the successful outcome of the war in the Pacific. We owe them a great deal.

And yet, in 1946, the Congress said thank you, but no thank you. Congress withdrew the benefits that these brave men were promised. Although some positive steps were taken in the six decades since the war, we have not properly redeemed that promise.

Congressman CUNNINGHAM and I have introduced H.R. 302, the Filipino Veterans Equity Act, and Senator INOUYE has introduced a companion bill in the Senate, S. 146. These bills will complete the job and restore all the benefits that were rescinded by Congress. The passage of these bills will benefit the Filipino veterans in a substantial way.

But, at a deeper level, these bills are also about restoring dignity and honor to these proud veterans. Sixty years of injustice burn in the hearts of the Filipino World War II Veterans and in the hearts of their sons and daughters. It is time that our nation recognizes their contributions, recognizes the injustice, and acts to correct it. To those who say that we cannot afford to redeem this debt, I answer that we cannot afford not to! The historical record remains blotted until we recognize these veterans.

In passing these bills, we can make good on the promise of America.

HONORING THE CONTRIBUTIONS OF JENNIFER WELMA, HAYS CSID SPECIAL EDUCATION TEACHER OF THE YEAR

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. CUELLAR. Mr. Speaker, I rise to recognize the contributions of Jennifer Welma, Hays CSID Special Education Teacher of the Year.

Growing up, Jennifer always knew that one day she wanted to be a teacher. Yet it was the 1991 State Competition for the Special Olympics in San Marcos which sparked a special passion. She was emotionally touched by the bravery, courageousness, and beautiful spirit of the Olympians, and instantly knew she needed to be involved with such amazing individuals.

Jennifer Welma now teaches Phys Ed., and has a great time dancing, moving, laughing, and learning with her students.

Special Education has become even more important to Jennifer now that she has a son who is visually impaired and considered disabled. She continues her fight to promote the active participation of disabled students, ensuring their role as a visible part of a school campus. She thanks her son Kameron for the continued inspiration to become a better teacher, friend, and person.

I am honored to recognize Jennifer Welma, Hays CSID Special Education Teacher of the Year. Jennifer's passion and dedication to teaching enrichs the lives of all around her.

INTRODUCTION OF THE NORTHWESTERN HAWAIIAN ISLANDS NATIONAL MARINE REFUGE ACT OF 2005

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. CASE. Mr. Speaker, I rise today to introduce a truly novel and revolutionary proposal to create the largest marine protected area in our world. I offer for this Congress' consideration and prompt action the Northwestern Hawaiian Islands National Marine Refuge Act of 2005, which would provide the maximum level of permanent protection for a magnificent marine system and international treasure; larger even than Australia's Great Barrier Reef Marine Protected Area. In so doing, my proposal would do for our country's, and world's, oceans what another then-novel and revolutionary action—our 1872 set-aside of what later became the foundation of our National Park System, Yellowstone National Park—did for permanent protection of our treasured and endangered terrestrial ecosystems.

This "Ocean Yellowstone" lives and breathes in the waters of our country surrounding the Northwestern Hawaiian Islands (NWHI), an equally magnificent chain of islands starting at Nihoa Island lying just northwest of the main Hawaiian Islands and stretching fully 1,200 miles northwest across the Pacific to Kure Atoll. In these waters and among their reefs, banks, and seamounts, and existing as an integrated ecosystem with their terrestrial neighbors, lie some 70 percent of our nation's coral reefs.

This remote and incredibly diverse ecosystem is also home to some 7,000 species, at least one-quarter of which (some scientists say as much as half) are endemic to this area and found nowhere else on earth. It also serves as a pu'uhonua (place of refuge) to many species of coral, fish, birds, and marine mammals, including the highly endangered Hawaiian monk seal, threatened green sea turtle, and the endangered leatherback, loggerhead, and hawksbill sea turtles. An estimated 14 million seabirds thrive in these islands and their waters, including 99 percent of the world's Laysan albatrosses and 98 percent of the black-footed albatross population. This also may be the last predator-dominated marine ecosystem left on the planet—some 55 percent of the total fish biomass is made up of predator species, the natural way of our oceans.

Yet this incredible remnant of a purer world will not survive absent affirmative protective action, for by its isolation it is a fragile world, one where the most seemingly insignificant and benign human interaction can have the most magnified effect. As a prime example, the islands and waters of the NWHI have developed a unique ecosystem whose isolation at one time provided protection from invasive species. Yet today some invasives have become established due not only to marine debris from the Northern Pacific but from fishing, transiting, and other vessels. And commercial fishing and other human interaction is itself inherently invasive, as is evident in the introduction of rats (now eliminated) and the consequences of overfishing, leading the near-extinction of the black-lipped pearl oyster and other species and, more recently, the crash of the lobster fishery. Just last February, as another example, our Marine Mammal Commission reported that the world's dwindling Hawaiian monk seal population of an estimated 1,400, based in the NWHI, has "no tolerance for additional mortality associated with fisheries or other human activities."

Jurisdiction of the NWHI and waters has been shared by our federal and Hawai'i state governments. As an overall template, the islands themselves (with the exception of Midway Island, an unassociated federal possession) are part of the State of Hawai‘i (and my Second Congressional District) along with the waters around those islands out to the three-mile limit. Beyond three miles and out to the fifty-mile boundary is the current Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve (Reserve), established by President Clinton and under the jurisdiction of the National Ocean Service (NOS) within the Department of Commerce's National Oceanographic and Atmospheric Administration. The waters beyond the Reserve out to the extent of our country's 200-mile exclusive economic zone are also administered by the Department of Commerce in non-reserve status. Midway and its waters out twelve miles constitute the Midway Atoll National Wildlife Refuge, established in 1988 and administered by the Department of the Interior's U.S. Fish and Wildlife Service (FWS). With the exception of Midway, the islands of the NWHI and certain offshore waters, including some Hawai‘i waters and some Reserve waters (except for waters off Kure Atoll), also constitute the Hawaiian Islands National Wildlife Refuge, originally established as a bird reservation by President Theodore Roosevelt in 1909 and now under joint FWS-Hawai‘i management.

On the face of it, if one's end-goal is, as is mine, to provide the highest level of permanent protection to the total ecosystem of the NWHI and waters, this structure can work and is, in most cases, working. The FWS is managing its jurisdiction within the Midway Atoll and the Hawaiian Islands National Wildlife Refuges toward the goal of full protection and preservation under longstanding and well-established federal mandates and mechanisms.

And just last Friday, May 13th, the State of Hawai‘i's Board of Land and Natural Resources, responsible for the administration of all state lands and waters, voted to establish throughout Hawai‘i's NWHI waters the Northwestern Hawaiian Islands Marine Refuge, together with rules prohibiting commercial or recreational fishing within refuge waters. The Board's action followed a public input process which yielded some 110,000 comments supporting the most stringent protections. As Peter Young, Chair of the Board, said at the time: "We are dealing with a special place, and it's different." For this action, Chair Young and the Board deserve our lasting gratitude.

To complete now this penumbra of protection and truly discharge our responsibility of stewardship, we must turn our attention primarily to the Reserve. Following its establishment, subsequent legislation mandated that the Reserve be converted to a National Marine Sanctuary. Public scoping meetings began in 2002, and the National Marine Sanctuary Program published "Advice and Recommendations on Development of Draft Fishing Regulations" in September 2004.

Essentially, in an effort to forge compromise between the interests of fishermen who operate in the Reserve, the desire of the Western Pacific Fishery Management Council (WESPAC) to retain control over the Reserve, the opinion of scientists and conservationists that the area remains vulnerable, and the overwhelming sentiment of the people of Hawai‘i for protection, the Program proposed a management plan that would allow current fishing to continue and keep WESPAC involved in Reserve fishery management. WESPAC, however, subsequently proposed alternative Reserve regulations that would expand current fishing, open a fishery for precious corals, and provide only a temporary closing of the lobster fishery. Final Program Reserve regulations are pending.

This is an opportune, in fact optimum, time, before the Program acts any further, for us all to first stop, look, and listen, and second move to a whole different beat. And in doing so we must first ask this basic question: shouldn't there be some special places in our marine world which are in fact true reserves—truly off-limits, where our marine species can live and thrive in their natural state, without the invasive, extractive hand of humankind? I know in my heart that the answer is yes, and that the Northwestern Hawaiian Islands and their waters are where we should just do it.

The challenge, however, is that we simply do not have an existing federal marine statutory and regulatory regime that encompasses this goal. We do have a National Marine Sanctuary Program run by good people with good intentions, administering a number of national marine sanctuaries. But the basic statutory and regulatory authority under which the Program operates and the sanctuaries are administered requires a balancing of sometimes-competing uses, including extractive uses, which is why some form of extractive use, fostered by fisheries management councils such as WESPAC, is allowed in all of our nation's national marine sanctuaries. There is simply not the regime in place to create what truly would be a sanctuary in the literal sense of the word, to forge a world such as my State of Hawai‘i just proudly did in creation in its waters of the Northwestern Hawaiian Islands Marine Refuge.

My Northwestern Hawaiian Islands National Marine Refuge Act of 2005 would do just that: establish the public policy of this country that there should exist in the waters of the Northwestern Hawaiian Islands one place that is truly a refuge for our marine world. This refuge would extend seaward from the boundary of the federal national wildlife refuges-with concurrent jurisdiction over those portions also within Hawaii's Northwestern Hawaiian Islands Marine Refuge—out fifty miles to the boundaries of the current federal Reserve, except that the boundary would be further out past Kure Atoll to encompass newly-identified precious coral beds and monk seal foraging areas. The total area of this precious refuge would be approximately 137,000 square miles, eclipsing Australia's Great Barrier Reef Marine Protected Area of 135,000 square miles.

Under my bill, the Refuge would continue to be managed by NOS through a new Office of National Marine Sanctuaries and Refuges. This is consistent with NOAA's longstanding desire to elevate the current National Marine Sanctuary Program to full office level, and it provides NOS with a management option for marine resources in need of a higher level of protection than that currently provided under the Program. And that office, in managing the Refuge (in consultation with an advisory council including representatives from the State of Hawai‘i and the Native Hawaiian, scientific, and marine conservation communities), would be statutorily charged with implementing Congress's purpose "that the preservation of biodiversity and the protection and conservation of the natural resources and cultural heritage of [the Refuge] shall be the exclusive basis for all associated decisions by Federal agencies."

Passage through and activities in the Refuge would be by permit only. Permitted activities would include scientific research and other uses consistent with the purpose of the Refuge. These uses would not include commercial fishing or other extractive practices except in very narrow circumstances. As there are some existing commercial fishing permitholders, my bill provides a mechanism to buy out these permits at fair value.

It is vital to note that this bill is grounded solidly in the cultural heritage and traditions of the indigenous peoples of Hawai‘i, our Native Hawaiians. Their respect for the ‘aina—our natural world in all its manifestations—in their practice of environmental protection and sustainability, was not just a profoundly spiritual belief but a basic survival strategy. So it is no surprise that one of the principal groups working toward just such a Refuge is Kahea: the Hawaiian Environmental Alliance, dedicated to bringing to our modern world this pu‘uhonua for the rare and precious species of the NWHI. And in that same spirit my bill provides, as does Hawai‘i's newly-proposed Northwestern Hawaiian Islands Marine Refuge, for continued traditional use of the Refuge by Native Hawaiians for religious, cultural, and sustenance purposes.

Here is a quick overview of my proposed Northwestern Hawaiian Islands National Marine Refuge Act of 2005:

Section 1: Entitles the act.

Section 2: Outlines Congress's findings, including the finding that the "waters of the NWHI must be set aside as a fully protected national marine refuge to preserve in perpetuity their unique and fragile ecosystems, habitats, and communities of flora and fauna, as well as areas of traditional Hawaiian cultural significance. "

Section 3: Sets forth the purposes and policies of the Act, including the provision that "all human activities in the [Refuge] shall be limited to those entirely consistent with preservation and protections in the true nature of a full protected refuge, and that all commercial use of such refuge shall be prohibited."

Section 4: Provides Act definitions, including Refuge boundaries and cooperative management between federal and Hawai‘i agencies.

Section 5: Designates the Refuge.

Section 6: Provides for management of the Refuge by NOS through the new Office of National Marine Sanctuaries and Refuges in cooperation with the State of Hawai‘i through memoranda of agreement and in consultation with an advisory council.

Section 7: Provides for vessel presence in the Refuge by permit only; outlines prohibited activities; provides compensation for current permitholders.

Section 8: Provides for enforcement and penalties.

Section 9: Provides for liability and other legal consequences.

Section 10: Repeals prior inconsistent laws.

Section 11: Requires issuance of implementing regulations within six months of enactment.

Mr. Speaker, I confess to speaking on this floor today with a mix of excitement and awe. Excitement at continuing a journey to a next, higher level that is not only novel and revolutionary, but so right. And awe at the responsibility and opportunity we all have to truly preserve and protect one of the most incredible places on this world. I hope and believe that we can all come together to harness the collective aloha of so many for this place, and promptly pass the Northwestern Hawaiian Islands National Marine Refuge Act of 2005.

Mahalo, and aloha!

TRIBUTE TO ALEXANDER "SANDY" ELLENBERG

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. HONDA. Mr. Speaker, today I rise in memory of Alexander "Sandy" Ellenberg, and to recognize his lifelong achievements and legacy of volunteerism and dedication to public service.

In the Jewish faith, there is a commandment requiring that one give tzedakah, which in Hebrew means an act of "charity" or "righteousness" without expecting anything in return. Sandy Ellenberg was a man of faith, and his life represented a life-long example of tzedakah. Sandy Ellenberg was a good friend of mine and a true pillar to the local community; he was a man of character, compassion and goodwill. He will be deeply missed by all who knew him and were touched by his work.

Alexander Ellenberg was born on October 13, 1933 in Stockton, California—the first child in his family to be born in the United States. Sandy worked his way through the University of California, completing his undergraduate degree at Berkeley and his medical degree at UC San Francisco. Recognizing his own good fortune and the difficulty in achieving one's dreams, Sandy endowed an annual scholarship at Cal for a San Joaquin County student to study medicine.

A successful plastic surgeon by profession, Sandy said that he got the most joy from performing serious reconstructive surgery. Through these operations, he could use his medical training and surgical skills to repair damages, correct congenital disorders and bring hope back into the faces of those who suffered traumatic injuries and disfigurations. Twice, Sandy traveled to Venezuela to fix children's cleft palates and lips with Rotaplast International, a charitable organization sponsored by the Rotary Club.

In addition to his work with Rotaplast, Sandy was politically active and socially conscious—an advocate of civil rights, a generous political campaign donor and patron of the arts. He was a visible figure in the Jewish community: an active member of his local synagogue and a past board member of the Jewish Federation of Silicon Valley. Sandy lived a rich and full life, and contributed to his community in so many ways.

Sandy Ellenberg died on February 27, 2005. On that day America lost one of its quiet heroes. In a world that is always looking out for the bottom line, where a "free lunch" is rarely ever "free," Sandy Ellenberg was a breath of fresh air. He recognized his own good fortune, and was committed to making success, equality, freedom and happiness available to others. His life was an example of righteousness and unselfish giving—of tzedakah.

Sandy leaves behind his wife of fifty years, Maureen, and 2 sons, Steven and Gary. Our thoughts and prayers go out to their family and friends; Sandy is deeply missed by us all.

I ask my colleagues to join me today in honoring the life and work of Alexander Ellenberg, a man whose life exemplified goodwill and selfless giving; he was one of America's true heroes.

TRIBUTE TO SIX HONOREE TEACHERS OF ST. RICHARDS SCHOOL

HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. LIPINSKI. Mr. Speaker, I rise today in recognition of six exemplary veteran teachers who have combined experience of over 166 years in the teaching profession. In April these six teachers were honored with the Heart of St. Richards Parish award because of the positive influences they contribute to students, families, and the whole community of St. Richards Parish. Today, I ask my colleagues to join me in honoring these teachers for their outstanding commitment to our Nation's youth. They stand as a symbol of the positive influences that teachers contribute to students every day across this great country.

The first teacher I am privileged to recognize is Mrs. Kathleen Riordan Pona who began teaching in 1959 with a class of 51 energetic second grade students. Mrs. Pona has served with 4 pastors and 7 principals who have helped her build the foundation that has continued the road of success at St. Richards School. Her 43 years of teaching is a shining light for teachers around the country who are beginning their careers in teaching and struggling to bring success to the classroom on an annual basis. This Nation is indebted to Mrs. Pona and teachers like her who have made teaching their first love.

Miss Joann Gaus began her teaching career in 1969 at St. Richards School and continually requested new opportunities inside and outside of the classroom to benefit the lives of her students. Miss Gaus had the honor of taking an active part in the parochial education of her students preparing them for both Communion and Reconciliation. She has been a team leader in the teaching profession by being a coordinator for nearly every subject area and representing her fellow faculty members at meetings within the Archdiocesan Council.

Another outstanding teacher is Ms. Josephine Granat who has graciously and excitedly served her students for 32 years in teaching and 17 years at St. Richards. Her concern for her students is matched by the excitement and energy that she brings into the classroom. St. Richards is proud and lucky to have such a great teacher continuing her career at their institution of learning.

Mrs. Rita Zbella is currently in her 29th year of teaching at St. Richards School, where she came and taught in 1976. Mrs. Zbella has proven to be an essential asset to St. Richards where she is currently teaching the computer class, which ranges from 3-year-old preschoolers to 8th grade junior high students. Her commitment to her family and profession is representative of the sacrifices teachers make everyday in their lives.

Mr. Frank Trapani has been a teacher for 28 years, dedicating 20 of those years at St. Richards teaching religion and social studies. Individuals like Mr. Trapani enjoy the feeling of community, connection, brotherhood and sisterhood, and culture that a teacher receives when teaching at a parochial school. As a teacher, Mr. Trapani enjoys the privilege of being able to know his students, their parents, and the community that make up St. Richards Parish. He is truly grateful to have been able to dedicate his life to the teaching profession.

Finally, it is an honor to give praise to Mrs. Pamela Toppings, who began her teaching career in 1984 and has dedicated 21 years to St. Richards School. Her career is a promising one and her experience with St. Richards has been rewarding. St. Richards is fortunate to have a quality teacher as shown by Mrs. Topping's dedication and hard work.

I am honored today to pay tribute to 6 wonderful and dedicated teachers who have shown quality service to a great institution, St. Richards School.

Mr. Speaker, I congratulate Kathleen Riordan Pona, Joann Gaus, Josphine Granat, Rita Zbella, Frank Trapani, Pamela Toppings, and the parish of St. Richards for the many years it has provided services to the community and wish them the very best in the years yet to come.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent from this chamber on May 10, 2005. I would like the record to show that, had I been present, I would have voted "yea" on rollcall votes 162 and 163.

HONORING THE LIFE OF RAY McKENNA

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. LARSON of Connecticut. Mr. Speaker, I rise today to pay tribute to the life and dedication of an East Hartford legend and community sports leader, the late Ray McKenna. In honor of his memory, I am submitting for the RECORD a letter to the editor by Don Pitkin in the East Hartford Gazette.

[From the East Hartford Gazette, Mar. 10, 2005]

LETTER TO THE EDITOR

(By Don Pitkin)

TO THE EDITOR: Ray McKenna, the Sports Legend, icon, humanitarian, and more importantly, the friend we all lost a week ago. Much has been spoken and chronicled about his many accomplishments and the giving of himself. Any attempt to try and say more along those lines would be to repeat what has already been stated. Now is the time to try and envision what Ray has been, or is doing, since he left us. It is easily believed that on his journey to his new "Burnside," he is thinking of those he will be joining. How many will there be? What have they been doing? Are there any sports activities there? It soon became clear what he would do first. He would look for his old coach and mentor, Mr. John "Crafty Jack" McGrath. Once arrived it didn't take long. Everyone knew Mr. McGrath. After all, the residents in this area all came from East Hartford. Ray will be surrounded by those he has known for years. After the greetings and reminiscing is over, Ray gets right to the point. Are there any sports here? Are there are athletes from East Hartford around? There are! Who are they? Will you help me find them? And off Ray went with Coach. Ray spotted them even before he and Coach got there. Someone was banging out fly balls for Al Jordan and Johnny Lichatz to chase down. Then it was a grounder to the left of Ed Cox at short. The scoop and the toss to Bill Wood at second and the throw to Long John Gorman at first. It was wide, but John snared it and made the swipe to tag the imaginary runner. Over there, isn't that Andy Senicrope pitching to Bill Luika? Then it was like they were all as one when they spotted Ray and came to greet him. It was talk, talk, yak, yak for a while. Ray brought up the subject of playing as a team. They were all from the 1938 team of East Hartford High. The only ones missing, Bobby Brown at third and Pitkin in right. Now the vision changes. It is a month later. Someone has filled the vacancies and Coach has found others from his past teams. They are all wearing the knicker length baseball pants. On the front of their shirts it is East Hartford, and on the back, Ray's '38 Team. They look pretty sharp as they work out. Word is that they have joined the Eastern Division of the newly formed Sky League. Yes! Ray had an important role in this endeavor. If any of you would like to see them play their first season, it is quite easy. Walk out into your yard, tilt your head back and look up into the blue. Now close your eyes. Did you see that? Loika threw out the man trying to steal. Just stay like that. This is only the third inning. There is more coming. You all know the rest of this vision. Mr. Editor. If you should happy to be in touch with Ray, please tell him that when I am finished here, I will join them with glove and shoes in hand. P.S. Good Luck guys! Thanks, Don Pitkin of East Hartford Note: Don Pitkin is a graduate of East Hartford High School, Class of 1938. He and East Hartford Gazette Sports Editor Ray McKenna were teammates.

PERSONAL EXPLANATION

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. HONDA. Mr. Speaker, on Thursday, May 12th, I was unavoidably detained and missed rollcall votes on that day.

Had I been present I would have voted the following: "no" on rollcall vote number 169, the Weiner Amendment limiting the number of Urban Area Security Initiative grants during any given fiscal year to 50, and "yea" on rollcall vote number 170, final passage of H.R. 1544, the Faster & Smarter Funding for First Responders Act of 2005.

THE "PRESERVING PATIENT ACCESS TO PHYSICIANS ACT OF 2005"

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. CARDIN. Mr. Speaker, I rise today to join my colleague, Representative CLAY SHAW, to introduce the "Preserving Patient Access to Physicians Act of 2005."

This is an issue of great importance to Medicare beneficiaries and to the providers who care for them. Under current law, physicians are reimbursed according to a payment formula that uses the Sustainable Growth Rate (SGR). This formula led to a 5.4 percent cut in payments in 2002. Additional cuts in 2003, 2004, and 2005 were averted only after Congress intervened. The most recent short term intervention—in the 2003 Medicare Modernization Act—will expire in seven and a half months on January 1, 2006. If Congress does not act soon, a 4.3 percent across-the-board cut will be imposed for 2006 and between 2007 and 2012 cuts would total approximately 30 percent. To restore predictability and stability to providers, Congress must devise a permanent solution that will stave off this impending crisis and its potential impact on beneficiaries' access to care.

The current physician payment formula is flawed for two primary reasons: first payment rates are calculated by using the SGR, which is in turn tied to our Nation's Gross Domestic Product (GDP). When the economy softens and GDP declines—unless physician volume and costs decline correspondingly—physician payment updates will be decreased. But this is a faulty measure of appropriate utilization, because the health care needs of our seniors do not decline during economic downturns. We faced such a situation in 2002, when the economy faced a downturn, yet the rising costs of caring for beneficiaries continued to rise. As a result, CMS cut the physician update by 5.4 percent.

Furthermore, the SGR system fails to recognize that several factors driving volume and cost increases are beyond providers' control. These include administrative coverage decisions that promote greater use of physician services, increases in the cost of the physician-administered drugs, and the addition since 1997 of valuable, life-saving preventive benefits, including mammograms, pap smears, colorectal and prostate cancer screening, and bone mass measurements for osteoporosis. In addition, the 2003 MMA added a physical examination for new beneficiaries, cholesterol and lipid screenings, and limited prescription drug coverage.

As a result of these initiatives, beneficiaries will visit their physicians more often-to get prescriptions for newly-covered drugs, to be monitored for drugs' side effects, to receive newly-covered preventive services, or to receive follow-up care for conditions diagnosed by these services. These costs must be taken into account in determining payment updates for physicians. Physicians should not be penalized for increases in volume resulting from Congressional initiatives.

The volatility of Medicare reimbursement jeopardizes the ability of physician practices to make sound long-term financial decisions. Many physicians in my home State of Maryland are beginning to limit the number of Medicare patients they treat. Cuts in Medicare payments also jeopardize access to care for our military families and retirees, because the TRICARE program sets its rates based on Medicare's. In addition many State Medicaid programs and other third party payers rely on Medicare's system to set their rates.

Congress must replace the SGR with a methodology that assures adequate and appropriate payments as well as a stable updates for Medicare providers. The Medicare Payment Advisory Commission in its March 2005 report and recommends implementation of a system where updates are based on a fair assessment of practice costs and adequacy of payment rates.

The Preserving Patient Access to Physicians Act of 2005 would set the Medicare physician payment update for 2006 at no less than 2.7 percent, in accordance with MedPAC's recommendation. For 2007 and beyond, it would replace the flawed physician payment formula with a new formula that increases the update to reflect changes in the cost of providing care. There is bipartisan agreement that Congress needs to fix the physician payment formula permanently. Unfortunately, budgetary constraints have limited us to only short-term fixes. Our nation is facing a $7 trillion debt, and this year's budget deficit exceeds $500 billion. Given our Nation's fiscal situation and the budget rules on Congress, the likelihood that Congress will enact a permanent fix this year is diminished. But each year that we delay increases the ten-year cost of the bill, and Congress must move beyond a band-aid approach to a more comprehensive, responsible and permanent solution to this flawed payment system. This is an ambitious bill, but one that I believe is necessary to initiate serious debate on this matter. Congress must make sure that the enactment of a solution for physician reimbursement is done in a fiscally responsible manner.

MedPAC's March 2005 report also notes that neither the SGR nor any previous mechanism has been successful in moderating growth of physician services through the use of volume targets. Specifically, according to MedPAC, "volume has continued to grow and legislated targets have not succeeded in differentiating between beneficial volume growth and increases in inappropriate services. The current sustainable growth rate (SGR) formula has resulted in both budgetary and policy problems." Congress must devise a way to control unwarranted growth in services without compromising the delivery of needed medical care.

I also want to address an issue of great importance to our beneficiaries—rising Medicare premiums and copayments. Increases in Medicare Part B premiums are set by law based on the actuarial value of the coverage. Increases in Part B costs in turn increase the monthly premiums and copayments that beneficiaries must pay. I recognize that this bill is no exception to the rule. CMS has just reported that monthly premiums for Part B will rise to an estimated 14 percent to $89.20 in 2006, largely because of an unexpected 15 percent increase in spending on physician visits and other outpatient services in 2004. According to CMS, the higher spending levels can be attributed to longer office visits, more services provided, an increase in laboratory tests and imaging services, and higher use of physician-administered drugs. CMS also reported that enrollment growth and a 1.5 percent increase in Medicare physician reimbursements last year were not significant factors in the overall spending increase.

The annual cost-of-living increases in our seniors' and disabled persons' Social Security checks are not sufficient to cover rapidly increasing Medicare premiums. Furthermore, because the prescription drug coverage enacted in 2003 will be administered by private plans that will set their own premiums, seniors do not know what they will have to pay for a drug plan premiums next year or in the years to come. So, in addition to fixing SGR, Congress must also act to protect beneficiaries from sharp increases in premiums. We must make sure that seniors do not pay the price for appropriate increases to health care providers. As a member of the Ways and Means Committee, I will continue to work with my colleagues and with all groups who want to preserve access and affordability for beneficiaries while achieving fairness in our reimbursement system.

I urge my colleagues to cosponsor this important legislation.

CONGRATULATIONS TO MR. JUSTIN COLLIER

HON. LINCOLN DAVIS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. DAVIS. Mr. Speaker, congratulations to Mr. Justin Collier, who has been named the 2004–2005 Outstanding AG/HEC Ambassador. Mr. Collier is from McMinnville, TN, he is currently a student at Tennessee Tech University studying Agriculture with concentrations in horticulture and nursery and landscape management.

Mr. Collier received an engraved plaque and a $500 cash award which was presented by Don Elkins, Dean of the College of Agriculture and Human Ecology and AG/HEC Ambassadors advisor, at the Agriculture Awards Banquet on April 15, 2005.

Mr. Collier began his work in recruiting and public relations even before he was officially an AG/HEC Ambassador. He started speaking to several groups of new students and their parents in the summer of 2004 during SOAR sessions. He also visited 7 high schools on recruitment visits during the year, where he gave presentations to classes about Tennessee Tech, the College of Agriculture and Human Ecology, and career opportunities available to Agriculture/Human Ecology graduates.

In addition, he gave official welcome tours to several groups of campus visitors. During these tours he hosted several individuals and small groups of campus visitors and gave them a complete campus tour, which included a farm tour. His efforts also included writing, emailing and calling numerous prospective students. In 2005 Mr. Collier participated in LEAD 2005, an Ambassador Leadership Conference held in February at the University of Georgia in Athens.

Regarding his experiences as an AG/HEC Ambassador in 2004–05, Mr. Collier states, "The recruiting and other activities have allowed me to share my love for the College with many people. I have met more new people and made more friends than I could have possibly imagined. Having had the opportunity to serve as an AG/HEC Ambassador has been an honor and will definitely go down as one of the most memorable and exciting experiences during my time at TTU."

IN HONOR OF ARMY SERGEANT ADAM PLUMONDORE AND ARMY SPECIALIST CLINTON GERTSON, BOTH OF WHOM WERE KILLED IN COMBAT DURING OPERATION IRAQI FREEDOM

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. KINGSTON. Mr. Speaker, SGT Adam Plumondore of Gresham, Oregon, was killed in action on 16 February 2005, and SPC Clinton Gertson of Houston Texas, was killed in action on 19 February 2005. Both men were snipers assigned to the 1st Battalion, 24th Infantry Regiment, 1st Brigade, 25th Infantry Division, Ft. Lewis, Washington. Lieutenant Colonel Michael E. Kurilla commands the 1–24 Infantry Regiment and he shares his comments made at the memorial service for these Great Americans.

GEN Bergner, COL Brown, SGTs Major, friends of Deuce Four, and most importantly the men of Deuce Four. Thank you for coming today to honor two of the finest warriors that I have had the privilege and honor to serve beside.

GEN William T. Sherman stated that War is Hell. My friends, he was right. It affects all those in its all consuming grasp. It affects us physically, mentally, emotionally, and spiritually—it does not differentiate between civilian or soldier. No one wishes for war—to do so is sheer madness. GEN MacArthur said it best—The soldier above all others prays for peace, for it is the soldier who must suffer and bear the deepest wounds and scars of war.

To the men of Deuce Four, we now honor our 7th warrior to die defending the freedom of a people we neither know nor completely understand. But such action is truly the nobility of our profession. We sacrifice all for a people that do not fully understand the extent of our sacrifice. A people that had never tasted the sweet waters of freedom until 30 Jan of this year. And it is because of your valiant actions, the valiant actions of heroes like SGT Adam Plumondore and SPC Clint Gertson.

I would like to tell you about what kind of men they were as I remembered them—for these were extraordinary men that accomplished extraordinary things.

Clint Gertson was the first man I met from Deuce Four three weeks before I took command of the Battalion. I was visiting Deuce Four in Feb 2004 conducting live fires at Yakima Training Center. I approached the support by fire position and this 6'4" square jawed PFC stood up and greeted me with that big Texas smile and asked me if I wanted a clinic on how to shoot; he subsequently proceeded to hit a man sized target at 500m. I immediately knew that I would love this battalion and that if the rest of the soldiers were half as impressive as he was, I would have the best battalion in the Army.

Gerty became a main stay of motivation for me. If one ever needed to know why it is a privilege and honor to command the sons and daughters of America they only needed to meet Clint Gertson.

I remember 11 Nov like it was yesterday. What started as a raid to kill or capture an HVT turned into a 6 hour firefight with 60 insurgents, leaving 25 confirmed enemy dead and estimates of up to 40 killed. This was only because of men like Clint Gertson. We were taking significant small arms, RPG and mortar fire when we moved to the top of a building to get better fields of fire. As we arrived at the top of the building, I heard the distinctive bark of the .50 Cal sniper rifle from the corner and looked over to see Gerty in all his glory. Gerty and the sniper crew were killing RPG gunners as they moved between buildings in an attempt to reposition on Apache company. At one point he turned around and gave that big Texas smile and turned back to administering death to the enemy.

I also remember one month later when Gerty missed a shot on an enemy mortar team only 300m from his hide site (I think it was closer to 250m)—I teased him that he needed more range time but he quickly reminded me that at least it scared the shit out of the enemy to drop the mortar tube and we did capture it. Good point Gerty. Clint Gertson was the kind of man that made you proud to say that you served with him.

SGT Adam Plumondore was also such a man. An extraordinary leader that did extraordinary things. I had the privilege to observe the actions of SGT Plumondore on a daily basis—and stand back in awe and wonder.

Plum was a walking uniform violation—but strangely, that is one of the things I loved about this man. I do not think a day would go by where I did not tell him to roll down his sleeves, buckle his chin strap, or trim up his Delta Force mustache. Sure enough, he would make the correction and in the thick of a fire fight there would be Plum with sleeves up, chin strap unbuckled, a big smile on his face and a weapon that never missed—unless he was firing 40mm from his M203 which he often reminded me was an area weapon.

I remember 3 Dec like it was yesterday. Sixty to seventy enemy had set up a 2km ambush along Route Tampa and the Recon platoon and TAC found itself running a 2km gauntlet of 15 IEDs, over 30 RPGs, hand grenades and significant machinegun and AK47 fire. Six soldiers were wounded including SPC Moore who was blown from the hatch of his Stryker that was now running on 8 flat tires—without missing a beat SGT Plumondore immediately jumped up and manned the MK19 and suppressed and killed enemy positions allowing the platoon to get casualties to the CSH and then launch a Battalion counter attack that killed 22 enemy.

I remember 11 Dec like it was yesterday. As we were beginning to exfil from destroying a weapons cache a suicide car bomb slammed into the side of Hunter 1. The entire vehicle was in flames, 6 soldiers were wounded. The enemy then engaged with mortars, RPGs, and machinegun fire from 3 directions. Without even thinking twice, SGT Plumondore jumped from his vehicle with fire extinguishers in his hands and his weapon slung on his back. Without hesitation he began to put out the Stryker on fire and assist in the evacuation of the wounded from the Stryker. The fire out, Plum then turned his attention to the enemy and began to engage them with precision fires. Because of his actions, Plum saved soldiers lives and the Stryker did not burn to the ground—in fact his determined face was back in the gunner's hatch of his vehicle engaging an enemy RPG team that tried to ambush the platoon during exfil—complete with sleeves rolled up to the elbows.

How do you honor such heroes as Clint Gertson and Adam Plumondore? You honor them by telling the stories of their friendship, camaraderie, and fierce bravery. You honor them by continuing to fight to protect the man on your left and right who would lay down his life so that others might live. You honor them by continuing in this noble endeavor providing freedom to a people we do not know or understand the sacrifices that are made—but that is what makes America the greatest nation on earth.

We will miss them both terribly, but I know that our Deuce Four snipers, Gerty and Plum, are looking down from Heaven continuing to look out for us—that voice you hear in your head is Gerty calling the winds, Plum ensuring you have the correct distance, and both always reminding you to always look for the positive in life.

On this day, we ask almighty God to grant us patience and steadfast resolve in all that is to come. May God Bless Deuce Four, 1st Brigade, and may God Bless America.

PERSONAL EXPLANATION

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, May 16, 2005

Mr. LARSON of Connecticut. Mr. Speaker, I would like to submit this statement for the record and regret that I could not be present today, Thursday May 12, 2005 to vote on rollcall vote nos. 171, 172 and 173 due to a family medical emergency.

Had I been present, I would have voted: "yea" on rollcall vote no. 171 on H.R. 627—to designate the facility of the United States Postal Service located at 40 Putnam Avenue in Hamden, Connecticut, as the "Linda White-Epps Post Office"; "yea" on rollcall vote no. 172 on H. Res. 266—supporting the goals and ideals of Peace Officers Memorial Day; and, "yea" on rollcall vote no 173 on H.R. 2107—the National Law Enforcement Officers Memorial Maintenance Fund Act of 2005.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 17, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 18

8:30 a.m.

Judiciary

To hold hearings to examine issues relating to protecting the judiciary at home and in the courthouse.

SD–226

9:30 a.m.

Energy and Natural Resources

Business meeting to consider comprehensive energy legislation.

SD–366

Environment and Public Works

To hold hearings to examine eco-terrorism specifically examining the Earth Liberation Front ("ELF") and the Animal Liberation Front ("ALF").

SD–406

Homeland Security and Governmental Affairs

To hold hearings to examine FEMA's response to the 2004 Florida hurricanes, and its impact on taxpayers.

SD–562

Indian Affairs

To hold oversight hearings to examine issues relating to the taking of land into trust.

SH–216

Judiciary

Business meeting to consider pending calendar business.

SD–226

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine Regulation NMS designed to strengthen our national market system for equity securities, focusing on recent market developments.

SD–538

Commerce, Science, and Transportation

To hold hearings to examine the nominations of David A. Sampson, of Texas, to be Deputy Secretary of Commerce, and John J. Sullivan, of Maryland, to be General Counsel of the Department of Commerce.

SR–253

Health, Education, Labor, and Pensions

Business meeting to consider the proposed Workforce Investment Act Amendments of 2005, and pending nominations.

SD–430

10:30 a.m.

Commerce, Science, and Transportation

Science and Space Subcommittee

To hold hearings to examine human spaceflight.

SR–253

2:30 p.m.

Intelligence

To receive a closed briefing on certain intelligence matters.

SH–219

MAY 19

9 a.m.

Foreign Relations

To receive a closed briefing regarding weapons proliferation, terrorism and democracy in Iran.

S–407 Capitol

9:30 a.m.

Energy and Natural Resources

Business meeting to consider comprehensive energy legislation.

SD–366

Environment and Public Works

Fisheries, Wildlife, and Water Subcommittee

To hold an oversight hearing to examine the Endangered Species Act.

SD–406

Homeland Security and Governmental Affairs

To hold hearings to examine the nominations of Philip J. Perry, of Virginia, to be General Counsel, Department of Homeland Security; to be followed by a hearing on the nominations of Carolyn L. Gallagher, of Texas, and Louis J. Giuliano, of New York, each to be a Governor of the United States Postal Service, and Tony Hammond, of Virginia, to be a Commissioner of the Postal Rate Commission.

SD–562

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2006 for the Environmental Protection Agency.

SD–124

Judiciary

Business meeting to consider pending calendar business.

SD–226

10 a.m.

Banking, Housing, and Urban Affairs

To continue hearings to examine Regulation NMS designed to strengthen our national market system for equity securities, focusing on recent market developments.

SD–538

Foreign Relations

To hold hearings to examine weapons proliferation, terrorism and democracy in Iran.

SD–419

10:30 a.m.

Intelligence

To hold a closed meeting to discuss certain intelligence matters.

SH–219

1 p.m.

Foreign Relations

International Economic Policy, Export and Trade Promotion Subcommittee

To hold hearings to examine S. 883, to direct the Secretary of State to carry out activities that promote the adoption of technologies that reduce greenhouse gas intensity in developing countries, while promoting economic development.

SD–G50

2 p.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the nominations of Ben S. Bernanke, of New Jersey, to be a Member of the Council of Economic Advisers, and Brian D. Montgomery, of Texas, to be an Assistant Secretary of Housing and Urban Development.

SD–538

2:30 p.m.

Judiciary

Constitution, Civil Rights and Property Rights Subcommittee

To hold hearings to examine the need for a constitutional amendment relating to the protection of marriage.

SD–226

Homeland Security and Governmental Affairs

Federal Financial Management, Government Information, and International Security Subcommittee

To hold hearings to examine accountability and results in Federal budgeting, focusing on steps being taken to ensure that federal programs are effective and accountable and to explore in-depth the Program Assessment and Rating Tool (PART), which is used by OMB to assess and evaluate federal programs.

SD–562

MAY 24

9:30 a.m.

Energy and Natural Resources

Business meeting to consider comprehensive energy legislation.

SD–366

10 a.m.

Commerce, Science, and Transportation

To hold hearings to examine S. 529, to designate a United States Anti-Doping Agency and to examine the competitive pressures that lead amateur athletes to use drugs, the sources of such drugs, and the science of doping.

SR–253

2:30 p.m.

Health, Education, Labor, and Pensions

Education and Early Childhood Development Subcommittee

To hold hearings to examine issues relating to American history.

SD–430

3 p.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine money laundering and terror financing issues in the Middle East.

SD–538

MAY 25

9:30 a.m.

Energy and Natural Resources

Business meeting to consider comprehensive energy legislation.

SD–366

10 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the U.S. Grain Standards Act.

SR–328A

Health, Education, Labor, and Pensions

Business meeting to consider pending calendar business.

SD–430

Indian Affairs

To hold hearings to examine S.J. Res. 15, to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

SR–485

MAY 26

9:30 a.m.

Energy and Natural Resources

Business meeting to consider comprehensive energy legislation.

SD–366

10 a.m.

Health, Education, Labor, and Pensions

To hold hearings to examine issues relating to the 21st century workplace.

SD–430

SEPTEMBER 20

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.

345 CHOB

SENATE—*Tuesday, May 17, 2005*

The Senate met at 9:45 a.m. and was called to order by the Honorable DAVID VITTER, a Senator from the State of Louisiana.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, who makes us one, Your word informs us that a house divided against itself cannot stand. As the Members of this body face divisive issues, give them the wisdom to find creative ways of maintaining unity. In these uncertain times, help them to avoid the slippery slope of disunity. Remind them that pride comes before destruction and a haughty spirit before a fall. Teach each of us that before honor is humility and that losing one's life for a just cause is the best way to find it.

Lord, permit the powerful forces that unite us to overcome the feeble winds that divide. Transform cacophony into harmony. We pray in the Name of the Prince of Peace. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DAVID VITTER led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 17, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID VITTER, a Senator from the State of Louisiana, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. VITTER thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today, we will start the session with a 1-hour period of morning business. Following that period, we will resume the highway bill for the final 30 minutes of debate. At the conclusion of those remarks, we will begin a series of debates on any of the remaining pending amendments. It is my understanding that several of the amendments will not require rollcalls; therefore, we expect three or four votes, including final passage.

We will be recessing today from 12:30 to 2:15 for the weekly policy luncheons. We will be talking to the managers shortly, but I would expect we would be able to, starting at around 11:30 or noon today, do at least a couple of those votes, and then, following the luncheons, complete the bill.

Mr. President, tomorrow I expect the Senate will begin consideration of some of the judicial nominations that have been available on the Executive Calendar, as we determine specifically the plans for tomorrow. But we will be going by regular order tomorrow, taking one of the nominees from the Executive Calendar. But over the course of the day, we will come back and be more specific with those announcements, after discussion with the Democratic leader.

JORDAN

Mr. FRIST. Mr. President, for the past week, I have come to the Senate floor to briefly discuss my recent fact-finding mission to the Middle East, having had the opportunity to travel to Israel, the West Bank, Egypt, Lebanon, and Jordan 2 weeks ago.

I will conclude these Mideast reports with a very brief discussion of my time in Jordan.

We began the Jordan leg of our trip with a visit to King Abdullah. Son of the much admired King Hussein, King Abdullah has been a trusted and valuable friend to the United States and a steadfast partner in the war on terrorism.

We discussed Jordan's progress toward economic reform. Jordan is embarking upon free market reforms and encouraging the growth of small business and entrepreneurs. We know in the American experience that entrepreneurship is that engine of economic and job growth. I am encouraged by the progress that King Abdullah is making, and I am hopeful the Jordanian economy flourishes. As it does so, it will become a model of reform throughout the Middle East.

We also talked about the importance of the U.S.-Jordanian partnership in the peace process. King Abdullah's father exhibited great courage and foresight as he led his nation to peace with Israel in the 1990s.

Because of Jordan's relations with Israel and its special ties to the Palestinians, Jordan can be a substantial contributor to the peace process. By coordinating our efforts, I believe Jordan and the United States can help the parties build momentum toward a peaceful resolution.

During a dinner meeting with King Abdullah, we were joined by Jim Wolfenson, the former head of the World Bank. Dr. Wolfenson was recently selected, as my colleagues know, by President Bush to handle the upcoming Israeli withdrawal from the Gaza Strip, focusing on the quartet of partners and building the appropriate support. I applaud the President for his choice in this emissary. Not only is Dr. Wolfenson eminently capable, but he knows many of the important players directly, professionally, and personally, and he appreciates the stakes and I am confident he can get the job done.

Dr. Wolfenson understands the transition must go well. If it does not, violent unrest and instability could destroy this, what I believe is a historic chance for peace. The Jordanians have been an invaluable partner in Operation Enduring Freedom. They have made tremendous contributions to the Iraqi people's efforts to secure a free and prosperous Iraq.

We have witnessed the extraordinary bravery of the Iraqis at the polling booths and at the police recruitment centers. They have been willing to defy the terrorists and assume an active role in securing democracy.

Many of those courageous Iraqis are acquiring the training and skills needed to defend their country by completing a security course and police training regimen in Jordan.

We had the opportunity, while in Jordan, to visit the Jordan-Iraq Police Training Center, a truly unique effort where 16 countries have come together, including the United States, Jordan, Britain, Canada, Finland, and others, to train the Iraqi security force—to train the Iraqi police. The director of the facility is John Moseby, a highly qualified veteran of the U.S. Air Force.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The center's goal in Jordan is to train 32,000 Iraqi police by December 2005. Already, the center has graduated over 15,000 recruits, who have gone back to Iraq to serve in security positions. There are currently 40 Iraqi trainers at the site in Jordan, and the center hopes to add another 60. It sits on about 450 acres and can train about 3,500 cadets per session.

I wanted to go to the Jordan-Iraq Police Training Center to see firsthand how those exercises are conducted because there has been some question in the past as to the adequacy and the quality of that training. Having had the opportunity to meet the cadets, both an incoming class and classes that were leaving, viewing many of the exercises, viewing, with the leaders there, the commitment to a quality curriculum, I am very reassured they are doing an outstanding job in training those Iraqi recruits to go back and keep their communities and their streets safe.

The Iraqi cadets told us of their hope and appreciation for America's help in building a new Iraq. I am confident that by their courage and their commitment, freedom will prevail in Iraq and the dark forces that now threaten their country will be defeated.

The trip throughout the Middle East was fascinating and informative. We met many vibrant and thoughtful people. Again and again, you hear, throughout all the countries, this expressed hope, the universal dream of hope that the people of the Middle East will one day be truly free—free from violence and oppression, free to express their will through democratically elected leaders, free to express themselves in the town square without fear of violence or terrorism.

I do applaud President Bush for his vision and for his unwavering belief in the dignity and rights of all people. From Darfur to Damascus, from Baghdad to Beirut, liberty is the hope of mankind.

Here in the Senate, I encourage and urge my colleagues to continue to do our part to ensure that these principles help shape the future of the Middle East. I believe together, with our partners around the globe, we can spread prosperity and peace. I believe it is the only way.

Mr. President, I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

ISRAEL

Mr. REID. Mr. President, I have listened to the leader's statements these past days on his trip to the Middle East. It is a fascinating place. I returned about a month ago myself. But the one thing that I always see in the Middle East is this tiny, little State of Israel, surrounded by these other countries that are about as undemocratic as a country could be.

Israel is a democracy. Every day we hear about what is going on in the Middle East, we should realize that. Israel has risen above this. They maintain their democratic principles in spite of the violence that is going on, on a daily basis, in that part of the world.

JUDICIAL NOMINATIONS

Mr. REID. Mr. President, yesterday afternoon the majority leader and I met one last time trying to reach a compromise that would avert the so-called nuclear option. The so-called nuclear option is nothing that we named. I know for cosmetic purposes those in the majority now have tried to call it a "constitutional option," which must be directly out of Orwell's book "1984" because it means everything but a constitutional option. The name came from the Republican leadership last year. So the "nuclear option" is a name from the majority, not us.

I do not know if they met with my friend, Frank Luntz, or with whom they met to change the name from "nuclear option" to a softer sounding proposal, "constitutional option." As I said, violating 217 years of standard procedure in the Senate, changing the rules by breaking the rules, is about as far as you could get from a constitutional option.

But it appears that my distinguished friend, the majority leader, cannot accept any solution which does not guarantee all current and future judicial nominees an up-or-down vote. That result is unacceptable to me because it is inconsistent with constitutional checks and balances. It would essentially eliminate the role of the Senate minority in confirming judicial nominations and turn the Senate into a rubber stamp for the President's choices. In fact, the majority should look carefully at what they are getting because not only would this eliminate the role of the Senate's minority but also the majority in judicial confirmations. The majority would be eliminated, too. The Senate would no longer have a role.

I can only conclude that the true purpose of the nuclear option is not to win confirmation of some or all of the small handful of nominees Democrats filibustered last year. Remember, today it stands at 208 to 10. And focusing on the number 10 is somewhat misleading because of the 10, 3 have either withdrawn or retired. And we have said, time and time again, that 2 of the remaining 7 we would agree to 10 minutes from now—2 Michigan judges. So it is really 208 to 5—208 to 5.

So the goal, it appears to me, of the Republican leadership—and note I do not say of the mainstream Republicans in this country. I do not say of the Republicans in the Senate—but, rather, the goal of the Republican leadership in this body and their allies in the White House is to pave the way for the future, so that the Senate would basically be eliminated from the confirmation process. They don't want consensus, they want confrontation.

Yesterday, after rejecting our last attempt at a compromise, the majority leader issued a statement. In this statement, the majority leader said there is going to be an upcoming debate over judicial nominations, and he said he hoped the upcoming debate is free from "procedural gimmicks like the filibuster." That is a quote: "procedural gimmicks like the filibuster," "procedural gimmicks like the filibuster."

We had a freshman Senator go to the Middle East and tell the leader of Iraq that the United States was different than any other country in the world because of the filibuster—a Republican Senator. A gimmick?

The filibuster is not a procedural gimmick. The filibuster is an important check on executive power and part of every Senator's right to free speech in the Senate. ROBERT BYRD, on Thursday, from this desk right behind mine, talked about free speech.

Senator ROBERT BYRD has been in the Senate for approximately 25 percent of the time this country has existed. I should say in the Congress—47 years in the Senate, 6 years in the House of Representatives—more than 50 years, approximately 25 percent of the time that we have been a country. He should know something about free speech. He was here on the Senate floor when the great Margaret Chase Smith, a Republican Senator from Maine, talked about the value of free speech in the Senate. He was in the Senate when the Republican Howard Baker talked about the importance of the filibuster in protecting our democracy. A gimmick? I think not.

Senator BYRD was in the Senate when the debate over civil rights took place. I heard BARACK OBAMA upstairs with the press corps say: Isn't it interesting, the filibuster was used against African Americans but they worked around it and prevailed in spite of it. They didn't move to change the rules in the middle of the game.

Senator ROBERT BYRD was here when DAN INOUYE, the Medal of Honor winner from Hawaii, a new Senator, came to the floor, and as an Asian American whose friends and family were put in internment camps during the Second World War, spoke on the Senate floor about what it means to be a minority and how the filibuster should be available to protect the minority. A gimmick? I think not.

Over the years, the filibuster has proven to be an important tool of moderation and consensus, which partly explains why the Republican leadership is opposed to it. They aren't interested in moderation. They are only interested in advancing their right-wing, radical political agenda, an agenda being driven by the people who are saying we are filibustering against people of faith.

Mr. President, every day—for 23 years—with rare exception, I go to the House gym and work out. There I met Congressman RUSH HOLT. He is a nuclear scientist, a Congressman from New Jersey. RUSH's father, also named Rush Holt, served in this Chamber in the late 1930s. As a freshman United States Senator, he led a filibuster to preserve wage and hour protections for American workers. RUSH HOLT, Jr., is so proud of his father. He talked to me about the pride he had in his father being a United States Senator, and he told me this story about the filibuster his father conducted alone to preserve wage and hour protections that had come about as part of the New Deal. He wasn't using a political gimmick. He was using something that was part of the vision of our Founding Fathers, something they wanted in this body to make it unique and different—free speech. An important tool to stand up for working men and women in this country, that is what Senator Rush Holt, Sr., was using.

Of course, the filibuster has not always been used for good. I acknowledge that. Just as it has been used to bring about social change, it was also used to stall progress—I have talked about that—things this country needed to change, such as civil rights legislation.

But Senator BARACK OBAMA speaks in favor of the filibuster. He understands, as an African American, why it is important. But at these times people have spoken and public opinion has spurred this Chamber into action, as indicated, it brings about compromise. So you see the filibuster is not a political gimmick. It is part of the fabric of this institution we call the Senate, the greatest debating society in the world—or at least it has been so far. Is that going to be taken away from us?

While I was in the gym this morning, Mr. President, I was stopped by a Republican House Member. I will not name him for fear the Republican leadership in the House will remove him from a subcommittee or whatever they do to punish people over there, and we know that happens. But everyone within the sound of my voice should know that I am telling the truth. A Republican House Member came to me this morning and said: I never thought I would say this to the Democratic leader of the Senate, but I am praying for you, that you prevail in this battle going on in the Senate. A Republican House Member is praying for me and this institution to maintain the institution as it is.

So as the moment of truth draws near, I, too, am praying, Mr. President. I do not say that lightly. I pray that cooler heads will prevail and the responsible Republicans—and they are there, I know they are there—such as this Congressman who spoke to me this morning, will join Democrats in standing up against this abuse of power, to maintain our checks and balances, to maintain the separation of powers that has made this country the power that it is, one that the world looks upon with awe, inspiration and admiration.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business of up to 60 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee.

The Senator from Washington is recognized.

Mrs. MURRAY. I thank the Chair.

JUDICIAL NOMINATIONS

Mrs. MURRAY. Mr. President, we awoke today to see news of a breakdown in negotiations to end the so-called nuclear confrontation that some Republicans are driving this body toward.

I want to take a minute to thank our leader, Senator REID, who I believe is really doing his best to preserve the tradition and the precedent of the Senate through good-faith negotiations. He put forth a good-faith compromise proposal only to see it rejected out of hand. This breakdown really marks a sad day for this body.

More than 200 years ago, the Senate was created as part of the Great Compromise, and for the balance of those 200 years, compromise has been central to any and all of the great work that has been completed by the Senate. The rules are set up here to assure that the Senate serves as a center for Government compromise. We have a system of checks and balances, with the Senate checking the President through advice and consent and the President checking the Congress with the use of the veto. And all the while we have an independent judiciary that is empowered to balance out the system. Those checks and balances were put in place for a reason. They promote compromise, they promote preservation of minority rights, and they ensure that our system of government works for all of the people. Unfortunately, the goal of some becomes clearer each passing day in this body that they are not interested in compromise on the so-called nuclear option. If this Senate does remove the last check in Washington against an abuse of power, the majority will be able to appoint to lifetime seats on the Supreme Court and the Federal bench anyone they want.

The American people have rejected court packing before and I believe they will again. We are united against the abuse of power known as this nuclear option. We believe that Senators were sent here to serve all Americans, not to promote political agendas of one faction. Mr. President, Democrats will join responsible Republicans to fight this abuse of power and get back to the real work of the American people.

25TH ANNIVERSARY OF THE MOUNT ST. HELENS ERUPTION

Mrs. MURRAY. Mr. President, I rise today with my colleague from Washington State to very proudly mark the 25th anniversary of the day that Mount St. Helens erupted in my home State of Washington and will be joining with her later to offer a resolution to commemorate this anniversary.

For anyone who lived in the Pacific Northwest at the time, May 18, 1980, is a day we will never forget. It was a day that changed lives and it changed the landscape of Washington State forever. It was also a day that imposed a heavy toll in lost lives and lost habitat. Fifty-seven people were killed that day. More than 230 acres of forest were leveled in an instant.

Mr. President, the story of Mount St. Helens is a story of destruction, but it is also a story of renewal, a story of science, and a story of the importance of preparation. Today I rise to share that story and the lessons that it holds for us now 25 years later.

Perhaps the best place to start really is the day before the eruption, when Mount St. Helens was really a beautiful and striking feature of landscape in the State that I was born and raised in.

This photo behind me shows what the mountain looked like before the eruption. As you can see, it had a nearly perfect dome, and it was recognized as one of the most symmetrical mountains in the world. It was surrounded by lush forests and beautiful streams and rivers and lakes and the area was filled with wildlife of all kinds. But danger lurked right beneath that tranquil landscape.

May 8, 1980, began as a beautiful, sunny morning in the Northwest. I remember it well, sitting at home with my two young children at the time. Meanwhile, below the surface, Mount St. Helens was anything but calm. At 8:32 a.m, a 5.1-magnitude earthquake occurred, and that sparked massive eruptions which would last for 9 hours. This photo shows some of what followed. Within minutes, this massive cloud of ash and toxic gas spouted 15 miles into the air. You could see it from many places in my State. A 300-mile-per-hour blast shot from the mountain, knocking down all of the evergreen stands as if they were matchsticks. The entire north face of the mountain gave way to this massive mud slide, and that mud slide carried hot water and debris that it picked up over the surrounding landscape.

The eruption itself released 24 megatons of energy. It destroyed all forms of life within the 18-mile blast zone, including roughly 7,000 bear, elk, and deer. The scope of this devastation on that day was enormous. The hot ash from this eruption, combined with the melting snow at the mountain top, created massive mud flows. This was not just a local event. More than 500 million tons of that ash was blown eastward across the United States 250 miles away in Spokane, WA. That traveling ash turned day into night for everyone who was there, and by June, a few months later, ash could be found from Mount St. Helens on the other side of the world.

As we now mark the 25th anniversary, I wanted to come here to the floor today with my colleague from Washington State, Senator CANTWELL, to pay tribute to the 57 men and women who died on that day. Some of them were there enjoying the area's beautiful scenery, some were drawn to the mountain for scientific study, and others were long-time residents who lived there who refused to give up the only homes they had ever known.

When that dust settled and the mountain quieted, nearly 150,000 acres of public and private land had been destroyed.

This photo behind me shows some of that destruction. That stand of trees was blown down in an instant. The mountain's nearly perfect dome was turned into a crater. The Toutle River, which had been vibrant and green before, a great place in my State, was now a dark, gray expanse.

Then President Jimmy Carter toured the site and later remarked:

> Someone said this area looked like a moonscape. But the Moon looks more like a golf course compared to what's up there.

Everyone knew that wildlife restoration would be a major challenge. Within weeks of the eruption, however, many dedicated foresters and biologists returned to the area to assess the damages and help with the recovery. One of the strongest leaders in this revitalization has been the Weyerhaeuser Company. It lost nearly 68,000 acres of forest that day, making the company the largest private landowner impacted by this eruption. The company was able to replant over 45,000 acres with over 18 million seedlings. Weyerhaeuser has been committed to restoring the area through sustainable forestry. Now, 25 years later, many of those trees they planted in the wake of the eruption are now amazingly ready for thinning, and final harvesting will begin in another 20 years which will pave the way for the forest cycle to recommence. The U.S. Forest Service made similar efforts. On 14,000 acres of National Forest land, the Forest Service has planted nearly 10 million trees since 1980. In August of 1982, Congress established the 110,000-acre Mount St. Helens National Volcanic Monument.

The monument allows unhindered natural growth and serves as a resource for visitors and academics.

Within weeks of the eruption, signs of life literally sprouted through the layers of destruction.

As forests were replanted and vegetation again took root, the wildlife also began to return.

Roosevelt elk and Columbia blacktailed deer, for example, along with small birds and mammals, reestablished their habitats.

Today the area is a testament to the enduring circle of life, as green hills surround the crater, and blue waters flow through the valley once again.

As the ecosystem rebuilds, we are constantly reminded of the wealth of knowledge available from the monument itself.

Thousands of people have been drawn to the mountain to see the evidence of this power and to learn from its effects.

For many, the eruption sparked a new interest in the earth sciences.

It has provided new insight on seismology and volcanology, helping students and scientists to better understand the earth's natural movement.

Representatives of the U.S. Geological Survey have teamed with researchers at local and national universities to process the data and to continue monitoring movement beneath the ground.

Teachers from across the country have brought hundreds of student groups to the Forest Service's three visitor centers. There, students study the eruption and the reemerging wildlife.

Now what was once a bleak scene of destruction is now a living monument and an educational resource.

Although 25 years have passed, there is still much we can learn from the eruption of Mount St. Helens.

Just last fall, we were reminded that we haven't heard the last from this mountain.

After 18 years of relative quiet, a series of small quakes have occurred in October.

And in March, just 2 months ago—the mountain released a 36,000 foot plume of steam.

Today, inside the crater, the lava dome continues to grow. That is a sure sign that there is far more activity to come.

The most important lesson we can learn from the eruption is the need to improve our warning and response systems.

While we may never be able to fully protect surrounding communities, we can help reduce the risk.

For months before the 1980 blast, scientists from the USGS had monitored Mount St. Helens and were able to predict that an eruption was likely in the near future.

As a result, most people stayed away from the mountain. We must continue to support the efforts of the scientists and local officials who keep us all safe.

Unfortunately, according to a recent USGS report, monitoring of high-risk volcanoes in the U.S. leaves a lot to be desired. Of the 169 volcanoes, 55 qualify as being a "high risk" for eruption.

After Kilauea in Hawaii, Mount St. Helens ranks second on the list of high-risk peaks.

Mount Rainier, also in Washington State, is ranked third, followed by Mount Hood in Oregon and Mount Shasta in California.

Millions of people live near these mountains, making their monitoring and study a critical undertaking.

I want to personally commend the hundreds of dedicated scientists and local, state and federal officials who are keeping a close eye on these mountains in Washington State.

Their work is helping to ensure that the public is better prepared for any future disaster.

We can honor those who died 25 years ago by learning from the eruption and improving our ability to predict and respond to natural disasters.

While we have been fortunate not to have a major eruption in the U.S. since Mount St. Helens, the tsunami tragedy in Asia once again reminded us of the power of events beyond our control.

We know there is more to come, so together, I hope we make sure we are well-prepared, and our communities are well-protected.

My colleague from Washington State, Senator CANTWELL, is on the floor. I welcome her.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Ms. CANTWELL. Mr. President, I rise to join my colleague in the resolution commemorating the 25th anniversary of the eruption of Mount St. Helens. I thank my colleague for working on the resolution to commemorate this historic event. Not only for Washington State and the Northwest, but for our country, May 18 marks an incredible landmark in time for people in the Northwest and certainly marks a critical response by our Federal Government. It also allows us to reflect on the progress we have made as a nation to develop a greater understanding about the more than 160 active volcanoes in the United States.

For over 100 years, Mount St. Helens stood in silence, a relatively dormant peak and serene part of the Pacific Northwest. But on the morning of May 18, 1980, Mount St. Helens erupted releasing a plume of ash that filled the sky, circling the Earth in just 15 days. The destructive eruption eviscerated everything in its path and tore through miles of trees.

Today, 25 years later, the effect of the 1980 eruption remains evident, and the rumbling of Mount St. Helens over the past several months reminds many of us, particularly in Washington State, of those events on May 18, 1980. The level of activity of Mount St. Helens, combined with the unpredictability of it, makes it very special for Washingtonians. We embrace the mountain's beauty but remain in profound respect of its power and weary of a repeat eruption similar to 1980.

What is important to understand is that Mount St. Helens, located 90 miles south of Seattle and 65 miles north of Portland, OR, when it exploded, released such hot steam that it actually melted 70 percent of the snow and ice on top of the mountain. To give you a sense of that enormity, Mount St. Helens was, prior to this, the ninth highest peak in the State of Washington. It has now been reduced about 1,300 feet. The avalanche that was created by that explosion was close to two-thirds of a cubic mile of debris. The Geological Survey estimates that would be enough to cover Washington, DC, in more than 14 feet of ash and mud. That is basically what the Northwest dealt with when this explosion happened in 1980. We saw flows of rock and ice covering various parts of the north fork of the Toutle River, debris running down those pathways wherever it could go. The eruption destroyed 27 bridges that were part of our highway structure, 200 hundred homes, 185 miles of roadway, and 15 miles of railway.

What is unique about this is that Congress responded. We responded because of the devastation to the physical and environmental infrastructure but also because of the loss of life. My colleague and I are here to commemorate those 57 Washingtonians who died in the incident, and one particular individual, David Johnston, who was with the U.S. Geological Survey. What this anniversary marks is the great strides we've made as a Nation to response to science in this area.

David Johnston, by comparison, in 1980 had been studying Mount St. Helens for many months. In fact, on the morning of the explosion, he was 6 miles away on what is now called Johnston Ridge. Many of my colleagues may, if they turned on the TV in the last several months to see rumblings of Mount St. Helens, seen many observers, and many members of the media stationed on Johnston Ridge. When Mount St. Helens erupted on that day, David Johnston, who was our monitoring system at Mount St. Helens only had an opportunity to say: Vancouver, this is it. And the eruption took his life.

Where we are today is that we have volcanologists, geologists, seismologists in what is a robust system of emergency response. The U.S. Geological Survey, the U.S. Forest Service, the Department of Interior, the National Guard and Federal Emergency Management Agency under the Department of Homeland Security, and the Cascade Volcanic Observatory in Vancouver, WA, all provide us with a much greater sense of what is going on with Mount St. Helens and what the emergency response should be in the event of a similar explosion.

My colleague mentioned that we have seen a lot of rumblings lately on Mount St. Helens, and certainly those eruptions have caused concern. But I think today's anniversary reminds us that as a nation we responded to this activity with a better warning system, and with a much better understanding of volcanic activity in the United States. With the 162 active volcanoes in the United States, we in the Northwest want to see good research on this. The fact that Mt. Rainier and other mountains are much closer to great population centers of Washington State is something for which we want to continue to have an investment in good science.

I join my colleague Senator MURRAY and thank her for commemorating the events of May 18, 1980, as a particular point in time for Washingtonians and for our country. But as I stated this commemoration is also significant because it speaks to the advancements in science that our country has achieved in better preparing to respond to this type of emergency. When I think about the science we have applied as it relates to volcano monitoring, I am confident that with similar activity and research as it relates to tsunami activity—something that also could greatly impact the Northwest—we can better prepare for an event of that nature as well. It gives me a great deal of hope that we will, through better mapping, through better geological information, better seismic information, provide Washingtonians with greater security and safety.

As most of my State will be seeing many pictures of the eruption in 1980, I thank my colleagues from past Congresses for their support in giving us a Cascade Volcanic Observatory in the State of Washington and for the work the men and women do in various Federal agencies that provide us better scientific information and a better warning systems for our country.

SURFACE TRANSPORTATION

Ms. CANTWELL. Mr. President, I would like to take a moment to comment on the surface transportation act we are going to hopefully pass today and a particular provision that I was happy to work on with my colleagues Senators INOUYE, STEVENS, AND LOTT, regarding giving consumers better protection and accurate information about gasoline consumption. Americans today are facing a painful reality at the gas pump, so the least we can do is to make sure the mileage stickers on their cars match up with the reality of the road. That will help them and their families make better budget plans and make better choices when buying automobiles.

It is simply that we need to have truth in labeling for stickers on automobiles. But today gas mileage stickers that appear on cars basically inflate the true vehicle fuel economy performance by anywhere from 10 to 30 percent.

That is because the Federal Government laboratory tests, on which this outdated procedures rely, are false assumptions. For example, they assume people drive 48 miles per hour on the freeway, and they never use air conditioning. Obviously, a variety of other things that represent technology improvements have not been considered in this test. When a family is on a tight budget—and right now there are many Americans on a tight budget—getting accurate information about vehicle fuel efficiency is important.

The provisions of this bill that are included in the surface transportation act would direct EPA to issue a proposed rulemaking no later than the end of this year and complete the process within 18 months. What it would do is encourage the Government to take into account real-life conditions such as speed limits, acceleration rates, braking, variations of weather and temperature, vehicle load, and a variety of other fuel-consuming features.

It is important that we pass this kind of legislation. I know the American Automobile Association supports this legislation, as do many other residents throughout the country who are consumers making gas-conscious choices when they buy automobiles. We need to give them accurate information.

I am glad the truth in labeling amendment we offered will be included as part of the package of the surface transportation act and hopefully pass today.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I rise today in support of the Senate SAFETEA bill that is before us, the Transportation bill. I first want to thank my colleague from Washington State for her leadership on so many different issues, including provisions in the Transportation bill. I thank Senators INHOFE and JEFFORDS for drafting a good bill for the country and a good bill for Michigan.

I am pleased the Senate is passing this critical bill today. Unfortunately, this has been delayed for over 20 months and Congress has passed six TEA-21 extensions. It is my hope that we will not have to pass a seventh and this bill will be completed before the end of the month. We have already lost one spring construction season in Michigan, and we certainly don't want to lose another.

During the budget debate, I worked with Senator TALENT on a successful amendment to help the Senate produce a well-funded highway bill and keep all the funding options on the table. This amendment was included in the final budget resolution, and I am pleased to say it helped pave the way for the additional $11 billion that was added to the Senate bill.

As my colleagues know, this bill isn't just about improving our roads, transit systems, and buses, but it is also about creating jobs. The Department of Transportation estimates that for every $1 billion of highway spending, we are creating 47,500 new jobs, and this generates more than $2 billion in economic activity.

Mr. President, we need this bill. Michigan needs this bill. Over the last 4 years, Michigan has lost jobs. The SAFETEA bill will create good-paying jobs and help thousands of Michigan families make ends meet. So it is absolutely critical we pass this bill today.

We are not talking about minimum-wage jobs, we are talking about well-paying jobs that help Michigan families pay their mortgages, save for retirement, and pay for their children's education. The SAFETEA bill will create over 59,000 jobs in Michigan alone.

Mr. President, this delay has also cost Michigan additional highway funding that we desperately need. Our communities are growing, congestion is getting worse, and our roads are worn down through increased wear and tear, but we are still working under funding formulas that are over 7 years old.

In fact, Detroit ranks ninth nationally for having the worst traffic congestion. That is even worse than the delays in Boston and Philadelphia.

The Senate bill would provide Michigan with over $6.65 billion in highway funding and $600 million in transit investment to help address our congested roads and increase bus service throughout our State. This also is desperately needed.

We cannot fix these problems without a well-funded highway bill. Unfortunately, the House TEA-LU doesn't provide the resources we need to address our aging roads and transit systems. This also would mean fewer jobs for Michigan and the country.

I also add that the Senate bill continues to move us forward for Michigan to get its fair share. We are not there in terms of dollar for dollar, and I will continue to fight in every Transportation bill until we get there. But we need to move forward so Michigan gets a better share in this bill and a better opportunity to have the resources and jobs we need.

As this bill goes to conference with the House, I urge my colleagues to stand behind the Senate bill. Once again, this Senate will be passing a bill that is better than what has been passed in the House. It is more fair. I am very hopeful we will stand together on a bipartisan basis and insist that the Senate version ultimately be the version that is passed.

We also need for the bill to be fair and for it to meet the needs of our communities, and we need to make sure we are creating as many jobs as possible. It is time to invest in the best possible resources for our Nation's transportation needs. I am pleased that because of the bipartisan effort in the Senate we will be having a vote today on final passage of this desperately needed bill. Hopefully, we will see it going to the President in a form that is fair for Michigan, for all of our States, and that it is something that will address the future needs of our country.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 3

Mr. INHOFE. Mr. President, I ask unanimous consent that the consecutive votes in relation to the pending amendments on the highway bill begin at noon today, with the additional time equally divided as before, and that no second-degree amendments be in order prior to the votes in relation to the pending amendments; provided, that following the first vote, the Senate then stand in recess as under the previous order, with the remaining votes occurring after the recess. I also ask unanimous consent that there be 2 minutes of debate equally divided before each of the votes in the stacked series.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 706 WITHDRAWN

Mr. INHOFE. Mr. President, I ask unanimous consent that amendment No. 706 be withdrawn.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I further ask unanimous consent that following the first vote, Senator LANDRIEU be recognized for 5 minutes as in morning business prior to the recess.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. INHOFE. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

ASSEMBLY TO PROMOTE THE CIVIL SOCIETY IN CUBA

Mr. MARTINEZ. Mr. President, I rise today to discuss a very important sense-of-the-Senate resolution pending before the Senate. This resolution expresses support for a historic meeting taking place in Havana, Cuba, this Friday, May 20. It is called the Assembly to Promote the Civil Society in Cuba. This resolution expresses support for the courageous individuals who continue to fight for and advance liberty and democracy for the Cuban people.

I thank my colleague from Florida, Senator BILL NELSON, for partnering with me on this important effort. I also thank and commend the 23 other colleagues who have signed on to this bipartisan effort in cosponsoring this resolution.

For too long, the Cuban people have been starved of the precious freedoms so dearly cherished in the United States and in democracies around the world. This year, May 20 provides us with a unique opportunity to highlight and support efforts to advance liberty and democracy in Cuba.

I stress to my colleagues the tremendous valor and bravery of these pro-democracy advocates who are risking their lives pursuing their natural God-given freedoms that they continue to be denied.

Already there have been reports of disappearances, state security intimidation, and of infrastructure interruptions by the regime in order to stop this gathering. For someone to travel from one part of Cuba to another, within their country, citizens must seek the government's permission before doing so. Transportation is made more difficult and the ever-present Committees for the Defense of Revolution, which stand as government watchdogs in every neighborhood and on every street corner, provide even more intimidation and fear to those who seek to attend this gathering.

May 20 has long marked an important day for the Cuban people. It was on this day in 1902 that the island first gained its independence. This is a particularly poignant moment in history, when the United States fought side by side with the Cuban people as they sought to throw off the yoke of colonialism. After 4 years of building a governmental structure and helping the Cuban people to gain its governance, in 1902 the United States ceded independence to the people of Cuba. It was on May 20, 1902, that took place. This is what we currently are looking for, for the Cuban people to be allowed to celebrate. The current Cuban Government prefers to celebrate other dates more in keeping with the beginnings of the dictatorship. But this day ought to be remembered because of the importance it carries.

This year's Cuban Independence Day is historic. The people of Cuba are on the road to transition. The historic gathering this week of prodemocracy advocates demonstrates that Cubans are increasingly losing their fear and vocalizing their desire to be architects of their own destinies and of their own future. This peaceful demonstration, a simple display of freedom of assembly and speech, represents an unprecedented partnership for over 360 prodemocracy and civil society organizations from all walks of life. Their focus will be on bringing democracy, liberty, and a respect for basic human rights to this island nation.

The fact is, the Cuban Government has one of the worst human rights records in the world. There is a complete lack of human rights available to the Cuban people under the tyranny of this repressive regime. They continue to deny universally recognized civil liberties, including freedom of speech, association, movement, and of the press. Freedom of religion is also denied.

As the recently released State Department report, "Supporting Human Rights and Democracy, The U.S. Record 2004–2005," relates:

> [T]he Cuban Government ignored or violated virtually all of its citizens' rights, including the fundamental right to change their government. Indeed, the Government has quashed all efforts to initiate a public debate on how Cuba can prepare for a peaceful transition.

Just last month the United Nations Human Rights Commission once again condemned Cuba for its human rights record.

Let's begin with labor rights. The Cuban Government has been cited by the International Labor Organization and scores of governmental and nongovernmental organizations worldwide for its gross violations of human rights. With a state-controlled economy, the Government is the only source of jobs, and it exercises very strict control over labor policies. Specifically, as the 2004 human rights report relates:

> The foreign investment law denies all workers except those with special government permission the right to contract with foreign companies investing in the country.

Further:

> [The] government required foreign investors and diplomatic missions to contract workers through state employment agencies, which were paid in foreign currency, but which in turn pay workers very low wages—

In the local currency. Typically, these workers receive 5 percent of the salary paid by the companies to the State, and the workers receive worthless pesos while the company pays the governor in dollars. In 2003, average salaries, for those lucky enough to be employed, equal about $10 a month. Yet within the last year these salaries have fallen even further. In an attempt to reassert stricter control, the Castro regime has outlawed use of the U.S. dollar, thereby diminishing the value of Cuban wages even further. New directives have also been issued regarding the tourism industry, so as to impose additional control over the actions of tourism workers.

At the same time, the Cuban Government has steadfastly rejected international human rights monitoring. As the 2004 State Department human rights report says:

> The Government steadfastly rejected the human rights monitoring. Since 1992, the Government has refused to recognize the mandated UNCHR on Cuba, and despite being a UNCHR member, refused to acknowledge requests by Christine Chanet, the Personal Representative of the Commissioner on Human Rights to visit the country.

It is critical we offer our bipartisan support to the patriotic participants of the May 20 gathering on the island, as well as to the many brave men, women, and children who continue to challenge tyranny and oppression.

They need and deserve our support. These past few weeks alone, the news is reporting that the regime has begun rounding up young people for preventive security measures. The median age is 18, and 95 percent are Afro-Cuban. Specifically, our resolution includes four principal messages: First, that the Senate extend its support in solidarity to the participants of this historic meeting in Havana; second, that the Senate urges the international community to support the assembly and its mission to bring democracy and human rights to Cuba; third, that the Senate encourages the international community to oppose any attempts by the Cuban Government to repress, punish, or intimidate the organizers or participants of the assembly; and fourth, that the Senate shares the prodemocracy ideals of the assembly to promote civil society in Cuba and believes that the assembly and its mission will advance freedom and democracy for the people of Cuba.

The international community plays a very large role in helping prodemocracy movements, much as it did in Eastern Europe.

As President Bush recently remarked in his Second Inaugural Address:

> All who live in tyranny and hopelessness can know the United States will not ignore your oppression or excuse your oppressors. When you stand for liberty, we will stand with you.

That is what this resolution is all about—standing with the participants of the May 20 assembly and standing with the brave men and women who continue to live in tyranny and hopelessness. When you stand for your liberty, we will stand with you. Our country's history has allowed us to observe the struggle of impatient patriots such as Frederick Douglass, Abraham Lincoln, and Martin Luther King and the mission they undertook to bring us closer to our democratic ideals.

These prodemocracy advocates today, these Cuban heroes, are today's patriots, and I have faith in them and the important mission they have undertaken. I stress to my colleagues the tremendous valor of those folks who are today struggling for the God-given freedoms they continue to be denied.

The new democracies around the world are standing for freedom and are eager to be a voice in the struggle for transition in Cuba. Our eyes should all be on Havana this Friday to witness this historic event. It is a hopeful time for the Cuban people. I am inspired by their efforts and their bravery. We applaud their strength and their unity as they gather to fight for freedom and basic human rights.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent I be allowed to speak for 5 minutes on the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I join my colleague from Florida and a number of other colleagues who have sponsored this resolution. This is a historic time for Cuba. The U.S. Government is redoubling its commitment to freedom and democracy around the world. We are watching as people around the globe demand accountability from their leaders, and the ability to participate in free, fair, and open elections. The winds of freedom are not only blowing in the Middle East but also closer to home, near to our blessed shores of Florida—in fact, only 90 miles away from Key West.

Despite the horrific crackdown in 2003, Cuban civil society and political dissidents continue to meet and to carry out small actions to express their views on a daily basis. This takes courage. The wives of imprisoned dissidents march silently every Sunday following church services. They are known as the Ladies In White. They march largely unopposed, despite attempts to intimidate and to pressure them.

A counterprotest was organized. It was organized once, but that counterprotest has not been repeated.

This is just one of many examples of the Cuban people organizing in small groups, showing that Fidel Castro does not have the full support of his people and that all people of the world, including Cubans, desire to be free.

A few of the dissidents rounded up in that 2003 crackdown have since been released because of the severity of their medical condition. Their time served in Cuban jails has not curtailed their desire to bring freedom to the people of Cuba. One of those individuals, Martha

Beatriz Roque, continues her struggles unfazed by the experiences of a summary trial and then imprisonment. And despite the fact that she runs the risk every day of being returned to jail, she continues to fight for basic rights and she continues to organize dissidents working towards the ultimate goal of freedom.

In an effort to heighten the level of international attention—attention to those brave souls' efforts—and in an effort to continue to create greater common cause among the groups of people on the island, the Cuban dissidents are organizing this assembly to promote civil society in Cuba. Over 300 civil society groups are expected to be represented at the meeting. The goal of the assembly is to discuss how they will play a role in the transition after the end of the Castro regime. This end is approaching. The clock is ticking. We must be ready, both on the island and around the world, to ensure that Cubans have the opportunity to freely and fairly choose their successor government.

Senator MARTINEZ, my colleague from Florida, and I, along with 20 colleagues, are encouraging the Senate to support this resolution, and in supporting this resolution, therefore, to support this assembly, its participants, and all civil society on the island, and to do it in a bipartisan fashion.

This resolution is an effort to bring international attention to the assembly and to all members of civil society on the island of Cuba. These are brave individuals who deserve our support every day, not only on these memorable and momentous occasions but every day in respect for what they have endured as their liberty has been taken away from them.

We want that liberty to return. Our thoughts and prayers will be with all these individuals.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration H.R. 3, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Inhofe amendment No. 605, to provide a complete substitute.

Allen/Ensign amendment No. 611 (to amendment No. 605), to modify the eligibility requirements for States to receive a grant under section 405 of title 49, United States Code.

Sessions Modified amendment No. 646 (to amendment No. 605), to reduce funding for certain programs.

Reid (for Lautenberg) amendment No. 619 (to amendment No. 605), to increase penalties for individuals who operate motor vehicles while intoxicated or under the influence of alcohol under aggravated circumstances.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I am very happy we finally got to this point. We are operating under unanimous consent at this time.

We will have for the next 45 minutes a discussion and then a vote on the Allen amendment at 12 o'clock. We will have this 45-minute period of time to talk about the highway bill, and hopefully we can confine arguments to that, with the exception of 5 minutes for Senator LANDRIEU right before the vote takes place.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 611

Mr. ALLEN. Mr. President, I thank my colleague from Oklahoma. I am glad we are going to be voting on my amendment around noon. I had thought it was going to be 11:30, but it is now noon.

Let me share with my colleagues the rationale behind amendment No. 611 to the underlying bill.

I first thank my colleague, Senator ENSIGN of Nevada, for cosponsoring this amendment. The purpose of my amendment is to make sure that safety belt incentive grants are awarded based on a State's seatbelt use rate, not based upon a prescriptive mandate from the Federal Government that would make the States enact a primary seatbelt law to receive their Federal funds.

The way this bill came out of committee, in effect, for the States to get their money, they have to enact a primary enforcement seatbelt law. Seatbelt laws generally, whether you have a law such as 29 States do, which is secondary enforcement, or in some cases not even secondary enforcement laws, or some States have primary enforcement laws, this is an issue under the purview of the people in the States.

This is not an issue for the Federal Government to get involved. This is not an issue of civil rights. It is not an issue of interstate commerce. It is not in the Constitution. There is no way Thomas Jefferson and James Madison would ever envision the Federal Government worrying about such matters. I know they did not have automobiles in those days, but they were not coming up with worries about what kind of saddles they had or making sure folks on horseback laced up their saddles correctly with a buck and strap or whether there were seatbelts on buggies.

The underlying bill clearly tramples on the jurisdiction that has long been held by the people in the States. I don't believe "nanny" mandates such as this initiative should come from Government. But if they must, the government should be that of the State legislature and not the Congress. State legislators provide a much closer representation of the views and beliefs of their respective constituencies in our country.

I am a firm believer that the laws of a particular State reflect the philosophy and principles under which the citizens of that State should be governed. The people in the States do not need fancy Federales telling them what to do. Moreover, I doubt a single Senator ran for this office of Senator promising to enact primary seatbelt laws, trampling on the laws of their States.

This chart shows a minority of States, 21 States, the States in red, have primary safety belt laws; 29 States do not, the States in white on the chart, and New Hampshire. I surmise this issue has been considered by every one of the State legislatures in all our 50 States. In 29 of those States, primary enforcement of seatbelt laws was rejected.

Why were they rejected? Each State may have their own reasons. Some may believe it is more important for law enforcement to worry about drunk drivers or impaired drivers rather than craning their necks trying to figure out what is in someone's lap as they are driving otherwise safely down the road. There are others that may have concerns about driving while black, a concern of racial profiling. Regardless of the reasons, 29 States have rejected primary seatbelt laws.

Given that a majority of the States has declined such laws, it seems inappropriate for the Federal Government to devise a grant program that essentially compels the States to enact primary enforcement laws, and if they do not, they lose Federal gas tax dollars the people in these States paid into the Federal highway trust fund.

My amendment revises the Occupant Protection Incentive Grant Program to grant awards on 85-percent belt use rate—the national average is about 80 percent. Eighty-five percent would, of course, be a significant increase. People are safer wearing seatbelts. It is a good idea to wear seatbelts, but instead of compelling States to enact primary seatbelt laws, the grants should be awarded solely on seatbelt use attainment. The point is to get people to wear seatbelts, not to have prescriptive micromanagement from the Federal Government.

For me, it is difficult to understand the logic of an incentive program that provides Virginia, with its high safety belt use, far less funding than a State with far lower seatbelt use rate but with a primary seatbelt law. Yet that is entirely possible under this bill if the State with a lower seatbelt use rate has enacted a primary seatbelt law.

For example, a State could have 70-percent seatbelt usage and receive Federal funds under this grant program only because it has enacted a primary seatbelt law. However, another State could have 89-percent seatbelt usage rate but not qualify for this grant funding because it does not have a primary seatbelt law. That makes absolutely no sense unless one is an officious meddler who wants to dictate and meddle in the prerogatives of the people in the States.

If the goal is to attain higher safety belt usage rates, incentive grants should be awarded based on a specific goal. In our amendment, it is 85 percent. This amendment is similar to one already included in the House version of this highway bill legislation. My proposal is a much more equitable way to provide incentives and reward States for increasing seatbelt use rates. It makes the proposed program fair by making requirements the same for all States, but does not compel States to enact primary seatbelt laws.

How do you get people to wear seatbelts if you do not have a law? As if everyone carries the code of their State around in the glove box or, for that matter, carries around the United States Code. There are a variety of ways. In some States with secondary enforcement, with higher usage rates than those with primary enforcement laws, there can be advertising, there can be incentives. There are a variety of programs creative people can devise as well as just common sense.

I wear a seatbelt. My kids wear seatbelts. Everyone ought to. But the point is, Should this Senate be telling the States to pass primary enforcement laws?

I urge all my colleagues to consider the laws of your State. If you are in one of the 29 States that does not have a primary seatbelt law, what in effect Senators are saying is, we do not trust you in South Carolina, Florida, Arkansas, Missouri, Arizona, or Montana to make these laws. I don't agree with this. Moreover, you are telling people from Alaska to Arizona to Florida and South Carolina, Virginia, and on up to New Hampshire and Maine, sure, you all are paying Federal gas tax revenues into the Federal Government highway trust fund from your gasoline purchases, but you are not going to be able to get this approximately $500 million portion back unless you pass a primary enforcement seatbelt law.

The people in the States should determine whether this Federal Government incentive plan should reward States that have high usage rates or whether it should be used to promote a certain meddling nanny philosophy.

I respectfully ask my colleagues to stand up for common sense, principled respect for the will of the people in the States. Stand up for the principle that the law ought to be fair to those across the country. If any of those States can reach 85-percent attainment rate, depending on how it gets calculated in the States, let them have access to these funds and grant them the broad authority, also, to use those funds for roads and adding on to roads, as well. Finally, rather than official Federal nannyism, stand up for trusting free people. They can make these decisions perfectly well, and have heated and vigorous debate in their State legislatures if necessary. We should not trespass on the will, desires, and views of the people of 29 States with this officious nannyism and the federales planting their finite wisdom over the will of the people in the States.

I ask my colleagues to vote in favor of the Allen amendment.

AMENDMENT NO. 761, AS MODIFIED

Mr. INHOFE. Mr. President, yesterday when we passed our substitute amendment, which was No. 761, there were some technical inaccuracies in obligations and limitations for the 5 fiscal years. I ask unanimous consent to make those technical corrections to the amendment 761. This has been agreed to by both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 761) was agreed to, as follows:

Strike section 3103(b) and insert the following:

(b) MASS TRANSIT CATEGORY.—For the purpose of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)), the level of obligation limitations for the mass transit category is—

(1) for fiscal year 2005, $7,646,336,000;
(2) for fiscal year 2006, $8,900,000,000;
(3) for fiscal year 2007, $9,267,464,000;
(4) for fiscal year 2008, $10,050,700,000; and
(5) for fiscal year 2009, $10,685,500,000.

Mr. INHOFE. Mr. President, I know there are a lot of Members interested in the Allen amendment. We are close to final passage. We may have a couple of amendments after we return at 2 o'clock, at which time we will want to debate those. We will be limited to 2 minutes on each side for those amendments. I encourage Members who want to be heard on those amendments that we will be considering after 2 o'clock, this is the time to do it. This is the only time Members will have.

Mr. JEFFORDS. Mr. President, as we stand on the verge of passing the highway bill, I once again praise Chairman INHOFE for his leadership. We would not be at this point without the chairman's persistence and hard work. And I personally thank you and Senators BAUCUS and BOND for their excellent efforts.

Mr. INHOFE. Will the Senator yield?

Mr. JEFFORDS. I yield.

Mr. INHOFE. Mr. President, this has been an effort that has been bipartisan all the way around. It has been 3 years in the making. For all of us to get along this well for 3 years—I hope it does not end after this is over.

I compliment you and Senator BAUCUS, along with Senator BOND, and the Democrats and Republicans on the Environment and Public Works Committee who are so cooperative.

Mr. JEFFORDS. We have proved it can be done.

The highway bill before the Senate is important for the Nation.

It will authorize funds for Federal-aid highways, highway safety programs, and transit programs through fiscal year 2009.

This bill will make our roads safer. This bill will reduce traffic congestion. This bill supports mass transit.

This bill will create jobs. This bill will have an impact on every town, every city, and every State.

The legislation includes a provision by Senators GRASSLEY and BAUCUS that boosts funding in this bill by $11.2 billion or about 4 percent over what the White House has requested.

That funding makes all the difference in allowing us to draft a funding formula that ensures that all States benefit in this legislation.

That funding helps level the playing field for many States that feel they are being treated unfairly at the White House prescribed funding level of $284 billion.

I urge President Bush to reconsider his veto threat against this legislation.

It is a good bill that helps every Sate and will impact every American.

There are no differences between the House and Senate versions of this bill that cannot be overcome with good, honest negotiation, and compromise.

But we should not enter those negotiations with a proverbial "gun at our head" with the threat of a veto.

The White House should not enter the negotiations with a "my way or the highway" approach.

There is a storm brewing in the Senate of mammoth proportions.

It is a storm I hope we can avoid for the sake of this great institution.

I urge the President and the Republican leadership in the Senate to change the course of this storm.

This bill, and others like it, are too important to get caught in the political hurricane on the horizon.

Despite the gloomy forecast, I remain hopeful we can maintain the momentum we have made on the highway bill and reach a final agreement quickly and fairly.

SMART GROWTH

This highway bill, although not a perfect bill, is a step forward in the smart growth arena.

We have included some modest provisions in this bill to encourage smart growth, like safer routes for our children to get to school, encouraging more physical activity through walking and biking for all Americans, measures to improve traffic congestion, funding for stormwater, and just plain smart planning.

The Safe Routes to Schools Program helps ensure our children are safer as they walk to and from school.

By improving sidewalks and crosswalks for both pedestrians and bicyclists, we are providing a healthier alternative to riding the bus or using a car. We are encouraging students to get out there and walk or ride their bike to school.

In the 1960s, over 60 percent of our children walked or rode their bikes to school. Today, it is less than 10 percent.

According to the National Institutes of Health, the number of children who are overweight has doubled in the last two to three decades; currently one child in five is overweight. Increasing the opportunities for children to walk or ride their bikes to school can help combat the obesity problem.

I would Like to see more funding for this important program.

Even we, as adults, need to increase our physical activity. The provision for bicycle and pedestrian safety grants will promote the benefits of walking and bicycling, and how to stay safe while doing so.

According to the National Highway Traffic Safety Administration, bicycling and walking currently account for nearly 13 percent of traffic fatalities, that is over 5,000 a year. Yet States are spending less than 2 percent of their Federal safety funds on bicycle or pedestrian projects.

The biking and walking programs also help minimize traffic congestion, a common problem of urban sprawl.

The increasing amount of time that Americans spend in their cars in traffic has encouraged manufacturers to supply larger, more comfortable trucks and cars. These huge, gas-guzzling cars and trucks are a symptom of a failure to make our homes and workplaces more accessible to other forms of transportation.

Other provisions that incorporate smart planning, multi-agency coordination, and encourage public input early in the planning process, help ensure that the improvements meet the specific needs of the area. Improved planning also addresses local concerns and makes for more efficient enhancements to the community, without costly mistakes.

Even the Highway Stormwater Discharge Mitigation Program provides much needed assistance to our States and local communities by helping them deal with the impacts of highway stormwater discharges.

This important legislation increases our investment in our regional transportation agencies so they can consider the choices that will build stronger and more sustainable regions and local communities.

And, that is what smart growth is all about. Making smart, educated decisions on how to handle the growth of our communities.

Such planning promotes growth that improves the economy, revitalizes neighborhoods, protects farmland and environmentally sensitive areas, and improves public health.

Smart growth offers a range of transportation options, provides parks and play areas for our children, and provides accessible options for those with disabilities. All of these use energy more efficiently and are good for the environment.

Many of the provisions in this bill help ensure that we develop transportation projects in smarter ways.

I hope the conference committee produces an agreement that respects these important resources, be it our historic and cultural assets and parks and protected open spaces.

Since the 1960s, I have been involved in the smart growth debate. As Vermont's attorney general, I drafted what became the first, and is still today, the most comprehensive, State level environmental review regulation in the United States, known in Vermont as Act 250. In 1999, I established the Senate smart growth task force. Today, I serve as cochair, along with my colleague, Senator LEVIN, on the Senate's bipartisan, multiregional task force for smart growth.

A number of you also serve with us to ensure that we assist those at the State and local levels with the growth of their communities. If you are not already a member, I encourage you to join our task force today to broaden the efforts in the Senate.

Land use and development affects each and every one us, regardless of party affiliation. And with energy prices on the rise, transportation and land use planning are critical tools for conserving energy and promoting more fiscally sound development practices.

The task force needs your help to incorporate smart growth principles into the budget and appropriation processes, to build better relationships with our State and local partners, and work with the administration to support State and local efforts to plan for growth.

Our Nation has only recently begun to recognize that sprawl is unhealthy—whether it is contributing to obesity in America or multiplying the number of roads that are dangerous and unfriendly to pedestrians or harming the habitat of endangered species.

Smart growth is about providing transportation choices, including transit, pedestrian walkways, bicycle lanes and paths, and of course, highways and roadways.

This highway bill is a move in the right direction. While funding is limited for these programs, I am encouraged to see provisions like these are moving forward.

In these times of high gasoline prices, Vermonters and all Americans want to know what Congress is doing to reduce our dependence upon foreign oil.

Constituents who are paying steep prices at the pump want to know that we are working to promote technologies that use gasoline more efficiently.

I would like to talk about some of the provisions of the highway bill and the managers' amendment that have the potential to do just that.

The bill provides additional incentives to use hybrid vehicles on our Nation's highways and the managers' amendment builds on those provisions.

While I think these provisions represent a good initial starting point for important discussions to come in the conference on this bill, I think more can and should be done through this legislation to encourage hybrid use, and to expand their benefits for consumers and the environment.

Some argue that we do not need to do any more to promote hybrid purchasing and use by consumers.

They suggest that the price of gasoline itself has been a strong driver of hybrid purchases. Certainly, in part, that is the case.

At the end of April, the Associated Press reported that the hybrid market has grown by 960 percent since 2000.

New hybrid vehicle registrations totaled more than 8,300 in 2004, an 81 percent increase over the year before.

Even though hybrids still represent less than 1 percent of the 17 million new vehicles sold in 2004, major automakers are planning to introduce about a dozen new hybrids during the next 3 years.

I have personally joined the thousands of Americans, and several other members of this body, in becoming a hybrid owner.

I purchased a Ford Escape hybrid last year.

Simply allowing gas prices to increase is not the best way to promote hybrid use. That is a poor policy solution.

We should also provide significant non-financial incentives to stimulate demand for these vehicles.

One important incentive in the bill before us is to allow these vehicles access to the high occupancy vehicle lanes, or HOV lanes, on our highways.

We will be saving our commuters time, in addition to reducing gasoline use.

In doing so, we need to carefully consider and maintain the other societal benefits of HOV lanes.

Those benefits include: encouraging transit and shared car use, and promoting dedicated alternative fuel vehicles.

Mr. President, our last highway law, TEA–21, gave States the authority to allow what is called a high occupancy vehicle lane, or HOV lane.

Many commuting Americans are familiar with these lanes, and thousands commute into the District of Columbia every day using them.

I want to give my colleagues some of the history behind allowing less polluting vehicles in HOV lanes.

Under TEA–21, if a vehicle was certified under Federal regulations as an "inherently low-emission vehicle" it could be used in the HOV lane with only one occupant.

The law authorized States to implement this policy through September 30, 2003, and granted each State the right to revoke this policy if it increased HOV lane congestion.

EPA established the low-emission vehicle standards.

They did so in order to recognize that certain types of fuel and vehicle technologies have low emissions and to encourage their use.

Only vehicles without evaporative fuel emissions meet EPA standards.

Consequently, a vehicle that burns any quantity of gasoline or diesel cannot meet the standards.

That includes hybrid vehicles that operate on a combination of gasoline or diesel and electric batteries.

Vehicles that operate entirely on alternative fuels with no evaporative emissions, such as compressed natural gas, liquified natural gas, or purely electric vehicles, are the only ones that are able to meet the standards.

We should promote the use of those vehicles.

However, such vehicles are a very small percentage of the on-road fleet, and, as a consequence, few motorists have been able to take advantage of the HOV lane benefit provided in TEA–21.

Since the passage of TEA–21, there has been growing interest among motorists, the vehicle industry, and some States in renewing the HOV lane benefit and expanding it to hybrid vehicles, which are more widely available.

The bill before us includes provisions that would renew and expand the HOV lane exemption for low-emission vehicles.

Specifically, the managers' amendment would allow "low emission and energy-efficient vehicles" access to HOV lanes.

The bill would make that access permanent.

A vehicle would qualify as a "low emission and energy-efficient vehicle" if it meets EPA's "Tier II" emission standards that were phased in beginning in model year 2004.

In addition, EPA would have to certify that the vehicle gets at least 50 percent better fuel economy than a gasoline vehicle in the city or that it is a "dedicated alternative-fueled vehicle" as defined in the Energy Policy Act of 1992.

Current hybrid vehicles are clean enough to comply with the new tier II standards. Some hybrids also meet the threshold for fuel economy ratings in the bill.

This change would result in expanding access to HOV lanes to include hybrid vehicles.

I reassure my colleagues who may be concerned that congestion in HOV lanes might arise as a result of the policy change contained in this bill.

The bill before the Senate requires States that allow hybrids on HOV lanes to establish a program for qualifying and labeling such vehicles, and monitoring and evaluating their use in HOV lanes.

States also would be required to develop policies and procedures for limiting the single-occupancy operation of hybrids if their use led to increased traffic congestion.

While there are benefits to this language, I hope that my colleagues consider strengthening the language.

We should be mindful when we allow single occupant vehicles in the HOV lanes, even if they are hybrids.

The managers' amendment simply implements the tier II emissions standards that were effective last year.

Hybrids easily meet these standards today, so this language has no practical impact.

If it is the determination of Congress to allow hybrids to use the HOV lanes, we should be promoting the most fuel-efficient and cleanest hybrid vehicles on the road. I would like to go further.

This bill takes a good step toward promoting single occupant HOV access for hybrid vehicles.

We make sure that there are only dedicated alternative fuel vehicles in HOV lanes, those that run on 100 percent alternative fuels.

But we need to make sure that we don't overburden our HOV lanes. And we need to make sure that our goals of lowering pollution that we set in our last highway law are maintained.

It is my hope that we do so in the conference on this bill.

Mr. INHOFE. Mr. President, shortly we will be voting on final passage of H.R. 3, the highway bill. Of course, we have talked about how long this has been in the making. We are finally to that point. The product is a good product. There are some who still today are not happy with the way the formula has treated their States.

There is nothing more difficult than dealing with a formula. This is a formula that deals with so many different factors. We have donor States, donee States, large States, small States, passthrough States, we have States with unusually high delegate rates. All these things are a consideration. During this debate we have discussed these at length the last 3 years.

A lot of people think we are spending too much. I put my conservative credentials up against any one of the 100 Members. I have been rated No. 1 as most conservative Member in this Senate. Yet there are two areas where we need to spend money: One is the national defense and infrastructure is the other one.

This is a life-and-death bill. We have to do something to save some lives. People who are saying we are spending too much on this, I think they forget that we have had two very great Senators in the Finance Committee, Senator GRASSLEY and Senator BAUCUS, who we went to and said: This is what we really need to have for America. Can you make sure it is paid for and make sure we can do it without a deficit? They assured us that we can.

I see Senator BAUCUS is here to speak. Of course, I repeat one more time how much I appreciate him and Senator GRASSLEY for the work they have done so that this is a bill that is paid for, this is a bill that is not going to add to the deficit, and I want to make sure that people understand that.

By the way, the work they did has been ratified by the Joint Tax Committee. That is the proper body. They have said yes, they can come up with—actually, the amendment is $11.2 billion more in contract authority—they said they can do it and it is not going to add to the deficit; it is not going to be deficit spending.

Before we run out of time, I do wish to thank some other people. I will let Senator JEFFORDS and Senator BAUCUS thank their staff, but I just want to say I wish the American people really knew the hours that are put in on something like this. I am talking about all night long and many hours. I start with Ruth Van Mark, who has been with me for 17 years now. I know there have been many sleepless nights working on this bill; Andrew Wheeler, James O'Keefe, Nathan Richmond, Greg Murrill, Marty Hall, Angie Giancarlo, John Shanahan, Rudy Kapichak, James Gentry, Alex Herrgott, Dave Lungren, Alex Marx, and many more who put in countless hours.

But also on Senator FRIST's staff, if you look back all during the consideration of this bill, we have had the help of Libby Jarvis, who is always there; Dave Schiappa has been there on a daily basis, Eric Ueland, Dan Dukes, Laura Dove; and the people from the Department of Transportation, who have been over here spending their hours on the Senate floor with us: Susan Binder, Edward Ross Crichton, who has done over 1,000 formula runs for us over the last 3 years. He will be glad when this thing is finally passed, I think; Dedra Goodman, Carolyn Edwards, Thomas Holian, Sue Anna Celini, and, of course, I thank the hard-working people of the legislative counsel because they have actually drafted this 1300-page bill and the hundreds of amendments. They include Carcie Chan, Heather Arpin, Michelle Johnson-Weider, Heather Burnham, and Gary Endicott.

Anyway, this has taken a lot of hours, a lot of years working on this. It is going to finally be a reality. I will just say we are going to have an amendment that will come up this afternoon, the Sessions amendment. I would suggest it is very important for people to understand that it would only cut contract authority, it has nothing do with spending more or less money. It is not going to have any effect on the deficit, and it is very important people understand that.

So it is a good bill, and I appreciate working with so many people on this so closely to make this come to the point where we are today.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I also join in thanking a lot of people who have worked very hard on this bill. Certainly the chairman of the committee, Senator INHOFE, deserves primary credit. It has been a long road, no fun. He has done a great job, and I commend him as well as the ranking Democrat of the committee, Senator JEFFORDS from Vermont. They worked very closely together. And that is what makes good legislation. This is not a partisan bill. This is a transportation bill. Of course, Senator BOND from Missouri has done yeoman's work, and I thank Senator GRASSLEY, chairman of the Finance Committee.

I wish to make a few comments as we prepare to vote on final passage. I think that vote will occur in several hours. I start by congratulating all those who have worked so hard on this issue, and I thank some people back in my home State of Montana.

Jim Lynch is director of the Montana Department of Transportation. He is a terrific director, a very good man. I have known him for many years. He has his heart and soul in this work. I also thank members of his team: Sandy Straehl, Jim Currie, Jim Skinner, Dick Turner, and Mike Tierney, just to name a few. They are terrific people, and many of them were also helpful in TEA-21. They know highways. They know this bill. They know the program. Believe me, they do a good job in helping us.

The bill we will vote on in a few hours is a good bill It is a solid bill. It is one that will move the country forward over the next 5 years. Every State will benefit from this legislation, the so-called donor States, donee States, urban, rural, large and small, every State.

In my state of Montana, this bill will provide $2.1 billion over the next 5 years. This is an increase in highway funding over $500 million of historic levels of TEA-21. This means that more than 16,500 good-paying jobs will be sustained in Montana each and every year of this bill. In many respects, this is our economic development program, the highway program. It provides so many good-paying jobs as well as excellent transportation.

I am very proud of the funding levels we have achieved working alongside my good friend from Iowa, Senator GRASSLEY. I believe we developed a reasonable and fiscally responsible funding package. I am pleased that the Senate voted strongly to approve our efforts to increase the funding by $11 billion. The vote last week was 76 to 22 to waive the budget point of order, that is, in favor of that $11 billion. I hope the administration will take a long serious look at this. I hope they will reexamine their earlier opposition to increasing transportation investments. It is a good solid effort. The Senate has again publicly made its desires known with regard to funding levels. We did not go over the top. We could have gone with more, to 318, but we did not. We stayed under $300 billion—very responsible, very reasonable—and I hope the President will understand this is good legislation for the country. it helps our infrastructure, it is all paid for, and it is necessary to help America be competitive.

In a moment, we will vote on an amendment to reduce the funding in this bill by almost $11 billion. That is stripping away the funding that we worked so hard to identify and that the Senate voted to support.

I have here with me a stack of letters from a diverse group of organizations that strongly oppose the amendment being offered by the Senator from Alabama. I will not go through all of them, but it is really stunning, the number of organizations that have written us in opposition to the Sessions amendment. Every organization you can think of from the ACT—that is, the Association for Commuter Transportation—the Transportation Construction Coalition, the Surface Transportation Policy Project, signed by Anne Canby, who is the President; AASHTO, signed by John Horsley, executive director, and many environmental organizations as well have written in opposing the Sessions amendment: National Association of Counties, National League of Cities, United States Conference of Mayors. It is just a representative sample of the large number of letters that have been written.

Mr. President, I ask unanimous consent to have some of them printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAY 16, 2005.

DEAR SENATOR: On behalf of the nation's local governments, we urge you to maintain your support for the Senate-approved $295 billion, six-year surface transportation bill by rejecting the cuts contained in Amendment #646 offered by Senator Jeff Sessions (AL) to H.R. 3.

The Sessions Amendment exacerbates state and local governments struggle with increasing congestion, crumbling and unsafe transportation infrastructure and federal clean air mandates. This occurs through the reduction of the Congestion Mitigation and Air Quality Improvement Program (CMAQ) by $4 billion, Transit Formula Grants and Research by $5 billion, Surface Transportation Enhancements by $1.1 billion, Transportation and Community and System Preservation Program by $100 million, Transportation Infrastructure Finance and Innovation Act by $100 million, and Federal Highway Administration by $400 million.

Under this amendment, the costs to meet the federal clean air mandate will be borne largely by local property tax payers. A $4 billion reduction in the CMAQ Program is an unfunded mandate for state and local governments. CMAQ is intended to help states and cities address the degraded air quality from cars and trucks. The 1990 Clean Air Act amendments require EPA to set National Ambient Air Quality Standards for pollutants considered harmful to public health and the environment. As a result, EPA has required that state and local governments achieve attainment status for an 8-hour ozone and a 2.5 micron Particulate Matter (PM 2.5) standard by 2008–2015.

We believe $295 billion will help address the pressing outstanding transportation infrastructure and federal clean air mandates of state and local government. We also believe this funding level will also expedite the passage of SAFETEA so that the Senate-House conference committee can begin its work as soon as possible. America's state and local elected officials urge you to oppose amendment #646 offered by Senator Jeff Sessions.

Thank you for your consideration to this matter.

Respectfully,

TOM COCHRAN,
Executive Director,
U.S. Conference of Mayors.
DONALD J. BORUT,
Executive Director,
National League of Cities.
LARRY E. NAAKE,
Executive Director,
National Association of Counties.
ROBERT O'NEIL,
Executive Director,
International City/County Management Association.

AMERICAN ROAD & TRANSPORTATION
BUILDERS ASSOCIATION,
Washington, DC, May 16, 2005.

DEAR SENATOR: The Senate may soon vote on an amendment by Senator Jeff Sessions to the federal highway and transit program reauthorization bill, H.R. 3, that seeks to reduce the measure's total investment level by $10.1 billion. The bipartisan leaders of the Senate transportation committees have repeatedly said the investment levels in H.R. 3 are necessary to write a reauthorization bill that does not pit states or modes of transportation against one another. Consequently the American Road & Transportation Builders Association (ARTBA) urges you to oppose this amendment.

The funding reductions in the Sessions Amendment would come from the following programs:

$5,000,000,000 transit formula grants and research

$4,000,000,000 Congestion Mitigation and Air Quality Program

$1,100,000,000 Transportation Enhancement Program

$400,000,000 Federal Highway Administration expenses

$100,000,000 Transportation Infrastructure Finance and Innovation Act Program

$100,000,000 Transportation and Community and System Preservation Program

Some—but certainly not all—of the proposed investment reductions under the Sessions Amendment would come from non-infrastructure activities. Rather than reducing H.R. 3's overall investment levels, it would be more appropriate to transfer funds from the non-infrastructure expenditures to core federal construction and maintenance programs to ensure these funds are used to improve roadway safety and alleviate traffic congestion.

Last week, 76 senators voted to support the deficit-neutral financing proposal for H.R. 3. It's time to complete action on the TEA–21 reauthorization measure. Please oppose the Sessions Amendment and support final passage of H.R. 3.

Sincerely,

T. PETER RUANE,
President & CEO.

SIERRA CLUB,
May 16, 2005.

Re oppose Sessions Amendment #646 to SAFETEA (S. 732).

DEAR SENATOR: The TEA–21 transportation reauthorization bill ("SAFETEA," S. 732) that sets policy and funding for highways and transit through the end of the decade contains critical provisions to improve transportation planning and development at the state and local level. We strongly urge you to reject an amendment by Senator Sessions that would substantially undermine these programs.

Specifically, the amendment would:

Cut $4 billion from Congestion Mitigation and Air Quality (CMAQ) improvement programs—provides funding for projects to reduce traffic congestion and improve air quality. Such a funding cut would greatly harm the ability of municipalities to comply with air quality requiremnts under the Clean Air Act.

Cut $5 billion from formula grants and research for transit—provides funding for security, planning, capital purchase and maintenance, facility repair and construction, and operating expenses where eligible. The program includes grants specifically targeted to urbanized areas, to non-urbanized areas, and to transportation providers that address the special transportation needs of the elderly, low-income, and persons with disabilities.

Cut $1.1 billion from Surface Transportation Enhancement activities—provides funding for projects that add community or environmental value to transportation projects. This includes historic preservation, community development, and water pollution mitigation due to highway runoff. This is a crucial community building program widely acknowledged as the most popular TEA–21 program.

Cut $100 million from transportation and community and system preservation (TCSP) programs—provides funding for a comprehensive initiative to improve the relationships and synergy between transportation, community, and system development, and to identify useful private sector initiatives. This program has been a testing ground for many key local innovations, underpinning new directions in local and regional transportation planning.

Cut $100 million from projects being built under the Transportation Infrastructure and Finance and Innovation Act (TIFIA) of 1998—provides federal credit assistance to major transportation investments of critical national importance. The TIFIA credit program is designed to fill market gaps and utilize private sector investment.

America's mobility is critical to our economy and our national security. The transportation programs that would be cut by this amendment have a long history of successful implementation, and state and local transportation officials have come to rely on them to effectively manage transportation demand. We urge you to reject Senator Sessions' shortsighted amendment that substantially undermines the ability of local and state governments and communities to effectively solve transportation problems.

Sincerely,

DEBBIE SEASE,
Legislative Director.

ASSOCIATION FOR
COMMUTER TRANSPORTATION,
Washington, DC.

Sen. JAMES INHOFE (R–OK),
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR INHOFE: I write to you today to ask your help in defeating an amendment to SAFETEA that has been offered by Senator Sessions (R–AL). The amendment, as I am sure you are aware, would reduce SAFETEA by $11.1 billion, but perhaps more importantly, would greatly reduce and in some cases eliminate core highway programs. In essence, the Sessions amendment undercuts the success of ISTEA and TEA–21 by drastically altering the make up of Federal-Aid Highway Assistance.

The U.S. Department of Transportation (DOT), in cooperation with the Texas Transportation Institute (TTI), recently released its annual report on congestion. While the report paints a grim picture, it also provides proof that we can reduce congestion by getting more out of our existing transportation system.

The annual report indicates that congestion is growing quicker than states and local governments are able to build the roadways and transit needed to handle increases in travel demand. The study finds that American's spent 3.7 billion hours and 2.3 billion gallons of fuel stuck in traffic congestion—producing a "congestion invoice" for the national economy of $63.1 billion in 2003. Congestion is not only a problem for those who live in the nation's largest metropolitan areas, but also for those in small to medium sized cities. No longer is congestion just a New York and Los Angeles problem, now it is Savannah's and Birmingham's as well.

The TTI report further quantifies the role efficient operating roads can have in reducing congestion. The report estimates that projects to improve the efficiency of existing capacity provided 336 million hours of delay reduction and $5.6 billion in congestion savings for the 85 urban areas studied with 2003 data. If these treatments were deployed on all the major roads in every area, an estimated 613 million hours of delay and more than $10.2 billion would be saved.". The Sessions amendment would reduce, rather then enhance, a States ability to deploy these treatments.

For your consideration we have attached the recommendations that the TTI report makes. The Sessions amendment would cut those programs that aim to increase the efficiency of the transportation system. Thus we urge you to opppose the Sessions amendment and protect those programs that help get the most out of our transportation system.

Sincerely,

KEVIN SHANNON,
Executive Director.

MAY 16, 2005.

DEAR SENATOR: The 28 national associations and construction unions of the Transportation Construction Coalition (TCC) urge you to oppose an amendment to H.R. 3, the federal highway and transit program reauthorization bill, to be offered by Senator Jeff Sessions (R–AL) that would cut as much as $10.7 billion from the $295 billion authorized in the bill through FY2009. The amendment would undermine the Senate's overwhelming vote last week in support of an additional $11 billion for highways and transit over the next five years.

This additional funding is critical to help states maintain and improve their aging and congested highway system and improve safety. The additional funding is also necessary to provide an equitable return on user fee revenue collected in each state. Moreover, the proposed cut to the transit program represents nearly a year's worth of funding which would severely impact the ability of states and localities to provide public transportation services to their citizens, especially the elderly and disabled populations.

The Sessions amendment would cut the federal transit program by $5 billion and the Congestion Mitigation and Air Quality (CMAQ) program by $4 billion. In addition, under the Sessions amendment your state would lose National Highway System (NHS), Surface Transportation Program (STP), and Metropolitan Planning funds.

Attached are charts prepared by the Federal Highway Administration that illustrate how the Sessions amendment would affect the amount of highway funding your state would receive.

The TCC urges you to oppose the Sessions amendment.

Sincerely,

THE TRANSPORTATION
CONSTRUCTION COALITION.

SURFACE TRANSPORTATION
POLICY PROJECT,
Washington, DC, May 16, 2005.

Hon. JAMES INHOFE,
Chairman, Senate Environment and Public Works Committee, Washington, DC.

Hon. JIM JEFFORDS
Ranking Minority Member, Senate Environment and Public Works Committee, Washington, DC.

Hon. KIT BOND,
Chair, Senate Subcommittee on Transportation and Infrastructure, Washington, DC.

Hon. MAX BAUCUS,
Ranking Minority Members, Senate Subcommittee on Transportation and Infrastructure, Washington, DC.

DEAR CHAIRMAN INHOFE AND SENATORS BOND, JEFFORDS AND BAUCUS: On behalf of the STPP Coalition, I am writing to express our strong opposition to amendment #646 by Senator Jeff Sessions, proposing to reduce funding for many critical elements in the SAFETEA legislation before you.

The amendment threatens the basic structure of the current federal surface transportation program, disrupting program elements and policies first established in the 1991 ISTEA law. Among these is the effective reversal of a longstanding commitment under the Congestion Mitigation and Air Quality Improvement (CMAQ) program to assist local compliance efforts with applicable federal air quality standards. Now, with new and more rigorous standards for ozone and particulate matter coming on line, this amendment proposes dramatic reductions in CMAQ funding—by a total of $4 billion or more than 37 percent—that are certain to disrupt compliance air quality efforts in local areas where about one-half of the nation's population resides.

The amendment also threatens funding for transit programs, specifically commitments to transit research and transit formula grants. Ironically, this $5 billion reduction in transit funding in these investments not only eliminates the funding gains just approved by the full Senate last week but withdraws another $2.7 billion from the transit account. Undeniably, this amendment effectively reverses longstanding federal commitments to balanced funding between highway and transit programs. Importantly, the amendment also cuts the very successful Transportation Enhancements program by $1.1 billion and the TCSP program by $100 million, threatening both programs which now generate substantial benefits for taxpayers and their communities.

Taken together, this package represents an assault on continuing state and local efforts to deliver better transportation solutions and cheaper and more efficient travel options for the public and businesses, threatening public support for this transportation legislation. We urge your strongest opposition to the Sessions amendment.

Sincerely,

ANNE P. CANBY,
President.

AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS,
Washington, DC, May 16, 2005.

Hon. MAX BAUCUS,
Ranking Minority Member, Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR RANKING MINORITY MEMBER BAUCUS: On behalf of the American Association of State Highway and Transportation Officials (AASHTO), which represents the State transportation agencies in the fifty States, the District of Columbia, and Puerto Rico, I am writing to express opposition to an amendment offered by Senator Jeff Sessions that would reduce funding for certain highway and transit programs by $10.7 billion over the remaining five years of the bill.

The Sessions amendment would completely reverse the funding increases, which were crafted by the Finance Committee and contained in your substitute amendment, by severely reducing funding for selected programs, including $5 billion from the transit formula program, $4 billion from the congestion mitigation and air quality program, $1.1 billion from the Transportation Enhancements Program, $400 million from FHWA's administrative expenses, $100 million from the Transportation Infrastructure Finance and Innovation Act Program; and $100 million from the Transportation and Community and System Preservation Program. We not only oppose the funding reduction altogether, but also believe that these programs, which enjoy broad support, should not be singled out in this manner.

We applaud the 76 Senators who voted to support the deficit-neutral financing proposal for H.R. 3. We urge you to oppose the Sessions Amendment, complete action on the bill and move to conference as quickly as possible.

Sincerely yours,

JOHN HORSLEY,
Executive Director.

Mr. BAUCUS. These groups are many. There are at least 28 national associations and construction unions that make up the Transportation Construction Coalition. I mentioned AASHTO. I didn't mention the Environmental Defense Fund and Sierra Club, which are also in opposition to the Sessions amendment. You don't see that many groups together, construction groups, unions, environmental groups, local governments, all standing together on the same amendment; that is, in opposition to an amendment, in this case the Sessions amendment. This is one such occasion.

I have heard it said that we should not increase funding for this bill because the House will not agree to it. I ask my colleagues, are we not a separate body? That can be turned around. The House should not pass something because we might not agree to it. They are a body, we are a body. We have just as much right as they to indicate what we should do.

As I have said in this Chamber many times, legislating is the art of compromise. It is time for the administration and the House to demonstrate a willingness to work with the Senate on this bill. We are now ready to go to conference. We have less than 2 weeks until the expiration of the current extension of these programs. We have to get moving. The only chance we have to get this bill done is if we act quickly, reach an agreement soon on the funding levels in this bill, that once we have reached an agreement on the funding levels, I think virtually everything else will fall into place.

I urge my colleagues in the House and in the Senate, also in the executive branch, to work with us, find an agreeable funding level for these programs. We cannot afford to argue for months about this issue. We have tough decisions to make, and the time is now to make them. We cannot afford to govern by extensions. States and local governments and the construction community are already feeling the pain from six extensions we have had to date. The time is now to roll up our sleeves, get to conference, and send a bill to the President. Then we can help the American people in doing so.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Thank you, Mr. President.

I am pleased to be on the Senate floor today to talk about this long overdue Transportation reauthorization bill. We need to pass this bill, and we need to pass it this year. We have not had a transportation bill in more than 2 years for America. The delay has caused the State departments of transportation across America and in Colorado to operate under a series of short-term extensions. That is unacceptable while we deal with the major issues that are facing the country, including the issue of transportation. The delay in the passage of the new transportation bill has cost the country about 100,000 jobs and created real uncertainty for States that are trying to make construction decisions at a time when they are also trying to recover from a devastating fiscal crisis.

The passage of a new transportation bill is central. In fact, there is nothing like the passage of a new transportation bill to create those jobs and provide the much needed funding to jump-start the economic picture in Colorado and in many other places across our country. In fact, it is exactly the kind of business the American people expect us to be conducting.

This important legislation will create thousands of jobs in Colorado as well as across the country and support important transportation infrastructure needs on roads in our cities, in rural areas, on our transit systems, and our bridges. The legislation will also lay the groundwork to provide important high-priority projects across my State. These are essential projects that will simply not get completed without the passage of this legislation.

This legislation will reinvigorate our economy and make our Nation stronger. The first step toward this goal was with our vote to increase the funding level to $295 billion. I highly commend my colleagues, Senator GRASSLEY and Senator BAUCUS, for working to increase funding without adding to the national deficit. This additional funding will give an increase to my State of Colorado of about $156 million more than we receive under current law and about $26 million more than the House-passed transportation bill. That is $26 million more a year than the House-passed transportation bill.

Here is what this additional $26 million will do for my State of Colorado. It will allow the Colorado Department of Transportation to invest in important projects across our State such as our new transit initiative, TREX, as well as investments in U.S. Highway 160, Interstate 70, and Interstate 25. This is what the $26 million increase will not do, however. It doesn't add to our Nation's deficit. The additional funding is completely paid for. These are the types of choices I am proud to make for Colorado, and these are the choices we should all be making for America.

In Colorado, 30 percent of our major roads are congested, 43 percent of our roads are in poor or mediocre condition, and almost 20 percent of our bridges are structurally deficient. We need this increase in transportation dollars, and I will continue to work with my colleagues to ensure that the highest level of funding for our transportation infrastructure is maintained. Nonetheless, as many other States here, Colorado is a donor State. That is

Washington-speak about those States that put more money into the highway user trust fund than what we get back.

There is a real issue of fairness I would like my colleagues to take a hard look at over the years ahead, fairness for the people of Colorado and all of the other States who pay the same gas tax as the rest of the country every time they fill up at the gas pump, and then at the end of the day we don't get back the same return when the Federal Government returns that money to the States. In Colorado today, for every dollar a Coloradan puts into the highway trust fund, our State receives about 90 cents back. Under the Senate proposal, in 2009, Colorado will receive 92 cents back. That is a move in the right direction, but that is still much less than what is equitable for Colorado and other donor States.

We need to pass this bill, and while the proposal being considered in the Senate certainly is a step in the right direction, it does not provide the level of investment that would address Colorado's growing transportation needs as well as the needs of donor States.

To correct this unfairness, we need to take some important steps. First, I am proud to support the increase in the overall funding of this bill without adding to the deficit. As I have said, this is a first step in the right direction. Secondly, we have to make sure we protect that increase in conference with the House. The President has indicated he will veto this larger investment, leaving Colorado with a level of funding that will not support the needs of our State. We must convince the President not to veto this additional money. Keep in mind the rising cost of steel and oil have also driven up the cost of construction, and the President's own Department of Transportation said the country needs a level of funding $100 billion more than the President has said he supports.

The third step we need to take is to correct the unfair formula that disadvantages States such as ours. I hope my colleagues will help us continue to look for ways to provide adequate investment that will give donor States such as Colorado the rate of return we need and deserve.

Having a first-class transportation system is critical to the Nation and to Colorado. I look forward to the passage of this very important bill. I will continue to work to see that the most basic level of infrastructure funding is not only maintained but improved so we can have safe roadways and robust economic development throughout the State.

Finally, let me say this is the kind of legislation the Senate should be working on. Because at the end of the day, this is about doing the work the people of America care about. They want us to work on their behalf every day.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, we are 12 minutes away from the vote that will be taken and then recessing until 2 o'clock and coming back and finishing probably two votes and then final passage. There won't be time to debate the point. There will be a couple minutes equally divided. The Senator from Arkansas wants to participate in that.

Since I will not be able to talk about the Sessions amendment, let me make a couple of points. I don't have a better friend in this body than Senator SESSIONS. He and I are both very conservative, always ranked that way. He has an amendment to cut the transportation bill by $10.7 billion and the intent is for $5 billion of that amount to be taken from mass transit and $5.7 billion to be taken from the highway program.

The interesting thing about this is the amendment would only cut contract authority, which is the upper limit of what may be spent on the program. There is no reduction in guaranteed spending. Everybody knows last year in our bill, there was $318 billion in contract authority and $303 billion in guaranteed spending. That is the figure you are concerned with. There is no reduction in guaranteed spending on the Sessions amendment. Guaranteed spending is the amount the bill requires to be spent on the program. So there is no change in actual spending or the deficit.

The amendment also ignores the complexity of the formula. As a result, the amendment drops the contract authority of some donor States below the minimum rates of return identified in the bill. For example, Arizona's rate of return would drop below 90.3 percent in 2005 and 90.9 percent in 2006 as opposed to 92 percent. It is a huge difference. Keep in mind that is contract authority.

It is not just the donor States that are hurt by the amendment. Pennsylvania, an older State, for example, would lose $258 million in contract authority and drops from a 15-percent increase over TEA–21—that would be 7 years ago—down to 11 percent, undoing the gains they received at that time.

Finally, I remind everybody that Senators GRASSLEY and BAUCUS increased the amount of money. The Sessions amendment is supposedly going to take back that $11.2 billion increase. But when we passed that amendment, the Finance Committee—and it is their job; read the Senate rules, that is what the Finance Committee is supposed to be doing, go in there and find the money—they said: Yes, we know we can spend the additional $11.2 billion. It is not going to increase the deficit. And then they came along, and that fact was verified by the Joint Committee on Taxation. They are the ones who said what the Finance Committee said is right.

Senator SESSIONS and I are always in the top three most conservative Members when the ratings systems come out of all 100 Senators. I want people to know my view on the amendment. I know the Senator is well meaning, but it is one I will be opposing for those very reasons.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I understand there are 6 minutes remaining on this side.

The PRESIDING OFFICER. That is correct.

Mr. SARBANES. I yield myself 3 of the 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I join my colleagues in very strong opposition to the Sessions amendment. It is a bad idea, both from the standpoint of process and policy. First, it would undo the carefully balanced package developed by the four committees of jurisdiction. Four committees have worked putting this package together: the Environment and Public Works Committee, the Finance Committee, the Banking Committee, and the Commerce Committee. All have been involved in this process. They have spent literally years laying the groundwork for this bill, working ever since passage of the last bill. When we went through the last session of congress, we could not get a bill passed. We have since had interim extensions which were of concern.

The chairman of the Environment and Public Works Committee and the ranking member have spent countless hours trying to put together a sensible and reasonable package, making tough decisions regarding funding allocations among the various programs. This amendment would begin the process of unraveling those committee decisions, both as they affect highways and transit. I warn my colleagues at the outset, this is a bad way to proceed on a complicated and important piece of legislation which is important to every single Member of this body—important to their Governors, important to their county officials, and right on down the line.

We know as a matter of policy there is tremendous stress on our transportation system. The costs we pay in congestion have been detailed by the Texas Transportation Institute. My own view is we need even more investment in our transportation system, and it is provided for in this bill.

I understand the practicalities of the situation in which we find ourselves. Failure to make the needed investment in transportation systems would constrain our economic competitiveness and leave us at a disadvantage in world competition.

There are very few bills that are so essential to the economic well-being of our country as this bill. This transportation infrastructure bill is critical to economic development and economic competitiveness in all 50 States. Failure to make the investment that is necessary will constitute a setback to our efforts to build a better and stronger economy.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BAUCUS. Mr. President, I yield 2 more minutes to the Senator from Maryland.

Mr. SARBANES. I thank the Senator from Montana.

The transportation industry is strongly opposed to this amendment. For example, to take one instance of a group we deal with, given the jurisdiction of our Banking Committee over mass transit, the American Public Transportation Association, which represents 1,500 transit agencies across the country, observes that the Sessions amendment would undo the bipartisan and widely supported efforts in the Senate in support of increased and balanced transportation infrastructure investment and should be strongly opposed.

I ask unanimous consent to print the letter to Chairman INHOFE in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. Let me again underscore how vitally important the programs authorized in the underlying bill are for the economic and social health of our Nation. As with any large and complex piece of legislation, not everyone will be satisfied. I think this bill represents a reasonable approach to meeting our urgent transportation needs. The pending amendment would begin the process of unraveling that approach to which so much effort has been devoted by so many people.

I particularly thank Chairman INHOFE and Ranking Member JEFFORDS and Chairman GRASSLEY and Ranking Member BAUCUS for their involvement in trying to shape a good piece of legislation. I didn't agree with every decision that is in this package, but I see it as a significant forward step in dealing with a very important national priority. I hope my colleagues will reject the Sessions amendment and that we will then go on to approve the Inhofe substitute amendment and final passage of this bill.

I yield the floor.

EXHIBIT 1

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION,
Washington, DC, May 16, 2005.

Hon. JAMES M. INHOFE,
Chairman, Senate Committee on Environment and Public Works, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN INHOFE: On behalf of the American Public Transportation Association (APTA) and its more than 1,500 member organizations, I write to express our strong opposition to the amendment Senator Sessions offered—#646—to H.R. 3. That amendment would sharply reduce funding of a number of programs in H.R. 3 by some $10.7 billion over six years.

It is critically important that H.R. 3 be passed by the Senate at the enhanced level of funding included in the Inhofe substitute amendment. The Inhofe substitute amendment is a balanced and carefully crafted measure that has strong bipartisan support from the leadership of the Senate Banking, Environment and Public Works, and Finance Committees. Transit and highway needs are critical and have been documented by the American Association of State Highway & Transportation Officials and Cambridge Systematics, Inc. The Inhofe substitute amendment addresses those needs in a balanced approach supported by a broad range of affected groups and coalitions. In contrast, the amendment offered by Senator Sessions would dramatically cut a number of programs across the board, including the transit formula program by $5 billion, the congestion mitigation and air quality program by $4 billion, and other programs that enjoy broad bipartisan support.

In short, the Sessions amendment would undo the bipartisan and widely supported efforts in the Senate in support of increased and balanced transportation infrastructure investment and should strongly be opposed.

If you have questions on this matter, please have your staff contact Rob Healy of APTA's Government Affairs Department at (202) 496–4811 or email *rhealy@apta.com.*

Sincerely yours,

WILLIAM W. MILLAR,
President.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I rise to speak in opposition to the Allen amendment. We had this discussion last week, but we have a couple minutes each to sum up what is at stake.

The language in the Senate Commerce Committee bill guarantees funding if a State does one thing, and that is have or pass a primary seatbelt law. We need to give incentives for people to use their seatbelts. We need to give incentives to the States if they do that. This is about doing the thing that would have the greatest effect on saving lives of anything we could do in this legislation, and we should go forward with it.

Under the Allen amendment, a State has no certainty that any actions it takes to increase seatbelt use will result in an 85-percent or higher use rate. So that is a worthy goal, but very few States have been able to do that. We are trying to encourage more States to do better than they are. My own State only has a 63-percent seatbelt use, and I think we need to encourage more activity in the States. Only three States have ever reached the 85-percent use rate.

The language we have in the bill has near unanimous support nationwide among traffic safety organizations from USTA to the Automobile Manufacturers Association to the American Automobile Association, the American Academy of Pediatrics.

One thing I was impressed with when we had the hearings in the committee was the National Highway Safety Transportation Safety Administrator Jeff Runge, who is a doctor with expertise in this field. He said the Commerce highway safety bill will "save more lives, and do it faster and cheaper than any other highway safety proposal Congress is likely to consider this decade."

It would be a huge mistake to take away this incentive but in effect set a goal most States can't achieve and, therefore, we would not be able to save an estimated 1,200 or more lives a year.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, in these few moments before the vote, I commend the chairman of our Senate Environment and Public Works Committee, Senator INHOFE, along with Senators JEFFORDS and BAUCUS, for a job well done. We can't forget Senator REID, whom we consider an emeritus member of the EPW Committee, who has helped a great deal.

Tremendous staff work has gone into this. I appreciate the great work of my staff: Allen Stein, John Stoody, Heideh Shahmoradi; Senator INHOFE's staff, Ruth Van Mark, James O'Keeffe, Andrew Wheeler, Nathan Richmond, Greg Murrill, Alex Herrgott, John Shanahan, Angie Giancarlo, and Rudy Kapichak; Senator JEFFORDS' staff, JC Sandberg, Allison Taylor, Malia Somerville, JoEllen Darcy, and Chris Miller; and Kathy Ruffalo with Senator BAUCUS. Kathy brings a great deal of expertise to this effort.

We urge passage of this bill. It doesn't go as far as most of us would like, but it certainly moves us in the right direction. We appreciate the great work of all who cooperated on it.

The PRESIDING OFFICER (Mr. BURR). The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, after nearly 3 years and 6 temporary extensions, the Senate is on the verge of passing a monumental highway bill. We will provide over $295 billion that will create thousands of jobs and keep our transportation infrastructure healthy.

This legislation did not happen by itself—it took hard work and perseverance. First, I want to thank Senator INHOFE and Senator JEFFORDS, from the Environment and Public Works Committee, as well as Senator BOND, the chairman of the Subcommittee on Transportation and Infrastructure. They provided excellent leadership and I know their staff stayed up many a sleepless night.

For Senator INHOFE's staff, I want to thank Ruth Van Mark, James O'Keeffe, Nathan Richmond, Angie Giancarlo, Andy Wheeler, Marty Hall, Greg Murrill, Alex Herrgott, Rudy

Kapichak, John Shanahan, Frank Fannon and Michele Nellenbach.

For Senator JEFFORDS' staff, I want to thank JC Sandberg, Ken Connolly, Alison Taylor, Jo-Ellen Darcy, Chris Miller, Margaret Wetherald, Mary Francis Repko, Malia Somerville, and Carolyn Dupree.

And for Senator BOND's staff, I want to thank Ellen Stein, John Stoody, and Heideh Shamoradi.

Senator SHELBY and Senator SARBANES also deserve recognition. They played an important role developing the transit title in this bill. I also want to thank my good friend Senator GRASSLEY, the chairman of the Finance Committee, for his commitment to the transportation program.

Let me take a moment and speak about the hard work of the Finance Committee staff. The House bill simply did not provide enough money for our highway infrastructure. The Finance Committee faced a difficult task. We needed to find additional revenue, but we also needed to pay for it. As is the rule on the Finance Committee, we worked in a bipartisan spirit to find an extra $7.8 billion for the highway trust fund, and all of it is paid for.

I also want to thank some staff members in particular. I appreciate the cooperation we received from the Republican staff, especially Kolan Davis, Mark Prater, Elizabeth Paris, Christy Mistr, Ed McClellan, Dean Zerbe, John O'Neill, and Nick Wyatt.

I thank the staff of the Joint Committee on Taxation and Senate Legislative Counsel for their service.

I also thank my staff for their tireless effort and dedication, including Russ Sullivan, Patrick Heck, Bill Dauster, Kathy Ruffalo-Farnsworth, Matt Jones, Jon Selib, Anita Horn Rizek, Judy Miller, Melissa Mueller, Ryan Abraham, and Wendy Carey. I also thank our dedicated fellows, Mary Baker, Jodie Cruz, Cuong Huynh, Richard Litsey, Stuart Sirkin, and Brian Townsend.

Finally, I thank our hardworking interns: Rob Grayson, Emily Meeker and Waylon Mathern.

This legislation really was a team effort. I hope that we can keep working together as we move to conference and hopefully get this legislation done before the end of the month.

The PRESIDING OFFICER. All time has expired.

AMENDMENT NO. 611

The PRESIDING OFFICER. There are 2 minutes of debate evenly divided on the Allen amendment.

The Senator from Virginia is recognized.

Mr. ALLEN. Mr. President, let me know when 1 minute is left, please.

My amendment sets a goal of 85 percent usage of seatbelts, and if a State achieves that, whichever way they may achieve it, they would get these incentive grants.

The PRESIDING OFFICER. The Senator is reminded that he only has 1 minute.

Mr. ALLEN. Thank you.

The purpose of my amendment is to not have the Federal Government as an officious nanny telling the States how to achieve seatbelt usage rates. Twenty-nine States don't have primary enforcement of seatbelt laws and 21 do. Seven States have 90 percent usage. Fifteen States have over 85 percent. The underlying proposal will actually reward States that have lower seatbelt usage only because they have primary enforcement seatbelt laws, while others that do not have primary enforcement seatbelt laws have a higher use rate.

I don't think the people in the States who have paid into the highway trust fund ought to be dictated to by officious Federal nannies; we should trust the people in the States to make these decisions as opposed to trespassing on those prerogatives.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 1 minute.

Mr. PRYOR. Mr. President, I wish to make four points.

First, I voice my opposition to the Allen amendment. NHTSA, in every study I have found, says the best way to reduce fatalities on the highways is for States to enact primary safety belt laws.

Secondly, this bill provides an incentive, not a penalty. That is something we need to remember and understand. This is maybe a departure from past policies, but the bill, as currently written, provides incentives, not penalties.

Third, years ago, the Department of Transportation set an attainment goal of 90 percent. This amendment would move us back to 85 percent. We are moving backward instead of moving toward our goal; we are backing off of the goal.

Fourth, it is not so much about equity or fairness, but it is about saving lives. When you look at the safety groups and listen to the studies and look at the statistics—whatever measure you want to make—this is about saving lives and States having primary safety belt laws.

I thank the chair.

The PRESIDING OFFICER. Under the previous order, all time under rule XII is yielded back.

The question is on agreeing to amendment No. 611 proposed by the Senator from Virginia, Mr. ALLEN.

Mr. INHOFE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 14, nays 86, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—14

Alexander
Allen
Baucus
Bond
Collins
Ensign
Feingold
Gregg
Kyl
Lugar
Nelson (FL)
Snowe
Sununu
Vitter

NAYS—86

Akaka
Allard
Bayh
Bennett
Biden
Bingaman
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Conrad
Cornyn
Corzine
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Enzi
Feinstein
Frist
Graham
Grassley
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Specter
Stabenow
Stevens
Talent
Thomas
Thune
Voinovich
Warner
Wyden

The amendment (No. 611) was rejected.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until 2:15 p.m.

Thereupon, the Senate, at 12:36 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS—Continued

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is my understanding we are now going to the Sessions amendment.

Mr. SESSIONS. Mr. President, I understand there is a unanimous consent to have 2 minutes, 1 minute on each side. I prefer to have more. I ask unanimous consent we have 3 minutes on each side.

Mr. INHOFE. I object. Two minutes on each side.

Mr. SESSIONS. Two minutes.

Mr. INHOFE. Mr. President, I offer Senator LAUTENBERG a moment to make a statement. He has been working with us on his amendment. It has been withdrawn.

I certainly yield to Senator LAUTENBERG for no more than 5 minutes.

AMENDMENT NO. 619, AS MODIFIED

Mr. LAUTENBERG. Mr. President, I appreciate the recognition. I will talk about my amendment No. 619 to crack down on our most dangerous, highest risk drunk drivers—repeat-offender, high-blood-alcohol-content drivers, drivers who have had so much to drink they have nearly double the legal limit of alcohol in their system.

I am proud to have the Senator from Ohio, Mr. DEWINE, as a cosponsor of this amendment. I ask unanimous consent Senator CORZINE be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Our amendment updates the current Federal repeat offender law so that it can be based on measures that have been proven to be effective in preventing drunk driving. It requires alcoholism assessments and treatment when necessary. It would require a 1-year license suspension with at least 45 days of no driving. The rest requires the use of an ignition interlock, a device that only lets the car operate when you blow into it and no alcohol is detected.

As for repeat offenders, it keeps current requirements for short-term jail time, closes a loophole for community service. The National Transportation Safety Board states that from 1983 through 1998 at least 137,000 people died in crashes nationwide involving higher risk drunk drivers. The research funded by the alcohol industry itself showed that 58 percent of alcohol-related deaths in 2000 involved drivers with BAC levels of .15 or above. That is outrageous. That person is totally without ability to function properly. This is consistent with government research that shows for drivers 35 and over, those with a .15 BAC or higher, they are 382 times more likely to be involved in a fatal crash than a sober driver.

It is important to note that our amendment does not create any new penalties for States. It merely updates the current program.

Our amendment does not affect a social drinker and is aimed squarely at higher risk drivers who are the core of the drunk-driving problem in this country. The National Transportation Safety Board, the Mothers Against Drunk Driving, and even groups funded by the alcohol industry, all agree we need to do more when it comes to repeat offenders and drivers with blood alcohol content levels twice the legal limit.

I understand the managers of the bill have agreed to accept the amendment as modified. I am grateful. I thank the managers, Senator INHOFE, Senator JEFFORDS, Senator BOND, and Senator BAUCUS, for working with Senator DEWINE and me. The amendment will make a meaningful difference in the number of lives we save each year from the epidemic of drunk driving.

In my early days in the Senate when President Reagan was in office, when Senator Dole was then-Secretary of Transportation, we put in a restriction on age and driving, age on alcohol and driving. We have saved 1,000 young people from dying on the highways every year for more than 20 years.

What a wonderful thing it is for a family not having to mourn the loss of a child, not having to see a policeman at the door in the dark of night.

MADD has been a stalwart ally. Together we will continue to save lives. I am very grateful to Senator INHOFE, Senator JEFFORDS, and the committee for their support on this amendment.

I yield the floor.

Mr. INHOFE. Mr. President, the distinguished junior Senator from Alabama, one of my closest friends, made a very reasonable request for 6 minutes equally divided. If he wants to restate the request, it is without objection.

Mr. SESSIONS. Mr. President, I ask unanimous consent for 6 minutes to be equally divided for debate before this vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 646, AS MODIFIED

Mr. SESSIONS. I thank the distinguished chairman. He is one of my favorite Senators. There is no one I respect more. He has worked hard, and so has the committee, to maximize what we can do to improve transportation infrastructure in this country. I respect that.

The problem is, we have passed a budget. The facts are that in pumping more money into highways—which all Members want to see, as this bill does—we have created a $10.7 billion shortfall. The offsets are revenue enhancements or tax increases that have been proposed either are unlikely to reach that $10.7 billion and/or will not be approved by the House of Representatives. That is a pretty well-known fact.

In addition, the President has stated he is not going to sign the bill. He started out at $256 billion. He went to $283 billion, and that is where he is going to stay.

What can we do to improve funding for highways, which affect every State, every corner of this country, not just certain areas? I proposed an amendment that I believe does the right thing. It does what our constituents pay us to do, and that is to make choices, make decisions.

I have proposed where the bill has a 31-percent increase in spending, we alter that; that we reduce the increased level of spending for matters not critical to our infrastructure; that we reduce the mass transit part of the bill by about $5 billion, still leaving an increase in mass transit spending.

We can get there. We can be sure the money we spent for highways will be sufficient, the President will sign the bill, and we will be fiscally responsible and be within our budget.

We are spending almost $300 billion. Can't we stay within the budget? Can't we be fiscally responsible and tight in how we spend this money?

My amendment reduces some of the increases in the other accounts, including mass transit. By the way, 46 percent of the mass transit funds are spent on four States in this country alone, and that does not count $8 billion in bureaucracy and overhead that goes with that in research. This would be the right approach.

I thank my colleague, Senator INHOFE, for his work on the bill. I know he has tried to do the impossible, which is to get more and more for our highways without having to bust the budget. I am afraid that is what we are doing. If we do this, we will fund highways for every State in the country. We will put the money where we need to, in concrete, so that every citizen can use for 100 years from now. The result is good for our budget and our integrity as we go through this process.

This is the first big bill that deals with a budget conflict. We do not need to fail a test on the first piece of legislation.

I thank Senator INHOFE for allowing me the additional time. I believe this is an important amendment. I urge my colleagues to vote fiscally responsibly, to affirm the budget, and pass legislation that will give us highway spending levels that we want and that the President will sign.

I yield the floor.

Mr. JEFFORDS. I yield myself such time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, several days ago, 76 Members of this body voted to support additional investment in this Nation's surface transportation program.

They did not vote for an extravagant increase, instead they voted for a modest 4 percent increase over the President's request. With this modest increase, we will barely be able to keep pace with the enormous maintenance needs facing our surface transportation system with little left over for improvement.

Now the junior Senator from Alabama asks to return to an inadequate level of investment.

He asks the American family to waste additional time and money stuck in traffic. He asks us to vote to let more of our Nation's roads and bridges fall into a state of disrepair—all over a modest 4 percent increase.

I will vote against the Sessions amendment and I urge my colleagues to do the same.

Mr. INHOFE. I have a unanimous consent request to make. I ask unanimous consent that Lautenberg amendment No. 619 be modified with the changes at the desk and be accepted. Further, I ask that upon disposition of the Sessions amendment, the Inhofe substitute amendment, as amended, be agreed to, all without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 619), as modified, was agreed to, as follows:

Strike section 1403 and insert the following:

SEC. 1403. INCREASED PENALTIES FOR HIGHER-RISK DRIVERS DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

(a) IN GENERAL.—Section 164 of title 23, United States Code, is amended to read as follows:

“§ 164. Increased penalties for higher-risk drivers driving while intoxicated or driving under the influence

“(a) DEFINITIONS.—In this section:

“(1) BLOOD ALCOHOL CONCENTRATION.—The term ‘blood alcohol concentration’ means grams of alcohol per 100 milliliters of blood or the equivalent grams of alcohol per 210 liters of breath.

“(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms ‘driving while intoxicated’ and ‘driving under the influence’ mean driving or being in actual physical control of a motor vehicle while having a blood alcohol concentration above the permitted limit as established by each State.

“(3) HIGHER-RISK IMPAIRED DRIVER LAW.—

“(A) IN GENERAL.—The term ‘higher-risk impaired driver law’ means a State law that provides, as a minimum penalty, that—

“(i) an individual described in subparagraph (B) shall—

“(I) receive a driver’s license suspension;

“(II)(aa) have the motor vehicle driven at the time of arrest impounded or immobilized for not less than 45 days; and

“(bb) for the remainder of the license suspension period, be required to install a certified alcohol ignition interlock device on the vehicle;

“(III)(aa) be subject to an assessment by a certified substance abuse official of the State that assesses the degree of abuse of alcohol by the individual; and

“(bb) be assigned to a treatment program or impaired driving education program, as determined by the assessment and paid for by the individual; and

“(IV) be imprisoned for not less than 10 days, or have an electronic monitoring device for not less than 100 days; and

“(ii) an individual who is convicted of driving while intoxicated or driving under the influence with a blood alcohol concentration level of 0.15 percent or greater shall—

“(I) receive a driver’s license suspension; and

“(II)(aa) be subject to an assessment by a certified substance abuse official of the State that assesses the degree of abuse of alcohol by the individual; and

“(bb) be assigned to a treatment program or impaired driving education program, as determined by the assessment and paid for by the individual.

“(B) COVERED INDIVIDUALS.—An individual referred to in subparagraph (A)(i) is an individual who—

“(i) is convicted of a second or subsequent offense for driving while intoxicated or driving under the influence within a period of 7 consecutive years; or

“(ii) is convicted of a driving-while-suspended offense, if the suspension was the result of a conviction for driving under the influence.

“(4) LICENSE SUSPENSION.—The term ‘license suspension’ means, for a period of not less than 1 year—

“(A) the suspension of all driving privileges of an individual for the duration of the suspension period; or

“(B) a combination of suspension of all driving privileges of an individual for the first 45 days of the suspension period, followed by reinstatement of limited driving privileges requiring the individual to operate only motor vehicles equipped with an ignition interlock system or other device approved by the Secretary during the remainder of the suspension period.

“(5) MOTOR VEHICLE.—

“(A) IN GENERAL.—The term ‘motor vehicle’ means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways.

“(B) EXCLUSIONS.—The term ‘motor vehicle’ does not include—

“(i) a vehicle operated solely on a rail line; or

“(ii) a commercial vehicle.

“(b) TRANSFER OF FUNDS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), on October 1, 2008, and each October 1 thereafter, if a State has not enacted or is not enforcing a higher-risk impaired driver law, the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used in accordance with section 402(a)(3) only to carry out impaired driving programs.

“(2) NATIONWIDE TRAFFIC SAFETY CAMPAIGNS.—The Secretary shall—

“(A) reserve 25 percent of the funds that would otherwise be transferred to States for a fiscal year under paragraph (1); and

“(B) use the reserved funds to make law enforcement grants, in connection with nationwide traffic safety campaigns, to be used in accordance with section 402(a)(3).”.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 164 and inserting the following:

“164. Increased penalties for higher-risk drivers driving while intoxicated or driving under the influence.”.

The amendment (No. 605), as amended, was agreed to.

AMENDMENT NO. 646, AS MODIFIED

Mr. INHOFE. Mr. President, in these 2 minutes, let me suggest two things I don’t want to happen. I don’t want my good friends who are conservatives on the Republican side to vote for this Sessions amendment with the idea that this is a conservative amendment. If you want to prove yourself and your conservative credentials as this being the way to do it, it is not.

I am looking at the current rating of the American Conservative Union. I am very proud of Senator SESSIONS because he is the ninth most conservative Member of this Senate. But guess who the No. 1 most conservative is. It is me. I stand here opposing—though I hate to do it—this amendment for that one reason.

The second reason is, this is very important. Inadvertently, I know it was not the intent of the Senator from Alabama, they omitted the wrong sections. So the sections of title I they amended are section 1101 and 1103 and nothing in title III. If you want to give guaranteed spending, you have to get to title III or section 102 of title I. That is where it is.

So all we have done with this amendment is attempt to reduce the contract authority which does not make any difference in terms of how much money is going to be spent. It is very important for people to understand that because I would not want them to be thinking you will be able to reduce something by doing it.

Second, the other point I want to make is, we have a Finance Committee. It is headed by Senator GRASSLEY, and the ranking minority is Senator BAUCUS. They have done a great job. We have gone to them with this bill and said we need to be able to pay for this, but we need a little bit more money. Can you find it? They found it.

The Joint Tax Committee validated what they said and, consequently, we have something that will not add to the deficit. It will do a little better job of taking care of donor States that will not be taken care of if this amendment should pass. I ask Members respectfully to reject the Sessions amendment.

Have the yeas and nays been requested?

The PRESIDING OFFICER. They have not.

Mr. INHOFE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to amendment No. 646, as modified. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 16, nays 84, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—16

Brownback
Burr
Coburn
Cornyn
DeMint
Enzi
Frist
Graham
Gregg
Hagel
Hutchison
Kyl
McCain
Sessions
Sununu
Thomas

NAYS—84

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Bunning
Burns
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Corzine
Craig
Crapo
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Feingold
Feinstein
Grassley
Harkin
Hatch
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer

Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Talent
Thune
Vitter
Voinovich
Warner
Wyden

The amendment (No. 646), as modified, was rejected.

Mr. INHOFE. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RAIL CROSSING SAFETY FUNDING

Mrs. BOXER. Mr. President, I am pleased that this bill that we are considering has provisions to address this Nation's problems of grade crossings and the need for grade separations.

According to the Federal Railroad Administration, "grade crossings are the site of the greatest number of collisions and injuries" in the railroad industry. In 2000, there were 3,502 incidents at grade crossings.

This year in Glendale, CA, there was a tragic commuter train crash that resulted in 11 deaths and more than 200 injured.

In addition, the large volume of freight train traffic from California's ports to the rest of the Nation is a public safety hazard in many communities in California where traffic—including emergency vehicles—is severely delayed at these grade crossings.

In Riverside, CA, from January 2001 to January 2003, trains delayed ambulance and fire protection vehicles 88 times. This translates into more people possibly dying from health emergencies such as heart attacks, and larger and more deadly fires. If there is another terrorist attack, imagine what would happen if emergency first responders could not get across the tracks.

That is why I am pleased that this bill includes my language to require the Federal Railroad Administration to make recommendations to Congress on ways to fix this.

I am also pleased that this bill includes funding that States may use to separate railroad tracks and roads, and I am wondering whether the Senator from Missouri would enter into a colloquy on this matter.

Mr. BOND. I am happy to. And let me say that I agree with the Senator from California that there is a serious problem with grade crossings in this country, and I commend her for her leadership on this issue.

Mrs. BOXER. As I understand it, the Freight Transportation Gateways program has a provision—the "Freight Intermodal Connections on the National Highway System"—that would allow States to use a portion of their highway funds to build bridges and tunnels for grade separations. California would receive $73 million each year.

Mr. BOND. Yes, this program would allow California—and all States—to use 2 percent of its National Highway System funding for three purposes, one of which is to eliminate grade crossings.

Mrs. BOXER. A second provision is the "Elimination of Hazards Relating to Railway-Highway Crossings," which provides at least a $178 million set-aside from the Highway Safety Improvement Program each year for the elimination of hazards at railway-highway crossings. Does this include projects on grade separations?

Mr. BOND. Yes, up to 50 percent of this funding could be used for grants specifically for grade separations.

Mrs. BOXER. Finally, there is a third provision that authorizes grants for rail line relocation projects. This would create a grant program that would allow States to receive funding to improve rail lines that pass through a municipality. This includes projects on grade separation. As a member of the Senate Commerce Committee, I am pleased that Chairman STEVENS and Ranking Member INOUYE included this provision.

These provisions are a good start. I hope to continue to work with my colleague to ensure that Federal funding is available to help States and localities undertake grade separation projects so we can improve safety and relieve congestion where railroads and highways meet.

Mr. BOND. I will be happy to continue working with the Senator from California.

Mrs. BOXER. I thank the Senator.

REINFORCED CONCRETE DECKING

Mr. SANTORUM. Mr. President, I will discuss steel grid reinforced concrete decking—a product that I understand to have significant technological benefits and the ability to accomplish the goals of bridge and highway officials across the country. I am told that the following are benefits of steel grid: long service life; rapid and/or staged installation; and reduced maintenance costs and closures. Despite these benefits, states are hesitant to use steel grid reinforced concrete decking because of the initial cost per square foot of steel grid. However, because of construction benefits and the fact that steel grid weighs much less than the cast-in-place deck alternative, it is my understanding that using this product can reduce the total cost of a project. Because this type of deck system is underused, I urge your support for language in the conference report that highlights the benefits of steel grid and encourages the further development and use of this product.

Mr. INHOFE. Mr. President, I thank the Senator from Pennsylvania for his attention to steel grid reinforced concrete decking and the potential it holds. I look forward to working with Senator SANTORUM on this issue.

DIRECT DELIVERIES OF AVIATION FUEL

Mr. SMITH. Mr. President, I would like to ask a question of the chairman of the Finance Committee.

I am concerned about the application of one of the fuel tax provisions of the JOBS bill. Some people were cheating, by paying no tax on aviation fuel and then selling the fuel for highway use. To prevent this, we moved the collection point upstream, to the point at which fuel is removed from the rack.

At the same time, we created exceptions, for situations where there is little risk of evasion. One important exception is for fuel delivered by pipeline to a secure airport that goes from a secure fuel tank at an airport terminal directly into a commercial aircraft.

Here is the problem. Fuel suppliers often enter into long-term contracts to deliver fuel throughout an entire region. In some cases, they don't have their own fuel tanks at a particular airport. So the company enters into a contract with a fuel supplier, referred to as a "position holder," who does have fuel available at that airport. In these cases, when planes come in for refueling, the legal title to the fuel shifts from the position holder to the reseller, then to the airline when the fuel goes into the commercial aircraft.

The concern is that situations like this may be disqualified from the exception because some believe the passage of title means that the fuel is not considered to go "directly" from the position holder to the commercial aircraft. As a result, the transaction could be subject to the burdens of the new rules even though I believe there is absolutely no risk of evasion.

In the chairman's markup, I filed an amendment to address this concern by clarifying that these so-called "flash title" transactions qualify for the exception, as long as they meet all of the other applicable requirements. I understand, however, that some believe my amendment was unnecessary because the transactions could already qualify.

This is an important matter to me. It affects many companies, including a Salem, OR, company that employs more than 100 people and provides an important service to airlines throughout my State.

I would like to get a clarification of this point. Is it the chairman's understanding that a transaction that otherwise qualifies for the exception in section 4081(a)(2)(C) and 4081(a)(3) and (4), which allows commercial aviation to self-assess fuel tax at the commercial rate, when the commercial airline receives fuel at one of the secure airports through the hydrant system exception, is not disqualified merely because of the incidental transfer of title from the original position holder to the reseller, and then to the commercial airline?

Mr. GRASSLEY. Yes, so long as the commercial airline fuel transaction takes place on one of the secure airports listed by the Treasury, then, that also is my understanding.

Mr. SMITH. Mr. President, with that understanding, I thank Chairman GRASSLEY for his assistance in this matter. It is important in order to avoid imposing unnecessary burdens on companies in Oregon and all across the country that provide aviation fuel.

Mr. LEVIN. Mr. President, the surface transportation reauthorization bill that was reported out of the Environment and Public Works committee increased Michigan's rate of return on all highway funds apportioned to States to 92 percent of our share of contributions to the highway account of the highway trust fund. However, a significant change in the funding formula was made through a substitute offered on the Senate floor which resulted in over $8 billion in apportioned highway funds being added to the bill to help certain States, including some donor States. The rate of return for all States on that $8 billion ranges from 37 percent to 550 percent. Under the substitute bill, Michigan receives the lowest rate of return of all States on the distribution of that new money. Only 12 States have a rate of return on this new money that is below 90 percent.

In recognition of Michigan's disproportionately low share of the new funding, the mangers gave assurances that corrective measures would be considered before the bill was passed by the Senate.

While a solution has not been identified yet, I would appreciate the assurances of the managers that in conference they will make every effort to address and correct this disproportionate treatment.

Mr. INHOFE. I understand and appreciate the Senator's concerns. While I cannot make any guarantees on a final outcome, I will continue to work to see if there is a way to address the critical needs of his State.

Mr. BAUCUS. I agree with the comments made by my colleague, the chairman of the Environment and Public Works Committee. I understand the concerns raised by the Senator from Michigan. I appreciate his leadership and knowledge of transportation issues and I will continue to work with him as this bill progresses.

HOUSEHOLD GOODS MOVERS

Mr. LOTT. Mr. President, I rise to discuss 2 amendments to the Commerce Committee's title of this bill addressing the regulation of the household goods moving industry. The Subcommittee on Surface Transportation and Merchant Marine, which I chair, developed a strong package to provide further protections to consumers that use movers to ship their belongings. Principally, our provisions are designed to address fraudulent and extortionary practices used by movers who take consumers' goods "hostage" and request exorbitant fees in exchange for releasing their worldly possessions.

Mr. INOUYE. These protections are needed because, while the Federal Motor Carrier Safety Administration, FMCSA, assumed the regulatory duties for the household goods moving industry previously entrusted to the Interstate Commerce Commission, inadequate Federal statutory protections and limited resources have meant that the interstate moving industry has essentially gone without oversight. FMCSA has received nearly 20,000 consumer complaints since January 2001, and yet until recently has had only one or two employees dedicated to household goods regulation and enforcement for the entire nation.

Mr. LOTT. Senators BOND and PRYOR have filed amendments to this section of the bill dealing with 2 important issues and I want to thank them for their hard work and interest in this topic. Senator INOUYE and I worked with Senator BOND to craft a version of his amendment which I have offered and we are prepared to accept Senator PRYOR's amendment with the understanding that we will continue to work together to perfect these provisions through the conference process with the House.

Mr. INOUYE. Yes, we understand that both Senators have a very strong interest in these provisions, and while I have concerns with the changes that Senator BOND is proposing which I believe could significantly limit the authority of our State attorneys general in assisting the Federal Government in enforcing these new protections for moving company consumers, we are prepared to accept this language and make a commitment to work with both Senators to improve their provisions moving forward.

Mr. LOTT. Similarly, I know that Senator BOND has concerns with the language proposed by Senator PRYOR that defines who "household goods carriers" are, and therefore who is subject to the new consumer regulations we've proposed. In particular, the Senator is concerned that this definition could impact traditional moving companies' entry into new markets, such as the "u-pack" and "pod" moving and storage services being offered today which might not be covered by this definition. We understand these concerns and will continue to work with Senator BOND to ensure that we craft a fair and workable definition of a "household goods carrier" through the conference process.

Mr. BOND. I thank Senators LOTT and INOUYE for their commitments to address this issue in conference. I also raise my concerns with the amendment offered by Senator PRYOR to define the term "household goods motor carrier." Definitions matter, and in this case, meeting the definition of a "household goods carrier" subjects the carrier to certain existing and new regulations that others who do not meet that definition do not have to provide. At the same time, I support excluding express delivery and parcel delivery carriers from the definition of "household goods carrier." As currently drafted, however, I am concerned that the amendment would make it substantially more difficult for an established moving company to enter one of these new markets in which consumers are provided a trailer or container which they pack themselves and which the company then transports for them. The definition, as now offered by Senator PRYOR, would mean that an existing moving company would be subject to these new regulations while others who offer these services, but do not provide traditional moving services, would not be. As this bill moves to conference with the House, I am committed to working with the managers of this title to find a definition that is accurate and fair and that covers the universe of services that are being offered to consumers who are planning interstate moves of household goods.

Mr. PRYOR. I understand the Senator's concerns and the intent of my amendment is not to restrict competition or new entrants into the marketplace, but to ensure that we focus our resources on the problem as we now know it. I'll be glad to work with you to perfect this definition so that we can properly protect consumers while also ensuring a fair and open market place for the many different services now being offered.

Mr. BOND. I appreciate the Senator's commitment, and I also offer to work with you and Senator LOTT and INOUYE in conference on the amendment regarding procedures for allowing State attorneys general to pursue enforcement actions against interstate household goods movers in federal court. This amendment, which I have worked out with the managers and is being offered by Senator LOTT, establishes an approval process for actions taken by State attorneys general by the Secretary of Transportation before the AGs proceed in court. The amendment is critical because it establishes a responsible framework with a delineation of responsibilities to the States. The efforts of State governments should be focused on investigating and prosecuting those carriers that are too small or cases of fraud that are too isolated to cause a Federal response. At the same time, Federal agencies should be pursuing complaints of fraudulent activities by large and established carriers. By focusing our enforcement efforts along these lines, we will leverage our resources which will improve the effectiveness of the response to fraud and abuse in the household goods moving industry and ensure that no carrier slips through the cracks. The amendment also will ensure that State cases are legitimate and properly prepared. In addition, the amendment provides intervention and substitution authority for the Secretary if the Secretary believes that Federal Government would be in a better position to prosecute the case.

Mr. PRYOR. As a former State attorney general and the ranking member of the Commerce Committee's Consumer Affairs, Product Safety, and Insurance Subcommittee, I have significant concerns with this approach. I believe the amendment proposes a significant departure from precedent and establishes hurdles that could dissuade State attorneys general from proceeding with their cases, to the detriment of consumers. Allowing State attorneys general to enforce Federal laws and regulations with respect to the transportation of household goods in interstate commerce is perhaps the most important aspect of these provisions, since I believe that State attorneys general are much more likely than the Federal Government to doggedly pursue justice for their citizens in these cases.

Mr. INOUYE. I want to thank both Senators for their cooperation on these matters. Senator BOND raises a good point regarding the definition and we understand that this is a complex issue which will require further work by all involved.

Mr. LOTT. Senator PRYOR and Senator BOND, we understand your respective concerns and will work with you on these two issues as we hopefully proceed with his bill in Conference.

CLEAN TRUCKS

Mrs. BOXER. President, my amendment begins the process of putting all trucks operating in the United States, including those from Mexico, on an equal footing for emission standards with American trucks. Beginning in 2007, all trucks, including foreign trucks, operating in the U.S., will have to certify that they are meeting the performance emission standards of the Clean Air Act—the type of standards that American trucks have been required to meet for years. This provision will comply with our trade laws and help improve our air quality by assuring that foreign trucks are meeting our emissions protections. I thank the Senators from Mississippi and Hawaii for working with me on this amendment and for agreeing to accept it.

However, I believe it is only a start. I would have liked to include a provision requiring rebuilt engines to meet the standards in effect at the time the engines were manufactured. Such a provision would have covered more foreign trucks and ensured even cleaner air.

I understand the complications with including such a provision now, and I hope we can address this in Conference.

Mr. LOTT. I thank the Senator from California for her leadership. I understand what she was trying to do with regard to rebuilt engines. However, such a provision would require additional regulations from the Environmental Protection Agency, which is outside the jurisdiction of the Commerce Committee. With all committees at the table during conference, we can look at ways to address this issue.

Mr. INOUYE. I agree with the chairman, and I say to the Senator from California that you have my commitment to look into this issue as we hopefully proceed with this bill through conference. That will be the appropriate time to bring this additional matter to the table.

Mrs. BOXER. I appreciate your help on this issue, and I thank both Senators for agreeing to continue to address this issue.

PM–10 AND THE CMAQ APPORTIONMENT FORMULA

Mr. KYL. The legislation before us amends the apportionment formula for the Congestion Mitigation and Air Quality, CMAQ, program to include non-attainment and maintenance areas for fine particulate matter, so-called PM 2.5, and to make adjustments for the new 8-hour ozone standard. It does not amend the formula, however, to include non-attainment and maintenance areas for PM–10 particulate matter. Would the senior Senator from Oklahoma be willing to explore the question of whether the CMAQ apportionment formula should include factors for this Federal air quality standard as well?

Mr. INHOFE. I would.

Mr. KYL. I appreciate the Senator's openness to exploring that question. PM–10 is the greatest air quality problem facing Arizona. There are currently 8 PM–10 non-attainment areas in Arizona and the Phoenix metropolitan area is a serious non-attainment area for PM–10. Our CMAQ apportionment should reflect and help us address our PM–10 air quality problem. Do I have the Senator's assurance that he and his colleagues are open to considering including PM–10 as part of the CMAQ apportionment formula?

Mr. INHOFE. I assure the Senator that I am willing to discuss with my fellow conferees the idea of including in the conference agreement on this legislation language adding PM–10 to the CMAQ apportionment formula.

Mr. KYL. I thank the Senator for his assurance and his consideration.

Mr. HATCH. Mr. President, I am pleased that Congress has worked in a bipartisan manner to pass a long overdue full transportation reauthorization, which has unfortunately been extended on a temporary basis six times and simply must be made permanent.

I congratulate Chairman INHOFE and Ranking Minority Member JEFFORDS for their tireless efforts in moving forward one of the largest bills Congress will consider this year. I am sensitive to the fact that the current spending extension expires at the end of this month. Clearing this legislation through a House-Senate conference before the May 31 deadline may be difficult, but I am hopeful we can move quickly. This is important because the bill will create approximately 47,500 jobs for every $1 billion in highway spending. This bill will also provide desperately needed funds for Utah roads and create jobs for many hard-working Utahns.

Transportation is an issue in which all Utahns have a stake. Without a doubt, transportation plays a central role in the State's ability and opportunity to prosper economically. As Utah's population continues to grow, its highways are becoming more congested, negatively affecting Utah's ability to compete economically, and ultimately decreasing the quality of life for many of us.

I am concerned that in 5 years, Utahns may be changing the term "rush hour" to "rough 2 hours" because of the heavy congestion on our freeways. The Utah Department of Transportation—UDOT—estimates that in 10 years, peak congestion along the Wasatch front will increase from 1 hour in the morning and in the evening to more than 3 hours. The effect congestion has had on our quality of life is undeniable.

Time after time I have visited with Utah officials who stress that our top priority must be transportation funding, because we simply do not have the money to meet the tremendous demands on our roads. Last year alone, the State of Utah received approximately $254 million in Federal transportation funding. In addition to the Federal funding received, the State of Utah spent over $520 million for transportation projects in 2004. Yet, UDOT maintains the state is unable to increase capacity or maintain existing infrastructure at this level of funding. Responding to Utah's serious transportation needs, I voted to increase total federal funding in the multi-year transportation bill by $11.2 billion, which would raise Utah's portion from the $269 million originally included in the bill to $282 million. Utah desperately needs these funds to fight congestion.

I am encouraged by the transportation projects planned for fiscal year 2006 for the State of Utah. This legislation may help us complete many transportation projects throughout Utah, including: new I–15 interchanges in Ogden, Layton and Provo; commuter rail service from Ogden to Provo and light-rail lines to the airport and South Jordan; highway projects on US–6 in Carbon County and State Road 92 in Utah County; a railroad overpass in Kaysville; and building the Northern Corridor in St. George.

This legislation also contains a provision that addresses an important competitive issue in the transportation sector. At my urging, Chairman INHOFE has agreed to include compromise language that allows qualified companies the opportunity to compete for Intelligent Transportation Infrastructure Program—ITIP—funding. I consider this a significant victory for small companies, and hope that House-Senate conferees will recognize the importance of providing a fair and level playing field for those wishing to access ITIP funds.

Our Nation's transportation infrastructure is in dire need of improvement. I believe this legislation not only addresses these critical needs, but it will create thousands of job opportunities, fight traffic congestion, and improve the safety of our roads and bridges.

As the bill moves to conference, it is my hope that we may come together with an adequately funded compromise. I pledge my efforts in this cause and hope my colleagues will do the same.

Mr. FRIST. Mr. President, we are about to vote on the highway bill. I believe we have a strong bill, a bipartisan bill.

I thank Senator INHOFE, Senator BOND, Senator GRASSLEY, Senator STEVENS, Senator LOTT, and Senator SHELBY for their hard work, dedication and leadership to get this bill passed. They have been instrumental to the process and deserve great credit.

I also thank my colleagues Senator JEFFORDS, Senator BAUCUS, Senator INOUYE, and Senator SARBANES for their willingness to work cooperatively on this critical legislation.

The highway bill is a result of a long, bipartisan process. It is based on more than 3 years of work, over a dozen hearings, testimony from more than 100 witnesses, and countless hours of negotiation. It is supported by a deep and broad coalition—from State and local highway authorities to national safety advocates.

And in a few moments, we will finally deliver to the American people legislation that will help build and improve our vast and sprawling infrastructure.

America is interlaced by nearly 4 million miles of roads and highways. The interstate highway system has often been called "the greatest public works project in history."

Our roads, ports and railroads are vital to America's economic success. We know this well in Tennessee where companies like Federal Express, U.S. Express, and Averitt Express are located.

Unfortunately, America's transportation infrastructure has deteriorated badly and our roads have become painfully overcrowded.

Just ask any American commuter. There is bumper-to-bumper traffic, not just during rush hour, but all day long. In our Nation's urban areas, traffic delays have more than tripled over the last 20 years in small and big cities across the country.

In my home State of Tennessee, traffic congestion has increased in all of our major metropolitan areas. Nashville commuters drive an average of 32 miles per person per day. Metropolitan planning organizations are struggling to meet demand.

Because of this congestion, Americans suffer more than 3.6 billion hours in delays, and waste 5.7 billion gallons of fuel, per year, sitting in traffic.

All the while creating more and more pollution. Cars caught in stop-and-go traffic emit far more pollution than cars on smoothly flowing roads.

The American Highway Users Alliance estimates that if we could free up America's worst bottlenecks, in 20 years, carbon dioxide emissions would drop by over three-fourths and Americans would save 40 billion gallons of fuel.

The legislation before use seeks to alleviate these problems in a number of ways.

In addition to improving our roads, the highway bill provides generous provisions to improve the buses and rail systems that make our urban centers thrive.

For Tennessee, this legislation will dramatically increase Federal highway and transit spending and support economic development throughout the State.

Tennessee, which is a donor State, will receive more than $800 million on average each year to invest in its highway infrastructure. This represents nearly $4 billion over the next 5 years.

The bill will also provide more than $296 million over the next 5 years to improve transit for our rural and urban commuters, an increase of 166 percent over the last highway reauthorization bill.

Tennessee's highways have consistently been ranked among the best and safest in the Nation, and these funds will help to reduce congestion, improve safety, and create thousands of new jobs.

Our transportation infrastructure is estimated to be worth $1.75 trillion. Every $1 billion we invest in transportation infrastructure generates more than $2 billion in economic activity and 47,500 new jobs.

I look forward to passing this critical legislation.

We will need to work to resolve our differences with the House of Representatives so that we can send the President a bill that he can sign into law as quickly as possible. I am confident this can be done.

The highway bill is a roads bill. It is a jobs bill. It promises to help improve every American driver's quality of life.

I thank my colleagues in advance for, literally, keeping America moving forward.

Mrs. CLINTON. Mr. President, I would like to briefly describe my amendment No. 681, which includes modifications to section 1612 of the bill.

I want to thank Senator INHOFE for cosponsoring the amendment, and Senators BOND, JEFFORDS, and BAUCUS for working with me on this important issue and this amendment.

New air quality standards are driving a new round of air quality programs in many of our States. This is good for public health, and I strongly support these new standards. To meet these standards, I believe that new tools and strategies will be required.

I believe that one example of a new strategy that works was demonstrated in my State of New York. Despite making great strides in reducing emissions from a variety of sources, New York City has not yet been able to meet the air quality standards in the Clean Air Act. We are getting there, but it is a tough job, and there is more to do.

After the tragedy of September 11, it was clear that a large number of diesel-powered fleets and other diesel equipment would be operating around ground zero for many months. New York received emergency Federal funds to pay for those contractors. And, partly because they were being paid by Federal tax dollars, and partly because of New York's continuing struggle with air quality issues, diesel equipment operating at ground zero was required to be retrofitted with pollution control equipment, and some Federal funds were used to pay for the retrofits.

Communities across New York and the country face similar challenges, in that emissions from diesel equipment involved in highway construction projects can put a temporary—but significant—increase in emissions in communities struggling to meet air quality standards.

The amendment has three main provisions. First, it requires States to develop emission reduction strategies for fleets that are used in construction projects located in non-attainment and maintenance areas and are funded under this title. Second, it requires EPA to develop a non-binding guidance for the States to use in developing their emission reduction strategies. The guidance will include technical information on diesel retrofit technologies, suggestions on the methods for inclusion in the emission reductions strategies, and other information that Administrator of EPA, in consultation with the Secretary, determine to be appropriate. Third, it clarifies that States may use CMAQ funding to finance the deployment of diesel retrofit technology and other cost-effective solutions as part of the emission reduction strategies.

I first introduced this provision as an amendment during the debate on the transportation bill last year. That original provision was included in the bill reported by the Environment and Public Works Committee earlier this year. During committee consideration of the bill, it came to my attention that the Association of General Contractors had concerns with the amendment. I am pleased to say that the chairman and I have worked with them to accommodate their concerns, and the revised section 1612 that this amendment contains reflects those negotiations. The Association of General Contractors now supports this provision, and has agreed to actively support it during the conference. I will ask unanimous consent that their letter of support be placed in the RECORD following my remarks.

This amendment will also result in the cost-effective use of CMAQ funds. During the debate over the last reauthorization of the highway programs, Congress asked the Transportation Research Board of the National Academy of Sciences to assess the CMAQ programs. Specifically, Congress asked the board to report on whether CMAQ-funded projects are cost-effective relative to other strategies for reducing pollution and congestion.

The Transportation Board reported its results in a 2002 Special Report 264, the CMAQ Improvement Program, Assessing 10 Years of Experience. The report concluded that "strategies directly targeting emission reduction have generally been more cost-effective than attempts under CMAQ to change travel behavior." It recommended reauthorization of the CMAQ Program with modifications to improve its cost-effectiveness and to enhance its performance in improving air quality. In addition, a recently completed report for the Emission Control Technology Association that builds on this report and other data reaches similar conclusions about the cost-effectiveness of diesel retrofits. I will also ask unanimous consent that this report be printed in the RECORD after my remarks.

This amendment achieves both goals. It improves CMAQ cost-effectiveness by authorizing states to use CMAQ to fund the deployment of diesel retrofits. These are new technologies that have been found by EPA, the Diesel Technologies Forum, and others to be very cost-effective relative to other CMAQ-funded projects to improve air quality.

The amendment will also enhance the performance of CMAQ in improving air quality by financing diesel retrofit technology that reduces emissions of fine particulate matter, the most serious airborne threat to human health today. This is a problem that everyone agrees is a top air pollution priority. It's why I feel so strongly about this amendment and have worked to fund the EPA's Clean School Bus USA program. Recognizing the seriousness of the problem, the administration has acted as well, promulgating the 2004 on-road heavy duty diesel regulations, the 2010 off-road diesel regulations, the Clean School Bus USA Program, the National Clean Diesel Campaign, and the newly-proposed Clean Diesel Initiative that is in the President's fiscal year 2006 budget proposal.

I am pleased that the Senate will adopt this amendment because I believe it will provide States with additional tools to achieve our Nation's air quality goals. Reducing diesel emissions from construction activities is often the most cost-effective way to improve air quality. This amendment will help make that happen do just that.

I want to again thank Senators INHOFE, BOND, JEFFORDS, and BAUCUS for working with me.

Mr. President, I now ask unanimous consent that the material to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAY 12, 2005.

Hon. JAMES M. INHOFE,
Chairman, Environment and Public Works Committee, U.S. Senate, Russell Senate Office Building, Washington, DC.
Hon. HILLARY RODHAM CLINTON,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN AND SENATOR CLINTON: We appreciate your leadership for including the diesel engine retrofit provision (Section 1612) in the Senate's highway transportation bill (S. 732). This provision is important to both the construction and the mobile source emission control technology industries that we represent.

At your urging, the Associated General Contractors of America ("AGC") and the Emissions Control Technology Association ("ECTA") have been working together to develop ideas for improving on Section 1612 so that it better conforms to the current marketplace. The amendment that you filed today to rewrite a portion of section 1612 reflects the principles that we have jointly developed, and we believe it is a substantial improvement over the underlying provision. Your new proposal will better accomplish the original goals of the legislation—to reduce pollution by spurring more cost-effective use of funds from the Congestion Mitigation and Air Quality Improvement Program.

Both organizations strongly support your amendment and urge that it be adopted during Senate consideration of the highway bill. Should the Senate adopt the amendment as we hope, our organizations are both committed to working with the conferees to ensure that it is retained in the conference report. .

We appreciate your leadership on this important issue, and look forward to working closely with you to ensure that this important provision is included in the highway bill that is sent to the President.

Regards,

JEFFREY D. SHOAF,
Senior Executive Director, Government and Public Affairs, The Associated General Contractors of America.
TIMOTHY J. REGAN,
President, Emissions Control Technology Association.

CLEANING THE AIR: COMPARING THE COST EFFECTIVENESS OF DIESEL RETROFITS VS. CURRENT CMAQ PROJECTS

AN ANALYSIS PREPARED FOR THE EMISSION CONTROL TECHNOLOGY ASSOCIATION

(By Robert F. Wescott)

EXECUTIVE SUMMARY

A key goal of U.S. air pollution programs, including the Congestion Mitigation and Air Quality (CMAQ) program created in 1990, has been to clean the air in cities to improve public health and lower medical costs. But while the CMAQ program has emphasized reductions of carbon monoxide, hydrocarbons, and ozone, recent research finds that the top air pollution problem in urban areas today is fine particulate matter, which is particles with a diameter of 2.5 micrometers or less ($PM_{2.5}$).

This pollutant, $PM_{2.5}$, is a primary airborne threat to human health today costing more than $100,000 per ton in health costs. Researchers estimate that $PM_{2.5}$ is two to twenty times as harmful to human health as nitrous oxide, more than one hundred times as dangerous as ozone, and 2000 times as dangerous as carbon monoxide on a per ton basis.

Diesel engine exhaust is a source of $PM_{2.5}$ emissions in urban areas. Approximately one third of these diesel emissions are due to on-road vehicles and about two thirds are due to off-road equipment, such as construction equipment.

Diesel retrofit technology is currently available that is highly effective at reducing $PM_{2.5}$ emissions. Diesel oxidation catalysts (DOCs) are well suited for retrofitting older off-road vehicles and diesel particulate filters (DPFs) are highly efficient at reducing these pollutants where new low sulfur diesel fuels are available, as is already the case in most urban areas.

From the point of view of cost effectiveness, diesel retrofits are superior to almost all current CMAQ strategies, including ride-share programs, van-pool arrangements, HOV lanes, traffic signalization, bike paths, and all strategies that attempt to modify behavior (like encouraging telecommuting.) Most of these CMAQ strategies cost $20,000 to $100,000 per ton equivalent of pollutant removed, and some cost as much as $250,000 per ton removed.

Under conservative assumptions, diesel retrofits cost only $5,340 per ton equivalent of pollutant removed. In fact, among all CMAQ strategies, only emission inspection programs appear to exceed the cost effectiveness of diesel retrofits.

Expanding the range of CMAQ projects to include diesel retrofits for construction equipment and off-road machinery in urban areas could be a highly effective way to spend public monies. More than 100 million Americans live in areas of the country where $PM_{2.5}$ levels exceed the EPA's guidelines.

BACKGROUND

Cleaning the air to improve human health and lower medical costs has been an objective of U.S. government policy since at least the Clean Air Act of 1970. Concerns about poor air quality, especially in urban areas, led to the creation of the Congestion Mitigation and Air Quality (CMAQ) Program in 1990, which has set aside a portion of transportation monies for the past 15 years to fund innovative projects to reduce carbon monoxide, hydrocarbons, nitrous oxides, and smog in so-called non-attainment areas. Vehicle emission inspection programs, high-occupancy vehicle (HOV) travel lanes, van pool programs, park-and-ride lots, and bike paths are examples of CMAQ projects.

There has been significant progress in the past 35 years in reducing carbon monoxide and hydrocarbon emissions and smog. Scientists, however, have been able to identify new airborne health risks whose costs are now becoming more fully appreciated. Notably, particulate matter (PM) has been found to have especially pernicious health effects in urban areas. Increasingly it is becoming understood that diesel engine emissions in urban areas, both from on-road trucks and buses and from off-road construction and other equipment, are a significant source of fine particulate matter pollution. This leads to a number of questions:

What is the current assessment of the top health risks from air pollution from mobile sources in urban areas?

What is the role of emissions from diesel engines?

How does diesel retrofit technology to clean engine emissions after combustion compare with current CMAQ projects in terms of cost effectiveness?

Are CMAQ funds currently being deployed in the most cost effective manner possible?

This paper examines these questions by reviewing the recent scientific, environmental, economic, and health policy literature.

THE HEALTH COSTS OF AIR POLLUTION

In the 1960s and 1970s they key health risks from air pollution were deemed to come from carbon monoxide, hydrocarbons (or volatile organic compounds, VOCs), nitrous oxides (NO_X), and smog, and early clean air legislation naturally targeted these pollutants. During the past ten years or so, however, researchers have identified new pollutants from mobile sources that have particularly harmful health effects, especially in urban areas. Top concern today centers around particulate matter, and especially on fine particulate matter. Fine particulates, with a diameter of less than 2.5 micrometers ($PM_{2.5}$), can get trapped in the lungs and can cause a variety of respiratory ailments similar to those caused by coal dust in coal miners. A significant portion of $PM_{2.5}$ emissions in urban areas come from off-road diesel equipment. According to analysis by the California Air Resources Board, on-road engines account for about 27% of PM emissions in California and off-road equipment is responsible for about 60% of PM emissions.

Analysis by Donald McCubbin and Mark Delucchi published in the Journal of Transport Economics and Policy evaluates the health costs of a kilogram of various air pollutants, including CO, NO_X, $PM_{2.5}$, sulfur oxides (SO_X), and VOCs. These researchers estimate health costs from such factors as, hospitalization, chronic illness, asthma attacks, and loss work days for the U.S. as a whole, for urban areas, and for the Los Angeles basin. For urban areas, they find the range of health costs per kilogram of CO was from $0.01 to $0.10, NO_X was from $1.59 to $23.34, $PM_{2.5}$ was from $14.81 to $225.36, SO_X was from $9.62 to $90.94, and VOCs was from $0.13 to $1.45. Taking the mid-points of these estimates, a kilogram of $PM_{2.5}$ therefore was nearly 10 times more costly from a health point of view than a kilogram of NO_X, more than 150 times more costly than a kilogram of VOCs, and more than 2000 times more costly than a kilogram of CO. On a per ton basis, a ton of $PM_{2.5}$ causes $109,000 of health costs, a ton of NO_X costs $11,332, a ton of VOCs costs $718, and a ton of CO costs $50.

EFFECTIVENESS OF DIESEL RETROFIT FILTERS

Given the high health costs of $PM_{2.5}$, significant effort has gone into the development of technological solutions to deal with the problem. The best technologies involve the use of post-combustion filters with a catalyzing agent, which together trap and break down dangerous pollutants before they are emitted into the air. All new diesel trucks will be required to use these technologies by 2007 according to U.S. EPA rules, and off-road equipment will have to use these technologies by 2010. (Rules require 95% reductions in emissions of several pollutants, as well as a 97% cut in the sulfur levels in diesel fuel.) However, given that the lifespan of a diesel engine can be 20–30 years, it will take decades to completely turn over America's diesel fleet. Therefore, by lowering emissions from older diesels, retrofits are an effective path to cleaner air over the next few decades.

Diesel retrofit filters are highly effective at their chief function: preventing dangerous pollutants from ever entering the air. Diesel oxidation catalysts (DOCs), at $1,000 to $1,200 per retrofit, reduce PM by about 30% and can work with current higher sulfur diesel fuels. This yields a large benefit when installed on older, higher-polluting vehicles. In addition to the PM reducing capabilities, these filters can also cut the emission of carbon monoxide and volatile hydrocarbons by more than 70%.

Diesel particulate filters (DPFs), which generally cost $4,000–$7,000 per engine, are far more efficient. They are specifically targeted at keeping more dangerous PM out of the air than DOCs. In fact, they can reduce $PM_{2.5}$ pollution from each vehicle by more than 90%, yielding an enormous cut in emissions over the life of the diesel engine, even when installed on newer, cleaner diesel vehicles. An additional requirement of DPFs, however, is that the vehicle must run on newer very low sulfur fuels. High sulfur fuel leads to sulfate emissions from the filter due to the very active catalysts needed to make the filters function properly. Thus, DPFs are most effective as a solution for vehicles in urban areas—such as construction equipment and urban fleets—where very low sulfur fuels are already available.

These technologies are not new or experimental; they are already in use around the world. There are 2 million of these technologies already at work in heavy-duty diesel vehicles worldwide. Further, there are 36 million DOCs and 2 million DPFs in use on passenger vehicles in Europe alone, where these technologies are currently being used, reaping cost-effective health benefits over the long term.

THE CMAQ PROGRAM

The CMAQ program is the only federally funded transportation program chiefly aimed at reducing air pollution. Its historical purpose has been twofold: to reduce traffic congestion and to fund programs that clean up the air Americans breath. Within its air quality mission, it is designed primarily to help non-attainment areas (mainly polluted urban zones) reach attainment for air quality standards under the Clean Air Act. Historically many CMAQ projects have tried to change travel and traffic behavior in order to achieve its goals. These transportation control measures (TCMs) have been designed both to reduce traffic congestion as well as improve air quality. An example is a bicycle path. Designed to reduce the number of drivers on the road, bike paths could, in theory, achieve both goals. Further examples are vanpools, ridesharing and park and ride programs, and HOV lanes: all current CMAQ projects. Other projects have addressed emission reductions directly, as for example, through funding for state automobile emission inspection programs.

As a condition for reauthorizing the CMAQ program in 1998, the U.S. Congress required that a detailed 10-year assessment of the program be conducted. This review was performed by the Transportation Research Board of the National Research Council and was completed in 2002. This review found that CMAQ has been less than successful in reducing congestion and suggested that the most beneficial way for CMAQ to use its funds is to focus on air quality. It also found that TCMs were less cost effective than measures to directly reduce emissions, such as through inspection programs.

Furthermore, the study suggested that CMAQ's focus within the domain of air quality is misplaced. CMAQ programs have targeted the gases considered the most dangerous pollutants for many years, like hydrocarbons, carbon monoxide, and nitrous oxides. While these gases pose recognized health and environmental risks, recent work has shown that the dangers of these substances pale in comparison to the danger of fine particulate matter. In the words of the study, "Much remains to be done to reduce diesel emissions, especially particulates, and this could well become a more important focus area for the CMAQ program." Further, discussing the fact that diesel-related CMAQ programs could be the most cost-effective, the study states, "had data been available on particulate reductions . . . the ranking of strategies focused on particulate emissions . . . would likely have shown more promising cost-effectiveness results."

COMPARING THE COST EFFECTIVENESS OF DIESEL RETROFITS WITH OTHER CMAQ PROJECTS

Given that $PM_{2.5}$ emissions from diesel engines are a leading health concern, that effective technology exists today to clean the emissions of off-road diesel equipment used extensively in the middle of American cities (non-attainment areas), and that the CMAQ 10-year review highlights the possible use of CMAQ funds for diesel retrofit projects, it is logical to compare the cost effectiveness of these diesel retrofits with current CMAQ projects. The CMAQ Program: Assessing 10 Years Experience (2002) estimates the median cost per ton of pollutant removed for 19 different CMAQ strategies and these estimates provide the comparison base. Published estimates for diesel retrofits are compared with these estimates.

As a first step in comparing the cost effectiveness of pollution reduction strategies, it must be noted that the CMAQ cost effectiveness estimates are presented as "cost per ton equivalent removed from air," with weights of 1 for VOCs, 4 for NO_X, but 0 for $PM_{2.5}$. Relying upon the McCubbin and Delucchi health cost estimates, however, even weighted NO_X should be considered more damaging than VOCs. That is, even though 0.25 ton (the 1:4 ratio above) of NO_X removed counts as the CMAQ equivalent of one ton of pollution removed, it has a higher health cost than a ton of VOCs ($11,332 / 4 = $2,883 for NO_X vs. $718 for VOCs). As a second step, conservatively assume that all CMAQ projects remove the more damaging pollutant (NO_X). This still means that a ton of $PM_{2.5}$ reduction would be worth at least 9.45 tons of regular CMAQ reductions ($109,000 for $PM_{2.5}$ / $11,332 for NO_X).

Diesel retrofits are estimated to cost $50,460 per ton of $PM_{2.5}$ removed by the California Air Resources Board (CARB). This estimate is very conservative and substantially higher than that cited by industry sources. Using the CARB cost estimate, diesel retrofits cost $5,340 per ton equivalent of air pollution removed ($50,460/9.45), based upon the CMAQ definition of ton equivalent and on the conservative assumption that CMAQ projects remove the most damaging pollutant reviewed. If a less conservative and more realistic assumption is used—that CMAQ projects remove a mix of NO_X and VOCs—then the cost-effectiveness of diesel retrofits becomes substantially more favorable, and could be as low as $332 per ton of CMAQ pollutant removed.

This analysis means that diesel retrofits for construction equipment are highly cost effective when compared with current CMAQ strategies. As shown in Table 1 and Chart 2, some CMAQ strategies cost more than $250,000 per ton of pollutant removed (teleworking), and many are in the $20,000 to $100,000 per ton range (traffic signalization, park and ride lots, bike paths, new vehicles, etc.). The only current CMAQ project category that exceeds the cost effectiveness of diesel retrofits is emission inspection programs.

Other studies also conclude that diesel retrofits are highly cost effective compared with current CMAQ projects. The Diesel Technology Forum compared the benefits and costs of CMAQ projects with diesel retrofits for transit buses (for NO_X pollution reduction) and concluded that retrofits are a better use for CMAQ funds than any other typical CMAQ project, with the exception of inspection and maintenance programs and speed limit enforcement. Also, the California EPA's Air Resources Board has estimated that diesel retrofits have a benefit of between $10 and $20 for each $1 of cost. And the U.S. EPA, in its justification for new on-road diesel rules in 2007 and off-road rules in 2010 estimates the benefits for diesel particulate filters at roughly $24 for each $1 of cost.

TABLE 1.—COST-EFFECTIVENESS OF CURRENT CMAQ STRATEGIES AND DIESEL RETROFITS

[Median cost per ton equivalent of air pollution removed]

	Median cost	Rank
Inspection and maintenance	$1,900	1
Diesel retrofits	5,340	2
Regional rideshares	7,400	3
Charges and fees	10,300	4
Van pool programs	10,500	5
Misc. travel demand management	12,500	6
Conventional fuel bus replacement	16,100	7
Alternative fuel vehicles	17,800	8
Traffic signalization	20,100	9
Employer trip reduction	22,700	10
Conventional service upgrades	24,600	11
Park and ride lots	43,000	12
Modal subsidies and vouchers	46,600	13
New transit capital systems/vehicles	66,400	14
Bike/pedestrian	84,100	15
Shuttles/feeders/paratransit	87,500	16
Freeway management	102,400	17
Alternative fuel buses	126,400	18
HOV facilities	176,200	19
Telework	251,800	20

Source: All costs from The CMAQ Improvement Program: Assessing 10 Years of Experience, (2002), except diesel retrofit costs, which are from author's calculations.

CONCLUSIONS

The top air pollution problem in U.S. urban areas today is almost certainly $PM_{2.5}$, which is estimated to cost more than $100,000 per ton in health costs. A major source of $PM_{2.5}$ emissions in urban areas is diesel engine exhaust. Approximately one third of these diesel emissions are due to on-road vehicles and about two thirds are due to off-road equipment. Off-road equipment in urban areas is a particular problem, because it gives off exhaust at ground level, frequently near large groups of people.

Diesel retrofit technology is currently available that is highly effective at reducing $PM_{2.5}$ emissions. DOCs are well suited for retrofitting older off-road vehicles and DPFs are highly efficient at reducing these pollutants where new low sulfur diesel fuels are available, as is already the case in most urban areas.

From a cost effectiveness point of view, diesel retrofits are superior to almost all current CMAQ strategies, including rideshare programs, van-pool arrangements, HOV lanes, traffic signalization, bike paths, and all strategies that attempt to modify behavior (like encouraging teleworking.) Only emission inspection programs exceed the cost effectiveness of diesel retrofits based upon conservative assumptions. Expanding the range of CMAQ projects to include diesel retrofits for construction equipment and off-road machinery in urban areas could be a highly effective way to spend public monies.

Mr. CORZINE. Mr. President, I rise today to discuss the transportation reauthorization legislation that is pending before the Senate, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 or SAFETEA. I commend the managers of this bill, Senators INHOFE and JEFFORDS for producing bipartisan legislation that will help address the safety and congestion needs on our Nation's roads, rails and bridges. I thank the managers for their hard work.

Under SAFETEA, New Jersey will see a 56 percent increase in mass transit formula funds from fiscal year 2005 to fiscal year 2009. It will also see an increase its return on the highway dollar from the current 90.5 cents on the dollar, which is the absolute minimum, to 92 cents on the dollar.

This money is sorely needed. New Jersey is the most densely populated State in the Nation. This is causing gridlock on our roads. According to the latest study by the New Jersey Institute of Technology, the average New Jersey driver now spends 45 hours a year stuck in traffic. I repeat, 45 hours a year. All this time spent behind the wheel does more than hurt New Jersey's quality of life. It also costs us an average of $1,255 per driver in wasted gasoline and lost productivity—for a total cost of $7.3 billion a year. That is a huge blow to New Jersey's economy.

I have spent 25 years of my life commuting from northern New Jersey into New York City. I have seen firsthand how tough the commute is getting. People are getting caught in gridlock on roads and bridges that are overcrowded and in need of repair. According to the New Jersey Department of Transportation, to fix New Jersey's 13 most seriously deteriorating bridges will cost $2.03 billion. And we are facing $1 billion in pavement and surfacing needs for our highways alone.

New Jersey is the most densely populated State. We need a greater share of funding to repair our roads and bridges. Thanks to the leadership of Senator INHOFE and Senator JEFFORDS, we will begin to see some of that funding under SAFETEA.

However, I must say that I was disappointed when the Senate last week refused to pass the amendment Senator LAUTENBERG and I offered on protecting States from corruption in transportation contracting, a practice commonly known as "pay-to-play". I believe that this was due in large part to false statements that were made by certain groups and repeated on the floor of the Senate. I would like to take a moment to address both these comments and the continuing need for this measure.

The criticisms fall into three areas: First, that this measure was not needed to ensure fair and open competition for highway and mass transit contracts. Second, that Senator LAUTENBERG and I were trying to impose New Jersey's pay-to-play law on the rest of the Nation. The third criticism was that New Jersey did not need a change in Federal law in order for its own pay-to-play measures to be implemented. All of these points are wrong and I will address each in turn.

The first criticism was that our amendment was unnecessary. The U.S. Chamber of Commerce and certain members of the Senate argued that competitive bidding rules already guarantee fair treatment for all contractors, without any favoritism. That is not true. Governments can and do enact unfair conditions to restrict who may bid. Sometimes those conditions can be subtle, such as requiring a certain size for a company that receives a contract. Sometimes they can be more overt, such as overly burdensome licensing requirements. As a result, the playing field is hardly level for those who would like to compete for contracts.

The second criticism was that Senator LAUTENBERG and I were trying to create a national pay-to-play rule that would apply to every State in the country. That is also not true. We were not establishing a Federal pay-to-play rule in Federal highway contracting. We were merely asking the Senate to respect the rights of states to establish and maintain their own state contracting practices. Further, this only impacts contributions to state level candidates. Federal campaign finance laws are in no way affected.

Finally, opponents argued that New Jersey does not need a Federal fix for its pay-to-play problems. That is not true as well. New Jersey enacted a statute that limits contributions from a corporation or individual who does business with the state to no more than $300. While this is a valuable tool in ensuring that contracts are awarded solely on the basis of merit, a gaping loophole exists due to the fact that the U.S. Department of Transportation will not allow this law to apply to highway and mass transit contracts that use Federal funds. As a result, New Jersey faces a situation where nearly $900 million in the contracts for Federal highway and mass transit projects that it awards annually are susceptible to corruption. This is a "corruption tax" that New Jersey's citizens must continue to pay, thanks to the Senate's actions last week.

A number of States and cities have enacted pay-to-play statutes that are similar to New Jersey's. This includes South Carolina, Kentucky, Ohio, West Virginia, and New Jersey, and now Hawaii. In addition, pay-to-play measures have been enacted in the cities of Los Angeles, San Francisco, Oakland, Chicago, and 24 local jurisdictions in New Jersey. Pay-to-Play bills are also pending in Illinois, Connecticut, and New York City. Let me be clear, the Senate's actions have put all of these laws in jeopardy.

It is time for the Senate to ensure that both highway and mass transit contracts can be awarded without the taint of government corruption. We owe the taxpayers nothing less.

Mr. PRYOR. Mr. President, I want to talk briefly about an amendment to this bill that I cosponsored with Senators HUTCHISON and BEN NELSON.

The amendment repealed, for the most part, an unpopular provision that was included in TEA–21 that has never been utilized: the Interstate System Reconstruction and Rehabilitation Pilot Program. It is also known as the Interstate Tolling Program.

I understand the desire to find new ways to finance our ever-growing transportation needs. Our roads and bridges are deteriorating; our freight, truck, and passenger traffic is increasing. According to the American Association of State Highway and Transportation Officials, we need an annual investment by all levels of government of $92 billion a year just to maintain the current system. To improve it, we need $125.6 billion a year. This bill addresses only a fraction of those needs, but the increased funding compared to levels contained in TEA–21 is a positive step.

I think we can do better, and I think we have a duty to do better. If we can find ways to provide more money for infrastructure without increasing our Nation's deficit, I believe we should do it. I have voted in the past to increase the level of funding in this bill because I believe it is warranted, it is reasonable, and it is the responsible thing to do.

I applaud efforts to try to find new and innovative ways to finance new road building.

The bill creates a new commission to explore alternative sources of revenue for transportation. I think that is a good idea.

However, I cannot agree that it is a good idea to put tolls on interstate highways that have already been paid for with Federal gas tax dollars. That is what the Interstate System Reconstruction and Rehabilitation Program does.

This pilot program allows tolling of existing lanes on the Interstate Highway. I think that is bad policy, and that is why I have joined Senator HUTCHISON, and Senator NELSON in sponsoring an amendment to strip this program from this reauthorization bill.

My amendment does not affect States' ability to finance new interstate construction using tolls. It does not affect States' ability to convert HOV lanes to High Occupancy Toll—HOT—add new voluntary use tolled lanes to their Interstates, or toll non-Interstate roads.

The amendment only prevents tolling on existing interstate lanes, which have already been paid for once by federal gas taxes.

I see this as an issue of double taxation.

We are talking about interstate highways that were built using Federal gas tax money. There are those who want to tax the use of these same roads that have already been paid for.

I understand the desire to find new ways to finance road building. In Arkansas, our State leaders have chosen to increase the State gas tax throughout the years in order to meet its road construction needs.

In fact, Arkansas is in the top half of State gas taxes. Arkansas has acted responsibly, and now there is an effort to institute tolls on existing interstate highways because some States don't want to raise their gas taxes. They would rather tax through tolling:) I think that is unfair.

This is an issue that affects poor, rural residents who have limited transportation options the most. Over the past few years, EAS and Small Community Air Service funding has been cut to many rural communities, including those in my State of Arkansas. AMTRAK is in financial turmoil, and over the road buses such as Greyhound have dramatically cut service.

Tolls on existing roads, which have already been financed and paid for by federal gas taxes increase the burden on these people. Again, I think it is simply unfair. Not only am I concerned about the double taxation issue, but I believe this is a safety Issue.

Tolls on existing Interstates will produce substantial diversion of traffic to other roads. I believe greater volume of truck traffic on local roads is not something we should encourage by placing tolls on the interstates.

There is also an economic downside to tolling the interstate. Businesses along newly tolled roads which rely on highway travelers—such as truck stops, motels and restaurants—will be hurt economically if significant traffic avoids the toll road.

The bottom line is that I believe allowing tolls on interstate highways that have already been paid for by Federal gas taxes is bad tax policy, is unsafe, and could have very detrimental economic effects. I am hopeful that you will agree with me that tolling existing interstate lanes is a bad idea, and will support our amendment.

Mr. WARNER. Mr. President, I rise today with renewed hope and confidence that this Congress can pass a surface transportation reauthorization bill. As it has been stated before, we have been operating under continuing resolutions—six of them—to keep the Department of Transportation's highway, transit, and highway safety programs running. We have been operating for 2 years on expired legislation and we are far past due on our commitment to the American people to deliver an updated policy and expanded funding.

Last year both the Senate and House passed bills and the conference committee met for months before we were forced to abandon hopes of completing a conference report as a result of the much discussed disagreement over the size of the bill. This year we will still have a disagreement over the size of the bill but I am optimistic that with the narrowed gap, we will be able to resolve the differences quickly and amicably. I am pleased the Senate will adopt a bill funded at $295 billion and am hopeful that this funding level can be retained in conference. Our transportation system is bursting at the seams and the Congress must adequately fund this bill to address this myriad of needs. Almost 30 percent of ou Nation's bridges are structurally deficient. Thirty two percent of our major roads are in poor or mediocre condition. Our urban centers and suburban communities need expanded and updated transit infrastructure. Americans spend 3.7 billion hours each year in congested traffic. Our State highway departments are forced to cancel or delay projects as costs continue to rise while the revenue does not come.

In addition, we have a responsibility to make our transportation system safer for the traveling public. The President recognizes this and has appropriately named his proposal, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, SAFETEA. Throughout my career in the Senate I have worked with many of my colleagues to address critical safety measures on our Nation's highways. The most effective way to increase safety on our roads is to get people to wear their seat belts. I am a firm believer that the individual States must pass primary safety belt laws. The statistics are clear. More than 50 percent of the fatalities on our highways are individuals who were not wearing their safety belts. My hope is that the incentive grants included in this bill will prompt states to take actions to cut into the tens of thousands of deaths on our roadways each year.

The Committee substitute will increase funding in the bill from $284 billion as passed by the Environment and Public Works and Finance Committees to $295 billion. This means an additional $247.7 million for my home State of Virginia for a total of $4.7 billion in highway construction over the next 5 years. This represents more than a 32 percent increase over the highway funding in TEA–21. The Virginia Department of Transportation will now be able to restore many projects that had been cut from our transportation plan because of the lack of revenue. We have made small steps in the right direction to address donor States, increasing the rate of return to 92 percent by 2009.

We will also increase funding for transit programs across the country. While this has traditionally only meant our urban centers, transit has evolved to enable Americans in suburban and even rural areas of our States increased mobility on subways, buses, light rail, commuter railroads, ferries, and vans. More than 80 million Americans do not drive or have access to a car and this robust investment in our transit systems helps not only those Americans but also helps relieve congestion on our Nation's roads.

I wish to thank the chairmen and ranking members of the committees and subcommittees working so diligently on this bill. They and their staffs have been working together for several years toward the ultimate goal and today we take one step closer to that end. Chairman INHOFE, Subcommittee Chairman BOND, Ranking Member JEFFORDS, and Subcommittee Ranking Member BAUCUS have worked openly with the EPW Committee and every Senator in this body to address our concerns and their work is very much appreciated by this Senator. They have worked well with the Finance, Commerce, and Banking Committees to bring this bill together. I know how difficult this bill is to manage and it is my sincere hope that the conference committee will soon be able to resolve differences between the House and Senate bills and send a strong bill to the President. The bill we vote on today increases the revenue for our state highway departments, enhances the safety of our roadways, will help states address environmental pollution from our roadways, and will reduce the congestion millions of Americans deal with each day to help keep our Nation the strongest economy in the world.

Mr. KOHL. Mr. President I would like to explain my vote today against this important legislation, the highway reauthorization bill. I want to explain that my vote was against the unfair treatment of my State, and not a 5-year reauthorization bill. I support consistent and adequate funding of our transportation infrastructure) but I do not support a bill that cuts Wisconsin's rate of return unfairly.

A safe and efficient transportation system is critically important to my State. In Wisconsin, the changing seasons require constant maintenance of our roads and bridges. In addition, we have an aging fleet of buses that are in dire need of replacement. A five-year reauthorization is necessary for sustained transportation planning; it will provide jobs, will ensure safer travel on our highways and roads, and will provide transit funding for millions of commuters. I have heard from the people of Wisconsin, and I know they support a 5-year authorization bill.

I share their sentiments on the need for an authorization bill. I also share their sentiments on the bill the Senate passed today. I have spoken to engineers, bus drivers, road builders and businesses throughout my state and the message is the same—don't support legislation that would drop Wisconsin's rate of return. My support for this legislation would undermine Wisconsin taxpayers who deserve better than 92 cents on the dollar. A vote in favor of this legislation would set a dangerous precedent for treating Wisconsin unfairly.

I recognize the arguments of my colleagues that the overall funding for Wisconsin will increase and I support the addition of $11.2 billion that the substitute amendment contains. The substitute amendment provides Wisconsin with an additional $147 million in highway funding over the five year life of the bill. These dollars are absolutely necessary in the State, and I urge the conferees to maintain the Senate level of funding.

What the substitute amendment does not do, however, is greatly change my State's rate of return. Over the life of the bill, Wisconsin will still drop from an average of $1.02 to an average of 96 cents on every dollar the taxpayers send to Washington. The so-called equity bonus program included in the bill is far from equitable. It includes exemptions based on random criteria; it is a formula stitched together to appease the highest number of Senators possible, not to give each State its fair rate of return.

I remain hopeful that Congress will pass a bill much different than the one the Senate votes on today. I hope that my colleagues will, in conference, repair the damage that is done to Wisconsin under the Senate bill. I hope the final bill gives Wisconsin its fair share. Given the great need for a 5 year authorization bill, I would like to support this legislation. Given its treatment of Wisconsin, I cannot. I hope that will be different when the Senate considers a final bill.

Mr. SARBANES. Mr. President, it is critically important that we move forward with this reauthorization of the Nation's highway and transit programs. Although the funding levels contained in this measure are lower than many of us believe are warranted or necessary to address our pressing transportation infrastructure needs, given the budget constraints within which we had to work, I think we have responded with a reasoned and balanced package that will maintain and enhance our transit, rail and highway systems.

There is a huge backlog of needed repairs, replacements, and upgrades to bring our transportation network—our roads, bridges, transit systems and railroads—up to standards. The Department of Transportation's Conditions and Performance Report estimates that an average of $127 billion per year is needed over the next two decades to maintain and improve the condition of these systems. Other estimates show an even greater need. This backlog constrains our Nation's economic competitiveness, leaves more and more Americans stuck in traffic, contributes to air pollution and results in unnecessary fatalities.

Just last week, the Texas Transportation Institute released its annual "Urban Mobility Report," which measures traffic congestion in the Nation's 85 largest cities. The report found that congestion across the country delayed travelers by 3.7 billion hours and wasted 2.3 billion gallons of gasoline in 2003. That is nearly 80 million more hours and 70 million more gallons of fuel in 2003 than in 2002. Average hours spent in rush hour traffic jams jumped from 16 in 1982 to 47 in 2003. The Washington Metropolitan area continues to suffer the third-worst traffic congestion in the country, costing area drivers an estimated $2.46 billion in lost time, fuel and productivity, or $577 per commuter. Equally important, the study found that this area would have the worst congestion in the country if not for our public transportation systems. As these figures show, congestion has a real economic cost, in addition to the psychological and social costs of spending hours each day sitting in traffic. We cannot afford to let these costs of congestion grow any further.

In my judgment, the report underscores the need to bolster investment in our transportation infrastructure and to put in place a sensible, balanced transportation network. Over the past 2 years, we have been working hard in the Congress to do just that: to reauthorize the Nation's surface transportation program, and to bring our transportation network up to standards. Last year, the Senate approved a measure authorizing $318 billion in funding over the next six years—an increase of $100 billion over the previous measure—which, in my view, provided the kind of investment needed to not only prevent further deterioration of our transportation network, but to improve the system, relieve congestion and save lives. Unfortunately, SAFETEA did not emerge from conference due in large part to the unwillingness of the administration and the House leadership to support that level of investment. As a result, we have had to pass six short-term extensions of the previous transportation legislation, TEA–21. The uncertainty inherent in these short-term extensions hinders our State and local partners in their efforts to meet the daily challenges of maintaining our transportation infrastructure and planning for improvements.

The measure that is before the Senate this year provides $295 billion over the next 6 years in highway and transit funding. That is $11 billion more than the level recently approved by the House and $39 billion more than was originally recommended in the President's reauthorization proposal. For our Nation's roadways and bridges, this legislation authorizes an average increase of nearly 31 percent in funding to enable States and localities to make desperately needed repairs and improvements. Maryland's share of highway funding will grow by more than $820 million over the next 6 years, from $2.66 billion to $3.49 billion, compared to the level provided in TEA–21, to help upgrade our highway infrastructure. This represents an average of more than $142 million more each year than was provided under TEA–21.

In the next two decades, Maryland's driving age population is expected to increase by nearly 20 percent, the number of licensed drivers by 25 percent, and the number of registered vehicles by nearly 30 percent—and this will mean significantly more traffic on our roads and pressures on our transit systems. Maryland's Department of Transportation is facing deficient roads and bridges as well as key gaps and bottlenecks within the State's transportation system that are known to cause delay and congestion. Maryland has an estimated unfunded capital need for more than $13 billion in highway maintenance, construction and reconstruction over the next ten years. Clearly, Maryland must have adequate funding to address these transportation challenges and to facilitate overall mobility—and the funds made available under this measure will be a significant help in this regard.

Importantly, the measure preserves the dedicated funding for the Congestion Mitigation and Air Quality—CMAQ—program which helps States and local governments improve air quality in nonattainment areas under the Clean Air Act; the Transportation Enhancement set-aside provisions which support bicycle and pedestrian facilities and other community based projects, as well as the other core TEA–21 programs—Interstate maintenance, National Highway System, Bridge and the Surface Transportation Program. Likewise, TEA–21's basic principles of flexibility, intermodalism, strategic infrastructure investment, and commitment to safety are retained.

I am especially pleased that the Senate rejected an amendment to strike the stormwater runoff mitigation provision that is contained in the measure, which sets aside 2 percent of a State's Surface Transportation Program for stormwater runoff mitigation. According to the Environmental Protection Agency, polluted stormwater from impervious surfaces such as roads is a leading cause of impairment for nearly 40 percent of U.S. waterways not meeting water quality standards. In the Chesapeake Bay region, it is estimated that runoff from highways contributes nearly 7 million pounds of nitrogen, 1 million pounds of phosphorous and 167,000 tons of sediment annually to the bay. In Maryland alone, the Center for Watershed Protection estimates that the 7500 miles of Federal-aid highways generate yearly loads of 1.2 million pounds of nitrogen, 127,000 pounds of phosphorous and 25,000 pounds of sediment into Maryland waterways and eventually into Chesapeake Bay each year. A study by the Chesapeake Bay Commission estimates stormwater retrofit costs at more than $2.5 billion across the watershed. The stormwater provision will provide more than $66 million for the bay States and local governments for stormwater abatement, of which approximately $12.75 million would be available for Maryland.

For our Nation's transit systems, the legislation authorizes $53.8 billion—$12.3 billion more than provided in TEA–21—to modernize and expand our transit facilities. These funds will go a long way to meeting the growing demand for transit in cities, towns, rural areas, and suburban jurisdictions across the country. Maryland's formula share of transit funding will grow by nearly 52 percent over the next 6 years—from $571 million to $870 million. These funds are absolutely critical to Maryland's efforts to maintain and upgrade the Baltimore and Washington Metro systems, the MARC commuter rail system serving Baltimore, Washington, DC, Frederick, and Brunswick, and the Baltimore Light Rail system. Bus systems and paratransit systems for elderly and disabled people throughout Maryland will also receive a big boost in funding. The measure also includes a provision reauthorizing the National Transportation Center—NTC—at Morgan State University. The NTC conducts important research, education and technology transfer activities that support workforce development of minorities and women, and addresses urban transportation problems. In addition, it includes provisions which would address a very important issue for employees of the Food and Drug Administration who will be relocating to the new FDA headquarters at White Oak, MD, enabling the agency to use its own vehicles to offer employees shuttle service to and from the metro system at Silver Spring and potentially other transit facilities. The potential impact of this provision on regional traffic is not insignificant. When construction of the White Oak complex is completed, FDA will house more than 7,000 FDA researchers and administrators at the new facility. By enabling this access from FDA's new campus to a transit station, we can reduce congestion on area roadways, improve our environment and elevate the quality of life for FDA employees. The legislation also includes a requirement for the Federal Transit Administration to report to Congress on ways to promote improved access to and increased usage of tax-free transit benefits at Federal agencies in the National Capital Region. Increasing use of public transit by federal employees has the potential to greatly aid our efforts to combat congestion and pollution in the region.

I am particularly pleased that the legislation includes the Transit in Parks Act, or TRIP, which I introduced. This new Federal transit grant initiative will support the development of alternative transportation services—everything from rail or clean fuel bus projects to pedestrian and bike paths, or park waterway access, within or adjacent to national parks and other public lands. It will give our Federal land management agencies important new tools to improve both preservation and access. Just as we have found in metropolitan areas, transit is essential to moving large numbers of people in our national parks—quickly, efficiently, at low cost, and without adverse impact.

Like any other complex and comprehensive piece of legislation, this bill has its share of imperfections. But if we are to ensure not only the safe and efficient movement of people, goods and services, but also the future competitiveness and productivity of our economy, we must make these investments, and move forward with this legislation. I urge my colleagues to join me in approving this measure.

Mr. CARPER. Mr. President, I would like to thank the Environment and Public Works Committee Chairman INHOFE and Ranking Member JEFFORDS, the Banking Committee Chairman SHELBY and Ranking Member SARBANES, Finance Committee Chairman GRASSLEY and Ranking Member BAUCUS, and Transportation Subcommittee Chairman BOND for all their hard work in developing this bill and bringing it to the floor. We all know how important it is that we complete work on it and get it to the President as soon as possible.

We face many challenges in our transportation system. Traffic congestion continues to worsen. In the Philadelphia area—which includes Wilmington, DE—rush hour motorists spent 38 hours in traffic in 2003. The number of cities experiencing 20 hours of delay or more per year has increased from only 5 in 1982 to 51 in 2003. This kind of congestion costs this country approximately $63 billion a year and wastes nearly 2.5 billion gallons of fuel. We can do better.

This bill would provide Delaware with $793 million over 5 years to address our transportation needs. These needs include the replacement of the Indian River Inlet Bridge Replacement in Sussex County which carries 16,000 to 18,000 vehicles daily, not including the summer beach traffic. It also includes needed improvements to increase capacity at the I-95/SR-1 interchange, the busiest interchange in New Castle County.

Transit would receive around $46.5 billion over 5 years, funding the increasing demand for transportation choices, allowing people to get around without a car. This demonstrates our growing awareness that while roads and bridges and highways are important and we still love our cars in this country, more and more people are using transit.

With the congestion we have on our highways, with our increasing dependence on foreign oil, with our increasing problems with air pollution, it certainly makes sense to provide reliable transit for people to get to work, shop or attend a ball game. In the city of Wilmington, nearly 27 percent of households have no car and 44 percent have only one. This saves families money that can be better invested in home-ownership and their children's education.

In Delaware, we are responding to the demand for more transportation choices by making improvements to allow more SEPTA trains to serve Wilmington and Newark, and we hope to extend rail service to Middletown in the near future. Also, the State is investing in the replacement of our buses to improve transit statewide.

The transit title will also help states fund welfare-to-work transportation programs. In Delaware, our welfare-to-work program provides approximately 3000 welfare recipients with access to jobs by creating alternative transit services in cooperation with other social service providers. This is the only way these participants could access employment and training.

In this important legislation, we are also investing $5.8 billion in safety programs. This includes an incentive program for states to pass primary seatbelt laws like we now have in Delaware. Wearing a seatbelt is the most important step anyone can take to improve their chances of surviving a car crash, and primary enforcement seatbelt laws are the most effective way to increase seatbelt use. Since Delaware's primary seatbelt law became effective in 2003, seatbelt usage has increased from 75 percent in 2003 to 82 percent in 2004.

We are also creating in this bill a program to make it safer for children to walk to school. A recent national survey found that while 70 percent of parents walked or bicycled to school as children, only 18 percent of their children do today. Parents often say that walking to school is no longer possible because there are busy, fast-moving, multi-lane streets between home and school and often no sidewalks at all.

As more and more children are driven to school, we see traffic jams in school parking lots and increasing pollution around schools. Meanwhile, children lose this simple way to get a little exercise at a time when many American children are struggling with being overweight and 15 percent are now considered obese, putting them at risk of a number of chronic diseases. Through the Safe Routes to School program, states will be able to slow cars around schools, add crossing walks, build sidewalks and organize walking school buses where members of the community walk a school bus route to walk kids to school.

Unfortunately, this bill does not completely overcome the tradition of separating the different modes of travel and treating them as if they are separate systems. The users of the transportation system—the American people—don't use the system that way. The design of highways affects people's ability to access transit, walk to the store or go for a jog. The way we design our transportation system affects people's quality of life, the amount of pollution in the air, the amount of oil we need, and the amount of polluted runoff in our water.

In fact, when we develop our transportation network without proper consideration of other neighborhood needs, we find ourselves having to spend more money to retrofit streets so that kids may safely walk to school or to decrease the amount of pollution that runs off roads into our rivers and lakes. And when we keep roads separate from transit and transit separate from intercity rail and rail separate from air travel, we miss the opportunity to make the system work more efficiently.

Sadly, this bill, which is supposed to address the Nation's surface transportation policy, barely even mentions it. But later in the year we will have the opportunity to consider what kind of support the Federal Government should provide freight and passenger rail. This is an important area that we have neglected for too long.

I hope as we consider a national rail policy we look at what has worked for highways, transit and air and use it to develop a robust rail system. I also hope that we do not consider rail in a vacuum but rather look for opportunities to coordinate rail investment with other modes of travel—connecting airports to cities through rail for more seamless travel and connecting ports to rail to highways for more efficient shipment of freight.

Finally, because of the need to schedule a vote at 5:30 last Thursday, I was unable to make a statement in favor of Senator HARKIN's complete streets amendment, an amendment that I cosponsored and strongly supported. So I would like to do so now.

First I would like to thank my colleague, Senator HARKIN, for offering this amendment. I am proud to be a cosponsor. The adoption of the complete streets amendment would be an important step forward in providing safe transportation options for Americans. It would support active and healthy lifestyles and encourage people to get out of their cars. It would also reduce pollution and our reliance on foreign oil.

It simply requires State transportation departments and metropolitan planning organizations to fully integrate the needs and safety of all road users into the design and operation of federal-aid roads and highways. In other words, as we design our roads, we must consider more than just the needs of cars. We must consider bicyclists, pedestrians, and everyone who uses our roads.

There are deadly consequences when this does not occur. Recently, a young woman from Poland who was working for a year in Lewes, DE, was killed while riding her bike. There are hundreds of young people from Europe who come to work near the beaches in Delaware. Many of them do not have or cannot afford a car and get around by bicycle.

This particularly young woman, named Katarzyna Reteruk, was leaving her place of employment—Anne Marie's Seafood and Italian Restaurant on Route 1—and was about to turn onto Route 24, when she was hit by a woman leaving her place of employment. Katarzyna was thrown from her bike, struck the hood and windshield of the car, and died a short while later.

This tragic event took place in a rapidly growing area of the State and on a highway that has had increasing congestion over the years. This is a challenge many areas of the country are facing. But we have to ensure that we learn from this tragedy and others like it. We must make improvements to our roadways for motorists—but we must also address the safety and mobility needs of bicyclists and pedestrians.

We often say that we want to encourage people to get out of their cars and be more active. But when there is no place for people to safely walk or bike, we can't expect them to do so. In a time of increasing obesity, especially in our children, the time has come to ensure that opportunities to walk to school or to a friend's house or just for exercise are available in as many places as possible.

By considering the needs of non-motorists, we will improve mobility for those who cannot afford a car—including young people just starting out—and allow a family of 5 to more easily get by with only 2 cars.

We have already included in this bill a program called Safe Routes to Schools to retrofit our roads to make them safer for children to walk to school. This amendment is an excellent addition to that provision in that it would ensure that new road projects are built with pedestrians in mind, saving us from having to spend money to retrofit roads later.

Under the complete streets amendment, State departments of transportation and metropolitan planning organizations would have to: 1, fully integrate the needs of pedestrians and bike riders in the transportation planning process; 2, promote pedestrian and bicycle safety improvements, and 3, set goals for increasing non-motorized transportation.

Metropolitan planning organizations serving 200,000 people or more, such as the one in Wilmington, DE, would have to designate a bicycle/pedestrian coordinator and account for the safety needs of pedestrians and bicyclists in their long term plans.

Finally, the Secretary of the U.S. Department of Transportation would report to Congress annually on the share of research funds allocated to directly benefit the planning, design, operation and maintenance of the transportation system for non-motorized users.

This amendment would build expertise in how we can make our roads safer for bicyclists and pedestrians, while improving our roads for drivers as well. I hope that we are able to encourage its adoption in conference.

Mr. LEVIN. Mr. President, funding for transportation infrastructure such as roads, bridges and border crossings is a sound investment that increases the mobility of people and goods, enhances economic competitiveness, reduces traffic congestion, and improves air quality. Those improvements in transportation infrastructure are critical to our States, and the Federal highway money that States receive is critical for funding them. In addition, few Federal investments have as large and immediate an impact on job creation and economic growth as transportation infrastructure. The Department of Transportation estimates that every $1 billion in new Federal investment creates more than 47,500 jobs.

Unfortunately, the formula that distributes Federal highway funds to States is antiquated and inequitable. Historically, about 20 States, including Michigan, have been "donor" States, sending more gas tax dollars to the highway trust fund in Washington than are returned in transportation infrastructure spending. The remaining 30 States, known as "donee" States, have received more transportation funding than they paid into the highway trust fund.

This unfair practice began in 1956 when small States and large Western States banded together to develop a formula for distributing Federal highway dollars that advantaged themselves over the remaining States. Once that formula was in place, they have tenaciously defended it.

At the beginning, there was some legitimacy to the concept that large, low-population, and predominately Western States need to get more funds than they contributed to the system. It was the only way that we could build a national interstate highway system. However, there is no justification today for any State getting more than its fair share. With the national interstate system completed, the formulas used to determine how much a State will receive from the highway trust are simply unfair.

Each time the highway bill has been reauthorized, I, along with my colleagues from the other donor States, have fought to correct this inequity in highway funding. Through these battles, some progress has been made. For instance, in 1978, Michigan was getting around 75 cents back on our Federal gas tax dollar. The 1991 bill brought us up to approximately 80 cents per dollar, and the 1998 bill guaranteed a 90.5-cent minimum return for each State.

Last year, we believed we had another significant victory when the Senate passed a bill that would have given donor States 95 cents on the dollar in the final year of the bill. Unfortunately, that bill died in conference due to the President's veto threat and his unwillingness to accept the funding levels in either the House or Senate bill.

This year's legislation, however, would give donor States just 92 percent of their highway trust fund contributions by 2009. Although that is a small step in the right direction of closing the equity gap, we still have a long way to go to achieve fairness for Michigan and other donor States.

This bill is also a setback from last year's bill because it provides fewer overall transportation dollars. Last year, the Senate wisely passed a bill that would have pumped $318 billion into our transportation systems over 6 years. This year, the Senate has reduced that funding down to $295 billion. That is more than the House-passed bill of $284 billion but still less than what is needed.

Michigan's rate of return would go from 90.5 percent to 92 percent immediately and remain at 92 percent for the full 5 years of this bill. Under this bill Michigan would get an annual average funding level of $1.134 billion which represents a 28-percent gain over TEA–21.

We have made progress in this bill compared to current law in the ongoing fight for equity for donor States. I will continue to fight in the future, as I have in the past, looking toward full equity for Michigan. I recognize, however, that we have reduced the inequity a little more in each previous reauthorization bill, and we do so in this bill as well. This bill will bring billions of desperately needed dollars to States across the country. It will improve our Nation's transportation infrastructure and create millions of American jobs, and therefore I will support it, although its steps toward equity and fairness are very tiny indeed.

Mr. FEINGOLD. Mr. President, today the Senate will vote on final passage on the Senate version of H.R. 3, the SAFETEA bill. As we all know, the country has important transportation needs that Congress must address and I commend the managers of the bill for working hard to address highway construction, mass transit, highway safety and other important programs.

This is a very important bill and I am not taking my vote lightly. I have heard from numerous individuals and groups across Wisconsin who are opposed to another temporary extension and eager to have the certainty for planning purposes that comes with a full reauthorization. I understand their concerns and I share their desire that Congress provide necessary transportation funding. That is why I voted in favor of the motion to proceed to the bill and the motion to invoke cloture on the bill—because Congress needs to act on the country's transportation priorities. I wish I could vote for the bill. I would have voted for a bill that was equitable, even if it was not perfect. However, the current bill is far from equitable—in fact, it makes Wisconsin a double loser, both under the funding formula's rate of return and in the level of overall funding relative to the last bill, TEA–21. The bill does not do nearly enough to help meet the transportation needs of my constituents in Wisconsin and, for that reason, I will vote against the bill.

Let me take a little time to explain my concerns with the bill, starting with the funding formula this bill would establish. Under that formula, certain States would continue to receive significantly more money than they pay into the highway trust fund, while other States continue to be denied their fair share. In fact, the number of donor States—or those who receive less than their fair share—would actually increase under this bill compared to the final year of TEA–21. In 2004 there were 27 donor States, while by the end of the new bill in 2009 there would be 31 States that pay more into the highway trust fund than they receive back. Six States—Iowa, Maine, Minnesota, New Hampshire, Oregon and Wisconsin—would become donors, while only Arkansas and Nebraska would leave that category.

I worked hard with the rest of the Wisconsin delegation during the last successful authorization to make sure that our State finally got a fair rate of return. Let me tell my colleagues, that change was long overdue. According to numbers from the Department of Transportation, from 1956 through 2000, Wisconsin got back just 90 cents on every dollar it paid into the trust fund.

In TEA–21, Wisconsin at last received a fair return. Unfortunately, this bill will take us back to where we were for the previous four decades—in the hole. Under the new formula, Wisconsin will once again be a donor State in 2006 and receive the bare minimum rate of return of 92 percent by the final year of the bill. I have spoken to other members of our State's delegation, and I think I can safely say we agree that Wisconsin deserves better.

It is bad enough that the bill would return Wisconsin to donor status. Adding insult to injury is the level of funding that this bill would provide for my State. This bill provides almost flat funding for Wisconsin, which we all know in real terms is a cut. In 2004 under TEA–21, Wisconsin received $635 million, while the average spending under the current bill would only be $642.8 million per year. When these figures are adjusted for inflation, in real terms the bill means a reduction of over $35 million each year for Wisconsin, reducing our ability to meet our transportation needs—all while we become a donor State and again subsidize other States' transportation projects.

I cannot support a bill that treats Wisconsin so poorly with respect to both overall funding and the formula's rate of return. Fortunately, today's vote is not the final word on this bill. I will continue to work hard with the senior Senator from Wisconsin and the rest of the State's delegation to do everything that we can to produce a final transportation bill that is fair for our constituents.

Mr. DOMENICI. Mr. President, I rise today in support of the highway bill. I want to first applaud the bill manager, my good friend Senator INHOFE for all of his hard work on this important legislation. I also want to thank the ranking member of the EPW committee, Senator JEFFORDS, for his work on the bill.

Mr. President, the highway bill is one of the most important pieces of legislation that the Senate undertakes. This bill makes it possible to construct and repair vital transportation arteries that crisscross this great Nation. As our country grows we must be conscious of our transportation needs. Accordingly, this bill increases funding for road construction that will substantially reduce traffic delays that plague the country. Additionally, this bill substantially increases transit funding further reducing congestion and pollution caused by over-populated highways.

My home state of New Mexico is one of the most rural states in the country. However, our population is on the rise and it is vitally important to ensure New Mexicans have the transportation infrastructure they need to be competitive with the rest of the country. This bill will provide roughly $1.7 billion in funding for New Mexico specific projects.

This bill also increases funding for the Indian roads program. I have advocated for increased Indian roads funding for a number of years and while this increase only begins to address the need, it will help immensely in addressing the economic development problems facing Indian Country.

Once again, I would like to thank the chairman and ranking member of the EPW Committee and their staff for doing a great job in getting this bill completed.

Mr. GREGG. Mr. President, the Senate voted last Wednesday morning, May 11, to waive the Budget Act point of order that applied against the Inhofe substitute, Senate Amendment 606. The Budget Committee has since received a cost estimate of that substitute from the Congressional Budget Office. As I pointed out last week, CBO was not able to provide a more timely estimate because the language was not provided to them until it became available on May 10, a day after the Inhofe substitute was put before the Senate. Apparently none of the committees of jurisdiction had asked CBO for an estimate of their combined amendment.

So for the information of my colleagues and the public, I would like to enter a table into the RECORD that summarizes the status of this highway bill with regard to budgetary enforcement—showing why there was a 302(f) point of order that I raised.

I would also like to place into the RECORD a table that addresses not the contract authority, which is the relevant unit of analysis for budgetary enforcement of this bill, but the deficit results of this bill. Last week the bill's proponents repeatedly asserted the bill is "paid for" over the 2005–2009 window of the bill and reduces the deficit by $14 billion over the 2005–2015 period. It is hard to know how anyone could say this because the Budget Committee and the other committees did not receive until yesterday CBO's estimate of highway trust fund outlays resulting from the Inhofe substitute. Combining those outlay estimates with JCT's estimate of the new revenues that would occur if the provisions of the substitute were actually enacted, we know that the substitute would increase the deficit by $0.5 billion over the 2005–2009 period, and would reduce the deficit by only $3.5 billion over the 2005–2015 period, not $14 billion as the proponents have claimed.

But these budgetary effects come after other general-fund transfer provisions—relating, for example, to the 2.5 cents deficit reduction tax on gasoline and 5.2 tax subsidy for ethanol were enacted in the JOBS bill, P.L. 108–35—last fall. By creating higher paper entries into the highway trust fund, those enacted provisions will have the consequence of increasing the spending possible from the highway trust fund by $31 billion over the 2005–2015 period without a corresponding increase in new Federal revenues. This will have the effect of increasing the deficit by $31 billion over that period.

It is true that both the President's budget request for 2006 and the 2006 budget resolution now contemplate spending those shifted resources on transportation programs. But combining those general-fund transfer provisions enacted last fall with possible enactment of the additional general-fund transfers and new revenues from general fund offsets in this Inhofe substitute before the Senate still will have the effect of increasing the deficit by $28 billion over the 2005–2015 period. Compared to the resources available for spending from the highway trust fund 7 months ago, if this Inhofe substitute is enacted, the increase in spending that will be enabled from the highway trust fund will increase the deficit by $28 billion.

Mr. President, I ask unanimous consent that 2 tables displaying the Budget Committee scoring of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF BUDGET AUTHORITY LEVELS IN INHOFE SUBSTITUTE (SA 605) TO COMMITTEE ALLOCATIONS IN 2006 BUDGET RESOLUTION

[$ billions]

	2005	2006	2006–10
Committee			
Environment and Public Works			
Amount over (+)/under (-)	−1.5	−0.3	22.6
Banking			
Amount over (+)/under (-)	0.6	0.6	3.1
Commerce			
Amount over (+)/under (-)	0.0	0.1	0.2

Source: Senate Budget Committee.

DEFICIT EFFECT OF INHOFE SUBSTITUTE (SA 605) TO H.R. 3—TRANSPORTATION REAUTHORIZATION BILL

[$ billions]

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2005–2009	2005–2015
Outlays [a]													
Highway Trust Fund Outlays under Inhofe Substitute (SA 605)	40.5	38.3	43.6	47.0	49.6	50.6	52.6	54.0	55.2	56.2	57.6	178.5	504.5
Highway Trust Fund Outlays under reported version HR 3	40.5	37.7	42.1	44.9	47.3	48.7	51.0	52.4	53.6	54.6	56.0	172.0	488.3
Increase in Outlays Resulting from Inhofe Substitute (SA 605)	0.0	0.6	1.5	2.1	2.3	1.9	1.6	1.6	1.6	1.6	1.6	6.5	16.2
Revenues [b]													
New Highway Trust Fund Revenues Resulting from Inhofe Substitute (SA 605)—Fuel Fraud	....	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.7	1.7
New General Fund Revenues Resulting from Inhofe Substitute (SA 605)													
Economic Substance Doctrine	....	0.6	0.8	1.1	1.3	1.4	1.6	1.9	2.2	2.4	2.6	3.8	16.0
Other Revenue Increases	0.1	0.5	0.5	0.5	0.5	0.4	0.3	0.3	0.3	0.3	0.3	2.0	3.9
Assorted Tax Breaks	0.0	−0.1	−0.1	−0.1	−0.1	−0.2	−0.2	−0.2	−0.2	−0.3	−0.3	−0.5	−1.8
Total Net New Federal Revenues Resulting from Inhofe Substitute (SA 605)	0.1	1.1	1.4	1.7	1.8	1.9	1.9	2.1	2.4	2.6	2.8	6.0	19.8
Amount that Increase in Outlays Exceeds Increase in Revenues Resulting from Inhofe Substitute (SA 605)													
Deficit Increase(+)/Decrease(-)	−0.1	−0.6	0.1	0.5	0.5	0.0	−0.3	−0.5	−0.8	−1.1	−1.2	0.5	−3.5

MEMO: DEFICIT INCREASE RESULTING FROM GENERAL FUND TRANSFERS INTO HIGHWAY TRUST FUND ENACTED IN P.L. 108–357 (does not include enacted fuel fraud provisions)[c]: 31.3.

a. Outlays as estimated by CBO.

b. Revenues as estimated by JCT.

c. CBO estimate based on JCT figures.

Note: Details may not add to totals because of rounding.

Source: Senate Budget Committee, Majority Staff.

Mr. BURNS. Mr. President, I rise today to express my appreciation to the managers of this legislation for including my amendment relating to commercial driver training programs. The amendment authorizes $5 million to the Department of Transportation for a grant program for driver training schools and for financial assistance for entry-level drivers who need the training.

In my State of Montana, and around the country, the trucking industry is a critical component of the economy. In 2000, the trucking industry in Montana provided 1 out of every 13 jobs, paying nearly $900 million in wages each year. Currently, the trucking industry is experiencing a severe shortage of drivers, and my amendment seeks to address that concern by providing funds to get folks behind the wheel.

Industry research indicates the number of new truck drivers in the U.S. needs to increase by 320,000 jobs per year over the next 10 years to fill the projected economic growth for that time period. Additionally, another 219,000 new truck drivers will have to be added each year to replace drivers who will be retiring over this period. Those are important jobs, and we need to get folks trained and ready to fill the growing demand for transportation services.

The average entry-level driving course can run as much as $4,000. Those tuition costs can serve as a barrier to drivers who need the training, and my amendment would allow training programs to use grant money to provide financial assistance to those who need it. When you are out of work and looking for a job, a $4,000 entry fee can seem a little steep—so this amendment will help folks out, and give them the resources they need to get trained and get trucking.

The highway bill before the Senate right now is a jobs bill, plain and simple. By authorizing critical funding for highway programs, we keep people working on our Nation's infrastructure. Construction projects that are currently stalled or deferred, waiting for final passage of a highway bill, can get underway again. My amendment contributes to the job growth encouraged by the highway bill, and I am pleased that it could be included. I commend the managers of this bill for their hard work but know that much more remains to be done in conference. In a State as large as Montana, infrastructure development is essential to our economic growth. This legislation will allocate needed funds to our roads and transit systems. The highway bill is a priority for our country, and I look forward to supporting its final passage here in the Senate.

Mr. GRASSLEY. Mr. President, after great effort by many people, the Senate is ready to move us one step closer to enacting legislation with the potential to impact all Americans in every state. Crumbling infrastructure and poor transportation choices impede our ability to live and do business, and the Senate clearly recognizes that fact. Our transportation bill utilizes more than $295 billion to ensure all Americans have access to efficient and reliable transportation as they go about their professional and personal lives.

Among the many people whose hard work has made the difference, I must first thank the chairmen and ranking members of all the appropriating committees that have been involved in this process.

Credit must also go to all members of my staff, who spent many hours sifting through the nuts and bolts of this bill. Kolan Davis, Mark Prater, Elizabeth Paris, Christy Mistr, Ed McClellan, Dean Zerbe, John O'Neill, Sherry Kuntz, and Nick Wyatt showed great dedication to the tasks before them.

As is usually the case, the cooperation of Senator BAUCUS and his staff was imperative. I particularly want to thank Russ Sullivan, Patrick Heck, Bill Dauster, Kathy Ruffalo-Farnsworth, Matt Jones, Jon Selib, Anita Horn Rizek, Judy Miller, Melissa Mueller, Ryan Abraham, Mary Baker, and Wendy Carey.

I also want to mention George K. Yin, the chief of staff of the Joint Committee on Taxation and his staff, especially the fuel fraud team of Tom Barthold, Deirdre James, Roger Colinvaux, and Allen Littman, as well as the always invaluable assistance of Mark Mathiesen, Jim Fransen and Mark McGunagle of Senate Legislative Counsel.

This bill is infused with the spirit of bipartisan cooperation. Hopefully that spirit will survive the ongoing legislative process.

The PRESIDING OFFICER. Without objection, the committee substitute is agreed to.

There will now be 2 minutes evenly divided before the final vote.

The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, once again I thank Senator INHOFE and all of the Senators and staff that have helped us reach this point.

This bill will make a difference in the life of every American by making it easier and safer to get from place to place.

In passing this bill, the Senate puts this Nation on the path to better roads, on the path to shorter and safer commutes, and on the path to more jobs. And this bill will not add a dime to the deficit.

The additional $11 billion in this bill will allow all States and all communities to benefit under this legislation, and it is crucial that we hold on to that funding as we move forward with this bill.

The President's veto threat against this bill is a mistake, it is misguided and it is flat out wrong.

Let's get this bill done, and get it done right.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I yield to Senator BOND.

Mr. BOND. Mr. President, after working 2½ years on this bill, we have a bill that brings the environmental considerations into the planning early on so they can be dealt with without wasting money, time, and resources.

No State gets as much as they would like, but thanks to the Finance Committee, the donor States get up to 92 cents. All States go up by at least 15 percent. Given the constraints under which we operated. I urge my colleagues to adopt this bill.

I commend the chairman of the Senate Environment and Public Works Committee, JIM INHOFE, along with Senators BAUCUS and JEFFORDS for a job well done. It has been a pleasure working with them.

I also think it is appropriate to recognize the staff members that have put in many countless hours of their time to assist in drafting this legislation.

I want to especially recognize my staff: Ellen Stein, John Stoody and Heideh Shahmoradi.

Staff with Senator INHOFE: Ruth Van Mark, James Q'Keeffe, Andrew Wheeler, Nathan Richmond, Greg Murrill, Alex Herrgott, John Shanahan, Angie Giancarlo, and Rudy Kapichak.

Senator JEFFORDS' staff: JC Sandberg, Allison Taylor, Malia Somerville, JoEllen Darcy, and Chris Miller.

And Kathy Ruffalo with Senator BAUCUS.

This bill faced great challenges within these past 2½ years. The committee worked hard through many meetings, hearings, a failed conference, and all to repeat the process again this year in order to get where we are today.

Interestingly enough, while on the floor both last year and this year, the Senate was sidetracked by ricin last year which had the Senate office buildings shut down for a couple of days. And just last week, a general aviation aircraft entered our air space causing us all to run out of the Senate Chamber. I can honestly say, I will be relieved when this bill is finally passed.

Some of the highlights that I am proud of in this bill include the emphasis on safety. Safety, for the first time in our recent transportation legislation, is given a prominent position and elevated to a core program.

This bill mirrors the administration's proposal by continuing our commitment to our motoring public's safety.

Nearly 43,000 lives are taken on our roads and highways each year. I am glad that the bill reflects the continued commitment to making not only investments in our infrastructure, but also to the general safety and welfare of our constituents.

Another highlight of this bill moves to carefully balance the needs of the donor States while also recognizing the needs of donee States.

My home State of Missouri, like many of the donor States mentioned, has some of the worst roads in the Nation. The condition of many of the roads and bridges in Missouri require immediate repair or reconstruction.

I am pleased to say that we did make progress in achieving a 92 cent rate of return by the end of the authorization. I am hopeful that donor States will see a dollar for dollar rate of return in the future.

Further, I am proud to announce that all States will grow at not less than 15 percent over TEA-21.

The bill also addresses several environmental issues that provide the necessary tools to reduce or eliminate unnecessary delays during the environmental review process.

Transportation projects can be built more quickly by allowing environmental stakeholders to weigh in at the early stages.

Mr. President, we are facing an expiration of May 31. I am confident that if conferees are named shortly, we will only require a short-term extension and can move this bill through conference quickly.

Our States need a multi-year bill. We cannot delay contracts anymore. The economy needs this boost and people need the jobs that this bill will provide.

I look forward to continuing to work with my colleagues as we go to conference.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, the Senator from Missouri is accurate. We have been talking about this for 3 years now. I do not think there is anything new that can be said, but I do renew my congratulations and thanks to all the staff who worked on this bill, certainly Senator JEFFORDS, Senator BAUCUS, and Senator BOND.

I agree it would be nice if we had something with which everyone agreed. It is impossible to do. The only way to do that is in a way that is not desirable. We did a formula, and we took into consideration all the factors—donee, donor States, size of the States, passthrough, fatalities—and I think we have a good bill.

I yield back the remainder of my time. Have the yeas and nays been requested?

The PRESIDING OFFICER. The yeas and nays have not been requested.

Mr. INHOFE. I withhold my request for the yeas and nays.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. There is 13 seconds remaining.

Mr. BAUCUS. Thirteen. I will be brief.

Mr. President, I thank all my colleagues. This was a consequence of both sides working together—big States, small States. It is now time to get to conference. It is also a good example of what we can do if we do not have this filibuster issue hanging over our heads. We can work together. We can get things done. I very much hope Senators recognize this because afterwards, it may not always be this way.

The PRESIDING OFFICER. All time has expired.

Mr. INHOFE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall the bill, as amended, pass? The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 89, nays 11, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—89

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Corzine
Craig
Crapo
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feinstein
Frist
Grassley
Hagel
Harkin
Hatch
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—11

Brownback
Cornyn
DeMint
Feingold
Graham
Gregg
Hutchison
Kohl
Kyl
McCain
Sununu

The bill (H.R. 3), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

Mr. INHOFE. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURBIN. Mr. President, today the Senate has overwhelmingly approved the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005, SAFETEA, H.R. 3. I supported this important legislation, as I did last year when the Senate passed a similar measure, S. 1072. I believe it is a critical step toward funding our Nation's transportation infrastructure and creating much needed jobs.

Now the real work begins. The Senate funding level is $295 billion. The House has passed its version, TEA-LU, at $284 billion over 6 years. And the President unfortunately supports the lower House number. In fact, he has threatened to veto any transportation bill that exceeds the $284 billion funding level.

I was proud to join 83 of my Senate colleagues in standing firm on the Senate level of $295 billion. The White House should take note that at least 84 Senators—a supermajority—support a higher number.

Reauthorization of TEA–21 is one of the most important job and economic stimuli that the 109th Congress can pass. We must work quickly to deliver the best conference report at the highest possible funding level. We should not let further delay stand in the way of real transportation infrastructure improvement, economic development, and job creation.

I would like to take this opportunity to discuss the benefits of this legislation for my home State of Illinois.

H.R. 3, as amended by the Senate, would make the largest investment to date in our Nation's aging infrastructure, $295 billion over the life of the bill. In short, SAFETEA would increase the State of Illinois' total Federal transportation dollars and provide greater flexibility. It would help improve the condition of Illinois' roads and bridges, properly fund mass transit in Chicago and downstate, alleviate traffic congestion, and address highway safety and the environment.

The bill would provide $184.5 billion over the next 5 years for highways and other surface transportation programs. Illinois has the third largest Interstate System in the country; however, its roads and bridges are rated among the worst in the Nation. The State can expect to receive more than $6.1 billion over the next 5 years from the highway formula contained in the Senate bill. That is a 33-percent increase over the last transportation bill, TEA–21.

With these additional funds, the Illinois Department of Transportation will be able to move forward on major reconstruction and rehabilitation projects throughout the State.

Mass transit funding is vitally important to the Chicago metropolitan area as well as to many downstate communities. It helps alleviate traffic congestion, lessen air emissions, and provides access for thousands of Illinoisans every day. H.R. 3, as amended by the Senate, includes $46.53 billion over the next 5 years for mass transit. Illinois would receive about $2.22 billion over the next 5 years under the Senate bill, a $286 million or nearly 15-percent increase from TEA–21.

This legislation also preserves some important environmental and enhancement programs, including the Congestion Mitigation and Air Quality, CMAQ, program. CMAQ's goal is to help States meet their air quality conformity requirements as prescribed by the Clean Air Act. The Senate bill would increase funding for CMAQ from $8 billion to $10.8 billion—an increase of 35 percent. Illinois received more than $460 million in CMAQ funds in TEA–21. The State is expected to receive an increase in CMAQ funds under the Senate bill.

With regard to highway safety, Illinois is 1 of 20 States that has enacted a primary seatbelt law. H.R. 3 would enable the State of Illinois and other States who have passed primary seatbelt laws to obtain Federal funds to implement this program and further improve highway safety.

I know this legislation is not perfect. Illinois' highway formula should be higher. Amtrak reauthorization and rail freight transportation funding are noticeably absent. And important road and transit projects from around my home State have not yet been included. I will work with Senator BARACK OBAMA, a member of the Environment and Public Works Committee, and my Illinois colleagues in the House to ensure that Illinois receives a fair share of transportation funds—highway, transit, and highway safety—in the final conference report.

I know my colleagues on the other side of the Capitol understand the importance of this legislation and I am hopeful that Congress can expeditiously work through the differences between the House and Senate bills in a conference committee. One of every five jobs in Illinois is related to transportation, including construction jobs. Unless Congress moves quickly, we will lose another construction season and the important jobs that are created by public investment in transportation.

Mr. President, with the passage of this legislation, the Senate has upheld its obligation to reauthorize and improve our Nation's important transportation programs. I am pleased to support SAFETEA.

Mrs. BOXER. Mr. President, did my friend wish to make some comments on the floor at this time?

Mr. INHOFE. Mr. President, first of all, no. I am not going to make any additional remarks. I was going to put us into morning business. I understand the Senator had some things she wanted to talk about.

Mrs. BOXER. If you could do that, if you could ask unanimous consent I be recognized first in morning business.

MORNING BUSINESS

Mr. INHOFE. I ask unanimous consent there now be a period for morning business, with Senators permitted to speak for up to 10 minutes on any subject, with Senator BOXER going first.

Mrs. BOXER. Reserving the right to object, and I will not object, but my statement will run 30 minutes. I ask that be amended at this point.

Mr. INHOFE. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

THANKING SENATOR INHOFE

Mrs. BOXER. Mr. President, before my colleague, Senator INHOFE, leaves the floor, I truly wish to say to him, as my chairman, how much I have enjoyed working with him on the Environment and Public Works Committee. What an important bill we have done, all of us together, across party lines. I am very hopeful we can see this bill move forward so the American people can move forward with their lives. They need the highways. They need the transit. They need the jobs this bill promises.

I wished to thank him before he left the floor.

JUDICIAL NOMINATIONS

Mrs. BOXER. Mr. President, I have asked for this time so I could talk about the issue that is really hanging over the head of the Senate, as Senator BAUCUS said when he gave his support to the highway and transit bill: What we can do when we work together. What we can do when we set aside the partisanship. What we can do when we work for our people, rather than make up a phony crisis about the courts and threaten to change more than 200 years of tradition and threaten a nuclear option—which was named by the Republicans, by the way, when they thought about it because it is so vicious, it hurts so hard, it has such fallout that it will change the very nature of the Senate. But more importantly, it will change the way we now can protect the people of the United States of America.

This is a very simple chart. It shows the numbers 208 to 10; 208 represents the number of judges President Bush has been able to get voted into office as a result of actions of this Congress since he got into power. Two hundred eight of his judges have gone through. This Senate has stopped 10. 10 of his nominees. Actually, some of my colleagues remind me now it is really only five because some of them are no longer up for judgeships or we have relented on a couple of them, but I am going to be fair to my colleagues on the other side of the aisle and paint the worst possible picture in terms of the number we have stopped—10.

This is a 95-percent success rate. I ask the people of this country to think about what it would mean in their lives if they got 95 percent of what they wanted. If their child came home on a regular basis with 95 percent from school? That is an A+. If their spouse said, "Honey, I agree with you," 95 percent of the time and you got your way 95 percent of the time, you would be smiling.

When you went to work and you had a pretty tough boss, and your boss called you into the office and he said, "You know, you are a fine worker, Barbara. You are a great worker. As a matter of fact, I have looked over your work, and I have agreed with you 95 percent of the time." I think that is the moment I would ask for a raise.

If you get what you want 95 percent of the time, you should have a broad smile on your face. You should feel good about yourself. You should feel great about yourself.

But you know what, if you wanted 100 percent all the time, if you never wanted to give 1 inch of space, if you demanded that your child get 100 percent every time, you would not be happy. I call it the arrogance of power.

What we are seeing in the United States of America is an arrogance of power. My colleagues—and particularly the White House—are not happy getting 208 of their judges but not getting 10 of their judges; they are not happy with 95 percent results. What do they do? They say: We want to change the rules of the Senate. All right, what are the rules of the Senate? The rules of the Senate say on a nomination as important as a judge, which is very key, following the Constitution, which says a President must take the advice and get the consent of the Senate, there can be extended debate on that judge. To stop that extended debate, it requires not 51 votes; it is 60 votes. That is how we have operated for a very long time.

By the way, it is important to note, it was even harder to get a nomination through. For a while, it was 67 votes. Before that, there was endless debate. You could never stop debate, ever. We have eased that rule.

We believe it is important for a lifetime appointment to the courts—and these are very important positions. They are paid a lot of money. They get a great retirement, not like United Airlines, they will get their retirement. We believe they ought to be terrific—mainstream, at least. And to stop extended debate, they have to pass a little bit of a higher threshold: 60 votes. Some of these nominees are so outside the mainstream they cannot get 60 votes. So the Republicans said: We will just change the rules. They looked in their little rule book, and they found it takes 67 votes to change the rules of the Senate, and they said: My goodness, we do not have that. Maybe we have 51 with the Vice President voting with us—he votes on a tie vote—but we do not have 67 votes. So let's go about it in a way that no one would ever expect. We will raise what we call a point of order, have a ruling of the Chair, and the Chair will rule—and it will be DICK CHENEY—that the Senate can no longer filibuster judges. Then we will have a little disagreement over that. They are getting 51 votes, they think. Maybe not. We do not know.

That is the nuclear option. A lot of my colleagues on the Republican side are nervous about it, and they will wind up, if they get 51 votes, changing the rules of the Senate without the 67 votes.

Imagine what would happen at a baseball game if in the middle of the game someone said there is no such thing as a home run, or it is an out if the ball bounces first and you throw the person out at first base. People would go nuts. You do not change the rules in the middle of the game. That is not the American way. And you do not do it in a backdoor effort. I have voted to change the rules, but I do not try a sneaky way. I said you have to get 67 votes to do it. If you do not get the 67 votes, the rules are the same.

I take my time on this because it is important the American people understand what the Republican leadership is trying to do. They tried to change the rules in the House because they did not want to investigate TOM DELAY, who is the leader over there. They changed the rules. It was so shocking, they backtracked after months of the American people saying: That is not the American way. The people of the United States of America are saying it today. They are saying it by 60 to 70 percent of the vote: Do not change the way the Senate has done its business.

Anyone who saw the movie "Mr. Smith Goes to Washington" knows that Jimmy Smith in that film was able to stand on his feet and be heard for a righteous and just cause. A little bit later, I will show an example of a judge we stopped and why it was important to stop her.

Let the American people and my colleagues understand. Here is what is important. This should not be about political parties, folks. When Franklin Delano Roosevelt was President—as we all know, a Democrat, considered one of the greatest Presidents ever—he made a huge mistake in his Presidency. He wanted to pack the Supreme Court. He did not like their decisions.

At the time, the Democrat party had 74 seats in the Senate. They could have done it in a heartbeat. All they needed was just a few to peel off, they had it. What did they do? Democrats in those days, colleagues, stood up to the most popular President in history. He had gotten more than 60 percent of the vote. They said: Mr. President, we think you are great, but we are not going to pack the courts just because you feel they are not upholding all of your New Deal. It is not fair. We need a check and balance.

I know young people watching or listening to this debate understand what we are talking about. The checks and balances built into our Constitution—the courts check the legislature and the courts check the executive branch. What my colleagues on the other side of the aisle, save a few, want to do is take away that check and balance, have one party rule. And, oh my goodness, they did not get enough of what they want—208 to 10—and they are throwing a fit and trying to change the rules of the Senate. That is wrong and doing it in a way that is absolutely contrary to what we say has to be done to change the rules, which is 67 votes.

Now, the next thing they will say is there have never been any judge filibusters until the Democrats. We have never done that, say the Republicans, we are so good we have never done it.

Let me tell the truth, the facts. Who started the filibuster in recent times? The Republicans. In 1968, Abe Fortas, to be Chief Justice of the Supreme Court—Democrats' choice—he did not get the required two-thirds at that time. They need 67 votes of Members supporting Abe Fortas. Republicans started it.

Then we had a filibuster for a while against William Rehnquist, but it was dropped; Stephen Breyer to be judge on the First Circuit Court of Appeals in 1980; Harvie Wilkinson to be judge on the Fourth Circuit Court of Appeals in 1984; in 1986, Sydney Fitzwater to be a judge; in 1992, Edward Earl Carnes; in 1994, Lee Sarokin; and in 1999, Brian Theodore Stewart. In 2000, two Californians were filibustered by my Republican friends: Richard Paez and Marsha Berzon. When we hear the Republicans say, we have not been, ever, for a filibuster, just say, you are making it up. They are making it up. Here they admit to a filibuster. Here is Bob Smith, Republican Senator, March 7, 2000:

> . . . it is no secret that I have been the person who has filibustered these two nominations, Judge Berzon and Judge Paez.

So when the Republicans say there has never been a Republican filibuster, they are making it up. Of course there has been.

By the way, that was their right.

ORRIN HATCH:

> Indeed, I must confess to being somewhat baffled that, after a filibuster is cut off by cloture, the Senate could still delay a final vote on the nomination.

Senator ORRIN HATCH at that time, I believe, was the chairman of the committee.

Again, Senator Bob Smith:

> So don't tell me we haven't filibustered judges and that we don't have the right to filibuster judges on the floor of the Senate. Of course we do. That is our constitutional role.

Here we have a Republican Senator leading a filibuster against two of President Clinton's nominees and saying the filibuster is the constitutional role, and now we have Republicans saying: We have never, ever been involved in a filibuster.

I will talk about one of the nominees the Democrats have filibustered. I need to explain to my colleagues, and hopefully to others, how out of the mainstream some of these folks are who George Bush has nominated. Remember, we stopped 10. This is one of the 10.

Janice Rogers Brown—way outside of the mainstream to the extreme. This is one of her comments:

> Where government moves in, community retreats, civil society disintegrates, and our ability to control our own destiny atrophies. The result is: Families under siege; war in the streets; unapologetic expropriation of property; the precipitous decline of the rule of law; the rapid rise of corruption; the loss of civility and the triumph of deceit.

This is what she thinks of our great Nation because we have a Government that does build the roads, that does help people out when they are in a bad situation, that may come in and say, yes, it is not a good idea to sell cigarettes to a kid who is 13. This is terrible. This is awful.

The "precipitous decline of the rule of law: the rapid rise of corruption."

> The result is a debased, debauched culture which finds moral depravity . . . A virtue.

Now, I don't know about you, but I think the minimum wage is a part of America. Colleagues could decide they do not want to raise it for a couple of years. Right now, sadly, it hasn't been raised for a very long time, but I think most Americans think we are protected by the minimum wage.

This is what she said about the minimum wage, Janice Rogers Brown. I take a minute to say Janice Rogers Brown has served in the California Supreme Court since 1996. Her life story is amazing. It is remarkable. What I don't like is what she is doing to other people's lives. Her story is amazing, but for whatever reason, she is hurting the people of this country, particularly, right now, in my State. Of course, the President wants to move her over to Washington, DC, court.

She calls Supreme Court decisions upholding protections like the minimum wage and the 40-hour workweek "the triumph of our own socialist revolution." I don't know or understand how anybody could think the 40-hour workweek or the minimum wage is socialism. She obviously does. She obviously would overturn it.

She accuses senior citizens of—and I hope everyone over the age of 55 will listen to what Janice Rogers Browns thinks of people over 55—she accuses senior citizens of "blithely true cannibalizing their grandchildren because they have a right to get as much free stuff" as the political system permits them to extract. Free stuff? Is she talking about Social Security? That is not free. People pay into Social Security, and they deserve to get their monthly check. Free stuff. Senior citizens "blithely cannibalize their grandchildren." I resent those comments as a grandmother. I would walk off a bridge for my grandson—and he knows it. I resent her painting of senior citizens.

That is why we held her up. That is why she is not sitting on the court today. Now, she may get there if my colleagues have their way. Let them explain why she would rule to overturn the minimum wage and the 40-hour workweek and overturn Social Security. It will be on their backs. We have stopped this woman from going further because of her decisions.

She declares:

> Big government is . . . The drug of choice for multinational corporations and single moms, for . . . rugged Midwestern farmers and militants senior citizens.

She is back to that again. What is she afraid of—that some senior citizen will attack her? The crime rate among senior citizens is pretty low. Militant senior citizens? Give me a break. And we get accused of holding up decent people? This goes on.

I will go on with the story of Janice Rogers Brown—way outside the mainstream to the extreme. She argued a law that provided housing assistance to displaced elderly, disabled, and low-income people was unconstitutional. Her dissent said, because the city of San Francisco had a law that helped these disabled, elderly people, she said that "private property . . . is now entirely extinct in San Francisco."

What world does she live in? Has she tried to buy a house in San Francisco? It is the hottest real estate market in the country. But she says private property is entirely extinct. Let her go try to find some private property to buy in San Francisco. This woman is living on another planet, and we were right to stop her from getting on the bench. Whether it takes 60 votes or 51 votes to stop her, we are going to try to stop her.

Let's go on with more of her record. How about this? She said that a manager could use racial slurs against his Latino employees. Now, I say to every human being out there: What do we know about the workplace? We know people should feel OK about themselves in the workplace, that we work better together when we respect each other. Janice Rogers Brown said a manager could use racial slurs against his Latino employees—extreme in the main.

She argued that a message sent by an employee to coworkers criticizing a company's employment practices was not protected by the first amendment. In other words, you can't use your e-mail to write anything about your employer to other employees, although she said the corporations can say whatever they want any time of the day.

You know now why we have stopped Janice Rogers Brown. But we have more reasons, if you are not convinced.

Even when it comes to protecting shareholders, she is not fair. Anyone who owns a share of stock, listen to this one. She argued that a company could not be held liable for stock fraud by its employees who were offered a stock purchase plan since the stock was traded between third parties on the open market. So she comes out against the shareholders and protecting the companies.

Here is the amazing thing. Let me reiterate about Janice Rogers Brown. She serves on the California Supreme Court. There are six Republicans on the court—she is a Republican—and one Democrat. She dissented more than a third of the time. You would think she would have been happy to be with colleagues of her own party. She stood alone 31 times. And when you hear these cases, you will be amazed at where she stood. In other words, she went against five Republicans and one Democrat 31 times, and stood alone.

Let's check those cases out. How about this one: Rape victims; she was the only member of the court to vote to overturn the conviction of a rapist of a 17-year-old girl because she believed the victim gave mixed messages to the rapist. She stood alone on the side of a rapist, alone as a woman on a court that has six Republicans and one Democrat. Here is another case where she voted alone, the only member of the court to oppose an effort to stop the sale of cigarettes to children. It was a case where the supermarkets didn't want to be responsible. If somebody came up, maybe 13, maybe 12, maybe 11, maybe 14, I want a pack of cigarettes, she ruled against an effort to stop the sale of cigarettes to children. What planet is she living on now? If it was in the 1800s and we didn't know about cigarettes and what they do to you is one thing. But now is another thing. She stood alone.

I talked about senior citizens. I told you she is afraid of militant senior citizens. That is what she calls them. I told you that she said they cannibalize their grandchildren. Well, she was the only member of the court to find that a 60-year-old woman who was fired from her hospital job could not sue. This is the amazing thing she said, as she stood alone in this decision. A 60-year-old woman was fired from her hospital job. She said she has no right to sue based on age discrimination. This is her comment:

> [D]iscrimination based on age does not mark its victims with a stigma of inferiority and second class citizenship.

Really? How do you think you would feel if you were fired because you were too old and suddenly that stigma was attached to you and you lost your livelihood because maybe you had to work at age 60, as you waited for your Social Security check, which is a whole other issue. We hope we win that battle, too. But let me tell you, it makes it hard to win the battle of Social Security if you have on the court someone who calls senior citizens militant. It is going to be tough. That is why we have held her up.

By the way, her position in this case is contrary to both State and Federal law. This is one of the people we have stopped.

Just think about what we have been trying to protect the American people from. How about this? This is a woman who not only voted with a rapist against a 17-year-old girl, she was the only member of the court who voted to strike down a State antidiscrimination law that provided a contraceptive drug benefit to women. She was the only one. The State of California had required an equal health benefit to women and said: Your insurance will cover contraception because—guess what they decided. They decided it was better to avoid abortion, to cut down abortion, to make abortion rare. So they said they would give a benefit of contraception. She stood alone and tried to strike that down. Imagine.

She has been bad for workers. She was the only member of the court who voted to bar an employee from suing for sexual harassment because she signed a standard worker's compensation release form. Now, all of you probably know what that means. If you go for a job, you are usually covered by workman's compensation. But this woman had signed a waiver and said: I won't file a worker's comp claim. She didn't file a worker's comp claim, but she did file a sexual harassment claim because she was being sexually harassed. Every member of the court stood with the woman who was sexually harassed but Janice Rogers Brown. Six Republicans, one Democrat, and she stood alone again against a worker who was facing sexual harassment. The whole rest of the court agreed with the worker.

She was the only member of the court to find that a disabled worker who was the victim of employment discrimination did not have the right to raise past instances of discrimination that occurred. In other words, there was a disabled worker who filed a lawsuit, had a big story to tell about the past. She was the only judge to say: I don't agree with the worker; I agree with the company.

Here is another one. Janice Rogers Brown, bad on discrimination, the only member of the court to find that a State fair housing commission could not award certain damages to housing discrimination victims. She stood alone again.

Domestic violence: The Republicans want to put on the court a woman who stood alone 31 times against her fellow Republicans in cases like this—the only member of the court to find that a jury should not hear expert testimony in a domestic violence case about battered women's syndrome. We all know about battered women's syndrome, where a woman is beaten senseless by a boyfriend—in this case, probably a spouse—and later minimizes what he did to her. And the law in our State says it is valid evidence. If she reached out and she did something to prosecute this attacker, an explanation about battered women's syndrome will help her.

She was the only one who stood alone and said: I don't want to hear any expert testimony on this. She stood alone.

I ask unanimous consent for an additional 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Here is one. I want us all to remember the Enron case, a case where counties and cities and individuals were ripped off and went into debt—in our State, billions of dollars—by Enron, Enron who said they would deliver electricity and then made believe there was a shortage and jacked up the price billions of dollars. People went bankrupt and counties went bankrupt and the State went in the hole $9 billion. She was the only member of the court to find that a county could not sue a utility company for illegal price fixing that had substantially increased the county's costs for natural gas.

So here she is again hurting consumers, hurting local government, and standing alone in the process.

Here she is on a right to a fair trial. This is interesting. The courts have ruled over and over that when a criminal defendant comes into court before there is a verdict of guilt, you can't bring that criminal defendant in in shackles and in a prison uniform because you put in the jury's mind that the person is guilty. So you give the chance to the person to come in dressed as a civilian, then you find out the details and you find them guilty or innocent.

In this case, she was the only member of the court to find nothing improper about requiring a criminal defendant to wear a 50,000-volt stun belt while testifying, the only member of the court. That is how outside the mainstream she is.

If we could put back up the 208-to-10 number while I give the rest of my remarks, that would be fine.

What do we have here? We have a circumstance that 10 times out of 218, Democrats believed the President's choices were really harmful to the American people, would really be harmful to them, whether it is their minimum wage, whether it is their 40-hour workweek, whether it is the ability of all of us to protect our kids from cigarettes, whether it is to protect victims of violence, it goes on and on. You have seen just a handful of the cases.

So when somebody says to you: Well, those Democrats, they are blocking everybody—and if you listen to my Republican colleagues, that is what you would think—no, we have blocked 10. We have approved 208. In reality, now the number is 5, but circumstances have changed. I will lean over backwards to be fair and say it is 10. That is 95 percent. In each case of these 10 you will find out why we have done it. It is because these nominees are so outside the mainstream that they will hurt the people we represent.

Why is it important to say that a judge needs to have a 60-vote threshold to end extended debate? It is because it is a lifetime appointment. The President is supposed to work with the Senate before choosing a nominee, which he has not done, not on our side of the aisle. I tried hard with Mr. Gonzales when he was White House counsel. I met with him on numerous occasions, and he said: Senator BOXER, give me some names of Republicans. I gave him so many names of good Republicans for the Ninth Circuit.

I said: Look, these people are mainstream Republicans. They will fly right through here.

No, they couldn't be bothered with that. I know Senator FEINSTEIN has done the same, given them the names of people who would be quite acceptable. Who do they send us? People such as Janice Rogers Brown, people who are so outside the mainstream that we don't deserve to be here if we don't raise the arguments.

Now, what you are also going to hear is the Republicans have called this the nuclear option. They have renamed it the constitutional option. That is humorous—if you want to find humor in any of this. That is like saying that clock over there is a table. I suppose if I told you that often enough, maybe you would believe me that once upon a time that clock was a table. But the clock is a clock and the nuclear option is the nuclear option. It was named by the Republicans. But it is not popular out there because of the connotation, so they are trying to change it.

The "constitutional option" is the reverse of the truth. In the Constitution, it says nothing about guaranteeing a vote. It says the Senate shall write its own rules. Well, the Senate wrote its own rules and the Senate said it takes 67 votes to change our rules. Our colleagues don't have 67 votes to change the rules, so they are trying to do this sneaky parliamentary move to change the rules. What a way to govern because you didn't get 100 percent of what you want; you got 95 percent. I don't feel sorry for any President who gets 95 percent of what he wants.

I am telling you, Democratic or Republican Presidents have to work with the Senate and the House and they have to compromise. So it is very important to note that when you hear the Republicans saying all we want is the constitutional option, you say, where in the Constitution does it give you this right? Nowhere.

Then they will say this: Everybody deserves an up-or-down vote. Everybody. I don't know how many times we have given Janice Rogers Brown a vote. We gave Janice Rogers Brown a vote here once, and Priscilla Owen got a vote four times. Yes, the vote required 60 as the threshold to end extended debate, but they got their vote. Now, when you go back to Bill Clinton, 61 times his nominees got stuck in committee; 61 of Bill Clinton's nominees never got to have a cloture vote. They never got a vote. They were pocket-filibustered in committee. We have never done that. Every single Bush nominee who has come to the floor has had their vote. I know of none who have not had a vote. They just didn't meet the 60-vote threshold.

That is the second thing you are going to hear: All we are asking for is an up-or-down vote. They had that, but they had to meet the 60-vote threshold to end extended debate. Why? Because they are lifetime appointments, we are checking and balancing the power of the executive by saying don't send us people such as Janice Rogers Brown, who is so out of the mainstream. She sees a military uniform on every senior citizen and says senior citizens want to cannibalize their grandchildren. Excuse me? She says there is no private property left in this country. That is outside the mainstream to the extreme.

If we Democrats have the courage of our convictions to say no 10 times, give us a little respect; don't try to change the rules in the middle of the night. Do what the Democrats did in the 1930s. Think how good you would feel if you stood up to the President of your own party and said: Mr. President, we will follow you anywhere; we think you are terrific, and we support you in Iraq and on privatizing Social Security, and we support you in your huge deficits; we support you in these trade agreements, we support you this way and that way; but we don't think packing the courts is a good idea. Therefore, we are going to join with the Democrats and say no to this plan. It is very dangerous.

I want people to understand. The point of my discussion here today is to put a human face on these judges. This isn't about just numbers, although the numbers tell a heck of a story. The Republicans get 208 and not 10 and they are crying and doing this in a sneaky way, without getting 67 votes to do it. That alone is wrong. It is not playing fair, it is not the American way, it is not playing by the rules. The American people want to know it. If you want to fight with us, we will have a debate, but stick with the rules. Get your 67 votes so you can have the arrogance of power. Get your 67 votes so you can tread all over us. But don't do it in this sneak attack, challenging the Parliamentarian, and then having the Senator in the chair say, you know what, it is over; no more filibusters on judges.

If you do that, you are hurting the American people. Some people say it is about the traditions of our country, the right to unlimited faith, freedom of speech, "Mr. Smith Goes to Washington," I will stand on my feet, that is my God-given right for my State to do that, and that is all true. But for me personally, as a Senator from the largest State in the Union, with 36 million people, I want to protect them. I want to protect the 17-year-old who got raped and not have her come before Janice Rogers Brown and have her stand alone and rule against her. I want to protect the worker who wrote a little e-mail to another worker and said I don't think the boss is being so fair, what do you think? They said we had 2 weeks vacation and now they are counting that day off as one of those days and it is not right, and have to be before Janice Rogers Brown who says the corporation can write anything they want, but you are too lowly. I don't want to have the American people subjected to a judge such as Janice Rogers Brown, who said any city that helps a disabled elderly person get housing is wrong and is destroying private property. I don't want to have my kids in a circumstance where they have to see their grandmother called a "cannibal." I don't want to have a judge who overturns Social Security, who overturns the minimum wage, who overturns the 40-hour workweek.

The point is, I want to protect the people I represent. So if I don't stand up strongly against a judge such as her, I don't deserve to be here. The people of my State would be upset with me.

The right I have in this magnificent Senate today is the right of the minority. We have 45 Democrats here and 55 Republicans. I am counting JIM JEFFORDS as a Democrat for the purpose of discussion because he votes with us. So it is 55–45. JIM JEFFORDS is an Independent, but he votes with us. By the way, in the recent polls, the Independent voters are for the filibuster; 54 percent are for the filibuster. I want to protect the people I represent, because Janice Rogers Brown has been nominated for the DC Circuit Court, meaning one step below the U.S. Supreme Court. So she is going from the California Supreme Court, where she has dissented in a third of the cases, in a court that has—and you may be interested in this—six Republicans and one Democrat. Janice Rogers Brown has dissented 31 times. This is how out of the mainstream she is. I think it is important to note.

In the DC Circuit, there is a whole other area of the law that was protested—your right to breathe clean air, your right to drink clean water. This is important for us because environmental laws protect our health, and if we have someone in the court there who doesn't think Government has any right—and she obviously doesn't—to do anything because—what is it she said about Government? If you could put that chart up again. Whenever Government gets involved, this is what she predicts happens. We will show you the quote. Obviously, she doesn't think there is anyplace for Government because she says: "Where government moves in"—I would say in a circumstance such as the Clean Air Act, where we tell folks you have to make sure the air is kept clean—"community retreats, civil society disintegrates, and our ability to control our own destiny atrophies . . . families are under siege."

I don't know what country she is living in. She says: " . . . unapologetic expropriation of property; the precipitous decline of the rule of law; the rapid rise of corruption, the loss of civility and the triumph of deceit."

What an optimist. Why are we promoting someone who has this negative view of America? Doesn't she know this is a government of, by, and for the people? That is what we are about. Do we make mistakes sometimes? Yes. Do we have to make sure we fix our laws so they work better? Yes. But to say whenever Government moves in, community retreats, I wonder what she thought of the highway bill we just passed. She probably thinks it is awful because we take the gas taxes and we build highways, and we build transit systems because we think it is important for economic growth. But she says when Government moves in, community retreats, civil society disintegrates, and the result is families are under siege and there is war in the streets.

So, yes, I am here to say I did stand up against Janice Rogers Brown, and whether she has to meet a 60-vote threshold, which she has been unable to get, or a 51-vote threshold, I will be fighting against this nominee because she is way out of the mainstream. She walked away from judges in her own political party and stood alone 31 times. That is why we have said to the President: Why don't you talk to us about these nominees? We could have told you this one would have trouble. We would have given you the names of some fine conservative Republicans. But not someone who has this wonderful life story, but has a view of America that is amazing.

Here is what she once said in a speech:

> Most of us no longer find slavery abhorrent. We embrace it. We demand more. Big Government is not just the opiate of the masses; it is the opiate.

Her point is we are slaves to our Government. Well, again, I don't know what country she is living in. We are not slaves to our Government. We run the Government. We get to vote the people we want in and we get to vote them out. If we don't like what they do, we will let them know. She is out of step, calling senior citizens militant, saying they are taking all of the goodies and free stuff. She doesn't like the minimum wage, doesn't like the 40-hour workweek, doesn't like senior citizens. She never protected women. She doesn't protect our children. She doesn't protect our consumers. She doesn't protect our workers. Why do we want someone such as that to get a promotion?

Therefore, the Democrats have said to the President, through our voice in the Senate: Send us someone else and we will be delighted to work with you. We have worked with you 208 times, Mr. President, and 10 times we said no.

We said you are out of the mainstream, and the response of a 95-percent success record by the Republicans—and a few are not going along with it, and bless them for that—is: We will take away your right, Democrats, to stand up for the things you think are important. We will take away your rights by changing the rules in the middle of the game, by skirting a 67-vote requirement for changing the rules. We will do it.

There is politics being played. The majority leader talked about this in a speech in a political way, which was wrong. He has not agreed to a compromise. Senator REID has offered several. The fact is, people have to know what is at stake.

I hope everyone within the sound of my voice will know the reason why Democrats have stood so firmly against the nomination of Janice Rogers Brown. It is because we care about the people we represent, and we care about mainstream judges, and we do not want to see such a radical individual get this position and begin to whittle away at the rights our people have won, at the fairness our people have won.

This is very important. This vote is going to change the Senate forever. But more than that, it will impact the lives of the people. Changing the Senate, changing tradition, changing the role of the minority to make a difference, to be heard, freedom of speech—these are all important. But at the end of the day, it is about our kids, our grandkids, our seniors, our families, our workers, the air we breathe and the water we drink, and this is all connected to the judges. This is not disconnected. This is the brilliance of our Founders who said the judicial branch, the judges, shall make sure that everything we do in the legislative branch and in the executive branch is constitutional, is right, is reasoned.

If we have people on the bench who believe that anything we do disintegrates our family; that anything we do, such as the highway bill, for example, turns into an expropriation of property and the rapid rise of corruption and the loss of civility and the triumph of deceit—this belongs somewhere else, not in the courts.

Mr. President, I thank you for your patience. I thank my staff who has done an extraordinary job for me in analyzing these decisions. This is not easy to do because you have to go line by line. I know the Presiding Officer knows these cases can be very long and confusing. My staff are attorneys. They are also very smart attorneys, and they were able to get to the point of these cases and bring home this message to people that when we fight against 10 judges out of 218, it is for a reason. It is not because we want to be difficult. It is because we believe when the Constitution says the Senate has the right to advise and consent on judges, it does not mean when the President feels like it. It does not mean between the hours of 11 and 1 on Wednesday. It means every time he sends a nomination to us, he should have, in fact, sought the advice and consent of the Senate.

We have a big debate coming up tomorrow. I just wanted to give a little reality check so people understand for what we have been fighting.

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MARTINEZ). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I ask consent I be recognized as in morning business and be allowed to speak as long as necessary.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDICIAL FILIBUSTERS

Mr. DURBIN. Mr. President, 51 years ago today the Supreme Court, just across the street from the Senate Chamber, issued one of its most famous rulings in the history of the United States of America. The ruling was Brown v. Board of Education. It may have been one of the most courageous decisions ever issued by the Court. It rejected the cruel legal fiction of separate but equal and said that in the United States of America there would be no second-class citizens.

What an amazing victory for justice. But for some time, in some States, the Brown decision remained a victory on paper only. In much of the United States, in the Deep South, the Brown decision was met with massive resistance. Governors refused to obey the court ruling. Three years after that court decision, 48 years ago today, on May 17, 1957, 36,000 people gathered in Washington, DC, for the first march on Washington.

This is a photo of that march. We all know about the famous 1963 march, but the 1957 gathering was really the forerunner to that 1963 march. In those days, in 1957, it was known as a Prayer Pilgrimage for Freedom in Washington, DC.

Take a look at some of the people who gathered on that day 48 years ago. Dr. Martin Luther King, 29 years of age, was among those who gathered to speak. His leadership had been tested by the crucible of the Montgomery bus boycott. His remarks at the 1957 gathering were not nearly as well known as his immortal "I Have a Dream" speech in 1963, but they are powerful and worth repeating on this the 40th anniversary of the day he first delivered them. Here is how Dr. Martin Luther King opened his remarks on that day. He said:

> Three years ago the Supreme Court of this nation rendered in simple, eloquent, and unequivocal language a decision which will long be stenciled on the mental sheets of succeeding generations. For all men of goodwill, this May 17th decision came as a joyous daybreak to end the long night of human captivity. It came as a great beacon light of hope to millions of disinherited people throughout the world who had dared only to dream of freedom.

Dr. King went on to say:

> Unfortunately, this noble and sublime decision has not gone without opposition. This opposition has often risen to ominous proportions. Many states have risen up in open defiance. The legislative halls of the South ring loud with such words as 'interposition' and 'nullification.'
>
> But even more, all types of conniving methods are still being used to prevent Negroes from becoming registered voters. The denial of this sacred right—

Dr. King said—

> is a tragic betrayal of the highest mandates of our Democratic tradition.

But Dr. King did not stop with this sad commentary on what he saw in America. He delivered his prescription for progress when he said:

> And so our most urgent request to the president of the United States and every member of Congress is . . . Give us the ballot, and we will no longer have to worry the federal government about our basic rights.
>
> Give us the ballot and we will no longer plead to the federal government for passage of an anti-lynching law: we will by the power of our vote write the law on the statute books of the Southland bring an end to the dastardly acts of the hooded perpetrators of violence.
>
> Give us the ballot, and we will transform the salient misdeeds of bloodthirsty mobs into the calculated good deeds of orderly citizens.

What a speech. Not nearly as heralded as his speech a few years later, but certainly what Dr. King said that day still touches the hearts of every American who dreams of the ideals of this great Nation.

Now, 51 years later, it is hard to imagine the way Brown v. Board of Education was received. Most Americans look back with pride to the end of segregation in our public schools. We regard it as a great achievement that 182 years after our Nation was founded, a new generation of Americans had the courage and conscience to confront the bitter legacy of slavery, the challenge that our Founding Fathers could not resolve with all their wisdom. These people had the courage to confront segregation and voting discrimination.

Many Americans didn't support Brown v. Board of Education, not in 1954, not in 1967. That is why 36,000 people gathered on the Mall 38 years ago today. Many southern States flatly refused to obey the Brown decision. The same ruling that Martin Luther King praised as a joyous daybreak, others denounced as judicial activism. Judicial activism—that is what they said about a decision to integrate America's schools. The courts had gone too far. Many argued: Leave it to the States to decide; this is not a decision to be made at the Federal level; certainly it is not a decision to be made in that Court across the street; those judges went too far, they argued in Brown v. Board of Education.

Does this sound familiar? That is exactly what we are hearing today. The words in opposition to Brown v. Board of Education echo through this Senate Chamber and the Halls of Congress even today.

Sadly, we may be on the verge of a constitutional confrontation over the Senate's constitutional advise and consent responsibilities regarding Federal judges. To listen to many on the far right, you would think it was events only in the last few years that have pushed us to the brink, but that is not the case.

Earl Warren of California was Chief Justice of the Supreme Court during the momentous Brown decision. The John Birch Society began putting up "Impeach Earl Warren" billboards in 1961. Later they tried to impeach William O. Douglas, one of the most outspoken and eloquent Justices on the Court. The far right tried to impeach Frank Johnson. Who is Frank Johnson? An interesting story.

Just a few years ago I joined JOHN LEWIS—he is a Congressman from Atlanta, GA, and what he does each year is invite Members of Congress, Democrats and Republicans, to come back down south and visit Montgomery and Birmingham and Selma. JOHN LEWIS is the perfect guide for these visits because JOHN LEWIS was there on that bridge in Selma, marching toward the capitol so that African-American people would have the right to vote. Because this young man had this idealism to participate in that march and the freedom rides, he had his skull cracked at the Selma bridge. It almost killed him.

I asked JOHN LEWIS, tell me about the Federal judge, Frank Johnson, that judge in Alabama.

He said: We wouldn't have had a civil rights movement, we certainly would not have had that parade, demonstration in Selma, without the courage of that man, Frank Johnson. Frank Johnson, a Republican appointee to the Federal bench, stood up and said: Yes, these Americans have the right to march and speak.

It was really unpopular. A lot of people hated Judge Johnson because of it. He was persona non grata in his whole community. His family was harassed. He did courageous things that permitted the Montgomery bus boycott and the freedom marches across Edmund Pettis Bridge. For that, the far right, who accused him of judicial activism, wanted him impeached. They didn't agree with his decision. They said he went too far.

Since 1961, 8 of the 12 Federal impeachments or near impeachments in Washington have involved our judges. The far right has been demanding that the Senate rein in what they call "activist judges" for decades. What is different now is what used to be extreme, discordant voices just heard in muted tones, now own great microphones in this democracy. They have called on their followers in Congress to follow their agenda.

Sadly, they have many allies in high places—allies in the Senate who are willing to break the rules of the Senate to change the rules of the Senate so that the far right can pack the Federal courts with judges more of their liking, judges who are not activist by their definition.

Today their allies in the Senate are willing to use the nuclear option to destroy the filibuster and to really destroy our system of checks and balances.

The obvious question is, in a body of 100 men and women where counting votes is the most important thing: Do they have enough allies? For the sake of our democracy, I pray they do not. We hope there will still be a majority of Senators who love this country, love this Constitution, and love this Senate enough to preserve the Federal courts as a fair and independent branch of Government. This should not be an exercise of power by the extreme part of any political party.

One of the men I respected most in the world, probably the man who is responsible for my standing here today more than any others, was a man named Paul Douglas, who was a Senator from Illinois from 1948 to 1966. I will never forget that day in February of 1966 when he agreed to hire me as a college student to work in his office across the street in what is now the Russell Senate Building. It was one of the most exciting things I had ever done, a student from Georgetown University from East St. Louis, IL, was going to work in the office of a Senator.

I would have done anything they asked me to do, and they asked me to do a lot of things. But the most exciting thing I did was each night Senator Douglas, who had been gravely wounded in World War II as a marine in the South Pacific, insisted on signing all letters. With one arm, he needed help, and that's where I came in. I would sit next to him on a chair next to the conference table with a big stack of letters Senator Douglas was sending back to Illinois, and as he signed them, I would pull each letter away. That was my job as an intern.

It was an exciting job. It sounds boring, I'm sure. But this man who had done so much with his life would sit there as he signed the letters and answer my questions, and I had plenty of them, and talk about his life and the things that he had done.

He talked about the 1948 Democratic Convention, when civil rights really became the focal point of a national debate, when he grabbed the standard of the Illinois delegation at that convention and paraded around the hall leading a demonstration in favor of a mayor from Minneapolis named Hubert Humphrey, who said that we had to come out of the shadow of States rights into the bright sunshine of human rights.

Paul Douglas was as committed to civil rights as any man I ever knew. He helped lead the fight in the Senate in the 1950s and much of the 1960s to pass much of that historic legislation. He ran smack dab into the filibuster, the filibuster that was used by some Senators, primarily from the South, to stop the civil rights legislation. It was almost unbreakable. It took 67 votes in that day to stop it. You remember the filibuster? That is the procedure in the Senate where any Senator can stand at the desk here and speak as long as their voice and bladder will allow, stand up there and argue for all the principles and values they believe in. You saw it, Jimmy Stewart, "Mr. Smith Goes to Washington." It is still in the Senate books. It is still the rule. It has been here for over 200 years.

Some people say that is crazy. In this age of technology, why would we want this body to be dragged down by one Senator who wants to talk?

But that is what the Senate is all about. That is why we are different than the House of Representatives. I served over there with pride for 14 years. I love the House of Representatives. But they are a different institution, under our Constitution. If you have a large State with many people, you will have more Congressmen. We have quite a few people in Illinois, 12.5 million; 19 Congressmen. Think of all the Congressmen from California. But then come across the Rotunda, how many Senators from California? Two. How many from South Dakota? Two. How many from Illinois? Two. How many from Rhode Island? Two. Because the Founders of our Nation said we will have one branch of the legislature which represents the population of America, but the Senate is different.

The Senate will give every State a chance. The Senate will allow the smallest States the same number of votes as the largest States, and within the Senate we will recognize and respect the right of any Senator from any State, large or small, to engage in debate. We will protect that Senator's right, even if many people think that is not a wise position the Senator is taking, because we want to protect the rights of the minority. That is why the Senate is different.

So Paul Douglas, when he argued the civil rights bill, ran smack dab into the filibuster. One would think, as much as he hated segregation and as much as he hated Jim Crow laws, that Senator Douglas and many other progressives, Democrats and Republicans, would have tried to eliminate the filibuster which held up the civil rights bill. But they did not. Why? Because that procedure is critical to what this institution is all about. Doing away with the filibuster does away with the protection of minority rights. It changes the dynamic.

What happens when we have a filibuster? In order to stop the filibuster, an extraordinary majority of the Senate must come forward. Now it is 60 votes. So if a Senator stands and says, this is unfair and unjust and I am going to speak at length to tell you why, what does it mean? Not only that he is a person of conviction, but it means to resolve that difference, to try to move on from the filibuster, people of good will have to meet and talk and come to an agreement. The filibuster forces compromise, the filibuster forces bipartisanship, which the Senate is all about.

That is what has happened over the years. Those who were engaged in the civil rights debates played by the rules and sometimes lost by those same rules, but they won in time. Four months after the prayer pilgrimage that I mentioned in 1957, 4 months after 36,000 people gathered at the Lincoln Memorial to protest what they considered the slow progress in America to deal with segregation, 4 years after that day, Congress passed the 1957 Civil Rights Act, the first Federal Civil Rights Act since the days after the Civil War. After that came a 1960 voting rights bill, the landmark Civil Rights Act of 1964, the Voting Rights Act of 1965.

Those advances were not won by impatient Senators breaking the rules. They were won by courageous Americans who persevered, who marched on Washington, who marched on Selma, AL, who dared to register and vote when that basic act of citizenry could cost you your life.

Near the end of his speech 48 years ago today, Martin Luther King told the thousands of people gathered at the prayer pilgrimage at the Lincoln Memorial:

> We must work passionately and unrelentingly for the goal of freedom but we must be sure that our hands are clean in the struggle.

What Dr. Martin Luther King was saying in the dark hours of Brown v. Board of Education, when it appeared there was little chance that the Congress would respond, "your hands must be clean in the struggle."

That, my friends, is the debate we will face when it comes to changing the Senate rules. It isn't just a matter of achieving our goals; it is how we achieve our goals. The ends do not justify the means. Think of it: Dr. King, at the age of 29, having lived through the rank discrimination that was prevalent in many parts of America, still reminded those who were listening, play by the rules, keep your hands clean in the struggle. What he was telling us was that no matter how passionately we believe something, we are not entitled to rig the rules to achieve the outcome we want. That is not how it works in society. It is not how it works in families. It certainly is not how it works when you follow the rule of law.

There always will be some who reject court decisions they do not agree with as "judicial activism." There will always be some who want to restrict the independence of judges and put their own stamp on the judiciary. There will always be impatient people who want to rig and change the rules or short circuit the rules of democracy. As Senators, we have taken an oath to defend our Constitution. It is our sacred responsibility to tell them no.

This is not the first time in our Nation's history that a President of the United States wants more power. It is a natural thing in government, and the Founding Fathers who wrote this Constitution understood it. They knew that if there was no check on the judiciary, judges would be too powerful. They knew if there was no check on the Congress, the Congress would take too much power. And they certainly knew that an Executive like a President would always want to increase his power over the people. That is what led them so many times to create the checks and balances which have resulted in what we enjoy—the longest lived democracy in the history of the world.

President Thomas Jefferson, 16 years after the Constitution was written creating an independent judiciary, Thomas Jefferson, the man who wrote the Bill of Rights, was reelected as President of the United States in 1805, said to the Senate, which met on the first floor of this building not far from where we gather, said to the Senate: You are a majority of my party. You know that Supreme Court—which is in the same building—is a court which has ruled against us and sees the world quite differently. Thomas Jefferson said to the Senate: Join me in impeaching Samuel Chase. Take this Justice off the Supreme Court and let all of these judges know if they do not see the world in the terms that we believe it should be in, they will be removed from office.

Understandably, Jefferson was frustrated by the judges who were not listening to him and following his beliefs. So he came to his party in the Senate and said: Join me. And they said: No. Mr. JEFFERSON. We are loyal to you and your party, but we are more loyal to the Constitution, and the Constitution insists the judiciary must be fair and independent and balanced. And they said no.

In more recent times, many can recall that Franklin Delano Roosevelt, one of our greatest Presidents, reelected to a second term, frustrated by the Supreme Court across the street which had killed his New Deal legislation, said: It is time to do something about the old men on the Court. He came to this Chamber, this Senate, and said to the Democrats of his own party: Help me change the judiciary. We need to put more Justices on the Supreme Court to overcome those old men. The Democrats and Republicans in the Senate said: No, Mr. President. We respect you. We support your goals and your programs. But the Constitution is more important than increasing your power as a President over the judiciary.

And here we are today in the year 2005, coincidentally at the beginning of President George W. Bush's second term. And what do we hear from this President? He comes to this Chamber, to the Senate, and says to Democrats and Republicans alike: I want more power over the judiciary. I want to do something about those activist judges. And I resent the fact the Senate has not approved every judicial nominee which I have sent for approval.

Which takes me to my last chart. For those following debate, for those who want to know what the score is, it is 208 to 5 or maybe 208 to 10, depending on your count. But more than 95 percent of the nominees sent by President Bush to the Senate Chamber for approval have been approved. Mr. President, 208 to 5, and we are facing a constitutional crisis and confrontation because this President cannot get 5 judicial candidates he insists on?

One wonders if this President, coming to this Senate, would hear the echos of what Thomas Jefferson heard or Franklin Roosevelt heard where his own political party would stand up and say: Mr. President, we respect you, but we respect the Constitution more. We respect the Senate more. Sadly, few of those voices have been raised.

Within a matter of hours or days, we will face this historic constitutional crisis. I believe it comes down to some very fundamental principles. Neither this President nor any President should be allowed to change the rules in the middle of the game, to take away the right of extended debate on judicial nominees. Neither this President nor any President should be allowed to change the checks and balances which have given us our lifeblood as a nation for over 200 years. Neither this President nor any President should make a lifetime appointment of someone to a Federal court who is not prepared to take on that awesome task and to dispatch it with the kind of integrity and skill and commitment to the values of America we must insist on.

So in a short period of time, there will be a test in this Senate the likes of which it has never seen. We almost have to go back to the Civil War to recall a debate of this proportion. I sincerely hope my colleagues will rise to this challenge. I sincerely hope they will understand there is more at stake than whether a President has a good press release one day, whether some supporters cheer them on for standing up for 5 or 10 nominees, who understand that what we are debating is, sadly, going to be viewed for generations as a test of whether we are truly committed to preserving and defending the Constitution of the United States.

I still have great hope. I still have great hope that enough Republican Senators will stand up to this President as Thomas Jefferson's party stood up to him, as Franklin Roosevelt's party stood up to him and said: Mr. President, we respect you, we believe in your program, we will support you, but first we have to be guided by our Constitution, and we cannot increase your power in this Government at the expense of the balance that was created by the wisdom of our Founding Fathers.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak such time as I may require.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, I further ask that following my remarks, the Senator from Louisiana be recognized for her remarks.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, it is not uncommon for Senators to stand in the Senate and tell their colleagues and the American people that an upcoming vote is one of the most important the Senate will ever take. We are the masters of hyperbole in this body, forever standing on the precipices and poised on the brink of momentous decisions.

But today, I think most will agree with me: We truly are at such a moment. The Senate is on the verge of making a decision with potentially enormous consequences for this institution and for the country and the people we serve. At stake is not just the fate of a handful of judicial nominations or of a future Supreme Court nomination, as important as they may be. No, the decisions made this week will resonate far beyond this Chamber and far beyond the current controversy.

I will speak today about how we arrived at this moment of great peril and how we might step back from the brink. I will speak about the consequences of the question that will apparently be put before the Senate prior to our next recess. I will speak today about principle and about power.

While they do not always attract a lot of public attention, traditional nominations are very important. We all know that. The judicial branch is a coequal branch of Government. The interpretation and enforcement of the laws we pass in Congress depend greatly on the men and women who serve as judges, and, of course, Federal judges serve lifetime appointments. Decisions made by the President and the Senate on judicial nominations have a long-term and long-lasting impact on the Nation.

Disputes over how the Senate should exercise its constitutional power of advice and consent on such nominations are as old as the Republic itself. Nominations have led to some of the most historic and divisive debates in this body, dating back to efforts to pack the courts with Federalist judges in the waning days of John Adams' Presidency. More recently, we had debates about Franklin Delano Roosevelt's court-packing plan in the late 1930s, the Abe Fortas nomination in the late 1960s, and Robert Bork in the late 1980s, to give a few examples.

Debate, even bitter partisan debate, over judicial nominations is nothing new. What is new is that the Senate is now poised to break with its rules and traditions. For the first time, the desire of one side to win nomination battles has become so intense and so unyielding that it threatens the very rules by which this Senate has operated for centuries.

In all of the previous controversies I have mentioned, which I think most serious students of Congress and the courts would agree were more significant than the current debate over a handful of circuit court judges, the rules of the Senate have allowed the battles to be fought fairly.

Only today, apparently, must those rules give way so one side can have its way. The majority leader and those who support his extraordinary plan to change the Senate rules by fiat seek to cloak their grab for power in the source of our Nation's loftiest principles, and that source is the Constitution.

This is not just a silly public relations effort to change the name of their plan from the nuclear option—the term coined by the majority leader's predecessor—because that term obviously fares rather poorly in the public opinion polls. It is actually a cynical effort to distract the public from the extraconstitutional nature of the plan by invoking the Constitution itself.

In the last Congress, as in this one, I served as the ranking member of the Senate Subcommittee on the Constitution. The subcommittee held a hearing in May 2003 with the grandiose title: "Judicial Nominations, Filibusters, and the Constitution, When a Majority is Denied Its Right to Consent." The hearing was certainly interesting and provocative. I was there the whole time. No one made a convincing case that there is any such right in the Constitution anywhere.

Article II, section 2 spells out the Senate's role in nominations. It states, in relevant part, that the President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the supreme Court, and all other Officers of the United States." That is it. That is all it says. Some have managed to find in those few words a requirement that the Senate give all judicial nominees up-or-down votes. Even if someone isn't a strict constructionist, I can't for the life of me understand where they get that from. Where is it? Where is it in the language? Where is it in the Constitution?

It may be the policy they prefer, but it is not a constitutional argument. It is not a constitutional requirement. In fact, the only language in the Constitution that directly addresses the issue we are faced with today is the following from Article I, clause 5:

> Each House may determine the Rules of its Proceedings . . .

The Senate has determined its rules, and its rules also provide the means for changing the rules, of course. The Senate is now being asked to change the rules by breaking the rules. There is no principle involved here. There is just power.

It is a shame that those who support the President's nominees have inflated what is essentially a political dispute to a constitutional debate. For those of us who take the Constitution seriously, it is jarring to hear colleagues suggesting that one is violating one's oath of office by voting not to end debate on a nomination.

As my colleagues know, I spent 7 years in this body fighting to pass a campaign finance reform bill. We had a majority here on that bill after a couple of years. That wasn't the issue. For years that effort had the support of a bipartisan majority of Senators, but it was stymied by filibusters. Senators who supported reform had many spirited, sometimes even bitter, debates with Senators who opposed our bill. But never did we contend our opponents on campaign finance reform were violating their oath of office by using every tool available to oppose a bill with which they strongly disagreed.

The Constitution does not prohibit opponents of a judicial nominee—or any nominee, for that matter—from using a filibuster to block a final vote on the nominee. The majority does not have a constitutional right to confirm a nominee, and the nominee has no constitutional right to a vote. As the senior Senator from West Virginia said the other day: The Senate has often denied consent to a nominee in the past by simply refusing to schedule a final vote.

I have not always supported those actions, but I have not pretended they are unconstitutional.

If the arguments being advanced today by the Republican majority are correct, then the Republicans acted unconstitutionally in 1995 when they defeated the nomination of Henry Foster to be Surgeon General by using a filibuster. They violated the Constitution when they required cloture votes before ultimately confirming Stephen Breyer, Rosemary Burkett, H. Lee Sarokin, Richard Paez, and Marsha Berzon to circuit court judgeships, David Sacher to the Surgeon General's office, and Ricki Tigert to the FDIC, Walter Dellinger to the DOJ's Office of Legal Counsel, and the current Governor of Arizona, Janet Napolitano, to be U.S. Attorney. If the arguments being advanced today are correct, they violated their oaths of office when they forced the ambassadorial nomination of Sam Brown to be withdrawn because they refused to end debate on his nomination.

These are just the cases where a cloture vote was required to get a nomination through. I won't even start on the list of nominees who never even got a hearing or a vote in the Judiciary Committee or any kind of debate on the floor if they cleared committee. But there are dozens of them. Wasn't the majority denied its right to consent just as much in those cases? Is there any meaningful constitutional difference between a filibuster on the one hand and on the other hand a hold on the Senate floor or a wink and a nod between a committee chairman and a Member who just doesn't like a nominee? One could certainly argue the denial of consent by failing to schedule a hearing or a vote in committee is on even less firm constitutional ground than a filibuster because it allows just one Senator, the chairman of Judiciary Committee, to make the decision that the Senate's consent on a nominee will be withheld, whereas if all the Senators vote, a filibuster can be sustained only with 41 or more votes.

But there is no real argument that filibusters of judicial nominations are unconstitutional, just as blocking nominations in committee is not unconstitutional. There is no principle here that justifies eliminating the filibuster for judicial nominees who have lifetime appointments but leaves it intact for nominees to the executive branch who can only serve until the term of the appointing President ends at the latest.

There is no principle that can distinguish judicial nominations from legislation, which may also be passed by a majority, but can be amended or revoked by a majority in the same or later Congress as well. Again, the effort we are facing here is not based on principle, it is based on power. The lack of a constitutional basis for it is made even more clear by the specific plan that the majority leader spelled out in his press release last week.

He intends, according to that release, to "seek a ruling from the Presiding Officer regarding the appropriate length of time for debate on such nominees." Seeking a ruling on how long we should debate? Surely the Presiding Officer cannot make that ruling on constitutional grounds, the idea of a constitutional time limit. What is the constitutional basis for ruling that the Senate can debate a nomination only for a particular length of time? Is the Presiding Officer going to opine that it is constitutional to debate a nomination for 100 hours, but unconstitutional for us to have 101 hours of debate? That would be absurd.

No, it appears that instead of following the existing precedents of the Senate, which state there is no dilatory rule except after cloture has been invoked, the Presiding Officer will just announce a new rule and the Senate will then debate and vote on an appeal of that ruling. If this happens, the rules of the Senate will be changed by fiat, by breaking the rules—not principle, power, the power of majority rule.

The Constitution did not set up the Senate to be a majoritarian body. That is why renaming the nuclear option as the constitutional option is so wrong. The Constitution allows citizens from smaller States who could be easily outvoted in a majoritarian legislature such as the House to have the same power in the Senate as citizens of larger States. This is not a minor provision, as the Presiding Officer knows. The Founders clearly didn't think so because—this is amazing—they made it the only provision in the Constitution that cannot be amended. No State can give up its equal representation in the Senate without its consent. You can't do a constitutional amendment to change that. They designed the Senate to be an important bulwark against majoritarian pressure.

The Senate rules from the very beginning, of course, have granted protections for the minority. There was no cloture rule at all until this century. The rule didn't cover nominations until 1949. While the cloture rule has changed over time—sometimes offering more protection to the minority and sometimes less—those rule changes have always been accomplished in accordance with the Senate rules until now, until the demand for power trumped principle.

The Framers intended the Senate to act as a check on the whims of the majority, not to facilitate them. I will not pretend the Senate has always been on the right side of history. At times, most notably during the great civil rights debates of the 1950s and 1960s, Senators used the powers given them to block vital, majority-supported legislation. But notwithstanding those dark moments, the Senate has also served throughout the history of this Republic as a place where individuals with different beliefs and goals were forced to come together to work for the common good.

By empowering the minority, the Framers created a body that has served this country well. To continue down the road we are on now will be to irretrievably change the very character of the Senate and irretrievably weaken the institution. Without the unique feature of extended debate, the Senate will be much less able to stand up to the President or to cool the passions of the explicitly majoritarian House.

I know my colleagues see themselves as guardians of this remarkable institution, as I do. When we leave the Senate—and some day, somehow or another, all of us will—it is our responsibility to ensure we do not leave this institution weakened. As Senators, we tend to see ourselves as pretty important, but none of us—and certainly no judicial nomination—is more important than the institution of the U.S. Senate itself.

Why is this extreme course necessary? Why are so many of our colleagues prepared to sacrifice the Senate's character and its special power? Why are they bent on giving up their own power as Senators?

Let me take a minute to respond to some of the charges made about the behavior of the minority that supposedly has given the majority no choice but to use this nuclear option. First, we are told using the filibuster to block a judicial nomination is unprecedented. As anyone who has studied the record knows, that is nonsense.

Most famously, the Fortas nomination was filibustered. The Senator who led that filibuster, Robert Griffin of Michigan, has tried to claim in recent days that it really wasn't a filibuster at all. But he said at the time:

> It is important to realize that it has not been unusual for the Senate to indicate its lack of approval for a nomination by just making sure that it never came to a vote on the merits. As I said, 21 nominations to the court have failed to win Senate approval. But only nine of that number were rejected on a direct, up-and-down vote.

We are told, however, that the Fortas nomination was different because there were Southern Democrats opposed to the nomination as well as Republicans. But what difference does that make? This debate is not about the rights of the minority party; it is about the rights of a minority of Senators. Does anyone really think that if one or a few of our Republican colleagues joined a filibuster against one of the handful of circuit court nominees that have been blocked, it would make a difference to the Senators who support the nominations and want to change the rules?

Fortas, of course, was a Supreme Court nominee, while the handful of nominees that have been blocked so far have been nominated to circuit courts. But there have been filibusters of circuit court nominees in the past as well, indeed in the very recent past. In 2000, cloture votes were held on two Clinton nominees to the Ninth Circuit, Marsha Berzo, and Richard Paez. The current majority leader himself voted against cloture on Judge Paez's nomination on March 8, 2000.

Apparently, these filibusters were different because they were unsuccessful. The handful of Democratic filibusters of President Bush's nominees are unprecedented, we are told, because the Republican filibusters of Richard Paez and Marsha Berzon didn't prevent them from being confirmed. Does anyone really think that if the current majority leader and the others who voted—against ending debate on the Paez nomination had convinced their colleagues to join them they would have then changed their votes the next time around to make sure that the principle of an up or down vote was maintained?

This is what now passes for debate and argument on the issue of so-called "obstruction" of President Bush's nominees. "The filibusters are unprecedented," they say. Never mind that Republicans, including the majority leader, used the same tactic against nominees they opposed. "Democratic obstruction of the President's nominations is unprecedented," we hear. Never mind that the Senate approved 204 out of 214 nominations that came to the floor in President Bush's first term, but in the last 4 years of President Clinton's presidency, only 175 nominees were confirmed and 55 were blocked, including 20 circuit court nominees. Many of those nominees never even got a hearing in the Senate Judiciary Committee on which I sit.

Well, that was different, we are told, because President Bush's nominees have a majority of support in the Senate. But that distinction is nonsense as well. President Clinton's nominees had majority support, obviously. That is why they were held up in committee and never reached the floor, even for a cloture vote. Judge Paez, for example, was first nominated in January 1996. We finally confirmed him in March 2000. The vote on cloture was 85 to 14. The vote to confirm him was 59 to 39.

But one of the most foolish arguments we hear in support of the nuclear option is that there is a crisis in the courts because of the number of vacancies caused by Democratic filibusters. As of the end of President Bush's first term, during which the Senate confirmed 204 judges, there were only 27 vacancies on the Federal bench. The courts had their lowest vacancy rate since 1990. Five months into his second term, there are now 45 vacancies, but the President has made nominations for only 15 of them, one-third. For 30 vacancies there are no nominees. The vacancy rate is still very low historically. If there is a crisis now, which there isn't, it surely is not the Senate's fault.

There is no vacancy crisis. But we are about to be thrown into a constitutional crisis by a majority that is drunk with power. While there is plenty of blame to go around, the President precipitated this crisis. When he took office in 2001, he had an opportunity to end the bitterness that plagued judicial nominations over the previous decade by recognizing that an injustice had been done to a large number of Clinton nominees. Not an unconstitutional injustice, but an injustice nonetheless There were enough vacancies on the Federal appellate courts for him to name most of the judges but give a few seats to Clinton nominees who had been blocked, or to other nominees suggested by Democrats in those States. In his first group of nominations, which were almost all to the appellate courts, he made a nod in that direction by nominating Roger Gregory to the Fourth Circuit. President Clinton's nomination of Gregory, the first African-American to sit on that circuit, had been blocked in the Judiciary Committee. He was eventually confirmed by a 99-1 vote.

The hopes that the President would make good on his campaign promise to change the tone in Washington were short lived. He ignored pleas for consultation and conciliation on judicial nominations. Time after time, he has filled appellate court seats that had been kept vacant during the Clinton years with extremely conservative and often controversial nominees. Yet Democrats certainly didn't block all or even nearly a majority of those choices. Much to the displeasure of many of the groups on the left that work on nominations, Jeffrey Sutton and Deborah Cook now sit on the Sixth Circuit, Jay Bybee, who we later learned was the author of the infamous DOJ torture memo, is on the Ninth Circuit. Michael McConnell and Timothy Tymkovich are on the Tenth Circuit. In all, 35 of President Bush's nominations to the circuit courts have been confirmed, even though 9 of those seats became vacant during the Clinton years and were kept vacant by denying Clinton nominees an up or down vote.

Only seven judges were blocked because of their views or records. Three others were held up because of the particularly egregious tactics used to block Michigan nominees to the Sixth Circuit during the Clinton administration. The President has succeeded in reshaping the Federal courts to his liking. He may soon have one or even two Supreme Court nominations to make. He ought to be proud of and pleased with his accomplishments, but winning almost all the time apparently isn't enough. And in order to win every time, he is willing to push the Senate to upend over 200 years of tradition and precedent and perhaps permanently damage the comity on which this institution functions.

In the end, the seemingly insurmountable differences we have on judicial nominees can only be resolved the way that seemingly insurmountable differences are resolved on almost all other hotly contested issues in the Senate—through negotiation and compromise. Of course, for there to be compromise, both sides have to be willing to engage in that effort. The offers made by the majority leader thus far do not retain the unique and crucial feature of the current Senate rules—the right to unlimited debate. They amount to a slow motion nuclear option.

It may be that a confrontation cannot be avoided. The groups that support the President's nominees are clamoring for the nuclear trigger to be pulled. The only hope for the Senate is the Senate itself. In the end, this decision will be made by the 100 men and women given the honor and responsibility of serving in this body at this point in our Nation's history. The stakes could hardly be higher, or the consequences to this body more significant. I can only hope that my colleagues vote to let the Senate continue to be the Senate.

The checks and balances that the Framers created are at great risk today. The American people will suffer a great loss if we step over this precipice. My fervent plea and hope is that the Senate will choose principle over power.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Louisiana is recognized.

Ms. LANDRIEU. Thank you, Mr. President. I understand we are in morning business. I ask unanimous consent that I may extend my remarks to consume about 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY POLICY

Ms. LANDRIEU. Mr. President, this is shaping up to be an auspicious time for an Energy Bill, as we begin a year long celebration of Benjamin Franklin's 300th birthday. Benjamin Franklin was the embodiment of a "renaissance man." He was a small business owner, a diplomat, an accomplished author, a scientist, and one of our Nation's greatest Founding Fathers. It is his role as a scientist that I want to focus on today and suggest that the best birthday present we could give him would be to honor his work and pass a balanced, forward-looking and scientifically-based Energy bill this year.

Americans learn from childhood the story of Franklin and his breakthrough experiment with a kite and lightening. In today's world, it is hard to imagine that a politician as accomplished as Benjamin Franklin would also make such a profound contribution to science. But, he did. Franklin's contribution to science was profound because his experiment with a kite and lightning proved that electricity was a naturally occurring phenomenon.

Before that, superstition governed man's interaction with electricity. It used to be that people believed the devil hurled electric bolts from the sky. So when a lightening storm was brewing, churches sent people to ring the bells to ward them off. Tragically, this same superstition seems to often guide our policies today.

Franklin's pioneering work with electricity is so instructive because it reminds us that we need to put reason and science before superstition and myth. Electricity was once a dangerous force in the world that, thanks to Franklin and Edison, we have now harnessed to provide power and light, life and hope, and the greatest prosperity the world has ever known. This remains our challenge today. If we want to continue to generate power for future generations, we must harness powerful forces—solar rays, geothermal steam, nuclear fusion, wave energy and new generations of fossil fuel technology.

To do so, we must abandon superstition, misinformation and fear.

The area of sharpest interest to the People of Louisiana in this bill, is also surely one of the areas most in need of reason over superstition—oil and gas production, both on shore and on the Outer Continental Shelf. As we are all aware, the United States has an abundant demand for fossil fuels, but also a great need to use them wisely.

We comprise about 5 percent of the world's population, but we consume more than 25 percent of the world's oil production—roughly 20 million barrels per day. Some projections have the country's oil consumption hitting 29 million barrels a day by 2025—nearly a 30 percent increase. With the price of oil hovering around $50 a barrel, this is a chilling proposition.

And for our own purposes today, it should also be a motivating proposition.

The global picture is even more difficult. China, with its rapidly growing economy, 1.3 billion people, and millions of new cars, has just passed Japan to become the second largest consumer of oil after the U.S. In 2003, China consumed more than 5 million barrels per day, of which more than 35 percent was imported. By 2030 it is estimated that China will need 12 million barrels per day. India, with its 1 billion people and surging economy, also has a growing need for a reliable energy supply.

Despite this impending crisis, is the United States trying to secure its future by maximizing its own domestic production of natural sources of renewable energy? Absolutely not. Instead, like medieval villagers, we are running up to the bell towers when lightening is striking.

We have young American soldiers securing Iraq. I support democracy for Iraq; I support democracy for all people of the world. But what separates Iraq from brutal dictatorships in other places? The answer is obvious—the second largest oil reserve in the world.

So young American men and women are sacrificing their lives every day to cover for our superstitions and political gridlock in Washington.

We have lost 1,622 Americans in Iraq—that's more than 2 American soldiers per day of occupation. We have to play the cards that we are dealt, but just because we got a tough hand doesn't mean that we should, in good conscience, pass an energy bill that does not diminish our dependence on Middle Eastern oil.

That is why it is so important that we write an energy bill that provides smart, efficient incentives for the United States to maximize its own domestic energy production, using all the avenues that are available to us to diversify our supply and to encourage competition that would drive down and stabilize prices.

Vitally for my State, this must include a recognition of the contribution that coastal states, particularly states along the Gulf Coast, make to energy production now.

The coast of Louisiana is not a regular coast. In supporting the production and transportation of 80 percent of our Nation's offshore oil supply, it is truly America's Wetland—and with its loss, America faces a national emergency. In the past 50 years alone, Louisiana's size has been reduced by an area larger than that of Rhode Island, and continues to wear away at the rate of one football field every half hour.

If the Rocky Mountains were to shrink by 10 feet every year, we would act. If a foreign army were to advance a hundred yards up our shore every 38 minutes, we would act.

Because of the vast array of energy resources Louisiana and other coastal States supply and protect, coastal erosion in our States presents a direct threat to our national security and the global economy.

We must act—and while the waves eat away our shores, the solution may lie just beneath their surface.

In the early days of this Nation, Benjamin Franklin and his colleagues looked to the western frontier for its rich resources and the promise of new economic and military security, just as their ancestors had looked to the seas with the same thoughts in mind.

Today, our oceans have reemerged as a great frontier capable of helping build a stronger, more secure and more economically stable Nation. We have learned that through new technologies, when managed well and wisely, the ocean frontier holds tremendous resources that may be put to work for America.

Harnessed beneath the surface of this great frontier lies the energy to light our homes, power our public infrastructure and give birth to even greater achievements.

Little more than a century ago, what we'd call "Ocean Energy Industry" was simply one of whaling ships and harpoons. But today, the Outer Continental Shelf, or OCS, provides American consumers with 25 percent of the natural gas, and 30 percent of the oil, produced in the country each year.

It also rewards the U.S. Treasury with more than $5 billion annually—$145 billion since production began in 1953. That is the second biggest contributor of revenue to our Federal Treasury after taxes.

But it has costs, and it is perfectly reasonable for States to want assistance with those costs.

The Mineral Lands Leasing Act shares with interior States 50 percent of the revenues generated on Federal land within their borders. In serving as the platforms that support a vital component of our national energy supply, coastal States deserve the same treatment. And so, last week, I introduced the Stewardship for our Coasts and Opportunities for Reliable Energy Act—or SCORE—which does just that . . . It gives coastal States the same 50 percent share of the oil and gas revenues for their work that interior States receive for their efforts to support production.

This is more than just sound economic and energy policy—it is a simple demonstration of fairness.

The OCS supplies more oil to our Nation than any foreign power—including Saudi Arabia—and it is estimated that 60 percent of our Nation's undiscovered oil and gas will be found on the shelf. And so, as we take to the seas again, we are not hunting the elusive Moby Dick of lore. . . We know where the bulk of this oil may be found.

But just as the Western frontier once represented a great unknown to our Nation's policymakers, the impact and reality of the OCS seems lost in a time warp. We exist on outdated policies, and while our production has increased somewhat, we haven't even built a new refinery in a decade.

We also have yet to adequately answer the question, "Why should a State contribute to our energy independence?'' and have failed to take the necessary steps to encourage them to do so.

Last year, we commemorated the 200th Anniversary of Lewis and Clark's adventure into the frontier. It is a prominent historical event for Louisiana, because it marks the culmination of the promise of the Louisiana purchase. Thirty-eight soldiers and scouts set out with Lewis and Clark, and they called themselves the Corps of Discovery.

Hopefully, our body can take up their mantle and emulate their exploring spirit in the passing of this bill.

Today, we are exploring only 43 million of the 1.67 billion acres of the Outer Continental Shelf—less than 2.6 percent! If Lewis and Clark had taken this same timid tactic, they would have stopped just short of Cincinnati, and the history of our country would have been vastly different. Instead, Lewis and Clark ventured on for another 8,000 miles and helped to open our western frontier. Let us do the same!

Thomas Jefferson, who commissioned the adventure, was eager to have a full understanding of the economic potential of his great bargain. This was an act of political will—for no sooner did the trip commence, than Congress began complaining about its expense. Thus, even Lewis and Clark's voyages were seemingly subject to the mindless penny pinching of ''302(b)'' allocations.

What they were trying to discover was the economic potential and natural resources of this great country. It was a fundamental exercise of reason over myth. Jefferson sought new trading relationships with the native tribes, sought an overland route to the Pacific for nascent trade with China, and wanted to know of the quality of land for agriculture.

What he did not do was let ignorance and fear govern policy.

Yet when it comes to the Outer Continental Shelf, we are doing just that. Not only do we not know the full riches that lie off our coasts, policymakers around here don't want to go, don't want to see, and don't want to know.

While the OCS contains more than 60 percent of the Nation's remaining undiscovered oil and natural gas resources, 85 percent of the OCS in the lower 48 States remains untouchable . . . blocked by Congressional moratoria and administrative withdrawal.

While 98 percent of our current OCS production comes from a very concentrated area—the western half of the Gulf of Mexico, offshore Louisiana and Texas—most of the Pacific Coast remains off limits. Most of the Eastern Gulf of Mexico . . . off limits. And the entire Atlantic seaboard . . . off limits.

At the same time, our demand for, and supply of, oil and gas are moving in opposite directions. Over the next 20 years, our consumption is expected to increase by 50 percent, but production is only expected to increase by less than half that amount.

Imagine explaining that circumstance to someone like Jefferson or Franklin, Lewis or Clark. They understood the essential fact of progress—you can't discover if you don't look.

It is time for a full accounting of the resources of the OCS. Technology has provided us with a modern Corps of Discovery that will be no more intrusive than the 40 men in the wilderness 200 years ago. With scientific data in hand, then we can have a meaningful argument about the efficacy of what to do with our natural resources.

For example, through the effective use of technology, we have produced three times as many resources as we thought existed 30 years ago—and have produced them in an environmentally friendly way . . . The Minerals Management Service estimates that from 1985 to 2001, OCS offshore facilities and pipelines accounted for only 2 percent of the oil released into U.S. waters. In fact, 97 percent of OCS spills are one barrel or less in volume. Obviously, just a little technology can go a long way.

What is disappointing to me is that the mythology around oil and gas production—its potential hazards and challenges—stems from stories nearly 50 years old. We live in an information driven economy, but many in the environmental community have a very industrial age approach to these challenges.

We ban; we prohibit; we restrict. Instead we should research, innovate and improve.

Several nights ago, I was up late watching an odd documentary. It was about the history of bringing hot water to our homes at the turn of the century. It's something we all take for granted now, but if you contemplate it, it was a difficult engineering problem years ago. Like all new technologies, water heaters were once a lot less reliable than they are now. In fact, when they first started to be installed in people's homes, they frequently blew sky high. That was tragic, and we are all relieved that we've moved beyond that stage in technology.

But, the lesson is that even though tragic injuries occurred, when there was great societal benefit to be had, technology kept on leading the way. That is what has already occurred in oil and gas. There is clearly more that can be done.

I invite any Member of the Senate to join me on an offshore platform. You will see something that looks a lot less like an industrial plant and more like a spaceship . . . A spaceship for which our coastal producing States provide the launch pads.

More can be done, but you will be amazed at what has already been accomplished.

The SCORE Act helps motivate States to consider the potential that lies on the frontier off their coasts, and hopes to inspire a new era of technological advancement and energy invention. As we begin to comprehend the Ocean Frontier, we need to partner with industry to develop the necessary science.

Safety and environmental sensitivity should be the watchwords of our stewardship. It is a lesson that we take with us from our collective experience. To ensure this remains a priority for industry, we need to reinvest some of the resources that we are collecting. That is the way forward—not ignorance and fear, but reason and stewardship.

No one understood the importance of stewardship more than Theodore Roosevelt, whose memorial I visited yesterday with the Senator from Tennessee, Mr. ALEXANDER. Two of Roosevelt's greatest legacies—the Pelican Island National Wildlife Refuge and Breton Island National Wildlife Refuge—lie just off Louisiana's coast. They were the first refuges he created, but as we know, they were not the last . . . and the lives of generations of Americans continue to be enriched by these gifts to us.

In his only trip to one of the refuges he created, Roosevelt visited Louisiana's barrier islands in 1915 . . . but much of the landscape he visited no longer exists, having been washed away by coastal erosion. Reflecting on the visit, he wrote in his autobiography, A Book Lover's Holidays in the Open:

> To lose the chance to see frigate-birds soaring in circles above the storm, or a file of pelicans winging their way homeward across the crimson afterglow of the sunset, or myriad terns flashing in the bright light of midday as they hover in a shifting maze above the beach—why, the loss is like the loss of a gallery of the masterpieces of the artists of old time.

Unfortunately, even with the efforts of conservation visionaries like Roosevelt, the story of the past 100 years has been one of continued coastal and wildlife losses. Consider that Battledore Island, the 'gallery of masterpiece' of which he wrote, is no more. Today, fishermen know it as Battledore Reef.

It is too late for Battledore Island, but it is not too late to save countless other natural treasures around our Nation. While President Roosevelt's vision is still alive, there is much work left to be done . . . and today we have an opportunity to carry on his legacy of conservation and write a different ending to the story he began so long ago.

The Americans Outdoors Act, which I have introduced with Senator ALEXANDER, is a significant start. In our Government today, you will be hard pressed to find a closer embodiment of Roosevelt's legacy than in Senator ALEXANDER, and I am so very proud to be working with him in this effort.

AOA would mark our Government's greatest commitment of resources to conservation ever, and would directly benefit all 50 States and hundreds of local communities through its landmark, multiyear commitment to coastal restoration and other conservation programs like the state side of the Land and Water Conservation Fund. It, like SCORE, would also set forward a crucial first step to restoring America's vital wetlands and the billions of dollars in energy investments they protect.

When Hurricane Ivan struck back in September, it should have been a wake-up call to us all. Although the storm did not hit Louisiana directly, its impact on the price and supply of oil and gas in this country could still be felt 4 months later. One can only imagine what the impact would have been had Ivan cut a more western path in the gulf. How many more hurricane seasons are we going to spend playing Russian roulette with our oil and gas supply?

But the diversity of our energy supply is just as important as the increased production of it. And our atmosphere protects us much in the same way as our coasts. We have an obligation to serve as responsible stewards of both.

Mr. President, it will come as no surprise to you that fear, rather than science, also seems to dominate our policy with respect to nuclear energy. There are some startling facts that most Americans probably do not know today. Nuclear energy—today—despite not having licensed a new plant in 27 years—provides 20 percent of America's electricity. Most importantly, it does so without any emissions.

This is a resource that is produced 100 percent domestically. No one has to bring in a new LNG plant for nuclear energy, no one has to defend critical supply lines for nuclear energy, no one has to cap and trade emissions for nuclear energy. Yet a policy driven by fear and superstition keep the United States in a technological backwater. Between our fear of oil and gas production, our near hysteria toward nuclear power, and our rejection of clean coal options, the United States is living in a kind of energy technology dark ages.

Rather than harnessing powerful forces that could bring light and energy to this Nation. We are being ruled by superstition and fear, and we have to bring these attitudes to an end. The alternative is even more bleak. While the U.S. ignores nuclear power, our economic rivals in Japan and France are pulling away from us. More menacing still, the Chinese are threatening to leap-frog U.S. technology in this arena. Spencer Reiss wrote in a recent article entitled Let a Thousand Reactors Bloom:

> The Future of Nuclear Power, a 2003 study by a blue-ribbon commission headed by former CIA director John Deutch, concludes that by 2050 the PRC could require the equivalent of 200 full-scale nuke plants. A team of Chinese scientists advising the Beijing leadership puts the figure even higher: 300 gigawatts of nuclear output, not much less than the 350 gigawatts produced worldwide today.
>
> To meet that growing demand, China's leaders are pursuing two strategies. They're turning to established nuke plant makers like AECL, Framatome, Mitsubishi, and Westinghouse, which supplied key technology for China's nine existing atomic power facilities. But they're also pursuing a second, more audacious course. Physicists and engineers at Beijing's Tsinghua University have made the first great leap forward in a quarter century, building a new nuclear power facility that promises to be a better way to harness the atom: a pebble-bed reactor. A reactor small enough to be assembled from mass-produced parts and cheap enough for customers without billion-dollar bank accounts. A reactor whose safety is a matter of physics, not operator skill or reinforced concrete. And, for a bona fide fairy-tale ending, the pot of gold at the end of the rainbow is labeled hydrogen.

With this sort of news, one begins to wonder if there is any set of circumstances that will dissuade the Congress from its wrong-headed policies. We cannot afford to keep waiting. I call on my colleagues to resolve once and for all the issues of where to store the byproducts of our nuclear generation.

Technology also harbors other exciting new promises for clean energy. Coal provides 50 percent of our Nation's electrical supply, and now we can use it in a better way. Coal gasification plants—or "clean coal" strip out the pollutants that would otherwise be released into the air, allowing us to continue to draw on this abundant natural resource while also respecting our roles as stewards of the environment.

Liquified natural gas also has a significant role in satisfying our clean energy goals while helping to solve our Nation's supply and demand imbalance. But we cannot allow the Gulf of Mexico to simply become a "thruway" for LNG without recognizing the role of coastal States that host the terminals and sustain its importation. To this end, terminal siting is not only a Federal concern but a local one as well.

And finally, we simply cannot ignore the promise of hydrogen technology. Senator DORGAN has been one of the Senate's foremost leaders in this regard. I was proud to support his efforts throughout all of the iterations of the Senate Energy bill, and am very pleased to understand that many of them have been incorporated into the Energy chairman's mark.

Beyond these, there are countless alternative resources we have yet to fully explore—resources such as wind, solar and even wave energy—all of which can also be produced on the OCS with the encouragement SCORE provides.

Let me make clear: Increased domestic production and supply diversity are of paramount importance to our energy needs and national security, but no serious energy policy can ignore the equally important need for energy conservation.

Benjamin Franklin was eminently quotable, but one of his more relevant quips is "When a well's dry, we know the worth of water." So it is with America's environment. The cost of global warming will be truly staggering when compared to conservation measures today.

There are a number of points to be raised in that regard.

First, I believe that the U.S. Government should use its power of economies of scale, and large purchasing power to set the best example. Energy efficiency should be a consideration in the design and retrofitting of U.S. Government buildings. Energy savings should be a factor in the enormous fleet of government vehicles.

I have also supported a provision, now included in the Energy chairman's mark, which would call for a reduction in our Nation's oil consumption by 1 million barrels per day over the next 10 years. We currently consume 20 million barrels. With research and technology, these are very attainable goals.

Similarly, the Senate will be best off with a smart Renewable Portfolio Standard—RPS—that it can pass. RPS is a lynchpin that will make alternative technologies commercially viable. It is a vital and logical step in our efforts toward energy independence.

And even as we address the production side of the equation, we need to make sure the energy we produce reaches consumers affordably and reliably. In our handling of OCS revenues, we ask our coastal producing States to give and give with little in return. Equally unfair are our Nation's electrical transmission policies, which expect Louisiana consumers to foot the bill for electricity consumed in other States.

For these reasons, Senator BURR and I earlier this year introduced the Interstate Transmission Act, which seeks to protect local rate payers and make electric reliability standards mandatory.

Today we make new history. It may not be as exciting as Franklin's discoveries about electricity, or require the endurance of the Corps of Discovery. But it may hold the key to America's economic future.

My Ocean Energy Initiative, which includes the Americans Outdoors and SCORE Acts, as well as a series of technology proposals still to come, creates a strong four-step framework for protecting our national economic, military and energy security by increasing, diversifying, and cleaning up our energy production and supply.

We must look for new ideas and new frontiers to support increased, diverse, and clean energy. The Ocean Frontier today presents the most immediate opportunities, but who knows what lies on the next horizon? Space, perhaps?

We must explore these new frontiers and develop the innovative new technologies to do so more effectively and responsibly.

We must share the shelf and other frontiers, so our states aren't left shouldering the burden.

And we must invest in our environment and return to our coasts, forests and green-spaces the respect and recognition befitting what they have given us by way of natural resources. We give back some of what we take.

Through a responsible balance of conservation and innovation, this Ocean Energy Initiative recognizes that the goals of energy security and environmental stewardship need not be mutually exclusive.

Mr. President, we follow in the footsteps of great pioneers: Benjamin Franklin, who put science before superstition; Thomas Jefferson, who opened the American frontier; Lewis and Clark, who journeyed into this frontier and found its rich promise: and Theodore Roosevelt, who saw that a great nation bears a responsibility of stewardship to the ground it is built upon.

If we follow their example, and continue down the path these pioneers blazed to the new frontier, we will have a bill that we can all look back on with pride.

TRIBUTE TO DR. RICHARD GAMELLI

Mr. DURBIN. Mr. President, I rise to pay tribute to the important work of the president of the American Burn Association, Dr. Richard Gamelli of the Loyola University Medical Center in Chicago, as he approaches the end of his distinguished service in that position. Under Dr. Gamelli's leadership, the American Burn Association has worked tirelessly to improve the first line of defense: the prevention of burn injuries.

The ABA encourages and supports burn-related research, education, care, rehabilitation, and prevention through a variety of programs and publications, including the production of the leading peer-reviewed, scientific journal in the burn field, the Journal of Burn Care & Rehabilitation. During Dr. Gamelli's tenure, the ABA has worked to improve emergency response systems and to incorporate burn care into our Nation's disaster preparedness systems in light of new threats to the United States. Under Dr. Gamelli's guidance, the ABA has expanded its reach and established its position at the forefront of its field. Many physicians, nurses, and health care workers who are members of the ABA are currently on the front lines, serving in Iraq and Afghanistan and treating America's injured soldiers.

As professor and chair of the Department of Surgery at the Loyola University Medical Center, Dr. Gamelli has dedicated his life to advancing clinical treatment of burn victims, accident and trauma victims and others whose medical needs are among the most difficult and dire a doctor ever sees. As a teacher he has provided guidance to high school students, college students, medical students, residents, graduate students, colleagues and others, encouraging them always to strive for excellence and look for new answers. As a researcher he has helped his department secure funding for more than 20 years from the National Institutes of Health. He is nationally and internationally recognized for his research and has authored more than 150 scientific articles, 23 book chapters, and 8 books.

In 1997 and 2000 Dr. Gamelli was named by Chicago Magazine as one of "Chicago's Top Doctors," and in 1982, 1985, 1986, 1988, 1989 and 1990, he was named Professor of the Year by the medical students at Loyola. He was selected by the faculty council of Loyola University Chicago as the 2002 member of the year for his excellence in teaching, research, patient care and service. In light of his extraordinary record of achievement, his alma mater, Saint Michael's College, inducted Dr. Gamelli into the inaugural class of its Alumni Academic Hall of Fame in 2002.

Having served the ABA admirably, Dr. Gamelli recently stepped down as ABA president at this year's annual meeting. I want to take this opportunity to acknowledge and thank Dr. Gamelli for his distinguished service and for his ongoing contributions to the American people and the medical community, and I wish him all the best in the future.

REPORTING OF S. 1053

Mr. LOTT. Mr. President, I would like to give notice that on April 27, 2005 the Committee on Rules & Administration reported an original bill to amend the regulatory and reporting structure of organizations registered under section 527 of the Internal Revenue Code.

TRIBUTE TO PETER RODINO

Mr. LAUTENBERG. Mr. President, I rise today to mourn the passing of former Congressman Peter Rodino and also to celebrate his life.

The son of hard-working Italian immigrants, Peter Rodino grew up on the streets of Newark, NJ, and rose to become a prominent and respected figure during a defining moment in our Nation's history.

Serving as the chairman of the House Judiciary Committee, Mr. Rodino was charged with managing the impeachment hearings of President Richard Nixon. He had chaired the committee for less than a year when the hearings began, and those who did not know him wondered how he would respond to such a monumental challenge.

He soon put all doubts to rest. He conducted the hearings patiently, thoroughly, and fairly, and in doing so he helped guide our Nation through a difficult test of our Constitution.

By the time the committee had heard all of the evidence about the Watergate break-in and coverup, its members approved several articles of impeachment by overwhelming bipartisan margins. By this action, they proved that our system of government is greater than any one person or political party.

Most of the Nation got to know Congressman Rodino during the Watergate hearings, but I had known him for years through his tireless work on behalf of the people of his district and New Jersey. He loved the city of Newark and the people of Newark, and he always had their interests at heart.

Whether he was helping to pass the 1966 civil rights bill, extending the Voting Rights Act, or leading the effort to make Martin Luther King's birthday a national holiday, Peter Rodino worked tirelessly to make this Nation as great as it can possibly be.

After I came to the Senate, I had the privilege of working with him to help the people of New Jersey. We served together for 6 years, and I was always amazed by the energy and determination he brought to his job.

He had tackled every challenge with that same energy and determination, from his service in World War II with the 1st Armored Division to his work at Seton Hall law school, where he shared his love of the law with students.

Every now and then, someone comes along who is an inspiration for us all, regardless of political party, religious faith, or ethnic background. Peter Rodino was just such a fellow. While I will miss him very much, I will always treasure his friendship with me and remember all the good he did for New Jersey and its people.

VOLUNTARY PUBLIC ACCESS AND WILDLIFE HABITAT INCENTIVE PROGRAM ACT OF 2005

Mr. CONRAD. Mr. President, in March Senator ROBERTS joined me in introducing S. 548, the Voluntary Public Access and Wildlife Habitat Incentive Program Act of 2005.

This legislation is enthusiastically supported not only by America's hunters and anglers, but also by agricultural producers, private landowners and those interested in rural development. Open Fields, as this bipartisan legislation is commonly known, addresses hunting, fishing and other recreational access on private land. The legislation also tackles rural development issues head on.

Dwindling access to quality hunting, angling and other wildlife-dependent opportunities is a trend that slowly is pulling apart the American sporting tradition. At the same time, farmers, ranchers, and small town businesses are desperately looking for the means and opportunities to revitalize and stimulate their local economies. These two needs, the need for better access for sportsmen who can not afford to lease land, and the need for economic stimulation in rural America have intersected and spurred the creation of highly effective state public access programs.

Walk-in or access programs are not a new concept. In fact they have very successfully begun to reverse the trend of diminishing numbers of hunters and anglers in States with these programs. At the same time, these programs generate cash and economic activity in rural economies by encouraging increased numbers of hunters, anglers, and others who enjoy wildlife-related activities to spend more of their outdoor recreation dollars in rural America.

Eighteen States are already using their own limited funding resources to finance very successful access programs. These programs have set the stage for even greater success in the future, but only if additional funding becomes available. When enacted into law, Open Fields will provide $20 million per year in Commodity Credit Corporation funds over the next five years. These funds will be used to provide U.S. Department of Agriculture grants for States with recreational walk-in or access programs. It is our intent that access to all the land that property owners voluntarily enroll under this legislation will be available for, but not limited to, hunting and fishing activities.

I remind our colleagues that the Open Fields legislation offers benefits to many of their constituents, regardless of their State or district, or whether they represent urban or rural Americans. We all know that millions of city dwellers hunt and fish. Access to quality areas to hunt, fish, and enjoy other wildlife related activities within reasonable distances from urban areas is becoming dramatically reduced.

As we travel the rural areas of our States, Senator ROBERTS and I experience firsthand the tremendous need to bring additional income into small towns and communities in Kansas, North Dakota, and across rural America. As members of the Committee on Agriculture, we are constantly looking for alternatives to supplement traditional agricultural programs and improve the economic safety net for our farmers and ranchers that are not considered trade distorting. Open Fields is a program that can help achieve those objectives.

The positive impact of making private lands available to the hunting public is highly visible in Mr. Roberts' home State of Kansas and in my own State of North Dakota. According to data obtained from a 2001 U.S. Fish and Wildlife Service study, Kansas and North Dakota have a total of 1,750,000 acres currently enrolled in state-run access programs. Furthermore, this study notes that hunting licenses sold in the State of Kansas increased from 175,000 in 1996 to 205,000 in 2001, a 22.9 percent increase. In North Dakota, hunting license sales increased from 118,000 in 1996 to 133,000 in 2001, a 12.7 percent increase.

During this same time period, the number of hunters nationwide decreased from 14 million to 13 million. This is a disturbing trend that has resulted in lost jobs, reduced revenues for local communities, and fewer Americans enjoying our rich hunting heritage. State-run access programs are proof that opening additional acres of private land to hunting increases the numbers of hunters and provides a significant boost to the economies of small towns and rural areas.

I cannot emphasize enough what a tremendous opportunity Open Fields provides our colleagues to invest in America and to help preserve our hunting and fishing heritage. Currently, access programs are being successfully administered in states all across America, from Arizona with 2 million acres to Pennsylvania with 4.3 million acres. In 18 States, more than 23 million acres are enrolled. Administrative and incentive payments total just over $23 million per year, an average of about $1 per acre.

According to a recently completed cost-benefit analysis, states with active access programs encouraged more than 276,000 hunters to continue to hunt who otherwise would have quit. This translates into about $512.6 million these hunters spend annually in these States. With this in mind, I remind our colleagues that the $20 million per year investment called for under this legislation will potentially return many times its initial cost. States with access programs are currently spending about $23 million per year while generating more than $512 million in additional economic activity. Through our legislation, this return on investment can become a reality for many more states and communities.

Part of our responsibility as policymakers is to seek opportunities that will improve the quality of life of our constituents. We have introduced the Open Fields legislation as a means to encourage the States to partner with the outdoor recreation community and private landowners to preserve our hunting and fishing heritage and provide economic growth opportunities for rural America.

I urge my colleagues to support and cosponsor Open Fields.

PAUL PECK

Mr. LEAHY. Mr. President, I come to the floor today to praise an extraordinary man, Paul Peck. I had the honor of meeting Mr. Peck through our mutual interest in the Smithsonian Institution.

Mr. Peck has been an effective proponent of the civic process. In 2002, Mr. Peck generously donated $2 million to enhance the National Portrait Gallery's presidential programs, allowing for educational resources related to the presidency. In the same year, the Portrait Gallery founded The Paul Peck Presidential Awards, the only awards in the United States to honor achievement in presidential service and portrayal. Last year, at the Third Annual Paul Peck Presidential Awards Ceremony, Mr. Peck gave a heartfelt and thought-provoking speech about the need for an increased awareness of American history and an increased level of civil participation in our country. Mr. President, I ask unanimous consent that Mr. Peck's remarks be printed in the CONGRESSIONAL RECORD.

The Smithsonian is truly fortunate to have benefited from the dedication and intelligence of Mr. Peck.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF PAUL PECK'S REMARKS, THIRD ANNUAL PAUL PECK PRESIDENTIAL AWARDS

Hi folks.

It's great to be here with you to honor two great Americans: George Elsey and Brian Lamb.

I have been asked many times why I joined with the National Portrait Gallery to focus attention on the presidency.

My answer is: I believe that "Freedom is life and freedom is rooted in democracy."

I believe that Americans are blessed.

And we owe it to our children and grandchildren to pass on this love of freedom and the means to preserve it.

The founding fathers believed that freedom requires voters who are knowledgeable, involved, and vigilant.

Today, however, Fewer people vote, Fewer people seem concerned about civic issues, and Fewer people are involved in the civic, governing, and political process.

Furthermore, we've cut back on teaching Civics and according to the National Assessment of Educational Progress, fewer than 25 percent of Americans have even a basic knowledge of American History.

If we allow this trend to continue, what will it mean to be an American; and what happens to democracy because democracy can't survive as a spectator sport.

We can't continue this way. It's a roadmap to disaster and I worry about the direction we're taking.

I believe every citizen has an obligation to make things better and I believe every citizen can make a difference.

Here's how we're going to fix the problem.

The presidency symbolizes the United States and represents government to most people. Americans are fascinated with the presidency and we're going to build on this fixation to foster civic action, civic understanding, and reasoned voting.

Our civic action goal is to get everybody involved in democracy whether through public service, governing, politics, non- governmental organizations, or civic volunteer activities. America was built on people coming together to achieve great and honorable goals and we're going to re-create this sense of community, caring, and co-operation.

As many of you know, I believe that our children are our future. If they don't know what it means to be an American, how do we preserve freedom, democracy, and the American way of life?

In 1954, Brown vs. The Board of Education made America better; and voting and the right to vote grabbed children's attention and led to lifelong civic involvement. What are we doing today to spark a similar interest in freedom and democracy in our children?

As a first step in increasing civic action and understanding, I intend to request that next Tuesday's presidential election winner set aside one school day every year to discuss American principles and encourage civic engagement. It is my hope that government, industry, and academia will encourage participation and provide time to their employees to get involved and help us come together as a nation.

Please help me make this proposal a reality.

In summary, you are our opinion makers. It's vital that you: Strengthen our society, Promote civility, and Inspire people to discuss issues and participate in the civic process;

Thereby promoting Lincoln's ideal of "government of the people, by the people, and for the people."

Thank you for coming.—Paul L. Peck, October 28, 2004

ADDITIONAL STATEMENTS

DOBSON STUDENTS RECEIVE HONORABLE MENTION

• Mr. KYL. Mr. President, earlier this month, a class of 25 students from Dobson High School in Mesa, AZ, competed against more than 1,250 students from across the United States in the national finals of the "We the People: The Citizen and the Constitution" program. I am proud to note the Dobson students, led by their teacher Joyce Godfrey, received a fourth place honorable mention in this year's competition.

I would like to take a moment to mention the names of those students who competed for Dobson High: Paul Bergelin, Andrew Brown, Lara Cardy, Zach Clark, Brian Hoblit, Katie Hughes, Byunghun Hyun, Valerie Keirn, Patrick Kwan, Alyssa Little, Alex Matyushov, Linh Nguyen, Danielle Rieger, Ralph Robles, Ashley Rogers, Darci Schimschat, Jessica Sims, Drew Snider, Jamie Stall, Tricia Strei, Wing-Yu Tang, Nehal Thakkar, Jana VanMarche, Ashley Wallace, and Jennifer Yan. I would also like to acknowledge their teacher, Joyce Godfrey, the district coordinator, Kathy Williams, and the State coordinator, Susan Nusall.

I wish these budding constitutional scholars the best of luck in the future.•

NORTHSHORE HARBOR CENTER

• Mr. VITTER. Mr. President, I rise today to recognize the opening of the Northshore Harbor Center in Slidell, LA on May 20, 2005. This new convention center will greatly benefit St. Tammany Parish. I join the East St. Tammany Events Center Commission and all the people of St. Tammany Parish in voicing my excitement about the opening of the center and its potential for economic development.

The Northshore Harbor Center is the product of many years of hard work and intense planning. Though numerous individuals were involved in the project, I would like to take this moment to personally recognize those responsible for its completion. First, I would like to commend the dedicated citizens of the East St. Tammany Events Center Commission. Also, I would like to recognize the parish officials who appointed and oversaw the Commission. Finally, I would like to thank the citizens of Wards 8 and 9 who contributed hard earned tax dollars to fund the construction of this state-of-the-art complex.

I look forward to the wide array of events and conventions that will begin pouring into the Northshore Harbor Center. And I look forward to the many new visitors it will attract to another wonderful parish in Louisiana.•

CONGRATULATING MAX MEYER

• Mr. THUNE. Mr. President, I wish to congratulate a young man named Max Meyer. At the age of 14, Max was recently declared the winner of PAX TV's "America's Most Talented Kids." His winning performance before a television audience exemplified his gift of playing the piano while singing a rendition of Frank Sinatra's "The Lady is a Tramp."

Max's accomplishments on the piano are truly impressive, but his talent does not stop there. Max also plays six other instruments, including the harmonica, kazoo, guitar, French horn, drums, and the trumpet.

I have had the pleasure of hearing Max perform on many occasions. His talent and dedication to music are nothing less than inspirational. I am proud to join Max's friends and family in congratulating him on his many and most recent accomplishments.•

CONGRATULATING JENSI KELLOGG-ANDRUS

• Mr. THUNE. Mr. President, today I rise to congratulate an extraordinary educator from Watertown, SD. Jensi Kellogg-Andrus, South Dakota's Teacher of the Year, was recently honored at a conference here in Washington, DC. I would like to take this opportunity to extend my heartfelt congratulations to her.

Jensi is a bright light in a profession of illuminators. Her unwavering dedication to her students' education and development is remarkable. Jensi takes the time to adapt her lesson plans to each individual learning style and strives to help each student achieve their personal goals.

Jensi's career has spanned 16 years and I wish her many more years of continued excellence. It gives me great pleasure to congratulate Jensi for her many and most recent accomplishments.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2:16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 485. An act to provide that the royalty rate on the output from Federal lands of potassium and potassium compounds from the mineral sylvite in the 5-year period beginning on the date of the enactment of this Act shall be reduced to 1.0 percent, and for other purposes.

H.R. 540. An act to authorize the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the Truckee-Carson Irrigation District.

H.R. 627. An act to designate the facility of the United States Postal Service located at 40 Putnam Avenue in Hamden, Connecticut, as the "Linda White-Epps Post Office".

H.R. 938. An act to establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts, and for other purposes.

H.R. 1046. An act to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming.

H.R. 1760. An act to designate the facility of the United States Postal Service located at 215 Martin Luther King, Jr. Boulevard in

Madison, Wisconsin, as the "Robert M. LaFollette, Sr. Post Office Building".

H.R. 2107. An act to amend Public Law 104–329 to modify authorities for the use of the National Law Enforcement Officers Memorial Maintenance Fund, and for other purposes.

The message also announced that pursuant to section 201(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6431 note), amended by section 681(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (22 U.S.C. 2651 note), and the order of the House of January 4, 2005, the Speaker reappoints the following individuals on the part of the House of Representatives to the Commission on International Religious Freedom: Ms. Nina Shea of Washington, D.C., for a 2-year term ending May 14, 2007, to succeed herself, and Ms. Felice Gaer of Paramus, New Jersey, for a 2-year term ending May 14, 2007, to succeed herself upon the recommendation of the Minority Leader.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 485. An act to provide that the royalty rate on the output from Federal lands of potassium and potassium compounds from the mineral sylvite in the 5-year period beginning on the date of the enactment of this Act shall be reduced to 1.0 percent, and for other purposes; to the committee on Energy and Natural Resources.

H.R. 540. To authorize the Secretary of the Interior to convey the Newlands Project Headquarters and Maintenance Yard Facility to the Truckee-Carson Irrigation District; to the Committee on Energy and Natural Resources.

H.R. 627. An act to designate the facility of the United States Postal Service located at 40 Putnam Avenue in Hamden, Connecticut, as the "Linda White-Epps Post Office"; to the Committee on Homeland Security and Government Affairs.

H.R. 938. An act to establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1760. An act to designate the facility of the United States Postal Service located at 215 Martin Luther King, Jr. Boulevard in Madison, Wisconsin, as the "Robert M. La Follette, Sr. Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 2107. An act to amend Public Law 104–329 to modify authorities for the use of the National Law Enforcement Officers Memorial Maintenance Fund, and for other purposes; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1046. An act to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2191. A communication from the Associate Deputy Administrator for Government Contracting and Business Development, Small Business Administration, transmitting, pursuant to law, a request for an extension to complete a report relative to the Minority Small Business and Capital Ownership Program participants that is due on April 30 of each year; to the Committee on Small Business and Entrepreneurship.

EC–2192. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Illinois Regulatory Program" (Docket No. IL–104–FOR) received on May 16; to the Committee on Energy and Natural Resources.

EC–2193. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia; Emission Standards for Solvent Cleaning Operations Using Non-Halogenated Solvents" (FRL No. 7913–5) received on May 16, 2005; to the Committee on Environment and Public Works.

EC–2194. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans for Kentucky; Inspection and Maintenance Program Removal for Jefferson County, Kentucky; Source-Specific Nitrogen Oxides Emission Rate for Kosmos Cement Kiln" (FRL No. 7914–5) received on May 16, 2005; to the Committee on Environment and Public Works.

EC–2195. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District and San Joaquin Valley Unified Air Pollution Control District" (FRL No. 7901–9) received on May 16, 2005; to the Committee on Environment and Public Works.

EC–2196. A communication from the Acting Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zones (including 71 regulations)" (RIN1625–AA00) received on May 11, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2197. A communication from the Secretary of Transportation, transmitting, a proposed bill entitled "Maritime Administration Enhancement Act of 2005"; to the Committee on Commerce, Science, and Transportation.

EC–2198. A communication from the Paralegal, Federal Transit Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Rail Fixed Guideway Systems; State Safety Oversight" (RIN2132–AA76) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2199. A communication from the Paralegal, Federal Transit Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Environmental Impact and Related Procedures" (RIN2132–AA78) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2200. A communication from the Attorney Advisor, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amended Service Obligation Reporting Requirements for State Maritime Academy Graduates" (RIN2133–AB61) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2201. A communication from the Attorney Advisor, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Merchant Marine Training" (RIN2133–AB60) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2202. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Environmental Impact and Related Procedures" (RIN2125–AF04) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2203. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF6–45 and CF6–50 Series Turbofan Engines" ((RIN2120–AA64) (2005–0221)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2204. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited Model 4101 Airplanes" ((RIN2120–AA64) (2005–0220)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2205. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–200B, 200C, 200F, and 400F Series Airplanes" ((RIN2120–AA64) (2005–0219)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2206. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–600, 700, and 800 Series Airplanes" ((RIN2120–AA64) (2005–0218)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2207. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Saab Model SF340A and 340B Series Airplanes" ((RIN2120–AA64) (2005–0217)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2208. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Aviointeriors S.p.A. Series 312 Seats" ((RIN2120–AA64) (2005–0216)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2209. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–100, 100B, 100B SUD, 200B, 200C, 200F, and 300 Series Airplanes; and Model 747SP and 747SR Series Airplanes" ((RIN2120–AA64) (2005–0215)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2210. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dassault Model Falcon 10 Series Airplanes" ((RIN2120–AA64) (2005–0214)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2211. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 777–200 and 300 Series Airplanes Equipped with Rolls Royce Model RB211 TRENT 800 Engines" ((RIN2120–AA64) (2005–0213)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2212. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes; Model A300 B4–600, A300 B4–600R, A300 C4–605R Variant F, and A300 F4–600R; and Model A310 Series Airplanes" ((RIN2120–AA64) (2005–0212)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2213. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Saab Model 2000 Series Airplanes" ((RIN2120–AA64) (2005–0211)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2214. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: CENTRAIR 101 Series Gliders" ((RIN2120–AA64) (2005–0210)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2215. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Cessna Model 680 Airplanes" ((RIN2120–AA64) (2005–0208)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2216. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: British Aerospace Model BAe 146 and Model Avro 146–RJ Series Airplanes; CORRECTION: Docket No. 2001–NM–273" ((RIN2120–AA64) (2005–0209)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2217. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica S.A. Model EMB 135 and 145 Series Airplanes" ((RIN2120–AA64) (2005–0207)) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2218. A communication from the Deputy Executive Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" received on May 16, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2219. A communication from the Regulations Coordinator, Public Health Service, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Public Health Service Policies on Research Misconduct" (RIN0940–AA04) received on May 16, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2220. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report of the convening of an Accountability Review Board; to the Committee on Foreign Relations.

EC–2221. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Afghanistan Freedom Support Act and the Foreign Assistance Act (FAA) of 1961; to the Committee on Foreign Relations.

EC–2222. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a notification relative to funds for purposes of Nonproliferation and Disarmament Fund (NDF) activities; to the Committee on Foreign Relations.

EC–2223. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a vacancy in the position of Under Secretary of State for Public Diplomacy, received on May 16, 2005; to the Committee on Foreign Relations.

EC–2224. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a vacancy in the position of Coordinator for Counterterrorism w/Rank of Ambassador at Large, received on May 16, 2005; to the Committee on Foreign Relations.

EC–2225. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a vacancy in the position of Legal Advisor, received on May 16, 2005; to the Committee on Foreign Relations.

EC–2226. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a vacancy in the position of Inspector General, received on May 16, 2005; to the Committee on Foreign Relations.

EC–2227. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of State (Educational and Cultural Affairs), received on May 16, 2005; to the Committee on Foreign Relations.

EC–2228. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of State for European and Eurasian Affairs, received on May 16, 2005; to the Committee on Foreign Relations.

EC–2229. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of State (International Organization Affairs), received on May 16, 2005; to the Committee on Foreign Relations.

EC–2230. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary of State for Near Eastern Affairs, received on May 16, 2005; to the Committee on Foreign Relations.

REPORT RELATIVE TO THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO BURMA—PM 10

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. I have sent the enclosed notice to the *Federal Register* for publication, which states that the Burma emergency is to continue beyond May 20, 2005. The most recent notice continuing this emergency was published in the *Federal Register* on May 19, 2004 (69 FR 29041).

The crisis between the United States and Burma arising from the actions and policies of the Government of Burma that led to the declaration of a national emergency on May 20, 1997, has not been resolved. These actions and policies, including its policies of committing large-scale repression of the democratic opposition in Burma, are hostile to U.S. interests and pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, I have determined that it is necessary to continue the national emergency with respect to Burma and maintain in force the sanctions against Burma to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *May 17, 2005.*

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WARNER, from the Committee on Armed Services, without amendment:

S. 1042. An original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes (Rept. No. 109–69).

S. 1043. An original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

S. 1044. An original bill to authorize appropriations for fiscal year 2006 for military construction, and for other purposes.

S. 1045. An original bill to authorize appropriations for fiscal year 2006 for defense activities of the Department of Energy, and for other purposes.

By Mr. LOTT, from the Committee on Rules and Administration, without amendment:

S. 1053. A bill to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other puropses.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. WARNER:

S. 1042. An original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. WARNER:

S. 1043. An original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. WARNER:

S. 1044. An original bill to authorize appropriations for fiscal year 2006 for military construction, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. WARNER:

S. 1045. An original bill to authorize appropriations for fiscal year 2006 for defense activities of the Department of Energy, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. KYL (for himself, Mr. TALENT, Mr. BROWNBACK, Mr. INHOFE, Mr. STEVENS, Mr. COBURN, Mr. BUNNING, and Mr. THUNE):

S. 1046. A bill to amend title 28, United States Code, with respect to the jurisdiction of Federal courts over certain cases and controversies involving the Pledge of Allegiance; to the Committee on the Judiciary.

By Mr. SUNUNU (for himself, Mr. REID, Mrs. DOLE, Mr. HARKIN, Mr. ALEXANDER, Mr. DURBIN, Mr. LUGAR, Mr. ENSIGN, Mr. BUNNING, Mr. BAUCUS, Mr. INOUYE, Mr. BINGAMAN, Mr. LIEBERMAN, Ms. CANTWELL, Ms. COLLINS, Ms. LANDRIEU, Mr. GRASSLEY, Mr. COCHRAN, and Mr. STEVENS):

S. 1047. A bill to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation's past Presidents and their spouses, respectively to improve circulation of the $1 coin, to create a new bullion coin, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER (for himself, Mr. GRAHAM, Ms. STABENOW, and Mr. DURBIN):

S. 1048. A bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FRIST (for himself, Mr. BINGAMAN, Mr. LUGAR, Ms. CANTWELL, Mr. SANTORUM, Ms. COLLINS, Mr. COCHRAN, Mrs. MURRAY, and Mrs. FEINSTEIN):

S. 1049. A bill to amend title XXI of the Social Security Act to provide grants to promote innovative outreach and enrollment under the medicaid and State children's health insurance programs, and for other purposes; to the Committee on Finance.

By Mrs. LINCOLN (for herself, Mr. BURR, Mrs. DOLE, Mr. GRAHAM, and Mr. DURBIN):

S. 1050. A bill to amend the Tariff Act of 1930 to provide for an expedited antidumping investigation when imports increase materially from new suppliers after an antidumping order has been issued, and to amend the provision relating to adjustments to export price and constructed export price; to the Committee on Finance.

By Mr. DODD (for himself and Mr. BOND):

S. 1051. A bill to amend the Public Health Service Act to reauthorize and extend certain programs to provide coordinated services and research with respect to children and families with HIV/AIDS; to the Committee on Health, Education, Labor, and Pensions.

By Mr. STEVENS (for himself, Mr. INOUYE, Mr. ROCKEFELLER, Mr. DORGAN, Ms. SNOWE, Mrs. BOXER, Ms. CANTWELL, Mr. LAUTENBERG, Mr. PRYOR, Mrs. CLINTON, and Mr. SCHUMER):

S. 1052. A bill to improve transportation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LOTT:

S. 1053. A bill to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other purposes; from the Committee on Rules and Administration; placed on the calendar.

By Mrs. FEINSTEIN (for herself and Mr. ENSIGN):

S. 1054. A bill to amend the Elementary and Secondary Education Act of 1965 to specify the purposes for which funds provided under part A of title I may be used; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY:

S. 1055. A bill to improve elementary and secondary education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID (for himself and Mr. ENSIGN):

S. 1056. A bill to direct the Secretary of the Interior to convey to the City of Henderson, Nevada, certain Federal land located in the City, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 1057. A bill to amend the Indian Health Care Improvement Act to revise and extend that Act; to the Committee on Indian Affairs.

By Mr. SANTORUM (for himself and Mr. WYDEN):

S. 1058. A bill to amend the Public Health Service Act to provide liability protections for volunteer practitioners at health centers under section 330 of such Act; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BROWNBACK (for himself, Mr. SMITH, Mr. CHAMBLISS, Mr. DODD, Mr. FEINGOLD, and Mrs. CLINTON):

S.J. Res. 19. A joint resolution calling upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COLEMAN (for himself and Mr. DAYTON):

S. Res. 144. A resolution recognizing Tim Nelson and Hugh Sims for their bravery and their contributions in helping the Federal Bureau of Investigation detain Zacarias Moussaoui; considered and agreed to.

By Mr. BROWNBACK (for himself and Mrs. CLINTON):

S. Con. Res. 34. A concurrent resolution urging the Government of the Republic of Albania to ensure that the parliamentary elections to be held on July 3, 2005, are conducted in accordance with international standards for free and fair elections; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 7

At the request of Mr. KYL, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 7, a bill to increase American jobs and economic growth by making permanent the individual income tax rate reductions, the reduction in the capital gains and dividend tax rates, and the repeal of the estate, gift, and generation-skipping transfer taxes.

S. 21

At the request of Ms. COLLINS, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 21, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 174

At the request of Mr. DEWINE, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S.

174, a bill to improve the palliative and end-of-life care provided to children with life-threatening conditions, and for other purposes.

S. 185

At the request of Mr. NELSON of Florida, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 241

At the request of Ms. SNOWE, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 382

At the request of Mr. ENSIGN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 382, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 408

At the request of Mr. DEWINE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 408, a bill to provide for programs and activities with respect to the prevention of underage drinking.

S. 424

At the request of Mr. BOND, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 467

At the request of Mr. DODD, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 484

At the request of Mr. WARNER, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 495

At the request of Mr. CORZINE, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. 518

At the request of Mr. SESSIONS, the names of the Senator from North Carolina (Mr. BURR) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. 518, a bill to provide for the establishment of a controlled substance monitoring program in each State.

S. 603

At the request of Ms. LANDRIEU, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 603, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 619

At the request of Mrs. FEINSTEIN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 619, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 639

At the request of Mr. CORZINE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 639, a bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 years of age to 55 years of age.

S. 676

At the request of Mr. STEVENS, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 676, a bill to provide for Project GRAD programs, and for other purposes.

S. 757

At the request of Mr. CHAFEE, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 757, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 765

At the request of Mr. WARNER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 765, a bill to preserve mathematics- and science-based industries in the United States.

S. 776

At the request of Mr. JOHNSON, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 776, a bill to designate certain functions performed at flight service stations of the Federal Aviation Administration as inherently governmental functions, and for other purposes.

S. 807

At the request of Mr. CRAIG, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 807, a bill to amend the Federal Land Policy and Management Act of 1976 to provide owners of non-Federal lands with a reliable method of receiving compensation for damages resulting from the spread of wildfire from nearby forested National Forest System lands or Bureau of Land Management lands, when those forested Federal lands are not maintained in the forest health status known as condition class 1.

S. 842

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 842, a bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes.

S. 858

At the request of Mr. VOINOVICH, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 858, a bill to reauthorize Nuclear Regulatory Commission user fees , and or other purposes.

S. 865

At the request of Mr. VOINOVICH, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 865, a bill to amend the Atomic Energy Act of 1954 to reauthorize the Price-Anderson provisions.

S. 902

At the request of Mr. MARTINEZ, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 902, a bill to amend the Longshore and Harbor Workers' Compensation Act to clarify the exemption for recreational vessel support employees, and for other purposes.

S. 991

At the request of Mr. KENNEDY, the names of the Senator from Washington

(Ms. CANTWELL) and the Senator from Illinois (Mr. OBAMA) were added as cosponsors of S. 991, a bill to amend title I of the Employee Retirement Income Security Act of 1974 to limit the availability of benefits under an employer's nonqualified deferred compensation plans in the event that any of the employer's defined benefit pension plans are subjected to a distress or PBGC termination in connection with bankruptcy reorganization or a conversion to a cash balance plan, to provide appropriate funding restrictions in connection with the maintenance of nonqualified deferred compensation plans, and to provide for appropriate disclosure with respect to nonqualified deferred compensation plans.

S. 1018

At the request of Mr. SARBANES, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1018, a bill to provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes.

S. 1031

At the request of Ms. CANTWELL, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1031, a bill to enhance the reliability of the electric system.

S.J. RES. 17

At the request of Mr. LUGAR, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S.J. Res. 17, a joint resolution honoring the life and legacy of Frederick William Augustus von Steuben and recognizing his contributions on the 275th anniversary of his birth.

S.J. RES. 18

At the request of Mr. MCCONNELL, the names of the Senator from Utah (Mr. BENNETT) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S.J. Res. 18, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

At the request of Mrs. FEINSTEIN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from California (Mrs. BOXER) were added as cosponsors of S.J. Res . 18, supra.

S. RES. 140

At the request of Mr. NELSON of Florida, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. Res. 140, a resolution expressing support for the historic meeting in Havana of the Assembly to Promote the Civil Society in Cuba on May 20, 2005, as well as to all those courageous individuals who continue to advance liberty and democracy for the Cuban people.

At the request of Mr. MARTINEZ, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. Res. 140, supra.

AMENDMENT NO. 619

At the request of Mr. LAUTENBERG, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of amendment No. 619 proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FRIST (for himself, Mr. BINGAMAN, Mr. LUGAR, Ms. CANTWELL, Mr. SANTORUM, Ms. COLLINS, Mr. COCHRAN, Mrs. MURRAY, and Mrs. FEINSTEIN):

S. 1049. A bill to amend title XXI of the Social Security Act to provide grants to promote innovative outreach and enrollment under the medicaid and State children's health insurance programs, and for other purposes; to the Committee on Finance.

Mr. FRIST. Mr. President, today, Senator BINGAMAN and I introduced the "Covering Kids Act of 2005." This legislation provides $100 million in funding to a host of entities including the States, local communities, schools, faith-based organizations, Indian tribes, safety net providers. The goal is to increase enrollment of eligible children in Medicaid and the State Children's Health Insurance Program (SCHIP).

I believe that all Americans should have the security of lifelong, affordable access to health care, especially America's children. Programs like SCHIP help provide a critical safety net.

But, unfortunately, there are still too many families who are not aware of the coverage available to them, or face barriers to enrollment. In fact, over 5.6 million kids are eligible for Medicaid and SCHIP, but are not enrolled. The Covering Kids Act will help close that gap.

The legislation will fund innovative outreach and enrollment efforts to expand coverage among minority and underserved children, and to those living in rural areas. It will also give states additional flexibility to streamline enrollment in these programs, reducing administrative costs for the government and eliminating paperwork and hassles for families.

Covering children is the right thing to do. And by ensuring that children have access to preventive care, it is also one of the best ways of reducing long-term strain on America's health care system.

Since arriving in the Senate in 1995, I have advanced worked hard to expand coverage to uninsured Americans and improve health care for those in need. I have sponsored numerous pieces of bipartisan legislation including: the "Closing the Health Care Gap Act of 2004," the "Pediatric Research Equity Act of 2003," the "Birth Defects and Developmental Disabilities Prevention Act of 2003," and the "Children's Health Act of 2000." Last Congress, we took a critical step forward in expanding affordable health coverage to millions more Americans by authorizing tax-free, portable Health Savings Accounts as part of the Medicare Modernization Act of 2003.

Today, we build on that record of progress.

I first proposed expanding outreach efforts to help lower income children in July of last year. Today, I join with Senator JEFF BINGAMAN and other cosponsors in taking a critical step toward fulfilling that goal.

I also want to applaud the President for his leadership on this issue. President Bush has made the expansion of Medicaid and SCHIP coverage a cornerstone of his agenda. I am confident that with his leadership, and the efforts of my colleagues on the other side of the aisle, we can help millions of kids who need coverage by passing this common sense legislation. All of our children should have access to the affordable quality health care.

I'm proud to introduce this bipartisan legislation with Senators BINGAMAN, LUGAR, CANTWELL, SANTORUM, COLLINS, COCHRAN, and MURRAY. I look forward to working with them, and with all of my colleagues, to strengthen our Nation's health care system and expand affordable health coverage.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1049

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Covering Kids Act of 2005".

SEC. 2. GRANTS TO PROMOTE INNOVATIVE OUTREACH AND ENROLLMENT UNDER MEDICAID AND SCHIP.

(a) GRANTS FOR EXPANDED OUTREACH ACTIVITIES.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

"SEC. 2111. EXPANDED OUTREACH ACTIVITIES.

"(a) GRANTS TO CONDUCT INNOVATIVE OUTREACH AND ENROLLMENT EFFORTS.—

"(1) IN GENERAL.—The Secretary shall award grants to eligible entities to—

"(A) conduct innovative outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX; and

"(B) promote understanding of the importance of health insurance coverage for prenatal care and children.

"(2) PERFORMANCE BONUSES.—The Secretary may reserve a portion of the funds appropriated under subsection (g) for a fiscal year for the purpose of awarding performance bonuses during the succeeding fiscal year to eligible entities that meet enrollment goals or other criteria established by the Secretary.

"(b) PRIORITY FOR AWARD OF GRANTS.—

"(1) IN GENERAL.—In making grants under subsection (a)(1), the Secretary shall give priority to—

"(A) eligible entities that propose to target geographic areas with high rates of—

"(i) eligible but unenrolled children, including such children who reside in rural areas; or

"(ii) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

"(B) eligible entities that plan to engage in outreach efforts with respect to individuals described in subparagraph (A) and that are—

"(i) Federal health safety net organizations; or

"(ii) faith-based organizations or consortia.

"(2) 10 PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (g) for a fiscal year shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

"(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a)(1) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

"(1) quality and outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section to ensure that the activities are meeting their goals; and

"(2) an assurance that the entity shall—

"(A) conduct an assessment of the effectiveness of such activities against such performance measures; and

"(B) cooperate with the collection and reporting of enrollment data and other information determined as a result of conducting such assessments to the Secretary, in such form and manner as the Secretary shall require.

"(d) DISSEMINATION OF ENROLLMENT DATA AND INFORMATION DETERMINED FROM EFFECTIVENESS ASSESSMENTS; ANNUAL REPORT.—The Secretary shall—

"(1) disseminate to eligible entities and make publicly available the enrollment data and information collected and reported in accordance with subsection (c)(2)(B); and

"(2) submit an annual report to Congress on the outreach activities funded by grants awarded under this section.

"(e) SUPPLEMENT, NOT SUPPLANT.—Federal funds awarded under this section shall be used to supplement, not supplant, non-Federal funds that are otherwise available for activities funded under this section.

"(f) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

"(A) A State or local government.

"(B) A Federal health safety net organization.

"(C) A national, local, or community-based public or nonprofit private organization.

"(D) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x-65) relating to a grant award to non-governmental entities.

"(E) An elementary or secondary school.

"(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

"(A) an Indian tribe, tribal organization, or an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider;

"(B) a Federally-qualified health center (as defined in section 1905(l)(2)(B));

"(C) a hospital defined as a disproportionate share hospital for purposes of section 1923;

"(D) a covered entity described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

"(E) any other entity or a consortium that serves children under a federally-funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the head start and early head start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

"(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

"(g) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, $50,000,000 for each of fiscal years 2006 and 2007 for the purpose of awarding grants under this section. Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105, including with respect to expenditures for outreach activities in accordance with subsection (a)(1)(D)(iii) of that section.".

(b) EXTENDING USE OF OUTSTATIONED WORKERS TO ACCEPT TITLE XXI APPLICATIONS.—Section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) is amended by striking "or (a)(10)(A)(ii)(IX)" and inserting "(a)(10)(A)(ii)(IX), or (a)(10)(A)(ii)(XIV), and applications for child health assistance under title XXI".

SEC. 3. STATE OPTION TO PROVIDE FOR SIMPLIFIED DETERMINATIONS OF A CHILD'S FINANCIAL ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER MEDICAID OR CHILD HEALTH ASSISTANCE UNDER SCHIP.

(a) MEDICAID.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following:

"(13)(A) At the option of the State, the plan may provide that financial eligibility requirements for medical assistance are met for a child who is under an age specified by the State (not to exceed 21 years of age) by using a determination made within a reasonable period (as determined by the State) before its use for this purpose, of the child's family or household income, or if applicable for purposes of determining eligibility under this title or title XXI, assets or resources, by a Federal or State agency, or a public or private entity making such determination on behalf of such agency, specified by the plan, including (but not limited to) an agency administering the State program funded under part A of title IV, the Food Stamp Act of 1977, the Richard B. Russell National School Lunch Act, or the Child Nutrition Act of 1966, notwithstanding any differences in budget unit, disregard, deeming, or other methodology, but only if—

"(i) the agency has fiscal liabilities or responsibilities affected or potentially affected by such determination; and

"(ii) any information furnished by the agency pursuant to this subparagraph is used solely for purposes of determining financial eligibility for medical assistance under this title or for child health assistance under title XXI.

"(B) Nothing in subparagraph (A) shall be construed—

"(i) to authorize the denial of medical assistance under this title or of child health assistance under title XXI to a child who, without the application of this paragraph, would qualify for such assistance;

"(ii) to relieve a State of the obligation under subsection (a)(8) to furnish medical assistance with reasonable promptness after the submission of an initial application that is evaluated or for which evaluation is requested pursuant to this paragraph;

"(iii) to relieve a State of the obligation to determine eligibility for medical assistance under this title or for child health assistance under title XXI on a basis other than family or household income (or, if applicable, assets or resources) if a child is determined ineligible for such assistance on the basis of information furnished pursuant to this paragraph; or

"(iv) as affecting the applicability of any non-financial requirements for eligibility for medical assistance under this title or child health assistance under title XXI.".

(b) SCHIP.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended by adding at the end the following:

"(E) Section 1902(e)(13) (relating to the State option to base a determination of child's financial eligibility for assistance on financial determinations made by a program providing nutrition or other public assistance).".

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2005.

Mr. BINGAMAN. Mr. President, I am pleased to be introducing bipartisan legislation today with Senators FRIST, CANTWELL, LUGAR, SANTORUM, COLLINS, COCHRAN, MURRAY, and FEINSTEIN named the "Covering Kids Act of 2005." This legislation is intended to improve outreach and enrollment efforts targeted toward children and pregnant women and is very similar to language included in legislation I introduced in the 107th Congress entitled the "Children's Health Coverage Improvement Act" and earlier this year with Senator LUGAR entitled "Children's Express Lane to Health Coverage Act."

The legislation provides $100 million in grants over the next two years to community and faith-based organizations, safety net organizations such as community health centers, disproportionate share hospitals, tribal providers or organizations, schools, or State or local governments for the purposes of conducting innovative outreach and enrollment efforts.

The bill includes language from legislation introduced by Senator LUGAR and me that would promote what is called "Express Lane Eligibility." This approach uses two strategies to find and enroll eligible but uninsured children by: 1. targeting large numbers of eligible children in other public benefit programs like school lunch and food stamps; 2. expediting their enrollment in health coverage by using income-eligibility information already submitted by parents when they enrolled their children in these other public programs.

In combination, these two commonsense ideas could have a dramatic impact on reducing the uninsured rate among our Nation's children, which we must do.

According to the American College of Physicians, uninsured children, when compared to insured children, are: up to 6 times more likely to have gone without needed medical, dental, or other health care; 2 times more likely to have gone without a physician visit during the previous year; up to 4 times more likely to have delayed seeking medical care; up to 10 times less likely to have a regular source of medical care; 1.7 times less likely to receive medical treatment for asthma; and, up to 30 percent less likely to receive medical attention for any injury.

Another study estimated that the 15 percent rise in the number of children eligible for Medicaid between 1984 and 1992 decreased child mortality by 5 percent. I would add that the expansion period occurred during the Reagan and George H.W. Bush administrations with strong Democratic congressional support, so this is clearly a bipartisan issue that deserves further bipartisan action once again.

In fact, during the last presidential campaign, President Bush made very few promises when it came to reducing the number of uninsured in this country. However, he did make the promise to reduce the number of uninsured by conducting additional efforts in outreach and enrollment. As he said in a speech in Pennsylvania on October 21, 2004, "We'll keep our commitment to America's children by helping them get a healthy start in life. I'll work with governors and community leaders and religious leaders to make sure every eligible child is enrolled in our government's low-income health insurance program. We will not allow a lack of attention, or information, to stand between millions of children and the health care they need."

I agree and hope that with the support of the Administration and the Majority Leader in his introduction of this bipartisan legislation today that we can secure passage of it this year.

Despite the passage of the State Children's Health Insurance Program, or SCHIP, which has, in combination with Medicaid, caused a reduction in the rate of uninsured children in recent years, it is estimated that 5-6 million of the remaining 9.2 million uninsured children are eligible for but unenrolled in either Medicaid or SCHIP. In New Mexico, there are an estimated 80,000, or 15.2 percent, of the children in my State without health insurance despite the fact that Medicaid and SCHIP cover children all the way up to 235 percent of the poverty level.

Thus, ineligibility for coverage is no longer a barrier for the vast majority of uninsured children. As the Urban Institute has said, "A major challenge today is how to reach and enroll the millions of children who are eligible but who remain uninsured."

The biggest problems are knowledge gaps, confusion about program rules, and problems created by bureaucratic barriers to coverage. The State of California has taken some important strides to eliminate some of these barriers through what they call their Express Lane Eligibility, or ELE, initiative, which allowed the sharing of income-eligibility information across public programs. Unfortunately, Down Horner, Beth Marrow, and Wendy Lazarus of the Children's Partnership in California found in their report entitled "Building an On-Ramp to Children's Health Coverage: A Report on California's Express Lane Eligibility Program": "A clear lesson from California's experience is that there is only so far a state can go in putting an ELE system in place. In the end, existing Federal rules tend to thwart efforts to create a truly efficient process. In California, instead of allowing Medi-Cal to use a school lunch program's income determination, both school lunch and Medi-Cal have to recount a family's income based on their own rules."

If we can engage in innovative enrollment and outreach activities and promote ELE types of activities in the states, it clearly could have a profound impact on reducing the uninsured rate among our nation's children.

I would like to express my thanks to the Majority Leader and his staff for working through a number of issues with me prior to the introduction of this legislation. I think the bill is stronger, as a result, and look forward to working with him on trying to get the bill enacted in this Congress.

By Mr. DODD (for himself and Mr. BOND):

S. 1051. A bill to amend the Public Health Service Act to reauthorize and extend certain programs to provide coordinated services and research with respect to children and families with HIV/AIDS; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Children and Family HIV/AIDS Research and Care Act of 2005. This bipartisan legislation is similar to a bill that was introduced last year. This legislation will address the special needs of children and youth with HIV/AIDS—needs that are too often overlooked, both domestically and internationally. It recognizes the simple fact that when it comes to HIV prevention, research, care, and treatment, children and youth are not just small adults. To give them a chance for a healthy future, we must ensure that their unique needs are met. I want to thank my good friend Senator BOND of Missouri for joining me in introducing this important legislation. I am very pleased to work with him to move this bill forward.

Children's growing bodies are especially susceptible to the rapid advancement of HIV infection. Because their immune systems are still immature, the disease typically progresses more rapidly and differently in children than in adults. For example, children with HIV infection are more prone to neurological abnormalities and certain opportunistic infections than adults. In addition, because children's bodies are growing and developing, HIV/AIDS can have profound effects on children's physical growth and ability to reach developmental milestones such as crawling, walking and learning to talk.

While research has definitively shown that initiating drug treatment in children in a timely manner promotes normal growth and development, and prolongs life, treating children with HIV/AIDS presents particular challenges. Appropriately formulated and dosed HIV/AIDS drugs are urgently needed to ensure that children receive optimal care. Currently, liquid formulations that young children can swallow are not always readily available. In addition, pediatric dosing and safety information for these powerful drugs is often lacking, particularly for younger children. This lack of information puts children at risk; too much medication can be toxic and too little will not effectively suppress the virus. Over time, under-dosing can lead to drug resistance, a particularly serious concern for children who will need to use these medications for years, if not decades.

Appropriate HIV/AIDS care and treatment for children and youth also requires that special attention be paid to their social development needs. Children and youth have unique concerns regarding disclosure and stigma that may be exacerbated by frequent absences from school and social activities, and the onset of sexual maturity. Working with schools and other social and community institutions is imperative to promoting a sense of normalcy. Because children are not typically medical decision-makers, developing long-term care partnerships with parents and other caregivers is also crucial to successful care and treatment. At the same time, maximizing each child's own ability to take active participation in different aspects of his or her own care can increase a child's sense of ownership over treatment, improving adherence and overall health.

By reauthorizing and expanding Title IV of the Ryan White CARE Act this legislation will help to ensure that the unique care and treatment needs of children are addressed. This program is a lifeline for more than 53,000 women, children, and youth affected by HIV/AIDS served annually by Title IV-funded projects. Through 91 grants in 35 states, the District of Columbia, Puerto Rico and the Virgin Islands, Title IV projects provide medical care, case management, support services, mental health, transportation, child care, and other crucial services to families affected by HIV/AIDS. Title IV is the smallest of the four main titles of the Ryan White CARE Act, yet reaches the highest proportion of minorities.

Key to the success of Title IV projects is the model of "family-centered care." This model of care treats the whole family as the client, whether several family members are infected by HIV, or just a parent or child. The family-centered care model is crucial to developing strong partnerships between consumers and providers, leading to better health outcomes for women, children, and youth. By allowing affected family members to receive services, as well as the infected individuals, Title IV projects promote health at the family level, thereby prolonging life, improving quality of life, and saving money by keeping people out of the hospital.

I would like to take a moment to recognize the work done by the Children, Youth and Family AIDS Network of Connecticut, which provides Title IV services to more than 500 children, youth, women, and families affected by HIV/AIDS in my home state. Just earlier today, I had an opportunity to meet with some of these individuals. They made it clear just how important these services are to their quality of life.

While recommitting the Health Resources and Services Administration (HRSA) to family-centered care and the unique work of Title IV, this legislation will also expand the innovative strategies Title IV projects have used to prevent mother-to-child HIV transmission. Since 1994, when the administration of preventive drug interventions was shown to significantly reduce perinatal HIV transmission, the number of newborns infected with HIV has decreased dramatically. Yet mother-to-children transmission does continue to occur, largely due to missed opportunities for identifying HIV-positive pregnant women and providing the supportive services needed to ensure adherence to recommended treatment regimens. We propose to fund demonstration grants to assess the effectiveness of two strategies in reducing mother-to-children transmission: (1) increasing routine, voluntary HIV testing of pregnant women and (2) increasing access to prenatal care, intensive case management, and supportive services for HIV-positive pregnant women.

In addition, this bill will encourage research into key care and treatment questions affecting the pediatric populations. These include: the long-term health effects of preventive drug regimens on HIV-exposed children; the long-term health, psycho-social, and prevention needs for children and adolescents perinatally HIV-infected; the transition to adulthood for HIV-infected children; and safer and more effective treatment options for infants, children, and adolescents with HIV disease.

Since history suggests that a vaccine may prove to be the most effective, affordable, long-term approach to stopping the spread of HIV, this legislation will also ensure that children are not an afterthought when it comes to the development of an HIV vaccine. Currently, some of the populations hardest hit by the pandemic—infants and youth—are at risk of being left behind in the search for an effective vaccine. Because we cannot assume that a vaccine tested in adults will also be safe and effective when used in pediatric populations, it will be important to ensure that promising vaccines are tested in infants and youth as early as is medically and ethically appropriate. Failure to begin planning for the inclusion of these groups in clinical trials could mean significant delays in the availability of a pediatric HIV vaccine, at the cost of countless thousands of lives. This legislation will ensure that we begin now to address the logistical, regulatory, medical, and ethical issues presented by pediatric testing of HIV vaccines so that children can share in the benefits of any advances in vaccines research.

I want to thank several organizations for lending their expertise to the development of this legislation, in particular the Elizabeth Glaser Pediatric AIDS Foundation, the AIDS Alliance for Children, Youth and Families, and the American Academy of Pediatrics, all of whom endorse this bill.

HIV/AIDS is the single greatest health care catastrophe facing the world today. We need to do much more to seek effective treatments and, eventually, a cure for this horrible illness. This legislation is by no means sufficient to reach that goal, but it is a step towards ensuring that children are not left behind as we make progress, and then when we do finally eradicate HIV/AIDS once and for all, children and youth are able to benefit immediately. I urge all of my colleagues to join us in support of this legislation.

Mr. BOND. Mr. President, currently, more than 3,700 children and youth under the age of 13 are living with HIV or AIDS in the United States and of the more than 40,000 Americans newly infected with HIV each year, half are young people under the age of 25 years old. When we think about this devastating virus we do not often associate it with children, especially infants or newborn babies, but the fact is this disease does not discriminate on the basis of age. It affects children in very specific and very different ways than adults.

For instance, the medical experience of children with HIV/AIDS can differ significantly from that of adults. Because children's immune systems are still immature, the disease typically progresses more rapidly in children than in adults and can have different manifestations. For example, the majorities of children with HIV have neurological abnormalities and are more susceptible to certain opportunistic infections than adults. In addition, because children's bodies are growing and developing, HIV/AIDS can have profound effects on children's physical growth and ability to reach developmental milestones such as crawling, walking and learning to walk.

Medication for young children living with HIV/AIDS can also be very different than that of an adult living with HIV/AIDS. For example, children of certain ages cannot swallow pills and require liquid formulations of life-saving HIV/AIDS drugs that are not always readily available. In addition, dosing and safety information for these powerful drugs are often strikingly different for children and adults, and for younger children, this information is typically completely missing. This lack of information puts children at risk by requiring health care providers to estimate correct dosing. Too much medication can be toxic, and too little will not effectively suppress the virus. Over time, underdosing can lead to drug resistance.

Children are not just small adults and their growing bodies are especially susceptible to the rapid advancement of HIV infection. Early awareness that a child has HIV infection, combined with good care and support, can enhance survival and quality of life, which is why I am introducing, with my colleague Senator DODD, The Children and Family HIV/AIDS Research and Care Act.

This legislation will address those needs of children and adolescents living with HIV/AIDS by reauthorizing Title IV of the Ryan White CARE Act and expanding its focus on reaching and caring for adolescents with HIV/AIDS. Moreover, this legislation will continue to work to reduce mother-to-child transmission of HIV, by promoting routine, voluntary prenatal HIV testing and intensive care management for HIV-positive pregnant women. In addition, because children are at risk of being left behind in the search for an effective HIV vaccine, the bill will require federal agencies funding and regulating HIV vaccine research to develop plans and guidelines for including pediatric populations in clinical trials as quickly as is medically and ethically appropriate. This legislation will also encourage research on key remaining pediatric research questions, including how to provide safer and more effective treatment options for children with HIV/AIDS.

For a young person living with HIV or AIDS there is no cure and there is no remission. It is with them at home, on the playground, in the classroom, and at a Friday night sleepover. It will be with them as they enter high school, go to college and get their first job. For a person born with this virus it is a permanent part of their life. This bill will help to ensure that the needs of infants, children, and adolescents living with HIV/AIDS are not overlooked.

By Mr. STEVENS (for himself, Mr. INOUYE, Mr. ROCKEFELLER, Mr. DORGAN, Ms. SNOWE, Mrs. BOXER, Ms. CANTWELL, Mr. LAUTENBERG, Mr. PRYOR, Mrs. CLINTON, and Mr. SCHUMER):

S. 1052. A bill to improve transportation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. STEVENS. Mr. President, I am pleased to join my good friend, Senator INOUYE, Co-Chairman of the Commerce Committee, and several of our colleagues, today in introducing the "Transportation Security Improvement Act of 2005." The Commerce Committee is committed to fulfilling its oversight responsibilities with respect to the security of all major modes of transportation.

It has been four years since Congress enacted landmark aviation and maritime transportation security laws after the September 11 attacks. We must remain diligent in carrying out our responsibility to secure the Nation's domestic transportation system so as to ensure consumer trust and the uninterrupted flow of commerce. Recent reorganizations and budgetary decisions affecting the Transportation Security Administration (TSA) have effectively marginalized maritime and surface transportation security, suggested reprivatization of aviation security, and offered inadequate funding for the security of all modes.

The bill that we introduce today recognizes transportation security as a national security function and an economic necessity. The legislation would address security vulnerabilities that exist within our aviation, maritime, rail, and surface transportation systems. More specifically, the bill would, among other things: make notable changes to aviation security policy, including prohibiting the Administration from increasing passenger fees without the approval of Congress; eliminate the existing cap of 45,000 full time equivalent aviation security screening employees; enhance maritime cargo security by improving the examination of shipments before they reach U.S. shores; require TSA to conduct a railroad sector threat assessment and submit prioritized recommended solutions for improving rail security; make improvements to bus and motor carrier security by subjecting foreign commercial drivers transporting hazardous materials into the U.S. to submit to security background checks; and encourage the deployment of rail car tracking equipment for high-hazard materials rail shipments.

This is an important first step toward bolstering our nation's security with respect to transportation and I look forward to working with Senator INOUYE, as well as the Department of Homeland Security, DOT, and private industry, on this legislation in committee and on the Senate floor.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Transportation Security Improvement Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—AUTHORIZATIONS

Sec. 101. Transportation Security Administration authorization.
Sec. 102. Department of Transportation authorization.
Sec. 103. Certain personnel limitations not to apply.
Sec. 104. Intermodal regional security managers.
Sec. 105. Security threat assessment coordination policy.
Sec. 106. Reorganizations.

TITLE II—IMPROVED AVIATION SECURITY

Sec. 201. Post-fiscal year 2006 air carrier security fees.
Sec. 202. Alternative collection methods for passenger security fee.
Sec. 203. Screener training review.
Sec. 204. Employee retention internship program.
Sec. 205. Repair station security.
Sec. 206. Waiver process for certain employment disqualifications.

TITLE III—IMPROVED RAIL SECURITY

Sec. 301. Short title.
Sec. 302. Rail transportation security risk assessment.
Sec. 303. Systemwide Amtrak security upgrades.
Sec. 304. Fire and life-safety improvements.
Sec. 305. Freight and passenger rail security upgrades.
Sec. 306. Rail security research and development.
Sec. 307. Oversight and grant procedures.
Sec. 308. Amtrak plan to assist families of passengers involved in rail passenger accidents.
Sec. 309. Northern Border rail passenger report.
Sec. 310. Rail worker security training program.
Sec. 311. Whistleblower protection program.
Sec. 312. High hazard material security threat mitigation plans.
Sec. 313. Memorandum of agreement.
Sec. 314. Rail security enhancements.
Sec. 315. Welded rail and tank car safety improvements.
Sec. 316. Report regarding impact on security of train travel in communities without grade separation.
Sec. 317. Study of foreign rail transport security programs.
Sec. 318. Passenger, baggage, and cargo screening.
Sec. 319. Public awareness.
Sec. 320. Railroad high hazard material tracking.

TITLE IV—IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS MATERIAL SECURITY

Sec. 401. Background checks for drivers hauling hazardous materials.
Sec. 402. Written plans for hazardous materials highway routing.
Sec. 403. Motor carrier high hazard material tracking.
Sec. 404. Truck leasing security training guidelines.
Sec. 405. Hazardous materials security inspections and enforcement.
Sec. 406. Pipeline security and incident recovery plan.
Sec. 407. Pipeline security inspections and enforcement.
Sec. 408. Memorandum of agreement.
Sec. 409. National public sector response system.
Sec. 410. Over-the-road bus security assistance.

TITLE V—IMPROVED MARITIME SECURITY

Sec. 501. Establishment of additional joint operational centers for port security.
Sec. 502. AMTS plan to include salvage response plan.
Sec. 503. Priority to certain vessels in post-incident resumption of trade.
Sec. 504. Assistance for foreign ports.
Sec. 505. Improved data used for targeted cargo searches.
Sec. 506. Increase in number of customs inspectors assigned overseas.
Sec. 507. Random inspection of containers.
Sec. 508. Cargo security.
Sec. 509. Secure systems of international intermodal transportation.
Sec. 510. Technology for maritime transportation security.
Sec. 511. Deadline for transportation security cards.
Sec. 512. Evaluation and report.
Sec. 513. Port security grants.
Sec. 514. Work stoppages and employee-employer disputes.
Sec. 515. Appeal of denial of waiver for transportation security card.

TITLE I—AUTHORIZATIONS

SEC. 101. TRANSPORTATION SECURITY ADMINISTRATION AUTHORIZATION.

Section 114 of title 49, United States Code, is amended by adding at the end thereof the following:

"(u) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security, (Transportation Security Administration)—

"(1) for Aviation Security—

"(A) $5,000,000,000 for fiscal year 2006;

"(B) $5,250,000,000 for fiscal year 2007; and

"(C) $5,500,000,000 for fiscal year 2008;

"(2) for Maritime and Land Security—

"(A) $394,000,000 for fiscal year 2006;

"(B) $354,000,000 for fiscal year 2007; and

"(C) $354,000,000 for fiscal year 2008;

"(3) for Intelligence—

"(A) $30,000,000 for fiscal year 2006;

"(B) $32,000,000 for fiscal year 2007; and

"(C) $34,000,000 for fiscal year 2008;

"(4) for Research and Development—

"(A) $30,000,000 for fiscal year 2006;

"(B) $32,000,000 for fiscal year 2007; and

"(C) $34,000,000 for fiscal year 2008; and

"(5) for Administration—

"(A) $530,000,000 for fiscal year 2006;

"(B) $535,000,000 for fiscal year 2007; and

"(C) $540,000,000 for fiscal year 2008.".

SEC. 102. DEPARTMENT OF TRANSPORTATION AUTHORIZATION.

There are authorized to be appropriated to the Secretary of Transportation to carry out title III of this Act and sections 20118 and 24316 of title 49, United States Code, as added by title III of this Act—

(1) $261,000,000 for fiscal year 2006;

(2) $258,000,000 for fiscal year 2007; and

(3) $258,000,000 for fiscal year 2008.

SEC. 103. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

(a) IN GENERAL.—Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this Act.

(b) AVIATION SECURITY.—Nothwithstanding any provision of law imposing a limitation on the recruiting or hiring of personnel into the Transportation Security Administration to a maximum number of permanent positions, the Secretary of Homeland Security shall recruit and hire such personnel into the Administration as may be necessary—

(1) to provide appropriate levels of aviation security; and

(2) to accomplish that goal in such a manner that the average aviation security-related delay experienced by airline passengers is reduced.

SEC. 104. INTERMODAL REGIONAL SECURITY MANAGERS.

(a) ESTABLISHMENT, DESIGNATION, AND STATIONING.—The Under Secretary of Homeland Security for Border and Transportation Security, acting through the Transportation Security Administration, is authorized to establish the position of Intermodal Manager within each of at least 8 regional areas of the nation, as divided on a geographical basis. The Under Secretary shall designate individuals as Managers for, and station those Managers within, those regions.

(b) DUTIES AND POWERS.—The regional offices shall—

(1) receive intelligence information related to maritime and land security within the region;

(2) assist in the development and implementation of vulnerability, threat, and risk assessments, security plans, the identification of critical infrastructure for the region undertaken by the Transportation Security Administration and the Department of Homeland Security, or other public or private entity when appropriate;

(3) serve as the regional coordinator of the Assistant Secretary's response to terrorist incidents and threats to maritime and land assets, operations and infrastructure within the region;

(4) coordinate efforts related to maritime and land security with other Department officials, State and local law enforcement, and other public and private entities;

(5) coordinate with other regional managers;

(6) assist the Assistant Secretary in prioritizing maritime and land security improvements, grants, and other efforts funded by the Transportation Security Administration or the Department of Homeland Security within the region.

(7) engage in outreach and promote public awareness of maritime and land security efforts when appropriate.

SEC. 105. SECURITY THREAT ASSESSMENT COORDINATION POLICY.

(a) IN GENERAL.—The Secretary of Homeland Security shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a copy of the report on comprehensive terrorist-related screening procedures required by Homeland Security Presidential Directive 11 issued on August 27, 2004.

(b) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

SEC. 106. REORGANIZATIONS.

The Secretary of Homeland Security shall notify the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Homeland Security and Governmental Affairs, and the House of Representatives Committee on Homeland Security in writing not less than 15 days before—

(1) reorganizing or renaming offices;

(2) reorganizing programs or activities; or

(3) contracting out or privatizing any functions or activities presently performed by Federal employees.

TITLE II—IMPROVED AVIATION SECURITY

SEC. 201. POST-FISCAL YEAR 2006 AIR CARRIER SECURITY FEES.

(a) AIR CARRIER SECURITY SERVICE FEES SUBJECT TO CONGRESSIONAL REVIEW.—Section 44940(a)(2) of title 49, United States Code, is amended by adding at the end the following:

"(D) FISCAL YEARS 2007 AND LATER.—The Under Secretary may not impose a fee under subparagraph (A) after September 30, 2006, unless—

"(i) the fee is imposed by rule promulgated by the Under Secretary; and

"(ii) the Under Secretary submits the rule to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure not less than 60 days before its proposed effective date.

"(E) APPLICATION OF CHAPTER 8 OF TITLE 5.—Chapter 8 of title 5 applies to any rule promulgated by the Under Secretary imposing a fee under subparagraph (A) after September 30, 2006.".

(b) REPORT ON TRANSPORTATION SECURITY SERVICE FEES.—Each year, beginning with calendar year 2006, the Secretary of Homeland Security, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on fees, substantially similar to the fee imposed under section 44940(a)(2) of title 49, United States Code, that are imposed under authority of law on competing modes of regularly-scheduled commercial passenger transportation by rail, vessel, or over-the-road bus to pay for the difference between the Transportation Security Administration's costs of providing transportation security services in connection with those modes of transportation and amounts collected from fees imposed under authority of law on passengers using those modes of transportation, taking into account costs that are the same as or similar to the costs described in 44940(a)(1) of that title that are appropriate to the respective modes of transportation.

SEC. 202. ALTERNATIVE COLLECTION METHODS FOR PASSENGER SECURITY FEE.

(a) IN GENERAL.—

(1) STUDY.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall study the feasibility of collecting the passenger security service fee authorized by section 44940(a) of title 49, United States Code, directly from passengers at, or before they reach, the airport through a system developed or approved by the Assistant Secretary, including the use of vending kiosks, other automated vending devices, the Internet, or other remote vending sites.

(2) SOLICITATION OF PROPOSALS.—In carrying out this subsection the Secretary shall solicit proposals for such alternative collection mechanisms.

(3) DEVELOPMENT OF ALTERNATIVES.—Based on the study conducted under paragraph (1) and an evaluation of proposals submitted pursuant to the solicitation under paragraph (2), the Assistant Secretary shall develop such alternative collection systems as the Assistant Secretary determines to be feasible, including schedules and methods to ensure the efficiency of such systems.

(b) REPORT.—The Secretary shall report the results of the study, together with any recommendations the Secretary deems appropriate, to the Congress within 6 months after the date of enactment of this Act.

(c) DEMONSTRATION PROJECTS.—If the Secretary determines that a system of direct collection of such fees from passengers at airports is feasible, the Secretary shall conduct demonstration projects at no fewer than 3 airports within 1 year after submitting the report required by subsection (b) to the Congress.

SEC. 203. SCREENER TRAINING REVIEW.

Within 6 months after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration), shall transmit a report on the adequacy of training for Transportation Security Administration screeners to the Congress. In addition to other issues, the Assistant Secretary shall specifically address any multi-hour weekly training requirement for such screeners, including an assessment of the degree to which such a requirement is observed and whether the requirement is appropriate, workable, and desirable. The Inspector General of the Department of Homeland Security shall review the report submitted under this section.

SEC. 204. EMPLOYEE RETENTION INTERNSHIP PROGRAM.

The Assistant Secretary of Homeland Security (Transportation Security Administration), shall establish a pilot program at no fewer than 3 airports for training students to perform screening of passengers and property under section 44901 of title 49, United States Code. The program shall be an internship for pre-employment training of final-year students from public and private secondary schools located in nearby communities. Under the program, participants—

(1) shall be compensated for training and services time while participating in the program, and

(2) shall be required to agree, as a condition of participation in the program, to accept employment as a screener upon successful completion of the internship and upon graduation from the secondary school.

SEC. 205. REPAIR STATION SECURITY.

(a) Certification of Foreign Repair Stations Suspension.—If the Under Secretary of Homeland Security for Border and Transportation Security does not issue the regulations required by section 44924(e) of title 49, United States Code, within 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration may not certify any foreign repair station under part 145 of title 14, Code of Federal Regulations after such 90th day.

(b) 6-Month Deadline for Security Review and Audit.—Subsections (a) and (d) of section 44924 of title 49, United States Code, are each amended by striking "18 months" and inserting "6 months".

SEC. 206. WAIVER PROCESS FOR CERTAIN EMPLOYMENT DISQUALIFICATIONS.

Section 44936 of title 49, United States Code, is amended by adding at the end the following:

"(f) Waiver Process.—

"(1) In general.—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall establish a process to permit an individual who was convicted of a crime listed in subsection (b) to obtain a waiver from the Under Secretary to permit that individual's employment.

"(2) Factors.—In deciding whether to grant a waiver under this subsection, the Under Secretary shall give consideration to the circumstances of the disqualifying crime, restitution made by the individual, and other factors that would tend to indicate that the individual does not pose a security or terrorism risk.

"(3) Appeals process.—The Under Secretary shall establish a process that includes an opportunity for a hearing for individuals who are denied waivers under this subsection.

"(4) Restrictions on use and maintenance of information.—

"(A) Information submitted to or obtained by the Attorney General or the Secretary under this section about an individual may not be made available to the public, including the individual's employer.

"(B) Any information submitted to or obtained under this section shall be maintained confidentially by the Under Secretary and may be used only for making determinations under this section. The Under Secretary may share any such information with other Federal law enforcement agencies. An individual's employer may only be informed whether or not the individual has been granted unescorted access under this section.

"(5) Appeal.—An individual denied a waiver under this subsection may file a civil action appealing that denial in any United States District Court and those courts shall have jurisdiction of the appeal.".

TITLE III—IMPROVED RAIL SECURITY

SEC. 301. SHORT TITLE.

This title may be cited as the "Rail Security Act of 2005".

SEC. 302. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) In General.—

(1) Vulnerability and risk assessment.—The Secretary of Homeland Security shall establish a task force, including the Transportation Security Administration, the Department of Transportation, and other appropriate agencies, to complete a vulnerability and risk assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) identification and evaluation of critical assets and infrastructures;

(B) identification of vulnerabilities and risks to those assets and infrastructures;

(C) identification of vulnerabilities and risks that are specific to the transportation of hazardous materials via railroad; and

(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) Existing private and public sector efforts.—The assessment shall take into account actions taken or planned by both public and private entities to address identified security issues and assess the effective integration of such actions.

(3) Recommendations.—Based on the assessment conducted under paragraph (1), the Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) training appropriate railroad or railroad shipper employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term costs of measures that may be required to address those risks.

(4) Plans.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the Federal government to provide increased security support at high or severe threat levels of alert;

(B) a plan for coordinating existing and planned rail security initiatives undertaken by the public and private sectors; and

(C) a contingency plan, developed in conjunction with freight and intercity and commuter passenger railroads, to ensure the continued movement of freight and passengers in the event of an attack affecting the railroad system, which shall contemplate—

(i) the possibility of rerouting traffic due to the loss of critical infrastructure, such as a bridge, tunnel, yard, or station; and

(ii) methods of continuing railroad service in the Northeast Corridor in the event of a commercial power loss, or catastrophe affecting a critical bridge, tunnel, yard, or station.

(b) Consultation; Use of Existing Resources.—In carrying out the assessment and developing the recommendations and plans required by subsection (a), the Secretary of Homeland Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials, and other relevant parties.

(c) Report.—

(1) Contents.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report containing the assessment, prioritized recommendations, and plans required by subsection (a) and an estimate of the cost to implement such recommendations.

(2) Format.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(d) Annual Updates.—The Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations each year and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) Funding.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section $5,000,000 for fiscal year 2006.

SEC. 303. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) In General—Subject to subsection (c) the Secretary of Homeland Security, in consulation with the Assistant Secretary of Homeland Security (Transportation Security Administration), is authorized to make grants to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Secretary;

(5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units; and

(7) to expand emergency preparedness efforts.

(b) Conditions.—The Secretary of Transportation shall disburse funds to Amtrak provided under subsection (a) for projects contained in a systemwide security plan approved by the Secretary of Homeland Security. The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training.

(c) Equitable Geographic Allocation.—The Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) Availability of Funds.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security and the Assistant Secretary of Homeland Security (Transportation Security Administration) to carry out this section—

(1) $63,500,000 for fiscal year 2006;

(2) $30,000,000 for fiscal year 2007; and

(3) $30,000,000 for fiscal year 2008.

Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 304. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—The Secretary of Transportation is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC.

(b) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 102 of this Act, there shall be made available to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $190,000,000 for fiscal year 2006;

(B) $190,000,000 for fiscal year 2007;

(C) $190,000,000 for fiscal year 2008;

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $19,000,000 for fiscal year 2006;

(B) $19,000,000 for fiscal year 2007;

(C) $19,000,000 for fiscal year 2008;

(3) For the Washington, DC, Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $13,333,000 for fiscal year 2006;

(B) $13,333,000 for fiscal year 2007;

(C) $13,333,000 for fiscal year 2008;

(c) INFRASTRUCTURE UPGRADES.—Out of funds appropriated pursuant to section 102 of this Act, there shall be made available to the Secretary of Transportation for fiscal year 2006 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts made available pursuant to this section shall remain available until expended.

(e) PLANS REQUIRED.—The Secretary may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, and periodic status reports.

(f) REVIEW OF PLANS.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use or plan to use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use or planned use of the tunnels, if feasible.

SEC. 305. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) SECURITY IMPROVEMENT GRANTS.—The Secretary of Homeland Security, through the Assistant Secretary of Homeland Security (Transportation Security Administration) and other appropriate agencies, is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for rail passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security vulnerabilities and risks identified under section 302, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of cargo or passenger screening equipment at the United States-Mexico border or the United States-Canada border;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations;

(8) the sharing of intelligence and information about security threats;

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(10) to hire additional police and security officers, including canine units; and

(11) other improvements recommended by the report required by section 302, including infrastructure, facilities, and equipment upgrades.

(b) ACCOUNTABILITY.—The Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Secretary.

(c) ALLOCATION.—The Secretary shall distribute the funds authorized by this section based on risk and vulnerability as determined under section 302, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for passenger rail security, the Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers.

(d) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section 303(b) of this Act.

(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment required by section 302 the Secretary of Homeland Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $65,000,000 to Amtrak; or

(2) in excess of $100,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section—

(1) $120,000,000 for fiscal year 2006;

(2) $120,000,000 for fiscal year 2007; and

(3) $120,000,000 for fiscal year 2008.

Amounts made available pursuant to this subsection shall remain available until expended.

(g) HIGH HAZARD MATERIALS DEFINED.—In this section, the term "high hazard materials" means quantities of poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia that the Secretary, in consultation with the Secretary of Transportation, determines pose a security risk.

SEC. 306. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary of Transportation, in conjunction with the Under Secretary of Homeland Security for Science and Technology and the Assistant Secretary of Homeland Security (Transportation Security Administration), shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment;

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car or other rail car used to transport hazardous materials and transmit information about the integrity of cars to the train crew or dispatcher;

(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section 305(g) of this Act;

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety; and

(6) other projects that address vulnerabilities and risks identified under section 302.

(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Secretary of Transportation shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department of Transportation and the Department of Homeland Security. The Secretary shall carry out any research and development project authorized by this section through a reimbursable agreement with the Under Secretary of Homeland Security for Science and Technology, if the Under Secretary—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability that would be useful in carrying out the project.

(c) GRANTS AND ACCOUNTABILITY.—To carry out the research and development program, the Secretary may award grants to the entities described in section 305(a) and shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 102 of this Act, there shall be made available to the Secretary of Transportation to carry out this section—

(1) $35,000,000 for fiscal year 2006;

(2) $35,000,000 for fiscal year 2007; and

(3) $35,000,000 for fiscal year 2008.

Amounts made available pursuant to this subsection shall remain available until expended.

SEC. 307. OVERSIGHT AND GRANT PROCEDURES.

(a) SECRETARIAL OVERSIGHT.—The Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), may use up to 0.5 percent of amounts made available for capital projects under the Rail Security Act of 2005 to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) USE OF FUNDS.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under this Act.

(c) PROCEDURES FOR GRANT AWARD.—The Secretary shall prescribe procedures and schedules for the awarding of grants under this Act, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Secretary and shall be consistent, to the extent practicable, with the grant procedures established under section 70107 of title 46, United States Code. The Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

SEC. 308. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

"(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2005, Amtrak shall submit to the Chairman of the National Transportation Safety Board and the Secretary of Transportation a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

"(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

"(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

"(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

"(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

"(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

"(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

"(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

"(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

"(c) USE OF INFORMATION.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

"(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

"(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

"(f) FUNDING.—Out of funds appropriated pursuant to section 102 of the Rail Security Act of 2005, there shall be made available to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2006 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"24316. Plan to assist families of passengers involved in rail passenger accidents.".

SEC. 309. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security, the Assistant Secretary of Homeland Security (Transportation Security Administration), heads of other appropriate Federal departments, and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in "The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America", dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the "Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States", dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for rail passengers traveling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers;

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing prescreened passenger lists to the Department of Homeland Security; and

(8) an analysis of the feasibility of reinstating United States Customs and Border Patrol rolling inspections onboard international Amtrak trains.

SEC. 310. RAIL WORKER SECURITY TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security and the Secretary of Transportation, in consultation with appropriate law enforcement, security, and terrorism experts, representatives of railroad carriers, and nonprofit employee organizations that represent rail workers, shall develop and issue detailed guidance for a rail worker security training program to prepare front-line workers for potential threat conditions.

(b) PROGRAM ELEMENTS.—The guidance developed under subsection (a) shall require such a program to include, at a minimum, elements as appropriate to passenger and freight rail service, that address the following:

(1) Determination of the seriousness of any occurrence.

(2) Crew communication and coordination.

(3) Appropriate responses to defend oneself.

(4) Use of protective devices.

(5) Evacuation procedures.

(6) Psychology of terrorists to cope with hijacker behavior and passenger responses.

(7) Live situational training exercises regarding various threat conditions, including tunnel evacuation procedures.

(8) Any other subject the Secretary considers appropriate.

(c) RAILROAD CARRIER PROGRAMS.—Not later than 60 days after the Secretary issues guidance under subsection (a) in final form, each railroad carrier shall develop a rail worker security training program in accordance with that guidance and submit it to the Secretary for approval. Not later than 30 days after receiving a railroad carrier's program under this subsection, the Secretary shall review the program and approve it or require the railroad carrier to make any revisions the Secretary considers necessary for the program to meet the guidance requirements.

(d) TRAINING.—Not later than 180 days after the Secretary approves the training program developed by a railroad carrier under this section, the railroad carrier shall complete the training of all front-line workers in accordance with that program.

(e) UPDATES.—The Secretary shall update the training guidance issued under subsection (a) from time to time to reflect new or different security threats, and require railroad carriers to revise their programs accordingly and provide additional training to their front-line workers.

(f) FRONT-LINE WORKERS DEFINED.—In this section, the term “front-line workers” means security personnel, dispatchers, train operators, other onboard employees, maintenance and support personnel, bridge tenders, and other appropriate employees of railroad carriers.

(g) OTHER EMPLOYEES.—The Secretary of Homeland Security shall issue guidance and best practices for a rail shipper employee security program containing the elements listed under subsection (b) as appropriate.

SEC. 311. WHISTLEBLOWER PROTECTION PROGRAM.

(a) IN GENERAL.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20117 the following:

“§ 20118. Whistleblower protection for rail security matters

“(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail carrier engaged in interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a perceived threat to security; or

“(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a perceived threat to security; or

“(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

“(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

“(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this title, including the burdens of proof, applies to any complaint brought under this section.

“(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

“(e) DISCLOSURE OF IDENTITY.—

“(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

“(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20117 the following:

“20118. Whistleblower protection for rail security matters.”.

SEC. 312. HIGH HAZARD MATERIAL SECURITY THREAT MITIGATION PLANS.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration) and the Secretary of Transportation, shall require rail carriers transporting a high hazard material, as defined in section 305(g) of this Act and of a quantity equal or exceeding the quantities of such material listed in subpart 172.800, title 49, Federal Code of Regulations, to develop a high hazard material security threat mitigation plans containing appropriate measures, including alternative routing and temporary shipment suspension options, to address assessed risks to high consequence targets.

(b) IMPLEMENTATION.—A high hazard material security threat mitigation plan shall be put into effect by a rail carrier for the shipment of high hazardous materials by rail on the rail carrier's right-of-way when the threat levels of the Homeland Security Advisory System are high or severe and specific intelligence of probable or imminent threat exists towards—

(1) a high-consequence target that is within the catastrophic impact zone of a railroad right-of-way used to transport high hazardous material; or

(2) rail infrastructure or operations within the immediate vicinity of a high-consequence target.

(c) COMPLETION AND REVIEW OF PLANS.—

(1) PLANS REQUIRED.—Each rail carrier shall—

(A) submit a list of routes used to transport high hazard materials to the Secretary of Homeland Security within 60 days after the date of enactment of this Act; and

(B) develop and submit a high hazard material security threat mitigation plan to the Secretary within 180 days after it receives the notice of high consequence targets on such routes by the Secretary.

(2) REVIEW AND UPDATES.—The Secretary, with assistance of the Secretary of Transportation, shall review and approve the plans. Each rail carrier shall update and resubmit its plan for review not less than every 2 years.

(d) DEFINITIONS.—In this section:

(1) The term “high-consequence target” means a building, buildings, infrastructure, public space, or natural resource designated by the Secretary of Homeland Security that is viable terrorist target of national significance, the attack of which could result in—

(A) catastrophic loss of life; and

(B) significantly damaged national security and defense capabilities; or

(C) national economic harm;

(2) The term “catastrophic impact zone” means the area immediately adjacent to, under, or above an active railroad right-of-way used to ship high hazard materials in which the potential release or explosion of the high hazard material being transported would likely cause—

(A) loss of life; or

(B) significant damage to property or structures.

(3) The term “rail carrier” has the meaning given that term by section 10102(5) of title 49, United States Code.

SEC. 313. MEMORANDUM OF AGREEMENT.

(a) MEMORANDUM OF AGREEMENT.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute and develop an annex to the memorandum of agreement between the two departments signed on September 28, 2004, governing the specific roles, delineations of responsibilities, resources and commitments of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking “safety” the first place it appears, and inserting “safety, including security,”.

SEC. 314. RAIL SECURITY ENHANCEMENTS.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended—

(1) by inserting "(a) In General.—" before "Under";

(2) by striking "the rail carrier" each place it appears and inserting "any rail carrier"; and

(3) by adding at the end the following:

"(b) Limitation.—Except to the extent necessary to carry out subsection (a), a rail police officer employed by a Class I or Class II railroad as identified by the Surface Transportation Board has no authority to enforce any rule, policy, or practice of, or labor agreement by, a rail carrier relating to personnel management or labor relations other than those involving safety or security. Nothing in this subsection shall preclude a rail police officer from performing any activities not covered by subsection (a) that may be performed by any other employee of a railroad, provided that the rail police officer does not use his or her position as a rail police officer in performing such activities.".

(b) Review of Rail Regulations.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security and the Assistant Secretary of Homeland Security (Transportation Security Administration), shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. 315. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) Track Standards.—

(1) In general.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(A) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

(B) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(C) establish a program to review continuous welded rail joint bar inspection data from railroads and Administration track inspectors periodically.

(2) Inspection.—Whenever the Administration determines that it is necessary or appropriate the Administration may require railroads to increase the frequency of inspection, or improve the methods of inspection, of joint bars in continuous welded rail.

(b) Tank Car Standards.—The Federal Railroad Administration shall—

(1) validate a predictive model to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions within 1 year after the date of enactment of this Act; and

(2) initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars within 18 months after the date of enactment of this Act.

(c) Older Tank Car Impact Resistance Analysis and Report.—Within 1 year after the date of enactment of this Act the Federal Railroad Administration shall conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989. Within 6 months after completing that analysis the Administration shall—

(1) establish a program to rank those cars according to their risk of catastrophic fracture and separation;

(2) implement measures to eliminate or mitigate this risk; and

(3) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure setting forth the measures implemented.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Federal Railroad Administration $1,000,000 for fiscal year 2006 to carry out this section, such sums to remain available until expended.

SEC. 316. REPORT REGARDING IMPACT ON SECURITY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) Study.—The Secretary of Transportation, in consultation with the Secretary of Homeland Security, the Assistant Secretary of Homeland Security (Transportation Security Administration), and State and local government officials, shall conduct a study on the impact of blocked highway-railroad grade crossings on the ability of emergency responders, including ambulances and police, fire, and other emergency vehicles, to perform public safety and security duties in the event of a terrorist attack.

(b) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings of the study conducted under subsection (a) and recommendations for reducing the impact of blocked crossings on emergency response capabilities.

SEC. 317. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

(a) Requirement for Study.—Within one year after the date of enactment of the Rail Security Act of 2005, the Comptroller General shall complete a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.

(b) Purpose.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) Report.—The Comptroller General shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

SEC. 318. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) Requirement for Study and Report.—The Secretary of Homeland Security, in cooperation with the Secretary of Transportation through the Assistant Secretary of Homeland Security (Transportation Security Administration) and other appropriate agencies, shall—

(1) study the cost and feasibility of requiring security screening for passengers, baggage, and cargo on passenger trains including an analysis of any passenger train screening pilot programs undertaken by the Department of Homeland Security; and

(2) report the results of the study, together with any recommendations that the Secretary of Homeland Security may have for implementing a rail security screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) Authorization of Appropriations.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section $1,000,000 for fiscal year 2006.

SEC. 319. PUBLIC AWARENESS.

Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall develop a national plan for public outreach and awareness. Such plan shall be designed to increase awareness of measures that the general public, railroad passengers, and railroad employees can take to increase railroad system security. Such plan shall also provide outreach to railroad carriers and their employees to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve railroad security. Not later than 9 months after the date of enactment of this Act, the Secretary of Transportation shall implement the plan developed under this section.

SEC. 320. RAILROAD HIGH HAZARD MATERIAL TRACKING.

(a) Wireless Communications.—

(1) In general.—Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall develop a program that will encourage the equipping of rail cars transporting high hazard materials (as defined in section 305(g) of this Act) in quantities equal to or greater than the quantities specified in subpart 171.800 of title 49, Code of Federal Regulations, with wireless terrestrial or satellite communications technology that provides—

(A) car position location and tracking capabilities;

(B) notification of rail car depressurization, breach, or unsafe temperature; and

(C) notification of hazardous material release.

(2) Coordination.—In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Homeland Security and the Assistant Secretary of Homeland Security (Transportation Security Administration) to coordinate the program with any ongoing or planned efforts for rail car tracking at the Department of Homeland Security; and

(B) ensure that the program is consistent with recommendations and findings of the Department of Homeland Security's hazardous material tank rail car tracking pilot programs.

(b) Funding.—Out of funds appropriated pursuant to section 102 of this Act, there shall be made available to the Secretary of Homeland Security through the Assistant Secretary of Homeland Security (Transportation Security Administration) to carry out this section $3,000,000 for each of fiscal years 2006, 2007, and 2008.

TITLE IV—IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS MATERIAL SECURITY

SEC. 401. BACKGROUND CHECKS FOR DRIVERS HAULING HAZARDOUS MATERIALS.

(a) Foreign Drivers.—

(1) IN GENERAL.—No commercial motor vehicle operator registered to operate in Mexico or Canada may operate a commercial motor vehicle transporting a hazardous material in commerce in the United States until the operator has undergone a background records check similar to the background records check required for commercial motor vehicle operators licensed in the United States to transport hazardous materials in commerce.

(2) DEFINITIONS.—In this subsection:

(A) HAZARDOUS MATERIALS.—The term "hazardous material" has the meaning given that term in section 5102(2) of title 49, United States Code.

(B) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle" has the meaning given that term by section 31101 of title 49, United States Code.

(b) OTHER DRIVERS.—

(1) EMPLOYER NOTIFICATION.—Within 90 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration), shall develop and implement a process for the notification of a hazmat employer (as defined in section 5102(4) of title 49, United States Code), if appropriate considering the potential security implications, designated by an applicant seeking a threat assessment under part 1572 of title 49, Code of Federal Regulations, if the Transportation Security Administration, in an initial notification of threat assessment or a final notification of threat assessment, served on the applicant determines that the applicant does not meet the standards set forth in section 1572.5(d) of title 49, Code of Federal Regulations.

(2) RELATIONSHIP TO OTHER BACKGROUND RECORDS CHECKS.—

(A) ELIMINATION OF REDUNDANT CHECKS.—An individual with respect to whom the Transportation Security Administration—

(i) has performed a security threat assessment under part 1572 of title 49, Code of Federal Regulations, and

(ii) has issued a notification of no security threat under section 1572.5(g) of that title,

is deemed to have met the requirements of any other background check that is equivalent to, or less stringent than, the background check performed under section 5103a of title 49, United States Code, that is required for purposes of any Federal law applicable to transportation workers.

(B) DETERMINATION BY ASSISTANT SECRETARY.—Within 30 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall initiate a rulemaking proceeding, including notice and opportunity for comment, that sets forth the background checks and other similar security or threat assessment requirements applicable to transportation workers under Federal law to which subparagraph (A) applies.

(C) FUTURE RULEMAKINGS.—The Assistant Secretary shall make a determination under the criteria established under subparagraph (B) with respect to any rulemaking proceeding to establish or modify required background checks for transportation workers initiated after the date of enactment of this Act.

(c) APPEALS PROCESS FOR MORE STRINGENT STATE PROCEDURES.—If a State establishes standards for applicants for a hazardous materials endorsement to a commercial driver's license that, as determined by the Secretary of Homeland Security, are more stringent than the standards set forth in section 1572.5(d) of title 49, Code of Federal Regulations, then the State shall also provide an appeals process similar to the process provided under section 1572.141 of title 49, Code of Federal Regulations, by which an applicant denied a hazardous materials endorsement to a commercial driver's license by that State may appeal that denial in a manner substantially similar to, and to the same extent as, an individual who received an initial notification of threat assessment under part 1572 of that title.

(d) CLARIFICATION OF TERM DEFINED IN REGULATIONS.—The term "severe transportation security incident", as defined in section 1572.3 of title 49, Code of Federal Regulations, does not include a work stoppage or other nonviolent employee-related action resulting from an employer-employee dispute. Within 30 days after the date of enactment of this Act, the Secretary of Homeland Security shall modify the definition of that term to reflect the preceding sentence.

(e) BACKGROUND CHECK CAPACITY.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall transmit a report by October 1, 2005, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Homeland Security on the implementation of fingerprint-based security threat assessments and the adequacy of fingerprinting locations, personnel, and resources to accomplish the timely processing of fingerprint-based security threat assessments for individuals holding commercial driver's licenses who are applying to renew hazardous materials endorsements.

SEC. 402. WRITTEN PLANS FOR HAZARDOUS MATERIALS HIGHWAY ROUTING.

Within 180 days after the date of enactment of this Act, the Secretary of Transportation shall require each motor carrier that is required to have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain a written route plan that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 of that title.

SEC. 403. MOTOR CARRIER HIGH HAZARD MATERIAL TRACKING.

(a) WIRELESS COMMUNICATIONS.—Within 2 years after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Secretary of Transportation, shall require, consistent with the recommendations and finding contained in the report on the Hazardous Material Safety and Security Operation Field Test released by the Federal Motor Carrier Safety Administration on November 11, 2004, commercial motor vehicles transporting high hazard materials (as defined in section 305(g) of this Act) in quantities equal to or greater than the quantities specified in subpart 171.800 of title 49, Code of Federal Regulations, to be equipped with wireless terrestrial or satellite communications technology that provides—

(1) continuous communications;

(2) vehicle position location and tracking capabilities; and

(3) a feature that allows a driver of such vehicles to broadcast an emergency message.

(b) EXEMPTIONS.—The Assistant Secretary may grant a 2-year waiver of this requirement for a motor carrier for the commercial motor vehicles it operates if—

(1) adequate technology is not readily available;

(2) available technology is not sufficiently reliable; or

(3) the size of a motor carrier or the infrequency with which it transports high hazard material shipments makes the requirement overly burdensome.

(c) ASSISTANCE PROGRAM.—The Assistant Secretary may develop an assistance program to provide technical guidance and grants to motor carriers who receive waivers under subsection (b)(3) to expedite compliance with subsection (a) of this section.

SEC. 404. TRUCK LEASING SECURITY TRAINING GUIDELINES.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Federal Motor Carrier Safety Administration, shall develop and make available in written or electronic form security training guidelines for short-term truck leasing operations.

(b) CONTENTS.—The truck leasing security training guidelines shall—

(1) include information for short-term truck leasing companies on the appropriate contents of employee security training efforts designed to enable employees to recognize terrorist threats and criminal activity; and

(2) contain a list of best practices developed by the Assistant Secretary.

(c) OUTREACH.—The Assistant Secretary, through each Federal maritime and land regional security manager, shall hold public information and outreach sessions to present the truck leasing security training guidelines to short-term truck leasing companies.

(d) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Assistant Secretary of Homeland Security (Transportation Security Administration), to carry out this section $1,000,000 for fiscal year 2006.

SEC. 405. HAZARDOUS MATERIALS SECURITY INSPECTIONS AND ENFORCEMENT.

(a) IN GENERAL.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall establish a program within the Transportation Security Administration, in consultation with the Secretary of Transportation, for reviewing hazardous materials security plans required under part 172, title 49, Code of Federal Regulations, within 180 days after the date of enactment of this Act.

(b) CIVIL PENALTY.—The failure, by a shipper, carrier, or other person subject to part 172 of title 49, Code of Federal Regulations, to comply with any applicable section of that part within 180 days after being notified by the Assistant Secretary of such failure to comply, is punishable by a civil penalty imposed by the Assistant Secretary under title 49, United States Code. For purposes of this subsection, each day of noncompliance after the 181st day following the date on which the pipeline operator received notice of the failure shall constitute a separate failure.

(c) COMPLIANCE REVIEW.—In reviewing the compliance of hazardous materials shippers, carriers, or other persons subject to part 172 of title 49, Code of Federal Regulations, with the provisions of that part, the Assistant Secretary shall utilize risk assessment methodologies to prioritize vulnerabilities and to target review and enforcement actions to the most vulnerable and critical hazardous materials transportation operations.

(d) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Assistant Secretary of

Homeland Security (Transportation Security Administration), to carry out this section—

(1) $2,000,000 for fiscal year 2006;

(2) $2,000,000 for fiscal year 2007; and

(3) $2,000,000 for fiscal year 2008.

SEC. 406. PIPELINE SECURITY AND INCIDENT RECOVERY PLAN.

(a) In General.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation and the Pipeline and Hazardous Materials Safety Administration, and in accordance with the Memorandum of Understanding Annex executed under section 408, shall develop a Pipeline Security and Incident Recovery Protocols Plan. The plan shall include—

(1) a plan for the Federal Government to provide increased security support to the most critical interstate and intrastate natural gas and hazardous liquid transmission pipeline infrastructure and operations as determined under section 407—

(A) at high or severe security threat levels of alert; and

(B) when specific security threat information relating to such pipeline infrastructure or operations exists; and

(2) an incident recovery protocol plan, developed in conjunction with interstate and intrastate transmission and distribution pipeline operators and terminals and facilities operators connected to pipelines, to develop protocols to ensure the continued transportation of natural gas and hazardous liquids to essential markets and for essential public health or national defense uses in the event of an incident affecting the interstate and intrastate natural gas and hazardous liquid transmission and distribution pipeline system, which shall include protocols for granting access to pipeline operators for pipeline infrastructure repair, replacement or bypass following an incident.

(b) Existing Private and Public Sector Efforts.—The plan shall take into account actions taken or planned by both public and private entities to address identified pipeline security issues and assess the effective integration of such actions.

(c) Consultation.—In developing the plan under subsection (a), the Secretary shall consult with interstate and intrastate transmission and distribution pipeline operators, pipeline labor, first responders, shippers of hazardous materials, State Departments of Transportation, public safety officials, and other relevant parties.

(d) Report.—

(1) Contents.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the plan required by subsection (a), along with an estimate of the cost to implement any recommendations.

(2) Format.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(e) Funding.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section $1,000,000 for fiscal year 2006.

SEC. 407. PIPELINE SECURITY INSPECTIONS AND ENFORCEMENT.

(a) In General.—Within 180 days after the date of enactment of this Act the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Secretary of Transportation, shall establish a program within the Transportation Security Administration for reviewing pipeline operator adoption of recommendations in the September, 5, 2002, Department of Transportation Research and Special Programs Administration Pipeline Security Information Circular, including the review of pipeline security plans and critical facility inspections, as determined by the Assistant Secretary.

(b) Review and Inspection.—Within 9 months after the date of enactment of this Act the Assistant Secretary shall complete a review of the pipeline security plan and an inspection of the critical facilities of the 100 most critical pipeline operators, as determined by the Assistant Secretary, covered by the September, 5, 2002, circular.

(c) Compliance Review Methodology.—In reviewing pipeline operator compliance under subsections (a) and (b), the Assistant Secretary shall utilize risk assessment methodologies to prioritize vulnerabilities and to target inspection and enforcement actions to the most vulnerable and critical pipeline assets.

(d) Regulations.—Within 1 year after the date of enactment of this Act, the Assistant Secretary shall issue security regulations for natural gas and hazardous liquid pipelines and pipeline facilities. The regulations should incorporate the guidance provided to pipeline operators by the September 5, 2002, Department of Transportation Research and Special Programs Administration's Pipeline Security Information Circular and contain additional requirements as necessary based upon the results of the inspections performed under subsection (b). The regulations shall include the imposition of civil penalties for non-compliance. The Assistant Secretary shall publish a schedule of those civil penalties.

(e) Funding.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Assistant Secretary of Homeland Security (Transportation Security Administration), to carry out this section—

(1) $2,000,000 for fiscal year 2006;

(2) $2,000,000 for fiscal year 2007; and

(3) $2,000,000 for fiscal year 2008.

SEC. 408. MEMORANDUM OF AGREEMENT.

Within 1 year after the date of enactment of this Act, the Secretary of Transportation and the Assistant Secretary of Homeland Security (Transportation Security Administration), shall execute and develop an annex to the memorandum of agreement between the two departments signed on September 28, 2004, governing the specific roles, delineations of responsibilities, resources and commitments of the Department of Transportation and the Department of Homeland Security, respectively, in addressing pipeline security and hazardous material transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

SEC. 409. NATIONAL PUBLIC SECTOR RESPONSE SYSTEM.

(a) Development.—The Secretary of Homeland Security, in conjunction with the Secretary of Transportation, shall develop a national public sector response system to receive security alerts, emergency messages, and other information generated by various wireless terrestrial or satellite communications technologies used to track the transportation of high hazard materials which can provide accurate, timely, and actionable information to appropriate first responder, law enforcement and public safety, and homeland security officials, as appropriate, regarding accidents, threats, thefts, or other safety and security risks or incidents. In developing this system, they shall consult with law enforcement and public safety officials, hazardous material shippers, motor carriers, railroads, organizations representing hazardous material employees, State transportation and hazardous materials officials, Operation Respond, and commercial motor vehicle and hazardous material safety groups. The development of the national public sector response system shall be based upon the public sector response center developed for the hazardous material safety and security operational field test undertaken by the Federal Motor Carrier Safety Administration.

(b) Capability.—The national public sector response system shall be able to receive, as appropriate,—

(1) negative driver verification alerts;

(2) Out-of-route alerts;

(3) Driver panic or emergency alerts; and

(4) tampering or release alerts.

(c) Characteristics.—The national public sector response system shall—

(1) be an exception-based system;

(2) be integrated with other private and public sector operation reporting and response systems and all Federal homeland security threat analysis systems or centers (including the National Response Center); and

(3) provide users the ability to create rules for alert notification messages.

(d) Carrier Participation.—Within 180 days after the national public sector response system is operational, as determined by the Secretary, each motor carrier and railroad transporting high hazard materials, or entities acting on their behalf who receive such wireless communication alerts from motor carriers or railroads, shall provide the information listed in subsection (b) to the national public sector response system and vehicle or rail car location information to extent possible with the wireless communication technology used by the motor carrier or railroad.

(e) Call-In Number.—The national public sector response system shall be designed to include an automated call-in system that allows commercial motor vehicle drivers, railroad employees, and hazardous material employees involved in the transportation of high hazard materials to report accidents, threats, thefts, or other safety and security risks or incidents to the national public sector response system using cellular or other telephone technology.

(f) Data Privacy.—The national public sector response system shall be designed to ensure appropriate protection of data and information relating to motor carriers and drivers.

(g) Report.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the estimated total cost to establish and annually operate the national public sector response system under subsection (a), together with any recommendations for generating private sector participation and investment in the development and operation of the national public sector response system.

(h) Funding.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section—

(1) $1,000,000 for fiscal year 2006;

(2) $1,000,000 for fiscal year 2007; and

(3) $1,000,000 for fiscal year 2008.

SEC. 410. OVER-THE-ROAD BUS SECURITY ASSISTANCE.

(a) IN GENERAL.—The Assistant Secretary of Homeland Security (Transportation Security Administration), shall establish a program for making grants to private operators of over-the-road buses for system-wide security improvements to their operations, including—

(1) constructing and modifying terminals, garages, facilities, or over-the-road buses to assure their security;

(2) protecting or isolating the driver;

(3) acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or otherwise, and information links with government agencies;

(4) training employees in recognizing and responding to security threats, evacuation procedures, passenger screening procedures, and baggage inspection;

(5) hiring and training security officers;

(6) installing cameras and video surveillance equipment on over-the-road buses and at terminals, garages, and over-the-road bus facilities;

(7) creating a program for employee identification or background investigation;

(8) establishing and upgrading an emergency communications system linking operational headquarters, over-the-road buses, law enforcement, and emergency personnel; and

(9) implementing and operating passenger screening programs at terminals and on over-the-road buses.

(b) REIMBURSEMENT.—A grant under this section may be used to provide reimbursement to private operators of over-the-road buses for extraordinary security-related costs for improvements described in paragraphs (1) through (9) of subsection (a), determined by the Assistant Secretary to have been incurred by such operators since September 11, 2001.

(c) FEDERAL SHARE.—The Federal share of the cost for which any grant is made under this section shall be 90 percent.

(d) DUE CONSIDERATION.—In making grants under this section, the Assistant Secretary shall give due consideration to private operators of over-the-road buses that have taken measures to enhance bus transportation security from those in effect before September 11, 2001, and shall prioritize grant funding based on the magnitude and severity of the security threat to bus passengers and the ability of the funded project to reduce, or respond to, that threat.

(e) GRANT REQUIREMENTS.—A grant under this section shall be subject to all the terms and conditions that a grant is subject to under section 3038(f) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393).

(f) PLAN REQUIREMENT.—

(1) IN GENERAL.—The Assistant Secretary may not make a grant under this section to a private operator of over-the-road buses until the operator has first submitted to the Assistant Secretary—

(A) a plan for making security improvements described in subsection (a) and the Assistant Secretary has approved the plan; and

(B) such additional information as the Assistant Secretary may require to ensure accountability for the obligation and expenditure of amounts made available to the operator under the grant.

(2) COORDINATION.—To the extent that an application for a grant under this section proposes security improvements within a specific terminal owned and operated by an entity other than the applicant, the applicant shall demonstrate to the satisfaction of the Assistant Secretary that the applicant has coordinated the security improvements for the terminal with that entity.

(g) OVER-THE-ROAD BUS DEFINED.—In this section, the term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

(h) BUS SECURITY ASSESSMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Assistant Secretary of Homeland Security (Transportation Security Administration), shall transmit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, a preliminary report in accordance with the requirements of this section.

(2) CONTENTS OF PRELIMINARY REPORT.—The preliminary report shall include—

(A) an assessment of the over-the-road bus security grant program;

(B) an assessment of actions already taken to address identified security issues by both public and private entities and recommendations on whether additional safety and security enforcement actions are needed;

(C) an assessment of whether additional legislation is needed to provide for the security of Americans traveling on over-the-road buses;

(D) an assessment of the economic impact that security upgrades of buses and bus facilities may have on the over-the-road bus transportation industry and its employees;

(E) an assessment of ongoing research and the need for additional research on over-the-road bus security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of compartmentalization of the driver; and

(F) an assessment of industry best practices to enhance security.

(3) CONSULTATION WITH INDUSTRY, LABOR, AND OTHER GROUPS.—In carrying out this section, the Assistant Secretary shall consult with over-the-road bus management and labor representatives, public safety and law enforcement officials, and the National Academy of Sciences.

(i) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Assistant Secretary of Homeland Security (Transportation Security Administration), to carry out this section—

(1) $50,000,000 for fiscal year 2006;

(2) $50,000,000 for fiscal year 2007; and

(3) $50,000,000 for fiscal year 2008.

Amounts made available pursuant to this subsection shall remain available until expended.

TITLE V—IMPROVED MARITIME SECURITY

SEC. 501. ESTABLISHMENT OF ADDITIONAL JOINT OPERATIONAL CENTERS FOR PORT SECURITY.

(a) IN GENERAL.—In order to improve interagency cooperation, unity of command, and the sharing of intelligence information in a common mission to provide greater protection for port and intermodal transportation systems against acts of terrorism, the Secretary of Homeland Security, acting through the Commandant of the Coast Guard, shall establish joint operational centers for port security at all Tier 1 ports to the extent practicable within 2 years ater the date of enactment of this Act.

(b) CHARACTERISTICS.—The joint operational centers shall—

(1) be based on the most appropriate compositional and operational characteristics of the pilot project joint operational centers for port security in Miami, Florida, Norfolk/Hampton Roads, Virginia, Charleston, South Carolina, and San Diego, California;

(2) be adapted to meet the security needs, requirements, and resources of the individual port area at which each is operating;

(3) provide for participation by the United States Customs and Border Protection Agency, the Transportation Security Administration, the Department of Defense, and other Federal agencies, as determined to be appropriate by the Secretary of Homeland Security, and State and local law enforcement or port security agencies and personnel; and

(4) be incorporated in the implementation of—

(A) maritime transportation security plans developed under section 70103 of title 46, United States Code;

(B) maritime intelligence activities under section 70113 of that title;

(C) short and long range vessel tracking under sections 70114 and 70115 of that title;

(D) secure transportation systems under section 70116 of that title;

(E) the Bureau of Customs and Border Protection's screening and high-risk cargo inspection programs; and

(F) the transportation security incident response plans required by section 70104 of that title.

(c) 2005 ACT REPORT REQUIREMENT.—Nothing in this section relieves the Commandant of the Coast Guard from compliance with the requirements of section 807 of the Coast Guard and Maritime Transportation Act of 2004. The Commandant shall utilize the information developed in making the report required by that section in carrying out the requirements of this section.

(d) BUDGET AND COST-SHARING ANALYSIS.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a proposed budget analysis for implementing subsection (a), including cost-sharing arrangements with other Federal departments and agencies involved in the joint operation of the centers.

SEC. 502. AMTS PLAN TO INCLUDE SALVAGE RESPONSE PLAN.

Section 70103(b)(2) of title 46, United States Code, is amended—

(1) by striking "and" after the semicolon in subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

"(F) include a salvage response plan—

"(i) to identify salvage equipment capable of restoring operational trade capacity; and

"(ii) to ensure that the flow of cargo through United States ports is re-established as efficiently and quickly as possible after a transportation security incident.".

SEC. 503. PRIORITY TO CERTAIN VESSELS IN POST-INCIDENT RESUMPTION OF TRADE.

Section 70103(a)(2)(J) of title 46, United States Code, is amended by inserting after "incident." the following: "The plan shall provide, to the extent practicable, preference in the reestablishment of the flow of cargo through United States ports after a transportation security incident to—

"(i) vessels that have a vessel security plan approved under subsection (c); and

"(ii) vessels manned by individuals who are described in section 70105(b)(2)(B) and who have undergone a background records check under section 70105(d) or who hold transportation security cards issued under section 70105.".

SEC. 504. ASSISTANCE FOR FOREIGN PORTS.

(a) In General.—Section 70109 of title 46, United States Code, is amended—

(1) by adding at the end the following:

"(c) Foreign Assistance Programs.—

"(1) In general.—The Administrator of the Maritime Administration, in coordination with the Secretary of State and the Secretary of Energy, shall identify foreign assistance programs that could facilitate implementation of port security antiterrorism measures in foreign countries. The Administrator and the Secretary shall establish a program to utilize those programs that are capable of implementing port security antiterrorism measures at ports in foreign countries that the Secretary finds, under section 70108, to lack effective antiterrorism measures.

"(2) Caribbean basin.—The Administrator, in coordination with the Secretary of State and in consultation with the Organization of American States, shall place particular emphasis on utilizing programs to facilitate the implementation of port security antiterrorism measures at the ports located in the Caribbean Basin, as such ports pose unique security and safety threats to the United States due to—

"(A) the strategic location of such ports between South America and United States;

"(B) the relative openness of such ports; and

"(C) the significant number of shipments of narcotics to the United States that are moved through such ports.".

(b) Report on Security at Ports in the Caribbean Basin.—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives a report on the security of ports in the Caribbean Basin. The report shall include the following:

(1) An assessment of the effectiveness of the measures employed to improve security at ports in the Caribbean Basin and recommendations for any additional measures to improve such security.

(2) An estimate of the number of ports in the Caribbean Basin that will not be secured by January 1, 2006, and an estimate of the financial impact in the United States of any action taken pursuant to section 70110 of title 46, United States Code, that affects trade between such ports and the United States.

(3) An assessment of the additional resources and program changes that are necessary to maximize security at ports in the Caribbean Basin.

SEC. 505. IMPROVED DATA USED FOR TARGETED CARGO SEARCHES.

(a) In General.—In order to provide the best possible data for the automated target system that identifies high-risk cargo for inspection, the Secretary of Homeland Security shall require importers shipping goods to the United State via cargo container to supply entry data under the advance notification requirements under section 4.7 of the Customs Regulations (19 C.F.R. 4.7).

(b) Deadline.—The requirement imposed under subsection (a) shall apply to goods entered after December 31, 2006.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Homeland Security $5,000,000 for each of fiscal years 2006, 2007, and 2008 to carry out the automated targeting system program to identify high-risk oceanborne container cargo for inspection. The amounts authorized by this subsection shall be in addition to any other amounts authorized to be appropriated to carry out that program.

(d) Evaluation by Comptroller General.—

(1) In general.—The Comptroller General shall evaluate action taken by the Department of Homeland Security to address the deficiencies in its automated targeting system strategy identified in the Government Accountability Office's report entitled "Homeland Security Challenges Remain in the Targeting of Oceangoing Cargo Containers for Inspection" (GAO-04-352NI). In making the evaluation, the Comptroller General shall assess whether all key elements of a risk management framework and recognized modeling practices have been incorporated in the Department's strategy, including—

(A) threat, criticality, vulnerability, and risk assessments;

(B) external peer review of the automated targeting system;

(C) a mandatory random sampling program;

(D) simulated events to test the targeting strategy; and

(E) effectiveness reviews of risk mitigation actions.

(2) Report.—The Comptroller General shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act containing the results of the evaluation, together with any recommendations the Comptroller General deems appropriate.

SEC. 506. INCREASE IN NUMBER OF CUSTOMS INSPECTORS ASSIGNED OVERSEAS.

(a) In General.—The Secretary of Homeland Security shall substantially increase the number of United States Customs Service inspectors assigned to duty outside the United States under the Container Security Initiative of the United States Customs Service with responsibility for inspecting intermodal shipping containers being shipped to the United States.

(b) Staffing Criteria.—In carrying out subsection (a) the Secretary of Homeland Security shall determine the appropriate level for assignment and density of customs inspectors at selected international port facilities by a threat, vulnerability, and risk analysis which, at a minimum, considers—

(1) the volume of containers shipped;

(2) the ability of the host government to assist in both manning and providing equipment and resources;

(3) terrorist intelligence known of importer vendors, suppliers or manufactures; and

(4) other criteria as determined in consult with experts in the shipping industry, terrorism, and shipping container security.

(c) Minimum Number.—The total number of customs inspectors assigned to international port facilities shall not be less than the number determined as a result of the threat, vulnerability, and risk assessment analysis which is validated by the Administrator of the Transportation Security Administration within 180 days after the date of enactment of this Act.

(d) Plan.—The Secretary shall submit a plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, with timelines, for phasing inspectors into selected port facilities within 180 days after the enactment of this Act.

SEC. 507. RANDOM INSPECTION OF CONTAINERS.

(a) In General.—The Under Secretary of Homeland Security for Border and Transportation Security shall develop and implement a plan for random inspection of shipping containers in addition to any targeted or preshipment inspection of such containers required by law or regulation or conducted under any other program conducted by the Under Secretary.

(b) Civil Penalty for Erroneous Manifest.—

(1) In general.—Except as provided in paragraph (2), if the Under Secretary determines on the basis of an inspection conducted under subsection (a) that there is a discrepancy between the contents of a shipping container and the manifest for that container, the Under Secretary may impose a civil penalty.

(2) Manifest discrepancy reporting.—The Under Secretary may not impose a civil penalty under paragraph (1) if a manifest discrepancy report is filed with respect to the discrepancy within the time limits established by Customs Directive No. 3240-067A (or any subsequently issued directive governing the matters therein) for filing a manifest discrepancy report.

SEC. 508. CARGO SECURITY.

(a) In General.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating the second section 70118 (relating to firearms, arrests, and seizure of property), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70119;

(2) by redesignating the first section 70119 (relating to enforcement by State and local officers), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70120;

(3) by redesignating the second section 70119 (relating to civil penalty), as redesignated by section 802(a)(1) of the Coast Guard and Maritime Transportation Act of 2004, as section 70122; and

(4) by inserting after section 70120 the following:

"§ 70121. Container security initiative

"(a) In General.—Pursuant to the standards established under subsection (b)(1) of section 70116—

"(1) the Secretary of Homeland Security shall promulgate standards and procedures for—

"(A) the inspection of cargo in a foreign port intended for shipment to the United States by physical examination or nonintrusive examination by technological means; and

"(B) evaluating and screening cargo prior to loading in a foreign port for shipment to the United States, either directly or via a foreign port; and

"(2) the Commissioner of Customs and Border Protection shall—

"(A) execute inspection and screening protocols with authorities in foreign ports to ensure that the standards and procedures promulgated under paragraph (1) are implemented in an effective manner; and

"(B) in consultation with the Transportation Security Oversight Board, develop and maintain an antiterrorism cargo identification, tracking, and screening system for containerized cargo shipped to and from the United States, either directly or via a foreign port.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out this section.".

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the items following the item relating to section 70116 and inserting the following:

"70117. In rem liability for civil penalties and certain costs
"70118. Withholding of clearance
"70119. Firearms, arrests, and seizure of property
"70120. Enforcement by State and local officers
"70121. Container security initiative
"70122. Civil penalty".

(2) Section 70117(a) of title 46, United States Code, as redesignated by subsection (a)(3) of this section, is amended by striking "section 70120" and inserting "section 70122".

(3) Section 70118(a) of such title is amended by striking "under section 70120," and inserting "under that section,".

(4) Section 111 of the Maritime Transportation Security Act of 2002 is repealed.

SEC. 509. SECURE SYSTEMS OF INTERNATIONAL INTERMODAL TRANSPORTATION.

(a) IN GENERAL.—Section 70116(a) of title 46, United States Code, is amended—

(1) by striking "transportation." and inserting "transportation—

"(1) to ensure the security and integrity of shipments of goods to the United States from the point at which such goods are initially packed or loaded for international shipment until they reach their ultimate destination; and

"(2) to facilitate the movement of such goods through the entire supply chain through an expedited security and clearance program.".

(b) PROGRAM ENHANCEMENTS.—Section 70116(b) of title 46, United States Code, is amended to read as follows:

"(b) PROGRAM ELEMENTS.—In establishing and conducting the program under subsection (a) the Assistant Secretary shall—

"(1) establish standards and procedures for verifying, at the point at which goods are placed in a cargo container for shipping, that the container is free of unauthorized hazardous chemical, biological, or nuclear material and for securely sealing such containers after the contents are so verified;

"(2) establish standards and procedures for securing cargo and monitoring that security while in transit from the point at which it is loaded to the point at which it is finally unloaded;

"(3) develop performance standards to enhance the physical security of shipping containers, including performance standards for seals and locks as part of the container security initiative;

"(4) establish standards and procedures for allowing the United States Government to ensure and validate compliance with this program; and

"(5) incorporate any other measures the Assistant Secretary considers necessary to ensure the security and integrity of international intermodal transport movements.".

(b) PORT SECURITY USER FEE STUDY.—The Secretary of Homeland Security shall conduct a study of the feasibility and desirability of establishing a system of oceanborne and port-related intermodal transportation user fees that could be imposed and collected as a dedicated revenue source, on a temporary or continuing basis, to provide necessary funding for the improvement and maintenance of enhanced port security. The Assistant Secretary shall submit a report containing the Assistant Secretary's findings, conclusions, and recommendations (including legislative recommendations if appropriate) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after date of enactment of this Act.

SEC. 510. TECHNOLOGY FOR MARITIME TRANSPORTATION SECURITY.

(a) MINIMUM TECHNOLOGY IMPLEMENTATION AUTHORIZATION.—Section 70107(i)(2)(B) of title 46, United States Code, is amended by inserting "not less than" after "Secretary".

(b) SET-ASIDES FOR RESEARCH AND DEVELOPMENT.—Notwithstanding any provision of law to the contrary, in the administration of the Department of Homeland Security, the Secretary of Homeland Security shall ensure that, for each fiscal year beginning after the date of enactment of this Act, not less than—

(1) 8 percent of the amounts appropriated to the Transportation Security Administration and the Directorate of Science and Technology for research and development for the fiscal year are obligated or expended for maritime security related projects or programs; and

(2) 2 percent of such amounts are obligated or expended for rail security related projects or programs.

(c) STRATEGIC PLAN.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall promulgate a strategic plan for transportation research and development. The Secretary shall update the plan no less frequently than every 2 years thereafter.

(2) CONTENTS.—In the strategic plan, the Secretary shall—

(A) ensure that the research needs for security of all modes of transportation, including aviation, maritime, rail, pipeline, and transit security, are addressed;

(B) identify goals and include measurable objectives;

(C) include an adequate amount of basic research;

(D) define the research and development roles of the Transportation Security Administration and the Directorate of Science and Technology, respectively, to ensure that—

(i) they are aligned;

(ii) the efficient use of research funds is maximized; and

(iii) duplication of projects is prevented or minimized;

(E) coordinate transportation research and development under the plan with the transportation research and development activities of other Federal agencies, including the Department of Transportation and the National Aeronautics and Space Administration; and

(F) base the plan on vulnerability and criticality assessments.

(3) ANNUAL EVALUATION.—The Homeland Security Science and Technology Advisory Committee shall evaluate the plan by October 15th each year, measure progress under the plan against the goals set forth in the plan, and recommend changes to the transportation security research program under the plan.

(4) ANNUAL REPORT TO CONGRESS.—The Secretary shall transmit a copy of the strategic plan, and any revisions of that plan, and a copy of the annual evaluations and recommendations made by the Advisory Committee to the Congress.

(d) NIST TRANSPORTATION SECURITY PROGRAM.—The Secretary of Homeland Security may transfer up to $15,000,000 each fiscal year to the National Institute of Science and Technology to be obligated or expended for a focused program in transportation security under section 28 of the National Institute of Science and Technology Act (15 U.S.C. 278n).

(e) SECURE WORKFORCE INITIATIVE.—Section 70107 of title 46, United States Code, is amended by adding at the end the following:

"(j) SECURE WORKFORCE INITIATIVE.—

"(1) IN GENERAL.—The Secretary shall develop a program in conjunction with technical and community colleges to train port security workforces. The program shall focus on teaching port workers to utilize new technologies and processes to improve port security through the use of screening technologies, information technologies, detection devices, incident response training, and other advanced technologies.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security $15,000,000 for each of fiscal years 2005 through 2009 to carry out the program developed under paragraph (1).".

(f) ESTABLISHMENT OF COMPETITIVE RESEARCH PROGRAM.—

(1) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding at the end the following:

"SEC. 314. COMPETITIVE RESEARCH PROGRAM.

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—The Secretary, acting through the Under Secretary for Science and Technology, shall establish a competitive research program within the Directorate.

"(2) DIRECTOR.—The program shall be headed by a Director, who shall be appointed by the Secretary. The Director shall report to the Under Secretary.

"(3) DUTIES OF DIRECTOR.—In the administration of the program, the Director shall—

"(A) establish a cofunding mechanism for States with academic facilities that have not fully developed security-related science and technology to support burgeoning research efforts by the faculty or link them to established investigators;

"(B) provide for conferences, workshops, outreach, and technical assistance to researchers and institutions of higher education in States on topics related to developing science and technology expertise in areas of high interest and relevance to the Department;

"(C) monitor the efforts of States to develop programs that support the Department's mission;

"(D) implement a merit review program, consistent with program objectives, to ensure the quality of research conducted with Program funding; and

"(E) provide annual reports on the progress and achievements of the Program to the Secretary.

"(b) ASSISTANCE UNDER THE PROGRAM.—

"(1) SCOPE.—The Director shall provide assistance under the program for research and development projects that are related to, or qualify as, homeland security research (as defined in section 307(a)(2)) under the program.

"(2) FORM OF ASSISTANCE.—Assistance under the program can take the form of grants, contracts, or cooperative arrangements.

"(3) APPLICATIONS.—Applicants shall submit proposals or applications in such form, at such times, and containing such information as the Director may require.

"(c) IMPLEMENTATION.—

"(1) START-UP PHASES.—For the first 3 fiscal years beginning after the date of enactment of the Border Infrastructure and Technology Integration Act of 2004, assistance under the program shall be limited to institutions of higher education located in States in which an institution of higher education with a grant from, or a contract or cooperative agreement with, the National Science Foundation under section 113 of the National Science Foundation Act of 1988 (42 U.S.C. 1862) is located.

"(2) SUBSEQUENT FISCAL YEARS.—

"(A) IN GENERAL.—Beginning with the 4th fiscal year after the date of enactment of this Act, the Director shall rank order the States (excluding any noncontiguous State (as defined in section 2(14)) other than Alaska, Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands) in descending order in terms of the average amount of funds received by institutions of higher education (as that term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) in each State that received financial assistance in the form of grants, contracts, or cooperative arrangements under this title during each of the preceding 3 fiscal years.

"(B) ALLOCATION.—Beginning with the 4th fiscal year after the date of enactment of this Act, assistance under the program for any fiscal year is limited to institutions of higher education located in States in the lowest third of those ranked under subparagraph (A) for that fiscal year.

"(C) DETERMINATION OF LOCATION.—For purposes of this paragraph, an institution of higher education shall be considered to be located in the State in which its home campus is located, except that assistance provided under the program to a division, institute, or other facility located in another State for use in that State shall be considered to have been provided to an institution of higher education located in that other State.

"(D) MULTIYEAR ASSISTANCE.—For purposes of this paragraph, assistance under the program that is provided on a multi-year basis shall be counted as provided in each such year in the amount so provided for that year.

"(d) FUNDING.—The Secretary shall ensure that no less than 5 percent of the amount appropriated for each fiscal year to the Acceleration Fund for Research and Development of Homeland Security Technologies established by section 307(c)(1) is allocated to the program established by subsection (a).".

(2) CONFORMING AMENDMENT.—The table of contents of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 313 the following:

"Sec. 314. Competitive research program.".

SEC. 511. DEADLINE FOR TRANSPORTATION SECURITY CARDS.

The Secretary shall issue a final rule under section 70105 of title 46, United States Code, no later than January 1, 2006.

SEC. 512. EVALUATION AND REPORT.

Within 90 days after the date of enactment of this Act the Secretary of Homeland Security shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing—

(1) an evaluation of the Operation Safe Commerce program and the Customs-Trade Partnership Against Terrorism program;

(2) a report on the establishment and implementation of performance standards for oceanborne and intermodal cargo seals and locks under section 70116(b) of title 46, United States Code;

(3) a report on progress made and current operational practices for monitoring oceanborne cargo through the entire supply chain;

(4) recommendations as to how the practices, programs, and procedures can be further integrated into a wider screening network for oceanborne cargo that can be applied on an international basis;

(5) recommendations as to how inspection and screening procedures developed for oceanborne cargo might be adapted for application to the shipment of domestically-produced cargo within the United States;

(6) a status report on progress in preparing the plan for implementing secure systems of transportation required by section 809(c) of the Coast Guard and Maritime Transportation Act of 2004 (Pub. L. 108-293; 118 Stat. 1086);

(7) a report on the security of noncontainerized cargo including roll-on roll-off cargo, break bulk cargo, and liquid and dry bulk cargo; and

(8) a report on whether the increased use of waterborne transportation in the domestic movement of hazardous materials would be an effective and efficient means to enhance the safety of hazardous material shipments.

SEC. 513. PORT SECURITY GRANTS.

(a) BASIS FOR GRANTS.—Section 70107(a) of title 46, United States Code, is amended by striking "for making a fair and equitable allocation of funds" and inserting "based on risk and vulnerability".

(b) LETTERS OF INTENT.—Section 70107(e) of title 46, United States Code, is amended by adding at the end the following:

"(5) LETTERS OF INTENT.—The Secretary may execute letters of intent to commit funding to port sponsors from the Fund.".

SEC. 514. WORK STOPPAGES AND EMPLOYEE-EMPLOYER DISPUTES.

Section 70101(6) is amended by inserting after "area." the following: "In this paragraph, the term 'economic disruption' does not include a work stoppage or other nonviolent employee-related action resulting from an employee-employer dispute.".

SEC. 515. APPEAL OF DENIAL OF WAIVER FOR TRANSPORTATION SECURITY CARD.

Section 70105(c)(3) of title 46, United States Code, is amended by inserting "or a waiver under paragraph (2)" after "card".

Mr. INOUYE. Mr. President, I rise as a leading co-sponsor of the Transportation Security Improvement Act of 2005 introduced today by my colleague and Chairman, TED STEVENS, along with Senators JAY ROCKEFELLER, OLYMPIA SNOWE, FRANK LAUTENBERG, BYRON DORGAN, BARBARA BOXER, MARIA CANTWELL, MARK PRYOR, HILLARY CLINTON, and CHUCK SCHUMER.

Nearly 4 years after the enactment of landmark aviation and maritime security laws, it is time to build upon that foundation, make needed improvements and enhancements to our transportation security efforts across all modes, and reestablish the requisite funding levels. Most importantly, we must restore the sense of urgency that is essential if we are to keep our transportation systems, and our economy, strong, vibrant, and secure. We have worked hard to develop this legislation, and we will continue to improve it with the assistance of committee members and the Department of Homeland Security as we move forward through the legislative process.

Over the past 3½ years, the administration and Congress have slowly lost the sense of immediacy that once allowed us to recognize that transportation security is a matter of national security. The administration's budget and priorities indicate that they are overlooking glaring security vulnerabilities, disregarding the continuing threats and risks that are reported almost daily, and underestimating the economic consequences that would undoubtedly result from another attack on our transportation systems. I am hopeful that the new leadership will reinvigorate transportation security.

The economic importance of those systems can hardly be overstated: 95 percent of the Nation's cargo comes through the ports; our rail system and our motor carriers move all of those goods from our coasts and borders throughout the interior U.S. to retail outlets and manufacturers that rely on on-time delivery; our aviation system carried 629.7 million domestic passengers during 2004 and averaged 1.5 million enplanements per day in January this year; approximately 24 million passengers ride Amtrak annually, and there are nearly 3.4 billion passenger and commuter rail trips in this country each year. The loss of our aviation system for just 4 days after the September 11th attacks sent shockwaves through the economy that are still being felt today. The al Qaida attack on the passenger trains in Madrid, Spain, killing nearly 200 people and injuring 1,800, unfortunately proved that railroads are vulnerable targets for terrorists. If there is an incident at any one seaport, the whole system for moving cargo into and out of the country would screech to a halt, as we scramble to ensure security at other ports. In addition to the horrible loss of life, the resulting economic damage would be widespread, catastrophic and possibly irreversible. We cannot afford to risk this kind of damage due to a lack of preparedness and forethought.

The terrorists that seek to do us harm are cunning, dynamic, and most of all, patient. While they have not successfully struck our homeland since September 11, 2001, it does not mean that they are not preparing to do so. They work 24 hours a day, studying what we do and how we do it. It is imperative that we stay ahead of them. That means we must constantly anticipate, innovate, and plan. We must continually research and implement the most effective technologies. We must recruit, train and deploy the most skilled security force. Simply put, our entire economy relies on a well-functioning, secure, transportation system. It is in our greatest economic interest to ensure that this system, and the passengers and cargo that use it, are well protected. And, in keeping with transportation security's impact on the nation's physical and economic security, it is the responsibility of the federal government to properly finance that protection.

Following passage of our new aviation security laws, the Transportation Security Administration, TSA, was assembled quickly, presented with an enormous task, and expected to produce immediate results. It has performed admirably, despite the administration's near-constant reorganization of the agency with little to no input from Congress. While we take seriously recent reports about financial mismanagement and the limits of the human capacity to detect security breaches, we cannot and must not use these inadequacies as justification to cast aside the critical work of this agency. There are some in Congress that have never been comfortable with the new Federal role in transportation security, and they look to every negative report to help usher in a return to private security screening companies. We contend, however, that transportation security must not be judged only by the bottom-line commercial pressures of the private sector. Transportation security is a unique national security function and an economic necessity, and like our national defense, it must remain a primary responsibility of the federal government.

The need for Congressional action to secure all forms of transportation infrastructure across the country remains essential, and I, along with many of my colleagues on the Senate Commerce Committee, have expressed great reservations about the direction our Nation is now headed on matters of transportation security.

As I noted during the Senate's consideration of the nomination of Michael Chertoff to be the Secretary of the Department of Homeland Security, the administration's budget demonstrates the lost sense of urgency. It shifts critical work away from the TSA. It erodes the Agency's limited focus and accountability. It undermines the effectiveness of our maritime and land security efforts. It underfunds efforts across all modes, but particularly port and rail.

The legislation we are introducing today renews the importance and commitment transportation security deserves. It identifies the numerous, lingering shortcomings that currently exist, re-dedicates our efforts on maritime and surface transportation security, and provides the guidance necessary to adequately defend the nation's infrastructure.

The TSA should not focus almost exclusively on aviation, nor should it be transformed into a glorified, security screener training and placement agency. The TSA is essential, and it possesses critical expertise that must be cultivated and put to proper use. We believe that the TSA, as outlined by our bill, can and will be the difference between a flourishing economy fueled by smooth-running transportation systems and an economy crippled by transportation systems that could fall victim to terrorist attacks.

As such, the Transportation Security Improvement Act of 2005 will authorize the TSA for the next 3 fiscal years and re-dedicate the agency to its mission of providing specialized security for all modes of transportation. It provides further direction to the agency's cargo security functions, strengthens aviation, maritime, rail, hazardous materials, and pipeline security efforts, and enhances interagency cooperation. While the proposal incorporates several Commerce Committee and Senate-passed bills or initiatives from the prior Congress, it also puts forth new ideas to enhance transportation security across all modes.

We recognize that Secretary Chertoff has had only a short time to make changes and that his comprehensive review is pending. Our legislation provides the flexibility necessary to address his findings and prerogatives. However, it is incumbent upon Congress to provide guidance and clarify the expectations.

On the matter of port security, our legislation seeks to improve interagency cooperation with the further development of joint operation command centers. It clarifies the roles and responsibilities for cargo security programs, while establishing criteria for contingency response plans to resume the flow of commerce in the event of a seaport attack. By setting a minimum floor for research and development funding related to maritime and land security, the bill further encourages the development of effective technologies that detect terrorist threats. Conversely, the administration has continued to consolidate critical infrastructure grant programs, which we believe will effectively decrease funding for port security and eliminate the appropriate expertise necessary to review grant proposals and distribute the funds accordingly.

In addressing aviation security, we continue to be concerned that current budget proposals diminish the TSA's authority and squander its expertise. Airport directors are still struggling to receive the technological and capital improvements that would increase the efficiency and effectiveness of the current security system and lower costs considerably. Instead of addressing these shortcomings with aggressive support, the administration has chosen to place a greater burden on the airlines through increased security fees at the same moment that the carriers are facing the most difficult financial period in their history. Not only has the industry lost more than $30 billion cumulatively since 2000, the Federal government has had to bail out the carriers twice. Increasing the carriers' financial burden is ill conceived and counterproductive.

Quietly but consistently, we also hear of some of our colleagues' desire to return to the same privatized security apparatus that proved disastrously inadequate on September 11, 2001. These efforts are short-sighted, defy our experience, and will reverse much of the progress we have made since September 11. Those seeking to return to the old system, at times, claim that the system is no better than pre-September 11. We all know that is not the case. We also know that with new technology, we can improve screener performance. There is no doubt that human factors limit the capabilities of screeners, but as we fund and deploy new equipment, the security system will continue to improve. Our bill seeks to enhance the current screener workforce by directing a more appropriate use of the TSA's resources and through improved training. It would also stimulate efforts to streamline and improve collections of existing airline and passenger security fees to promote a more efficient and healthy aviation industry.

On rail security, our legislation will incorporate an updated version of the Rail Security Act of 2004, which the Senate passed by unanimous consent last year. It features new efforts to ensure the security of hazardous materials that are shipped by rail and improves security training and awareness for our railroad workers and the public. The tragic events in Madrid, Spain, demonstrated to all of us the clear threats to our rail system. We have already been warned publicly twice by the FBI that al Qaida may be directly targeting U.S. passenger trains and that their operatives may try to destroy key rail bridges and sections of track to cause derailments. The rail threat assessment required by our legislation and the grant programs and other measures designed to respond to those threats will strengthen our ability to address them. Until we pass a rail security package, this body is failing its responsibility to try to secure our national transportation system. We owe it to the American people to strengthen the security of our passenger and freight railroads.

To address the security needs of our other surface transportation modes, the proposal will include funding to improve intercity bus security, strengthen hazardous material transportation security efforts, establish new security guidelines for truck rental and leasing operations, and develop pipeline security incident recovery plans. Such action is long overdue as the administration has consistently failed to develop dedicated programs, much less financial support, for rail and other surface transportation security efforts.

We have reached a critical juncture for transportation security in the United States and the steps that we take in the coming months will impact our safety, security and one of our most essential freedoms—movement—for years to come. We must commit ourselves to ensuring that our transportation security remains a priority and is as strong and effective as possible. I believe the Transportation Security Improvement Act of 2005 will continue to move us in that direction.

Mr. ROCKEFELLER. Mr. President, it is my honor today to join the distinguished cochairmen of the Senate Commerce, Science, and Transportation Committee, Senators TED STEVENS and DANIEL INOUYE, along with our colleagues Senators BYRON DORGAN, FRANK LAUTENBERG, MARK PRYOR, BARBARA BOXER, MARIA CANTWELL, HILLARY CLINTON, and CHUCK SCHUMER, to introduce the Transportation Security Improvements Act of 2005. This is a vitally important contribution to the security of all Americans, and I commend it to my colleagues for their consideration.

The Transportation Security Improvements Act will increase authorizations for the Transportation Security Administration, TSA, by more than $19 billion through fiscal year 2008, and will forthrightly address continuing vulnerabilities in the security of our various transportation modes that Congress and the administration have as yet virtually ignored.

Americans were shocked to learn just how lax our aviation security was on September 11. Even those terrorists on official Government watch lists, who should have been barred from entering the United States, were able to board planes that they then turned into weapons without any significant interference from airport security staffs. As a wounded Nation tried to overcome the horrors of that day, Congress immediately went about fixing what was so obviously wrong with our aviation security.

Now, as we approach the fourth anniversary of that fateful day, Americans are regaining their confidence about aviation security. There is still work to be done, and my colleagues and I endeavor in this bill to further secure air travel. Still, we have done much to improve domestic aviation security by improving the security procedures we demand of airlines and airport personnel both here and abroad. We need to remain vigilant and avoid the inexcusable error of believing we have done all that needs to be done. We must act with the knowledge that our enemies will continue to probe the system they so successfully breached in 2001 to find new and additional opportunities to kill and terrorize Americans.

What my colleagues and I also have realized for some time is that in devoting our energy and resources to aviation security we have been, in a manner of speaking, "fighting the last war." While the aviation sector is prepared for today's threats, congressional action regarding the level of security of our other transportation modes is not much changed from the blissfully naïve standards of September 10.

To be fair, industries in the other transportation modes have worked hard to improve the security of their respective sectors. The relatively little money Congress and the administration have dedicated to improving transportation security has been put to good use. Industry and Government working together, even given the overwhelming scope of the threat, have improved transportation security and protected the lives and property of Americans. We just have not done enough.

The Transportation Security Improvements Act seeks to make overdue improvements to the overall security of this Nation's vast transportation infrastructure. Our bill addresses the security practices and requirements of our Nation's freight and passenger rail network, as well as those of our oceangoing and inland ports, the trucking industry, intercity buses, and the special risks of hazardous materials transportation, regardless of the mode of transportation. It makes the TSA responsible for coordinating international and domestic cargo security. It calls on TSA to work cooperatively with stakeholders in the various transportation modes on preparedness and incident response, and establishes new maritime and land security command procedures. Perhaps most importantly, we acknowledge the need of TSA management to deploy such human resources as it sees fit to protect Americans' lives and property, and it removes the current statutory cap on the agency of 45,000 full-time employees.

To continue the TSA's efforts to improve aviation security, our bill authorizes $15.75 billion over the next 3 fiscal years to fully fund key security programs to defend our Nation's air transportation system. In lieu of recent reports regarding the performance of the airport screening workforce, our bill could not be more timely. We have included provisions to provide TSA greater flexibility in meeting the staffing needs of screening checkpoints through elimination of an arbitrary staffing cap that was put in place shortly after the agency was created, while also requiring TSA to review the adequacy of recurrent training for these employees. With the difficult economic environment currently faced by the airline industry, the bill takes steps to relieve the carriers of some of the burden that they face through collection of these fees. We would prohibit increasing aviation security fees without Congressional review and approval, while requiring TSA to consider alternative means of collecting such fees. Finally, the bill prohibits the certification of any foreign repair stations until TSA and FAA strengthen the oversight of such facilities by reviewing, auditing and developing regulations to ensure an adequate level of safety and security.

To dramatically improve maritime and land security, we increase funding by $1.099 billion to develop and implement cargo screening and inspection standards, with special attention given to high-risk cargoes. We authorize 10 additional Joint Operation Command Centers to supplement the current positive interagency and public-private cooperation at our ports. We streamline procedures for foreign vessels and those with Coast Guard-certified security plans, require funding for port security technology improvements, and impose a January 2006 deadline for development of a comprehensive Transportation Worker Identification Credentialing Program.

We assist our railroads and hazardous materials shippers in maintaining and improving security along the Nation's nearly 150,000 miles of freight and passenger rail infrastructure. We increase rail security funding by nearly $800 million over 3 years, and with those funds require the TSA to conduct a comprehensive security threat assessment that I first advocated in October 2001. We authorize grants to Amtrak and our freight railroads for overall security improvements, and establish a revamped security training program for railroad employees. Our legislation would allow Amtrak to make specific and long-overdue security improvements along its well-traveled Northeast corridor, and it authorizes development of baggage, passenger, and cargo screening programs, as well as reviews of procedures used by foreign railroads and research into additional improvements.

We seek in this legislation to improve the security of the highway system that is the envy of the world. Our bill makes it a priority to better protect and address the unique security vulnerabilities of intercity buses and their passengers. This is a topic first brought to the attention of Congress by our former colleague Max Cleland, and which I hope we can now see enacted into law as a rightful part of his legacy of service to this country. We further seek to improve highway security by imposing the same level of background checks on foreign drivers transporting hazardous materials as we already require of American drivers. We require vehicles carrying hazardous materials to be equipped with wireless communications equipment, and that their drivers have established plans for the use of alternate routes. We provide funding for the TSA to conduct security inspections of our pipeline network, to develop a pipeline incident response plan, and to analyze the security plans in place for hazmat carriers. We create a public sector response center, and provide for the distribution of emergency wireless communications equipment to first responders, hazmat carriers, and TSA personnel.

Our constituents have sent us here, first and foremost, to protect them. The ruthless attacks of September 11, 2001, exposed inexcusable gaps in our efforts in that regard. At a time when the air in this city is acrid with accusation and acrimony, I ask my colleagues to consider this legislation a priority for quick passage, and an example of the good work this institution can do when we remember why Americans elected us. I ask my colleagues to join us in this effort, and I ask the majority leader to find time on the Senate Calendar for its expeditious consideration by the full Senate.

By Mr. LOTT:

S. 1053. A bill to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other purposes; from the Committee on Rules and Administration; placed on the calendar.

Mr. LOTT. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1053

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "527 Reform Act of 2005".

SEC. 2. TREATMENT OF SECTION 527 ORGANIZATIONS.

(a) DEFINITION OF POLITICAL COMMITTEE.—Section 301(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)) is amended by striking the period at the end of subparagraph (C) and inserting "; or" and by adding at the end the following:

"(D) any applicable 527 organization.".

(b) DEFINITION OF APPLICABLE 527 ORGANIZATION.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following new paragraph:

"(27) APPLICABLE 527 ORGANIZATION.—For purposes of paragraph (4)(D)—

"(A) IN GENERAL.—The term 'applicable 527 organization' means a committee, club, association, or group of persons that—

"(i) has given notice to the Secretary of the Treasury under section 527(i) of the Internal Revenue Code of 1986 that it is to be treated as an organization described in section 527 of such Code, and

"(ii) is not described in subparagraph (B).

"(B) EXCEPTED ORGANIZATIONS.—A committee, club, association, or other group of persons described in this subparagraph is—

"(i) an organization described in section 527(i)(5) of the Internal Revenue Code of 1986,

"(ii) an organization which is a committee, club, association or other group of persons that is organized, operated, and makes disbursements exclusively for paying expenses described in the last sentence of section 527(e)(2) of the Internal Revenue Code of 1986 or expenses of a newsletter fund described in section 527(g) of such Code,

"(iii) an organization which is a committee, club, association, or other group that consists solely of candidates for State or local office, individuals holding State or local office, or any combination of either, but only if the organization refers only to one or more non-Federal candidates or applicable State or local issues in all of its voter drive activities and does not refer to a Federal candidate or a political party in any of its voter drive activities,

"(iv) an organization which is a committee, club, association, or other group of persons—

"(I) the election or nomination activities of which relate exclusively to any voter drive activity described in subparagraphs (A) through (D) of section 325(d)(1),

"(II) the public communications of which relate exclusively to activities described in subparagraphs (A) through (D) of section 325(d)(1), and

"(III) which does not engage in any broadcast, cable, or satellite communications, or

"(v) an organization described in subparagraph (C).

"(C) APPLICABLE ORGANIZATION.—For purposes of subparagraph (B)(v), an organization described in this subparagraph is a committee, club, association, or other group of persons whose election or nomination activities relate exclusively to—

"(i) elections where no candidate for Federal office appears on the ballot; or

"(ii) one or more of the following purposes:

"(I) Influencing the selection, nomination, election, or appointment of one or more candidates to non-Federal offices.

"(II) Influencing one or more applicable State or local issues.

"(III) Influencing the selection, appointment, nomination, or confirmation of one or more individuals to non-elected offices.

"(D) EXCLUSIVITY TEST.—A committee, club, association, or other group of persons shall not be treated as meeting the exclusivity requirement of subparagraphs (B)(iv) and (C) if it makes disbursements aggregating more than $1,000 for any of the following:

"(i) A public communication that promotes, supports, attacks, or opposes a clearly identified candidate for Federal office during the 1-year period ending on the date of the general election for the office sought by the clearly identified candidate (but if a runoff election is held for that office, the 1-year period shall be extended and shall end on the date of the run-off election).

"(ii) Any voter drive activity during a calendar year, except that no disbursements for any voter drive activity shall be taken into account under this subparagraph if the committee, club, association, or other group of persons during such calendar year—

"(I) makes disbursements for voter drive activities with respect to elections in only 1 State and complies with all applicable election laws of that State, including laws related to registration and reporting requirements and contribution limitations;

"(II) refers to one or more non-Federal candidates or applicable State or local issues in all of its voter drive activities and does not refer to a Federal candidate or a political party;

"(III) does not have a candidate for Federal office, an individual who holds any Federal office, a national political party, or an agent of any of the foregoing, control or materially participate in the direction of the organization, solicit contributions to the organization (other than funds which are described under clauses (i) and (ii) of section 323(e)(1)(B)), or direct disbursements, in whole or in part, by the organization; and

"(IV) makes no contributions to Federal candidates.

Clause (ii) shall not apply to disbursements by any committee, club, or association, or other group of persons described in subparagraph (B)(iv).

"(E) VOTER DRIVE ACTIVITY.—For purposes of this paragraph, the term 'voter drive activity' has the meaning given such term by section 325(d)(1).

"(F) APPLICABLE STATE OR LOCAL ISSUE.—For purposes of this paragraph, the term 'applicable State or local issue' means any State or local ballot initiative, State or local referendum, State or local constitutional amendment, State or local bond issue, or other State or local ballot issue.

"(G) REFERENCE TO FEDERAL CANDIDATES.—For purposes of this paragraph, any prohibition on a reference to a Federal candidate shall not include any reference described in section 325(d)(4).

"(H) REFERENCE TO POLITICAL PARTIES.—For purposes of this paragraph, any prohibition on a reference to a political party shall not include any reference described in section 325(d)(5).".

(c) REGULATIONS.—The Federal Election Commission shall promulgate regulations to implement this section not later than 60 days after the date of enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date which is 60 days after the date of enactment of this Act.

SEC. 3. RULES FOR ALLOCATION OF EXPENSES BETWEEN FEDERAL AND NON-FEDERAL ACTIVITIES.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 325. ALLOCATION AND FUNDING RULES FOR CERTAIN EXPENSES RELATING TO FEDERAL AND NON-FEDERAL ACTIVITIES.

"(a) IN GENERAL.—In the case of any disbursements by any political committee that is a separate segregated fund or nonconnected committee for which allocation rules are provided under subsection (b)—

"(1) the disbursements shall be allocated between Federal and non-Federal accounts in accordance with this section and regulations prescribed by the Commission, and

"(2) in the case of disbursements allocated to non-Federal accounts, may be paid only from a qualified non-Federal account.

"(b) COSTS TO BE ALLOCATED AND ALLOCATION RULES.—Disbursements by any separate segregated fund or nonconnected committee, other than an organization described in section 323(b)(1), for any of the following categories of activity shall be allocated as follows:

"(1) 100 percent of the expenses for public communications or voter drive activities that refer to one or more clearly identified Federal candidates, but do not refer to any clearly identified non-Federal candidates, shall be paid with funds from a Federal account, without regard to whether the communication refers to a political party.

"(2) At least 50 percent, or a greater percentage if the Commission so determines by regulation, of the expenses for public communications and voter drive activities that refer to one or more clearly identified candidates for Federal office and one or more clearly identified non-Federal candidates shall be paid with funds from a Federal account, without regard to whether the communication refers to a political party.

"(3) At least 50 percent, or a greater percentage if the Commission so determines by regulation, of the expenses for public communications or voter drive activities that refer to a political party, but do not refer to any clearly identified Federal or non-Federal candidate, shall be paid with funds from a Federal account, except that this paragraph shall not apply to communications or activities that relate exclusively to elections where no candidate for Federal office appears on the ballot.

"(4) At least 50 percent, or a greater percentage if the Commission so determines by regulation, of the expenses for public communications or voter drive activities that refer to a political party and refer to one or more clearly identified non-Federal candidates, but do not refer to any clearly identified Federal candidates, shall be paid with funds from a Federal account, except that this paragraph shall not apply to communications or activities that relate exclusively to elections where no candidate for Federal office appears on the ballot.

"(5) Unless otherwise determined by the Commission in its regulations, at least 50 percent of any administrative expenses, including rent, utilities, office supplies, and salaries not attributable to a clearly identified candidate, shall be paid with funds from a Federal account, except that for a separate segregated fund such expenses may be paid instead by its connected organization.

"(6) At least 50 percent, or a greater percentage if the Commission so determines by regulation, of the direct costs of a fundraising program or event, including disbursements for solicitation of funds and for planning and administration of actual fundraising events, where Federal and non-Federal funds are collected through such program or event shall be paid with funds from a Federal account, except that for a separate segregated fund such costs may be paid instead by its connected organization. This paragraph shall not apply to any fundraising solicitations or any other activity that constitutes a public communication.

"(c) QUALIFIED NON-FEDERAL ACCOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified non-Federal account' means an account which consists solely of amounts—

"(A) that, subject to the limitations of paragraphs (2) and (3), are raised by the separate segregated fund or nonconnected committee only from individuals, and

"(B) with respect to which all requirements of Federal, State, or local law (including any law relating to contribution limits) are met.

"(2) LIMITATION ON INDIVIDUAL DONATIONS.—

"(A) IN GENERAL.—A separate segregated fund or nonconnected committee may not accept more than $25,000 in funds for its qualified non-Federal account from any one individual in any calendar year.

"(B) AFFILIATION.—For purposes of this paragraph, all qualified non-Federal accounts of separate segregated funds or nonconnected committees which are directly or indirectly established, financed, maintained, or controlled by the same person or persons shall be treated as one account.

"(3) FUNDRAISING LIMITATION.—

"(A) IN GENERAL.—No donation to a qualified non-Federal account may be solicited, received, directed, transferred, or spent by or in the name of any person described in subsection (a) or (e) of section 323.

"(B) FUNDS NOT TREATED AS SUBJECT TO ACT.—Except as provided in subsection (a)(2) and this subsection, any funds raised for a qualified non-Federal account in accordance with the requirements of this section shall not be considered funds subject to the limitations, prohibitions, and reporting requirements of this Act for any purpose (including for purposes of subsection (a) or (e) of section 323 or subsection (d)(2) of this section).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) VOTER DRIVE ACTIVITY.—The term 'voter drive activity' means any of the following activities conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot):

"(A) Voter registration activity.

"(B) Voter identification.

"(C) Get-out-the-vote activity.

"(D) Generic campaign activity.

"(E) Any public communication related to activities described in subparagraphs (A) through (D).

Such term shall not include any activity described in subparagraph (A) or (B) of section 316(b)(2).

"(2) FEDERAL ACCOUNT.—The term 'Federal account' means an account which consists solely of contributions subject to the limitations, prohibitions, and reporting requirements of this Act. Nothing in this section or in section 323(b)(2)(B)(iii) shall be construed to infer that a limit other than the limit under section 315(a)(1)(C) applies to contributions to the account.

"(3) NONCONNECTED COMMITTEE.—The term 'nonconnected committee' shall not include a political committee of a political party.

"(4) CERTAIN REFERENCES TO FEDERAL CANDIDATES NOT TAKEN INTO ACCOUNT.—A public communication or voter drive activity shall not be treated as referring to any clearly identified Federal candidate if the only reference is—

"(A) a reference, in connection with an election for a non-Federal office, to a Federal candidate who is also a candidate for such non-Federal office; or

"(B) a reference to the fact that a Federal candidate has endorsed a non-Federal candidate or an applicable State or local issue (as defined in section 301(27)(F)), including a reference that constitutes the endorsement itself.

"(5) CERTAIN REFERENCES TO POLITICAL PARTIES NOT TAKEN INTO ACCOUNT.—A public communication or voter drive activity shall not be treated as referring to a political party if the only reference is—

"(A) a reference to a political party for the purpose of identifying a non-Federal candidate;

"(B) a reference to a political party for the purpose of identifying the entity making the public communication or carrying out the voter drive activity; or

"(C) a reference to a political party in a manner or context that does not reflect support for or opposition to a Federal candidate or candidates and does reflect support for or opposition to a State or local candidate or candidates or an applicable State or local issue.".

(b) REPORTING REQUIREMENTS.—Section 304(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(e)) is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) RECEIPTS AND DISBURSEMENTS FROM QUALIFIED NON-FEDERAL ACCOUNTS.—In addition to any other reporting requirement applicable under this Act, a political committee to which section 325(a) applies shall report all receipts and disbursements from a qualified non-Federal account (as defined in section 325(c)).".

(c) REGULATIONS.—The Federal Election Commission shall promulgate regulations to implement the amendments made by this section not later than 180 days after the date of enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date which is 180 days after the date of enactment of this Act.

SEC. 4. TELEVISION MEDIA RATES.

(a) LOWEST UNIT CHARGE.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended by adding at the end the following:

"(f) TELEVISION MEDIA RATES.—

"(1) LOWEST UNIT CHARGE.—Notwithstanding any other provision of law, the charges made for the use of any television broadcast station, or by a provider of cable or satellite television service, to any person who is a legally qualified candidate for any public office in connection with the campaign of such candidate for nomination for election, or election, to such office or by a national committee of a political party on behalf of such candidate in connection with such campaign, shall not exceed the lowest charge of the station (at any time during the 365-day period preceding the date of the use) for pre-emptible use thereof for the same amount of time for the same period.

"(2) PREEMPTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), and notwithstanding the requirements of paragraph (1), a licensee shall not preempt the use of a broadcasting station by an eligible candidate or political committee of a political party who has purchased and paid for such use.

"(B) CIRCUMSTANCES BEYOND CONTROL OF LICENSEE.—If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the station, any candidate or party advertising spot scheduled to be broadcast during that program shall be treated in the same fashion as a comparable commercial advertising spot.

"(3) AUDITS.—

"(A) IN GENERAL.—During the 45-day period preceding a primary election and the 60-day period preceding a general election, the Commission shall conduct such audits as it deems necessary to ensure that each broadcaster to which this subsection applies is allocating television broadcast advertising time in accordance with this subsection and section 312.

"(B) MARKETS.—Each audit conducted under subparagraph (A) shall cover the following markets:

"(i) At least 6 of the top 50 largest designated market areas (as defined in section 122(j)(2)(C) of title 17, United States Code).

"(ii) At least 3 of the 51–100 largest designated market areas (as so defined).

"(iii) At least 3 of the 101–150 largest designated market areas (as so defined).

"(iv) At least 3 of the 151–210 largest designated market areas (as so defined).

"(C) Broadcast stations.—Each audit conducted under subparagraph (A) shall include each of the 3 largest television broadcast networks, 1 independent network, and 1 cable network.".

(b) Conforming Amendment.—Section 504 of the Bipartisan Campaign Reform Act of 2002 (Public Law 107-155) is amended by striking "315), as amended by this Act, is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and" and inserting "315) is amended by".

(c) Stylistic Amendments.—Section 315(c) the Communications Act of 1934 (47 U.S.C. 315(c)) is amended—

(1) by striking "For purposes of this section—" and inserting "In this section:";

(2) in paragraph (1), by striking "the" and inserting "Broadcasting station.—The"; and

(3) in paragraph (2), by striking "the" and inserting "Licensee; station licensee.—The".

SEC. 5. MODIFICATION OF DEFINITION OF PUBLIC COMMUNICATION.

(a) In General.—Paragraph (22) of section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(22)) is amended by adding at the end the following new sentence: "Such term shall not include communications over the Internet.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 6. INCREASE IN CONTRIBUTION LIMITS FOR POLITICAL COMMITTEES.

(a) Increase in Political Committee Contribution Limits.—Section 315(a)(1)(C) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)(C)) is amended by striking "$5,000" and inserting "$7,500".

(b) Increase in Multicandidate Limits.—Section 315(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended—

(1) in subparagraph (A), by striking "$5,000" and inserting "$7,500";

(2) in subparagraph (B), by striking "$15,000" and inserting "$25,000"; and

(3) in subparagraph (C), by striking "$5,000" and inserting "$7,500".

(c) Indexing.—

(1) In general.—Section 315(c)(1)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)(1)(B)) is amended to read as follows:

"(B) Except as provided in subparagraph (C)—

"(i) in any calendar year after 2002—

"(I) a limitation established by subsection (a)(1)(A), (a)(1)(B), (a)(3), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A);

"(II) each amount so increased shall remain in effect for the calendar year; and

"(III) if any amount after the adjustment under subclause (I) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100; and

"(ii) in any calendar year after 2006—

"(I) a limitation established by subsection (a)(1)(C), (a)(1)(D), or (a)(2) shall be increased by the percent difference determined under subparagraph (A);

"(II) each amount so increased shall remain in effect for the calendar year; and

"(III) if any amount after the adjustment under subclause (I) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.".

(2) Conforming amendments.—Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)) is amended—

(A) in paragraph (1)(C), by striking "subsections (a)(1)(A), (a)(1)(B), (a)(3)," and inserting "subsections (a)"; and

(B) in paragraph (2)(B)—

(i) by striking "and" at the end of clause (i);

(ii) by striking the period at the end of clause (ii) and inserting "; and"; and

(iii) by adding at the end the following new clause:

"(iii) for purposes of subsections (a)(1)(C), (a)(1)(D) and (a)(2), calendar year 2005.".

(d) Special Rule for Transfers From Leadership PACs to National Party Committees.—Paragraph (4) of section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4)) is amended—

(1) by inserting "(A)" before "The limitations"; and

(2) by adding at the end the following:

"(B) The limitations on contributions contained in paragraphs (1) and (2) do not apply to transfers between any committee (other than an authorized committee) established, financed, maintained, or controlled by a candidate or an individual holding a Federal office and political committees established and maintained by a national political party.".

(e) Elimination of Certain Restrictions on Solicitations by Corporations and Labor Organizations.—

(1) Written solicitations.—Subparagraph (B) of section 316(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(4)(B)) is amended—

(A) by striking "2"; and

(B) by striking "during the calendar year".

(2) Prior approval of solicitation for trade associations.—Subparagraph (D) of section 316(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(4)(D)) is amended by striking "to the extent that such solicitation" and all that follows and inserting a period.

(f) Increase in Threshold for Political Committees.—

(1) In general.—Section 301(4)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)(A)) is amended by striking "$1,000" each place it appears and inserting "$10,000".

(2) Local committees.—

(A) Contributions received.—Section 301(4)(C) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)(C)) is amended by striking "$5,000" each place it appears and inserting "$10,000".

(B) Contributions made.—Section 301(4)(C) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(4)(C)) is amended by striking "$1,000" each place it appears and inserting "$10,000".

(g) Effective Date.—The amendments made by this section shall apply to calendar years beginning after December 31, 2005.

SEC. 7. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 8. CONSTRUCTION.

No provision of this Act, or amendment made by this Act, shall be construed—

(1) as approving, ratifying, or endorsing a regulation promulgated by the Federal Election Commission,

(2) as establishing, modifying, or otherwise affecting the definition of political organization for purposes of the Internal Revenue Code of 1986, or

(3) as affecting the determination of whether a group organized under section 501(c) of the Internal Revenue Code of 1986 is a political committee under section 301(4) of the Federal Election Campaign Act of 1971.

SEC. 9. JUDICIAL REVIEW.

(a) Special Rules for Actions Brought on Constitutional Grounds.—If any action is brought for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act, the following rules shall apply:

(1) The action shall be filed in the United States District Court for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

(2) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives and the Secretary of the Senate.

(3) A final decision in the action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

(4) It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

(b) Intervention by Members of Congress.—In any action in which the constitutionality of any provision of this Act or any amendment made by this Act is raised (including but not limited to an action described in subsection (a)), any Member of the House of Representatives (including a Delegate or Resident Commissioner to Congress) or Senate shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment. To avoid duplication of efforts and reduce the burdens placed on the parties to the action, the court in any such action may make such orders as it considers necessary, including orders to require intervenors taking similar positions to file joint papers or to be represented by a single attorney at oral argument.

(c) Challenge by Members of Congress.—Any Member of Congress may bring an action, subject to the special rules described in subsection (a), for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act.

(d) Applicability.—

(1) Initial claims.—With respect to any action initially filed on or before December 31, 2008, the provisions of subsection (a) shall apply with respect to each action described in such subsection.

(2) Subsequent actions.—With respect to any action initially filed after December 31, 2008, the provisions of subsection (a) shall not apply to any action described in such subsection unless the person filing such action elects such provisions to apply to the action.

By Mrs. FEINSTEIN (for herself and Mr. Ensign):

S. 1054. A bill to amend the Elementary and Secondary Education Act of 1965 to specify the purposes for which funds provided under part A of title I may be used; to the Committee on

Health, Education, Labor, and Pensions.

Mrs. FEINSTEIN. Mr. President. I rise today with Senator ENSIGN to introduce a bill to ensure that Title I funds are directed towards instructional services to teach our neediest students.

Title I provides assistance to virtually every school district in the country to serve children attending schools with high concentrations of low-income students, from preschool to high school.

It has been the "anchor" of Federal assistance to schools, since its inception in 1965. Although it has always been the intent of Congress for Title I funds to be used for instruction and instructional services, the Federal Government has never provided a clear definition of what instructional services should entail.

This lack of federal guidance has become especially clear now, as States scramble to comply with the Title I accountability standards established in "No Child Left Behind."

While State Administrators of Title I are directed by law to meet these specific requirements, they have been given little guidance as to how to ensure that they are in compliance with the law.

I believe that the Federal Government is responsible for making this process as clear to States as possible.

In my view, as it relates to Title I, we have not lived up to our end of the bargain.

During consideration of "No Child Left Behind," I worked hard to get my bill defining appropriate Title I uses included in the Senate version of the bill.

Unfortunately, during conference consideration, my bill was stripped out and in its place language directing the General Accounting Office (GAO) to report on how states use their Title I funds was inserted.

In April 2003, GAO released the report that Congress directed them to submit on Title I Administrative Expenditures.

What GAO found is that while districts spent a relatively small amount, no more than 13 percent, of Title I funds on administrative services, these findings were based on their own definition "because there is no common definition on what constitutes administrative expenditures."

Therefore, the accounting office could not precisely measure how much of schools' Title I funds were used for administration.

Because Title I funds are not defined consistently throughout the states, the accounting office created their own definition by compiling aspects of state priorities to complete the report.

You see, the very reason I worked to define how Title I funds should be used—to create consistency and distribution priority nationwide—became the definitive aspect preventing GAO from effectively drawing conclusions to their report.

The report highlights two concerns that I have with the absence of universal definitions in the Title I program: the lack of Federal guidance on effective uses of Title I funds. The government's inability to accurately measure whether the academic needs of low-income students are being met.

My bill takes some strong steps by balancing the needs for states to retain Title I flexibility and providing them with the guidance needed to administer the program uniformly throughout the country.

Current law on Title I is much too vague.

It says, "a State or local educational agency shall use funds received under this part only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds."

Basically, it says that Title I funds are to be used for the "education of pupils." This is too nebulous.

The U.S. Department of Education has given states a guidance document that explains how Title I funds can be used.

Under this guidance document, only two uses are specifically prohibited: 1. construction or acquisition of real property; and 2. payment to parents to attend a meeting or training session or to reimburse a parent for a salary lost due to attendance at a "parental involvement" meeting.

I believe we should give the Department, states and districts a clearer guidance in law.

This legislation does the following: defines Title I direct and indirect instructional services. Sets a standard for the amount of Title I funds that can be used to achieve the academic and administrative objectives of this program. Ensures that the majority of Title I funds are used to improve academic achievement by stipulating that a local educational agency may use not more than 10 percent of Title I funds received for indirect instructional services.

By limiting the amount of funds that schools can spend on administrative or indirect services, school districts are restricted from shuffling the majority of Title I to pay for non-academic services, but it also gives the districts flexibility to use the remaining funds for the indirect costs administering Title I distribution.

Furthermore, by defining direct and indirect services, all states can apply the same standards for how Title I funds are used nationwide.

Examples of permissible Direct Services are: employing teachers and other instructional personnel, including employee benefits. Intervening and taking corrective actions to improve student achievement. Extending academic instruction beyond the normal school day and year, including summer school. Providing instructional services to pre-kindergarten children for the transition to kindergarten. Purchasing instructional resources such as books, materials, computers, and other instructional equipment. Professional development. Developing and administering curriculum, educational materials and assessments.

Examples of Indirect Services limited to no more than 10 percent of Title I expenditures are: business services relating to administering the program. Purchasing or providing facilities maintenance, janitorial, gardening, or landscaping services or the payment of utility costs. Buying food. Paying for travel to and attendance at conferences or meetings, except if necessary for professional development.

My reasons for introducing this bill are two-fold: First, I believe that states must use their limited federal dollars for the fundamental purpose of providing academic instruction to help students learn.

Secondly, I believe that it is nearly impossible to do so without providing a clear definition of what is considered an instructional service.

I am not suggesting that it is the fault of the school districts for not focusing their Title I funds on academic instruction. They are simply exercising the flexibility that Congress has given them.

If Congress also intended for those funds to educate our neediest children, Federal guidance must be given to ensure that it happens.

It is my view that Title I cannot do everything. Federal funding is only 8 percent of the total funding for elementary and secondary education and Title I is even a smaller percentage of total support for public schools.

That is why it is imperative to better focus Title I funds on academic instruction, teaching the fundamentals and helping disadvantaged children achieve.

Schools must focus their general administrative budget to pay for expenses that fall outside of the realm of direct educational services and retain the majority of Federal funds to improve academic achievement.

It is time to better direct Title I funds to the true goal of education: to help students learn. This is one step towards that important goal.

I urge my colleagues to support this legislation.

I ask for unanimous consent that the text of the legislation directly follow this statement in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1054

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Title I Integrity Act of 2005".

SEC. 2. DIRECT AND INDIRECT INSTRUCTIONAL SERVICES.

Subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) is amended by adding at the end the following:

"SEC. 1120C. DIRECT AND INDIRECT INSTRUCTIONAL SERVICES.

"(a) IN GENERAL.—

"(1) USE OF FUNDS.—Notwithstanding any other provision of this Act, a local educational agency shall use funds received under this part only for direct instructional services and indirect instructional services.

"(2) LIMITATION ON INDIRECT INSTRUCTIONAL SERVICES.—A local educational agency may use not more than 10 percent of funds received under this part for indirect instructional services.

"(b) INSTRUCTIONAL SERVICES.—

"(1) DIRECT INSTRUCTIONAL SERVICES.—In this section, the term 'direct instructional services' means—

"(A) the implementation of instructional interventions and corrective actions to improve student achievement;

"(B) the extension of academic instruction beyond the normal school day and year, including during summer school;

"(C) the employment of teachers and other instructional personnel, including providing teachers and instructional personnel with employee benefits;

"(D) the provision of instructional services to prekindergarten children to prepare such children for the transition to kindergarten;

"(E) the purchase of instructional resources, such as books, materials, computers, other instructional equipment, and wiring to support instructional equipment;

"(F) the development and administration of curricula, educational materials, and assessments;

"(G) the transportation of students to assist the students in improving academic achievement;

"(H) the employment of title I coordinators, including providing title I coordinators with employee benefits; and

"(I) the provision of professional development for teachers and other instructional personnel.

"(2) INDIRECT INSTRUCTIONAL SERVICES.—In this section, the term 'indirect instructional services' includes—

"(A) the purchase or provision of facilities maintenance, gardening, landscaping, or janitorial services, or the payment of utility costs;

"(B) the payment of travel and attendance costs at conferences or other meetings;

"(C) the payment of legal services;

"(D) the payment of business services, including payroll, purchasing, accounting, and data processing costs; and

"(E) any other services determined appropriate by the Secretary that indirectly improve student achievement.".

By Mr. KENNEDY:

S. 1055. A bill to improve elementary and secondary education; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the text of the bill I introduced today, an Act to improve elementary and secondary education that may be cited as the "No Child Left Behind Improvement Act of 2005," be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1055

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "No Child Left Behind Improvement Act of 2005".

TITLE I—PUBLIC SCHOOL CHOICE, SUPPLEMENTAL EDUCATIONAL SERVICES, AND TEACHER QUALITY

SEC. 101. PUBLIC SCHOOL CHOICE CAPACITY.

(a) SCHOOL CAPACITY.—Section 1116(b)(1)(E) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)(1)(E)) is amended—

(1) in clause (i), by striking "In the case" and inserting "Subject to clauses (ii) and (iii), in the case";

(2) by redesignating clause (ii) as clause (iii);

(3) by inserting after clause (i) the following:

"(ii) SCHOOL CAPACITY.—The obligation of a local educational agency to provide the option to transfer to students under clause (i) is subject to all applicable State and local health and safety code requirements regarding facility capacity."; and

(4) in clause (iii) (as redesignated by paragraph (2)), by inserting "and subject to clause (ii)," after "public school,".

(b) GRANTS FOR SCHOOL CONSTRUCTION AND RENOVATION.—Subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) is amended by adding at the end the following:

"SEC. 1120C. GRANTS FOR SCHOOL CONSTRUCTION AND RENOVATION.

"(a) PROGRAM AUTHORIZED.—From funds appropriated under subsection (g), the Secretary is authorized to award grants to local educational agencies experiencing overcrowding in the schools served by the local educational agencies, for the construction and renovation of safe, healthy, high-performance school buildings.

"(b) APPLICATION.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may require.

"(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to local educational agencies—

"(1) who have documented difficulties in meeting the public school choice requirements of paragraph (1)(E), (5)(A), (7)(C)(i), or (8)(A)(i) of section 1116(b), or section 1116(c)(10)(C)(vii); and

"(2) with the highest number of schools at or above capacity.

"(d) AWARD BASIS.—From funds remaining after awarding grants under subsection (c), the Secretary shall award grants to local educational agencies that are experiencing overcrowding in the schools served by the local educational agencies.

"(e) PREVAILING WAGES.—Any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction funded by a grant awarded under this section will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor under subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the Davis-Bacon Act).

"(f) DEFINITIONS.—In this section:

"(1) AT OR ABOVE CAPACITY.—The term 'at or above capacity', in reference to a school, means a school in which 1 additional student would increase the average class size of the school above the average class size of all schools in the State in which the school is located.

"(2) HEALTHY, HIGH-PERFORMANCE SCHOOL BUILDING.—The term 'healthy, high-performance school building' has the meaning given such term in section 5586.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $250,000,000 for fiscal year 2006, and such sums as may be necessary for each of the 2 succeeding fiscal years.".

SEC. 102. SUPPLEMENTAL EDUCATIONAL SERVICES.

Section 1116(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(e)) is amended—

(1) in paragraph (4)—

(A) in subparagraph (B), by striking the semicolon and inserting ", including criteria that—

"(i) ensure that personnel delivering supplemental educational services to students have adequate qualifications; and

"(ii) may, at the State's discretion, ensure that personnel delivering supplemental educational services to students are teachers that are highly qualified, as such term is defined in section 9101;";

(B) in subparagraph (D), by striking "and" after the semicolon;

(C) in subparagraph (E), by striking the period and inserting "; and"; and

(D) by adding at the end the following:

"(F) ensure that the list of approved providers of supplemental educational services described in subparagraph (C) includes a choice of providers that have sufficient capacity to provide effective services for children who are limited English proficient and children with disabilities.";

(2) in paragraph (5)(C)—

(A) by striking "applicable"; and

(B) by inserting before the period ", and acknowledge in writing that, as an approved provider in the relevant State educational agency program of providing supplemental educational services, the provider is deemed to be a recipient of Federal financial assistance";

(3) by redesignating paragraphs (6), (7), (8), (9), (10), (11), and (12) as paragraphs (7), (8), (9), (10), (11), (12), and (13), respectively;

(4) by inserting after paragraph (5) the following:

"(6) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a local educational agency from being considered by a State educational agency as a potential provider of supplemental educational services under this subsection, if such local educational agency meets the criteria adopted by the State educational agency in accordance with paragraph (5).";

(5) in paragraph (13) (as redesignated by paragraph (3))—

(A) in subparagraph (B)—

(i) in clause (ii), by striking "and" after the semicolon;

(ii) in clause (iii), by striking "and" after the semicolon; and

(iii) by adding at the end the following:

"(iv) may employ teachers who are highly qualified as such term is defined in section 9101; and "(v) pursuant to its inclusion on the relevant State educational agency's list described in paragraph (4)(C), is deemed to be a recipient of Federal financial assistance; and"; and

(B) in subparagraph (C)—

(i) in the matter preceding subclause (i), by striking "are";

(ii) in subclause (i)—

(I) by inserting "are" before "in addition"; and

(II) by striking "and" after the semicolon;

(iii) in subclause (ii), by striking the period and inserting "; and"; and

(iv) by adding at the end the following:

"(iii) if provided by providers that are included on the relevant State educational agency's list described in paragraph (4)(C), shall be deemed to be programs or activities of the relevant State educational agency."; and

(6) by adding at the end the following:

"(14) Civil rights.—In providing supplemental educational services under this subsection, no State educational agency or local educational agency may, directly or through contractual, licensing, or other arrangements with a provider of supplemental educational services, engage in any form of discrimination prohibited by—

"(A) title VI of the Civil Rights Act of 1964;

"(B) title IX of the Education Amendments of 1972;

"(C) section 504 of the Rehabilitation Act of 1973;

"(D) titles II and III of the Americans with Disabilities Act;

"(E) the Age Discrimination Act of 1975;

"(F) regulations promulgated under the authority of the laws listed in subparagraphs (A) through (E); or

"(G) other Federal civil rights laws.".

SEC. 103. QUALIFICATIONS FOR TEACHERS AND PARAPROFESSIONALS.

(a) High Objective Uniform State Standard of Evaluation.—Section 1119 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319) is amended—

(1) in subsection (a)(2)—

(A) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and indenting as appropriate;

(B) by striking "(2) state plan.—As part" and inserting the following:

"(2) State plan.—

"(A) In general.—As part"; and

(C) by adding at the end the following:

"(B) Availability of state standards.—Each State educational agency shall make available to teachers in the State the high objective uniform State standard of evaluation, as described in section 9101(23)(C)(ii), for the purpose of meeting the teacher qualification requirements established under this section.";

(2) by redesignating subsections (e), (f), (g), (h), (i), (j), (k), and (l) as subsections (f), (g), (h), (i), (j), (k), (l), and (m), respectively;

(3) by inserting after subsection (d) the following:

"(e) State Responsibilities.—Each State educational agency shall ensure that local educational agencies in the State make available all options described in subparagraphs (A) through (C) of subsection (c)(1) to each new or existing paraprofessional for the purpose of demonstrating the qualifications of the paraprofessional, consistent with the requirements of this section."; and

(4) in subsection (l) (as redesignated in paragraph (2)), by striking "subsection (l)" and inserting "subsection (m)".

(b) Definition of Highly Qualified Teachers.—Section 9101(23)(B)(ii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(23)(B)(ii)) is amended—

(1) in subclause (I), by striking "or" after the semicolon;

(2) in subclause (II), by striking "and" after the semicolon; and

(3) by adding at the end the following:

"(III) in the case of a middle school teacher, passing a State-approved middle school generalist exam when the teacher receives a license to teach middle school in the State;

"(IV) obtaining a State middle school or secondary school social studies certificate that qualifies the teacher to teach history, geography, economics, civics, and government in middle schools or in secondary schools, respectively, in the State; or

"(V) obtaining a State middle school or secondary school science certificate that qualifies the teacher to teach earth science, biology, chemistry, and physics in middle schools or secondary schools, respectively, in the State; and".

SEC. 104. ENSURING HIGHLY QUALIFIED TEACHERS.

(a) Requirement.—The Secretary of Education shall improve coordination among the teacher quality programs authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), and the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), to provide a unified effort in strengthening the American teaching workforce and ensuring highly qualified teachers.

(b) Report.—Not later than 6 months after the date of enactment of this Act, the Secretary of Education shall submit a report to the relevant committees of Congress on efforts to coordinate programs pursuant to subsection (a), which shall be made available on the website of the Department of Education.

TITLE II—ADEQUATE YEARLY PROGRESS DETERMINATIONS

SEC. 201. REVIEW OF ADEQUATE YEARLY PROGRESS DETERMINATIONS FOR SCHOOLS FOR THE 2002-2003 SCHOOL YEAR.

(a) In General.—The Secretary shall require each local educational agency to provide each school served by the agency with an opportunity to request a review of a determination by the agency that the school did not make adequate yearly progress for the 2002–2003 school year.

(b) Final Determination.—Not later than 30 days after receipt of a request by a school for a review under this section, a local educational agency shall issue and make publicly available a final determination on whether the school made adequate yearly progress for the 2002–2003 school year.

(c) Evidence.—In conducting a review under this section, a local educational agency shall—

(1) allow the principal of the school involved to submit evidence on whether the school made adequate yearly progress for the 2002–2003 school year; and

(2) consider that evidence before making a final determination under subsection (b).

(d) Standard of Review.—In conducting a review under this section, a local educational agency shall revise, consistent with the applicable State plan under section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311), the local educational agency's original determination that a school did not make adequate yearly progress for the 2002–2003 school year if the agency finds that the school made such progress, taking into consideration—

(1) the amendments made to part 200 of title 34, Code of Federal Regulations (68 Fed. Reg. 68698) (relating to accountability for the academic achievement of students with the most significant cognitive disabilities); or

(2) any regulation or guidance that, subsequent to the date of such original determination, was issued by the Secretary relating to—

(A) the assessment of limited English proficient children;

(B) the inclusion of limited English proficient children as part of the subgroup described in section 1111(b)(2)(C)(v)(II)(dd) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(v)(II)(dd)) after such children have obtained English proficiency; or

(C) any requirement under section 1111(b)(2)(I)(ii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(I)(ii)).

(e) Effect of Revised Determination.—

(1) In general.—If pursuant to a review under this section a local educational agency determines that a school made adequate yearly progress for the 2002–2003 school year, upon such determination—

(A) any action by the Secretary, the State educational agency, or the local educational agency that was taken because of a prior determination that the school did not make such progress shall be terminated; and

(B) any obligations or actions required of the local educational agency or the school because of the prior determination shall cease to be required.

(2) Exceptions.—Notwithstanding paragraph (1), a determination under this section shall not affect any obligation or action required of a local educational agency or school under the following:

(A) Section 1116(b)(13) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)(13)) (requiring a local educational agency to continue to permit a child who transferred to another school under such section to remain in that school until completion of the highest grade in the school).

(B) Section 1116(e)(9) of the Elementary and Secondary Education Act of 1965 (as redesignated by section 102(3)) (20 U.S.C. 6316(e)(9)) (requiring a local educational agency to continue to provide supplemental educational services under such section until the end of the school year).

(3) Subsequent determinations.—In determining whether a school is subject to school improvement, corrective action, or restructuring as a result of not making adequate yearly progress, the Secretary, a State educational agency, or a local educational agency may not take into account a determination that the school did not make adequate yearly progress for the 2002–2003 school year if such determination was revised under this section and the school received a final determination of having made adequate yearly progress for the 2002–2003 school year.

(f) Notification.—The Secretary—

(1) shall require each State educational agency to notify each school served by the agency of the school's ability to request a review under this section; and

(2) not later than 30 days after the date of enactment of this section, shall notify the public by means of the Department of Education's website of the review process established under this section.

SEC. 202. REVIEW OF ADEQUATE YEARLY PROGRESS DETERMINATIONS FOR LOCAL EDUCATIONAL AGENCIES FOR THE 2002–2003 SCHOOL YEAR.

(a) In General.—The Secretary shall require each State educational agency to provide each local educational agency in the State with an opportunity to request a review of a determination by the State educational agency that the local educational agency did not make adequate yearly progress for the 2002–2003 school year.

(b) Application of Certain Provisions.—Except as inconsistent with, or inapplicable to, this section, the provisions of section 201 shall apply to review by a State educational agency of a determination described in subsection (a) in the same manner and to the same extent as such provisions apply to review by a local educational agency of a determination described in section 201(a).

SEC. 203. DEFINITIONS.

In this title:

(1) The term "adequate yearly progress" has the meaning given to that term in section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)).

(2) The term "local educational agency" means a local educational agency (as that term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) receiving funds under part A of title I of such Act (20 U.S.C. 6311 et seq.).

(3) The term "Secretary" means the Secretary of Education.

(4) The term "school" means an elementary school or a secondary school (as those terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) served under part A of title I of such Act (20 U.S.C. 6311 et seq.).

(5) The term "State educational agency" means a State educational agency (as that term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) receiving funds under part A of title I of such Act (20 U.S.C. 6311 et seq.).

TITLE III—IMPROVING ASSESSMENT AND ACCOUNTABILITY

SEC. 301. GRANTS FOR INCREASING DATA CAPACITY FOR PURPOSES OF ASSESSMENT AND ACCOUNTABILITY.

(a) Program Authorized.—From funds appropriated under subsection (g) for a fiscal year, the Secretary may award grants, on a competitive basis, to State educational agencies—

(1) to enable the State educational agencies to develop or increase the capacity of data systems for assessment and accountability purposes, including the collection of graduation rates; and

(2) to award subgrants to increase the capacity of local educational agencies to upgrade, create, or manage longitudinal data systems for the purpose of measuring student academic progress and achievement.

(b) State Application.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(c) State Use of Funds.—Each State educational agency that receives a grant under this section shall use—

(1) not more than 20 percent of the grant funds for the purpose of—

(A) increasing the capacity of, or creating, State databases to collect, disaggregate, and report information related to student achievement, enrollment, and graduation rates for assessment and accountability purposes; and

(B) reporting, on an annual basis, for the elementary schools and secondary schools within the State, on—

(i) the enrollment data from the beginning of the academic year;

(ii) the enrollment data from the end of the academic year; and

(iii) the twelfth grade graduation rates; and

(2) not less than 80 percent of the grant funds to award subgrants to local educational agencies within the State to enable the local educational agencies to carry out the authorized activities described in subsection (e).

(d) Local Application.—Each local educational agency desiring a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require. Each such application shall include, at a minimum, a demonstration of the local educational agency's ability to put a longitudinal data system in place.

(e) Local Authorized Activities.—Each local educational agency that receives a subgrant under this section shall use the subgrant funds to increase the capacity of the local educational agency to upgrade or manage longitudinal data systems consistent with the uses in subsection (c)(1), by—

(1) purchasing database software or hardware;

(2) hiring additional staff for the purpose of managing such data;

(3) providing professional development or additional training for such staff; and

(4) providing professional development or training for principals and teachers on how to effectively use such data to implement instructional strategies to improve student achievement and graduation rates.

(f) Definitions.—In this section:

(1) The term "graduation rate" means the percentage that—

(A) the total number of students who—

(i) graduate from a secondary school with a regular diploma (which shall not include the recognized equivalent of a secondary school diploma or an alternative degree) in an academic year; and

(ii) graduated on time by progressing 1 grade per academic year; represents of

(B) the total number of students who entered the secondary school in the entry level academic year applicable to the graduating students.

(2) The terms "State educational agency" and "local educational agency" have the meanings given such terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) The term "Secretary" means the Secretary of Education.

(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $100,000,000 for fiscal year 2006, and such sums as may be necessary for each of the 2 succeeding fiscal years.

SEC. 302. GRANTS FOR ASSESSMENT OF CHILDREN WITH DISABILITIES AND CHILDREN WHO ARE LIMITED ENGLISH PROFICIENT.

Part E of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6491 et seq.) is amended by adding at the end the following:

"SEC. 1505. GRANTS FOR ASSESSMENT OF CHILDREN WITH DISABILITIES AND CHILDREN WHO ARE LIMITED ENGLISH PROFICIENT.

"(a) Grants Authorized.—From amounts authorized under subsection (e) for a fiscal year, the Secretary shall award grants, on a competitive basis, to State educational agencies, or to consortia of State educational agencies, to enable the State educational agencies or consortia to collaborate with institutions of higher education, research institutions, or other organizations—

"(1) to design and improve State academic assessments for students who are limited English proficient and students with disabilities; and

"(2) to ensure the most accurate, valid, and reliable means to assess academic content standards and student academic achievement standards for students who are limited English proficient and students with disabilities.

"(b) Authorized Activities.—A State educational agency or consortium that receives a grant under this section shall use the grant funds to carry out 1 or more of the following activities:

"(1) Developing alternate assessments for students with disabilities, consistent with section 1111 and the amendments made on December 9, 2003, to part 200 of title 34, Code of Federal Regulations (68 Fed. Reg. 68698) (relating to accountability for the academic achievement of students with the most significant cognitive disabilities), including—

"(A) the alignment of such assessments, as appropriate and consistent with such amendments, with—

"(i) State academic achievement standards and State academic content standards for all students; or

"(ii) alternate State academic achievement standards that reflect the intended instructional construct for students with disabilities;

"(B) activities to ensure that such assessments do not reflect the disabilities, or associated characteristics, of the students that are extraneous to the intent of the measurement;

"(C) the development of an implementation plan for pilot tests for such assessments, in order to determine the level of appropriateness and feasibility of full-scale administration; and

"(D) activities that provide for the retention of all feasible standardized features in the alternate assessments.

"(2) Developing alternate assessments that meet the requirements of section 1111 for students who are limited English proficient, including—

"(A) the alignment of such assessments with State academic achievement standards and State academic content standards for all students;

"(B) the development of parallel native language assessments or linguistically modified assessments for limited English proficient students that meet the requirements of section 1111(b)(3)(C)(ix)(III);

"(C) the development of an implementation plan for pilot tests for such assessments, in order to determine the level of appropriateness and feasibility of full-scale administration; and

"(D) activities that provide for the retention of all feasible standardized features in the alternate assessments.

"(3) Developing, modifying, or revising State policies and criteria for appropriate accommodations to ensure the full participation of students who are limited English proficient and students with disabilities in State academic assessments, including—

"(A) developing a plan to ensure that assessments provided with accommodations are fully included and integrated into the accountability system, for the purpose of making the determinations of adequate yearly progress required under section 1116;

"(B) ensuring the validity, reliability, and appropriateness of such accommodations, such as—

"(i) a modification to the presentation or format of the assessment;

"(ii) the use of assistive devices;

"(iii) an extension of the time allowed for testing;

"(iv) an alteration of the test setting or procedures;

"(v) the administration of portions of the test in a method appropriate for the level of language proficiency of the test taker;

"(vi) the use of a glossary or dictionary; and

"(vii) the use of a linguistically modified assessment;

"(C) ensuring that State policies and criteria for appropriate accommodations take into account the form or program of instruction provided to students, including the level of difficulty, reliability, cultural difference, and content equivalence of such form or program;

"(D) ensuring that such policies are consistent with the standards prepared by the Joint Committee on Standards for Educational and Psychological Testing of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education; and

"(E) developing a plan for providing training on the use of accommodations to school instructional staff, families, students, and other appropriate parties.

"(4) Developing universally designed assessments that can be accessible to all students, including—

"(A) examining test item or test performance for students with disabilities and students who are limited English proficient, to determine the extent to which the test item or test is universally designed;

"(B) using think aloud and cognitive laboratory procedures, as well as item statistics, to identify test items that may pose particular problems for students with disabilities or students who are limited English proficient;

"(C) developing and implementing a plan to ensure that developers and reviewers of test items are trained in the principles of universal design; and

"(D) developing computer-based applications of universal design principles.

"(c) APPLICATION.—Each State educational agency, or consortium of State educational agencies, desiring to apply for a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

"(1) information regarding the institutions of higher education, research institutions, or other organizations that are collaborating with the State educational agency or consortium, in accordance with subsection (a);

"(2) in the case of a consortium of State educational agencies, the designation of 1 State educational agency as the fiscal agent for the receipt of grant funds;

"(3) a description of the process and criteria by which the State educational agency will identify students that are unable to participate in general State content assessments and are eligible to take alternate assessments, consistent with the amendments made to part 200 of title 34, Code of Federal Regulations (68 Fed. Reg. 68698);

"(4) in the case of a State educational agency or consortium carrying out the activity described in subsection (b)(1)(A), a description of how the State educational agency or consortium plans to fulfill the requirement of subsection (b)(1)(A);

"(5) in the case of a State educational agency or consortium carrying out the activities described in paragraphs (1), (2), and (4) of subsection (b), information regarding the proposed techniques for the development of alternate assessments, including a description of the technical adequacy of, technical aspects of, and scoring for, such assessments;

"(6) a plan for providing training for school instructional staff, families, students, and other appropriate parties on the use of alternate assessments; and

"(7) information on how the scores of students participating in alternate assessments will be reported to the public and to parents.

"(d) EVALUATION AND REPORTING REQUIREMENTS.—Each State educational agency receiving a grant under this section shall submit an annual report to the Secretary describing the activities carried out under the grant and the result of such activities, including—

"(1) details on the effectiveness of the activities supported under this section in helping students with disabilities, or students who are limited English proficient, better participate in State assessment programs; and

"(2) information on the change in achievement, if any, of students with disabilities and students who are limited English proficient, as a result of a more accurate assessment of such students.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for fiscal year 2006, and such sums as may be necessary for each of the 2 succeeding fiscal years.".

SEC. 303. REPORTS ON STUDENT ENROLLMENT AND GRADUATION RATES.

Part E of title I of the Elementary and Secondary Education Act of 1965 (as amended by section 302) (20 U.S.C. 6491 et seq.) is amended by adding at the end the following:

"SEC. 1506. REPORTS ON STUDENT ENROLLMENT AND GRADUATION RATES.

"(a) IN GENERAL.—The Secretary shall collect from each State educational agency, local educational agency, and school, on an annual basis, the following data:

"(1) The number of students enrolled in each of grades 7 through 12 at the beginning of the most recent school year.

"(2) The number of students enrolled in each of grades 7 through 12 at the end of the most recent school year.

"(3) The graduation rate for the most recent school year.

"(4) The data described in paragraphs (1) through (3), disaggregated by the groups of students described in section 1111(b)(2)(C)(v)(II).

"(b) ANNUAL REPORT.—The Secretary shall report the information collected under subsection (a) on an annual basis.".

TITLE IV—CIVIL RIGHTS

SEC. 401. CIVIL RIGHTS.

Section 9534 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7914) is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting before subsection (b) (as redesignated by paragraph (1)) the following:

"(a) PROHIBITION OF DISCRIMINATION.—Discrimination on the basis of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, or disability in any program funded under this Act is prohibited.".

TITLE V—TECHNICAL ASSISTANCE

SEC. 501. TECHNICAL ASSISTANCE.

Part F of title IX of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7941) is amended—

(1) in the part heading, by inserting "**AND TECHNICAL ASSISTANCE**" after "**EVALUATIONS**"; and

(2) by adding at the end the following:

"SEC. 9602. TECHNICAL ASSISTANCE.

"The Secretary shall ensure that the technical assistance provided by, and the research developed and disseminated through, the Institute of Education Sciences and other offices or agencies of the Department provide educators and parents with the needed information and support for identifying and using educational strategies, programs, and practices, including strategies, programs, and practices available through the clearinghouses supported under the Education Sciences Reform Act of 2002 (20 U.S.C. 9501 et seq.) and other federally-supported clearinghouses, that have been successful in improving educational opportunities and achievement for all students.".

By Mr. REID (for himself and Mr. ENSIGN):

S. 1056. A bill to direct the Secretary of the Interior to convey to the City of Henderson, Nevada, certain Federal land located in the City, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today for myself and Senator ENSIGN to introduce the Southern Nevada Limited Transition Area Act, which will enhance the ability of a rapidly growing community to diversify its economy, gainfully employ its residents, and achieve fiscal sustainability.

In addition to creating a vital economic center in Henderson with this legislation, we hope at a future date to add another title to this bill that will allow Clark County to convey a small parcel of land to the Nevada National Guard for no consideration so that a new armory can be developed. Conversations are currently taking place at the State and county levels that may impact this conveyance, so we are awaiting more information.

The bill I am introducing today would convey approximately 547 acres of land from the Bureau of Land Management to the city of Henderson, NV, for development as an employment and business center.

The Bureau of Land Management has designated this parcel for disposal because of its urban surroundings and its isolation from other public land, which renders it difficult for the agency to manage.

The parcel is located in a rapidly growing area of the city, but is impacted by aircraft noise and overflights from the nearby Henderson Executive Airport, making it unsuitable for residential use.

Rather than shying away from this property because of the limitations on its use, the city of Henderson has put together a forward looking plan that will turn the area into a bustling business center. In addition to productively diversifying the land use pattern in the Las Vegas Valley, the proposed development of this land will encourage a broad range of employment opportunities for the region, while also helping to pay for public infrastructure in nearby residential areas.

The way that the land privatization would work is as follows. The bill would convey the land to the city by patent. The city would then subdivide and sell lots at fair market value. As in previous conveyances of Federal land designated in the Southern Nevada Public Lands Management Act for disposal, 85 percent of the proceeds from sales would return to the BLM's Special Account for a variety of conservation purposes in Nevada. Five percent of the proceeds would fund the State of Nevada's general education program. And the city of Henderson could use the remaining 10 percent to cover expenses associated with subdividing the property and providing infrastructure.

Henderson is a rapidly growing city. Its leaders are dedicated to making the city a national model of logical development, diversified employment, and fiscal sustainability. This bill helps establish the conditions needed to realize that vision.

This bill provides key assistance to southern Nevada by enabling the City of Henderson to move forward with an important economic development project. This is a simple, but an important effort that this body can make to further strengthen our Nation's economy. I look forward working with the Energy Committee and the Senate to pass this legislation.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1056

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Southern Nevada Limited Transition Area Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) City.—The term "City" means the City of Henderson, Nevada.

(2) Secretary.—The term "Secretary" means the Secretary of the Interior.

(3) Special account.—The term "Special Account" means the special account established under section 4(e)(1)(C) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2345).

(4) State.—The term "State" means the State of Nevada.

(5) Transition area.—The term "Transition Area" means the approximately 547 acres of Federal land located in Henderson, Nevada, and identified as "Limited Transition Area" on the map entitled "Southern Nevada Limited Transition Area Act" and dated November 16, 2004.

SEC. 3. SOUTHERN NEVADA LIMITED TRANSITION AREA.

(a) Conveyance.—Notwithstanding the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), on request of the City, the Secretary shall, without consideration and subject to all valid existing rights, convey to the City all right, title, and interest of the United States in and to the Transition Area.

(b) Use of Land for Nonresidential Development.—

(1) In general.—After the conveyance to the City under subsection (a), the City may sell any portion or portions of the Transition Area for purposes of nonresidential development.

(2) Method of sale.—The sale of land under paragraph (1) shall be—

(A) through a competitive bidding process; and

(B) for not less than fair market value.

(3) Compliance with charter.—Except as provided in paragraphs (2) and (4), the City may sell parcels within the Transition Area only in accordance with the procedures for conveyances established in the City Charter.

(4) Disposition of proceeds.—Of the gross proceeds from the sale of land under paragraph (1), the City shall—

(A) deposit 85 percent in the Special Account;

(B) retain 10 percent as compensation for the costs incurred by the City—

(i) in carrying out land sales under paragraph (1); and

(ii) for the provision of public infrastructure to serve the Transition Area, including planning, engineering, surveying, and subdividing the Transition Area for nonresidential development; and

(C) pay 5 percent to the State for use in the general education program of the State.

(c) Use of Land for Recreation or Other Public Purposes.—The City may elect to retain parcels in the Transition Area for public recreation or other public purposes consistent with the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.) by providing to the Secretary written notice of the election.

(d) Noise Compatibility Requirements.—The City shall—

(1) plan and manage the Transition Area in accordance with section 47504 of title 49, United States Code (relating to airport noise compatibility planning), and regulations promulgated in accordance with that section; and

(2) agree that if any land in the Transition Area is sold, leased, or otherwise conveyed by the City, the sale, lease, or conveyance shall contain a limitation to require uses compatible with that airport noise compatibility planning.

(e) Reversion.—

(1) In general.—If any parcel of land in the Transition Area is not conveyed for nonresidential development under this Act or reserved for recreation or other public purposes under subsection (c) within 20 years after the date of the enactment of this Act, the parcel of land shall, if determined to be appropriate by the Secretary, revert to the United States.

(2) Inconsistent use.—If the City uses any parcel of land within the Transition Area in a manner that is inconsistent with the uses specified in this section—

(A) at the election of the Secretary, the parcel shall revert to the United States; or

(B) if the Secretary does not make an election under paragraph (1), the City shall sell the parcel of land in accordance with subsection (b)(2).

By Mr. McCAIN (for himself and Mr. Dorgan):

S. 1057. A bill to amend the Indian Health Care Improvement Act to revise and extend that Act; to the Committee on Indian Affairs.

Mr. McCAIN. Mr. President today I am pleased to introduce the Indian Health Care Improvement Act Amendments of 2005 to revise and extend the Act.

Six years ago a steering committee of Tribal leaders, with extensive consultation by the Indian Health Service, developed a broad consensus in Indian Country about what needs to be done to improve and update health services for Indian people. In the 108th Congress significant progress was made in crafting a bill that was acceptable to all parties but still did not pass the full Senate. In the legislation introduced today, I have tried to address concerns raised last year, but understand that there may still be some differences. I look forward to continuing discussions on these differences, but am introducing the bill to get the process moving because we want to get this legislation enacted.

Over the years, Indian health care delivery has greatly expanded and tribes are taking over more health care services on the local level. Nearly 30 years ago, Congress enacted the Indian Health Care Improvement Act to meet the fundamental trust obligation of the United States to ensure that comprehensive health care would be provided to American Indians and Alaska Natives. The health status of Indian people remains much worse than that of other Americans.

The Indian Health Care Improvement Act is the statutory framework for the Indian health system and covers just about every aspect of health care. It provides grants and scholarships to recruit Indians into health professions serving native communities and funds to expand the health care infrastructure. It lifted the prohibition against Medicare and Medicaid reimbursement for health services provided by the Indian Health Service or the Indian tribes, and established health services for Indians in urban areas.

Reauthorization of this Act is a high legislative priority. Critical improvements have been provided in this bill including provisions exploring options for long-term care, governing children and senior issues and the following: new sources of funding for recruitment and retention purposes; access to health care, especially for Indian children and low-income Indians; more flexibility in facility construction programs; consolidated behavioral health programs for more comprehensive care; and a Commission to study and recommend the best means of providing Indian health care.

I look forward to working with my colleagues on both sides of the aisle to ensure passage of this important legislation. I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Health Care Improvement Act Amendments of 2005".

SEC. 2. INDIAN HEALTH CARE IMPROVEMENT ACT AMENDED.

(a) IN GENERAL.—The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Indian Health Care Improvement Act'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Findings.
"Sec. 3. Declaration of National Indian health policy.
"Sec. 4. Definitions.

"TITLE I—INDIAN HEALTH, HUMAN RESOURCES, AND DEVELOPMENT

"Sec. 101. Purpose.
"Sec. 102. Health professions recruitment program for Indians.
"Sec. 103. Health professions preparatory scholarship program for Indians.
"Sec. 104. Indian health professions scholarships.
"Sec. 105. American Indians Into Psychology program.
"Sec. 106. Funding for tribes for scholarship programs.
"Sec. 107. Indian Health Service extern programs.
"Sec. 108. Continuing education allowances.
"Sec. 109. Community health representative program.
"Sec. 110. Indian Health Service loan repayment program.
"Sec. 111. Scholarship and Loan Repayment Recovery Fund.
"Sec. 112. Recruitment activities.
"Sec. 113. Indian recruitment and retention program.
"Sec. 114. Advanced training and research.
"Sec. 115. Quentin N. Burdick American Indians Into Nursing program.
"Sec. 116. Tribal cultural orientation.
"Sec. 117. Inmed program.
"Sec. 118. Health training programs of community colleges.
"Sec. 119. Retention bonus.
"Sec. 120. Nursing residency program.
"Sec. 121. Community health aide program for Alaska.
"Sec. 122. Tribal health program administration.
"Sec. 123. Health professional chronic shortage demonstration programs.
"Sec. 124. National Health Service Corps.
"Sec. 125. Substance abuse counselor educational curricula demonstration programs.
"Sec. 126. Behavioral health training and community education programs.
"Sec. 127. Authorization of appropriations.

"TITLE II—HEALTH SERVICES

"Sec. 201. Indian Health Care Improvement Fund.
"Sec. 202. Catastrophic Health Emergency Fund.
"Sec. 203. Health promotion and disease prevention services.
"Sec. 204. Diabetes prevention, treatment, and control.
"Sec. 205. Shared services for long-term care.
"Sec. 206. Health services research.
"Sec. 207. Mammography and other cancer screening.
"Sec. 208. Patient travel costs.
"Sec. 209. Epidemiology centers.
"Sec. 210. Comprehensive school health education programs.
"Sec. 211. Indian youth program.
"Sec. 212. Prevention, control, and elimination of communicable and infectious diseases.
"Sec. 213. Authority for provision of other services.
"Sec. 214. Indian women's health care.
"Sec. 215. Environmental and nuclear health hazards.
"Sec. 216. Arizona as a contract health service delivery area.
"Sec. 216A. North Dakota and South Dakota as a contract health service delivery area.
"Sec. 217. California contract health services program.
"Sec. 218. California as a contract health service delivery area.
"Sec. 219. Contract health services for the Trenton service area.
"Sec. 220. Programs operated by Indian tribes and tribal organizations.
"Sec. 221. Licensing.
"Sec. 222. Notification of provision of emergency contract health services.
"Sec. 223. Prompt action on payment of claims.
"Sec. 224. Liability for payment.
"Sec. 225. Authorization of appropriations.

"TITLE III—FACILITIES

"Sec. 301. Consultation; construction and renovation of facilities; reports.
"Sec. 302. Sanitation facilities.
"Sec. 303. Preference to Indians and Indian firms.
"Sec. 304. Expenditure of nonservice funds for renovation.
"Sec. 305. Funding for the construction, expansion, and modernization of small ambulatory care facilities.
"Sec. 306. Indian health care delivery demonstration project.
"Sec. 307. Land transfer.
"Sec. 308. Leases, contracts, and other agreements.
"Sec. 309. Loans, loan guarantees, and loan repayment.
"Sec. 310. Tribal leasing.
"Sec. 311. Indian Health Service/tribal facilities joint venture program.
"Sec. 312. Location of facilities.
"Sec. 313. Maintenance and improvement of health care facilities.
"Sec. 314. Tribal management of Federally owned quarters.
"Sec. 315. Applicability of Buy American Act requirement.
"Sec. 316. Other funding for facilities.
"Sec. 317. Authorization of appropriations.

"TITLE IV—ACCESS TO HEALTH SERVICES

"Sec. 401. Treatment of payments under Social Security Act health care programs.
"Sec. 402. Grants to and contracts with the Service, Indian tribes, Tribal Organizations, and Urban Indian Organizations.
"Sec. 403. Reimbursement from certain third parties of costs of health services.
"Sec. 404. Crediting of reimbursements.
"Sec. 405. Purchasing health care coverage.
"Sec. 406. Sharing arrangements with Federal agencies.
"Sec. 407. Payor of last resort.
"Sec. 408. Nondiscrimination in qualifications for reimbursement for services.
"Sec. 409. Consultation.
"Sec. 410. State Children's Health Insurance Program (SCHIP).
"Sec. 411. Social Security Act sanctions.
"Sec. 412. Cost sharing.
"Sec. 413. Treatment under Medicaid managed care.
"Sec. 414. Navajo Nation Medicaid Agency feasibility study.
"Sec. 415. Authorization of appropriations.

"TITLE V—HEALTH SERVICES FOR URBAN INDIANS

"Sec. 501. Purpose.
"Sec. 502. Contracts with, and grants to, Urban Indian Organizations.
"Sec. 503. Contracts and grants for the provision of health care and referral services.
"Sec. 504. Contracts and grants for the determination of unmet health care needs.
"Sec. 505. Evaluations; renewals.
"Sec. 506. Other contract and grant requirements.
"Sec. 507. Reports and records.
"Sec. 508. Limitation on contract authority.
"Sec. 509. Facilities.
"Sec. 510. Office of Urban Indian Health.
"Sec. 511. Grants for alcohol and substance abuse-related services.
"Sec. 512. Treatment of certain demonstration projects.
"Sec. 513. Urban NIAAA transferred programs.
"Sec. 514. Consultation with Urban Indian Organizations.
"Sec. 515. Federal Tort Claim Act coverage.
"Sec. 516. Urban youth treatment center demonstration.
"Sec. 517. Use of Federal Government facilities and sources of supply.
"Sec. 518. Grants for diabetes prevention, treatment, and control.
"Sec. 519. Community health representatives.
"Sec. 520. Regulations.
"Sec. 521. Eligibility for services.
"Sec. 522. Authorization of appropriations.

"TITLE VI—ORGANIZATIONAL IMPROVEMENTS

"Sec. 601. Establishment of the Indian Health Service as an agency of the Public Health Service.
"Sec. 602. Automated management information system.
"Sec. 603. Authorization of appropriations.

"TITLE VII—BEHAVIORAL HEALTH PROGRAMS

"Sec. 701. Behavioral health prevention and treatment services.
"Sec. 702. Memoranda of agreement with the Department of the Interior.
"Sec. 703. Comprehensive behavioral health prevention and treatment program.
"Sec. 704. Mental health technician program.
"Sec. 705. Licensing requirement for mental health care workers.
"Sec. 706. Indian women treatment programs.
"Sec. 707. Indian youth program.

“Sec. 708. Inpatient and community-based mental health facilities design, construction, and staffing.
“Sec. 709. Training and community education.
“Sec. 710. Behavioral health program.
“Sec. 711. Fetal alcohol disorder funding.
“Sec. 712. Child sexual abuse and prevention treatment programs.
“Sec. 713. Behavioral health research.
“Sec. 714. Definitions.
“Sec. 715. Authorization of appropriations.
“TITLE VIII—MISCELLANEOUS
“Sec. 801. Reports.
“Sec. 802. Regulations.
“Sec. 803. Plan of implementation.
“Sec. 804. Availability of funds.
“Sec. 805. Limitation on use of funds appropriated to the Indian Health Service.
“Sec. 806. Eligibility of California Indians.
“Sec. 807. Health services for ineligible persons.
“Sec. 808. Reallocation of base resources.
“Sec. 809. Results of demonstration projects.
“Sec. 810. Provision of services in Montana.
“Sec. 811. Moratorium.
“Sec. 812. Tribal employment.
“Sec. 813. Severability provisions.
“Sec. 814. Establishment of National Bipartisan Commission on Indian Health Care.
“Sec. 815. Appropriations; availability.
“Sec. 816. Authorization of appropriations.

“SEC. 2. FINDINGS.

“Congress makes the following findings:

“(1) Federal health services to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with, and resulting responsibility to, the American Indian people.

“(2) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services.

“(3) Federal health services to Indians have resulted in a reduction in the prevalence and incidence of preventable illnesses among, and unnecessary and premature deaths of, Indians.

“(4) Despite such services, the unmet health needs of the American Indian people are severe and the health status of the Indians is far below that of the general population of the United States.

“SEC. 3. DECLARATION OF NATIONAL INDIAN HEALTH POLICY.

“Congress declares that it is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians—

“(1) to assure the highest possible health status for Indians and to provide all resources necessary to effect that policy;

“(2) to raise the health status of Indians by the year 2010 to at least the levels set forth in the goals contained within the Healthy People 2010 or successor objectives;

“(3) to the greatest extent possible, to allow Indians to set their own health care priorities and establish goals that reflect their unmet needs;

“(4) to increase the proportion of all degrees in the health professions and allied and associated health professions awarded to Indians so that the proportion of Indian health professionals in each Service Area is raised to at least the level of that of the general population;

“(5) to require meaningful consultation with Indian Tribes, Tribal Organizations, and Urban Indian Organizations to implement this Act and the national policy of Indian self-determination; and

“(6) to provide funding for programs and facilities operated by Indian Tribes and Tribal Organizations in amounts that are not less than the amounts provided to programs and facilities operated directly by the Service.

“SEC. 4. DEFINITIONS.

“For purposes of this Act:

“(1) The term ‘accredited and accessible’ means on or near a reservation and accredited by a national or regional organization with accrediting authority.

“(2) The term ‘Area Office’ means an administrative entity, including a program office, within the Service through which services and funds are provided to the Service Units within a defined geographic area.

“(3) The term ‘Assistant Secretary’ means the Assistant Secretary of Indian Health.

“(4)(A) The term ‘behavioral health’ means the blending of substance (alcohol, drugs, inhalants, and tobacco) abuse and mental health prevention and treatment, for the purpose of providing comprehensive services.

“(B) The term ‘behavioral health’ includes the joint development of substance abuse and mental health treatment planning and coordinated case management using a multidisciplinary approach.

“(5) The term ‘California Indians’ means those Indians who are eligible for health services of the Service pursuant to section 806.

“(6) The term ‘community college’ means—

“(A) a tribal college or university, or

“(B) a junior or community college.

“(7) The term ‘contract health service’ means health services provided at the expense of the Service or a Tribal Health Program by public or private medical providers or hospitals, other than the Service Unit or the Tribal Health Program at whose expense the services are provided.

“(8) The term ‘Department’ means, unless otherwise designated, the Department of Health and Human Services.

“(9) The term ‘disease prevention’ means the reduction, limitation, and prevention of disease and its complications and reduction in the consequences of disease, including—

“(A) controlling—

“(i) development of diabetes;

“(ii) high blood pressure;

“(iii) infectious agents;

“(iv) injuries;

“(v) occupational hazards and disabilities;

“(vi) sexually transmittable diseases; and

“(vii) toxic agents; and

“(B) providing—

“(i) fluoridation of water; and

“(ii) immunizations.

“(10) The term ‘health profession’ means allopathic medicine, family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, allied health professions, and any other health profession.

“(11) The term ‘health promotion’ means—

“(A) fostering social, economic, environmental, and personal factors conducive to health, including raising public awareness about health matters and enabling the people to cope with health problems by increasing their knowledge and providing them with valid information;

“(B) encouraging adequate and appropriate diet, exercise, and sleep;

“(C) promoting education and work in conformity with physical and mental capacity;

“(D) making available suitable housing, safe water, and sanitary facilities;

“(E) improving the physical, economic, cultural, psychological, and social environment;

“(F) promoting adequate opportunity for spiritual, religious, and Traditional Health Care Practices; and

“(G) providing adequate and appropriate programs, including—

“(i) abuse prevention (mental and physical);

“(ii) community health;

“(iii) community safety;

“(iv) consumer health education;

“(v) diet and nutrition;

“(vi) immunization and other prevention of communicable diseases, including HIV/AIDS;

“(vii) environmental health;

“(viii) exercise and physical fitness;

“(ix) avoidance of fetal alcohol disorders;

“(x) first aid and CPR education;

“(xi) human growth and development;

“(xii) injury prevention and personal safety;

“(xiii) behavioral health;

“(xiv) monitoring of disease indicators between health care provider visits, through appropriate means, including Internet-based health care management systems;

“(xv) personal health and wellness practices;

“(xvi) personal capacity building;

“(xvii) prenatal, pregnancy, and infant care;

“(xviii) psychological well-being;

“(xix) reproductive health and family planning;

“(xx) safe and adequate water;

“(xxi) safe housing, relating to elimination, reduction, and prevention of contaminants that create unhealthy housing conditions;

“(xxii) safe work environments;

“(xxiii) stress control;

“(xxiv) substance abuse;

“(xxv) sanitary facilities;

“(xxvi) sudden infant death syndrome prevention;

“(xxvii) tobacco use cessation and reduction;

“(xxviii) violence prevention; and

“(xxix) such other activities identified by the Service, a Tribal Health Program, or an Urban Indian Organization, to promote achievement of any of the objectives described in section 3(2).

“(12) The term ‘Indian’, unless otherwise designated, means any person who is a member of an Indian tribe or is eligible for health services under section 806, except that, for the purpose of sections 102 and 103, the term also means any individual who—

“(A)(i) irrespective of whether the individual lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside; or

“(ii) is a descendant, in the first or second degree, of any such member;

“(B) is an Eskimo or Aleut or other Alaska Native;

“(C) is considered by the Secretary of the Interior to be an Indian for any purpose; or

“(D) is determined be an Indian under regulations promulgated by the Secretary.

“(13) The term ‘Indian Health Program’ means—

“(A) any health program administered directly by the Service;

“(B) any Tribal Health Program; or

“(C) any Indian Tribe or Tribal Organization to which the Secretary provides funding pursuant to section 23 of the Act of April 30, 1908 (25 U.S.C. 47), commonly known as the ‘Buy Indian Act’.

“(14) The term ‘Indian Tribe’ has the meaning given the term in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(15) The term ‘junior or community college’ has the meaning given the term by section 312(e) of the Higher Education Act of 1965 (20 U.S.C. 1058(e)).

“(16) The term ‘reservation’ means any federally recognized Indian Tribe's reservation, Pueblo, or colony, including former reservations in Oklahoma, Indian allotments, and Alaska Native Regions established pursuant to the Alaska Native Claims Settlement Act (25 U.S.C. 1601 et seq.).

“(17) The term ‘Secretary’, unless otherwise designated, means the Secretary of Health and Human Services.

“(18) The term ‘Service’ means the Indian Health Service.

“(19) The term ‘Service Area’ means the geographical area served by each Area Office.

“(20) The term ‘Service Unit’ means an administrative entity of the Service, or a Tribal Health Program through which services are provided, directly or by contract, to eligible Indians within a defined geographic area.

“(21) The term ‘telehealth’ has the meaning given the term in section 330K(a) of the Public Health Service Act (42 U.S.C. 254c-16(a)).

“(22) The term ‘telemedicine’ means a telecommunications link to an end user through the use of eligible equipment that electronically links health professionals or patients and health professionals at separate sites in order to exchange health care information in audio, video, graphic, or other format for the purpose of providing improved health care services.

“(23) The term ‘Traditional Health Care Practices’ means the application by Native healing practitioners of the Native healing sciences (as opposed or in contradistinction to Western healing sciences) which embody the influences or forces of innate Tribal discovery, history, description, explanation and knowledge of the states of wellness and illness and which call upon these influences or forces, including physical, mental, and spiritual forces in the promotion, restoration, preservation, and maintenance of health, well-being, and life's harmony.

“(24) The term ‘tribal college or university’ has the meaning given the term in section 316(b)(3) of the Higher Education Act (20 U.S.C. 1059c(b)(3)).

“(25) The term ‘Tribal Health Program’ means an Indian Tribe or Tribal Organization that operates any health program, service, function, activity, or facility funded, in whole or part, by the Service through, or provided for in, a contract or compact with the Service under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(26) The term ‘Tribal Organization’ has the meaning given the term in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(27) The term ‘Urban Center’ means any community which has a sufficient Urban Indian population with unmet health needs to warrant assistance under title V of this Act, as determined by the Secretary.

“(28) The term ‘Urban Indian’ means any individual who resides in an Urban Center and who meets 1 or more of the following criteria:

“(A) Irrespective of whether the individual lives on or near a reservation, the individual is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those tribes, bands, or groups that are recognized by the States in which they reside, or who is a descendant in the first or second degree of any such member.

“(B) The individual is an Eskimo, Aleut, or other Alaskan Native.

“(C) The individual is considered by the Secretary of the Interior to be an Indian for any purpose.

“(D) The individual is determined to be an Indian under regulations promulgated by the Secretary.

“(29) The term ‘Urban Indian Organization’ means a nonprofit corporate body that (A) is situated in an Urban Center; (B) is governed by an Urban Indian-controlled board of directors; (C) provides for the participation of all interested Indian groups and individuals; and (D) is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).

“TITLE I—INDIAN HEALTH, HUMAN RESOURCES, AND DEVELOPMENT

“SEC. 101. PURPOSE.

“The purpose of this title is to increase, to the maximum extent feasible, the number of Indians entering the health professions and providing health services, and to assure an optimum supply of health professionals to the Indian Health Programs and Urban Indian Organizations involved in the provision of health services to Indians.

“SEC. 102. HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS.

“(a) IN GENERAL.—The Secretary, acting through the Service, shall make grants to public or nonprofit private health or educational entities, Tribal Health Programs, or Urban Indian Organizations to assist such entities in meeting the costs of—

“(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them—

“(A) to enroll in courses of study in such health professions; or

“(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;

“(2) publicizing existing sources of financial aid available to Indians enrolled in any course of study referred to in paragraph (1) or who are undertaking training necessary to qualify them to enroll in any such course of study; or

“(3) establishing other programs which the Secretary determines will enhance and facilitate the enrollment of Indians in, and the subsequent pursuit and completion by them of, courses of study referred to in paragraph (1).

“(b) FUNDING.—

“(1) APPLICATION.—The Secretary shall not make a grant under this section unless an application has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe pursuant to this Act. The Secretary shall give a preference to applications submitted by Tribal Health Programs or Urban Indian Organizations.

“(2) AMOUNT OF FUNDS; PAYMENT.—The amount of a grant under this section shall be determined by the Secretary. Payments pursuant to this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as provided for in regulations issued pursuant to this Act. To the extent not otherwise prohibited by law, funding commitments shall be for 3 years, as provided in regulations issued pursuant to this Act.

“SEC. 103. HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS.

“(a) SCHOLARSHIPS AUTHORIZED.—The Secretary, acting through the Service, shall provide scholarship grants to Indians who—

“(1) have successfully completed their high school education or high school equivalency; and

“(2) have demonstrated the potential to successfully complete courses of study in the health professions.

“(b) PURPOSES.—Scholarships provided pursuant to this section shall be for the following purposes:

“(1) Compensatory preprofessional education of any recipient, such scholarship not to exceed 2 years on a full-time basis (or the part-time equivalent thereof, as determined by the Secretary pursuant to regulations issued under this Act).

“(2) Pregraduate education of any recipient leading to a baccalaureate degree in an approved course of study preparatory to a field of study in a health profession, such scholarship not to exceed 4 years. An extension of up to 2 years (or the part-time equivalent thereof, as determined by the Secretary pursuant to regulations issued pursuant to this Act) may be approved.

“(c) OTHER CONDITIONS.—Scholarships under this section—

“(1) may cover costs of tuition, books, transportation, board, and other necessary related expenses of a recipient while attending school;

“(2) shall not be denied solely on the basis of the applicant's scholastic achievement if such applicant has been admitted to, or maintained good standing at, an accredited institution; and

“(3) shall not be denied solely by reason of such applicant's eligibility for assistance or benefits under any other Federal program.

“SEC. 104. INDIAN HEALTH PROFESSIONS SCHOLARSHIPS.

“(a) IN GENERAL.—

“(1) AUTHORITY.—The Secretary, acting through the Service, shall make scholarship grants to Indians who are enrolled full or part time in accredited schools pursuing courses of study in the health professions. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with section 338A of the Public Health Services Act (42 U.S.C. 2541), except as provided in subsection (b) of this section.

“(2) ALLOCATION BY FORMULA.—Except as provided in paragraph (3), the funding authorized by this section shall be allocated by Service Area by a formula developed in consultation with Indian Tribes, Tribal Organizations, and Urban Indian Organizations. Such formula shall consider the human resource development needs in each Service Area.

“(3) CONTINUITY OF PRIOR SCHOLARSHIPS.—Paragraph (2) shall not apply with respect to individual recipients of scholarships provided under this section (as in effect 1 day prior to the date of enactment of the Indian Health Care Improvement Act Amendments of 2005) until such time as the individual completes the course of study that is supported through such scholarship.

“(4) CERTAIN DELEGATION NOT ALLOWED.—The administration of this section shall be a responsibility of the Assistant Secretary and shall not be delegated in a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(b) ACTIVE DUTY SERVICE OBLIGATION.—

“(1) OBLIGATION MET.—The active duty service obligation under a written contract with the Secretary under section 338A of the Public Health Service Act (42 U.S.C. 2541) that an Indian has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice on an equivalent year-for-year obligation, by service in one or more of the following:

“(A) In an Indian Health Program.

“(B) In a program assisted under title V of this Act.

“(C) In the private practice of the applicable profession if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

“(2) OBLIGATION DEFERRED.—At the request of any individual who has entered into a contract referred to in paragraph (1) and who receives a degree in medicine (including osteopathic or allopathic medicine), dentistry, optometry, podiatry, or pharmacy, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for an appropriate period (in years, as determined by the Secretary), subject to the following conditions:

“(A) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service under this subsection.

“(B) The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

“(C) The active duty service obligation will be served in the health profession of that individual in a manner consistent with paragraph (1).

“(D) A recipient of a scholarship under this section may, at the election of the recipient, meet the active duty service obligation described in paragraph (1) by service in a program specified under that paragraph that—

“(i) is located on the reservation of the Indian Tribe in which the recipient is enrolled; or

“(ii) serves the Indian Tribe in which the recipient is enrolled.

“(3) PRIORITY WHEN MAKING ASSIGNMENTS.—Subject to paragraph (2), the Secretary, in making assignments of Indian Health Scholarship recipients required to meet the active duty service obligation described in paragraph (1), shall give priority to assigning individuals to service in those programs specified in paragraph (1) that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

“(c) PART-TIME STUDENTS.—In the case of an individual receiving a scholarship under this section who is enrolled part time in an approved course of study—

“(1) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the Area Office;

“(2) the period of obligated service described in subsection (b)(1) shall be equal to the greater of—

“(A) the part-time equivalent of 1 year for each year for which the individual was provided a scholarship (as determined by the Area Office); or

“(B) 2 years; and

“(3) the amount of the monthly stipend specified in section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254*l*(g)(1)(B)) shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.

“(d) BREACH OF CONTRACT.—

“(1) SPECIFIED BREACHES.—An individual shall be liable to the United States for the amount which has been paid to the individual, or on behalf of the individual, under a contract entered into with the Secretary under this section on or after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005 if that individual—

“(A) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary);

“(B) is dismissed from such educational institution for disciplinary reasons;

“(C) voluntarily terminates the training in such an educational institution for which he or she is provided a scholarship under such contract before the completion of such training; or

“(D) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract.

“(2) OTHER BREACHES.—If for any reason not specified in paragraph (1) an individual breaches a written contract by failing either to begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (*l*) of section 110 in the manner provided for in such subsection.

“(3) CANCELLATION UPON DEATH OF RECIPIENT.—Upon the death of an individual who receives an Indian Health Scholarship, any outstanding obligation of that individual for service or payment that relates to that scholarship shall be canceled.

“(4) WAIVERS AND SUSPENSIONS.—The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the Secretary, in consultation with the affected Area Office, Indian Tribes, Tribal Organizations, and Urban Indian Organizations, determines that—

“(A) it is not possible for the recipient to meet that obligation or make that payment;

“(B) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or

“(C) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable.

“(5) EXTREME HARDSHIP.—Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section.

“(6) BANKRUPTCY.—Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, United States Code, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.

“SEC. 105. AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM.

“(a) GRANTS AUTHORIZED.—The Secretary, acting through the Service, shall make grants to at least 3 colleges and universities for the purpose of developing and maintaining Indian psychology career recruitment programs as a means of encouraging Indians to enter the mental health field. These programs shall be located at various locations throughout the country to maximize their availability to Indian students and new programs shall be established in different locations from time to time.

“(b) QUENTIN N. BURDICK PROGRAM GRANT.—The Secretary shall provide a grant authorized under subsection (a) to develop and maintain a program at the University of North Dakota to be known as the ‘Quentin N. Burdick American Indians Into Psychology Program’. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs authorized under section 117(b), the Quentin N. Burdick American Indians Into Nursing Program authorized under section 115(e), and existing university research and communications networks.

“(c) REGULATIONS.—The Secretary shall issue regulations pursuant to this Act for the competitive awarding of grants provided under this section.

“(d) CONDITIONS OF GRANT.—Applicants under this section shall agree to provide a program which, at a minimum—

“(1) provides outreach and recruitment for health professions to Indian communities including elementary, secondary, and accredited and accessible community colleges that will be served by the program;

“(2) incorporates a program advisory board comprised of representatives from the tribes and communities that will be served by the program;

“(3) provides summer enrichment programs to expose Indian students to the various fields of psychology through research, clinical, and experimental activities;

“(4) provides stipends to undergraduate and graduate students to pursue a career in psychology;

“(5) develops affiliation agreements with tribal colleges and universities, the Service, university affiliated programs, and other appropriate accredited and accessible entities to enhance the education of Indian students;

“(6) to the maximum extent feasible, uses existing university tutoring, counseling, and student support services; and

“(7) to the maximum extent feasible, employs qualified Indians in the program.

“(e) ACTIVE DUTY SERVICE REQUIREMENT.—The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each graduate who receives a stipend described in subsection (d)(4) that is funded under this section. Such obligation shall be met by service—

“(1) in an Indian Health Program;

“(2) in a program assisted under title V of this Act; or

“(3) in the private practice of psychology if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

“SEC. 106. FUNDING FOR TRIBES FOR SCHOLARSHIP PROGRAMS.

“(a) In General.—

“(1) Grants authorized.—The Secretary, acting through the Service, shall make grants to Tribal Health Programs for the purpose of providing scholarships for Indians to serve as health professionals in Indian communities.

“(2) Amount.—Amounts available under paragraph (1) for any fiscal year shall not exceed 5 percent of the amounts available for each fiscal year for Indian Health Scholarships under section 104.

“(3) Application.—An application for a grant under paragraph (1) shall be in such form and contain such agreements, assurances, and information as consistent with this section.

“(b) Requirements.—

“(1) In general.—A Tribal Health Program receiving a grant under subsection (a) shall provide scholarships to Indians in accordance with the requirements of this section.

“(2) Costs.—With respect to costs of providing any scholarship pursuant to subsection (a)—

“(A) 80 percent of the costs of the scholarship shall be paid from the funds made available pursuant to subsection (a)(1) provided to the Tribal Health Program; and

“(B) 20 percent of such costs may be paid from any other source of funds.

“(c) Course of Study.—A Tribal Health Program shall provide scholarships under this section only to Indians enrolled or accepted for enrollment in a course of study (approved by the Secretary) in one of the health professions contemplated by this Act.

“(d) Contract.—In providing scholarships under subsection (b), the Secretary and the Tribal Health Program shall enter into a written contract with each recipient of such scholarship. Such contract shall—

“(1) obligate such recipient to provide service in an Indian Health Program or Urban Indian Organization, in the same Service Area where the Tribal Health Program providing the scholarship is located, for—

“(A) a number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years, whichever period is greater; or

“(B) such greater period of time as the recipient and the Tribal Health Program may agree;

“(2) provide that the amount of the scholarship—

“(A) may only be expended for—

“(i) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the educational institution; and

“(ii) payment to the recipient of a monthly stipend of not more than the amount authorized by section 338(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)), with such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled, and not to exceed, for any year of attendance for which the scholarship is provided, the total amount required for the year for the purposes authorized in this clause; and

“(B) may not exceed, for any year of attendance for which the scholarship is provided, the total amount required for the year for the purposes authorized in subparagraph (A);

“(3) require the recipient of such scholarship to maintain an acceptable level of academic standing as determined by the educational institution in accordance with regulations issued pursuant to this Act; and

“(4) require the recipient of such scholarship to meet the educational and licensure requirements appropriate to each health profession.

“(e) Breach of Contract.—

“(1) Specific breaches.—An individual who has entered into a written contract with the Secretary and a Tribal Health Program under subsection (d) shall be liable to the United States for the Federal share of the amount which has been paid to him or her, or on his or her behalf, under the contract if that individual—

“(A) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level as determined by the educational institution under regulations of the Secretary);

“(B) is dismissed from such educational institution for disciplinary reasons;

“(C) voluntarily terminates the training in such an educational institution for which he or she is provided a scholarship under such contract before the completion of such training; or

“(D) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract.

“(2) Other breaches.—If for any reason not specified in paragraph (1), an individual breaches a written contract by failing to either begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (*l*) of section 110 in the manner provided for in such subsection.

“(3) Cancellation upon death of recipient.—Upon the death of an individual who receives an Indian Health Scholarship, any outstanding obligation of that individual for service or payment that relates to that scholarship shall be canceled.

“(4) Information.—The Secretary may carry out this subsection on the basis of information received from Tribal Health Programs involved or on the basis of information collected through such other means as the Secretary deems appropriate.

“(f) Relation to Social Security Act.—The recipient of a scholarship under this section shall agree, in providing health care pursuant to the requirements herein—

“(1) not to discriminate against an individual seeking care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to a program established in title XVIII of the Social Security Act or pursuant to the programs established in title XIX or title XXI of such Act; and

“(2) to accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX, or the State child health plan under title XXI, of such Act to provide service to individuals entitled to medical assistance or child health assistance, respectively, under the plan.

“(g) Continuance of Funding.—The Secretary shall make payments under this section to a Tribal Health Program for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the Tribal Health Program has not complied with the requirements of this section.

“SEC. 107. INDIAN HEALTH SERVICE EXTERN PROGRAMS.

“(a) Employment Preference.—Any individual who receives a scholarship pursuant to section 104 or 106 shall be given preference for employment in the Service, or may be employed by a Tribal Health Program or an Urban Indian Organization, or other agencies of the Department as available, during any nonacademic period of the year.

“(b) Not Counted Toward Active Duty Service Obligation.—Periods of employment pursuant to this subsection shall not be counted in determining fulfillment of the service obligation incurred as a condition of the scholarship.

“(c) Timing; Length of Employment.—Any individual enrolled in a program, including a high school program, authorized under section 102(a) may be employed by the Service or by a Tribal Health Program or an Urban Indian Organization during any nonacademic period of the year. Any such employment shall not exceed 120 days during any calendar year.

“(d) Nonapplicability of Competitive Personnel System.—Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be counted against any employment ceiling affecting the Service or the Department.

“SEC. 108. CONTINUING EDUCATION ALLOWANCES.

“In order to encourage health professionals, including community health representatives and emergency medical technicians, to join or continue in an Indian Health Program or an Urban Indian Organization and to provide their services in the rural and remote areas where a significant portion of Indians reside, the Secretary, acting through the Service, may provide allowances to health professionals employed in an Indian Health Program or an Urban Indian Organization to enable them for a period of time each year prescribed by regulation of the Secretary to take leave of their duty stations for professional consultation and refresher training courses.

“SEC. 109. COMMUNITY HEALTH REPRESENTATIVE PROGRAM.

“(a) In General.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the ‘Snyder Act’), the Secretary, acting through the Service, shall maintain a Community Health Representative Program under which Indian Health Programs—

“(1) provide for the training of Indians as community health representatives; and

“(2) use such community health representatives in the provision of health care, health promotion, and disease prevention services to Indian communities.

"(b) DUTIES.—The Community Health Representative Program of the Service, shall—

"(1) provide a high standard of training for community health representatives to ensure that the community health representatives provide quality health care, health promotion, and disease prevention services to the Indian communities served by the Program;

"(2) in order to provide such training, develop and maintain a curriculum that—

"(A) combines education in the theory of health care with supervised practical experience in the provision of health care; and

"(B) provides instruction and practical experience in health promotion and disease prevention activities, with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty;

"(3) maintain a system which identifies the needs of community health representatives for continuing education in health care, health promotion, and disease prevention and develop programs that meet the needs for continuing education;

"(4) maintain a system that provides close supervision of Community Health Representatives;

"(5) maintain a system under which the work of Community Health Representatives is reviewed and evaluated; and

"(6) promote Traditional Health Care Practices of the Indian Tribes served consistent with the Service standards for the provision of health care, health promotion, and disease prevention.

"SEC. 110. INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary, acting through the Service, shall establish and administer a program to be known as the Service Loan Repayment Program (hereinafter referred to as the 'Loan Repayment Program') in order to ensure an adequate supply of trained health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian Health Programs and Urban Indian Organizations.

"(b) ELIGIBLE INDIVIDUALS.—To be eligible to participate in the Loan Repayment Program, an individual must—

"(1)(A) be enrolled—

"(i) in a course of study or program in an accredited educational institution (as determined by the Secretary under section 338B(b)(1)(c)(i) of the Public Health Service Act (42 U.S.C. 254*l*-1(b)(1)(c)(i))) and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or

"(ii) in an approved graduate training program in a health profession; or

"(B) have—

"(i) a degree in a health profession; and

"(ii) a license to practice a health profession;

"(2)(A) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service;

"(B) be eligible for selection for civilian service in the Regular or Reserve Corps of the Public Health Service;

"(C) meet the professional standards for civil service employment in the Service; or

"(D) be employed in an Indian Health Program or Urban Indian Organization without a service obligation; and

"(3) submit to the Secretary an application for a contract described in subsection (e).

"(c) APPLICATION.—

"(1) INFORMATION TO BE INCLUDED WITH FORMS.—In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under subsection (*l*) in the case of the individual's breach of contract. The Secretary shall provide such individuals with sufficient information regarding the advantages and disadvantages of service as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or a civilian employee of the Service to enable the individual to make a decision on an informed basis.

"(2) CLEAR LANGUAGE.—The application form, contract form, and all other information furnished by the Secretary under this section shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

"(3) TIMELY AVAILABILITY OF FORMS.—The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

"(d) PRIORITIES.—

"(1) LIST.—Consistent with subsection (k), the Secretary shall annually—

"(A) identify the positions in each Indian Health Program or Urban Indian Organization for which there is a need or a vacancy; and

"(B) rank those positions in order of priority.

"(2) APPROVALS.—Notwithstanding the priority determined under paragraph (1), the Secretary, in determining which applications under the Loan Repayment Program to approve (and which contracts to accept), shall—

"(A) give first priority to applications made by individual Indians; and

"(B) after making determinations on all applications submitted by individual Indians as required under subparagraph (A), give priority to—

"(i) individuals recruited through the efforts of an Indian Health Program or Urban Indian Organization; and

"(ii) other individuals based on the priority rankings under paragraph (1).

"(e) RECIPIENT CONTRACTS.—

"(1) CONTRACT REQUIRED.—An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in paragraph (2).

"(2) CONTENTS OF CONTRACT.—The written contract referred to in this section between the Secretary and an individual shall contain—

"(A) an agreement under which—

"(i) subject to subparagraph (C), the Secretary agrees—

"(I) to pay loans on behalf of the individual in accordance with the provisions of this section; and

"(II) to accept (subject to the availability of appropriated funds for carrying out this section) the individual into the Service or place the individual with a Tribal Health Program or Urban Indian Organization as provided in clause (ii)(III); and

"(ii) subject to subparagraph (C), the individual agrees—

"(I) to accept loan payments on behalf of the individual;

"(II) in the case of an individual described in subsection (b)(1)—

"(aa) to maintain enrollment in a course of study or training described in subsection (b)(1)(A) until the individual completes the course of study or training; and

"(bb) while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training); and

"(III) to serve for a time period (hereinafter in this section referred to as the 'period of obligated service') equal to 2 years or such longer period as the individual may agree to serve in the full-time clinical practice of such individual's profession in an Indian Health Program or Urban Indian Organization to which the individual may be assigned by the Secretary;

"(B) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the individual under subparagraph (A)(ii)(III);

"(C) a provision that any financial obligation of the United States arising out of a contract entered into under this section and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments under this section;

"(D) a statement of the damages to which the United States is entitled under subsection (*l*) for the individual's breach of the contract; and

"(E) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section.

"(f) DEADLINE FOR DECISION ON APPLICATION.—The Secretary shall provide written notice to an individual within 21 days on—

"(1) the Secretary's approving, under subsection (e)(1), of the individual's participation in the Loan Repayment Program, including extensions resulting in an aggregate period of obligated service in excess of 4 years; or

"(2) the Secretary's disapproving an individual's participation in such Program.

"(g) PAYMENTS.—

"(1) IN GENERAL.—A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—

"(A) tuition expenses;

"(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and

"(C) reasonable living expenses as determined by the Secretary.

"(2) AMOUNT.—For each year of obligated service that an individual contracts to serve under subsection (e), the Secretary may pay up to $35,000 or an amount equal to the amount specified in section 338B(g)(2)(A) of the Public Health Service Act, whichever is more, on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

"(A) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

"(B) provides an incentive to serve in Indian Health Programs and Urban Indian Organizations with the greatest shortages of health professionals; and

"(C) provides an incentive with respect to the health professional involved remaining in an Indian Health Program or Urban Indian Organization with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.

"(3) TIMING.—Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made no later than the end of the fiscal year in which the individual completes such year of service.

"(4) REIMBURSEMENTS FOR TAX LIABILITY.—For the purpose of providing reimbursements for tax liability resulting from a payment under paragraph (2) on behalf of an individual, the Secretary—

"(A) in addition to such payments, may make payments to the individual in an amount equal to not less than 20 percent and not more than 39 percent of the total amount of loan repayments made for the taxable year involved; and

"(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.

"(5) PAYMENT SCHEDULE.—The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments.

"(h) EMPLOYMENT CEILING.—Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section shall not be counted against any employment ceiling affecting the Department while those individuals are undergoing academic training.

"(i) RECRUITMENT.—The Secretary shall conduct recruiting programs for the Loan Repayment Program and other Service manpower programs of the Service at educational institutions training health professionals or specialists identified in subsection (a).

"(j) APPLICABILITY OF LAW.—Section 214 of the Public Health Service Act (42 U.S.C. 215) shall not apply to individuals during their period of obligated service under the Loan Repayment Program.

"(k) ASSIGNMENT OF INDIVIDUALS.—The Secretary, in assigning individuals to serve in Indian Health Programs or Urban Indian Organizations pursuant to contracts entered into under this section, shall—

"(1) ensure that the staffing needs of Tribal Health Programs and Urban Indian Organizations receive consideration on an equal basis with programs that are administered directly by the Service; and

"(2) give priority to assigning individuals to Indian Health Programs and Urban Indian Organizations that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

"(*l*) BREACH OF CONTRACT.—

"(1) SPECIFIC BREACHES.—An individual who has entered into a written contract with the Secretary under this section and has not received a waiver under subsection (m) shall be liable, in lieu of any service obligation arising under such contract, to the United States for the amount which has been paid on such individual's behalf under the contract if that individual—

"(A) is enrolled in the final year of a course of study and—

"(i) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary);

"(ii) voluntarily terminates such enrollment; or

"(iii) is dismissed from such educational institution before completion of such course of study; or

"(B) is enrolled in a graduate training program and fails to complete such training program.

"(2) OTHER BREACHES; FORMULA FOR AMOUNT OWED.—If, for any reason not specified in paragraph (1), an individual breaches his or her written contract under this section by failing either to begin, or complete, such individual's period of obligated service in accordance with subsection (e)(2), the United States shall be entitled to recover from such individual an amount to be determined in accordance with the following formula: $A=3Z(t-s/t)$ in which—

"(A) 'A' is the amount the United States is entitled to recover;

"(B) 'Z' is the sum of the amounts paid under this section to, or on behalf of, the individual and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Secretary of the Treasury;

"(C) 't' is the total number of months in the individual's period of obligated service in accordance with subsection (f); and

"(D) 's' is the number of months of such period served by such individual in accordance with this section.

"(3) DEDUCTIONS IN MEDICARE PAYMENTS.—Amounts not paid within such period shall be subject to collection through deductions in medicare payments pursuant to section 1892 of the Social Security Act.

"(4) TIME PERIOD FOR REPAYMENT.—Any amount of damages which the United States is entitled to recover under this subsection shall be paid to the United States within the 1-year period beginning on the date of the breach or such longer period beginning on such date as shall be specified by the Secretary.

"(5) RECOVERY OF DELINQUENCY.—

"(A) IN GENERAL.—If damages described in paragraph (4) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

"(i) use collection agencies contracted with by the Administrator of General Services; or

"(ii) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

"(B) REPORT.—Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent not inconsistent with this subsection.

"(m) WAIVER OR SUSPENSION OF OBLIGATION.—

"(1) IN GENERAL.—The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under the Loan Repayment Program whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

"(2) CANCELED UPON DEATH.—Any obligation of an individual under the Loan Repayment Program for service or payment of damages shall be canceled upon the death of the individual.

"(3) HARDSHIP WAIVER.—The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

"(4) BANKRUPTCY.—Any obligation of an individual under the Loan Repayment Program for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the 5-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

"(n) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be submitted to Congress under section 801, a report concerning the previous fiscal year which sets forth by Service Area the following:

"(1) A list of the health professional positions maintained by Indian Health Programs and Urban Indian Organizations for which recruitment or retention is difficult.

"(2) The number of Loan Repayment Program applications filed with respect to each type of health profession.

"(3) The number of contracts described in subsection (e) that are entered into with respect to each health profession.

"(4) The amount of loan payments made under this section, in total and by health profession.

"(5) The number of scholarships that are provided under sections 104 and 106 with respect to each health profession.

"(6) The amount of scholarship grants provided under section 104 and 106, in total and by health profession.

"(7) The number of providers of health care that will be needed by Indian Health Programs and Urban Indian Organizations, by location and profession, during the 3 fiscal years beginning after the date the report is filed.

"(8) The measures the Secretary plans to take to fill the health professional positions maintained by Indian Health Programs or Urban Indian Organizations for which recruitment or retention is difficult.

"SEC. 111. SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (hereafter in this section referred to as the 'LRRF'). The LRRF shall consist of such amounts as may be collected from individuals under section 104(d), section 106(e), and section 110(*l*) for breach of contract, such funds as may be appropriated to the LRRF, and interest earned on amounts in the LRRF. All amounts collected, appropriated, or earned relative to the LRRF shall remain available until expended.

"(b) USE OF FUNDS.—

"(1) BY SECRETARY.—Amounts in the LRRF may be expended by the Secretary, acting through the Service, to make payments to an Indian Health Program—

“(A) to which a scholarship recipient under section 104 and 106 or a loan repayment program participant under section 110 has been assigned to meet the obligated service requirements pursuant to such sections; and

“(B) that has a need for a health professional to provide health care services as a result of such recipient or participant having breached the contract entered into under section 104, 106, or section 110.

“(2) By tribal health programs.—A Tribal Health Program receiving payments pursuant to paragraph (1) may expend the payments to provide scholarships or recruit and employ, directly or by contract, health professionals to provide health care services.

“(c) Investment of Funds.—The Secretary of the Treasury shall invest such amounts of the LRRF as the Secretary of Health and Human Services determines are not required to meet current withdrawals from the LRRF. Such investments may be made only in interest bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

“(d) Sale of Obligations.—Any obligation acquired by the LRRF may be sold by the Secretary of the Treasury at the market price.

“SEC. 112. RECRUITMENT ACTIVITIES.

“(a) Reimbursement for Travel.—The Secretary, acting through the Service, may reimburse health professionals seeking positions with Indian Health Programs or Urban Indian Organizations, including individuals considering entering into a contract under section 110 and their spouses, for actual and reasonable expenses incurred in traveling to and from their places of residence to an area in which they may be assigned for the purpose of evaluating such area with respect to such assignment.

“(b) Recruitment Personnel.—The Secretary, acting through the Service, shall assign one individual in each Area Office to be responsible on a full-time basis for recruitment activities.

“SEC. 113. INDIAN RECRUITMENT AND RETENTION PROGRAM.

“(a) In General.—The Secretary, acting through the Service, shall fund, on a competitive basis, innovative demonstration projects for a period not to exceed 3 years to enable Tribal Health Programs and Urban Indian Organizations to recruit, place, and retain health professionals to meet their staffing needs.

“(b) Eligible Entities; Application.—Any Tribal Health Program or Urban Indian Organization may submit an application for funding of a project pursuant to this section.

“SEC. 114. ADVANCED TRAINING AND RESEARCH.

“(a) Demonstration Program.—The Secretary, acting through the Service, shall establish a demonstration project to enable health professionals who have worked in an Indian Health Program or Urban Indian Organization for a substantial period of time to pursue advanced training or research areas of study for which the Secretary determines a need exists.

“(b) Service Obligation.—An individual who participates in a program under subsection (a), where the educational costs are borne by the Service, shall incur an obligation to serve in an Indian Health Program or Urban Indian Organization for a period of obligated service equal to at least the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the individual shall be liable to the United States for the period of service remaining. In such event, with respect to individuals entering the program after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection *(l)* of section 110 in the manner provided for in such subsection.

“(c) Equal Opportunity for Participation.—Health professionals from Tribal Health Programs and Urban Indian Organizations shall be given an equal opportunity to participate in the program under subsection (a).

“SEC. 115. QUENTIN N. BURDICK AMERICAN INDIANS INTO NURSING PROGRAM.

“(a) Grants Authorized.—For the purpose of increasing the number of nurses, nurse midwives, and nurse practitioners who deliver health care services to Indians, the Secretary, acting through the Service, shall provide grants to the following:

“(1) Public or private schools of nursing.

“(2) Tribal colleges or universities.

“(3) Nurse midwife programs and advanced practice nurse programs that are provided by any tribal college or university accredited nursing program, or in the absence of such, any other public or private institutions.

“(b) Use of Grants.—Grants provided under subsection (a) may be used for one or more of the following:

“(1) To recruit individuals for programs which train individuals to be nurses, nurse midwives, or advanced practice nurses.

“(2) To provide scholarships to Indians enrolled in such programs that may pay the tuition charged for such program and other expenses incurred in connection with such program, including books, fees, room and board, and stipends for living expenses.

“(3) To provide a program that encourages nurses, nurse midwives, and advanced practice nurses to provide, or continue to provide, health care services to Indians.

“(4) To provide a program that increases the skills of, and provides continuing education to, nurses, nurse midwives, and advanced practice nurses.

“(5) To provide any program that is designed to achieve the purpose described in subsection (a).

“(c) Applications.—Each application for funding under subsection (a) shall include such information as the Secretary may require to establish the connection between the program of the applicant and a health care facility that primarily serves Indians.

“(d) Preferences for Grant Recipients.—In providing grants under subsection (a), the Secretary shall extend a preference to the following:

“(1) Programs that provide a preference to Indians.

“(2) Programs that train nurse midwives or advanced practice nurses.

“(3) Programs that are interdisciplinary.

“(4) Programs that are conducted in cooperation with a program for gifted and talented Indian students.

“(e) Quentin N. Burdick Program Grant.—The Secretary shall provide one of the grants authorized under subsection (a) to establish and maintain a program at the University of Norta Dakota to be known as the ‘Quentin N. Burdick American Indians Into Nursing Program’. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs established under section 117(b) and the Quentin N. Burdick American Indians Into Psychology Program established under section 105(b).

“(f) Active Duty Service Obligation.—The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each individual who receives training or assistance described in paragraph (1) or (2) of subsection (b) that is funded by a grant provided under subsection (a). Such obligation shall be met by service—

“(1) in the Service;

“(2) in a program of an Indian Tribe or Tribal Organization conducted under the Indian Self-Determination and Education Assistance Act (including programs under agreements with the Bureau of Indian Affairs);

“(3) in a program assisted under title V of this Act; or

“(4) in the private practice of nursing if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health shortage area and addresses the health care needs of a substantial number of Indians.

“SEC. 116. TRIBAL CULTURAL ORIENTATION.

“(a) Cultural Education of Employees.—The Secretary, acting through the Service, shall require that appropriate employees of the Service who serve Indian Tribes in each Service Area receive educational instruction in the history and culture of such Indian Tribes and their relationship to the Service.

“(b) Program.—In carrying out subsection (a), the Secretary shall establish a program which shall, to the extent feasible—

“(1) be developed in consultation with the affected Indian Tribes, Tribal Organizations, and Urban Indian Organizations;

“(2) be carried out through tribal colleges or universities;

“(3) include instruction in American Indian studies; and

“(4) describe the use and place of Traditional Health Care Practices of the Indian Tribes in the Service Area.

“SEC. 117. INMED PROGRAM.

“(a) Grants Authorized.—The Secretary, acting through the Service, is authorized to provide grants to colleges and universities for the purpose of maintaining and expanding the Indian health careers recruitment program known as the ‘Indians Into Medicine Program’ (hereinafter in this section referred to as ‘INMED’) as a means of encouraging Indians to enter the health professions.

“(b) Quentin N. Burdick Grant.—The Secretary shall provide one of the grants authorized under subsection (a) to maintain the INMED program at the University of North Dakota, to be known as the ‘Quentin N. Burdick Indian Health Programs’, unless the Secretary makes a determination, based upon program reviews, that the program is not meeting the purposes of this section. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 105(b) and the Quentin N. Burdick American Indians Into Nursing Program established under section 115.

“(c) Regulations.—The Secretary, pursuant to this Act, shall develop regulations to govern grants pursuant to this section.

“(d) Requirements.—Applicants for grants provided under this section shall agree to provide a program which—

“(1) provides outreach and recruitment for health professions to Indian communities including elementary and secondary schools and community colleges located on reservations which will be served by the program;

"(2) incorporates a program advisory board comprised of representatives from the Indian Tribes and Indian communities which will be served by the program;

"(3) provides summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions;

"(4) provides tutoring, counseling, and support to students who are enrolled in a health career program of study at the respective college or university; and

"(5) to the maximum extent feasible, employs qualified Indians in the program.

"SEC. 118. HEALTH TRAINING PROGRAMS OF COMMUNITY COLLEGES.

"(a) Grants To Establish Programs.—

"(1) In general.—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges for the purpose of assisting such community colleges in the establishment of programs which provide education in a health profession leading to a degree or diploma in a health profession for individuals who desire to practice such profession on or near a reservation or in an Indian Health Program.

"(2) Amount of grants.—The amount of any grant awarded to a community college under paragraph (1) for the first year in which such a grant is provided to the community college shall not exceed $100,000.

"(b) Grants for Maintenance and Recruiting.—

"(1) In general.—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges that have established a program described in subsection (a)(1) for the purpose of maintaining the program and recruiting students for the program.

"(2) Requirements.—Grants may only be made under this section to a community college which—

"(A) is accredited;

"(B) has a relationship with a hospital facility, Service facility, or hospital that could provide training of nurses or health professionals;

"(C) has entered into an agreement with an accredited college or university medical school, the terms of which—

"(i) provide a program that enhances the transition and recruitment of students into advanced baccalaureate or graduate programs which train health professionals; and

"(ii) stipulate certifications necessary to approve internship and field placement opportunities at Indian Health Programs;

"(D) has a qualified staff which has the appropriate certifications;

"(E) is capable of obtaining State or regional accreditation of the program described in subsection (a)(1); and

"(F) agrees to provide for Indian preference for applicants for programs under this section.

"(c) Technical Assistance.—The Secretary shall encourage community colleges described in subsection (b)(2) to establish and maintain programs described in subsection (a)(1) by—

"(1) entering into agreements with such colleges for the provision of qualified personnel of the Service to teach courses of study in such programs; and

"(2) providing technical assistance and support to such colleges.

"(d) Advanced Training.—

"(1) Required.—Any program receiving assistance under this section that is conducted with respect to a health profession shall also offer courses of study which provide advanced training for any health professional who—

"(A) has already received a degree or diploma in such health profession; and

"(B) provides clinical services on or near a reservation or for an Indian Health Program.

"(2) May be offered at alternate site.—Such courses of study may be offered in conjunction with the college or university with which the community college has entered into the agreement required under subsection (b)(2)(C).

"(e) Funding Priority.—Where the requirements of subsection (b) are met, funding priority shall be provided to tribal colleges and universities in Service Areas where they exist.

"SEC. 119. RETENTION BONUS.

"(a) Bonus Authorized.—The Secretary may pay a retention bonus to any health professional employed by, or assigned to, and serving in, an Indian Health Program or Urban Indian Organization either as a civilian employee or as a commissioned officer in the Regular or Reserve Corps of the Public Health Service who—

"(1) is assigned to, and serving in, a position for which recruitment or retention of personnel is difficult;

"(2) the Secretary determines is needed by Indian Health Programs and Urban Indian Organizations;

"(3) has—

"(A) completed 3 years of employment with an Indian Health Program or Urban Indian Organization; or

"(B) completed any service obligations incurred as a requirement of—

"(i) any Federal scholarship program; or

"(ii) any Federal education loan repayment program; and

"(4) enters into an agreement with an Indian Health Program or Urban Indian Organization for continued employment for a period of not less than 1 year.

"(b) Rates.—The Secretary may establish rates for the retention bonus which shall provide for a higher annual rate for multiyear agreements than for single year agreements referred to in subsection (a)(4), but in no event shall the annual rate be more than $25,000 per annum.

"(c) Default of Retention Agreement.—Any health professional failing to complete the agreed upon term of service, except where such failure is through no fault of the individual, shall be obligated to refund to the Government the full amount of the retention bonus for the period covered by the agreement, plus interest as determined by the Secretary in accordance with section 110(*l*)(2)(B).

"(d) Other Retention Bonus.—The Secretary may pay a retention bonus to any health professional employed by a Tribal Health Program if such health professional is serving in a position which the Secretary determines is—

"(1) a position for which recruitment or retention is difficult; and

"(2) necessary for providing health care services to Indians.

"SEC. 120. NURSING RESIDENCY PROGRAM.

"(a) Establishment of Program.—The Secretary, acting through the Service, shall establish a program to enable Indians who are licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian Health Program or Urban Indian Organization, and have done so for a period of not less than 1 year, to pursue advanced training. Such program shall include a combination of education and work study in an Indian Health Program or Urban Indian Organization leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse), a bachelor's degree (in the case of a registered nurse), or advanced degrees or certifications in nursing and public health.

"(b) Service Obligation.—An individual who participates in a program under subsection (a), where the educational costs are paid by the Service, shall incur an obligation to serve in an Indian Health Program or Urban Indian Organization for a period of obligated service equal to the amount of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified in subsection (*l*) of section 110 in the manner provided for in such subsection.

"SEC. 121. COMMUNITY HEALTH AIDE PROGRAM FOR ALASKA.

"(a) General Purposes of Program.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary, acting through the Service, shall develop and operate a Community Health Aide Program in Alaska under which the Service—

"(1) provides for the training of Alaska Natives as health aides or community health practitioners;

"(2) uses such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

"(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health practitioners.

"(b) Specific Program Requirements.—The Secretary, acting through the Community Health Aide Program of the Service, shall—

"(1) using trainers accredited by the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

"(2) in order to provide such training, develop a curriculum that—

"(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

"(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

"(C) promotes the achievement of the health status objectives specified in section 3(2);

"(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraph (1) or can demonstrate equivalent experience;

"(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

“(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners; and

“(6) develop a system under which the work of community health aides and community health practitioners is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services.

“(c) National Community Health Aide Program.—

“(1) In general.—The Secretary, acting through the Service, is authorized to establish a national Community Health Aide Program in accordance with subsection (a), except as provided in paragraphs (2) and (3), without reducing funds for the Community Health Aide Program for Alaska.

“(2) Limited certification.—Except for any dental health aide in the State of Alaska, the Secretary, acting through the Community Health Aide Program of the Service, shall ensure that, for a period of 4 years, dental health aides are certified only to provide services relating to—

“(A) early childhood dental disease prevention and reversible dental procedures; and

“(B) the development of local capacity to provide those dental services.

“(3) Review.—

“(A) In general.—During the 4-year period described in paragraph (2), the Secretary, acting through the Community Health Aide Program of the Service, shall conduct a review of the dental health aide program in the State of Alaska to determine the ability of the program to address the dental care needs of Native Alaskans, the quality of care provided (including any training, improvement, or additional oversight needed), and whether the program is appropriate and necessary to carry out in any other Indian community.

“(B) Report.—After conducting the review under subparagraph (A), the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives a report describing any finding of the Secretary under the review.

“(C) Future authorization of certifications.—Before authorizing any dental procedure not described in paragraph (2)(A), the Secretary shall consult with Indian tribes, Tribal Organizations, Urban Indian Organizations, and other interested parties to ensure that the safety and quality of care of the Community Health Aide Program are adequate and appropriate.

“SEC. 122. TRIBAL HEALTH PROGRAM ADMINISTRATION.

“The Secretary, acting through the Service, shall, by contract or otherwise, provide training for Indians in the administration and planning of Tribal Health Programs.

“SEC. 123. HEALTH PROFESSIONAL CHRONIC SHORTAGE DEMONSTRATION PROGRAMS.

“(a) Demonstration Programs Authorized.—The Secretary, acting through the Service, may fund demonstration programs for Tribal Health Programs to address the chronic shortages of health professionals.

“(b) Purposes of Programs.—The purposes of demonstration programs funded under subsection (a) shall be—

“(1) to provide direct clinical and practical experience at a Service Unit to health profession students and residents from medical schools;

“(2) to improve the quality of health care for Indians by assuring access to qualified health care professionals; and

“(3) to provide academic and scholarly opportunities for health professionals serving Indians by identifying all academic and scholarly resources of the region.

“(c) Advisory Board.—The demonstration programs established pursuant to subsection (a) shall incorporate a program advisory board composed of representatives from the Indian Tribes and Indian communities in the area which will be served by the program.

“SEC. 124. NATIONAL HEALTH SERVICE CORPS.

“(a) No Reduction in Services.—The Secretary shall not—

“(1) remove a member of the National Health Service Corps from an Indian Health Program or Urban Indian Organization; or

“(2) withdraw funding used to support such member, unless the Secretary, acting through the Service, Indian Tribes, or Tribal Organizations, has ensured that the Indians receiving services from such member will experience no reduction in services.

“(b) Exemption From Limitations.—National Health Service Corps scholars qualifying for the Commissioned Corps in the United States Public Health Service shall be exempt from the full-time equivalent limitations of the National Health Service Corps and the Service when serving as a commissioned corps officer in a Tribal Health Program or an Urban Indian Organization.

“SEC. 125. SUBSTANCE ABUSE COUNSELOR EDUCATIONAL CURRICULA DEMONSTRATION PROGRAMS.

“(a) Grants and Contracts.—The Secretary, acting through the Service, may enter into contracts with, or make grants to, accredited tribal colleges and universities and eligible accredited and accessible community colleges to establish demonstration programs to develop educational curricula for substance abuse counseling.

“(b) Use of Funds.—Funds provided under this section shall be used only for developing and providing educational curriculum for substance abuse counseling (including paying salaries for instructors). Such curricula may be provided through satellite campus programs.

“(c) Time Period of Assistance; Renewal.—A contract entered into or a grant provided under this section shall be for a period of 1 year. Such contract or grant may be renewed for an additional 1-year period upon the approval of the Secretary.

“(d) Criteria for Review and Approval of Applications.—Not later than 180 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary, after consultation with Indian Tribes and administrators of tribal colleges and universities and eligible accredited and accessible community colleges, shall develop and issue criteria for the review and approval of applications for funding (including applications for renewals of funding) under this section. Such criteria shall ensure that demonstration programs established under this section promote the development of the capacity of such entities to educate substance abuse counselors.

“(e) Assistance.—The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

“(f) Report.—Each fiscal year, the Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for that fiscal year, a report on the findings and conclusions derived from the demonstration programs conducted under this section during that fiscal year.

“(g) Definition.—For the purposes of this section, the term 'educational curriculum' means 1 or more of the following:

“(1) Classroom education.

“(2) Clinical work experience.

“(3) Continuing education workshops.

“SEC. 126. BEHAVIORAL HEALTH TRAINING AND COMMUNITY EDUCATION PROGRAMS.

“(a) Study; List.—The Secretary, acting through the Service, and the Secretary of the Interior, in consultation with Indian Tribes and Tribal Organizations, shall conduct a study and compile a list of the types of staff positions specified in subsection (b) whose qualifications include, or should include, training in the identification, prevention, education, referral, or treatment of mental illness, or dysfunctional and self destructive behavior.

“(b) Positions.—The positions referred to in subsection (a) are—

“(1) staff positions within the Bureau of Indian Affairs, including existing positions, in the fields of—

“(A) elementary and secondary education;

“(B) social services and family and child welfare;

“(C) law enforcement and judicial services; and

“(D) alcohol and substance abuse;

“(2) staff positions within the Service; and

“(3) staff positions similar to those identified in paragraphs (1) and (2) established and maintained by Indian Tribes, Tribal Organizations (without regard to the funding source), and Urban Indian Organizations.

“(c) Training Criteria.—

“(1) In general.—The appropriate Secretary shall provide training criteria appropriate to each type of position identified in subsection (b)(1) and (b)(2) and ensure that appropriate training has been, or shall be provided to any individual in any such position. With respect to any such individual in a position identified pursuant to subsection (b)(3), the respective Secretaries shall provide appropriate training to, or provide funds to, an Indian Tribe, Tribal Organization, or Urban Indian Organization for training of appropriate individuals. In the case of positions funded under a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the appropriate Secretary shall ensure that such training costs are included in the contract or compact, as the Secretary determines necessary.

“(2) Position specific training criteria.—Position specific training criteria shall be culturally relevant to Indians and Indian Tribes and shall ensure that appropriate information regarding Traditional Health Care Practices is provided.

“(d) Community Education on Mental Illness.—The Service shall develop and implement, on request of an Indian Tribe, Tribal Organization, or Urban Indian Organization, or assist the Indian Tribe, Tribal Organization, or Urban Indian Organization to develop and implement, a program of community education on mental illness. In carrying out this subsection, the Service shall, upon request of an Indian Tribe, Tribal Organization, or Urban Indian Organization, provide technical assistance to the Indian Tribe, Tribal Organization, or Urban Indian Organization to obtain and develop community educational materials on the identification, prevention, referral, and treatment of mental illness and dysfunctional and self-destructive behavior.

“(e) Plan.—Not later than 90 days after the date of enactment of the Indian Health

Care Improvement Act Amendments of 2005, the Secretary shall develop a plan under which the Service will increase the health care staff providing behavioral health services by at least 500 positions within 5 years after the date of enactment of this section, with at least 200 of such positions devoted to child, adolescent, and family services. The plan developed under this subsection shall be implemented under the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act').

"SEC. 127. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

"TITLE II—HEALTH SERVICES

"SEC. 201. INDIAN HEALTH CARE IMPROVEMENT FUND.

"(a) USE OF FUNDS.—The Secretary, acting through the Service, is authorized to expend funds, directly or under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), which are appropriated under the authority of this section, for the purposes of—

"(1) eliminating the deficiencies in health status and health resources of all Indian Tribes;

"(2) eliminating backlogs in the provision of health care services to Indians;

"(3) meeting the health needs of Indians in an efficient and equitable manner, including the use of telehealth and telemedicine when appropriate;

"(4) eliminating inequities in funding for both direct care and contract health service programs; and

"(5) augmenting the ability of the Service to meet the following health service responsibilities with respect to those Indian Tribes with the highest levels of health status deficiencies and resource deficiencies:

"(A) Clinical care, including inpatient care, outpatient care (including audiology, clinical eye, and vision care), primary care, secondary and tertiary care, and long-term care.

"(B) Preventive health, including mammography and other cancer screening in accordance with section 207.

"(C) Dental care.

"(D) Mental health, including community mental health services, inpatient mental health services, dormitory mental health services, therapeutic and residential treatment centers, and training of traditional health care practitioners.

"(E) Emergency medical services.

"(F) Treatment and control of, and rehabilitative care related to, alcoholism and drug abuse (including fetal alcohol syndrome) among Indians.

"(G) Accident prevention programs.

"(H) Home health care.

"(I) Community health representatives.

"(J) Maintenance and repair.

"(K) Traditional Health Care Practices.

"(b) NO OFFSET OR LIMITATION.—Any funds appropriated under the authority of this section shall not be used to offset or limit any other appropriations made to the Service under this Act or the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), or any other provision of law.

"(c) ALLOCATION; USE.—

"(1) IN GENERAL.—Funds appropriated under the authority of this section shall be allocated to Service Units, Indian Tribes, or Tribal Organizations. The funds allocated to each Indian Tribe, Tribal Organization, or Service Unit under this paragraph shall be used by the Indian Tribe, Tribal Organization, or Service Unit under this paragraph to improve the health status and reduce the resource deficiency of each Indian Tribe served by such Service Unit, Indian Tribe, or Tribal Organization.

"(2) APPORTIONMENT OF ALLOCATED FUNDS.—The apportionment of funds allocated to a Service Unit, Indian Tribe, or Tribal Organization under paragraph (1) among the health service responsibilities described in subsection (a)(5) shall be determined by the Service in consultation with, and with the active participation of, the affected Indian Tribes and Tribal Organizations.

"(d) PROVISIONS RELATING TO HEALTH STATUS AND RESOURCE DEFICIENCIES.—For the purposes of this section, the following definitions apply:

"(1) DEFINITION.—The term 'health status and resource deficiency' means the extent to which—

"(A) the health status objectives set forth in section 3(2) are not being achieved; and

"(B) the Indian Tribe or Tribal Organization does not have available to it the health resources it needs, taking into account the actual cost of providing health care services given local geographic, climatic, rural, or other circumstances.

"(2) AVAILABLE RESOURCES.—The health resources available to an Indian Tribe or Tribal Organization include health resources provided by the Service as well as health resources used by the Indian Tribe or Tribal Organization, including services and financing systems provided by any Federal programs, private insurance, and programs of State or local governments.

"(3) PROCESS FOR REVIEW OF DETERMINATIONS.—The Secretary shall establish procedures which allow any Indian Tribe or Tribal Organization to petition the Secretary for a review of any determination of the extent of the health status and resource deficiency of such Indian Tribe or Tribal Organization.

"(e) ELIGIBILITY FOR FUNDS.—Tribal Health Programs shall be eligible for funds appropriated under the authority of this section on an equal basis with programs that are administered directly by the Service.

"(f) REPORT.—By no later than the date that is 3 years after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary shall submit to Congress the current health status and resource deficiency report of the Service for each Service Unit, including newly recognized or acknowledged Indian Tribes. Such report shall set out—

"(1) the methodology then in use by the Service for determining Tribal health status and resource deficiencies, as well as the most recent application of that methodology;

"(2) the extent of the health status and resource deficiency of each Indian Tribe served by the Service or a Tribal Health Program;

"(3) the amount of funds necessary to eliminate the health status and resource deficiencies of all Indian Tribes served by the Service or a Tribal Health Program; and

"(4) an estimate of—

"(A) the amount of health service funds appropriated under the authority of this Act, or any other Act, including the amount of any funds transferred to the Service for the preceding fiscal year which is allocated to each Service Unit, Indian Tribe, or Tribal Organization;

"(B) the number of Indians eligible for health services in each Service Unit or Indian Tribe or Tribal Organization; and

"(C) the number of Indians using the Service resources made available to each Service Unit, Indian Tribe or Tribal Organization, and, to the extent available, information on the waiting lists and number of Indians turned away for services due to lack of resources.

"(g) INCLUSION IN BASE BUDGET.—Funds appropriated under this section for any fiscal year shall be included in the base budget of the Service for the purpose of determining appropriations under this section in subsequent fiscal years.

"(h) CLARIFICATION.—Nothing in this section is intended to diminish the primary responsibility of the Service to eliminate existing backlogs in unmet health care needs, nor are the provisions of this section intended to discourage the Service from undertaking additional efforts to achieve equity among Indian Tribes and Tribal Organizations.

"(i) FUNDING DESIGNATION.—Any funds appropriated under the authority of this section shall be designated as the 'Indian Health Care Improvement Fund'.

"SEC. 202. CATASTROPHIC HEALTH EMERGENCY FUND.

"(a) ESTABLISHMENT.—There is established an Indian Catastrophic Health Emergency Fund (hereafter in this section referred to as the 'CHEF') consisting of—

"(1) the amounts deposited under subsection (f); and

"(2) the amounts appropriated to CHEF under this section.

"(b) ADMINISTRATION.—CHEF shall be administered by the Secretary, acting through the central office of the Service, solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service.

"(c) CONDITIONS ON USE OF FUND.—No part of CHEF or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), nor shall CHEF funds be allocated, apportioned, or delegated on an Area Office, Service Unit, or other similar basis.

"(d) REGULATIONS.—The Secretary shall, through the negotiated rulemaking process under title VIII, promulgate regulations consistent with the provisions of this section to—

"(1) establish a definition of disasters and catastrophic illnesses for which the cost of the treatment provided under contract would qualify for payment from CHEF;

"(2) provide that a Service Unit shall not be eligible for reimbursement for the cost of treatment from CHEF until its cost of treating any victim of such catastrophic illness or disaster has reached a certain threshold cost which the Secretary shall establish at—

"(A) the 2000 level of $19,000; and

"(B) for any subsequent year, not less than the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the consumer price index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year;

"(3) establish a procedure for the reimbursement of the portion of the costs that exceeds such threshold cost incurred by—

"(A) Service Units; or

"(B) whenever otherwise authorized by the Service, non-Service facilities or providers;

"(4) establish a procedure for payment from CHEF in cases in which the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service; and

"(5) establish a procedure that will ensure that no payment shall be made from CHEF to any provider of treatment to the extent that such provider is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement for which the patient is eligible.

"(e) No Offset or Limitation.—Amounts appropriated to CHEF under this section shall not be used to offset or limit appropriations made to the Service under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), or any other law.

"(f) Deposit of Reimbursement Funds.—There shall be deposited into CHEF all reimbursements to which the Service is entitled from any Federal, State, local, or private source (including third party insurance) by reason of treatment rendered to any victim of a disaster or catastrophic illness the cost of which was paid from CHEF.

"SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION SERVICES.

"(a) Findings.—Congress finds that health promotion and disease prevention activities—

"(1) improve the health and well-being of Indians; and

"(2) reduce the expenses for health care of Indians.

"(b) Provision of Services.—The Secretary, acting through the Service and Tribal Health Programs, shall provide health promotion and disease prevention services to Indians to achieve the health status objectives set forth in section 3(2).

"(c) Evaluation.—The Secretary, after obtaining input from the affected Tribal Health Programs, shall submit to the President for inclusion in each report which is required to be submitted to Congress under section 801 an evaluation of—

"(1) the health promotion and disease prevention needs of Indians;

"(2) the health promotion and disease prevention activities which would best meet such needs;

"(3) the internal capacity of the Service and Tribal Health Programs to meet such needs; and

"(4) the resources which would be required to enable the Service and Tribal Health Programs to undertake the health promotion and disease prevention activities necessary to meet such needs.

"SEC. 204. DIABETES PREVENTION, TREATMENT, AND CONTROL.

"(a) Determinations Regarding Diabetes.—The Secretary, acting through the Service, and in consultation with Indian Tribes and Tribal Organizations, shall determine—

"(1) by Indian Tribe and by Service Unit, the incidence of, and the types of complications resulting from, diabetes among Indians; and

"(2) based on the determinations made pursuant to paragraph (1), the measures (including patient education and effective ongoing monitoring of disease indicators) each Service Unit should take to reduce the incidence of, and prevent, treat, and control the complications resulting from, diabetes among Indian Tribes within that Service Unit.

"(b) Diabetes Screening.—To the extent medically indicated and with informed consent, the Secretary shall screen each Indian who receives services from the Service for diabetes and for conditions which indicate a high risk that the individual will become diabetic and, in consultation with Indian Tribes, Urban Indian Organizations, and appropriate health care providers, establish a cost-effective approach to ensure ongoing monitoring of disease indicators. Such screening and monitoring may be conducted by a Tribal Health Program and may be conducted through appropriate Internet-based health care management programs.

"(c) Funding for Diabetes.—The Secretary shall continue to maintain each model diabetes project in existence on the date of enactment of the Indian Health Amendments Care Improvement Act of 2005, any such other diabetes programs operated by the Service or Tribal Health Programs, and any additional diabetes projects, such as the Medical Vanguard program provided for in title IV of Public Law 108–87, as implemented to serve Indian Tribes. Tribal Health Programs shall receive recurring funding for the diabetes projects that they operate pursuant to this section, both at the date of enactment of the Indian Health Care Improvement Act Amendments of 2005 and for projects which are added and funded thereafter.

"(d) Funding for Dialysis Programs.—The Secretary is authorized to provide funding through the Service, Indian Tribes, and Tribal Organizations to establish dialysis programs, including funding to purchase dialysis equipment and provide necessary staffing.

"(e) Other Duties of the Secretary.—The Secretary shall, to the extent funding is available—

"(1) in each Area Office, consult with Indian Tribes and Tribal Organizations regarding programs for the prevention, treatment, and control of diabetes;

"(2) establish in each Area Office a registry of patients with diabetes to track the incidence of diabetes and the complications from diabetes in that area; and

"(3) ensure that data collected in each Area Office regarding diabetes and related complications among Indians are disseminated to all other Area Offices, subject to applicable patient privacy laws.

"SEC. 205. SHARED SERVICES FOR LONG-TERM CARE.

"(a) Long-term Care.—Notwithstanding any other provision of law, the Secretary, acting through the Service, is authorized to provide directly, or enter into contracts or compacts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) with Indian Tribes or Tribal Organizations for, the delivery of long-term care and similar services to Indians. Such agreements shall provide for the sharing of staff or other services between the Service or a Tribal Health Program and a long-term care or other similar facility owned and operated (directly or through a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)) by such Indian Tribe or Tribal Organization.

"(b) Contents of Agreements.—An agreement entered into pursuant to subsection (a)—

"(1) may, at the request of the Indian Tribe or Tribal Organization, delegate to such Indian Tribe or Tribal Organization such powers of supervision and control over Service employees as the Secretary deems necessary to carry out the purposes of this section;

"(2) shall provide that expenses (including salaries) relating to services that are shared between the Service and the Tribal Health Program be allocated proportionately between the Service and the Indian Tribe or Tribal Organization; and

"(3) may authorize such Indian Tribe or Tribal Organization to construct, renovate, or expand a long-term care or other similar facility (including the construction of a facility attached to a Service facility).

"(c) Minimum Requirement.—Any nursing facility provided for under this section shall meet the requirements for nursing facilities under section 1919 of the Social Security Act.

"(d) Other Assistance.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

"(e) Use of Existing or Underused Facilities.—The Secretary shall encourage the use of existing facilities that are underused or allow the use of swing beds for long-term or similar care.

"SEC. 206. HEALTH SERVICES RESEARCH.

"The Secretary, acting through the Service, shall make funding available for research to further the performance of the health service responsibilities of Indian Health Programs. The Secretary shall also, to the maximum extent practicable, coordinate departmental research resources and activities to address relevant Indian Health Program research needs. Tribal Health Programs shall be given an equal opportunity to compete for, and receive, research funds under this section. This funding may be used for both clinical and nonclinical research.

"SEC. 207. MAMMOGRAPHY AND OTHER CANCER SCREENING.

"The Secretary, acting through the Service or Tribal Health Programs, shall provide for screening as follows:

"(1) Screening mammography (as defined in section 1861(jj) of the Social Security Act) for Indian women at a frequency appropriate to such women under accepted and appropriate national standards, and under such terms and conditions as are consistent with standards established by the Secretary to ensure the safety and accuracy of screening mammography under part B of title XVIII of such Act.

"(2) Other cancer screening meeting accepted and appropriate national standards.

"SEC. 208. PATIENT TRAVEL COSTS.

"The Secretary, acting through the Service and Tribal Health Programs, is authorized to provide funds for the following patient travel costs, including appropriate and necessary qualified escorts, associated with receiving health care services provided (either through direct or contract care or through a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)) under this Act—

"(1) emergency air transportation and nonemergency air transportation where ground transportation is infeasible;

"(2) transportation by private vehicle (where no other means of transportation is available), specially equipped vehicle, and ambulance; and

"(3) transportation by such other means as may be available and required when air or motor vehicle transportation is not available.

"SEC. 209. EPIDEMIOLOGY CENTERS.

"(a) Additional Centers.—In addition to those epidemiology centers already established as of the date of enactment of this Act, and without reducing the funding levels for such centers, not later than 180 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary, acting through the Service, shall establish and fund an epidemiology center in each Service Area which does not yet have one to carry out the functions described in subsection (b). Any new centers so established may be operated by Tribal Health Programs, but such funding shall not be divisible.

"(b) FUNCTIONS OF CENTERS.—In consultation with and upon the request of Indian Tribes, Tribal Organizations, and Urban Indian Organizations, each Service Area epidemiology center established under this subsection shall, with respect to such Service Area—

"(1) collect data relating to, and monitor progress made toward meeting, each of the health status objectives of the Service, the Indian Tribes, Tribal Organizations, and Urban Indian Organizations in the Service Area;

"(2) evaluate existing delivery systems, data systems, and other systems that impact the improvement of Indian health;

"(3) assist Indian Tribes, Tribal Organizations, and Urban Indian Organizations in identifying their highest priority health status objectives and the services needed to achieve such objectives, based on epidemiological data;

"(4) make recommendations for the targeting of services needed by the populations served;

"(5) make recommendations to improve health care delivery systems for Indians and Urban Indians;

"(6) provide requested technical assistance to Indian Tribes, Tribal Organizations, and Urban Indian Organizations in the development of local health service priorities and incidence and prevalence rates of disease and other illness in the community; and

"(7) provide disease surveillance and assist Indian Tribes, Tribal Organizations, and Urban Indian Organizations to promote public health.

"(c) TECHNICAL ASSISTANCE.—The Director of the Centers for Disease Control and Prevention shall provide technical assistance to the centers in carrying out the requirements of this subsection.

"(d) FUNDING FOR STUDIES.—The Secretary may make funding available to Indian Tribes, Tribal Organizations, and Urban Indian Organizations to conduct epidemiological studies of Indian communities.

"SEC. 210. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS.

"(a) FUNDING FOR DEVELOPMENT OF PROGRAMS.—In addition to carrying out any other program for health promotion or disease prevention, the Secretary, acting through the Service, is authorized to award grants to Indian Tribes, Tribal Organizations, and Urban Indian Organizations to develop comprehensive school health education programs for children from pre-school through grade 12 in schools for the benefit of Indian and Urban Indian children.

"(b) USE OF FUNDS.—Funding provided under this section may be used for purposes which may include, but are not limited to, the following:

"(1) Developing and implementing health education curricula both for regular school programs and afterschool programs.

"(2) Training teachers in comprehensive school health education curricula.

"(3) Integrating school-based, community-based, and other public and private health promotion efforts.

"(4) Encouraging healthy, tobacco-free school environments.

"(5) Coordinating school-based health programs with existing services and programs available in the community.

"(6) Developing school programs on nutrition education, personal health, oral health, and fitness.

"(7) Developing behavioral health wellness programs.

"(8) Developing chronic disease prevention programs.

"(9) Developing substance abuse prevention programs.

"(10) Developing injury prevention and safety education programs.

"(11) Developing activities for the prevention and control of communicable diseases.

"(12) Developing community and environmental health education programs that include traditional health care practitioners.

"(13) Violence prevention.

"(14) Such other health issues as are appropriate.

"(c) TECHNICAL ASSISTANCE.—Upon request, the Secretary, acting through the Service, shall provide technical assistance to Indian Tribes, Tribal Organizations, and Urban Indian Organizations in the development of comprehensive health education plans and the dissemination of comprehensive health education materials and information on existing health programs and resources.

"(d) CRITERIA FOR REVIEW AND APPROVAL OF APPLICATIONS.—The Secretary, acting through the Service, and in consultation with Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall establish criteria for the review and approval of applications for funding provided pursuant to this section.

"(e) DEVELOPMENT OF PROGRAM FOR BIA FUNDED SCHOOLS.—

"(1) IN GENERAL.—The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary, acting through the Service, and affected Indian Tribes and Tribal Organizations, shall develop a comprehensive school health education program for children from preschool through grade 12 in schools for which support is provided by the Bureau of Indian Affairs.

"(2) REQUIREMENTS FOR PROGRAMS.—Such programs shall include—

"(A) school programs on nutrition education, personal health, oral health, and fitness;

"(B) behavioral health wellness programs;

"(C) chronic disease prevention programs;

"(D) substance abuse prevention programs;

"(E) injury prevention and safety education programs; and

"(F) activities for the prevention and control of communicable diseases.

"(3) DUTIES OF THE SECRETARY.—The Secretary of the Interior shall—

"(A) provide training to teachers in comprehensive school health education curricula;

"(B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and

"(C) encourage healthy, tobacco-free school environments.

"SEC. 211. INDIAN YOUTH PROGRAM.

"(a) PROGRAM AUTHORIZED.—The Secretary, acting through the Service, is authorized to establish and administer a program to provide funding to Indian Tribes, Tribal Organizations, and Urban Indian Organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian and Urban Indian preadolescent and adolescent youths.

"(b) USE OF FUNDS.—

"(1) ALLOWABLE USES.—Funds made available under this section may be used to—

"(A) develop prevention and treatment programs for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and traditional health care practitioners; and

"(B) develop and provide community training and education.

"(2) PROHIBITED USE.—Funds made available under this section may not be used to provide services described in section 707(c).

"(c) DUTIES OF THE SECRETARY.—The Secretary shall—

"(1) disseminate to Indian Tribes, Tribal Organizations, and Urban Indian Organizations information regarding models for the delivery of comprehensive health care services to Indian and Urban Indian adolescents;

"(2) encourage the implementation of such models; and

"(3) at the request of an Indian Tribe, Tribal Organization, or Urban Indian Organization, provide technical assistance in the implementation of such models.

"(d) CRITERIA FOR REVIEW AND APPROVAL OF APPLICATIONS.—The Secretary, in consultation with Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall establish criteria for the review and approval of applications or proposals under this section.

"SEC. 212. PREVENTION, CONTROL, AND ELIMINATION OF COMMUNICABLE AND INFECTIOUS DISEASES.

"(a) FUNDING AUTHORIZED.—The Secretary, acting through the Service, and after consultation with Indian Tribes, Tribal Organizations, Urban Indian Organizations, and the Centers for Disease Control and Prevention, may make funding available to Indian Tribes, Tribal Organizations, and Urban Indian Organizations for the following:

"(1) Projects for the prevention, control, and elimination of communicable and infectious diseases, including tuberculosis, hepatitis, HIV, respiratory syncitial virus, hanta virus, sexually transmitted diseases, and H. Pylori.

"(2) Public information and education programs for the prevention, control, and elimination of communicable and infectious diseases.

"(3) Education, training, and clinical skills improvement activities in the prevention, control, and elimination of communicable and infectious diseases for health professionals, including allied health professionals.

"(4) Demonstration projects for the screening, treatment, and prevention of hepatitis C virus (HCV).

"(b) APPLICATION REQUIRED.—The Secretary may provide funding under subsection (a) only if an application or proposal for funding is submitted to the Secretary.

"(c) COORDINATION WITH HEALTH AGENCIES.—Indian Tribes, Tribal Organizations, and Urban Indian Organizations receiving funding under this section are encouraged to coordinate their activities with the Centers for Disease Control and Prevention and State and local health agencies.

"(d) TECHNICAL ASSISTANCE; REPORT.—In carrying out this section, the Secretary—

"(1) may, at the request of an Indian Tribe, Tribal Organization, or Urban Indian Organization, provide technical assistance; and

"(2) shall prepare and submit a report to Congress biennially on the use of funds under this section and on the progress made toward the prevention, control, and elimination of communicable and infectious diseases among Indians and Urban Indians.

"SEC. 213. AUTHORITY FOR PROVISION OF OTHER SERVICES.

"(a) FUNDING AUTHORIZED.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, may provide funding under this Act to meet the objectives set forth in section 3 through health care-related services and programs not otherwise described in this Act, including—

"(1) hospice care;

"(2) assisted living;

"(3) long-term health care;

"(4) home- and community-based services; and

"(5) public health functions.

"(b) SERVICES TO OTHERWISE INELIGIBLE PERSONS.—Subject to section 807, at the discretion of the Service, Indian Tribes, or Tribal Organizations, services provided for hospice care, home- and community-based care, assisted living, and long-term care may be provided (subject to reimbursement) to persons otherwise ineligible for the health care benefits of the Service. Any funds received under this subsection shall not be used to offset or limit the funding allocated to the Service or an Indian Tribe or Tribal Organization.

"(c) DEFINITIONS.—For the purposes of this section, the following definitions shall apply:

"(1) The term 'home- and community-based services' means 1 or more of the following:

"(A) Homemaker/home health aide services.

"(B) Chore services.

"(C) Personal care services.

"(D) Nursing care services provided outside of a nursing facility by, or under the supervision of, a registered nurse.

"(E) Respite care.

"(F) Training for family members.

"(G) Adult day care.

"(H) Such other home- and community-based services as the Secretary, an Indian tribe, or a Tribal Organization may approve.

"(2) The term 'hospice care' means the items and services specified in subparagraphs (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)), and such other services which an Indian Tribe or Tribal Organization determines are necessary and appropriate to provide in furtherance of this care.

"(3) The term 'public health functions' means the provision of public health-related programs, functions, and services, including assessment, assurance, and policy development which Indian Tribes and Tribal Organizations are authorized and encouraged, in those circumstances where it meets their needs, to do by forming collaborative relationships with all levels of local, State, and Federal Government.

"SEC. 214. INDIAN WOMEN'S HEALTH CARE.

"The Secretary, acting through the Service and Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.

"SEC. 215. ENVIRONMENTAL AND NUCLEAR HEALTH HAZARDS.

"(a) STUDIES AND MONITORING.—The Secretary and the Service shall conduct, in conjunction with other appropriate Federal agencies and in consultation with concerned Indian Tribes and Tribal Organizations, studies and ongoing monitoring programs to determine trends in the health hazards to Indian miners and to Indians on or near reservations and Indian communities as a result of environmental hazards which may result in chronic or life threatening health problems, such as nuclear resource development, petroleum contamination, and contamination of water source and of the food chain. Such studies shall include—

"(1) an evaluation of the nature and extent of health problems caused by environmental hazards currently exhibited among Indians and the causes of such health problems;

"(2) an analysis of the potential effect of ongoing and future environmental resource development on or near reservations and Indian communities, including the cumulative effect over time on health;

"(3) an evaluation of the types and nature of activities, practices, and conditions causing or affecting such health problems, including uranium mining and milling, uranium mine tailing deposits, nuclear power plant operation and construction, and nuclear waste disposal; oil and gas production or transportation on or near reservations or Indian communities; and other development that could affect the health of Indians and their water supply and food chain;

"(4) a summary of any findings and recommendations provided in Federal and State studies, reports, investigations, and inspections during the 5 years prior to the date of enactment of the Indian Health Care Improvement Act Amendments of 2005 that directly or indirectly relate to the activities, practices, and conditions affecting the health or safety of such Indians; and

"(5) the efforts that have been made by Federal and State agencies and resource and economic development companies to effectively carry out an education program for such Indians regarding the health and safety hazards of such development.

"(b) HEALTH CARE PLANS.—Upon completion of such studies, the Secretary and the Service shall take into account the results of such studies and, in consultation with Indian Tribes and Tribal Organizations, develop health care plans to address the health problems studied under subsection (a). The plans shall include—

"(1) methods for diagnosing and treating Indians currently exhibiting such health problems;

"(2) preventive care and testing for Indians who may be exposed to such health hazards, including the monitoring of the health of individuals who have or may have been exposed to excessive amounts of radiation or affected by other activities that have had or could have a serious impact upon the health of such individuals; and

"(3) a program of education for Indians who, by reason of their work or geographic proximity to such nuclear or other development activities, may experience health problems.

"(c) SUBMISSION OF REPORT AND PLAN TO CONGRESS.—The Secretary and the Service shall submit to Congress the study prepared under subsection (a) no later than 18 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005. The health care plan prepared under subsection (b) shall be submitted in a report no later than 1 year after the study prepared under subsection (a) is submitted to Congress. Such report shall include recommended activities for the implementation of the plan, as well as an evaluation of any activities previously undertaken by the Service to address such health problems.

"(d) INTERGOVERNMENTAL TASK FORCE.—

"(1) ESTABLISHMENT; MEMBERS.—There is established an intergovernmental Task Force to be composed of the following individuals (or their designees):

"(A) The Secretary of Energy.

"(B) The Secretary of the Environmental Protection Agency.

"(C) The Director of the Bureau of Mines.

"(D) The Assistant Secretary for Occupational Safety and Health.

"(E) The Secretary of the Interior.

"(F) The Secretary of Health and Human Services.

"(G) The Director of the Indian Health Service.

"(2) DUTIES.—The Task Force shall—

"(A) identify existing and potential operations related to nuclear resource development or other environmental hazards that affect or may affect the health of Indians on or near a reservation or in an Indian community; and

"(B) enter into activities to correct existing health hazards and ensure that current and future health problems resulting from nuclear resource or other development activities are minimized or reduced.

"(3) CHAIRMAN; MEETINGS.—The Secretary of Health and Human Services shall be the Chairman of the Task Force. The Task Force shall meet at least twice each year.

"(e) HEALTH SERVICES TO CERTAIN EMPLOYEES.—In the case of any Indian who—

"(1) as a result of employment in or near a uranium mine or mill or near any other environmental hazard, suffers from a work-related illness or condition;

"(2) is eligible to receive diagnosis and treatment services from an Indian Health Program; and

"(3) by reason of such Indian's employment, is entitled to medical care at the expense of such mine or mill operator or entity responsible for the environmental hazard, the Indian Health Program shall, at the request of such Indian, render appropriate medical care to such Indian for such illness or condition and may be reimbursed for any medical care so rendered to which such Indian is entitled at the expense of such operator or entity from such operator or entity. Nothing in this subsection shall affect the rights of such Indian to recover damages other than such amounts paid to the Indian Health Program from the employer for providing medical care for such illness or condition.

"SEC. 216. ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

"(a) IN GENERAL.—For fiscal years beginning with the fiscal year ending September 30, 1983, and ending with the fiscal year ending September 30, 2015, the State of Arizona shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of Arizona.

"(b) MAINTENANCE OF SERVICES.—The Service shall not curtail any health care services provided to Indians residing on reservations in the State of Arizona if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

"SEC. 216A. NORTH DAKOTA AND SOUTH DAKOTA AS CONTRACT HEALTH SERVICE DELIVERY AREA.

"(a) IN GENERAL.—Beginning in fiscal year 2003, the States of North Dakota and South Dakota shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of North Dakota and South Dakota.

"(b) LIMITATION.—The Service shall not curtail any health care services provided to Indians residing on any reservation, or in any county that has a common boundary with any reservation, in the State of North Dakota or South Dakota if such curtailment is due to the provision of contract services in such States pursuant to the designation of such States as a contract health service delivery area pursuant to subsection (a).

"SEC. 217. CALIFORNIA CONTRACT HEALTH SERVICES PROGRAM.

"(a) FUNDING AUTHORIZED.—The Secretary is authorized to fund a program using the California Rural Indian Health Board (hereafter in this section referred to as the 'CRIHB') as a contract care intermediary to improve the accessibility of health services to California Indians.

"(b) REIMBURSEMENT CONTRACT.—The Secretary shall enter into an agreement with the CRIHB to reimburse the CRIHB for costs (including reasonable administrative costs) incurred pursuant to this section, in providing medical treatment under contract to California Indians described in section 806(a) throughout the California contract health services delivery area described in section 218 with respect to high cost contract care cases.

"(c) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amounts provided to the CRIHB under this section for any fiscal year may be for reimbursement for administrative expenses incurred by the CRIHB during such fiscal year.

"(d) LIMITATION ON PAYMENT.—No payment may be made for treatment provided hereunder to the extent payment may be made for such treatment under the Indian Catastrophic Health Emergency Fund described in section 202 or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

"(e) ADVISORY BOARD.—There is established an advisory board which shall advise the CRIHB in carrying out this section. The advisory board shall be composed of representatives, selected by the CRIHB, from not less than 8 Tribal Health Programs serving California Indians covered under this section at least one half of whom of whom are not affiliated with the CRIHB.

"SEC. 218. CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

"The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura, shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health services to California Indians. However, any of the counties listed herein may only be included in the contract health services delivery area if funding is specifically provided by the Service for such services in those counties.

"SEC. 219. CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA.

"(a) AUTHORIZATION FOR SERVICES.—The Secretary, acting through the Service, is directed to provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties in the State of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of Montana.

"(b) NO EXPANSION OF ELIGIBILITY.—Nothing in this section may be construed as expanding the eligibility of members of the Turtle Mountain Band of Chippewa Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

"SEC. 220. PROGRAMS OPERATED BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.

"The Service shall provide funds for health care programs and facilities operated by Tribal Health Programs on the same basis as such funds are provided to programs and facilities operated directly by the Service.

"SEC. 221. LICENSING.

"Health care professionals employed by a Tribal Health Program shall, if licensed in any State, be exempt from the licensing requirements of the State in which the Tribal Health Program performs the services described in its contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"SEC. 222. NOTIFICATION OF PROVISION OF EMERGENCY CONTRACT HEALTH SERVICES.

"With respect to an elderly Indian or an Indian with a disability receiving emergency medical care or services from a non-Service provider or in a non-Service facility under the authority of this Act, the time limitation (as a condition of payment) for notifying the Service of such treatment or admission shall be 30 days.

"SEC. 223. PROMPT ACTION ON PAYMENT OF CLAIMS.

"(a) DEADLINE FOR RESPONSE.—The Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

"(b) EFFECT OF UNTIMELY RESPONSE.—If the Service fails to respond to a notification of a claim in accordance with subsection (a), the Service shall accept as valid the claim submitted by the provider of a contract care service.

"(c) DEADLINE FOR PAYMENT OF VALID CLAIM.—The Service shall pay a valid contract care service claim within 30 days after the completion of the claim.

"SEC. 224. LIABILITY FOR PAYMENT.

"(a) NO PATIENT LIABILITY.—A patient who receives contract health care services that are authorized by the Service shall not be liable for the payment of any charges or costs associated with the provision of such services.

"(b) NOTIFICATION.—The Secretary shall notify a contract care provider and any patient who receives contract health care services authorized by the Service that such patient is not liable for the payment of any charges or costs associated with the provision of such services not later than 5 business days after receipt of a notification of a claim by a provider of contract care services.

"(c) NO RECOURSE.—Following receipt of the notice provided under subsection (b), or, if a claim has been deemed accepted under section 223(b), the provider shall have no further recourse against the patient who received the services.

"SEC. 225. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

"TITLE III—FACILITIES

"SEC. 301. CONSULTATION; CONSTRUCTION AND RENOVATION OF FACILITIES; REPORTS.

"(a) PREREQUISITES FOR EXPENDITURE OF FUNDS.—Prior to the expenditure of, or the making of any binding commitment to expend, any funds appropriated for the planning, design, construction, or renovation of facilities pursuant to the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary, acting through the Service, shall—

"(1) consult with any Indian Tribe that would be significantly affected by such expenditure for the purpose of determining and, whenever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any facility on which such expenditure is to be made; and

"(2) ensure, whenever practicable and applicable, that such facility meets the construction standards of any accrediting body recognized by the Secretary for the purposes of the medicare, medicaid, and SCHIP programs under titles XVIII, XIX, and XXI of the Social Security Act by not later than 1 year after the date on which the construction or renovation of such facility is completed.

"(b) CLOSURES.—

"(1) EVALUATION REQUIRED.—Notwithstanding any other provision of law, no facility operated by the Service may be closed if the Secretary has not submitted to Congress at least 1 year prior to the date of the proposed closure an evaluation of the impact of the proposed closure which specifies, in addition to other considerations—

"(A) the accessibility of alternative health care resources for the population served by such facility;

"(B) the cost-effectiveness of such closure;

"(C) the quality of health care to be provided to the population served by such facility after such closure;

"(D) the availability of contract health care funds to maintain existing levels of service;

"(E) the views of the Indian Tribes served by such facility concerning such closure;

"(F) the level of use of such facility by all eligible Indians; and

"(G) the distance between such facility and the nearest operating Service hospital.

"(2) EXCEPTION FOR CERTAIN TEMPORARY CLOSURES.—Paragraph (1) shall not apply to any temporary closure of a facility or any portion of a facility if such closure is necessary for medical, environmental, or construction safety reasons.

"(c) HEALTH CARE FACILITY PRIORITY SYSTEM.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—The Secretary, acting through the Service, shall establish a health care facility priority system, which shall—

"(i) be developed with Indian Tribes and Tribal Organizations through negotiated rulemaking under section 802;

"(ii) give Indian Tribes' needs the highest priority; and

"(iii) at a minimum, include the lists required in paragraph (2)(B) and the methodology required in paragraph (2)(E).

"(B) PRIORITY OF CERTAIN PROJECTS PROTECTED.—The priority of any project established under the construction priority system in effect on the date of the Indian Health Care Improvement Act Amendments of 2005 shall not be affected by any change in the construction priority system taking place thereafter if the project was identified as 1 of the 10 top-priority inpatient projects, 1 of the 10 top-priority outpatient projects, 1 of the 10 top-priority staff quarters developments, or 1 of the 10 top-priority Youth Regional Treatment Centers in the fiscal year 2005 Indian Health Service budget justification, or if the project had completed both

Phase I and Phase II of the construction priority system in effect on the date of enactment of such Act.

"(2) Report; contents.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to Congress under section 801, a report which sets forth the following:

"(A) A description of the health care facility priority system of the Service, established under paragraph (1).

"(B) Health care facilities lists, including—

"(i) the 10 top-priority inpatient health care facilities;

"(ii) the 10 top-priority outpatient health care facilities;

"(iii) the 10 top-priority specialized health care facilities (such as long-term care and alcohol and drug abuse treatment);

"(iv) the 10 top-priority staff quarters developments associated with health care facilities; and

"(v) the 10 top-priority hostels associated with health care facilities.

"(C) The justification for such order of priority.

"(D) The projected cost of such projects.

"(E) The methodology adopted by the Service in establishing priorities under its health care facility priority system.

"(3) Requirements for preparation of reports.—In preparing each report required under paragraph (2) (other than the initial report), the Secretary shall annually—

"(A) consult with and obtain information on all health care facilities needs from Indian Tribes, Tribal Organizations, and Urban Indian Organizations; and

"(B) review the total unmet needs of all Indian Tribes, Tribal Organizations, and Urban Indian Organizations for health care facilities (including hostels and staff quarters), including needs for renovation and expansion of existing facilities.

"(4) Criteria for evaluating needs.—For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

"(5) Needs of facilities under ISDEAA agreements.—The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities operated under contracts or compacts in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) are fully and equitably integrated into the health care facility priority system.

"(d) Review of Need for Facilities.—

"(1) Initial report.—In the year 2006, the Government Accountability Office shall prepare and finalize a report which sets forth the needs of the Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations, for the facilities listed under subsection (c)(2)(B), including the needs for renovation and expansion of existing facilities. The Government Accountability Office shall submit the report to the appropriate authorizing and appropriations committees of Congress and to the Secretary.

"(2) Beginning in the year 2006, the Secretary shall update the report required under paragraph (1) every 5 years.

"(3) The Comptroller General and the Secretary shall consult with Indian Tribes, Tribal Organizations, and Urban Indian Organizations. The Secretary shall submit the reports required by paragraphs (1) and (2), to the President for inclusion in the report required to be transmitted to Congress under section 801.

"(4) For purposes of this subsection, the reports shall, regarding the needs of facilities operated under any contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), be based on the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

"(5) The planning, design, construction, and renovation needs of facilities operated under contracts or compacts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall be fully and equitably integrated into the development of the health facility priority system.

"(6) Beginning in 2007 and each fiscal year thereafter, the Secretary shall provide an opportunity for nomination of planning, design, and construction projects by the Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations for consideration under the health care facility priority system.

"(e) Funding Condition.—All funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), for the planning, design, construction, or renovation of health facilities for the benefit of 1 or more Indian Tribes shall be subject to the provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(f) Development of Innovative Approaches.—The Secretary shall consult and cooperate with Indian Tribes, Tribal Organizations, and Urban Indian Organizations in developing innovative approaches to address all or part of the total unmet need for construction of health facilities, including those provided for in other sections of this title and other approaches.

"SEC. 302. SANITATION FACILITIES.

"(a) Findings.—Congress finds the following:

"(1) The provision of sanitation facilities is primarily a health consideration and function.

"(2) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of sanitation facilities.

"(3) The long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing sanitation facilities and other preventive health measures.

"(4) Many Indian homes and Indian communities still lack sanitation facilities.

"(5) It is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with sanitation facilities.

"(b) Facilities and Services.—In furtherance of the findings made in subsection (a), Congress reaffirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a). Under such authority, the Secretary, acting through the Service, is authorized to provide the following:

"(1) Financial and technical assistance to Indian Tribes, Tribal Organizations, and Indian communities in the establishment, training, and equipping of utility organizations to operate and maintain sanitation facilities, including the provision of existing plans, standard details, and specifications available in the Department, to be used at the option of the Indian Tribe, Tribal Organization, or Indian community.

"(2) Ongoing technical assistance and training to Indian Tribes, Tribal Organizations, and Indian communities in the management of utility organizations which operate and maintain sanitation facilities.

"(3) Priority funding for operation and maintenance assistance for, and emergency repairs to, sanitation facilities operated by an Indian Tribe, Tribal Organization or Indian community when necessary to avoid an imminent health threat or to protect the investment in sanitation facilities and the investment in the health benefits gained through the provision of sanitation facilities.

"(c) Funding.—Notwithstanding any other provision of law—

"(1) the Secretary of Housing and Urban Development is authorized to transfer funds appropriated under the Native American Housing Assistance and Self-Determination Act of 1996 to the Secretary of Health and Human Services;

"(2) the Secretary of Health and Human Services is authorized to accept and use such funds for the purpose of providing sanitation facilities and services for Indians under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a);

"(3) unless specifically authorized when funds are appropriated, the Secretary shall not use funds appropriated under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), to provide sanitation facilities to new homes constructed using funds provided by the Department of Housing and Urban Development;

"(4) the Secretary of Health and Human Services is authorized to accept from any source, including Federal and State agencies, funds for the purpose of providing sanitation facilities and services and place these funds into contracts or compacts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

"(5) except as otherwise prohibited by this section, the Secretary may use funds appropriated under the authority of section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a) to fund up to 100 percent of the amount of an Indian Tribe's loan obtained under any Federal program for new projects to construct eligible sanitation facilities to serve Indian homes;

"(6) except as otherwise prohibited by this section, the Secretary may use funds appropriated under the authority of section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a) to meet matching or cost participation requirements under other Federal and non-Federal programs for new projects to construct eligible sanitation facilities;

"(7) all Federal agencies are authorized to transfer to the Secretary funds identified, granted, loaned, or appropriated whereby the Department's applicable policies, rules, and regulations shall apply in the implementation of such projects;

"(8) the Secretary of Health and Human Services shall enter into interagency agreements with Federal and State agencies for the purpose of providing financial assistance for sanitation facilities and services under this Act; and

"(9) the Secretary of Health and Human Services shall, by regulation developed through rulemaking under section 802, establish standards applicable to the planning, design, and construction of sanitation facilities funded under this Act.

“(d) Certain Capabilities Not Prerequisite.—The financial and technical capability of an Indian Tribe, Tribal Organization, or Indian community to safely operate, manage, and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.

“(e) Financial Assistance.—The Secretary is authorized to provide financial assistance to Indian Tribes, Tribal Organizations, and Indian communities for operation, management, and maintenance of their sanitation facilities.

“(f) Operation, Management, and Maintenance of Facilities.—The Indian Tribe has the primary responsibility to establish, collect, and use reasonable user fees, or otherwise set aside funding, for the purpose of operating, managing, and maintaining sanitation facilities. If a sanitation facility serving a community that is operated by an Indian Tribe or Tribal Organization is threatened with imminent failure and such operator lacks capacity to maintain the integrity or the health benefits of the sanitation facility, then the Secretary is authorized to assist the Indian Tribe, Tribal Organization, or Indian community in the resolution of the problem on a short-term basis through cooperation with the emergency coordinator or by providing operation, management, and maintenance service.

“(g) ISDEAA Program Funded on Equal Basis.—Tribal Health Programs shall be eligible (on an equal basis with programs that are administered directly by the Service) for—

“(1) any funds appropriated pursuant to this section; and

“(2) any funds appropriated for the purpose of providing sanitation facilities.

“(h) Report.—

“(1) Required; contents.—The Secretary, in consultation with the Secretary of Housing and Urban Development, Indian Tribes, Tribal Organizations, and tribally designated housing entities (as defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)) shall submit to the President, for inclusion in each report required to be transmitted to Congress under section 801, a report which sets forth—

“(A) the current Indian sanitation facility priority system of the Service;

“(B) the methodology for determining sanitation deficiencies and needs;

“(C) the level of initial and final sanitation deficiency for each type of sanitation facility for each project of each Indian Tribe or Indian community;

“(D) the amount and most effective use of funds, derived from whatever source, necessary to accommodate the sanitation facilities needs of new homes assisted with funds under the Native American Housing Assistance and Self-Determination Act, and to reduce the identified sanitation deficiency levels of all Indian Tribes and Indian communities to level I sanitation deficiency as defined in paragraph (4)(A); and

“(E) a 10-year plan to provide sanitation facilities to serve existing Indian homes and Indian communities and new and renovated Indian homes.

“(2) Criteria.—The criteria on which the deficiencies and needs will be evaluated shall be developed through negotiated rulemaking pursuant to section 802.

“(3) Uniform methodology.—The methodology used by the Secretary in determining, preparing cost estimates for, and reporting sanitation deficiencies for purposes of paragraph (1) shall be applied uniformly to all Indian Tribes and Indian communities.

“(4) Sanitation deficiency levels.—For purposes of this subsection, the sanitation deficiency levels for an individual, Indian Tribe, or Indian community sanitation facility to serve Indian homes are determined as follows:

“(A) A level I deficiency exists if a sanitation facility serving an individual, Indian Tribe, or Indian community—

“(i) complies with all applicable water supply, pollution control, and solid waste disposal laws; and

“(ii) deficiencies relate to routine replacement, repair, or maintenance needs.

“(B) A level II deficiency exists if a sanitation facility serving an individual, Indian Tribe, or Indian community substantially or recently complied with all applicable water supply, pollution control, and solid waste laws and any deficiencies relate to—

“(i) small or minor capital improvements needed to bring the facility back into compliance;

“(ii) capital improvements that are necessary to enlarge or improve the facilities in order to meet the current needs for domestic sanitation facilities; or

“(iii) the lack of equipment or training by an Indian Tribe, Tribal Organization, or an Indian community to properly operate and maintain the sanitation facilities.

“(C) A level III deficiency exists if a sanitation facility serving an individual, Indian Tribe or Indian community meets one or more of the following conditions—

“(i) water or sewer service in the home is provided by a haul system with holding tanks and interior plumbing;

“(ii) major significant interruptions to water supply or sewage disposal occur frequently, requiring major capital improvements to correct the deficiencies; or

“(iii) there is no access to or no approved or permitted solid waste facility available.

“(D) A level IV deficiency exists if—

“(i) a sanitation facility of an individual, Indian Tribe, Tribal Organization, or Indian community has no piped water or sewer facilities in the home or the facility has become inoperable due to major component failure; or

“(ii) where only a washeteria or central facility exists in the community.

“(E) A level V deficiency exists in the absence of a sanitation facility, where individual homes do not have access to safe drinking water or adequate wastewater (including sewage) disposal.

“(i) Definitions.—For purposes of this section, the following terms apply:

“(1) Indian community.—The term ‘Indian community’ means a geographic area, a significant proportion of whose inhabitants are Indians and which is served by or capable of being served by a facility described in this section.

“(2) Sanitation facilities.—The terms ‘sanitation facility’ and ‘sanitation facilities’ mean safe and adequate water supply systems, sanitary sewage disposal systems, and sanitary solid waste systems (and all related equipment and support infrastructure).

“SEC. 303. PREFERENCE TO INDIANS AND INDIAN FIRMS.

“(a) Buy Indian Act.—The Secretary, acting through the Service, may use the negotiating authority of section 23 of the Act of June 25, 1910 (25 U.S.C. 47, commonly known as the ‘Buy Indian Act’), to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or currently federally recognized Indian Tribes in the State of New York (hereinafter referred to as an ‘Indian firm’) in the construction and renovation of Service facilities pursuant to section 301 and in the construction of sanitation facilities pursuant to section 302. Such preference may be accorded by the Secretary unless the Secretary finds, pursuant to regulations adopted pursuant to section 802, that the project or function to be contracted for will not be satisfactory or such project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at such a finding, shall consider whether the Indian or Indian firm will be deficient with respect to—

“(1) ownership and control by Indians;

“(2) equipment;

“(3) bookkeeping and accounting procedures;

“(4) substantive knowledge of the project or function to be contracted for;

“(5) adequately trained personnel; or

“(6) other necessary components of contract performance.

“(b) Labor Standards.—

“(1) In general.—For the purposes of implementing the provisions of this title, contracts for the construction or renovation of health care facilities, staff quarters, and sanitation facilities, and related support infrastructure, funded in whole or in part with funds made available pursuant to this title, shall contain a provision requiring compliance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the ‘Davis-Bacon Act’), unless such construction or renovation—

“(A) is performed by a contractor pursuant to a contract with an Indian Tribe or Tribal Organization with funds supplied through a contract or compact authorized by the Indian Self-Determination and Education Assistance Act, or other statutory authority; and

“(B) is subject to prevailing wage rates for similar construction or renovation in the locality as determined by the Indian Tribes or Tribal Organizations to be served by the construction or renovation.

“(2) Exception.—This subsection shall not apply to construction or renovation carried out by an Indian Tribe or Tribal Organization with its own employees.

“SEC. 304. EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION.

“(a) In General.—Notwithstanding any other provision of law, if the requirements of subsection (c) are met, the Secretary, acting through the Service, is authorized to accept any major expansion, renovation, or modernization by any Indian Tribe or Tribal Organization of any Service facility or of any other Indian health facility operated pursuant to a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), including—

“(1) any plans or designs for such expansion, renovation, or modernization; and

“(2) any expansion, renovation, or modernization for which funds appropriated under any Federal law were lawfully expended.

“(b) Priority List.—

“(1) In general.—The Secretary shall maintain a separate priority list to address the needs for increased operating expenses, personnel, or equipment for such facilities. The methodology for establishing priorities shall be developed through negotiated rulemaking under section 802. The list of priority facilities will be revised annually in consultation with Indian Tribes and Tribal Organizations.

"(2) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to Congress under section 801, the priority list maintained pursuant to paragraph (1).

"(c) REQUIREMENTS.—The requirements of this subsection are met with respect to any expansion, renovation, or modernization if—

"(1) the Indian Tribe or Tribal Organization—

"(A) provides notice to the Secretary of its intent to expand, renovate, or modernize; and

"(B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for increased operating expenses, personnel, or equipment; and

"(2) the expansion, renovation, or modernization—

"(A) is approved by the appropriate area director of the Service for Federal facilities; and

"(B) is administered by the Indian Tribe or Tribal Organization in accordance with any applicable regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

"(d) ADDITIONAL REQUIREMENT FOR EXPANSION.—In addition to the requirements under subsection (c), for any expansion, the Indian Tribe or Tribal Organization shall provide to the Secretary additional information developed through negotiated rulemaking under section 802, including additional staffing, equipment, and other costs associated with the expansion.

"(e) CLOSURE OR CONVERSION OF FACILITIES.—If any Service facility which has been expanded, renovated, or modernized by an Indian Tribe or Tribal Organization under this section ceases to be used as a Service facility during the 20-year period beginning on the date such expansion, renovation, or modernization is completed, such Indian Tribe or Tribal Organization shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such expansion, renovation, or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such expansion, renovation, or modernization) bore to the value of such facility at the time of the completion of such expansion, renovation, or modernization.

"SEC. 305. FUNDING FOR THE CONSTRUCTION, EXPANSION, AND MODERNIZATION OF SMALL AMBULATORY CARE FACILITIES.

"(a) FUNDING.—

"(1) IN GENERAL.—The Secretary, acting through the Service, in consultation with Indian Tribes and Tribal Organizations, shall make grants to Indian Tribes and Tribal Organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians (and noneligible persons pursuant to subsections (b)(2) and (c)(1)(C)). Funding made under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term 'construction' includes the replacement of an existing facility.

"(2) AGREEMENT REQUIRED.—Funding under paragraph (1) may only be made available to a Tribal Health Program operating an Indian health facility (other than a facility owned or constructed by the Service, including a facility originally owned or constructed by the Service and transferred to an Indian Tribe or Tribal Organization).

"(b) USE OF FUNDS.—

"(1) ALLOWABLE USES.—Funding provided under this section may be used for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility—

"(A) located apart from a hospital;

"(B) not funded under section 301 or section 307; and

"(C) which, upon completion of such construction or modernization will—

"(i) have a total capacity appropriate to its projected service population;

"(ii) provide annually no fewer than 150 patient visits by eligible Indians and other users who are eligible for services in such facility in accordance with section 807(c)(2); and

"(iii) provide ambulatory care in a Service Area (specified in the contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)) with a population of no fewer than 1,500 eligible Indians and other users who are eligible for services in such facility in accordance with section 807(c)(2).

"(2) ADDITIONAL ALLOWABLE USE.—The Secretary may also reserve a portion of the funding provided under this section and use those reserved funds to reduce an outstanding debt incurred by Indian Tribes or Tribal Organizations for the construction, expansion, or modernization of an ambulatory care facility that meets the requirements under paragraph (1). The provisions of this section shall apply, except that such applications for funding under this paragraph shall be considered separately from applications for funding under paragraph (1).

"(3) USE ONLY FOR CERTAIN PORTION OF COSTS.—Funding provided under this section may be used only for the cost of that portion of a construction, expansion, or modernization project that benefits the Service population identified above in subsection (b)(1)(C)(ii) and (iii). The requirements of clauses (ii) and (iii) of paragraph (1)(C) shall not apply to an Indian Tribe or Tribal Organization applying for funding under this section for a health care facility located or to be constructed on an island or when such facility is not located on a road system providing direct access to an inpatient hospital where care is available to the Service population.

"(c) FUNDING.—

"(1) APPLICATION.—No funding may be made available under this section unless an application or proposal for such funding has been approved by the Secretary in accordance with applicable regulations and has forth reasonable assurance by the applicant that, at all times after the construction, expansion, or modernization of a facility carried out pursuant to funding received under this section—

"(A) adequate financial support will be available for the provision of services at such facility;

"(B) such facility will be available to eligible Indians without regard to ability to pay or source of payment; and

"(C) such facility will, as feasible without diminishing the quality or quantity of services provided to eligible Indians, serve noneligible persons on a cost basis.

"(2) PRIORITY.—In awarding funding under this section, the Secretary shall give priority to Indian Tribes and Tribal Organizations that demonstrate—

"(A) a need for increased ambulatory care services; and

"(B) insufficient capacity to deliver such services.

"(3) PEER REVIEW PANELS.—The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications and proposals and to advise the Secretary regarding such applications using the criteria developed during consultations pursuant to subsection (a)(1).

"(d) REVERSION OF FACILITIES.—If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, within 5 years after completion of the construction, expansion, or modernization carried out with such funds, to be used for the purposes of providing health care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States unless otherwise negotiated by the Service and the Indian Tribe or Tribal Organization.

"(e) FUNDING NONRECURRING.—Funding provided under this section shall be nonrecurring and shall not be available for inclusion in any individual Indian Tribe's tribal share for an award under the Indian Self-Determination and Education Assistance Act or for reallocation or redesign thereunder.

"SEC. 306. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.

"(a) HEALTH CARE DEMONSTRATION PROJECTS.—The Secretary, acting through the Service, and in consultation with Indian Tribes and Tribal Organizations, is authorized to enter into construction agreements under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) with Indian Tribes or Tribal Organizations for the purpose of carrying out a health care delivery demonstration project to test alternative means of delivering health care and services to Indians through facilities.

"(b) USE OF FUNDS.—The Secretary, in approving projects pursuant to this section, may authorize funding for the construction and renovation of hospitals, health centers, health stations, and other facilities to deliver health care services and is authorized to—

"(1) waive any leasing prohibition;

"(2) permit carryover of funds appropriated for the provision of health care services;

"(3) permit the use of other available funds;

"(4) permit the use of funds or property donated from any source for project purposes;

"(5) provide for the reversion of donated real or personal property to the donor; and

"(6) permit the use of Service funds to match other funds, including Federal funds.

"(c) REGULATIONS.—The Secretary shall develop and promulgate regulations not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005. If the Secretary has not promulgated regulations by that date, the Secretary shall develop and publish regulations, through rulemaking under section 802, for the review and approval of applications submitted under this section.

"(d) CRITERIA.—The Secretary may approve projects that meet the following criteria:

"(1) There is a need for a new facility or program or the reorientation of an existing facility or program.

"(2) A significant number of Indians, including those with low health status, will be served by the project.

"(3) The project has the potential to deliver services in an efficient and effective manner.

"(4) The project is economically viable.

"(5) The Indian Tribe or Tribal Organization has the administrative and financial capability to administer the project.

"(6) The project is integrated with providers of related health and social services and is coordinated with, and avoids duplication of, existing services.

"(e) PEER REVIEW PANELS.—The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications using the criteria developed pursuant to subsection (d).

"(f) PRIORITY.—The Secretary shall give priority to applications for demonstration projects in each of the following Service Units to the extent that such applications are timely filed and meet the criteria specified in subsection (d):

"(1) Cass Lake, Minnesota.

"(2) Clinton, Oklahoma.

"(3) Harlem, Montana.

"(4) Mescalero, New Mexico.

"(5) Owyhee, Nevada.

"(6) Parker, Arizona.

"(7) Schurz, Nevada.

"(8) Winnebago, Nebraska.

"(9) Ft. Yuma, California.

"(g) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

"(h) SERVICE TO INELIGIBLE PERSONS.—Subject to section 807, the authority to provide services to persons otherwise ineligible for the health care benefits of the Service and the authority to extend hospital privileges in Service facilities to non-Service health practitioners as provided in section 807 may be included, subject to the terms of such section, in any demonstration project approved pursuant to this section.

"(i) EQUITABLE TREATMENT.—For purposes of subsection (d)(1), the Secretary shall, in evaluating facilities operated under any contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), use the same criteria that the Secretary uses in evaluating facilities operated directly by the Service.

"(j) EQUITABLE INTEGRATION OF FACILITIES.—The Secretary shall ensure that the planning, design, construction, renovation, and expansion needs of Service and non-Service facilities which are the subject of a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) for health services are fully and equitably integrated into the implementation of the health care delivery demonstration projects under this section.

"SEC. 307. LAND TRANSFER.

"Notwithstanding any other provision of law, the Bureau of Indian Affairs and all other agencies and departments of the United States are authorized to transfer, at no cost, land and improvements to the Service for the provision of health care services. The Secretary is authorized to accept such land and improvements for such purposes.

"SEC. 308. LEASES, CONTRACTS, AND OTHER AGREEMENTS.

"The Secretary, acting through the Service, may enter into leases, contracts, and other agreements with Indian Tribes and Tribal Organizations which hold (1) title to, (2) a leasehold interest in, or (3) a beneficial interest in (when title is held by the United States in trust for the benefit of an Indian Tribe) facilities used or to be used for the administration and delivery of health services by an Indian Health Program. Such leases, contracts, or agreements may include provisions for construction or renovation and provide for compensation to the Indian Tribe or Tribal Organization of rental and other costs consistent with section 105(*l*) of the Indian Self-Determination and Education Assistance Act and regulations thereunder.

"SEC. 309. STUDY ON LOANS, LOAN GUARANTEES, AND LOAN REPAYMENT.

"(a) IN GENERAL.—The Secretary, in consultation with the Secretary of the Treasury, Indian Tribes, and Tribal Organizations, shall carry out a study to determine the feasibility of establishing a loan fund to provide to Indian Tribes and Tribal Organizations direct loans or guarantees for loans for the construction of health care facilities, including—

"(1) inpatient facilities;

"(2) outpatient facilities;

"(3) staff quarters;

"(4) hostels; and

"(5) specialized care facilities, such as behavioral health and elder care facilities.

"(b) DETERMINATIONS.—In carrying out the study under subsection (a), the Secretary shall determine—

"(1) the maximum principal amount of a loan or loan guarantee that should be offered to a recipient from the loan fund;

"(2) the percentage of eligible costs, not to exceed 100 percent, that may be covered by a loan or loan guarantee from the loan fund (including costs relating to planning, design, financing, site land development, construction, rehabilitation, renovation, conversion, improvements, medical equipment and furnishings, and other facility-related costs and capital purchase (but excluding staffing));

"(3) the cumulative total of the principal of direct loans and loan guarantees, respectively, that may be outstanding at any 1 time;

"(4) the maximum term of a loan or loan guarantee that may be made for a facility from the loan fund;

"(5) the maximum percentage of funds from the loan fund that should be allocated for payment of costs associated with planning and applying for a loan or loan guarantee;

"(6) whether acceptance by the Secretary of an assignment of the revenue of an Indian Tribe or Tribal Organization as security for any direct loan or loan guarantee from the loan fund would be appropriate;

"(7) whether, in the planning and design of health facilities under this section, users eligible under section 807(c) may be included in any projection of patient population;

"(8) whether funds of the Service provided through loans or loan guarantees from the loan fund should be eligible for use in matching other Federal funds under other programs;

"(9) the appropriateness of, and best methods for, coordinating the loan fund with the health care priority system of the Service under section 301; and

"(10) any legislative or regulatory changes required to implement recommendations of the Secretary based on results of the study.

"(c) REPORT.—Not later than September 30, 2007, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Resources and the Committee on Energy and Commerce of the House of Representatives a report that describes—

"(1) the manner of consultation made as required by subsection (a); and

"(2) the results of the study, including any recommendations of the Secretary based on results of the study.

"SEC. 310. TRIBAL LEASING.

"A Tribal Health Program may lease permanent structures for the purpose of providing health care services without obtaining advance approval in appropriation Acts.

"SEC. 311. INDIAN HEALTH SERVICE/TRIBAL FACILITIES JOINT VENTURE PROGRAM.

"(a) IN GENERAL.—The Secretary, acting through the Service, shall make arrangements with Indian Tribes and Tribal Organizations to establish joint venture demonstration projects under which an Indian Tribe or Tribal Organization shall expend tribal, private, or other available funds, for the acquisition or construction of a health facility for a minimum of 10 years, under a no-cost lease, in exchange for agreement by the Service to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility. An Indian Tribe or Tribal Organization may use tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under a joint venture entered into under this subsection. An Indian Tribe or Tribal Organization shall be eligible to establish a joint venture project if, when it submits a letter of intent, it—

"(1) has begun but not completed the process of acquisition or construction of a health facility to be used in the joint venture project; or

"(2) has not begun the process of acquisition or construction of a health facility for use in the joint venture project.

"(b) REQUIREMENTS.—The Secretary shall make such an arrangement with an Indian Tribe or Tribal Organization only if—

"(1) the Secretary first determines that the Indian Tribe or Tribal Organization has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the relevant health facility; and

"(2) the Indian Tribe or Tribal Organization meets the need criteria which shall be developed through the negotiated rulemaking process provided for under section 802.

"(c) CONTINUED OPERATION.—The Secretary shall negotiate an agreement with the Indian Tribe or Tribal Organization regarding the continued operation of the facility at the end of the initial 10 year no-cost lease period.

"(d) BREACH OF AGREEMENT.—An Indian Tribe or Tribal Organization that has entered into a written agreement with the Secretary under this section, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the Indian Tribe or Tribal Organization, or paid to a third party on the Indian Tribe's or Tribal Organization's behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies) and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence does not apply to any funds expended for the delivery of health care services, personnel, or staffing.

"(e) RECOVERY FOR NONUSE.—An Indian Tribe or Tribal Organization that has entered into a written agreement with the Secretary under this subsection shall be entitled to recover from the United States an amount that is proportional to the value of such facility if, at any time within the 10-year term of the agreement, the Service ceases to use the facility or otherwise breaches the agreement.

"(f) DEFINITION.—For the purposes of this section, the term 'health facility' or 'health facilities' includes quarters needed to provide housing for staff of the relevant Tribal Health Program.

"SEC. 312. LOCATION OF FACILITIES.

"(a) IN GENERAL.—In all matters involving the reorganization or development of Service facilities or in the establishment of related employment projects to address unemployment conditions in economically depressed areas, the Bureau of Indian Affairs and the Service shall give priority to locating such facilities and projects on Indian lands, or lands in Alaska owned by any Alaska Native village, or village or regional corporation under the Alaska Native Claims Settlement Act, or any land allotted to any Alaska Native, if requested by the Indian owner and the Indian Tribe with jurisdiction over such lands or other lands owned or leased by the Indian Tribe or Tribal Organization. Top priority shall be given to Indian land owned by 1 or more Indian Tribes.

"(b) DEFINITION.—For purposes of this section, the term 'Indian lands' means—

"(1) all lands within the exterior boundaries of any reservation; and

"(2) any lands title to which is held in trust by the United States for the benefit of any Indian Tribe or individual Indian or held by any Indian Tribe or individual Indian subject to restriction by the United States against alienation.

"SEC. 313. MAINTENANCE AND IMPROVEMENT OF HEALTH CARE FACILITIES.

"(a) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 801, a report which identifies the backlog of maintenance and repair work required at both Service and tribal health care facilities, including new health care facilities expected to be in operation in the next fiscal year. The report shall also identify the need for renovation and expansion of existing facilities to support the growth of health care programs.

"(b) MAINTENANCE OF NEWLY CONSTRUCTED SPACE.—The Secretary, acting through the Service, is authorized to expend maintenance and improvement funds to support maintenance of newly constructed space only if such space falls within the approved supportable space allocation for the Indian Tribe or Tribal Organization. Supportable space allocation shall be defined through the negotiated rulemaking process provided for under section 802.

"(c) REPLACEMENT FACILITIES.—In addition to using maintenance and improvement funds for renovation, modernization, and expansion of facilities, an Indian Tribe or Tribal Organization may use maintenance and improvement funds for construction of a replacement facility if the costs of renovation of such facility would exceed a maximum renovation cost threshold. The maximum renovation cost threshold shall be determined through the negotiated rulemaking process provided for under section 802.

"SEC. 314. TRIBAL MANAGEMENT OF FEDERALLY OWNED QUARTERS.

"(a) RENTAL RATES.—

"(1) ESTABLISHMENT.—Notwithstanding any other provision of law, a Tribal Health Program which operates a hospital or other health facility and the federally owned quarters associated therewith pursuant to a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall have the authority to establish the rental rates charged to the occupants of such quarters by providing notice to the Secretary of its election to exercise such authority.

"(2) OBJECTIVES.—In establishing rental rates pursuant to authority of this subsection, a Tribal Health Program shall endeavor to achieve the following objectives:

"(A) To base such rental rates on the reasonable value of the quarters to the occupants thereof.

"(B) To generate sufficient funds to prudently provide for the operation and maintenance of the quarters, and subject to the discretion of the Tribal Health Program, to supply reserve funds for capital repairs and replacement of the quarters.

"(3) EQUITABLE FUNDING.—Any quarters whose rental rates are established by a Tribal Health Program pursuant to this subsection shall remain eligible for quarters improvement and repair funds to the same extent as all federally owned quarters used to house personnel in Services-supported programs.

"(4) NOTICE OF RATE CHANGE.—A Tribal Health Program which exercises the authority provided under this subsection shall provide occupants with no less than 60 days notice of any change in rental rates.

"(b) DIRECT COLLECTION OF RENT.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, and subject to paragraph (2), a Tribal Health Program shall have the authority to collect rents directly from Federal employees who occupy such quarters in accordance with the following:

"(A) The Tribal Health Program shall notify the Secretary and the subject Federal employees of its election to exercise its authority to collect rents directly from such Federal employees.

"(B) Upon receipt of a notice described in subparagraph (A), the Federal employees shall pay rents for occupancy of such quarters directly to the Tribal Health Program and the Secretary shall have no further authority to collect rents from such employees through payroll deduction or otherwise.

"(C) Such rent payments shall be retained by the Tribal Health Program and shall not be made payable to or otherwise be deposited with the United States.

"(D) Such rent payments shall be deposited into a separate account which shall be used by the Tribal Health Program for the maintenance (including capital repairs and replacement) and operation of the quarters and facilities as the Tribal Health Program shall determine.

"(2) RETROCESSION OF AUTHORITY.—If a Tribal Health Program which has made an election under paragraph (1) requests retrocession of its authority to directly collect rents from Federal employees occupying federally owned quarters, such retrocession shall become effective on the earlier of—

"(A) the first day of the month that begins no less than 180 days after the Tribal Health Program notifies the Secretary of its desire to retrocede; or

"(B) such other date as may be mutually agreed by the Secretary and the Tribal Health Program.

"(c) RATES IN ALASKA.—To the extent that a Tribal Health Program, pursuant to authority granted in subsection (a), establishes rental rates for federally owned quarters provided to a Federal employee in Alaska, such rents may be based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.

"SEC. 315. APPLICABILITY OF BUY AMERICAN ACT REQUIREMENT.

"(a) APPLICABILITY.—The Secretary shall ensure that the requirements of the Buy American Act apply to all procurements made with funds provided pursuant to section 317. Indian Tribes and Tribal Organizations shall be exempt from these requirements.

"(b) EFFECT OF VIOLATION.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to section 317, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

"(c) DEFINITIONS.—For purposes of this section, the term 'Buy American Act' means title III of the Act entitled 'An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes', approved March 3, 1933 (41 U.S.C. 10a et seq.).

"SEC. 316. OTHER FUNDING FOR FACILITIES.

"(a) AUTHORITY TO ACCEPT FUNDS.—The Secretary is authorized to accept from any source, including Federal and State agencies, funds that are available for the construction of health care facilities and use such funds to plan, design, and construct health care facilities for Indians and to place such funds into a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.). Receipt of such funds shall have no effect on the priorities established pursuant to section 301.

"(b) INTERAGENCY AGREEMENTS.—The Secretary is authorized to enter into interagency agreements with other Federal agencies or State agencies and other entities and to accept funds from such Federal or State agencies or other sources to provide for the planning, design, and construction of health care facilities to be administered by Indian Health Programs in order to carry out the purposes of this Act and the purposes for which the funds were appropriated or for which the funds were otherwise provided.

"(c) TRANSFERRED FUNDS.—Any Federal agency to which funds for the construction of health care facilities are appropriated is authorized to transfer such funds to the Secretary for the construction of health care facilities to carry out the purposes of this Act as well as the purposes for which such funds are appropriated to such other Federal agency.

"(d) ESTABLISHMENT OF STANDARDS.—The Secretary, through the Service, shall establish standards by regulation, developed by rulemaking under section 802, for the planning, design, and construction of health care facilities serving Indians under this Act.

"SEC. 317. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

"TITLE IV—ACCESS TO HEALTH SERVICES

"SEC. 401. TREATMENT OF PAYMENTS UNDER SOCIAL SECURITY ACT HEALTH CARE PROGRAMS.

"(a) DISREGARD OF MEDICARE, MEDICAID, AND SCHIP PAYMENTS IN DETERMINING APPROPRIATIONS.—Any payments received by an Indian Health Program or by an Urban Indian Organization made under title XVIII, XIX, or XXI of the Social Security Act for services provided to Indians eligible for benefits under such respective titles shall not be considered in determining appropriations for the provision of health care and services to Indians.

"(b) NONPREFERENTIAL TREATMENT.—Nothing in this Act authorizes the Secretary to provide services to an Indian with coverage under title XVIII, XIX, or XXI of the Social Security Act in preference to an Indian without such coverage.

"(c) USE OF FUNDS.—

"(1) SPECIAL FUND.—Notwithstanding any other provision of law, but subject to paragraph (2), payments to which a facility of the Service is entitled by reason of a provision of the Social Security Act shall be placed in a special fund to be held by the Secretary and first used (to such extent or in such amounts as are provided in appropriation Acts) for the purpose of making any improvements in the programs of the Service which may be necessary to achieve or maintain compliance with the applicable conditions and requirements of titles XVIII, XIX, and XXI of the Social Security Act. Any amounts to be reimbursed that are in excess of the amount necessary to achieve or maintain such conditions and requirements shall, subject to the consultation with Indian Tribes being served by the Service Unit, be used for reducing the health resource deficiencies of the Indian Tribes. In making payments from such fund, the Secretary shall ensure that each Service Unit of the Service receives 100 percent of the amount to which the facilities of the Service, for which such Service Unit makes collections, are entitled by reason of a provision of the Social Security Act.

"(2) DIRECT PAYMENT OPTION.—Paragraph (1) shall not apply upon the election of a Tribal Health Program under subsection (d) to receive payments directly. No payment may be made out of the special fund described in such paragraph with respect to reimbursement made for services provided during the period of such election.

"(d) DIRECT BILLING.—

"(1) IN GENERAL.—A Tribal Health Program may directly bill for, and receive payment for, health care items and services provided by such Indian Tribe or Tribal organization for which payment is made under title XVIII, XIX, or XXI of the Social Security Act or from any other third party payor.

"(2) DIRECT REIMBURSEMENT.—

"(A) USE OF FUNDS.—Each Tribal Health Program exercising the option described in paragraph (1) with respect to a program under a title of the Social Security Act shall be reimbursed directly by that program for items and services furnished without regard to section 401(c), but all amounts so reimbursed shall be used by the Tribal Health Program for the purpose of making any improvements in Tribal facilities or Tribal Health Programs that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to such items and services under the program under such title and to provide additional health care services, improvements in health care facilities and Tribal Health Programs, any health care-related purpose, or otherwise to achieve the objectives provided in section 3 of this Act.

"(B) AUDITS.—The amounts paid to an Indian Tribe or Tribal Organization exercising the option described in paragraph (1) with respect to a program under a title of the Social Security Act shall be subject to all auditing requirements applicable to programs administered by an Indian Health Program.

"(C) IDENTIFICATION OF SOURCE OF PAYMENTS.—If an Indian Tribe or Tribal Organization receives funding from the Service under the Indian Self-Determination and Education Assistance Act or an Urban Indian Organization receives funding from the Service under title V of this Act and receives reimbursements or payments under title XVIII, XIX, or XXI of the Social Security Act, such Indian Tribe or Tribal Organization, or Urban Indian Organization, shall provide to the Service a list of each provider enrollment number (or other identifier) under which it receives such reimbursements or payments.

"(3) EXAMINATION AND IMPLEMENTATION OF CHANGES.—The Secretary, acting through the Service and with the assistance of the Administrator of the Centers for Medicare & Medicaid Services, shall examine on an ongoing basis and implement any administrative changes that may be necessary to facilitate direct billing and reimbursement under the program established under this subsection, including any agreements with States that may be necessary to provide for direct billing under a program under a title of the Social Security Act.

"(4) WITHDRAWAL FROM PROGRAM.—A Tribal Health Program that bills directly under the program established under this subsection may withdraw from participation in the same manner and under the same conditions that an Indian Tribe or Tribal Organization may retrocede a contracted program to the Secretary under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.). All cost accounting and billing authority under the program established under this subsection shall be returned to the Secretary upon the Secretary's acceptance of the withdrawal of participation in this program.

"SEC. 402. GRANTS TO AND CONTRACTS WITH THE SERVICE, INDIAN TRIBES, TRIBAL ORGANIZATIONS, AND URBAN INDIAN ORGANIZATIONS.

"(a) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—The Secretary, acting through the Service, shall make grants to or enter into contracts with Indian Tribes and Tribal Organizations to assist such Tribes and Tribal Organizations in establishing and administering programs on or near reservations and trust lands to assist individual Indians—

"(1) to enroll for benefits under title XVIII, XIX, or XXI of the Social Security Act and other health benefits programs; and

"(2) to pay premiums for coverage for such benefits, which may be based on financial need (as determined by the Indian Tribe or Tribes being served based on a schedule of income levels developed or implemented by such Tribe or Tribes).

"(b) CONDITIONS.—The Secretary, acting through the Service, shall place conditions as deemed necessary to effect the purpose of this section in any grant or contract which the Secretary makes with any Indian Tribe or Tribal Organization pursuant to this section. Such conditions shall include requirements that the Indian Tribe or Tribal Organization successfully undertake—

"(1) to determine the population of Indians eligible for the benefits described in subsection (a);

"(2) to educate Indians with respect to the benefits available under the respective programs;

"(3) to provide transportation for such individual Indians to the appropriate offices for enrollment or applications for such benefits; and

"(4) to develop and implement methods of improving the participation of Indians in receiving the benefits provided under titles XVIII, XIX, and XXI of the Social Security Act.

"(c) AGREEMENTS RELATING TO IMPROVING ENROLLMENT OF INDIANS UNDER SOCIAL SECURITY ACT PROGRAMS.—

"(1) AGREEMENTS WITH SECRETARY TO IMPROVE RECEIPT AND PROCESSING OF APPLICATIONS.—

"(A) AUTHORIZATION.—The Secretary, acting through the Service, may enter into an agreement with an Indian Tribe, Tribal Organization, or Urban Indian Organization which provides for the receipt and processing of applications by Indians for assistance under titles XIX and XXI of the Social Security Act, and benefits under title XVIII of such Act, by an Indian Health Program or Urban Indian Organization.

"(B) REIMBURSEMENT OF COSTS.—Such agreements may provide for reimbursement of costs of outreach, education regarding eligibility and benefits, and translation when such services are provided. The reimbursement may, as appropriate, be added to the applicable rate per encounter or be provided as a separate fee-for-service payment to the Indian Tribe or Tribal Organization.

"(C) PROCESSING CLARIFIED.—In this paragraph, the term 'processing' does not include a final determination of eligibility.

"(2) AGREEMENTS WITH STATES FOR OUTREACH ON OR NEAR RESERVATION.—

"(A) IN GENERAL.—In order to improve the access of Indians residing on or near a reservation to obtain benefits under title XIX or XXI of the Social Security Act, the Secretary shall encourage the State to take steps to provide for enrollment on or near the reservation. Such steps may include outreach efforts such as the outstationing of eligibility workers, entering into agreements with Indian Tribes and Tribal Organizations to provide outreach, education regarding eligibility and benefits, enrollment, and translation services when such services are provided.

"(B) CONSTRUCTION.—Nothing in subparagraph (A) shall be construed as affecting arrangements entered into between States and Indian Tribes and Tribal Organizations for such Indian Tribes and Tribal Organizations to conduct administrative activities under such titles.

"(d) FACILITATING COOPERATION.—The Secretary, acting through the Centers for Medicare & Medicaid Services, shall take such steps as are necessary to facilitate cooperation with, and agreements between, States and the Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations.

"(e) APPLICATION TO URBAN INDIAN ORGANIZATIONS.—

"(1) IN GENERAL.—The provisions of subsection (a) shall apply with respect to grants and other funding to Urban Indian Organizations with respect to populations served by such organizations in the same manner they apply to grants and contracts with Indian Tribes and Tribal Organizations with respect to programs on or near reservations.

"(2) REQUIREMENTS.—The Secretary shall include in the grants or contracts made or provided under paragraph (1) requirements that are—

"(A) consistent with the requirements imposed by the Secretary under subsection (b);

"(B) appropriate to Urban Indian Organizations and Urban Indians; and

"(C) necessary to effect the purposes of this section.

"SEC. 403. REIMBURSEMENT FROM CERTAIN THIRD PARTIES OF COSTS OF HEALTH SERVICES.

"(a) RIGHT OF RECOVERY.—Except as provided in subsection (f), the United States, an Indian Tribe, or Tribal Organization shall have the right to recover from an insurance company, health maintenance organization, employee benefit plan, third-party tortfeasor, or any other responsible or liable third party (including a political subdivision or local governmental entity of a State) the reasonable charges as determined by the Secretary, and billed by the Secretary, an Indian Tribe, or Tribal Organization, in providing health services, through the Service, an Indian Tribe, or Tribal Organization to any individual to the same extent that such individual, or any nongovernmental provider of such services, would be eligible to receive damages, reimbursement, or indemnification for such charges or expenses if—

"(1) such services had been provided by a nongovernmental provider; and

"(2) such individual had been required to pay such charges or expenses and did pay such charges or expenses.

"(b) Limitations on Recoveries From States.—Subsection (a) shall provide a right of recovery against any State, only if the injury, illness, or disability for which health services were provided is covered under—

"(1) workers' compensation laws; or

"(2) a no-fault automobile accident insurance plan or program.

"(c) Nonapplication of Other Laws.—No law of any State, or of any political subdivision of a State and no provision of any contract, insurance or health maintenance organization policy, employee benefit plan, self-insurance plan, managed care plan, or other health care plan or program entered into or renewed after the date of the enactment of the Indian Health Care Amendments of 1988, shall prevent or hinder the right of recovery of the United States, an Indian Tribe, or Tribal Organization under subsection (a).

"(d) No Effect on Private Rights of Action.—No action taken by the United States, an Indian Tribe, or Tribal Organization to enforce the right of recovery provided under this section shall operate to deny to the injured person the recovery for that portion of the person's damage not covered hereunder.

"(e) Enforcement.—

"(1) In general.—The United States, an Indian Tribe, or Tribal Organization may enforce the right of recovery provided under subsection (a) by—

"(A) intervening or joining in any civil action or proceeding brought—

"(i) by the individual for whom health services were provided by the Secretary, an Indian Tribe, or Tribal Organization; or

"(ii) by any representative or heirs of such individual, or

"(B) instituting a civil action, including a civil action for injunctive relief and other relief and including, with respect to a political subdivision or local governmental entity of a State, such an action against an official thereof.

"(2) Notice.—All reasonable efforts shall be made to provide notice of action instituted under paragraph (1)(B) to the individual to whom health services were provided, either before or during the pendency of such action.

"(f) Limitation.—Absent specific written authorization by the governing body of an Indian Tribe for the period of such authorization (which may not be for a period of more than 1 year and which may be revoked at any time upon written notice by the governing body to the Service), the United States shall not have a right of recovery under this section if the injury, illness, or disability for which health services were provided is covered under a self-insurance plan funded by an Indian Tribe, Tribal Organization, or Urban Indian Organization. Where such authorization is provided, the Service may receive and expend such amounts for the provision of additional health services consistent with such authorization.

"(g) Costs and Attorneys' Fees.—In any action brought to enforce the provisions of this section, a prevailing plaintiff shall be awarded its reasonable attorneys' fees and costs of litigation.

"(h) Nonapplication of Claims Filing Requirements.—An insurance company, health maintenance organization, self-insurance plan, managed care plan, or other health care plan or program (under the Social Security Act or otherwise) may not deny a claim for benefits submitted by the Service or by an Indian Tribe or Tribal Organization based on the format in which the claim is submitted if such format complies with the format required for submission of claims under title XVIII of the Social Security Act or recognized under section 1175 of such Act.

"(i) Application to Urban Indian Organizations.—The previous provisions of this section shall apply to Urban Indian Organizations with respect to populations served by such Organizations in the same manner they apply to Indian Tribes and Tribal Organizations with respect to populations served by such Indian Tribes and Tribal Organizations.

"(j) Statute of Limitations.—The provisions of section 2415 of title 28, United States Code, shall apply to all actions commenced under this section, and the references therein to the United States are deemed to include Indian Tribes, Tribal Organizations, and Urban Indian Organizations.

"(k) Savings.—Nothing in this section shall be construed to limit any right of recovery available to the United States, an Indian Tribe, or Tribal Organization under the provisions of any applicable, Federal, State, or Tribal law, including medical lien laws and the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.).

"SEC. 404. CREDITING OF REIMBURSEMENTS.

"(a) Use of Amounts.—

"(1) Retention by program.—Except as provided in section 202(g) (relating to the Catastrophic Health Emergency Fund) and section 807 (relating to health services for ineligible persons), all reimbursements received or recovered under any of the programs described in paragraph (2), including under section 807, by reason of the provision of health services by the Service, by an Indian Tribe or Tribal Organization, or by an Urban Indian Organization, shall be credited to the Service, such Indian Tribe or Tribal Organization, or such Urban Indian Organization, respectively, and may be used as provided in section 401. In the case of such a service provided by or through a Service Unit, such amounts shall be credited to such unit and used for such purposes.

"(2) Programs covered.—The programs referred to in paragraph (1) are the following:

"(A) Titles XVIII, XIX, and XXI of the Social Security Act.

"(B) This Act, including section 807.

"(C) Public Law 87-693.

"(D) Any other provision of law.

"(b) No Offset of Amounts.—The Service may not offset or limit any amount obligated to any Service Unit or entity receiving funding from the Service because of the receipt of reimbursements under subsection (a).

"SEC. 405. PURCHASING HEALTH CARE COVERAGE.

"(a) In General.—Insofar as amounts are made available under law (including a provision of the Social Security Act, the Indian Self-Determination and Education Assistance Act, or other law, other than under section 402) to Indian Tribes, Tribal Organizations, and Urban Indian Organizations for health benefits for Service beneficiaries, Indian Tribes, Tribal Organizations, and Urban Indian Organizations may use such amounts to purchase health benefits coverage for such beneficiaries in any manner, including through—

"(1) a tribally owned and operated health care plan;

"(2) a State or locally authorized or licensed health care plan;

"(3) a health insurance provider or managed care organization; or

"(4) a self-insured plan.

The purchase of such coverage by an Indian Tribe, Tribal Organization, or Urban Indian Organization may be based on the financial needs of such beneficiaries (as determined by the Indian Tribe or Tribes being served based on a schedule of income levels developed or implemented by such Indian Tribe or Tribes).

"(b) Expenses for Self-Insured Plan.—In the case of a self-insured plan under subsection (a)(4), the amounts may be used for expenses of operating the plan, including administration and insurance to limit the financial risks to the entity offering the plan.

"(c) Construction.—Nothing in this section shall be construed as affecting the use of any amounts not referred to in subsection (a).

"SEC. 406. SHARING ARRANGEMENTS WITH FEDERAL AGENCIES.

"(a) Authority.—

"(1) In general.—The Secretary may enter into (or expand) arrangements for the sharing of medical facilities and services between the Service, Indian Tribes, and Tribal Organizations and the Department of Veterans Affairs and the Department of Defense.

"(2) Consultation by Secretary required.—The Secretary may not finalize any arrangement between the Service and a Department described in paragraph (1) without first consulting with the Indian Tribes which will be significantly affected by the arrangement.

"(b) Limitations.—The Secretary shall not take any action under this section or under subchapter IV of chapter 81 of title 38, United States Code, which would impair—

"(1) the priority access of any Indian to health care services provided through the Service and the eligibility of any Indian to receive health services through the Service;

"(2) the quality of health care services provided to any Indian through the Service;

"(3) the priority access of any veteran to health care services provided by the Department of Veterans Affairs;

"(4) the quality of health care services provided by the Department of Veterans Affairs or the Department of Defense; or

"(5) the eligibility of any Indian who is a veteran to receive health services through the Department of Veterans Affairs.

"(c) Reimbursement.—The Service, Indian Tribe, or Tribal Organization shall be reimbursed by the Department of Veterans Affairs or the Department of Defense (as the case may be) where services are provided through the Service, an Indian Tribe, or a Tribal Organization to beneficiaries eligible for services from either such Department, notwithstanding any other provision of law.

"(d) Construction.—Nothing in this section may be construed as creating any right of a non-Indian veteran to obtain health services from the Service.

"SEC. 407. PAYOR OF LAST RESORT.

"Indian Health Programs and health care programs operated by Urban Indian Organizations shall be the payor of last resort for services provided to persons eligible for services from Indian Health Programs and Urban

Indian Organizations, notwithstanding any Federal, State, or local law to the contrary.

“SEC. 408. NONDISCRIMINATION IN QUALIFICATIONS FOR REIMBURSEMENT FOR SERVICES.

“For purposes of determining the eligibility of an entity that is operated by the Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization to receive payment or reimbursement from any federally funded health care program for health care services it furnishes to an Indian. Such program must provide that such entity, meeting generally applicable State or other requirements applicable for participation, must be accepted as a provider on the same basis as any other qualified provider, except that any requirement that the entity be licensed or recognized under State or local law to furnish such services shall be deemed to have been met if the entity meets all the applicable standards for such licensure, but the entity need not obtain a license or other documentation. In determining whether the entity meets such standards, the absence of licensure of any staff member of the entity may not be taken into account.

“SEC. 409. CONSULTATION.

“(a) Tribal Technical Advisory Group (TTAG).—The Secretary shall maintain within the Centers for Medicaid & Medicare Services (CMS) a Tribal Technical Advisory Group, established in accordance with requirements of the charter dated September 30, 2003, and in such group shall include a representative of the Urban Indian Organizations and the Service. The representative of the Urban Indian Organization shall be deemed to be an elected officer of a tribal government for purposes of applying section 204(b) of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534(b)).

“(b) Solicitation of Medicaid Advice.—

“(1) In general.—As part of its plan under title XIX of the Social Security Act, a State in which the Service operates or funds health care programs, or in which 1 or more Indian Health Programs or Urban Indian Organizations provide health care in the State for which medical assistance is available under such title, may establish a process under which the State seeks advice on a regular, ongoing basis from designees of such Indian Health Programs and Urban Indian Organizations on matters relating to the application of such title to and likely to have a direct effect on such Indian Health Programs and Urban Indian Organizations.

“(2) Manner of advice.—The process described in paragraph (1) should include solicitation of advice prior to submission of any plan amendments, waiver requests, and proposals for demonstration projects likely to have a direct effect on Indians, Indian Health Programs, or Urban Indian Organizations. Such process may include appointment of an advisory committee and of a designee of such Indian Health Programs and Urban Indian Organizations to the medical care advisory committee advising the State on its medicaid plan.

“(3) Payment of expenses.—The reasonable expenses of carrying out this subsection shall be eligible for reimbursement under section 1903(a) of the Social Security Act.

“(c) Construction.—Nothing in this section shall be construed as superseding existing advisory committees, working groups, or other advisory procedures established by the Secretary or by any State.

“SEC. 410. STATE CHILDREN'S HEALTH INSURANCE PROGRAM (SCHIP).

“(a) Optional Use of Funds for Indian Health Program Payments.—Subject to the succeeding provisions of this section, a State may provide under its State child health plan under title XXI of the Social Security Act (regardless of whether such plan is implemented under such title, title XIX of such Act, or both) for payments under this section to Indian Health Programs and Urban Indian Organizations operating in the State. Such payments shall be treated under title XXI of the Social Security Act as expenditures described in section 2105(a)(1)(A) of such Act.

“(b) Use of Funds.—Payments under this section may be used only for expenditures described in clauses (i) through (iii) of section 2105(a)(1)(D) of the Social Security Act for targeted low-income children or other low-income children (as defined in 2110 of such Act) who are—

“(1) Indians; or

“(2) otherwise eligible for health services from the Indian Health Program involved.

“(c) Special Restrictions.—The following conditions apply to a State electing to provide payments under this section:

“(1) No limitation on other SCHIP participation of, or provider payments to, Indian health programs.—The State may not exclude or limit participation of otherwise eligible Indian Health Programs in its State child health program under title XXI of the Social Security Act or its medicaid program under title XIX of such Act or pay such Programs less than they otherwise would as participating providers on the basis that payments are made to such Programs under this section.

“(2) No limitation on other SCHIP eligibility of Indians.—The State may not exclude or limit participation of otherwise eligible Indian children in such State child health or medicaid program on the basis that payments are made for assistance for such children under this section.

“(3) Limitation on acceptance of contributions.—

“(A) In general.—The State may not accept contributions or condition making of payments under this section upon contribution of funds from any Indian Health Program to meet the State's non-Federal matching fund requirements under titles XIX and XXI of the Social Security Act.

“(B) Contribution defined.—For purposes of subparagraph (A), the term ‘contribution’ includes any tax, donation, fee, or other payment made, whether made voluntarily or involuntarily.

“(d) Application of Separate 10 Percent Limitation.—Payment may be made under section 2105(a) of the Social Security Act to a State for a fiscal year for payments under this section up to an amount equal to 10 percent of the total amount available under title XXI of such Act (including allotments and reallotments available from previous fiscal years) to the State with respect to the fiscal year.

“(e) General Terms.—A payment under this section shall only be made upon application to the State from the Indian Health Program involved and under such terms and conditions, and in a form and manner, as the Secretary determines appropriate.

“SEC. 411. SOCIAL SECURITY ACT SANCTIONS.

“(a) Requests for Waiver of Sanctions.—

“(1) In general.—For purposes of applying any authority under a provision of title XI, XVIII, XIX, or XXI of the Social Security Act to seek a waiver of a sanction imposed against a health care provider insofar as that provider provides services to individuals through an Indian Health Program, the Indian Health Program shall request the State to seek such waiver, and if such State has not sought the waiver within 60 days of the Indian Health Program request, the Indian Health Program itself may petition the Secretary for such waiver.

“(2) Procedure.—In seeking a waiver under paragraph (1), the Indian Health Program must provide notice and a copy of the request, including the reasons for the waiver sought, to the State. The Secretary may consider the State's views in the determination of the waiver request, but may not withhold or delay a determination based on the lack of the State's views.

“(b) Safe Harbor for Transactions Between and Among Indian Health Care Programs.—For purposes of applying section 1128B(b) of the Social Security Act, the exchange of anything of value between or among the following shall not be treated as remuneration if the exchange arises from or relates to any of the following health programs:

“(1) An exchange between or among the following:

“(A) Any Indian Health Program.

“(B) Any Urban Indian Organization.

“(2) An exchange between an Indian Tribe, Tribal Organization, or an Urban Indian Organization and any patient served or eligible for service from an Indian Tribe, Tribal Organization, or Urban Indian Organization, including patients served or eligible for service pursuant to section 807, but only if such exchange—

“(A) is for the purpose of transporting the patient for the provision of health care items or services;

“(B) is for the purpose of providing housing to the patient (including a pregnant patient) and immediate family members or an escort incidental to assuring the timely provision of health care items and services to the patient;

“(C) is for the purpose of paying premiums, copayments, deductibles, or other cost-sharing on behalf of patients; or

“(D) consists of an item or service of small value that is provided as a reasonable incentive to secure timely and necessary preventive and other items and services.

“(3) Other exchanges involving an Indian Health Program, an Urban Indian Organization, or an Indian Tribe or Tribal Organization that meet such standards as the Secretary of Health and Human Services, in consultation with the Attorney General, determines is appropriate, taking into account the special circumstances of such Indian Health Programs, Urban Indian Organizations, Indian Tribes, and Tribal Organizations and of patients served by Indian Health Programs, Urban Indian Organizations, Indian Tribes, and Tribal Organizations.

“SEC. 412. COST SHARING.

“(a) Coinsurance, Copayments, and Deductibles.—Notwithstanding any other provision of Federal or State law—

“(1) Protection for eligible Indians under Social Security Act health programs.—No Indian who is furnished an item or service for which payment may be made under title XIX or XXI of the Social Security Act may be charged a deductible, copayment, or coinsurance.

“(2) Protection for Indians.—No Indian who is furnished an item or service by the Service may be charged a deductible, copayment, or coinsurance.

“(3) No reduction in amount of payment to Indian health providers.—The payment or reimbursement due to the Service, Indian Tribe, Tribal Organization, or Urban Indian Organization under title XIX or XXI of the Social Security Act may not be reduced by the amount of the deductible, copayment, or coinsurance that would be due from the Indian but for the operation of this section.

“(b) Exemption From Medicaid and SCHIP Premiums.—Notwithstanding any other provision of Federal or State law, no Indian who is otherwise eligible for services under title XIX of the Social Security Act (relating to the medicaid program) or title XXI of such Act (relating to the State children's health insurance program) may be charged a premium, enrollment fee, or similar charge as a condition of receiving benefits under the program under the respective title.

“(c) Treatment of Certain Property for Medicaid Eligibility.—Notwithstanding any other provision of Federal or State law, the following property may not be included when determining eligibility for services under title XIX of the Social Security Act:

“(1) Property, including real property and improvements, located on a reservation, including any federally recognized Indian Tribe's reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established by the Alaska Native Claims Settlement Act and Indian allotments on or near a reservation as designated and approved by the Bureau of Indian Affairs of the Department of the Interior.

“(2) For any federally recognized Tribe not described in paragraph (1), property located within the most recent boundaries of a prior Federal reservation.

“(3) Ownership interests in rents, leases, royalties, or usage rights related to natural resources (including extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish, and shellfish) resulting from the exercise of federally protected rights.

“(4) Ownership interests in or usage rights to items not covered by paragraphs (1) through (3) that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional life style according to applicable tribal law or custom.

“(d) Continuation of Current Law Protections of Certain Indian Property From Medicaid Estate Recovery.—Income, resources, and property that are exempt from medicaid estate recovery under title XIX of the Social Security Act as of April 1, 2003, under manual instructions issued to carry out section 1917(b)(3) of such Act because of Federal responsibility for Indian Tribes and Alaska Native Villages shall remain so exempt. Nothing in this subsection shall be construed as preventing the Secretary from providing additional medicaid estate recovery exemptions for Indians.

“SEC. 413. TREATMENT UNDER MEDICAID MANAGED CARE.

“(a) Provision of Services, to Enrollees With Non-Indian Medicaid Managed Care Entities, by Indian Health Programs and Urban Indian Organizations.—

“(1) Payment rules.—

“(A) In general.—Subject to subparagraph (B), in the case of an Indian who is enrolled with a non-Indian medicaid managed care entity (as defined in subsection (c)) and who receives covered medicaid managed care services from an Indian Health Program or an Urban Indian Organization, whether or not it is a participating provider with respect to such entity, the following rules apply:

“(i) Direct payment.—The entity shall make prompt payment (in accordance with rules applicable to medicaid managed care entities under title XIX of the Social Security Act) to the Indian Health Program or Urban Indian Organization at a rate established by the entity for such services that is equal to the rate negotiated between such entity and the Program or Organization involved or, if such a rate has not been negotiated, a rate that is not less than the level and amount of payment which the entity would make for the services if the services were furnished by a provider which is not such a Program or Organization.

“(ii) Payment through state.—If there is no arrangement for direct payment under clause (i) or if a State provides for this clause to apply in lieu of clause (i), the State shall provide for payment to the Indian Health Program or Urban Indian Organization under its State program under title XIX of such Act at the rate that would be otherwise applicable for such services under such program and shall provide for an appropriate adjustment of the capitation payment made to the entity to take into account such payment.

“(B) Compliance with generally applicable requirements.—

“(i) In general.—Except as otherwise provided, as a condition of payment under subparagraph (A), the Indian Health Program or Urban Indian Organization shall comply with the generally applicable requirements of title XIX of the Social Security Act with respect to covered services.

“(ii) Satisfaction of claim requirement.—Any requirement for the submission of a claim or other documentation for services covered under subparagraph (A) by the enrollee is deemed to be satisfied through the submission of a claim or other documentation by the Indian Health Program or Urban Indian Organization consistent with section 403(h).

“(C) Construction.—Nothing in this subsection shall be construed as waiving the application of section 1902(a)(30)(A) of the Social Security Act (relating to application of standards to assure that payments are consistent with efficiency, economy, and quality of care).

“(2) Enrollee option to select an Indian health program or urban Indian organization as primary care provider.—In the case of a non-Indian medicaid managed care entity that—

“(A) has an Indian enrolled with the entity; and

“(B) has an Indian Health Program or Urban Indian Organization that is participating as a primary care provider within the network of the entity,

insofar as the Indian is otherwise eligible to receive services from such Program or Organization and the Program or Organization has the capacity to provide primary care services to such Indian, the Indian shall be allowed to choose such Program or Organization as the Indian's primary care provider under the entity.

“(b) Offering of Managed Care Through Indian Medicaid Managed Care Entities.—If—

“(1) a State elects to provide services through medicaid managed care entities under its medicaid managed care program; and

“(2) an Indian Health Program or Urban Indian Organization that is funded in whole or in part by the Service, or a consortium thereof, has established an Indian medicaid managed care entity in the State that meets generally applicable standards required of such an entity under such medicaid managed care program,

the State shall offer to enter into an agreement with the entity to serve as a medicaid managed care entity with respect to eligible Indians served by such entity under such program.

“(c) Special Rules for Indian Managed Care Entities.—The following are special rules regarding the application of a medicaid managed care program to Indian medicaid managed care entities:

“(1) Enrollment.—

“(A) Limitation to Indians.—An Indian medicaid managed care entity may restrict enrollment under such program to Indians and to members of specific Tribes in the same manner as Indian Health Programs may restrict the delivery of services to such Indians and tribal members.

“(B) No less choice of plans.—Under such program the State may not limit the choice of an Indian among medicaid managed care entities only to Indian medicaid managed care entities or to be more restrictive than the choice of managed care entities offered to individuals who are not Indians.

“(C) Default enrollment.—

“(i) In general.—If such program of a State requires the enrollment of Indians in a medicaid managed care entity in order to receive benefits, the State shall provide for the enrollment of Indians described in clause (ii) who are not otherwise enrolled with such an entity in an Indian medicaid managed care entity described in such clause.

“(ii) Indian described.—An Indian described in this clause, with respect to an Indian medicaid managed care entity, is an Indian who, based upon the service area and capacity of the entity, is eligible to be enrolled with the entity consistent with subparagraph (A).

“(D) Exception to state lock-in.—A request by an Indian who is enrolled under such program with a non-Indian medicaid managed care entity to change enrollment with that entity to enrollment with an Indian medicaid managed care entity shall be considered cause for granting such request under procedures specified by the Secretary.

“(2) Flexibility in application of solvency.—In applying section 1903(m)(1) of the Social Security Act to an Indian medicaid managed care entity—

“(A) any reference to a ‘State’ in subparagraph (A)(ii) of that section shall be deemed to be a reference to the ‘Secretary’; and

“(B) the entity shall be deemed to be a public entity described in subparagraph (C)(ii) of that section.

“(3) Exceptions to advance directives.—The Secretary may modify or waive the requirements of section 1902(w) of the Social Security Act (relating to provision of written materials on advance directives) insofar as the Secretary finds that the requirements otherwise imposed are not an appropriate or effective way of communicating the information to Indians.

“(4) Flexibility in information and marketing.—

“(A) Materials.—The Secretary may modify requirements under section 1932(a)(5) of the Social Security Act in a manner that improves the materials to take into account the special circumstances of such entities and their enrollees while maintaining and clearly communicating to potential enrollees their rights, protections, and benefits.

“(B) Distribution of marketing materials.—The provisions of section 1932(d)(2)(B) of the Social Security Act requiring the distribution of marketing materials to an entire service area shall be deemed satisfied in the case of an Indian medicaid managed care entity that distributes appropriate materials only to those Indians who are potentially eligible to enroll with the entity in the service area.

"(d) MALPRACTICE INSURANCE.—Insofar as, under a medicaid managed care program, a health care provider is required to have medical malpractice insurance coverage as a condition of contracting as a provider with a medicaid managed care entity, an Indian Health Program, or an Urban Indian Organization that is a Federally-qualified health center under title XIX of the Social Security Act, that is covered under the Federal Tort Claims Act (28 U.S.C. 1346(b), 2671 et seq.) is deemed to satisfy such requirement.

"(e) DEFINITIONS.—For purposes of this section:

"(1) MEDICAID MANAGED CARE ENTITY.—The term 'medicaid managed care entity' means a managed care entity (whether a managed care organization or a primary care case manager) under title XIX of the Social Security Act, whether pursuant to section 1903(m) or section 1932 of such Act, a waiver under section 1115 or 1915(b) of such Act, or otherwise.

"(2) INDIAN MEDICAID MANAGED CARE ENTITY.—The term 'Indian medicaid managed care entity' means a managed care entity that is controlled (within the meaning of the last sentence of section 1903(m)(1)(C) of the Social Security Act) by the Indian Health Service, a Tribe, Tribal Organization, or Urban Indian Organization (as such terms are defined in section 4), or a consortium, which may be composed of 1 or more Tribes, Tribal Organizations, or Urban Indian Organizations, and which also may include the Service.

"(3) NON-INDIAN MEDICAID MANAGED CARE ENTITY.—The term 'non-Indian medicaid managed care entity' means a medicaid managed care entity that is not an Indian medicaid managed care entity.

"(4) COVERED MEDICAID MANAGED CARE SERVICES.—The term 'covered medicaid managed care services' means, with respect to an individual enrolled with a medicaid managed care entity, items and services that are within the scope of items and services for which benefits are available with respect to the individual under the contract between the entity and the State involved.

"(5) MEDICAID MANAGED CARE PROGRAM.—The term 'medicaid managed care program' means a program under sections 1903(m) and 1932 of the Social Security Act and includes a managed care program operating under a waiver under section 1915(b) or 1115 of such Act or otherwise.

"SEC. 414. NAVAJO NATION MEDICAID AGENCY FEASIBILITY STUDY.

"(a) STUDY.—The Secretary shall conduct a study to determine the feasibility of treating the Navajo Nation as a State for the purposes of title XIX of the Social Security Act, to provide services to Indians living within the boundaries of the Navajo Nation through an entity established having the same authority and performing the same functions as single-State medicaid agencies responsible for the administration of the State plan under title XIX of the Social Security Act.

"(b) CONSIDERATIONS.—In conducting the study, the Secretary shall consider the feasibility of—

"(1) assigning and paying all expenditures for the provision of services and related administration funds, under title XIX of the Social Security Act, to Indians living within the boundaries of the Navajo Nation that are currently paid to or would otherwise be paid to the State of Arizona, New Mexico, or Utah;

"(2) providing assistance to the Navajo Nation in the development and implementation of such entity for the administration, eligibility, payment, and delivery of medical assistance under title XIX of the Social Security Act;

"(3) providing an appropriate level of matching funds for Federal medical assistance with respect to amounts such entity expends for medical assistance for services and related administrative costs; and

"(4) authorizing the Secretary, at the option of the Navajo Nation, to treat the Navajo Nation as a State for the purposes of title XIX of the Social Security Act (relating to the State children's health insurance program) under terms equivalent to those described in paragraphs (2) through (4).

"(c) REPORT.—Not later then 3 years after the date of enactment of the Indian Health Act Improvement Act Amendments of 2005, the Secretary shall submit to the Committee of Indian Affairs and Committee on Finance of the Senate and the Committee on Resources and Committee on Ways and Means of the House of Representatives a report that includes—

"(1) the results of the study under this section;

"(2) a summary of any consultation that occurred between the Secretary and the Navajo Nation, other Indian Tribes, the States of Arizona, New Mexico, and Utah, counties which include Navajo Lands, and other interested parties, in conducting this study;

"(3) projected costs or savings associated with establishment of such entity, and any estimated impact on services provided as described in this section in relation to probable costs or savings; and

"(4) legislative actions that would be required to authorize the establishment of such entity if such entity is determined by the Secretary to be feasible.

"SEC. 415. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

"TITLE V—HEALTH SERVICES FOR URBAN INDIANS

"SEC. 501. PURPOSE.

"The purpose of this title is to establish and maintain programs in Urban Centers to make health services more accessible and available to Urban Indians.

"SEC. 502. CONTRACTS WITH, AND GRANTS TO, URBAN INDIAN ORGANIZATIONS.

"Under authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary, acting through the Service, shall enter into contracts with, or make grants to, Urban Indian Organizations to assist such organizations in the establishment and administration, within Urban Centers, of programs which meet the requirements set forth in this title. Subject to section 506, the Secretary, acting through the Service, shall include such conditions as the Secretary considers necessary to effect the purpose of this title in any contract into which the Secretary enters with, or in any grant the Secretary makes to, any Urban Indian Organization pursuant to this title.

"SEC. 503. CONTRACTS AND GRANTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES.

"(a) REQUIREMENTS FOR GRANTS AND CONTRACTS.—Under authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary, acting through the Service, shall enter into contracts with, and make grants to, Urban Indian Organizations for the provision of health care and referral services for Urban Indians. Any such contract or grant shall include requirements that the Urban Indian Organization successfully undertake to—

"(1) estimate the population of Urban Indians residing in the Urban Center or centers that the organization proposes to serve who are or could be recipients of health care or referral services;

"(2) estimate the current health status of Urban Indians residing in such Urban Center or centers;

"(3) estimate the current health care needs of Urban Indians residing in such Urban Center or centers;

"(4) provide basic health education, including health promotion and disease prevention education, to Urban Indians;

"(5) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of Urban Indians; and

"(6) where necessary, provide, or enter into contracts for the provision of, health care services for Urban Indians.

"(b) CRITERIA.—The Secretary, acting through the Service, shall by regulation adopted pursuant to section 520 prescribe the criteria for selecting Urban Indian Organizations to enter into contracts or receive grants under this section. Such criteria shall, among other factors, include—

"(1) the extent of unmet health care needs of Urban Indians in the Urban Center or centers involved;

"(2) the size of the Urban Indian population in the Urban Center or centers involved;

"(3) the extent, if any, to which the activities set forth in subsection (a) would duplicate any project funded under this title;

"(4) the capability of an Urban Indian Organization to perform the activities set forth in subsection (a) and to enter into a contract with the Secretary or to meet the requirements for receiving a grant under this section;

"(5) the satisfactory performance and successful completion by an Urban Indian Organization of other contracts with the Secretary under this title;

"(6) the appropriateness and likely effectiveness of conducting the activities set forth in subsection (a) in an Urban Center or centers; and

"(7) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other agencies.

"(c) ACCESS TO HEALTH PROMOTION AND DISEASE PREVENTION PROGRAMS.—The Secretary, acting through the Service, shall facilitate access to or provide health promotion and disease prevention services for Urban Indians through grants made to Urban Indian Organizations administering contracts entered into or receiving grants under subsection (a).

"(d) IMMUNIZATION SERVICES.—

"(1) ACCESS OR SERVICES PROVIDED.—The Secretary, acting through the Service, shall facilitate access to, or provide, immunization services for Urban Indians through grants made to Urban Indian Organizations administering contracts entered into or receiving grants under this section.

"(2) DEFINITION.—For purposes of this subsection, the term 'immunization services' means services to provide without charge immunizations against vaccine-preventable diseases.

"(e) BEHAVIORAL HEALTH SERVICES.—

"(1) ACCESS OR SERVICES PROVIDED.—The Secretary, acting through the Service, shall facilitate access to, or provide, behavioral health services for Urban Indians through grants made to Urban Indian Organizations administering contracts entered into or receiving grants under subsection (a).

"(2) ASSESSMENT REQUIRED.—Except as provided by paragraph (3)(A), a grant may not be made under this subsection to an Urban Indian Organization until that organization has prepared, and the Service has approved, an assessment of the following:

"(A) The behavioral health needs of the Urban Indian population concerned.

"(B) The behavioral health services and other related resources available to that population.

"(C) The barriers to obtaining those services and resources.

"(D) The needs that are unmet by such services and resources.

"(3) PURPOSES OF GRANTS.—Grants may be made under this subsection for the following:

"(A) To prepare assessments required under paragraph (2).

"(B) To provide outreach, educational, and referral services to Urban Indians regarding the availability of direct behavioral health services, to educate Urban Indians about behavioral health issues and services, and effect coordination with existing behavioral health providers in order to improve services to Urban Indians.

"(C) To provide outpatient behavioral health services to Urban Indians, including the identification and assessment of illness, therapeutic treatments, case management, support groups, family treatment, and other treatment.

"(D) To develop innovative behavioral health service delivery models which incorporate Indian cultural support systems and resources.

"(f) PREVENTION OF CHILD ABUSE.—

"(1) ACCESS OR SERVICES PROVIDED.—The Secretary, acting through the Service, shall facilitate access to or provide services for Urban Indians through grants to Urban Indian Organizations administering contracts entered into or receiving grants under subsection (a) to prevent and treat child abuse (including sexual abuse) among Urban Indians.

"(2) EVALUATION REQUIRED.—Except as provided by paragraph (3)(A), a grant may not be made under this subsection to an Urban Indian Organization until that organization has prepared, and the Service has approved, an assessment that documents the prevalence of child abuse in the Urban Indian population concerned and specifies the services and programs (which may not duplicate existing services and programs) for which the grant is requested.

"(3) PURPOSES OF GRANTS.—Grants may be made under this subsection for the following:

"(A) To prepare assessments required under paragraph (2).

"(B) For the development of prevention, training, and education programs for Urban Indians, including child education, parent education, provider training on identification and intervention, education on reporting requirements, prevention campaigns, and establishing service networks of all those involved in Indian child protection.

"(C) To provide direct outpatient treatment services (including individual treatment, family treatment, group therapy, and support groups) to Urban Indians who are child victims of abuse (including sexual abuse) or adult survivors of child sexual abuse, to the families of such child victims, and to Urban Indian perpetrators of child abuse (including sexual abuse).

"(4) CONSIDERATIONS WHEN MAKING GRANTS.—In making grants to carry out this subsection, the Secretary shall take into consideration—

"(A) the support for the Urban Indian Organization demonstrated by the child protection authorities in the area, including committees or other services funded under the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), if any;

"(B) the capability and expertise demonstrated by the Urban Indian Organization to address the complex problem of child sexual abuse in the community; and

"(C) the assessment required under paragraph (2).

"(g) OTHER GRANTS.—The Secretary, acting through the Service, may enter into a contract with or make grants to an Urban Indian Organization that provides or arranges for the provision of health care services (through satellite facilities, provider networks, or otherwise) to Urban Indians in more than 1 Urban Center.

"SEC. 504. CONTRACTS AND GRANTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS.

"(a) GRANTS AND CONTRACTS AUTHORIZED.—Under authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary, acting through the Service, may enter into contracts with or make grants to Urban Indian Organizations situated in Urban Centers for which contracts have not been entered into or grants have not been made under section 503.

"(b) PURPOSE.—The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (c)(1) in order to assist the Secretary in assessing the health status and health care needs of Urban Indians in the Urban Center involved and determining whether the Secretary should enter into a contract or make a grant under section 503 with respect to the Urban Indian Organization which the Secretary has entered into a contract with, or made a grant to, under this section.

"(c) GRANT AND CONTRACT REQUIREMENTS.—Any contract entered into, or grant made, by the Secretary under this section shall include requirements that—

"(1) the Urban Indian Organization successfully undertakes to—

"(A) document the health care status and unmet health care needs of Urban Indians in the Urban Center involved; and

"(B) with respect to Urban Indians in the Urban Center involved, determine the matters described in paragraphs (2), (3), (4), and (7) of section 503(b); and

"(2) the Urban Indian Organization complete performance of the contract, or carry out the requirements of the grant, within 1 year after the date on which the Secretary and such organization enter into such contract, or within 1 year after such organization receives such grant, whichever is applicable.

"(d) NO RENEWALS.—The Secretary may not renew any contract entered into or grant made under this section.

"SEC. 505. EVALUATIONS; RENEWALS.

"(a) PROCEDURES FOR EVALUATIONS.—The Secretary, acting through the Service, shall develop procedures to evaluate compliance with grant requirements and compliance with and performance of contracts entered into by Urban Indian Organizations under this title. Such procedures shall include provisions for carrying out the requirements of this section.

"(b) EVALUATIONS.—The Secretary, acting through the Service, shall evaluate the compliance of each Urban Indian Organization which has entered into a contract or received a grant under section 503 with the terms of such contract or grant. For purposes of this evaluation, in determining the capacity of an Urban Indian Organization to deliver quality patient care the Secretary shall, at the option of the organization—

"(1) acting through the Service, conduct an annual onsite evaluation of the organization; or

"(2) accept in lieu of such onsite evaluation evidence of the organization's provisional or full accreditation by a private independent entity recognized by the Secretary for purposes of conducting quality reviews of providers participating in the Medicare program under title XVIII of the Social Security Act.

"(c) NONCOMPLIANCE; UNSATISFACTORY PERFORMANCE.—If, as a result of the evaluations conducted under this section, the Secretary determines that an Urban Indian Organization has not complied with the requirements of a grant or complied with or satisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract or grant, attempt to resolve with the organization the areas of noncompliance or unsatisfactory performance and modify the contract or grant to prevent future occurrences of noncompliance or unsatisfactory performance. If the Secretary determines that the noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew the contract or grant with the organization and is authorized to enter into a contract or make a grant under section 503 with another Urban Indian Organization which is situated in the same Urban Center as the Urban Indian Organization whose contract or grant is not renewed under this section.

"(d) CONSIDERATIONS FOR RENEWALS.—In determining whether to renew a contract or grant with an Urban Indian Organization under section 503 which has completed performance of a contract or grant under section 504, the Secretary shall review the records of the Urban Indian Organization, the reports submitted under section 507, and shall consider the results of the onsite evaluations or accreditations under subsection (b).

"SEC. 506. OTHER CONTRACT AND GRANT REQUIREMENTS.

"(a) PROCUREMENT.—Contracts with Urban Indian Organizations entered into pursuant to this title shall be in accordance with all Federal contracting laws and regulations relating to procurement except that in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of sections 1304 and 3131 through 3133 of title 40, United States Code.

"(b) PAYMENTS UNDER CONTRACTS OR GRANTS.—Payments under any contracts or grants pursuant to this title shall, notwithstanding any term or condition of such contract or grant—

"(1) be made in their entirety by the Secretary to the Urban Indian Organization by no later than the end of the first 30 days of the funding period with respect to which the payments apply, unless the Secretary determines through an evaluation under section 505 that the organization is not capable of administering such payments in their entirety; and

“(2) if any portion thereof is unexpended by the Urban Indian Organization during the funding period with respect to which the payments initially apply, shall be carried forward for expenditure with respect to allowable or reimbursable costs incurred by the organization during 1 or more subsequent funding periods without additional justification or documentation by the organization as a condition of carrying forward the availability for expenditure of such funds.

“(c) Revision or Amendment of Contracts.—Notwithstanding any provision of law to the contrary, the Secretary may, at the request and consent of an Urban Indian Organization, revise or amend any contract entered into by the Secretary with such organization under this title as necessary to carry out the purposes of this title.

“(d) Fair and Uniform Services and Assistance.—Contracts with or grants to Urban Indian Organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to Urban Indians of services and assistance under such contracts or grants by such organizations.

“SEC. 507. REPORTS AND RECORDS.

“(a) Reports.—For each fiscal year during which an Urban Indian Organization receives or expends funds pursuant to a contract entered into or a grant received pursuant to this title, such Urban Indian Organization shall submit to the Secretary not more frequently than every 6 months, a report that includes the following:

“(1) In the case of a contract or grant under section 503, recommendations pursuant to section 503(a)(5).

“(2) Information on activities conducted by the organization pursuant to the contract or grant.

“(3) An accounting of the amounts and purpose for which Federal funds were expended.

“(4) A minimum set of data, using uniformly defined elements, as specified by the Secretary after consultation with Urban Indian Organizations.

“(b) Audit.—The reports and records of the Urban Indian Organization with respect to a contract or grant under this title shall be subject to audit by the Secretary and the Comptroller General of the United States.

“(c) Costs of Audits.—The Secretary shall allow as a cost of any contract or grant entered into or awarded under section 502 or 503 the cost of an annual independent financial audit conducted by—

“(1) a certified public accountant; or

“(2) a certified public accounting firm qualified to conduct Federal compliance audits.

“SEC. 508. LIMITATION ON CONTRACT AUTHORITY.

“The authority of the Secretary to enter into contracts or to award grants under this title shall be to the extent, and in an amount, provided for in appropriation Acts.

“SEC. 509. FACILITIES.

“(a) Grants.—The Secretary, acting through the Service, may make grants to contractors or grant recipients under this title for the lease, purchase, renovation, construction, or expansion of facilities, including leased facilities, in order to assist such contractors or grant recipients in complying with applicable licensure or certification requirements.

“(b) Loan Fund Study.—The Secretary, acting through the Services, may carry out a study to determine the feasibility of establishing a loan fund to provide to Urban Indian Organizations direct loans or guarantees for loans for the construction of health care facilities in a manner consistent with section 309.

“SEC. 510. OFFICE OF URBAN INDIAN HEALTH.

“There is established within the Service an Office of Urban Indian Health, which shall be responsible for—

“(1) carrying out the provisions of this title;

“(2) providing central oversight of the programs and services authorized under this title; and

“(3) providing technical assistance to Urban Indian Organizations.

“SEC. 511. GRANTS FOR ALCOHOL AND SUBSTANCE ABUSE-RELATED SERVICES.

“(a) Grants Authorized.—The Secretary, acting through the Service, may make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school- and community-based education regarding, alcohol and substance abuse in Urban Centers to those Urban Indian Organizations with which the Secretary has entered into a contract under this title or under section 201.

“(b) Goals.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

“(c) Criteria.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the following:

“(1) The size of the Urban Indian population.

“(2) Capability of the organization to adequately perform the activities required under the grant.

“(3) Satisfactory performance standards for the organization in meeting the goals set forth in such grant. The standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis.

“(4) Identification of the need for services.

“(d) Allocation of Grants.—The Secretary shall develop a methodology for allocating grants made pursuant to this section based on the criteria established pursuant to subsection (c).

“(e) Grants Subject to Criteria.—Any funds received by an Urban Indian Organization under this Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).

“SEC. 512. TREATMENT OF CERTAIN DEMONSTRATION PROJECTS.

“Notwithstanding any other provision of law, the Tulsa Clinic and Oklahoma City Clinic demonstration projects shall—

“(1) be permanent programs within the Service's direct care program;

“(2) continue to be treated as Service Units in the allocation of resources and coordination of care; and

“(3) continue to meet the requirements and definitions of an urban Indian organization in this Act, and shall not be subject to the provisions of the Indian Self-Determination and Education Assistance Act.

“SEC. 513. URBAN NIAAA TRANSFERRED PROGRAMS.

“(a) Grants and Contracts.—The Secretary, through the Office of Urban Indian Health, shall make grants or enter into contracts with Urban Indian Organizations for the administration of Urban Indian alcohol programs that were originally established under the National Institute on Alcoholism and Alcohol Abuse (hereafter in this section referred to as ‘NIAAA’) and transferred to the Service. Such grants and contracts shall become effective no later than September 30, 2008.

“(b) Use of Funds.—Grants provided or contracts entered into under this section shall be used to provide support for the continuation of alcohol prevention and treatment services for Urban Indian populations and such other objectives as are agreed upon between the Service and a recipient of a grant or contract under this section.

“(c) Eligibility.—Urban Indian Organizations that operate Indian alcohol programs originally funded under the NIAAA and subsequently transferred to the Service are eligible for grants or contracts under this section.

“(d) Report.—The Secretary shall evaluate and report to Congress on the activities of programs funded under this section not less than every 5 years.

“SEC. 514. CONSULTATION WITH URBAN INDIAN ORGANIZATIONS.

“(a) In General.—The Secretary shall ensure that the Service consults, to the greatest extent practicable, with Urban Indian Organizations.

“(b) Definition of Consultation.—For purposes of subsection (a), consultation is the open and free exchange of information and opinions which leads to mutual understanding and comprehension and which emphasizes trust, respect, and shared responsibility.

“SEC. 515. FEDERAL TORT CLAIM ACT COVERAGE.

“(a) In General.—With respect to claims resulting from the performance of functions during fiscal year 2005 and thereafter, or claims asserted after September 30, 2004, but resulting from the performance of functions prior to fiscal year 2005, under a contract, grant agreement, or any other agreement authorized under this title, an Urban Indian Organization is deemed hereafter to be part of the Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees are deemed employees of the Service while acting within the scope of their employment in carrying out the contract or agreement. After September 30, 2003, any civil action or proceeding involving such claims brought hereafter against any Urban Indian Organization or any employee of such Urban Indian Organization covered by this provision shall be deemed to be an action against the United States and will be defended by the Attorney General and be afforded the full protection and coverage of the Federal Tort Claims Act (28 U.S.C. 1346(b), 2671 et seq.). Future coverage under that Act shall be contingent on cooperation of the Urban Indian Organization with the Attorney General in prosecuting past claims.

“(b) Claims Resulting From Performance of Contract or Grant.—Beginning for fiscal year 2005 and thereafter, the Secretary shall request through annual appropriations funds sufficient to reimburse the Treasury for any claims paid in the prior fiscal year pursuant to the foregoing provisions.

“SEC. 516. URBAN YOUTH TREATMENT CENTER DEMONSTRATION.

“(a) Construction and Operation.—The Secretary, acting through the Service, through grant or contract, is authorized to fund the construction and operation of at least 2 residential treatment centers in each State described in subsection (b) to demonstrate the provision of alcohol and substance abuse treatment services to Urban Indian youth in a culturally competent residential setting.

"(b) DEFINITION OF STATE.—A State described in this subsection is a State in which—

"(1) there resides Urban Indian youth with need for alcohol and substance abuse treatment services in a residential setting; and

"(2) there is a significant shortage of culturally competent residential treatment services for Urban Indian youth.

"SEC. 517. USE OF FEDERAL GOVERNMENT FACILITIES AND SOURCES OF SUPPLY.

"(a) AUTHORIZATION FOR USE.—The Secretary, acting through the Service, shall allow an Urban Indian Organization that has entered into a contract or received a grant pursuant to this title, in carrying out such contract or grant, to use existing facilities and all equipment therein or pertaining thereto and other personal property owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

"(b) DONATIONS.—Subject to subsection (d), the Secretary may donate to an Urban Indian Organization that has entered into a contract or received a grant pursuant to this title any personal or real property determined to be excess to the needs of the Service or the General Services Administration for purposes of carrying out the contract or grant.

"(c) ACQUISITION OF PROPERTY FOR DONATION.—The Secretary may acquire excess or surplus government personal or real property for donation (subject to subsection (d)), to an Urban Indian Organization that has entered into a contract or received a grant pursuant to this title if the Secretary determines that the property is appropriate for use by the Urban Indian Organization for a purpose for which a contract or grant is authorized under this title.

"(d) PRIORITY.—In the event that the Secretary receives a request for donation of a specific item of personal or real property described in subsection (b) or (c) from both an Urban Indian Organization and from an Indian Tribe or Tribal Organization, the Secretary shall give priority to the request for donation of the Indian Tribe or Tribal Organization if the Secretary receives the request from the Indian Tribe or Tribal Organization before the date the Secretary transfers title to the property or, if earlier, the date the Secretary transfers the property physically to the Urban Indian Organization.

"(e) URBAN INDIAN ORGANIZATIONS DEEMED EXECUTIVE AGENCY FOR CERTAIN PURPOSES.—For purposes of section 501 of title 40, United States Code, (relating to Federal sources of supply, including lodging providers, airlines, and other transportation providers), an Urban Indian Organization that has entered into a contract or received a grant pursuant to this title shall be deemed an executive agency when carrying out such contract or grant.

"SEC. 518. GRANTS FOR DIABETES PREVENTION, TREATMENT, AND CONTROL.

"(a) GRANTS AUTHORIZED.—The Secretary may make grants to those Urban Indian Organizations that have entered into a contract or have received a grant under this title for the provision of services for the prevention and treatment of, and control of the complications resulting from, diabetes among Urban Indians.

"(b) GOALS.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished under the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

"(c) ESTABLISHMENT OF CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a) relating to—

"(1) the size and location of the Urban Indian population to be served;

"(2) the need for prevention of and treatment of, and control of the complications resulting from, diabetes among the Urban Indian population to be served;

"(3) performance standards for the organization in meeting the goals set forth in such grant that are negotiated and agreed to by the Secretary and the grantee;

"(4) the capability of the organization to adequately perform the activities required under the grant; and

"(5) the willingness of the organization to collaborate with the registry, if any, established by the Secretary under section 204(e) in the Area Office of the Service in which the organization is located.

"(d) FUNDS SUBJECT TO CRITERIA.—Any funds received by an Urban Indian Organization under this Act for the prevention, treatment, and control of diabetes among Urban Indians shall be subject to the criteria developed by the Secretary under subsection (c).

"SEC. 519. COMMUNITY HEALTH REPRESENTATIVES.

"The Secretary, acting through the Service, may enter into contracts with, and make grants to, Urban Indian Organizations for the employment of Indians trained as health service providers through the Community Health Representatives Program under section 109 in the provision of health care, health promotion, and disease prevention services to Urban Indians.

"SEC. 520. REGULATIONS.

"(a) REQUIREMENTS FOR REGULATIONS.—The Secretary may promulgate regulations to implement the provisions of this title in accordance with the following:

"(1) Proposed regulations to implement this Act shall be published in the Federal Register by the Secretary no later than 9 months after the date of enactment of this Act and shall have no less than a 4-month comment period.

"(2) The authority to promulgate regulations under this Act shall expire 18 months from the date of enactment of this Act.

"(b) EFFECTIVE DATE OF TITLE.—The amendments to this title made by the Indian Health Care Improvement Act Amendments of 2005 shall be effective on the date of enactment of such amendments, regardless of whether the Secretary has promulgated regulations implementing such amendments have been promulgated.

"SEC. 521. ELIGIBILITY FOR SERVICES.

"Urban Indians shall be eligible and the ultimate beneficiaries for health care or referral services provided pursuant to this title.

"SEC. 522. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

"TITLE VI—ORGANIZATIONAL IMPROVEMENTS

"SEC. 601. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian Tribes, as are or may be hereafter provided by Federal statute or treaties, there is established within the Public Health Service of the Department the Indian Health Service.

"(2) ASSISTANT SECRETARY OF INDIAN HEALTH.—The Service shall be administered by an Assistant Secretary of Indian Health, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary shall report to the Secretary. Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 2005, the term of service of the Assistant Secretary shall be 4 years. An Assistant Secretary may serve more than 1 term.

"(3) INCUMBENT.—The individual serving in the position of Director of the Indian Health Service on the day before the date of enactment of the Indian Health Care Improvement Act Amendments of 2005 shall serve as Assistant Secretary.

"(4) ADVOCACY AND CONSULTATION.—The position of Assistant Secretary is established to, in a manner consistent with the government-to-government relationship between the United States and Indian Tribes—

"(A) facilitate advocacy for the development of appropriate Indian health policy; and

"(B) promote consultation on matters relating to Indian health.

"(b) AGENCY.—The Service shall be an agency within the Public Health Service of the Department, and shall not be an office, component, or unit of any other agency of the Department.

"(c) DUTIES.—The Assistant Secretary of Indian Health shall—

"(1) perform all functions that were, on the day before the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, carried out by or under the direction of the individual serving as Director of the Service on that day;

"(2) perform all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and provision and utilization of, health services for Indians;

"(3) administer all health programs under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including programs under—

"(A) this Act;

"(B) the Act of November 2, 1921 (25 U.S.C. 13);

"(C) the Act of August 5, 1954 (42 U.S.C. 2001 et seq.);

"(D) the Act of August 16, 1957 (42 U.S.C. 2005 et seq.); and

"(E) the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

"(4) administer all scholarship and loan functions carried out under title I;

"(5) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;

"(6) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

"(7) advise each Assistant Secretary of the Department concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

"(8) advise the heads of other agencies and programs of the Department concerning matters of Indian health with respect to which those heads have authority and responsibility;

"(9) coordinate the activities of the Department concerning matters of Indian health; and

"(10) perform such other functions as the Secretary may designate.

"(d) AUTHORITY.—

"(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary, shall have the authority—

"(A) except to the extent provided for in paragraph (2), to appoint and compensate employees for the Service in accordance with title 5, United States Code;

"(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

"(C) to manage, expend, and obligate all funds appropriated for the Service.

"(2) PERSONNEL ACTIONS.—Notwithstanding any other provision of law, the provisions of section 12 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 472), shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a).

"(e) REFERENCES.—Any reference to the Director of the Indian Health Service in any other Federal law, Executive order, rule, regulation, or delegation of authority, or in any document of or relating to the Director of the Indian Health Service, shall be deemed to refer to the Assistant Secretary.

"SEC. 602. AUTOMATED MANAGEMENT INFORMATION SYSTEM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish an automated management information system for the Service.

"(2) REQUIREMENTS OF SYSTEM.—The information system established under paragraph (1) shall include—

"(A) a financial management system;

"(B) a patient care information system for each area served by the Service;

"(C) a privacy component that protects the privacy of patient information held by, or on behalf of, the Service;

"(D) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each Area office of the Service;

"(E) an interface mechanism for patient billing and accounts receivable system; and

"(F) a training component.

"(b) PROVISION OF SYSTEMS TO TRIBES AND ORGANIZATIONS.—The Secretary shall provide each Tribal Health Program automated management information systems which—

"(1) meet the management information needs of such Tribal Health Program with respect to the treatment by the Tribal Health Program of patients of the Service; and

"(2) meet the management information needs of the Service.

"(c) ACCESS TO RECORDS.—Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.

"(d) AUTHORITY TO ENHANCE INFORMATION TECHNOLOGY.—The Secretary, acting through the Assistant Secretary, shall have the authority to enter into contracts, agreements, or joint ventures with other Federal agencies, States, private and nonprofit organizations, for the purpose of enhancing information technology in Indian health programs and facilities.

"SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

"TITLE VII—BEHAVIORAL HEALTH PROGRAMS

"SEC. 701. BEHAVIORAL HEALTH PREVENTION AND TREATMENT SERVICES.

"(a) PURPOSES.—The purposes of this section are as follows:

"(1) To authorize and direct the Secretary, acting through the Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations, to develop a comprehensive behavioral health prevention and treatment program which emphasizes collaboration among alcohol and substance abuse, social services, and mental health programs.

"(2) To provide information, direction, and guidance relating to mental illness and dysfunction and self-destructive behavior, including child abuse and family violence, to those Federal, tribal, State, and local agencies responsible for programs in Indian communities in areas of health care, education, social services, child and family welfare, alcohol and substance abuse, law enforcement, and judicial services.

"(3) To assist Indian Tribes to identify services and resources available to address mental illness and dysfunctional and self-destructive behavior.

"(4) To provide authority and opportunities for Indian Tribes and Tribal Organizations to develop, implement, and coordinate with community-based programs which include identification, prevention, education, referral, and treatment services, including through multidisciplinary resource teams.

"(5) To ensure that Indians, as citizens of the United States and of the States in which they reside, have the same access to behavioral health services to which all citizens have access.

"(6) To modify or supplement existing programs and authorities in the areas identified in paragraph (2).

"(b) PLANS.—

"(1) DEVELOPMENT.—The Secretary, acting through the Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall encourage Indian Tribes and Tribal Organizations to develop tribal plans, and Urban Indian Organizations to develop local plans, and for all such groups to participate in developing areawide plans for Indian Behavioral Health Services. The plans shall include, to the extent feasible, the following components:

"(A) An assessment of the scope of alcohol or other substance abuse, mental illness, and dysfunctional and self-destructive behavior, including suicide, child abuse, and family violence, among Indians, including—

"(i) the number of Indians served who are directly or indirectly affected by such illness or behavior; or

"(ii) an estimate of the financial and human cost attributable to such illness or behavior.

"(B) An assessment of the existing and additional resources necessary for the prevention and treatment of such illness and behavior, including an assessment of the progress toward achieving the availability of the full continuum of care described in subsection (c).

"(C) An estimate of the additional funding needed by the Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations to meet their responsibilities under the plans.

"(2) NATIONAL CLEARINGHOUSE.—The Secretary, acting through the Service, shall establish a national clearinghouse of plans and reports on the outcomes of such plans developed by Indian Tribes, Tribal Organizations, Urban Indian Organizations, and Service Areas relating to behavioral health. The Secretary shall ensure access to these plans and outcomes by any Indian Tribe, Tribal Organization, Urban Indian Organization, or the Service.

"(3) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to Indian Tribes, Tribal Organizations, and Urban Indian Organizations in preparation of plans under this section and in developing standards of care that may be used and adopted locally.

"(c) PROGRAMS.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall provide, to the extent feasible and if funding is available, programs including the following:

"(1) COMPREHENSIVE CARE.—A comprehensive continuum of behavioral health care which provides—

"(A) community-based prevention, intervention, outpatient, and behavioral health aftercare;

"(B) detoxification (social and medical);

"(C) acute hospitalization;

"(D) intensive outpatient/day treatment;

"(E) residential treatment;

"(F) transitional living for those needing a temporary, stable living environment that is supportive of treatment and recovery goals;

"(G) emergency shelter;

"(H) intensive case management;

"(I) Traditional Health Care Practices; and

"(J) diagnostic services.

"(2) CHILD CARE.—Behavioral health services for Indians from birth through age 17, including—

"(A) preschool and school age fetal alcohol disorder services, including assessment and behavioral intervention;

"(B) mental health and substance abuse services (emotional, organic, alcohol, drug, inhalant, and tobacco);

"(C) identification and treatment of co-occurring disorders and comorbidity;

"(D) prevention of alcohol, drug, inhalant, and tobacco use;

"(E) early intervention, treatment, and aftercare;

"(F) promotion of healthy approaches to risk and safety issues; and

"(G) identification and treatment of neglect and physical, mental, and sexual abuse.

"(3) ADULT CARE.—Behavioral health services for Indians from age 18 through 55, including—

"(A) early intervention, treatment, and aftercare;

"(B) mental health and substance abuse services (emotional, alcohol, drug, inhalant, and tobacco), including sex specific services;

"(C) identification and treatment of co-occurring disorders (dual diagnosis) and comorbidity;

"(D) promotion of healthy approaches for risk-related behavior;

"(E) treatment services for women at risk of giving birth to a child with a fetal alcohol disorder; and

"(F) sex specific treatment for sexual assault and domestic violence.

"(4) FAMILY CARE.—Behavioral health services for families, including—

"(A) early intervention, treatment, and aftercare for affected families;

"(B) treatment for sexual assault and domestic violence; and

"(C) promotion of healthy approaches relating to parenting, domestic violence, and other abuse issues.

"(5) ELDER CARE.—Behavioral health services for Indians 56 years of age and older, including—

"(A) early intervention, treatment, and aftercare;

"(B) mental health and substance abuse services (emotional, alcohol, drug, inhalant, and tobacco), including sex specific services;

"(C) identification and treatment of co-occurring disorders (dual diagnosis) and comorbidity;

"(D) promotion of healthy approaches to managing conditions related to aging;

"(E) sex specific treatment for sexual assault, domestic violence, neglect, physical and mental abuse and exploitation; and

"(F) identification and treatment of dementias regardless of cause.

"(d) COMMUNITY BEHAVIORAL HEALTH PLAN.—

"(1) ESTABLISHMENT.—The governing body of any Indian Tribe, Tribal Organization, or Urban Indian Organization may adopt a resolution for the establishment of a community behavioral health plan providing for the identification and coordination of available resources and programs to identify, prevent, or treat substance abuse, mental illness, or dysfunctional and self-destructive behavior, including child abuse and family violence, among its members or its service population. This plan should include behavioral health services, social services, intensive outpatient services, and continuing aftercare.

"(2) TECHNICAL ASSISTANCE.—At the request of an Indian Tribe, Tribal Organization, or Urban Indian Organization, the Bureau of Indian Affairs and the Service shall cooperate with and provide technical assistance to the Indian Tribe, Tribal Organization, or Urban Indian Organization in the development and implementation of such plan.

"(3) FUNDING.—The Secretary, acting through the Service, may make funding available to Indian Tribes and Tribal Organizations which adopt a resolution pursuant to paragraph (1) to obtain technical assistance for the development of a community behavioral health plan and to provide administrative support in the implementation of such plan.

"(e) COORDINATION FOR AVAILABILITY OF SERVICES.—The Secretary, acting through the Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall coordinate behavioral health planning, to the extent feasible, with other Federal agencies and with State agencies, to encourage comprehensive behavioral health services for Indians regardless of their place of residence.

"(f) MENTAL HEALTH CARE NEED ASSESSMENT.—Not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary, acting through the Service, shall make an assessment of the need for inpatient mental health care among Indians and the availability and cost of inpatient mental health facilities which can meet such need. In making such assessment, the Secretary shall consider the possible conversion of existing, underused Service hospital beds into psychiatric units to meet such need.

"SEC. 702. MEMORANDA OF AGREEMENT WITH THE DEPARTMENT OF THE INTERIOR.

"(a) CONTENTS.—Not later than 12 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary, acting through the Service, and the Secretary of the Interior shall develop and enter into a memoranda of agreement, or review and update any existing memoranda of agreement, as required by section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411) under which the Secretaries address the following:

"(1) The scope and nature of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians.

"(2) The existing Federal, tribal, State, local, and private services, resources, and programs available to provide behavioral health services for Indians.

"(3) The unmet need for additional services, resources, and programs necessary to meet the needs identified pursuant to paragraph (1).

"(4)(A) The right of Indians, as citizens of the United States and of the States in which they reside, to have access to behavioral health services to which all citizens have access.

"(B) The right of Indians to participate in, and receive the benefit of, such services.

"(C) The actions necessary to protect the exercise of such right.

"(5) The responsibilities of the Bureau of Indian Affairs and the Service, including mental illness identification, prevention, education, referral, and treatment services (including services through multidisciplinary resource teams), at the central, area, and agency and Service Unit, Service Area, and headquarters levels to address the problems identified in paragraph (1).

"(6) A strategy for the comprehensive coordination of the behavioral health services provided by the Bureau of Indian Affairs and the Service to meet the problems identified pursuant to paragraph (1), including—

"(A) the coordination of alcohol and substance abuse programs of the Service, the Bureau of Indian Affairs, and Indian Tribes and Tribal Organizations (developed under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986) with behavioral health initiatives pursuant to this Act, particularly with respect to the referral and treatment of dually diagnosed individuals requiring behavioral health and substance abuse treatment; and

"(B) ensuring that the Bureau of Indian Affairs and Service programs and services (including multidisciplinary resource teams) addressing child abuse and family violence are coordinated with such non-Federal programs and services.

"(7) Directing appropriate officials of the Bureau of Indian Affairs and the Service, particularly at the agency and Service Unit levels, to cooperate fully with tribal requests made pursuant to community behavioral health plans adopted under section 701(c) and section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2412).

"(8) Providing for an annual review of such agreement by the Secretaries which shall be provided to Congress and Indian Tribes and Tribal Organizations.

"(b) SPECIFIC PROVISIONS REQUIRED.—The memoranda of agreement updated or entered into pursuant to subsection (a) shall include specific provisions pursuant to which the Service shall assume responsibility for—

"(1) the determination of the scope of the problem of alcohol and substance abuse among Indians, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;

"(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and

"(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

"(c) CONSULTATION.—The Secretary, acting through the Service, and the Secretary of the Interior shall, in developing the memoranda of agreement under subsection (a), consult with and solicit the comments from—

"(1) Indian Tribes and Tribal Organizations;

"(2) Indians;

"(3) Urban Indian Organizations and other Indian organizations; and

"(4) behavioral health service providers.

"(d) PUBLICATION.—Each memorandum of agreement entered into or renewed (and amendments or modifications thereto) under subsection (a) shall be published in the Federal Register. At the same time as publication in the Federal Register, the Secretary shall provide a copy of such memoranda, amendment, or modification to each Indian Tribe, Tribal Organization, and Urban Indian Organization.

"SEC. 703. COMPREHENSIVE BEHAVIORAL HEALTH PREVENTION AND TREATMENT PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall provide a program of comprehensive behavioral health, prevention, treatment, and aftercare, including Traditional Health Care Practices, which shall include—

"(A) prevention, through educational intervention, in Indian communities;

"(B) acute detoxification, psychiatric hospitalization, residential, and intensive outpatient treatment;

"(C) community-based rehabilitation and aftercare;

"(D) community education and involvement, including extensive training of health care, educational, and community-based personnel;

"(E) specialized residential treatment programs for high-risk populations, including pregnant and postpartum women and their children; and

"(F) diagnostic services.

"(2) TARGET POPULATIONS.—The target population of such programs shall be members of Indian Tribes. Efforts to train and educate key members of the Indian community shall also target employees of health, education, judicial, law enforcement, legal, and social service programs.

"(b) CONTRACT HEALTH SERVICES.—

"(1) IN GENERAL.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, may enter into contracts with public or private providers of behavioral health treatment services for the purpose of carrying out the program required under subsection (a).

"(2) PROVISION OF ASSISTANCE.—In carrying out this subsection, the Secretary shall provide assistance to Indian Tribes and Tribal Organizations to develop criteria for the certification of behavioral health service providers and accreditation of service facilities which meet minimum standards for such services and facilities.

"SEC. 704. MENTAL HEALTH TECHNICIAN PROGRAM.

"(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), the Secretary shall establish and maintain a mental health technician program within the Service which—

"(1) provides for the training of Indians as mental health technicians; and

"(2) employs such technicians in the provision of community-based mental health care that includes identification, prevention, education, referral, and treatment services.

"(b) PARAPROFESSIONAL TRAINING.—In carrying out subsection (a), the Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall provide high-standard paraprofessional training in mental health care necessary to provide quality care to the Indian communities to be served. Such training shall be based upon a curriculum developed or approved by the Secretary which combines education in the theory of mental health care with supervised practical experience in the provision of such care.

“(c) Supervision and Evaluation of Technicians.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall supervise and evaluate the mental health technicians in the training program.

“(d) Traditional Health Care Practices.—The Secretary, acting through the Service, shall ensure that the program established pursuant to this subsection involves the use and promotion of the Traditional Health Care Practices of the Indian Tribes to be served.

“SEC. 705. LICENSING REQUIREMENT FOR MENTAL HEALTH CARE WORKERS.

“Subject to the provisions of section 221, any person employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under this Act is required to be licensed as a clinical psychologist, social worker, or marriage and family therapist, respectively, or working under the direct supervision of a licensed clinical psychologist, social worker, or marriage and family therapist, respectively.

“SEC. 706. INDIAN WOMEN TREATMENT PROGRAMS.

“(a) Funding.—The Secretary, consistent with section 701, shall make funds available to Indian Tribes, Tribal Organizations, and Urban Indian Organizations to develop and implement a comprehensive behavioral health program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the spiritual, cultural, historical, social, and child care needs of Indian women, regardless of age.

“(b) Use of Funds.—Funds made available pursuant to this section may be used to—

“(1) develop and provide community training, education, and prevention programs for Indian women relating to behavioral health issues, including fetal alcohol disorders;

“(2) identify and provide psychological services, counseling, advocacy, support, and relapse prevention to Indian women and their families; and

“(3) develop prevention and intervention models for Indian women which incorporate Traditional Health Care Practices, cultural values, and community and family involvement.

“(c) Criteria.—The Secretary, in consultation with Indian Tribes and Tribal Organizations, shall establish criteria for the review and approval of applications and proposals for funding under this section.

“(d) Earmark of Certain Funds.—Twenty percent of the funds appropriated pursuant to this section shall be used to make grants to Urban Indian Organizations.

“SEC. 707. INDIAN YOUTH PROGRAM.

“(a) Detoxification and Rehabilitation.—The Secretary, acting through the Service, consistent with section 701, shall develop and implement a program for acute detoxification and treatment for Indian youths, including behavioral health services. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis and programs developed and implemented by Indian Tribes or Tribal Organizations at the local level under the Indian Self-Determination and Education Assistance Act. Regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

“(b) Alcohol and Substance Abuse Treatment Centers or Facilities.—

“(1) Establishment.—

“(A) In general.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall construct, renovate, or, as necessary, purchase, and appropriately staff and operate, at least 1 youth regional treatment center or treatment network in each area under the jurisdiction of an Area Office.

“(B) Area office in California.—For the purposes of this subsection, the Area Office in California shall be considered to be 2 Area Offices, 1 office whose jurisdiction shall be considered to encompass the northern area of the State of California, and 1 office whose jurisdiction shall be considered to encompass the remainder of the State of California for the purpose of implementing California treatment networks.

“(2) Funding.—For the purpose of staffing and operating such centers or facilities, funding shall be pursuant to the Act of November 2, 1921 (25 U.S.C. 13).

“(3) Location.—A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) agreed upon (by appropriate tribal resolution) by a majority of the Indian Tribes to be served by such center.

“(4) Specific provision of funds.—

“(A) In general.—Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to—

“(i) the Tanana Chiefs Conference, Incorporated, for the purpose of leasing, constructing, renovating, operating, and maintaining a residential youth treatment facility in Fairbanks, Alaska; and

“(ii) the Southeast Alaska Regional Health Corporation to staff and operate a residential youth treatment facility without regard to the proviso set forth in section 4(*l*) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(*l*)).

“(B) Provision of services to eligible youths.—Until additional residential youth treatment facilities are established in Alaska pursuant to this section, the facilities specified in subparagraph (A) shall make every effort to provide services to all eligible Indian youths residing in Alaska.

“(c) Intermediate Adolescent Behavioral Health Services.—

“(1) In general.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, may provide intermediate behavioral health services, which may incorporate Traditional Health Care Practices, to Indian children and adolescents, including—

“(A) pretreatment assistance;

“(B) inpatient, outpatient, and aftercare services;

“(C) emergency care;

“(D) suicide prevention and crisis intervention; and

“(E) prevention and treatment of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence.

“(2) Use of funds.—Funds provided under this subsection may be used—

“(A) to construct or renovate an existing health facility to provide intermediate behavioral health services;

“(B) to hire behavioral health professionals;

“(C) to staff, operate, and maintain an intermediate mental health facility, group home, sober housing, transitional housing or similar facilities, or youth shelter where intermediate behavioral health services are being provided;

“(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units; and

“(E) for intensive home- and community-based services.

“(3) Criteria.—The Secretary, acting through the Service, shall, in consultation with Indian Tribes and Tribal Organizations, establish criteria for the review and approval of applications or proposals for funding made available pursuant to this subsection.

“(d) Federally Owned Structures.—

“(1) In general.—The Secretary, in consultation with Indian Tribes and Tribal Organizations, shall—

“(A) identify and use, where appropriate, federally owned structures suitable for local residential or regional behavioral health treatment for Indian youths; and

“(B) establish guidelines, in consultation with Indian Tribes and Tribal Organizations, for determining the suitability of any such federally owned structure to be used for local residential or regional behavioral health treatment for Indian youths.

“(2) Terms and conditions for use of structure.—Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure and any Indian Tribe or Tribal Organization operating the program.

“(e) Rehabilitation and Aftercare Services.—

“(1) In general.—The Secretary, Indian Tribes, or Tribal Organizations, in cooperation with the Secretary of the Interior, shall develop and implement within each Service Unit, community-based rehabilitation and follow-up services for Indian youths who are having significant behavioral health problems, and require long-term treatment, community reintegration, and monitoring to support the Indian youths after their return to their home community.

“(2) Administration.—Services under paragraph (1) shall be provided by trained staff within the community who can assist the Indian youths in their continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff may include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

“(f) Inclusion of Family in Youth Treatment Program.—In providing the treatment and other services to Indian youths authorized by this section, the Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, shall provide for the inclusion of family members of such youths in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (e) shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

“(g) Multidrug Abuse Program.—The Secretary, acting through the Service, Indian Tribes, Tribal Organizations, and Urban

Indian Organizations, shall provide, consistent with section 701, programs and services to prevent and treat the abuse of multiple forms of substances, including alcohol, drugs, inhalants, and tobacco, among Indian youths residing in Indian communities, on or near reservations, and in urban areas and provide appropriate mental health services to address the incidence of mental illness among such youths.

"SEC. 708. INPATIENT AND COMMUNITY-BASED MENTAL HEALTH FACILITIES DESIGN, CONSTRUCTION, AND STAFFING.

"Not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, may provide, in each area of the Service, not less than 1 inpatient mental health care facility, or the equivalent, for Indians with behavioral health problems. For the purposes of this subsection, California shall be considered to be 2 Area Offices, 1 office whose location shall be considered to encompass the northern area of the State of California and 1 office whose jurisdiction shall be considered to encompass the remainder of the State of California. The Secretary shall consider the possible conversion of existing, underused Service hospital beds into psychiatric units to meet such need.

"SEC. 709. TRAINING AND COMMUNITY EDUCATION.

"(a) PROGRAM.—The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement or provide funding for Indian Tribes and Tribal Organizations to develop and implement, within each Service Unit or tribal program, a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education about behavioral health issues to political leaders, Tribal judges, law enforcement personnel, members of tribal health and education boards, health care providers including traditional practitioners, and other critical members of each tribal community. Community-based training (oriented toward local capacity development) shall also include tribal community provider training (designed for adult learners from the communities receiving services for prevention, intervention, treatment, and aftercare).

"(b) INSTRUCTION.—The Secretary, acting through the Service, shall, either directly or through Indian Tribes and Tribal Organizations, provide instruction in the area of behavioral health issues, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, child sexual abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol disorders to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433).

"(c) TRAINING MODELS.—In carrying out the education and training programs required by this section, the Secretary, in consultation with Indian Tribes, Tribal Organizations, Indian behavioral health experts, and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address—

"(1) the elevated risk of alcohol and behavioral health problems faced by children of alcoholics;

"(2) the cultural, spiritual, and multigenerational aspects of behavioral health problem prevention and recovery; and

"(3) community-based and multidisciplinary strategies for preventing and treating behavioral health problems.

"SEC. 710. BEHAVIORAL HEALTH PROGRAM.

"(a) INNOVATIVE PROGRAMS.—The Secretary, acting through the Service, Indian Tribes, and Tribal Organizations, consistent with section 701, may plan, develop, implement, and carry out programs to deliver innovative community-based behavioral health services to Indians.

"(b) FUNDING; CRITERIA.—The Secretary may award such funding for a project under subsection (a) to an Indian Tribe or Tribal Organization and may consider the following criteria:

"(1) The project will address significant unmet behavioral health needs among Indians.

"(2) The project will serve a significant number of Indians.

"(3) The project has the potential to deliver services in an efficient and effective manner.

"(4) The Indian Tribe or Tribal Organization has the administrative and financial capability to administer the project.

"(5) The project may deliver services in a manner consistent with Traditional Health Care Practices.

"(6) The project is coordinated with, and avoids duplication of, existing services.

"(c) EQUITABLE TREATMENT.—For purposes of this subsection, the Secretary shall, in evaluating project applications or proposals, use the same criteria that the Secretary uses in evaluating any other application or proposal for such funding.

"SEC. 711. FETAL ALCOHOL DISORDER FUNDING.

"(a) PROGRAMS.—

"(1) ESTABLISHMENT.—The Secretary, consistent with section 701, acting through the Service, Indian Tribes, and Tribal Organizations, is authorized to establish and operate fetal alcohol disorder programs as provided in this section for the purposes of meeting the health status objectives specified in section 3.

"(2) USE OF FUNDS.—Funding provided pursuant to this section shall be used for the following:

"(A) To develop and provide for Indians community and in school training, education, and prevention programs relating to fetal alcohol disorders.

"(B) To identify and provide behavioral health treatment to high-risk Indian women and high-risk women pregnant with an Indian's child.

"(C) To identify and provide appropriate psychological services, educational and vocational support, counseling, advocacy, and information to fetal alcohol disorder affected Indians and their families or caretakers.

"(D) To develop and implement counseling and support programs in schools for fetal alcohol disorder affected Indian children.

"(E) To develop prevention and intervention models which incorporate practitioners of Traditional Health Care Practices, cultural and spiritual values, and community involvement.

"(F) To develop, print, and disseminate education and prevention materials on fetal alcohol disorder.

"(G) To develop and implement, through the tribal consultation process, culturally sensitive assessment and diagnostic tools including dysmorphology clinics and multidisciplinary fetal alcohol disorder clinics for use in Indian communities and Urban Centers.

"(H) To develop early childhood intervention projects from birth on to mitigate the effects of fetal alcohol disorder among Indians.

"(I) To develop and fund community-based adult fetal alcohol disorder housing and support services for Indians and for women pregnant with an Indian's child.

"(3) CRITERIA FOR APPLICATIONS.—The Secretary shall establish criteria for the review and approval of applications for funding under this section.

"(b) SERVICES.—The Secretary, acting through the Service and Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall—

"(1) develop and provide services for the prevention, intervention, treatment, and aftercare for those affected by fetal alcohol disorder in Indian communities; and

"(2) provide supportive services, directly or through an Indian Tribe, Tribal Organization, or Urban Indian Organization, including services to meet the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians with fetal alcohol disorder.

"(c) TASK FORCE.—The Secretary shall establish a task force to be known as the Fetal Alcohol Disorder Task Force to advise the Secretary in carrying out subsection (b). Such task force shall be composed of representatives from the following:

"(1) The National Institute on Drug Abuse.

"(2) The National Institute on Alcohol and Alcoholism.

"(3) The Office of Substance Abuse Prevention.

"(4) The National Institute of Mental Health.

"(5) The Service.

"(6) The Office of Minority Health of the Department of Health and Human Services.

"(7) The Administration for Native Americans.

"(8) The National Institute of Child Health and Human Development (NICHD).

"(9) The Centers for Disease Control and Prevention.

"(10) The Bureau of Indian Affairs.

"(11) Indian Tribes.

"(12) Tribal Organizations.

"(13) Urban Indian Organizations.

"(14) Indian fetal alcohol disorder experts.

"(d) APPLIED RESEARCH PROJECTS.—The Secretary, acting through the Substance Abuse and Mental Health Services Administration, shall make funding available to Indian Tribes, Tribal Organizations, and Urban Indian Organizations for applied research projects which propose to elevate the understanding of methods to prevent, intervene, treat, or provide rehabilitation and behavioral health aftercare for Indians and Urban Indians affected by fetal alcohol disorder.

"(e) FUNDING FOR URBAN INDIAN ORGANIZATIONS.—Ten percent of the funds appropriated pursuant to this section shall be used to make grants to Urban Indian Organizations funded under title V.

"SEC. 712. CHILD SEXUAL ABUSE AND PREVENTION TREATMENT PROGRAMS.

"(a) ESTABLISHMENT.—The Secretary, acting through the Service, and the Secretary of the Interior, Indian Tribes, and Tribal Organizations shall establish, consistent with section 701, in every Service Area, programs involving treatment for—

"(1) victims of sexual abuse who are Indian children or children in an Indian household; and

"(2) perpetrators of child sexual abuse who are Indian or members of an Indian household.

"(b) Use of Funds.—Funding provided pursuant to this section shall be used for the following:

"(1) To develop and provide community education and prevention programs related to sexual abuse of Indian children or children in an Indian household.

"(2) To identify and provide behavioral health treatment to victims of sexual abuse who are Indian children or children in an Indian household, and to their family members who are affected by sexual abuse.

"(3) To develop prevention and intervention models which incorporate Traditional Health Care Practices, cultural and spiritual values, and community involvement.

"(4) To develop and implement, through the tribal consultation process, culturally sensitive assessment and diagnostic tools for use in Indian communities and Urban Centers.

"(5) To identify and provide behavioral health treatment to Indian perpetrators and perpetrators who are members of an Indian household—

"(A) making efforts to begin offender and behavioral health treatment while the perpetrator is incarcerated or at the earliest possible date if the perpetrator is not incarcerated; and

"(B) providing treatment after the perpetrator is released, until it is determined that the perpetrator is not a threat to children.

"SEC. 713. BEHAVIORAL HEALTH RESEARCH.

"The Secretary, in consultation with appropriate Federal agencies, shall provide funding to Indian Tribes, Tribal Organizations, and Urban Indian Organizations or enter into contracts with, or make grants to appropriate institutions for, the conduct of research on the incidence and prevalence of behavioral health problems among Indians served by the Service, Indian Tribes, or Tribal Organizations and among Indians in urban areas. Research priorities under this section shall include—

"(1) the interrelationship and interdependence of behavioral health problems with alcoholism and other substance abuse, suicide, homicides, other injuries, and the incidence of family violence; and

"(2) the development of models of prevention techniques.

The effect of the interrelationships and interdependencies referred to in paragraph (1) on children, and the development of prevention techniques under paragraph (2) applicable to children, shall be emphasized.

"SEC. 714. DEFINITIONS.

"For the purpose of this title, the following definitions shall apply:

"(1) Assessment.—The term 'assessment' means the systematic collection, analysis, and dissemination of information on health status, health needs, and health problems.

"(2) Alcohol-related neurodevelopmental disorders or ARND.—The term 'alcohol-related neurodevelopmental disorders' or 'ARND' means, with a history of maternal alcohol consumption during pregnancy, central nervous system involvement such as developmental delay, intellectual deficit, or neurologic abnormalities. Behaviorally, there can be problems with irritability, and failure to thrive as infants. As children become older there will likely be hyperactivity, attention deficit, language dysfunction, and perceptual and judgment problems.

"(3) Behavioral health aftercare.—The term 'behavioral health aftercare' includes those activities and resources used to support recovery following inpatient, residential, intensive substance abuse, or mental health outpatient or outpatient treatment. The purpose is to help prevent or deal with relapse by ensuring that by the time a client or patient is discharged from a level of care, such as outpatient treatment, an aftercare plan has been developed with the client. An aftercare plan may use such resources a as community-based therapeutic group, transitional living facilities, a 12-step sponsor, a local 12-step or other related support group, and other community-based providers (mental health professionals, traditional health care practitioners, community health aides, community health representatives, mental health technicians, ministers, etc.)

"(4) Dual diagnosis.—The term 'dual diagnosis' means coexisting substance abuse and mental illness conditions or diagnosis. Such clients are sometimes referred to as mentally ill chemical abusers (MICAs).

"(5) Fetal alcohol disorders.—The term 'fetal alcohol disorders' means fetal alcohol syndrome, partial fetal alcohol syndrome and alcohol related neurodevelopmental disorder (ARND).

"(6) Fetal alcohol syndrome or FAS.—The term 'fetal alcohol syndrome' or 'FAS' means a syndrome in which, with a history of maternal alcohol consumption during pregnancy, the following criteria are met:

"(A) Central nervous system involvement such as developmental delay, intellectual deficit, microencephaly, or neurologic abnormalities.

"(B) Craniofacial abnormalities with at least 2 of the following: microophthalmia, short palpebral fissures, poorly developed philtrum, thin upper lip, flat nasal bridge, and short upturned nose.

"(C) Prenatal or postnatal growth delay.

"(7) Partial FAS.—The term 'partial FAS' means, with a history of maternal alcohol consumption during pregnancy, having most of the criteria of FAS, though not meeting a minimum of at least 2 of the following: microophthalmia, short palpebral fissures, poorly developed philtrum, thin upper lip, flat nasal bridge, and short upturned nose.

"(8) Rehabilitation.—The term 'rehabilitation' means to restore the ability or capacity to engage in usual and customary life activities through education and therapy.

"(9) Substance abuse.—The term 'substance abuse' includes inhalant abuse.

"SEC. 715. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out the provisions of this title.

"TITLE VIII—MISCELLANEOUS

"SEC. 801. REPORTS.

"The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to Congress a report containing the following:

"(1) A report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and assessments and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians and ensure a health status for Indians, which are at a parity with the health services available to and the health status of the general population, including specific comparisons of appropriations provided and those required for such parity.

"(2) A report on whether, and to what extent, new national health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this Act and any steps that the Secretary may have taken to consult with Indian Tribes, Tribal Organizations, and Urban Indian Organizations to address such impact, including a report on proposed changes in allocation of funding pursuant to section 808.

"(3) A report on the use of health services by Indians—

"(A) on a national and area or other relevant geographical basis;

"(B) by gender and age;

"(C) by source of payment and type of service;

"(D) comparing such rates of use with rates of use among comparable non-Indian populations; and

"(E) provided under contracts.

"(4) A report of contractors to the Secretary on Health Care Educational Loan Repayments every 6 months required by section 110.

"(5) A general audit report of the Secretary on the Health Care Educational Loan Repayment Program as required by section 110(n).

"(6) A report of the findings and conclusions of demonstration programs on development of educational curricula for substance abuse counseling as required in section 125(f).

"(7) A separate statement which specifies the amount of funds requested to carry out the provisions of section 201.

"(8) A report of the evaluations of health promotion and disease prevention as required in section 203(c).

"(9) A biennial report to Congress on infectious diseases as required by section 212.

"(10) A report on environmental and nuclear health hazards as required by section 215.

"(11) An annual report on the status of all health care facilities needs as required by section 301(c)(2) and 301(d).

"(12) Reports on safe water and sanitary waste disposal facilities as required by section 302(h).

"(13) An annual report on the expenditure of nonservice funds for renovation as required by sections 304(b)(2).

"(14) A report identifying the backlog of maintenance and repair required at Service and tribal facilities required by section 313(a).

"(15) A report providing an accounting of reimbursement funds made available to the Secretary under titles XVIII, XIX, and XXI of the Social Security Act.

"(16) A report on any arrangements for the sharing of medical facilities or services, as authorized by section 406.

"(17) A report on evaluation and renewal of Urban Indian programs under section 505.

"(18) A report on the evaluation of programs as required by section 513(d).

"(19) A report on alcohol and substance abuse as required by section 701(f).

"SEC. 802. REGULATIONS.

"(a) Deadlines.—

"(1) Procedures.—Not later than 90 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations or amendments thereto that are necessary to carry out titles I (except sections 105, 115, and 117), II, III, and VII. The Secretary may promulgate regulations to carry out sections 105, 115, 117, and titles IV and V, using the procedures required by chapter V of title 5, United States Code (commonly known as the 'Administrative Procedure Act'). The Secretary shall issue no regulations to carry out titles VI and VIII.

"(2) Proposed regulations.—Proposed regulations to implement this Act shall be published in the Federal Register by the Secretary no later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005 and shall have no less than a 120-day comment period.

"(3) Expiration of authority.—Except as otherwise provided herein, the authority to promulgate regulations under this Act shall expire 24 months from the date of enactment of this Act.

"(b) Committee.—A negotiated rulemaking committee established pursuant to section 565 of title 5, United States Code, to carry out this section shall have as its members only representatives of the Federal Government and representatives of Indian Tribes and Tribal Organizations, a majority of whom shall be nominated by and be representatives of Indian Tribes, Tribal Organizations, and Urban Indian Organizations from each Service Area. The representative of the Urban Indian Organization shall be deemed to be an elected officer of a tribal government for purposes of applying section 204(b) of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534(b)).

"(c) Adaptation of Procedures.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian Tribes.

"(d) Lack of Regulations.—The lack of promulgated regulations shall not limit the effect of this Act.

"(e) Inconsistent Regulations.—The provisions of this Act shall supersede any conflicting provisions of law) in effect on the day before the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, and the Secretary is authorized to repeal any regulation inconsistent with the provisions of this Act.

"SEC. 803. PLAN OF IMPLEMENTATION.

"Not later than 9 months after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, the Secretary in consultation with Indian Tribes, Tribal Organizations, and Urban Indian Organizations, shall submit to Congress a plan explaining the manner and schedule (including a schedule of appropriation requests), by title and section, by which the Secretary will implement the provisions of this Act.

"SEC. 804. AVAILABILITY OF FUNDS.

"The funds appropriated pursuant to this Act shall remain available until expended.

"SEC. 805. LIMITATION ON USE OF FUNDS APPROPRIATED TO THE INDIAN HEALTH SERVICE.

"Any limitation on the use of funds contained in an Act providing appropriations for the Department for a period with respect to the performance of abortions shall apply for that period with respect to the performance of abortions using funds contained in an Act providing appropriations for the Service.

"SEC. 806. ELIGIBILITY OF CALIFORNIA INDIANS.

"(a) In General.—The following California Indians shall be eligible for health services provided by the Service:

"(1) Any member of a federally recognized Indian Tribe.

"(2) Any descendant of an Indian who was residing in California on June 1, 1852, if such descendant—

"(A) is a member of the Indian community served by a local program of the Service; and

"(B) is regarded as an Indian by the community in which such descendant lives.

"(3) Any Indian who holds trust interests in public domain, national forest, or reservation allotments in California.

"(4) Any Indian in California who is listed on the plans for distribution of the assets of rancherias and reservations located within the State of California under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

"(b) Clarification.—Nothing in this section may be construed as expanding the eligibility of California Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

"SEC. 807. HEALTH SERVICES FOR INELIGIBLE PERSONS.

"(a) Children.—Any individual who—

"(1) has not attained 19 years of age;

"(2) is the natural or adopted child, stepchild, foster child, legal ward, or orphan of an eligible Indian; and

"(3) is not otherwise eligible for health services provided by the Service,

shall be eligible for all health services provided by the Service on the same basis and subject to the same rules that apply to eligible Indians until such individual attains 19 years of age. The existing and potential health needs of all such individuals shall be taken into consideration by the Service in determining the need for, or the allocation of, the health resources of the Service. If such an individual has been determined to be legally incompetent prior to attaining 19 years of age, such individual shall remain eligible for such services until 1 year after the date of a determination of competency.

"(b) Spouses.—Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but is not otherwise eligible for the health services provided by the Service, shall be eligible for such health services if all such spouses or spouses who are married to members of each Indian Tribe being served are made eligible, as a class, by an appropriate resolution of the governing body of the Indian Tribe or Tribal Organization providing such services. The health needs of persons made eligible under this paragraph shall not be taken into consideration by the Service in determining the need for, or allocation of, its health resources.

"(c) Provision of Services to Other Individuals.—

"(1) In general.—The Secretary is authorized to provide health services under this subsection through health programs operated directly by the Service to individuals who reside within the Service Unit and who are not otherwise eligible for such health services if—

"(A) the Indian Tribes served by such Service Unit request such provision of health services to such individuals; and

"(B) the Secretary and the served Indian Tribes have jointly determined that—

"(i) the provision of such health services will not result in a denial or diminution of health services to eligible Indians; and

"(ii) there is no reasonable alternative health facilities or services, within or without the Service Unit, available to meet the health needs of such individuals.

"(2) ISDEAA programs.—In the case of health programs and facilities operated under a contract or compact entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the governing body of the Indian Tribe or Tribal Organization providing health services under such contract or compact is authorized to determine whether health services should be provided under such contract or compact to individuals who are not otherwise eligible for such services under any other subsection of this section or under any other provision of law. In making such determination, the governing body of the Indian Tribe or Tribal organization shall take into account the considerations described in clauses (i) and (ii) of paragraph (1)(B).

"(3) Payment for services.—

"(A) In general.—Persons receiving health services provided by the Service under of this subsection shall be liable for payment of such health services under a schedule of charges prescribed by the Secretary which, in the judgment of the Secretary, results in reimbursement in an amount not less than the actual cost of providing the health services. Notwithstanding section 404 of this Act or any other provision of law, amounts collected under this subsection, including medicare, medicaid, or SCHIP reimbursements under titles XVIII, XIX, and XXI of the Social Security Act, shall be credited to the account of the program providing the service and shall be used for the purposes listed in section 401(d)(2) and amounts collected under this subsection shall be available for expenditure within such program.

"(B) Indigent people.—Health services may be provided by the Secretary through the Service under this subsection to an indigent individual who would not be otherwise eligible for such health services but for the provisions of paragraph (1) only if an agreement has been entered into with a State or local government under which the State or local government agrees to reimburse the Service for the expenses incurred by the Service in providing such health services to such indigent individual.

"(4) Revocation of consent for services.—

"(A) Single tribe service area.—In the case of a Service Area which serves only 1 Indian Tribe, the authority of the Secretary to provide health services under paragraph (1) shall terminate at the end of the fiscal year succeeding the fiscal year in which the governing body of the Indian Tribe revokes its concurrence to the provision of such health services.

"(B) Multitribal service area.—In the case of a multitribal Service Area, the authority of the Secretary to provide health services under paragraph (1) shall terminate at the end of the fiscal year succeeding the fiscal year in which at least 51 percent of the number of Indian Tribes in the Service Area revoke their concurrence to the provisions of such health services.

"(d) Other Services.—The Service may provide health services under this subsection to individuals who are not eligible for health services provided by the Service under any other provision of law in order to—

"(1) achieve stability in a medical emergency;

"(2) prevent the spread of a communicable disease or otherwise deal with a public health hazard;

"(3) provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through postpartum; or

"(4) provide care to immediate family members of an eligible individual if such care is directly related to the treatment of the eligible individual.

"(e) Hospital Privileges for Practitioners.—Hospital privileges in health facilities operated and maintained by the

Service or operated under a contract or compact pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) may be extended to non-Service health care practitioners who provide services to individuals described in subsection (a), (b), (c), or (d). Such non-Service health care practitioners may, as part of privileging process, be designated as employees of the Federal Government for purposes of section 1346(b) and chapter 171 of title 28, United States Code (relating to Federal tort claims) only with respect to acts or omissions which occur in the course of providing services to eligible individuals as a part of the conditions under which such hospital privileges are extended.

"(f) ELIGIBLE INDIAN.—For purposes of this section, the term 'eligible Indian' means any Indian who is eligible for health services provided by the Service without regard to the provisions of this section.

"SEC. 808. REALLOCATION OF BASE RESOURCES.

"(a) REPORT REQUIRED.—Notwithstanding any other provision of law, any allocation of Service funds for a fiscal year that reduces by 5 percent or more from the previous fiscal year the funding for any recurring program, project, or activity of a Service Unit may be implemented only after the Secretary has submitted to the President, for inclusion in the report required to be transmitted to Congress under section 801, a report on the proposed change in allocation of funding, including the reasons for the change and its likely effects.

"(b) EXCEPTION.—Subsection (a) shall not apply if the total amount appropriated to the Service for a fiscal year is at least 5 percent less than the amount appropriated to the Service for the previous fiscal year.

"SEC. 809. RESULTS OF DEMONSTRATION PROJECTS.

"The Secretary shall provide for the dissemination to Indian Tribes, Tribal Organizations, and Urban Indian Organizations of the findings and results of demonstration projects conducted under this Act.

"SEC. 810. PROVISION OF SERVICES IN MONTANA.

"(a) CONSISTENT WITH COURT DECISION.—The Secretary, acting through the Service, shall provide services and benefits for Indians in Montana in a manner consistent with the decision of the United States Court of Appeals for the Ninth Circuit in McNabb for McNabb v. Bowen, 829 F.2d 787 (9th Cir. 1987).

"(b) CLARIFICATION.—The provisions of subsection (a) shall not be construed to be an expression of the sense of Congress on the application of the decision described in subsection (a) with respect to the provision of services or benefits for Indians living in any State other than Montana.

"SEC. 811. MORATORIUM.

"During the period of the moratorium imposed on implementation of the final rule published in the Federal Register on September 16, 1987, by the Health Resources and Services Administration of the Public Health Service, relating to eligibility for the health care services of the Indian Health Service, the Indian Health Service shall provide services pursuant to the criteria for eligibility for such services that were in effect on September 15, 1987, subject to the provisions of sections 806 and 807 until such time as new criteria governing eligibility for services are developed in accordance with section 802.

"SEC. 812. TRIBAL EMPLOYMENT.

"For purposes of section 2(2) of the Act of July 5, 1935 (49 Stat. 450, chapter 372), an Indian Tribe or Tribal Organization carrying out a contract or compact pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall not be considered an 'employer'.

"SEC. 813. SEVERABILITY PROVISIONS.

"If any provision of this Act, any amendment made by the Act, or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the remaining amendments made by this Act, and the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

"SEC. 814. ESTABLISHMENT OF NATIONAL BIPARTISAN COMMISSION ON INDIAN HEALTH CARE.

"(a) ESTABLISHMENT.—There is established the National Bipartisan Indian Health Care Commission (the 'Commission').

"(b) DUTIES OF COMMISSION.—The duties of the Commission are the following:

"(1) To establish a study committee composed of those members of the Commission appointed by the Director and at least 4 members of Congress from among the members of the Commission, the duties of which shall be the following:

"(A) To the extent necessary to carry out its duties, collect and compile data necessary to understand the extent of Indian needs with regard to the provision of health services, regardless of the location of Indians, including holding hearings and soliciting the views of Indians, Indian Tribes, Tribal Organizations, and Urban Indian Organizations, which may include authorizing and making funds available for feasibility studies of various models for providing and funding health services for all Indian beneficiaries, including those who live outside of a reservation, temporarily or permanently.

"(B) To make legislative recommendations to the Commission regarding the delivery of Federal health care services to Indians. Such recommendations shall include those related to issues of eligibility, benefits, the range of service providers, the cost of such services, financing such services, and the optimal manner in which to provide such services.

"(C) To determine the effect of the enactment of such recommendations on (i) the existing system of delivery of health services for Indians, and (ii) the sovereign status of Indian Tribes.

"(D) Not later than 12 months after the appointment of all members of the Commission, to submit a written report of its findings and recommendations to the full Commission. The report shall include a statement of the minority and majority position of the Committee and shall be disseminated, at a minimum, to every Indian Tribe, Tribal Organization, and Urban Indian Organization for comment to the Commission.

"(E) To report regularly to the full Commission regarding the findings and recommendations developed by the study committee in the course of carrying out its duties under this section.

"(2) To review and analyze the recommendations of the report of the study committee.

"(3) To make legislative recommendations to Congress regarding the delivery of Federal health care services to Indians. Such recommendations shall include those related to issues of eligibility, benefits, the range of service providers, the cost of such services, financing such services, and the optimal manner in which to provide such services.

"(4) Not later than 18 months following the date of appointment of all members of the Commission, submit a written report to Congress regarding the delivery of Federal health care services to Indians. Such recommendations shall include those related to issues of eligibility, benefits, the range of service providers, the cost of such services, financing such services, and the optimal manner in which to provide such services.

"(c) MEMBERS.—

"(1) APPOINTMENT.—The Commission shall be composed of 25 members, appointed as follows:

"(A) Ten members of Congress, including 3 from the House of Representatives and 2 from the Senate, appointed by their respective majority leaders, and 3 from the House of Representatives and 2 from the Senate, appointed by their respective minority leaders, and who shall be members of the standing committees of Congress that consider legislation affecting health care to Indians.

"(B) Twelve persons chosen by the congressional members of the Commission, 1 from each Service Area as currently designated by the Director to be chosen from among 3 nominees from each Service Area put forward by the Indian Tribes within the area, with due regard being given to the experience and expertise of the nominees in the provision of health care to Indians and to a reasonable representation on the commission of members who are familiar with various health care delivery modes and who represent Indian Tribes of various size populations.

"(C) Three persons appointed by the Director who are knowledgeable about the provision of health care to Indians, at least 1 of whom shall be appointed from among 3 nominees put forward by those programs whose funds are provided in whole or in part by the Service primarily or exclusively for the benefit of Urban Indians.

"(D) All those persons chosen by the congressional members of the Commission and by the Director shall be members of federally recognized Indian Tribes.

"(2) CHAIR; VICE CHAIR.—The Chair and Vice Chair of the Commission shall be selected by the congressional members of the Commission.

"(3) TERMS.—The terms of members of the Commission shall be for the life of the Commission.

"(4) DEADLINE FOR APPOINTMENTS.—Congressional members of the Commission shall be appointed not later than 180 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2005, and the remaining members of the Commission shall be appointed not later than 60 days following the appointment of the congressional members.

"(5) VACANCY.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(d) COMPENSATION.—

"(1) CONGRESSIONAL MEMBERS.—Each congressional member of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission and shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

"(2) OTHER MEMBERS.—Remaining members of the Commission, while serving on the business of the Commission (including travel time), shall be entitled to receive compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while so serving away from home and the member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. For purpose of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

"(e) MEETINGS.—The Commission shall meet at the call of the Chair.

"(f) QUORUM.—A quorum of the Commission shall consist of not less than 15 members, provided that no less than 6 of the members of Congress who are Commission members are present and no less than 9 of the members who are Indians are present.

"(g) EXECUTIVE DIRECTOR; STAFF; FACILITIES.—

"(1) APPOINTMENT; PAY.—The Commission shall appoint an executive director of the Commission. The executive director shall be paid the rate of basic pay for level V of the Executive Schedule.

"(2) STAFF APPOINTMENT.—With the approval of the Commission, the executive director may appoint such personnel as the executive director deems appropriate.

"(3) STAFF PAY.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

"(4) TEMPORARY SERVICES.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(5) FACILITIES.—The Administrator of General Services shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

"(h) HEARINGS.—(1) For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties, provided that at least 6 regional hearings are held in different areas of the United States in which large numbers of Indians are present. Such hearings are to be held to solicit the views of Indians regarding the delivery of health care services to them. To constitute a hearing under this subsection, at least 5 members of the Commission, including at least 1 member of Congress, must be present. Hearings held by the study committee established in this section may count toward the number of regional hearings required by this subsection.

"(2) Upon request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

"(3)(A) The Director of the Congressional Budget Office or the Chief Actuary of the Centers for Medicare & Medicaid Services, or both, shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties.

"(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

"(4) Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(5) Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

"(6) The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

"(7) The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 4, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

"(8) Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

"(9) For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of Congress.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $4,000,000 to carry out the provisions of this section, which sum shall not be deducted from or affect any other appropriation for health care for Indian persons.

"(j) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

"SEC. 815. APPROPRIATIONS; AVAILABILITY.

"Any new spending authority (described in subsection (c)(2)(A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"SEC. 816. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.".

(b) RATE OF PAY.—

(1) POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Health and Human Services (6)." and inserting "Assistant Secretaries of Health and Human Services (7)".

(2) POSITIONS AT LEVEL V.—Section 5316 of title 5, United States Code, is amended by striking "Director, Indian Health Service, Department of Health and Human Services".

(c) AMENDMENTS TO OTHER PROVISIONS OF LAW.—

(1) Section 3307(b)(1)(C) of the Children's Health Act of 2000 (25 U.S.C. 1671 note; Public Law 106–310) is amended by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(2) The Indian Lands Open Dump Cleanup Act of 1994 is amended—

(A) in section 3 (25 U.S.C. 3902)—

(i) by striking paragraph (2);

(ii) by redesignating paragraphs (1), (3), (4), (5), and (6) as paragraphs (4), (5), (2), (6), and (1), respectively, and moving those paragraphs so as to appear in numerical order; and

(iii) by inserting before paragraph (4) (as redesignated by subclause (II)) the following:

"(3) ASSISTANT SECRETARY.—The term 'Assistant Secretary' means the Assistant Secretary for Indian Health.";

(B) in section 5 (25 U.S.C. 3904), by striking the section heading and inserting the following:

"SEC. 5. AUTHORITY OF ASSISTANT SECRETARY FOR INDIAN HEALTH.";

(C) in section 6(a) (25 U.S.C. 3905(a)), in the subsection heading, by striking "DIRECTOR" and inserting "ASSISTANT SECRETARY";

(D) in section 9(a) (25 U.S.C. 3908(a)), in the subsection heading, by striking "DIRECTOR" and inserting "ASSISTANT SECRETARY"; and

(E) by striking "Director" each place it appears and inserting "Assistant Secretary".

(3) Section 5504(d)(2) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 2001 note; Public Law 100–297) is amended by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(4) Section 203(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 763(a)(1)) is amended by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(5) Subsections (b) and (e) of section 518 of the Federal Water Pollution Control Act (33 U.S.C. 1377) are amended by striking "Director of the Indian Health Service" each place it appears and inserting "Assistant Secretary for Indian Health".

(6) Section 317M(b) of the Public Health Service Act (42 U.S.C. 247b–14(b)) is amended—

(A) by striking "Director of the Indian Health Service" each place it appears and inserting "Assistant Secretary for Indian Health"; and

(B) in paragraph (2)(A), by striking "the Directors referred to in such paragraph" and inserting "the Director of the Centers for Disease Control and Prevention and the Assistant Secretary for Indian Health".

(7) Section 417C(b) of the Public Health Service Act (42 U.S.C. 285–9(b)) is amended by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(8) Section 1452(i) of the Safe Drinking Water Act (42 U.S.C. 300j–12(i)) is amended by striking "Director of the Indian Health Service" each place it appears and inserting "Assistant Secretary for Indian Health".

(9) Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b–2(d)(1)) is amended in the last sentence by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

(10) Section 203(b) of the Michigan Indian Land Claims Settlement Act (Public Law 105–143; 111 Stat. 2666) is amended by striking "Director of the Indian Health Service" and inserting "Assistant Secretary for Indian Health".

SEC. 3. SOBOBA SANITATION FACILITIES.

The Act of December 17, 1970 (84 Stat. 1465), is amended by adding at the end the following new section:

"SEC. 9. Nothing in this Act shall preclude the Soboba Band of Mission Indians and the Soboba Indian Reservation from being provided with sanitation facilities and services under the authority of section 7 of the Act of August 5, 1954 (68 Stat. 674), as amended by the Act of July 31, 1959 (73 Stat. 267).".

SEC. 4. AMENDMENTS TO THE MEDICAID AND STATE CHILDREN'S HEALTH INSURANCE PROGRAMS.

(a) EXPANSION OF MEDICAID PAYMENT FOR ALL COVERED SERVICES FURNISHED BY INDIAN HEALTH PROGRAMS.—

(1) EXPANSION TO ALL COVERED SERVICES.—Section 1911 of the Social Security Act (42 U.S.C. 1396j) is amended—

(A) by amending the heading to read as follows:

"INDIAN HEALTH PROGRAMS"; and

(B) by amending subsection (a) to read as follows:

"(a) ELIGIBILITY FOR REIMBURSEMENT FOR MEDICAL ASSISTANCE.—The Indian Health Service and an Indian Tribe, Tribal Organization, or an urban Indian Organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act) shall be eligible for reimbursement for medical assistance provided under a State plan or under waiver authority with respect to items and services furnished by the Indian Health Service, Indian Tribe, Tribal Organization, or Urban Indian Organization if the furnishing of such services meets all the conditions and requirements which are applicable generally to the furnishing of items and services under this title and under such plan or waiver authority.".

(2) ELIMINATION OF TEMPORARY DEEMING PROVISION.—Such section is amended by striking subsection (b).

(3) REVISION OF AUTHORITY TO ENTER INTO AGREEMENTS.—Subsection (c) of such section is redesignated as subsection (b) and is amended to read as follows:

"(b) AUTHORITY TO ENTER INTO AGREEMENTS.—The Secretary may enter into an agreement with a State for the purpose of reimbursing the State for medical assistance provided by the Indian Health Service, an Indian Tribe, Tribal Organizations, or an Urban Indian Organization (as so defined), directly, through referral, or under contracts or other arrangements between the Indian Health Service, an Indian Tribe, Tribal Organization, or an Urban Indian Organization and another health care provider to Indians who are eligible for medical assistance under the State plan or under waiver authority.".

(4) REFERENCE CORRECTION.—Subsection (d) of such section is redesignated as subsection (c) and is amended—

(A) by striking "For" and inserting "DIRECT BILLING.—For"; and

(B) by striking "section 405" and inserting "section 401(d)".

(b) SPECIAL RULES FOR INDIANS, INDIAN HEALTH CARE PROVIDERS, AND INDIAN MANAGED CARE ENTITIES.—

(1) IN GENERAL.—Section 1932 of the Social Security Act (42 U.S.C. 1396u–2) is amended by adding at the end the following new subsection:

"(h) SPECIAL RULES FOR INDIANS, INDIAN HEALTH CARE PROVIDERS, AND INDIAN MANAGED CARE ENTITIES.—A State shall comply with the provisions of section 413 of the Indian Health Care Improvement Act (relating to the treatment of Indians, Indian health care providers, and Indian managed care entities under a medicaid managed care program).".

(2) APPLICATION TO SCHIP.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(1)) is amended by adding at the end the following:

"(E) Subsections (a)(2)(C) and (h) of section 1932.".

(c) SCHIP TREATMENT OF INDIAN TRIBES, TRIBAL ORGANIZATIONS, AND URBAN INDIAN ORGANIZATIONS.—Section 2105(c) of the Social Security Act (42 U.S.C. 1397ee(c)) is amended—

(1) in paragraph (2), by adding at the end the following:

"(C) INDIAN HEALTH PROGRAM PAYMENTS.—For provisions relating to authorizing use of allotments under this title for payments to Indian Health Programs and Urban Indian Organizations, see section 410 of the Indian Health Care Improvement Act."; and

(2) in paragraph (6)(B), by inserting "or by an Indian Tribe, Tribal Organization, or Urban Indian Organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act)" after "Service".

SEC. 5. NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.

(a) IN GENERAL.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended by adding at the end the following:

"TITLE VIII—NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION

"SEC. 801. DEFINITIONS.

"In this title:

"(1) BOARD.—The term 'Board' means the Board of Directors of the Foundation.

"(2) COMMITTEE.—The term 'Committee' means the Committee for the Establishment of Native American Health and Wellness Foundation established under section 802(f).

"(3) FOUNDATION.—The term 'Foundation' means the Native American Health and Wellness Foundation established under section 802.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(5) SERVICE.—The term 'Service' means the Indian Health Service of the Department of Health and Human Services.

"SEC. 802. NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.

"(a) IN GENERAL.—As soon as practicable after the date of enactment of this title, the Secretary shall establish, under the laws of the District of Columbia and in accordance with this title, the Native American Health and Wellness Foundation.

"(b) PERPETUAL EXISTENCE.—The Foundation shall have perpetual existence.

"(c) NATURE OF CORPORATION.—The Foundation—

"(1) shall be a charitable and nonprofit federally chartered corporation; and

"(2) shall not be an agency or instrumentality of the United States.

"(d) PLACE OF INCORPORATION AND DOMICILE.—The Foundation shall be incorporated and domiciled in the District of Columbia.

"(e) DUTIES.—The Foundation shall—

"(1) encourage, accept, and administer private gifts of real and personal property, and any income from or interest in such gifts, for the benefit of, or in support of, the mission of the Service;

"(2) undertake and conduct such other activities as will further the health and wellness activities and opportunities of Native Americans; and

"(3) participate with and assist Federal, State, and tribal governments, agencies, entities, and individuals in undertaking and conducting activities that will further the health and wellness activities and opportunities of Native Americans.

"(f) COMMITTEE FOR THE ESTABLISHMENT OF NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.—

"(1) IN GENERAL.—The Secretary shall establish the Committee for the Establishment of Native American Health and Wellness Foundation to assist the Secretary in establishing the Foundation.

"(2) DUTIES.—Not later than 180 days after the date of enactment of this section, the Committee shall—

"(A) carry out such activities as are necessary to incorporate the Foundation under the laws of the District of Columbia, including acting as incorporators of the Foundation;

"(B) ensure that the Foundation qualifies for and maintains the status required to carry out this section, until the Board is established;

"(C) establish the constitution and initial bylaws of the Foundation;

"(D) provide for the initial operation of the Foundation, including providing for temporary or interim quarters, equipment, and staff; and

"(E) appoint the initial members of the Board in accordance with the constitution and initial bylaws of the Foundation.

"(g) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—The Board of Directors shall be the governing body of the Foundation.

"(2) POWERS.—The Board may exercise, or provide for the exercise of, the powers of the Foundation.

"(3) SELECTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), the number of members of the Board, the manner of selection of the members (including the filling of vacancies), and the terms of office of the members shall be as provided in the constitution and bylaws of the Foundation.

"(B) REQUIREMENTS.—

"(i) NUMBER OF MEMBERS.—The Board shall have at least 11 members, who shall have staggered terms.

"(ii) INITIAL VOTING MEMBERS.—The initial voting members of the Board—

"(I) shall be appointed by the Committee not later than 180 days after the date on which the Foundation is established; and

"(II) shall have staggered terms.

"(iii) QUALIFICATION.—The members of the Board shall be United States citizens who are knowledgeable or experienced in Native American health care and related matters.

"(C) COMPENSATION.—A member of the Board shall not receive compensation for service as a member, but shall be reimbursed for actual and necessary travel and subsistence expenses incurred in the performance of the duties of the Foundation.

"(h) OFFICERS.—

"(1) IN GENERAL.—The officers of the Foundation shall be—

"(A) a secretary, elected from among the members of the Board; and

"(B) any other officers provided for in the constitution and bylaws of the Foundation.

"(2) SECRETARY.—The secretary of the Foundation shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

"(3) ELECTION.—The manner of election, term of office, and duties of the officers of the Foundation shall be as provided in the constitution and bylaws of the Foundation.

"(i) POWERS.—The Foundation—

"(1) shall adopt a constitution and bylaws for the management of the property of the Foundation and the regulation of the affairs of the Foundation;

"(2) may adopt and alter a corporate seal;

"(3) may enter into contracts;

"(4) may acquire (through a gift or otherwise), own, lease, encumber, and transfer real or personal property as necessary or convenient to carry out the purposes of the Foundation;

"(5) may sue and be sued; and

"(6) may perform any other act necessary and proper to carry out the purposes of the Foundation.

"(j) PRINCIPAL OFFICE.—

"(1) IN GENERAL.—The principal office of the Foundation shall be in the District of Columbia.

"(2) ACTIVITIES; OFFICES.—The activities of the Foundation may be conducted, and offices may be maintained, throughout the United States in accordance with the constitution and bylaws of the Foundation.

"(k) SERVICE OF PROCESS.—The Foundation shall comply with the law on service of process of each State in which the Foundation is incorporated and of each State in which the Foundation carries on activities.

"(l) LIABILITY OF OFFICERS, EMPLOYEES, AND AGENTS.—

"(1) IN GENERAL.—The Foundation shall be liable for the acts of the officers, employees, and agents of the Foundation acting within the scope of their authority.

"(2) PERSONAL LIABILITY.—A member of the Board shall be personally liable only for gross negligence in the performance of the duties of the member.

"(m) RESTRICTIONS.—

"(1) LIMITATION ON SPENDING.—Beginning with the fiscal year following the first full fiscal year during which the Foundation is in operation, the administrative costs of the Foundation shall not exceed 10 percent of the sum of—

"(A) the amounts transferred to the Foundation under subsection (o) during the preceding fiscal year; and

"(B) donations received from private sources during the preceding fiscal year.

"(2) APPOINTMENT AND HIRING.—The appointment of officers and employees of the Foundation shall be subject to the availability of funds.

"(3) STATUS.—A member of the Board or officer, employee, or agent of the Foundation shall not by reason of association with the Foundation be considered to be an officer, employee, or agent of the United States.

"(n) AUDITS.—The Foundation shall comply with section 10101 of title 36, United States Code, as if the Foundation were a corporation under part B of subtitle II of that title.

"(o) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (e)(1) $500,000 for each fiscal year, as adjusted to reflect changes in the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(2) TRANSFER OF DONATED FUNDS.—The Secretary shall transfer to the Foundation funds held by the Department of Health and Human Services under the Act of August 5, 1954 (42 U.S.C. 2001 et seq.), if the transfer or use of the funds is not prohibited by any term under which the funds were donated.

"SEC. 803. ADMINISTRATIVE SERVICES AND SUPPORT.

"(a) PROVISION OF SUPPORT BY SECRETARY.—Subject to subsection (b), during the 5-year period beginning on the date on which the Foundation is established, the Secretary—

"(1) may provide personnel, facilities, and other administrative support services to the Foundation;

"(2) may provide funds for initial operating costs and to reimburse the travel expenses of the members of the Board; and

"(3) shall require and accept reimbursements from the Foundation for—

"(A) services provided under paragraph (1); and

"(B) funds provided under paragraph (2).

"(b) REIMBURSEMENT.—Reimbursements accepted under subsection (a)(3)—

"(1) shall be deposited in the Treasury of the United States to the credit of the applicable appropriations account; and

"(2) shall be chargeable for the cost of providing services described in subsection (a)(1) and travel expenses described in subsection (a)(2).

"(c) CONTINUATION OF CERTAIN SERVICES.—The Secretary may continue to provide facilities and necessary support services to the Foundation after the termination of the 5-year period specified in subsection (a) if the facilities and services—

"(1) are available; and

"(2) are provided on reimbursable cost basis.".

(b) TECHNICAL AMENDMENTS.—The Indian Self-Determination and Education Assistance Act is amended—

(1) by redesignating title V (as added by section 1302 of the American Indian Education Foundation Act of 2000) (25 U.S.C. 458bbb et seq.)) as title VII;

(2) by redesignating sections 501, 502, and 503 (as added by section 1302 of the American Indian Education Foundation Act of 2000) as sections 701, 702, and 703, respectively; and

(3) in subsection (a)(2) of section 702 and paragraph (2) of section 703 (as redesignated by paragraph (2)), by striking "section 501" and inserting "section 701".

Mr. DORGAN. I thank Chairman MCCAIN for his leadership in introducing the Indian Health Care Improvement Act Amendments of 2005. I have been pleased to work with him in constructing this legislation. He and I are united in our agreement that getting the Indian Health Care Improvement Act reauthorized this year is the Indian Affairs Committee's top priority.

This legislation was last reauthorized in 1992. Since 1999, the director of the Indian Health Service and his staff have worked with a national steering committee of tribal leaders and representatives of Indian health organizations, as well as with the congressional authorizing committees, on reauthorization of and amendments to the Indian Health Care Improvement Act.

The bill that we introduce today reflects many elements of these discussions and negotiations over recent years, as well as testimony received at a number of hearings held by the Senate Indian Affairs Committee and House Resources Committee. It is important that we begin as soon as possible to receive the views of Indian Country, the administration and others on this legislation.

I am sure that in the course of this Congress, there will be changes to the bill that is being proposed today. As Chairman MCCAIN knows, I am committed to addressing the serious issue of teen suicide that is epidemic on several Indian reservations, in North Dakota and other areas of the country. I hope that the recommendations of Indian parents, students, tribal officials and health professionals may lead to additional provisions in the Act to deal with this very serious problem.

I look forward to the comments of the administration, especially the Indian Health Services, as well as other committees of the Congress, tribes and tribal organizations, urban Indian entities, and others to help us craft legislation that will provide creative and effective solutions to address the health care needs of American Indian and Alaska Native communities.

Mr. SANTORUM (for himself and Mr. WYDEN):

S. 1058. A bill to amend the Public Health Service Act to provide liability protections for volunteer practitioners at health centers under section 330 of such Act; to the Committee on Health, Education, Labor, and Pensions.

Mr. SANTORUM. Mr. President, I rise today to introduce the Community Health Center Volunteer Physician Protection Act of 2005 along with Senator RON WYDEN. Representative TIM MURPHY of Pennsylvania introduced identical bipartisan legislation in the House of Representatives, H.R. 1313.

Community health centers offer primary and preventive health care services to everyone, including low-income, underinsured and uninsured families. Community health centers are typically located in high-need areas identified by the Federal Government as having elevated poverty, higher than average infant mortality, and where few physicians practice. They tailor their services to fit the special needs and priorities of their communities, and offer services that help their patients access health care such as health education, transportation and home visitation.

While low-income individuals have access to Medicaid and the elderly and the disabled have access to Medicare, uninsured and underinsured families often delay seeing a doctor or turn to emergency departments where treatment is several times more expensive.

Community health centers, however, provide comprehensive and preventive care that adjusts charges for patient care according to family income. The Federal Government spends over $23 billion a year to offset losses incurred by hospitals for patients unable to pay their bills, and the Department of Health and Human Services note that medical care at community health centers cost only about $1.30 per day per patient served. In fact, medical care at community health centers is around $250 less per patient served than the average annual expenditure for an office-based medical provider.

Community health centers offer an affordable source of quality health care, but we need more of them. The President has proposed a $304 million increase for community health center programs to create 1,200 new or expanded sites to serve an additional 6.1 million people by next year. In order to meet that goal, the centers must double their workforce by adding double the clinicians by 2006. Hiring this many doctors would be costly, but encouraging more to volunteer would help to meet this need. While many physicians are willing to volunteer their services at these centers, they often hesitate due to the high cost of medical liability insurance. As a result, there are too few volunteer physicians to meet our health care needs.

By comparison, volunteer physicians at free health clinics and paid physicians at community health centers already receive comprehensive medical liability coverage under the Federal Tort Claims Act (FTCA).

Accordingly, the Community Health Center Volunteer Physician Protection Act of 2005 would extend the medical liability protections of FTCA to volunteer physicians at community health centers. These protections are necessary to ensure that the centers can continue to play an important role in lowering our Nation's health care costs and meeting the needs for affordable and access quality health care. The Community Health Center Volunteer Physician Protection Act of 2005 is supported by the National Association of Community Health Centers, the American Medical Association and the American Osteopathic Association.

The impact that community health centers have on the citizens of the Commonwealth of Pennsylvania is significant. Pennsylvania is the home to twenty-nine Federal grantees, including 11 of which are rural, and 151 different service delivery sites. These services are crucial in my home state which also faces a severe medical liability crisis.

We must continue to encourage the spirit of giving and volunteerism, particularly in the healthcare arena. I urge my colleagues to support the Community Health Center Volunteer Physician Protection Act of 2005.

By Mr. BROWNBACK (for himself, Mr. SMITH, Mr. CHAMBLISS, Mr. DODD, Mr. FEINGOLD, and Mrs. CLINTON):

S.J. Res. 19. A joint resolution calling upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act; to the Committee on Foreign Relations.

Mr. BROWNBACK. Mr. President, as Chairman of the Commission on Security and Cooperation in Europe I am pleased to submit a bipartisan resolution in support of the vital work of the Organization for Security and Cooperation in Europe (OSCE) in conjunction with the 30th anniversary of the signing of the Helsinki Final Act on August 1. I am pleased that Senate Commissioners SMITH of Oregon, CHAMBLISS, DODD, FEINGOLD, and CLINTON are included as original cosponsors of this resolution.

For three decades the OSCE has provided an important framework for advancing democracy, human rights and the rule of law in an expansive region encompassing the U.S. and Canada, Europe and the countries of Central Asia. Over the years, the OSCE participating States have hammered out an extensive body of commitments agreed on the basis of consensus. Our Commission was established by Congress to monitor and encourage the OSCE participating States—now numbering 55—to implement the commitments they have accepted. The Commission's mission can be distilled to a single word, accountability. As President Ford remarked when signing the Final Act on behalf of the United States, "History will judge this Conference . . . not only by the promises we make, but by the promises we keep."

The Final Act inspired courageous individuals in the Soviet Union and Eastern Europe to form monitoring groups to assess how their respective governments lived up to the commitments they had endorsed on paper. For their temerity in seeking accountability most activists were imprisoned, banished or exiled. Many endured years of suffering in the gulag. Some paid the price with their very lives. Ultimately, their sacrifice and the work of countless others began to bear fruit, ushering in the dramatic changes of the late 1980's and early 90's.

A catalyst for change, the Helsinki Final Act and the process it began provided an important backdrop against which President Ronald Reagan, standing in front of Berlin's Brandenburg Gate, could boldly declare, "Mr. Gorbachev, tear down this wall." Bold leadership led to concrete results with the resolution of hundreds of cases of political prisoners and prisoners of conscience as well as the reunification of tens of thousands of families. Progress in implementing existing commitments paved the way for the participating States to address the need for systemic change to ensure sustained respect for human rights. In 1990, as the Iron Curtain began to fall, the leaders of the then—35 participating States declared, "We undertake to build, consolidate and strengthen democracy as the only system of government of our nations." The following year they categorically and irrevocably declared that human rights commitments "are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned." In a step designed to preserve the unity of the Helsinki process, each country that joined the OSCE after 1975 submitted a letter in which the accepted in their entirety all commitments and responsibilities contained in the Helsinki Final Act, and all subsequent documents adopted prior to their membership. To underscore this continuity, the leaders of each of these countries signed the actual original 1975 Final Act document.

With the break up of the Soviet Union, many observers believed—or hoped—that the fall of communism would usher in a new era and the relatively speedy emergence of states that treat their citizens and neighbors with respect. Regrettably, the gap between commitment and the situation on the ground in a number of OSCE participating States remains wide, and in at least a couple of countries is growing alarmingly wider.

Elsewhere, the OSCE has played an important role in the aftermath of conflicts that ravaged much of the Balkans region. The atrocities committed during these conflicts, in particular during the Bosnian conflict from 1992 to 1995, represent the most egregious violations of Helsinki principles in Europe since the Final Act was signed, indeed since World War II. By placing field missions throughout that region, the OSCE has helped heal the wounds, in particular by facilitating the return of those displaced from their homes, by improving conditions for elections, by training local police and by monitoring borders used by criminal gangs who profit from the chaos of conflict. There have been improvements in recent years, but there is still plenty of work to do to build the democratic institutions and respect for the rule of law.

Freedom is on the march in places some had written off as unsuited for democracy. Kyrgyzstan's Tulip Revolution, Ukraine's Orange Revolution, Georgia's Rose Revolution, and Serbia's Democratic Revolution testify to the enduring power of the ideas reflected in the Helsinki Final Act and other OSCE documents. As we approach the 30th anniversary of the Final Act, a number of signatory states—most notably Russia and Belarus—seem determined to diminish the democratic content of the OSCE and rewrite related commitments they accepted when they joined the OSCE. It is imperative that the United States hold firm to the values that have inspired democratic change in much of the OSCE region, even as we redouble our efforts to encourage all participating States to implement their freely accepted commitments.

In recent years the OSCE has made significant inroads in confronting and combating the rise in anti-Semitism and related violence in the OSCE region, including the United States. I would point out that the OSCE was the first multilateral institution to speak out against anti-Semitism. While many OSCE states have responded appropriately, vigorously investigating the perpetrators and pursuing criminal prosecution, we must remain vigilant in addressing manifestations of anti-Semitism. The OSCE conference on anti-Semitism and other forms of intolerance to be held in June in Cordoba will provide a timely opportunity for countries to report on measures they are taking to address these concerns.

The OSCE is also playing an important role in promoting the right of individuals to freely profess and practice their faith. A number of countries in the OSCE region have adopted or are considering laws on religion that would severely restrict or otherwise regulate this fundamental right. Similarly, the OSCE has given priority attention to efforts to combat trafficking in human beings, encouraging a number of participating States to adopt measures to prevent trafficking, prosecute perpetrators, and protect victims.

In her confirmation testimony, Secretary of State Rice referred to the potential role that multilateral institutions can play in multiplying the strength of freedom-loving nations. Indeed, the OSCE has tremendous potential to play an even greater role in promoting democracy, human rights, and rule of law in a region of strategic importance to the United States.

Over the past three decades the OSCE has served as an important catalyst for change. An important aspect of the success of the Helsinki Process has been the strong partnership forged with human rights advocates, including non-governmental organizations. As we look toward the work ahead, we would do well to recall the insightful observation of renowned physicist, humanitarian, and Nobel Peace Prize laureate, Andrei Sakharov, "The whole point of the Helsinki Accords is mutual monitoring, not mutual evasion of difficult problems."

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 144—RECOGNIZING TIM NELSON AND HUGH SIMS FOR THEIR BRAVERY AND THEIR CONTRIBUTIONS IN HELPING THE FEDERAL BUREAU OF INVESTIGATION DETAIN ZACARIAS MOUSSAOUI

Mr. COLEMAN (for himself and Mr. DAYTON) submitted the following resolution; which was considered and agreed to:

S. RES. 144

Whereas Tim Nelson called the Federal Bureau of Investigation's (FBI) Minneapolis Office at 8:30 am on Wednesday, August 15, 2001;

Whereas Hugh Sims called the FBI's Minneapolis Office at 9:30 am on Wednesday, August 15, 2001;

Whereas their calls set into motion the only United States criminal prosecution, so far, stemming from the attacks on our Nation on September 11, 2001;

Whereas on April 22, 2005, Zacarias Moussaoui pled guilty to 6 counts of conspiracy to commit terrorism on September 11, 2001; and

Whereas according to FBI officials, the actions of these 2 courageous and greathearted men may have saved thousands of lives and preempted a possible attack on the White House: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Tim Nelson and Hugh Sims should be recognized for their bravery and their contributions in helping the Federal Bureau of Investigation detain Zacarias Moussaoui;

(2) the United States is grateful to Tim Nelson and Hugh Sims for their heroism; and

(3) we, as a nation, should continue to follow their example as we fight the war on terror.

SENATE CONCURRENT RESOLUTION 34—URGING THE GOVERNMENT OF THE REPUBLIC OF ALBANIA TO ENSURE THAT THE PARLIAMENTARY ELECTIONS TO BE HELD ON JULY 3, 2005, ARE CONDUCTED IN ACCORDANCE WITH INTERNATIONAL STANDARDS FOR FREE AND FAIR ELECTIONS

Mr. BROWNBACK (for himself and Mrs. CLINTON) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 34

Whereas the United States maintains strong and friendly relations with the Republic of Albania and appreciates the ongoing support of the people of Albania;

Whereas the President of Albania has called for elections to Albania's parliament, known as the People's Assembly, to be held on July 3, 2005;

Whereas Albania is one of 55 participating States in the Organization for Security and Cooperation in Europe (OSCE), all of which have adopted the 1990 Copenhagen Document containing specific commitments relating to the conduct of elections;

Whereas these commitments, which encourage transparency, balance, and impartiality in an election process, have become the standard by which observers determine whether elections have been conducted freely and fairly;

Whereas, though improvements over time have been noted, the five multiparty parliamentary elections held in Albania between 1991 and 2001, as well as elections for local offices held between and after those years, fell short of the standards in the Copenhagen Document to varying degrees, according to OSCE and other observers;

Whereas with OSCE and other international assistance, the Government of Albania has improved the country's electoral and legal framework and enhanced the capacity to conduct free and fair elections;

Whereas subsequent to the calling of elections, Albania's political parties have accepted a code of conduct regarding their campaign activities, undertaking to act in accordance with the law, to refrain from inciting violence or hatred in the election campaign, and to be transparent in disclosing campaign funding; and

Whereas meeting the standards in the Copenhagen Document for free and fair elections is absolutely essential to Albania's desired integration into European and Euro-Atlantic institutions, including full membership in the North Atlantic Treaty Organization (NATO), as well as to Albania's progress in addressing official corruption and combatting organized crime: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) welcomes the opportunity for the Republic of Albania to demonstrate its willingness and preparedness to take the next steps in European and Euro-Atlantic integration by holding parliamentary elections on July 3, 2005, that meet the Organization for Security and Cooperation in Europe (OSCE) standards for free and fair elections as defined in the 1990 Copenhagen Document;

(2) firmly believes that the citizens of Albania, like all people, should be able to choose their own representatives in parliament and government in free and fair elections, and to hold these representatives accountable through elections at reasonable intervals;

(3) supports commitments by Albanian political parties to adhere to a basic code of conduct for campaigning and urges such parties and all election officials in Albania to adhere to laws relating to the elections, and to conduct their activities in an impartial and transparent manner, by allowing international and domestic observers to have unobstructed access to all aspects of the election process, including public campaign events, candidates, news media, voting, and post-election tabulation of results and processing of election challenges and complaints;

(4) supports assistance by the United States to help the people of Albania establish a fully free and open democratic system, a prosperous free market economy, and the rightful place of Albania in European and Euro-Atlantic institutions, including the North Atlantic Treaty Organization (NATO); and

(5) encourages the President to communicate to the Government of Albania, to all political parties and candidates in Albania, and to the people of Albania the high importance attached by the United States Government to this parliamentary election as a central factor in determining the future relationship between the United States and Albania.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on May 17, 2005, at 10 a.m., to conduct a hearing on "Examining the Current Legal and Regulatory Requirements and Industry Practices for Credit Card Issuers with Respect to Consumer Disclosures and Marketing Efforts."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, May 17, 2005, at 10 a.m., on Port Security.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Tuesday, May 17 at 9:30 a.m. to consider pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 17, 2005 at 9:30 a.m. to hold a hearing on the Commission on Africa report.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations be authorized to meet on Tuesday, May 17, 2005, at 9:30 a.m., for a hearing entitled "Oil For Influence: How Saddam Used Oil to Reward Politicians and Terrorist Entities Under the United Nations Oil-for-Food Program."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 17, 2005 at 2:30 p.m. to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE AND NUCLEAR SAFETY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Climate Change, and Nuclear Safety be authorized to meet on Tuesday, May 17, 2005 at 9:30 a.m. to conduct a closed hearing regarding nuclear security. Only Members and staff with Top Secret security clearance are able to attend. The Hearing will be held in S-407 in the Capitol.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY, AND CITIZENSHIP SUBCOMMITTEE ON TERRORISM, TECHNOLOGY, AND HOMELAND SECURITY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Immigration, Border Security and Citizenship and the Subcommittee on Terrorism, Technology and Homeland Security be authorized to meet to conduct a hearing on "The Need for Comprehensive Immigration Reform: Strengthening Our National Security" on Tuesday, May 17, 2005 at 2:30 p.m. in Dirksen 226.

Witness List

Panel I: the Honorable Asa Hutchinson, Chair of the Homeland Security Practice, Venable, L.L.P., Former Under Secretary for Border and Transportation Security, Department of Homeland Security, Washington, DC; Margaret D. Stock, Assistant Professor of Law, United States Military Academy, West Point, NY; and Mark Reed, Border Management Strategies, LLC, Tucson, AZ.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON RETIREMENT SECURITY AND AGING

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Retirement Security and Aging, be authorized to hold a hearing during the session of the Senate on Tuesday, May 17, 2005 at 10 a.m. in SD-430.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mrs. BOXER. Mr. President, I ask unanimous consent Patty Skuster, a fellow in my office, be granted the privilege of the floor for the remainder of the proceedings.

The PRESIDING OFFICER. Without objection, it is so ordered.

HISTORIC HAVANA MEETING OF ASSEMBLY TO PROMOTE THE CIVIL SOCIETY IN CUBA

Mr. McCONNELL. Mr. President, I ask unanimous consent the Foreign Relations Committee be discharged from further consideration, and the Senate now proceed to S. Res. 140.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 140) expressing support for the historic meeting in Havana of the Assembly to Promote the Civil Society in Cuba on May 20, 2005, as well as to all those courageous individuals who continue to advance liberty and democracy for the Cuban people.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 140) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 140

Whereas on May 20, 1902, the Republic of Cuba obtained its independence;

Whereas in the spirit of Jose Marti, many of the future leaders of a free Cuba have called for a meeting of the Assembly of the Civil Society in Cuba, an organization that consists of over 360 dissident and civil society groups in Cuba;

Whereas, on May 20, 2005, the Assembly to Promote the Civil Society in Cuba seeks to convene a historic meeting in Havana on the 103rd anniversary of Cuban Independence; and

Whereas the Assembly to Promote the Civil Society in Cuba will focus on bringing democracy and liberty to the island of Cuba: Now, therefore, be it

Resolved, That the Senate—

(1) extends its support and solidarity to the participants of the historic meeting, in Havana, of the Assembly to Promote the Civil Society in Cuba on May 20, 2005;

(2) urges the international community to support the Assembly and its mission to bring democracy and human rights to Cuba;

(3) encourages the international community to oppose any attempts by the Cuban government to repress, punish, or intimidate the organizers and participants of the Assembly; and

(4) shares the pro-democracy ideals of the Assembly to Promote the Civil Society in Cuba and believes that the Assembly and its mission will advance freedom and democracy for the people of Cuba.

RECOGNIZING THE CONTRIBUTION OF TIM NELSON AND HUGH SIMS IN DETAINING ZACARIAS MOUSSAOUI

Mr. McCONNELL. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. Res. 144, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 144) recognizing Tim Nelson and Hugh Sims for their bravery and their contributions in helping the Federal Bureau of Investigation retain Zacarias Moussaoui.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 144) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 144

Whereas Tim Nelson called the Federal Bureau of Investigation's (FBI) Minneapolis Office at 8:30 am on Wednesday, August 15, 2001;

Whereas Hugh Sims called the FBI's Minneapolis Office at 9:30 am on Wednesday, August 15, 2001;

Whereas their calls set into motion the only United States criminal prosecution, so far, stemming from the attacks on our Nation on September 11, 2001;

Whereas on April 22, 2005, Zacarias Moussaoui pled guilty to 6 counts of conspiracy to commit terrorism on September 11, 2001; and

Whereas according to FBI officials, the actions of these 2 courageous and greathearted men may have saved thousands of lives and preempted a possible attack on the White House: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Tim Nelson and Hugh Sims should be recognized for their bravery and their contributions in helping the Federal Bureau of Investigation detain Zacarias Moussaoui;

(2) the United States is grateful to Tim Nelson and Hugh Sims for their heroism; and

(3) we, as a nation, should continue to follow their example as we fight the war on terror.

ORDERS FOR WEDNESDAY, MAY 18, 2005

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, May 18. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President and Members of the Senate, tomorrow morning the Senate will begin consideration of the nomination of Priscilla Owen to be U.S. circuit court judge for the Fifth Circuit. We will debate the nomination throughout the day tomorrow. I encourage Members who wish to speak on the nomination to come to the Senate during tomorrow's session.

I talked to the Democrat leader about the structure of the debate, and he will accommodate Members who desire to make statements. I encourage Senators to contact cloakrooms if they would like to speak on the nomination. We look forward to the debate on Priscilla Owen, and we hope all of the Members will participate.

ORDER FOR ADJOURNMENT

Mr. McCONNELL. If there is no further business to come before the Senate, I ask the Senate stand in adjournment under the previous order at the conclusion of the remarks of the distinguished Senator from Tennessee.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee is recognized.

ENERGY

Mr. ALEXANDER. Mr. President, the matter of giving the President an up-or-down vote on his judicial nominees or, more accurately, giving the country an opportunity for any President to have what every President has always had, a chance for the full Senate to have an up-or-down vote on his nominees, is a matter of great importance to our country. It is not the only business before the Senate. I would like to speak for a few minutes about natural gas prices and prices at the pump and how, at a time when China and India are buying up oil reserves around the world, we make sure that we have plenty of energy.

We spend, in this country, about $2,500 per person on energy per year. We are about to have a big debate and discussion in the Senate about how much we spend on energy in the future. The Senator from Louisiana was here a few minutes ago. She made an excellent address. She summed up some of what happened today in the Senate Energy Committee. It was a very good meeting. At one time, virtually every member of the Senate Energy Committee was present, even though the purpose of the meeting was simply for us to make opening statements and to take initial action on a few relatively noncontroversial matters. That is because all of us understand how important it is.

It is also because Chairman DOMENICI and Ranking Member BINGAMAN, who are from New Mexico, have worked unusually hard in creating a framework so that we could have a significant piece of legislation. To those outside the Senate, that may sound like a lot of "inside baseball," but it is not. It is crucially important for the Republican majority to have listened, as Senator DOMENICI and the rest of us have over the last several months, to the views and attitudes of the Democratic minority and vice versa.

What is happening in the Energy Committee is no accident. Senator DOMENICI, at the beginning of the year, told the Republican members of the committee that as he looked back over the last session of Congress and saw our failure as a Congress to grapple with this question of high prices at the gas pump, high prices for natural gas, which are driving manufacturing jobs overseas, which are raising costs for farmers, which are making it hard to heat and cool our homes, he decided he wanted to operate in a little bit different way. So we have. In a way, it is a good thing that we didn't pass an energy bill last year because this one ought to be a lot better, a lot more aggressive, and a lot bolder.

The situation is more urgent. We have a better bipartisan framework, and we have learned a lot in the last year. Senator DOMENICI and Senator BINGAMAN have cochaired large conferences on coal and natural gas, so Senators themselves and key staff members could learn about the newest technologies and could understand the facts about what are a very complex set of considerations so we are better prepared.

I especially compliment the Senator from Louisiana. She mentioned the Americans Outdoors Act that she and I introduced together again yesterday. We introduced it in the last session of Congress. She has worked on major parts of it for the last 6 years. But basically it picks up a principle that was a part of President Reagan's Commission on Americans Outdoors which I chaired 20 years ago. It sought to create a steady stream of reliable funding for conservation purposes, specifically the Land and Water Conservation Fund, for city parks, for wildlife, for enjoyment by soccer players, by duck hunters, by walkers, by most Americans.

The idea is, if we are going to drill for gas and oil and use up some of our assets, we ought to take a part of that and use it and put it back as an asset. If there is an environmental burden, there ought to be an environmental benefit. That is a very simple idea.

She and I call it a "conservation royalty," and it is our hope to persuade a majority of the Senate, which we believe is conservation minded, that a majority of Americans—and we know there is a conservation majority in the United States—want us to help them have more places to enjoy themselves outdoors.

I look forward to working with her on that and the conservation royalty.

Mr. President, let me put the meeting Senator DOMENICI chaired in the Energy Committee in this context. A couple weeks ago, I had a private letter from GEN Carl Steiner. He is a real American hero. He was head of the special forces, a very brave man. He wrote to remind me that September 11 was a big surprise, but it should not have been. During the 1980s and 1990s, there were terrorist attacks on American interests around the world and in our country itself. If we had paid attention, General Steiner reminded me, we would not have been surprised on 9/11.

The next big surprise in this country will be to our pocketbooks. But it doesn't have to happen. If we pay attention, we already know we have the highest natural gas prices in the industrialized world. Three or 4 years ago, we had the lowest natural gas prices in the industrialized world. Today we have the highest. We know gas at the pump is at record levels for our country. We know China and India are increasing their demand for energy. We know that because of high prices, manufacturing jobs are moving overseas, farmers are taking a pay cut, and consumers are paying too much to heat and cool their homes.

We can avoid this next big surprise—the one to our pocketbooks—by passing an energy bill in the next few weeks that lowers prices, cleans the air, and reduces dependence upon foreign oil. To keep our standard of living, our goal must be to aggressively conserve and to aggressively produce an adequate, reliable supply of low-cost, American-produced, clean energy.

Some may say, why the emphasis on clean energy? Isn't that over in the clean air debate in the Environment and Public Works Committee? Well, yes, it is, jurisdictionwise. They may have jurisdiction on clean air. That is the problem. But the Energy bill has the solution to the clean air problem. We are not going to have clean air just by passing a bunch of caps on things.

We are going to have it by transforming the way we produce energy in this country.

Senator BINGAMAN and Senator DOMENICI, as I mentioned earlier, have worked hard to produce a bipartisan framework to accomplish the goal I just described. But the danger is still that we will be too timid and we will compromise our differences and produce a bill that doesn't do much. That is why Senator JOHNSON and I introduced the bipartisan Natural Gas Price Reduction Act of 2005 a few weeks ago. According to a preliminary analysis by the American Council for an Energy Efficient Economy, our act would yield four times the natural gas savings or production of last year's energy bill. In other words, our bill would make up seven of the eight TFC of America's projected shortfall in natural gas by 2020. That is one way to lower natural gas prices.

I suggested this morning—and some members of the committee seemed to respond well to the idea—that we think of this legislation we are beginning to work on in the Senate as the "clean energy act of 2005." Along with some of my colleagues, I support legislation to reduce carbon and other pollutants in our air. But none of these caps on pollution will do the job. None will produce an adequate supply of low-cost, reliable, American-produced, clean energy. The only way to do that is, first, aggressive conservation and, secondly, to aggressively transform the way we produce energy.

In writing our bill, we have to keep in mind what the Finance Committee of the Senate will do with the tax part of this bill. Some of this Energy bill will be in the Environment and Public Works Committee, some of it is in our Energy Committee, and some of it is in the Finance Committee—the tax part. So it all eventually will come together to the floor, where I am sure there will be even more amendments.

But the reason—in our deliberations this week and next week in the Energy Committee we have to keep in mind what the Finance Committee is doing—is we have limited resources. This is not going to be a $30 billion bill. Our Budget Committee says the Energy bill will be an $11 billion bill over the next 5 years. That is what it will cost in direct spending and tax credits. The administration hopes it will be even smaller—an $8 billion bill. We won't lower prices if we spend our money on more tax credits to oil companies, and we will not lower prices if we continue current policies and spend $3.7 billion over the next 5 years, or nearly one-third of what the administration wants us to spend, on building giant windmills that produce puny amounts of high-cost, unreliable power, and destroy the landscape. We don't need a national windmill policy; we need a national clean energy policy.

It is important for us to know what the tax committee is doing because it is important for us to know, as I mentioned, that, for example, if the tax committee continues its production tax credit for so-called renewable energy—$3.7 billion over the next 5 years of the $8 billion or $11 billion we have is gone, and we don't have it to build clean coal gas plants, for credits for hybrid cars, for credits for new nuclear—the things that will make a difference for us. Of that $3.7 billion, 70 percent of it will be spent on windmills. So current policies would say, if we have $8 billion or $11 billion to spend—the total we have to spend on energy—we would spend a large part on these giant windmills, which raise prices, only work 20, 25, or 30 percent of the time, are being abandoned in many countries that started using them, and absolutely destroy the American landscape, because they are 100 yards tall, wider than jumbo jets, make noise up to a half a mile away.

Here are some of the specific steps I believe we should take to conserve and transform production. Many of these proposals are in the Alexander-Johnson legislation we introduced a few weeks ago. Several have been incorporated in Chairman DOMENICI's draft before our committee. Here are a few examples in the areas of conservation, first, and in the area of transforming production:

In conservation, consumer education. A 4-year national consumer education program to reduce the demand for energy, tailored after the successful California program, could avoid energy consumption of about 20 powerplants over 4 years.

Efficiency standards. Higher appliance and equipment standards for natural gas efficiency could save the equivalent of 24 1,000-megawatt powerplants by 2020.

Cogeneration. Regulatory relief enabling manufacturers to more easily produce their own power and steam from a single source would save money and energy and reduce pollutants.

Efficient electricity generation. Incentives to encourage utilities to utilize their natural gas plants based on efficiency—we call that efficient dispatch—to increase their efficiency as much as 40 percent. In plain English, there are old natural gas plants and there are new natural gas plants. The new ones use a lot less natural gas than the old ones to produce the same amount of power. Using gas from the new ones first would save a lot of gas.

Oil savings. Last session of Congress, the Congress adopted a plan Senator LANDRIEU and I recommended to direct the administration to come up with a plan that would reduce by 1 million barrels per day by 2015 our use of gasoline.

Senator JOHNSON and I in our legislation suggest the administration adopt a plan to reduce gasoline use by 1.75 million barrels per day. This would save enough gasoline to equal twice the anticipated production from the Arctic National Wildlife Refuge.

And finally, in terms of conservation, another important idea is support for hybrid and advanced diesel vehicles. Most of this will have to come from the Finance Committee. But the National Commission on Energy Policy, which a lot of us have been reading, both Democrats and Republicans, "A Bipartisan Strategy to Meet America's Challenges," has a number of excellent ideas in it.

One of them is $1.5 billion over 5 years in manufacturer and consumer incentives for domestic production and purchase of efficient hybrid electric and advanced diesel vehicles. Hybrid vehicles use about 60 percent of the gasoline conventional vehicles use. The Commission wisely suggested that we have some loan guarantees or tax credits. We might do the loan guarantees in our own legislation in the Energy Committee to help make sure those hybrid vehicles and clean diesel vehicles are built in the United States.

The other area in which we need to move boldly, and I hope we will, is in transforming the way we produce energy. At the head of the list has to be nuclear power. There is a lot of talk in this body about global warming and carbon. Mr. President, 70 percent of the carbon-free energy we produce in the United States comes from nuclear power. Again, Seventy percent of the carbon-free energy we produce in the United States comes from nuclear power. And in the next 5, 10, 15 years, if we are serious about global warming, reducing the amount of carbon in the air and setting an example for the rest of the world to do the same, we will appropriate at least $2 billion for research and development and loan guarantees to help start at least two new advanced technology plants.

We have not built a new nuclear powerplant in America since the 1970s. TVA, the Tennessee Valley Authority, fortunately, is reopening Browns Ferry, one of its plants. This will basically be a new plant. Yet France produces 80 percent of its power using nuclear energy. Japan builds a new nuclear powerplant every year. Our Navy operates 70, 80, 90 nuclear vessels. I guess the number is classified; I do not know the exact number. They have never had one single, not one single accident with those reactors since the 1950s. Yet here we are, the most scientifically advanced nation in the world, worried about air pollution, worried about the need for low-cost, reliable supply of power, many are worried about global warming and carbon in the air, and we have not built a new nuclear powerplant since the 1970s. We should start.

The second best hope for transforming our way of producing a low-cost, reliable supply of American-produced energy is coal. We need a national coal gasification strategy. Again, both Democratic and Republican Members have been studying this very carefully. I suggest $2 billion in loan guarantees for the deployment of six coal gasification plants by 2013 and $2 billion for industrial applications of coal gasification.

Clean coal gasification, very simply, is taking coal, of which we have plenty, hundreds of years of supply, and turning it into gas and making electricity from it, either in freestanding powerplants or letting industries do that to produce their own power as, for example, Eastman does in Kingsport, TN.

Next we should focus on carbon capture and sequestration from coal plants. Coal gasification eliminates most of the problems we have with mercury, nitrogen, and sulfur, but it still produces carbon. If we could find a way to capture that carbon and put it away somewhere, sequester it, we would have created right there, in addition to nuclear power, a way to have a fairly permanent supply of low-cost, reliable, adequate American-produced energy.

That technology is not mature yet, but we need a research program to demonstrate commercial scale carbon capture and geological sequestration at a variety of sites as well as research to reduce capital costs of processes to sequester carbon. That is also one of the recommendations of the National Commission on Energy Policy.

As many leading environmental groups have pointed out, coal gasification and carbon capture is the best strategy for the rest of the world. Even if we clean up our air, even if somehow we limit our production of carbon, if China, India, and Brazil build hundreds and hundreds of dirty coal plants around the world, it will not matter what we do because the air goes around the world, and we will end up breathing it, too.

So it is urgent that we move ahead with advanced nuclear technology and with advanced coal gasification and carbon capture and sequestration, not just for us, but in hopes that the rest of the world will adopt our technology and, therefore, make our air safer and cleaner and make us less dependent on foreign oil.

We need to increase our supply of domestic natural gas, and there are specific ways in the Alexander-Johnson legislation to do that. I hope the Senate bill adopts those ideas.

No. 1, we should provide the Department of Interior with the legal authority to issue "natural gas only" leases. Some of the oil companies are saying, "What do you do if you find oil?" We are not the experts; they are. If the State of Virginia or North Carolina, or some other State prefers to look for natural gas, I would like for them to have that option, and today the Secretary does not have that option.

No. 2, we should instruct the Department of Interior to draw the State boundary according to established international law between Alabama and Florida regarding lease 181 and lease portions of it not in Florida by December 31, 2007.

That may sound very technical, but here is what that means. The Secretary should draw the State line out into the water, which should have been done years ago. The part that is in Florida can't be drilled on because of the moratorium. The part that is in Alabama could be. Some estimates say 20 percent of the natural gas that is produced in the Gulf of Mexico over the next several years could come from that new part of lease 181 in Alabama. That would lower natural gas prices.

Finally, it allows States to selectively waive the Federal moratoria on offshore production and collect significant revenues from such production.

If Tennessee had a coastline—I know Georgia does—but if Tennessee had one, here is what I would do. I would put some gas rigs so far out in the ocean that nobody could see them. I would take that money and I would put it in an endowment of Tennessee colleges and universities so they would be the best funded and gradually the best colleges and universities in America. Second, I would take the rest of the money and I would lower taxes.

That would be a pretty good platform for a Governor. I wish I could do it in Tennessee, but maybe a Governor of New Jersey or Georgia or Florida or Virginia will want to do that. I think they should have that option.

Finally—I said finally, but one other thing on domestic natural gas. We should take part of these revenues from offshore drilling and create a conservation royalty. That royalty would be equally shared by all the States in the Land and Water Conservation Fund and wildlife grants. We should take that money and invest it in conservation so an environmental burden becomes an environmental benefit.

There are a couple of other things I would specifically like to mention. We are going to have to temporarily increase the foreign supply of natural gas. We have no option if we want lower natural gas prices. We do that by streamlining the permitting of facilities for bringing LNG from overseas to the United States. We need to give the Federal Energy Regulatory Commission exclusive authority for siting and regulating LNG terminals while still preserving States' authorities under the Coastal Zone Management Act, Clean Water Act, and the Clean Air Act. Renewable power is an important part of what we ought to do. Regarding solar power, the production tax credit now in the law for solar power really isn't enough to make solar power a viable option. We should increase that over the next several years. We should adopt the work that many Democrats, and President Bush, and many Republicans have worked on to encourage hydrogen fuel cell initiatives.

We should require that FERC grant or deny a terminal pipeline application within 1 year. We should clarify the permitting processes for pipelines and natural gas storage facilities.

These are specific steps. They are aggressive steps. But they are the kind of steps we need to take.

I make these remarks, as I said at the beginning, because Senator DOMENICI and Senator BINGAMAN, both of whom have been here for a long time, have worked pretty hard to give us a chance to have the right kind of clean energy bill. I believe the American people expect us in the Senate to know that natural gas prices are driving jobs overseas and are raising prices for farmers. They expect us to know they are having a hard time affording the cost of gasoline. They expect us to take steps to do something about it. Only the steps like the ones I have mentioned will create a true Clean Energy Act of 2005. Only steps like these will produce adequate conservation and adequate supply of reliable, low-cost, American-produced, clean energy. Only steps like these will lower prices and save the United States from the next big surprise: The surprise to our pocketbooks because we failed to prepare for the oncoming energy crisis.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow morning.

Thereupon, the Senate, at 6:33 p.m., adjourned until Wednesday, May 18, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 17, 2005:

COMMODITY FUTURES TRADING COMMISSION

REUBEN JEFFERY III, OF THE DISTRICT OF COLUMBIA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR A TERM EXPIRING APRIL 13, 2007, VICE BARBARA PEDERSEN HOLUM, TERM EXPIRED.

REUBEN JEFFERY III, OF THE DISTRICT OF COLUMBIA, TO BE CHAIRMAN OF THE COMMODITY FUTURES TRADING COMMISSION, VICE JAMES E. NEWSOME, RESIGNED.

DEPARTMENT OF ENERGY

JAMES A. RISPOLI, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENTAL MANAGEMENT), VICE JESSIE HILL ROBERSON, RESIGNED.

DEPARTMENT OF STATE

LINDA JEWELL, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ECUADOR.

JOHN F. TEFFT, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO GEORGIA.

DEPARTMENT OF LABOR

CHARLES S. CICCOLELLA, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING, VICE FREDERICO JUARBE, JR., RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. STEPHEN R. LORENZ, 2664

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. RICHARD S. KRAMLICH, 9829

IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant commander

KATHRYN C. DUNBAR, 0745

HOUSE OF REPRESENTATIVES—*Tuesday, May 17, 2005*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. WESTMORELAND).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

HOUSE OF REPRESENTATIVES,
Washington, DC, May 17, 2005.

I hereby appoint the Honorable LYNN A. WESTMORELAND to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from Ohio (Mr. BROWN) for 5 minutes.

CENTRAL AMERICA FREE TRADE AGREEMENT

Mr. BROWN of Ohio. Mr. Speaker, 1 year ago, in late May, 2004 President Bush signed the Central American Free Trade Agreement, a trade agreement that extends the North American Free Trade Agreement, NAFTA, to 5 Central American countries and the Caribbean country of the Dominican Republic. That trade agreement, coupled with the President's next trade agreement, the Free Trade Area of the Americas, will double the population of the North American Free Trade Agreement, double the size of NAFTA, and quadruple the number of low income workers, poverty wage workers that now live in NAFTA countries.

Normally, when a trade agreement is signed by President Bush, that trade agreement comes in front of Congress almost immediately. Since President Bush has taken office there have been 4, Morocco, Australia, Chile and Singapore. Each of those agreements has been voted on within about 2 months of the President's signature.

However, the Central American Free Trade Agreement, some call it the Central American Free Labor Agreement, because it really is all about low income workers, not about selling American products to Central America. The Central American Free Trade Agreement has not been sent to Congress; has not been voted on, even though President Bush signed it 11 and a half months ago, even longer ago than that actually, 11 months and 20 some days. And the reason is simple that it has not come in front of the Congress, because of the immense opposition to the Central American Free Trade Agreement.

As my colleagues will notice, our trade policy in this country simply is not working. If you look at what has happened to our trade deficit, that is the amount of exports that we sell to other countries versus the amount of imports we buy from other nations, you can see we had a negative flow in 1992, the year that I happened to run for Congress, of $38 billion. That was the year before NAFTA.

NAFTA was passed in 1993. Then Congress passed a trade agreement with Chile, several other trade agreements. And you can see what has happened with this wrong-headed trade policy. This trade deficit, our trade deficit with the rest of the world was $38 billion in 1992. Last year, 2004, our trade deficit was $620 billion, $618 billion, precisely, from $38 billion to $618 billion.

By any stretch of the imagination, it is hard to argue that our trade policy is working. And that is why the opposition has been bipartisan to CAFTA, to the Central American Free Labor, the Central American Free Trade Agreement. That is why the opposition has been bipartisan. That is why the opposition has been overwhelming.

Last month 2 dozen Democrats and Republicans in Congress joined more than 150 business groups and labor organizations, sending the message, vote no on this Central American Free Trade Agreement. Last week more than 400 union workers and Members of Congress gathered in front of the U.S. Capitol again delivering that message, vote no on the Central American Free Trade Agreement.

Now, those of us opposed to CAFTA, which clearly is a majority in this Congress, or we already would have voted on it. Those of us opposed to CAFTA say we are not opposed to trade. We want to see fair trade agreements instead of free trade agreements, because we know what free trade agreements do. We know what this trade deficit does to our country. It means, according to the first President Bush, according to his economists, it means literally 12,000 lost jobs per $1 billion of trade deficit. That means a million lost jobs. It means more than that. A million lost manufacturing jobs in this country.

In my State alone we have lost 200,000 manufacturing jobs, not entirely because of trade agreements, but that is a big component of it. So we know what these trade agreements do to individuals when they lose their jobs, what it does to family members when they lose their jobs, what it does to communities when a community has a plant closing, what it does to the school districts and the schools as they lose funding because these workers have lost their jobs and because this plant has closed, what it does to our country as a whole when we have this kind of trade deficit. We understand that. That is why those of us opposed to the Central American Free Trade Agreement want to throw out this dysfunctional cousin of NAFTA and want to negotiate a trade agreement that will lift workers up in Central America, while promoting prosperity here at home.

There is no reason that our trade agreements need to look like this, need to have a result like this. Instead, Congress can move forward in passing a fair trade agreement.

Mr. Speaker, the gentleman from Texas (Mr. DELAY), the Majority Leader, the most powerful Republican in the U.S. Congress, and the Chairman of the Ways and Means Committee, the gentleman from California (Mr. THOMAS) both promised to vote on the Central American Free Trade Agreement by the end of May.

Now, if you will look at this chart you will see that the end of May happens to be the 1-year anniversary of when CAFTA was sent to Congress. So, Mr. Speaker, we should vote no on the Central American Free Trade Agreement; bury this trade agreement, and pass a trade agreement that is good for American workers and American communities.

SOCIAL SECURITY REFORM

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Indiana (Mr. PENCE) is recognized during morning hour debates for 5 minutes.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. PENCE. Mr. Speaker, last year President Bush put Social Security reform on the national agenda. His proposal to save Social Security by giving younger Americans the choice to choose personal savings accounts has been met, to date, by ridicule and silence by the loyal opposition in this Congress. The ridicule has taken a variety of forms, denouncing the President's motives and intentions. The intentions of Republicans have been described by some outside organizations as an effort to tear down the house of public retirement in America.

Beyond that slur, there has just been, to date, simply silence. No ideas, no counterproposals, nothing to deal with what many refer to as a generational tsunami heading for Social Security, as some 40 million Americans over the age of 65 within 20 years will become 80 million Americans over the age of 65.

I say silence with hesitation, Mr. Speaker, because that actually ended yesterday among the loyal opposition when the gentleman from Florida (Mr. WEXLER) introduced his legislation at a press event in his home State, where he unveiled a bill which he described as Social Security forever, saying, admirably, "I believe it is time for Democrats to offer an alternative to the President."

And to the gentleman from Florida, I say with admiration, I could not agree more. I admire him for his leadership on behalf of his vision of government and also his honesty as he proposes to cure what ails Social Security in the next 50 to 75 years with that anecdote that Democrats run to most often, and that is, namely, higher taxes. The Wexler bill, with a 6 percent tax increase on income over $90,000 a year would be the largest marginal tax rate increase in a generation.

Let us be clear about this, Mr. Speaker. House conservatives will vigorously oppose any effort to finance Social Security reform by raising taxes on working families, small businesses, and family farms. Thanks to the Wexler proposal, the American people now see a very clear choice before them, the President and the Republican Congress's vision for reform and the single Democrat vision that has been articulated, higher taxes. With one of the largest marginal tax increases in a generation, the gentleman from Florida (Mr. WEXLER's) Social Security forever bill looks more like higher taxes forever.

It is time for this Congress to move on to the substance of Social Security reform. Let us offer our conflicting visions in this chamber across the aisle and move forward to save and secure and reform Social Security for our children and our grandchildren.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 10 a.m. today.

Accordingly (at 9 o'clock and 10 minutes a.m.), the House stood in recess until 10 a.m.

☐ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. MILLER of Michigan) at 10 a.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord, Your word is founded in truth and Your just decrees are everlasting.

So our fleeting days and our passing tasks are truly significant only if they are grounded in You.

Eternal God, You are the wellspring of creativity for Your people. You are forever liberating us from blinding evil; so be with Congress today.

Ennoble every compromise rooted in compassion; and strengthen every commitment measured by righteous decisions in this body.

Just as there cannot be true worship in Your sight without sacrifice and conversion of heart; nor can there be true politics without principle. Free us, Lord, to amend our ways so that we will search for what is truly right and just; lest we become lost in endless possibilities born only from self-centered imagination.

Lord God, in the land of the free we hold ourselves accountable to You both now and forever.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from California (Ms. SOLIS) come forward and lead the House in the Pledge of Allegiance.

Ms. SOLIS led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

SPEND IT WISELY

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Madam Speaker, this week the House will uphold, for the 216th time, its constitutionally mandated responsibility to begin the process of funding the Federal Government.

The Founding Fathers understood the power of the purse and that that power of the purse was government's most potent, and therefore installed that power first and foremost in the body most accountable to the American people, the House of Representatives.

In the 10 years Republicans have controlled the House appropriations process, we have fundamentally changed the way we spend the people's money.

We have based this process on an entirely new question: no longer "How much can we spend?" but "How much should we spend?" That may seem like a very small matter, but it has saved our government and our economy billions of dollars and millions of jobs over the last decade.

The fiscal accountability our Republican majority instituted helped balance the budget in the late 1990s, helped ensure the recession of 2001 was the shallowest in memory, and helped ensure our recovery from that recession and the 9/11 attacks was strong and durable.

This week we will begin our second decade protecting the American people's money, and our first year with our streamlined Committee on Appropriations, by taking up the first two spending bills for the 2006 fiscal year.

First, the homeland security spending bill will provide the resources our homeland security agencies need to do their work. And since September 11, 2001, Congress has worked tirelessly with the administration to identify and address our national vulnerabilities, culminating with the creation of the new Department of Homeland Security.

The fiscal year 2006 security appropriation will meet the needs of our first responders, make it harder for terrorists and criminals to pierce our borders, better prepare our Nation for emergencies, and help us stay one step ahead of our enemies.

Second, we will provide for the 2006 budgets for the Department of the Interior and environment-related agencies.

It makes sense these two bills will be the first we take up. After all, our homeland security agencies protect our people and our infrastructure while our interior agencies protect everything in between.

For these and the rest of the fiscal year 2006 spending bills, Madam Speaker, the House will lead the way not only chronologically but responsibly. We will continue to build on the record we have established these last 10 years, making sure every dollar is put to its best use and making sure we only spend those dollars we must.

For another appropriation season is upon us and we will spend it wisely.

CALLING FOR U.S. WITHDRAWAL FROM IRAQ

(Mr. KUCINICH asked and was given permission to address the House for 1 minute.)

Mr. KUCINICH. Madam Speaker, I would like to read to the Members from excerpts from an op-ed that the gentleman from Hawaii (Mr. ABERCROMBIE) and I published in "USA Today."

"The military occupation of Iraq will not turn Iraq into a democratic nation. Longstanding rivalries will do more to shape that country's future. Those forces will not be controlled by American boots on the ground no matter how many we put there or how long they remain.

"In Iraq there are no front lines, no easy way to tell friend from foe, no clear way to measure success. Iraq is a quagmire. It has become a recruiting post for Osama bin Laden. Are we to keep fighting indefinitely, losing more troops every week, spending billions of dollars, and increasing the strain on our Armed Forces, especially the Reserve and the National Guard?

"Iraq has already added $200 billion to our national debt and costs U.S. taxpayers more than $1 billion per month. It jeopardizes the strategic interests of the United States. It alienates allies in the Muslim world, and it is hindering efforts to create a united global front against al Qaeda.

"Unlike World War II, where the enemy surrendered and the troops came home, there is no such prospect in Iraq. We must define an endpoint. We will soon introduce legislation to achieve that goal by bringing the occupation of Iraq to a close. The troops have done their jobs. It is up to Congress and the President to forge a policy worthy of their sacrifices."

HONORING GENERAL ANDREW JACKSON GOODPASTER

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Madam Speaker, I attended West Point from 1976 to 1980. The Academy was going through much change dealing with a cheating scandal and the integration of the first women at West Point.

To effect change, the Army turned to a world renowned retired four star general, Andrew Jackson Goodpaster, a West Point graduate.

General Goodpaster, from Granite City, Illinois, led Army troops in World War II, Vietnam, and oversaw NATO and U.S. troops in Europe in the 1970s. General Goodpaster served at various times as an aid to Presidents Eisenhower, Kennedy, Johnson, and Nixon.

General Goodpaster died yesterday at the age of 90 here in D.C. at Walter Reed Army Medical Center. He is survived by his wife, Dorothy; two daughters, Susan and Anne; and seven grandchildren.

As their alma mater states: "And when our work is done, our course on earth is done, may it be said well done, be thou at peace."

Well done, Supe. Be thou at peace.

SAVINGS INCENTIVES

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Madam Speaker, as we continue debating the future of Social Security, it is important to remember for more Americans they cannot save enough for their retirement.

In fact, over half of all Americans do not participate in employer-sponsored retirement plans, and for 28 million households in America they have no other retirement security outside of Social Security.

For America's families retirements are less, not more secure. United Airline employees last week learned that painful lesson.

For that reason it is crucial that we strengthen, not weaken, Social Security, as well as enable more Americans to save for their retirement.

Specifically, step one, we should encourage companies to automatically enroll their employees in their 401(k) plans. At R.R. Donnelley, a Chicago company, auto enrollment dramatically increased 401(k) participation when they did automatic participation, up to 92 percent.

Second, we should make the Saver's Credit fully refundable and permanent. A recent H&R Block study shows, when offered a matching contribution, Americans save more.

Third, we should allow taxpayers to directly deposit their tax refund into a savings account.

And, fourth, finally, we should create universal 401(k)s for all Americans to consolidate the different savings plans that exist.

MEDIA NEEDS TO SHOW RESPONSIBILITY IN REPORTING

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, "Newsweek" last night finally retracted a story that had deadly consequences. The incident underscores how high the stakes are for the news media. There is a prestige for organizations to get the story first. But that prestige often trumps factual reporting of issues. And the "gotcha" factor is often the motivation for running stories that are not as well researched as they could or should be. It is the "gotcha" bias that leads to shoddy reporting. This may be fine when they are covering the Michael Jackson case.

The problem with the War on Terror reporting is that terrorists are watching. When stories are reported here that fit their PR plan, terrorists use them to incite violence and hatred around the world. In the very next news cycle, their response can be heard. That means that mistakes are very costly and the damage done is outrageous.

In this case "Newsweek's" mistake cost the lives of 17 people in riots in Afghanistan and set back the cause of democracy there. This is inexcusable and irresponsible. And while it is good that Newsweek issued a correction, they should lead the way in setting a higher standard of reporting in the first place, particularly when we are talking life and death, war and peace.

ABUSE OF POWER

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Madam Speaker, today I rise to denounce the Republican attack on our system of checks and balances that has existed in our country for well over 200 years.

Led by the Senate majority leader, the Senate Republicans are creating an unnecessary showdown over judicial nominations that will hurt the American public and especially women.

The truth is that since President Bush took office, the Senate has confirmed 208 of his judicial nominations and turned back only 10, which is a 95 percent confirmation rate.

There are reasons the Democrats are concerned about the judicial nominations. As Chair of the Democratic Women's Working Group, I am concerned about the nominations of Janice Rogers Brown and Priscilla Owen to the circuit court seats. Both these nominees would come to the Federal bench with an agenda to roll back civil rights and labor protections, many of which would affect women and all Americans.

We have held these values dear for many decades, and I cannot stand quiet and allow the Senate Republicans to abuse their power. Eliminating the filibuster would destroy the procedures that would protect democracy in this institution.

The American public must stand up and be heard.

HONORING HOSANNA CHURCH JUNIOR HIGH YOUTH GROUP FOR THEIR EFFORTS ON BEHALF OF IRAQI SCHOOL CHILDREN

(Mr. KLINE asked and was given permission to address the House for 1 minute.)

Mr. KLINE. Madam Speaker, I rise today to recognize the efforts of some outstanding young Minnesotans.

What began as a routine service project for the Hosanna Church Junior

High Youth Group has grown into a community-wide effort. The students, led by George Macaulay, set out to collect school supplies for Iraqi children. Once they had filled one box, however, they became inspired to do more. The students reached out to other groups within their church, then to other community groups. As of last week, the students had collected 20 boxes of school supplies and were still going strong.

I recall clearly the smiling faces of the Iraqi schoolchildren in my first congressional visit to Iraq 2 years ago. They were eager to learn, and their teachers and parents expressed gratitude for our assistance.

The Hosanna Youth Group is making a meaningful contribution to these children and demonstrating the commitment of U.S. citizens to the spread of knowledge and freedom.

I thank Mr. Macaulay, Alex, Jay, Patrick, Jack, Justin, Alexander, and Carter for all they have done. Their efforts are an inspiration to us all.

DEPLETED URANIUM MUNITIONS STUDY ACT OF 2005

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Madam Speaker, today on behalf of 21 original Democratic co-sponsors, I am introducing the Depleted Uranium Munitions Study. The stakes could not be higher for U.S. soldiers and Iraqi civilians, and there is not a moment to lose, and I hope the Republican leadership will put it on the Suspension Calendar.

DU, as it is called, is a byproduct of the uranium enrichment process. It is toxic and has low-level radioactivity, and it is widely used by the United States military in Iraq.

There are countless stories of mysterious illnesses, higher rates of serious illnesses and even birth defects. We do not know what role, if any, DU plays in the medical tragedies in Iraq, but we must find out.

The Pentagon says there is no evidence that DU is harmful; yet the Pentagon also says soldiers should wear protective gear, including special clothing and a respirator, using DU. An Iraqi child has no protective gear. The Iraqi people have no respirators. If DU is so safe, why do American soldiers need to wear protective clothing in the first place?

We do not know if DU is safe or harmful; yet we have used 150 tons in the war so far.

Let the Pentagon prove that it is safe.

□ 1015

TOO LITTLE TOO LATE FOR NEWSWEEK RETRACTION

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Madam Speaker, I rise today to express my displeasure that Newsweek magazine published an inaccurate and irresponsible story that led to a deadly protest in Afghanistan.

The May 9 edition of Newsweek reported that U.S. interrogators at Guantanamo Bay used unreasonable and unacceptable methods to make Muslim detainees talk. These methods purportedly included the desecration of the Koran. Now Newsweek is apologizing for running the story, saying their "official government source" is unsure of the information he supplied to the magazine.

Madam Speaker, it is too little, too late for an apology and retraction.

While Newsweek has done the right thing by retracting their story, it cannot retract the irrefutable damage that has been done. Sixteen people died for no reason at all. Our brave men and women in uniform are now at greater risk. Furthermore, our country's image has been tarnished in the eyes of the Muslim community across the globe.

Media outlets must be sure to check their facts and get their story straight. We want and need a free press, but we must have a responsible press.

On balance, our media usually does an outstanding job of keeping the American people informed. I hope others will learn from this tragic mistake.

LAS VEGAS CENTENNIAL

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Madam Speaker, the city of Las Vegas is celebrating its centennial this year. This past weekend marked the anniversary of the land auction that founded Las Vegas, and the city highlighted this momentous day with special events such as the return of the Helldorado Days Parade, baking and serving the world's largest birthday cake, and a reenactment of the land auction of 1905.

Las Vegas has grown from the western railroad stop of May 15, 1905 to the entertainment capital of the world that welcomed a record-setting 40 million tourists last year.

I remember as a girl with my family driving out west in search of the American Dream and finding it in Las Vegas, Nevada. Over the years, I have watched Las Vegas become the quintessential American city. Economic opportunity and the optimistic attitude of our citizens welcome thousands of new residents and millions of tourists every month.

I am proud to be a part of the Las Vegas community; and I wish my city, Las Vegas, a happy 100th anniversary. The best is yet to come.

IN SUPPORT OF JUSTICE PRISCILLA OWEN

(Mr. MARCHANT asked and was given permission to address the House for 1 minute.)

Mr. MARCHANT. Madam Speaker, I rise today in support of Justice Priscilla Owen, Presidential nominee to the U.S. Court of Appeals for the Fifth Circuit.

Since her nomination in May of 2001, the Democrats have continuously threatened to use the filibuster to block a vote on her nomination, and she is unable to be confirmed. All judicial nominees deserve a fair up-or-down vote on the Senate floor. This judicial obstruction is unprecedented.

I personally know Justice Priscilla Owen. Her record on the Supreme Court of Texas is outstanding and she deserves the opportunity to serve on the U.S. Court of Appeals. Justice Owen has had broad bipartisan support, including the support of three former Democratic judges on the Supreme Court and a bipartisan group of 15 past Presidents of the State Bar of Texas.

If the Senate employs the constitutional option, it will not be changing the rules; it will simply be restoring the precedent and a 200-year tradition. Justice Owen deserves a fair up-or-down vote, as do all of President Bush's judicial nominees.

CHILD SUPPORT REINVESTMENT ACT OF 2005

(Ms. MATSUI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MATSUI. Madam Speaker, today I rise to introduce the Child Support Reinvestment Act of 2005. This much-needed bill will provide States, including my home State of California, with important penalty relief, allowing more money to flow where it should: to the children of our State awaiting their past-due child support payments.

California is in the process of developing the largest single statewide automated child support collection system in the country. Although the project initially met with delays, California is now on track to compliance by September 2006.

However, rather than reducing the penalties as California makes progress towards its goal, the Federal penalties actually continue to grow, because the penalties are based on the amount the State invests in child support programs for the previous year. Effectively, we are hurting the very children that the program is trying to help by punishing States for doing their best to get each child the support payments they are owed.

My bill, the Child Support Reinvestment Act, will lower the penalties and allow the money levied in penalty to be used for the benefit of the children instead of the Federal Government's general fund. This is smart regulation for the States.

BORDER PATROL AND ILLEGAL ALIENS

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Madam Speaker, multiple news reports claim that the U.S. Border Patrol has been ordered to stop arresting illegal aliens in Arizona where American citizens have been patrolling. And why have the agents been asked to stop these arrests? Because an increase in the arrest rate was proving the effectiveness of the Minuteman volunteers.

I hope our government has not told agents to stop making arrests. I hope that the efforts of concerned citizens were not in vain.

Our government has spent close to $240 million to monitor the Mexican and Canadian borders with the latest technology. The problem? The equipment does not work. What is clear is that the Minutemen are working. Border agents credited the Minutemen with cutting the flow of illegal aliens with the number caught dropping from 500 a day to less than 15 per day. Madam Speaker, new solutions are needed; we cannot just throw money at our problems. It is clear that a group of concerned citizens are doing what $240 million could not do, but we need a permanent fix.

Madam Speaker, illegal immigration is not simply going to go away. We know there is a problem, and we must take the initiative and address this problem now.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATION FALLS SHORT

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Madam Speaker, this Homeland Security appropriation falls short in many areas: port security, first responders, interoperable communications, and aviation.

In aviation, recent tests by the Inspector General and the GAO show that there are unacceptable, continuing vulnerabilities to our system of aviation, and their conclusion is simple: the performance of finding explosives and other threat objects will not improve until we give the screeners 21st-century technology to fight 21st-century threats. The junk they are working with was thrown out a decade ago because it was inadequate for the United States Capitol before 9/11, but we are still using it in our airports and demanding they find threat objects that the machines simply cannot find. The Subcommittee on Homeland Security of the Committee on Appropriations is failing the test too. They are failing to protect the American traveling public.

JUDICIAL NOMINATION OF PRISCILLA OWEN

(Mr. HENSARLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENSARLING. Madam Speaker, 2 years ago this month, I rose to express my outrage with Democrats over their treatment of my fellow Texan, Supreme Court Justice Priscilla Owen. Today, due to Democrats' continued obstruction, Justice Owen, a highly qualified nominee from the Fifth Circuit Court of Appeals, is still being denied a simple up-or-down vote in the Senate.

Madam Speaker, despite unanimously receiving the highest possible rating of the American Bar Association, despite the strong, bipartisan support of several former Texas Supreme Court Justices and 15 past presidents of the State Bar of Texas, Texas Supreme Court Justice Priscilla Owen has still not received a simple up-or-down vote for 4 years. For 4 years, Senate Democrats have worked to obstruct our Constitution.

When Republicans were in power during President Clinton's term, no judicial nominee was ever deprived of a vote due to a filibuster. Now, after 200 years of American history, Democrats want to unilaterally change the rules.

Madam Speaker, Justice Owen has a right to get a vote on her nomination. Basic fairness dictates it, as does our Constitution.

HONORING THE CONTRIBUTIONS OF VIETNAMESE AMERICANS

(Mr. REICHERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REICHERT. Madam Speaker, I rise today to recognize an extraordinary group of people, our Vietnamese Americans.

This month, the gentleman from Virginia (Chairman TOM DAVIS) introduced, and the House passed, an important resolution honoring the contributions of the Vietnamese Americans over the past 3 decades, enriching our society with diversity, culture, and strength. Madam Speaker, I would like to thank the chairman for his work on this important issue.

Madam Speaker, 27,000 Vietnamese Americans live in my district of Washington State. One of the most remarkable experiences I have had as sheriff of King County in Washington, which I am now lucky enough to continue to represent as Congressman, is attending an annual event where South Vietnamese Police officers are recognized.

When the United States pulled out of Saigon, many were left behind. Some were executed, some sentenced to prison camps, some starved and beaten to death, all for being friends of the United States. And each year, these Vietnamese, who spent 15 to 20 years in prison camps, stand and salute our flag with tears in their eyes because they know what freedom is. They remind us of how great our country is, and I am privileged and proud to represent them.

JUSTICE OWEN: WELL QUALIFIED

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, yesterday, The Wall Street Journal highlighted the extreme and politically charged use of the Senate Democratic filibuster.

Editors at The Wall Street Journal clearly articulated the audacity of the Democrats' radical claims against nominee Priscilla Owen of Texas. Justice Owen is a well-respected and accomplished nominee who enjoys significant bipartisan support and would be quickly confirmed if given an up-or-down vote. Unfortunately, Democrats are denying her this opportunity in a desperate attempt to hold on to Federal power and legislation through the judicial system. Their agenda is fueled by bitterness and is not in the best interests of the American people.

Majority Leader BILL FRIST is to be commended for maintaining the constitutional case for an up-or-down vote. Democrat obstructionism is a radical deviation from allowing Senators to vote for the nominees who are highly qualified to serve our country. I support Senator FRIST's efforts and urge Senate Democrats to give Justice Owen a fair vote.

In conclusion, God bless our troops and we will never forget September 11.

UP-OR-DOWN VOTE FOR JUSTICE PRISCILLA OWEN

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Madam Speaker, I too rise this morning, along with my fellow Texans, to recommend to the other body that they have an up-or-down vote on Justice Priscilla Owen. Justice Owen has been elected by the people of Texas to the State Supreme Court two times, the second time in the year 2000 with an overwhelming popular majority. During her last election, Justice Owen was endorsed by every major newspaper in the State of Texas.

Mr. C. Boyden Gray, writing an article about this, said: "The members of the Texas legal community know Justice Owen to be a jurist of the highest integrity, one who is committed to following the law, no matter where it leads."

The Dallas Morning News editorialized after she was nominated 4 years ago that "Justice Owen's lifelong record is one of accomplishment and integrity. She is one of the few judicial nominees to receive the unanimous 'well-qualified' rating from the American Bar Association."

The chairman of the Texas Commission on Judicial Efficiency, Baylor University President Herbert Reynolds, said, "Based on my knowledge of Justice Owen for the past 30 years, I believe you simply cannot make a more solid choice for the 5th U.S. Circuit Court of Appeals."

I urge the other body to have an up-or-down vote.

RECOGNIZING THE 216TH ENGINEER BATTALION OF THE OHIO NATIONAL GUARD

(Mr. NEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEY. Madam Speaker, I rise today to recognize the 216th Engineer Battalion of the Ohio National Guard stationed in Chillicothe, Ohio, for their exceptional service during the war on terror.

The 216th completed more than 350 successful missions. They played a critical role in the construction of protective barriers to protect soldiers from enemy fire. And in preparation for Iraq's national election on January 30, the 216th placed concrete barriers at hundreds of voting sites to allow Iraqis to vote in a safe and secure environment. However, their service was not without tragedy. Twenty soldiers of the 216th were awarded Purple Hearts for wounds they received in combat, and three soldiers made the ultimate sacrifice.

In recognition of their exceptionally meritorious conduct, the 216th will be awarded the Meritorious Unit Commendation during their Freedom Salute Campaign celebration next month.

It is with great honor that I have the privilege of recognizing them today. The willingness to risk one's life in defense of the ideals our country was built upon and is the truest test of one's strength and character.

These men and women have excelled as patriots, and we are forever in their debt.

PROVIDING FOR CONSIDERATION OF H.R. 2360, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

Mr. SESSIONS. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 278 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 278

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived except as follows: beginning with the colon on page 6, line 8, through "Office" on page 7, line 7; beginning with "of" on page 7, line 17, through the semicolon on line 23; beginning with the colon on page 8, line 19, through "108–541" on page 9, line 15; beginning with the colon on page 9, line 23, through "checkpoint" on page 10, line 3; beginning with the colon on page 10, line 9, through "Office" on page 11, line 6; beginning with the colon on page 11, line 24, through "Representatives" on page 12, line 7; beginning with the colon on page 17, line 2, through "intent" on line 11; page 17, lines 21 through 24; beginning with the colon on page 18, line 5, through "Act" on line 18; beginning with the colon on page 21, line 2, through "assets" on page 22, line 12; beginning with the comma on page 26, line 22, through "law" on line 23; beginning with the colon on page 27, line 2, through "funds" on page 27, line 13; page 27, line 19, through page 28, line 5; beginning with the colon on page 28, line 15, through "funds" on page 29, line 2; beginning with the colon on page 29, line 6, through "2005" on page 30, line 8; beginning with the comma on page 36, line 19, through "funds" on line 22; and sections 507, 512, 515, 517, 518, 522, 523, 524, 525, 527, 529, 530, 532, and 534. Where points of order are waived against part of a paragraph or section, points of order against a provision in another part of such paragraph or section may be made only against such provision and not against the entire paragraph or section. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. When the committee rises and reports the bill back to the House with a recommendation that the bill do pass, the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1030

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, the rule before us today is a fair and completely open rule that provides for 1 hour of general debate equally divided and controlled by the chairman and ranking minority member on the Committee on Appropriations.

It waives all points of order against consideration of the bill, and provides that under the rules of the House the bill shall be read for amendment by paragraph. It waives points of order against provisions in the bill for failure to comply with clause 2 of rule XXI, which prohibits unauthorized appropriations or legislative provisions in an appropriations bill except as specified in the resolution.

Finally, the rule authorizes the Chair to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD and provides for one motion to recommit with or without instructions.

Madam Speaker, I rise today in strong support of this rule and the underlying legislation. This bill, sponsored by my friend, the gentleman from Kentucky (Mr. ROGERS), the chairman of the Appropriations Subcommittee on Homeland Security, funds an array of Federal programs aimed at securing the Nation against terrorist attacks, including Customs and border protection, transportation security, and Federal assistance to State and local first responders.

In addition, it funds some additional and vitally important missions of agencies that were included in the Democratic of Homeland Security when it was formed 2 years ago, such as disaster relief. This carefully considered legislation provides almost $31 billion for operations and activities of the Department of Homeland Security, an increase of $1.37 billion above fiscal year 2005 enacted levels, excluding $2.5 billion in advance appropriations for BioShield and $1.3 billion above the President's request.

It also provides $1 billion in mandatory budget authority for programs in the Department. Some of the other initiatives that the gentleman from Kentucky (Mr. ROGERS), the chairman, and his subcommittee have funded through this bill on behalf of the American public include: $7.5 billion to the Coast Guard, who are called today to defend our coast from the threat of terrorism;

$6.9 billion for the Bureau of Customs and Border Protection, including $4.9 billion for enforcement activities and assets: $458 million for computer automated import and export tracking functions; $348 million for maintenance of air and marine vessels: and $93 million for facilities construction and maintenance;

$5.7 billion for the Transportation Security Administration, including $2.5 billion for aviation, passenger and baggage screening; $983 million for aviation security direction and enforcement; and $36 million for surface transportation security;

$4.5 billion for the Bureau of Immigration and Customs Enforcement, including $3.1 billion for immigration enforcement, detention and removal; and $699 million for Federal air marshals;

$3.6 billion overall for terrorism preparedness grants, including $750 million for formula-based grants to States; $1.2 billion in discretionary grants for high-threat urban ports, port security and public transportation security; $600 million for fire prevention and control grants; $200 million for training exercises and technical assistance grants; and $180 million for emergency management performance grants;

$3 billion for emergency preparedness and response, including $2 billion for disaster relief; $861 million for information analysis and infrastructure protection; and $422 million for the Office of the Under Secretary for Border and Transportation Security, including $390 million for the United States Visitor and Immigrant Status Indicator Technology known as US-VISIT program; $14 million for the NEXUS/SENTRI program; and $7 million for the free and secure trade programs.

In addition to providing these much needed funds throughout this legislation, the gentleman from Kentucky (Chairman ROGERS) and his committee have also focused sharply on the need for strong oversight and Congressional review of how the taxpayers' money is being spent wisely and efficiently on homeland security.

This much needed emphasis on oversight of the efficiency and effectiveness on how money is spent on defending our homeland will ensure that the money is spent wisely. It will also limit waste and abuse so that the programs that are truly needed to protect the safety of American citizens will have the funds when they are needed and the ability to operate those plans.

Madam Speaker, I strongly support this legislation and this open rule. I commend my colleagues on the Appropriations Committee for their hard work in developing this legislative product.

Madam Speaker, I reserve the balance of my time.

Mr. McGOVERN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to thank the gentleman from Texas (Mr. SESSIONS) for yielding me the customary 30 minutes.

Madam Speaker, the Homeland Security Appropriations bill is one of the most important bills this or any Congress will consider. The protections provided in this bill are designed to make our country safer and to prevent future terrorist acts from taking place inside the United States.

The Homeland Security Appropriations Subcommittee has a difficult job. The gentleman from Kentucky (Chairman ROGERS) and the ranking member, the gentleman from Minnesota (Mr. SABO), have done the best they could with the limited resources provided to them. While I do not agree with every choice they made, they certainly have my appreciation and gratitude for the job that they have done.

Nonetheless, Madam Speaker, I am very concerned with the inadequate funding levels provided to the Appropriations Committee and with the continuing lack of accountability on the part of the Bush administration.

Now, let us not kid ourselves today. Congress must provide more funding to protect our Nation from terrorist attacks. We should not be forced to choose among funding port security, air security, border security and first responders. These distinct areas of security are all necessary parts of an integrated whole, and none of them should be short-changed. But the reality is that the reckless fiscal policies enacted by the Bush administration and the Republican leadership in Congress are short-changing these and other important programs.

The tax cuts enacted over the last 5 years, coupled with the hundreds of billions of dollars spent on the war in Iraq, have drained the Federal Treasury to the point where even the fire grants that help our local fire departments prepare for the challenges they face every day will be severely cut in this bill.

Madam Speaker, that is the wrong choice. Many of my Republican friends will claim that the Homeland Security Appropriations Subcommittee did the best they could with the allocation provided to them. That argument does not tell the whole truth. Many of my colleagues on the other side of the aisle will try to have it both ways. They want to criticize the low funding level in this bill, but they do not want to criticize the fiscal policies that have put us in the hole we are in today.

I know that my colleagues on the Homeland Security Appropriations Subcommittee will describe this bill in more detail, but I want to highlight a few key programs.

Again, I am disappointed that this bill short-changes the fire grant program. It is one of the most successful programs in the country and it deserves to be increased and not cut.

I am also disappointed that this bill fails to live up to the promises made in the Intelligence Reform Act, enacted just in December. This bill short-changes border security, a key component of the 9/11 Commission report that was released last year.

The silver lining, thin as it is, Madam Speaker, is that the gentleman from Kentucky (Chairman ROGERS) and the ranking member, the gentleman from Minnesota (Mr. SABO), were able to increase some funding for port security and transit security, and I am pleased that this bill also directs the Homeland Security Department to take concrete actions to protect this country.

For too long the administration has refused to hold the Department of Homeland Security accountable for its actions, and the gentleman from Kentucky (Chairman ROGERS) and the ranking member, the gentleman from Minnesota (Mr. SABO), included provisions to make the Department accountable, and to provide the necessary oversight of the Department that has been lacking since its creation.

For example, this bill will impose penalties on the TSA Administrator if a requirement to increase the screening of air cargo is not implemented by the end of the fiscal year.

Madam Speaker, for too long the Bush administration has refused to provide general oversight on the Department of Homeland Security. This fits the pattern of a complete lack of accountability on the part of this administration. From the Education Department paying for its own propaganda with taxpayer funds, to the absence of weapons of mass destruction in Iraq, to the wasting of billions of dollars in Iraqi reconstruction contracts, this administration has made mistake after mistake after mistake.

Yet the Republican Congress does not want to do anything. Ask no question, demand no answers. Under this Republican leadership, the legislative branch of government is barely a twig. And so, Madam Speaker, we see the same things happening in the Department of Homeland Security. After publicly supporting a dramatic increase in the number of air marshals, the last two Bush budgets actually proposed cuts in funding for this important program.

Yesterday at the Rules Committee, the gentleman from Kentucky (Chairman ROGERS) testified at length how the Coast Guard refuses to provide detailed plans for their Deepwater program and how the only way to get their attention is to withhold funds for this program. The same is true with the TSA's implementation of cargo screening measures and the deployment of explosive detection technologies at airports around the country.

Madam Speaker, I am pleased that this bill attempts finally to force some kind of accountability from the administration.

But, finally, Madam Speaker, I want to say something about the rule today. I am pleased that it is an open rule. There have been 30 rules considered so far this year, and only three of those rules have been open. That is a batting average of 100, which will get you kicked off of any self-respecting Little League team. This is no way to run the people's House.

I am also disappointed with the way this rule jeopardizes much of the oversight language written by this bill, by exposing it to points of order. The gentleman from Minnesota (Mr. SABO) and the gentleman from Kentucky (Mr. ROGERS) worked in a bipartisan way, as they should on an issue like this. This rule undercuts that bipartisanship.

Madam Speaker, for the past 3 years the Homeland Security Appropriations Subcommittee has been this body's only source of oversight of the Department of Homeland Security. Earlier this year the Committee on Homeland Security was established. This committee just reported out its first authorization bill, which will be considered later this week.

Madam Speaker, it is not good policy to strip out the oversight language provided by the gentleman from Kentucky (Chairman ROGERS) and the ranking member, the gentleman from Minnesota (Mr. SABO), because of a turf fight between two committees.

☐ 1045

The Committee on Homeland Security will have a chance to bring forth its bill this week, and in the future I hope will provide the necessary oversight of the Department so that the Committee on Appropriations does not have to do two jobs; but we should not strike this language from this bill today just because the authorizing committee is unhappy. To do so would be irresponsible, and that is why the rule today should be defeated.

I would say to my friends, especially on the other side of the aisle, that it is a little bit frustrating to hear them talk about accountability on one hand and to support a rule that strips all the accountability from this bill.

We heard last night in the Committee on Rules of the fact that the Homeland Security Department has failed to provide Congress with required reports. We have heard about how deadlines have been missed, one after another. There needs to be accountability.

It is clear that this bill, if this rule passes, does not hold up to that standard of accountability, and I would like to think that the Members of Congress, since we had a role in creating this agency, would want to hold this committee accountable.

This is about our safety. This is about protecting the people of this country, and it is clear that we need to rein in the people over at the Department of Homeland Security.

So, Madam Speaker, I would say in closing that I have great respect for the gentleman from Kentucky (Chairman ROGERS) and the gentleman from Minnesota (Ranking Member SABO). I think they provided the Committee on Rules last night with a good bill that had some teeth in it, that would hold the Department of Homeland Security accountable, but apparently, the Committee on Rules last night decided to just throw all that away.

So I would urge my colleagues to vote "no" on the rule.

Madam Speaker, I reserve the balance of my time.

Mr. SESSIONS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the opportunity to be here on behalf of this rule today, as my colleague, the gentleman from Massachusetts (Mr. MCGOVERN), points out, is all taking place as a result of the hard work that took place not only between the gentleman from Kentucky (Chairman ROGERS) and the gentleman from Minnesota (Ranking Member SABO); but, really, it was from a lot of work that has taken place over a long period of time, working with the administration, working with the Homeland Security Department.

I must confess that I believe that we should have stronger oversight. I think we agreed on that last night in the Committee on Rules. We are also of the belief that the new leadership at homeland security will continue in this very important task of working with not only the administration but working with our appropriators, our authorizers, the people who are very interested in making sure that we move in a collaborative effort forward for homeland security.

So I am proud of what the bill is today. I think that what the subcommittee did was good work. We are going to get it on the floor today. We are going to debate it. We are going to make it better, and I am proud of the progress that we are making.

Madam Speaker, I reserve the balance of my time.

Mr. McGOVERN. Madam Speaker, I yield myself such time as I may consume.

Well, I appreciate my colleague from Texas talking about the fact this is a good bill. I agree with him. If it is such a good bill, why did the Committee on Rules allow half the bill to be stripped out?

During the testimony before the Committee on Rules, I think everybody, Democrat and Republican, on that committee praised the work of the gentleman from Kentucky (Chairman ROGERS) and the gentleman from Minnesota (Ranking Member SABO) and talked about the fact that we do need to hold the Department of Homeland Security accountable. I did not hear any dissension during the discussion in the Committee on Rules, and we also think it was a good bill.

Yet, here we are with a rule that would basically strip half of the most important provisions out of the bill. I do not think that is very responsible.

Madam Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Madam Speaker, whoever designed this proposition today is a real piece of work.

This is the bill that was submitted to the Committee on Rules last night, a perfectly coherent bill. I had already indicated my intentions to support the Republican chairman's effort. I thought he did a reasonable job, even though he had inadequate resources.

This is the bill after the Committee on Rules has gotten done with it. Look at this. The Committee has shredded the document that we are supposed to take seriously when we come to this floor and debate it today. It is eviscerated.

I do not understand the majority leadership in this House. Earlier this year, I was asked if I would work out a process which would enable the majority to pass its appropriation bills in a timely fashion. I have been working with the majority; and so far, we have worked out a process which we expect will enable us to support at least seven of the appropriation bills that are coming to the floor.

I had fully expected to stand shoulder to shoulder today with the gentleman from Kentucky, the chairman of the subcommittee, who has done a most thoughtful job in providing necessary oversight for one of the most dysfunctional agencies in this government; and even though he had been given inadequate resources, I had indicated that because of the quality of that oversight I intended to vote for the bill.

That is no longer the case. If this bill is shredded on the floor by points of order made by willful single Members, I will vote against the bill because it will then make no sense whatsoever.

What this action does, in making these provisions subject to a point of order by a single Member, this action puts at risk the thoughtful effort that the committee has put together with respect to securing screening of cargo on passenger airplanes. It puts at risk the funding to ensure that we have a rational terrorist watch match list operation. It puts at risk funding for port security and a number of other items critical to the national defense of the country.

This bill is being eviscerated because of a juvenile, a juvenile, dispute within the Republican caucus about committee jurisdictions. It is what Dick Bolling, my old mentor, used to call dung hill politics, where people put the welfare of their own committee ahead of the welfare of this institution and the welfare of the country. It is little league politics at its worst.

I do not understand how we can be asked on the minority side to sit down and work out a bipartisan agreement on this appropriation bill, and then after we have done so, we are then told that some whiz kid, either in the Committee on Rules or in the leadership's office, has decided that they do not like the compromise and they are going to open it up, to shred it.

The Committee on Homeland Security, the authorization committee that is objecting to some of these provisions in the bill, this is a committee that has existed for 3 years and never put one bill into law. The one bill that has to pass in order to assure this country adequate security is this bill, the appropriation bill for homeland security; and yet we are going to follow a process today which not only shreds this bill but makes much less likely the prospect that we will finish our regular appropriation bills on time.

If the leadership did not intend to allow this bill to go forward, then why did it even allow it to come up until the authorization committee had gotten off its duff, done its job, completed action on the authorization, so the appropriation committee could then bring the bill to the floor? If the House leadership on the majority side of the aisle did not think it was important enough to pass this bill, then why are we here? Why are we here? Why are we wasting our time?

All this process means is that in the name of jurisdictional purity, the average Member of this House will not have any say whatsoever about the eventual content of the provisions stricken from this bill because those choices will be made behind closed doors, in conference between the two Chambers, out of reach of the average rank-and-file member on both the Committee on Appropriations and the authorization committee. This is a lousy way to run a railroad.

Mr. SESSIONS. Madam Speaker, I yield myself such time as I may consume.

The gentleman makes some very good points about not only his vision and ideas about jurisdictional issues, but I would say to my colleagues today that there is some disappointment on behalf of the gentleman from Kentucky (Mr. ROGERS), our great chairman, who worked very diligently, faithfully not only with homeland security but also others in this Congress who are attempting to make sure that Congress not only has a say about the money that is appropriated but an expectation back from the administration and homeland security about the worthiness of what we believe public policy should be. I think this leadership, I think the Committee on Rules last night heard the argument and were very hopeful that we can reach resolution.

Today, we are going to debate this bill. Today, we are going to pass this rule, and we are going to pass this bill, and it is going to empower not only the gentleman from Minnesota (Mr. SABO) but also the gentleman from Kentucky (Mr. ROGERS) to continue, to go back and do their work, to go back, yes, to the table once again with homeland security and to talk about how important it is that the Homeland Security Department provide information on a timely basis.

It is important for us to continue providing reassurance to the American people that the philosophy, that the plans that are in place and moving forward will meet the continuing threat needs against this country.

What I would say is that we are not going to give up on the process. I do not know that it is perfect. I expressed some reservations myself yesterday in the Committee on Rules about things which I supported, but I believe that our chairman and the ranking member are forthright about their need, their desire to make sure that we will continue working with Department of Homeland Security, even when we have the disagreements. This is a strong sense of the support in Congress that we have for the appropriators to go back and continue to do their work.

So I am proud of what we are doing. I do not think it is a sham. I understand completely why we are here today. I think it will be very clear when we vote today, and it will be a strong signal back to the American public that we intend to be serious about not only the threats that are placed against this country but also those avenues that make sure that our border security continues to provide on a moving-forward basis the ability that we have to meet the threat that is placed against this country.

Madam Speaker, I reserve the balance of my time.

Mr. McGOVERN. Madam Speaker, I yield myself such time as I may consume.

I am not proud what we are doing here today. I mean, this is a sham; and I would say to the gentleman that the choice is clear: you either support the chairman and you either support holding the Department of Homeland Security accountable or you do not.

The way the Committee on Rules came up with this rule, which subjects all these very important provisions to points of order, makes it impossible to hold the Department of Homeland Security accountable. I do not know how anybody who sat in that Committee on Rules meeting last night, all who agreed that what is going on in the Department of Homeland Security right now is very troubling, missing deadlines, not fulfilling requirements that this Congress has asked them to fulfill, I do not know how they could express solidarity with what the chairman and the ranking member were saying and then support a rule like this which undercuts all the accountability. I mean, this is wrong.

Madam Speaker, I yield 4 minutes to the gentleman from Minnesota (Mr. SABO), the ranking Democrat on the committee.

Mr. SABO. Madam Speaker, I thank the gentleman for yielding me time.

I rise to oppose this rule. Funding government is about money, but it is also about how that money is used. This rule leaves unprotected virtually all of the good government provisions in the homeland security appropriations bill. This rule should be defeated.

What does it do? It leaves unprotected provisions that will increase the screening of air cargo trade on passenger and other aircraft.

If my colleagues think we are doing a good job of screening air cargo on passenger planes today, vote for this rule. If my colleagues think we should do what Congress has said in increasing screening on air cargo on passenger planes, then vote "no" on this rule.

□ 1100

This rule leaves unprotected a provision that will fund additional explosive detection equipment to check airline passengers and carry-on and checked bags.

This rule leaves unprotected a provision that will ensure that passenger prescreening programs are secure and that the public's vital information is protected.

This rule leaves unprotected provisions to protect taxpayers' dollars from being spent on programs that are not well planned and properly implemented.

This rule leaves unprotected $84 million for checking airline crews and passengers against the government's terrorist watch list. Is that really what we want to do?

This rule leaves unprotected $150 million for port security grants.

This rule leaves unprotected a provision to ensure that those managing big government contracts have the proper training to do so. If you believe that the Department of Homeland Security and the Transportation Security Agency are managing contracts with quality and professional management, then vote for the rule. If you believe there are troubles, as indicated by report after report from the Inspector General and the General Accounting Office, then vote "no" on this rule.

This rule leaves unprotected a provision to ensure that only truly sensitive information is designated as such. The Department's current approach permits everyone at TSA to designate any document as sensitive and, therefore, not releasable to the public.

This rule does not allow the Obey amendment to fund the border security requirements of the Intelligence Reform Act and the REAL ID Act.

This rule should be defeated.

The subcommittee developed a responsible bill that provided proper and necessary Congressional oversight of critical homeland security programs. This rule allows that oversight to be decimated.

The fact is that the chairman, the gentleman from Kentucky (Mr. ROGERS), did an outstanding job in developing a bill with proper oversight to present to the House. This rule would allow one-fourth, or a total of 14 pages of this bill, to be deleted.

We are here to conduct serious oversight of the Department of Homeland Security, not simply to rubber stamp the administration's budget request.

I oppose this rule and urge Members to vote against it.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

I think we just saw an articulate discussion about how people do need to work together here in Washington and how the ranking member, the gentleman from Minnesota (Mr. SABO), and our chairman, the gentleman from Kentucky (Mr. ROGERS), worked together in their desire to make sure that Homeland Security is listening and to make sure it is a collaborative effort. We are going to keep after it. We are going to keep doing the right things that will ensure that the American public understands and gets not only every single dollar's worth, not a penny more, but every single dollar's worth of what is paid for that will secure this country, and that involves the efficiency and effectiveness of Homeland Security.

We had a discussion yesterday about the leadership of Homeland Security; how we know it is brand new, how we know the daunting challenge that is ahead of placing together all of these organizations and making them work well together, having them under the same mission statement and making sure that they are funded properly, making sure we hear back from them, making sure they hear back from us.

Really, what this debate is about today is that we are not sure that Homeland Security is effectively listening to us, the policies that we would intend for them to place before the American public; to implement those and to make sure safety and security is taken care of properly, and then, lastly, the information back that will allow the ranking member and our great chairman a chance to philosophically address those changing parameters and threats against this country.

I believe that this administration will be serious about it. I believe the new leadership of Homeland Security in their wisdom and ability to work more carefully as time moves on will answer these questions and they will provide those things that are necessary.

But we just saw a prime example of the kind of steady hand, proper leadership that exists here in the House of Representatives, and I am proud of that. I am proud of this on both sides of the aisle. I think we will continue working together, and I think that is what this legislation will prove worthy of today.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself the balance of my time.

This is an incredibly frustrating moment for many Members in this Chamber. The gentleman from Texas talks about the incredible partnership of the gentleman from Minnesota (Mr. SABO) and the gentleman from Kentucky (Mr. ROGERS), the bipartisanship and their desire to hold the Department of Homeland Security accountable and to make sure that we are all protected. Then he is urging that we support a rule that would basically cut all the provisions in the bill that would hold the Department of Homeland Security accountable. He is urging we support a rule that would basically obliterate the bipartisan agreement that we have come to here.

Every Member of this House gets on an airplane probably at least twice a week. And when you look at the state of airline security, when you look at the deadlines that have been missed, when you look at the reports that they have failed to respond to, you have to ask yourself, why are we not doing a better job in holding them accountable and making sure they keep their deadlines?

Again, in the Committee on Rules last night the gentleman from Texas seemed to agree with all these provisions that were in this bill to hold the Department of Homeland Security accountable, and now he is on the floor telling us to support a rule that would strip the bill of all these provisions. It just does not make any sense to me. Why do we not do this right?

We know what has to be done, let us just do it. Instead, you are taking a good bill and you are just tearing it apart, and it just does not make any sense to me. We need to do this right. We cannot afford to get this wrong.

So I urge my colleagues on both sides of the aisle to appreciate the fact that we have a bipartisan bill here, to appreciate the fact that Chairman ROGERS and Ranking Member SABO and members of this committee worked tirelessly to make sure we that hold this agency accountable. It needs to be held accountable. Nobody disagrees with that. Do not destroy that by voting for this rule. Vote down this rule and let us go back and report another rule immediately, one that respects the agreement that has been reached here.

Mr. Speaker, I will also be asking Members to oppose the previous question. If the previous question is defeated, I will amend the rule so that we can consider the Obey amendment that was not made in order by the Committee on Rules.

Mr. Speaker, the Obey amendment does several things. First, it funds 500 additional border patrol agents, 600 additional immigration investigators, and 4,000 additional detention beds so that the increases called for in the Intelligence Reform Act are fully funded. It also funds the grant program authorizing the REAL ID Act instead of imposing a costly unfunded mandate on our States.

This amendment fully offsets the $500 million in additional funding for this border enforcement and the REAL ID Act by capping at $138,176 the tax cut people making over $1 million this year will receive.

Mr. Speaker, the Republican leadership likes to talk about making this country more secure and about protecting our borders from terrorists, yet they refuse to provide the funds necessary to do this. They also like to brag about how they would never impose an unfunded mandate on States and local governments, yet just 2 weeks ago they did just that.

We have a chance to fix this today by voting for the Obey amendment. it is very disturbing that the Republican leadership of this House would deny Members an opportunity to vote on an amendment to make Americans safer.

As always, I want to emphasize that a "no" vote will not prevent us from considering the homeland security appropriations bill, but a "no" vote will allow Members to vote on the Obey amendment. However, a "yes" vote will prevent us from adequately protecting our borders and from stopping the major financial burden we are placing on States to implement the REAL ID Act.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment and a description of the amendment immediately prior to the vote.

The SPEAKER pro tempore (Mr. REHBERG). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. McGOVERN. Mr. Speaker, I urge my colleagues to vote "no" on the previous question so that we would have an opportunity to fully fund protection of the border and urge my colleagues to vote "no" on this rule.

We had a great opportunity in the Committee on Rules last night to do something good and get it right, and they blew it, so vote "no" on the rule as well.

Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself the balance of my time.

We have had a great opportunity to air out our differences today, our hopes and expectations about what we think the brighter and better future will be for the relationship that we have with

Homeland Security, and today is part of that process.

I would like to once again reiterate my support for Chairman ROGERS and Ranking Member SABO, but I would also like to extend to the members of the Homeland Security Subcommittee my thanks for a job well done. They have spent a lot of time not only traveling around the country, with interaction and meeting with very important people who are focused on a daily basis on our homeland security, and so I want to thank those Republicans who are members of this subcommittee: The gentleman from Tennessee (Mr. WAMP), the gentleman from Iowa (Mr. LATHAM), the gentlewoman from Missouri (Mrs. EMERSON), the gentleman from New York (Mr. SWEENEY), the gentleman from Arizona (Mr. KOLBE), the gentleman from Illinois (Mr. LAHOOD), the gentleman from Louisiana (Mr. CRENSHAW), the gentleman from Texas (Mr. CARTER), and the vice chairman, the gentleman from Oklahoma (Mr. ISTOOK). It has taken a lot of their hard work, along with our friends on the other side of the aisle to make sure that the legislation would get to the floor today.

I would like to congratulate the chairman of the full committee also, the gentleman from California (Mr. LEWIS), for his hand in making sure this works.

AMENDMENT OFFERED BY MR. SESSIONS

Mr. SESSIONS. Mr. Speaker, I offer an amendment to the resolution.

The Clerk read as follows:

Amendment offered by Mr. SESSIONS:

On page 2, line 21, strike "; page 17, lines 21 through 24".

The material previously referred to by Mr. MCGOVERN is as follows:

PREVIOUS QUESTION H. RES. 278—RULE FOR H.R. 2360 FY06 HOMELAND SECURITY APPROPRIATIONS

At the end of the resolution, add the following new sections:

"SEC. 2. Notwithstanding any other provision of this resolution, the amendment printed in section 3 shall be in order without intervention of any point of order and before any other amendment if offered by Representative Obey of Wisconsin or a designee. The amendment is not subject to amendment except for pro forma amendments or to a demand for a division of the question in the committee of the whole or in the House.

SEC. 3. The amendment referred to in section 2 is as follows:

AMENDMENT TO H.R. 2360, AS REPORTED (HOMELAND SECURITY APPROPRIATIONS, 2006) OFFERED BY MR. OBEY OF WISCONSIN

At the end of the bill (before the short title), insert the following:

SEC. ____. (a) The amounts otherwise provided in this Act for the following accounts are hereby increased by the following sums:

(1) "Customs and Border Protection—Salaries and Expenses", $95,000,000.

(2) "Customs and Border Protection—Construction", $25,000,000.

(3) "Immigration and Customs Enforcement—Salaries and Expenses", $266,000,000.

(4) "Federal Law Enforcement Training Center—Salaries and Expenses", $9,000,000.

(5) "Federal Law Enforcement Training Center—Acquisitions, Construction, Improvements, and Related Expenses", $5,000,000.

(b) For the Secretary of Homeland Security to make grants pursuant to section 204 of the REAL ID Act of 2005 (Pub. L. 109-13, div. B) to assist States in conforming with minimum drivers' license standards, there is hereby appropriated $100,000,000.

(c) In the case of taxpayers with adjusted gross income in excess of $1,000,000 for calendar year 2006, the amount of tax reduction resulting from enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. 107–16) and the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Pub. L. 108–27) shall be reduced by 1.562 percent.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on both the amendment and the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question on the amendment and on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCGOVERN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes, if ordered, on the amendment to House Resolution 278 and the adoption of House Resolution 278.

The vote was taken by electronic device, and there were—yeas 223, nays 185, not voting 25, as follows:

[Roll No. 174]

YEAS—223

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Tancredo
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NAYS—185

Abercrombie
Allen
Andrews
Baca
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boyd
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)

Serrano
Sherman
Skelton
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—25

Ackerman
Baird
Boucher
Brady (PA)
Burton (IN)
Carson
Cubin
Davis (IL)
Dingell
Doyle
Fattah
Gohmert
Kanjorski
Kilpatrick (MI)
Larson (CT)
Millender-McDonald
Neal (MA)
Owens
Peterson (MN)
Slaughter
Sweeney
Thomas
Waters
Wicker
Young (FL)

☐ 1136

Messrs. BOREN, GORDON, STUPAK and RUSH changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated against:

Ms. SLAUGHTER. Mr. Speaker, on rollcall No. 174, had I been present, I would have voted "nay."

The SPEAKER pro tempore (Mr. REHBERG). The question is on the amendment offered by the gentleman from Texas (Mr. SESSIONS).

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McGOVERN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 222, noes 185, answered "present" 2, not voting 24, as follows:

[Roll No. 175]

AYES—222

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Drake
Dreier
Duncan
Ehlers
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOES—185

Abercrombie
Allen
Andrews
Baca
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boyd
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Doggett
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Norwood
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

ANSWERED "PRESENT"—2

Emerson
Istook

NOT VOTING—24

Ackerman
Baird
Boucher
Brady (PA)
Burton (IN)
Carson
Cubin
Davis (IL)
Dingell
Doyle
Fattah
Gohmert
Honda
Kanjorski
Kilpatrick (MI)
Larson (CT)
Millender-McDonald
Neal (MA)
Owens
Scott (VA)
Sweeney
Waters
Wicker
Young (FL)

☐ 1151

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROGERS of Kentucky. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2360 and that I may include tabular material on the same.

The SPEAKER pro tempore (Mr. REHBERG). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore. Pursuant to House Resolution 278 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2360.

☐ 1153

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, with Mr. GILLMOR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) each will control 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS of Kentucky. Mr. Chairman, I yield myself such time as I may consume.

I am pleased to be here today to present the fiscal 2006 Homeland Security Appropriations bill.

The first chapter for the Department of Homeland Security has been written. Progress has been made, and our country is safer today than it was before September 11. In 2 years the Department has developed and deployed new technologies to inspect cargo at our seaports and detect hazards in our environment. US-VISIT has been put in place at all international airports and seaports; a one-stop shop for first responders has been created; more than 90,000 national assets have been catalogued in a national infrastructure database; and a communications system with State and local governments is in place.

These are important accomplishments, but they are not enough. There is a great deal of work to be done, and it is time to write the next chapter.

The bill before us today provides $30.8 billion in discretionary funds for the upcoming fiscal year, $1.4 billion above the current year and $1.3 billion above the amounts requested by the President. There are some tough choices in here, but they have been made after a careful review of how the Department is functioning, which programs work, and which ones, quite frankly, are broken.

Nearly 2 years ago, when the Department was first created and came before the Committee on Appropriations seeking funds, I made it clear that homeland security requires the active engagement of all Americans and all branches of government; that we are all stakeholders and must be treated as such. I also advised that the Committee on Appropriations would be a partner as the Department sought to secure our homeland, that we would not be casual bystanders willing to sign a blank check. I have consistently and repeatedly told the Department that we would require accountability and cooperation, that we would expect them to establish and meet specific milestones, that we would watch and measure their progress. We have done that, exactly that. And, frankly, Mr. Chairman, I am disappointed.

I have come to the conclusion that there are two fundamental challenges within this Department. First, DHS has been slow to build its internal capabilities. The information technology infrastructure has not been integrated. There is no system in place to develop, certify, and transfer homeland security technologies. A financial management system that tracks where the money goes does not exist, and there is only a limited capacity to put first responder funds out on the street based on standards and minimum levels of preparedness.

Second, the Department has not been successful at revising missions and assets of legacy organizations in a way that reflects the post-9/11 homeland security environment. All too many examples come to mind: the Coast Guard, Immigration and Customs Enforcement, Border Protection, and Transportation Security. In too many cases it is just business as usual. Missions and threats have changed, but the Department has not. This is unacceptable. The "business as usual" mentality has to go.

The bill before us is anything but business as usual. The Department has been a reluctant partner and has ignored requests for information and direction to move expeditiously in the implementation of important national policies and goals.

This became all too obvious this year when the Department ignored Congressional requests for comprehensive information on the Coast Guard's important Deepwater program. The Department will find that that lack of information has cost them. Absent a revised baseline that reflects post-9/11 mission requirements for the Coast Guard, Deepwater is being funded at pre-9/11 levels, $500 million. That is $466 million below the request. It is a simple equation, Mr. Chairman: No information equals no money.

□ 1200

Throughout this bill, we will see this equation applied. There are more than $485 million in cuts because the Congress did not get the information we needed to make informed decisions about programs and operations. There is also more than $310 million in fenced funding, until the Department performs certain actions, including implementation of new air cargo screening methods and standards, an immigration and border security enforcement strategy, and a plan to deploy explosive detection technologies to our Nation's airports.

Within this bill, first responders are funded at the President's requested level of $3.6 billion. I would like to point out that there continues to be problems at the local, State, and Federal levels in terms of getting money actually out to first responders. We have recently learned, Mr. Chairman, that only 30 percent of the funds that we have appropriated since 2002, have been spent. Including the 2005 grant money, there is $6.8 billion in the grant pipeline.

Mr. Chairman, that is unacceptable.

The bill does not propose any changes to the current formula as to how those monies are dealt out, but it does recognize that legislation which passed this Chamber last week is moving through the process. The appropriations bill will allow 2006 funding to go out based on any formula change that may be signed into law. The bill also presumes that if new formulas do not go into effect, the Department would maintain the minimum allocation for States of .75 percent. The balance of that fund, though, would go out based on risk, threat, and need; not, as it has in the past, based solely on population. That is a fundamental change in the way first responder monies would go out.

The bill also includes a significant increase for border security and immigration enforcement. A total of $1.2 billion is added for the Customs and Border Patrol and the Immigration and Customs Enforcement branches. That funding is on top of the $550 million that was provided in the emergency supplemental just signed. Between that supplemental and this bill, we will be providing the Department with the resources to hire an additional 1,500 border patrol agents and 568 ICE officers throughout the country. Funds are also available to add some 3,870 detention beds, which would be roughly a 20 percent increase over current levels. Also, funds are available for new radiation portal monitors and air assets.

These funds, though, Mr. Chairman, would come with strings attached. Our immigration enforcement strategy needs an overhaul. Despite more than tripling spending on border security and immigration enforcement in the last 10 years, the number of illegal immigrants in the U.S. has more than doubled, an unbelievable 11 million estimated illegal aliens in the country; and that number is growing by a half a million a year, by conservative estimates.

And of that total, there are more than 465,000 absconders, people who have been caught, brought to court, released on their own recognizance to report at a later date, which they fail to do. And of those, 80,000 of them have criminal records. Those numbers, Mr. Chairman, will only get worse unless we act.

Immigration enforcement is one of the most critical components of homeland security, yet the Department's current strategy has changed little since the days of the old Immigration and Naturalization Service. In order to inspire change, the bill includes language requiring the Secretary to submit an immigration enforcement strategy to reduce the number of undocumented aliens by 10 percent per year. The bill withholds $20 million of the Secretary's office funds until we receive that strategy.

Finally, for transportation security, the bill includes $6.4 billion, partially offset by fees, which is an increase of $344 million above the current year.

The bill includes several provisions that address years of frustration in dealing with the Transportation Security Administration. For too long, TSA and others have ignored congressional direction regarding general aviation at Reagan National Airport. A legislative provision is included, after these 3 or 4 years of discussions, requiring the Secretary to open Reagan National Airport to general aviation within 90 days of enactment of this act.

The committee also has repeatedly asked for a plan as to how TSA would be installing the explosive detection systems, the so-called x-ray machines, at our airports. Again, TSA has ignored the Congress. In addition to providing $495 million for the purchase and installation of these x-ray machines, the committee fences $50 million of the administrator's funds until an installation plan is provided to the Congress.

Finally, the bill provides $100 million for cargo security in passenger planes. TSA has ignored congressional directions to triple the screening of air cargo on passenger aircraft. As a result, the committee reduces the appropriation for TSA headquarters by $100,000 for each day that the tripling of air cargo is not implemented. The bill also fences another $10 million until new cargo screening standards and protocols are implemented.

These next few years, Mr. Chairman, will define the Department's place in history. This bill may be tough, and I admit that it is, but I hope it is a wakeup call. It is time to take strong action to ensure that the Department's place in history and our safety will be one of success and leadership in securing our homeland and not one of government bureaucracy and failed opportunities. It is now time for action.

I appreciate that the bill includes several tough provisions. I am aware that the new Secretary is in the process of completing what he calls a second-stage review of the Department's programs and operations. I am pleased about that. While I have great respect and confidence in the Department's new leadership, and we look forward to receiving any recommendations the Secretary may have to move the Department forward, we cannot ignore the fundamental problems that we have been experiencing with this Department since its creation. I urge my colleagues to support the measure.

Homeland Security Appropriations Act - FY 2006 (H.R. 2360)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
DEPARTMENT OF HOMELAND SECURITY					
TITLE I - DEPARTMENTAL MANAGEMENT AND OPERATIONS					
Departmental Operations					
Office of the Secretary and Executive Management:					
Immediate Office of the Secretary	2,141	2,393	2,393	+252	---
Immediate Office of the Deputy Secretary	1,112	1,132	1,132	+20	---
Office of Security	21,424	61,278	51,278	+29,854	-10,000
Chief of Staff	5,240	4,103	4,103	-1,137	---
Executive Secretary	3,500	5,491	5,400	+1,900	-91
Office of Policy, Planning and International Affairs	---	8,770	8,770	+8,770	---
Special Assistant to the Secretary/Private Sector	3,781	4,181	4,181	+400	---
Office for National Capital Region Coordination	688	1,072	982	+294	-90
Office of International Affairs	1,200	---	---	-1,200	---
Office of Public Affairs	8,120	9,312	9,172	+1,052	-140
Office of Legislative Affairs	5,400	6,182	5,500	+100	-682
Office of General Counsel	10,821	11,947	11,800	+979	-147
Office of Civil Rights and Liberties	13,000	13,000	13,000	---	---
Citizenship and Immigration Services Ombudsman	3,546	3,652	3,652	+106	---
Homeland Security Advisory Committee	1,287	---	---	-1,287	---
Privacy Officer	3,774	3,981	4,381	+607	+400
Regions	---	49,895	---	---	-49,895
Operation Integration Staff	---	9,459	7,495	+7,495	-1,964
Subtotal, Office of the Secretary and Executive Management	85,034	195,848	133,239	+48,205	-62,609
Office of the Under Secretary for Management:					
Under Secretary for Management	1,434	1,867	1,822	+388	-45
Business Transformation Office	920	948	948	+28	---
Office of the Chief Procurement Officer	7,350	9,020	9,020	+1,670	---
Office of the Human Resources	7,200	---	---	-7,200	---
Office of the Chief Human Capital Officer:					
Salaries and expenses	---	8,996	8,951	+8,951	-45
MAX - HR System	---	53,000	53,000	+53,000	---
Subtotal, Office of the Chief Human Capital Officer	---	61,996	61,951	+61,951	-45
Office of Administration	27,270	---	---	-27,270	---
Office of the Chief Administrative Officer:					
Salaries and expenses	---	40,731	40,286	+40,286	-445
Nebraska Avenue Complex (NAC-DHS Headquarters)	---	26,070	26,070	+26,070	---
Subtotal, Office of the Chief Administrative Officer	---	66,801	66,356	+66,356	-445
Immigration statistics	5,898	5,987	5,987	+89	---
Headquarters	65,081	---	---	-65,081	---
Human resources system	36,000	---	---	-36,000	---
Subtotal, Office of the Under Secretary for Management	151,153	146,619	146,084	-5,069	-535
Office of the Chief Financial Officer	13,000	18,505	18,505	+5,505	---
Office of the Chief Information Officer:					
Salaries and expenses	67,270	75,756	75,756	+8,486	---
Information technology services	91,000	110,944	110,944	+19,944	---
Security activities	31,000	31,000	31,000	---	---
Wireless program	86,000	86,000	86,000	---	---
Subtotal, Office of the Chief Information Officer	275,270	303,700	303,700	+28,430	---
Total, Departmental operations	524,457	664,672	601,528	+77,071	-63,144

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	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Office of Inspector General					
Operating expenses	82,317	83,017	83,017	+700	---
Total, Office of Inspector General	82,317	83,017	83,017	+700	---
Total, title I, Departmental Management and Operations	606,774	747,689	684,545	+77,771	-63,144
TITLE II - SECURITY, ENFORCEMENT, AND INVESTIGATIONS					
Office of the Under Secretary for Border and Transportation Security	9,617	10,617	10,617	+1,000	---
U.S. Visitor and Immigrant Status Indicator Technology	340,000	---	---	-340,000	---
Automation Modernization					
U.S. Visitor and Immigrant Status Indicator Technology	---	---	390,232	+390,232	+390,232
FAST	---	---	7,000	+7,000	+7,000
NEXUS/SENTRI	---	---	14,000	+14,000	+14,000
Total, Automation Modernization	---	---	411,232	+441,232	+411,232
Office of Screening Coordination Operations:					
U.S. Visitor and Immigrant Status Indicator Technology	---	390,232	---	---	-390,232
SecureFlight	---	94,294	---	---	-94,294
FAST	---	7,000	---	---	-7,000
NEXUS/SENTRI	---	14,000	---	---	-14,000
Credentialing/Startup	---	20,000	---	---	-20,000
Fee Funded Program:					
TWIC/TSA Credentialing	---	(100,000)	---	---	(-100,000)
Registered Traveler	---	(20,000)	---	---	(-20,000)
HAZMAT	---	(50,000)	---	---	(-50,000)
Alien Flight School (By transfer)	---	(10,000)	---	---	(-10,000)
Total, Office of Screening Coordination Operations	---	(705,526)	---	---	(-705,526)
Appropriations	---	(525,526)	---	---	(-525,526)
(Fee funded programs)	---	(180,000)	---	---	(-180,000)
Customs and Border Protection					
Salaries and expenses	1,172,838	---	---	-1,172,838	---
Salaries and expenses:					
Management-and administration, border security inspections and trade facilitation	---	656,826	656,826	+656,826	---
Management and administration, border security and control between port of entry	---	593,207	593,207	+593,207	---
Subtotal, Headquarters management and administration	1,172,838	1,250,033	1,250,033	+77,195	---
Border security inspections and trade facilitation:					
Inspections, trade, and travel facilitation at ports of entry	1,242,800	1,274,994	1,274,994	+32,194	---
Harbor maintenance fee collection (trust fund)	3,000	3,000	3,000	---	---
Container security initiative	126,096	138,790	138,790	+12,694	---
Other international programs	57,300	8,629	8,629	-48,671	---
Customs trade partnership against terrorism/ Free and secure trade	37,828	54,268	54,268	+16,440	---
Inspection and detection technology investments	145,159	188,024	188,024	+42,865	---
Automated targeting systems	29,800	28,253	28,253	-1,547	---

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	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
National Targeting Center	16,100	16,697	16,697	+597	---
Other technology investments, including information technology	1,000	1,018	1,018	+18	---
Training	23,800	24,351	24,351	+551	---
Subtotal, Border security inspections and trade facilitation	1,682,883	1,738,024	1,738,024	+55,141	---
Border security and control between ports of entry:					
Border security and control	1,413,800	1,464,989	1,614,989	+201,189	+150,000
Air program operations	37,300	57,971	57,971	+20,671	---
Unmanned aerial vehicles	10,000	10,180	10,180	+180	---
America Shield Initiative (ASI) procurement	64,162	51,084	51,084	-13,078	---
Training	21,700	22,203	22,203	+503	---
Subtotal, Border security and control between ports of entry	1,546,962	1,606,427	1,756,427	+209,465	+150,000
Air and marine operations, personnel compensation and benefits	131,436	136,060	141,060	+9,624	+5,000
Subtotal, Salaries and expenses (gross)	4,534,119	4,730,544	4,885,544	+351,425	+155,000
Appropriations	(4,534,119)	(4,730,544)	(4,885,544)	(+351,425)	(+155,000)
Rescission (P.L. 108-11)	(-63,010)	---	---	(+63,010)	---
Subtotal, Salaries and expenses (net)	4,471,109	4,730,544	4,885,544	+414,435	+155,000
Automation modernization:					
Automated commercial environment/International Trade Data System (ITDS)	321,690	321,690	321,690	---	---
Automated commercial system and legacy IT costs	128,219	136,319	136,319	+8,100	---
Subtotal, Automation modernization	449,909	458,009	458,009	+8,100	---
Air and marine operations:					
Operations and maintenance	196,535	230,682	240,682	+44,147	+10,000
Procurement	61,000	62,098	107,098	+46,098	+45,000
Subtotal, Air and marine operations	257,535	292,780	347,780	+90,245	+55,000
Construction:					
Construction (Border patrol)	91,718	93,418	93,418	+1,700	---
Total, Direct appropriations	5,270,271	5,574,751	5,784,751	+514,480	+210,000
Fee accounts:					
Immigration inspection user fee	(429,000)	(464,816)	(464,816)	(+35,816)	---
Immigration enforcement fines	(6,000)	(6,403)	(6,403)	(+403)	---
Land border inspection fee	(28,000)	(29,878)	(29,878)	(+1,878)	---
COBRA passenger inspection fee	(318,000)	(334,000)	(334,000)	(+16,000)	---
APHIS inspection fee	(204,000)	(204,000)	(204,000)	---	---
Puerto Rico collections	(89,000)	(97,815)	(97,815)	(+8,815)	---
Small airport user fees	(5,004)	(5,234)	(5,234)	(+230)	---
Subtotal, fee accounts	(1,079,004)	(1,142,146)	(1,142,146)	(+63,142)	---
Total, Customs and Border Protection	(6,349,275)	(6,716,897)	(6,926,897)	(+577,622)	(+210,000)
Appropriations	(5,333,281)	(5,574,751)	(5,784,751)	(+451,470)	(+210,000)
Rescission	(-63,010)	---	---	(+63,010)	---
(Fee accounts)	(1,079,004)	(1,142,146)	(1,142,146)	(+63,142)	---

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	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Immigration and Customs Enforcement					
Salaries and expenses:					
Headquarters Management and Administration (non-Detention and Removal Operations):					
Personnel compensation and benefits, service and other costs	96,202	277,572	277,572	+181,370	---
Headquarters managed IT investment	120,119	134,571	134,571	+14,452	---
Subtotal, Headquarters management and administration	216,321	412,143	412,143	+195,822	---
Investigations:					
Operations	1,055,345	1,215,916	1,253,716	+198,371	+37,800
Training	15,671	17,932	17,932	+2,261	---
Subtotal, Investigations	1,071,016	1,233,848	1,271,648	+200,632	+37,800
Intelligence:					
Headquarters Reporting Center	4,882	4,988	4,988	+106	---
Operations/Operations Center	55,130	56,834	56,834	+1,704	---
Subtotal, Intelligence	60,012	61,822	61,822	+1,810	---
Detention and removal operations:					
Custody management	504,221	600,160	690,160	+185,939	+90,000
Case management	192,269	166,277	166,277	-25,992	---
Fugitive operations	35,242	103,255	119,255	+84,013	+16,000
Institutional removal program	33,719	70,104	88,104	+54,385	+18,000
Alternatives to detention	14,202	33,406	43,406	+29,204	+10,000
Transportation and removal program	311,492	211,266	211,266	-100,226	---
Subtotal, Detention and removal operations	1,091,145	1,184,468	1,318,468	+227,323	+134,000
Subtotal, Salaries and expenses	2,438,494	2,892,281	3,064,081	+625,587	+171,800
Appropriations	(2,438,494)	(2,892,281)	(3,064,081)	(+625,587)	(+171,800)
Emergency appropriations	---	---	---	---	---
Federal air marshals:					
Management and administration	593,552	616,927	626,927	+33,375	+10,000
Travel and training	69,348	71,933	71,933	+2,585	---
Subtotal, Federal air marshals	662,900	688,860	698,860	+35,960	+10,000
Federal protective service:					
Basic security	106,362	109,235	109,235	+2,873	---
Building specific security (including capital equipment replacement/acquisition)	371,638	377,765	377,765	+6,127	---
Subtotal	478,000	487,000	487,000	+9,000	---
Offsetting fee collections	-478,000	-487,000	-487,000	-9,000	---
Automation modernization:					
ATLAS/CHIMERA IT connectivity	39,605	40,150	40,150	+545	---
Construction	26,179	26,546	26,546	+367	---
Total, Direct appropriations	3,167,178	3,647,837	3,829,637	+662,459	+181,800
Fee accounts:					
Immigration inspection user fee	(90,000)	(91,621)	(91,621)	(+1,621)	---
Breached bond/detention fund	(70,000)	(71,260)	(71,260)	(+1,260)	---
Student exchange and visitor fee	(40,000)	(66,552)	(66,552)	(+26,552)	---
Subtotal, fee accounts	(200,000)	(229,433)	(229,433)	(+29,433)	---

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	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Subtotal, Immigration and Customs Enforcement (gross)	(3,845,178)	(4,364,270)	(4,546,070)	(+700,892)	(+181,800)
Offsetting fee collections	(-478,000)	(-487,000)	(-487,000)	(-9,000)	---
Total, Immigration and Customs Enforcement	(3,367,178)	(3,877,270)	(4,059,070)	(+691,892)	(+181,800)
Appropriations	(3,167,178)	(3,647,837)	(3,829,637)	(+662,459)	(+181,800)
(Fee accounts)	(200,000)	(229,433)	(229,433)	(+29,433)	---
Transportation Security Administration					
Aviation security:					
Screener operations:					
Screener workforce:					
Privatized screening	129,654	146,151	139,654	+10,000	-6,497
Passenger screener - personnel, compensation, and benefits	1,445,486	1,590,969	1,520,000	+74,514	-70,969
Baggage screener - personnel, compensation, and benefits	848,860	931,864	884,000	+35,140	-47,864
Subtotal, Sceener workforce	2,424,000	2,668,984	2,543,654	+119,654	-125,330
Screening training and other:					
Passenger screeners, other	140,614	---	20,952	-119,662	+20,952
Baggage screeners, other	203,660	---	---	-203,660	---
Screener training	---	91,004	85,004	+85,004	-6,000
Screener other	---	170,246	126,294	+126,294	-43,952
Subtotal, Screening training and other	344,274	261,250	232,250	-112,024	-29,000
Human resource services	150,000	207,234	207,234	+57,234	---
CAPPS II	34,919	---	---	-34,919	---
Crew vetting	10,000	---	---	-10,000	---
Registered traveler	15,000	---	---	-15,000	---
Checkpoint support	123,500	157,461	157,461	+33,961	---
EDS/ETD Systems:					
Purchase	180,000	130,000	170,000	-10,000	+40,000
Installation	45,000	14,000	75,000	+30,000	+61,000
Maintenance	174,940	200,000	200,000	+25,060	---
Operation integration	---	23,000	23,000	+23,000	---
Subtotal, EDS/ETD Systems	399,940	367,000	468,000	+68,060	+101,000
Subtotal, Screening operations	3,501,633	3,661,929	3,608,599	+106,966	-53,330
Aviation direction and enforcement:					
Aviation regulation and other enforcement	230,000	238,196	222,416	-7,584	-15,780
Airport management, IT, and support	526,890	758,370	655,597	+128,707	-102,773
FFDO and flight crew training	25,000	36,289	29,000	+4,000	-7,289
Air cargo	40,000	40,000	60,000	+20,000	+20,000
Airport perimeter security	---	---	10,000	+10,000	+10,000
Foreign repair stations	---	---	6,000	+6,000	+6,000
Subtotal, Aviation direction and enforcement	821,890	1,072,855	983,013	+161,123	-89,842
Flight school checks (by transfer)	(9,700)	---	---	(-9,700)	---
Subtotal, Aviation security (gross)	4,323,523	4,734,784	4,591,612	+268,089	-143,172
Offsetting fee collections	-1,823,000	-3,670,000	-1,990,000	-167,000	+1,680,000
Total, Aviation security (net)	2,500,523	1,064,784	2,601,612	+101,089	+1,536,828
Surface transportation security:					
Staffing and operations	24,000	---	---	-24,000	---
Surface transportation security staffing	---	24,000	---	---	-24,000
Enterprise staffing	---	---	24,000	+24,000	+24,000
Transfer to credentialing activities	-27,000	---	---	+27,000	---

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	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
TWIC	15,000	---	---	-15,000	---
Credentialing start-up	5,000	---	---	-5,000	---
Hazardous materials security	17,000	---	---	-17,000	---
Hazardous materials truck tracking/training	2,000	---	4,000	+2,000	+4,000
Rail security (inspectors)	12,000	8,000	8,000	-4,000	---
Subtotal, Surface transportation security	48,000	32,000	36,000	-12,000	+4,000
Credentialing activities	67,000	---	---	-67,000	---
Offsetting fee collections	-67,000	---	---	+67,000	---
Transportation Vetting and Credentialing:					
SecureFlight	---	---	65,994	+65,994	+65,994
Crew vetting	---	---	13,300	+13,300	+13,300
Screening administration and operations	---	---	5,000	+5,000	+5,000
Total, Direct appropriations	---	---	84,294	+84,294	+84,294
Fee accounts:					
Registered Traveler Program fees	---	---	(20,000)	(+20,000)	(+20,000)
TWIC fees	---	---	(100,000)	(+100,000)	(+100,000)
HAZMAT fees	---	---	(50,000)	(+50,000)	(+50,000)
Alien Flight School (by transfer from DOJ) - fees	---	---	(10,000)	(+10,000)	(+10,000)
Subtotal, fee accounts	---	---	(180,000)	(+180,000)	(+180,000)
Subtotal, Transportation Vetting and Credentialing (gross)	---	---	(264,294)	(+264,294)	(+264,294)
Transportation security support:					
Intelligence	14,000	21,000	21,000	+7,000	---
Administration:					
Headquarters administration	267,382	302,781	309,916	+42,534	+7,135
Mission support centers	5,000	3,051	---	-5,000	-3,051
Information technology	240,470	210,092	210,092	-30,378	---
Corporate training	7,000	8,084	---	-7,000	-8,084
Subtotal, Administration	519,852	524,008	520,008	+156	-4,000
Research and development:					
Research and development at Tech Center	49,000	---	---	-49,000	---
Next generation explosive detection systems and explosive trace detection	54,000	---	---	-54,000	---
Air cargo	75,000	---	---	-75,000	---
Subtotal, Research and development	178,000	---	---	-178,000	---
Subtotal, Transportation security support	711,852	545,008	541,008	-170,844	-4,000
Aviation security capital fund	(250,000)	(250,000)	(250,000)	---	---
Total, Transportation Security Administration (gross)	5,333,375	5,581,792	5,682,914	+349,539	+121,122
Offsetting fee collections	-1,890,000	-3,670,000	-1,990,000	-100,000	+1,680,000
Aviation security capital fund	(250,000)	(250,000)	(250,000)	---	---
Fee accounts	---	---	(180,000)	(+180,000)	(+180,000)
Total, Transportation Security Administration (net)	3,260,375	1,641,792	3.262,914	+2,539	+1,621,122
United States Coast Guard					
Operating expenses:					
Military pay and allowances	2,807,827	3,011,130	3,009,550	+201,723	-1,580
Civilian pay and benefits	456,110	535,836	531,811	+75,701	-4,025
Training and recruiting	161,441	178,212	178,212	+16,771	---

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	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Operating funds and unit level maintenance	924,125	985,309	967,414	+43,289	-17,895
Centrally managed accounts	175,438	193,936	193,936	+18,498	---
Coast Guard watch standards	9,000	---	---	-9,000	---
Intermediate and depot level maintenance	623,279	642,977	642,977	+19,698	---
Emergency appropriations (P.L. 108-324)	33,367	---	---	-33,367	---
Unspecified reduction	---	---	-23,900	-23,900	-23,900
Subtotal, Operating expenses	5,190,587	5,547,400	5,500,000	+309,413	-47,400
Less adjustment for defense function	-1,204,000	-340,000	-1,200,000	+4,000	-860,000
Defense function	1,204,000	340,000	1,200,000	-4,000	+860,000
Subtotal, Operating expenses	5,190,587	5,547,400	5,500,000	+309,413	-47,400
Appropriations	(3,953,220)	(5,207,400)	(4,300,000)	(+346,780)	(-907,400)
Defense function	(1,204,000)	(340,000)	(1,200,000)	(-4,000)	(+860,000)
Emergency appropriations	(33,367)	---	---	(-33,367)	---
Environmental compliance and restoration	17,000	12,000	12,000	-5,000	---
Reserve training	113,000	119,000	119,000	+6,000	---
Acquisition, construction, and improvements:					
Vessels:					
Great Lakes Icebreaker (GLIB) replacement	7,750	---	---	-7,750	---
Response boat medium (41ft UTB and NSB replacement)	12,000	22,000	22,000	+10,000	---
Subtotal, Vessels	19,750	22,000	22,000	+2,250	---
Aircraft:					
Armed helicopter equipment (Phase I) (legacy asset)	2,500	19,902	19,902	+17,402	---
Covert surveillance aircraft	---	---	10,000	+10,000	+10,000
C-130J Missionization	---	5,000	---	---	-5,000
Subtotal, Aircraft	2,500	24,902	29,902	+27,402	+5,000
Other equipment:					
Automatic identification system	24,000	29,100	29,100	+5,100	---
National distress and response system modernization (Rescue 21)	134,000	101,000	91,000	-43,000	-10,000
HF Recap	---	10,000	10,000	+10,000	---
Rescission (P.L. 108-90)	-16,000	---	---	+16,000	---
Subtotal, Other equipment	142,000	140,100	130,100	-11,900	-10,000
Personnel compensation and benefits:					
Core acquisition costs	500	500	500	---	---
Direct personnel cost	72,500	75,950	75,950	+3,450	---
Subtotal, Personnel compensation and benefits	73,000	76,450	76,450	+3,450	---
Integrated deepwater systems:					
Aircraft:					
Aircraft, other	86,250	125,900	---	-86,250	-125,900
HH-65 re-engining	99,000	133,100	---	-99,000	-133,100
Subtotal, Aircraft	185,250	259,000	---	-185,250	-259,000
Surface ships	364,300	522,400	---	-364,300	-522,400
C4ISR	53,600	74,400	---	-53,600	-74,400
Logistics	39,800	25,200	---	-39,800	-25,200
Systems engineering and integration	43,000	45,000	---	-43,000	-45,000
Government program management	38,000	40,000	---	-38,000	-40,000
Miscellaneous	---	---	500,000	+500,000	+500,000
Subtotal, Integrated deepwater systems	723,950	966,000	500,000	-223,950	-466,000
Shore facilities and aids to navigation:					
Shore operational and support projects	1,000	5,000	5,000	+4,000	---
Shore construction projects	1,600	3,000	3,000	+1,400	---
Small arms range at ISC Honolulu, HI	1,600	---	---	-1,600	---

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(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Renovate USCGA Chase Hall Barrack, Phase I	---	15,000	15,000	+15,000	---
Replace multi-purpose building - Group Long Island Sound	---	10,000	10,000	+10,000	---
Construct breakwater - Station Neah Bay	---	2,800	2,800	+2,800	---
Waterways aids to navigation infrastructure	800	3,900	3,900	+3,100	---
Subtotal, Shore facilities and aids to navigation	5,000	39,700	39,700	+34,700	---
Subtotal, Acquisition, construction, and improvements (net)	966,200	1,269,152	798,152	-168,048	-471,000
Appropriations	(982,200)	(1,269,152)	(798,152)	(-184,048)	(-471,000)
Rescissions	(-16,000)	---	---	(+16,000)	---
Alteration of bridges	15,900	---	15,000	-900	+15,000
Research, development, test, and evaluation	18,500	---	---	-18,500	---
Subtotal, U.S. Coast Guard discretionary	6,321,187	6,947,552	6,444,152	+122,965	-503,400
Retired pay (mandatory)	1,085,460	1,014,080	1,014,080	-71,380	---
Total, United States Coast Guard	7,406,647	7,961,632	7,458,232	+51,585	-503,400
Appropriations	(7,389,280)	(7,961,632)	(7,458,232)	(+68,952)	(-503,400)
Emergency appropriations	(33,367)	---	---	(-33,367)	---
Rescissions	(-16,000)	---	---	(+16,000)	---
United States Secret Service					
Salaries and expenses:					
Protection:					
Protection of persons and facilities	571,640	572,232	583,652	+12,012	+11,420
National special security event fund	5,000	5,000	10,000	+5,000	+5,000
Protective intelligence activities	53,989	55,561	57,061	+3,072	+1,500
White House mail screening	16,365	16,365	16,365	---	---
Subtotal, Protection	646,994	649,158	667,078	+20,084	+17,920
Field operations:					
Domestic field operations	221,489	238,888	238,888	+17,399	---
International field office administration, operations and training	19,208	19,768	22,168	+2,960	+2,400
Electronic crimes special agent program and electronic crimes task forces	34,536	35,600	43,600	+9,064	+8,000
Subtotal, Field operations	275,233	294,256	304,656	+29,423	+10,400
Administration:					
Headquarters, management and administration	197,747	203,232	203,232	+5,485	---
National Center for Missing and Exploited Children	7,100	7,100	7,678	+578	+578
Subtotal, Administration	204,847	210,332	210,910	+6,063	+578
Training:					
Rowley training center	45,051	46,337	46,337	+1,286	---
Subtotal, Salaries and expenses	1,172,125	1,200,083	1,228,981	+56,856	+28,898
Operating expenses (rescission) (P.L. 108-11)	-750	---	---	+750	---
Acquisition, construction, improvements and related expenses (Rowley training center)	3,633	3,699	3,699	+66	---
Total, United States Secret Service	1,175,008	1,203,782	1,232,680	+57,672	+28,898

Homeland Security Appropriations Act - FY 2006 (H.R. 2360)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Total, title II, Security, Enforcement, and Investigations:					
New budget (obligational) authority	20,629,096	20,565,937	21,990,063	+1,360,967	+1,424,126
Appropriations	(20,675,489)	(20,565,937)	(21,990,063)	(+1,314,574)	(+1,424,126)
Emergency appropriations	(33,367)	---	---	(-33,367)	---
Rescission	(-79,760)	---	---	(+79,760)	---
TITLE III - PREPAREDNESS AND RECOVERY					
Office of State and Local Government Coordination and Preparedness					
Management and administration	3,546	---	3,546	---	+3,546
State and local programs:					
Salaries and expenses	---	3,546	---	---	-3,546
State and local basic formula grants	1,100,000	---	750,000	-350,000	+750,000
State Homeland Seurity Grant Program:					
State and local basic formula grants	---	1,020,000	---	---	-1,020,000
Emergency management performance grants	---	170,000	---	---	-170,000
Citizen Corps	---	50,000	---	---	-50,000
Subtotal, State Homeland Security Grant Pgm	---	1,240,000	---	---	-1,240,000
Law enforcement terrorism prevention grants	400,000	---	400,000	---	+400,000
Urban area security initiative:					
High-threat, high-density urban area	885,000	1,020,000	850,000	-35,000	-170,000
Targeted infrastructure protection	---	600,000	---	---	-600,000
Buffer Zone Protection Program	---	---	50,000	+50,000	+50,000
Port security grants	150,000	---	150,000	---	+150,000
Rail and transit security	150,000	---	150,000	---	+150,000
Trucking security grants	5,000	---	5,000	---	+5,000
Intercity bus security grants	10,000	---	10,000	---	+10,000
Subtotal, Urban area security initiative	1,200,000	1,620,000	1,215,000	+15,000	-405,000
Commercial equipment direct assistance program	50,000	---	50,000	---	+50,000
National programs:					
National domestic preparedness consortium	135,000	80,000	125,000	-10,000	+45,000
National exercise program	52,000	52,000	52,000	---	---
Technical assistance	30,000	7,600	20,000	-10,000	+12,400
Metropolitan medical response system	30,000	---	40,000	+10,000	+40,000
Demonstration training grants	30,000	---	35,000	+5,000	+35,000
Continuing training grants	25,000	3,010	30,000	+5,000	+26,990
Citizen Corps	15,000	---	40,000	+25,000	+40,000
Evaluations and assessments	14,300	14,300	14,300	---	---
Rural domestic preparedness consortium	5,000	---	10,000	+5,000	+10,000
Subtotal, National programs	336,300	156,910	366,300	+30,000	+209,390
Management and administration	---	44,300	---	---	-44,300
Subtotal, State and local programs	3,086,300	3,064,756	2,781,300	-305,000	-283,456
Firefighter assistance grants	650,000	---	---	-650,000	---
Fire department staffing assistance grants:					
Grants	---	500,000	550,000	+550,000	+50,000
Staffing for Adequate Fire and Emergency Response (SAFER) Act	65,000	---	50,000	-15,000	+50,000
Subtotal, Firefighter assistance grants	715,000	500,000	600,000	-115,000	+100,000
Emergency Management Performance Grants	180,000	---	180,000	---	+180,000
Total, Office of State and Local Government Coordination and Preparedness	3,984,846	3,564,756	3,564,846	-420,000	+90

Homeland Security Appropriations Act - FY 2006 (H.R. 2360)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Counterterrorism Fund					
Counterterrorism fund	8,000	10,000	10,000	+2,000	---
Emergency Preparedness and Response					
Office of the Under Secretary for Emergency Preparedness and Response	4,211	4,306	2,306	-1,905	-2,000
Preparedness, mitigation, response and recovery:					
Operating activities	209,499	228,499	242,499	+33,000	+14,000
Urban search and rescue teams	30,000	7,000	7,000	-23,000	---
Subtotal, Preparedness, mitigation, response and recovery	239,499	235,499	249,499	+10,000	+14,000
Operating expenses (rescission)	-5,000	---	---	+5,000	---
Administrative and regional operations	202,939	170,441	177,441	-25,498	+7,000
Defense function	---	48,000	48,000	+48,000	---
Subtotal, Administrative and regional operations	202,939	218,441	225,441	+22,502	+7,000
Public health programs:					
National disaster medical system	34,000	34,000	34,000	---	---
Subtotal, Public health programs	34,000	34,000	34,000	---	---
Radiological emergency preparedness program	-1,000	-1,266	-1,266	-266	---
Biodefense countermeasures:					
Advance appropriations, FY 2005 (P.L. 108-324)	2,507,776	---	---	-2,507,776	---
Subtotal, Biodefense countermeasures	2,507,776	---	---	-2,507,776	---
Disaster relief	2,042,380	2,140,000	2,023,900	-18,480	-116,100
Emergency appropriations (P.L. 108-324)	6,500,000	---	---	-6,500,000	---
Subtotal, Disaster Relief	8,542,380	2,140,000	2,023,900	-6,518,480	-116,100
Disaster assistance direct loan program account:					
(Limitation on direct loans)	(25,000)	(25,000)	(25,000)	---	---
Administrative expenses	567	567	567	---	---
Flood map modernization fund	200,000	200,068	200,000	---	-68
National flood insurance fund:					
Salaries and expenses	33,336	36,496	36,496	+3,160	---
Severe reptitive loss mitigation	---	---	40,000	+40,000	+40,000
Repetitive loss mitigation	---	---	10,000	+10,000	+10,000
Flood mitigation	79,257	87,358	99,358	+20,101	+12,000
Offsetting fee collections	-112,593	-123,854	-185,854	-73,261	-62,000
(Transfer to National flood mitigation fund)	(-20,000)	(-28,000)	(-40,000)	(-20,000)	(-12,000)
National flood mitigation fund (by transfer)	(20,000)	(28,000)	(40,000)	(+20,000)	(+12,000)
National pre-disaster mitigation fund	100,000	150,062	150,000	+50,000	-62
Emergency food and shelter	153,000	153,000	153,000	---	---
Total, Emergency Preparedness and Response (net)	11,978,372	3,134,677	3,037,447	-8,940,925	-97,230
Appropriations	(2,975,596)	(3,134,677)	(3,037,447)	(+61,851)	(-97,230)
Rescission	(-5,000)	---	---	(+5,000)	---
Emergency appropriations	(6,500,000)	---	---	(-6,500,000)	---
Advance appropriations	(2,507,776)	---	---	(-2,507,776)	---
Total, title III, Preparedness and Recovery:					
New budget (obligational) authority	15,971,218	6,709,433	6,612,293	-9,358,925	-97,140
Appropriations	(6,968,442)	(6,709,433)	(6,612,293)	(-356,149)	(-97,140)
Advance appropriations	(2,507,776)	---	---	(-2,507,776)	---
Emergency appropriations	(6,500,000)	---	---	(-6,500,000)	---

Homeland Security Appropriations Act - FY 2006 (H.R. 2360)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Rescissions	(-5,000)	---	---	(+5,000)	---
(Limitation on direct loans)	(25,000)	(25,000)	(25,000)	---	---
(Transfer out)	(-20,000)	(-28,000)	(-40,000)	(-20,000)	(-12,000)
(By transfer)	(20,000)	(28,000)	(40,000)	(+20,000)	(+12,000)
TITLE IV - RESEARCH AND DEVELOPMENT, TRAINING, ASSESSMENTS, AND SERVICES					
Citizenship and Immigration Services					
Backlog reduction initiative:					
Contracting services	120,000	70,000	70,000	-50,000	---
Other	20,000	10,000	10,000	-10,000	---
Digitization	20,000	---	40,000	+20,000	+40,000
Subtotal, Backlog reduction initiative	160,000	80,000	120,000	-40,000	+40,000
Adjudication services (fee account):					
Pay and benefits	(580,000)	(607,000)	(607,000)	(+27,000)	---
Operating expenses:					
District operations	(293,000)	(389,000)	(389,000)	(+96,000)	---
Service center operations	(233,000)	(260,000)	(260,000)	(+27,000)	---
Asylum, refugee and international operations	(73,000)	(74,000)	(74,000)	(+1,000)	---
Records operations	(65,000)	(66,000)	(66,000)	(+1,000)	---
Subtotal, Adjudication services	(1,244,000)	(1,396,000)	(1,396,000)	(+152,000)	---
Information and customer services (fee account):					
Pay and benefits	(78,000)	(80,000)	(80,000)	(+2,000)	---
Operating expenses:					
National Customer Service Center	(46,000)	(47,000)	(47,000)	(+1,000)	---
Information services	(14,000)	(14,000)	(14,000)	---	---
Subtotal, Information and customer services	(138,000)	(141,000)	(141,000)	(+3,000)	---
Administration (fee account):					
Pay and benefits	(43,000)	(44,000)	(44,000)	(+1,000)	---
Operating expenses	(190,000)	(193,000)	(193,000)	(+3,000)	---
Subtotal, Administration	(233,000)	(237,000)	(237,000)	(+4,000)	---
Total, Citizenship and Immigration Services	(1,775,000)	(1,854,000)	(1,894,000)	(+119,000)	(+40,000)
Appropriations	(160,000)	(80,000)	(120,000)	(-40,000)	(+40,000)
(Immigration Examination Fee Account)	(1,571,000)	(1,730,000)	(1,730,000)	(+159,000)	---
(H-1B and L Fraud Prevention and Detection Fee Account)	(31,000)	(31,000)	(31,000)	---	---
(H-1B Non-Immigrant Petitioner Fee Account)	(13,000)	(13,000)	(13,000)	---	---
Federal Law Enforcement Training Center					
Salaries and expenses:					
Salaries and expenses	177,440	183,362	194,000	+16,560	+10,638
Subtotal, Salaries and expenses	177,440	183,362	194,000	+16,560	+10,638
Acquisition, Construction, Improvements and Related expenses:					
Direct appropriation	44,917	40,636	64,743	+19,826	+24,107
Subtotal, Acquisition, Construction and Related Expenses	44,917	40,636	64,743	+19,826	+24,107
Total, Federal Law Enforcement Training Center	222,357	223,998	258,743	+36,386	+34,745

Homeland Security Appropriations Act - FY 2006 (H.R. 2360)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Information Analysis and Infrastructure Protection					
Management and administration:					
Office of the Under Secretary for Information Analysis and Infrastructure Protection..........	5,864	6,878	6,878	+1,014	---
Other salaries and expenses......................	126,200	197,127	191,322	+65,122	-5,805
Subtotal, Management and administration.........	132,064	204,005	198,200	+66,136	-5,805
Assessments and evaluations:					
Critical infrastructure outreach and partnerships.	106,592	67,177	62,177	-44,415	-5,000
Critical infrastructure identification and evaluation....................................	77,861	72,173	77,173	-688	+5,000
National Infrastructure Simulation and Analysis Center (NISAC)................................	20,000	16,000	16,000	-4,000	---
Protective actions..............................	191,647	91,399	91,399	-100,248	---
Biosurveillance.................................	11,000	11,147	10,147	-853	-1,000
Cyber security..................................	67,380	73,349	73,349	+5,969	---
NS-EP Telecommunications.........................	140,754	142,632	142,632	+1,878	---
Competitive analysis and evaluation..............	4,000	---	---	-4,000	---
Threat determination and assessment..............	21,943	19,900	19,900	-2,043	---
Infrastructure vulnerability and risk assessment..	71,080	74,347	74,347	+3,267	---
Evaluation and studies...........................	14,387	34,526	34,526	+20,139	---
Homeland Security Operations Center (HSOC)........	35,000	61,108	56,108	+21,108	-5,000
Information Sharing and Collaboration............	---	5,482	5,482	+5,482	---
Subtotal, Assessments and evaluations..........	761,644	669,240	663,240	-98,404	-6,000
Total, Information Analysis and Infrastructure Protection..................................	893,708	873,245	861,440	-32,268	-11,805
Science and Technology					
Management and administration:					
Office of the Under Secretary for Science and Technology.................................	6,315	---	---	-6,315	---
Other salaries and expenses......................	62,271	81,399	81,399	+19,128	---
Subtotal, Management and administration.........	68,586	81,399	81,399	+12,813	---
Research, development, acquisition, and operations:					
Biological countermeasures:					
Operating expenses............................	362,650	23,300	21,000	-341,650	-2,300
Defense function..........................	---	339,000	339,000	+339,000	---
Subtotal, Biological countermeasures........	362,650	362,300	360,000	-2,650	-2,300
Chemical countermeasures.........................	53,000	102,000	90,000	+37,000	-12,000
High explosives countermeasures..................	19,700	14,700	54,700	+35,000	+40,000
Threat and vulnerability, testing and assessment..	65,800	47,000	47,000	-18,800	---
Conventional missions in support of DHS..........	54,650	93,650	80,000	+25,350	-13,650
Technology development and transfer..............	---	---	10,000	+10,000	+10,000
Rapid prototyping program........................	76,000	20,900	30,000	-46,000	+9,100
Standards..	39,700	35,500	35,500	-4,200	---
Emerging threats.................................	10,750	10,500	10,500	-250	---
Critical infrastructure protection...............	27,000	20,800	35,800	+8,800	+15,000
University programs/homeland security fellowship..	70,000	63,600	63,600	-6,400	---
National Biodefense Analysis and Countermeasures Center construction............................	35,000	---	---	-35,000	---
Counter MANPADs..................................	61,000	110,000	110,000	+49,000	---
Safety act.......................................	10,000	5,600	10,000	---	+4,400
Cyber security...................................	18,000	16,700	16,700	-1,300	---
Interoperability and communications..............	21,000	---	---	-21,000	---
Office of interoperability and compatibility......	---	20,500	41,500	+41,500	+21,000
Research and development consolidation............	---	116,897	116,897	+116,897	---
Radiological and nuclear countermeasures..........	122,814	19,086	19,086	-103,528	---

Homeland Security Appropriations Act - FY 2006 (H.R. 2360)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
Domestic nuclear detection office	---	227,314	127,314	+127,314	-100,000
Subtotal, Research, development, acquisition, and operations	1,046,864	1,287,047	1,258,597	+211,733	-28,450
Total, Science and Technology	1,115,450	1,368,446	1,339,996	+224,546	-28,450
Total, title IV, Research and Development, Training Assessments, and Services:					
New budget (obligational) authority	2,391,515	2,545,689	2,580,179	+188,664	+34,490
TITLE V - GENERAL PROVISIONS					
Sec. 526:					
Rescission, 110-to-123 Conversions (P.L.108-90 and P.L. 108-334)	---	---	-84,000	-84,000	-84,000
110ft Island Class Patrol Boat procurement or refurbishment	---	---	84,000	+84,000	+84,000
Sec. 531:					
Rescission, Working Capital Fund	---	---	-7,000	-7,000	-7,000
Total, title V, General Provisions:					
New budget (obligational) authority	---	---	-7,000	-7,000	-7,000
Grand total, Department of Homeland Security:					
New budget (obligational) authority	39,598,603	30,568,748	31,860,080	-7,738,523	+1,291,332
Appropriations	(30,842,220)	(30,568,748)	(31,951,080)	(+1,308,860)	(+1,382,332)
Advance appropriations	(2,507,776)	---	---	(-2,507,776)	---
Emergency appropriations	(6,533,367)	---	---	(-6,533,367)	---
Rescissions	(-84,760)	---	(-91,000)	(-6,240)	(-91,000)
Fee funded programs	(2,894,004)	(3,325,579)	(3,325,579)	(+431,575)	---
(Limitation on direct loans)	(25,000)	(25,000)	(25,000)	---	---
(Transfer out)	(-20,000)	(-28,000)	(-40,000)	(-20,000)	(-12,000)
(By transfer)	(20,000)	(28,000)	(40,000)	(+20,000)	(+12,000)

Homeland Security Appropriations Act - FY 2006 (H.R. 2360)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
CONGRESSIONAL BUDGET RECAP					
Scorekeeping adjustments:					
Less emergency appropriations	-6,533,367	---	---	+6,533,367	---
Total, scorekeeping adjustments	-6,533,367	---	---	+6,533,367	---
Total (including adjustments)	33,065,236	30,568,748	31,860,080	-1,205,156	+1,291,332
Amount in this bill	(39,598,603)	(30,568,748)	(31,860,080)	(-7,738,523)	(+1,291,332)
Scorekeeping adjustments	(-6,533,367)	---	---	(+6,533,367)	---
Total mandatory and discretionary	33,065,236	30,568,748	31,860,080	-1,205,156	+1,291,332
Mandatory	(1,085,460)	(1,014,080)	(1,014,080)	(-71,380)	---
Discretionary	(31,979,776)	(29,554,668)	(30,846,000)	(-1,133,776)	(+1,291,332)
Discretionary Function Recap:					
Non-defense	30,775,776	28,827,668	29,259,000	-1,516,776	+431,332
Defense	1,204,000	727,000	1,587,000	+383,000	+860,000
Total	31,979,776	29,554,668	30,846,000	-1,133,776	+1,291,332

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(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	Bill	Bill vs. Enacted	Bill vs. Request
DEPARTMENT OF HOMELAND SECURITY SUMMARY					
TITLE I - DEPARTMENTAL MANAGEMENT AND OPERATIONS					
Departmental operations	524,457	664,672	601,528	+77,071	-63,144
Office of Inspector General	82,317	83,017	83,017	+700	---
Total, title I	606,774	747,689	684,545	+77,771	-63,144
TITLE II - SECURITY, ENFORCEMENT, AND INVESTIGATIONS					
Office of the Under Secretary for Border and Transportation Security	9,617	10,617	10,617	+1,000	---
U.S. Visitor and Immigrant Status Indication Techology	340,000	---	---	-340,000	---
Automation Modernization	---	---	411,232	+411,232	+411,232
Office of Screening Coordination Operations	---	525,526	---	---	-525,526
Customs and border protection	6,349,275	6,716,897	6,926,897	+577,622	+210,000
Direct appropriations	(5,333,281)	(5,574,751)	(5,784,751)	(+451,470)	(+210,000)
Fee accounts	(1,079,004)	(1,142,146)	(1,142,146)	(+63,142)	---
Immigration and customs enforcement	3,367,178	3,877,270	4,059,070	+691,892	+181,800
Direct appropriations	(3,645,178)	(4,134,837)	(4,316,637)	(+671,459)	(+181,800)
Offsetting fee collections	(-478,000)	(-487,000)	(-487,000)	(-9,000)	---
Fee accounts	(200,000)	(229,433)	(229,433)	(+29,433)	---
Transportation Security Administration	3,260,375	1,641,792	3,262,914	+2,539	+1,621,122
Direct appropriations	(5,083,375)	(5,311,792)	(5,432,914)	(+349,539)	(+121,122)
Offsetting fee collections	(-1,890,000)	(-3,670,000)	(-1,990,000)	(-100,000)	(+1,680,000)
United States Coast Guard	7,406,647	7,961,632	7,458,232	+51,585	-503,400
United States Secret Service	1,175,008	1,203,782	1,232,680	+57,672	+28,898
TOTAL, title II, direct appropriations	20,629,096	20,565,937	21,990,063	+1,360,967	+1,424,126
TITLE III - PREPAREDNESS AND RECOVERY					
Office of State and Local Government Coordination and Preparedness	3,984,846	3,564,756	3,564,846	-420,000	+90
Counterterrorism fund	8,000	10,000	10,000	+2,000	---
Emergency preparedness and response	11,978,372	3,134,677	3,037,447	-8,940,925	-97,230
Direct appropriations	(2,975,596)	(3,134,677)	(3,037,447)	(+61,851)	(-97,230)
Emergency appropriations	(6,500,000)	---	---	(-6,500,000)	---
Offsetting fee collections	(-112,593)	(-123,854)	(-185,854)	(-73,261)	(-62,000)
Biodefense countermeasures advance appropriations	(2,507,776)	---	---	(-2,507,776)	---
Total, title III	15,971,218	6,709,433	6,612,293	-9,358,925	-97,140
TITLE IV - RESEARCH AND DEVELOPMENT, TRAINING, ASSESSMENTS, AND SERVICES					
Citizenship and immigration services	1,775,000	1,854,000	1,894,000	+119,000	+40,000
Direct appropriations	(160,000)	(80,000)	(120,000)	(-40,000)	(+40,000)
Fee accounts	(1,615,000)	(1,774,000)	(1,774,000)	(+159,000)	---
Federal law enforcement training center	222,357	223,998	258,743	+36,386	+34,745
Information analysis and infrastructure protection	893,708	873,245	861,440	-32,268	-11,805
Science and technology	1,115,450	1,368,446	1,339,996	+224,546	-28,450
Total, title IV, direct appropriations	2,391,515	2,545,689	2,580,179	+188,664	+34,490
TITLE V - GENERAL PROVISIONS					
General provisions	---	---	-7,000	-7,000	-7,000
Total, title V, General provisions	---	---	-7,000	-7,000	-7,000
Scorekeeping adjustments	-6,533,367	---	---	+6,533,367	---
TOTAL, DEPARTMENT OF HOMELAND SECURITY	33,065,236	30,568,748	31,860,080	-1,205,156	+1,291,332

Mr. ROGERS of Kentucky, Mr. Chairman, I submit the following exchange of letters for the RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, May 17, 2005.

Hon. BILL THOMAS,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR CHAIRMAN THOMAS. Thank you for your letter regarding H.R. 2360, the Department of Homeland Security Appropriations Act for fiscal year 2006. As you have noted, the bill is scheduled for floor consideration on Tuesday, May 17, 2005. I appreciate your agreement to expedite the passage of this legislation although it contains a provision involving overtime pay that falls within your Committee's jurisdiction. I appreciate your decision to forgo further action on the bill and acknowledge that it will not prejudice the Committee on Ways and Means with respect to its jurisdictional prerogatives on this or similar legislation.

Our committees have worked closely together on this important initiative, and I am very pleased we are continuing that cooperation. I appreciate your helping us to move this legislation quickly to the floor. Finally, I will include in the Congressional Record a copy of our exchange of letters on this matter. Thank you for your assistance and cooperation. We look forward to working with you in the future.

Best regards,

HAROLD ROGERS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, May 16, 2005.

Hon. HAROLD ROGERS,
Chairman, Subcommittee on Homeland Security, Committee on Appropriations, Washington, DC.

DEAR CHAIRMAN ROGERS: I am writing concerning H.R. 2360, the Department of Homeland Security Appropriations Act for Fiscal Year 2006 which is scheduled for floor consideration on Tuesday, May 17, 2005.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning customs and Title 19, U.S.C. 267(c)(1). There is a provision within the bill which involves overtime pay for U.S. Customs and Border Protection employees and thus falls within the jurisdiction of the Committee on Ways and Means.

However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to exercising its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 2360 and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

Mr. Chairman, I reserve the balance of my time.

Mr. SABO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first I would like to thank the gentleman from Kentucky (Chairman ROGERS) for his cooperation and good work in bringing this bill to the House. This bill, in its current form, represents a substantial improvement over the President's budget request.

My comments are related to the bill as it stands. I am not sure, after all the points of order are made today, what will remain in the bill; but as the bill stands, there are many good things in this bill, including better funding for border enforcement and separate programs for transit and port security grants. I appreciate that the chairman worked with us to toughen up the bill on air cargo screening, chemical plant security, and privacy safeguards.

The Department has a long way to go in these areas. However, this bill pushes them to improve operations and better secure our Nation. I would especially like to point out the air cargo screening provisions in this bill. One of these provisions penalizes TSA for not complying with last year's law which required a threefold air cargo screening increase. Another provision mandates that TSA utilize their equipment to screen air cargo during the downtime in checked baggage screening. This should help raise the screened percentage of air cargo even further. Last, the bill includes $30 million for three air cargo screening pilot programs, two at passenger operations and one at an all-cargo operation.

The report accompanying this bill directs the Secretary to ensure that all DHS contracts with companies that collect personal information, such as ChoicePoint, will require the companies to have security procedures to properly notify individuals if their personal information is lost or stolen. The personal data of hundreds of thousands of people have been compromised in recent months. For 49 States, there is no requirement for companies to notify the affected people. We should require notification government-wide, and this provision takes an important step in the right direction.

The bill also demands that the Department get its act together to develop proper standards and processes for designating the information as "security-sensitive." Today, TSA has no meaningful procedures to designate "security sensitive" documents. This has led, I believe, to TSA withholding information from the public that should be disclosed. This bill directs the Department to limit the number of people who can designate such information to establish internal controls to audit these designations.

I do have reservations about some parts of this bill, especially the funding levels for fire grants and the State homeland security formula grants. We will have an amendment relating to fire grants later. I happen to be in probably a small minority who thinks it is a mistake to distribute a portion of the State formula grant based on risk and vulnerability versus population.

Let us be clear. The urban initiative grant is distributed on a discretionary basis. My observation over the last several years, when trying to get information from the Department on how they made those judgments, we rarely get good answers; at periods of time, no answers; and at other times, very ineffective answers. I have no problem with whatever the judgment of the Congress is in adjusting the minimum grant that goes to particular States. However, I think when we assume that this Department has the capacity to make risk judgments on allocating funds to all 57 States and territories, I think we overestimate their capacity to make such judgments.

They have made mistakes in the past, and I just do not think they have developed the needed expertise to make the kinds of judgments we are assuming they can. If they had that capacity, then I think we might be headed in the right direction; but there is no evidence that they have that capacity today.

In conclusion, however, I must say that I think we must measure this homeland security bill by asking whether the bill helps close the gaps that exist today. I think the bill does that. I think it makes substantial improvements in how the Department would operate, and I am proud to support the bill as it stands today.

Mr. Chairman, I reserve the balance of my time.

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve the balance of my time.

Mr. SABO. Mr. Chairman, I yield such time as he may consume to the distinguished ranking Democrat on the Committee on Appropriations, the gentleman from Wisconsin (Mr. OBEY).

□ 1215

Mr. OBEY. Mr. Chairman, there are two problems that we face in dealing with this bill. The first is that we have an agency which is essentially incompetent and dysfunctional. We are trying to protect the Nation's security by working through an agency which is gargantuan, which is bureaucratic, to say the least, which is filled with inertia, and filled with people working at cross purposes. Outside of that it does a terrific job.

And the chairman and the ranking member of the subcommittee have tried to do their dead level best to provide the kind of Congressional oversight that is necessary if you are going to help bring this agency out of its troubles and put that agency in a posture where it can be a trusted repository of the responsibilities that we have given to it.

The second problem we have is that we still have not faced up to the need. Even though the agency which we must go through in order to deal with this problem is a mess, we still have not faced up to the fact that we need more resources.

We still only inspect a tiny percentage of the container cargo which comes into this country every day. We still inspect an infinitesimal percentage of cargo on passenger airplanes. Mr. SABO has focused on that issue many times.

We, despite all of our posturing, and despite every Member of Congress who has gone on the Lou Dobbs Show and talked about the need to secure our borders, we still are incredibly short in terms of the number of border guards, in terms of the number of immigration inspectors. And then, in addition to that, the Congress on the supplemental appropriation bill added an entirely extraneous provision which set up this new complicated, convoluted Rube Goldberg operation that every citizen is going to have to go through in order to renew their driver's license.

And the cost of that program is indeterminate, but we are being told by the Congressional Budget Office that it will cost at least $100 million, which will be laid onto State and local governments. We are told by the National Council of State Legislative Leaders that it will cost about $500 million, and we have laid that responsibility on State and local governments.

So, Mr. Chairman, it seems to me that even with our doubts about the agency there are certain functions that we ought to be providing more money for unless we are determined to create yet another unfunded mandate. The committee has not been able to provide additional money, not because of any defect in the committee but for one simple reason: This House has decided to make as a higher priority providing very large tax cuts for the next 10 years, and a huge percentage of those tax cuts have gone to the most blessed persons in this society. Let me put it that way.

The reality is that if you make over a million dollars this year, you could expect, on average, to get a $140,000 tax cut. We could plug all of the holes I have just mentioned in our homeland security activities if we simply limited that $140,000 average tax cut to $138,000.

And that is what the amendment would do that I intend to offer at a later point in the proceedings. The Rules Committee did not make that amendment in order, while they did make in order, or they did make it possible for any single Member to walk onto this floor and wipe out 15 pages of this bill that provide needed resources for numerous security activities.

So we are in the situation where the Rules Committee has precluded me from offering an amendment which can be voted on by the entire body, and yet the Rules Committee has said we are going to allow a single Member from a committee that has never produced a bill that has gone into law, we are going to allow them to walk in here and shred this bill.

That makes no sense to me. So I just think the Rules Committee has failed in its stewardship responsibility, and I think we are failing our responsibilities to our constituents if we do not provide more resources than this bill provides.

Having said that, I want to congratulate the gentleman from Kentucky (Mr. ROGERS) for doing the best job that he could under the circumstances. I had intended to vote for this bill until they took it and shredded it. Whether I will vote for it in the end will be determined by just how irresponsible people are when they come to the floor and knock out provisions of this bill just because their committee did not happen to think of them.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield such time as he may consume to the very distinguished and very able chairman of our full committee, the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Chairman, I very much appreciate my chairman, the gentleman from Kentucky (Mr. ROGERS), for yielding me whatever time I might consume. I really rise because I want the House to know that this bill is perhaps one of the most positive reflections of what our Appropriations Committee can do at the subcommittee level when we work in a very professional and highly nonpartisan manner to address major problems that face our country.

The question of homeland security and the need for expanding effectively our work in this arena is obvious. Both the gentleman from Minnesota (Mr. SABO) and the gentleman from Kentucky (Mr. ROGERS) have done a fabulous job of working together.

The staffs are not just outstanding, they have produced a product of which we can all be proud. Indeed, as we go through the process today it is conceivable this product may change because of untoward circumstances. But I must say in the arena that involves homeland security we do have a new authorizing committee that has been put together. They have yet to produce their first product this year, but they are working diligently to try to move in that direction.

It is our desire to help them be successful. And over time I am certain that we will be able to help them be successful. If money has anything to do with this process we hope to have a very positive influence.

In turn, the bill as it is currently formed is being used effectively for oversight. We all know that this department is something much different than an elephant or a hippopotamus or a donkey combined. It is the merging of some 22 agencies, an attempt to put together the homeland security department.

As we attempt to massage the process to make sure this agency can operate effectively, clearly the Appropriations Committee has a role to play. In their attempt to provide effective oversight, before oversight has been done by way of the authorizing committee, for they have not had a chance to do that yet, it is very important that dollar pressure get the attention of this organization.

Let me just mention one area in the area of the Coast Guard's work, in the Deepwater arena. Preceding 9/11 they were on a plan for working and developing their responsibilities in Deepwater efforts. Subsequent to 9/11, the chairman has been pushing them to move in the direction of remodeling their plan to reflect this new world that we are living in.

And the chairman has worked, by way of language in past bills, he has worked by communication with the leadership of the new agency, he has done everything he can to have them be responsive to a plan that is not just a 5-year, but a 20-year plan that tells us where these sizeable number of dollars are going to be spent to impact that piece of our security.

And indeed the lack of response from the Coast Guard is astonishing to me. I mean, indeed, you would think perhaps that this subcommittee did not exist because they presume that money for them would be automatic around this place.

Well, the Chairman has done a great job of trying to send a message that says, we expect you to have a real world plan that reflects post-9/11 realities. And that language is important to our ability to provide oversight in the months that are just ahead.

I would hope that all of us working together would recognize that sometimes you use the vehicle that is available to have oversight that will impact an agency whose attention we absolutely must get. Otherwise we could waste not just 6 months or a year, we could waste 2 or 3 years while we are getting our act together.

Indeed, let me return to my original point; that is, this subcommittee has done a fabulous job. If you will just read this bill and look at the care that has been taken in every section, staffs on both sides of the aisle indeed should be applauded for their effort at causing both the gentleman from Minnesota (Mr. SABO) and my colleague, the gentleman from Kentucky (Mr. ROGERS), for doing a fabulous job on behalf of our Nation's security.

Mr. SABO. Mr. Chairman, I am pleased to yield 3 minutes to a distinguished member of our subcommittee, the gentleman from New York (Mr. SERRANO).

Mr. SERRANO. Mr. Chairman, I thank the gentleman from Minnesota (Mr. SABO) for yielding me this time.

Mr. Chairman, first off I would like to compliment the gentleman from Kentucky (Chairman ROGERS) and the ranking member, the gentleman from Minnesota (Mr. SABO), for their hard work on this bill.

The bill's top line total is $1.3 billion, or 4 percent above the President's request, and $1.7 billion, nearly 6 percent above this year's enacted level. The bill achieves these numbers without conceding to the President's request to increase the Federal security surcharge on airline tickets by $3.

Mr. Chairman, I want to strongly state my support for the efforts of the gentleman from Kentucky (Chairman ROGERS) in this bill to ensure accountability, which is long overdue. I understand that the top management at DHS has had a very difficult management task on their plate from day 1, pulling together all of these different agencies and making sure that they play and work well together.

I believe, however, that these challenges are cause for more, not less oversight on the part of the Congress. After September 11, Congress voted to grant the Department of Homeland Security a broad scope of authorities. This means that if managed properly, the Department is uniquely positioned to protect us from terrorism.

On the other hand, if managed improperly, it is also uniquely positioned to do great harm. For instance, since the PATRIOT Act and the Homeland Security Act, I, along with many others in this body, have spoken out constantly on the need for our antiterrorist agencies to safeguard our constitutional rights and civil liberties.

Mr Chairman, I believe that if in the process of getting the bad guys we step and throw away the Constitution, eventually it is the terrorists who would have won the battle. Congress is the most essential body for protecting Americans from these types of excesses and missteps by the Department.

Furthermore, the American people have also charged us with ensuring that every dollar that the government spends, especially on something like homeland security, is spent in a way that yields the most benefit. The most significant way that we in Congress carry out this vital task is by controlling the way the money is spent, and that is what the gentleman from Kentucky (Chairman ROGERS) has spoken to for so many times with the support of the gentleman from Minnesota (Mr. SABO).

We cannot just open up this new part of our funding, if you will, in this Congress and dole out all of these dollars without having some accountability. The gentleman from Minnesota (Mr. SABO) and especially the gentleman from Kentucky (Chairman ROGERS) well understand that this is not our personal money, this is the taxpayers' dollars, and the taxpayers complain a lot about how we spend the money. This time we have a new department, new agency, new spending sources, new funding levels, and we can from day 1 try to pull the strings in and have some control.

So I would hope that today, during this debate, those who may be officially or personally offended about how some things happen around here understand that there is a greater task; that is, the protection of the people and the protection of the taxpayer.

First off, I would like to commend Chairman ROGERS and Ranking Member SABO for their hard work on this bill.

The bill's top line total is $1.3 billion (4 percent) above the president's request and $1.7 billion (nearly 6 percent) above this year's enacted level.

The bill achieves these numbers without conceding to the President's request to increase the federal security surcharge on airline tickets by $3.

I am strongly supportive of Chairman ROGERS' efforts in this bill to ensure accountability at DHS, which is long overdue.

I understand that the top management of DHS has had a difficult management task on their plate from day one: pulling together all these agencies and making sure that they play well together.

I believe, however, that these challenges are cause for more—not less—oversight on the part of this Congress.

After Sept. 11, Congress voted to grant the Department of Homeland Security a broad scope of authorities. This means that, if managed properly, the Department is uniquely positioned to protect us from terrorism. On the other hand, if managed improperly, it is also uniquely positioned to do great harm.

For instance, since the Patriot Act and the Homeland Security Act, I, along with many others in this body, have spoken out constantly on the need for our antiterrorist agencies to safeguard our Constitutional rights and civil liberties.

Congress is the most essential body for protecting Americans from these types of excesses and missteps by the Department.

Furthermore, the American people have also charged us with ensuring that every dollar that the government spends—especially on something like Homeland Security—is spent in a way that yields the most benefit.

The most significant way that we in Congress carry out this vital task is by controlling the way money is spent—and, if necessary, denying the Administration requests if they are unable or unwilling to respond to our concerns.

Chairman ROGERS recognized this point when he built accountability into this bill.

I would also like to take a moment to highlight some of the funding levels in the bill that I believe are inadequate.

I understand that when it comes to something like our safety and security from terrorist attacks, any final amount of funding means that tough choices must be made.

One important area that suffers a severe cut in this bill, however, is funding to our state and local programs, which the bill reduces by 11 percent from this year.

The Administration and many on our committee have noted that this cut is in response to the sluggish pace at which the Department and states move these funds out to local agencies, so that they can be spent.

But I don't believe that slashing funding for these essential programs is the right approach to making them work better.

These state and local governments are on the front lines in our struggle against terrorism, and still have many needs that are going unmet.

Most notably, fire grants, which, as the Ranking Member notes, are the most successful grant program at DHS are reduced by $115 million from current levels—16 percent—even as we are finding that our firefighters are still largely unprepared to respond to catastrophic terrorist acts.

In addition, State homeland security formula grants, local law enforcement terrorism prevention grants, and urban area security grants, all of which are especially important to my district and other high risk areas, are reduced by 14 percent.

As the bill moves to Conference, I am hopeful that we can find a way to address some of these deficiencies, and I look forward to working with the Chairman and Ranking Member on these issues.

In closing, I believe overall that this is a good start to tackling many of the problems that have plagued the Department from its inception, and I urge all my colleagues to support it.

□ 1230

Mr. SABO. Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina (Mr. PRICE), another distinguished member of our subcommittee.

Mr. Chairman, how much time do I have left?

The CHAIRMAN. The gentleman from Minnesota (Mr. SABO) has 15½ minutes remaining.

Mr. PRICE of North Carolina. Mr. Chairman, I am grateful to my colleagues, the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO), for their conscientious and cooperative efforts in writing this bill.

The bill would provide much-needed additional funding to protect our borders. It would also boost the Department of Homeland Security's efforts to track down potential terrorists and criminal aliens that are already in this country.

It would shorten the backlog for people seeking to legally live in this country as permanent residents or citizens. It would help protect our ports and our chemical and nuclear facilities. And as the gentleman from New York (Mr. SERRANO), my colleague, just stressed, it focuses on accountability, much-needed accountability, at the Department, and I commend the gentleman from Kentucky (Mr. ROGERS) in particular for that.

Given the limited funds the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) had to start with, theirs was not an easy or enviable task, and they have done an exceptional job with the poor hand they were dealt. But I have said this before and I will say it again: we can do better. This bill could and should be better. We would do better if we made better budget choices at the front end of this process.

This vote today is not occurring in a vacuum. During recent funding debates, we have heard the Republican leaders say over and over, there simply are no funds available to provide what is needed. I suspect we are going to hear that again today.

What we do not hear as often is that since 9/11, we have spent 20 times as much on tax cuts, mainly benefiting the wealthiest people in this country, as we have on protecting the American people from terrorist attacks. Just the other week, we passed another tax cut that will only benefit people inheriting estates that are worth millions of dollars.

So we go over the cliff fiscally, and our Republican friends try to pin the blame on discretionary domestic spending, including spending for security. We pass budget resolutions that fall far short, so that by the time we try to write appropriations bills within the limits in these resolutions, we have nothing left to talk about. All we can do is lamely speak of the things we just are not able to do, in this bill and other bills, because we do not have the funds.

Well, we chose not to have the funds. To name one conspicuous example, for the second year in a row, we are going to cut the Fire grant program, one of the most successful Federal programs we have.

Despite the fact that a recent FEMA study showed that two-thirds of our fire departments operate with staffing levels that do not meet the minimum safe staffing levels required by OSHA and the National Fire Protection Association, we are again under-funding the SAFER program, which assists understaffed departments in hiring additional personnel.

Mr. Chairman, we pass bills authorizing first-responder support, but when it comes time to pay for these programs, we would rather put the country's money toward tax breaks for the wealthy than for police officers who are protecting our communities. Trillion-dollar tax cuts get rammed through this Congress, but in this bill, the leadership says we have "no choice" but to cut State block grants by 14 percent.

Today, our choices are indeed limited, although I am hopeful we can make some improvements at the margins, for example, by passing the gentleman from Minnesota's (Mr. SABO) first responder amendment.

At the end of the day, we should pass this bill, and I am hopeful that colleagues on both sides of the aisle will support it. But we should understand why this bill, despite our subcommittee's best efforts, does fall short. We should resolve to fix this country's budget policy so that at long last our Nation's people and their security can come first.

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve the balance of my time.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, let me thank the gentleman from Minnesota for yielding me time, for his leadership, and also to the gentleman from Kentucky (Chairman ROGERS) for his diligence, hard work, and leadership in bringing this bill to the floor.

Mr. Chairman, last month the port of Oakland in my district in California became the very first port in the Nation to fully install radiation portal monitors at every one of its international marine terminals. That means that every single container exiting the port of Oakland will be screened for nuclear weapons. As the fourth largest port in the Nation, that is almost 700,000 screened containers a year.

While Oakland can detect and prevent the entry of nuclear weapons into our country now, other ports around the Nation, unfortunately, cannot. We know that terrorist organizations are actively seeking nuclear weapons; but under this bill, our Nation's ports would not be fully equipped with radiation portal monitors until 2009. That is unacceptable.

The fact is this administration has consistently underfunded port security for years. The Coast Guard estimated in 2002 that we needed $7 billion for port security. In the last 4 years, Congress has only provided about $737 million, and this bill would add a meager $150 million.

So, Mr. Chairman, we cannot wait until a real attack occurs, and we need more money for port security now. So I hope that we make this commitment today as this bill moves forward.

Mr. SABO. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Minnesota for the time.

I thank the chairman of the subcommittee and as well the chairman and ranking member of the full committee. If there is ever a challenge, Mr. Chairman, it is a challenge of trying to get one's hands around the massiveness of homeland security.

I think if we have ever realized the importance of the work of the subcommittee on appropriations, and also the authorizing committee, it was last Wednesday, just less than a week ago, when masses of people in this area were told to evacuate and Members of Congress were seen fleeing, as others stood by watching them.

We have, if you will, a crisis more or less in the way that we handle homeland security issues, and the focus in terms of resources could not be more important and could not be more immediate.

First of all, I would like to acknowledge the dollars that are in this particular legislation dealing with Customs and border protection and immigration and Customs enforcement. I would like to see more. I do believe that the lack of dollars in the Fire grants is something that we need to improve.

What I would like to focus on, in particular, is the need to, one, I hope over time eliminate aspects of the REAL ID bill but to emphasize that it is seemingly unwieldy to suggest that States have to implement the REAL ID bill with a national ID card and no dollars, and I believe that this bill falls short of the amount of money needed to implement the REAL ID bill.

Then look at those of us who are border States, Texas, California, Mexico and Arizona, facing the likes of the Minutemen. On May 1, the Houston Chronicle said that the Minutemen are headed for Texas. We are patriots but we can handle our own business, but the Federal Government needs to handle immigration business.

I believe that we need more resources at the border for Customs and border patrol protection agents, more dollars for enforcement technology, more dollars to be able to protect the border, more dollars to ward off inappropriate, unauthorized militia on our borders. The reason why Americans are taking up immigration in their own hands is because we have failed them.

Mr. Chairman, we need enforcement with respect to employer sanctions. We need enforcement with respect to promoting American jobs. We need enforcement as it relates to protecting our borders, north and south; and yes, Mr. Chairman, we need comprehensive immigration reform.

I have introduced the Save America Comprehensive Immigration Act of 2005, which has to do with reuniting families, legalization for long-time residents, protecting women against violence and the border protection, as well as dealing with American jobs. I hope that we will have an opportunity in appropriations and authorization to look at immigration reform.

Mr. NUSSLE. Mr. Chairman, I rise to speak on the appropriations process for fiscal year 2006 and the Department of Homeland Security appropriations bill in particular. This is the first appropriations bill to be considered under the fiscal year 2006 budget resolution. The bill also provides for what we all agree is one of our Nation's highest priorities: protecting Americans at home.

The budget resolution provides a total allocation for discretionary appropriations of $843 billion in fiscal year 2006. This represents a 0.8 percent reduction for fiscal year 2006 in total non-defense, non-homeland security spending. I recognize the challenge this poses to the Appropriations Committee.

With respect to H.R. 2360, the Department of Homeland Security Appropriations Act for Fiscal Year 2006, this is the first appropriations bill we are considering for fiscal year 2006, and the first to be reported by the Homeland Security subcommittee of the restructured Appropriations Committee.

I am pleased to report that it is consistent with the levels established in H. Con. Res. 95, the House concurrent resolution on the budget for fiscal year 2006, which Congress adopted as its fiscal blueprint on April 28.

H.R. 2360 provides $30.8 billion in appropriations for the Department of Homeland Security for fiscal year 2006, which is $1.1 billion below the fiscal year 2005 level. Excluding the $2.5 billion in one-time appropriations provided in fiscal year 2005 for Project BioShield, the bill actually represents a $1.4 billion, or 4.7 percent, increase in budget authority above last year's level and is $1.3 billion above the President's fiscal year 2006 request.

The bill provides increases in border protection, immigration enforcement, first responders, transportation security, and science and technology broadly consistent with the President's request, but exceeds it largely because of the rejection of the Administration's proposed $1.7 billion increase in aviation security fees for the Transportation Security Administration. The bill's funding level is partly offset by slowing spending for the replacement of the Coast Guard fleet and by a reduction in non-defense, non-homeland security spending. With total fiscal year 2006 appropriations equal to its allocation, the bill conforms with the budget resolution.

H.R. 2360 does not contain any emergency-designated BA, which is exempt from budget limits. The bill contains one rescission of $84 million in previously enacted discretionary BA for the Coast Guard; the same amount is appropriated for replacement or maintenance of the current patrol boat fleet.

The bill complies with section 302(f) of the Budget Act, which prohibits consideration of bills in excess of an Appropriations subcommittee's 302(b) allocation of budget authority and outlays established in the budget resolution.

As we enter the appropriations season, I wish Chairman LEWIS and our colleagues on the Appropriations Committee the best as they strive to meet the needs of the American public within the framework established by the budget resolution.

In conclusion, I express my support for H.R. 2360.

Mr. UDALL of Colorado. Mr. Chairman, I rise in support of the FY 2006 Homeland Security Appropriations bill. This is not a perfect bill, but it provides much needed funds to make our country safer.

Total funding in the bill is increased from this year's levels, with significant increases over the requested levels for immigration and for customs enforcement and border protection. Funding for port, transit and aviation security is also much improved over the president's budget request.

Still, I'm concerned about shortfalls in the bill. It cuts fire grants by 16 percent, even as a recent survey found that fire departments all over the country are not prepared to respond to a haz-mat incident and lack equipment. The bill cuts State homeland security formula grants, local law enforcement terrorism prevention grants, and urban area security grants by 14 percent. The bill does provide additional funding for border patrol, but the number of agents still falls 500 short of the 2,000 called for in the Intelligence Reform bill. Since September 11, just 965 additional border patrol agents have been hired—less than a 10 percent increase in 4 years.

I am pleased that the House adopted an amendment offered by Mr. OBEY of Wisconsin to provide funding to help States comply with the REAL ID Act. Estimates are that complying with the Act will cost the States between $100 million and $500 million over the next 4 years. Since the majority saw fit to push the REAL ID provisions through Congress, it is important that Congress also provides funding to do the job.

I opposed the amendment offered by Mr. TANCREDO which would block any Homeland Security funding from going to State and local governments if their law enforcement is prohibited from reporting immigration information to the Federal Government.

I believe that linking this provision to vital homeland security funds could have unintended consequences for our national security. Since 9/11, national security has become a national priority, and State and local governments play an essential role in assisting the Department of Homeland Security to improve the security in this country.

Under current law passed in 1996, it is already illegal for law enforcement to restrict the reporting of immigration information to the Federal Government. I support this law, and believe it should be fully enforced. The efforts of State and local governments to enhance our security should not be undermined because the Federal Government has not properly enforced immigration law.

We should be providing States with resources to improve security, not taking these resources away. By underfunding and allowing the weakening of security in some States and localities due to their lack of reporting illegal immigrants to immigration officials, the Federal Government would in effect be contributing to the weakening of our national security.

Mr. Chairman, much remains to be done to improve our defenses against terrorism, but this bill is an important step, and I will vote for it.

Mr. BLUMENAUER. Mr. Chairman, I rise in favor of this bill, which includes critically important funding for Oregon and the rest of the country.

I especially appreciate funding for prevention measures to reduce the damage done by floods and other natural disasters, and I would like to thank the Chairman and Ranking Member for fully funding the Flood Insurance Reform Act of 2004. The Act, which this House passed overwhelmingly last year, extends the authorization of the National Flood Insurance Program (NFIP) and provides new resources to address severe repetitive loss properties.

The Federal Emergency Management Agency (FEMA) reports that repetitively flooded properties, which make up just 1 percent of the insured properties, account for 25 percent of NFIP claims dollars. Mitigating these properties will not only keep people out of harm's way, but will also save other flood insurance program policyholders thousands of dollars.

Fully funding the program this year would allow us to move more than 1000 families out of harm's way. It will also save the Federal government millions of dollars in money that would otherwise be spent on flood damages and disaster relief. FEMA reports that mitigation and building standards already in place have resulted in over $1 billion annually in reduced flood losses.

I appreciate the strong support of Financial Services Chairman MIKE OXLEY, Ranking Member BARNEY FRANK, and their staff, who have worked tirelessly to ensure that the Flood Insurance Reform Act is implemented.

The Homeland Security bill also includes crucial local preparedness grants, which are an important part of the Federal government's responsibility to be a good partner to local communities. I am pleased that these grants will be distributed, after a state minimum guarantee, on the basis of risk, as the 9/11 Commission recommended.

However, I am disappointed that three and a half years after the terrorist attacks of September 11, our homeland security budget continues to under-fund some of our most pressing needs, from border security to infrastructure security to first responders. But this shortfall stems not from the appropriations bill, but from unfortunate budget choices and the resulting inadequate allocations.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in support of H.R. 2360, the Homeland Security Appropriations Act for Fiscal Year 2006. As a member of the Homeland Security Subcommittee, it has been an honor to work with Chairman HAL ROGERS and our Ranking Member, MARTIN SABO, in drafting this bill. I would like to commend them both, for their efforts to address our Nation's security needs despite the severe budget constraints forced upon them.

Mr. Chairman, this bill provides $30.85 billion for operations and activities of the Department of Homeland Security, DHS, in fiscal year 2006, an increase of $1.37 billion above the fiscal year 2005 enacted levels. Although the bill does not fully fund many initiatives critical to securing the homeland, I am pleased that this legislation does provide adequate funding for several programs of importance to urban communities such as my own in Los Angeles.

For instance, State and local emergency managers will be happy to learn that although the President continues to zero out the funding in his budget request for the Emergency Management Performance Grants, the committee has appropriated $180 million for this grant program. Congress has rightly called this program "the backbone of the Nation's emergency management system." In California, emergency managers use these grants to develop plans to help prepare our residents for disasters such as earthquakes, fires, floods, or terrorist attacks.

The bill also provides $750 million for Statewide formula grants which are distributed on a per capita basis to first responders. The current population-based formula is under review by the Homeland Security Authorization Committee which is determining whether or not funds should go to States based solely on population. In lieu of any changes by the authorizing committee to the formula, this bill directs DHS to maintain a minimum allocation of .75 percent per State and to allocate the rest based on threats and need versus population. I strongly agree that targeting funds based on the assessment of actual vulnerability is a much more effective use of limited resources than population alone. Furthermore, the committee recognizes that DHS must still establish a national preparedness goal which will help our States develop appropriate homeland security funding goals.

Our firefighters were among the first to respond to the tragic events of September 11th, and they will likely be the first to respond in the event of a future attack. The fire grant program helps local fire departments deal with these and other needs by allocating funds for equipment and staff. Unfortunately, the President proposed cutting funding for these programs by $215 million, or 30 percent. This bill restores most of the president's cuts by providing $600 million for fire grants and $50 million for firefighter staffing grants. This is critical funding because only 13 percent of fire departments are prepared to respond to a hazardous material incident and an estimated 57,000 firefighter's lack personal protective clothing for a chemical or biological attack. I would hope that by the time this bill goes to the President, these programs will be fully funded at last year's level of $715 million at a minimum.

In addition, the bill strengthens the committee's direction that port security grants, for the 55 ports of national significance, should be based on vulnerability assessments. This means that limited resources for port grants will be used where they are needed most. While we are dedicating $150 million to both the port and the transit security programs, the Administration had proposed no funding for these critical programs. This is inexcusable particularly when the Coast Guard and the transit industry have indicated $7 billion and $6 billion in security needs in their respective industries to improve security. I am also pleased that Congress dedicated $50 million for the security of chemical plants.

I thank Chairman ROGERS and Ranking Member SABO for including in the Homeland Security report several items I requested to address serious issues raised during subcommittee hearings with representatives of the Department of Homeland Security.

For example, the report expresses deep concern about reports that children, even as young as nursing infants, apprehended by Immigration and Customs Enforcement (ICE) are being separated from their parents and placed in shelters operated by the Department of Health and Human Services while parents are held in separate jail-like facilities. The Committee's report language directs DHS to release families or use alternatives to detention whenever possible, and when detention of family units is necessary, the Committee directs DHS to use appropriate detention space to house them together.

The report also addresses the need to expand the use of Legal Orientation Programs to additional ICE detention centers in the country. Legal Orientation Programs consist of legal presentations made by nongovernmental agencies to all persons in immigration detention prior to their first hearing before an immigration judge. This program saves on the costs of immigration detention, makes Immigration Court more efficient, and facilitates access to justice for detained immigrants in removal proceedings. Immigrants are better prepared to accept their removal earlier in the immigration hearing process when they have learned from organizations not affiliated with the government that they have exhausted their immigration relief options.

I am also pleased that the report contains language I requested to improve the quality assurance standards at our ports of entry. The Committee urges Customs and Border Protection to consider expanding the use of videotape systems to record interactions between potential asylum seekers and border patrol agents at our ports of entry. These tapes should be reviewed and retained for a sufficient period of time to ensure that asylum seekers are treated equally and with fairness at any one of our ports of entry.

The bill once again includes language I drafted to prevent the Department of Homeland Security from moving forward with the unnecessary and potentially dangerous privatization of key immigration officers at the Bureau of Citizenship and Immigration Services. These officers are responsible for handling classified information used to prevent fraud and the exploitation of our immigration laws. I am thankful that this inherently governmental work will continue to remain the responsibility of trained and experienced federal employees directly accountable to the Department and not to the bottom line of a private company.

The report also includes language which I requested to address concerns about Customs and Border Protection employees who were required to participate in a six-day twelve week basic training, but who were not fully compensated for all of their days of work. The report directs the Commissioner of Customs and Border Protection to report on the number of employees who were not compensated and also on the steps the department is taking to resolve the problem.

Finally, the report directs the Transportation Security Administration to report on the status of their efforts to issue regulations for basic security training for flight attendants. I am pleased we are keeping TSA accountable to this task, and I look forward to the timely completion of this report.

However, Mr. Chairman, despite the fact that this Homeland Security Appropriations bill addresses several of the issues I raised in hearings and increases funding levels in certain accounts, I am concerned that this year's bill continues the practice of underfunding several homeland security recommendations as well as the initiatives and programs mandated by Congress to ensure our Nation's security.

As one of the largest cities and metropolitan areas in the country, Los Angeles is considered to be one of the most "at risk" areas for terrorist attacks. For this reason, I am disappointed that this bill provides only a slight increase of $15 million over last year's funding for Urban Area Security Initiative grants compared to the $405 million increase requested in the President's budget. Protecting our most vulnerable cities and towns is extremely costly and causes tremendous hardship on local governments. We must ensure that they receive the adequate funding to keep our most vulnerable cities secure.

I am further disappointed that the bill appropriates $5 million for a program which allows States and local jurisdictions to enter into a Memo of Understanding, MOU, with Homeland Security to train local police to enforce limited immigration functions. I believe our limited resources should instead be directed toward identifying and deporting terrorist elements in our country.

In addition, although both the Patriot Act of 2001 and the Intelligence Reform Act of 2004 called for increases in specific areas such as border agents, customs and immigration inspectors, immigration investigators, as well as for additional detention beds, this bill fails to meet the established border enforcement benchmarks—by 500 border patrol agents (25 percent short), 600 immigration investigators (75 percent short), and 4,000 detention beds (50 percent short).

I am also concerned with the decrease in funding that the Bureau of Citizenship and Immigration Services has continued to receive since the creation of the Department of Homeland Security. This bureau is charged with processing thousands of work authorization and citizenship applications for immigrants in our country and yet this bill includes only $120 million for this important agency. This decrease in resources simply does not make sense given that over the last 4 years, the Bureau of Citizenship and Immigration Services continuously fails to meet its 6 month goal for processing citizenship applications. These backlogs send the wrong message to our Nation's immigrants who are eager to become full participants in our society, but must wait years before their citizenship applications can be reviewed and processed. Mr. Chairman, I hope that before we send this bill to the President we will appropriate the funds necessary to once and for all resolve the backlog problems which have plagued this agency for years.

I am disappointed that this bill's report expresses support for expedited removal and recommends its expansion. Expedited removal means that Customs and Border Protection officers can immediately deport individuals they do not believe have a true case for asylum. This year, a federally funded study issued by the U.S. Commission on International Religious Freedom on the impact of expedited removal on asylum seekers found that expedited removal procedures are not being applied evenly across the country. The report found that where an asylum seeker enters our country, the country they come from, and which officer conducts their brief interview, impacts the decision on whether an individual is allowed to see an asylum officer or is deported without further review. Before expedited removal is expanded, as the bill's report recommends, Congress should require the Department of Homeland Security to provide evidence that Customs and Border Protection is making progress in resolving the current and serious problems associated with expedited removal.

Lastly, I am concerned by the Administration's seeming indifference toward protecting critical infrastructure, such as ports, transit and railroad facilities, and chemical plants. Not only have critical assessments not been completed, but the Administration has consistently underfunded or unfunded important infrastructure security programs.

For example, although Congress continues to fund aviation security and provides $30 million for air cargo screening, the Administration has continued to leave the aviation system's vulnerabilities exposed. Despite Congress' direction to increase the percentage of screened air cargo on passenger aircraft, the Transportation Security Administration has not fully implemented the law.

Additionally, the Administration has proposed no new funding to install inline baggage screening machines beyond the currently approved eight airports, and Congress has again decided to only fund the existing programs at 75 percent, rather than the contractually agreed to amount of 90 percent. This creates an additional burden that our cash-strapped communities can ill-afford.

In closing, Mr. Chairman, I will support this bill to provide critical resources to help make our country safer. However, fully addressing these and other critical national security concerns requires resources that the Administration simply did not propose and which the Republican majority did not provide in this bill. While this bill is an improvement over the Administration's request, critical homeland security needs will still go unmet.

Mr. SABO. Mr. Chairman, I have no further requests for time and I yield back my time.

Mr. ROGERS of Kentucky. Mr. Chairman, I have no further requests for time as well, and I yield back.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 2360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, $133,239,000: *Provided*, That not to exceed $40,000 shall be for official reception and representation expenses: *Provided further*, That of the amounts appropriated under this heading, $20,000,000 shall not be available for obligation until the Secretary of Homeland Security submits to the Committee on Appropriations of the House of Representatives an immigration enforcement strategy to reduce the number of undocumented aliens, based upon the latest United States Census Bureau data, by 10 percent per year: *Provided further*, That of the amounts appropriated under this heading, $10,000,000 shall not be available for obligation until section 525 of this Act is implemented: *Provided further*, That the Secretary shall submit all reports requested by the Committee on Appropriations of the House of Representatives for all agencies and components of the Department of Homeland Security, as identified in this Act and the House report accompanying this Act, by the dates specified: *Provided further*, That the content of all reports shall be in compliance with the direction and instructions included in this Act and the House report accompanying this Act by the dates specified: *Provided further*, That, of the amounts appropriated under this heading, $20,000,000 may not be obligated until the Committee on Appropriations of the House of Representatives has received all final reports in compliance with such direction and instructions.

AMENDMENT OFFERED BY MR. HOSTETTLER

Mr. HOSTETTLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOSTETTLER:

Page 2, line 9, after the dollar amount, insert the following: "(decreased by $500,000)".

Page 4, line 2, after the dollar amount, insert the following: "(decreased by $5,505,000)".

Page 12, line 20, after the first dollar amount, insert the following: "(increased by $193,200,000)".

Page 16, line 5, after the dollar amount, insert the following: "(decreased by $21,156,000)".

Page 19, line 1, after the dollar amount, insert the following: "(decreased by $47,500,000)".

Page 34, line 19, after the dollar amount, insert the following: "(decreased by $180,000,000)".

Page 37, line 12, after the dollar amount, insert the following: "(decreased by $60,000,000)".

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve a point of order on the gentleman's amendment.

The CHAIRMAN. The gentleman from Indiana (Mr. HOSTETTLER) is recognized for 5 minutes on his amendment.

Mr. HOSTETTLER. Mr. Chairman, this amendment is the combination of the three amendments I will offer today. It would supply funds for the shortfall of ICE agents, or Immigration and Customs Enforcement agents, border patrol agents and detention beds that have not yet been funded by this Congress. This shortfall occurs as a result of the difference between authorized levels due to last year's National Intelligence Reform Act and a combination of this year's appropriations bills, this appropriations bill and the recently passed supplemental.

Immigrations and Customs Enforcement is the agency tasked with enforcing immigration laws internally within the United States. It is critical that ICE, Immigrations and Customs Enforcement, receive the resources necessary to successfully complete its mission.

The 9/11 Commission recognized the great importance of adequately securing our Nation's borders against the potential threats. We must make up the shortfall in funding and provide funding for the additional 500 border patrol agents who have not yet been funded.

It is also critical that we have adequate detention bed space to house aliens that might otherwise never return for hearings or, worse, might commit crimes if not detained.

In conclusion, Mr. Chairman, I ask my colleagues to support this amendment to fully fund critical parts of homeland security and the Bureau of Border Protection, the Immigration and Customs Enforcement, as well as detention beds.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Kentucky insist upon his point of order?

Mr. ROGERS of Kentucky. Mr. Chairman, there is plenty of money in this section of the bill. I think we have put all the money we can into that section, and it is ample.

Mr. Chairman, the amendment proposes to amend portions of the bill not yet read. The amendment proposes to increase the level of outlays in the bill, and I ask for a ruling from the Chair.

The CHAIRMAN. Does any Member wish to be heard on the point of order raised by the gentleman from Kentucky?

If not, to be considered en bloc, pursuant to clause 2(f) of rule XXI, an amendment must not propose to increase the levels of budget authority or outlays in the bill. Because the amendment offered by the gentleman from Indiana proposes a net increase in the level of outlays in the bill, as argued by the chairman of subcommittee on appropriations, it may not avail itself of clause 2(f) to address portions of the bill not yet read. The point of order that the amendment proposes to address portions of the bill not yet read is sustained.

□ 1245

AMENDMENT NO. 9 OFFERED BY MR. SOUDER

Mr. SOUDER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. SOUDER:

Page 2, line 9, after "$133,239,000" insert ", of which $6,000,000 shall be for the Office of Counternarcotics Enforcement to carry out its responsibilities under section 878 of the Homeland Security Act of 2002, as amended".

Mr. SOUDER. Mr. Chairman, I rise to urge my colleagues to adopt this amendment, which would ensure adequate funding for the Office of Counternarcotics Enforcement at the Department of Homeland Security. The office was created by Congress in December of 2004 as part of the 9/11 intelligence reform legislation. It is fully authorized but, to date, has not received sufficient funds to enable it to carry out its mission of overseeing and coordinating DHS' antidrug trafficking efforts.

DHS is the largest single drug enforcement entity in the Federal Government, combining the legacy Customs Service, the Coast Guard, and the Border Patrol. For this reason, Congress specifically made drug interdiction one of its primary responsibilities. Congress has also created the position of Counternarcotics Officer, CNO, in 2002, to oversee drug interdiction activity and facilitate coordination and cooperation within the Department.

Regrettably, the original CNO position did not have the resources or the status necessary to be effective. During a hearing held by the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, which I chair, we learned that CNO was a detailee from the Drug Czar's office without a dedicated staff or budget.

To remedy this problem, Congress replaced the CNO position with the Office of Counternarcotics Enforcement. The office is responsible for analyzing and reporting to Congress on the Department's annual counterdrug budget request, for reporting to Congress on the results and effectiveness of DHS counterdrug operations, and for ensuring the coordination of the Department's counterdrug efforts both internally and with other departments.

Although Congress authorized $6 million for the office out of the Department's appropriation for departmental management and operations, the administration failed to request any funds for it. The amendment specifically designates $6 million for the office out of the overall appropriation for the Office of the Secretary and for executive management of the Department.

In closing, I would like to thank the gentleman from California (Mr. LEWIS), chairman of the full committee; and the gentleman from Kentucky (Mr. ROGERS), chairman of the subcommittee, for bringing this vital legislation before the House. But once again I would like to make it absolutely clear that this does not increase any dollars in the Homeland Security budget. It merely requests, again, that dollars we have authorized be set aside inside this department.

This department has been opposed by the administration before. In the original creation of the Department of Homeland Security, the administration opposed the creation of the Office of Counternarcotics. This House spoke clearly, as did the other body, and the gentleman from Illinois (Mr. HASTERT), the Speaker himself, led this being inserted in the bill, but the administration ignored our request. So when we went back to the 9/11 report, this House again changed and added more duties and staff to this office. The other body agreed with us, but the administration opposed this.

The administration has steadfastly opposed narcotics, of which most of the divisions of the Department of Homeland Security work in, yet they have steadfastly opposed making this office anything but superficially irrelevant. They have not allowed the director of it, the current director was first funded by the ONDCP, now he is funded by TSA. He has all detailees in his office, or interns. The minimal budget is at the begging from the Chief of Staff to fund their office.

We need a set-aside office. This body and the other body have spoken in both major bills. It needs to be funded. The administration continues to be negligent in the area of narcotics. They proposed wiping out Byrne grants, they proposed wiping out HIDTA, they proposed getting rid of meth hotspots, and once again they are after the narcotics budget.

The number one crime problem in America is related to narcotics, and it is about time this administration understood that problem. We need to continue to speak out in Congress, because across the board they have been opposing this, and this may be our only chance to go on record to show that we want this administration to be more aggressive in counternarcotics.

Mr. ROGERS of Kentucky. Mr. Chairman, I rise in opposition to the amendment, and I rise reluctantly in opposition to the gentleman's amendment that would earmark $6 million for the Office of Counternarcotics Enforcement and the U.S. Interdiction Coordinator out of funds provided for the Office of the Secretary and executive management.

Mr. Chairman, the Department currently has eight people working on counternarcotics issues. In the past 2 years, we funded $1.86 million for that activity. That is almost half the funding provided for the Chief of Staff of the Department, where the counternarcotics staff are located. A $6 million earmark for counternarcotics would have the effect of zeroing out all funding for all other activities funded within the Chief of Staff's office, including the development of budget and information technology policies for the secretary.

In fact, this amendment would require additional reductions in the Chief of Staff's office to fund this work. These reductions would mean that the Secretary would hire fewer security staff to focus on classified and security-sensitive issues within the Department, reduce support for the privacy office, or perhaps eliminate most of the newly proposed Office of Policy and also prohibit the hiring of new staff requested in the 2006 budget.

There is no real clear justification why this office should basically triple in one fiscal year from less than $2 million to $6 million, or what the appropriate size of the office should be, particularly when they have not even filled all the funded positions they have.

While I support the counterdrug mission of the Department, and in fact wish that the Chief Counternarcotics Officer would take a more prominent role in resolving longstanding issues of interagency coordination of drug interdiction, we cannot appropriate funds without knowing what those funds will be paying for. We just do not write blank checks in this subcommittee. I respect the gentleman's amendment and his intent.

Mr. SOUDER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Kentucky. I yield to the gentleman from Indiana.

Mr. SOUDER. Mr. Chairman, my amendment does not specify that it comes from the Chief of Staff's office, was it? That was not my impression. Because it is in the section of the bill that relates to the Chief of Staff?

Mr. ROGERS of Kentucky. Reclaiming my time, that is correct, and this is where the staff is now located. So it would have to come out of the Chief of Staff's operating budget.

Mr. SOUDER. Mr. Chairman, if the gentleman will once again yield, I question whether it has to come out of the Chief of Staff's budget, because it was supposed to be a separate Director of Narcotics. I think the Department of Homeland Security has chosen to fund it through the Chief of Staff's office, which is not necessarily binding. But I would be happy to work with the gentleman in conference to see if we can come up with a figure.

Mr. ROGERS of Kentucky. Perhaps the gentleman can withdraw the amendment and we will have a chance to work on it further.

Mr. SOUDER. If the chairman will agree to work with leadership and with the Speaker's Drug Task Force, which has supported this, I will withdraw the amendment on the grounds that the chairman will continue to work with me as we move to conference.

Mr. ROGERS of Kentucky. I will be happy to work with the gentleman. He has been a very diligent Member of this body, and I appreciate the information he is providing to us now. We will work with the gentleman to try to get at the problem he describes here.

Mr. SOUDER. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

The CHAIRMAN. Hearing none, the amendment is withdrawn.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

Page 2, line 9, after the dollar amount, insert the following: "(reduced by $15,000,000)".

Page 37, line 12, after the dollar amount, insert the following: "(increased by $15,000,000)".

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve a point of order on the gentlewoman's amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I hope the distinguished chairman will acknowledge that we believe this is revenue neutral. This amendment is offset by the account out of the Secretary's office and it is not legislating on an appropriation bill, but it is addressing a need that is overwhelming in our offices and throughout America.

If our message to America is that we believe in legalization and we believe in the legal access to immigration, or to legalization, meaning that we want people to come into the United States legally and to secure legal status, then we are doing everything wrong to encourage that proposition.

We know that this country is a land of immigrants and a land of laws, and through the decades, through the centuries immigrants have come first through the Atlantic, through the Statue of Liberty, through Ellis Island, seeking opportunity and seeking legalization. And, Mr. Chairman, we have allowed that to happen. We have had processes in place that would work toward, not against those processes occurring.

Today, ask any Member of Congress what is the largest caseload they have in their office, and it is regarding immigration benefits and access to citizenship. Not illegal access, but legal access. When we look at the documentation we find that there is a steadily increasing number of individuals seeking legal immigrant status. In the years 2001, 7.8 million, 2002, 7.7 million, 2003, 7.1 million. At the same time, we find that there is a lack of access to real immigration rights because we are backlogged.

There is an enormous backlog, even though there are no numerical limits, as reported in this chart, no numerical limits on the admission of aliens who are immediate relatives of U.S. citizens. Such citizens petitioning for their relatives are waiting almost a year, almost a year, and in some parts of the country almost 2 years for the paperwork to be processed.

Citizens and other legal permanent residents petitioning for other nonimmediate relatives under family preferences are often waiting several years for the petition to be processed.

This is a crisis, colleagues. We are working against our own philosophies and policies, which is to encourage legal immigration. Right now you can ask any Member of Congress whether they have an elderly constituent who is attempting to beat the clock of life.

Right now in my own office there is a gentleman who loves this country, in his 80s, and he has been trying to become a citizen through legal ways for almost a decade. Right now he is ailing. His family calls me every day. The reason his petition is taking so long is because we are backlogged and cannot seem to get a simple process of fingerprints and documentation together at once.

The additional $15 million in this amendment will help us in funding the hiring, clearance processes, training, office equipment, and support services for 300 additional full-time CIS adjudicators. The Sensenbrenner-Conyers substitute amended the immigration section 102 in a committee hearing for the immigration customs enforcement legal program for the hiring of an additional 300 attorneys and related training and support cost. This amendment, that I join together with the gentleman from Michigan (Mr. CONYERS) in, likewise adds this amount of attorneys and adjudicators into this process to help us along.

The President supports reducing the lengthy backlog of immigration application processing as an important policy objective. Lengthy backlog and interminable processing delays are a disservice to the needs of businesses, keeps families needlessly separated, and undermines the integrity of the system. There is a bipartisan agreement that the Department of Homeland Security must catch up on the backlog it inherited from the INS. The former head of the immigration services, Eduardo Geary, in our own Subcommittee on Immigration and Claims, submitted a proposal to end the backlog.

Work has been done, but more work has to be done. The report language for this bill earmarks $120 million for this purpose but it fails to add money where it is needed most by increasing the number of adjudicators who can process the backlogged applications.

Mr. Chairman, I believe this is a bipartisan amendment, as shown in the bipartisan effort of the work done by both the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS). Together, the gentleman from Michigan (Mr. CONYERS) and myself now offer these additional dollars and focus on the need for adjudicators and on the need to help with backlog applicants.

Remember what I said. The numbers are increasing every single day and the backlog is increasing every single day. Citizens and LPRs, legal permanent residents, petitioning for nonimmediate relatives under the family preferences are waiting now several years. Mr. Chairman, we can do better. How can we do better? By supporting the Jackson-Lee/Conyers amendment.

For every single Member in this body who has a backlog in their office of those trying to do the right thing, this is the Homeland Security appropriation and what we need to do is understand immigration and fight terrorism. So I ask my colleagues to support my amendment.

□ 1300

POINT OF ORDER

Mr. ROGERS of Kentucky. Mr. Chairman, I rise to state a point of order and in opposition to the amendment.

The CHAIRMAN. The gentleman from Kentucky is recognized on his point of order.

Mr. ROGERS of Kentucky. Mr. Chairman, the proposal will likely cause an overage on outlays, and so the amendment proposes to amend portions of the bill not yet read. The amendment may not be considered en bloc under clause 2(f) of rule XXI because the amendment proposes to increase the level of outlays in the bill.

The CHAIRMAN. Are there Members desiring to be heard on the point of order?

Ms. JACKSON-LEE of Texas. Mr. Chairman, first of all, I need a clarification. The amendment is on page 2 line 9, and the offset comes on page 37 line 12. I do not understand what the objection is to the amendment in terms of out of order. I seek a clarification. What is the objection?

Mr. ROGERS of Kentucky. Mr. Chairman, I will read it again to the gentlewoman.

The amendment proposes to amend portions of the bill not yet read. The amendment may not be considered en bloc under clause 2(f) of rule XXI because the amendment proposes to increase the level of outlays in the bill.

The CHAIRMAN. Are there further Members desiring to be heard on the point of order?

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me just say I would hope that the chairman would be willing to waive the point of order. I consider this amendment so important that I will withdraw the amendment.

Mr. Chairman, I ask unanimous consent to withdraw my amendment without prejudice at this time.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Texas that the amendment be withdrawn?

There was no objection.

AMENDMENT NO. 7 OFFERED BY MR. LOBIONDO

Mr. LOBIONDO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. LOBIONDO:

In title I, in the item relating to “OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT”, after the first dollar amount, insert the following: “(reduced by $130,000,000)”.

In title I, in the item relating to “OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT”, after the first dollar amount, insert the following: “(reduced by $130,000,000)”.

In title I, in the item relating to “OFFICE OF THE CHIEF FINANCIAL OFFICER”, after the dollar amount, insert the following: “(reduced by $16,000,000)”.

In title I, in the item relating to “OFFICE OF THE CHIEF INFORMATION OFFICER”, after the first dollar amount, insert the following: "(reduced by $190,000,000)".

In title II, in the item relating to "UNITED STATES COAST GUARD-ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS", after the first dollar amount, insert the following: "(increased by $466,000,000)".

Mr. LOBIONDO. Mr. Chairman, the amendment I offer today with my colleague and friend, the gentleman from Massachusetts (Mr. DELAHUNT), would restore the $466 million cut to the Coast Guard's Integrated Deepwater System. I know the gentleman from Kentucky (Chairman ROGERS) strongly supports the Coast Guard; and while I disagree with his decision to cut Deepwater, I understand why the gentleman felt the need to do it.

In light of the post-9/11 capability requirement changes, the gentleman from Kentucky (Mr. ROGERS) asked for a comprehensive implementation plan for the entire life of the program. As the Chair of the Coast Guard authorizing subcommittee, I have also requested the exact same information. Unfortunately, to date, neither the gentleman from Kentucky (Mr. ROGERS) nor I have received the information requested. I would say to the Coast Guard, to the Department of OMB, provide Congress with this information and do it now. No more excuses, just do it now.

If the administration continues to ignore this request, the Deepwater program will be devastated. At $500 million, Deepwater will likely take over 40 years to complete instead of the original 20-year estimation. Thousands of jobs would be lost in a number of States. The total cost to the taxpayer would actually increase substantially because of the delays; and the delivery of the new, more capable vessels, aircraft and communications equipment will be delayed indefinitely.

Specifically, this cut in funding would likely stop all work on the national security cutter affecting jobs in Mississippi. The break in production would negatively impact the already-troubled shipbuilding industry. It would also defer design work on offshore patrol cutters and the fast response cutter, again affecting jobs in Mississippi, would stop work on the vertical takeoff unmanned aerial vehicle, and this affects jobs in Texas. It will scale back the mission effectiveness program of the 210- and 270-foot cutters, which is intended to keep these legacy assets afloat and operational. This will affect jobs in Maryland.

Also, Mr. Chairman, it will affect the operation tempos significantly, placing a tremendous strain on the service's aging legacy assets that are doing the job now.

In fiscal year 2004, the United States Coast Guard lost over 700 patrol days due to failing legacy assets. Last year, the cutter fleet operated free of major casualty less than 50 percent of the time. Last year, the service's fleet of C–130, HU–25, and HH–60 aircraft all failed to meet target levels for readiness. And last year, the Coast Guard's main rescue helicopter experienced inflight engine failures at a rates of 329 mishaps per 1,000 hours of flight.

All of these issues are putting our men and women in uniform in grave danger and jeopardizing our homeland security mission. The GAO testified before my subcommittee that legacy assets are insufficient to meet mission demands and the need to replace or upgrade deteriorating legacy assets is considerable. The Coast Guard commandant calls it a readiness gap or downward readiness spiral.

Whatever we call it, the fact remains without new and better-equipped assets promised under Deepwater, the Coast Guard will not be able to successfully conduct its homeland security and other vital missions. Delaying Deepwater is bad for homeland security. It is also bad news for the budget. Continuing to defer acquisition of new assets causes the service to sink more and more money into rapidly deteriorating legacy assets just to keep them afloat.

The Coast Guard anticipated spending $20 million annually to keep legacy assets operational; but in 2006 the service expects to spend more than 12 times that much, and that does not take into account the nearly $60 million it will cost to replace the wing boxes on several of the C–130s or the $63 million in other unfunded legacy sustainment priorities.

In order to control costs, we need to invest in replacement assets. The new Deepwater assets will cost much less to maintain and will operate with fewer servicemembers, saving millions in operating expenses and helping our homeland security mission. Deepwater will allow the service to push out the borders and effectively meet the demands of homeland security and other traditional missions.

I urge my colleagues to fully restore the Deepwater funding, and at the appropriate time I intend to withdraw my amendment and hope that the gentleman from Kentucky will have received the information requested from the administration, and work with us as the bill moves forward to restore these desperately needed dollars.

Mr. DELAHUNT. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, imagine that your house is on fire, and the first thing you do is call 911; but the fire truck which was purchased during the Eisenhower administration gets a flat tire. The siren is not working, and then the hose springs a leak. Now you have lost your house, all of your possessions, and hopefully not your life.

Now imagine you are at sea. You call for help. The mayday call will be answered by the United States Coast Guard with ships and planes that are called legacy assets. Presumably that is a euphemism for old, really old. In fact, the Coast Guard operates the second oldest naval fleet in the world. The North Korean and Iranian naval fleets are in better shape than the United States Coast Guard.

Many so-called legacy assets are riddled with structural defects, putting Coast Guard personnel and people who call on them for help at risk, like the nine Coast Guard personnel who were aboard the 1942-era cutter Storis who nearly died when the davit lowering their lifeboat ripped away from the steel superstructure crashing them into the frigid Bering Sea. The rescuers literally became the rescued.

And remember last year, the Coast Guard's main search and rescue helicopter, the Jayhawk, experienced inflight engine failures at a rate of 329 per 100,000. The FAA acceptable standard is one per 100,000 flight hours. These failures limit the Jayhawk's ability to hover over, and place the lives of its crew and passengers and those below in danger.

The undisputable fact is that the demands on the Coast Guard have vastly outpaced its resources. I think we can all agree, there is no margin for era, particularly in this post-9/11 world, when the Coast Guard cannot escort an LNG tanker because the cutter's hull has fractured; when the parents of an overdosed teenager discover that the Coast Guard boats were not fast enough to interdict the drug smugglers; when family members of deceased fishermen discover that the Coast Guard could not have got there sooner because the helicopter had to turn around because of engine problems.

I sincerely appreciate the gentleman from Kentucky (Mr. ROGERS) and the Committee on Appropriations have been most patient in seeking the answers to the questions that they have posed, but I deeply regret we have come to the point where Congress feels it is necessary to threaten the future, the very existence, honestly, of the Coast Guard; and OMB and the administration should comply sooner rather than later with the request put forward by the chairman so we can put this matter behind us and meet our responsibilities to the brave Coast Guard personnel as well as the American people.

In the end, we should be looking for ways to speed up the Deepwater program and encourage the purchase of additional cutters and aircraft. What the service needs with its multiple missions and increasing responsibilities is not further reduction, but rather increases; increases, not of millions, but of billions, of dollars because it is that critical.

Unless we do not really care about patrolling ports, bridges and power plants, unless the 5,000 lives that the

Coast Guard saves on an annual basis are now expendable, and we all know that is not true, that is not the case. But the reality is a crippled Coast Guard means lost property, lost commerce, and lost lives. We can do better.

Mr. SAXTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first let me thank the gentleman from New Jersey (Mr. LoBIONDO) for bringing this important amendment to the floor. I think it is very important. I would also like to commend the Subcommittee on Homeland Security and the gentleman from Kentucky (Chairman ROGERS) for the great job he has done in doing his job as the chairman of this important subcommittee.

I would like to bring my perspective as the chairman of the Subcommittee on Terrorism and Unconventional Threat and Capabilities on the Committee on Armed Services. I like to look at the war on terror in three parts. We have the part that is taking the fight to the enemy. That is the armed services and the intelligence community. We have the job of gathering information both domestically and internationally in this very difficult war on terror. And third, we have the job, the task of securing the homeland.

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We are talking about building block No. 3 today. This year, unfortunately, it has been found necessary for the fiscal year 2006 Homeland Security Appropriations bill to include $500 million for the Coast Guard's Integrated Deepwater System, cutting the program by $466 million below the President's request. I think this is a mistake. I do not think there is anything more important today, and I remember Ronald Reagan telling me when I was first elected to Congress 20 years ago that there are many things that the Congress does that are important, but nothing is more important than providing security to the American people.

Cutting nearly half of the funding will result in huge delays for Deepwater. This is simply unacceptable. If funding remains at this reduced level, it will add an additional 20 years to the program's completion. We cannot wait. This would serve a tough blow not only to this program but to taxpayers who ultimately have to fund the program over the long term.

Continuing to underfund the Deepwater program only puts off the acquisition of new replacement assets and further stresses already failing legacy systems. The gentleman from New Jersey went into some detail on that subject. With reduced resources, the service is forced to sink the majority of its funding into keeping legacy systems literally afloat and literally in the air.

Failure to fully fund the Deepwater program creates a readiness gap that we cannot afford to create. The Coast Guard performs countless critical missions to aid in the war on terror and we must not intentionally reduce or hamper their capabilities.

I understand that the gentleman from New Jersey is going to withdraw this and there will be pending considerations by the chairman of the committee. I thank both gentlemen for their effort in this regard.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate the gentleman from New Jersey bringing this forward and I join with him and my colleague from Massachusetts in regretting that we are at this pass. I understand that the committee is not motivated by any animus against the Coast Guard or any failure to appreciate the need for what it does. While we are going to have this amendment withdrawn at this point, obviously we all fervently hope that the administration will come into compliance with the very reasonable request of the committee so that by the time this bill ultimately is signed into law it includes these necessary funds for the Coast Guard.

I represent the most prosperous fishing port in the United States, the city of New Bedford, town of Fairhaven. The value of the catch there is very significant. They make a significant contribution to the economy, the fishermen do. They also provide a very healthy source of food. At a time when we are worried about the health of what people eat, the health effects, we are worried about obesity, fishing is one source of about the healthiest food people can eat. Unlike most other foods, people do not often realize that the seafood that is brought to their table involves some risk of life. People do not get killed growing vegetables or even herding cattle, but people get killed fishing, particularly out in the deep sea. We have had tragic instances recently in the North Atlantic of these extraordinarily brave men losing their lives not through their own fault but weather and other factors.

We need to do a lot to deal with that. We need to change regulations that give them incentives to be out at unsafe times. We need to do better training. We need a whole range of things. But no matter how hard we try to avoid accidents, given the nature of fishing, they will happen. Sadly, the Coast Guard today is not as well equipped as it can be and should be to deal with those accidents.

My colleague from Massachusetts alluded to a controversy over a failure of a helicopter at a time when someone needed a rescue. The Coast Guard maintains that it would not have made any difference. We do not know whether it did or did not, but even accepting their argument, we should not be having that debate. Families mourning the loss of a brave fisherman should not be further tormented by the possibility that it was a failure in our own government that led that to happen.

Having the Coast Guard do everything that it physically is capable of doing in these rescue situations is an essential part of an overall safety program, and obviously that cannot happen without there being the funds that we need. I urge the administration strongly to comply with the committee's request because it would be morally unacceptable for us to let this bill get signed into law with this gap still there.

I appreciate the leadership of the committee in trying to get it resolved. They will have our support in doing that. We hope that when this bill is finally signed, those of us who represent fishermen will be able to tell them with some sense of confidence that we are, in fact, doing everything that we can to save them in this difficult situation.

Mr. TAYLOR of Mississippi. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the ships we are talking about today are well over 35 years old. If we were to proceed as scheduled, it is still going to take 2 or 3 years to build them. If we delay, we are talking really no telling how long. Quite frankly, the Navy right now is retiring Block I Aegis class cruisers that are less than 20 years old for maintenance problems. If we are going to retire 20-year-old Navy ships, it is only fair that the people who sail side by side with them, the United States Coast Guard, should have their ships replaced as well.

The gentleman from Kentucky has asked some very legitimate questions. I would hope the administration would be forthcoming with the answers to those questions. It is important to know what sort of financial obligations we are undertaking by replacing these vessels. But the bottom line, Mr. Chairman, is we have no choice but to replace these vessels. They are 35 years old, the newest of them. We are sending young people to sea that are half the age of the vessels they sail on. If it was my son, your son, I know we would want better than that.

I encourage you to get the answers that you seek, for the Coast Guard to be forthright with the information that you seek, but at the end of the day it is important that these ships that were built in the 1960s and the early 1970s be replaced as quickly as possible.

Mr. ROGERS of Kentucky. Mr. Chairman, I move to strike the requisite number of words.

I really appreciate the action of the gentleman from New Jersey, the chairman of the Coast Guard authorization committee. I really appreciate the gentleman's amendment and the comments that have been made. I think we are all in agreement. There is nothing that hurt me more in this bill than when we were forced to cut back the Deepwater monies until we could get the report of the Coast Guard about what the 20-year plans were.

I am a big supporter of Deepwater. In fact, when I was chairman of the Transportation Appropriations Subcommittee is when we first funded Deepwater. The gentleman from Minnesota and I served on that subcommittee as well. It is a wonderful program.

But then came 9/11. When 9/11 happened, the mission of the Coast Guard dramatically changed and they never really amended the Deepwater program in view of that very alarming new mission that they became charged with. And then we have continued to fund them for the last 2 years just based on their promise that they would get us the revised plan—a rebaselining. And then as time passed and we began to notice with the help of the gentleman from New Jersey's subcommittee that more and more of the Deepwater monies intended for new equipment was being used to maintain the old equipment, increasingly eating into the Deepwater monies. We felt we had no choice but to try to force the issue.

We have bent over backwards, 15 different ways, with the Coast Guard and with the Department to try to get them to tell us the new 20-year plan, the rebaselined Deepwater, so that we all know where we are going and we know what we are buying.

This subcommittee is not going to be a blank check for anybody. We insist on knowing what the program is. I think that is our duty. As soon as the Coast Guard can get us the 20-year Deepwater spending plan, I think the problem will disappear but not until. The old equation, lack of information means lack of money, applies to the Coast Guard as it does to my personal account.

I appreciate the gentleman from New Jersey's work and his attitude in the subcommittee. He is a great leader of that subcommittee and has done a wonderful job. We have enjoyed working with him. He is easy to work with. He is very firm in his convictions, but he understands what has to be done here.

I hope that this painful period of time will pass. It is up to the Coast Guard and the Department and perhaps, most importantly, the Office of Management and Budget to all finally agree and let us get on with it. I thank the gentleman for offering the amendment.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Kentucky. I yield to the gentleman from Minnesota.

Mr. SABO. The concern of the committee to get a rebaselining of the Coast Guard construction program is not something that has just happened recently. I think we have been working on this for a year and a half, 2 years, something like that, to get the rebaselining. It is not a last-second whim that has occurred, but something that we have been concerned about for an extended period of time and have not gotten a response.

Mr. ROGERS of Kentucky. The gentleman is exactly correct. In fact, in the 2002 period of time we were requesting the new baseline. We did that in 2003. And then in the 2005 bill finally, we wrote it into the law that said you shall furnish the rebaselining on a such and so date. That time has long past gone. We still do not have it. What else can we do? I am open to all ideas, but I think the only weapon we have left is withholding funds.

Mr. ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to express my appreciation to the gentleman from New Jersey (Mr. LOBIONDO) for bringing this issue to the attention of the House and my appreciation to Chairman ROGERS and Ranking Member SABO for performing the kind of responsible oversight that our branch of government is accountable for.

The gentleman from New Jersey very accurately points out that the Deepwater program is an essential element of homeland security. The Coast Guard's mission has changed dramatically and justifiably since 9/11. For it to carry out that message, its aging and inferior fleet needs to be replaced with a 21st century fleet. I commend the gentleman from New Jersey for taking the lead in making that fleet a reality.

I understand that because of the constraints we are under under this bill, that he will not be able to go forward with his amendment at this time. I obviously support that decision. But I wanted the gentleman from Kentucky (Mr. ROGERS), the gentleman from Minnesota (Mr. SABO) and the gentleman from New Jersey (Mr. LOBIONDO) to know that I would be interested and willing to help in whatever efforts are necessary from this point on so that we can find the optimal and appropriate level of funding for this program so that we can complete the modernization of the Coast Guard for its very essential new mission.

I again thank the author of the amendment and would urge continued cooperation.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of the Lobiondo amendment.

The Coast Guard's Deepwater Program will result in a nearly complete recapitalization of the Coast Guard's fleet of vessels, aircraft, and supporting systems.

The Coast Guard's legacy assets are failing at an alarming rate, jeopardizing the success of Coast Guard missions and the lives of Coast Guardsmen.

We must bring the new assets that will be procured through the Deepwater Program online as quickly as possible.

The current bill will not only fail to accelerate the rate at which these assets become available, but it dramatically slows down the delivery of these critical assets.

Following the events of 9/11, the Coast Guard has taken on significant responsibilities to protect maritime homeland security in addition to carrying out its important traditional missions of search and rescue, illegal drug and migrant interdiction, oil spill response and prevention, and fisheries law enforcement.

We must provide the resources necessary to allow the men and women of the Coast Guard to successfully carry out these missions.

The Deepwater Program will provide these assets and I applaud the chairman of the Subcommittee on Coast Guard and Maritime Transportation for his amendment to provide funding to procure the assets needed by the Coast Guard.

I thank the chairman.

Mr. RUPPERSBERGER. Mr. Chairman, I rise today in support of the LoBiondo amendment to the DHS authorization and I ask my colleagues to support it.

The Coast Guard yard in Baltimore, MD has dedicated coasties and dedicated civilian personnel, all of whom are fighting to keep us safe and secure. So it is disheartening to hear that the DHS authorization is going to cut critical funding for the Coast Guard to the tune of $466 million.

This in my opinion is a huge mistake. We have asked the Coast Guard to take on an aggressive and daunting role in protecting our coastlines, ports, rivers and waterways, and more importantly keeping our homeland secure. We cannot and should not be cutting their funding. The Coast Guard is moving in a new and exciting direction that will allow for an all encompassing approach including faster, stronger ships along with an aircraft component. At this time we should not be cutting their budget; we should be making sure they have the tools and resources to keep us safe.

It is my understanding that cuts could result in a loss of up to 108 jobs at the Baltimore Yard and I want to let you know that this is completely unacceptable. The Baltimore Coast Guard yard is already scheduled to lose 50 jobs for the MEP program and to add another 108 jobs on top of it would devastate the yard and the proud maritime tradition that Baltimore has.

I support the new direction for the Coast Guard and believe these new capabilities will only make our homeland security stronger. However, losing skilled ship repair and builders is not a good idea. It is hard enough to find trained workers but to keep pushing them aside will only hurt us when we need their help the most.

But aside from that we are cutting the fleet of vessels that are going to be the new line of maritime defense. We cannot let this happen. This Deepwater project is designed around the new cutters, smaller support craft and integrated aircraft fleet. By reducing funding for this program you will hurt the overall effectiveness of the program and we will lose hundreds of jobs of hard working Americans.

I ask my colleagues to stand in support of this amendment.

Mr. LoBIONDO. Mr. Chairman, I thank the gentleman from Kentucky (Mr. ROGERS) for his focused and outstanding leadership, and I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

Page 2, line 9, after the dollar amount, insert the following: "(reduced by $18,000,000)".

Page 37, line 12, after the dollar amount, insert the following: "(increased by $15,000,000)".

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve a point of order on the gentlewoman's amendment.

The CHAIRMAN. The gentleman reserves a point of order.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I hope that we will have an opportunity to find common ground. Again, I raise the question to my colleagues, how many of you have been overwhelmed by the number of immigration cases in your office and overwhelmed by the fact that these are individuals seeking legal status.

I referred my colleagues to a report on immigration and naturalization petitions pending from 1997 to 2004. The most glaring point is that citizens and legal permanent residents petitioning for other not immediate relatives under the family preferences are often waiting several years for the petitions to be processed.

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The normal cycle is 6 months.

This amendment is simple. It would provide relief by providing for funding for the hiring, clearance processes, training, office equipment, and support services for 300 additional full-time CIS adjudicators above the number of adjudicators presently employed by CIS in fiscal year 2005. This means that the backlog elimination plan as offered by the former Director of U.S. Citizenship and Immigration Services, Eduardo Aguirre, could be further implemented, and, also, the report given by the ombudsman presented in the first annual ombudsman report, which talks about the enormous delay and the need for improving in Citizenship and Immigration Services.

Let me share with my colleagues the long time of waiting in a number of States where these regional service centers are. If one is attempting to get their immediate relatives into the country, in California the waiting started for processing of applications filed in 2003; Nebraska, 2002; Texas, 2002; Vermont, 2003. Unmarried sons and daughters of citizens, these applications are backlogged to July 19, 2001, out of California Regional Center; Nebraska, 2001, Regional Center; Texas, the regional center there, 2001; and Vermont, 1999. If one is a legal permanent resident and they are attempting to get their unmarried son and daughter and they are going to their Congressional office, their petition would be backlogged in California from April 6, 1998; Nebraska, April 13, 2001; Texas, October 30, 1998; and Vermont, January 4, 1999.

Even with the new Department of Homeland Security, Mr. Chairman, it is imperative that we begin to look misdirections. We argue for legal immigration and legal processes, but yet when those individuals try to access the process, they are put in lines that are long and not moving, which frustrates the process, it frustrates our message.

We should promote legalization. We should promote access to legalization. We should promote those who come into this country to seek access to legalization in a legal way, in a way that falls under our laws. But if our processes are broken, then we are not in any way supporting our policies.

This amendment is simple. It provides $18 million to assure us that these 300 adjudicators can help move the process along. It also, I think, tracks very well with our intent as we have seen a number of legislative initiatives being offered. As I said, I have offered the Save America Comprehensive Immigration Reform Act that deals with border protection, that deals with saving America's jobs, protecting immigrant women who are subject to violence. It also, I believe, provides dollars for border protection.

But the question of immigrant services is, even with the good works of this subcommittee, long overdue to improve. These 300 adjudicators can go a long way in improving that and answering the concerns of many of our colleagues when they go into their office and talk to their caseworkers and see the long list of cases dealing with immigrant concerns.

It also responds to those who are aging on the list. They are trying to secure access to citizenship and legalization. They have put in their paperwork, but they have been delayed. Long years of delay. Right now in my office I have an elderly gentleman who simply wants to pledge allegiance to the flag of the United States of America, put his hand up on his heart and salute the flag of the United States of America. He has been waiting for years. He is aging. He is ill. He wants to return home to his motherland for some issues that he has to contend with, but he cannot move from the United States because we have been waiting and waiting and waiting and waiting for his citizenship process to go forward.

These are the kinds of crises that Members face all over America. These are the kinds of crises that immigrants face who are seeking to follow the process legally.

I ask my colleagues to support this amendment that would allow us to add 300 adjudicators to this process. I believe it is revenue neutral, and I ask my colleagues to support it.

Mr. Chairman, this amendment would increase the appropriation of funds for the Bureau of Citizenship and Immigration Services, CIS, by $18 million for the purpose of funding the hiring, clearance processes, training, office equipment and support services for 300 additional full-time CIS adjudicators above the number of adjudicators employed by CIS in Fiscal Year 2005.

The President supports reducing the lengthy backlog for immigration application processing as an important policy objective. Lengthy backlogs and interminable processing delays are a disservice to the needs of business, keep families needlessly separated, and undermine the integrity of the system.

There is bipartisan agreement that the Department of Homeland Security must catch up on the backlog it inherited from the INS. In fact, the report language for this bill earmarks $120 million for this purpose. But it fails to add money where it is needed most—for increasing the number of adjudicators who can process the backlogged applications.

Just recently, in a bipartisan agreement negotiated between the Chairman and the Ranking Member of the Judiciary Committee, authorization was added during a Judiciary Markup for DHS to hire additional attorneys for the Bureau of Immigration and Customs Enforcement, ICE, and 300 additional adjudicators for CIS. The amendment before us today is necessary to fund the additional adjudicators and the related training and support costs.

After forging that agreement, and passing it out of the Judiciary Committee, the majority tried to undercut that agreement by requiring that the adjudicators be paid for by an increase in immigration services fees. Simultaneously, they authorized explicit funding for the new ICE attorneys to be drawn out of the total DHS authorization.

These costs should not be born by immigrants. Immigrants should not have to subsidize the administrative failures of our immigration agency. It is an insult to require immigrants to keep paying more and more for slower and shoddier service. These funds should be appropriated by Congress, and Congress should demand better agency management of these funds.

I understand and appreciate the concern of those who would resist moving funds from enforcement functions to adjudications. I do not believe that a reduction of $15 million in the funds available for enforcement activities would significantly reduce the effectiveness of our enforcement programs. That amount of money would be sufficient, however, to support 300 additional adjudicators who are desperately needed for backlog reduction in benefits applications.

As to the discussion by the gentleman from Wisconsin, Ranking Member OBEY, regarding his surprise over the submission of this amendment, let me clarify his assumption. This crucial amendment was not intended to broadside anyone. My immigration counsel and someone from Mr. CONYERS' staff met with one of Mr. OBEY's staffers last Friday afternoon to discuss amendments, and this amendment was brought up at that time.

Mr. Chairman, I ask that my colleagues support this amendment.

Mr. ROGERS of Kentucky. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman continues to reserve his point of order.

Mr. ROGERS of Kentucky. Mr. Chairman, in this bill we double the amount of money that is in the 2005. We double it, $40 million more than they had in 2005, and it is 50 percent more than what the President requested. I mean we are shoveling money at this office. To shovel more money at them would be, I think, wasteful, to say the very least.

Number two, this proposal would cut the Office of the Secretary. We are already doing a lot of that in this bill, and to cut them any more I think would be counterproductive. That Office of the Secretary is $133 million plus. This cut would result in a 15 percent reduction from that figure. The office is largely salaries and expenses, and cuts will result in fewer people attempting to meet an increasing workload. Fewer people means the Department will take even more time to respond to our Congressional inquiries.

We have been critical of that office, but it is this office that will ultimately make the changes needed to make this Department work. They are working on the new Secretary's second-stage review even as we speak. It is only now that the office has been fully staffed up. Any cuts would directly affect these positions.

In 2006 we recommended about 90 new positions to address critical needs in the Secretary's Office. These cuts that the gentlewoman proposes would result in reductions in security personnel responsible for classified material. It would reduce the newly expanded privacy office, and it would reduce the newly created policy office, a function that should help eliminate some of the stovepiped functions that we complain about in the Department.

So I would urge Members to reject the amendment. We have already doubled the amount of money in that account in this bill, and it would slash the Office of the Secretary at a very critical time.

I oppose the amendment, Mr. Chairman.

Mr. PASCRELL. Mr. Chairman, I move to strike the last word.

I yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman for yielding to me.

I appreciate the dilemma that the chairman speaks to, particularly with respect to the very broad needs that we have.

I want to remind my colleagues that this is $18 million for 300 adjudicators specifically and that what we are talking about is trying to eliminate or bring down the existing 6 million benefit applications that were pending in 2003. As I read to my colleagues, no matter what part of the country they are in, whether they are under the California Regional Service Center, the Nebraska Regional Service Center, the Texas Regional Service Center, the Vermont Regional Service Center, their constituents are facing an enormous backlog. That raises a lot of havoc, Mr. Chairman. In fact, it speaks to security in this country when people are undocumented and do not have the legal papers that would allow them to stay in this country.

It helps young people to age out. One of the issues that we have dealt with is when parents who are trying to bring their children in and the children reach 21 before they are able to even be processed.

This is a crisis. And as one of my colleagues who stood on the floor of the House said, the Department of Homeland Security is huge. This is not an attempt to cause the resources out of the Office of Secretary to be diminished in strategic areas. But I can assure the Members I have great confidence in our new Secretary and those dollars can be effectively moved out of places that would not be damaging to his mission or his work or the work of the Department of Homeland Security.

What we are talking about is providing that $15 million for 300 adjudicators, and I would welcome the opportunity for us to be able to support this amendment and support this amendment in a way that realizes that it focuses on needs that many of our offices face all over America.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. Anyone who serves here any length of time knows that one thing that we really appreciate is if we are not surprised or sandbagged by other Members or other committees.

Earlier today the Committee on Rules provided a sandbag to this committee when, without anyone on this side of the aisle knowing about it, they simply left this bill open to a whole variety of points of order. And they did that after we had worked out some delicate compromises between both sides of the aisle. I strenuously objected to that action. I cannot be credible in objecting to that action if I do not also object to surprises that occur on my side of the aisle.

I made a statement in the whip's meeting last week and asked every member of our caucus to please come to those Members of the House on this side of the aisle whose responsibility it is to run the bill from this side of the aisle. We asked that they come to us if they had any amendments so we could walk through with them how those amendments might or might not fit into the greater scheme of things. At least we wanted to have a chance to consult with Members.

This amendment is here with no prior notice to me. I do not know if anyone else on this side of the aisle was noticed, but I certainly was not noticed, and I do not appreciate it. The fact is we have our differences between parties, but we try to run these bills in a way which will protect the interests of all Members. We cannot do that if individual Members continually surprise us with amendments so that we have not had an opportunity to try to make certain that they are drafted in such a way that they do not get in the way of what the sponsor is trying to do or get in the way of what we are trying to do.

The gentleman from Kentucky has pointed out that this account has already been increased by a very significant amount. It has and I applaud him for it. The fact is there are some accounts in this bill that do not have a dime in it, and that needs to be corrected before an amendment like this is offered.

So I regretfully have to say that while I wish we had more money for a number of these accounts, as one who has to balance where we put limited amounts of money I have to agree with the gentleman from Kentucky and urge defeat of the amendment.

Mr. ROGERS of Kentucky. Mr. Chairman, I withdraw my point of order.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentlewoman from Texas is recognized for 5 minutes.

There was no objection.

Ms. JACKSON-LEE of Texas. Mr. Chairman, far be it from me to attempt to surprise my colleagues. But since we are all equal Members of this body, I consider it my right to approach this issue from the perspective of the knowledge that I have.

I believe in collegiate work, and I believe in working with the collective bodies here, and I do not think I have ever risen to the floor to speak along those lines, but I will do it now. In order to focus on some of the issues that have come to my attention from Members across the aisle on the question of immigrant services, listening to members of the Department of Homeland Security talk about their efforts to ease the burden and knowing the importance of adjudicators which would help, in fact, to ease that burden, I hope that the allotment that has been spoken to both by the ranking member of the full committee and the chairman of the subcommittee will be designated for these important adjudicators.

The purpose of this amendment is valuable, and I think the gentleman from Michigan (Mr. CONYERS) and I viewed it as a valuable amendment. I hope that as we move forward that I will be able to see that those dollars allegedly that have been allocated, some $400 million, will go to easing some of these backlog dates.

I remind my colleagues. 1998, 2001, 2003, all scattered across these service centers. Why? Because they are overburdened. Fingerprints are lost. Applications are lost. So often we hear that in our constituency.

I think the process of appropriations is a complicated process. We attempt to do it in the spirit that is collegiate in this body. We attempt to do it with the knowledge that we have and the research that we do and the work with fellow staff members. If that cannot be done, we move forward.

I hope that we can improve the process because everybody is not in a whip meeting. So therefore I hope that we can improve the process and ensure that when we come to the floor these amendments that we have to be made in order, we have the understanding that they are for a purpose and a reasonable purpose.

□ 1345

Now, I will look forward, as we move toward conference, to monitoring this particular legislation to see whether or not it completely addresses the question of adjudicators, which is what this amendment is all about, the question of adjudicators.

So, Mr. Chairman, I ask my colleagues that if they are having a backlog in their office, I hope that they will consider that the intent of this amendment was not a malicious intent; it was an intent to work collegially and to help solve the problems, and I hope that we will continue in that spirit, to work toward solving problems, because that is what this particular body is all about, solving problems, Democrats and Republicans working together.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was rejected.

Mr. BONILLA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of this bill, and I congratulate the gentleman from Kentucky (Mr. ROGERS), the chairman, for taking a firm, strong, aggressive stance to secure our borders, because that is one of the issues that is first and foremost on the minds of Americans, whether they are on the border or whether they live 2,000 miles away.

Since the creation of the Department of Homeland Security, there has been a dramatic increase in the number of non-Mexican illegal immigrants, also known as OTMs, apprehended on our borders. In fact, some border patrol sectors have reported a 300 percent increase in OTMs this year alone. This problem has grown exponentially, in part because the Department of Homeland Security has failed to take a strategic approach to detention and removal that ensures that every illegal immigrant apprehended is properly deported.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, my good friend from Texas is correct. The Department has failed to take corrective action, and that is why this act will withhold $50 million in funding until the Department submits a detention and removal plan that addresses these issues in a more comprehensive manner. Already this year, the border patrol has apprehended over 75,000 illegals. Other Than Mexicans, more than twice the number of apprehensions compared to this same time last year; and we still have 5 months to go.

Mr. BONILLA. Mr. Chairman, reclaiming my time, the chairman has worked hard to produce a bill that will fund additional enforcement, within budget limitations, and has set forth directions in the report accompanying the bill to get the Department headed toward a solution.

I also want to thank the chairman of the subcommittee for hearing my concerns regarding the so-called "catch-and-release" policy that allows OTMs to be released on their own recognizance. Last summer, I was in communication with then-Secretary Ridge and then-Under Secretary Hutchison regarding this issue, and they responded by authorizing expedited removal for all OTMs apprehended by the border patrol. Unfortunately, the Department has implemented expedited removal in only two districts. I am therefore pleased to see this issue is addressed, as well, in this bill.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. BONILLA. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, when the gentleman first described to me the "catch-and-release" policy and how it has affected the border communities, I was surprised to learn that the Department had not made full use of its authority. I understand that doing so will not only allow the Department to remove OTMs two to three times faster than traditional methods while permitting legitimate asylum claims, but would cut detention costs for such individuals by more than 50 percent.

Mr. BONILLA. Mr. Chairman, reclaiming my time, the chairman is absolutely correct. Expedited removal would allow the Department to save money while addressing the OTM problem. I would also add that taking such enforcement action would help deter OTMs from attempting to immigrate illegally in the first place.

I once again thank the chairman for taking the time to hear the concerns of our border communities and for responding so readily. As a fellow subcommittee chairman, I know the difficulties in finding solutions that meet budgetary restrictions, and I appreciate the directions he has given to the Department, which will make great strides to ensure that this critical issue is addressed.

AMENDMENT OFFERED BY MRS. MUSGRAVE

Mrs. MUSGRAVE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MUSGRAVE:

Page 2, line 9, insert after the first dollar amount the following: (reduced by $100,000).

Page 26, line 23, insert after the dollar amount the following: (increased by $100,000).

The CHAIRMAN. Pursuant to clause 2(f) of rule XXI, the Chair must query whether any Member raises a point of order against provisions of the bill addressed by the amendment, but not yet reached in the reading, wit: page 26, line 19 through page 30, line 8.

Are there any points of order?

If not, the gentlewoman from Colorado (Mrs. MUSGRAVE) is recognized for 5 minutes on her amendment.

Mrs. MUSGRAVE. Mr. Chairman, according to recent news reports, the Department of Homeland Security has hired former actress Bobbie Faye Furgeson as the new "liaison to the entertainment industry." In other words, the Department of Homeland Security is now hiring actresses to communicate with Hollywood.

In March 2004, the Department of Homeland Security posted an opening on the government Web site, USAjobs.com, stating the salary could top $136,000, plus benefits. I want to emphasize that this position has not been specifically authorized by Congress.

I believe that Americans take our homeland security very seriously. They see images of 9/11 that will clutch their hearts for their entire lives. They saw in the news just the other day about the incident here on Capitol Hill and saw people frantically trying to get to an area that was safe. Thank God they were not in danger.

But the people of this country have high expectations in regard to our homeland security after we were violated on 9/11, and they realize how vulnerable we are. I would just like to thank the gentleman from Kentucky (Chairman ROGERS) for his excellent work in living up to those expectations that the American people have for us.

However, I would have a very difficult time explaining to my constituents how we would use over $100,000 in this manner. If people are not aware of what we could do with $100,000, if we move this money to State and local governments to have grants available for our first responders, that amount of money would buy 694 Quick2000 Escape Hoods. Those are like the very hoods that we keep in our congressional offices. It would buy 558 Emergency PA systems, just like those that were used last week to warn people and to tell them about the evacuation. This one really interests me. It would buy 165 bullet-proof vests. There is a young family member that we have that is a police officer, and I realize how first responders rely on their lives with these bullet-proof vests. That amount of money would also buy 40 Level A HAZMAT protective suits, something that is really needed by our first responders.

So instead of spending $100,000-plus on one person who would simply review movie scripts for the government or help identify opportunities for Hollywood outreach and provide resources for TV and movies, we should direct this money to actually help the people who respond and can save lives.

I ask for support of my amendment.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentlewoman yield?

Mrs. MUSGRAVE. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I want to commend the gentlewoman. I think this is an excellent amendment. I am delighted that the gentlewoman has been able to ferret this out and bring it to the attention of all of us, and I want to say what a great job the gentlewoman has done and that I am going to vote for the gentlewoman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Colorado (Mrs. MUSGRAVE).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701–705 of the Homeland Security Act of 2002 (6 U.S.C. 341–345), $146,084,000: *Provided*, That not to exceed $3,000 shall be for official reception and representation expenses: *Provided further*, That of the total amount provided, $26,070,000 shall remain available until expended solely for the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations.

AMENDMENT OFFERED BY MR. SABO

Mr. SABO. Mr. Chairman, I and others offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SABO:

Page 3, line 15, after the dollar amount, insert the following: "(reduced by $26,100,000)".

Page 30, line 12, after the dollar amount, insert the following: "(increased by $50,000,000)".

Page 30, line 13, after the dollar amount, insert the following: "(increased by $25,000,000)".

Page 30, line 14, after the dollar amount, insert the following: "(increased by $25,000,000)".

Page 34, line 4, after the dollar amount, insert the following: "(reduced by $23,900,000)".

Mr. SABO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. SABO. Mr. Chairman, our amendment increases the funding for the fire grant program by $50 million, $25 million for the SAFER program, and $25 million for the regular grant program. With the $25 million added to the SAFER program, it would be funded at $75 million, or $10 million above last year's funding.

With the increase to the regular fire grant program, it would be funded at $575 million, unfortunately still a $75 million cut from last year's level. If we had more funding, and more offsets, we would have added it to this program.

I might add that whatever the problems are with the larger local grant program, this is a program that has worked very efficiently and effectively. It is a proven successful program, and grant decisions are made on the basis of independent board review.

The needs of our fire departments are great, and our Federal funding for the fire grant program has decreased in recent years and, actually, as a population that has grown, the number of firefighters nationwide has fallen.

Firefighters still lack basic equipment. The number of firefighters with proper breathing gear and protective clothing has not substantially improved since 9/11.

In 2003, Federal fire grant funding was $746 million; this year it is $715 million. This bill, with the amendment, would increase that amount to $650 million. The offset funding for the new personnel system would be decreased by $20 million, but still would have an increase of $17 million, or 47 percent under this mark.

What this amendment does is it is fully funded in offsets and makes minor adjustments in the chairman's bill but, in my judgment, will result in better fire department capabilities in our local communities; and I urge support for this amendment.

Mr. WELDON of Pennsylvania. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as an author of this legislation with the distinguished ranking member and the distinguished chairman, I thank the chairman for working with us on this compromise. The chairman has been one of the tireless advocates in this body on behalf of the first responder community; and I want to tell the gentleman they recognize that. On behalf of the 1.2 million men and women who serve in the 32,000 departments across America, they understand that the gentleman from Kentucky (Mr. ROGERS) is listening to them.

Last week, when I approached the gentleman from Kentucky (Chairman Rogers) and the gentleman from Minnesota (Mr. SABO), our colleague, the gentleman from New Jersey (Mr. PASCRELL), the gentleman from New Jersey (Mr. ANDREWS), the gentleman from Maryland (Mr. HOYER), and a whole host of Members on our side of the aisle over here, the gentleman from New York (Mr. BOEHLERT) and others, it was with a great deal of enthusiasm that the chairman said he would work with us, and that allows us to bring this amendment forward today.

Last November, Mr. Chairman, I spoke at the memorial service for our fallen firefighters. We paid tribute to 111 brave Americans, most of them volunteers, who paid the ultimate price in protecting America. Each year in this country, we lose over 100 police officers, we lose over 100 firefighters, paramedics, and EMTs. The difference in terms of law enforcement support, and we spend about $3 billion to $4 billion a year on local law enforcement at the Federal level, is that 85 percent of our first responders in the fire community are volunteers. They get paid nothing. They serve on behalf of these 32,000 departments while doing their full-time job and then come home on weekends and at nights and serve their communities. It is up to us to make sure they have the proper equipment they need.

Now, Members need to understand there is a distinction between the grant program running through the States and the grant program increased by this amendment. The grant program that this amendment increases is directly accessible to the fire departments. There are no middle people. There is no bureaucracy. There is no overhead. They go on line for 30 days once each year, and they apply directly. The grants are actually reviewed by other firefighters. There is no politics. That is why over 19,000 departments in this country have received one or more grants that have benefited our local towns.

This money is not just for homeland security; it is to better equip those departments who, back in 2000, we recognized need national help.

☐ 1400

The second part of this amendment provides additional funding to the SAFER program, a program to encourage cities to hire more paid firefighters, volunteer departments to come up with more creative ways to encourage volunteers, and volunteer departments who may have to hire a full-time driver or a full-time officer, to have some of that funding available through this SAFER bill.

It is a significant increase when the program was appropriated to the level of $65 million this fiscal year, to add another $25 million in this amendment to that program.

Let me say just in closing, Mr. Chairman, that we are asking our fire and EMS departments to do more. The recent round of base closings that was announced on Thursday largely closes Guard and Reserve facilities. That is going to put increased pressure for homeland security on those 32,000 fire departments. They are not going to be able to rely on those local Guard and Reserve units, because their facilities are being shut down, so it is all the more reason that this amendment makes sense. It is good policy. It is good fiscal sense. It is paid for.

I commend all of the authors and everybody involved and especially again I want to thank the chairman for his vision, for his foresight, and for working with the ranking member to make this possible.

Mr. HOYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to join my friend, the gentleman from Pennsylvania (Mr. WELDON) who has done such an extraordinary job in raising the consciousness of the Congress and of the American people with respect to the importance of our volunteer and paid fire fighting community and our emergency medical response teams throughout this country.

I also want to join my good friend, the gentleman from Minnesota (Mr. SABO), and I want to join the gentleman from Pennsylvania (Mr. WELDON) in thanking the gentleman from Kentucky (Mr. ROGERS) for his agreement to move this forward and for helping us fashion this amendment.

I want to thank the gentleman from California (Mr. LEWIS) as well, the chairman of our full committee. Mr. Chairman, I would like to express sincere appreciation to all of those involved, and I particularly want to recognize my friend, the gentleman from New Jersey (Mr. PASCRELL) whose effort was extraordinary in the adoption of the Fire Act, which provides for the basic grant program.

All of us were involved, but no one was more involved and more in the leadership, and of course his bill was the basis for the establishment of this. I would be remiss if I did not also reiterate how important the Fire Service Caucus has been and Bill Webb, who is the Executive Director of the foundation, and their focus on the issues that confront us.

Mr. Chairman, this amendment provides much needed increases to both the Fire Grant and SAFER programs, and moves us closer to fulfilling our obligations to ensure that our Nation's firefighters have at their disposal every resource possible to not only guarantee their own safety, but also to allow them to better serve each of our communities.

The $25 million we add to each of these accounts brings the funding in the bill to $650 million, $575 million for the Fire Grant program, and $75 million for SAFER. The SAFER program deals with personnel, the Fire Grant program is a broader application of moneys dealing both with equipment, safety equipment, training and other matters.

This is $150 million above the level requested by the President and is a reflection of Congress' commitment to ensuring that our fire departments are properly staffed, trained and equipped. But these amounts are still, Mr. Chairman, well below the authorized levels and far from meeting the needs of the fire service.

The gentleman from Pennsylvania (Mr. WELDON) pointed out the fact that the Base Closure Commission or the Pentagon has recommended to the commission the closure of many Guard and Reserve units around the country, and while first responders are critically important now they will be even more so if this action is taken.

The Fire Grant program was established by Congress in 2000, as I said through the leadership of the gentleman from New Jersey (Mr. PASCRELL), the gentleman from Pennsylvania (Mr. WELDON) and so many others, to meet the basic equipment, training and fire fighting safety requirements of America's fire service, and to bring all fire departments to a baseline of readiness to respond to all hazards.

The Fire Grant program has been a tremendous success, providing more than $3 billion for the infrared cameras, HAZMAT detection devices, modern breathing apparatuses, improved training and physical fitness programs, new turn-out gear, fire trucks and interoperable communications systems, to name but a few of the items that have been provided for by the Fire Act.

The simple fact is that the equipment and training provided by these grants have saved the lives of firefighters and average citizens in communities across America, and I am proud to play a role in this program.

The SAFER Program authorized 2 years ago and funded for the first time last year is a vital compliment to the Fire Grant program, because insufficient staffing, defined by National Fire Protection Association as fewer than four firefighters per apparatus, is a very real problem for far too many of the Nation's career and volunteer fire departments.

Not only does that understaffing put at risk the firefighters but, as I said, it puts at risk those whom the firefighters would save, whether in a very serious automobile accident, in a fire, earthquake or other natural disaster.

Responding with fewer than four firefighters per apparatus prevents the first responder unit from complying with OSHA's two-in/two-out standard for safe fire-ground operations and adds unnecessary risk to the already dangerous job of fire suppression.

Mr. Chairman, the NFPA estimates that an additional 75,000 firefighters are required across the country and the additional funding we provide today will move us a little closer to achieving that goal.

Mr. Chairman, I am in strong support of this legislation. I thank the gentleman from Kentucky (Mr. ROGERS), I thank the gentleman from Minnesota (Mr. SABO), and I thank the gentleman from New Jersey (Mr. PASCRELL) and all of those who have been involved in supporting these two vital programs.

Mr. PASCRELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first I would like to commend the gentleman from Kentucky (Chairman ROGERS) and the ranking member, the gentleman from Minnesota (Mr. SABO), for all of the hard work that they have done in bringing this bill to the floor.

Homeland security is a new discipline for this body, and in a relatively short amount of time the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) have provided expertise in the field.

I want to publicly acknowledge the gentleman from Pennsylvania (Mr. WELDON) and the gentleman from Maryland (Mr. HOYER) for the leadership they have displayed, that leadership in enhancing our Nation's security.

Mr. Chairman, this amendment is another example of their work to increase our emergency preparedness and response capabilities, and I ask all Members to support it. The challenges of our changed world require us to ask more and more of America's firefighters. Yet, we all know that many of their needs remain unmet. How can we expect our men and women on the front lines to be a real force in the war on terror if we do not deal with their most basic needs?

Like the fact that over 10,000 fire engines are at least 30 years old, or that 27,000 fire stations in the country have no backup power, or that two-fifths of all departments lack Internet access, or the fact that the majority of portable radios firefighters use are not water resistant; the list could go on.

But probably the biggest issue facing the fire service is a lack of manpower. Currently two-thirds of all fire departments, Mr. Chairman, two-thirds throughout America operate with inadequate staffing. And in communities of at least 50,000 people, 38 percent of the firefighters are regularly part of a response that is not sufficient to safely respond to a structure fire because of a lack of staffing. This is unconscionable.

This amendment helps to tackle those problems. It does provide the dollars, as has been pointed out on this floor. It goes without saying that both of these programs, the Fire Grant program, and the SAFER program are of critical importance to our Nation's safety. Fire grants provide funding directly to local fire departments.

In fact, we debated within committee whether or not the Homeland Security Act should provide direct aid to municipalities rather than going through the States, and I think we ought to revisit that subject again and again because of the success of the Fire Act.

And the SAFER Act, which we were able to fund for the first time last year, provides annual grants for the purpose of hiring, recruiting and retaining career and volunteer firefighters. Congress has made great strides, but still we need more. We need more. There is more to do.

Across this great country firefighters and fire departments desperately require more folks on the front lines, more personnel, functioning communications, radios and protective gear. There is a reason for the Fire Grant program, that it had 20,300 applications containing close to $3 billion in requested assistance from departments across the country just in this one year.

These are basic needs we are talking about, and at the time the local jurisdictions are facing tough budget decisions in departments, you know, what are the state of our municipalities? All across this country they are laying off firefighters. This amendment could not come at a better time.

So I implore, we listen to the chairman and the ranking member, and we do as we think we should do and pass this amendment. I want to thank both of them for bringing to it the floor.

Mr. PRICE of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to add my word of support for the gentleman from Minnesota (Mr. SABO's) amendment and commend him for offering it, and also thank the chairman of our subcommittee, the gentleman from Kentucky (Mr. ROGERS), for his cooperation in working out this accommodation.

Several steps have led us to this point. The President's budget was sorely deficient in the area of first responder funding. The President proposed to cut the State Homeland Security block grants by 25 percent. He proposed to cut the Department of Homeland Security firefighter grants by 30 percent. He proposed to eliminate funding for the SAFER program.

And then when you look at the Department of Justice, at the programs that our law enforcement agencies depend on, the President proposed even more massive cuts, a 95 percent cut in the COPS program and a 98 percent cut in the Justice Assistance grants.

We will, of course, not be able to deal with all of that here today. We will hope that our colleagues on the subcommittee appropriating for the Justice Department will attend to this and repair some of this damage.

But today we can deal with the Homeland Security portion of the President's budget. Our subcommittee already has made some improvements in the bill brought to the floor today. The first responder funding was brought to a 10 percent cut overall, which in terms of the President's budget was a gain. State and local block grants in the bill before us would be cut 11 percent, fire grants by 15 percent, the SAFER program by 23 percent.

The gentleman from Minnesota (Mr. SABO's) amendment takes that progression further, and I commend him for it, because it is money that our communities really need. For fire grant funding, half of the committee's cut from the current fiscal year's level would be restored.

SAFER funding would actually be increased $10 million from the current fiscal year. State block grant funding would be increased but it would still fall $400 million short of the current year.

So we are not talking still about generous funding, funding that is anywhere near as generous as it should be, but we are talking about an improvement, and I hope that colleagues on both sides of the aisle will readily agree to this amendment to the committee bill.

Mr. Chairman, all of us, I suspect, have visited and talked with first responders in our districts. I hope and expect that we have thanked them for what they do, because they serve our communities every day. It is important, though, not just to stop with the lip service. It is important to understand that what we are talking about with fire and law enforcement and other first responders is an essential governmental service in which the Federal Government is a crucial partner.

□ 1415

Sometimes that partnership has been in danger of faltering. We have got to make certain that that does not happen. So we need to do more than say thank you. We need to do more than talk about hometown heroes.

We need to put our money where our rhetoric is. This bill is not all that it should be, but with this amendment I believe we will go some distance toward extending to these first responders the kind of support they need. After all, they are being asked to do some new and demanding things in this post-9/11 world. They need some new equipment. They need new communication capacity. They need some new personnel and training.

So we are preparing to extend that assistance, without forgetting that these first responders have been on the frontlines all along.

Traditional disasters, traditional emergencies have not gone away. In fact, the need for a conventional capacity is as strong or stronger than it ever was.

So let us resolve that we are not merely going to pay lip service to these people on the frontline who defend our communities every day. Let us resolve to strengthen the Federal partnership and provide the Federal support that they need and deserve.

Support the Sabo amendment.

Mr. ROGERS of Kentucky. Mr. Chairman, I move to strike the requisite number of words.

I opposed a similar amendment at the full committee level, but that was due largely to the use of IAIP funds to offset this amount. That would have stopped all construction and renovation of that growing directorate.

We have been working with the gentleman from Minnesota (Mr. SABO), the ranking member, on this particular matter. We found a more suitable offset. We have reduced other first responder grant programs in this bill because of poor guidance and large unspent balances. However, these grants do go directly to the fire departments. There is no choke point issue involved with these funds, and so I enthusiastically support the amendment on the floor and urge its passage.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Kentucky. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, let me just simply thank the chairman for his support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. SABO).

The amendment was agreed to.

Mr. COX. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from Kentucky (Mr. ROGERS), chairman of the Subcommittee on Homeland Security, for purposes of a colloquy.

Mr. ROGERS of Kentucky. Mr. Chairman, I thank the gentleman for yielding.

I want to commend the gentleman for his efforts to work with our subcommittee and the Committee on Appropriations, and I regret that the process of coordination did not go more smoothly.

I should acknowledge that the gentleman has indeed only sought to expose to points of order provisions or conditions that are genuinely authorization provisions, not all provisions against which a point of order would lie. Since the exposed provisions and conditions are, in fact, authorizing provisions, I want to assure the gentleman that in the conference negotiations on such provisions, I will follow the will of the authorizing committee in advancing the House position; and the conference report will, to the greatest extent possible, follow the will of the authorizing committee.

Mr. COX. Mr. Chairman, I thank the gentleman, who has been a true leader on homeland security, for his hard work on this bill and his efforts to reach full agreement with the authorizing committee. I regret the fact that rescheduling this bill to earlier in the week deprived us of the time that would have enabled us to accommodate much of these discussions in advance of reaching the floor. But I want to thank the gentleman for his efforts to reach full agreement with the authorizing committee.

Based on the understanding that the conferees will follow the will of the authorizing committee in advancing the House position in the conference negotiations and, to the greatest extent possible, follow the will of the authorizing committee on the provisions and conditions which are, in fact, authorizing, I will not insist on the points of order exposed to objection under the rule that we just adopted today, and I strongly urge my colleagues to do the same.

AMENDMENT NO. 14 OFFERED BY MR. MENENDEZ

Mr. MENENDEZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. MENENDEZ:

Page 3, line 15, insert "(decreased by $50,000,000)" after "$146,084,000".

Page 26, line 23, insert "(increased by $50,000,000)" after "$2,781,300,000".

Mr. MENENDEZ. Mr. Chairman, the attacks of September 11 made each of us realize that terrorism had entered a whole new realm, one in which our Nation's assets, infrastructure, and people could be attacked by those meaning us harm. The district I have the honor of representing contains a vast number of potential targets of terror, such as the largest seaport on the east coast, one of the busiest airports in the country, an area known as the "chemical coastway," four major chemical plants, and six tunnels and bridges that connect New Jersey to New York City, and if that were not enough, an area in northern New Jersey between Liberty Airport and Port Elizabeth commonly referred to by the FBI and others as the most dangerous 2 miles in America.

The Menendez amendment seeks to address one of the most serious security threats facing our Nation today, and that is the threat of terrorist attacks on chemical plants and facilities.

According to data from the Environmental Protection Agency, there are eight plants in New Jersey where a worst-case release of chemicals could threaten more than 1 million people per attack, and a recent article in the New York Times stated that a chemical plant in my district that possesses chlorine gas poses a potentially lethal threat to 12 million people who live within a 14-mile radius.

So this is obviously a very important matter for the district and State that I come from, but let me make a point here that this is not just simply a New Jersey issue. There are 15,000 chemical plants nationwide, and that same EPA data that I just referenced shows that 123 of these could pose a threat to at least 1 million people each time, if each one of those entities were attacked, if there were a release; 123 times a million, 123 million Americans.

My amendment takes a first step by providing $50 million to State and local governments in order to enhance the security of those chemical plants. Funds might be used by State and local officials to prepare plants to respond to and possibly even prevent attacks on these facilities. This money could be used to equip and train our first responders who would respond to such an attack. Such funds might be used to provide assistance and guidance to the chemical plant officials to implement best management practices that either improve security or use less caustic chemicals, or perhaps this funding could be used to increase law enforcement's presence in patrols around chemical plants. These are just by way of description.

According to the threat level set by the Department of Homeland Security, our local law enforcement agencies are then often asked to provide additional security for these plants. I have heard from several mayors and police chiefs about the serious financial burden those additional patrols are costing their cities, and over time, consequently, their ability to meet this challenge is really under siege; and I am sure this is a problem for law enforcement agencies across our country.

In New Jersey, some of these plants are surrounded by residential communities and transportation corridors that make this issue even more critical for us to secure. I believe if we look at that list of the Environmental Protection Agency across the country we will find that is often the case in other States in the Nation.

I strongly believe we must do what we can to protect our constituents from a clear opportunity here in which millions could be affected by what is otherwise a use of a facility for legitimate purposes.

This is not a new issue or one that is brand new for us. The Hart-Rudman report mentioned chemical plant security. Going back to that report, several of these plants are included on the national infrastructure list. So we are well aware of the problem, and we need to take steps to ensure security at these plants.

I very rarely come to the floor to offer amendments, but I feel compelled when we know the nature of the risk and we know the nature of the threat to do something about it.

This amendment is a modest first step. We do need to make these facilities and our constituents living near them safer and more secure, and I would just urge my colleagues to think about who among us would be content with the counsels of patience and delay if they were living within the radius of one of these chemical plants that could literally cause the deaths of millions of people and we did absolutely nothing to protect them.

In that context, I urge my colleagues to support the Menendez amendment.

Mr. PALLONE. Mr. Chairman, I move to strike the last word.

I rise in support of the Menendez amendment, and I want to mention to the gentleman that I know that he is also familiar with this issue, being the ranking member on the subcommittee on the Committee on Energy and Commerce that has jurisdiction over chemical security; and I would hope that as time goes on that we could in our committee, in the Committee on Energy and Commerce, and specifically in the gentleman's subcommittee, have a hearing and address this issue in a more comprehensive way because I do think it needs to be addressed.

In the meantime, I agree with the gentleman from New Jersey (Mr. MENENDEZ), my colleague, that we should provide additional funding in this appropriations bill to have our State and local responders try to address this issue in a significant way or at least provide some funding so that they could.

As the gentleman from New Jersey (Mr. MENENDEZ) mentioned, we have a number of facilities in our own State of New Jersey where we know that under this EPA report over 1 million people at each of those facilities could be negatively impacted if there was a terrorist attack on a chemical facility. He mentioned at least eight.

In fact, in a hearing just last week in the United States Senate, Mr. Robert Falkenroth, who was a former Bush official with the Homeland Security Department, actually said before the United States Senate that his biggest fear in terms of another terrorist attack would be an attack on a chemical facility. He knows and we know and the Department of Homeland Security knows that this is the one area in the aftermath of 9/11 that has not been addressed.

We have talked about attacking a nuclear plant. We have talked about attacks on port facilities. We have talked about attacks at airports. In every case, there has been an effort by this body to address a terrorist attack and to deal with security issues at those various facilities, but not so in the case of chemical plants. For whatever reason, we have said to the industry that you are on your own; you voluntarily set your own standards. We have not taken action in the House of Representatives or in the Senate to address the issue, and I think that is a shame.

There have been various occasions in the past, most notably in the case of Bhopal, many of my colleagues just remember we just had the 20th anniversary of the Bhopal disaster. In the case there, Union Carbide owned a plant. It was not a terrorist attack, but the result there was over 20,000 people killed. That was not because of a terrorist attack. That was because of neglect or negligence on the part of Union Carbide. It had nothing to do with a terrorist attack, but the devastation at Bhopal, not the 20,000 that were killed but the hundreds of thousands in the aftermath of that crisis 20 years later, are still suffering, have not received medical attention, the impact on their children and the disorders that they are now seeing with their children, I mean, this is the type of thing that needs to be addressed, and it is not being addressed here.

I think my understanding is that the gentleman from New Jersey's (Mr. MENENDEZ) amendment would shift $50 million to State and local programs to try to get them to address this issue.

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Now, I think we need a comprehensive program. Senator CORZINE and myself have introduced the Chemical Security Act, myself here in the House, he in the Senate, which basically establishes a nationwide program that would require that chemical plants provide for security. But absent that, because we have not had that, we have not even had a hearing on it in this House, we need our local responders and our State responders, the way my colleague, the gentleman from New Jersey (Mr. MENENDEZ), has described, to have some money so they can go out and do some things to try to shore up this problem and deal with this problem.

So I just want to say again that this is something we should do. It has been neglected here in the House. Hopefully, we will pass the Menendez amendment. Hopefully, we will have a hearing in our subcommittee, Mr. Chairman, and we can begin the process with this amendment of addressing this very important issue not only for the State of New Jersey but for the Nation as a whole.

Mr. ROGERS of Kentucky. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I fully sympathize with the concerns the gentleman from New Jersey has brought up, and the other gentleman has, about the issue of safety at chemical plants. We have 77,000 of them in the country and 17,000 of those deal with hazardous materials. So it is a big exposure that we have.

However, I have to respectfully urge the defeat of this amendment for two or three reasons. One, we have included $50 million in the bill just for critical infrastructure protection, including chemical plants, already. I know the gentleman will be pleased to hear that we do have that amount of money in there: the amount he is requesting is already in the bill.

Number two, we put in some very strong report language directing the Department to continue and complete the vulnerability assessments of all critical chemical facilities in the country. We have already reduced the State and Urban Area grant programs in this bill because of poor guidance, but mainly because they have still got $6.8 billion that we have appropriated since 2002 in the pipeline. They have only spent 30 percent of all we have appropriated. They have $6.8 billion left in the Office of Domestic Policy, which makes these grants. So there is plenty of money there. There is no point of putting more, until they draw down on what they already have.

Number three, I have a problem with where the gentleman is taking the money from. We have already hit the Under Secretary for Management's Office big time in this bill already. We have taken $26 million today, and this is the place where the important work of the Department needs to take place. If you take this $50 million from the Under Secretary of Management, it could only come from one place without impacting personnel; that is to say, lay off people, and that is the Human Resource System of the Department.

A $50 million reduction in that system would halt implementation of that human resource system program in its tracks. We would be unable to fund the "pay pool," which would prevent the initial conversion of employees from the General Schedule to the new market-based pay bands and the pay-for-performance programs.

We would also be unable to provide competent program management and evaluation. It would delay the establishment of the Department's Labor Relations Board, as required by the final regulations. We would not be able to access knowledgeable outside experts that understand industry best practices in compensation design sets.

We would be unable to fund the training of managers, supervisors, and employees, and that lack of training would also have profound impacts on the credibility of the program with the employee base and their representatives.

So, Mr. Chairman, I reluctantly oppose the amendment, sympathizing with the gentleman's sentiments. But I think we have plenty of money there now, and I do not want to see us hurt the human resource system that is being put in place even as we speak. So I urge the defeat of the amendment.

Mr. SABO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the reason I move to strike the last word rather than speaking directly to the amendment is because I have mixed emotions. I think the problem the gentleman from New Jersey presents to us is one of the most important and most profound ones we face in the whole question of homeland security.

His amendment bothers me for two reasons: One, I think there are real problems where the money is coming from; and, secondly, I am concerned that we are transferring this problem from the Federal Government to the State governments. Because dealing with chemical security and the security of chemical plants is truly a national problem and not one that should be the ultimate problem of State governments.

The Department, in my judgment, has been incredibly slow in dealing with the problem. The Congress has been slow in dealing with the problem. A year ago we provided $3 million to the Department for a study on whether they should require vulnerability assessments and security plans from the chemical plants. The study has not occurred. We do have language in this bill that urges them to do more in the next year. I hope they listen to that more than what they did to the provision of $3 million last year.

But I would suggest to my friend from New Jersey that the format that we should be following is really what we did in the Maritime Transportation Security Act as it relates to ports. What we required in that bill was for ports to do vulnerability assessments and produce security plans themselves, and that is what the major chemical plants in this country should be doing. We should not be assessing them, they should be developing their own vulnerability assessments and security plans. And then, as in the Maritime Security Act, where the Coast Guard assesses the plans, that is what we should be doing with chemical plants.

The bulk of the responsibility for implementing those security plans should be with the chemical companies, not with the State. It should not be with the Federal Government, in my judgment, let alone with the States. And I am concerned that we are putting up the assumption that this is now becoming a responsibility we are delegating from the Federal Government to the States.

So the gentleman is absolutely right. This is one of the biggest vulnerabilities that we have. The Department has not been paying attention to it. The Congress has not been willing to deal with the issue of whether this is something we want simply the Federal Government to do or whether we should be requiring the chemical plants, at least the major ones, to have the vulnerability assessments and the security plans and then they submit them to the Department for their evaluation. From there, we can move as to how you remedy the security plans and how you make judgment on the funding you need for local people who might have to respond to an emergency.

So I have mixed emotions about this amendment. I have problems with their premise with the offset and the basic delegation to the States, but the amendment raises, I think, one of the most crucial problems we face in homeland security. And to the other gentleman from New Jersey, who talked about a comprehensive bill he was introducing, I think that is the direction we should be going.

Mr. MEEKS of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. MENENDEZ. Mr. Chairman, will the gentleman yield?

Mr. MEEKS of New York. I yield to the gentleman from New Jersey.

Mr. MENENDEZ. Mr. Chairman, I thank the gentleman from New York for yielding to me, and I want to thank both the chairman and the ranking member on their thoughtful observations about this issue.

I understand the constraints under which they are working. I am not unmindful of that, which is why I rarely come to the floor on amendments because I understand that all of us could devise a different bill but you are given the responsibility collectively for us. But I would just need to make some comments in observation of what has been said.

Number one is the government's responsibility to protect its own people is not delegable to anyone, the private sector or any other entity outside of the government itself. We might want to place responsibilities, and I agree that there are responsibilities that should be placed upon certain legitimate corporate responsibilities, that should be placed upon people who operate in a society and who have a hazardous element to their operation and need to operate in a way and to protect their facilities in such a way that protects the greater good, but ultimately, ultimately the defense of the people is not delegable to any other entity.

The second point is that when I hear the chairman talk about the $50 million placed in critical infrastructure, I do appreciate that, but that is all critical infrastructure. That is nuclear power plants, that is electric grids, that is everything you can think of that we would develop under the rubric of critical infrastructure. And in that context, while understanding the limitations, it is a relatively small amount when you think about protecting all of the Nation's critical infrastructure.

I do not know, as has been pointed out by law enforcement, as has been pointed out by the Environmental Protection Agency, that this critical infrastructure that we talk about in terms of chemical plants does not come to a higher level, because ultimately the potential attack and emissions and the plumes that come from it can kill literally millions and millions of people. And that, in other respects, I think heightens it among the critical infrastructure that exists.

I understand that people are concerned about the management office, although I will note that that is where we just took money for another critical issue. But if you ask the American people between management and protecting the chemical coastways that are along and throughout the landscape of this country, I think they will tell you I would like to see the chemical coastways protected.

Even if we ultimately ask the private sector, those who operate these chemical plants, to have greater responsibilities, which I concur with, at the end of the day it will be police and firefighters who will respond to an attack. At the end of the day it will be a State policeman who will have to respond. These routes are public in nature. If you run along the New Jersey Turnpike, you can easily have access to that New York Times article and that chlorine plant.

So from a public road, an entity which the private sector would have no responsibility for, an attack could be levied. So, therefore, there are going to be resources necessary for the governmental entities, even with a heightened corporate responsibility, to perform. And that is my concern.

We have had Hart-Rudman talk about chemical plants, we have talked about it in the 9/11 Commission Report, and yet we are nowhere nearer to creating any private responsibility nor are we responding in a public context. Hence, that is my concern, and that is why I offer the amendment.

Mr. PALLONE. Mr. Chairman, will the gentleman yield?

Mr. MEEKS of New York. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. Chairman, let me reiterate, or support again what my colleague, the gentleman from New Jersey (Mr. MENENDEZ), said. And I appreciate the comments from our ranking member, but the problem is that the House has not been willing to take up, even in our subcommittee, this issue. In other words, it would be great if we had the opportunity to bring up a bill, I have mentioned the Chemical Security Act, that would actually mandate that companies do in fact come up with their own assessment plans to respond in the event of a terrorist attack. I agree that would be a great thing. But, again, we are not moving in that direction. We have not even had a hearing in our subcommittee on this issue.

Absent that, what we need is some money going back to the States. Because under the Menendez amendment, if money was going back to the States specifically for a chemical security response, then a State like our own of New Jersey would be able to take that funding and basically do some of the things that we would like the Federal Government to do that they are not doing.

So this would accomplish that goal at least for those States that want to take the initiative; that they would have some money for their State and local programs to make the chemical companies respond and do something about this threat. The problem now, as our ranking member said, this is not happening. It is strictly left up to the voluntary efforts of the chemical plants, and that is not a good response.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. MENENDEZ).

The CHAIRMAN. The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MENENDEZ. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Jersey (Mr. MENENDEZ) will be postponed.

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Mr. McCAUL of Texas. Mr. Chairman, I rise to strike the last word.

I rise in strong support of this important bill and for the purpose of engaging in a colloquy with the gentleman from Kentucky (Mr. ROGERS), the chairman of the Committee on Appropriations Subcommittee on Homeland Security.

Since the tragic events of 9/11 and the subsequent creation of the Department of Homeland Security, there has been a dramatic increase in the number of undocumented aliens apprehended at our borders. And last year alone, approximately 1.2 million people were apprehended at our southwest border. It is conservatively estimated by border patrol that three undocumented aliens get past our borders for every one that is caught. It is estimated also that the number of non-Mexican illegal immigrants, also known as OTMs, entering our country has increased tremendously in some border patrol sectors by 300 percent this year.

This group, often not on any watch lists and usually lacking legitimate documentation, should cause us all great concern. Despite the risk these persons present, the problem has grown because courts will not impose detection and because the Department of Homeland Security lacks adequate detention space.

As a former counterterrorism prosecutor in the Justice Department whose jurisdiction included the Mexican border, I know firsthand the threat this poses to our national security. When the border patrol catches individuals who do not fall in the category of mandatory detainees, they often have no choice but to release them on their own recognizance with a notice to appear at an immigration hearing, only to disappear later. It is commonly derided by law enforcement as the "catch-and-release program." This is exactly how Ramzi Yousef, the al Qaeda perpetrator of the 1993 World Trade Center bombings entered this country.

This is why I, along with the support of 44 of my colleagues on both sides of the aisle, signed a letter to the Committee on Appropriations asking for full funding of the 2000 border patrol, 800 interior investigators and most importantly, 8,000 detention beds recommended by the 9/11 Commission and authorized by the Intelligence Reform Act.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. McCAUL of Texas. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, the gentleman from Texas is absolutely correct. There is a definite problem with our system that we hope to correct.

The bill before us provides $690 million, $90 million more than DHS asked, for an additional 1,920 detention bed spaces; and that combined with what we provided in the supplemental appropriations bill last week will add a total of 3,870 new beds over the current level. In addition, the bill provides $43 million for alternatives to detention, tripling last year's level and $10 million more than DHS requested. That will go further to attack the problem of the so-called OTMs who abuse our immigration policies and leave a gaping hole in the integrity of the borders.

I am convinced that the so-called catch-and-release practice signals that our current system is in need of significant reform. This bill is intended to make an effort in that respect.

Mr. McCAUL of Texas. The Chairman has worked hard to produce a bill that will fund additional border security enforcement and detention space within budgetary limitations and supports expanding the use of alternatives to detention as a way of compensating for the shortage of bed space and smart solutions to the bigger problem of coping with the numbers of illegal aliens crossing into our country.

I will continue to work with the chairman and the Committee on the Budget to ensure that in the future detention beds authorized by Congress are fully funded.

I thank the chairman, and I commend the gentleman for taking the time to hear the concerns of our border communities and for responding so readily. All of the items provided for in this bill will help keep criminals and terrorists from crossing into the United States and, when they do, ensure that they are detained and removed from our country.

In the post-9/11 world, this is not just an issue related to immigration; it is one of national security.

Mr. SIMMONS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to thank the gentleman from Kentucky (Chairman ROGERS) of the Subcommittee on Homeland Security for entering into this colloquy regarding a very important issue.

As was the case last year, the administration's budget for fiscal year 2006 proposes to transfer funding for the Coast Guard's research and development program to the Department of Homeland Security Science and Technology Directorate. The Department has justified this proposal by suggesting that such a transfer would reduce duplicative programs within the Department and would increase cooperation between agencies. Now, if the Coast Guard R&D program consisted purely of research related to homeland security, I might be able to understand such a transfer. However, Coast Guard R&D supports research and investigations into methods and procedures to improve the service's ability to carry out many of its traditional missions.

At this time, I would ask the chairman if it is his understanding that the Coast Guard's research, development, test and evaluation program will continue to sponsor research to support the service's traditional missions.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. SIMMONS. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, yes, I agree that the program should focus on both the traditional and homeland security missions of the Coast Guard.

Mr. SIMMONS. Mr. Chairman, I thank the gentleman for his willingness to address this important issue.

When the Coast Guard was transferred to the Department of Homeland Security, this Congress ensured that the service's unique multi-mission character would be retained. We must maintain the Coast Guard's ability to carry out its many missions, including search and rescue, illegal drug and migrant interdiction, fisheries law enforcement, and protecting the maritime security.

Tomorrow, the Committee on Transportation and Infrastructure will mark up H.R. 889, the Coast Guard and Maritime Transportation Act of 2005, which authorizes funding for the Coast Guard's R&D program within the Coast Guard budget.

So I ask the chairman if he will work with me and my colleagues to find a solution to ensure that the Coast Guard retains control over the direction of this funding.

Mr. ROGERS of Kentucky. Mr. Chairman, if the gentleman will continue to yield, I recognize the gentleman's concerns. We will work with him on this subject if the authorization bill retains R&D funding within the Coast Guard for fiscal year 2006.

Mr. SIMMONS. Mr. Chairman, I thank the gentleman for his willingness to work with me on this matter. I am satisfied we will be able to work this out.

Mr. Chairman, I include for the RECORD statements by the chairman of the Committee on Transportation and the Infrastructure, the gentleman from Alaska (Mr. YOUNG); and the chairman of the Subcommittee on the Coast Guard, the gentleman from New Jersey (Mr. LOBIONDO), in support of this issue.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of the Simmons-LoBiondo amendment, and I thank my friend from Connecticut for bringing this important amendment to the floor.

This amendment will maintain the integrity of the Coast Guard as a distinct entity within the Department of Homeland Security.

Section 888 of the Homeland Security Act states that the Coast Guard shall be maintained intact with all of the Service's authorities, functions, and capabilities.

The Coast Guard's research and development program has in the past concentrated on the development of strategies and resources aimed to improve the Service's ability to perform all of its traditional and homeland security missions.

The Coast Guard's traditional missions include search and rescue, drug and migrant interdiction, marine environmental protection, ice operations and aids to navigation.

It is imperative that we maintain the Coast Guard's ability to perform these important traditional missions in addition to the Service's homeland security mission.

Just this year, we have seen the importance of the Coast Guard's oil spill response and prevention program.

I am extremely concerned that the transfer of research and development funds to the Department will forever change the Coast Guard's abilities to balance its resources and personnel to carry out its many and varied missions.

We must protect the multi-mission nature of the Coast Guard.

We should provide funding for Coast Guard research, development, test and evaluation directly to the Service in the same manner that we provide all other Coast Guard funds.

This is what the law demands and this is the right thing to do.

I urge my fellow members to support the Simmons-LoBiondo amendment.

Mr. LOBIONDO. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Connecticut.

As my colleague explained, this amendment will restore the Coast Guard's research and development funding to the Service's budget. The removal of this funding from the Coast Guard's direct control will constrict the Service's ability to direct funding to research programs to support both the Coast Guard's traditional and homeland security missions.

Mr. Chairman, this is the second year that the Administration has proposed to transfer this funding to the Department of Homeland Security's Science and Technology Directorate. The Administration has reasoned that the consolidation of research programs within the Department will reduce redundancies and maximize resources available for the entire Department. However, this reasoning does not take into account the strong focus of the Coast Guard's research program to improve the Service's capabilities to carry out its traditional missions of search and rescue, providing aids to navigation, oil spill response and prevention, and illegal drug and migrant interdiction.

Last year, the Coast Guard identified several key areas of concentration for its research and development programs that focused on enhancement to the Coast Guard's maritime safety, maritime mobility, marine environmental protection, and maritime domain awareness programs. I cannot help but be very skeptical that the Coast Guard's research and development program will continue to support such a broad scope of investigations under a DHS program that is wholly devoted to improving homeland security.

The Coast Guard has always been and has continued to be a unique, multi-mission Service within the Federal government. As such, Congress required the Coast Guard to remain an independent entity within the Department of Homeland Security with complete control over all of the Service's functions, authorities, and assets. Any changes to the Coast Guard's research and development program will restrict the Service's ability to improve methods to protect the safety and security of lives and vessels in U.S. waters and on the high seas.

I urge my colleagues to support this amendment and to maintain the integrity of the Coast Guard by restoring funding for the Service's research and development program. I thank the gentleman from Connecticut again for bringing forth this amendment.

Mr. KENNEDY of Minnesota. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I applaud the great work the chairman and the ranking member are doing on this bill, but also wish to express my deep concerns and ask for a colloquy with the chairman.

We are not paying enough attention to the northern border of the United States. Unless they represent the border States like Minnesota, some Members may not realize that the U.S.-Canada border is over 4,000 miles long and consists of over 430 official and unofficial ports of entry. However, even with recent staffing moves, moves that I commend, the Customs and Border Patrol has only 1,000 agents along the northern border. That compares to over 10,000 agents on the border which is half the length of the U.S.-Canada border.

This staffing shortage along the northern border poses a real security threat. In fact, due to the shortage, the Department of Homeland Security has looked for new ways to monitor the Canadian border, such as a new proposed requirement for passports to get back and forth across the border. Unfortunately, anyone who has spent time up north knows this will not accomplish much to deter or prevent illegal activities or to secure the border.

Simply put, the Canadian border is just too vast for such an approach to work with many unmanned check points in remote areas. I know from personal stories that at some of these unmanned crossings, people have to wait an hour or more before a border patrol agent can come to lift up the gate so they can cross.

Mr. Chairman, we do not expect al Qaeda and narcotics traffickers to wait an hour for the border patrol to show up at the check point. We have already recognized in numerous laws that high-tech border surveillance must be integrated into the manpower and resources we have up there to get real control over our borders.

In the prior year's Defense Authorization Act, in the prior year's Homeland Security Appropriations Act, and in this year's Intelligence Reform Act, Congress recognized the need to develop high-tech border surveillance. However, what little progress the Department of Homeland Security has made on this front has been entirely confined to the southern border even with the $10 million appropriated in this bill last year. Mr. Chairman, this is unacceptable. We simply are not paying enough attention to the northern border.

Some think the southern border is more dangerous, but I remind my colleagues that terrorists will attack us through the path of least resistance. I believe it is critical that the funds allocated to the Customs and Border Patrol accounts used to pay much-needed research and survey technology, including unmanned aerial vehicles, be not solely devoted to the southern border but also to the northern border to stretch the resources our Custom and Border Patrol manpower has.

Mr. Chairman, I ask that the gentleman from Kentucky work with me to ensure that there is sufficient resources in the bill and in the conference report to address these issues and that it be applied not just to the southern border but to the northern border as well.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Minnesota. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I thank the gentleman for bringing up this important subject. The gentleman makes an extremely important point, and that is we have two borders, the southwest and the Canadian border.

Over the years, I have to agree, we have neglected the northern border. So I join the gentleman in his sentiments that we find the monies, or be sure that the monies we have appropriated are spent on both borders. I thank the gentleman for bringing up that very important point.

Mr. KENNEDY of Minnesota. Mr. Chairman, I thank the gentleman for that commitment and look forward to working with him on this through the conference report.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Minnesota. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, in the supplemental bill that we just passed, there was $36 million that had been appropriated for the northern border which the Department was not spending, and with the cooperation of the chairman, we inserted specific language telling the Department to spend the $36 million on the northern border.

Mr. KENNEDY of Minnesota. Mr. Chairman, I thank the ranking member for his commitment on this issue and look forward to working on this supplemental and other issues to ensure that the northern border remains secure.

The CHAIRMAN. The Committee will rise informally.

The SPEAKER pro tempore (Mr. KING of Iowa) assumed the Chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT. 2006

The Committee resumed its sitting.

The CHAIRMAN. The Clerk will read.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), $18,505,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, $303,700,000; of which $75,756,000 shall be available for salaries and expenses; and of which $227,944,000 shall be available for development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, and for the costs of conversion to narrowband communications, including the cost for operation of the land mobile radio legacy systems, to remain available until expended: *Provided*, That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment: *Provided further*, That the Department shall report within 180 days of enactment of this Act on its enterprise architecture and other strategic planning activities in accordance with the terms and conditions specified in the House report accompanying this Act.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $83,017,000, of which not to exceed $100,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General.

TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

BORDER AND TRANSPORTATION SECURITY

OFFICE OF THE UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Under Secretary for Border and Transportation Security, as authorized by subtitle A of title IV of the Homeland Security Act of 2002 (6 U.S.C. 201 et seq.), $10,617,000: *Provided*, That not to exceed $3,000 shall be for official reception and representation expenses.

AUTOMATION MODERNIZATION

For necessary expenses of the United State Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (8 U.S.C. 1221 note) and for the development, deployment, and use of Free and Secure Trade (FAST), NEXUS, and Secure Electronic Network for Traveler's Rapid Inspection (SENTRI), $411,232,000, to remain available until expended, which shall be allocated as follows:

(1) $7,000,000 for FAST.

(2) $14,000,000 for NEXUS/SENTRI.

(3) $390,232,000 for the United States Visitor and Immigrant Status Indicator Technology project: *Provided*, That of the funds provided for this project, $254,000,000 may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that—

(A) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A-11, part 7;

(B) complies with the Department of Homeland Security enterprise information systems architecture;

(C) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(D) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(E) is reviewed by the Government Accountability Office.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports; acquisition, lease, maintenance and operation of aircraft; purchase and lease of up to 4,500 (3,935 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; $4,885,544,000; of which $3,000,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed $35,000 shall be for official reception and representation expenses; of which not less than $141,060,000 shall be for Air and Marine Operations; of which not to exceed $174,800,000 shall remain available until September 30, 2007, for inspection and surveillance technology, unmanned aerial vehicles, and replacement aircraft; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Under Secretary for Border and Transportation Security; and of which not to exceed $5,000,000 shall be available for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration: *Provided*, That for fiscal year 2006, the overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be $35,000; and notwithstanding any other provision of law, none of the funds appropriated in this Act may be available to compensate any employee of the Bureau of Customs and Border Protection for overtime, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Under Secretary for Border and Transportation Security, or a designee, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies: *Provided further*, That of the total amount provided, $10,000,000 may not be obligated until the Secretary submits to the Committee on Appropriations of the House of Representatives all required reports related to air and marine operations: *Provided further*, That of the total amount provided, $2,000,000 may not be obligated until the Secretary submits to the Committee on Appropriations of the House of Representatives a report on the performance of the Immigration Advisory Program as directed in House Report 108–541: *Provided further*, That of the total amount provided, $70,000,000 may not be obligated until the Secretary submits to the Committee on Appropriations of the House of Representatives part two of the report on the performance of the Container Security Initiative progam, as directed in House Report 180–541: *Provided further*, That no funds shall be available for the site acquisition, design, or construction of any Border Patrol checkpoint in the Tucson sector: *Provided further*, That the Border Patrol shall relocate its checkpoints in the Tucson sector at least once every seven days in a manner designed to prevent persons subject to inspection from predicting the location of any such checkpoint.

AUTOMATION MODERNIZATION

For expenses for customs and border protection automated systems, $458,009,000, to remain available until expended, of which not less than $321,690,000 shall be for the development of the Automated Commercial Environment: *Provided*, That none of the funds appropriated under this heading may be obligated for the Automated Commercial Environment until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Under Secretary for Border and Transportation Security that—

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security's enterprise information systems architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(5) is reviewed by the Government Accountability Office.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Under Secretary for Border and Transportation Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $347,780,000, to remain available until expended: *Provided*, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to Bureau of Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2006 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $93,418,000, to remain available until expended.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 2,300 (2,000 for replacement only) police-type vehicles, $3,064,081,000, of which not to exceed $10,000,000 shall be available until expended for conducting special operations pursuant to section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Under Secretary for Border and Transportation Security; of which not less than $102,000 shall be for promotion of public awareness of the child pornography tipline; of which not less than $203,000 shall be for Project Alert; of which not less than $5,000,000 shall be for costs to implement section 287(g) of the Immigration and Nationality Act, as amended; and of which not to exceed $11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: *Provided*, That none of the funds appropriated shall be available to compensate any employee for overtime in an annual amount in excess of $35,000, except that the Under Secretary for Border and Transportation Security may waive that amount as necessary for national security purposes and in cases of immigration emergencies: *Provided further*, That of the total amount provided, $3,045,000 shall be for activities to enforce laws against forced child labor in fiscal year 2006, of which not to exceed $2,000,000 shall remain available until expended: *Provided further*, That of the amounts appropriated, $50,000,000 shall not be available for obligation until the Assistant Secretary of Immigration and Customs Enforcement submits to the Committee on Appropriations of the House of Representatives a national detention management plan including the use of regional detention contracts and alternatives to detention: *Provided further*, That the Assistant Secretary of Immigration and Customs Enforcement, with concurrence of the Secretary of Homeland Security, shall submit, by December 1, 2005, to the Committee on Appropriations of the House of Representatives a plan for the expanded use of Immigration Enforcement Agents to enforce administrative violations of United States immigration laws.

□ 1500

AMENDMENT OFFERED BY MR. KING OF IOWA

Mr. KING of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KING of Iowa:

Page 12, line 20, after the first dollar amount insert the following: "(reduced by $5,000,000) (increased by $5,000,000)".

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve a point of order on the gentleman's amendment.

The CHAIRMAN. The gentleman reserves a point of order.

Mr. KING of Iowa. Mr. Chairman, I am offering this amendment to establish how $5 million is spent with regard to the homeland security.

I rise today to offer this amendment to promote participation of employers in the Basic Pilot Employment Eligibility Verification System, a program I like to call Instant Check. This program takes the guesswork out of hiring legal employees. This basic pilot program checks the Social Security Administration and Department of Human Services databases using an automated system so that employers can verify the employment authorization of all of their new hires. This program is voluntary and is free to participating employers. All an employer needs is a computer with an Internet connection, which most everyone has.

My amendment would make it easier for employers to hire legal workers. By using this program, employers no longer have to worry about whether the identification documents used to fill out the required I–9 form are real or forgeries. I have personally used this program and found it easy to use. It was Web-based and gave me an answer quickly. The longest wait for Instant Check that I could devise was 6 seconds.

My amendment would also improve the accuracy of wage and tax reporting. Employees would know after the check whether their information is properly recorded at the Social Security Administration and with the immigration services. If there were any mistakes, they could be corrected so that employees would get proper credit for their Social Security contributions.

This amendment also protects jobs for authorized United States workers. By using this instant check verification program, employers can be sure that they are hiring either U.S. citizens or aliens who are authorized to work in the United States.

The program began in November 1997 with five States in a pilot program, added a sixth State in 1999, and as of December 1, 2004, this basic pilot program has been available to employers in all 50 States. I hope that more employers will take advantage of this and verify their employees. Given that Immigration and Customs Enforcement has the authority to sanction employers for hiring illegal workers, it only makes sense that they should also encourage employers to use the free instant check verification program so that employers can avoid breaking the law.

We need to reduce and weaken the jobs magnet. This is something that does that, the Basic Pilot Employment Eligibility Verification System. I call it Instant Check. The Web page is www.vis-dhs.com/employerregistration.

This amendment simply inserts $5 million and withdraws $5 million in a pro forma effort to direct that funding in a fashion that will promote the Instant Check program. That would be the most effective way of utilizing it. It seems to be somewhat of a trade secret that employers can now verify the employability of their employees.

The CHAIRMAN. Does the gentleman from Kentucky insist upon his point of order?

Mr. ROGERS of Kentucky. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The gentleman withdraws the point of order.

The question is on the amendment offered by the gentleman from Iowa (Mr. KING).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FEDERAL AIR MARSHALS

For necessary expenses of the Federal Air Marshals, $698,860,000, of which not to exceed $5,000,000 shall remain available until expended.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account, not to exceed $487,000,000, shall be available until expended for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service.

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, $40,150,000, to remain available until expended: *Provided*, That none of the funds appropriated under this heading may be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Under Secretary for Border and Transportation Security that—

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security enterprise information systems architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(5) is reviewed by the Government Accountability Office.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $26,546,000, to remain available until expended.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing aviation security, $4,591,612,000, to remain available until September 30, 2007, of which not to exceed $3,000 shall be available for official reception and representation expenses: *Provided*, That of the total amount provided under this heading, not to exceed $3,608,599,000 shall be for screening operations, of which $170,000,000 shall be available only for procurement of checked baggage explosive detection systems and $75,000,000 shall be available only for installation of checked baggage explosive detection systems; and not to exceed $983,013,000 shall be for aviation security direction and enforcement presence: *Provided further*, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2006, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than $2,601,612,000: *Provided further*, That any security service fees collected in excess of the amount appropriated under this heading shall become available during fiscal year 2007: *Provided further*, That notwithstanding section 44923 of title 49, United States Code, the Government's share of the cost of a project under any letter of intent shall be 75 percent for any medium or large hub airport and 90 percent for any other airport, and all funding provided by subsection (h) of such section, or from appropriations authorized by subsection (i)(1) of such section, may be distributed in any manner deemed necessary to ensure aviation security and to fulfill the Government's planned cost share under existing letters of intent: *Provided further*, That none of the funds in this Act shall be used to recruit or hire personnel into the Transportation Security Administration which would cause the agency to exceed a staffing level of 45,000 full-time equivalent screeners.

POINT OF ORDER

Mr. MICA. Mr. Chairman, I rise to raise a point of order against the paragraph.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MICA. Mr. Chairman, I rise to raise a point of order against page 17 beginning with the colon on line 2 through "intent" on line 11.

This proviso violates clause 2 of rule XXI. It changes existing law and therefore constitutes legislating on an appropriation bill in violation of House rules.

The CHAIRMAN. Does anyone else wish to be heard on the point of order?

The Chair is prepared to rule.

The Chair finds that this provision explicitly supersedes existing law. The provision, therefore, constitutes legislation in violation of clause 2, rule XXI.

The point of order is sustained, and the provision is stricken from the bill.

Mr. MICA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first of all, I commend the chairman and ranking member on a very difficult task. I regret that on this particular language, as you may know, the Subcommittee on Aviation of the Committee on Transportation and Infrastructure want to fund even more than the 75 percent that was proposed in this particular provision of in-line systems.

Again, it was necessary to raise a point of order here. I just want to comment briefly, though, about what we are doing here and what we are not doing here. This section appropriates about $4.6 billion to continue the passenger screening and checked baggage screening system that we have. This, unfortunately, is funded through a passenger tax. It is now $2.50 and $5 maximum for a one-way ticket. It is a fee to pay the security fee.

Members and the public should be aware that right now we are running about a $2 billion shortfall. We assumed this responsibility from the airlines. In addition, the airlines had promised and testified before us that they were paying about a billion dollars and would pay a billion dollars each year if we assumed this responsibility. They have reneged in that responsibility; and last year they paid us $315 million, short some $700 million.

The administration proposed increasing this fee by $3. I proposed increasing it by $2.50 and change this system from a heavy personnel system, in fact, some 45,000 people, an army of TSA personnel which according to the Inspector General and according to the GAO do not perform very well because they do not have the technology.

I propose to impose this fee for a 3-year period and at that point to eliminate the tax and also assist the airlines in the meantime with some of their security finance responsibilities. Right now that has been rejected, both the fee to pay for this by the administration and my proposal. What it does is it leaves us at risk. We have a huge army doing a very poor job because they do not have a high-tech system. That is going to cost money, that money is not in the bill, and I am sad that we are going to pass this legislation.

I raise this because I still want this to be a conferenceable item because we must protect the people of this country and the flying public, and we are not doing so with this provision, and we are not financing it adequately with this provision.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SURFACE TRANSPORTATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing surface transportation security activities, $36,000,000, to remain available until September 30, 2007.

TRANSPORTATION VETTING AND CREDENTIALING

For necessary expenses for the development and implementation of screening programs by the Office of Transportation Vetting and Credentialing, $84,294,000.

TRANSPORTATION SECURITY SUPPORT

For necessary expenses of the Transportation Security Administration related to providing transportation security support and intelligence activities, $541,008,000, to remain available until September 30, 2007: *Provided*, That of the funds appropriated under this heading, $50,000,000 may not be obligated until the Secretary submits to the Committee on Appropriations of the House of Representatives (1) a plan for optimally deploying explosive detection equipment, either in-line or to replace explosive trace detection machines, at the Nation's airports on a priority basis to enhance security, reduce Transportation Security Administration staffing requirements, and long-term costs; and (2) a detailed spend plan for explosive detection systems procurement and installations on an airport-by-airport basis for fiscal year 2006: *Provided further*, That these plans shall be submitted no later than 60 days after enactment of this Act.

UNITED STATES COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard not otherwise provided for, purchase or lease of not to exceed 25 passenger motor vehicles for replacement only, payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note), and recreation and welfare, $5,500,000,000, of which $1,200,000,000 shall be for defense-related activities; of which $24,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); and of which not to exceed $3,000 shall be for official reception and representation expenses: *Provided*, That none of the funds appropriated by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: *Provided further*, That none of the funds provided by this Act shall be available for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $12,000,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services; $119,000,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $798,152,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which $22,000,000 shall be available until September 30, 2010, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $29,902,000 shall be available until September 30, 2010, to increase aviation capability; of which $130,100,000 shall be available until September 30, 2008, for other equipment; of which $39,700,000 shall be available until September 30, 2008, for shore facilities and aids to navigation facilities; of which $76,450,000 shall be available for personnel compensation and benefits and related costs; and of which $500,000,000 shall be available until September 30, 2010, for the Integrated Deepwater Systems program: *Provided*, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available until September 30, 2008, only for Rescue 21: *Provided further*, That of the funds appropriated under this heading for the Integrated Deepwater System, $50,000,000 may not be obligated until the Committee on Appropriations of the House of Representatives receives from the Secretary of Homeland Security a new Deepwater program baseline that reflects revised, post September 11th operational priorities that includes—

(1) a detailed justification for each new Deepwater asset that is determined to be necessary to fulfill homeland and national security functions or multi-agency procurements as identified by the Joint Requirements Council;

(2) a comprehensive timeline for the entire Deepwater program, including an asset-by-asset breakdown, aligned with the comprehensive acquisition timeline and revised mission needs statement, that also details the phase-out of legacy assets and the phase-in of new, replacement assets on an annual basis;

(3) a comparison of the revised acquisition timeline against the original Deepwater timeline;

(4) an aggregate total cost of the program that aligns with the revised mission needs statement, acquisition timeline and asset-by-asset breakdown;

(5) a detailed projection of the remaining operational lifespan of every type of legacy cutter and aircraft; and

(6) a detailed progress report on command, control, communications, computers, intelligence, surveillance, and reconnaissance equipment upgrades that includes what has been installed currently on operational assets and when such equipment will be installed on all remaining Deepwater legacy assets: *Provided further*, That the Secretary shall annually submit to the Committee on Appropriations of the House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—

(1) the proposed appropriation included in that budget;

(2) the total estimated cost of completion;

(3) projected funding levels for each fiscal year for the next 5 fiscal years or until project completion, whichever is earlier;

(4) an estimated completion date at the projected funding levels; and

(5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Committee on Appropriations of the House of Representatives:

Provided further, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31 for that fiscal year: *Provided further*, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $15,000,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,014,080,000.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 614 vehicles for police-type use, which shall be for replacement only, and hire of passenger motor vehicles; purchase of American-made motorcycles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at his or her post of duty; conduct of and participation in firearms matches; presentation of awards; travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; $1,228,981,000, of which not to exceed $25,000 shall be for official reception and representation expenses; of which not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which $2,678,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $5,000,000 shall be a grant for activities related to the investigations of exploited children and shall remain available until expended: *Provided*, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2007: *Provided further*, That of the total amount appropriated, not less than $10,000,000 shall be available solely for the unanticipated costs related to security operations for National Special Security Events, to remain available until September 30, 2007: *Provided further*, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, $3,699,000, to remain available until expended.

TITLE III—PREPAREDNESS AND RECOVERY

OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS

MANAGEMENT AND ADMINISTRATION

For necessary expenses for the Office of State and Local Government Coordination and Preparedness, $3,546,000: *Provided*, That not to exceed $2,000 shall be for official reception and representation expenses.

STATE AND LOCAL PROGRAMS

For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, $2,781,300,000, which shall be allocated as follows:

(1) $750,000,000 for formula-based grants and $400,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714): *Provided*, That the application for grants shall be made available to States within 45 days after enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office of State and Local Government Coordination and Preparedness shall act within 90 days after receipt of an application: *Provided further*, That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds.

(2) $1,215,000,000 for discretionary grants, as determined by the Secretary of Homeland Security, of which—

(A) $850,000,000 shall be for use in high-threat, high-density urban areas;

(B) $150,000,000 shall be for port security grants, which shall be distributed based on risks and vulnerabilities: *Provided*, That the Office of State and Local Government Coordination and Preparedness shall work with the Information Analysis and Infrastructure Protection Directorate to assess the risk associated with each port and with the Coast Guard to evaluate the vulnerability of each port: *Provided further*, That funding may only be made available to those projects recommended by the Coast Guard Captain of the Port;

(C) $5,000,000 shall be for trucking industry security grants;

(D) $10,000,000 shall be for intercity bus security grants;

(E) $150,000,000 shall be for intercity passenger rail transportation (as defined in section 24102 of title 49, United States Code), freight rail, and transit security grants; and

(F) $50,000,000 shall be for buffer zone protection grants:

Provided, That for grants under subparagraph (A), the application for grants shall be made available to States within 45 days after enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office of State and Local Government Coordination and Preparedness shall act within 90 days after receipt of an application: *Provided further*, That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds.

(3) $50,000,000 shall be available for the Commercial Equipment Direct Assistance Program.

(4) $366,300,000 for training, exercises, technical assistance, and other programs:

Provided, That none of the grants provided under this heading shall be used for the construction or renovation of facilities; for minor perimeter security projects, not to exceed $1,000,000, as determined necessary by the Secretary of Homeland Security: *Provided further*, That the proceeding proviso shall not apply to grants under subparagraphs (B) and (E) of paragraph (2) of this heading: *Provided further*, That grantees shall provide additional reports on their use of funds, as determined necessary by the Secretary of Homeland Security: *Provided further*, That funds appropriated for law enforcement terrorism prevention grants under paragraph (1) and discretionary grants under paragraph (2)(A) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with Office of State and Local Government Coordination and Preparedness certified training, as needed: *Provided further*, That in accordance with the Department's implementation plan for Homeland Security Presidential Directive 8, the Office of State and Local Government Coordination and Preparedness shall issue the final National Preparedness Goal no later than October 1, 2005; and no funds provided under paragraphs (1) and (2)(A) shall be awarded to States that have not submitted to the Office of State and Local Government Coordination and Preparedness an updated State homeland strategy based on the interim National Preparedness Goal, dated March 31, 2005.

AMENDMENT OFFERED BY MR. LATOURETTE

Mr. LATOURETTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LATOURETTE:

Page 28, line 5, after the semicolon insert "and".

Page 28, strike lines 6 through 13.

Page 28, line 14, strike "(F)" and insert "(C)".

Mr. LATOURETTE. Mr. Chairman, it is my intention to ask unanimous consent to withdraw the amendment at the conclusion of my remarks. I want to commend Chairman LEWIS of the full committee, Chairman ROGERS of the subcommittee, and also Chairman YOUNG of the Committee on Transportation and Infrastructure for having dialogues on these particular sections.

These sections in H.R. 2360 make appropriations to three State and local grant programs that are not and have never been authorized, specifically, a trucking industry security grant system, an inner city bus security grants and inner city rail, freight rail and transit security grants. In each of these areas, the Department of Transportation has existing and ongoing security programs that are managed at the Federal and State level by the Federal Motor Carrier Safety Administration, the Federal Railroad Administration, the Federal Transit Administration, and State safety oversight agencies.

The FRA act provides the Federal Railroad Administration with strong authority to promote rail safety in every aspect of rail operations. The FRA has a robust and active inspector workforce that is on the ground every day inspecting the safety and security of America's freight railroads, and the same with the truck safety and the same with the bus safety.

I want to commend the appropriations subcommittee for looking at this problem, but I want to point out that, one, there is no authorization from the Committee on Transportation and Infrastructure; two, it is my understanding in the homeland security bill that will be on the floor tomorrow there is no authorization as well.

One of the problems that we have seen in the Committee on Transportation and Infrastructure right here in the District of Columbia, Mr. Chairman, is the city council and the District of Columbia when they have looked at a pot of money or when they have looked at a program that has been passed by homeland security but has not gone back and referenced the Federal Rail Act have said, You know what? No more trains going through the District of Columbia. You are going to have copycat legislation like this all over the United States of America.

It is my understanding, and I would invite the distinguished subcommittee chairman to comment if he would want to, that Chairman LEWIS and Chairman YOUNG have talked about the fact that we need to make sure that we do not create an overlay of law and regulation that permits these NIMBY things to pop up. Obviously, everybody in this House wants the safest rail system, safest trucking system, and the safest inner-city bus systems in the world. But we cannot do it if we create a fund over here, a fund over there, and a fund over there.

I would hope that the chairman perhaps could commit to us to working as this bill goes to conference to see how we can put these into existing programs or work out new programs that achieve what I know the chairman is trying to achieve.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. LATOURETTE. I yield to the gentleman from Kentucky.

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Mr. ROGERS of Kentucky. Mr. Chairman, the gentleman brings up a good point, and I think the gentleman would agree that since 9/11 we have spent most of the Transportation Security money on air flight and we have neglected, I think, rail security and port security and bus security and some of the others, trucking. However, I will be happy to work with him so that we do have moneys that are designated for these particular purposes, so that the Department does not have the capability of spending it all in one place. I think it is important that we do have, if we can get it through the authorization process, kitties destined just for rail, just for ports, just for trucks, buses, and the like.

Does the gentleman agree?

Mr. LATOURETTE. Mr. Chairman, reclaiming my time. I do agree. And I want to thank the distinguished subcommittee chairman. I know some of the frustration that some of us have felt is that the TSA should be named the Aviation Security Administration rather than the Transportation Security Administration. So I know that what the gentleman and the subcommittee were attempting to do was shared by at least this gentleman and I would assume most of the people in the Committee on Transportation and Infrastructure.

Our concern, and I think our concern has always been, as we move forward, that we not create two parallel universes, neither of which has sufficient money to get this job done. And the only purpose of this amendment, which I am going to withdraw when I am through yielding to the gentleman, was that we look at existing programs that already exist and if we want to put $150 million dollars in for rail security that it go to the FTA and that we say that it is going to be used only for security and it is not going to be used for other goofy stuff.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. LATOURETTE. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I think the gentleman is right on track and I think we can agree with it.

Mr. LATOURETTE. Mr. Chairman, I thank the chairman for his agreement.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $600,000,000, of which $550,000,000 shall be available to carry out section 33 (15 U.S.C. 2229) and $50,000,000 shall be available to carry out section 34 (15 U.S.C. 2229a) of the Act, to remain available until September 30, 2007: *Provided*, That not to exceed 5 percent of this amount shall be available for program administration.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reductions Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), $180,000,000: *Provided*, That total administrative costs shall not exceed 3 percent of the total appropriation.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Secretary of Homeland Security, to reimburse any Federal agency for the costs of providing support to counter, investigate, or respond to unexpected threats or acts of terrorism, including payment of rewards in connection with these activities, $10,000,000, to remain available until expended: *Provided*, That the Secretary shall notify the Committees on Appropriations of the Senate and the House of Representatives 15 days prior to the obligation of any amount of these funds in accordance with section 503 of this Act.

EMERGENCY PREPAREDNESS AND RESPONSE

OFFICE OF THE UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE

For necessary expenses for the Office of the Under Secretary for Emergency Preparedness and Response, as authorized by section

502 of the Homeland Security Act of 2002 (6 U.S.C. 312), $2,306,000.

PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY

For necessary expenses for preparedness, mitigation, response, and recovery activities of the Directorate of Emergency Preparedness and Response, $249,499,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.).

ADMINISTRATIVE AND REGIONAL OPERATIONS

For necessary expenses for administrative and regional operations of the Directorate of Emergency Preparedness and Response, $225,441,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): *Provided*, That not to exceed $3,000 shall be for official reception and representation expenses.

PUBLIC HEALTH PROGRAMS

For necessary expenses for countering potential biological, disease, and chemical threats to civilian populations, $34,000,000.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2006, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: *Provided*, That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees: *Provided further*, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2006, and remain available until expended.

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $2,023,900,000, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), $567,000: *Provided*, That gross obligations for the principal amount of direct loans shall not exceed $25,000,000: *Provided further*, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

FLOOD MAP MODERNIZATION FUND

For necessary expenses pursuant to section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), $200,000,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act, to remain available until expended: *Provided*, That total administrative costs shall not exceed 3 percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), not to exceed $36,496,000 for salaries and expenses associated with flood mitigation and flood insurance operations; not to exceed $40,000,000 for financial assistance under section 1361A of such Act to States and communities for taking actions under such section with respect to severe repetitive loss properties, to remain available until expended; not to exceed $10,000,000 for mitigation actions under section 1323 of such Act: and not to exceed $99,358,000 for flood hazard mitigation, to remain available until September 30, 2007, including up to $40,000,000 for expenses under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2007, and which amount shall be derived from offsetting collections assessed and collected pursuant to section 1307 of that Act (42 U.S.C. 4014), and shall be retained and used for necessary expenses under this heading: *Provided*, That in fiscal year 2006, no funds in excess of (1) $55,000,000 for operating expenses; (2) $660,148,000 for agents' commissions and taxes; and (3) $30,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund.

NATIONAL FLOOD MITIGATION FUND

Notwithstanding subparagraphs (B) and (C) of subsection (b)(3), and subsection (f), of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), $40,000,000, to remain available until September 30, 2007, for activities designed to reduce the risk of flood damage to structures pursuant to such Act, of which $40,000,000 shall be derived from the National Flood Insurance Fund.

NATIONAL PRE-DISASTER MITIGATION FUND

For a pre-disaster mitigation grant program pursuant to title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.), $150,000,000, to remain available until expended: *Provided*, That grants made for pre-disaster mitigation shall be awarded on a competitive basis subject to the criteria in section 203(g) of such Act (42 U.S.C. 5133(g)), and notwithstanding section 203(f) of such Act, shall be made without reference to State allocations, quotas, or other formula-based allocation of funds: *Provided further*, That total administrative costs shall not exceed 3 percent of the total appropriation.

POINT OF ORDER

Mr. SHUSTER. Mr. Chairman, I raise a point of order against, beginning with the colon on page 36, line 19, through "funds" on line 22.

The CHAIRMAN. Would the gentlemen state the premise of his point of order? Does the gentleman raise a point of order that the provision supersedes existing law?

Mr. ROGERS of Kentucky. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained, and the provision is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

EMERGENCY FOOD AND SHELTER

To carry out an emergency food and shelter program pursuant to title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.), $153,000,000, to remain available until expended: *Provided*, That total administrative costs shall not exceed 3.5 percent of the total appropriation.

TITLE IV—RESEARCH AND DEVELOPMENT, TRAINING, ASSESSMENTS, AND SERVICES

CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services, $120,000,000: *Provided*, That the Director of United States Citizenship and Immigration Services shall submit to the Committee on Appropriations of the House of Representatives a report on its information technology transformation efforts and how these efforts align with the enterprise architecture standards of the Department of Homeland Security within 90 days of enactment of this Act.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile phones for official duties; and services as authorized by section 3109 of title 5, United States Code: $194,000,000, of which up to $36,174,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2007: and of which not to exceed $12,000 shall be for official reception and representation expenses: *Provided*, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further*, That in fiscal year 2006 and thereafter, the Center is authorized to assess pecuniary liability against Center employees and students for losses or destruction of government property due to gross negligence or willful misconduct and to set off any resulting debts due the United States by Center employees and students, without their consent, against current payments due the employees and students for their services.

ACQUISITIONS, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, $64,743,000, to remain available until expended: *Provided*, That the Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities.

INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the immediate Office of the Under Secretary for Information Analysis and Infrastructure Protection and for management and administration of programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $198,200,000: *Provided*, That not to exceed $5,000 shall be for official reception and representation expenses.

ASSESSMENTS AND EVALUATIONS

For necessary expenses for information analysis and infrastructure protection as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $663,240,000, to remain available until September 30, 2007.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the immediate Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $81,399,000: *Provided*, That not to exceed $3,000 shall be for official reception and representation expenses.

Mr. HUNTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage the gentleman from Kentucky in a colloquy regarding critical funding that still must be realized in this bill.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I would be happy to engage in a colloquy with the gentleman from California.

Mr. HUNTER. Mr. Chairman, reclaiming my time, I thank the gentleman from Kentucky (Mr. ROGERS) for all his great work on this very difficult bill. We know that homeland security is an issue that is at the forefront of all Americans' minds with a lot of competing priorities. I know the gentleman from Kentucky (Mr. ROGERS) has worked hard to accommodate all of these competing programs. We appreciate that he still has a lot of work to do, and we appreciate all the great work he did in the past in building that border fence that is presently in the number one smugglers corridor in America between California and Mexico.

And as the chairman knows, we have been constructing that border barrier for a number of years. In fact, I remember the days when a number of border patrolmen held a big sign up saying "Thank you, Hal Rogers" for the work that he has done. That fence has been a huge success in stopping drug smuggling, alien smuggling, lawlessness and the murders in that section of the border.

Unfortunately, the fence remains incomplete. And recently we provided the Secretary of the Department of Homeland Security with the authority passed by the full House to expeditiously construct border barriers, and I am specifically interested in that 3½ miles that remain on the San Diego border fence project.

Unfortunately, the construction account in this bill is insufficient to meet the needs of that nationally critical project, and each day that we delay this project becomes more expensive, and with every day that we delay we know that people are crossing in this section of the border, many of whom have criminal records, and we are further mindful of the intelligence reports that have indicated that terrorists are seeking to use this section of the border for access into the U.S.

Mr. Chairman, we understand that the chairman's bill provides $93 million for Customs and Border Protection construction. Can we agree to work with him to ensure that adequate funding is dedicated to this project in fiscal year 2006?

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, it will be my pleasure to work with the gentleman and delegation on this project.

In fact, I remember not long ago, perhaps last year, helicoptering along that fence and then getting to the gap where there is no fence and seeing the results of that. So I will be happy to work with the gentleman.

Mr. HUNTER. Mr. Chairman, I thank the chairman for his response.

Mr. Chairman, I yield to the gentleman from California (Mr. CUNNINGHAM), a very important member of our delegation and a real advocate for this border fence and border security.

Mr. CUNNINGHAM. Mr. Chairman, we appreciate the chairman's efforts and especially the efforts of his staff to increase the number of Border Patrol agents above the amount requested by the President. As he could see, Members on both sides of the aisle have spoken to this issue over and over.

I serve as a member of the Permanent Select Committee on Intelligence, and may I have his commitment to work towards achieving the target of Border Patrol agents of 2,000 authorized in the Intelligence Reform and Terrorism Prevention Act of 2005 and also recommended by the 9/11 Commission?

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I will be glad to work with the gentleman and all of our colleagues toward that goal.

In fact, between the supplemental bill that passed last week and this bill that is on the floor, if it is successful, we will have added some 1,500 new agents between now and next year. So we are getting closer to his goal.

Mr. HUNTER. Mr. Chairman, reclaiming my time, I now yield to the gentleman from California (Mr. COX), chairman of the Committee on Homeland Security.

Mr. COX. Mr. Chairman, I thank the gentleman for yielding to me.

I would like to commend the gentleman from Kentucky for the funding that is already in this bill that gets us to 1,500 agents, which he just described, and I am very pleased to hear that he is going to work with us to get to the 2,000 Border Patrol agents.

As the gentleman knows, the Homeland Security Authorization Act, which will be on the floor this week, also authorizes funding for 2,000 new Border Patrol agents in fiscal year 2006. This is the same number that was authorized in the 9/11 Commission Recommendations Implementation Act. Moreover, an important part of 2,000 new agents is the expansion of the Border Patrol training facilities.

Will the chairman work with us to ensure that the funding for these 2,000 new Border Patrol agents, who are critical to our national security, and the accompanying training infrastructure necessary to do so, will be a priority?

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, it is a priority of mine. I am delighted to hear the gentlemen who are standing with me here today all agree on this topic.

Mr. HUNTER. Mr. Chairman, reclaiming my time, I thank the chairman for his work for border security and for our country.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

RESEARCH, DEVELOPMENT, ACQUISITION AND OPERATIONS

For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $1,258,597,000, to remain available until expended: *Provided*, That of the total amount provided under this heading, $23,000,000 is available to find an alternative site for the National Bio and Agrodefense Laboratory and other pre-construction activities to establish research labs to protect animal and public health from high consequence animal and zoonotic diseases, in support of the requirements of Homeland Security Presidential Directives 9 and 10: *Provided further*, That of the total amount provided under this heading, $10,000,000 shall be used to enhance activities toward implementation of section 313 of the Homeland Security Act of 2002 (6 U.S.C. 193).

TITLE V—GENERAL PROVISIONS

(INCLUDING RESCISSION OF FUNDS)

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Ms. BEAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in strong support of provisions in this bill that appropriate $110 million to the Department of Homeland Security's research into shoulder-fired missile defense for our passenger airlines. I have been working closely with the gentleman from New York (Mr. ISRAEL) to address this very real threat to our passenger jets from shoulder-fired missiles.

The global black market has been flooded with hundreds of thousands of these weapons that are now in the possession of 27 separate terrorist groups around the world. Al Qaeda used them in 2002 to attack an Israeli airliner in Kenya, and terrorists in Iraq came close to shooting down a DHL freight plane leaving Baghdad in 2003. According to the FBI, more than 500 civilians worldwide have been killed in successful missile attacks against commercial aircraft. The State Department has stated that one of the leading causes of loss of human life in aviation has been from shoulder-launched attacks.

Our commercial aircraft passengers deserve from Congress vigilance and commitment to their safety.

Mr. Chairman, the technology to defend American passengers from this threat is almost a reality. Right now DHS-sponsored programs to apply the Department of Defense's research and technology to our domestic passenger jets are nearing their last phase of development and are ready to equip test aircraft for operational evaluation.

This research brings us very close to leveraging the proven technology that has successfully protected our military personnel to commercial aircraft and their customers. Cutting support for this program would be short-sighted at a time when we are just around the corner from a cutting edge defense against terrorists' anticraft missiles. Now is the time instead to move aggressively forward to address this threat.

Mr. Chairman, the President, the DHS, and the State Department all agree that this is important research with important ramifications. I urge my colleagues to support the President's full request for funding of this research and to work together with all of our colleagues in moving beyond the pilot phase to fully protecting our airlines and their passengers from antiaircraft missiles.

Mr. MICA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to take this opportunity to thank the chairman of the Homeland Security Subcommittee of the Committee on Appropriations. I also want to thank the gentleman from California (Mr. COX), chairman of the authorizing Committee on Homeland Security; and the gentleman from California (Mr. LEWIS), the chairman of the full Committee on Appropriations, for working out what I consider to be a good agreement to leave in this bill the $110 million that the administration has requested for continuing both the development and deployment of MANPADs, shoulder-launched missile defense system for our commercial aircraft.

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I know border protection is a very popular agenda item on the populace front, but I think folks send us to Congress not only to protect our borders and deal with the populace issues in putting resources where public opinion and popular opinion would have those dollars, but also to look at the risks and the threat. Today, we face the threat of someone walking through 1950 metal detector technology at our airports which we see across the country, metal detectors, and strapping explosives to their body and not being able to detect explosives. That is our number one threat right now is suicide bombers. In my opinion, the second greatest threat is a shoulder-launched missile.

Now, folks, we have been very fortunate to date in Kenya and Saudi Arabia and Iraq that we have not had a commercial airline with passengers taken down. I think our luck is about to run out, and it is important that we move forward.

Sometimes the administration, that is my administration, has not done everything right, but this is one of the few programs I may say in homeland security that was well thought-out, well-developed, and now the next part is deploying that technology. If, in fact, there is money left over and it is not expended in the program, and that would be my hope, I would support every additional dollar to go towards those priorities this subcommittee has developed for securing our borders.

But I do want to thank everyone for reaching this agreement; hopefully, moving forward in the conference committee, and making certain that we have the resources to protect us, again, against what I consider is our second greatest danger, and that is the danger of a shoulder-launched missile taking down a commercial aircraft. We have to have a system available to protect our aircraft.

The Acting CHAIRMAN (Mr. SHIMKUS). The Clerk will read.

The Clerk read as follows:

SEC. 502. Subject to the requirements of section 503 of this Act, the unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act: *Provided*, That balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either the House or Senate Committees on Appropriations for a different purpose; or (5) contracts out any functions or activities for which funds have been appropriated for Federal full-time equivalent positions; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, provided by previous appropriation Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriations, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: *Provided*, That any transfer under this subsection shall be treated as a reprogramming of funds under subsection (b) of this section and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

(d) The Department shall submit all notifications pursuant to subsections (a), (b), and (c) of this section no later than June 30, except in extraordinary circumstances which imminently threaten the safety of human life or the protection of property.

SEC. 504. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2006 from appropriations for salaries and expenses for fiscal year

2006 in this Act shall remain available through September 30, 2007, in the account and for the purposes for which the appropriations were provided: *Provided*, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

SEC. 505. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of an Act authorizing intelligence activities for fiscal year 2006.

SEC. 506. The Federal Law Enforcement Training Center shall establish an accrediting body, to include representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, to establish standards for measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

SEC. 507. None of the funds in this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of $1,000,000 unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and House of Representatives at least 3 full business days in advance: *Provided*, That no notification shall involve funds that are not available for obligation.

SEC. 508. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 509. The Director of the Federal Law Enforcement Training Center (FLETC) shall schedule basic and/or advanced law enforcement training at all four training facilities under FLETC's control to ensure that these training centers are operated at the highest capacity throughout the fiscal year.

SEC. 510. None of the funds appropriated or otherwise made available by this Act may be used for expenses of any construction, repair, alteration, or acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 511. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

SEC. 512. Funding for the Transportation Security Administration's Office of Transportation Security Support, Office of the Administrator, shall be reduced by $100,000 per day for each day after enactment of this Act that the second proviso of section 513 of Public Law 108–334 has not been implemented.

SEC. 513. The Commandant of the Coast Guard shall provide to the Committee on Appropriations of the House of Representatives each year, at the time that the President's budget is submitted under section 1105(a) of title 31, United States Code, a list of approved but unfunded Coast Guard priorities and the funds needed for each such priority in the same manner and with the same contents as the unfunded priorities lists submitted by the chiefs of other Armed Services.

SEC. 514. Notwithstanding section 3302 of title 31, United States Code, beginning in fiscal year 2006 and thereafter, the Administrator of the Transportation Security Administration may impose a reasonable charge for the lease of real and personal property to Transportation Security Administration employees and for use by Transportation Security Administration employees and may credit amounts received to the appropriation or fund initially charged for operating and maintaining the property, which amounts shall be available, without fiscal year limitation, for expenditure for property management, operation, protection, construction, repair, alteration, and related activities.

SEC. 515. Beginning in fiscal year 2006 and thereafter, the acquisition management system of the Transportation Security Administration shall apply to the acquisition of services, as well as equipment, supplies, and materials.

SEC. 516. Notwithstanding any other provision of law, the authority of the Office of Personnel Management to conduct personnel security and suitability background investigations, update investigations, and periodic reinvestigations of applicants for, or appointees in, positions in the Office of the Secretary and Executive Management, the Office of the Under Secretary for Management, the Bureau of Immigration and Customs Enforcement, the Directorate of Science and Technology, and the Directorate of Information Analysis and Infrastructure Protection of the Department of Homeland Security is transferred to the Department of Homeland Security: *Provided*, That on request of the Department of Homeland Security, the Office of Personnel Management shall cooperate with and assist the Department in any investigation or reinvestigation under this section.

SEC. 517. Notwithstanding any other provision of law, funds appropriated under paragraphs (1) and (2) of the State and Local Programs heading under title III of this Act are exempt from section 6503(a) of title 31, United States Code.

SEC. 518. (a) None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Secure Flight program or any other follow on or successor passenger prescreening programs, until the Secretary of Homeland Security certifies, and the Government Accountability Office (GAO) reports, to the Committees on Appropriations of the Senate and the House of Representatives, that all ten of the elements contained in paragraphs (1) through (10) of section 522(a) of Public Law 108–334 have been successfully met.

(b) The report required by subsection (a) shall be submitted within 90 days after the certification required by such subsection is provided, and periodically thereafter, if necessary, until the Government Accountability Office confirms that all ten elements have been successfully met.

(c) During the testing phase permitted by subsection (a), no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a government watch list.

(d) None of the funds provided in this or any previous appropriations Act may be utilized to develop or test algorithms assigning risk to passengers whose names are not on government watch lists.

(e) None of the funds provided in this appropriations Act may be utilized for a database that is obtained from or remains under the control of a non-Federal entity.

SEC. 519. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

SEC. 520. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

SEC. 521. None of the funds available in this Act or provided hereafter shall be available to maintain the United States Secret Service as anything but a distinct entity within the Department of Homeland Security and shall not be used to merge the United States Secret Service with any other department function, cause any personnel and operational elements of the United States Secret Service to report to an individual other than the Director of the United States Secret Service, or cause the Director to report directly to any individual other than the Secretary of Homeland Security.

SEC. 522. The Secretary of Homeland Security shall develop screening standards and protocols to more thoroughly screen all types of air cargo on passenger and cargo aircraft by March 1, 2006: *Provided*, That these screening standards and protocols shall be developed in consultation with the industry stakeholders: *Provided further*, That these screening standards and protocols shall be developed in conjunction with the research and development of technologies that will permit screening of all high-risk air cargo: *Provided further*, That of the amounts appropriated in this Act for the "Office of the Secretary and Executive Management", $10,000,000 shall not be available for obligation until new air cargo screening standards and protocols are implemented.

SEC. 523. The Transportation Security Administration (TSA) shall utilize existing checked baggage explosive detection equipment and screeners to screen cargo carried on passenger aircraft to the greatest extent practicable at each airport: *Provided*, That beginning with November 2005, TSA shall provide a monthly report to the Committee on Appropriations of the House of Representatives detailing, by airport, the amount of cargo carried on passenger aircraft that was screened by TSA in August 2005 and each month thereafter.

SEC. 524. The Secretary of Homeland Security shall implement a security plan to permit general aviation aircraft to land and take off at Ronald Reagan Washington National Airport 90 days after enactment of this Act.

SEC. 525. None of the funds available for obligation for the transportation worker identification credential program shall be used to develop a personalization system that is decentralized or a card production capability that does not utilize an existing government card production facility: *Provided*, That no funding can be obligated for the next phase of production until the Committee on Appropriations of the House of Representatives has been fully briefed on the results of the prototype phase and agrees that the program should move forward.

SEC. 526. (a) From the unexpended balances of the United States Coast Guard "Acquisition, Construction and Improvements" account specifically identified in statement of managers language for Integrated Deepwater System patrol boats 110- to 123-foot conversion in fiscal years 2004 and 2005, $83,999,942 are rescinded.

(b) For the necessary expenses of the United States Coast Guard for "Acquisition, Construction and Improvements", $83,999,942 is made available to procure new 110-foot patrol boats or for major maintenance availability for the current 110-foot patrol boat fleet: *Provided*, That such funds shall remain available until expended.

SEC. 527. The Secretary of Homeland Security shall utilize the Transportation Security Clearinghouse as the central identity management system for the deployment and operation of the registered traveler program, the transportation worker identification credential program, and other applicable programs for the purposes of collecting and aggregating biometric data necessary for background vetting; providing all associated record-keeping, customer service, and related functions; ensuring interoperability between different airports and vendors; and acting as a central activation, revocation, and transaction hub for participating airports, ports, and other points of presence.

SEC. 528. None of the funds made available in this Act may be used by any person other than the privacy officer appointed pursuant to section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) to alter, direct that changes be made to, delay or prohibit the transmission to Congress of, any report prepared pursuant to paragraph (5) of such section.

SEC. 529. No funding provided in this or previous appropriations Acts shall be available to pay the salary of any employee serving as a contracting officer's technical representative (COTR) who has not received COTR training.

SEC. 530. Except as provided in section 44945 of title 49, United States Code, funds appropriated or transferred to the Transportation Security Administration in fiscal years 2002 and 2003, and to the Transportation Security Administration, "Aviation Security" and "Administration" in fiscal years 2004 and 2005, that are recovered or deobligated shall be available only for procurement and installation of explosive detection systems.

SEC. 531. From the unobligated balances available in the "Department of Homeland Security Working Capital Fund" established by section 506 of Public Law 108-90, $7,000,000 are hereby rescinded.

SEC. 532. Notwithstanding any other provision of law, the Committee withholds from obligation $25,000,000 from the Directorate of Emergency Preparedness and Response, Administrative and Regional Operations, until the direction in the statement of managers accompanying Public Law 108–324 and House Report 108–541 is completed.

SEC. 533. None of the funds appropriated under this Act or any other Act shall be available for processing petitions under section 214(c) of the Immigration and Nationality Act relating to nonimmigrant status under section 101(a)(15)(H)(i)(b) of such Act until the authority provided in section 214(g)(5)(C) of such Act is being implemented such that, in any fiscal year in which the total number of aliens who are issued visas or otherwise provided nonimmigrant status subject to the numerical limitation under section 101(a)(15)(H)(i)(b) of such Act reaches the numerical limitation contained in section 214(g)(1)(A) of such Act., up to 20,000 additional aliens who have earned a master's or higher degree from an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) may be issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act.

SEC. 534. None of the funds provided in this Act shall be used to pay the salaries of more than sixty Transportation Security Administration employees who have the authority to designate documents as Sensitive Security Information (SSI). In addition, $10,000,000 is not available for the Department-wide Office of Security until the Secretary submits to the Committee on Appropriations of the House of Representatives: (1) the titles of all documents currently designated as SSI; (2) Department-wide policies on SSI designation; (3) Department-wide SSI designation auditing policies and procedures; and (4) the total number of staff and offices authorized to designate SSI documents within the Department.

SEC. 535. None of the funds appropriated by this Act may be used to change the name of the Coast Guard Station "Group St. Petersburg".

Mr. ROGERS of Kentucky (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 55, line 25 be considered as read, printed in the RECORD, and open to amendment at any point.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Acting CHAIRMAN. Are there any points of order against any pending portion of the bill?

If not, are there any amendments to this portion?

AMENDMENT NO. 1 OFFERED BY MR. TANCREDO

Mr. TANCREDO. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. TANCREDO:

At the end of the bill (before the short title), insert the following:

SEC. 536. None of the funds appropriated or otherwise made available in this Act may be used in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)).

Mr. SABO. Mr. Chairman, I reserve a point of order.

The Acting CHAIRMAN. The gentleman from Minnesota (Mr. SABO) reserves a point of order.

Mr. TANCREDO. Mr. Chairman, my amendment would prevent State and local governments who refuse to share information with Federal immigration authorities from being able to obtain Federal funds under this act. These so-called "sanctuary" policies are not only misguided and dangerous; they are also illegal.

Section 642(a) of the illegal Immigration Reform and Immigrant Responsibility Act of 1996 already makes it illegal for State and local governments to prevent their police from interrupting the free exchange of information between State and local police and Federal immigration enforcement authorities. Nonetheless, many local governments adopt policies that explicitly prevent their police officers from cooperating with Immigration and Customs Enforcement agents.

When local governments refuse to share information with Federal immigration authorities, police departments often stop and/or arrest criminal aliens time and again, only to release them without ever having checked their immigration status. As a result, instead of being deported, these aliens move on to commit other crimes oftentimes.

Earlier this month in Colorado, for example, one Denver policeman was killed and another severely wounded by an illegal alien who had come into contact with police in Denver at least three times prior to the incident. He remains at large today.

Another illegal alien in the Denver area who is now awaiting trial for a hit-and-run killing of a man, and he had been arrested, by the way, six times since 1996 and even spent time in jail in Boulder, Colorado, a sanctuary city, by the way; yet, because cooperation between police departments and Immigration and Customs Enforcement was restricted, he was never reported. He goes on trial in July.

The city of Denver, like many other cities, has a sanctuary policy that violates Federal law. Their police manual explicitly prohibits officers from initiating actions whose objective is to "discover the immigration status of a person." The manual also prohibits police from detaining or taking any enforcement action against a person "solely because he or she is suspected of being an undocumented immigrant."

These two components of city policy not only prohibit local police from communicating with immigration authorities as required by Federal law, the policy prohibits them from obtaining basic information that might be central to their investigation. The policy sends a clear message to local police when they encounter illegal aliens: don't ask, don't tell. That kind of policy violates both the letter and intent of the 1996 law.

My amendment would put an end to this practice by withholding Federal funds from States and localities that have made an affirmative choice to violate Federal law. In essence, the amendment simply says that if you make a choice to violate Federal law, then you are making a choice to forego Federal funds. It is a choice I think that few cities are willing to make.

Mr. SABO. Mr. Chairman, under my reservation, would the gentleman yield?

The Acting CHAIRMAN. Does the gentleman insist on his point of order?

Mr. SABO. Mr. Chairman, I will continue to reserve my point of order, and I move to strike the last word.

Mr. Chairman, I would like to have the gentleman explain the amendment to me. What is it that somebody at the Federal level has to do?

Mr. TANCREDO. Mr. Chairman, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Colorado.

Mr. TANCREDO. Mr. Chairman, at the Federal level a determination would be made as to whether or not a city has the policies that we have just identified; and if so, then that city would be prohibited from obtaining Federal funds under this act.

Mr. SABO. Mr. Chairman, reclaiming my time, who would make this determination?

Mr. TANCREDO. The Department of Justice, the Department of Homeland Security. It is really not up to me to make that decision.

Mr. SABO. How would they know how to make this judgment?

Mr. TANCREDO. Many of these policies are on record; in fact, all of them are on record throughout the country. They are easily obtainable and observable.

Mr. SABO. How would they proceed to make this judgment?

Mr. TANCREDO. Mr. Chairman, if they can read, they can make the judgment.

Mr. SABO. Are all these laws filed with the Justice Department and the Department of Homeland Security?

Mr. TANCREDO. Well, they are certainly, again, available to every single person in the Department of Justice and Homeland Security because they are printed. These are all laws and/or executive orders. This requires no new determination.

Mr. SABO. So they know today?

Mr. TANCREDO. Absolutely.

Mr. SABO. If any town is doing this?

Mr. TANCREDO. Yes, sir.

Mr. SABO. Is there some registry of that?

Mr. TANCREDO. Well, as I have just explained, in city after city, and, in fact, not too long ago if memory serves me right, the State of Maine actually declared itself to be a sanctuary State. These are not things that are hidden from anybody. These are, in fact, on the books in States in their localities to which we refer. The stuff I used here came right out of the Denver police manual. These are not hidden from anybody.

Mr. SABO. Mr. Chairman, I know they are not hidden, but somebody has to find out. I have no idea how many endless grants they are making. The departments make an endless number of grants, and some of them flow to the State which then flow to local governments. In other cases, some go directly to ports.

Mr. TANCREDO. Mr. Chairman, if the gentleman will yield, perhaps the gentleman's concern goes back to the law.

What I am talking about is adding a penalty to the law. The law is on the books; I am not creating law here. The law is a Federal law; it was passed in 1996. The only thing we are doing is adding some sort of penalty to the violation of the law. So the fact that we have had it now for almost 10 years, it seems to me that we are not creating any new problem for any of these departments, and if the gentleman is concerned about the law itself, then that is where he should perhaps address his concerns.

POINT OF ORDER

Mr. SABO. Mr. Chairman, I make a point of order.

The Acting CHAIRMAN. The gentleman will state his point of order.

Mr. SABO. Mr. Chairman, I think, clearly, as the author of the amendment says, he clearly is legislating on an appropriations bill and, therefore, violating clause 2 of rule XI. By his most recent statement, he is expanding penalties for the existing law.

The Acting CHAIRMAN. Does anyone else wish to be heard on the point of order?

Mr. TANCREDO. Mr. Chairman, once again, we are not expanding the law in any way, shape, or form. We are simply applying a penalty. That does not expand the law.

The Acting CHAIRMAN. Does anyone else wish to be heard on the point of order?

The Chair is prepared to rule.

The language of the amendment merely requires the Federal official administering these funds to comply with Federal law. A new duty is not required on the face of the amendment. Therefore, the point of order is overruled and the amendment is in order.

Mr. SABO. Mr. Chairman, I rise in opposition to the amendment.

This is an amendment I think we voted on several years ago, in some variety of it.

The Acting CHAIRMAN. Without objection, the gentleman from Minnesota strikes the requisite number of words.

There was no objection.

□ 1545

Mr. SABO. Mr. Chairman, I have no idea what the full impact of this amendment will be. We voted on it, I think, in the last 2 or 3 years. I think generally it has lost by a significant number of votes. What its impact on local governments is, I think is unpredictable. There are hundreds and thousands of different local units of government, potentially receiving aid under this bill, which we would cut off because of their failure to give some information to the Federal Government.

I just think it is a totally wrong focus on what our problems are in this country. We have real problems with immigration. The real problems relate to how we deal with our borders. The real problem deals with how we deal with undocumented people in this country who have violated criminal laws of this country.

And to start harassing every unit of government, large or small, depending on what information they send to the Federal Government, tying that to they are eligible for funding to deal with basic homeland security in this country, I think is just a serious mistake. I would hope the House would reject this amendment.

Mr. CROWLEY. Mr. Chairman, I rise in strong opposition to the amendment being offered by Congressman TANCREDO. The amendment does not only target victims of crime, it is dangerous to the very security of our homeland. This amendment coerces state and local police officers to step into the role of federal immigration agents. And if they do not assume this responsibility—they are punished.

I ask—who benefits from such a system? Does such a system mean safer streets? No. As the son of a New York City police officer, I am very aware of the importance of trust between local police and the communities they serve. If an immigrant fears talking to police—there will be fewer reported crimes, fewer witnesses offering information, and more dangerous streets for all of us. Does this amendment mean better national security? No. Under this amendment, foreign nationals who might otherwise be helpful to security investigations will only be more reluctant to come forward. Does this amendment mean better communication between localities, states, and the Department of Homeland Security? No. Cities with these quote-unquote "sanctuary policies" are already often the ones who communicate with DHS most regularly—to deal with foreign nationals who have committed crimes.

Does this amendment mean crime victims will be better protected? Sadly, no. Crime victims who unfortunately happen to be immigrants will fear their immigration status might be called into question, and will avoid stepping forward to seek justice. So who benefits from this amendment? People who don't like immigrants and people who mean our country serious harm. Instead of working to support the efforts of state and local police. Instead of working to make reasonable improvements to our immigration system. Instead of state and local governments being able to decide which policies allow them to best "serve and protect" their communities. Instead—we get an amendment that pushes people further underground, leaving our cities even more vulnerable to terrorist threats. If some are interested in scapegoating hard-working immigrants across the US who contribute to our country, schools, cities, and tax base every day—then at the very least we should avoid jeopardizing our homeland security in the process. A "yes" vote on this amendment is a vote for Osama bin Laden; a "no" vote is a vote for America.

I urge a "no" vote on this very un-American and very dangerous amendment.

Mr. COLE of Oklahoma. Mr. Chairman, I rise today to speak about the need to reform our immigration laws to curtail abuse, make Americans safer, and uphold the rule of law. In short, we need an immigration policy that works for America. Although I will vote against the amendment, by drawing attention to this issue, Congressman Tom Tancredo is performing an important service.

I supported the REAL ID Act which makes it harder for terrorists to take advantage of our immigration laws. And I have cosponsored legislation, H.R. 98, authored by Chairman David Dreier that would make it harder for employers to hire unauthorized workers.

While I agree with the general intent of this amendment, I must reluctantly oppose the amendment because I believe it would have the unintended consequence of making Americans less safe. Our immigration laws need to be enforced. But denying homeland security funds to local governments, which in turn use the money to prevent future terrorist attacks, is something I cannot support.

Mr. Chairman, in the future I hope we will look at other measures that will encourage local authorities to support and enforce federal immigration laws. Such measures must encourage local compensation without endangering the lives of innocent Americans that we are charged to protect.

The Acting CHAIRMAN. (Mr. Shimkus) The question is on the amendment offered by the gentleman from Colorado (Mr. Tancredo).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. SABO. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Colorado (Mr. Tancredo) will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. TOM DAVIS OF VIRGINIA

Mr. TOM DAVIS of Virginia. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 Offered by Mr. Tom Davis of Virginia:

At the end of section 516, add the following:

Provided further, That this section shall cease to be effective at such time as the President has selected a single agency to conduct security clearance investigations pursuant to section 3001(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 50 U.S.C. 435b) and the entity selected under section 3001(b) of such Act has reported to Congress that the agency selected pursuant to such section 3001(c) is capable of conducting all necessary investigations in a timely manner or has authorized the entities within the Department of Homeland Security covered by this section to conduct their own investigations pursuant to section 3001 of such Act.

Mr. TOM DAVIS of Virginia. Mr. Chairman, there is a very serious government-wide backlog of security clearance investigations which has caused unacceptable delays in the process. This threatens national security, and it costs taxpayers a lot of money. Because there are so few security clearances and so much work to do, we are overpaying people because of the work. It is just the law of supply and demand.

This backlog is the result of poorly designed management structures and a lack of clearance reciprocity. As a result the Committee on Government Reform, which I chair, held a hearing, and we authored legislation that was included in the 9/11 Act to address the structural problems that plague the security clearance system throughout the government.

Given the longevity of this problem, it is understandable that government agencies and Congressional committees have sought out their own ways to try to avoid bottlenecks in clearance processes.

Section 516 of this bill is just such a work-around. It gives DHS the authority to continue to conduct clearance investigations for itself because government-wide it continues to be very dysfunctional.

The 9/11 Act reforms addressed the managerial chaos that has plagued security clearance policy by creating a new oversight authority for all Federal security clearance policy. Although this new oversight entity will likely grant a number of agencies the authority to continue to conduct their own investigations, it will also be responsible for developing and enforcing consistent standards for investigations across government. We need to give it a chance to do that.

Under this amendment, the Congressionally mandated oversight authority will be responsible for ensuring that investigations for DHS security clearances are done in the most timely and efficient manner once the 9/11 Act reforms take effect, once they take effect. This will keep us on the path to security clearance process reform for all agencies and safeguard both national security and the pocketbooks of the American taxpayer.

I would ask all Members to support this amendment.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. TOM DAVIS of Virginia. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, before the gentleman from Virginia yields back, let me say that the gentleman has brought forth a very important matter, and it is a matter that he, as chairman of his authorizing committee, has worked with us and our staff over the last several weeks very admirably, and I appreciate the willingness of the chairman to work with us in this, and we were happy to work with him.

So I am prepared to accept the amendment, with the congratulations to the chairman, and thanks for his great work in this respect.

Mr. TOM DAVIS of Virginia. Reclaiming my time, Mr. Chairman, I want to thank the gentleman from Kentucky (Mr. Rogers) and I want to thank the minority for working with us. I understand their frustration.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. TOM DAVIS of Virginia. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, it is a good amendment. Hopefully we will adopt it.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I ask Members to support the amendment.

The Acting Chairman. The question is on the amendment offered by the gentleman from Virginia (Mr. Tom Davis).

The amendment was agreed to.

Mr. MICA. Mr. Chairman, I move to strike the last word and engage in a colloquy with the gentleman from Kentucky (Mr. Rogers), the chairman of the Subcommittee on Homeland Security of the Committee on Appropriations.

Mr. Chairman, again, I want to express my gratitude to the chairman of the Appropriations subcommittee, the gentleman from Kentucky (Mr. Rogers), who has done such a great job on this H.R. 2360, the Department of Homeland Security Appropriations Act for Fiscal Year 2006.

As you know, I had planned to raise a point of order on section 524, which directs the Secretary of Homeland Security to implement a security plan to permit general aviation at Ronald Reagan National Airport as legislating on an appropriations bill. However, I did not do that because I think we share the same intent.

And the gentleman from Kentucky (Chairman Rogers) has put a provision here in section 524 that does require a plan. However, I think the chairman is aware and realizes that the committee bill passed; that is, the Committee on Transportation bill. In our Subcommittee on Aviation's work done on it, H.R. 1496 has even tougher language directing the opening of Ronald Reagan National Airport. That is our intent, and working with the appropriators, I believe that it will be your intent to also include a strong provision and directive provision in conference, or as this bill proceeds.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. MICA. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I want to commend the gentleman from Florida (Mr. Mica), chairman of the Subcommittee on Aviation, for his valued work in this and many, many areas. We agree on 99 percent of the things that we work on. This is one of them. That is the opening of Reagan Airport to limited general aviation aircraft, as you and I both have for the last 3 years been talking with the Department and other agencies downtown about the need to reopen that airport, at least on a limited basis to general aviation aircraft, and they keep promising a plan, a plan, a plan, and it has been 3 years. And, you know, we won World War II in 4 years, and we can't even think about reopening an airport here in these 3 years.

So it is time to do something, and so in our bill, Mr. Chairman, we direct the Department to bring a plan forward and reopen that airport in 90 days after enactment of this act. And I know that is authorizing language. But I appreciate the gentleman who has jurisdiction over this issue letting us do this at this point in time, because I think he and I share the same view.

We may not be able to pass an authorization bill during the year, so this is sort of a backup procedure. And if you pass an authorization bill dealing with the subject, we will happily stand back and take second fiddle.

Mr. MICA. I thank the gentleman, and in spite of the incident that we had last week, and that was not a planned scheduled arrival, it was a departure from what we are talking about and properly opening National Airport to general aviation, I think, again working together, that we can find a plan that will work and not let the terrorists intimidate us in operating our Nation's capital airport.

Thank you.

Mr. ROGERS of Kentucky. I think probably what the gentleman and myself have been talking about is a plan that reopens that airport at least to charter aircraft who would undergo the same security rigmarole that commercial airliners do today: Background check of the crew and passengers, background check of the owner of the plane, searching passengers' baggage as we do commercial passengers, the same rigmarole that we go on through on commercial passengers today on commercial craft.

Is that the gentleman's understanding?

Mr. MICA. Except for too much rigmarole, I think that we are on the same page. Again I thank you for your cooperation and your leadership, and together I think we will have a chance to open with a sensible, safe, secure plan to general aviation our Nation's capital airport.

AMENDMENT NO. 10 OFFERED BY MR. POE

Mr. POE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. POE:

At the end of the bill, before the short title, insert the following (and conform the table of contents of the bill accordingly):

SEC. 509. None of the funds made available under this Act may be used to carry out section 105(a)(4) and (5) of the Aviation and Transportation Security Act of 2001 (49 U.S.C. 44917(a)(4) and (5)).

Mr. POE. Mr. Chairman, first of all, I applaud the chairman for this bill to better protect America. I would, however, like to highlight an unfunded Federal security mandate on the already struggling airline industry. The airline industry is an important sector of the American economy, with increasing fuel costs and taxes, though the industry lost $9.1 billion last year alone and has lost $32 billion since September 11, 2001.

Currently taxes and fees comprise 26 percent of an average $200 airplane ticket. While the Federal Government has taken over much of the security for airlines after the terrorist attacks of September 11, airlines are still paying $777 million annually out of their own pocket for unfunded Federal security mandates, such as catering security, security for checkpoints and exit lanes, and first flight cabin sweeps.

The people loading the peanuts, for example, the airlines are forced to expend $81 million on not only their salaries, but the security checks on these caterers, the people who mark your ticket up with the red crayon at the checkpoint and exit lanes. Airlines, not the government, dispense $79 million on these folks, and the first class cabin sweep crew that inspects the plane prior to boarding, the people who check for bombs in the bathrooms, airlines pay $26 million for them. Perhaps the most and largest unfunded mandate, however, is the Federal Air Marshal Service, which costs the airlines $195 million each year.

Under current law, Federal air marshals are permitted to fly without a cost to the Federal Government or the marshal. Air marshals fly to better protect the cockpit. The Air Transport Association estimates the airlines are losing $195 million a year in opportunity costs by losing these seats.

Continental Airlines, for example, the carrier based out of Houston, Texas, part of which is in my Congressional district, loses between $7 and $9 million in displaced revenue annually. This estimate reflects losses not from being able to sell the Federal air marshal's seat at full fare. Moreover, Continental will pay the Department of Homeland Security $239 million in taxes in 2005 and is currently paying another $312 million in unfunded security mandates.

So my amendment would simply prohibit funds being spent in the bill to support this unfunded Federal security mandate that allows the Federal Air Marshal Service to fly for free. The Federal Government has deemed aviation security a national security issue, as it is. It is only fair that the government fully assume these costs, and not saddle them on the airlines.

In fact, at least two laws signed in the past two sessions have provisions that support Congressional intent for the Federal Government to reasonably pay for aviation security costs. Both the Aviation and Transportation Security Act and Vision 100, the Century of Aviation Reauthorization Act, authorized funds for reimbursement of airport security mandates.

The Poe amendment preserves the ability of Federal air marshals to fly on our airlines, protect our passengers and crew, but it would allow the carriers to charge the government a fare. Airlines like Continental support this amendment because it would enable them to collect a minimal fare, the government fare or the lowest fare available upon booking for Federal air marshal seats.

Mr. Chairman, some may argue that it is the airline's responsibility to provide for security, and they are partially correct. Already airlines cough up scores of dollars to comply with Federal regulations. The Federal Airline Administration reports that full deployment of hardened cockpit doors meeting outlined specifications have been implemented on about 10,000 passenger airlines and foreign aircraft flying to and the from the United States. Expenditures on video monitors and other devices to alert pilots to cabin activity as well as guns in the cockpit are just a few of the other efforts undertaken by the airline industry, all of which are in addition to the hundreds of millions of dollars they incur in unfunded Federal security mandates.

We must bring some relief to these carriers by reducing these unfunded Federal mandates that they are expected to pay out of their pocket. I urge my colleagues to help preserve this vital industry and start by supporting my amendment to allow airlines to collect the minimal government fare on seats filled by Federal air marshals.

☐ 1600

We want to keep the airlines flying and help them before they are in a situation of bankruptcy.

Mr. ROGERS of Kentucky. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we have 50,000 employees in the Poe Transportation Security Administration, and they make it safe to fly on airlines. The United States Government is paying the bill.

We have hundreds of millions of dollars worth of x-ray machines that we have put in every airport in the country to be sure that the people flying the airlines are safe. Uncle Sam is paying the bill.

I could go on. The airlines requested that we have marshals on board airplanes so they can say it is safe to their customers for flying on airlines. Uncle Sam pays the bill.

The law says that if we put these marshals on airplanes that the airline will pay their fare or not charge the fare. It does not cost the government anything to do it because it is a service that we are providing. And who pays the salaries of the marshals? Uncle Sam.

Now, they come and say, oh, but you have got to pay a first-class fee for this air marshal, protecting your plane, to fly on your plane? Give me a break.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Kentucky. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, I will give the gentleman a break. I totally agree with the gentleman.

The biggest benefactor of all the airline security is the airline industry. Something happened post-9/11. We had to provide billions of dollars to loan guarantees to keep them operating.

I recall where many speeches on the new Transportation Security Agency was it was going to be fully paid for. I think over half of the money comes from general revenue today.

I find this amendment sort of unbelievable that the airlines would want us to do this. I totally agree with the gentleman. This amendment should be defeated.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the last word.

First of all, Mr. Chairman, I think one of the assets or structures that we have on this floor is to respect a Member's good intention; and my colleague from Texas, I want to acknowledge his good intentions. I would hope that we would have an opportunity to work through the concern expressed here.

But I rise to express my support for the U.S. air marshals and the hard work or heavy lifting that they do on the Nation's airlines every single day and in the Nation's airports. They are not supposed to be noticed, but those of us who happen to be frequent fliers are aware of their service, and they are ready and prepared on some of the more difficult flights that we have, coming to certain regions in the United States.

I would only hope that as we debate this amendment in the midst of fees and expense that I know is borne by our airlines, that we think about the service of these men and women in particular that confront dangers on our behalf on the Nation's airlines.

So I would beg to differ with the gentleman's amendment because I stand in support of the air marshals, and I would hope that there could be some response to the cost, some way of adding or eliminating the burden that our airlines face; but I could not imagine us suffering the loss of these air marshals which we determined were important to us after 9/11. Even though we have given enhanced equipment on airlines, more training to pilots, we are attempting to train our airlines or flight stewards, and we are doing a better job, though it is not a requirement. I believe airlines are doing a better job of informing and training their flight stewards and flight attendants, but I still believe that our flights are better and safer for marshals' existence.

I would hope that our colleagues would act accordingly in reference to this amendment, and I would ask that they support the air marshals in this instance because I believe their work is extremely important.

Mr. MICA. Mr. Chairman, I move to strike the requisite number of words.

The gentleman from Texas, I am sure, has an excellent intention and is interested in helping the airlines. Some of them are struggling, and we do need to help the airlines; but sometimes the airlines do not even help themselves.

I would rise in strong opposition to this amendment. There is probably no economic activity that we support in this country more than our commercial airlines. The chairman has correctly pointed out, 4.5, almost $6 billion in this legislation is for passenger screening, of which we only collect less than half of that. We have a $2 billion-plus shortage that the general taxpayer is paying.

If this amendment was crafted so that we charged the airlines for putting the air marshal on, I might agree with my colleague because we have a shortfall.

I also stated earlier, the airlines came before the Subcommittee on Aviation when we crafted the TSA bill and pledged to pay it $1 billion. That is what they said they would pay if we took away from the airlines, who had that responsibility, the responsibility for passenger screening. Do my colleagues know what they paid last year? Let me repeat it again, $315 million, a shortfall of almost $700 million. So I will be darned if I am going to stand here and support an amendment that would in any way reimburse them for the great expenses.

Look at the event of last week. Not only do we have the apparent expenses; we spent some $20 billion on passenger screening on a system that I have great questions about, but we have also spent billions of dollars in training the pilots to be armed. I supported that program, I promoted that program; but most of those pilots do not go at airline expense. They go at their own expense, spend a week of their time. They are not reimbursed; and now we will have more pilots armed on our aircraft this year than we will have air marshals. They are not getting a darn penny for reimbursement.

So, again, I think we have gone over backwards. We spent $5 billion we appropriated for reimbursements for damages directly related to the events of September 11 to our major airlines. We gave them another $3 billion. Some of that they deserve; some of that they did not deserve in reimbursement. Then we set up a $10 billion loan guarantee fund, of which they only used about $2 billion; but we have done everything, and now they refuse to do anything to help us.

They cannot even collect an additional fee. They are collecting $2.50. I said if we put in a high-tech system, that would double the security fee but get rid of half of the screeners in 3 years, and allow them to keep all $300 million they are now paying and up to a half a billion dollars. They cannot even do the math to keep that money. So I will be darned if I will get up and support giving them one more penny when they will not pay their own fair share.

So I think the amendment is well intended. I salute the gentleman for trying to help the aviation industry. I will join with him, but this is not the vehicle; and it is not the reimbursement that we should be providing in this appropriations measure.

The Acting CHAIRMAN (Mr. SHIMKUS). The question is on the amendment offered by the gentleman from Texas (Mr. POE).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. POE. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas (Mr. POE) will be postponed.

AMENDMENT OFFERED BY MR. MEEKS OF NEW YORK

Mr. MEEKS of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MEEKS of New York:

At the end of the bill (before the short title), insert the following:

SEC. 536. None of the funds appropriated or otherwise made available in this Act may be used to close any detention facility operated by or on behalf of U.S. Immigration and Customs Enforcement that has been operational in 2005.

Mr. ROGERS of Kentucky. Mr. Chairman, I ask unanimous consent that debate on this amendment, and any amendments thereto, be limited to 10 minutes equally divided and controlled by the proponent and myself, the opponent.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MEEKS of New York. Mr. Chairman, I yield myself such time as I may consume.

I rise today to urge my colleagues to adopt this amendment, which I hope will cease the recent actions of the Department of Homeland Security's Bureau of Immigration and Customs Enforcement to begin closing the only secure detention center in New York City for noncriminal foreign nationals who enter our country illegally.

Closing this facility and releasing these individuals into the streets, as ICE is beginning to do, without conducting a proper screening, endangers the safety and security of New York City. The Queens detention facility has been utilized by ICE and its predecessor, INS, since 1989. Located within 4 miles of John F. Kennedy International Airport, the facility houses and processes detainees until their status can be determined. ICE oftentimes cannot properly classify a person as "high risk" or "low risk" at the initial questioning at John F. Kennedy Airport. Only after an investigation, while the individual is detained, can ICE determine whether the individual poses a threat. If it is determined that the entrant has criminal intent, they are transferred to a more secure facility for follow-up.

For example, a co-conspirator in the first World Trade Center bombing slipped through ICE's initial questioning at JFK and was subsequently identified by Queens detention facility personnel as a high-risk individual after they discovered bomb-making plans on this individual. Consequently, many high-risk individuals slip through the cracks initially and are only later identified as high-risk while they are in custody at the Queens detention facility.

In a recent correspondence, my colleagues and I who represent New York City urged the director of ICE, who may become our city's next U.S. Attorney, to halt its efforts to close the only secure noncriminal detention facility in New York City. We know this is New York City now, but it could be where any noncriminal detention facility is in the United States tomorrow; and in this day and age in which we currently live in, we have got to make sure that we are sure that individuals who have entered illegally into this country, that we may have detained, we have got to dot every I and cross every T to make sure we rely on no one to slip through the process.

So to just close what is happening at this facility now, right next to JFK in my district, to just close it in the manner in which they are closing it, just releasing people on the streets, at times we talk about how are you communicating with the individuals that are being released. It is simply by telephonic measures, not even by ankle bracelets or anything else. It endangers the entire population of New York; and I say if it is New York City today, it could be anywhere in the United States of America tomorrow.

So I ask and urge my colleagues to support this amendment which will ensure that this essential facility which serves a vital role in New York City, as well as the country's first line of defense, remain open.

Mr. Chairman, I reserve the balance of my time.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield myself 3 minutes.

This amendment unnecessarily limits ICE's ability to efficiently manage the limited detention bed space that it has. The fluid nature of enforcement actions by ICE and changing migration patterns around the country mean that demands for detention space across the country changes from day to day, week to week, month to month, year to year.

This bill stresses efficiency and maximizing our limited resources. This amendment would prevent ICE from closing inefficient or unneeded facilities.

This bill already requires a report from the Department on its detention management strategy; and until we see the result of that report, I think this amendment is premature.

We do not like to handcuff an agency without having all of the relevant information on the issue; but I would hate to see us say to ICE, you cannot close any facility ever because it changes the migration patterns of illegal immigration changes from day to day.

So I would urge that we defeat the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. MEEKS of New York. Mr. Chairman, I yield myself such time as I may consume.

Let me just say that what we are looking at right now, the situation where ICE is moving in my district, in this particular facility and the next clearly in the immigration pattern in New York is one where it is very high, coming through John F. Kennedy, which is the gateway to America, if you will.

So when we have a facility like the facility that is currently in the district, to close it without any rationale or reason, then I think that we are defeating ourselves and defeating the security that is necessary to prevent people who enter this country illegally, some who could be very dangerous, from just walking the streets of the City of New York.

□ 1615

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. SHIMKUS). The question is on the amendment offered by the gentleman from New York (Mr. MEEKS).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. MEEKS of New York. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. MEEKS) will be postponed.

AMENDMENT OFFERED BY MR. TIAHRT

Mr. TIAHRT. Mr. Chairman I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TIAHRT:

At the end of the bill (before the short title) insert the following:

SEC. 536. None of the funds made available in this Act may be used to promulgate regulations without consideration of the effect of such regulations on the competitiveness of American businesses.

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve a point of order on the gentleman's amendment.

Mr. TIAHRT. Mr. Chairman, I believe that the content of this amendment should be a part of the debate that we are having on every agency that we are going to fund this year through the Federal budget. Over the last generation, this government has made this country less and less competitive through the regulatory process.

If you look to last year, last year we had a $670 billion trade deficit. Our Federal budget deficit grew and we saw a lot of outsourcing of jobs. Well, if you combine that with what we are seeing happen across the world, pointed out by Thomas Friedman in his book "The World is Flat," China is graduating 350,000 engineers every year. India is graduating 80,000 software engineers. They are attempting to create an Asian Union, which would be an economy of about 3 billion people.

The world is becoming more and more competitive, and part of the reason that we are becoming less and less competitive, part of the reason why we are seeing this trade deficit is because of our regulatory process. But it just does not stop there. We also have problems with litigation, and we need to reform our system because right now the lawsuits are driving up the cost of American products. A good example of how this could change is when common sense limits are put on litigation, such as the statute of repose, where the aircraft industry accepted through the legislation common sense limits on liability and 4,000 jobs were created the very next year. We could apply that to other industries.

Our health care system needs to be reformed. Today, in Kansas, for every hour of health care it takes an hour to comply with regulations, actually, more than an hour, 1.1 hours, on average, of regulatory compliance.

We need to reform our tax policy, our education policy, and our trade policy. We need to have research and development enhancements and we need regulatory reform. Regulatory reform can be a biting part of our government that can stop and stall the economic progress.

If you look at the current regulatory burden on businesses today, about 12 percent of the cost of any product is buried in complying with regulations. If we could cut that in half, we would be at least 5 to 6 percent more competitive worldwide.

So if we are going to find solutions to balancing our trade deficit, to balancing our Federal budget, and to start bringing jobs into America instead of seeing them outsourced out of America, we need to look at every agency and not promulgate regulations that conflict with the competitiveness of American businesses.

Mr. Chairman, I would like to see if the chairman of the Homeland Security Subcommittee thinks we could work together to see that we do not get regulations that would be overly burdensome on American businesses through the Department of Homeland Security. Does the gentleman think he could help me with that task?

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. TIAHRT. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, the gentleman has brought up a very important point, and I would be delighted to work with the gentleman. He is a valued member of our committee and, on top of that, he is a very hard worker. So I would be happy to work with the gentleman.

Mr. TIAHRT. Mr. Chairman, I thank the chairman for those good words and, hopefully, through the effort of our combined work we can make sure we do not have any overly burdensome regulations.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

VACATING DEMAND FOR RECORDED VOTE ON AMENDMENT NO. 10 OFFERED BY MR. POE

Mr. POE. Mr. Chairman, I ask unanimous consent to withdraw my demand for a recorded vote on my amendment No. 10 to the end that it stand rejected by voice vote thereon.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBEY:

At the end of the bill (before the short title), insert the following:

SEC. ___. (a) The amounts otherwise provided in this Act for the following accounts are hereby increased by the following sums:

(1) "Customs and Border Protection—Salaries and Expenses", $95,000,000.

(2) "Customs and Border Protection—Construction", $25,000,000.

(3) "Immigration and Customs Enforcement—Salaries and Expenses", $266,000,000.

(4) "Federal Law Enforcement Training Center—Salaries and Expenses", $9,000,000.

(5) "Federal Law Enforcement Training Center—Acquisitions, Construction, Improvements, and Related Expenses", $5,000,000.

(b) For the Secretary of Homeland Security to make grants pursuant to section 204 of the REAL ID Act of 2005 (Pub. L. 109-13, div. B) to assist States in conforming with minimum drivers' license standards, there is hereby appropriated $100,000,000.

(c) In the case of taxpayers with adjusted gross income in excess of $1,000,000 for calendar year 2006, the amount of tax reduction resulting from enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. 107-16) and the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Pub. L. 108-27) shall be reduced by 1.562 percent.

Mr. OBEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ROGERS of Kentucky. Mr. Chairman, if this is the REAL ID with tax offset amendment, I reserve a point of order on the gentleman's amendment.

Mr. OBEY. Mr. Chairman, let me explain what this is. We have had a steady stream of Members for weeks now decrying the fact we just do not have enough resources to do the job we ought to be doing in homeland security or in transportation or in education or in health care or any other endeavor of the Federal Government. The fact is that we do not have those needed available resources because the Members of this House have put themselves in a box. They have done that by, in essence, saying that their number one priority above all others is to provide very large tax cuts for people very high up on the income scale.

Example: This year if you make over $1 million you will get, on average, about a $140,000 tax cut. What I am trying to do here today is to do two things. I am trying to, first of all, help the Congress keep the promises that it made just 6 months ago. Therefore, this amendment would provide an additional $500 million to the Department of Homeland Security to meet the staffing and detention bed space increases that were called for in the Intelligence Reform Act and to allow States to meet the driver's license standards that were just imposed on those States by this Congress 2 weeks ago.

So my amendment is simple. First of all, it adds 500 more people to the Border Patrol. Second, it adds 600 people to the immigration inspector workforce. And thirdly, it adds 4,000 more detention beds so that we can keep the promises laid out in the Intelligence Reform bill.

Finally, we would fund the grant program that is authorized by the REAL ID Act, which the Congress attached a couple of weeks ago. I did not support that act. I did not vote for it. It was attached as a nongermane amendment to the appropriations bill. But we are told by the Congressional Budget Office it will cost about $100 million to implement. We are told by the Council of State Legislative Leaders it will cost $500 million to implement. That is a huge mandate however you slice it that we are laying on the backs of State budgets.

So what I am simply suggesting is we can do both of these things by simply scaling back by a tiny amount that super-sized tax cut for people with super-sized incomes of over $1 million. We would simply cut that average $140,000 tax cut to $138,000, and we would have more than enough to fund these operations.

The Committee on Rules did not allow this amendment to be made in order. That means that the only way it can be considered is if no one raises a point of order against it. I would hope they would not do so. This is a minor adjustment that we would make in the super-sized tax cuts in order to provide significantly more security for the entire country. I think it is worth the investment, and I would urge support for the amendment, assuming that no one decides to lodge a point of order against the amendment.

POINT OF ORDER

Mr. ROGERS of Kentucky. Mr. Chairman, I make a point of order against the amendment because its proposes to change existing law and constitutes legislation on an appropriations bill and, therefore, violates clause 2 of rule XXI. The rule states in pertinent part "an amendment to a general appropriations bill shall not be in order if changing existing law."

This amendment changes the application of existing law, and I ask for a ruling from the Chair.

The Acting CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. OBEY. Mr. Chairman, I must concede that under the rule that brought this bill to the floor, this amendment is not in order. I regret it. I think the country would be a whole lot better off if we passed the amendment. But I concede the point of order.

The Acting CHAIRMAN. The point of order is conceded and sustained. The amendment is not in order.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBEY:

At the end of the bill (before the short title), insert the following:

SEC. ___. For the Secretary of Homeland Security to make grants pursuant to section 204 of the REAL ID Act of 2005 (Pub. L. 109-13, div. B) to assist States in conforming with minimum drivers' license standards there is hereby appropriated; and the amounts otherwise provided by this Act for "Office of the Secretary and Executive Management", "Office of the Under Secretary for

Management'', ''Office of the Under Secretary for Border and Transportation Security—Salaries and Expenses'', ''Information Analysis and Infrastructure Protection—Management and Administration'', and ''Science and Technology—Research, Development, Acquisition and Operations'', are hereby reduced by; $100,000,000, $20,000,000, $20,000,000, $2,000,000, $8,000,000, and $50,000,000, respectively.

Mr. OBEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ROGERS of Kentucky. Mr. Chairman, I ask unanimous consent that debate on this amendment and any amendments thereto be limited to 20 minutes to be equally divided between the proponents and myself, the opponent.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. OBEY. Mr. Chairman, I yield myself such time as I may consume.

This is a scaled-back version of the first amendment I just offered. It does not have the tax offset. It is fully offset by other reductions in this bill, and what it tries to do is to correct the problem that I cited just a moment ago.

Just 2 weeks ago, this House passed a nongermane proposal which established an elaborate and convoluted and Rube Goldberg process by which every American will have to obtain their driver's license in the future. It is going to require added security arrangements for every office that issues State driver's licenses if those licenses are going to be allowed to serve as an ID card when climbing on an airplane. It provides substantial additional duties which will be imposed on States and be imposed on the Department of Homeland Security itself.

Now, I do not know whose cost estimate is correct. I do not know whether the Congressional Budget Office is correct when it says that this will only be an unfunded mandate of $100 million or whether the National Conference of State Legislative Leaders is correct when they say that the unfunded mandate will amount to about $500 million in cost. But for the moment, in deference to my conservative friends on the other side of the aisle, I am assuming the conservative estimate of cost is the accurate one, the one laid out by the Congressional Budget Office.

So I am simply urging that we in fact provide for the States grant program that was authorized in that REAL ID proposal that the majority was so anxious to bring to the House floor just 2 weeks ago. We in the minority had nothing to do with the writing. We in the minority were not consulted on the language. We in the minority were not consulted about the idea of imposing another mandate. We were just told ''take it or leave it.'' And so it is now the law of the land.

Now, I am not in any way reducing accounts below last year's funding level. All we are doing is reducing some of the Secretary's management accounts by a portion of the increases that this bill provides.

□ 1630

The science and technology account, for instance, is being reduced by $50 million of the $55 million increase. That still leaves a small increase.

The Office of Secretary Executive Management will still retain a $7 million increase.

I think we have hard choices to make, and I am not afraid to suggest that I think it is a better use of resources to put this money where the amendment tries to put it to at least keep the majority consistent with its promise in the Contract With America, the good old Contract With America which Congress passed 10 years ago and promised that there would be no more unfunded mandates.

I am just trying to help keep a Republican promise, and I am sure I will have enthusiastic support of Members on the majority side of the aisle.

Mr. Chairman, I reserve the balance of my time.

Mr. ROGERS of Kentucky. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIRMAN (Mr. SHIMKUS). The gentleman from Kentucky (Mr. ROGERS) is recognized for 10 minutes.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, no one knows at this point in time what this is going to cost. We only passed it 2 or 3 weeks ago. No one has any idea at this point in time what it is going to cost us or States or locals or whomever. I think it is premature at this point in time to take up this amendment. At some point in time during this year before we go to conference, we are probably going to have to deal with this question. But there is just nothing there to give us any idea. Estimates run from $5 million to $100 million, depending on who is asked.

The REAL ID Act authorized such appropriations as necessary to help States make their driver's licenses and other documents more secure for ID purposes. But there has been no time, as I have said, to fully assess the funding required in the first year of the program. DHS is not prepared to move forward quickly. I think the $100 million is absolutely premature. The CBO estimate is only $40 million in fiscal year 2006, not $100 million. The committee has not seen any of the estimates from the Association of Motor Vehicle Administrators which probably knows more about this issue than anybody.

There already exists certain interstate driver's license databases which perhaps could be used and save money which operate on the basis of multistate compacts. These systems currently in existence should be examined to assess their potential to expand or serve as models for a nationwide database. It may be that many costs assumed in the CBO estimate can be avoided by leveraging these systems. We do not need to reinvent the wheel.

And then, Mr. Chairman, the offsets the gentleman's amendment would cut into are very undesirable. Cutting these programs would be very unwise. The IAIP agency has already been reduced $11 million for failure to submit reports to the Congress. Any further reduction could impact information sharing with State and local agencies conducting vulnerability assessments and construction and renovation of space for the directorate.

A cut to Science and Technology may have a direct linkage to the success of other programs. For instance, a cut to the Office of Interoperability and Communications can greatly impact the effectiveness of resources spent on first responder grants. In every war effort, it is easier to fund soldiers than science because what soldiers do is obvious; what science does is not. However, like the development of the tank in World War I and the development of the atomic bomb in World War II, science can profoundly influence the outcome.

There is reason to believe that homeland security science can have a similar success on the war on terror. We cannot cut the Office of the Secretary. It is a tempting target, but it has already been hit by everybody in the room. Their office is only $133-plus million, and significant reductions will negatively affect their operations. The office is largely salaries and expenses, and cuts will result in fewer people attempting to deal with an increasing workload. Fewer people means DHS will have less time to respond to Congressional inquiries, for example.

We have been critical of the office, but it is this office that will ultimately make the changes needed to make the Department work. They are working on the new Secretary's second-stage review even as we speak. So I hope we would not accept this amendment for the reason that we do not know how much money we need to run this program this year. We will find out as time goes by during the year. We can put money in the conference at the end of the year as necessary. So let us not jump off the cliff until we get to it.

Number two, this amendment would devastate the Department's operations because it goes right to the heart of what they are doing. I urge the defeat of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. OBEY. Mr. Chairman, I yield myself 1 minute.

Let me get this straight. Two weeks after the majority party imposed this huge new unfunded mandate and required that it be attached to the defense appropriations supplemental to pay for the war in Iraq, we are now told by the majority, gee, we do not have any idea what this is going to cost. You mean you imposed a mandate without having any idea what it was going to cost?

If we follow the logic of what the gentleman is saying, we will say to the States, Congress had no idea what it was doing and so you are going to pay the bill. That is what the gentleman has just said. I find that mighty peculiar.

I urge an "aye" vote on this amendment. I want to make clear I did not vote for REAL ID. I think it is a cockamamie idea, but it is now the law of the land; and the question is, is the Federal Government going to pay for what it mandated, or is it going to stick the cost on the backs of local and State governments? I hope it is not the latter.

Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. SABO).

Mr. SABO. Mr. Chairman, I thank the ranking member for yielding me this time.

First, let me ask the gentleman a question: Is not a significant amount of the money that the gentleman is reducing consultant money?

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, what we are doing is reducing the increase in the amount of money that is in this bill for consultants.

Mr. SABO. Mr. Chairman, I thank the gentleman.

I am just afraid we are doing another miniature No Child Left Behind in this law that we passed a couple of weeks ago. It is the Federal Government again deciding how the States should run something that States have historically done. States have historically issued driver's licenses in this country. So now wise people in Washington are now telling them how to do it. Again, we are not going to pay them money to do it. Then we have all kinds of requirements that may or may not make sense. They make sense to somebody who sits down here and writes law who, I doubt, has ever administered the issuing of driver's licenses in any State.

Sort of a repetition again in miniature scale of what we did in No Child Left Behind. I think that is a law which is fraught with troubles throughout the country. This is much smaller in scale, but we are repeating the same thing that we did in that law. I think it is a mistake. I think it is going to complicate life immensely for all of our citizens as they go about the process of moving around this country and getting new driver's licenses.

But at a minimum, we should be doing a significant part of the funding to make sure we do not adversely impact all of the States by this wisdom that we are sending down from Washington.

Mr. OBEY. Mr. Chairman, I yield myself the balance of my time.

As the gentleman from Minnesota (Mr. SABO) pointed out, this amendment is simply asking the Congress to stick to its promise in the Contract With America, to not provide any more unfunded mandates. What we are saying on this side of the aisle, we did not vote for this turkey, but it is now law; and given that fact, we ought to at least make sure this does not wind up on the backs of the States and local governments. What we are saying is at least keep your commitment not to load any more on the State and local property taxes, and let us pay for this by simply reducing the size of the growth in consultants at the Secretary's level. This is already a bloated, dysfunctional agency. We are now going to be asked to provide very large increases to provide more consultants. It seems to me that they can afford to get along with a few less consultants so we can provide one less unfunded mandate in State and local government.

Mr. Chairman, I yield back the balance of my time.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield myself the balance of my time.

The gentleman is right in the respect at some point in time we are going to have to pay the bill. At this point in time, we have not received a bill. We have no idea what the bill is going to be. We get different estimates. Different people have different ideas, but there has been no consensus reached on how much money is needed and to whom.

I assure Members in the due course of time when that information comes to us, monies will be made available to pay for this program in due course of time without hampering the agency, as this amendment would do. I urge a "no" vote on the Obey amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ROGERS of Kentucky. Mr. Chairman. I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Wisconsin (Mr. OBEY) will be postponed.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

At the end of the bill (before the short title), insert the following:

SEC. 536. None of the funds appropriated or otherwise made available by this Act may be used to patrol the border of the United States except as authorized by law.

Ms. JACKSON-LEE of Texas. Mr. Chairman, this amendment simply, as stated, eliminates the opportunity for any resources to be utilized to patrol the border of the United States except as authorized by law.

I spoke earlier today on the floor of the House about the frustration Americans have with respect to the influx of illegal immigrants and immigration and, of course, I also offered to my colleagues that we must solve this problem in a bipartisan manner.

In respecting that frustration, I am respectful of those who have taken up their own causes. One group happens to be the Minutemen.

☐ 1645

The Minuteman group has utilized their resources in Arizona and expect to move their operations to Texas, New Mexico and California. I would argue vigorously that these kinds of efforts can make a very difficult and unsuitable atmosphere for the border.

Let me cite for you one of the individuals that is responsible for the organization Minutemen speaking about the issues, for example, in Texas:

If the Minutemen were to come to Texas, there are serious logistical problems for patrols in Texas. Most of the land along the Texas border is privately owned and some of it is urbanized, unlike the open land the group monitored in Arizona. And the same reports of drug violence that have scared some tourists away from the south Texas region have become a concern for the Minutemen. "The Texas border is pretty dangerous right now," Chris Simcox said, who heads the Minutemen. "That won't scare the Arizona-based citizen patrols away," he said, "but it does mean they will be more careful in planning their operations. Security becomes a serious issue because we are going to be annoying a lot of people."

This amendment is simple. What it says is that we have to protect the Federal officers and other law enforcement officers that are entrusted with the responsibility of immigration control in the United States of America. That protection cannot give them the extra added burden using resources to try to protect those who are acting in an unauthorized way. This specifically states that we would not allow such funds to be used in an unauthorized way.

Mr. Chairman, this proposal seeks to prevent the funding of increased liability for the Federal Government, to prevent the incidental injuring or killing of aliens, citizens, or volunteers, to prevent the creation of a sad precedent of shirked Federal responsibility. The purpose of the Jackson-Lee amendment is to control these issues before they become problems. Last Sunday, May 15, 2005, I put the people of the Eighteenth Congressional District and of the State of Texas on notice that the "Minuteman Project" has proposed to enter our borders in order to monitor for illegal border crossings.

I was joined on Sunday by Ms. Mabel Rogers, who is the President of the American Federation of Government Employees, AFGE, Local No. 3332 for coming out to share her expertise in the area of border security and the issues that can arise if groups such as the Minutemen attempt to enforce immigration law.

In addition, I was joined by Ms. Adriana Fernandez, who leads the Association for Residency and Citizenship of America, ARCA, right here in the Eighteenth Congressional District of Houston, Texas for her time, efforts, and more so for the passion that she exhibited in bringing her colleagues to share their concerns in this matter.

The Minuteman Project has good intentions, but we object to the potential negative social, legal, and economic impact that it can have on the Texas borders.

The problem of porousness of the borders is a Federal Government problem. It is a Department of Homeland Security, DHS, problem. DHS has legal jurisdiction over the borders; therefore, it is DHS that must address our border security needs.

An unofficial, untrained, and uncontrolled militia is the wrong answer for a problem that is within the Federal Government's responsibility. If the job is not being done sufficiently, we must look to Congress and the executive branch to exercise oversight and to improve performance.

The Minuteman Project is headed for the Texas borders, and their presence will be the recipe for danger, conflict, and increased legal enforcement costs for the Federal Government. The Houston Chronicle reported on May 12 that the controversial group that began as a month-long engagement along the Arizona border plans to enter Texas to operate its hunt for illegal border crossings.

Other media and eyewitnesses have suggested that many of the participants in the Minuteman Project have carried firearms, incited retaliatory measures by gang members, incited more groups to organize in a similar fashion along other American borders, and created a situation that suggests potential constraints on the individual civil rights of undocumented persons.

The arrival of this group to Texas is an example of what I feared during its initial engagement during the month of April—propagation in other borders. Empowerment of unofficial, untrained militia to carry out the functions of the Federal Government instead of simply improving the staffing situation at the Customs and Border Patrol and the Immigration, Customs, and Enforcement Agencies is a dereliction of duty and a condoning of potential vigilantism. I urge the Governor of Texas to disinvite the Minuteman Project to the U.S.-Mexico border of Texas.

Several differences between the U.S.-Mexico border of Arizona and Texas make it potentially injurious for the arrival of the Minutemen. The traffic growth in Texas would dramatically increase the probability of injury or death of aliens or other innocent civilians.

In 2001, U.S. Customs inspectors logged 3,133,619 cargo trucks as they entered Texas border towns from Brownsville to El Paso, up from 1,897,888 commercial vehicles in fiscal year 1995, the year NAFTA took effect. Furthermore, the topography at the Texas borders is more dense and provides more places for people involved in violent disputes to hide. In addition, even as the leader of the Minuteman Project stated to the Houston Chronicle, 'there are serious logistical problems for patrols in Texas. Most of the land along the Texas border is privately owned, and some of it is urbanized, unlike the open land the group monitored in Arizona.'

What we need instead of a situation of potential violence, violation of civil rights, and costs associated with restoring peace and security at the borders is a comprehensive immigration plan like I proposed with the introduction of my legislation, the 'Save America Comprehensive Immigration Act, H.R. 2092.'

As a member of the House Committees on the Judiciary and on Homeland Security, I had the opportunity to actively participate in a markup hearing for the "Homeland Security Authorization Act for FY 2006, H.R. 1817."

In the context of an amendment that I offered that called for studies and analysis of the issue of border violence, I was able to obtain a commitment from the chairman of the Homeland Security Committee to join me and the ranking member in a bipartisan letter to the Department of Homeland Security to direct it to gather information and to identify the problems surrounding the contention reported at the locations patrolled by volunteers.

Effective, efficient, and safe border security requires properly trained personnel. We need to improve our Customs and Border Patrol and Immigration and Customs Enforcement agencies rather than empower militias to do their job. The enforcement job requires accountability, training in the area of human rights, language skills, non-violent restraint techniques, and weapons handling.

The legal accountability principles such as respondeat superior and vicarious liability do not clearly apply to the Minutemen for injuries or damage that may be sustained by the private properties that abut the Texas borders; the heavy stream of commerce constantly traversing the border; or innocent bystanders who may be in the wrong place at the wrong time.

Mr. Chairman, the Jackson-Lee amendment seeks to prevent liability "powder kegs" from propagating nationally. I ask that my colleagues support the amendment.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I am prepared to accept the amendment if we can go ahead and conclude it at this moment.

Ms. JACKSON-LEE of Texas. I thank the distinguished chairman. I am willing to accept the chairman's acceptance.

Let me just say, Mr. Chairman, that this amendment speaks to the whole question of protecting our borders in an authorized manner. There seems to be an effort to do it in an unauthorized manner, and I desire to protect those who need protecting. I would ask my colleagues to support this amendment and, as well, I do want to acknowledge that the work that we have done with staff. I want to appreciate it and I hope the Members will consult with their staff on amendments when Members do consult with the Members' staff and that their amendments are in order.

With that, I ask my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Department of Homeland Security Appropriations Act, 2006".

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 14 offered by the gentleman from New Jersey (Mr. MENENDEZ), Amendment No. 1 offered by the gentleman from Colorado (Mr. TANCREDO), the amendment offered by the gentleman from New York (Mr. MEEKS), and the amendment offered by the gentleman from Wisconsin (Mr. OBEY).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 14 OFFERED BY MR. MENENDEZ

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New Jersey (Mr. MENENDEZ) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 225, noes 198, not voting 10, as follows:

[Roll No. 176]

AYES—225

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bass
Bean

Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Bradley (NH)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Butterfield
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Ford
Fossella
Frank (MA)
Gerlach
Gilchrest
Gingrey
Gonzalez
Gordon
Granger
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kind
King (NY)
Kucinich
Langevin
Lantos
Larsen (WA)
Leach
Lee
Levin
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Platts
Pomeroy
Porter
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Wilson (NM)
Woolsey
Wu
Wynn

NOES—198

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Brady (TX)
Brown (SC)
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Everett
Feeney
Flake
Foley
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gohmert
Goode
Goodlatte
Graves
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Poe
Pombo
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryun (KS)
Sabo
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Visclosky
Walden (OR)
Walsh
Wamp
Weldon (FL)
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—10

Ackerman
Brady (PA)
Kilpatrick (MI)
Larson (CT)
Lewis (GA)
Millender-McDonald
Miller (FL)
Payne
Wexler
Young (FL)

□ 1713

Ms. FOXX, and Messrs. HOBSON, NEUGEBAUER, MORAN of Virginia, NUSSLE, Mrs. JOHNSON of Connecticut, Mr. THOMAS, and Mr. GOHMERT changed their vote from "aye" to "no."

Ms. PELOSI, and Messrs. GREEN of Wisconsin, WELLER, GUTIERREZ, GILCHREST, SCHWARZ of Michigan, RAMSTAD, and Mrs. JONES of Ohio changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 1 OFFERED BY MR. TANCREDO

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. TANCREDO) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 165, noes 258, not voting 10, as follows:

[Roll No. 177]

AYES—165

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bilirakis
Bishop (UT)
Blackburn
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cantor
Carter
Chabot
Coble
Conaway
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Doolittle
Drake
Dreier
Duncan
Emerson
Everett
Feeney
Flake
Foley
Forbes
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Gutknecht
Hall
Hayes
Hayworth
Hefley
Herger
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Keller
Kelly
King (IA)
Kingston
Kline
Kolbe
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Ney
Norwood
Nussle
Otter
Paul
Pence
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Price (GA)
Putnam
Radanovich
Ramstad
Rehberg
Renzi
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryun (KS)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Thornberry
Tiahrt
Upton
Walden (OR)
Wamp
Weldon (FL)
Weldon (PA)
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf

NOES—258

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Blunt
Boehlert
Boren
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Butterfield
Cannon
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chandler
Chocola
Clay
Cleaver
Clyburn
Cole (OK)
Conyers
Cooper
Costa
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Edwards
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Ford
Fortenberry
Fossella
Frank (MA)
Frelinghuysen
Gilchrest
Gonzalez
Gordon
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez

Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hensarling
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (NY)
Kirk
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Northup
Nunes
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Peterson (MN)
Petri
Pomeroy
Porter
Price (NC)
Pryce (OH)
Rahall
Rangel
Regula
Reichert
Reyes
Reynolds
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Sherman
Sherwood
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weller
Wilson (NM)
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—10

Ackerman
Brady (PA)
Kilpatrick (MI)
Larson (CT)
Lewis (GA)
Millender-McDonald
Miller (FL)
Payne
Wexler
Young (FL)

☐ 1723

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MEEKS OF NEW YORK

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. MEEKS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 199, noes 223, not voting 11, as follows:

[Roll No. 178]

AYES—199

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berry
Bishop (GA)
Bishop (NY)
Boren
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Burton (IN)
Butterfield
Capps
Cardin
Cardoza
Carnahan
Carson
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doolittle
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Fossella
Frank (MA)
Gohmert
Gonzalez
Gordon
Green, Al
Green, Gene
Gutierrez
Hall
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kind
King (NY)
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Linder
Lipinski
Lowey
Lynch
Maloney
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Pallone
Pascrell
Pastor
Paul
Pelosi
Peterson (MN)
Petri
Pitts
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Reynolds
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schwartz (PA)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Slaughter
Smith (WA)
Snyder
Souder
Spratt
Stark
Strickland
Stupak
Sullivan
Sweeney
Tauscher
Terry
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wu
Wynn

NOES—223

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berman
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Carter
Case
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Grijalva
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
LoBiondo
Lofgren, Zoe
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
McCaul (TX)
McCotter
McCrery
McHenry
McKeon
McKinney
McMorris
Mica
Miller (MI)
Miller, Gary
Moore (WI)
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Otter
Oxley
Pearce
Pence
Peterson (PA)
Pickering
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schiff
Schwarz (MI)
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Sodrel
Solis
Stearns
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—11

Ackerman
Bonilla
Brady (PA)
Kilpatrick (MI)
Larson (CT)
Lewis (GA)
Millender-McDonald
Miller (FL)
Payne
Wexler
Young (FL)

☐ 1732

Mr. SNYDER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MILLER of Florida. Mr. Chairman, I would like to offer a personal explanation of the reason I missed rollcall votes Nos. 176–178 on May 17, 2005. These were votes on amendments to H.R. 2360 The Department of Homeland Security Appropriations bill for FY 06. due to personal circumstances I was detained until after these votes had concluded.

If present, I would have voted rollcall Vote No. 176, the Menendez Amendment "no"; rollcall Vote No. 177, the Tancredo Amendment "aye"; rollcall Vote No. 178, the Meeks (NY) Amendment, "no."

AMENDMENT OFFERED BY MR. OBEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Wisconsin (Mr. OBEY) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 226, noes 198, not voting 9, as follows:

[Roll No. 179]

AYES—226

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Butterfield
Camp
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
Dent
Dicks
Dingell
Doggett
Doyle
Edwards
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Filner
Fitzpatrick (PA)
Foley
Ford
Frank (MA)
Gerlach
Gillmor
Gohmert
Gonzalez
Gordon
Green (WI)
Green, Al
Green, Gene
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind
Kucinich
Kuhl (NY)
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Petri
Platts
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sherman
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wu
Wynn
Young (AK)

NOES—198

Aderholt
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burton (IN)
Buyer
Calvert
Cannon
Cantor
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Emerson
English (PA)
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gilchrest
Gingrey
Goode
Goodlatte
Granger
Graves
Grijalva
Gutierrez
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette.
Leach
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCrery
McHenry
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Musgrave
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Oxley
Paul
Pearce
Pence
Peterson (PA)
Pickering
Pitts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ryun (KS)
Saxton
Schwarz (MI)
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf

NOT VOTING—9

Akin
Brady (PA)
Kilpatrick (MI)
Larson (CT)
Lewis (GA)
Millender-McDonald
Payne
Wexler
Young (FL)

☐ 1741

Mr. BOEHLERT changed his vote from "aye" to "no."

Mr. OTTER and Mr. EVERETT changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to the bill?

Mr. ROGERS of Kentucky. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PUTNAM) having assumed the chair, Mr. GILLMOR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Pursuant to House Resolution 278, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 424, nays 1, not voting 8, as follows:

[Roll No. 180]

YEAS—424

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah

Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—8

Brady (PA)
Kilpatrick (MI)
Larson (CT)
Lewis (GA)
Millender-McDonald
Payne
Smith (WA)
Wexler

☐ 1805

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. KILPATRICK of Michigan. Mr. Speaker, personal business in my district prevents me from being present for legislative business scheduled for today, Tuesday, May 17, 2005. Had I been present, I would have voted "no" on rollcall No. 174, on ordering the previous question; "no" on rollcall No. 175, H. Res. 278, a resolution providing a rule for the consideration of H.R. 2360, the Department of Homeland Security Appropriations Act for Fiscal Year 2006; "aye" on rollcall No. 176, an amendment offered by Rep. ROBERT MENENDEZ of New Jersey; "no" on rollcall No. 177, an amendment offered by Mr. TANCREDO of Colorado; "aye" on rollcall No. 178, an amendment offered by Mr. MEEKS of New York; "aye" on rollcall No. 179, an amendment offered by Mr. OBEY of Wisconsin; and "aye" on rollcall No. 180, final passage of H.R. 2360, The Department of Homeland Security Appropriations Act for Fiscal Year 2006.

PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Mr. Speaker, I would like to submit this statement for the record and regret that I could not be present today, Tuesday, May 17, 2005, to vote on rollcall vote Nos. 174, 175, 176, 177, 178, 179, and 180 due to a family medical emergency.

Had I been present, I would have voted: "No" on rollcall vote No. 174 on Ordering the Previous Question on H. Res. 278, providing for consideration of H.R. 2360 making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; "No" on rollcall vote No. 175 on Agreeing to the Resolution as Amended on H. Res. 278, providing for consideration of H.R. 2360 making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; "aye" on rollcall vote No. 176 on an Amendment to H.R. 2360 to increase funding (by transfer) by $50 million to State and local governments for the defense of chemical plants by first responders; "No" on rollcall vote No. 177 on an Amendment to H.R. 2360 to prevent the use of funds in contravention of a provision in the illegal Immigration Reform and Immigrant Responsibility Act (PL 104–208) that prevents Federal, State or local government officials from prohibiting or restricting government agencies or officials from sending or receiving information to Federal immigration officials regarding an individual's immigration status; "aye" on rollcall vote No. 178 on an Amendment to H.R. 2360 to insert anew section at the end of the bill to prohibit the use of funds from being used to close any detention facility operated by or on behalf of U.S. Immigration and Customs Enforcement that has been operational in 2005; "aye" on rollcall vote No. 179 on an Amendment to H.R. 2360 to insert a new section at the end of the bill to direct the Secretary of Homeland Security to make grants to assist States in conforming with minimum drivers' license standards by appropriating $100,000,000. For taxpayers with adjusted gross income in excess of $1,000,000, the amount of tax reduction shall be reduced by 1.562 percent; and "aye" on rollcall vote No. 180 on final passage of H.R. 2360, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO BURMA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 109–27)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. I have sent the enclosed notice to the *Federal Register* for publication, which states that the Burma emergency is to continue beyond May 20, 2005. The most recent notice continuing this emergency was published in the *Federal Register* on May 19, 2004 (69 FR 29041).

The crisis between the United States and Burma arising from the actions and policies of the Government of Burma that led to the declaration of a national emergency on May 20, 1997, has not been resolved. These actions and policies, including its policies of committing large-scale repression of the democratic opposition in Burma, are hostile to U.S. interests and pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, I have determined that it is necessary to continue the national emergency with respect to Burma and maintain in force the sanctions against Burma to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *May 17, 2005.*

ELECTION OF MEMBER TO COMMITTEE ON THE BUDGET

Mr. GUTKNECHT. Mr. Speaker, I offer a resolution (H. Res. 281) and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 281

Resolved, That the following Member be and is hereby elected to the following standing committee of the House of Representatives:

Committee on the Budget: Mr. Chocola.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

NAFTA LESSONS FOR CAFTA

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, much like its elder cousin NAFTA, CAFTA has promised to raise the standard of living in its poorest member countries. But thanks to NAFTA, we already know how this story ends.

A typical Central American earns only a small fraction of an average American worker's wage. More than 40 percent of workers in the region labor for less than $2 a day, placing them below the global poverty level.

Mexico now ranks as one of the world's 10 largest economies. Its overall wealth has increased since passing NAFTA, and, unfortunately, so has its poverty. It is said, "a rising tide lifts all boats." This is not the case for the poor in Mexico and will not be the case for the impoverished people in the Western hemisphere's poorest nations.

For this and other reasons, I encourage my colleagues to join me in opposing CAFTA.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SMART SECURITY AND HOMELAND SECURITY VS. IRAQ'S SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, minutes ago the House approved the fiscal year 2006 Homeland Security appropriation bill to the tune of, underwhelmingly, $37 billion. In a vacuum, $37 billion sounds like a lot of money, and it is, but when you consider that Congress has appropriated over $100 billion on the security of Iraq this year alone, and more than $200 billion overall, $37 billion sounds much less significant. In fact, the $37 billion spending bill that was approved today represents less than 5 percent of the U.S. annual discretionary budget. Yet the Iraq war this year, this year alone, represents well over 10 percent of our annual discretionary budget.

Clearly, something is wrong with this picture. Spending on homeland security, while inadequate in its amount, focuses on the right things to protect America: First responders, border and port security, and cargo inspections. On the other hand, funding for the war in Iraq continues to focus on poorly planned military operations and irresponsible no-bid contracts to war profiteers like Halliburton and its subsidiary Kellogg, Brown & Root.

At the same time, the Iraq supplemental spending bill of over $200 billion has neglected to provide adequate funds for body armor for the troops. This is a particularly egregious mistake in light of the 2004 study indicating as many as a quarter of all troop deaths could have been prevented if the most advanced body armor had been provided to every single soldier in Iraq.

It is important to note the irony in our funding priorities. The Homeland Security budget, which is vitally important towards ensuring the safety of the American people, is drastically underfunded. On the other hand, the Iraq war, which was a war of choice, not a war of necessity, is so overfunded that last year $9 billion in reconstruction funds went missing. Nine billion dollars. That is more than a quarter of this year's homeland security budget.

And let us not forget another more recent report by the Special Inspector General for Iraq's reconstruction. This report states that another $100 million for reconstruction projects in southern Iraq is also missing and cannot be accounted for.

Mr. Speaker, we need to focus our spending on programs and policies that will help ensure the safety of the American people. The war in Iraq will not make Americans safer, because this conflict is causing the United States to be perceived by the Muslim world as a colonial occupier, not as a liberating force. This perception, combined with our continued military presence in Iraq, has assisted radical Muslim terrorist groups like al Qaeda in their recruiting efforts. The result is that 3½ years after September 11 Americans are less safe.

Fortunately, there is a way to achieve sensible spending while also keeping America secure. Over the last 2 years, I have developed the SMART Security Strategy for the 21st Century. SMART is a sensible multilateral American response to terrorism. SMART Security urges a shifting of America's budget priorities to more effectively meet our national security needs. That means spending more money on port security, cargo inspections and airline security, and less money on warfare, outdated weapon systems, and new nuclear weapons.

☐ 1815

Instead of funding continued military operations in Iraq, the SMART platform would encourage other nations to work with the United States and spend more money on peacekeeping, on reconstruction and developmental aid to ensure long-term peace and stability in the Middle East.

In fact, it has been proven when debt relief increases, terrorism and the conditions that give rise to terrorism tend to decrease. That is why the SMART platform encourages wealthy nations to provide debt relief and developmental aid for the world's poorest countries. After more than 2 years of fighting, it is clear that the war in Iraq cannot be won through military means. We need to be smarter. We need to be smarter than the terrorists, not just bigger and stronger.

The fight to secure our country must be fought on more than the battlefield. We must be smart in the way we prioritize our national spending by focusing on true security needs instead of superficial security needs. Homeland security is a true security need. Let us remember the next time President Bush asks for money for Iraq, which I understand will be sometime this summer, we need to know which is secure and which is not.

COST OF PRESCRIPTION DRUGS

The SPEAKER pro tempore (Mr. KUHL of New York). Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, I rise tonight to talk about the price of prescription drugs here in the United States compared to what consumers pay in other industrialized countries in the world.

I have some charts with me tonight because I want to point out some differences. There are several that I think are important. This is a chart, and some numbers are hard to read. These are 10 of the most commonly prescribed drugs in the United States. We have Nexium and Norvasc and Zyrtec and Zocor. I want to point out Zocor, we have a price, and these were all done just in the last few months. We have a price from the Metropolitan Pharmacy in Frankfurt, Germany and a local pharmacy in Rochester, Minnesota.

If we total all of these drugs for a month's supply, in Frankfurt, Germany, they would cost $455.57 in U.S.

dollars. Also in U.S. dollars in the United States, the price of those same drugs, those same 10 best-selling prescription drugs would be $1,040.04. Over the last year, the value of the dollar has declined by about 20 percent. We thought the differences we pay in the United States and what our German friends pay would have gotten less. We were surprised to learn that the differences have gotten worse.

For example, Zocor, a very commonly prescribed drug for people who have some heart problems or problems with their circulation. Zocor in the United States on average sells for $85 for a month's supply. In Germany you can buy that drug for $23.83.

Mr. Speaker, what is interesting about this story is that one of my colleagues came up to me and he saw this chart. He said, I take Zocor. I said how much do you pay for it. He said a copay for a U.S. Congressman for that Zocor is $30 here in the United States. You can walk in off the street to the Metropolitan Pharmacy in Frankfurt, Germany and pay $23.83, and the Germans think they are paying too much for prescription drugs.

Mr. Speaker, I am holding in my hand two boxes of Celebrex. They are exactly the same. They come from the same plant. If you bought this box of Celebrex in the United States, you would pay more than double what you pay for the same drug in Germany.

Now, I think Americans are willing to, and I speak on behalf of most Americans, we understand there is a cost to develop these drugs. There is a cost to market these drugs. Unfortunately, there is too much being spent on advertising, but I am not one who says they should not be able to advertise. But I believe Americans ought to have access to world-class drugs at world-market prices. I am asking my colleagues to join me in supporting, and I have another chart that is easier to read, compare London to Athens to the United States. We now have pharmacists from around the world who regularly send us their prices for the drugs.

In almost every case, it is less than half what we pay in the United States. These same five drugs, Lipitor, Nexium, Prevacid, Zoloft, and Zyrtec, those five drugs in London, $195.95. In Athens, $231.04; but here in the United States, $507.96.

Mr. Speaker, I ask Members to please join me in cosponsoring H.R. 328, the Pharmaceutical Market Access Act of 2005. It is time to make clear that Americans have access to world-class drugs at world-market prices.

AIRPORT COMPETITION IN DALLAS-FORT WORTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. MARCHANT) is recognized for 5 minutes.

Mr. MARCHANT. Mr. Speaker, I rise today to speak in support of a law which has fostered spectacular growth and vitality in my district and throughout all of north Texas. That law, which has become known as the Wright amendment, was passed in 1979 to settle for all time a controversy on how best to achieve robust competitive airline competition in the Dallas-Fort Worth area.

It has worked and continues to work beyond all expectations, but the benefits it has brought can easily be undone. Given all of the turmoil in the airline industry and the limited time for Congress to get important business done, any serious effort to change the current law would be a misuse of our time and resources.

Since the issue has been in the news lately and Members have been approached with very simplistic answers on the surface, compelling arguments about the Wright amendment, I want to put some facts into the RECORD.

In the late 1960s, the cities of Dallas and Fort Worth, at the urgings of the Civil Aeronautics Board, agreed to end the fragmentation of air service in the region and invest in a single regional airport that could serve all of the people in the area. At the time, everyone knew a new airport would not work unless there was an absolute commitment by all parties to consolidate all the service from the various local airports in the area into the new facility, which became known as the Dallas-Fort Worth International Airport.

The two communities and all carriers offering interstate service from the existing airports agreed on this course of action. However, one carrier that at that time offered only interstate service from Dallas' downtown airport, Love Field, refused to do so.

This led to a long and protracted and bitter legal battle between the communities and this carrier, which ultimately resulted in a carefully negotiated compromise. This compromise encompassed into Federal law to preserve it was exactly constructed to reflect the intent of the communities as well as the desires of the interstate carrier.

Reluctantly, the civic parties agreed to allow the one carrier that had refused to move to the DFW Airport to operate out of Love Field to and from points within Texas or to its four contiguous States. That carrier agreed to the Wright amendment as a way to settle the issue for all time.

Last week, the highly respected global aviation consulting firm, Simat, Helliesen & Eichner, released an omnibus report which predicts devastating consequences to the Dallas-Fort Worth Airport if the Wright amendment were to be repealed. I will submit the report for the RECORD; but it predicts if the Wright amendment is repealed, DFW could lose 204 flights a day, 21 million passengers annually, and slash DFW passenger traffic back to levels seen 20 years ago.

Mr. Speaker, health in the airline industry is dependent on healthy competition between airlines. In contrast, competition between very closely located airports can be destructive. The communities of Dallas and Fort Worth understood this when they agreed to end, or restrict, commercial air traffic to their local airports. DFW was built to accommodate any and all carriers, and over the years it has attracted both network and low-cost carriers.

Just as importantly, by limiting traffic at the neighboring airports, DFW was able to compete among airports and now is the fifth largest airport. Think of it this way. Almost everyone would agree it would improve competition to have 30 airlines competing against each other, but no one would suggest it would be healthy to have 30 airports competing against each other. Just like two major shopping centers will die if located next door to each other, two airports located only 12 miles apart, as are in Dallas, Love Field and DFW will provide two weaker airports.

Let us be perfectly clear. Restriction at Meachem and Love Fields were not put in place to give DFW a jump start. No one said, We will invest billions of dollars in a huge international airport and domestic hub airport until it is successful and then we will undercut the very source of its success by reopening the airports that we closed to make it so. That does not make good business sense.

Mr. Speaker, DFW is what it is today because it is the only airport in the metroplex that passengers can use to fly anywhere in the world. Moreover, it has not achieved the success it has by being anticompetitive. On the contrary, it has always welcomed all comers. DFW currently has gates available and is seeking new airlines.

Love Field was never meant to be a competitor to DFW. In fact, DFW would probably have never been built and the tens of thousands of jobs and the billions of dollars of economic stimulus it has given Dallas-Fort Worth would never have been realized if Love Field had remained an unrestricted airport. The best proof of that statement is evidenced by the 21 empty gates currently vacant at DFW. Despite any attractive incentives, DFW has been unable to attract new, low-cost tenants because of the discussion of repealing the Wright amendment.

30-SOMETHING WORKING GROUP

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes as the designee of the majority leader.

Mr. MEEK of Florida. Mr. Speaker, once again it is an honor to address this great House of Representatives. I want to thank not only the Democratic leader but the Democratic leadership for allowing me to be here on their behalf.

Our 30-something Working Group, which the gentlewoman from California (Ms. PELOSI) put together in the 108th Congress, our focus is to work on issues that are facing not only young Americans but Americans in general. I think it is very, very important for us to state not only here on the floor but to also say in our communities and the workplace that there is no greater service than making sure that your children and grandchildren have a better opportunity than what you have had. That is kind of the unwritten statement for the 30-something Working Group. We are benefactors of the generation that allowed us to have better opportunities than what they have had. I think that is what makes our country great. I commend those Members that live with that philosophy.

But I think it is important in a time of judgment and a time that we all have to be leaders that we stand up, not only stand up, but inform the American people and future generations on what is going to happen good for them and in many cases what may not work out the way that is being portrayed here in the Congress or any issue that we are talking about here, that we are taking action on here in Washington, D.C.

There are a lot of good things that families are doing for one another to make sure that future generations and their bloodline have a better opportunity than what they have had. There are families that are trying to save money with a college plan or savings plan for their children to receive education for their bloodline for the first time. Some families that only made it after a 4-year experience stopped at an associate's degree or a bachelor's of science degree, and want their children or a family member to be able to receive a master's degree or a doctor's degree.

□ 1830

It is that individual in the middle of America that wants his or her son or daughter to be able to carry the family business further than they were ever capable to carry it. I know that it is in the fiber of our American Dream that is in our hearts and in our minds.

So when we start talking about the issue of Social Security, we have to say that that is a paramount issue when we talk about values and commitment to our future generations, we talk about value and commitment to those beneficiaries that are receiving Social Security benefits right now. We have to think about those individuals that are disabled that are counting on this Congress to stand up on their behalf, those individuals that elect us to speak on their behalf.

One thing about this body within the U.S. Congress, we cannot be appointed to the House. We cannot be appointed to this position. We have to be elected. The other body can be appointed. We have to be elected. Through the election process, there is a lot of commitment and sacrifice. A lot of Americans, someone woke up early one morning, 7 a.m., and showed up to their election polling place for some accountability. That is what we are here to do.

When we start talking about Social Security, I think it is important that we come to this floor to let the American people know and the Members of this House of Representatives know that many of us within the Congress are very, very concerned about the privatization scheme that is being talked about and that is being portrayed as a plan for future generations, or the preservation of Social Security.

We cannot believe everything we hear, especially when folks start saying, well, these are the facts and this is my plan and this is the way it is going to work. Right now, especially on the Democratic side, and I will say a few of my Republican colleagues understand that 48 million Americans are receiving Social Security right now, that 33 million of those Americans are already retired, 33 million that are counting on Social Security. Social Security is that security blanket, our end of the deal that we said we would hold, they paid into it, it is there for them and it will be there for them for the next 5, 10, 15, 20, 25 years at the same level that it is right now.

Of course we want to strengthen Social Security. Also, it is important to understand that right now, today, $955 per month on average goes out every month to support families and support their unmet needs. This is not a giveaway. This is what they paid for. This is what they invested in. It is important that we do not gamble with those dollars. I think it is also important to understand that 48 percent of Social Security beneficiaries, if they did not have Social Security, they would be living in poverty today.

So, Mr. Speaker, I cannot help but have trouble with the administration's plan and some Members on the Republican side's plan to privatize Social Security and to say and admit up front that benefits will be cut and that they would not only receive a benefit cut but even those who do not want to go in a private account will suffer.

I cannot understand for the life of me how we can serve that up on a platter and say that we are trying to help future generations or present enrollees in Social Security right now. I cannot help but question $5 trillion. Until I got to the Congress, I had no meaning of what $5 trillion actually meant, $5 trillion, not of money that we have in our wallets but money that we are willing to borrow, $5 trillion. But better yet, this is supposed to help maintain Social Security.

I am going to talk a little further about what we are doing as Democrats, but I would like to yield to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman from Florida for yielding. I actually want to commend him because I see him week after week on the floor leading the group under-30 as they demonstrate that you do not have to be a senior citizen, that you do not have to be old and elderly, you do not have to have been here 25 years to have impact on this body. And so I thank the gentleman from Florida for yielding, but I also commend him for his leadership and for his position as he talks about Social Security, one of the great programs that has bolstered the quality of life for people in our country.

I actually grew up in a rural community in Arkansas before moving to Chicago, and we had a saying there, that if it ain't broke, don't fix it. They would oftentimes be talking about farm machinery and other kinds of things. While Social Security is not quite the same, the reality is if it is working for millions and millions of people, if it has been the only thing that has stood between our senior citizens in many instances and absolute poverty, then it sounds to me like it ain't really broke. And while it might can be adjusted just a little taste, we may have to put some money in, I do not think it is broken, and I do not think we need to fix it.

GLOBALISM HITS THE CHICAGO LIGHTHOUSE FOR THE BLIND

I want to take just a few minutes, if I could, and talk about something else for a minute, that is, about an industry in my congressional district that is being squeezed by our trade policy, by globalism, by outsourcing and all of the things that we seriously have to look at. That industry is the Chicago Lighthouse Industries. They have made clocks for the Federal Government for the last 28 years. They have been consistent and diligent in their performance. Since 1977, the Chicago Lighthouse made 3.3 million clocks. In fact, last year they made 104,000 clocks for all branches of the military, Energy Department, Postal Service, and the Justice Department.

The unique thing about the Chicago Lighthouse is that they employ more than 40 people who are blind or visually impaired. They employ their workers at a salary of $8.50 an hour and provide health benefits. On a recent visit to the Chicago Lighthouse, I was amazed at the level of detail and speed at which the workers developed the clocks. They have an assembly line that produces and packages 1,000 wall clocks a day. And, of course, they are blind. They are visually impaired.

In fact, Rita McCabe can assemble a 12-inch clock in less than a minute. Ms. McCabe, who is blind, found her job through the Chicago Lighthouse. When asked how she felt about her job, she stated the following: "It gives me a chance to be with people, to make a living on my own, and to prove that I'm competent enough to do this kind of work." Ms. McCabe has worked for the Chicago Lighthouse for 25 years.

Rita McCabe's job is in jeopardy due to competition from foreign sources. In the past 4 years, U.S. imports of wall clocks, most of them from China, have increased by 24 percent, totaling $123 million in 2003. The Chicago Lighthouse does not mind competition. They have suggested that they can compete with anybody as long as the rules are the same. Unfortunately, the playing field is not level when it comes to competing with China and other countries that do not have a minimum wage requirement or pay health benefits to their workers.

The Chicago Lighthouse, though, pays its workers an average of $8.50 an hour plus health benefits. It is not uncommon in China for workers to make $2 an hour and have no benefits. China is able to undercut clock manufacturers like the Chicago Lighthouse for the Blind because they do not play by the same rules. They are able to send their products into the United States at a cheaper price. This adds to the trade deficit that currently exists. More importantly, to allow foreign governments who do not pay minimum wage or a livable wage, nor provide benefits, to continue to undercut U.S. companies like the Chicago Lighthouse erodes the faith that citizens have in government and puts too many jobs at risk.

The Chicago Lighthouse is not asking for preferential treatment. They are just seeking fundamental fairness. The Chicago Lighthouse has been in existence now for 99 years. They have done something right to be able to survive.

The Federal Government as a result of the Javitz-Wagner-O'Day Act is required to show favor towards the Chicago Lighthouse and other industries like it when purchasing clocks through the General Services Administration. However, this law has been eroded and many Federal purchasers are going for the lower-priced clocks. Obviously, these are the clocks that are being produced through cheaper labor costs. The Federal Government must set the example and ensure that taxpayer money is going to support those industries and businesses in our country and not going to other countries who take the benefit of our outsourcing policy.

Everything comes at a price. The workers at the Chicago Lighthouse are able to be productive, tax-paying citizens because of their jobs. These jobs help support them. And so I simply want to have us understand and recognize that when we make a trade policy, when we are outsourcing, when we are always looking for the cheapest price, when we are always looking for the most cost-efficient way of doing business, we also better look at the needs of our people and we better look at the needs of the people in our communities to provide opportunities for blind people to work, to have dignity, to have pride, to have a sense of self-worth. We should not let anything erode that. We should not let anything take that away.

I would urge us as we purchase, as we continue to purchase clocks, as we make trade policies, that we remember something the Bible says: "Where there is no vision, the people perish." And some people can see, but have no vision. Sometimes our policies reflect the ability to see, but not in a visionary way.

So, please, America, let us not put the people at the Chicago Lighthouse for the Blind out of work. Let us keep them working and hopefully all of the rest of us will be able to see.

I thank the gentleman again so very much. I really appreciate the gentleman giving me the opportunity to cut into this under-30 group's time. It has been a long time since I have been under 30, but it is just a pleasure to be here with the gentleman, and I thank him so very much.

Mr. MEEK of Florida. Mr. Speaker, I just want to say before I comment to what the gentleman from Illinois just said, I want to commend him for coming to the floor, not only representing his great district but representing some great Americans that are doing what they can under the circumstances. I have a similar program in my district, Good Will Industries, providing uniforms for our men and women that are in uniform, sewing together jackets. They are handicapped, some physically handicapped, mentally handicapped, many; but they are trying, and we have got to give them an opportunity to play a role in working America.

Another thing I want to also point out, and I know that the gentleman from Ohio (Mr. RYAN) is here, is that the gentleman from Illinois is talking about working Americans, not folks sitting at home talking about where's my check. These are individuals that wake up every day and want to wake up every day and go and be productive. That is what this is all about. That is what our democracy is about.

It was a pleasure yielding to the gentleman. He is one of the most outstanding orators that we have in the Congress.

Mr. DAVIS of Illinois. The next time you are in Chicago, I have just got to bring you by so that you can go and see the Chicago Lighthouse for yourself. And we will bring the gentleman from Ohio along with us.

Mr. MEEK of Florida. I look forward to that. Just not in the winter time, that is all I have to say, because I am from Florida. I do not know about all Chicago, holding on to the ropes and the wind blowing and everything. I love Chicago. I thank the gentleman from Illinois for standing up for those great Americans.

□ 1845

Mr. Speaker, I am so glad that the gentleman from Ohio (Mr. RYAN) is here. And we are, I tell the gentleman from Illinois (Mr. DAVIS), the 30-Something Working Group; so he can be 30-something, not under 30 or I think I would not be with this group. I would be with them in spirit.

Mr. Speaker, I was just talking here for a moment about the whole issue of a bad privatization scheme and throwing the dice on the retirement of so many not only Americans that are presently receiving Social Security benefits, and I am not just talking about retirees. We are talking about disabled Americans. We are also talking about those individuals who are going to school and surviving on survivor benefits of Americans that have passed on. They paid into Social Security. They knew there were survivor benefits for their kids. And one can ask even those Americans and those of us in the Congress that were pension funds outside of this Congress and we know what happened to our pension fund. It went straight down.

The gentleman from California (Mr. GEORGE MILLER) our ranking member on the Committee on Education and the Workforce, said just today that airline pilots who were receiving $12,000 a month in pension benefits, now it is down to $2,000 a month. That is a $10,000 difference in their retirement. So now we are going to do that with Social Security? Even for those individuals who do not enroll in the program, they are still going to get benefit cuts. They still receive benefits cuts. And, also, the dollars that are needed to support them in their time of need.

So it is a great pleasure once again being with my good friend from Ohio and the fact that we come to this floor along with the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ), the gentleman from Alabama (Mr. DAVIS), and others to share with Americans about what we are working on here in the Congress.

Mr. RYAN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentleman from Ohio.

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for yielding to me.

I think it is appropriate for us tonight to kind of take another tack, a little more specific. We know that the President's privatization plan for the

Social Security system is a bad one. It means benefit cuts across the board to the tune of 40 percent for most. Under the President's plan, middle-class workers earning $58,000 a year would be hit with a 42 percent benefit cut. And the gentleman from Alabama (Mr. DAVIS), who was here last week, said very eloquently that this Social Security system is a system that is put together and was put together to solidify the country and to talk about our common interests, our common goals, and our common humanity, and how we have an obligation in this Congress to maintain that system and not to say and begin to promote the kind of attitude that says, hey, everybody is on their own. They go here and they make the kind of money that they want. They invest in the stock market, and if they go belly up in the stock market, they are on their own. And that is basically what the President's plan says.

We have a system that works, a system that is a safety net for many American people who have struggled. But the point I think we need to make tonight, which we have touched upon over and over and over again, is the issue of jobs in the United States of America. If we are not participating in an economy that is growing, there are not going to be the kind of resources put into the program.

I was at a town hall meeting on Social Security a couple of weeks ago, and I had a lady stand up, my age, and say "I do not want to put 4 percent of my Social Security taxes into a private account" because she figured out the math. She makes $19,000 a year. Four percent of $19,000 a year is not enough to retire on even if the stock market is going gangbusters.

So this may sound nice to have private accounts. If one is making $150,000 a year, they know how to invest their money. They know how to pull it out and put it back in. The President's plan does not allow that. So if we say the same exact thing to someone who is making $19,000 and they are allowed to invest their 4 percent of $19,000 a year, there is not going to be enough there for them to retire, and they are going to lose their Social Security benefit.

This is a risky proposition, and it is why only 30 percent of the American people are saying this is a good idea. It makes me become more and more aware and concerned that this is a whole ploy. While we are cutting food stamps and we are cutting Medicaid, we have the whole country having this debate about Social Security over here. And we do not want to talk about what is going on in Iraq, and we do not want to talk about the kind of cuts that are being made in the veterans' health care program. We have to keep the discussion on an issue that is highly volatile and has been known to be a third rail of politics.

Now, I want to share with the American people and our friends who are here tonight a chart. We are talking about jobs and job creation in the country. This chart shows the U.S. trade balance in goods, durable goods. This goes from 1979 to 2004. In 1979 we had a trade deficit of $24 billion, in 1979. And we do not really need to see the numbers. We just need to see the bars. And it slowly got worse, got better in the early 1990s and then the dipsy-do all throughout the 1990s. But in 1998 our trade deficit in goods got to $230 billion. That was in 1998. And then from 1998 to 2004, a $651 billion trade deficit in the United States of America. We are buying $651 billion more worth of goods than we are selling.

If we want to fix Social Security and we want to have enough money in our local communities to fund our schools and our libraries and Medicaid at the State and Federal level, we need to fix this problem, or we are never going to have enough money to do anything. Four percent of whatever one wants to put in their side account is never going to be enough because we are going to have more people for 19 and 20 and $30,000 a year than we are for 70 or 80 or 90. And this is the main culprit.

And today Secretary Snow came out with the weakest report on the Chinese currency manipulation that we have ever seen and basically gave the Chinese a free pass when they are manipulating their currency by 40 percent. That is why this number looks like it does.

I am going to get the other chart out here that is dealing with annual trade with China. There are three different graphs here. The gold graph, the gold line, with the blue dots is what we are importing from China. This starts off in 1985; it ends up in 2004. The blue line is what we are exporting to China, and then the trade balance. What we are importing from China is going through the roof, $200 billion of goods coming into this country. We are exporting to China virtually nothing. The trade gap just with the Chinese is $162 billion; $162 billion we are buying from the Chinese without the ability to sell.

Mr. MEEK of Florida. Mr. Speaker, the gentleman from Ohio's (Mr. RYAN) point as it relates to pointing out the trade deficit is the fact that Americans, if we allow hypothetically, and I do mean hypothetically, in this Congress a privatization plan to go through this Congress the way the President and majority side would like to see it happen, then they are going to get a double whammy. They are getting a double whammy of not having high-paying jobs. And this is not just me talking. Folks can go to a number of third-party validators and even the White House itself said there will be drastic benefits cuts, benefits cuts to the tune of if someone is earning $37,000, they are going to get a 28 percent benefit cut than what they are experiencing right now. At $58,000, they are going to get a 42 percent benefit cut, and on and on and on. So there will be benefit cuts, and we have put that up front, and there will be a great gamble on the future of Social Security.

So I am really pleased that the gentleman brought those charts because folks really need to understand, and this is from the U.S. Census Bureau. That is where he received that information.

Mr. RYAN of Ohio. We are not making this up, Mr. Speaker.

Mr. MEEK of Florida. This is not the "Tim Ryan Report."

Mr. RYAN of Ohio. This is not the "Kendrick Meek Report."

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, I just want to make sure because we point out when there is inaccurate information out there. And some of our friends here in the Beltway, which is Washington, D.C. they have an imagination about what the truth is about. We talk a lot about what the truth really is. We talk a lot about the $350 billion so-called prescription drug plan that is supposed to help Americans, and now it is $724 billion, but we were told $350 billion when it first started. So the President is saying $5 trillion on a privatization plan. What is it going to be next year? Is it going to be $10 trillion?

Mr. RYAN of Ohio. Mr. Speaker, if the gentleman will continue to yield, he brings up a great point because over the next 10 years, and I do not know if he said this before I arrived, in the next 10 years we are going to have to borrow $2 trillion to fund this privatization scheme. Over the next 20 years we are going to have to borrow $5 trillion. This is billion. We have to borrow $5 trillion to fund this privatization scheme. So it is just brilliant that he brought that up in such a timely fashion because it ties into this.

As we are running a $162 billion trade deficit with the Chinese at the same time that they are stealing our manufacturing, stealing our jobs, we are borrowing the money right now for our annual deficit that we have, from the Chinese, $500 billion.

So what do we have to do to fix this problem? One, we have to balance the budget. But if we are already borrowing $500 billion from the Japanese and the Chinese, why would we then go out and say let us go borrow another $5 trillion to roll the dice on and play roulette?

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, that is the problem. This Social Security, it is not some small little program that a Member of Congress put in the budget and said this is our pet project. This is Social Security. This goes towards our generation for our children and grandchildren, and I hope to have them some day, grandchildren. I want them to have a better opportunity.

The gentleman from Illinois (Mr. DAVIS) came to the floor to talk about those individuals putting together clocks in his district, the Lighthouse Project. I yield to him, from the 30-something Working Group hour, to give him an opportunity, and he did not come here saying we need to create a program for people who do not want to work. We need to make sure that Americans, and he is talking about blind Americans, are able to continue to support themselves.

Remember, Mr. Speaker, 33 million Americans are retired, receiving Social Security benefits now. Forty-eight percent of the 33 million would be living in poverty if it was not for Social Security. And they have a plan that comes up here to the Hill. And I would not call it a plan. I would say it is some sort of philosophy or theory that the White House and majority side have.

And I would also like to say, Mr. Speaker, we know that we have friends over there, few in number, on the Republican side that are willing to stand up and say, I am not with you on this.

□ 1900

And if you bring it to the floor, I am going to vote against it, rightfully so. Do we know why? Do we know why it is not on the floor tonight? Because I believe, just like the American people know and just like many Members of this House know, it is not because we are Democrats and we are right; we are Democrats and we are willing to stand up to say what is right for Social Security. This is not a political issue; this is an American issue.

So when we start talking about what people are saying here on the floor as it relates to the majority side, we do know we were given that prescription drug number, $350 billion, it ended up being $724 billion and climbing, and still did not put forth a plan where we can combine buying power and take the price down for seniors.

Mr. RYAN of Ohio. Mr. Speaker, that is exactly right. We are going on the record of what this administration has consistently told us and told the American people, and the gentleman is exactly right. With the prescription drug benefit we were told it was $350 billion, then it became $400 billion, we passed it at 3 in the morning here. Then a month or two later, after the election, it turned out to be $700 billion, and then it went to $1.1 trillion. When we passed it, it was $400 billion. And someone in this administration told the actuary who had the real numbers, do not tell Congress.

Wait a minute. That is not telling the American people. I represent 700,000 people; the gentleman represents 700,000 people.

Mr. MEEK of Florida. And change.

Mr. RYAN of Ohio. They withheld the administration from your constituents and my constituents, and we made a faulty decision here on the House floor where many Members would not have voted for it. When we go back and look at the war, what we were told about the war: we are greeted as liberators, we will use the oil for reconstruction and it will only cost us $50 billion when we have already over $300 billion invested in the war; all of these things that turned out not to be true.

Here we are today being promised a scheme that we have to borrow $5 trillion to implement. It is bad enough we have to borrow it and pay it back; we have to pay the interest on it too. Talk about sticking it to the next generation.

Mr. MEEK of Florida. Mr. Speaker, let me just say this. We are both going to be in the Committee on Armed Services tomorrow late into the night marking up or creating the Committee on Armed Services for the United States of America authorization bill to protect the American public, to make sure our men and women that are in harm's way get what they need, to make sure that we do all of the things that we need to do to defend this country, adding $5 trillion to the debt and making decisions that should not be made.

And I just want to say, at the end of the legislative business of every week, we have our whip, the gentleman from Maryland (Mr. HOYER) come to the floor with the gentleman from Texas (Mr. DELAY), and they talk about the business of next week and what is going to happen. I hope when it comes down to Social Security that there is a bipartisan effort to not only make sure that we pay for what we do or have a plan to pay for what we do as it relates to borrowing the money that we are going to have to use to make sure that we make Social Security stronger and better, but there is no discussion about, well, next week we are going to talk about private accounts, because that is going to be a sad day in this Congress.

I will also say this, that it is important for people to understand that on the Democratic side, and I mentioned the gentlewoman from California (Leader PELOSI) and the gentleman from Maryland (Mr. HOYER) and the gentleman from New Jersey (Mr. MENENDEZ), who is our chair, and the gentleman from South Carolina (Mr. CLYBURN), who is our vice-chair, and other Members who are here with leadership roles and who have been here before the gentleman from Ohio (Mr. RYAN) and I, before we even thought of a 30-something Working Group; that a bipartisan plan like the gentleman from New York (Mr. RANGEL) speaks of all the time, consists of Democrats and Republicans sitting down, sharing values on behalf of the American people, and putting forth a plan that will preserve Social Security for years to come.

Social Security news flash, I say to the gentleman, because if we listen to what the White House is saying and all of the Federal jet fuel they are burning flying all around the country sharing with people what their side of what they believe the crystal ball may actually provide Social Security benefits to future generations, 47 years from now, 100 percent benefits as we see them now will still be in place. Forty-seven years from now, Social Security will be still be here. Do my colleagues know why? Because in 1983 this House, in a bipartisan way, Tip O'Neill, President of the United States Ronald Reagan, God bless his memory, voted off of this floor 243 to 102 to make sure that Social Security is there for future generations and that it provides benefits to the 48 million, those who are disabled, those who are living under survivor benefits, and those who are retired right now. It took leadership to do that.

So it all comes down to, if some Members of power, and this would not even be a discussion if we were in the majority. It would not even be a discussion, because there will be a panel put together to come up to the Committee on Ways and Means and other committees of substance as it relates to this issue to come together with a bipartisan plan.

And I guarantee my colleagues that private accounts would not even be an issue on the preservation of Social Security. We have always talked about making sure that the Social Security trust fund that has been a Democratic issue from two or three Presidential campaigns, about making sure that Social Security is here for future generations.

Mr. RYAN of Ohio. Lockbox.

Mr. MEEK of Florida. Whatever we want to call it. I will just say that this bipartisan number here, 163 Democrats for it in 1983, 80 Republicans for it in 1983, and Tip O'Neill, the Democratic Speaker of this House was sitting in the Speaker rostrum, Mr. Speaker. It took leadership, and that is what we need now.

Folks ask, I say to the gentleman, what is the Democratic plan. Well, the Democratic plan is in the wallets of every American, the guarantee when they go through their wallet looking for lunch money for their children or looking for bus fare to catch the bus or, as we know, grabbing, unfortunately, for a credit card now versus cash to put gas in your tank, when they pass that Social Security card, what they know now is the fact that they will receive benefits for the next 47 years.

That is the Democratic plan, and the Democratic plan is also making sure in a bipartisan way that we move forward, make sure that we preserve Social Security for future generations, and make sure that we do not hand debt to our future generations.

Mr. Speaker, $5 trillion is an awful lot of money. Once again, on the armed services end, 44 percent of our debt is owned by foreign interests. If we want to talk about the future of this country, if we want to talk about security, if we want to talk about homeland security, if we want to talk about financial security, stability for this country and for the Republic, never before in the history of the Republic has the deficit been as high as it is right now.

Now, I can tell my colleagues, our friends on the other side, and I say the leadership, because I know, some of my good friends do not want this.

Mr. RYAN of Ohio. Not personal. It is not personal.

Mr. MEEK of Florida. It is not a personal issue. And they know it is not a personal issue. They know that bad decisions have been made. They know that the deficit is as high as it has ever been, and climbing. We are so high up in debt right now, I mean, it is just bad. We cannot call these 1-800 numbers we see on the TV saying call us, we will help you with your debt. We cannot even take care of those issues right now, because it is so much and we are so high in debt.

So I think it is important, as we remember 30-somethings and those young Americans who are graduating from college now, Mr. Speaker, they are leaving, on average, $20,000 in debt, $20,000 in debt, the average American that is graduating. Now we are going to put more on them? I think that is something that we should not do, and that is the reason why we come to the floor. That is the reason why we have third, fourth, fifth, and six-party validators for the reason that this privatization plan is nothing but a pure gamble for Democrats, Republicans, Independents, and others that are depending and looking for Social Security when they are in need.

Mr. RYAN of Ohio. Mr. Speaker, the gentleman brought up a great point, and we will share some more information from the Department of the Treasury of the United States of America. This is the national debt, and I believe this is moving. You can go to a Web site, next week we will have to bring the Web site up so you can see, but this is actually always moving: $7.79 trillion in debt that the United States owes other interests. Your share of the debt, I say to the gentleman from Florida, $26,349.

Mr. MEEK of Florida. Not just mine.

Mr. RYAN of Ohio. Not just yourself. Your wife, your kids, my wife, constituents, people watching at home, if you are watching this program.

Mr. MEEK of Florida. Members of Congress.

Mr. RYAN of Ohio. Everybody, $26,300 you owe.

The point I would like to bring up and highlight again is what the gentleman brought up, talking about what college students owe. The average college student owes 20,000 bucks.

Mr. MEEK of Florida. Mr. Speaker, if the gentleman would just yield for one second, not just the college students, but their parents. I want to tell my colleague, when I graduated from college, I went straight into the Highway Patrol Academy. Thank God I had a full scholarship to Florida A&M. But a number of students that go into college, they do not have a scholarship, okay? And they come out owing student loans. And do we know who pays those student loans when they come out? Mom and Dad or Grandmom, to make sure that they do not end up falling into bad debt and also falling into an area where they are going to start off on the wrong foot.

Mr. RYAN of Ohio. Yes, even further behind. So someone out there watching, a parent that has a kid in college, the average college debt, $20,000; average share of the national debt that you owe, $26,000.

And, think about it, if you are having a baby this year and project this number out, if we keep going down the road we are going down, because we already had to lift the debt ceiling in Congress several months ago that raised this even further so the United States could go back out and borrow even more money, so here we have a situation where we owe this, each individual owes this.

Now, if a baby is born today, guess what? They owe this right out of the gate. So project this out, this number, $26,349, project it out 18, 20, 22 years and imagine what that number is going to be if we keep going down the road we are going down now, and then add to that what college tuition costs are going to be 20 years from now. They have doubled over the past 4 or 5 years, I know for sure in Ohio, and I know in Florida, so let that rate continue and let this rate continue and let us keep borrowing money and have to pay interest on that. Let that continue.

So we are saying that a young baby that is born today has a tremendous tax burden on their head, from the national debt that they owe, their share, plus what they are going to owe for going to college; and if they go on to get a master's degree or advanced degree, it would be even more, and then the President's proposal to borrow $5 trillion more. What are we doing to the next generation? At the same time, we are not making the proper investments in health and education and the kinds of things that will eventually move the country forward.

Mr. Speaker, the Web site is www.house.gov/budget.democrats underscored, to get the deficit ticker to see what the real number is as this continues to move.

Mr. MEEK of Florida. Mr. Speaker, I think this is very, very important since we are talking about the future and we are talking about future generations, and we must talk about these numbers so future generations understand what their debt is.

For someone that is looking for additional help on Pell grants, that is not going to happen in any significant number. It is going to make a difference to your overall debt situation or credit situation. When you also look at the issue of Social Security from the beginning, remember, remember, $5 trillion to help save you money over the next 20 years. That is a lot of money, okay? It is going to stop us from doing the things we need to do in taking the debt down. It was the Democratic Congress here that made the hard decision to take down the debt and put us into surpluses as far as the eye could see, and then the Republican Congress took over and took us down into debt.

I think it is also important, and we always like to give the Members third-party validators, and I want you to write this Web site down: www.cbpp.org. That is the Center on Budget and Policy Priorities, the Center For Budget and Policy Priorities. There is a lot of good information on that Web site. It gives not only Members but the American people good information on what someone may earn and how much of a benefit cut they are going to receive; not a benefit increase, but a benefit cut. And in this whole debate, there is no, there is no discussion about an increase. There is no discussion about some of the positive things that can happen outside of saying, this will be good for the trust fund in the future.

□ 1915

I also want to say that, you know, that I have no real problem with what is going on in New York and the whole Wall Street experience. Okay? Do not think that I have a problem with it. But I do have a problem, which the only entity or institution, or even if Wall Street was a perfect person, to be the only group that would benefit from a privatization plan, some $940 billion guaranteed to Wall Street, not necessarily to the individuals that are enrolled in Social Security.

And I thought while the gentleman from Ohio (Mr. RYAN) was talking, as you know I have my papers, we get our briefings, and we call and we ask institutions that are studying this Social Security privatization scheme to give us information as we work on ways to push this Congress towards a bipartisan approach to Social Security without private accounts. That is something that we are doing here as Democrats.

But I look, and I want to tell you, in your State there are a number of individuals, 315,000 survivor beneficiaries, 278,000 individuals that are receiving disability benefits. I think it is also important to understand, even in my State, in Florida, you have 450,679 that are receiving disability benefits and 408,543 that are receiving survivor benefits.

Even in the State of Pennsylvania just north of us, survivor benefits, these are individuals that their children are now beneficiaries from the work that their parents did. They didn't have anything to leave them, but they had Social Security to leave them, to help be there for them, because they wanted to be there for them financially, but that was a part of our deal with Americans that we will make sure that not only will they be taken care of, that we will have security for them, but for their children.

And in the State of Pennsylvania 353,000 survivor beneficiaries, and also you have 336,000 individuals that are on disability.

Mr. RYAN of Ohio. The same in Ohio. 315,000 folks that receive survivor benefits. 16 percent of people who receive a Social Security check in Ohio, 16 percent of them are survivor benefits. So this is a program that helps people who lose a parent at a very young age, they are under the age of 18 and they need a little assistance.

And that is what the gentleman from Alabama (Mr. DAVIS) talked about last week is a sense of community where we are going to have a system that protects and looks out for each other, gets each other's back. I think it is very important that we recognize that Social Security is really the best system, because it inherently embodies what is best about the country, and I think it is great.

I want to just raise a question here. We are kind of running out of time here. We only have a few more minutes left. We have a little bit of time.

Mr. MEEK of Florida. We have about 10 minutes.

Mr. RYAN of Ohio. But we have less than we had when we started, and we are closer to the end than we are to the beginning, so I am going to try to make a final point or two towards the end here.

The question really, and I want to ask the people at home, is this: What do you think, someone watching at home or if you are having a discussion with your friends over dinner, or your family over dinner tonight, what do you think the greatest crisis is in the United States of America?

What do you think this Chamber and our friends across the hall and the White House, what do you think we should be focusing on? Do you think that this problem that is 47 years away or 40 years away or 35 years away? We have all kinds of different numbers, we will give you the benefit, say 35 years away. Do you think that is the greatest problem facing the country, or do you think that the 40-some million Americans without health insurance, maybe that is the greatest crisis facing the country, or do you think the rising costs of health insurance, if you are a small business owner, or you are in a union and you are trying to negotiate a contract or you are trying to run a school system, and you are the superintendent or you are the teacher, maybe that is the greatest crisis facing the country.

How about, and I am sure in your district just like mine, Youngstown City Schools, Akron City Schools, Cleveland City Schools, 80, 85 percent of the kids qualify for free and reduced lunch. Maybe that is a more imminent crisis than a Social Security issue that is, you know, 40 years out.

And I just ask the American people to ask themselves, what do you think the great crisis is in the country today? The fact that the trade deficits, the debt, the annual deficits that we are running? To me, I share my opinion, those are the issues. That 85 percent of the kids in a school district in Ohio qualify for free and reduced lunch, that 50 or 60 or 70 percent of those kids live below the poverty line. That to me is a crisis.

How are we going to compete with the Chinese workers? How are we going to compete with the Indians if we are not able to educate our kids and our kids are living in poverty? To me that is the crisis. That people do not get the kind of health care that they deserve, that if you have a lot of money and you are able to get yourself into the Cleveland Clinic or some of the great hospitals around the country, you are going to be fine, but if not you are on your own.

Mr. MEEK of Florida. Mr. Speaker, I think it is important not only that the Members, but the American people understand, Mr. Speaker, that when it comes down to health care we are going to be okay. The reason why we are going to be okay is because we are Members of Congress.

Not because of our health plan, but because of our last name. And that is a crisis for real Americans, because my constituents they sit in the emergency room for hours. I walk into the emergency room, believe me, I can barely sit down before someone grabs my arm and says, Congressman, please let us check you out.

All right. When I need to get prescription drugs, I can get prescription drugs. When I want to get a doctor's appointment, I can get a doctor's appointment. I do not have to wait 6 months to see an ophthalmologist or on optometrist, whoever it may be, to see them.

I think what the gentleman from Ohio (Mr. RYAN) said in the last 5 or 6 minutes meant so much in this entire hour of really talking about the issues, where the rubber meets the road. And the reality of this argument is that originally the administration was saying that it is a crisis. They kind of have backed off of that now, because the American people said you want to know what a crisis is? The crisis is that my son is sick and I cannot afford to take him, I am taking care of him through the drug store. I am buying off the shelf, which I think is a greater problem. I hope it is a cold. That is a crisis.

A crisis is not saying, hey, listen you know something. I got to move this private account thing while we are in power so we can help make our buddies even more buddies to us. Because that is what I think the underlying issue here is. And so I just want to step in there, because you made an excellent point.

Mr. RYAN of Ohio. I just think that is it. Thanks for reiterating it. It is just what is the crisis? What do you at home want us to deal with, because we work for you. What do you want us to deal with here? And we are trying to bring up issues like China and how we are going to deal with that tremendous threat, and the administration brushes it off.

You know, we want to deal with health care and the amount of poverty, not necessarily for compassionate reasons, although some may feel that way. But because we need everyone playing. We are going on the field now with only half a team, and that is getting very dangerous.

So as we wrap it up, I want to share again, send us an e-mail, 30somethingdems@mail.house.gov. Do I have time to read?

Mr. MEEK of Florida. Go ahead and read the e-mail you have.

Mr. RYAN of Ohio. I want to read the e-mail.

Mr. MEEK of Florida. Give the e-mail address.

Mr. RYAN of Ohio. I just gave it. 30somethingdemocrats@mail.house.gov. Send us an e-mail. I want to read one, we only have time to read one here, from Mark Sanchez from Las Cruces, New Mexico. We are making it out West, somewhat of a political junkie, 25 year old active duty service member stationed out there.

And last week he saw us talking about Social Security, very hot topic. He considers himself very informed, and it bothers him to a great degree that those in my age group do not care about what the President and Congress are doing.

I personally feel that the President's plan for Social Security is not one with the people in mind, but rather one with his friends on Wall Street in mind. I may be young, but I am not blind to record deficits that are causing this country to go deeper and deeper into debt.

I believe the President's plan is wrong for America. I believe this is an issue that can be addressed and thought over as time goes on while more important matters that are hurting this country are addressed. He said very similar things to what we were saying, issues such as health care, immigration and energy are problems that face Americans now, not 30 years down the road.

I am happy to see that you are willing to stand up for the people rather than special interest groups that have too much control in Congress these days. Please keep up your hard work because it is needed.

People like you keep his personal hopes alive for one day standing on the floor of the House of Representatives and debating issues and problems that face our country. So we have an aspiring Member of Congress here, Mark Sanchez. So thank you, Mark, for sending that in.

Again, 30somethingdems@mail.house.gov. You also go to the site I gave you earlier to check out the deficit clock too.

Mr. MEEK of Florida. I want to thank the gentleman from Ohio. And to our e-mailer, we just want to say that all Democrats throughout this Congress will be calling into radio stations, be it country, rap, rock and roll, what have you, during drive time in the morning to talk about the importance of Social Security and young people.

Mr. Speaker, it is always an honor to come to the floor and we thank not only the gentlewoman from California (Ms. PELOSI), the Democratic leader, but the gentleman from Maryland (Mr. HOYER) the Democratic whip, for allowing us to have this hour week after week. This is a strong part of our democracy, and we really appreciate representing the 30-somethings and above and under, that age, to give them a voice here on the floor.

OVERVIEW OF THE WAR ON ILLEGAL NARCOTICS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Indiana (Mr. SOUDER) is recognized for 60 minutes as the designee of the majority leader.

Mr. SOUDER. Mr. Speaker, tonight I am going to give an overview of the war on illegal narcotics in the United States.

I chair the Subcommittee on Criminal Justice Drug Policy and Human Services in the Government Reform Committee, which when the Republicans took over Congress in 1994, was reorganized by then Chairman Bill Zeliff followed by the gentleman from Illinois (Chairman HASTERT) followed by the gentleman from Florida (Chairman MICA), and now myself, to be a committee where we could do an overview of all of the different parts of the war on illegal drugs.

The challenge we have in narcotics is that this battle goes across many different agencies, and so it gets divided up somewhere in the neighborhood of 23 to 25 subcommittees in the House, a similar amount in the Senate, and nobody had been looking at it comprehensively.

So it wound up over in this committee. The authorizing of the Office of National Drug Control Policy, commonly known as the Drug Czar's office, is not only overseen now by this subcommittee, but actually is now authorized as primary authorizer in this subcommittee as well, which has led to the national ad campaign being added to that, the Community Antidrug Coalition, the High Intensity Drug Trafficking Areas, and increasingly some of the other bills are being assigned to this committee because we can look at it holistically, and then it also gets sometimes joint referrals to other committees as we are working through similarly on the homeland security bill, as people have been watching through this.

There is a couple of different points that I am going to cover tonight. One is kind of basically how we approach illegal drugs and how we are tackling this as a Congress, as a Presidency, and how this has evolved.

Secondly, looking at some of the successes, then focusing some on the major challenges we have ranging from the meth challenge to the border challenge, which has been getting a lot of news, to Afghanistan, to the abuse of legal drugs like steroids. We have been having hearings in our full committee in Government Reform.

Then some specific comments in detail on the President's which we have many concerns about, particularly his effort to, in effect, change many of the effective local programs, and nationalize them in Washington, and potentially gut the drug war of the United States.

And I am hoping Members of Congress and their staffs are watching tonight, because this is a direct-on challenge that could, in fact, undermine everything we have been doing.

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It needs a resounding defeat in this appropriations process so we do not have to fight this every year. A decisive win this year and a turning around and saying we are not abandoning State and local law enforcement and nationalizing everything in Washington is extremely critical in our drug war.

Let me first start out with kind of a philosophy because often when we come to the floor of Congress, you hear bits and pieces about what we are doing in the drug war, but you do not see a holistic picture with this.

So if you look at this as a start, the first role is not to have people use illegal narcotics. So we will start with safe and drug-free schools, trying to get to our schoolkids. We have community anti-drug coalitions to pull together communities in the United States to do these efforts.

We have the national ad campaign, that you see the ads focused on marijuana; and then in conjunction with the direct national ad campaign, the in-kind contributions that work through a multiplicity of organizations, but particularly the Drug-Free America coalition that has used the best advertising agencies in the United States to develop ads, which those of us who all too well remember, this is your brain, this is your brain on drugs, looking at the fried egg.

But the Partnership for a Drug-Free America has come up with many different creative ads that supplement the national ad campaign. It is a massive effort to try to battle everything from the jokes on the Tonight Show about our use of marijuana, to movies, to MTV, to all that type of stuff to make sure that we have a consistent national message out there.

Then we have drug testing, because one of the best ways to do prevention is to drug test people. I have a company in my district that they were told they had a problem. They drug tested their company and find out a third of the people were high on the spot of cocaine, meth, and this high-grade marijuana. Now, they immediately fired them, that they were in clear violation of a company policy, but one-third of their employees. Another similar thing in another county they did, and I think it was closer to 25 percent, but it is extraordinary.

Remember, these are not hair follicle tests. These are urine tests, which means it has to be fairly recent. A hair follicle test, you may be able to find drug use 30 days previous. Urine test means you are basically high on the job, running this equipment and doing this kind of stuff. So drug testing, if you know you are going to lose your job if you are drug tested, that is one of the best prevention programs; but those are some of the highlights of the prevention strategy, the national ad campaign, Partnership for a Drug-Free America, the community coalition, drug-free schools and drug testing.

Then you go, okay, if this stuff's too cheap or too pure, basically it overwhelms the prevention policy. So what do we do? First, we try to get this stuff, get the illegal narcotics at its source.

So let us take cocaine and heroin in Colombia. First, you try to eradicate it. You go there, spray the stuff, hit it multiple times a year. If you fail and some gets out, which it always does, then you try to interdict it in the source country and get it before it hits the shores of the Caribbean or the eastern Pacific. Once it gets in the water, now we are dealing rather than in an area maybe the size of Texas, we are dealing in an area that is huge, the Caribbean Sea and the eastern Pacific. So it is much harder to get it.

If it gets to our border, in our land border, in Mexico, the Gulf of Mexico, Florida, comes up farther into California or up into New York City or comes down through Canada, then we now have a border control effort; but as I will point out later, and as most people are aware, our border is not exactly sealed.

Then if it gets through our border, then we move to the law enforcement question. I am from Fort Wayne, Indiana. Now it is starting to get closer to home. We failed to get it eradicated. We failed to interdict it in Colombia. We failed to get it as it moved into the transit zone. We failed to get it at the border. Now it is coming at our hometown.

Now we will have drug task forces. We will have high-intensity drug trafficking areas. We will have Burn grant money going to set up drug task forces. We will have our local police forces. We will have our county and district-wide, in some cases, drug task forces trying to do the law enforcement side.

Then people go to prison, and so we have prison re-entry programs trying to say, okay, we have locked these people up for drug crimes, how do we treat them in prison, how do we work with them as they are coming out of prison. We have drug court programs. That is kind of the law enforcement side.

Then we have the drug treatment. When all else fails, we do drug treatment. Quite frankly, as Nancy Reagan, you can never win a war just treating the wounded. That is in effect saying everything else has failed. Drug treatment is really hard. I and others have very seldom ever met a drug addict who has not been through seven treatment programs. The programs themselves are expensive. They are hard to maintain. Just think of the things you struggle with in life, and classic is everybody tries to do a diet starting on New Year's Day, and by the third or fourth day, they have already failed some.

If somebody has a real addiction problem, without a huge head change, it is a constant battle and they fall back and they fall back. Treatment cannot win the war on drugs, but treatment is a part of the effort to try to rehab those people who get mired in it, and we as a society need to help them.

So if you look at that, we are trying to prevent; then we try to eradicate and interdict; then we try to enforce the law; then we try a drug treatment when all else fails and try to help the poor souls who got addicted.

What are our success stories? The fact is this President made a goal to the Office of National Drug Control Policy that said we want a 5 percent reduction in drug use in the United States every year. There is only way to achieve it: it is marijuana.

Marijuana is the gateway to all other drug use. Yes, alcohol and tobacco for young people because it is also illegal. It is often the gateway to marijuana, but basically if you want to tackle the meth problem in the United States, you tackle the marijuana problem. If you want to tackle the cocaine problem in the United States, you tackle the marijuana problem. If you want to tackle the heroin problem in the United States, you tackle the marijuana problem. If you want to tackle Oxycontin abuse, you tackle the marijuana problem.

When you tackle the marijuana problem and move that number, you move all the others. Maybe only one in 10, one in six, I do not know the precise number, it varies year to year or two and by age category, will ever move to another drug, but the fact is if you lower the number of people using marijuana, you lower the number of people using everything else more effectively than tackling those drugs in many cases. Marijuana is the gateway drug.

The marijuana we are talking about in the United States is not what used to be called in Indiana "ditch weed." It is not the Cheech and Chong stuff. It is not 4 to 6 percent THC content, which is bad enough; it is problematic. If you do not really want somebody coming down at you drunk, well you definitely do not want them coming at you on the highway high, but that is high. It is like being drunk.

But when you get this marijuana that is coming in from Canada, that increasingly is being sold on the Internet so people can do hydroponic marijuana, you are talking 12, 20 percent, some cases even 30 percent, selling as high as cocaine and heroin. Why? Because it wipes you out like meth.

This so-called medicinal marijuana has unfortunately been implying that marijuana's medicinal rather than that there are components in marijuana that we isolate like marinol that we should try to put in pill form and help people who cannot do other things, but marijuana is not medicinal. Marijuana is terribly addictive. It is the number one reason people are in drug treatment. It is the number one law enforcement problem in narcotics and is number one gateway. So you have got to tackle marijuana.

We have made progress. The reason we have had 5 percent reductions steadily for 3 years now is because we have tackled marijuana.

Let me put this in perspective, and this a frightening statistic because some people tell me, oh, you know, why can you not just win the war on drugs; how come we have to spend more money every year? Why does this not go away? Politicians love to say, okay, I voted for this appropriations bill, I passed this appropriations bill, it got implemented, now the problem is fixed, now let us focus on something else.

I, as a Christian, believe the source problem is sin. You do not get rid of sin. There is nothing in the Bible that suggests sin is going to disappear. If you want to call it something else that is a struggle when you start to get addicted to an illegal substance, fine, call it that; but it is basically do not ask me why we cannot get rid of drug use in the United States and not ask the same question about rape, spouse abuse and child abuse and other things we struggle with. We never get rid of them.

What we do is we try to control them the best we can, to contain it the best we can, to reduce the number of people who do it, but every day somebody wakes up in the morning and all of the sudden hits their kid or rapes somebody or in a crime of passion kills somebody. It does not go away. That is why we have police forces. That is why we can never back off of the narcotics thing.

But when we back off, this is what we know: in 1993 and 1994, we had a disastrous policy under a previous President who now realizes, and at the end of his term changed around totally, but at the beginning of his term, it was a disaster. They cut the drug czar's office from 123 people down to about 23. They cut the interdiction budget. They closed down a lot of the radar systems in the transit zone; and what happened in that period and then on top of that laughed about, I did not inhale, and did not have these aggressive anti-drug drug testing programs and things on the national media.

What happened from 1992 to 1994, drug use in the United States went up so much that we have to have a 50 percent reduction from 1995 to get back to 1995. So the fact that we are getting 5 percent a year is not enough. It means we are 15 percent back to where we were at in 1995, but we have a long way to go to even get back to 1995.

I have got to say this: people laugh at "just say no" under Nancy Reagan. It worked and it worked because it was not "just say no." "The just say no" was the symbol, just say no. They started the national ads, the Partnership for a Drug-Free America. They started the safe and drug-free schools program. We created and got more aggressive in DEA. "Just say no" was the signature. But when we went at it, we had drops from 1981 to 1988. From 1988 to 1992, we had a little up and down, and then the collapse; and we are trying to get back to where we were.

This administration, however, deserves credit. For every single year we have had a reduction, and someday maybe we will get back to where the previous President was; and quite frankly, in the last 2 years of the previous Presidency, former President Clinton did a great job of focusing with drug czar Barry McCaffrey. We made progress in those last 2 years. It was turned around, and they realized their mistake; and they changed it around.

Then, quite frankly, George Bush, our current President, got off to a difficult start because he wanted to take the drug czar office down from a Cabinet-level position. We battled that, but we have made progress for the last 3 years.

After 9/11, we saw some changes in how the drug budget was allocated, but because we were screening more things and so on, we have been getting more narcotics. Because of better intelligence, however, we are seeing more of what we are missing; but in fact, we are seizing more narcotics.

We have made steady progress in Colombia. Just a few years ago, only about a third of the cities in Colombia had anybody who wanted to be a mayor. It is not how we have primaries in the United States and we have lots of people running for office in the United States. I have run now six times. I have had five primaries and six general elections with plenty of people wanting to run again the next time. It does not matter that I have big margins. They all want to run for Congress.

They do not have that problem in Colombia because in the United States you do not get shot. Your odds are maybe once every 50 years a President gets shot at. We do not have too many candidates for Congress getting shot and murdered and assassinated. We do not have too many mayors, but in Colombia it was like a death warrant to run for office. So hardly anybody was doing it because we could not control the ground. Because of the Andean Initiative and the Colombia Initiative, in particular inside that, we now have in basically every significant town in Colombia, 100 percent now, a mayor. That might seem like small progress, but it is pretty big progress.

We still have huge problems in Colombia. They have gone farther out into the national parks. They have gone into the Amazon basin, away from where it is easier to see them. It is farther for us to get the spray equipment there and the Blackhawk helicopters there. The FARC and the terrorist groups are able to run and pick their targets where, as we are trying to cover in effect and defend a bigger portion of the nation in Colombia. The fact is that it is progressing.

Secondarily, one of the fundamental questions is that it used to be about a third was in Colombia, a little more than that was in Bolivia, and another chunk of it was in Peru. The question is, was this going back to Bolivia and Peru if we made progress in Colombia, something we have to watch. But right now it does not appear to be going back. Plus, it was the growth of coca and poppy that was occurring in Bolivia and Peru, whereas in Colombia they have always been the processing dealer network.

It is close to the United States. As many people may remember, Panama used to be part of Colombia. Much of that then hops right up to Mexico and comes across the land border. Whereas if you push it farther south, and we do see problems in Paraguay and Brazil and northeast coast of South America, but the bottom line is, if we can get control of Colombia and in a sense make it a more peaceable nation, a nation that has thousands of police officers dying because of America's and Western European's addiction to cocaine and heroin, their supposed revolution is basically a narco-terrorist war funded by United States drug addicts and drug use.

So we have made some progress in Colombia, and that is good news.

We have made incremental progress in other areas, but now let me cover a couple of the challenges.

One is methamphetamines, and meth is a huge issue for us to deal with. I want to put a couple of national perspective things here because probably about from people who are watching tonight, Members and staff are watching tonight, about 35 States do not really have a meth problem. Some of those 35 actually have a little bit, but it is hardly on the radar screen.

Fifteen States, there is no other drug problem on the evening news except for meth. In my home State, if you watch the news, you would think that meth is 90 percent of the drug use, and it is not; but there are some reasons why meth is such a tough issue in the 15 or so States where it is there.

Hawaii was the first State to really have a huge meth problem. Then we saw the superlabs in California, and former Congressman Doug Ose had then-chairman, the gentleman from Florida (Mr. MICA), and I go out; and we did hearings on some of the early superlabs in California where they were producing methamphetamines.

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These crazy people, when they get addicted to meth, they go crazy. It is much different. It is a little like crack, but it grabs ahold of your brain and you go crazy. These people would blow these things up in their houses because they would get so addicted they would not know what they were doing, and their house would blow up and kids were dying in California.

We had an unbelievable case that led to a law in California. I mean I do not know how else to say it, but some of these were idiots; their kid was cold, and to warm them up they put them in their stove and burned their kid to death because they were so disoriented. They do not have any clue what they are doing. This drug takes you over.

There was an article in People Magazine in the district of the gentleman from Arkansas (Mr. BOOZMAN) about a majority of the town that got addicted to meth. As this happens, one of the problems with meth is we do not have a lot of treatment programs that work with a meth addict. It is a huge challenge. Furthermore, if they are cooking at home, and by cooking at home, making meth at their home, the environmental damage and environmental cleanup is incredible. It is often not even safe for the police to go in.

Take Warsaw, Indiana, with Sheriff Rovenstine, who has a drug task force group, and they hear of a meth lab out in Kosciusko County, he has to send his group of four guys out there. They will often have to wait 4 to 6 hours until the Indiana State police can get there with a cleanup lab. They cannot really go into the house because they do not know how dangerous it is environmentally for them. They do not have all the equipment to do so.

So you have tied up your entire drug task force in a county of 80,000 people because of one meth lab, and he may only be cooking for himself, someone in his family, and maybe one other person. It is not like a big drug operation, but it ties up your police force. It is a tremendous cleanup problem.

Now, in Hawaii, they have had actually one or two apartment complexes where these people are starting to cook in some of the urban areas. We have not seen too much of that in the United States, maybe a little in Detroit, a little in New Orleans and starting to come in at the edges of some cities, but mostly this is a rural-small town problem so far in the United States. But they have had in some of the apartments where you have to pay from $300 to $600 before you rent the apartment to make sure it is cleaned. Because if somebody has cooked meth in there and now you bring children in, you can endanger your children's health because someone was cooking meth in the apartment you have now moved into. Do we really want to get in this situation around the United States?

So we are having some difficulties in how to address this, because here is the fundamental problem with meth. Meth is only 8 percent of the drug use in the United States, and it is not moving much. As it moves east and marches across the United States, the reaction in the communities is so aggressive that you start to get control and a flattening out in the State where it was, and then it moves into the next State. So as we watch it move from Kansas to Arkansas and into Missouri, into southwest Indiana, Kentucky, Tennessee, and watch it head into North Carolina right now, it starts to stabilize on the western side but expands on the eastern side. It does not mean it is solved on the western side.

And often the media coverage is delayed. So the media coverage may be highest now in some of those States when in fact their biggest problem was

2 years ago, because the community is so outraged they are starting to deal with it. Nevertheless, it does seem to be expanding nationally.

The insidious thing about this is that of this 8 percent meth, only about a third of this meth is actually from the home cookers. The biggest percentage, even in the State of Indiana, which is about sixth in the number of meth labs, and my district is second next to the district of my colleague, the gentleman from Indiana (Mr. HOSTETTLER), which is the southwestern part, even in our districts 67 percent of the meth is coming in from super labs, formerly from California but mostly from Mexico across the border.

So what happens is that meth is somewhat a little more urban and it comes in and is cheaper and more potent than the home-cooked meth. So we have a double problem here that Members of Congress are wrestling with. One is what we are hearing from home are the meth labs, because we see the dangers of blowing up and burning houses down. They blow up their van if they get in a car accident because they are carrying anhydrous ammonia in it.

One person in one small town in my district was one and a half turns from having a huge regional anhydrous ammonia tank explode that would have obliterated everyone in that town of 700 within minutes. There would have been no ability to run, and they would have been deader than we would have been in this Capitol building if that plane had had C4 in it and hit the Capitol building last week. They would have been all obliterated just like that.

So as we try to tackle the meth problem, however, the fact is that while they put the pressure on the police forces, while they put the pressure on the cleanup, while they are endangering their children, they are not even the majority of the meth problem. So we have to try to figure out how to take down these larger organizations. The DEA, in a great case with the Department of Homeland Security, interdicted what looked like at that point as much as 40 to 50 percent, maybe even as high as 60 percent, of the meth precursors that were coming across the Mexican border, pseudoephedrine.

Now, I am not going to really get into debating bills right now on how to address the pseudoephedrine question, but I have some concerns about the State laws that are passing, and I think at the Federal level we need to get at it at the wholesale level rather than shut down every little small rural town that has a grocery store or every small town that has a pharmacy because they have to put this behind the counter. That is too hard. We need to address it at the wholesale level and the production level in China, in India, in the Netherlands, in Belgium, and we need to set up meth watch programs. If we have to, we will just ban pseudoephedrine in the United States, as now something like eight States have, and it is increasing every day.

The fact is, as we heard with the Oklahoma law, by banning pseudoephedrine and taking 100 cold medicines, basically, and reducing that number and putting it behind the counter, what happens is they merely go to States where you do not have that. Since 35 States do not have a meth problem, they will not be too anxious to get rid of their cold medications and put them behind a counter if they do not have a meth problem in their State. Not to mention there has been a little discussion here and there on the floor about what to do about Canadian pharmaceuticals.

Obviously, you can get pseudoephedrine the same way you can get anything else from Canada and Mexico, on line. And it is a little naive to think we are going to be able to control pseudoephedrine by closing all these grocery stores down that do not have pharmacies and making the pharmacists put it behind the counter and reduce the amount of cold medicine. It is not going to work and, quite frankly, Oklahoma is gradually learning that. But it does not mean their heart is not in the right place and we do not have to figure out a way to address it, because meth is an incredible problem. But we will need some national solutions, and the bigger wholesale systems can do this better than a little country grocery store.

I want to move off the meth to the border, another subject that has been in the news a lot lately. I said earlier that most people are increasingly understanding that the border is not quite sealed. That is an understatement. Basically, 900,000 to a million people are crossing the border a year. Our subcommittee over the last few years has held hearings at San Ysidro, which is the San Diego corridor. We have held hearings in cells on the Tohono O'odham reservation to the west of Nogales. We have held hearings at Nogales. We had a hearing over in the Sierra Vista area and on over to the Douglas area at the Arizona border, as well as in Phoenix. We have held a hearing in Las Cruces in the New Mexico sector. We have held multiple hearings in El Paso. We have been down to McAllen and Laredo on the Texas border, as well as hearings on the north border.

I have spent a lot of time on the border. Earlier this year, not that many weeks ago, myself and Nick Coleman and David Thomasson and Mark Wiede and Tracy Jackson from my staff spent 4 days on the southwest border working on a number of these issues.

It is easy to confuse immigration questions and terrorist questions and narcotics questions when you get to the border because they are the same people. If you cannot stop an illegal immigrant, you cannot stop a drug dealer. And if you cannot stop a drug dealer, you sure cannot stop a terrorist. We have all three elements moving through. Now, they are not all the same people. I would argue that out of the million people coming in, somewhere around 900,000 are coming to a job. And we have to figure out how to get them separated.

Now, I have heard people say, and I support, getting 2,000 Border Patrol, and the administration is only talking 400 or something like that. But we could not stop it if there were 20,000 Border Patrol. And if we have got them all on the land border, they are going to move, because we cannot even see right now planes coming in and boats coming in the whole Caribbean Basin because we do not have any aerostats up and we are blind. They can get across multiple ways. They can come around Canada. We cannot put a person from the Border Patrol or the military, the Guard, every few feet. So we have to figure out a realistic way to separate those who have a job who are coming into the United States from those that are illegal.

Furthermore, let me give some astounding statistics, and I am not going to be too particular here, because I do not want to encourage people. But let us just say, hypothetically, there are some border crossings right now where if you come across into the United States, because we have heard a lot the last couple of weeks about the Arizona border and how people are moving across the Arizona border and we do not have a fence there and that is the big transit point. First off, let me say, clearly, for the record, I do not believe most people are coming through in between the border crossings. I believe most people are coming through the border crossings.

Secondly, I am not absolutely convinced that they are mostly coming through Arizona. I think Texas has a bigger border, and probably more are coming through Texas than Arizona. But Arizona has a problem that has been growing exponentially. That, nobody disagrees with. And to some degree between the border ports of entry California is more controlled because of the fence. So Arizona has the newest part of the problem and the most dramatic part of the problem right now.

But let us talk about what is happening at this border. If somebody comes across the border and we decide we are going to put them in jail, hypothetically, the question is where would you put them? We do not have jails for a million people. The net result of this is that the Federal Government in some places does not even take a case unless, and this is on the record, I am not disclosing this, they do not even take a case unless it is 700 pounds of marijuana. Now, think about the bust in your district. You are talking one pound, ounces. We have people in jail long term over ounces, and they will not take a case over 700 pounds. Sometimes, at the local level, they do not take 200 pounds.

Let me put this in colloquial expression, as I said: You do not arrest somebody if they are carrying 150 pounds across the border? They said, Mr. SOUDER, our jails are full. We cannot even put local criminals in prison because we have so many people running drugs to Indiana, running drugs to Illinois, running drugs to Ohio, running drugs to Michigan, running drugs to New York through our town. We cannot even control the law enforcement problems in our town because of your addictions in the Midwest and the East and across the South because they are running through our area. Unless you are going to build our prisons, we do not have anyplace to put them.

So now we are not just talking about a guy who is walking up to a job in an RV plant in Indiana, we are talking about we are not even locking up drug dealers because we do not have anywhere to put them. So now let us get back to this person, like this one person who was picketed up in Arizona. They stopped him and said, you are coming in illegally. He said why did you stop me? I have been doing this twice a year for 8 years.

Not only do we not have control of the border, we do not have hardly any control over the border. At one crossing we were told during a committee hearing that as long as you do not have another crime, other than entering the United States illegally, that you could cross 17 times before they detained you overnight. Now, 17 times before they detain you overnight.

Now, the latest is at that border crossing and the other major border crossings the number of times you can cross before they detain you overnight is forever. We do not have anyplace to put people. There is no current principle that says you will ever detain. In fact, when we were at San Ysidro, a van had a couple of large individuals concealed on the top. They were from Brazil. Basically, they had not committed other crimes so their penalty was we paid their way back to Brazil. The taxpayers got the penalty, not the individuals.

Now, back in Brazil they may have purchased a package, which is also public record, I am not disclosing anything tonight, the packages are for sale in Mexico from $8,000 to $12,000 for Central America, from $12,000 to $16,000 or $12,000 to $18,000 for Middle Easterners, 30,000, basically, that in 7 days you will get into the United States or you will get your money back.

So if these people from Brazil bought a travel package for the United States, they get their overnight, they get their food, and they are guaranteed they will get in. So if we fly them back to Brazil, they will be on a plane back, as part of their money-back guarantee, and they will be back in the United States. Of course, if they get caught again, the penalty again will be to send them back to Brazil and it will take a couple more days for them to get back.

Another individual we saw there at the border had a fake ID. They said, look, her face does not match up. And she was really nonplussed because she knew what her penalty was going to be. After we got done examining her stuff, after we spent hundreds of thousands of dollars checking her out, she knew she was going to go back across and a little later that night or some time later she would come back across again.

Now, the fundamental question is: If most people who are illegal are coming across the legal border crossings, then why are they running through the desert? I have been asking that question, too: Why are they running through the desert? Do they not know there is no penalty for crossing at our major crossings, other than having been inconvenienced? It can be a problem theoretically, if we ever change our laws, because they will be in our system 17 times, but right now there is no real penalty.

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Some of it is an inconvenience to the coyotes. The coyotes are the people who are like a travel agent. They do the bookings. They give a guarantee. Obviously, if they can get you through the first or second time into the United States, it is cheaper for them. They do not have to pay extra meals or overnight. They want to keep you together and get you through the first time. That apparently has become a problem going through the main border crossings because if you bring across a group of 20 people and two of them get caught, it is inconvenient. You are bringing 20, and there are only 18 that get through. Plus, you gave a money-back guarantee. So they like to move through the desert areas and the areas between the border crossings for their convenience because occasionally our disruption is an inconvenience. It is not like they are going to go to jail. It is just an inconvenience.

The other thing is we are systematically, and some of the things this Congress needs to look at, the penalty for being a coyote is 2 years. Prosecutors are overwhelmed. They cannot take people with 700 pounds of marijuana, how can they take a coyote, and for a 2-year penalty, probably getting suspended after 6 months, what is the point.

We ought to have tougher penalties not on the immigrants who are crossing, but for the people who are organizing these huge systems, and that penalty ought to be more than 2 years. I am not going to talk much about the people on the border who are patriots and the Minutemen. They are frustrated, people running through the ranches. You are a rancher and you see a couple of people coming across. You want them gathered. To come and get them means we may be leaving 100 people in another location. But it is your ranch, and you are upset. I understand that. We need to get better control. But as a practical matter, you may be stopping and it very well may be that the Minutemen did more to bring drugs into the United States and more of these operations in because they diverted our resources over to picking off here and there, and may have, this is a classic of are we running a picket fence on the border or a backstop way to see how the networks are going. It is not dissimilar to other major drug issues.

Are we taking down an individual user on the street, or are we trying to turn him into who is selling him, and who is selling him, and who is selling him. And by the way, how did it get across the border? Who did you corrupt? What border guards did you buy? They are corrupting people in our own embassies and military. Who are you buying?

If we figure out those things, we do not have to bust the little people who usually wind up bearing the brunt of this. We have to get to the systems. If you take down the people at the border, we cannot figure out, because Customs historically and the border patrol used to bang at this before they were both at DHS. Now they bang internally, because the picket fence wants to stop everybody.

Customs want to let some through so we can see where is the van behind them; where are they working; who is paying their way and getting them to the border. Furthermore, there is probably a good chance they are financing this with narcotics. How do we stop the deaths in the United States from narcotics use if we are stopping them at the border and we cannot figure out the patterns?

Let me tell you about another pattern. We hear a lot about identity theft in the United States. A friend tried to get a credit card and found out four other people had her Social Security number. The good news is she had four times as much money in her Social Security account. They did not steal her Social Security number because they wanted to use her credit cards. But she had to go through all kinds of things with her birth certificate and everything else to prove that was actually her Social Security number.

Much of the identity theft in the United States is because employers, and there has been a lot of discussion on this, employers cannot discriminate. If you show them a Social Security number and a card with your picture on it, they cannot question a Hispanic or anybody else of any other background about how they got it unless there is reasonable suspicion that it was doctored. That is because otherwise this can become very quickly a very racially biased harassment thing by employers against minorities. I understand that.

So employers' hands are tied. If somebody gives them a document that looks legal, they cannot pursue it; and we are unlikely to change that law because I believe there would be racial discrimination expanded if we changed that.

So we have to get to the altered documents. In my district, two green card manufacturers' places have been taken down. In another county, a third green card manufacturing place was taken down. If we have 900,000 illegals in the United States in the workplace, that means that the bulk of those have illegal cards with somebody's Social Security number on them.

Unless we get an immigration strategy that works here, we have the motive, whether it is deliberate to steal your credit card and get your Social Security number or whether it is just random that they hit your Social Security number, we are having identities stolen because we are not dealing with the legal immigration questions and the border questions.

At the border as we move through, for example, one of the side things that is happening here is it is even hitting our national parks because, much like I said in Colombia, if you start to seal off some portions and build fences, they are going to go through places where you do not have fences. So at Organ Pipe National Monument they shot a ranger going through. There are very few trails that are safe to hike in Organ Pipe anymore. One of the best hiking trails in the United States is closed because it is not safe. You do not know who is packing guns or selling dope. You go through the washes, and we have hidden and disguised in sagebrush strips because they have started taking their SUVs through the washes and the stream beds. We talk about trying to preserve nature, they are tearing up the parks with this stuff. We pop the tires, and then they abandon the vehicles.

When I was walking the border with the superintendent with people from the Federal Government, people were crouched waiting to come across. The strangest case in Organ Pipe, we had a barb wire fence at the border crossing, and you can see they just cut the fence. Every time we fix the fence, they cut the fence. There is no effective control, especially if they just come back the next day.

But in one section, there is no fence and it is over in land in Mexico, and it is intact. I said, What is the deal with that? They said, Well, the Mexican farmer there stole the fence and moved it over to his property, but we did not move it back because that farmer is really protective of his fence, and they all have to go around.

Mr. Speaker, think about this a second. A Mexican farmer stole the American fence and put it around his farm, and he is more protective of the fence at his farm than we are of the border. Interesting in a strange way. But at least in that area we are controlled, in a bizarre way.

You also can see all sorts of empty milk cartons. If it is white, that means it was water. If it is black, that means it was drugs. You see drug scatter all over. In some cases it is pocket change. Other cases it will come over on old-fashioned mule trains.

We held a hearing in the Tohono O'odham Reservation. They have been screaming that they have been abandoned there. This was several years ago, maybe a year and a half. We were there. The previous year, 1,500 pounds of marijuana went through. In the previous 2 months, 1,500 pounds went through. The day we had the hearing with all of the Border Patrol cars, all of the Department of Homeland Security personnel, more Federal officials than they had seen in Tohono O'odham Reservation probably for a year and a half, at one place, they just decided they were going to start taking down some cases.

Guys coming out of the hearing would stop people. They picked up 300 pounds in one, 500 in another, 400 in another. Basically, by the time I got done with the hearing, they had picked up 1,700 pounds of marijuana running through the town of Sells. And later that afternoon, they sicked some Blackhawks on a group of seven SUVs. Basically, the front vehicle shot their way through even with all of the Customs and Border Patrol people chasing them. But they did get six of them and had another huge bust that evening.

The point being, it is so massive we do not even know how to deal with it. Until we work out a strategy to figure out how to get the legal people through, there is no way, whether that is work permit with citizenship, long term if they learn to speak English, renounce dual citizenship, multiple ways. Somehow we have to do this because we cannot do it. We are trying desperately to manage this. People can yell at the Customs and Border Patrol, and I believe they need to get rid of the division between the Border and Customs Patrol and ICE because it does not work. You cannot do the investigations. They have to be able to move back from the border and figure out how that network of people bring people in then go to the city. If we can find that out, we can find out who is providing people with green cards when they get into the van and who is making those green cards, who is stealing our Social Security numbers.

If we just look at here are the people standing on the border behind the big white fence, and here are the people investigating over here, and they are not interconnected, this is silly. We need to tackle this in the Department of Homeland Security and in the reorganization. Some people are concerned about having the deportation changed. Other people do not want deportation there. This is a silly division. It is not working, and we have to get this addressed.

As we tackle this and as we move forward and get Department of Homeland Security more organized and work with an immigration strategy, then we can start to get control of the narcotics strategy. Remember this, 24,000 people a year, that is the last figure we have from 2003, die of illegal narcotics. Slightly over 3,000 died at the World Trade Center. So since 9/11, we have had 24,000 a year die of narcotics. If we divert funds from Border Patrol Agents looking for the potential terrorists all of the time and forget that thousands, more than 20,000 people, are dying of narcotics, we have focused wrong. We have to watch the terrorists.

Plus, as we have talked and I have met in Europe and in the United States with the Swiss bankers, as we have talked with other countries where they historically have been able to hide money, as we shut down certain foundations where they have been laundering money, where are they going to go? To narcotics, to human trafficking, and to some degree to diamonds and other sorts of commodities that they can do illegally. But the number one places are narcotics and human trafficking.

We are seeing these different terrorist groups around the world interconnect. As we drive them underground, and as we clean up legitimate banks, as we clean up legitimate places, they go to the harder-to-find places. And the same people, to take Afghanistan, for example, what do you think is paying for the weapons that killed our soldiers the other week? Do Members think it was, say, minicomputers? Was it Afghanistan, the great producer of SUVs? Was it the bread basket of Afghanistan producing soybeans? No. They used to produce food stuff for the entire world. Now Afghanistan produces heroin for the entire world.

As the exiled King told us twice before he went back, and once over there, we were the bread basket of Europe. But we have been told that we do not want to eradicate their livelihood because we need to find alternative development.

The question is do we go to the city of Fort Wayne and tell these kids on the street corner, you are making $600 as a lookout, and we are not going to tell you we are going to throw you in jail until we find you a job that pays you $600 an hour? That is ridiculous.

We say we are going to lock you up and you should get a legitimate job that pays minimum wage, and you learn skills and move up. It is the same thing we faced in Colombia. There is no amount of palm heart in Colombia that is going to make as much as growing cocaine. So unless you think your cocaine crop is going to get eradicated, unless you think your heroin crop is going to get eradicated, and we do that multiple times a year and we are persistent, then you say, hey, what about the palm heart and what about the soybeans because I can feed my family and live on this, but I cannot make it if it is heroin. I cannot make it if I do not grow something; and if you are going to eradicate the heroin, I have to grow something legitimate.

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In Afghanistan, there has been a reluctance. Look, it is not a stable country. Nobody successfully ever really governed Afghanistan. So it is a challenge. We say we have free elections in Afghanistan. When we had free elections, the question was, were you free to oppose your local drug lord? The answer is in about 20 percent of the country. That is better than it was ever before in Afghanistan. At least people lined up to vote the way their local drug lord wanted them to vote. But that is not our traditional American way of democracy. I do not mean to demean it. I believe President Karzai is working at it.

But let us be real here. We have just seen the largest production of heroin out of Afghanistan out of anyplace in the world under our watch. We criticize the Taliban. The 3 years of the Taliban together do not equal what Afghanistan produced in heroin under our watch. We cannot sit here and twiddle our thumbs and pretend like this is not going to be a problem. Members of Congress are going to go over on CODELs and they are going to show us great progress. They do not have to grow any heroin for the next 2 or 3 years. They have the biggest load in history. The Taliban said in their last year in power that they were going to grow zero amount of heroin poppy. To the best of our knowledge, they grew zero amount of heroin poppy. Why? They had such a stockpile with a fraction of what they have now, they did not have to grow any because if they grew it, there was no market. They have got it wholesaled and stockpiled. What is happening is if we do not get those stockpiles, we can have all the CODELs go over Congress that we want. They will come back here, they will go on Fox, they will go on CNN and say, the Afghanis are doing a great job of eradicating the poppy. It is irrelevant. The biggest amount, 4 years' worth of the world's supply has been grown this year and is being processed. We have to figure out where it is, take out the wholesale methods because what we are already seeing is, and our administration is starting to awaken and starting to go after this and the military is starting to grant this, but because we did not eradicate it a few months ago, it is now starting to move and it is into the countries around it so in our appropriations request, we have moneys in it to try to get it as it is moving and we are going to spend more money chasing this stuff than if we had tackled it a few months ago while we were asleep.

Now, we can never let this happen again and we need to work with the president of Afghanistan but it needs to be clear, you cannot be a narcostate. The people that are shooting at us, the people who are crossing over into Iran, the people that then move down into Iraq, where are they getting their money for their guns? This is not a hard thing. They are not growing other things. They are not doing other things. Every pistol, every RPG pretty much is funded by narcotics. This is going to become more and more the case as we move around, more human trafficking which leads us back to both problems on the southwest border.

Let me just go through one other aspect of the budget, because the budget has lots of good things in it in drug treatment. They have some good things in it with drug courts. They are sustaining the national ad campaign. But I have a deep fundamental concern. The ranking Democrat on our subcommittee the gentleman from Maryland (Mr. CUMMINGS) and I have done multiple letters to Members of Congress over the past few weeks, Dear Colleagues, from police chiefs. This is not a question about cutting drug dollars. This is a systematic, philosophical change of this administration in how they want to approach narcotics. What they have done are the following pieces. As I described at the beginning, there is a prevention component, an international component, a law enforcement component and a drug treatment. On drug treatment, they are fine. In international, they are fine. On the law enforcement and prevention, this budget is a disaster.

Let me give you first the prevention strategy. They have none. Their prevention strategy is this. These parts are fine: run national ads, do drug testing in the school, and have a flat-funded community coalitions and only the national part of the drug-free schools. What they have eliminated in the prevention program is the safe and drug-free schools program which is the program that drives directly down to the schools. They are only saving the national ones where Washington gets to make the decision which schools it goes to. The national ad campaign is basically flat-funded. The community drug coalitions are flat-funded. There is no coordinated vision of a prevention strategy. The biggest single component, bigger than the other components combined, is safe and drug-free schools and they zero out the local and State part.

That sets the tone for what is coming next, either flat-funding or zeroing out State and local. Then we get to law enforcement. Incredibly, there is no other way to say it but incredibly, they propose in effect to gut the HIDTA program by transferring it to OCADEF and then to eliminate and zero out Byrne grants which funds in many cases the drug task forces. They are then proposing, also, to cut back the dollars that go for equipment for local drug task forces, CTAC, and that when you put this together, along with a whole series of other smaller things that they are doing, let me describe briefly what the high intensity drug trafficking thing was and the philosophy and why we created a drug czar's office, because there are really two components to this. We created a drug czar's office in the United States because what happens to the FBI, what happens to the Department of Homeland Security, what happens to lots of different agencies is they are fair weather friends on the drug war. Their primary mission is not narcotics. The FBI's primary responsibility is organized crime. The FBI deals with multiple issues. Many times that is narcotics. But when other things arise, they are diverted. They are not fair weather friends in the sense of philosophically. They are fair weather friends that if the Attorney General says, boy, we have this problem over here, church burnings over here, missing children over here, national security interests over here, we have this problem of stolen patents over here, the FBI runs to those issues. They are not like the DEA. They do not have narcotics as their main enforcement. The Department of Homeland Security has so many missions, the Coast Guard alone can have their head spinning. They are supposed to protect a Great Lakes nuclear power plant, but if a sailboat tips over, they are supposed to run out there and also catch any fishermen. So they have a homeland security thing, a search and rescue which is still mostly what they do, and a fisheries component. And, by the way, catch any narcotics that are on the water. So they are running around. Narcotics is one of their missions but not their primary mission. The question was, we needed an office in the United States, a Cabinet level, that says drugs are my mission.

Inside the Department of Homeland Security we created a counternarcotics office because we need somebody in that agency who stands there with some staff, that is his staff, not detailees like is currently the case and unfortunately still the case with our bill today, who can sit at the table and say, hey, guys, don't forget about narcotics. Remember, homeland security is related to narcotics. With Mr. BONNER and others, we have the former head of the DEA, but we are not going to have that all the time at the office of Customs and Border Patrol. We have to have a systematic way that narcotics are built into the Department of Homeland Security and that we have a drug czar, a director of ONDCP, who focuses on the drug issue.

The HIDTA program was set up as a 50–50 vote. What we said is, let's send $2 million, $3 million to the city of Chicago. Then maybe the City of Chicago will have their local law enforcement people come in and we will get a unified center to pool our resources. So, for example, we stop these embarrassments like one where the distinguished junior Senator from New York, when she was the First Lady, was going shopping and they were about to do a drug deal where she was going in and potentially have a shootout, only the Secret Service was not integrated until we had HIDTA with how to share the information. Or many of us have heard stories about the FBI arresting the DEA because they did not deconflict, or national law enforcement arresting local law enforcement people after doing a 6-month case with thousands of dollars, finding out that the person that were selling and the person that were buying were both working for the government. So we run deconfliction centers. We have attracted local law enforcement in to coordinate. Because we said, look, if you come in here, we are a 50–50 partnership. We are going to set up these in the highest risk areas of the United States, along the southwest border, in the big cities. In New York City, we have consolidated homeland security and narcotics and we have a tremendous HIDTA that is regional across into New Jersey and Connecticut and New York and this budget would bust it up. It would just end it.

The police chief from Phoenix could not have said it more clearly at our hearing. He said, my mayor told me in city council that I have to cut my budget in the city of Phoenix for police. I have three people over at the high intensity drug trafficking area, the HIDTA. I realize they are doing the arresting. They are critical to our antinarcotics efforts and our crime efforts. I asked him what they want in the city of Phoenix. He said, go after murder, drugs and gangs. He said, they are all three the same thing. They are drugs. Eighty-five percent of the murders, all the gangs, they are all narcotics. So we kept the three people in the HIDTA and I cut other people. But let me tell you, you transfer this to OCADEF or another agency from HIDTA, they are gone. We had a cooperation agreement with the United States. The Justice Department says about OCADEF, which is a wonderful agency and has a function, but it is Washington-run. It does not have a 50–50. I asked them about that. They would not guarantee that. They do not have a plan. They do not know why. They do not have any evidence that the HIDTAs are not working. In fact, we have a 5 percent reduction in drug use around the United States. All these things are working reasonably well. They cannot list one single HIDTA that they want to get rid of. What they want is control of the funds and HIDTA does not give them control of the funds because the HIDTAs have, in Chicago I think it is $30 million invested from State and local and $3 million from the Federal. That is a wonderful deal, if we could leverage $3 million and get $30 million and we are seeing this in market after market.

So what does the administration propose to do it? Gut it. Then the Byrne grants are there. That is a complete zero out. My drug task force in my district does not exist without a Byrne grant. That is what keeps it there. That is what has kept it there for the last 10 years. Every year they have to spend a limited amount of coming in here saying, please deal with the Byrne grants because we keep proposing it. Every year we put the Byrne grants down. This is the year to say, Look, we're not going to change this program. Stop proposing it. We're not going to change. But this year because they are doing Byrne grants simultaneously with the HIDTA changes, simultaneously with nationalizing the drug-free schools programs, simultaneously reducing the money going to State and local law enforcement for equipment, what you see is a national strategy that I never thought I would see out of my party, which is Washington knows best because you guys at the local level just don't cooperate right.

And then they are eliminating the meth hotspots program. This is a program that is not authorized, that is not developed. So how did it get to be $35 million last year? I was told, well, these are earmarks and we don't like earmarks. Welcome to the real world. Congress does earmarks. I have been suggesting to them for several years, maybe, if it is a growing program and $35 million is now coming through in earmarks, you ought to come up with a meth strategy, because maybe Congress is going to pass it again. My prediction is that meth hot spots will still be there because the number one thing of anybody who has a district with meth is, I have got to go after this meth and I am going to go into the appropriations bill and I am going to earmark it because if the drug czar does not deal with it, if the Attorney General does not deal with it, if DHS does not deal with it, then I have to deal with it because nobody else has a strategy to deal with meth in my district. So the idea that they are going to zero out meth hot spots is a tad too cute for the budget. We are not going to eliminate the meth hot spots program. We have to figure out how to run a better antimeth program. We have to figure out if there are problems and making the HIDTAs more integrated with the national strategy and work with it. But democratic government and empowerment suggests that if you have got in the United States right now, every single police chief, every single anti-narcotics officer, we have checked, the head of the National Narcotics Officers Association has said, he does not know one person who is for the President's budget with this and he does not even know one narcotics officer in America who was asked.

At our hearing on this, the head of the National Narcotics Officers Association said this. The head of the Speaker's home HIDTA in Chicago said he had not been asked. A sheriff who heads the meth HIDTA in Missouri, who was recommended to us by our Republican whip, said he had not been asked. The head of the Baltimore-Washington HIDTA for this area said he was never asked. The vice chairman of the southwest border HIDTA, the police chief in Phoenix, said he had never been asked. If you do not talk to the southwest border, if you do not talk to the leadership's home HIDTAs, if you do not talk to a single narcotics officer in the United States, how do you have the gall to send us a budget to nationalize this?

It is really important that fellow Members of Congress send a clear message. We believe in State and local law enforcement cooperation with the Federal Government and that our antidrug efforts are working. We need a resounding vote for the success of this program and continue to improve it.

EDUCATION

The SPEAKER pro tempore (Mr. JINDAL). Under the Speaker's announced policy of January 4, 2005, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, today is May 17, 2005. On May 17, 1954, the United States Supreme Court issued a decision in the Brown v. Board of Education of Topeka, Kansas case. Last year we celebrated the 50th anniversary of this landmark case. I expect to be joined by some colleagues of mine from the Congressional Black Caucus tonight to again take advantage of this anniversary, the 51st anniversary, to highlight problems related to education. Not only education as related to the African-American community, to minority communities or to poor communities but education in general needs more attention in America. Whatever activities there are that allow us to focus attention on education, they are very noble and worthwhile activities with a very useful purpose.

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We need to spend more time focusing on the role that education plays in our society, and this is just one more occasion where we can do that.

I want to congratulate the people who participated last year in the 50th anniversary celebration. We had a marvelous array of people who joined in highlighting that landmark case's 50th anniversary: corporations, foundations, all kinds of groups participated in highlighting that landmark decision. I want to particularly congratulate the Library of Congress, which had an exhibit which ran from May 13 to November 13 last year, 2004, which was entitled, "With an Even Hand: Brown v. the Board At Fifty." It was a fantastic exhibit which laid out the story in great detail, a lot of inspirational background and facts.

On May 17, 1954, the decision was issued declaring that separate education for children is inherently unequal. The Court held that school segregation violated the equal protection and due process clauses of the fourteenth amendment. African American activists laid the groundwork to challenge the racial segregation in public education as early as 1849 in a case called the case of Roberts v. the City of Boston, Massachusetts. The Brown case was initiated later and organized by the National Association For the Advancement of Colored People, the NAACP, recruiting African American parents in Topeka, Kansas, for a class action suit against the local board of education. In 1952, Brown v. The Board was brought before the Supreme Court as a combination of five cases from various parts of the country; it was not just Brown, but four other cases altogether; and they represented nearly 200 plaintiffs at that time.

The NAACP, through Brown, sought to end the practice of "separate but equal" throughout every segment of our society. It was to be a landmark decision. From education we went on to transportation, dining facilities, public schools, and all forms of public accommodation. So it was a decision that benefited us across the board, and I think we ought to take a moment to note the fact that it brought to all of us, brought to the attention of all of us the role of the Federal Government in education. It highlighted the fact that there is a major role that the Federal Government has to play in education. The Federal Government has always shown an interest in education. There are examples which I will talk about later of early, very early actions taken by the Congress with respect to guaranteeing that States carried out some educational function.

On May 17, 1954, Chief Justice Earl Warren read the decision of the Court which stressed the importance of education in American life. This is going to read as if it was written yesterday. Chief Justice Warren said: "Today, education is perhaps the most important function of State and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the Armed Forces. It is the very foundation of good citizenship. Today, it is the principal instrument in awakening the child to cultural values and preparing him for later professional training and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity where the State has undertaken to provide it is a right which must be made available to all on equal terms. Today these words ring equally true as we prepare our children to live and compete in the global economy."

These are the words of Chief Justice Earl Warren in 1954. They show a great deal of profound insight and vision, and we are using the same language today and still having the same problem of convincing the American people, certainly those who make the big decisions about how we use our resources, that education should occupy the foremost place among our priorities for public activities.

I am going to later on deal with a case history involving my own State of New York, which directly runs contrary to statements made by Chief Justice Warren in 1954. In the great enlightened State of New York, which prides itself on leadership in so many other areas, the failure to provide a sound, basic education for the children of New York City is a major item of controversy that has been raging for the last 10 or 12 years. Today we are at a critical point where the Court has ordered the legislature to stop swindling the children of New York City and provide additional funding from State funds to make up for some of the failures of the past and to also continue providing the kind of education needed. That case I will come back to later as exhibit number one of what the problem in education is.

Regardless of whether we are talking about separate but equal, the lack of a decent education for minorities or the poor, or we are just talking about education in general, even the best education in America, the education offered in our best schools is inadequate; and every time we are measured against international standards, we are clearly falling behind. In the most powerful Nation in the world, in the Nation that rightly deserves the role of leadership, we are endangering ourselves and our future by failing to pay attention closely to education.

The Congressional Black Caucus has consistently provided the impetus, been the conscience of the Congress on matters related to education. We have always made education the number one priority of the Congressional Black Caucus, and that is still true today under the leadership of the gentleman from North Carolina (Mr. WATT), who is the president of the Congressional Black Caucus.

The emphasis is on closing gaps between a lot of different kinds of activities and services in America, closing the gap between the African American community and the mainstream community; but education is particularly singled out as number one, the need to close the gap related to achievement and opportunity in education. So we have again advanced that. There was a Congressional Black Caucus alternative budget; and in that budget, the stress was placed on education.

We chose in that budget to highlight the fact that there is $8 billion in the military budget for a missile system that most scientists and even military experts say is almost useless and never going to be fully completed, and that beginning with that $8 billion, we should be transferring funds for some of our other objectives, certainly those related to the fact of an overblown military budget, to critical measures such as education. The best final analysis will be an educated population. It is the best defense today; it will be even truer tomorrow as we go forward.

The Congressional Black Caucus particularly singled out one bill that was introduced by a group of us under the leadership of the gentleman from Pennsylvania (Mr. FATTAH), which is called the Student Bill of Rights. The Student Bill of Rights has been introduced in several sessions, and it was reintroduced just recently on May 5 of this year. The Student Bill of Rights may be called accurately by many other names. In the past I have used the language, The Opportunities to Learn bill. The Student Bill of Rights means that the government has a responsibility to provide an opportunity to learn or to provide opportunities to learn in every way possible.

When we break down the general Student Bill of Rights proposition, it breaks down into the right to have the necessary resources to be educated. The right to have the necessary resources means that we must start with decent funding for teachers' salaries so that the people who are actually doing the teaching, who are most important in the process, are paid reasonable salaries, can expect to have reasonable careers, will stay and make use of the investment we place in them to teach children. And as the world becomes more complicated, these same people will have an incentive to stay with their profession and get the additional education and be able to provide a more and more complex form of education.

So a bill of rights means an opportunity to learn. One of those opportunities has to be the opportunity for providing decent teachers and decent administration personnel and decent counselors. The whole apparatus of human resources for the school system comes first. But there are many other opportunities to learn which also must be taken care of.

The facilities. We need to have a decent place for teaching to take place. Yes, it is true that Aristotle, in the days of Aristotle and Plato and Socrates, they defined a school as being a log with a teacher on one end and the student on the other end. That was adequate. That is not adequate today in a world where we are trying to educate young people to play a role in this complex society of ours. We need laboratories. We need libraries. We need a physical infrastructure which houses all of this appropriately. That is as much a part of the opportunity to learn as anything else. A bill of rights for students means that that opportunity to learn should be there.

School construction is a vital part of the process. School construction and the failure to have adequate school construction has led to a situation where many, many teachers who are quite dedicated and people who want to remain in the school system leave the school system because, one, they are teaching in facilities which are outdated and make it difficult to teach; two, they are teaching in facilities which are endangering their health.

There are situations where the health of the children and the health of the teachers is endangered. Large amounts of asthma cases were found in certain areas in New York City. It has only been about 3 or 4 years since we eliminated the last coal-burning furnace in a school in New York. That took a drive and a whole campaign to highlight the fact that we still had coal-burning furnaces. Our high asthma rate often ran parallel, high asthma rates in children ran parallel to the schools with coal-burning furnaces. Teachers themselves were having respiratory problems and illnesses. So you cannot separate the physical facility from the whole process of education.

And, of course, most of our schools in a place like New York City and like New York City have very meager libraries. Elementary schools have rooms that are called libraries, but they are really not anything near the kind of libraries which are recommended by library professionals. The kind of libraries we will find in any suburban school we will not find in an elementary or junior high school within New York City and many other urban cities.

I use New York as an example because the case history there is very pertinent. The pattern of what has happened in New York City is a pattern of what has happened all over the country. We have large concentrations of minorities and the poorest people in the cities, and that is where we have the worst education. Why? Because they are segregated? No. Even if you had maximum integration, we would still have the same problem, unless we deal with the problem behind the problem.

Why did we have segregation in the first place? Why did we need Brown v. Board of Education to end segregation? If the white power struggle insisting that we had segregated schools had been willing to raise the money and provide the resources to make every school for a nonwhite equal to the white schools, the issue probably never would have come up. It was the great disparity that existed between the schools for the African American students, the Hispanic students, and the poorest students of other minority groups, that great disparity which kept causing the problem.

The disparities were great when the schools were separate, and the unfortunate fact is that in 2005 those disparities still are great. You can go into any city, big city, and you will find several different classes of schools. You will find very good schools in some areas, and the poorest of schools in other areas, because of the fact that the problem is, the problem behind the failure of the education system in America is that the people with the power, those who make decisions in the Congress, State legislatures, in the city councils, in the executive offices of the President, the Governors and the mayors, those people who make the decisions and have the power to transform the school system do not really believe in public school systems anymore. They do not believe that they are vital.

When we believe things are important, we take action. We do not stand around and complain about how much they cost. We take the necessary action. When we wanted to put a man on the Moon, the extra billions of dollars that it took to put a man on the Moon was not an issue.

□ 2045

President Kennedy said we will go to the moon, and one President after another endorsed going to the moon and to outer space and on and on it goes, because we consider that important.

It is important, because it had a military objective if nothing else. At that time it had a military objective, and we were driven very much by the fact that the Soviet Union beat us into outer space. The Soviet Union sent Sputnik up circling the globe at a time when Congress and our executive branch said that the Federal Government should not be involved in education, that it is a matter for States, and the States would be offended if we got involved.

They looked at the situation and saw that the way the Soviet Union beat us into outer space was to build a system of scientific education. We produced a massive number of scientists and engineers who could do the job. So we had the Defense Education Act. Many Members of Congress are too young to remember. The Defense Education Act was the first great forward movement of the Federal Government into education.

The Defense Education Act provided funds down to the elementary, secondary level, and up to the colleges, to improve education in the areas of math and science. And if you do that, of course it helps to improve education overall, because the resources provided for education in math and science can be then transferred to other areas, and education would benefit overall.

Later on under Lyndon Johnson, it became more codified in terms of understanding that this Nation was embarking upon a venture in history which required a massive amount of people who had education. So Lyndon Johnson, of course, came forward with the Elementary and Secondary Assistance Education Act, which provided funding for the schools on the basis of helping the poorest schools, the recognition that if there was a fear that the Federal Government would take over education at the local level, then we should proceed only to help those local education agencies that had problems with poverty, they could not afford to educate all of their students, so the poorest districts were the beneficiaries of the Elementary and Secondary Education Act.

Title 1 is a major title under that, and that is still true today. Title 1 is primarily focused on the poorest schools. No Child Left Behind, which encompasses Title 1 now, focuses primarily on the poorest schools. So it is understood that the Federal Government has a role to play in education, it is understood that no nation at this point in history can survive unless it pays a great deal of attention to its education system.

There is an immediate threat that we are feeling economically already in the area of high-tech education, where we thought we will always be the leader, we will have the most people who are scientists and engineers in the information industry area, that always no one can catch us there and keep producing better and better technicians and scientists and our manufacturing operations and design operations would always be ahead of the rest of the world.

We still are ahead of the rest of the world. We still are. But there is a great problem that has already been introduced at the lower levels where you cultivate the programmers, the technicians, the first level scientists. They are finding in all of the information industries that they can get cheaper personnel at the same education level or even at higher education levels by going overseas to places like India and Pakistan, and the Chinese are learning English very rapidly themselves.

The most renowned university in the area of science and engineering and information industry now is not Massachusetts Institute of Technology, it is a university in India that is recognized in the world as being the leader in the field of science engineering that has overtaken and left MIT behind.

That is just one indication of what is happening in the world because there are people who clearly understand. But the people who make decisions in our Congress and in our State legislatures do not seem to want to understand. We want to spend billions of dollars more for missile systems that do not work, billions of dollars more for jet planes that already nobody can catch. I mean, we already have planes that nobody can keep up with anyhow, no other force, no other nation is manufacturing planes of the caliber of the ones that we have, but we want to go forward and do new ones.

We want to go and fight a war in Iraq, solving a problem that had to be solved in the worst and most expensive way. And last week we just voted another $82 billion dollars for the war in Iraq, bringing the total up above $300 billion.

So we are setting priorities, but the wrong priorities. No nation, no matter how powerful it is, and how rich it is, can endure by wasting its resources in the way that we are presently wasting ours. Instead of investing our resources in our people and our infrastructure, and our own Nation, we are wasting our resources in numerous ways and one of them of course is the war in Iraq which is a war that we certainly can never ever win.

The war in Iraq's best conclusion, peace, will mean that the Shiites, who are the predominant population, will take over. If you have democracy, they will have the votes, and they will take over, which is wonderful, democracy should work. Whoever is in the majority should be there.

It just so happens that the Iraqis are right next to Iran, which is a Shiite nation overwhelmingly ruled by Shiites, and they have their own agenda, which is not friendly to our Nation. So we are going to hand them some partners and hand them a nation as a result of our blundering in Iraq, trying to solve a problem with force that had to be solved in some other way.

But, let me return to the celebration, the recognition of this day as the day where the landmark decision of the Supreme Court, Brown v. The Board of Education was decided, and say again that it highlights a turning point.

It forced the issue up to the national level. And we are still struggling with that today. As I said before, the Congressional Black Caucus has followed through and continued to put it on a front burner before the Nation. We are the foremost advocate for education reform. We are willing to spend the money necessary for education. We are willing to take it away from wasteful expenditures in places.

And the concrete piece of legislation is our Bill of Rights, which I will talk about in more detail in a minute. But in the last alternative budget, the Congressional Black Caucus alternative budget, under Function 500, education and training, we alone had large significant increases for education.

School construction we said should be increased by $2.5 billion, at least. You really need to spend more like $10 billion a year for the next 10 years to just get our schools back to a reasonable level so that local and State governments can then take care of them.

There is a great deal of lack of resources at the State and local level, unlike ever before. Our State and local governments are broke. All of the more reason why our Federal Government, which has the most money, all funds are local, we do not make any money here in Washington really, we print something we call money but it is all based on what happens at the local level. All taxes come from the local level. People live some place in the Nation, who pay their income taxes, and their other taxes, and that generates what runs our Government.

So all taxes are local. The money does not belong to the Federal Government. And we should have a greater voice in spending the money for the priorities that benefit the greatest number of people at the local level, not for a military machine that is somebody's dream, a Star Wars dream, a military machine that is out of control, very poorly planned, could not even fight the limited war that it undertook in Iraq.

But getting back to the Congressional Black Caucus alternative budget. School construction, we proposed to spend $2.5 billion more. That is $2.5 billion more than zero. We are spending almost nothing on school construction now. We have some funds in the budget for charter schools. Charter schools are a favorite of the majority party, the Republicans like charter schools.

The President likes charter schools. So they went contrary to their own philosophy, because the philosophy and the rationale that they have used is that we should not get involved in funding school construction, because that is a local and State matter. But if you like charter schools, as they do, they are willing to go right ahead and fund charter schools at the State and local level because they like charter schools.

But the funding for charter schools is a small amount too, I assure you. No Child Left Behind, which is the encompassing Federal education program, Title 1 and all others, we propose another $12 billion for No Child Left Behind.

Elementary and secondary school counseling, we impose vocational education, $1.5 billion more. In that same area of Function 500, related to education is job training. Adult education, we propose great increases there.

Head Start we propose a $2 billion increase. Head Start has over and over again been certified and cited by numerous scientists, numerous scientists, I mean education scientists, numerous experts as being a very successful program. And yet we keep chopping away at it, evaluating it to death, and finding excuses not to fully fund Head Start. $2 billion increase in Head Start would still not fund all of the children who were eligible, but it would move us in that direction.

I might add that Head Start is not a program for minorities. Head Start is a program for poor children. And as a result, I would wager that at least 50 percent of the children who are served by Head Start now are not minorities, they are from the mainstream, they are poor. And it is important to have Head Start for them as it is for anybody else.

Individuals with Disabilities Education Act, we propose $2 billion. What is that? That is part of special education. Special education has become quite a problem at the local level, because the Federal Government has mandated that special education must be provided as a right to any child with disabilities. We mandated it. At the time that law was authorized and mandated, we said we would pay 40 percent of the costs. But we have never paid 40 percent of the cost. We are up to about 12 percent of the cost of special education.

So what we do is we mandate this, they must do it at the local level. It puts a strain on the local education agency's budget, and hostility is generated toward people with disabilities or children with disabilities as a result of the extra costs that is necessary to educate children with disabilities. We propose a $2 billion increase as we move toward the original authorization of 40 percent of the total cost.

Historically Black colleges and universities, we propose a $500 million increase there. Hispanic-serving institutions, $400 million increase. TRIO. TRIO is a program which helps to prepare youngsters for college and helps those who are in college to get off to a good start. We have found that in the year 2005, in the last few years, enrollment in colleges is going down rapidly among minority and poor students. We do not need enrollment going down, because in the final analysis, for a complex society the way you increase the pool of educated people is not by educating those who are normally going to be educated anyhow, the rich and the middle class are normally going to find ways to be educated. They always have. But as the demands on our society become greater for more educated people and more people, more education at different levels, you know, a plumber, a plumber's helper, all kinds of people need greater knowledge than they needed 20 years ago. If you do not educate that class, you are not meeting the needs of a modern society.

□ 2100

So the pool has to continue moving. The pool has to grow; and if you do not grow the pool, you are failing to build for the future.

Our children will spit on our graves when they look at how we have squandered so many billions of dollars on meaningless activities while our education system crumbled. They will wonder what happened to this generation, what were those men and women in Congress doing, where were their heads, how dumb were they, how stupid they were at looking at the situation and understanding the implications of where the world is going.

They will wonder why we chose to waste $300 billion on Iraq, a war which has been discredited by the fact that the President led us into it with a group of false assumptions, a war which we cannot win, a war which only hands the Iraqi nation over to Shiites which control Iran right next door. The kingdom of Iran will be expanded as a result of the end of this war.

We had a situation which backfired on us totally. They will wonder why we did it, why we were so dumb. Everybody makes decisions, whether they are in Congress or local legislatures and State legislatures or in the White House. Everybody who makes decisions should be held accountable. We are expected to have the information we need in order to go forward. So if our population in general is not wise or is greedy and they want massive tax cuts instead of expenditures for necessary infrastructure services, expenditures for education, if they are unaware of the implication of what is happening right now in China, what is happening in India and Pakistan, to say nothing of the Soviet Union, which is overlooked, we assume that the Soviet Union is standing still, but the massive education system of the Soviet Union has been cranked up again, and the Russians, the young Russians, are learning English rapidly, too.

We are concerned about Social Security. A displacement of our young working population will take place on the level of a tsunami. It will be so massive in about 10 to 20 years that we will just never know what hit us because outsourcing will be so much cheaper than hiring people who live and work in the country and pay taxes in the country.

Outsourcing to the Soviet Union, to India, to Pakistan, to China is a very interesting phenomenon. The Chinese have a Communist government still. They do not pretend they have a democratic government. They are Communists, and there were times when the business community of America, every businessman would foam at the mouth and go crazy if you mentioned communism or Communists having some kind of advantage. Yet our business community has embraced this Communist authoritarian, totalitarian regime fully, wholeheartedly because they can get a few extra pennies from the relationship, because they can profit greatly.

They have a program called Guided Capitalism, mongrel capitalism; but at the top of it, you have a totalitarian, authoritarian group that is no different from the Communists who were there 50 years ago. They have enlightened ideas about economics. They are smart enough to know that they can build their economy on the backs of the American people and the American economy. They are even loaning us a great deal of money now to take care of our deficit. They are very bright people. After all, they have been in existence for more than 2,000 years as a unit. They have been operating together so they have the ability to see all of this and to proceed with these kind of machinations, which overwhelm this Nation and is not surprising; but we are smart enough, it seems to me, to wake up, and we must wake up, to the fact that the first threat of China is the educational threat.

When I was in grade school, I remember very vividly and was impressed by the fact that China was such a huge nation. It has always been a huge nation with a huge population, but the geography books kept repeatedly saying that China is a backward nation. The word "backward" sticks in my mind. China is a backward nation, but Chinese are backward people. Some kind of assumption in a young mind, you think, well, do they walk backwards. What does backward mean? Well, it was a racial slur. It was saying that they are inferior, the Chinese; but we know now if we did not know before that there are no inferior human beings on the planet.

Education makes the difference, and when you have a government like China's, even though it is a totalitarian, Communist, authoritarian government, it places a high priority on education. It knows that gaining a large amount of power over a short period of time is directly related to the number of people they educate.

Osama bin Laden, why are we so fearful of Osama bin Laden? Because Osama bin Laden is not some fanatic out there with a beard in the wilderness. Osama bin Laden is an engineer. Osama bin Laden is a well-educated man. The 19 murderers who crashed their planes into the World Trade Center and the Pentagon and headed for this Capitol, they were educated. The financing structure for al Qaeda is a very well-orchestrated financial structure. They are using experts. They are taking advantage of every weakness in America, every weakness in the developed nations, as well as the developing nations, too, of course.

We had earlier here tonight a presentation by one of my colleagues about the drug industry and the way in which the Afghan warlords are still being financed and the way in which the Islamic extremists are still being financed by drugs. Who is buying the drugs? Who are they manipulating in this situation but the developed nations?

So what I am saying is that at this point in history it would be wise for us to take note of Brown v. The Board of Education as an important time to each year examine where we are in education in general.

Segregation was the first problem, but the problem that caused segregation is still a major problem of education in America. The problem that caused segregation was the refusal of the power structure, those people who control the resources and the money, to provide the funds to equally fund and create equal education. If equal education had been created, if they had built schools in the black community which were as good as schools in the white community, if they had had salaries for the black teachers which were the same as the salaries for the white teachers, the administrator structure and everything else, you probably never would have had an issue being made out of segregation. But the very heart of the inequality is the failure and the refusal of people in power to use the resources for those who have no power and who have little power.

The failure in our big cities is that we have people in our big cities who are suffering because they have very little power. The people who are making decisions, the mayors, what we call the permanent government, the businessmen behind the scenes are who decide which candidates they are going to finance. Usually they place the highest on cutting taxes, keeping taxes low. It does not matter what the needs are. They used to be willing to sacrifice the school system and have an inferior education system, but now they are beginning to cut into the firemen and the police, and any public activity is now on target since they have gotten a taste of what tax cuts can do.

It is monumental greed that can only be counteracted by leadership, people elected, and people elected should have time to study the situation. People elected should be accountable to our children and our grandchildren about what kind of society we are building, and we should let the people who are greedy and selfish and do not want to pay another penny in taxes as a first instance, make them understand that they care about their children, they care about their grandchildren. We are like every other living thing in this world on this planet.

Our offspring, the continuation of our species, is a major concern of ours, a major motivation of ours; and when we take our resources and refuse to develop them, to promote a structure which is going to support the development of a society for our children and our grandchildren, we are doing them a great disservice.

Everybody talks about education. Everybody should be concerned about education. Education is very complicated and folks are trying to oversimplify it all the time.

The story of the blind men who were feeling an elephant and each one came to a different conclusion because of the part of the elephant they felt, they assumed that that could define the elephant. Well, in the case of education, it is just blind men feeling a dinosaur. There are so many different parts. It is so complicated until we should not oversimplify. We should not expect easy answers.

If a missile system can be tested again and again and each time it fails and one of its missiles explodes accidentally it is 18 to $20 million and we are willing to live with that, we should live with experimentation in our schools. We should live with systems that are not evaluated or up for evaluation every 2 years, but are given a chance to succeed.

In the New York Times today, May 17, 2005, research finds a high rate of expulsions in preschool. Kids in preschool are being expelled from school at a higher rate than children in the normal pattern from 1st grade to 12th grade. We have a difficult problem here. It is an increasing problem. Some say, well, we have got more kids in school so we have got different backgrounds. But basically, we have a problem taking place at the pre-kindergarten level which has already shown itself in the early grades and in junior high school and high school.

We have an excitement gap. We have children who live in a very electronically hyped world. They have television, all kinds of devices and gadgets. They go to school and it is too dull, and some of the brightest kids are some of the first who act out. It means that it is just one more area where more resources have to be put in instead of expelling kids, which is ridiculous. We should be finding ways and doing whatever is necessary to make sure that they are there.

I said before that the Indians, Pakistanis, a number of developing nations understand the need for education in order to develop their societies, their economies; but a greater threat still and more immediate threat I started to talk about and did not complete, and that is educating people who are extremists and people who hate our way of life, the people who are ready to die in order to destroy us. They are educating them, also. They know that a human being can be taught to become a brain surgeon, a bomb maker who then can be taught to effectively man a machine gun or fly a plane into the World Trade Center. Human beings have that capacity.

So you have what you call a network of madrassas. Ever heard the term madrassas? It is a new term. After 9/11 we discovered that there are schools in places like Pakistan and Afghanistan and Saudi Arabia and a number of other places where they are learning not just science, math and religion; but they are learning how to hate and learning how to be willing to sacrifice themselves if necessary against the infidels.

So you have a massive number of people at various levels who are seen as resources. If we do not see our own population the same way, everybody as a resource for our goals, then we are going to also experience some of the same kind of problems internally that we are facing externally.

By that I mean you are going to have youngsters who live in America, who come to the American system, who hate America, who hate in general, who are willing to take up any kind of cause and fervently pursue it in some kind of suicidal venture. Yes, we can always defeat them and always have a strong Navy and Army and Marines, but we have to pay a very costly price if we do not understand that every human being deserves to be developed and should be developed for the benefit of the Nation, and his mind and his skills should be shaped in a way which benefits and not cut them off and ignore them and let them become driftwood.

□ 2115

We are increasing our expenditures at a much more rapid rate in our prison system than in our education system. We are willing to pay $20,000 to $25,000 a year to incarcerate an individual. We are the Nation now in the world with the largest number of people in prison, more than 2 million and climbing. It used to be mostly men, now we have an increase in the number of women who are in prison. That is a statement about the wrong way to educate, the wrong way to proceed in developing our population.

Mahatma Gandhi said, when he went to visit a big nation, a big city, he said where are your exploited people? Who is oppressed? And he was told by the mayor and leaders of the place at the city, we have no oppressed. He said, oh, yes, you do. Take me to your prisons and I will show you who are oppressed. Take me to your prisons, and the people there, the types of people there will be an indication of who is oppressed in your society.

Take me to your prisons and you will find African American males way out of proportion to their numbers in the population. You will find Hispanic males way out of proportion to their numbers in the population. Take me to your prisons and you will find $20,000 to $25,000 a year being spent on those individuals while we complain in New York City about spending $8,000 a year on children in the schools of New York.

I want to close by just quickly highlighting the Bill of Rights that I talked about that the Congressional Black Caucus sees as its centerpiece in its effort to maintain a high profile for education matters. As I said, the bill was reintroduced on May 5, 2005 by the gentleman from Pennsylvania (Mr. FATTAH) and numerous other sponsors. Among its findings is stated: A high-quality, highly competitive education for all students is imperative for the economic growth and productivity of the United States, for its effective national defense, and for achievement of the historical aspiration to be one nation of equal citizens. It is therefore necessary and proper to overcome the nationwide phenomenon of educationally inadequate or inequitable State public school systems in which high-quality public schools serve high-income communities and poor-quality schools serve low-income, urban, rural and minority communities. That is finding number one.

Finding number two. There exists in the States an ever-widening educational opportunity gap for low-income urban, rural and minority students characterized by the following: Highly differential educational expenditures among school districts; continuing disparities within the States in students' access to fundamentals of educational opportunity; radically differential educational achievement among public school districts within the States; and on and on it goes adding up to eight major findings that are part of the introduction to the Bill of Rights, H.R. 2178.

Mr. Speaker, at the conclusion of this special order I will submit for the RECORD the findings of the Bill of Rights for Education, as well as other items relating to this topic.

Finally, Mr. Speaker, I would like to conclude with the case history that I mentioned before, the case in New York City which points out exactly, in a specific example, what is wrong with our education system in America.

We have a rich State like New York. It is not a poor State at all. We have a huge budget. We spend large amounts of money on numerous items that could be considered optional and luxuries. We are now embarking on the building of a great stadium in Manhattan for one football team, the Jets, and for the Olympics, and the city proposes to put $100 million in, and the State will put $100 million in. They say the rest will be paid for by the Jets' ownership. But all estimates are that before it is over the city and State will put in more like $.5 billion in order to make it work. We are selling valuable real estate at pennies on the dollar, on State-owned property upstate. The Governor recently gave away a major property for $30,000, and on and on it goes. The money is there but the will and the power is not there to use the money for education.

In New York City, a case was brought more than 10 years ago by a group called the Committee for Education Equity, CFE. That committee won the case at the first level. Justice Leland DeGrasse ordered that the State must spend $5.6 billion in operating funds over the next 4 years. In addition to the State aid it was giving the city already, it had to give additional aid, and $9.2 billion in capital funds over the next 5 years to bring them up to par.

Why is this necessary? Because for the last 30 years the New York City students have been receiving less money per pupil than students in the rest of the State, and this is to correct an inequity, an injustice. It took the courts to do this. But the judge ruled it and the case has been thwarted and avoided for the last 3 or 4 years by the Governor of the State.

The Governor first appealed the case, and so it went to the appellate division of the New York State court system. That is the next level. The appellate division overturned the original judge's decision; said he was wrong, you do not need additional money because in New York State all you need to do is to provide an 8th grade education for students to be able to come out of school, get a decent job and function in the society that we have at this point. All you need is an 8th grade education is what the appellate decision decided.

Fortunately, the court system has checks and balances and there was one higher level above the appellate division which looked at the decision of the appellate division and said it was nonsense, and they supported the original decision by the original judge. So it went back to the judge to make the decision which he has made, ordering the State in 90 days, 90 days was some time ago, to come up with a plan to comply with the court order.

So the Governor appealed it again and he got a stay on the order on the basis of the fact that this one had particular figures in it, and so it has been sent back to the appellate division. Let me just sum up. The same level of the judicial system which decided that all you need in New York City and the State is an 8th grade education 2 years ago, they now have the case back in front of them as a result of the machinations of our Governor. And so I sent a letter to the Governor, to the Attorney General, to the Speaker of the Assembly of the State of New York, and to the majority leader of the State Senate and asked them all to please obey the law.

There is a question about the power of courts around here. We are having big discussions here in Washington about selecting judges, and we think in the final analysis sometimes we have had bad decisions; other times we have had beneficial decisions. But either way our court system is a magnificent system with a set of checks and balances built in, and the kind of effort being made in the Senate now to take away the minority's right to have a meaningful role in the selection of judges is going to jeopardize this.

But, presently, the courts are there and they ought to be obeyed. They ought to be obeyed. Sometimes judges order our legislatures to do things, and when they do not do them they fine the legislature so much per day for every day that they do not comply. There have been examples of this. And other times there are State governments and legislatures that have ignored courts and the courts have done nothing about it.

An historic example of Andrew Johnson being ordered by the Supreme Court of the United States to let the Cherokee Nation alone and not drive them off their land in Tennessee. Andrew Johnson ignored the Supreme Court, and of course nothing was done about that. So we have a problem which needs to be clarified in law in our society. The courts ought to be obeyed. You go to the courts as a last resort.

So I wrote this open letter to Governor Pataki, the Attorney General, and the other people where I said please obey the law. New York's highest court has ordered the State of New York to provide New York City schools an additional $5.6 billion in operating expenses over 4 years, and $9.2 billion in facilities funding over 5 years to ensure that the city's children have their constitutional right to the opportunity for a sound basic education. And I go on and on to say that the case has been lingering; it has been 262 days since the court deadline was passed, and we would like some action.

Mr. Speaker, I will enter this letter to the Governor of New York State, Governor Pataki, for the RECORD, because it is an example of the kind of case which pinpoints the fact that the children of our Nation, the parents of our Nation, the people who care about education in our Nation are at war with a group of leaders and decisionmakers who are the major problem. They do not want to understand in many cases, they do not understand in some cases, but they are the major impediment to the building of an educational system which will cost money. It will cost resources.

Folks talk about we are spending so much more than we used to spend. When Pearl Harbor was attacked, the United States owned only four vehicles, four cars. No airplanes for the President. Look where we are now in terms of our military apparatus, our governmental apparatus. The government moved on and the United States of America moved on. We produced what we needed for World War II. We won the war because we cared about it. It was vital. We went to the moon because we cared about it. It was vital. We can do anything we care about if it is vital.

We do not understand how vital education is and that is our central problem. The leadership, including the Members of Congress, have to come to grips with the problem that we are failing the generations to come by not providing an adequate education structure. The ruling in Brown v. Board of Education set off a domino effect which has built the knowledge that the Federal Government does have a role. It has a major role, and we must stop trying to thwart that role but cooperate with it in order to build a better Nation.

Mr. Speaker, at this point I will conclude and submit for the RECORD those documents I referred to earlier:

(a) FINDINGS—The Congress finds the following:

(1) A high-quality, highly competitive education for all students is imperative for the economic growth and productivity of the United States, for its effective national defense, and for achievement of the historical aspiration to be one Nation of equal citizens. It is therefore necessary and proper to overcome the nationwide phenomenon of educationally inadequate or inequitable State public school systems, in which high-quality public schools serve high-income communities and poor-quality schools serve low-income, urban, rural, and minority communities.

(2) There exists in the States an ever-widening educational opportunity gap for low-income, urban, rural, and minority students characterized by the following:

(A) Highly differential educational expenditures among public school districts within States.

(B) Continuing disparities within the States in students' access to the fundamentals of educational opportunity described in section 112(a).

(C) Radically differential educational achievement among public school districts within the States, as measured by the following:

(i) Achievement in mathematics, reading or language arts, and science on State academic achievement tests and measures, including the academic assessments described in section 113(b)(1).

(ii) Advanced placement courses offered and taken.

(iii) Scholastic Aptitude Test (SAT) and ACT Assessment scores.

(iv) Dropout rates and graduation rates.

(v) College-going and college-completion rates.

(vi) Job placement and retention rates and indices of job quality.

(3) As a consequence of this educational opportunity gap, the quality of a child's education depends largely upon where the child's family lives, and the detriments of lower quality public education are imposed particularly on—(A) children from low-income families; (B) children living in urban and rural areas; and (C) minority children.

(4) Since 1785, the Congress of the United States, exercising the power to admit new States under article IV, section 3 of the Constitution (and previously, the Congress of the Confederation of States under the Articles of Confederation), has imposed upon every State, as a fundamental condition of the State's admission, the following requirements:

(A) One, and sometimes two, square-mile lots in every township were to be 'granted and . . . reserved for the maintenance and use of public schools'.

(B) '[S]chools and the means of education [are to] be forever encouraged'

(C) 'State conventions [were to] provide, by ordinances irrevocable without the consent of the United States and the people of said States . . . that provision . . . be made for the establishment and maintenance of systems of public schools which shall be open to all children of said States'.

(See Ordinances of May 20, 1785, and July 13, 1787; Act of March 3, 1845, 28th Congo 2d Sess., 5 Stat. 789, Chap. 76 (admitting Iowa and Florida); Act of February 22, 1889, 50th Cong., 2d Sess., Chap. 180 (admitting States created from the Dakota Territories); and the Acts of Congress pertaining to the admission of each of the States.)

(5) Over the years since the landmark ruling in Brown V. Board of Education, when a unanimous United States Supreme Court held that 'the opportunity of an education . . . , where the state has undertaken to provide it, is a right which must be made available to all on equal terms', courts in 44 of the States have heard challenges to the establishment, maintenance, and operation of educationally inadequate or inequitable State public school systems. (347 U.S. 483, 493 (1954)).

(6) In 1970, the Presidential Commission on School Finance found that significant disparities in the distribution of educational resources existed among public school districts within States because the States relied too significantly on local district financing for educational revenues, and that reforms in systems of school financing would increase the Nation's ability to serve the educational needs of all children.

(7) In 1999, the National Research Council of the National Academy of Sciences published a report entitled 'Making Money Matter, Financing America's Schools', which found that the concept of funding adequacy, which moves beyond the more traditional concepts of finance equity to focus attention on the sufficiency of funding for desired educational outcomes, is an important step in developing a fair and productive educational system.

(8) In 2001, the Executive order establishing the President's Commission on Educational Resource Equity declared, 'A quality education is essential to the success of every child in the 21st century and to the continued strength and prosperity of our Nation. . . . [L]ong-standing gaps in access to educational resources exist, including disparities based on race and ethnicity.' (Executive Order 13190).

[From the New York Newsday, May 3, 2005.]

STATE REFUSES TO OVERTURN CFE STAY

(By Wil Cruz)

A state Appellate Division panel Tuesday refused to overturn a stay in Gov. George Pataki's appeal of a court order giving city schools billions of dollars in additional funding.

The court also said it would hear the appeal of State Supreme Court Justice Leland DeGrasse's order in October.

DeGrasse ruled earlier this year that city schools need an additional $5.6 billion in operating funds over the next four years and $9.2 billion in capital funds over the next five years to bring them up to par.

The Campaign for Fiscal Equity, which filed suit in 1993 accusing the state of short-changing city schools, had asked that the stay be lifted.

"Even though the stay was not lifted, we're gratified that the court granted our motion to expedite review of the case," Michael Rebel the group's executive director, said of the planned October hearing.

Pataki has maintained that in issuing his order, DeGrasse overstepped his judicial boundaries and failed to address accountability measures.

"Justice DeGrasse's ruling ignores important, fundamental, separation-of-powers principles and requires the state to spend too much and reform too little, so it's appropriate that it be reviewed by a higher court before taking effect," Kevin Quinn, a spokesman for Pataki, said in a statement Tuesday.

The Campaign for Fiscal Equity pushed to have the stay lifted in hopes of having the issue resolved in time for the upcoming academic year. Yesterday's decision eliminates that possibility.

AN OPEN LETTER TO GOVERNOR PATAKI ON LAW & ORDER FOR EDUCATION

April 19, 2005.

DEAR GOVERNOR PATAKI: I call on you to OBEY THE LAW. New York's highest court has ordered the State of New York to provide New York City schools an additional $5.6 billion in operating expenses over four years and $9.2 billion in facilities funding over five years to ensure the city's children their constitutional right to the opportunity for a sound basic education.

To properly shape the character and enhance the moral fiber of our children we beg you, Governor Pataki, to show respect for law and order. You are an important role model in the lives of the youth of New York State. The spectre of public officials refusing to obey a court order baffles and discourages law-abiding citizens. We have been taught to believe that in America the courts have the power to render justice when all other avenues have closed. New York City students have been denied their fair share of funds for decades and now the courts have ordered that this injustice be corrected.

It's been 262 days since the CFE court deadline!

Governor Pataki, you have further deprived our kids by defying/appealing a court order to fairly fund our schools. The law clearly states the responsibility for giving a sound basic education to our children lies with New York State. As a public servant who has served for twenty-three years on the House of Representatives Education Committee, and prior to that, eight years on the Education Committee of the New York State Senate I want to stress the importance of this vital law and order moment in the history of New York State. After years of legislative deals, which resulted in great inequalities, the court has proclaimed justice. Along with other elected officials we urge you to OBEY THE LAW.

Please OBEY THE LAW. Set an example for our students, for our communities. Show them everyone must OBEY THE LAW.

Yours For Improved Education,
MAJOR R. OWENS,
Member of Congress.

CAFTA

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under the Speaker's announced policy of January 4, 2005, the gentleman from Ohio (Mr. BROWN) is recognized for a period not to exceed 60 minutes.

Mr. BROWN of Ohio. Mr. Speaker, nearly a year ago, President Bush signed the Central America Free Trade Agreement, a one-sided plan to benefit multinational corporations at the expense of American workers, U.S. workers, and Central American workers, businesses, small farmers, a whole bunch of us in all those countries, both in Central America and here.

Every trade agreement negotiated by the Bush administration, every trade agreement passed by this Congress since George Bush took office, Singapore, Chile, Morocco and Australia, every one of those trade agreements was voted upon in Congress within a couple of months of the time President Bush signed the agreement. CAFTA, the Central American Free Trade Agreement, some call it the Central American Free Labor Agreement, and you will understand that in a moment, has languished in Congress for nearly 1 year without a vote because this wrong-headed trade agreement offends both Republicans and Democrats.

Just look at what has happened with our trade policy in the last decade. In 1992, the first year I was elected to Congress, we had a trade deficit in this country of only $38 billion. That was in 1992. Last year our trade deficit was $618 billion. It went from $38 billion, and a dozen years later $618 billion. It is hard to argue that our trade policy is working with that kind of gargantuan swelling budget deficit.

Opponents to the Central American Free Trade Agreement know in fact it is simply an extension of the North American Free Trade Agreement, which clearly did not work for our country. It is the same old story. Every time there is a trade agreement, the President says it will mean more jobs for our Nation. The President says it will mean more manufacturing in the United States. The President says it will mean better wages for workers in the developing world, and as their standard of living goes up they buy more things from the United States.

Yet, with every trade agreement, from NAFTA through China, through every other trade agreement, those promises from the President fall by the wayside in favor of big business interests that simply send U.S. jobs overseas and export cheap labor abroad. According to President Bush, Senior, every billion dollars in trade, surplus or deficit, translates into 12,000 jobs.

□ 2130

So if you have a $2 billion trade surplus, you have a net increase in your country of $2 billion, times 12,000 jobs. You have a 24,000 job surplus increase if you have a $2 billion trade surplus.

But instead, we had a $38 billion trade deficit 12 years ago. Today we have a $618 billion trade deficit. So according to the way that President Bush Sr. figured out what these trade agreements mean, that means a job loss of 7.3 million jobs to our Nation.

You can see pretty much what that meant because many of those jobs, a large number of those jobs, are manufacturing jobs. Look at the red. The red here means greater than 20 percent manufacturing job loss in our Nation in only the last 6-or-so years. You can look at almost all the Northeast, much of the Midwest, all the textile manufacturing from the South, steel and auto manufacturing here, and steel in these areas, textiles in these areas, in State after State after State. You see this kind of manufacturing job loss.

So we are going to do more of these trade agreements so we see more manufacturing job loss? That is what the Central American Free Trade Agreement is all about. In the face of growing bipartisan opposition, and make no mistake about it, the Central America free labor agreement, Central American Free Trade Agreement, call it what you want, that agreement is dead on arrival when it comes to this Congress because large numbers of Democrats and Republicans oppose this agreement.

That is why the President, unlike all of the other trade agreements which were voted on almost immediately upon the President's signature, that is why this trade agreement has been languishing for 1 year. For 11 months and 20-some days, it has not been voted on. But this year the administration is trying every trick in the book to pass the Central American Free Labor Agreement.

For instance, the administration is linking CAFTA to helping democracy in the developing world. Defense Secretary Rumsfeld, Deputy Secretary of State Zoellick, both said the Central American Free Trade Agreement will help in the war on terror. Figure that out.

Ten years of NAFTA, 10 years of the North American Free Trade Agreement, has done nothing to improve border security between the United States and Mexico. That argument simply does not sell. The North American Free Trade Agreement did nothing for border security. We saw this kind of job loss since NAFTA, this kind of trade deficit since NAFTA, from $38 billion 12 years ago to a $618 billion trade deficit last year.

So the President's people tried to argue, tried to link the passage of CAFTA to making the world safe against terrorism. That did not work, so now just last week the United States Chamber of Commerce flew on a junket the six presidents from Central America and the Dominican Republic around our Nation hoping they might be able to sell the Central American Free Trade Agreement. Again they failed.

But they sent these six presidents to Cincinnati, to Los Angeles, to Albuquerque, back to Washington where they had a Chamber of Commerce reception at their very fancy headquarters, but that did not work because those six Central American presidents are not strong believers in CAFTA themselves.

The Costa Rican president, for instance, announced his country would not ratify CAFTA unless an independent commission determines that the agreement will not hurt the working poor of his country.

Understand what CAFTA is all about. The average income for an American is about $38,000. The average income for a Honduran or a Nicaraguan is less than one-tenth that. So think about that. A $38,000 average income for an American. And on that income many Americans can buy a washer and a dryer, and can begin to purchase a home, perhaps. Many Americans can buy a car and begin to put away in some cases a little money for a child for college or at least borrow some money and get them to college.

But on $2,000 or $3,000 an average wage in Honduras or Nicaragua, they are not going to buy cars made in Ohio and washing machines made in the U.S. or steel from West Virginia or software from Seattle. They are not going to be able to buy prime beef from Nebraska. They are not going to be able to buy textiles or apparel from Georgia. The fact is that this trade agreement is not about the U.S. selling products to Central America. It is about U.S. companies looking for cheap labor and outsourcing those jobs to Latin America. That is why we have this kind of manufacturing job crisis. That is why we have this trade deficit that went from $38 billion 12 years ago to $618 billion today.

Get a look at these manufacturing job losses: 210,000 jobs lost in Michigan; 216,000 jobs lost in Ohio; 228,000 jobs lost, and these are just manufacturing jobs, not to mention what happens when a manufacturing job is lost. If a manufacturing job is lost in Lorain, Ohio, that means not just that man or woman loses a job. It means that family can no longer send their kids to college. It means that family can barely get along. They might lose their house. It means that town has lost a factory, which means higher school taxes; it means a layoff of police and fire. It means that education suffers. This kind of job loss, 200,000-plus in Ohio; 200,000-plus in Michigan; 200,000-plus in Illinois; 228,000-plus in North Carolina; 50,000 in Mississippi; 75,000 in Alabama; 100,000 in Georgia, that in most cases is about one in five manufacturing jobs in the State.

These numbers may not mean anything to Members of Congress; they are just numbers. But think about the families that lose these jobs. Think about the breadwinner coming home and saying to his wife, we lost this job, how do we clothe our kids? How do we pay for medical care, and what are we doing about the police and fire in our neighborhoods because this plant is shutting down? That is what this trade agreement is about. They are about workers in our country, and they are about workers in the developing world in Latin America.

About 5 years ago at my own expense, I flew to McAllen, Texas. I wanted to see the face of NAFTA. I knew all of the statistics about NAFTA. I knew the lost manufacturing jobs and what it did to my community in O'Leary, Ohio; but I wanted to see what it did in Mexico. So I rented a car in McAllen, Texas, and went across the border to Reynosa, Mexico, just to look at the face of free trade and what NAFTA had done along the U.S.-Mexican border.

I went to a home, and this was a shack maybe 30 feet by 20 feet, dirt floors, no electricity, no running water. This dirt floor turned to mud when it rained. The husband and wife both worked at General Electric Mexico 3 miles from the United States. If you walked back behind their home in this colonia, you would see other shacks that looked a lot like theirs. But as you walked through the neighborhood, as the gentleman from Arizona (Mr. FLAKE) knows, and he lives on a border State, you can tell where these workers work because their homes are constructed out of packing material, wooden crates and packing materials from the companies at which they worked, or from boxes to the suppliers for which they work.

I saw a ditch with two by fours running across it. Who knows what was running through the ditch, human waste, industrial waste. Children were playing in this ditch because children will play wherever children play. The American Medical Association said this area along the U.S.-Mexican border is the most toxic place in the western hemisphere, and yet these workers are working at General Electric Mexico 3 miles from the United States each making 90 cents an hour.

Nearby their home, I visited a General Motors plant. General Motors

Mexico looks not much different from a General Motors plant in Lordstown, Ohio, or a Ford plant in Avon Lake, or a Chrysler plant in Twinsburg, Ohio. The workers are working hard, the plant is clean, the plant is modern. This plant in Mexico is more modern than many in the United States, but there is one difference between the plant in Mexico and the plant in the United States, and that is the plant in the Mexico does not have a parking lot because the workers cannot afford to buy the cars they make.

You can fly halfway around the world to Malaysia and to a Motorola plant and the workers cannot afford to buy the cell phones they make, or fly back halfway across the world to Costa Rica and go to a Disney plant and the workers cannot afford to buy the Disney toys for their children, or fly to China and go to a Nike plant and the workers cannot afford to buy the shoes they make.

Mr. Speaker, that is what makes our country great is because of trade unions. Because of a free democracy in this country, Americans share in the wealth. If you work for General Motors, a local hardware store, if you are a teacher, a nurse, you are creating value and creating wealth for your employer. If you are a private sector employee, you are creating wealth for the company. You share some of that wealth. You get health benefits and a decent wage. You can buy a house and a car.

If you work in a service job, you are creating value for those people whom you serve, and you get some wealth. You share in some of the wealth of the value that you create. That is why our system works. That is why these trade agreements do not work, because when we move these manufacturing jobs, the 216,000 in Ohio, a heck of a lot of those ended up in Mexico, and darn near all of them ended up as part of our trade deficit to China or Mexico or to somewhere else across the world.

Whenever those jobs are lost, they are typically jobs that are transferred; but those jobs do not create wealth for the people that get them in the developing world because they simply are not paid enough. If they are Ford workers in Mexico, they are not paid enough to buy the cars that they made. That is why these trade agreements do not work.

The most powerful Republican Member of the House, the gentleman from Texas (Mr. DELAY), the majority leader, joined by the chairman of the Committee on Ways and Means, the gentleman from California (Mr. THOMAS), said there would be a vote on the Central American Free Trade Agreement by Memorial Day. That marks the 1-year anniversary.

Remember at the beginning of my remarks I said all four trade agreements that this Congress has voted on since President Bush has been President, the trade agreements for Australia, Chile, Morocco and Singapore, all four were voted on within 60 days after the President signed them.

This trade agreement, the Central American Free Trade Agreement, has not been voted on for 11½ months. Members can see the CAFTA countdown, and in only a week and a half the Central American Free Trade Agreement will celebrate its 1-year anniversary. That tells me they simply do not have the votes to pass the Central American Free Trade Agreement.

So at the same time the self-imposed deadline from the majority leader, the gentleman from Texas (Mr. DELAY) and the gentleman from California (Mr. THOMAS), means they may call a vote before the end of the month. We are hearing they are going to delay it.

I ask, Mr. Speaker, as we can see by this calendar, a week away from the deadline with no vote in sight, what this should tell my fellow Members of Congress is that come May 27, we should scrap the Central American Free Trade Agreement, not that we should never do a trade agreement, not that we are against any kind of trade. We should scrap this trade agreement and renegotiate another trade agreement that will work for the American people.

Last month two dozen Republicans and Democrats in Congress joined more than 150 business groups and labor organizations in this city saying vote "no" on the Central American Free Trade Agreement. Last week more than 400 union workers and Members of Congress gathered in front of the Capitol saying vote "no" on the Central American Free Trade Agreement.

Why, because Republicans and Democrats, business and labor groups, know what the administration refuses to admit, and that is CAFTA is not about selling products abroad or exporting American goods because that simply has not worked. CAFTA is about one thing: it is about access to cheap labor and the outsourcing that goes with it.

Congress must throw out this dysfunctional cousin of NAFTA on this deadline this month, must throw out this dysfunctional cousin of NAFTA and negotiate a trade agreement that will lift workers up in Central America while promoting prosperity here in our country.

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Instead of a loss for American workers and the kind of job loss we have seen in State after State after State, instead of a continuing to increase trade deficit, from $38 billion to over $100 billion to over $200 billion, to over $300 billion, to over $400 billion, last year in 2003 over $500 billion, now a $600 billion trade deficit in this country, instead of these continued trade deficits, continued manufacturing job loss, Congress should throw out this dysfunctional cousin of NAFTA and negotiate a trade agreement that will lift up workers in Central America while promoting prosperity here at home.

Come May 28, we should bury the Central American Free Trade Agreement. We should renegotiate a new CAFTA so that we can negotiate and trade more with our neighbors on terms that will help lift up workers in all six of the NAFTA countries and in the United States.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. I want to thank the gentleman from Ohio (Mr. BROWN) for his ever-present vigilance on issues that affect American workers and the American economy. I rise tonight to join him in objecting to CAFTA and in pointing out to the people why it is so important that CAFTA be defeated. All of these trade agreements have been about one thing and one thing only—cheap labor. Corporations create conditions where they help to pass these agreements so that they can move jobs out of this country and create jobs in other countries but the jobs in the other countries are not benefiting people because they are working, in some cases, far below the poverty level. CAFTA, as it was with NAFTA, creates conditions where workers have no rights. As a matter of fact, the trade agreements are written specifically to preclude workers having the right to collective bargaining, the right to organize, the right to strike, the right to decent wages and benefits, the right to a safe workplace, the right to be compensated if you are injured on the job, the right to a secure retirement, the right to participate in the political process. All of those are swept aside under CAFTA as they were under NAFTA.

What happens when jobs are created under these trade agreements? First of all, workers are working for a pittance. Secondly, they have no protections whatsoever. They are just basically human chattel. Third, there is no job security. They can be moved around. Beyond that, these trade agreements have no protections against child labor, prison labor, slave labor. They have no protections for the water or the air.

Mr. BROWN of Ohio. As the gentleman was talking, I am thinking about what he said a few nights ago. There is no protection for the environment, for workers, but there is very good protection in this bill for a group that is very powerful in this body and that is the prescription drug industry. My colleague spoke last week about what the drug industry did in Central America, what the United States Trade Rep did on behalf of the drug industry that gave them a whole lot more rights than workers get, a whole lot more protections than the environment get.

Would my colleague talk a little bit about that?

Mr. KUCINICH. Yes. The agreements are written so that corporations have protections and their patents have protections and people who need drugs in certain countries for their own health often cannot afford them because the patent protections are supplied to corporations under these trade agreements but countries cannot go ahead and make generic equivalents because it would challenge the way the trade laws are structured. So these trade agreements are never written to benefit people. They are written to benefit corporations. We have to remember that even in our own country, corporations often have greater powers than individuals. There was an 1895, I believe it was, Santa Clara County decision by the Supreme Court which basically ceded to corporations a whole range of rights that put them on equal status with people. Yet corporations do not want to recognize the fundamental human rights that workers have, the fundamental responsibility that we all have to protecting the environment, and so they are given privileges in this country to avoid responsibility for protecting our air and water, to avoid responsibility for protecting workers' pensions, to avoid responsibility for providing for a safe workplace. They often can get off on some of their violations. Yet these trade agreements basically create a race to the bottom on standards, on rights, on principles, on the environment. That is why it is absolutely critical that my colleague has been leading the way on this and I am glad to join him in challenging what this does to people.

There are moral principles here. These principles go beyond politics. Pope Leo XIII when he wrote Rerum Novarum talked about the rights of workers. Pope Paul VI when he wrote his encyclical Progressive Populorum spoke about how corporations have responsibilities. There are fundamental principles that are engrained in a Judeo-Christian ethic, in a body where we celebrate, we are told, these kind of principles which are a bedrock of our society, yet they are just swept aside in favor of profit. It is not supposed to be that way.

That is why so many of us stood with young people in the streets of Seattle to challenge the WTO. That is why people are gathering all over this country challenging the Central American Free Trade Agreement. That is why our brothers and sisters in Central America need us to stand up.

Yo creo que es muy importante pelear por los derechos de los trabajadores. It is very important to take a stand for the rights of workers.

Mr. BROWN of Ohio. Taking back my time for a moment, as we talked about a week or so ago, while the six presidents were flying around the United States on a junket paid for by the Chamber of Commerce and then met with President Bush and all, they mentioned a lot of things about CAFTA but they never mentioned the kind of opposition to the Central American Free Trade Agreement, not just from American workers but from workers in every one of those countries. There were demonstrations and protests of thousands of people in virtually every capital city in the six countries. To the point that the president of Costa Rica, as I said in my earlier remarks, the president of Costa Rica now is saying he does not want to see this ratified until he sees some real guarantees in this agreement that the poor in his country, and in his country there are a large number of very poor people, and the workers in his country will not be left out of the agreement. So far, they are left out and he is dissatisfied by that.

But I think when those presidents have come home, both when they left, they saw these kinds of demonstrations, huge opposition among the people of those countries, and that huge opposition has continued. This Congress should simply not believe when these six presidents are walking around after their Chamber of Commerce tour, when they came to our offices and argued for this Central American free labor agreement, my colleagues need to understand that just because those six presidents were for it does not mean their countrymen and countrywomen were.

Mr. KUCINICH. A member of congress from one of these Central American countries who will be meeting with a group of Congressmen soon so I do not want to release his name just yet, told me that when a bill that would help facilitate CAFTA came before the House in his country, that it was brought in at about 3 in the morning, that members did not have a chance to read it, that they did not know that it would facilitate the privatization of public services, for example, and that they were basically encouraged to vote for it sight unseen.

These are the kind of fundamental violations of democratic principles and democratic rights which we see people in Central America already suffering even before this agreement is passed. What happens is these corporations have so much power in these other countries that legislatures are steamrolled. Here in the Congress of the United States, people not only in Central America but in this country are depending on Members to stand up, depending on us to stand up for the basic rights of workers but also depending on us to stand up to stop the continued erosion of manufacturing jobs in this country.

As my colleague points out in his chart there on the trade deficit, it is obvious that NAFTA has not resulted in creating jobs in this country. It has resulted in taking good-paying manufacturing jobs out of this country. Those are jobs that supported middle-class existence for many families. Those are jobs that helped sustain communities. Those are jobs that helped protect small business. Those are jobs that had health care benefits. Those are jobs that let people buy homes. Those are jobs that let people send their children to college. And now we are seeing our whole way of life adversely affected by these trade agreements. That is why CAFTA presents us with an opportunity to say, stop, stop, let's start to go back through the whole structure of trade agreements and demand that no agreement can ever exist unless it has fundamental protections for workers' rights, human rights and the environment, because frankly when corporations sweep those aside, that is how they make their profit.

Mr. BROWN of Ohio. Taking back my time, it is no surprise, or no coincidence, that as this trade deficit has increased from $38 billion the year I first ran for Congress 12½ years ago to last year's deficit of $618 billion, that is the same trajectory where we have seen health benefits cut, where we have seen workers in our country losing their pensions. When we lose these manufacturing jobs, every time a Ford worker loses his job or her job in Avon Lake or in Cleveland, that is often one fewer person in Ohio with health benefits, one less person that has a pension. These trade agreements clearly have pulled down the standard of living for way too many of my colleague's constituents and way too many of mine, way too many people in North Carolina where textiles and the apparel job loss have devastated their part of the country.

I want to make a prediction. My colleague made a statement a minute ago that in one of the Central American countries with whom we have negotiated this deal that legislation was passed in the middle of the night. I will make a prediction. Based on a lot of facts, the facts that every major piece of legislation, or virtually every major piece of legislation this Congress has considered the last 2 years, the debate started about this time of night, maybe even a little later, started about midnight, started around 1 o'clock, the debates on these very important issues, Head Start, money for veterans' benefits, money for education, $87 billion for Iraq, the major tax cuts, Medicare and the trade promotion authority. The last big trade agreement this Congress voted for, we voted in the middle of the night. The roll call was left open. It is normally only 15 minutes. The roll call was left open for well over an hour as the majority leader, TOM DELAY, strong-armed, cajoled, offered with a carrot, threatened with a stick, until he got two North Carolina Congressmen to change their votes. We have seen that over and over. My prediction is that when the Central American Free Trade Agreement, if it comes to this Congress in the next 6 weeks, even though it is already past this deadline, this self-imposed deadline, this 1-year anniversary of the signing of CAFTA, whenever it comes, either by the end of this month or the end of next month, you can bet that that is going to be a middle-of-the-night vote where there is incredible political pressure, where there are threats, where there are transfers in some cases, promises on one bill, on the Medicare bill, promises of campaign cash on the House floor as claimed by one of my colleagues, a Republican from Michigan, where there are all kinds of goodies offered to this Member of Congress or that Member of Congress to get a vote. I am just terrified that even though the American people clearly do not like the Central American Free Trade Agreement, even though the American people recognize the kind of job loss that our State of Ohio and so many other States, especially the States in red, have been hit the hardest, with all this job loss, with all this opposition from the American people and from Members of Congress that the administration will do what it did with trade promotion authority and offer all kinds of things to these Members of Congress to get them to change their vote and vote the opposite of what they have promised and vote the opposite of what their constituents asked them to.

Mr. KUCINICH. Mr. Speaker, when I was traveling the country, I had the opportunity to visit many areas around America. I would stand in front of plant gates that were padlocked. I saw grass growing in parking lots which were once filled with cars, where workers would go into a plant and they would make steel, cars, washing machines, sewing machines, truck bodies. And now their plant gates are padlocked and there is grass growing in the parking lots. All of America is littered with the rusting hulks of huge manufacturing plants. Yet there are many people who remain in those communities who have the ability to do the work. It is not that there is no work to be done. It is not that we are not consuming the very products which were made once in America. But they are being made now elsewhere at a fraction of the price, where workers are underpaid, where they have no rights.

□ 2200

When we started years ago challenging these trade agreements, some of us were told, well, you are being an isolationist; we have to have trade. Well, it is true, we do have to have trade; but we have to have fair trade. We have to have trade which respects the undeniable fact that all people are interdependent and interconnected. These trade agreements create a divide, a chasm, between the very wealthy and the increasingly poor. These trade agreements have helped to bring about the destructive undermining of America's middle class.

So when you look at that map, I say to the gentleman, and you can see not only various colors of States, depending on how many jobs they have lost, but behind those statistics are individual stories of dreams that were shattered, of families that were broken, of opportunities that were denied, of futures that were totally changed, of the American Dream being dashed, of the American Dream being dashed. That is why we are standing here tonight, challenging CAFTA and, by reference, all of the other trade agreements that have passed.

Mr. BROWN of Ohio. Mr. Speaker, I will close as I just listen to my friend talk about seeing this country as he has seen it up close, and we all have seen it. Again, these are all numbers, 200,000, 200,000, 57,000, trade deficits of billions and tens of billions, hundreds of billions of dollars; they are all numbers. But I think almost every Member of Congress, those of us that really get out in our communities, and that is most of us on both sides of the aisle, really have seen the kind of pain that people suffer when someone loses a job after being in a plant for 30 years and loses their pension or loses their health benefits, and they are 58 years old and they cannot get Medicare yet. Or they are 35 years old and they cannot send their kid to school, they had been saving a little bit of money: all that that means for those children, for those families, for those school districts that have lost that revenue when a plant closes, for those communities that can no longer protect their citizens with adequate police and fire protection. These are real people, these are real jobs, real communities, real people, real dreams, real lives.

When I think about our trade policy and what we have done, and our trade policy has always been for years to outsource jobs, to lose our manufacturing jobs, shut these plants down, encourage these companies to hire cheap labor in the developing world, do not really give those people any chance, because they are not paying them enough money. My definition of successful trade policy is that when the workers in poor countries cannot just make American products, make products that they export back into the United States, but that those workers can actually buy products made in the United States, then we will see a trade policy which lifts those workers up so they have a decent standard of living in Guatemala or in India or in Mexico, and, at the same time, lifts our workers up so we can continue our strong food safety standards, environmental standards, worker rights, and wages in our country.

Mr. KUCINICH. Mr. Speaker, before we conclude, it appears to me that there is an opening here for this Congress, that at a time when we are challenging these trade agreements, we have an opportunity to present an alternative. That alternative should not just be creating a new architecture for trade with workers' rights, human rights, and environmental quality principles; but that alternative should also include an American manufacturing policy, a new one, a new American manufacturing policy which declares that the maintenance of steel, automotive, and aerospace is vital to our national security: that for that reason, we should be thinking in terms of rebuilding automotive, with cars that are more fuel economical. We should be thinking of rebuilding steel, because we consume so much steel in this country; there are so many mills that we could actually bring back to life. We should be thinking about rebuilding aerospace, not shipping jobs overseas. Right now, our trade deficit with China is approaching about $160 billion, is it not?

Mr. BROWN of Ohio. Slightly over that.

Mr. KUCINICH. Right. China at this moment is organizing its economy to be able to excel in steel, automotive, and aerospace because Chinese leaders recognize that it is those very industries that enabled America 50 years ago to achieve preeminence in all the world. So we need a new American manufacturing policy, and we need a new policy which rebuilds our infrastructure. Just as FDR understood that the New Deal was an opportunity to put millions of people back to work, we should create a deal where we rebuild our infrastructure, where we rebuild our bridges, our water systems, our sewer systems; where we rebuild parks and hospitals and schools; where we rebuild America's infrastructure and create millions of new jobs, and then that would be an investment that would enable people to go back and start factories again.

Mr. Speaker, we need a new direction in this country. We need a new approach with our economy. We have to do something about this trade deficit, but we have to make sure that our basic infrastructure is strong to help create productivity; and we also have to do something about our tax system, which is incentivizing the movement of jobs out of this country, our tax system where 34 percent of the tax cuts go to the top one percent.

Also, we have to recognize, as some of our major industries are recognizing, that if we are going to protect industry in this country, then we have to have a universal, single-payer health care system. Because we know right now that the automotive business is in trouble in part because of the health care costs. We need a system where everyone is covered; that would help American manufacturing as well.

And we need to protect people's retirement security. It is absolutely a disgrace that the Pension Benefit Guaranty Corporation right now has over $26 billion in the hole, and that they have over $100 billion in unfunded pension liabilities they are facing, and all the corporations in America are looking right now to dump their pension obligations on the government. Right now people over 55 years old have the lowest level of savings; for seven consecutive quarters, it is at $10,400. It is the lowest consecutive quarter since 1934. So people's savings are being undermined, their pensions are being lost, and now there is an attack on Social Security.

All of this fits together. We have to have an holistic view and vision of what our country needs. We need to have health care and retirement security. We need to have retirement security. We need to rebuild our infrastructure and have a new manufacturing policy. But we need to first take care of business, which means standing up here, challenging CAFTA and saying we are going to use the defeat of CAFTA as an opportunity for a new beginning in the American economy.

I want to thank my good friend, the gentleman from Ohio (Mr. BROWN), for the leadership that he has shown on this; and I want to tell him what an honor it has been to be on the floor with him this evening.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from Ohio (Mr. KUCINICH) for his leadership on this whole array of issues. I would summarize by echoing what he said, that as the CAFTA countdown, as CAFTA is buried at the end of this month, the 1-year anniversary of CAFTA, it is important as we defeat CAFTA that we look at all of those issues that the gentleman from Ohio (Mr. KUCINICH) talked about, and especially that we think about a new trade agreement with Central American countries that lifts workers in both, in all seven of our countries, lifts workers' standards, lifts environmental standards, helps workers and families and communities in all of the Central American Free Trade Agreement countries, and in our country. It can be a win-win for all of us, instead of the kind of downward slide that we have seen in our trade policy.

SOCIAL SECURITY

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under the Speaker's announced policy of January 4, 2005, the gentleman from Ohio (Mr. KUCINICH) is recognized for 60 minutes.

Mr. KUCINICH. Mr. Speaker, this evening, as American families settle in, and many workers have turned in, the American people will go to bed hoping that this Congress has the intention and the fortitude to stand up and to protect the people's right to a secure retirement. There is a great skepticism across this land about the plans to privatize Social Security.

Social Security, when it was created in 1934, was created as an insurance program. It was not an investment program: it was an insurance program which would ensure against people being too old to work, an insurance program which would ensure against being injured on the job and not being able to work again, an insurance program which would ensure that if a family lost a bread winner to a tragedy, that the family would still have an ability to survive and that the children would have benefits covered until their late teens.

Social Security has been the most successful social program that this country has ever seen.

Now, why was it created? We have to go back to the time of the Depression, a time when this country saw the New York Stock Exchange lose over 80 percent of its value in a period of about 4 years. That people lost their homes, they lost their farms, factories were closed, people lost their jobs, they lost their pensions. People were basically stripped bear with the curse of nothingness. One out of four Americans was without a job. There were hundreds of thousands of children who did not have a place.

From the ashes of the Great Depression arose a leader who recognized that the function and purpose of a democratic society is to make sure that people have economic security, the security of a job, the security of a home, and the security of a solid retirement. When Franklin Roosevelt brought forward this proposal to create Social Security, it was brought forward not to give to people some kind of a welfare program, and I do not object to welfare, but it was not created as a welfare program. It was always based on what people paid in. And so Social Security became a new hope. It helped lift generations of elderly out of poverty. Do my colleagues know that today, 50 percent of the elderly would be living below the poverty line if it were not for Social Security. Social Security was created as a means to make sure that when people got into their later ages that they would have the ability to support themselves.

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Mr. Speaker, we heard the mythology when we were growing up of old folks homes, of poor houses, of people who when they became elderly were destitute and had no opportunities. Well, Social Security was what transformed the American economic landscape, helped lift people up out of poverty, helped guarantee that the sense of interdependencies, which is essential to the creation of the United States, was reflected in this social program that had a powerful economic component, retirement security.

The very words, the United States, which we celebrate here in this Chamber were not simply about the unity of 13 geographical territories nor are they today simply about the unity of 50 geographical territories, they are about human unity.

They are about our responsibility for each other. They are about each of us being our brother and our sister's keeper. Social Security brought that philosophy right into the government of the United States. And in doing that, that elevated the purpose of government of the people. That is the power and the beauty of what Social Security has represented.

And so when there is an attempt to try to change Social Security's nature or create a privatization program that will divert Social Security resources to set up private accounts, it is absolutely essential that we look back to history for the reason why Social Security was itself created.

Today, workers, 6.2 percent of their income goes to Social Security. Employers put in 6.2 percent, a total of 12.4 percent. Those financial resources which come from workers today, 88 percent of the money that we put into Social Security goes directly to the workers, and 12 percent goes into the trust fund.

Social Security is dependent on that financial structure to be able to remain solvent. Now, what happens if you divert 4 percent to create private accounts? Well, if you take 4 percent away from Social Security, you are left with only 8 percent total funding or a little more than 8 percent, and it makes it absolutely impossible to be able to meet the needs of Social Security. So what does that mean?

That means that you end up with people experiencing a cut in benefits. So any privatization of Social Security will result in benefit cuts. Now, the administration has talked about a 4 percent cash out. But what they have not told the American people is by carving out 4 percent you are taking money out of Social Security.

Now, the administration wants to borrow $2 billion to set up private accounts. That money is going to have to be paid back. Is not our national debt already high enough? Why in the world would we want to add another $2 trillion to it, but yet the plan to privatize Social Security would do just that. We would be borrowing money so people could invest in the stock market.

Imagine if any of us went to our neighborhood bank and we said we wanted to take out a loan. And they said why? Because we want to invest in the stock market. Well, that is what our government would have the American people do, to borrow $2 trillion so we could invest in the stock market.

If you carve 4 percent out of Social Security, it creates a condition where Social Security will not have enough money to pay benefits. Now, we have all heard this story about Social Security is broke. That is not true: that Social Security is going bankrupt. That is not true. Let me tell you why it is not true. It was just over a month ago that the Social Security Administration's own actuaries issued a report which shows that the Social Security Trust Fund has about $1.7 trillion in assets right now. The Social Security Trust Fund has those resources.

Those assets will grow to over $6 trillion by the year 2028. That is hardly a fund that is broke. The Social Security Administration's own actuaries, in their report, indicate that Social Security will be rock solid through the year 2041 without any changes whatever.

The Congressional Budget Office, which is a bipartisan budget office, has said that Social Security will be rock solid through the year 2052 without any changes whatsoever. No need to create private accounts. This is not a non solution, it creates a problem.

And the difference between the two projections of when Social Security will be able to pay a hundred percent are strictly differences that are due to underlying economic assumptions.

The Social Security actuaries are predicting that over a period of 75 years the American economy will only grow by 1.3 percent. Think about that. If it grows only by 1.3 percent, is that consistent with investing in the stock market? Of course not.

Everyone understands that Social Security is insurance, but investments are inherently risky. If you want to invest, fine. But people have to remember the market goes up, the market goes down. People must remember that the market is not a sure thing. The market has had periods of advance and decline. Sometimes the benefits that people would get in a high market might be 6 times what they might get when the market is low.

So, Mr. Speaker, I want to thank you for the opportunity to begin to introduce this discussion tonight about Social Security and speak out about the problems of privatization and why the American people ought to be very concerned that Social Security not be privatized.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1817, DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2006

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 109-84) on the resolution (H. Res. 283) providing for consideration of the bill (H.R. 1817) to authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DAVIS of Illinois (at the request of Ms. PELOSI) for today until 3:00 p.m. on account of business in the district.

Mr. LEWIS of Georgia (at the request of Ms. PELOSI) for today after 1:00 p.m. and the balance of the week on account of a family medical emergency.

Ms. MILLENDER-MCDONALD (at the request of Ms. PELOSI) for today and the balance of the week on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mrs. MCCARTHY, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

(The following Members (at the request of Mr. GUTKNECHT) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, May 24.

Mr. NORWOOD, for 5 minutes, May 19.

Mr. POE, for 5 minutes, May 18.

Mr. BURTON of Indiana, for 5 minutes, today and May 18, 19, and 20.

Mr. MARCHANT, for 5 minutes, today.

ADJOURNMENT

Mr. SESSIONS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 23 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 18, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1983. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Kentucky Regulatory Program [KY-248-FOR] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1984. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 Feet (18.3 Meters) Length Overall Using Hook-and-Line or Pot Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 041126332-5039-02; I.D. 041805D] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SESSIONS: Committee on Rules. House Resolution 283. Resolution providing for consideration of the bill (H.R. 1817) to authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes (Rept. 109–84). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TURNER (for himself, Mr. SHAYS, Mr. TOM DAVIS of Virginia, and Mr. DENT):

H.R. 2385. A bill to make permanent the authority of the Secretary of Commerce to conduct the quarterly financial report program; to the Committee on Government Reform.

By Ms. HART (for herself, Mr. POMEROY, Mrs. JOHNSON of Connecticut, Ms. HOOLEY, Mr. ENGLISH of Pennsylvania, Mr. CHOCOLA, Mr. LEWIS of Georgia, Mr. FOLEY, Mr. SAM JOHNSON of Texas, Mr. CARDIN, Mr. MCCRERY, Mr. RYAN of Wisconsin, and Mr. NEAL of Massachusetts):

H.R. 2386. A bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001; to the Committee on Ways and Means.

By Mr. KENNEDY of Minnesota (for himself and Mr. PETERSON of Minnesota):

H.R. 2387. A bill to provide an exemption from certain requirements under the Gramm-Leach-Bliley Act; to the Committee on Financial Services.

By Mr. GREEN of Wisconsin:

H.R. 2388. A bill to amend title 18, United States Code, to provide assured punishment for violent crimes against children, and for other purposes; to the Committee on the Judiciary.

By Mr. AKIN (for himself, Mr. MCINTYRE, Mr. ADERHOLT, Mr. BACHUS, Mr. BAKER, Mr. BARRETT of South Carolina, Mr. BARTLETT of Maryland, Mr. BEAUPREZ, Mr. BILIRAKIS, Mr. BISHOP of Utah, Mr. BISHOP of Georgia, Mrs. BLACKBURN, Mr. BLUNT, Mr. BOEHNER, Mrs. BONO, Mr. BOOZMAN, Mr. BOUSTANY, Mr. BRADLEY of New

Hampshire, Mr. BRADY of Texas, Mr. BROWN of South Carolina, Ms. GINNY BROWN-WAITE of Florida, Mr. BURGESS, Mr. BURTON of Indiana, Mr. BUYER, Mr. CALVERT, Mr. CANTOR, Mrs. CAPITO, Mr. CARTER, Mr. CHABOT, Mr. CHOCOLA, Mr. COBLE, Mr. COLE of Oklahoma, Mr. COSTELLO, Mr. CRENSHAW, Mrs. CUBIN, Mr. CULBERSON, Mr. CUNNINGHAM, Mrs. JO ANN DAVIS of Virginia, Mr. DAVIS of Tennessee, Mr. TOM DAVIS of Virginia, Mr. DELAY, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. DOOLITTLE, Mrs. DRAKE, Mr. DUNCAN, Mr. EHLERS, Mrs. EMERSON, Mr. EVERETT, Mr. FEENEY, Mr. FERGUSON, Mr. FORBES, Mr. FOSSELLA, Ms. FOXX, Mr. FRANKS of Arizona, Mr. FRELINGHUYSEN, Mr. GARRETT of New Jersey, Mr. GERLACH, Mr. GINGREY, Mr. GOHMERT, Mr. GOODE, Mr. GENE GREEN of Texas, Mr. GUTKNECHT, Mr. HALL, Ms. HARRIS, Ms. HART, Mr. HASTINGS of Washington, Mr. HAYES, Mr. HAYWORTH, Mr. HENSARLING, Mr. HERGER, Mr. HOSTETTLER, Mr. HULSHOF, Mr. HUNTER, Mr. HYDE, Mr. ISSA, Mr. ISTOOK, Mr. JENKINS, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. KELLER, Mr. KENNEDY of Minnesota, Mr. KING of Iowa, Mr. KLINE, Mr. LAHOOD, Mr. LATHAM, Mr. LATOURETTE, Mr. LEACH, Mr. LEWIS of Kentucky, Mr. LOBIONDO, Mr. MANZULLO, Mr. MARSHALL, Mr. MCCOTTER, Mr. MCHENRY, Mr. MCHUGH, Mr. MCKEON, Mr. MICA, Mr. GARY G. MILLER of California, Mr. MILLER of Florida, Mrs. MUSGRAVE, Mrs. MYRICK, Mr. NEUGEBAUER, Mr. NEY, Mrs. NORTHUP, Mr. NORWOOD, Mr. NUSSLE, Mr. OTTER, Mr. PAUL, Mr. PEARCE, Mr. PENCE, Mr. PICKERING, Mr. PITTS, Mr. PLATTS, Mr. PRICE of Georgia, Mr. PUTNAM, Mr. RADANOVICH, Mr. RAHALL, Mr. RAMSTAD, Mr. REHBERG, Mr. RENZI, Mr. REYNOLDS, Mr. ROGERS of Kentucky, Mr. ROGERS of Alabama, Mr. ROGERS of Michigan, Ms. ROS-LEHTINEN, Mr. RYAN of Wisconsin, Mr. RYUN of Kansas, Mr. SHADEGG, Mr. SHIMKUS, Mr. SHUSTER, Mr. SIMPSON, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. SODREL, Mr. SOUDER, Mr. STEARNS, Mr. SULLIVAN, Mr. TAYLOR of North Carolina, Mr. THORNBERRY, Mr. TIAHRT, Mr. UPTON, Mr. WALDEN of Oregon, Mr. WELDON of Pennsylvania, Mr. WELDON of Florida, Mr. WHITFIELD, Mr. WICKER, Mr. WILSON of South Carolina, Mr. WOLF, Mr. YOUNG of Florida, Mr. YOUNG of Alaska, and Mr. TIBERI):

H.R. 2389. A bill to amend title 28, United States Code, with respect to the jurisdiction of Federal courts over certain cases and controversies involving the Pledge of Allegiance; to the Committee on the Judiciary.

By Mr. MCGOVERN (for himself and Mr. SHAYS):

H.R. 2390. A bill to amend the Internal Revenue Code of 1986 to equalize the exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. BALDWIN (for herself, Mr. BURTON of Indiana, Mr. PAYNE, Mr. STARK, Ms. LEE, Mr. MCDERMOTT, Mr. MENENDEZ, Mr. OWENS, Ms. JACKSON-LEE of Texas, Mr. KUCINICH, Mr. GRIJALVA, Mr. SANDERS, Mr. HASTINGS of Florida, and Mr. WEXLER):

H.R. 2391. A bill to provide for the reduction of mercury in the environment; to the Committee on Energy and Commerce.

By Mr. BONILLA:

H.R. 2392. A bill to provide for a continuation of the mission of the Department of Veterans Affairs medical center in Kerrville, Texas, including the maintenance of acute care beds at that medical center; to the Committee on Veterans' Affairs.

By Mr. CHOCOLA (for himself, Mr. BARTLETT of Maryland, Ms. GINNY BROWN-WAITE of Florida, Mr. CALVERT, Mrs. KELLY, Mr. KENNEDY of Minnesota, Mr. KLINE, Mr. MACK, Mr. MCCAUL of Texas, Mr. MILLER of Florida, Mrs. MUSGRAVE, Mrs. MYRICK, Mr. NEUGEBAUER, Mr. NORWOOD, Mr. PAUL, Mr. SOUDER, Mr. TURNER, and Mrs. CUBIN):

H.R. 2393. A bill to amend chapter 85 of title 28, United States Code, to provide for greater fairness in legal fees payable in civil diversity litigation after an offer of settlement; to the Committee on the Judiciary.

By Mr. COSTA:

H.R. 2394. A bill to suspend temporarily the duty on Spirodiclofen; to the Committee on Ways and Means.

By Mr. COSTA:

H.R. 2395. A bill to suspend temporarily the duty on Propamocarb HCL (Previcur); to the Committee on Ways and Means.

By Mr. COSTA:

H.R. 2396. A bill to extend the temporary suspension of duty on Imidacloprid pesticides; to the Committee on Ways and Means.

By Mr. COSTA:

H.R. 2397. A bill to extend the temporary suspension of duty on Trifloxystrobin; to the Committee on Ways and Means.

By Mr. DAVIS of Illinois:

H.R. 2398. A bill to provide fairness in voter participation; to the Committee on the Judiciary.

By Mr. DEFAZIO (for himself, Mrs. CHRISTENSEN, Mr. CROWLEY, and Mr. HINCHEY):

H.R. 2399. A bill to establish an Office of Health Care Competition within the Department of Health and Human Services to administer the National Practitioner Data Base and to collect and make available to the public more information on medical malpractice insurance under that Data Base; to the Committee on Energy and Commerce.

By Mr. DEFAZIO (for himself, Mrs. CHRISTENSEN, Mr. CROWLEY, Mr. HINCHEY, and Ms. HOOLEY):

H.R. 2400. A bill to establish an Emergency Malpractice Liability Insurance Commission; to the Committee on Energy and Commerce.

By Mr. DEFAZIO (for himself, Mr. BAIRD, Mrs. CHRISTENSEN, Mr. CROWLEY, Mr. HINCHEY, and Mr. TAYLOR of Mississippi):

H.R. 2401. A bill to modify the antitrust exemption applicable to the business of insurance; to the Committee on the Judiciary.

By Mr. ENGLISH of Pennsylvania:

H.R. 2402. A bill to suspend temporarily the duty on Desmodur IL; to the Committee on Ways and Means.

By Mr. GENE GREEN of Texas:

H.R. 2403. A bill to suspend temporarily the duty on Chloroacetone; to the Committee on Ways and Means.

By Mr. GENE GREEN of Texas:

H.R. 2404. A bill to reduce temporarily the duty on IPN (Isophthalonitrile); to the Committee on Ways and Means.

By Mr. GENE GREEN of Texas:

H.R. 2405. A bill to suspend temporarily the duty on NOA 466510 Technical; to the Committee on Ways and Means.

By Mr. GRIJALVA:

H.R. 2406. A bill to suspend temporarily the duty on Hexythiazox Technical; to the Committee on Ways and Means.

By Mr. LARSEN of Washington:

H.R. 2407. A bill to modify the boundary of the San Juan Island National Historical Park; to the Committee on Resources.

By Ms. ZOE LOFGREN of California (for herself and Mr. DOOLITTLE):

H.R. 2408. A bill to amend title 17, United States Code, to allow abandoned copyrighted works to enter the public domain after 50 years; to the Committee on the Judiciary.

By Ms. MATSUI (for herself, Mr. STARK, and Ms. ZOE LOFGREN of California):

H.R. 2409. A bill to amend part D of title IV of the Social Security Act to modify the calculation of the child support automation penalty and provide for the reinvestment of any such penalty; to the Committee on Ways and Means.

By Mr. MCDERMOTT (for himself, Mr. STARK, Mr. BROWN of Ohio, Mr. DEFAZIO, Mr. RANGEL, Mr. HINCHEY, Mr. GRIJALVA, Ms. SCHAKOWSKY, Mr. WEXLER, Mr. FARR, Ms. BALDWIN, Mr. ANDREWS, Mr. FILNER, Mr. INSLEE, Mr. SERRANO, Ms. WOOLSEY, Mr. BLUMENAUER, Mr. STUPAK, Mr. HONDA, Mr. UDALL of New Mexico, Mr. FRANK of Massachusetts, and Mr. MARKEY):

H.R. 2410. A bill to require certain studies regarding the health effects of exposure to depleted uranium munitions, to require the cleanup and mitigation of depleted uranium contamination at sites of depleted uranium munition use and production in the United States, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MEEHAN:

H.R. 2411. A bill to provide improved benefits and procedures for the transition of members of the Armed Forces from combat zones to noncombat zones and for the transition of veterans from service in the Armed Forces to civilian life; to the Committee on Armed Services, and in addition to the Committees on Veterans' Affairs, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MEEHAN (for himself, Mr. EMANUEL, Mr. BAIRD, Ms. BALDWIN, Mr. BERRY, Mr. BISHOP of New York, Mr. BLUMENAUER, Mr. BROWN of Ohio, Mr. BUTTERFIELD, Mrs. CAPPS, Mr. CASE, Mrs. CHRISTENSEN, Mr. CLEAVER, Mr. COOPER, Mr. COSTA, Mr. DAVIS of Illinois, Mr. DAVIS of Tennessee, Mr. DAVIS of Alabama, Mr. DEFAZIO, Ms. DELAURO, Mr. DOGGETT, Ms. ESHOO, Mr. FILNER, Mr. FORD, Mr. Frank of Massachusetts, Mr. Gene Green of Texas, Mr. Grijalva, Mr. Gutierrez, Ms. Harman, Mr. Holt, Mr. Kildee, Mr. Kind, Mr. Kucinich, Mr. Langevin, Mr. Lantos, Mr. Lewis of Georgia, Ms. Zoe Lofgren of California, Mrs. Lowey, Mr. Markey, Ms. Matsui, Mrs. McCarthy, Ms. McCollum of Minnesota, Mr. McDermott, Mr. McGovern, Mr. McNulty, Mr. Menendez, Mr. George Miller of California, Mr. Moore of Kansas, Mr. Olver, Mr. Owens, Mr. Pallone, Ms. Pelosi, Mr. Price of North Carolina, Mr. Ross, Mr. Sanders, Ms. Schakowsky, Mr. Scott of Virginia, Mr. Sherman, Ms. Solis, Mr. Stark, Mrs. Tauscher, Mr. Taylor of Mississippi, Mr. Thompson of California, Mr. Udall of New Mexico, Mr. Van Hollen, Ms. Wasserman Schultz, Ms. Watson, Ms. Woolsey, and Mr. Evans):

H.R. 2412. A bill to provide more rigorous requirements with respect to ethics and lobbying; to the Committee on the Judiciary, and in addition to the Committees on Standards of Official Conduct, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POE:

H.R. 2413. A bill to designate the facility of the United States Postal Service located at 1202 1st Street in Humble, Texas, as the "Lillian McKay Post Office Building"; to the Committee on Government Reform.

By Mr. ROGERS of Michigan (for himself and Mr. McCotter):

H.R. 2414. A bill to require the Secretary of the Treasury to analyze and report on the exchange rate policies of the People's Republic of China, and to require that measures consistent with the obligations of the United States under the World Trade Organization be taken to offset any disadvantage to United States producers resulting from China's exchange rate policies; to the Committee on Ways and Means.

By Mr. SNYDER (for himself and Mr. Chabot):

H.R. 2415. A bill to amend title 18, United States Code, to increase the penalty provided for the sexual abuse of a minor or ward; to the Committee on the Judiciary.

By Mr. SNYDER (for himself and Mr. Boozman):

H.R. 2416. A bill to amend title 38, United States Code, to eliminate reductions of basic pay for eligibility for basic educational assistance for veterans under the Montgomery GI Bill; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. WILSON of New Mexico (for herself and Mr. Udall of New Mexico):

H.R. 2417. A bill to amend the Safe Drinking Water Act to establish a program to provide assistance to small communities for use in carrying out projects and activities necessary to achieve or maintain compliance with drinking water standards, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BURTON of Indiana:

H. Con. Res. 154. Concurrent resolution expressing the sense of Congress that Taiwan should be accorded full and equal membership in the World Health Organization (WHO) and other international organizations; to the Committee on International Relations.

By Mr. SMITH of New Jersey (for himself and Mr. Engel):

H. Con. Res. 155. Concurrent resolution urging the Government of the Republic of Albania to ensure that the parliamentary elections to be held on July 3, 2005, are conducted in accordance with international standards for free and fair elections; to the Committee on International Relations.

By Mr. TOM DAVIS of Virginia (for himself, Mr. DeLay, Mr. Lewis of California, Ms. Ros-Lehtinen, Mr. Gary G. Miller of California, Mr. Shimkus, Mr. Mario Diaz-Balart of Florida, Mr. Rangel, Mr. Moran of Virginia, Mr. Wilson of South Carolina, Mr. McDermott, Mr. Crowley, Mr. Ackerman, Mr. Rohrabacher, Mr. Rothman, Mr. Case, Mrs. Maloney, Mr. Van Hollen, Mr. Pitts, Mr. Duncan, Ms. Eddie Bernice Johnson of Texas, Mr. Scott of Virginia, Mr. Leach, Mr. Bishop of Georgia, Mr. Lantos, and Mr. Lincoln Diaz-Balart of Florida):

H. Res. 280. A resolution celebrating Asian Pacific American Heritage Month; to the Committee on Government Reform.

By Mr. GUTKNECHT:

H. Res. 281. A resolution electing a certain Member to a certain standing committee of the House of Representatives; considered and agreed to.

By Ms. ROS-LEHTINEN (for herself, Mr. Lantos, Mr. Chabot, Mr. Pence, Mr. Ackerman, Mr. Faleomavaega, Mr. Crowley, Mr. Schiff, Mr. Boozman, Mr. Sherman, Mr. Wilson of South Carolina, Mr. Burton of Indiana, Mr. King of Iowa, Mr. Souder, Mr. Walsh, Mr. Foley, Mr. McCotter, Mr. McHugh, Mrs. Jo Ann Davis of Virginia, Mr. Engel, Mr. Bradley of New Hampshire, Mr. Wexler, Mr. Lincoln Diaz-Balart of Florida, Mr. English of Pennsylvania, Mr. Pallone, Mr. Garrett of New Jersey, Mr. Shimkus, and Ms. Berkley):

H. Res. 282. A resolution expressing the sense of the House of Representatives regarding manifestations of anti-Semitism by United Nations member states and urging action against anti-Semitism by United Nations officials, United Nations member states, and the Government of the United States, and for other purposes; to the Committee on International Relations.

By Mr. BAIRD:

H. Res. 284. A resolution amending the Rules of the House of Representatives to repeal the provisional quorum provision; to the Committee on Rules.

By Mr. DAVIS of Illinois:

H. Res. 285. A resolution expressing the sense of the House of Representatives regarding the ongoing need to provide every qualified American with equal access to opportunity in education, business, and employment and the indispensability of Affirmative action programs in securing such equal access; to the Committee on Education and the Workforce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

27. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Puerto Rico, relative to House Resolution No. 347 expressing the support of the House of Representatives of Puerto Rico to the nomination of John Bolton as Ambassador of the United States to the United Nations Organization; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 19: Mr. Daniel E. Lungren of California.

H.R. 22: Mr. Shuster, Mr. Petri, Mr. Ryan of Ohio, Mr. Boucher, Mr. Sanders, Mr. Rahall, Mr. Boehlert, and Mr. Kanjorski.

H.R. 36: Mr. Boswell.

H.R. 111: Mr. Marchant, Mr. Petri, Mr. Al Green of Texas, and Mr. Wu.

H.R. 130: Mr. Green of Wisconsin.

H.R. 136: Mr. Terry, Mr. Duncan, Mr. Jones of North Carolina, and Mr. Taylor of Mississippi.

H.R. 147: Mr. Murphy, Mr. Higgins, Mr. Udall of Colorado, Mr. Walden of Oregon, Mr. Marshall, Mr. Petri, and Ms. Pelosi.

H.R. 176: Mrs. Capps, Ms. Schakowsky, Mr. Shays, and Mr. Skelton.

H.R. 181: Mr. Burton of Indiana.

H.R. 216: Mr. Wilson of South Carolina.

H.R. 269: Mr. Filner.

H.R. 282: Mr. Young of Florida, Mr. Cleaver, Ms. DeGette, Mr. Chocola, Mr. Simmons, Mr. Rangel, Mr. Feeney, Mr. Bartlett of Maryland, Mr. Keller, Mr. Wicker, and Mr. Cramer.

H.R. 302: Mr. Dicks, Mr. Costello, and Mr. Faleomavaega.

H.R. 305: Mr. Bradley of New Hampshire and Mrs. Northup.

H.R. 328: Mr. Franks of Arizona, and Ms. Hooley, Mr. Schiff, and Ms. Pelosi.

H.R. 339: Mr. Paul.

H.R. 371: Ms. Hooley, Mr. Cleaver, and Mr. Souder.

H.R. 378: Mr. Thompson of Mississippi.

H.R. 554: Mr. Coble.

H.R. 558: Mr. Moran of Virginia.

H.R. 615: Mr. Michaud.

H.R. 676: Mr. Fattah.

H.R. 691: Mr. Kildee and Mr. Terry.

H.R. 737: Mr. Stark.

H.R. 747: Mr. Hinchey, Mr. Weiner, Mr. Owens, and Ms. Herseth.

H.R. 759: Mr. Miller of North Carolina.

H.R. 774: Mr. Beauprez and Mr. Tancredo.

H.R. 791: Mr. Bishop of New York, Mr. Lynch, Mr. Serrano, and Mr. Langevin.

H.R. 800: Mr. Ehlers, Mr. Hobson, Mr. Regula, Mr. Upton, and Mr. Thompson of California.

H.R. 809: Mr. Shadegg, Mr. Walsh, Mr. Shuster, Mr. McHugh, and Mr. Bachus.

H.R. 810: Mr. Calvert.

H.R. 819: Mr. Doolittle.

H.R. 831: Mr. Kildee.

H.R. 864: Mr. Reichert and Mr. Kennedy of Rhode Island.

H.R. 870: Mr. Sanders.

H.R. 896: Mr. Andrews, Mr. Reichert, Mrs. Bono, and Mrs. Capps.

H.R. 916: Ms. Wasserman Schultz and Mr. Cunningham.

H.R. 921: Mr. Fattah, Mr. Kennedy of Rhode Island, and Mr. Al Green of Texas.

H.R. 923: Mr. BOOZMAN and Mr. UDALL of New Mexico.

H.R. 940: Mr. DAVIS of Florida.

H.R. 976: Mr. BEAUPREZ.

H.R. 1049: Mr. HERGER and Ms. HART.

H.R. 1058: Mr. OWENS.

H.R. 1059: Mr. DEFAZIO.

H.R. 1078: Mr. SKELTON.

H.R. 1080: Mr. BRADY of Pennsylvania.

H.R. 1108: Ms. BALDWIN.

H.R. 1124: Mr. KENNEDY of Rhode Island.

H.R. 1132: Mrs. NORTHUP and Mr. FERGUSON.

H.R. 1136: Mr. BRADY of Pennsylvania.

H.R. 1182: Mrs. CHRISTENSEN and Mr. FILNER.

H.R. 1184: Mr. AL GREEN of Texas.

H.R. 1186: Mr. GARY G. MILLER of California.

H.R. 1200: Ms. DELAURO, Mr. FRANK of Massachusetts, Mr. PASTOR, and Mr. SERRANO.

H.R. 1201: Ms. ZOE LOFGREN of California.

H.R. 1218: Mr. FRANK of Massachusetts and Mr. OLVER.

H.R. 1245: Mr. TERRY.

H.R. 1246: Mr. OWENS, Mr. WELLER, Mr. DAVIS of Illinois, Mrs. KELLY.

H.R. 1252: Mr. MCNULTY and Ms. JACKSON-LEE of Texas.

H.R. 1264: Mr. FILNER.

H.R. 1282: Ms. JACKSON-LEE of Texas.

H.R. 1295: Mr. OWENS, Mr. GERLACH, and Mr. DOOLITTLE.

H.R. 1298: Mr. MCNULTY.

H.R. 1299: Mr. TERRY.

H.R. 1306: Mr. SCOTT of Georgia, Mr. MARIO DIAZ-BALART of Florida, and Mr. MACK.

H.R. 1315: Mr. KOLBE.

H.R. 1322: Mr. MCNULTY, Mr. MCGOVERN, Ms. KILPATRICK of Michigan, Mr. LYNCH, Mr. ACKERMAN, and Ms. ZOE LOFGREN of California.

H.R. 1329: Mr. MCNULTY, Mr. HONDA, and Mr. SERRANO.

H.R. 1335: Mr. BILIRAKIS, Mr. KLINE, and Mr. COSTELLO.

H.R. 1345: Mr. AKIN.

H.R. 1357: Mr. PUTNAM.

H.R. 1365: Mr. FILNER and Ms. MOORE of Wisconsin.

H.R. 1366: Mr. LARSEN of Washington.

H.R. 1377: Mrs. CHRISTENSEN and Ms. GINNY BROWN-WAITE of Florida.

H.R. 1380: Mr. KENNEDY of Minnesota and Mr. FITZPATRICK of Pennsylvania.

H.R. 1441: Mr. DAVIS of Illinois.

H.R. 1461: Mr. RYAN of Wisconsin.

H.R. 1469: Mrs. MUSGRAVE.

H.R. 1492: Mr. SPRATT, Mr. PASCRELL, Mr. BISHOP of Georgia, Mr. LARSON of Connecticut, Mr. SALAZAR, Mr. MORAN of Virginia, Ms. WOOLSEY, Mr. WU, Mr. SKELTON, Mr. MENENDEZ, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. ISRAEL, Mr. ROSS, Mr. NADLER, Mr. SERRANO, Mr. BISHOP of Utah, Mr. CANNON, Ms. ZOE LOFGREN of California, Mr. BERMAN, Mr. LEWIS of Georgia, Ms. LINDA T. SÁNCHEZ of California, Mr. AL GREEN of Texas, Mr. PASTOR, and Mr. EVANS.

H.R. 1499: Mr. COBLE, Mr. FRANKS of Arizona, and Mr. SCHWARZ of Michigan.

H.R. 1545: Mr. PENCE.

H.R. 1578: Mr. WELLER, Mr. SHAW, Mr. MCCRERY, Mr. SIMMONS, Mr. LYNCH, Mr. RAMSTAD, Mr. CAMP, Mr. FOSSELLA, Mr. GILLMOR, and Mr. DENT.

H.R. 1580: Mr. MEEHAN and Mr. MCGOVERN.

H.R. 1591: Mr. ROTHMAN, Mr. SANDERS, Mr. STARK, and Mr. CUMMINGS.

H.R. 1597: Mr. ISRAEL and Mr. KENNEDY of Rhode Island.

H.R. 1600: Mr. BACHUS.

H.R. 1639: Mr. HONDA and Ms. BALDWIN.

H.R. 1652: Mr. ACKERMAN, Mr. FARR, Mr. ROTHMAN, Mr. FILNER, Mr. GENE GREEN of Texas, and Mr. BAIRD.

H.R. 1671: Miss MCMORRIS and Ms. BALDWIN.

H.R. 1707: Mr. WELLER, Mr. MCDERMOTT, Mr. CASE, and Ms. KILPATRICK of Michigan.

H.R. 1708: Mr. TERRY, Mrs. CHRISTENSEN, Ms. JACKSON-LEE of Texas, Mr. BOUCHER, Mr. DAVIS of Kentucky, and Ms. GINNY BROWN-WAITE of Florida.

H.R. 1736: Mr. COLE of Oklahoma and Mr. DOOLITTLE.

H.R. 1816: Mr. SOUDER, Mr. BARRETT of South Carolina, Mr. MCKEON, and Mr. MCCAUL of Texas.

H.R. 1850: Mr. MCGOVERN and Mrs. JO ANN DAVIS of Virginia.

H.R. 1851: Mr. HERGER and Mr. FILNER.

H.R. 1861: Mr. KENNEDY of Rhode Island and Mr. MICA.

H.R. 1872: Mr. CONAWAY, Mrs. CAPITO, Mr. TERRY, and Mr. MCCAUL of Texas.

H.R. 1879: Mr. HERGER.

H.R. 1973: Mr. SPRATT.

H.R. 1981: Mr. KILDEE, Mr. WU, and Mr. MENENDEZ.

H.R. 2046: Mr. TURNER, Mr. FILNER, Mr. HONDA, Mr. BURTON of Indiana, and Mr. BISHOP of New York.

H.R. 2072: Mr. ABERCROMBIE, Mr. CAPUANO, and Mr. CLAY.

H.R. 2074: Mr. HONDA.

H.R. 2076: Ms. GINNY BROWN-WAITE of Florida.

H.R. 2123: Mr. SOUDER and Mr. FORTUÑO.

H.R. 2133: Mr. MCGOVERN and Mr. NADLER.

H.R. 2177: Mr. DICKS, Mrs. JONES of Ohio, and Mr. HERGER.

H.R. 2178: Mr. TOWNS, Mr. FORD, Ms. MOORE of Wisconsin, Mr. SCOTT of Georgia, and Mr. CLEAVER.

H.R. 2217: Mrs. MALONEY and Mr. BLUMENAUER.

H.R. 2233: Mr. ACKERMAN, Mr. BERMAN, and Mr. COSTA.

H.R. 2238: Mr. FATTAH, Mr. RUSH, Mr. WYNN, Mr. BRADY of Pennsylvania, Ms. BORDALLO, Mr. SNYDER, Mr. COSTELLO, Mr. ROTHMAN, Mrs. MCCARTHY, Mr. RYAN of Ohio, and Mr. PLATTS.

H.R. 2259: Mr. CARDIN and Mr. SANDERS.

H.R. 2292: Ms. ESHOO and Mr. BRADY of Pennsylvania.

H.R. 2293: Ms. JACKSON-LEE of Texas.

H.R. 2306: Mrs. CAPPS.

H.R. 2317: Mrs. NORTHUP, Mr. UPTON, Mr. SCHIFF, and Ms. KAPTUR.

H.R. 2327: Mr. BROWN of Ohio, Ms. LEE, Mr. ISRAEL, Mr. SANDERS, Ms. WOOLSEY, Mr. KILDEE, Mr. ANDREWS, Mr. MENENDEZ, Mrs. MCCARTHY, Mr. ACKERMAN, Mr. DAVIS of Illinois, Mr. OWENS, Mr. DOGGETT, and Mr. LANTOS.

H.R. 2328: Mr. GINGREY and Mr. SULLIVAN.

H.R. 2346: Mr. ALEXANDER.

H.R. 2350: Mr. KILDEE and Mr. MARSHALL.

H.R. 2355: Mr. CHOCOLA.

H.J. Res. 10: Mr. TOM DAVIS of Virginia, Mr. NEUGEBAUER, Ms. GINNY BROWN-WAITE of Florida, Mr. MARSHALL, Mr. THORNBERRY, Mr. MCHENRY, Mr. KLINE, and Mr. COBLE.

H. Con. Res. 105: Mr. ISSA and Ms. SLAUGHTER.

H. Con. Res. 133: Mr. PAYNE, Mr. BERMAN, Mr. SMITH of Washington, Ms. WATSON, Mr. CROWLEY, Mr. BROWN of Ohio, Ms. BERKLEY, Mr. ENGEL, Mr. CHANDLER, Mr. DELAHUNT, Mr. LEVIN, and Ms. ZOE LOFGREN of California.

H. Con. Res. 141: Mrs. JO ANN DAVIS of Virginia.

H. Con. Res. 144: Mr. SHAW.

H. Con. Res. 145: Mr. UDALL of Colorado.

H. Con. Res. 149: Mr. BURTON of Indiana, Mr. WEINER, Mr. SAXTON, Mr. KING of Iowa, Mr. SOUDER, Mr. BARRETT of South Carolina, Mr. CANNON, Mr. TIAHRT, Mr. GARRETT of New Jersey, Mr. SESSIONS, Mr. AKIN, Mr. CROWLEY, Mr. ENGEL, Mr. SMITH of New Jersey, Mr. MCCOTTER, Mr. MARIO DIAZ-BALART of Florida, Ms. HARRIS, Mr. GINGREY, Mr. WELLER, Mr. FOSSELLA, Mr. SHIMKUS, Mr. KIRK, Mr. TOM DAVIS of Virginia, Mr. DOOLITTLE, Mr. PITTS, Mr. BROWN of South Carolina, Mr. SHAW, Mr. FLAKE, Mr. ISSA, Mrs. JO ANN DAVIS of Virginia, Mr. FOLEY, Mr. BERMAN, Mr. FERGUSON, Mr. MCCAUL of Texas, Mr. MCHENRY, Ms. GINNY BROWN-WAITE of Florida, Mr. POE, Mr. MILLER of Florida, Mr. SULLIVAN, Mr. TERRY, Mr. DENT, Mr. NEUGEBAUER, Mrs. NORTHUP, Mr. MACK, Mr. SCHIFF, Mr. CONAWAY, and Mr. WAXMAN.

H. Con. Res. 153: Mr. BERMAN, Mr. ISSA, Mr. ENGEL, Mr. HYDE, Mr. MARCHANT, Mr. WEXLER, Mr. NEUGEBAUER, Mr. PALLONE, Mr. NEY, Mr. CARTER, Mr. LINCOLN DIAZ-BALART of Florida, Ms. HARRIS, Mr. CHABOT, Ms. JACKSON-LEE of Texas, Mr. FRANK of Massachusetts, and Mr. HEFLEY.

H. Res. 84: Mr. WHITFIELD.

H. Res. 121: Mr. DEFAZIO.

H. Res. 220: Mr. PETRI, Mr. GARRETT of New Jersey, Mr. ABERCROMBIE, Mr. SMITH of New Jersey, Mr. DAVIS of Florida, Mr. THOMPSON of California, Ms. GINNY BROWN-WAITE of Florida, and Mr. WELLER.

H. Res. 245: Mr. FOSSELLA.

H. Res. 273: Mrs. JOHNSON of Connecticut, Mr. BLUNT, Mr. DREIER, Mr. TOWNS, Ms. HARRIS, Mr. CROWLEY, Mr. LANTOS, Mr. ACKERMAN, Mr. SMITH of New Jersey, Mr. WILSON of South Carolina, Mr. PENCE, Mr. MCGOVERN, Mr. FEENEY, Mr. BERMAN, Mr. MARIO DIAZ-BALART of Florida, Mr. POE, Mr. CARNAHAN, Mrs. JO ANN DAVIS of Virginia, Mr. CAMP, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MACK, Mr. CHABOT, Mr. TANCREDO, and Mr. MENENDEZ.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

20. The SPEAKER presented a petition of the City Council of Seattle, Washington, relative to Resolution No. 30752, opposing the federal government's proposal to charge market rates for electricity sold by the Bonneville Power Administration to its preference customers; to the Committee on Energy and Commerce.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1817

OFFERED BY: MR. MANZULLO

AMENDMENT NO. 1: Page 79, after line 6, insert the following new section:

SEC. 509. REQUIREMENT THAT DEPARTMENT OF HOMELAND SECURITY BUY CERTAIN ARTICLES FROM AMERICAN SOURCES.

Subtitle D of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 391 et. seq) is amended by adding at the end the following new section:

"SEC. 836. REQUIREMENT TO BUY CERTAIN ARTICLES FROM AMERICAN SOURCES; EXCEPTIONS.

"(a) REQUIREMENT.—Except as provided in subsections (c) through (h), funds appropriated or otherwise available to the Department may not be used for the procurement of an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States.

"(b) COVERED ITEMS.—An item referred to in subsection (a) is any of the following:

"(1) An article or item of—

"(A) food;

"(B) clothing;

"(C) tents, tarpaulins, or covers;

"(D) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or

"(E) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

"(2) Specialty metals, including stainless steel flatware.

"(3) Hand or measuring tools.

"(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b)(1) or specialty metals (including stainless steel flatware) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed at United States market prices.

"(d) EXCEPTION FOR CERTAIN PROCUREMENTS.—Subsection (a) does not apply to the following:

"(1) Procurements by vessels in foreign waters.

"(2) Emergency procurements or procurements of perishable foods by an establishment located outside the United States for the personnel attached to such establishment.

"(3) Procurements of any item listed in subsection (b)(1)(A), (b)(2), or (b)(3) for which the use of procedures other than competitive procedures has been approved on the basis of section 303(c)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(2)), relating to unusual and compelling urgency of need.

"(e) EXCEPTION FOR SPECIALTY METALS AND CHEMICAL WARFARE PROTECTIVE CLOTHING.—Subsection (a) does not preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States if—

"(1) such procurement is necessary—

"(A) to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements; or

"(B) in furtherance of agreements with foreign governments in which both such governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country; and

"(2) any such agreement with a foreign government complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with section 2457 of title 10, United States Code.

"(f) EXCEPTIONS FOR CERTAIN OTHER COMMODITIES AND ITEMS.—Subsection (a) does not preclude the procurement of the following:

"(1) Foods manufactured or processed in the United States.

"(2) Waste and byproducts of cotton and wool fiber for use in the production of propellants and explosives.

"(g) EXCEPTION FOR SMALL PURCHASES.—Subsection (a) does not apply to purchases for amounts not greater than the simplified acquisition threshold referred to in section 2304(g) of title 10, United States Code.

"(h) APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL ITEMS.—This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).".

H.R. 1817

OFFERED BY: MR. MANZULLO

AMENDMENT NO. 2: At the end of title V, add the following new section:

SEC. 509. BUY AMERICAN REQUIREMENT FOR PROCUREMENTS OF GOODS CONTAINING COMPONENTS.

(a) REQUIREMENT.—Notwithstanding any agreement described in subsection (b), more than 50 percent of the components in any end product procured by the Department of Homeland Security that contains components shall be mined, produced, or manufactured inside the United States.

(b) AGREEMENTS DESCRIBED.—An agreement referred to in subsection (a) is any of the following:

(1) Any reciprocal procurement memorandum of understanding between the United States and a foreign country pursuant to which the Secretary of Homeland Security has prospectively waived the Buy American Act (41 U.S.C. 10a et seq.) for certain products in that country.

(2) Any international agreement to which the United States is a party.

H.R. 2361

OFFERED BY: MR. FLAKE

AMENDMENT NO. 2: Page 6, line 13, after the dollar amount, insert the following: "(decreased by $3,817,000)".

Page 12, line 17, after the dollar amount, insert the following: "(decreased by $14,937,000)".

Page 24, line 1, after the dollar amount, insert the following: "(decreased by $9,421,000)".

Page 80, line 3, after the dollar amount, insert the following: "(decreased by $15,000,000)".

Page 45, line 16, after the dollar amount, insert the following: "(increased by $15,000,000)".

H.R. 2361

OFFERED BY: MR. GARRETT OF NEW JERSEY

AMENDMENT NO. 3: At the end of the bill (before the short title), insert the following:

SEC. ___. None of the funds made available in this Act may be used to send or otherwise pay for the attendance of more than 50 Federal employees at any single conference occurring outside the United States.

H.R. 2361

OFFERED BY: MR. TERRY

AMENDMENT NO. 4: In the item relating to "ENVIRONMENTAL PROTECTION AGENCY—SCIENCE AND TECHNOLOGY", after the second dollar amount, insert the following: "(reduced by $130,000,000)".

In the item relating to "ENVIRONMENTAL PROTECTION AGENCY—HAZARDOUS SUBSTANCE SUPERFUND", after the second dollar amount, insert the following: "(increased by $130,000,000)".

EXTENSIONS OF REMARKS

NIGERIA SHOULD WITHDRAW TROOPS FROM THE REPUBLIC OF CAMEROON

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. GRAVES. Mr. Speaker, today, I would like to share with my colleagues a situation that has been brought to my attention.

President Obasanjo of Nigeria promised several years ago to withdraw his troops from the Bakassi Peninsula in The Republic of Cameroon. It has not yet been done. As the President of the African Union, Obasanjo has an obligation to set an example for the rest of the African nations.

President Obasanjo should withdraw Nigerian troops from the Bakassi Peninsula and return the Bakassi Peninsula to the Republic of Cameroon.

RECOGNIZING THE CAREER AND ACCOMPLISHMENTS OF RAY MARBLE

HON. MICHAEL K. SIMPSON

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. SIMPSON. Mr. Speaker, I rise today to honor a friend and colleague who will retire on June 10 after years of service to the federal government and the Idaho National Laboratory. For the last ten years, Ray Marble has represented the Idaho National Laboratory in Washington DC. Before that, Ray had a distinguished career at the Federal Energy Regulatory Commission, the Department of Energy, the Energy Research Development Agency and the U.S. House of Representatives. As a staff member, Ray worked for three Members of Congress, J. Kenneth Robinson, John "Jack" O. Marsh, and Carlton Sickles.

Ray Marble is a consummate professional who builds goodwill and trust wherever he goes. Ray is a gentleman known all over Washington for his kindness and tact. As a Washington representative of the Idaho National Laboratory (INL), Ray has helped keep me, my staff, and the rest of the Idaho congressional delegation fully informed of events and issues at the lab. Ray always provides crisp, succinct information delivered with insight and perspective—and he is a pretty darn good golfer to boot. The INL will lose a great advocate and asset when Ray Marble retires.

Beyond the work relationship that many of us have with Ray, we also know him as a friend. Ray is uniquely gifted in his ability to connect with people on a personal level. He is genuinely concerned about the welfare of the people with whom he works and, in return, people around Washington are genuinely interested in him. I am proud to say that Ray has been a friend of mine over the past six years—and I know several of my colleagues feel the same way.

I want to wish Ray and his wife Martha all of the best as they head off to North Carolina for new adventures and new challenges. I know a few rounds of golf are on Ray's to-do list and I hope he enjoys his well-deserved retirement.

THE ADMINISTRATION'S MOST RECENT HYPOCRISY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. STARK. Mr. Speaker, the pot is calling the kettle black. The Administration is chastising Newsweek magazine for a story containing a fact that turned out to be false. This is the same Administration that lied to the Congress, the United Nations and the American people by fabricating reasons to send us to war. The same Administration responsible for the death of over 1,500 American servicemen and women and countless Iraqi civilians; the same Administration which shields its highest officials from responsibility for prisoner abuse at Abu Ghraib and Guantanamo Bay.

Under those circumstances, how can the Bush Administration, with a straight face, denounce a journalist for not checking all the facts before going public with a story?

Of course, Newsweek should have checked the facts more diligently before publishing their article. They made a big mistake. But, Mr. Speaker, we must keep this incident in perspective. Newsweek did make a mistake, but they had the dignity and honor to own up to it.

Unfortunately, I doubt the Bush Administration is capable of displaying such honesty. Instead, the Bush Administration focuses on public relations tactics to divert attention from their own incompetence and fabrications rather than focusing their energies on creating a plan to get our troops out of Iraq.

The hypocrisy of this Administration is astonishing and this most recent episode is, unfortunately, merely one example of many. Just yesterday Secretary of Defense Rumsfeld said in reference to the Newsweek article, "People lost their lives. People are dead. People need to be very careful about what they say, just as they need to be very careful about what they do. "I couldn't agree more. People should be very careful about what they say and do; President Bush and his Cabinet, most of all.

Mr. Speaker, accountability and power cannot be separated. If the President accepts the duties and responsibilities of his office he must do exactly what he is asking Newsweek to do: he needs to tell Americans the truth about his own indiscretions in this tragic war.

RECOGNIZING THE NATIONAL ASPHALT PAVEMENT ASSOCIATION'S 50TH ANNIVERSARY

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. FORD. Mr. Speaker, I am pleased today to commemorate the 50th Anniversary of the founding of the National Asphalt Pavement Association. NAPA was established on May 17, 1955.

For half a century, NAPA has worked tirelessly in representing its members and advancing new asphalt technologies to make our roads and highways last longer and safer for the motoring public. Since 1955 and over the next fifty years NAPA has pioneered groundbreaking research through its National Asphalt Pavement Research and Education Foundation that has revolutionized the manufacturing of asphalt.

NAPA and its members have also invested in America's future by helping to finance the education of future professionals in the construction industry. Through its research and education foundation, NAPA has awarded nearly 800 students with scholarships to support their undergraduate and postgraduate education.

NAPA members also sponsored the Smithsonian Institution's new transportation exhibition, America on the Move with a generous donation of $1 million. This permanent exhibition at the National Museum of American History is designed to show how America's roads and highways transformed the nation from the 1890's to present day.

An interesting sidebar to the exhibition is the story of the genuine asphalt pavement used in one of the displays. The pavement was fabricated off-site by a NAPA member, Superior Paving Corp., Virginia, and allowed to weather before installation in the exhibit.

I also went to extend congratulations to the employees of Lehman-Roberts Company from Memphis, Tennessee. Lehman-Roberts Company was a founding member of NAPA and its current President, Richard C. Moore, Jr., is also NAPA's 2005 Chairman of the Board. Lehman-Roberts Company has deep roots in Tennessee. The company was established in 1939 and currently employs sixty people.

NAPA and its members should be very proud of its accomplishments over the last fifty years. Our road system which NAPA's members helped to build is the foundation from which our economy could not thrive without. Fifty years after the creation of the Interstate Highway System we can now say, "Mission accomplished." The Interstate Highway system has been built.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

However more work needs to be done. We need to rehabilitate and reconstruct the pavements, many of which have exceeded their original design life. We also see ever-increasing congestion and mix of passenger vehicles with trucks on our roadway system that has led to serious safety issues and unnecessary loss of life.

Fifty years after the advent of the Interstate Highway System, it is time for us to plan a freight and highway policy that will create a new vision for the future. I know NAPA and its members will rise to this challenge and are committed to securing our nation's future for the next fifty years.

HONORING THE CAREER OF RICK HENRY

HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mrs. MUSGRAVE. Mr. Speaker, I rise today to honor the career of Mr. Rick Henry, an exemplary leader in music education in the state of Colorado who is retiring after over thirty years of faithfully teaching Colorado's young people how to enrich their lives with music.

Rick was born in Greeley, Colorado, raised in Longmont and graduated from Longmont High School. He earned his Bachelor of Arts and Masters Degree in Music Education from the University of Northern Colorado.

Rick subsequently taught music in the St. Vrain Valley School District in Longmont, Colorado, also in Grants, New Mexico, and at Berthoud High School in Berthoud, Colorado, before settling into his 21 year career as Director of Bands at Thompson Valley High School in Loveland, Colorado.

Under Mr. Henry's leadership, the band program received numerous Superior ratings in Concert, Jazz and Marching Band competitions. In 2004, the Thompson Valley High School Marching Band had the exciting opportunity to perform for over 500,000 people in the St. Patrick's Day Parade in Dublin, Ireland.

Rick has been a member of the Greeley and Boulder, Colorado Philharmonic Orchestras and also played with the Fort Collins Symphony Orchestra in Fort Collins, Colorado. He currently performs in Colorado and Southern Wyoming with the "Touch of Brass Quintet" and the "Modernaires Dance Band." Rick is an active member of Colorado Bandmasters Association, National Association for Music Education, and the International Association for Jazz Education.

Mr. Rick Henry has truly been a "Leader of the Bands" and has touched the lives of literally thousands of high school students with his unique way of inspiring and mentoring them over his many years of teaching, As Rick retires from a thirty year career, I am very proud to say that he leaves behind a rich legacy of strong music programs and inspired students—a worthy history for a fine man.

I invite my fellow colleagues in congratulating and honoring Mr. Rick Henry.

IN TRIBUTE TO NITA CORRÉ FOR HER LIFETIME OF CARING

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Ms. MOORE of Wisconsin. Mr. Speaker, I rise today to recognize a true visionary, whose lifetime of caring has brought comfort to hundreds of older adults in my district. Nita Corré, longtime President of the Milwaukee Jewish Home and Care Center, currently presides over the Jewish Home and Care Foundation. For 35 years, Nita Corré has endeavored to envision and institute new models of care for older adults.

Nita Corré's interest in the needs of older adults was awakened when she lived in Philadelphia, and served her husband's synagogue congregation by visiting elderly residents of nursing homes. Dismayed by the dispiriting conditions in many of these facilities, Nita Corré reflected on the alternative models of care she had witnessed growing up in Spain. Thus began her lifetime commitment to improving the quality of care for senior citizens.

Older adults in the Fourth Congressional District have been the main beneficiaries of her commitment and passion. Beginning as a social work intern at the Milwaukee Jewish Home, she joined the professional staff in 1969 and was appointed the Home's director in 1978. Thanks to her efforts, the Milwaukee Jewish Home has become the model for elder care. Care facilities across the country have adopted many of the innovative programs she pioneered at the Milwaukee Jewish Home, which created new paradigms for supporting elders with dementia and providing companionship for elders facing the end of life.

Not only did she design these programs, Nita Corré has been a tireless champion for their replication. She is nationally recognized as a gifted trainer, an energetic leader and a compassionate manager.

It has been said that the moral test of a society is how it treats those who are in the dawn of life—the children, those who are in the twilight of life—the elderly, and those who are in the shadows of life—the sick, the needy and the handicapped. Nita Corré's life's work has been to attend to those in the twilight and the shadows, to shed light on their needs and find new ways to address their challenges. I am grateful to Nita Corré for her commitment to our elders and honored to recognize her for this Lifetime of Caring.

IN RECOGNITION OF DR. SANTOKH SINGH TAKHAR

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. CARDOZA. Mr. Speaker, it is with the greatest pleasure that I rise today to honor my friend, Dr. Santokh Singh Takhar. Affectionately known by many as Toki, I would like to take this opportunity to recognize his 40 years of dedicated service to our community as a local veterinarian, long-time Democrat, and endearing friend to many.

Born and raised in India, Toki came to the United States as a young man through the efforts of his aunt and uncle, Dr. and Mrs. G. S. Sahi who were residents of Livingston, California. Upon arriving in Merced County, Toki began his pursuit of education as a student at Modesto Junior College. He soon after continued on to California State University—Fresno, and ultimately, University of California—Davis Veterinarian School. After years of hard work and study, Toki began his career as a veterinarian on June 6, 1963.

During a return visit to India in 1969, Toki met his wife of 35 years, Amrit Clare. They married on January 11, 1970 and have since resided in Hilmar, California. In addition to Toki's veterinarian practice, he and Amrit have become successful almond farmers on land that includes the property once owned by Toki's aunt and uncle nearly four decades ago. In addition to maintaining a successful veterinarian office and productive almond orchards, the Takhars have raised two accomplished children. Their son Clare Takhar currently resides in Turlock with his wife Amy and their daughter Sydney Clare Takhar. Clare serves as a Paramedic/Firefighter in Alameda County and Amy is a local school teacher. The Takhar's daughter Simrin Takhar has established her career with the California Association of Health Facilities.

Throughout his life, Toki has remained an active participant and supporter of Democratic politics. His passion for political involvement stems from his admiration of the late President John F. Kennedy. His commitment to his civic duty sets the standard that all Americans should strive to achieve. As he enters this new phase of his life, Toki can certainly be proud of all that he has represented and accomplished. After 40 years of dedicated work, I would like to offer him my sincerest best wishes for many years of fulfillment as he continues in life as a Democrat, a farmer, and devoted husband, father and grandfather.

It is my honor and privilege to join Toki's family and friends in recognizing his lifetime of service to the community of Hilmar and congratulate him on his retirement. Our community benefits greatly from the splendid example that he has set as a local veterinarian and distinguished member of the Hilmar community. I ask all of my colleagues to join me in offering Dr. Santokh Singh Takhar best wishes for continued success and happiness in the years ahead.

PAYING TRIBUTE TO THE CLARKSTON NEWS' 75TH ANNIVERSARY AND THE JAMES AND HAZEL SHERMAN FAMILY'S 50-YEAR NEWSPAPER OWNERSHIP CAREER

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. ROGERS of Michigan. Mr. Speaker, I rise to honor the accomplishments of The Clarkston News for the newspaper's 75 years of publication and the celebration of the 50th anniversary of the James and Hazel Sherman family career as newspaper owners and publishers.

The Oakland County, Michigan, Clarkston News published its first edition on Sept. 23, 1929, just one month before the nation's historic stock market crash. James Sherman purchased The Clarkston News in 1966. It has since become the largest newspaper in the Sherman Publications Inc. Group. Published weekly since 1929, uninterrupted, The Clarkston News in the truest sense of community journalism, serves as a mirror of the community, preserving the community history and people in its pages. The paper has been recognized by numerous awards from such groups as the Michigan Press Association.

While James Sherman has retired, and his wife Hazel has passed away, the Sherman family continues to operate The Clarkston News, The Oxford Leader, The Lake Orion Review, and Ortonville-Goodrich area's The Citizen. The group also publishes three weekly "shoppers" guides, two in Oakland County and one in southern Lapeer County.

The three Sherman children who grew up in the business are owners today, sharing supervision of day-to-day operations; and James Sherman continues, even in retirement, to delight readers by writing his popular weekly column, "Jim's Jottings."

The Shermans are part of the very fabric of life in their communities, deeply appreciated as community leaders who help local causes, contribute to local charities, and employ local residents.

Mr. Speaker, I ask my colleagues to join me in honoring the commitment and achievements of The Clarkston News on its 75th anniversary and the James and Hazel Sherman family on the occasion of their 50th anniversary in the community newspaper business. They are truly deserving of our respect and admiration.

MAX LYON—DIRECTOR OF TRANSPORTATION FOR THE FAIRBANKS NORTH STAR BOROUGH

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. YOUNG of Alaska. Mr. Speaker, I rise today to note the passing of a fine man, longtime Alaskan Max Lyon. Max was from Fairbanks, where he was the Director of Transportation for the Fairbanks North Star Borough. In this job, Max managed transportation and environmental issues for the Borough. He loved his job and did it well; he will be badly missed by his many friends and coworkers in Fairbanks.

Max was born in 1947 in Owosso, Michigan, but he grew up in DeKalb, Illinois. He was an avid sportsman. He enjoyed hunting, fishing, and flying, and was a life member and Board President of the Tanana Valley Sportsmen's Association. He was a devoted husband and father, a community leader, and a good friend to many long-time Fairbanksians.

Before becoming an Alaskan, Max served his nation honorably in Vietnam. Immediately after graduation from high school, Max enlisted in the U.S. Air Force and was trained as a jet-engine mechanic. He was sent to Viet Nam where he was stationed at DaNang Air Base. During his tour in Viet Nam, Max volunteered his time to teach English to Vietnamese students and was known as "Teacher" to many of them. He received an honorable discharge in 1969.

That year, Max went to work in Sycamore, Illinois, where he met his future wife, Diane Leonhard. They married on May 16, 1970. In 1973, Max went to work for American Transit, which in 1977 sent him on a temporary assignment to Fairbanks to establish their first city transit system. That was the company's big mistake. Max and Diane fell in love with Alaska, and at the end of the 18-month assignment, Max resigned from American Transit and stayed in his adopted home for the rest of his life.

Over the next several years, Max worked as a mechanic and service manager on heavy duty trucks and then went to work for Dixon's Gun Shop. In 1982, Max bought the gun shop and owned it until 1985, when he sold it to build his dream house, a log home overlooking Fairbanks.

The Borough hired Max as Assistant Transportation Director in 1989, and he soon was promoted to Transportation Director, a job he held under several Borough Mayors until his untimely death this past weekend. Max was a member of the Elks, the Veterans of Foreign Wars, and was a life member of the National Rifle Association.

Max loved the outdoors. It was what drew him to Alaska and kept him here. He loved his hunting and fishing camp near Kobuk, in interior Alaska; he spent as much time there in the Spring and Fall as he could. He also loved Baja California, where he planned to spend the winter months during a richly deserved retirement. He had just broken ground on a new house there.

Most of all, Max loved his family—his wife, Diane; his children Kristine and Andrew; his grandchildren Jordan and Jack; his mother Marlene; and his siblings Terry, Tim, Peggy, Cheryl, Robin, and Melissa. Lu and I send our deepest sympathies to them in their hour of loss. We hope they are comforted by the memory of Max's very full life, and of his many friends and admirers. I consider myself one of them.

URGING ALBANIAN AUTHORITIES TO HOLD FREE AND FAIR ELECTIONS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. SMITH of New Jersey. Mr. Speaker, today, I am introducing a concurrent resolution which calls for the July 3 parliamentary election in Albania to be free and fair. Joining me in the introduction of this resolution is Mr. ENGEL, and I want to thank my colleague from New York for his efforts over the years to help Albanians throughout Southeastern Europe be able to exercise human rights and fundamental freedoms that for so long had been denied them.

This resolution notes that Albania is a participating State of the Organization for Security and Cooperation in Europe, better known as the OSCE. It further notes that all OSCE participating States have accepted standards which define free and fair elections but that Albania has repeatedly fallen short of those standards. Some elections have been seriously flawed, while others demonstrated a clear and sometimes significant improvement.

As Albania approaches its next parliamentary elections on July 3, however, the resolution argues that meeting OSCE election standards is not only possible but a virtual necessity.

Meeting these standards is possible, fortunately, because Albanian authorities and political parties have adopted electoral reforms recommended by the OSCE. While Albanian stakeholders made the right and sometimes difficult decisions regarding reform, credit also needs to go to the OSCE Presence, or field mission, in Albania which facilitated the dialogue and encouraged cooperation, as well as the OSCE's Office for Democratic Institutions and Human Rights which provided technical expertise to the reform effort. The OSCE was patient yet firm in pressing for change, while other international groups gave needed expertise.

Meeting these standards is necessary not only because Albania is committed to those standards, but also because a failure to do so will cost the country dearly in terms of integration into NATO and the European Union. While there are strong ties between the United States and Albania, which this resolution recognizes, it would be a mistake to excuse Albania from its OSCE commitments.

Our desire to see Albania succeed, in fact, is why our expectations regarding the elections need to be made so clear. Successful elections will certainly strengthen Albania's ties with the United States and Europe. More importantly, successful elections are something the people of Albania deserve. After centuries of foreign rule, decades of severe communist repression and isolation, and now more than a decade of transition hindered by official corruption, organized crime and civil strife, the people of Albania must finally be allowed to determine their own future by making their leaders accountable to them. Free, fair elections can make this possible.

Mr. Speaker, I hope that my colleagues agree and will therefore support this resolution. As Co-Chairman of the Helsinki Commission, I have focused on the situation in Albania for many years, and I am confident that sending the message contained in this resolution will make a difference.

HONORING DOMINIC H. FRINZI, NEW PRESIDENT OF THE NATIONAL ITALIAN AMERICAN BAR ASSOCIATION

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Ms. MOORE of Wisconsin. Mr. Speaker, I rise today to recognize and offer congratulations to Dominic H. Frinzi upon his installment this Saturday as president of the National Italian American Bar Association, an organization created in 1983 with the intent of advancing the interests of the Italian American legal community and improving the administration of justice.

A first generation American born of Sicilian parents, Mr. Frinzi has led a highly successful career as a Wisconsin attorney for over 50 years, while also making substantial contributions to Milwaukee's Italian American community. He has served as president of Milwaukee's Italian Community Center for a record five terms, and has also served as president of UNICO National, an Italian American civic organization, as well as the UNICO Foundation, Inc. and UNICO's Milwaukee Chapter. Additionally, Mr. Frinzi currently serves as Corrispondente Consular, or Correspondent Consul, to the Consul General of Italy in Chicago, the Honorable Eugenio Sgró, providing assistance to Italian Americans on legal matters involving the Italian government.

The son of a butcher, and among the first in his father's family to forego this family business in 400 years, Mr. Frinzi nearly became a Catholic priest instead of a lawyer. However, just months before completing seminary, he left to pursue law school. Since then, he has tried cases in every county in the state of Wisconsin, and has served as a Milwaukee County Court Commissioner for over 50 years.

Mr. Frinzi has received many high honors during his career, including the Justinian Society's Justinian Man of the Year Award, the Italian Community Center's Theodore Mazza Community Service Award, the Milwaukee Ethnic Council's Vision for Milwaukee Award, the Fraternal Order of Eagles' Italian Person of the Year Award, and UNICO National's Dr. Anthony P. Vastola Gold Medal Award for service.

In 2002, because of his tremendous accomplishments as an Italian American, Mr. Frinzi was knighted by the Italian government, receiving the title Cavaliere all'Ordine del Merto della Repubblica Italiana, or Knight of the Order of Merit.

Mr. Speaker, I ask all of my colleagues to join me in congratulating an outstanding Italian American jurist, community leader, and prominent Milwaukee citizen, Mr. Dominic Frinzi, on his achievements as he takes on the role of president of the National Italian American Bar Association. We in Milwaukee are truly blessed to have him as our neighbor and look forward to his many additional civic and professional contributions in the years to come.

HONORING CANDY GARDNER

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. GONZALEZ. Mr. Speaker, I rise today to honor Candy Gardner, a longtime resident of San Antonio, whose family has woven itself into the fabric of our city over their four generations of residence. As leaders of the Temple Beth-El, they have worked tirelessly to improve the lot of the members of their congregation and those throughout the city. And, Candy has been no different as she has volunteered in a number of different capacities at Temple Beth-El and in San Antonio. In recognition of her efforts, on May 18, 2005 the Honors Committee of the Temple Beth-El Sisterhood will name Candy the 2005 Or Tamid for her countless hours of hard work in the Temple and our community.

A beautiful tradition stretching from the beginnings of Western civilization, Judaism is a faith built on works. It is the duty of every Jew to make a more perfect world not only for their family and immediate world but the larger community as well, and Candy's actions have been guided by this credo. Candy has devoted countless hours to the Sisterhood as the VP of Advancement of Judaism, VP of Human Relations, and President. She has also served as the committee chair for Publicity, Program, Docents, Oneg Shabbats, Yearbook, and Needlework Group. Moreover, in addition to her responsibilities as the Courtesy Chair and the Women's Torah Study Chair, Candy proofs the Bulletin, the publication of Temple Beth-El, and the Yom Kippur Book of Remembrance, and even leads docent tours of the Temple which is fitting since she rewrote the docent guidebook after the congregation moved back into the finished building.

However, I do not want to create the impression Candy limits her efforts to the Temple as she has served as President of the Any Baby Can Alliance, San Antonio Chapter of ORT, and School Class Acts. Also, she has been vital in fostering the arts in our city as a Friend of the McNay Museum, and a member of the San Antonio Symphony League. Of course, Judaism has long advocated for and supported the enrichment of our existence that art can provide, and her efforts have aimed to ensure San Antonio would not be without this vital sustenance.

As dedicated as Candy has been to building and strengthening the institution of Temple Beth-El, she has also worked to deepen her own understanding of Judaism and also to help others better know the Tanakh. Her devotion to continuing education embodies another central tenet of Judaism, that of constant investigation and reexamination in order to better understand the tradition as it has developed and progressed through the centuries. I laud this dogged pursuit of knowledge and enlightenment since it can strengthen the impulse to invest one's life in helping others. Candy's life is certainly living proof of this dynamic.

Of course, Candy is a wife, a mother, and a grandmother, the latter a job she considers the best of all. I imagine her family is proud that her years of dedication are being recognized as she receives this award. I am also proud to know that San Antonio is home to a person relentless in her mission to make it a better place.

IN HONOR OF PAIGE PETERSON

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. FARR. Mr. Speaker, I rise today to honor Paige Peterson, an 11-year-old girl who passed away November 8th, 2004 after a long and valiant battle with cancer.

Like most 11-year-old girls, Paige Peterson loved to dress-up, dance, ride horses and spend time with her family and friends. But, unlike most little girls, Paige spent years battling neuroblastoma, an aggressive and deadly cancer.

Sustained by her extraordinary faith and spirit, Paige breathed life into the community of young cancer sufferers as a spokesperson for the Children's Hospice & Palliative Care Coalition. In her own words, she was proud to be a "guinea pig" in several clinical trails with the hope that one day one of these trials would find a cure for neuroblastoma.

Driven by her desire to proffer the message that "kids get cancer too," Paige met with First Lady Laura Bush, Congressman SAM FARR, Senator BARBARA BOXER, Senator DIANNE FEINSTEIN, and hundreds of other individuals and organizations across the country. In the end, she left behind a legacy of compassion and courage and a challenge to Congress to enact healthcare policies which honor the unique needs of children with life-threatening conditions and their families, thus enabling children like Paige to live well and die gently surrounded by those they love.

Mr. Speaker I wish to honor this young girl for her strength and courage in battling this ill-fated disease and speaking about her experience in order to generate positive change for future young cancer sufferers. Her attitude and goodwill have proven to be an example for us all. I join Paige's mother Suzanne Peterson, her father Scott Peterson, and members of the Children's Hospice & Palliative Care Coalition in honoring and remembering this heroic girl for her achievements.

CONGRATULATIONS TO GIVEN KACHEPA FOR BEING NAMED ONE OF AMERICA'S TOP TEN YOUTH VOLUNTEERS

HON. KENNY MARCHANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. MARCHANT. Mr. Speaker, I rise to commend Given Kachepa, a Grapevine High School senior, for being named one of America's top ten youth volunteers by the Prudential Spirit of Community Awards. He was selected from a field of over 20,000 youth volunteers from across the country.

Given is an advocate for victims of human trafficking. An orphan at age 9 in his native Zambia, he was recruited two years later to sing in a boy's choir on an overseas tour. He was promised a salary and education, and that the money raised from the tour would be used to build schools in Zambia. None of these promises, however, were met.

For over a year and a half, Given and his fellow choir members performed six or seven times a day, sometimes with little food. After being saved by U.S. immigration authorities, Given used his own experience to help with the widespread human trafficking problem. He has educated the public through the media, and spoken about human trafficking at conferences, along with local and national law enforcement agencies.

I am proud to recognize Given for this high honor; he is well deserving of the award. The future of America is in good hands with leaders like him.

PERSONAL EXPLANATION

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. GRAVES. Mr. Speaker, Monday, May 16, 2005, I was unavoidably detained and thus missed rollcall votes No. 171, No. 172, and No. 173. Had I been present, I would have voted "yea" on rollcall No. 171, H.R. 627, to designate the Linda White-Epps Post Office; "yea" on rollcall No. 172, H. Res. 266, supporting the goals and ideals of Peace Officers Memorial Day; and "yea" on rollcall No. 173, H.R. 2107, modifying the authorities for the use of the National Law Enforcement Officers Memorial Maintenance Fund.

MARKING THE 50TH YEAR OF ST. ANTHONY'S "FREE FISHERMAN'S BREAKFAST"

HON. MICHAEL K. SIMPSON

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. SIMPSON. Mr. Speaker, I rise today to pay tribute to a dedicated group of sportsmen, merchants and citizens who have reached an important milestone as they celebrate the 50th year of the Free Fisherman's Breakfast. On May 27, 2005, from 6 a.m. until 2 p.m., volunteers will serve pancakes, sausage, bacon and eggs, hash browns, coffee, milk and juice to more than 5,000 people at Clyde Keefer Memorial Park in St. Anthony, Idaho.

Volunteers join together each year to continue the tradition which began near the opening of fishing season in May of 1955. The St. Anthony Chamber of Commerce and the Sportsmen's Association came up with the idea to try to draw fishermen into town on their way to their favorite fishing hole. The idea grew from just coffee and doughnuts to a full free breakfast, served faithfully each year despite rain, wind, snow and floods.

Informational booths were added in the park for guests to enjoy as they wait in line to be served. Many local, state, and national elected officials take advantage of the opportunity to visit with friends and supporters. Each year fishermen come from all over the state, as well as adjoining states, to renew old friendships and make new ones. An outstanding community member is honored each year.

Mr. Speaker, I would like to congratulate everyone who has been involved in the "Free Fisherman's Breakfast" over the years and join them this month as they commemorate its 50th anniversary. I have enjoyed socializing at this event in the past and will be looking forward to it in the future. I wish the City of St. Anthony well as they continue this great hometown tradition.

CONGRATULATING CHARLOTTE AMALIE HIGH SCHOOL ON REGAINING THEIR ACCREDITATION FROM THE MIDDLE STATES ASSOCIATION OF COLLEGES AND SCHOOLS

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to congratulate the principal, Ms. Jeanette Smith-Barry, and her team of dedicated individuals at the Charlotte Amalie High School in St. Thomas, U.S. Virgin Islands, on the occasion of their re-accreditation by the Middle States Association of Colleges and Schools. Their tireless efforts, hard work, dedication and faith have paid off and will truly make a difference in the future of our youth and of our Territory.

At a time when school districts around the country are faced with budget cuts and higher standards, our schools have to do more with less. The school's accreditation team comprised of administrators, parents, community and business leaders set a goal of obtaining re-accreditation by graduation date 2005 and achieved it.

Charlotte Amalie High School (CAHS) is the first of four public high schools in the U.S. Virgin Islands to regain the accreditation that was lost in 2002. Now their students will be able to compete as equals for college and university entrance as well as entry into the U.S. Air Force which will not consider any student from an unaccredited school.

Mr. Speaker, this year's graduation which will take place on June 5, 2005 will be a doubly joyous and celebratory occasion for the CAHS Class of 2005 who will receive their diplomas and also be able to finally and proudly say once again that they they received them from an accredited high school.

It is in appreciation of their efforts that I use this opportunity to commend the CAHS students, faculty, parents, administration, and their private sector supporters for their successful efforts in developing and executing a successful strategy for regaining accreditation. They are an example to all of us who strive to improve our community.

I am proud of their success and wish the entire CAHS family and the Class of 2005 continued success as they continue to "Excel Always."

IN MEMORY OF SENIOR BORDER PATROL AGENT TRAVIS W. ATTAWAY

HON. HENRY BONILLA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. BONILLA. Mr. Speaker, I rise today to pay tribute to a fallen hero—senior Border Patrol Agent, Travis W. Attaway of D'Hanis, Texas. Travis met an untimely death while serving our country and securing our Texas borders in the McAllen sector.

On September 19, 2004, days of harsh rain and a rising Rio Grande tragically interrupted what otherwise was a routine three-man patrol operation near Free Trade Bridge in Los Indios. When rushing waters capsized the 19-foot patrol boat, Travis and two other agents were ejected into the river's strong current.

At the young age of 31, Travis has marked history as a true American hero. He sacrificed his life to protect the citizens of this great nation. Today, we honor his memory and the memory of all our Fallen Law Enforcement Officers for National Police Week 2005.

100TH ANNIVERSARY OF FOUNDING OF CITY LAS VEGAS, NV

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. PORTER. Mr. Speaker, I rise today to recognize the 100th anniversary of the founding of the City of Las Vegas, Nevada.

Mr. Speaker, while all Americans have heard of Las Vegas, many may not be aware of the rich history we have in Southern Nevada. For instance, the City was named by Spanish traders traveling from New Mexico to California. These traders dubbed the area "Las Vegas" which means "the meadows".

The first settlement in the Las Vegas valley by Westerners was a fortified mission colonized by members of the Church of Jesus Christ of Latter-Day Saints.

Over the last century, Las Vegas has become the entertainment capital of the world, with world class hotels, gaming, entertainment, and outdoor activities for visitors of all ages.

In the 1990s, the population of Las Vegas boomed, making it the fastest growing metropolitan area in the country. A record-setting 40 million tourists visited Las Vegas in 2004 to enjoy our hospitality and entertainment.

Mr. Speaker, Las Vegas has much more to offer tourists then "the Strip" alone. Visitors from around the world appreciate such attractions as Red Rock Canyon, Lake Mead, and the Hoover Dam.

On May 15, 2005, and throughout all of 2005, Las Vegas is hosting a Centennial Celebration in honor of the 100th anniversary of the founding of the city. Las Vegas visitors and residents will join in the Centennial Celebration by participating in a variety of commemorative events including a centennial time capsule, an attempt to bake the world's largest birthday cake, a return of Helldorado Days (a

Las Vegas tradition honoring the roots of the city in the Wild West), and a wedding ceremony with 100 couples.

Mr. Speaker, I moved to Nevada in 1978, and have seen Las Vegas change from a desert hideaway to a burgeoning metropolis where between five and seven thousand people move per month. However, what never ceases to amaze me is that despite the explosive growth that Las Vegas has experienced, it has never lost the small town appeal in which we Nevadans take so much pride. I am also constantly struck by the genuinely American nature of our community. We come from all over the world and all over the country to make up our community, and for that I am particularly proud to be here today.

When most people think of Las Vegas, visions of big hotels, casinos, and bad Elvis impersonators may come to mind. I conjure a different image—an image of the thousands of wonderful individuals who are Las Vegas.

Mr. Speaker, I congratulate the City of Las Vegas on its 100th Anniversary.

A TRIBUTE TO KEN AND CAROLE MARKSTEIN

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. CUNNINGHAM. Mr. Speaker, I rise today to recognize an outstanding couple in the 50th Congressional District for their commitment to public higher education in general, and for business education in particular.

Ken and Carole Markstein have pledged $5 million to the College of Business Administration at Cal State San Marcos. Their gift will be used to complete the new business college building by providing upgrades, furnishings, and technology; to assist in faculty recruitment and retention efforts; to provide scholarships for students; and to fund future program development. Their gift will greatly enhance the University's ability to serve the students and the local business community by enabling the College to provide the highest quality education possible and develop future programs responsive to the needs of the region. The College of Business Administration houses the largest number of students at Cal State San Marcos.

In 1974, Ken Markstein graduated from Cal State University at San Jose with a B.S. degree in Finance. After completing his degree, he joined Markstein Beverage Company as the Accounting/Computer Manager. In 1975, Ken became Vice President of Markstein Beverage Company Union City, and in 1976, he was promoted to Vice President/General Manager. In 1978 he moved to Markstein Beverage Company in Oakland as President and General Manager. In 1987, Ken and his brother purchased Mission Distributing in San Marcos, California, where he became President and CEO. Markstein Beverage Company is a wholesale beverage distributor, employing more than 120 employees, with 120 fleet vehicles and sales of approximately $50 million per year.

The Marksteins have been engaged with Cal State San Marcos for a large part of its short history. In 1991, they established one of the first scholarships for business students. In 1996, Ken agreed to serve on the Business College advisory board, and in 2002, agreed to become part of the university's Trust Board.

With the beginning of construction of the new business building and with the arrival of a permanent dean of the college, Ken and Carole began to see the importance of a strong program for business students being developed in their own backyard. In particular, they saw the need to recruit and retain outstanding business faculty, and began to talk to the university about ways in which they could make a significant difference to the business community in the region. When Ken's father, who had started the family business, died in 2004, Ken decided to use part of the inheritance in this way—to honor his father by helping the future of business professionals in North San Diego County.

Ken is not only a product of the Cal State System, but a believer—calling it "the backbone of California's higher education." He believes in the goals of the university and in doing what he can to make those goals a reality.

Ken married his childhood sweetheart, Carole, in 1975, and they have two college-aged children. Like her husband, Carole is also part of the community and gives her time and talent to the establishment of the San Pasqual Academy—a residential campus for high school foster care adolescents.

On May 11, 2005, the California State University Board of Trustees unanimously voted approval of the recommendation,

> *Resolved*, By the Board of Trustees of the California State University, that the business building (Building 13) at Cal State University San Marcos, be named Markstein Hall.

It is an honor for the business college to carry the family name of this outstanding, civic-minded couple, as it is for the 50th district to honor them today with these remarks to the CONGRESSIONAL RECORD.

ADOPTION OF MR. FÉLIX NAVARRO RODRÍGUEZ

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. ENGEL. Mr. Speaker, I rise to inform our colleagues about a very important bipartisan initiative to highlight the problem of Cuban political prisoners held by the totalitarian regime of Fidel Castro. To bring worldwide attention to this critical matter, many of my colleagues and I are adopting an individual Cuban political prisoner jailed by Castro.

Sadly, on this small island nation there are thousands of pro-democracy activists currently imprisoned in Cuba for exercising their most basic human rights. They have been jailed for speaking freely, worshiping freely, and assembling peacefully.

The Cuban prisoner I am adopting is Mr. Félix Navarro Rodríguez. Mr. Rodríguez is a 49-year-old member of the Partido por la Democracia Pedro Luis Boitel, the Pedro Luis Boitel Party for Democracy. On the evening of Tuesday, March 18, 2003 Félix was detained on his way home in the city of Perico in Matanzas. He was taken by more than a dozen State Security agents (Castro's political police) to his home where they subjected Mr. Rodríguez and his family to an exhaustive search that lasted late into the night. The agents seized a large amount of equipment, objects, and supplies. Everything from a computer to 12 plastic chairs including books, rope, videos, typewriters, blank paper, pencils and pens, and all the documents pertaining to the Party were taken. Félix was brought to the State Security compound in Matanzas where he was detained under charges of having "received, among other things, leaflets and literature; the latter was proved by the confiscation of aggressive and corrosive writings and printed material from his house."

The Cuban prosecution requested a 30-year prison sentence. On Thursday, April 4, 2003, Mr. Rodríguez—together with independent journalist and PDLB's secretary for International Relations Iván Hernández Carrillo—were subjected to an arbitrary and illegal summary trial, in the city of Matanzas and condemned to a 25-year prison sentence.

Félix Navarro Rodríguez was a Cuban educator for over twenty years. He taught both elementary and middle school. At the same time he was teaching he was also studying Physics and Astronomy. Because he refused to indoctrinate his students with communist rhetoric he was fired from his job. According to the official document released by the Municipal Board of Education, he was accused of "treason against the revolution." As a result, he was detained and later sentenced to three years in prison for "enemy propaganda" of which he served 20 grueling months. As further punishment he was prohibited from completing his studies in Physics and Astronomy. Mr. Speaker, I too am a former teacher and believe that one of the most important jobs in my life, besides being a father, was teaching my students to think independently and express their views without fear of prosecution. I sympathize with Mr. Rodríguez's efforts to teach his students to think instead of teaching them the oppressive lessons of communism, and I commend him for his efforts.

Mr. Rodríguez's story is not uncommon in Cuba; in fact, political imprisonment has been a fact of life in Castro's Cuba for over four decades. Mr. Speaker, this has become a personal issue for me, as Fabio Freyre, the grandfather of a member of my staff, was imprisoned in solitary confinement for over one year for fighting against the revolution and the Castro Regime in the early 1960's. While this imprisonment took place over forty years ago, the conditions are the same as today. There are many Cubans fighting for their fundamental human rights who are being punished harshly on a daily basis. Like the others, it is clear that Félix Navarro Rodríguez does not belong in jail. He is a political prisoner being held merely for trying to spread freedom and democracy to the Cuban people. I hope that he is one day freed from the shackles of oppression and that the Cuban people can have the opportunity to freely choose their leaders in a democratic system of political pluralism.

Mr. Speaker, what has made this Nation great is that since the signing of the Declaration of Independence, we have been a beacon of freedom and justice. American troops have shed blood confronting tyrants and dictators.

Our belief that there truly are inalienable rights does not end at our borders. We Americans believe that freedom and liberty are rights due all the people of Earth.

I hope to one day soon speak to Félix Navarro Rodriguez and congratulate him on his freedom and thank him for his commitment to justice and democracy.

TRIBUTE TO MR. PAUL QUINN

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. COSTA. Mr. Speaker, I rise today to read into the CONGRESSIONAL RECORD a tribute to my close friend, Mr. Paul Quinn, delivered by former Speaker of the House of Representatives, Tom Foley, on March 16, 2005 at the 13th National Gala of the American Ireland Fund.

They say that on St. Patrick's Day, the 33.7 million Americans who claim Irish ancestry swell to 80 million. As well they should!

And on St. Patrick's Day, we here in Washington celebrate the great day as only Washington can—politically. The Taoiseach pays a call on the President. The Speaker hosts them both at lunch. And the American Ireland Fund holds this dinner, as important a celebration as any of the others, and honors those who have made contributions in advancing peace and reconciliation in Ireland. Like the other events, it has its political side, but with a difference. Here we sometimes honor those whom not everybody knows, although we here know them well.

Tonight I have the honor to introduce a man whom few here can surpass in contributions to peace in Northern Ireland. And almost none of us could surpass him in avoiding praise. Because Paul Quinn keeps out of the limelight. He is one of the most effective advocates on the major policy issues of our times. He has been a tireless and effective friend of Ireland, but he leaves few tracks.

What has he done for Ireland? Twenty years ago, Paul was the first nongovernment figure to invite Northern Irish political leaders to Washington—not to make speeches, because who can stop the Irish from speaking?!

Paul hosted small, informal gatherings with officials, diplomats, legislators and interested Irish Americans to learn what was happening and to exchange views and hopes for an end to the violence we call the Troubles.

Paul was the first to bring John Hume and major Unionist leaders to Washington. He became a tireless lobbyist for peace through dialogue and non-violence. I know, because as Speaker I was frequently the target of Paul Quinn conversations on a brighter future for Northern Ireland.

If there is anyone in this city, from the White House on down, who can claim some small credit for the end of violence that now seems to prevail in the North, it is Paul.

Here at home, of course, he was also a long time Director of the American Ireland Fund, and the national chairman of this gala for many years. There is no Irish American initiative for justice and reconciliation in this city to which Paul has not given both time and strenuous effort. Like everything about which he cares deeply, Paul has made his passion for Ireland a family affair. Besides being a behind-the-scenes advisor to the Clinton Administration, there is brother Tom's service as a U.S. Observer to the International Fund for Ireland, a frequent topic of Paul's friendly lobbying.

Yet, there is always a dark side to every family. Paul and his brothers are Republican in the Irish sense, but there is also the fact, kept from elderly aunts and small children, that brother Gene is also Republican in the Washington sense. Tom believes this is what Paul's grandfather foresaw when he sometimes called the Quinn brothers—minus Paul—the "unholy alliance."

Besides looking after and reveling in his family—especially his two granddaughters—Paul also doubles as a very effective but unregistered agent for the Irish Tourist Bureau. Many a Senator or Member has asked his advice on where to go and what to see in Ireland.

That advice is rarely limited to political matters. Paul's single-minded determination to play every Irish golf course, his tireless promotion of University College Dublin—where he serves on the board of the Business School—and his limitless fund of stories recommend him as an all-purpose source of essential information.

Everything I have mentioned about Paul is known to many in this room tonight, but few have the whole picture. That is because life long modesty has masked Paul's dedicated commitment of time and treasure, quiet leadership and persuasive powers to the cause of peace in Ireland. Paul inherited great gifts from his Irish family—education, persistent application and a tradition of giving back—but he alone has applied them so effectively and quietly to the cause that we all share and celebrate tonight, as we honor Paul Quinn as a true champion for Ireland and for peace.

108TH ANNIVERSARY OF THE ROGERS BROTHER CORPORATION

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. ENGLISH. Mr. Speaker, I rise today to recognize the one-hundredth anniversary of Rogers Brothers Corporation. Having a history filled with many innovative achievements, it is my hope to see this company continue on a path of growth and prosperity.

Located in Albion, Pennsylvania, in Pennsylvania's 3rd Congressional District, Rogers Brothers Corporation was founded by Charles, Louis and Hugh Rogers. They started out fabricating steel for bridges. In 1914, they built their first trailer for commercial use. The production of trailers would go on to become their hallmark. The business of trailer production grew with the continued development of the roadway system and World War I. During World War II, Rogers developed special "tank retriever" trailers for the federal government, earning the Army-Navy "E" Award for excellence in production. They also built a special trailer which was used in the Manhattan Project. Following the war, commercial trailers were further developed with the creation of the innovative Power Lift Detachable Gooseneck. Under the leadership of Betty Rogers Kulyk, and her husband John Kulyk, the company further developed their trailers, creating new and innovative designs for their customers.

Throughout their century in business, Rogers has overcome many challenging obstacles, including fires, the Great Depression, labor disputes, and a devastating tornado. However, the company has endured the test of time. In addition, it has remained a family-owned and operated business, a trait that makes them unique in the trailer industry. Today, Rogers trailers can be seen in all 50 states and in 65 countries around the world. The company enjoys an outstanding reputation among their customers, a 100,000 square foot facility, and a quality, all-American made product. Now solidly in its third generation, under the leadership of Lawrence and Mark Kulyk, the company looks to expand their customer and product base, and stay the course for the long haul.

America was founded on the principles of hard work and innovation. The very greatness of this Nation is tied to the entrepreneurial spirit of our people. The creativity and innovation of small business, such as Rogers, help to create the very pillars of our economy. Their many achievements and unwavering commitment to excellence in quality production is an outstanding tribute to the very ideals that we hold dear.

Mr. Speaker, I hope my colleagues will join me in congratulating the Kulyk Family and all of the hard working men and women at Rogers Brothers Corporation on their 100th anniversary.

IN DEFENSE OF 1,100 CLEVELAND, OHIO JOBS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. KUCINICH. Mr. Speaker, Today, I sent this letter in defense of 1,100 Cleveland, Ohio jobs as a result of the BRAC process:

MAY 17, 2005.

Chairman ANTHONY PRINCIPI,
Base Realignment and Closure Commission,
Washington, DC.

DEAR CHAIRMAN PRINCIPI: Last week's announcement of the 2005 Department of Defense recommended BRAC closure list has inappropriately targeted the Cleveland area with over 1,100 jobs cuts. Cleveland currently suffers from a severe economic recession. Therefore I find the inclusion of these Cleveland facilities to be a substantial deviation from the selection criteria. These job losses are outrageous, unjust, and unfair.

Specifically, the BRAC list included the following cuts that directly affect the immediate Cleveland area: The Defense Finance and Accounting Service (DFAS) in Cleveland is scheduled to lose 1,028 jobs with approximately 175 jobs being spared, to protect the recent Lockheed Martin A76 privatization of the Military and Retired Annuitant Pay Services contract function. The jobs are being moved to DFAS facilities in Columbus, OH, Denver, CO, and Indianapolis, IN. (BRAC Report: Volume 1, Part 2 H&SA 37-39); The

Glenn Research Center is also scheduled to lose 50 civilian military research jobs. The Army Research Laboratory at Glenn is losing the Vehicle Technology Directorate to the Aberdeen Proving Ground, MD. (BRAC Report: Volume 1, Part 2 Tech—22); The Navy Reserve Center in Cleveland is scheduled to close and 25 jobs will be lost. (BRAC Report: Volume 1, Part 2 DoN–29).

As you know, the BRAC Commission has the authority to change the Department's recommendations, if it determines that the Secretary deviated substantially from the force structure plan and/or selection criteria. (Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005: Title XXVIII-General Provisions: Subtitle C—Base Closure and Realignment: Sec. 2832. Specification of final selection criteria for 2005 base closure round.)

I believe the Department of Defense has clearly deviated from the selection criteria.

The Secretary is required to consider the economic impact on existing communities in the vicinity of military installations. (Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005: Title XXVIII-General Provisions: Subtitle C—Base Closure and Realignment: Sec. 2832. Specification of final selection criteria for 2005 base closure round.) The Department of Defense erroneously states that a 0.1% job loss within the Cleveland Metropolitan Statistical Area (MSA) has minimal economic impact.

However, the Department of Defense failed to take into account the current economic position of the Cleveland area. Cleveland has been labeled as the poorest city in the country today. Its poverty rate of 31.3 percent is the highest in the nation, according to the most recent Census Bureau data from 2003. (Places within United States: Percent of People Below Poverty Level in the Past 12 Months: 2003 American Community Survey Summary Tables: *http://factfinder.census.gov/servlet/GRTTable? bm=y&-geo id=16000US0820000&-*__box __head_nbr=R01&-ds name= ACS 2003 EST G00 &-__lang=en&-format=US-32&-__sse=on) Cleveland's #1 ranking in poverty rate results from the significant job losses in the steel and manufacturing industries over the past several decades. These job losses continue. For example, the current 2006 budget recently passed by Congress would slash up to 700 high paying federal jobs at the NASA Glenn Research Center. The economy around Cleveland is stagnating.

Clearly, a 0.1 percent job loss for Cleveland is far more damaging than such a loss in another city with a better economic base. For example, the three cities scheduled to gain additional jobs from Cleveland's BRAC losses have poverty rates that are half to a third of Cleveland's. The poverty rates (and rankings) are 16.5 percent (35th), 13.6 percent (49th), and 12.6 percent (55th) for Columbus, Denver, and Indianapolis respectively. (Places within United States: Percent of People Below Poverty Level in the Past 12 Months: 2003 American Community Survey Summary Tables: http://factfinder.census.gov/servlet/GRTTable? bmy&-geo id=16000US0820000&-box head nbr=R01&-ds_name=ACS_2003_EST_G00_&-lang=en&-format=US-32&- sse=on) This BRAC round will secure for the foreseeable future Cleveland's #1 poverty ranking.

This is clear evidence that closures of these facilities in the Cleveland area fall outside the criteria of the BRAC process. I therefore request the BRAC Commission to reverse the job losses in the Cleveland area.

Sincerely,

DENNIS J. KUCINICH,
Member of Congress.

RECOGNIZING THE RECIPIENTS OF THE 2005 ALL-AMERICA CITY CIVIC AWARDS

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. HIGGINS. Mr. Speaker, I rise today to recognize Western New Yorkers whose leadership and service has earned them well-deserved recognition by the Buffalo & Erie County All America City Committee.

In 1995 the Greater Buffalo Region was chosen as one of ten communities nationally to receive the All-America City designation, a lifetime distinction.

Greater Buffalo's All America City Committee has as its 2004–2005 mission to: work with community leaders to strengthen Buffalo's national public image, promote the practice of "civic journalism" by the local media, prompt citizen involvement in their communities to build social capital and enhance community Democracy, and to develop resources to measure social capital and promote intersector civic capacity building activities in the region.

The Committee has recently named Jack Connors, president and publisher of Buffalo Business First; Samuel M. Ferraro, Niagara County Commissioner of Economic Development; Philip L. Haberstro, founder of the Wellness Institute of Greater Buffalo and the Belfast Summer Relief Program as this year's award winners, whose work embodies the spirit of the 2004–2005 mission.

I am proud to stand here today and recognize the many contributions of these great civic leaders who have played a significant role in making Greater Buffalo the fabulous All-America City it is.

TRIBUTE TO THE CALIFORNIA ARMY NATIONAL GUARD

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. BACA. Mr. Speaker, I rise today to pay tribute and welcome home true American heroes. In March of 2004, the soldiers of the 1st Battalion 185th Armor left their homes and families to spread the ideals of freedom and democracy to Iraq. They went, not because they had to, but because they chose to—choosing to restore a society and help a people with which they were unfamiliar.

Throughout the last year, these brave men and women were charged with improving the infrastructure of a new Iraq and building new water systems, roads and bridges. They were a part of history when they helped secure peace during the Iraq elections and have been instrumental in rebuilding relationships between the American and Iraqi people.

The commitment of our men and women in uniform to the ideals of liberty, freedom and peace never wavered. Their steadfast belief in themselves and our Nation remains a beacon of selflessness and sacrifice for all Americans.

For those who still defend our country and those who fight for the principles upon which this nation was founded, the 1st Battalion 185th Armor serves as an inspiration.

Their actions will forever stir our hearts and rouse our belief in the human spirit. It is because of this that we are grateful for their sacrifices.

Mr. Speaker, I am honored that I am able to recognize these American heroes and welcome them back. I hope that others will acknowledge our brave soldiers throughout the world.

CONGRATULATING IVANNA EUDORA KEAN HIGH SCHOOL ON REGAINING ACCREDITATION FROM THE MIDDLE STATE ASSOCIATION OF COLLEGES AND SCHOOLS

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to congratulate the hard working and dedicated team at Ivanna Eudora Kean High School in St. Thomas, U.S. Virgin Islands on regaining their accreditation status from the Middle State Association of Colleges and Schools.

This has been a difficult year for the school in many respects, but strong leadership and team work have pulled them through. On Friday, May 13th, the principal of the high school, Sharon McCollum-Rogers, received word that the high school was re-accredited, which is a vindication of the principled but difficult stands they have taken together.

At a time when school districts around the country are faced with budget cuts and higher standards, our schools have to do more with less, the school's accreditation team comprised of administrators, parents, community and business leaders set a goal of accomplishing this task by graduation date 2005 and have pulled off a minor miracle.

Mr. Speaker, this year's graduation is a doubly joyous and celebratory occasion for Eudora Kean High School. In June, the graduating class will not only be able to proudly say that they have received their diplomas, but they can also once again say that they have received them from an accredited high school.

I applaud and commend the Eudora Kean High School students, faculty, parents, administration, and their private sector supporters for their unwavering efforts in developing and executing a successful strategy for regaining accreditation.

I am proud of their success and wish the Eudora Kean High School family and 2005 graduates continued success as they continue to "Strive for Success."

CONGRATULATIONS TO JACLYN EINSTEIN

HON. DEBBIE WASSERMAN SCHULTZ

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I would like to congratulate and honor a young Florida student from my district who has achieved national recognition for exemplary volunteer service in her community. Jaclyn Einstein of Golden Beach was named one of the top honorees in Florida by the 2005 Prudential Spirit of Community Awards program, an annual honor conferred on the most impressive student volunteers in each state, the District of Columbia and Puerto Rico.

Jaclyn, a junior at University School, is being recognized for raising more than $6,000 for organ transplants in a fund-raising walkathon, as part of an ongoing, multi-year effort on her part to promote organ donation. Not only did Jaclyn raise money for organ donation programs, but she also organized an assembly at her high school to recruit other students to walk with her. Combined, the students raised $6,200 for the University of Miami Transplant Foundation, winning a cruise that she then donated to an 18-year-old heart transplant recipient.

When asked what she hoped her efforts would accomplish, Jaclyn said, "It is my hope, ultimately, that numerous individuals in need will benefit from receiving an organ transplant through my efforts."

In light of numerous statistics that indicate Americans today are less involved in their communities than they once were, it's vital that we encourage and support the kind of selfless contribution this young citizen has made. People of all ages need to think more about how we, as individual citizens, can work together at the local level to ensure the health and vitality of our towns and neighborhoods. Young volunteers like Ms. Einstein are inspiring examples to all of us, and are among our brightest hopes for a better tomorrow.

The program that brought this young role model to our attention—The Prudential Spirit of Community Awards—was created in 1995 by Prudential Financial in partnership with the National Association of Secondary School Principals. The program seeks to impress upon youth volunteers that their contributions are critically important and highly valued, and to inspire other young people to follow their example. Over the past eight years, the program has become the nation's largest youth recognition effort based solely on community service, with more than 170,000 youngsters participating since its inception.

I heartily applaud Ms. Einstein for her initiative in seeking to make her community a better place to live, and for the positive impact she has had on the lives of others. She has demonstrated a level of commitment and accomplishment that is truly noteworthy in today's world, and deserves our sincere admiration and respect. Her actions show that young Americans can—and do—play important roles in our communities, and that America's community spirit continues to hold tremendous promise for the future.

HONORING REVEREND W. HENRY MAXWELL, SR.

HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. SCOTT of Virginia. Mr. Speaker, I rise today to honor Reverend W. Henry Maxwell, Sr., who is retiring from his role as Pastor of Ivy Baptist Church in Newport News, Virginia.

Reverend Maxwell served as pastor at Ivy Baptist for 37 years. In this position, he has been an extraordinary shepherd over a vibrant and growing flock. I have attended Sunday services at Ivy Baptist and seen his hand at work in his church and community. During his tenure, the Church established a Day Care ministry that has been a vital and thriving community resource for over thirty years. Under his leadership, the church outgrew its original building, and Reverend Maxwell oversaw the purchase of and transition to a new location. And seven years ago, not to rest on previous accomplishments, Reverend Maxwell spurred the construction of an additional wing to the current Church location, that the congregation saw fit to name the W. Henry Maxwell Family Life Center. Even though he officially retired December 31, 2004, Reverend Maxwell has graciously served as interim pastor while the church searched for his successor.

Through his counsel and mentorship, the Ivy Baptist family has produced successful businesspeople, local, state, and federal government workers, and 14 licensed ministers. Reverend Maxwell has worked tirelessly to improve the lives of his parishioners and the lives of all citizens in the church's Southeast Newport News community. His steadfast commitment to principle is well documented through his service on numerous associations, including a term as President of the Newport News Branch of the National Association for the Advancement of Colored People (NAACP).

His dedication to civic improvement is best illustrated through his work as a public servant. Reverend Maxwell represented citizens from the cities of Newport News and Hampton as both a member of the Virginia House of Delegates and the Virginia State Senate in a twenty-year political career. Reverend Maxwell spent much of his time and effort in the Virginia General Assembly addressing the various disparities faced by many of his constituents—the culmination of this effort being his work as an early proponent of diversity in the state judiciary. In his role as State Senator, Reverend Maxwell strove to make sure that the judiciary was comprised of judges more representative of the communities they served, and he has ensured that all Virginians who walk into a court feel that they have a fair chance of equal protection under the law.

I had the honor and privilege of serving with Reverend Maxwell in the Virginia General Assembly for nine years, and I have worked with him outside of the Assembly on many issues. Reverend Maxwell, as a humble servant of God, would balk at the accolades I have bestowed upon him, but I would be remiss if I did not say I consider him an ally, mentor, and friend.

On the occasion of his retirement, it gives me great pleasure to recognize and commend Reverend W. Henry Maxwell, Sr. for his service and dedication to the parishioners of Ivy Baptist Church and to the people of Newport News and Hampton, Virginia.

THE FILIBUSTER MUST BE SAVED

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this evening to pay homage to heroes of equality, justice, and tenacity in spirit. On May 17, 1954, the highest court in the country announced its decision that "separate educational facilities are inherently unequal." This opinion served to deny the legal basis for segregation in Kansas and 20 other States with segregated classrooms and effectively change the dynamics of race relations for the country.

While the dynamics were dramatically changed with that jurisprudence, the unequal treatment was not completely eradicated. Even today, we see the vestiges of bigotry and Jim Crow. For example, let me cite the recent status of the Senate 60-vote filibuster for judicial nominations and the disingenuous reference by certain members to the historic civil rights struggles of the 1950's and 1960's.

The filibuster, no matter how negatively it has been used in the past, remains a vital tool with which we as legislators protect the rights of the minority party. We will not forget the longest filibuster in Senate history in 1957 by Senator Strom Thurmond to thwart civil rights legislation from passage.

Senator Jesse Helms used the filibuster for years to block many highly-qualified nominees from North Carolina, including a woman and three African-Americans. Not one of these nominees received a vote from the Senate. Consequently, the seat remained open for over 6 years—until such time as Senator Helms could hand-pick someone to fill it. A recent national survey found that nearly 70 percent of Americans oppose eliminating filibuster, including many of those who even support the judges who are in question now.

The effectiveness of this tool must be preserved because it is the hallmark of the democratic process. Straight up-or-down votes on issues that affect the lives of vulnerable Americans will allow harsh and insensitive legislation to be forced onto these people at the whim of the majority party. In essence, allowing the filibuster to die on this matter will close the doors to many needy Americans for relief by way of legislation or the court system.

Overly restrictive legislation that has recently passed in the House such as the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, S. 256; the Class Action Fairness Act; Marriage Protection Act; the Pledge Protection Act; and others that propose to block access to the courts and to relief. At some level, it seems that some American people will experience a time when they will not have access to the federal courts and would be subject to adverse judicial scrutiny if they had that access. Eventually, this trend would lead to a less nationalistic America where residency in certain States will equate to legalization of disparate treatment.

Mr. Speaker, I submit that the filibuster must be saved in order to save the federal system and the notion of democracy. The fall of democracy will give rise to a government that can be represented as "the tyranny of the majority."

WE NEED TO ADDRESS THE QUESTIONS LOOMING IN IRAQ

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Mr. CONYERS. Mr. Speaker, I rise today to bring to the attention of the American people an editorial that raises the important questions regarding our uncertain course of action in Iraq. In particular, the author, New York Times columnist Paul Krugman, addresses the dilemma that looms in the not-so-distant horizon—do we increase the military effort or do we end it? He also brings to light the "Downing Street Memo," which indicates a pre-war orchestration by the President and Prime Minister Blair to the point of cooking intelligence to meet the President's needs. Mr. Speaker, 87 of my colleagues and I sent the President a letter last week asking him to respond to these serious charges. We await his response.

STAYING WHAT COURSE?

(By Paul Krugman)

Is there any point, now that November's election is behind us, in revisiting the history of the Iraq war? Yes: any path out of the quagmire will be blocked by people who call their opponents weak on national security, and portray themselves as tough guys who will keep America safe. So it's important to understand how the tough guys made America weak.

There has been notably little U.S. coverage of the "Downing Street memo"—actually the minutes of a British prime minister's meeting on July 23, 2002, during which officials reported on talks with the Bush administration about Iraq. But the memo, which was leaked to The Times of London during the British election campaign, confirms what apologists for the war have always denied: the Bush administration cooked up a case for a war it wanted.

Here's a sample: "Military action was now seen as inevitable. Bush wanted to remove Saddam, through military action, justified by the conjunction of terrorism and W.M.D. But the intelligence and facts were being fixed around the policy."

(You can read the whole thing at www.downingstreetmemo.com.)

Why did the administration want to invade Iraq, when, as the memo noted, "the case was thin" and Saddam's "W.M.D. capability was less than that of Libya, North Korea, or Iran"? Iraq was perceived as a soft target; a quick victory there, its domestic political advantages aside, could serve as a demonstration of American military might, one that would shock and awe the world.

But the Iraq war has, instead, demonstrated the limits of American power, and emboldened our potential enemies. Why should Kim Jong Il fear us, when we can't even secure the road from Baghdad to the airport?

At this point, the echoes of Vietnam are unmistakable. Reports from the recent offensive near the Syrian border sound just like those from a 1960's search-and-destroy mission, body count and all. Stories filed by reporters actually with the troops suggest that the insurgents, forewarned, mostly melted away, accepting battle only where and when they chose.

Meanwhile, America's strategic position is steadily deteriorating.

Next year, reports Jane's Defense Industry, the United States will spend as much on defense as the rest of the world combined. Yet the Pentagon now admits that our military is having severe trouble attracting recruits, and would have difficulty dealing with potential foes—those that, unlike Saddam's Iraq, might pose a real threat.

In other words, the people who got us into Iraq have done exactly what they falsely accused Bill Clinton of doing: they have stripped America of its capacity to respond to real threats.

So what's the plan?

The people who sold us this war continue to insist that success is just around the corner, and that things would be fine if the media would just stop reporting bad news. But the administration has declared victory in Iraq at least four times. January's election, it seems, was yet another turning point that wasn't.

Yet it's very hard to discuss getting out. Even most of those who vehemently opposed the war say that we have to stay on in Iraq now that we're there.

In effect, America has been taken hostage. Nobody wants to take responsibility for the terrible scenes that will surely unfold if we leave (even though terrible scenes are unfolding while we're there). Nobody wants to tell the grieving parents of American soldiers that their children died in vain. And nobody wants to be accused, by an administration always ready to impugn other people's patriotism, of stabbing the troops in the back.

But the American military isn't just bogged down in Iraq; it's deteriorating under the strain. We may already be in real danger: what threats, exactly, can we make against the North Koreans? That John Bolton will yell at them? And every year that the war goes on, our military gets weaker.

So we need to get beyond the clichés—please, no more "pottery barn principles" or "staying the course." I'm not advocating an immediate pullout, but we have to tell the Iraqi government that our stay is time-limited, and that it has to find a way to take care of itself. The point is that something has to give. We either need a much bigger army—which means a draft—or we need to find a way out of Iraq.

CONGRATULATIONS TO SARAH MOELLER

HON. DEBBIE WASSERMAN SCHULTZ

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 17, 2005

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I would like to congratulate and honor a young Florida student from my district who has achieved national recognition for exemplary volunteer service in her community. Sarah Moeller of Davie was named one of the top honorees in Florida by the 2005 Prudential Spirit of Community Awards program, an annual honor conferred on the most impressive student volunteers in each state, the District of Columbia and Puerto Rico.

Sarah, an eighth-grader at St. Mark Catholic School, is being recognized for organizing a clothing drive to collect suits and nice dresses for struggling Haitian immigrants to wear on job interviews and for special occasions. Sarah was inspired when she heard the pastor of St. Joseph's Haitian Mission speak at her school. Her clothing drive, "PASS Along Your Sunday Best" collected 130 complete outfits, which Sarah would sort, wash, mend, press and hang on hangers for distribution to Haitian immigrants.

When asked what she hoped her efforts would accomplish, Sarah said, "I felt that in a small way I was bringing hope and happiness to people in need."

In light of numerous statistics that indicate Americans today are less involved in their communities than they once were, it's vital that we encourage and support the kind of selfless contribution this young citizen made. People of all ages need to think more about how we, as individual citizens, can work together at the local level to ensure the health and vitality of our towns and neighborhoods. Young volunteers like Ms. Moeller are inspiring examples to all of us, and are among our brightest hopes for a better tomorrow.

The program that brought this young role model to our attention—The Prudential Spirit of Community Awards—was created in 1995 by Prudential Financial in partnership with the National Association of Secondary School Principals. The program seeks to impress upon youth volunteers that their contributions are critically important and highly valued, and to inspire other young people to follow their example. Over the past eight years, the program has become the nation's largest youth recognition effort based solely on community service, with more than 170,000 youngsters participating since its inception.

I heartily applaud Ms. Moeller for her initiative in seeking to make her community a better place to live, and for the positive impact she has had on the lives of others. She has demonstrated a level of commitment and accomplishment that is truly noteworthy in today's world, and deserves our sincere admiration and respect. Her actions show that young Americans can—and do—play important roles in our communities, and that America's community spirit continues to hold tremendous promise for the future.

SENATE—*Wednesday, May 18, 2005*

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, the fountain of light and wisdom, without Whom nothing is holy and nothing prevails, You have challenged us to let our lights shine, so that people can see our good works and glorify Your Name.

Today, shine the light of Your presence through our Senators and illuminate our Nation and world. Permit this light to be a beacon of hope for emerging democracies and a gleam of encouragement for freedom fighters. Use this light to provide a model of patience and peace to a world searching for direction.

Lord, let this brightness bring hope where there is despair, unity where there is division, and joy where there is sadness. Remind each of us that it is better to light one candle than to curse the darkness. We pray in the Name of the One Who is the Light of the World. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 18, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BROWNBACK thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today, we will begin debate on one of the judicial nominations pending on the Executive Calendar. In a moment, we will enter into a consent agreement to begin the consideration of Priscilla Owen to be United States Circuit Judge for the Fifth Circuit.

I have consulted with the Democratic leader, and we hope to have an orderly debate for Members to come to the floor to make their statements. To facilitate that process, we will rotate back and forth between the aisle every 60 minutes. I will have a short statement, the Democratic leader will have a statement following mine, and then we will begin the rotation back and forth. I look forward to this debate, and I hope all Members will take the opportunity to participate.

EXECUTIVE SESSION

NOMINATION OF PRISCILLA RICHMAN OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to executive session to consider calendar No. 71, the nomination of Priscilla Owen to be United States Circuit Judge for the Fifth Circuit; provided further that the first hour of debate, from 9:45 to 10:45, be under the control of the majority leader or his designee; further that the next hour, from 10:45 to 11:45, be under the control of the Democratic leader or his designee; and the time for debate rotate in a similar manner every 60 minutes; provided further that the Senate recess from 3:45 to 4:45 to accommodate an all-Senators briefing; provided further that the time from 5:45 to 7:15 be under the control of the Democratic leader and the time from 7:15 to 7:45 be under the control of the majority leader or his designee.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Mr. President, reserving the right to object, first of all, I would ask the distinguished majority leader to amend his unanimous consent request to have the time begin when we complete our statements today. We might not be at a quarter of the hour, but whenever that would be we would rotate on an hourly basis.

Mr. FRIST. Mr. President, I have no objection.

The ACTING PRESIDENT pro tempore. Is there objection to the modified request?

Mr. REID. Mr. President, I have another reservation.

The ACTING PRESIDENT pro tempore. The Democratic leader.

Mr. REID. Mr. President, I would ask the distinguished majority leader would we not be better off moving to get rid of—I don't mean that in a pejorative sense—but clear the calendar of four, at this stage, noncontroversial judges? We could move to Thomas Griffith, who is on the calendar. We could move to discharge and consider the Michigan Circuit Court nominees, Griffin, McKeague, and Neilson. We could get time agreements on all those. We would have four circuit judges. They would be able to go to work within a few days—actually go to work. Otherwise, they are going to be waiting until we go through all of this. It would seem to me that would be the better thing to do. So I would ask the distinguished majority leader if he would agree that we could move to these, with reasonable time agreements, prior to moving to Priscilla Owen?

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. FRIST. Mr. President, through the Chair, we have given careful consideration of which would be the most appropriate person to begin with. It is Priscilla Owen. So we will proceed with Priscilla Owen. There are five people on the Executive Calendar, and our intention would be to debate these nominees, one by one; and hopefully, as other nominees come out of the Judiciary Committee, to take them up as well. So we will be proceeding with Priscilla Owen.

Mr. REID. Mr. President, one further statement.

The ACTING PRESIDENT pro tempore. The Democratic leader.

Mr. REID. Mr. President, in that we have started this process, my friend, the distinguished majority leader, should be advised we will not agree to committees meeting during the time we are doing debate on Priscilla Owen.

The ACTING PRESIDENT pro tempore. Is there objection to the request, as modified?

Mr. KENNEDY. Reserving the right to object, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I was wondering if our leader is familiar with

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the letter which members of our Judiciary Committee sent to the chairman of our committee that points out there are now some 30 vacancies on the Federal bench for which the President has not yet sent a nominee to the Senate. If he would work with Senators of both parties to identify qualified, consensus nominees for each of these spots, the vacancy numbers on our courts could be lowered even further. However, as much as we have offered to work with him finding these nominees and getting them confirmed, there has been absolutely no response.

I am just wondering whether, as we are addressing the issues of one nominee—and the issue that is before the Senate is filling vacancies on the courts—I am just interested if the majority leader has any information from the administration as to when we are going to be able to fill these other nominations.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. FRIST. Mr. President, I would be happy to look at the letter and request of the administration, what requests are made in the letter, and see what their response would be.

In the meantime, Mr. President, what I would like to do is proceed with Priscilla Owen, who is a qualified nominee, who is a nominee we are going to have a lot of debate on back and forth, to determine whether or not she is out of the mainstream, as people say. We will go through regular order and take these nominees the President has submitted to the Judiciary Committee, who have been fully evaluated in the Judiciary Committee, and who now are on the Executive Calendar ready for business.

So we are going to begin that debate shortly.

Mr. KENNEDY. Well, reserving my rights further, Mr. President, as I understand, there is a new nominee who is on the Executive Calendar, Brian Sandoval of Nevada, who has general broad support. Is he not a nominee we could confirm in a matter of moments here? We could at least take care of that vacancy.

Mr. FRIST. Mr. President, I do not believe he is on the Executive Calendar. To the best of my knowledge—at least he is not on the Executive Calendar as printed today.

The ACTING PRESIDENT pro tempore. Is there objection?

The Senator from Vermont.

Mr. LEAHY. Mr. President, reserving the right to object, and I shall not, but I would also remind everybody that the distinguished Democratic leader has said he had no objection to going to—this is a court of appeals judge—Thomas Griffith, of Utah, to be U.S. circuit judge for the District of Columbia circuit. While Mr. Griffith is one I would vote against, for reasons I have already stated, from the nose count I have, he would easily be confirmed.

I would also note that I have total agreement with the distinguished senior Senator from Nevada, who said he would be willing to do this in a relatively short time. I just mention that because I would not want anybody to think this is a person being held up, even though some of us object to him.

The ACTING PRESIDENT pro tempore. Is there objection?

The Democratic leader.

Mr. REID. Mr. President, I would also like to make a suggestion. The idea is not original with me. I wish it were. But we had a meeting last night. The distinguished majority leader was present at that meeting. My friend, the junior Senator from Utah, suggested that what might be good for this body is the same thing that happened when we had the difficult issue here 6½ years ago dealing with the impeachment of a President of the United States. At that time, we retired to the Old Senate Chambers. No staff was there, just 100 Senators. We worked through some very difficult problems, and it surprised everyone.

The distinguished Senator from Massachusetts and now retired Senator Phil Gramm were the people who saved the day—two people who battled ideologically for a combined total of 40 or 50 years. Basically, because of them, we resolved an extremely difficult issue as to how the impeachment would be handled.

So I would ask my distinguished friend, the Republican leader, to consider joining with me and having, in the next day or so—hopefully today—have all of us retire to the Chamber and sit down and talk through this issue and see if there is a way we can resolve this short of this so-called nuclear option. I think it would be good for the body. I think it would be good for the American public to see we are able to sit down in the same room and work things out. I am not sure that we could, but I think it would be worthy of our efforts. Nothing ventured, nothing gained. I would ask my friend if he would consider following the suggestion of Senator BENNETT of Utah.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. FRIST. Mr. President, as always, we will take into consideration all suggestions and be happy to talk to the leadership on both sides of the aisle as to whether that suggestion is the most appropriate way. We have engaged in negotiations and attempts to satisfy both sides over the last 4 months, 5 months, since these unprecedented filibusters came before this body. After 214 years of a threshold of 50 votes, all of a sudden, in the last Congress, it was radically changed by the other side to become 60 votes, denying the sort of people—a little bit akin to what we just heard over the last few minutes, where I am trying to move to a qualified nominee, Priscilla Owen, and we hear these attempts to delay, even right now, and to sidetrack and consider somebody else. That is the challenge.

That is why we are on the floor of the Senate, with the light of day, with the American people watching at this point, to take it to the body of the Senate and ask that fundamental question: Is Priscilla Owen out of the mainstream? Eighty-four percent of Texans think she is in the mainstream. Are 84 percent of Texans out of the mainstream? If the answer to that question is, no, they are not out of the mainstream, then all we want is a vote, an up-or-down vote—accept, reject; confirm, yes, no. That is all we are asking for.

We do not want the constitutional option. We did not ask for the constitutional option. What has happened is because of the other side of the aisle, in shattering the Senate tradition for 214 years, where the filibuster was never even contemplated, now it is being used on a routine basis. One out of every four of the President's nominees who have come over for the circuit courts are filibustered, blocked, not given that courtesy of a vote, when that is our responsibility, to give advice and consent.

So in response to my good friend, the Democratic leader, yes, as proposals come forward, we will consider all. Both leaders spent 50 minutes or so, as the papers reported, today talking with people who are trying to come to some reasonable conclusion. We will continue to do that. So I would be happy to consider another idea.

I think what is important now, though, is to come to the floor of the Senate. Let's shed light on this. Let's do take this. Yes, it is an inside-the-Senate decision, and we make our own traditions and rules, but it is important for the American people to see is Priscilla Owen, is Janice Rogers Brown deserving of a vote, yes or no, on the floor of the Senate.

So I would recommend we continue discussions and let's proceed with this nominee, continue the debate over the course of the day, or it may be 2 days, and answer this question: Is she qualified? Does she deserve an up-or-down vote?

The ACTING PRESIDENT pro tempore. Is there objection to the request?

The Democratic leader.

Mr. REID. Mr. President, I know we need to move on. I want to briefly say we are following the rules. We believe in following the rules, not breaking the rules. And while it is good to talk about this up-or-down vote, the fact is if we move forward as contemplated by the majority, it is moving toward breaking the rules to change the rules. That is improper. It will change the Senate forever and that is not good.

Mr. KENNEDY. Mr. President, further reserving the right to object, I want to support our Democratic leader. I believe the record now is we have approved 96 percent of the judicial nominees of this administration. And as we know in terms of reading the Constitutional Convention our Founding Fathers expected this was going to be, we were going to exercise our own independent best judgment on nominees. And if I could ask the majority leader, is this the same Priscilla Owen which our current Attorney General suggested "unconscionable acts of judicial activism?" That is, our current Attorney General has accused this nominee of that kind of activity. Is this the same Priscilla Owen who is now being recommended, about which our current Attorney General made that comment not once, not twice, not three times, but 11 times?

Mr. McCONNELL. Regular order, Mr. President.

The ACTING PRESIDENT pro tempore. Regular order has been called for. The Senator must either object or permit the request to move forward.

Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Reserving the right to object, I would not object——

The ACTING PRESIDENT pro tempore. The Senator cannot reserve the right to object. He must object or grant the request.

Is there objection? Without objection, it is so ordered.

The clerk will report the nominee.

The legislative clerk read the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

The ACTING PRESIDENT pro tempore. The first hour of debate is now under the control of the majority leader or his designee.

The majority leader.

Mr. FRIST. Mr. President, I rise today as the leader of majority party of the Senate, but I do not rise for party. I rise for principle. I rise for the principle that judicial nominees with the support of the majority of Senators deserve up-or-down votes on this floor. Debate the nominee for 5 hours, debate the nominee for 50 hours, vote for the nominee, vote against the nominee, confirm the nominee, reject the nominee, but in the end vote.

Senators, colleagues, let's do our duty and vote. Judicial nominees deserve an up-or-down vote.

In this debate we will discuss two of the President's judicial nominees. These outstanding nominees, Priscilla Owen and Janice Rogers Brown, had the support of a majority of Senators in the last Congress, but they were denied, they were denied up or down votes. I expect we will also discuss such consequential topics as the meaning of the Constitution and Senate rules and procedures. No doubt this will be a spirited debate, as it should be. And I also hope it will be a decisive debate. So let us begin.

In the last Congress, for the first time in history a minority of Senators obstructed the principle of a fair up-or-down vote on judicial nominees. That was unprecedented. Never in 214 years of Senate history had a judicial nominee with majority support been denied an up-or-down vote. Yet it happened—again, and again, and again, and again, and again, and again. A minority of Senators denied an up-or-down vote not just once to one nominee but 18 times on 10 individual nominees. These men and women, these nominees are among the best legal minds in America and they all would be serving on the Federal bench today. All they needed was a vote. But they were not given the courtesy of an up-or-down vote on the floor of the Senate. The minority denied them a vote and set a new precedent. The minority in the last Congress rewrote the rules of advice and consent. They unilaterally increased the threshold for confirmation from 50 votes, where it had been throughout history, to 60 votes.

Now some in the minority say they will harden the precedent and obstruct judicial nominees in this Congress. And if they are not allowed to do so, if the Senate returns to the way it worked for 214 years, they will retaliate. They will obstruct the Senate's other business. They will obstruct the people's business. They will hold back our agenda to move America forward. An energy strategy to reduce our dependence on foreign oil, held back; an end to the medical lawsuit abuse to reduce the cost of health care, held back; a simpler, fairer Tax Code to create jobs and to encourage economic growth, held back. A minority of Senators will hold America back just because a majority of Senators, a majority of people in this body want to do what most Americans of all things expect us to do, and that is to vote.

The minority should allow Senators to fulfill our constitutional responsibility of giving advice and consent and vote. And they should allow America to move forward.

The principles that endured for 214 years do not endure because they appeal to one party or the other. They endure because they serve a vital purpose. In this case, the principle of an up-or-down vote ensures the President can fulfill his constitutional duty to appoint judges.

Let me read a passage in the Constitution.

> The President shall have power, by and with the advice and consent of the Senate, to make Treaties, provided two-thirds of the Senate present concur, and he shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public ministers and consuls, judges of the Supreme court, and all other officers of the United States.

The Framers wrote in the Constitution that two-thirds of Senators must approve treaties, but they specifically did not require the same number of votes to confirm judicial nominees.

After much debate and compromise, the Framers concluded that the President should have power to appoint and the Senate should confirm or reject nominees by a simple majority vote. For 214 years Republican and Democratic minorities alike restrained themselves, they used restraint, they abided by the Framers' design and Senate tradition and gave nominees brought to this floor simple majority up-or-down votes. This was the practice.

Then came the last Congress. With its obstruction the minority set a new precedent—60 votes before the Senate could proceed to an up-or-down vote on a judicial nominee. For 214 years the threshold for advice and consent in the Senate was 50 votes, a majority. In the last Congress——

Mr. SCHUMER. Would my colleague yield for a question.

Mr. FRIST. Mr. President, I would like to proceed with my statement and would be happy to yield for a comment.

For 214 years the threshold for advice and consent in the Senate was 50 votes. In the last Congress the minority party radically increased that threshold to 60, and that is wrong, and we will restore the tradition.

This unprecedented threshold gave the minority a virtual veto, in effect control, over the judicial appointments of the President. The minority destroyed 214 years of Senate tradition, defied the clear intent of the Constitution, and undermined the Democratic will of the American people. You can't get much more radical than that.

This new precedent cannot be allowed to stand in this Congress. We must restore the 214-year-old principle that every judicial nominee with majority support deserves an up-or-down vote.

Why? First, the American people elect their Senators for a reason. It is to represent them. And they expect us to do our job. The Senate is a deliberative body. We are a proudly deliberative body. But we also have certain responsibilities which include giving advice and consent on the President's judicial nominations. When a judicial nominee comes to this floor and has majority support but is denied a simple up-or-down vote, Senators are simply not doing their job. And the sad fact is we did not do our job in the last Congress. The minority's judicial obstruction has saddled President Bush with the lowest confirmation rate for appeals court nominees of any modern President. This is disgraceful. We owe it to the people we serve and to the Senate as an institution to do our job. We should vote up or down on judicial nominees.

Second, the judicial branch also has a job to do and it needs judges to do it. Right now there are 46 vacancies on the Federal bench. That includes 17 vacancies on appeals courts. But it is not just the vacancies. Qualified nominees who can fill those seats can't get up-or-down votes to be confirmed in the Senate.

Let me give you an example. Four of the 17 vacancies on Federal appeals courts are in the region that serves my home State of Tennessee—4 of the 17 vacancies. Those nominees have been waiting a combined 13 years for a simple up-or-down vote on this floor—13 years they have been waiting. Either confirm these nominees or reject the nominees but don't leave them hanging. Don't leave our courts hanging. Don't leave the country hanging. If nominees are rejected, fine, that is fair. At least rejection represents a vote. But give nominees the courtesy, the courtesy of a vote.

Third, judicial nominees deserve up-or-down votes because they deserve to be treated fairly. Let me tell you about the nominees we are about to consider, Priscilla Owen and Janice Rogers Brown. Priscilla Owen has been a Texas Supreme Court Justice for the last 10 years. She was reelected with 84 percent of the vote in 2000. Her service won praise from Members of both parties. Former Justice Raul Gonzalez, a Democrat, said:

> I found her to be apolitical, extremely bright, diligent in her work and of the highest integrity. I recommend her for confirmation without reservation.

Justice Owen has also been a leader for providing free legal service for the poor and she has worked to soften the impact of legal proceedings on children of divorcing parents.

On May 9, 2001, President Bush nominated Priscilla Owen to the Fifth Circuit Court of Appeals. To this day, more than 4 years later, even though a majority of Senators in this body support her, she has been denied an up-or-down vote. That is just plain wrong, and it is unfair. Priscilla Owen deserves a vote.

Now let me tell you about Janice Rogers Brown. She is the daughter of an Alabama sharecropper. She was educated in segregated schools and worked her way through college and law school. She went on to serve in prominent positions in California State government. Today Janice Rogers Brown is a justice on the California Supreme Court and she was retained as a justice by the people of California with 76 percent of the vote.

On July 25, 2003, President Bush nominated Justice Brown for the U.S. Court of Appeals. To this day, nearly 2 years later, even though a majority of Senators support her, she has been denied an up-or-down vote on the floor of the Senate.

That is wrong. That is unfair. Janice Rogers Brown deserves a vote.

Janice Rogers Brown can get 76 percent of the vote in California, Priscilla Owen can get 84 percent of the vote in Texas, but neither can get a vote here on the floor of the Senate. Why? The minority says they are out of the mainstream. Are 76 percent of Californians and 84 percent of Texans out of the mainstream? Denying Janice Rogers Brown and Priscilla Owen a vote is what is out of the mainstream. Justice Brown and Justice Owen deserve better. They deserve to be treated fairly. They deserve the courtesy of a vote.

The consequences of this debate are not lost on any Member of this body. Soon we, 100 Senators, will decide the question at hand: Should we allow a minority of Senators to deny votes on judicial nominees who have the support of a majority of this body or should we restore the 214-year practice of voting up or down on all judicial nominees who come to this floor?

I have to believe the Senate will make the right choice. We will choose the Constitution over obstruction. We will choose principle over politics. We will choose votes over vacillation. And when we do, the Senate will be the better for it. The Senate will be, as Daniel Webster once described it:

> . . . a body to which the country looks, with confidence, for wise, moderate, patriotic, and healing counsels.

To realize this vision, we don't need to look as far back as the age of Webster or Clay or Calhoun. All we must do is look at the recent past and take inspiration from the era of Baker, Byrd, and Dole. For 70 percent of the 20th century, the same party controlled the White House and the Senate. Yet during that period, no minority ever denied a judicial nominee with majority support an up-or-down vote on this floor. Howard Baker's Republican minority didn't deny Democrat Jimmy Carter's nominees. ROBERT BYRD's Democratic minority did not deny Republican Ronald Reagan's nominees. Bob Dole's Republican minority did not deny Democrat Bill Clinton's nominees. These minorities showed restraint. They respected the appointments process. They practiced the fine but fragile art of political civility. Sure they disagreed with the majority at times, but they nonetheless allowed up-or-down votes to occur.

The Senate must do what is right. We must do what is fair. We must do the job we were elected to do and took an oath to do. We must give judicial nominees the up-or-down votes they deserve. Let us debate, and let Senators be heard. Let the Senate decide, and let this body rise on principle and do its duty and vote.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from New York.

Mr. SCHUMER. Will my colleague from Tennessee yield for a question?

Mr. FRIST. Mr. President, I would be happy to.

Mr. SCHUMER. Mr. President, when I came on the floor, my colleague was talking about the 214 years of tradition of no filibusters. Isn't it correct that on March 8 of 2000, my friend from Tennessee voted to uphold the filibuster of Richard Paez?

Mr. FRIST. Mr. President, in response, the Paez nomination—we will come back and discuss it further. Actually, I would like to come back to the floor and discuss it. It really brings to, I believe, a point what is the issue. The issue is that we have leadership-led partisan filibusters that have obstructed not 1 nominee but 2, 3, 4, 5, 6, 7, 8, 9, 10 in a routine way. The issue is not cloture votes per se; it is the partisan leadership-led use of the cloture vote to kill, to defeat, to assassinate these nominees. That is the difference.

Cloture has been used in the past on this floor to postpone, to get more information, to ask further questions. But each and every time, the nominee, including Paez, got an up-or-down vote on the floor of the Senate where all 100 Senators could vote yes or no, confirm or reject.

Paez got an up-or-down vote. That is all that we ask on the floor, that Priscilla Owen, that Justice Brown get a simple vote, approved, disapproved, confirmed, rejected.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. REID. Mr. President, the majority leader said that during the Dole years, Clinton nominees were treated fairly. Sixty-nine Clinton nominees were not even given the decency of a hearing. They never saw the light of day. We have participated in hearings. The matters have come to the floor. For my friend to say that Clinton was treated fairly under the Dole years is simply untrue.

Everyone should know that Priscilla Owen and Janice Rogers Brown have had votes right here on the Senate floor in compliance with the rules of the Senate. They have had votes. It is as if we are retreating 50, 60 years. When you keep telling these falsehoods enough, people start believing them. The American people are not believing this. These two women about whom my friend speaks have had votes.

My friend from Massachusetts asked a question. The President's lawyer, Alberto Gonzales, and now the Attorney General of the United States and previously a member of the Texas Supreme Court, said on multiple occasions that Priscilla Owen's activism was unconscionable. Alberto Gonzales is a smart man. He knows what the word means, but in case someone doesn't, let me read what it does mean. Unconscionable: Shockingly unjust and unscrupulous. That is what the Attorney General of the United States of America says about Priscilla Owen. Mainstream? I think not. Shockingly unjust or unscrupulous—that is what Priscilla Owen is in the mind of the Attorney General of the United States.

I ask unanimous consent that my time be charged against the Democrats' time when we take that, approximately an hour from now.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. There will be a lot more said about Priscilla Owen, but I think a fairly good indication of the kind of judge she is should come from the Attorney General of the United States who says that her unconscionable activism is replete through her opinions. I assume he knows what it means. I am confident he does. He is a brilliant man. "Shockingly unjust, unscrupulous"—those are not the words of the Senate Judiciary Committee, not some special interest group; those are the words of the Attorney General of the United States about Priscilla Owen. And she has had a vote here on the Senate floor.

Janice Rogers Brown, I am sure she has come from nothing to something. I think that is good. That is the way America should be. But before anyone starts crowing about the vote in California, she didn't have an opponent. It is a Missouri system. She had no opponent.

Her opinions, if they weren't on such serious matters, would be laughable—seriously, laughable. The California Supreme Court is made up of seven justices; six of them are Republicans. She has dissented, in the last 6 years alone, 31 different times.

Among other things, she has said: Supreme Court decisions upholding New Deal protections, like the minimum wage and the 40-hour workweek, are, in her words, "the triumph of our own socialist revolution." Tell someone working at General Motors, tell someone working at Titanium Metals in Henderson, NV, that the 40-hour workweek is part of the socialist revolution. Tell somebody working on nights and weekends and holidays that they can't get time and a half, or tell somebody working at McDonald's or in a plastics factory in Fallon, NV, that they are not entitled to the minimum wage. That is Janice Rogers Brown, who has had a vote on the Senate floor.

Yesterday, I spoke about a statement the majority leader made calling the filibuster a procedural gimmick. Again, going to the dictionary, it defines gimmick as "an ingenious new scheme or angle." The filibuster is not a scheme, and it certainly is not new. The filibuster is far from a procedural gimmick. It is part of the fabric of this institution we call the Senate. It was well known in colonial legislatures, before we became a country, and it is an integral part of our country's 214-year history.

The first filibuster in the Congress happened in 1790. It was used by lawmakers from Virginia and South Carolina who were trying to prevent Philadelphia from hosting the first Congress. Since then, the filibuster has been employed hundreds and hundreds and hundreds of times. It has been employed on legislative matters. It has been employed on procedural matters relating to the President's nominations for Cabinet and sub-Cabinet posts. And it has been used on judges for all those years. One scholar estimates that 20 percent of the judges nominated by Presidents have fallen by the wayside, most of them as a result of filibusters.

Senators have used the filibuster to stand up to popular Presidents, to block legislation and, yes, even, as I have stated, to stall executive nominees. The roots of the filibuster are found in the Constitution and in our own rules.

In establishing each House of Congress, Article I, section 5 of the Constitution states that:

> Each House may determine the rules.

In crafting the rules of the Senate, Senators established the right to extended debate. And they formalized it with rule XXII almost 100 years ago. This rule codified the practice that Senators could debate extensively.

Under rule XXII, debate may be cut off under limited circumstances: 67 votes to end a filibuster of a motion to amend a Senate rule. That is what is being attempted here. But, no, we are not going to follow the Senate rules. No, because of the arrogance of power of this Republican administration, which controls the Supreme Court, the House, and the Senate. It is not enough that they come to the people's body and say: Let's take our chances by a fair ball game. They are going to change the rules in the middle of the ball game. Talk about people having votes—these nominees, all 10 of them, have had votes. It is unfair for the majority to continually say it is 10. Three of them either retired or withdrew. We have agreed for votes on two others. It is five people who are not in the mainstream. Janice Rogers Brown accuses senior citizens of blithely cannibalizing their grandchildren. That is in the mainstream? Priscilla Owen in the mainstream?

This administration is unwilling to play by the rules. It takes 67 votes to change a Senate rule when there is a filibuster in progress. But we are going to have CHENEY, the Vice President, come sit where the Presiding Officer is sitting now and say that it only takes 51. This great paragon of virtue is going to say it only takes a simple majority. We need 60 votes to end a filibuster against legislative business.

It doesn't take a legal scholar to know this. We have all read in the newspapers that this is a slippery slope. Once you have a rule changed—illegally—then you can do it again. There is precedent on the books. In the future, it will be changed. If we decide we don't like Bolton—the man who was chasing people down the hall throwing papers at them—to be a representative of the U.N., if we decide we want to filibuster him, we can change the rules to say he is the President's man and is entitled to a simple majority vote. You cannot do that. It may be an issue of importance to the President or the majority leader on a legislative matter, so just change the rule. The precedent will have been set. A simple majority is all that is necessary.

A conversation between Thomas Jefferson and George Washington I believe describes the Senate and our Founding Fathers' vision of this body in which we are so fortunate to serve. Jefferson asked Washington:

> What is the purpose of the Senate? Washington responded with a question of his own:
>
> Why did you pour that coffee into your saucer?

Jefferson replied:

> To cool it.

To which Washington said:

> Even so, we pour legislation into the senatorial saucer to cool it.

That is exactly what the filibuster does. It encourages moderation and consensus, gives voice to the minority so cooler heads may prevail. It also separates us from the House of Representatives, where the majority rules through the Speaker appointing the Rules Committee. It is very much in keeping with the spirit of the Government established by the Framers of our Constitution, limited government, separation of powers, and checks and balances. The filibuster is a critical tool in keeping the majority in check. The Presiding Officer, who is a new Member of the Senate, someday will be in the minority. That is the way it works.

This central fact has been acknowledged and even praised by Senators from both parties: The filibuster is a critical tool to keep the majority in check. In fact, another freshman Senator, my colleague from Georgia, Senator ISAKSON, recently shared a conversation he had with an Iraqi Government official. Senator ISAKSON asked this official if he was worried about the majority in Iraq overrunning the minority. The official replied:

> No . . . we have the secret weapon called the "filibuster."

In recalling the conversation, Senator ISAKSON remarked:

> If there ever were a reason for optimism . . . it is one of [the Iraq] minority leaders proudly stating one of the pillars and principles of our Government as the way they would ensure that the majority never overran the minority.

They were comparing what they were going to experience in Iraq to what we now have—the filibuster. Of course, he was right.

I spoke yesterday about Senator Holt and his 1939 filibuster to protect workers' wages and hours. There are also recent examples of the filibuster achieving good.

In 1985, Senators from rural States—even though there were few of them—

used the filibuster to force Congress to address a major crisis in which thousands of farmers were on the brink of bankruptcy.

In 1995, 10 years later, the filibuster was used by Senators to protect the rights of workers to a fair wage and a safe workplace.

I cannot stand here and say the filibuster has always been used for positive purposes. It has not. Just as it has been used to bring about social change, it was also used to stall progress that this country needed to make. It is often shown that the filibuster was used against civil rights legislation. But civil rights legislation passed. Civil rights advocates met the burden. It is noteworthy that today, as I speak, the Congressional Black Caucus is opposed to the nuclear option—unanimously opposed to it.

For further analysis, let's look at Robert Caro. He is a noted historian and Pulitzer Prize winner, and he said this at a meeting I attended. He spoke about the history of the filibuster. He made a point about its legacy that was important. He noted that when legislation is supported by the majority of Americans, it eventually overcomes a filibuster's delay, as a public protest far outweighs any Senator's appetite to filibuster.

But when legislation only has the support of the minority, the filibuster slows the legislation—prevents a Senator from ramming it through, and gives the American people enough time to join the opposition.

Mr. President, the right to extended debate is never more important than when one party controls Congress and the White House. In these cases, the filibuster serves as a check on power and preserves our limited government.

Right now, the only check on President Bush is the Democrats' ability to voice their concern in this body, the Senate. If Republicans roll back our rights in this Chamber, there will be no check on their power. The radical rightwing will be free to pursue any agenda they want, and not just in judges. Their power will be unchecked on Supreme Court nominees, the President's nominees in general, and legislation such as Social Security privatization.

Of course, the President would like the power to name anybody he wants to lifetime seats on the Supreme Court and other Federal courts. It is interesting to note that the statistics used by the majority leader do not take into consideration the nominees who we have been willing to clear. Sure, you get statistics like that when they will not bring them forward.

Basically, that is why the White House has been aggressively lobbying Senate Republicans to change Senate rules in a way that would hand dangerous new powers over to the President over two separate branches—the Congress and the judiciary—and he and his people are lobbying the Senate to break the rules to change the rules. I am sorry to say this is part of a disturbing pattern of behavior by this White House and the Republicans in Washington, especially the leadership.

From DICK CHENEY's fight to slam the doors of the White House so the American people are kept in the dark about energy policy while the White House has the lights turned on—between the public interests or the corporate interests, it is always the corporate interests—to the President's refusal to cooperate with the 9/11 Commission, to Senate Republicans' attempt to destroy the last check in Washington on Republican power, to the House majority's quest to silence the minority in the House, Republicans have sought to destroy the balance of power in our Government by grabbing power for the Presidency, silencing the minority, and weakening our democracy.

America does not work that way. The radical rightwing should not be allowed to dictate to the President and to the Republican Senate leaders, as they are trying to do.

For 200 years, we have had the right to extended debate. It is not some "procedural gimmick." It is within the vision of the Founding Fathers of this country. They did it; we didn't do it. They established a government so that no one person and no single party could have total control.

Some in this Chamber want to throw out 214 years of Senate history in the quest for absolute power. They want to do away with Mr. Smith, as depicted in that great movie, being able to come to Washington. They want to do away with the filibuster. They think they are wiser than our Founding Fathers. I doubt that is true.

Mr. President, will the Senator notify us as to how much time the Republicans have in the first wave of statements and how much time the Democrats have when they are allowed to make statements?

The PRESIDING OFFICER (Mr. GRAHAM). The Republicans have 42 minutes and the Democrats have 41 minutes.

Mr. REID. I thank the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Parliamentary inquiry: It was my understanding that I was to have 1 hour because a good bit of time has been consumed by dialog and questions earlier today.

Mr. REID. Mr. President, I will respond, if I could. As indicated, that is why I asked the question. You have 42 minutes and we have 41. We need to stick to that. I would have no objection to your using the full time and deducting 15 minutes, or whatever it is, from the next hour that you have. That would be appropriate.

Mr. SPECTER. Mr. President, that would be acceptable to me. I am the manager, in my capacity as chairman of the Judiciary Committee, on Priscilla Owen. We would accommodate to have an equal amount of time allotted to the Democrats. It may be, Mr. President, that I will not use the full hour.

Mr. REID. I simply say, if the Senator needs the full hour, I ask that it be deducted so we can kind of keep on track here. We will use 42 minutes our first go-around. We ask that you deduct whatever time you use off of the second time that you are to be recognized.

Mr. FRIST. Mr. President, I ask the distinguished chairman this. We have 41 minutes on our side and 42 on the other side. If you don't complete your remarks in 41 minutes, then we will agree to yield an equivalent amount of time in the next hour, to deduct that equal amount of time in the next hour from both sides.

Mr. REID. We don't need the time on our side.

Mr. LEAHY. Mr. President, I think the suggestion the Senator from Pennsylvania made was a good one. Whatever time he uses beyond the 40 minutes, we get an equal amount of time here. That way we would also know where we stand. The distinguished Senator from Nevada——

Mr. REID. Then following the two managers making their statements, thereafter, we go to an hourly timeframe and we have to. I think—it would be good for the managers not to be extending the time because it makes it impossible when you have people scheduled to come over here. I agree to this under the extraordinary circumstances also of the two managers of this nomination—that they be given a full hour. Following that, the Republicans would be recognized for an hour, and the Democrats for an hour, and we go on that basis.

Mr. President, I have somebody here complaining that we have already set the schedule. We are entitled to the time by the rules.

Mr. FRIST. Mr. President, I ask if the chairman would try to keep his remarks within the time limit agreed to, about 42 minutes, and we can stay on schedule. I ask the Democratic leader, would that be acceptable? I ask unanimous consent that we, as agreed earlier, have 42 minutes on our side and 41 minutes on the other side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, as we begin consideration of the nomination of Texas Supreme Court Justice Priscilla Owen for the U.S. Court of Appeals for the Fifth Circuit, the Senate Chamber is filled with anticipation that we may be embarking on a historic debate which could redefine minority rights in the Senate and impact our fundamental constitutional doctrine of separation of powers.

As we all know, if 60 votes are not obtained to invoke cloture to cut off debate on this nominee and three others to be called up sequentially for confirmation votes, a ruling is likely to be sought to change the required vote from 60 to 51, unless a compromise can first be reached.

This controversy did not arise, in my judgment, because Democrats concluded that Miguel Estrada and nine other President Bush circuit court nominees were unqualified, so they should be filibustered, but rather because it was payback time for Republican treatment of President Clinton's nominees.

While there have been a few scattered cloture votes in the history of the Senate, it is totally unprecedented for a party to engage in such a systematic pattern of filibusters. In almost 25 years on the Judiciary Committee, I have seen circuit court nominees confirmed routinely where their qualifications were no better than those under fire today. These filibusters are the combination of a power struggle between Republicans and Democrats as to which party can control the judicial selection process through partisan maneuvering.

As a starting point, it is important to acknowledge that both sides—Democrats and Republicans—have been at fault. Both claim they are the victims and that their party's nominees have been treated worse than the other's. Both sides cite endless statistics. I have heard so many numbers spun so many different ways that my head is spinning. I think even Benjamin Disraeli, the man who coined the phrase, there are "lies, damn lies, and statistics," would be amazed at the creativity employed by both sides in contriving numbers in this debate.

In 1987, upon gaining control of the Senate and the Judiciary Committee, the Democrats denied hearings to seven of President Reagan's circuit court nominees and denied floor votes for two additional circuit court nominees. As a result, the confirmation for Reagan circuit nominees fell from 89 percent prior to the Democratic takeover to 65 percent afterwards.

While the confirmation rate decreased, the length of time it took to confirm judges increased. From the Carter administration through the first 6 years of the Reagan administration, the confirmation process for both district and circuit court seats consistently hovered at approximately 50 days. For President Reagan's final Congress, however, the number doubled to an average of 120 days for these nominees to be confirmed. The pattern of delay and denial continued for 4 years of President George H.W. Bush's administration. President Bush's lower court nominees waited on average 100 days to be confirmed, which is about twice as long as had historically been the case. The Democrats also denied hearings for more nominees.

President Carter had 10 nominees who did not receive hearings. For President Reagan, the number was 30. In the Bush senior administration, the number jumped to 58.

When we Republicans won the 1994 election and gained the Senate majority, we exacerbated the pattern of delay and blocking of nominations. Over the course of President Clinton's Presidency, the average number of days for the Senate to confirm judicial nominees increased even further to 192 days for district court nominees and 262 days for circuit court nominees. Through blue slips and holds, 70 of President Clinton's nominees were blocked.

During that time, I urged my Republican colleagues on the Judiciary Committee to confirm well-qualified Democrats. For example, I broke rank with my colleagues on the Republican side to speak and vote in favor of Marsha Berzon and Richard Paez.

After the 2002 elections, with control of the Senate returning to Republicans, the Democrats resorted to the filibuster on 10 circuit court nominations, which was the most extensive use of that tactic, really unprecedented, in the Nation's history.

The filibuster started with Miguel Estrada, one of the most competent and talented appellate lawyers in the country. The Democrats followed with filibusters against nine other circuit court nominees. During the 108th Congress, there were 20 cloture motions on 10 nominations, and all 20 failed.

To this unprecedented move, President Bush responded by making for the first time in the Nation's history two recess appointments of nominees who had been successfully filibustered by the Democrats. That impasse was broken when President Bush agreed to refrain from further recess appointments.

Against this background of bitter and angry recriminations, with each party serially trumpeting the other party to get even or really to dominate, the Senate now faces dual threats. One called the filibuster and the other the constitutional or nuclear option which rivals the U.S.-U.S.S.R. confrontation of mutual assured destruction. Both situations are accurately described by the acronym, MAD.

We Republicans are threatening to employ the constitutional or nuclear option to require only a majority vote to end judicial filibusters. The Democrats are threatening to retaliate by stopping the Senate agenda on all matters except national security and homeland defense. Each ascribes to the other the responsibility for blowing up the place.

This gridlock occurs at a time when we expect a U.S. Supreme Court vacancy within the next few months. If a filibuster would leave an eight-person Court, we could expect many 4-to-4 votes since the Court now decides cases with 5-to-4 votes. A Supreme Court tie vote would render the Court dysfunctional leaving in effect the circuit court decision with many splits among the circuits, so the rule of law would be suspended on many major issues.

Regardless of which side wins the vote on the constitutional or nuclear option, there would be serious consequences. If the option succeeds, first, the rights of the Senate's minority would be significantly diminished, and, second, reducing the cloture vote on nominees would inevitably and ultimately invite a similar attack on cloture on the legislative calendar which would change the nature of the Senate tremendously.

On the other hand, if the option fails, there are undesirable consequences. Then, any Senate minority party of 41 or more would be emboldened to institutionally and permanently revise the balance of power between the President's constitutional power of nominations and the Senate's constitutional authority for confirmation.

Second, I think it would embolden the Democrats to use the filibuster on other Presidential nominations, such as John Bolton whose nomination is pending before the Senate for ambassador to the U.N.

After a Democratic member of the Foreign Relations Committee put a hold on the Bolton nomination, the ranking member was quoted on a Sunday talk show as saying:

> It's too premature to talk about filibustering Mr. Bolton.

Therefore, it is obvious that a filibuster on Bolton is not ruled out.

A vote on the constitutional or nuclear option could affect an imminent nomination or nominations to the Supreme Court. If a vote on the option failed, it would be a reaffirmation of the Democratic minority's power to filibuster any judicial nominee without necessarily showing substantial cause or extraordinary circumstances. If the option passed, it could give the President greater leverage, reducing his concern that his nomination could be thwarted.

Historically—and I believe this is of tremendous importance, Mr. President—historically, the constitutional separation of powers has worked best when there was a little play in the so-called joints. When both sides are unsure of the outcome, the result is more likely to be in the middle rather than at either extreme.

On the current state of the record, in my opinion, the outcome of a prospective vote on the constitutional or nuclear option is uncertain. I have not rendered a decision because I believe I can be most helpful on brokering a compromise by remaining silent. When neither side is confident of success—and I think that is the case today—the chances for compromise are far greater.

As I see it, the national interest would be served by structuring a compromise to return to the status quo before 1987. When Senator HARRY REID, the Democratic leader, says his party would abandon the filibuster unless there are "extraordinary circumstances," that escape clause should be narrowly defined and codified in a Senate rule instead of an agreement between the parties' leaders.

Even with a narrowly defined definition of what constitutes extraordinary circumstances, the final decision would necessarily reside with the individual Senators in the case of any perceived ambiguity. If we Republicans then concluded that there was not a good-faith exercise of extraordinary circumstances, we could regard the agreement as vitiated and feel free to resort to the constitutional or nuclear option.

To achieve a compromise, Senators must take the initiative without being unduly influenced by the far left or far right. It has not escaped attention that the so-called groups are using this controversy as major fundraising vehicles. I continue to be personally highly offended by the commercials, from Gregory Peck in 1987 to the ones broadcast this weekend in Pennsylvania, seeking to influence my own vote. Believe me, they are counterproductive or ineffectual at best and certainly insulting.

Senators, with our leaders, must take charge to craft a way out. The fact is, all or almost all of the Senators want to avoid the pending crisis. I have had many conversations with my Democratic colleagues about the filibuster of judicial nominees. Many of them have told me they do not personally believe it is a good idea to filibuster President Bush's judicial nominees in such a pattern. They believe this unprecedented use of a filibuster does damage to this institution and to the prerogatives of the President. Yet despite their concerns, they have given in to party loyalty and voted repeatedly to filibuster Federal judges in the last Congress.

Likewise, there are many Republicans in this body who question the wisdom of the constitutional or nuclear option. They recognize that such a step would be a serious blow to the rights of the minority that have always distinguished this body from the House of Representatives. Knowing that the Senate is a body that depends upon collegiality and compromise to pass even the smallest resolution, many of my Republican colleagues worry that the rule change would impair the ability of the institution to function.

I have repeatedly heard colleagues on both sides of the aisle say it is a matter of saving face. But as yet, we have not found a formula to do so. I suggest the way to work through the current impasse is to bring to the floor circuit court nominees one by one for up-or-down votes with both leaders explicitly releasing their Members from party-line voting.

There are at least five, and perhaps as many as seven, pending circuit court nominees who could be confirmed or at least voted up or down. If the straitjacket of party loyalty were removed, even more might be confirmed.

In moving in the Judiciary Committee to select nominees for floor action shortly after becoming chairman earlier this year, I first selected William Myers because two Democrats had voted to end debate in the 108th Congress and one candidate for the Senate in 2004 since elected made a campaign statement that he would vote to end the Myers filibuster and confirm him. Adding those 3 votes to 55 Republicans, we were within striking distance to reach 60 or more.

I carefully examined Myers' record. Noting that he had opposition from some groups such as Friends of the Earth and the Sierra Club, it was my conclusion that nonetheless his environmental record was satisfactory, or at least not a disqualifier, as detailed in my statement at the Judiciary Committee executive session on March 17.

To be sure, critics could pick at his record, as they could at any Senator's record, but overall, in my judgment, Mr. Myers was worthy of confirmation.

I then set out to solicit views on Myers, including the ranchers, loggers, miners, and farmers. In those quarters, I found significant enthusiasm for his confirmation. I then urged them to have their members contact Senators who might be swing votes. I then followed up with personal talks to many of those Senators and found several prospects to vote for cloture.

Then the screws of party loyalty were applied and tightened, and the prospects for obtaining the additional votes to secure 60 for cloture—the prospects vanished. I am confident that if the party pressure had not been applied, the Myers filibuster would have ended, and he would have been confirmed. That result could still be obtained if the straitjacket of party loyalty were removed on the Myers nomination.

Informally, but authoritatively, I have been told that the Democrats will not filibuster Thomas Griffith or Judge Terrence Boyle. Griffith is on the Senate calendar awaiting floor action and Boyle is on the agenda for Judiciary Committee action. Both could be confirmed this month.

There are no objections to three nominations from the State of Michigan for the Sixth Circuit, Richard Griffin, David McKeague and Susan Neilsen, but their confirmations are held up because of objections to a fourth nominee. I urge my Democratic colleagues to confirm these three uncontested Michigan Sixth Circuit nominees and fight out the fourth vacancy and the Michigan District Court vacancies on another day. The Michigan Senators do make a valid point on the need for consultation on the other Michigan vacancies, and I believe that can be accommodated.

In the exchange of offers and counteroffers between Senator FRIST and Senator REID, Democrats have made an offer to avoid a vote—on the nuclear option—by confirming one or perhaps two of the four filibustered judges: Priscilla Owen, Janice Rogers Brown, William H. Pryor, or William Myers, with the choice to be selected by Republicans. An offer to confirm any one or two of four nominees is an explicit concession that each is qualified for the court and that they are being held hostage as pawns in a convoluted chess game which has spiraled out of control.

If the Democrats really believe each one is unqualified, a deal for confirmation for any one of them is repugnant to the basic Democratic principle of individual fair and equitable treatment and violates Senators' oaths on the constitutional confirmation process. Such a deal on confirmations would only confirm public cynicism about what goes on in Washington behind closed doors.

Instead, let the Senate consider each of the four without the constraints of party-line voting. Let both leaders release their caucuses from the straitjacket of party-line voting and even encourage Members to vote their consciences on these issues of great national importance. Let us revert to the tried-and-tested method of evaluating each nominee individually.

In a "press availability" on March 10, Senator REID referred to the nuclear option and said:

> If it does come to a vote I ask Senator Frist to allow his Republican colleagues to follow their conscience. Senator Specter recently said that Senators should not be bound by Senate loyalty—they should be bound by Senate loyalty rather than by party loyalty on a question of this magnitude. I agree.

But Senator REID did not make any reference to my urging him to have the Democrats reject the party-line straitjacket on filibustering. If both parties were to vote their consciences without regard to the party line, I believe that the filibusters would disappear in the context of the current constitutional crisis and many, if not most, Republicans who do not like the constitutional/nuclear option would abandon it.

The fact is that any harm to the Republic, at worst by confirming all of the pending circuit court nominees, is infinitesimal compared to the harm to the Senate whichever way the vote would turn out on the nuclear/constitutional option. None of these circuit judges could make new law because all are bound and each agreed on the record to follow U.S. Supreme Court decisions. While it is frequently argued that circuit court opinions are, in many cases, final because the Supreme Court grants certiorari in so few cases, circuit courts sit in panels of three so that no one of these nominees could unilaterally render an egregious decision, since at least one other circuit judge on the panel must concur.

If a situation does arise where a panel of three circuit judges makes an egregious decision, it is subject to correction by the court en banc, and then the case may always be reviewed by the Supreme Court if it is really egregious.

While it would be naive to deny that the quid pro quo or log rolling are not frequent congressional practices, these approaches are not the best way to formulate public policy or make governmental decisions. The Senate has a roadmap to avoid the nuclear winter in a principled way. Five of the controversial judges can be brought up for up-or-down votes on this state of the record, and the others are entitled to individualized treatment on the filibuster issue. It may be that the opponents of one or more of these judges may persuade a majority of Senators, including some Republican Senators, that confirmation should be rejected. A group of Republican moderates has, with some frequency, joined Democrats to defeat a party-line vote. The President has been explicit in seeking only up-or-down votes as opposed to commitments on confirmation.

The Senate has arrived at this confrontation by exacerbation, as each side ratcheted up the ante in delaying and denying confirmation to the other party's Presidential nominees. The policy of conciliation and consultation could diffuse the situation. One good turn deserves another. If one side realistically and sincerely takes the high ground, there will be tremendous pressure on the other side to follow suit. So far, offers by both sides have been public relations maneuvers to appear reasonable, to avoid blame and place it elsewhere.

Meanwhile, the far left and the far right are urging each side to the shun compromise. One side shouts "pull the trigger." The other side retorts, "filibuster forever." Their approach would lead to the extreme judges at each end of the political spectrum as control of the Senate inevitably shifts from one party to another.

Late yesterday afternoon, a group of so-called moderate Senators met with the leaders, and one idea which came from one of the Democratic Senators was to consider the five nominees—Owen, Brown, Pryor, and Myers, along with Judge Saad of Michigan—and then to either have three confirmed, two rejected; or two confirmed and three rejected.

The suggestion was then made that if all of the nominees could get a floor vote, that there might be a whip check to determine whether two might not pass on a rollcall vote, which is the way the Senate functions. That consideration I think is worth further exploration.

A well-known story is told about Benjamin Franklin. Upon exiting the Constitutional Convention in Philadelphia, he was approached by a group of citizens asking what sort of a government the constitutional delegates had created. Franklin responded, "A Republic, if you can keep it."

In this brief response, Franklin captured the essential fragility of our great democracy. Although enshrined in a written Constitution and housed in granite buildings, our government is utterly dependent upon something far less permanent, the wisdom of its leaders. Our Founding Fathers gave us a great treasure, but like any inheritance, we pass it on to successive generations only if our generation does not squander it. If we seek to emulate the vision and restraint of Franklin and the Founding Fathers, we can hand down to our children and grandchildren the Republic they deserve, but if we turn our backs on their example, we will debase and cheapen what they have given us.

At this critical juncture in the history of the Senate, let us tread carefully, choose wisely, and prove ourselves worthy of our great inheritance. Since the United States and the Union of Soviet Socialist Republics avoided a nuclear confrontation in the Cold War by concessions and confidence-building measures, why should not Senators do the same by crossing the aisle in the spirit of compromise?

Mr. President, I now turn to the specifics on the nomination of Texas Supreme Court Justice Priscilla Owen. She comes to the floor of the Senate for consideration with an outstanding academic record. She attended the University of Texas in 1972 and 1973. She graduated from Baylor University in 1975, cum laude, from the Baylor University School of Law in 1977, cum laude, evidencing an excellent academic record. She has a fine professional record with a practice of Sheehy, Lovelace and Mayfield, where she was a law clerk in 1976 and 1977, and then an associate and partner at Andrews, Kurth, Campbell and Jones from 1978 to 1994. From 1995 to the present, she has been a justice on the Supreme Court of Texas.

She was at the top of her law school class; in 5 years, completed law school and undergraduate, contrasted with the usual 7. She had the highest score on the statewide bar exam and was reelected with 84 percent of the vote and endorsement of every major newspaper.

The American Bar Association has unanimously rated her well qualified.

In the course of her work on the Texas Supreme Court, she has handed down many decisions which have demonstrated real analytical and real legal scholarship. She has been criticized on some of the decisions which she has rendered on the so-called judicial bypass.

Under the a Texas law, constitutional under U.S. Supreme Court precedent, a minor may have an abortion if there is notice to at least one parent.

Justice Owen has been criticized, with a very broad brush, for being hostile to Roe v. Wade, which on the record is simply not true.

In the case of Jane Doe (I), in the year 2000, she voted with the majority but filed a concurring opinion. The language she used was that the legislature intended for the minors to learn about arguments "surrounding abortion", and not "against" abortion. So, in handing down this decision, she was not urging that minors making their decision on obtaining an abortion hear the arguments against abortion, but rather "surrounding," which would obviously state both sides.

On cases where she has denied judicial bypass, they have been in the context of sound judicial principle, where she has refused to overturn the findings of the lower court judge who had access to the witnesses and could see and hear exactly what was going on and had a much better basis for fact-finding.

Illustrative of this position is the case captioned In re Doe (II), a 2000 Supreme Court of Texas decision where the court reversed and ordered a judicial bypass.

It is true Justice Owen was one of three justices who dissented, but she did so because she concluded that the majority improperly reweighed the evidence and usurped the rule of the trial judge. As a sound legal principle, the trial judge is entitled to deference on the findings of fact because the trial judge, rather than the appellate court, has heard the witnesses.

There are other notable cases where Justice Owen has handed down thoughtful, informed, scholarly opinions. They have not pleased everyone, but that is what judges do. One case is particularly worthy of note, a case captioned Operation Rescue National v. Planned Parenthood of Houston and Southwest Texas. In this case, doctors and abortion clinics brought action for civil conspiracy, tortious interference, and invasion of privacy and property rights against anti-abortion groups and protesters, seeking injunctive relief and damages. The trial court entered a $1.2 million judgment on jury verdict and a permanent injunction creating buffer zones around certain clinics and homes in which protesters could not protest.

The issue was whether the jury verdict was based on a proper jury charge and whether the injunction infringed on the protesters' freedoms of expression. Justice Owen joined the 7 to 2 majority decision which affirmed the jury verdict was proper under Texas law.

The decision also upheld the injunction while modifying it in certain respects. Under the majority's opinion, a limited number of peaceful protesters could approach patients and act as sidewalk counselors who would seek to discuss the issues surrounding abortions with patients, as long as such discussions were ceased upon request of the patient. The majority concluded this type of protesting would not endanger patients' health and safety.

Following Justice Owen's nomination to the Fifth Circuit, pro-choice groups criticized the ruling as hostile to abortion rights. But at the time the ruling was handed down, Planned Parenthood of Houston and Southwest Texas hailed it as "a complete and total victory."

This case is illustrative of some of the difficult issues involved in that kind of a factual situation. In enjoining this kind of harassing practice, subject to certain limitations, and upholding a verdict in excess of $1 million, Justice Owen exercised judicial discretion and sensibility in arriving at the decision.

In the case of Ft. Worth Osteopathic Hospital, Inc. v. Reese, Justice Owen handed down decisions demonstrating respect for Roe v. Wade under a factual situation where plaintiffs brought wrongful death and survival action on behalf of a viable fetus who died in utero against the treating physicians and the hospital and also brought medical negligence claims in their individual capacities.

Justice Owen joined the Texas Supreme Court's 8-to-1 decision holding that the Texas wrongful death and survival statutes do not violate the equal protection clause by prohibiting parents of a stillborn fetus from bringing those claims. Justice Owen, in joining in that decision, was explicitly following the precedent of Roe v. Wade.

There is a series of cases which illustrates judicial temperament, judicial demeanor, a sound judicial philosophy, which I ask unanimous consent to have printed in the RECORD: First, *Chilkewitz* v. *Hyson*, 22 S.W.3d 825 (Tex. 1999); second, *In Re D.A.S.*, 973 S.W.2d 296 (Tex. 1998); third, *Abrams* v. *Jones* 35 S.W.3d 620 (Tex. 2000); fourth, *Quick* v. *City of Austin*, 7 S.W.3d 109 (Tex. 1999); fifth, *Hernandez* v. *Tokai Corporation*, 2 S.W.3d 251 (Tex. 1999); sixth, *NME Hospitals* v. *Rennels*, 994 S.W.2d 142 (Tex. 1999); next, *Kroger Company* v. *Keng*, 23 S.W.3d 347 (Tex. 2000); and, *Crown Life Insurance Company* v. *Casteel*, 22 S.W.3d 378 (Tex. 2000), all of which show Justice Owen to be a very sound jurist and worthy of confirmation to the Court of Appeals for the Fifth Circuit.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHILKEWITZ V. HYSON

22 S.W.3D 825 (TEX. 1999)

Facts: Plaintiff brought suit against defendant doctor for medical practice. After the statute of limitations ran, the defendant moved for summary judgment on the basis that he was a professional association and because the plaintiff had not claimed the professional association as a defendant, the statute of limitations barred suit against him.

Issue: Whether the Texas Rules of Civil Procedure permitted a suit against a party's assumed name, in this case the doctor, if the plaintiff did not name the defendant's association as a defendant in the suit.

Outcome: A unanimous Texas Supreme Court, in an opinion written by Justice Owen, held that the rules of civil procedure permitted suit against a party in its assumed name. The court also held that there was evidence in this case that the defendant's professional association conducted business in the name of the individual doctor and the plaintiff's naming of the defendant's assumed name in the complaint was sufficient.

Note: Justice Owen stood up against formalism and allowed a Plaintiff to bring suit for medical malpractice.

IN RE D.A.S

973 S.W.2D 296 (TEX. 1998)

Facts: The defendants, two juveniles, challenged a ruling that held the Anders procedure, which requires defense counsel, if they find a case to be wholly frivolous, to request permission to withdraw and submit a briefing to the court with anything in the record that might arguably support the defendant's appeal, was inapplicable in juvenile cases. The defendants requested mandamus relief.

Procedural History: The Court of Appeals rejected the challenge and refused to allow the defense counsel to withdraw.

Issue: Whether the Anders procedure applies to juvenile cases.

Outcome: Justice Owen, writing for the 6–2 majority, held that the Anders procedure applied to juvenile proceedings because Anders protected the juveniles' statutory right to counsel on appeal. Justice Owen found that extending Anders to juvenile appeals properly balanced a juvenile's statutory right to counsel against the appointed counsels' obligation not to prosecute frivolous appeals. She also determined that Anders provided the juveniles with more protection because both the attorney and the court of appeals would have to determine whether there were any arguable issues on appeal.

Dissent: The dissent argued that mandamus relief was inappropriate. Judicial review through petition for review from the court of appeals' final decision was an adequate remedy for the juvenile defendants.

ABRAMS V. JONES

35 S.W.3D 620 (TEX. 2000)

Facts: In the midst of an acrimonious divorce, the plaintiff father sued his daughter's psychologist for access to his minor daughter's medical records.

Issue: Whether a parent has judicial recourse under Tex. Health & Safety Code Ann. § 611.0045(e) when a treating psychologist refuses to allow another psychologist, selected by the challenging parent, access to the minor-child's medical records.

Outcome: Justice Owen, writing for the 7–2 majority, reversed and denied access of the medical records to the father. Justice Owen held that the Texas legislature imposed some limits on the parent's right of access to confidential mental health records. Justice Owen found that the psychologist had presented sufficient evidence that the child would be harmed if the records were released to the father.

QUICK V. CITY OF AUSTIN

7 S.W.3D 109 (TEX. 1999)

Facts: Landowners challenged the City of Austin's Save Our Springs Ordinance, a water pollution control measure enacted in 1992. The landowners contested the ordinance because it was arbitrary, unreasonable, and inefficient. They also asserted that the Ordinance was void because it was enacted without a public hearing, it impermissibly regulated the number, use, and size of buildings in the City's extraterritorial jurisdiction, and the Texas Natural Resource Conservation Commission had not approved it.

Issue: Whether the City of Austin's "Save Our Springs" Ordinance was a valid exercise of city authority.

Outcome: Justice Owen joined the 5–4 majority, which held that the Ordinance was a valid legislative act that did not need to be approved by the Texas Natural Resource Conservation Commission to become effective and enforceable. While the Ordinance clearly affected land use, its methods were nationally recognized limitations and thus furthered the stated goal of protecting and preserving a clean water supply. The Court found that the Legislature did not limit the city's authority to set the ordinance's effective date; therefore, Austin was not required to obtain permission of the Commission before enacting the ordinance.

HERNANDEZ V. TOKAI CORP.

2 S.W.3D 251 (TEX. 1999)

Facts: Minor child misused a butane lighter and was injured. Suit brought against manufacturer and distributor of the lighters. The trial court granted summary judgment for the lighter manufacturer. On appeal, the 5th Circuit Court of Appeals submitted a certified question as to whether the action could proceed under Texas law.

Issue: Whether a defective-design products liability claim against the product's manufacturer may proceed if the product was intended to be used only by adults, if the risk that children might misuse the product was obvious to the product's manufacturer and to its intended users, and if a safer alternative design was available.

Outcome: The 5th Circuit Court of Appeals submitted a certified question as to whether the action could proceed under Texas law. Justice Owen joined the unanimous opinion of the court, holding that a defective-design claim may proceed for an injury caused by a product that did not have a child-resistant mechanism that would have prevented or substantially reduced the risk of injury from a child's foreseeable misuse if, with reference to the product's intended users, the design defect made the product unreasonably dangerous, a safer alternative design was available, and the defect was the cause of the injury.

Note: Justice Owen held that a manufacturer of cigarette lighters has a duty to make certain that its products are child resistant—even though the lighters were only meant to be used by adults.

NME HOSPITALS, INC. V. MARGARET A. RENNELS, M.D.,

994 S.W.2D 142 (TEX. 1999)

Facts: The plaintiff doctor sued NME Hospitals for unlawful employment discrimination under the Act and conspiracy to violate the Act. The defendant hospital filed for summary judgment because it was not her direct employer under the Texas statute.

Procedural History: The lower trial court granted summary judgment for the hospital. The appeals court reversed.

Issue: Whether a plaintiff may sue someone other than her own employer for an unlawful employment practice under Texas Labor Code §21.055, the Texas Commission on Human Rights Act

Outcome: In a case of first impression, the Texas Supreme Court unanimously held that to have standing under the Texas statute the plaintiff must show: (1) that the defendant is an employer within the statutory definition of the Act; (2) that some sort of employment relationship exists between the plaintiff and a third party; and (3) that the defendant controlled access to the plaintiff's employment opportunities and denied or interfered with that access based on unlawful criteria. Finding that the plaintiff met these criteria, the Court held that the plaintiff had standing to sue the client of her employer for unlawful employment practice.

KROGER CO. V. KENG

23 S.W.3D 347 (TEX. 2000)

Facts: Plaintiff brought suit against the defendant grocery store, a workers' compensation nonsubscriber, alleging that the store's negligence proximately caused her to suffer injuries during an on the job accident. Kroger denied the allegations and responded that plaintiff's conduct either caused or contributed to the incident, entitling Kroger to protection under the comparative responsibility statute.

Issue: Whether a non-subscriber to workers' compensation insurance is entitled to a jury question regarding its employee's alleged comparative responsibility for his or her injuries.

Outcome: Justice Owen joined the Texas Supreme Court's unanimous opinion, affirming the court of appeals' decision and holding that a non-subscribing employer was not entitled to a jury question on its employee's alleged comparative responsibility. The court relied on the legislative intent of Texas' comparative responsibility statute and deference to the legislature in reconciling a Texas Court of Appeals' circuit split.

Note: Justice Owen ruled for the plaintiff and a plaintiff's right not to have her workers compensation claims reduced for comparative negligence.

CROWN LIFE INSURANCE CO. V. CASTEEL

22 S.W.3D 378 (TEX. 2000)

Facts: Casteel sold insurance policies as an independent agent of Crown Life Insurance Company. One of the policies sold by Casteel led to a lawsuit by policyholders against Casteel and Crown. In that lawsuit, Casteel filed a cross-claim against Crown for deceptive trade practices. The trial court rendered judgment that Casteel did not have standing to bring suit against Crown, holding that Casteel was neither a "person" as defined under Article 21.21 of the Texas Insurance Code, nor a "consumer" under the Deceptive Trade Practices Act (DTPA), and therefore lacked standing to bring suit under those statutes. The court of appeals held that Casteel was a "person" with standing to sue Crown under Article 21.21, but that Casteel did not have standing to sue under the incorporated DTPA provisions because he was not a "consumer."

Issue: Whether an insurance agent is a "person" with standing to sue an insurance company under Article 21.21 and whether an insurance agent must also be a "consumer" to have standing to recover under Article 21.21 for incorporated DTPA violations.

Outcome: Justice Owen joined a unanimous Texas Supreme Court in holding that an insurance agent does not have standing to sue as "consumer" for violations of the DTPA. However, the court also held that despite not having standing to bring suit under the DPTA, an insurance agent is a "person" with standing to sue an insurance company for violations of Article 21.21 of the Insurance Code.

Note: Illustrates Justice Owen's willingness to rule against the insurance and allow the plaintiff to bring suit.

Mr. SPECTER. In conclusion, Mr. President, I know my time is nearly up. I had a chance to talk at some length with Justice Priscilla Owen. She is an intelligent, articulate lawyer who has had very substantial experience on the Supreme Court of her State for some 10 years. She has been endorsed by 84 percent of the electorate of Texas. She has recognized the Supreme Court decision in Roe v. Wade and is bound to apply it and has recognized its principles and is not at all hostile to Roe v. Wade.

In the 24 years and 4 months I have served on the Judiciary Committee, I have voted on many, many, many circuit judges. If Priscilla Owen had come before this Senate in any other context for consideration, except get-even time in response to the way President Clinton's nominees were treated, with some 70 rejected, in a spiraling context which started the last 2 years of President Reagan's administration, had she come here at any other time, she would have moved through this Senate on a voice vote or been unanimously confirmed.

I suggest a careful reading of her record and a careful analysis, aside from the tumult and turmoil of the Senate today, supports her confirmation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, how much time is available to the Senator from Vermont?

The PRESIDING OFFICER. There is 39 minutes.

Mr. LEAHY. I thank the Presiding Officer.

It is my understanding the distinguished Senator from Pennsylvania did not use extra time?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. Mr. President, I recommend all the Republicans and Democrats listen to the speech given by the distinguished Senator from Pennsylvania. I said to him earlier this morning if it were he and I who were allowed to work this out, we could work it out probably in less than an hour. I said the same thing to the President and to our two leaders.

Hopefully everyone understands the significance of this debate and what the Republican leader, the majority leader is doing. He has decided to trigger the nuclear option. That is what it is. This nuclear option is something any Senate majority could have done any time over the past 50 years. It boils down to the Republican Senate leader declaring the Senate rules governing filibusters are out of order.

The nonpartisan Senate Parliamentarian has indicated that would violate the Senate rules. It would. The nonpartisan Congressional Research Service has studied this and concluded it is unprecedented. Why? Because it amounts to breaking the rules.

We are talking about judging whether nominees will be fair and impartial judges who will follow the law and the majority is willing to break the rules to do that. When you have a slim majority and are willing to use parliamentary brute force, if you want to break the rules, you can. It does not make it right. It makes it wrong, but you can do it.

The American people ought to recognize this for what it is, an abuse of power to advance a power grab. It is an effort by the White House and the Republican Senate majority to undercut the checks and balances of the Senate. They intend to use majority power to override the rights of the minority.

Actually, it is not an isolated effort. It is part of a sustained effort by this administration and partisan operatives in the Congress to consolidate power in one branch, the executive branch, and ignore our constitutional history of three separate branches acting as checks and balances on each other. It is an effort at one-party rule. It undercuts the rights of the minority in the Senate, it undermines the role of the Senate as a check on the executive, and it leads to a Republican rubberstamp on a less independent judiciary.

The constitutional protections of the American people are at stake in this debate, not just someone's political future, the constitutional protections of the American people. At stake are the protections provided for the American people by the judicial branch against overreaching by the political branches; by the Senate against an aggressive executive branch, and by the minority against the tyranny of the majority.

As this debate begins, I urge the American people to be involved because it is their rights that are at stake. It is the independence, fairness, and nonpartisan protection of the judiciary that protects their rights that is being threatened. It is a constitutional check that the Senate was intended by the Founders to keep the executive from acting like a king, that is being threatened by curtailing the rights of the minority.

This is an exercise in breaking the rules to change the rules. Note that as this debate begins, it begins in accordance with the Senate rules, including rule XXII, the longstanding rule the

Republican majority intends to override by the end of this process by parliamentary brute force.

The Senate is now being threatened with a fundamental change through a self-inflicted wound. "Master of the Senate" author Robert Caro recalled an important chapter in the Senate and the Nation's history. Consider this and contrast it with what is happening here today.

When Senator Lyndon Johnson of Texas left the Senate, he was the most powerful majority leader in the history of this country. When he was elected Vice President with President Kennedy and he was preparing to leave the Senate, he told his protege and successor, Senate Mansfield of Montana, that he, Johnson, would keep attending the Democratic luncheons and help his successor as majority leader in running the Senate. Senator Mansfield said no, Vice President Johnson was no longer a Member of the Senate, but an officer of the executive branch and by means of that office was accorded the privilege of presiding over the Senate.

What a contrast Senator Mike Mansfield's respect for the separation of powers and checks and balances is from those in power today. I say that as one who was privileged to serve here with Senator Mansfield.

Instead, this White House took an active role in naming the present Senate leadership and this White House regularly sends Vice President CHENEY and Karl Rove to Republican caucus luncheons to give the Republican majority its marching orders. What a difference from the days of Mike Mansfield and Lyndon Johnson.

The current Republican majority leader, who is my friend, announced that he intends to leave the Senate next year. He made no secret of his intent to run for the Republican nomination for President. With that in mind, he is apparently prepared to become the first majority leader in the history of the Senate whose legacy would be a significantly weakened Senate. Every other majority leader has left the Senate stronger than it was or at least as strong as it was, as a check and balance against an executive. This would be the first time it would be left weaker.

Many, unfortunately, on the other side—many but not all—are apparently ready to sacrifice the Senate's role in our constitutional system of checks and balances. It is my hope that our system of checks and balances will be preserved with a handful of Republican Senators voting their conscience and standing up to the White House and its pressure. I know the zealotry of the narrow special interest leaders who are demanding this mutilation of the Senate's character. I am one of many who have been the target of their brutal and spurious personal attacks.

My hope is that a number of the fine women and men of both parties with whom I am privileged to serve as a custodian of our Nation's liberties will act in the finest traditions of the Senate. One of their number has come to this floor in recent days to remind all Senators of senatorial profiles in courage. Sadly, it is that courage that will be necessary to avert the overreaching power grab now underway.

There have been other recent threats to our system of government. Republican partisans in the House, in a standoff with President Clinton, shut down the Government in 1995. A few years later, they impeached a popularly-elected President for the first time in our history. Fortunately, the Senate stood up and functioned as it was intended during that trial and rejected those efforts. I was privileged to be one of those who worked with both sides to make sure that trial ended the way it did.

In 2000, a divided nation saw an election decided by the successful litigation of the Republican Party and the intervention of a narrow activist decision of the Supreme Court to stop vote counting in Florida. Then we witnessed Senator JEFFORDS virtually driven out of the Republican caucus. We have seen an aggressive executive branch that has been aided by a compliant congressional majority.

If the Senate's role in our system of coequal branches of the Federal Government is to be honored, it is going to take Republican Senators joining others in standing up for the American people's rights, the independence of the judiciary, the rules of the Senate, and the rights of the minority.

During the last several days, we have seen the Democratic leader make offer after offer to head off this showdown. We have heard stirring speeches from Senator BYRD, Senator INOUYE, Senator KENNEDY, Senator BIDEN, Senator BAUCUS, Senator MURRAY, Senator BOXER, Senator FEINSTEIN, and others, who have come to this floor to set the record straight. But this is a setting in which Democratic Senators alone will not be able to rescue the Senate and our system of checks and balances from the breaking of the Senate rules being planned. If the rights of the minority are to be preserved, if the Senate is to be preserved as the greatest of parliamentary bodies, it will take at least six Republicans standing up for fairness and for checks and balances.

Now I know from my own conversations that a number of Republican Senators know in their hearts this nuclear option is the wrong way to go. I know Republican Senators, with whom I have had the privilege to serve for anywhere from 2 years to more than 30 years, know better. I hope more than six of them will withstand the political pressures being brought upon them and do the right thing and the honorable thing, and that they will put the Senate first, the Constitution first, but especially the American people first. History and those who follow us will carefully scrutinize these moments and these votes. Those voting to protect the rights of the minority will be on the right side of history.

Like the senior Senator from Pennsylvania, I remember President Kennedy's publication of "Profiles in Courage." Along with so many Americans, I remember reading about those Senators who stood up to their party to vote against the conviction of President Andrew Johnson. More recently, I witnessed the strength it took for my friend, Senator Mark Hatfield, a distinguished Republican, to cast a vote of conscience against amending the Constitution. He did it under intense and unfair pressures. I believe we are now seeing the current Senate leadership taking the Senate to another precipice. It will take the votes of independent and conscientious Republican Senators, such as Senator Hatfield, to prevent the fall.

The Framers of the Constitution warned against the dangers of factionalism undermining our structural separation of powers. Some in the Senate have been willing to sacrifice the historic role of the Senate as a check on the President in the area of nominations.

Under pressure from the White House, over the last 2 years we saw the former Republican chairman of the Senate Judiciary Committee lead Senate Republicans in breaking with longstanding precedent, in breaking the rules, even committee rule IV, which was put in there at the request of Republicans to protect minorities. But when the Republicans took the majority, they violated the rules, longstanding precedent and Senate tradition. With the Senate and the White House under control of the same political party, we have witnesses committee rules broken or misinterpreted away. The broken committee rules and precedent include the way that home-state Senators were treated, the way hearings were scheduled, the way the committee questionnaire was unilaterally altered, and the way the Judiciary Committee's own historic protection of the minority by rule IV was repeatedly violated. In the last Congress, the Republican majority of the Judiciary Committee destroyed virtually every custom and courtesy that used to help create and enforce cooperation and civility in the confirmation process. I ask unanimous consent to have printed in the RECORD a recent article from the Wall Street Journal noting some of these developments.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 3, 2005]

WAR OVER JUDGES IS NO LONGER A SUBTLE FIGHT

WASHINGTON.—Just 10 years ago, a Senate minority had several avenues for affecting a president's judicial nominations, from closed-door maneuvers within the Judiciary Committee to quiet negotiations with the White House.

Now there is only one sure way, and it isn't quiet at all: the filibuster.

The gradual disappearance of other levers of influence is an often overlooked cause of the battle over judicial nominations that is raging in Washington. Both parties have played a part, with the result that the Senate stands on the brink of a governmental crisis.

Some analysts say the consequences could be deep and lasting. Republicans are threatening to choose the "nuclear option" of using Senate rules to bar judicial filibusters. In the short term, Democrats have threatened to bottle up Republican legislative priorities. But over the long term, some analysts say, the ban could dilute the Senate's power and smooth the way for judicial choices reflecting the dominant ideological blocs within the party holding the White House.

The filibuster once was a seldom-used threat that forced competing political camps to compromise—"the shotgun behind the door," says Charles Geyh, a law professor at Indiana University. If it is disarmed, he adds, "The long-term impact is pretty scary. These devices have been stabilizing influences on the process for a long time."

The chipping away at minority influence began in the 1970s when Democratic Sen. Ted Kennedy of Massachusetts, then chairman of the Senate Judiciary Committee, attempted to dilute the ability of a senator to employ a common tactic for blocking unwelcome nominations. It was called the "blue slip"—named for the color of the paper used by the chairman to inform senators not on the committee that the White House had submitted a judicial nominee from their states.

A senator could object by checking off his or her disapproval or by refusing to return the blue slip to the chairman. For decades, opposition from a home-state senator was enough to kill a nomination. As a result, the blue slip was most commonly employed as a lever for forcing negotiations with the White House.

As President Jimmy Carter sought to put his stamp on the federal bench in the late 1970s, Mr. Kennedy proposed a new blue-slip policy. It allowed the Judiciary chairman to override a home-state senator's objection if he concluded that opposition was based on race or sex. The Massachusetts liberal met only mixed success, however, as other senators continued to respect the traditional blue-slip process.

Two decades later, with Republicans in charge of the Judiciary Committee, they began using their clout to exercise what Democrats called a "shadow filibuster" by simply refusing to give about 60 of President Bill Clinton's judicial candidates a hearing or vote on the Senate floor.

Republicans argue that the White House shared blame for some of the delays, saying some nominees hadn't undergone background checks when they were forwarded to the committee. But Republican Sen. Mitch McConnell of Kentucky recently conceded on the Senate floor that the Democrats have "a legitimate complaint" about how the Clinton appointees were treated.

In 2003, Republican Judiciary Chairman Orrin Hatch of Utah changed the practice further. He proceeded with hearings on Bush judicial nominees even if they were vigorously opposed by senators from the nominee's home state.

That change reduced the need for the White House to negotiate with the Senate. The result was diminished consultation between the president and the minority within the chamber, a practice that started with President George Washington, and extended through the Clinton administration. Mr. Clinton consulted with Mr. Hatch even on his two U.S. Supreme Court nominees, Ruth Bader Ginsburg and Stephen Breyer.

In the last Congress, five judicial nominees had blue-slip problems, including four receiving negative recommendations from both of Michigan's Democratic senators. Even so, all five of them were approved by the committee on party-line votes and advanced to the full Senate, according to committee records. Democrats blocked final votes on all of them.

Before the current stalemate, the filibuster had been used effectively against a judicial nominee just once. In 1968, a minority coalition of Republicans and Southern Democrats blocked President Lyndon B. Johnson's attempt to elevate Supreme Court Justice Abe Fortas, a supporter of civil rights and the Great Society programs, to the chief justice's chair. After a cloture vote to end the filibuster failed, 45-43, Mr. Fortas asked the president to withdraw his name.

Republicans today discount the significance of that vote, arguing it wasn't clear Mr. Fortas would have been approved by the full Senate if the filibuster had been overcome. By contrast, there is little doubt that President George W. Bush's contested nominees could attract a majority in the chamber, where Republicans hold 55 seats.

Yet even in that 1968 debate, some senators recognized the possibility that the Fortas stalemate would echo in future debates. "If we, for the first time in our history, permit a Supreme Court nomination to be lost in a fog of a filibuster," cautioned Democratic Sen. Philip Hart of Michigan, "I think we would be setting a precedent which would come back to haunt our successors."

After the Fortas battle, senators gradually began reaching for the filibuster weapon. According to a 2003 analysis by the Congressional Research Service, the Senate held 17 votes to halt filibusters on judicial nominees between 1969 and 2002, although many were intended to force negotiations on legislation or judicial candidates rather than defeating the nominees.

None of the filibusters succeeded until the Democrats managed to block 10 of Mr. Bush's first-term appellate-court nominees. After his re-election, Mr. Bush resubmitted the names of seven of those candidates. Those are the nominees in contention today.

Mr. LEAHY. We suffered through 3 years during which Republican staff stole Democratic files off the Judiciary computer servers. It is as though those currently in power believe they are above our constitutional checks and balances and they can reinterpret any treaty, law, rule, custom, or practice. If they don't like it or they find it inconvenient, they set it aside. It was tragic that the committee that judges the judges did not follow its own rules but broke them to achieve a predetermined result.

It was through these means that divisive and controversial judicial nominees were repeatedly brought before the Senate in the last Congress. It was through these abuses that the majority acted as handmaidens to the administration to create confrontation after confrontation over controversial nominees. They dragged the judiciary, which should be above politics, into the political thicket and did so for partisan gain.

I applaud the Senator from Pennsylvania who has worked to bring us back in the Senate Judiciary Committee to following our rules in the comity that makes it work. I regret that filibusters have been necessary in the past 2 years. I wish Republicans would not have followed their years of secret holds and pocket filibusters of more than 60 of President Clinton's nominees, judicial nominees, and more than 200 of his executive nominees. I wish they would not have flipped the script once a Republican became President and dismembered the rules and traditions of the Judiciary Committee.

I have urged consultation and cooperation over the last 4 years. I had the privilege of chairing the Senate Judiciary Committee for 17 months with President Bush in the White House, and we confirmed 100 of President Bush's judicial nominees, including a number of controversial nominees, including some I was opposed to. I voted against them, but I made sure they got hearings.

The President and his enablers in the Senate cannot seem to take "yes" for an answer. The Senate has confirmed 208 of his judicial nominees and we are withholding consent on 5.

He rejects our advice, but he demands our consent. That is wrong, and that goes against the Constitution. The Constitution speaks of advice and consent, not order and rubberstamp.

What the White House ignores is that President Bush completed his first term with the third highest total of confirmed judges in our history—in our history—and more Federal judges on the courts than at any time in our history. The truth is, Senate Democrats have cooperated extensively in confirming more than 95 percent of this President's judicial nominees—208 of them.

George Washington, the most popular and powerful President in our history, was not successful in all of his judicial nominations. The Senate rejected President Washington's nomination of John Rutledge to be Chief Justice of the Supreme Court. For example. And certainly I would hope that the current President would not assume he stands higher in our history books than George Washington.

The truth is, in President Bush's first term, the 204 judges confirmed were more than were confirmed in either of President Clinton's two terms, more than during the term of this President's father, and more than Ronald Reagan's first term when he had a Republican majority in the Senate. By last December, we had reduced judicial vacancies from the 110 vacancies I inherited in the summer of 2001 to its lowest level, lowest rate, and lowest number in decades, since President Ronald Reagan was in office.

Unfortunately, this President has chosen confrontation over cooperation. In fact, it is mid-May, and he has only sent one new nomination to the Senate all year. Im connection with that nomination, Democrats on the Judiciary Committee have written to the Chairman urging a prompt hearing. With the support of the nominee's home-state Senators, one a Democrat and one a Republican, the nomination of Brian Sandoval will be added to the long list of judicial confirmations.

But that leave 30 judicial vacancies without nominations. Back on April 11, the Democratic leader and I wrote to the President urging him to work with Senators of both parties to identify nominees for these 30 vacancies. To date, he has not responded. Instead he, his Vice President, his Chief of Staff and his spokesperson continue to prod the Senate toward triggering the nuclear option. I ask unanimous consent to have that letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 11, 2005.

Hon. GEORGE W. BUSH,
President,
Washington, DC.

DEAR MR. PRESIDENT: There are currently 28 vacancies on the Federal courts of appeals and district courts for which you have not forwarded nominees to the Senate. We write to offer to help you obtain consultation and advice from the Senate on these vacancies so that you may select nominees who will generate strong, bipartisan support.

This evening the Senate is scheduled to consider your nomination of Paul Crotty to become a federal judge in New York. We expect Mr. Crotty to be confirmed with the support of his home-state Senators and an overwhelming vote. We have each been urging you for some time to work with the Senate to fill federal judicial vacancies with qualified, consensus nominees. It is now imperative that we do so.

When you met with Russian President Putin earlier this year, you noted that checks and balances and an independent judiciary are among the fundamental requirements of democracy. We agree. We therefore urge you to make clear to Senate Republican leaders that you do not favor the so-called "nuclear option" which would remove an important check on executive power. Instead, let us work together to identify consensus judicial candidates. Let us preserve our independent judiciary, which is the envy of the world.

Respectfully,

HARRY REID,
Democratic Leader.
PATRICK LEAHY,
Ranking Member.

Mr. LEAHY. When it comes to the judiciary, the independent judiciary, the branch of Government always looked at with most favor and most respect by Americans, wouldn't it be good if the President, in making his nominations, would act as a uniter, not as a divider? Instead, the President has acted as a divider, not a uniter. He has sent the Senate divisive and controversial nominees. When the Senate debates them and withholds consent, he stubbornly renominates them over and over again. Rather than work with us to find consensus nominees, which usually pass this Senate 100 to nothing, he disparages us and exploits the issue as a partisan matter.

Under our Constitution, the Senate has an important role in the selection of our judiciary. The brilliant design of our Founders established the first two branches of Government would work together to equip the third branch to serve as an independent arbiter of justice. As George Will once wrote: "A proper constitution distributes power among legislative, executive and judicial institutions so that the will of the majority can be measured, expressed in policy and, for the protection of minorities, somewhat limited."

The structure of our Constitution and our own Senate rules of self-governance are designed to protect minority rights and to encourage consensus. Despite the razor-thin margin of recent elections, the majority party is not acting in a measured way but in complete disregard for the traditions of bipartisanship that are the hallmark of the Senate. When these traditions are followed, I can tell my colleagues from 31 years of experience, the Senate works better, and the American people are better served. Instead, the current majority is seeking to ignore precedents and reinterpret longstanding rules to its advantage.

The practice of "might makes right" is wrong. The Senate's rules should not be toyed with like a playground game of King of the Hill, to be changed at the whim of any current majority.

The Senate majority leader seems intent on removing the one Senate protection left for the minority, the protection of debate in accordance with the longstanding tradition of the Senate and its standing rules. In order to remove the last remaining vestige of protection for the minority, the Republican majority is poised to break the Senate rules, violate the Senate rules, overturn the Senate rules, and end the filibuster by breaking those rules. They are intent on doing this—why?—to force through the Senate this President's most controversial and divisive judicial nominees.

As the Reverend Martin Luther King, Jr., wrote in his famous Letter From A Birmingham Jail:

> Let us consider a more concrete example of just and unjust laws.
>
> An unjust law is a code that a numerical or power majority group compels a minority group to obey but does not make binding on itself. This is difference made legal. By the same token, a just law is a code that a majority compels a minority to follow and that it is willing to follow itself. This is sameness made legal.

Fair process is a fundamental component of the American system of law. If we cannot have a fair process in these halls or in our courts, how will the resulting decisions be viewed? If the rule of law is to mean anything, it must mean that it applies to all equally. The rule of law must apply the same to Republicans and Democrats. The rule of law must apply the same to all Americans. And certainly the rule of law must apply on the floor of the U.S. Senate.

No man and no party should be above the law. That has been one of the strengths of our democracy. Our country was born in reaction to the autocracy and corruption of King George, and we must not forget our roots as a nation of both law and liberty. The best guarantee of liberty is the rule of law, meaning that the decisions of government are not arbitrary and that rules are not discretionary or enforced to help one side and then ignored to aid another.

Mr. President, nothing I will ever do in my life will equal the opportunity, the honor, the privilege to be one of the 100 serving in this Senate. But not one of this 100—who are privileged to serve at any given time to represent 280 million Americans—none of us owns the Senate. The Senate will be here once we leave. It is our responsibility to leave the Senate as strong as it was when we came in. It is our responsibility, our sworn responsibility, to leave the Senate the body that has always been a check and balance.

How can any Senator look himself or herself in the mirror if they weaken the Senate, if they allow the Senate to no longer be the check and balance it should be? Why would anyone want to serve here if they come to this body with that in mind?

James Madison, one of the Framers of our Constitution, warned in Federalist Number 47 of the very danger that is threatening our great Nation, a threat to our freedoms from within:

> [The] accumulation of all powers legislative, executive and judiciary in the same hands . . . may justly be pronounced the very definition of tyranny.

That is what they are trying to do, put all the power into one hand. All of us should know enough of history to know we should not do that.

George Washington, our great first President, reiterated the danger in his famous Farewell Address to the American People:

> The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism.

Now, our freedoms as Americans are the fruit of too much sacrifice to have the rules broken in the Senate, especially to break them in collusion with the executive branch. What ever happened to the concept of separation of powers? We all give great speeches on the separation of powers. Don't just give the speeches, do not just talk the talk, let's walk the walk.

The effort to appoint loyalists to courts in the hope that they will reinterpret precedents and overturn the very laws that have protected our most fundamental rights as Americans is base and wrong. The American people deserve better than what we have seen with the destruction of rule after rule by a majority willing to sacrifice the role of the Senate as a check and balance in order to aid a President determined to pack the Federal courts. It is the courts themselves that serve as the check on the political branches. Their independence is critical and must be preserved.

Look at what we are talking about, Mr. President. We have confirmed 208 judges. We are saying no to five. Is this a judicial crisis that should allow the majority to destroy the Senate? The record of 208 confirmations and reduction of judicial vacancies to an historic low provide no basis on which to break the rules of the Senate. The Democratic leader's efforts to make additional progress demonstrate there is no reason for the majority to take the drastic and irreversible step of ending protection of the minority through the tradition of extended debate in the Senate.

The White House and Senate Republican leadership's campaign for the nuclear option seeks to end the role of the Senate serving as a check on the executive. That is so shortsighted. It is so wrong. It is so unjustified. We fought a revolution in this country to have a Constitution that is designed to have the Senate provide balance and act as a check.

I will have more to say about these important matters and about the nomination that the Judiciary Committee previously rejected and that the Senate has previously debated as we proceed over the next several days. There is one other aspect of this matter I need to mention. I will say this in my individual capacity as a Senator from Vermont, as a man of faith, as a man who cares deeply about this institution, our country, our Constitution, our first amendment and our constitutional provision that does not allow a religious test for those who serve.

Supporters of a power-hungry executive have gone so far as to seek to inject an unconstitutional religious test into the debate. All Americans should fear this. They have characterized those who oppose the most extreme of the President's nominees as being against faith, against people of faith. They have called for mass impeachment of judges and other measures to intimidate the judiciary, to remove the independence of the judiciary. I commend the President for personally rejecting at least that demagoguery at a recent press conference. I wish he would go further and tell those making these charges and inflammatory claims to stop.

A Republican clergyman, Pat Robertson, said he believes Federal judges are "a more serious threat to America than Al Qaeda and the September 11 terrorists" and "more serious than a few bearded terrorists who fly into buildings" and "the worst threat America has faced in 400 years—worse than Nazi Germany, Japan, and the Civil War."

For shame. For shame. This is the sort of incendiary rhetoric that is paving the way to the nuclear option. It is wrong. It is destructive. Further, injecting religion into politics to claim a monopoly on piety and political truth by demonizing those you disagree with is not the American way.

As Abraham Lincoln has said:

> I know that the Lord is always on the side of the right, but it is my constant anxiety and prayer that I and this nation should be on the Lord's side.

He was so right. We all would do well spending a little more time wondering whether we are on God's side and less time declaring infallibly that He is on ours.

Those driving the nuclear option engage in a dangerous and corrosive game of religious McCarthyism in which anyone daring to oppose one of this President's nominees is being branded as anti-Christian or anti-Catholic or against people of faith.

Dr. Dobson of Focus on the Family said of me, "I do not know if he hates God but he hates God's people."

I wonder every Sunday when I am at mass, what planet is this person from?

When Senator HATCH was attacked during his Presidential campaign on his religion, I came to his defense. When Senator LOTT was under attack, Senators JEFFORDS and SPECTER spoke in his defense.

When they charge us with being against people of faith for opposing nominees, what are they saying about the 208 Bush judicial nominees whom Democrats have voted for and helped confirm? Are they saying the five we oppose are people of faith but the 208 we voted for are not? Are they by definition people without faith?

> These kinds of charges, this virulent religious McCarthyism, is fraudulent on its face. It is contemptible. It is contemptible.

Chief Justice Rehnquist is right to refer to the Federal judiciary as the crown jewel of our system of government. It is an essential check and balance, a critical source of protection of the rights of all Americans, including our religious freedom.

Just this morning the distinguished senior Senator from Pennsylvania and the distinguished senior Senator from Illinois conducted a hearing in the Judiciary Committee where they heard the testimony of Judge Joan Lefkow of Chicago. She is the Federal judge whose mother and husband were murdered in their home. The hearts of all of us go out to her. She asked that we repudiate the gratuitous attacks on the judiciary, and I do so, again, here today. I ask those members of Congress who are so quick to take the floor and say let's impeach judges or let's condemn judges or specific judges, to stop it. Listen to what Judge Lefkow said:

> In this age of mass communication, harsh rhetoric is truly dangerous. Fostering disrespect for judges can only encourage those that are on the edge, or on the fringe, to exact revenge on a judge who ruled against them.

We should stop those kinds of speeches, whether it is on this floor or the other body. They are beneath, us, all of us.

I remember Justice Sandra Day O'Connor made a similar observation. I recently spoke with her and told her how much I appreciated that.

The Senator from Pennsylvania spoke about Benjamin Franklin. Let me reiterate. In September 1787, as the Constitutional Convention drew to a close, someone came up to Benjamin Franklin to ask whether all of the arduous work of drafting the Constitution produced a republic or a monarchy. Benjamin Franklin told them, "A Republic, if you can keep it."

We have fought world wars, a civil war, we have gone through elections, assassinations, changes in Government, we have gone through all these traumas, the Great Depression, and attacks on our soil. In all of it we have joined together to keep this Republic. We have kept our freedoms through checks and balances, checks and balances woven through our constitutional system so brilliantly by our Founders. Those checks and balances can easily be unthreaded and unwoven by the abuse of power. Let us hope that never happens. Remember, it can happen not just through big steps, it can happen through small steps.

This action that is being proposed to the Senate, the nuclear option, is a large step, a large abuse of power, a step with consequences we can only begin to imagine. It would be a vote for confrontation over consensus. I hope each of us will reflect on its consequences, and then, in the end, such a travesty will never befall the Senate.

Mr. President, how much time is remaining to the Senator from Vermont?

The PRESIDING OFFICER. There is 10½ minutes.

Mr. LEAHY. Mr. President, I see the distinguished deputy Democratic leader in the Chamber and I will yield the remainder of my time to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Senator from Vermont, not only for his excellent statement this morning, but also for his leadership in the Senate Judiciary Committee. It has been my honor to serve with him on that committee during my tenure in the Senate.

The point he made at the close of his remarks bears repeating. We are debating an important constitutional principle of checks and balances. We are considering for the first time in over 200 years the so-called "nuclear option" which will destroy one of the rules of the Senate which has been used so many times on so many occasions for so many different things. This is a strategy that has been put together by the leadership in the Senate and it undoubtedly will occasion great debate in this Chamber for many hours.

But I would like to admonish my colleagues on both sides of the aisle to take care in the words they use during the course of this debate. This morning, unfortunately, the majority leader came to the floor and said the following:

> The issue is not cloture votes per se; it is the partisan leadership-led use of cloture votes to kill, to defeat, to assassinate these nominees.

I know the majority leader. I know him to be a man of genuine caring and humanity. He has proven that so many times in his personal life as a doctor, as a surgeon, as a person who has taken on humanitarian causes which many in the Senate would shrink from. And so I know those words, if they were given to him by someone, do not reflect his heart. And if they were said in a moment without thinking, it is something we could all make a mistake and do. But I would urge him and urge each and every one of us to choose words carefully in the debate about judges.

We were reminded this morning with the testimony of Judge Lefkow before the Senate Judiciary Committee how important words can be. She called for a variety of things we can do to protect judges across America, but she also went to the question of words. She said:

> Frankly, I ask you—

The Senate Judiciary Committee—

> to publicly and persistently repudiate gratuitous attacks on the judiciary such as the recent statement of Pat Robertson on national television and, unfortunately, some Members of Congress, albeit in much more measured terms.

Judge Lefkow understands as I do and every Member of the Senate that we live in a country that prides itself on freedom, the freedom to express yourself, the freedom for people to say things without fear that the Government will come down on them, even if we hate every word they say. But the point she was making was to take care, to denounce those comments that cross the line.

When we hear in this debate about changing the rules of the Senate as it relates to judges, let us take care to understand there are differences of opinion as to whether these men and women who are being discussed share the views of many Americans, whether their views are extreme. But the issue is not about them personally.

Some have suggested you can't oppose a judicial nominee here unless you oppose that nominee's gender, that nominee's religion, that nominee's race, that nominee's ethnic background, that nominee's upbringing. All of those things are false. My consideration of these nominees has gone to the heart of the issue. I consider myself to be without prejudice. I hope I am. I do my best to avoid it in everything I say and do. But for those who come to the floor and say you can't oppose this nominee unless you are in a position where you disagree with their religion, that is just plain wrong. There are so many lines that are crossed between religious and political belief. The issue of the death penalty in my Catholic religion is one that is hotly debated among Catholics. Many of the leading Catholic legislators, Republican and Catholic, disagree in their votes with the church's official position. But it is a public issue that should be discussed and it doesn't reflect on the nominee or the religion of a Congressman or Senator when we discuss it.

So when words are expressed during the course of the debate that those of us who oppose these nominees are setting out to kill, to defeat, or to assassinate these nominees, those words are inappropriate. Those words go too far.

Let me remind those who follow this debate, as I said earlier, the majority leader is a good man, a humane man, a sensitive man who has been closer to life and death than any of us in this Chamber, and I believe those words given to him were inappropriate, and if they were said in a careless moment I am sure do not reflect his heart.

But let us take care during the course of this debate to understand that our differences as to these nominees come down to issues of law and public policy which members of the judiciary decide. If I disagree with one of these nominees or any judge as to their opinions, it is not going to reflect anything on them personally. It reflects on the fact that we have to make decisions as to whether they should serve on the bench.

This is a historic moment in the Senate. There may never be another one like it. We are considering a change in the Senate, a change in this institution which, sadly, will ripple out as a pebble in a pond for generations to come. This is not an isolated case involving one, two, or five judges. It is a change in the Senate rules that will uniquely change this special institution.

I fear that many of the people in the White House and on the floor of the Senate who are grabbing for this political victory don't realize it is going to change an important institution we have counted on throughout our history. Those Founding Fathers who wrote the Constitution made the Senate a special institution, an institution where, in fact, minority rights and the minority's opportunity to speak would always be protected. To take away those minority rights by Vice President CHENEY making a casual ruling from the Chair, to sweep away 214 years of precedent and rules so that someone can score a quick victory in terms of even 1, 2, or 10 judges is entirely inappropriate.

I hope there will be enough Members on the other side of the aisle who understand our special responsibility. It is an historic responsibility. It goes beyond this President. It goes beyond any political party, and it certainly goes beyond the press release of the day. It goes to the heart of why we are entrusted with this responsibility to serve in the Senate. We are hoping that when the nuclear option comes, there will be Senators willing to stand up for this tradition and for these constitutional values.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I have been listening to the debate. The people who may be listening to this across the country and around the world on television, to the extent they are following it, may be forgiven if they wonder what is going on. People are talking about what we are doing on the floor in such breathless and nearly apocalyptic terms, referring to the nuclear option. This is not about America's foreign policy. This is about the rules of the Senate and the power of the Senate to determine for itself the rules by which we are governed. It is certainly an important matter, but we should tone down our rhetoric a little and try to address squarely the issue.

I worry when I hear Senators use words such as "despicable," "Neanderthal," "scary," or "kook" in describing nominees by this President to the Federal bench. I would have thought that kind of rhetoric was unbecoming to a body such as the Senate, sometimes called the world's greatest deliberative body. I hope during the course of the debate we will take a deep breath, as we try to calmly but deliberately address the issues that lie before us. That is what I will strive to do for my part.

I want to talk in particular about Priscilla Owen. Before I do, I neglected to ask unanimous consent that I be allotted 20 minutes out of our side's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. I want to respond first to an argument made earlier this morning. This is in the category of we can disagree about matters of opinion and matters about policy, but we should not disagree about the facts, when the facts are so plainly there before us and evident.

Richard Paez, a nominee of President Clinton, has been held up as perhaps one of the examples of our side treating a Democratic President's nominee unfairly. As this chart aptly demonstrates, if we would agree to treat Priscilla Owen exactly the way that Paez was treated, then Priscilla Owen would be sitting on the Fifth Circuit today, just as Judge Paez is now serving on the circuit court in the Federal judiciary. In other words, this is not an example justifying the actions being taken against this President's nominees. This is an example of why the obstruction we have seen is wrong and unfair. All we are asking for in this debate is a simple up-or-down vote for this President's nominees.

Priscilla Owen has been waiting 4 years for that simple up-or-down vote, which is all we are asking for. As I said, 4 years ago, Priscilla Owen was nominated to serve on the U.S. Circuit Court of Appeals. She serves currently and has served on the Texas Supreme Court, where I had the honor of serving with her. She is an exceptional jurist, a devoted public servant, and an extraordinary Texan. Yet after 4 years, she still awaits an up-or-down vote on the Senate floor.

This is the irony of where we find ourselves. Although a bipartisan majority stands ready to confirm her nomination, a partisan minority obstructs the process and refuses to allow a vote. What is more, this partisan minority insists for the first time in history that she must be supported by a supermajority of 60 Senators, rather than the constitutional standard and Senate tradition of a majority vote.

I know Priscilla personally. It is hard for me to reconcile the caricature that most people have seen drawn of her by some of the rhetoric used, certainly, with what I know about her personally. Those who know her would not recognize her from the caricature being created in the Senate and elsewhere when talking about this outstanding nominee.

She is a distinguished jurist and a distinguished public servant. She has excelled at virtually everything she has undertaken. She was a top graduate of her law school class at the remarkable age of 23 years and received the top score on the Texas bar examination. She entered the legal profession at a time when few women did. After a distinguished record in private practice, she reached the pinnacle of the Texas bar, which is the Texas Supreme Court. She was supported by a larger percentage of Texans in her last election than any of her colleagues—84 percent—after enjoying the endorsement of virtually every newspaper in the State. She has been honored as the Young Lawyer of the Year by her alma mater, as well as an outstanding alumna of Baylor University.

The irony in this partisan obstruction of a bipartisan majority who stand ready to confirm her is that Priscilla Owen enjoys bipartisan support in the State of Texas. Three former Democratic judges on the Texas Supreme Court, as well as a bipartisan group of 15 past presidents of the State bar of Texas support this nominee.

The Houston Chronicle, one of our major newspapers, in the year 2000 called her "[c]learly academically gifted," stating that she "has the proper balance of judicial experience, solid legal scholarship, and real-world know-how to continue to be an asset on the high court."

The Dallas Morning News, another major newspaper in our State, wrote on September 4, 2002:

> She has the brainpower, experience and temperament to serve ably on an appellate court.

The Washington Post wrote in 2002:

> She should be confirmed. Justice Owen is indisputably well qualified.

Priscilla Owen is not just intellectually capable and legally talented, she is also a fine human being with a big heart. The depth of her humanity and compassion is revealed through her significant free legal work and community activity. In fact, she has spent most of her life devoted to her community. She has worked, for example, that all citizens be ensured access to justice, as the Texas Supreme Court's representative on the mediation task force of that court, as well as her service on statewide committees of lawyers and her successful efforts to prompt the Texas Legislature to provide millions of dollars per year for legal services to the poor.

She was instrumental in organizing a group known as Family Law 2000, which seeks to find ways to educate parents about the effect that divorce can have on their children and to lessen the negative impacts therefrom. She teaches Sunday school at her church, St. Barnabas Episcopal Mission in Austin, TX, where she is an active member. It is plain, from these and so many other examples, that Justice Owen bears no resemblance to the caricature that has been painted of her in the Senate. She is, in fact, a fine person and a distinguished leader of the legal community.

One would think that after 4 long years, she would be afforded the simple justice of an up-or-down vote. I remain optimistic, hopeful, that this violation of many years of Senate tradition, the imposition of a new supermajority requirement of 60 votes, will be laid aside in the interest of proceeding with the people's business, a job my colleagues and I were elected to faithfully execute.

For more than 200 years, it was a job that we faithfully executed when it came to voting on a President's judicial nominees. Senators from both sides of the aisle exercised mutual restraint and did not abuse the privilege of debate out of respect for two coequal branches of government—the executive, that has a constitutional right to choose his or her nominees, and an independent judiciary.

Until 4 years ago, colleagues on both sides of the aisle consistently opposed the use of the filibuster to prevent judicial nominees from receiving an up-or-down vote. One of our colleagues, the senior Senator from Massachusetts, said in 1998:

> Nominees deserve a vote. If our . . . colleagues don't like them, vote against them. But don't just sit on them—that is an obstruction of justice . . .

The senior Senator from Vermont, in 1998, said:

> I have stated over and over on this floor that I would refuse to put an anonymous hold on any judge; that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported; that I felt the Senate should do its duty.

I could not agree more with those comments made in 1998 from the very same colleagues who today oppose the same principle they argued for a few short years ago. We are doing a disservice to the Nation and a disservice to this fine nominee in our failure to afford her that up-or-down vote.

The new requirement the partisan minority is now imposing—that nominees will not be confirmed without the support of 60 Senators—is, by their own admission, unprecedented in Senate history. The reason for this is simple. The case for opposing this fine nominee is so weak that using a double standard and changing the rules is the only way they can hope to defeat her nomination. What is more, they know it.

Before her nomination was caught up in partisan special interest politics, the ranking Democrat on the Judiciary Committee predicted that Priscilla Owen would be swiftly confirmed. On the day of the announcement of the first group of nominees, including Justice Owen, he said he was "encouraged" and that "I know them well enough that I would assume they'll go through all right."

Notwithstanding the change of attitude by the partisan minority, this gridlock is really not about Priscilla Owen. Indeed, just a few weeks ago the Democratic leader announced that Senate Democrats would give Justice Owen an up-or-down vote, albeit only if other nominees were defeated or withdrawn. Obviously, with these kinds of offers being made based on cutting deals and pure politics, this debate is not about principle. It is all about politics. It is shameful.

We should all subscribe to the notion that any nominee of any President, if they enjoy majority support in the Senate, should get an up-or-down vote. I am talking about whether we have a Democrat in the White House or a Republican, whether we have Democrat majorities in the Senate or Republican.

The rules should apply across the board exactly the same to all nominees, regardless of who wins and who loses from a political consideration.

But what bothers me most is that any fair examination of Justice Owen's record demonstrates how unconvincing and unjustified the critics' arguments are against her specifically.

For example, she was accused of ruling against injured workers, employment discrimination plaintiffs, and other sympathetic parties on a variety of occasions. Never mind the fact that good judges, such as Justice Owen, do their best to follow the law, regardless of which party will win and which party will lose. That is what good judges do. Never mind that many of her criticized rulings were unanimous or near-unanimous decisions of a nine-member Texas Supreme Court. Never mind that many of these rulings simply followed Federal precedents authored or agreed to by appointees of President Carter and President Clinton, or by other Federal judges unanimously confirmed by the Senate. And never mind the fact that judges often disagree, especially when a law is ambiguous and requires careful and difficult interpretation.

One of the focal points on Justice Owen's record is a criticism of enforcing a popular Texas law that requires parental notification before a minor can obtain an abortion. Her opponents allege in the parental notification case that then-Justice Alberto Gonzales, our current Attorney General, accused her of "judicial activism." I heard that argument again this morning on the floor, notwithstanding the fact the charge is demonstrably untrue.

For any Member to repeat this argument that is simply not true, in spite of the fact that it has been demonstrated that it is not true, is to me an unconscionable act of distortion of the facts. Here again, we can disagree about the policies, and we can even decide to vote differently on a nominee, but let's not disagree on the facts when they are so clear. Not once did Alberto Gonzales say Justice Owen is guilty of judicial activism. To the contrary, he never even mentioned her name in the particular opinions that are being discussed. Furthermore, our current Attorney General has since testified under oath that he never accused Justice Owen of any such thing.

What's more, the author of the parental notification law that was at issue supports Justice Owen for this nomination, as does the pro-choice, Democratic law professor who was appointed to the Texas Supreme Court advisory committee who was supposed to write rules, and did write rules, to implement the law. In her words, Owen simply did "what good appellate judges do every day. . . . If this is activism, then any judicial interpretation of a statute's terms is judicial activism."

Mr. President, I ask unanimous consent that this letter be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CORNYN. Mr. President, the American people know judicial activism when they see it. They know a controversial ruling that is totally out of step with a judge's accepted role in our form of government when they see it, whether it be the redefinition of marriage, the expulsion of the Pledge of Allegiance from our classrooms and other expressions of faith from the public square, the elimination of the three-strikes-and-you're-out law, and other penalties for convicted criminals, or the forced removal of military recruiters from college campuses. Justice Owen's rulings come nowhere near those examples of judicial activism that we would all recognize clearly and plainly.

There is a world of difference between struggling to interpret the ambiguous expressions of a statute and refusing to obey a legislature's directives altogether, or substituting one's personal views or agenda for the words of a statute.

It is clear, then, that Justice Owen's record deserves the broad and bipartisan support that she has gotten, and it is equally clear that her opposition only comes from a narrow band on the far-left fringes of the political spectrum.

So if the Senate were simply to follow more than 200 years of consistent Senate and constitutional tradition, dating back to our Founders, there would be no question about her being confirmed; she would be. Legal scholars across the political spectrum have long concluded what we in this body know instinctively, and that is to change the rules of confirmation, as the partisan minority has done, badly politicizes the judiciary and hands over control of the judiciary to special interest groups.

Mr. President, 4 years is a long time. The majority leader and those who support this nominee's confirmation have shown extraordinary patience during this debate. But there is a point at which patience ceases to be a virtue, and I suggest that we have reached that point. We need a resolution of this issue. We need for Senators to step up and to vote "yes" or vote "no." But we simply need for them to vote.

The record is clear. The Senate tradition has always been majority vote, and the desire by some to alter that Senate tradition has been roundly condemned by legal experts across the spectrum.

Professor Michael Gerhardt, who advises Senate Democrats about judicial confirmations, has written that a supermajority requirement for confirming judges would be "problematic, because it creates a presumption against confirmation, shifts the balance of power to the Senate, and enhances the power of the special interests."

D.C. Circuit Judge Harry Edwards, a respected Carter appointee, has written that the Constitution forbids the Senate from imposing a supermajority rule for confirmations. After all, otherwise, "[t]he Senate, acting unilaterally, could thereby increase its own power at the expense of the President" and "essentially take over the appointment process from the President." Edwards thus concluded that "the Framers never intended for Congress to have such unchecked authority to impose supermajority voting requirements that fundamentally change the nature of our democratic processes."

Georgetown law professor Mark Tushnet has written that "[t]he Democrats' filibuster is . . . a repudiation of a settled, pre-constitutional understanding." He has also written: "There's a difference between the use of the filibuster to derail a nomination and the use of other Senate rules—on scheduling, on not having a floor vote without prior committee action, etc.—to do so. All those other rules . . . can be overridden by a majority vote of the Senate . . . whereas the filibuster can't be overridden in that way. A majority of the Senate could ride herd on a rogue Judiciary Committee chair who refused to hold a hearing on some nominee; it can't do so with respect to a filibuster."

And Georgetown law professor Susan Low Bloch has condemned supermajority voting requirements for confirmation, arguing that they would allow the Senate to "upset the carefully crafted rules concerning appointment of both executive officials and judges and to unilaterally limit the power the Constitution gives to the President in the appointment process. This, I believe, would allow the Senate to aggrandize its own role and would unconstitutionally distort the balance of powers established by the Constitution."

She even wrote on March 14, 2005: "Everyone agrees: Senate confirmation requires simply a majority. No one in the Senate or elsewhere disputes that."

Mr. President, the record is clear. The Senate tradition has always been majority vote, and the desire by some to alter that Senate tradition has been roundly condemned by legal experts across the political spectrum.

Throughout our Nation's more than 200-year history, the constitutional rule and Senate tradition for confirming judges has been majority vote—and that tradition must be restored. After 4 years of delay, giving Justice Priscilla Owen an up-or-down vote would be an excellent start.

EXHIBIT 1

MAY 3, 2005.

Re Priscilla Owen.

Hon. JOHN CORNYN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR CORNYN: I write in support of the nomination of Priscilla Owen to the United States Court of Appeals for the Fifth Circuit. I write as a law professor who specializes in constitutional law. I write as a pro-choice Texan, who is a political independent and has supported many Democratic candidates. And I write as a citizen who does not want the abortion issue to so dominate the political debate that good and worthy judicial candidates are caught in its cross hairs, no matter where they stand on the issue.

Justice Owen deserves to be appointed to the Fifth Circuit. She is a very able jurist in every way that should matter. She is intelligent, measured, and approaches her work with integrity and energy. She is not a judicial activist. She does not legislate from the bench. She does not invent the law. Nothing in her opinions while on the Texas Supreme Court could possibly lead to a contrary conclusion, including her parental notification opinions. I suspect that Priscilla Owen's nomination is being blocked because she is perceived as being anti-choice on the abortion issue.

This perception stems, I believe, from a series of opinions issued by the Texas Supreme Court in the summer of 2000 interpreting the Texas statute that requires parental notification prior to a minor having an abortion. The statute also provides for what is called a "judicial bypass" to parental notification. Justice Owen wrote several concurring and dissenting opinions during this time. She has been criticized for displaying judicial activism and pursuing an anti-choice agenda in these opinions. This criticism is unfair for two reasons.

First, the Texas statute at issue in these cases contains many undefined terms. Further, the statutory text is not artfully drafted. I was a member of the Texas Supreme Court's Advisory Committee that drafted rules in order to help judges when issuing decisions under this parental notification statute. My involvement in this process made it clear to me that in drafting the parental notification statute, the Texas Legislature ducked the hard work of defining essential terms and placed on the Texas courts a real burden to explicate these terms through case law.

Moreover, the statute's legislative history is not useful because it provides help to all sides of the debate on parental notification. Several members of the Texas Legislature wanted a very strict parental notification law that would permit only infrequent judicial bypass of this notification requirement. But several members of the Texas Legislature were on the other side of the political debate. These members wanted no parental notification requirement, and if one were imposed, they wanted courts to have the power to bypass the notification requirement easily. The resulting legislation was a product of compromise with a confusing legislative history.

In her decisions in these cases, Justice Owen asserts that the Texas Legislature wanted to make a strong statement supporting parental rights. She is not wrong in making these assertions. There is legislative history to support her. Personally, I agree with the majority in these cases. But I understand Justice Owen's position and legal reasoning. It is based on sound and clear principles of statutory construction. Her decisions do not demonstrate judicial activism. She did what good appellate judges do every day. She looked at the language of the statute, the legislative history, and then decided how to interpret the statute to obtain what she believed to be the legislative intent.

If this is activism, then any judicial interpretation of a statute's terms is judicial activism. Justice Owen did not invent the legislative history she used to reach her conclusion, just as the majority did not invent their legislative history. We ask our judges to make hard decisions when we give them statutes to interpret that are not well drafted. We cannot fault any of these judges who take on this task so long as they do this work with rigor and integrity. Justice Owen did exactly this.

Second, we must be mindful that the decisions for which she is being criticized had to do with abortion law. I do not know if Justice Owen is pro-choice or not, but it does not matter to me. I am pro-choice as I stated before, but I would not want anyone placed on the bench who would look at abortion law decisions only through the lens of being pro-choice. Few categories of judicial decisions are more difficult than those dealing with abortion. A judge has to consider the fact that the fetus is a potential human, and this potential will be ended by an abortion. All judges, including those who are pro-choice, must honor the spiritual beauty that is potential human life and should grieve its loss. But a judge has other important human values to consider in abortion cases. A judge also has to consider whether a woman's independence and rights may well be unconstitutionally compromised by the arbitrary application of the law. All this is further compounded when a minor is involved who is contemplating an abortion. I want judges who will make decisions in the abortion area with a heavy heart and who, therefore, will make sure of the legal reasoning that supports such decisions.

I think the members—all the members—of the Texas Supreme Court did exactly this when they reached their decisions in the parental notification cases. I was particularly struck by the eloquence of Justice Owen when she discussed the harm that may come to a minor from having an abortion. She recognized that the abortion decision may haunt a minor for all her life, and her parents should be her primary guides in making this decision. Surely, those of us who are pro-choice have not come to a point where we would punish a judge who considers such harm as an important part of making a decision on parental notification, especially when legislative history supports the fact that members of the Texas Legislature wanted to protect the minor from this harm. As a pro-choice woman, I applaud the seriousness with which Justice Owen looked at this Issue.

If I thought Justice Owen was an agenda-driven jurist, I would not support her nomination. Our founders gave us a great gift in our system of checks and balances. The judicial branch is part of that system, and it is imperative that it be respected and seen as acting without bias or predilection, especially since it is not elected. Any agenda-driven jurist—no matter the issue—threatens the honor accorded the courts by the American people. This is not Priscilla Owen. So even though I suspect Justice Owen is more conservative than I am and even though I disagree with some of her rulings, this does not change the reality that she is an extremely well-qualified nominee who should be confirmed.

It would be unfair to place Priscilla Owen in the same category with other nominees who, in my opinion, are judicial activists and who I do not support. Some of these other nominees appear to want to dismantle programs and policies based on a political or economic agenda not supported by legal analysis or constitutional history. They appear to want to push their views on the country while sitting on the bench. Priscilla Owen should not be grouped with them. Justice Owen possesses exceptional qualities that have made and will make her a great judge. I strongly urge her confirmation.

Sincerely,

LINDA S. EADS,
Associate Professor of Law.

The PRESIDING OFFICER. The Senator has used his time.

Mr. CORNYN. I see my colleague, the senior Senator from Texas, on the floor, and she intends to speak on the same subject.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Texas, Mrs. HUTCHISON, is recognized.

Mrs. HUTCHISON. Madam President, I am very pleased my colleague, Senator CORNYN, has made a wonderful statement about Priscilla Owen. He is one of the few people who has actually served with her, being a member of the Texas Supreme Court with her. So having his insight into her as a professional is, I think, very enlightening for the record of this debate. I thank my colleague from Texas, who is one of the few people in the Senate who actually has been a state Supreme Court justice. I think that gives him a particular advantage in talking about her as a judge with judicial temperament, the demeanor of a judge, and her qualities as a judge. I thank my colleague.

Mr. President, I am going to talk today about Priscilla Owen as a person. I think it is a part of this debate that has never really been brought forth. I am here to support her because she has been a stellar representative of the judges in our country, as she has waited more than 4 years since she was nominated to have an up-or-down vote by the Senate. We have voted on Priscilla Owen, and she has won confirmation four times in the Senate. But here we are again trying to get a vote that will put her in the office to which she has been nominated and for which she has received the majority vote.

I have heard my colleagues, and some interest groups, use very extreme language to describe Priscilla Owen. These statements are coming, in many cases, from people who have never met her and whose minds were made up before they ever learned one thing about her. I want to spend a few minutes talking about Priscilla Richman Owen, the person that is known to those of us in Texas who have seen her as a professional.

Last month, I was sent an interesting document. It was the newsletter of the graduating class of Texas A&M University, the class of 1953. A prominent story had the headline: "Pat Richman's Legacy." It told a story almost nobody in the class knew—that Pat Richman, of Palacious, TX, who had died tragically only 2 years after their graduation from Texas A&M and had left a baby daughter, that daughter of their beloved classmate is now at the center of a national controversy.

Pat Richman was a leader of the Corps of Cadets at Texas A&M, first sergeant of his company, and later its battalion commander. He was one of the stars of the class, one of its most promising leaders. Pat Richman entered active duty in the U.S. Army upon graduation and was shipped to Korea 8 months later, but not before marrying his long-time sweetheart. When the boat left, his wife was pregnant.

Pat returned from Korea in May, 1955, having served his country, having done his duty to our Nation. Priscilla was 7 months old. He had never seen his baby daughter. On the way back across the Pacific, news came to the ship. Researchers, led by Jonas Salk, had created a vaccine to combat the scourge of polio. One of Pat's best friends remembers him exclaiming: "This is wonderful. This means my daughter will never have to worry about being crippled by that disease."

When Pat arrived back in Texas and was discharged, he accepted a job with the extension service that took him to south Texas. Suddenly, over a single weekend, he contracted bulbar polio. He was rushed into an iron lung—and died in a Houston hospital. Priscilla Owen was 10 months old.

As you would expect, the sudden death of this promising young man sent his entire family into shock, especially his wife. Priscilla's mother retreated to a family farm in Collegeport, Texas. She stayed there for 5 years grieving and trying to reassemble her life. Eventually, she remarried, and the small family moved to what was considered the big city, Waco, Texas. That is where Priscilla Richman Owen grew up and went to school.

Priscilla became a top student. She was a class officer. She worked part time in high school and college at her stepfather's insurance business, and she sent out premium notices and posted payments. During summers, she returned to Collegeport, helping run cattle and work in the rice field. As a teenager, she spent long days during the rice harvest driving the auger wagon, taking rice from the wet fields to a kiln and drying them.

Priscilla Richman started college at the University of Texas at Austin. After a year, though, she returned home to Waco to be closer to her family, and she enrolled at Baylor University. Her academic record was good, we should say, but it was not perfect. It was not perfect. She got one B-plus—one B-plus in all of her days in college and law school. The rest were A's. Priscilla Owen advanced to law school after only 3 years of college. She was named editor of the Baylor Law Review.

She finished college and law school after 5 years and 3 months, and when she took the Texas bar exam in 1977 at age 23, she got the highest score in the State.

Priscilla Owen was recruited into the Andrews Kurth law firm, one of the biggest in Houston, as a litigator at a time when women were not really in the courtroom very much. She was highly successful, creating a statewide reputation in oil and gas litigation. She chaired the firm's recruitment committee and was made a partner of the firm at the age of 30.

In 1993, when she had been at Andrews Kurth for 17 years, she was asked to run for election to the Texas Supreme Court as a Republican. Although judicial nominees run by party in Texas, she was really apolitical. She had made donations to judicial candidates in both parties just trying to be a contributor and a community leader.

I am amused when I hear interest groups say that Priscilla Owen is a partisan, an ideologue. In 1993, when she was asked to run for the Supreme Court of Texas, she could not remember in what primary she had voted. It would have been determined by the judge races at the time and whether there was a race in the Democratic or Republican primaries. She was told it would be difficult to run on the ticket if she had not voted in the primary in the previous election, and she had to go down to the courthouse to find out in which primary she had voted. It was Republican, and so she said yes.

As it happened, in 1994, when she was running, I was running for reelection, and we campaigned together. I invited her to join me on campaign trips. I have to tell you, she is not a rabble-rousing speaker. Priscilla Owen is a judge. She is soft spoken. She is scholarly. She is what you would want a judge to be. She managed to win with 53 percent of the vote and became an immediate leader on the Texas Supreme Court.

She also became a leader in a cause that makes me smile because I hear people on the other side of the aisle describing her as if she is some big partisan. She writes articles and lobbies the Texas Legislature to do away with partisan election of judges because, as she said in her articles, she thinks it taints the ability of the court to provide impartial justice.

This is actually a controversial position for a judge in our State to say that we should do away with partisan elections, because most of the Republicans in Texas think we should keep partisan elections. But she is not a politician, she is a judge—exactly what we would want in a person nominated for the circuit court of appeals.

When she was up for reelection in 2000, something happened that really had not happened very often to a Republican running statewide in Texas. The Democrats did not even put an opponent against her. She had a libertarian opponent, and virtually every major newspaper in Texas endorsed her. She was returned to office with 84 percent of the vote.

We will have a lot of opportunity on the Senate floor to discuss her court opinions, especially the mischaracterizations of those opinions that various interest groups have made. But I want to share with you what she does when she is not hearing and deciding cases because I believe it will shed light on the character of this person whom I do not recognize when I hear her described on this floor by many who have not even met with her.

She gave up a highly lucrative private practice a dozen years ago at the height of her earning power to run on a reform platform for our State's highest court because there were scandals on the supreme court at the time and we were trying to recruit top-quality people to bring back the integrity and dignity of our supreme court. So she sought a State government salary and gave up her big law firm partner share.

The Code of Judicial Ethics restricts her off-bench activities. She cannot help raise funds even for her church. But she has devoted countless hours toward helping the less fortunate, those in need, and improving access to the judicial system.

For example, Justice Owen is a dog enthusiast and serves on the board of Texas Hearing and Service Dogs. This organization rescues dogs from pounds, provides expensive training for them, and then gives the dogs to quadriplegics, paraplegics, and the hearing and sight impaired—people who cannot afford these trained animals on their own. The dogs perform all sorts of tasks that allow these disabled people to live more independent lives.

She is a founding member of the St. Barnabas Episcopal Mission in Austin, Texas. She serves as head of the church's altar guild. And she teaches Sunday school to preschool, kindergarten, and grade school children. On any given Sunday, you can find Justice Owen hopping on one leg, reading stories, and helping these children find ways to make the right choices in their conduct.

Justice Owen has also worked to ensure that all Texas citizens are now provided access to justice. Yesterday at a press conference, a former president of the Texas Bar Association, one of 15 former State bar presidents—Republicans and Democrats—who support her, told an interesting story. In the mid-1990s, the Congress sharply reduced funding for the Legal Services

Corporation. The Texas legal aid system for the poor, including migrant workers, was in serious jeopardy. Priscilla Owen led a committee that persuaded the Texas Legislature to provide millions in additional funding for legal services for the poor. The funding filled gaps caused by the Federal cut to help give legal help for housing, domestic abuse, and food assistance eligibility to thousands of low-income Texans who otherwise would not have been able to have that help.

Priscilla Owen was the supreme court's representative on the Mediation Task Force. The group worked countless hours over many months to resolve differences between lawyer and non-lawyer mediators. As we know, mediation often provides an effective alternative to expensive, full-blown trials, thus making justice more accessible to people who cannot afford expensive lawyers.

Justice Owen is a member of the Gender Bias Reform Implementation Committee and the Judicial Efficiency Task Force on Staff Diversity. She was instrumental in organizing Family Law 2000 to educate parents about the effect of divorce and to lessen the negative impact on children.

These are not headline-grabbing assignments. There is no public glory in this quiet work. I do not see pictures of Justice Owen in the newspapers about all of these activities she has undertaken just to make our State and her community a better place to live. Justice Owen is not a particularly public person. In fact, as you may have read in the press last week, members of her church had no idea what she did for a living until a story appeared about her and this controversy in the Austin newspaper.

Throughout her four years awaiting a Senate vote, Priscilla Owen has not complained, not in public, not in private. She has sat quietly by as people who do not have the faintest idea what she is really like have vilified her, distorted her opinions, and questioned her motives.

Many of my colleagues on the other side of the aisle have declined any opportunity to meet with this lovely person. They have refused to sit down and ask her questions, to see if the person who is portrayed in the propaganda is really the same person. It is their loss because they are missing the opportunity to know a truly exceptional human being.

Over 2 years ago, an ordinary Texan named Nancy Lacy, who is Priscilla Owen's sister, attended her long-delayed confirmation hearings before the Judiciary Committee in Washington. She sat behind Justice Owen, and she later gave the Dallas Morning News a summary of what she saw. She said:

> It was eye opening. . . . It was a hard experience because no matter what she said, they were going to stick with the propaganda. It was obvious. I was hoping they were going to really give her a shot, try to get to know who she really is, ask thoughtful questions.
>
> But the information they had was wrong to begin with. I felt sorry for them at times; their staffs didn't do a very good job. It was obvious the special interest groups gave them the information, and they didn't research to see if it was true. The handwriting was on the wall.

You know, Madam President, it makes you stop and think when real people come before committees in this Congress how they must feel when they are tortured and pricked and badgered the way we often do without realizing that these are good people. They are people willing to serve, even if you might disagree with them. They are willing to serve our country and they have not been treated well. I believe Priscilla Owen, especially, has not been treated well by this Senate.

I am going to end with a wrap-up of the beginning of the speech that I have made. The Texas A&M class of 1953 held their annual reunion at a hotel in San Antonio last month. Priscilla Richman Owen, known to the group as Pat Richman's daughter, was their special guest. She was able to hear contemporaries of her father tell stories about him that she had never heard before to get a better idea of what he would have been like if he had lived into his seventies instead of dying when she was 10 months old. It was, by all accounts, a moving experience.

I hope that when the class of 1953 and the people who went with Pat Richman to serve our country in Korea meet again, that Pat Richman's daughter will come back and she will be a member of the Court of Appeals, of the Fifth Circuit Court of Appeals of the United States. I think she deserves confirmation.

I thank the chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ALLEN. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Is it true that the pending business before the Senate is the nomination of Priscilla Owen and other judges?

The PRESIDING OFFICER. That is correct.

Mr. ALLEN. Madam President, in my view there are four pillars that are absolutely essential for a free and just society. The first of those pillars is freedom of religion, where people's rights are not enhanced or diminished on account of their religious beliefs. The second pillar is freedom of expression, where people say what they want without retribution. Third is private ownership of property. And the fourth pillar for a free and just society is the rule of law, where disputes are fairly adjudicated and our God-given rights are protected.

I believe it is absolutely essential that we have judges on the bench at the Federal level and indeed all levels of Government who understand that their role is to adjudicate disputes fairly and honestly, to apply to the facts and the evidence of the case the laws that were made by elected representatives. We are a representative democracy. Judges ought to apply the law, not invent the law, not serve as a superlegislature, not to use their own personal views as to what the law should be. It is absolutely essential for our country, for the rule of law, for the stability one would want for the rule of law, for the credibility and the fair administration of justice, that we have judges who understand this basic principle.

When it comes to the appointment of judges and the election of judges, in some States they are elected, in some they are appointed. At the Federal level, the way it has been since the beginning of the Republic is the President nominates a man or a woman for a particular vacancy. That individual is examined very closely by the Judiciary Committee. They question and try to determine what is their temperament and what will they become once they put on a robe. Especially at the Federal level it is important because they are given lifetime appointments, so there is questioning done as to their scholarship and their judicial philosophy. That is very important.

If that person passes muster in the Judiciary Committee, the procedure, for the past 200 years, was that the nominee get a favorable recommendation. Once in a while they come out of the committee with no recommendation. But ultimately what happens is 100 Senators vote. They vote up or down on these nominations. That is our responsibility. It is my responsibility to the people of the Commonwealth of Virginia who elected me to confirm judges or deny confirmation—but ultimately vote.

What has happened in the last three years, though, is an abrogation of this approach and fair consideration of judicial nominees. We have seen unprecedented obstruction and a requirement, in effect, of a 60-vote margin, particularly for circuit court judges.

Wendy Long, the counsel to the Judicial Confirmation Network, observed a month ago:

> It is abundantly clear that the American people are tired of the partisan, political maneuvering and the unwarranted character assassinations against qualified candidates for the Federal bench.

She observed, and I agree:

> People see through these aggressive negative attacks waged by some individuals and groups on the left and they want it to end. They want Senators to do their jobs and hold

> a straight up-or-down vote on nominees based on their qualifications, not the baseless negative rhetoric of the left.

I agree. I think the people of America believe these nominees deserve a fair vote based on their qualifications. I think my colleagues should take notice.

Two of the nominees who have suffered at the hands of the opposition are Judges Priscilla Owen and Janice Rogers Brown. First, in respect to Justice Owen, I listened to the heartfelt views of Senator HUTCHISON of Texas about Justice Owen. Senator HUTCHISON knows her better than I do, but I strongly support Justice Owen; not just her nomination but her confirmation. In fact, she is arguably one of the best nominees President Bush has nominated to the appellate court. Even the American Bar Association agrees. They unanimously rated Judge Owen well qualified, their highest rating.

Sadly, Justice Owen was the first unanimously approved well-qualified ABA nominee who was held up a few years ago in the Judiciary Committee.

What are some of the reasons why the Democrats are opposing Justice Owen? The Number one reason I have heard is it was because of her interpretation of Texas' parental notification statute. The Democrats and her opponents have charged Justice Owen is found to be an activist in cases involving the interpretation of the Texas parental notification statute that was enacted in 1999.

If you want to look at that statute, it says as follows. It requires notice to a parent when a minor woman seeks an abortion, but allows exceptions when the trial court judge concludes the minor is mature and sufficiently well informed to make the decision without notification of a parent; that notification would not be in the best interests of the minor; or that notification may lead to physical, sexual, or emotional abuse of the minor.

From reading Justice Owen's opinions with respect to the statute, I found that Justice Owen interpreted the parental notice statute in Texas and its exceptions fairly and neutrally, in accord with the plain legislative language, as well as relying on precedent from the Supreme Court of the United States. She expressly relied on U.S. Supreme Court cases addressing similar laws to interpret the statutory exceptions. In fact, even the Washington Post has opined that:

> While some of Justice Owen's opinions—particularly on matters related to abortion—seem rather aggressive, none seems to us beyond the range of reasonable judicial disagreement.

That is the Washington Post and I would hardly call the Washington Post a bastion of conservative philosophy.

Justice Owen's record in these cases is far from that of an activist. In fact, it demonstrates her judicial restraint and her understanding of the proper role of an appellate judge. Under the Texas statute, the Supreme Court of Texas does not review judicial bypass cases unless the bypass has already been rejected at the trial and the intermediate appellate court level. In other words, every time Justice Owen voted to deny a judicial bypass, she was simply upholding the rulings of lower courts. That means she upheld the ruling of the trial judge, the only judge who actually saw and heard the case, a decision with which at least two out of three appellate court judges agreed.

This type of deference is entirely appropriate in cases such as this, where the determination turns largely on the factual findings and the credibility of the witnesses. The trial judge who actually observes and hears the testimony of a plaintiff in a judicial bypass case is best positioned to determine the credibility of that evidence and that witness.

By deferring to the trial court's judgment on factual questions, Justice Owen has appreciated, obviously, the proper role of an appellate judge. However, when a trial judge commits a clear error, Justice Owen has not hesitated to reverse the judgment and order a bypass, or remand for further proceedings, as she has done on three occasions.

My colleagues, I understand this parental notification issue. As Governor of Virginia, I worked for the passage and signed Virginia's requirement to notify parents if their unwed minor daughter, 17 or younger, is planning an abortion. Opponents of this attacked me and said things very similar to what you hear about Justice Owen. They said we were trying to tear down Roe v. Wade. That is quite contrary from my standpoint. I want the record to note that Justice Owen has repeatedly demonstrated adherence to Supreme Court precedent, including Roe v. Wade. In fact, almost 80 percent of the American people believe a parental notification statute for a minor is reasonable.

I asked my staff to look back in my documents to find the speech I gave before I signed the bill on March 22, 1997. Here is the reasoning that motivated me and the people of Virginia to finally pass a parental involvement measure—and I am for parental consents even better, but our statute is similar to Texas. I said on the steps of Mr. Jefferson's capitol in Richmond, VA:

> Today we are signing legislation affirming the importance and the necessity of a parent's guidance and counsel if their young daughter is facing the trauma of an abortion. Ladies and gentlemen, parents have the right and the responsibility to be involved with important decisions in their young children's lives, especially those that affect their physical and emotional health.

It was hard to get this bill passed. It was 17 years before it actually passed, a true parental notification bill. This was logical law. When one considers that for a minor to get their ears pierced, one needs parental consent, it makes a great deal of sense to me that if a young daughter, unwed, 17 or younger, is going through a trauma of abortion, a parent ought to be involved. That is what the Texas law was about. When daughters are going through this trauma, parents ought to know as opposed to being in the dark.

But I want to stress that the Texas statutes and the Virginia statutes are merely parental notice statutes. Those statutes express the views of the people of the State of Texas, the Commonwealth of Virginia, and indeed the more than 40 States that have some sort of parental involvement statutes on their books. In fact, they reflect the views of this country. In fact, they believe what Justice Owen was doing was correct in applying this statute as she did.

In summation, Justice Owen is a person with outstanding qualifications. She graduated at the top of her class at the Baylor Law School and subsequently earned the highest score in the State on the December 1977 Texas Bar Exam. After graduation she practiced commercial litigation for 17 years and became a partner at one of the most respected law firms in the State of Texas. Finally, in 1994, Justice Owen was elected to the Texas Supreme Court. In 2000, she won reelection by an overwhelming 84 percent of the vote, and was endorsed by every major newspaper in Texas.

Her support is wide and it is bipartisan, ranging from a number of former Democratic judges on the Supreme Court of Texas to a bipartisan group of 15 past presidents of the State Bar of Texas.

It is important that we act on Justice Owen's nomination because the Judicial Conference of the United States has designated the seat Justice Owen is nominated for as a judicial emergency. Justice Owen is well qualified to be a judge on the Fifth Circuit Court of Appeals, and the longer the opposition keeps holding up this nomination—and this has been going on now for 4 years—the longer average citizens will have to wait to have their cases heard. She deserves a fair up-or-down vote.

With respect to Justice Janice Rogers Brown, she has been nominated by the President to the U.S. Court of Appeals for the DC Circuit, where currently one-fourth of that court is vacant. Her qualifications are impeccable. In the past years I talked about Miguel Estrada, another outstanding nominee who had unanimous support, the highest recommendation from the American Bar Association, and who was denied, year after year, the fairness of an up-or-down vote. He was a modern-day Horatio Alger story.

Justice Brown is an American success story as well. She reflects the fact that with hard work and determination you can succeed if you put your mind to it. Her rise from the humble beginnings she had in the segregated South to becoming the first African-American woman to serve on the highest court in the largest State in the country is truly an inspiring American success story.

In her 9 years on the California Supreme Court, Justice Brown has earned the reputation of being a brilliant and fair jurist who is committed to the rule of law. That reputation has returned her to the court when she was supported by 76 percent of California voters, which was the largest margin of any of the four justices up for retention that year. Her reputation has also led the Chief Justice of the California Supreme Court to call on Justice Brown to write the majority opinion more times, in 2001 and 2002, than any other justice on the Supreme Court of California. When someone gets 76 percent of the vote and is called on to write the majority opinion more times than any other justice on that court, that means you are well respected and you are doing a good job and that you are clearly within the mainstream, not out of the mainstream as is asserted by those who obstruct her vote.

Justice Brown's opponents would like the American people to think she is a radical, an ideological extremist in her opposition to government. I contend if she was so extreme, why did 76 percent of California voters support her? Sadly, her opponents continually attack her for her opposition to government even though she has stated for the record that she does not hate government. If she hates government, why is she a part of it?

A thorough analysis of her opinions clearly indicate she is capable of dissecting her personally held views of her dislike of expansive government, from her opinions that seek to apply the law as it exists and defer to the legislative judgments on how best to address social and economic problems.

Justice Brown has been extremely cooperative with the Senate Judiciary Committee. She testified for nearly 5 hours at her hearing and answered every charge leveled against her. Justice Brown is clearly qualified for this job, and her colleagues, Republican and Democrats alike, agree.

Twelve of her colleagues wrote the following about her:

> We who have worked with her on a daily basis know her to be extremely intelligent, keenly analytical and very hard working. We know she is a jurist who applies the law without favor, without bias and with an even hand.

Now, isn't that what one would want in a judge? This quote best summarizes my faith that many people, including myself, have in Justice Brown. In an October 17, 2003 letter to Senator HATCH, Judge Talmadge R. Jones of the Sacramento Superior Court wrote:

> More importantly, the exceptional judicial performance of Justice Brown as a Circuit Judge will readily be apparent to everyone, and a worthy tribute to the confidence placed in her by both the President and the United States Senate.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ALLEN. I ask unanimous consent to be allowed 5 more minutes.

Mr. SCHUMER. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. SCHUMER. If the Senator wants to arrange to go for the next hour under Republican time, that is just fine.

I would like to accommodate my friend, but we have a set schedule. We come at different times and places and we have stuck by it. We are already 2 or 3 minutes over, so I have to object.

Mr. ALLEN. Madam President, I ask Unanimous Consent that I be allowed 1 minute and add 1 minute to the Democrats' side to sum up.

Mr. SCHUMER. I will accept that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. I thank my colleagues.

In summation, Priscilla Owen, Janice Rogers Brown, and all of the President's nominees, deserve a fair up-or-down vote.

The people all across this country, whether they are down in Cajun county in Louisiana, whether they are down in Florida, whether they are in the Black Hills of South Dakota, or whether they are in the Shenandoah Valley of Virginia, expect action on judges. As much as people care about less taxation and energy security for this country and wanting us to be leaders in innovation, they really expect the Senate to act on judges. It is a values issue. It is a good government issue. It is a responsibility-in-governing issue that needs to be addressed.

As I said earlier, there is no reason to filibuster these nominations. As Senators we have a responsibility to vote. These nominees deserve fair consideration, fair scrutiny, but ultimately we have a responsibility to get off our haunches, show the backbone, show the spine, vote yes or vote no, and be responsible to our constituents.

I thank you, Madam President, and I yield the floor.

Mr. SCHUMER. I believe I now have 30 minutes?

The PRESIDING OFFICER (Mr. THUNE). The minority has 61 minutes remaining.

Mr. SCHUMER. But I have 30 of that, or 31. I yield 3 minutes to my colleague from the State of Washington, and then 1 minute to my colleague from the State of California, and then I will take the remaining 26 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleague from New York for yielding me just a few minutes. I was over in my office a few minutes ago listening to the debate on both sides, and I heard my good friend and colleague, the Senator from Texas, talk about her tremendous friendship and passion for the woman whose nomination is in front of the Senate today, Priscilla Owen.

I have tremendous respect for Senator HUTCHISON and all of her passion she has put in here. All Senators have been in a position of fighting hard for something we believe in, someone we care about. Sometimes we win, sometimes we have lost.

One of the things that was said was that many of the colleagues on this side of the aisle, many of my colleagues have declined any opportunity to meet with this lovely person. They have refused to sit down and ask her questions to see if the person that is portrayed and the propaganda is really the same person.

Mr. President, I want to set the record straight. I did sit down and meet with Judge Owen yesterday at the request of the Senator from Texas. I could not agree more, she was a lovely person. But this is not a debate about a lovely person. This is a debate about a record on judicial decisions and about whether that record merits promoting someone to a lifetime appointment.

I will later today join with my colleagues to give more specifics, but I have sat down with Priscilla Owen. I have asked her questions, and I have reviewed the record. This is not about a person. This is about a record. It is about a record that is outside the mainstream on parental consent, which we have heard about. But not just that, it is about victims' rights, which any of us can be. It is about workers' rights, about a bias about campaign contributions. We will be setting that record straight throughout this debate.

It is especially important for all to recognize a record says what someone will be and what decisions they will make about any one of us in this country in the future. That is what I dispute. That is what I will discuss later today when I have more time to outline.

We can all agree that lovely people deserve opportunities, but when it comes to our courts and when it comes to making decisions about us, our family, about women, about children, about rape victims, about workers, the many things that come before a court, a record is what we have to look at and what we have to stand on.

I thank my colleague from New York for giving me an opportunity to respond.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I will rebut something that my friend from Virginia, Senator ALLEN, said about

Janice Rogers Brown. He said she was in the mainstream. This is a woman who has served on the California Supreme Court that is made up of six Republicans and one Democrat. She has dissented a third of the time because her Republican friends on that court are not radical enough for her. Thirty-one times she stood alone on the side of a rapist, on the side of energy companies against the consumers, against women who were seeking to get contraception. It goes on and on—against workers. She said it was fine for Latinos to have racial slurs used against them in the workplace.

This is a woman with an inspiring personal life story. But it is what she has done to other people's lives that makes her far out of the mainstream.

I thank my colleague for yielding. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, this debate is not only about Priscilla Owen and whether she should become an appellate judge, but it is about something much more momentous. If the situation in the Senate were not so grave, there might be some humor in the fact my strict constructionist Republican friends who daily claim to be against activist judges are, through the nuclear option, engaging in the most activist reading of the Constitution to seat an activist judge on the appellate court. That is breathtaking hypocrisy.

But we are more profound than that. We are on the precipice of a crisis, a constitutional crisis. The checks and balances which have been at the core of this Republic are about to be evaporated by the nuclear option, the checks and balances which say if you get 51 percent of the vote you do not get your way 100 percent of the time. It is amazing. It is almost a temper tantrum by those on the hard right. They want their way every single time, and they will change the rules, break the rules, misread the Constitution so they will get their way.

That is not becoming of the leadership of the Republican side of the aisle, nor is it becoming of this Republic. That is what we call abuse of power.

There is, unfortunately, a whiff of extremism in the air. In place after place, the groups that were way out of the mainstream with their disproportionate influence on the White House and the Republican leadership in this Senate seem to push people to abuse power.

It happened in the Schiavo case, and there was a revulsion in America. It happened with threats against judges, both made by some of my colleagues in this body and certainly by some well-known activist religious figures. It has happened on Social Security where there is an attempt to undo a very successful government program. And that is why the popularity, the respect that this Republican leadership has in America, goes down every day. I know, as chair of the DSCC, because I keep an eye on those things.

I make a plea. It is to the seven or eight Republicans on that side of the aisle. Every one of them has told us they know the nuclear option is wrong. It is a plea to have the courage to stand up for what is right. There are many others of our colleagues on the other side of the aisle who have already said they know the nuclear option is wrong, but they say they cannot resist the pressure. I understand it. We have had times on the Democratic side where groups on the left extreme have had undue influence. But it is in yours and America's detriment and to our party's detriment.

We are on the precipice of a constitutional crisis. It rests on the shoulders of three or four men or women on the other side of the aisle. We hope we will not fall into the abyss.

Judges are now under siege. Our Constitution is under attack. Our precious system of checks and balances is under assault. Some of my colleagues seem to have forgotten we in the Senate have a constitutional role to play, and we will. The Founding Fathers did not intend us to march lockstep like lemmings behind every Presidential appointee no matter how many times he or she is put before the Senate. The Founding Fathers, whom many of us like to cite, foresaw collaboration between the President and the Senate in the seating of judges. The Founding Fathers expected, because of the advice and consent clause, the President would be judicious, that he would talk to the Senate about nominees.

This President has done none of that. No President has nominated judges more through an ideological spectrum than this President. When he asks why he doesn't get cooperation from the Democrat side, he has reaped what he has sown. No consultation, no discussion, and nominees who tend to be way over at the extreme.

As Hamilton wrote in the Federalist Papers about the importance of the Senate's role in approving judicial nominees, the possibility of rejection of nominees would be a strong motive to use care in proposing. But this President, instead of taking that care that the Founding Fathers sought, has seen some of his nominees—a handful—rejected, and now instead of accepting that as a consequence of no consultation and of nominating extreme judges, he seeks to encourage the majority leader and others to change the rules in this hallowed institution.

Why are we at this crisis point? The bottom line is that no President in memory has taken so little care in the proposing of judges.

What about abuse of power? I will talk for a moment, before I talk about Priscilla Owen, about the nuclear option. If there ever was something that signified an abuse of power, a changing of the rules in midstream simply because you could not get your way on every judge, it is this nuclear option. There is now a desperate attempt on the other side of the aisle not to call it the nuclear option, but it was my colleague from Mississippi, the former majority leader, who gave it that name—with justification. You won't change the name. To call it the constitutional option is hypocrisy. There is nothing in the Constitution that talks about filibuster or majority vote when it comes to judges in the Senate.

It is a nuclear option because it will vaporize whatever is left of bipartisanship and comity in the Senate.

Now, let me ask a question: How much power does the Republican leadership need? How much power is it entitled to? Does a 1- or 2-percent point victory in the last election, does a margin of five Senators give them the right to get their way all the time and then to change the rules if they can't?

The American people are understanding this. There are only three branches of Government. The Republican Party has a tight grip on all three. Republicans control the Presidency, they control the House, they control the Senate. They already have control of the courts.

As the chart shows, of all of our judicial circuits, only two have slight Democratic majorities. The sixth is even. And all the others have Republican majorities.

The circuit courts, the courts of last resort, are overwhelmingly Republican already in terms of their appointees. And on the new judges they have been able to fill, they have gotten their way 95 percent of the time. As one of my colleagues said, if your child came home and said they got a 95 on their test, would you pat them on the head and say "good job" or would you say "go change the rules, cheat until you get 100 percent"? That is what the other side is doing.

Ninety-five percent should make this President very happy. And maybe it would if he was left to his own devices. But the group of hard-right extremists, who seem to have disproportionate sway, are not happy unless they have 100 percent.

Now, let me talk a little bit about calling it a "constitutional option." The other side will, with a straight face, either tomorrow or the next day, invoke our democracy's chief charter, the Constitution, in ruling that judicial filibusters are prohibited by the Constitution. There is only one problem. There is nothing in the Constitution that supports the nuclear option. There is nothing in the Constitution that requires a majority vote for every judicial nominee. Republicans know this.

The Senator from Tennessee, our majority leader, who got on the floor earlier today and said for 214 years there have not been filibusters of judges, has a very short memory. I asked him this morning, Did you not, on March 8, 2000, vote in favor of a filibuster of Richard Paez to the Ninth Circuit Court of Appeals? Here is a copy of the vote. Voting no: FRIST, Republican of Tennessee. Did he think it was unconstitutional then? He said on the floor, in answer, Well, some are successful, some are not. I have never known the Constitution to say that something is unconstitutional if it fails and constitutional if it succeeds. When we talk about attempted murder or robbery or larceny, it is still a crime.

So I would like to ask my colleague to answer during this debate, How can he distinguish as unconstitutional our votes to block judges, and it is perfectly acceptable, 5 years ago, his vote to block a judge, or the scores of votes by other Republicans in favor of filibusters over the years, including those against Paez and Berzon and Fortas? Were they unconstitutional? I do not think so.

Furthermore, have judges never been blocked? All the time. One out of every five Supreme Court nominees did not make it to the Supreme Court. That is part of the tradition of this country. Should the Senate have majority say? No. Should we have the say the majority of the time? No. Should we have the say some of the time? Yes. And there is the balance. The more a President consults, the more the President nominates moderate nominees, the more likely his nominees will succeed. Bill Clinton had a little trouble, but he consulted ORRIN HATCH regularly. PATRICK LEAHY has not been consulted by the President at all.

Another interesting point. It seems the only people who seem to cling to the nuclear option are those in elected office who are susceptible to the power and sway of these extremist groups. Conservatives who are not in public office, retired elected officials, commentators, have repeatedly said the nuclear option is not constitutional.

How about George Will—hardly a liberal—one of the country's most foremost commentators. Here is what he said:

> Some conservatives say the Constitution's framers "knew what supermajorities they wanted"—the Constitution requires various supermajorities, for ratifying treaties, impeachment convictions, etc.; therefore, other supermajority rules are unconstitutional. But it stands—

Listen to this.

> But it stands conservatism on its head to argue that what the Constitution does not mandate is not permitted.

Of course. The people who advocate this are the greatest activists of all. And it is an unbelievable turnaround, an unbelievable act of hypocrisy, that all of a sudden activism, which means interpreting things in the Constitution which are not in the writings of the Constitution, is OK when you want to get your way. It is wrong.

Now, let me talk a little bit about Priscilla Owen. She is the nominee before us today. This is the third time we have considered the nomination of Priscilla Owen. Each previous time she got an up-or-down vote. She did not get 60, but she sure got an up-or-down vote. Everyone's vote was on the record. This was not being done, what was done in the Clinton years, which was not even letting judges come up for a vote. Here we are again.

Why are we doing Priscilla Owen again? Because 95 percent is not good enough for the President or for the leadership here in the Senate. On the merits, nothing has changed. There is no question she is immoderate and that she is a judicial activist. I continue to believe Justice Owen will fail my litmus test, my only litmus test in terms of nominating judges; that is, will they interpret law, not make law? Will they not impose their own views and have enough respect for the Constitution and the laws of this land that they will not impose their own views?

Well, do not ask me. Ask the people who served with Justice Owen. They believe that she, time and time again, cast aside decades of legal reasoning, miles of legislation, to impose her own views. If there was ever a judge who would substitute her own views for the law, it is Judge Owen. Her record is a paper trail of case after case where she thinks she knows better than hundreds of years of legal tradition.

In one case, In re Jane Doe, Judge Owen's dissent came under fire from her colleagues in the Texas Supreme Court. They referred to her legal approach as an effort to "usurp the legislative function." That was a very conservative court, and they still said Justice Owen put her views ahead of the law.

Even more troubling, of course, is what Attorney General Alberto Gonzales said. He sat on the same court with Judge Owen. He wrote a separate opinion in which he chastised the dissenting judges, including Justice Owen, for attempting to make law, not interpret the law. These are Judge Gonzales's words, not mine. He said that to construe the law as the dissent did "would be an unconscionable act of judicial activism." Those are not my words. Those are the words of the man the President has appointed as Attorney General.

In another case, Montgomery Independent School District v. Davis, the majority ruled in favor of a teacher who had been wrongly dismissed, and the majority, including Judge Gonzales, wrote that:

> the dissenting opinion's misconception . . . stems from its disregard—

Not its misinterpretation; "its disregard"—

> of the [rules] the Legislature established.

In a third case, Texas Department of Transportation v. Able, Justice Gonzales also took Justice Owen to task for her activism, indicating she had misunderstood the plain intent of the State legislature.

The list goes on and on. And there is nothing to indicate she has backed off from her activist tendencies.

As extreme as Justice Owen is, Justice Janice Rogers Brown is even more so.

The things she has said are unbelievable. She is an activist judge, more committed to advancing her own extreme beliefs and ideas than guaranteeing a fair shake for millions of Americans who would be affected by her decisions on the DC circuit. There was the Lochner case which threw out as unconstitutional a law that said bakery workers could not work a certain number of hours. That was a New York law, so we are not even dealing with federalism. It was decided in 1906 or 1901, close to 100 years ago. If you go to law school, it is called the worst Supreme Court decision of the 20th century.

She said it was decided correctly. Judge Janice Rogers Brown believes that if an employer wanted to employ a child for 80 hours in awful conditions, that would be that employer's constitutional right.

Justice Brown's views on economics make Justice Scalia look very liberal. She doesn't want to roll back the clock to the 1950s or even the 1930s. She wants to go back to the 1800s. She has been nominated to the most important court in the country when it comes to enforcing Government laws and rules—environmental, labor—and yet she abhors Government.

Here is what she once wrote:

> Where government moves in, community retreats, civil society disintegrates, and our ability to control our own destiny atrophies.

Does the kind of person who thinks that way belong on any court of appeals, and particularly on the DC Court of Appeals? Absolutely not.

For those reasons, the American Bar Association gave her one of the lowest rankings any of this administration's circuit court judges have ever received.

We stand on the edge. This is an amazing time. I wake up in the morning, sometimes with butterflies in my stomach, thinking the Senate might actually attempt to do this. If there was ever a time where the power grab has been so harsh, so real, and so unyielding, it is now. It is not simply that we have a disagreement of ideas and we argue vehemently. It seems much more that the leadership on the other side can't stand the fact that they don't always get their way and that they have to change the rules to do it.

People who hate activist judges are becoming activist themselves in the sense that they read into the Constitution things that are never there. People who say that they respect bipartisanship are going to undo whatever is left of bipartisanship here in the Senate.

Amazingly enough, with all of the smoke pumped by the radical right's media machines, talk radio, the American people have a deep understanding. The only solace I have, as we are on the edge of this crisis and the eve of a great vote in the Senate, is that the American people understand what majority leader FRIST is up to. They understand this is a power grab. They understand this is a breaking of the rules. They understand the checks and balances will go by the wayside. What was good enough 4 years ago, votes on filibusters, is not acceptable today.

I believe the nuclear option, even if it should pass on the floor this week or next week, will not stand, that the American people will understand what is attempting to be done, they will rise up and, whether it is at the polls or just in the court of public opinion, cause the nuclear option to be undone.

That is the faith I have in the Government we have and the people who are governed. But let us not go through that. We will stop progress in the Senate. We will ruin bipartisanship, whatever is left of it, and we will be playing with fire when it comes to the constitutional checks and balances that are at the core of our Constitution and our Republic.

I will have plenty more to say in the upcoming weeks, but it is a momentous time. I appeal once again to my colleagues: Think of what you are doing. Think of its consequences. Maybe we won't have to live with this, the greatest undoing of the Constitution that this Senate has seen in decades.

I yield the remaining time to my colleague from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from New York. He serves as the ranking member of the Subcommittee on Administrative Oversight and the Courts of the Judiciary Committee, and he more or less heads all of the hearings with respect to these judges. He has done an excellent job. He is thorough. As everybody knows, he is a smart and intelligent man. He has made a very eloquent statement. So I thank him.

Last week I came to the floor and discussed the nuclear option. I recognize today that we are now faced with going down this path. I am concerned that once begun, it is going to be hard, if not impossible, to reverse it.

I find it ironic in his statement the majority leader said:

> All Members are encouraged to ensure that rhetoric in this debate follows the rules and best traditions of the Senate.

That is exactly what this side of the aisle is fighting for—the rules and the traditions of the Senate. We are standing up to those in the other party who want to break the rules and precedent of the Senate. So in reality, it is those of us on this side of the aisle who are asking the majority leader to follow all the rules and precedents of the Senate, not just the one he supports or any other group of Members might support.

Some have argued this debate is too inside baseball or, more appropriately perhaps, too inside the beltway and that Americans don't care about it. However, I believe that is wrong. To date, I have received about 16,000 phone calls, and they are running three to one in favor of opposing the nuclear option. The reason is, people are beginning to understand this debate is built on the very foundation of why we are here, why our democracy has been successful over 200 years, and why our Constitution is looked at as a model across the world in emergent democracies.

Let me try to explain, once again, why Senators take their role of advise and consent so seriously and what this nuclear option will mean, not only for the Senate and the judiciary but for our Constitution and our country.

First, Federal judges' decisions impact laws that affect our everyday lives—privacy protection, intellectual property, laws of commerce, civil rights, environmental regulations, highway safety, product liability, the environment, retirement security. And those are just a few examples. Who we confirm is important because their ability to interpret basic law, based on the Constitution of the United States, is critical to our functioning. Their independence to do that is critical.

Secondly, Federal judges enjoy lifetime appointments. They don't come and go with administrations, as do Cabinet Secretaries. They cannot be removed from the bench, except in extremely rare circumstances. In fact, in our Government's over 200-year history, only 11 Federal judges have been impeached and, of those, only 2 since 1936.

Thirdly, Federal judges are meant to be independent. The Founding Fathers intentionally embedded language in the U.S. Constitution to provide checks and balances. Inherent in our Government is conflict and compromise, and that is the fundamental principle in the structure of our Government. The judiciary is meant to be an independent, nonpartisan third branch.

I think John Adams, in 1776, made it very clear on the point of checks and balances and an independent judiciary, when he said:

> The dignity and stability of government in all its branches, the morals of the people and every blessing of society, depends so much upon on upright and skillful administration of justice, that the judicial power ought to be distinct from both the legislative and executive, and independent upon both, that so it may be a check upon both, as both should be checked upon that . . . [The judges'] minds should not be distracted with jarring interests; they should not be dependent upon any man or body of men.

Now, that is the clearest statement of intent from our Founding Fathers, that the judiciary should be and must be independent. That is what is being eroded with the partisanship and with the nuclear option. The Senate was meant to play an active role in the selection process. The judiciary was not solely to be determined by the executive branch. Last week, I described how, in the Constitutional Convention, the first effort put forward was actually to have the Senate nominate and appoint judges. Then it was later on, with the consideration of others, changed to allow the President to nominate. But the explanation in the Federalist Papers is all centered around the Senate having the real power to confirm, and that power is not a rubberstamp.

Because of these fundamental concerns, for centuries there have been heated and important debates surrounding judicial nominations. Today, rather than utilizing and preserving the natural tension and conflict our Constitution created, some in the Republican Party want to eviscerate and destroy that foundation. Blinded by political passion, some are willing to unravel our Government's fundamental principle of checks and balances to break the rules and discard Senate precedent.

The nuclear option, if successful, will turn the Senate into a body that could have its rules broken at any time by a majority of Senators unhappy with any position taken by the minority. It begins with judicial nominations. Next will be executive appointments, and then legislation.

A pocket card being passed around in support of the nuclear option states this:

> The majority continues to support the legislative filibuster.

Yes, they do today, but what happens when they no longer support it tomorrow or the next day? If the nuclear option goes forward and they break Senate rules and throw out Senate precedent, then any time the majority decides the minority should not have the right to filibuster, the majority can simply break the rules again. Fifty-one votes are not too hard to get. Get the Vice President, have a close Senate, and you get it. That will be new precedent again in the Senate. So once done, it is very hard to undo. That is why precedent plays such a big part in everything we do because we recognize that once you change it, you open that door for all time. It can never be shut again. If this is allowed to happen—if the Republican leadership insists on enforcing the nuclear option, the Senate becomes ipso facto the House of Representatives, where the majority rules supreme and the party in power can dominate and control the agenda with absolute power.

The Senate is meant to be different. In my talks, I often quote George Washington and point out how the Senate and House are often referred to as a cup of coffee and a saucer. The House is a cup of coffee. You drink your coffee out of the cup. If it is too hot, you pour it into the saucer—the Senate—and you cool it. The Senate is really formed on the basis that no legislation is better than bad legislation and that the debates and disagreements over judicial nominations ensures that the Senate confirms the best qualified candidates.

So the Senate is meant to be a deliberative body, and the rights of the minority, characterized by the filibuster, are purposely designed to be strong. Others describe the Senate as a giant bicycle wheel with 100 spokes. If one Senator—one spoke—gets out of line, the wheel stops and, in fact, that is true. In our rules, any Senator can put a hold on a piece of legislation and essentially force the majority to go to a cloture vote—essentially, force a 60-vote necessity for any matter to be brought to the floor. This distinguishes us from the House. Because we know it is such a strong right, we are very reluctant and very reserved in the use of that right. This is what has produced comity in this House, the collegiality. Everybody knows if you put a hold on something too often, you are going to jeopardize things you want. So what goes around comes around and comity, such as it may be, exists.

Now, when one party rules all three branches, that party rules supreme. But now one party is saying that supreme rule is not enough, that they must also completely eliminate the ability of the minority to have any voice, any influence, any input.

This is not the Senate envisioned by our Founding Fathers. It is not the Senate in which I have been proud to serve for the last 12 years. And it is not the Senate in which great men and women of both parties have served with distinction for over 200 years. We often refer to the longest filibuster in history, which was conducted by Senator Strom Thurmond and lasted for more than 24 hours. That was an actual filibuster, standing on the floor and orating, or asking the clerk to read the bill, or reading the telephone directory, and doing it hour after hour after hour, sending the message that you are stopping debate, that on the great wheel of comity one spoke is sticking out and stopping it. People listen because, unlike the House, debate and discussion has been important. It has been fundamental in our being, and our ability to stand up on the floor of the Senate and discuss issues of import before the world on television, for the CONGRESSIONAL RECORD, for all of the people who watch on closed circuit television, becomes a signal, I think, on Capitol Hill.

When Democrats were in the White House—I will talk for a moment on Senate procedure—Republicans used the filibuster and other procedural delays to deny judicial nominees an up-or-down vote. So denying a judicial nominee an up-or-down vote is nothing new. It has been done over and over and over again. I speak as a member of the Judiciary Committee for 12 years, and I have seen it done over and over and over again. So why suddenly is an up-or-down vote now the be all and end all?

Last administration, Republicans used the practice of blue slips or an anonymous hold, which I have just described, to allow a single Senator—not 41 Senators, but 1—to prevent a nomination from receiving a vote in the Judiciary Committee, a 60-vote cloture vote on the floor, or an up-or-down vote on the floor of the Senate. This was a filibuster of one, and it can still take place within the Judiciary Committee.

The fact is, more than 60 judicial nominees suffered this fate during the last administration. In other words, over 60 Clinton judges were filibustered successfully by one Senator, often anonymous, often in secret, no debate as to why. It was an effective blackball.

This is not tit-for-tat policy, but it is important to recall that Senate rules have been used throughout our history by both parties to implement a strong Senate role and minority rights, even the right of one Senator to block a nomination.

Republicans have argued that the nominations they blocked are different because in the end, some, such as Richard Paez and Marsha Berzon, were confirmed. This ignores that it took over 4 years to confirm both of them because of blue slips and holds.

In addition, if a party attempts to filibuster a nomination and a nominee is eventually confirmed, that does not mean it is not a filibuster. Failure does not undo the effort. I pointed out earlier where, in 1881, President Hayes nominated a gentleman to the Supreme Court. That was successfully filibustered throughout President Hayes' term. When President Garfield then came into office, he renominated the individual, and the Senate then confirmed that individual. But that does not negate the filibuster. It was the first recorded act of a filibuster of a judicial nominee, and it, in fact, took place and was successful for the length of President Hayes' term.

More importantly, while some of Clinton's nominations eventually broke through the Republican pocket filibuster, 61 of President Clinton's judicial nominations were not confirmed because of Republican opposition. Not only were they not confirmed, they were not given a committee vote in Judiciary. They were not given a cloture vote here or an up-or-down vote on the floor. So these are really crocodile tears.

Republicans have also argued that the reason the nuclear option is needed now is because the Clinton nominees were not defeated by a cloture vote. In essence, because different procedural rules were used to defeat a nominee, it does not count.

On its face, this argument is absurd. To the nominee, whatever rule was used, their confirmation failed and the result is the same: They did not get a vote, and they are not sitting on the Federal bench.

As I said, 61 Clinton nominees, in the time I have sat on the Senate Judiciary Committee—so I have seen this firsthand—were pocket filibustered by as little as one Senator in secret and, therefore, provided no information about why their nomination was blocked. There was no opportunity to address any concern or criticism about their record and qualifications.

Just to straighten out the record because I debated a Senator yesterday: 23 of these were circuit court nominees and 38 were district court nominees. In addition, unlike what some have argued, this practice was implemented throughout the Clinton administration when Republicans controlled the Senate, not just in the last year or final months of the tenure of the President.

The reason I mention this is because there is sort of an informal practice in the Judiciary Committee—it is called the Thurmond rule—that when a nominee is nominated in the fall of year of a Presidential election, that nominee does not generally get heard. But I am not only talking about nominees at the tail end; I am talking about nominees who were nominated in each of the 6 years of the Clinton Administration in which the Republican party controlled the Senate.

The following is a list of President Clinton's judicial nominees who were blocked:

Nominees	Court nominated to	Date nomination first submitted to Senate
Circuit Court		
Charles R. Stack	Eleventh Circuit	10/27/95
J. Rich Leonard	Fourth Circuit	12/22/95
James A. Beaty, Jr	Fourth Circuit	12/22/95
Helene N. White	Sixth Circuit	01/07/97
Jorge C. Rangel	Fifth Circuit	07/24/97
Robert S. Raymar	Third Circuit	06/05/98
Barry P. Goode	Ninth Circuit	06/24/98
H. Alston Johnson, III	Fifth Circuit	04/22/99
James E. Duffy, Jr	Ninth Circuit	06/17/99
Elena Kagan	DC Circuit	06/17/99
James A. Wynn, Jr	Fourth Circuit	08/05/99
Kathleen McCree Lewis	Sixth Circuit	09/16/99
Enrique Moreno	Fifth Circuit	09/16/99
James M. Lyons	Tenth Circuit	09/22/99
Allen R. Snyder	DC Circuit	09/22/99
Robert J. Cindrich	Third Circuit	02/09/00
Kent R. Markus	Sixth Circuit	02/09/00

Nominees	Court nominated to	Date nomination first submitted to Senate
Bonnie J. Campbell	Eighth Circuit	03/02/00
Stephen M. Orlofsky	Third Circuit	05/25/00
Roger L. Gregory	Fourth Circuit	06/30/00
Christine M. Arguello	Tenth Circuit	07/27/00
Andre M. Davis	Fourth Circuit	10/06/00
S. Elizabeth Gibson	Fourth Circuit	10/26/00
	District Court	
John D. Snodgrass	Northern District of Alabama.	09/22/94
Wenona Y. Whitfield	Southern District of Illinois	03/23/95
Leland M. Shurin	Western District of Missouri	04/04/95
John H. Bingler, Jr	Western District of Pennsylvania.	07/21/95
Bruce W. Greer	Southern District of Florida	08/01/95
Clarence J. Sundram	Northern District of New York.	09/29/95
Sue E. Myerscough	Central District of Illinois	10/11/95
Cheryl B. Wattley	Northern District of Texas	12/12/95
Michael D. Schattman	Northern District of Texas	12/19/95
Anabelle Rodriguez	District of Puerto Rico	01/26/96
Lynne R. Lasry	Southern District of California.	02/12/97
Jeffrey D. Colman	Northern District of Illinois	07/31/97
Robert A. Freedberg	Eastern District of Pennsylvania.	04/23/98
Legrome D. Davis	Eastern District of Pennsylvania.	07/30/98
Lynette Norton	Western District of Pennsylvania.	04/29/98
James W. Klein	District of Columbia	01/27/98
J. Rich Leonard	Eastern District of North Carolina.	03/24/99
Frank H. McCarthy	Northern District of Oklahoma.	04/30/99
Patricia A. Coan	District of Colorado	05/27/99
Dolly M. Gee	Central District of California.	05/27/99
Frederic D. Woocher	Central District of California.	05/27/99
Gail S. Tusan	Northern District of Georgia	08/03/99
Steven D. Bell	Northern District of Ohio	08/05/99
Rhonda C. Fields	District of Columbia	11/17/99
S. David Fineman	Eastern District of Pennsylvania.	03/09/00
Linda B. Riegle	District of Nevada	04/25/00
Ricardo Morado	Southern District of Texas	05/11/00
K. Gary Sebelius	District of Kansas	06/06/00
Kenneth O. Simon	Northern District of Alabama.	06/06/00
John S.W. Lim	District of Hawaii	06/08/00
David S. Cercone	Western District of Pennsylvania.	07/27/00
Harry P. Litman	Western District of Pennsylvania.	07/27/00
Valerie K. Couch	Western District of Oklahoma.	09/07/00
Marian M. Johnston	Eastern District of California.	09/07/00
Steven E. Achelpohl	District of Nebraska	09/12/00
Richard W. Anderson	District of Montana	09/13/00
Stephen B. Lieberman	Eastern District of Pennsylvania.	09/14/00
Melvin C. Hall	Western District of Oklahoma.	10/03/00

Mrs. FEINSTEIN. Mr. President, the overwhelming question I have—and let me ask everybody here—is the public interest better served by 41 Senators stating on the floor of the Senate why they are filibustering a nominee, as Senator SCHUMER did, as others have done earlier, and the reasons hang out in public? Everybody can hear the reasons; they can be refuted. There are reasons given with specificity. They are based on opinions, they are based on speeches, they are based on writings, and they are discussed right on the floor in public. Or is the public interest better served by one Senator, in secret, putting a hold on a nominee or blue-slipping the nominee and preventing that nominee from ever having a hearing, from ever having a markup, from ever having a vote in the Senate, and it is all done on the QT, no discussion, no debate. It is, as I said, the epitome of blackballs that exists in the Senate.

All during the Clinton years, Republicans did not argue that checks and balances had gone too far. In fact, the opposite occurred. Republicans went to the floor to defend their right to block nominations. Senator HATCH is a good friend of mine, but nonetheless here is his 1994 statement about the filibuster:

> It is one of the few tools that the minority has to protect itself and those the minority represents.

That was on judges. That was the chairman of the Judiciary Committee.

In 1996, Senator LOTT, then the leader, stated:

> The reason for the lack of action on the backlog of Clinton nominations—

That is an admission there were backlogs of Clinton nominations—

> was his steadily ringing office phones saying "No more Clinton Federal judges."

Also, in 1996, Senator CRAIG said:

> There is a general feeling that no more nominations should move. I think you'll see a progressive shutdown.

Now there are crocodile tears and people are upset because 41 of us—not 1—41 want to debate in public. We have voted no on cloture because we believe our views are strong enough, that our rationale is strong enough and substantive enough to face public scrutiny and warrant an extended debate in the true tradition of the Senate.

We may not all agree. Our country is based on a foundation that protects the freedom to disagree, to debate, to require compromise. Neither party will always be right when it comes to the best policies for our country, and neither party will always be in power. So, as I said initially, it is important to put this political posturing in context. I believe filibusters should be far apart and few, and should be reserved for the rare instances for judicial nominations that raise significant concerns.

I voted against cloture in my Senate career of 12 years on only 11 judicial nominations and voted to confirm 573. I believe judicial nominees must be treated fairly and evenhandedly. I also believe it is the duty of the Senate to raise concerns or objections when there are legitimate issues that need to be discussed.

Discharging our obligation to advise and consent is not an easy task, especially when it involves making a choice to oppose a nomination. As I discussed earlier, I strongly believe the use of the blue slip and anonymous holds has been abused in previous Congresses. During the reorganization of the Senate in 2000, Senators DASCHLE and LEAHY worked to make the process more fair and public. At that time, a blue slip was no longer allowed to be anonymous and instead became a public document. This refining forced Senators opposed to a nominee to be held accountable for their positions. They could not hide behind a cloak of secrecy. This step also wiped out many of the hurdles that had been used to defeat nominations, so many of the tools used by Republicans in the past, and referred to as a way to draw distinctions with a public cloture vote, are no longer available.

Today the blue slip is still used. However, with each chairmanship, its effectiveness and its role has been modified. Each chair of the Judiciary Committee says they are going to adhere to the blue slip in a different way. That is the anomaly in this process. One person in Judiciary decides what the rules are going to be. This is what we ought to change.

Recently, Senator SPECTER, for example, has indicated he will honor negative blue slips. It is a piece of paper that Senators from a nominee's home state send in. If you do not send them in or if you say you do not favor the nominee, that nominee does not proceed. So Senator SPECTER has said he will honor negative blue slips when they are applied to district court nominees and that even one negative blue slip will be considered dispositive. However, when it comes to circuit court, blue slips will be given great weight but will not be dispositive on a nomination.

Given that the meaning and effect of a blue slip has changed, and I suspect will continue to change depending on which party controls the Senate and which party is in the White House, I believe the blue slip process should be eliminated altogether. In reality, its usefulness has already been lost.

Instead, I have long supported the creation of a specific timeline for how judicial nominations should be considered. Three months after nominations are submitted by the President, they should be given a hearing in the Judiciary Committee. In 6 months they should be given a vote in the committee. And in 9 months, floor action should be taken on the nomination. But the filibuster should remain the basic right of this institution. I believe implementing this timeframe would go a long way toward alleviating the tension that has plagued the consideration of judicial nominees.

I would like to spend a few moments, since I believe I have the time, on one nominee. It is the nominee who comes from California. Of course I represent California. This is very hard for me to do, but I believe this nominee clearly indicates the legitimacy of our position. I would like to turn to the President's choice for a seat on the most powerful appellate court in the Nation, the DC Circuit, Janice Rogers Brown.

In the case of this particular nominee, out of all the nominations, Justice Brown, in my view, is the clearest cut. She has given numerous speeches over the years that express an extreme ideology, I believe an out-of-the-mainstream ideology. In those speeches she has used stark hyperbole, startlingly vitriolic language. That has been surprising, especially for a judge, let alone a State Supreme Court justice from my State. But statements alone would not be enough for me to oppose her nomination, because there are many nominees whose opinions I have strongly disagreed with and voted to confirm. Jeffrey Sutton and Thomas Griffith immediately come to mind.

Rather, my concern is that these views expressed in Justice Brown's speeches also drive her legal decisionmaking. On far too many occasions she has issued legal opinions based on her personal political beliefs, rather than existing legal precedent. Let me give some instances.

In a speech to the Institute for Justice on August 12, 2000, Justice Brown stated this:

> Today, senior citizens blithely cannibalize their grandchildren because they have a right to get as much free stuff as the political system will permit them to extract.

From the context of the speech, it is clear Justice Brown is referring to Social Security and Medicare, two essential programs that protect individuals in their retirement, and two programs that today's senior citizens have been contributing to financially for decades.

Unfortunately, her legal decisions reflect the same visceral hostility toward the rights of America's seniors. Let me give you an example.

In Stevenson v. Superior Court, Justice Brown wrote a dissenting opinion that would have changed California law to make it more difficult for senior citizens to demonstrate age discrimination. A Republican justice, writing for the majority of the California Supreme Court, criticized Justice Brown's opinion and he stated this:

> The dissent's real quarrel is not with our holding in this case, [meaning the majority] but with this court's previous decision . . . and even more fundamentally with the legislature itself. . . . The dissent [of Justice Brown] refuses to accept and scarcely acknowledges these holdings.

"These holdings" being the law of the State of California.

Justice Brown's open disdain toward Government is also disturbing, especially in light of her nomination to the District of Columbia Circuit. Let me explain why this is so important. The DC Circuit is the most prestigious and powerful appellate court below the Supreme Court because of its exclusive jurisdiction over critical Federal constitutional rights and Government regulations. Given this exclusive role, the judges serving on this court play a special role in evaluating Government actions.

Janice Brown's statements on the Federal Government raise serious concerns about how she would perform on the DC Circuit if given a lifetime position. Let me illustrate.

At a 2000 Federalist Society event, Justice Brown stated:

> Where government moves in, community retreats, civil society disintegrates, and our ability to control our own destiny atrophies. The result is: families under siege, war in the streets, unapologetic expropriation of property, the precipitous decline of the rule of law, the rapid rise of corruption, the loss of civility and the triumph of deceit. The result is a debased, debauched culture which finds moral depravity entertaining and virtue contemptible.

We asked her about these statements in the Judiciary Committee. Her answer was, "Well, I write my own speeches." So these are her words. These are her words, of somebody going on the DC Circuit with enormous hostility to virtually anything the Government would do, and saying the Government is responsible for the loss of civility, the triumph of deceit.

Justice Brown's statements and actions demonstrate that she is an activist judge with an unfortunate tendency to replace the law as written with her own extreme personal beliefs. This is not the kind of judge who should be on the nation's second most powerful court.

The PRESIDING OFFICER. The Senator's time is expired.

Mrs. FEINSTEIN. I will yield the floor, but if an opportunity comes up, I will ask to recover it again.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, we are debating in the Senate today a very important issue. It is an issue that we must deal with and one that may take days of debate.

For a series of reasons, it has become more and more of interest to the American people the nature and quality of judges that we appoint. That has resulted in a serious concern about the role of courts, the critical doctrine of separation of powers; that is, what judges do and what they should do and what their prerogatives are and what their responsibilities are as a judge.

President Bush, in his campaigns both times, made absolutely clear that he believed the judge should be a neutral arbiter, a fair referee and, as such, not have an agenda when they go on the bench. He has appointed and nominated judges that share that view. And they have been doing splendid jobs—the judges that have been confirmed. He has not asked that they promote his agenda, his politics, his view of the social policies of America, he has simply asked that they do the jobs they were appointed to do—that they serve in the judicial branch of our government.

It is true, however, that the American people have seen some things in the judicial branch that have troubled them. They have seen, for a number of years, two judges on the Supreme Court consistently dissent in death penalty cases. They don't like the death penalty so they dissent in cases that uphold its use. They declare, in every case they consider, that the death penalty cruel and unusual, and therefore, prohibited by the Constitution of the United States. But they failed to note that in that very same Constitution there are eight or more references to capital crimes, permitting the taking of a person's life with due process of law, there are multiple references to the death penalty in the Constitution and I think it is important to note that every State, at the time the Constitution was adopted, had a death penalty and virtually every country had one as well.

Therefore, it is inconceivable to me how a judge who would follow his oath to obey the commands of the Constitution could ever interpret the phrase "cruel and unusual"—certainly it was not unusual if it was the law of every State in the Nation at that time and the Federal Government had laws supporting the death penalty. So we know that some judges continue to conclude that the death penalty is cruel and unusual. That is activism. They have allowed their personal opposition to the death penalty to solely drive them, and they have manipulated the words of the Constitution to make it say something it plainly does not say.

Now we are seeing cases of judicial activism on a whole raft of issues. We have seen the Pledge of Allegiance struck down by a Federal court. We have seen the erosion of rights of property protected by the fifth amendment that says you cannot take someone's property without paying them for it. We have had courts redefine the meaning of marriage under the guise of interpreting a constitutional phrase that absolutely was never ever intended to affect the definition of marriage. It was probably the last thing in their minds when the people ratified the Constitution.

We have had judges cite as authority proceedings in the European Union, but it is our Constitution we ratified. It is our Constitution, not some other. How can they define and make rulings based on opinions in Europe when they go against the very document that orchestrates and organizes our Government?

We have consent decrees in prisons and schools and mental health hospitals where Federal judges dominate whole Government agencies and state legislatures for 30 years. We have had judges say you cannot have a Christmas display because it violates the first amendment. And, we know that jackpot verdicts are all too common.

The American people are concerned about these things. These things are bigger than Republican and Democrat, they go to the heart of the separation of powers doctrine. President Bush was honest and direct, and many of the people he has nominated have had an objection to their nomination because, on occasion, they have written something or have made a speech that indicates they share the view that a judge should show restraint and not promote their own personal agenda from the bench.

That is the way it has been for 200 years. I remember when this debate got kicked off, I saw "Meet the Press," when Hodding Carter was on it, and used to be on the staff of President Carter, and he said: Well, I have to admit we liberals are at the point we are asking the courts to do for us that which we can no longer win at the ballot box.

Too often that is what this is about. A lot of these issues that are being decided by courts and judges would never ever prevail at the ballot box. They would not be passed by the Congress.

People say they are nice folks. They are smart people. If you criticize a judge, you are doing something that is highly improper; you should never criticize a judge. That is not the history of the Republic. What the American people need to understand, I cannot emphasize this too much, the principle on these issues I have just talked about is very deep. What we are suggesting is, and what is being implicated here is, that unelected judges who are given a lifetime appointment by which they are independent and unaccountable to the public, should not set social and political policy in this country.

Is that too much to ask? We have seen too much of that. It is being taught in the law schools that the good judges are the ones that step out in a bold way and move the law forward to higher realms, they would say. But have they forgotten that the people, if they wish to have a death penalty and it is consistent with a Constitution, their opinion makes little difference? They have one vote in the election, as everyone else does. If their views do not get ratified, so what?

Some people say: Well, the courts had to act because the legislature did not act. But when the legislature does not act, that is an act. That is a decision, a decision not to change an existing law, and it deserves respect.

Our judges are people who take their office on trust. We have some exceedingly fine ones and most do show discipline, but I do believe this is a point in our history when the American people and the Congress need to decide together what we expect out of judges. Do we expect them to be the avant-garde of social and political policy? Or do we expect them to be faithful and true arbiters of legitimate disputes to interpret the law as they find it?

There is only one way, consistent with our Constitution and our history and our body politic, for our system to continue to work, and that is that judges show restraint. That is what this debate is about. It is not about Republicans. It is not about Democrats or such things.

One of the things that has occurred in this confirmation process, for now nearly 20 years, has been the influence of outside hard-left activist groups who have a clear agenda with regard to the Judiciary. They know exactly what they want from the Judiciary, and they are determined to get it. They have banded together. They build dossiers on nominees. They systematically take out of context their comments and their statements and their positions. They release that to the public. Frequently, they have support from the major liberal news organizations in the country to the sensational charges they make and they sully the reputations of nominees who are good and fine nominees.

It is a very difficult to turn the tide on that. It is unfair. We will talk about that some today. But we have to recognize this.

If I criticize my colleagues on the other side of the aisle, I would say this: Those people were not elected to the Senate. They have not taken an oath to advise and consent and to do so honestly and with intellectual integrity. They did not do that. They are advocates. They raise money by trying to demonstrate to those who would contribute to them that President Bush's nominees are extreme and out of the mainstream. They should not be calling the shots here. Frankly, my view is, too often they have. Too often they have taken nominees, and they have smeared them up, muddied them up, and then our Senators have not stepped back and given them a fair shake. I do not mean that personally to my colleagues, but I think that is a fair observation. I believe too often that has occurred.

Two of the things that are typical of that can be seen in an ad now being run on television against Priscilla Owen—I don't know in how many States—by People For the American Way. Let me remind you that Justice Priscilla Owen, from Texas, was given the highest possible rating by the American Bar Association. She finished at the top of her class in law school. She made the highest possible score on the Texas bar exam. A lot of people take that exam. That is a big deal, in my opinion. She got 84 percent of the vote in her reelection. She had the support of every major newspaper in Texas, and many of them are not Republican newspapers. She is a superb, magnificent nominee.

However, the People for the American Way TV ad wants you to believe that she is an activist judge, even though we know that for her whole career her whole philosophy of law is that judges should follow the law and not legislate from the bench. That is her deepest abiding principle—be faithful to it and not depart from it, whether or not she agrees with it.

The People for the American Way cites as proof of her activism a fellow justice on that court, now the Attorney General of the United States of America, Alberto Gonzales, who they say accused her of being an activist in an opinion he wrote. So they declare: Ah, she is an activist. The President's own Attorney General said she is an activist. That is simply not so.

Let me just talk about the facts of this opinion for a minute. We need to drive this home because so far as I can tell that is the only charge that has been made against her that amounts to anything at all that has ever been consistently raised by those who oppose her nomination.

In the opinion the People for the American Way cites as their evidence, what happened was this—the Texas Supreme Court was evaluating the meaning of the Texas parental notification law on abortion for a teenager or a minor. Minors in Texas have to notify at least one of their parents before they undergo the significant medical procedure of an abortion, unless there is a bypass to the parental notification requirement granted by a court. And minors are allowed to ask for that judicial bypass for many reasons. This process allows them to set forth the reasons and not have to tell their parents that they are going to have an abortion.

Well, in this circumstance, a trial judge heard the case. He saw the child who wanted to bypass and not tell her parents, and he concluded that she did not meet the statutory requirements and should tell her parents. Lets be clear—the Texas parental notification requirement does not give the parents veto power, it does not mean they have to "consent." She could still have the abortion, just as long as she told them, "notified" them, of what she was about to do. The reason to have this kind of law is simple—there is a serious concern that if you cannot give a child an aspirin at school without parental permission, surely we ought not to be having doctors perform abortions on children without at least having the parents notified of it.

That is what Texas voted to have as their law. The Supreme Court has upheld parental notification statuses as constitutional. So, in Texas, there became a fuss over the meaning of the law and Justice Owen concluded that the trial judge was correct in their decision that the girl did not meet the requirements for parental notification and should notify her parents before the abortion. Justice Owen dissented from the main opinion and concluded that the trial judge was correct and the child should notify her mama or daddy that she was going to have an abortion. Whereas, Judge Gonzales's opinion said that he had studied the Texas statute and I have concluded that—it is not perfectly clear, but I have concluded the legislature intended A and B. Therefore, if I don't rule the other way, since I have concluded the legislature intended A and B, then I will be an activist even though I personally hate to see this child not tell her parents.

So, to help us clear up this matter, he came before the Judiciary Committee, of which I am a member, and testified about this case. Senator BROWNBACK, who is in the Chamber, asked him about it as Attorney General. And he was rock solid. He has written a letter saying he was not referring to Justice Owen when he made that comment in his opinion about activism; certainly, did not mean to. He was referring to his own self, that if he had concluded that the legislature meant these things, then he was compelled to rule against the trial judge or he would be labeling himself an activist. Justice Owen did not agree, she had not concluded the same things about the legislation that Judge Gonzalez had.

An SMU law professor wrote a beautiful letter on behalf of Justice Owen. She said:

> I am pro-choice, absolutely, but I believe she followed the law carefully. She was a scholar. She thought it through like a judge should think it through, and, absolutely, this is not evidence of activism and it, absolutely, should not be held against her.

Mr. President, I want to know what the time agreement is and where we are.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator has 43½ minutes remaining.

Mr. SESSIONS. Mr. President, I see Senator BROWNBACK is in the Chamber. I will finish within my 30 minutes. I believe he will be speaking in the next 30 minutes; is that correct—or in that 40 minutes?

The PRESIDING OFFICER. That is an appropriate division of time.

Mr. SESSIONS. I wish to share a little bit about Justice Janice Rogers Brown. She grew up not too far from where I grew up in rural Alabama, in Greenville, AL. She, as a young African-American child, had parents who were sharecroppers. They had a tough life. She ended up moving, as a teenager, to California, where she went through the school system there, did exceedingly well, went to UCLA Law School and achieved great success there, and eventually became a judge. It is terrific, the story of her life and her achievements.

She has served for 9 years now on the California Supreme Court. She does, every day on the California Supreme Court, the same kind of things which President Bush has nominated her to do on the Court of Appeals here in DC. As such, she reviews the transcripts of the trials of cases conducted by trial judges under them to see if there was an error in the conduct of that trial. The California Supreme Court does not conduct trials. They do not make opinions. They review trials below them to make sure they were conducted properly, that the judge followed the law and did not commit errors.

I think she has been trained exceedingly well. As a member of the California Supreme Court she reads briefs. She listens to arguments by counsel, and then writes opinions as they make those judgments. Those opinions should be unbiased and I believe hers have been and will continue to be. We need judges who write well and follow the law and rule consistent with the law. If you look at Justice Brown's career, I do not think anyone can contend she has performed other than admirably on the bench. She has written beautifully and thoughtfully. She graduated from UCLA, one of the Nation's finest law schools.

In February of 2004, last year, the alumni of that not so conservative law school presented Justice Brown with an award for public service. In recognizing her, her fellow UCLA alumni—the people who know her—they did not condemn her for being some extremist. They said this:

> Janice Rogers Brown is a role model for those born to prejudice and disadvantage, and she has overcome adversity and obstacles and, since 1996, has served as a member of the California Supreme Court. The professional training she received at UCLA Law School has permitted her, even now, when decades remain to further enhance her career, to have already a profound and revitalizing impact upon the integrity of American jurisprudence.

I will repeat that:

> She has even now been found to have already a profound and revitalizing impact upon the integrity of American jurisprudence.

I could not agree more. They go on to say this:

> Despite her incredible intellect, work ethic, determination, and resultant accomplishments, she remains humble and approachable.

That is important in a judge. A lot of judges get to the point they think they were anointed and not appointed, but she has been on the bench for 9 years, and they still say she keeps her perspective and remains approachable to all. That is not the Janice Rogers Brown you will be hearing about from those who want to tar and feather her.

I will take the word of the people who know her, who have actually studied her record, over the rhetoric of the interest groups who are not the least bit interested in the integrity of the judiciary. They are interested in their agenda. From my observation, one of their guiding principles is that the ends justify the means.

After law school, Justice Brown served as a deputy legislative counsel in California for 2 years. She then spent 8 years as a deputy attorney general in the office of the California Attorney General, where she wrote briefs and participated in oral arguments before appellate courts on behalf of the State's criminal appeals. So she learned a lot about criminal law, and she prosecuted criminal cases in court and litigated a variety of civil issues. Her keen intellect and work ethic made her a rising star on the California legal scene.

In 1994, then-Governor Pete Wilson tapped her as his legal affairs secretary. Governor Pete Wilson came to Washington last week. For the most part, he was here to affirm Justice Brown. He thinks she is a magnificent nominee. He absolutely supports her. He said he couldn't be more proud of her service on the court and that it was outrageous what they were saying about this fine nominee's record.

She was then nominated and confirmed as an associate justice on the California Third District Court of Appeals. And in 1996, as a result of her superior performance on the appellate court, Governor Wilson elevated her to the California Supreme Court.

I ask to be notified after 30 minutes have been consumed.

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. SESSIONS. Since she was appointed to the Supreme Court, a couple things have happened that provide confidence in her good performance.

During the 1998 election, she was on the ballot and had to win the majority of the vote to stay on the bench. The people of California, who didn't vote for President Bush and certainly are not a rightwing electorate, voted to keep Justice Janice Rogers Brown on the court with 76 percent of the vote. That is a big vote by any standard. Probably 20 percent of the people in California vote against anybody on the ballot. Other judges were on the ballot. She got a higher percentage of the vote than any of the other four judges on the ballot. That is an affirmation by the people of California.

In 2002, for example, Justice Brown's colleagues on the supreme court relied on her to write the majority opinion for the court more times than any other justice. What happens on a court, such as a supreme court, once the court votes on how a case should be decided, they appoint a member of the court to write the opinion. If you write the opinion, you have to be on the majority side. If some don't agree and the majority agrees, then somebody writes the majority opinion for the court.

We have had the suggestion that this justice of the California Supreme Court is somehow out of the legal mainstream, but in 2002, more than any other justice on the court, she was called on to write the majority opinion. That speaks volumes for the fact that she is not out of the mainstream. And there are few courts in the United States more liberal than the California Supreme Court.

Professor Gerald Ullman, who is a law professor in California, wrote a beautiful letter supporting her. His statement sums up what we ought to think about as we consider this nomination. He said:

> I don't always agree with her opinions.

And then he said this:

> I have come to greatly admire her independence, her tenacity, her intellect, and her wit. It is time to refocus the judicial confirmation process on the personal qualities of the candidates, rather than the hot button issues of the past. We have no way of predicting where the hot buttons will be in the years to come, and our goal should be to have judges in place with a reverence for our Constitution who will approach these issues with independence, an open mind, and a lot of commonsense, a willingness to work hard, and an ability to communicate clearly and effectively. Janice Rogers Brown has demonstrated all these qualities in abundance.

Her colleagues support her. A bipartisan group of Justice Brown's former judicial colleagues, including all of her colleagues on the court of appeals for the Third Circuit in California, have written in support of her nomination. Twelve current and former colleagues wrote a strong letter to the committee stating:

> Much has been written about Justice Brown's humble beginnings, and the story of her rise to the California Supreme Court is truly compelling. But that alone would not be enough to gain our endorsement for a seat on the Federal bench. We believe that Justice Brown is qualified because she is a superb judge. We who have worked with her on a daily basis know her to be an extremely intelligent, keenly analytical, and a very hard worker. We know that she is a jurist who applies the law without favor, without bias, and with an even hand.

That was received by the committee October 16, 2003, when this process began.

Justice Owen and Justice Brown are both immensely qualified to serve on the Federal bench. They deserve fair consideration by this body. That should come in the form of an up-or-down vote, not a filibuster. I trust we will have that soon. They certainly deserve it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I thank my colleague from Alabama for his presentation and his work on the Judiciary Committee since the time we have both been in the Senate. He has served for some time and has done an excellent job. He brings a lot of good sense to it. We are both very familiar with Janice Rogers Brown and Justice Owen. They have been in front of us for years now. Priscilla Owen was in front of us when I was last on the Judiciary Committee over 2 years ago. I can remember that during her confirmation hearing, she gave a law school professor dissertation to almost every question that came up. She had the answers. She responded directly to our colleagues. She is a brilliant lady, both on resume and in person.

Something you said earlier caught my attention, because it is what a lot of this battle is about. The left in America doesn't get this agenda through the legislative or executive branch, so they go through the courts. And that is really what we are fighting about now, it seems to me—you have judges we are putting forward for confirmation who are strict constructionists, meaning they will rule within the letter of the law of the Constitution. The left wants people who will be super legislators, legislating from the bench. In your experience on the Judiciary Committee, have you heard that debate taking place, or is it always pretty much underneath the water, you really don't see it? Have you heard that debate rise up where people say, well, we cannot change the marriage definition in the U.S. Congress or in the States, so we are going to do it through the courts?

Mr. SESSIONS. This motive is not talked about regularly in an open way, but in a way it did become open. Shortly after Justice Owen was nominated, the Republicans lost a majority in the Senate. I was chairing at that time the Court Subcommittee of the Judiciary Committee, and that changed and Senator SCHUMER became chairman of the committee. He announced that all judges were basically driven by their politics, and they all had ideologies, and that we ought to just consider their politics when we are confirming them. We had a hearing on the politics of ideology and how we should handle it. I thought the witnesses were uniform, including Lloyd Cutler, counsel to Jimmy Carter and to President Clinton, in their rejection of that principle.

They all agreed that the classical American rule of law says that judges are to be nonpartisan, that they are referees and arbiters and objective interpreters of the law, and it would undermine that principle to start treating them like politicians. So it was discussed in a way that was honest, actually, and I think the overwhelming result from the ABA and the witnesses was that considering politics during the judicial confirmation process would not be a good way to go.

I know Senator BROWNBACK is aware that a lot of the groups that drive the objections to these nominees are very agenda-driven groups, they are activists, and I think that is pretty obvious to anybody who is watching.

Mr. BROWNBACK. Mr. President, that has been my view of what has been taking place recently. Individuals increasingly have said we cannot win this legislative fight in the States or in the Congress, so we are going to take it to the courts. A judge who is a strict constructionist would ask, is this within our purview under the Constitution? And if it is not, the case would be thrown out, rather than the judge saying that the Constitution is an organic, living document, and I can look at this law imaginatively, how I want to, and then somehow find a way to reach the conclusion I want.

To me, that is what the frustration of the public has been—that somehow they are now thrown out of the process. They can vote for or against the Senator from Alabama or the Senator from Kansas or the Senator from New Hampshire or the Senator from Massachusetts on the basis of a policy issue. But they don't have any right or ability to be able to contact a judge. Yet you have these massive issues that directly impact people regarding marriage and life. We have a bill up now where a Federal court has said that the Congress has appropriated this money and that is inappropriate and they must give these moneys out. Under the Constitution, the appropriation powers are clearly given to the Congress. The court is now stepping into that.

My question to my colleague would be, Where does this stop if you don't start putting on judges who are judges rather than super legislators? Where does it stop?

Mr. SESSIONS. I could not agree more with the Senator. He stated that so beautifully and, I believe, so fairly. It is the real question here. As you know—and I am not sure most of the people in our country have fully thought it through—once a judge says the Constitution means that marriage should be redefined and every legislative finding to the contrary is void, the only recourse the American people have is to try to pass a constitutional amendment that requires, as you know, a two-thirds vote of both Houses of Congress and three-fourths of the States. It is a monumental task. And then if you criticize the judge for their ruling, people say: Oh, you are violating the separation of powers. I think when the courts tread into those areas and start imposing political views, they can only expect that there will be criticism in return.

Mr. BROWNBACK. I would think they would expect criticism on that. But that has been the built-up frustration, where people say the only way we can go is to amend the actual Constitution in the process. I do not believe that is the right way for our democracy to be going. I appreciate my colleague from Alabama and his work on these issues. I believe that is really at the core of these matters.

Mr. President, I note that we have had a lot of debate on Priscilla Owen and Janice Rogers Brown. I don't think anyone who listens to any of this debate is unfamiliar with these two individuals. I am going to talk some more, as well, about these individuals and answer some questions and comments made from the other side about these two individuals.

At the end of the day, we need to recognize what this is about. I believe President Bush responded to this well at his last press conference when he was asked: Why do you think the Senate Democrats are opposing your nominees? Do you think it is based on the religious preference of your nominees?

Some of these are people of faith who have religious conviction. He said: No, I think it is because they would interpret the law rather than trying to rewrite the law, that these are people who would stay within the construction of the law and the construction of the Constitution and not try to rewrite it.

I believe that is what really is at stake here. Are you going to have a super legislative judiciary, or are you going to have one where it is the role of a judiciary to determine what is constitutional within the framework of the Constitution, not what some sort of expansive living document reading of the Constitution would be? That really is the heart of the matter we are debating here today. It is a very live issue in front of us right now.

I note to those who may be listening to these proceedings right now, last week, a Federal judge in the State of Nebraska ruled that the State constitutional amendment that the people in Nebraska had passed defining marriage as the union of a man and a woman—the people of Nebraska passed a State constitutional amendment with 70 percent of the vote, which is a high mark in any election, saying, yes, we agree that the union of a man and woman is the definition of marriage in Nebraska. A Federal court in Nebraska ruled that is not only unconstitutional under several different provisions, but that civil unions must be granted to people of the same gender. The Federal court is saying you must give that.

So it is not just saying that the State of Nebraska is wrong and cannot define marriage, which we have left up to the States in the history of the Republic, but it is also saying that the U.S. Constitution, in some reading of it, actually requires the recognition of same-sex civil unions. Where was that ever written in the Constitution? Where was that ever considered in any sort of constitutional debate? Why is that, at this point in time in our Constitution, seen as somehow in this organic document of where we are today?

I think we have had 17 States now directly vote on the issue of marriage, and every one of them said marriage is the union of a man and a woman. Now you have a Federal court that says, no, that is not allowable for States to determine. States in every place and every region in the country have passed this when the people were allowed to vote. Now you see again the issue-setting of an activist judiciary going in and saying: We know what the people think and what the people vote on this, but we say different. You are going to create yet another festering frustration among the people of America if the court starts walking—and apparently it has—into this issue of the definition of marriage. These are things, if properly left to legislative bodies to determine, look at and figure, wrestle with, and have elections about, which people can have an impact on and say, I think this should be a certain way, and a determination is then made by the people. That has been left up to the people, and it should be.

When the court steps in and makes a new determination, makes a new ruling on it, that is going to build to that festering. It happened in 1973 in Roe v. Wade, where the Court discovers this right to privacy that is a constitutional right to abortion, which cannot be limited in any means, by any State, by the Federal Government, by the Congress.

Prior to that period of time, it had been held valid, constitutional, and appropriate for States to regulate and to deal with this issue, so we had different States ruling different ways prior to Roe v. Wade. This is what would happen again if and when Roe v. Wade is overturned; the States simply would then handle this issue as they did prior to 1973. But once the Court discovers this constitutional right to privacy that is interpreted to mean there is a right to abortion, the states cannot decide for themselves at all.

We are starting down the same path with marriage. We can look around the country and ask: Why are people fired up about the judiciary? Why, during the last election cycle, was the lead applause line for President Bush's rallies about appointing judges who will stay within the laws rather than rewriting them?

The reason is people have this deepfelt frustration at how the courts are coming at all of these opinions, so contrary to the feelings of the vast majority of people in the United States. And where is it written within the Constitution, if it is within the document, that we should have a constitutional right to abortion? Bring it to this body, with two-thirds of the House and two-thirds of the Senate, three-fourths of the States passing it. That is how you amend the Constitution, not by a majority vote of the Supreme Court. That is the durable way we amend the Constitution and deal with it, instead of this building up of frustrations to the point where people say: I have been disenfranchised. I thought the people voted, that the people ruled, within the parameters of the Constitution.

Remember, the Constitution gives a broad swath of power to the people and limits government. That is the role of the Constitution. It gives broad authority and power to the people and limits the role of the government.

We have embarked today upon addressing this issue. Really what we are seeing take place now are these large plates pushing against each other. Political scientists for years have debated the issue of Presidential power taking away from legislative power. That has always been the debate over the years.

During a war, a President is stronger; the legislative body is considered weaker. Outside of war, it reverses and the legislature assumes more authority over the executive branch. And for years political scientists have debated this back and forth—who is gaining, who is receding. Yet we have seen taking place now over the past 40 years an ever-increasing encroachment of the judicial branch within these purviews reserved under the Constitution for the legislative and the executive branches.

I spoke of one just previously with my colleague from Alabama, and that is the appropriation of money. In the Constitution, the appropriation of money is given to the legislative body. That is specifically stated within the Constitution.

Jerry Solomon, a former Congressman from New York who passed away, observed that a number of colleges in the United States were not allowing military recruiters to come on to their college campuses. He said they ought to at least have them come on to the campuses and have their voices heard. The colleges said no.

Congressman Solomon put forward an amendment that if a college decides to bar military recruiters from its campus, that is its right, but it then cannot receive certain Federal appropriations. The amendment said if you are not going to let military recruiters on campus, then we have the right to withhold these Federal funds. If you are not going to give them a chance at free speech, we think there is some price to be paid with that.

It is the authority of the Congress to appropriate money. That was done with the Solomon amendment. It passed by a majority vote. It passed by a majority vote in the Senate and was signed into law by the President of the United States.

Now a Federal court says, no, Congress, you cannot do that. The money must go to those colleges in spite of the Solomon amendment. How many places across the country are courts allocating money for States? These are specific authorities and powers reserved to the legislative body, and the reason is, the Founders, in all their wisdom, said legislators are elected by the people, and the allocation of money is one of the key power for any governmental entity that should belong to the elected representatives of the people. But now we have the courts continually taking, taking, taking. The judiciary continues to come in to areas reserved for the executive and legislative branches, and so we come to where we are today: President Bush seeking to appoint judges, bright judges, well-qualified judges, balanced judges, ones who say the law should be interpreted as to what the law is, not what they choose for it to be or what outside groups want it to be. The Constitution is what it is, and it is not something through which I can invent new rights, however much as I think they should be in the Constitution. If that right is to be, it should be passed by two-thirds of the House, two-thirds of the Senate, three-fourths of the States, and then it becomes a constitutional amendment, not by a majority vote at the Supreme Court.

This is what these judges generally stand for. It is what we should get the judiciary back to. And yet nominees who would do that are being blocked, they are being filibustered inappropriately.

Priscilla Owen, Janice Rogers Brown—we have a group of four judges who collectively have been filibustered for a total of 13 years. It is amazing that they would be filibustered for that period of time.

This is a key, defining moment for us as a country. Will the judiciary be the judiciary, or is it to continue to accumulate power and become more of a superlegislative body? That is much of the debate that is in front of us today with the judges. That is taking place in the form of Priscilla Owen, Janice Rogers Brown, and several other judges. That remains the issue.

When a Supreme Court position comes open, will we appoint somebody who will stay within the letter of the law of the Constitution or not? Will it require 60 votes to approve a Supreme Court judge, something that is never required, or will it be a majority vote? Must we have a supermajority?

If you want a supermajority to approve a Supreme Court judge, then amend the Constitution to state that it requires a supermajority, like we do with respect to treaties, what it takes to approve a treaty. The Founders did not say that. They said advise and consent. They did not say a supermajority or two-thirds vote of the body. They said advise and consent. Do you anywhere interpret a supermajority vote to be required to approve a Supreme Court nominee? No, that is not within the reading and understanding of the document. But because this role of judges as legislators keeps coming back up, particularly from the left, it is going to continue to be pushed.

There have been a number of issues raised regarding the nominees. I now want to address what has been raised.

It has been asserted that current Attorney General Alberto Gonzales accused Priscilla Owen of judicial activism. He is Attorney General of the United States and was on the Texas Supreme Court with Justice Owen. I asked the Attorney General in his confirmation hearing for Attorney General if that was something he had said about Priscilla Owen. He said no. He testified under oath that Justice Owen is a great judge he never accused of judicial activism. That is Alberto Gonzales, under oath, in front of the Judiciary Committee of the Senate.

I think that should put that to sleep. He testified under oath that he had never accused Justice Owen of engaging in judicial activism.

Justice Brown was accused of justice activism in supporting the Lochner case. Again, I want to put that issue to rest. Indeed, Justice Brown has taken issue with the Lochner decision. This is considered a judicial activism case. She is being accused of supporting it, when in fact she actually stated in an opinion that:

> The Lochner court was justly criticized for using the due process clause as though it provided a blank check to alter the meaning of the Constitution as written.

That is Justice Janice Rogers Brown, in a written opinion on Lochner. She cannot be accused of this. Maybe her words in a speech are accused, saying she is supportive of Lochner, but her actual stated written opinion says, no, that the Court was justly criticized for the Lochner case. I think those are important things to put clearly in the record.

Mr. President, I inquire of the Chair how much time remains of my allocation?

The PRESIDING OFFICER. The Senator from Kansas has 10 minutes remaining.

Mr. BROWNBACK. Mr. President, I want to cover some of the ground on Janice Rogers Brown that is well known in this situation because she has been in front of us so much, so long, but I think it bears repeating. She was born to sharecroppers, came of age in the Jim Crow era, went to segregated schools. Do you know what motivated her to become a lawyer? It was her grandmother's stories of NAACP lawyer Fred Gray, who defended Rosa Parks, and her experience as a child of the South.

When she was a teenager, Justice Brown's family moved to Sacramento, CA. She received her bachelor's degree in economics from California State in Sacramento in 1974 and her law degree from the UCLA School of Law in 1977. These are all well-known matters.

I don't know if people know as well all of her public service, but they probably cannot because it is so extensive. All but 2 years of her 28 years in her legal career have been in public service. This is a public servant of 26 years standing.

I ask the Presiding Officer or anybody listening, if you serve as a public servant for 26 years in the State of California, how can you be a radical conservative out of the mainstream judicial thought? Can that be while you are serving for 26 years in public service in the State of California in various capacities? She began her career in 1977 and served 2 years as a deputy legislative counsel in the California Legislative Counsel Bureau. From 1979 to 1987 she was deputy attorney general in the office of the attorney general of California. Governor Pete Wilson selected her to serve as his legal affairs secretary from 1991 to 1994. She then served on the State court of appeals for 2 years before joining the California Supreme Court where she served with distinction until 1996. Then she was involved in her community.

So we have 26 years of public service in the State of California. I do not see how that person could be somebody out of the mainstream of thought and serve in so many capacities in that State. That seems to me to defy logic.

She has performed a lot of community service. She served as a member of the California Commission on the Status of African-American Males, focused on ways to correct inequities in the treatment of African-American males in employment and in the criminal justice and health care systems. Is this out of the mainstream? She was a member of the Governor's Child Support Task Force which reviewed and made recommendations on how to improve California's child support system. Out of the mainstream? She was a member of the Community Learning Advisory Board of the Rio Americano High School and developed a program to provide government service internships to high school students in Sacramento. Out of the main stream? She taught Sunday school at the Cordova Church of Christ for more than 10 years, just as former President Carter teaches Sunday school. Out of the mainstream?

Given the impressive range of her activities and legal and personal experiences, it is no surprise that the President would nominate her. What is surprising is that she would be labeled somehow out of the mainstream. I think this is simply and demonstrably ridiculous. If Janice Rogers Brown is an extremist, the people of California, I guess, must be so, too. In 2002 they overwhelmingly approved her in a retention election with 76 percent of the vote. Her support was more than any other justice on the ballot in that election.

If Janice Rogers Brown is extremist, so, too, must be a bipartisan group of 15 California law professors who wrote to the Senate Judiciary Committee in support of Janice Rogers Brown, knowing her to be:

> . . . a person of high intellect, unquestionable integrity and evenhandedness.

She is not out of the mainstream. She is extraordinarily qualified, and this is just an attempt to smear a good candidate.

I turn, finally, to one issue about the approval rate of court of appeals judges under President Bush. We heard a lot of numbers thrown around about judges and the number who have been approved by this administration and what happened under the remainder of the Clinton years administration. I want to put up one chart about this and talk briefly about it.

We have a Republican President and a Republican Senate. I am delighted. I think we are going to make good progress for the American people and show progress in moving things forward. I want to go back to two other Democrats, two Democratic Presidents who had Democratic Senates under them, an appropriate comparison of apples and apples, and look at the approval rate of circuit court judges. Remember you have federal district court judges, circuit court judges, and then Supreme Court Justices. Circuit court and Supreme Court jurists are the ones who have the most latitude on enforcement, interpretation, or rewriting of laws.

Look what we had under Democrat President Johnson, a Democrat President: 95 percent approval rate of circuit court judges. President Carter, Democrat President, Democrat Senate: 93 percent approval rate. President Bush, Republican President, Republican Senate: 67 percent approval rate of circuit court judges.

What changed during this period of time? I suppose some would say they are nominating a different sort of nominees who are not qualified or outside the mainstream, but I think that argument has been put to rest. What you have taking place is the unprecedented use and threat of the filibuster that has never been used before and is targeted at the circuit court, not at the lower Federal court, the finders of fact at the district court level, but at the appellate level so that continued broad interpretation of laws by which some would seek to put their own views more in, can continue to be expressed: 95, 93, 67.

Others will argue, What about the Clinton years? You have a Republican Senate and a Democrat President. There are obviously differences of opinion that will occur during that period of time, more so than when you have a body that is of the same party. But even then, we move forward large numbers of Clinton nominees. This is unprecedented, 67 percent, the falloff from what has taken place because of the use of the filibuster.

This needs to change back to where the filibuster is not used against judicial nominees. Actually, I encourage my colleagues on the other side of the aisle not to use the filibuster on this so we can move forward with up-or-down votes and leave the institution intact, the way it has been for two centuries, where the filibuster is not used on the advice and consent provisions of judges that is required. Filibuster means supermajority vote on circuit court or Supreme Court nominees. That is not contemplated, it is not considered, it is not appropriate under the Constitution.

It is time to move these judges on forward. We are going to have a robust debate for the next several days about this. The issue underlying that is really going to be about the role of the judiciary, whether it is expansive in rewriting broadly laws and the Constitution, or if it is more strict constructionist, staying within the roles and boundaries of what the judiciary should be.

I offer to have the American people decide what role the judiciary has, what role the United States Senate has on appointing people to the judiciary. I regret we are at this point. I regret this chart shows this way. But nonetheless it is what it is. It is something that now we have to deal with. It will be a robust debate, and I hope at the end of the day what we will have is the approval of circuit court judges who are mainstream and who are consistent; the role of the judiciary being appropriate as it was designed by the Framers of the Constitution and the Founders of the Republic and within the lines of the Republic. If that is what we will get back to, their proper roles, the legislative, executive, and judicial branches, it will be a long time coming. But I think it is important and it is worth doing.

Mr. President, I thank my colleagues and yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, it has always been a great privilege for me to come to the floor of the Senate and engage in debate. I graduated from a high school senior class of nine students—in the top five, by the way. I come from a town of 350 people in the southwest ranching corner of North Dakota. I think it is a great privilege to be here, and a wonderful opportunity.

The reason the Senate is such an extraordinary opportunity—and I have had the privilege to serve in both the House and the Senate—is that the Senate is the place of debate, unlimited debate. Yes, there is the opportunity for a filibuster in the Senate, but that is what forces compromise in the Senate. Unlike the House, there is a forcing of compromise, which is what makes Government work.

I have been listening to this discussion. It is quite remarkable. This is a big issue. This is a serious issue. I have been listening attentively to the speakers. Our former colleague, the late Senator Moynihan, once said, everyone is entitled to their own opinion, but they are not entitled to their own set of facts. What is happening here is the continuation of the development of a book of fiction by the majority side.

They come to us and say the filibuster with respect to judicial nominations is very unusual, it is unprecedented, it is unconstitutional. Total fiction. How can they say that with a straight face? At least you would think they would laugh from time to time about what they are trying to pull over the American people.

They have filibustered. They have delayed. They have blocked forever judicial nominations when there was a Democrat in the White House.

Let me read a few names: Snodgrass, Whitfield, Shurin, Bingler, Greer, Sundram, Stack, Wattley, Beaty, Rodriguez, Lasry, Klein, Freedberg, Norton. I could read 60 of these. These are the names of lifetime appointments to the bench the President sent down to this Chamber in the 1990s, most of which never even got 1 day of hearings, not 1 day of hearings. Some of them, by the way, were filibustered, but most were not even given the courtesy of 1 day of hearings because the majority party did not like them, and did not want them confirmed. So they used their control of the Judiciary Committee to make sure they were not confirmed. There were over 60 of them.

Now, the current President, President George W. Bush, has sent 218 names for a lifetime appointment on the Federal bench. We have approved 208. Yes, that is right, 218 names the President has sent and we have approved 208.

The Constitution says something about this. It is not what my colleagues have described. They misread the Constitution. The Constitution provides a two-step process for putting someone on the Federal bench for a lifetime: One, the President nominates; and, two, the Congress decides. That is called advice and consent. It is not the President who decides who goes on the Federal bench for a lifetime. It is a two-step process. The candidate for a lifetime appointment must survive both, must get a Presidential nomination and then must be approved by the Senate.

My colleagues say there is a requirement in the Constitution that there be an up-or-down vote that you cannot filibuster. First, unlike my colleagues on that side of the aisle, many of whom have voted for filibusters—and I will not embarrass them by reading their names, but I could because they have voted for filibusters previously on judicial nominations. Unlike those circumstances, we have voted on all of these judges. The 10 who were not approved had a vote in the Senate on a motion to proceed, on a motion to invoke cloture. It required 60 votes and they did not get the 60 votes so the nomination did not proceed.

The majority party is upset about that. They believe democracy is one-party rule, the same party in the White House, the House, and the Senate. They want their way and if they do not get their way, they intend to violate the Senate rules to change the rules. They will not ask the Parliamentarian when they make the motion. Why? Because they are wrong and they know it, and they will violate the rules of the Senate, so they put their person in the Presiding Officer's chair, the President of the Senate, and by 51 votes they will violate the rules of the Senate for the first time in 200 years. Why? Because their nose is bent out of shape because they have not gotten every single judge on the court they wanted. They have only gotten 208 out of 218.

Let me describe some I have opposed. I actually opposed one who was sent to us by President Bush who wrote that he believed a woman is subservient to a man. I voted against that one. I guess I don't want someone on the Federal bench for a lifetime who believes a woman is subservient to a man. One of the keenest, finest minds of the 18th century, but not someone suited to go to the Federal bench for a lifetime now, in my judgment. That person actually did get through the Senate, I regret to say.

Let me talk about a couple because the majority has brought them to town recently and they have been on television. Let me describe the record of a couple of these nominees.

First let me talk about Janice Rogers Brown. She did not get the 60 votes. Let me describe why. Ms. Brown, as described by the last speaker, has a wonderful life story, but she has served at some great length in the State of California, and her views are so far out of the mainstream that one wonders what would have persuaded the President to send her name down.

Let me give an example. She believes zoning laws represent theft of property. Let me explain that to you. Zoning laws decide if you move into a residential area and you have a house in a residential area and the lot right next door to you is empty, you can have some confidence they are not going to move a porn shop into that next lot. Or there is not going to be a massage parlor in that next lot, or somebody is not going to bring an automobile salvage company and put it on the lot next to your house. Zoning laws. She thinks zoning laws are a theft of property.

Do Americans want someone who believes there ought not be zoning? Or if you decide you should not have a porn shop next to a school, you ought to pay the person who owns the property in order to avoid having the porn shop locate next to a school? Or a massage parlor next to the nursing home? That is so preposterous. What on Earth is that kind of thinking and why do we have a nomination of someone who thinks like that?

That same nominee says, by the way, the Medicare Program and Social Security Program are the last vestiges of socialism, the last of the New Deal socialistic impulses of our country, and says that these are cannibalizing from our grandchildren. That we are cannibalizing from our grandchildren because we have things such as Social Security and Medicare.

Am I pleased to oppose a nominee with those views? Of course I am. We have a right in this Chamber and that right is in the Constitution to prevent someone such as that from going on the Federal bench. The majority party says no, you do not have that right. They say they have what is called the constitutional option.

Let me ask, in the hours in which we debate this, if one Member of the Senate, just one—I am not asking for five, three or two, just one member of the Senate will come to the Chamber of the Senate with the Constitution in their pocket. Yes, you can put it in your pocket. It is a rather small document. If you cannot read it, we will get remedial reading or have someone read it to you. Come down to the Senate and tell us where it says that the minority in the Senate does not have the right to invoke the rules of the Senate to prevent someone from going on the bench for a lifetime? Where does it say that in the Constitution?

I was on a television program with one of my colleagues from the other side. That colleague was saying it is unconstitutional for us to filibuster a court nominee. That very colleague has previously voted to filibuster a court nominee. I wonder how they can stop from grinning—at least? I understand where a full-bellied laugh would not occur on the Senate floor—but how can you avoid grinning when you stand up and perpetrate these fictions?

They know better.

Again, as my colleague, the late Senator Moynihan said, everyone is entitled to their opinion, but not everyone is entitled to their own set of facts. Let's at least deal with the truth in the Senate.

There is much we ought to do in the Senate. My colleagues on the floor are colleagues most often who stand up and talk about the real issues. I am talking about Senator KENNEDY and Senator DAYTON and others on the issues of jobs, the jobs going overseas at a record pace, health care, health care costs that are devastating to people and to their budgets and to businesses. Energy, the price of gasoline, the fact we are held hostage by the Saudis and Kuwaitis and Iraqis and Venezuelans for oil we put through our transportation system and through gasoline that we run through our fuel injectors, and yet is there any discussion of that in the Senate? No, no, not at all. Not at all. This is an agenda driven outside this Chamber by interest groups that have forgotten the Ninth Commandment. Yes, there were Ten Commandments, and the Ninth says: Thou shalt not bear false witness.

I ask my fellow citizens, turn on your television and see what they are running on television: advertisements coming from religious organizations that fundamentally misrepresent—and they know they misrepresent—the facts with this issue. The Ninth Commandment says: Thou shalt not bear false witness. The truth is this. The truth is, that this Congress has a right to an equal voice in who spends a lifetime on a Federal bench. The truth is, we have cooperated to an extraordinary degree with this President. We have approved 208 Federal judges. Let me say, two of them are sitting on the Federal bench in North Dakota. I was proud to work for both of them. They are both Republicans. I am a Democrat. I am pleased they are both on the Federal bench. I worked with the White House to get them there. I supported them, as I have done with most of the nominees coming from this President.

But we have every right to decide, when this President sends us the name of a nominee so far outside the mainstream—and that is the case with the two they are talking about now, one from Texas, one from California—we have a right to decide not to advance those names to give them a lifetime appointment on the Federal bench.

To those who stand up on the floor of the Senate and say: Well, there has never been a filibuster before—you know better than that. If they keep doing it, I am going to come down and read the names of all of them on the majority side that have voted for the filibuster. And I will read the names of all 60 judges into the RECORD—I should not say 60 judges—60 nominees the last President sent down here that, in many cases, did not even have the courtesy of a hearing.

This position is hypocrisy, and it needs to change. This so-called nuclear option is called "nuclear," and it was coined by the majority party. It is called "nuclear" because nuclear relates to almost total destruction. And some of them are gleeful now that they are headed toward a nuclear approach on the floor of the Senate.

This is a great institution. I am proud to be part of it. But this is not a proud day. America's greatest moments are not found in circumstances such as this. America's greatest mistakes are often wrapped in the zeal of excessive partisanship, and that is what we find here. And America's greatest mistakes are almost always—almost always—preceded by a moment, a split second, when it is possible to change your mind and do the right thing.

That moment, that split second exists now for the majority leader and those who feel as he does, that they ought to exercise the total destructive option they call the nuclear option.

We ought to, in my judgment, work together. Mr. President, 208 of 218 judges means we have worked together and done the right thing. There are no apologies from this side for exercising our constitutional right to make sure we have men and women on the Federal bench whom we are proud of, who represent the mainstream of this country. We have done that time and time and time again with President George W. Bush, and will continue to do that.

But we will not give up the right to exercise our responsibilities here on the floor of the Senate on these important issues.

Mr. President, I believe my time has expired. I believe the Senator from Massachusetts follows me today. I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Massachusetts.

Mr. KENNEDY. I thank the Chair.

Mr. President, I would like to ask the Chair to remind me when I have 10 minutes remaining.

The PRESIDING OFFICER. The Senator currently has 45 minutes.

Mr. KENNEDY. Mr. President, I commend my friend and colleague from North Dakota for the excellent presentation he made. As a member of the Judiciary Committee, I remember the well over 60 nominees who were denied the courtesy to be considered and to have a hearing and go to the Senate and have a debate and discussion on the floor of the Senate.

I do not think any of us who are strongly opposed to what the Senator has referred to as the nuclear option are interested just to retaliate against these Republican judges, the half a dozen or so who have been mentioned, debated, and discussed today, in return for the way the over 60 nominees were treated under the previous administration. But it does respond to the suggestions that have been made here on the floor that somehow institutionally our friends on the other side have always been for fairness in the consideration of these nominees and considerate of the President in meeting his responsibility of advising the Senate.

I think many of us believe very deeply that if there are Members in this body who, as a matter of conscience, feel strongly that those nominees or any nominee fails to be committed to the fundamental core values of the Constitution, that they ought to be able to speak to it, they ought to be able to speak to it and not be muzzled, not be gagged, not be silenced. That is the issue that is before the Senate now and will be addressed in these next few days, and why it is enormously important for the country to pay attention to this debate and this discussion.

There is no breakdown in the judicial confirmation process. Democrats in this closely divided Senate have cooperated with the President on almost all his nominations. The Senate has confirmed 208 of President Bush's 218 nominees in the past 4 years, most of whom are not people we would have chosen ourselves. Ninety-five percent have been confirmed.

Only a handful did not receive the broad, bipartisan support needed for confirmation. Their records show they would roll back basic rights and protections. Janice Rogers Brown, William Pryor, Priscilla Owen, and William Myers would erase much of the country's hard-fought progress toward equality and opportunity. Their stated values—subordinating the needs of families to the will of big business, destroying environmental protections, and turning back the clock on civil rights—are not mainstream values.

Democrats have, under the Senate's rules, declined to proceed on those nominees to protect America from their radical views.

The President has renominated William Pryor for the 11th Circuit, which includes the States of Florida, Alabama, and Georgia. Mr. Pryor's record makes clear that his views are far outside the legal mainstream. Mr. Pryor is no conservative. Instead, he has pushed a radical agenda contrary to much of the Supreme Court's jurisprudence over the last 40 years.

Mr. Pryor has fought aggressively to undermine Congress's power to protect individual rights. He has tried to cut back on the Family and Medical Leave Act, the Americans with Disabilities Act, and the Clean Water Act. He has criticized the Voting Rights Act. He has been contemptuously dismissive of claims of racial bias in the application of the death penalty. He has relentlessly advocated its use, even for persons with mental retardation. He has even ridiculed the Supreme Court Justices, calling them "nine octogenarian lawyers who happen to sit on the Supreme Court." He can't even get his facts right. Only 2 of the 9 Justices are 80 or older.

Mr. Pryor's opposition to basic protections for the rights of the disabled is particularly troubling. In one case, Justice Scalia, for a unanimous Court—a unanimous Court—rejected his position that the Americans With Disabilities Act does not apply to State prisons.

In another case, the Supreme Court rejected his view that provisions of the act ensuring that those with disabilities have access to public services are unconstitutional.

In that case, a plaintiff who uses a wheelchair challenged the denial of access to a courthouse where he had to crawl up the stairs to reach the courtroom. Mr. Pryor claimed that the Congress could not require States to make public facilities accessible to the disabled. He said that because the disabled have "no absolute right" to attend legal proceedings affecting their rights, denying them access to courthouses does not violate the principle of equal protection.

The Supreme Court also rejected his radical view that executing retarded persons is not cruel and unusual punishment. And later the Eleventh Circuit court, a court dominated by conservative Republican appointees, unanimously rejected Mr. Pryor's attempt to evade the Supreme Court decision. He had tried to prevent a prisoner with an IQ of 65, who even the prosecution agreed was mentally retarded, from claiming that he should not be executed.

On women's rights, Mr. Pryor has criticized constitutional protections against gender discrimination. He dismissed as "political correctness" the Supreme Court's decision that a State-run military academy could not deny admission to women because of stereotypes about how women learn.

Mr. Pryor has an especially troubling record on voting rights. In a 1997 statement to Congress, he opposed section 5 of the Voting Rights Act, an indispensable tool for assuring that all Americans have the right to vote regardless of race or ethnic background. He called this important law an "affront to federalism" and "an expensive burden that has far outlived its usefulness."

In March, we commemorated the 40th anniversary of Bloody Sunday when Martin Luther King, Jr., Congressman JOHN LEWIS, and others were brutally attacked on a peaceful march in Mr. Pryor's home State of Alabama in support of voting rights for all, regardless of race. Yet now the administration wants our consent to a nominee who opposes the Voting Rights Act. There is too much at stake to risk confirming a judge who would turn back progress on protecting the right to vote.

It is no surprise that civil rights leaders oppose Mr. Pryor's nomination, including Rev. Fred Shuttlesworth, a leader in the Alabama movement for voting rights, and many of Rev. C.T. Vivian's and many of Dr. King's other close advisers and associates.

There can be no doubt that Mr. Pryor sees the Federal courts as a place to advance his political agenda. When President Bush was elected in 2000, Mr. Pryor gave a speech praising his election as the "last best hope for federalism." He ended his speech with these words:

> . . . a prayer for the next administration: Please God, no more Souters.

In another speech he said he was thankful for the Bush v. Gore decision:

> I wanted Governor Bush to have a full appreciation of the judiciary and judicial selection so we can have no more appointments like Justice Souter.

His call to politicize the Supreme Court shows that he views the courts as places to make laws, not interpret them.

The real question is why, when there are so many qualified Republican attorneys in Alabama, the President would choose such a divisive nominee. Why pick one whose record raises so much doubt as to whether he will be fair? Why pick one who can muster only a rating of "partially unqualified" from the American Bar Association? The administration has given us no good answers to these questions because there are none. Mr. Pryor is clearly on the far fringe of legal thinking and not someone who should be given a lifetime appointment to the court of appeals.

Of course, we oppose the attempt to break the Senate rules to put Mr. Pryor on the court. That is what our Founding Fathers would have wanted us to do, not to act as a rubber stamp for the administration.

Priscilla Owen, whose nomination the Senate is debating today, is another candidate on the far fringes of legal thinking. Her record raises equally grave concerns that she would try to remake the law. Four times the Senate has declined to confirm her because of concerns that she won't deal fairly with a wide range of cases that can come before the Fifth Circuit, especially on issues of major concern to workers, consumers, victims of discrimination, and women exercising their constitutional right. Yet the President chose to provoke a fight in the Senate by renominating her, among other plainly unacceptable nominees whom the Senate declined to confirm in the last Congress.

Nothing has changed since we last reviewed her record to make Justice Owen worthy of confirmation now. Her supporters argue that she is being opposed solely because of her hostility to women's constitutionally protected right to choose. In fact, her nomination raises a wide range of major concerns because she so obviously fails to approach cases fairly and with an open mind.

As the San Antonio Express News has stated, her "record demonstrates a results-oriented streak that belies supporters' claims that she strictly follows the law."

It is not just Senate Democrats who question her judicial activism and willingness to ignore the law. Even newspapers that endorsed her for the Texas Supreme Court now oppose her confirmation, after seeing how poorly she served as judge.

The Houston Chronicle wrote:

> Owen's judicial record shows less interest in impartially interpreting the law than in pushing an agenda.

And that she, it continues, "too often contorts rulings to conform to her particular conservative outlook."

It noted that:

> It's worth saying something that Owen is a regular dissenter on a Texas Supreme Court made up mostly of other conservative Republicans.

The Austin American Statesman, in their editorial, said Priscilla Owen "is so conservative that she places herself out of the broad mainstream of jurisprudence" and that she "seems all too willing to bend the law to fit her views . . ."

The San Antonio Express News said:

> [W]hen a nominee has demonstrated a propensity to spin the law to fit philosophical beliefs, it is the Senate's right—and duty—to reject the nominee.

These are the San Antonio Express News, the Austin American Statesman, and the Houston Chronicle.

Her colleagues on the conservative Texas Supreme Court have repeatedly described her in the same way. They state that Justice Owen puts her own views above the law, even when the law is crystal clear.

Her former colleague on the Texas Supreme Court, our Attorney General Alberto Gonzales, has said she was guilty of "an unconscionable act of judicial activism." This is what the current Attorney General of the United States said when he was on the supreme court: Justice Owen's opinion was "an unconscionable act of judicial activism."

Justice Gonzales's statement that her position in this case was "an unconscionable act of judicial activism" was not a random remark. Not once, not twice, but numerous times Justice Gonzales and his other colleagues on the Texas Supreme Court have noted that Priscilla Owen ignores the law to reach her desired result.

In one case, Justice Gonzales held the Texas law clearly required manufacturers to be responsible to retailers who sell their products if those products are defective. He wrote that Justice Owen's dissenting opinion would judicially amend the statute to let manufacturers off the hook.

In 2000, Justice Gonzales and a majority of the Texas Supreme Court upheld a jury award holding the Texas Department of Transportation and the local transit authority responsible for a deadly auto accident. He explained that the result was required by the plain meaning of the Texas law. Owen dissented, claiming that Texas should be immune from these suits. Justice Gonzales wrote that she misread the law, which he said was clear and unequivocal.

In another case, Justice Gonzales joined the court's majority that criticized Justice Owen for disregarding the procedural limitations in the statute and taking a position even more extreme than had been argued by the defendant.

In another case in 2000, landowners claimed a Texas law exempted them from local water quality regulations. The court's majority ruled the law was an unconstitutional delegation of legislative authority to private individuals. Justice Owen dissented and sided with the large landowners, including contributors to her campaign. Justice Gonzales joined a majority opinion criticizing her, stating that most of her opinion was nothing more than inflammatory rhetoric, which merits no response.

Justice Gonzales also wrote an opinion holding that an innocent spouse could recover insurance proceeds when her coinsured spouse intentionally set fire to their insured home. Justice Owen joined a dissent that would have denied the coverage of the spouse on the theory that the arsonist might somehow benefit from the court's decision. Justice Gonzales's majority opinion stated that her argument was based on a "theoretical possibility" that would never happen in the real world, and that violated the plain language of the insurance policy.

In still another case, Justice Owen joined a partial dissent that would have limited the basic right to jury trials. The dissent was criticized by the other judges as a "judicial sleight of hand" to bypass the Texas constitution.

Priscilla Owen is one of the most frequent dissenters on the conservative Texas Supreme Court in cases involving basic protections for workers, consumers, and victims of discrimination. That court is dominated by Republican appointees, and is known for frequently ruling against plaintiffs. Yet, when the Court rules in favor of plaintiffs, Justice Owen usually dissents, taking the side of the powerful over individual rights.

She has limited the rights of minors in medical malpractice cases. She has tried to cut back on people's right to relief when insurance company claims are unreasonably denied, even in cases of bad faith. Her frequent dissents show a pattern of limiting remedies for workers, consumers, and victims of discrimination or personal injury.

She dissented in a case interpreting a key Texas civil rights law that protects against discrimination based on age, race, gender, religion, ethnic background, and disability. Justice Owen's opinion would have required employees to prove discrimination was the only reason for the actions taken against them—even though the law clearly states that workers need only prove that discrimination was one of the motivating factors. Justice Owen's view would have changed the plain meaning of the law to make it nearly impossible for victims of discrimination to prevail in civil rights cases.

She joined an opinion that would have reversed a jury award to a woman whose insurance company had denied her claim for coverage of heart surgery bills. Many other such cases could be cited.

Justice Owen also dissented in a case involving three women who sought relief for intentional infliction of emotional distress on the job because of constant humiliating and abusive behavior by their supervisor.

The supervisor harassed and intimidated employees by the daily use of profanity; by screaming and cursing at employees; by charging at employees and physically threatening them; and by humiliating employees, including making an employee stand in front of him in his office for as long as thirty minutes while he stared at her. The employees he harassed suffered from severe emotional distress, tension, nervousness, anxiety, depression, loss of appetite, inability to sleep, crying spells and uncontrollable emotional outbursts as a result of his so-called supervision. They sought medical and psychological help because of their distress.

Eight Justices on the Texas court agreed that the actions, viewed as a whole, were extreme and outrageous enough to justify the jury's verdict of intentional infliction of emotional distress. Justice Owen wrote a separate opinion, stating that while she agreed that there was evidence to support the women's case, she thought most of it was "legally insufficient to support the verdict."

Justice Owen's record is particularly troubling in light of the important issues that come before the Fifth Circuit, which is also one of the most racially and ethnically diverse Circuits, with a large number of low-income workers, Latinos, and African-Americans. It is particularly vital that judges on the court are fair to workers, victims of discrimination, and those who suffer personal injuries.

Some have said that those who raise questions about Justice Owen's record are somehow smearing her personally. That's untrue and unfair. Each of us has a responsibility to review her record and to take seriously the problems we find.

That means taking seriously the rights of persons like Ralf Toennies, who was fired at age 55, and found that Justice Owen wanted to impose obstacles to his age discrimination claim that were nowhere in the statute. We must take seriously the rights of the women employees criticized by Justice Owen for their testimony on workplace harassment in the emotional distress case. We can't ignore the rights of the millions of families who live in the Fifth Circuit States of Texas, Louisiana, and Mississippi.

Finally, Justice Owen's supporters have also suggested that she should be confirmed to the Court of Appeals because Texas voters elected her to their Supreme Court.

Obviously, there is a huge difference between State judges who must submit to local elections to keep their positions and Federal judges who are lifetime appointees, and are not meant to respond to popular opinion. If we confirm Justice Owen to the Fifth Circuit, she will serve for life. So our responsibility as Senators is very different. The record of each nominee for a Federal judgeship is carefully considered by Senators from all 50 States.

Likewise, the fact that she received a high rating from the American Bar Association or did well on the bar exam does not erase her disturbing record. Priscilla Owen's record raises major questions about her commitment to the basic rights guaranteed by the Constitution to all our citizens.

Mr. President, I want to take a few moments now to go over with the Senate some of the rules that are going to have to be broken by the majority in order to try to change the rules of the Senate.

I want to review very quickly what we are faced with here. I will give two examples of individuals who I think failed to meet the standard for approval in the Senate, that they have a commitment to the core values of the Constitution. We have just seen examples and statements and comments from both individuals and from newspapers and other sources that I think established convincingly these individuals do not have that kind of core commitment required and should not be given lifetime appointments.

Neither the Constitution, nor Senate rules, nor Senate precedents, nor American history provide any justification for the majority leader's attempt to selectively nullify the use of the filibuster to push through these radical nominees. Equally important, neither the Constitution, nor the rules, nor precedent, nor history provide any permissible means for a bare majority of the Senate to take that radical step without breaking or ignoring clear provisions of applicable Senate rules and unquestioned precedents.

Here are some of the rules and precedents the executive will have to ask its allies in the Senate to break or ignore in order to turn the Senate into a rubberstamp for the nominations:

First, they will have to see that the Vice President himself is presiding over the Senate so that no real Senator needs to endure the embarrassment of publicly violating Senate rules and precedent and overriding the Senate Parliamentarian the way our Presiding Officer will have to do.

Next, they will have to break paragraph 1 of rule V, which requires 1 day's specific written notice if a Senator intends to try to suspend or change any rule.

Then they will have to break paragraph 2 of rule V, which provides that the Senate rules remain in force from Congress to Congress, unless they are changed in accordance with the existing rules.

Then they will have to break paragraph 2 of rule XXII, which requires a motion, signed by 16 Senators, a 2-day wait, and a three-fifths vote to close debate on the nomination itself.

They will also have to break rule XXII's requirement of a petition, a wait, and a two-thirds vote to stop debate on a rules change.

Then, since they pretend to be proceeding on a constitutional basis, they will have to break the invariable rule of practice that constitutional issues must not be decided by the Presiding Officer, but must be referred by the Presiding Officer to the entire Senate for full debate and decision.

Throughout the process, they will have to ignore or intentionally give incorrect answers to proper parliamentary inquiries which, if answered in good faith and in accordance with the expert advice of the Parliamentarian, would make clear that they are breaking the rules.

Eventually, when their repeated rule-breaking is called into question, they will blatantly, and in dire violation of the norms and mutuality of the Senate, try to ignore the minority leader and other Senators who are seeking recognition to make lawful motions or pose legitimate inquiries or make proper objections.

By this time, all pretense of comity, all sense of mutual respect and fairness, all of the normal courtesies that allow the Senate to proceed expeditiously on any business at all will have been destroyed by the preemptive Republican nuclear strike on the floor.

To accomplish their goal by using a bare majority vote to escape the rule requiring 60 votes to cut off debate, those participating in this charade will, even before the vote, already have terminated the normal functioning of the Senate. They will have broken the Senate compact of comity and will have launched a preemptive nuclear war. The battle begins when the perpetrators openly, intentionally, and repeatedly break clear rules and precedents of the Senate, refuse to follow the advice of the Parliamentarian, and commit the unpardonable sin of refusing to recognize the minority leader.

Their hollow defenses to all these points demonstrate the weakness of their case.

They claim that "we are only breaking the rules with respect to judicial nominations. We promise not to do so on other nominations or on legislation." No one seriously believes that. Having used the nuclear option to salvage a handful of activist judges, they will not hesitate to use it to salvage some bill vital to the credit card industry, oil industry, pharmaceutical industry, Wall Street, or any other special interest. In other words, the Senate majority will always be able to get its way, and the Senate our Founders created will no longer exist. It will be an echo chamber to the House, where the tyranny of the majority is so rampant today.

One of the greatest privileges of my life is serving the people of Massachusetts in the Senate. I am reminded every day of my obligation to speak up for them and fight for their concerns, their hopes, and their values in this Chamber. Many brave leaders from Massachusetts have held the seat I hold today in the Senate. This seat was held by John Quincy Adams, who went on to become the sixth President and was a great champion of free speech. He debated three Supreme Court nominees and voted to confirm them all. He refused to be silenced.

Charles Sumner was the Senate's leading opponent of slavery. He was beaten to within an inch of his life for speaking up for his convictions. It took him 3 years to recover from the injuries and return to the Senate to speak out against slavery once again. He debated 11 Supreme Court nominees and voted for 10 of them. He refused to be silenced.

Daniel Webster was one of our Nation's greatest orators and the architect of the Great Compromise of 1850. He spoke up for a united America with the words "liberty and union, now and forever, one and inseparable." You can hear his words ringing through these halls even now. He debated 12 Supreme Court nominations; he voted to approve 8 and opposed 4. He refused to be silenced.

Henry Cabot Lodge, the Republican, opposed President Wilson's efforts to join the League of Nations. He was the leading Republican voice on foreign policy in his time. He debated 20 Supreme Court nominees, voted for 18, and he opposed 2. He refused to be silenced.

John Kennedy not only was a champion for working men and women in Massachusetts, but he also battled intolerance, injustice, and poverty during his time in the Senate. He debated and supported four Supreme Court nominees. He, too, refused to be silenced.

These great Senators are remembered and respected in our history because they spoke up for their convictions. They were not intimidated. They did not back down from their beliefs. They were not muzzled. They were not gagged. They would not be silenced. And it will be a sad day for our democracy if the voices of our Nation's elected representatives can no longer be heard.

Mr. President, I yield the remaining time to my friend and colleague, the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I thank my good friend from Massachusetts.

The Book of Proverbs teaches:

> Do not boast of tomorrow, for you do not know what the day will bring.

In the play "Heracles," the great playwright Euripides wrote:

> All is change; all yields its place and goes.

And the Greek philosopher Heraclitus said:

> Change alone is unchanging.

I urge my colleagues to bear the constancy of change in mind as they consider the proposal to break the rules to change the rules of the Senate. Many in the Senate's current majority seem bent on doing that. They seem quite certain that they shall retain the Senate majority for quite some time thereafter.

But as Bertrand Russell said:

> Most of the greatest evils that man has inflicted upon man have come from people feeling quite certain about something, which, in fact, was false.

My colleagues do not need to strain their memories to recall changes in the control of the Senate. Most recently, the Senate changed from Democratic to Republican control as a result of the 2002 election. Democrats did control the Senate throughout the sixties and the seventies, but since then the Senate has governed under six separate periods of one party's control. The Senate switched from Democratic to Republican control in 1980, back to Democratic control in 1986, back to Republican control in 1994, back to Democratic control in 2001, and back to Republican control again in 2002.

Similarly, some in the Senate can remember the decade after World War II. The Senate switched from Democratic to Republican control in 1946, back to Democratic control in 1948, back to Republican control in 1952, and then back to Democratic control again in 1954. Senators who served from 1945 to 1955, a mere 10 years, served under five separate periods of one party's majority control.

One cannot always see that change is coming, but change comes nonetheless. For example, in November 1994, Washington saw one of the most sweeping changes in power in Congress of recent memory. Very few saw that coming. The majority in the House and the Senate changed from Democratic to Republican.

It is by no means easy to see that change coming. In March of 1994, just several months before the election, voters told the Gallup poll that they were going to vote Democratic by a ratio of 50 percent Democratic to 41 percent Republican. That same month, March of 1994, voters told the ABC News poll that they were going to vote Democratic by a ratio of 50 percent Democratic to 34 percent Republican. As late as September of 1994, voters told the ABC News poll that they were going to vote Democratic by a ratio of 50 percent Democratic to 44 percent Republican. On the first Tuesday in November 1994, however, more than 52 percent of voters voted Republican for Congress. Democrats lost 53 seats in the House and 7 seats in the Senate.

In 1980, the Senate changed hands from Democratic to Republican control, but in August of 1980, voters in States with a Senate election told the ABC News-Louis Harris poll that they would vote for Democrats for the Senate by a margin of 47 percent for Democrats and 45 percent for Republicans. And on the first Tuesday in November 1980, Democrats lost 12 seats in the Senate.

In November 2002, the voters gave the Republican Party victory in the Senate. But my colleagues in the majority would do well to remember.

After a victorious campaign, Roman generals used to be rewarded with a triumph—a triumphant parade through the streets of Rome. Citizens acclaimed them like gods. But tradition tells us that behind the general on his chariot stood a slave who whispered: Remember that you are mortal.

In the ceremony of a Pope's elevation, they used to intone: Sic transit gloria mundi: "So the glory of this world away." At that very moment, they would burn a handful of flax. The burning flax would symbolize how transitory the power in this world is.

In an address in Milwaukee in 1859, Abraham Lincoln said:

> It is said an Eastern monarch once charged his wisemen to invent him a sentence, to be ever in view, and which should be true and appropriate in all times and situations. They presented him with the words: "And this, too, shall pass away." How much it expresses! How chastening in the hour of pride! How consoling in the depths of affliction!

Mr. President, I urge my colleagues to remember that this Senate majority, too, shall pass away. This truth may console us in the minority, should the majority choose to break the rules to change the rules. But better still, better still would it be if the truth of constant change would chasten the current majority into abiding by the rules that protect Senators when they are in the majority and when they are in the minority alike.

We should protect the rules to protect minority rights, for no one can "know what the day will bring."

We should protect the rules that protect minority rights, for "all yield [their] place and go."

And we should protect the rules that protect minority rights, for it is true of majority control, as it is true of all things, that "change alone is unchanging."

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I yield the remainder of time on our side. I understand we have an order to go to recess.

The PRESIDING OFFICER. The Senator is correct.

RECESS

The PRESIDING OFFICER. Without objection, the Senate will stand in recess until 4:45 today.

Thereupon, the Senate, at 3:43 p.m., recessed until 4:45 p.m. and reassembled when called to order by the Presiding Officer (Mr. COBURN).

EXECUTIVE SESSION

NOMINATION OF PRISCILLA RICHMAN OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

The PRESIDING OFFICER. Under the previous agreement, the majority controls the next 60 minutes. The Senator from Georgia.

Mr. CHAMBLISS. Are we in morning business or are we prepared to proceed?

The PRESIDING OFFICER. We are on nominations.

Mr. CHAMBLISS. Let me start by asking, what is the pending business before the Senate?

The PRESIDING OFFICER. The nomination of Priscilla Owen to be U.S. Circuit Judge.

Mr. CHAMBLISS. Mr. President, I would like to take some time to discuss the nominations of two nominees, actually, to the Federal Court of Appeals. First, Justice Priscilla Owen of the Supreme Court of the State of Texas to the U.S. Circuit Court of Appeals for the Fifth Circuit, and then Justice Janice Rogers Brown of the Supreme Court of California to the U.S. Circuit Court of Appeals for the District of Columbia, along with why we need to move forward to a fair up-or-down vote on the nominations.

I would like to start with Judge Priscilla Owen.

Justice Owen's qualifications to serve on the Fifth Circuit Court are readily apparent to anyone who looks at her background and experience. Speaking to her in person—as I did 2 years ago, shortly after I came over to the Senate—only reinforces her obvious capabilities as a judge.

Justice Owen graduated cum laude from Baylor Law School and then proceeded to earn the highest score on the Texas Bar exam that year.

She practiced law for 17 years and became a partner with Andrews & Kurth, a highly respected law firm in Texas, before being elected to the Supreme Court of Texas in 1994.

Before I talk any more about Justice Owen's qualifications as a judge, I want to speak briefly about Priscilla Owen and the kind of person she is. Priscilla Owen has spent much of her life devoting time and energy in service of her community. She serves on the board of Texas Hearing & Service Dogs, and is a member of St. Barnabas Episcopal Mission in Austin, TX, where she teaches Sunday school and serves as the head of the altar guild.

Having been a Sunday school teacher myself, and having grown up in the Episcopal Church—and my mother was the head of the altar guild for several decades—I know how much work that involved from a civic and religious standpoint.

She has worked to ensure that all citizens are provided access to justice as the court's representative on the Texas Supreme Court Mediation Task Force and to various statewide committees regarding legal services to the poor and pro bono legal services.

She was part of a committee that successfully encouraged the Texas legislature to provide millions of additional dollars per year for legal services for the poor.

Justice Owen is a member of the Gender Bias Reform Implementation Committee and the Judicial Efficiency Committee Task Force on Staff Diversity.

She was instrumental in organizing Family Law 2000 to educate parents about the effect of divorce and to lessen the negative impacts on children.

Justice Priscilla Owen was elected by the people of Texas, the second most populous State in this great country, to its highest court, the Supreme Court of Texas, where she serves today. In her last reelection in the year 2000, she won 84 percent of the vote and had the endorsement of every major newspaper in Texas.

Yet, there are still people who want the United States Senate to reject her nomination to the Federal bench because she is supposedly out of the mainstream in her legal reasoning. Out of the mainstream? The people of Texas obviously don't think she's out of the mainstream. In fact, I submit to you that in Texas and in the Fifth Circuit overall, she represents the mainstream of legal thought.

I would imagine my friends on the other side of the aisle would agree with me that the American Bar Association is an organization considered by many to be well within the mainstream of legal thinking in this country. The ABA rated Justice Owen as "Well Qualified" for the Fifth Circuit—this is its highest rating, often called the "gold standard" and indicating the best possible qualifications to serve on the Federal bench. By their opposition to Justice Owens confirmation, my colleagues on the other side seem to be telling the ABA: "Don't bother with your rating; it just doesn't matter to us."

Even though they used to refer to a well qualified rating as the "golden standard" for judicial nominees, now it seems this is just not about qualifications.

A judicial nominee's qualifications should matter most, and that nominee's qualifications should be the sole criterion for approving or blocking a nomination.

The focus should be on these candidates and their legal knowledge and experience. It should not be reduced to partisan battles over politics or ideology. The essential principle for picking a Federal judge should be their commitment to the law. We need judges who put the law before personal philosophy, ideology, or politics. That is what separates the judiciary from the legislative branch.

Senators should not inject politics into the process, and nominees should keep their politics out of the process as well.

The comments of some of my Democrat colleagues underscore that this debate is not about whether Priscilla Owen is well qualified as a judge. Her record reflects it, the ABA acknowledges it, and so do many of my colleagues on the other side. For example, consider these comments:

Senator DURBIN on September 5, 2002:

> There is no dispute that Justice Owen is a woman of intellectual capacity and academic accomplishment.

Senator FEINSTEIN on July 23, 2002:

> Justice Owen comes to us with a distinguished record and with the recommendations of many respected individuals within her State of Texas . . . [She is] personable, intelligent, and well spoken. It is clear to me that Justice Owen knows the law.

Senator KENNEDY on September 5, 2002:

> Justice Owen is an intelligent jurist.

Senator KOHL on May 1, 2003:

> We all recognize her legal talents.

And Senator SCHUMER on July 23, 2002:

> I don't think there is any question about your legal excellence. You have had a distinguished academic and professional career . . . I think anyone who has listened even to 10 minutes of this hearing today has no doubt about the excellence in terms of the quality of your legal knowledge and your intelligence, your articulateness, et cetera.

I take my colleagues at their words. These comments are true and genuine. With that in mind and knowing that Justice Owen has the endorsement of the ABA as "well qualified," since she was reelected with 84 percent of the vote in her home State, how can anyone try to say she is out of the mainstream? Why is it wrong to simply give her a fair up-or-down vote to see whether a majority of Senators believes she is qualified for this position?

Let me remind Members again that the Fifth Circuit seat to which she has been nominated has been designated as a judicial emergency by the Judicial Conference of the United States. The judges down in the Fifth Circuit need some relief. Dockets are getting backlogged. Cases are being delayed and not moving as they should. People who live in the Fifth Circuit need some relief.

Last week, on May 9, we marked the fourth anniversary of Justice Owen's nomination to the Fifth Circuit bench. Obstructing a nominee of the caliber of Priscilla Owen to a seat characterized as a judicial emergency is wrong. We cannot afford to drag this process out any further. Now is no time for obstructing the nomination of an eminently qualified jurist, one the American Bar Association has unanimously rated as "well qualified," for confirmation to this Fifth Circuit seat. Let's get beyond the politics and confirm this nominee. I urge my colleagues to give Priscilla Owen a fair up-or-down vote on her nomination to the Fifth Circuit Court of Appeals.

I now will move on to discuss another nominee being considered by the Senate, Justice Janice Rogers Brown, who the President has nominated to sit on the U.S. Circuit Court of Appeals for the District of Columbia.

Since 1996, Janice Rogers Brown has been an associate justice for the Supreme Court of California, our country's most populous State. Justice Brown was initially appointed to the California high court by then-Governor Pete Wilson. She was reelected to the California Supreme Court in 1998 by the citizens of California, at which time she received 76 percent of the vote in favor of her reelection.

Prior to her service on the California Supreme Court, Justice Brown served for 2 years as a State appellate judge in California. Before that, she served as legal affairs secretary for Governor Wilson. For all but 2 of the past 24 years, Justice Brown has dedicated her career to work in public service positions.

Despite this background of public service and accomplishment, Justice Brown, unfortunately, has become the target of liberal interest groups who claim she is out of the mainstream of legal thinking. Those who oppose confirmation of these two fine State supreme court justices, Janice Rogers Brown and Priscilla Owen, apparently have no regard for the people of our two most populous States, California and Texas, the people who know these judges much better than anyone in this room or this body.

I submit again, in California, our Nation's most populous and one of our more diverse States, reelection of Justice Brown was 76 percent of the vote. That proves she is regarded as in the mainstream of legal thought.

Justice Brown rose from her early years as a child of sharecropper parents in the State of Alabama in the 1950s, one of the more difficult times in the history of our country for minorities, to sit on the highest court in the State of California. With a 76 percent reelection tally, it is obvious that a lot of people like Janice Rogers Brown. But nevertheless, Justice Brown has overcome adversity through her life and now she is facing it in her nomination to the DC Circuit Court of Appeals.

It is a core fundamental principle of the American judicial system that justice is blind. The people can get a fair hearing regardless of who they are, where they come from, or what they look like. Surely, nominees to the Federal bench deserve the same rights to a fair hearing as any of us.

Americans have a right to know where their Senators stand. Americans have a right to hold their Senators accountable. If a Senator opposes any nominees, he or she should vote against them, but they should vote. They should not hide behind Senate rules and parliamentary loopholes to block a vote. Our Nation's legal system is more important than, and should be above, petty partisan politics. There is never any reason under any circumstances that either political party should stall the courts from doing their necessary work just for political gain. As Americans, we deserve a fair, functioning legal system that is responsive to the law and not to some special interest group.

We already have too much politics in America. We already have too much politics in our legal system. While it is an unfortunate truth that partisan politics infects Washington, it has no place in our courts, it has no place in the verdicts delivered by our Federal judges, and it has no place in the confirmation process. We need the most qualified judges, not those who know how to work their way through the political system. It is and must always be a core fundamental principle of the American judicial system that people can get a fair hearing. Surely nominees to the Federal bench deserve the same rights to a fair hearing as any of us. The confirmation of judges should not be about ideology or partisanship. We need to adhere to a consistent process of investigation and decisionmaking that upholds the independent nature of our judicial system. Nominees should be judged by their qualifications, nothing less and nothing more. Once the investigation is done, nominees deserve an up-or-down vote.

Just as the Senate has been granted by the Constitution the right of advice and consent, the Constitution has also bestowed on them the responsibility to decide yes or no. If the nominee is found wanting, a "no" vote should be cast. But the permanent indecision and passing the buck serves no one. The essential principle in picking a Federal judge should be their understanding and commitment to the law. We need judges who put the law before personal philosophy, personal ideology, and, certainly, personal politics. That is what separates and protects an independent judiciary system from the mere politicized legislative branch.

When it comes to confirming judges, the primary criteria should be judicial and legal competence. The men and women who make up the Federal judiciary should be the best people available for the job, experienced, knowledgeable, and well versed in the law. Their job is too important to be determined by any single issue or political litmus test.

I hope at the end of this debate, whether it ends tonight, whether it ends tomorrow, whether it ends next week, that we can come together in a bipartisan way to look these two judges in the eye and say: We are going to give you an up-or-down vote. I think you are qualified and I will vote yes, or I think you are not qualified and I will vote no. That is our obligation. That is our duty. That is the direction in which we must move.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, once again, I rise to speak on behalf of the nomination of Justice Priscilla Owen to the Fifth Circuit Court of Appeals. I am very honored to do so. As we all know, the debate over this nomination will take place within the context of a historic constitutional struggle over the President's right to obtain an up-or-down vote for his judicial nominees.

In all seven of these cases—in all seven—each of them has bipartisan up-or-down majority support. All we ask is they get a vote.

Now, that will be resolved soon enough, but we should not forget that this is a fight worth having because this campaign of ongoing obstruction is depriving us of good and needed judges such as Priscilla Owen. We should not forget that in the end this debate is about the individual nominees and their qualifications for service on the Federal bench. This is a debate about Justice Priscilla Owen, and I am proud to support her.

Because Justice Owen's nomination has never come up for an up-or-down vote, I have had 4 years to consider this nomination and to get to know her personally, and to further familiarize myself with her record on and off the bench. The passage of time has only strengthened my conviction that she is wholly deserving of a seat on the Federal bench. She is a woman of real accomplishments, and the State of Texas is justifiably proud of her. I am proud of her. I am confident that if she is ever given the vote she deserves, she will do our country proud as a Federal circuit court of appeals judge.

In her years as a justice on the Texas Supreme Court, Priscilla Owen has demonstrated the cautious, impartial mind and the willingness to listen that we seek from our judges in this country. Both her private practice—where she became one of the first to break through the "glass ceiling" for women, became a major partner in one of the major law firms in the country, after being first in her class in law school, first on the bar examination, with the highest grade there—and her actions on the bench provide examples of the honor and dignity that an individual can bring to the practice of law.

Finally, she has comported herself with confidence and professionalism in the face of exaggerations and unfair complaints lodged against her by interest groups—the outside, leftwing interest groups—committed to her defeat. The people of Texas have recognized these attributes in Judge Owen and rewarded her twice by electing her and reelecting her to the Texas Supreme Court. In fact, she was reelected with 84 percent of the vote. Yet some try to characterize her as somehow outside of the mainstream.

How can they justify that? For 4 long years now, her nomination has languished as a result of a deliberate and systematic strategy to deny up-or-down votes to the President's majority-supported nominees. They claim nominees such as Justice Owen are extremists and conservative activists. Her record does not support these assertions, and I commend the President for renominating this eminently qualified jurist. In contrast to the false charge that she is an extremist—and I might add, how can she be an extremist and have the highest approval of the American Bar Association, certainly not a conservative group? So in contrast to the false charge that she is an extremist, the fact is Priscilla Owen is one of those relatively few nominees who received a unanimously well-qualified rating from the American Bar Association, the highest rating possible.

I am under no illusions here. The Senate is a unique, deliberative institution where the opportunity for serious debate must be vigilantly protected. Unfortunately, it seems likely that not many are going to have their minds changed by this debate. I hope the newly elected Members of the Senate will pay close attention to the facts surrounding the nomination of Priscilla Owen.

The Senate already knows Justice Owen quite well. We have spent literally hundreds of hours discussing her nomination. Many Senators have probably made up their minds. But for many people, this inside-the-beltway dispute is just now starting to draw attention. Only now, as this debate is coming to a head, is it the leading story on the network nightly news. Therefore, it is as much for the American people tuning into this debate as it is for my colleagues here that I want to address a handful of the unfair charges being made against her. And we have heard them here on the floor today.

Justice Owen graduated first in her class from Baylor Law School. She received the highest score on the State bar exam. She went on to become a partner in the prestigious firm of Andrews & Kurth.

She was admitted to practice before various State and Federal courts. She is a member of the American Law Institute, a prestigious organization; the American Judicature Society, the American Bar Association, and a fellow of the American and Houston Bar Foundations. In short, she possesses all the attributes and membership in traditional legal organizations that are recognized by all of us, and these organizations place her firmly in the mainstream of all American lawyers and of American jurisprudence.

Committed to the principle of equal justice for all, she participated on the committee that successfully encouraged the Texas legislature to enact legislation resulting in millions of dollars per year in additional funds for providers of legal services to the poor. Does that sound like an extremist?

This is the resume of somebody fully within the mainstream of our legal community. It is not the resume of a radical or an extremist, as has been portrayed by some in this body on the other side. It is the resume of a successful attorney who went on to serve the public as a justice on the Texas Supreme Court.

She carried these mainstream professional habits, honed in private practice, with her into her career as a judge on the Texas Supreme Court. It is worth reconsidering what she had to say before the Senate Judiciary Committee during her first confirmation hearing way back on July 1, 2002. In her opening statement, she referred to the four principles that guide her decisionmaking as a judge. I am quoting her here.

Now, these are her four rules she lives by.

> No. 1: Always remember that the people that come into my court are real people with real problems.
>
> No. 2: When it is a statute that is before me, I must enforce it as you in the Congress or in the State legislature, as the case may be, have written it, unless it is unconstitutional.
>
> No. 3: I must strictly follow United States Supreme Court precedent.
>
> No. 4: Judges must be independent, both from public opinion and from the parties and lawyers who appear before them.

That is a statement of Justice Priscilla Owen before the Senate Judiciary Committee on July 21, 2002. This is hardly radical stuff. In fact, I would wager a vast majority of the American people agree with those principles.

Yet to listen to those committed to stonewalling this nomination—she has now been waiting 4 years for this vote—you would walk away with a very different impression, if you listened to them. I have been debating judicial nominations for a long time—all 29 years of my service in the Senate—but these most recent attacks are novel ones. The insistence on denying Justice Owen and other nominees up-or-down votes is part of a larger story dating back over 20 years now.

In those earlier debates, some committed to an activist judiciary used to wear the label "judicial activist" proudly on their sleeves. Over time, however, they have come to understand that the American people like their judges interpreting rather than making the laws. Judges should behave as judges, not junior auxiliaries to the legislative branch. So now they charge conservative nominees with being activists as well.

This is the principle charge against Justice Owen. The American people are going to have to make up their own minds on this, but to me it is very clear that argument does not hold any water. Look at her record. Look at those who are behind her. Look at all the Democrats who have supported her.

The abortion rights lobbyists focus their attention on a series of Justice Owen's opinions in cases involving the Texas parental notification statute. It is worth noting that contrary to the wishes of a vast majority of Americans, and the Supreme Court, groups such as the National Abortion Rights Action League oppose even these modest popular restrictions on abortion rights, that are supported by 80 percent of the American people. The reality is it is Justice Owen, not these groups, who is in the mainstream. The groups are the ones who are outside of the mainstream.

By the way, these are far-left Democratic Party groups that are far outside the mainstream in their interpretation. Anybody who disagrees with them on anything is "outside of the mainstream" or "extremist." Unfortunately, some of our colleagues parrot what they say and what they tell them to say.

In Texas, the law requires that a minor notify her parents of her decision to have an abortion. That is what the law of Texas says. This is common in many States. Such statutes receive broad bipartisan support. I have mentioned 80 percent of the American people support these types of statutes. Yet, in their wisdom, the Texas legislature provided an opportunity for a judicial bypass of this notification of parents requirement in certain circumstances.

Judge Owen has been vilified in her dissent in the case of In re Doe I where she had to interpret the State's requirement that a minor seeking a judicial bypass of the notification of parents requirement demonstrate sufficient maturity to get the bypass. A fair reading of that opinion shows you Justice Owen made a reasonable interpretation of the Texas law.

The other day it was reported that Nancy Keenan, the president of the abortion advocacy group the National Abortion Rights Advocacy League, said she is committed to keeping what she called "out of touch theological activists" off the bench. I can only hope this talking point was not aimed at Justice Owen's decision, which is certainly well within the mainstream and supported by 80 percent of the American people. If so, her point misses the point entirely. Sadly, it seems that the deliberate misreading of Justice Owen's opinion may be for the sole purpose of raising ill-founded doubts against Justice Owen and other qualified nominees.

Priscilla Owen only interpreted the law to require that a minor seeking an abortion fully understand the importance of the choice she is making and be mature enough to make that choice. I thought these groups were in favor of supporting the right to make an informed choice. When it comes to Justice Owen, I guess it is easier to unfairly tar her as an anti-abortion activist.

This is a false charge, and it is contrary to the laws of many States and other laws as well. Yet some interest groups keep feeding this same misleading information to journalists around the country. Just last night, the evening news on one of the major networks reported as fact the patently false charge that Attorney General Gonzales called Justice Owen a judicial activist when he was her colleague on the Texas Supreme Court. This charge was made again this morning by the senior Senator from Massachusetts. Think about that. They know this claim is fiction, but they nonetheless continue to launch it as though people should believe it, even though it is fiction.

Attorney General Gonzales confirmed this under oath—he was not criticizing Justice Owen—in his January 6, 2005, confirmation hearing, and it is clear to anyone who bothers to read the opinions that he never referred to Owen or any other judge on the Texas Supreme Court as a judicial activist. He was basically referring to himself. He felt if he didn't rule the way he did, he would be a judicial activist. He didn't make any criticism of her. But to read the newspapers and to hear the television broadcasters and to listen to our colleagues on the other side, they completely distort what Attorney General Gonzales says. As a matter of fact, Attorney General Gonzales was one of the strongest supporters of Priscilla Owen because she is a terrific justice, as he knows because he served side by side with her on the Texas Supreme Court.

In the end, I am happy to have this debate. The American people know judicial activism when they see it. Just last week a Federal judge in Nebraska invalidated a State constitutional amendment preserving traditional marriage in that State. If that opinion is upheld, that will bind every State in the Union under the full faith and credit clause. Talk about activism.

But I am sure that my colleagues on the other side will find that that judge was in the judicial mainstream or the mainstream of American jurisprudence. If they want to argue that Justice Owen's interpretation of a popular parental notification statute is an activist one, I will be here to debate that all day long. I might add that parents, in many of the cases, who are concerned about their daughters, ought to have at least the privilege of being in a position to help their daughters through those trying times. That is what the courts and the statutes have said. That is what any reasonable person would say. Yet they brand Priscilla Owen as an extremist.

Why didn't the American Bar Association do that? Why did the American Bar Association give her the highest possible rating that you can get? During the Clinton years that was the gold standard, the absolute gold standard. Why isn't it the gold standard today? Why is this really terrific person being called a judicial activist, outside of the mainstream, and an extremist? It is awful.

Those opposed to Justice Owen ignore the host of decisions in which she protected workers, consumers, the environment, crime victims, and the poor—as though she didn't care about people. There is a host of decisions where she has shown great care for people. They select individual things and then distort them. It makes you wonder what their objection to this nominee really is. It is clear they are not really interested in having a serious debate on the merits of Justice Owen's nomination. For whatever reason, they are dead set on not having her on the Federal bench.

We are going to hear her described as an out-of-control activist. That couldn't be further from the truth. The senior Senator from Massachusetts has called her and others of the President's nominees Neanderthals. Come on here. This is supposed to be a sophisticated body. These are decent people. She was supported by virtually everybody in the State of Texas in her last reelection—84 percent of the vote—every bar association president and former president, 15 of them, every major editorial board. And we know they are not generally in favor of Republicans, but they all supported her.

She was first in her law school class, best bar exam in the State, partner in a major law firm, broke through the glass ceiling. She is a sitting justice on the Texas Supreme Court, reelected by an enormous majority, unanimously well-qualified rating from the American Bar Association. And she is a Neanderthal? Give me a break.

That is how far these debates have deteriorated over the years, especially when you find a moderate to conservative woman such as Priscilla Owen or a moderate to conservative African-American justice like Janice Rogers Brown.

Janice Rogers Brown, think about it—sharecropper's daughter, worked her way through college and law school as a single mother, went on to hold three of the highest positions in California State Government, State counsel to the Governor of the State of California, then-Governor Pete Wilson, nominated her for the Supreme Court of California. She writes the majority of the majority opinions on that liberal court. In other words, she is writing for all the of judges on that court in the majority opinions. She is a terrific human being. Her problem is she is a conservative African-American jurist, approved by the American Bar Association. And they call her an extremist.

We have had negotiations here where they were willing to throw these two women, Priscilla Owen and Janice Rogers Brown, off the cliff in favor of three or four men, white males, all of whom deserved being confirmed themselves. I thought they were all bad and extremist, according to them. Why would they allow any of them to go through? Then again, if they are not, why haven't they voted for them and why have they filibustered?

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, first of all, let me acknowledge that the senior Senator from Utah is so much more knowledgeable on all these issues than most of the rest of us—certainly much more than I am. He has been on the committee and has chaired the Judiciary Committee. He knows these things. He is an attorney. I am none of the above. I chair a committee called Environment and Public Works. But I think it is important for those of us who are not living this every day to express ourselves because we have just as strong feelings, even though we don't work with this on a daily basis.

Mr. President, what is the question pending before the Senate?

The PRESIDING OFFICER. The nomination of Priscilla Owen to be U.S. circuit judge.

Mr. INHOFE. Mr. President, today, I want to enter into this debate, as we have so many times, on these judicial nominees, including Justice Priscilla Owen and Justice Janice Rogers Brown, both of whom are highly qualified.

Priscilla Owen was nominated by President Bush to the U.S. Court of Appeals for the Fifth Circuit, a seat that has been designated a judicial emergency by the Judicial Conference of the United States. That means we have to fill the seat. She has served on the Texas Supreme Court since 1994 and was endorsed for reelection by every major Texas newspaper. She practiced commercial litigation for 17 years. She received her undergraduate degree from Baylor University and graduated third in her class from Baylor Law School in 1977. The American Bar Association has unanimously rated Justice Owen as "well-qualified," the highest possible rating. She is the first nominee considered well-qualified by the ABA to be denied a floor vote by the Democrats.

Priscilla Owen even has significant bipartisan support from three former Democrat judges on the Texas Supreme Court and a bipartisan group of 15 past presidents of the State Bar Association of Texas. Justice Owen has served the legal field in many capacities. She was liaison to the Texas Supreme Court's mediation task force and on statewide committees on providing legal services to the poor and pro bono legal services. She has always been very sensitive to the poor.

Justice Owen organized a group called Family Law 2000, which warns parents about the difficulties children face when parents go through a divorce.

Similarly, President Bush has nominated Justice Brown to the U.S. Court of Appeals for the DC Circuit. This morning, I was at the White House. As I came back, I walked by that district court office and thought very much at that time about Justice Brown. She currently serves as an associate justice on the California Supreme Court, a position she has held since 1996. She is the first African-American woman to serve on California's highest court and was retained with 76 percent of the statewide vote in her last election.

It is kind of interesting that they use the term "out of the mainstream" quite often. Yet here is someone who got 76 percent of the vote in a statewide election. Justice Owen actually got 84 percent. I don't think anybody in this body has been able to gain those majorities.

Justice Brown was the daughter of a sharecropper. She was born in Greenville, AL, in 1949. She grew up attending segregated schools during the practice of Jim Crow policies in the South. Her family moved to Sacramento, CA, when she was in her teens, and she later received her B.A. in economics from California State, and earned her J.D. from UCLA School of Law in 1977.

She has participated in a variety of statewide and community organizations dedicated to improving the quality of life for all citizens of California.

For example, she has served as a member of the California Commission on the Status of African-American Males, as a member of the Governor's Child Support Task Force, and as a member of the Community Learning Advisory Board of the Rio Americano High School.

Two weeks ago, my colleague in the other Chamber, Congressman DAN LUNGREN of California—he is a Congressman I served with for many years when I was in the other body, and he went on to be the Attorney General from the State of California. He spoke of his professional experience with Justice Brown. I really think it is important to go back to people who have served with them at the grassroots level. He was in State government with her in the early 1990s. Congressman LUNGREN said:

> . . . It is my observation that in the absence of the opportunity to be voted up or down, to be subjected to a debate on the floor of the United States Senate in the context of such a consideration, that in fact the Janice Rogers Brown that I know in the State of California . . . is not the person that I hear discussed, the person that I hear characterized, or the person that I see presented in the press and other places.
>
> When I was elected the attorney general in the State of California and took office in January of 1991, I asked a number of people who had previously served in the attorney general's Office for recommendations of people who should serve at the top level of the department of justice in my administration. Her name (Justice Brown) was always offered by those who had experience in that office.
>
> During the confirmation hearings that we had, I had the opportunity to review the opinions that she had written while on the appellate court. Interestingly enough, every single member of the appellate court on which she served recommended her confirmation to the California supreme court. I recall at the time that the chief justice of the California supreme court, Justice Ron George, surprised the public hearing that we had by actually putting on the table every single written opinion that she had done and advising everybody there that he had read every opinion that she had written at that point in time, not once but twice, and rendering his opinion that she was well qualified to serve on the California supreme court.

Further quoting:

> If you look at her opinions, they are the opinions of someone who understands what I believe jurists ought to understand, that their obligation is to interpret the law, not make the law.

He concluded his statement by saying:

> My point this evening is a simple one. That which we are observing in the Senate is denying the American people an opportunity to review the nominees of the President of the United States. It is my belief that Janice Brown should be presented to the United States Senate for consideration. She is an American story. From the humblest background, she has risen to the highest court in the most populous State in the Nation. She subscribes to a judicial philosophy considered radical in some circles, that the text of the Constitution actually means something. She holds to a consistent enforcement of individual rights that is not result oriented.
>
> In my judgment, these are the qualities of a true jurist and is why she should be confirmed to sit on the DC Circuit Court of Appeals and, at the very least, that her story be told in open debate on the floor of the United States Senate in the context of the consideration of her nomination by the whole body.

That is what we are attempting to do today. This is a debate that could quickly be brought to an end by a simple up-or-down vote. We offered the minority as much time as they wanted to debate these nominees, as long as an up-or-down vote would follow. But this hasn't happened.

As a matter of fact, at least seven of my colleagues from the other side of the aisle have actually stated the same thing—that nominees deserve an up-or-down vote regarding previous nominees, and they all received an up-or-down vote. The same people now that are objecting to an up-or-down vote are the ones who stood up and said we think they should have an up-or-down vote previously. Somehow that has changed from the 1990s, and they don't want that.

Let me remind them that Senator DURBIN said this on September 28, 1998: We should vote the person up or down. That is all we want.

Senator FEINSTEIN, on September 16, 1999, said a nominee is entitled to a vote. Vote them up or down.

Again, Senator FEINSTEIN, a month later, said in October of 1999:

> Our institutional integrity requires an up-or-down vote.

That is what we are talking about, our institutional integrity. I agree with Senator FEINSTEIN from 1999.

On March 7, 2000, Senator KENNEDY said:

> The Chief Justice of the U.S. Supreme Court said, "The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry, it should vote him up or down, which is exactly what I would like.

Senator LAUTENBERG said:

> Talking about the fairness in the system and how it is equitable for a minority to restrict the majority view, why can we not have a straight up-or-down vote?

That was on June 21, 1995.

Senator LEAHY, who actually chaired that committee, said:

> When President Bush nominated Clarence Thomas to the U.S. Supreme Court, I was the first Member of the Senate to declare my opposition to his nomination. I did not believe that Clarence Thomas was qualified to serve on the Court. Even with strong reservations, I felt that Judge Thomas deserved an up-or-down vote.

Again, 4 years later, Senator LEAHY said:

> . . . I also took the floor on occasion to oppose filibusters to hold them up and believe that we should have a vote up or down.

Senator LINCOLN said:

> It's my hope that we'll take the necessary steps to give these men and these women especially the up-or-down vote that they deserve.

That was in the year 2000.

Senator SARBANES said:

> It is not whether you let the President have his nominees confirmed. You will not even let them be considered . . . with an up-or-down vote.

I could go on and on. In fact, I did the other day. I went over so many of these people who are demanding an up-or-down vote. Not only are my colleagues on the other side of the aisle holding up these qualified judges by not allowing an up-or-down vote, I also believe they are discriminating against people of faith.

I will reiterate a quote from an article in the L.A. Times that I read on the floor in April regarding the filibuster of qualified nominees, such as Justices Owen and Brown. It states, and I am quoting now the L.A. Times which has never been accused of being a Republican newspaper:

> These are confusing days in Washington. Born-again conservative Christians who

> strongly want to see President Bush's judicial nominees voted on are leading the charge against the Senate filibuster, and liberal Democrats are born-again believers in that reactionary, obstructionist legislative tactic. Practically every big-name liberal senator you can think of derided the filibuster a decade ago and now sees the error of his or her ways and will go to amusing lengths to try to convince you that the change of heart is explained by something deeper than the mere difference between being in the majority and being in the minority.

I know that both Justice Brown and Justice Owen are active members of churches and are distinguished women of faith.

Justice Brown has taught adult Sunday school at her church for more than 10 years, and Justice Owen teaches Sunday school and is the head of the altar guild at her church.

One has to ask the question, Have we come to the point in America where Sunday school teachers are disqualified by the strength of their faith and the boldness of their beliefs?

The Bible urges us, like Justices Brown and Owen, to be bold in our faith. I Timothy 3:13 says:

> For they that have used the office of a deacon well purchase to themselves a good degree, and great boldness in the faith which is in Christ Jesus.

Hebrews 4:16 says:

> Let us therefore come boldly unto the throne of grace, that we may obtain mercy. . . .

I agree with Justice Brown, as she recently told an audience, that people of faith were embroiled in a war against secular humanists who threatened to divorce America from its religious roots, according to a newspaper quoted in an April 26, L.A. Times article.

One example of this attack is our parental notification and consent laws which require girls under 18 who are seeking an abortion to either notify or obtain permission—either notify or obtain permission—from one or both of her parents. Many States have such laws. However, there are many instances where these protective laws have been struck down by liberal judges who are bypassing the law and legislating from the bench.

For example, on August 5, 1997, the California Supreme Court issued its decision in American Academy of Pediatrics v. Lungren. The court held that the 1987 statute requiring minors seeking abortion to obtain parental consent or judicial authorization violates the California Constitution's explicit right to privacy.

This is outrageous. Parents have a right to know what their children are doing. Children who are not old enough to vote or drink, why should they be old enough to have an abortion without at least telling their parents? We are not talking about getting permission, we are talking about notifying them.

In another case, Planned Parenthood v. Danforth, the Supreme Court held that statutes, which allow a parent or guardian to absolutely prohibit an abortion to be performed on a minor child, were unconstitutional.

There are a number of such cases. The whole point is this is outrageous.

We keep hearing people say these two justices are out of mainstream America, and I suggest to you, Mr. President, that it is the individuals who are making the accusations who are out of the mainstream. It was not long ago that they did polling on all these traditional values, and it would seem to me that the traditional values are in the mainstream. It is the liberals who are opposing these nominations who are out of the mainstream.

To give an example, by 85 to 15 percent, Americans say religion is very or fairly important in their lives. Only 15 percent say it is unimportant.

In the case of Government should help faith-based initiatives to help the poor, 72 percent of Americans agree. On the issue of whether violent attackers of pregnant women who kill the baby should be prosecuted for killing the baby, 84 percent say yes. That is mainstream.

On the issue of whether children should be allowed to pray in school, 78 percent of Americas agree.

And 73 percent of Americans favor a law requiring women under the age of 18 to get parental consent for any abortion. Democrats are with the 24 percent who oppose it.

That is mainstream America, Mr. President. Also, 74 percent oppose removing all references to God from oaths of public office—74 percent—and 91 percent of Americans want to keep the phrase "under God" in the Pledge of Allegiance.

Those who are opposing them are on the other side of these issues. I suggest this all averages to over 78 percent of the American people believe these issues, and that is clearly the will of the American people. That is mainstream. That is what our Founding Fathers talked about when they founded this great country, this one Nation under God.

We have said it over and over again. I see the distinguished Senator from Nevada is here to speak. I agree with all the liberal Democratic Senators who in the 1990s said: All we want is an up-or-down vote; that is all we are asking today. They got theirs, now we deserve ours.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I rise to discuss the issue of judicial nominees, their confirmation process and whether nominees should receive an up-or-down vote.

We are currently discussing Justice Priscilla Owen and her nomination to the Fifth Circuit Court of Appeals. There has been a lot said about this nominee. Her qualifications have been enumerated on the Senate floor. We have heard that she was elected with 84 percent of the vote in Texas. This is a very large percentage that represents overwhelming support in her home State of Texas.

My Democrat colleagues have questioned her position on the issue of parental notification. As my friend and colleague from the State of Oklahoma talked about, parental notification is supported by nearly 80 percent of the American people.

Before a school nurse gives a child an aspirin, the school will ask for the parent's permission. When it comes to an abortion, which is a surgical procedure, abortion providers do not want to be held to the same standard. The vast majority of the American people believe that a parent should be notified before a surgical procedure, like an abortion, is performed on a child.

The parental notification cases that Priscilla Owen has heard while serving on the Texas Supreme Court all involved a lower court decision that the child should tell a parent about her desire to have an abortion. So in many of these cases, Justice Owen was upholding the determination of the lower court judge who had directly listened to the testimony of the minor who wanted an abortion.

In these cases, there was disagreement among the justices on the Texas Supreme Court, but in cases where she voted in favor of parental notice, her determination was the same as the lower court. It was very reasonable. Anybody could look at that and say this is a reasonable person.

When we review the record of a judicial nominee, when we review their opinions, we should ask "does that judge follow the law?" We ask "is this judge well reasoned?" We ask "did they look at the facts?" Anybody who has reviewed Priscilla Owen's record and her opinions would conclude that she has a good temperament. They would conclude that she was not making law but was interpreting the law according to the way the Texas Legislature had intended. In cases involving parental notification, they would conclude that she had faithfully applied the law.

In addition to discussing Justice Owen's nomination, I also want to address the confirmation process as a whole. In the past, whether it was Judge Robert Bork or Clarence Thomas, Republicans were unhappy with the treatment that some nominees of Republican President's received. The reputation of Judge Bork and Justice Thomas had been attacked. These fine men were vilified. Republicans felt that those nominees were treated unfairly in committee and then on the floor.

When President Clinton was President, some of his nominees were likewise mistreated. The committee process was used to delay hearings or to bottle up nominees. In most cases though, those nominees were eventually given an up or down vote. We have heard the other side complain about the delays that President Clinton's nominees experienced. I believe that the Senate ought to fix that.

I think it is damaging to our system of government to deny any nominee an up or down vote. The Senate should, whether someone is nominated to serve as a judge or in the administration at an agency or department, provide each nominee with an up or down vote. The Senate should reject this delaying tactic which denies a nominee a timely up-or-down vote in committee and on the Senate floor. We ought to fix the whole process.

Unfortunately, both Republicans and Democrats have been escalating the fight over nominees for years. As I pointed out before, many Republicans felt that Judge Bork was mistreated. In response, President Clinton's nominees were too. What one side does, the other side will ratchet it up to the next level when they come into power. We can't keep doing that. Neither side is going to win if we continue on this path. But the American system of government and the American people will surely lose. Good people will no longer be willing to serve in the administration or in positions on the bench if we can't put an end to this. No American is going to want to have their name put up for a position if they are promised to be treated so horribly.

My home State of Nevada is part of the Ninth Circuit Court of Appeals. A few years ago, Nevada had an opening on the Ninth Circuit. I spoke with several people, people who would have been well-qualified as a candidate. I asked if they would be interested if I put their name forward? I consider it a great honor to be on the appellate court. The common feedback: "Why would I want to put in my name and go through that process given all that you have to go through?"

My fear is that we are discouraging the very type of people who should apply for these positions from doing so. We need the absolute best legal minds to serve on the appeals courts and Supreme Court that we can possibly get. It should be an honor to serve there. We should not do anything to dishonor those positions with the political farce that we have going on in the Senate.

The Democrats have accused Republicans of wanting to change the rules. The rules changed 2 years ago. And it was the Senate Democrats that changed the rules with a partisan filibuster. A partisan filibuster was never done in the history of the Senate before 2003, never. Search the history books, it is very clear. The two cases Democrats bring up were not partisan filibusters. The one case about Abe Fortas, that was clear, he had engaged in objectionable practices while serving as an associate justice on the Supreme Court and was opposed by many Senators in both parties. He was not opposed on a party line basis. It was clear to President Johnson that his nominee did not have the votes to be confirmed as Chief Justice of the Supreme Court.

What we call the constitutional option—is an effort to reestablish the tradition of what the Senate has always done. The minority is correct that filibusters were allowed under the rules. But the people who considered them in the past, the majority of Senators, said it would do too much damage to the institution to actually carry out those filibusters. So, in a bipartisan fashion in the past, before the Democrats led the current filibusters, Senators got together and said: We will go ahead and have up-or-down votes on these nominees.

I believe, for the future of this institution and for the future of bringing good people to the judiciary, we need to fix this process once and for all. Whether it is a Republican President or a Democrat President and whether Republicans or Democrats are in control of the Senate, regardless of which party is in charge, good people should have an up-or-down vote in a timely fashion in committee as well as on the floor of the Senate.

I hope we can join across the aisle and fix this. I actually thought we should have fixed it last year before the Presidential election. I tried to extend my hand across the aisle last year and say to Democrats: We don't know who is going to win the Presidential election, so let's put something in place now so that the filibuster will not continue after the 2004 elections.

I don't think it should matter whether it is a Republican President or Democrat President sending nominees up here. It is OK to vote against them, but I don't believe that only 40 Senators of one party should be able to choose who is on the bench.

The PRESIDING OFFICER. The time of the majority has expired.

Mr. ENSIGN. Mr. President, I will conclude very briefly with this. For the good of our country, for the balance of powers, we need to end this process of filibustering good people. These good people deserve an up-or-down vote. It is only fair. Let's join together in a bipartisan fashion to do that.

I yield the floor.

The PRESIDING OFFICER. The minority now controls 90 minutes.

Who yields time? The Senator from Minnesota.

Mr. DAYTON. Mr. President, "how a minority, reaching majority, seizing authority, hates the minority" is attributed by the Library of Congress to a Leonard Robinson, in 1968. So I guess there is a historical precedent for the attitudes of the majority in the Senate today. The minority is treated often with contempt and disdain. Presiding Officers read their mail or sign photos while our Members speak on the Senate floor. Democratic conferees are excluded from the committee meetings. Our Democratic Senate leader is again smeared and targeted as an obstructionist. For what? For leading the minority party's lawful and proper dissent to the policies and practices of the majority, as though the expression of dissent on the floor of the Senate were improper or un-American or, now we are even being told, un-Christian, when, in fact, it is the intolerance of dissent that is improper, undemocratic, and the charges that political or policy disagreements here are actions "against people of faith" are the slurs of charlatans.

We are at this brink because during President Bush's first term, our Democratic caucus blocked approval of 10 of the President's judicial nominees, while 208 of his nominees were confirmed. That is a 95-percent approval rate. Ninety-five percent of President Bush's judicial nominees were confirmed by the Senate, but that is not good enough for this majority and this President. Nothing less than 100 percent is acceptable. It has to be their way all the time.

A President who said he was going to change the tone in Washington, promote bipartisanship, encourage democracy, does just the opposite. He demands congressional submission, insists on his way always, denounces and tries to destroy whoever disagrees with him.

I am astonished that the Senate Republican leadership has flip-flopped just because the President is now Republican instead of Democratic. Republicans were in the majority in the Senate for the last 6 years of President Bill Clinton's two terms, and they certainly did not champion their now precious principle of an up-or-down vote for the full Senate for each of his judicial nominees. To the contrary, they themselves prevented—or condoned others preventing—69 of President Clinton's judicial nominees from a vote by the full Senate. Many were denied confirmation hearings. Sometimes one Senator singlehandedly blocked judicial nominations. They received no votes by the Senate, not by part of the Senate, not by all of the Senate, not once, not ever, not this year, not next year, not in 4 years, not ever—69 judicial nominations. Republican leaders not only defended their actions to deny confirmation votes to Clinton nominees, they bragged about it.

Here are some of the statements they made at the time:

> The confirmation process is not a numbers game and I will not compromise the Senate's advise and consent function simply because the White House has sent us nominees that are either not qualified or controversial.

Another:

> So we are not abusing our advise and consent power. As a matter of fact, I don't think we have been aggressive enough in utilizing it to ensure that nominees to the Federal bench are mainstream nominees. Do I have any apologies? Only one. I probably moved too many judicial nominations already. When I go around my State or around the country the last thing I hear people clamoring for is more lifetime tenured Federal judges.

Regarding the use of the filibuster, Republican leaders were equally emphatic:

> It is very important that one faction or one party not be able to ride roughshod over the minority and impose its will. The Senate is not the House.

The filibuster is one of the few tools the minority has to protect itself and those the minority represents. Clearly, what distinguishes the Senate as a legislative body is unlimited debate, a traditional aspect that most Senators have felt very important for 200 years. The only way to protect minority views in the Senate is through extended debate.

Their judicial blocking tactics are right, but ours are wrong. Their use of the filibuster is good, and ours is bad. How convenient. How self-serving. And how wrong.

It is bad enough that the Senate Republican leadership wants to change the Senate rules to suit their purposes and disregard 214 years of bipartisan institutional wisdom which understood and cared about the proper role of the Senate in our carefully designed system of checks and balances. As James Madison, one of our Constitution's principal architects, said during the Constitutional Convention in 1787:

> In order to judge the form to be given to the Senate, take a view of the ends to be served by it. First, to protect the people against the rulers. Second, to protect the people against the transient impressions which they themselves must be led.

It is bad enough the Republican leadership wants to weaken the Senate's historic role and present responsibility. But what is even worse, much worse, is that they evidently intend to violate the procedures and disregard the rules by which the Senate can properly change one of its existing rules. They are going to use their own new and unprecedented procedure and disregard a ruling of the professional parliamentarian that their procedure violates Senate rules.

A senior Republican aide was quoted in today's Washington Post that Senator FRIST does not plan to consult the Senate Parliamentarian at the time the nuclear option is deployed. The Parliamentarian "has nothing to do with this. He is a staffer and we don't have to ask his opinion."

Of course they don't because they are going to throw out the existing Senate rules that they do not like and make up new rules that they do like. Then they are going to ask the Presiding Officer, one of their own, to rule in their favor and then all vote to ratify what they have just done, even though it is wrong, and they know it is wrong.

They can't change a wrong into a right with a vote. They cannot disguise a shameful abuse of power by calling it a constitutional option. There is nothing constitutional about violating Senate rules, there is nothing American about violating Senate rules, and there is nothing senatorial about violating Senate rules.

In my career, I have learned to be effective in politics you have to become a realist. To remain effective, you have to remain an idealist. When I came to the Senate almost 4½ years ago, I was both realistic and idealistic. I knew that the legislative process brings out the best and the worst in people. But I thought the Senate would inspire more of the best. That the 1,863 men and women who had preceded me into this institution, many of them the best, the brightest, and the wisest of their generations, I thought their collective wisdom embodied in the Senate's rules and procedures would elevate our individual conduct and our collective actions and protect us and, more importantly, protect the American people from the missteps or the misguided attempts of one Senator, of a minority, or even of a majority.

My faith in the uplifting effect of the Senate was perhaps wrong or, rather, it was right until now. Now we are at the brink of desecrating this great institution. It will be a disgrace and a desecration if the Republican leaders of the Senate disregard longstanding Senate rules and substitute their own new rules and if a majority of Senators vote to approve this wrongdoing.

Everyone here should know whatever their honest differences of opinion about Justice Owen, unilaterally breaking rules because you do not like them or because you will not get your way by following them, is wrong. It is terribly wrong.

Now, why would the Senate's Republican leadership do this to the institution? To prove what, to whom? This week's Congressional Quarterly reports that the Senate majority leader told a group of conservative activists questioning his resolve to invoke the nuclear option:

> Remember, before I came here I used to cut people's hearts out.

That is a very revealing statement. Not "saved" hearts or "mended" hearts, but cut them out.

This ploy will cut out the Senate's heart of integrity. Why do it? From much of what I have read, this is being set up as a presidential purity test. I respect the majority leader's right to run for President. I respect that absolutely. I wish that it would not involve the institution of the Senate.

According to the executive director of the American Conservative Union, if he—the majority leader—aspires to the 2008 Republican Presidential nomination, it is a test he has to pass. This is pass-fail. He does not get a grade here. He cannot get a C for effort. He needs to deliver on this.

So this is not a constitutional option. It is a campaign opportunity, except that Senate leaders are supposed to deliver the Senate from this, from the President—any President—demanding that every one of his nominees be approved by a submissive body, the Senate; from political zealots and ideological fanatics demanding we give up our role and our responsibility so they can fulfill their delusional rantings of how Federal judges cause everything they cannot tolerate. Because there is no doubt about it, getting 218 judges, instead of 208 judges, is just their beginning. And then, by God, those judges had better decide every case just right for them or it is "impeach, impale or eliminate."

Self-anointed evangelist James Dobson—recently, on a national televised rally appeared with the Senate Republican leader—has called the United States Supreme Court Justice Anthony Kennedy the "most dangerous man in America," and he has demanded he be impeached, along with Justices O'Connor, Ginsburg, Souter, Breyer, and Stevens, that is, six of the nine members of the Supreme Court that he wants to impeach; a Court he has compared to Nazism and to the Ku Klux Klan.

Not to be outdone, and this is a contest of extreme, incendiary, vitriolic hysterics, the director of Operation Rescue has alleged that the courts of this land have become a tool in the hands of the devil, by which the culture of death has found access.

Pat Robertson has written that the out-of-control judiciary is the most serious threat America has faced in nearly 400 years of history, more serious than al-Qaida, more serious than Nazi Germany and Japan, more serious than the Civil War.

Don Feder of Vision America claims:

> Liberal judges have declared unholy war on us, and unless Christians fight back their faith, family, and freedom will be lost.

He also promised that whatever prominent Republican was willing to take the lead on the issue of judicial reform and impeachment will probably have the Republican presidential nomination in 2008.

Not one to miss such an opportunity, House Majority Leader TOM DELAY declared that the judiciary has "run amok," and poses a threat to self-government. He threatens Congress must take action to rein in the judiciary and that such actions must be more than rhetoric.

And remember, before he came here, he used to exterminate things. So the threat of a congressional leader in running amok to take action against Federal judges must be taken as ominously as he undoubtedly intended it to be.

God's will and Jesus's word are hijacked by false prophets like James Dobson and Pat Robertson. The independence of Federal judges is threatened by TOM DELAY. Now the integrity of the Senate's rules and procedures may be violated. And these are the men who want to run our country. They want to dictate who is elected, decide who will be appointed, and even determine who is on God's side, who is not.

Well, if ever—if ever—there were a need for 51 profiles in courage in the Senate, it is now, to save this Senate from those who would savage it for their own gain. The world will note and long remember what we do here, and we will be judged—as we should—whether we acted so that, as Abraham Lincoln said, government of the people, by the people, and for the people shall not perish on this Earth or here in the Senate.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I have been traveling around my State, like many of my colleagues have. When I travel around, people keep stopping me and asking me: Why should I hear about the judges you are debating back in Washington DC? Whether I am in Spokane talking to constituents at a town meeting or in a grocery store on Saturday or talking to family members at home, they all want to know what we are talking about and why this debate matters in their lives.

Well, my answer to those constituents, whether it is someone in a grocery store or just chatting with someone or a family member, is that we are here for a very important reason; that is, to fight for basic American values, values all of us hold dear. I tell them we are fighting for the rights of minorities so all of us have an opportunity for a voice and a seat at the table. I tell them we are fighting for the constitutional principles that were given to the Senate 200 years ago.

Today, in the Senate, unfortunately, those values are under attack. What we see in their continuing rush for power is that some here on the other side want to turn this great institution simply into a rubberstamp for the current administration. Nowhere is that more clear to me than with the nomination that is in front of us tonight, and that is of Judge Priscilla Owen.

Senator FRIST said the other day that the only argument he has heard against Justice Owen is on parental consent. I happen to agree with Senator FRIST that her views and her decisions on this subject are very important, but if he has not heard the arguments against Justice Owen, I think he has not been listening enough.

On everything from parental consent to victims' rights, to workers' rights, to bias towards her campaign contributors, Justice Owen is too far out of the mainstream. Her radical views make a lifetime appointment inappropriate by this body. Let me take just a few minutes to talk about some of those important objections.

In Read v. Scott Fetzer Company, a 1998 case, Justice Owen ruled that a rape victim—a rape victim—could not collect civil damages against a vacuum cleaner company that employed an in-home dealer who raped her while he was demonstrating the company's product even though the company had failed to check his references, and if they had, they would have found out he had harassed women at his other jobs and previously been formally charged and fired for inappropriate sexual conduct with a child. But Justice Owen ruled that rape victim could not collect civil damages against that company.

I believe it is pretty clear that Justice Owen does not protect victims' rights.

In another case, in GTE Southwest, Incorporated v. Bruce, a 1990 case, Justice Owen sided with an employer whom the majority in that case ruled inflicted intentional emotional distress on employees when he subjected them to "constant humiliating and abusive behavior," including the use of harsh vulgarities, infliction of physical and verbal terror, frequent assaults, and physical humiliation. Justice Owen wrote her own opinion to make sure it was clear she thought the shocking behavior was not enough to support a verdict for the workers.

It is clear to me that Justice Owen will not protect workers' rights and should not be promoted to a lifetime appointment by this body.

Justice Owen's record shows she has consistently put huge corporations ahead of people. She took campaign contributions from companies including Enron and Halliburton, and then she issued rulings in their favor. Many of her campaign contributions came from a small group of special business interests that advanced very clear anticonsumer and anti-choice agendas. Critically, her record has shown that her donors enjoy greater success before her than before the majority of the court. Again, it is very clear to me that Justice Owen will not protect the rights of the people against these huge special interests and is not deserving of being promoted to a lifetime appointment by this body.

But you do not have to just listen to me. Listen to what some of her colleagues on the Texas Supreme Court said about her decisions.

In FM Properties v. City of Austin, the majority called her dissent "nothing more than inflammatory rhetoric."

In the case of In re Jane Doe III, Justice Enoch wrote specifically to rebuke Owen for misconstruing the legislature's definition of the sort of abuse that may occur when parents are notified of a minor's intent to have an abortion, saying:

> abuse is abuse; it is neither to be trifled with nor its severity to be second guessed.

And finally, as has been stated by my colleagues on the floor of the Senate, now-Attorney General Alberto Gonzales, then an Owen colleague, criticized her, not once, not twice, but 10 times in his rulings and called one of her interpretations of a parental consent law an "unconscionable act of judicial activism."

Unfortunately, this nomination is before us. This is the type of activist judge we are being asked to give a lifetime appointment. By stripping the Senate of its constitutional role, we are seeing the effort to pack the courts with radical judges, push an extreme agenda, and leave millions of Americans behind.

That is why I say to my constituents, whether they walk up to me in a grocery store or it is one of my family members or somebody I am talking to in Spokane or Yakima or Vancouver or Bellingham, the debate we are having is critically important. For the people we promote to lifetime appointments, we need to know they will be fair and evenhanded and that they will protect the rights of Americans no matter where they live. That is why this fight is important, and that is why my colleagues are here on the floor of the Senate.

I see my colleague from Illinois is on the floor. I know he is here to speak as well. I yield time to him.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator from Washington who has been on the floor today addressing some of the major issues we are considering. This is an historic debate. Although there are few people gathered on the Senate floor, many people across Capitol Hill and across the Nation are following this debate. This is the first time in the history of the Senate where there is an attempt being made to change one of the most fundamental rules and one of the most fundamental values of this institution. To think how many Senators have come and gone in the history of this body—the number is fewer than 1,900 in total—In all of that time, no Senator has been so bold as to stand up and do what we understand the majority leader is likely to do very soon, the so-called nuclear option.

Why in the history of this Chamber has no Senator ever done this? Because, frankly, it strikes at the heart of this institution. It goes to the value of the Senate in our Constitution. When the Constitution was written, the Senate was created as a different place. I served in the House of Representatives for 14 years. I was proud of that service, enjoyed it, and value the House of Representatives and its role. But it is a different chamber.

The Senate was created so the minority would always have a voice. Think about it. There are two Senators from every State, large or small. Think of the rules of the Senate from the beginning which said: No matter who you are, what Senator you may be, you can take to this floor and do as I am doing at this moment, begin a debate which cannot be closed down unless an extraordinary majority of the Senate makes that decision.

Senator FRIST, now the Republican majority leader, has decided it is time to change that 200-year tradition, to change the rules of the Senate in the middle of the game. By this change, he will change a relationship between the Senate and the President. That is a bold move. It is a move we should think about very seriously. He will have Vice President CHENEY in the chair, but that is no surprise. Every President and every Vice President wants more power. That is the nature of our Government. But the Founding Fathers understood that, not just as a human impulse but a political impulse. They said: The way we will restrain too much power in the Presidency is to have checks and balances, to give to other branches of Government—the judiciary and the legislative branch—an opportunity to check the power of the President. We think about that today, and the rules of the Senate were part of those checks and balances.

A President can't appoint a judge to a lifetime appointment without the advice and consent of the Senate. In other words, the President's power is limited by the power of the Senate to advise and consent. The words were carefully chosen. The Senate wasn't directed to always approve the President's nominees. The President submits the nominees and the Senate, as a separate institution of Government, makes the decision as to whether those nominees will go forward. That is a limitation on the President's power.

This President, when we take a look at the record of how many judges he has submitted and how many have been approved, has done quite well for himself. This is the score for President Bush since he has been elected President: 208 of his judicial nominees have been approved, and only 10 have not. More than 95 percent of this President's nominees have been approved by the Senate.

How far back do you have to go to find another President with a batting record this good? Twenty-five years. This President has done better than any President in the last 25 years in having his judicial nominees approved. But from President Bush's point of view, from Vice President CHENEY's point of view, it is not good enough. He wants them all. He wants every single one of them, without dissent, without disagreement, without debate in the Senate. He wants them all.

Should every President have that power? I don't think so. Republican or Democrat, Presidents have to know they can go too far. They can make bad decisions, decisions which take America down a path that is not right. And they should know they will be held accountable for making those decisions. They should know they can come up with the names of nominees who are not good people for lifetime appointments and that when they come to the Senate, the Senate will review them and may say no. It is that check and balance which makes the difference.

One of the central arguments that has been made over and over again about triggering the nuclear option, which Senator FRIST is preparing to do, is the assertion that the Senate has never denied a judicial nominee with majority support an up-or-down vote. That argument is plain wrong and it is misleading. President Clinton had 61 judicial nominees who never received an up-or-down vote. I know. I was here. I watched it. I watched it as Senator ORRIN HATCH and the Judiciary Committee buried these nominees, refused to even give them a hearing. An up-or-down vote? They didn't get close to even an invitation to Washington. Nominated by the President, they were ignored and rejected by the Senate Judiciary Committee. Now we have these pious pronouncements that every judicial nominee deserves an up-or-down vote. I don't know if it is the water in Washington, water out of the Potomac River. It seems to create political amnesia among those who serve in the Senate. Some of the same Senators on the Republican side who have come to the floor and said every nominee deserves an up-or-down vote were the Senators who were stopping the nominees of President Clinton without so much as a hearing.

"We want fairness." They sure didn't want fairness when it came to that President and his nominees.

I am sure the vast majority of them, probably all of them, would have had majority support, had they received an up-or-down vote. But they were stopped in committee. I know it. I used to go and plead for judges from Illinois nominated by President Clinton. I can recall Senators—and I won't name names; I could—who just told me no. We are not going to let President Clinton fill these courts. We are hoping he will be gone soon, and we will put a Republican President in. We will take care of those vacancies. We have some people we want to put on those spots. The fairness of an up-or-down vote wasn't the case around here at all. It was fundamentally unfair.

The Republicans exercised their filibusters, these pocket filibusters, against 61 nominees from President Clinton's White House who never received a vote in the Judiciary Committee. And the myth of the up-or-down vote is also demonstrated by looking at the history of Supreme Court nominations.

Norman Ornstein is well recognized on Capitol Hill, a thoughtful man. He pointed out today in an article in a newspaper known as Roll Call that there have been 154 nominations in our Nation's history to the Supreme Court. Of that 154, 23 never received an up-or-down vote; 1 out of 7 of the Supreme Court nominees never received an up-or-down vote. What a weak argument from the other side.

Not only does history argue they are wrong, their memories should argue they are wrong. They didn't offer an up-or-down vote to those nominees from President Clinton.

Let's talk about this particular circuit. Let's talk about what happened here in the context of the Priscilla Owen nomination for the Fifth Circuit. Justice Owen is the only judicial nominee ever nominated by the President on two occasions after being rejected by the Senate Judiciary Committee. Never before has a judicial nominee received a negative vote in committee and been confirmed by the Senate. The Republican leadership speaks at great length about the unprecedented maneuvers of Democrats, but their strategy on this nominee is a first. Surely Justice Owen and Charles Pickering, the former embattled nominee to the Fifth Circuit, are not the only people qualified to serve on that circuit. It is a circuit that covers the States of Texas, Louisiana, and Mississippi. This is an area of roughly 30 million people. It is amazing to me that President Bush and his fine people in the White House couldn't find another name to bring to us for that important court.

Justice Owen has been given two confirmation hearings, something which 61 Clinton nominees never had a chance to receive. Three of President Clinton's nominees for the very same circuit were denied even a single hearing. Let's take a look at these nominees.

Enrique Moreno, an accomplished trial attorney, nominated on September 16, 1999, by President Clinton to fill a vacancy in the Fifth Circuit. No hearing. No committee vote. No floor vote. Certainly, no up-or-down vote. I would hope that my friends on the Republican side would scratch their heads and search their memories and remember Enrique Moreno when they say every nominee is entitled to an up-or-down vote. He was found qualified. He was turned down to keep the vacancy, in the hopes of the Senate Republicans, that a Republican President would come along to fill it.

Let's look at another nominee in the same circuit. Jorge Rangel, a law firm partner, a former Texas district court judge, was nominated July 24, 1997. No hearing. No committee vote. No floor vote. This qualified man languished for months, waiting for his chance for even a hearing before the Judiciary Committee. But the Senate Republicans said, no; this wasn't about filling a vacancy. It was about keeping a vacancy so they, in the hopes of the next election, could fill it.

Finally, look at Alston Johnson. He was in a major law firm, nominated April 22, 1999, by President Clinton. He was renominated in 2001. He never received a hearing when Senator HATCH was chairman of the Judiciary Committee. He never received a committee vote. Certainly, he had no up-or-down floor vote. Why? To keep the vacancy alive for Priscilla Owen, in the hopes that someday there would be a Republican President who could fill it.

The Judiciary Committee chairman, Orrin Hatch, denied each of these nominees a vote and a hearing. Now the Republicans want to reap the benefits of their delay tactics. But they don't come to this with clean hands. This vacancy exists today because three people were treated very poorly. They never received the benefit of the hearing that Priscilla had. They never had the committee vote that Priscilla Owen had. They were not debated on the floor. They say she should be confirmed because she has a "well-qualified" rating by the American Bar Association. Let me tell you, it is an argument of convenience. The nominees I just mentioned—Jorge Rangel, Enrique Moreno, and Alston Johnson—all had ratings of "well-qualified." But their nominations were buried by Senator HATCH. So this "good housekeeping seal of approval," the ABA rating, meant nothing to the Senate Republicans when it came to the Clinton nominees.

Much has been said today on the floor about Justice Owen's record in preventing pregnant minors in Texas from receiving abortions through a process known as a "judicial bypass." What is that all about? Most States, in writing laws, say when it comes to a minor seeking an abortion, there can be extraordinary circumstances when parental consent is not appropriate. We can think about those. There are victims of incest. You would not expect the victim to go to the family member who perpetrated that crime for permission for an abortion. So they create a process where those victims, with the help of an advocate, can go to court and say to the court: My circumstances are unusual. I should be treated differently and given a different opportunity.

We have heard the comment made by then-Texas Supreme Court justice, and now our Attorney General, Alberto Gonzales. When Priscilla Owen issued an opinion in the case involving judicial bypass, he said—Attorney General Gonzales—that her dissenting position in this case:

> It would be an unconscionable act of judicial activism.

That is the Attorney General of the United States commenting on the record of Priscilla Owen, who the administration is now propounding to fill this vacancy.

Make no mistake, the vote on this nominee, Priscilla Owen, is not a referendum on the contentious issue of abortion. I don't oppose her because we differ on abortion rights. In fact, we have confirmed 208 of President Bush's judicial nominees, over 95 percent. Trust me, the vast majority of them do not share my view on the issue of abortion. But that is not the test, nor should it be. We expect President Bush to nominate people who have a position on abortion that may differ from mine. That doesn't disqualify anybody. That is why 95 percent of his nominees have been approved, despite those differences.

In my view, the Owen nomination is not just about abortion. I oppose her because I don't believe she has taken an evenhanded or moderate approach to applying the law. What distinguishes this nominee, Priscilla Owen, from other judges being confirmed is that she has repeatedly demonstrated her unwillingness to apply statutes and court decisions faithfully—on the issue of abortion and many other issues.

There is no dispute that Justice Owen is a woman of intellectual capacity and academic accomplishment. The question before the Senate, however, is whether she exhibits the balance and freedom from rigid ideology that must be the bedrock of a strong Federal judiciary. The answer, regrettably, is no.

Although the Senate is once again a house divided, concerns about Justice Owen cross party lines. Those who know her the best, including colleagues on the Republican-dominated Texas Supreme Court, have repeatedly questioned the soundness of her logic, her judgment, and her legal reasoning during her 10 years on that court.

Consider some of the published comments of her colleagues on the Texas Supreme Court.

In the case of FM Properties v. City of Austin, Justice Owen dissented in favor of a large landowner which sought to write its own water quality regulations. The court majority wrote:

> Most of Justice Owen's dissent is nothing more than inflammatory rhetoric and thus merits no response.

That was the majority of the Texas Supreme Court. Think about it. Attorney General Gonzales says she has taken part in unconscionable acts of judicial activism. The majority of her Texas Supreme Court says her dissent is nothing more than inflammatory rhetoric in this case.

Then look at her dissenting opinion in the case of Fitzgerald v. Advanced Spine Fixation Systems, in favor of limiting liability for manufacturers who made harmful products that injured innocent people. What they said was that her dissent would in essence "judicially amend the statute to add an exception not implicitly contained in the language of the statute." To put it in layman's terms, she is not being a judge, she is being a legislator and is writing law.

According to the majority, her dissent in a case involving the Texas open records law, City of Garland v. Dallas Morning News here is what the majority of the court said about this nominee, Priscilla Owen:

> Effectively writes out the . . . Act's provisions and ignores its purpose to provide the public "at all times to complete information about the affairs of government and the official acts of public officials and employees."

According to six justices, including three appointed by George W. Bush when he was Governor of the State, Justice Owen's dissenting opinion in Montgomery Independent School District v. Davis is guilty of "ignoring credibility issues and essentially stepping into the shoes of the fact-finder to reach a specific result."

In other words, she is picking and choosing the evidence without treating it fairly. Who said that? Six justices on her own Texas Supreme Court. Three of them were appointed by George W. Bush. Her colleagues said that Owen's dissent, in this case against a teacher who was unfairly fired "not only disregards the procedural limitations in the statute but takes a position even more extreme than that argued for by the [school] board."

Judges can and should have lively debate over how to interpret the law. Senator CORNYN, our colleague from Texas, tried to assure us that judges in Texas always talk this way. But Justice Owen's tenure on the Texas Supreme Court is remarkable for both the frequency and intensity with which her fellow Republicans on the court have criticized her for exceeding the bounds of honest disagreement. These are Republican fellow justices carping, not Democrats. They are fellow justices, appointed by Governor George W. Bush and others.

According to those who served with her and know her best, she has often been guilty of ignoring plain law, distorting legislative history, and engaging in extreme judicial activism.

All too often during her judicial career, Justice Owen has favored manufacturers over consumers, large corporations over individual employees, insurance companies over claimants, and judge-made law over jury verdicts. This pattern is consistent with her State court campaign promises. But it ill suits a person seeking a lifetime appointment to the Federal bench who promises to be fair and balanced.

Let me mention one example, a case I asked Justice Owen about at her hearing in 2002, Provident American Insurance Company v. Castaneda. Justice Owen, writing for a divided court, ruled in favor of an insurance company that tried to find anything in its policy to avoid paying for critical surgery for a young woman named Denise Castaneda.

Denise suffered from hemolytic spherocytosis, a genetic condition causing misshapen blood cells, and she needed to have her spleen and gallbladder removed. Denise's parents obtained preapproval for the surgery, yet Justice Owen allowed the insurance company to deny coverage, in clear bad faith of their contractual obligation.

One of her colleagues on the court who disagreed with her in this case, Justice Raul Gonzalez, said Justice Owen's opinion "ignores important evidence that supports the judgment . . . and resolves all conflicts in the evidence against the verdict [for the family that was denied coverage]."

Justice Raul Gonzalez concluded:

> If the evidence of this case is not good enough to affirm judgment, I do not know what character or quantity of evidence would ever satisfy the Court in this kind of case.

Nor is it easy to satisfy Justice Owen in the judicial bypass cases. Her tortured reasoning in cases involving the Texas parental notification law exhibits the same inclination by Justice Owen for judicial activism I discussed earlier.

I am alarmed by her attempt to force young women seeking a legal judicial bypass under Texas law to demonstrate that they considered religious issues in their decision whether they were to have an abortion. This religious awareness test has no support in Supreme Court case law. She may view it as something to be added to the law. It is not the law. And when judges go beyond the clear limits of the law, they are writing the law, and that is not their responsibility.

Justice Owen told the Judiciary Committee she would not be an activist, that she would merely follow the law. That is a safe answer. We hear it from every nominee. But when it comes to the issue of abortion, the law is not well settled. One study shows that of 32 circuit court cases applying the 1992 case Planned Parenthood of Southeastern Pennsylvania v. Casey, only 15 of those cases were decided by unanimous panels. So in a majority of the cases, judges viewing identical facts and laws reached different conclusions.

Priscilla Owen is a member and officer of the Federalist Society. If you have never heard of it, this is the secret handshake at the White House. If you are a member of the Federalist Society, you are much more likely to progress, to have a chance to serve for a lifetime on the bench. I have tried, as nominees would come before the Judiciary Committee, to ask them: What is the Federalist Society? Why is it so important that résumés for would-be judges be checked by the Federalist Society for the Bush White House to consider you?

I asked Priscilla Owen if she agreed with the Federalist Society's published mission statement which says:

> Law schools and the legal profession are currently strongly dominated by a form of orthodox liberal ideology which advocates a centralized and uniform society.

Here is her response:

> I am unfamiliar with this mission statement . . . I have no knowledge of its origin or its context.

She ducked the question. I can only conclude that she does not find that mission statement repugnant. She joined the Federalist Society, and that is the viewpoint.

It is a small organization. Fewer than 1 percent of lawyers across America are members of this Federalist Society. Yet over one-third of President Bush's circuit court nominees are members of the Federalist Society. If you do not have a Federalist Society secret handshake, then, frankly, you may not even have a chance to be considered seriously by the Bush White House.

When it comes to nominees to the appellate court, the White House has made political ideology a core consideration. President Bush did not take office with a mandate to appoint these kinds of judges. He lost the popular vote in his first election, won the electoral vote by a decision of the Supreme Court, and came back in this last election and won by virtue of one State. Had Ohio gone the other way, he would not be President today. What kind of mandate is that for rewriting the courts and the laws that they consider?

The Nation needs more judicial nominees who reflect the moderate views of the majority of Americans and who have widespread bipartisan support. Priscilla Owen is not one of them. I do not believe this nominee should receive a lifetime appointment, and I do not believe she is worth a constitutional confrontation.

Today we had a gathering on the steps of the Senate of Democrats serving in the House and the Senate. We were glad that our colleagues from the House came over to support us in this debate on the nuclear option. They do not have the constitutional responsibility of confirming nominees to the court, but they understand a little bit about debate.

Sadly, in the House of Representatives since I left, debate has virtually come to a standstill. Efforts are being made to close down debate, close down amendments. The House meets 2 or 3 days a week, if they are lucky, and goes home accomplishing very little except the most basic political agenda. What a far cry from the House of Representatives in which I served. We used to go on days, sometimes weeks, on critically important issues such as the spread of nuclear weapons around the world. They were hotly contested debates. There were amendments that passed by a vote or two where we never knew the outcome when we cast our vote. It does not happen anymore. The House of Representatives has shut down debate, by and large, and when they get to a rollcall vote that is very close, they will keep the rollcall vote open for hours, twisting the arms of Congressmen to vote the way the leadership wants them to.

That is what is happening in the House. Sadly, that is what happens when a group is in power for too long. They forget the heritage of the institution they are serving. All that counts is winning, and they will win at any cost.

That is what is happening in this debate. There are forces in the Senate that want to win at any cost, but the cost of the nuclear option is too high. The cost of the nuclear option means we will turn our back on a 200-year-plus tradition. We will turn our back on extended debate and filibuster so this President can have more power.

You wonder if 6 Republicans out of 55 are troubled by this. That is what it comes down to. If 6 Republicans believe this President has gone too far, that is the end of the debate on the nuclear option—6 out of 55. It is possible it could reach that point where six come forward. I certainly hope they do. They will be remembered. Those six Republicans who step forward and basically say the President is asking for too much power, those six Republicans who say the special interest groups that are pushing this agenda so the President will have every single judicial nominee, those six Republicans will be remembered. They will have stood up for the institution.

It will not be popular. In some places I am sure they are going to be roundly criticized, and they may pay a political price. But we would like to think—most of us do—that at that moment in time when we are tested to do the right thing, even if it is not popular, we will do it. I certainly hold myself to that standard. Sometimes I meet it, sometimes I fail.

For those who are considering that today, I say to them there has never been a more important constitutional debate in the Senate in modern memory. ROBERT C. BYRD, the Senator from West Virginia, comes to the floor every day and carries our Constitution with him in his pocket. He has written a two- or three-volume history of the Senate. He knows this institution better than anybody.

I have listened to Senator BYRD, and I have measured the intensity of his feeling about this debate. It is hard for anyone to describe what this means to Senator BYRD. He believes what is at stake here is not just a vote on a judge. What is at stake here is the future of the Senate, the role of the issues, such as checks and balances, and I agree with him.

My colleagues made an argument that we have to go through these judicial nominees and approve them because we face judicial emergencies. Let me read what Senator FRIST, the Republican majority leader, said on May 9:

> Now, 12 of the 16 court of appeals vacancies have been officially declared judicial emergencies. The Department of Justice tells us the delay caused by these vacancies is complicating their ability to prosecute criminals. The Department also reports—

According to Senator FRIST—

> that due to the delay in deciding immigration appeals, it cannot quickly deport illegal aliens who are convicted murderers, rapists, and child molesters.

That was Senator FRIST's quote on May 9, waving the bloody shirt that if we do not move quickly on judicial nominees, it will leave vacancies that allow these criminals on the street.

Facts do not support what Senator FRIST said. In fact, you have to go back to 1996 to find a lower number of judicial emergencies. Think about this. In 1994, there were 67 judicial emergencies, meaning vacancies that badly needed to be filled. That, of course, was during the Clinton years, when many of the Republicans were not holding hearings and insisting we didn't need to fill vacancies. Today the number of judicial emergencies is 18. What a dramatic difference.

I think it is clear. There are fewer judicial emergencies now than there have been in the last 9 or 10 years. For any Senator to come to the floor and argue that we are creating a situation where criminals are roaming all over the streets—where were these same critics during the Clinton years when there were many more judicial emergencies and they were turning down the Clinton nominees, denying them even an opportunity for a hearing?

I think this debate is going to test us—in terms of the future of the Senate, in terms of our adherence to our oaths to protect and defend the Constitution of the United States.

Janice Rogers Brown is also a nominee who will likely follow Priscilla Owen to the floor. She, too, has been considered not only in committee but also on the floor, and she will have her nomination submitted for us to consider again.

She, of course, is looking for appointment to the second highest court in the land, the DC Circuit Court of Appeals. I have heard my colleagues, Senator BOXER and Senator FEINSTEIN, from Judge Janice Rogers Brown's home State of California, describe some of the things she has said during the course of serving as a judge. To say she is out of the mainstream is an understatement. She is so far out of the mainstream on her positions that you find it interesting that, of all of the conservative Republican attorneys and judges in America, this is the best the White House can do, to send us someone who has such a radical agenda that she now wants to bring to the second highest court in the land. And that is what we are up against.

There are some who argue, Why don't you just step aside? Let these judges come through. I hope it doesn't come to that. But I hope it does come to a point that we make it clear the nuclear option is over. I believe Senator HARRY REID, the Democratic leader, has said and I believe that we will conscientiously review every single nominee. The President can expect to continue to receive 95-percent approval, unless he changes the way he nominates judges—maybe even better in the future. But for us to change the rules of the Senate may give this President a temporary victory. It may have some special interest groups calling Senator FRIST, the Republican majority leader, congratulating him. But, frankly, it will not be a day of celebration for those who value the Constitution and the traditions of the Senate.

At this point I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I come to the floor this evening to join my colleagues to talk about the Senate's deliberations on some of our administration's judicial nominations. It is very clear to me this is a debate about basic American values. In drafting the Constitution, the Framers wanted the Senate to provide advice and consent on nominees who came before us to ensure that these very rights and values were protected. I believe as a Senator I have a responsibility to stand up for those values on behalf of my constituents from my home State of Washington.

Many activists today are complaining that certain Senators are attacking religious or conservative values. I must argue that it is others, not Democratic Senators, who are exercising their rights, who are pursuing a nomination strategy that attacks the basic values that were outlined in our Constitution.

Our democracy values debate. It values discussion. Our democracy values the importance of checks and balances. Our democracy values an independent judiciary. But with this nuclear option and the rhetorical assault that is being launched at Democratic Senators by activists around the country, we now see those values under attack. The nuclear option is an assault on the American people and many of the things we hold dear. It is an attempt to impose on the country, through lifetime appointments, the extreme values held by a few at the cost of many. It is the tyranny of the majority personified. Confirming these nominees by becoming a rubberstamp for the administration would be an affront to the 200-year-old system we have in place, a system of checks and balances. At the same time I have to say it would be an affront to the values I promised to defend when I came to the Senate.

It is not always easy. Building and maintaining a democracy is not easy. But our system and the rights and the values it holds dear are the envy of the world. In fact, the entire world looks at us as a model for government. It is our values they look to. We have to protect them, not only for us but for other fledgling democracies around the world.

I returned recently from a bipartisan trip we took to Israel, Iraq, Georgia, and Ukraine, where we saw up close leaders who are working very hard to write constitutions, to write laws, to write policies. They were working hard, all of them, to assure that even those who did not vote in the majority in their country would have a voice.

The challenges were varied in every country we went to. They faced everything from protecting against terrorists to, in some cases, charging for electricity for the first time, to, in other cases, reforming corrupt institutions. But making sure that democracies survive means having debates, it means bringing people to the table, and it means making tough decisions. But in each case, the importance of not disenfranchising any group within that country was an important part of making sure that democracy worked.

So how we in this country accomplish the goal of sustaining a strong democracy and ensuring people—all people—participation is extremely important.

Elections are the foundation of our democracy. They actually determine the direction of our country. But an election loss doesn't mean you lose your voice or you lose your place at the table. Making sure we all have a seat at the table is increasingly important to keep our democracy strong. That is why those of us on this side are fighting so hard to keep our voice, to have a seat at the table.

Recently we have heard a lot from the other side about attacks on faith and values. In fact, some are trying to say our motive in this debate is somehow antifaith. I have to argue that just the opposite appears to me to be true. We have faith in our values, we have faith in American values, and we have faith that those values can and must be upheld.

This is not an ideological battle between Republicans and Democrats, it is about keeping faith with the values and ideals our country stands for. Having values and having faith in those values requires—requires that we make sure those without a voice are listened to. Speaking up for those in poverty to make sure they are fed is a faith-based value. Making sure there is equal opportunity and justice for the least among us is a faith-based value. Fighting for human rights, taking care of the environment, are faith-based values.

To now say those of us who stick up for minority rights are antifaith is frightening and, frankly, it is wrong. I hope those who have decided to make this into some kind of faith/antifaith debate will reconsider. This debate should be about democracy. It should be about the protection of an independent judiciary. And certainly it is a debate about the rights of minorities.

Our system of Government, of checks and balances, and our values, are under attack today by this very transparent grab for power. They are, with their words and potential actions, attempting now to dismantle this system despite the clear intent of the Framers and the weight of history and precedent. They think they know better, and I think not.

Today, it is fashionable for some of my colleagues on the other side of the aisle to disparage what they call activist judges. But this power grab, this nuclear option reveals the true motivation. There are those who want activists on the bench to interpret the law in a way I believe undermines important American values.

I believe we have a responsibility to stand up and say no to extreme nominees. But to know that, you do not need to listen to me. Just look back at the great Founders of this democracy. The Framers, in those amazing years when our country was founded, took very great care in creating this new democracy. They wrote into the Constitution the Senate's role in the nomination process. They wrote into the Constitution and spoke about protecting the minority against the tyranny of the majority and their words ring true today.

James Madison, in his famous Federalist No. 10, warned against the superior force of an overbearing majority or, as he called it, a dangerous vice.

He said:

> The friend of popular governments never finds himself so much alarmed for their character and faith as when he contemplates their propensity to this dangerous vice.

Years prior, John Adams wrote in 1776 on the specific need for an independent judiciary and checks and balance. He said:

> The dignity and stability of government in all its branches, the morals of the people and every blessing of society depends so much on an upright and skillful administration of justice that the judicial power ought to be distinct from both the legislative and executive and independent upon both so that it may be a check upon both as both should be checks upon that. The Judges therefore should always be men of learning and experience in the laws, of exemplary morals, great patience, calmness, coolness and attention. Their minds should not be distracted with jarring interests; they should not be dependent on any man or body of men.

I have to shudder at the thought of what some of the great thinkers, the great Founders of our democracy, would say to this attempted abuse of power. Frankly, one of the best interpretations of the thoughts was offered to this Senate by Robert Caro, the great Senate historian. He wrote a letter in 2003 and he talked about the need for the Senate to maintain its history and its traditions despite popular pressures of the day and of the important role that debate and dissension plays in any discussion of judicial nominations. In particular, he wrote of his concern for the preservation of Senate tradition in the face of attempted changes by a majority run wild.

He said, in part:

> In short, two centuries of history rebut any suggestion that either the language or intent of the Constitution prohibits or counsels against the use of extended debate to resist presidential authority. To the contrary, the nation's Founders depended on the Senate's members to stand up to a popular and powerful president. In the case of judicial appointments, the Founders specifically mandated the Senate to play an active role providing both advice and consent to the President. That shared authority was basic to the balance of powers among the branches.
>
> I am . . . attempting to say as strongly as I can that in considering any modification Senators should realize they are dealing not with the particular dispute of the moment, but with the fundamental character of the Senate of the United States, and with the deeper issue of the balance of power between majority and minority rights.

Protection of minority rights has been a fundamental principle since the infancy of this democracy. It should not—in fact, it cannot—be laid to rest in this Chamber with this debate.

I know there are a lot of people wondering why the Senate is spending so much time talking about Senate rules and judicial nominations. They are wondering why I am talking about nominees and quoting Madison and Adams. They are wondering what this means to them.

I make it clear: This debate is about whether we want a clean, healthy environment and the ability to enforce our laws to protect it fairly. This debate is about whether we want to protect essential rights and liberties. This debate is about whether we want free and open government. This debate is about preserving equal protection under the law. This debate is about whether we want to preserve the independent judiciary, whether we want to defend the Constitution, and whether we will stand up for the values of the American public.

I believe these values are too precious to abdicate. Trusting in them, we will not let Republicans trample our rights and those of millions of Americans who we are here to represent. We will stand and say yes to democracy, yes to an independent judiciary, yes to minority rights, and no to this unbelievable abuse of power.

I see my colleague from New York is here, and I know he has time tonight, as well.

I yield the floor.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from New York.

Mr. SCHUMER. Mr. President, first, I compliment my friend and colleague from the great State of Washington for her outstanding remarks and leadership on this issue. She knows, because of her experience and her compassion and humanity, what this nuclear option would mean to this Senate. I thank the Senator for her leadership.

Mr. President, there are so many things to say here. The idea of blowing up the Senate, literally, almost, at least in terms of the rules, at least in terms of comity, and at least in terms of bipartisanship, all because 10 judges have not been approved, is just appalling.

I mentioned earlier today, it seems like a temper tantrum if we do not get our way on every single one, say the hard-right groups, we will show them they cannot stop us on anything. That is how ideologues think. That is how people who are so sure they have the message from God or from somebody else, that they know better than everyone else, that is how they think. They cannot tolerate the fact that some of these judges, a small handful, have been held up.

We can tell in the debate today where the enthusiasm and the passion is. There is a weariness on the other side of the aisle. My guess is that more than half of those on the other side, if it were a secret ballot, would vote against the nuclear option. They know it is wrong. Ten have said to me: I am under tremendous pressure; I have to vote for it. The reason the majority leader has not called for a vote is because of the courageous handful who have resisted the pressure. Four of them have told me of the pressure on them.

We used to hear about these groups influencing things. Does anyone have any doubt that if not for the small groups, some dealing with social issues because they think America has been torn away from them, some deal with economic issues—they hate the fact that the commerce clause actually can protect workers. Their idea is that self-made businessman should not pay taxes, should be able to discriminate, should be able to pollute the air and water.

Janice Rogers Brown basically stands for the philosophy of the 1890s and said over and over again that we should go back to the days when if you had a lot of money and power, you could do whatever you wanted. It is an abnegation of history, of the knowledge we have learned. It is an abnegation of the free market principles are the best principles.

But we have learned over the years they need some tempering and some moderation. That is why we do not have the booms and busts that characterized America from 1870 to 1935. That is why people live better. Not because corporate America did good for them. They did do some good, and they do more good now. It was through unionization, through government rules that we transformed America from a nation of a very few rich, a small middle class, and a whole lot of poor people, into an America that had more rich people, a large—gigantic, thank God—middle class, and still too many poor people but fewer poor people.

But Janice Rogers Brown believes all government regulation is wrong. She believes the New Deal was a socialist revolution that had to be undone. Do mainstream conservatives believe that? Is it any wonder even the Chamber of Commerce is against the nuclear option? No.

There are so many points I wish to make, and fortunately it seems we will have a lot of time to make these points. I will focus on something that has not been focused on before, and that is this idea of an up-or-down vote.

First, we have had votes. Yes, the other side has needed 60 to prevail on the small number of judges we have chosen to filibuster. Yes, certainly there has not been a removal of cloture, but the bottom line is we have had votes, unlike when Bill Clinton was President and 60 judges were pushed aside and not given a vote.

The other point of the up-or-down vote is let 51 votes decide, let's each come to our own decision as we weigh the judges.

Let me show the independence of the decisions that have been made by those on the other side.

This is a compilation of all the votes taken by Republican Members of the Senate for every one of President Bush's court of appeals nominees. There have been 45. How many times has any Republican voted against any 1 of those 45 at any single vote? If, of course, we were all coming to an independent decision, do you think there would be 100, 200, 300 out of the 2,700-some-odd votes cast? You would think so. Independent thinking, let's have an up-or-down vote. Here is what it is: 2,703 to 1. Let me repeat that because it is astounding: 2,703 "yes" votes by Republicans for court of appeals nominees—45 of them—and 1 vote against.

Now, how is that? First, people ask. Well, who is the one vote? Why did one person, at one point, dissent from the marching lockstep to approve every single nominee the President has proposed? Well, I will tell you who it was. It was TRENT LOTT, the former majority leader. On what judge? On Judge Roger Gregory, who was nominated by Bill Clinton to be the first Black man to sit on the Fourth Circuit, which has a large black population. It is Virginia, North Carolina, South Carolina—I am not sure if it has Georgia in it or not; I think not Georgia.

And when President Bush renominated him, TRENT LOTT voted against him, maybe to help his friend, Jesse Helms, who blocked every nominee and certainly every African-American nominee on the Fourth Circuit. That is it. That is TRENT LOTT right there on Roger Gregory. TRENT LOTT on every other nominee, every other Republican Senator on every nominee: 100 percent of the time they voted for the President's nominee.

So this idea that we are a deliberative body, and we are going to look at each person on the merits, I heard our majority leader say: Let's look. Do you know what this means? Do you know what this spells, these numbers? R-U-B-B-E-R-S-T-A-M-P. This Senate, under Republican leadership, has become a complete rubber stamp to anyone the President nominates. Did maybe one of those nominees strike a single Member of the other side as going too far on a single issue? Did maybe one of those nominees do something that merited they not be on the bench? Did maybe one of those nominees not show judicial temperament? I guess not. Rubber stamp: 2,703 to 1. Once was there a dissent, only once, and on Roger Gregory, the first African-American nominee to the Fourth Circuit.

So what is happening here is very simple. The hard-right groups, way out of the mainstream, not Chambers of Commerce or mainstream churches, but the hard-right groups, as I said, either some who believe, almost in a theocratic way, that their faith—a beautiful thing—should dictate not just their politics but everyone's politics, and some, from an economic point of view, who do not believe there should be any Federal Government involvement in regulating our industries, our commerce, et cetera—these groups are ideologues. They are so certain they are right.

They have some following in this body, but it is not even a majority of the Republican side of the aisle. And they certainly do not represent the majority view of any Americans in any single State. But they have a lot of sway. And until this nuclear option debate occurred, they had very little opposition. People did not know what was going on. And now, of course, this debate allows us to expose the lie.

Let me say another thing about this idea. One out of every five Supreme Court nominees who was nominated by a President in our history never made it to the Supreme Court. The very first nominee, Mr. Rutledge, nominated by George Washington, was rejected by the Senate, in a Senate that had, I believe it was, eight of the Founding Fathers. Eight of the twenty-two people who voted in the Senate had actually signed the Constitution, defining them as Founding Fathers. Did they have votes like this? Of course not because the Founding Fathers, in this Constitution, wanted advice and consent. They say in the Federalist Papers, they wanted the President to come to the Senate and debate and discuss.

Has any Democrat been asked? Has PATRICK LEAHY, our ranking member of Judiciary, been asked about who should be nominees in these courts? Has there been a give-and-take the way Bill Clinton regularly called ORRIN HATCH, chairman of the Judiciary Committee? There is a story, I do not know if it is apocryphal, that ORRIN HATCH said: You can't get this guy for the Supreme Court. You can't get this guy, but Breyer will get through. And President Clinton nominated Breyer. Did Stephen Breyer have ORRIN HATCH's exact political beliefs? No. Did he have Bill Clinton's exact ones? No. It was a compromise. That is what the Constitution intended.

But when a President nominates judges through an ideological spectrum, when he chooses not moderates, and not even mainstream conservatives, but people who are way over—way over—we have safeguards. One of those safeguards is the filibuster. It says to the President: If you go really far out and do not consult and do not trade off, you can run into trouble.

Well, George Bush did not consult. He did what he said in the campaign, that he was going to nominate ideologues. He said: I am going to nominate judges in the mold of Scalia and Thomas. There probably should be a few Scalias on our courts. They should not be a majority. And Bush nominates a majority. And he is now sowing what he has reaped—or reaping what he has sown. I come from New York City. We do not have that much agriculture, although I am trying to help the farmers upstate.

So that is the problem. This is not the Democrats' problem. This is the way the President has functioned in terms of judicial appointments. This is the way the Republican Senate, to a person, has been a rubber stamp without giving any independent judgment.

This is the way the Founding Fathers wanted we Democrats and the Senate as a whole to act. And that is what we are doing.

And then, when they do not get their way—quite naturally, we did what we are doing—they throw a temper tantrum. They say: We have to have all 100 percent. I want to repeat this because this was said by someone—I do not remember who—but I think it is worth saying. If your child, your son or daughter, came home and got 95 percent on a test, 95 percent, what would most parents do? They would pat him or her on the head and say: Great job, Johnny. Great job, Jane. Maybe try to do a little better, but you have done great. I am proud of you.

When President Bush gets the 95 percent, he does not do that. President Bush would advise—what he is doing, in effect, is saying to Johnny or Jane: You only got 95 percent?

This is not what President Bush does. It is what the far-right groups do, the hard-line far right. Only 95 percent? Break the rules and get 100 percent. What parent would tell their child that? Yet that is what these narrow-minded groups are saying. And wildly enough, the majority leader and most—and thank God, not yet all—of his caucus is agreeing. Break the rules, change the whole balance of power and checks and balances in this great Senate and great country so we don't have 95 percent, but 100 percent.

What is it that is motivating them? Some say it is a nomination on the Supreme Court that might be coming up, that they can't stand the fact that Democrats might filibuster. I can tell you, if the President nominates someone who is a mainstream person, who will interpret the law, not make the law, there won't be a filibuster.

They say: Well, they will have to agree with the Democrats on everything. Bunk. I haven't voted for all 208. I probably voted for about 195. I guarantee you, of those 195, I didn't agree with the views of many. No litmus test have I. I voted for an overwhelming majority who were pro-life even though I am pro-choice. I voted for an overwhelming majority who probably want to cut back on Government activity in areas that I would not cut back. But at least there was a good-faith effort by these nominees, at least as I interviewed them, being ranking Democrat on the Courts Subcommittee, to interpret the law, not to make the law.

There are some the President nominated you can't tolerate, that are unpalatable. I debated Senator HATCH on the Wolf Blitzer show. He keeps bringing up the old saw: You are opposing Janice Rogers Brown because you can't stand having an African-American conservative.

They said that about Pryor in terms of being a Catholic and about Pickering in terms of being a Baptist. It is a cheap argument. I don't care about the race, creed, color, or religion of a nominee. If that nominee believes the New Deal was a socialist revolution, if that nominee believes the case the Supreme Court decided that said wage and hour laws were unconstitutional was decided correctly in 1906, even though it was overturned, I will oppose that nominee. That person should not be on the second most important court in the land. No way. We are doing what the Founding Fathers wanted us to do. We are doing the right thing.

One other point, and it relates to this hallowed document—the Constitution. In the 1960s and 1970s, one of the main bugaboos of the conservative movement was that the courts were going too far. They called them activist judges. They believed—from the left side, not from the right side—that these judges were making law, not interpreting the law. And there are cases where they were right. I remember being in college and being surprised as I studied some of the cases that the Supreme Court would do this.

So they created a counterreaction. Ronald Reagan nominated conservative judges, not as conservative as George Bush's, but the bench had largely been appointed by moderates, whether it be Kennedy, Johnson, Nixon, Ford, or Carter. So when Reagan came in and began to sprinkle some conservatives in there, people didn't make too much of a fuss, especially at the courts of appeal level.

The point I am making is this: So they didn't like activist judges, judges who would sort of read the Constitution and divine what was in it. And they had a movement that said: You only read the Constitution in terms of the words. If it doesn't say it in the Constitution, you don't do it.

I defy any Republican who says they don't believe in activist judges to find the words "filibuster," "up-or-down vote," "majority rule," when it comes to the Senate. I would say that anyone who is now saying the Constitution says there cannot be a filibuster is being just as activist in their interpretation of the Constitution as the judges they condemned in the 1960s and 1970s.

I thank the Chair for the courtesy and yield the floor.

Mr. LEAHY. Mr. President, 3 years ago I first considered the nomination of Priscilla Owen to be a judge on the United States Court of Appeals for the Fifth Circuit. After reviewing her record, hearing her testimony and evaluating her answers I voted against her confirmation and explained at length the strong case against confirmation of this nomination. Nothing about her record or the reasons that led me then to vote against confirmation has changed since then. Unlike the consideration of the nomination of William Myers, on which the Judiciary Committee held another hearing this year before seeking reconsideration, there has been no effort to supplement the record on this nomination. Justice Owen's record failed to justify a favorable reporting of the nomination in 2002 and was inadequate to gain the consent of the Senate during the last 2 years.

In 2001, Justice Owen was nominated to fill a vacancy that had by that time existed for more than 4 years, since January 1997. In the intervening 5 years, President Clinton nominated Jorge Rangel, a distinguished Hispanic attorney from Corpus Christi, to fill that vacancy. Despite his qualifications, and his unanimous rating of well qualified by the ABA, Mr. Rangel never received a hearing from the Judiciary Committee, and his nomination was returned to the President without Senate action at the end of 1998, after a fruitless wait of 15 months.

On September 16, 1999, President Clinton nominated Enrique Moreno, another outstanding Hispanic attorney, to fill that same vacancy. Mr. Moreno did not receive a hearing on his nomination either—over a span of more than 17 months. President Bush withdrew the nomination of Enrique Moreno to the Fifth Circuit and later sent Justice Owen's name in its place. It was not until May of 2002, at a hearing presided over by Senator SCHUMER, that the Judiciary Committee heard from any of President Clinton's three unsuccessful nominees to the Fifth Circuit. At that time, Mr. Moreno and Mr. Rangel, joined by a number of other Clinton nominees, testified about their treatment by the Republican majority. Thus, Justice Owen's was the third nomination to this vacancy and the first to be accorded a hearing before the committee.

In fact, when the Judiciary Committee held its hearing on the nomination of Judge Edith Clement to the Fifth Circuit in 2001, during the most recent period of Democratic control of the Senate, it was the first hearing on a Fifth Circuit nominee in 7 years. By contrast, Justice Owen was the third nomination to the Fifth Circuit on which the Judiciary Committee held a hearing in less than 1 year. In spite of the treatment by the former Republican majority of so many moderate judicial nominees of the previous President, we proceeded in July of 2001—as I said that we would—with a hearing on Justice Owen.

Justice Owen is one of among 20 Texas nominees who were considered by the Judiciary Committee while I was chairman. That included nine district court judges, four United States Attorneys, three United States Marshals, and three executive branch appointees from Texas who moved swiftly through the Judiciary Committee.

When Justice Owen was initially nominated, the President changed the confirmation process from that used by Republican and Democratic Presidents for more than 50 years. That resulted in her ABA peer review not being received until later that summer. As a result of a Republican objection to the Democratic leadership's request to retain all judicial nominations pending before the Senate through the August recess in 2001, the initial nomination of Justice Owen was required by Senate rules to be returned to the President without action. The Committee nonetheless took the unprecedented action of proceeding during the August recess to hold two hearings involving judicial nominations, including a nominee to the Court of Appeals for the Federal Circuit.

In my efforts to accommodate a number of Republican Senators—including the Republican leader, the Judiciary committee's ranking member, and at least four other Republican members of the committee—I scheduled hearings for nominees out of the order in which they were received that year, in accordance with longstanding practice of the committee.

As I consistently indicated, and as any chairman can explain, less controversial nominations are easier to consider and are, by and large, able to be scheduled sooner than more controversial nominations. This is especially important in the circumstances that existed at the time of the change in majority in 2001. At that time we faced what Republicans have now admitted had become a vacancy crisis in the Federal courts. From January 1995, when the Republican majority assumed control of the confirmation process in the Senate, until the shift in majority, vacancies rose from 65 to 110 and vacancies on the courts of appeals more than doubled from 16 to 33. I thought it important to make as much progress as quickly as we could in the time available to us that year, and we did. In fact, through the end of President Bush's first term, we saw those 110 vacancies plummet to 27, the lowest vacancy rate since the Reagan administration.

The responsibility to advise and consent on the President's nominees is one that I take seriously and that the Judiciary Committee takes seriously. Justice Owen's nomination to the court of appeals has been given a fair hearing and a fair process before the Judiciary Committee. I thank all members of the committee for being fair. Those who had concerns had the opportunity to raise them and heard the nominee's response, in private meetings, at her public hearing and in written follow-up questions.

I would particularly like to commend Senator FEINSTEIN, who chaired the hearing for Justice Owen, for managing that hearing so fairly and evenhandedly. It was a long day, where nearly every Senator who is a member of the Committee came to question Justice Owen, and Senator FEINSTEIN handled it with patience and equanimity.

After that hearing, I brought Justice Owen's nomination up for a vote, and following an open debate where her opponents discussed her record and their objections on the merits, the nomination was rejected. Her nomination was fully and openly debated, and it was rejected. That fair treatment stands in sharp contrast to the way Republicans had treated President Clinton's nominees, including several to the Fifth Circuit.

That should have ended things right there. But looking back, we now see that this nomination is emblematic of the ways the White House and Senate Republicans will trample on precedent and do whatever is necessary in order to get every last nominee of this President's confirmed, no matter how extreme he or she may be. Priscilla Owen's nomination was the first judicial nomination ever to be resubmitted after already being debated, voted upon and rejected by the Senate Judiciary Committee.

When the Senate majority shifted, Republicans reconsidered this nomination and sent it to the Senate on a straight, party-line vote. Never before had a President resubmitted a circuit court nominee already rejected by the Senate Judiciary Committee, for the same vacancy. And until Senator HATCH gave Justice Owen a second hearing in 2003, never before had the Judiciary Committee rejected its own decision on such a nominee and granted a second hearing. And at that second hearing we did not learn much more than the obvious fact that, given some time, Justice Owen was able to enlist the help of the talented lawyers working at the White House and the Department of Justice to come up with some new justifications for her record of activism. We learned that given six months to reconsider the severe criticism directed at her by her Republican colleagues, she still admitted no error. Mostly, we learned that the objections expressed originally by the Democrats on the Judiciary Committee were sincerely held when they were made, and no less valid after a second hearing. Nothing Justice Owen said about her record—indeed, nothing anyone else tried to explain about her record—was able to actually change her record. That was true then, and that is true today.

Senators who opposed this nomination did so because Priscilla Owen's record shows her to be an ends-oriented activist judge. I have previously explained my conclusions about Justice Owen's record, but I will summarize my objections again today.

The first area of concern to me is Justice Owen's extremism even among a conservative Supreme Court of Texas. The conservative Republican majority of the Texas Supreme Court has gone out of its way to criticize Justice Owen and the dissents she joined in ways that are highly unusual, and in ways which highlight her ends-oriented activism. A number of Texas Supreme Court Justices have pointed out how far from the language of statute she strays in her attempts to push the law beyond what the legislature intended.

One example is the majority opinion in *Weiner* v. *Wasson*, 900 S.W.2d 316, Tex. 1995. In this case, Justice Owen wrote a dissent advocating a ruling against a medical malpractice plaintiff injured while he was still a teenager. The issue was the constitutionality of a State law requiring minors to file medical malpractice actions before reaching the age of majority, or risk being outside the statute of limitations. Of interest is the majority's discussion of the importance of abiding by a prior Texas Supreme Court decision unanimously striking down a previous version of the statute. In what reads as a lecture to the dissent, then-Justice JOHN CORNYN explains on behalf of the majority:

> Generally, we adhere to our precedents for reasons of efficiency, fairness, and legitimacy. First, if we did not follow our own decisions, no issue could ever be considered resolved. The potential volume of speculative relitigation under such circumstances alone ought to persuade us that stare decisis is a sound policy. Secondly, we should give due consideration to the settled expectations of litigants like Emmanuel Wasson, who have justifiably relied on the principles articulated in [the previous case]. . . . Finally, under our form of government, the legitimacy of the judiciary rests in large part upon a stable and predictable decision-making process that differs dramatically from that properly employed by the political branches of government.

According to the conservative majority on the Texas Supreme Court, Justice Owen went out of her way to ignore precedent and would have ruled for the defendants. The conservative Republican majority, in contrast to Justice Owen, followed precedent and the doctrine of stare decisis. A clear example of Justice Owen's judicial activism.

In *Montgomery Independent School District* v. *Davis*, 34 S.W.3d 559, Tex. 2000, Justice Owen wrote another dissent which drew fire from a conservative Republican majority—this time for her disregard for legislative language. In a challenge by a teacher who did not receive reappointment to her position, the majority found that the school board had exceeded its authority when it disregarded the Texas Education Code and tried to overrule a hearing examiner's decision on the matter. Justice Owen's dissent advocated for an interpretation contrary to the language of the applicable statute. The majority, which included Alberto Gonzales and two other appointees of then-Governor Bush, was quite explicit about its view that Justice Owen's position disregarded the law:

> The dissenting opinion misconceives the hearing examiner's role in the . . . process by stating that the hearing examiner 'refused' to make findings on the evidence the Board relies on to support its additional findings. As we explained above, nothing in the statute requires the hearing examiner to make findings on matters of which he is unpersuaded. . . .

The majority also noted that:

> The dissenting opinion's misconception of the hearing examiner's role stems from its

> disregard of the procedural elements the Legislature established in subchapter F to ensure that the hearing-examiner process is fair and efficient for both teachers and school boards. The Legislature maintained local control by giving school boards alone the option to choose the hearing-examiner process in nonrenewal proceedings. . . . By resolving conflicts in disputed evidence, ignoring credibility issues, and essentially stepping into the shoes of the factfinder to reach a specific result, the dissenting opinion not only disregards the procedural limitations in the statute but takes a position even more extreme than that argued for by the board.

Another clear example of Justice Owen's judicial activism.

Collins v. *Ison-Newsome*, 73 S.W.3d 178, Tex. 2001, is yet another case where a dissent, joined by Justice Owen, was roundly criticized by the Republican majority of the Texas Supreme Court. The Court cogently stated the legal basis for its conclusion that it had no jurisdiction to decide the matter before it, and as in other opinions where Justice Owen was in dissent, took time to explicitly criticize the dissent's positions as contrary to the clear letter of the law.

At issue was whether the Supreme Court had the proper "conflicts jurisdiction" to hear the interlocutory appeal of school officials being sued for defamation. The majority explained that it did not because published lower court decisions do not create the necessary conflict between themselves. The arguments put forth by the dissent, in which Justice Owen joined, offended the majority, and they made their views known, writing:

> The dissenting opinion agrees that "because this is an interlocutory appeal . . . this Court's jurisdiction is limited," but then argues for the exact opposite proposition . . . This argument defies the Legislature's clear and express limits on our jurisdiction. . . . The author of the dissenting opinion has written previously that we should take a broader approach to the conflicts-jurisdiction standard. But a majority of the Court continues to abide by the Legislature's clear limits on our interlocutory-appeal jurisdiction.

They continue:

> [T]he dissenting opinion's reading of Government Code sec. 22.225(c) conflates conflicts jurisdiction with dissent jurisdiction, thereby erasing any distinction between these two separate bases for jurisdiction. The Legislature identified them as distinct bases for jurisdiction in sections 22.001(a)(1) and (a)(2), and section 22.225(c) refers specifically to the two separate provisionsn of section 22.001(a) providing for conflicts and dissent jurisdiction. . . . [W]e cannot simply ignore the legislative limits on our jurisdiction, and not even Petitioners argue that we should do so on this basis.

Again, Justice Owen joined a dissent that the Republican majority described as defiant of legislative intent and in disregard of legislatively drawn limits. Yet another clear example of Justice Owen's judicial activism.

Some of the most striking examples of criticism of Justice Owen's writings, or the dissents and concurrences she joins, come in a series of parental notification cases heard in 2000. They include:

In *In re Jane Doe 1*, 19 S.W.3d 346, Tex. 2000, where the majority included an extremely unusual section explaining its view of the proper role of judges, admonishing the dissent, joined by Justice Owen, for going beyond its duty to interpret the law in an attempt to fashion policy.

Giving a pointed critique of the dissenters, the majority explained that, "In reaching the decision to grant Jane Doe's application, we have put aside our personal viewpoints and endeavored to do our job as judges—that is, to interpret and apply the Legislature's will as it has been expressed in the statute."

In a separate concurrence, Justice Alberto Gonzales wrote that to construe the law as the dissent did, "would be an unconscionable act of judicial activism."

A conservative Republican colleague of Justice Owen's, pointing squarely to her judicial activism.

In *In re Jane Doe 3*, 19 S.W.3d 300, Tex. 2000, Justice Enoch writes specifically to rebuke Justice Owen and her follow dissenters for misconstruing the legislature's definition of the sort of abuse that may occur when parents are notified of a minor's intent to have an abortion, saying, "abuse is abuse; it is neither to be trifled with nor its severity to be second guessed."

In one case that is perhaps the exception that proves the rule, Justice Owen wrote a majority that was bitterly criticized by the dissent for its activism. In *In re City of Georgetown*, 53 S.W. 3d 328, Tex. 2001, Justice Owen wrote a majority opinion finding that the city did not have to give the Austin American-Statesman a report prepared by a consulting expert in connection with pending and anticipated litigation because such information was expressly made confidential under other law namely, the Texas Rules of Civil Procedure.

The dissent is extremely critical of Justice Owen's opinion, citing the Texas law's strong preference for disclosure and liberal construction. Accusing her of activism, Justice Abbott, joined by Chief Justice Phillips and Justice Baker, notes that the legislature, "expressly identified eighteen categories of information that are 'public information' and that must be disclosed upon request . . . [sec. (a)] The Legislature attempted to safeguard its policy of open records by adding subsection (b), which limits courts' encroachment on its legislatively established policy decisions." The dissent further protests:

> [b]ut if this Court has the power to broaden by judicial rule the categories of information that are "confidential under other law," then subsection (b) is eviscerated from the statute. By determining what information falls outside subsection (a)'s scope, this Court may evade the mandates of subsection (b) and order information withheld whenever it sees fit. This not only contradicts the spirit and language of subsection (b), it guts it.

Finally, the opinion concluded by asserting that Justice Owen's interpretation, "abandons strict construction and rewrites the statute to eliminate subsection (b)'s restrictions."

Yet again, her colleagues on the Texas court, citing Justice Owen's judicial activism.

These examples, together with the unusually harsh language directed at Justice Owen's position by the majority in the Doe cases, show a judge out of step with the conservative Republican majority of the Texas Supreme Court, a majority not afraid to explain the danger of her activist views.

I am also greatly concerned about Justice Owen's record of ends-oriented decision making as a Justice on the Texas Supreme Court. As one reads case after case, particularly those in which she was the sole dissenter or dissented with the extreme right wing of the Court, her pattern of activism becomes clear. Her legal views in so many cases involving statutory interpretation simply cannot be reconciled with the plain meaning of the statute, the legislative intent, or the majority's interpretation, leading to the conclusion that she sets out to justify some pre-conceived idea of what the law ought to mean. This is not an appropriate way for a judge to make decisions. This is a judge whose record reflects that she is willing and sometimes eager to make law from the bench.

Justice Owen's activism and extremism is noteworthy in a variety of cases, including those dealing with business interests, malpractice, access to public information, employment discrimination and Texas Supreme Court jurisdiction, in which she writes against individual plaintiffs time and time again, in seeming contradiction of the law as written.

One of the cases where this trend is evident is *FM Properties* v. *City of Austin*, 22 S.W.3d 868, Tex. 1998. I asked Justice Owen about this 1998 environmental case at her hearing. In her dissent from a 6-3 ruling, in which Justice Alberto Gonzales was among the majority, Justice Owen showed her willingness to rule in favor of large private landowners against the clear public interest in maintaining a fair regulatory process and clean water. Her dissent, which the majority characterized as "nothing more than inflammatory rhetoric," was an attempt to favor big landowners.

In this case, the Texas Supreme Court found that a section of the Texas Water Code allowing certain private owners of large tracts of land to create "water quality zones," and write their own water quality regulations and plans, violated the Texas Constitution because it improperly delegated legislative power to private entities. The Court found that the Water Code section gave the private landowners, "legislative duties and powers, the exercise of which may adversely affect public interests, including the constitutionally-protected public interest in water quality." The Court also found that certain aspects of the Code and the factors surrounding its implementation weighed against the delegation of power, including the lack of meaningful government review, the lack of adequate representation of citizens affected by the private owners' actions, the breadth of the delegation, and the big landowners' obvious interest in maximizing their own profits and minimizing their own costs.

The majority offered a strong opinion, detailing its legal reasoning and explaining the dangers of offering too much legislative power to private entities. By contrast, in her dissent, Justice Owen argued that, "[w]hile the Constitution certainly permits the Legislature to enact laws that preserve and conserve the State's natural resources, there is nothing in the Constitution that requires the Legislature to exercise that power in any particular manner," ignoring entirely the possibility of an unconstitutional delegation of power. Her view strongly favored large business interests to the clear detriment of the public interest, and against the persuasive legal arguments of a majority of the Court.

When I asked her about this case at her hearing, I found her answer perplexing. In a way that she did not argue in her written dissent, at her hearing Justice Owen attempted to cast the FM Properties case not as, "a fight between and City of Austin and big business, but in all honesty, . . . really a fight about . . . the State of Texas versus the City of Austin." In the written dissent however, she began by stating the, "importance of this case to private property rights and the separation of powers between the judicial and legislative branches . . .", and went on to decry the Court's decision as one that, "will impair all manner of property rights." 22 S.W.3d at 889. At the time she wrote her dissent, Justice Owen was certainly clear about the meaning of this case—property rights for corporations.

Another case that concerned me is *GTE Southwest, Inc.* v. *Bruce*, 990 S.W.2d 605, where Justice Owen wrote in favor of GTE in a lawsuit by employees for intentional infliction of emotional distress. The rest of the Court held that three employees subjected to what the majority characterized as "constant humiliating and abusive behavior of their supervisor" were entitled to the jury verdict in their favor. Despite the Court's recitation of an exhaustive list of sickening behavior by the supervisor, and its clear application of Texas law to those facts, Justice Owen wrote a concurring opinion to explain her difference of opinion on the key legal issue in the case—whether the behavior in evidence met the legal standard for intentional infliction of emotional distress.

Justice Owen contended that the conduct was not, as the standard requires, "so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency . . ." The majority opinion shows Justice Owen's concurrence advocating an inexplicable point of view that ignores the facts in evidence in order to reach a predetermined outcome in the corporation's favor.

Justice Owen's recitation of facts in her concurrence significantly minimizes the evidence as presented by the majority. Among the kinds of behavior to which the employees were subjected—according to the majority opinion—are: Upon his arrival the supervisor, "began regularly using the harshest vulgarity . . . continued to use the word 'f——' and 'motherf——r' frequently when speaking with the employees . . . repeatedly physically and verbally threatened and terrorized them . . . would frequently assault each of the employees by physically charging at them . . . come up fast . . . and get up over (the employee) . . . and yell and scream in her face . . . called (an employee) into his office every day and . . . have her stand in front of him, sometimes for as long as thirty minutes, while (the supervisor) simply stared at her . . . made (an employee) get on her hands and knees and clean the spots (on the carpet) while he stood over her yelling." Justice Owen did not believe that such conduct was outrageous or outside the bounds of decency under state law.

At her hearing, in answer to Senator Edwards' questions about this case, Justice Owen again gave an explanation not to be found in her written views. She told him that she agreed with the majority's holding, and wrote separately only to make sure that future litigants would not be confused and think that out of context, any one of the outrages suffered by the plaintiffs would not support a judgment. Looking again at her dissent, I do not see why, if that was what she truly intended, she did not say so in language plain enough to be understood, or why she thought it necessary to write and say it in the first place. It is a somewhat curious distinction to make—to advocate that in a tort case a judge should write a separate concurrence to explain which part of the plaintiff's case, standing alone, would not support a finding of liability. Neither her written concurrence, nor her answers in explanation after the fact, is satisfactory explanation of her position in this case.

In *City of Garland* v. *Dallas Morning News*, 22 S.W.3d 351, Tex. 2000, Justice Owen dissented from a majority opinion and, again, it is difficult to justify her views other than as being based on a desire to reach a particular outcome. The majority upheld a decision giving the newspaper access to a document outlining the reasons why the city's finance director was going to be fired. Justice Owen made two arguments: that because the document was considered a draft it was not subject to disclosure, and that the document was exempt from disclosure because it was part of policy making. Both of these exceptions were so large as to swallow the rule requiring disclosure. The majority rightly points out that if Justice Owen's views prevailed, almost any document could be labeled draft to shield it from public view. Moreover, to call a personnel decision a part of policy making is such an expansive interpretation it would leave little that would not be "policy."

Quantum Chemical v. *Toennies*, 47 S.W. 3d 473, Tex. 2001, is another troubling case where Justice Owen joined a dissent advocating an activist interpretation of a clearly written statute. In this age discrimination suit brought under the Texas civil rights statute, the relevant parts of which were modeled on Title VII of the federal Civil Rights Act—and its amendments—the appeal to the Texas Supreme Court centered on the standard of causation necessary for a finding for the plaintiff. The plaintiff argued, and the five justices in the majority agreed, that the plain meaning of the statute must be followed, and that the plaintiff could prove an unlawful employment practice by showing that discrimination was "a motivating factor." The employer corporation argued, and Justices Hecht and Owen agreed, that the plain meaning could be discarded in favor of a more tortured and unnecessary reading of the statute, and that the plaintiff must show that discrimination was "the motivating factor," in order to recover damages.

The portion of Title VII on which the majority relies for its interpretation was part of Congress's 1991 fix to the United States Supreme Court's opinion in the Price Waterhouse case, which held that an employer could avoid liability if the plaintiff could not show discrimination was "the" motivating factor. Congress's fix, in Section 107 of the Civil Rights Act of 1991, does not specify whether the motivating factor standard applies to both sorts of discrimination cases, the so-called "mixed motive" cases as well as the "pretext" cases.

The Texas majority concluded that they must rely on the plain language of the statute as amended, which could not be any clearer that under Title VII discrimination can be shown to be "a" motivating factor. Justice Owen joined Justice Hecht in claiming that federal case law is clear (in favor of their view), and opted for a reading of the statute that would turn it into its polar opposite, forcing plaintiffs into just the situation legislators were trying to avoid. This example of Justice Owen's desire to change the law from the bench, instead of interpret it, fits President Bush's definition of activism to a "T."

Justice Owen has also demonstrated her tendency toward ends-oriented decision making quite clearly in a series of dissents and concurrences in cases involving a Texas law providing for a judicial bypass of parental notification requirements for minors seeking abortions.

The most striking example is Justice Owen's expression of disagreement with the majority's decision on key legal issues in Doe 1. She strongly disagreed with the majority's holding on what a minor would have to show in order to establish that she was, as the statute requires, "sufficiently well informed" to make the decision on her own. While the conservative Republican majority laid out a well-reasoned test for this element of the law, based on the plain meaning of the statute and well-cited case law. Justice Owen inserted elements found in neither authority. Specifically, Justice Owen insisted that the majority's requirement that the minor be "aware of the emotional and psychological aspects of undergoing an abortion" was not sufficient and that among other requirements with no basis in the law, she, "would require . . . [that the minor] should . . . indicate to the court that she is aware of and has considered that there are philosophic, social, moral, and religious arguments that can be brought to bear when considering abortion." *In re Jane Doe 1*, 19 S.W.3d 249, 256, Tex. 2000.

In her written concurrence, Justice Owen indicated, through legal citation, that support for this proposition could be found in a particular page of the Supreme Court's opinion in Planned Parenthood v. Casey. However, when one looks at that portion of the Casey decision, one finds no mention of requiring a minor to acknowledge religious or moral arguments. The passage talks instead about the ability of a State to "enact rules and regulations designed to encourage her to know that there are philosophic and social arguments of great weight that can be brought to bear." Justice Owen's reliance on this portion of a United States Supreme Court opinion to rewrite Texas law was simply wrong.

As she did in answer to questions about a couple of other cases at her hearing, Justice Owen tried to explain away this problem with an after-the-fact justification. She told Senator CANTWELL that the reference to religion was not to be found in Casey after all, but in another U.S. Supreme Court case, H.L. v. Matheson. She explained that in "Matheson they talk about that for some people it raises profound moral and religious concerns, and they're talking about the desirability or the State's interest in these kinds of considerations in making an informed decision." Transcript at 172. But again, on reading Matheson, one sees that the only mention of religion comes in a quotation meant to explain why the parents of the minor are due notification, not about the contours of what the government may require someone to prove to show she was fully well informed. Her reliance on Matheson for her proposed rewrite of the law is just as faulty as her reliance on Casey. Neither one supports her reading of the law. She simply tries a little bit of legal smoke and mirrors to make it appear as if they did. This is the sort of ends-oriented decision making that destroys the belief of a citizen in a fair legal system. And most troubling of all was her indication to Senator FEINSTEIN that she still views her dissents in the Doe cases as the proper reading and construction of the Texas statute.

At her second, unprecedented hearing in 2003, Justice Owen and her defenders tried hard to recast her record and others' criticism of it. I went to that hearing, I listened to her testimony, and I read her written answers, many newly formulated, that attempt to explain away her very disturbing opinions in the Texas parental notification cases. But her record is still her record, and the record is clear. She did not satisfactorily explain why she infused the words of the Texas legislature with so much more meaning than she can be sure they intended. She adequately describes the precedents of the Supreme Court of the United States, to be sure, but she simply did not justify the leaps in logic and plain meaning she attempted in those decisions.

I read her responses to Senator HATCH's remarks at that second hearing, where he attempted to explain away cases about which I had expressed concern at her first hearing. For example, I heard him explain the opinion she wrote in F.M. Properties v. City of Austin. I read how he recharacterized the dispute in an effort to make it sound innocuous, just a struggle between two jurisdictions over some unimportant regulations. I know how, through a choreographed exchange of leading questions and short answers, they tried to respond to my question from the original hearing, which was never really answered, about why Justice Owen thought it was proper for the legislature to grant large corporate landowners the power to regulate themselves. I remained unconvinced. The majority in this case, which invalidated a state statute favoring corporations, did not describe the case or the issues as Senator HATCH and Justice Owen did. A fair reading of the case shows no evidence of a struggle between governments. This is all an attempt at after-the-fact, revisionist justification where there really is none to be found.

Justice Owen and Chairman HATCH's explanation of the case also lacked even the weakest effort at rebutting the criticism of her by the F.M. Properties majority. In its opinion, the six justice majority said, and I am quoting, that Justice Owen's dissent was "nothing more than inflammatory rhetoric." They explained why her legal objections were mistaken, saying that no matter what the state legislature had the power to do on its own, it was simply unconstitutional to give the big landowners the power they were given. No talk of the City of Austin v. the State of Texas. Just the facts.

Likewise, the few explanations offered for the many other examples of the times her Republican colleagues criticized her were unavailing. The tortured reading of Justice Gonzales' remarks in the Doe case were unconvincing. He clearly said that to construe the law in the way that Justice Owen's dissent construed the law would be activism. Any other interpretation is just not credible.

And no reasons were offered for why her then-colleague, now ours, Justice Cornyn, thought it necessary to explain the principle of stare decisis to her in his opinion in Weiner v. Wasson. Or why in Montgomery Independent School District v. Davis, the majority criticized her for her disregard for legislative language, saying that, "the dissenting opinion misconceives the hearing examiner's role in the . . . process," which it said stemmed from, "its disregard of the procedural elements the Legislature established . . . to ensure that the hearing-examiner process is fair and efficient for both teachers and school boards." Or why, in Collins v. Ison-Newsome, a dissent joined by Justice Owen was so roundly criticized by the Republican majority, which said the dissent agrees with one proposition but then "argues for the exact opposite proposition . . . [defying] the Legislature's clear and express limits on our jurisdiction."

I have said it before, but I am forced to say it again. These examples, together with the unusually harsh language directed at Justice Owen's position by the majority in the Doe cases, show a judge out of step with the conservative Republican majority of the Texas Supreme Court, a majority not afraid to explain the danger of her activist views. No good explanation was offered for these critical statements last year, and no good explanation was offered two weeks ago. Politically motivated rationalizations do not negate the plain language used to describe her activism at the time.

When he nominated Priscilla Owen, President Bush said that his standard for judging judicial nominees would be that they "share a commitment to follow and apply the law, not to make law from the bench." He said he is against judicial activism. Yet he has appointed judicial activists like Priscilla Owen and Janice Rogers Brown.

Under President Bush's own standards, Justice Owen's record of ends-oriented judicial activism does not qualify her for a lifetime appointment to the Federal bench.

The President has often spoken of judicial activism without acknowledging that ends-oriented decision-making can come easily to extreme ideological nominees. In the case of Priscilla Owen, we see a perfect example of such an approach to the law, and I cannot support it. The oath taken by federal judges affirms their commitment to "administer justice without respect to persons, and do equal right to the poor and to the rich." No one who enters a federal courtroom should have to wonder whether he or she will be fairly heard by the judge.

Justice Priscilla Owen's record of judicial activism and ends-oriented decision making leaves me with grave doubt about her ability to be a fair judge. The President says he opposes putting judicial activists on the Federal bench, yet Justice Priscilla Owen unquestionably is a judicial activist. I cannot vote to confirm her for this appointment to one of the highest courts in the land.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, what is the matter pending before the Senate at this time?

The PRESIDING OFFICER. The nomination of Priscilla Owen.

Mr. COBURN. I thank the Chair.

Mr. President, I would like to spend a few minutes talking about what we have heard on the Senate floor today. The Presiding Officer and I are new Members to the Senate. We were not here as this struggle began. I must say, I am pretty deeply saddened by the misstatements of fact, the innuendo, the half-truths we have heard on the Senate floor today. I also am somewhat saddened by the fact that the Constitution is spoken about in such light terms. Because what the Constitution says is that, in fact, the Senate sets its own rules and the Senate can change its own rules. The first 100 years in this body, there was not a filibuster, and that filibuster has gone through multiple changes during the course of Senate history.

I pride myself on not being partisan on either the Democratic or the Republican side. I am a partisan for ideas, for freedom, for liberty. I am also a partisan for truth. I believe, as we shave that truth, we do a disservice not only to this body, but we also do a disservice to the country.

Another principle I am trying to live by is the principle of reconciliation. As we go forward in this debate, it is important for the American people to truly understand what the history is in this debate. At the beginning of the Congress, the majority, whether it be Democrat or Republican in any Congress, whoever is in control, has a right to set up the rules.

Those rules were set up in this Congress with one provision—that an exception be made on the very issue we are talking about today. Why was that exception put there? That exception was put there in an attempt to work out the differences over the things that have happened in the past so we would not come to this point in time. I believe the majority leader, although maligned today on the floor, has made a great and honest effort to work a compromise in the matter before us.

I also believe what has happened in the past in terms of judges not coming out of committee probably has been inappropriate. That is not a partisan issue either. It has happened on both sides. As a matter of fact, there are appellate judges now being held up by Democratic Senators because they disagree on their nomination to come through the Judiciary Committee.

As a member of the committee and a nonlawyer on the Judiciary Committee, it is becoming plain to me to see the importance of the procedure within the committee.

Having said that, the Constitution gives the right to the President to appoint, under the advice and consent of the Senate. The debate is about whether we will take a vote.

President Bush's appellate court nominees have the lowest acceptance rate of any of the last four Presidents.

Is that because the nominees are extreme? Or is there some other reason why we are in this mess that we find ourselves in? I really believe it is about the question: where do Supreme Court judges come from? They come from the appellate courts most often. And whether or not we allow people—good, honest people—to put their names forward and come before this body and have true advice and consent is a question we are going to have to solve in the next couple of weeks.

There are lots of ways of solving it. One is doing what Senator BYRD did four times in his history as leader of this body—a change in the rules by majority vote because the majority has the majority. That is not a constitutional option; that is a Byrd option. That is an option vested in the power of the Senate under the Constitution to control the rules of the Senate.

Another little bit of history. Twenty-five years ago, the filibuster was eliminated on the Budget and Reconciliation Act. The Congress didn't fall apart. Under Senator BYRD's changes of the rules, the Senate did not fall apart. So the issue really is about whether or not the majority has the power to control the rules in the Senate. And the debate also is about whether or not we are going to have an up or down, a fair vote on judges—just like we should have a debate on whether we should have a process change in the Judiciary Committee for those judges who are appointed by any President to come through.

I said in my campaign for this office that conservative and liberal wasn't a test for me for judges. The foundation and principles of our country, and proof of excellence in the study of and acting on the law should be the requirements. We had the unfortunate example today—this week—of a Federal judge in Nebraska negating a marriage law that defined marriage as between a man and a woman—an appointed judge deciding for the rest of us—it could very well decide for all 50 States—whether or not we are going to recognize marriage as between a man and a woman. We have heard Priscilla Owen's name linked several times because of her decisions—there were 13 or 14 decisions that came before the Texas Supreme Court on judicial review of a minor's access to an abortion without parental notification—not consent, but notification.

In the one case that they bring up and misquote Attorney General Gonzales on, she in fact did what the law said to do. The federal appellate court is not entitled, nor is the Supreme Court of Texas, to review the findings of fact. The finder of fact is the original court. They cannot make decisions on that. So she dissented on that basis. Judge Gonzales' statement was about whether or not he could go along with that in terms of what would be applied to him in terms of judicial activism. He has since said under oath that in no way, or at any time, did he accuse Priscilla Owen of being a judicial activist.

Let's talk about activism. I want to relate a story that happened to me about 6 years ago. I was in Stigler, OK, having a townhall meeting. A father walked in, 35 years of age, with tears running down his cheek. In his hand, he had a brown paper sack, and he interrupted this meeting between me and about 60 people. His question to me was: "Dr. Coburn, how is it that this sack could be given to my 12-year old daughter?" Of course, I didn't know what was in the sack. What was in the sack was birth control pills, condoms, and spermicide. The very fact that his daughter could be treated in a clinic without his permission for contraceptives came about through judicial activism. The fact is that 80 to 85 percent of the people in this country find that wrong. Yet, it cannot be turned around. The fact is that 80 percent of the people in this country believe that marriage is defined as that union between a man and a woman, and a Federal judge—not looking at the Constitution—not looking at precedent, actually makes that change.

So it is a battle about ideas. Priscilla Owen recognizes what the law is. She has stated uniformly that she will follow the precedents set before the court. But we have gotten to where we are in terms of the issues that inflame and insight so much polarization in this body and throughout the country because we have not had people following the law, but in fact we have had judicial activism.

I congratulate President Bush for sending these nominees to the Senate floor. I have interviewed Priscilla Owen. Her history, her recommendations, her ratings are far in excess of superior. So why would this wonderful woman, who has dedicated her life to the less fortunate, to families, to reinstituting and strengthening marriage, to making sure people who didn't have legal aid had it, why is she being so lambasted, so maligned because of her beliefs? The beliefs she has are what 80 percent of the people in this country have, but she doesn't fit with the beliefs of the elite liberal sect in this country.

So it is a battle of ideas. It is a battle that will shape the future of our courts. How is it that a woman of such stature will have the strength to withstand for 4 years—she has put everything about her, every aspect of her personal life, her public life, her judicial career out front and has stood strong to continue to take the abuse and maligning language that comes her way. Why would somebody do that? It is because she believes in this country. She believes in the foundational principles that our colleague from New York held up in the Constitution. She has sworn and believes in that Constitution. She has the courage to know that the fight for our children, for our parents to control the future for our children, is worth the fight.

I would like to spend a minute going over some poll numbers with the American public on the very issue of whether or not a minor child ought to have parental involvement in a major procedure such as an abortion.

Having delivered over 4,000 babies, having handled every complication of pregnancy that is known, I am very familiar with these issues.

There are five polls I would like to put in the RECORD. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POLLS ON REQUIRING PARENTAL INVOLVEMENT IN MINORS' ABORTIONS

[March 23, 2005]

Polls	Favor (percent)	Oppose (percent)
"Do you favor or oppose requiring parental notification before a minor could get an abortion?" Favor: 75%; Oppose: 18%; DK/NA 7%. (Quinnipiac University Poll, March 2-7, 2005.) (1,534 registered voters; margin of error: ±2.5%)	75	18
"Next, do you favor or oppose each of the following proposals? How about— . . . A law requiring women under 18 to get parental consent for any abortion?" Favor: 73%; Oppose: 24%; No Opinion: 3%. (CNN/USA Today/Gallup, January 10–12, 2003.) (1,002 adults; margin of error: ±3%)	73	24
"Do you favor or oppose requiring that one parent of a girl who is under 18 years of age be notified before an abortion is performed on the girl?" Favor: 83%; Oppose: 15%; Don't Know/Refused: 2%. (Wirthlin Worldwide, October 19-22, 2001.) (1,021 adults; margin of error: ±3.07%)	83	15
"Should girls under the age of 18 be required to get the consent of at least one parent before having an abortion?" Required: All—82%; Men—85%; Women—80%. Not Required: All—12%; Men—9%; Women—14%. Depends: All—2%; Men—2%; Women—2%. Don't Know: All—4%; Men—4%; Women—4%. (Los Angeles Times, June 8–13, 2000.) (2,071 adults; margin of error: ±2%)	82	12
"Would you favor or oppose requiring parental consent before a girl under 18 could have an abortion? Favor: 78%; Oppose: 17%; DK/NA/Depends: 5%. (CBS News/NY Times, January 1998.)	78	17

Mr. COBURN. One is a March 2–7, 2005, poll from Quinnipiac University:

> Do you favor or oppose requiring parental notification before a minor could get an abortion?

That is notification. Seventy-five percent of the people in this country agree with that. It is not an extreme position when 75 percent of our fellow Americans think that is right—think that in fact we don't give up rights to our children until they are emancipated and are adults.

> Next, do you favor or oppose each of the following proposals: A law requiring women under 18 to get parental consent for any abortion?

That is not notification, that is consent. That is a CNN/USA Today/Gallup poll, January 10, 2003.

Seventy-three percent favor parents being involved in the health care of their children and major decisions that will affect their future.

> Do you favor or oppose requiring that one parent of a girl who is under 18 years of age be notified before an abortion is performed on the girl?

Eighty-three percent favor the parent being notified. That is a Wirthlin Worldwide poll.

> Should girls under the age of 18 be required to get the consent of at least one parent before having an abortion?

That is a Los Angeles Times poll. Eighty-two percent believe that.

What is described as extreme is mainline to the American public. What we have is a battle for ideas, a battle under which the future of our country will follow.

The word "activist" in reference to judges is a word that is wildly used. It is almost amusing that we hear it from one side of the Senate to the other side of the Senate. What is activism on one side is not activism on the other. What is activism to the minority is not activism to the majority.

What is activism? Activism is reaching into the law and the precedents of law and creating something that was not there before. Activism is intentionally misinterpreting statutes to produce a political gain. I will go back to the child and the father, 35 years of age, screaming at the depths of his heartache as to how in our country we have gotten to the point where a judge can decide ahead of the Senate, ahead of the House, ahead of both bodies and the President, what will happen to our minor children. That is what this debate is about.

Priscilla Owen exemplifies the values that the American people hold, but she also exemplifies the values of the greatest jurists of our time: a strict adherence to the law, a love of the law, and a willingness to sacrifice her life and her career and her personal reputation to go through this process.

Senator ENSIGN, the Senator from Nevada, made a very good point a moment ago, and I think it bears repeating. How many people will not put their name up in the future who are eminently qualified, have great judicial history, will have great recommendations from the American Bar Association but do not want to have to go through the half-truths, the innuendos, and the slurring of character that occurs, to come before this body?

My hope is that before we come to the Byrd option or a change in the rules, that cooler heads will decide that we will not filibuster judges in the future, and we will not block nominations at the committee. That is reasonable. We do not have to do that. A President should have his nominees voted on. If they come to the committee and they do not have a recommendation, they should still come to the floor, or if they have a recommendation they not be approved, they should still come to the floor, or if they have a recommendation they be approved, they should still come to the floor. But it is fair for a President to have a vote on their nominations.

We have seen this President's numbers on appointments. That is right. Why has he had so many people appointed? Because he has nominated great jurists, and could they have filibustered others, they would have. The ironic part is that they say that Priscilla Owen is "not qualified." However, in the negotiations leading up to the point we find ourselves, the offer has been made that we can pick two out of any four of the people who are on the queue to come before this body and let those two go through and two be thrown away. If that is the case, if any two will do, then they are obviously qualified. If they are acceptable under a deal, then they are obviously qualified.

The argument against qualification, the activist charges do not hold water. What does hold water is the fact that these individuals who stand in the mainstream of American thought, values, and ideals will be appellate judges and that someday maybe have an appointment or a nomination for a Supreme Court judgeship. That holds water. We have to decide in the Senate whether or not we are going to allow the process of filibustering judicial nominations to continue. If it continues, then lots of good people will never put their name in the hat. Lots of good people will never be on the court. What will be on the court are people who are not proven, people who do not have a record, people who are not the best. That is what will be on the court. The country deserves better, the Senate can do a better job than we are doing today, and it is my hope that we can resolve this conflict in a way that will create in the Senate a reputation that says reconciliation over the issues that divide us is a principle that we can all work on, that we can solve, that we can do the work of the American people. But if that is not possible, then it is well within the constitutional powers of the leader of this body to change the rules so that we can carry out our constitutional responsibilities.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

THE PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE

Mr. SANTORUM. Mr. President, at a time when the importance of the U.S. Food and Drug Administration is highlighted by concerns over the safety of pharmaceuticals, it would be foolish to move forward with importation policies that would circumvent the safety regulations of the FDA. I want to take this opportunity to highlight a recent international Internet pharma-trafficking network that was shut down in Philadelphia, which I strongly believe provides a very accurate, and disturbing, window on what exactly a prescription drug importation scheme would mean for Americans.

On April 20, 2005, the Department of Justice announced the unsealing of an indictment returned by a Federal grand jury on April 6, 2005. The indictment chronicled how the "Bansal Organization" used the Internet to fill orders for pharmaceuticals. In turn, this crime ring facilitated millions of unprescribed pills coming into the United States—of which the bio-efficacy and the safety have yet to be determined—to consumers who only needed a credit card. These drugs included potentially dangerous narcotics, such as codine and Valium, drugs that can cause serious harm if not taken under a physician's supervision, and which have been highlighted repeatedly as drugs that pose special concerns as we debate possible importation.

Stretching from America to countries such as India, Antigua, and Singapore, officials estimate that this international conspiracy provided $20 million worth of un-prescribed drugs to hundreds of thousands of people worldwide—most if not all of whom had no idea where their drugs originated. This drug scam exemplifies how the Internet can be a door to an unregulated world of just about any kind of pharmaceutical—including counterfeits and potentially dangerous narcotics. This is particularly concerning given the growing ease at which prescription drugs can be purchased over the Internet.

At the heart of the debate on foreign importation of prescription drugs is the concern over the cost of prescription drugs. Often proponents claim that importation would allow Americans access to other countries' drugs at a cheaper price, despite thorough analysis by the U.S. Health and Human Services Task Force on Prescription Drug Importation. The HHS Task Force reported that any associated cost savings with importation would be negated by the costs associated with constructing and attempting to safely maintain such a system, and ultimately concluded what both past and current Administrations have found: the safety of imported drugs purchased by individuals, via the Internet or other means, cannot be guaranteed. Moreover, generic prescription drugs in America are on average 50 percent less than their foreign counterparts. This holds true in the case of the "Bansal Organization," in which the vast majority of the trafficked drugs were sold at prices higher than what a consumer would have paid at a legitimate pharmacy. The safety of the American drug supply should not be sacrificed for supposed savings. Those that continue to purport that importation would provide cheaper drugs are misleading the American people, and as a result putting their health and lives at risk.

Importation will not equate to cheaper drugs for Americans, but it will lead to an explosion of opportunities for counterfeiters to take advantage of the American people by compromising the safety of our drug supply. Many individuals, both patients and healthcare professionals, who testified during the HHS Task Force's proceedings expressed significant concerns that importation would compromise the integrity of the American drug supply by creating a vehicle through which terrorists could easily introduce harmful agents in the United States. Recall that in 1982, seven Americans died after ingesting Tylenol laced with cyanide. More recently, in July 2003 members of a Florida-based drug-counterfeiting ring who sold and diluted counterfeited drugs were indicted, and 18 million tablets of counterfeit Lipitor were recalled after evidence revealed that this popular anti-cholesterol drug had been manufactured overseas and repackaged in the United States to hide the deception. Importation would provide for any of these acts to be committed on a larger, exponentially more devastating, national scale. To put this in perspective, in 2003, 69 million prescriptions were written for Lipitor in the United States alone.

The "Bansal Organization" bust is but the latest in a series of illicit pharmaceutical trafficking scams, which are extremely lucrative, and which our law enforcement officials are already struggling to combat on a daily basis. Why would we elect to open the door to importation when we know that doing so will create infinite opportunities to compromise the safety of our drug supply?

As we continue to debate the best ways to ensure that Americans have access to the highest quality, affordable prescription drugs, I would caution my colleagues that importation is not the answer. It would be unconscionable to facilitate in any way the dangerous shortcuts utilized in the Philadelphia drug scam—shortcuts that circumvent the essential ongoing patient relationship with physicians and other licensed professionals trained to monitor potential medication interactions and side effects that can lead to serious injury and/or death.

Congress should uphold the strong regulatory standards on drug safety that exist today, and not open our borders to prescription drugs from a world of unknown sources.

VICARIOUS LIABILITY REFORM

Mr. SANTORUM. Mr. President, being mindful of yesterday's passage of SAFETEA, I rise to speak to an issue that was not addressed in the Senate bill. This is an area of the legal system needing reform that affects interstate commerce in the transportation sector—vicarious liability. These types of laws exist in only a handful of States where nonnegligent owners of rented and leased vehicles are liable for the actions of vehicle operators.

Although a vehicle renting or leasing company may take every precaution to ensure that a vehicle is in optimal operating condition and meets every safety standard, these companies can still be subject to costly lawsuits due to the actions of the vehicle's operator, over which the company has no control. Under these laws, leasing or rental companies can be liable simply because they are the owner of the vehicle.

Though only a few States enforce laws that threaten nonnegligent companies with unlimited vicarious liability, they affect consumers and businesses from all 50 States. Vicarious liability means higher consumer costs in acquiring vehicles and buying insurance and means higher commercial costs for the transportation of goods. Left unreformed, these laws could have a devastating, effect on an increasing number of small businesses that have done nothing wrong.

The House acted in H.R. 3 to address these unfair laws by creating a uniform standard to exclude nonnegligent vehicle renting and leasing companies from liability for the actions of a customer operating a safe vehicle. Under this provision, States would continue to determine the level of compensation available for accident victims by setting minimum insurance coverage requirements for every vehicle. Vicarious liability reform would not protect companies that have been negligent in their renting or leasing practices or in the care of the vehicle. This provision is a common sense reform that holds vehicle operators accountable for their own actions and does not unfairly punish owners who have done nothing wrong.

Unfortunately, the Senate bill does not contain this important reform. I urge my colleagues. to consider the merits of this provision and retain the House-passed language in the conference bill.

TRANSPORTATION EQUITY ACT

I–49 AND I–69

Mr. PRYOR. Mr. President, I rise today to discuss a matter of great importance to my State, one that I hear about every time I go home. Economic development and job creation is something that every Arkansan is concerned about. One surefire way to generate economic development and create jobs is through highway construction. The U.S. DOT estimates that for every $1 billion of investment in highways, 47,500 jobs are created, but the benefits go far beyond that. It does Arkansans no good to have good health care, education, and jobs if they don't have the roads to get there. Furthermore, business investors do not want to place their companies anywhere that does not have ready access to interstate roads.

My State is in the process of building two new interstates that would jumpstart economic growth, relieve congestion, and provide two additional freight corridors between our two largest trading partners.

Future Interstate 49 connects Canada with New Orleans and would provide the only north-south corridor within 300 miles, cutting through Kansas City, MO and Western Arkansas. I–49 is extremely important to Arkansas, as it traverses the fastest growing part of my State, which is home to Wal-Mart, Tyson's, JB Hunt Transportation, and numerous other transportation companies. The potential for freight movement along this corridor is enormous. However, the State of Arkansas has lacked the funds to make significant progress along the most expensive part of the corridor.

Future Interstate 69 connects Canada with Mexico through Michigan, Indiana, Kentucky, Tennessee, Mississippi, Arkansas, and Texas. It also has enormous potential for freight movement, but it also cuts across the poorest region of my State where economic development is vitally important to the future of local communities. The amount of jobs a project such as I–69 would create has the potential to lift these areas out of poverty.

During debate on the highway bill, I have requested amounts that would provide Arkansas with a sufficient amount of money to make significant progress on these two extremely important roadways.

Mr. BAUCUS. I want to first commend the Senator for his continued work on transportation issues. He is a real leader in this area and I appreciate his hard work on behalf of the State of Arkansas. I am aware of the Senator's requests and I understand the importance of these projects to Arkansas and the country. My colleague has been very persistent and we have worked hard to include a formula in the bill that provides a significant increase in funding to Arkansas so that the State may be able to accomplish this task. Specifically, Arkansas stands to gain over $550 million over the 5 years of this bill, a 30 percent increase from the levels they received under TEA-21. Would this amount be sufficient to make progress on the two important interstates Senator PRYOR has mentioned?

Mr. PRYOR. I thank the Senator from Montana for his question. My understanding is that this amount would be enough to make substantial progress on both projects until the next reauthorization. However, since this bill does not include references to specific projects, the difficulty would be to make sure these projects did indeed receive a large portion of this increase. Since the increases are largely through apportioned programs to the State, could my State use the increases to fund these interstate projects?

Mr. BAUCUS. The Senator is correct that the bill in the Senate does not have specific funding for projects. However, it is up to the State of Arkansas to make the decision on how to spend this increase in funding and the additional money to the State can certainly be used to make progress on these projects. I would expect that many States would consider projects such as the ones described in Arkansas that are nationally significant. It would be up to the State to set those priorities and move forward. I believe the projects in Arkansas, both I–49 and I–69, are in various stages of development and construction. It is my understanding that both projects are eligible for Federal funding under this reauthorization bill we have written.

Mr. PRYOR. I thank Senator BAUCUS for his hard work as a manager of this bill and the ranking member of the Transportation and Infrastructure Subcommittee of EPW and ranking member of the Finance Committee, and I compliment him for this strong bill he has helped put together. The Senator always listens to my concerns, and I appreciate his willingness to include such robust funding for my home State.

DESIRE TO WITHDRAW S.J. RES. 13

Mr. BROWNBACK. Mr. President, several weeks ago I introduced a joint resolution which has been given the number S.J. Res. 13. This resolution is a one sentence amendment to the Constitution declaring that marriage is between a man and a woman. I would like the RECORD to reflect at this point that I would like to withdraw this resolution.

I understand that under the Senate rules, a unanimous consent withdrawing a joint resolution would not be in order. Thus, copies S.J. Res. 13 will remain available from the Government Printing Office. However, while it is my intent to continue to hold hearings on the important issue of traditional marriage, it is not my intent to advance S.J. Res. 13 through the legislative process.

ELLSWORTH AIR FORCE BASE

Mr. JOHNSON. Last week, Secretary of Defense Donald Rumsfeld sent his base closure recommendations to the Base Realignment and Closure Commission. I am deeply disappointed with his decision to include Ellsworth Air Force Base. This recommendation is short-sighted and harmful to our national security. I am confident that the BRAC Commission will recognize the invaluable contribution that Ellsworth makes to the defense of our homeland

and will support removing it from the list.

Ellsworth is one of only two bases in the country where the B–1 is stationed. In the past decade, the B–1 has been invaluable to our national defense and it is truly the backbone of our bomber fleet. B–1 crews stationed at Ellsworth have flown missions in Kosovo, Afghanistan, and Iraq. During Operation Iraqi Freedom, B–1s were integral in liberating Iraq by dropping more than half the satellite guided munitions on critical targets including command and control facilities, bunkers, and surface-to-air missile sites.

In addition, Ellsworth is strategically located and has excellent access to B–1 training ranges. It is not threatened by urban encroachment or congested air space and has strong community support. During the past decade, I have used my position on the Military Construction Appropriations subcommittee to help direct funding to Ellsworth for critical upgrades including a new base operations building, a B–1 training facility, and military housing that ranks amongst the best in the country. Given its ideal location, as well as the long-term investment in the base's infrastructure, Ellsworth is capable of expanding and accepting new missions.

I emphatically disagree with the Secretary's recommendation to close Ellsworth, and I am eager to work with the Ellsworth Task Force, and the entire South Dakota Congressional delegation, to ensure Ellsworth remains a vital part of our national defense. Ellsworth is a premier installation that has proven it can be a competitive military base for decades to come.

To that end, I am cosponsoring legislation that will postpone this round of base closures. At a time when we are engaged in two military conflicts, as well as rotating soldiers back to the U.S. from overseas installations, we should not be closing bases at home. Simultaneously closing domestic and overseas bases will irrevocably damage our ability to defend against threats at home and abroad.

This bill will delay this round of domestic base closures until the recommendations offered by the Overseas Basing Commission report has been reviewed by the Department of Defense. In addition, the bill would prohibit this round of base closures from commencing until combat units currently deployed to Iraq have returned home and the Pentagon completes the quadrennial defense review. I firmly believe that these are reasonable and appropriate steps to ensure we do not irreversibly impair our national defense.

The entire State of South Dakota is proud of Ellsworth and the men and women stationed there for their role in keeping America safe. We are confident that the commission will see the military value of Ellsworth and will support removing it from the base closure list.

ADDITIONAL STATEMENTS

HONORING SOUTH DAKOTA AMERICAN LEGION AUXILIARY

• Mr. JOHNSON. Mr. President, I rise today to publicly commend two American Legion Auxiliary units in South Dakota for the wonderful services they provide to their communities. I point to Unit 230 Pike-Huska American Legion Auxiliary Post of Aurora, and Unit 74 of Brookings as fine units whose efforts are worthy of recognition.

In April of 2005, Unit 230 in Aurora sponsored an Election Forum designed to introduce voters to the four candidates running for Aurora City Council. The meeting enabled the community to not only meet the candidates, but also learn about their positions on various issues.

Additionally, Aurora Unit 230 joined with Brookings Unit 74 to fulfill "The Dictionary Project." Since Aurora school children are bussed to the three schools in the Brookings School District, the two units collaborated by purchasing and hand delivering 206 dictionaries, one to each third grade student in the Brookings district. Upon receiving the dictionary, each student signed it, thus establishing it as his or hers to keep. "The Dictionary Project" was so successful that the Auxiliary plans to continue this generous program each year.

I am proud to have this opportunity to honor the American Legion Auxiliary Unit 230 and Unit 74 for their outstanding service. Their commitment to encouraging voter awareness and helping our young people in their pursuit of knowledge is admirable. I strongly commend their hard work and dedication, and I am very pleased that their efforts are being publicly recognized and celebrated. It is with great honor that I share their impressive commitment to civic duty with my colleagues.•

CIVIC EDUCATION IN ACTION

• Mr. CRAPO. Mr. President, today I would like to recognize the outstanding efforts of a group of young Idahoans from Madison High School in Rexburg, ID. These young men and women came to Washington, D.C., to represent my State in the national finals of the "We the People: the Citizen and the Constitution" program. They represented Idaho well and are a tribute to our State's youth.

The national finals include a mock congressional hearing which gives the students the opportunity to translate their specialized learning in history, social studies, government and civics into action. As they use their newly-gained knowledge of the Constitution and the Bill of Rights to examine, counter and defend issues facing America today, they come to appreciate the timeless nature of this great document. This experience gives students the opportunity to apply civic values to real-life challenges and will serve them in whatever they choose to do after they graduate from high school.

Idaho can be proud of the growth of civic virtue in these young people. As they look beyond themselves to the realm of the public good, Idaho and America will benefit as these individuals develop into responsible, intelligent citizens who practice discernment in judgment in matters of concern to our State and Nation. In the future, these student citizens will be more inclined to exhibit leadership faithful to the ideals upon which our country was built and consonant with the notions of liberty, freedom, justice and rule of law.•

CONGRATULATING STEVE SINTON

• Mrs. FEINSTEIN. Mr. President, I rise today to congratulate Steve Sinton of Shandon, CA, on winning the American Farmland Trust's 2005 Steward of the Land Award. This award recognizes Steve for his lifelong commitment to conservation and sound stewardship practices. He is the ninth American farmer to win this award, and I am pleased to praise his efforts and achievements today.

Created in 1997 in honor of farmer and conservationist Peggy McGrath Rockefeller, the American Farmland Trust gives the Steward of the Land Award each year to a farmer or farm family in the United States who has shown outstanding leadership at the national, State, and local levels in protecting farmland and caring for the environment. This award recognizes ranchers such as Steve and helps raise awareness about the public benefits of good stewardship and the importance of conserving land for future generations.

Through his work on his own land and throughout the State of California, Steve Sinton has epitomized the spirit of this award through his dedication to protecting our country's farmlands and ranchlands, understanding how critical they are to supporting our local communities, sustaining our Nation's food supply, and preserving clean water and wildlife habitat.

A fourth generation California rancher, Steve and his wife Jane manage 18,000 acres of ranchland and 125 acres of vineyards where they utilize a variety of innovative practices to promote sustainability and protect the environment. He effectively works with local governments to protect ranch and farmlands, and Steve and his family have also played an important role in providing habitat for the reintroduction of the California condor on their land, including essential nesting grounds.

But Steve's efforts go far beyond his own family's farm. Steve helped form the California Rangeland Trust in 1998 where he was elected to serve as the founding chairman. With his leadership, the Rangeland Trust has protected over 170,000 acres of ranchland. Steve has also served as vice-chairman of the California Cattlemen's Association Land Use Committee, where his dedication and leadership galvanized support among the ranching community for agricultural conservation and conservation practices.

A look at Steve's family history makes clear why he works so hard for farmland preservation and takes these efforts so seriously. Steve's family came to San Luis Obispo County in 1874 and bought the family farm the following year, meaning that Steve's family has been ranching in the county for 130 years. Steve grew up on the family ranch and attended my alma mater, Stanford University, before heading to the University of Colorado School of Law. After five years with the California Department of Water Resources in Sacramento, CA, Steve returned to San Luis Obispo County to help manage the family's ranches and continue his private water law practice. In addition to all this, Steve also has been active in his community, working with numerous organizations, coaching sports, and serving on the Shandon School Board for fifteen years.

As a U.S. Senator representing the State of California, I congratulate Steve on winning this award and thank him for his many years of service to our State. I wish to send my very best to Steve, his wife Jane, and their two children Julie and Daniel.●

MESSAGE FROM THE HOUSE

At 11:39 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2360. An act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2360. An act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; to the Committee on Appropriations.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 1061. A bill to provide for secondary school reform, and for other purposes.

S. 1062. A bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2231. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the semi-annual report submitted in accordance to the Inspector General Act of 1978, as amended for October 1, 2004 through March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2232. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report entitled "Defense Acquisition Challenge Program Fiscal Year 2004"; to the Committee on Armed Services.

EC–2233. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the periodic report on the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC–2234. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Karnal Bunt; Compensation for Custom Harvesters in Northern Texas" (APHIS Docket No. 03–052–3); received on May 16, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2235. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Alternaria destruens Strain 059; Exemption from the Requirement of a Tolerance" (FRL No. 7708–3) received on May 16, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2236. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Fludioxonil; Pesticide Tolerance" (FRL No. 7711–9) received on May 16, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2237. A communication from the Chairman, Naval Sea Cadet Corps, transmitting, pursuant to law, the 2004 Annual Report of the U.S. Naval Cadet Corps; to the Committee on the Judiciary.

EC–2238. A communication from the Administrator, Small Business Administration, transmitting, pursuant to law, the report of a vacancy in the position of Inspector General, received on May 17, 2005; to the Committee on Small Business and Entrepreneurship.

EC–2239. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "Department of Energy Activities Relating to the Defense Nuclear Facilities Safety Board"; to the Committee on Energy and Natural Resources.

EC–2240. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "The Coordination of Provider Education Activities Provided Through Medicare Contractors in Order to Maximize the Effectiveness of Federal Education for Providers of Services and Suppliers"; to the Committee on Finance.

EC–2241. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Coordinating Care for Medicare Beneficiaries: Early Experiences of 15 Demonstration Programs, their Patients, and Providers"; to the Committee on Finance.

EC–2242. A communication from the Attorney Advisor, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a vacancy in the position of Administrator, received on May 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2243. A communication from the Attorney Advisor, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a vacancy in the position of Administrator, received on May 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2244. A communication from the Attorney Advisor, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a vacancy in the position of Administrator, received on May 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2245. A communication from the Vice President, Government Affairs, National Railroad Passenger Corporation, Amtrak, transmitting, pursuant to law, a report entitled "Amtrak Strategic Reform Initiatives and Fiscal Year 2006 Grant Request"; to the Committee on Commerce, Science, and Transportation.

EC–2246. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the Department's Fiscal Year 2004 Competitive Sourcing Efforts; to the Committee on Commerce, Science, and Transportation.

EC–2247. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "NASA Grant and Cooperative Agreement Handbook—Research Misconduct" (RIN2700–AD11) received on May 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2248. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Implement Resolutions Adopted by the Inter-American Tropical Tuna Commission and the Parties to the Agreement on the International Dolphin Conservation Program" ((RIN0648–AS05) (I.D. No. 102004 A)) received on May 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2249. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Pacific Halibut Fisheries; Catch Sharing Plan; Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Specifications and Management Measures; Inseason Adjustments" (RIN0648–AS61) received on May 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-2250. A communication from the Regulation Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs" (RIN2125-AE97) received on May 18, 2005; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted with printed report 109-1 with Minority views:

By Mr. LUGAR for the Committee on Foreign Relations.

*John Robert Bolton, of Maryland, to be the Representative of the United States of America to the United Nations, with the rank and status of Ambassador, and the Representative of the United States of America in the Security Council of the United Nations.

*Nomination was reported without recommendation, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. ENZI for the Committee on Health, Education, Labor, and Pensions.

*Raymond Simon, of Arkansas, to be Deputy Secretary of Education.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. NELSON of Florida:

S. 1059. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to specify procedures for the conduct of preliminary damage assessments, to direct the Secretary of Homeland Security to vigorously investigate and prosecute instances of fraud, including fraud in the handling and approval of claims for Federal emergency assistance, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. COLEMAN (for himself, Mr. Smith, Ms. Snowe, Mr. Dayton, and Mr. Harkin):

S. 1060. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids; to the Committee on Finance.

By Mrs. MURRAY:

S. 1061. A bill to provide for secondary school reform, and for other purposes; read the first time.

By Mr. KENNEDY (for himself, Mr. Reid, Mr. Durbin, Mr. Harkin, Mr. Dodd, Ms. Mikulski, Mr. Jeffords, Mrs. Murray, Mr. Reed, Mr. Bingaman, Mrs. Clinton, Mr. Akaka, Mrs. Boxer, Mr. Corzine, Mr. Dayton, Mr. Feingold, Mr. Inouye, Mr. Kerry, Ms. Landrieu, Mrs. Lincoln, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Lieberman, Mr. Obama, Mr. Rockefeller, Mr. Sarbanes, Mr. Schumer, Ms. Stabenow, Mr. Wyden, and Mr. Johnson):

S. 1062. A bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; read the first time.

By Mr. NELSON of Florida (for himself, Mr. Burns, and Mrs. Clinton):

S. 1063. A bill to promote and enhance public safety and to encourage the rapid deployment of IP-enabled voice services; to the Committee on Commerce, Science, and Transportation.

By Mr. COCHRAN (for himself, Mr. Kennedy, Mr. Warner, Ms. Cantwell, Ms. Collins, and Mr. Dayton):

S. 1064. A bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation; to the Committee on Health, Education, Labor, and Pensions.

By Mr. THUNE (for himself and Mrs. Clinton):

S. 1065. A bill to amend title 10, United States Code, to extend child care eligibility for children of members of the Armed Forces who die in the line of duty; to the Committee on Armed Services.

By Mr. VOINOVICH (for himself, Ms. Stabenow, Mr. Bunning, Mr. Levin, Mr. Alexander, Mr. DeWine, Mr. McConnell, and Mr. Frist):

S. 1066. A bill to authorize the States (and subdivisions thereof), the District of Columbia, territories, and possessions of the United States to provide certain tax incentives to any person for economic development purposes; to the Committee on Finance.

By Mrs. LINCOLN (for herself, Mr. Brownback, Mr. Jeffords, and Mr. Dorgan):

S. 1067. A bill to require the Secretary of Health and Human Services to undertake activities to ensure the provision of services under the PACE program to frail elders living in rural areas, and for other purposes; to the Committee on Finance.

By Mrs. DOLE (for herself and Mr. Baucus):

S. 1068. A bill to provide for higher education affordability, access, and opportunity; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN:

S. 1069. A bill to suspend temporarily the duty on certain cases or containers for toys; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 1070. A bill to suspend temporarily the duty on certain cases for toys; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 1071. A bill to extend the temporary suspension of duty on certain bags for toys; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 1072. A bill to extend the temporary suspension of duty on cases for certain children's products; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 1073. A bill to extend the temporary suspension of duty on certain children's products; to the Committee on Finance.

By Mr. HARKIN:

S. 1074. A bill to improve the health of Americans and reduce health care costs by reorienting the Nation's health care system toward prevention, wellness, and self care; to the Committee on Finance.

By Mr. THUNE (for himself, Ms. Snowe, Mr. Bingaman, Ms. Collins, Mr. Domenici, Mr. Gregg, Mr. Johnson, Mr. Lott, Ms. Murkowski, Mr. Stevens, and Mr. Sununu):

S. 1075. A bill to postpone the 2005 round of defense base closure and realignment; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DEWINE (for himself and Mrs. Feinstein):

S. Res. 145. A resolution designating June 2005 as "National Safety Month"; to the Committee on the Judiciary.

By Ms. CANTWELL (for herself, Mrs. Murray, Mr. Stevens, and Mr. Pryor):

S. Res. 146. A resolution recognizing the 25th anniversary of the eruption of Mount St. Helens; considered and agreed to.

By Ms. MURKOWSKI (for herself, Mr. Crapo, Mr. DeWine, Mr. Craig, Ms. Landrieu, Mrs. Lincoln, Mr. Vitter, Mr. Allen, and Mrs. Feinstein):

S. Res. 147. A resolution designating June 2005 as "National Internet Safety Month"; considered and agreed to.

By Mr. LOTT (for himself and Mr. Dodd):

S. Res. 148. A resolution to authorize the display of the Senate Leadership Portrait Collection in the Senate Lobby; considered and agreed to.

ADDITIONAL COSPONSORS

S. 471

At the request of Mr. Specter, the names of the Senator from Minnesota (Mr. Dayton), the Senator from North Dakota (Mr. Dorgan), the Senator from Wisconsin (Mr. Feingold) and the Senator from Hawaii (Mr. Akaka) were added as cosponsors of S. 471, a bill to amend the Public Health Service Act to provide for human embryonic stem cell research.

S. 484

At the request of Mr. Warner, the name of the Senator from Ohio (Mr. DeWine) was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 499

At the request of Mr. Dodd, the name of the Senator from New York (Mr. Schumer) was added as a cosponsor of S. 499, a bill to amend the Consumer Credit Protection Act to ban abusive credit practices, enhance consumer disclosures, protect underage consumers, and for other purposes.

S. 537

At the request of Mr. Bingaman, the name of the Senator from California (Mrs. Boxer) was added as a cosponsor of S. 537, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 603

At the request of Ms. LANDRIEU, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 603, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 635

At the request of Mr. SANTORUM, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 635, a bill to amend title XVIII of the Social Security Act to improve the benefits under the medicare program for beneficiaries with kidney disease, and for other purposes.

S. 662

At the request of Ms. COLLINS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 662, a bill to reform the postal laws of the United States.

S. 792

At the request of Mr. DORGAN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 792, a bill to establish a National sex offender registration database, and for other purposes.

S. 881

At the request of Ms. CANTWELL, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 881, a bill to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.

S.J. RES. 18

At the request of Mr. MCCONNELL, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S.J. Res. 18, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

At the request of Mrs. FEINSTEIN, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Maryland (Ms. MIKULSKI), the Senator from Wisconsin (Mr. KOHL) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S.J. Res. 18, supra.

S. RES. 104

At the request of Mr. FEINGOLD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Res. 104, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to take the lead and coordinate with other governmental agencies and non-governmental organizations in creating an online database of international exchange programs and related opportunities.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COLEMAN (for himself, Mr. SMITH, Ms. SNOWE, Mr. DAYTON, and Mr. HARKIN):

S. 1060. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids; to the Committee on Finance.

Mr. COLEMAN. Mr. President, today I am introducing legislation to help millions of Americans enjoy the gift of sound. I am pleased to be joined by Senators GORDON SMITH, OLYMPIA J. SNOWE, MARK DAYTON, and TOM HARKIN, who I know care as deeply about these issues as I do.

Hearing loss is one of the most common and widespread health problems affecting Americans today. In fact, thirty-three babies are born each day with hearing loss, making deafness the most common birth defect in America. According to the National Council on Aging, as many as 70 percent of our elderly experience hearing loss. All told, 31.5 million Americans currently suffer from some form of hearing loss.

The good news is that 95 percent of individuals with hearing loss can be successfully treated with hearing aids. Unfortunately, however, only 22 percent of Americans suffering from hearing loss can afford to use this technology. In other words, over 24 million Americans will live without sound because they cannot afford treatment.

That is why we are introducing the Hearing Aid Assistance Tax Credit Act. This legislation provides help to those who need it most, our children and seniors, by providing a tax credit of up to $500, once every 5 years, toward the purchase of any "qualified hearing aid" as defined by the Federal Food, Drug, and Cosmetic Act.

Hearing aids are not just portals to sound, but portals to success in school, business, and life. That is why a number of diverse organizations, including the Hearing Industries Association, Self Help for Hard of Hearing People, the International Hearing Society, the Deaf and Hard of Hearing Alliance, American Speech-Language-Hearing Association, and the American Academy of Audiology support the Hearing Aid Assistance Tax Credit Act.

I ask unanimous consent that their letters of support be printed in the RECORD.

Hearing loss may be one of the most common health problems in the United States, but it doesn't have to be. We can tackle the problem head on with the Hearing Aid Assistance Tax Credit Act.

I look forward to working with my colleagues this Congress to approve this commonsense solution to a serious problem.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

DEAF AND HARD OF HEARING ALLIANCE: A COALITION OF CONSUMER AND PROFESSIONAL ORGANIZATIONS,
SOUTH MILWAUKEE, WI
May 18, 2005.

Hon. NORM COLEMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLEMAN: We, the undersigned, representing both consumer and health professional organizations of the Deaf and Hard of Hearing Alliance (DHHA), write to express our strong support for the "Hearing Aid Assistance Tax Credit Act" you are introducing in the Senate today. While we support and encourage more comprehensive solutions, we believe your legislation can aid some who presently have no options but to pay out of pocket for these essential devices.

Enactment of your legislation will provide a tax credit of up to $500 per hearing aid, available once every five years, towards the purchase of a hearing aid(s) for individuals age 55 and over, or those purchasing a hearing aid for a dependent.

As you have pointed out with the introduction of this bill, special tax treatment would improve access to hearing aids since only 22 percent of Americans who could benefit from hearing aids currently use them. Approximately 1 million children under the age of 18 and nearly 10 million Americans over the age of 54 have a diagnosed hearing loss but are not currently using a hearing aid.

The expense of the hearing aid is an important factor why Americans with hearing loss go without these devices. Some 40 percent of individuals with hearing loss have incomes of less than $30,000 per year. Nearly 30 percent of those with hearing loss cite financial constraints as a core reason they do not use hearing aids. In 2002, the average cost for a hearing aid was over $1,400, and almost two-thirds of individuals with hearing loss require two devices, thereby increasing the average out of pocket expense to over $2,800. The new tax credit you propose will assist many who might otherwise do without and have limited options.

Hearing aids are presently not covered under Medicare, or under the vast majority of state mandated benefits. In fact, 71.4% of hearing aid purchases do not involve third party payments, placing the entire burden of the hearing aid purchase on the consumer.

The need is real. Hearing loss affects 2–3 infants per 1,000 births. For adults, hearing loss usually occurs more gradually, but increases dramatically with age. Ten million older Americans experience age-related hearing loss. For workers, noise induced hearing loss is the second most self-reported occupational injury. Ten million young adults and working aged Americans have noise-induced hearing loss.

Enactment of your bill will make a difference in the lives of some people with hearing loss. Currently 1.28 million Americans of all ages purchase hearing aids each year, with many individuals requiring two devices, bringing the total number of hearing aids purchased across all age groups to approximately 2 million. This number has remained constant over recent years. While the legislation is not intended to cover the full cost of hearing aids, it will provide some measure of financial assistance to the groups who are in need of these devices but are unable to afford them.

Thank you for your leadership on this important issue. We look forward to working with you to seek enactment of your legislation during the 109th Congress.

Sincerely,

Alexander Graham Bell Association for the Deaf & Hard of Hearing (AGBell), American Academy of Audiology (AAA), American Speech-Language-Hearing Association (ASHA), Conference of Educational Administrators of Schools and Programs for the Deaf (CEASD), Cued Language Network of America (CLNA), Media Access Group at WGBH.

National Association of the Deaf (NAD), National Court Reporters Association (NCRA), National Cued Speech Association (NCSA), Self Help for Hard of Hearing People (SHHH), Telecommunications for the Deaf, Inc. (TDI), TECHUnit.

MAY 17, 2005.

Hon. NORM COLEMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLEMAN: The American Speech-Language-Hearing Association (ASHA) commends you for your continued leadership on behalf of the estimated 28 million American children and adults with hearing loss by introducing legislation to provide assistance to those purchasing hearing aids. The Hearing Aid Assistance Tax Credit Act will provide financial assistance to those who need hearing aids, but are unable to afford them. This bill will provide much needed assistance to those adults over 55 years of age and families with children who experience hearing loss.

Studies indicate that when children with hearing loss receive early intervention and treatment with devices such as hearing aids, their speech and language development improves dramatically, making the need for special education services less likely and costly. Research has also shown that the quality of life greatly improves for elderly individuals who use hearing aids.

On behalf of the 118,000 audiologists, speech-language pathologists, and hearing, speech, and language scientists qualified to meet the needs of the estimated 49 million (or 1 in 6) children and adults in the United States with communication disorders, we thank you for introducing this important piece of legislation and look forward to working with you and your staff.

Sincerely,

DOLORES E. BATTLE,
President, American Speech-Language-Hearing Association.

INTERNATIONAL HEARING SOCIETY,
Livonia, MI, May 16, 2005.

Hon. NORM COLEMAN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR COLEMAN: On behalf of the International Hearing Society (IHS), I write to enthusiastically endorse the Hearing Aid Assistance Tax Credit Act. IHS represents the vast majority of traditional hearing aid dispensers (hearing aid specialists) in the United States. Hearing aid specialists are licensed in 49 states (and registered in Colorado) specifically to provide hearing health services. Our members test hearing; select, fit and dispense hearing aids; and provide hearing rehabilitation and counseling services. Hearing aid specialists dispense approximately one-half of all hearing aids in this country.

IHS is deeply appreciative of your interest in improving access to hearing health care. Only approximately 20% of those who could benefit from amplification actually utilize hearing aids. Allowing a credit against tax for the purchase of hearing aids would likely promote access to this effective but dramatically underutilized device.

We look forward to working together to promote the nation's hearing health, a vital component of overall health and well-being. Please contact me or our Washington Counsel Karen S. Sealander of McDermott Will & Emery with questions or for further information.

Sincerely,

HARLAN S. CATO,
President.

MAY 18, 2005.

Hon. NORM COLEMAN,
U.S. Senate,
Washington, DC.,

DEAR SENATOR COLEMAN: On behalf of the Hearing Industries Association (HIA) and the individuals with hearing loss served by our members, I want to thank you for introducing the Hearing Aid Assistance Tax Credit Act, and offer HIA's strong endorsement and support for this worthwhile legislation.

The Hearing Industries Association (HIA) is dedicated to providing information about, promoting the use of, and enhancing access to amplification devices in the United States. These devices include externally worn hearing aids, implantable hearing aids (cochlear, middle ear and brain stem) and an array of assistive listening devices (both personal and public area communication systems used in auditoriums, theaters, classrooms and public buildings). Our members work with the medical community and hearing aid professionals to treat hearing loss in children and adults, and we have seen firsthand the dramatic benefit that hearing aids can provide in terms of greater safety, increased ability to communicate, and an overall significantly enhanced quality of life.

For the 31.5 million Americans who have some degree of hearing loss, the vast majority (95%) can be treated with hearing aids. Yet only 20% of those with hearing loss use hearing aids, while a full 30% cite financial constraints as the reason they do not use hearing aids. This modest bill would help countless older adults and children who need hearing aids, but simply cannot afford them. The benefits, in terms of reduced special education costs for children, as well as reduced injuries and psychological and mental disorders associated with hearing loss in older adults, are immense.

Again, on behalf of HIA and the individuals with hearing loss whom we serve, we applaud your leadership in introducing the Hearing Aid Assistance Tax Credit Act, and look forward to working with you to pass the bill in the 109th Congress.

Sincerely,

CAROLE ROGIN,
Hearing Industries Association.

DEAR SENATOR COLEMAN: On behalf of Self Help for Hard of Hearing People, the Nation's largest consumer group for people with hearing loss, we would like to express our support of the Hearing Aid Assistance Tax Credit Act.

More than 28 million Americans at all stages of life have some form of hearing loss. If left untreated, hearing loss can severely reduce the quality of one's personal and professional life. A landmark study conducted by the National Council on Aging (NCOA) concluded that hearing loss was associated with, among other things: depression, impaired memory, social isolation and reduced general health. For infants and children left untreated, the cost to schools for special education and other programs can exceed $420,000, with additional lifetime costs of $1 million in lost wages and other health complications, according to a respected 1995 study published in the International Journal of Pediatric Otorhinolaryngology.

While fully 95 percent of individuals with hearing loss could be successfully treated with hearing aids, only 22 percent currently use them, according to the largest national consumer survey on hearing loss in America. Almost ⅓ of the individuals surveyed cite financial constraints as a core reason they do not use hearing aids, which is not surprising since hearing aids are not covered under Medicare, or under the vast majority of state mandated benefits. In fact, over 71 percent of all hearing aid purchases involve no third party payments, thereby placing the entire burden of the purchase on the consumer.

The Hearing Aid Assistance Tax Credit Act offers a practical, low cost, and common sense solution to help older individuals who may not otherwise be able to afford to purchase a hearing aid, or those purchasing a hearing aid for their child. The bill is not intended to cover the full cost of hearing aids, but would simply provide some measure of financial assistance to the populations who are most in need of these devices but may not be able to afford them: those approaching or in retirement, and families with children.

This bipartisan initiative is endorsed by virtually the entire spectrum of organizations and consumer groups within the hearing health community. We view this legislation as an effective and responsible means to encourage individuals to treat their hearing loss in order to maintain or improve quality of life.

We are pleased to offer you our support.

Respectfully,

TERRY PORTIS,
Executive Director,
Self Help for Hard of Hearing People.

AMERICAN ACADEMY OF AUDIOLOGY,
Reston, VA, May 17, 2005.

Hon. NORM COLEMAN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR COLEMAN: The American Academy of Audiology, the largest organization of audiologists representing over 9,700 audiologists, commends you on your leadership on hearing health care issues and championing policies that benefit individuals with hearing loss.

The Academy supports the Hearing Aid Assistance Tax Credit Act which would provide a tax credit of up to $500 per hearing aid, available once every five years, towards the purchase of a hearing aid(s) for individuals age 55 and over, or those purchasing a hearing aid for a dependent. As you have pointed out with the introduction of this bill, special tax treatment would improve access to hearing aids since only 22 percent of Americans who could benefit from hearing aids currently use them. Approximately, 1 million children under the age of 18 and nearly 10 million Americans over the age of 54 have a diagnosed hearing loss but are not currently using a hearing aid.

Hearing aids are presently not covered under Medicare, or under the vast majority of state mandated benefits. In fact, 71.4 percent of hearing aid purchases do not involve third party payments, placing the entire burden of the hearing aid purchase on the patient/consumer. This legislation is a beginning step to helping some individuals with this expense and raises the awareness of the impact that hearing loss has on today's society.

In addition, the Academy endorses the Hearing Health Accessibility Act (S. 277) to provide Medicare beneficiaries with the option of going to an audiologist or a physician for hearing and balance diagnostic tests. Direct access would improve Medicare beneficiaries' access to hearing care without diminishing the important role of medical doctors, or expanding the scope of practice for audiology. The Academy urges you to support this legislation as well.

The Academy appreciates the opportunity to work with you to promote these important initiatives in the 109th Congress. Again, we thank you for your leadership in introducing the Hearing Aid Assistance Tax Credit Act and for your dedication to the needs of individuals with hearing loss and the health care professionals providing the services they need to fully function in society.

Sincerely,

Richard E. Gans,
President.

S. 1060

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hearing Aid Assistance Tax Credit Act".

SEC. 2. CREDIT FOR HEARING AIDS FOR SENIORS AND DEPENDENTS.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

"SEC. 25C. CREDIT FOR HEARING AIDS.

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the amount paid during the taxable year, not compensated by insurance or otherwise, by the taxpayer for the purchase of any qualified hearing aid.

"(b) Maximum Amount.—The amount allowed as a credit under subsection (a) shall not exceed $500 per qualified hearing aid.

"(c) Qualified Hearing Aid.—For purposes of this section, the term 'qualified hearing aid' means a hearing aid—

"(1) which is described in section 874.3300 of title 21, Code of Federal Regulations, and is authorized under the Federal Food, Drug, and Cosmetic Act for commercial distribution, and

"(2) which is intended for use—

"(A) by the taxpayer, but only if the taxpayer (or the spouse intending to use the hearing aid, in the case of a joint return) is age 55 or older, or

"(B) by an individual with respect to whom the taxpayer, for the taxable year, is allowed a deduction under section 151(c) (relating to deduction for personal exemptions for dependents).

"(d) Election Once Every 5 Years.—This section shall apply to any individual for any taxable year only if such individual elects (at such time and in such manner as the Secretary may by regulations prescribe) to have this section apply for such taxable year. An election to have this section apply may not be made for any taxable year if such election is in effect with respect to such individual for any of the 4 taxable years preceding such taxable year.

"(e) Denial of Double Benefit.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowed under any other provision of this chapter.".

(b) Clerical Amendment.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Credit for hearing aids.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

By Mr. NELSON of Florida (for himself, Mr. Burns, and Mrs. Clinton):

S. 1063. A bill to promote and enhance public safety and to encourage the rapid deployment of IP-enabled voice services; to the Committee on Commerce, Science, and Transportation.

Mr. NELSON of Florida. Mr. President, I rise today with my colleagues, Senators Burns and Clinton, to introduce the "IP-Enabled Voice Communications and Public Safety Act of 2005" and ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "IP-Enabled Voice Communications and Public Safety Act of 2005".

SEC. 2. EMERGENCY SERVICE.

(a) 911 and E–911 Services.—Notwithstanding section 2(b) or any other provision of the Communications Act of 1934, the Commission shall prescribe regulations to establish a set of requirements or obligations on providers of IP-enabled voice service to ensure that 911 and E–911 services are available to customers to IP-enabled voice service. Such regulations shall include an appropriate transition period by which to comply with such requirements or obligations and take into consideration available industry technological and operational standards, including network security.

(b) Non-discriminatory Access to Capabilities.—Each entity with ownership or control of the necessary emergency services infrastructure shall provide any requesting IP-enabled voice service provider with nondiscriminatory access to their equipment, network, databases, interfaces and any other related capabilities necessary for the delivery and completion of 911 and E911 calls and information related to such 911 or E911 calls. Such access shall be consistent with industry standards established by the National Emergency Number Association or other applicable industry standards organizations. Such entity shall provide access to the infrastructure at just and reasonable, nondiscriminatory rates, terms and conditions. The telecommunications carrier or other entity shall provide such access to the infrastructure on a stand-alone basis.

(c) State Authority.—Nothing in this Act, the Communications Act of 1934, or any Commission regulation or order shall prevent the imposition on or collection from a provider of voice services, including IP-enabled voice services, of any fee or charge specifically designated or presented as dedicated by a State, political subdivision thereof, or Indian tribe on an equitable, and nondiscriminatory basis for the support of 911 and E–911 services if no portion of the revenue derived from such fee or charge is obligated or expended for any purpose other than support of 911 and E–911 services or enhancements of such services.

(d) Standard.—The Commission may establish regulations imposing requirements or obligations on providers of voice services, entities with ownership or control of emergency services infrastructure under subsections (a) and (b) only to the extent that the Commission determines such regulations are technologically and operationally feasible.

(e) Customer Notice.—Prior to the compliance with the rules as required by subsection (a), a provider of an IP-enabled voice service that is not capable of providing 911 and E–911 services shall provide a clear and conspicuous notice of the unavailability of such services to each customer at the time of entering into a contract for such service with that customer.

(f) Voice Service Provider Responsibility.—An IP-enabled voice service provider shall have the sole responsibility for the proper design, operation, and function of the 911 and E911 access capabilities offered to the provider's customers.

(g) Parity of Protection for Provision or Use of IP-enabled Voice Service.—

(1) Provider parity.—If a provider of an IP-enabled voice service offers 911 or E–911 services in compliance with the rules required by subsection (a), that provider, its officers, directors, employees, vendors, and agents, shall have immunity or other protection from liability of a scope and extent that is not less than the scope and extent of immunity or other protection from liability that any local exchange company, and its officers directors, employees, vendors, or agents, have under the applicable Federal and State law (whether through statute, judicial decision, tariffs filed by such local exchange company, or otherwise), including in connection with an act or omission involving the release of subscriber information related to the emergency calls or emergency services to a public safety answering point, emergency medical service provider, or emergency dispatch provider, public safety, fire service, or law enforcement official, or hospital emergency or trauma care facility.

(2) User parity.—A person using an IP-enabled voice service that offers 911 or E–911 services pursuant to this subsection shall have immunity or other protection from liability of a scope and extent that is not less than the scope and extent of immunity or other protection from liability under applicable law in similar circumstances of a person using 911 or E–911 service that is not provided through an IP-enabled voice service.

(3) PSAP parity.—In matters related to IP-enabled 911 and E–911 communications, a PSAP, and its employees, vendors, agents, and authorizing government entity (if any) shall have immunity or other protection

from liability of a scope and extent that is not less than the scope and extent of immunity or other protection from liability under applicable law accorded to such PSAP, employees, vendors, agents, and authorizing government entity, respective, in matters related to 911 or E–911 communications that are not provided via an IP-enabled voice service.

(h) DELEGATION PERMITTED.—The Commission may, in the regulations prescribed under this section, provide for the delegation to State commissions of authority to implement and enforce the requirements of this section and the regulations thereunder.

SEC. 3. MIGRATION TO IP-ENABLED EMERGENCY NETWORK.

Section 158 of the National Telecommunications and Information Administration Organization Act (as added by section 104 of the ENHANCE 911 Act of 2004) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following:

"(d) MIGRATION PLAN REQUIRED.—

"(1) NATIONAL PLAN REQUIRED.—No more than 18 months after the date of the enactment of the ENHANCE 911 Act of 2004, the Office shall develop and report to Congress on a national plan for migrating to a national IP-enabled emergency network capable of receiving and responding to all citizen activated emergency communications.

"(2) CONTENTS OF PLAN.—The plan required by paragraph (1) shall—

"(A) outline the potential benefits of such a migration;

"(B) identify barriers that must be overcome and funding mechanisms to address those barriers;

"(C) include a proposed timetable, an outline of costs and potential savings;

"(D) provide specific legislative language, if necessary, for achieving the plan; and

"(E) provide recommendations on any legislative changes, including updating definitions, to facilitate a national IP-enabled emergency network.

"(3) CONSULTATION.—In developing the plan required by paragraph (1), the Office shall consult with representatives of the public safety community, technology and telecommunications providers, and others it deems appropriate.".

SEC. 4. DEFINITIONS.

(a) IN GENERAL.—For purposes of this Act:

(1) 911 AND E–911 SERVICES.—

(A) 911.—The term "911" means a service that allows a user, by dialing the three-digit code 911, to call a public safety answering point operated by a State, local government, Indian tribe, or authorized entity.

(B) E–911.—The term "E–911 service" means a 911 service that automatically delivers the 911 call to the appropriate public safety answering point, and provides automatic identification data, including the originating number of an emergency call, the physical location of the caller, and the capability for the public safety answering point to call the user back if the call is disconnected.

(2) IP-ENABLED VOICE SERVICE.—The term "IP-enabled voice service" means an IP-enabled service used for real-time 2-way or multidirectional voice communications offered to a customer that—

(A) uses North American Numbering Plan administered telephone numbers, or successor protocol; and

(B) has two-way interconnection or otherwise exchange traffic with the public switched telephone network.

(3) CUSTOMER.—The term "customer" includes a consumer of goods or services whether for a fee, in exchange for an explicit benefit, or provided for free.

(4) IP-ENABLED SERVICE.—The term "IP-enabled service" means the use of software, hardware, or network equipment that enable an end user to send or receive a communication over the public Internet or a private network utilizing Internet protocol, or any successor protocol, in whole or part, to connect users—

(A) regardless of whether the communication is voice, data, video, or other form; and

(B) notwithstanding—

(i) the underlying transmission technology used to transmit the communications;

(ii) whether the packetizing and depacketizing of the communications occurs at the customer premise or network level; or

(iii) the software, hardware, or network equipment used to connect users.

(5) PUBLIC SWITCHED TELEPHONE NETWORK.—The term "public switched telephone network" means any switched common carrier service that is interconnected with the traditional local exchange or interexchange switched network.

(6) PSAP.—The term "public safety answering point" or "PSAP" means a facility that has been designated to receive 911 calls.

(b) COMMON TERMINOLOGY.—Except as otherwise provided in subsection (a), terms used in this Act have the meanings provided under section 3 of the Communications Act of 1934.

By Mr. COCHRAN (for himself, Mr. KENNEDY, Mr. WARNER, Ms. CANTWELL, Ms. COLLINS, and Mr. DAYTON):

S. 1064. A bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, the month of May is Stroke Awareness Month, and it is a privilege to join Senators COCHRAN, WARNER, CANTWELL, COLLINS, and DAYTON in introducing the Stroke Treatment and Ongoing Prevention Act of 2005. The STOP Stroke Act is a vital step in building a national network of effective care to diagnose and quickly treat victims of stroke and improve the quality of care for stroke patients across America.

For over 20 years, stroke has been the third leading cause of death in our country, affecting about 700,000 Americans a year and killing approximately 163,000 a year. Every 45 seconds, another American suffers a stroke. Every 3 minutes, another American dies. Few families today are untouched by this cruel, debilitating, and often fatal disease that strikes indiscriminately, and robs us of our loved ones. Even for those who survive, a stroke can have devastating consequences. Over half of all survivors are left with a disability.

Prompt treatment with clot-dissolving drugs within three hours of a stroke can dramatically improve these outcomes. Yet, only 2–3 percent of all stroke patients are treated with such a drug within those crucial first three hours. Few Americans recognize the symptoms of stroke, and crucial hours are often lost before a patient receives treatment. Emergency room staffs are often not trained to recognize and manage the symptoms, which further adds to the delay in treatment. Patients at hospitals with primary stroke centers have nearly five times greater chance of receiving clot-dissolving drugs.

Modern medicine is generating new scientific advances that increase the chance of survival and at least partial or even full recovery following a stroke. Physicians are learning to manage strokes more effectively, and they are also learning how to prevent them in the first place.

But science doesn't save lives and protect health by itself. We need to do more to bring new discoveries to the patient and new awareness to the public. That means educating as many people as possible about the warning signs of stroke, so that they know enough to seek medical attention. It means training doctors and nurses in the best techniques of care. It means finding better ways to treat victims as quickly and as effectively as possible—so that they have the best chance of full recovery.

Our bill provides grants to States to implement statewide systems of stroke care that will give health professionals the equipment and training they need to treat this disorder. It also establishes a continuing education program to make sure that medical professionals are well trained and well aware of the newest treatments and prevention strategies. The initial point of contact between a stroke patient and medical care is usually an emergency medical technician. Grants under this bill may be used to train these personnel to provide more effective care to stroke patients in the crucial first few moments after an attack.

The bill directs the Secretary of Health and Human Services to conduct a national media campaign to inform the public about the symptoms of stroke, so that more patients can recognize the symptoms and receive prompt medical care. The bill also authorizes the Secretary of HHS, acting through CDC, to operate the Paul Coverdell National Acute Stroke Registry, which will collect data about the care of stroke patients and assist in the development of more effective treatments.

The bill also provides new resources for states to improve the standard of care for stroke patients in hospitals, and to increase the quality of care in rural hospitals through improvements in telemedicine.

On Monday, the Wall Street Journal published an excellent article on the inadequate treatment that stroke patients often encounter when ambulances bring them to hospitals with staffs not trained in the early treatment of stroke or lacking the needed equipment to intervene early. Over twenty years ago, the survival of trauma victims was very much dependent on whether the ambulance took them to a hospital with a trauma care center, or to a hospital not equipped to treat traumatic injury. Congress passed the Trauma Care Systems Planning and Development Act of 1990 that revolutionized the treatment for accident victims. Now in 2005, it is long past time to see that state of the art care is made available to stroke patients as quickly as possible.

Stroke is a national tragedy that leaves no American community unscarred. Fortunately, if the right steps are taken during the brief window of time available, effective treatment can make all the difference between healthy survival and disability or death. We need to do all we can to see that those precious few hours are not wasted. The STOP Stroke Act is a significant step in reaching that goal. May is Stroke Awareness Month, and I urge Congress to act quickly on this legislation, and give stroke victims a far better chance for full recovery.

I ask unanimous consent that the full text of a Wall Street Journal article of May 9 on this issue be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 9, 2005]

STROKE VICTIMS ARE OFTEN TAKEN TO WRONG HOSPITAL

(By Thomas M. Burton)

Christina Mei suffered a stroke just before noon on Sept. 2, 2001. Within eight minutes, an ambulance arrived. Her medical fate may have been sealed by where the ambulance took her.

Ms. Mei's stroke, caused by a clot blocking blood flow to her brain, occurred while she was driving with her family south of San Francisco. Her car swerved, but she was able to pull over before slumping at the wheel. Paramedics saw the classic signs of a stroke: The 45-year-old driver couldn't speak or move the right side of her body.

Had Ms. Mei's stroke occurred a few miles to the south, she probably would have been taken to Stanford University Medical Center, one of the world's top stroke hospitals. There, a neurologist almost certainly would have seen her quickly and administered an intravenous drug to dissolve the clot. Stanford was 17 miles away, across a county line.

But paramedics, following county ambulance rules that stress proximity, took her 13 miles north, to Kaiser Permanente's South San Francisco Medical Center. There, despite her sudden inability to talk or walk and her facial droop, an emergency-room doctor concluded she was suffering from depression and stress. It was six hours before a neurologist saw her, and she never got the intravenous clot-dissolving drug.

In a legal action brought against Kaiser on Ms. Mei's behalf, an arbitrator found that her care had been negligent, and in some aspects "incomprehensible." Today, Ms. Mei can't dress herself and walks unsteadily, says her lawyer, Richard C. Bennett. The fingers on her right hand are curled closed, and she has had to give up her main avocations: calligraphy, ceramics and other types of art. Kaiser declined to comment beyond saying that it settled the case under confidential terms "based on some concerns raised in the litigation."

Stroke is the nation's No. 1 cause of disability and No. 3 cause of death, killing 164,000 people a year. But far too many stroke victims, like Ms. Mei, get inadequate care thanks to deficient medical training and outdated ambulance rules that don't send patients to the best stroke hospitals.

Over the past decade, American medicine has learned how to save stroke patients' lives and keep them out of nursing homes. New techniques offer a better chance of complete recovery by dissolving blood clots and treating even more lethal strokes caused by burst blood vessels in the brain. But few patients receive this kind of treatment because most hospitals lack specialized staff and knowledge, stroke experts say. State and county rules generally require paramedics to take stroke patients to the nearest emergency room, regardless of that hospital's level of expertise with stroke.

Stroke care is positioned roughly where trauma care was a quarter-century ago. By 1975, surgeons expert at treating victims of car crashes and other major accidents realized that taking severely injured patients to the nearest emergency room could mean death. So the surgeons led a push to make selected regional hospitals into specialized trauma centers and to overhaul ambulance protocols so that paramedics would speed the most severely injured.to those centers. Now, in many areas of the U.S., accident victims go quickly to a trauma center, and trauma specialists say this change has saved lives and lessened disability.

Eighty percent or more of the 700,000 stokes that Americans suffer annually are "ischemic," meaning they are caused by blockage of an artery feeding the brain, usually a blood clot. Most of the rest are "hemorrhagic" strokes, resulting from burst blood vessels in or near the brain. Although they have different causes, both result in brain tissue dying by the minute.

Several factors have combined to prevent improvement in stroke care. In some areas, hospitals have resisted movement toward a system of specialized stroke centers because nondesignated institutions could lose business, according to neurologists who favor the changes. In addition, stroke treatment has lacked an organized lobby to galvanize popular and political interest in the ailment.

DOCTOR IGNORANCE

A big reason for the backwardness of much stroke treatment is that many doctors know little about it. Even emergency physicians and internists likely to see stroke victims tend to receive scant neurology training in their internships and residencies according to stroke specialists.

"Surprisingly, you could go through your entire internal medicine rotation without training in neurology, and in emergency medicine it hasn't been emphasized," says James C. Grotta, director of the stroke program at the University of Texas Health Science Center at Houston.

Many hospitals don't have a neurologist ready to deal with emergencies. As a result, strokes aren't treated urgently there, even though short delays increase chance of severe disability or death. Even if doctors do react quickly, recent research has shown that many aren't sure what treatment to provide.

For example, a survey published in 2000 in the journal Stroke showed that 66 percent of hospitals in North Carolina lacked any protocol for treating stroke. About 82 percent couldn't rapidly identify patients with acute stroke.

As with other life-threatening conditions, stroke patients are better off going where doctors have had a lot of practice addressing their ailment. A seven-year analysis of surgery in New York state in the 1990s showed that patients with ruptured blood vessels in the brain were more than twice as likely to die—16% versus 7%—in hospitals doing few such operations, compared with those doing them regularly. A national study published last year in the Journal of Neurosurgery showed a similar disparity.

Another major shortcoming of most stroke treatment, according to many neurologists, is the failure to use the genetically engineered clot-dissolving drug known as tPA. Short for tissue plasminogen activator, tPA, which is made by Genentech Inc., has been shown to be a powerful treatment that can lessen disability for many patients. A study published in 2004 in The Lancet, a prominent medical journal, showed that the chances of returning to normal are about three times greater among patients getting tPA in the first 90 minutes after suffering a stroke, even after accounting for tPA's potential side effect of cerebral bleeding that can cause death. But several recent medical-journal articles have found that nationally, only 2% to 3% of strokes caused by clots are treated with tPA, which has no competitor on the market.

Some authors of studies supporting the use of tPA have had consultant or other financial relationships with Genentech. Skeptics of the drug point to these ties and stress tPA's side-effect danger. But among stroke neurologists, there is a strong consensus that the drug is effective.

One reason why many patients don't receive tPA is that they arrive at the hospital more than three hours after a stroke, the time period during which intravenous tPA should be given. But many hospitals and doctors don't use tPA at all, even though it has been available in the U.S. since 1996. The dissolving agent's relatively high cost—$2,000 or more per patient—is a barrier. Medicare pays hospital a flat reimbursement of about $6,700 for stroke treatment, regardless of whether tPA is used.

AIRPORT EMERGENCY

Glender Shelton of Houston had an ischemic stroke caused by a clot at Los Angeles International Airport on Dec. 30, 2003. In full view of other holiday travelers, Ms. Shelton, then 66, slumped over, and an ambulance was called. It was 4:45 p.m.

By 5:55 p.m., she arrived at what now is called Centinela Freeman Regional Medical Center, four miles away in Marina del Rey. Hospital records show that doctors thought Ms. Shelton had suffered an "acute stroke." But she didn't get a CT scan, a recommended initial step, until 9 p.m. By then, she was already outside the three-hour window for safely administering intravenous tPA. Records also say she didn't receive the drug "due to unavailability of neurologist until after the patient had been outside the three-hour time window."

Ms. Shelton's daughter, Sandi Shaw, was until recently nurse-manager of the prestigious stroke unit at the University of Texas Health Science Center at Houston. Ms. Shaw says that at her unit, her mother would have had a CT scan within five minutes of arriving, and tPA probably would have been administered 30 or 35 minutes after that.

Today, according to her daughter, Ms. Shelton often can't come up with words or relatives' names, can't take care of her finances, and can't follow certain basic commands in neurological tests.

Kent Shoji, an emergency-room doctor at Centinela Freeman who handled Ms. Shelton's case, says, "She was a possible candidate for tPA," but a CT scan was required first. "The order was put in for a CT scan," Dr. Shoji says, "I can't answer why it took so long."

A Centinela Freeman spokeswoman says, "We did not have 24/7 coverage with our CT scan, and we had to call, a technician to come in. That's pretty common with a community hospital." The hospital has since been acquired by a larger health system and now does have 24-hour CT capability.

"PAROCHIAL INTERESTS"

A hospital-accrediting group has begun designating hospitals as stroke centers, but that is only part of what is needed, stroke experts assert. They say hospitals typically have to come together to create local political momentum to change state or county rules to that ambulances actually take stroke patients to stroke centers, not the nearest ER. New York, Maryland and Massachusetts are moving toward creating stroke-care systems, and Florida recently passed a law creating stroke centers. But in many places, short-term economic interests impede change, some doctors say.

"There are still very parochial interests by hospitals and physicians to keep patients locally even if they're not equipped to handle them," says neurosurgeon Robert A. Solomon of New York Presbyterian Hospital/Columbia. "Hospitals don't want to give up patients."

The University of California at San Diego runs one of the leading stroke hospitals in the country. It and others in the area that are well prepared to treat stroke patients have sought for a decade to set up a regional system, but there has been little progress, says Patrick D. Lyden, UCSD's chief of neurology. "Some hospitals are resisting losing stroke business," he says. "We have the same political crap as in most communities. Paramedics still take people to the local ER."

Among the opponents of the stroke-center concept during the 1990s was Richard Stennes, the ER director at Paradise Valley Hospital south of San Diego. In various public debates, Dr. Stennes recalls, he argued that many apparent stroke patients would be siphoned away from community hospitals even if they didn't turn out to have strokes. Also, he argued that tPA might cause more injury than it prevents. And then there was the economic issue: "Those hospitals without all the equipment and stroke experts," he says, "would be concerned about all the patients going to a stroke center and taking the patients away from us." Dr. Stennes has since retired.

"All hospitals and clinicians try to deliver the right care to patients, especially those with urgent medical needs," says Nancy E. Foster, vice president for quality of the American Hospital Association, which represents both large and small hospitals. "Community hospitals may be equally good at delivering stroke care, and it would be important for patients to know how well prepared their local hospital is."

Stroke experts aren't proposing that every hospital needs to specialize in stroke care but instead that in every population center there should be at least one that does. In Atlanta, Emory University's neuro-intensive care unit illustrates the special skills that make for top care. Owen B. Samuels, director of the unit, estimates that 20% to 30% of patients it treats received poor initial medical care before arriving at Emory, jeopardizing their futures or even lives. Brain hemorrhages, for example, are commonly misdiagnosed, even in patients who repeatedly showed up at emergency rooms with unusually severe headaches, Dr. Samuels says.

The Emory unit has 30 staff members, including two neuro-critical care doctors and five nurse practitioners. A team is on duty 24 hours a day. The unit handles about two dozen patients most days, keeping the staff busy. On the ward, nearly all patients are unconscious or sedated, so it's eerily silent. Patients generally need to rest their brains as they recover from stroke or surgery.

After a hemorrhagic stroke, blood pressure in the cranium builds as blood continues to seep out of the ruptured vessel. Pressure can be deadly, cutting off oxygen to the brain. Or escaped blood can cause a "vasospasm," days after the original stroke, in which the brain reacts violently to seeped-out blood. In the worst case, the brain herniates, or squeezes out the base of the skull, causing death. To avoid this, nurses at Emory constantly monitor brain pressure and temperatures. They put in drain lines. They infuse medicines to dehydrate, depressurize and stop bleeding.

Since Emory launched the neuro-intensive unit seven years ago, 42% of patients with hemorrhagic strokes have become well enough to go home, compared with 27% before. Fewer need rehabilitation—31% versus 40%—and the death rate is down.

Damica Townsend-Head, 33, gave the Emory team a scare. After surgery last fall for a hemorrhagic stroke, her brain swelling was "really out of control," Dr. Samuels says, raising questions about whether she would survive. The staff put a "cooling catheter" into a blood vessel, which allowed the circulation of ice water to bring down the temperature in her blood and brain. They intentionally dehydrated her brain to lower pressure. A month later, she woke up and recovered with minimal disability. She still walks with a cane and tires easily, but her speech is normal and she hopes to return soon to work. "I consider her what we're in business for," Dr. Samuels says.

PUBLIC AWARENESS

The public's low awareness of stroke symptoms—and the need to respond immediately—can also hinder proper care. Ischemic strokes, those caused by clots or other artery blockage, cause symptoms such as muscle weakness or paralysis on one side, slurred speech, facial droop, severe dizziness, unstable gait and vision loss. People with this kind of stroke are sometimes mistaken for being drunk. In addition to intense head pain, a hemorrhagic stroke often leads to nausea, vomiting or loss of balance or consciousness. Still, many people with some of these symptoms merely go to bed in hopes of improving overnight, doctors say. Instead, they should go immediately to a hospital and demand a CT scan as a first diagnostic step.

The well-funded American Heart Association, established in 1924, has made many people aware of heart attack symptoms and thereby saved many lives. In contrast, the American Stroke Association was started only in 1998 as a subsidiary of the heart association. The stroke association spent $162 million last year out of the heart association's $561 million overall budget.

Justin Zivin, another University of California at San Diego stroke expert, says the stroke association "is a terribly ineffective bunch. When it comes to actual public education, I haven't seen anything."

The stroke association counters that it is buying television and radio ads promoting awareness, similar to ones produced in 2003 and 2004. The group also sponsors research and education, including an annual international stroke-medicine conference.

It's not just the general public that fails to recognize stroke symptoms. Often, emergency-room doctors and nurses don't either. Gretchen Thiele of suburban Detroit began having horrible headaches last May, for the first time in her life. "She wasn't one to complain, but she said, 'I can't even lift my head off the pillow.'" recalls her daughter, Erika Mazero. Ms. Thiele, 57, nearly passed out from the pain one night and suffered blurred vision. When the pain recurred in the morning, she went to the emergency room at nearby St. Joseph's Mercy of Macomb Hospital. Ms. Mazero says that during the six hours her mother spent there, she was given a CT scan, but not a spinal tap, which could definitively have shown she had a leaking brain aneurysm, meaning a ballooned and weakened artery in her brain. After the CT, Ms. Thiele was given a muscle relaxant and pain medicine and sent home, her daughter says.

Two months later, the blood vessel burst. Neurosurgeons at William Beaumont Hospital in Royal Oak, Mich., did emergency surgery, but Ms. Thiele suffered massive bleeding and died. Ali Bydon, one of the neurosurgeons at Beaumont, says a CT scan often is inadequate and that her condition could have been detected earlier with a spinal tap, also called a lumbar puncture. "Had she had a lumbar puncture and perhaps an operation earlier, it might have saved her life," says Dr. Bydon. "In general, a person who tells you, 'I usually don't get headaches, and this is the worst headache of my life,' is something that should alarm you."

In addition, he says Ms. Thiele "absolutely" was experiencing smaller-scale bleeding in May that foreshadowed a more serious rupture. If doctors identify this kind of bleeding early, he says, chances of death are "minimal." But when a rupture occurs, he says, "25% of patients never make it to the hospital, 25% die in the hospital and 25% are severely disabled."

A St. Joseph's hospital spokeswoman says the hospital has "very aggressive standards for treatment, and we met this standard." declining to elaborate.

DETERMINED NURSE

Paramedics did the right thing after Chuck Toeniskoetter's stroke, but only because of some extraordinary intervention. Mr. Toeniskoetter, then 55, was on a ski trip, Dec. 23, 2000, at Bear Valley, near Los Angeles. He had just finished a run at 3:30 p.m. when, in the snowmobile shop, he began slurring his words and nearly fell over. Kathy Snyder, the nurse in the ski area's first-aid room quickly diagnosed stroke. She called a helicopter and an ambulance.

Ms. Snyder says she knew the closest hospital with a stroke team was Sutter Roseville Medical Center in Roseville, CA. The helicopter pilot was planning to take Mr. Toeniskoetter to a closer ER, but Ms. Snyder says she stood on the helicopter runners, demanding the patient go to Sutter. The pilot eventually relented. Mr. Toeniskoetter went to Sutter, where he promptly received tPA. Today, he has no disability and is back running a real estate-development business in the San Jose area. "Trauma patients go to trauma centers, not the nearest hospital," he says. "Stroke victims, too, require a real specialized sort of care."

One-third of all strokes are suffered by people under 60, and hemorrhagic strokes in particular often strike young adults and children. Vance Bowers of Orlando, Fla., was 9 when he woke up screaming that his eyes hurt, shortly after 1 a.m. on Jan. 8, 2001. Malformed blood vessels in his brain were bleeding. He was in a coma by the time an ambulance delivered him at 1:57 a.m. to the nearest emergency room, at Florida Hospital East Orlando.

Emergency-room doctors soon realized Vance had a hemorrhagic stroke. But neurosurgery isn't performed at that hospital. A sister hospital 14 minutes away by ambulance, Florida Hospital Orlando, did have neurosurgical capability. But in part because of administrative tangles, Vance didn't get to the second hospital until 4:37 a.m., more than two hours after his arrival. Surgery began at 6:18 a.m. "This delay may have cost this young man the possibility of a functional survival," Paul D. Sawin, the neurosurgeon who operated on Vance, said in a letter to the hospitals' joint administration.

Florida Hospital, an emergency-medicine group and an ER doctor recently agreed to settle a lawsuit filed against them in Orange County, Fla., Circuit Court by the Bowers family. The defendants agreed to pay a total of $800,000, court records show. Monica Reed, senior medical officer of the hospital, says the care Vance received was "stellar" and that any delays weren't medically significant. Vance's stroke, not the care he received, caused his injuries, she said.

Vance, now 13, survived but is mentally handicapped and suffers daily seizures, his mother, Brenda Bowers, says. Once a star baseball player, he goes by wheelchair to a class for disabled children. He speaks very slowly but not in a way that many people can understand. "He remembers playing baseball with all of his friends," his mother says but they rarely come around any more. "He really misses all that."

By Mr. THUNE (for himself and Mrs. CLINTON):

S. 1065. A bill to amend title 10, United States Code, to extend child care eligibility for children of members of the Armed Forces who die in the line of duty; to the Committee on Armed Services.

Mr. THUNE. Mr. President, today I rise with my distinguished colleague from New York, Senator CLINTON, to introduce legislation that will provide a surviving spouse with two years of child care eligibility on any military instillation or Federal facility with a child care center. The legislation was inspired by our work on the Senate Armed Services Committee. In February the committee held an important hearing on improving survivor benefits and the government's role in helping survivors cope with the loss of a loved one. All too often surviving spouses are forced to make difficult, life changing decisions alone. Both Senator CLINTON and I are determined to provide as much help as possible to those who must bear the burden of loss, particularly those with young children. By providing two years of child care eligibility, our goal is to ensure that a surviving spouse has the time and tools necessary to make a healthy adjustment to life after the servicemember's death. Many decisions face survivors, most importantly, how to make a living. Often that means having to reenter the work force after years of being a working mother. The question of how to adequately care for young children while trying to find employment or restart a career should not be an issue. Further, we have expanded this eligibility to include access to child care centers in other Federal facilities. This will aide surviving spouses with children if they are in the process of relocating to an area of the country without a military base nearby, but in the proximity of a local Federal building. I am honored that Senator CLINTON is working with me on this legislation and I encourage my colleagues to support this important measure.

By Mr. VOINOVICH (for himself, Ms. STABENOW, Mr. BUNNING, Mr. LEVIN, Mr. ALEXANDER, Mr. DEWINE, Mr. MCCONNELL, and Mr. FRIST):

S. 1066. A bill to authorize the States (and subdivisions thereof), the District of Columbia, territories, and possessions of the United States to provide certain tax incentives to any person for economic development purposes; to the Committee on Finance.

Mr. VOINOVICH. Mr. President, I rise today to introduce the Economic Development Act of 2005 to authorize States to provide tax incentives for economic development purposes.

This legislation is crucial to preserve tax incentives as an important tool for State and local governments to promote economic development in the wake of last year's decision by the Sixth Circuit Court of Appeals in Cuno v. DaimlerChrysler.

In its decision in Cuno, the Sixth Circuit struck down Ohio's manufacturing machinery and equipment tax credit, which I helped enact while I was Governor of Ohio, on grounds that it violated the "dormant" Commerce Clause of the U.S. Constitution. The court ruled that the tax incentive violated the Commerce Clause of the U.S. Constitution because it granted preferential tax treatment to companies that invest within the State rather than in other States.

The Cuno decision has had severe repercussions across the country. The decision immediately cast doubt on the constitutionality of tax incentives presently offered by all fifty States. As a result, States and businesses have been reluctant to go forward with new projects that depend on the availability of tax incentives out of concern that the Cuno decision may be used to invalidate those incentives. This legal uncertainty has worsened an already challenging economic environment. Furthermore, the decision threatens to undermine federalism by dramatically restricting the ability of States to craft their tax codes to promote economic development in the manner they determine is best. If left standing, this decision will handcuff the States in the Sixth Circuit, as well as States in other circuits where the court chooses to follow Cuno, in their efforts to promote economic growth and create jobs. Additionally, it will cripple their ability to compete internationally. In today's competitive economic environment, we can not afford to unilaterally discard the use of tax incentive to attract business to this country. As a former Governor who had to compete against Japan, Canada, China and Europe for new business projects, I know just how important a role tax incentives can play in attracting new businesses. I can assure you that our competitors are certainly not going to stop using tax incentives. Neither should we.

Fortunately, the U.S. Constitution gives Congress the power to determine which State actions violate the Commerce Clause. The purpose of the Economic Development Act of 2005 is therefore to have Congress override the decision in Cuno by authorizing States to provide tax incentives for economic development purposes. The legislation would remove the legal uncertainty surrounding tax incentives created by the Cuno decision and preserve the States' power to design their tax codes to promote economic development.

The history of the tax incentive struck down in Cuno demonstrates the important role tax incentives can play in promoting economic development. When I was Governor of Ohio, at my request and as part of my jobs incentive package, the Ohio Legislature enacted the manufacturing machinery and equipment tax incentive to encourage businesses to expand their operations in Ohio and to help draw new businesses to Ohio. It worked. Between 1993 and 1997, Ohio was ranked number one in the Nation by Site Selection and Industrial Development magazine three times for highest number of new facilities, expanded facilities, and new manufacturing plants. Since the program's inception, businesses have been eligible to claim a total of $2 billion in credits toward $34 billion in new equipment investments.

Currently, this incentive is part of an incentive package being offered to automobile manufacturer DaimlerChrysler in support of its plans for a $200 million expansion of their Jeep plant. The ruling by the Sixth Circuit in Cuno, however, puts that expansion in jeopardy and threatens to undermine Ohio's competitiveness in attracting new businesses.

In the Cuno decision, the Sixth Circuit ruled that the manufacturing machinery and equipment tax incentive, given by Ohio to DaimlerChrysler as part of its incentive package, violated the Commerce Clause of the U.S. Constitution because it discriminated against interstate commerce by granting preferential tax treatment to companies that expanded within the State rather than in other States.

The Cuno decision is troubling for several reasons. First, I believe the Sixth Circuit failed to appreciate the need for States to condition the availability of certain tax incentives on the undertaking of the specified economic activity within a State. In the case of the manufacturing machinery and equipment tax incentive, Ohio needed to limit the availability of the tax incentive to the investments undertaken in the State. Otherwise, Ohio would have been giving companies a tax incentive for activity that did not benefit the State. In other words, Ohio would have been effectively subsidizing investment in other States. We all know that in economics there is no free lunch and States should not be forced to provide a free lunch when they choose to give tax incentives. If Ohio or any other State is willing to forego tax revenue, it should be allowed to receive something in return, namely investment or other economic activity in the State. Accordingly, Ohio's tax incentive did not discriminate against interstate commerce. It merely required companies, if they chose to take advantage of the incentive, to undertake the investment in Ohio, the same State that would be foregoing tax revenue to provide the incentive.

There is also a little legal fiction present in the Cuno decision. The court states that Ohio could have provided a direct subsidy to companies that undertook investment in the State. Because Ohio decided to structure the program as a tax credit, however, the court said that it ran afoul of the Commerce Clause. I do not see how a direct subsidy does not violate the dormant Commerce Clause, but a tax credit does. They are economically the same.

If left standing, the Cuno decision will have a particularly detrimental effect on the U.S. manufacturing sector. From rising energy and health care costs to frivolous lawsuits and unfair international trade practices, the U.S. manufacturing sector and the hard working men and women who drive it are getting squeezed from all sides. Despite all they are up against, it's a testament to their ability and determination that they are still the most productive manufacturers in the world. This Sixth Circuit decision, however, is a new roadblock that threatens to take away one of the most effective and efficient means for assisting manufacturers who want to create new jobs here in America. The Economic Development Act of 2005 will make sure that manufacturers don't lose key tax incentives just when such incentives are needed the most.

The Cuno decision also sets a bad precedent that, if not checked, could upset our carefully balanced federal system. One of the most ingenious aspects of the U.S. Constitution is that it leaves a great deal of power with the States. It gives the States flexibility to devise their own solutions and, in the process, fosters innovation in government. Thus, the States are the laboratories of our democracy and an innovation they have developed to help create jobs and prosperity are programs that encourage new growth through tax incentives for training, job creation, and investment in new plants and equipment. The availability of tax incentives was critical to our success in Ohio and in being number one in new plant construction and expansion. Because Ohio had the ability to devise tax incentives that fit its economic development needs, we were able to create thousands of new jobs. My legislation will guarantee that the States remain our engines of innovation.

This legislation is something that Congress should have done a long time ago. The courts are not well-suited to making the often complex policy decisions regarding whether a tax incentive truly discriminates against interstate commerce and hinders the creation of a national market, or whether a tax incentive actually fosters innovation and job growth. Such decisions necessarily involve a careful weighing of competing and often mutually exclusive interests, and therefore should be made by Congress. Moreover, judicial decisions often fail to provide bright lines on which incentives run afoul of the dormant Commerce Clause, injecting uncertainty about the validity of certain tax incentives that makes businesses weary of relying on them and reduce their effectiveness. Indeed, the Supreme Court itself has called its dormant Commerce Clause jurisprudence a "quagmire." Hence, it is time that Congress provide some clear rules on the treatment of tax incentives under the Commerce Clause.

As Supreme Court Justice Felix Frankfurter stated nearly a half-century ago:

> At best, this Court can only act negatively; it can determine whether a specific state tax is imposed in violation of the Commerce Clause. Such decisions must necessarily depend on the application of rough and ready legal concepts. We cannot make a detailed inquiry into the incidence of diverse economic burdens in order to determine the extent to which such burdens conflict with the necessities of national economic life. Neither can we devise appropriate standards for dividing up national revenue on the basis of more or less abstract principles of constitutional law, which cannot be responsive to the subtleties of the interrelated economies of Nation and State.
>
> The problem calls for solution by devising a congressional policy. Congress alone can provide for a full and thorough canvassing of the multitudinous and intricate factors which compose the problem of the taxing freedom of the States and the needed limits on such state taxing power. Congressional committees can make studies and give the claims of the individual States adequate hearing before the ultimate legislative formulation of policy is made by the representatives of all the States. . . . Congress alone can formulate policies founded upon economic realities. . . .

The Economic Development Act of 2005 is a good first step toward providing the prudent and carefully considered legislation that Justice Frankfurter urged the Congress to pass nearly a half century ago.

At its core, the Economic Development Act of 2005 recognizes that decisions should be made, if possible, at the State and local level. States make and should make decisions about the programs and services they want to provide with their tax dollars, not the least of which are economic development programs. Highway funding, education funding, welfare funding, and funding for seniors programs all vary from state to state because State legislatures, acting on behalf of their citizens, make choices and set priorities. This has allowed government policy to reflect the diversity of interests in our great republic and results in better and more responsive government. Accordingly, states should be allowed to prioritize economic development in an effort to create jobs and prosperity for their citizens, and, yes, attract business from outside their State. If States choose to use tax incentives to promote economic development, then that is not a violation of the interstate commerce clause, that's simply their choice. It is called federalism, and it should not be thwarted by the courts.

There are a couple of points about this legislation that I would like to discuss. First, this legislation is carefully crafted to protect the most common and benign forms of tax incentives, but not to authorize those tax incentives that truly discriminate against interstate commerce. I believe this bill strikes the right balance between protecting States' tax rights and preserving long-established protections against truly discriminatory State tax practices. Second, this legislation does not invalidate any tax incentives. It only authorizes tax incentives. Any tax incentive not covered by the legislation's authorization is simply subject to the traditional dormant Commerce Clause review by the courts. Third, this legislation does not require any state to provide tax incentives. Although I had success using tax incentives to foster economic growth in Ohio while I was Governor, I recognize that some states have concerns about whether and how to offer tax incentives and therefore believe it should be left to the states to resolve these concerns.

I am pleased that this legislation is being co-sponsored by all of the Senators representing States in the Sixth Circuit. We all realize that the right of states to make their own decisions about the programs and services they offer within their boundaries is their own and should not be taken away. Moreover, if the Supreme Court fails to review the Cuno decision, then our States, the States in the Sixth Circuit, will be at a competitive disadvantage in attracting businesses against other states which are not affected by the Cuno decision and can offer tax incentives.

The bill has also been endorsed by Governor Bob Taft of Ohio, the National Governors Association, the National League of Cities, the National Association of Counties, the National Conference of Mayors and the Federation of Tax Administrators, as well as by broad-based business coalitions and the Teamsters.

I am hopeful that the seriousness of this issue, and the severity of the ruling's possible ramifications, will allow us to see quick and positive consideration of my bill. The States are in a crisis mode because of this ruling. In Ohio, as I'm sure is the case across the country, many important projects have been put on hold as we await the court's further action.

The challenges that manufacturers and workers face today are daunting but surmountable. The last thing we need, however, is an artificial legal hurdle that threatens to trip us up. I urge my colleagues to support the Economic Development Act of 2005 so that we can preserve the ability of the States to foster economic development and help put our economy, and especially our manufacturing industries, back on the road to recovery and prosperity.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1066

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Development Act of 2005".

SEC. 2. AUTHORIZATION.

Congress hereby exercises its power under Article I, Section 8, Clause 3 of the United States Constitution to regulate commerce among the several States by authorizing any State to provide to any person for economic development purposes tax incentives that otherwise would be the cause or source of discrimination against interstate commerce under the Commerce Clause of the United States Constitution, except as otherwise provided by law.

SEC. 3. LIMITATIONS.

(a) TAX INCENTIVES NOT SUBJECT TO PROTECTION UNDER THIS ACT.—Section 2 shall not apply to any State tax incentive which—

(1) is dependent upon State or country of incorporation, commercial domicile, or residence of an individual;

(2) requires the recipient of the tax incentive to acquire, lease, license, use, or provide services to property produced, manufactured, generated, assembled, developed, fabricated, or created in the State;

(3) is reduced or eliminated as a direct result of an increase in out-of-State activity by the recipient of the tax incentive;

(4) is reduced or eliminated as a result of an increase in out-of-State activity by a person other than the recipient of the tax incentive or as a result of such other person not having a taxable presence in the State;

(5) results in loss of a compensating tax system, because the tax on interstate commerce exceeds the tax on intrastate commerce;

(6) requires that other taxing jurisdictions offer reciprocal tax benefits; or

(7) requires that a tax incentive earned with respect to one tax can only be used to reduce a tax burden for or provide a tax benefit against any other tax that is not imposed on apportioned interstate activities.

(b) NO INFERENCE.—Nothing in this section shall be construed to create any inference with respect to the validity or invalidity under the Commerce Clause of the United States Constitution of any tax incentive described in this section.

SEC. 4. DEFINITIONS; RULE OF CONSTRUCTION.

(a) DEFINITIONS.—For purposes of this Act—

(1) COMPENSATING TAX SYSTEM.—The term "compensating tax system" means complementary taxes imposed on both interstate and intrastate commerce where the tax on interstate commerce does not exceed the tax on intrastate commerce and the taxes are imposed on substantially equivalent events.

(2) ECONOMIC DEVELOPMENT PURPOSES.—The term "economic development purposes" means all legally permitted activities for attracting, retaining, or expanding business activity, jobs, or investment in a State.

(3) IMPOSED ON APPORTIONED INTERSTATE ACTIVITIES.—The term "imposed on apportioned interstate activities" means, with respect to a tax, a tax levied on values that can arise out of interstate or foreign transactions or operations, including taxes on income, sales, use, gross receipts, net worth, and value added taxable bases. Such term shall not include taxes levied on property, transactions, or operations that are taxable only if they exist or occur exclusively inside the State, including any real property and severance taxes.

(4) PERSON.—The term "person" means any individual, corporation, partnership, limited liability company, association, or other organization that engages in any for profit or not-for-profit activities within a State .

(5) PROPERTY.—The term "property" means all forms of real, tangible, and intangible property.

(6) STATE.—The term "State" means each of the several States (or subdivision thereof), the District of Columbia, and any territory or possession of the United States.

(7) STATE TAX.—The term "State tax" means all taxes or fees imposed by a State.

(8) TAX BENEFIT.—The term "tax benefit" means all permanent and temporary tax savings, including applicable carrybacks and carryforwards, regardless of the taxable period in which the benefit is claimed, received, recognized, realized, or earned.

(9) TAX INCENTIVE.—The term "tax incentive" means any provision that reduces a State tax burden or provides a tax benefit as a result of any activity by a person that is enumerated or recognized by a State tax jurisdiction as a qualified activity for economic development purposes.

(b) RULE OF CONSTRUCTION.—It is the sense of Congress that the authorization provided in section 2 should be construed broadly and the limitations in section 3 should be construed narrowly.

SEC. 5. SEVERABILITY.

If any provision of this Act or the application of any provision of this Act to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provisions of this Act to any person or circumstance shall not be affected by the holding.

SEC. 6. EFFECTIVE DATE.

This Act shall apply to any State tax incentive enacted before, on, or after the date of the enactment of this Act.

By Mr. HARKIN:

S. 1074. A bill to improve the health of Americans and reduce health care costs by reorienting the Nation's health care system toward prevention, wellness, and self care; to the Committee on Finance.

Mr. HARKIN. Mr. President, for more than a decade, I have spoken out about the need to fundamentally reorient our approach to health care in America—to reorient it towards prevention, wellness and self care.

I don't think you'll find too many people who would argue with the statement that if you get sick, the best place in the world to get the care you need is here in America. We have the best trained, highest-skilled health professionals in the world. We have cutting-edge, state-of-the-art equipment and technology. We have world-class health care facilities and research institutions.

But, when it comes to helping people stay healthy and stay out of the hospital, we fall woefully short. In the U.S., we spend in excess of $1.8 trillion a year on health care. Fully 75 percent of that total is accounted for by chronic diseases—things like heart disease, cancer, and diabetes. And what these diseases have in common is that—in so many cases—they are preventable.

In the United States, we fail to make an up-front investment in prevention. So we end up spending hundreds of billions on hospitalization, treatment, and disability. This is foolish—and, clearly, it is unsustainable. In fact, I've long said that we don't have a health care system here in America, we have a "sick care" system. And it is costing us dearly both in terms of health care costs and premature deaths.

Consider the cost of major chronic diseases—diseases that, as I said, are so often preventable.

For starters the annual cost of obesity is $117 billion. For cardiovascular disease is about $352 billion. For diabetes it's $132 billion. For smoking it's more than $75 billion. And for mental illness it's $150 billion; indeed, major depression is the leading cause of disability in the United States.

Now, if I bought a new car, drove that car off the lot, and never maintained it—never checked the oil, never checked the transmission fluid, never got it tuned up—you'd think I was crazy, not to mention grossly irresponsible. The common-sense principle with an automobile is: "I pay a little now to keep the car maintained, or I pay a whole lot later."

Well, it's the same with our national health priorities. Right now, our health care system is in a downward spiral. We are not paying a little now; so we are paying a whole lot later.

For example, we are failing to address the nation's growing obesity epidemic. Today 65 percent of our population is overweight or obese. Obesity is associated with numerous health problems and increased risks of diabetes, heart disease, stroke, and several types of cancer, to name just a few.

Another contributing factor to our health crisis is tobacco. We don't hear as much about the dangers of tobacco use, today, as we used to. That's because there is a perception that we've turned the corner—that we've done all that we need to do. But that perception is not accurate. In 2002, 46 million American adults regularly smoked cigarettes—that 26 percent of our population. Nearly 40 percent of college-aged students smoke. What this means is that after decades of education and efforts to stop tobacco use, more than one in every four Americans is still addicted to nicotine and smoking.

Mental health is another enormous challenge that we are grossly neglecting. Mental health and chronic disease are intertwined. They can trigger one another. It is about time we stop separating the mind and body when discussing health. Prevention and mental health promotion programs should be integrated into our schools, workplaces, and communities along with physical health screenings and education. Surely, at the outset of the 21st century, it's time to move beyond the lingering shame and stigma that often attend mental health.

Seventy percent of all deaths in the U.S. are now linked to chronic conditions such as heart disease, cancer, and diabetes. In so many cases, these chronic diseases are caused by poor nutrition, physical inactivity, tobacco use, and untreated mental illness. This is unacceptable.

After many months of meetings and discussions with Iowans and experts across the nation, today I am re-introducing comprehensive legislation designed to transform America's "sick care" system into a true health care system—one that emphasizes prevention and health promotion.

I am calling this bill the HeLP America Act, with HeLP as an acronym for Healthy Lifestyles and Prevention. The aim is to give individuals and communities the information and tools they need to take charge of their own health.

Because if we are serious about getting control of health-care costs and health-insurance premiums, then we must give people access to preventive care . . . and we must give people the tools they need to stay healthy and stay out of the hospital.

This will take a sustained commitment from government, schools, communities, employers, health officials, and the tobacco and food industries. But a sustained effort can have a huge payoff—for individuals and families, for employers, for society, for government budgets, and for the economy at large.

As I said, the HeLP America Act is comprehensive legislation. It a very complex, multifaceted bill. But, this afternoon, I'd just like to outline the bill's major elements:

The first component addresses healthy kids and schools. Prevention and the development of a healthy habits and lifestyles must begin in the early years, with our children. Unfortunately, today, we are heading in exactly the wrong direction. More and more children all across America are suffering from poor nutrition, physical inactivity, mental health issues, and tobacco use.

For example, just since the 1980s, the rates of obesity have doubled in children and tripled in teens. Even more alarming is the fact that a growing number of children are experiencing what used to be thought of primarily as adult health problems. Almost two-thirds—60 percent—of overweight children have at least one cardiovascular disease risk factor. Recent studies of children have shown that increasing weight, greater salt consumption from fast food, and poor eating habits have contributed to the rise in blood pressure, higher cholesterol levels, and a shockingly rapid increase in adult-onset diabetes.

The HeLP America Act will more than double funding for the successful PEP program, which promotes health and physical education programs in our public schools. I find it disturbing that more than one third of youngsters in grades 9 through 12 do not regularly engage in adequate physical activity. This is a shame, because studies show that regular physical activity boosts self-esteem and improves health.

The HeLP America Act will also expand the Harkin Fruit and Vegetable Program to provide more free fresh fruits and vegetables in more public schools. The bill will also encourage give schools incentives to create healthier environments, including goals for nutrition education and physical activity.

The HeLP America Act would also establish a grant program to provide mental health screenings and prevention programs in schools, along with training for school staff to help them recognize children exhibiting early warning signs. It will improve access to mental health services for students and their families.

New to the HeLP Act this year is a strong focus on breastfeeding promotion. Sound nutrition begins the moment a baby is born and there is a vast body of scientific evidence that shows beyond a shadow of a doubt that mom's milk is the ideal form of nutrition to promote child health. But in the U.S. we don't do enough to encourage breastfeeding. The HeLP America Act seeks to remove some of those barriers and to encourage new mothers to breastfeed.

The second broad component of the HeLP American Act addresses Healthy Communities and Workplaces. For example, the bill aims to create a healthier workforce by providing tax credits to businesses that offer wellness programs and health club memberships. Studies show that, on average, every $1.00 that is invested in workplace wellness returns $3.00 in savings on health costs, absences from work, and so on.

At a field hearing in Iowa last year, I heard from Mr. Lynn Olson, CEO of Ottumwa Regional Health Center. The Center offers a comprehensive wellness program for its employees, including reduced health insurance premiums for those employees who meet individual health goals. The Center has seen tremendous savings from their investment in health promotion.

My bill also creates a grant program for communities, encouraging them to develop localized plans to promote healthier lifestyles. For example, we want to support efforts like those going on in Webster County and Mason City, IA, where mall walking programs have been expanded into community-wide initiatives to promote wellness.

At the same time, the bill provides new incentives for the construction of bike paths and sidewalks to encourage more physical activity, especially walking. It is shocking that, today, roughly one-quarter of walking trips take place on roads without sidewalks or shoulders. And bike lanes are available for only about 5 percent of bike trips.

As my colleagues know, I have been a longstanding advocate for the rights of people with disabilities. So I have given special attention to health-promotion programs and activities that include this population. I just mentioned the bill's incentives to create bike lanes and sidewalks on newly constructed roads. This will make a big difference to people with disabilities, who often are forced to travel in the street alongside cars because there are no sidewalks or bike lanes available for wheelchairs.

The Centers for Disease Control has funded a program called Living Well with a Disability, which has actually decreased secondary conditions and led to improved health for participants. The program is an eight-session workshop that teaches individuals with disabilities how to change their nutrition and level of physical activity. The program not only increases healthy activities for people with disabilities, but has also led to a 10 percent decline in the cost for medical services, particularly emergency-room care and hospital stays.

In addition, my bill includes a Working Well with a Disability program, which will build partnerships between employers and vocational rehabilitation offices with the aim of developing wellness programs in the workplace.

Mr. President, the third component of the HeLP America Act addresses Responsible Marketing and Consumer Awareness. Having accurate, readily available information about the nutritional value of the foods we eat is the first step toward improving overall nutrition. Unfortunately, because of all the gimmicks and hype that marketers use to entice us to buy their products, determining the nutritional value of the foods we buy can be problematic—especially in restaurants. This is why the HeLP America bill proposes to extend the nutritional labeling requirements of the National Labeling and Education Act, which currently covers the vast majority of retail foods, to restaurants foods as well, which were exempted from the NLEA when it first passed.

The marketing of junk food—especially to kids—is out of control. It was estimated that junk food marketers, alone, spent $15 billion in 2002 promoting their fare. And, I don't have to tell you, they are not advertising broccoli and apples. No, the majority of these ads are for candy and fast food—foods that are high in sugar, salt, fat, and calories.

Children—especially those under 8 years of age—do not always have the ability to distinguish fact from fiction. The number of TV ads that kids see over the course of their childhood has doubled from 20,000 to 40,000. The sad thing is that, way back in the 1970s, the Federal Trade Commission recommended banning TV advertising to kids. And what was Congress's response? We made it even harder for the FTC to regulate advertising for children than it is to regulate advertising for adults. My bill will restore the authority of the FTC to regulate marketing to kids, and it encourages the FTC to do so.

The fourth component of the HeLP American Act addresses Reimbursements for Prevention Services. Right now, our medical system is setup to pay doctors to perform a $20,000 gastric bypass instead of offering advice on how to avoid such risky procedures. The bill will reimburse and reward physicians for practicing prevention and screenings. It will also expand Medicare coverage to pay for counseling for nutrition and physical activity, mental health screenings, and smoking-cessation programs. It also would establish a demonstration project in the Medicare program, long overdue in my opinion, under which we can learn how best to use our health care dollars to prevent chronic diseases rather than just manage them once they've occurred. Frankly, it's a little embarrassing that we haven't done this before.

Finally, let me point out that the HeLP America Act will be paid for by creating a new National Health Promotion Trust Fund paid for through penalties on tobacco companies that fail to cut smoking rates among children, by ending the taxpayer subsidy of tobacco advertising, and also by reinstating the top income tax rates for wealthy Americans.

It's time for the Senate to lead America in a new direction. We need a new health care paradigm—a prevention paradigm.

Some will argue that avoiding obesity and preventable disease is strictly a matter of personal responsibility. Well, we all agree that individuals should act responsibly. I'm all for personal responsibility. But I also believe in government responsibility. Government has a responsibility to ensure that people have the information and tools and incentives they need to take charge of their health. And that is what the HeLP America Act is all about.

Of course, this description of my bill just scratches the surface. The HeLP America Act is comprehensive. It is ambitious. And I fully expect an uphill fight in some quarters of Congress.

But just as with the Americans with Disabilities Act 14 years ago, I am committed to doing whatever it takes—and for as long as it takes—to pass this critically needed legislation.

It's time to heed the Golden Rule of Holes, which says: When you are in a hole, stop digging. Well, we have dug one whopper of a hole by failing to emphasize prevention and wellness. And it's time to stop digging.

By Mr. THUNE (for himself, Ms. SNOWE, Mr. BINGAMAN, Ms. COLLINS, Mr. DOMENICI, Mr. GREGG, Mr. JOHNSON, Mr. LOTT, Ms. MURKOWSKI, Mr. STEVENS, and Mr. SUNUNU):

S. 1075. A bill to postpone the 2005 round of defense base closure and realignment; to the Committee on Armed Services.

Mr. THUNE. Mr. President, I rise today to introduce a bill that would delay the implementation of the 2005 round of the Defense Base Closure and Realignment report issued by the Department of Defense on May 13, 2005. The bill would postpone the execution of any decisions recommended in the report until certain anticipated events, having potentially large or unforeseen implications for our military force structure, have occurred, and both the department and Congress have had a chance to fully study the effects such events will have on our base requirements.

The bill identifies three principal actions that must occur before implementation of BRAC 2005. First, there must be a complete analysis and consideration of the recommendations of the Commission on Review of Overseas Military Structures. The overseas base commission has itself called upon the Department of Defense to "slow down and take a breath" before moving forward on basing decisions without knowing exactly where units will be returned and if those installations are prepared or equipped to support units that will return from garrisons in Europe, consisting of approximately 70,000 personnel.

Second, BRAC should not occur while this country is engaged in a major war and rotational deployments are still ongoing. We have seen enough disruption of both military and civilian institutions due to the logistical strain brought about by these constant rotations of units and personnel to Iraq and Afghanistan without, at the same time, initiating numerous base closures and the multiple transfer of units and missions from base to base. This is simply too much to ask of our military, our communities and the families of our servicemen and women, already stretched and over-taxed. And frankly, our efforts right now must be devoted to winning the global war on terrorism, not packing up and moving units around the country.

Our bill would delay implementation of BRAC until the Secretary of Defense determines that substantially all major combat units and assets have been returned from deployment in the Iraq theater of operations, whenever that might occur.

Third, to review or implement the BRAC recommendations without having the benefit of either the Commission or Congress studying the Quadrennial Defense Review, due in 2006, and its long-term planning recommendations seems counter-intuitive and completely out of logical sequence. Therefore, the bill requires that Congress receive the QDR and have an opportunity to study its planning recommendations as one of the conditions before implementing BRAC 2005.

Fourth and Fifth: BRAC should not go forward until the implementation and development by the Secretaries of Defense and Homeland Security of the National Maritime Security Strategy; and the completion and implementation of Secretary of Defense's Homeland Defense and Civil Support Directive—only now being drafted. These two planning strategies should be key considerations before beginning any BRAC process.

Finally, once all these conditions have been met, the Secretary of Defense must submit to Congress, not later than one year after the occurrence of the last of these conditions, a report that assesses the relevant factors and recommendations identified by the Commission on Review of Overseas Base Structure; the return of our thousands of troops deployed in overseas garrisons that will return to domestic bases because of either overseas base reduction or the end of our deployments in the war; and, any relevant factors identified by the QDR that would impact, modify, negate or open to reconsideration any of the recommendations submitted by the Secretary of Defense for BRAC 2005.

This proposed delay only seems logical and fair. There is no need to rush into decisions, that in a few years from now, could turn out to be colossal mistakes. We can't afford to go back and rebuild installations or relocate high-cost support infrastructure at various points in this country once those installations have been closed or stripped of their valuable capacity to support critical missions. I, therefore, introduce this legislation today and call upon my colleagues to join us in supporting its passage.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1075

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

(a) POSTPONEMENT.—Effective May 13, 2005, the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following:

"SEC. 2915. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

"(a) IN GENERAL.—Notwithstanding any other provision of this part, the round of defense base closure and realignment otherwise scheduled to occur under this part in 2005 by reasons of sections 2912, 2913, and 2914 shall occur instead in the year following the year in which the last of the actions described in subsection (b) occurs (in this section referred to as the 'postponed closure round year').

"(b) ACTIONS REQUIRED BEFORE BASE CLOSURE ROUND.—(1) The actions referred to in subsection (a) are the following actions:

"(A) The complete analysis, consideration, and, where appropriate, implementation by the Secretary of Defense of the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States.

"(B) The return from deployment in the Iraq theater of operations of substantially all (as determined by the Secretary of Defense) major combat units and assets of the Armed Forces.

"(C) The receipt by the Committees on Armed Services of the Senate and the House of Representatives of the report on the quadrennial defense review required to be submitted in 2006 by the Secretary of Defense under section 118(d) of title 10, United States Code.

"(D) The complete development and implementation by the Secretary of Defense and the Secretary of Homeland Security of the National Maritime Security Strategy.

"(E) The complete development and implementation by the Secretary of Defense of the Homeland Defense and Civil Support directive.

"(F) The receipt by the Committees on Armed Services of the Senate and the House of Representatives of a report submitted by the Secretary of Defense that assesses military installation needs taking into account—

"(i) relevant factors identified through the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States;

"(ii) the return of the major combat units and assets described in subparagraph (B);

"(iii) relevant factors identified in the report on the 2005 quadrennial defense review;

"(iv) the National Maritime Security Strategy; and

"(v) the Homeland Defense and Civil Support directive.

"(2) The report required under subparagraph (F) of paragraph (1) shall be submitted not later than one year after the occurrence of the last action described in subparagraphs (A) through (E) of such paragraph.

"(c) ADMINISTRATION.—For purposes of sections 2912, 2913, and 2914, each date in a year that is specified in such sections shall be deemed to be the same date in the postponed closure round year, and each reference to a fiscal year in such sections shall be deemed to be a reference to the fiscal year that is the number of years after the original fiscal year that is equal to the number of years that the postponed closure round year is after 2005.".

(b) INEFFECTIVENESS OF RECOMMENDATIONS FOR 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.—Effective May 13, 2005, the list of military installations recommended for closure that the Secretary of Defense submitted pursuant to section 2914(a) of the Defense Base Closure and Realignment Act of 1990 shall have no further force and effect.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 145—DESIGNATING JUNE 2005 AS "NATIONAL SAFETY MONTH"

Mr. DEWINE (for himself and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 145

Whereas the mission of the National Safety Council is to educate and influence society to adopt safety, health, and environmental policies, practices, and procedures that prevent and mitigate human suffering and economic losses arising from preventable causes;

Whereas the National Safety Council works to protect lives and promote health with innovative programs;

Whereas the National Safety Council, founded in 1913, is celebrating its 92nd anniversary in 2005 as the premier source of safety and health information, education, and training in the United States;

Whereas the National Safety Council was congressionally chartered in 1953, and is celebrating its 52nd anniversary in 2005 as a congressionally chartered organization;

Whereas even with advancements in safety that create a safer environment for the people of the United States, such as new legislation and improvements in technology, the unintentional-injury death toll is still unacceptable;

Whereas the National Safety Council has demonstrated leadership in educating the Nation in the prevention of injuries and deaths to senior citizens as a result of falls;

Whereas citizens deserve a solution to nationwide safety and health threats;

Whereas such a solution requires the cooperation of all levels of government, as well as the general public;

Whereas the summer season, traditionally a time of increased unintentional-injury fatalities, is an appropriate time to focus attention on both the problem and the solution to such safety and health threats; and

Whereas the theme of "National Safety Month" for 2005 is "Safety: Where We Live, Work, and Play": Now, therefore, be it

Resolved, That the Senate—

(1) designates June 2005 as "National Safety Month"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities that promote acknowledgment, gratitude, and respect for the advances of the National Safety Council and its mission.

Mr. DEWINE. Mr. President, today I join with Senator FEINSTEIN to submit a resolution to designate June 2005 as "National Safety Month." This year, the National Safety Council has selected "Safety: Where We Live, Work, and Play" as the theme for National Safety Month.

Public safety in our homes, communities, workplace, and on our roads and highways is a vital challenge that we must constantly address. According to the National Safety Council, more than 20 million Americans suffer disabling injuries and 100,000 people die from their injuries each year. In the United States, nearly 43,000 people die each year from motor vehicle crashes, making auto fatalities the number one killer of those between the ages of 4 and 34. Many of these deaths and injuries can be prevented with proper education and precautionary measures.

The goal of National Safety Month is to raise public awareness of safety and prevention in hopes of reducing these deaths and injuries. June also is an appropriate month to focus our efforts on public safety since the summer season is traditionally a time of increased unintentional injuries and fatalities. Throughout the month, the National Safety Council and other safety organizations will urge businesses to increase their standards of safety in the workplace and provide information to individuals regarding injury prevention in homes, communities, and on roads and highways. I look forward to working with other members of the Senate and House and the safety organizations to help educate the public on the importance of injury prevention, so that we can reach our goal of saving more lives.

I thank Senator FEINSTEIN for her support of this resolution and for her continued dedication to public safety. I would also like to thank the National Safety Council and congratulate them as the Council celebrates its 92nd anniversary in 2005, as a leading source of safety and health information, education, and training in the United States.

SENATE RESOLUTION 146—RECOGNIZING THE 25TH ANNIVERSARY OF THE ERUPTION OF MOUNT ST. HELENS

Ms. CANTWELL (for herself, Mrs. MURRAY, Mr. STEVENS, and Mr. PRYOR) submitted the following resolution; which was considered and agreed to:

S. RES. 146

Whereas, on May 18, 1980, at 8:32 a.m. Pacific Daylight Time, the volcano of Mount St. Helens erupted, changing its elevation from 9,677 feet to 8,363 feet;

Whereas the eruption was triggered by an earthquake of magnitude 5.1 approximately 1 mile beneath the volcano;

Whereas the lateral blast covered an area approximately 230 square miles and reached as far as 17 miles northwest of the crater;

Whereas the velocity of the blast was estimated to be at least 300 miles per hour;

Whereas the pyroclastic flows covered 6 square miles, reached temperatures of 1,300 degrees Fahrenheit, and moved at speeds between 50 and 80 miles per hour;

Whereas, as a result of the eruption, over 4,000,000,000 board-feet of timber was blown down, which is enough material to build about 150,000 homes;

Whereas volcanic ash clouded the sky above eastern Washington, reached the east coast of the United States in 3 days, and eventually circled the globe in 15 days;

Whereas the eruption claimed the lives of 57 people; and

Whereas tens of thousands of animals perished: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 25th Anniversary of the eruption of Mount St. Helens on May 18, 2005;

(2) acknowledges the importance of monitoring all 169 volcanoes in the United States and its territories;

(3) recognizes the invaluable work of the Department of the Interior, the United States Geological Survey, the United States Forest Service, the Directorate of Emergency Preparedness and Response of the Department of Homeland Security, and the Cascade Volcano Observatory in monitoring the activities of Mount St. Helens;

(4) acknowledges the progress in science that has led to a more comprehensive understanding of volcanology, seismology, and plate tectonics, thus enhancing the ability to predict volcanic activity and eruptions; and

(5) supports monitoring volcanoes and helping to develop emergency response plans to ensure that the people and communities of the United States are safe.

SENATE RESOLUTION 147—DESIGNATING JUNE 2005 AS "NATIONAL INTERNET SAFETY MONTH"

Ms. MURKOWSKI (for herself, Mr. CRAPO, Mr. DEWINE, Mr. CRAIG, Ms. LANDRIEU, Mrs. LINCOLN, Mr. VITTER, Mr. ALLEN, and Mrs. FEINSTEIN) submitted the following resolution; which was considered and agreed to:

S. RES. 147

Whereas in the United States, more than 90 percent of children in grades 5–12 now use computers;

Whereas 26 percent of children in grades 5–12 in the United States are online for more than 5 hours a week, and 12 percent of such children spend more time online than they do with their friends;

Whereas 53 percent of children and teens in the United States like to be alone when "surfing" the Internet, and 29 percent of such children believe their parents would either express concern, restrict their Internet use, or take away their computer if their parents knew where they were surfing on the Internet;

Whereas 32 percent of the Nation's students in grades 5–12 feel they have the skills to get past filtering software, and 31 percent of youths in the United States have visited an inappropriate place on the Internet, 18 percent of them more than once;

Whereas 51 percent of the Nation's students in grades 5–12 trust the people they chat with on the Internet;

Whereas 12 percent of the Nation's students in grades 5–12 have been asked by someone they chatted with on the Internet to meet face to face, and 11.5 percent of such students have actually met face to face with a stranger they chatted with on the Internet; and

Whereas 39 percent of youths in grades 5–12 in the United States admit to giving out their personal information, such as name, age, and gender over the Internet, and 14 percent of such youths have received mean or threatening email while on the Internet: Now, therefore, be it

Resolved, That the Senate—

(1) designates June 2005 as "National Internet Safety Month";

(2) recognizes that National Internet Safety Month provides an opportunity to educate the people of the United States on the dangers of the Internet and the importance of being safe and responsible online;

(3) commends and recognizes national and community organizations for their work in promoting awareness of the dangers of the Internet and for providing information and training that develops the critical thinking and decision making skills needed to be safe online; and

(4) calls on Internet safety organizations, law enforcement, educators, community leaders, parents, and volunteers to increase their efforts to raise the level of awareness in the United States regarding the need for online safety.

SENATE RESOLUTION 148—TO AUTHORIZE THE DISPLAY OF THE SENATE LEADERSHIP PORTRAIT COLLECTION IN THE SENATE LOBBY

Mr. LOTT (for himself and Mr. DODD) submitted the following resolution; which was considered and agreed to:

S. RES. 148

Whereas the objective of the Senate Leadership Portrait Collection is to commemorate the distinguished service to the Senate and the Nation of those Senators who have served as Majority Leader, Minority Leader, or President pro tempore: Now, therefore, be it

Resolved, That (a) portraits in the Senate Leadership Portrait Collection may be displayed in the Senate Lobby at the direction of the Senate Commission on Art in accordance with guidelines prescribed pursuant to subsection (d).

(b) The Senate Leadership Portrait Collection shall consist of portraits selected by the Senate Commission on Art of Majority or Minority Leaders and Presidents pro tempore of the Senate.

(c) Any portrait for the Senate Leadership Portrait Collection that is acquired on or after the date of adoption of this resolution shall be of an appropriate size for display in the Senate Lobby, as determined by the Senate Commission on Art.

(d) The Senate Commission on Art shall prescribe such guidelines as it deems necessary, subject to the approval of the Committee on Rules and Administration, to carry out this resolution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 762. Mr. NELSON, of Florida (for himself, Mr. HAGEL, Mr. CORZINE, Mr. NELSON of Nebraska, Mr. SMITH, Ms. CANTWELL, Mr. DAYTON, Mr. KERRY, Ms. LANDRIEU, Ms. MIKULSKI, Mrs. MURRAY, Ms. STABENOW, Mrs. BOXER, Mr. PRYOR, Mr. DURBIN, Mr. JEFFORDS, Mr. JOHNSON, and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 762. Mr. NELSON of Florida (for himself, Mr. HAGEL, Mr. CORZINE, Mr. NELSON of Nebraska, Mr. SMITH, Ms. CANTWELL, Mr. DAYTON, Mr. KERRY, Ms. LANDRIEU, Ms. MIKULSKI, Mrs. MURRAY, Ms. STABENOW, Mrs. BOXER, Mr. PRYOR, Mr. DURBIN, Mr. JEFFORDS, Mr. JOHNSON, and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities and the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table as follows:

At the end of subtitle D of title VI, add the following:

SEC. 642. REPEAL OF REQUIREMENT OF REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.

(a) REPEAL.—Subchapter II of chapter 73 of title 10, United States Code is amended—

(1) in section 1450(c)(1), by inserting after "to whom section 1448 of this title applies" the following: "(except in the case of a death as described in subsection (d) or (f) of such section)"; and

(2) in section 1451(c)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person for any period before the effective date provided under subsection (e) by reason of the amendments made by subsection (a).

(c) PROHIBITION ON RECOUPMENT OF CERTAIN AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPIENTS.—A surviving spouse who is or has been in receipt of an annuity under the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, that is in effect before the effective date provided under subsection (e) and that is adjusted by reason of the amendments made by subsection (a) and who has received a refund of retired pay under section 1450(e) of title 10, United States Code, shall not be required to repay such refund to the United States.

(d) RECONSIDERATION OF OPTIONAL ANNUITY.—Section 1448(d)(2) of title 10, United States Code, is amended by adding at the end the following new sentences: "The surviving spouse, however, may elect to terminate an annuity under this subparagraph in accordance with regulations prescribed by the Secretary concerned. Upon such an election, payment of an annuity to dependent children under this subparagraph shall terminate effective on the first day of the first month that begins after the date on which the Secretary concerned receives notice of the election, and, beginning on that day, an annuity shall be paid to the surviving spouse under paragraph (1) instead.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted.

SEC. 643. EFFECTIVE DATE FOR PAID-UP COVERAGE UNDER SURVIVOR BENEFIT PLAN.

Section 1452(j) of title 10, United States Code, is amended by striking "October 1, 2008" and inserting "October 1, 2005".

PRIVILEGE OF THE FLOOR

Mr. CORNYN. Mr. President, I ask unanimous consent that Caroline Garner, a member of my staff, be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. DAYTON. Mr. President, I ask unanimous consent the privilege of the floor be granted to Dana Chasin on my staff today and for subsequent debate on judicial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

On Tuesday, May 17, 2005, the Senate passed H.R. 3, as follows:

(The bill will be printed in a future edition of the RECORD.)

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the following Senators to the Senate Delegation to the NATO Parliamentary Assembly during the 109th Congress: The Honorable JEFF SESSIONS of Alabama; the Honorable MIKE ENZI of Wyoming; the Honorable JIM BUNNING of Kentucky; and the Honorable NORM COLEMAN of Minnesota.

ORDER TO PRINT H.R. 3

Mr. FRIST. I ask unanimous consent that H.R. 3, as passed by the Senate, be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNIZING THE 25TH ANNIVERSARY OF THE ERUPTION OF MOUNT ST. HELENS

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 146, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 146) recognizing the 25th anniversary of the eruption of Mount St. Helens.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, and any statements be printed in the RECORD without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 146) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 146

Whereas, on May 18, 1980, at 8:32 a.m. Pacific Daylight Time, the volcano of Mount St. Helens erupted, changing its elevation from 9,677 feet to 8,363 feet;

Whereas the eruption was triggered by an earthquake of magnitude 5.1 approximately 1 mile beneath the volcano;

Whereas the lateral blast covered an area approximately 230 square miles and reached as far as 17 miles northwest of the crater;

Whereas the velocity of the blast was estimated to be at least 300 miles per hour;

Whereas the pyroclastic flows covered 6 square miles, reached temperatures of 1,300 degrees Fahrenheit, and moved at speeds between 50 and 80 miles per hour;

Whereas, as a result of the eruption, over 4,000,000,000 board-feet of timber was blown down, which is enough material to build about 150,000 homes;

Whereas volcanic ash clouded the sky above eastern Washington, reached the east coast of the United States in 3 days, and eventually circled the globe in 15 days;

Whereas the eruption claimed the lives of 57 people; and

Whereas tens of thousands of animals perished: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 25th Anniversary of the eruption of Mount St. Helens on May 18, 2005;

(2) acknowledges the importance of monitoring all 169 volcanoes in the United States and its territories;

(3) recognizes the invaluable work of the Department of the Interior, the United States Geological Survey, the United States Forest Service, the Directorate of Emergency Preparedness and Response of the Department of Homeland Security, and the Cascade Volcano Observatory in monitoring the activities of Mount St. Helens;

(4) acknowledges the progress in science that has led to a more comprehensive understanding of volcanology, seismology, and plate tectonics, thus enhancing the ability to predict volcanic activity and eruptions; and

(5) supports monitoring volcanoes and helping to develop emergency response plans to ensure that the people and communities of the United States are safe.

NATIONAL INTERNET SAFETY MONTH

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of S. Res. 147 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 147) designating June 2005 as National Internet Safety Month.

There being no objection, the Senate proceeded to consider the resolution.

Ms. MURKOWSKI. Mr. President, I rise in support of the resolution designating June 2005 as National Internet Safety Month. I am pleased to have Mr. CRAPO, Mr. DEWINE, Mr. CRAIG, Ms. LANDRIEU, Mrs. LINCOLN, Mr. ALLEN, Mr. VITTER, and Mrs. FEINSTEIN join me in submitting this resolution.

The Internet has become one of the most significant advances in the twentieth century and, as a result, it affects people's lives in a positive manner each day. However, this technology presents dangers that need to be brought to the attention of all Americans.

Never before has the problem of online predatory behavior been more of a concern. Consider the pervasiveness of Internet access by children and the rapid increase in Internet crime and predatory behavior. Never before have powerful educational solutions—like Internet safety curricula for grades kindergarten through 12, youth empowerment Internet safety campaigns and community-based Internet safety awareness presentations with the formation of community action teams—been more critical and readily at hand. It is imperative that every community in every State be made aware of the increase in Internet-based criminal activity so that all Americans may learn about the Internet safety strategies which will help them to keep their children safe from victimization.

Consider the facts: In the United States, more than 90 percent of children in grades 5 through 12 now use computers and have Internet access. Twenty-six percent of children in that age group are online for more than 5 hours a week and 12 percent spend more time online than they do with their friends.

An alarming statistic is that 39 percent of youths in grades 5 through 12 in the United States admit giving out their personal information, such as their name, age and gender over the Internet. Furthermore, 12 percent of students in the same age group have been asked by a stranger on the Internet to meet face to face. Unfortunately, 11.5 percent of students in this age group have actually met face to face with a stranger they met on the Internet.

Most disturbing are the patterns of Internet crimes against children. In 1996, the Federal Bureau of Investigation was involved in 113 cases involving Internet crimes against children. In 2001, the FBI opened 1,541 cases against people suspected of using the Internet to commit crimes involving child pornography or abuse. The U.S. Customs Service now places the number of Web sites offering child pornography at more than 100,000. Moreover, there was a 345 percent increase in the production of these sites just between February 2001 and July 2001, according to a recent study.

Now is the time for America to focus its attention on supporting Internet safety, especially bearing in mind that children will soon be on summer vacation and will subsequently spend more time online. Recent Internet crime trends indicate a call to action as it pertains to national Internet safety awareness at all levels.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 147) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 147

Whereas in the United States, more than 90 percent of children in grades 5-12 now use computers;

Whereas 26 percent of children in grades 5-12 in the United States are online for more than 5 hours a week, and 12 percent of such children spend more time online than they do with their friends;

Whereas 53 percent of children and teens in the United States like to be alone when "surfing" the Internet, and 29 percent of such children believe their parents would either express concern, restrict their Internet use, or take away their computer if their parents knew where they were surfing on the Internet;

Whereas 32 percent of the Nation's students in grades 5-12 feel they have the skills to get past filtering software, and 31 percent of youths in the United States have visited an inappropriate place on the Internet, 18 percent of them more than once;

Whereas 51 percent of the Nation's students in grades 5-12 trust the people they chat with on the Internet;

Whereas 12 percent of the Nation's students in grades 5-12 have been asked by someone they chatted with on the Internet to meet face to face, and 11.5 percent of such students have actually met face to face with a stranger they chatted with on the Internet; and

Whereas 39 percent of youths in grades 5-12 in the United States admit to giving out their personal information, such as name, age, and gender over the Internet, and 14 percent of such youths have received mean or threatening email while on the Internet: Now, therefore, be it

Resolved, That the Senate—

(1) designates June 2005 as "National Internet Safety Month";

(2) recognizes that National Internet Safety Month provides an opportunity to educate the people of the United States on the dangers of the Internet and the importance of being safe and responsible online;

(3) commends and recognizes national and community organizations for their work in promoting awareness of the dangers of the Internet and for providing information and training that develops the critical thinking and decision making skills needed to be safe online; and

(4) calls on Internet safety organizations, law enforcement, educators, community leaders, parents, and volunteers to increase their efforts to raise the level of awareness in the United States regarding the need for online safety.

AUTHORIZING DISPLAY OF SENATE LEADERSHIP PORTRAIT COLLECTION

Mr. FRIST. I ask unanimous consent the Senate now proceed to consideration of S. Res. 148 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 148) to authorize the display of the Senate leadership portrait collection in the Senate lobby.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 148) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 148

Whereas the objective of the Senate Leadership Portrait Collection is to commemorate the distinguished service to the Senate and the Nation of those Senators who have served as Majority Leader, Minority Leader, or President pro tempore: Now, therefore, be it

Resolved, That (a) portraits in the Senate Leadership Portrait Collection may be displayed in the Senate Lobby at the direction of the Senate Commission on Art in accordance with guidelines prescribed pursuant to subsection (d).

(b) The Senate Leadership Portrait Collection shall consist of portraits selected by the Senate Commission on Art of Majority or Minority Leaders and Presidents pro tempore of the Senate.

(c) Any portrait for the Senate Leadership Portrait Collection that is acquired on or after the date of adoption of this resolution shall be of an appropriate size for display in the Senate Lobby, as determined by the Senate Commission on Art.

(d) The Senate Commission on Art shall prescribe such guidelines as it deems necessary, subject to the approval of the Committee on Rules and Administration, to carry out this resolution.

MEASURES READ THE FIRST TIME—S. 1061 AND S. 1062

Mr. FRIST. Mr. President, I understand that there are two bills at the desk, and I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will read the titles of the bills for the first time en bloc.

The legislative clerk read as follows:

A bill (S. 1061) to provide for secondary school reform, and for other purposes.

A bill (S. 1062) to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

Mr. FRIST. Mr. President, I now ask for a second reading and, in order to place the bills on the calendar under the provisions of rule XIV, I object to my own request, all en bloc.

The PRESIDING OFFICER. Objection is heard.

The bills will receive their second reading on the next legislative day.

S. 1062

Mr. KENNEDY. Mr. President, it has now been 8 long years since the Nation's hardworking men and women had an increase in the minimum wage. The essence of the American dream is that if people work hard and play by the rules they can succeed in life and support their families. But for millions of hardworking Americans earning the minimum wage, that dream has become a cruel hoax. An American who works full time, year-round at the current minimum wage of $5.15 an hour earns $10,700 a year—$5,000 below the poverty line for a family of three. The minimum wage is too low.

Today Congressman GEORGE MILLER and I are introducing the Fair Minimum Wage Act of 2005 to raise the minimum wage to $7.25 an hour in three steps over the next 2 years. This increase will directly raise the pay of seven and a half million workers, and indirectly benefit eight million more. Sixty-one percent of the beneficiaries are women, and one-third of those women are mothers. More than a third are people of color.

Two new reports emphasize the urgency of this increase for millions of low-wage Americans and their families. The Children's Defense Fund reports that a single parent working full time at the current minimum wage earns enough to cover only 40 percent of the cost of raising two children. Nearly 10 million children live in households that would benefit from the increase we are proposing.

A report from the Center for Economic Policy Research shows that minimum wage jobs are not just entry-level jobs for teenagers, contrary to what we often hear from opponents of the minimum wage. A third of minimum wage earners from ages 25 to 54 will still be earning the minimum wage 3 years later. Only 40 percent of them will have moved out of the low-wage workforce 3 years later.

No matter how hard they work, minimum wage workers are forced each day to make impossible choices—between paying the rent and buying groceries, or between paying the heating bill and buying clothes. These hard-working Americans have earned a raise and they deserve a raise. No one who works for a living should have to live in poverty.

ORDERS FOR THURSDAY, MAY 19, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, May 19. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and that the Senate then return to executive session and resume consideration of the nomination of Priscilla Owen to the Fifth Circuit Court of Appeals; provided further that the time from 10 a.m. to 10:45 be under the control of the majority leader or his designee, and the time from 10:45 to 11:45 be under the control of the Democratic leader or his designee; provided further that from 11:45 to 1:45 be under majority control, and from 1:45 to 3:45 be under Democrat control. I further ask consent that the times then rotate every 60 minutes in a similar fashion; provided further that 6:45 to 8:15 be under the control of the Democratic leader or his designee, and that 8:15 to 8:45 be under the control of the majority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow, the Senate will resume consideration of the nomination of Priscilla Owen to be a U.S. circuit judge for the Fifth Circuit. A number of our colleagues came to the floor today to speak on the nomination, and we had a good, substantive debate from both sides of the aisle. I hope Members will continue to come to the floor during tomorrow's session and engage in this important discussion.

I continue to hope that at some point, after everyone has had an opportunity to speak, we will be able to have an up-or-down vote on the nomination of Priscilla Owen. In the meantime, I thank Senators for coming to the floor, and I do encourage Senators to take advantage of the opportunity to speak over the course of the next several days.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8 p.m., adjourned until Thursday, May 19, 2005, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, May 18, 2005*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. SIMPSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

HOUSE OF REPRESENTATIVES,
Washington, DC, May 18, 2005.

I hereby appoint the Honorable MICHAEL K. SIMPSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

Dr. Johnny Hunt, Pastor, First Baptist Church, Woodstock, Georgia, offered the following prayer:

Our Heavenly Father, we are grateful for the life that You have so blessed us with and for health and strength to enjoy it. Lord, thank You for the privilege to pray for President Bush, Vice President CHENEY, their Cabinet, and their families. Lord, I pray for this Congress that You would grant them wisdom.

Lord, thank You for this great country and for the freedom we enjoy. Please bless, protect, strengthen, and encourage our troops in Iraq, Afghanistan, and other places of service around the world. And please bless their precious families and protect them.

We join the Puritans of old and ask, "Deliver us from the natural darkness of our minds, from the corruption of our hearts, from the temptation to which we are exposed, from the daily snares that tempt us. I realize that we are in constant danger while in this life. Let Your watchful eye ever be upon us for our defense.

Lord, we love You and need You. Help us to lead others in the way You have led us. We make our prayer in the name above every name, the name of Jesus Christ our Lord.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from North Carolina (Mr. MCHENRY) come forward and lead the House in the Pledge of Allegiance.

Mr. MCHENRY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNIZING GUEST CHAPLAIN DR. JOHNNY HUNT

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, it is my pleasure today to rise to recognize our guest chaplain, Dr. Johnny Hunt, the pastor of the First Baptist Church of Woodstock, Georgia.

It is a remarkable life story. He spent time many years ago in jail, and on a snowy night in January of 1973, he met his Lord and he spent much of the last 32 years on his knees. He travels the country speaking on behalf of his beliefs and his faith. He has built a remarkable church in Woodstock, Georgia, with 14,000 members.

Since his life has changed, he has changed the lives of thousands of other people at First Baptist and has made it his goal to tell as many people as possible about the new life that can be experienced through faith and spiritual guidance.

Today, the First Baptist Church of Woodstock serves the community in a number of ways, conducting Sunday services, providing mission training for trips abroad, providing daily child care, conducting English-as-second-language classes, and allowing individuals the chance to discuss a variety of issues affecting daily life.

His inspiring prayer will remain with us, and his dedication to the ministry will always be appreciated. I am very proud to have Dr. Johnny Hunt serve as our chaplain to the House today.

TRIBUTE TO THE LATE PFC TRAVIS ANDERSON

(Mr. SALAZAR asked and was given permission to address the House for 1 minute.)

Mr. SALAZAR. Mr. Speaker, I rise today to recognize and honor Army Private First Class Travis Anderson, who was killed in the line of duty while serving his country honorably in Iraq.

He was extremely proud to wear his Nation's uniform, and we should all pay tribute to this brave and courageous young man.

Each day our men and women willingly face unknown dangers as part of the effort to promote peace and democracy throughout the world. Their individual stories of honor and courage must not be forgotten.

Travis Anderson was from the San Luis Valley in Colorado, and he loved hunting and fishing. He was an excellent marksman and was one of the best known coyote hunters around. Travis knew from an early age that he wanted to use his talent to serve his country. His passion for serving his country and marksmanship earned him a place in the elite Special Forces.

On May 13, 2005, Pfc Travis Anderson was killed when a car bomb detonated near his convoy in Iraq. He made the ultimate sacrifice for his country. He was 28 years old.

My heart goes out to Travis's family: his grandmother, Violet; his mother, Barbara; and his siblings, Toscha, Amanda, Bissy, and Buddy. They too have sacrificed for our Nation. I am humbled by their strength and perseverance in the face of such hardship.

Pfc Anderson died performing the most noble of deeds serving and protecting his Nation and fellow countrymen. Travis and his family have exhibited a rare form of selflessness and courage.

I submit this recognition to the United States House of Representatives in honor of their sacrifice so that Travis Anderson may live on in memory.

BIPARTISANSHIP IN THE HOUSE

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, yesterday we passed the first of 10 appropriation bills by a large bipartisan majority. It was nice to see and has become somewhat of a common practice this year.

The energy bill was passed by this House by a vote of 249 to 183 with 41 Democrats supporting. The highway bill passed with a vote of 417 to 9 with 198 Democrats supporting. The class action reform passed this House with a vote of 279 to 149 with 50 Democrats supporting. The death tax repeal passed, 272 to 162 with 42 Democrats supporting. Bankruptcy reform passed this House by a vote of 302 to 146 with 73 Democrats supporting. And the continuation of government passed by a vote of 329 to 68 with 122 Democrats supporting.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The public needs to know that this is a very impassioned body, and we should really appreciate that; but the true test of how we work together is when we count the votes.

ASTRONOMICAL ARROGANCE

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, the administration is considering putting weapons in outerspace to give the United States the power to control the world. This astronomical arrogance pushes not simply aggression to new heights but may well preclude our Nation from spending money for anything other than weapons which will cost hundreds of billions of dollars.

The National Aeronautics and Space Act of 1958 states that it is "the policy of the United States that activities in space should be devoted to peaceful purposes for the benefit of all mankind." Space was envisioned as a place of cooperation, of confirming human unity, a place where we could aspire to build a new platform of peace, fulfilling the prophecy of the poet Browning, who wrote: "But a man's reach should exceed his grasp, or what's a heaven for?"

What has happened to our country? Why are we projecting fear and paranoia to such heights? Have we so lost our way and our faith that we are prepared to transform the heavens into hell? If the kingdom and the will of God is to be done on Earth as it is in heaven, what is to happen when the United States takes nuclear fire up to the gates of heaven? Such an offense against humanity could bring the wrath of God upon this Nation.

JUSTICE JANICE ROGERS BROWN DESERVES A FAIR VOTE

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, for over 200 years, judges have been confirmed by a simple majority vote.

When President Clinton was in office, his nominees required only 51 votes to be confirmed by the Senate. Unfortunately, Democrats have changed the rules and require today's nominees to receive an unprecedented 60-vote standard.

Justice Janice Rogers Brown of California is one of the many highly qualified nominees who are being denied a fair up-and-down vote. Justice Brown is the first African American to serve on California's highest court and was retained with 76 percent of the vote statewide in her last election. However, Democrats are denying her the opportunity of a fair vote simply because she was nominated by President Bush.

On Monday, Majority Leader FRIST explained in USA Today why the Democratic obstructionism is harmful to the American people and the constitutional process. When our courthouses sit empty, Democrats should not be focused on partisan games.

In conclusion, God bless our troops and we will never forget September 11.

BRITISH ASSOCIATION OF UNIVERSITY TEACHERS' BOYCOTT OF ISRAEL

(Mr. WEINER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEINER. Mr. Speaker, sometimes events happen one after another and no one calls attention to a pattern. Today, alarm bells should be going off about the rising threat of anti-Semitism. When Arab countries practiced anti-Semitism, when textbooks made Jews out to be devils, commentators here said, Well, that is just the Israeli conflict; do not worry. When some countries voted against Israel in the United Nations as a matter of routine, the pundits said it is just to win favor with oil-rich nations: Do not worry.

When synagogues are desecrated in France and Jews attacked in that country, the calm observers said: It is just peculiar to France, do not worry.

On April 22, the British Association of University Teachers representing nearly 49,000 higher education professionals decided to boycott all relationship and exchanges with Bar-Ilan and Haifa University in Israel. Now what do the "do not worry about anti-Semitism" crowd say? The very citadels of civilization are experiencing a rising tide of anti-Semitism. Not only Britain but the academics and intellectuals of Britain. We must call it out, confront it.

We have learned this lesson: the answer to anti-Semitism is not silence; it is not acquiescence. It is to call it by its name and fight. I call on the Bush administration to join me.

HARRY REID AND FBI FILES

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Mr. Speaker, I rise today to voice my concerns about a character assassination. This is a 21st-century form of McCarthyism being perpetrated by the Democratic leadership in the United States Senate.

I was deeply troubled by the Senate minority leader's statement on the floor of the Senate on Thursday about His Honor Judge Henry Saad of my home State of Michigan. Judge Saad, whose nomination to the Sixth Circuit Court of the United States Court of Appeals has been obstructed by the Democrats in the Senate, was unfairly and unjustly targeted by the Senator during the debate about filibustering.

The minority leader publicly alluded to Judge Saad's confidential FBI file. He intimated there was something troubling or at the least disconcerting in the file. These FBI files are raw. They have not been fully vetted, and every judicial nominee has one. What is most troubling to me is that the Senate minority leader either knew, or should have known, that this was a low blow. He either knew, or should have known, that Judge Saad cannot even see his own file. He cannot even defend himself. The Senator is smearing a man who is not allowed to respond by the Senate's own rules. That, of course, is hitting below the belt.

Mr. Speaker, the Senator is instituting a modern-day version of McCarthyism. I ask him to stop smearing and to start leading.

ANTONIO VILLARAIGOSA, MAYOR OF LOS ANGELES

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, today I rise very proudly to congratulate Antonio Villaraigosa as the newly elected mayor of the City of Los Angeles. Believe it or not, the last Latino mayor elected in the City of Los Angeles, which is overwhelmingly Latino and African American and Asian, was back in 1872. Can we imagine what a whirlwind of change has occurred?

Antonio Villaraigosa is one of the Nation's most promising leaders of our country. I served with him in the State assembly and he served as the assembly speaker for the great State of California, where he helped to expand the Healthy Families program, which we know here as at the Federal level as the S-CHIP program, and helped to pass one of largest park bonds in the State of California which helped to identify areas in low-income communities to establish urban conservancies. And my district was a proud recipient of one of the largest urban conservancies in California.

Antonio is one of those individuals who will bridge the gap in our communities. He is about empowering people, empowering our communities, putting public safety and education first, and helping to fight crime.

I look very much toward his leadership and know that the country is looking at our great State of California, and especially Los Angeles; and I am proud to say that a portion of my district, he and I have similar jurisdiction in the community of El Serreno. So he is a champion, someone I continue to work with, and I extend the best wishes to him and his family.

THE ECONOMY AND JOBS

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, last year's trade deficit reached $670 billion. Our Federal deficit was over $300 billion. Top-rate jobs have gone overseas. How did we get in this situation? How did we get in this position?

Mr. Speaker, over the last generation Congress has passed laws with good intent, but with terrible consequences. Our government has created barriers to creating jobs, and the results have not been good.

Other nations are rising to the challenge of tomorrow's economy. China is graduating 350,000 engineers every year. India graduated 80,000 software engineers last year. While we are reducing the number of visas for creative talent in America, other countries are developing their talent.

Mr. Speaker, we have to change the environment in America and remove the barriers created by Congress. If we are going to avoid becoming a third-rate economy in the future, we have to pass legislation like the Central America Free Trade Agreement so we can create jobs, strengthen our economy, balance the trade deficit, balance the Federal budget right here in America. We can do it by passing this legislation along with others. Mr. Speaker; and as we lead the challenge for competitiveness in America, we hope that our colleagues will join with us from the other side of the aisle.

☐ 1015

SENATE AS THE NEW WHITE HOUSE RUBBER STAMP

(Ms. LEE asked and was given permission to address the House for 1 minute.)

Ms. LEE. Mr. Speaker, Senate Republicans, at the prodding of the White House, will soon attempt to abolish the use of the filibuster when it comes to judicial appointments. It is clear that the White House is encouraging this action so it can have more control over the United States Senate. For over 200 years the right to filibuster, or the right to unlimited debate, has been a Senate tool that encourages compromise and moderation. Compromise and moderation, not two words that you equate with either this House or the White House unfortunately.

President Bush does not like to compromise. That is why he is unhappy with having 95 percent of his judicial appointees approved by the Senate. Despite the fact that he has had more judges approved than any President since Reagan, Bush encouraged Senate Republicans to take the nuclear option by reappointing judges that could not receive bipartisan consensus during his first term.

The President is also not a moderate. He said that conservative judges Scalia and Thomas are his favorites on the Supreme Court.

The President is encouraging this extreme action so that he can eventually have Senate Republicans rubber stamp conservative justices to the Supreme Court, without any attempt to find common ground. This democracy should not tolerate this abuse of power.

SOCIAL SECURITY DEMOCRAT PLAN

(Mr. McHENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McHENRY. Mr. Speaker, goodness gracious. The day has finally come. The Democrats, after 5 months, have proposed a way to fix Social Security, and they will fix it all right, by raising our taxes. That is right. The new Democrat plan would increase taxes to fix Social Security.

The proposal would hike taxes by 6 percent on middle class families and small business owners. What more can we expect from the tax and spend party, Mr. Speaker? Instead of transforming the program, by modernizing retirement security, the Democrats want to use an old method, by raising taxes.

But there is a new, better solution, Mr. Speaker: personal savings accounts, personal retirement accounts. By allowing younger workers to put a portion of their Social Security taxes into personal retirement accounts, we lessen the liability on the program and we fix Social Security in a lasting and sincere way.

When folks have personal retirement accounts, there is no Social Security surplus for politicians to raid, and we do not have to worry about Democrats raising taxes to do it.

Personal retirement accounts, Mr. Speaker, a new solution to update and strengthen an old program.

LOOKING AHEAD TO THE SUPREME COURT

(Mr. CROWLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CROWLEY. Mr. Speaker, the extreme action Senate Republicans want to take later this week has nothing to do with seven judges who have yet to be approved by the Senate. No, the Senate has approved more of President Bush's nominees than any President since President Reagan. In fact, he has had so much success that he is now presiding over the lowest court vacancy rate in 15 years.

The Republican power grab is about clearing the way for a Supreme Court nominee who only needs 51 votes instead of 60 votes.

Conservative Senate Republicans do not want a David Souter or a Stephen Breyer, judges who were confirmed with nearly unanimous bipartisan support. Instead, they want a Clarence Thomas, who was confirmed with only 52 votes and has since been proven to be an extremist on the Court.

Mr. Speaker, Senate Republicans are preparing to blow up 200 years of tradition in the U.S. Senate, abusing their power now, so they can have greater control over the judiciary later on. That is not how our Founding Fathers envisioned the checks and balances that exist between the branches of our government. The sad fact is, I do not think my colleagues on the other side of the aisle care.

EMBRYONIC STEM CELL RESEARCH

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, in the coming days Congress will consider legislation to make taxpayer dollars available for what is known as embryonic stem cell research, setting the case for an imminent Presidential veto.

In 2001, President Bush made the moral dimensions of scientific testing on human embryos clear. These are the principles.

It is morally wrong to create human life to destroy it for research. Also, it is morally wrong to take the tax dollars of millions of pro-life Americans and use them to finance research that they find morally objectionable.

The choice of our time was described millennia ago: See I set before you blessings and curses, life and death. Now choose life that you and your children may live.

I urge my colleagues to stand for the sanctity of life at every level. Stand with President George W. Bush. Reject taxpayer funding of human embryo research.

FRIST'S PAST ACTIONS DO NOT SUPPORT TODAY'S WORDS

(Ms. KAPTUR asked and was given permission to address the House for 1 minute.)

Ms. KAPTUR. Mr. Speaker, it is not in the American people's interest to change Senate rules that assure that all points of view are heard and which have been in place for over 200 years.

Mr. Speaker, today Senator FRIST is prepared to take the extreme action of upending historic Senate rules under the guise that he says all judicial nominees are entitled to an up or down vote.

That is what he is saying today, but he was singing a different tune back when President Clinton was in the White House. Back in 2000, Republican

Senators attempted to filibuster two of that administration's appointments to the 9th Circuit. Senator FRIST joined some of his Republican colleagues back then in continuing a filibuster of nominee Richard Paez.

There are also other ways to prevent up or down votes on the floor. They can stall them in committee, and that is what happened to President Clinton's nominees. More than one-third of Clinton's appeals court nominees during the last 4 years of his presidency were never given an up or down vote on the Senate floor.

We did not hear Senator FRIST demanding an up or down vote then, and while Democrats and President Clinton complained about the treatment of Clinton's nominees from Republicans at that time, they never came close to subverting 200 years of historic rules that have been in place to assure majority and minority opinions in that Chamber are heard.

Sometimes, with one party rule, the majority becomes abusive in its use of power. This is just such an instance. The Senate as an institution belongs to the American people, to those who agree with the majorty and those who hold minority opinions all have a right to be heard. Under our Constitution and time-tested institutional procedures, let all our people's voices be heard.

FEDERAL BUDGET

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, I rise today to remind my colleagues that we have a responsibility to use restraint in our budget process.

This week, we begin debate on a series of appropriations bills that will fund America's priorities and necessities. We should use this moment to redouble our efforts to ensure Federal money is not wasted on pet projects and underperforming programs.

As President Bush reminded us in his State of the Union address this year, "Taxpayer dollars must be spent wisely, or not at all."

Mr. Speaker, we have two courses of action. First, we must keep nonmilitary discretionary spending in check. Second, we must attack our bloated and often inefficient bureaucracies by eliminating waste, fraud and abuse.

Much of the money in our Federal budget is well spent, but our goal should be for all of the money to be spent wisely.

We have a responsibility to the people of this Nation to use their tax dollars with care. The American family pays too high a price in taxes for our burgeoning Federal Government, and spending restraint will help lower taxes on those who need it most, hard-working Americans.

THE SENATE FILIBUSTER

(Ms. WATSON asked and was given permission to address the House for 1 minute.)

Ms. WATSON. Mr. Speaker, today, we may find out whether President Bush and his Congressional colleagues want to turn the Senate into a second House of Representatives, a rubber stamp for a right wing agenda and radical judges.

President Bush wants to pack the Federal courts with the extreme right fringe of this country, putting at risk the rights and liberties this country has fought for and protected for centuries. He wants to create a Supreme Court that will not act as an independent branch but instead wag its tail at every beck and call.

Mr. Speaker, Republican leaders are out of control. Instead of governing and tending to the Nation's business, they are on a quest for absolute power. They are on a mission to trash our Founding Fathers' commitment to the separation of powers and the abhorrence of simple majority rule.

While the Republicans continue their odyssey for absolute power, Democrats are fighting to protect our constitutional checks and balances and to ensure that we remain a Nation ruled by laws and not by men.

SENATE LEADERSHIP WANTS AN UP OR DOWN VOTE ON COURT NOMINEES

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, as my colleagues know, the United States Senate leadership wants to have an up or down vote on Supreme Court nominees. Why? Because that is what the Senate should be doing: voting yes, voting no.

We have heard that the President is promoting extreme fringe members of the judiciary for appointments on his court. That being the case, why do the Democrats not have the guts to just go ahead and debate it in public, instead of hiding behind the cloak of committee? It is incumbent protection. Let us bring the votes to the floor.

I want to introduce to my colleagues one of these nominees, Justice Janice Rogers Brown. She was elected with 76 percent of the State-wide vote in California, hardly an extremist if one gets 76 percent of the vote in California. She was born the daughter of a sharecropper in Alabama in 1948 and grew up under Jim Crow laws in the South. She is a self-made woman. She is a fighter. She is a mainstreamer. She deserves an up or down vote.

That is all the Senate majority leader is asking for, asking these very cowardly Democrats to say you know what, if you believe that somebody elected with 76 percent of the vote in California is an extremist, have the guts to put it on the board and vote yes and vote no, but let us see where you stand.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). Members are cautioned to refrain from engaging in personalities with regard to Senators.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.J. RES. 23

Mr. CARNAHAN. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.J. Res. 23.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 1817, DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2006

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 283 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 283

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1817) to authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Homeland Security. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Homeland Security, Energy and Commerce, and the Judiciary now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute printed in part A of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. All points of order against that amendment in the nature of a substitute are waived. Notwithstanding clause 11 of rule XVIII, no amendment to that amendment in the nature of a substitute shall be in order except those printed in part B of the report of the Committee on Rules. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), my friend, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the rule before us today is a fair, structured rule that provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Homeland Security.

It provides that in lieu of the amendments recommended by the Committee on Homeland Security, the Committee on Energy and Commerce, and the Committee on the Judiciary now printed in the bill, the amendment in the nature of a substitute printed in part A of the Committee on Rules report shall be considered as the original bill for the purpose of amendment and shall be considered as read.

It waives all points of order against the amendment in the nature of a substitute printed in part A of the Committee on Rules report and makes in order only those amendments printed in part B of the Committee on Rules report.

☐ 1030

These amendments may only be offered in the order printed in the report and only by the Member designated in the report. They shall be considered as read, debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment or a demand for the division of the question in the House or in the Committee of the Whole.

Finally, this rule waives all points of order against the amendments printed in part B of the Committee on Rules report and provides for one motion to recommit with or without instructions.

Mr. Speaker, I rise today in strong support of this rule and its underlying legislation, the first ever Homeland Security authorization legislation. The rule before us today is a fair rule that will allow for consideration of 25 amendments to the legislation, 13 of which are sponsored by a Member of the minority party, 10 by Members of the majority party, and two which enjoy bipartisan sponsorship.

This bill, brought to the floor today by the leadership of my friend, the gentleman from California (Mr. COX), and the ranking member, the gentleman from Mississippi (Mr. THOMPSON), empowers the core mission of the Department of Homeland Security, which is, first, to prevent terrorist attacks within the United States; second, reducing America's vulnerability to terrorism; and, third, responding to and recovering from terrorist attacks if some tragedy does occur.

It accomplishes this necessary and singularly important goal by ensuring that the Department has the resources and the authority it needs to prevent and prepare for terrorist attack, and to respond to and recover from an attack if one does occur.

Through the authorization of over $34 billion in homeland security spending in 2006, this legislation will ensure that our Nation's highest funding priorities are met. It also includes a number of other legislative and oversight measures to strengthen and improve the safety of Americans here at home, including:

Deploying counterterrorism technologies within 90 days so that Federal, State, local, and private sector officials can prevent domestic terror;

Funding 2,000 additional border patrol agents;

Assessing the effectiveness of operations at the Departments of Customs and Border Protection and Immigration and Customs Enforcement so that spending on these programs is efficient and effective;

Consolidating the current background check system, so that individuals can be prescreened by checking their names and biometric identifiers against terrorist watch lists and other criminal databases;

Adopting risk-based cargo screening, and expanding the number of foreign ports where Customs and Border Patrol agents screen incoming containers from 36 to approximately 50 ports;

Improving information analysis and infrastructure protection recruiting;

Improving nuclear and biological intelligence;

Establishing a one-stop shop within the Department of Homeland Security for reliable, comprehensive, and accessible open-source intelligence information and analysis;

Providing better information to local leaders by requiring that any threats be communicated in a manner that limits confusion and operational conflicts;

Clarifying the color-based threat system so that specific information is given directly to regions, States, localities, and private sector industries;

Creating a National Terrorism Exercise program to coordinate and establish minimum standards for all Federal, State, and local terrorism drills; and

Providing for greater Federal, State, and local homeland operations collaboration that needs to take place.

By providing leadership and guidance on these issues and many others, Chairman COX and his committee have provided this House with a product that I believe is effective in providing for the security of our homeland, which deserves the support of every single Member of this body. I urge my colleagues to support this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Texas for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, famed writer and political commentator George Orwell once wrote that "people sleep peaceably in their beds at night only because rough men stand ready to do violence on their behalf." That statement should have a special resonance for Americans in today's world.

We are fighting a new kind of war every day here in America. Our struggle against terror is one that requires us to focus our resources inward like no time in our history, because today the battlefields are the streets and sidewalks of this country and not some faraway land.

We have to ensure that our government is prepared to responsibly address any threat that imperils the peace and prosperity of this Nation. Only then will the American people truly sleep peaceably through the night. That is why this Homeland Security authorization bill is critically important, because it represents the blueprint of our homeland defense and our collective peace of mind for many years to come.

With such a weighty mandate, I would like to congratulate the Committee on Homeland Security in putting together their first committee authorization. But I would have wished today for an open rule, and we are still faced with serious issues of accountability and trust in the management of the Department of Homeland Security. This is in no small part as a result of the Bush administration's unwillingness to fill critical job vacancies at the senior levels of the agency.

In fact, the Department of Homeland Security has had two Secretaries and three Deputy Secretaries in 2 years. Today, 42 percent of the high-level political positions inside the agency are vacant or staffed by people who have already announced their departures. This lack of stability at the Department has impacted the agency's ability to meet its mandate effectively.

For example, in my district, the Peace Bridge, which connects Buffalo to Canada, continues to face obstacles in moving to alleviate traffic congestion. Last December, the United States and Canadian governments agreed to move forward with a shared border management initiative which would remedy the situation. But it has been stalled by endless bureaucracy and lack of accountability at the Department of Homeland Security.

But it is not just a lack of accountability that has plagued the agency. Our country's epic struggle against terror is also a struggle against fear. We recently discovered that the infamous homeland security terror alerts, which were raised so often in the months leading up to the Presidential election, and rarely since, if ever, were repeatedly elevated over the objections of the Homeland Security Secretary and his staff. The terror alerts were raised on what Secretary Ridge himself called "flimsy evidence" by individuals in the administration who were really aggressive about raising it, which shows that they were used for political purposes.

I know I am not the only one who questions why in the 5½ months since election day there has not been a single terror alert. Perhaps Mr. Ridge's comments put the answer in the proper perspective. That constitutes a violation of trust with the American people, and we cannot afford that in this war on terror. We ought not to employ the tactics of fear as a means of control in our pursuit to keep the homeland secure. Such draconian measures are not in keeping with the spirit of America.

It is beneath us as a Nation to have partisan politics injected into our national security apparatus in an ugly and manipulative way. We dare not trade in a currency of fear, but rather should strive to liberate ourselves from fear through awareness of our world and an honest understanding of the challenges which lay before us.

I know many of my colleagues on both sides of the aisle agree on this principle, and I am pleased that the committee has seen fit to include more specific criteria for how the terror alert is and is not to be utilized. Likewise, the appropriation bill passed yesterday by a nearly unanimous vote also included measures that promise to provide a higher degree of accountability at the agency, accountability that I am sure we all agree is sorely needed.

Despite the serious problems at DHS, which still must be addressed, there is much in this authorization bill that I believe every Member of Congress will support. As a representative from a border State, I am pleased to see that the legislation authorizes $1.9 billion, enough money to hire 2,000 additional border agents this year, agents sorely needed. This funding would mark a welcome change in the administration's approach to handling border security issues away from an economically disastrous agenda of imposing passport requirements on our citizens who want to cross our northern border and towards a more sensible policy of effective border enforcement, one which maximizes security resources and safeguards the freedoms and options our citizens and our trading partners deserve.

But that would require that the majority had the will to actually spend the border security dollars and not just authorize them. It is, after all, easy to talk tough about securing borders, but we need action. We need a true commitment from this Congress to put more agents in the field. We seem to have an ongoing problem here with leadership when it comes to this issue where reality does not measure up to rhetoric. It is my hope that this time will be different.

The House leadership's decision to include in this rule two amendments of mine suggests there may be room for common ground on the critical border issue after all. Clearly, the most effective tool we have to protect our borders is knowledge. Those of us who represent border economies understand how important the unencumbered flow of commerce across the northern border is to continued economic growth and to prosperity. The NEXUS program, we hope, will reduce the long waits at the border and allow an unprecedented level of security. It will be smart management, and I look forward to the upcoming debate on the amendment.

But there are many others, I know, we would all like to debate here on the floor today; but of 89, only 25 were ruled in order, which is less than 30 percent. And as I have said previously, I do wish this had been an open rule because we need to spend the extra time and we need to allow our colleagues to consider more ideas on how to improve the homeland security. Is that not what democracy is about, debate and deliberation? Our framers thought so, and I think so, and I think most of my colleagues and most Americans think so.

One amendment we will not consider today, which I regret, would have established a much-needed railroad security plan for America, which we do not have. And, incredibly, an amendment which would have required all cargo transported on commercial and passenger airplanes be inspected for explosives was not allowed. How could we not allow a debate on a critical homeland security issue such as this?

My colleagues, the gentleman from Georgia (Mr. BARROW) and the gentleman from Massachusetts (Mr. MARKEY), offered an amendment which would have upgraded security requirements associated with transporting extremely hazardous materials. But, inexplicably, it too was blocked from consideration.

But just as we cannot afford to live in fear in this age of terrorism, we also cannot fear engaging in genuine debate in consideration of those matters which may be controversial for some, but which are clearly important for the safety of all Americans. The free flow of debate and democracy are a hallmark of our American values, which this House was designed to embody. They are the core values which separate us from those who seek to destroy us and our way of life. And here in the cradle of democracy, we diminish those most American of values at our own peril.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume to say that it makes me so proud to hear the gentlewoman from New York talk with glowing admiration not only about how important this Homeland Security bill is but about the hard work that went into it and how it became a part of a better product.

Yesterday, the Committee on Rules had an opportunity, virtually all day, to hear testimony from Members across the aisle talk about ideas and thoughts and suggestions that they had that would make this a better bill. The chairman, the gentleman from California, not only listened to them but he worked with the chairman of the Committee on Homeland Security, the gentleman from California (Mr. COX), on perfecting this bill by adding in amendments.

As I mentioned earlier, Mr. Speaker, there are a large number of amendments that were added to this, perfecting the bill, perfecting the process, but more importantly giving an opportunity for Members of this body to make sure, from their own perspective, that Homeland Security became more effective by providing the information that was needed to address their local communities.

Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me this time, and I rise in strong support of this rule and the underlying legislation.

We are about to embark on a very new experience for us. We all know that September 11 of 2001 changed our lives forever. We obviously have had to focus for the first time on our homeland security. We know that shortly after September 11 the President of the United States stepped up to the plate and put into place this now Cabinet-level Department of Homeland Security, but it obviously took a period of time for us as an institution to put together the structure that would allow for adequate oversight.

At the beginning of this Congress, we established a new permanent standing

Committee on Homeland Security, and we selected my extraordinarily able colleague, the gentleman from California (Mr. COX), to serve as chairman of the Committee on Homeland Security dealing with jurisdictions that fell within a wide range of other committees.

□ 1045

We had our committee chairmen and ranking members agree to come together on establishing this new Committee on Homeland Security. Obviously the jurisdiction is very far-reaching. It is jurisdiction which focuses on a lot of new things for us. The fact that when we refer to men and women in uniform on the front line, they are no longer just the men and women in our Armed Forces, they are now men and women who wear the uniforms of firefighters and law enforcement officers. We now have, because of the threat, a greater focus on border security. We have focused on ensuring that people who pose a terrorist threat to us are not able to get documents that have been easily fabricated in the past.

Frankly, I will say that we are continuing to work on that, and I urge my colleagues to join in cosponsoring H.R. 98, which will help us produce a counterfeit-proof Social Security card so we can diminish the flow of illegal immigration with the magnet of jobs that draws people across our southern border and instead allow our Border Patrol, which is increased in this authorizing legislation, to focus their attention on criminals and those who pose a terrorist threat to the United States of America.

Now what is it that we have done with this rule and the legislation? With the rule, I am very proud of having had, as the gentleman from Texas (Mr. SESSIONS) so ably said a fair rule, and I am proud of the work he has done. He was a member of the Select Committee on Homeland Security. He was unable to serve on the committee in this Congress because of the exclusivity of the Committee on Rules, but as the gentleman from California (Mr. COX) pointed out, he is serving as the Committee on Rules liaison focusing on these very important new homeland security issues.

One of the things that we can do, as we increase the Border Patrol, if we can pass H.R. 98, which will decrease by 98 percent the flow of illegal immigrants across our southern border, is letting the Border Patrol put their time and energy into trying to diminish the flow of criminals and those who pose a terrorist threat to us. I urge my colleagues to support that effort.

But I would note that the rule which has been put together allows for the consideration of 25 different amendments. We will be having a full 5 hours of debate on this issue, and I am pleased we made in order a Democratic substitute which is 221 pages long, a full substitute which frankly includes many of the amendments that have been proposed by both Republicans and Democrats. A number of those are included in the substitute.

I am also very proud of the fact that we were with the daughter, son-in-law and grandson of our distinguished ranking minority member, the gentlewoman from Rochester, New York (Ms. SLAUGHTER), and we were able to make in order two amendments which the gentlewoman has proposed to the committee.

I will say that of those 25 amendments, 13 of them have been offered by Democrats, made in order, 10 by Republicans, and two are bipartisan amendments with Democrats and Republicans coming together to deal with this issue.

So I will say, I believe we are moving into an extremely important area. We are going to address a wide range of concerns. Yes, there are other concerns that we hope can be addressed. But the mere passage of this legislation, the mere passage of this legislation and moving it to the President's desk will, I believe, help us address a lot of the concerns that some whose amendments were not made in order have been trying to address. I appreciate my colleagues' support in this effort.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Speaker, the Republican leadership in the Committee on Rules have done it again. Once again, they have bent over backwards for big business while putting the safety of the American public at risk.

Last night, on a party-line vote, the Republicans in the Committee on Rules refused to allow the House to consider two important amendments which would have improved safety on airplanes and would have notified the flying public about the safety of the airplanes they fly on. Currently, cargo that is transported on commercial airplanes is not inspected. Even though our passenger luggage is inspected by TSA, the cargo that is transported on those same planes is not inspected. The TSA has not implemented regulations as the law requires them to do to inspect the cargo on these planes, and now the Republican leadership has taken direct action to prevent these inspections.

Yesterday, the gentleman from Massachusetts (Mr. MARKEY) asked that the Committee on Rules make in order an amendment that would have required all cargo to be screened within 3 years. We all go through these metal detectors. We all have to take off our shoes and empty out our pockets. We do that because we want to be safe. Certainly we should screen all cargo.

Additionally, the gentleman from Connecticut (Mr. SHAYS) offered an amendment that would require TSA to notify passengers flying on a plane carrying uninspected cargo, the rationale being if we are not going to inspect the cargo the flying public should at least have the right to know that they are flying on a plane with uninspected cargo.

Mr. Speaker, I do not think that is too much to ask for, but the Republican leadership in the Committee on Rules decided not to make these amendments in order. They decided not to allow a debate. They decided not to allow a vote. I asked the distinguished chairman of the Committee on Rules why these amendments were not made in order, and all he could say is they decided not to. That is not an answer.

These amendments would make our skies safer. They are no-brainers, and yet the Republicans refuse to even allow us to debate and vote on these amendments. Instead of taking action to protect the American public, the Committee on Rules decided to protect the interest of the airlines and the cargo shippers.

Mr. Speaker, legislation on homeland security should result in a safer public. Unfortunately, the leadership is going in exactly the wrong direction when they denied these two amendments from being made in order.

Mr. SESSIONS. Mr. Speaker, I yield 4 minutes to the gentleman from Indiana (Mr. SOUDER), chairman of the Subcommittee on Criminal Justice, Drug Policy and Human Resources.

Mr. SOUDER. Mr. Speaker, I thank the gentleman from California (Chairman DREIER), the gentleman from Texas (Mr. SESSIONS), and the leadership for bringing forth what I believe is a fair rule. One way we are going to tell it is a fair rule is because people who do not like certain amendments being made in order from certain committees will object. This has been a very difficult process, and as the Committee on Rules along with the gentleman from California (Mr. COX), the chairman of our Permanent Select Committee on Homeland Security on which I also serve, this has been an incredibly difficult process from the time this committee has been organized.

The American people want to see action on homeland security. They do not want to hear about Congress' jurisdictional fights, how we believe we have this in this committee and this in this committee, and therefore we are immobilized in Congress. Yet at the same time there are practical reasons, and let me illustrate a few of my own concerns and how I approach this amendment process.

Mr. Speaker, I had four amendments. Two were made in order, and arguably the two most important were not. I withdrew them in front of the Committee on Rules after talking with the gentleman from California (Mr. COX) and the other relevant committees. It shows the dilemma we face. One of them is to merge the Border Protection Agency and ICE inside Homeland Security. It is a system that is not working. This is not a commentary on the gentleman from Ohio (Mr. BOEHNER), who is doing the best he can with an organizational nightmare as we blend these things together.

But in fact, the challenge here of inland immigration is somewhat a different problem, as is deportation, from the border question as it relates to homeland security. So obviously the gentleman from Wisconsin (Mr. SENSENBRENNER) has deep concerns, and we have to figure out what is going to be under the Committee on Homeland Security and what is under the Committee on the Judiciary.

Similarly, a second amendment I had on intelligence that is trying to coordinate this proliferation of intelligence agencies, and we seem to create a new one every 6 months, both in Congress and in the administration, one or the other of us, and we are getting all this stovepiping and no coordination which is exactly opposite of what the 9/11 Commission proposed.

I had an amendment to propose consolidating inside Homeland Security. But guess what, the funding for that comes from several different committees. We could have probably worked this out. I want to continue to work on this. It has passed the House, but the question is what falls under the Committee on Homeland Security and what falls under defense and intelligence committees. These things are not easy to work out.

I believe this rule, by allowing 25 amendments, is clearly identifying the direction of the House. This is the primary Committee on Homeland Security. Where it clearly falls under Homeland Security, these amendments need to be in order and this committee needs the authority to address it.

I thank the gentleman from California (Mr. DREIER) and the leadership for letting this expand. Today is a skinny bill. There are other things we could have done, but it is important to set the precedent: Every year we are going to have an authorization bill on Homeland Security, like the other committees, and I am sure that will be spoken to multiple times today. This rule illustrates the difficulty.

Many Members are very frustrated that they did not get their amendments in order. I am frustrated that I did not get two of mine in order, but this is a complicated process. Today is the first step and the Committee on Rules has made an important first step in allowing 25 amendments, many over the objections of people who are objecting to jurisdiction, and keeping enough out that we can keep a coalition together to show the American people we want to move homeland security bills and this House will not be held up by jurisdictional fights over homeland security. Our goal is to protect the American people and not fight over our committee jurisdictions.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. THOMPSON), the ranking member on the Committee on Homeland Security.

Mr. THOMPSON of Mississippi. Mr. Speaker, I rise in opposition to this rule. As a ranking member of the Committee on Homeland Security, I strongly believe this base bill is deficient in a number of significant areas.

This 79-page bill fails to address a number of critical aspects of homeland security and does not deliver on the homeland security commitments made in the 9/11 Act. That is why I, like many of my colleagues in the House, felt compelled to submit amendments to the Committee on Rules for this bill. All told, there were 85 amendments offered, many of them from my colleagues on the Committee on Homeland Security.

The rule before us today will allow 24 amendments to be considered by the full House. That is simply wrong. The rule blocks a meaningful debate on important amendments like the one the gentlewoman from New York (Mrs. LOWEY) offered to close a major aviation security gap. It would have required airport workers to be physically screened before accessing planes in restricted areas of airports. The rule also denies consideration of an amendment offered by the gentlewoman from California, (Ms. LORETTA SANCHEZ), the ranking member of the Subcommittee on Economic Security and Infrastructure Protection. It would have closed a major port security gap by requiring validation inspectors for shippers.

This rule also prevents the gentlewoman from the District of Columbia (Ms. NORTON) from presenting her amendment to close gaps in the public transit and rail system. It also denies the House the opportunity to consider amendments offered by the gentleman from Massachusetts (Mr. MARKEY) to improve chemical plant security, develop policies for rerouting hazardous material, and grant DHS whistleblower protections.

Mr. Speaker, I could go on and on listing good amendments that were done so wrong by this rule. But instead, I will close by urging a no vote on this rule.

Mr. SESSIONS. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. MICA), the chairman of the Subcommittee on Aviation.

Mr. MICA. Mr. Speaker, I thank the gentleman for yielding me this time. I am pleased to speak before the House and also for the record on the rule.

Mr. Speaker, I intend to support the rule, but I think it is very important that at this juncture in proceeding with this important Homeland Security authorization that some things are said and also some items for the record are noted.

The gentleman from New York (Mr. ISRAEL), who I have had the pleasure to work with from the other side of the aisle, crafted legislation which was incorporated into the intelligence reform bills. One of the titles of that bill that the President signed, dealing with the threat and the direction of Congress towards trying to deal with the problem of MANPADS, and that is shoulder-launch missiles, and the threat that they posed.

One of the things that we did was to try to move that project forward. Sometimes in homeland security we spend a lot of money and we do not get a great deal of results. I view, as chairman of the House Subcommittee on Aviation, one of the greatest threats that we face other than a suicide bomber or several of them getting on planes, which they can easily do in our flawed system today, I view the second greatest threat as shoulder-launch missiles.

□ 1100

With the conflict in the world, particularly in the Middle East, thousands of these shoulder-launched missiles have gone on the market. So we worked to, one, curtail the number of shoulder-launched missiles; two, encourage international treaties, develop ground-based systems, and this bill does something towards that.

We started a program several years ago when we saw this threat and we tried to do our best to move forward development of a commercial shoulder-launched missile. This bill unfortunately limits the amount of money that can be spent on moving that program forward. The gentleman from New York (Mr. ISRAEL) had an amendment that was not included here that would relieve that restriction. Yesterday we were wise in appropriating what the administration requested for funding the program, but this authorization is lacking. I would have preferred to have his amendment in here.

My purpose for being here on May 18, 2005 is to remind us that they missed in Kenya an Israeli plane in November 2002 with many passengers. They missed in Iraq in 2003 a DHL plane that also could have been taken down by shoulder-launched missiles.

Ladies and gentlemen of the House, we have been very fortunate so far and we cannot be remiss in making available the best technology to protect the traveling public. Not that we have to hang one of these on every commercial aircraft, but we will be remiss if we do not carry this program that has already started forward. If we miss a lick here, it will be much to our regret. I regret that the gentleman from New York's amendment was not included in this.

I will support this. I look forward to working with the gentleman from California (Mr. COX) and others as they take on the responsibility of protecting not only the homeland but the flying public.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I thank my friend from New York for yielding me the time. I also thank the Committee on Rules for making in order an amendment by myself and the gentleman from Florida (Mr. MICA) that will help perfect the Federal flight deck officer program. Many, many pilots are willing to volunteer to undergo rigorous training to certify themselves as Federal flight deck officers to become the last line of defense on our planes. There cannot be an air marshal on every plane. We still do not have secondary barriers in the planes. There are times when the flight deck door is open. There are ongoing threats. It is essential to improve that program and I am hopeful Members will look favorably upon that amendment later today.

With that said, I wish that the rule was more inclusive. My colleague, the ranking Democrat on the Subcommittee on Aviation, wanted to offer an amendment to mandate that the taxes we are collecting from the traveling public to pay for enhanced security at the airports; that is, to put inline explosives detection systems at airports that do not have it across America to find explosives in checked bags, and possibly that same equipment could be used for cargo on those planes, was not allowed. It is unfortunate.

Most Americans are under the impression that all of their baggage is being screened. It is not being effectively screened. Some of it is being hand searched. Some of it is being trace searched. Some of it is being looked at. Some of it is being loaded on the plane. And some of it is going through very sophisticated in-line explosives detection systems, and we have the numbers. Where those systems exist, we can find threat objects, explosives a very, very high percentage of the time. Where those systems do not exist, there is a very disturbing lack of detection of test objects, threat objects, explosives.

We also have a huge and gaping hole at the passenger checkpoint. The last wakeup call we are probably ever going to get before the day when planes start falling out of the sky was in Russia where two terrorists, women, boarded planes with explosives, we do not know exactly whether they were in their carry-on bags or whether they were wearing suicide belts, but here in the United States of America we are doing nothing to find suicide belts or explosives in bags. We are still using 1980s technology at the checkpoints, technology that was thrown out of the United States Capitol more than a decade ago as inadequate to the threat, thrown out of the White House and other places. Yet aviation was attacked and aviation in Russia was attacked by what I think, as does the chairman of the committee, is the most likely future threat, which is explosives. We need to move ahead with more robust acquisition of that equipment in the near future and this bill does not mandate that.

I would congratulate the gentleman from California (Mr. COX) for the first ever authorization. It is a good first start. Remember, the Homeland Security Department started out of chaos. The President refused to create a homeland security Cabinet-level position or department until one day when an FBI agent was spilling her guts here in Washington, D.C., to a committee and Karl Rove wrote out the plan on the back of a napkin. Congress is just starting to make sense of what the Department of Homeland Security will be in the future.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

We have had a number of our colleagues make observations, just as the gentleman from Oregon did, about the importance of not only the debate that takes place here in the House but also about our desire to make homeland security even better, more robust, more dynamic, aiming at the threat. We heard the gentleman from California (Mr. DREIER) talk very eloquently about the need for border control, for us to make sure that those people who might be terrorists or may be criminals entering this country.

I am sure we will hear a debate about cargo, cargo ships, thousands of containers that come to this country every day, the commerce of this country that is affected. We know that we talked yesterday in the Committee on Rules about the Canadian border and how the Canadian border needs the attention that they not only deserve but also with the flow of goods and services with the economies that are affected and products and services that are denied when the backlogs occur. Each of these has been a part of the arguments, the debates, the discussions that the gentleman from California (Mr. COX) has taken into account, has made sure that he has taken them to the Homeland Security Department, has spoken with the administration.

It just makes me very proud today to see our Members who are able to cogently come up with not only good answers and better decision-making processes but an abiding faith in what we are doing here today. I am proud that this debate, some 5 hours of debate that will take place today about this very important subject where Members of Congress are able to come down and really identify their specific suggestions that they have. I think this process works. I think the Committee on Rules was wise in what it did. I think the gentleman from California knew when he put together this rule with our leadership what it would look like. It is working today.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Georgia (Mr. BARROW).

Mr. BARROW. Mr. Speaker, I have every intention of supporting today's homeland security authorization bill, but I think this bill could be dramatically improved, especially regarding the rail safety standards that apply to the shipment of extremely hazardous materials in local communities all across our Nation.

Three days after I took office this year, an early morning train carrying three rail cars filled with chlorine gas slammed into a parked rail car in the town of Graniteville, South Carolina. This produced a toxic cloud of chlorine and sodium hydroxide that forced 5,400 local residents to flee for their lives. In all, over 240 people were sickened by the gas and 10 people died because of the accident. The long-term effects of the leak are still unknown and the cleanup process continues to this day.

Mr. Speaker, what happened in Graniteville was not an isolated incident. Train accidents occur frequently in the United States. Rail cars carrying hazardous, flammable or explosive materials not only pose a major health risk to the communities they travel through, they are vulnerable security threats to our Nation's homeland security efforts. These are would-be terrorist targets begging for attention.

Since the Graniteville incident, I have met with a number of safety experts, and I guarantee that if any Members of this Congress were to sit down with these representatives they would be shocked to learn how many commonsense safeguards are out there that have not been implemented to address rail safety in this country. It is time to do more to improve rail security measures.

The current safeguards for the transportation of hazardous materials are nowhere near what they need to be. That is not just a health concern for our local communities, it is a security concern for our entire Nation.

The amendment that the gentleman from Massachusetts (Mr. MARKEY) and I offered yesterday helps close this gap in rail security measures. It provides hazardous material training for local first responders. It implements coordination and communication plans in the event of an accident or an attack, it develops new technology to make rail cars more resistant to punctures and, most importantly, it requires prenotification for local law enforcement whenever hazardous materials are being shipped through their communities.

These safety standards are long overdue and they deserve a vote on the House floor. Local leaders and the American people should not have to beg for sound safety measures and they should not have to wait for a debate on the issue.

Mr. SESSIONS. Mr. Speaker, we spoke earlier about how Members provided information back and forth not only to the gentleman from California (Mr. COX) and the Homeland Security Department but also about how we were able to have a Committee on Rules meeting yesterday with thoughtful ideas that were presented yesterday. Our next speaker was a part of those thoughtful ideas. He not only sat through hours of testimony, quizzing Members about their questions and comments, things that would make things better, but also a few ideas himself.

Mr. Speaker, I am very pleased to yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Texas for yielding me this time.

Mr. Speaker, one of the most important responsibilities of this Congress is to defend and protect our Nation from external and internal terrorist threats. Some of the vital features of H.R. 1817, the Homeland Security Authorization Act, include funding to train and prepare first responders, improvements in cyber security, improvements in container security and enhanced border security. The Homeland Security Authorization Act will authorize funding for 2,000 new Border Patrol agents and it requires the Secretary of the Department of Homeland Security to develop a plan to coordinate and address duplication problems between the Customs and Border Protection agency and the Immigration Customs Enforcement agency.

Most importantly, I am pleased the rule we passed last night allows the gentleman from Georgia (Mr. NORWOOD) to have his amendment made in order. The Norwood amendment, among other provisions, clarifies that State and local law enforcement agencies have the right and the authority to enforce our immigration laws. Illegal immigration has become a threat to the security of many of our communities, even those not along our borders. The problem of illegal immigration has grown in part because local and State authorities have been uncertain of the jurisdiction regarding the apprehension, detention and deportation of illegal aliens. Sheriffs departments throughout my congressional district have been burdened with unnecessary expenses in detaining and housing illegal alien criminals prior to ICE involvement. The gentleman from Georgia (Mr. NORWOOD) has introduced his amendment to clarify the boundaries of jurisdiction regarding the enforcement of Federal immigration laws and provides for a training manual to aid in this effort. I believe that when an officer or deputy swears an oath to enforce the law, they should enforce all the laws, both State and Federal.

Mr. Speaker, immigration enforcement is critical for securing our Nation from terrorists. A porous border that allows terrorists and the enemies of this Nation to pass through undetected is unacceptable.

Mr. Speaker, I encourage passage of this rule, passage of the Norwood amendment, and passage of the underlying bill to strengthen our borders and protect our homeland from another attack.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, under cover of darkness and hidden from public view, the Republican-controlled Committee on Rules cooked up an unwise, unfair and ill-considered rule that shuts out dozens of Democratic amendments designed to close dangerous homeland security loopholes that put the American public at risk. For example, one of the amendments would have been one made by the gentleman from Connecticut (Mr. SHAYS) and myself which would have ensured that all cargo which is placed upon passenger planes in the United States was screened, so when the people in this gallery and people around the country step on planes they have to take off their shoes, their bags go through, they are screened, their bags are put in the belly of the plane, they are screened, but the cargo, the cargo, which is placed on the very same plane, is not screened.

The people on the plane are accompanying their bags. The people who are sending cargo are not on the plane. Al Qaeda is like water. It looks for the least resistance. That on a plane is where the least resistance is, in the cargo bay. We should not put Americans on planes where the cargo has not been screened knowing that al Qaeda continues to place civilian aircraft at the top of their terrorist target list.

It is wrong for the Republicans not to have a debate about this incredible, glaring vulnerability in passenger aircraft as hundreds of millions of Americans put their families on planes, especially as we are nearing the fourth anniversary of 9/11.

□ 1115

Another amendment, one dealing with the hundreds of thousands of shipments of extremely hazardous materials which go through the cities and towns of the United States every single year. This is a photograph of one of those hazardous material shipments within a couple of blocks of the Capitol. The Republicans would not put in order an amendment that would ensure that a rule-making by the Federal Government would be put in place in order to make sure that we would increase the security for the shipment of these hazardous materials through the cities and towns of the United States of America.

The gentleman from Georgia (Mr. BARROW) and I made a request to the Committee on Rules, let us debate it out here on the House floor, let us debate if we want to put any additional security protections on something, which, for all intents and purposes, has no security around it as it goes through the cities and towns of the United States. What a target for al Qaeda this would be.

But the Republicans say no debate on that. No debate on putting cargo into the bay of passenger planes that people fly every single day across America after they have taken off their shoes.

Mr. Speaker, this is wrong. The Republican Party is putting a gag on debate on the most important issues that face the security of America and attacks by al Qaeda on our country. And this issue, especially the issue of cargo on planes, is an absolute reprehensible neglect of the responsibility that Congress has for the flying American public.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman has noted, there will be 5 hours of debate today. There will be a Democrat substitute that will be included, some 200-plus pages that will allow not only full debate under these 5 hours but an opportunity for Members to come down, just as the gentleman from Massachusetts has done, to provide each Member with information about how important this bill is. And I am really proud of the time that we have. The Committee on Rules did a great job.

Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me this time.

I know we all have strong feelings about a lot of things, and sometimes someone could say we may not be right but we are never in doubt.

I want to say I am not in doubt on this issue, and I think I am right. I think it is an outrage that we do not inspect the cargo that is in the belly of a passenger aircraft. And I think it is an outrage, frankly, that the gentleman from Massachusetts' (Mr. MARKEY) amendment was not made in order so we could at least debate this. If one disagrees with the issue, that is one thing. But not to even allow for a debate and have the American people begin to understand the evolution that has taken place is unfortunate.

First, we started to inspect the carry-on luggage, and Americans thought we must be checking baggage on the belly of an aircraft. I did, until the gentleman from Washington (Mr. INSLEE) came to me and said we are not, do I want to sponsor an amendment. And we worked on an amendment, and we put and got in the bill a few years ago that there had to be deadlines for eventually inspecting all baggage that went in the belly of an aircraft. We had a deadline and we finally did it. So then I was thinking, well, we have done our job.

And the gentleman from Massachusetts (Mr. MARKEY) informs me, and I did not know it, that 22 percent of what is in the belly of an aircraft is cargo uninspected. Uninspected, and yet we are not willing to have a debate about this.

I think it is amazing, and I think it is wrong; and I think if the public knew it, they would be outraged. If the argument is that we do not have the technology, which we do, or we do not have enough of the technology, which is right, we allowed under the gentleman from Massachusetts' (Mr. MARKEY) amendment for a 3-year phase-in: 35 percent the first year, 65 in the second, and then 100 percent in the third year. But if one still did not want to vote for that bill, we asked for another amendment to be made in order. The amendment was quite simple. It simply said to tell the passenger that the cargo on this plane has not been inspected. Even that amendment was not made in order.

Vote against it if one does not like it. But to not even allow a debate on the floor of the House about this issue?

I had a constituent who was on Pan Am 103. I got the call at 11 in the morning that said she thinks her daughter was on this aircraft but 30 kids were not, 30 people were not; and she hoped and prayed her daughter was one who could not get on it. I was at her home that evening about 11:30 that night when she got the call that said her daughter was on that plane. Admittedly, that was baggage. But if we now inspect the carry-on baggage and we inspect the baggage that is given at the ticket counter, what are terrorists going to do? They are just going to link it up with cargo and blow up a plane, a passenger plane, because the cargo has not been inspected.

I really believe we need this amendment. I salute both sides of the aisle for this bill. I salute the Committee on Rules for allowing for 25 amendments. But this is an amendment that should have been allowed.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Mr. Speaker, I rise in opposition to this restrictive rule which does not make in order several key amendments that could go a long way to enhancing our security efforts and addressing serious vulnerabilities. Case in point: the cargo security amendment offered by the gentleman from Massachusetts (Mr. MARKEY) and just spoken of by the gentleman from Connecticut (Mr. SHAYS).

That being said, today we will consider H.R. 1817, the first ever authorization measure for the Department of Homeland Security. I want to congratulate the gentleman from California (Mr. COX) and the gentleman from Mississippi (Mr. THOMPSON), ranking member, for bringing this important bill on the floor. I am proud to serve with them on the Committee on Homeland Security.

While it is not as far reaching as many of us had hoped, H.R. 1817 takes several critical steps in improving our Nation's security and preparedness. It authorizes sufficient funding to hire an additional 2,000 border patrol agents, which will help us meet the goal of 10,000 new agents over 5 years set forth in last year's intelligence reform bill. The measure also streamlines the background check system for those working in sensitive positions, creates an Assistant Secretary for Cybersecurity, and requires reform of the homeland security alert system so that more specific and targeted information can be provided to those who need it.

Finally, this bill will improve our intelligence and information capabilities by allowing new recruiting tools to attract the best-qualified analysts and mandating increased coordination in the dissemination of threat information to State, local, and private sector officials.

But this bill could have gone further. While I understand the jurisdictional constraints facing the gentleman from California (Chairman COX), I firmly believe that a DHS authorization bill should include critical components like port security, nuclear and chemical facility security, bioterrorism preparedness, communications interoperability, and rail and transit security. That is why I will be supporting a substitute amendment offered later today by the gentleman from Mississippi (Mr. THOMPSON), ranking member. This comprehensive amendment takes the right approach to homeland security needs that still face our country.

In closing, Mr. Speaker, let me again thank the gentleman from California (Chairman COX) and the gentleman from Mississippi (Mr. THOMPSON), ranking member, for their hard work on this legislation. It is not a perfect bill, but it is indeed an important and significant first step.

Mr. SESSIONS. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I very much thank the gentlewoman from New York for yielding me this time.

I must say I am grateful for small favors. This is, after all, the first authorization bill, almost 4 years after 9/11. But for that, the credit is due to the gentleman from California (Chairman COX) and the gentleman from Mississippi (Mr. THOMPSON), ranking member, for working collaboratively and, in doing so, establishing the jurisdiction of our committee and their jurisdiction over the Department. These are not small matters.

I am grateful as well that an amendment of mine on rail safety is in the bill. It is so basic that it does tell us a lot about my disappointment that this bill simply does not address rail safety even though that is where the people are. I do have report language in the bill, and the gentleman from California (Chairman COX) worked hard to make sure that he got as much in the bill as he could. However, he was under powerful constraints. We were noticed that no amendment that, in fact, called for authorization of a single dollar extra would be allowed in the bill. We have just heard about the problem four blocks from the Capitol with hazardous substances going by and the embarrassment that I think the Congress should feel that there has been no administrative action to do anything about it, and so there was a lawsuit actually won at the first level because of the danger posed when Congress does not act and local jurisdictions stepped forward.

We do have to get to work, and if Members do not believe me, remember last Wednesday in the rush from the Capitol. It was not a comedy of errors. Indeed, it was not very funny because these were not mistakes. What we had were huge questions opened up. Not everything was done that should have been done, but we do know what should have been done in the first place. Do we know why the plane came so close, why the President was not informed, why the District of Columbia was not informed even though there was a sergeant sitting right there in the Department of Homeland Security? Above all, why were we not in the basement of the Capitol rather than out on the streets when there was such a small plane involved and we were probably in greater danger on evacuation.

Lots of work. Let us begin to do it today.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, I thank my distinguished friend from New York for yielding me this time.

Mr. Speaker, I rise against this rule. I am very disappointed that my bipartisan amendment to restore funding for shoulder-fired missile protections was not permitted by this rule. The President of the United States requested $110 million for shoulder-fired missile research and development. The bill that we are going to vote on later today reduces it to $10 million.

Over the past several years, the gentleman from Florida (Mr. MICA), Republican chairman of the Aviation Subcommittee, and I have been working on this issue. But it is not just the gentleman from Florida (Mr. MICA) and I. It is the State Department which released a report saying that shoulder-fired missiles are the leading cause of loss of life in commercial aviation around the world.

They were used in December of 2003 against an Israeli jetliner in Kenya. They were used a year later against a DHL carrier. We now know that the Internet is teaching terrorists how to buy shoulder-fired missiles, set them up, and fire them. There are hundreds of thousands of these systems available around the world in the hands of 27 separate terrorist groups including al Qaeda. Everyone who has studied this issue, the President, the Department of Homeland Security, the State Department, the FBI, the CIA, the Aviation Subcommittee, the Committee on Appropriations, agrees that this threat needs to be addressed. And what does this bill do? Ignores the threat.

If a single shoulder-fired missile is fired at an American aircraft, Mr. Speaker, we are not going to be worried about $115 million in this bill. We are going to be worried about the end of the aviation industry as we know it and devastating consequences to our economy and the American people will look at what we did on this floor today and ask why we turned our backs on the President's request, the State Department's urgency, the Committee on Appropriations, the Aviation Subcommittee, Republicans and Democrats, and, most importantly, the flying public.

Mr. Speaker, I oppose this rule. This was a commonsense bipartisan amendment. I will vote for the bill, but I am hopeful that we can work together on the basis of common sense and proceed to protect the American flying public.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes and 15 seconds to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentlewoman for yielding me this time this morning.

Mr. Speaker, each Member of this House knows that when we go on vacation, one of the first things that we want to do is get a map so that we know where we are going and know the stops we are going to make and have a general idea of what is facing us on this vacation.

Mr. Speaker, several members of the Law Enforcement Caucus were discussing the issues of border security because we know we have been talking a lot about securing our borders.

□ 1130

Well, yesterday, my colleagues, the gentleman from Michigan (Mr. STUPAK), the gentleman from Texas (Mr. ORTIZ), and myself offered an amendment at the Committee on Rules that would have required the Department of Homeland Security to develop and begin to carry out a comprehensive, long-term border strategy to secure this Nation's borders. The amendment would have expanded what is already in place, called the "American Shield Initiative," to ensure that every inch of the borders is monitored at all times, either through technology or resources. Unfortunately, the Committee on Rules voted against making this amendment in order on a straight party-line vote.

So when we talk about common sense, I stand here this morning wondering what in the world are we thinking when we do not want to have an amendment like this that gives us a long-term strategy for knowing what this Congress needs to do to reinforce and secure this Nation's border.

We all know that since 9/11, we have acknowledged that we need to increase the number of Border Patrol agents and immigration inspectors and, but Congress literally has been picking figures seemingly out of thin air as we go through wanting to secure the border. Instead, we should require a staffing assessment so we go through to determine what personnel resources we need to get the job done right. Our amendment would have required such an assessment for personnel, for technology, and for infrastructure needs.

Balancing this Nation's border security has to go hand-in-hand with having a strategy. We do not have that kind of strategy. This amendment would have given us this strategy. Regrettably, it was not made in order.

Mr. Speaker, I often wonder if common sense and Congress have anything in common.

Ms. SLAUGHTER. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, I will be asking Members to oppose the previous question and, if it is defeated, I will amend the rules so that we can consider the amendment offered by the gentleman from Georgia (Mr. BARROW) and the gentleman from Massachusetts (Mr. MARKEY) rejected by the Committee on Rules last night.

Mr. Speaker, the Barrow-Markey amendment would direct the Department of Homeland Security to promulgate regulations upgrading the security associated with transporting extremely hazardous materials such as chlorine, which is toxic by inhalation, and those materials that are flammable or explosive.

Mr. Speaker, extremely hazardous materials are transported through virtually every community in the Nation. Several serious incidents have taken place that have clearly demonstrated the threat that exists whenever they are involved. I am disappointed that the Republican leadership failed to include this important amendment, an issue that needs to be addressed sooner rather than later. But, unfortunately, under the rule, unless we defeat the previous question, we will not be able to.

As always, I want to emphasize that a no vote on the previous question will not prevent us from considering the Homeland Security bill, but will allow Members to vote on the Barrow-Markey amendment. However, a yes vote will prevent us from doing so.

At this point, Mr. Speaker, I ask unanimous consent to insert the text of the amendment immediately prior to the vote, and request a no vote on the previous question.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we have had a great debate. A few people showed up and expressed some concern about what they had, and I would like to address that so that the Members are aware. The gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Georgia (Mr. BARROW) did come before the Committee on Rules. The Committee on Rules did not put it in the bill, but it is not in the Democrat substitute either, so the Democrat leadership chose not to include that in their substitute.

We also had some discussion about air cargo. For those Members who are interested, air cargo will be in the substitute; it will be in section 519. Republicans addressed the issue. We have doubled the number of air cargo inspectors that would be at the airports to make sure that we are looking at the cargo.

Today has been a good debate, an opportunity for Members to come forth and speak about the important things about this bill. The gentleman from California (Mr. COX) has our admiration. He has done a great job. The Committee on Rules I believe did a fair job. I would also at this time like to thank the White House and the liaisons that the White House provided to us, Brian Conklin for his great leadership, Chris Frech for his hard work with us, and certainly their superstar at the White House, Elan Elinjg, who took time to make sure that Members were updated, not only about the position of the administration, but about how they could work closely with Members of Congress.

So I think today has been another successful opportunity for us to begin the 5 hours of debate that will take place today where every Member will have an opportunity to come down and express themselves and where we will have a Democrat substitute that will be over 200 pages where they are able to express the things which they believe are best. Members of Congress will be able to vote and a decision can be made today. Mr. Speaker, I am proud of this process.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to the structured rule only insofar as it restricts both the number of amendments made in order and the time allowed for debate of such a grave piece of legislation. The restrictive nature of H. Res. 283 will deprive the American people of debate over the aspects of the proposed legislation that affects them the most.

H.R. 1817 is the first authorization measure since the passage of the Homeland Security Act of 2003. Ruling only a quarter of the 80 amendments offered at the Committee on Rules meeting does not measure well with the action that the appropriators have taken to hold the Department of Homeland Security (DHS) accountable for its unfulfilled reporting requirements. The appropriators withheld over $700 million from DHS due to these requirements; therefore, our passage of the most comprehensive and representative measure possible would equate to having conducted "due diligence" on our part.

Just yesterday, we in the House passed the Appropriations Act for FY 2006, H.R. 2360, by a margin of 424–1. An open rule for debate on the authorization measure would have continued the spirit of true bi-partisanship. I joined my committee colleagues in considering this bill from its incipiency as it passed in both the Committees on Homeland Security on April 28, 2005 and Judiciary on May 12, 2005 unanimously by voice vote. Today, the Committee of the Whole will make history by passing its first Homeland Security Authorization measure, and I support an expedient but prudent completion of this endeavor.

During the 13-hour Homeland Security Committee markup session that ended at 11:15 p.m., I was able to secure sincere commitments from the Majority Leadership to work with me for inclusion of some of my major initiatives: funding and more clearly defining the Citizen Corps and the Citizen Corps Councils—which will include consideration of a stand-alone bill that I will introduce shortly; and increasing capacity for Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Institutions in Homeland Security procurement and in employment with the Department of Homeland Security. In addition, I was fortunate to have had my amendment, co-sponsored by the Gentlelady from California, Ms. LOFGREN, that seeks to authorize the funding of programs for the education of minorities in the areas of cyberscience, research, and development to close the gap in achievement in those areas and to make America better equipped to fight terrorism overall. Furthermore, I achieved an agreement from the Majority Committee Leadership to collaborate on addressing the issue of border violence, an initiative that the distinguished Chairman of the Appropriations Subcommittee on Homeland Security showed his commitment to addressing, as evidenced by his support for an amendment that I offered yesterday during the House's consideration of the appropriations measure, H.R. 2360. Not only do I hope to see this language survive the deliberations of the Conferees, but I hope to see follow-through by the Homeland Security Committee with the bi-partisan letter and with consideration of the amendment that I plan to offer during our consideration of H.R. 1817.

Mr. Speaker, what the House has done this week and will do today will establish the breadth and efficacy of the entire Department of Homeland Security. I hope that my colleagues will keep that in mind as we work to debate the amendments that have been made in order.

Mrs. MALONEY. Mr. Speaker, I rise to ask my colleagues to defeat the previous question so we can change this restrictive rule.

Yesterday I appeared before the Rules Committee to offer three amendments. All were blocked by the Rules Committee from even the opportunity to be debated on the floor. The Rules Committee also blocked an amendment by Congressmen MARKEY and SHAYS that would have required 100 percent check of cargo on commercial airlines. This restrictive rule also blocked 60 other amendments, forty-seven of which were Democratic amendments.

It is amazing to me that the majority would deny us even the opportunity to debate what we feel is important to the American people. What the rules committee did last night was deny us the opportunity to address the health needs of the heroes of 9/11.

One of my amendments was modeled after the Remember 9/11 Health Act. This is a bill that would provide medical monitoring and treatment for individuals who are sick or injured as a direct result of the attacks of 9/11.

Right now we have a 6,000-person waiting list just to be a part of this medical screening. For the 12,000 who have been screened, about 50 percent of them are still sick as a direct result of 9/11. Despite clear evidence that we have thousands sick, we have yet to provide a single dollar for treatment. This is unethical.

These are men and women who were there for us on 9/11 and now we have turned a cold shoulder to them in their time of need. We have precedent for caring for volunteers who get sick. When a volunteer firefighter becomes sick or injured while fighting a forest fire, he or she immediately receives all the Federal health monitoring and treatment he or she needs. If we can do it for volunteers for one disaster, we need to do it for volunteers from 9/11.

Unfortunately the Rules Committee did not see it this way, because they would not even give us the opportunity to debate this on the floor today.

The next amendment I wanted to offer was written by a Republican, Senator VOINOVICH of Ohio, and passed the Senate by unanimous consent. It is modeled after the Disaster Area Health and Environmental Monitoring Act, H.R. 5329 in the 108th Congress.

The amendment realizes that there are times when the health of first responders is at risk, such as during the response to 9/11, and with a Presidential declaration, would establish environmental and health monitoring. This amendment would send a message to future responders that if you risk your life in responding to a disaster, we will be there for you if you get sick. This amendment would not have cost us anything. It would just be good planning.

The final amendment I wanted to offer would give teeth to the Civil Liberty Board established by the Intelligence Reform Act. This amendment is modeled after H.R. 1310, the Protection of Civil Liberties Act. This Amendment would create the board as an independent entity and provide it with subpoena power, among other things.

The only way we will have a robust protection of our civil liberties is to have a robust civil liberties board. All we have right now is a weak board that does not even have a single member appointed.

By not allowing these and many other amendments, we are restricting the ability of this House to do the business of the American people. We have thousands who are sick from 9/11 who need our help, but this Rule will not let their needs be heard.

Mr. MORAN of Virginia. Mr. Speaker, I congratulate the Chairman of the Homeland Security Committee for his success last week on legislation to improve the first responder grant program and again today for bringing bipartisan consensus legislation to the House floor.

He has crafted a good bill that deserves our support. As good as the bill is, however, I must rise in opposition to the rule. I am troubled that my colleagues Mr. BARROW and Mr. MARKEY and Mr. OBERSTAR were blocked from offering their amendments concerning rail safety to this important legislation.

If there is one lesson we should learn from the events of 9/11, it is that our enemies are fighting an unconventional war against us.

With a few zealots and even fewer resources, terrorists can manipulate our own resources and use them against us. On 9/11 aviation fuel and four commercial aircraft were turned into missiles carrying incendiary explosives.

Hardening the cockpit door, establishing new protocols to screen passengers, and a number of other measures are a prudent response to deny terrorists the use of commercial aircraft as a weapon.

I am afraid, however, that we are not being as proactive as we could or should be at preventing other commercial resources from being used as weapons that could be turned against us.

Representatives BARROW, MARKEY, and OBERSTAR have crafted thoughtful responses to a threat that has not been fully addressed: Rail security and the transportation of hazardous cargo on our rail system. It would be a national tragedy if we had to wait until another attack similar to Madrid to occur in the United States in order to commit the resources necessary to properly secure our rail and transit systems.

The measures needed to address transit security differ from aviation, but this should not be used as a justification for not providing an infusion of additional funds to address already identified high priority needs. The focus with aviation is strictly on deterrence: stopping an event from happening.

For transit and rail, deterrence is only one part of the strategy, additional resources are also needed to mitigate the impact of a potential terrorist attack and hasten the recovery after an attack. Allocating additional resources towards improving response and recovery times can save lives and lessen the economic consequences of an attack.

With the Madrid bombing, the bombs went off on multiple trains over a 10-15 minute period. Enhanced detection capabilities, communications equipment and redundancy in critical operating control functions could allow for a quicker shutdown and evacuation of a passenger rail transit system exposed to multiple attacks thereby significantly reducing the causality rate.

Transit and rail systems cannot afford to be shut down for months or even weeks following a biological attack. The economic consequences to a major metropolitan region would be devastating, not to mention the impact on the Federal Government if an attack occurred in Washington, DC. Yet, no funds have been allocated to perform a comprehensive decontamination demonstration project in a transit or rail environment.

Mr. Chairman, a 30-ton chlorine tank rail car, if ruptured, could kill thousands of people unfortunate enough to be within a few miles downwind of the attack. The railroad industry has a good safety record, but that ignores the fact that those safeguards do not assume someone is purposely trying to rupture these rail cars.

Local emergency responders in urban areas with potential targets of key infrastructure and national icons understand this threat, but are limited on what they can do to prevent an attack. Should they patrol hundreds of miles of track and rail yards or take some measures under some circumstances to reroute hazardous traffic around what we know are high probability targets?

Today, there still is no clear understanding of what hazardous material security plans have been developed. If they exist, they are not being shared or discussed with the very people, local officials and emergency response planners, who have the best information on the local geography, vulnerabilities and potential set of targets. Today, local officials are being told by the railroads and the Department of Homeland Security to "trust us." I get nervous when someone I don't know tells me to "trust" them.

The laws on the books today did not envision hazardous cargo as a weapon of mass destruction, and under current law interstate commerce trumps local ordinances to suspend or redirect hazardous cargo.

This presumption is now being tested in the courts. Congress should not defer to the courts on this important and weighty issue. I think we can craft a responsible resolution, but denying an important floor debate on this issue is wrong.

I urge my colleagues to defeat this rule.

Mr. COSTELLO. Mr. Chairman, I rise today in opposition to the rule on H.R. 1817, the Homeland Security Authorization Act for FY2006. Republicans on the Rules Committee blocked the consideration of several amendments offered by me and my colleagues to this bill. This body should have the right to discuss and to consider each amendment.

One of the amendments blocked was the amendment I offered which would put passenger security fees into two funds that will guarantee that TSA will spend the authorized amounts of $650 million a year and $250 million for the installation of inline baggage screening systems and passenger checkpoint explosive detection, respectively.

We are currently collecting over $1.5 billion a year from the passenger security fee for aviation security services. Given that these security investments are financed by the existing passenger security fee, the Congressional Budget Office has determined that the increased investment does not increase the size of the deficit.

In April, the Department of Homeland Security Inspector General (DHSIG) and the Government Accountability Office (GAO) both released reports that indicate that our airport screening system still needs improvement. While the traveling public is more secure today than before September 11th, 2001, airport screeners are not detecting prohibited items at the level we need. Without a significant investment and commitment by Congress and this Administration to upgrade our technology, our screening system will continue to fail. We must and can do better.

Last year, the 9/11 Commission specifically recommended that the TSA and the Congress improve the ability of screenings checkpoints to detect explosives on passengers. The Intelligence Reform and Terrorism Prevention Act (P.L. 108–458) authorized $250 million for the research and deployment of advanced passenger screening technologies, such as trace portals and backscatter x-ray systems.

To date, only about $30 million has been appropriated specifically for the passenger screener technologies. The recent DHS IG report clearly stated that the "lack of improvements since our last audit indicates that significant improvement in performance may not be possible without greater use of technology." Further, the TSA concurred with the 9/11 Commission recommendation that we must "expedite the installation of advanced (in-line) baggage screening equipment."

In addition, in-line baggage screening systems have a much higher throughput than stand-alone systems. If we install in-line systems, more bags will be screened by explosive detection systems instead of less reliable, alternative methods.

The TSA and airport operators rely on commitments in letters of intent (LOIs) as their principal method for funding the modification of airport facilities to incorporate in-line baggage screening systems. The TSA has issued eight LOIs to cover the costs of installing systems at 9 airports for a total cost to the Federal Government of $957.1 million over 4 years. The GAO reports that TSA has estimated that in-line baggage screening systems at the 9 airports that received LOI funding could save the Federal Government $1.3 billion over 7 years.

TSA further estimated that it could recover its initial investment in the in-line systems at these airports in a little over one year. In total, the GAO reports that 86 of 130 airports surveyed are planning or are considering installing in-line baggage screening systems throughout or at a portion of their airports.

Yet, the TSA has stated that it currently does not have sufficient resources in its budget to fund any additional LOIs. While $650 million is authorized for the installation of in-line baggage screening systems, annual appropriations have not allowed for any new LOIs to be signed.

We know what needs to be done to improve screener performance, and we must take action now. We must demonstrate leadership and deploy technologies that will keep the American public secure. Mr. Chairman, I ask my colleagues to vote no on the rule so we can work to deploy technologies that will help our screeners do their jobs and keep the American traveling public safe.

The amendment previously referred to by Ms. SLAUGHTER is as follows:

PREVIOUS QUESTION STATEMENT ON H. RES. 283—RULE FOR H.R. 1817, DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT OF FISCAL YEAR 2006

At the end of the resolution, add the following new sections:

SEC. 2. Notwithstanding any other provision of this resolution the amendment specified in section 3 shall be in order as though printed after the amendment numbered 1 in the report of the Committee on Rules if offered by Representative Barrow of Georgia or Representative Markey of Massachusetts or a designee. That amendment shall be debatable for 30 minutes equally divided and controlled by the proponent and an opponent.

SEC. 3. The amendment referred to in section 2 is as follows:

AMENDMENT TO H.R. 1817 OFFERED BY MR. BARROW OF GEORGIA AND MR. MARKEY OF MASSACHUSETTS

At the end of title V of the bill, insert the following (and conform the table of contents of the bill accordingly):

SEC. 509. EXTREMELY HAZARDOUS MATERIALS TRANSPORTATION SECURITY.

(a) RULEMAKING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the heads of other appropriate Federal, State, and local government entities, security experts, representatives of the hazardous materials shipping industry and labor unions representing persons who work in the hazardous materials shipping industry, and other interested persons, shall issue, after notice and opportunity for public comment, regulations concerning the shipping of extremely hazardous materials.

(2) PURPOSES OF REGULATIONS.—The regulations shall be consistent, to the extent the Secretary determines appropriate, with and not duplicative of other Federal regulations and international agreements relating to the shipping of extremely hazardous materials and shall require—

(A) physical security measures for such shipments, such as the use of passive secondary containment of tanker valves and other technologies to ensure the physical integrity of pressurized tank cars used to transport extremely hazardous materials, additional security force personnel, and surveillance technologies and barriers;

(B) concerned Federal, State, and local law enforcement authorities (including, if applicable, transit, railroad, or port authority police agencies) to be informed before an extremely hazardous material is transported within, through, or near an area of concern;

(C) the creation of terrorism response plans for shipments of extremely hazardous materials;

(D) the use of currently available technologies and systems to ensure effective and immediate communication between transporters of extremely hazardous materials and all entities charged with responding to acts of terrorism involving shipments of extremely hazardous materials;

(E) comprehensive and appropriate training in the area of extremely hazardous materials transportation security for all individuals who transport, load, unload, or are otherwise involved in the shipping of extremely hazardous materials or who would respond to an accident or incident involving a shipment of extremely hazardous material or would have to repair transportation equipment and facilities in the event of such an accident or incident; and

(F) for the transportation of extremely hazardous materials through or near an area of concern, the Secretary to determine whether or not the transportation could be made by one or more alternate routes at lower security risk and, if the Secretary determines the transportation could be made by an alternate route, the use of such alternate route, except when the origination or destination of the shipment is located within the area of concern.

(3) JUDICIAL RELIEF.—A person (other than an individual) who transports, loads, unloads, or is otherwise involved in the shipping of hazardous materials and violates or fails to comply with a regulation issued by the Secretary under this subsection may be subject, in a civil action brought in United States district court, for each shipment with respect to which the violation occurs—

(A) to an order for injunctive relief; or

(B) to a civil penalty of not more than $100,000.

(4) ADMINISTRATIVE PENALTIES.—

(A) PENALTY ORDERS.—The Secretary may issue an order imposing an administrative penalty of not more than $1,000,000 for failure by a person (other than an individual) who transports, loads, unloads, or is otherwise involved in the shipping of hazardous materials to comply with a regulation issued by the Secretary under this subsection.

(B) NOTICE AND HEARING.—Before issuing an order described in subparagraph (A), the Secretary shall provide to the person against whom the penalty is to be assessed—

(i) written notice of the proposed order; and

(ii) the opportunity to request, not later than 30 days after the date on which the person receives the notice, a hearing on the proposed order.

(C) PROCEDURES.—The Secretary may issue regulations establishing procedures for administrative hearings and appropriate review of penalties issued under this paragraph, including necessary deadlines.

(b) WHISTLEBLOWER PROTECTION.—

(1) IN GENERAL.—No person involved in the shipping of extremely hazardous materials may be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of any lawful act done by the person—

(A) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the person reasonably believes constitutes a violation of any law, rule or regulation related to the security of shipments of extremely hazardous materials, or any other threat to the security of shipments of extremely hazardous materials, when the information or assistance is provided to or the investigation is conducted by—

(i) a Federal regulatory or law enforcement agency;

(ii) any Member of Congress or any committee of Congress; or

(iii) a person with supervisory authority over the person (or such other person who has the authority to investigate, discover, or terminate misconduct);

(B) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding or action filed or about to be filed relating to a violation of any law, rule or regulation related to the security of shipments of extremely hazardous materials or any other threat to the security of shipments of extremely hazardous materials; or

(C) to refuse to violate or assist in the violation of any law, rule, or regulation related to the security of shipments of extremely hazardous materials.

(2) ENFORCEMENT ACTION.—

(A) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of paragraph (1) may seek relief under paragraph (3) by—

(i) filing a complaint with the Secretary of Labor; or

(ii) if the Secretary of Labor has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(B) PROCEDURE.—

(i) IN GENERAL.—An action under subparagraph (A)(i) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

(ii) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the person's employer.

(iii) BURDENS OF PROOF.—An action brought under subparagraph (A)(ii) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

(iv) STATUTE OF LIMITATIONS.—An action under subparagraph (A) shall be commenced not later than 90 days after the date on which the violation occurs.

(3) REMEDIES.—

(A) IN GENERAL.—A person prevailing in any action under paragraph (2)(A) shall be entitled to all relief necessary to make the person whole.

(B) COMPENSATORY DAMAGES.—Relief for any action under subparagraph (A) shall include—

(i) reinstatement with the same seniority status that the person would have had, but for the discrimination;

(ii) the amount of any back pay, with interest; and

(iii) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

(4) RIGHTS RETAINED BY PERSON.—Nothing in this subsection shall be deemed to diminish the rights, privileges, or remedies of any person under any Federal or State law, or under any collective bargaining agreement.

(c) REPORT ON EXTREMELY HAZARDOUS MATERIALS TRANSPORTATION SECURITY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the heads of other appropriate Federal agencies, shall transmit to Congress a report on the security of, and risk of a terrorist attack on, shipments of extremely hazardous materials.

(2) CONTENT.—The report under paragraph (1) shall include—

(A) information specifying—

(i) the Federal and State agencies that are responsible for the regulation of the transportation of extremely hazardous materials; and

(ii) the particular authorities and responsibilities of the heads of each such agency; and

(B) an assessment of the vulnerability of the infrastructure associated with the transportation of extremely hazardous materials.

(3) FORM.—The report under paragraph (1) shall be in unclassified form but may contain a classified annex.

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) EXTREMELY HAZARDOUS MATERIAL.—The term "extremely hazardous material" means—

(A) a material that is toxic by inhalation;

(B) a material that is extremely flammable;

(C) a material that is highly explosive; and

(D) any other material designated by the Secretary to be extremely hazardous.

(2) AREA OF CONCERN.—The term "area of concern" means an area that the Secretary determines could pose a particular interest to terrorists.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 226, nays 199, not voting 8, as follows:

[Roll No. 181]

YEAS—226

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen

Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—199

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—8

Fitzpatrick (PA)
Foley
Hyde
Larson (CT)
Lewis (GA)
Markey
Millender-McDonald
Tancredo

☐ 1156

Messrs. MCNULTY, BOUCHER, CHANDLER, FATTAH, and Ms. DEGETTE changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. THORNBERRY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HASTINGS of Washington. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 284, noes 124, not voting 25, as follows:

[Roll No. 182]

AYES—284

Abercrombie
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardin
Carnahan
Carter
Castle
Chabot
Chandler
Chocola
Coble
Cole (OK)
Conaway
Costa
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cunningham
Davis (FL)
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Doyle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Evans
Everett
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley
Hostettler
Hulshof
Hunter
Inglis (SC)
Issa
Istook
Jackson (IL)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Kolbe
Kuhl (NY)
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marshall
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McMorris
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Saxton
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Sodrel
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOES—124

Ackerman
Andrews
Baird
Baldwin
Barrow
Bean
Berkley
Bishop (GA)
Boswell
Brown, Corrine
Butterfield
Capps
Carson
Clay
Cleaver
Clyburn
Conyers
Cooper
Costello
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Edwards
Emanuel
Engel
Etheridge
Farr
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Herseth
Higgins
Honda
Hoyer
Inslee
Israel
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kucinich
Langevin
Lantos
Lee
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)

Menendez
Miller (NC)
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rangel
Rothman
Roybal-Allard
Rush
Sabo
Salazar
Sanchez, Loretta
Schakowsky
Schiff
Sherman
Slaughter
Smith (WA)
Snyder
Solis
Taylor (MS)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wynn

NOT VOTING—25

Becerra
Berman
Boucher
Buyer
Cardoza
Case
Eshoo
Foley
Hyde
Jefferson
Knollenberg
Larson (CT)
Lewis (GA)
Marchant
McCollum (MN)
McKeon
Millender-McDonald
Miller, George
Myrick
Napolitano
Pascrell
Sanders
Stark
Tancredo
Turner

☐ 1228

Mrs. MALONEY and Mr. CUMMINGS changed their vote from "aye" to "no."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. PASCRELL. Mr. Speaker, on rollcall No. 182, had I been present, I would have voted "no."

APPOINTMENT OF MEMBERS TO HOUSE DEMOCRACY ASSISTANCE COMMISSION

The SPEAKER pro tempore (Mr. THORNBERRY). Pursuant to section 4(a) of the Democracy Assistance Commission Resolution (House Resolution 135, 109th Congress), and the order of the House of January 4, 2005, the Chair announces the Speaker's appointment of the following Members of the House to the House Democracy Assistance Commission:

Mr. DREIER, California, Chairman;
Mr. KOLBE, Arizona;
Mr. GILLMOR, Ohio;
Mr. KIRK, Illinois;
Mr. BOOZMAN, Arkansas;
Mr. WILSON, South Carolina;
Mr. COLE, Oklahoma;
Mrs. MILLER, Michigan;
Mr. FORTENBERRY, Nebraska.

COMMUNICATION FROM THE HONORABLE NANCY PELOSI, DEMOCRATIC LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable NANCY PELOSI, Democratic Leader:

HOUSE OF REPRESENTATIVES
Washington, DC, May 17, 2005.

Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to section 4(a) of the House Democracy Assistance Commission Resolution (House Resolution 135, 109th Congress), I hereby appoint the following members to serve on the House Democracy Assistance Commission.

Mr. David Price, NC (Ranking Member).
Mr. Silvestre Reyes, TX.
Ms. Lois Capps, CA.
Mr. Rush Holt, NJ.
Mr. Adam Schiff, CA.
Mr. Artur Davis, AL.
Ms. Allyson Schwartz, PA.

Best regards,

NANCY PELOSI,
Democratic Leader.

GENERAL LEAVE

Mr. COX. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1817.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2006

The SPEAKER pro tempore (Mr. THORNBERRY). Pursuant to House Resolution 283 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1817.

☐ 1231

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1817) to authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California (Mr. COX) and the gentleman from Mississippi (Mr. THOMPSON) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. COX).

Mr. COX. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, we begin today a historic debate on the floor of this House that commences the annual authorization process for the Department of Homeland Security. This annual process is designed to recognize that the function of the Department of Homeland Security is the essence of our government's national security mission, protecting the American people and our territory.

This is the same national security mission ultimately that is performed in different ways by the Pentagon and by the intelligence community. Both the Pentagon and the intelligence community for this same reason undergo an annual authorization process in the Congress. That is a collaboration between the executive and the legislative branches that is necessary to ensure that we fulfill this most vital function.

We must remember that the Department of Homeland Security in the executive branch and the Committees on Homeland Security in this House and in the other body were formed because the congressional leadership and the President recognized that neither branch of government as then constituted was properly organized to deal with the 21st century threat of terrorism directed against Americans on our own territory. On an ongoing basis, the Congress and the executive need to focus together on this vital process and the annual authorization is the means for doing so.

The Department of Homeland Security authorization bill that is before the House today reflects an impressive bipartisan effort. That is due, in large part, to the strong and able leadership of the gentleman from Mississippi (Mr. THOMPSON). The Members on both sides of the aisle have never forgotten for a single day since September 11, 2001, that the security of the American people must be placed above politics.

So as we meet today to consider the Department of Homeland Security authorization bill for fiscal year 2006, we find that we have forged agreement on many important challenges facing our country and the Department, and on ways to begin to address them. In establishing the procedures for bringing this annual authorization bill to the floor, we have been guided by the longstanding practices of the Committee on Armed Services and the Permanent Select Committee on Intelligence. Those committees have always brought to the floor bills that live within the spending boundaries established in the House-passed budget. H.R. 1817, the Department of Homeland Security authorization bill also does exactly that.

To have credibility, a national security authorization bill must set the executive's priorities within the framework of its actual budgetary resources. It does little good for us to pretend that the Department of Homeland Security has infinite budget resources, and then give it mandates that it cannot carry out. So this bill funds priorities within the overall DHS budget, not on top of it.

Within that constraint, we have been able to accomplish a great deal more for the security of the American people and for this country. We fully fund the 2,000 new Border Patrol agents called for in the Intelligence Reform Act passed last year, and we increase the Department of Homeland Security's funding by nearly one-quarter of a billion dollars for this purpose.

The bill authorizes $40 million so that immigration and customs enforcement can expedite illegal alien removal. It provides $5 million in new funding to implement the Safety Act so we can more quickly deploy antiterrorism technologies to protect the American people from terrorism. It adds $20 million for interoperable communications and technical assistance for our first responders. It increases funding for cybersecurity research and development and for cybersecurity education and training.

Within the Department of Homeland Security budget that this House has already approved, we have authorized $40 million in additional funds to support the training of State and local law enforcement personnel so they can help enforce Federal immigration laws. This provision is contained in a separate amendment that I will offer today with the gentleman from Wisconsin (Mr. SENSENBRENNER) of the Committee on the Judiciary.

On these and all other funding decisions in the bill, we have had to make hard choices and set priorities. That is our responsibility. As a result, we have not funded every initiative to protect against every conceivable means by which terrorists might mount an attack. But what we have done is based our funding decisions on the best intelligence available, on terrorist capabilities and intentions, and on the actual risk of terrorist attack. The bill also advances our prime objective of preventing terrorism by improving our intelligence capability within the Department of Homeland Security.

Prevention of terrorism requires that information sharing about terrorist threats be seamless, that it be timely, and that that communication be secure. That is exactly what this bill accomplishes, both within the Department of Homeland Security and across the Federal Government and with our State, local and private sector partners. It provides the Department of Homeland Security with new tools to build a robust intelligence capability. It strengthens the partnership with these other stakeholders.

Those partnerships are essential in sustaining the counterterrorism mission into the foreseeable future, and the bill will help the Department of Homeland Security to streamline and integrate the multitude of different background checks and security screenings that are conducted for travelers, workers and other critical personnel who are required to undergo security checks by the Department.

The bill revises the color-coded homeland security advisory system to make sure that threat warnings are specific and informative, and wherever possible, that these warnings be targeted. By targeting these warnings to the areas of the country or sectors of the economy that are threatened, we can be sure that we are warning the right people and not needlessly scaring the wrong people. We also need to make sure that the Federal Government gives clear guidance and speaks with one voice when it issues such warnings. This bill will ensure this happens.

This authorization bill is shorter this year than it will ever be in future years. That is because, first, the Department itself is only 2 years old, and Congress has just recently written the entire legislative charter for the Department.

Second, we have a new homeland security Secretary who is just concluding his top to bottom 90-day review of the entire department. We want to give Secretary Chertoff the opportunity to draw his own road map, both organizationally and programatically, of where this Department should go.

We will proceed on additional authorizing legislation later this year once we have had the opportunity through hearings and oversight to evaluate the Secretary's proposals.

Mr. Chairman, I conclude by thanking the Members on both sides of the aisle and the House leadership on both sides of the aisle for their foresight in creating the Committee on Homeland Security within the House of Representatives and for allowing us to initiate this annual authorization process on the floor. This is a significant milestone on our long journey toward keeping America safe from terrorism.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I commend the gentleman from California (Mr. COX) for his tireless efforts to see that this day came to be. He worked continuously to create a permanent Committee on Homeland Security and put in the right track to producing the bill.

It took 13 hours to mark up this bill in committee, and I have to say that he never lost his patience or his good character, nor his sense of humor; but clearly, it was a bipartisan effort, and for that I want to thank the gentleman from California (Mr. COX).

This bill has many good provisions in it. It rejects the section of the President's shortsighted budget that sought to hire only 210 new Border Patrol agents this year. Instead, it provided for the 2,000 border agents that everybody else agreed that we needed.

It also, by creating an Assistant Secretary of Cybersecurity at DHS, finally recognizes the threat posed by cyber attacks. The gentlewoman from California (Ms. ZOE LOFGREN) and other Democrats on this committee have sought the creation of this position for a very long time.

The evaluation of the color-coded terrorist system is also welcomed. The system has provided more material for late-night comedians than effective information on threats on the public.

Also, I am glad that this bill requires the Department to explain how it is working to protect agriculture and the Nation's food supply from terrorist attacks.

That said, I wish this bill would have been more comprehensive. I am glad that, as the chairman mentioned, it is small only because we are a new committee, but there are some things that we overlooked. We did not mention airports or chemical plants in this legislation. I just hold up for the chairman's view and the view of the public the defense authorization bill which is sizable, and I look forward to, in the next authorization effort next year, to having a bill that is comprehensive.

The present authorization bill is very, very short on content, but nonetheless it is a start. There is no comparison between the two, so I am convinced that at the end of the day Members will recognize we have a long way to go and there can be no effort or wasting time. We must do what it takes to make America secure. I hope that we work closely to close the security gaps left by this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN).

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I would like to first of all add my thanks to both the chairman and the ranking member of this committee for the bipartisan way in which they have approached this issue.

I was not a member of this House of Representatives on 9/11. I saw, as did many Americans, an attack that many of us had never anticipated. It only brought memories of what my parents' generation must have felt on the day that we had the attack at Pearl Harbor.

The question before us really now is what is the proper response and what will that response be by our legislative branch. There has been established a Department of Homeland Security. It is an amalgamation of many departments and agencies that previously existed. It has been an effort to try and bring a single focus to a major issue, our response to terrorism. It was a well-done job under the circumstances.

Yet now we are here some 3-plus years after 9/11, and we recognize that everything we did was not exactly perfect. We recognize there are changes that must be made. This authorization bill is the first chance that our committee has to present to the House our effort to try and get our arms around not only this problem but the response to this problem, and that is the Department of Homeland Security.

While there are other elements of the executive branch which deal with this, the primary responsibility is with the Department of Homeland Security, and we have attempted on a bipartisan basis to look at the issues, to do the proper oversight, to try and make some recommendations, but none should be deluded to the fact that we somehow believe this is the total response to the problem.

☐ 1245

This is our first effort. This is the beginning of a job that is going to be ongoing. Much like the Defense Department was organized in the late 1940s, early 1950s, and while it took time for Congress to properly get its arms around that, we similarly must do that now.

Time is not on our side. The terrorists are not waiting until we get organized, so we must make sure that we do this in the best fashion possible, in a timely fashion.

I would say that I am very proud of the fact that the bill that has been brought to floor is a bill that got the unanimous support of the members of this committee, both Democrat and Republican. It is a worthy bill. It is a worthy effort at our direction to the Department of Homeland Security.

There will be things that we will do in the future. One of the things mentioned by the ranking member that I believe is a real step forward is establishing the position of Assistant Secretary for cybersecurity. There is a need to have a concentration on that issue. There is a need to have that at a heightened level. There is a need for us to understand the embedded nature of cyberoperations in our society, both public and private. I believe that we have on a bipartisan basis reached that conclusion.

I thank both the ranking member and the chairman for the work they have done. I would ask that the Members support this bill as presented by this committee.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LORETTA SANCHEZ), the ranking Democrat on the Subcommittee on Economic Security, Infrastructure Protection, and Cybersecurity.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I thank the gentleman from Mississippi for yielding me this time.

I rise today in strong support of H.R. 1817, the Department of Homeland Security Authorization Act for Fiscal Year 2006. This is our first authorizing bill for the now 2-year-old Department of Homeland Security, and it represents hard work by all the members of the Committee on Homeland Security. I would like to congratulate the gentleman from California (Mr. COX), the gentleman from Mississippi (Mr. THOMPSON), and all the members of the committee for their hard work in crafting this bill and bringing it to the floor today.

While I would have liked to have seen a more comprehensive bill such as the substitute that will be offered by the gentleman from Mississippi which would have addressed aviation security, port security, interoperability for our first responders and a host of other important areas not addressed in H.R. 1817, I recognize that this bill marks significant progress for the Congress, and I urge its adoption.

H.R. 1817 will authorize specific amounts for certain programs within the Committee on Homeland Security's jurisdiction, such as fully funding the 2,000 additional border patrol agents recommended by the 9/11 Commission and authorized under the Intelligence Reform and Terrorism Prevention Act of 2004.

I was gratified that during the markup of the bill in the Committee on Homeland Security that important amendments I offered concerning the national infrastructure protection plan and cargo container security were adopted, but I am also disappointed that an amendment that I intended to offer on the floor today was not accepted by the Committee on Rules. It is the Customs-Trade Partnership Against Terrorism amendment. C-TPAT, as it is known, is a program that offers companies reduced inspections of their cargo, and in return the companies must submit and adhere to a security plan.

There are currently 5,000 companies participating in this program that receive the benefit of reduced inspections, yet only 600 of these have had an on-site validation to ensure compliance with the security requirements. C-TPAT in its current form represents a dangerous security gap that must be closed, and I hope that Congress and DHS will address this problem before it is too late.

I urge my colleagues to support the bill.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. LINDER), a member of the committee.

Mr. LINDER. Mr. Chairman, I thank my friend for yielding me this time. I congratulate the gentleman from California (Mr. COX) and the gentleman from Mississippi (Mr. THOMPSON) for working so well together in the interest of national security to bring this measure to the floor.

Mr. Chairman, I rise in strong support of H.R. 1817. History has provided us with many examples of leaders who have taken the steps to ensure the safety and security of the American people. Today this House takes its place in that historical record through consideration of an unprecedented measure that authorizes the activities of the new Department of Homeland Security.

In addition to authorizing over $34 billion in funding for DHS operations in fiscal year 2006, this legislation calls for DHS to accelerate its efforts to identify and deploy homeland security technologies and creates mechanisms by which State and local leaders can effectively communicate with Federal homeland security officials.

As the chairman of the Subcommittee on the Prevention of Nuclear and Biological Attack, I have been tasked with overseeing the Department's efforts to prevent terrorist attacks on the United States using nuclear and biological weapons. I cannot think of a more devastating event both in terms of loss of life and economic fallout than an attack on this country involving a weapon of mass destruction.

H.R. 1817 refocuses the mission of DHS to follow a similar path. First, this legislation authorizes full funding of 2,000 new border agents. It is no secret that much of our Nation's 7,000 miles of border with both Canada and Mexico are vulnerable to illegal crossings. The addition of these agents will strengthen our Nation's ability to protect those borders and to prevent terrorists from smuggling nuclear or biological material into our country.

Prevention, however, should not be limited to our borders, and H.R. 1817 authorizes approximately $200 million in funding for a new nuclear detection office which will play a substantial role in coordinating the overseas nonproliferation efforts of the Federal Government. Moreover, H.R. 1817 provides nearly $140 million in funding for the Container Security Initiative and requires DHS to conduct a risk assessment of each foreign seaport that is designated as a CSI port. While we should do everything possible to ensure that the free flow of commerce between countries is not inhibited, we cannot ignore the possibility that terrorists may use foreign seaports to transport weapons of mass destruction into our country.

We cannot simply wait at home for terrorists to come to us. These efforts must be conducted in areas of the world that have, or can obtain, weapons of mass destruction but lack the responsibility of ensuring that such weapons do not fall into malevolent hands.

Mr. Chairman, government has no greater responsibility than that of protecting the rights and freedoms of its citizens. I urge my colleagues to join me in taking an additional step forward in this effort by supporting H.R. 1817.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Chairman, I rise in support of this bill. I want to commend the gentleman from California (Mr.

COX) and the gentleman from Mississippi (Mr. THOMPSON) for their very hard work. This bill includes provisions to improve our homeland security a great deal, but I regret that it is not complete.

Communication barriers faced by emergency personnel in Oklahoma City 10 years ago still plagued our first responders on September 11; 3½ years later, the very same first responders are waiting for further guidance and funding for communications interoperability. Section 308 reinforces Congress's intent for DHS, the Department of Commerce, and the FCC to work together to issue voluntary standards and a schedule to reach those standards.

I applaud this provision, but we could have done better. I am frustrated that two amendments I submitted to the Committee on Rules were not allowed under the rule. One of the amendments would have authorized grant funding for interoperability. Standards are a first step, but we must follow with resources. The U.S. Conference of Mayors June 2004 interoperability report noted that 75 percent of the cities surveyed have not received Federal funds for interoperable communications. This is unacceptable. First responders need, and quite frankly deserve, a commitment from this Congress that roadblocks to an interoperable communications system, particularly a lack of consistent and sustained Federal funding, will be eliminated.

My second amendment would have required that all airport employees go through some form of physical screening when entering sterile and secure areas. This happens at the busiest airport in the world, Heathrow, and in Canada; but it does not happen in the U.S. 9/11 Commission Chairman Kean told the Committee on Homeland Security that everybody should go through metal detectors without exception. We have spent tens of billions of dollars on passenger screening, but have nevertheless left gaping holes in the security of our airports.

These two fundamentals of homeland security, grant funding for first responder communications system and screening of airport workers, are long overdue. I support the bill, but it could have been improved with these commonsense measures.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I yield 3 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I rise today in support of H.R. 1817, the Homeland Security Authorization Act for Fiscal Year 2006. I applaud the gentleman from California (Mr. COX) for his leadership and commitment to securing our Nation's borders. Congress has not been idle when it comes to our Nation's security, recently passing the REAL ID Act in the emergency wartime supplemental. I applaud all of these changes. They provide identification checks that will keep our vital infrastructure facilities like chemical and nuclear power plants safe from terrorists.

I know firsthand the value of security, as my hometown recently experienced the unfortunate confluence of illegal immigration, Social Security fraud, and potential terrorist threats. I live in Crystal River where there is a nuclear power plant, and it was found to have contracted with a businessman who, unbeknownst to them, had actually been using illegal immigrant day laborers who provided false or stolen Social Security numbers to obtain government-issued driver's licenses.

This issue brought home the vital importance of not only upgrading our identity verification processes but also of securing our borders. These people actually had been deported but sneaked back into the country and got a little too close to a critical infrastructure site for this Member of Congress to be able to tolerate.

We worked to strengthen our ID laws, but we also must work to strengthen our borders. Today our borders are overwhelmed. To anyone watching today, it is clear that America needs border patrol agents. Just last week in the Committee on Government Reform, my colleagues and I heard testimony that the Department of Homeland Security does not have enough agents and that it desperately needs more. Last year's intelligence reform bill authorized 2,000 new agents. These new border patrol agents will deter illegals from entering the United States and will enhance response capabilities by almost 20 percent. However, funding was only proposed for 210 of these agents. This is unacceptable. 210 agents cannot adequately protect our borders.

Accordingly, I join my colleagues on the Immigration Reform Caucus to call for the full 2,000 new border patrol agents. I thank the gentleman from California again for placing this as a priority of securing our borders and authorizing the additional agents that America needs. Mr. Chairman, I strongly urge my colleagues to protect our borders and to vote in favor of the Homeland Security Authorization Act which does better protect nuclear power plants and chemical facilities.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2½ minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, today represents a very important step to ensure that Congress truly begins to exercise a robust, judicious, and intense oversight of the Department of Homeland Security. Our committee has been called on to defend our ports, our infrastructure, our neighborhoods, indeed our families. We have risen to the challenge. Indeed, this first-ever authorization bill, H.R. 1817, will begin an annual ritual to critically examine the Department of Homeland Security and its effectiveness in securing our Nation.

Oversight is germane to our mission. It is an austere and sober undertaking, to be sure; and it should be. This Department was formed because of the disastrous terrorist attacks of September 11, and its mission is to help prevent and respond to any potential future assault.

I commend the gentleman from California (Mr. COX) and the gentleman from Mississippi (Mr. THOMPSON) for their leadership in undertaking this process. I understand the pressures that were faced in trying to complete this inaugural authorization, and our chairman has had to navigate a difficult course.

Make no mistake, there are provisions within this bill that will make very good public policy. The creation of an Assistant Secretary for cybersecurity within the Department is a wise measure to help combat a very real vulnerability. Likewise, allowing the Department of Homeland Security Secretary to provide additional incentives to recruit highly sought after intelligence analysts is a great step to combat one of our biggest national security problems.

However, while I applaud the work and the spirit that went into this legislation, I would have preferred to see a more comprehensive bill that addressed a greater assortment of security gaps that we have uncovered.

□ 1300

I will proudly support the substitute that the gentleman from Mississippi (Mr. THOMPSON), ranking member, will offer later today. The gentleman from Mississippi will improve this authorization by better funding our border security in aviation research. His substitute will provide the tools necessary to secure our chemical plants and ports, just to name but a few.

This is indeed a big day for homeland security and the Committee on Homeland Security and for Congress as a whole. I thank the chairman and the ranking member for all of their hard work.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York (Mr. BOEHLERT), chairman of the Committee on Science, someone who worked closely with our committee.

Mr. BOEHLERT. Mr. Chairman, I rise in strong support of this bill, which will help us better guide the Department of Homeland Security in its most important responsibilities. I want to thank the gentleman from California (Chairman COX) and the staff for working so closely with us on areas of the bill that were under the jurisdiction of the Committee on Science, which I am privileged to chair.

The Committee on Science created the Science and Technology Directorate, and we want to do everything we can to ensure that it succeeds in this mission. As I have said before many times, the war against terrorism, like the Cold War, will be won in the laboratory as much as on the battlefield.

The Committee on Science also played a key role in the establishment of the Information Assurance and Infrastructure Protection Directorate, where our interests have focused on cybersecurity, a grave and underappreciated threat, and one on which DHS unfortunately has focused too little attention and too few resources. We hope that is going to change.

This bill will strengthen research and development activities at the Department and will place new and added emphasis on cybersecurity. Specifically, the bill includes language to enhance technology transfer, to improve cybersecurity training, and to create an Assistant Secretary for cybersecurity and to authorize explicitly a cybersecurity research and development program. All of this language either originated in our committee or was worked out in collaboration between the Committee on Science and the Committee on Homeland Security.

I am especially pleased that the bill recognizes the need to focus more on cybersecurity. We all recognize it. We want to make sure that the agency follows through and responds accordingly. We need to act both immediately and in the long term. Immediately, we need to shore up existing networks and develop a system to detect, report, and respond to attacks. Over the long term, we need to figure out how to make computers harder to attack.

DHS needs to be working with the National Science Foundation, the National Institute of Standards and Technology, the Defense Advanced Research Projects Agency, and the National Security Agency on cybersecurity. But its own contributions are critical.

Let me close by thanking the gentleman from California (Chairman COX) and the gentleman from Mississippi (Mr. THOMPSON), ranking member, working together, their staffs, and especially Tom DiLenge, and the entire Committee on Homeland Security by working cooperatively to come up with an excellent bill which has earned our support.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2½ minutes to the gentlewoman from New York (Mrs. McCARTHY).

Mrs. McCARTHY. Mr. Chairman, I want to congratulate certainly the Committee on Homeland Security. I mean it was very difficult. I am sure, for them to try to work everything out that needed to be in starting and looking at a new territory. I happen to think that it is a bill that certainly has been put together and hopefully it is going to be everything that we need to keep this land safe.

With that being said, last night in the Committee on Rules, I tried to offer five different amendments. A lot of them had to do with gun safety. Mr. Chairman, as far as I am concerned, part of this legislation is incomplete when we talk about homeland security. It totally ignores threats posed by terrorists aiming themselves at our country. And according to a GAO report published earlier this year, they are finding exactly that. Why? Because of our pre-9/11 gun laws.

Common sense would dictate if we do not trust one to board a plane, we should not trust them to buy a gun. And that is exactly what we are seeing. We are seeing that certain people are on the no fly list, they are not allowed to get on a plane; yet those same people, a lot of them who certainly have backgrounds as terrorists, can go into any store, they can go to a gun show anywhere to be able to buy a gun.

That does not make sense to me. We are supposed to be protecting the American people. We are supposed to be protecting our law enforcement people and certainly our Federal employees. Anybody on a Federal terrorist watch list can buy assault weapons with the large capacity clips. We tried to have that addressed, especially the large capacity clips. We saw what all these people can do with only box cutters and boarding passes. What makes it so easy for them to buy guns? Why is Congress ignoring this serious homeland security threat that we are facing? Why do we allow our enemies on the war on terror to arm themselves within our borders and make it so easy for them?

Almost all of the legislation that I have been proposing certainly would not stop one citizen from buying a gun. Until we address our pre-9/11 gun laws, our Nation's homeland security will be at risk.

As I said, we will certainly, hopefully before this Congress is over, be able to address these issues. Safety for the American people is paramount for all of us. Both sides agree on that, and I hope that we can have a new dialogue on how we talk about gun safety in this country, and part of it has to be homeland security.

Mr. DENT. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise to speak in support of H.R. 1817, the Department of Homeland Security Authorization Act for Fiscal Year 2006.

Mr. Chairman, I come to Congress in an era when rancor between the parties seems to dominate the headlines. This bill, however, is a testament to the idea, uniquely American, that congressional politics will always be placed on the back burner when it comes to the job of protecting the homeland.

This legislation has come to the floor of the House in no small part because of the bipartisan efforts of both the chairman and the ranking member of the Committee on Homeland Security, of which I am a member.

This is not to say that both sides did not state their positions forcefully. In this regard, there were spirited exchanges while this bill was being marked up in committee. There were over 30 amendments offered, and all were extensively and vigorously debated. Yet throughout all of this, the dialogue was cordial, and I believe this is because everyone involved possessed the same goal: pass a bill that would give this country the protection it deserves at a cost that we can all afford to pay.

The bill indeed puts resources where those resources are needed. It authorizes some $34 billion to fund programs designed to combat a host of homeland security issues. It allocates $1.84 billion so that the government can afford to hire and train some 2,000 new border patrol agents. These newly minted law enforcement officers will not only serve as a deterrent to would-be terrorists but also as an important element in the fight to curb illegal immigration in general.

Improving intelligence capabilities is also an important part of this legislation. The bill provides moneys so that the Department of Homeland Security can hire the best intelligence analysts available. It promotes the development of an open-source intelligence strategy, and it increases the capabilities of the Department of Homeland Security to detect and preempt the most serious kind of terrorism imaginable: a nuclear or biological attack.

Some have wondered whether or not this bill is comprehensive enough to deal with all the security threats the Nation must confront. There is no doubt in my mind that it is. There is money authorized here to make sure that containers coming from foreign ports receive risk-based cargo screening. Funding for this important project will also increase from $126 million in 2005 to $133 million in 2006. Further, the bill provides funding for such varied security issues as the protection of civilian passenger and cargo aircraft, $10 million; chemical countermeasure development, $76 million; the detection of weapons of mass destruction, $100 million; and critical infrastructure protection, $465 million.

The idea that homeland security funding should be based on security rather than on political concerns is one that resonates on both sides of the aisle of this great Chamber. The Members of this body recognize that the security challenges we face are unique in our history. The Homeland Security Authorization Act for Fiscal Year 2006 gives us the tools to meet these challenges. For that reason, I vigorously and strongly support this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. ETHERIDGE), an excellent member on the committee.

Mr. ETHERIDGE. Mr. Chairman, I would like to thank the gentleman from California (Chairman COX) and the gentleman from Mississippi (Mr. THOMPSON), ranking member, for conducting what I think is a thoroughly balanced markup of this bill, the first House authorization of the Department of Homeland Security. This bill is a bipartisan product of our committee, and I am pleased that the committee included my amendment addressing the importance of agriculture security in the bill.

Too often folks take the safety of our food for granted. It is critical that the Department of Homeland Security work in close cooperation with other agencies of the Federal Government, especially the U.S. Department of Agriculture, to ensure the safety of the food in this country.

Although the authorization bill addresses many important issues, it is far from perfect. It fails to address a number of the important and wide-ranging security gaps, including the need for communication and interoperability between first responders. We also need more investment not only in the research and development of security technologies but also in the training of scientists, researchers, and analysts to support and protect our Nation.

This bill is a good first step, and I look forward to working on a bipartisan basis to address the remaining security gaps, and hopefully we will get a chance to vote on them today.

I thank the gentleman from Mississippi for his hard work and for yielding me this time, and I am proud to support this legislation.

Mr. DENT. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. JINDAL).

Mr. JINDAL. Mr. Chairman, I rise in strong support of H.R. 1817. This bill funds Homeland Security and helps to further protect our country from those who would intend to do us harm.

This bill creates a department-wide terrorism prevention plan, uniting the actions of 22 different Federal organizations that were combined into the Department. This bill expedites the deployment of the antiterrorism technology. It requires the Department to create and establish a technology clearinghouse within 90 days to expedite the deployment of antiterrorism technology for use by Federal, State, local, and private sector officials.

This bill increases border enforcement. It requires the Secretary to study the division of border security between Customs and Border Patrol and the Immigration and Customs Enforcement and to look at the merits of consolidation. This bill also gives the Secretary the ability to provide incentives to recruit highly-sought-after intelligence analysts.

As many speakers have already said, I certainly commend the chairman, I commend the ranking member for working together in a bipartisan fashion on such an important bill.

I would also like this Chamber to recognize that so much of this bill is focused on streamlining homeland security efforts, from better coordinating the various agencies to facilitating communication with local officials. I strongly rise in support of the creation of regional offices, which are called for in the committee report, because I believe that would aid these efforts. These regional offices would create a stronger platform to lead national efforts to set priorities, identify critical vulnerabilities, and to coordinate State, local, and private sector entities in order to protect our homeland from terrorist attacks.

Louisiana has got a lot to protect. We are home to more than 190 sites identified as national critical infrastructure. New Orleans is one of the largest port systems in the world. Baton Rouge, my hometown, is the Nation's furthest inland port, the only port in the country capable of handling superships. My State is the third largest producer of petroleum, the third leading State in petroleum refining, all of which requires critical infrastructure. Twenty-five percent of the Nation's exports are already shipped through Louisiana.

For those reasons, I strongly rise in support of these provisions that shift our funding to one based on the risk and threat of actual attack as opposed to just politics. Louisiana is already home to a Coast Guard and border patrol regional office. We certainly hope that when the Department does come and decide where to locate these regional offices, we will be considered.

I rise in strong support of the bill.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE), also a member of the committee.

Ms. JACKSON-LEE of Texas. Mr. Chairman, first I want to offer my great appreciation of the gentleman from Mississippi (Mr. THOMPSON), the ranking member of this committee, and of course for his collaborative efforts with the gentleman from California (Mr. COX), chairman of this committee.

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I think that we can go on record as one of the more collaborative committees on something that requires an American response.

I rise today to say that we have made a good first step. As all of America's eyes were looking at a little Cessna, the Committee on Homeland Security now recognizes or has recognized that we are and have to be a proactive committee. We must give an answer to the American people that they will appreciate and find comfort that we are securing the homeland, the rural hamlets, the urban areas, the suburban areas, the counties, the cities, and Homeland Security Should be in our neighborhoods.

So I am somewhat disappointed that my community preparedness amendment was not included, but I look forward to working with the gentleman from California (Mr. COX) and the gentleman from Mississippi (Mr. THOMPSON) so that we can emphasize an enhanced citizen corps. I am glad that we will study the question of whether or not border violence requires volunteer efforts and whether or not we are doing all that we can as a governmental entity to protect our borders. That is the role and the responsibility of America.

Then I am delighted that we have done a few things in this bill, but, Mr. Chairman, I raise a question that there is no emphasis, no work done on the aviation security issues that are still growing and still there; no further work done on port security that really is important in America with the need for new technology and the inspection of cargo, which is not done in all of America's ports; and certainly, coming from Texas, I think it is important that we understand industry such as the energy industry, but we must demand safety and, as well, there is a great need for protecting, or at least providing those kinds of requirements and oversight.

We could do more. I look forward to supporting the substitute offered by the gentleman from Mississippi (Mr. THOMPSON), and I ask my colleagues to support my amendments regarding border violence as well as studies dealing with temporary protective status. I ask my colleagues that we work together to secure the homeland.

Mr. Chairman, I rise in support of the overall measure we consider today, the Department of Homeland Security Authorization Act for FY 2006, H.R. 1817. While there remain areas that have not been adequately addressed in its provisions, I recognize the importance of a bi-partisan effort to secure our homeland. We have waited three years for the crafting and consideration of an authorization measure, and now we have the chance to show America that we are responsible, prudent, and expedient.

H.R. 1817 is the first authorization measure since the passage of the Homeland Security Act of 2003. The appropriators withheld over $700 million from DHS due to incomplete fulfillment of specific reporting requirements; therefore, our passage of the most comprehensive and representative measure possible would equate to having conducted "due diligence" on our part.

Just yesterday, we in the House passed the Appropriations Act for FY 2006, H.R. 2360, by a margin of 424–1. I joined my committee colleagues in considering this bill from its incipiency as it passed in both the Committees on Homeland Security on April 28, 2005 and Judiciary on May 12, 2005 unanimously by voice vote. Today, the Committee of the Whole will make history by passing its first Homeland Security Authorization measure, and I support an expedient but prudent completion of this endeavor.

In the markup hearing of the Committee on the Judiciary held on May 12, 2005, I offered an amendment on behalf of and in conjunction with my colleague from California, who serves on the Democratic Caucus Task Force on Homeland Security, Vice Chair of the Democratic Caucus Task Force on Immigration, and First Vice Chair of the Congressional Hispanic Caucus. As I serve as the Ranking Member of this Committee's Subcommittee on Immigration, Border Security, and Claims, this important amendment that would require the collection of data on immigration consultants and "notarios" who conduct fraudulent immigration services for compensation, I was happy to offer this amendment. I thank the gentleman from Wisconsin, the Chairman of the Committee on Judiciary and the Ranking Member from Michigan for their collaborative support of this amendment as it was accepted and incorporated as Section 506 of the Amendment in Nature of a Substitute that we consider today.

During the 13-hour Homeland Security Committee markup session that ended at 11:15 p.m. I was able to secure sincere commitments from the Majority Leadership to work with me for inclusion of some of my major initiatives: funding and more clearly defining the Citizen Corps and the Citizen Corps Councils—which will include consideration of a stand-alone bill that I will introduce shortly; and increasing capacity for Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Institutions in Homeland Security procurement and in employment with the Department of Homeland Security. In addition, I was fortunate to have had my amendment, co-sponsored by the Gentlelady from California, Ms. LOFGREN, that seeks to authorize the funding of programs for the education of minorities in the areas of cyberscience, research, and development to close the gap in achievement in those areas and to make America better equipped to fight terrorism overall. Furthermore, I achieved an agreement from the Majority Committee Leadership to collaborate on addressing the issue of border violence, an initiative that the distinguished Chairman of the Appropriations Subcommittee on Homeland Security showed his commitment to addressing, as evidenced by his support for an amendment that I offered yesterday during the House's consideration of the appropriations measure, H.R. 2360. Not only do I hope to see this language survive the deliberations of the Conferees, but I hope to see follow-through by the Homeland Security Committee with the bi-partisan letter and with consideration of the amendment that I plan to offer during our consideration of H.R. 1817.

Mr. Speaker, what the House has done this week and will do today will establish the breadth and efficacy of the entire Department of Homeland Security. I hope that my colleagues will keep that in mind as we work to debate the amendments that have been made in order.

Mr. DENT. Mr. Chairman, I would like to inquire as to how much time remains.

The Acting CHAIRMAN (Mr. COLE of Oklahoma). The gentleman from Pennsylvania (Mr. DENT) has 5½ minutes remaining; the gentleman from Mississippi (Mr. THOMPSON) has 14½ minutes remaining.

Mr. DENT. Mr. Chairman, I yield myself 2 minutes.

As I stated in my previous remarks, this legislation is important for a number of reasons, not the least of which is it will help us in our fight against nuclear and biological terrorism. I think we all can agree that that is the one issue that, as Americans, we can agree to as our greatest threat. This committee has spent a great deal of time discussing that issue recently, and I believe, for one, that this bill adequately addresses that issue and many, many others.

So with that, again, I rise in strong support of this authorization legislation. I am proud of the bipartisan spirit that we have embraced in this committee led the chairman and the ranking member.

Mr. Chairman, I yield the balance of the time to the gentleman from California (Mr. COX).

Mr. COX. Mr. Chairman, we have no more speakers on our side, and I reserve the balance of the time for closing.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts (Mr. MARKEY), a member of the committee.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me this time.

The Republican leadership has denied a debate on the House floor on the very important issue that passengers who fly on commercial flights across America, tens of millions of Americans a year who put their families on commercial flights, are put in the situation where they take off their shoes, they have their computers checked, they have their bags which are inspected on those passenger flights, because we know that al Qaeda is trying to infiltrate commercial flights in America.

But the cargo, the cargo which goes on that very same plane, of somebody who did not buy a ticket on that flight but placed the cargo on that plane, is going to fly without being screened at all. Almost none of the cargo on American planes that carry passengers across our country is screened, although that cargo is almost the same size as your bags, which are on the same plane. So you have your bags screened, you have your family screened, but the cargo on that plane is not screened.

How much sense does that make, that your shoes are screened but that the cargo on the very same plane is not screened?

And do my colleagues want to hear something else even more absurd? If it is a package 16 ounces or less, they do not even look at the paperwork for it. It goes on that passenger plane automatically.

Mr. Chairman, this is wrong. In the past week, we have had two planes diverted that were coming from overseas because the no-fly terrorist list had not been completely checked before the plane was in midair, and it caused diversions both times. How can we allow the back door of planes to have cargo placed upon it that is not screened? It is absolutely wrong.

And the fact that the technology exists, that the Israelis screen the cargo, that other countries screen the cargo, how can we place tens of millions of Americans who place their families on planes, going to vacation, going back to school, on planes where the cargo is not inspected, and then have the Republicans say, we are not going to have a debate on that on the House floor.

My amendment with the gentleman from Connecticut (Mr. SHAYS) would have guaranteed that over the next 3 years technology would have been put in place that would have guaranteed that every single bit of cargo that goes on passenger planes is screened. And all we asked from the Republicans was that if you are not going to allow us to even make that amendment on the House floor, at least let us have a warning, a warning to all American families at the airports that you are placing your children on planes to go back to school or go to vacation when the cargo on that plane has not been screened.

Every American parent has the right to know that their children are being placed on planes to go to vacation or go to school without it being screened. Every American family has the right to know that when they put their children on passenger planes in America that almost none of the cargo has been screened, and then they can make the decision for themselves. I think that parents would not put their children on planes if the cargo has not been screened. They themselves, they might get on the plane.

But for the Republicans to not allow us to have a debate on the House floor on this issue, as we know that al Qaeda continues to target commercial aircraft as their number one terrorist target, is absolutely wrong.

So I ask opposition to this bill. It just is not dealing with the real issues that threaten the American public.

RAPISCAN SYSTEMS,
Hawthorne, CA, May 9, 2005.

Hon. EDWARD J. MARKEY,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE MARKEY: We applaud your efforts to focus more attention on the glaring hole in the United States' aviation security—lack of air cargo inspection. Rapiscan Systems develops, manufactures, installs and services the world's widest array of non-intrusive inspection systems for airports, seaports, border crossings, military installation. Currently Rapiscan Systems provides nearly half of the checkpoint security systems at U.S. airports.

Included in our portfolio of systems is an air cargo inspection system that can inspect fully-loaded cargo containers. This system is being installed at George H.W. Bush Intercontinental Airport in Houston, Texas and Ted Stevens Anchorage International Airport in Alaska.

CONTAINERIZED AIR CARGO INSPECTION TECHNOLOGY EXISTS AND IS BEING INSTALLED AT U.S. AIRPORTS

In the late 1980's in response to the Pan Am 103 bombing, the United States Department of Defense began development of a material-specific bomb detection technology for aviation. As a result of this effort, the Ancore Corporation (now Rapiscan Systems Neutronics and Advanced Technologies Division) developed Pulsed-Fast Neutron Analysis (PFNA) technology. PFNA can automatically detect all explosives, chemical weapons, radioactive materials, narcotics and even hazardous aviation cargo. This technology was most recently deployed to the Ysleta border crossing in El Paso, TX.

Rapiscan Systems is currently deploying two PFNA air cargo inspection systems at U.S. airports: George H.W. Bush Intercontinental Airport in Houston and Ted Stevens Anchorage International Airport. Both of these installations are part of Transportation Security Administration programs. Similar neutron-based systems have been installed internationally, including an air cargo inspection facility at Taipei airport in Taiwan.

CONTAINERIZED CARGO INSPECTION MAINTAINS CURRENT AIR CARGO FLOW OF COMMERCE

While TSA and other government agencies have evaluated break-bulk cargo x-ray inspection systems (Rapiscan also manufacturers these systems), only PFNA can inspect containerized cargo. The difficulty with break-bulk systems is that they require containerized or palletized cargo to be unpacked to inspect. This adds hours to inspection time and makes some technologies unfeasible for fast delivery air cargo.

PFNA systems inspect fully loaded cargo containers and pallets for aviation-quantity threats (established by TSA). This allows for fast inspection without unpacking. PFNA systems meet the time constraints of the air cargo environment.

AIR CARGO INSPECTION CAN BE PROVIDED WITH CURRENT SCREENER CORPS

Another common argument against air cargo inspection is that they technologies will require hundreds of new TSA screeners to operate and inspect. Because PFNA provides automatic, material specific inspection each system only requires a single operator. And since, PFNA systems can inspect 6–10 containers per hour, most airports will only require one to two systems.

As congress debates the policy surrounding air cargo inspection, Rapiscan Systems offers to help Members and staff investigate the current availability and state of cargo inspection technologies. While cost and level of risk should factor into this debate, the question of the availability of technology to inspect air cargo has already been answered. Thank you again for your efforts to call attention to and rectify this important homeland security issue. Please let me know if Rapiscan Systems can be helpful in your continued efforts.

Sincerely,

PETER KANT,
Vice President, Government Affairs.

AMERICAN SCIENCE
AND ENGINEERING, INC.,
Billerica, MA, May 17, 2005.

DEAR CONGRESSMAN MARKEY: American Science and Engineering Inc. (AS&E) would like to extend its support for the Bill being introduced by you and Congressman Shay which addresses the need to improve Air Cargo Security. As you know, potential threats in current Air Cargo could go undetected due the lack of a comprehensive inspection requirement or strategy.

Finding a broad range of potential explosive threats in Air Cargo is a challenge to today's technology. Although existing systems may not be able to find all threats under all conditions, it is still imperative to address the issue of Air Cargo security. Finding the theoretical small amount of explosive that could bring down an aircraft is not the only way to provide a higher sense of security. Many organizations around the World provide Air Cargo security by approaching the problem differently. In some cases they use X-ray technology to inspect cargo prior to loading a container or pallet. Others use current technology to inspect the entire container to find anomalies in the cargo such as bulk explosives, radioactive materials and stowaways. They can also determine if the cargo looks different from what the manifest stipulates, if there are false bulkheads or floors or there are extra or unusual containers present. Any of these anomalies can indicate the presence of a potential threat.

Most available systems today, including AS&E's product line of X-ray Transmission, Backscatter Imaging and Radioactive Threat Detection systems, can provide a significant step toward insuring that Air Cargo has not been tampered with or poses a threat.

If properly implemented into an airport flow of cargo, security can be improved with minimal impact to the flow of commerce. Many users of current Air Cargo inspection systems throughout the World have done this successfully. What is required in the USA is a mandate to move forward with Air Cargo security as a priority and a willingness to think about the problem differently.

We support your efforts and trust that our Government will do the responsible things to make our citizens safer in these troubled times. If we can be of further help, please feel free to contact us.

Best Regards,

RICH MASTRONARDI,
VP Strategic Marketing & Sales.

CARGO SECURITY SOLUTIONS, INC.,
Lewisville, TX, May 4, 2005.

Hon. EDWARD MARKEY,
Rayburn House Office Building,
Washington, DC.
Hon. CHRISTOPHER SHAYS,
Longworth Building,
Washington, DC.

DEAR CONGRESSMAN: We are aware that Congressman Markey and Congressman Shays are proposing a new Air Cargo Security Act (H.R. 2044). We feel that this is a comprehensive step forward for the entire security of the nation and that it should be enacted without hindrance. This nation needs a mandate similar to what was enacted in the days after 9/11 to screen passengers and we implore Congress to pass a similar measure for air cargo.

Air Cargo Security in this country poses a great risk and danger to the well being of every American.

The air cargo security solution is one that requires more than just technology. It will require coordination, resources, and a valid security infrastructure to apply a comprehensive effort. Cargo security must yield at least the results of the passenger screening initiatives without jeopardizing next day competitiveness of our businesses. Those, like Cargo Security Solutions, Inc. who are in the business of securing air cargo, recognize this fact and have integrated these concerns in their security models. At CSSI the speed of the supply chain is kept intact by the specific interaction of trained personal, stringent oversight, and "out of the box" solutions. These include the use next generation "tickets" for every piece of freight.

As industry and air cargo specialists we are very aware of the dangers threatening a vital part of the nation's economy. Cargo Security Solutions Inc., was established in the days after September 11th to ensure that a tragedy of equal magnitude never originates within the air cargo system.

Since 9/11 CSSI has developed and refined a security program that is centered around and focuses on 100% inspection. The program that has been developed implements inspections at various strategic points during the events of a shipment through the supply chain thus creating little negative impact on the chain itself. 100% inspection is feasible and CSSI is ready to implement a full solution and infrastructure, with the leadership of TSA and contributions from the air cargo industry.

There are other similar enterprises that are ready to contribute to this effort. These businesses run the gamut of industries, from technological to human resources. These are all specialized firms who are ready willing and able to tackle this issue.

Congressional leaders have received an abundant amount of information regarding the critical nature and threat posed by the air cargo security situation in this country. Countless, OIG, GAO, and other reports show how dire the situation really is. CSSI has joined in this effort and sent information regarding air cargo security to several congressional leaders. Included in some of these documents, have been clear plans as to how and why 100% inspection is feasible and the very "clear and present danger" that is posed by air cargo.

Most recently "diamonds for arms" shipments were discovered on Soviet made Antonov aircraft operated by designated arms dealer Viktor Bout. HIS company has been in business and operating within The United States since the early 1990s and has brought unknown shipments from all over the world including former soviet states with nuclear arms. Proliferation does exist, has existed and its results have made it on American soil. This should be a wakeup call for all American policy leaders. 100% inspection of all cargo is not only needed but necessary.

Regards,

CAPT. ROBERT C. DAVIS,
Cargo Security Solutions, Inc. CEO.

Mr. COX. Mr. Chairman, I yield to the gentleman from Mississippi for purposes of closing debate.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

We have heard a number of statements about this bill. It is an initial step in the right direction. It is not comprehensive. There are some glaring overlooks in the bill. We do not address any aviation security, we do not address chemical security. There are a number of things that we could do better in this bill.

However, I have to join my chairman in recognizing the fact that this is our first attempt to do an authorization bill. It is by no means complete, but given his leadership and willingness to work in a bipartisan spirit, I am looking forward to moving this legislation and making sure that we do the right thing for this country. We have to secure this Nation.

I will be offering a substitute later in the debate which obviously will cover far more areas than what this authorization bill covers that we are debating here today.

Clearly, if we support the substitute, we can move closer to making America secure.

Mr. Chairman, I yield back the balance of my time.

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to begin by thanking the gentleman from Mississippi (Mr. THOMPSON), both for his generous remarks but, more importantly, for his hard work on this piece of legislation over a period of several months and, as he pointed out, through ultimately a very long, arduous markup in the committee where members on both sides had an unlimited opportunity to offer amendments and consider a variety of topics.

As we conclude general debate and prepare to move into debate on the specific amendments on this bill, I think we can recognize one important fact, and that is that we are all agreed on the essence of the underlying bill. We have some things, each of us, that we might like to add to this bill, and I predict that in due course, over the rest of this year, we will have an opportunity again on this House floor to take up issues, including aviation security, chemical security, port security, and so on.

But the entirety of what we do accomplish in this bill is bipartisan in nature and agreed upon by the members on both sides of the aisle, at least in the Committee on Homeland Security, and we will soon see about the House as a whole. That is because we have allocated the $32 billion, for what is now the third largest Cabinet department, in a way that demonstrably advances our number one goal of preventing terrorism in the future on American soil, directed against American citizens, protecting America's most critical infrastructure against terrorist attack, and being prepared to respond and recover should, against all our best preparations, that ever occur in the future.

In order to bring us to this point, we have had to have a great deal of bipartisan assistance, all motivated by the best interests of the country from Members on both sides.

I specifically want to mention the vice chairman of the full committee, the gentleman from Pennsylvania (Mr. WELDON); the chairmen and ranking members of our five subcommittees, and the Staff Directors on both sides, Ben Cohen on the Majority side and Calvin Humphreys on the minority side. The staffs have done extraordinary professional work, and their staffs are drawn from, in many cases, the executive branch, with experience about precisely the work and the programs that we are overseeing in this legislation. Many of them have come from the intelligence community, others come from the Coast Guard and other branches of the armed services.

We can be very proud in this House about the institutionalization of the role of homeland security oversight and authorization that has been set in motion as a result of a decision of leadership on both sides, and I want to conclude by taking this opportunity, once again, to thank the House leadership for its very wise decision to create permanent authorizing and oversight responsibility in this Congress on an institutionalized basis, and then, today, taking the next important step of institutionalizing an annual authorization process so that together the legislative branch and the executive branch will closely collaborate on what is the essence of our national security responsibility to all Americans: making sure that we are safe and secure on American territory for the American citizens.

So, Mr. Chairman, with that, I will draw this general debate to a conclusion, and I look forward to working with the body on the several amendments that have been made in order under the rule.

Mr. Chairman, I will at this time introduce into the RECORD a series of letters exchanged between the Committee on Homeland Security and other standing committees, including the Permanent Select Committee on Intelligence of the House of Representatives, concerning jurisdictional issues raised by this legislation.

COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, May 18, 2005.

Hon. CHRISTOPHER COX,
Chairman, House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your willingness to consult and work with me as you guided H.R. 1817, "the Department of Homeland Security Authorization Act for Fiscal Year 2006" from introduction, through the Homeland Security Committee, and to the floor. As you know, the Committee on Government Reform has been interested in a number of provisions within H.R. 1817. The Committee has been concerned that the expansion of the Department's responsibilities for information sharing in Title II, Subtitle B, Homeland Security Information Sharing and Analysis Enhancement, not lessen the Department's responsibility to follow government-wide policies and procedures for the sharing of information. In addition to the information sharing provisions of Subtitle B, the Committee has specific jurisdictional interests in the following provisions of your substitute: §201—Consolidated Background Check Process; §216—Coordination of homeland security threat analysis provided to non-Federal officials; §217—9/11 Homeland Security Fellows Program; §221—IAIP Personnel Recruitment; §302—Technology Development and Transfer; §303—Review of Antiterrorism Activities; Title III, Subtitle B—Department of Homeland Security Cybersecurity Enhancement; §334—Protection of Information; and §502—GAO Report to Congress.

I would like to confirm our mutual understanding with respect to the consideration of H.R. 1817. As you know, H.R. 1817 was sequentially referred to the Committee on Government Reform. Because of your willingness to work with us to resolve issues of concern to the Committee and to include those improvements to the bill in your amendment in the nature of a substitute on the floor, the Committee on Government Reform did not consider H.R. 1817. However, the Committee has done so only with the understanding that this procedural route would not prejudice the Committee on Government Reform's jurisdictional interest and prerogatives on this bill or similar legislation.

I respectfully request your support for the appointment of outside conferees from the Committee on Government Reform should this bill or a similar Senate bill be considered in conference with the Senate. Finally, I would ask that you include a copy of our exchange of letters on this matter in the Congressional Record during the House debate of this bill. If you have questions regarding this matter, please do not hesitate to call me. Thank you for your attention to this matter.

Sincerely,

TOM DAVIS,
Chairman.

COMMITTEE ON HOMELAND SECURITY,
Washington, DC, May 18, 2005.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding the Committee on Government Reform's jurisdictional interest in H.R. 1817, "the Department of Homeland Security Authorization Act for Fiscal Year 2006", and your willingness to forego consideration of H.R. 1817 by the Committee.

I agree that the Committee on Government Reform has a valid jurisdictional interest in particular sections of H.R. 1817, and that the committee's jurisdiction with respect to those provisions will not be adversely affected by the Committee's decision to not consider H.R. 1817. In addition, I agree that for provisions of the bill that are determined to be within the jurisdiction of the Committee on Government Reform, I will support representation for your Committee during conference with the Senate on this or similar legislation, should such a conference be convened.

As you have requested, I will include a copy of your letter and this response in the Congressional Record during consideration of the legislation on the House floor. Thank you for your assistance as we work towards the enactment of H.R. 1817.

Sincerely,

CHRISTOPHER COX,
Chairman.

COMMITTEE ON AGRICULTURE,
Washington, DC, May 2, 2005.
Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, House of Representatives, Washington, DC.

DEAR CHAIRMAN COX: On April 27, 2005, the Committee on Homeland Security ordered reported a committee print titled the, "Department of Homeland Security Authorization Act for Fiscal Year 2006." Section 309 of the bill, which provides for a report to Congress on protecting agriculture from terrorist attack, falls within the jurisdiction of the Committee on Agriculture. Recognizing your interest in bringing this legislation before the House quickly, the Committee on Agriculture agrees not to seek a sequential referral of the bill. By agreeing not to seek a sequential referral, the Committee does not waive its jurisdiction over this provision or any other provisions of the bill that may fall within its jurisdiction. The Committee also reserves its right to seek conferees on any provisions within its jurisdiction considered in the House-Senate conference, and asks for your support in being accorded such conferees.

Please include this letter as part of the report on the Department of Homeland Security Act for Fiscal Year 2006, or as part of the Congressional Record during consideration of this bill by the House.

Sincerely,

BOB GOODLATTE,
Chairman.

COMMITTEE ON HOMELAND SECURITY,
Washington, DC, May 16, 2005.
Hon. BOB GOODLATTE,
Chairman, Committee on Agriculture, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Agriculture Committee's jurisdictional interest in section 309 of the "Department of Homeland Security Authorization Act for Fiscal Year 2006." I appreciate your willingness not to seek a sequential referral in order to expedite proceedings on this legislation. I agree that, by not exercising your right to request a referral, the Agriculture Committee does not waive any jurisdiction it may have over section 309. In addition, I agree to support representation for your Committee during the House-Senate conference on provisions determined to be within your Committee's jurisdiction.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report or the Congressional Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of the "Department of Homeland Security Authorization Act for Fiscal Year 2006."

Sincerely,

CHRISTOPHER COX,
Chairman.

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 13, 2005.
Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, Adams Building Washington, DC.

DEAR CHAIRMAN COX: I am writing concerning H.R. 1817, the "Department of Homeland Security Authorization Act for Fiscal Year 2006," which the Committee on Homeland Security reported on May 3, 2005. Subsequently, the Committee on Ways and Means received a joint, sequential referral on the bill for a period not ending later than May 13, 2005.

As you know, the Committee on Ways and Means has jurisdiction over trade and customs revenue functions. A range of provisions in H.R. 1817 affects the Committee's jurisdiction, including: authorization language for the Department of Homeland Security, a required review of trade documents that accompany crossborder shipments, a required plan to reduce disparities in customs processing at major airports, a requirement that certain recommendations of a commercial advisory committee representing the trade community be embodied in new regulations, a requirement of a study of the potential merger of the Department of Homeland Security bureau implementing most customs revenue functions with the bureau charged with immigration enforcement, and authorization of a program that would merge security and customs revenue inspection equipment and requirements.

I am pleased to acknowledge the agreement, outlined in the attached chart, between our Committees to address various issues, including changes you will include in the Manager's Amendment to the bill. Thus, in order to expedite this legislation for floor consideration, the Ways and Means Committee agrees to forgo action on this bill based on the agreement reached by our Committees and that no other provisions affecting the jurisdiction of the Ways and Means Committee are included in the Manager's Amendment. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation. In addition, I would appreciate if you would share with my staff copies of the amendments when they are made available to the Homeland Security Committee staff.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 1817, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

Attachment.

WAYS AND MEANS AMENDMENTS AND LEGISLATIVE HISTORY RELATED TO HOMELAND SECURITY AUTHORIZATION BILL

Issue	HSC and W&M agreed changes
Sec. 103—CBP Authorization (includes amount in Customs Reauthorization bill passed by the House in 2004, along with additions identified by W&M and HSC)	Insert CBP Authorization number—$6,926,424,722 in the Manager's Amendment. Number may be adjusted, but any change would be fully cleared between HSC and Ways and Means.
Sec. 201(b)—Annual cross-cutting analysis of proposed funding for DHS programs.	Delete 201 (b)(1)(D) and replace with "(1)(D) To facilitate trade and commerce;" Add 201 (b)(1)(E)—"To carry out other important functions of the agencies and subdivisions within the Department not specifically noted above." Under 201 (b)(2)—Delete the following language: "for functions that are both related directly and not related directly to homeland security" and add: "for functions that would address more than one of the mission areas listed in (b)(1)(A) through (E) of this subsection." Rewrite 201(b)(3)(F) to state "(F) Screening cargo to identify and segregate shipments at high risk for compromise by terrorists or terrorist weapons," rather than "screening cargo to identify and segregate high-risk shipments."
Sec. 306—Security of Maritime Cargo Containers (Sanchez Amendment).	Amend Sec. 306(a) to read: "(a) STANDARDS AND REGULATIONS— (1) STANDARDS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall establish standards and procedures for securing maritime cargo containers relating to obligation to seal, recording of seal changes, modal changes, seal placement, ocean carrier seal verification, and addressing seal anomalies. These standards shall include the standards for seals and locks as required under paragraph (3) of subsection (b) of section 70116 of Title 46 U.S.C. (2) REGULATIONS.—No later than 90 days after completion of the requirements in subsection (a), the Secretary of Homeland Security shall issue regulations for the security of maritime cargo containers consistent with the standards developed in subsection (a)." Amend Sec. 306(b) to read: "(b) INTERNATIONAL AGREEMENTS.—The Secretary, in consultation with the Department of State, Department of Commerce, Department of the Treasury, Office of the United States Trade Representative, and other appropriate Federal agencies, shall seek to enter into agreements with foreign countries and international organizations to establish standards for the security of maritime cargo containers moving within the intermodal transportation system that, to the maximum extent practicable, meet the requirements of subsection (a)." Amend Sec. 306(c) to read "(c) CONTAINER TARGETING STRATEGY.—STRATEGY.—The Secretary shall develop a strategy to improve the ability of the Department of Homeland Security to use advance cargo information to identify anomalies in such information to determine whether such cargo poses a security risk. The strategy shall include a method of contacting shippers to verify or explain any anomalies discovered in such information." Will include acknowledgement in legislative history that "It is intended that the advance cargo information referred to in Section 306(c) should be provided to the government by the party that has the most direct knowledge of that information consistent with Public Law 107–210 Section 343(a)(3)(B)." Amend Section 306(d) to read: "(d) CONTAINER SECURITY DEMONSTRATION PROGRAM.—(1) PROGRAM.—The Secretary is authorized to establish and carry out a demonstration program that integrates radiation detection equipment with other types of non-intrusive inspection equipment at an appropriate United States seaport, as determined by the Secretary. (2) REQUIREMENT.—The demonstration program shall also evaluate ways to strengthen the capability of Department of Homeland Security personnel to analyze cargo inspection data and ways to improve the transmission of inspection data between appropriate entities within the Department of Homeland Security." Amend Section 306(e) to read: "(e) COORDINATION AND CONSOLIDATION OF CONTAINER SECURITY PROGRAMS.—The Secretary shall coordinate all programs that enhance the security of maritime cargo, and, to the extent practicable, consolidate Operation Safe Commerce, the Smart Box Initiative, and similar programs that evaluate security enhancements for maritime cargo containers, to achieve enhanced coordination and efficiency. The Secretary shall report to the appropriate Congressional committees before consolidating any program mentioned in this subsection." Add new Sec. New Section 306(f): "DEFINITION.—In this section, the term 'appropriate congressional committees' means appropriate Congressional Committees as defined in the Homeland Security Act of 2002."
Sec. 401—Study by Sec. of DHS on Organization of DHS.	Section 401(b)(1)—delete "to the Committee on Homeland Security of the House of DHS on Organization of Representatives and the Committee on Homeland Security and Government Affairs of the Senate" and replace with "to the appropriate Congressional Committees as defined in the Homeland Security Act of 2002."
Section 402—GAO Report on DHS Organization.	Insert at the end of this section: "The report shall be submitted to the appropriate Congressional committees as defined in the Homeland Security Act of 2002."
Sec. 403—Plan for Establishing Consolidated and Colocated Regional Offices.	If Sec. 403, or a similar provision is included in the bill, amend that section by adding at the end of the section: "In developing the plan, the Secretary shall ensure that the plan does not compromise the uniform and consistent implementation and application of laws, policies and procedures related to customs processing operations."
Sec. 404—Plan to Reduce Wait Times.	Amend Sec. 404(2) to include "passenger" following "customs".
Ways and Means Customs Bill.	In addition to the authorization for CBP, include all other Customs sections of HR 4418 as passed by the House that were not already enacted as part of other laws—Secs. 102, 104, 124, and 125.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, May 13, 2005.
Hon. WILLIAM THOMAS,
Chairman, Committee on Ways and Means, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Ways and Means Committee's jurisdictional interest in H.R. 1817, the "The Department of Homeland Security Authorization Act for Fiscal Year 2006." I appreciate your willingness to forgo action on this bill, in order to expedite this legislation for floor consideration. I agree that, by forgoing further action on the bill, the Committee on Ways and Means does not waive any jurisdiction it has over provisions within H.R. 1817 and the Manager's amendment. This is being done with the understanding that it does not in any way prejudice the Ways and Means Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation. We will also share with you copies of any amendments as they are made available to us.

As you have requested, I will include a copy of your letter and this response as part of the Congressional Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of H.R. 1817.

Sincerely,
CHRISTOPHER COX.
Chairman.

COMMITTEE ON ARMED SERVICES,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 2, 2005.
Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, House of Representatives, Adams Building, Library of Congress, Washington, DC.

DEAR MR. CHAIRMAN: On April 27, 2005, the Committee on Homeland Security ordered reported a committee print, the "Department of Homeland Security Authorization Act for Fiscal Year 2006." This bill contains provisions that fall within the jurisdiction of the Committee on Armed Services, including: section 222 (relating to information collection requirements and priorities) and section 302(b) (establishing a working group relating to military technology). Recognizing your interest in bringing this legislation before the House quickly, the Committee on Armed Services agrees not to seek a sequential referral of the bill. By agreeing not to seek a sequential referral, the Committee does not waive its jurisdiction over these provisions or any other provisions of the bill that may fall within its jurisdiction. The Committee also reserves its right to seek conferees on any provisions within its jurisdiction considered in the House-Senate conference, and asks for your support in being accorded such conferees.

Please include this letter as part of the report, if any, on the Department of Homeland Security Act for Fiscal Year 2006 or as part of the Congressional Record during consideration of this bill by the House.

Sincerely,
DUNCAN HUNTER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, May 2, 2005.
Hon. Duncan Hunter,
Chairman, Committee on Armed Services, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Armed Services Committee's jurisdictional interest in Section 222 and the working group on transfer of military technologies established under Section 302(b) of the "Department of Homeland Security Authorization Act for Fiscal Year 2006." I appreciate your willingness not to seek a sequential referral in order to expedite proceedings on this legislation. I agree that, by not exercising your right to request a referral, the Armed Services Committee does not waive any jurisdiction it may have over the relevant provisions of Sections 222 and 302(b). In addition, I agree to support representation for your Committee during the House-Senate conference on any provisions determined to be within your Committee's jurisdiction.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report and the Congressional Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of the "Department of Homeland Security Authorization Act for Fiscal Year 2006."

Sincerely,
CHRISTOPHER COX,
Chairman.

HOUSE OF REPRESENTATIVES, PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, May 16, 2005.
Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In recognition of the importance of expediting the passage of H.R. 1817, the "Department of Homeland Security Authorization Act for Fiscal Year 2006," the Permanent Select Committee on Intelligence hereby waives further consideration of the bill. The Committee has jurisdictional interests in H.R. 1817, including but not limited to intelligence activities within the Department of Homeland Security authorized within the National Intelligence Program.

The Committee takes this action only with the understanding that this procedural route should not be construed to prejudice the House Permanent Select Committee on Intelligence's jurisdictional interest over this bill or any similar bill and will not be considered as precedent for consideration of matters of jurisdictional interest to the Committee in the future. In addition, the Permanent Select Committee on Intelligence reserves the possibility of seeking conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation.

Finally, I would ask that you include a copy of our exchange of letters on this matter in the Congressional Record during the House debate on H.R. 1817. I appreciate the constructive work between our committees on this matter and thank you for your consideration.

Sincerely,
PETER HOEKSTRA,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC, May 16, 2005.
The Hon. PETER HOEKSTRA,
Chairman, Permanent Select Committee on Intelligence, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter expressing the Intelligence Committee's jurisdictional interest in H.R. 1817, the "The Department of Homeland Security Authorization Act for Fiscal Year 2006." I appreciate your willingness to waive further consideration of the bill in order to expedite this legislation for floor consideration: I agree that by waiving further consideration, the Intelligence Committee does not waive any jurisdiction it may have over provisions of the bill, including those relating to intelligence activities of the Department of Homeland Security authorized within the National Intelligence Program.

As you have requested, I will include a copy of your letter and this response as part of the Congressional Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of H.R. 1817.

Sincerely,
CHRISTOPHER COX,
Chairman

Mr. UDALL of Colorado. Mr. Chairman, I support passage of this important bill—the first-ever authorization bill for the new Department of Homeland Security (DHS).

The bill includes many provisions that will improve Americans' security. These include authority for recruitment and training of 2,000 new border agents, better screening of incoming cargo, and improved background checks for people taking part in programs regulated by the DHS.

The bill also will help the government speak more clearly to Americans regarding threats to their security and will improve the way the federal government works with the States and local agencies to respond to those threats.

And it includes provisions to improve research on and implementation of anti-terror technology.

Of course, the bill could be better in a number of respects, which is why I voted for the substitute offered by Representative THOMPSON of Mississippi.

That substitute would have authorized $6.46 billion for homeland security grants to state and local governments, $2.29 billion more than the President's budget. It also would have authorized $400 million to restore funding to the Law Enforcement Terrorism Prevention program, which the President's budget would eliminate. And it would have authorized an additional $150 million in funding for the FIRE Act grants program, which provides fire departments across the nation with the equipment they need to respond to a terrorist attack.

The substitute also included a number of provisions to ensure that the commitments made in the 9/11 Reforms bill (PL 108–458) are fulfilled. Unfortunately, the President's budget left many of these commitments unmet. Among others, these included authorization for an additional $160 million to meet the 9/11 Act's commitment to securing air cargo, an additional $92 million to install radiation portal monitors at all ports of entry.

The substitute also would have authorized an additional $61 million to hire 600 additional immigration investigators, in order to reach the 800 investigators called for in the 9/11 Act. This would have gone a long way to increase the ability of the federal government to address immigration violations.

Of course, even without the additions that would have been made by the substitute, the bill does include a number of provisions related to immigration.

In that connection I want to note my vote on the Norwood amendment. Though the intentions of Mr. NORWOOD's amendment are laudable, I could not support the amendment because of the expansion of authority it gives to states to deport illegal immigrants.

Other parts of this bill will provide states with resources to train officers to enforce immigration law, without a mandate, by letting state and local government decide if they want to participate in this training. I believe Mr. Norwood's amendment also intended to provide resources to states without creating a mandate of enforcement.

However, it stated that local governments have the authority to "apprehend, detain, or remove" illegal immigrants. I do not believe it is the role of the states to make decisions on the deportation of individuals. Currently, states who are detaining illegal immigrants turn them over to the Department of Homeland Security, and I believe this is the proper process.

So, though I was supportive of the intent of that amendment, I could not support the expansion of authority to state and local governments.

As I mentioned, I believe this bill could be improved. Yet, our homeland security is an important priority and I am pleased to support this authorization bill.

Mr. COX. Mr. Chairman, I yield back the balance of my time.

☐ 1330

The Acting CHAIRMAN (Mr. COLE of Oklahoma). All time for general debate has expired.

In lieu of the amendments recommended by the committees on Homeland Security, Energy and Commerce, and the Judiciary now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute printed in part A of House Report 109-84. That amendment in the nature of a substitute shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Homeland Security Authorization Act for Fiscal Year 2006".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

Sec. 101. Department of Homeland Security.
Sec. 102. Customs and border protection; border patrol agents.
Sec. 103. Departmental management and operations.
Sec. 104. Critical infrastructure grants.
Sec. 105. Research and development.
Sec. 106. Border and transportation security.
Sec. 107. State and local terrorism preparedness.
Sec. 108. Immigration resources.

TITLE II—TERRORISM PREVENTION, INFORMATION SHARING, AND RISK ASSESSMENT

Subtitle A—Terrorism Prevention

Sec. 201. Consolidated background check process.

Subtitle B—Homeland Security Information Sharing and Analysis Enhancement

Sec. 211. Short title.
Sec. 212. Provision of terrorism-related information to private sector officials.
Sec. 213. Analytic expertise on the threats from biological agents and nuclear weapons.
Sec. 214. Alternative analysis of homeland security information.
Sec. 215. Assignment of information analysis and infrastructure protection functions.
Sec. 216. Coordination of homeland security threat analysis provided to non-Federal officials.
Sec. 217. 9/11 Memorial Homeland Security Fellows Program.
Sec. 218. Access to nuclear terrorism-related information.
Sec. 219. Access of Assistant Secretary for Information Analysis to terrorism information.
Sec. 220. Administration of the Homeland Security Information Network.
Sec. 221. IAIP personnel recruitment.
Sec. 222. Homeland Security Information Requirements.
Sec. 223. Homeland Security Advisory System.
Sec. 224. Use of open-source information.
Sec. 225. Full and efficient use of open-source information.
Sec. 226. Coordination with the intelligence community.
Sec. 227. Consistency with applicable Federal laws.

TITLE III—DOMESTIC PREPAREDNESS AND PROTECTION

Subtitle A—Preparedness and Protection

Sec. 301. National terrorism exercise program.
Sec. 302. Technology development and transfer.
Sec. 303. Review of antiterrorism acquisitions.
Sec. 304. Center of Excellence for Border Security.
Sec. 305. Requirements relating to the Container Security Initiative (CSI).
Sec. 306. Security of maritime cargo containers.
Sec. 307. Security plan for general aviation at Ronald Reagan Washington National Airport.
Sec. 308. Interoperable communications assistance.
Sec. 309. Report to Congress on implementation of recommendations regarding protection of agriculture.

Subtitle B—Department of Homeland Security Cybersecurity Enhancement

Sec. 311. Short title.
Sec. 312. Assistant Secretary for Cybersecurity.
Sec. 313. Cybersecurity training programs and equipment.
Sec. 314. Cybersecurity research and development.

Subtitle C—Security of public transportation systems

Sec. 321. Security best practices.
Sec. 322. Public awareness.

Subtitle D—Critical infrastructure prioritization

Sec. 331. Critical infrastructure.
Sec. 332. Security review.
Sec. 333. Implementation report.
Sec. 334. Protection of information.

TITLE IV—U.S. CUSTOMS AND BORDER PROTECTION AND U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

Sec. 401. Establishment and implementation of cost accounting system; reports.
Sec. 402. Report relating to One Face at the Border Initiative.
Sec. 403. Customs services.
Sec. 404. Sense of Congress on interpretation of textile and apparel provisions.

TITLE V—MISCELLANEOUS

Sec. 501. Border security and enforcement coordination and operations.
Sec. 502. GAO report to Congress.
Sec. 503. Plan to reduce wait times.
Sec. 504. Denial of transportation security card.
Sec. 505. Transfer of existing Customs Patrol Officers unit and establishment of new CPO units in the Bureau of Immigration and Customs Enforcement.
Sec. 506. Data collection on use of immigration consultants.
Sec. 507. Office for State and local government coordination.
Sec. 508. Authority of other Federal agencies unaffected.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. DEPARTMENT OF HOMELAND SECURITY.

There is authorized to be appropriated to the Secretary of Homeland Security for the necessary expenses of the Department of Homeland Security for fiscal year 2006, $34,152,143,000.

SEC. 102. CUSTOMS AND BORDER PROTECTION; BORDER PATROL AGENTS.

Of the amount authorized under section 101, there is authorized to be appropriated for U.S. Customs and Border Protection for fiscal year 2006, $6,926,424,722, of which $1,839,075,277 is authorized for border security and control between ports of entry, including for the hiring of 2,000 full-time active-duty border patrol agents above the number of such positions for which funds were allotted for fiscal year 2005 (excluding any supplemental appropriations).

SEC. 103. DEPARTMENTAL MANAGEMENT AND OPERATIONS.

Of the amount authorized under section 101, there is authorized to be appropriated for fiscal year 2006 for departmental management and operations, $649,672,000, of which—

(1) $44,895,000 is authorized for the Department of Homeland Security Regions Initiative;

(2) $4,459,000 is authorized for Operation Integration Staff; and

(3) $56,278,000 is authorized for Office of Security Initiatives.

SEC. 104. CRITICAL INFRASTRUCTURE GRANTS.

Of the amount authorized under section 101, there is authorized to be appropriated for fiscal year 2006 for grants and other assistance to improve critical infrastructure protection, $465,000,000.

SEC. 105. RESEARCH AND DEVELOPMENT.

Of the amount authorized under section 101, there are authorized to be appropriated for fiscal year 2006—

(1) $76,573,000 to support chemical countermeasure development activities of the Directorate of Science and Technology;

(2) $195,014,000 to support a nuclear detection office and related activities;

(3) $19,000,000 for cybersecurity-related research and development activities;

(4) $10,000,000 for research and development of technologies capable of countering threats posed by man-portable air defense systems, including location-based technologies and noncommercial aircraft-based technologies; and

(5) $10,600,000 for the activities of such directorate conducted pursuant to subtitle G of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 441 et seq.).

SEC. 106. BORDER AND TRANSPORTATION SECURITY.

Of the amount authorized under section 101, there are authorized to be appropriated for fiscal year 2006—

(1) $826,913,000 for expenses related to Screening Coordination and Operations of the Directorate of Border and Transportation Security;

(2) $100,000,000 for weapons of mass destruction detection technology of such directorate; and

(3) $133,800,000 for the Container Security Initiative of such directorate.

SEC. 107. STATE AND LOCAL TERRORISM PREPAREDNESS.

Of the amount authorized under section 101, there are authorized to be appropriated for fiscal year 2006—

(1) $40,500,000 for the activities of the Office for Interoperability and Compatibility within the Directorate of Science and Technology pursuant to section 7303 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C 194); and

(2) $2,000,000,000 for grants to State and local governments for terrorism preparedness awarded by the Office of State and Local Government Coordination and Preparedness.

SEC. 108. IMMIGRATION RESOURCES.

Of the amount authorized under section 101, there is authorized to be appropriated for fiscal year 2006 the following:

(1) For the Immigration and Customs Enforcement Legal Program, $159,514,000, including for the hiring of an additional 300 attorneys above the number of such positions for which funds were allotted for fiscal year 2005, and related training and support costs.

(2) Sufficient sums for the hiring of an additional 300 adjudicators above the number of such positions for which funds were allotted for fiscal year 2005 to carry out the functions stated in section 451(b) of the Homeland Security Act of 2002 (6 U.S.C. 271(b)), and related training and support costs. The fees provided for in section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) shall be adjusted in order to provide sufficient sums for the hiring of the additional adjudicators and for the related training and support costs provided for in this paragraph.

TITLE II—TERRORISM PREVENTION, INFORMATION SHARING, AND RISK ASSESSMENT

Subtitle A—Terrorism Prevention

SEC. 201. CONSOLIDATED BACKGROUND CHECK PROCESS.

(a) REQUIREMENT.—The Secretary of Homeland Security, in consultation with the Attorney General, shall establish a single process for conducting the security screening and background checks on individuals participating in any of the programs identified under subsection (b).

(b) INCLUDED PROGRAMS.—The process established under subsection (a) shall apply to the following programs:

(1) The Transportation Worker Identification Credential.

(2) The security risk determination and related background checks under section 5103a of title 49, United States Code, performed by the Transportation Security Administration as part of the Department of Transportation Hazardous Materials Endorsement credentialing program.

(3) The Free and Secure Trade program.

(4) The NEXUS and SENTRI border crossing programs.

(5) The Registered Traveler program of the Transportation Security Administration.

(c) FEATURES OF PROCESS.—The process established under subsection (a) shall include the following:

(1) A single submission of security screening information, including personal data and biometric information as appropriate, necessary to meet the security requirements of all applicable departmental programs.

(2) An ability to submit such security screening information at any location or through any process approved by the Secretary with respect to any of the applicable departmental programs.

(3) Acceptance by the Department of a security clearance or other credential issued by a Federal agency, to the extent that the security clearance process of the agency satisfies requirements that are at least as stringent as those of the applicable departmental programs under subsection (b).

(4) Appropriate standards and procedures for protecting individual privacy, confidentiality, record retention, and addressing other concerns relating to information security.

(d) DEADLINES.—The Secretary of Homeland Security shall—

(1) submit a description of the process developed under subsection (a) to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) by not later than 6 months after the date of the enactment of this Act; and

(2) begin implementing such process by not later than 12 months after the date of the enactment of this Act.

(e) INCLUSION OF OTHER PROGRAMS.—The Secretary of Homeland Security shall review other existing or developing Department of Homeland Security programs that include security screening or background checks for participating individuals, and report to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) any recommendations for inclusion of such additional programs in the consolidated screening process established under this section.

(f) RELATIONSHIP TO OTHER LAWS.—(1) Nothing in this section affects any statutory or regulatory requirement relating to the operation or standards of the programs described in subsection (b).

(2) Nothing in this section affects any statutory requirement relating to title III of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 435b et seq.).

Subtitle B—Homeland Security Information Sharing and Analysis Enhancement

SEC. 211. SHORT TITLE.

This subtitle may be cited as the "Homeland Security Information Sharing and Analysis Enhancement Act of 2005".

SEC. 212. PROVISION OF TERRORISM-RELATED INFORMATION TO PRIVATE SECTOR OFFICIALS.

Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is amended by adding at the end the following:

"(20) To require, in consultation with the Assistant Secretary for Infrastructure Protection, the creation and routine dissemination of analytic reports and products designed to provide timely and accurate information that has specific relevance to each of the Nation's private critical infrastructure sectors (as identified in the national infrastructure protection plan issued under paragraph (5)), to private sector officials in each such sector who are responsible for protecting institutions within that sector from potential acts of terrorism and for mitigating the potential consequences of any such act.".

SEC. 213. ANALYTIC EXPERTISE ON THE THREATS FROM BIOLOGICAL AGENTS AND NUCLEAR WEAPONS.

Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is further amended by adding at the end the following:

"(21) To ensure sufficient analytic expertise within the Office of Information Analysis to create, on an ongoing basis, products based on the analysis of homeland security information, as defined in section 892(f)(1), with specific reference to the threat of terrorism involving the use of nuclear weapons and biological agents to inflict mass casualties or other catastrophic consequences on the population or territory of the United States.".

SEC. 214. ALTERNATIVE ANALYSIS OF HOMELAND SECURITY INFORMATION.

(a) REQUIREMENT.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

"SEC. 203. ALTERNATIVE ANALYSIS OF HOMELAND SECURITY INFORMATION.

"The Secretary shall establish within the Department a process and assign an individual or entity the responsibility to ensure that, as appropriate, elements of the Department conduct alternative analysis (commonly referred to as 'red-team analysis') of homeland security information, as that term is defined in section 892(f)(1), that relates to potential acts of terrorism involving the use of nuclear weapons or biological agents to inflict mass casualties or other catastrophic consequences on the population or territory of the United States.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 202 the following:

"Sec. 203. Alternative analysis of homeland security information.".

SEC. 215. ASSIGNMENT OF INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION FUNCTIONS.

Section 201(b) of the Homeland Security Act of 2002 (6 U.S.C. 121(b)) is amended by adding at the end the following:

"(4) ASSIGNMENT OF SPECIFIC FUNCTIONS.—The Under Secretary for Information Analysis and Infrastructure Protection—

"(A) shall assign to the Assistant Secretary for Information Analysis the responsibility for performing the functions described in paragraphs (1), (4), (7) through (14), (16), and (18) of subsection (d);

"(B) shall assign to the Assistant Secretary for Infrastructure Protection the responsibility for performing the functions described in paragraphs (2), (5), and (6) of subsection (d);

"(C) shall assign to the Assistant Secretary for Cybersecurity the primary authority within the Department over the National Cyber Security Division and the National Communications System, and, in coordination with other relevant Federal agencies, the cybersecurity-related aspects of paragraphs (2), (3), (5), (6), (15), and (17) of subsection (d);

"(D) shall ensure that the Assistant Secretary for Information Analysis and the Assistant Secretary for Infrastructure Protection both perform the functions described in paragraphs (3), (15), and (17) of subsection (d); and

"(E) may assign to each such Assistant Secretary such other duties relating to such responsibilities as the Under Secretary may provide.".

SEC. 216. COORDINATION OF HOMELAND SECURITY THREAT ANALYSIS PROVIDED TO NON-FEDERAL OFFICIALS.

(a) IN GENERAL.—Title I of the Homeland Security Act of 2002 (6 U.S.C. 111 et seq.) is amended by adding at the end the following:

"SEC. 104. COORDINATION OF HOMELAND SECURITY THREAT ANALYSIS PROVIDED TO NON-FEDERAL OFFICIALS.

"(a) PRIMARY AUTHORITY.—Except as provided in subsection (b), the Secretary shall be responsible for coordinating all homeland security threat analysis to be provided to State and local government and tribal officials and the private sector.

"(b) COORDINATION REQUIRED.—No Federal official may disseminate any homeland security threat analysis to State, local, tribal, or private sector officials without the coordination of the Secretary or the Secretary's designee except—

"(1) in exigent circumstances under which it is essential that the homeland security threat analysis be communicated immediately; or

"(2) when such homeland security threat analysis is issued to State, local, or tribal law enforcement officials for the purpose of assisting them in any aspect of the administration of criminal justice.

"(c) DEFINITION.—(1) As used in this section, the term 'homeland security threat analysis' means any informational product that is the result of evaluating information, regardless of its source, in order to—

"(A) identify and assess the nature and scope of terrorist threats to the homeland;

"(B) detect and identify threats of terrorism against the United States; and

"(C) understand such threats in light of actual and potential vulnerabilities of the territory of the United States.

"(2) As defined in paragraph (1), the term 'homeland security threat analysis' does not include—

"(A) any information that has not been processed, evaluated, or analyzed;

"(B) any information that is evaluated to create any finished analytic product;

"(C) facts or summaries of facts;

"(D) reports of interviews; or

"(E) reports or other documents that merely aggregate or summarize information derived from multiple sources on the same or related topics.".

(b) CLERICAL AMMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 103 the following:

"Sec. 104. Coordination of homeland security threat analysis provided to non-Federal officials.".

SEC. 217. 9/11 MEMORIAL HOMELAND SECURITY FELLOWS PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is further amended by adding at the end the following:

"SEC. 204. 9/11 MEMORIAL HOMELAND SECURITY FELLOWS PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish a fellowship program in accordance with this section for the purpose of bringing State, local, tribal, and private sector officials to participate in the work of the Homeland Security Operations Center in order to become familiar with—

"(A) the mission and capabilities of that Center; and

"(B) the role, programs, products, and personnel of the Office of Information Analysis, the Office of Infrastructure Protection, and other elements of the Department responsible for the integration, analysis, and dissemination of homeland security information, as defined in section 892(f)(1).

"(2) PROGRAM NAME.—The program under this section shall be known as the 9/11 Memorial Homeland Security Fellows Program.

"(b) ELIGIBILITY.—In order to be eligible for selection as a fellow under the program, an individual must—

"(1) have homeland security-related responsibilities; and

"(2) possess an appropriate national security clearance.

"(c) LIMITATIONS.—The Secretary—

"(1) may conduct up to 4 iterations of the program each year, each of which shall be 90 days in duration; and

"(2) shall ensure that the number of fellows selected for each iteration does not impede the activities of the Center.

"(d) CONDITION.—As a condition of selecting an individual as a fellow under the program, the Secretary shall require that the individual's employer agree to continue to pay the individual's salary and benefits during the period of the fellowship.

"(e) STIPEND.—During the period of the fellowship of an individual under the program, the Secretary shall, subject to the availability of appropriations, provide to the individual a stipend to cover the individual's reasonable living expenses during the period of the fellowship.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is further amended by adding at the end of the items relating to such subtitle the following:

"Sec. 204. 9/11 Memorial Homeland Security Fellows Program.".

SEC. 218. ACCESS TO NUCLEAR TERRORISM-RELATED INFORMATION.

Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is further amended by adding at the end the following:

"(22) To ensure that—

"(A) the Assistant Secretary for Information Analysis receives promptly and without request all information obtained by any component of the Department if that information relates, directly or indirectly, to a threat of terrorism involving the potential use of nuclear weapons;

"(B) such information is—

"(i) integrated and analyzed comprehensively; and

"(ii) disseminated in a timely manner, including to appropriately cleared Federal, State, local, tribal, and private sector officials; and

"(C) such information is used to determine what requests the Department should submit for collection of additional information relating to that threat.".

SEC. 219. ACCESS OF ASSISTANT SECRETARY FOR INFORMATION ANALYSIS TO TERRORISM INFORMATION.

Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is further amended by adding at the end the following:

"(23) To ensure that the Assistant Secretary for Information Analysis—

"(A) is routinely and without request given prompt access to all terrorism-related information collected by or otherwise in the possession of any component of the Department, including all homeland security information (as that term is defined in section 892(f)(1)); and

"(B) to the extent technologically feasible has direct access to all databases of any component of the Department that may contain such information.".

SEC. 220. ADMINISTRATION OF THE HOMELAND SECURITY INFORMATION NETWORK.

Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is further amended by adding at the end the following:

"(24) To administer the homeland security information network, including—

"(A) exercising primary responsibility for establishing a secure nationwide real-time homeland security information sharing network for Federal, State, and local government agencies and authorities, tribal officials, the private sector, and other governmental and private entities involved in receiving, analyzing, and distributing information related to threats to homeland security;

"(B) ensuring that the information sharing systems, developed in connection with the network established under subparagraph (A), are utilized and are compatible with, to the greatest extent practicable, Federal, State, and local government, tribal, and private sector antiterrorism systems and protocols that have been or are being developed; and

"(C) ensuring, to the greatest extent possible, that the homeland security information network and information systems are integrated and interoperable with existing private sector technologies.".

SEC. 221. IAIP PERSONNEL RECRUITMENT.

(a) IN GENERAL.—Chapter 97 of title 5, United States Code, is amended by adding after section 9701 the following:

"§9702. Recruitment bonuses

"(a) IN GENERAL.—Notwithstanding any provision of chapter 57, the Secretary of Homeland Security, acting through the Under Secretary for Information Analysis and Infrastructure Protection, may pay a bonus to an individual in order to recruit such individual for a position that is primarily responsible for discharging the analytic responsibilities specified in section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) and that—

"(1) is within the Directorate for Information Analysis and Infrastructure Protection; and

"(2) would be difficult to fill in the absence of such a bonus.

In determining which individuals are to receive bonuses under this section, appropriate consideration shall be given to the Directorate's critical need for linguists.

"(b) BONUS AMOUNT, FORM, ETC.—

"(1) IN GENERAL.—The amount of a bonus under this section shall be determined under regulations issued by the Secretary of Homeland Security, with the concurrence of the Director of National Intelligence, but may not exceed 50 percent of the annual rate of basic pay of the position involved. The Director of National Intelligence shall concur in such regulations only if the amount of the bonus is not disproportionate to recruitment bonuses offered to intelligence analysts in other intelligence community agencies.

"(2) FORM OF PAYMENT.—A bonus under this section shall be paid in the form of a lump-sum payment and shall not be considered to be part of basic pay.

"(3) COMPUTATION RULE.—For purposes of paragraph (1), the annual rate of basic pay of a position does not include any comparability payment under section 5304 or any similar authority.

"(c) SERVICE AGREEMENTS.—Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement with the Department of Homeland Security. The agreement shall include—

"(1) the period of service the individual shall be required to complete in return for the bonus; and

"(2) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of any such termination.

"(d) ELIGIBILITY.—A bonus under this section may not be paid to recruit an individual for—

"(1) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

"(2) a position in the Senior Executive Service as a noncareer appointee (as defined under section 3132(a)); or

"(3) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

"(e) TERMINATION.—The authority to pay bonuses under this section shall terminate on September 30, 2008.

"§ 9703. Reemployed annuitants

"(a) IN GENERAL.—If an annuitant receiving an annuity from the Civil Service Retirement and Disability Fund becomes employed in a position within the Directorate for Information Analysis and Infrastructure Protection of the Department of Homeland Security, the annuitant's annuity shall continue. An annuitant so reemployed shall not be considered an employee for the purposes of chapter 83 or 84.

"(b) TERMINATION.—The exclusion pursuant to this section of the Directorate for Information Analysis and Infrastructure Protection from the reemployed annuitant provisions of chapters 83 and 84 shall terminate 3 years after the date of the enactment of this section, unless extended by the Secretary of Homeland Security. Any such extension shall be for a period of 1 year and shall be renewable.

"(c) ANNUITANT DEFINED.—For purposes of this section, the term 'annuitant' has the meaning given such term under section 8331 or 8401, whichever is appropriate.

"§ 9704. Regulations

"The Secretary of Homeland Security, in consultation with the Director of the Office of Personnel Management, may prescribe any regulations necessary to carry out section 9702 or 9703.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 97 of title 5, United States Code, is amended by adding after the item relating to section 9701 the following:

"9702. Recruitment bonuses.
"9703. Reemployed annuitants.
"9704. Regulations.".

SEC. 222. HOMELAND SECURITY INFORMATION REQUIREMENTS.

(a) HOMELAND SECURITY INFORMATION REQUIREMENTS.—The Joint Intelligence Community Council shall advise the Director of National Intelligence with respect to homeland security intelligence requirements.

(b) DESIGNATION OF MEMBERS.—The President may designate officers of the United States Government in addition to the members named in or designated under section 101A(b) of the National Security Act to serve on the Joint Intelligence Community Council in a capacity limited to consideration of homeland security intelligence requirements.

(c) PARTICIPATION IN NATIONAL INTELLIGENCE COLLECTION REQUIREMENTS AND MANAGEMENT PROCESSES.—The Secretary shall be a member of any Director of National Intelligence-established interagency collection and requirements management board that develops and reviews national intelligence collection requirements in response to Presidential intelligence guidelines.

SEC. 223. HOMELAND SECURITY ADVISORY SYSTEM.

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 is further amended—

(1) in section 201(d)(7) (6 U.S.C. 121(d)(7)) by inserting "under section 205" after "System"; and

(2) by adding at the end the following:

"SEC. 205. HOMELAND SECURITY ADVISORY SYSTEM.

"(a) REQUIREMENT.—The Under Secretary for Information Analysis and Infrastructure Protection shall implement a Homeland Security Advisory System in accordance with this section to provide public advisories and alerts regarding threats to homeland security, including national, regional, local, and economic sector advisories and alerts, as appropriate.

"(b) REQUIRED ELEMENTS.—The Under Secretary, under the System—

"(1) shall include, in each advisory and alert regarding a threat, information on appropriate protective measures and countermeasures that may be taken in response to the threat;

"(2) shall, whenever possible, limit the scope of each advisory and alert to a specific region, locality, or economic sector believed to be at risk; and

"(3) shall not, in issuing any advisory or alert, use color designations as the exclusive means of specifying the homeland security threat conditions that are the subject of the advisory or alert.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is further amended by adding at the end of the items relating to subtitle A of title II the following:

"Sec. 205. Homeland Security Advisory System.".

SEC. 224. USE OF OPEN-SOURCE INFORMATION.

Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is further amended by adding at the end the following:

"(25) To ensure that, whenever possible—

"(A) the Assistant Secretary for Information Analysis utilizes open-source information and produces reports and analytic products based on such information that do not require a national security classification under applicable law; and

"(B) such unclassified open-source reports are produced, to the extent consistent with the protection of intelligence sources and methods from unauthorized disclosure, contemporaneously with reports or analytic products concerning the same or similar information that the Assistant Secretary for Information Analysis produces in a classified format.".

SEC. 225. FULL AND EFFICIENT USE OF OPEN-SOURCE INFORMATION.

(a) REQUIREMENT.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is further amended by adding at the end the following:

"SEC. 206. FULL AND EFFICIENT USE OF OPEN-SOURCE INFORMATION.

"The Under Secretary shall ensure that, in meeting their analytic responsibilities under section 201(d) and in formulating requirements for collection of additional information, the Assistant Secretary for Information Analysis and the Assistant Secretary for Infrastructure Protection make full and efficient use of open-source information wherever possible.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is further amended by inserting after the item relating to section 205 the following:

"Sec. 206. Full and efficient use of open-source information.".

SEC. 226. COORDINATION WITH THE INTELLIGENCE COMMUNITY.

Section 201 of the Homeland Security Act of 2002 (6 U.S.C. 121) is amended by adding at the end the following:

"(h) COORDINATION WITH THE INTELLIGENCE COMMUNITY.—The Under Secretary shall ensure that, as to the responsibilities specified in subsection (d), the Assistant Secretary for Information Analysis serves as the official responsible for coordinating, as appropriate, with elements of the intelligence community.".

SEC. 227. CONSISTENCY WITH APPLICABLE FEDERAL LAWS.

Unless otherwise expressly stated in this subtitle, the Secretary of Homeland Security shall ensure that all activities carried out under this subtitle are consistent with any applicable Federal laws relating to information policy of Federal agencies.

TITLE III—DOMESTIC PREPAREDNESS AND PROTECTION

Subtitle A—Preparedness and Protection

SEC. 301. NATIONAL TERRORISM EXERCISE PROGRAM.

(a) IN GENERAL.—Section 430(c) of the Homeland Security Act of 2002 (6 U.S.C. 238) is amended by striking "and" after the semicolon at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting "; and", and by adding at the end the following:

"(10) designing, developing, performing, and evaluating exercises at the national, State, territorial, regional, local, and tribal levels of government that incorporate government officials, emergency response providers, public safety agencies, the private sector, international governments and organizations, and other appropriate entities to test the Nation's capability to prevent, prepare for, respond to, and recover from threatened or actual acts of terrorism.".

(b) NATIONAL TERRORISM EXERCISE PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—Title VIII of the Homeland Security Act of 2002 (Public Law 107–296) is amended by adding at the end the following new subtitle:

"Subtitle J—Terrorism Preparedness Exercises

"SEC. 899a. NATIONAL TERRORISM EXERCISE PROGRAM.

"(a) IN GENERAL.—The Secretary, through the Office for Domestic Preparedness, shall establish a National Terrorism Exercise Program for the purpose of testing and evaluating the Nation's capabilities to prevent, prepare for, respond to, and recover from threatened or actual acts of terrorism that—

"(1) enhances coordination for terrorism preparedness between all levels of government, emergency response providers, international governments and organizations, and the private sector;

"(2) is—

"(A) multidisciplinary in nature, including, as appropriate, information analysis and cybersecurity components;

"(B) as realistic as practicable and based on current risk assessments, including credible threats, vulnerabilities, and consequences;

"(C) carried out with the minimum degree of notice to involved parties regarding the timing and details of such exercises, consistent with safety considerations;

"(D) evaluated against performance measures and followed by corrective action to solve identified deficiencies; and

"(E) assessed to learn best practices, which shall be shared with appropriate Federal, State, territorial, regional, local, and tribal personnel, authorities, and training institutions for emergency response providers; and

"(3) assists State, territorial, local, and tribal governments with the design, implementation, and evaluation of exercises that—

"(A) conform to the requirements of paragraph (2); and

"(B) are consistent with any applicable State homeland security strategy or plan.

"(b) National Level Exercises.—The Secretary, through the National Terrorism Exercise Program, shall perform on a periodic basis national terrorism preparedness exercises for the purposes of—

"(1) involving top officials from Federal, State, territorial, local, tribal, and international governments, as the Secretary considers appropriate;

"(2) testing and evaluating, in coordination with the Attorney General, the Nation's capability to detect, disrupt, and prevent threatened or actual catastrophic acts of terrorism, especially those involving weapons of mass destruction; and

"(3) testing and evaluating the Nation's readiness to respond to and recover from catastrophic acts of terrorism, especially those involving weapons of mass destruction.

"(c) Consultation With First Responders.—In implementing the responsibilities described in subsections (a) and (b), the Secretary shall consult with a geographic (including urban and rural) and substantive cross section of governmental and nongovernmental first responder disciplines, including as appropriate—

"(1) Federal, State, and local first responder training institutions;

"(2) representatives of emergency response providers; and

"(3) State and local officials with an expertise in terrorism preparedness.".

(2) Clerical amendment.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to title VIII the following:

"Subtitle J—Terrorism Preparedness Exercises

"Sec. 899a. National terrorism exercise program.".

(c) TOPOFF Prevention Exercise.—No later than one year after the date of enactment of this Act, the Secretary of Homeland Security shall design and carry out a national terrorism prevention exercise for the purposes of—

(1) involving top officials from Federal, State, territorial, local, tribal, and international governments as the Secretary considers appropriate; and

(2) testing and evaluating, in coordination with the Attorney General, the Nation's capability to detect, disrupt, and prevent threatened or actual catastrophic acts of terrorism, especially those involving weapons of mass destruction.

SEC. 302. TECHNOLOGY DEVELOPMENT AND TRANSFER.

(a) Establishment of Technology Clearinghouse.—Not later than 90 days after the date of enactment of this Act, the Secretary shall complete the establishment of the Technology Clearinghouse under section 313 of the Homeland Security Act of 2002.

(b) Transfer Program.—Section 313 of the Homeland Security Act of 2002 (6 U.S.C. 193) is amended—

(1) by adding at the end of subsection (b) the following new paragraph:

"(6) The establishment of a homeland security technology transfer program to facilitate the identification, modification, and commercialization of technology and equipment for use by Federal, State, and local governmental agencies, emergency response providers, and the private sector to prevent, prepare for, or respond to acts of terrorism.";

(2) by redesignating subsection (c) as subsection (e); and

(3) by inserting after subsection (b) the following new subsections:

"(c) Elements of the Technology Transfer Program.—The activities of the program described in subsection (b)(6) shall include—

"(1) identifying available technologies that have been, or are in the process of being, developed, tested, evaluated, or demonstrated by the Department, other Federal agencies, the private sector, or foreign governments and international organizations, and reviewing whether such technologies may be useful in assisting Federal, State, and local governmental agencies, emergency response providers, or the private sector to prevent, prepare for, or respond to acts of terrorism; and

"(2) communicating to Federal, State, and local governmental agencies, emergency response providers, or the private sector the availability of such technologies for antiterrorism use, as well as the technology's specifications, satisfaction of appropriate standards, and the appropriate grants available from the Department to purchase such technologies;

"(d) Responsibilties of Under Secretary for Science and Technology.—In support of the activities described in subsection (c), the Under Secretary for Science and Technology shall—

"(1) conduct or support, based on the Department's current risk assessments of terrorist threats, research, development, demonstrations, tests, and evaluations, as appropriate, of technologies identified under subparagraph (c)(1), including of any necessary modifications to such technologies for antiterrorism use;

"(2) ensure that the technology transfer activities throughout the Directorate of Science and Technology are coordinated, including the technology transfer aspects of projects and grants awarded to the private sector and academia;

"(3) consult with the other Under Secretaries of the Department and the Director of the Office for Domestic Preparedness, on an ongoing basis;

"(4) consult with Federal, State, and local emergency response providers;

"(5) consult with government agencies and standards development organizations as appropriate;

"(6) enter into agreements and coordinate with other Federal agencies, foreign governments, and national and international organizations as the Secretary determines appropriate, in order to maximize the effectiveness of such technologies or to facilitate commercialization of such technologies;

"(7) consult with existing technology transfer programs and Federal and State training centers that research, develop, test, evaluate, and transfer military and other technologies for use by emergency response providers; and

"(8) establish a working group in coordination with the Secretary of Defense to advise and assist the technology clearinghouse in the identification of military technologies that are in the process of being developed, or are developed, by the Department of Defense or the private sector, which may include—

"(A) representatives from the Department of Defense or retired military officers;

"(B) nongovernmental organizations or private companies that are engaged in the research, development, testing, or evaluation of related technologies or that have demonstrated prior experience and success in searching for and identifying technologies for Federal agencies;

"(C) Federal, State, and local emergency response providers; and

"(D) to the extent the Secretary considers appropriate, other organizations, other interested Federal, State, and local agencies, and other interested persons.".

(c) Report.—Not later than 1 year after the date of enactment of this Act, the Under Secretary for Science and Technology shall transmit to the Congress a description of the progress the Department has made in implementing the provisions of section 313 of the Homeland Security Act of 2002, as amended by this Act, including a description of the process used to review unsolicited proposals received as described in subsection (b)(3) of such section.

(d) Savings Clause.—Nothing in this section (including the amendments made by this section) shall be construed to alter or diminish the effect of the limitation on the authority of the Secretary of Homeland Security under section 302(4) of the Homeland Security Act of 2002 (6 U.S.C. 182(4)) with respect to human health-related research and development activities.

SEC. 303. REVIEW OF ANTITERRORISM ACQUISITIONS.

(a) Study.—The Secretary of Homeland Security shall conduct a study of all Department of Homeland Security procurements, including ongoing procurements and anticipated procurements, to—

(1) identify those that involve any product, equipment, service (including support services), device, or technology (including information technology) that is being designed, developed, modified, or procured for the specific purpose of preventing, detecting, identifying, or deterring acts of terrorism or limiting the harm such acts might otherwise cause; and

(2) assess whether such product, equipment, service (including support services), device, or technology is an appropriate candidate for the litigation and risk management protections of subtitle G of title VIII of the Homeland Security Act of 2002.

(b) Summary and Classification Report.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Congress a report—

(1) describing each product, equipment, service (including support services), device, and technology identified under subsection (a) that the Secretary believes would be an appropriate candidate for the litigation and risk management protections of subtitle G of title VIII of the Homeland Security Act of 2002;

(2) listing each such product, equipment, service (including support services), device, and technology in order of priority for deployment in accordance with current terrorism risk assessment information; and

(3) setting forth specific actions taken, or to be taken, to encourage or require persons or entities that sell or otherwise provide such products, equipment, services (including support services), devices, and technologies to apply for the litigation and risk management protections of subtitle G of title VIII of the Homeland Security Act of 2002, and to ensure prioritization of the Department's review of such products, equipment, services, devices, and technologies under such Act in accordance with the prioritization set forth in paragraph (2) of this subsection.

SEC. 304. CENTER OF EXCELLENCE FOR BORDER SECURITY.

The Secretary of Homeland Security shall establish a university-based Center of Excellence for Border Security following the merit-review processes and procedures and other limitations that have been established for selecting and supporting University Programs Centers of Excellence. The Center shall prioritize its activities on the basis of risk to address the most significant threats, vulnerabilities, and consequences posed by the Nation's borders and border control systems. The activities should include the conduct of research, the examination of existing and emerging border security technology and systems, and the provision of education, technical, and analytical assistance for the Department of Homeland Security to effectively secure the Nation's borders.

SEC. 305. REQUIREMENTS RELATING TO THE CONTAINER SECURITY INITIATIVE (CSI).

(a) Designation of New Foreign Seaports.—The Secretary of Homeland Security may designate a foreign seaport as a participating seaport in the Container Security Initiative program on or after the date of the enactment of this Act if the Secretary—

(1) determines, based on a foreign port assessment carried out under section 70108(a) of title 46, United States Code, or such other risk assessment that the Secretary may perform, and a cost-benefit analysis, that the benefits of designating such seaport as a participating seaport outweigh the cost of expanding the program to such seaport; and

(2) enters into an agreement with the foreign government of such seaport, in consultation with the Department of State and other appropriate Federal agencies to—

(A) establish security criteria to identify the potential compromise by terrorists or terrorist weapons of maritime cargo containers bound for the United States based on advance information; and

(B) screen or inspect such maritime cargo containers for potential compromise by terrorists or terrorist weapons prior to shipment to the United States.

(b) Deployment of Inspection Equipment to New CSI Participating Seaports.—

(1) Deployment.—The Secretary may—

(A) loan or otherwise provide nonintrusive inspection equipment for maritime cargo containers, on a nonreimbursable basis, at a seaport designated under subsection(a); and

(B) provide training for personnel at a seaport designated under subsection (a) to operate the nonintrusive inspection equipment.

(2) Additional requirements.—

(A) Capability requirements and operating procedures.—The Secretary shall establish technical capability requirements and standard operating procedures for nonintrusive inspection equipment described in paragraph (1), consistent with any standards established by the Secretary under section 70116 of title 46 United States Code.

(B) Agreement required.—The Secretary shall require each CSI port to agree to operate such equipment in accordance with requirements and procedures established under subparagraph (A) as a condition for receiving the equipment and training under paragraph (1).

(c) Deployment of Personnel to New CSI Ports; Reevaluation of Personnel at All CSI Ports.—

(1) Deployment.—The Secretary shall deploy United States Customs and Border Protection personnel to each seaport designated under subsection (a) with respect to which the Secretary determines that the deployment is necessary to successfully implement the requirements of CSI at the port.

(2) Reevaluation.—The Secretary shall periodically review relevant risk assessment information with respect to each seaport at which personnel are deployed under paragraph (1) to assess whether or not continued deployment of such personnel, in whole or in part, is necessary to success fully implement the requirements of CSI at the port.

(d) Inspection and Screening at United States Ports of Entry.—Cargo containers arriving at a United States port of entry from a CSI port shall undergo the same level of inspection and screening for potential compromise by terrorists or terrorist weapons as cargo containers arriving at a United States port of entry from a foreign seaport that is not participating in CSI unless the containers were initially inspected at the CSI port at the request of personnel deployed under subsection (c) and such personnel verify and electronically record that the inspection indicates that the containers have not been compromised by terrorists or terrorist weapons.

SEC. 306. SECURITY OF MARITIME CARGO CONTAINERS.

(a) Standards and Regulations.—

(1) Standards.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall establish standards and procedures for securing maritime cargo containers relating to obligation to seal, recording of seal changes, modal changes, seal placement, ocean carrier seal verification, and addressing seal anomalies. These standards shall include the standards for seals and locks as required under paragraph (3) of subsection (b) of section 70116 of title 46, United States Code.

(2) Regulations.—No later than 90 days after completion of the requirements in subsection (a), the Secretary of Homeland Security shall issue regulations for the security of maritime cargo containers consistent with the standards developed in subsection (a).

(b) International Agreements.—The Secretary, in consultation with the Department of State, Department of Commerce, Department of Treasury, Office of the United States Trade Representative, and other appropriate Federal agencies, shall seek to enter into agreements with foreign countries and international organizations to establish standards for the security of maritime cargo containers moving within the intermodal transportation system that, to the maximum extent practicable, meet the requirements of subsection (a).

(c) Container Targeting Strategy.—The Secretary shall develop a strategy to improve the ability of the Department of Homeland Security to use advance cargo information to identify anomalies in such information to determine whether such cargo poses a security risk. The strategy shall include a method of contacting shippers to verify or explain any anomalies discovered in such information.

(d) Container Security Demonstration Program.—

(1) Program.—The Secretary is authorized to establish and carry out a demonstration program that integrates radiation detection equipment with other types of nonintrusive inspection equipment at an appropriate United States seaport, as determined by the Secretary.

(2) Requirement.—The demonstration program shall also evaluate ways to strengthen the capability of Department of Homeland Security personnel to analyze cargo inspection data and ways to improve the transmission of inspection data between appropriate entities within the Department of Homeland Security.

(e) Coordination and Consolidation of Container Security Programs.—The Secretary shall coordinate all programs that enhance the security of maritime cargo, and, to the extent practicable, consolidate Operation Safe Commerce, the Smart Box Initiative, and similar programs that evaluate security enhancements for maritime cargo containers, to achieve enhanced coordination and efficiency. The Secretary shall report to the appropriate congressional committees (as that term is defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) before consolidating any program mentioned in this subsection.

SEC. 307. SECURITY PLAN FOR GENERAL AVIATION AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall implement section 823(a) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 41718 note; 117 Stat. 2595).

SEC. 308. INTEROPERABLE COMMUNICATIONS ASSISTANCE.

(a) Findings.—The Congress finds the following:

(1) The 9/11 Commission determined that the inability of first responders to communicate effectively on September 11, 2001 was a critical obstacle to an effective multi-jurisdictional response.

(2) Many jurisdictions across the country still experience difficulties communicating that may contribute to confusion, delays, or added risks when responding to an emergency.

(3) During fiscal year 2004, the Office for Domestic Preparedness awarded over $834,000,000 for 2,912 projects through Department of Homeland Security grant programs for the purposes of improving communications interoperability.

(4) Interoperable communications systems are most effective when designed to comprehensively address, on a regional basis, the communications of all types of public safety agencies, first responder disciplines, and State and local government facilities.

(5) Achieving communications interoperability is complex due to the extensive training, system modifications, and agreements

among the different jurisdictions that are necessary to implement effective communications systems.

(6) The Congress authorized the Department of Homeland Security to create an Office for Interoperability and Compatibility in the Intelligence Reform and Terrorism Prevention Act of 2004 to, among other things, establish a comprehensive national approach, coordinate federal activities, accelerate the adoption of standards, and encourage research and development to achieve interoperable communications for first responders.

(7) The Office for Interoperability and Compatibility includes the SAFECOM Program that serves as the umbrella program within the Federal government to improve public safety communications interoperability, and has developed the RAPIDCOM program, the Statewide Communications Interoperability Planning Methodology, and a Statement of Requirements to provide technical, planning, and purchasing assistance for Federal departments and agencies, State and local governments, and first responders.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Department of Homeland Security should implement as expeditiously as possible the initiatives assigned to the Office for Interoperability and Compatibility under section 7303 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194), including specifically the following:

(1) Establishing a comprehensive national approach to achieving public safety interoperable communications.

(2) Issuing letters of intent to commit future funds for jurisdictions through existing homeland security grant programs to applicants as appropriate to encourage long-term investments that may significantly improve communications interoperability.

(3) Providing technical assistance to additional urban and other high-risk areas to support the establishment of consistent, secure, and effective interoperable communications capabilities.

(4) Completing the report to the Congress on the Department's plans for accelerating the development of national voluntary consensus standards for public safety interoperable communications, a schedule of milestones for such development, and achievements of such development, by no later than 30 days after the date of enactment of this Act.

SEC. 309. REPORT TO CONGRESS ON IMPLEMENTATION OF RECOMMENDATIONS REGARDING PROTECTION OF AGRICULTURE.

The Secretary of Homeland Security shall report to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) by no later than 120 days after the date of the enactment of this Act regarding how the Department of Homeland Security will implement the applicable recommendations from the Government Accountability Office report entitled "Homeland Security: Much is Being Done to Protect Agriculture from a Terrorist Attack, but Important Challenges Remain" (GAO–05–214).

Subtitle B—Department of Homeland Security Cybersecurity Enhancement

SEC. 311. SHORT TITLE.

This subtitle may be cited as the "Department of Homeland Security Cybersecurity Enhancement Act of 2005".

SEC. 312. ASSISTANT SECRETARY FOR CYBERSECURITY.

Section 201(b) of the Homeland Security Act of 2002 (6 U.S.C. 121(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) ASSISTANT SECRETARY FOR CYBERSECURITY.—There shall be in the Department an Assistant Secretary for Cybersecurity, who shall be appointed by the President."; and

(3) in paragraph (4), as redesignated by subparagraph (A) of this paragraph—

(A) by striking "Analysis and the" and inserting "Analysis, the"; and

(B) by striking "Protection shall" and inserting "Protection, and the Assistant Secretary for Cybersecurity shall".

SEC. 313. CYBERSECURITY TRAINING PROGRAMS AND EQUIPMENT.

(a) IN GENERAL.—The Secretary of Homeland Security, acting through the Assistant Secretary for Cybersecurity, may establish, in conjunction with the National Science Foundation, a program to award grants to institutions of higher education (and consortia thereof) for—

(1) the establishment or expansion of cybersecurity professional development programs;

(2) the establishment or expansion of associate degree programs in cybersecurity; and

(3) the purchase of equipment to provide training in cybersecurity for either professional development programs or degree programs.

(b) ROLES.—

(1) DEPARTMENT OF HOMELAND SECURITY.—The Secretary, acting through the Assistant Secretary for Cybersecurity and in consultation with the Director of the National Science Foundation, shall establish the goals for the program established under this section and the criteria for awarding grants under the program.

(2) NATIONAL SCIENCE FOUNDATION.—The Director of the National Science Foundation shall operate the program established under this section consistent with the goals and criteria established under paragraph (1), including soliciting applicants, reviewing applications, and making and administering grant awards. The Director may consult with the Assistant Secretary for Cybersecurity in selecting awardees.

(3) FUNDING.—The Secretary shall transfer to the National Science Foundation the funds necessary to carry out this section.

(c) GRANT AWARDS.—

(1) PEER REVIEW.—All grant awards under this section shall be made on a competitive, merit-reviewed basis.

(2) FOCUS.—In making grant awards under this section, the Director shall, to the extent practicable, ensure geographic diversity and the participation of women and underrepresented minorities.

(3) PREFERENCE.—In making grant awards under this section, the Director shall give preference to applications submitted by consortia of institutions to encourage as many students and professionals as possible to benefit from this program.

(d) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized under section 101, there is authorized to be appropriated to the Secretary for carrying out this section $3,700,000 for fiscal year 2006.

(e) DEFINITIONS.—In this section, the term "institution of higher education" has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

SEC. 314. CYBERSECURITY RESEARCH AND DEVELOPMENT.

Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et. seq.) is amended by adding at the end the following new section:

"SEC. 314. CYBERSECURITY RESEARCH AND DEVELOPMENT.

"(a) IN GENERAL.—The Under Secretary for Science and Technology shall support research and development, including fundamental, long-term research, in cybersecurity to improve the ability of the United States to prevent, protect against, detect, respond to, and recover from cyber attacks, with emphasis on research and development relevant to large-scale, high-impact attacks.

"(b) ACTIVITIES.—The research and development supported under subsection (a), shall include work to—

"(1) advance the development and accelerate the deployment of more secure versions of fundamental Internet protocols and architectures, including for the domain name system and routing protocols;

"(2) improve and create technologies for detecting attacks or intrusions, including monitoring technologies;

"(3) improve and create mitigation and recovery methodologies, including techniques for containment of attacks and development of resilient networks and systems that degrade gracefully; and

"(4) develop and support infrastructure and tools to support cybersecurity research and development efforts, including modeling, testbeds, and data sets for assessment of new cybersecurity technologies.

"(c) COORDINATION.—In carrying out this section, the Under Secretary for Science and Technology shall coordinate activities with—

"(1) the Assistant Secretary for Cybersecurity; and

"(2) other Federal agencies, including the National Science Foundation, the Defense Advanced Research Projects Agency, and the National Institute of Standards and Technology, to identify unmet needs and cooperatively support activities, as appropriate.

"(d) NATURE OF RESEARCH.—Activities under this section shall be carried out in accordance with section 306(a) of this Act.".

Subtitle C—Security of Public Transportation Systems

SEC. 321. SECURITY BEST PRACTICES.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security, in coordination with the Secretary of Transportation, shall issue a report containing best practices for the security of public transportation systems related to the threats from terrorism. Such report shall be developed in consultation with providers of public transportation, industry associations, public transportation employee representatives, first responders, and appropriate Federal, State, and local officials. The Secretary of Transportation shall disseminate the report to providers of public transportation, industry associations, public transportation employee representatives, and appropriate Federal, State, and local officials, the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives, and any other appropriate entities.

SEC. 322. PUBLIC AWARENESS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation, after consultation with the Secretary of Homeland Security, shall develop a national plan to increase awareness of measures that the general public, public transportation passengers, and public transportation employees can take to increase public transportation security related to the threat of terrorism. Such plan shall also provide outreach to providers and employees of public transportation systems on available transportation security technologies, ongoing research and development efforts, employee training, and available Federal funding sources to improve public transportation security. Not later than 9 months after the date of the enactment of this Act, the Secretary of Transportation shall disseminate the plan to providers of public transportation, industry associations, public transportation employee representatives, appropriate Federal, State, and local officials, and other appropriate entities.

Subtitle D—Critical Infrastructure Prioritization

SEC. 331. CRITICAL INFRASTRUCTURE.

(a) COMPLETION OF PRIORITIZATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall complete the prioritization of the Nation's critical infrastructure according to all of the following criteria:

(1) The threat of terrorist attack, based on threat information received and analyzed by the Office of Information Analysis of the Department regarding the intentions and capabilities of terrorist groups and other potential threats to the Nation's critical infrastructure.

(2) The likelihood that an attack would cause the destruction or significant disruption of such infrastructure.

(3) The likelihood that an attack would result in substantial numbers of deaths and serious bodily injuries, a substantial adverse impact on the national economy, or a substantial adverse impact on national security.

(b) COOPERATION.—Such prioritization shall be developed in cooperation with other relevant Federal agencies, State, local, and tribal governments, and the private sector, as appropriate.

SEC. 332. SECURITY REVIEW.

(a) REQUIREMENT.—Not later than 9 months after the date of the enactment of this Act, the Secretary of Homeland Security, in coordination with other relevant Federal agencies, State, local, and tribal governments, and the private sector, as appropriate, shall—

(1) review existing Federal, State, local, tribal, and private sector plans for securing the critical infrastructure included in the prioritization developed under section 331;

(2) recommend changes to existing plans for securing such infrastructure, as the Secretary determines necessary; and

(3) coordinate and contribute to protective efforts of other Federal, State, local, and tribal agencies and the private sector, as appropriate.

(b) CONTENTS OF PLANS.—The recommendations made under subsection (a)(2) shall include—

(1) protective measures to secure such infrastructure, including milestones and timeframes for implementation; and

(2) to the extent practicable, performance metrics to evaluate the benefits to both national security and the Nation's economy from the implementation of such protective measures.

SEC. 333. IMPLEMENTATION REPORT.

(a) IN GENERAL.—Not later than 15 months after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) on the implementation of section 332. Such report shall detail—

(1) the Secretary's review and coordination of security plans under section 332; and

(2) the Secretary's oversight of the execution and effectiveness of such plans.

(b) UPDATE.—Not later than 1 year after the submission of the report under subsection (a), the Secretary shall provide an update of such report to the congressional committees described in subsection (a).

SEC. 334. PROTECTION OF INFORMATION.

(a) PROTECTION OF INFORMATION.—The information set forth in subsection (b) that is generated, compiled, or disseminated by the Department of Homeland Security in carrying out this subtitle—

(1) is exempt from disclosure under section 552 of title 5, United States Code; and

(2) shall not, if provided by the Department to a State or local government or government agency—

(A) be made available pursuant to any State or local law requiring disclosure of information or records;

(B) otherwise be disclosed or distributed to any person by such State or local government or government agency without the written consent of the Secretary; or

(C) be used other than for the purpose of protecting critical infrastructure or protected systems, or in furtherance of an investigation or the prosecution of a criminal act.

(b) INFORMATION COVERED.—Information referred to in subsection (a) is the following:

(1) The Secretary's prioritization of critical infrastructure pursuant to section 331, including any information upon which such prioritization was based;

(2) the Secretary's review of existing security plans for such infrastructure pursuant to section 332(a)(1).

(3) The Secretary's recommendations for changes to existing plans for securing such infrastructure pursuant to section 332(a)(2).

(4) The nature and scope of protective efforts with respect to such infrastructure under section 332(a)(3).

(5) The report and update prepared by the Secretary pursuant to section 333, including any information upon which such report and update are based.

TITLE IV—U.S. CUSTOMS AND BORDER PROTECTION AND U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

SEC. 401. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.

Section 334 of the Customs and Border Security Act of 2002 (19 U.S.C. 2082 note) is amended to read as follows:

"SEC. 334. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.

"(a) ESTABLISHMENT AND IMPLEMENTATION; CUSTOMS AND BORDER PROTECTION.—

"(1) IN GENERAL.—Not later than September 30, 2006, the Commissioner of U.S. Customs and Border Protection shall, in accordance with the audit of the Customs Service's fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system—

"(A) for expenses incurred in both commercial and noncommercial operations of U.S. Customs and Border Protection of the Department of Homeland Security, which system should specifically identify and distinguish expenses incurred in commercial operations and expenses incurred in noncommercial operations; and

"(B) for expenses incurred both in administering and enforcing the customs laws of the United States and the Federal immigration laws, which system should specifically identify and distinguish expenses incurred in administering and enforcing the customs laws of the United States and the expenses incurred in administering and enforcing the Federal immigration laws.

"(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the port at which the operation took place, the amount of time spent on the operation by personnel of U.S. Customs and Border Protection, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of expenses.

"(b) ESTABLISHMENT AND IMPLEMENTATION; IMMIGRATION AND CUSTOMS ENFORCEMENT.—

"(1) IN GENERAL.—Not later than September 30, 2006, the Assistant Secretary for U.S. Immigration and Customs Enforcement shall, in accordance with the audit of the Customs Service's fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system—

"(A) for expenses incurred in both commercial and noncommercial operations of U.S. Immigration and Customs Enforcement of the Department of Homeland Security, which system should specifically identify and distinguish expenses incurred in commercial operations and expenses incurred in noncommercial operations;

"(B) for expenses incurred both in administering and enforcing the customs laws of the United States and the Federal immigration laws, which system should specifically identify and distinguish expenses incurred in administering and enforcing the customs laws of the United States and the expenses incurred in administering and enforcing the Federal immigration laws.

"(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the amount of time spent on the operation by personnel of U.S. Immigration and Customs Enforcement, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of expenses.

"(c) REPORTS.—

"(1) DEVELOPMENT OF THE COST ACCOUNTING SYSTEMS.—Beginning on the date of the enactment of the Department of Homeland Security Authorization Act for Fiscal Year 2006 and ending on the date on which the cost accounting systems described in subsections (a) and (b) are fully implemented, the Commissioner of U.S. Customs and Border Protection and the Assistant Secretary for U.S. Immigration and Customs Enforcement, respectively, shall prepare and submit to Congress on a quarterly basis a report on the progress of implementing the cost accounting systems pursuant to subsections (a) and (b).

"(2) ANNUAL REPORTS.—Beginning one year after the date on which the cost accounting systems described in subsections (a) and (b) are fully implemented, the Commissioner of U.S. Customs and Border Protection and the Assistant Secretary for U.S. Immigration and Customs Enforcement, respectively, shall prepare and submit to Congress on an annual basis a report itemizing the expenses identified in subsections (a) and (b).

"(3) OFFICE OF THE INSPECTOR GENERAL.—Not later than March 31, 2007, the Inspector General of the Department of Homeland Security shall prepare and submit to Congress a report analyzing the level of compliance with this section and detailing any additional steps that should be taken to improve compliance with this section.".

SEC. 402. REPORT RELATING TO ONE FACE AT THE BORDER INITIATIVE.

Not later than September 30 of each of the calendar years 2006 and 2007, the Commissioner of U.S. Customs and Border Protection of the Department of Homeland Security shall prepare and submit to Congress a report—

(1) analyzing the effectiveness of the One Face at the Border Initiative at enhancing security and facilitating trade;

(2) providing a breakdown of the number of personnel of U.S. Customs and Border Protection that were personnel of the United States Customs Service prior to the establishment of the Department of Homeland Security, that were personnel of the Immigration and Naturalization Service prior to the establishment of the Department of Homeland Security, and that were hired after the establishment of the Department of Homeland Security;

(3) describing the training time provided to each employee on an annual basis for the various training components of the One Face at the Border Initiative; and

(4) outlining the steps taken by U.S. Customs and Border Protection to ensure that expertise is retained with respect to customs, immigration, and agriculture inspection functions under the One Face at the Border Initiative.

SEC. 403. CUSTOMS SERVICES.

Section 13031(e)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1)) is amended—

(1) by striking "(1) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than paragraph (2))," and inserting:

"(1) IN GENERAL.—

"(A) SCHEDULED FLIGHTS.—Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than subparagraph (B) and paragraph (2)),"; and

(2) by adding at the end the following:

"(B) CHARTER FLIGHTS.—If a charter air carrier (as defined in section 40102(13) of title 49, United States Code) specifically requests that customs border patrol services for passengers and their baggage be provided for a charter flight arriving after normal operating hours at a customs border patrol serviced airport and overtime funds for those services are not available, the appropriate customs border patrol officer may assign sufficient customs employees (if available) to perform any such services, which could lawfully be performed during regular hours of operation, and any overtime fees incurred in connection with such service shall be paid by the charter air carrier.".

SEC. 404. SENSE OF CONGRESS ON INTERPRETATION OF TEXTILE AND APPAREL PROVISIONS.

It is the sense of Congress that U.S. Customs and Border Protection of the Department of Homeland Security should interpret, implement, and enforce the provisions of section 112 of the African Growth and Opportunity Act (19 U.S.C. 3721), section 204 of the Andean Trade Preference Act (19 U.S.C. 3203), and section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703), relating to preferential treatment of textile and apparel articles, broadly in order to expand trade by maximizing opportunities for imports of such articles from eligible beneficiary countries.

TITLE V—MISCELLANEOUS

SEC. 501. BORDER SECURITY AND ENFORCEMENT COORDINATION AND OPERATIONS.

(a) FINDINGS.—The Congress makes the following findings:

(1) As part of the creation of the Department of Homeland Security, section 442 of the Homeland Security Act of 2002 (Public Law 107-273) established a Bureau of Border Security and transferred into it all of the functions, programs, personnel, assets, and liabilities pertaining to the following programs: the Border Patrol; alien detention and removal; immigration-related intelligence, investigations, and enforcement activities; and immigration inspections at ports of entry.

(2) Title IV of the Homeland Security Act of 2002 (Public Law 107–273) also transferred to the new Department the United States Customs Service, as a distinct entity within the new Department, to further the Department's border integrity mission.

(3) Utilizing its reorganization authority provided in the Homeland Security Act of 2002, the President submitted a reorganization plan for the Department on January 30, 2003.

(4) This plan merged the customs and immigration border inspection and patrol functions, along with agricultural inspections functions, into a new entity called United States Customs and Border Protection.

(5) The plan also combined the customs and immigration enforcement agents, as well as the Office of Detention and Removal Operations, the Office of Federal Protective Service, the Office of Federal Air Marshal Service, and the Office of Intelligence, into another new entity called United States Immigration and Customs Enforcement.

(6) The President's January 30, 2003, reorganization plan did not explain the reasons for separating immigration inspection and border patrol functions from other immigration-related enforcement functions, or to combine immigration-related enforcement functions with customs and other functions, contrary to the design of the Bureau of Border Security as prescribed by the Congress in section 442 of the Homeland Security Act of 2002.

(7) United States Immigration and Customs Enforcement has faced major budgetary challenges that are, in part, attributable to the inexact division of resources upon the separation of immigration functions. These budget shortfalls have forced United States Immigration and Customs Enforcement to impose hiring freezes and to release aliens that otherwise should be detained.

(b) REPORT.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Homeland Security shall review and evaluate the current organizational structure of the Department of Homeland Security established by the President's January 30, 2003, reorganization plan and submit a report of findings and recommendations to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)).

(2) CONTENTS OF REPORT.—The report shall include—

(A) a description of the rationale for, and any benefits of, the current organizational division of United States Immigration and Customs Enforcement and United States Customs and Border Protection, with respect to the Department's immigration and customs missions;

(B) a description of the organization, missions, operations, and policies of United States Customs and Border Protection and United States Immigration and Customs Enforcement, and areas of unnecessary overlap or operational gaps among and between these missions;

(C) a description of the rationale for, and any benefits of, the current organizational combination of immigration-related enforcement functions with customs and other functions;

(D) an analysis of alternative organizational structures that could provide a more effective way to deliver maximum efficiencies and mission success;

(E) a description of the current role of the Directorate of Border and Transportation Security with respect to providing adequate direction and oversight of the two agencies, and whether this management structure is still necessary;

(F) an analysis of whether the Federal Air Marshals and the Federal Protective Service are properly located within the Department within United States Immigration and Customs Enforcement;

(G) the proper placement and functions of a specialized investigative and patrol unit operating at the southwest border on the Tohono O'odham Nation, known as the Shadow Wolves;

(H) the potential costs of reorganization, including financial, programmatic, and other costs, to the Department; and

(I) recommendations for correcting the operational and administrative problems that have been caused by the division of United States Custom and Border Protection and United States Immigration and Customs Enforcement and by the combination of immigration-related enforcement functions with customs and other functions in both entities, including any appropriate reorganization plans.

SEC. 502. GAO REPORT TO CONGRESS.

(a) IN GENERAL.— Not later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) a report that sets forth—

(1) an assessment of the effectiveness of the organizational and management structure of the Department of Homeland Security in meeting the Department's missions as set forth in section 101(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 111(b)(1)); and

(2) recommendations to facilitate and improve the organization and management of the Department to best meet those missions.

(b) CYBERSECURITY ASSESSMENT.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit a report to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) that sets forth an assessment of the effectiveness of the efforts of the Assistant Secretary for Cybersecurity to fulfill the statutory responsibilities of that office.

SEC. 503. PLAN TO REDUCE WAIT TIMES.

Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall develop a plan—

(1) to improve the operational efficiency of security screening checkpoints at commercial service airports so that average peak waiting periods at such checkpoints do not exceed 20 minutes; and

(2) to ensure that there are no significant disparities in immigration and customs passenger processing times among airports that serve as international gateways.

SEC. 504. DENIAL OF TRANSPORTATION SECURITY CARD.

Section 70105(c) of title 46, United States Code, is amended—

(1) in paragraph (3) by inserting before the period "before an administrative law judge"; and

(2) by adding at the end the following:

"(5) In making a determination under paragraph (1)(D) that an individual poses a terrorism security risk, the Secretary shall not solely consider a felony conviction if—

"(A) that felony occurred more than 7 years prior to the date of the Secretary's determination; and

"(B) the felony was not related to terrorism (as that term is defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)).".

SEC. 505. TRANSFER OF EXISTING CUSTOMS PATROL OFFICERS UNIT AND ESTABLISHMENT OF NEW CPO UNITS IN THE BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT.

(a) TRANSFER OF EXISTING UNIT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall transfer to the Bureau of Immigration and Customs Enforcement all functions (including the personnel, assets, and obligations held by or available in connection with such functions) of the Customs Patrol Officers unit of the Bureau of Customs and Border Protection operating on the Tohono O'odham Indian reservation (commonly known as the "Shadow Wolves" unit).

(b) ESTABLISHMENT OF NEW UNITS.—The Secretary is authorized to establish within the Bureau of Immigration and Customs Enforcement additional units of Customs Patrol Officers in accordance with this section.

(c) DUTIES.—The Customs Patrol Officer unit transferred pursuant to subsection (a) and the additional units established pursuant to subsection (b) shall be responsible for the prevention of the smuggling of narcotics, weapons of mass destruction, and other contraband, and the illegal trafficking of persons, on Indian lands.

(d) BASIC PAY FOR JOURNEYMAN OFFICERS.—A Customs Patrol Officer in a unit described in this section shall receive equivalent pay as a special agent with similar competencies within the Bureau of Immigration and Customs Enforcement pursuant to the Department of Homeland Security's human resources management system established under section 841 of the Homeland Security Act (6 U.S.C. 411).

(e) SUPERVISORS.—Each unit described under this section shall be supervised by a Chief Customs Patrol Officer, who shall have the same rank as a resident agent-in-charge of the Office of Investigations.

SEC. 506. DATA COLLECTION ON USE OF IMMIGRATION CONSULTANTS.

The Secretary of Homeland Security shall establish procedures to record information on applications for an immigration benefit submitted by an alien with respect to which—

(1) the alien states that the alien used the services of an immigration consultant; or

(2) a Department employee or official investigating facts alleged in the application, or adjudicating the application, suspects that the alien used the services of an immigration consultant.

SEC. 507. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

The Homeland Security Act of 2002 is amended—

(1) in section 801—

(A) in the section heading, by striking "state and local" and inserting "state, local, and tribal";

(B) in subsection (a), by striking "State and Local" and inserting "State, Local, and Tribal"; and

(C) in subsection (b), by striking "State and local" each place it appears and inserting "State, local, and tribal"; and

(2) in section 1(b) in the table of contents by striking the item relating to section 801 and inserting the following:

"Sec. 801. Office for State, Local, and Tribal Government Coordination.".

SEC. 508. AUTHORITY OF OTHER FEDERAL AGENCIES UNAFFECTED.

Except to the extent explicitly provided in section 216, nothing in this Act shall affect the authority under statute, regulation, or Executive order of other Federal agencies than the Department of Homeland Security.

The Acting CHAIRMAN. No amendment to that amendment is in order except those printed in part B of the report. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in part B of House Report 109–84.

AMENDMENT NO. 1 OFFERED BY MR. MEEK OF FLORIDA

Mr. MEEK of Florida. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 1 offered by Mr. MEEK of Florida:

Page 7, after line 6, insert the following new section:

SEC. 109. AUTHORIZATION FOR OFFICE OF INSPECTOR GENERAL.

Of the amount authorized under section 101, there is authorized to be appropriated for the Office of the Inspector General of the Department of Homeland Security for fiscal year 2006, $200,000,000.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Florida (Mr. MEEK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. MEEK).

Mr. MEEK of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is an amendment that will increase the amount of funding to the Department of Homeland Security Inspector General's office by $200 million.

Mr. Chairman, this is so very, very important due to the fact that the Department of Homeland Security is the largest agency in the world right now, not only the Federal Government. It has 22 legacy agencies that had problems before the Department of Homeland Security was created. If it were not for the fact that they are in charge, this Department is in charge of protecting the homeland and making sure that all of the 9/11 Commission recommendations are implemented properly and also making sure that they protect our borders and our airways.

The inspector general really needs the additional funding and staffing to be able to keep up with the growing Department of Homeland Security. The spending on contracts alone was $6.1 billion in 2004, and in 2005 it moved up to $10.9 billion. That is a 40 percent increase in 1 year. It is literally impossible for the Inspector General's office to keep up not only with the policing of the Department but to ensure that the mission's integrity is followed through on.

Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi (Mr. THOMPSON).

Mr. THOMPSON of Mississippi. Mr. Chairman, I now rise in strong support of the amendment offered by the gentleman from Florida (Mr. MEEK), my Homeland Security Committee colleague, the ranking member on the Management, Integration and Oversight Subcommittee.

Mr. Chairman, we have heard testimony time and time again on our committee about the underfunding of the office of Inspector General. We had committee testimony from three Inspector Generals indicating that the office was underfunded.

Just to show you what they found in recent reviews, we found that the Department spent $31,000 on rubber plants. We also found that they spent $500,000 on an awards ceremony. Clearly these expenditures are out of line and should not have been.

Testimony also revealed that had we had a more robust Office of Inspector General, we could do more oversight. So the gentleman from Florida's (Mr. MEEK) amendment is in order. It is something that we should do. If we look at other agencies, this Department is woefully underfunded. And for that reason I rise in support of the amendment.

Mr. COX. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman, first I want to compliment the gentleman from Florida (Mr. MEEK), who is a very able and well-informed Member of the committee and serves as the ranking member on the committee on oversight, which has particular responsibilities in this area. I support his view of the importance of the Inspector General's function inside the Department of Homeland Security and of the mission of fighting waste, fraud, and abuse in the Federal Government, and specifically in the Department of Homeland Security, because it is a critical mission.

The reason, however, that I cannot support the amendment is different than what I have just said. I agree with the gentleman from Florida (Mr. MEEK) about the Inspector General's function and fighting waste, fraud, and abuse. First, I cannot support it because the authorization of $200 million, which is a tripling of the current budget, has no offset. It is therefore a budget buster.

As I stated in general debate, what has characterized our efforts on the underlying bill is that we are operating within the parameters of the House-passed budget, and specifically the allocation for the overall Department of Homeland Security of $32 billion.

When we make changes in the priorities in the bill by doing something else that is good, we have got to find somewhere to take the money from, and this amendment simply does not do it. It pulls the money from thin air.

Second, the new level of funding that this would establish, the enormous increase from $83 million at present to $200 million, would create an IG office and staff and administration virtually identical in size to that which exists in the largest Cabinet Department, the Department of Defense, even though DOD's budget and empire and responsibilities are 10 times larger than the Department of Homeland Security. So there is a problem of scale.

Third, not withstanding the testimony, correctly cited by my colleague, the gentleman from Mississippi (Mr. THOMPSON), of former IGs about their experience and their need for more staff, the current IG has more staff.

The staffing level of the Office of Inspector General already has grown significantly over the last 3 years from 475 full-time employees in fiscal year 2004, to 502 in fiscal 2005, to 540 in fiscal year 2006.

And for that reason, neither the administration nor the Inspector General himself has asked for this increase that is before us in this amendment.

For all of these reasons, I regretfully oppose the amendment offered by the gentleman from Florida (Mr. MEEK).

Mr. Chairman, I reserve the balance of my time.

Mr. MEEK of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am glad that the chairman pointed out the good points about this amendment and also maybe pointed out a few other issues as it relates to the budget issue.

This is the Homeland Security Authorization bill, not the appropriations bill. We are authorizing the Department, hopefully, to be able to move towards this $200 million to be able to take care of some of the issues that we hear about and read about in newspapers daily, about mismanagement, about contractors not following through on their obligation to the Federal Government.

I mean, it is not fine if it was just wasteful spending, but this is the protection of the homeland. And when we look at accountability and protection, I think it is important that we move in this direction.

I would also like to argue the fact that the Government Accountability Office, in report after report of issues and unmet mandates by the Department, reports by the Department to help this Congress make wise decisions are backlogged in the hundreds. And I think it is important that we as the oversight committee do as much as we can to bring about the kind of accountability that the American people deserve and that this Congress hopes to get.

Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I simply want to commend the gentleman from Florida for his leadership on oversight and investigation. I will commit to continuing to work with him on the full committee and to make sure that the IG gets the resources that he needs.

Mr. Chairman, I yield back the balance of my time.

Mr. MEEK of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to just close by saying that this amendment is just a simple accountability amendment. Yes, I know it mirrors the Department of Defense. But the Department of Defense has the duty to protect not only Americans but also make sure that our men and women that are in harm's way are protected.

The Department of Homeland Security has a similar responsibility of making sure that we protect the homeland and make America safe and sound for future generations.

So, Mr. Chairman, I would urge the Members to vote in the affirmative for this amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. MEEK).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. MEEK of Florida. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida (Mr. MEEK) will be postponed.

It is now in order to consider amendment No. 2 printed in part B of House Report 109-84.

AMENDMENT NO. 2 OFFERED BY MR. COX

Mr. COX. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 2 offered by Mr. COX:

Page 7, after line 6, insert the following (and amend the table of contents accordingly):

SEC. 109. AUTHORIZATION OF APPROPRIATIONS FOR TRAINING OF STATE AND LOCAL PERSONNEL PERFORMING IMMIGRATION FUNCTIONS.

(a) IN GENERAL.—To carry out subsection (b), from amounts authorized under section 101, there are authorized to be appropriated $40,000,000 for fiscal year 2006, to remain available until September 30, 2007.

(b) USE OF FUNDS.—From amounts made available under subsection (a), the Secretary of Homeland Security may reimburse a State or political subdivision for the expenses described in subsection (d).

(c) ELIGIBLE RECIPIENTS.—A State, or a political subdivision of a State, is eligible for reimbursement under subsection (b) if the State or political subdivision—

(1) has entered into a written agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) under which certain officers or employees of the State or subdivision may be authorized to perform certain functions of an immigration officer; and

(2) desires such officers or employees to receive training from the Department of Homeland Security in relation to such functions.

(d) EXPENSES.—The expenses described in this subsection are actual and necessary expenses incurred by the State or political subdivision in order to permit the training described in subsection (c)(2) to take place, including expenses such as the following:

(1) Costs of travel and transportation to locations where training is provided, including mileage and related allowances for the use of a privately owned automobile.

(2) Subsistence consisting of lodging, meals, and other necessary expenses for the personal sustenance and comfort of a person required to travel away from the person's regular post of duty in order to participate in the training.

(3) A per diem allowance paid instead of actual expenses for subsistence and fees or tips to porters and stewards.

(4) Costs of securing temporary replacements for personnel traveling to, and participating in, the training.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from California (Mr. COX) and the gentleman from Mississippi (Mr. THOMPSON) each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. COX).

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the amendment. I want to take this opportunity to thank the chairman of the Judiciary Committee, the gentleman from Wisconsin (Mr. SENSENBRENNER) with whom I am offering this amendment.

Our amendment will authorize funds to reimburse States for training costs that they incur if they voluntarily participate in the training of their law enforcement agents for the purposes of enforcing our Nation's immigration laws.

In 1996, I authored section 133 of the Illegal Immigration Reform and Immigrant Responsibility Act. That section is now codified as section 287(G) of the INA. It provided and continues to provide as a piece of our permanent legislation local and State law enforcement officers with the option of being trained and deputized by the Federal Government so that they can assist with the enforcement of our immigration laws in the pursuit of their normal duties of protecting citizens from crime.

Over the last 8 years, slowly but surely, we have learned how to use this facility so that the Department has entered into several memoranda of understanding, for example, with the State of Florida in September 2002, the State of Alabama in September of 2003, and very recently the County of Los Angeles in pursuit of specific authorization by the elected officials of the County of Los Angeles in February of 2005.

So the reason that we are offering this amendment today is that inasmuch as this is a purely voluntary program, offering aid to State and local law enforcement that wants it that is asking for it and is volunteering for it, they should be reimbursed for their costs as first responders of helping us enforce Federal law and achieving the national mission of protecting our borders.

We need to capitalize on existing law enforcement resources by ensuring that State and local law enforcement have the opportunity to receive this training that will help them to protect their local communities.

In turn, those enforcement efforts will help protect the Nation from threats of terrorism. I want to emphasize just a few things. First, this amendment does not alter the fundamental voluntary nature of the participation of States and Federal Government. So no State and no subdivision of the State that does not wish in any way to be involved in the enforcement of our immigration laws will be required to do so, either under existing law or under this fund provision.

Second, the purpose of the law, of the training, and of the reimbursement is to focus on crime and on people who are not only unlawfully in this country but who are committing other crimes, in particular felonies.

Third, the training that is provided by the Federal Government specifically includes training in the areas of civil rights and the prevention of profiling.

☐ 1345

I want to reiterate that this amendment does not change or alter any authority that already exists in law. It merely provides funding for States for their first responders who should be reimbursed for this training.

I fully support this program, and I urge my colleagues to support this important amendment.

Mr. Chairman, I reserve my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I encourage Members to vote "no" on the Cox-Sensenbrenner amendment authorizing $40 million to be appropriated from the fiscal year 2006 budget to reimburse States and locals for the costs associated with having State and local law enforcement trained and certified by DHS' Immigration and Customs Enforcement to enforce immigration laws.

Mr. Chairman, plain and simple, we are shirking our responsibility as a government by passing this mission on to local authority. If we have the responsibility for immigration and immigration enforcement, we should do our job. We should appropriate the money to the respective department, whatever the requirements are, rather than passing the buck to local law enforcement. Local law enforcement clearly will tell my colleagues we have enough on our plate now, do not give us further responsibility by giving us immigration.

So, Mr. Chairman, while I understand my colleague's reasoning behind the amendment, it is clearly something that allows us to put this responsibility on someone else.

I guarantee my colleagues, when we do this, it will come with another program in the not-too-distant future. We will give other responsibilities to the local level.

I am a former mayor and a former county supervisor. Knowing law enforcement at the personal level, I am convinced that we have more than enough to do at the local level. The Federal Government should do what it is required to do on immigration. Let us not pass the buck. Let us make sure that we take the immigration responsibility and retain it at the Federal level.

That is why I urge a "no" vote on this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, as my colleagues know, this amendment is offered jointly by myself as chairman of the Committee on Homeland Security and the gentleman from Wisconsin (Mr. SENSENBRENNER) as chairman of the Committee on the Judiciary. I yield 3 minutes to the gentleman from Iowa (Mr. KING), a member of the Committee on the Judiciary.

Mr. KING of Iowa. Mr. Chairman, I thank the gentleman, and particularly the gentleman from California (Chairman COX) for yielding me time and for working and participating on this amendment.

I rise today in support of the Cox-Sensenbrenner amendment which authorizes funding to train State and local law enforcement officers to perform immigration officer functions.

I submitted a nearly identical amendment to the Committee on Rules because I believe this amendment provides the help our local law enforcement needs to enforce our Nation's immigration laws and keep our citizens safe. I am proud to stand today with the gentleman from Wisconsin (Mr. SENSENBRENNER), my chairman, and the author of the underlying bill, the gentleman from California (Mr. COX), the Committee on Homeland Security chairman, to urge my colleagues to support this funding.

Under section 287(g) of the Immigration and Nationality Act, State and local governments can enter into cooperative agreements with the Department of Homeland Security to train on Federal immigration law and be reimbursed for that training. This amendment would authorize the funds needed for that reimbursement for States all across this Nation.

There are two reasons to encourage local police to assist in enforcing immigration laws. First, while there are an estimated 8 to 10 million illegal aliens in the United States, ICE currently has only about 2,000 special agents to identify and remove them. Second, local officers come into contact with many of those illegal aliens, especially criminal aliens, daily in performing their duties. So it is a practical marriage.

The House Committee on the Judiciary has promoted and supported local immigration enforcement since section 287(g) was added to the INA in 1996. In January of 2002, the Committee on the Judiciary pressed the Attorney General to accept local assistance in enforcing the immigration laws. As the then-Immigration Subcommittee chairman stated, "In light of the tragic events of September 11, 2001, and the growing problem of illegal immigration into the United States, this is perhaps the most pressing time for the Department of Justice to consider utilizing the power" conveyed under section 287(g).

The Federal Government subsequently authorized officers to perform immigration enforcement functions with Florida and Alabama.

The Committee on the Judiciary has revisited this issue in evaluating interior immigration enforcement, in examining sanctuary policies in a number of major cities, and in assessing the inherent authority of local police to enforce the immigration laws.

This amendment is an improvement over a narrow provision struck from H.R. 1817 during the markup of the legislation on May 12. That narrowly tailored provision applied only to States with a location 30 miles from a border or coastline. In order to truly protect our citizens from those who have entered our country illegally to do them harm, this policy must be applied nationwide.

As an April 2005 Subcommittee on Immigration, Border Security, and

Claims hearing revealed, alien gang violence has followed immigration patterns from the ports and borders into the communities of the interior United States. Similarly, new reports indicate that local police far from the nearest national border confront alien criminals and smugglers on a daily basis.

So in summary, Mr. Chairman, I appreciate the opportunity to speak in support of this amendment that addresses the necessary cooperation between local law enforcement, both local and State, and the Federal educational support so that we can build that level of cooperation.

Mr. THOMPSON of Mississippi. Mr. Chairman, I reserve the balance of my time for closing.

Mr. COX. Mr. Chairman, may I inquire how much time remains on this side?

The Acting CHAIRMAN (Mr. COLE of Oklahoma). The gentleman from California (Mr. COX) has 3½ minutes remaining.

Mr. COX. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. ROGERS).

Mr. ROGERS of Alabama. Mr. Chairman, I rise in strong support of the Cox-Sensenbrenner amendment.

I would like to associate myself with the comments of the gentleman from California (Chairman COX) and agree this proposal would help local law enforcement better enforce our Nation's immigration laws.

Two years ago, 21 Alabama State troopers completed ICE's Federal 5-week training course. Since that time, these State troopers have detained 128 illegal aliens as a result of routine traffic stops. For example, this January of 2004, two individuals were stopped by an Alabama State trooper for a traffic violation. Because the trooper was trained on how to spot false immigration documents, the two were detained. In the course of the investigation, the men were found guilty of attempting to smuggle over $435,000 in U.S. currency out of the country.

Likewise, in March of this year, two other individuals were stopped by an Alabama State trooper for a traffic violation. The driver identified was in possession of a U.S. passport, and the passenger was identified as a citizen of Mexico illegally present in the United States. A consensual search of the vehicle found nine firearms and ammunition hidden under the bed liner of the truck. Both were taken into ICE's custody for prosecution.

It is important to note that all officers enrolled in this program received extensive training in cultural sensitivity and civil rights procedure.

Contrary to the fears of the program's opponents, ICE has received no complaints of intimidation, harassment or profiling. In fact, Alabama law enforcement officials have reached out to its immigrant community to help educate them on the law.

Overall, the program is an essential force multiplier and helps ICE officials better enforce our Nation's immigration laws.

I would also like to recognize the work of the gentleman from Texas (Mr. McCAUL), a member of our committee, and all that he has done on this committee.

I thank the chairman for his leadership, and I ask for the House's support of this amendment.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 4½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Committee on Homeland Security.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman from Mississippi for yielding me time.

I rise to acknowledge the good intentions of the effort offered by the proponent of this amendment, but I also raise a number of red flags that are not answered by this amendment. In fact, it creates a whole new obligation for the Federal Government that does not address the Federal Government's responsibility for immigration enforcement and reform.

Frankly, I wish we were debating $40 million plus and more to fully fund the first responders bill or the first responders efforts to ensure that fire persons and police persons are fully funded for the work that they have to do to secure the homeland.

I would prefer an amendment that would fully fund the 2,000 plus every year border security protection agents that the 9/11 Commission recommended.

I would prefer this amendment to support the 800 a year ICE agents, the Immigration and Customs Enforcement officers who are at a measly 123 per year and do not have full complement to do their work.

All this amendment does is to set up an incentive that will not last and to get local communities dependent upon resources and place them in the line of fire to be doing the enforcement of immigration laws that the Federal Government should actually be doing. This gives them the false hope of memorandums of understanding that year after year will not be fully funded.

I am delighted that we are having this debate. At least we separate from the other body that wants to shut down the democratic process of debate by eliminating the filibuster. I will not do that today, but I think that we have an opportunity here to put forward a homeland security legislative initiative that really responds to the needs of enforcing immigration.

Authorizing funding, as I indicated, would be a deceptive encouragement to States to enter into MOUs. The history of the State Criminal Alien Assistance Program, however, makes it clear that such funding is unlikely. That program was established by Congress to reimburse State and local governments for costs incurred when incarcerating undocumented aliens convicted of crimes.

According to the National Association of Counties, State and local governments receive just 40 cents for every dollar they spend housing and processing such inmates. Meaning, Mr. Chairman, it has not worked.

I see the very same pathway for this limited funding. Really, what we should be doing is giving the States $100 million plus that we have now burdened them with in the unfunded mandate of the REAL ID bill. That bill, that is not funded, is going to create the greatest amount of havoc for untrained individuals dealing with this. It is not the law enforcement officers' ground. It is the Department of Public Safety that is going to have to characterize and create something we call a national ID card.

It also creates a false sense of public safety and it harms public safety. The false promise of funding would encourage some agencies to enter into MOUs, but expanded State and local enforcement of Federal immigration laws would harm public safety.

When police become immigration agents, the trust and confidence of immigrants and their communities are shaken. Word spreads like wildfire, and those very same immigrants, legal and nonlegal, if you will, will stifle, cut out the work of helping local law enforcement solve crime. We know that immigrants, documented and undocumented, are preyed upon, are victims, and they are victims and they are fearful, and they are in the midst of crimes being perpetrated against them and their neighbors. They have the answers and they will not give the answers and we will not solve crime in many of our communities because they believe that the local law enforcement is there to harm them and not there to help them.

I believe one frustration they run into is the fact that the Department of Homeland Security does not always respond to the request for assistance when people are believed to be undocumented. That is really where our problem is.

The other problem I might say is that when they arrest these individuals, we do not have the adjudicators to process them. So there is an enormous backlog. I tried on the floor of the House to offer an appropriations increase to get us 300 adjudicators, an amendment of myself and the gentleman from Michigan (Mr. CONYERS). That did not prevail. So, in actuality, this is a false effort, giving $40 million with good intentions, but it really does nothing to help local law enforcement.

Let us fully fund them for the work they have to do, fully fund the immigration law enforcement for the work they have to do, and let us do our work as a Federal Government in securing the homeland and providing immigration enforcement.

Mr. Chairman, this amendment to the Department of Homeland Security Authorization bill would authorize Federal funding for State and local police agencies who enter into MOUs with ICe to enforce immigration laws.

Based on earlier versions of the amendment as it was proposed during committee consideration of the bill, it appears that only training costs would be reimbursed. Ongoing personnel and administrative costs incurred by law enforcement agencies that enter into MOUs would not.

This amendment is inadequate for a variety of reasons:

FALSE INCENTIVE

Authorizing funding would be a deceptive encouragement to States to enter into MOUs. The history of the State Criminal Alien Assistance Program (SCAAP), however, makes it clear that such funding is unlikely. SCAAP was established by Congress to reimburse State and local governments for costs incurred when incarcerating undocumented aliens convicted of crimes.

According to the National Association of Counties, State and local governments received just 40 cents for every dollar they spend housing and processing such inmates. Also, President Bush has consistently attempted to eliminate the program entirely in his annual budget requests.

If Congress and the White House do not support full funding to reimburse State and local governments for costs incurred during criminal enforcement activities, it is highly unlikely that they will appropriate the monies needed to fund State and local agencies that engage in civil immigration law enforcement.

Not only is appropriation of this money less than certain, but the money covers a very small portion of the costs incurred by State and local agencies entering into MOUs. It does not fund ongoing salary and administrative costs for police as they take on new demands related to immigration enforcement. Indeed, if the drafters did want to appropriate this money, it would make more sense for them to fund hiring and training of additional Federal agents.

HARMS PUBLIC SAFETY

The false promise of funding would encourage some agencies to enter into MOUs. But expanded State and local enforcement of Federal immigration laws would harm public safety.

When police become immigration agents, the trust and confidence of immigrants and their communities are shaken. Word spreads like wildfire that any contact with police could mean deportation for themselves or their family members. Immigrants decline to report crimes or suspicious activity, and criminals see them as easy prey, making our streets less safe as a result.

Experience shows that this fear extends not only to contact with police, but also to the fire department, hospitals, and the public school system.

NOT THEIR ROLE

State and local law enforcement's priorities are and should be stopping, investigating, and punishing criminal activity. State and local police already have all the tools they need to work with Federal agencies, including ICE, on joint operations and investigations. They can also detain criminals who are also immigration law violators and contact ICE to come pick them up. They do this every day.

One frustration they run into is the fact that DHS doesn't always respond to their requests for assistance with people believed to be undocumented. DHS also has its priorities, and has focused first on terrorists and criminals. Undocumented workers fall further down the list. This amendment does nothing to ensure that agencies entering into MOUs will actually see responses from ICE as they come across people they think could be undocumented and attempt to sort it out.

Obviously the broken immigration system and lack of consistent enforcement cannot stand. But asking State and local police agencies to fill in where the Federal Government has failed is a cheap and false "solution."

NOT THE SOLUTION

The answer is not asking State and local governments to make up for the failures of the feds. The answer is modernizing the immigration system so that well-intentioned migrants can enter to work and reunite with their families legally. When the current undocumented population is brought out of the shadows for a proper vetting and gets on a path to legal status, our enforcement resources will be better trained on the smugglers and fake document rings, the drug runners and violent criminals, and the terrorists who might manipulate our system.

As President Bush said, once immigrants have legal papers, "Law enforcement will face fewer problems with undocumented workers, and will be better able to focus on the true threats to our Nation from criminals and terrorists. . . . Temporary workers will be able to establish their identities by obtaining the legal documents we all take for granted. And they will be able to talk openly to authorities, to report crimes when they are harmed, without the fear of being deported" (White House policy announcement, 01/07/2003).

These reforms are the real solution.

Mr. COX. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Texas (Mr. MCCAUL).

Mr. MCCAUL of Texas. Mr. Chairman, I thank the chairman for yielding me time and for his hard work on this amendment which is vital to assisting State and local law enforcement to participate in this very important program. I was proud to offer the base amendment at the committee level, along with my friend from Alabama.

An estimated 8 to 12 million undocumented aliens are here in the United States, and Border Patrol estimates that for every one that is apprehended at the border up to three others enter our Nation. In the post-9/11 world, these figures are no longer just an immigration problem but, rather, one of national security.

☐ 1400

My experience on border security is that our Federal law enforcement officers are being stretched too thin and asked to do too much and need all the help available. With this amendment, State and local officers can be trained to be qualified to perform the essential functions of an immigration officer, including investigation, apprehension, and detention of not only undocumented aliens but potential criminals and terrorists.

The $40 million to States who qualify will serve as a needed force multiplier to our border patrol, border inspectors, and ICE investigators; and it is purely a voluntary program.

If we have learned anything from the tragedy of September 11, it is that we must work together. No longer can we afford the turf battles between State, Federal, and local law enforcement. As the head of the Joint Terrorism Task Force back in my State, the State of Texas, I can tell you that State and locals participate in the Joint Terrorism task forces. This will give them the tools and the training necessary to enforce not only our terrorist laws but the immigration laws that so often overlap into the Federal terrorist criminal penalties.

I urge my colleagues to support this amendment. It will bring law enforcement together in a unified front to protect our national security.

Mr. THOMPSON of Mississippi. Mr. Chairman, may I inquire as to how much time remains.

The Acting CHAIRMAN (Mr. COLE of Oklahoma). The gentleman from Mississippi has 3½ minutes left on his side.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. MEEK), a member of the committee.

Mr. MEEK of Florida. Mr. Chairman, we argued this amendment in committee, and I have some concerns about it because I used to be a State trooper in Florida. I know exactly what happens when we feel that we are doing something, but we are really not doing anything.

With all due respect to my colleagues on the other side and their hard work, which I join them in the theory of making sure that we reimburse local law enforcement agencies that have invested time in doing what is a Federal agency responsibility, but the 9/11 report called for more ICE officers, it called for more Custom border protection officers, and it called for a Federal agency, like the Department of Homeland Security, to have what it needs to carry out its duties.

I must point out to the Members at line 10 on this particular amendment, on the front page, page 7 here of the overall bill, it says that the Secretary of Homeland Security "may" reimburse State and political subdivisions for the expenses that are carried out in this subsection.

Now, I am going to tell you right now this is the kind of language, and I want to make sure the law enforcement communities understand this, that this is not a guaranteed reimbursement. We are not guaranteeing them that they are going to be reimbursed. So I want to make sure the Members understand that wholeheartedly.

I understand the intent of this amendment, but I believe that if we are going to run, let us run. If we are going to walk, let us walk. But let us not jog on an issue such as this. I believe that that language should say "shall" if we are going to come to the floor and say we are going to reimburse local subdivisions and State law enforcement agencies.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume in closing.

Mr. Chairman, as I have already indicated from my opposition to this amendment, we are moving toward making States and localities assume a Federal responsibility. This is not in the best interest of homeland security. We have certain things as a Federal Government that we should do. Immigration protection is one of those items.

I understand from my chairman that he is interested in trying to help, but at some point we have to do our job. What we need to do is provide the resources to the Department to make sure that the Department can do its job, not pass the buck to another State.

You have heard from my colleague who used to be a State trooper who talks about the difficulties in crossing the lines. I ask my colleague to consider that, but I also ask opposition to the amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. BONNER). All time has expired.

The question is on the amendment offered by the gentleman from California (Mr. COX).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 3 printed in part B of House Report 109-84.

AMENDMENT NO. 3 OFFERED BY MR. KENNEDY OF RHODE ISLAND

Mr. KENNEDY of Rhode Island. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 3 offered by Mr. KENNEDY of Rhode Island:

At the end of the matter proposed to be added as section 205 of the Homeland Security Act of 2002 by section 223(a)(2) of the bill strike the closing quotation marks and the final period and insert the following:

"(c) CONSULTATION.—In carrying out this section, the Under Secretary shall consult with the Homeland Security Center of Excellence for Behavioral and Social Research on Terrorism and Counter-Terrorism and with such other academic research centers with expertise in risk communications as the Under Secretary considers appropriate.".

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Rhode Island (Mr. KENNEDY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I yield myself such time as I may consume.

Terrorism is a psychological warfare. Terrorists try to manipulate us and change our behavior by creating fear, uncertainty, and division in society. To succeed, the terrorists do not necessarily need to land an attack. Threats of an attack and failed attacks can still create fear, uncertainty, and division: and that is the terrorists' goal.

The key battleground in the war on terrorism, therefore, is in the minds of the American public. And how the government communicates about homeland security is central to how the public responds. I would argue that the communications record of the Department of Homeland Security has been an abysmal failure. The duct tape and plastic sheeting fiasco speaks for itself. The color-coded system does not work well and has undermined the Department's credibility.

The gentleman from California (Mr. COX), chairman of the Committee on Homeland Security, and I have talked about this issue over the last year, and I know he is very concerned about it. I am grateful that the committee has instructed the Department of Homeland Security in this bill to fix the problems with the color-coded terror alert system.

As the bill requires, any terror alert system must give people and organizations some indication about what steps they must take to improve their own security and assist in the Nation's security. It also requires that the alert be targeted at specific populations or regions, when possible.

What we have now is a system that tells us to be scared. That is it. We do not find out any information about the nature of the threat. We have no idea what we can do to make ourselves more secure. And this kind of vague warning inadvertently plays to the hands of the terrorists who want us to be afraid.

On the other hand, the American public possesses a great resilience and strength, and good risk communication strategies can tap into and even amplify those assets. In other words, risk communications is crucial to homeland security because it can be the difference between hardening the target and making it more vulnerable.

I have been working on these issues for several years now, and I can tell you that there is a wealth of knowledge out there about how the government should communicate in emergencies about threats. This amendment would simply require that in replacing the inadequate system we have now, that the Department draw on this expertise and research in order to help the government in its risk communications.

In particular, I think it is critical that the Department consult with the Center of Excellence in Behavioral and Social Research in Terrorism and Counterterrorism, which is already funded by the Department. We are already paying for this research, and we should make sure it is realized.

I want to thank the chairman of the Committee on Homeland Security and the ranking member, the gentleman from Mississippi (Mr. THOMPSON), for agreeing to this amendment and for their leadership. I also want to extend special thanks to Dr. Mike Barnett from my office, who has been indispensable to me in crafting this legislation.

Mr. Chairman, I will just close by saying that this amendment is not controversial, it has no cost, and it is very simple: When it comes to homeland security, communications have a lasting impact. So let us make sure we get it right by tapping the best experts.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY of Rhode Island. I yield to the gentleman from California.

Mr. COX. Mr. Chairman, I thank the gentleman for yielding; and if I might, I would like to speak first to the amendment that the gentleman has offered, and then we could engage in a colloquy on a second amendment.

So, Mr. Chairman, I rise therefore in support of the amendment offered by the gentleman from Rhode Island. As the gentleman observes, we have established in the Federal Government, through the Department of Homeland Security, the Homeland Security Center of Excellence for Behavioral and Social Research on Terrorism and Counterterrorism. This center, which is located in Maryland, was established by a $12 million grant from the Department of Homeland Security in January of this year.

This is the fourth Homeland Security Center of Excellence to be established. Its expertise lies precisely in this area, and it makes a good deal of sense to rely on this newly available expertise as we redesign the homeland security advisory system.

As the gentleman from Rhode Island points out, section 205 of the underlying bill, which we are amending, will already require redesign of that system to move from vague and general warnings to specific warnings that wherever possible are sector specific, industry specific and threat specific; regional in nature wherever possible.

We have to stop issuing vague warnings that only serve to alarm the general public, and we have to provide useful information to the category of people who receive the warning. Using the expertise of this center will accomplish both of these important objectives. And I am very glad that the gentleman from Rhode Island has worked with the staff on the committee to address some concerns with the original draft of the amendment so that we are now completely in accord on both the language and the wisdom of the proposal.

For all of those reasons, I am pleased to accept the amendment and urge my colleagues to vote in its support.

Mr. KENNEDY of Rhode Island. Mr. Chairman, reclaiming my time, as my colleague and I have just spoken on the importance of communications and risk communications, as you know, research shows that the more the public is brought into the terrorism planning and response, particularly through social networks like churches, unions, professional organizations, and business groups, as well as neighborhood associations, the more effective we can be at limiting the impacts of terrorist acts and terrorist threats.

Not only is the inherent resilience and the strength of the American public enhanced by participating, but the American public has a critical commonsense knowledge that the government agencies and community organizations need in order to develop plans that will protect as many people as possible.

For this reason, it is a high priority of mine, as it is of my colleagues, to better integrate the public into the planning at State, local, and Federal levels. Preparedness and response efforts are likely to be far less successful than they should be if we do not have a plan and a substantial public involvement in the process.

The Acting CHAIRMAN. The gentleman's time has expired.

Mr. COX. Mr. Chairman, although I am in support of the amendment, I ask unanimous consent to claim the time in opposition.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. COX. Mr. Chairman, I yield 1 minute to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, in closing, when the sarin gas attack happened in Japan, 90 percent of the people who went to the hospital had no infection or exposure to the sarin gas whatsoever. People died at the hospital because the medical teams were not able to attend to them because they were overwrought with people coming in and clogging up the hospital.

If we had a terrorist attack, the way the people respond is going to determine whether that attack is just a tragedy or whether that attack becomes an all-out disaster. And that is why risk communications are so important. That is why the chairman and I are trying to work to make sure that the Department of Homeland Security does better than it has thus far and does better than the plastic sheeting and duct tape, which they once recommended in the wake of a terrorist threat, in addition to the color-coded system, which has not proven to be very successful.

So I thank the chairman for his assistance in this matter.

Mr. COX. I yield myself the balance of my time, Mr. Chairman, and I would like to commend the gentleman from Rhode Island for his comments on and his commitment to this vitally important issue. I too am committed to citizen terrorism preparedness.

I agree that the Department of Homeland Security should make it a priority to engage the American public as partners in homeland security. It simply makes sense to encourage continued dialogue between the Department and its constituency, the American people.

□ 1415

The Department of Homeland Security has taken many important steps to foster just this kind of dialogue. For example, the Department administers the Citizen Corps Program which is specifically designed to improve civilian terrorism preparedness. In addition, the Department Science and Technology Directorate plans to establish a Center of Excellence on Domestic Preparedness and Response Capabilities. When established later this year, this center will engage in mission-oriented research to enhance citizen preparedness and improve citizen input into local, State and Federal preparedness and response efforts.

As chairman of the Committee on Homeland Security, I believe it would be prudent for the committee to hold hearings on the purpose and effectiveness of the Department's citizen terrorism preparedness programs. I also agree with the gentleman from Rhode Island (Mr. KENNEDY) that our government's preparedness is contingent upon actively and substantively engaging the citizens, and that that question must be part of our inquiry.

I look forward to working with the gentleman from Rhode Island (Mr. KENNEDY) as well as Members on both sides of the aisle on the Committee on Homeland Security as we examine this topic more closely. I think we all agree that citizen preparedness is simply too important to ignore.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. BONNER). The question is on the amendment offered by the gentleman from Rhode Island (Mr. KENNEDY).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 4 printed in part B of House Report 109-84.

AMENDMENT NO. 4 OFFERED BY MR. COX

Mr. COX. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. COX:

In section 302(c), strike "the Congress" and insert "the appropriate congressional committees"

In section 331, strike subsection (b) and insert the following:

(b) COORDINATION AND COOPERATION.—

(1) COORDINATION.—The Secretary shall coordinate the prioritization under this section with other relevant Federal agencies.

(2) COOPERATION.—Such prioritization shall be developed in cooperation with other relevant State, local, and tribal governments, and the private sector, as appropriate.

In section 332, strike subsection (a) and insert the following:

(a) REQUIREMENT.—Not later than 9 months after the date of the enactment of this Act, the Secretary of Homeland Security shall—

(1) review existing Federal, State, local, tribal, and private sector plans for securing the critical infrastructure included in the prioritization developed under section 331;

(2) recommend changes to existing plans for securing such infrastructure, as the Secretary determines necessary; and

(3) coordinate and contribute to protective efforts of other Federal, State, local, and tribal agencies and the private sector, as appropriate.

At the end of section 332, add the following new subsection:

(c) COORDINATION.—The Secretary shall coordinate the security review and recommendations required by subsection (a) with other relevant Federal agencies.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from California (Mr. COX) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. COX).

Mr. COX. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. BARTON) to speak in support of the amendment which the gentleman offered to the Committee on Rules and was made in order under the rule.

Mr. BARTON of Texas. Mr. Chairman, I want to thank the distinguished chairman of the Committee on Homeland Security for offering my amendment when it would have been very easy for the gentleman to just let it go when I was not here, but being the gentleman he is, he did the honorable decent thing, and I appreciate that.

Mr. Chairman, let me say that the Dingell-Barton amendment that is before us right now makes a simple but important change to H.R. 1817, the Department of Homeland Security Authorization Act for Fiscal Year 2006. This bipartisan amendment enshrines a commitment made by the Committee on Homeland Security but which was inadvertently left out of the Cox manager's amendment.

There are two primary reasons that the Committee on Energy and Commerce, which I chair, decided to mark up H.R. 1817. First was the creation of Assistant Secretary for Cybersecurity at the Department of Homeland Security. The issue of cybersecurity is one that is core to the jurisdiction of the Committee on Energy and Commerce. Indeed, the committee has existing oversight on telecommunications, nuclear, energy and information networks, systems, facilities and equipment over which any cybersecurity attack would occur as well as the potential effects of cybersecurity incidents on our Nation's interstates and foreign commerce.

The other primary reason, and the one for which I am offering this amendment today, is to require, and I want to emphasize require, the Department of Homeland Security to coordinate with other relevant Federal agencies, especially as it pertains to the protection of critical infrastructure. Many of these Federal agencies are taking strong and innovative steps to protect the critical infrastructure they regulate, which is why it is so important for the Department of Homeland Security to closely coordinate with these agencies.

Unfortunately, the Committee on Homeland Security which had assured us that this particular language would be a part of the manager's amendment, did not get included, and I understand it was inadvertent. But because of that reason we have had to offer this as an amendment on the floor. It is my understanding that the gentleman from California (Mr. COX), the chairman of the committee, fully support this language, and I am not aware that anybody opposes it. I hope at the appropriate time we can pass this by voice vote and all Members voting aye.

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to engage the chairman of the Committee on Energy and Commerce in a colloquy.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. COX. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, there are a number of places in the manager's amendment to H.R. 11817 that refer to coordination efforts between the Department of Homeland Security with "other relevant Federal agencies," specifically as it relates to protection of critical infrastructure and cybersecurity. I want to ask the distinguished chairman of the Committee on Homeland Security if those "other relevant Federal agencies" would include the departments and agencies under the jurisdiction of the Committee on Energy and Commerce, including the Department of Commerce, Department of Energy, Department of Health and Human Services, Federal Communications Commission, Federal Energy Regulatory Commission, Nuclear Regulatory Commission, Federal Trade Commission, National Information Agency, and the Environmental Protection Agency?

Mr. COX. Mr. Chairman, yes, I agree. Certainly in matters relating to cybersecurity and protection of critical infrastructure, the agencies the gentleman listed will be considered "relevant Federal agencies."

Mr. BARTON of Texas. I thank the gentleman for his explanation and look forward to working with him to ensure that all relevant Federal agencies have a role to play in homeland security. And although it is not a part of the colloquy, there may come a day when the gentleman from California is the chairman of the Committee on Energy and Commerce, and he will be very glad he answered yes to those questions.

Mr. THOMPSON of Mississippi. Mr. Chairman, I ask unanimous consent to claim the time in opposition to the amendment for purposes of debate, although I do not oppose the amendment.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, for the record, I am in support of this amendment, as are the gentleman from Texas (Mr. BARTON) and the gentleman from Michigan (Mr. DINGELL).

This amendment highlights the important need for the Secretary of the Department of Homeland Security to coordinate the prioritization of the Nation's critical infrastructure with other relevant Federal agencies. By requiring the Secretary to enter such partnerships, the Department of Homeland Security can draw upon the institutional expertise of a variety of agencies.

This is critical for completing an accurate, comprehensive and thorough assessment of terrorist threats to our country's critical infrastructure. Having seen the national asset database lists for Mississippi, I believe the Department needs as much help as it can get. Our Nation can no longer wait for an accurate prioritization of our most valuable asset. This is why I join my other colleagues and encourage Members to vote yes on this amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California (Mr. COX).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 5 printed in part B of House Report 109–84.

AMENDMENT NO. 5 OFFERED BY MS. EDDIE BERNICE JOHNSON OF TEXAS

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B Amendment No. 5 offered by Ms. EDDIE BERNICE JOHNSON of Texas:

Page 50, after line 17, insert the following:

SEC. 310. NATIONAL MEDICAL PREPAREDNESS CONSORTIUM.

(a) IN GENERAL.—The Secretary of Homeland Security shall make grants for the National Medical Preparedness Consortium to train emergency medical professionals to prepare for the mass casualties that would be caused by a terrorist event involving weapons of mass destruction.

(b) DESCRIPTION OF CONSORTIUM.—The Consortium referred to in subsection (a) is a consortium of institutions that—

(1) have existing facilities and experience in emergency medical training;

(2) have worked together for over 10 years on disaster medical training and mass casualty management;

(3) in 2004, established a national standard, known as the National Disaster Life Support curricula, for the medical treatment of mass casualties from terrorist events involving weapons of mass destruction; and

(4) have worked to implement throughout the United States training programs for medical professionals that use such standard.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there is authorized to be appropriated $5,000,000 for fiscal year 2006.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) and the gentleman from Georgia (Mr. DEAL) each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I yield myself 5 minutes.

Mr. DEAL of Georgia. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I thank the ranking member as well as the chairman of the Committee on Homeland Security for coming forth with this legislation.

The objective of my amendment is very simple. This amendment attempts to promulgate a national standardization of emergency medical response training to events involving weapons of mass destruction.

The centerpiece of the National Medical Preparedness Consortium is its affiliation with the Center for Mass Destruction Defense, a CDC Center for Public Health Preparedness.

The Center For Mass Destruction Defense is the original developer of the National Disaster Life Support courses, Basic Disaster Life Support and Advanced Disaster Life Support, which provides an all-hazards approach to emergency medical services preparedness and are the only courses certified by the American Medical Association as national standards.

The Center for Mass Destruction Defense was also one of the founding members of the National Disaster Life Support Education Committee of the AMA, which oversees the development and current implementation of the basic and advanced disaster life support courses, as well as a cofounder of the National Medical Preparedness Consortium. The funding for the National Medical Disaster Consortium would come from the Office of Domestic Preparedness which would not exceed $5 million.

Since before the 9/11 attacks, great progress has been made in the level of training and preparedness for the first responders for terrorist attacks, including firefighters, police and other law enforcement personnel.

These first responders have been telling their trainers we really appreciate the training and preparedness, especially for large-scale attacks, but when are you going to start training the health care people? They are going to be real efficient about bringing these patients up to the emergency room, but what happens after they enter?

It is one of those strange disconnects. When we had 9/11, most of the people were killed and all we thought about was firemen and policemen. But we do not expect that everyone will be killed if we have another disaster. They will need emergency care, and that is where this comes in.

The physicians, nurses, hospitals, providers and other health care personnel have not been getting the widespread training in terrorist attacks that the firefighters, police and other first responders have gotten. There has been a variety of courses done here and there, but the vast majority of the health care personnel have not been trained and the ones that have received some training have received a real hodgepodge of courses of different course content, different quality, and even with strange disagreements between the courses.

As a trained, educated, degreed nurse myself, I can tell Members firsthand that in certain critical fields of medicine the professional community has come up with a national standard of training in order to get everybody on the same page because it is often important that nurses and physicians go from one end of the country to another when needed, just as firemen and policemen do, but they need to have a specific body of knowledge when they get there.

The two main examples were trauma care and cardiac care before we came up with a national standard for trauma care. Like car wrecks, people were getting different approaches in some places, and patients were dying from poor care.

□ 1430

The same was happening with cardiac care. Then we came up with advanced trauma life support, or ATLS, and advanced cardiac life support. These national standards revolutionized trauma and cardiac care around the Nation. I have taken both the ATLS and the ACLS myself and this is the way to go.

What we need now is a national standard for disaster care so that the medical community will be able to respond responsibly across the Nation. What we need is a national standard for advanced disaster life support. Well, there is an advanced disaster life support curriculum that has been developed by the CDC center known as the Center for Mass Destruction Defense, and this curriculum has been endorsed by the American Medical Association for a national standard for disaster medical care.

In addition to the AMA, a number of specialty medical organizations have also adopted the advanced disaster life support curriculum, such as the American College of Emergency Physicians. The advanced disaster life support and its sister courses, basic disaster life support and CDLS, have been presented in 35 States now which is a wider distribution for an all-hazards disaster medical curriculum than any other available.

I know that the opposition to this is that it did not come through the Committee on Energy and Commerce and there are some who think it has already been done. What I am attempting to do here is to put something in a standard for around the Nation so that all of the people involved will have a standard body of knowledge.

Mr. DEAL of Georgia. Mr. Chairman, I yield myself such time as I may consume.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. DEAL of Georgia. I yield to the gentlewoman from Texas.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I want to know if I can depend on my colleague to help to get this in the right order so that we can still standardize this training around the Nation.

Mr. DEAL of Georgia. Yes, I can give the gentlewoman that assurance. I am sympathetic to the issue that she is concerned with. Our committee is more than willing to work with my colleague and her staff to try to coordinate that. We simply do not think that we ought to have grants that are duplicative of other programs that are there. For example, the Noble Training Center in Alabama, which I am sure the gentleman from Mississippi may be familiar with, has a specialized hospital that is engaged in training health professionals for this specific purpose. We simply think that we should coordinate the grants and that the Department of Health and Human Services is the appropriate agency to coordinate these grant programs.

If the gentlewoman would be so kind as to withdraw her amendment, I can assure her that I and the members of our Subcommittee on Health will be glad to work with her to try to achieve the goals that she has in mind with this amendment.

Ms. EDDIE BERNICE JOHNSON of Texas. I thank the gentleman very much, and I will withdraw this amendment.

I would like to say, too, that the Bechtel, Nevada/National Nuclear Security Administration; the Dartmouth College Interactive Media Laboratory; Eastern Kentucky University; Hazard Community College of Kentucky; New Mexico Technical University; New York City Office of Chief Medical Examiner; Summerlin Medical Center, University Medical Center, Las Vegas; Tulane University Medical Center; University of Findlay, Ohio; University of Georgia/Medical College of Georgia; University of Louisville (Kentucky); University of Texas Southwest Medical School, which is in my district; Upper Iowa University; Vanderbilt University; and Western Michigan University along with about 30 emergency physicians that we have been collaborating with for the last 3 years.

Mr. Chairman, I withdraw the amendment.

The Acting CHAIRMAN (Mr. BONNER). Without objection, the amendment is withdrawn.

There was no objection.

The Acting CHAIRMAN. It is now in order to consider amendment No. 6 printed in part B of House Report 109-84.

AMENDMENT NO. 6 OFFERED BY MR. EHLERS

Mr. EHLERS. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B Amendment No. 6 offered by Mr. EHLERS:

At the end of subtitle A of title III, add the following (and conform the table of contents accordingly):

SEC. 310. COMMERCIAL FLIGHTS TO AND FROM RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

(a) PASSENGER SEATING REQUIREMENTS.—Passengers on commercial flights arriving at and departing from Ronald Reagan Washington National Airport shall remain seated for 15 minutes after takeoff from and before touchdown at that airport.

(b) VIOLATIONS.—If a passenger violates the requirements of subsection (a), the captain of the aircraft shall determine if the passenger's actions present a security threat to other passengers or the aircraft. Only if the captain determines that the passenger's actions present such a threat shall a flight be diverted to a destination other than Ronald Reagan Washington National Airport.

(c) REGULATIONS.—Notwithstanding subsection (a), the Secretary of Homeland Security may issue regulations to decrease the time limit set forth in subsection (a).

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Michigan (Mr. EHLERS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Chairman, I yield myself such time as I may consume.

This is a very simple amendment. It would change the 30-minute rule that requires passengers on commercial flights into and out of Washington Reagan National Airport to remain seated for the first or last 30 minutes of the flight and for passengers to remain tightly in their seats and not even use the restroom facilities. I believe every Member of this House has experienced the nuisance of this rule. It simply does not make sense. It is an inconvenience to the traveler and does nothing to enhance flight security, particularly because there are two marshals aboard every plane into and out of Washington Reagan National Airport. My amendment would reduce the time in seat to 15 minutes, which should certainly be adequate. It would also permit the Secretary of Homeland Security to decrease the time even more. The amendment would also prohibit the pilot from diverting a flight from DCA for a violation of the seating rule unless he or she determines the passenger's actions to be a threat to the security of the other passengers or the aircraft.

There are several reasons for offering this amendment. We have already dramatically enhanced airport and airplane security since the time the rule was imposed. We have done this through several measures. First, improved passenger screening. Secondly, we have increased the number of inflight Federal air marshals. Third, we have reinforced the cockpit doors. And, fourth, have authorized armed pilots in the cockpit.

Mr. Chairman, requiring DCA passengers to remain seated for 30 minutes when similar restrictions are not placed on passengers traveling to and from Dulles and BWI or any other airport does not make sense. Planes leaving DCA go past Dulles Airport in approximately 10 minutes, so under a 30-minute rule for DCA, should Dulles passengers not be forced to remain seated for 20 minutes on westbound flights and 40 minutes on eastbound flights? This rule just does not make sense, particularly since the incidents that already have taken place with hijacked airplanes were not from DCA but one of them, in fact, was from Dulles Airport.

I understand that our Nation's capital faces significant terrorist threats and boasts many important terrorist targets, but it is important to note that none of these flights that were hijacked on September 11 originated at DCA. LaGuardia does not have this rule. JFK does not have the same rule, even though the attack occurred on New York.

Mr. Chairman, I fly into and out of Reagan airport every week. Several times on these flights I have heard snickering and jokes about the 30-minute rule. People know that this rule makes no sense, and the government is the butt of jokes about it. It is nonsense to have rules that are nonsensical, causes the government to lose the respect of the people. I have also seen people, particularly children and elderly, desperate to use the bathroom but unable to do so. This inconvenience is pointless.

I urge my colleagues to support this commonsense amendment.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Does any Member seek recognition in opposition?

Mr. EHLERS. Mr. Chairman, I yield myself the balance of my time.

Silence in the Chamber represents approval in this particular case. I appreciate the incredible support I have received from my colleagues for this amendment since I offered it. I have instantly become popular for the first time in my congressional career. I appreciate the meaning of the silence that we have.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. EHLERS).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 7 printed in part B of House Report 109–84.

AMENDMENT NO. 7 OFFERED BY MR. DE FAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B Amendment No. 7 offered by Mr. DEFAZIO:

At the end of subtitle A of title III, add the following (and conform the table of contents accordingly):

SEC. 310. FEDERAL FLIGHT DECK OFFICERS.

(a) TRAINING AND REQUALIFICATION TRAINING.—Section 44921(c) of title 49, United States Code, is amended by adding at the end the following:

"(3) LOCATION OF TRAINING.—

"(A) STUDY.—The Secretary shall conduct a study of the feasibility of conducting Federal flight deck officer initial training at facilities located throughout the United States, including an analysis of any associated programmatic impacts to the Federal flight deck officer program.

"(B) REPORT.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall transmit to Congress a report on the results of the study.

"(4) DATES OF TRAINING.—The Secretary shall ensure that a pilot who is eligible to receive Federal flight deck officer training is offered, to the maximum extent practicable, a choice of training dates and is provided at least 30 days advance notice of the dates.

"(5) TRAVEL TO TRAINING FACILITIES.—The Secretary shall establish a program to improve travel access to Federal flight deck officer training facilities through the use of charter flights or improved scheduled air carrier service.

"(6) REQUALIFICATION AND RECURRENT TRAINING.—

"(A) STANDARDS.—The Secretary shall establish qualification standards for facilities where Federal flight deck officers can receive requalification and recurrent training.

"(B) LOCATIONS.—The Secretary shall provide for requalification and recurrent training at geographically diverse facilities, including Federal, State, and local law enforcement and government facilities, and private training facilities that meet the qualification standards established under subparagraph (A).

"(7) COSTS OF TRAINING.—

"(A) IN GENERAL.—The Secretary shall provide Federal flight deck officer training, requalification training, and recurrent training to eligible pilots at no cost to the pilots or the air carriers that employ the pilots.

"(B) TRANSPORTATION AND EXPENSES.—The Secretary may provide travel expenses to a pilot receiving Federal flight deck officer training, requalification training, or recurrent training.

"(8) COMMUNICATIONS.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall establish a secure means for personnel of the Transportation Security Administration to communicate with Federal flight deck officers, and for Federal flight deck officers to communicate with each other, in support of the mission of such officers. Such means of communication may include a secure Internet website.

"(9) ISSUANCE OF BADGES.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue badges to Federal flight deck officers.".

(b) REVOCATION OF DEPUTIZATION OF PILOT AS FEDERAL FLIGHT DECK OFFICER.—Section 44921(d)(4) of title 49, United States Code, is amended to read as follows:

"(4) REVOCATION.—

"(A) ORDERS.—The Assistant Secretary of Homeland Security (Transportation Security Administration) may issue, for good cause, an order revoking the deputization of a Federal flight deck officer under this section. The order shall include the specific reasons for the revocation.

"(B) HEARINGS.—An individual who is adversely affected by an order of the Assistant Secretary under subparagraph (A) is entitled to a hearing on the record. When conducting a hearing under this section, the administrative law judge shall not be bound by findings of fact or interpretations of laws and regulations of the Assistant Secretary.

"(C) APPEALS.—An appeal from a decision of an administrative law judge as a result of a hearing under subparagraph (B) shall be made to the Secretary or the Secretary's designee.

"(D) JUDICIAL REVIEW OF A FINAL ORDER.—The determination and order of the Secretary revoking the deputization of a Federal flight deck officer under this section shall be final and conclusive unless the individual against whom such an order is issued files an application for judicial review under subchapter II of chapter 5 of title 5 (popularly known as the Administrative Procedure Act) within 60 days of entry of such order in the appropriate United States court of appeals.".

(c) FEDERAL FLIGHT DECK OFFICER FIREARM CARRIAGE PILOT PROGRAM.—Section 44921(f) of title 49, United States Code, is amended by adding at the end the following:

"(4) PILOT PROGRAM.—

"(A) IN GENERAL.—Not later than 90 days after the date of enactment of this paragraph, the Secretary shall implement a pilot program to allow pilots participating in the Federal flight deck officer program to transport their firearms on their persons. The Secretary may prescribe any training, equipment, or procedures that the Secretary determines necessary to ensure safety and maximize weapon retention.

"(B) REVIEW.—Not later than 1 year after the date of initiation of the pilot program, the Secretary shall conduct a review of the safety record of the pilot program and transmit a report on the results of the review to Congress.

"(C) OPTION.—If the Secretary as part of the review under subparagraph (B) determines that the safety level obtained under the pilot program is comparable to the safety level determined under existing methods of pilots carrying firearms on aircraft, the Secretary shall allow all pilots participating in the Federal flight deck officer program the option of carrying their firearm on their person subject to such requirements as the Secretary determines appropriate.".

(d) FEDERAL FLIGHT DECK OFFICERS ON INTERNATIONAL FLIGHTS.—

(1) AGREEMENTS WITH FOREIGN GOVERNMENTS.—The President is encouraged to pursue aggressively agreements with foreign governments to allow maximum deployment of Federal flight deck officers on international flights.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the President (or the President's designee) shall submit to Congress a report on the status of the President's efforts to allow maximum deployment of Federal flight deck officers on international flights.

(e) REFERENCES TO UNDER SECRETARY.—Section 44921 of title 49, United States Code, is amended—

(1) in subsection (a) by striking "Under Secretary of Transportation for Security" and inserting "Secretary of Homeland Security";

(2) by striking "Under Secretary" each place it appears and inserting "Secretary"; and

(3) by striking "Under Secretary's" each place it appears and inserting "Secretary's".

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Oregon (Mr. DEFAZIO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, I yield myself such time as I may consume.

This amendment which I am offering with the gentleman from Florida (Mr. MICA) of the Subcommittee on Aviation would make a good program even better, the Federal flight deck officer program, the last line of defense on the plane. Arming the pilots on the flight deck makes a tremendous amount of sense. There cannot be an air marshal on every plane, planes lack secondary barriers, and on longer flights pilots have to frequently open the door to receive food or use the facilities. If a terrorist attack or attempt should occur, knowing that the pilots are armed could provide the critical thing to save the passengers on that flight.

This amendment has the strong support of the Airline Pilots Association—I have a letter here—the National Rifle Association and others. This would make a number of changes. They would be issued badges which they do not currently have and they sometimes have a hard time convincing people they are authorized to have a gun and they are a Federal law enforcement officer for purposes of aviation. It would give them an appeals process for revocation of their certification. It would look toward making the training more accessible for people, particularly the recertification, although the facility we are using now is an excellent facility but we want to be certain that because of distance or time that more pilots are not precluded from becoming volunteers and providing this critical defense.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. MICA).

Mr. MICA. I thank the gentleman for yielding time. Hopefully that 2 minutes will be sufficient to deal with this amendment.

Mr. Chairman, this amendment does make a successful program even more successful. Sometimes that is hard to find in government agencies and activities and it is also sometimes hard to find in the incredible amount of dollars that we spend for homeland security. This takes a program that was opposed by the airlines, somewhat by the administration, by the other body, by some Members on both sides of the aisle and actually takes a program that gives us a last line of defense, an additional layer. This is in addition to the air marshals. This is in addition to secured cockpit doors and other improvements that we have put in place.

These individuals involved in this, the pilots, I have nothing but the greatest praise for their going forward in a long training program, it takes a full week, going practically to the end of the earth. I went out there with the gentleman from New Mexico (Mr. PEARCE), he represents Albuquerque, and then we went to Roswell, which is 2 or 3 hours to the south. I said, are we there yet? He said, no, tomorrow I'm taking you to the end of the earth which is where they have put this program.

I cannot tell you how many pilots have participated in this, both commercial passenger and cargo. It will exceed the number of air marshals that we have in this fine program. This does some things in helping them access recurrent training that is required, improves communications and gives them safe weapons carriage. It is a great program. They are great, dedicated Americans and pilots involved in this program and this enhances a very successful back line of defense for aviation security.

I commend the gentleman from Oregon, the former ranking member of our subcommittee, for his efforts.

Mr. DEFAZIO. Mr. Chairman, I yield the balance of my time to the gentleman from Mississippi (Mr. THOMPSON), the ranking member on the Committee on Homeland Security.

Mr. THOMPSON of Mississippi. Mr. Chairman, I rise in support of this amendment. It is a commonsense amendment. We have to do all we can to protect the flying public. As has already been said, our pilots are the last line of defense to protect the flying public. By training them with this program and providing all of the necessary background checks, there is no excuse for not making this program successful. I compliment the gentleman from Florida (Mr. MICA) and join the gentleman from Oregon (Mr. DEFAZIO) in support of this amendment, and I look forward to its passage.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO).

The amendment was agreed to.

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The Acting CHAIRMAN (Mr. BONNER). It is now in order to consider amendment No. 8 printed in part B of House Report 109–84.

AMENDMENT NO. 8 OFFERED BY MR. CARDIN

Mr. CARDIN. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 8 offered by Mr. CARDIN:

Page 55, line 15, after "Research Projects Agency," insert the following: "the Information Assurance Directorate of the National Security Agency,".

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Maryland (Mr. CARDIN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, by way of brief background, this legislation creates an Assistant Secretary for Cybersecurity, a much-needed high-level position in the Department of Homeland Security. We need one person in our government to serve as the point person on cyber security issues.

The legislation also tasks the Under Secretary for Science and Technology with support, research, and development, including long-term research, into cybersecurity issues with a particular focus on preventing and responding to large-scale, high-impact attacks.

This bill would require the Under Secretary to coordinate their activities with the Assistant Secretary for Cybersecurity and three other named agencies: NSF, DARPA, and NIST. My amendment would bring to the table one agency in addition, which would be the National Security Agency, or NSA. NSA is most well known for its signals intelligence and interception of messages. However, NSA has a long and distinguished history of working in the field of information assistance. Indeed, NSA is responsible for safeguarding the privacy and security of military communications as well as many other civilian communications of our government.

Mr. Chairman, I want to thank the chairman and ranking member of the committee for working with me on this amendment, and I would urge my colleagues to accept the amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. CARDIN).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 9 printed in part B of House Report 109-84.

AMENDMENT NO. 9 OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 9 offered by Ms. SLAUGHTER:

Page 69, after line 13, insert the following (and amend the table of contents accordingly):

SEC. 405. IMPROVING SENTRI, FAST, AND NEXUS PRE-ENROLLMENT PROGRAMS.

(a) CREATION OF REMOTE ENROLLMENT CENTERS.—

(1) IN GENERAL.—The Secretary shall create a minimum of 4 remote enrollment centers for the programs described in paragraph (2). Such remote enrollment centers shall be established away from the borders of the United States and in population centers where there is a demand for such a service.

(2) PROGRAMS.—The programs described in paragraph (1) are the following:

(A) The Free and Secure Trade, or "FAST", program authorized under subpart B of title IV of the Tariff Act of 1930 (19 U.S.C 1411 et seq).

(B) The Secure Electronic Network for Travelers Rapid Inspection, or "SENTRI", program authorized under section 286(q) of the Immigration and Nationality Act (8 U.S.C. 1356(q)).

(C) The "NEXUS" program authorized under section 286(q) of the Immigration and Nationality Act (8 U.S.C. 1356(q)).

(b) CUSTOMER SERVICE PHONE NUMBER.—The Secretary shall create a customer service telephone number for the programs described in subsection (a)(2).

(c) MERGING REQUIREMENTS OF NEXUS LAND AND AIR CARDS.—The Secretary of Homeland Security shall merge the requirements of the land and air cards issued under the "NEXUS" program authorized under section 286(q) of the Immigration and Nationality Act (8 U.S.C. 1356(q)) into one uniform card that will work for land and air crossings.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentlewoman from New York (Ms. SLAUGHTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Chairman, I yield myself such time as I may consume.

Tightening security along our vast northern border is one of the most important steps we have taken to defend our homeland since September 11. New security measures have had unintended consequences of stifling trade and tourism with our Canadian neighbors. Traffic congestion at the border continues to be a longstanding problem for local Canadian and New York residents who rely upon it for their business and personal lives. It is not uncommon for travelers at the Peace Bridge in Buffalo to experience 3- to 4-hour delays trying to cross the border.

Beyond the local impact on our constituents, border-crossing delays cost the entire Nation dearly. According to a new report by the Ontario Chamber of Commerce, the U.S. economy absorbs 40 percent of the current cost of the border delays, and that means that the U.S. losses are $4.13 billion a year, or $471,000 an hour, due to the border congestion. If action is not taken, we stand to lose 17,000 jobs by 2020 and 91,000 by 2030.

And we want to alleviate that by expanding the pre-clearance programs like NEXUS, FAST, and SENTRI. These programs, which are joint ventures between the U.S., Canadian, and Mexican governments, are designed to simplify the border crossings for pre-approved, low-risk travelers and businesses.

Right now constituents along the border complain that registration is overly burdensome and complex, and it is. It is unacceptable that American citizens must travel to Canada to enroll in the NEXUS program. So to expand and make pre-clearance easier to navigate, my amendment would authorize the creation of at least four enrollment centers in the United States and would establish a customer phone service number. As it stands now, there is no phone to reach NEXUS.

Finally, the amendment would create one consistent NEXUS card for land and air travelers. NEXUS cards currently require a retinal scan, while NEXUS land cards. use fingerprints; and we would merge these two and use one security feature for both air and land crossings.

Mr. Chairman, this amendment has the support of the United States Chamber of Commerce and the border mayors in western New York. Losing nearly half a million dollars an hour from border delays, the cost of pre-clearance upgrades would easily pay for themselves.

I am most grateful to the chairman of the committee and the vice chairman of the committee and urge adoption of this amendment. And I thank them for working with me on this amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. SLAUGHTER).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 10 printed in part B of House Report 109-84.

AMENDMENT NO. 10 OFFERED BY MR. SOUDER

Mr. SOUDER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 10 offered by Mr. SOUDER:

At the end of title IV of the amendment, add the following (and conform the table of contents of the bill accordingly):

SEC. 405. LEAD AGENCY FOR CERTAIN AIRSPACE SECURITY.

(a) LEAD AGENCY FOR NATIONAL CAPITAL REGION.—The Office of Air and Marine Operations of the Bureau of Customs and Border Protection of the Department of Homeland Security shall be the lead agency in the Department responsible for the planning and execution of the airspace security in the special use airspace that surrounds the National Capital region.

(b) LEAD AGENCY FOR SPECIAL EVENTS OF NATIONAL SIGNIFICANCE.—The Office of Air and Marine Operations shall be the lead agency in the Department responsible for the planning and execution of airspace security for those special events of national significance, as determined by the President, that require specialized security of the airspace surrounding the event.

(c) DUTIES OF LEAD AGENCY.—As the lead agency in the Department of Homeland Security for airspace security for any airspace under this section, the Office of Air and Marine Operations shall take such actions as may be necessary to facilitate the coordination, within the Department and between the Department and the Departments of Transportation, Justice, and Defense and appropriate State and local government agencies that have jurisdiction over an area that is within the boundaries of such airspace, of airspace security activities for such airspace and of law enforcement responses to violations of such airspace security.

(d) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall prepare and submit to Congress a report that identifies the facility, asset, and personnel requirements necessary to carry out the airspace security responsibilities of the Office of Air and Marine Operations under this section.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Indiana (Mr. SOUDER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Chairman, I yield myself 2 minutes.

After the first attacks on 9/11, the Secret Service was given responsibility for the airspace in the National Capital region. During the final 6 months of the Department of Defense working with the Secret Service, there were 182 intrusions into the 15-mile security ring. In December, 2000, DoD was tasked into finding a more optimal solution because one of the problems, which we saw just a couple weeks ago here at the Capitol building, is when we have a plane going 85 knots, 93 miles an hour, and all of a sudden an F-16 comes on going at 300 miles an hour, there is no escorting of the plane, there is no ability to talk to the plane. So the Air and Marine division, AMO, of the Customs and Border Protection agency inside DHS, has the smaller planes, the Citation, the Black Hawks with which to do this.

Just last week my staff and other staff in the Senate and the House learned on Friday that inside the Department of Homeland Security there is no designee who is the lead, and we have to work it out between DHS and the Department of Defense; but it is just appalling that inside the Department of Homeland Security we do not have a lead as to who is in charge in the air.

A couple of basic things that we need to understand here. That plane got within 2 minutes. It was a small plane that might have bounced off, but what we have seen throughout the world in a number of terrorist incidents now, planes exactly like that one loaded with C-4 blow up the place. We did not get our warning to get out of this building and clear the area. I got to 1st St. at approximately the time the plane was being landed. In other words, we could barely get out of the cloakroom before the plane would have hit.

So unless we can control that airspace, unless we have a lead designee like the Air and Marine division inside DHS, which is a start, and then to work with DoD, we are dead here. There is no way to stop a plane. Even if they had shot down the plane, it would have hit us coming on in unless it completely disintegrated, and at 93 miles an hour, it was a tough call.

So I believe this amendment addresses a great need.

Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, I rise to claim the time in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from California (Mr. COX) is recognized for 5 minutes.

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

I want to engage in a colloquy, if I might, with my colleague from Indiana and begin by sharing with him my support for his objectives and also my shared concern with this issue, which he has clearly identified, of overlapping jurisdictions.

Before the Congress takes the next step of designating a single agency to be the lead on airspace security, it is my view that we need our full Committee on Homeland Security through hearings and oversight to take an in-depth look at the capabilities of each of the agencies involved. Additionally, Secretary Chertoff is just days away from presenting to us the results of his 90-day top-to-bottom review of the Department, and I expect that the results of that review will include issues of mission overlap and also areas needing improved coordination.

So I would be glad to work with the gentleman on this precise issue and to move with alacrity if he would be willing to withdraw his amendment so that we can consider this in the committee. If that is agreeable to him, I would be happy to make that commitment at this time.

Mr. SOUDER. Mr. Chairman, will the gentleman yield?

Mr. COX. I yield to the gentleman from Indiana.

Mr. SOUDER. Mr. Chairman, my concern is that, as he knows, I had two other amendments that I withdrew because we had jurisdictional questions. Clearly, the Parliamentarian has ruled in this case that this amendment is germane to this bill, is in the jurisdiction of this committee, and is in the primary and actually sole jurisdiction of this committee or it would not be in this committee. This is only inside the Department of Homeland Security. It does not have anything to do with the Department of Defense.

So my question is that, if I withdraw my amendment, are we guaranteed that, in fact, it will come back through our committee and be in the sole jurisdiction of our committee?

Mr. COX. Mr. Chairman, reclaiming my time, I believe the gentleman has very clearly and accurately stated the jurisdictional question on this amendment. It has been determined that it falls within the jurisdiction of the Committee on Homeland Security. For that reason I would propose that the Committee on Homeland Security take up this issue and use its jurisdiction to help solve this problem.

Mr. SOUDER. Mr. Chairman, will the gentleman yield?

Mr. COX. I yield to the gentleman from Indiana.

Mr. SOUDER. Mr. Chairman, I agree that we have not had hearings. I believe that the urgency is great and that we fight so much over jurisdiction in this body that literally this Congress and this city could have been theoretically blown off the face of the Earth while we argue over jurisdiction.

So I hope this would be done with alacrity. I would hope that there will not be jurisdictional battles, that it has to go through three committees, so that we can get something back to this floor as soon as possible because it was demonstrated last week that our lives may depend on this.

Mr. MICA. Mr. Chairman, I rise in opposition to the amendment.

We are all aware of the aircraft incursion in the National Capital Region airspace last week. I believe that the response to that event demonstrates that coordination and communication between the various Federal agencies works well.

Each agency, including the Federal Aviation Administration (FAA), the Transportation Security Administration (TSA), the Department of Defense (DOD), and the Customs and Border Protection, Air and Marine Operations (AMO) had the same information, communication and coordination was excellent, and each agency fulfilled their role as expected.

It has been my understanding that each agency, including AMO, has a specific role to play.

The FAA is the lead and has sole authority over airspace management and control at all times.

The TSA handles airspace security policy within the Department of Homeland Security.

AMO handles tracking and intercepting aircraft in violation of FAA airspace rules and orders in the National Capital Region, and handles other law enforcement operations.

Finally, the DOD is in charge of airspace defense.

These rules have been long established and are not in question.

Therefore, I am unsure why there is a perceived need for a lead agency within the Department of Homeland Security in these situations even more, I am unsure if AMO is the proper entity to fulfill that role.

Nevertheless, I believe strongly that FAA must retain airspace management and control at all times . . . before, during and after an event, terrorist or otherwise.

Without a doubt, aviation safety is of paramount importance, even during an incursion event, and the FAA is the proper authority and lead in this regard.

I must remind my colleagues that the incursion last week turned out not to be a terrorist event and it is the FAA who is pursuing punitive action against the pilot in question.

Since this is most often the case, it seems strange to give AMO, a law enforcement agency within Customs and Border Protection, the lead in airspace security.

If one thing went right last week it was communication, coordination and each Federal agency understanding and fulfilling their role.

If it ain't broke, don't fix it!

Therefore, I urge my colleagues to vote "no" on the Souder amendment.

Mr. CUMMINGS. Mr. Chairman, I support the amendment (No. 10) offered by Mr. SOUDER, the chairman of the Government Reform Subcommittee on Criminal Justice, Drug Policy and Human Resources, with whom I serve as Ranking Minority Member.

The amendment would extend through FY 2006 the authorization of the Office of Counternarcotics Enforcement within the Department of Homeland Security (DHS). The amendment would authorize the office at a level of $6 million annually—the same amount authorized by Congress, but not funded by the Administration, in FY 2005.

Our government's response to the attacks of 9/11 has been to take the fight to the terrorists militarily and to take steps to insulate our people and infrastructure from threats to our national security at home.

Congress created the Department of Homeland Security with the stark realization that gaps in security at our borders and ports of entry provide an open door not only to illegal immigration and dangerous illegal drugs, but also to terrorist threats.

Investigations into the 9/11 attacks also led to a greater understanding of the extent to which drug proceeds are the lifeblood of international criminal and terrorist organizations that threaten U.S. security.

Congress's recognition of the importance of stemming the flow of drugs into the United States is reflected in the mission statement of the Department of Homeland Security. Codified in the original authorizing statute, that statement directs the Secretary of DHS to explore links between terrorists and drug trafficking organizations and otherwise pursue drug interdiction.

The gentleman from Indiana and I share the view that we must not allow the threat of singular catastrophic events to detract from domestic efforts to stop the daily onslaught of illegal drugs that gradually turns American lives to waste and local communities into war zones.

Let us not forget, Mr. Chairman, that domestic consumption of illegal drugs claims roughly 20,000 thousand American lives each year—nearly seven times the number of Americans who perished in the 9/11 attacks.

Thousands more Americans go to jail or prison for drug-related crimes or become a victim of drug-related violence or property crime. An estimated $150 billion in economic productivity is lost annually due to drugs.

That is why I co-authored with Chairman SOUDER a provision in the Homeland Security Act of 2002 that created within the Department of Homeland Security the position of Counternarcotics Officer, or "CNO."

It was our purpose in proposing the CNO provision to create a high-level position within DHS that would maintain a high profile and priority for counternarcotics missions. The CNO was tasked with ensuring that DHS drug interdiction, investigation, and enforcement efforts would be coordinated internally and also meshed with the efforts of other Federal agencies to maximize the efficiency and effectiveness of anti-drug efforts throughout the government.

Three years later, the Homeland Security Department is up and running, but the record shows that the Administration has stood in the way of our efforts to support and improve coordination of counter-drug enforcement efforts.

Last year, in response to the Administration's failure to prioritize anti-drug efforts with DHS, we replaced the CNO position with the Office of Counternarcotics Enforcement, authorizing $6 million for the office in FY 2005. Unfortunately, President Bush ignored the will of Congress and chose not to fund the office. The Administration's budget request includes nothing for the office in FY 2006 and further seeks to undermine drug enforcement by proposing deep cuts in major anti-drug programs including HIDTA, Byrne Grants and the COPS program.

Mr. Chairman, the Office of Counternarcotics Enforcement deserves to be reauthorized and to be funded at a level adequate for it to fulfill its mission.

By extending the authorization of this office, we can help to ensure that the war on drugs and the war on terror both can be fought with maximum vigor, efficiency, and effectiveness.

We need to show a real commitment to our Nation's counternarcotics efforts—extend the reauthorization of the CNO and give the office permanent funding and personnel.

I thank the gentleman for offering his amendment, I urge the Committee to make the amendment in order, and I support the gentleman in his efforts to secure funding for the office as the DHS appropriations bill goes to conference.

Mr. SOUDER. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Acting CHAIRMAN. It is now in order to consider amendment No. 11 printed in part B of House Report 109–84.

AMENDMENT NO. 11 OFFERED BY MR. WAMP

Mr. WAMP. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 11 offered by Mr. WAMP:

In title V, add at the end the following new section:

SEC. 509. CENTERS OF EXCELLENCE.

Section 308(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 188(b)(2)) is amended by adding at the end the following new subparagraph:

"(F) A center under this paragraph may include participation of a Department of Energy laboratory, including in the preparation of a proposal.".

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Tennessee (Mr. WAMP) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman I would like to thank the gentleman from California (Chairman DREIER) and the Committee on Rules for making my amendment in order and the gentleman from California (Chairman COX) and the gentleman from Mississippi (Mr. THOMAS), ranking member, as well as their staffs, for their good work on this bill and for working with me on this important issue.

My amendment would permit the Department of Energy laboratories to team with a university or consortium of universities when competing for Department of Homeland Security's Centers of Excellence. Currently, the DHS Science and Technology Directorate prohibits DOE laboratories from contributing to university proposals for Centers of Excellence solicitations.

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My amendment would allow DOE labs to participate as partners with universities in preparation of Centers of Excellence proposals. This is only if the university or universities want the DOE lab to participate. It is not my intention to take anything away from universities or have Centers of Excellence located anywhere but at the universities. Under my amendment, universities will remain the lead on the Centers of Excellence proposals.

As a member of the Subcommittee on Homeland Securities of the Committee on Appropriations, I want to state that I fully support the Centers of Excellence program and have advocated for increased funding every year.

My concern arises from a faulty policy decision by the Science and Technology Directorate to prohibit DOE labs from partnering with universities to bring their expertise to complement university proposals.

I have heard that the Department of Homeland Security opposes my amendment. That is unfortunate, but I know that we are on the right track for six reasons.

First, DOE labs, even the ones that are intramural, are not and have not been involved in strategic planning and program development of Centers of Excellence and university programs.

Second, these labs are only intramural to those DOE legacy programs under the Office of Research and Development mostly dealing with chemical, radiological, biological, and nuclear threats within the funding that comes to Office of Research and Development for those missions. This funding is all done at national laboratories where the classified nature of the research needs to happen at a secure Federal research facility.

Third, to say that an intramural DOE lab has insider information on the Centers of Excellence program is simply not accurate.

Fourth, why do DOE labs have the ability to be eligible to partner with universities post award if requested by the university? What is the difference between pre award versus post award? How do universities write a proposal? The Department accepts it, makes the award to the university, and then after it is awarded, the university changes the proposal to add a DOE national lab that was barred from contributing in the first place. That makes no sense.

Fifth, it is my understanding that these Centers of Excellence are eligible for renewal, so there is a question that is still not clear. If a university that wins the Center of Excellence picks the Oak Ridge National Laboratory, for instance, to partner post award, would that preclude Science and Technology from considering that university from competing again or getting a renewal contract?

Finally, what happens when a university has a contractor at a DOE national laboratory such as the University of Tennessee and Battelle, which manage the Oak Ridge National Laboratory, or the University of California that manages Lawrence Livermore, does that not preclude these universities from ever being considered for Centers of Excellence proposals?

When we created the Department of Homeland Security Science and Tech Directorate, this was not the intended result. The Federal Government should encourage our excellence in academia to partner with our excellence at our national labs.

The Science and Tech Directorate's use of the national labs is still unclear. Congress needs to work together on this and challenge these decisions by making DHS more accountable so their decisions are made with good, common sense. We need these changes in this authorization bill, and I urge the adoption of this amendment.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN (Mr. BONNER). Does any Member rise in opposition to the gentleman's amendment? There being no one, the Chair recognizes the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Well, then, I appreciate that. Maybe we have worked these things out. That is great news, and I will just go ahead and yield back the balance of my time and move the adoption of the amendment.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. WAMP).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider Amendment No. 12 printed in Part B of House report 109–84 offered by the gentleman from New Jersey (Mr. MENENDEZ).

AMENDMENT NO. 12 OFFERED BY MR. THOMPSON

Mr. THOMPSON of Mississippi. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. Is the gentleman from Mississippi the designee of the gentleman from New Jersey (Mr. MENENDEZ)?

Mr. THOMPSON of Mississippi. Yes, Mr. Chairman

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 12 offered by Mr. THOMPSON of Mississippi:

At the end of title V add the following:

SEC. . REPORT ON PROTECTING INFRASTRUCTURE IN THE AREA OF PORT ELIZABETH AND NEWARK INTERNATIONAL AIRPORT, NEW JERSEY.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the Congress describing the measures necessary to coordinate and protect the various infrastructure in the area comprised of Port Elizabeth and Newark International Airport, New Jersey, and the area located generally between such facilities. The report shall include—

(1) an identification of the resources required to fully implement homeland security efforts for this area;

(2) an assessment of the progress made in implementing homeland security efforts for this area; and

(3) recommendations of additional resources needed to fully implement homeland security efforts for this area.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Mississippi (Mr. THOMPSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. THOMPSON).

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

I rise in support of this amendment offered by the gentleman from New Jersey (Mr. MENENDEZ).

Terrorism experts have called the area between Port Elizabeth and Newark International Airport in New Jersey "the most dangerous two miles in America," an area that includes dozens of vulnerable chemical plants, oil storage tanks, refineries, and other critical infrastructure systems within close proximity of Manhattan and the densely populated cities of northern New Jersey.

Experts estimate that a terrorist attack in this area could pose a potentially lethal threat to 12 million people living within a 14-mile radius. The Menendez amendment would require the Secretary of the Department of Homeland Security to report to Congress on how to coordinate and protect the people and infrastructure in this particularly vulnerable region.

Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, I rise in opposition to the amendment, and I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield the balance of the time to the gentleman from New Jersey (Mr. MENENDEZ), the author of the amendment.

Mr. MENENDEZ. Mr. Chairman, I yield myself such time as I may consume.

First of all, I want to thank the distinguished ranking member for offering this, since I was at an event with our colleagues in the Senate and with the Democratic Caucus, so I appreciate him offering this on my behalf. It is my intention, based on a conversation with the gentleman from California (Chairman COX), and I believe the ranking member as well, to withdraw the amendment, with an understanding, and I will get to that in a moment.

My effort here is to basically take, not that I have said this, but that the FBI and law enforcement and a congressional study has said that the most dangerous two miles in America when it comes to terrorism, according to the FBI and others, which is that area between Port Elizabeth, the megaport of the East Coast, and Newark International Airport, and since we have a critical challenge with this dangerous two miles that I think would replicate many other areas of the country that have chemical facilities next to transportation infrastructure, next to airports, next to seaports, and a whole host of other critical infrastructure, that what can the Department of Homeland Security do to look at this most dangerous two miles and tell us what has been done, what needs to be done, what should be done so that we can achieve the success that we want in protecting not just a part of my congressional district or of the people of New Jersey, but as the New York Times recently wrote, the Nation's most enticing environment for terrorists, providing a convenient way to cripple the economy by disrupting major portions of the country's rail lines, oil storage and refineries, pipelines, air traffic, communicate networks, and highway systems.

Now, if you are one of the 12 million people who live in this 14-mile radius with more than 100 potential terrorist targets, you would understandably be concerned. But as the New York Times mentioned, this is more about more than the safety and security of my constituents; it is an attack of this area to cripple our Nation's economy.

Very simply, an attack within these two miles would be an attack felt around the world, since the largest seaport on the East Coast, one of the busiest airports in the country, Interstate 95, the main corridor along the Eastern Seaboard, are all located within this area.

For example, just by one example, in 2002, 15 percent of Nebraska's container exports were shipped through this port, and, like that, it is so true for so many points of the country. If you are wearing it, driving it, or eating it, it likely came through the megaport of the East Coast.

So while my amendment does not authorize any new funding or any additional resources, it does look in the context of limited environment, of limited resources, but unlimited risks. How do we become careful stewards not only of the taxpayers' money, but also of the security of our people?

Now, my understanding is that the gentleman from California (Mr. COX) will be willing, by me withdrawing this amendment and by working with the ranking member, to secure that the Department of Homeland Security would provide such a report, and I would like to yield to him to see if my understanding is correct.

Mr. COX. Mr. Chairman, the gentleman's understanding is correct. If the gentleman is willing to withdraw his amendment, the Committee on Homeland Security, through its chairman and ranking member, would formally request this information from the Department of Homeland Security.

As the gentleman knows, the Department of Homeland Security and its Infrastructure Protection Directorate is currently focusing heavily on this part of the country and, as a result, the identification of critical assets, high-risk facilities, the implementation of security measures, and the recommendation of additional mitigation strategies for this region is something that the committee should hear on and, as a result, I would propose, with the ranking member, that we seek the information in this way.

My only concern with the amendment as drafted is that it would set the precedent of establishing a national legislation requirement for IP mandates for specific regions within the States, rather than a national infrastructure strategy.

Mr. MENENDEZ. Mr. Chairman, reclaiming my time, I appreciate the chairman's offer, and I would hope, however, seeing that many reports that have been requested by the committee have not come forward, that in fact we would be vigorous in making sure that the report would actually be issued.

Mr. COX. The gentleman has my commitment on that subject.

Mr. THOMPSON of Mississippi. Mr. Chairman, I ask unanimous consent to extend the debate by 2 minutes on each side.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

Mr. COX. Mr. Chairman, reserving the right to object, I would like to claim the time in opposition to the Menendez amendment.

The Acting CHAIRMAN. Under the pending proposal, the gentleman from California would have another 2 minutes and the gentleman from Mississippi would have another 2 minutes.

Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. COX. Mr. Chairman, I yield back 2 minutes of my time, and I yield the remaining 2 minutes to the gentleman from Mississippi (Mr. THOMPSON), and I withdraw my reservation of objection.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, there are approximately 70,000 different chemicals that have been defined. Fifteen to 20 of them could be lethal, are lethal, toxic, and in this two-mile stretch that the gentleman from New Jersey (Mr. MENENDEZ) has brought to our attention, these are the most dangerous two miles in America.

The chemical plants, the oil storage tanks, the refineries, and critical infrastructure systems are targets. In fact, if there is a terrorist attack in this area, it could pose a terribly lethal threat to 12 million people. That is within a 14-mile radius. This is serious business, and we on the Committee on Homeland Security look at this seriously on both sides of the aisle.

So through the ranking member and the chairman, we have their commitment that we will work this out, because I know that my colleagues understand the seriousness of this area. And since we are in the business of risk, the problem of risk and taking that into regard with our formula, then I think that this certainly reaches the top of the priority.

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Mr. FOSSELLA. Mr. Chairman, I thank the gentleman from New Jersey (Mr. PASCRELL) for yielding me the time. And just let me add this is not just a New Jersey issue, but it is a New York City issue, as a Representative of Staten Island, just a couple of miles away.

I applaud the gentleman's efforts. And I thank the chairman for agreeing with that.

Mr. THOMPSON of Mississippi. Mr. Chairman, the gentleman from New Jersey (Mr. PASCRELL) and others have indicated the position that the minority supports.

Mr. ROTHMAN. Mr. Chairman, I rise in support of the amendment introduced by my distinguished colleague from the great State of New Jersey, the Honorable ROBERT MENENDEZ. This amendment will help keep Congress informed of the Department of Homeland Security's strategies to protect the people of New Jersey, our nation's most densely populated state—in particular, those who live and work in the high-risk, terrorist target-rich neighborhoods that lie between Port Elizabeth and Newark International Airport.

This is a matter of vital importance both for the people of New Jersey and for all Americans. The. threat of terrorist attacks against critical infrastructure in the United States has hardly subsided since September 11th, 2001. Northern New Jersey is an integral part of the largest metropolitan region in the nation, home to major rail networks; oil refineries, pipelines and fuel storage facilities; major airports; communicatidns hubs; and a highway system that includes I–95, the most heavily traveled traffic corridor on the East Coast. Indeed, this metropolitan region has already been the subject of the deadliest terrorist attack in American history, and the more than 12 million individuals who reside or work inside the 14-mile radius of this nerve center deserve assurances that their government is taking all appropriate measures to protect them from future terrorist incidents.

I support the amendment introduced by Mr. MENENDEZ not out of parochial if entirely justifiable concern for the residents and workers of this sensitive area of northern New Jersey; I urge my colleagues to adopt this amendment because it truly addresses vital issues of national security. The Port of New York and New Jersey is the largest on the East Coast of the United States, with products and goods being funneled through its chokepoint to destinations all over the United States.

As my colleague Mr. MENENDEZ has noted, thle Federal Bureau of Investigation has dubbed the area between Port Newark and Newark International Airport the "most dangerous two miles in the United States when it comes to terrorism." I rise in support of the amendment offered by Mr. MENENDEZ and I urge all of my distinguished colleagues to support it.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield back the balance of my time.

Mr. MENENDEZ. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The Acting CHAIRMAN (Mr. BONNER). Is there objection to the request of the gentleman from New Jersey that the amendment offered by the gentleman from Mississippi (Mr. THOMPSON) be withdrawn?

There was no objection.

The Acting CHAIRMAN. It is now in order to consider amendment No. 13 printed in part B of House Report 109–84.

AMENDMENT NO. 13 OFFERED BY MS. HOOLEY

Ms. HOOLEY. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 13 offered by Ms. HOOLEY:

At the end of title V, insert the following:

SEC. 509. PROHIBITION AGAINST INCREASE IN SECURITY SERVICE FEES.

None of the funds authorized under this Act may be derived from an increase in security service fees established under section 44940 of title 49, United States Code.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentlewoman from Oregon (Ms. HOOLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment I offer today is very simple. It would prevent any of the money in this bill from coming from increases in airline ticket taxes. This is an amendment to protect consumers, to protect our struggling aviation industry.

Earlier this year, the President's budget included a $1.5 billion increase in the aviation security passenger fee, using this to largely offset his $2.2 billion homeland security increase.

This increase, if enacted, would represent over a 50 percent increase in airline fees. Federal taxes and fees already account for as much as 40 percent of the price that consumers pay for their domestic ticket.

Given the current state of our aviation industry in this country, we should not further punish them with higher taxes. Our homeland security is our national security, and we should not foist the bill off on just a few people or single industry.

While the bill before us does not include language increasing the aviation security passenger fee, it does authorize the same level of funding as the President's budget, and there is no offset for the additional spending.

Mr. Chairman, I am concerned that increasing the aviation security passenger fee will negatively impact consumers and will saddle a struggling industry that is already in trouble with an additional $1.5 billion in taxes.

I encourage my colleagues to support my amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. MICA. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman and my colleagues, this is not a good amendment. I am surprised that this amendment was even considered by the Rules Committee. The administration proposed a $3 increase in security fees.

Why did they propose that? They proposed that because yesterday we passed $4.6 billion just for passenger screening, of which the current fee of $2.50, a maximum of $5 per one way, even if you have more segments, security fee, which we imposed after September 11 to fund the TSA, falls $2 billion short.

So we are taking out of the general fund another $2 billion to fund this very expensive system that does not work very well. This is a report of the Inspector General, and it is a secret report, I cannot discuss this, but I tell you, the system fails.

Before the other body, Richard Skinner, acting Inspector General of the Homeland Security Department January 26, 2005 said; "The ability of TSA screeners to stop prohibited items from being carried through the sterile areas of airports fared no better than the performance of screeners prior to September 11, 2001."

Now, what is wrong? We do not have the technology. We do not have the technology. And I have proposed that we double the fee, and that we put it on technology that will do a better job. Not only will it do a better job, the GAO has said that we can decrease personnel by 78 percent for those that screen the baggage by hand now behind these counters, that use an army, almost half of the 45,000 personnel.

So we are paying more, getting less. This proposal would reduce $1 billion a year that cost to the taxpayers. This is a bad amendment. The airlines may like this amendment, but let me tell you what they will do.

If we do not correct and reform this system, we will have another 9/11 because this expensive structure that we have in place does not work. It needs to be changed out with technology. These reports say it. As chairman of the Aviation Subcommittee, I am telling you that we need it. And the only way to fund it, and do not tell me we have not helped the airlines. I stood up here and fought for $5 billion for them after 9/11. We gave them another $3 billion on top of that for security improvements. Then they got away with the absconding with 4 months of the revenue that they never passed on to the Federal Government and we never said anything.

We are right now financing 21 percent of FAA and the air traffic control system out of the general treasury. And some little guy from Oregon who is making $7 an hour, you are going to ask him to pay that security fee. He never gets on a plane, he is probably making minimum wage and is going to now pay to underwrite a failed system because the airlines will not step forward.

I even offered them a half a billion. They promised me that they would pay us a billion dollars when we assumed this responsibility. Last year they paid us $315 million, $700 hundred million short. Shame on them. Shame on them for even pushing this amendment.

This is a disgrace. We should be putting in place the best equipment to do away with the system that has failed. This says it failed. I challenge every Member to go and read those classified reports. We are not playing games here; we are dealing with the safety, security, and the economic future of this Nation.

So I urge the defeat of this amendment. I urge the reform of TSA that does not work, that costs us a lot of money; and those that use it should pay for it, not some poor guy from Oregon or Florida that is getting left holding the bag and paying the bill.

The user pays. That is what we do here. We are down now and we are subsidizing the expenses of FAA and air traffic control by half a billion dollars a year because the 7.5 cent excise tax on the tickets does not raise enough money. So it is coming out of the pockets of people who do not even fly.

This is a user-based system. Let us fix this system. Correct this bill.

Mr. Chairman, I yield back the balance of my time.

Ms. HOOLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. COX).

Mr. COX. Mr. Chairman, with all respect to my colleague, the gentleman from Florida (Mr. MICA), I could not disagree more strongly.

The Constitution of the United States gives to our national government the responsibility to provide for the common defense. When al Qaeda turned airliners into missiles, hundreds of passengers aboard those aircraft were killed, but thousands of people in the World Trade Center Towers and in the Pentagon were also killed. And none of them was an airline passenger.

Neither were the millions of Americans who suffered the economic damage of billions of dollars inflicted by al Qaeda as a result of those attacks. Homeland security, in my view, is the essence of national security.

And this amendment puts that question to the test. Is homeland security merely the correlation of national security, or is it the core of what we are seeking to establish when we provide for the common defense and protecting the territory and the population of the United States?

If every time the Pentagon needed a new weapons system they had to find a user fee in order to pay for it, we would have a third-world national defense. But, in fact, Mr. Chairman, as Democrats and Republicans on the Homeland Security Committee have determined, homeland security is all about providing for the common defense, and funding it is a national responsibility.

For those reasons, I strongly support the amendment offered by gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi (Mr. THOMPSON).

Mr. THOMPSON of Mississippi. Mr. Chairman, I rise and express strong support for the amendment of the gentlewoman from Oregon (Ms. HOOLEY). It sends a strong and simple message to Congress: do not raise aviation passenger fees.

I strongly believe that raising fees will place an additional burden on the flying public and could weaken the economic strength of domestic commercial aviation.

Mr. Chairman, I strongly support the Hooley amendment and urge my colleagues in the House to vote in favor of this important amendment.

Ms. HOOLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, just in closing let me say, homeland security, we all want to make sure that our country is as safe as possible. Homeland security is a responsibility of all of our citizens.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Oregon (Ms. HOOLEY).

The question was taken; and the Acting Chairman announced that the ayes have it.

Ms. HOOLEY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Oregon (Ms. HOOLEY) will be postponed.

The Acting CHAIRMAN. It is now in order to consider amendment No. 14 printed in part B of House Report 109–84.

AMENDMENT NO. 14 OFFERED BY MR. CARDIN

Mr. CARDIN. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 14 offered by Mr. CARDIN:

Page 78, insert after line 22 the following (and redesignate the succeeding provision and conform the table of contents accordingly):

SEC. 508. STUDY OF MODIFICATION OF AREA OF JURISDICTION OF OFFICE OF NATIONAL CAPITAL REGION COORDINATION.

(a) STUDY.—The Secretary of Homeland Security, acting through the Director of the Office of National Capital Region Coordination, shall conduct a study of the feasibility and desirability of modifying the definition of "National Capital Region" applicable under section 882 of the Homeland Security Act of 2002 to update the geographic area under the jurisdiction of the Office of National Capital Region Coordination.

(b) FACTORS.—In conducting the study under subsection (a), the Secretary shall analyze whether modifying the geographic area under the jurisdiction of the Office of National Region Coordination will—

(1) improve coordination among State and local governments within the Region, including regional governing bodies, and coordination of the efforts of first responders; and

(2) enhance the ability of such State and local governments and the Federal Government to prevent and respond to a terrorist attack within the Region.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under subsection (a), and shall include in the report such recommendations (including recommendations for legislation to amend section 882 of the Homeland Security Act of 2002) as the Secretary considers appropriate.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Maryland (Mr. CARDIN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maryland (Mr. CARDIN.)

Mr. CARDIN. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, I would like to thank the chairman and ranking member for working with me on this amendment to improve it.

Today, I am offering an amendment to H.R. 1817, the Department of Homeland Security Authorization Bill for fiscal year 2006, that would require DHS to conduct a study of the feasibility and desirability of modifying and updating the existing boundaries of the National Capital Region of DHS.

My amendment would require DHS to issue a report within 6 months to Congress on whether modifying the National Capital Region would, one, improve coordination among State and local governments within the region, including regional governing bodies, and coordination of the efforts of first responders; and, two, enhance the ability of State and local governments and the Federal Government to prevent and respond to a terrorist attack within the National Capital Region.

We passed nearly an identical amendment in October 2004 when the House considered the 9/11 Commission recommendations bill. This amendment clarifies that DHS will ultimately make a recommendation on whether to make any changes in the NCR subject to the approval by Congress.

The National Capital Region was defined by Congress in a statute in 1952 as part of an effort to coordinate a comprehensive planning responsibility for the national capital and surrounding areas. The 1952 act, the National Capital Planning Act, created the National Capital Planning Commission and defined the NCR to include the District of Columbia; Montgomery and Prince Georges' counties in Maryland; Arlington, Fairfax, Loudon, and Prince William counties in Virginia.

The NCR also includes all cities within these counties. Unfortunately, when Congress created the new Department of Homeland Security in 2002, it simply referred to the 1952 definition of NCR. It is clear to me that in order to effectively prepare our capital region for first responders, for the terrorist threats of the 21 century, we need to have a 21-century definition of the National Capital Region, not a definition based on a post-World War II and early Cold War America.

Washington, D.C. remains the highest-profile target for terrorists who successfully attacked the Pentagon on September 11, 2001, and failed to complete their attack against the White House or the U.S. Capitol.

Therefore, we need to take extraordinary steps to improve the coordination between governments and first responders in Washington D.C., Virginia, and Maryland in order to prevent and respond to attacks in the National Capital Region.

In the event of a terrorist attack in Washington, D.C., for example, local and State and government officials in Maryland and Virginia would be expected to provide immediate resources to assist in the recovery.

Maryland and Virginia would be asked to help in the evacuation of thousands or even over a million people from the Washington, D.C. metro region in certain circumstances.

Such an event would place an extraordinary strain on our existing first responder community and may overwhelm the ability of local, regional, State, Federal, military, public health, and non-profit agencies and personnel.

So this amendment simply asks that we do the study to see what is the appropriate definition for the purposes of homeland security. I want to thank my colleague, the gentleman from Maryland (Mr. BARTLETT), for his leadership on this issue.

Again, I want to thank the chairman and ranking member for working with me on this amendment in order to make it an effective study for Congress.

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I would urge my colleagues to accept this amendment.

Madam Chairman, I reserve the balance of my time.

The Acting CHAIRMAN (Mrs. CAPITO). Does any Member seek time in opposition to the gentleman's amendment? If not, the gentleman from Maryland (Mr. CARDIN) is recognized.

Mr. CARDIN. Madam Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. CARDIN).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 15 printed in Part B of House Report 109–84.

AMENDMENT NO. 15 OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 15 offered by Ms. SLAUGHTER:

Page 79, after line 6, add the following:

SEC. 509. REPORT TO CONGRESS ON UNIFORM AND IDENTIFICATION SECURITY.

(a) DEFINITION.—For the purpose of this section, the term "forms of Homeland Security identification" means any uniform, badge, identification card, or other apparel or insignia of the design prescribed by the Department of Homeland Security for use by any officer or employee of such Department.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Homeland Security shall prepare and submit to Congress a report—

(1) describing the efforts taken by the Department of Homeland Security—

(A) to curtail the production of imitation forms of Homeland Security identification, including efforts to improve the design of the various forms of Homeland Security identification to prevent unauthorized replication; and

(B) to increase public awareness of the existence of imitation forms of Homeland Security identification, and educate the public about means by which to identify bona fide forms of Homeland Security identification;

(2) assessing the effectiveness of the efforts described in paragraph (1); and

(3) recommending any legislation or administrative actions necessary to achieve the objectives described in subparagraphs (A) and (B), respectively, of paragraph (1).

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentlewoman from New York (Ms. SLAUGHTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Madam Chairman, I yield myself such time as I may consume.

My amendment would require the Secretary of Homeland Security to report to Congress on the agency's efforts to reduce the replication of its badges, uniforms and other insignia. In addition, the Secretary would be directed to report on the agency's efforts to increase public awareness of counterfeit badges and uniforms, and to teach Americans to identify authentic identification of a DHS official.

Two years ago, a man wearing an FBI jacket and carrying a badge attempted to rob the Xerox employee credit union in my district. The would-be robber killed one man and shot another, and that murderer is still at large.

Last week, the Department of Homeland Security arrested a man in New York City who was in the possession of over 1,300 fake badges and IDs from over 35 law enforcement agencies, along with two NYPD police uniforms. In addition, DHS agents found a Glock 9-millimeter handgun, a Beretta semiautomatic rifle, a Winchester shotgun and used casings from a shoulder-fired missile.

I think everyone would agree that this man posed a legitimate threat to his community based on his weapons stash alone, and knowing he had a gun and an FBI badge, or a CBP badge, or a police uniform, makes me even more frightened of the trouble he might have caused. The availability of counterfeit badges is an ongoing problem in this country, and it has gone unchecked for too long.

I am disturbed that the identification and clothing of our public officials is so easily reproduced. When I think about all the different efforts we have made and the technology we have employed to ensure that someone cannot counterfeit a $20 bill, I am shocked that ensuring the integrity of the badges and identification of public officials has not been made a similar priority.

DHS badges, uniforms and IDs are indicative of authority, and the bearers are granted access to restricted areas and to sensitive information. We trust that people who have those badges and wear those uniforms of the Department of Homeland Security are, in fact, officers of that agency, and we teach our children to trust people who show official badges and wear the official uniforms. How terrifying is it to think about someone's lost child walking up to someone wearing a DHS uniform only to have that person really be a criminal.

This amendment is an important first step in improving the integrity of the DHS badges, uniforms, and IDs. Next week, I plan on taking our efforts to protect the integrity of our public IDs one step further by introducing legislation that will expand the current Federal criminal ban on fake police badges and the misuse of authentic badges to include uniforms, identification, and all other insignia of public officials, because we must be able to trust those who said that they are public officials.

I appreciate very much being able to present this amendment and ask for its adoption.

Madam Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Does any Member rise in opposition to the gentlewoman's amendment? If not, the gentlewoman from New York (Ms. SLAUGHTER) is recognized.

Ms. SLAUGHTER. Madam Chairman, I thank very much the chairman of the committee and the ranking member of the committee, and I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. SLAUGHTER).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 16 printed in Part B of House Report 109-84.

AMENDMENT NO. 16 OFFERED BY MR. KENNEDY OF MINNESOTA

Mr. KENNEDY of Minnesota. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 16 offered by Mr. KENNEDY of Minnesota:

Page 79, after line 6, insert the following (and amend the table of contents accordingly):

SEC. 509. BORDER SURVEILLANCE.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the President and the appropriate committees of Congress a comprehensive plan for the systematic surveillance of the northern border of the United States by remotely piloted aircraft.

(b) CONTENTS.—The plan submitted under subsection (a) shall include—

(1) recommendations for establishing command and control centers, operations sites, infrastructure, maintenance, and procurement;

(2) cost estimates for the implementation of the plan and ongoing operations;

(3) recommendations for the appropriate agent within the Department of Homeland Security to be the executive agency for remotely piloted aircraft operations;

(4) the number of remotely piloted aircraft required for the plan;

(5) the types of missions the plan would undertake, including—

(A) protecting the lives of people seeking illegal entry into the United States;

(B) interdicting illegal movement of people, weapons, and other contraband across the border;

(C) providing investigative support to assist in the dismantling of smuggling and criminal networks along the border;

(D) using remotely piloted aircraft to serve as platforms for the collection of intelligence against smugglers and criminal networks along the border; and

(E) further validating and testing of remotely piloted aircraft for airspace security missions;

(6) the equipment necessary to carry out the plan; and

(7) a recommendation regarding whether to expand the pilot program along the entire northern border.

(c) IMPLEMENTATION.—The Secretary of Homeland Security shall implement the plan submitted under subsection (a) as a pilot program as soon as sufficient funds are appropriated and available for this purpose.

SEC. 510. ADVANCED TECHNOLOGY NORTHER BORDER SECURITY PILOT PROGRAM.

Section 5101 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1712 note) is amended by striking "The Secretary of Homeland Security may carry out" and inserting "To the extent funds are provided in advance in appropriations Acts, the Secretary of Homeland Security shall carry out".

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Minnesota (Mr. KENNEDY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Madam Chairman, I rise today to offer an amendment because I am deeply concerned that the Department is not paying sufficient attention to the northern border of the United States.

My amendment today is very simple, and I want to take this opportunity to thank the gentleman from California and his staff for their great work in helping me to draft this amendment.

Mr. Chairman, the National Intelligence Reform Act of 2004 contained important provisions dealing with improving border surveillance on the northern border.

Congress intended for the Secretary of Homeland Security to carry out a pilot program to test advanced technologies for border security along the northern border. Yet, to date, DHS has not carried out this program.

The intelligence reform bill also provided that the Secretary of Homeland Security must develop and submit to Congress and to the President a comprehensive plan for systematic surveillance of the southwest border by remotely piloted aircraft.

As I mentioned yesterday when I spoke on this subject, many Members may not realize that the U.S.-Canadian border is over 4,000 miles long, and it consists of more than 430 official and nonofficial points of entry. That is double the length of the U.S.-Mexico border, and even with recent staffing moves, DHS has only 1,000 Border Patrol agents along the northern border, compared to over 10,000 along the smaller southern border.

Some might think the southern border is more dangerous, but I would remind my colleagues that terrorists and drug traffickers trying to bring in poison like methamphetamines will try to get to us at the path of least resistance.

The lack of substantial resource and staffing along the northern border poses a real security threat. In fact, due to the shortage, DHS has looked for new ways to monitor the Canadian border, such as a new proposed requirement for passports to get back and forth over the border. But for a border as long as ours with Canada, so many unmanned access points, it is simply impractical to think having Border Patrol agents check passports will stop determined terrorists.

Do we expect al Qaeda or drug dealers to wait an hour at the border for someone to show up to check their passport? Or will they cross at some unknown spot along this vast border?

We need to adopt a more rigorous standard of protecting our northern border that makes wise use of our manpower and employs the same sophisticated technology as we use on our southern border.

By requiring the Department to comprehensively study the use of remotely piloted aircraft, AKA unmanned aerial vehicles, on the northern border and by requiring the Secretary to actually perform the pilot program created in the National Intelligence Reform Act, my amendment makes a significant step forward to securing this vast border.

Madam Chairman, the time has come to make our northern border just as safe and secure as the southern border. I urge all our Members to support this important amendment.

Madam Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Does anyone rise in opposition to the gentleman's amendment? The Chair recognizes the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Madam Chairman, I would just ask the Members to vote in favor of this amendment, and I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. KENNEDY).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 17 printed in Part B of House Report 109-84.

AMENDMENT NO. 17 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 17 offered by Ms. JACKSON-LEE of Texas:

Page 79, after line 6, insert the following (and amend the table of contents accordingly):

SEC. 509. GAO STUDY OF PROPOSALS TO INCREASE TEMPORARY PROTECTED STATUS REGISTRATION FEE.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall complete a study of, and report to Congress on, the likely consequences of increasing the fee described in section 244(c)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1254(a)(c)(1)(B)).

(b) ELEMENTS OF STUDY.—The study described in subsection (a) shall—

(1) calculate the number of applicants for relief under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254(a)) who have sought a waiver, been granted a waiver, or been denied a waiver from such fees due to their inability to pay such fees, since the enactment of such section;

(2) project the cost at which such fee would be set if it were calculated consistent with the manner in which the Department of Homeland Security calculates fees under section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m));

(3) taking into account the countries of nationality of the current population of beneficiaries of section 244 and the lack of work authorization that such beneficiaries have while awaiting the outcome of an adjudication, assess the ability of the current population of beneficiaries under section 244 to pay such fee if it were increased to the level projected pursuant to paragraph (2);

(4) estimate the number of requests for fee waivers that would likely have to be adjudicated per 1,000 applications should such fee be increased to the level projected pursuant to paragraph (2);

(5) estimate the cost and number of man hours that would be required to be expended in order to adjudicate the fee waiver requests described in such paragraph; and

(6) estimate the cost differential between the current cost of adjudicating applications and the statutory fee, on a per-application and an aggregate basis.

SEC. 510. GAO STUDY OF CONSEQUENCES OF EXPANDING USE OF PREMIUM SERVICE FOR IMMIGRATION BENEFIT APPLICATIONS AND PETITIONS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall complete a study of, and report to Congress on, the Department of Homeland Security's proposal to expand the use of premium fees for employment-based petitions and applications under section 286(u) of the Immigration and Nationality Act (8 U.S.C. 1356(u)) to other applications and petitions.

(b) ELEMENTS OF STUDY.—In performing the study required under subsection (a), the Comptroller General—

(1) shall consider and assess—

(A) all factors that help quantify and assess the current impact of premium processing on immigration benefits adjudications of employment-based applications and petitions; and

(B) the degree to which the use of premium processing for employment-based applications and petitions has negatively or positively impacted the length of time that it takes to adjudicate employment-based applications and petitions that are eligible for treatment under section 286(u) of the Immigration and Nationality Act but for which no premium fee is paid; and

(2) shall assess—

(A) whether expansion of section 286(u) of the Immigration and Nationality Act to family-based immigration petitions and applications would increase or decrease the length of time it takes to adjudicate family-based petitions and applications in cases where the applicant cannot afford to make use of the premium service;

(B) all other likely future impacts of an expansion of premium processing to family-based immigration benefits applications and petitions;

(C) the number of additional adjudicators needed to process premium processing applications;

(D) the impact of premium processing on the number and assignment of adjudicators; and

(E) the number of individual applicants who would opt to use premium processing under this expanded program annually.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Chairman, again I thank the chairman of the full committee and the ranking member of the full committee for working with all of us as we try to construct a real definitive homeland security policy. I am always reminded that we always seemingly receive wake-up calls, and certainly, last week a little Cessna gave America a wake-up call.

I have argued extensively that homeland security is beyond the Beltway, if you will, in the neighborhoods and suburbs and rural areas of America. At the same time, our responsibilities deals with the documentation of the individuals in this country.

I have always said that we need real immigration reform, and I have joined my colleagues in supporting efforts for enhanced border security, understanding the violence at the border, making sure we have more border security patrol agents, more ICE officers, more benefit funding to ensure that those who are in the legal line for citizenship are not delayed by years and months.

I come with this amendment, which is a simple proposition, to make immigration access fair, disregards the temporary protection status, and I am joined in this amendment by the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary. I would at this point submit in the RECORD a letter from the Homeland Security Department.

U.S. DEPARTMENT OF
HOMELAND SECURITY,
Washington, DC, April 19, 2005.

Hon. JOHN CONYERS, Jr.,
Ranking Member, Committee on Judiciary,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE CONYERS: I am pleased to provide these proposed legislative amendments that U.S. Citizenship and Immigration Services (USCIS) requests to modify fee collections for Temporary Protected Status (TPS) and Premium Processing Fee authority.

Section 244(c)(1)(B) of the Immigration and Nationality Act as amended, 8 U.S.C. 1254a(c)(1)(B) established the fee for adjudicating an application for TPS and capped this fee at $50 since 1990. This limitation is inconsistent with the fee structure for other immigration benefit applications which is based on the recovery of full processing costs. This amendment would permit appropriate adjustment of the TSP fee structure according to processing costs and inflation, per the regulatory process. The amendment removes the sentence "The amount of such fee shall not exceed $50."

Subsection 286(u) of the Immigration and Nationality Act (INA) authorizes a $1,000 premium processing fee to be charged for employment-based immigration petitions and applications. Under this authority as implemented by regulation (8 C.F.R. §103.2(f)), USCIS offers a premium processing service under which employers filing USCIS Forms I-129 seeking to sponsor aliens for certain immigrant or nonimmigrant classifications can obtain 15-day processing of their petitions by submitting the additional fee. The proposed amendment would authorize the Secretary of Homeland Security to establish premium processing fees for other applications or petitions, such as non-employment based immigration petitions and applications, employment authorization applications, or applications to change or extend nonimmigrant status. The determination whether to implement premium processing service for any specific adjudication, the terms of service, and the applicable premium fee, would be within the Secretary's discretion, but the fee could not exceed the $1,000 charged for employment-based premium processing. Premium processing fees would be deposited, as are other adjudication fees, into the Immigration Examinations Fee Account in order to enhance USCIS customer service as well as provide the premium service itself. In order to provide the Secretary with flexibility to adjust the fees as needed, the amendment clarifies that APA rulemaking and Federal Register publication requirements do not apply. Rather, availability and terms of premium processing would be publicized through the USCIS web site. The amendment also authorizes premium fees in excess of $1,000 for employment-based adjudications relating to the investor visa (EB-5) program for investors of at least $500,000 in job-creating enterprises, including regional centers, for which the current $1,000 cap does not justify the cost-effective provision of premium service.

Enclosed is detailed justification for each of the actions proposed in this notification.

I appreciate your interest in the Department of Homeland Security, and I look forward to working with you on future homeland security issues. If I may be of further assistance, please contact the Office of Legislative Affairs at (202) 205-4412.

Sincerely,

PAMELA J. TURNER,
Assistant Secretary for Legislative Affairs.

This letter indicates that the Homeland Security is considering raising the fees on temporary protective status. Let me tell my colleagues what that means.

Temporary protective status is generally given to those who are fleeing persecution in their countries; women who are fleeing domestic violence who happen to be immigrants; immigrants such as those fleeing from Bosnia or Kosovo during the time of war; immigrants who may be fleeing or may have fled from Iraq at the time of persecution from Saddam Hussein; those who are fleeing from Liberia, suffering from persecution over the years; those who are fleeing from Sudan, where we know there is much brutality and mutilation of men and women in that area. But the Homeland Security Department is proposing to raise the fees twofold.

These are the most vulnerable that come to our country. Many of them come to our country as the Statue of Liberty has said, give us your poor, your helpless and your persecuted.

I would ask the question that we would prefer, and I think the most important aspect of temporary protective status, it gives those who are fleeing persecution a legal status to stay in this country until the crisis has passed in their particular country.

Many of those who receive temporary protective status actually leave, and so it is not a question that they are seeking, if you will, permanent immigration status. It is a temporary status.

For those who may ultimately seek a permanent status, we already have sizeable fees for securing legal permanent residence; sizeable fees for individuals who want to use certain visas, such as family reunification; sizeable fees for workforce visas and J-1 visas and nurses visas. Those individuals are able and working to provide or to pay those kinds of fees.

We also have sizeable fees for citizenship, and I think that is right. The citizenship of the United States pays for the services that are rendered, and likewise, in a bill that I am offering, the Save America Comprehensive Immigration Reform Act, those same fees will help protect American jobs and provide Americans with training.

But the temporary protective status is for the vulnerable, and I believe that this amendment will ask the GAO to study the negative impact that it will make on those seeking temporary protective status and give guidance to the Homeland Security Department so that they can reconsider the suggestion that is being made to double the fees on these most vulnerable that are here in this country.

I would ask my colleagues to consider the vulnerability of these individuals and to support an amendment that asks the question why we must put a premium fee on those who are barely here and surviving because they had to flee to survive and to save their lives. I know that we are a just country and that we can do better, and I would ask my colleagues to support this amendment.

Madam Chairman, I rise with the distinguished Ranking Member of the Judiciary Committee from Michigan to offer Amendment No. 82, the "Jackson Lee/Conyers GAO Study Amendment." To summarize this amendment, it would instruct the General Accounting Office (GAO) to conduct a study examining the impact of an increase in Temporary Protected Status (TPS) application fees on the nationals of countries for which TPS is available and the differential in cost between the current statutory fee and the cost-based fee proposed by Customs and Immigration Services (CIS). In addition, this amendment instructs GAG to conduct a study on the premium processing fee system and its possible application to individuals and families.

To further simplify the operative provisions of this amendment, it has two prongs: Prong One relates to the United States Citizenship and Immigration Services bureau (USCIS) fee increase for processing applications for Temporary Protected Status (TPS) relief. USCIS would like to remove the cap limiting the amount of fees that can be collected for processing an application for TPS. The application fee for TPS has been fixed by statute at $50 since 1990. USCIS would like to raise the fee according to processing costs and inflation, following the existing regulatory process. USCIS argues that the $50 limit is inconsistent with the fee structure for other immigration benefit applications that are based on recovery of full processing costs.

TPS is an immigration category that allows non-citizens of designated countries to remain in the U.S following political strife or natural disasters in their native countries. TPS applicants are eligible for work authorization while their applications are pending. USCIS says that many of them have been working here for years when a disaster strikes their home country and they become eligible for TPS—thus they are able to pay increased fees, or can they seek a waiver for economic hardship. However, many TPS beneficiaries come from impoverished countries and are often in the U.S. visiting relatives or are here for other brief stays. It may not be the best policy to raise fees for TPS beneficiaries when they have no practical alternative but to remain in the United States.

If the fees were raised to the ridiculously high levels that other fees have been raised to over the last several years, DHS would likely wind up fielding many more fee waiver requests than they currently have to field.

Prong two relates to the USCIS proposal to expand Premium Processing Fees to individuals. USCIS wants to expand the authority of the Secretary of Homeland Security to establish premium processing fees for non-employment based immigration petitions and applications. Currently, premium processing is only available to employers seeking to hire an immigrant: It allows employers to pay a $1,000 fee to expedite employer-based immigration. Under the new amendment, any immigrant would be able to expedite their immigration paperwork if they could provide the additional $1,000 fee. Funds collected from this fee would be deposited in the Immigration Examinations Fee Account, with other adjudication fees, to support USCIS customer service.

USCIS says that they expect 10 million expedited applications in the first year and they requested funds to hire additional adjudicators to assist with this work.

Many immigration experts report serious problems with the use of premium fees in the employment-based context. They claim that other employment-based applications and petitions are slowed down because DHS places more of its resources into adjudicating the premium requests.

Even if the premium fee was working well in the employment-based arena, it may not apply well in the family-based arena. Businesses can pass their costs on to consumers (or even compensate for those fees in the salary and benefits that they pay the workers), and so they do not necessarily care so much about the increased costs. Family-based applicants often cannot pass on increased costs to another payer.

This amendment calls on the GAO to examine the use of the premium fee in the employment-based arena before the practice is extended into the family-based arena. The study will look at the efficacy of the practice in the employment-based arena and whether it has slowed down adjudications for those who do not pay the premium. It also will look at the differences between family-based applicants and employment-based applicants and how their differences might result in different experiences.

The GAO should also study the proposal to exempt DHS from the Administrative Procedures Act (APA) and examine the questionable suggestion of tying application fees.

Madam Chairman, I ask that my colleagues support Mr. CONYERS and me on this amendment.

Madam Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Does anyone rise in opposition to the gentlewoman's amendment? The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Chairman, I ask my colleagues to support the amendment, and I yield back the balance of my time.

Mr. CONYERS. Mr. Chairman, I rise in support of the Jackson Lee/Conyers amendment to H.R. 1817, which would direct the Government Accountability Office (GAO) to conduct a study of two Administration proposals to increase fees paid by applicants and petitioners for immigration services.

The administration's fiscal year 2006 budget submission proposed that Congress enact legislation to authorize the United States Citizenship and Immigration Services (USCIS) component of the Department of Homeland Security to increase the fee paid by applicants for Temporary Protected Status (TPS) above the statutory limit of $50.

The administration also has proposed that Congress enact legislation to extend a provision that permits USCIS to charge an extra fee for providing faster services to some employment-based immigration applicants and petitioners. The administration wants Congress to extend this program so that the extra fee can also be charged to family-based applicants and petitioners, as well.

The Jackson Lee/Conyers amendment would require that the Government Accountability Office conduct studies of each of these proposals so that Congress can have an opportunity to assess their consequences and impact before acting.

TPS Fee—When Congress enacted the TPS statute in 1990, it had the option of permitting the then-Immigration and Naturalization Service (INS) to set the fee at whatever level was necessary in order to pay for the cost of adjudicating an applicant's application. Instead, in recognition of the special circumstances faced by TPS beneficiaries, Congress opted to cap the TPS fee at $50.

By statutory definition, Mr. Chairman, TPS beneficiaries come from countries where there has been a natural disaster or an ongoing armed conflict and the foreign state is unable to handle their return. While it is certainly true that TPS applicants can get work authorization pending their requests, they would first have to pay the fee in order to be considered for work authorization and TPS status. Many TPS beneficiaries, Mr. Chairman, come from impoverished countries and are often in the U.S. visiting relatives or are here for other brief stays. It may not be the best policy to raising fees for TPS beneficiaries when they have no practical alternative but to remain in the United States.

If the fees for TPS are raised to the outrageous levels that other fees have been raised to in recent years, it could result in two unacceptable consequences. It could either drive would-be beneficiaries underground because they cannot afford to pay the fee. Or it could result in an exponential increase in requests for fee waivers, an outcome that would slow down adjudications for all other applications or immigration benefits. My amendment request that the GAO examine these potential consequences.

Premium Service Fee—Nearly five years ago, Congress enacted legislation giving the Administration the authority to charge a $1,000 premium fee for businesses that wish to expedite the adjudication of their employment-based immigration applications and petitions. The Administration has asked Congress to give it the authority to charge a similar fee to family-based applicants and petitions.

The accounts are mixed, Mr. Chairman, on how well the premium service fee for employment-based applications and petitions has worked. We have heard from some, for instance, that implementation of this diversion has resulted in a slowing down of adjudications for those businesses who decline to pay the extra $1,000. At a minimum, an impartial body should study how the premium service program is working in the business arena before extending it to family-based applications and petitions.

Moreover, Mr. Speaker, there are vast differences between the resources available to employment-based and family-based petitioners and applicants. Businesses often can pass on the costs of a premium fee to their customers or adjust the wages and benefits of the prospective employee to recover the extra cost. These options are not available to families, on the other hand.

If reports are true that implementation of the program in the employment arena has slowed down adjudications for those businesses that decline to pay the fee, expansion of the program to the family-based arena could have disastrous, unintended consequences for those families that cannot afford to pay an additional $1,000 for each application or petitions.

Conclusion—Mr. Chairman, the studies and reports that my amendment would mandate do not seek to prejudice the question of whether the administration should be given the new fee authorities that it has requested. Instead, my amendment would see the advice of impartial experts at the Government Accountability Office before Congress acts. I urge the adoption of this amendment.

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The Acting CHAIRMAN (Mrs. CAPITO). The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 18 printed in part B of House Report 109-84.

AMENDMENT NO. 18 OFFERED BY MR. NORWOOD

Mr. NORWOOD. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 18 offered by Mr. NORWOOD:

Page 79, after line 6, insert the following (and amend the table of contents accordingly):

SEC. 509. FEDERAL AFFIRMATION OF ASSISTANCE IN IMMIGRATION LAW ENFORCEMENT BY STATES AND POLITICAL SUBDIVISIONS.

Notwithstanding any other provision of law and reaffirming the existing general authority, law enforcement personnel of a State or a political subdivision of a State are fully authorized to apprehend, detain, or remove aliens in the United States (including the transportation of such aliens across State lines to detention centers), for the purposes of assisting in the enforcement of the immigration laws of the United States in the course of carrying out routine duties. This State authority has never been displaced or preempted by the Congress.

SEC. 510. TRAINING OF STATE AND LOCAL LAW ENFORCEMENT PERSONNEL IN ENFORCEMENT OF IMMIGRATION LAWS.

(a) TRAINING AND POCKET GUIDE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish—

(A) a training manual for law enforcement personnel of a State or political subdivision of a State to train such personnel in the investigation, identification, apprehension, arrest, detention, and transfer to Federal custody of aliens in the United States (including the transportation of such aliens across State lines to detention centers and identification of fraudulent documents); and

(B) an immigration enforcement pocket guide for law enforcement personnel of a State or political subdivision of a State to provide a quick reference for such personnel in the course of duty.

(2) AVAILABILITY.—The training manual and pocket guide established in accordance with paragraph (1) shall be made available to all State and local law enforcement personnel.

(3) APPLICABILITY.—Nothing in this subsection shall be construed to require State or local law enforcement personnel to carry the training manual or pocket guide established

in accordance with paragraph (1) with them while on duty.

(4) COSTS.—The Department of Homeland Security shall be responsible for any costs incurred in establishing the training manual and pocket guide under this subsection.

(b) TRAINING FLEXIBILITY.—

(1) IN GENERAL.—The Department of Homeland Security shall make training of State and local law enforcement officers available through as many means as possible, including residential training at Federal facilities, onsite training held at State or local police agencies or facilities, online training courses by computer, teleconferencing, and videotape, or the digital video display (DVD) of a training course or courses.

(2) FEDERAL PERSONNEL TRAINING.—The training of State and local law enforcement personnel under this section shall not displace or otherwise adversely affect the training of Federal personnel.

(c) CLARIFICATION.—Nothing in this Act or any other provision of law shall be construed as making any immigration-related training a requirement for, or prerequisite to, any State or local law enforcement officer exercising that officer's inherent authority to assist in the apprehension, arrest, detention, or transfer to Federal custody illegal aliens during the normal course of carrying out their law enforcement duties.

(d) TRAINING LIMITATION.—Section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) is amended—

(1) by striking 'Attorney General' each place that term appears and inserting "Secretary of Homeland Security"; and

(2) in paragraph (2), by adding at the end the following: "Such training shall not exceed 14 days or 80 hours, whichever is longer.".

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Georgia (Mr. NORWOOD) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Georgia (Mr NORWOOD).

REQUEST FOR MODIFICATION TO AMENDMENT NO. 18 OFFERED BY MR. NORWOOD

Mr. NORWOOD. Madam Chairman, I ask unanimous consent to modify my amendment.

The Acting CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Mr. NORWOOD to Amendment No. 18 printed in H. Rept. No. 109–84:

On page 1 of the amendment, strike out "or remove" in line 7.

The Acting CHAIRMAN. Is there objection to the modification offered by the gentleman from Georgia?

Mr. THOMPSON of Mississippi. Reserving the right to object, Madam Chairman, I would just say to my colleague that we have not been made aware of this amendment, and if for no other reason than we have not seen it.

Mr. NORWOOD. Madam Chairman, will the gentleman yield?

Mr. THOMPSON of Mississippi. I yield to the gentleman from Georgia.

Mr. NORWOOD. Madam Chairman, I actually did not know who to come to talk to because we did not know who would be leading against this amendment.

If I may, it is a very, very simple drafting error in the bill on line 7 where we are saying that law enforcement personnel of a State or political subdivision of a State are fully authorized to apprehend and detain. Then it goes on to say "or remove." "Or remove" should not have been in there.

And so we are just asking unanimous consent at this point to take that out and it will help the bill, and we are going to get it out somewhere anyway.

Mr. THOMPSON of Mississippi. Reclaiming my time, Madam Chairman, I object to the change.

The Acting CHAIRMAN. Objection is heard.

Mr. NORWOOD. Madam Chairman, the Norwood amendment would definitely clarify the existing authority, existing authority of State and local law enforcement personnel in assisting in the apprehension, detention, and transport of illegal aliens in the routine course of their daily duties. This last phrase, "in the routine course of duty," is critical because the language ensures that law enforcement has certainty when they come in contact with illegal aliens that are breaking our laws.

My amendment also would require DHS to establish a training manual and pocket guide for law enforcement and set forth simple guidelines for making training available.

Madam Chairman, I need to make this perfectly clear. This authority for State and local law enforcement already exists, though there is some confusion. But law enforcement officers and agencies need some assurance from us that they can take appropriate action with authority when the laws are broken. Any confusion about what to do when law enforcement meets with lawbreakers needs to end.

Some will argue law enforcement does not have adequate resources. That is clearly just not the case. We passed yesterday over $4.5 billion for homeland security, including $690 million for custody management, funds to dramatically increase detention bed space, $88 million for the Institutional Removal Program, there is $211 million for transportation and removal of undocumented aliens, and a good amendment today authorizes another $40 million to help willing States and local law enforcement. There is also $6 billion in the pipeline for first responders, and many of them are from law enforcement.

Imagine if a State or local law enforcement did not enforce Federal drug laws, or if a highway patrolman was confused about the speed limits on Federal interstates. Would Congress allow States and local law enforcement to not enforce Federal laws on bank robbers or kidnappings or fraud? In the wake of the 9/11 terror, porous borders are a major security concern.

Madam Chairman, I sponsored a bill with nearly identical language last Congress, so this is not just thought up today. It was endorsed by the National Sheriffs Association, the Law Enforcement Alliance of America, the Southern States Police Benevolent Association, and the 9/11 Families For a Secure America.

In addition, endorsements came from chiefs of police in Illinois, Iowa, Georgia, Indiana; and sheriffs from a slew of States endorsed similar language previously, including California, Michigan, Tennessee, North Carolina, Florida, Ohio, Texas, Washington, South Carolina, Oklahoma, Oregon, and in nearly a dozen more.

Colleagues, the only area of law that State and local law enforcement are not enforcing because they are unsure about what can be done is the immigration law. That should change. It must change. And this is the right time and the right bill to correct this critical matter.

Madam Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Madam Chairman, I rise in opposition to this amendment, and I yield myself such time as I may consume.

Madam Chairman, I encourage Members to vote "no" on the Norwood amendment. The Norwood amendment seeks to clarify the inherent authority of State and local law enforcement to apprehend, detain, remove, and transport illegal aliens in the routine course of duty. That is not what it does.

State and local police already have authority to report criminals who are foreign nationals to the Department of Homeland Security and to assist the Federal Government in criminal investigations. But current law does not allow law enforcement to pick up immigrants and deport them unilaterally. That is essentially what this amendment allows.

Do you want to give a local law enforcement officer the authority to remove people who they may suspect are in this country illegally; or would you prefer to have the Department of Homeland Security do that? Section 287(g) of INA, which provides for local law enforcement to enter into agreements with ICE, does not allow local law enforcement to remove an alien.

This amendment is also frightening because it allows a local police officer who receives no training at all on immigration law to deport someone. How does this police officer know that it is someone who should be deported? What documents should he ask for? What law has he violated?

This is a terrible amendment, Madam Chairman. Countless State and local police agencies have expressed concern about undermining public safety when ordinary immigrants start seeing them as agents of the Federal immigration service. We have comments from the chief of police in Nashville; chief of police in Hamtramck, Michigan; the sheriff and assistant sheriff in Orange

County; along with Chief William Finney of the St. Paul Police Department, who all have expressed real concern about the apprehension, detaining, and deportation of illegal immigrants.

Instead of focusing on training State and locals to do the job of our fellow law enforcement officers, we need to do more to train and provide Federal law enforcement with the resources it needs to fully carry out the responsibilities of the Department to enforce immigration and Customs violations.

DHS already faces challenges in cross-training its own personnel and integrating the various components into a cohesive unit and, thus, would face challenges in developing a cross-training manual for State and local law enforcement personnel.

Madam Chairman, this is why I am requesting that Members vote "no" on this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. NORWOOD. Madam Chairman, I yield myself 30 seconds and would point out there is no intention in this bill for local law enforcement to be able to deport anybody. In fact, if you had not objected to our amendment, that would have been clarified easily in this bill. And at the end of the day, that is simply not going to be the case.

Also, this bill is asking for training to help local law enforcement. I would simply say to my colleague that if he thinks local law enforcement ought not to help with this law because they do not know what they are doing, then maybe we ought to ask them not to help with any drug enforcement law because they do not know what they are doing. We are in that every day helping them.

Madam Chairman, I yield 1 minute to the gentleman from Georgia (Mr. WESTMORELAND).

Mr. WESTMORELAND. Madam Chairman, I thank my colleague from Georgia for yielding me this time to talk about an issue that is extremely pressing to the citizens of the 8th district, and I rise in support of the Norwood amendment.

Illegal immigration is a difficult issue, but it is one that Congress must address and address it now. We have seen the ineffectiveness of border security and how the addition of more eyes can make a difference. There are now more ropes in the net helping stop our porous borders.

During my most recent time in my district, nearly all the questions I received related to the issues of immigration. It is extremely important. Right now it does not make sense to prevent law enforcement officers from protecting the people of the United States. There are about 700,000 State and local police officers, compared with only about 2,000 Immigration and Customs enforcement officers.

Our ICE agents are wonderful, but simply do not have the physical ability to be in every place to work on enforcement all throughout the interior of our country. In contrast, our police officers encounter illegal immigrants every day, whether it be through a traffic stop or serving a warrant. It does not make sense to stop them from helping enforce our immigration laws.

This amendment takes a baby step toward the goal of better interior enforcement by clarifying the legal authority of local officers and giving them some real training on the issue. It simply does not make sense for us to ignore the eyes and ears of hundreds of thousands of local officers.

Madam Chairman, I urge the adoption of the Norwood amendment.

Mr. THOMPSON of Mississippi. Madam Chairman, I yield myself such time as I may consume.

As I indicated earlier, Madam Chairman, the gentleman sought to clarify his amendment without providing us with the opportunity to see it and, for that reason, we objected. But even with the clarification, it still would have been problematic for our side. So for that reason, Madam Chairman, I continue to object and to oppose the amendment.

Madam Chairman, I reserve the balance of my time.

Mr. NORWOOD. Madam Chairman, I yield myself 15 seconds just to remind the gentleman that if there are chiefs of police or State patrols in any particular State that do not want to be bothered by helping their Nation rid itself of terrorists, this is all voluntary. The gentleman can write them back and say we have passed a law, but you do not have to be involved.

Madam Chairman, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Madam Chairman, I thank the gentleman for yielding me this time. I rise in support of his amendment. I am a cosponsor of his legislation, and very proud to be. The gentleman has a commonsense solution to help us deal with the problem of illegal immigration.

In my area, as in other areas of the United States, we were built on immigration. We are not opposed to immigration. Our concern here is the enforcement of our laws. Today, many people arrive illegally and the Immigration and Naturalization Service estimated that in January of 2000 there were 7 million illegal aliens living in the United States, a number that is estimated to be growing by a half million a year.

Included in this total are more than 300,000 criminal aliens living in the United States. More importantly in that estimate, about 78,000 of them are from countries that are of special concern to us in the war on terror.

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With only 2,000 interior immigration enforcement officers working in the United States, we need all of the help we can get to enforce our immigration and criminal laws. This problem became very clear in my district and a story that is common around the country. During a routine traffic stop, it was discovered there were a number of illegal aliens traveling across the State. When the local police called the local immigration office inquiring what they should do, they were told to release them. That is right, law enforcement, knowing these people were illegal aliens, were instructed to release them. That is common, unfortunately, because our local law enforcement has not gotten the assistance to help enforce immigration laws.

This incident builds upon a number of highly publicized cases where illegal immigrants were released from custody only to commit serious, heinous crimes such as rape and murder, further complicating the job of local law enforcement.

The Norwood amendment is a commonsense and carefully crafted solution to this problem. All we ask is when these types of incidents occur, we can address them and we will make a change and quit undermining our laws. This amendment restores sanity to our law, some sense in helping to address the shortfall of interior immigration enforcement by having cooperation of law enforcement at all levels.

Mr. THOMPSON of Mississippi. Madam Chairman, I yield 2½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Chairman, let me attribute good intentions to the gentleman from Georgia (Mr. NORWOOD) because I think the gentleman's amendment is grounded in frustration, but it is the wrong way to go.

We cannot allowed our State officials to be burdened by Federal responsibilities and authority as it relates to immigration responsibilities. This amendment has constitutional failings and is weak, if you will, or is weakened by the 10th amendment which clearly says certain items are left to the States and by interpretation certain responsibilities are left to the Federal Government. This amendment includes a responsibility to deport aliens. That is almost impossible for local law enforcement to be responsible for.

Secondarily, the responsibilities of local law enforcement engaging and apprehending undocumented immigrants or others that they might perceive to be such puts on them the responsibilities of further housing these individuals without funding. The $40 million that was offered just a few amendments back is not sufficient for all of the potential detainees that will be in the Nation's local and State jails.

This is a good-intentioned amendment but it is bad law and it cannot be implemented. I ask my colleagues to recognize the fact that again this will damper public safety. I would much rather local law enforcement be looking for the kidnapped child or the child that may be subjected to child abuse or child violence because of some tragedy that has happened in a local community. We have seen a wave of child kidnappings and a number of lives lost because of child predators.

There are so many issues that local law enforcement must engage in, this puts an unfunded burden on their particular obligations.

In addition, Madam Chairman, beyond this question of irresponsibility, this ends or it puts a block, if you will, to local law enforcement solving problems and crimes in the community. In our communities, all of the folk that live there are the neighbors. The neighbors have information. They may not be documented or they may be documented, but crime is not a respecter of citizenship status. Local law enforcement's responsibility is bringing down the crime where they live, and no one wants to hear "I could not get information because I could not talk to the immigrant community."

Unfortunately, this amendment is something that I believe is blocked by the Constitution and the 10th amendment, and should be defeated.

Madam Chairman, I rise in opposition to the amendment designated as No. 59, offered by the gentleman from Georgia. The gentleman, in 2003, introduced the Clear Law Enforcement for Criminal Alien Removal (CLEAR) Act (H.R. 2671), and a companion measure was introduced in the other body entitled "the Homeland Security Enhancement Act (S. 1906)." These bills require police to enforce Federal immigration laws, or lose certain Federal funds. If this amendment, based on these bills, is enacted, it would put a muzzle on immigrant crime victims and witnesses, trading their safety for fear, at the expense of everyone who lives near, works with, and is related to the individuals targeted under this legislation.

THE PROPOSAL WOULD JEOPARDIZE PUBLIC SAFETY

The Norwood amendment would strike a direct blow at the efforts of police to win the trust and confidence of the communities they serve. If police become immigration agents, word will spread like wildfire among newcomers that any contact with police could mean deportation for themselves or their family members. Immigrants will decline to report crimes or suspicious activity, and criminals will see them as easy prey, making our streets less safe as a result. Experience shows that this fear will extend not only to contact with police, but also to the fire department, hospitals, and the public school system.

THE PROPOSAL WOULD UNDERMINE NATIONAL SECURITY

Security experts and law enforcement agree that good intelligence and strong relationships are the keys to keeping our Nation and our streets safe. Under Amendment No. 59, foreign nationals who might otherwise be helpful to security investigations will be reluctant to come forward, for fear of immigration consequences. If immigrant communities are alienated rather than embraced, local law enforcement loses important relationships that can lead to information they might not otherwise have access to.

THE NORWOOD AMENDMENT WOULD WEAKEN AN IMPORTANT CRIMINAL DATABASE

Law enforcement agencies now rely upon the FBI's National Crime Information Center (NCIC) database to give them timely and accurate information on criminals and dangerous people. This legislation would undermine the usefulness of the NCIC by loading it with information about millions of people with minor immigration violations. Poor data management at the former Immigration and Naturalization Service (INS) has resulted in numerous inaccurate records, further complicating matters for police who rely on the integrity of the NCIC. Even if the data was correct upon entry, case statuses often change and would have to somehow be updated in the FBI's database. This misguided proposal would lead to many false "hits" and unlawful detentions and arrests, wasting precious law enforcement resources.

AMENDMENT NO. 59 PURPORTS BUT IN EFFECT WILL NOT OPERATE TO APPREHEND CRIMINALS

Proponents of this amendment would say that it is necessary to help police deal with the "criminal alien crisis." They ignore the fact that police already have the authority to arrest criminals, both in enforcing State or local laws and assisting the Federal Government. It is absurd to suggest that foreign nationals are somehow immune from our criminal laws unless this legislation passes, or that police are unable to detain criminals who are also immigration law violators.

Police also help the Federal Government deport criminals who are removable because of their offenses. Those areas of the country that have policies ensuring the confidentiality of crime victims' and witnesses' immigration status are also those who call the Federal Government most often to check the immigration status of crime perpetrators. These are often areas with large immigrant populations, so they understand the most effective policing strategies for these communities. They distinguish between enforcing criminal laws and enforcing civil immigration laws—a mandate best left to the Federal agencies who do not also have local crime-fighting responsibilities.

THE NORWOOD AMENDMENT LEAVES POLICE UNEQUIPPED FOR THE JOB

Federal immigration law is even more complex than the U.S. tax code and is constantly changing. Immigration agents undergo 17 weeks of intensive training before they are allowed "on the beat," and they have unfettered access to case history data maintained by the Federal Government that helps them do their jobs. This amendment requires no training of local law enforcement and does not cover the full cost of training for those responsible departments who insist on it.

I have an amendment, Jackson-Lee No. 75, that seeks to require studies by the General Accountability Office (GAO) as to the genesis and degree of border violence at our Nation's borders. Similar to the State and local law enforcement agencies subject to the Norwood amendment, the Minuteman Project volunteers who have patrolled the Arizona border were untrained and lacked official support. Comprehensive training—which costs money, and Federal Government accountability, are required in order to ensure that the job of enforcing immigration law is done properly and in accordance with U.S. Constitutional principles.

THE AMENDMENT WILL IMPOSE NEW BUREAUCRATIC REQUIREMENTS ON UNDER-STAFFED PUBLIC AGENCIES

This amendment will also impose significant new reporting requirements on critically under-staffed and under-funded local law enforcement agencies. The responsibilities of State and local police have increased dramatically since the September 11th terrorist attacks, and police simply do not have extra time on their hands to take on what is rightly a Federal duty.

THE AMENDMENT WILL BECOME ANOTHER UNFUNDED MANDATE ON STATES

The amendment would shift what has always been a Federal duty, immigration law enforcement, onto the States. It purports to give some additional resources to police who enforce immigration laws, while imposing monetary penalties on those departments that decline. But if the yearly battles for just a portion of reimbursements owed under the State Criminal Alien Assistance Program (SCAAP) are any indication, very little of the new money will actually make it into the coffers of local police departments. Not only will local governments be stuck footing the bill once again, but they risk loss of critical Federal dollars already earmarked for criminal law enforcement if they refuse to take on these new duties.

The Senate bill on which the amendment is based goes further by removing many of the monetary incentives promised in the House bill and imposing national standards on driver's licenses issued to foreign nationals. Once again, implementing these complicated standards comes with no new money attached, but with the threat of losing Federal highway safety funds for those States who do not comply.

PROVISIONS IN CURRENT LAW EXIST FOR AGENCIES THAT WISH TO HELP ENFORCE IMMIGRATION LAW

For those few State or local police agencies who do want to assist the Federal Government in enforcing immigration laws, a mechanism is available for them to do so. Section 287(g) of the immigration code outlines a process whereby State and local governments can enter into agreements with the Federal Government (MOUs, or memorandums of understanding) that permit them to receive training and enforce Federal immigration laws. MOUs are currently in place in Florida and Alabama.

THE AMENDMENT SKEWS FEDERAL LAW ENFORCEMENT PRIORITIES

When police identify immigration violators, they will have to call the Federal Government to take over. Law enforcement resources at the Federal level are also limited, which is why the Bureau of Immigration and Customs Enforcement (ICE) prioritizes searches for criminals and terrorists over immigrants with civil status violations. Will ICE agents come to collect every undocumented immigrant identified by local police? Amendment No. 59 tries to force them by permitting States and localities to seek funds for every undocumented immigrant the Federal Government fails to pick up.

This means ICE has to put the same amount of resources into picking up undocumented workers as suspected terrorists. With 8,000,000 undocumented workers in the United States and an infinitely smaller cohort of foreign-born criminals and terrorists, this is hardly the right prioritization of Department of Homeland Security resources.

MAKING EVERY IMMIGRATION VIOLATION A CRIME HAS ENORMOUS COSTS

Many Federal immigration law violations are currently civil in nature. This amendment would classify all immigration status violations as Federal crimes, dramatically increasing the number of people who could be prosecuted, receive court-appointed attorneys, and end up incarcerated through the Federal criminal justice system. The costs would be enormous, and flooding the criminal system with civil violators would further delay justice for victims of real crimes.

THE AMENDMENT FORGETS THAT YOU CAN'T TELL BY LOOKING WHETHER ONE IS LEGAL OR NOT

There are nearly 11,000,000 naturalized U.S. citizens, and more than 25,000,000 native-born Americans of Latin American and Asian descent. In this free Nation we are not required to carry "papers" to prove our citizenship, and few of us do. Because police are not equipped to determine who has violated an immigration law, some will inevitably stop and question people of certain ethnic backgrounds, who speak foreign languages, or who have accents in English. This ill-conceived amendment essentially encourages race- and ethnicity-based profiling.

AMENDMENT NO. 59 THREATENS CIVIL RIGHTS

Anticipating the likelihood of civil rights lawsuits spawned by this legislation, the bills purport to grant immunity from civil suits for officers who enforce immigration laws. This sends the wrong message if we are serious about eradicating racial profiling from U.S. law enforcement. Ultimately, police departments and localities gambling on this Congressional gesture would find themselves in court anyway, when the anti-civil rights provisions are challenged.

Madam Chairman, clearly, there are far too many areas of contention with this amendment that, if passed, would prove potentially injurious to citizens and aliens alike. For the reasons stated above, I strongly oppose this amendment and urge my colleagues to join me.

Mr. NORWOOD. Madam Chairman, I yield myself 2 minutes.

In response to the last speaker, number one, had the gentlewoman been here earlier, the gentlewoman would have heard about why this is not an unfunded mandate.

Number two, if the gentlewoman believes local law enforcement should not help the Federal Government find terrorists in this Nation, which people who cross our borders illegally they are amongst, I ask the gentlewoman to drop a bill so that local law enforcement does not help the Federal Government in bank robberies and murders and drug enforcement and everything else that local law enforcement helps the Federal Government do.

It is ridiculous to say that the 750,000 local law enforcement people should not be involved in this Nation trying to find some of the people who, for example, committed terror in this country on 9/11.

Yesterday we passed over $4.5 billion for homeland security, including $690 million for custody management, funds to dramatically increase detention bed space, $88 million for an institutional removal program, $211 million for transportation and removal of undocumented aliens, and an earlier amendment today authorized another $40 million to help willing State and local law enforcement. There is also $6 billion in the pipeline for first responders. Many of them are local law enforcement. And this is voluntary. If the City of Houston does not want to play, they do not have to. But the rest of us need our law enforcement people to help us get these terrorists out of this country, and there are somewhere between 10 and 15 million that have come across our borders because we have failed to do anything about it for nonsensical reasons. It is time for this to come to an end.

If Members are for correcting immigration in this country, vote for this. If Members are against immigration corrections and do not think it needs reform and want an open border, vote against it.

Madam Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Madam Chairman, I yield myself such time as I may consume.

I would like to say to my colleague every immigrant is not a terrorist. I would assume that was an error in the gentleman's comment. Clearly we have to be very careful. That is a Federal responsibility. What we are doing is passing that responsibility to State and local law enforcement and not funding the Department that ought to be having the responsibility for immigration.

Madam Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Chairman, I thank the ranking member, and I have to associate myself with the gentleman's argument.

More importantly the gentleman from Georgia (Mr. NORWOOD) has made, if you will, my very point. Although we disagree, the point is not ridiculous. What we are saying is that he is suggesting that law enforcement massively go to the border and begin to arrest and deport individuals they perceive to be illegal aliens. There lies my angst and opposition to this massively confusing amendment.

The gentleman has in his amendment that local law enforcement, constables and sheriffs, will be responsible for deporting aliens. They do not even have the Federal jurisdiction to do so. By the way, deportation requires Federal intervention because there are proceedings which you have to go before. Unfortunately, we have short changed that side of the formula.

This is an unworkable amendment. It violates the 10th amendment of the Constitution. It violates the idea of protecting our national security. I ask my colleagues to defeat this amendment and help us do real immigration reform through the Federal Government.

Mr. NORWOOD. Madam Chairman, I yield myself 15 seconds, and say just because you say something is so does not mean it is so. This is a voluntary bill in which nobody is massing anywhere, nor does it imply that anywhere in this bill. It is totally voluntary, and local law enforcement are asked to work in line of duty.

Madam Chairman, I yield the balance of my time to the gentleman from California (Mr. COX) to close the debate for this side.

Mr. COX. Madam Chairman, I think we need to return to the amendment that is before us. There has been a lot of heat and light generated in this debate, but the amendment itself is exceptionally simple.

It begins from the fact that current law provides for the training of State and local law enforcement officials to enforce Federal immigration laws. That is a voluntary program. There is no unfunded mandate in current law because there is no mandate. It is completely voluntary, and only those State and local law enforcement officials, those first responders who are seeking to partner with the Department of Homeland Security in obtaining this Federal training to enforce immigration laws, actually do so.

Second, in an amendment that was adopted earlier by voice vote, we provided $40 million in Federal funding to reimburse any costs incurred by State and local volunteers, that is State and local governments who volunteer for this training, in obtaining the training. So it is not unfunded either. It is a funded, voluntary program.

Lastly, what this amendment adds to existing law is simply to provide a training guide for this training that already exists and training flexibility to make sure that it meets the needs of State and local law enforcement officers.

The last thing it does is it corrects existing law, section 287(g) of the INA to substitute "the Secretary of Homeland Security" for the words "Attorney General." This is something that we did in the technical corrections bill that was unanimously passed by the Select Committee on Homeland Security in the last Congress.

Mr. THOMPSON of Mississippi. Madam Chairman, I yield myself the balance of my time.

This amendment, although well intended, crosses the line from my standpoint because it moves us away from a Federal responsibility to a State responsibility. This amendment tries to clarify the existing authority of State and local law enforcement personnel to apprehend, detain, remove and transport illegal aliens in the routine course of duty.

Additionally, this amendment requires DHS to establish a training manual on this matter and set forth simple guidelines for making that training available. State and local police already authorize and train to notify Federal law enforcement officials, are already highly qualified, and are fully trained to identify foreign nationals in custody.

Additionally, training in immigration law is not a simple task. A manual is simply not sufficient to train officers in the complexity of immigration law.

For example, DHS already faces challenges in cross-training its personnel and integrating the various components into a cohesive unit; and, thus, would face challenges in developing a cross-training manual for State and local law enforcement personnel.

So for these reasons, I am in opposition to the amendment.

Mr. NORWOOD. Madam Chairman, will the gentleman yield?

Mr. THOMPSON of Mississippi. I yield to the gentleman from Georgia.

Mr. NORWOOD. Madam Chairman, I simply ask the gentleman to reconsider our unanimous consent to remove two words that would, I think, make an amendment that is going to pass better in your mind.

Mr. THOMPSON of Mississippi. I do not consent.

Mr. FARR. Madam Chairman, I rise today in opposition to this amendment offered by Mr. NORWOOD. This amendment would essentially force local law enforcement agencies to enforce federal immigration laws.

The enactment of this amendment would strain already scarce state and local resources by creating an unfunded mandate, in addition to dividing communities around the country.

Coercing state and local police into becoming federal immigration agents does not benefit anyone involved. In addition to their other duties, local law enforcement officials and local and state administrators would be bogged down by determining criminal's immigration status. Community members will be hesitant to cooperate with local law enforcement for fear of ramifications against them and their family.

According to the Department of Justice statistics, violent and property crime rates have been falling steadily for at least the last 10 years. I have no doubt that this is largely due to community policing. This amendment would take away that idea. Our communities are better served by a police force that focuses on robbers, murderers and terrorists, as opposed to immigration status.

I do not support illegal immigration and believe that anyone who enters the U.S. in violation of U.S. immigration laws should be penalized. But that doesn't mean police who should be arresting drug dealers and breaking up gang activities should now be federally mandated to track down illegal aliens.

To me, this amendment is another example of the desperate need for an honest and comprehensive debate on immigration law in this country. Piecemeal ideas, such as this one, are detrimental to our communities at a microlevel. Our country is in need of an immigration policy that accounts for the fears 9/11 instilled, in addition to the hope that immigrants bring to our nation.

This amendment is ineffective and unnecessary policy and I urge my colleagues to cast a "no" vote.

Mr. THOMPSON of Mississippi. Madam Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mrs. CAPITO). The question is on the amendment offered by the gentleman from Georgia (Mr. NORWOOD).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. THOMPSON of Mississippi. Madam Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Georgia (Mr. NORWOOD) will be postponed.

It is now in order to consider amendment No. 19 printed in part B of House Report 109-84.

There is no designee for amendment No. 19.

It is now in order to consider amendment No. 20 printed in part B of House Report 109-84.

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AMENDMENT NO. 20 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN (Mrs. CAPITO). The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 20 offered by Ms. JACKSON-LEE of Texas:

Page 82, after line 4, add the following:

SEC. 407. REPORT ON BORDER VIOLENCE.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the Congress on the number and type of border violence activities that have occurred in the 5-year period preceding such date.

(b) CONTENTS.—The report shall include the following:

(1) The number of such activities that have been documented.

(2) The types of activities involved.

(3) A description of the categories of victims.

(4) The risk of future activities.

(5) A description of the steps the Department is taking, and any plan the Department has formulated, to prevent such activities.

(c) DEFINITION.—For purposes of this section, the term "border violence activity" means any activity that—

(1) involves the unlawful use of, or the threat unlawfully to use, physical force with the intent to harm a person or property;

(2) occurs in the United States, not further than 25 miles from a United States border with Mexico or Canada; and

(3) occurs as part of an attempt to deter, retaliate against, or enable the entry of any person into the United States.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentlewoman from Texas (Ms. JACKSON-LEE) and the gentleman from Arizona (Mr. HAYWORTH) each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Chairman, I yield myself such time as I may consume.

Let me describe the simplicity of my amendment. It is simply to ask the Secretary of Homeland Security not later than 6 months after the date of the enactment of this act, the Secretary of Homeland Security shall submit a report to Congress on the number and type of border violence activities that have occurred in the 5-year period preceding such date.

The report would include the number of such activities that have been documented; the types of activities involved; a description of the categories of victims; the risk of future activities; and a description of the steps the Department is taking, and any plan the Department has formulated to prevent such activities.

This is a straightforward amendment that clearly again reaffirms the ongoing theme of the homeland security authorization bill, that the responsibility of homeland security falls in the arms of the Federal Government, and we must not fail the American people.

We have seen citizens take up arms. They have first been in our neighboring State, in Arizona, a broad, desert-like area. There is now an intention for such citizen groups, unauthorized militia, to come into the States of Texas and California, New Mexico and who knows where else this amendment might be.

I am delighted to say that in the Committee on Homeland Security, we do have a consensus at least around the idea that we must understand the issues of border violence. I would like to thank the gentleman from California (Mr. COX) and the gentleman from Mississippi (Mr. THOMPSON) for working with me on the general issue.

I also raise for my colleagues our concern for the northern border and to remind them of the potential tragedy that was, if you will, inhibited or prohibited at the turn of the present century, 2000, when an individual was poised and walked across the northern border in order to do havoc, if you will, in Los Angeles. We know the borders are dangerous, and we want to have the kind of trained professional personnel to ensure the safety of the borders.

But we must also recognize the distinctiveness of the borders. I will use Texas as an example. It is heavily populated. It is a dense area. There is a lot of private land. Thereby, those who are in volunteer efforts may subject themselves to potential violence or incur violence. And so it is important that we have an understanding by the Department of Homeland Security to take charge of that, to understand the variety, if you will, the variety and the types of activities that could possibly happen.

I want to cite for my colleagues the incidences that may occur at the border and particularly from the individual who heads the Minuteman Project, indicated that the Texas border might be far more difficult than they might have expected. There may be a little danger going on. They might have to be a little careful. That is why this study and this report by the Department of Homeland Security is extremely important, the Secretary of Homeland Security. We must work in partnership to be able to protect the violence that may take place at the border.

Madam Chairman, I yield 1 minute to the distinguished gentleman from California (Mr. BERMAN), a senior member of the Committee on the Judiciary.

Mr. BERMAN. Madam Chairman, I thank the gentlewoman for yielding time. The point she raises now brings to mind a point I wanted to make about what is really an unbelievably reckless amendment offered by the gentleman from Georgia (Mr. NORWOOD) regarding empowering local police to detain and remove people based on illegal immigration status without checking or verifying that status with INS or the Federal agencies.

A group of people with no training in this particular effort will have the ability to pick up people, assume, or come to the conclusion that person is not here in legal status and, without checking with the Federal Government or the INS, to deport and remove that person from this country. That person may be an asylee, having a well-founded fear of persecution. The person may not have the right documents on him but be a naturalized citizen or be here under some kind of temporary visa that he cannot show the police. It will all of a sudden give thousands and thousands of law enforcement officials an ability to do something.

Mr. HAYWORTH. Madam Chairman, I yield 15 seconds to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Madam Chairman, I just want to point out to the ranking member that I started this debate off saying there was a drafting error and we wanted to remove two words: "or remove." Your side would not allow that to be removed. That would have solved the problem. We are going to get it solved even if it is in conference. We are going to get it done despite you, but we gave you the opportunity to do something about it.

Mr. HAYWORTH. Madam Chairman, I yield myself 3¼ minutes.

I rise in strong opposition to the amendment offered by my colleague from Texas. As you heard in her opening remarks, sadly, this amendment is an attempt to discredit worthy, nonviolent volunteers who dedicated their time and their energy to protect our Nation's borders last month. The Minuteman Project, Madam Chairman, is simply an outgrowth of the public's frustration with the Federal Government's failure to secure our borders. Indeed, what the Minutemen did was follow a time-honored tradition of petitioning our government for legitimate redress of grievance.

It is true that in terms of the political landscape, the ACLU and the Government of Mexico protested the group even before the patrol began; but the Minutemen effectively shut down a 20-mile stretch of border without a single credible report of violence committed by those citizen volunteers.

With reference to the notion of a study, Madam Chairman, I would simply say this: the records are intact. I will make them a part of the record right now. Attacks on border patrol agents by alien and drug smugglers are on the rise. In the Tucson sector alone during the first 6 months of this fiscal year, there were reported 132 assaults on agents, 14 more than all of last year. That is in the first 6 months of the fiscal year. Border patrol agents in Arizona are attacked once every 2 days, 64 times in a recent 3-month period.

Six border patrol agents assigned to the Tucson sector have been killed in the line of duty, including a 27-year-old agent fatally shot in June of 1998 near Nogales as he sought to arrest four men hauling marijuana into the United States. When I had occasion to visit with border patrol agents in March, they told me how snipers from the Mexican side of the border will actually shoot border patrol vehicle windshields out if the Mexican snipers deem these vehicles are parked too close to the border.

In 2004, border patrol agents arrested over 650 suspected terrorists. Madam Chairman, let me repeat that. In 2004, border patrol agents arrested over 650 suspected terrorists from countries of national security interest trying to cross our southern border. They expect the number will rise this year. In January of this year, border patrol in the Tucson sector impounded 557 smuggling vehicles, almost 35,000 pounds of marijuana, and 35,704 illegal aliens.

This amendment fails to address the violent attacks on our border patrol agents. It implies that citizens of the United States seeking redress and putting an end to the influx of terrorists and the illegal invasion of this country are wrong. The committees on Homeland Security and the Judiciary oppose this amendment. I urge my colleagues to vote "no" on the Jackson-Lee amendment.

Madam Chairman, I yield 1¼ minutes to the gentleman from Virginia (Mr. GOODE).

Mr. GOODE. Madam Chairman, illegal immigration costs this Nation $68 billion per year. That is not million; that is billion. This study changes the focus of the Department of Homeland Security. The Department of Homeland Security needs to be focusing on keeping those illegally in the country out. Citizen groups such as the Minutemen who performed a tremendous neighborhood watch function on our southern borders need to be commended and not slapped by an amendment like this.

Mr. HAYWORTH. Madam Chairman, I yield myself the balance of my time to make this point to my colleagues. I am sure it is not the intent of my colleague from Texas to try and imply that citizens engaged in lawful protest are somehow attempting to inspire violent acts. I know that is not the intent of my colleague. However, that would be the perverse result if this House would support that amendment. This House would then be on record saying that the lawful rights of citizens should be abridged to accommodate illegal acts by noncitizens. That is something this House and this government and the citizens of this Nation will not countenance.

Therefore, because of that, I would ask all my colleagues to join me in opposition to the Jackson-Lee amendment. Vote "no."

Ms. JACKSON-LEE of Texas. Madam Chairman, I yield myself such time as I may consume.

The slap in the face is to the hardworking border patrol agents who now are subjected to more jeopardy because volunteers are there, unauthorized, untrained, and the very words of the Minutemen who said that they fear going to Texas because most of the land is privately owned and security becomes a serious issue, said by the leader of the Minutemen. But I am not concerned about the Minutemen. I am concerned about saving lives.

If you want to save lives, vote for the Jackson-Lee amendment that helps to save lives by giving money to the border patrol agents and protecting those volunteers by telling them that they cannot be at the border unsafe, unsecured, untrained. We need the Department of Homeland Security to take charge.

Vote for the Jackson-Lee amendment.

Madam Chairman, I rise to bring a very important issue before the Committee of the Whole by way of an amendment designated as "Jackson-Lee #75." I would like to once again thank the distinguished Chairman of the Appropriations Subcommittee on Homeland Security and the Ranking Member for showing their awareness of the issue of border violence as one that rises to a level that requires Federal oversight by agreeing to the amendment that I offered yesterday during House consideration of the appropriations measure, H.R. 2360. I also thank the Chairman of the Committee on Homeland Security for his showing of commitment to addressing this issue by agreeing to collaborate with the Ranking Member from Mississippi and me to craft a bipartisan letter to the Department of Homeland Security to request the collection of data on this matter.

"Jackson-Lee #75" is based on the same premise of that amendment, and given that the appropriations measure has placed spending limitations with respect to national border patrol, it would only be logical and prudent for the authorization measure to emphasize the legislative intent to clearly define, monitor, and control this issue before it becomes an expenditure.

The purpose of this amendment is to put the American people on notice that the "Minuteman Project" has proposed to enter multiple borders in order to monitor for illegal border crossings.

American Federation of Government Employees (AFGE) Local No. 3332 and the Association for Residency and Citizenship of America (ARCA) support this important amendment that will prevent impediment to DHS's border security functions as well as the development of negative issues if groups such as the Minutemen attempt to enforce immigration law.

The Minuteman Project has good intentions, but we object to the potential negative social, legal, and economic impact that it can have on the Texas borders. The problem of porousness of the borders is a Federal Government problem. It is a Department of Homeland Security (DHS) problem. DHS has legal jurisdiction over the borders; therefore, it is DHS that must address our border security needs.

An unofficial, untrained, and uncontrolled militia is the wrong answer for a problem that is within the Federal Government's responsibility. If the job is not being done sufficiently, we must look to Congress and the Executive Branch to exercise oversight and to improve performance.

The Minuteman Project is headed for the Texas borders, and its presence will be the recipe for danger, conflict, and increased legal enforcement costs for the Federal Government. The Houston Chronicle reported on May 12 that the controversial group that began as a month-long engagement along the Arizona border plans to enter Texas to operate its hunt for illegal border crossings.

Other media and eyewitnesses have suggested that many of the participants in the Minuteman Project have carried firearms, incited retaliatory measures by gang members, incited more groups to organize in a similar fashion along other American borders, and created a situation that suggests potential constraints on the individual civil rights of undocumented persons.

The arrival of this group to Texas is an example of what we feared during its initial engagement during the month of April—propagation in other borders. Empowerment of unofficial, untrained militia to carry out the functions of the Federal Government instead of simply improving the staffing situation at the Customs and Border Patrol and the Immigration, Customs, and Enforcement Agencies is a dereliction of duty and a condoning of potential vigilantism.

Several differences between the United States-Mexico border of Arizona and Texas make it potentially injurious for the arrival of the Minutemen. The traffic growth in Texas would dramatically increase the probability of injury or death of aliens or other innocent civilians.

In 2001, U.S. Customs inspectors logged 3,133,619 cargo trucks as they entered Texas border towns from Brownsville to El Paso, up from 1,897,888 commercial vehicles in fiscal year 1995, the year NAFTA took effect. Furthermore, the topography at the Texas borders are more dense and provide more places for people involved in violent disputes to hide. In addition, even as the leader of the Minuteman Project stated to the Houston Chronicle, 'there are serious logistical problems for patrols in Texas. Most of the land along the Texas border is privately owned, and some of it is urbanized, unlike the open land the group monitored in Arizona.'

What we need instead of a situation of potential violence, violation of civil rights, and costs associated with restoring peace and security at the borders is a comprehensive immigration plan like I proposed with the introduction of my legislation, the 'Save America Comprehensive Immigration Act, H.R. 2092.'

Effective, efficient, and safe border security requires properly trained personnel. We need to improve our Customs and Border Patrol and Immigration and Customs Enforcement agencies rather than empower militias to do their job. The enforcement job requires accountability, training in the area of human rights, language skills, non-violent restraint techniques, and weapons handling.

The legal accountability principles such as respondeat superior and vicarious liability do not clearly apply to the Minutemen for injuries or damage that may be sustained by the private properties that abut the Texas borders; the heavy stream of commerce constantly traversing the border; or innocent bystanders who may be in the wrong place at the wrong time.

The Jackson-Lee amendment seeks to prevent liability "powder kegs" from propagating nationally.

Madam Chairman, I ask that my colleagues support this amendment.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Ms. JACKSON-LEE of Texas. Madam Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) will be postponed.

It is now in order to consider amendment No. 21 printed in part B of House Report 109–84.

AMENDMENT NO. 21 OFFERED BY MR. MANZULLO

Mr. MANZULLO. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 21 offered by Mr. MANZULLO:

At the end of title V, add the following new section:

SEC. 509. BUY AMERICAN REQUIREMENT FOR PROCUREMENTS OF GOODS CONTAINING COMPONENTS.

(a) REQUIREMENT.—Notwithstanding any agreement described in subsection (b), more than 50 percent of the components in any end product procured by the Department of Homeland Security that contains components shall be mined, produced, or manufactured inside the United States.

(b) AGREEMENTS DESCRIBED.—An agreement referred to in subsection (a) is any of the following:

(1) Any reciprocal procurement memorandum of understanding between the United States and a foreign country pursuant to which the Secretary of Homeland Security has prospectively waived the Buy American Act (41 U.S.C. 10a et seq.) for certain products in that country.

(2) Any international agreement to which the United States is a party.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Illinois (Mr. MANZULLO) and the gentleman from Virginia (Mr. TOM DAVIS) each will control 5 minutes.

The Chair recognizes the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Madam Chairman, I yield myself such time as I may consume.

My amendment strengthens the Buy American Act and restores the original intent that more than 50 percent of the components in end products purchased by the Department of Homeland Security shall be mined, produced, or manufactured inside the U.S.

The Buy American Act originally passed Congress during the Great Depression. The intent of Congress was that to qualify under the Buy American Act, a company had to have substantially all of a product made, grown, or mined in the U.S. However, regulations implementing the Buy American Act have subsequently redefined "substantially all" to mean simply greater than 50 percent.

Yet even that regulation has been weakened even further over the years. The Pentagon has used the public interest exception to waive the Buy American Act to treat the purchase of some foreign goods as if they were made in America. The original intent of the Buy American Act has been undermined by procurement memoranda of understanding among the U.S. and various foreign countries that permit the substitution of foreign components for components mined, produced, or manufactured inside the United States. These are not treaties or trade agreements approved by Congress. These were executive branch agreements not subject to review by Congress.

Thus, the Buy American laws are basically worthless. There are so many holes in that law that it means nothing when a company says they comply with the Buy American Act. The exception, and it is a big one, is that the domestic content requirement does not have to be met if the items are procured from certain designated foreign countries.

The Pentagon has memoranda of understanding with 21 developed countries that waive the Buy American Act because the Defense Department has determined that for these countries complying with the Buy American Act is "inconsistent with the public interest."

□ 1630

Basically, a company getting an award from the Pentagon can claim compliance with the Buy American Act without having to actually make anything in the United States as long as the components come from one of those 21 countries. Because the Department of Homeland Security has a very similar mission to the Department of Defense, protecting the territory of the U.S. from every possible enemy attack, we should not allow the DHS to waive the Buy American Act like the Pentagon has done without an affirmative vote by Congress.

The intent of Congress is to maintain the vibrant industrial base so that we may remain the strongest Nation on Earth. Even the founder of modern-day capitalism and free trade, Adam Smith, recognized the need for a nation to be able to depend upon its own industrial and agricultural base and not rely on foreign sources for its defense needs. We cannot maintain our role as global leader on a pure services-based economy.

It is also important to remember that this amendment does not increase the share of the Buy American Act. It simply codifies the content percentage of what is an existing regulation.

Madam Chairman, I urge adoption of this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this amendment would radically change the current application of the Buy American Act, and it could place the United States in violation of most international trade agreements in which we are signatories, including the World Trade Organization's Government Procurement Agreement, something, by the way, we are working to get China to sign right now because of some of the restrictions they are putting on their procurement policy; the North American Free Trade Agreement; the U.S.-Israel Free Trade Agreement; and the U.S.-Australia Free Trade agreement.

This restriction would have a devastating effect on the Department of Homeland Security's ability to buy the most high-tech and sophisticated products at a reasonable price to support our critical anti-terror efforts. We should be able to get the best high-technology goods at the lowest cost for the American taxpayer so that we can fight this war on terrorism in a cost-effective manner.

For instance, this amendment would sweep away the current $175,000 ceiling for the Buy American Act required for the application with the Trade Agreements Act of 1979. This is the basis for our participation in the Government Procurement Agreement.

The restriction would cause Customs and border protection problems in purchasing the best aircraft, the best camera equipment, the best surveillance equipment from the world market to protect our borders. Further, the amendment would interfere with critical research and development agreements we currently have with the United Kingdom. BlackBerrys, something that most Members use and are used widely throughout the government, are a Canadian product. Thirty, 40 percent of its components are made and manufactured in the United States, but they would be subject to restrictions put on by this amendment.

The United States is already challenged to compete in a global marketplace. We do not always have a competitive advantage. But dismantling the regime of free trade agreements that help create and support the vibrant world marketplace in the end only hurts American workers.

Besides violating our trade agreements, this provision will require the Department to pay an artificially high price for products it needs to protect us against terror. Homeland Security dollars are already scarce. We should not be wasting our Homeland Security dollars when U.S. citizens are volunteering their personal time to protect the southern border.

Under this amendment, businesses are required to certify compliance with the Buy American Act, potentially exposing American businesses to civil false claims and other sanctions even if they have made good-faith efforts to comply with the government-unique requirements. In a global marketplace where components are assembled throughout the world, it is often difficult to ascertain what that 50 percent margin is. This creates significant financial and legal burdens for industry, given that more and more information technology so critical for the fight against terror is being sourced in our global economy from around the world.

Some companies have responded to Buy American Act restrictions by establishing costly labor-intensive product-tracking systems that are not needed in their commercial business to ensure that products being sold to the government meet the government-unique requirements. But small businesses in particular often cannot afford to establish special systems for that kind of compliance. So this hurts small businesses trying to sell to the government in a global economy.

Some companies have simply stopped selling certain products in the Federal marketplace, denying us access to some of the latest, most cost-effective products. Further, this decrease in sales is disproportionately devastating to small businesses.

This radical, in my opinion, Buy American Act provision will impose financial and legal burdens on commercial companies that sell to our government. It may well prevent the Department of Homeland Security from obtaining the best technology to protect our Nation.

Again, BlackBerrys would be subject to this, something that most Members and most government workers use, because they are from a Canadian company. This increased restriction on the Department's ability to obtain needed technology from the world market is a Cold War anachronism. Given the Department of Homeland Security's growing reliance on information technology and other advanced products and the current global nature of the industry, the Department's ability to fulfill its critical anti-terror mission will be crippled by this restrictive provision.

I hope that Members have the sense to vote against this, and I urge that we defeat this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. MANZULLO. Madam Chairman, I yield 1 minute to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Madam Chairman, I thank the gentleman for yielding me this time.

I rise in support of his amendment.

As to the last speaker, let me tell the Members what is going on here. In the Department of Homeland Security, they are not allowed to buy civilian aircraft. What happened just recently was Eurocopter, which is subsidized by the French and German governments, that is a subsidy. That is in violation of the trade agreements, and no one is enforcing it. As a result, in my district Enstrom Helicopter lost a contract to build civilian helicopters for the Department of Homeland Security, and the cost for the French/German conglomerate was like $23 million more; so it is costing the taxpayers more money.

I think we have to make a decision in this Nation. Are we going to continue in these trade agreements that are not enforced? There are other countries that are subsidizing their workers, and we sit here and we develop contracts and say because of this treaty or this agreement, we cannot do it; but yet we do not enforce the provisions of it. And what we are really doing is telling the Department of Homeland Security, at least in the helicopter industry, that we will buy European helicopters as opposed to U.S. helicopters.

We can no longer continue this. Please support the Manzullo amendment.

Mr. TOM DAVIS of Virginia. Madam Chairman, I yield myself such time as I may consume.

Let me just say that what this amendment will require us to do with precious Homeland Security dollars is pay up to 50 percent more for goods that bear the American label and in many cases cost us access to the best high-technology surveillance equipment, lab equipment, equipment and cameras to protect our borders. I just do not think it makes any sense in this environment of a global economy, and I urge its defeat.

Madam Chairman, I yield back the balance of my time.

Mr. MANZULLO. Madam Chairman, I yield myself such time as I may consume.

The gentleman from Virginia (Mr. TOM DAVIS) argues that the best technology is outside the United States. The whole purpose of this amendment is to try to do something about the 3 million manufacturing jobs we have lost in the past several years. This simply says whenever anybody agrees to abide by the Buy American Act, at least buy 50 percent of the content from America. The existing Buy American Act says they have to buy zero. Congress passed a law that says buy everything from America. The Department of Defense and other agencies say that only means 50 percent. Now there is a memorandum of understanding from the White House that says, by the way, if they buy from the 21 countries, they do not even need to meet the 50 percent.

This is very simple. It says if we want to keep technology in the United States, then buy the technology that is here. If a particular item has to be purchased and it is not made in the United States, then the Buy American Act simply does not apply.

This is a commonsense amendment. I am going to be offering it to every single authorization bill that I can, and I would urge Members to vote "aye" on this.

The Acting CHAIRMAN (Mrs. CAPITO). All time for debate has expired.

The question is on the amendment offered by the gentleman from Illinois (Mr. MANZULLO).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 22 printed in part B of House Report 109-84.

AMENDMENT NO. 22 OFFERED BY MR. PUTNAM

Mr. PUTNAM. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 22 offered by Mr. PUTNAM:

At the end of title V, add the following (and conform the table of contents accordingly):

SEC. 509. DISASTER ASSISTANCE FOR FUNERAL EXPENSES.

Section 408(e)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(e)(1)) is amended by adding at the end the following: "The President may provide assistance for funeral expenses under this paragraph only if a medical examiner determines that the death was caused by the major disaster.".

MODIFICATION TO AMENDMENT NO. 22 OFFERED BY MR. PUTNAM

Mr. PUTNAM. Madam Chairman, I ask unanimous consent that the amendment be modified in the form at the desk.

The Acting CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 22 offered by Mr. PUTNAM:

In lieu of the matter proposed to be added by the amendment add the following:

At the end of title V, add the following (and conform the table of contents accordingly):

SEC. 509. DISASTER ASSISTANCE FOR FUNERAL EXPENSES.

Not later than 90 days after the enactment of this Act, the Director of the Federal Emergency Management Agency shall—

(1) develop criteria and guidelines for determining if a death is disaster-related; and

(2) require staff to provide for analysis of each request for funeral expense assistance in order to support approval or disapproval of such assistance.

The Acting CHAIRMAN. Is there objection to the modification offered by the gentleman from Florida?

There was no objection.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Florida (Mr. PUTNAM) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. PUTNAM).

Mr. PUTNAM. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I am delighted to be here to talk about what is an important issue for the whole country, but it came to light in the aftermath of the hurricanes in Florida.

Immediately after Hurricanes Charley, Frances, Ivan, and Jeanne ravaged the Sunshine State, with the help of this Congress hurricane disaster relief assistance was provided to help our State recover from those devastating storms. And while many of those who suffered damage are still waiting for FEMA recovery payments, there were a number of questionable payments that have been made as it related to funeral expenses for hurricane-related deaths.

For example, the instance in Pensacola of a recovering alcoholic with cirrhosis of the liver, after Hurricane Ivan blew through town on September 16, the gentleman went on a binge "due to misery," his widow told the Miami Herald. He never fully recovered and died of respiratory failure. His funeral expenses were paid by the American taxpayer.

A gentleman from Palm Bay, Florida, died of lung cancer 6 days before Hurricane Frances made landfall. The gentleman was buried before the hurricane made landfall. His widow said that FEMA damage inspectors came to her home and suggested she might qualify for funeral expenses. She said that she did not think her husband's death was related to Hurricane Frances. She had her husband's funeral paid for by the American taxpayers.

The Inspector General in the Department of Homeland Security with a report that came out today echoed these concerns and called for two specific changes: a change that the Department should develop specific criteria and guidelines for determining if a death is disaster related, and a specific requirement that staff of FEMA provide for an analysis of each request and document the rationale for approval or disapproval of funeral-related assistance. This is an issue that is hugely important to Florida as we try to eliminate waste, fraud, and abuse and allow FEMA's limited resources to go to those who are truly in need.

We had offered a different approach to this as it related to medical examiners. With the work of the gentleman from Pennsylvania (Chairman SHUSTER), we were able to come to a resolution on the appropriate legislative language that solves this issue, and I am grateful to him for his leadership.

Madam Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Madam Chairman, I appreciate the gentleman's working with us to modify language on his amendment. I think all of us know and I know specifically as I travel to Florida to review some of the damage and some of the problems that occurred during those hurricanes and with FEMA coming down there and things they did and did not do, I know firsthand that there are problems and we need to make these types of corrections.

I think the gentleman's amendment, by modifying it, has strengthened the language and put into law not just a process or a regulation by FEMA but these are going to be standards that FEMA is going to need to adhere to when they are determining whom to pay funeral expenses to, those who deserve and those who do not deserve. And we heard of cases, a couple of hundred of them in Florida where there was fraud, abuse, and they got funds to pay for funeral expenses; and I think this language is going to go a long way to making sure that that does not happen, not only in Florida but across this country.

□ 1645

On the subcommittee that I chair, the Subcommittee on Economic Development, Public Buildings and Emergency Management, we are committed to working with my friend, the gentleman from Florida (Mr. PUTNAM), to talking to the FEMA folks and making sure they are reviewing these cases in the past, but also going forward.

So the gentleman has my commitment, and we will sit down and, as I said, talk to the folks from FEMA to see that we clear up this matter.

I thank the gentleman, and I appreciate him working with us.

Mr. PUTNAM. Madam Chairman, I reserve the balance of my time.

The Acting CHAIRMAN (Mrs. CAPITO). Does any Member rise in opposition to this amendment?

Mr. PUTNAM. Madam Chairman, how much time remains?

The Acting CHAIRMAN. The gentleman has 30 seconds remaining.

Mr. PUTNAM. Madam Chairman, I want to just take that remaining time then to thank our delegation chairman, the gentleman from Fort Lauderdale (Mr. SHAW) for his efforts on this, and all of the other related FEMA issues; and thank the gentleman from Pennsylvania (Mr. SHUSTER). This is an important issue for the taxpayers, and it is important to make sure that people who are truly in need are assisted by FEMA and those who are not are not able to game the system. I appreciate the leadership of my colleagues.

Madam Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Florida (Mr. PUTNAM).

The amendment, as modified, was agreed to.

The Acting CHAIRMAN. It is now in order to consider Amendment No. 23 printed in Part B of House report 109–84.

AMENDMENT NO. 23 OFFERED BY MR. SOUDER

Mr. SOUDER. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 23 offered by Mr. SOUDER:

At the appropriate place in the bill, insert the following:

SEC. ____. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR OFFICE OF COUNTERNARCOTICS ENFORCEMENT AT DEPARTMENT OF HOMELAND SECURITY.

Section 7407(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3853) is amended by striking "2005, there is authorized up to $6,000,000" and inserting "2005 or 2006, there is authorized up to $6,000,000 for each such fiscal year".

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Indiana (Mr. SOUDER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Madam Chairman, I yield myself 3 minutes.

Madam Chairman, this is a very simple amendment. It merely extends the authorized appropriation for the Department of Homeland Security Office of Counternarcotics Enforcement for one year for fiscal year 2006. In other words, it just inserts 2006 after 2005.

This office was created structurally as part of the Intelligence Reform and Terrorism Prevention Act in December of 2004. We realized that in narcotics, almost all the major interdiction agencies, Coast Guard, Border Patrol, and Legacy Customs, are inside Homeland Security. When you are pursuing international terrorists, you are going to pick up a share of narcotics as you control the border as much as we can, and as we move forward we have been picking up narcotics. But it cannot just be an afterthought.

Twenty-four thousand Americans die each year of drugs. We have had basically 3,300 roughly die of international terrorism since 2001 and, in that same time period, nearly 100,000 of narcotics deaths. So we need to stay focused. We need to do both things simultaneously. Furthermore, the terrorists are increasingly funded by narcotics.

The administration has been reluctant to adopt this. It is not a question of whether the individuals at the Department of Homeland Security are committed to counternarcotics; the question is, is there a structure in place that puts somebody at the table to make sure that they never forget that narcotics is part of the Department of Homeland Security's commission and what they are supposed to do. It is not just international terrorism, it is also home terrorism and the narcotics front.

So I appreciate the leadership of the gentleman from Illinois (Speaker HASTERT) and the cooperation of the Senate as we have created this office, and we have $6 million in authorized appropriations. If people followed the Homeland Security appropriations debate yesterday, they see the problem is that this office has all detailees in it. Even the head of this office is a detailee. We need full time, paid employees in this office.

Yesterday, when I withdrew my amendment to set aside this money, it was said that this comes out of the Office of the Secretary. That is the way the Department of Homeland Security would like to make it; but, in fact, our authorizing bill says that $6 million is to be assigned to the Office of Narcotics.

Now, many of us, including me, have detailees. Detailees are wonderful, but detailees come and go. They have multiple missions. The question is if you are really going to have a counternarcotics office, if this administration is going to stay focused on this, there has to be an office with some real staff, not people who come and go out of the office, and especially not a head who has to beg and borrow for detailees, and people who are assigned for short periods who may or may not know the issue, and a head of the office who is not even paid by the Department of Homeland Security.

It shows that this is a continual battle in multiple bills to make sure that narcotics is part of the structural part of the Department of Homeland Security, and that narcoterrorism is part of international terrorism. This amendment merely extends what we have already passed in this House for last year's authorization to the next year's authorization that says that up to $6 million can be spent in this office.

I am looking forward to the commitment from the gentleman from Kentucky (Chairman ROGERS) to make sure some of this money is, in fact, expended.

Madam Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Does any Member rise in opposition to this amendment?

Mr. SOUDER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I believe this is a noncontroversial amendment. I know the gentleman from Maryland (Mr. CUMMINGS), the ranking member of my subcommittee, has been very supportive of this also. We have worked together in a bipartisan way to make sure that this office is a real office, it has a real voice, it has real money, and I look forward to working with the appropriators to help make this happen.

Madam Chairman, this amendment would simply extend the authorized appropriation for the Department of Homeland Security Office of Counternarcotics Enforcement (OCNE) for fiscal year 2006. The Office was created by Congress in December 2004, as part of the Intelligence Reform and Terrorism Prevention Act (P.L. 108–458). The Office is tasked with oversight of all of DHS' drug interdiction activities, with reporting to Congress on the adequacy and success of those activities, and with facilitating the coordination of those activities. Section 7407(c) of the Intelligence Reform Act authorized up to $6 million of the Department's appropriation for departmental management and operations for fiscal year 2005 to be expended for the Office.

Despite this clear statement of Congressional intent, the President's overall budget, ONDCP's Drug Strategy Report, and ONDCP's Drug Budget summary make no mention of the OCNE. This raises the question of whether the Administration and DHS intend to establish OCNE and drug control as a priority.

The mission of the office remains just as important this year as last year. My amendment would therefore extend the current authorization of appropriations for the Office (contained in Section 7407(c) of the Intelligence Reform and Terrorism Prevention Act of 2004, P.L. 108–458) through fiscal year 2006.

Madam Chairman, I believe that if we are going to reauthorize DHS for fiscal year 2006, we should reauthorize the appropriation for this vital DHS component as well. It is my understanding that Chairman COX agrees with me, and is supporting this amendment. I hope that the other members of the House will join me in supporting this amendment, and H.R. 1817.

BACKGROUND ON THE DEPARTMENT OF HOMELAND SECURITY (DHS) OFFICE OF COUNTERNARCOTICS ENFORCEMENT (OCNE)

To assist DHS in meeting its vital counterdrug responsibilities, Congress originally created the Counternarcotics Officer (CNO) position. Unfortunately, the original law did not clearly define how the CNO was to fulfill those duties, nor did it give the CNO adequate status or resources to fulfill them.

In order to correct these problems, Congress passed the 9/11 Commission recommendations legislation in 2004 that replaced the CNO with a new Office of Counternarcotics Enforcement (OCNE).

Responsibilities of the Office of Counternarcotics Enforcement:

The Director of the Office of Counternarcotics Enforcement shall have oversight responsibility for any programs administered by the DHS that coordinate anti-drug activities within the Department or between the Department and other agencies.

The Director of the Office of Counternarcotics Enforcement shall represent the Department on all interagency coordinating committees, task forces, or other bodies intended to foster coordination and cooperation on anti-drug issues.

The Director of the Office of Counternarcotics Enforcement shall send reports to Congress concerning the Department's counternarcotics responsibilities.

The legislation authorized up to $6 million of the Department's management funds to be used for the new Office's budget for fiscal year 2005.

WHY THE OFFICE OF COUNTERNARCOTICS ENFORCEMENT (OCNE) IS NEEDED

A. Connections Between Drugs and Terrorism

The huge profits created by drug trafficking have financed and will continue to finance terrorism throughout the world.

As President Bush noted in December 2001, just a few months after the 9/11 attacks, "[T]he traffic in drugs finances the work of terror, sustaining terrorists . . . terrorists use drug profits to fund their cells to commit acts of murder."

Furthermore, as the U.S. steps up its efforts against more legitimate sources of funding, terrorist organizations will increasingly turn to drugs and similar illegal sources. As the 9/11 Commission has noted, the federal government, including DHS, must be able to adapt to these shifting strategies of the terrorists.

B. DHS and Drug Interdiction

Strong DHS action against drug trafficking is vital to our overall efforts to stop the financing of terrorist activities. It was for this reason that Congress specifically provided that the primary mission of the Department included the responsibility to "monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking" (6 U.S.C. 111(b)(1)(G))

DHS combines all of our main drug interdiction agencies: the Coast Guard, legacy Customs Service, and the Border Patrol. No other department has so many of the nation's "ground troops" who patrol our borders for drugs.

While many divisions of DHS have a vital counternarcotics mission, none of them is exclusively focused on counternarcotics. In a department whose reason for creation is counterterrorism, there is a risk that the anti-drug mission will be neglected.

The Director of the Office of Counternarcotics Enforcement (OCNE) will help keep DHS subdivisions focused on counternarcotics. He is the only official at DHS whose primary duty is counternarcotics.

C. Office of National Drug Control Policy (ONDCP) and OCNE

Despite clear Congressional intent, the President's overall FY 2006 budget, ONDCP's FY 2006 Drug Strategy Report and ONDCP's FY 2005 Drug Budget summary make no mention of the OCNE.

This raises the question of whether the Administration and DHS intend to establish OCNE and drug control as a priority.

WHAT THE SOUDER "OCNE" AMMENDMENT DOES

My amendment would extend the current authorization of appropriations for the Officer (contained in Section 7407(c) of the Intelligence Reform and Terrorism Prevention Act of 2004, P.L. 108–458) through fiscal year 2006.

Madam Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. SOUDER).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider Amendment No. 24 printed in Part B of House report 109–84.

AMENDMENT NO. 24 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. THOMPSON OF MISSISSIPPI

Mr. THOMPSON of Mississippi. Madam Chairman, I offer an amendment in the nature of a substitute made in order under the rule.

The Acting CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Part B amendment No. 24 in the Nature of a Substitute offered by Mr. THOMPSON of Mississippi:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Complete Homeland Security Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

Sec. 101. Authorization of appropriations.
Sec. 102. Departmental management and operations.
Sec. 103. Information analysis and infrastructure protection.
Sec. 104. Science and technology.
Sec. 105. Security enforcement and investigations.
Sec. 106. Emergency preparedness and response.
Sec. 107. Office of the Inspector General.

TITLE II—9/11 REFORM BILL ACCOUNTABILITY

Sec. 201. Report on budget request for programs authorized by Public Law 108-458.

TITLE III—SECURING OUR ENTIRE BORDER ALL THE TIME, EVERY DAY OF THE WEEK

Subtitle A—Securing our land borders

Sec. 301. Land border security strategy.
Sec. 302. Deployment of surveillance systems along U.S.-Mexico border.
Sec. 303. Creation of northern and southern border coordinators.
Sec. 304. Smart border accord implementation.
Sec. 305. Requiring a vulnerability assessment of land ports of entry.
Sec. 306. Study to determine appropriate level and allocation of personnel at ports of entry and border patrol sectors.
Sec. 307. Assessment of study by Comptroller General.
Sec. 308. Authorization of appropriations for increase in full-time Border Patrol agents.
Sec. 309. Border Patrol unit for Virgin Islands.
Sec. 310. Requiring report on the "One Face at the Border Initiative".

Subtitle B—CIS workflow study

Sec. 311. CIS workflow, technology, and staffing assessment.

Subtitle C—Report on border violence

Sec. 321. Studies related to feasibility and cost of locating and removing eight million undocumented aliens from United States.

Subtitle D—Center of Excellence on Border Security

Sec. 331. Center of Excellence on Border Security.

TITLE IV—SECURING CHEMICAL PLANTS AND OTHER CRITICAL INFRASTRUCTURE

Subtitle A—Chemical Security Improvement

Sec. 411. Short title.
Sec. 412. Definitions.
Sec. 413. Vulnerability assessments and site security plans.
Sec. 414. Whistleblower protection.
Sec. 415. Alternative approaches.
Sec. 416. Enforcement.
Sec. 417. Interagency technical support and cooperation.
Sec. 418. Penalties.
Sec. 419. Protection of information.
Sec. 420. No effect on requirements under other law.

Subtitle B—Critical infrastructure prioritization

Sec. 421. Critical infrastructure.
Sec. 422. Security review.
Sec. 423. Implementation report.

TITLE V—SECURING AIRPORTS, BAGGAGE, AND AIR CARGO

Subtitle A—Prohibition against increase in security service fees

Sec. 501. Prohibition against increase in security service fees.

Subtitle B—Aviation security
Sec. 511. Federal flight deck officers.
Sec. 512. Letters of intent.
Sec. 513. Aviation security capital fund.
Sec. 514. Airport checkpoint screening explosive detection.
Sec. 515. Flight communications.
Sec. 516. Airport Site Access and Perimeter Security.
Sec. 517. MANPAD countermeasure research.
Sec. 518. Air charter and general aviation operations at Ronald Reagan Washington National Airport.
Sec. 519. Inspection of cargo carried aboard commercial aircraft.

TITLE VI—SECURING TRAINS ACROSS AMERICA

Subtitle A—Public Transit Security
Sec. 601. Short title.
Sec. 602. Homeland security public transportation grants.
Sec. 603. Training exercises.
Sec. 604. Security best practices.
Sec. 605. Public awareness.
Sec. 606. National Transportation Security Centers.
Sec. 607. Whistleblower protections.
Sec. 608. Definition.
Sec. 609. Memorandum of agreement.

Subtitle B—Rail Security
Sec. 611. Short title.

CHAPTER 1—RAILROAD SECURITY
Sec. 621. Railroad transportation security.
Sec. 622. Freight and passenger rail security upgrades.
Sec. 623. Fire and life-safety improvements.
Sec. 624. Rail security research and development program.
Sec. 625. Rail worker security training program.
Sec. 626. Whistleblower protection.
Sec. 627. Public outreach.
Sec. 628. Passenger, baggage, and cargo screening.
Sec. 629. Emergency responder training standards.
Sec. 630. Information for first responders.
Sec. 631. TSA personnel limitations.
Sec. 632. Rail safety regulations.
Sec. 633. Rail police officers.
Sec. 634. Definitions.

CHAPTER 2—ASSISTANCE TO FAMILIES OF PASSENGERS
Sec. 641. Assistance by national transportation safety board to families of passengers involved in rail passenger accidents.
Sec. 642. Rail passenger carrier plans to address needs of families of passengers involved in rail passenger accidents.
Sec. 643. Establishment of task force.

TITLE VII—SECURING CRITICAL INFRASTRUCTURE
Sec. 701. Critical infrastructure.
Sec. 702. Security review.
Sec. 703. Implementation report.

TITLE VIII—PREVENTING A BIOLOGICAL ATTACK
Sec. 801. GAO Report of Department biological terrorism programs.
Sec. 802. Report on bio-countermeasures.

TITLE IX—PROTECTION OF AGRICULTURE
Sec. 901. Report to Congress on implementation of recommendations regarding protection of agriculture.

TITLE X—OPTIMIZING OUR SCREENING CAPABILITIES

Subtitle A—U.S. visitor and immigrant status indicator technology database
Sec. 1001. Interoperability of data for United States Visitor and Immigrant Status Indicator Technology.

Subtitle B—Studies to improve border management and immigration security
Sec. 1011. Study on biometrics.
Sec. 1012. Study on digitizing immigration benefit applications.
Sec. 1013. Study on elimination of arrival/departure paper forms.
Sec. 1014. Cataloguing immigration applications by biometric.

TITLE XI—SECURING CYBERSPACE AND HARNESSING TECHNOLOGY TO PREVENT DISASTER

Subtitle A—Department of Homeland Security Cybersecurity Enhancement
Sec. 1101. Short title.
Sec. 1102. Assistant Secretary for Cybersecurity.
Sec. 1103. Cybersecurity training programs and equipment.
Sec. 1104. Cybersecurity research and development.

Subtitle B—Coordination with National Intelligence Director
Sec. 1111. Identification and implementation of technologies that improve sharing of information with the National Intelligence Director.

Subtitle C—Cybersecurity research
Sec. 1121. Support of basic cybersecurity research.

Subtitle D—Cybersecurity training and equipment
Sec. 1131. Cybersecurity training programs and equipment.

TITLE XII—HELPING FIRST RESPONDERS GET THEIR JOB DONE

Subtitle A—Communications interoperability
Sec. 1201. Interoperable communications technology grant program.
Sec. 1202. Study reviewing communication equipment interoperability.
Sec. 1203. Prevention of delay in reassignment of dedicated spectrum for public safety purposes.

Subtitle B—Homeland security terrorism exercises
Sec. 1211. Short title.
Sec. 1212. National terrorism exercise program.

Subtitle C—Citizenship Preparedness
Sec. 1221. Findings.
Sec. 1222. Purposes.
Sec. 1223. Citizens Corps; Private sector preparedness.

Subtitle D—Emergency medical services
Sec. 1231. Emergency Medical Services Administration.
Sec. 1232. Sense of Congress.

Subtitle E—Lessons learned information sharing system
Sec. 1241. Lessons learned, best practices, and corrective action.

Subtitle F—Technology transfer clearinghouse
Sec. 1251. Short title.
Sec. 1252. Technology development and transfer.

Subtitle G—Metropolitan medical response system
Sec. 1261. Metropolitan Medical Response System; authorization of appropriations.

TITLE XIII—FIGHTING DOMESTIC TERRORISM
Sec. 1301. Advisory Committee on Domestic Terrorist Organizations.

TITLE XIV—CREATING A DIVERSE AND MANAGEABLE DEPARTMENT OF HOMELAND SECURITY

Subtitle A—Authorities of Privacy Officer
Sec. 1401. Authorities of Privacy Officer.

Subtitle B—Ensuring diversity in Department of Homeland Security programs
Sec. 1411. Annual reports relating to employment of covered persons.
Sec. 1412. Procurement.
Sec. 1413. Centers of Excellence Program.

Subtitle C—Protection of certain employee rights
Sec. 1421. Provisions to protect certain employee rights.

Subtitle D—Whistleblower protections
Sec. 1431. Whistleblower protections.

Subtitle E—Authority of Chief Information Officer
Sec. 1441. Authority of Chief Information Officer.

Subtitle F—Authorization for Office of Inspector General
Sec. 1451. Authorization for Office of Inspector General.

Subtitle G—Regional office
Sec. 1461. Colocated regional offices.

Subtitle H—DHS terrorism prevention plan
Sec. 1471. Short title.
Sec. 1472. Department of Homeland Security Terrorism Prevention Plan.
Sec. 1473. Annual crosscutting analysis of proposed funding for Department of Homeland Security programs.

Subtitle I—Tribal security
Sec. 1481. Office of Tribal Security.

TITLE XV—SECURING OUR PORTS AND COASTLINES FROM TERRORIST ATTACK
Sec. 1501. Security of maritime cargo containers.
Sec. 1502. Study on port risks.

TITLE XVI—AUTHORITY OF OTHER FEDERAL AGENCIES
Sec. 1601. Authority of other Federal agencies unaffected.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Department of Homeland Security $41,036,180,000 for fiscal year 2006.

SEC. 102. DEPARTMENTAL MANAGEMENT AND OPERATIONS.

Of the amount authorized under section 101, there is authorized for departmental management and operations, including management and operations of the Office for State and Local Government Coordination and Preparedness, $6,463,000,000.

SEC. 103. INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.

Of the amount authorized under section 101, there is authorized for information analysis and infrastructure protection programs and activities $873,245,000.

SEC. 104. SCIENCE AND TECHNOLOGY.

Of the amount authorized under section 101, there is authorized for science and technology programs and activities $1,827,400,000, of which $418,000,000 shall be appropriated for aviation-security-related research and development, $115,000,000 shall be appropriated for the Man-Portable Air Defense Systems, and $35.4 million will be appropriated for biological countermeasures and agricultural defense.

SEC. 105. SECURITY ENFORCEMENT AND INVESTIGATIONS.

Of the amount authorized under section 101, there is authorized for expenses related to border and transportation security, immigration, and other security and related functions, $28,414,000,000, of which $380,000,000 shall be appropriated for the hiring of 2,000 new border patrol agents.

SEC. 106. EMERGENCY PREPAREDNESS AND RESPONSE.

Of the amount authorized under section 101, there is authorized for emergency preparedness and response programs and activities, $3,258,531,000.

SEC. 107. OFFICE OF THE INSPECTOR GENERAL.

Of the amount authorized under section 101, there is authorized for the Office of the Inspector General, $200,000,000.

TITLE II—9/11 REFORM BILL ACCOUNTABILITY

SEC. 201. REPORT ON BUDGET REQUEST FOR PROGRAMS AUTHORIZED BY PUBLIC LAW 108–458.

(a) EXPLANATION OF HOMELAND SECURITY FUNDING SHORTFALL.—

(1) INITIAL REPORT.—Not later than 30 days after the date of the enactment of this section, the President shall submit to Congress a report that explains each homeland security funding shortfall included in the budget submitted to Congress for fiscal year 2006 under section 1105(a) of title 31, United States Code, including the rationale for requesting less than the authorized level of funding for each such funding shortfall.

(2) ANNUAL REPORTS.—Not later than 15 days after the President submits to Congress the budget for a fiscal year under section 1105(a) of title 31, United States Code, the President shall submit to Congress a report that explains each homeland security funding shortfall included in the budget for the fiscal year, including the rationale for requesting less than the authorized level of funding for each such funding shortfall.

(b) DEFINITION OF HOMELAND SECURITY FUNDING SHORTFALL.—In this section, the term "homeland security funding shortfall" means a program authorized by Public Law 108–458 for which the amount of authorization of appropriation for a fiscal year—

(1) is specified under such Act, and the President does not request under such budget the maximum amount authorized by such Act for such fiscal year; or

(2) is not specified under such Act, and the President does not request under such budget an amount sufficient to operate the program as required by such Act.

TITLE III—SECURING OUR ENTIRE BORDER ALL THE TIME, EVERY DAY OF THE WEEK

Subtitle A—Securing Our Land Borders

SEC. 301. LAND BORDER SECURITY STRATEGY.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the heads of all other Federal agencies with border-related functions or with facilities or lands on or along the border, shall submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) unclassified and classified versions of a unified, comprehensive strategy to secure the land borders of the United States not later than 6 months after the date of the enactment of this Act. The submission should include a description of the actions already taken to implement the strategy.

(b) CONTENTS.—The report shall cover the following areas:

(1) Personnel.

(2) Infrastructure.

(3) Technology.

(4) Coordination of intelligence among agencies.

(5) Legal responsibilities and jurisdictional divisions.

(6) Apprehension.

(7) Budgetary impact.

(8) Flow of commerce and economic impact.

(c) CONSULTATION.—In creating the strategy described in subsection (a), the Federal agencies described in such subsection shall consult private sector organizations and nongovernmental organizations with national security, privacy, agriculture, immigration, customs, transportation, technology, legal, and business expertise.

(d) IMPLEMENTATION.—The Secretary shall implement the strategy not later than 12 months after the date of the enactment of this Act.

(e) EVALUATION.—The Comptroller General of the United States shall track, monitor, and evaluate such strategy to secure our borders to determine its efficacy.

(f) REPORT.—Not later than 15 months after the date of the enactment of this Act, and every year thereafter for the succeeding 5 years, the Comptroller General of the United States shall submit a report to the Congress on the results of the activities undertaken under subsection (a) during the previous year. Each such report shall include an analysis of the degree to which the border security strategy has been effective in securing our borders. Each such report shall include a collection and systematic analysis of data, including workload indicators, related to activities to improve and increase border security.

SEC. 302. DEPLOYMENT OF SURVEILLANCE SYSTEMS ALONG U.S.-MEXICO BORDER.

(a) INITIAL THREAT ASSESSMENT.—

(1) IN GENERAL.—The Secretary of Homeland Security shall conduct an assessment of the threat of penetration of the land borders of the United States, between the ports of entry, by terrorists and criminals, and the threat to of such areas to terrorist attack. In carrying out the threat assessments under this paragraph, the Secretary shall categorize the vulnerability of each land border corridor as "high", "medium", or "low" and shall prioritize the vulnerability of each land border corridor within each such category. In conducting the threat assessment, the Secretary of Homeland Security shall consult with appropriate Federal, tribal, State, local, and private sector representatives.

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall prepare and submit to the Committee on Homeland Security of the United States House of Representatives a report that contains—

(A) the results of the threat assessments conducted under paragraph (1);

(B) with respect to each land border corridor categorized under paragraph (1) as either a "high", "medium" or "low" land border corridor, descriptions of—

(i) infrastructure and technology improvement projects required for each land border corridor in order to reduce its vulnerability; and

(ii) the resources required to make such improvements; and

(C) a description of how the funds will be used to implement technology and infrastructure improvement projects.

(b) FOLLOW-UP THREAT ASSESSMENTS.—The Secretary of Homeland Security shall conduct follow-up threat assessments of the land border between the ports of entry every 2 years and shall submit such reports to the Committee on Homeland Security of the House of Representatives.

(c) PLAN.—Not later than December 31, 2005, the Secretary of Homeland Security shall develop a comprehensive plan to fully deploy technological surveillance systems along the United States land borders between the ports of entry. Surveillance systems included in the deployment plan must—

(1) ensure continuous monitoring of every mile of such borders; and

(2) to the extent practicable, be fully interoperable with existing surveillance systems and mission systems, such as the Integrated Surveillance Intelligence Systems already in use by the Department of Homeland Security.

SEC. 303. CREATION OF NORTHERN AND SOUTHERN BORDER COORDINATORS.

(a) IN GENERAL.—Title IV of the Homeland Security Act of 2002 (6 U.S.C. 201 seq.) is amended—

(1) in section 402, by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following:

"(8) Increasing the security of the United States at the ports of entry located along the northern and southern borders, and improving the coordination among the agencies responsible for maintaining that security."; and

(2) in subtitle C, by adding at the end the following:

"SEC. 431. BORDER COORDINATORS.

"(a) IN GENERAL.—There shall be within the Directorate of Border and Transportation Security the positions of Northern Border Coordinator and Southern Border Coordinator, who shall be appointed by the Secretary and who shall report directly to the Under Secretary for Border and Transportation Security.

"(b) RESPONSIBILITIES.—The Northern Border Coordinator and the Southern Border Coordinator shall undertake the following responsibilities along the northern and southern borders, respectively—

"(1) serve as the primary official of the Department responsible for coordinating all Federal security activities along the border, especially at land border ports of entry;

"(2) provide enhanced communication and data-sharing between Federal, State, local, and tribal agencies on law enforcement, emergency response, or security-related responsibilities for areas on or adjacent to the borders of the United States with Canada or Mexico;

"(3) work to improve the communications systems within the Department to facilitate the integration of communications of matters relating to border security;

"(4) oversee the implementation of the pertinent bilateral agreement (the United States-Canada 'Smart Border' Declaration applicable to the northern border and the United States-Mexico Partnership Agreement applicable to the southern border) to improve border functions, ensure security, and promote trade and tourism;

"(5) consistent with section 5, assess all land border ports of entry along the appropriate border and develop a list of infrastructure and technology improvement projects for submission to the Secretary based on the ability of a project to fulfill immediate security requirements and facilitate trade across the borders of the United States; and

"(6) serve as a liaison to the foreign agencies with responsibility for their respective border with the United States.".

(b) CLERICAL AMENDMENT.—Section 1(b) of such Act is amended in the table of contents by inserting after the item relating to section 430 the following:

"431. Border coordinators.".

SEC. 304. SMART BORDER ACCORD IMPLEMENTATION.

The President shall submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) information about the ongoing progress on implementation of the Smart Border Accords through quarterly reports on meetings of the Smart Border Working Group.

SEC. 305. REQUIRING A VULNERABILITY ASSESSMENT OF LAND PORTS OF ENTRY.

(a) INITIAL ASSESSMENT.—

(1) IN GENERAL.—The Secretary of Homeland Security shall conduct an assessment of the vulnerability of each United States land port of entry to penetration by terrorists and criminals or terrorist attack. In carrying out assessments under this paragraph, the Secretary shall categorize the vulnerability of each port of entry as "high", "medium", or "low" and shall prioritize the vulnerability of each port of entry within each such category. In conducting the assessment, the Secretary of Homeland Security shall consult with appropriate State, local, tribal, and private sector representatives.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall prepare and submit to the appropriate congressional committees (as that term is defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) a report that contains—

(A) the results of the assessment conducted under paragraph (1);

(B) with respect to each port of entry categorized under paragraph (1) as either a "high" or "medium" vulnerability port of entry, descriptions of—

(i) infrastructure and technology improvement projects required for the port of entry in order to reduce its vulnerability; and

(ii) the resources required to make such improvements; and

(C) a description of how the funds will be used to implement technology and infrastructure improvement projects.

(b) FOLLOW-UP ASSESSMENTS.—The Secretary of Homeland Security shall conduct follow-up assessments of land border ports of entry every 2 years and shall submit such reports to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)).

SEC. 306. STUDY TO DETERMINE APPROPRIATE LEVEL AND ALLOCATION OF PERSONNEL AT PORTS OF ENTRY AND BORDER PATROL SECTORS.

(a) STUDY.—The Commissioner of the Bureau of Customs and Border Protection of the Department of Homeland Security shall conduct a study to determine the necessary level and allocation of personnel of the Bureau (including support staff) at United States ports of entry and between ports of entry in order to fully carry out the functions of the Bureau at such ports and locations. The Commissioner shall update and revise the study on an annual basis as appropriate.

(b) REQUIREMENTS.—

(1) IN GENERAL.—In conducting the study pursuant to subsection (a), the Commissioner shall take into account the following:

(A) The most recent staffing assessment from each port director and the head of each border patrol sector, as required under paragraph (2).

(B) The most recent relevant information, analyses, and vulnerability assessments relating to ports of entry and areas between ports of entry, as described in paragraph (3) of section 201(d) of the Homeland Security Act of 2002, and made available to the Commissioner in accordance with paragraph (18) of such section.

(C) Any requests for additional personnel, if needed, from each port director and the head of each border patrol sector, including a description of whether the additional personnel should be assigned on a temporary or permanent basis.

(D) An analysis of the impact of new available technology on staffing requirements of the Bureau.

(E) An analysis of traffic volume and wait times at ports of entry.

(F) An analysis of the training regimen for new officers of the Bureau and inspectors from the former Customs Service and the former Immigration and Naturalization Service and the extent to which the creation of the Bureau's Officer position has changed the personnel needs of the Department.

(2) ADDITIONAL REQUIREMENT.—Each port director and the head of each border patrol sector shall complete and submit to the Commissioner on an annual basis an assessment of the level and allocation of personnel necessary to carry out the responsibilities of such port director or the head of such border patrol sector, as the case may be.

(c) REPORTS.—

(1) INITIAL REPORT.—Not later than 120 days after the date of the enactment of this Act, the Commissioner shall prepare and submit to the Comptroller General and Congress a report that contains the results of the study conducted pursuant to subsection (a).

(2) SUBSEQUENT REPORTS.—The Commissioner shall prepare and submit to the Comptroller General and Congress on not less than an annual basis a report that contains each updated or revised study.

SEC. 307. ASSESSMENT OF STUDY BY COMPTROLLER GENERAL.

(a) ASSESSMENT.—The Comptroller General shall conduct an assessment of the study conducted by the Bureau of Customs and Border Protection under section 306 and shall conduct an assessment of each update or revision to the study. In conducting the assessment, the Comptroller General is authorized to solicit input from any personnel of the Bureau.

(b) REPORT.—The Comptroller General shall prepare and submit to Congress a report that contains the results of each assessment conducted pursuant to subsection (a), including any recommendations thereto that the Comptroller General determines to be appropriate.

SEC. 308. AUTHORIZATION OF APPROPRIATIONS FOR INCREASE IN FULL-TIME BORDER PATROL AGENTS.

(a) INCREASE.—There are authorized to be appropriated to the Secretary of Homeland Security $300,000,000 for fiscal year 2006 to increase by not less than 2,000 the number of positions for full-time active-duty Border Patrol agents within the Department of Homeland Security above the number of such positions for which funds were allotted for fiscal year 2005.

(b) ASSOCIATED COSTS.—There are authorized to be appropriated to the Secretary of Homeland Security $80,000,000 for fiscal year 2006 to pay the costs associated with the new hires described in subsection (a), including—

(1) costs to increase by 166 of the number of support staff positions;

(2) costs to increase by 1333 in the number of vehicles; and

(3) costs to train the new hires described in subsection (a) under an agreement with a Department training facility other than the Artesia Border Patrol Academy.

(c) FACILITIES IMPACT ASSESSMENT.—The Secretary of Homeland Security shall conduct a facilities impact assessment and report findings from such assessment, with detailed estimates and costs, to the Committee on Homeland Security of the United States House of Representatives.

SEC. 309. BORDER PATROL UNIT FOR VIRGIN ISLANDS.

Not later than September 30, 2006, the Secretary of Homeland Security shall establish at least one Border Patrol unit for the Virgin Islands of the United States.

SEC. 310. REQUIRING REPORT ON THE "ONE FACE AT THE BORDER INITIATIVE".

(a) IN GENERAL.—Not later than September 30 of each of the calendar years 2005, 2006, and 2007, the Secretary of Homeland Security shall prepare and submit to the Congress a report—

(1) describing and analyzing the goals, success, and shortfalls of the One Face at the Border Initiative at enhancing security and facilitating travel;

(2) providing a breakdown of the number of personnel of the Bureau of Customs and Border Protection that were personnel of the United States Customs Service prior to the establishment of the Department of Homeland Security, that were personnel of the Immigration and Naturalization Service prior to the establishment of the Department of Homeland Security, and that were hired after the establishment of the Department of Homeland Security;

(3) describing the training time provided to each employee on an annual basis for the various training components of the One Face at the Border Initiative;

(4) outlining the steps taken by the Bureau of Customs and Border Protection to ensure that expertise is retained with respect to customs, immigration, and agriculture inspection functions under the One Face at the Border Initiative; and

(5) reviewing whether the missions of customs, agriculture, and immigration are appropriately and adequately addressed.

(b) ASSESSMENT OF REPORT.—The Comptroller General of the United States shall the review the reports submitted under subsection (a) and shall provide an assessment to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)) regarding the effectiveness of the One Face at the Border Initiative.

Subtitle B—CIS Workflow Study

SEC. 311. CIS WORKFLOW, TECHNOLOGY, AND STAFFING ASSESSMENT.

(a) IN GENERAL.—The Secretary of Homeland Security shall conduct a comprehensive assessment of the Bureau of Citizenship and Immigration Services (otherwise know as "U.S. Citizenship and Immigration Services") within the Department of Homeland Security. Such assessment shall include study of personnel, administrative and technical support positions, technology, training, and facilities.

(b) WORKFLOW.—As part of the study, the Secretary shall examine all elements of such entity's workflow, in order to determine the most efficient way to handle its work without compromising security. Any bottlenecks associated with security matters should be identified and recommendations should be made on ways to minimize such bottlenecks without compromising security. The Secretary should assess the division of work, adequacy of infrastructure (particularly information technology), as well as personnel needs.

(c) Interactions With Other Organizations.—As part of the study, the Secretary shall examine such entity's interactions with other government organizations. Specifically, the Secretary shall determine whether existing memoranda of understanding and divisions of responsibility, especially any which pre-date the establishment of the Department of Homeland Security, need to be revised in order to improve service delivery.

(d) Backlog Cost.—As part of the study, the Secretary shall assess the current cost of maintaining the backlog (as defined in section 203 of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1572)).

(e) Information Technology.—Aspects of this study related to information technology should be coordinated with the Chief Information Officer for the Department of Homeland Security and should build on the findings of the task force established by section 3 of the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106–215).

(f) Submission.—The study should be completed not later than January 1, 2006, and shall be submitted to the Committee on Homeland Security of the United States House of Representatives. It shall include recommendations for resource allocation.

Subtitle C—Report on Border Violence

SEC. 321. STUDIES RELATED TO FEASIBILITY AND COST OF LOCATING AND REMOVING EIGHT MILLION UNDOCUMENTED ALIENS FROM UNITED STATES.

(a) Feasibility Study.—Commencing not later than 30 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study to evaluate—

(1) the ability of the Department of Homeland Security to develop and implement a program to locate and initiate removal proceedings on the 8,000,000 undocumented immigrants who are presently residing in the United States;

(2) an estimate of the additional personnel and other additional resources such a project would require for the Department and the Executive Office for Immigration Review;

(3) the amount of time that such development and implementation would require;

(4) the total cost to develop and implement this program;

(5) the ability of State and local police departments to assist the Department in implementing this program;

(6) an estimate of the additional personnel and other additional resources the State and local police departments would need if they participate with the Department in implementing this program;

(7) the amount of time away from other State and local police work that would be required of State and local police departments to participate in this program; and

(8) the total cost to State and local governments of such participation.

(b) Study on Consequences of Locating and Removing Eight Million Undocumented Aliens.—Commencing not later than 30 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study on the adverse consequences that could result from locating and removing 8,000,000 undocumented aliens from the United States.

Subtitle D—Center of Excellence on Border Security

SEC. 331. CENTER OF EXCELLENCE ON BORDER SECURITY.

The Secretary shall establish a university-based Center for Border Security following the merit-review processes and procedures that have been established for selecting University Programs Centers of Excellence. The Center shall conduct research, examine existing and emerging border security technology and systems, and provide education, technical, and analytical assistance for the Department of Homeland Security to effectively secure the Nation's borders.

TITLE IV—SECURING CHEMICAL PLANTS AND OTHER CRITICAL INFRASTRUCTURE

Subtitle A—Chemical Security Improvement

SEC. 411. SHORT TITLE.

This subtitle may be cited as the "Chemical Security Improvement Act of 2005".

SEC. 412. DEFINITIONS.

In this subtitle:

(1) Alternative approaches.—The term "alternative approach" means an approach that significantly reduces or eliminates the threat or consequences of a terrorist release from a chemical source, including an approach that—

(A) uses smaller quantities, nonhazardous forms, or less hazardous forms of dangerous substances;

(B) replaces a dangerous substance with a nonhazardous or less hazardous substance; or

(C) uses nonhazardous or less hazardous conditions or processes.

(2) Chemical source.—The term "chemical source" means a facility listed by the Secretary under section 413(e) as a chemical source; and—

(3) Dangerous substance.—The term "dangerous substance" means a substance present at a chemical source that—

(A) can cause death, injury, or serious adverse effects to human health or the environment; or

(B) could harm critical infrastructure or national security.

(4) Department.—The term "Department" means the Department of Homeland Security.

(5) Environment.—The term "environment" means—

(A) the navigable waters, the waters of the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the United States; and

(B) any other surface water, ground water, drinking water supply, land surface or subsurface strata, or ambient air within the United States or under the jurisdiction of the United States.

(6) Owner or operator.—The term "owner or operator" means any person who owns, leases, operates, controls, or supervises a chemical source.

(7) Release.—The term "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant), but excludes—

(A) any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons;

(B) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; or

(C) the normal application of fertilizer or pesticide.

(8) Secretary.—The term "Secretary" means the Secretary of Homeland Security.

(9) Security measure.—

(A) In general.—The term "security measure" means an action carried out to ensure or enhance the security of a chemical source.

(B) Inclusions.—The term "security measure", with respect to a chemical source, includes measures such as—

(i) employee training and background checks;

(ii) the limitation and prevention of access to controls of the chemical source;

(iii) the protection of the perimeter of the chemical source, including the deployment of armed physical security personnel;

(iv) the installation and operation of intrusion detection sensors;

(v) the implementation of measures to increase computer or computer network security;

(vi) the installation of measures to protect against long-range weapons;

(vii) the installation of measures and controls to protect against or reduce the consequences of a terrorist attack; and

(viii) the implementation of any other security-related measures or the conduct of any similar security-related activity, as determined by the Secretary.

(10) Terrorism.—The term "terrorism" has the meaning given to that term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(11) Terrorist release.—The term "terrorist release" means—

(A) a release from a chemical source into the environment of a dangerous substance that is caused by an act of terrorism; and

(B) the theft of a dangerous substance by a person for off-site release in furtherance of an act of terrorism.

SEC. 413. VULNERABILITY ASSESSMENTS AND SITE SECURITY PLANS.

(a) Requirement.—

(1) In general.—Not later than 1 year after the date of the enactment of this subtitle, the Secretary shall promulgate regulations that—

(A) require the owner or operator of each chemical source included on the list described in subsection (e)(1)—

(i) to conduct an assessment of the vulnerability of the chemical source to a terrorist release; and

(ii) to prepare and implement a site security plan that addresses the results of the vulnerability assessment; and

(B) establish procedures, protocols, and standards for vulnerability assessments and site security plans.

(2) Contents of vulnerability assessment.—A vulnerability assessment required under the regulations promulgated under paragraph (1) or any assessment determined substantially equivalent by the Secretary under subsection (c) shall include the identification and evaluation of—

(A) critical assets and infrastructures;

(B) hazards that may result from a terrorist release; and

(C) weaknesses in—

(i) physical security;

(ii) structural integrity of containment, processing, and other critical infrastructure;

(iii) protection systems;

(iv) procedural and employment policies;

(v) communication systems;

(vi) transportation infrastructure in the proximity of the chemical source;

(vii) utilities;

(viii) contingency response; and

(ix) other areas as determined by the Secretary.

(3) CONTENTS OF SITE SECURITY PLAN.—A site security plan required under the regulations promulgated under paragraph (1) or any plan submitted to the Secretary under subsection (c)—

(A) shall include security measures to significantly reduce the vulnerability of the chemical source covered by the plan to a terrorist release;

(B) shall describe, at a minimum, particular equipment, plans, and procedures that could be implemented or used by or at the chemical source in the event of a terrorist release;

(C) shall provide for the assessment and, as applicable, implementation of alternative approaches in accordance with section 415; and

(D) shall be developed in consultation with local law enforcement, first responders, employees, and local emergency planning committees, as established pursuant to section 301(c) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001(c)).

(4) SECURITY EXERCISES.—Not later than 1 year after the date of the enactment of this subtitle, the Secretary shall promulgate regulations establishing procedures, protocols, and standards for the conduct of security exercises, including—

(A) the performance of force-on-force exercises that—

(i) involve physical security personnel employed by the owner or operator of the chemical source to act as the force designated to defend the facility;

(ii) involve personnel designated by the Secretary to act as the force designated to simulate a terrorist attempt to attack the chemical source to cause a terrorist release;

(iii) are designed, overseen, and evaluated by the Department; and

(iv) are conducted at least once every 3 years; and

(B) the performance of all other such exercises at periodic intervals necessary to ensure the optimal performance of security measures.

(5) GUIDANCE TO SMALL BUSINESSES.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall publish guidance to assist small businesses in complying with paragraphs (2) and (3).

(6) THREAT INFORMATION.—To the maximum extent practicable under applicable authority and in the interests of national security, the Secretary shall provide to an owner or operator of a chemical source required to prepare a vulnerability assessment and site security plan threat information that is relevant to the chemical source.

(7) COORDINATED ASSESSMENTS AND PLANS.—The regulations promulgated under paragraph (1) shall permit the development and implementation of coordinated vulnerability assessments and site security plans in any case in which more than 1 chemical source is operating at a single location or at contiguous locations, including cases in which a chemical source is under the control of more than 1 owner or operator.

(b) CERTIFICATION AND SUBMISSION.—

(1) IN GENERAL.—Except as provided in subsection (c), each owner or operator of a chemical source shall certify in writing to the Secretary that the owner or operator has completed a vulnerability assessment and has developed and implemented (or is implementing) a site security plan in accordance with this subtitle, including—

(A) regulations promulgated under subsection (a)(1); and

(B) any existing vulnerability assessment or security plan endorsed by the Secretary under subsection (c)(1).

(2) SUBMISSION.—

(A) IN GENERAL.—Not later than 18 months after the date of the promulgation of regulations under subsection (a)(1), an owner or operator of a chemical source shall provide to the Secretary copies of the vulnerability assessment and site security plan of the chemical source for review.

(B) CERTIFICATION.—

(i) IN GENERAL.—Not later than 2 years after the date on which the Secretary receives copies of the vulnerability assessment and site security plan of a chemical source under subparagraph (A), the Secretary shall determine whether the chemical source is in compliance with the requirements of this Act, including—

(I) paragraph (1);

(II) regulations promulgated under subsections (a)(1) and (a)(3); and

(III) any existing vulnerability assessment or site security plan endorsed by the Secretary under subsection (c)(1).

(ii) CERTIFICATE.—If the Secretary determines that the chemical source is in compliance with the requirements of this Act, the Secretary shall provide to the chemical source and make available for public inspection a certificate of approval that contains the following statement (in which statement the bracketed space shall be the name of the chemical source): "[____________] is in compliance with the Chemical Security Improvement Act of 2005."

(iii) DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines under clause (i) that a chemical source is not in compliance with the requirements of this Act, the Secretary shall exercise the authority provided in section 416.

(iv) REPORT TO CONGRESS.—Not later than 1 year after the promulgation of regulations in subsection (a)(1) and for every year afterwards, the Secretary shall submit to the Congress a report outlining the number of facilities that have provided vulnerability assessments and site security plans to the Secretary, what portion of these submissions have been reviewed by the Secretary, and what portion of these submissions are in compliance with clause (i).

(3) OVERSIGHT.—

(A) IN GENERAL.—The Secretary shall, at such times and places as the Secretary determines to be appropriate, conduct or require the conduct of vulnerability assessments and other activities (including qualified third-party audits) to ensure and evaluate compliance with this subtitle (including regulations promulgated under subsection (a)(1) and (c)(1)).

(B) RIGHT OF ENTRY.—In carrying out this subtitle, the Secretary (or a designee), on presentation of credentials, shall have a right of entry to, on, or through any premises of an owner or operator of a chemical source.

(C) REQUESTS FOR RECORDS.—In carrying out this subtitle, the Secretary (or a designee) may require the submission of, or, on presentation of credentials, may at reasonable times seek access to and copy any documentation necessary for—

(i) review or analysis of a vulnerability assessment or site security plan; or

(ii) implementation of a site security plan.

(D) COMPLIANCE.—If the Secretary determines that an owner or operator of a chemical source is not maintaining, producing, or permitting access to the premises of a chemical source or records as required by this paragraph, the Secretary may issue an order requiring compliance with the relevant provisions of this section.

(E) QUALIFIED THIRD-PARTY AUDITS.—The Secretary shall establish standards as to the qualifications of third-party auditors. Such standards shall ensure the qualifications of the third-party auditor provide sufficient expertise in—

(i) chemical site security vulnerabilities;

(ii) chemical site security measures;

(iii) alternative approaches; and

(iv) such other areas as the Secretary determines to be appropriate and necessary.

(4) SUBMISSION OF CHANGES.—The owner or operator of a chemical source shall provide to the Secretary a description of any significant change that is made to the vulnerability assessment or site security plan required for the chemical source under this section, not later than 90 days after the date the change is made.

(c) EXISTING VULNERABILITY ASSESSMENTS AND SECURITY PLANS.—Upon submission of a petition by an owner or operator of a chemical source to the Secretary in conjunction with a submission under subsection (b)(2)(A), the Secretary—

(1) may endorse any vulnerability assessment or security plan—

(A) that was conducted, developed, or required by—

(i) industry;

(ii) State or local authorities; or

(iii) other applicable law; and

(B) that was conducted before, on, or after the date of enactment of this subtitle; and

(C) the contents of which the Secretary determines meet the standards established under the requirements of subsections (a)(1), (a)(2), and (a)(3);

(2) may make an endorsement of an existing vulnerability assessment or security plan under paragraph (1) contingent on modification of the vulnerability assessment or security plan to address—

(A) a particular threat or type of threat; or

(B) a requirement under (a)(2) or (a)(3).

(d) REGULATORY CRITERIA.—In exercising the authority under subsections (a), (b), (c), or (e) with respect to a chemical source, the Secretary shall consider—

(1) the likelihood that a chemical source will be the target of terrorism;

(2) the potential extent of death, injury, or serious adverse effects to human health or the environment that would result from a terrorist release;

(3) the potential harm to critical infrastructure and national security from a terrorist release; and

(4) such other security-related factors as the Secretary determines to be appropriate and necessary to protect the public health and welfare, critical infrastructure, and national security.

(e) LIST OF CHEMICAL SOURCES.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this subtitle, the Secretary shall develop a list of chemical sources in existence as of that date.

(2) CONSIDERATIONS.—In developing the list under paragraph (1), the Secretary shall take into consideration the criteria specified in subsection (d).

(3) PRIORITIZATION.—In developing the list under paragraph (1), the Secretary shall determine the potential extent of death, injury, or severe adverse effects to human health that would result from a terrorist release of dangerous substances from a chemical source.

(4) SCOPE.—In developing the list under paragraph (1), the Secretary shall include at least those facilities that pose a risk of potential death, injury, or severe adverse effects to not fewer than 15,000 individuals.

(5) FUTURE DETERMINATIONS.—Not later than 3 years after the date of the promulgation of regulations under subsection (a)(1), and every 3 years thereafter, the Secretary shall, after considering the criteria described in subsection (d)—

(A) determine whether additional facilities (including, as of the date of the determination, facilities that are operational and facilities that will become operational in the future) shall be considered to be a chemical source under this subtitle;

(B) determine whether any chemical source identified on the most recent list under paragraph (1) no longer presents a risk sufficient to justify retention of classification as a chemical source under this subtitle; and

(C) update the list as appropriate.

(f) 5-YEAR REVIEW.—Not later than 5 years after the date of the certification of a vulnerability assessment and a site security plan under subsection (b)(1), and not less often than every 5 years thereafter (or on such a schedule as the Secretary may establish by regulation), the owner or operator of the chemical source covered by the vulnerability assessment or site security plan shall—

(1) ensure the vulnerability assessment and site security plan meet the most recent regulatory standards issues under subsection (a)(1);

(2)(A) certify to the Secretary that the chemical source has completed the review and implemented any modifications to the site security plan; and

(B) submit to the Secretary a description of any changes to the vulnerability assessment or site security plan; and

(3) submit to the Secretary a new assessment of alternative approaches.

(g) PROTECTION OF INFORMATION.—

(1) CRITICAL INFRASTRUCTURE INFORMATION.—Except with respect to certifications specified in subsections (b)(1) and (f)(2)(A), vulnerability assessments and site security plans obtained in accordance with this subtitle, and all information derived from those vulnerability assessments and site security plans that could pose a risk to a particular chemical source, shall be deemed critical infrastructure information as defined in section 212 of the Homeland Security Act of 2002 (6 U.S.C. 131), and subject to all protections under sections 213 and 214 of that Act.

(2) EXCEPTIONS TO PENALTIES.—Section 214(f) of the Homeland Security Act of 2002 (6 U.S.C. 133(f)) shall not apply to a person described in that section that discloses information described in paragraph (1)—

(A) for use in any administrative or judicial proceeding to impose a penalty for failure to comply with a requirement of this subtitle; or

(B) for the purpose of making a disclosure evidencing government, owner or operator, or employee activities that threaten the security of a chemical source or are inconsistent with the requirements of this subtitle.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to authorize the withholding of information from members of Congress acting in their official capacity.

SEC. 414. WHISTLEBLOWER PROTECTION.

(a) IN GENERAL.—No person employed at a chemical source may be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of any lawful act done by the person—

(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the person reasonably believes constitutes a violation of any law, rule or regulation related to the security of the chemical source, or any other threat to the security of the chemical source, when the information or assistance is provided to or the investigation is conducted by—

(A) a Federal regulatory or law enforcement agency;

(B) any member or committee of the Congress; or

(C) a person with supervisory authority over the person (or such other person who has the authority to investigate, discover, or terminate misconduct); or

(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding or action filed or about to be filed relating to a violation of any law, rule, or regulation related to the security of a chemical source or any other threat to the security of a chemical source; or

(3) to refuse to violate or assist in the violation of any law, rule, or regulation related to the security of chemical sources.

(b) ENFORCEMENT ACTION.—

(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

(A) filing a complaint with the Secretary of Labor; or

(B) if the Secretary of Labor has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(2) PROCEDURE.—

(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the person's employer.

(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 90 days after the date on which the violation occurs.

(c) REMEDIES.—

(1) IN GENERAL.—A person prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the person whole.

(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

(A) reinstatement with the same seniority status that the person would have had, but for the discrimination;

(B) the amount of back pay, with interest; and

(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

(d) RIGHTS RETAINED BY PERSON.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any person under any Federal or State law, or under any collective bargaining agreement.

SEC. 415. ALTERNATIVE APPROACHES.

(a) ASSESSMENT.—

(1) IN GENERAL.—A site security plan under section 413(a)(1) shall provide for the conduct of an assessment of alternative approaches.

(2) INCLUSIONS.—An assessment under this subsection shall include information on—

(A) the nature of each alternative approach considered, such as—

(i) the quantity of each dangerous substance considered for reduction;

(ii) the form of any dangerous substance considered for replacement and the form of potential replacements considered;

(iii) any dangerous substance considered for replacement and a description of any potential replacements considered; and

(iv) any process or conditions considered for modification and a description of the potential modification;

(B) the degree to which each alternative approach considered could potentially reduce the threat or consequence of a terrorist release; and

(C) specific considerations that led to the implementation or rejection of each alternative approach, including—

(i) requirements under this subtitle;

(ii) cost;

(iii) cost savings;

(iv) availability of replacement or modification technology or technical expertise;

(v) the applicability of existing replacement or modification technology to the chemical source; and

(vi) any other factor that the owner of operator of the chemical source considered in judging the practicability of each alternative approach.

(b) IMPLEMENTATION.—

(1) IN GENERAL.—A chemical source described in paragraph (2) shall implement options to significantly reduce or eliminate the threat or consequences of a terrorist release through the use of alternative approaches that would not create an equal or greater risk to human health or the environment.

(2) APPLICABILITY.—This subsection applies to a chemical source if—

(A) the chemical source poses a potential of harm to more than 15,000 people, unless the owner or operator of the chemical source can demonstrate to the Secretary through an assessment of alternative approaches that available alternative approaches—

(i) would not significantly reduce the number of people at risk of death, injury, or serious adverse effects resulting from a terrorist release;

(ii) cannot feasibly be incorporated into the operation of the chemical source; or

(iii) would significantly and demonstrably impair the ability of the owner or operator of the chemical source to continue its business; or

(B)(i) the chemical source poses a potential of harm to fewer than 15,000 people; and

(ii) implementation of options to significantly reduce the threat or consequence of a terrorist release through the use of alternative approaches if practicable in the judgment of the owner or operator of the chemical source.

(c) ALTERNATIVE APPROACHES CLEARINGHOUSE.—

(1) AUTHORITY.—The Secretary shall establish a publicly available clearinghouse to compile and disseminate information on the use and availability of alternative approaches.

(2) INCLUSIONS.—The clearinghouse shall include information on—

(A) general and specific types of alternative approaches;

(B) combinations of chemical sources, substances of concern, and hazardous processes or conditions for which alternative approaches could be appropriate;

(C) the scope of current use and availability of specific alternative approaches;

(D) the costs and cost savings resulting from alternative approaches;

(E) technological transfer;

(F) the availability of technical assistance;

(G) current users of alternative approaches; and

(H) such other information as the Administrator deems appropriate.

(3) COLLECTION OF INFORMATION.—The Secretary shall collect information for the clearinghouse—

(A) from documents submitted by owners or operators pursuant to this Act;

(B) by surveying owners or operators who have registered their facilities pursuant to part 68 of title 40 Code of Federal Regulations (or successor regulations); or

(C) through such other methods as the Secretary deems appropriate.

(4) PUBLIC AVAILABILITY.—Information available publicly through the clearinghouse shall not allow the identification of any specific facility or violate the exemptions of section 552(b)(4) of title 5, United States Code.

(5) STUDY OF ALTERNATIVE AND INHERENTLY SAFER APPROACHES TO CHEMICAL SAFETY AND SECURITY.—

(A) STUDY.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Sciences to provide for a comprehensive study of—

(i) the currently available chemical technologies, practices, strategies, and other methods for improving the inherent safety and security of United States chemical manufacturing, transportation, and usage sites and infrastructure against the threat of terrorism;

(ii) methods for assessing the degree of inherent safety of chemical technologies, practices, strategies, and other means;

(iii) methods for integrating inherently safer chemical technologies, practices, strategies, and other means into risk management for critical infrastructure protection; and

(iv) progress and directions in research in chemical sciences and technology that may provide new chemical technologies, practices, strategies, and other means to improve inherent safety and security.

(B) REPORT.—

(i) IN GENERAL.—The arrangement entered into under subparagraph (A) shall provide that the National Academy of Sciences shall submit to the Secretary a final report on the study conducted under subparagraph (A) by no later than 18 months after a contract for the arrangement is signed.

(ii) RECOMMENDATIONS.—The report under this subparagraph shall include such recommendations regarding government and private sector practices to encourage the adoption of currently available inherently safer and more secure chemical technologies and strategies to reduce the vulnerabilities of existing and future chemical manufacturing, transportation, and usage sites and infrastructure, and regarding research directions in green chemistry and chemical engineering that would lead to inherently more secure, safer, and economically viable chemical products, processes, and procedures, as the Academy determines appropriate.

(C) TRANSMISSION TO CONGRESS.—The Secretary shall promptly transmit a copy of the report under this subparagraph to the Congress and make the report available to the public.

SEC. 416. ENFORCEMENT.

(a) FAILURE TO COMPLY.—If an owner or operator of a non-Federal chemical source fails to certify or submit a vulnerability assessment or site security plan in accordance with this subtitle, the Secretary may issue an order requiring the certification and submission of a vulnerability assessment or site security plan in accordance with section 413(b).

(b) DISAPPROVAL.—The Secretary may disapprove under subsection (a) a vulnerability assessment or site security plan submitted under section 413(b) or (c) if the Secretary determines that—

(1) the vulnerability assessment or site security plan does not comply with regulations promulgated under section 413(a)(1), or the procedure, protocol, or standard endorsed or recognized under section 413(c); or

(2) the site security plan, or the implementation of the site security plan, is insufficient to address—

(A) the results of a vulnerability assessment of a chemical source; or

(B) a threat of a terrorist release.

(c) COMPLIANCE.—If the Secretary disapproves a vulnerability assessment or site security plan of a chemical source under subsection (b), the Secretary shall—

(1) provide the owner or operator of the chemical source a written notification of the determination that includes a clear explanation of deficiencies in the vulnerability assessment, site security plan, or implementation of the assessment or plan;

(2) consult with the owner or operator of the chemical source to identify appropriate steps to achieve compliance; and

(3) if, following that consultation, the owner or operator of the chemical source does not achieve compliance by such date as the Secretary determines to be appropriate under the circumstances, issue an order requiring the owner or operator to correct specified deficiencies.

(d) PROTECTION OF INFORMATION.—Any determination of disapproval or order made or issued under this section shall be exempt from disclosure—

(1) under section 552 of title 5, United States Code;

(2) under any State or local law providing for public access to information; and

(3) except as provided in section 413(g)(2), in any Federal or State civil or administrative proceeding.

SEC. 417. INTERAGENCY TECHNICAL SUPPORT AND COOPERATION.

The Secretary—

(1) in addition to such consultation as is required in this subtitle, shall consult with Federal agencies with relevant expertise, and may request those Federal agencies to provide technical and analytical support, in implementing this subtitle; and

(2) may provide reimbursement for such technical and analytical support received as the Secretary determines to be appropriate.

SEC. 418. PENALTIES.

(a) JUDICIAL RELIEF.—In a civil action brought in United States district court, any owner or operator of a chemical source that violates or fails to comply with any order issued by the Secretary under this subtitle or a site security plan submitted to the Secretary under this subtitle or recognized by the Secretary, for each day on which the violation occurs or the failure to comply continues, may be subject to—

(1) an order for injunctive relief; and

(2) a civil penalty of not more than $50,000.

(b) ADMINISTRATIVE PENALTIES.—

(1) PENALTY ORDERS.—The Secretary may issue an administrative penalty of not more than $250,000 for failure to comply with an order issued by the Secretary under this subtitle.

(2) NOTICE AND HEARING.—Before issuing an order described in paragraph (1), the Secretary shall provide to the person against whom the penalty is to be assessed—

(A) written notice of the proposed order; and

(B) the opportunity to request, not later than 30 days after the date on which the person receives the notice, a hearing on the proposed order.

(3) PROCEDURES.—The Secretary may promulgate regulations outlining the procedures for administrative hearings and appropriate review under this subsection, including necessary deadlines.

SEC. 419. PROTECTION OF INFORMATION.

(a) DEFINITION OF PROTECTED INFORMATION.—

(1) IN GENERAL.—In this section, the term "protected information" means—

(A) a vulnerability assessment or site security plan required by subsection (a) or (b) of section 413;

(B) any study, analysis, or other document generated by the owner or operator of a chemical source primarily for the purpose of preparing a vulnerability assessment or site security plan (including any alternative approach analysis); or

(C) any other information provided to or obtained or obtainable by the Secretary solely for the purposes of this subtitle from the owner or operator of a chemical source that, if released, is reasonably likely to increase the probability or consequences of a terrorist release.

(2) OTHER OBLIGATIONS UNAFFECTED.—Nothing in this section affects—

(A) the handling, treatment, or disclosure of information obtained from a chemical source under any other law;

(B) any obligation of the owner or operator of a chemical source to submit or make available information to a Federal, State, or local government agency under, or otherwise to comply with, any other law; or

(C) the public disclosure of information derived from protected information, so long as the information disclosed—

(i) would not divulge methods or processes entitled to protection as trade secrets in accordance with the purposes of section 1905 of title 18, United States Code;

(ii) does not identify any particular chemical source; and

(iii) is not reasonably likely to increase the probability or consequences of a terrorist release, even if the same information is also contained in a document referred to in paragraph (1).

(b) DISCLOSURE EXEMPTION.—Protected information shall be exempt from disclosure under—

(1) section 552 of title 5, United States Code; and

(2) any State or local law providing for public access to information.

(c) RULE OF CONSTRUCTION.—Subsection (b) shall not be construed to apply to a certificate of compliance or a determination of noncompliance under clause (ii) or (iii), respectively, of section 413(b)(2)(B).

SEC. 420. NO EFFECT ON REQUIREMENTS UNDER OTHER LAW.

Nothing in this subtitle affects any duty or other requirement imposed under any other Federal or State law.

Subtitle B—Critical Infrastructure Prioritization

SEC. 421. CRITICAL INFRASTRUCTURE.

(a) COMPLETION OF PRIORITIZATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall complete the prioritization of the Nation's critical infrastructure according to all of the following criteria:

(1) The threat of terrorist attack, based on threat information received and analyzed by the Office of Information Analysis of the Department regarding the intentions and capabilities of terrorist groups and other potential threats to the Nation's critical infrastructure.

(2) The likelihood that an attack would cause the destruction or significant disruption of such infrastructure.

(3) The likelihood that an attack would result in substantial numbers of deaths and serious bodily injuries, a substantial adverse impact on the national economy, or a substantial adverse impact on national security.

(b) COOPERATION.—Such prioritization shall be developed in cooperation with other relevant Federal agencies, State, local, and tribal governments, and the private sector, as appropriate.

SEC. 422. SECURITY REVIEW.

(a) REQUIREMENT.—Not later than 9 months after the date of the enactment of this Act, the Secretary, in coordination with other relevant Federal agencies, State, local, and tribal governments, and the private sector, as appropriate, shall—

(1) review existing Federal, State, local, tribal, and private sector plans for securing the critical infrastructure included in the prioritization developed under section 421;

(2) recommend changes to existing plans for securing such infrastructure, as the Secretary determines necessary; and

(3) coordinate and contribute to protective efforts of other Federal, State, local, and tribal agencies and the private sector, as appropriate, as directed in Homeland Security Presidential Directive 7.

(b) CONTENTS OF PLANS.—The recommendations made under subsection (a)(2) shall include—

(1) necessary protective measures to secure such infrastructure, including milestones and timeframes for implementation; and

(2) to the extent practicable, performance metrics to evaluate the benefits to both national security and the Nation's economy from the implementation of such protective measures.

SEC. 423. IMPLEMENTATION REPORT.

(a) IN GENERAL.—Not later than 15 months after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on the implementation of section 422. Such report shall detail—

(1) the Secretary's review and coordination of security plans under section 422; and

(2) the Secretary's oversight of the execution and effectiveness of such plans.

(b) UPDATE.—Not later than 1 year after the submission of the report under subsection (a), the Secretary shall provide an update of such report to the congressional committees described in subsection (a).

TITLE V—SECURING AIRPORTS, BAGGAGE, AND AIR CARGO

Subtitle A—Prohibition Against Increase in Security Service Fees

SEC. 501. PROHIBITION AGAINST INCREASE IN SECURITY SERVICE FEES.

None of the funds authorized under this Act may be derived from an increase in security service fees established under section 44940 of title 49, United States Code.

Subtitle B—Aviation Security

SEC. 511. FEDERAL FLIGHT DECK OFFICERS.

(a) TRAINING, SUPERVISION, AND EQUIPMENT.—Section 44921(c) of title 49, United States Code, is amended by adding at the end the following:

"(3) DATES OF TRAINING.—The Secretary shall ensure that a pilot who is eligible to receive Federal flight deck officer training is offered a choice of training dates and is provided at least 30 days advance notice of the dates.

"(4) TRAVEL TO TRAINING FACILITIES.—The Secretary shall establish a program to improve travel access to Federal flight deck officer training facilities through the use of charter flights or improved scheduled air carrier service.

"(5) REQUALIFICATION AND RECURRENT TRAINING.—

"(A) STANDARDS.—The Secretary shall establish qualification standards for facilities where Federal flight deck officers can receive requalification and recurrent training.

"(B) LOCATIONS.—The Secretary shall provide for requalification and recurrent training at geographically diverse facilities, including military facilities, Federal, State, and local law enforcement facilities, and private training facilities that meet the qualification standards established under subparagraph (A).

"(6) COSTS OF TRAINING.—

"(A) IN GENERAL.—The Secretary shall provide Federal flight deck officer training, requalification training, and recurrent training to eligible pilots at no cost to the pilots or the air carriers that employ the pilots.

"(B) TRANSPORTATION AND EXPENSES.—The Secretary may provide travel expenses to a pilot receiving Federal flight deck officer training, requalification training, or recurrent training.

"(7) ISSUANCE OF BADGES.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue badges to Federal flight deck officers.".

(b) REVOCATION OF DEPUTIZATION OF PILOT AS FEDERAL FLIGHT DECK OFFICER.—Section 44921(d)(4) of title 49, United States Code, is amended to read as follows:

"(4) REVOCATION.—

"(A) ORDERS.—The Assistant Secretary of Homeland Security (Transportation Security Administration) may issue, for good cause, an order revoking the deputization of a Federal flight deck officer under this section. The order shall include the specific reasons for the revocation.

"(B) HEARINGS.—An individual who is adversely affected by an order of the Assistant Secretary under subparagraph (A) is entitled to a hearing on the record. When conducting a hearing under this section, the administrative law judge shall not be bound by findings of fact or interpretations of laws and regulations of the Assistant Secretary.

"(C) APPEALS.—An appeal from a decision of an administrative law judge as a result of a hearing under subparagraph (B) shall be made to the Secretary or the Secretary's designee.

"(D) JUDICIAL REVIEW OF A FINAL ORDER.—The determination and order of the Secretary revoking the deputization of a Federal flight deck officer under this section shall be final and conclusive unless the individual against whom such an order is issued files an application for judicial review, not later than 60 days following the date of entry of such order, in the appropriate United States court of appeals.".

(c) FEDERAL FLIGHT DECK OFFICER FIREARM CARRIAGE PILOT PROGRAM.—Section 44921(f) of title 49, United States Code, is amended by adding at the end the following:

"(4) PILOT PROGRAM.—

"(A) IN GENERAL.—Not later than 90 days after the date of enactment of this paragraph, the Secretary shall implement a pilot program to allow pilots participating in the Federal flight deck officer program to transport their firearms on their persons. The Secretary may prescribe any training, equipment, or procedures that the Secretary determines necessary to ensure safety and maximize weapon retention.

"(B) REVIEW.—Not later than 1 year after the date of initiation of the pilot program, the Secretary shall conduct a review of the safety record of the pilot program and transmit a report on the results of the review to Congress.

"(C) OPTION.—If the Secretary as part of the review under subparagraph (B) determines that the safety level obtained under the pilot program is comparable to the safety level determined under existing methods of pilots carrying firearms on aircraft, the Secretary shall allow all pilots participating in the Federal flight deck officer program the option of carrying their firearm on their person subject to such requirements as the Secretary determines appropriate.".

(d) REFERENCES TO UNDER SECRETARY.—Section 44921 of title 49, United States Code, is amended—

(1) in subsection (a) by striking "Under Secretary of Transportation for Security" and inserting "Secretary of Homeland Security";

(2) by striking "Under Secretary" each place it appears and inserting "Secretary"; and

(3) by striking "Under Secretary's" each place it appears and inserting "Secretary's".

SEC. 512. LETTERS OF INTENT.

(a) INSTALLATION OF EDS SYSTEMS.—Section 44923(d) of title 49, United States Code, is amended by adding at the end the following:

"(7) INSTALLATION OF EDS SYSTEMS.—Upon the request of a sponsor for an airport, the Assistant Secretary for Homeland Security (Transportation Security Administration) shall revise a letter of intent issued under this subsection to provide for reimbursement of such additional costs as may be necessary to achieve complete in-line explosive detection system installation at the airport.".

(b) FEDERAL SHARE.—Section 44923(e) of title 49, United States Code, is amended by adding at the end the following:

"(3) DEADLINE FOR REVISIONS.—The Assistant Secretary for Homeland Security (Transportation Security Administration) shall revise letters of intent referred to in paragraph (2) not later than 30 days after the date of enactment of this paragraph.

"(4) EXTENSION OF REIMBURSEMENT SCHEDULES.—If the Assistant Secretary considers it necessary and appropriate due to fiscal constraints in any fiscal year, the Assistant Secretary, for purposes of ensuring reimbursement of the Federal share as provided in paragraph (1), may revise a letter of intent issued under this section to extend the reimbursement schedule for one or more fiscal years.".

SEC. 513. AVIATION SECURITY CAPITAL FUND.

(a) In General.—Section 44923(h)(1) of title 49, United States Code, is amended—

(1) in the second sentence by striking "in each of fiscal years 2004 through 2007" and inserting "in each of fiscal years 2004 and 2005, and $650,000,000 in each of fiscal years 2006 and 2007,"; and

(2) in the third sentence by striking "at least $250,000,000 in each of such fiscal years" and inserting "at least $250,000,000 in each of fiscal years 2004 and 2005, and at least $650,000,000 in each of fiscal years 2006 and 2007,".

(b) Discretionary Grants.—Section 44923(h)(3) of such title is amended by striking "for a fiscal year, $125,000,000" and inserting ", $125,000,000 for each of fiscal years 2004 and 2005, and $525,000,000 for each of fiscal years 2006 and 2007,".

SEC. 514. AIRPORT CHECKPOINT SCREENING EXPLOSIVE DETECTION.

Section 44940 of title 49, United States Code, is amended—

(1) in subsection (d)(4) by inserting ", other than subsection (i)," before "except to"; and

(2) by adding at the end the following:

"(i) Checkpoint Screening Security Fund.—

"(1) Establishment.—There is established in the Department of Homeland Security a fund to be known as the 'Checkpoint Screening Security Fund'.

"(2) Deposits.—In fiscal year 2006, after amounts are made available under section 44923(h), the next $250,000,000 derived from fees received under subsection (a)(1) shall be available to be deposited in the Fund.

"(3) Fees.—The Secretary of Homeland Security shall impose the fee authorized by subsection (a)(1) so as to collect at least $250,000,000 in fiscal year 2006 for deposit into the Fund.

"(4) Availability of amounts.—Amounts in the Fund shall be available until expended for the purchase, deployment, and installation of equipment to improve the ability of security screening personnel at screening checkpoints to detect explosives.".

SEC. 515. FLIGHT COMMUNICATIONS.

Section 4021 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3723) is amended by adding at the end the following:

"(d) Flight Communication.—

"(1) Study.—To expand the purposes of the study under subsection (a), the Assistant Secretary shall conduct a study on the viability of devices to enable discreet, wireless communications between flight attendants, pilots, Federal air marshals, and ground-based personnel during a passenger commercial aircraft flight to improve coordination of planning and activities in the event of an act of terrorism.

"(2) Report.—Not later than 180 days after the date of enactment of this subsection, the Assistant Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.".

SEC. 516. AIRPORT SITE ACCESS AND PERIMETER SECURITY.

(a) Sense of Congress.—It is the sense of Congress that the security directives issued by the Acting Administrator of the Transportation Security Administration on July 6, 2004, regarding security measures concerning access to sensitive airport areas constitute an improvement over current practice but are not sufficient to provide adequate airport access controls.

(b) Access to Sterile Areas.—Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall require airport personnel including individuals employed in positions such as aircraft maintenance, catering personnel, aircraft cargo handlers, aircraft workers with access to an aircraft ramp, aircraft support facilities personnel, and personnel of airport vendors, accessing airport sterile areas from unrestricted areas to undergo security screening equivalent to screening of passengers and carry-on baggage each time any of these airport personnel enter a sterile area from an unrestricted area. The Secretary may issue a waiver of this provision on an airport-by-airport basis, subject to the following requirements:

(1) The Secretary shall promptly notify Congress of any waivers granted under this section, the purpose for which such waivers were granted, and the duration of the waiver.

(2) Under no circumstances shall a waiver be granted for more than 7 days, although the Secretary may issue as many waivers to an airport as is deemed appropriate by the Secretary. In the event of multiple waivers, the Secretary shall provide to Congress an estimate of when the airport will be in compliance with this subsection.

(c) Background Checks for Workers.—The Secretary shall ensure that all unescorted airport personnel accessing airport sterile and secured areas have successfully undergone a background check. The background checks required under this section shall include, at a minimum:

(1) A fingerprint-based criminal history records check, or, if such a check is not possible, a check of the National Criminal Information Center.

(2) A local criminal history check.

(3) Verification of previous employment.

(4) Verification of identity, to include, but not be limited to, social security number.

(5) A check of all terrorist watch lists operated by the Federal Government, or upon certification by the Secretary that it is suitably comprehensive, the terrorist watch list operated by the Terrorist Screening Center. This subsection shall apply to all airport personnel hired more than 3 months after the date of enactment of this Act and for all airport personnel, regardless of the date on which they were hired, no more than one year after such date of enactment.

(d) Report.—The Administrator of the Transportation Security Administration shall submit to Congress, no later than January 31, 2005, a report that contains a description of ongoing efforts and projected timelines for—

(1) developing and implementing uniform screening standards for airport personnel with access to sterile areas;

(2) completing an assessment of available technologies that are applicable to securing airport perimeters and making this information available to airport operators; and

(3) developing and implementing a standardized approach to conducting airport vulnerability assessments and compliance inspections.

(e) Limitation on Statutory Construction.—Nothing in this section shall be construed to provide passengers, airport workers, or other personnel not granted regular access to secure areas before the date of enactment of this Act authority to do so, regardless of whether such person has undergone security screening.

(f) Definitions.—In this section, the following definitions apply:

(1) Sterile area.—The term "sterile area" means any part of an airport that is regularly accessible to passengers after having cleared a passenger security screening checkpoint.

(2) Secure area.—The term "secure area" means parts of an airport complex not typically accessible to passengers, including areas outside of terminal buildings, baggage handling and loading areas, parked aircraft, runways, air control towers, and similar areas.

(3) Airport personnel.—The term "airport personnel" shall mean those persons, whether employed by the airport, air carriers, or by companies that conduct business in airports.

(g) Authorization of Appropriations.—Of the amount authorized under section 901, there is authorized to be appropriated such sums as may be necessary to carry out this section. Except as provided in the preceding sentence, this section shall have no force or affect.

SEC. 517. MANPAD COUNTERMEASURE RESEARCH.

(a) In General.—In addition to research on air-based MANPAD countermeasures, the Secretary of Homeland Security shall conduct research on alternate technologies, including ground-based countermeasures.

(b) Authorization of Appropriations.—There is authorized to be appropriated $115,000,000 for fiscal year 2006 to carry out this section.

SEC. 518. AIR CHARTER AND GENERAL AVIATION OPERATIONS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

Notwithstanding any law, regulation, or agency policy or directive that has the effect of generally prohibiting general aviation aircraft from landing at Ronald Reagan Washington National Airport, not later than 60 days after the date of enactment of this Act, the Secretary of Transportation, acting through the Federal Aviation Administration, in consultation with the Secretary of Homeland Security, shall permit the resumption of nonscheduled, commercial air carrier air charter and general aviation operations at Ronald Reagan Washington National Airport. In complying with the requirements of this section, the Secretary of Transportation shall consult with the general aviation industry.

SEC. 519. INSPECTION OF CARGO CARRIED ABOARD COMMERCIAL AIRCRAFT.

(a) In General.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall implement a system that uses equipment, technology, personnel, and other means to inspect 35 percent of cargo transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate transportation. At a minimum, this system shall meet the same standards as those established by the Secretary for equipment, technology, and personnel used to screen passenger baggage. Within 2 years after the date of the enactment of this Act, the Secretary shall use this system to inspect at least 65 percent of cargo transported in passenger aircraft. Not later than three years after the date of enactment of this Act, the Secretary shall use this system to inspect at least 100 percent of cargo transported in passenger aircraft.

(b) Report.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report describing the system established under subsection (a).

TITLE VI—SECURING TRAINS ACROSS AMERICA

Subtitle A—Public Transit Security

SEC. 601. SHORT TITLE.

This subtitle may be cited as the "Safe Transit and Rail Awareness and Investments for National Security Act of 2005" or the "Safe TRAINS Act".

SEC. 602. HOMELAND SECURITY PUBLIC TRANSPORTATION GRANTS.

(a) AUTHORIZATION.—The Secretary of Homeland Security is authorized to make grants for the purpose of improving the security of public transportation systems against acts of terrorism. The grant program shall be administered by the Director of the Office of Domestic Preparedness to ensure that the program is consistent with other Department of Homeland Security grant programs.

(b) CONSIDERATIONS.—Among the considerations on which grants shall be awarded under this section are the following:

(1) Risk of terrorism, including threat assessment, vulnerabilities of public transportation systems, potential effects of acts of terrorism against public transportation systems, and past acts of terrorism against modes of transportation.

(2) Merits of the proposed projects to increase national security, based on a consideration of—

(A) threats;

(B) vulnerabilities;

(C) consequences, including human casualties and economic impacts;

(D) consequence management;

(E) the likelihood that such projects would have been pursued in the normal course of business and in the absence of national security considerations; and

(F) feasibility, based on the technical and operational merits of the projects.

(c) ALLOWABLE USE OF FUNDS.—Grants made under this section shall be used for the purposes of—

(1) support for increased capital investments in cameras, close-circuit television, and other surveillance systems;

(2) increased capital investment in command, control, and communications systems, including investments for redundancy and interoperability and for improved situational awareness, such as emergency call boxes and vehicle locator systems;

(3) increased training, including for carrying out exercises under section 603, and technical support for public transportation employees, especially for security awareness, prevention, and emergency response, including evacuation and decontamination;

(4) expanded deployment of equipment and other measures, including canine detection teams, for the detection of explosives and chemical, biological, radiological, and nuclear agents;

(5) capital improvements and operating activities, including personnel expenditures, to increase the physical security of stations, vehicles, bridges, and tunnels;

(6) capital improvements and operating activities to improve passenger survivability in the event of an attack, including improvements in ventilation, drainage, fire safety technology, emergency communications systems, lighting systems, passenger egress, and accessibility by emergency response personnel;

(7) acquisition of emergency response and support equipment, including fire suppression and decontamination equipment; and

(8) expansion of employee education and public awareness campaigns regarding security on public transportation systems.

(d) ELIGIBLE RECIPIENTS.—Grants shall be made available under this section directly to owners, operators, and providers of public transportation systems. Owners, operators, and providers of infrastructure over which public transportation operates, but which is not primarily used for public transportation, may also be eligible for grants at the discretion of the Secretary.

(e) ACCOUNTABILITY.—The Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this subtitle and the priorities and other criteria developed by the Secretary. If the Secretary determines that a recipient has used any portion of the grant funds received under this section for a purpose other than the allowable uses specified for that grant under this section, the grantee shall return any amount so used to the Treasury of the United States.

(f) PROCEDURES FOR GRANT AWARD.—The Secretary shall prescribe procedures and schedules for the awarding of grants under this section, including application and qualification procedures, and a record of decision on applicant eligibility. The Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

(g) COST SHARE.—Grants made under this section shall account for no more than—

(1) 85 percent for fiscal year 2006;

(2) 80 percent for fiscal year 2007; and

(3) 75 percent for fiscal year 2008,

of the expense of the purposes for which the grants are used.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the purposes of this section—

(1) $1,200,000,000 for fiscal year 2006;

(2) $900,000,000 for fiscal year 2007; and

(3) $700,000,000 for fiscal year 2008.

Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 603. TRAINING EXERCISES.

(a) GUIDELINES.—Not later than 4 months after the date of enactment of this Act, the Secretary of Homeland Security shall publish guidelines for the conduct by recipients of grants under section 602 of appropriate exercises for emergency response and public transportation employee training purposes.

(b) PLANS.—Not later than 6 months after receipt of a grant under section 602, the recipient of such grant shall transmit to the Secretary its emergency response plan as well as a plan for conducting exercises for emergency response and public transportation employee training purposes pursuant to the guidelines published under subsection (a).

(c) EXERCISES.—

(1) REQUIREMENT.—Not later than 1 year after receipt of a grant under section 602, the recipient of such grant shall conduct an exercise pursuant to the plan for conducting exercises transmitted under subsection (b).

(2) EXEMPTIONS.—The Secretary may exempt a grant recipient from the requirement under paragraph (1) if the recipient has recently conducted an equivalent exercise.

(3) NOTICE AND REPORT.—Not later than 30 days after conducting an exercise under paragraph (1) or as described in paragraph (2), the recipient shall notify the Secretary that such exercise has been completed, including a description of the results of the exercise and findings and lessons learned from the exercise, and shall make recommendations for changes, if necessary, to existing emergency response plans. If the recipient revises an emergency response plan as a result of an exercise under this subsection, the recipient shall transmit the revised plan to the Secretary not later than 6 months after the date of the exercise.

(d) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance in the design, preparation for, and conduct of emergency response exercises.

(e) USE OF PLANS.—The Secretary shall ensure that information submitted to the Secretary under this section is protected from any form of disclosure that might compromise public transportation security or trade secrets. Notwithstanding the preceding sentence, the Secretary may use such information, on a nonattributed basis unless otherwise agreed to by the source of the information, to aid in developing recommendations, best practices, and materials for use by public transportation authorities to improve security practices and emergency response capabilities.

SEC. 604. SECURITY BEST PRACTICES.

Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall develop, disseminate to appropriate owners, operators, and providers of public transportation systems, public transportation employees and employee representatives, and Federal, State, and local officials, and transmit to Congress, a report containing best practices for the security of public transportation systems. In developing best practices, the Secretary shall be responsible for consulting with and collecting input from owners, operators, and providers of public transportation systems, public transportation employee representatives, first responders, industry associations, private sector experts, academic experts, and appropriate Federal, State, and local officials.

SEC. 605. PUBLIC AWARENESS.

Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall develop a national plan for public outreach and awareness. Such plan shall be designed to increase awareness of measures that the general public, public transportation passengers, and public transportation employees can take to increase public transportation system security. Such plan shall also provide outreach to owners, operators, providers, and employees of public transportation systems to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve public transportation security. Not later than 9 months after the date of enactment of this Act, the Secretary shall implement the plan developed under this section.

SEC. 606. NATIONAL TRANSPORTATION SECURITY CENTERS.

(a) ESTABLISHMENT.—The Secretary of Homeland Security, working jointly with the Secretary of Transportation, shall establish more than 1 but not more than 4 National Transportation Security Centers at institutions of higher education to assist in carrying out this subtitle, to conduct research and education activities, and to develop or provide professional training, including the training of public transportation employees and public transportation-related professionals, with emphasis on utilization of intelligent transportation systems, technologies, and architectures.

(b) CRITERIA.—The Secretary shall designate the Centers according to the following selection criteria:

(1) The demonstrated commitment of the institution to transportation security issues.

(2) The use of and experience with partnerships with other institutions of higher education, Federal laboratories, or other nonprofit laboratories.

(3) Capability to conduct both practical and theoretical research and technical systems analysis.

(4) Utilization of intelligent transportation system technologies and architectures.

(5) Ability to develop professional training programs.

(6) Capability and willingness to conduct education of transportation security professionals.

(7) Such other criteria as the Secretary may designate.

(c) Funding.—The Secretary shall provide such funding as is necessary to the National Transportation Security Centers established under subsection (a) to carry out this section.

SEC. 607. WHISTLEBLOWER PROTECTIONS.

(a) In General.—No covered individual may be discharged, demoted, suspended, threatened, harassed, reprimanded, investigated, or in any other manner discriminated against (including by a denial, suspension, or revocation of a security clearance or by any other security access determination) if such discrimination is due, in whole or in part, to any lawful act done, perceived to have been done, or intended to be done by the covered individual—

(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the covered individual reasonably believes constitutes a violation of any law, rule or regulation relating to national or homeland security, which the covered individual reasonably believes constitutes a threat to national or homeland security, or which the covered individual reasonably believes constitutes fraud, waste or mismanagement of Government funds intended to be used for national or homeland security, when the information or assistance is provided to or the investigation is conducted by—

(A) a Federal, State or local regulatory or law enforcement agency (including an office of Inspector General under the Inspector General Act of 1978);

(B) any Member of Congress, any committee of Congress, or the Government Accountability Office; or

(C) a person with supervisory authority over the covered individual (or such other person who has the authority to investigate, discover, or terminate misconduct);

(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding or action filed or about to be filed relating to an alleged violation of any law, rule or regulation relating to national or homeland security; or

(3) to refuse to violate or assist in the violation of any law, rule, or regulation relating to national or homeland security.

(b) Enforcement Action.—

(1) In general.—A covered individual who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c) by—

(A) filing a complaint with the Secretary of Labor; or

(B) if the Secretary has not issued a final decision within 180 days after the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(2) Procedure.—

(A) In general.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

(B) Exception.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the person's employer.

(C) Burdens of proof.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

(D) Statute of limitations.—An action under paragraph (1) shall be commenced not later than 1 year after the date on which the violation occurs.

(c) Remedies.—

(1) In general.—A covered individual prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the covered individual whole.

(2) Damages.—Relief for any action under paragraph (1) shall include—

(A) reinstatement with the same seniority status that the covered individual would have had, but for the discrimination;

(B) the amount of any back pay, with interest;

(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees; and

(D) punitive damages in an amount not to exceed the greater of 3 times the amount of any compensatory damages awarded under this section or $5,000,000.

(d) State Secrets Privilege.—If, in any action brought under subsection (b)(1)(B), the Government asserts as a defense the privilege commonly referred to as the "state secrets privilege" and the assertion of such privilege prevents the plaintiff from establishing a prima facie case in support of the plaintiff's claim, the court shall enter judgment for the plaintiff and shall determine the relief to be granted.

(e) Criminal Penalties.—

(1) In general.—It shall be unlawful for any person employing a covered individual to commit an act prohibited by subsection (a). Any person violating this paragraph shall be fined under title 18 of the United States Code, imprisoned not more than 10 years, or both.

(2) Reporting requirement.—The Department of Justice shall submit to Congress an annual report on the enforcement of paragraph (1). Each such report shall (A) identify each case in which formal charges under paragraph (1) were brought, (B) describe the status or disposition of each such case, and (C) in any actions under subsection (b)(1)(B) in which the covered individual was the prevailing party or the substantially prevailing party, indicate whether or not any formal charges under paragraph (1) have been brought and, if not, the reasons therefor.

(f) Rights Retained by Covered Individual.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any covered individual under any Federal or State law, or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

(g) Definitions.—For purposes of this section—

(1) the term "covered individual" means an employee of—

(A) the Department of Homeland Security (which, for purposes of this section, includes the Transportation Security Administration);

(B) a Federal contractor or subcontractor; and

(C) an employer within the meaning of section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b));

(2) the term "lawful" means not specifically prohibited by law, except that, in the case of any information the disclosure of which is specifically prohibited by law or specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs, any disclosure of such information to any Member of Congress, committee of Congress, or other recipient authorized to receive such information, shall be deemed lawful;

(3) the term "Federal contractor" means a person who has entered into a contract with the Department of Homeland Security;

(4) the term "employee" means—

(A) with respect to an employer referred to in paragraph (1)(A), an employee as defined by section 2105 of title 5, United States Code; and

(B) with respect to an employer referred to in subparagraph (A) or (B) of paragraph (1), any officer, partner, employee, or agent;

(5) the term "subcontractor"—

(A) means any person, other than the Federal contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a contract with the Department of Homeland Security or a subcontract entered into in connection with such a contract; and

(B) includes any person who offers to furnish or furnishes general supplies to the Federal contractor or a higher tier subcontractor; and

(6) the term "person" means a corporation, partnership, State entity, business association of any kind, trust, joint-stock company, or individual.

(h) Terms and Conditions.—A grant under this subtitle shall be subject to terms and conditions of section 5333 of title 49, United States Code.

(i) Authorization of Funds.—Of the amounts authorized under section 101, there is authorized to be appropriated amounts necessary for carrying out this section. Except as provided in the preceding sentence, this section shall have no force or effect.

SEC. 608. DEFINITION.

In this subtitle, the following definitions apply:

(1) Public transportation employees.—The term "public transportation employees" means security personnel, dispatchers, vehicle and vessel operators, other onboard employees, maintenance and support personnel, and other appropriate employees of owners, operators, and providers of public transportation systems.

(2) Public transportation systems.—The term "public transportation systems" means passenger, commuter, and light rail, including subways, buses, commuter ferries, and other modes of public transit.

SEC. 609. MEMORANDUM OF AGREEMENT.

(a) Requirement to Work Jointly.—The Secretary of Homeland Security shall work jointly with the Secretary of Transportation in carrying out this subtitle.

(b) Memorandum.—Within 60 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Secretary of Transportation shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Homeland Security and the Department of Transportation, respectively in addressing public transportation security matters, including the process their department will follow to carry out this subtitle and promote communications, efficiency, and nonduplication of effort.

Subtitle B—Rail Security

SEC. 611. SHORT TITLE.

This subtitle may be cited as the "Rail Security Act of 2005".

CHAPTER 1—RAILROAD SECURITY

SEC. 621. RAILROAD TRANSPORTATION SECURITY.

(a) IN GENERAL.—

(1) REQUIREMENTS.—The Secretary shall develop, prepare, implement, and update—

(A) a railroad security assessment under subsection (b)(1);

(B) a railroad security plan under subsection (b)(2);

(C) prioritized recommendations for improving railroad security under subsection (d);

(D) guidance for the rail worker security training program as authorized by section 624; and

(E) a national plan for public outreach and awareness for improving railroad security as authorized by section 627.

(2) ROLE OF SECRETARY OF TRANSPORTATION.—The Secretary shall work jointly with the Secretary of Transportation, in developing, preparing, revising, implementing, and updating the documents required by paragraph (1).

(3) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this Act, the Secretary and the Secretary of Transportation shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Homeland Security and the Department of Transportation, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to carry out this chapter and promote communications, efficiency, and nonduplication of effort.

(b) SECURITY ASSESSMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall complete the security assessment of railroad transportation required under subsection (a)(1). The security assessment shall include—

(A) identification and evaluation of critical railroad assets and infrastructures;

(B) identification of threats to those assets and infrastructures;

(C) identification of vulnerabilities that are specific to the transportation of hazardous materials by railroad;

(D) identification of redundant and backup systems required to ensure the continued operation of critical elements of the railroad system in the event of an attack or other incident, including disruption of commercial electric power or communications networks; and

(E) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems (including passenger and cargo screening), procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) SECURITY PLAN.—The Secretary shall use the security assessment completed under paragraph (1) to develop a transportation modal security plan under section 114(t)(1)(B) of title 49, United States Code, for the security of the Nation's railroads. The plan shall—

(A) establish a strategy for minimizing terrorist threats to railroad transportation systems;

(B) establish a strategy for maximizing the efforts of railroads to mitigate damage from terrorist attacks;

(C) require the Federal Government to provide increased security support at high or severe threat levels of alert;

(D) set forth procedures for establishing and maintaining permanent and comprehensive consultative relations among the parties described in subsection (c);

(E) include a contingency plan to ensure the continued movement of freight and passengers in the event of an attack affecting the railroad system, which shall contemplate—

(i) the possibility of rerouting traffic due to the loss of critical infrastructure, such as a bridge, tunnel, yard, or station; and

(ii) methods of continuing railroad service in the Northeast Corridor in the event of a commercial power loss, or catastrophe affecting a critical bridge, tunnel, yard, or station; and

(F) account for actions taken or planned by both public and private entities to address security issues identified under paragraph (1) and assess the effective integration of such actions.

(c) CONSULTATION.—In developing the plan under subsection (b)(2) and the recommendations under subsection (d), the Secretary and the Secretary of Transportation shall consult with the freight and passenger railroad carriers, nonprofit employee organizations representing rail workers, nonprofit employee organizations representing emergency responders, owners or lessors of rail cars used to transport hazardous materials, shippers of hazardous materials, manufacturers of rail tank cars, State Departments of Transportation, public safety officials, and other relevant parties.

(d) RECOMMENDATIONS.—The Secretary shall develop prioritized recommendations for improving railroad security, including recommendations for—

(1) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified as posing significant railroad-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of railroad service;

(2) deploying surveillance equipment;

(3) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(4) installing redundant and backup systems to ensure the continued operation of critical elements of the railroad system in the event of an attack or other incident, including disruption of commercial electric power or communications networks;

(5) conducting public outreach campaigns on passenger railroads; and

(6) identifying the immediate and long-term costs of measures that may be required to address those risks.

(e) REPORT.—

(1) CONTENTS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report containing the security assessment, plan, and prioritized recommendations required by this section, along with an estimate of the cost to implement such recommendations.

(2) FORMAT.—The report may be submitted in a classified format if the Secretary determines that such action is necessary.

(f) PERIODIC UPDATES.—The Secretary shall update the railroad security assessment, security plan, and prioritized recommendations for improving railroad security under subsection (a), and the guidance for a railroad worker security training program under section 105, every 2 years and submit a report, which may be submitted in both classified and redacted formats, to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate not less frequently than April 1 of each even-numbered year.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $10,000,000 for the purpose of carrying out this section.

SEC. 622. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) SECURITY IMPROVEMENT GRANTS.—The Secretary, in coordination with the Secretary of Transportation, is authorized to make grants to freight and passenger railroad carriers, nonprofit employee organizations that represent rail workers, shippers of hazardous materials by rail, owners of rail cars used in the transportation of hazardous materials, manufacturers of rail tank cars, and State and local governments, for costs incurred in the conduct of activities to prevent or respond to acts of terrorism or sabotage against railroads, or other railroad security threats, including—

(1) perimeter protection systems, including access control, installation of better lighting, fencing, and barricades at railroad facilities;

(2) structural modification or replacement of rail cars transporting hazardous materials to improve their resistance to acts of terrorism;

(3) technologies for reduction of tank car vulnerability;

(4) security improvements to passenger railroad stations, trains, and infrastructure;

(5) tunnel protection systems;

(6) evacuation improvements;

(7) inspection technologies, including verified visual inspection technologies using hand-held readers and discs;

(8) security and redundancy for critical communications, computer, and train control systems essential for secure railroad operations or to continue railroad operations after an attack impacting railroad operations;

(9) train tracking and interoperable communications systems;

(10) chemical, biological, radiological, or explosive detection systems and devices;

(11) surveillance equipment;

(12) additional police and security officers, including canine units;

(13) accommodation of cargo or passenger screening equipment;

(14) employee security awareness, preparedness, and response training (including compliance with section 625);

(15) public security awareness campaigns;

(16) emergency response equipment, including fire suppression and decontamination equipment; and

(17) other improvements recommended by the report required by section 621, including infrastructure, facilities, and equipment upgrades.

(b) CONDITIONS.—The Secretary shall require recipients of funds for construction under this section and section 623 of this Act to apply the standards of section 24312 of title 49, United States Code, as in effect on September 1, 2004, with respect to the construction in the same manner as Amtrak is required to comply with such standards for construction work financed under an agreement made under section 24308(a) of such title 49.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $600,000,000 to carry out the purposes of this section, of which $100,000,000 shall be used by the Secretary for making grants to Amtrak, in accordance with this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 623. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—There are authorized to be appropriated to Amtrak for the purposes of carrying out this section the following amounts:

(1) For the 6 new york tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $100,000,000 for fiscal year 2006;
(B) $100,000,000 for fiscal year 2007;
(C) $100,000,000 for fiscal year 2008;
(D) $100,000,000 for fiscal year 2009; and
(E) $170,000,000 for fiscal year 2010.

(2) For the baltimore & potomac tunnel and the union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $10,000,000 for fiscal year 2006;
(B) $10,000,000 for fiscal year 2007;
(C) $10,000,000 for fiscal year 2008;
(D) $10,000,000 for fiscal year 2009; and
(E) $17,000,000 for fiscal year 2010.

(3) For the washington, district of columbia, union station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $8,000,000 for fiscal year 2006;
(B) $8,000,000 for fiscal year 2007;
(C) $8,000,000 for fiscal year 2008;
(D) $8,000,000 for fiscal year 2009; and
(E) $8,000,000 for fiscal year 2010.

(b) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

SEC. 624. RAIL SECURITY RESEARCH AND DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary shall carry out a research and development program for the purpose of improving railroad security that may include research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars; and

(C) communication-based train controls;

(4) test wayside detectors that can detect tampering with railroad equipment;

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car and transmit information about the integrity of tank cars to the train crew;

(B) research to improve tank car integrity; and

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety; and

(6) other projects recommended in the report required by section 621.

(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Secretary shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department of Homeland Security, the Department of Transportation, and other Federal agencies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $50,000,000 in each of fiscal years 2006 and 2007 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 625. RAIL WORKER SECURITY TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with appropriate law enforcement, security, and terrorism experts, representatives of railroad carriers, and nonprofit employee organizations that represent rail workers, shall develop and issue detailed guidance for a rail worker security training program to prepare rail workers for potential threat conditions.

(b) PROGRAM ELEMENTS.—The guidance developed under subsection (a) shall require such a program to include, at a minimum, elements that address the following:

(1) Determination of the seriousness of any occurrence.

(2) Crew and passenger communication and coordination.

(3) Appropriate responses to defend oneself.

(4) Use of protective devices.

(5) Evacuation procedures.

(6) Live situational training exercises regarding various threat conditions, including tunnel evacuation procedures.

(7) Any other subject the Secretary considers appropriate.

(c) RAILROAD CARRIER PROGRAMS.—Not later than 60 days after the Secretary issues guidance under subsection (a) in final form, each railroad carrier shall develop a rail worker security training program in accordance with that guidance and submit it to the Secretary for approval. Not later than 60 days after receiving a railroad carrier's program under this subsection, the Secretary shall review the program and approve it or require the railroad carrier to make any revisions the Secretary considers necessary for the program to meet the guidance requirements.

(d) TRAINING.—Not later than 1 year after the Secretary approves the training program developed by a railroad carrier under this section, the railroad carrier shall complete the training of all rail workers in accordance with that program.

(e) UPDATES.—The Secretary shall update the training guidance issued under subsection (a) from time to time to reflect new or different security threats, and require railroad carriers to revise their programs accordingly and provide additional training to their rail workers.

SEC. 626. WHISTLEBLOWER PROTECTION.

(a) IN GENERAL.—Subchapter I of chapter 201 of title 49, is amended by inserting after section 20115 the following:

"§ 20116. Whistleblower protection for railroad security matters

"(a) DISCRIMINATION AGAINST EMPLOYEE.—No railroad carrier engaged in interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)

"(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a perceived threat to security;

"(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a perceived threat to security;

"(3) has assisted or participated, or is about to assist or participate, in any manner in a proceeding or any other action to enhance railroad security; or

"(4) refused to violate or assist in the violation of any law, rule, or regulation related to railroad security.

"(b) ENFORCEMENT ACTION.—

"(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c) by

"(A) filing a complaint with the Secretary of Labor; or

"(B) if the Secretary of Labor has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

"(2) PROCEDURE.—

"(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of this title.

"(B) EXCEPTION.—Notification made under section 42121(b)(1) of this title, shall be made to the person named in the complaint and to the employer.

"(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) this title.

"(D) STATUTE OF LIMITATIONS.—An action under paragraph (1)(A) shall be commenced not later than 90 days after the date on which the violation occurs.

"(c) REMEDIES.—

"(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the employee whole.

"(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include

"(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

"(B) the amount of back pay, with interest; and

"(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

"(d) RIGHTS RETAINED BY EMPLOYEE.—Except as provided in subsection (e), nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.

"(e) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the railroad carrier.

"(f) DISCLOSURE OF IDENTITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), without the written consent of the employee, the Secretary of Labor may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

"(2) EXCEPTION.—The Secretary of Labor shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 201 of title 49, is amended by inserting after the item relating to section 20115 the following:

"20116. Whistleblower protection for railroad security matters.".".

SEC. 627. PUBLIC OUTREACH.

Not later than 180 days after the date of enactment of this Act, the Secretary shall develop a national plan for public outreach and awareness. Such plan shall be designed to increase awareness of measures that the general public, railroad passengers, and railroad employees can take to increase railroad system security. Such plan shall also provide outreach to railroad carriers and their employees to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve railroad security. Not later than 9 months after the date of enactment of this Act, the Secretary shall implement the plan developed under this section.

SEC. 628. PASSENGER, BAGGAGE, AND CARGO SCREENING.

The Secretary shall—

(1) analyze the cost and feasibility of requiring security screening for passengers, baggage, and cargo on passenger trains; and

(2) report the results of the study, together with any recommendations that the Secretary may have for implementing a rail security screening program to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate not later than 1 year after the date of enactment of this Act.

SEC. 629. EMERGENCY RESPONDER TRAINING STANDARDS.

Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall issue training standards for persons responsible for responding to emergency situations occurring during transportation of hazardous materials by rail, in accordance with existing regulations, to ensure their ability to protect nearby persons, property, or the environment from the effects of accidents involving hazardous materials.

SEC. 630. INFORMATION FOR FIRST RESPONDERS.

(a) IN GENERAL.—The Secretary of Transportation shall provide grants to Operation Respond Institute for the purpose of

(1) deploying and expanding the Operation Respond Emergency Information System software;

(2) developing, implementing, and maintaining a railroad infrastructure mapping program that correlates railroad right-of-way information with highway grid maps and overhead imagery of traffic routes, hazardous materials routes, and commuter rail lines; and

(3) establishing an alert and messaging capability for use during emergencies involving freight and passenger railroads.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to carry out this section $2,500,000 for each of fiscal years 2005, 2006, and 2007. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 631. TSA PERSONNEL LIMITATIONS.

Any statutory limitation on the number of employees in the Transportation Security Administration, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this title.

SEC. 632. RAIL SAFETY REGULATIONS.

Section 20103(a) of title 49, United States Code, is amended by striking "safety" the first place it appears, and inserting "safety, including security".

SEC. 633. RAIL POLICE OFFICERS.

Section 28101 of title 49, United States Code, is amended by striking "the rail carrier" each place it appears and inserting "any rail carrier".

SEC. 634. DEFINITIONS.

For purposes of this chapter—

(1) the terms "railroad" and "railroad carrier" have the meaning given those terms in section 20102 of title 49, United States Code; and

(2) the term "Secretary" means the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Border and Transportation Security.

CHAPTER 2—ASSISTANCE TO FAMILIES OF PASSENGERS

SEC. 641. ASSISTANCE BY NATIONAL TRANSPORTATION SAFETY BOARD TO FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Subchapter III of chapter 11 of title 49, United States Code, is amended by adding at the end the following:

"§ 1138. Assistance to families of passengers involved in rail passenger accidents

"(a) IN GENERAL.—As soon as practicable after being notified of a rail passenger accident within the United States involving a rail passenger carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall

"(1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the rail passenger carrier and the families; and

"(2) designate an independent nonprofit organization, with experience in disasters and posttrauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

"(b) RESPONSIBILITIES OF THE BOARD.—The Board shall have primary Federal responsibility for

"(1) facilitating the recovery and identification of fatally injured passengers involved in an accident described in subsection (a); and

"(2) COMMUNICATING WITH THE FAMILIES OF PASSENGERS INVOLVED IN THE ACCIDENT AS TO THE ROLES OF.—

"(A) the organization designated for an accident under subsection (a)(2);

"(B) Government agencies; and

"(C) the rail passenger carrier involved,

with respect to the accident and the post-accident activities.

"(c) RESPONSIBILITIES OF DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with respect to the families of passengers involved in the accident:

"(1) To provide mental health and counseling services, in coordination with the disaster response team of the rail passenger carrier involved.

"(2) To take such actions as may be necessary to provide an environment in which the families may grieve in private.

"(3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.

"(4) To arrange a suitable memorial service, in consultation with the families.

"(d) PASSENGER LISTS.—

"(1) REQUESTS FOR PASSENGER LISTS.—

"(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.—It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the rail passenger carrier involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the rail passenger carrier's train involved in the accident. A rail passenger carrier shall use reasonable efforts, with respect to its unreserved trains, and passengers not holding reservations on its other trains, to ascertain the names of passengers aboard a train involved in an accident.

"(B) REQUESTS BY DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) may request from the rail passenger carrier involved in the accident a list described in subparagraph (A).

"(2) USE OF INFORMATION.—The director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.

"(e) CONTINUING RESPONSIBILITIES OF THE BOARD.—In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident

"(1) are briefed, prior to any public briefing, about the accident and any other findings from the investigation; and

"(2) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

"(f) USE OF RAIL PASSENGER CARRIER RESOURCES.—To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the rail passenger carrier involved in the accident to facilitate the reasonable use of the resources of the carrier.

"(g) PROHIBITED ACTIONS.—

"(1) ACTIONS TO IMPEDE THE BOARD.—No person (including a State or political subdivision) may impede the ability of the Board (including the director of family support services designated for an accident under subsection (a)(1)), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of the families of passengers involved in the accident to have contact with one another.

"(2) UNSOLICITED COMMUNICATIONS.—No unsolicited communication concerning a potential action for personal injury or wrongful death may be made by an attorney (including any associate, agent, employee, or other representative of an attorney) or any potential party to the litigation to an individual (other than an employee of the rail passenger carrier) injured in the accident, or to a relative of an individual involved in the accident, before the 45th day following the date of the accident.

"(3) PROHIBITION ON ACTIONS TO PREVENT MENTAL HEALTH AND COUNSELING SERVICES.—No State or political subdivision may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing mental health and counseling services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the families and if State and local authorities are notified of the determination.

"(h) DEFINITIONS.—In this section, the following definitions apply:

"(1) RAIL PASSENGER ACCIDENT.—The term 'rail passenger accident' means any rail passenger disaster occurring in the provision of

"(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

"(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation,

regardless of its cause or suspected cause.

"(2) RAIL PASSENGER CARRIER.—The term 'rail passenger carrier' means a rail carrier providing

"(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

"(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation,

except that such term shall not include a tourist, historic, scenic, or excursion rail carrier.

"(3) PASSENGER.—The term 'passenger' includes

"(A) an employee of a rail passenger carrier aboard a train;

"(B) any other person aboard the train without regard to whether the person paid for the transportation, occupied a seat, or held a reservation for the rail transportation; and

"(C) any other person injured or killed in the accident.

"(i) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

"(i) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

"(1) GENERAL RULE.—This section (other than subsection (g)) shall not apply to a railroad accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

"(2) BOARD ASSISTANCE.—If this section does not apply to a railroad accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.".

(b) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 1137 the following:

"1138. Assistance to families of passengers invoolved in rail passenger accidents.".

SEC. 642. RAIL PASSENGER CARRIER PLANS TO ADDRESS NEEDS OF FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Part C of subtitle V of title 49, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 251—FAMILY ASSISTANCE

"Sec.

"25101. Plans to address needs of families of passengers involved in rail passenger accidents.

"§ 25101. Plans to address needs of families of passengers involved in rail passenger accidents

"(a) SUBMISSION OF PLANS.—Not later than 180 days after the date of the enactment of this section, each rail passenger carrier shall submit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving a train of the rail passenger carrier and resulting in a major loss of life.

"(b) CONTENTS OF PLANS.—A plan to be submitted by a rail passenger carrier under subsection (a) shall include, at a minimum, the following:

"(1) A plan for publicizing a reliable, toll-free telephone number, and for providing staff, to handle calls from the families of the passengers.

"(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1138(a)(2) of this title or the services of other suitably trained individuals.

"(3) An assurance that the notice described in paragraph (2) will be provided to the family of a passenger as soon as the rail passenger carrier has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified) and, to the extent practicable, in person.

"(4) An assurance that the rail passenger carrier will provide to the director of family support services designated for the accident under section 1138(a)(1) of this title, and to the organization designated for the accident under section 1138(a)(2) of this title, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for the rail passenger carrier to use reasonable efforts to ascertain the names of passengers aboard a train involved in an accident.

"(5) An assurance that the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the rail passenger carrier.

"(6) An assurance that if requested by the family of a passenger, any possession of the passenger within the control of the rail passenger carrier (regardless of its condition) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

"(7) An assurance that any unclaimed possession of a passenger within the control of the rail passenger carrier will be retained by the rail passenger carrier for at least 18 months.

"(8) An assurance that the family of each passenger or other person killed in the accident will be consulted about construction by the rail passenger carrier of any monument to the passengers, including any inscription on the monument.

"(9) An assurance that the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

"(10) An assurance that the rail passenger carrier will work with any organization designated under section 1138(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

"(11) An assurance that the rail passenger carrier will provide reasonable compensation to any organization designated under section 1138(a)(2) of this title for services provided by the organization.

"(12) An assurance that the rail passenger carrier will assist the family of a passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

"(13) An assurance that the rail passenger carrier will commit sufficient resources to carry out the plan.

"(14) An assurance that the rail passenger carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

"(15) An assurance that, upon request of the family of a passenger, the rail passenger carrier will inform the family of whether the passenger's name appeared on any preliminary passenger manifest for the train involved in the accident.

"(c) LIMITATION ON LIABILITY.—A rail passenger carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the rail passenger carrier in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by the rail passenger carrier under subsection (b), unless such liability was caused by conduct of the rail passenger carrier which was grossly negligent or which constituted intentional misconduct.

"(d) DEFINITIONS.—In this section—

"(1) the terms 'rail passenger accident' and 'rail passenger carrier' have the meanings such terms have in section 1138 of this title; and

"(2) the term 'passenger' means a person aboard a rail passenger carrier's train that is involved in a rail passenger accident.

"(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.".

(b) CONFORMING AMENDMENT.—The table of chapters for subtitle V of title 49, United States Code, is amended by adding after the item relating to chapter 249 the following new item:

"251. FAMILY ASSISTANCE .... 25101".

SEC. 643. ESTABLISHMENT OF TASK FORCE.

(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation, in coordination with the National Transportation Safety Board, organizations potentially designated under section 1138(a)(2) of title 49, United States Code, rail passenger carriers, and families which have been involved in rail accidents, shall establish a task force consisting of representatives of such entities and families, representatives of passenger rail carrier employees, and representatives of such other entities as the Secretary considers appropriate.

(b) MODEL PLAN AND RECOMMENDATIONS.—The task force established pursuant to subsection (a) shall develop—

(1) a model plan to assist passenger rail carriers in responding to passenger rail accidents;

(2) recommendations on methods to improve the timeliness of the notification provided by passenger rail carriers to the families of passengers involved in a passenger rail accident;

(3) recommendations on methods to ensure that the families of passengers involved in a passenger rail accident who are not citizens of the United States receive appropriate assistance; and

(4) recommendations on methods to ensure that emergency services personnel have as immediate and accurate a count of the number of passengers onboard the train as possible.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the model plan and recommendations developed by the task force under subsection (b).

TITLE VII—SECURING CRITICAL INFRASTRUCTURE

SEC. 701. CRITICAL INFRASTRUCTURE.

(a) COMPLETION OF PRIORITIZATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall complete the prioritization of the Nation's critical infrastructure according to all of the following criteria:

(1) The threat of terrorist attack, based on threat information received and analyzed by the Office of Information Analysis of the Department regarding the intentions and capabilities of terrorist groups and other potential threats to the Nation's critical infrastructure.

(2) The likelihood that an attack would cause the destruction or significant disruption of such infrastructure.

(3) The likelihood that an attack would result in substantial numbers of deaths and serious bodily injuries, a substantial adverse impact on the national economy, or a substantial adverse impact on national security.

(b) COOPERATION.—Such prioritization shall be developed in cooperation with other relevant Federal agencies, State, local, and tribal governments, and the private sector, as appropriate.

SEC. 702. SECURITY REVIEW.

(a) REQUIREMENT.—Not later than 9 months after the date of the enactment of this Act, the Secretary, in coordination with other relevant Federal agencies, State, local, and tribal governments, and the private sector, as appropriate, shall—

(1) review existing Federal, State, local, tribal, and private sector plans for securing the critical infrastructure included in the prioritization developed under section 701;

(2) recommend changes to existing plans for securing such infrastructure, as the Secretary determines necessary; and

(3) coordinate and contribute to protective efforts of other Federal, State, local, and tribal agencies and the private sector, as appropriate, as directed in Homeland Security Presidential Directive 7.

(b) CONTENTS OF PLANS.—The recommendations made under subsection (a)(2) shall include—

(1) necessary protective measures to secure such infrastructure, including milestones and timeframes for implementation; and

(2) to the extent practicable, performance metrics to evaluate the benefits to both national security and the Nation's economy from the implementation of such protective measures.

SEC. 703. IMPLEMENTATION REPORT.

(a) IN GENERAL.—Not later than 15 months after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on the implementation of section 702. Such report shall detail—

(1) the Secretary's review and coordination of security plans under section 702; and

(2) the Secretary's oversight of the execution and effectiveness of such plans.

(b) UPDATE.—Not later than 1 year after the submission of the report under subsection (a), the Secretary shall provide an update of such report to the congressional committees described in subsection (a).

TITLE VIII—PREVENTING A BIOLOGICAL ATTACK

SEC. 801. GAO REPORT OF DEPARTMENT BIOLOGICAL TERRORISM PROGRAMS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate assessing the full history of Department of Homeland Security activities with regard to biological terrorism and recommending which Department of the Government should administer such activities.

(b) INCLUDED CONTENTS.—The report shall consider and discuss—

(1) progress made in implementing the BioShield program;

(2) how effectively the Department of Health and Human Services is administering the BioShield program;

(3) whether the Department of Health and Human Services has the administrative capability necessary to fully implement the BioShield program; and

(4) the legislative history of the BioShield program, including the legislation that established the program as it was introduced in the Congress and considered and reported by the Select Committee on Homeland Security of the House of Representatives.

SEC. 802. REPORT ON BIO-COUNTERMEASURES.

Not later than 12 months after the date of enactment of this Act, the Secretary of Homeland Security in consultation with the Secretary of Health and Human Services shall transmit to the Congress a report with recommendations, on—

(1) the feasibility of supplying first responders, not limited to law enforcement, firefighters and emergency medical service personnel, with biological and chemical agent countermeasures or vaccinations when necessary;

(2) the appropriate levels and types of biological and chemical agents, industrial materials and other hazardous substances that first responders should be protected against; and

(3) the system and appropriate means of accessing, delivering, storing and dispersing countermeasures to first responder personnel.

TITLE IX—PROTECTION OF AGRICULTURE

SEC. 901. REPORT TO CONGRESS ON IMPLEMENTATION OF RECOMMENDATIONS REGARDING PROTECTION OF AGRICULTURE.

The Secretary of Homeland Security shall report to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate by no later than 120 days after the date of the enactment of this Act regarding how the Department of Homeland Security will implement the applicable recommendations from the Government Accountability Office report entitled "Homeland Security: Much is Being Done to Protect Agriculture from a Terrorist Attack, but Important Challenges Remain" (GAO-05-214).

TITLE X—OPTIMIZING OUR SCREENING CAPABILITIES

Subtitle A—U.S. Visitor and Immigrant Status Indicator Technology Database

SEC. 1001. INTEROPERABILITY OF DATA FOR UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY.

(a) FINDINGS.—The Congress finds as follows:

(1) The Congress is troubled by the security gap on the Nation's borders caused by delays in linking fingerprint data in IDENT with criminal history data contained in IAFIS.

(2) The Congress expected that, by the end of 2004, such interoperability would be in place at airports, seaports, and the largest and busiest Border Patrol stations and land border ports of entry, but this will not be completed until December 31, 2005.

(3) With implementation of a new visa tracking system, and enrollment of millions of visitors in US-VISIT, it is essential that the Directorate of Border and Transportation Security collaborate with the Federal Bureau of Investigations to ensure that IDENT can retrieve, in real time, biometric information containing in IAFIS, and that IAFIS can retrieve, in real time, biometric information contained in IDENT.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall prepare, and submit to the Committee on Homeland Security of the United States House of Representatives, a report that details the status of the effort to achieve real-time interoperability of IAFIS and IDENT, including the following:

(1) The steps the Department will take to achieve this goal, the funds needed to achieve this goal, and a timetable to achieve this goal.

(2) A description of the effort being made to address the recommendations in the March, 2004, Department of Justice Inspector General report and subsequent December, 2004, report, which documented the need to integrate existing biometric databases; and

(3) The plan for maintaining the interoperability of IAFIS and IDENT, once achieved.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "IAFIS" means the Integrated Automated Fingerprint Identification

System maintained by the Federal Bureau of Investigation of the Department of Justice.

(2) The term "IDENT" means the Automated Biometrics Identification System maintained by the Bureau of Customs and Border Protection of the Department of Homeland Security.

(3) The term "US–VISIT" means the United States Visitor and Immigrant Status Indicator Technology maintained by the Bureau of Customs and Border Protection of the Department of Homeland Security.

Subtitle B—Studies to Improve Border Management and Immigration Security

SEC. 1011. STUDY ON BIOMETRICS.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Director of the National Institute of Standards and Technology, shall conduct a comprehensive study of all biometric identifiers that might be collected for purposes of processing and adjudicating applications and petitions for immigration benefits, and shall determine which among these identifiers would be most appropriate for the purposes described in subsection (b). The Secretary shall provide the resources necessary to properly conduct the study.

(b) USES.—In carrying out subsection (a), the Secretary shall consider the use of a biometric identifier—

(1) to register or catalogue a petition or application for an immigration benefit upon submission to the appropriate Federal agency;

(2) to check the petitioner or applicant against watch lists;

(3) as part of the integrated entry and exit data system required under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a); and

(4) to conduct background checks with Federal intelligence agencies.

(c) FACTORS.—The Secretary shall consider the following factors in making the determination under subsection (a):

(1) Accuracy

(2) The technology available.

(3) Economic considerations.

(4) Storage.

(5) Efficiency.

(6) Feasibility.

(d) SUBMISSION.—The study should be completed not later than January 1, 2006, and shall be submitted to the Committee on Homeland Security of the United States House of Representatives.

SEC. 1012. STUDY ON DIGITIZING IMMIGRATION BENEFIT APPLICATIONS.

(a) IN GENERAL.—The Secretary of Homeland Security shall conduct a comprehensive study on digitizing all applications and petitions for an immigration benefit, including digital storage, cataloguing, and the ability to apply for all types of immigration benefits through digital means. The study should consider costs for both the Federal Government and the applicant or petitioner, as well as the feasibility for all types of persons to apply by digital means.

(b) SUBMISSION.—The study should be completed not later than January 1, 2006, and shall be submitted to the Committee on Homeland Security of the United States House of Representatives.

SEC. 1013. STUDY ON ELIMINATION OF ARRIVAL/DEPARTURE PAPER FORMS.

(a) IN GENERAL.—The Secretary of Homeland Security shall conduct a comprehensive study on replacing Department of Homeland Security paper Form Number I–94 (Arrival/Departure Record) and Form Number I–94W (NIV Waiver Arrival/Departure Record) with procedures that ensure that the functions served by such forms are being carried out by electronic or digitized means. The study should consider the costs and savings to the Federal Government of such replacement.

(b) SUBMISSION.—The study should be completed not later than January 1, 2006, and shall be submitted to the Committee on Homeland Security of the United States House of Representatives.

SEC. 1014. CATALOGUING IMMIGRATION APPLICATIONS BY BIOMETRIC.

(a) IN GENERAL.—The Secretary of Homeland Security shall conduct a comprehensive study on whether all applications and petitions for an immigration benefit shall be registered or catalogued by the receiving agency using a biometric identifier. The Secretary of Homeland Security shall study one or more alternative biometric identifiers to be used for such purposes.

(b) SUBMISSION.—The study should be completed not later than January 1, 2006, and shall be submitted to the Committee on Homeland Security of the United States House of Representatives. It shall include recommendations for resource allocation.

TITLE XI—SECURING CYBERSPACE AND HARNESSING TECHNOLOGY TO PREVENT DISASTER

Subtitle A—Department of Homeland Security Cybersecurity Enhancement

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Department of Homeland Security Cybersecurity Enhancement Act of 2005".

SEC. 1102. ASSISTANT SECRETARY FOR CYBERSECURITY.

Section 201(b) of the Homeland Security Act of 2002 (6 U.S.C. 121(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) ASSISTANT SECRETARY FOR CYBERSECURITY.—There shall be in the Department an Assistant Secretary for Cybersecurity, who shall be appointed by the President."; and

(3) in paragraph (4), as redesignated by subparagraph (A) of this paragraph—

(A) by striking "Analysis and the" and inserting "Analysis, the"; and

(B) by striking "Protection shall" and inserting "Protection, and the Assistant Secretary for Cybersecurity shall".

SEC. 1103. CYBERSECURITY TRAINING PROGRAMS AND EQUIPMENT.

(a) IN GENERAL.—The Secretary of Homeland Security, acting through the Assistant Secretary for Cybersecurity, may establish, in conjunction with the National Science Foundation, a program to award grants to institutions of higher education (and consortia thereof) for—

(1) the establishment or expansion of cybersecurity professional development programs;

(2) the establishment or expansion of associate degree programs in cybersecurity; and

(3) the purchase of equipment to provide training in cybersecurity for either professional development programs or degree programs.

(b) ROLES.—

(1) DEPARTMENT OF HOMELAND SECURITY.—The Secretary, acting through the Assistant Secretary for Cybersecurity and in consultation with the Director of the National Science Foundation, shall establish the goals for the program established under this section and the criteria for awarding grants under the program.

(2) NATIONAL SCIENCE FOUNDATION.—The Director of the National Science Foundation shall operate the program established under this section consistent with the goals and criteria established under paragraph (1), including soliciting applicants, reviewing applications, and making and administering grant awards. The Director may consult with the Assistant Secretary for Cybersecurity in selecting awardees.

(3) FUNDING.—The Secretary shall transfer to the National Science Foundation the funds necessary to carry out this section.

(c) GRANT AWARDS.—

(1) PEER REVIEW.—All grant awards under this section shall be made on a competitive, merit-reviewed basis.

(2) FOCUS.—In making grant awards under this section, the Director shall, to the extent practicable, ensure geographic diversity and the participation of women and underrepresented minorities.

(3) PREFERENCE.—In making grant awards under this section, the Director shall give preference to applications submitted by consortia of institutions to encourage as many students and professionals as possible to benefit from this program.

(d) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized under section 101, there is authorized to be appropriated to the Secretary for carrying out this section $3,700,000 for fiscal year 2006.

(e) DEFINITIONS.—In this section, the term "institution of higher education" has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

SEC. 1104. CYBERSECURITY RESEARCH AND DEVELOPMENT.

Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et. seq.) is amended by adding at the end the following new section:

"SEC. 314. CYBERSECURITY RESEARCH AND DEVELOPMENT.

"(a) IN GENERAL.—The Under Secretary for Science and Technology shall support research and development, including fundamental, long-term research, in cybersecurity to improve the ability of the United States to prevent, protect against, detect, respond to, and recover from cyber attacks, with emphasis on research and development relevant to large-scale, high-impact attacks.

"(b) ACTIVITIES.—The research and development supported under subsection (a), shall include work to—

"(1) advance the development and accelerate the deployment of more secure versions of fundamental Internet protocols and architectures, including for the domain name system and routing protocols;

"(2) improve and create technologies for detecting attacks or intrusions, including monitoring technologies;

"(3) improve and create mitigation and recovery methodologies, including techniques for containment of attacks and development of resilient networks and systems that degrade gracefully; and

"(4) develop and support infrastructure and tools to support cybersecurity research and development efforts, including modeling, testbeds, and data sets for assessment of new cybersecurity technologies.

"(c) COORDINATION.—In carrying out this section, the Under Secretary for Science and Technology shall coordinate activities with—

"(1) the Assistant Secretary for Cybersecurity; and

"(2) other Federal agencies, including the National Science Foundation, the Defense Advanced Research Projects Agency, and the National Institute of Standards and Technology, to identify unmet needs and cooperatively support activities, as appropriate.

"(d) NATURE OF RESEARCH.—Activities under this section shall be carried out in accordance with section 306(a) of this Act.".

Subtitle B—Coordination With National Intelligence Director

SEC. 1111. IDENTIFICATION AND IMPLEMENTATION OF TECHNOLOGIES THAT IMPROVE SHARING OF INFORMATION WITH THE NATIONAL INTELLIGENCE DIRECTOR.

Section 201(d)(8) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is amended by inserting ", including identifying and implementing technologies that improve sharing of information with the National Intelligence Director," after "within the Federal Government".

Subtitle C—Cybersecurity Research

SEC. 1121. SUPPORT OF BASIC CYBERSECURITY RESEARCH.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 121 et seq.) is amended by adding the following:

"SEC. 314. SUPPORT OF BASIC CYBERSECURITY RESEARCH.

"The Secretary, through the Directorate of the Department of Science and Technology and subject to the availability of appropriations, shall fund basic cybersecurity research, including the following:

"(1) Development of information technology design protocols, methodologies, and applications to improve the integration of security control and protocols into next-generation-networks, mobile and wireless networks, and computing devices and applications.

"(2) Development of network-based control mechanisms for improving the capability of operators and service providers to disable malicious action by hostile actors.

"(3) Development of mechanisms for improving international network responsiveness to cybersecurity threats, including predictive modeling, communication mechanisms and information sharing systems.

"(4) Modeling of the cyber vulnerabilities of the Nation's critical infrastructures, including Supervisory Control and Data Acquisition (SCADA) and Digital Control Systems (DCS).

"(5) Mapping of key interdependences, choke-points, and single points-of-failure within the Nation's cyber critical infrastructure and the development of remediation programs.

"(6) Development of technologies, methodologies, and applications to mitigate the most common cyber vulnerabilities affecting networks, including viruses, worms, and denial-of-service attacks.

"(7) Identification of emerging cybersecurity threats and vulnerabilities affecting next-generation networks and mobile and wireless networks.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to title III the following:

"Sec. 314. Support of basic cybersecurity research.".

Subtitle D—Cybersecurity Training and Equipment

SEC. 1131. CYBERSECURITY TRAINING PROGRAMS AND EQUIPMENT.

(a) IN GENERAL.—The Secretary of Homeland Security, acting through the Assistant Secretary for Cybersecurity, may establish, in conjunction with the National Science Foundation, a program to award grants to institutions of higher education (and consortia thereof) for—

(1) the establishment or expansion of cybersecurity professional development programs;

(2) the establishment or expansion of associate degree programs in cybersecurity; and

(3) the purchase of equipment to provide training in cybersecurity for either professional development programs or degree programs.

(b) ROLES.—

(1) DEPARTMENT OF HOMELAND SECURITY.—The Secretary, acting through the Assistant Secretary for Cybersecurity and in consultation with the Director of the National Science Foundation, shall establish the goals for the program established under this section and the criteria for awarding grants under the program.

(2) NATIONAL SCIENCE FOUNDATION.—The Director of the National Science Foundation shall operate the program established under this section consistent with the goals and criteria established under paragraph (1), including soliciting applicants, reviewing applications, and making and administering grant awards. The Director may consult with the Assistant Secretary for Cybersecurity in selecting awardees.

(3) FUNDING.—The Secretary shall transfer to the National Science Foundation the funds necessary to carry out this section.

(c) GRANT AWARDS.—

(1) PEER REVIEW.—All grant awards under this section shall be made on a competitive, merit-reviewed basis.

(2) FOCUS.—In making grant awards under this section, the Director shall, to the extent practicable, ensure geographic diversity and the participation of women and underrepresented minorities.

(3) PREFERENCE.—In making grant awards under this section, the Director shall give preference to applications submitted by consortia of institutions to encourage as many students and professionals as possible to benefit from this program.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for carrying out this section $3,700,000 for fiscal year 2006.

(e) DEFINITIONS.—In this section, the term "institution of higher education" has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

TITLE XII—HELPING FIRST RESPONDERS GET THEIR JOB DONE

Subtitle A—Communications Interoperability

SEC. 1201. INTEROPERABLE COMMUNICATIONS TECHNOLOGY GRANT PROGRAM.

Section 430 of the Homeland Security Act of 2002 (6 U.S.C. 238) is amended by adding at the end the following:

"(e) INTEROPERABLE COMMUNICATIONS GRANTS.—

"(1) DEFINITIONS.—In this subsection, the following definitions shall apply:

"(A) COMMUNICATIONS INTEROPERABILITY.—The term 'communications interoperability' means the ability of public safety service and support providers, including emergency response providers, to communicate with other responding agencies and Federal agencies if necessary, through information technology systems and radio communications systems, and to exchange voice, data, or video with one another on demand, in real time, as necessary.

"(B) ELIGIBLE STATE.—The term 'eligible State' means a State that—

"(i) has submitted a plan under paragraph (4); and

"(ii) the Secretary determines has not achieved adequate statewide communications interoperability.

"(C) PUBLIC SAFETY AGENCIES.—The term 'public safety agencies' includes emergency response providers and any other persons that the Secretary determines must communicate effectively with one another to respond to emergencies.

"(2) IN GENERAL.—The Secretary shall—

"(A) make grants on a competitive basis directly to local governments (including a consortium of local governments) and public safety agencies within eligible States, in consultation with the chief executives of the State or States, for the purpose of assisting in the development of interoperable communications systems at any stage, including—

"(i) planning, system design, and engineering;

"(ii) procurement and installation of equipment;

"(iii) operations and maintenance of equipment; and

"(iv) testing and technology development; and

"(B) make grants to eligible States for initiatives necessary to achieve communications interoperability within each State, including—

"(i) statewide communications planning;

"(ii) system design and engineering;

"(iii) procurement and installation of equipment;

"(iv) operations and maintenance of equipment; and

"(v) testing and technology development initiatives.

"(3) COORDINATION.—

"(A) IN GENERAL.—The Secretary shall ensure that grants administered under this subsection are coordinated with the activities of other entities of the Department and other Federal entities so that grants awarded under this subsection, and other grant programs related to homeland security, facilitate the achievement of the strategy developed under section 6 of the Faster and Smarter Funding for First Responders Act of 2005.

"(B) RELATIONSHIP TO EXISTING GRANT PROGRAMS.—Nothing in this Act shall provide for the combination of grant funds among the grant program established under this subsection and any other grant programs administered by the Department of Homeland Security, including the State Homeland Security Grant Program of the Department, or any successor to such grant program, and the Urban Area Security Initiative of the Department, or any successor to such grant program.

"(4) ELIGIBILITY.—

"(A) SUBMISSION OF PLAN.—To be eligible to receive a grant under this subsection, each eligible State, or local governments or public safety agencies within an eligible State or States, shall submit a communications interoperability plan to the Secretary that—

"(i) addresses any stage of the development of interoperable communications systems, including planning, system design and engineering, procurement and installation, operations and maintenance, and testing and technology development;

"(ii) if the applicant is not a State, includes a description of how the applicant addresses the goals specified in any applicable State plan or plans submitted under this section; and

"(iii) is approved by the Secretary.

"(B) INCORPORATION AND CONSISTENCY.—A plan submitted under subparagraph (A) may be part of, and shall be consistent with, any other homeland security plans required of the submitting party by the Department.

"(5) AWARD OF GRANTS.—

"(A) CONSIDERATIONS.—In approving plans and awarding grants under this subsection, the Secretary shall consider—

"(i) the nature of the threat to the eligible State or local jurisdiction;

"(ii) the location, risk, or vulnerability of critical infrastructure and key national assets;

"(iii) the number, as well as the density, of persons who will be served by interoperable communications systems;

"(iv) the extent of the partnerships, existing or planned, established between local jurisdictions and agencies participating in the development of interoperable communications systems, and their coordination with Federal and State agencies;

"(v) the level of communications interoperability already achieved by the jurisdictions;

"(vi) the extent to which the communications interoperability plan submitted under paragraph (4) adequately addresses steps necessary to implement short-term or long-term solutions to communications interoperability;

"(vii) the extent to which eligible States and local governments, in light of their financial capability, demonstrate their commitment to expeditiously achieving communications interoperability by supplementing Federal funds with non-Federal funds;

"(viii) the extent to which grants will expedite the achievement of interoperability in the relevant jurisdiction with Federal, State, and local agencies; and

"(ix) the extent to which grants will be utilized to implement advanced communications technologies to promote interoperability.

"(B) COST SHARING.—

"(i) IN GENERAL.—The Federal share of the costs of an activity carried out with a grant to an applicant awarded under this section shall not exceed 75 percent.

"(ii) IN-KIND MATCHING.—Each recipient of a covered grant may meet the matching requirement under clause (i) by making in-kind contributions of goods or services that are directly linked with the purpose for which the grant is made, including personnel overtime, contractor services, administrative costs, equipment fuel and maintenance, and rental space.

"(6) REIMBURSEMENT.—

"(A) IN GENERAL.—Unless otherwise requested by the recipient of a grant under this subsection, grants shall not be awarded to reimburse the recipient for prior expenditures related to achieving communications interoperability.

"(B) EXCEPTION.—The Secretary shall reimburse public safety agencies directly for costs incurred for expenditures related to achieving communications interoperability, if—

"(i) the public safety agency expended funds after September 11, 2001, and before the date of enactment of this subsection; and

"(ii) such expenditures are consistent with and supportive of the communications interoperability plan approved by the Secretary under paragraph (4)(A)(iii).

"(C) TERMINATION OF AUTHORITY.—The authority of the Secretary under subparagraph (B) shall terminate one year after the date on which the Department of Homeland Security first allocates grant funds for this program.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $500,000,000 for fiscal year 2006, $750,000,000 for fiscal year 2007, $1,000,000,000 for fiscal year 2008, $1,250,000,000 for fiscal year 2009, $1,500,000,000 for fiscal year 2010, and such sums as are necessary each fiscal year thereafter, to carry out the purposes of this subsection.".

SEC. 1202. STUDY REVIEWING COMMUNICATION EQUIPMENT INTEROPERABILITY.

(a) STUDY.—The Secretary of Homeland Security shall conduct a study reviewing communication equipment interoperability and the viability of an acquisition strategy that requires all agencies to purchase equipment made by manufacturers that have committed to allow their products to be reverse engineered, so that interoperability can be assured regardless of manufacturer.

(b) REPORT.—The Secretary shall submit to the Congress a report on the findings, conclusions, and recommendation of the study by not later than 6 months after the date of the enactment of this Act.

SEC. 1203. PREVENTION OF DELAY IN REASSIGNMENT OF DEDICATED SPECTRUM FOR PUBLIC SAFETY PURPOSES.

It is the sense of Congress that—

(1) communications interoperability is a critical problem faced by our Nation's first responders;

(2) permanently correcting this problem requires broadcast spectrum dedicated for use by first responders; and

(3) Congress supports prompt action to make certain dedicated spectrum is available for use by first responders.

Subtitle B—Homeland Security Terrorism Exercises

SEC. 1211. SHORT TITLE.

This subtitle may be cited as the "Homeland Security Terrorism Exercises Act of 2005."

SEC. 1212. NATIONAL TERRORISM EXERCISE PROGRAM.

(a) IN GENERAL.—Section 430 of the Homeland Security Act of 2002 (6 U.S.C. 238) is amended by striking "and" after the semicolon at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting "; and", and by adding at the end the following:

"(10) designing, developing, performing, and evaluating exercises at the National, State, territorial, regional, local, and tribal levels of government that incorporate government officials, emergency response providers, public safety agencies, the private sector, international governments and organizations, and other appropriate entities to test the Nation's capability to prevent, prepare for, respond to, and recover from threatened or actual acts of terrorism.".

(b) NATIONAL TERRORISM EXERCISE PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—Title VIII of the Homeland Security Act of 2002 (Public Law 107–296) is amended by adding at the end the following new subtitle:

"Subtitle J—Terrorism Preparedness Exercises

"SEC. 899a. NATIONAL TERRORISM EXERCISE PROGRAM.

"(a) IN GENERAL.—The Secretary, through the Office for Domestic Preparedness, shall establish a National Terrorism Exercise Program for the purpose of testing and evaluating the Nation's capabilities to prevent, prepare for, respond to, and recover from threatened or actual acts of terrorism that—

"(1) enhances coordination for terrorism preparedness between all levels of government, emergency response providers, international governments and organizations, and the private sector;

"(2) is—

"(A) multidisciplinary in nature, including, as appropriate, information analysis and cybersecurity components;

"(B) as realistic as practicable and based on current risk assessments, including credible threats, vulnerabilities, and consequences;

"(C) carried out with the minimum degree of notice to involved parties regarding the timing and details of such exercises, consistent with safety considerations;

"(D) evaluated against performance measures and followed by corrective action to solve identified deficiencies; and

"(E) assessed to learn best practices, which shall be shared with appropriate Federal, State, territorial, regional, local, and tribal personnel, authorities, and training institutions for emergency response providers; and

"(3) assists State, territorial, local, and tribal governments with the design, implementation, and evaluation of exercises that—

"(A) conform to the requirements of paragraph (2); and

"(B) are consistent with any applicable State homeland security strategy or plan.

"(b) NATIONAL LEVEL EXERCISES.—The Secretary, through the National Terrorism Exercise Program, shall perform on a periodic basis national terrorism preparedness exercises for the purposes of—

"(1) involving top officials from Federal, State, territorial, local, tribal, and international governments, as the Secretary considers appropriate;

"(2) testing and evaluating the Nation's capability to detect, disrupt, and prevent threatened or actual catastrophic acts of terrorism, especially those involving weapons of mass destruction; and

"(3) testing and evaluating the Nation's readiness to respond to and recover from catastrophic acts of terrorism, especially those involving weapons of mass destruction.".

(2) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to title VIII the following:

"Subtitle J—Terrorism Preparedness Exercises

"Sec. 899a. National terrorism exercise program.".

Subtitle C—Citizenship Preparedness

SEC. 1221. FINDINGS.

The Congress finds that individual citizens must be a significant part of our overall approach to the Nation's security because—

(1) September 11, 2001, confirmed that all Americans have responsibility for homeland security;

(2) the United States will not be secure until the hometown is secure and the "publicity and the vigilance of ordinary Americans make a difference" in their communities' abilities to prepare for, to train for, and to respond to disasters of all kinds; and

(3) emergency responders can become overwhelmed in a catastrophic event and citizens must be prepared and trained to take care of themselves and others.

SEC. 1222. PURPOSES.

The purpose of this title is to to provide an orderly and continuing means of assistance by the Federal Government to State, local, and tribal governments in carrying out their responsibilities to engage all Americans in homeland security to provide an orderly and continuing means of assistance by the Federal Government to State, local, and tribal governments in carrying out their responsibilities to engage all Americans in homeland security by—

(1) achieving greater coordination among citizens, the private sector, non-governmental organizations, and all emergency responder disciplines through Citizen Corps Councils;

(2) encouraging individuals and communities to prepare for all hazards and threats;

(3) providing Federal assistance to establish, to build, and to sustain Citizen Corps Councils, which foster a comprehensive partnership among all emergency responder disciplines, government officials, the private sector, community and faith-based organizations to develop a local, risk-based strategy plan to engage citizens in hometown security through accurate preparedness information through public education and outreach; timely event-based information, including alerts and warnings; training in preparedness, prevention, and emergency response skills; and opportunities for collaboration with local emergency responders through volunteer programs, exercises, community outreach, and other coordinated efforts to promote citizen preparedness;

(4) focusing on how both to include people with disabilities and special needs in emergency preparedness and response training and collaboration opportunities and to ensure that emergency responders are better preparedness to meet the needs of this segment of society; and

(5) endorsing homeland security plans and strategies that integrate citizen/volunteer resources and participation and task force/advisory council memberships that include advocates for increased citizen participation.

SEC. 1223. CITIZENS CORPS; PRIVATE SECTOR PREPAREDNESS.

Title I of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

"SEC. 104. CITIZEN CORPS AUTHORIZATION.

"(a) ADMINISTRATION AND SUPERVISION.—Citizen Corps and other community preparedness programs in the Department of Homeland Security shall be administered by the Executive Director of the Office of State and Local Government Coordination and Preparedness under the supervision and direction of the Secretary.

"(b) EXECUTIVE DIRECTOR.—The Executive Director—

"(1) shall serve as Chair of the National Citizen Corps Council;

"(2) shall convene meetings of the National Citizen Corps Council at his own discretion or at the direction of the Secretary;

"(3) shall coordinate with State, local, and tribal government personnel, agencies, and authorities, and with the private sector, to ensure adequate planning, equipment, training, and exercise activities to fulfill the mission of engaging citizens in homeland security; and

"(4) shall provide periodic reports on the status of Citizen Corps and citizen preparedness to the Homeland Security Council through the Secretary.

"(c) USES OF FUNDS.—Funds made available under this title shall be used for the following:

"(1) Activities related to the component programs of Citizen Corps, including but not limited to Community Emergency Response Teams, Fire Corps, Volunteers in Police Service, USA on Watch, and Medical Reserve Corps.

"(2) To provide funding to States in accordance with Public Law 107-296, except that States must pass through at least 80 percent of funds received under this title to local Citizen Corps Councils.

"(3) State and local Citizen Corps councils may purchase educational materials for use in elementary and secondary schools for emergency preparedness education programs.

"(d) COORDINATION WITH OTHER FEDERAL ENTITIES.—The Executive Director—

"(1) shall support the coordination among all Federal entities to develop and sustain Citizen Corps and citizen preparedness and participation, especially the Departments of Health and Human Services, Justice, Commerce, Education, the Environmental Protection Agency, and Corporation for National and Community Service; and

"(2) shall have the authority to make contracts, grants, and cooperative agreements, and to enter into agreements with other executive agencies, as may be necessary and proper to carry out the Executive Director's responsibilities under this title or otherwise provided by law.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title—

"(1) for fiscal year 2006, $50 million;

"(2) for fiscal year 2007, $55 million;

"(3) for fiscal year 2008, $60 million;

"(4) for fiscal year 2009, $65 million; and

"(5) for fiscal year 2010, $70 million.

"SEC. 105. PRIVATE SECTOR EMERGENCY PREPAREDNESS PROGRAM.

"(a) PREPAREDNESS PROGRAM.—Not later than 90 days after the date of the enactment of this title, the Secretary shall develop and implement a program to enhance private sector preparedness for emergencies and disasters, including emergencies resulting from acts of terrorism.

"(b) PROGRAM ELEMENTS.—In carrying out the program, the Secretary shall develop guidance and identify best practices to assist or foster action by the private sector in—

"(1) identifying hazards and assessing risks and impacts;

"(2) mitigating the impacts of a wide variety of hazards, including weapons of mass destruction;

"(3) managing necessary emergency preparedness and response resources;

"(4) developing mutual aid agreements;

"(5) developing and maintaining emergency preparedness and response plans, as well as associated operational procedures;

"(6) developing and maintaining communications and warning systems;

"(7) developing and conducting training and exercises to support and evaluate emergency preparedness and response plans and operational procedures;

"(8) developing and conducting training programs for security guards to implement emergency preparedness and response plans and operations procedures; and

"(9) developing procedures to respond to external requests for information from the media and the public.

"(c) STANDARDS.—

"(1) IN GENERAL.— The Secretary shall support the development of, promulgate, and regularly update as necessary national voluntary consensus standards for private sector emergency preparedness that will enable private sector organizations to achieve optimal levels of emergency preparedness as soon as practicable. Such standards include the National Fire Protection Association 1600 Standard on Disaster/Emergency Management and Business Continuity Programs.

"(2) CONSULTATION.—The Secretary shall carry out paragraph (1) in consultation with the Under Secretary for Emergency Preparedness and Response, the Under Secretary for Science and Technology, the Under Secretary for Information Analysis and Infrastructure Protection, and the Special Assistant to the Secretary for the Private Sector.

"(d) COORDINATION.—The Secretary shall coordinate the program with, and utilize to the maximum extent practicable—

"(1) the voluntary standards for disaster and emergency management and business continuity programs developed by the American National Standards Institute and the National Fire Protection Association; and

"(2) any existing private sector emergency preparedness guidance or best practices developed by private sector industry associations or other organizations.".

Subtitle D—Emergency Medical Services

SEC. 1231. EMERGENCY MEDICAL SERVICES ADMINISTRATION.

(a) ESTABLISHMENT.—Title V of the Homeland Security Act of 2002 (Public Law 107-296) is amended by adding at the end the following:

"SEC. 510. EMERGENCY MEDICAL SERVICES ADMINISTRATION.

"(a) ESTABLISHMENT.—There is established, within the Directorate of Emergency Preparedness and Response, an Emergency Medical Services Administration to oversee and coordinate government efforts related to emergency medical services response to incidents of terrorism, including governmental and nongovernmental emergency medical services.

"(b) RESPONSIBILITIES.—The head of the Emergency Medical Services Administration shall—

"(1) coordinate activities related to emergency medical services and homeland security;

"(2) serve as liaison to the emergency medical services community;

"(3) evaluate training programs and standards for emergency medical services personnel;

"(4) conduct periodic assessments into the needs and capabilities of emergency medical services providers, including governmental and nongovernmental providers;

"(5) conduct periodic research into the number of emergency medical services personnel, including governmental and nongovernmental emergency medical services, as well emergency medical services providers that are associated with fire departments or hospital-based.

"(c) NATIONWIDE NEEDS ASSESSMENT.—The head of the Emergency Medical Services Administration shall conduct nationwide needs assessment of emergency medical services capabilities and needs related to equipment, training, and personnel.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items related to title V the following:

"Sec. 510. Emergency Medical Services Administration.".

SEC. 1232. SENSE OF CONGRESS.

The Secretary of the Department of Homeland Security should review the current system for distributing Emergency Management Performance Grants and consider distributing grant funds to State emergency managers rather than to State homeland security directors.

Subtitle E—Lessons Learned Information Sharing System

SEC. 1241. LESSONS LEARNED, BEST PRACTICES, AND CORRECTIVE ACTION.

(a) IN GENERAL.—In conjunction with the National Memorial Institute for the Prevention of Terrorism (MIPT) in Oklahoma City, Oklahoma, the Secretary shall support the continued growth and operation of the Lessons Learned Information Sharing

(LLIS.gov) system to promote the generation and dissemination of peer-validated lessons learned, best practices, and corrective actions across the entire range of emergency response and homeland security disciplines for all local, state, tribal, and national jurisdictions. Lessons Learned Information Sharing is the recognized national collaborative network to enhance preparedness and prevention capabilities throughout the country. In supporting Lessons Learned Information Sharing, the Secretary shall ensure the following:

(1) that the National Memorial Institute for the Prevention Terrorism (MIPT), in its unique role as an independent and honest broker of lessons learned, best practices, and corrective action, remain the Department's official steward of Lessons Learned Information Sharing;

(2) that the Lessons Learned Information Sharing system be expanded to include research and analysis on all primary, secondary, and tertiary emergency response and homeland security disciplines;

(3) that the successful model of the Lessons Learned Information Sharing system be applied to address the lessons learned and best practices needs of both the private sector and the American public at large;

(4) that the Lessons Learned Information Sharing system be expanded and made available to the emergency responders and domestic security officials of our international allies, as deemed appropriate by the Secretary, to include the collection and accommodation of international lessons learned and best practices;

(5) that the Lessons Learned Information Sharing system serve as the host platform and parent system for the Department's Corrective Action and Improvement Program that supports the Homeland Security National Exercise Program, Senior Officials Exercises, and Top Officials (TopOff) exercises, in accordance with the Department's Homeland Security Exercise and Evaluation Program (HSEEP);

(6) that the Lessons Learned Information Sharing system support the continued analysis and implementation of the National Preparedness Goal and National Preparedness Guidance as required by Homeland Security Presidential Decision Directive Eight;

(7) that the Lessons Learned Information Sharing System shall study the feasibility of developing a non-secure section for non-confidential and non-sensitive information;

(b) AUTHORIZATION OF APPROPRIATIONS.—The Secretary is authorized to be appropriated $17,000,000 for the fiscal year 2006 to carry out the above requirements.

Subtitle F—Technology Transfer Clearinghouse

SEC. 1251. SHORT TITLE.

This subtitle may be cited as the "Department of Homeland Security Technology Development and Transfer Act of 2005".

SEC. 1252. TECHNOLOGY DEVELOPMENT AND TRANSFER.

(a) ESTABLISHMENT OF TECHNOLOGY CLEARINGHOUSE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall complete the establishment of the Technology Clearinghouse under Section 313 of the Homeland Security Act of 2002.

(b) TRANSFER PROGRAM.—Section 313 of the Homeland Security Act of 2002 (6 U.S.C. 193) is amended—

(1) by adding at the end of subsection (b) the following new paragraph:

"(6) The establishment of a homeland security technology transfer program to facilitate the identification, modification, and commercialization of technology and equipment for use by Federal, State, and local governmental agencies, emergency response providers, and the private sector to prevent, prepare for, or respond to acts of terrorism.";

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection:

"(c) TECHNOLOGY TRANSFER PROGRAM.—In developing the program described in subsection (b)(6), the Secretary, acting through the Under Secretary for Science and Technology, shall—

"(1) in consultation with the other Undersecretaries of the Department and the Director of the Office for Domestic Preparedness, on an ongoing basis—

"(A) conduct surveys and reviews of available appropriate technologies that have been, or are in the process of being developed or demonstrated by the Department, other Federal agencies, or the private sector or foreign governments and international organizations and that may be useful in assisting Federal, State, and local governmental agencies, emergency response providers, or the private sector to prevent, prepare for, or respond to acts of terrorism;

"(B) conduct or support research and development as appropriate of technologies identified under subparagraph (A), including any necessary modifications to such technologies for anti-terrorism use;

"(C) communicate to Federal, State, and local governmental agencies, emergency response providers, or the private sector the availability of such technologies for anti-terrorism use, as well as the technology's specifications, satisfaction of appropriate standards, and the appropriate grants available from the Department to purchase such technologies;

"(D) coordinate the selection and administration of all technology transfer activities of the Science and Technology Directorate, including projects and grants awarded to the private sector and academia; and

"(E) identify priorities based on current risk assessments within the Department of Homeland Security for identifying, researching, developing, modifying, and fielding existing technologies for anti-terrorism purposes; and

"(2) in support of the activities described in paragraph (1)—

"(A) consult with Federal, State, and local emergency response providers;

"(B) consult with government and nationally recognized standards organizations as appropriate;

"(C) enter into agreements and coordinate with other Federal agencies and foreign governments and international organizations as the Secretary determines appropriate, in order to maximize the effectiveness of such technologies or to facilitate commercialization of such technologies; and

"(D) consult with existing technology transfer programs and Federal and State training centers that research, develop, and transfer military and other technologies for use by emergency response providers.".

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Under Secretary for Science and Technology shall transmit to the Congress a description of the progress the Department has made in implementing the provisions of section 313 of the Homeland Security Act of 2002, as amended by this Act, including a description of the process used to review unsolicited proposals received as described in subsection (b)(3) of such section.

(d) SAVINGS CLAUSE.—Nothing in this section (including the amendments made by this section) shall be construed to alter or diminish the effect of the limitation on the authority of the Secretary of Homeland Security under section 302(4) of the Homeland Security Act of 2002 (6 U.S.C. 182(4)) with respect to human health-related research and development activities.

Subtitle G—Metropolitan Medical Response System

SEC. 1261. METROPOLITAN MEDICAL RESPONSE SYSTEM; AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS OF APPROPRIATIONS.—For the Metropolitan Medical Response System within the Department of Homeland Security, there is authorized to be appropriated $50,000,000 for each of the fiscal years 2006 through 2008.

(b) RESERVATION OF AMOUNTS FOR LOCAL RESPONSIBILITIES.—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary of Homeland Security shall reserve not less than 90 percent to provide funds to the appropriate local entities for carrying out local responsibilities with respect to the Metropolitan Medical Response System.

TITLE XIII—FIGHTING DOMESTIC TERRORISM

SEC. 1301. ADVISORY COMMITTEE ON DOMESTIC TERRORIST ORGANIZATIONS.

(a) REQUIREMENT TO ESTABLISH.—Title I of the Homeland Security Act of 2002 (Public Law 107-296) is amended by adding at the end the following:

"SEC. 104. ADVISORY COMMITTEE ON DOMESTIC TERRORIST ORGANIZATIONS.

"(a) ESTABLISHMENT.—To assist the Secretary in identifying the threat posed by domestic terrorist organizations, the Secretary shall establish an advisory body pursuant to section 871(a) by not later than 60 days after the date of the enactment of this section, which shall be known as the Advisory Committee on Domestic Terrorist Organizations.

"(b) REPORT.—The advisory committee shall submit to the Secretary, by not later than 6 months after its establishment by the Secretary under subsection (a) and not later than every 1 year thereafter, a report on the threat posed by domestic terrorist organizations. Each report shall—

"(1) include an assessment of the nature and scope of domestic terrorist organization threats to the homeland;

"(2) detect and identify threats of domestic terrorist organizations against the United States;

"(3) assess the Department's performance in detecting, identifying, and countering domestic terrorist organizations and their threat to the homeland; and

"(4) suggest improvements in the Department's efforts to detect, identify, and counter domestic terrorist organizations and their threat to the homeland.

"(c) ADVISE ON PARTICULAR THREATS.—At the Secretary's discretion, the Advisory Committee may also advise the Secretary on particular threats posed by domestic terrorist organizations.

"(d) MEMBERSHIP.—

"(1) IN GENERAL.—The Advisory Committee shall consist of representatives of 15 organizations that have long-standing experience in monitoring domestic terrorist organizations and assessing their danger, and shall include a representative of each of—

"(A) the Southern Poverty Law Center;

"(B) the Simon Wiesenthal Center;

"(C) the Anti-Defamation League;

"(D) the National Association for the Advancement of Colored People;

"(E) the Arab American Institute;

"(F) the American-Arab Anti-Discrimination Committee;

"(G) the National Coalition of Anti-Violence Programs; and

"(H) the National Abortion Federation.

"(2) EX OFFICIO MEMBERS.—The Secretary shall designate one or more officers of the Department to serve as ex officio members of the Advisory Committee. One of such ex officio members from the Department shall be the designated officer of the Federal Government for purposes of subsection (e) of section 10 of the Federal Advisory Committee Act (5 App. U.S.C.).

"(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Notwithstanding section 871(a), the Federal Advisory Committee Act (5 App. U.S.C.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, Untied States Code, shall apply to the Task Force.

"(f) TERRORIST ORGANIZATION DEFINED.—In this section, the term 'domestic terrorist organization' means an organization that is based primarily in the United States and that engages in domestic terrorism (as that term is defined in section 2331 of title 18, United States Code) or that has the capability and intent to engage in domestic terrorism.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to title I the following:

"Sec. 104. Advisory Committee on Domestic Terrorist Organizations.".

TITLE XIV—CREATING A DIVERSE AND MANAGEABLE DEPARTMENT OF HOMELAND SECURITY

Subtitle A—Authorities of Privacy Officer

SEC. 1401. AUTHORITIES OF PRIVACY OFFICER.

Section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) is amended—

(1) by inserting before the first sentence the following: "(a) APPOINTMENT AND RESPONSIBILITIES.—";

(2) in subsection (a) (as designated by the amendment made by paragraph (1) of this section) by striking "to assume" and inserting "as the Privacy Officer of the Department. The Privacy Officer shall have"; and

(3) by adding at the end the following:

"(b) AUTHORITY TO INVESTIGATE.—The Privacy Officer shall have the same authority as the Inspector General of the Department to require employees of the Department to produce documents and answer questions, with respect to any matter within the authority of the senior official under subsection (a).

"(c) TERM OF OFFICE.—The term of appointment of an individual as Privacy Officer shall be 5 years.

"(d) REPORTS TO CONGRESS.—The Privacy Officer shall submit reports directly to the Congress regarding any matter within the authority of the Privacy Officer under this section, without any prior comment or amendment from the Secretary, Deputy Secretary, or any other officer or employee of the Department or the Office of Management and Budget.".

Subtitle B—Ensuring Diversity in Department of Homeland Security Programs

SEC. 1411. ANNUAL REPORTS RELATING TO EMPLOYMENT OF COVERED PERSONS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "Secretary" means the Secretary of Homeland Security;

(2) the term "Department" means the Department of Homeland Security;

(3) the term "covered persons" means—

(A) racial and ethnic minorities;

(B) women; and

(C) individuals with disabilities;

(4) the term "category", as used with respect to covered persons, refers to the categories of persons identified in subparagraphs (A), (B), and (C), respectively, of paragraph (3); and

(5) the term "element", as used with respect to the Department, means a directorate of the Department and the office of the Secretary.

(b) ANNUAL REPORTS.—Not later than February 1 of each year, the Secretary shall prepare and transmit to each House of Congress a report on the employment of covered persons by the Department during the preceding fiscal year. Each such report shall include, for each element of the Department, the following:

(1) The total number of individuals holding positions within such element as of the end of such fiscal year and, of that number, the percentage (in the aggregate and by category) that covered persons comprised.

(2) For each pay grade, pay band, or other pay classification of each pay schedule and for every other rate of pay—

(A) the total number of individuals holding positions within such element as of the end of such fiscal year who were subject to each such pay classification or rate; and

(B) of the respective numbers under subparagraph (A), the percentage (in the aggregate and by category) that covered persons comprised.

(3) The total number of individuals appointed to positions within such element during such fiscal year and, of that number, the percentage (in the aggregate and by category) that covered persons comprised.

(c) UNCLASSIFIED FORM.—Each report under this section shall be submitted in unclassified form, but may include a classified annex if the Secretary considers one to be necessary.

SEC. 1412. PROCUREMENT.

(a) REPORT.—Not later than 360 days after the date of the enactment of this Act, the Chief Procurement Officer of the Department of Homeland Security shall submit to the Secretary of Homeland Security, the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a report that—

(1) identifies each program of the Department for which the aggregate value of contracts awarded in fiscal year 2005 under the program to persons that are small disadvantaged business, women-owned small businesses, or historically underutilized business zones (popularly known as "HUBZones") ,was less than 5 percent of the total value of all contracts awarded under the program in that fiscal year; and

(2) identifies and describes any barriers to achieving a goal of awarding to such persons each fiscal year contracts having an aggregate value of at least 5 percent of the total value of all contracts awarded under the program in the fiscal year.

(b) ACTION PLAN.—

(1) ACTION PLAN REQUIRED.—Not later than 90 days after the date of the submission of the report required under subsection (a), the Chief Procurement Officer, in consultation with Office of Small and Disadvantaged Businesses Utilization of the Department, shall develop , submit to the Committees referred to in subsection (a), and begin implementing for each program identified under subsection (a)(1) an action plan for achieving the goal described in subsection (a)(2).

(2) PERFORMANCE MEASURES AND TIMETABLE.—Each action plan shall include performance measures and a timetable for compliance and achievement of the goal described in subsection (a)(2).

SEC. 1413. CENTERS OF EXCELLENCE PROGRAM.

In selecting the first institution of higher education selected after the date of the enactment of this Act under the Department of Homeland Security Centers of Excellence program, the Secretary of Homeland Security shall select an otherwise eligible applicant that is an historically black college or university that receives assistance under part B of title III of the Higher Education Act of 1965 (20 U.S.C 106 et seq), an hispanic-serving institution (as that term is defined in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a), or a tribally controlled college or university (as that term is defined in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801).

Subtitle C—Protection of Certain Employee Rights

SEC. 1421. PROVISIONS TO PROTECT CERTAIN EMPLOYEE RIGHTS.

(a) COLLECTIVE BARGAINING, APPEALS, ETC.—

(1) IN GENERAL.—Section 9701(c) of title 5, United States Code, is amended—

(A) in paragraph (1), by inserting "(F)," after "(E),"; and

(B) in paragraph (2), by striking "59, 72, 73, and 79," and inserting "and 59,".

(2) CONFORMING AMENDMENT.—Section 9701(f) of title 5, United States Code, is repealed.

(b) RATES OF PAY.—Section 9701(d) of title 5, United States Code, is amended—

(1) in paragraph (2), by striking "or" after the semicolon;

(2) in paragraph (3), by striking the period and inserting "; or"; and

(3) by inserting after paragraph (3) the following:

"(4) to fix the pay for any position at a rate that is less than—

"(A) in the case of a position that (if this chapter had not been enacted) would have been subject to the provisions of this title relating to the General Schedule, the rate determined under such provisions; or

"(B) in the case of any other position, the rate determined under such provisions for the position that is most similar in its duties and responsibilities to those of such other position (as determined under regulations) and that is subject to such provisions.".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect as if included in the enactment of the Homeland Security Act of 2002 (Public Law 107-296; 6 U.S.C. 101 note).

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act and shall apply with respect to pay for service performed in any pay period beginning on or after such date.

Subtitle D—Whistleblower Protections

SEC. 1431. WHISTLEBLOWER PROTECTIONS.

(a) IN GENERAL.—No covered individual may be discharged, demoted, suspended, threatened, harassed, reprimanded, investigated, or in any other manner discriminated against (including by a denial, suspension, or revocation of a security clearance or by any other security access determination) if such discrimination is due, in whole or in part, to any lawful act done, perceived to have been done, or intended to be done by the covered individual—

(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the covered individual reasonably believes constitutes a violation of any law, rule or regulation relating to national or homeland security, which the covered individual reasonably believes constitutes a threat to national or homeland security, or which the covered individual reasonably believes constitutes fraud, waste or mismanagement of Government funds intended to be used for national or homeland security, when the information or assistance is provided to or the investigation is conducted by—

(A) a Federal, State or local regulatory or law enforcement agency (including an office of Inspector General under the Inspector General Act of 1978);

(B) any Member of Congress, any committee of Congress, or the Government Accountability Office; or

(C) a person with supervisory authority over the covered individual (or such other person who has the authority to investigate, discover, or terminate misconduct);

(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding or action filed or about to be filed relating to an alleged violation of any law, rule or regulation relating to national or homeland security; or

(3) to refuse to violate or assist in the violation of any law, rule, or regulation relating to national or homeland security.

(b) ENFORCEMENT ACTION.—

(1) IN GENERAL.—A covered individual who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c) by—

(A) filing a complaint with the Secretary of Labor; or

(B) if the Secretary has not issued a final decision within 180 days after the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(2) PROCEDURE.—

(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the person's employer.

(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 1 year after the date on which the violation occurs.

(c) REMEDIES.—

(1) IN GENERAL.—A covered individual prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the covered individual whole.

(2) DAMAGES.—Relief for any action under paragraph (1) shall include—

(A) reinstatement with the same seniority status that the covered individual would have had, but for the discrimination;

(B) the amount of any back pay, with interest;

(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees; and

(D) punitive damages in an amount not to exceed the greater of 3 times the amount of any compensatory damages awarded under this section or $5,000,000.

(d) STATE SECRETS PRIVILEGE.—If, in any action brought under subsection (b)(1)(B), the Government asserts as a defense the privilege commonly referred to as the "state secrets privilege" and the assertion of such privilege prevents the plaintiff from establishing a prima facie case in support of the plaintiff's claim, the court shall enter judgment for the plaintiff and shall determine the relief to be granted.

(e) CRIMINAL PENALTIES.—

(1) IN GENERAL.—It shall be unlawful for any person employing a covered individual to commit an act prohibited by subsection (a). Any person violating this paragraph shall be fined under title 18 of the United States Code, imprisoned not more than 10 years, or both.

(2) REPORTING REQUIREMENT.—The Department of Justice shall submit to Congress an annual report on the enforcement of paragraph (1). Each such report shall (A) identify each case in which formal charges under paragraph (1) were brought, (B) describe the status or disposition of each such case, and (C) in any actions under subsection (b)(1)(B) in which the covered individual was the prevailing party or the substantially prevailing party, indicate whether or not any formal charges under paragraph (1) have been brought and, if not, the reasons therefor.

(f) RIGHTS RETAINED BY COVERED INDIVIDUAL.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any covered individual under any Federal or State law, or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

(g) DEFINITIONS.—For purposes of this section—

(1) the term "covered individual" means an employee of—

(A) the Department of Homeland Security (which, for purposes of this section, includes the Transportation Security Administration);

(B) a Federal contractor or subcontractor; and

(C) an employer within the meaning of section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b));

(2) the term "lawful" means not specifically prohibited by law, except that, in the case of any information the disclosure of which is specifically prohibited by law or specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs, any disclosure of such information to any Member of Congress, committee of Congress, or other recipient authorized to receive such information, shall be deemed lawful;

(3) the term "Federal contractor" means a person who has entered into a contract with the Department of Homeland Security;

(4) the term "employee" means—

(A) with respect to an employer referred to in paragraph (1)(A), an employee as defined by section 2105 of title 5, United States Code; and

(B) with respect to an employer referred to in subparagraph (A) or (B) of paragraph (1), any officer, partner, employee, or agent;

(5) the term "subcontractor"—

(A) means any person, other than the Federal contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a contract with the Department of Homeland Security or a subcontract entered into in connection with such a contract; and

(B) includes any person who offers to furnish or furnishes general supplies to the Federal contractor or a higher tier subcontractor; and

(6) the term "person" means a corporation, partnership, State entity, business association of any kind, trust, joint-stock company, or individual.

(h) AUTHORIZATION OF FUNDS.—Of the amounts authorized under section 101, there is authorized to be appropriated amounts necessary for carrying out this section. Except as provided in the preceding sentence, this section shall have no force or effect.

Subtitle E—Authority of Chief Information Officer

SEC. 1441. AUTHORITY OF CHIEF INFORMATION OFFICER.

Section 703 of the Department of Homeland Security Act of 2002 (6 U.S.C. 343) is amended by inserting "(a) IN GENERAL.—" before the first sentence, and by adding at the end the following:

"(b) LINE AUTHORITY.—The Secretary shall delegate to the Chief Information Officer direct line authority to oversee all chief information officers of the agencies of the Department, and other key information technology personnel of the Department, with respect to their responsibilities to oversee, integrate, and protect information technology systems of the Department. The Chief Information Officer shall report directly to the Secretary.".

Subtitle F—Authorization for Office of Inspector General

SEC. 1451. AUTHORIZATION FOR OFFICE OF INSPECTOR GENERAL.

In lieu of any amount otherwise authorized for the Office of the Inspector General of the Department of Homeland Security, there is authorized to be appropriated for such office $200,000,000 for fiscal year 2006.

Subtitle G—Regional Office

SEC. 1461. COLOCATED REGIONAL OFFICES.

Not later than 45 days after the date of the enactment of this Act, the Secretary of Homeland Security shall develop and implement a plan for establishing consolidated and colocated regional offices for the Department of Homeland Security in accordance with section 706 of the Homeland Security Act of 2002 (6 U.S.C. 346), that will—

(1) enable a rapid, robust, and coordinated Federal response to threats and incidents;

(2) enhance all-hazards preparedness across the United States with respect to terrorism, natural disasters, other emergencies;

(3) provide integrated capabilities among the Department of Homeland Security, other Federal agencies, and Stated and local governments; and

(4) maximize cost savings and efficiencies through establishment of regional offices at current DHS agency regional structures with contiguous multi-State operations.

Subtitle H—DHS Terrorism Prevention Plan

SEC. 1471. SHORT TITLE.

This subtitle may be cited as the "Department of Homeland Security Terrorism Prevention Plan Act of 2005".

SEC. 1472. DEPARTMENT OF HOMELAND SECURITY TERRORISM PREVENTION PLAN.

(a) REQUIREMENTS.—Not later than one year after the date of enactment of the Act, and on a regular basis thereafter, the Secretary of Homeland Security shall prepare and submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a Department of Homeland Security Terrorism Prevention Plan. The Plan shall be a comprehensive and integrated plan that includes the goals, objectives, milestones, and key initiatives of the Department of Homeland Security to prevent acts of terrorism on the United States, including its territories and interests.

(b) CONTENTS.—The Secretary shall include in the Plan the following elements:

(1) Identification and prioritization of groups and subgroups that pose the most significant threat of committing acts of terrorism on the United States and its interests.

(2) Identification of the most significant current, evolving, and long term terrorist threats to the United States and its interests, including an evaluation of—

(A) the materials that may be used to carry out a potential attack;

(B) the methods that may be used to carry out a potential attack; and

(C) the outcome the perpetrators of acts of terrorism aim to achieve.

(3) A prioritization of the threats identified under paragraph (2), based on an assessment of probability and consequence of such attacks.

(4) A description of processes and procedures that the Secretary shall establish to institutionalize close coordination between the Department of Homeland Security and the National Counter Terrorism Center and other appropriate United States intelligence agencies.

(5) The policies and procedures the Secretary shall establish to ensure the Department gathers real time information from the National Counter Terrorism Center; disseminates this information throughout the Department, as appropriate; utilizes this information to support the Department's counter terrorism responsibilities; integrates the Departments information collection and analysis functions; and disseminates this information to its operational units, as appropriate.

(6) A description of the specific actions the Secretary shall take to identify threats of terrorism on the United States and its interests, and to coordinate activities within the Department to prevent acts of terrorism, with special emphasis on prevention of terrorist access to and use of weapons of mass destruction.

(7) A description of initiatives the Secretary shall take to share critical terrorism prevention information with, and provide terrorism prevention support to, State and local governments and the private sector.

(8) A timeline, with goals and milestones, for implementing the Homeland Security Information Network, the Homeland Security Secure Data Network, and other departmental information initiatives to prevent acts of terrorism on the United States and its interests, including integration of these initiatives in the operations of the Homeland Security Operations Center.

(9) Such other terrorism prevention-related elements as the Secretary considers appropriate.

(c) CONSULTATION.—In formulating the Plan the Secretary shall consult with—

(1) the Director of National Intelligence;

(2) the Director of the National Counter Terrorism Center;

(3) the Attorney General;

(4) the Director of the Federal Bureau of Investigation;

(5) the Secretary of Defense;

(6) the Secretary of State;

(7) the Secretary of Energy;

(8) the Secretary of the Treasury; and

(9) the heads of other Federal agencies and State, county, and local law enforcement agencies as the Secretary considers appropriate.

(d) CLASSIFICATION.—The Secretary shall prepare the Plan in both classified and nonclassified forms.

SEC. 1473. ANNUAL CROSSCUTTING ANALYSIS OF PROPOSED FUNDING FOR DEPARTMENT OF HOMELAND SECURITY PROGRAMS.

(a) REQUIREMENT TO SUBMIT ANALYSIS.—The Secretary of Homeland Security shall submit to the Congress, concurrently with the submission of the President's budget for each fiscal year, a detailed, crosscutting analysis of the budget proposed for the Department of Homeland Security, by budget function, by agency, and by initiative area, identifying the requested amounts of gross and net appropriations or obligational authority and outlays for programs and activities of the Department for each of the following mission areas:

(1) To prevent terrorist attacks within the United States.

(2) To reduce the vulnerability of the United States to terrorism.

(3) To minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States.

(4) To carry out all functions of the agencies and subdivisions within the Department that are not related directly to homeland security.

(b) FUNDING ANALYSIS OF MULTIPURPOSE FUNCTIONS.—The analysis required under subsection (a) for functions that are both related directly and not related directly to homeland security shall include a detailed allocation of funding for each specific mission area within those functions, including an allocation of funding among mission support functions, such as agency overhead, capital assets, and human capital.

(c) INCLUDED TERRORISM PREVENTION ACTIVITIES.—The analysis required under subsection (a)(1) shall include the following activities (among others) of the Department:

(1) Collection and effective use of intelligence and law enforcement operations that screen for and target individuals who plan or intend to carry out acts of terrorism.

(2) Investigative, intelligence, and law enforcement operations that identify and disrupt plans for acts of terrorism or reduce the ability of groups or individuals to commit acts of terrorism.

(3) Investigative activities and intelligence operations to detect and prevent the introduction of weapons of mass destruction into the United States.

(4) Initiatives to detect potential, or the early stages of actual, biological, chemical, radiological, or nuclear attacks.

(5) Screening passengers against terrorist watch lists.

(6) Screening cargo to identify and segregate high-risk shipments.

(7) Specific utilization of information sharing and intelligence, both horizontally (within the Federal Government) and vertically (among Federal, State, and local governments), to detect or prevent acts of terrorism.

(8) Initiatives, including law enforcement and intelligence operations, to preempt, disrupt, and deter acts of terrorism overseas intended to strike the United States.

(9) Investments in technology, research and development, training, and communications systems that are designed to improve the performance of the Department and its agencies with respect to each of the activities listed in paragraphs (1) through (8).

(d) SEPARATE DISPLAYS FOR MANDATORY AND DISCRETIONARY AMOUNTS.—Each analysis under subsection (a) shall include separate displays for proposed mandatory appropriations and proposed discretionary appropriations.

Subtitle I—Tribal Security

SEC. 1481. OFFICE OF TRIBAL SECURITY.

The Homeland Security Act of 2002 (Public Law 107-296) is amended—

(1) by inserting after section 801 the following new section:

"SEC. 802. OFFICE OF TRIBAL SECURITY.

"(a) SHORT TITLE.—This section may be cited as the 'Tribal Homeland Security Act'.

"(b) ESTABLISHMENT.—There is established within the Department of Homeland Security the Office of Tribal Security.

"(c) DIRECTOR.—The Office of Tribal Security shall be administered by a Director, who shall be appointed by the President and confirmed by the Senate. The Director shall report to the Secretary of Homeland Security.

"(d) DUTIES.—The Director shall be responsible for coordinating relations between the Federal Government and federally recognized Indian tribes on issues relating to homeland security, which shall include the following duties:

"(1) Providing a point of contact within Department of Homeland Security which shall be responsible for—

"(A) meeting the broad and complex Federal responsibilities owed to federally recognized Indian tribes by the Department of Homeland Security; and

"(B) soliciting and, where appropriate, addressing the homeland security concerns of federally recognized Indian tribes and other parties interested in Indian affairs.

"(2) Communicating relevant policies of the Department of Homeland Security to federally recognized Indian tribes and the public.

"(3) Promoting internal uniformity of Department of Homeland Security policies relating to Indian country (as defined in section 1151 of title 18, United States Code).

"(4) Coordinating with the Directorate of Border and Transportation Security and tribal governments to develop a comprehensive border security policy that addresses law enforcement, personnel, and funding issues in Indian country (as defined in section 1151 of title 18, United States Code) on the United States borders with Canada and with Mexico.

"(5) Coordinating with the Directorate for Information Analysis and Infrastructure Protection and tribal governments to develop appropriate policies for infrastructure protection on Indian lands, as well as information sharing mechanisms with tribal governments.

"(6) Coordinating with the Directorate of Emergency Preparedness and Response and the Office of State and Local Government Coordination and Preparedness to help ensure that tribal governments are fully informed of, have access to, and may apply for all Department of Homeland Security grant opportunities for emergency response providers, and to develop and achieve preparedness goals for tribal governments that are consistent with national goals for terrorism preparedness, as determined by the Department.

"(7) Coordinating with the Director of Science and Technology to identify opportunities to conduct research and development of homeland security technologies or scientific understanding for tribal universities or private sector entities.

"(8) Coordinating with the Office of Citizenship and Immigration Services and other relevant offices within the Department of Homeland Security with immigration service and enforcement related functions to develop policies on issues related to citizenship and the movement of members of federally recognized Indian tribes across the United States border, taking into consideration the unique characteristics of certain federally recognized Indian tribes with jurisdiction over lands adjacent to the Canadian and Mexican borders.

"(9) Coordinating with other offices within the Department of Homeland Security to develop and implement sound policies regarding Indian country (as defined in section 1151 of title 18, United States Code) and tribal governments."; and

(2) in the table of sections, by inserting after the item relating to section 801 the following new item:

"Sec. 802. Office of Tribal Security.".

TITLE XV—SECURING OUR PORTS AND COASTLINES FROM TERRORIST ATTACK

SEC. 1501. SECURITY OF MARITIME CARGO CONTAINERS.

(a) Regulations.—

(1) In general.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall issue regulations for the security of maritime cargo containers moving within the intermodal transportation system in accordance with the requirements of paragraph (2).

(2) Requirements.—The regulations issued pursuant to paragraph (1) shall be in accordance with recommendations of the Maritime Transportation Security Act Subcommittee of the Advisory Committee on Commercial Operations of the Department of Homeland Security, including recommendations relating to obligation to seal, recording of seal changes, modal changes, seal placement, ocean carrier seal verification, and addressing seal anomalies.

(b) International Agreements.—The Secretary shall seek to enter into agreements with foreign countries and international organizations to establish standards for the security of maritime cargo containers moving within the intermodal transportation system that, to the maximum extent practicable, meet the requirements of subsection (a)(2).

(c) Container Targeting Strategy.—

(1) Strategy.—The Secretary shall develop a strategy to improve the ability of the Department of Homeland Security to use information contained in shipping bills of lading to identify and provide additional review of anomalies in such bills of lading. The strategy shall include a method of contacting shippers in a timely fashion to verify or explain any anomalies in shipping bills of lading.

(2) Report.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the implementation of this subsection, including information on any data searching technologies that will be used to implement the strategy.

(d) Container Security Demonstration Program.—

(1) Program.—The Secretary is authorized to establish and carry out a demonstration program that integrates non-intrusive inspection equipment, including radiation detection equipment and gamma ray inspection equipment, at an appropriate United States seaport, as determined by the Secretary.

(2) Requirement.—The demonstration program shall also evaluate automatic identification methods for containers and vehicles and a data sharing network capable of transmitting inspection data between ports and appropriate entities within the Department of Homeland Security.

(3) Report.—Upon completion of the demonstration program, the Secretary shall submit to the appropriate congressional committees a report on the implementation of this subsection.

(e) Consolidation of Container Security Programs.—The Secretary shall consolidate all programs of the Department of Homeland Security relating to the security of maritime cargo containers, including the demonstration program established pursuant to subsection (d), to achieve enhanced coordination and efficiency.

(f) Port Security Grant Funding.—Section 70107(h) of title 46, United States Code, is amended to read as follows:

"(h) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary to carry out subsections (a) through (g) $400,000,000 for fiscal years 2006 through 2012.".

(g) Definition.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Homeland Security of the House of Representatives; and

(2) the Committee on Homeland Security and Governmental Affairs of the Senate.

SEC. 1502. STUDY ON PORT RISKS.

The Secretary of Homeland Security shall complete a study evaluating the terrorism risk factors associated with the port of Miami and ports along the Gulf of Mexico and in the Carribean, including the United States Virgin Islands. This study should include: whether these ports are more at risk of terrorist attack considering the larger trade volume with Central American countries than other coastal ports, whether these ports are currently receiving the grants that are needed to ensure their safety, considering the studied risks and what are the vulnerabilities of these Gulf ports.

TITLE XVI—AUTHORITY OF OTHER FEDERAL AGENCIES

SEC. 1601. AUTHORITY OF OTHER FEDERAL AGENCIES UNAFFECTED.

Nothing in this Act affects the authority under statute, regulation, or Executive order of other Federal agencies than the Department of Homeland Security.

The Acting CHAIRMAN. Pursuant to House Resolution 283, the gentleman from Mississippi (Mr. Thompson) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. Thompson).

Mr. THOMPSON of Mississippi. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I appreciate the work of the gentleman from California (Mr. Cox) to include many Democratic suggestions in this bill, and I want to say that most of the provisions in his bill are good ones.

But the truth is that this bill does not address a large number of dangerous security gaps. For example, this bill does not close serious security gaps in chemical plants, aviation, railroads, passenger trains and railroads, buses, border security, the ability of first responders to communicate in an emergency, the importance of protecting privacy, and a whole host of other areas where we must improve security. This bill does not even mention chemical plants or airports. How can we call this an authorization bill?

My substitute, Madam Chairman, addresses all of these areas, and more. First, the substitute makes funding for homeland security a priority. The President's budget and this bill does not fulfill the commitment we made in the 9/11 Act the President signed into law in December, but this substitute meets those challenges.

For example, for just a mere $92 million called for in the 9/11 Act, we could install radiation portal monitors in every port of entry in this country. My substitute offers solutions where the bill does not give the answers. For example, it protects our borders by requiring DHS to put technology in place to ensure that every mile of the border is monitored 24 hours a day, 7 days a week. It protects our ports by authorizing new port security grants. It protects airlines and prevents hijackings by installing new, in-line baggage screening systems that work better and faster. And, in an area where I strongly disagree with the chairman, we fully sponsor the development of research on how to counter shoulder-fired missiles that terrorists can use to shoot down a plane.

My substitute also strengthens security requirements for chemical plants, which the GAO recently found must have security standards.

Finally, my substitute also recognizes that DHS is a new agency and is not perfect. We provide new authority to protect privacy, sponsor diversity, and create a stronger Inspector General. In the end, if we are going to call something an authorization bill, let us use it to close genuine security gaps. My substitute will do that; this bill will not.

There can be no more wasted time. We must do what it takes now to make America secure.

Madam Chairman, I reserve the balance of my time.

Mr. COX. Madam Chairman, I rise to claim the time in opposition to the substitute amendment, and I yield myself such time as I may consume.

If my colleague from Mississippi would indulge me for a moment, I would like to yield the first portion of my time for purposes of a colloquy to the gentleman from Connecticut (Mr. Simmons), and I yield to him 1 minute.

Mr. SIMMONS. Madam Chairman, I thank the chairman and the gentleman from Mississippi for all the hard work that they have done to bring this authorization bill to the floor. I fully intend to support the bill as I did in committee, but I would like to take a moment at this time to discuss a concern that Members have, like myself, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from New York (Mr. KING), and ask for the chairman's commitment that the committee will pursue these issues.

We have heard from the Department of Homeland Security employees and their representatives regarding their concerns with the final personnel regulations that the Department issued in February. Some of these provisions in the regulations are troubling. They limit collective bargaining rights, and they appear to reduce due process standards for employees of the Department. Both of these issues were specifically addressed in the Homeland Security Act that created the Department, and my concern is that the regulations promulgated following that act do not adhere to the requirements of the act to maintain collective bargaining rights.

I would ask that the committee provide its members with the opportunity to question appropriate administration officials about these regulations, as well as to provide employees and their representatives the opportunity to give us their views.

Mr. Chairman, I would also ask that if we find these regulations do not follow the mandate of the original law or do not promote fairness and efficiency, that the committee will review these regulations and consider making appropriate changes to the regulations.

Mr. COX. Mr. Chairman, reclaiming my time, the gentleman from Connecticut raises an important issue. I thank the gentleman for his leadership, not only on this issue, but across the board as an outstanding member and chairman of the Committee on homeland security.

The Acting CHAIRMAN (Mr. LAHOOD). The time of the gentleman from Connecticut (Mr. SIMMONS) has expired.

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

Section 841 of the Homeland Security Act of 2002 authorized the Department of Homeland Security to establish a 21st century human resources management system. That new system, referred to as MAX HR, is designed to allow the Department to respond quickly to homeland security threats, while supporting the Department's employees with modern human resources principles.

I will ensure that the committee conducts a review of the new personnel regulations with special attention, I say to the gentleman, to the concerns that he raised, and I commit to working with him on any appropriate changes to those regulations, in close coordination with the gentleman from Virginia (Chairman DAVIS) of the Committee on Government Reform, which developed the underlying legislation in this area.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. ZOE LOFGREN).

Ms. ZOE LOFGREN of California. Mr. Chairman, I want to commend the gentleman from Mississippi (Mr. THOMPSON) and the gentleman from California (Chairman COX) for their work and leadership on this bill, but I would also especially like to compliment the ranking member for his work on this substitute. There is much in the bill that is good; the substitute is even better, for the reasons outlined by the gentleman from Mississippi (Mr. THOMPSON).

However, there is one provision that is the same in both the bill and the substitute and equally good in both cases, and that is the provisions regarding cyber security.

As Members know, in the 108th Congress there was a Subcommittee on Cyber Security within the Select Committee on Homeland Security. The gentleman from Texas (Mr. THORNBERRY) was the chairman and I was the ranking member, and we worked very hard together to craft the provision that is incorporated in the bill and in the substitute. We held over 17 hearings and further briefings, and we heard from the private sector.

I think that is why the following people support our provision: The Business Software Alliance, the Computer and Communications Industry Association, the Cyber Security Industrial Alliance, the Financial Services Roundtable, the Higher Education and Information Technology Alliance, the Information Technology Association of America, the Information Technology Industry Council, the National Association of State Chief Information Officers, the Software and Information Industry Association, Tech Net, and the Association of American Universities, the Association of Research Libraries, the National Association of College and University Business Officers, and the list goes on and on.

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The bill does something, and the substitute does something that is very important, and that is, to elevate the attention paid to cybersecurity within the Department.

You know, several years ago when the strategy for cybersecurity was adopted, we had a cyberperson in the White House who drafted that plan and had the attention of the White House.

Since that time, this position has devolved to one that really does not have direct access to decision-makers. In fact, the last person to hold the job, Amit Yoran, from Silicon Valley, quit 1 year to the day after he took the job; and we do not have a permanent replacement for him to this day.

We have got contractors. In fact, the current contractor is not even on the payroll. It is a Carnegie Mellon employee. We need to have attention at the highest level for cybersecurity. Let me be clear. The job of securing cyberspace at DHS is just not getting done.

Recently, Berkley professor Shankar Sastry warned of the possibility of what he called a digital Pearl Harbor. He urged that the Nation act before it is too late. We in Congress must not stand by while our cyberinfrastructure remains vulnerable and so little is accomplished in the Department of Homeland Security.

Securing cyberspace must be a national priority. The substitute and the bill do it. And I thank the gentleman from Mississippi (Mr. THOMPSON) for including it.

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Alabama (Mr. MIKE ROGERS).

Mr. ROGERS of Alabama. Mr. Chairman, I rise in opposition to the amendment. As chairman of the Management Integration Oversight Subcommittee, I have concerns about some of the management changes proposed today.

In my analysis, this amendment would create several conflicting changes. It would modify the roles and responsibilities of several key officials within the Department. It would also limit the Secretary's flexibility in making organizational decisions.

And, finally, it seems the amendment contains several duplicating and premature measures. For example, this amendment would require the chief information officer to report directly to the Secretary. In the process, it would also give the CIO direct line authority over other chief information officers in agencies throughout the Department.

Now, I agree with my colleague, the gentleman from Mississippi (Mr. THOMPSON), that it is important we address the reporting and line authority issues. In fact, just last month we held a hearing with these officials to explore ways to improve information sharing within the DHS.

However, we also found other improvements to consider. The chief financial officer, the chief procurement officer, and the chief human capital officer, for example, may also need additional authorities.

So in regards to this amendment, while I agree we need to reassess the internal management issues, I believe they should not be addressed in this type of piecemeal fashion.

Secretary Chertoff has begun a 90-day review of the Department's programs, policies and operations. Until we hear the results of the Secretary's review at the end of this month, I believe we should hold off on making these types of changes.

Mr. Chairman, I would also like to point out that the amendment adds $7 billion in unauthorized spending above the bill's proposed funding level. In contrast, the bipartisan Homeland Security Committee bill, as written, provides the Secretary the needed flexibility during this top-to-bottom review while ensuring our limited resources are spent wisely.

Therefore, I urge my colleagues to oppose the pending amendment.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 4½ minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, James Carafano, who is a homeland security researcher, said recently that technology is not a substitute for strategy.

And we know, as has been earlier reported this month by Eric Lipton, and he wrote the following, "After spending more than $4.5 billion on screening devices to monitor the Nation's ports and borders and airports and mail and air, the Federal Government is moving to replace or alter much of the antiterrorism equipment, concluding that it is ineffective, unreliable, or too expensive to operate."

He went on to say: "Each of those areas where we have missed the mark." That is why I think this substitute should be given great consideration by all of us, not only those that serve on the Homeland Security Committee.

We have a unity of effort here. Do not translate, do not interpret this substitute as breaking that commitment that we have made to that unity of purpose. And I want to commend my good friend, the gentleman from Mississippi (Mr. THOMPSON), who stood shoulder to shoulder with the gentleman from California (Chairman COX) through all of these hearings that we have been having.

But, the ranking member, the gentleman from Mississippi (Mr. THOMPSON), your steady leadership on our committee is going to go a long way beyond our vote today. I applaud you for offering a substitute.

The Department of Homeland Security was formed because of the catastrophic terrorist attack on September 11. Our joint mission now is to help prevent and respond to any potential future assault.

Nothing that we do here in Washington is more important. Nothing. The critical duty with which we are charged warrants legislative proposals that are as comprehensive and judicious as possible. The substitute succeeds in this regard. It makes America safer.

For example, the substitute requires a comprehensive border protection plan. We all agree on that. It puts technology in place to monitor the entire border all the time, not some of the time.

Secures the chemical plants. We have even had an amendment to that effect. Makes vital port and transit security improvements and creates necessary structural changes at the Department of Homeland Security. We all agree on that.

We know that the State and local governments need as much help as possible to meet their urgent security needs. We note that first responders require an array of assistance to help them achieve even a baseline level of readiness. The substitute addresses this. For example, we authorize $500 million in grants for interoperability communications equipment to our men and women on the frontlines.

As the 9/11 report states, again, we go back to what we consider to be the dictionary for us to look at: "Compatible and adequate communications among public safety organizations at the local, State and Federal levels remains an important problem."

Our legislation should reflect what is in the 9/11 report and nothing less and nothing more. Yet the Congress has done nothing to address this. Indeed, many provisions signed into law by last year's 9/11 Act, a bipartisan measure as you recall, have gone unfunded and forgotten by this administration. We voted on it. Where is the power of both bodies involved in our unity of purpose?

What is the use if we vote, both sides of the aisle, and the administration does not follow through? This substitute attempts to remedy this situation. We authorize additional border agents. We mandate risk assessment for chemical and nuclear plants, and we assure that port and rail are adequately secured. We all agree on these things.

We know that there can be no more wasted time. We must do what it takes now to make our country safe, stronger, and more secure. This substitute does that, Mr. Chairman. I implore my colleagues on both sides of the aisle to vote "aye."

Mr. COX. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Connecticut (Mr. SIMMONS).

Mr. SIMMONS. Mr. Chairman, I thank our ranking member, the gentleman from Mississippi (Mr. THOMPSON), for being such a great leader on this new committee, for being bipartisan, and for being an advocate for a safe and secure America.

Unfortunately, I rise in option to this amendment, the Thompson substitute, not so much because of what it does, but because of what it fails to do.

My reading of the amendment suggests that it does not incorporate many of the provisions of the Homeland Security Authorization Act that passed unamended and by voice vote in the Subcommittee on Intelligence, Information Sharing and Terrorism Risk Assessment, of which I am the chairman.

For example, personnel flexibility, such as bonuses for the Information Analysis and Infrastructure Protection Directorate, so we can attract the best and brightest young people into this Department to engage in good productive intelligence activities, you cannot have good intelligence activities without good people. And those personnel flexibilities are lacking. I do not see any provision requiring that the office of information analysis receive all terrorist threat information from components within DHS, which goes to the heart of information sharing.

One of the great tragedies of 9/11 is that so many components of our government did not share information; and perhaps if they had, we could have avoided that tragedy.

I do not see any recommendations with regard to the color-coded homeland security advisory system, which so many of us feel is confusing to the American people, and which we recommended be more risk-based, regional, and focused so that people have a legitimate picture of what the risks may be on any particular day when there is an alert.

All of the work on open-source intelligence, which I believe is so critical to strengthening our intelligence capabilities nationally, I do not see them in there. And so it does not appear to me to address some very fundamental issues relative to the intelligence piece of the Department of Homeland Security which we are trying to build.

On this basis, Mr. Chairman, I would like to reluctantly urge my colleagues to vote against the substitute.

Mr. DICKS. Mr. Chairman, I rise today in support of this legislation and the Democratic Substitute being offered by the gentleman from Mississippi. I would like to commend the Chairman and Ranking Member of the Committee on Homeland Security for bringing this bill to the floor—the first authorizing bill for the Department of Homeland Security since the Department was created.

This bill does many good things. It authorizes additional funding to cover the full cost of hiring an additional two thousand border patrol agents in order to meet the first year target established in the Intelligence Reform bill last year. Regrettably, the appropriations bill that passed the House yesterday fell short of actually finding these critically needed personnel by 500. But that does not diminish this accomplishment in the bill. This bill contains several important provisions that will help to fix the Directorate for Intelligence Analysis and Infrastructure Protection, which, in my judgment, has struggled the most to find its direction in the new department. And the bill raises the level of our government's top cybersecurity official to an Assistant Secretary within IAIP, something that should have been done when the Department was created.

This bill makes progress in some key areas, and I intend to support it, but I regret that it falls short in a number of critical areas, leaving us terribly vulnerable on many fronts.

Cargo security, both in the air and on the sea, have not been adequately addressed in this legislation. Our Nation's plan to secure cargo containers, I believe, makes sense; but it relies entirely on knowing—and trusting—the people that are packing the containers overseas. Customs and Border Protection is way behind in certifying participants in the C–T PAT program, and this bill does not authorize adequate funding to accelerate the process of validating the applications of those who are already gaining the benefits. My friend from California, Ms. SANCHEZ, sought to propose an amendment to address this problem, but the rule did not allow for its consideration, a serious oversight.

And there is absolutely no excuse for permitting unscreened cargo onto passenger aircraft. This is a problem we have known about since Pan Am Flight 103 was destroyed by a terrorist's bomb over Lockerbie, Scotland killing over 270 people. My good friend from Massachusetts, Mr. MARKEY, wanted to offer an amendment to the bill that would require this cargo to be screened, and it is long overdue. A similar amendment had been approved previously by the House, but the leadership has refused to allow its consideration today.

This bill also fails to take sufficient steps to meet other critical needs that we have been talking about here in the House since 9/11. The installation of in-line explosive detection systems at all of our Nation's passenger airports is one of the top technological solutions to improving the performance of our TSA screener force. Given what terrorist were able to perpetrate in Madrid, providing funding for real rail and transit security must become a higher priority. And we must work harder to improve security at our Nation's chemical plants—especially those that are located in heavily populated areas. Some of my Democratic colleagues offered amendments to accomplish these goals, but each has been blocked from consideration by the Majority.

But we now have an opportunity to vote on these items en bloc. The Democratic substitute, proposed by Mr. THOMPSON, addresses all of these issues, and is a much more complete blueprint for combating terrorism than the underlying document. The House must move aggressively to fill the gaps that we see everyday in the operations of the Department of Homeland Security. We do our constituents a grave disservice if we do not.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 3 minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Mr. Chairman, I rise in strong support of Ranking Member THOMPSON's substitute amendment.

While H.R. 1817 takes important steps in improving our security and preparedness, it simply does not go far enough.

Now, the Thompson substitute contains the critical provisions that I believe must be in any comprehensive, effective DHS authorization. Now, all told this amendment would provide about $41 billion for our homeland security needs, nearly $7 billion more than requested by the President.

This substitute would provide additional grant funds for continuing needs, in port, rail, transit and bus security, communications interoperability and firefighter hiring and preparedness. It also enhances air security by requiring that 100 percent of air cargo be screened within 3 years, tightening restrictions on access to sensitive airport areas, and providing flight crews the training and communications tools to effectively respond in an emergency.

Furthermore, the Thompson amendment ensures that we fulfill commitments made in the intelligence reform bill to implement the 9/11 Commission's recommendations.

It authorizes funding for nearly 2,000 new border patrol agents and provides resources to install explosive detection systems to baggage screening at airports, which is a critical unmet need at T.F. Green Airport in Rhode Island.

Now, as ranking member of the Subcommittee on Prevention of Nuclear and Biological Threats, I am particularly pleased to note that the Democratic substitute would provide for the installation of radiation portal monitors at all ports of entry. This is a key step in our efforts to keep dangerous materials out of our borders.

Finally, this substitute makes significant progress in addressing critical infrastructure protection. It provides funding for an assessment of risks to nuclear and chemical plants and requires that chemical plants capable of threatening a large number of people in the worst-case situation take steps to increase security, implement safer technologies when feasible.

Just as importantly, the amendment sets deadlines for completion of a list of high-priority critical infrastructure assets. Now, this list should be the very basis for our Nation's security plans and funding decisions, and there is no excuse for the continuing delays in its completion.

☐ 1715

Mr. Chairman, while we are indeed safer today than we were on September 11, the truth is that there still remains a significant security gap that must be filled.

The Thompson substitute takes a comprehensive approach to addressing these vulnerabilities, and I urge my colleagues to support it.

Mr. COX. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Georgia (Mr. LINDER).

Mr. LINDER. Mr. Chairman, I thank the chairman for yielding me time, and I rise in opposition to the Thompson substitute.

As the chairman of the Subcommittee on the Prevention of Nuclear and Biological Attack, I want to point out that the minority's substitute proposal is not, contrary to its billing, complete, especially in the area of nuclear terrorism.

Mr. Chairman, while some consider the probability of nuclear attack to be low, I fear that this lax position could have devastating consequences on the United States. If a terrorist organization were to smuggle and detonate a 10-kiloton nuclear device, which is not unreasonable for a basic terrorist bomb, in downtown Manhattan, it would immediately kill more than half a million people. The consequences, however, would not stop with the tragic loss of life.

The New York Stock Exchange could lose trillions in business transactions alone and the world's financial markets would be immediately crippled. Cleaning up the radioactive mess could cost billions, if not trillions, of dollars and take years to complete. We could, in essence, witness a total economic meltdown in the United States.

The Thompson substitute does little to prevent such a catastrophe. H.R. 1817 does.

Section 105 of H.R. 1817, for example, authorizes funding for a Nuclear Detection Office within the Department to coordinate and advance weapons of mass destruction detection efforts domestically as well as abroad. The Thompson substitute does not.

In addition, section 213 of H.R. 1817 revises the 2002 Homeland Security Act to ensure that the appropriate analytical expertise is employed by the Directorate of Information Analysis and Infrastructure Protection in the Department to discern specific threats involving use of nuclear weapons or biological agents to inflict mass casualties. The Thompson substitute does not.

Furthermore, section 214 of H.R. 1817 establishes an entity within the Department that will be responsible for alternative analysis of threats to ensure that the government's efforts at our borders and at foreign ports to prevent the importation and subsequent use of nuclear weapons or biological agents are actually effective. The Thompson substitute does not.

Mr. Speaker, I cannot imagine a scenario whereby this government has to answer the question of how we failed to prevent an attack by terrorists using a weapon of mass destruction on the American people. Such an attack is much too important and too critical for our national security to simply include it as a footnote in a 220-page substitute. I can assure my colleagues that my subcommittee will, in the coming months, vigorously work to produce legislation that focuses on the Department's attention on preventing such catastrophic terrorist events.

H.R. 1817 is not the final word on this issue, but it is an important first step, and as such, I encourage my colleagues to join me in opposing the Thompson substitute and supporting H.R. 1817.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER), the Democratic whip.

Mr. HOYER. Mr. Chairman, I thank the gentleman from Mississippi (Mr. THOMPSON) for yielding me time.

Mr. Chairman, despite the expenditure of billions of dollars on homeland security since September 11, the reality is that America's ports, chemical facilities, transportation systems and critical infrastructure are still to this day vulnerable to attack.

Are we better off? Yes. Are we where we need to be? No.

As Stephen Flynn, the former U.S. Coast Guard Commander and a foremost expert on homeland security, stated a few months ago on Meet the Press, "The measures we have been cobbling together are hardly fit to deter amateur thieves, vandals and hackers, never mind determined terrorists."

This Congress can and must, Mr. Chairman, do more to protect our citizens from attack at home, even as we take the fight to our enemies abroad.

That is what the Thompson substitute does.

It provides $6.9 billion more than the Republican bill, including funding to fulfill our homeland security commitments in the Intelligence Reform Act.

It includes $1 billion for grants for port, rail, transit and bus security, critical priorities; $380 million to hire 2,000 new border agents; and $500 million to ensure that first responders can communicate with one another.

It requires a plan to ensure that all air cargo on passenger planes is screened, giving sufficient time to develop the requisite technologies, and it sets deadlines for establishing security plans for critical infrastructures.

Republicans will and are objecting to the funding level in our substitute, but let us put it in perspective, Mr. Chairman.

This additional funding is nearly $2 billion less than the funding the Bush administration has failed to account for, some $8.8 billion, in Iraq. Mr. Chairman, if the Bush administration can lose track of nearly $9 billion in Iraq, I submit that we ought to be able to find $6.9 billion to make this Nation, its people, its communities and its families safer and more secure.

I urge my colleagues to support the Thompson substitute.

Mr. COX. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN), but before I yield, Mr. Chairman, can the Chair tell me how much time remains on our side?

The Acting CHAIRMAN (Mr. LAHOOD). The gentleman from California (Mr. COX) has 11 minutes remaining.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I thank the gentleman for yielding me time.

Once again, I want to thank both the gentleman from Mississippi (Mr. THOMPSON), the ranking member, and the chairman of our committee for the fine work they did in producing the bipartisan base bill, but I rise in opposition to the ranking member's substitute amendment.

This 221-page substitute amendment offered in the nature of a substitute to the 40-some page base bill that we have is obviously more extensive than what was presented on the floor, and the explanation has been presented on both sides as to why this is the case. However, I would like to refer specifically to the comments of the gentleman from Maryland about the additional cost involved in the substitute, nearly $7 billion.

The American people have told us they do want us to do what is necessary for homeland security, but they have also said they want us to spend our money wisely. Press reports, as well as our own examination, has shown that there is in the pipeline in homeland security approximately $7 billion that is unspent. The answer is not to come in here and, therefore, increase the base bill by $7 billion, which is $7 billion over the President's budget, $7 billion over the House-passed badge budget, which, therefore, somehow tries to make a statement that more money spent is obviously going to make us safer.

We need to make sure that the Department of Homeland Security is setting the priorities that are necessary, is spending the money in the appropriate ways and answers the question why money is stuck in the pipeline.

I would suggest the way to do that is not to give them an additional $7 billion somehow as some sort of attraction for them to tell us how they have not spent that $7 billion, that extra $7 billion that is out there.

Let me just say that the provisions in this substitute constitute sweeping changes, sweeping comprehensive changes in the responsibility, mission and funding for the Department over and above what our bipartisan committee presented in the base bill. Such changes cannot be made, I would suggest, in this type of setting without full debate, certainly more than 40 minutes, and consideration of a possible alternatives and consequences.

There are important questions here. How do we provide security in the area of the chemical industry? The chemical security portion of this amendment requires broad and sweeping regulation of the chemical industry by the Department of Homeland Security. Maybe that is appropriate, maybe it is not. I do not think we have the basis to make a judgment on this. I would also suggest it is counterproductive to improving our chemical infrastructure security. It places unnecessary burdens on potentially thousands of sites that may or may not be the sites at risk that we should be focusing on. Again, it is a question of priority.

It ignores the concept of examining high risk to effectively target our security resources. One of the things I thought we had done as a bipartisan committee was come to the conclusion that we really have to be very careful and demand that we set proper priorities, that we cannot go out and try and protect everything; we have to protect those things that are most vulnerable, those things that have the greatest threat, those things that have the worst consequences. I would suggest that this substitute does not do that.

I thank the gentleman for the time that he extended to me.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, right now in the Republican bill there is no protection added for the single greatest problem that we know still exists, which is the protection of chemical facilities in the United States of America. Whether it be on land or in rail cars, both of these chemical-type storage areas are still wide open.

Secondly, whistleblowers, if they turn in a shareholder scandal at Enron, get more protection than a nuclear power plant guard or a TSA guard who, as a latter day homeland security Paul Revere comes forward to warn the public that there is danger, the Republicans do not protect these whistleblowers. The Democratic bill does.

Finally, the cargo which goes onto planes in America, passenger planes, is not screened. Something this size, not screened. Something this size, which is cargo, which goes on to passenger planes next to our bags, is not screened. The Republican bill says this to those people: Warning, cargo on this plane has not been screened for explosives for your children.

Vote for the substitute if my colleagues want to protect the children and families of this country.

Mr. COX. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Chairman, as a member of the Subcommittee on Emergency Preparedness, Science, and Technology, I rise in opposition to the EPS&T provisions in the Thompson substitute.

The base bill presents well-thought-out solutions to real terrorist threats by prioritizing and maximizing how U.S. tax dollars are spent. The Thompson substitute does not prioritize spending. It does not recognize that not all threats are created equal. It does not exercise any fiscal restraint whatsoever. It just throws a lot of money at problems. Such an approach does not enhance our Nation's security or provide adequate support for our dedicated first responders.

The emergency preparedness, science, and technology, EPS&T, provisions in the Thompson substitute address important issues, but are ill-conceived and fraught with unintended consequences.

For example, subtitle A of title VII would establish a new, separate grant interoperability program. It is ill-advised. A new program will encourage inconsistencies in communication systems purchased with Federal grants and, unfortunately, dilute funding for other critical grant programs.

This program is also not needed. Indeed, in fiscal year 2004, grant recipients obligated over $925 million for interoperability projects through existing programs, the single largest use of grant funding with more than $6 billion in the pipeline, it is unspent and unobligated, to State and local government available for first responders.

Subtitle D of title VII would establish a parallel EMS bureaucracy within the Department's Emergency Preparedness and Response, EP&R, Directorate. Such a new bureaucracy will not enhance terrorism preparedness. EMS entities already exist within the Department of Transportation and the U.S. Fire Administration of the EP&R Directorate. This provision is also premature and will undercut the Department's efforts to implement organizational reform.

Subtitle G of title VII would authorize the Metropolitan Medical Response System. Yet, MMRS, which provides funding to U.S. cities to develop plans and capabilities for coping with the medical consequences of a terrorist attack involving weapons of mass destruction is nearly complete. Since its inception in 1997, the program has assisted 124 cities in establishing such plans and capabilities.

There is simply no need to maintain MMRS as a separate grant program. Indeed, the funds provided under other existing grant programs, such as the State Homeland Security Grant Program and the Urban Area Security Initiative, may be used for such purposes.

For these and other reasons, I urge my colleagues to vote against the Thompson substitute.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1 minute to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

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Mrs. CHRISTENSEN. Mr. Chairman, I rise in strong support of the Thompson substitute, and I commend him for his leadership and hard work in crafting this amendment, which fills many of the security gaps we were not able to do in the underlying bill.

I also congratulate our chairman, the gentleman from California (Mr. COX), for fulfilling his promise to establish an annual legislative review of the Department and for his leadership.

Mr. Chairman, included in the Thompson substitute is an amendment I sponsored during the markup to provide for a border patrol unit in the Virgin Islands, a number one priority of all law enforcement in my district, the single most important missing ingredient in the defense of the territory, and one more weak link in the protection of our Nation.

With over 175 miles of unprotected and open borders, the Virgin Islands is increasingly becoming a gateway of choice to the U.S. for human smugglers. Because of the lack of such a unit, the Immigration and Customs Enforcement, our local police, Fish and Wildlife, and the National Park Service have to utilize their stretched resources and personnel to respond and to assist.

I want to thank Chairman COX for including language in the report to have the Department station some of the additional border patrol units in the Virgin Islands and for also including tribal coordination in the Office of State and Local Coordination in recognition of the sovereign nature of the tribal nations.

Mr. Chairman, H.R. 1817 is a good bill; but, nonetheless, the substitute makes significant improvements in many areas, and I urge my colleagues to support the Thompson substitute.

Mr. Chairman, I rise in strong support of the Thompson Substitute and I urge my colleagues to support its adoption. I commend the gentleman from Mississippi for his hard work in crafting an amendment which seeks to fill many of the security gaps that were not able to be addressed in the underlying bill.

I want to begin though, Mr. Chairman, by congratulating the Chairman of the Homeland Security, my friend CHRIS COX for fulfilling his promise to establish an annual legislative review of the Department of Homeland Security. It has been an honor and a distinct pleasure to serve with Chairman COX, first as a member of the Select Committee on Homeland Security in the last Congress and again in this Congress on the permanent Committee.

Over the past nearly two and a half years, our committee has traveled across the country meeting with the men and women on the front lines of defending our homeland. The bill before us today as well as the Faster and Smarter Funding for First Responders Act which we debated and passed last week are largely the product of those efforts.

Included in the Thompson substitute, Mr. Chairman, is an amendment I sponsored during the markup of H.R. 1817 in committee, to provide for a border patrol unit in the Virgin Islands—the number one priority of all of the law enforcement first responders in my district and the single most important missing ingredient in the defense of the Territory and yet another weak link in the protection of our Nation.

With over 175 miles of unprotected and open borders, the Virgin Islands is today the gateway to the U.S. and our Nation's southern most border. It is also increasingly becoming the gateway of choice to the U.S. for human smugglers.

Since 1998 hundreds of Chinese nationals have entered the U.S. Virgin Islands, but there are many more from other countries of the Caribbean and South America and the Middle East as well.

Those dropping the aliens ashore have identified the Virgin Islands as an area from which illegals can try to travel undetected to the U.S. mainland. In fact, the Coast Guard, this past February 29th, detained 72 illegal immigrants on St. Thomas.

Because of the lack of a Border Patrol Unit in the territory other federal agencies such as Immigration and Customs Enforcement (ICE) have to spend a significant amount of manhours apprehending, processing, detaining and watching aliens in custody.

ICE has to use between 6 and 8 agents in every landing of 12 to 15 aliens. At a rate of on average 3 to 4 landing per month more than 80 hours are spent processing these aliens. Time which could be used to investigate conspiracies, smuggling organizations and dismantling rings.

In addition, our local Police Department, Fish and Wildlife, and the National Park Service also have to utilize their stretched resources and personnel to respond and assist.

Mr. Chairman, having a Border Patrol Unit assigned to the Virgin Islands would also enable us to deal with the other serious problem we face which is drug smuggling. ICE has identified several trafficking organizations that use the USVI to conduct drug smuggling operations, with marihuana, cocaine and heroin being shipped to the territory on a weekly basis. And we know, Mr. Chairman, of the connection and relationship between drugs and terrorism.

Mr. Chairman, I want to thank Chairman COX for agreeing to include language in the report of H.R. 1817, to encourage DHS to station some of the additional 2000 Boarder Patrol agents called for in the bill in the Virgin Islands. I also want to thank him for amending the title of the Office of State and Local Coordination to the Office of State, Local and Tribal Coordination in response to another amendment I offered in committee in recognition of the sovereign nature of our Tribal Nations.

Mr. Chairman, H.R. 1817 is a good bill. I am proud to have been a part of its development as a member of the Homeland Security Committee. I would nonetheless urge my colleagues to support the substitute offered by Ranking Member BENNIE THOMPSON because it makes significant improvements in key areas including fulfilling our commitments in the Intelligence Reform and Terrorism prevention, as well as new security measures for rail and public transit biometrics and other screening measures.

I urge my colleagues to support the Thompson substitute.

Mr. COX. Mr. Chairman, may I inquire as to how much time remains on the other side.

The Acting CHAIRMAN (Mr. LAHOOD). The gentleman from California (Mr. COX) has 5 minutes remaining, and the gentleman from Mississippi (Mr. THOMPSON) has 2½ minutes remaining.

Mr. COX. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I want to thank the ranking member and the other members of the committee right in the teeth of this debate about the differences between the base bill and the Democratic substitute simply to remind us what we agree about. We agree about the base bill. And what we are talking about doing in the Democratic substitute is, in some part, restating the base bill and, in some part, adding money to it to go further.

One of the principles that I hope we can establish in this annual authorization process is that when we bring a bipartisan DHS authorization bill to the floor, that that bill is within the House-passed budget; it bears a close connection to the appropriations process, and this year we have a unique circumstance where we are on the floor literally 1 day after the homeland security appropriation bill has passed, so we know exactly what kind of money we are dealing with so that when we impose national security priorities on the executive branch and we provide policy guidance to the Department of Homeland Security, we are doing so in the real world, not in a fantasy world with pretend numbers and budget resources that simply do not exist.

The only real objection that I have to the Democratic substitute, because I agree with a great deal of the policy, is that it takes $7 billion from thin air and adds it on top of, not in substitute for, the provisions of the base bill. As a result, it is not about setting priorities; it is merely a wish list without any sense of priority.

I would say that it abdicates the responsibility of the authorizing committee and places all the burden on the appropriators were it not for the fact that we just voted on the appropriation bill yesterday. So every single Member knows that this is not a real $7 billion we are playing with here.

Rather than being called the Complete Homeland Security Act, it might be called the Death By Report Act because it does not help the Department of Homeland Security to run down terrorists; it instead sends them off on a mission to fill out reports. This substitute, in one of its key differences from the base text, is very heavy on reports and on plans and on studies and on assessments. It includes no fewer than 61 new initial reports, annual reports, follow-up reports, plans, strategies, studies, and reviews. That is not congressional direction; it is congressional misdirection.

There has got to be a focus on preventing terrorism, on doing the job, this most important, fundamental national security mission that we have assigned to the Department to do, rather than filling out paperwork. The substitute itself is 221 pages long, and in some respects it is not ready for action by the full House because its provisions have not yet been vetted even in hearings in subcommittee or full committee before the Department.

I daresay that some of those things, such as port security, chemical plant security, and so on, are policies with which I would agree. They are things that we intend to do as a committee this year. I have stated over and over, as recently as yesterday before the Committee on Rules, that because this is the first authorization bill for a Department which itself has existed for only 2 years, and which was thoroughly authorized in a charter written from top to bottom by this Congress just a few years ago, this bill is smaller this year than it will ever be in future years.

Moreover, because the Secretary is in the midst of his 90-day review of the Department's operation top to bottom as he takes the helm of what for him is a brand-new responsibility, we are trying to give him a few days more, he is due to report to us in June, to give us his roadmap. And that means we will be back on this floor with more authorizing legislation on the very subjects covered by the substitute amendment.

For all those reasons, I respectfully, but strongly, oppose this amendment.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1 minute to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding me this time.

The Thompson substitute is necessary. It fills great holes in our major bill. There is not one dollar in this bill for the transportation that America uses to go to work: rail, light rail, buses, subways, ferries. Yet even after Madrid, we are not dealing with the al Qaeda favorite. One-third of all the attacks has been on public transportation.

Cargo within four blocks of the Capitol. Explosives. One car, 14 miles. If one attack occurred, 100,000 people dead in a half-hour. How can we reauthorize or authorize the first homeland security bill without having any section in that bill on rail security? I do not think we can.

The American people deserve better. The Thompson substitute is clearly superior.

Mr. COX. Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I rise in support certainly of H.R. 1817, but it is not enough. It is not good enough.

This administration claims to make fighting terrorism its top priority, and that is why we set up the Department of Homeland Security. You are not supposed to tell us from homeland security what it is we cannot do, but what we can do.

I agree that maybe Secretary Ridge did not have enough information, did not have enough at his disposal, so he told us about the alerts; the yellow lights, the orange and the red and all of that; told us to go out and buy flashlights, duct tape, water, and plastic sheeting. But it is time to get serious.

Homeland security should not be a sound bite or a reelection strategy. We have got to do something about the border. This President promised us 2,000 border agents. We have citizens who have taken it upon themselves to protect our border, and here we are talking about we do not have enough money to fund 2,000 agents when we are giving a bonus to Halliburton. Give me a break.

We need money for first responders. We need money for our ports and our containers. This substitute will help to fill that gap. It is time we put our money where our mouths are.

The Acting CHAIRMAN. The gentleman from Mississippi (Mr. THOMPSON) has 30 seconds remaining.

Mr. COX. Mr. Chairman, I would be pleased to yield 30 seconds to the gentleman from Mississippi.

The Acting CHAIRMAN. The gentleman from Mississippi has 1 minute.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Chairman, immediate action should have been taken on chemical plant security after the wake-up call we got from the 9/11 attacks. I have introduced the Chemical Security Act in the past two Congresses, but the House has never considered my legislation.

Across the country, the EPA has identified 123 facilities where a toxic gas release due to a terrorist attack could injure or kill more than 1 million people. The Thompson substitute would give the problem of chemical security plants and their security the attention it needs, and I would urge the House to adopt the Thompson substitute for that provision and all the other reasons that have been given here today.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of Mississippi. I yield to the gentleman from California.

Mr. COX. Mr. Chairman, I would simply say to the gentleman from New Jersey that the point he raises about chemical security is an extremely important one, and I wanted to make sure that all the Members knew that on June 14 the Committee on Homeland Security will be having a hearing on that very topic. We intend, in the balance of this year, to go very deeply into our responsibilities for chemical plant security.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this is a substitute that is complete. If you look at it, it addresses all the vulnerabilities of our country; and I ask the body to support it.

Mr. COX. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I spoke just a moment ago about some of the provisions in this bill that, in my view, do not belong there, most notably the $7 billion that has no offset and, therefore, breaks the House-passed budget and is completely out of sync with the homeland security appropriation bill for which we had a large, nearly unanimous bipartisan vote yesterday.

But I would like to talk in the remaining seconds available about what this bill, the Thompson substitute, does not do. It does not incorporate, inexplicably, many of the bipartisan provisions that we have already agreed upon in the base bill. I have to believe that that was a drafting oversight; but were we to substitute for the base bill, we would lose the provisions that give, for example, flexibilities to the Information Analysis Office in the Department of Homeland Security to hire more intelligence agencies, something that has been a big priority of our committee for 3 years now. We would lose the reforms of the color-coded Homeland Security Advisory System, which both Republicans and Democrats have agreed upon.

As a result, we would be far better off to stick with the bipartisan provisions that are in the bill, rather than in the partisan provisions that appear in the Thompson substitute. I urge Members to reject the substitute.

Mr. ORTIZ. Mr. Chairman, as so many of you know, I represent a border district and am a former law enforcement officer. For the last year, I have been talking to a number of you about my concerns about border security, based on things I am hearing from border law enforcement officers.

I rise in support of the gentleman from Mississippi's substitute, which contains the amendment the Rules Committee yesterday disallowed from consideration by the House. Mr. THOMPSON's substitute draws from some ideas included in a border security bill I introduced earlier this year.

So many of my constituents—and our colleagues here in Congress—are profoundly frustrated with the budget-driven nature of our border security. This amendment requires the Department of Homeland Security to develop and implement a Comprehensive Border Strategy to secure U.S. borders—one that focuses on the needs of our national and border security rather than on the cost.

This amendment seeks a comprehensive approach that considers: staffing, infrastructure, technology, coordination of intelligence among agencies, legal responsibilities, jurisdictional issues, apprehension statistics, budgetary consequences, and the impact on the flow of commerce and legitimate travelers. It also requires implementation of the "American Shield Initiative" to address vulnerabilities between the ports-of-entry, which remains largely unaddressed since 9/11.

I urge all of us to focus our attention on a comprehensive border security policy by both authorizing and appropriating the funds necessary to secure our borders. The men and women who protect our border do an extraordinary job.

We owe them full funding of the security initiatives we determine are necessary for the protection of the people and places that we hold dear in the United States. It is simply not enough to talk about border security, it is an urgent matter for us to put our money where our mouth is when it comes to protecting our borders and our Nation.

I urge my colleagues to support this amendment—and I thank Mr. THOMPSON, Mr. STUPAK and Mr. REYES for their leadership on this issue.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in strong support of the amendment in Nature of a Substitute as offered by the distinguished Ranking Member of the Homeland Security Committee, the gentleman from Mississippi. It provides for $6.9 billion more in funding than the base bill (or the President's budget), including the funding needed to fulfill the homeland security commitments in the Intelligence Reform and Terrorism Prevention Act of 2004 and to meet other priorities.

Of the priorities that it proposes to meet is $380 million to hire 2,000 new border agents. As the Ranking Democrat of the Judiciary Subcommittee on Immigration, Border Security, and Claims, I understand the gravity of this allocation and how irresponsible it would be to omit it from the base bill. First Responder communications is funded under the Amendment in the amount of $500 million. As a major proponent of the Citizen Corps Council model that was created by President Bush himself but not funded, I appreciate the value of this level of funding for better communications systems for our front line personnel.

In addition, the Thompson substitute would provide $1 billion in grants for port, rail, transit, and bus security. These aspects of our transportation system have been given inadequate attention by the underlying bill. Again, with respect to aiding our first responders, the Thompson substitute would allocate $150 million to restore funding for FIRE Act grants.

Amidst the contentious debate about aviation security and the question as to the adequacy of our screening processes, Ranking Member THOMPSON seeks to attack the root of the issue by providing $418 million for aviation security research.

In terms of overall policy provisions, the Amendment calls for a comprehensive border strategy and technology that would monitor the entire border 24/7; new authority to ensure chemical plants are secured; a 3-year plan to ensure all air cargo on passenger planes is screened maritime cargo container security standards; new security measures for rail and public transit deadlines for establishing security plans for all critical infrastructure improvements in biometrics and other screening technology a new DHS council to monitor domestic terrorism; creation of an Assistant Secretary of Cybersecurity; and changes to DHS to ensure its operations are diverse and manageable.

Mr. Chairman, the Thompson substitute is a prudent, comprehensive, and responsible alternative to that offered by the Chairman of the Homeland Security Committee. I support it fully and ask that my colleagues join me.

Mr. OBERSTAR. Mr. Chairman, I rise in strong support of the Thompson amendment in the nature of a substitute. This amendment sets forth a comprehensive, integrated policy to promote homeland security. This amendment is a true substitute amendment and covers important areas where Federal security plans are sorely needed—such as rail and transit transportation—that are omitted from the underlying bill. Frankly, the Thompson amendment demonstrates that the Democrats in this body have the better plan for securing our Nation.

I'd like to thank the Ranking Member of the Committee on Homeland Security, Congressman THOMPSON, for actively working with me to develop this comprehensive amendment. In particular, I'd like to thank him for recognizing the important role that the Department of Transportation (DOT) has in devising and implementing transportation security regulations. DOT has extensive experience in security and has the primary responsibility for the efficiency and safety of transportation. For transportation security to work well, it is imperative that the Department of Homeland Security (DHS) and DOT work on security plans in tandem. The transportation provisions in this amendment insure that the Department of Homeland Security and Department of Transportation will work together to ensure that this Nation has the strongest, smartest homeland security procedures, which do not unnecessarily undermine efficiency or compromise safety.

I'd like to highlight some of these provisions. Section 518 of the amendment is the language from H.R. 1496, a bipartisan bill which I cosponsored and which was reported by the Transportation and Infrastructure Committee in April, to allow general aviation to return to National Airport. Opening National Airport to general aviation is long overdue.

In Vision 100, reported by the Transportation Committee and passed by Congress in 2003, Congress mandated that National Airport be open to general aviation after a security plan is established. To date, this Administration has not taken action to comply with this directive. I am disappointed that the Administration has avoided reopening general aviation at National Airport for this long, and this legislation is necessary to fully restore our transportation system, and our economy.

Further, I strongly support Title VI of the Thompson amendment. This title provides for transit security and passenger and freight rail security. Again, rail and transit security are areas where DOT and DHS must work together. This amendment would provide for that.

Subtitle B is taken directly from H.R. 2351, the "Rail Security Act of 2005," which I introduced earlier this month. It requires that within 180 days of enactment, the Secretary of Homeland Security and the Secretary of Transportation shall develop and implement a railroad security assessment, a railroad security plan, and prioritized recommendations for improving railroad security. The amendment also requires the Secretary of Homeland Security and the Secretary of Transportation to execute a memorandum of agreement governing the roles and responsibilities of their Departments in addressing railroad transportation security matters.

Moreover, the amendment focuses on an issue that security bills often ignore: the importance of ensuring that key workers have the support and training required to protect our rail system, whether those workers are railroad employees or emergency responders. Rail workers are truly the eyes and ears of the rail industry. They greet passengers, sell tickets, operate trains, maintain track and signal systems, dispatch trains, operate bridges, and repair cars. They are in the most direct position to spot security risks and potential threats. This bill requires rail carriers to provide security training to these workers to ensure that they are prepared to take appropriate action against threat conditions.

While I do support most of these provisions in the Thompson amendment, I have serious concerns about one particular section. Section 519 would mandate that 100 percent of air cargo on passenger planes be physically inspected. While ensuring the security of air cargo is a laudable goal, this mandate is not the best way to accomplish that goal. The effect of this amendment would be to force air carriers to remove all cargo from passenger aircraft, jeopardizing 27,000 direct jobs and $4 billion in annual revenue.

No available technology exists today to efficiently and effectively screen all air cargo for explosives. Most of the cargo screening technologies referenced by those in favor of this amendment are basic or high energy x-ray systems, which currently are not certified explosive detection systems (EDS) for cargo. U.S. airlines have implemented significant cargo inspection and screening measures mandated by Congress and enforced by TSA. First, only known shippers (shippers who are part of the Known Shipper database) may ship cargo on passenger aircraft. Second, all cargo is subject to random inspection. In addition, U.S. airlines have collaborated with TSA and the U.S. Postal Service to develop and implement a canine mail-screening program for mail carried on passenger airlines. The airlines continue to assist TSA in programs to evaluate the utility of explosive detection systems (EDS) and canines for cargo screening. These programs are the best methods available for ensuring cargo security.

However, Mr. Chairman, my concerns about the cargo security provision are outweighed by the many good security provisions in the amendment. I support the Thompson amendment. It is a comprehensive approach to providing the best security for our Nation. I urge its passage.

The Acting CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Mississippi (Mr. THOMPSON).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. THOMPSON of Mississippi. Mr. Chairman, I demand a recorded vote.

Pursuant to clause 6 of rule XVIII, further proceedings on the amendment in the nature of a substitute offered by the gentleman from Mississippi (Mr. THOMPSON) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 1 printed in part B offered by the gentleman from Florida (Mr. MEEK), amendment No. 13 printed in part B offered by the gentlewoman from Oregon (Ms. HOOLEY), amendment No. 18 printed in part B offered by the gentleman from Georgia (Mr. NORWOOD), amendment No. 20 printed in part B offered by the gentlewoman from Texas (Ms. JACKSON-LEE), and amendment No. 24 printed in part B offered by the gentleman from Mississippi (Mr. THOMPSON).

The Chair will reduce to 5 minutes the time for any electronic votes after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY MR. MEEK OF FLORIDA

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on amendment No. 1 offered by the gentleman from Florida (Mr. MEEK) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 184, noes 244, not voting 5, as follows:

[Roll No. 183]

AYES—184

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Diaz-Balart, L.
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (MS)
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—244

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Case
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Evans
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pastor
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad

Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—5

Larson (CT)
Lewis (GA)
Lucas
Millender-McDonald
Tancredo

☐ 1812

Messrs. MCHUGH, HEFLEY, COSTA, GOODE, Ms. BEAN, Ms. GRANGER, Mr. STEARNS and Mrs. MYRICK changed their vote from "aye" to "no."

Mr. DEFAZIO, Ms. HOOLEY, Mr. BOYD and Mr. DAVIS of Tennessee changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 13 OFFERED BY MS. HOOLEY

The Acting CHAIRMAN (Mr. LAHOOD). The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Oregon (Ms. HOOLEY) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 363, noes 65, not voting 5, as follows:

[Roll No. 184]

AYES—363

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Baldwin
Barrett (SC)
Barrow
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boehlert
Boehner
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Conaway
Conyers
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Mack
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (FL)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Neugebauer
Northup
Norwood
Nunes
Nussle
Oberstar
Olver
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Peterson (PA)
Pickering
Pitts
Poe
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shadegg
Shaw
Sherman
Sherwood
Shimkus
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Sodrel
Solis
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOES—65

Baird
Bartlett (MD)
Berry
Blunt
Bonilla
Boustany
Buyer
Cannon
Cantor
Cole (OK)
Cooper
Costa
Davis (FL)
Ehlers
English (PA)
Everett
Ford
Frank (MA)
Franks (AZ)
Gillmor
Gutknecht
Harris
Hayes
Hensarling
Hoekstra
Istook
Johnson, Sam
King (IA)
Kingston
LaTourette
Lungren, Daniel E.
Marchant
Mica
Miller (MI)
Moran (KS)
Nadler
Ney
Obey
Otter
Pence
Peterson (MN)
Petri
Platts
Price (GA)
Radanovich
Rohrabacher
Ryan (WI)
Ryun (KS)
Sabo
Sensenbrenner
Sessions
Shays
Shuster
Smith (TX)
Souder
Taylor (MS)
Thomas
Thornberry
Tierney
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Young (AK)

NOT VOTING—5

Larson (CT)
Lewis (GA)
Lucas
Millender-McDonald
Tancredo

☐ 1823

Mr. FORD changed his vote from "aye" to "no."

Mr. SHERMAN changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 18 OFFERED BY MR. NORWOOD

The Acting CHAIRMAN (Mr. LAHOOD). The pending business is the demand for a recorded vote on amendment No. 18 offered by the gentleman from Georgia (Mr. NORWOOD) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 242, noes 185, not voting 6, as follows:

[Roll No. 185]

AYES—242

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Case
Castle
Chabot
Chandler
Chocola
Coble
Cole (OK)
Conaway
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio

DeLay
Dent
Doolittle
Drake
Dreier
Duncan
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Higgins
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Israel
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sweeney
Tanner
Taylor (MS)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—185

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Blumenauer
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Cannon
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Edwards
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Ford
Frank (MA)
Frelinghuysen
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Hinchey
Hinojosa
Holt
Honda
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kolbe
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reichert
Reyes
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Sherman
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Taylor (NC)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOT VOTING—6

Larson (CT)
Lewis (GA)
Lucas
Millender-McDonald
Sullivan
Tancredo

☐ 1831

Mr. PORTER changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 20 OFFERED BY MS. JACKSON-LEE OF TEXAS

The Acting CHAIRMAN (Mr. LAHOOD). The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 182, noes 245, not voting 6, as follows:

[Roll No. 186]

AYES—182

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Leach
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Sherman
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Tauscher
Thompson (MS)
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—245

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lungren, Daniel E.
Mack
Manzullo

Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Strickland
Sullivan
Sweeney
Tanner
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Larson (CT)
Lewis (GA)
Lucas
Millender-McDonald
Tancredo
Taylor (NC)

☐ 1840

Ms. BEAN changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 24 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. THOMPSON OF MISSISSIPPI

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment No. 24 in the nature of a substitute offered by the gentleman from Mississippi (Mr. THOMPSON) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment in the nature of a substitute.

The Clerk redesignated the amendment in the nature of a substitute.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 196, noes 230, not voting 7, as follows:

[Roll No. 187]

AYES—196

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—230

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Kaptur
Larson (CT)
Lewis (GA)
Lucas
McDermott
Millender-McDonald
Tancredo

☐ 1847

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN (Mr. LAHOOD). Are there further amendments to the bill?

There being no other amendments, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTINGS of Washington) having assumed the chair, Mr. LAHOOD, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1817) to authorize appropriations for fiscal year 2006 for the Department of Homeland Security, and for other purposes, pursuant to House Resolution 283, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. THOMPSON OF MISSISSIPPI

Mr. THOMPSON of Mississippi. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. THOMPSON of Mississippi. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Thompson of Mississippi moves to recommit the bill H.R. 1817 to the Committee on Homeland Security with instructions to report the same back to the House forthwith with the following amendment:

At the end of the bill, add the following:

TITLE VI—ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS

SEC. 601. AVIATION SECURITY RESEARCH AND DEVELOPMENT.

To carry out section 4011(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3714), there is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $20,000,000 for fiscal year 2006 for research and development of advanced biometric technology applications to aviation security, including mass identification technology.

SEC. 602. BIOMETRIC CENTER OF EXCELLENCE.

To carry out section 4011(d) of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3714), there is authorized to be appropriated $1,000,000 for fiscal year 2006 for the establishment by the Secretary of Homeland Security of a competitive center of excellence that will develop and expedite the Federal Government's use of biometric identifiers.

SEC. 603. PORTAL DETECTION SYSTEMS.

To carry out section 44925 of title 49, United States Code, there is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $250,000,000 for fiscal year 2006 for research, development, and installation of detection systems and other devices for the detection of biological, chemical, radiological, and explosive materials.

SEC. 604. IN-LINE CHECKED BAGGAGE SCREENING.

To carry out section 4019 of the Intelligence Reform and Terrorism Prevention Act of 2004 (49 U.S.C. 44901 note; 118 Stat. 3721), there is authorized to be appropriated for fiscal year 2006 $400,000,000 to carry out the in-line checked baggage screening system installations required by section 44901 of title 49, United States Code.

SEC. 605. CHECKED BAGGAGE SCREENING AREA MONITORING.

To carry out section 4020 of the Intelligence Reform and Terrorism Prevention Act of 2004 (49 U.S.C. 44901 note; 118 Stat. 3722), there is authorized to be appropriated to the Secretary of Homeland Security for the use of the Under Secretary for Border and Transportation Security such sums as may be necessary for fiscal year 2006 to provide assistance to airports at which screening is required by section 44901 of title 49, United States Code, and that have checked baggage screening areas that are not open to public view, in the acquisition and installation of security monitoring cameras for surveillance of such areas in order to deter theft from checked baggage and to aid in the speedy resolution of liability claims against the Transportation Security Administration.

SEC. 606. IMPROVED EXPLOSIVE DETECTION SYSTEMS.

To carry out section 4024 of the Intelligence Reform and Terrorism Prevention Act of 2004 (49 U.S.C. 44913 note; 118 Stat. 3724), there is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $100,000,000 for fiscal year 2006 for the purpose of research and development of improved explosive detection systems for aviation security under section 44913 of title 49, United States Code.

SEC. 607. MAN-PORTABLE AIR DEFENSE SYSTEMS (MANPADS).

To carry out section 4026 of the Intelligence Reform and Terrorism Prevention Act of 2004 (22 U.S.C. 2751 note; 118 Stat. 3724), there is authorized to be appropriated such sums as may be necessary for fiscal year 2006.

SEC. 608. PILOT PROGRAM TO EVALUATE USE OF BLAST RESISTANT CARGO AND BAGGAGE CONTAINERS.

To carry out subsections (a) and (b) of section 4051 of the Intelligence Reform and Terrorism Prevention Act of 2004 (49 U.S.C. 44901 note; 118 Stat. 3728), there is authorized to be appropriated $2,000,000 for fiscal year 2006. Such sums shall remain available until expended.

SEC. 609. AIR CARGO SECURITY.

To carry out section 4052(a) of the Intelligence Reform and Terrorism Prevention Act of 2004 (49 U.S.C. 44901 note; 118 Stat. 3728), there is authorized to be appropriated to the Secretary $100,000,000 for fiscal year 2006 for research and development related to enhanced air cargo security technology, as well as for deployment and installation of enhanced air cargo security technology. Such sums shall remain available until expended.

SEC. 610. FEDERAL AIR MARSHALS.

To carry out section 4016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (49 U.S.C. 44917 note; 118 Stat. 3720), there is authorized to be appropriated to the Secretary of Homeland Security for the use of the Bureau of Immigration and Customs Enforcement $83,000,000 for fiscal year 2006 for the deployment of Federal air marshals under section 44917 of title 49, United States Code. Such sums shall remain available until expended.

SEC. 611. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

To carry out section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 stat. 3734), there is authorized to be appropriated such sums as may be necessary in fiscal year 2006 for the Secretary of Homeland Security to increase by not less than 800 the number of positions for full-time active duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) in fiscal year 2006 above the number of such positions for which funds were made available during the preceding fiscal year.

SEC. 612. INCREASE IN DETENTION IN DETENTION BED SPACE.

To carry out section 5204 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734), there is authorized to be appropriated such sums as may be necessary in fiscal year 2006 for the Secretary of Homeland Security to increase by not less than 8,000 the number of beds available for immigration detention and removal operations of the Department of Homeland Security above the number for which funds were allotted for the preceding fiscal year.

SEC. 613. BORDER SECURITY TECHNOLOGIES FOR USE BETWEEN PORTS OF ENTRY.

To carry out subtitle A of title V of the Intelligence Reform and Terrorism Prevention Act (118 Stat. 3732), there is authorized to be appropriated $25,000,000 for fiscal year 2006 for the formulation of a research and development program to test various advanced technologies to improve border security between ports of entry as established in sections 5101, 5102, 5103, and 5104 of the Intelligence Reform and Terrorism Prevention Act of 2004.

SEC. 614. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

To carry out section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734), there is authorized to be appropriated $380,000,000 for the Secretary of Homeland Security to increase by not less than 2,000 the number of positions for full-time, active-duty border patrol agents within the Department of Homeland Security, in fiscal year 2006, above the number of such positions for which funds were allotted for the preceding fiscal year.

SEC. 615. IMMIGRATION SECURITY INITIATIVE.

To carry out section 7206 of the Intelligence Reform and Terrorism Prevention Act (118 Stat. 3817), there are authorized to be appropriated to the Secretary of Homeland Security to carry out the amendments made by subsection (a) $40,000,000 for fiscal year 2006.

TITLE VII—CARGO INSPECTION

SEC. 701. INSPECTION OF CARGO CARRIED ABOARD COMMERCIAL AIRCRAFT.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall implement a system that uses equipment, technology, personnel, and other means to inspect 35 percent of cargo transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate transportation. At a minimum, this system shall meet the same standards as those established by the Secretary for equipment, technology, and personnel used to screen passenger baggage. Within 2 years after the date of the enactment of this Act, the Secretary shall use this system to inspect at least 65 percent of cargo transported in passenger aircraft. Not later than three years after the date of enactment of this Act, the Secretary shall use this system to inspect at least 100 percent of cargo transported in passenger aircraft.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report describing the system established under subsection (a).

Mr. THOMPSON of Mississippi (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi (Mr. THOMPSON) is recognized for 5 minutes in support of his motion.

Mr. THOMPSON of Mississippi. Mr. Speaker, last year we passed the Intelligence Reform and Terrorism Prevention Act, which included significant funding boosts for homeland security programs.

When the President signed the 9/11 bill, he made a commitment to our law enforcement personnel. He said, "We will continue to work with Congress to make sure they have got the resources necessary to do their jobs."

However, when the President's budget came out in January, it failed to fully fund the programs in the 9/11 Act. Frontline officers tell us that they do not have the resources they need to get the job done. The Immigrations and Customs Enforcement Service has been in a hiring freeze since late last year. The border patrol simply does not have the manpower or the support staff to be able to effectively do its job.

Simply signing a bill is not enough. You have got to do what you promised to do. What we have been asking for today, in introducing this bill, is for the President to explain why it is not necessary to fully fund the 9/11 Act to better secure our Nation.

Accountability is the key to homeland security. If the President is not going to make sure that homeland security increases are identified as being needed and are in the budget, then the American people deserve to know why.

Additionally, this motion to recommit addresses a major threat in aviation security. The Rules Committee blocked consideration of this important measure, Mr. Speaker. Every day the TSA fails to inspect the millions of tons of cargo shipped in the belly of passenger planes is yet another day American lives are put at risk.

I urge my colleagues to join me and approve this motion to recommit.

Mr. Speaker, I now yield 1½ minutes to my colleague, the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, in this recommitment motion, you will get a chance, on the majority side, to vote on whether or not you want to screen cargo that is on passenger planes.

We take off our shoes. Americans take off their shoes, families putting their children on flights to head on vacation or go to school. They all take off their shoes.

But underneath, in the cargo bay of those passenger planes, almost none of the cargo which sits right next to those bags is screened. If something is this size, 16 ounces, no paperwork. Nothing.

If it is the same size as the bag your children and you have, it does not get screened. It is going on right next to your bags. And so what our amendment says is, you got a warning. The cargo on this plane has not been screened for explosives. That is the Republican bill.

The Democratic substitute says that 100 percent of all baggage, all cargo as well, on passenger planes is screened. If you care about your families, if you care about implementing one of the key recommendations in the 9/11 report, then vote for the Democratic recommittal motion. This is the only chance you are going to have to vote on this issue. Vote "yes" on the recommittal motion.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, the motion to recommit would authorize full funding for all of the homeland security measures called for in the Intelligence Reform Act adopted last year: aviation security research and development, full detection systems, biological, chemical, radiation and explosive materials, passenger baggage screening equipment, air cargo security, Federal air marshals and border security measures.

It also includes a requirement that within 3 years all air cargo on passenger planes be screened.

Mr. Speaker, I ask for a "yes" vote on this motion to recommit.

Mr. Speaker, I yield back the balance of my time.

Mr. COX. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, I want to draw our attention to what is actually in the motion to recommit. It consists of 15 sequential sections that do nothing more than authorize monies, and a final section, which my colleague from Massachusetts just spoke about, concerning air cargo which contains no reference to money, whatsoever, but which, according to the Department of Homeland Security, would effectively double the budget of the TSA.

Let me read to you the dollar amounts in each of the sections, because I want to draw Members' attention to the fact that there are no offsets. There are no sources of funding for these provisions.

Section 601 adds $20 million without any funding source; section 602, $1 million; section 603, a quarter billion dollars; section 604, $400 million dollars and so on.

I mention this because we are here on the floor for the first time considering the Department of Homeland Security authorization bill in an annual process that is beginning now, but which will go on for the indefinite future. And we are seeking to establish a precedent.

And that precedent is that just as with other national security authorize legislation that we bring to the floor, in this bill, it is real money. In this bill, we are authorizing funding within the House-passed budget and consistent with amounts that we actually intend to appropriate.

Now, we have a unique opportunity this year because the order of consideration of the appropriations bill and the authorization bill was reversed. Just yesterday on the floor of this House, Members voted on the appropriations bill so we actually know real dollar numbers that Secretary Chertoff and the Department of Homeland Security will have to work with. And virtually every Member on this floor just voted for that bill yesterday.

□ 1900

So, if we are to come to the floor today and vote for funding figures which are different from what we know will actually happen, we will be placing priorities before the Department of Homeland Security and mandates on the Department of Homeland Security that we know it cannot meet.

There are some other anomalies with the funding provisions in the motion to recommit that I am certain must be drafting mistakes.

I do not doubt for a moment the passion of the gentleman from Massachusetts when it comes to the question of screening air cargo, but I have to draw Members' attention to the fact that the dollar figure that is authorized for the Department of Homeland Security for air cargo in the motion to recommit is $100 million. That would be a $15 million cut from the actual number that we appropriated last year and a $28 million cut from what we just voted for air cargo screening in yesterday's appropriations bill. I do not know why we would do that.

The same thing is true for air marshals. This House is very interested in putting air marshals on airplanes to protect the flying public. The motion to recommit sets the authorized funding level for air marshals at $83 million. The appropriations bill that we just voted for yesterday would give the Department of Homeland Security $700 million, not $83 million for air marshals. Why would we cut air marshals, unless it is a drafting mistake in the motion to recommit?

As I said, this is an historic moment on the floor of this House, and I want to draw our attention to what we are about to do, as soon as we finish the motion to recommit. We are about to vote on what will be the first of an annual authorization for the Department of Homeland Security.

That bill is bipartisan. Both sides agree on everything that is in it. It fully funds 2,000 new Border Patrol agents. It establishes a top level new Assistant Secretary for Cyber Security within the Department of Homeland Security. It beefs up the intelligence capability at the Department of Homeland Security. It reforms the threat warning system. It establishes the Homeland Security Information Network that will link thousands of local agencies across the country in real-time to the Department. It does all of this and much more within the House-passed budget and within the confines of the appropriations bill that we just passed yesterday.

This is exactly the norm that is set for us in the authorizing legislation that comes from the Committee on Armed Services to fund the Pentagon and that comes to us from the House Permanent Select Committee on Intelligence to fund the intelligence community. Those authorization bills all live within the budget. So, too, must we in this homeland security authorization bill this year and every year hereafter.

To my colleagues on the Democratic side, I understand what they are doing in this motion, seeking to draw attention to critical issues such as cargo security and chemical plant security that are not yet the subject of authorizing language on the floor of this House. I commit to my colleagues that this bill on which we agree is a beginning and that our new committee will use its jurisdiction to develop bipartisan legislation on these subjects, just as we have on first responders, just as we did last week on the floor of this House, and just as we have on this historic $34 billion authorization for the Department of Homeland Security.

Mr. Speaker, if I may in conclusion say that I am thoroughly impressed with the effort and the work that has been put forth on both sides of the aisle on this bill, with the performance and the leadership of the gentleman from Mississippi (Mr. THOMPSON), my colleague. May I say that there has not been 1 day since September 11 when any Member of this House has forgotten the lesson of homeland security that we learned on that day, chief among which is that we must always put the security of this country ahead of partisan politics.

The bill that we will vote on in a moment, the homeland security authorization bill, does that, and I look forward to standing shoulder-to-shoulder with the gentleman from Mississippi (Mr. THOMPSON), with all the members of the committee, and with, I believe, all the Members of this House.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. THOMPSON of Mississippi. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 199, noes 228, not voting 6, as follows:

[Roll No. 188]

AYES—199

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—228

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pastor
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Feeney
Larson (CT)
Lewis (GA)
Lucas
Millender-McDonald
Tancredo

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS of Washington) (during the vote). There are 2 minutes remaining in this vote.

☐ 1920

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. COX. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 424, noes 4, not voting 5, as follows:

[Roll No. 189]

AYES—424

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—4

Gutierrez
Markey
Obey
Paul

NOT VOTING—5

Larson (CT)
Lewis (GA)
Lucas
Millender-McDonald
Tancredo

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1927

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Mr. Speaker, I would like to submit this statement for the RECORD and regret that I could not be present today, Wednesday, May 18, 2005 to vote on rollcall vote Nos. 181, 182, 183, 184, 185, 186, 187, 188 and 189 due to a family medical emergency.

Had I been present, I would have voted: "No" on rollcall vote No. 181 on calling the previous question on H. Res. 283—the rule providing for consideration of H.R. 1817—Homeland Security Authorization Act for Fiscal Year 2006; "no" on rollcall vote No. 182 on passage of H. Res. 283—the rule providing for consideration of H.R. 1817—Homeland Security Authorization Act for Fiscal Year 2006; "yea" on rollcall vote No. 183 on an amendment to H.R. 1817 to increase funding for the Department of Homeland Security's Office of Inspector General to $200 million; "yea" on rollcall vote No. 184 on an amendment to H.R. 1817 to prohibit any of the money in the DHS authorization bill to come from an increase in airline ticket taxes; "no" on rollcall vote No. 185 on an amendment to H.R. 1817 to clarify the existing authority of State and local enforcement personnel to apprehend, detain, remove, and transport illegal aliens in the routine course of duty, and requires DHS to establish a training manual on this matter and set forth simple guidelines for making that training available; "yea" on rollcall vote No. 186 on an amendment to H.R. 1817 to call for the Secretary of Homeland Security to submit a report to Congress on: the number and types of border violence activities that have occurred; the types of activities involved; a description of the categories of victims that exists; and a description of the steps that DHS is taking and any plan that the Department had formulated to prevent these activities; "yea" on rollcall vote No. 187 on an amendment to H.R. 1817 in the nature of a substitute to authorize $6.9 billion over H.R. 1817 in homeland security funding and includes a number of policy proposals to close security gaps and to restructure the Department of Homeland Security; "yea" on rollcall vote No. 188 on the motion to recommit H.R. 1817 to the Committee on Homeland Security; and, "yea" on rollcall vote No. 189 on passage of H.R. 1817—the Homeland Security Authorization Act for FY 2006.

AUTHORIZING CLERK TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES IN ENGROSSMENT OF H.R. 1817, DEPARTMENT OF HOMELAND SECURITY AUTHORIZATION ACT FOR FISCAL YEAR 2006

Mr. COX. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections and other conforming changes in the engrossment of H.R. 1817 to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1526

Mr. OTTER. Mr. Speaker, I ask unanimous consent to have the name of the gentleman from Louisiana (Mr. JINDAL) removed as cosponsor of H.R. 1526, the Security and Freedom Ensured Act of 2005.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

REPORT ON H.R. 2419, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2006

Mr. HOBSON, from the Committee on Appropriations, submitted a privileged report (Rept. No. 109–86) on the bill (H.R. 2419) making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

SUPPORT 527 FAIRNESS ACT OF 2005

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, today I rise in support of the 527 Fairness Act of 2005. This is a bill that levels the playing field between political parties, PACs, Federal campaigns and 527s. The 527 Fairness Act lifts up other players by injecting more freedom into the campaign system.

The legislation is very simple. It removes the aggregate contribution limit. It allows State and local parties to spend non-Federal dollars for voter registration and sample ballots. What it does not do is it does not repeal the limits on individual contributions to national parties and committees. It does not allow soft money to go to national political parties.

The answer, Mr. Speaker, to problems and politics in a free society is more freedom, not less freedom. So I commend my colleagues, the gentleman from Indiana (Mr. PENCE) and the gentleman from Maryland (Mr. WYNN) for introducing this bipartisan vital piece of legislation. I urge my colleagues to support the 527 Fairness Act of 2005.

NO FILIBUSTER CHANGE

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, I was recently playing a card game with my 5-year-old grandson, Teddy. And he knows it is wrong to change the rules in the middle of the game just to win. But the Republicans do not seem to play by any rules. If they sense vulnerability, they will rewrite historical laws to suit their needs. That is exactly what they did in the House Committee on Standards of Official Conduct, and that is exactly what they are trying to do by eliminating the filibuster in the judicial nomination process.

Americans do not want this Nation to be run by leaders willing to change the rules, to forgo the laws of the land, to cater to their special interests. They do not want judicial nominees that are bullied through Congress. They want qualified candidates that receive bipartisan approval like the other 200-plus Bush nominees approved by the Senate.

Changing the rules of the game to make an exception for 10 judges is not democratic. It is a blatant abuse of power. Mr. Speaker, this is something even a 5-year-old can understand.

REPUBLICAN QUEST FOR ABSOLUTE POWER

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, President Bush, Senator FRIST, and the majority leader, the gentleman from Texas (Mr. DELAY) are in a quest for absolute power in Washington, even if it means corrupting our government and the vision of our Founding Fathers.

The White House has manufactured a judicial crisis. Since the President took office, the Senate confirmed 208 of his judicial nominees and turned back only 10, a 95 percent confirmation rate. That rate is the highest approval rating for any President in modern times, higher than Reagan, Bush Senior and Clinton. The President presides over the lowest court vacancy rate in 25 years.

But 95 percent is not good enough for this White House. They want to have it all. That is simply not how it is supposed to work, and America sees this for what it is, an extreme power grab by the majority party. Our country knows that our country works best when no political party has absolute power.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. KUHL of New York). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ORDER OF BUSINESS

Mr. McDERMOTT. Mr. Speaker, I ask unanimous consent to take my Special Order time out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

THE RADICAL RIGHT

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, the word "nuclear" holds special meaning in our world. It is a word that has become synonymous with chaos, total destruction and annihilation. Nuclear is the word that for the last half century has struck fear in the hearts and minds of people across the United States.

For the last 2 months, Republicans in the Senate have threatened the nuclear option, like destroying the world was something you planned for and even boasted about. Over and over, the Republican-controlled Senate threatened to go nuclear, as if they were shouting "lock and load" at some local gun club.

For far too long, the Senate majority leader has been a trigger happy gun slinger who set aside a Colt 45 and ordered up a thermal nuclear warhead in its place. Just imagine the outcome if he had been President staring down Nikita Khrushchev during the Cuban missile crisis.

Today, Senate Republicans released the nuclear warhead and the blast zone extends east or west, north to south, incinerating the rights of every American. It will be the first strike launched on behalf of the radical right aimed at annihilating the safety, security and freedom of every American.

This is not about politics. The real Republican target is the U.S. Supreme Court and the judiciary. The Republican leaders said so in the House, and the Senate leaders said so in the Senate. No fallout shelter will keep us safe from the nuclear winter they plunge America into.

The radical Republican right has an agenda and they intend to use every weapon at their disposal to enforce their will upon the American people. The radical Republican right wants to dictate what a woman can and cannot do with her body. The radical Republican right wants to abolish women's rights one court decision at a time. Republicans just gave the radical extremist the right to abolish Roe v. Wade. Republicans just handed the radical right the keys to our democracy. Women's rights will be nuked.

Republican extremists will replace a woman's right to choose with a requirement to be subservient. The Republican Party intends to stack the Court and stack the deck against women.

They intend to violate the environment, too. Republican extremists want to stack the courts so their corporate lobbyists and special interests are shielded from liability, protected from acting responsibly, and given the right to foul the air, pollute the water, dump toxins on the ground, and spew carcinogens in the atmosphere.

Greed is God to these radicals who are attempting to subvert democracy with religious idolatry. Run for your lives, America, the Republicans are coming. Right wing extremists in the Republican Party control the House, the Senate, and the White House, and they want the new trophy, and it is called the Supreme Court.

They want to send their militants into your homes, into your lives, next to your death bed, to force their will upon you. The Republicans in charge today want to replace the Constitution with the Bible. The Republicans in charge today would like nothing better than to enforce a literal interpretation of the Bible in every American home, every American school, and every American mind.

The Republican majority leader from Tennessee wants America to return to 1925 when the Butler Act in his State told people what to think and what to believe. But before the Republicans shout their Hosannas on high, let me recite a passage from the Bible. It was used by the defense in the Scopes monkey trial.

Dayton, Tennessee, science teacher, 25 years old, John T. Scopes was persecuted and prosecuted for teaching science and not religion in the classroom. The great attorney, Clarence Darrow, who defended Scopes, called upon the Bible. "A holy book, a good book, but not the only book," Darrow said, in defense of a man who was convicted but later acquitted by the Supreme Court of the United States.

And I recall his words today to remind the Senate majority leader and every Republican intimidated into hypocrisy to remember the Bible. Clarence Darrow quoted Proverbs, chapter 11, verse 29, and here is what the Bible says: "He that troubleth his own house shall inherit the wind."

Tonight we begin the ice age because the wind is going to be cold coming out of that Senate. Remember, "He that troubleth his own house shall inherit the wind."

ORDER OF BUSINESS

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to speak out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

SMART SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, the time has come for a new national security strategy because our current path will only lead to future acts of terrorism and an increasingly insecure United States of America.

Most Americans understand that the best way to protect our country is through smarter policies right here at home, not through aggressive military combat abroad. In fact, a poll released today indicates that support for the war in Iraq is at its lowest level yet. Maybe that is because most Americans know that Iraq never possessed weapons of mass destruction, never had a connection to al Qaeda, and never played a role in the terrorist attacks of September 11.

Yet the Bush administration claimed each of these examples as fact in order to justify going to a war in Iraq and just over 2 years ago the U.S. invaded Iraq. Since then, more than 1,600 American soldiers, at least 24,000 noninsurgents Iraqi civilians, have paid for this false war with their lives, and over 12,000 American soldiers have been wounded forever.

Clearly the Presidential national security platform is not just immoral, it is incompetent. There has to be a better way, a better way than this. Fortunately, there is. Earlier tonight I reintroduced the SMART Security resolution for the 21st century. SMART security clearly has increasing support among Members of Congress because at the end of the 108th Congress we had 50 cosponsors to the SMART security bill. This year alone, SMART already has 49 original cosponsors, and myself, and it was just introduced today. SMART, which is Sensible Multilateral American Response to Terrorism, has five major components.

First, we must prevent future acts of terrorism by strengthening international institutions and the rule of law. For the past 4 years, the Bush administration has worked to discourage international cooperation. Most recently, his example of hostility toward diplomacy is the nomination of the hard-line unilateralist John Bolton to represent our country to the United Nations. Unilaterialism is not the answer because terrorism is not just America's problem.

We can reinvigorate our international relationships by encouraging our United Nations and NATO partners to help us root out terrorist networks and put a stop to financing international terrorist groups.

Second, we must stop the proliferation and spread of weapons of mass destruction. In the past, President Bush has indicated this is the greatest threat America faces. Yet he has both aggressively pursued new nuclear weapons like the bunker buster bomb, and he does not support international treaties that seek to end the spread of chemical and biological weapons.

□ 1945

Not only does SMART security promote compliance with America's commitments to existing treaties, it also calls for the United States to set an example for the rest of the world by renouncing the development and testing of new nuclear weapons.

Third, we must address the root causes of terrorism. The first front line in the war on terror has to be confronting the despair and deprivation that foster it. There is a demonstrated link between an educated citizenry and a decrease in support for terrorism which is why SMART security wholly encourages democracy-building; human rights education; sustainable development; and education, particularly for women and girls in these nations. These are the programs we need to pursue in Iraq, not continued military operations.

Fourth, we must shift America's budget priorities to more effectively meet our security needs. We need stronger investments in peacekeeping, in reconstruction, and humanitarian and developmental aid. We simply cannot afford to spend billions each year on outdated or unproven weapons systems like the missile defense shield which has yet to be proven successful.

Fifth, the U.S. must pursue to the fullest extent alternatives to war. War needs to be the very last resort, to be considered only after every single possible diplomatic solution has been exhausted.

Mr. Speaker, the security of the American people is perhaps the most important issue we must address in the post-September 11 world, but we must address it in a smart way. As the world's largest democracy, we have a responsibility to utilize all diplomatic possibilities before resorting to force.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2361, DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. BISHOP of Utah, from the Committee on Rules, submitted a privileged report (Rept. No. 109-87) on the resolution (H. Res. 287) providing for consideration of the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

EXCHANGE OF SPECIAL ORDER TIME

Ms. NORTON. Mr. Speaker, I ask permission to claim the time of the gentleman from New Jersey (Mr. PALLONE).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

JUDICIAL APPOINTMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia

(Ms. NORTON) is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, the Congressional Black Caucus has been in the forefront of the fight to preserve the filibuster, a much-used, indeed used more against African Americans than any others. We do not want to see and will not stand to see the rules changed when it could now be used to protect us from judges who would overturn our rights.

We have supported the idea of a compromise, if one could be found; but I come to the floor this evening to say that we are horrified to hear of a possible compromise involving two judges that would be most unacceptable to the 43 members of the Congressional Black Caucus who unanimously oppose elimination of the filibuster and unanimously oppose these two judges: Attorney General William Pryor, who would be nominated to the 11th Circuit; and Janice Rogers Brown, who would be nominated to the D.C. Court of Appeals.

Briefly, Attorney General Pryor in this year when we are starting the reauthorization of the 1965 Voting Rights Act would simply be totally unacceptable to us and we think to most Americans. This is a man who sought to repeal the critical section of the Voting Rights Act, who has indicated that some rights now protected by the Constitution should be regarded as social disputes and essentially has indicated that some of these rights now protected by the Constitution should indeed be left to the States. This is a man who belongs perhaps on the Supreme Court in the 19th century, not today.

We are particularly insulted that President Bush would resubmit the name of Janice Rogers Brown. Has he done so because she is African American and somehow he believes that for that reason people will go easy on her and not look at what in fact she has stood for? We regard her nomination as nothing short of insulting. When she was first nominated to the California Supreme Court, the signal from the California Association of Black Lawyers who opposed her nomination was that her appointment could be detrimental, as they put it, to black America with nothing short of, as they put it, far reaching circumstances for generations to come. How right they proved to be. When she was renominated to the California Supreme Court, 20 of the 23 members of the California bar found her to be not qualified because of the way she inserted her personal opinions, her personal views, into her judicial opinions.

Janice Rogers Brown and the rule of law are strangers. She has no regard for precedent. How else to explain a ruling of hers where she found that racially derogatory on-the-job speech was unconstitutional even though the Supreme Court long ago found that such speech is not protected by title VII of the Civil Rights Act. Why did she find herself in dissent reaching this conclusion?

I recite the cases because you hear that these judges are extreme. We mean to make you understand, hopefully, what we mean by extreme. Proposition 209 passed, an anti-affirmative action proposition, passed in California. The judge who was on her side of the case, the Chief Justice, Ronald George, also appointed by Governor Pete Wilson, said when he read her concurrence, remember, concurrence with him, that the concurrence raised "a serious distortion of history," indicating that it would be widely and correctly viewed as presenting an unfair and inaccurate caricature of affirmative action programs. When a judge on your side appointed by the same Governor as you characterizes your agreement with him in this way, is he not telling the Senate something it must listen to?

Here is a woman who found that black women in a case involving a prosecution where the prosecution may have used racial preemptory challenges found that black women are not a cognizable group. Again, she has often found herself in dissent even from her own Republican colleagues.

We do not need this woman on the District of Columbia Court of Appeals where she would bring her views that "the New Deal was the triumph of our own socialist revolution" to Washington.

SERGEANT MIKE LANE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE. Mr. Speaker, I rise tonight to honor Sergeant Mike Lane, a lifelong Texan, member of the Beaumont Police Department for 33 years. Each day a person who wears the badge walks the thin blue line between life and death. Their spouses wonder when their police officer mate reports for duty if that person will return safely home. Last year, 156 of them did not return home to their families. Texas, along with California, each led the Nation last year with 14 police officers killed in the line of duty. Sergeant Mike Lane was one of them.

Mike Lane graduated from Beaumont High School in 1969 and received his pilot's license even prior to high school graduation at the young age of 17. He attended Lamar Tech, now Lamar University, until he decided to answer the call of law enforcement. In 1972, Sergeant Lane joined the Beaumont Police Department where his lengthy legacy began. He spent 32 years with the same police department in southeast Texas, fighting crime, helping people.

A son of a retired Air Force member, Mike Lane was raised in airplane hangars all over the world from Japan to the United States. He had the passion of the Wright brothers for flying. He had aviation in his Texas blood. In the mid-80s, the Beaumont Police Department seized a plane used to smuggle drugs from Belize to Texas. After acquiring the plane, they began using it for local missions. Sergeant Lane immediately jumped at the chance to get in the pilot's seat for the citizens of Jefferson County. He was one of the two designated pilots for the Beaumont Police Department.

Just as policemen are drawn together by common goals, pilots seem to congregate together as well. His partner in the sky was another pilot in the police department, Deputy Chief Weldon Dunlap. Deputy Chief Dunlap recalls, "Mike had an amazing wealth of knowledge about aircraft. He literally ate, drank, and slept airplanes."

When the Army gave the Beaumont Police Department two helicopters, it was only natural that Lane would be heavily involved in the helicopter operations that would come up. Any time there was a mission or training, Lane was the first in line to take part in it.

On the evening of September 15, 2004, the neighboring Port Arthur Police Department reported a boat fire on Sabine Lake. Lane was one of two pilots who was called to duty for the search and rescue mission that took place that moonless night, a night that Deputy Chief Dunlap recalled was extra dark. During the flight, Lane was tasked with shining the spotlight on the large, murky, marshy Sabine Lake near the Texas-Louisiana border while the other officer maneuvered the helicopter through the intense, immense darkness that surrounded them.

Flying a mere 6 feet above the lake in an effort to get closer and look for people or debris in the water, Sergeant Lane was once again fulfilling his oath to protect and serve the people.

Sergeant Lane and crew made last contact shortly after 10:30 p.m. and after that, there was only silence, silence in the stillness of the damp, dark, dreary night. A helicopter search team spotted the wreckage almost 4 hours later at 2 o'clock in the morning. Jefferson County Sheriff's Deputy Jeremy Battenfield, who was piloting the helicopter, survived the crash with minor injuries; but in the line of duty, doing what he loved and what he did best at the age of 54, Sergeant Mike Lane lost his life in the stillness of that September night.

Hundreds of law enforcement members from across Texas and Louisiana traveled to South Park Baptist Church in Beaumont to pay their respects to a unique and talented officer and pilot that will never be replaced. He was laid to rest in the same church where he served as a deacon and a mentor to kids.

Mr. Speaker, this past weekend, I had the opportunity to participate in the

Fraternal Order of Police's 24th annual National Peace Officers Memorial Service here on the Capitol grounds to remember those police officers killed last year. I was honored to join the multitude of officers and surviving family members who traveled to Washington to assure their comrades that they never walk alone. I spent time with Sergeant Lane's wife, Renee; his son Ben; and his two sisters; and I was moved by the memories they had of their husband, their father, and their brother.

Mr. Speaker, there are more than 800,000 members of the law enforcement community in this Nation. They wear the badge, and with that badge they become a cut above the rest of us. They do what most of us would not do. They watch out for our country, our kids, our family and our great land.

In 2004, 156 officers were killed in the line of duty. Last year, our military lost nearly 900 of its band of brothers during operations in Iraq and Afghanistan. And while we often pay daily tribute to our fallen military who have been combating outlaws across the sea, these warriors against domestic outlaws, our police officers, often remain nameless, statistical heroes.

When President Bush spoke this last weekend, he stated that every generation of Americans has produced men and women willing to stand in watch over the rest of us. They are peace officers. When Sergeant Lane lost his life on the Sabine Lake that night, he did not die alone. His conviction, courage, and character live on and his spirit watches over his friends and family and the citizens of Jefferson County, Texas, that he devoted his life in protecting.

Thank you, Sergeant Mike Lane.

CHICAGO LIGHTHOUSE INDUSTRIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to talk about an industry in my congressional district that is being frustrated, squeezed, uncertain about its future as a result of our trade policy, globalization and the general tenor of the times. I rise to talk about the Chicago Lighthouse Industries, which has made clocks for the Federal Government for the last 28 years. They have been consistent and diligent in their performance. Since 1977, the Chicago Lighthouse has made 3.3 million clocks. In fact, last year they made 104,000 clocks for all branches of the military, Energy Department, the Postal Service, and the Justice Department.

The unique thing about the Chicago Lighthouse is that they employ more than 40 people who are blind or are visually impaired.

□ 2000

They employ their workers at a salary of $8.50 an hour and provide health benefits. On a recent visit to the Chicago Lighthouse, I was amazed at the level of detail and speed at which the workers developed the clocks. They have an assembly line that produces in packages 1,000 wall clocks daily.

In fact, Rita McCabe can assemble a 12-inch clock in less than 1 minute. Ms. McCabe, who is blind, found her job through the Chicago Lighthouse. When asked how she felt about her job, she stated the following: "It gives me a chance to be with people, to make a living on my own, and to prove that I am competent enough to do this kind of work."

Ms. McCabe has worked for the Chicago Lighthouse for 25 years. Rita McCabe's job is in jeopardy due to competition from foreign sources. In the past 4 years, U.S. imports of wall clocks, most of them from China, have increased by 24 percent, totaling $123 million in 2003.

The Chicago Lighthouse does not mind competition. They have suggested that they can compete with anyone as long as the rules are the same. Unfortunately, the playing field is not level when it comes to competing with China and other countries that do not have a minimum-wage requirement or pay health benefits to their workers. The Chicago Lighthouse pays its workers an average of $8.50 per hour plus health benefits. In China, it is not uncommon for workers to make $2 an hour and have no benefits. China is able to undercut clock manufacturers like the Chicago Lighthouse for the Blind because they do not play by the same rules. They are able to dump their products into the United States for a cheaper price. This adds to the trade deficit that currently exists.

More importantly, to allow foreign governments who do not pay minimum wage or a livable wage nor provide benefits to continue to undercut U.S. companies like the Chicago Lighthouse erodes the faith that citizens have in government and puts many jobs here at home at risk. The Chicago Lighthouse is not asking for preferential treatment. They are seeking fundamental fairness. The Lighthouse has been in existence now for 99 years, and they have done something right to be able to survive for so long.

The Federal Government, as a result of the Javitz-Wagner-O'Day Act, is required to show favor towards the Chicago Lighthouse and other organizations like it when purchasing clocks through the General Services Administration. However, this law has been eroded and many Federal purchases are going for the lower-priced clocks. Obviously, these are the clocks that are being produced through cheaper labor costs. The Federal Government must set the example and ensure that taxpayer money is not going to support foreign governments that do not have minimum wage or benefit standards comparable to those in the United States.

Everything comes at a price. The workers at Chicago Lighthouse are able to be productive tax-paying citizens because of their jobs. These jobs help to support them, their families, and the local economy. For example, Mr. Albert Harris has been with the Chicago Lighthouse since 1971, able to work, though blind.

Mr. Speaker, the Chicago Lighthouse and other entities that employ our people must be able to continue to do so. Let us make sure that our trade policies are fair and equitable and that they can compete on an even keel, on an even playing field.

ORDER OF BUSINESS

Mr. KING of Iowa. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

STEM CELL RESEARCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. KING) is recognized for 5 minutes.

Mr. KING of Iowa. Mr. Speaker, I appreciate the opportunity to speak to this Chamber and address the Speaker and the House.

I would like to speak about the embryonic stem cell research that is a matter of discussion around this Congress intensively in the last weeks and months as we have been here. I would like to join some of my colleagues in explaining the progress and promise of adult stem cell research, and I would like to also dispel many of the myths promoted by those urging more Federal funding for the destruction of human embryos required for embryonic stem cell research. I am for stem cell research, adult stem cell research. I am not for ending human life in the process of trying to find a cure for the lives of others.

Among the favorite myths of proponents of embryonic stem cell research is the legend that there are 400,000 embryos stored at IVF clinics that are simply going to be discarded. So we should derive some benefit from them, my opponents say. This figure has become so fixed in their rhetoric that it now seems to be a fact. Members of both Houses, in a letter to President Bush, even cited the number, the 400,000 number, in an effort to get President Bush to change his current policy on the funding of embryonic stem cell research. These proponents then use that number to create the assumption that an equally large number of therapeutic stem cells can be derived from them.

Here is why this argument is wrong, Mr. Speaker: IVF embryos will not just die anyway. Most IVF embryos are designated for implantation, and the rest can be adopted. In 1995 about 500,000 women were seeking to adopt a child. That would be 500,000 families, most of them husbands and wives. Seventy-five children are alive and well today who started life as frozen embryos.

All of the frozen embryos have the potential to become an independent, well-adjusted human being. Only a small fraction, 2.2 percent, are slated to be discarded. Only another 2.8 percent of embryos in IVF clinics, that is, roughly 11,000, have been designated by their parents for research. That is a total of 6 percent of all the embryos presently in IVF storage that are intended for disposal or research. Only 6 percent. Ninety percent are designated for a future.

More than 90 percent stored in clinics are saved for later use by parents or donated to other infertile couples for implantation. That means of the original 400,000 frozen embryos, only 11,000 are actually available to be destroyed for their stem cells. Of those available embryos, less than 275 stem cell lines would be created. That can be with private sector dollars. It does not have to be dollars extracted from the taxpayer.

When we are asking the taxpayer to contribute money to the Federal Government and diverting those dollars, Mr. Speaker, to go towards embryonic stem cell research, which of necessity must end a human life, and a human life like those 75 children that have come from frozen embryos to childhood and on their way to adulthood, that is an immoral choice, a choice that we are imposing upon tens of millions of people that understand in this country that life begins at the instance of conception; and we cannot declare an embryo, a fertilized egg, that has all of the chromosomes and all the components of an individual little blessing, we cannot declare them to be something of science to be discarded.

And if we roll ourselves back into history, back to the time of the Second World War, the Nazi regime, Dr. Josef Mengele, he did research on people, people who saw more than half of their world population extinguished by the Nazi regime. He did research on people because they were Jewish and put them in chambers and froze them to death and put them in heat chambers to see how much heat they could stand and put them through a whole series of scientific experiments to find out the limitations of the human body, how much suffering could they take, how much weather could they take, how much deprivation of food and water, how much torture could they take, and documented that. And civil societies have refused to use the information and the data that came from the Nazi regime because it resulted in the death of human beings.

This embryonic stem cell research also results in the death of human beings, Mr. Speaker. It is the same kind of philosophy done in the name of science. We can find and have found better and other ways to produce similar and better science. We need to follow that path. There is no legal prohibition against embryonic stem cell research in this country. The debate in this Congress is about will we impose a tax upon Americans and compel them to dig into their pockets and contribute to this diabolical science that ends the life of an innocent human being for the potential of improving the life of others when we have other alternatives.

Mr. Speaker, I rise this evening to join my colleagues in explaining the progress and promise of adult stem cell research and to dispel many of the myths promoted by those urging more federal funding for the destruction of human embryos, required for embryonic stem cell research.

Among the favorite myths of proponents of embryonic stem cell research is the legend that there are 400,000 embryos stored at IVF clinics that are simply going to be discarded, so we should derive some benefit from them. This figure has become so fixed in their rhetoric that it now seems to be a fact. Members of both Houses, in a letter to President Bush, even cited the number in an effort to get President Bush to change his current policy on the funding of embryonic stem cell research. These proponents then use that number to create the assumption that an equally large number of therapeutic stem cells can be derived from them.

Here is why this argument is wrong: IVF embryos will not just "die anyway." Most IVF embryos are designated for implantation, and the rest can be adopted. In 1955, about 50,000 women were seeking to adopt a child. 75 children are alive and well today who started life as "frozen embryos."

Only a small fraction—2.2 percent—are slated to be discarded.

Only another 2.8 percent of embryos in IVF clinics, roughly 11,000, have been designated by their parents for research.

That is a total of 6 percent of all the embryos presently in IVF storage that are intended for disposal or research. More than 90 percent of embryos stored in IVF clinics are saved for later use by parents or donated to other infertile couples for implantation.

That means of the original 400,000 frozen embryos, only 11,000 are actually available to be destroyed for their stem cells.

Of those available embryos, less than 275 stem cell lines would be created.

So, behind the seemingly impressive number of 400,000 frozen embryos, the reality is that the actual number of stem cell lines. likely to be produced from them is so small as to be clinically useless.

In order to treat diseases—which is, as I will explain, still a very distant prospect using human embryonic stem cells—hundreds of thousands more embryos beyond those currently frozen and available for research would be needed. This could only be achieved by a deliberate effort to create new embryos for the sole purpose of destroying them—an outcome that the use of the frozen embryos is supposed to avoid, but would most likely cause. Federal funding of this destructive embryonic stem cell research would, therefore, create an incentive to create and kill more human embryos for stem cells, which would lead to a US human embryo farm industry.

There is an ethical alternative to killing these embryos: Adult and cord blood stem cells are treating patients of over 58 diseases.

Even if these frozen embryos were going to be discarded anyway (which they are not), and even if there was no ethical alternative (which there is), it would still be morally wrong to kill these human embryos for experimentation.

From the Nuremberg Code to the Belmont Commission, this utilitarian justification for harmful or fatal research has been soundly rejected in order to protect patients and the practice of medicine.

Civilized cultures have protections in place to make sure we do not allow research on, or use organs from, death row prisoners who are "going to die anyway," and we do not do research on terminally ill patients unless such research has a chance to help the patient.

We take a great risk if we dehumanize human embryos and accept "they are going to die anyway" as how we judge what is acceptable treatment for our fellow human beings.

Examples of atrocities that would be justified by the statement that the victims are going to die anyway include: Harvesting organs from and experimenting on death row inmates (like China), harvesting organs from and experimenting on the terminally ill, and submerging 15 live human unborn children into salt solution to learn if they could absorb oxygen through their skin. One fetus survived for 22 hours in an actual U.S. case.

The second major myth is that the stem cells lines that could be derived from these frozen embryos have the potential to cure numerous diseases, but that such cures remain just around the corner and just out of reach because the administration refuses to fund research in which these embryos would be destroyed. This, too, is false.

Adult stem cells have treated over 58 diseases in human patients in published clinical studies. Embryonic stem cells have not treated even one patient, and have mixed results—at best—in animal trials.

Moreover, human embryonic stem cell research is completely legal. The debate is solely about federally funding research that requires the destruction of embryos, human beings in their earliest stages of life.

President Bush is the first president to federally fund human embryonic stem cell research. He determined that such research could be funded so long as the cells had been obtained from embryos destroyed on or before August 9, 2001.

Since then NIH determined that there are 78 derivations of embryonic stem cells that are eligible for Federal funding, and 22 cell lines are currently receiving Federal funds. According to the director of the National Institutes of Health, the Bush policy is sufficient for basic research.

There are 16 additional "eligible" embryonic stem cell lines in existence that have not been "contaminated" by mouse feeder cells.

NIH spent about $25 million on embryonic stem cell research in 2003, funding 118 research projects.

HHS reports that as of February 2004, embryonic stem cell providers had shipped more than 400 lines to researchers, and there are 3,500 vials of embryonic stem cells that are waiting to be shipped to researchers.

The ultimate goal of researchers is free and unfettered access to Federal dollars to create and destroy embryos for research purposes, and to employ human cloning as the method of choice.

Embryonic stem cell research will not, no matter what the claims of its proponents, become the cure-all it is touted as.

Of the fewer than 275 potential viable stem cell lines genetical diversity will still be lacking, since minorities are poorly represented among IVF clients.

Stem cells from IVF embryos will cause serious immune rejection problems if transplanted into patients. Researchers argue that to avoid immune rejection, we need to clone people to make stem cells that are genetically identical to the patient receiving the stem cell transplant.

Many of my colleagues, I'm sure, have been visited by members of disease organizations, desperate for cures for their loved ones. One of the myths promoted by some of these organizations—and I believe that the families, most of the time, do not know the falsity of their statements—is that somatic cell nuclear transfer is not cloning. This is absolutely false. Somatic cell nuclear transfer, or SCNT, is the process that created Dolly, the cloned Scottish sheep. This makes me irate, that some in the scientific community would mislead victims of disease and illness and their loved ones into fighting for research they would oppose were they told the truth, and making them believe that this sort of research will cure all that ails them if they were just provided the money.

Here are the facts: All medical advances (at least 58 therapies) from stem cells to date have been from "adult" stem cell research, which carries no ethical concerns. There have been none from embryonic cells, not even in animal studies.

The benefits of research that kills living human embryos is purely speculative and has been hyped by researchers who are after federal funding and by a media that doesn't understand or report the distinction between adult and embryonic stem cells.

Proponents continue to make the false claim that embryonic stem cells will cure Alzheimer's Disease. It almost certainly will not.

The Juvenile Diabetes Research Foundation has irresponsibly refused to promote or fund ethical adult stem cell research, despite the fact that is it shows far more promise in treating diabetes than does research on cells derived from human embryos.

This debate is purely about federal funding. Embryonic stem cell research is completely legal.

Americans do not support destructive embryonic stem cell research, especially when they are provided with the facts.

When respondents in a poll at the beginning of this month were told that scientists disagree on whether embryonic or adult stem cells will end up being most successful in treating diseases, 60 percent favored funding only the research avenues that raise no moral problem, while only 22 percent favored funding all stem cell research including the kind that involves destroying embryos.

Killing human embryos is morally wrong. A human embryo, a person in his or her earliest stages, must be destroyed to obtain embryonic stem cells. Destroying early human life shows a profound disrespect for human life.

The ends do not justify the means. Some pro-life members of Congress support funding of embryonic stem cell research on the basis that this research could save the lives of people with debilitating diseases. This obfuscation of the term "pro-life" is based on a utilitarian ethic. It is unethical to destroy some human lives for the betterment of the lives of others.

Even President Clinton's National Bioethics Advisory Commission concluded that embryos "deserve respect as a form of human life." The Commission recommended funding of embryonic stem cell research, only if there were no alternatives. Adult stem cells are currently being used to successfully treat humans suffering from many diseases.

Taxpayers shouldn't spend their hard earned money on embryo destruction. Federal funding of the destruction of human embryos for research is unethical. The debate is over the use of taxpayers money, not whether it is legal. American taxpayers should not be forced to fund unethical research.

The fact is that patients and their loved ones need real hope, not hype. That hope resides in non-controversial, tried-and-true adult stem cell research. When this issue comes to the floor next week, please join me in returning our focus from destructive embryonic stem cell research to adult stem cell research, which has been proven to work, is not morally controversial, and holds true promise for disease victims.

EXCHANGE OF SPECIAL ORDER TIME

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to take the Special Order time of the gentleman from California (Mr. FILNER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CAFTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, last year President Bush signed the Central American Free Trade Agreement, a one-sided plan to benefit the largest corporations in the world at the expense of American workers and farmers, and the expense of Central American workers, farmers, and small businesses.

Every trade agreement negotiated by this administration has been ratified by Congress within 65 days of the President's signing it. CAFTA has languished in Congress for nearly 1 year without a vote because this wrongheaded trade agreement offends both Republicans and Democrats.

Just look at what has happened with our trade policy in the last decade. In 1992, the year I was elected to Congress, we in this country had a $38 billion trade deficit. Today, 12 years later, our trade deficit is $618 billion. From $38 billion, a dozen years later to $618 billion. It is clear our trade policy simply is not working.

Opponents to CAFTA know that simply it is an extension of the North American Free Trade Agreement, which clearly did not work for our country. It is the same old story. With every trade agreement, the President promises more jobs for Americans, growth in manufacturing, more exports, raising the standard of living in the developing world, better wages for workers in the developing world. Every time it comes out differently.

The definition of insanity is doing the same thing over and over and over again and then expecting a different outcome.

Why will this trade agreement not work? Look at the average wages in the CAFTA countries. In United States the average wage is $38,000. El Salvador is $4,800. Honduras is $2,600. Nicaragua is $2,300. The average Nicaraguan worker is not going to buy cars made in Ohio. The Guatemalan worker is not going to be able to buy steel from West Virginia. The Honduran worker is not going to be able to buy software from Seattle or prime cuts of beef from Nebraska or textiles or apparel from North Carolina or South Carolina or Georgia.

This trade agreement is about giving big business what it wants: access to cheap labor. They cannot buy our goods; but American business can move its production, its companies, outsource them to Central America, and it costs us jobs. That is why, Mr. Speaker, there is such strong bipartisan opposition to the Central American Free Trade Agreement.

The administration is pulling out all stops because they know they are going to lose this vote. The administration has attempted to link CAFTA with helping democracy in the developing world and fighting the war on terror. Ten years of NAFTA has done nothing to improve border security between Mexico and our country. So that argument does not sell. Then last week the U.S. Chamber of Commerce flew on a Chamber of Commerce junket the six presidents from the CAFTA countries around our Nation, hoping they might be able to sell Americans and the U.S. press and Members of Congress on the Central American Free Trade Agreement, but again they failed. In fact, the Costa Rican president, after traveling the United States, announced his country simply would not ratify CAFTA unless an independent commission could determine that agreement will not hurt the poor and working families in his country.

Mr. Speaker, the gentleman from Texas (Mr. DELAY), the most powerful Republican in the House, majority leader, said there would be a vote on CAFTA within a year of the President's signing, that is, by Memorial Day, coming next week. As we can see by this calendar, we are barely a week away from that deadline, but still no vote in sight because there is simply not enough support for CAFTA. It is dead on arrival in this House.

Last month, two dozen Democrats and Republicans in Congress joined 150 business and labor groups saying no on CAFTA. Last week more than 400 union workers and Members of Congress gathered in front of the Capitol again saying no on the Central American Free Trade Agreement, because Republicans and Democrats, business and labor groups know what the administration refuses to admit, and that is that CAFTA is about one thing: it is about access to cheap labor and exploiting workers in the six CAFTA countries.

Congress must throw out this dysfunctional cousin of NAFTA and negotiate a trade agreement that will lift up workers in Central America while promoting prosperity here at home.

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If we throw this agreement CAFTA out, and then negotiate a new central American Free Trade Agreement that really works for workers in both countries, we will know our trade policy is succeeding. Only when workers in the poor countries can afford to not just make American products, but also to buy American products, will we know that our trade policy has, in fact, succeeded.

THE EFFECTS OF SOCIAL SECURITY REFORM ON OUR YOUTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. PRICE) is recognized for 5 minutes.

Mr. PRICE of Georgia. Mr. Speaker, I appreciate the opportunity to talk before the House tonight, and I want to talk about an issue that has been discussed for a number of weeks and months, something that is of vital importance, I think, to all Americans, and that is the issue of Social Security and what do we do about it.

Now, the problem with Social Security, as everybody knows, is that it is a pay-as-you-go-system, which means that today's workers pay for today's retirees. It worked relatively well for a period of time. In 1950, there were 16 workers for every retiree, now there are 3.3 workers for every retiree, and in just a few short years there will be 2 workers for every retiree. So the demographics, the aging of our society dictate that we do something.

A lot of the talk has been about how does it affect seniors in our Nation. But I suggest to my colleagues that regardless of when you believe the problem or the situation or the crisis begins, or who you believe it affects, we cannot dispute this one fact, and that is that those most affected by it, regardless of when it happens or what happens, are the young people of this Nation. So I believe it is important for us to discuss and debate Social Security reform and how it will affect all sectors of our society, but we must, we must make certain that we talk about how it will affect young folks.

Now, in my district, what I did to try to listen to the young people of our Nation was to get together what is called a Youth Summit, and I set up a meeting with about 95 or 100 high school juniors and seniors in my district from all different schools, including Woodstock High School, Harrison, Kell, Lassiter, Etowah, Marietta High School, North Cobb, Pope, Sprayberry, Walton, Blessed Trinity, Centennial, Milton, North Spring, Riverwood, Roswell, and The Cottage School and Alpharetta High School, about 100 high school students, and sent them a bunch of material beforehand so they knew what we were talking about. The funny thing was a lot of them had great information about it before.

We gathered together for about 4 hours one morning and we talked about Social Security, and I challenged them to come up with some solutions and answer some questions. But when I started, I brought out this Social Security statement. This is a real Social Security statement, it came from the Social Security Administration, and this is what all of us get when we open up our mail from the Social Security Administration. It says, "Unless action is taken soon to strengthen Social Security, in just 14 years we will begin paying more in benefits than we collect in taxes." That was how we started as the premise.

I was extremely impressed by the knowledge and the intelligence of these young folks. We broke into different groups and assigned them questions. Now, they could take any question that they wanted, but we kind of prompted a few. We talked about discussing the benefits or the distractions or problems with personal accounts, and we asked them to answer the question: what is the best way to fix Social Security and, even the more fundamental question, do you believe that Social Security needs to be fixed, and asked them to talk about how personal retirement accounts, voluntary accounts have worked in other countries.

Then we got back together after they had worked for a period of time on those questions, and asked each of those groups to present their findings. It really was fascinating, but there was one common theme. There was a common theme to all of their conclusions, and that was that there is a major problem, every one of them believed that. There was not a single soul who said that we ought not to anything, and that that problem ought to be addressed, and that it is the responsibility, obviously, of Congress to get it done. There were a couple of tongue in cheek suggestions about what we ought to do with folks over 65, but those were purely for humorous effect at the meeting.

There was the common theme that we needed to fix it, and all of their suggestions had merit, but some of them I would like to point out. They talked extensively about personal retirement accounts, talking about putting more money in personal retirement accounts when they are younger because they would have a greater opportunity to increase; some of them thought we ought to increase the age of retirement but, when they get closer to that, I suspect they will not believe that. They spoke about not increasing the 12.4 percent tax. There was an interesting conclusion or recommendation that education on retirement plans ought to be mandatory in high school. Education on retirement plans ought to be mandatory in order to graduate from high school, they said. I thought that was an interesting item; probably something that we ought to take up. Then one final point that they made, and that was that people ought not rely on just Social Security for their main source of income in their retirement years.

Now, Mr. Speaker, we tend to get distracted here. We talk about different ages, we talk about those over 55, and I think it is important for everybody to appreciate that those over 55 will not be affected at all. Those youngest individuals in our society will be those most affected.

I challenge our colleagues to follow the lead of the high school students in my district who said, get down to business, put politics aside, and do not wait. That is good advice from those individuals who are most affected by whatever changes we bring about.

STEM CELL RESEARCH: EMBRYONIC VERSUS ADULT

The SPEAKER pro tempore (Mr. FORTENBERRY). Under the Speaker's announced policy of January 4, 2005, the gentlewoman from North Carolina (Ms. FOXX) is recognized for 60 minutes as the designee of the majority leader.

Ms. FOXX. Mr. Speaker, I rise this evening because I fear that a number of good people will make a bad decision in the coming weeks. What is worse is I fear they will be making this decision based on a plethora of false information, and that is why I am here this evening.

There is an abundance of misinformation, exaggeration, and blatant lies being spread by interest groups regarding the prospects for embryonic stem cell research. The first misconception is that embryonic stem cell research is not legal. The fact is, embryonic stem cell research is completely legal. Research on embryonic stem cells has taken place for years.

But what has this research produced? Nothing. While adult stem cells have treated over 58 diseases in human patients, embryonic stem cells have not treated even one patient. Adult stem cells have had success in treating debilitating and fatal illnesses without compromising ethical standards. Embryonic stem cells have treated nothing while, at the same time, destroying human life.

So why in the world would anyone support the unethical, failed use of embryonic stem cells instead of the ethical, successful use of adult stem cells? Because they do not know the difference. That is why, Mr. Speaker, I want to share some very important information tonight. If and when the American public learns the scientific facts, and I want to stress "scientific facts" regarding stem cell research, the ethical questions will not matter as much.

Now, I had the good fortune today to hear a talk by Dr. Robert P. George, who is the McCormick Professor of Jurisprudence in the Department of Politics at Princeton University in Princeton, New Jersey. Not all of the information that I am sharing with you tonight came from Dr. George, but he gave an outstanding talk sponsored by the Wilberforce Forum as a part of the Majority Leader's lecture series, 2005. The title of his talk was "Embryonic Stem Cells: Ethical Boundaries, and Possible Ways Forward."

I want to use some material that I have also received related to the definition of stem cells, and some of the research that has been produced in this area by Dr. Tadeusz Pachotczyk who has done post doctoral work at Massachusetts General Hospital at Harvard Medical School after he earned his PhD in neuroscience from Yale University. What is a stem cell? I used to teach, and I always believed that you start with the basics when you are teaching. So let us start with the definition. What is a stem cell?

A stem cell is essentially a blank cell capable of becoming another, more differentiated cell-type in the body, such as a skin cell, a muscle cell or a nerve cell. Why are stem cells important? Stem cells can be used to replace or heal damaged tissues in cells in the body. There are two broad classes of stem cells. The two basic types of stem cells are embryonic type and adult type. Embryonic stem cells and embryonic germ cells make up the embryonic type. Umbilical cord stem cells, placental stem cells, and adult stem cells make up the adult type.

Now, where do embryonic-type stem cells come from? They come from embryos. Embryonic stem cells are obtained by harvesting living embryos which are generally five to seven days old. The removal of embryonic stem cells invariably results in the destruction of the embryo. Another type of stem cell called an embryonic germ cell can be obtained from either miscarriages or aborted fetuses.

Now, where do adult type stem cells come from? They come from umbilical chords, placentas, and amniotic fluid. Adult-type stem cells can be derived from various pregnancy-related tissues, or they come from adult tissues. In adults, stem cells are present within various tissues and organ systems. These include the bone marrow, liver, epidermis, retina, skeletal muscle, intestine, brain, dental pulp, and elsewhere. Even fat obtained from liposuction has been shown to contain significant numbers of adult-type stem cells, and I am going to refrain from making any jokes about that tonight. Cadavers. Neural stem cells have been removed from specific areas in postmortem, human brains as late as 20 hours following death.

Now, there are people who believe that embryonic stem cells have a great deal more to offer than adult stem cells. Let me say a little bit about what embryonic stem cells bring that adult stem cells do not. They do seem to be very flexible and to have the potential to make any cell. And, there is a lot of availability, so we are told, with embryonic stem cells from in vitro fertilization clinics, although there is some debate about exactly how many there are.

What are some of the disadvantages of embryonic stem cells? They are very difficult to differentiate uniformly and homogeneously into a target tissue. It is extremely difficult to get them to do exactly what we want them to do. Immunogenic. Embryonic stem cells from a random embryo donor are likely to be rejected after transplantation. They just do not work as well. They are capable of forming tumors or promoting tumor formation. This is one of the major drawbacks of embryonic stem cells.

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And, of course, the most important disadvantage of embryonic stem cells is that they result in the destruction of human life.

Now, let us talk a little bit about the advantages of adult stem cells. Special adult-type stem cells from bone marrow and from umbilical cords have been isolated recently which appear to be as flexible as the embryonic type. They are already somewhat specialized, so inducing them to go into a certain area may be much simpler.

They are not immunogenic; recipients who receive the products of their own stem cells will not experience immune reaction. This is extremely important. Relative ease of procurement. Some adult stem cells are easy to harvest: the skin, muscle, marrow, fat, while others may be more difficult to obtain, brain stem cells.

Umbilical and placental stem cells are likely to be readily available. More and more people are being encouraged now, when they have babies, to save the umbilical and placental cells and store them for possible later use.

Adult stem cells tend not to form tumors. And there is absolutely no harm done to the donor when we harvest adult stem cells. Now, what are the disadvantages? Let us be fair. There are some. There is a limited quantity of them. They can sometimes be difficult to obtain in large numbers.

They may not live as long as embryonic stem cells in a culture. And they may be a little bit less flexible, with the exception again of bone marrow and umbilical cord ones.

Now, why are adult stem cells preferable to embryonic stem cells? Adult stem cells are a natural solution. They naturally exist in our bodies, and they provide a natural repair mechanism for many tissues of our bodies. They belong in a microenvironment of an adult body, while embryonic stem cells belong in the microenvironment of the early embryo, not in an adult body where they tend to cause tumors and immune system reactions.

Most importantly, adult stem cells have already been successfully used in human therapies for many years. And let me just say, some of the therapies that adult stem cells have been used for, they have treated brain cancer. Embryonic stem cells have not.

Adult stem cells have treated breast cancer, they have treated ovarian cancer, adult stem cells have treated testicular cancer. Embryonic stem cells have not.

Adult stem cells have treated leukemia, Crone's disease, anemia, stroke, Parkinson's disease. Embryonic stem cells have not been able to treat any of these diseases, not any of them.

It is really important that people understand the difference in the two types of cells. I support the President's position on what to do with embryonic stem cells. I think the President has come up with a very carefully thought-out position on this issue. And this is where we need to stay.

The people who are pushing the use of embryonic stem cells say they want something to salvage from the cryo stage because they will be destroyed or kept in limbo. That does not have to happen. Once we begin to use embryonic stem cells for treatment, we are crossing the Rubicon in terms of ethical issues. We cross an ethical barrier when we do that because we are destroying one life for another.

Those embryos are human beings and should not be treated as research subjects. We would never kill to harvest body parts because of the principle of human dignity.

We do not even do this with our most heinous criminals. We do not treat them as things. We treat them with dignity until the time that they die.

We have a terrible situation with people promoting the destruction of embryos for stem cell research. And I thought it would be interesting tonight to remind us of what the Declaration of Independence says. This is the Declaration of Independence that unfortunately too few young people read or understand in our society anymore.

And I will just read the beginning of it: "When in the course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the Earth the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation."

And this is the part of the Declaration that if anybody knows the Declaration of Independence at all, this is the part that they know: "We hold these truths to be self-evident, that all men are created equal. That they are endowed by their creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness."

That to secure these rights governments are instituted among men, deriving their just powers from the consent of the government.

It is extremely important that we not lose sight of what founded this country, and the basic principle of life which is enunciated in the Declaration of Independence. We have to come down to understanding what is a human being. Scientists will say that an embryo is a human being. It is internally self-directed. And I want to say some more about that.

Because what happens with an embryo is nobody has to do anything to it from the outside. It is a human being at the embryonic stage. And it internally self-directs itself to grow and to develop into a person that then is born after the cells divide and divide and divide.

We are not talking about a religious issue only. For some people this is a fundamental religious issue, and it should be. But it is also a scientific issue. All human beings have profound human dignity. And, again, never, never in our society have we stooped so low as to sacrifice some human beings for others.

There is not a single therapeutic trial going on in the United States right now using embryonic cells, no clinical trial. There are lots and lots and lots of trials going on using adult cells.

There is private money going into this research, but the President has said we will not use government money; we will not tax the people of this country, many of whom are so opposed to this issue to do something which they find so abhorrent. Now, there is money going into research. Private money. Where is that money going?

It is going into the research for adult cells. That should tell us a lot. People think that that is where the payoff is going to be. People do not invest their money in things that they do not think is going to pay off.

And it is very, very important that we not be persuaded to use government money, our money, taxpayers' money to go into something that not only holds very, very little promise for any kind of results, but is so abhorrent again to so many of our people.

Now, I want to share with you some success stories about adult stem cell research. Laura Dominguez had a spinal cord injury. As a result of a car accident in 2001, she broke her neck and was paralyzed from the chest down. She was treated with a mix of adult stem cells and other cells obtained from olfactory tissues inside her own nose.

The cells were transplanted across the injury site and her damaged spinal cord; and several months after the surgery, she was able to move her foot. She now walks with braces. Her remarkable progress is continuing, and several other spinal cord injury patients like her are also showing benefits from the transplant surgery.

Patrizia Durante was diagnosed with acute leukemia 6 months into her pregnancy. Her daughter, Victoria Angel, was born healthy; but Durante was given only 6 months to live. The stem cells from the blood of her daughter's umbilical cord were used for a transplant. Several years later, Durante is in full remission.

Durante told reporters she saved her mommy. She is a little miracle. That is why we named her Victoria Angel. She is my little angel.

There are many, many examples of people who have been treated and treated extremely well with adult stem cells. Again, I want to say that we are stepping into dangerously uncharted territory when we begin the practice, or if we begin the practice of destroying one life to try to help another life.

It is an ethical Rubicon that we should not be crossing. And, again, I know that many people are doing this because they are concerned. They have members of their family who are diabetic, they have members of their family who have Parkinson's disease, or they know people who have diseases and they want to do something to help them.

I urge them to study this issue very, very carefully and make sure that they understand the differences between what is happening with adult stem cell research and embryonic stem cell research. And I feel certain that those people will make the right decision, and they will not vote to use money to destroy human embryos and go in that direction when we do not have to, because we have the means to save lives and improve the quality of life with adult stem cells.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. HARMAN (at the request of Ms. PELOSI) for today after 7:30 p.m. and the balance of the week on account of official travel.

Mr. LUCAS (at the request of Mr. DELAY) for today after 4:00 p.m. and the balance of the week on account of family commitments.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mrs. MCCARTHY, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. ALLEN, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

(The following Members (at the request of Ms. ROS-LEHTINEN) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, May 25.

Mr. POE, for 5 minutes, May 19.

Mr. OSBORNE, for 5 minutes, May 19.

Mr. GINGREY, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. PRICE of Georgia, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, May 19, 23, 24, and 25.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. KING of Iowa, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

ADJOURNMENT

Ms. FOXX. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 45 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, May 19, 2005, at 9:00 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1985. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Pinene Polymers; Exemption from the Requirement of a Tolerance [OPP-2005-0110; FRL-7710-3] received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1986. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Red Cabbage Color; Exemption from the Requirement of a Tolerance [OPP-2004-0361; FRL-7711-7] received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1987. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Dimethyl Ether; Exemption from the Requirement of a Tolerance [OPP-2005-0109; FRL-7711-4] received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1988. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Alternaria destruens Strain 059; Exemption from the Requirement of a Tolerance [OPP-2005-048; FRL-7708-3] received May 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1989. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Fludioxonil; Pesticide Tolerance [OPP-2005-0095; FRL-7711-9] received May 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1990. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Dimethenamid; Pesticide Tolerance [OPP-2005-0118; FRL-7713-4] received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1991. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Vice Admiral Henry G. Ulrich III, United States Navy, to wear the insignia of the grade of admiral in accordance with title 10,United States Code, section 777; to the Committee on Armed Services.

1992. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General Robert D. Bishop, United States Navy, to wear the insignia of the grade of lieutenant general in accordance with title 10,United States Code, section 777; to the Committee on Armed Services.

1993. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General Christopher A. Kelly, United States Navy, to wear the insignia of the grade of lieutenant general in accordance with title 10,United States Code, section 777; to the Committee on Armed Services.

1994. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Rear Admiral John D. Stufflebeem, United States Navy, to wear the insignia of the grade of vice admiral in accordance with title 10,United States Code, section 777; to the Committee on Armed Services.

1995. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Lieutenant General William R. Looney, United States Navy, to wear the insignia of the grade of general in accordance with title 10,United States Code, section 777; to the Committee on Armed Services.

1996. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General Michael A. Hamel, United States Navy, to wear the insignia of the grade of lieutenant general in accordance with title 10,United States Code, section 777; to the Committee on Armed Services.

1997. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia; Emission Standards for Solvent Cleaning Operations Using Non-Halogenated Solvents [R03-OAR-2005-VA-0006; FRL-7913-5] received May 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1998. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans for Kentucky: Inspection and Maintenance Program Removal for Jefferson County, Kentucky; Source-Specific Nitrogen Oxides Emission Rate for Kosmos Cement Kiln [R04-OAR-2004-KY-0002-20051 ; FRL-7914-5] received May 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1999. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District and San Joaquin Valley Unified Air Pollution Control District [CA-309-0475a; FRL-7901-9] received May 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2000. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries [OAR-2002-0034; FRL-7911-8] received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2001. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing [OAR-2002-0035; FRL-7911-6] (RIN: 2060-AM10) received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2002. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing [OAR-2003-0178; FRL-7911-1] (RIN: 2060-AM72) received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2003. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Pharmaceuticals Production [OAR-2004-0023; FRL-7911-3] (RIN: 2060-AM52) received May 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2004. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Virginia; VOC Emissions Standards for AIM Coatings [VA151-5085; FRL-7910-1] received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2005. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plans; State of Washington; Spokane Carbon Monoxide Attainment Plan [WA-01-003; FRL-7906-3] received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2006. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Maryland; Metropolitan Washington D.C. 1-Hour Ozone Attainment Demonstration Plans [RME NO. R03-OAR-2004-DC-0010; FRL-7910-4] received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2007. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Volatile Organic Compound Emissions from AIM Coatings [MD-166-3112; FRL-7910-2] received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2008. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Maryland and Virginia; Non-Regulatory Voluntary Emission Reduction Program Measures [R03-OAR-2004-MD-0001; R03-OAR-2004-VA-0005; FRL-7909-9] received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2009. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to the Georgia State Implementation Plan [R04-OAR-2004-GA-0002-200504(a); FRL-7909-3] received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2010. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; VOC Emission Standards for AIM Coatings [R03-OAR-2004-DC-0007; FRL-7909-8] received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2011. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland, Virginia; 1-Hour Ozone Attainment Plans, Rate-of-Progress Plans, Contigency Measures, Transportation Control Measures, VMT Offset, and 1990 Base Year Inventory [RME NO. R03-OAR-2004-DC-0009, R03-OAR-2004-DC-0010; FRL-7910-3] received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2012. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Transportation Conformity Rule Amendments for the New PM2.5 National Ambient Air Quality Standard: PM2.5 Precursors [Docket No. OAR-2003-0049; FRL-7908-3] (RIN: 2060-AN03) received May 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2013. A letter from the Supervisory Human Resources Specialist, Department of the Air Force, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2014. A letter from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2015. A letter from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2016. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LEWIS of California: Committee on Appropriations. Report on the Revised Suballocation of Budget Allocations for Fiscal Year 2006 (Rept. 109–85). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOBSON: Committee on Appropriations. H.R. 2419. A bill making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–86). Referred to the Committee of the Whole House on the State of the Union.

Mr. BISHOP of Utah: Committee on Rules. House Resolution 287. A resolution providing for consideration of the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–87). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. GORDON (for himself, Mr. SHIMKUS, and Ms. ESHOO):

H.R. 2418. A bill to promote and enhance public safety and to encourage the rapid deployment of IP-enabled voice services; to the Committee on Energy and Commerce.

By Mr. HOBSON:

H.R. 2419. A bill making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes.

By Mr. KUCINICH (for himself, Mr. ABERCROMBIE, Mr. GEORGE MILLER of California, Mr. TIERNEY, Mr. HOLT, Mr. FATTAH, Ms. WOOLSEY, Mr. MICHAUD, Mr. RAHALL, Mr. SERRANO, Ms. LEE, Ms. MOORE of Wisconsin, Mr. CONYERS, Mr. HINCHEY, Ms. MCKINNEY, Mr. DAVIS of Illinois, Mr. STARK, Mr. OWENS, Mr. HONDA, Ms. WATERS, Mr. MCGOVERN, Mr. JACKSON of Illinois, Ms. WATSON, Mr. FILNER, Ms. BALDWIN, Mr. GRIJALVA, Mr. MEEKS of New York, and Mr. MCDERMOTT):

H.R. 2420. A bill to preserve the cooperative, peaceful uses of space for the benefit of all humankind by prohibiting the basing of weapons in space and the use of weapons to destroy or damage objects in space that are in orbit, and for other purposes; to the Committee on Science, and in addition to the Committees on Armed Services, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. BONO (for herself and Ms. DEGETTE):

H.R. 2421. A bill to amend the Public Health Service Act to combat autism through research, screening, intervention and education; to the Committee on Energy and Commerce.

By Mr. CHABOT (for himself and Mr. DELAHUNT):

H.R. 2422. A bill to allow media coverage of court proceedings; to the Committee on the Judiciary.

By Mr. FOLEY (for himself, Mr. CRAMER, Mr. BLUNT, Mr. CANTOR, Mr. DAVIS of Florida, Ms. GINNY BROWN-WAITE of Florida, Mr. POE, Mr. SHIMKUS, Mr. GENE GREEN of Texas, Mr. KING of New York, Ms. MILLENDER-MCDONALD, Mr. BURTON of Indiana, Mr. BRADLEY of New Hampshire, Mr. ROYCE, Mr. MILLER of Florida, Mr. MEEKS of New York, Ms. HARRIS, Mr. FOSSELLA, Mr. CHANDLER, Mr. RAMSTAD, Mr. MCCAUL of Texas, Mr. SIMMONS, Mr. BISHOP of Georgia, Mr. KINGSTON, Mr. WILSON of South Carolina, Mr. BOSWELL, Mr. FORD, Mr. ROSS, Mr. MCKEON, Mrs. KELLY, Mr. ROGERS of Alabama, Mr. KENNEDY of Minnesota, Mr. BONNER, Mr. CARDOZA, Ms. GRANGER, Mr. EVERETT, Mr. DENT, Mr. BOUSTANY, Mr. PEARCE, Mr. BOYD, Mr. CASE, Mr. DAVIS of Alabama, Mr. SMITH of New Jersey, Mr. MOORE of Kansas, Mr. MCCOTTER, Mr. TIAHRT, Mr. POMEROY, Mr. BACHUS, and Mr. CANNON):

H.R. 2423. A bill to improve the national program to register and monitor individuals who commit crimes against children or sex offenses; to the Committee on the Judiciary.

By Mr. GERLACH:

H.R. 2424. A bill to extend the temporary suspension of duty on 11-Aminoundecanoic acid; to the Committee on Ways and Means.

By Mr. GIBBONS (for himself, Mr. PORTER, and Ms. BERKLEY):

H.R. 2425. A bill to direct the Secretary of the Interior to convey to the City of Henderson, Nevada, certain Federal land located in the City, and for other purposes; to the Committee on Resources.

By Mr. GREEN of Wisconsin (for himself, Mr. PETRI, Ms. HART, Mr. JINDAL, Mr. MILLER of Florida, Mr. HOSTETTLER, Mr. FEENEY, and Mr. SOUDER):

H.R. 2426. A bill to establish the Supportive Communities Helping Offer Opportunities for Learning Program and to allow an income tax credit for contributions to qualified scholarship granting organizations; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HERSETH:

H.R. 2427. A bill to postpone the 2005 round of defense base closure and realignment; to the Committee on Armed Services.

By Mr. HINCHEY (for himself and Mr. BASS):

H.R. 2428. A bill to provide for the protection of the last remaining herd of wild and genetically pure American Buffalo; to the Committee on Resources.

By Mr. GEORGE MILLER of California (for himself, Ms. PELOSI, Mr. HOYER, Mr. OWENS, Mr. BROWN of Ohio, Mr. NADLER, Mr. VAN HOLLEN, Mr. WAXMAN, Mr. GRIJALVA, Mr. BISHOP of New York, Mr. HOLT, Ms. KILPATRICK of Michigan, Mr. HINCHEY, Mr. PAYNE, Ms. CORRINE BROWN of Florida, Mr. MCGOVERN, Mr. INSLEE, Mr. CAPUANO, Ms. BERKLEY, Mr. DICKS, Mr. WYNN, Mr. RANGEL, Ms. SLAUGHTER, Ms. WOOLSEY, Ms. WATERS, Mr. SERRANO, Mr. KILDEE, Ms. WATSON, Mrs. JONES of Ohio, Ms. DELAURO, Mrs. MALONEY, Ms. SOLIS, Mr. KENNEDY of Rhode Island, Mr. PALLONE, Mr. WEINER, Mr. MCDERMOTT, Mr. ALLEN, Mr. ABERCROMBIE, Ms. MCCOLLUM of Minnesota, Mr. LANGEVIN, Ms. LINDA T. SÁNCHEZ of California, Mr. MARKEY, Mr. MICHAUD, Mr. BACA, Mr. BLUMENAUER, Mr. FRANK of Massachusetts, Mr. TIERNEY, Mr. OLVER, Mr. WEXLER, Mr. UDALL of New Mexico, Mr. DELAHUNT, Mr. CLAY, Mr. STARK, Mr. EVANS, Ms. KAPTUR, Mr. MENENDEZ, Mr. SABO, Mr. ROTHMAN, Mr. WU, Mr. LYNCH, Mr. SANDERS, Mr. CARNAHAN, Mr. WATT, Mr. HASTINGS of Florida, Mr. CONYERS, Mr. MORAN of Virginia, Mr. BOUCHER, Mr. BRADY of Pennsylvania, Mr. JACKSON of Illinois, Mr. HONDA, Mr. HIGGINS, Ms. SCHAKOWSKY, Mr. TOWNS, Mr. CUMMINGS, Mr. ACKERMAN, Mr. OBEY, Mr. LEVIN, Mr. AL GREEN of Texas, Mr. GONZALEZ, Mr. KUCINICH, Mr. DOGGETT, Ms. ESHOO, Mr. ENGEL, Ms. LEE, Mr. SHERMAN, Mr. GUTIERREZ, Mr. LANTOS, Mr. MCNULTY, Mr. ANDREWS, Mr. DAVIS of Illinois, Ms. MATSUI, Mr. PRICE of North Carolina, Mr. CARDIN, Mr. HINOJOSA, Mr. KANJORSKI, Ms. SCHWARTZ of Pennsylvania, Mr. MEEHAN, Mr. NEAL of Massachusetts, Mr. RYAN of Ohio, and Mr. SCOTT of Virginia):

H.R. 2429. A bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; to the Committee on Education and the Workforce.

By Mr. MOLLOHAN:

H.R. 2430. A bill to extend the duty reduction on ethylene/tetrafluoroethylene copolymer (ETFE); to the Committee on Ways and Means.

By Mr. MOLLOHAN:

H.R. 2431. A bill to suspend temporarily the duty on 1,10 Diaminodecane; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2432. A bill to reduce temporarily the duty on Crelan (self-blocked cycloaliphatic polyuretdione); to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2433. A bill to suspend temporarily the duty on Aspirin; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2434. A bill to extend the suspension of duty on Baytron C-R; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2435. A bill to extend the suspension of duty on Baytron M; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2436. A bill to temporarily suspend the duty on Baytron and Baytron P; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2437. A bill to suspend temporarily the duty on Desmodur BL XP 2468; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2438. A bill to suspend temporarily the duty on Hydrazine Hydrate; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2439. A bill to suspend temporarily the duty on certain flame retardant plasticizers; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2440. A bill to suspend temporarily the duty on Baypure DS; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2441. A bill to extend the temporary suspension of duty on BOPA; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2442. A bill to extend the temporary suspension of duty on Thionyl Chloride; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2443. A bill to extend the temporary suspension of duty on Ammonium Bifluoride; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2444. A bill to suspend temporarily the duty on Bayowet C4; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2445. A bill to extend the temporary suspension of duty on PHBA; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2446. A bill to extend the temporary suspension of duty on Mondur P; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2447. A bill to extend the temporary suspension of duty on P-Phenylphenol; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2448. A bill to extend the temporary suspension of duty on DEMT; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2449. A bill to extend the temporary suspension of duty on Bayowet FT-248; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2450. A bill to extend the temporary suspension of duty on PNTOSA; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2451. A bill to extend the temporary suspension of duty on Baysilone Fluid; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2452. A bill to reduce temporarily the duty on Desmodur; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2453. A bill to suspend temporarily the duty on Desmodur HL; to the Committee on Ways and Means.

By Mr. MURPHY:

H.R. 2454. A bill to suspend temporarily the duty on D-Mannose; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 2455. A bill to repeal the Military Selective Service Act; to the Committee on Armed Services.

By Mr. RANGEL:

H.R. 2456. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to eliminate certain mandatory minimum penalties relating to crack cocaine offenses; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SANDERS (for himself, Mr. MANZULLO, Mrs. MALONEY, Mr. ROHRABACHER, and Ms. LEE):

H.R. 2457. A bill to amend the Community Reinvestment Act of 1977 to allow community reinvestment credit for investments and other financial support to enable employees to establish certain employee stock ownership plans or eligible worker owned cooperatives; to the Committee on Financial Services.

By Mr. SHADEGG (for himself, Mr. OTTER, Mr. HERGER, Mr. SAM JOHNSON of Texas, Mr. KOLBE, Mr. SOUDER, Ms. GINNY BROWN-WAITE of Florida, Mr. GARRETT of New Jersey, Mrs. JO ANN DAVIS of Virginia, Mr. BARTLETT of Maryland, Mr. KUHL of New York, Mr. PAUL, Mr. HOEKSTRA, Mr. DOOLITTLE, Mr. WELDON of Florida, Mr. BACHUS, Mr. TIAHRT, Mr. COX, Mr. MILLER of Florida, Mrs. MUSGRAVE, and Mr. GOODE):

H.R. 2458. A bill to require Congress to specify the source of authority under the United States Constitution for the enactment of laws, and for other purposes; to the Committee on the Judiciary.

By Mr. SIMMONS:

H.R. 2459. A bill to extend the temporary suspension of duty on yarn of combed Kashmir (cashmere) and yarn of camel hair; to the Committee on Ways and Means.

By Mr. SIMMONS:

H.R. 2460. A bill to extend the temporary suspension of duty on certain yarn of carded Kashmir (cashmere); to the Committee on Ways and Means.

By Mr. SIMMONS:

H.R. 2461. A bill to extend the temporary suspension of duty on certain Kashmir (cashmere) hair; to the Committee on Ways and Means.

By Mr. SIMMONS:

H.R. 2462. A bill to suspend temporarily the duty on certain camel hair; to the Committee on Ways and Means.

By Mr. SIMMONS:

H.R. 2463. A bill to suspend temporarily the duty on waste of camel hair; to the Committee on Ways and Means.

By Mr. SIMMONS:

H.R. 2464. A bill to suspend temporarily the duty on certain camel hair; to the Committee on Ways and Means.

By Mr. SIMMONS:

H.R. 2465. A bill to suspend temporarily the duty on woven fabric containing vicuna hair; to the Committee on Ways and Means.

By Mr. SIMMONS:

H.R. 2466. A bill to suspend temporarily the duty on certain camel hair; to the Committee on Ways and Means.

By Mr. SIMMONS:

H.R. 2467. A bill to extend the temporary suspension of duty on fine animal hair of Kashmir (cashmere) goats; to the Committee on Ways and Means.

By Mr. SIMMONS:

H.R. 2468. A bill to suspend temporarily the duty on noils of camel hair; to the Committee on Ways and Means.

By Mr. SIMPSON:

H.R. 2469. A bill to extend temporarily the duty suspension on certain semi-manufactured forms of gold; to the Committee on Ways and Means.

By Mr. TIAHRT:

H.R. 2470. A bill to establish a commission to conduct a comprehensive review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TIBERI (for himself, Mr. CHANDLER, Mr. LEWIS of Kentucky, Mr. WHITFIELD, Mr. DAVIS of Kentucky, Mr. ROGERS of Kentucky, Mr. JENKINS, Mr. CAMP, Mr. MCHUGH, Mr. NEY, Mr. WALSH, Mr. TURNER, Mrs. NORTHUP, Mr. BOYD, Mr. DAVIS of Tennessee, Mr. COOPER, Mr. MCINTYRE, Mr. TAYLOR of Mississippi, Mr. CASE, Ms. HERSETH, Mr. HOLDEN, Mr. MELANCON, Mrs. TAUSCHER, Mr. ROSS, Mr. TANNER, Mr. BOSWELL, Ms. HARMAN, Mr. BISHOP of Georgia, Mr. CARDOZA, Mr. SALAZAR, and Mr. DUNCAN):

H.R. 2471. A bill to authorize the States (and subdivisions thereof), the District of Columbia, territories, and possessions of the United States to provide certain tax incentives to any person for economic development purposes; to the Committee on the Judiciary.

By Mr. WEXLER:

H.R. 2472. A bill to amend the Internal Revenue Code of 1986 to impose a tax on the amount of wages in excess of the contribution and benefit base, to extend the pay-as-you-go requirement of the Balanced Budget and Emergency Deficit Control Act of 1985, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Rules, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEUGEBAUER:

H. Con. Res. 156. Concurrent resolution condemning irresponsible and inaccurate journalism, expressing condolences to the victims and families of the victims of the riots in the Islamic Republic of Pakistan and in the Islamic Republic of Afghanistan, and for other purposes; to the Committee on International Relations.

By Mr. SHAYS (for himself and Ms. Slaughter):

H. Con. Res. 157. Concurrent resolution recognizing the artistic excellence and community value of America's 1800 orchestras; to the Committee on Education and the Workforce.

By Ms. WOOLSEY (for herself, Mr. Hinchey, Mr. Owens, Ms. Lee, Mr. Honda, Mr. McGovern, Mr. Grijalva, Ms. Eshoo, Mr. George Miller of California, Mr. McDermott, Ms. Eddie Bernice Johnson of Texas, Mr. Thompson of Mississippi, Mr. Conyers, Mr. Farr, Ms. Solis, Ms. McCollum of Minnesota, Mr. Abercrombie, Mr. Holt, Ms. Baldwin, Mr. Emanuel, Mr. DeFazio, Mr. Filner, Ms. Jackson-Lee of Texas, Ms. Kilpatrick of Michigan, Ms. Kaptur, Mr. Kucinich, Mr. Lewis of Georgia, Mr. Oberstar, Mr. Olver, Mr. Payne, Mr. Rangel, Ms. Linda T. Sánchez of California, Ms. Schakowsky, Ms. Waters, Mr. Davis of Illinois, Mrs. Christensen, Mr. Blumenauer, Mr. Clay, Mr. Hastings of Florida, Mr. Markey, Mr. Moran of Virginia, Mrs. Napolitano, Mr. Sanders, Ms. McKinney, Mr. Brown of Ohio, Mr. Tierney, Ms. Carson, Mr. Neal of Massachusetts, Mrs. Maloney, and Ms. Norton):

H. Con. Res. 158. Concurrent resolution calling for the adoption of a Sensible, Multilateral American Response to Terrorism (SMART) security platform for the 21st century; to the Committee on International Relations.

By Mr. VISCLOSKY (for himself, Mr. King of New York, and Ms. Lee):

H. Res. 286. A resolution expressing the sense of the House of Representatives on promoting initiatives to develop an HIV vaccine; to the Committee on International Relations.

ADDITIONAL SPONSORS TO PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 11: Mr. Osborne and Mr. Snyder.

H.R. 22: Mr. George Miller of California and Mr. Bishop of Georgia.

H.R. 94: Mr. Holden.

H.R. 111: Mrs. Davis of California and Mr. Price of North Carolina.

H.R. 136: Mr. Hefley.

H.R. 226: Mr. Cummings.

H.R. 305: Mr. Calvert.

H.R. 356: Mr. Sodrel, Mr. Murphy, Mr. Marchant, Mrs. Miller of Michigan, and Mr. Herger.

H.R. 371: Mr. Ross.

H.R. 376: Mr. Pastor, Mr. Larsen of Washington, Ms. Pelosi, and Ms. Matsui.

H.R. 421: Mr. Cummings.

H.R. 535: Mr. Cardoza.

H.R. 554: Mr. Gohmert.

H.R. 558: Ms. Harris and Mr. Gonzalez.

H.R. 583: Mr. Young of Alaska.

H.R. 596: Mr. Tancredo, Mr. Akin, and Mr. Wexler.

H.R. 602: Mr. Cleaver, Mr. Moran of Kansas, and Ms. Matsui.

H.R. 625: Mr. Miller of North Carolina.

H.R. 670: Mr. Fossella.

H.R. 676: Mr. Pastor, Mr. Gutierrez, and Mr. Frank of Massachusetts.

H.R. 700: Ms. Schakowsky.

H.R. 745: Ms. Ginny Brown-Waite of Florida.

H.R. 759: Mr. Berman and Mr. Lipinski.

H.R. 764: Mr. Sanders.

H.R. 800: Mr. Sherwood and Ms. Harris.

H.R. 810: Mr. Michaud.

H.R. 839: Ms. Eshoo and Ms. Roybal-Allard.

H.R. 887: Mr. Van Hollen and Mr. Langevin.

H.R. 925: Mr. Marchant and Mr. DeFazio.

H.R. 933: Mr. Udall of New Mexico.

H.R. 944: Mr. Sessions and Mr. Sanders.

H.R. 998: Mr. Jenkins and Mr. Gerlach.

H.R. 1002: Mr. Tierney, Mr. Cramer, and Ms. Kilpatrick of Michigan.

H.R. 1043: Mr. Otter.

H.R. 1063: Mr. Rogers of Kentucky.

H.R. 1092: Ms. Foxx.

H.R. 1105: Mr. Platts.

H.R. 1124: Mr. Wolf.

H.R. 1126: Mr. Udall of Colorado.

H.R. 1201: Mr. Kildee.

H.R. 1204: Mr. Al Green of Texas and Mr. Michaud.

H.R. 1217: Ms. Matsui.

H.R. 1229: Mr. Feeney, Mr. Bishop of Utah, and Mr. Hostettler.

H.R. 1241: Mr. Wilson of South Carolina.

H.R. 1272: Mr. Ramstad and Mr. Lewis of Kentucky.

H.R. 1295: Mr. Hensarling.

H.R. 1299: Mr. Bishop of Georgia.

H.R. 1310: Mr. Thompson of Mississippi.

H.R. 1329: Ms. Woolsey and Mr. Kennedy of Rhode Island.

H.R. 1352: Mr. LaHood, Mr. Dicks, Mr. Bishop of Georgia, Ms. Moore of Wisconsin, Mr. Ackerman, Mr. Wamp, Mr. Peterson of Pennsylvania, Ms. Norton, Mr. Kennedy of Rhode Island, Ms. Jackson-Lee of Texas, Mr. McIntyre, Ms. Velázquez, Ms. Herseth, Ms. Woolsey, and Mrs. Maloney.

H.R. 1373: Mr. Ryan of Ohio, Mr. McDermott, and Mr. Bartlett of Maryland.

H.R. 1426: Mr. Israel, Ms. Herseth, and Mr. Baird.

H.R. 1499: Mr. Blunt, Mr. Platts, Mr. McHenry, Mr. Herger, Mr. Gilchrest, Mr. Lewis of Kentucky, Mr. Culberson, Mr. Mario Diaz-Balart of Florida, and Mr. Gibbons.

H.R. 1526: Mr. Rothman, Mr. Hinchey, and Mr. Grijalva.

H.R. 1547: Mr. Hayworth.

H.R. 1554: Mr. Olver.

H.R. 1585: Ms. Harris.

H.R. 1591: Ms. Schakowsky and Mr. Lipinski.

H.R. 1592: Mr. Filner and Ms. Schakowsky.

H.R. 1602: Mr. Dent and Mr. Weldon of Florida.

H.R. 1607: Mr. Moran of Kansas and Mr. Lewis of Kentucky.

H.R. 1637: Ms. McCollum of Minnesota.

H.R. 1642: Mr. King of Iowa and Mr. Feeney.

H.R. 1644: Mr. Faleomavaega.

H.R. 1652: Mr. Kind, Mr. Larsen of Washington, Mr. Al Green of Texas, and Mr. Allen.

H.R. 1663: Mr. Calvert and Mr. Menendez.

H.R. 1671: Mr. Israel, Mr. Ross, Mr. Wexler, and Ms. Roybal-Allard.

H.R. 1696: Mr. Davis of Tennessee and Mr. Thompson of California.

H.R. 1770: Mr. Jones of North Carolina.

H.R. 1774: Ms. Carson, Mr. Ford, Mr. Brady of Pennsylvania, Mr. Cleaver, Mr. Engel, Mr. Al Green of Texas, and Mrs. Kelly.

H.R. 1792: Ms. Schakowsky and Mr. Sanders.

H.R. 1798: Mr. Menendez.

H.R. 1814: Mr. Conyers, Mr. Gordon, Mr. Capuano, Ms. Lee, and Mr. Kucinich.

H.R. 1898: Mr. Baker, Mr. Alexander, Mr. Forbes, and Mr. Rogers of Alabama.

H.R. 1957: Mr. Gillmor and Mr. Brady of Texas.

H.R. 1973: Mr. Kind and Mr. Walsh.

H.R. 1986: Mr. Bradley of New Hampshire, Mr. Baker, and Mr. Gingrey.

H.R. 1996: Ms. Lee, Mr. Blumenauer, Mr. Wexler, and Mr. Allen.

H.R. 2046: Mr. Foley, Mr. Sanders, Mr. Grijalva, and Mr. Schiff.

H.R. 2061: Mrs. Blackburn, Mr. Jones of North Carolina, Mr. LaHood, Mr. Hostettler, Mr. Marchant, Mr. Beauprez, Mr. Thornberry, Mr. Moran of Kansas, Ms. Hart, and Ms. Ginny Brown-Waite of Florida.

H.R. 2112: Mr. Boehner, Mr. Gallegly, Mr. Thomas, Mr. Rogers of Michigan, Mr. Ferguson, Mr. Daniel E. Lungren of California, Mr. Royce, Mr. Cunningham, Mr. Kirk, and Mr. King of Iowa.

H.R. 2131: Mr. Doyle, Ms. Millender-McDonald, and Mr. Pastor.

H.R. 2233: Mr. Evans.

H.R. 2237: Mr. Markey and Mr. Holt.

H.R. 2238: Mr. Doyle and Mr. Boyd.

H.R. 2291: Mr. Doggett.

H.R. 2306: Mr. Reyes.

H.R. 2323: Mr. Brown of Ohio, and Ms. Lee.

H.R. 2327: Mr. Hyde, Mr. Towns, Ms. Corrine Brown of Florida, Mr. Nadler, Mr. Grijalva, Mr. Moran of Virginia, Mr. Bishop of New York, Mr. Butterfield, Mr. Farr, Mr. Gutierrez, Mr. Tierney, Ms. Linda T. Sánchez of California, Mr. Holt, Ms. Kilpatrick of Michigan, Ms. Zoe Lofgren of California, Mr. Larsen of Washington, Mr. Abercrombie, Mr. Baird, Ms. Roybal-Allard, Mr. Filner, Mr. Stark, Mr. Michaud, and Mr. Brady of Pennsylvania.

H.R. 2331: Ms. Watson, Mr. Davis of Illinois, and Mr. Owens.

H.R. 2332: Mr. Michaud.

H.R. 2350: Mr. Gonzalez.

H.R. 2358: Mrs. Drake.

H.R. 2412: Mrs. Davis of California, Mr. Tierney, and Mr. Allen.

H.J. Res. 12: Mr. Fattah, Mr. Thompson of California, Mr. Grijalva, Mr. Watt, Mr. Peterson of Minnesota, and Mr. Meek of Florida.

H. Con. Res. 70: Mr. Culberson.

H. Con. Res. 85: Mr. Reyes, Mr. Marshall, and Mr. Watt.

H. Con. Res. 90: Mr. Pastor and Mr. Olver.

H. Con. Res. 149: Mr. Meek of Florida, Mr. King of New York, Mr. Davis of Alabama, Mr. Gallegly, Mr. Linder, Mr. Etheridge, Mrs. Maloney, Ms. Matsui, Mr. Beauprez, Mr. Gerlach, Mr. Holden, Mr. Van hollen, Mr. McNulty, Mr. Rothman, Mr. Michaud, Mr. LoBiondo, Mr. Forbes, Mr. Fitzpatrick of Pennsylvania, Mr. Kennedy of Minnesota, Ms. Wasserman Schultz, and Mr. Sherman.

H. Con. Res. 153: Mr. Cox, Mr. Souder, Mr. Rothman, and Mrs. Maloney.

H. Res. 121: Mr. Bishop of New York.

H. Res. 191: Mr. Cardoza, Mr. Schiff, Ms. Berkley, Mr. Crowley, Mr. Engel, Mr. Wexler, Mr. Sherman, Mr. Faleomavaega, Mr. Menendez, Mr. Ackerman, Mr. Berman, Mr. Pence, Mrs. Jo Ann Davis of Virginia, Mr. Smith of New Jersey, Mr. Wolf, Mr.

WEINER, Mrs. MALONEY, Mr. VAN HOLLEN, and Ms. SCHAKOWSKY.

H. Res. 215: Mr. SOUDER and Mr. MCCRERY.

H. Res. 243: Mr. GILLMOR, Mr. DEAL of Georgia, Mr. TANNER, and Mr. SAXTON.

H. Res. 251: Mr. LIPINSKI and Mr. CALVERT.

H. Res. 259: Mr. OXLEY, Ms. WATSON, Mr. SERRANO, Mr. OWENS, Mr. DANIEL E. LUNGREN of California, Mrs. JONES of Ohio, Mr. KUCINICH, Mr. SCOTT of Georgia, Mr. LEACH, Mr. AL GREEN of Texas, Mr. FATTAH, Mr. TOWNS, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. RANGEL.

H. Res. 277: Mr. KING of New York, Mr. PRICE of Georgia, Mrs. JO ANN DAVIS of Virginia, and Mr. SULLIVAN.

H. Res. 279: Mr. TOWNS, Mr. BERMAN, Mrs. MALONEY, Mr. WAXMAN, Mrs. NORTHUP, and Mr. MCNULTY.

H. Res. 282: Mr. BERMAN, Mr. CHANDLER, and Mr. MENENDEZ.

H. Res. 284: Mr. ROHRABACHER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1526: Mr. JINDAL.

H.J. Res. 23: Mr. CARNAHAN.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2361

OFFERED BY: MR. STUPAK

AMENDMENT NO. 5: At the end of the bill (before the short title), insert the following:

SEC. ___. None of the funds made available in this Act may be used to finalize, issue, implement, or enforce the proposed policy of the Environmental Protection Agency entitled “National Pollutant Discharge Elimination System (NPDES) Permit Requirements for Municipal Wastewater Treatment During Wet Weather Conditions”, dated November 3, 2003 (68 Fed. Reg. 63042).

H.R. 2361

OFFERED BY: MR. BEAUPREZ

AMENDMENT NO. 6: In title III of the bill under the heading “WILDLAND FIRE MANAGEMENT (INCLUDING TRANSFER OF FUNDS)”, insert after the first dollar amount on Page 76 the following “(increased by $27,500,000)”

Insert after the first dollar amount on page 77 “(increased by $27,500,000)”

In title III of the bill in the item relating to “NATIONAL ENDOWMENT FOR THE ARTS—GRANTS AND ADMINISTRATION”, insert after the first dollar amount on Page 106 the following “(reduced by $30,000,000)”

H.R. 2361

OFFERED BY: MR. CHABOT

AMENDMENT NO. 7: At the end of the bill (before the short title), insert the following:

SEC. ___. (a) None of the funds made available in this Act may be used for the designing or construction of forest development roads in the Tongass National Forest for the purpose of harvesting timber by private entities or individuals.

(b) Subsection (a) shall not apply with respect to a forest development road for which construction is initiated before the date of the enactment of this Act.

H.R. 2361

OFFERED BY: MR. TIAHRT

AMENDMENT NO. 8: At the end of the bill (before the short title), insert the following:

SEC.   . None of the funds made available in this Act may be used to promulgate regulations without outside auditing to determine the authenticity of the scientific methods used to develop such regulations.

H.R. 2361

OFFERED BY: MR. POMBO

AMENDMENT NO. 9: At the end of the bill (before the short title) add the following new section:

SEC.   . The funds appropriated in this Act under the following headings are available only to the extent provided for in authorizing legislation enacted before the date of the enactment of this Act or on or after such date:

(1) “Bureau of Land Management—Range Improvements”.

(2) “United States Fish and Wildlife Service—Resource Management”.

(3) “United States Fish and Wildlife Service—Cooperative Endangered Species Conservation Fund”.

(4) “United States Fish and Wildlife Service—Neotropical Migratory Bird Conservation”.

(5) “United States Fish and Wildlife Service—Multinational Species Conservation Fund”.

(6) “National Park Service—Historic Preservation Fund”.

(7) “United States Geological Survey—Surveys, Investigations, and Research”.

(8) “Bureau of Indian Affairs—Indian Land and Water Claim Settlements and Miscellaneous Payments to Indians”.

(9) “Indian Health Service—Indian Health Services”.

(10) “Indian Health Service—Indian Health Facilities”.

(11) “Executive Office of the President—Council on Environmental Quality and Office of Environmental Quality”.

H.R. 2361

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 10: Page 45, line 16, after the first dollar amount, insert the following: “(increased by $15,000,000)”.

Page 106, line 9, after the dollar amount, insert the following: “(reduced by $15,000,000)”.

H.R. 2361

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 11: At the end of the bill (before the short title), insert the following:

SEC.   . Total appropriations made in this Act (other than appropriations required to be made by a provision of law) are hereby reduced by $261,591,250.

H.R. 2361

OFFERED BY: MR. FILNER

AMENDMENT NO. 12: In title I, in the item relating to “UNITED STATES GEOLOGICAL SURVEY—SURVEYS, INVESTIGATIONS, AND RESEARCH”, insert after the first dollar amount the following: “(decreased by $10,000,000)”.

In title II, in the item relating to “STATE AND TRIBAL ASSISTANCE GRANTS”, insert after the first dollar amount the following: “(increased by $10,000,000)”.

In title II, in the item relating to “STATE AND TRIBAL ASSISTANCE GRANTS”, insert after the fifth dollar amount the following: “(increased by $10,000,000)”.

H.R. 2361

OFFERED BY: MS. EDDIE BERNICE JOHNSON OF TEXAS

AMENDMENT NO. 13: Page 68, line 14, insert “(increased by $2,000,000)” after “$95,500,000”.

Page 69, line 4, insert “(reduced by $2,000,000)” after “$1,153,300,000”.

Page 69, line 14, insert “(reduced by $2,000,000)” after “$52,000,000”.

H.R. 2361

OFFERED BY: MR. ISTOOK

AMENDMENT NO. 14: Page 53, line 24, after the period insert the following: “This section shall not apply on and after any date on which the Energy Information Administration publishes data (as required by section 57 of the Federal Energy Administration Act of 1974 (15 U.S.C. 790f)) demonstrating that net imports of crude oil account for more than two-thirds of oil consumption in the United States.”.

H.R. 2361

OFFERED BY: MR. ISTOOK

AMENDMENT NO. 15: At the appropriate place in the act, insert the following new section: Sec. XX “None of the funds contained in this act may be used to enforce section 105 of this act if the Energy Information Agency publishes data (as required by section 57 of the Federal Energy Administration Act of 1974 (15 U.S.C. 790f)) demonstrating that net imports of crude oil account for more than two-thirds of oil consumption in the United States.”.

H.R. 2361

OFFERED BY: MR. ISTOOK

AMENDMENT NO. 16: Page 53, beginning at line 18, strike section 105.

H.R. 2361

OFFERED BY: MR. GRIJALVA

AMENDMENT NO. 17: Page 64, line 17, after the dollar amount, insert the following: “(increased by $1,903,000) (decreased by $1,903,000)”.

H.R. 2361

OFFERED BY: MR. MCGOVERN

AMENDMENT NO. 18: Page 63, after line 6, insert the following:

SEC. ___. The amounts otherwise provided by this Act are revised by reducing the amount made available for “United States Fish and Wildlife Service_landowner incentive program”, and increasing the amount made available for “National Park Service land acquisition and State assistance”, by $20,000,000.

H.R. 2361

OFFERED BY: MR. KENNEDY OF MINNESOTA

AMENDMENT NO. 19: Page 2, line 15, after the dollar amount insert “(reduced by $1,075,000)”.

Page 3, line 7, after the dollar amount insert “(reduced by $1,075,000)”.

Page 10, line 25, after the dollar amount insert “(increased by $1,075,000)”.

EXTENSIONS OF REMARKS

REMEMBERING SAMUEL WEBB SCALES

HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. PICKERING. Mr. Speaker, in March, Starkville, Mississippi, lost a native son and a civic leader with the passing of Samuel Webb Scales. He served his family, our Nation's military, and achieved greatness in the world of international business.

After graduating from Starkville High School, Sam Scales went on to further education at the University of the South, Mississippi State College, and the Vanderbilt Law School. For the past 12 years he has served as the Civilian Aide to the Secretary of the Army, and was bestowed with the title of Civilian Aide to the Secretary of the Army Emeritus 2 years ago, which has the equivalent military rank of Lieutenant General.

Sam Scales served in the U.S. Marine Corps from 1941 until 1945 and attained the rank of sergeant major. He served in the U.S. Army Reserve from 1948 to 1972 and retired at the rank of lieutenant colonel. During his military career, he served in various assignments including Troop Commander (Calvary); Aide de Camp to Commanding General (Armored Division); General Staff Officer, Joint General Staff (Thailand); General Staff Officer (Australian Army).

Sam Scales served as vice president of the Harlington National Bank (Texas); chairman of the board of Starr Associates (Bangkok, Thailand); liaison officer of Phoenix Assurance (Sidney, Australia); chairman of the board of Service Y Comisiones S.A. de CY (Mexico City); senior vice president of Continental Insurance Company and regional vice president for Latin America (Panama) as well as 14 other U.S. corporations located throughout Latin America.

He was a member of the Association of the U.S. Army (AUSA), the Navy League, and Sigma Chi Fraternity at Mississippi State University. He was a member of the Episcopal Church of the Resurrection in Starkville.

Mr. Speaker, Starkville mourns the passing of Sam Scales. Our prayers go with his wife Bette, his children Hunter, Twila, Bette, Walton, John, and Jennifer as well as his five grandchildren and one great-grandchild. His accomplishments, like so many of his generation, can hardly be measured in words, but I am proud to have been able to take this opportunity to note his life's achievements and to remember this young boy from Starkville who grew to be a great man and leader around the world.

IN MEMORY OF PETER RODINO, JR.

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. RANGEL. Mr. Speaker, I rise to honor the life of Congressman Peter Rodino, Jr., a great American and distinguished member of this body. Congressman Rodino passed away recently, and the life he led is without question worthy of our praise.

In Congress, Peter represented the Newark area of New Jersey for over 40 years. In such time he would be associated with some of the most important events in American history. As Chairman of the House Judiciary Committee he presided over the Watergate hearings that ultimately resulted in the resignation of a sitting President.

However, his stewardship during that trying process was executed with a humbleness and reverence that earned him the respect of a grateful Nation. In so doing, he demonstrated to his fellow congressional colleagues the requirements of true leadership.

Peter Rodino, Jr., was born in Newark, New Jersey, in 1909, to a hardworking immigrant family. He received a bachelor's degree from the University of Newark and a law degree from Rutgers University before starting a law practice in the late 1930's.

He would later serve his country during World War II, where he earned the Bronze Star and would have the distinction of being one of the first enlisted men to receive a battlefield commission as an officer.

In 1949 he was elected to the U.S. Congress where he built his reputation through his work on veterans affairs and civil rights issues. In the 1980s, he fought against what he viewed as efforts by the Reagan administration to limit the reach of civil rights laws, as well as efforts to end school busing.

He supported landmark civil rights legislation in 1957 and was one of the primary sponsors of the Civil Rights Act of 1966. In the mid-1960s, he helped lead an effort to end immigration quotas and enact fair-housing standards. He also wrote the 1982 extension to the Voting Rights Act, and was House leader in making Martin Luther King, Jr.'s birthday a national holiday.

Despite all this he was best known for his leadership on the Judiciary Committee during the Congressional hearings on Watergate. In a period that was so politically charged, Peter was seen as fair, objective, and dedicated to upholding the integrity of the Congress.

At the outset of the hearings he set the tone by stating "Whatever the result, whatever we learn or conclude, let us now proceed with such care and decency and thoroughness and honor that the vast majority of American people, and their children after them, will say: That was the right course. There was no other way."

He never wavered from the spirit of those words, as the hearings played out over the coming months. In the end, though the country would see their President resign, they had confidence that the system had done its job, and that our government would endure.

This was due in large part to Peter's leadership. At that time, I was a young man just beginning my tenure in Congress, but having had the opportunity to observe Peter taught me lessons of leadership that I have never forgotten.

William Penn once said, "Sense shines with a double luster when it is set in humility. An able and yet humble man is a jewel worth a kingdom." If this is the measure of a man, than Congressmen Peter Rodino is a jewel our nation will never replace. His spirit and the lessons his life provide will continue to guide us.

CONGRATULATIONS AND BEST WISHES TO SISTER GRETCHEN KUNZ

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. EDWARDS. Mr. Speaker, I rise today to recognize a champion for improved access to healthcare, Sister Gretchen Kunz, president and CEO of the St. Joseph's Health System. I would like to extend my most sincere thanks and congratulations to Sister Gretchen for her principled service and dedication to the healthcare needs of Brazos Valley citizens. Since first coming to St. Joseph's in 1981, Sister Gretchen has shepherded St. Joseph's through many challenges while expanding access to the quality care that Brazos Valley citizens need and deserve.

On June 13, Sister Gretchen will start a new mission for St. Joseph's, bringing her unparalleled energy to the hospital system's charitable organization, the St. Joseph's Foundation. There, Sister Gretchen will continue to serve the needs of the community as she has done so well for the last 24 years. We can rest assured that Sister Gretchen's legacy of passionate service and motto of "there is no end to getting better" will continue to inspire those who follow in her footsteps.

The career of Sister Gretchen Kunz is a model of selfless service and sacrifice. Her tireless efforts to improve the quality of life for the people of the Brazos Valley have undoubtedly touched countless lives.

It is my privilege to honor the work of Sister Gretchen Kunz and I personally want to thank her for the shining example to us all and wish her well in her future endeavors.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

RECOGNIZING THE CHILDREN OF CONGREGATION SHIR SHALOM OF SONOMA, CALIFORNIA

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. THOMPSON of California. Mr. Speaker, I rise today to acknowledge the children of Congregation Shir Shalom in Sonoma, California, who are deeply concerned about the tragedy taking place in Darfur, Sudan. These children recognize that the world cannot stand by while whole populations are slaughtered because of their race or religious beliefs. In the children's own words:

> We are Jewish children at Congregation Shir Shalom in Sonoma, California, who have learned about tikkun olam, about making the world a better place. We have learned that Jews cannot be just for ourselves. We must be for others, too.
>
> In our synagogue's school, we have learned there are other children we do not know, but who are living in danger in Darfur, Sudan. We know that bandits and other bad people are killing them and their families. Many people have died in Darfur, including many children. Also, children in Darfur and their mothers and fathers have had their things stolen from them. Because of all this millions have run away from their homes in Darfur.
>
> As Jewish children, we know about the Holocaust, when Jews were killed just for being Jews. We know that there are people in Darfur who are now being killed just for being who they are.
>
> Knowing this, we know we cannot stand by and let it happen. We know we are only children, so we need the help of grown-ups in our city, our state, and national governments to take action to protect the children in Darfur and their families.
>
> We ask our government to make it safe for families living in Darfur. We ask for bandits and other bad people to be stopped from robbing and killing the children, women, and men living in Darfur. That way maybe all the food that is being sent to the people in Darfur might get through. Books might get through, too, and then children in Darfur can get to go to school like we do.
>
> We ask all this because we are all human, and it is important to not just think of ourselves. It is important to make the world a better place for children like us who just want peace and maybe a chance to play and have fun like we can do in Sonoma, California.
>
> Please listen to what we are asking and do what you can do to help those living in Darfur, Sudan have a chance to be happy.

Mr. Speaker, these words are profound and they will echo through history. We owe it to the children of Congregation Shir Shalom and to the children of Darfur to do everything in our power to resolve this grave humanitarian crisis.

TRIBUTE TO LAST FULL-TIME CHAIRMAN OF TENNESSEE VALLEY AUTHORITY BOARD, GLENN McCULLOUGH

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 18, 2005

Mr. DUNCAN. Mr. Speaker, Glenn McCullough steps down today as the 12th and last full-time Chairman of the Tennessee Valley Authority Board.

I have worked with thousands of people during my years in Congress. Chairman McCullough has been one of the kindest and most honorable with whom I have had the privilege to work.

Glenn McCullough, in my opinion, has been an outstanding Chairman for TVA. He has had the extremely difficult job of attempting to balance all kinds of competing interests, and he has done the job well.

He has done great things for the environment and the employees at TVA while still remembering that many TVA ratepayers and low-income people also need help, too.

Chairman McCullough is a man of high integrity who should be remembered as one of the finest Chairman TVA has ever had. He has worked as hard as possible for the people of the Valley, and this Nation is a better place today because of his service.

I would like to call to the attention of my colleagues and other readers of the RECORD the following article from the May 16 edition of the Knoxville News Sentinel.

DEPARTING CHAIRMAN SAYS UTILITY STILL FACES FINANCIAL, ENVIRONMENTAL CHALLENGES

(By Duncan Mansfield)

Departing Chairman Glenn McCullough said the Tennessee Valley Authority is stronger than when he arrived in 1999, but the nation's largest public utility still faces financial, environmental and competitive challenges.

Tougher soot and smog requirements on coal-fired power plants could cost TVA $4 billion to $5 billion beyond the $6 billion it has already spent or committed for pollution controls.

Rising fuel prices for its fleet of fossil plants, gas turbines and nuclear stations could force further cost-cutting and a likely electric rate increase that would affect some 8.5 million people receiving TVA power in Tennessee and six surrounding states.

Yet as McCullough nears the end of his term on Wednesday, May 18, as the 12th and final full-time chairman in the 72-year history of TVA, he remains optimistic about TVA's future.

"I think TVA will continue to be a high performer," McCullough told The Associated Press in a recent interview in his 12th floor office at TVA headquarters in Knoxville.

McCullough, 50 was mayor of his hometown of Tupelo, Miss.—TVA's first member city—when he was appointed to an unexpired term on the three-member TVA board in 1999 by President Clinton. In 2001, President Bush elevated McCullough, backed by then-Senate Majority Leader Trent Lott, R-Miss., to chairman.

During his tenure, TVA changed its Tennessee River watershed plan to improve recreational use, set rising peak-power demand records, adopted a rate increase in 2003 to pay for coal plant pollution controls and developed the first commercial wind farm in the Southeast.

TVA also reduced a nearly $28 billion long-term debt by $1.8 billion. In doing so, the agency eliminated hundreds of jobs and put one of its twin headquarters towers in Knoxville up for sale as surplus. The tower sale is pending, and the payroll stands at 12,700—compared to more than 30,000 in the 1980s.

The self-financing government agency with a $7 billion budget also took heat over extravagant travel and entertainment spending by executives but moved quickly to crack down with new internal policies.

However, McCullough said the boldest actions were the 2001 write-off of $3.4 billion in non-producing assets, including three unfinished nuclear reactors, and the $1.8 billion decision to restart a mothballed reactor at the Browns Ferry station in Alabama by 2007.

"It was a good business decision, not an easy one," he said of the write-offs, while the gamble on the Browns Ferry reactor—60 percent complete—could pay off in meeting baseload demand through 2014.

"All of those things kind of roll off the tongue, but I tell you, there are thousands of people that did their job better so that TVA could have record generation and record clean air and record economic growth and record debt reduction," McCullough said.

Looking ahead, McCullough said a rate increase, which has become rare in recent years at TVA, seems inevitable because of rising fuel costs that can't be controlled.

"I think the future board will have to determine what rates need to be and when adjustments are necessary," he said. "I don't know how much, and I don't know when."

McCullough doesn't know if he will be on an expanded part-time board that is being created after he leaves. Senate Majority Leader Bill Frist, R-Tenn., pushed the board restructuring to make the group more open and responsive. The White House has yet to name nominees.

McCullough sees plenty of opportunities and challenges ahead for them.

TVA is working with two national consortiums studying designs and licensing for the next generation of nuclear plants, while TVA assesses the feasibility of using its unfinished Bellefonte nuclear plant in Alabama as a possible project site.

Meanwhile, TVA continues to review efficiencies and costs of new "clean coal" technologies for its fossil fleet. McCullough believes coal and nuclear should remain the foundation of TVA's power system.

"We are also looking at the business model," McCullough said. "There could be some opportunities for TVA to do joint ventures with perhaps other utilities or other entities that make good business sense."

He cited TVA's deal set up a few years ago to buy power from the Red Hills Power Plant and Mississippi Lignite Mining Co. near Ackerman, Miss., as an example of a successful joint venture.

Meanwhile, growing private and commercial development along the Tennessee River continues to stir resentment among the families of former residents displaced by TVA's hydroelectric dam projects in the 1930s and '40s.

McCullough is sympathetic to a point. "Land in the valley is almost sacred. That is a characteristic of the South that I am frankly proud of—'Don't mess with the land.' I understand that," he said.

"But if you look on the TVA seal, you see the words 'Progress Through Resource Development,'" he said. "And you can't make progress without some development."

McCullough said he is looking forward to going home to Tupelo and spending time with his wife, Laura, and two teenage sons, and weighing his career options.

More low-key than his predecessors, McCullough said being chairman of TVA, like being mayor of Tupelo, was "a wonderful opportunity to make a positive difference."

"I didn't ask to come to TVA, and I didn't ask to be chairman. But I was asked to do this job, and it was a unique opportunity," he said. "If you get it right, if you make good decisions and fulfill the mission of TVA, then the people of the valley can be better off for generations to come. And that can be satisfying."

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 19, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 23

2 p.m.
Finance
Taxation and IRS Oversight Subcommittee
To hold hearings to examine exposing the individual alternative minimum tax (AMT).
SD–628

MAY 24

9:30 a.m.
Energy and Natural Resources
Business meeting to consider comprehensive energy legislation.
SD–366

10 a.m.
Commerce, Science, and Transportation
To hold hearings to examine S. 529, to designate a United States Anti-Doping Agency and to examine the competitive pressures that lead amateur athletes to use drugs, the sources of such drugs, and the science of doping.
SR–253

Finance
To hold hearings to examine the nominations of Timothy D. Adams, of Virginia, to be Under Secretary of the Treasury for International Affairs, Shara L. Aranoff, of Maryland, to be a Member of the United States International Trade Commission, Suzanne C. DeFrancis, of Maryland, to be Assistant Secretary of Health and Human Services for Public Affairs, and Charles E. Johnson, of Utah, to be Assistant Secretary of Health and Human Services for Budget, Technology, and Finance.
SD–628

Homeland Security and Governmental Affairs
Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee
To hold an oversight hearing to examine a review of the U.S. Office of Special Counsel, focusing on safeguarding the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing.
SD–562

2 p.m.
Homeland Security and Governmental Affairs
Federal Financial Management, Government Information, and International Security Subcommittee
To hold an oversight hearing to examine the competitive effects of specialty hospitals.
SD–562

2:30 p.m.
Judiciary
Crime and Drugs Subcommittee
To hold hearings to examine issues relating to methamphetamine abuse.
SD–226

Health, Education, Labor, and Pensions
Education and Early Childhood Development Subcommittee
To hold hearings to examine issues relating to American history.
SD–430

3 p.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine money laundering and terror financing issues in the Middle East.
SD–538

MAY 25

9:30 a.m.
Energy and Natural Resources
Business meeting to consider comprehensive energy legislation.
SD–366

Environment and Public Works
To hold an oversight hearing to examine permitting of energy projects.
SD–406

Homeland Security and Governmental Affairs
To hold hearings to examine how counterfeit goods provide easy cash for criminals and terrorists.
SD–562

9:50 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider proposed Head Start Improvements For School Readiness Act, S. 518, to provide for the establishment of a controlled substance monitoring program in each State, and pending nominations.
SD–430

10 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the U.S. Grain Standards Act.
SR–328A

Banking, Housing, and Urban Affairs
To hold hearings to examine the nominations of Ben S. Bernanke, of New Jersey, to be a Member of the Council of Economic Advisers, and Brian D. Montgomery, of Texas, to be Assistant Secretary of Housing, Federal Housing Commissioner, Department of Housing and Urban Development.
SD–538

Commerce, Science, and Transportation
To hold hearings to examine S. 360, to amend the Coastal Zone Management Act.
SR–253

Indian Affairs
To hold hearings to examine S.J. Res. 15, to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.
SR–485

2:30 p.m.
Homeland Security and Governmental Affairs
To hold hearings to examine the nomination of Linda Morrison Combs, of North Carolina, to be Controller, Office of Federal Financial Management, Office of Management and Budget.
SD–562

Judiciary
Intellectual Property Subcommittee
To hold hearings to examine piracy of intellectual property.
SD–226

MAY 26

9:30 a.m.
Environment and Public Works
Clean Air, Climate Change, and Nuclear Safety Subcommittee
To hold an oversight hearing to examine the Nuclear Regulatory Commission.
SD–406

Energy and Natural Resources
Business meeting to consider comprehensive energy legislation.
SD–366

Homeland Security and Governmental Affairs
Investigations Subcommittee
To hold hearings to examine the container security initiative and the customs-trade partnership against terrorism, focusing on how Customs utilizes container security initiative and customs trade partnership against terrorism in connection with its other enforcement programs and review the requirements for and challenges involved in transitioning these from promising risk management concepts to effective and sustained enforcement operations.
SD–562

10 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine aviation capacity and congestion challenges regarding summer 2005 and future demand.
SR–253

Banking, Housing, and Urban Affairs
To hold hearings to examine the report to Congress on international economic and exchange rate policies.
SH–216

Health, Education, Labor, and Pensions
To hold hearings to examine issues relating to the 21st century workplace.
SD–430

SEPTEMBER 20

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.

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